

F. Supp. 2d 239 (S.D.N.Y. 2002), *rev'd on other grounds*, 322 F.3d 130 (2d Cir. 2003), “the right to grant injunctive relief in private civil actions in accordance with traditional principles of equity jurisdiction is one of the equitable powers given to federal courts by the Judiciary Act of 1789,” and the RICO statute “nowhere expressly denies courts this power in private civil actions.” 202 F. Supp. 2d at 243–44. In the absence of any contrary indication in the statute (and there is none here), “the normal presumption favoring a court’s retention of all powers granted by the Judiciary Act of 1789 prevails.” *Id.* at 244; *see also Aetna Cas. & Sur. Co. v. Liebowitz*, 730 F.2d 905, 909 (2d Cir. 1984) (explaining that “a specific statutory provision authorizing preliminary injunctive relief to maintain the status quo was no longer necessary” when Congress enacted RICO, given that where a federal statute provides for a general right to sue, ““federal courts may use any available remedy to make good the wrong done””) (quoting *Bell*, 327 U.S. at 684).¹⁹

¹⁹ Even if this Court were to find that private plaintiffs may not obtain equitable relief under RICO and vacate the injunction, it should exercise its remedial power to uphold the district court’s detailed factual findings regarding Donziger’s RICO liability. “[F]ederal courts have the power to award any appropriate relief in a cognizable cause of action brought pursuant to a federal statute.” *Franklin*, 503 U.S. at 70–71. RICO expressly confers broad remedial authority: § 1964(c) authorizes “any person injured” by RICO violations to bring suit, independent of the remedy, and § 1964(a) authorizes district courts overseeing those suits to issue “appropriate orders” not limited to the enumerated examples. In this case, where the centerpiece of Donziger’s ongoing racketeering is and has been a series of falsehoods that culminate in a fraudulent judgment, a freestanding determination of the true facts is more than “appropriate” — it is critical. A declaration of liability

2. The District Court Properly Exercised Its Equitable Powers to Bar Donziger from Profiting from His Crimes and to Protect Chevron from Further Injury

To redress the injuries Chevron has already sustained and to protect it from future harm, the district court enjoined Donziger from seeking to enforce the Lago Agrio judgment in the United States, and put in constructive trust any assets Donziger obtained that are traceable to the judgment. SPA589–93. Donziger claims this injunction is somehow inconsistent with *Naranjo*. He is mistaken.

The relief the district court ordered was well within its discretion. Chevron has suffered and, absent relief, will continue to suffer irreparable injuries with no adequate remedy at law. SPA182–83, 305–07, 327, 481–84 (476–77, 541–42, 553, 636–38); *see eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006). Monetary relief could not redress these injuries, as the district court concluded, in light of Donziger’s purportedly insufficient financial resources and the injuries to Chevron’s reputation, goodwill, and ability to conduct business. SPA485 (638); *see, e.g.*, A3447 ¶ 127; SA6970; 691 Dkt. 1211 at 1; 691 Dkt. 1370 at 3 & n.1; 691 Dkt. 1415 at 3; 691 Dkt. 1442 at 4; SA4614. The district court also correctly found that Chevron “has no adequate remedy at law.” SPA481 (636); *see also* SPA483–

here would also preserve Chevron’s right to attorney’s fees under 18 U.S.C. § 1964(c).