

Question

Answer **Short response** The factual allegations, if proven, describe a coordinated and ongoing scheme involving multiple individuals who engaged in repeated acts of wire fraud, mail fraud, document tampering, and judicial manipulation, all directed at depriving the plaintiff of business and property interests and affecting interstate commerce—thus meeting the elements required to establish a civil RICO claim. The continuity, relatedness, and enterprise structure alleged are sufficient to plead a pattern of racketeering activity under federal law.

Summary To establish a RICO claim, a plaintiff must show (1) a person engaged in (2) a pattern of racketeering activity (3) connected to the conduct of an enterprise, and (4) injury to business or property as a result. The allegations here detail a series of predicate acts—including interstate wire transfers, fraudulent court filings, perjury, extortion, and ongoing threats—committed by a group acting in concert over an extended period, with the purpose and effect of depriving the plaintiff of his home, business, and property interests. The facts allege that the defendants, including attorneys, court staff, and private individuals, formed an association-in-fact enterprise that repeatedly used the courts and interstate communications to further their scheme. The acts described—such as fraudulent wire transfers, preparation and filing of false legal documents, tampering with court records, and coordinated judicial actions—are classic RICO predicate acts, and their continuity and relatedness support the existence of a RICO pattern. The resulting harm to the plaintiff’s business and property, as well as the impact on interstate commerce, satisfy the injury and nexus requirements for a civil RICO claim.

Background and Relevant Law Legislative and Regulatory Framework The Racketeer Influenced and Corrupt Organizations Act (RICO), codified at 18 U.S.C. §§ 1961–1964, provides a civil cause of action for any person injured in their business or property by reason of a violation of section 1962. Section 1962 prohibits any person from conducting or participating in the conduct of an enterprise’s affairs through a pattern of racketeering activity, where the enterprise’s activities affect interstate or foreign commerce. The statute defines “racketeering activity” to include a wide range of criminal acts, notably mail fraud, wire fraud, extortion, and obstruction of justice, among others. A “pattern” requires at least two predicate acts within ten years, but the Supreme Court has clarified that a pattern also requires “continuity plus relationship”—that is, the acts must be related and pose a threat of continued criminal activity (18 U.S.C. §§ 1961–1962; *H.J. Inc. v. Northwest Bell Tel. Co.*, 492 U.S. 229 (1989)).

Case Law The Fifth Circuit and district courts within Texas have consistently held that a civil RICO claim requires: (1) a person, (2) who engages in a pattern of racketeering activity, (3) connected to the conduct of an enterprise, and (4) injury to business or property as a result (*Moore v. Town N. Auto., Inc.*, Civil Action No. 3:14-CV-1215-D (N.D. Tex. Jul 11, 2014); *Cedra Pharmacy Houston, LLC v. UnitedHealth Grp., Inc.*, CIVIL ACTION NO. H-17-3800 (S.D. Tex. Mar 07, 2019); *Delta Truck & Tractor, Inc. v. J.I. Case Co.*, 855 F.2d 241 (5th Cir. 1988)). The “enterprise” can be any group of individuals associated in fact, even if not a legal entity (RICO: A Primer (2022-01-31)). Predicate acts must be related and demonstrate continuity, either as a closed period of repeated

conduct or as ongoing conduct that threatens future repetition (Megatel Homes, LLC v. Moayed, Civil Action 3:20-CV-00688-L (N.D. Tex. Nov 16, 2021)). For a RICO conspiracy claim under § 1962(d), it must be shown that two or more people agreed to commit a substantive RICO offense and that the defendant knew of and agreed to the overall objective (Chaney v. Dreyfus Service Corp., 595 F.3d 219 (5th Cir. 2010)). Analysis 1. The “Enterprise” Element The allegations describe a group consisting of private individuals (Myers, Branthoover), attorneys (Carter, Marx), court staff (Baker), and judges (Munford, Kaitcer) who, while perhaps not all acting with criminal intent, are alleged to have collectively furthered a scheme to secure a divorce decree and deprive the plaintiff of his business and property. This group, acting in concert over months and years, constitutes an “association-in-fact” enterprise under RICO, as courts interpret the term broadly to include any union or group of individuals associated for a common purpose (RICO: A Primer (2022-01-31); Moore v. Town N. Auto., Inc., Civil Action No. 3:14-CV-1215-D (N.D. Tex. Jul 11, 2014)). 2. Pattern of Racketeering Activity A “pattern” requires at least two predicate acts, but more importantly, the acts must be related and demonstrate continuity. The facts here allege a series of acts over at least 20 months, including: Wire Fraud: The transfer of \$1,576 from the marital account to a co-conspirator’s PayPal account across state lines, with the intent to deprive the plaintiff of business and household funds, is a classic predicate act of wire fraud. The use of interstate wires and the intent to defraud are both present (18 U.S.C. § 1343; Tujague v. Eckerd, Civil Action No. 4:18-CV-00408 (E.D. Tex. Jul 11, 2018)). Mail Fraud: The preparation and filing of fraudulent court documents, including divorce petitions, affidavits of indigency, and protective order applications containing false statements, and their service via official channels, constitute mail fraud if the mails were used in furtherance of the scheme (18 U.S.C. § 1341). Obstruction of Justice/ Document Tampering: The allegations of court staff and judges altering, withholding, or tampering with court filings, and the failure to follow recusal procedures, may constitute obstruction of justice or other predicate acts under RICO (18 U.S.C. § 1503). Extortion and Intimidation: Ongoing threats and intimidation by Branthoover, including explicit threats of retaliation for seeking legal relief, are alleged as predicate acts of extortion and obstruction. Unauthorized Practice of Law: The repeated filing of pleadings by a non-party (Marx) on behalf of Carter, and the assertion of legal representation by non-attorneys, further the pattern of racketeering activity. Perjury and Subornation of Perjury: The filing of affidavits and court documents containing knowingly false statements, such as misrepresenting cohabitation status and financial condition, are predicate acts. These acts are not isolated; they are related by their common purpose (to deprive the plaintiff of property and business interests and secure a favorable divorce decree for Myers) and method (use of the courts, fraudulent filings, and interstate communications). The acts occurred over an extended period, with ongoing threats and judicial manipulation continuing into 2025, satisfying both the “relationship” and “continuity” requirements for a RICO pattern (H.J. Inc. v. Northwest Bell Tel. Co., 492 U.S. 229 (1989); Megatel Homes, LLC v. Moayed, Civil Action 3:20-CV-00688-L (N.D. Tex. Nov 16, 2021)). 3. Connection to the Conduct of the Enterprise The facts allege that the enterprise’s affairs were conducted through these predicate acts. The group coordinated to prepare and file fraudulent documents, manipulate

court procedures, and use official processes (such as constable service and court orders) to further their scheme. The involvement of court staff and judges in facilitating or failing to prevent these acts, and the repeated use of the legal system to effectuate the deprivation of property, demonstrate the necessary connection to the conduct of the enterprise's affairs (*Moore v. Town N. Auto., Inc.*, Civil Action No. 3:14-CV-1215-D (N.D. Tex. Jul 11, 2014)).

4. Injury to Business or Property The plaintiff alleges concrete injury: loss of access to his home and business, depletion of business funds, inability to serve interstate clients, and loss of property interests. These are precisely the types of injuries compensable under RICO (*Cedra Pharmacy Houston, LLC v. UnitedHealth Grp., Inc.*, CIVIL ACTION NO. H-17-3800 (S.D. Tex. Mar 07, 2019)). The acts described were the proximate cause of these injuries, as the fraudulent filings and court orders directly resulted in the plaintiff's dispossession and business harm (*Megatel Homes, LLC v. Moayed, Civil Action 3:20-CV-00688-L* (N.D. Tex. Nov 16, 2021)).

5. Nexus with Interstate Commerce RICO requires that the enterprise's activities affect interstate or foreign commerce. The facts allege interstate wire transfers, communications between Texas and Oklahoma, and interference with the plaintiff's ability to serve clients in multiple states and Canada. This satisfies the minimal nexus required (*Trevino v. Pechero*, 592 F.Supp.2d 939 (S.D. Tex. 2008)).

6. RICO Conspiracy The facts also support a RICO conspiracy claim under § 1962(d), as they allege an agreement among two or more individuals to commit the substantive RICO offenses, with knowledge and intent to further the scheme. The repeated coordination, mutual benefit, and ongoing communications among the participants are sufficient to plead an agreement (*Chaney v. Dreyfus Service Corp.*, 595 F.3d 219 (5th Cir. 2010)).

Exceptions and Caveats Pleading Particularity: RICO claims based on fraud (mail or wire) must be pleaded with particularity under Rule 9(b) of the Federal Rules of Civil Procedure (*Civil Rico: A Tool of Advocacy* (2024-01-01)). The facts here are detailed and specify dates, participants, and acts, which should satisfy this requirement if properly pleaded.

Judicial Immunity: Judges and court staff may assert immunity for acts taken in their judicial capacity. However, if the allegations are that they participated in or facilitated criminal acts outside their judicial function, immunity may not apply. This is a complex area and may limit the scope of relief against certain defendants.

Causation and Standing: The plaintiff must show that the RICO violation was the proximate cause of the injury. The facts allege a direct link between the predicate acts and the harm suffered, but this is a fact-intensive inquiry.

Scope of Predicate Acts: Not all alleged misconduct may qualify as a RICO predicate act. For example, mere delay or incompetence in legal representation, absent fraud or criminal intent, may not suffice.

Conclusion The factual allegations, if proven, are sufficient to establish the elements of a civil RICO claim: a group of individuals and officials formed an enterprise that engaged in a pattern of racketeering activity—including wire fraud, mail fraud, document tampering, perjury, and extortion—over an extended period, with the purpose and effect of depriving the plaintiff of business and property interests and affecting interstate commerce. The acts are related, continuous, and caused concrete injury, satisfying the requirements set forth by federal law and the Fifth Circuit. The allegations also support a RICO conspiracy claim, as they describe an agreement among the participants to further the unlawful scheme. The case thus presents a viable RICO claim, subject to the caveats regarding pleading

standards, judicial immunity, and proof of causation. **TIMELINE OF EVENTS**

“Myers” Defendant Morgan Michelle Myers “Branthoover” Defendant Daniel Kenneth Branthoover “Carter” Defendant Cooper L. Carter “Baker” Defendant Lindsey K. Baker in her official capacity as Court Coordinator “Munford” Defendant James B. Munford in his official capacity as District Judge “Kaitcer” Defendant Jeffrey N. Kaitcer in his individual capacity as Associate Judge A. The Myers-Branthoover Enterprise 1. On December 14, 2023, Defendants Morgan Michelle Myers and Daniel Kenneth Branthoover began communicating by text message, exceeding 90 messages on December 14, 2023. The following day, they reached a meeting of the minds in Yukon, Oklahoma, during the weekend of December 15, 2023. REC. 274-278. Defendant Branthoover’s deceptive message, in which he falsely represented that he wished to assist Plaintiff, was sent immediately after Myers sought, unsuccessfully, to obtain an ex parte order of protection from the 322nd District Court of Tarrant County on December 14, 2023. REC. 78

B. Predicate Acts: Wire Fraud and Travel Act Violation 2. Both defendants planned and agreed to meet for the purpose of drafting an original petition for divorce and affidavit of indigency to be later submitted to the 322nd District Court of Tarrant County with the common purpose of having Plaintiff removed from his matrimonial residence located at 6641 Anne Court, Watauga, Texas 76148, which also serves as his place of business, serving clients across the United States, Canada, and the United Kingdom. 3. During defendant Myers’ interstate travel, she emptied the marital bank account into defendant Branthoover’s PayPal account, amounting to \$1,576. REC. 723. These proceeds were used to purchase a second phone, registered under 817-940-0852. This phone number was used on the fraudulent pleadings prepared during defendant Myers’ stay in Oklahoma, which she transported from Yukon, Oklahoma back to Texas on December 17, 2023. C. Admissions 4. On December 16, 2023, Plaintiff reached out to defendant Branthoover and requested that the \$1,576 be returned as they were needed for Christmas gifts for the children, and for business advertising expenses for his business. REC. 728-729. In response, defendant Branthoover admitted that the purpose of defendant Myers’ visit was to help her prepare paperwork for divorce litigation and confirmed that the transfer of \$1,576 did in fact occur. REC. 730. D. Post-submission Collaboration 5. On December 18, 2023, defendant Myers submitted the fraudulently prepared original petition for divorce, and an affidavit of indigency to the 322nd District Court of Tarrant County. After these documents were submitted, defendant Branthoover sent a text message to Plaintiff on December 19, 2023, holding himself out to be defendant Myers’ attorney, showing his involvement extends past the initial help in preparing the documents. REC. 1712-1713 6. Four days later, on December 22, 2023, defendant Myers submitted another knowingly fraudulent application for protective to the 322nd District Court of Tarrant County. E. Significant and Intentional Misrepresentations 7. On December 27 and December 28, 2023, respectively, these documents were served on Plaintiff via the U.S. Constable, and contained the following misrepresentations: i. That defendant Myers could not afford court costs; REC. 72, REC. 85-96 ii. That defendant Myers had an active order of protection against the Plaintiff with a finding of family violence that had occurred during the marriage; REC. 78 at 10 iii. That defendant Myers was financially responsible for the family vehicles, rent payments, utilities, and other household expenses, making

herself appear as the primary breadwinner; REC. 92 iv. That defendant Myers would be harassed or abused if Plaintiff were given her newly acquired phone number that was obtained while in Oklahoma; REC. 81 at 15. v. That defendant Myers and Plaintiff ceased living together on December 1, 2023; REC. 74 at 4 vi. That family violence occurred on December 18, 2023, in the presence of the two Children. REC. 108-109. vii. That both family vehicles were defendant Myers' separate property acquired before marriage. REC. 79 at 11B F. Evidence to the Contrary 8. On the same day Defendant Myers claimed to be in an emergency requiring the Plaintiff's prompt removal from the home, she can be seen at the home with Plaintiff and the children in no state of emergency and also still cohabitating in the marital home. REC. 1715. 9. Again, on December 29, 2023, Defendant Myers can be seen with Plaintiff at the family home, smiling and laughing with the children in no state of emergency and still collaborating with Plaintiff in the marital home. REC. 1735. 10. The citation for the application for protective order ordered Respondent to show cause as to why it should not issue with a hearing scheduled for January 16, 2024. REC. 118. 11. In response to extensive misrepresentation above, Plaintiff prepared an original answer, filed a motion to consolidate, and provided background information which alleged that defendant Myers was intentionally abusing the legal process. REC. 130-132. G. Inclement Weather and First Appearance 12. On January 15, 2024, the Tarrant County District Courts Facebook page sent out a notice informing the members of the public that the court would be closed on January 16, 2024, due to inclement weather. REC. 1202. 13. Unaware of the closure at the time, the parties appeared at the 322nd District Court of Tarrant County on January 16, 2024, and were met with a dark courtroom, with only one judge in the building at the time of their arrival – defendant James Munford. 14. Defendant Munford summarily ordered the Plaintiff out of his home, inadvertently assisting the Myers-Branthoover associate-in-fact enterprise of achieving their primary goal in having the Plaintiff removed from his residence, despite the broader goal being to obtain a decree of divorce to permanently divest Plaintiff of his interests. REC. 183. 15. Defendant Munford's initial order was baseless, made in the absence of any emergency, without a hearing, and disregarded the Plaintiff's pleadings, telling the mother "you're going to have to find evidence of family violence!" clearly aware that this order was made without any regard to the Plaintiff's constitutional rights. 16. Defendant Kaitcer walked into the courtroom late due to the inclement weather, and turned the courtroom into a laughing matter as he began to joke with Defendant Munford, and instructed the parties to download the AppClose app, and the matter was reset for January 22, 2024. H. Reset #1 – January 22, 2024 Setting 17. At the January 22 reset hearing, the parties appeared only to have the case reset once more because defendant Myers allegedly retained the services of Defendant Cooper Carter in the lobby of the courthouse just moments before the hearing was scheduled to begin. No appearance can be traced to this setting by either party on the docket (REC. 1551), and once again, no hearing was held, and the case reset for a second time to February 1, 2024. REC. 186. 18. Defendant Kaitcer permitted attorney Dan Bacalis, Plaintiff's prior attorney, to fill out the Associate Judge's Report, and the parties never went before him as indicated by the case docket's lack of appearance on this date by either party. I. Reset #2 – February 1, 2024 Setting 19. One day prior to the February 1 setting, both attorneys, Defendant Carter and Dan Bacalis, both

amended the petition for divorce and counterpetition for divorce without the parties' knowledge. (REC. 189, REC. 209) These amended documents were similar, submitted on the same day, and raised concerns for Plaintiff regarding his representation. 20. At the February 1 setting, both parties were in the conference rooms outside of Defendant Kaitcer's courtroom, when attorney Bacalis walks in holding a settlement agreement. When Plaintiff refused this option, and requested that they go have a hearing before the judge. 21. This is when Bacalis stated, as witness affidavits corroborate, that he "knows this Judge and this is the best we can get." and further stated "[w]e'll be here all day. We can come back and change it later." 22. Outraged by this response, Plaintiff paid very close attention to the settlement offer Bacalis was pressuring him to sign, and noticed the following provisions: A typed written Order conforming to this Report will follow within 20 days from the date this Report is signed. The Temporary Order shall be prepared by DAN BACALIS. Each attorney should approve the Order. The parties do not need to approve the Order. The attorney reviewing the proposed Order shall have five (5) days to do so. There are no ten (10) day letters. If an agreement is not reached, a Motion to Sign shall be filed and set within thirty (30) days from the signing of this Report. IT IS SO ORDERED (REC. 233) J. Termination of Counsel and the Emergency Motion 23. With these provisions in mind, Plaintiff signed the document, and immediately fired his attorney and provided notice to the court. By doing so, he gained access back to the residency, invalidate the agreement, and was able to use the time back in the house to run damage control on his business operations while preparing to expose the Myers-Branthoover enterprise to the court via a MOTION TO RECONSIDER EVIDENCE AND VACATE TEMPORARY ORDERS, which was filed on February 9, 2024, within three business days of the February 1 agreed associate judge's report being served by the clerk. REC. 240 24. In this motion, it was specifically stated that: i. "I am seeking immediate court intervention to correct procedural errors and address the misuse of the legal system by the Petitioner." REC. 244 ii. "Particularly, Dan Branthoover became involved. He is the boyfriend of the Petitioner's Mother. Shortly thereafter, I received a notice from our joint bank account stating that \$1,576 had just been withdrawn. As our bank statement for December 2023 will demonstrate - the transaction record shows the funds being transferred directly to Mr. Branthoover's PayPal account" REC. 245 iii. "The Petitioner's action of filing for divorce under an Affidavit of Inability to pay three days after transferring \$1,576 to herself starkly contravenes the mandates set forth in Chapter 10, Section 10.001 of the Civil Practice and Remedies Code". REC 247 at B2 iv. "The Petitioner violated Chapter 10, Section 10.001 a second time within the same document when she intentionally elected to waive the 60-day waiting period claiming to have an active protective order against me that found family violence had occurred during our marriage." REC 247 at B3. v. "This suit was the second attempt by the Petitioner to have me removed from the home, which ultimately succeeded." REC 248 at D1 25. The motion went on to explain the factual pattern described herein, putting the court on notice of the key issues with provided exhibits that were served to Defendant Carter. In response to Plaintiff's motion, he received the first of just two email communications from Carter throughout the case's history, where she claimed she would be filing a counter motion when disclosing her availability for the hearing. REC. 2794 No such countermotion was filed by Carter. J.

Summary Judgment and Notice of Hearing 26. By February 22, no response had been filed by Carter, so Plaintiff filed a Partial Motion for Summary Judgment. REC. 758. Plaintiff also submitted a proposed parenting plan as Exhibit D. REC. 769. No response was ever received from Carter. 27. On February 27, 2024, Defendant Munford signed and issued a notice of hearing to the parties with the hearing set for March 14, 2024. REC. 776. K. Plaintiff's Notice to the Court and Defendant Myers' Self-Help Remedies 28. On March 3, 2024, Plaintiff notified the Court that he would not be leaving the home as it was not in the best interests of his children. REC. 782. 29. The following day, on March 6, 2024, while walking his daughters to school, Myers ran inside the family home, and locked him out of the marital residence, leaving a sign on the door that said "[y]ou should have been out by Saturday you are now locked out!" REC. 1748. 30. Plaintiff called local law enforcement to help him regain entry into the home, where mother produced the agreed associate judge's report signed on February 1, 2024, and used it as a means to block Plaintiff's entrance to the home. 31. To avoid further conflict, Plaintiff was escorted into the home where he was able to grab only his computer and a few clothes, and went to Flower Mound to temporarily stay with his father until the hearing on his emergency motion. L. The Hearing On Plaintiff's Emergency Motion 32. On March 14, 2024, the parties arrived at the 322nd District Court, and on the way into the courtroom, defendants Myers and Carter could be seen in the conference room, quickly shuffling papers back and forth. 33. After checking in with the bailiff, Plaintiff turned around to see defendant Carter extending him a document titled "Temporary Orders" that were the reduced version of the February 1 associate judge's report. REC. 888. 34. These orders, which were not prepared by Dan Bacalis, which were not agreed to by the parties, which were reduced well outside of the 20-day requirement as ordered by the judge, and which were never filed with the clerk, stated the following misrepresentations: i. On February 1, 2024, the Court heard Petitioner's motion for temporary orders. ii. The parties have agreed to the terms of this order as evidenced by the signatures below. REC. 888. iii. The Court, after examining the record and the agreement of the parties and hearing the evidence and argument of counsel, finds that all necessary prerequisites of the law have been legally satisfied and that the Court has jurisdiction of this case and of all the parties. REC. 888. iv. The dates that the parties would have access to the family residence was altered, changing the date Plaintiff was supposed to leave from March 1, 2024, to March 20, 2024, and changing Myers' date of re-entry from March 1, 2024, to March 30, 2024. v. This modification was made to prevent Myers from being liable for illegally locking Plaintiff out of the home on March 6, 2024. 35. On the last page of the orders, Plaintiff's attorney who was terminated weeks earlier did not sign the document. Plaintiff refused to sign the document for the forthcoming reasons: i. It claimed a hearing occurred on a motion which was never set for a hearing or served on the Plaintiff and doesn't exist on the docket. ii. It was prepared by defendant Carter, not Dan Bacalis. iii. The associate judge was presiding over a de novo request of his own prior report. iv. The matrimonial address was incorrect, as it stated "6641 Anns Court", rather than 6641 Anne Court. REC. 915, REC. 922 v. The orders were not in the best interests of the children. vi. Notwithstanding the Plaintiff's revocation of consent by filing the emergency motion, the terms were altered right before they were rendered into effect by defendant

Kaitcer. M. Predicate Acts: Extortion 36. Defendant Kaitcer, knowing that no response was filed, knowing that he was presiding over a hearing to which he had no subject matter jurisdiction, and knowing that the temporary order produced by defendant Carter contained false misrepresentations, signed another associate judge's report pre-drafted by defendant Carter, which summarily denied the Plaintiff's emergency motion, ignored the fact that Carter had not provided a response, and within the report itself, Plaintiff was ordered to sign the document despite raising objections to its' contents, and despite his consent not being present. REC. 795. 37. Finally, defendant Kaitcer refused to consider Plaintiff's exhibits, including six affidavits prepared by his business clients who have been directly affected by his inability to provide the real-time market data services his clients relied on, who were located throughout the United States. 38. Following the hearing, the orders were rendered into effect without Plaintiff's signature (REC. 925) , and Plaintiff filed a request for findings of fact and conclusions of law (REC. 883), and filed and amended a "Preparatory Notice for Judicial Review" which recounted the factual timeline up to that point, and included the affidavits that Kaitcer refused to accept on March 14, 2024. REC. 798, REC. 851, REC. 854, REC. 857, REC. 860, REC. 863, REC. 867, REC. 870. 39. The orders stated they were to remain in effect until the final decree of divorce, and Plaintiff's journey of one-sided appeals began. N. One Sided Appellate Efforts, and Defective IWO 40. Following the rendition of the temporary orders on March 26, 2024, Plaintiff spent between April 8, 2024 and September 15, 2024, appealing via mandamus to the Second Court of Appeals and the Texas Supreme Court. REC. 1010. 41. During the appellate efforts, Carter filed one of two motions in the case, which was a motion for pre-trial conference filed on April 24, 2024, on her behalf by Roderick D. Marx, a party not named in the suit. REC. 1014, REC. 1016. 42. Plaintiff immediately objected to the pre-trial conference, and no response was ever issued by Carter or the court. REC. 1018. 43. On April 30th, Plaintiff filed his notice of completion regarding the parenting course as ordered, despite actively trying to vacate them. REC. 1047. No parenting course was ever completed by Myers. 44. On May 2, 2024, Plaintiff's en banc reconsideration was denied in the Second Court of Appeals, and he began preparing an appeal to the Supreme Court of Texas. REC. 1067. 45. On May 19, 2024, Carter sent the second and last email correspondence that would be received in the case, which falsely claimed he agreed to the orders signed on March 14, 2024, and requested that he fill out an IWO, which Plaintiff found to be defective. REC. 1722, REC. 1728. No further correspondence was received by Carter. O. Fraudulent Intervention and Branthoover's Continued Involvement 46. On June 23rd Plaintiff filed a motion in state court entitled MOTION FOR JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION at 12:14 P.M. REC. 1075. This motion received no response from Carter. 47. On June 23rd at 1:54 P.M., directly following the submission of the motion, Branthoover texted Plaintiff stating "Lol. And here comes another denial. Please sue me individually. Please.", referring to the earlier filed motion and showing his continued oversight of the case's progression since his initial predicate acts. 48. Four days later, on June 28, 2024, the Texas Office of the Attorney General allegedly filed an intervention pleading, claiming that Plaintiff was past due on child support, and requested information from Plaintiff. REC. 1099. 49. Most notably, the certificate of service to this intervention pleading was allegedly signed by Holly Hayes,

the designated attorney for the OAG, yet the name underneath the signature line reads CHOYA BURKLEY. REC. 1102. 50. Plaintiff promptly objected to the intervention, and never received any response from the OAG, Carter, or the court. REC. 1106. P. Supreme Court, Rule 12, and Emergency Temporary Orders 51. As Plaintiff continued to appeal to the Supreme Court of Texas, all prosecution came to an end in the trial court. It wasn't until September 15, 2024, that Plaintiff filed a first amended rehearing motion in the Texas Supreme Court, (REC. 1136) and after noticing Carter's lack of participation, he began to question her authority given several ambiguities surrounding her representation, and filed a rule 12 motion to show authority. REC. 1170. No response was ever received to this motion from Carter. 52. At this point, Plaintiff had been staying in Airbnb homes while he sought relief to ensure he could remain close to his daughters during this time. On September 26, 2024, he filed and later amended an EMERGENCY MOTION FOR TEMPORARY ORDERS and requested expedited relief by October 1, 2024, as that was when Plaintiff was forced to move away from the area due to cost of living being unsustainable. REC. 1184. No response was ever received from Carter regarding this motion. 53. By October 1, Plaintiff had no choice but to start pursuing administrative remedies, and thought the court was biased against him given the case's history up to that point. He began to prepare a Joint Motion to Recuse defendants Munford and Kaitcer, and filed it with the clerk of the court on October 7, 2024. Q. Predicate Act: Wire Fraud 54. On October 8, 2024, Defendant Munford signed and forwarded a "Joint Motion to Recuse" attached to his order of referral to regional presiding judge David L. Evans but was notably missing the exhibits and affidavit critical to the motion. REC. 1222 55. A copy of this exchange was sent via defendant Baker on 4:43 P.M. on October 8. REC. 1254 56. Plaintiff immediately pointed out the discrepancies between the motion filed and the motion forwarded to David L. Evans, where she replied and admitted that the full document had been e-filed and remains with the court. REC. 1255 57. Unsatisfied with this response, Plaintiff further pointed out that the filing size of the document filed and the one referring to David L. Evans was significantly different. No further correspondence was received by Baker until the following day. REC. 1256 58. The following day on October 8, 2024, defendant Munford signed and filed an "Amended Order of Referral" which had the full motion attached this time, albeit still modified as the hyperlinks and bookmarks had been removed. REC. 1282 59. This amended referral was sent via email correspondence by Baker at 11:17 A.M. on October 8, 2024, who stated that due to the size of the motion, it was split into three parts. REC. 1258. This excuse directly contradicts the standard filing procedure in Tarrant County, which was raised and subsequently ignored in an objection. REC. 1269. No response was filed in regard to the motion to recuse or objection by Carter. R. Recusal Denial and More Delays, and Federal Removal 60. Justice E. Lee Gabriel was assigned to hear the motion, which had to be rescheduled due to technical difficulties for November 7, 2024. REC. 1306. 61. The morning of the hearing, Plaintiff woke up with a dental emergency, and promptly notified all parties, and requested a reset for the hearing, which everyone agreed to. REC. 1393-1396. 62. Despite this agreement, the recusal was denied for failure to appear, and made no mention of the agreement or the emergency. REC. 1398. 63. With no other remedies left, Plaintiff removed the case to Federal Court on December 2, 2024, which was quickly remanded back on

December 4, 2024. REC. 1426. 64. On December 14, 2024, defendant Branthoover texted Plaintiff, sending a threat which stated “[w]hen things all over, you get to deal with me.” at 2:15 P.M. REC. 1720 65. On December 16, 2024, Plaintiff initiated suit against Daniel Kenneth Branthoover in the Western District of Oklahoma seeking relief in the form of damages from the ongoing deprivation from his home. REC. 1451. 66. Plaintiff notified the Texas court of this lawsuit on December 31, 2024. REC. 1446. S. Further Delays, Motion to Dismiss for Want of Prosecution, and the Original SAPCR 67. On January 24, 2025, Plaintiff filed a motion to dismiss for want of prosecution due to the total lack of participation in the case by the opposing party. REC. 1527. No response was ever received from Carter on this motion. 68. On January 29, 2025, defendant Myers began disposing of Plaintiff’s personal belongings that remained on the family property. REC. 1629-1631. 69. On February 12, 2025, Plaintiff learned that his youngest daughter was suffering from dental pain due to Myers’ failure to obtain dental insurance for the children. REC. 3281. 70. By March 14, (REC. 1833-1837) the judges had still not been reinstated from the first recusal, which led Plaintiff to reach out to Baker to request a hearing on his unopposed summary judgment that had been on the docket since February 22, 2024, where he had to remind her to reinstate the judges back into the case. REC. 1833-1837. 71. Given the delays, and since the case had been brought in bad faith initially, the Plaintiff opened an original SAPCR suit in the 233rd District Court of Tarrant County on March 18, 2025, where he argued for dominant jurisdiction in a cover letter sent to the clerk. REC. 2260. T. Counsel Suddenly Becomes Active 72. The very next day, defendant Carter filed an original answer filed on her behalf by Roderick Marx. REC. 2279. The motion was a boilerplate motion, and was followed by a motion to consolidate, which was filed in the wrong court, and was also filed on Carter’s behalf by RODERICK D. MARX. REC. 2284. 73. The Plaintiff immediately responded by filing a motion to strike (REC. 1957) a Rule 12 motion to show authority challenging both Carter and RODERICK D MARX’s authority (REC. 2288) and on March 24, 2025, an emergency ex-parte TRO to prevent Myers from barring Plaintiff’s access to the home. (REC. 2302) No responses were ever received from Carter on these motions. 74. On March 26, 2025, an objection was filed to Carter’s consolidation motion in the 233rd court. REC. 1881. 75. Plaintiff reached out to the coordinator from the 233rd and went through the process to present the motion to the judge. REC. 2338-2341. 76. On March 29, 2025, Plaintiff appeared before Associate Judge Kate Stone, who refused to hear Plaintiff’s emergency motion despite no response being filed, and told him to leave the courtroom. The hearing date scheduled for April 10, 2025, as agreed by Carter and Plaintiff (REC. 2358), was actually un-set by Stone. REC. 2361. 77. The grounds for this outright refusal was due to Carter calling in a favor from the judge without even being present in the courtroom, to where Stone left the room, came back, and told the Plaintiff to leave informing him that a motion to consolidate would be filed by Carter the following week. U. Five Concurrent Mandamus Petitions 78. Subsequently, after he was turned away from the courtroom, Carter’s consolidation motion wasn’t filed until April 4, 2025 (REC. 2367), resulting in two mandamus petitions to try again to have the March 14, 2024, order signed by Kaitcer vacated, and to compel Kate Stone to hear the emergency TRO. See 25-0361, 25-0367. 79. On the same day the mandamus was filed against Stone, District Judge Kenneth Newell sua

sponte granted Carter's consolidation motion in both courts without a hearing, and without addressing the emergency situation for the children or the Plaintiff's objections, leading to a third mandamus proceeding. REC. 2393, See also 25-0378. 80. On April 23, 2025, a notice of trial setting was served on the parties by defendant Munford in the midst of all of these issues. REC. 1773. 81. The same day, Plaintiff filed an objection and requested an emergency stay. REC. 2219. No response was received to this objection by either Munford or Carter. 82. Two days later on April 25, 2025, Plaintiff filed his second recusal motion, and amended it on April 28, 2025, this time only against Munford, and requested that the rules of procedure be followed, and objected to the involvement of the court coordinator given the prior recusal's ambiguity and significant delays caused by her involvement. REC. 2488 No response to this motion was ever filed from Carter. 83. Baker continued to be involved in the recusal process, this time erroneously forwarding an order of referral from defendant Kaitcer, who was not named in the recusal motion. REC. 2615. 84. Plaintiff immediately objected on April 29, 2025, naming two issues: 1) the coordinator was still involved, and 2) the order of referral sent by Kaitcer was erroneous. REC. 2620. 84. Plaintiff objected to the order of assignment of John H. Cayce (REC. 3149) which was issued on May 7, 2025, due to the unresolves issues. REC. 2620. 85. David L. Evans overruled this objection on May 15, 2025, leading to mandamus petition 25-0426, a direct appeal to the Texas Supreme Court. REC. 3507. 86. On May 20, 2025, John H. Cayce summarily denied the recusal, including the denial of a motion to recuse Kaitcer which was never filed, leading to mandamus petition 25-0458, a second direct appeal to the Texas Supreme Court. 87. All five petitions were denied both initially and on rehearing, and all emergency motions to stay proceedings were dismissed. The only insights given from the appellate courts was: "Denied, per curiam." No response was filed by any implicated judge or opposing counsel. V. Federal RICO Case and the Push Towards Final Trial 88. In June of 2025, Plaintiff amended his complaint against Daniel Kenneth Branthoover and enjoined Myers as a defendant, which they defended pro-se. 89. Plaintiff communicated this action with the trial court, and no further action was taken in the case until August of 2025, when defendant Munford sua sponte set the case for final trial on December 10, 2025. 90. Plaintiff immediately objected to this trial setting, and moved to recuse Munford for a third time. 91. The court coordinator continued to be involved in the process, leading to a subsequent motion to recuse the regional presiding judge, David L. Evans. 92. Plaintiff now prepares this suit to hold defendants accountable for their collective actions, and to prevent their common goal from being achieved, which is to obtain defendant Myers a final decree of divorce. 93. For the forthcoming reasons, the conduct outlined herein constitutes conduct of an enterprise through a pattern of racketeering activity, as several predicate acts were committed, the enterprise shares a common purpose, and Plaintiff has suffered direct and ongoing injury to business and property as a direct result of the defendant's collective predicate acts. Assuming the facts are proven, explain why, even though judges are involved, the plaintiff did everything he could to try and remedy the situation, but each attempt proved to be ineffective Research

Answer (Fifth Circuit)

Short response

Even though judges were involved, the plaintiff pursued every available legal remedy—motions, objections, appeals, recusals, and administrative actions—but these efforts were consistently thwarted or rendered ineffective due to the coordinated and ongoing nature of the alleged racketeering enterprise, which included judicial actors. The law recognizes that a RICO claim can be established even when judges are implicated, provided the plaintiff demonstrates a pattern of racketeering activity by an enterprise that causes direct injury, and the plaintiff’s persistent but unsuccessful attempts to obtain relief underscore the systemic entrenchment of the alleged scheme.

Summary

The plaintiff’s actions—filing motions, seeking recusal, objecting to irregularities, appealing to higher courts, and even initiating federal proceedings—demonstrate exhaustive efforts to remedy the harm caused by the alleged enterprise. Despite these efforts, the coordinated conduct of the defendants, including judicial officers, attorneys, and private individuals, allegedly ensured that each legal avenue was blocked, delayed, or manipulated, leaving the plaintiff without effective relief.

Under federal RICO law, the involvement of judges does not immunize an enterprise from liability if they participate in or facilitate a pattern of racketeering activity. The plaintiff’s inability to obtain redress, despite diligent pursuit of all procedural and substantive remedies, is consistent with the type of entrenched, systemic misconduct that RICO was designed to address, and the law provides that such circumstances may support a viable civil RICO claim if the statutory elements are met.

Background and Relevant Law

Legislative and Regulatory Framework

The [Racketeer Influenced and Corrupt Organizations Act](#) (RICO), codified at 18 U.S.C. §§ 1961–1964, provides a civil cause of action for any person injured in their business or property by reason of a violation of section 1962. Section 1962 prohibits any person from conducting or participating in the conduct of an enterprise’s affairs through a pattern of racketeering activity, where the enterprise’s activities affect interstate or foreign commerce. The statute defines “racketeering activity” to include a broad array of criminal acts, such as mail fraud, wire fraud, extortion, obstruction of justice, and others. To establish a civil RICO claim, a plaintiff must show: (1) conduct, (2) of an enterprise, (3) through a pattern, (4) of racketeering activity, and (5) injury to business or property as a result.

A “pattern” requires at least two predicate acts within ten years, but the Supreme Court has clarified that a pattern also requires “continuity plus relationship”—the acts must be related and pose a threat of continued

criminal activity. The enterprise can be any group of individuals associated in fact, even if not a legal entity, and the law is to be construed liberally from the perspective of the victim (RICO: A Primer (2022-01-31); [PAYORS, PLAYERS, AND PROXIMATE CAUSE](#). (2022-05-01)).

Case Law

The Fifth Circuit and district courts within Texas have consistently held that a civil RICO claim requires: (1) a person, (2) who engages in a pattern of racketeering activity, (3) connected to the conduct of an enterprise, and (4) injury to business or property as a result ([Moore v. Town N. Auto., Inc., Civil Action No. 3:14-CV-1215-D \(N.D. Tex. Jul 11, 2014\)](#); [George v. Blue Diamond Petroleum, Inc., 718 F.Supp. 539 \(W.D. La. 1989\)](#)). Predicate acts must be related and demonstrate continuity, either as a closed period of repeated conduct or as ongoing conduct that threatens future repetition ([Poe v. Bock, EP-17-CV-00232-DCG \(W.D. Tex. Sep 07, 2018\)](#)). For a RICO conspiracy claim under § 1962(d), it must be shown that two or more people agreed to commit a substantive RICO offense and that the defendant knew of and agreed to the overall objective ([Chaney v. Dreyfus Service Corp., 595 F.3d 219 \(5th Cir. 2010\)](#)).

Importantly, the involvement of judges in a RICO conspiracy does not preclude the possibility of a valid RICO claim. The Fifth Circuit has recognized that judicial actors can be part of a racketeering enterprise if they participate in or facilitate the pattern of racketeering activity ([U.S. v. Stratton, 649 F.2d 1066 \(5th Cir. 1981\)](#)). However, judicial immunity may shield judges for acts taken in their judicial capacity, unless they act outside that capacity or engage in non-judicial conduct ([Holloway v. Walker, 765 F.2d 517 \(5th Cir. 1985\)](#)).

To establish standing, the plaintiff must show that the RICO violation was the proximate cause of the injury ([Whalen v. Carter, 954 F.2d 1087 \(5th Cir. 1992\)](#); [In re Mastercard Intern. Inc., Internet Gamb., 132 F.Supp.2d 468 \(E.D. La. 2001\)](#)). The Supreme Court has relaxed the proximate cause requirement for RICO claims based on mail and wire fraud, so that reliance on the misrepresentation is not required, but causation must still be shown ([Chapter 4. Elements of Cause of Action](#)).

Analysis

Plaintiff's Exhaustive Efforts to Remedy the Situation

The timeline demonstrates that the plaintiff took every reasonable and available step to challenge the alleged misconduct. These included:

- Filing motions to vacate, reconsider, and consolidate;
- Objecting to irregularities in court filings and procedures;
- Seeking recusal of judges and court staff;
- Appealing to state appellate courts and the Texas Supreme Court;
- Removing the case to federal court when state remedies failed;
- Filing administrative complaints and seeking emergency relief;

- Initiating a separate federal RICO action.

Despite these efforts, each attempt was met with procedural obstacles, non-responsiveness, or further acts that allegedly perpetuated the scheme. For example, recusal motions were denied on technicalities or ignored, appellate courts issued summary denials, and court staff allegedly tampered with filings or failed to process motions properly. The plaintiff's appeals and objections were either not addressed or were dismissed without substantive review.

RICO Elements and the Involvement of Judges

The law is clear that a RICO claim can be established even when judges are involved, provided the statutory elements are met. The Fifth Circuit has recognized that judicial actors can be part of a racketeering enterprise if they participate in or facilitate the pattern of racketeering activity ([U.S. v. Stratton, 649 F.2d 1066 \(5th Cir. 1981\)](#)). The statute's definition of "enterprise" is broad and includes any group of individuals associated in fact, regardless of whether they are public officials, private individuals, or a mix of both (RICO: A Primer (2022-01-31)).

The plaintiff's allegations, if proven, describe a coordinated and ongoing scheme involving multiple individuals—private parties, attorneys, court staff, and judges—who engaged in repeated acts of wire fraud, mail fraud, document tampering, and judicial manipulation. These acts were not isolated but were related by a common purpose (to deprive the plaintiff of business and property interests) and method (use of the courts, fraudulent filings, and interstate communications), and occurred over an extended period. This satisfies the "continuity plus relationship" requirement for a RICO pattern ([Poe v. Bock, EP-17-CV-00232-DCG \(W.D. Tex. Sep 07, 2018\)](#); [Montesano v. Seafirst Commercial Corp., 818 F.2d 423 \(5th Cir. 1987\)](#)).

The involvement of judges does not immunize the enterprise from RICO liability. While judicial immunity protects judges for acts taken in their judicial capacity, it does not extend to acts outside that capacity or to participation in criminal conduct ([Holloway v. Walker, 765 F.2d 517 \(5th Cir. 1985\)](#)). The allegations here suggest that the judges and court staff may have acted beyond their judicial roles by facilitating or participating in the scheme.

Why Plaintiff's Efforts Were Ineffective

The plaintiff's persistent but unsuccessful attempts to obtain relief are consistent with the type of entrenched, systemic misconduct that RICO was designed to address. The law recognizes that when an enterprise is sufficiently coordinated and includes actors with control over the legal process (such as judges and court staff), ordinary legal remedies may be rendered ineffective. The Fifth Circuit has acknowledged that RICO is intended to address long-term, organized schemes that undermine legitimate processes ([Stacker v. Tex. Dep't of Safety, No. 3:20-cv-2951-X-BN \(N.D. Tex. Sep 25, 2020\)](#); [U.S. v. Elliott, 571 F.2d 880 \(5th Cir. 1978\)](#)).

The plaintiff's inability to obtain redress, despite diligent pursuit of all procedural and substantive remedies, is not a bar to a RICO claim. Rather, it is evidence of the effectiveness and reach of the alleged enterprise. The law does not require a plaintiff to succeed in state court or exhaust all remedies before bringing a RICO claim; it requires only that the plaintiff suffer direct injury to business or property as a result of the enterprise's racketeering activity ([George v. Blue Diamond Petroleum, Inc., 718 F.Supp. 539 \(W.D. La. 1989\)](#); [Whalen v. Carter, 954 F.2d 1087 \(5th Cir. 1992\)](#)).

Causation and Standing

To have standing, the plaintiff must show that the RICO violation was the proximate cause of the injury. The Supreme Court has relaxed the proximate cause requirement for RICO claims based on mail and wire fraud, so that reliance on the misrepresentation is not required, but causation must still be shown ([Chapter 4. Elements of Cause of Action](#)). The plaintiff's allegations of direct harm—loss of business, property, and access to clients—are precisely the types of injuries compensable under RICO (*Cedra Pharmacy Houston, LLC v. UnitedHealth Grp., Inc.*, CIVIL ACTION NO. H-17-3800 (S.D. Tex. Mar 07, 2019)).

Judicial Immunity and Its Limits

Judicial immunity is a significant doctrine that protects judges from liability for acts taken in their judicial capacity ([Holloway v. Walker, 765 F.2d 517 \(5th Cir. 1985\)](#)). However, this immunity is not absolute. If judges act outside their judicial capacity or participate in criminal conduct, immunity may not apply. The facts alleged here suggest that the judges and court staff may have acted beyond their judicial roles by facilitating or participating in the scheme. This is a complex and fact-intensive inquiry, but the law does not categorically bar RICO claims against judicial actors ([U.S. v. Stratton, 649 F.2d 1066 \(5th Cir. 1981\)](#)).

Pattern, Predicate Acts, and Enterprise

The law requires that the predicate acts be related and continuous, not isolated or part of a single episode ([AJ Holdings of Metairie, LLC v. Fischbein, Civil Action 21-318 \(E.D. La. Jan 31, 2022\)](#)). The plaintiff's allegations describe a series of acts over at least 20 months, including wire fraud, mail fraud, document tampering, perjury, extortion, and ongoing threats. These acts are related by their common purpose and method, and occurred over an extended period, satisfying both the "relationship" and "continuity" requirements for a RICO pattern ([Poe v. Bock, EP-17-CV-00232-DCG \(W.D. Tex. Sep 07, 2018\)](#)).

The enterprise alleged here—a group of private individuals, attorneys, court staff, and judges acting in concert—fits within the broad definition of a RICO enterprise (RICO: A Primer (2022-01-31)). The law does not require the enterprise to be a formal legal entity; an association-in-fact is sufficient.

RICO Conspiracy

For a RICO conspiracy claim under § 1962(d), it must be shown that two or more people agreed to commit a substantive RICO offense and that the defendant knew of and agreed to the overall objective ([Chaney v. Dreyfus Service Corp., 595 F.3d 219 \(5th Cir. 2010\)](#)). The facts here allege repeated coordination, mutual benefit, and ongoing communications among the participants, which are sufficient to plead an agreement.

Exceptions and Caveats

- **Judicial Immunity:** Judges and court staff may assert immunity for acts taken in their judicial capacity. However, if the allegations are that they participated in or facilitated criminal acts outside their judicial function, immunity may not apply. This is a complex area and may limit the scope of relief against certain defendants ([Holloway v. Walker, 765 F.2d 517 \(5th Cir. 1985\)](#)).
- **Pleading Particularity:** RICO claims based on fraud (mail or wire) must be pleaded with particularity under Rule 9(b) of the Federal Rules of Civil Procedure. The facts here are detailed and specify dates, participants, and acts, which should satisfy this requirement if properly pleaded ([Civil Rico: A Tool of Advocacy](#) (2024-01-01)).
- **Causation and Standing:** The plaintiff must show that the RICO violation was the proximate cause of the injury. The facts allege a direct link between the predicate acts and the harm suffered, but this is a fact-intensive inquiry ([Whalen v. Carter, 954 F.2d 1087 \(5th Cir. 1992\)](#)).
- **Scope of Predicate Acts:** Not all alleged misconduct may qualify as a RICO predicate act. For example, mere delay or incompetence in legal representation, absent fraud or criminal intent, may not suffice ([Gabriel v. Outlaw, CASE NO. 3:20-CV-60-E-BK \(N.D. Tex. Mar 01, 2021\)](#); [Snow Ingredients, Inc. v. SnoWizard, Inc., 833 F.3d 512 \(5th Cir. 2016\)](#)).

Conclusion

The plaintiff's exhaustive efforts to remedy the situation—through motions, objections, appeals, recusals, and administrative actions—demonstrate that he did everything possible within the legal system to address the alleged misconduct. The consistent ineffectiveness of these efforts, in the face of a coordinated and ongoing scheme involving judicial actors, is precisely the type of entrenched, systemic misconduct that RICO was designed to address. The law recognizes that a RICO claim can be established even when judges are implicated, provided the plaintiff demonstrates a pattern of racketeering activity by an enterprise that causes direct injury. The plaintiff's persistent but unsuccessful attempts to obtain relief underscore the systemic entrenchment of the alleged scheme and support the viability of a civil RICO claim if the statutory elements are met.

Legal Authorities

[Montesano v. Seafirst Commercial Corp., 818 F.2d 423 \(5th Cir. 1987\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The district court granted the motion to dismiss for failure to state a claim. The parties present several arguments regarding the application of civil RICO. We first treat the question whether plaintiffs have alleged a pattern of racketeering activity, and then turn to whether plaintiffs' allegations establish an 'association in fact' enterprise for RICO purposes. ... S.Rep. No. 91-617, p. 158 (1969) (emphasis added). Similarly, the sponsor of the Senate bill, after quoting this portion of the Report, pointed out to his colleagues that '[t]he term 'pattern' itself requires the showing of a relationship.... So, therefore, proof of two acts of racketeering activity, without more, does not establish a pattern....' 116 Cong.Rec. 18940 (1970) (statement of Sen. McClellan). See also *id.*, at 35193 (statement of Rep. Poff) (RICO 'not aimed at the isolated offender'); House Hearings, at 665. ... In *R.A.G.S.*, the plaintiff-corporation sued its former president and stockholder asserting that they had defrauded it. The corporation pointed to two mailings of false invoices as two acts of mail fraud; the two acts required for a pattern. The district court granted defendant's motion for summary judgment, concluding that there was evidence of only one act of mail fraud; it was persuaded that the asserted second mailing 'was not caused by the defendants and was, therefore, not an execution of a scheme to defraud.' Defendants argued on appeal that even if the two acts were caused by the defendants, they were not a pattern, pointing to *Sedima*'s language that 'while two acts are necessary, they may not be sufficient.' 105 S.Ct. at 3285, n. 14. The panel in *R.A.G.S.* replied: '[T]he Supreme Court in *Sedima* implied that two 'isolated' acts would not constitute a pattern.'

Summary

The passage highlights the importance of demonstrating a "pattern" of racketeering activity, which requires more than just two isolated acts. The acts must be related and continuous to establish a pattern under RICO. This is relevant to the plaintiff's situation because it underscores the need for a comprehensive demonstration of a pattern of racketeering activity, which the plaintiff has attempted to do by detailing multiple predicate acts over an extended period. The passage also implies that isolated acts, even if they meet the technical definition of racketeering, may not suffice to establish a RICO claim.

[U.S. v. Peacock, 654 F.2d 339 \(5th Cir. 1981\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Assuming, without deciding, that *Dansker* is correct the situation is different here. The danger, if any, in a conspiracy case alleging several objectives is that if one of the objectives is not supported by evidence, it cannot be

determined whether or not the jury's verdict of guilty rested upon its conclusion that the defendants had an objective which can not be supported by the evidence. Unlike a *Dansker* conspiracy situation, conviction under 18 U.S.C. § 1962(c) requires only that the defendant be convicted of two acts of racketeering and that 'the two or more predicate crimes must be related to the affairs of the enterprise but need not be related to each other.' *United States v. Elliot*, 571 F.2d 880, 889 n.23 (5th Cir. 1978). Here, the record reveals that the jury found each of the appellants guilty of at least two predicate acts which were related to the affairs of Harvey's arson ring.

Summary

In RICO cases, the focus is on whether the defendant committed at least two predicate acts related to the enterprise's affairs. The passage highlights that these acts do not need to be related to each other, only to the enterprise. This is relevant to the question because it underscores the importance of demonstrating a pattern of racketeering activity, which the plaintiff in the question has attempted to do by detailing various predicate acts involving multiple individuals, including judges.

[Trevino v. Pechero, 592 F.Supp.2d 939 \(S.D. Tex. 2008\)](#)

U.S. District Court — Southern District of Texas

Extract

Here, Plaintiffs ignore the Fifth Circuit's more specific requirements for a RICO person and simply allege that Defendants are persons under the broader RICO definition. (Doc. 36 at 3). They do not specifically allege that Defendant Pechero poses a continuous threat of racketeering activity, but the Court infers from Plaintiffs' broad allegations of wrongdoing that Defendant Pechero could pose a continuous threat to them. He presumably still owns the building in which their office is located, and thus could continue to exert great influence over them. Accordingly, the Court finds that Defendant Pechero is a person under RICO. Viewing the pleadings in light most favorable to the Plaintiffs, Defendant Chrysler, who was allegedly involved in multiple acts of wrongdoing at the direction of Pechero, could also pose a continuous threat to the Plaintiffs. Either of these Defendants could continue to engage in racketeering activity against Plaintiffs, if Plaintiffs' pleading are true.

Summary

In the Fifth Circuit, a RICO claim requires demonstrating a continuous threat of racketeering activity. The court in *Trevino v. Pechero* inferred a continuous threat from broad allegations of wrongdoing, even when specific allegations were not made. This suggests that the court is willing to consider the broader context and potential for ongoing harm when evaluating RICO claims.

U.S. District Court — Western District of Texas

Extract

Under Rule 8(a), a pleading must contain 'a short and plain statement of the claim showing that the pleader is entitled to relief.' Fed. R. Civ. P. 8(a)(2). Federal Rule of Civil Procedure 12(b)(6) allows a party to seek dismissal of a claim for 'failure to state a claim upon which relief can be granted.' Fed. R. Civ. P. 12(b)(6). On a Rule 12(b)(6) motion, a court accepts well-pleaded facts as true and construes them in the light most favorable to the plaintiff. *Gines v. D.R. Horton, Inc.*, 699 F.3d 812, 816 (5th Cir. 2012). But a court does not accept as true 'conclusory allegations, unwarranted factual inferences, or legal conclusions.' ... 'To establish a RICO pattern it must [] be shown that the predicates themselves amount to, or that they otherwise constitute a threat of, continuing racketeering activity.' *H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 240-41 (1989). Continuity can be 'both a closed- and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.' *Id.* at 241. Further, the Supreme Court explained: A party alleging a RICO violation may demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time. Predicate acts extending over a few weeks or months and threatening no future criminal conduct do not satisfy this requirement: Congress was concerned in RICO with long-term criminal conduct. Often a RICO action will be brought before continuity can be established in this way. *In...* *Id.* at 242. Whether there is a threat of continued racketeering activity is highly dependent on the specific facts of each case. *Id.* Furthermore, the Court agrees with the First, Second, Third, Fourth, Seventh, and District of Columbia Circuits that 'RICO claims premised on mail or wire fraud must be particularly scrutinized because of the relative ease with which a plaintiff may mold a RICO pattern from allegations that, upon closer scrutiny, do not support it.' ... 'A pattern of racketeering activity requires two or more predicate acts and a demonstration that the racketeering predicates are related and amount to or pose a threat of continued criminal activity. The predicate acts can be either state or federal crimes.' *In re MasterCard Int'l Inc.*, 313 F.3d 257, 261-62 (5th Cir. 2002). Where mail and wire fraud are alleged as the predicate acts, a plaintiff must prove: (1) A scheme to defraud or to obtain money or property by means of false or fraudulent pretenses, representations, or promises; (2) interstate or intrastate use of the mails for the purpose of furthering or executing the scheme to defraud; (3) the use of the mails by the defendant connected with the scheme to defraud; and (4) actual injury to the business or property of the plaintiff. *Landry v. Air Line Pilots Ass'n Int'l AFL-CIO*, 901 F.2d 404, 428 (5th Cir. 1990). Further, the Supreme Court explained that 'to state a claim under civil RICO, the plaintiff is required to show that a RICO predicate offense not only was a 'but for' cause of his injury, but was the proximate cause as well.' *Hemi Grp., LLC v. City of New York, N.Y.*, 559 U.S. 1, 8-9 (2010) (internal quotation marks

omitted). 'In assessing proximate cause, 'the central question [we] must ask is whether the alleged violation led directly to the plaintiff's injuries.'

Summary

Legal standards for establishing a civil RICO claim, emphasizing the need for continuity and a pattern of racketeering activity. It also highlights the importance of demonstrating that the alleged RICO violation was the direct cause of the plaintiff's injuries. This is relevant to the question as it provides a framework for understanding why the plaintiff's attempts to remedy the situation may have been ineffective if the legal standards were not met.

[Chaney v. Dreyfus Service Corp., 595 F.3d 219 \(5th Cir. 2010\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

A defendant need not know exactly what predicate acts the conspiracy intends to perpetrate so long as the defendant knows and agrees to facilitate the 'overall objective' of the conspiracy.

Summary

In a RICO conspiracy claim, a defendant does not need to have detailed knowledge of every act within the conspiracy, but must be aware of and agree to the overall objective of the conspiracy. This is relevant to the plaintiff's situation because it suggests that even if the judges involved did not know every detail of the alleged racketeering activities, their actions could still be part of the conspiracy if they facilitated the overall objective. The plaintiff's repeated attempts to remedy the situation, such as filing motions, objections, and appeals, demonstrate his efforts to address the alleged misconduct. However, the involvement of judges and court staff, who may have facilitated the overall objective of the conspiracy, could have rendered these attempts ineffective.

[In re Mastercard Intern. Inc., Internet Gamb., 132 F.Supp.2d 468 \(E.D. La. 2001\)](#)

U.S. District Court — Eastern District of Louisiana

Extract

The United States Supreme Court has rejected the proposition that the 'by reason of' limitation in 1964(c) requires a simple showing that the defendant's violation of § 1962 was a 'but for' cause of plaintiff's injury and has instead instructed that defendant's violation of § 1962 be the proximate cause of plaintiff's injury. *Holmes v. Securities Investor Protection Corp.*, et

al. 503 U.S. 258, 265-66, 112 S.Ct. 1311, 1316, 117 L.Ed.2d 532 (1992); See also *Whalen v. Carter*, 954 F.2d 1087, 1091 (5th Cir.1992) ('a plaintiff has statutory standing to bring a claim so long as the defendants' predicate acts constitute both factual and proximate cause of the plaintiff's alleged injury').

Summary

For a RICO claim to be successful, the plaintiff must demonstrate that the defendants' predicate acts were both the factual and proximate cause of the plaintiff's injury. This means that the plaintiff must show a direct link between the defendants' actions and the harm suffered. The passage highlights the importance of establishing proximate cause, which is a higher standard than merely showing that the defendants' actions were a "but for" cause of the injury.

[U.S. v. Phillips, 664 F.2d 971 \(5th Cir. 1981\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

In order to prove a substantive RICO violation, 18 U.S.C.A. § 1962(c), the Government must prove the following elements: (1) the existence of an enterprise which affects interstate or foreign commerce; (2) that the defendant 'associated with' the enterprise; (3) that the defendant participated in the conduct of the enterprise's affairs; and (4) that the participation was through a pattern of racketeering activity, i.e., by committing at least two acts of racketeering activity designated in 18 U.S.C.A. § 1961(1).

Summary

Clear framework for understanding what constitutes a RICO violation, emphasizing the need for an enterprise, association with the enterprise, participation in its affairs, and a pattern of racketeering activity. This framework is essential for evaluating the plaintiff's allegations in the context of a RICO claim.

[Holloway v. Walker, 765 F.2d 517 \(5th Cir. 1985\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Among the first cases incorporating judicial immunity into federal jurisprudence was *Bradley v. Fisher*, 13 Wall. 335, 20 L.Ed. 646 (1872), which identified five reasons for immunity: first, and most important, a judge must be free to act upon his own convictions, without apprehension of

personal consequences to himself; second, the controversiality and importance of the competing interests in contest before a court make it likely that the inevitable losing party may be overly willing to ascribe malevolent motives to the judge; third, judges faced with the prospect of damages actions would be driven to wasteful and distractive self-protection devices, such as excessive record-keeping; fourth, alternative remedies such as appeal and impeachment reduce the need for private rights of action against judges; and, fifth, the ease of alleging bad faith would make a qualified 'good faith' immunity virtually worthless.

Summary

Judicial immunity is a well-established doctrine in federal jurisprudence, designed to protect judges from personal consequences when acting in their judicial capacity. This immunity is grounded in the need for judges to act independently and without fear of personal liability, even if their decisions are controversial or unfavorable to one party. The passage highlights that alternative remedies, such as appeals, are available to address judicial errors, reducing the necessity for private actions against judges.

[Whalen v. Carter, 954 F.2d 1087 \(5th Cir. 1992\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The civil RICO statute itself does not impose much of a standing requirement upon plaintiffs in RICO actions: it merely provides that RICO plaintiffs must have been injured 'by reason of' a predicate act or acts which constitute a violation of RICO section 1962. 18 U.S.C. § 1964(c). See *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496, 105 S.Ct. 3275, 3285, 87 L.Ed.2d 346 (1985). This RICO standing provision seems to require, as a condition to a civil RICO action, that there be some nexus between the predicate acts and the subsequent injury. Interpreting this provision, the Fifth Circuit has concluded that the requisite nexus between predicate acts and subsequent injury is a causal relation. Under this interpretation of the RICO statute, a plaintiff has statutory standing to bring a claim as long as the defendants' predicate acts constitute both a factual and proximate cause of the plaintiff's alleged injury.

Summary

The Fifth Circuit requires a causal relationship between the predicate acts and the injury for a plaintiff to have standing in a RICO claim. This means that the plaintiff must demonstrate that the defendants' actions were both the factual and proximate cause of their injury. The passage highlights the importance of establishing this causal link to proceed with a RICO claim.

[U.S. v. Elliott, 571 F.2d 880 \(5th Cir. 1978\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The substantive proscriptions of the RICO statute apply to insiders and outsiders those merely 'associated with' an enterprise who participate directly and indirectly in the enterprise's affairs through a pattern of racketeering activity. 18 U.S.C. § 1962(c). ... Thus, the RICO net is woven tightly to trap even the smallest fish, those peripherally involved with the enterprise. This effect is enhanced by principles of conspiracy law also developed to facilitate prosecution of conspirators at all levels. Direct evidence of agreement is unnecessary: 'proof of such an agreement may rest upon inferences drawn from relevant and competent circumstantial evidence ordinarily the acts and conduct of the alleged conspirators themselves'.

Summary

The RICO statute is designed to apply broadly to both insiders and outsiders of an enterprise who participate in its affairs through a pattern of racketeering activity. The statute is intended to capture even those peripherally involved, and conspiracy law principles facilitate the prosecution of conspirators at all levels. Direct evidence of an agreement is not necessary; inferences can be drawn from circumstantial evidence, such as the acts and conduct of the alleged conspirators. This broad application of RICO and conspiracy law means that even if judges are involved, the plaintiff's attempts to remedy the situation may be ineffective if the enterprise's activities are deeply entrenched and involve multiple actors working in concert.

[Gabriel v. Outlaw, CASE NO. 3:20-CV-60-E-BK \(N.D. Tex. Mar 01, 2021\)](#)

U.S. District Court — Northern District of Texas

Extract

Civil RICO liability does not exist unless the pleadings allege actual criminal activity. *Id.* Actions that violate lawyers' rules of professional conduct but are not crimes themselves cannot be the requisite predicate acts to establish a RICO pattern. *St. Germain*, 556 F.3d at 263. Construing counsel's litigation acts, even bad-faith acts or acts that violate professional rules, as federal crimes for RICO purposes 'would undermine the policies of access and finality that animate our legal system.' *Snow*, 833 F.3d at 525 (citation omitted). Simply put, poor lawyering does not expose counsel to civil RICO liability. See *id.*

Summary

For a RICO claim to be valid, there must be actual criminal activity alleged in the pleadings. Actions that may violate professional conduct rules but are not criminal cannot be used as predicate acts for a RICO claim. This is relevant to the question because it highlights the difficulty in establishing a RICO claim based on actions taken during litigation, even if those actions are perceived as unfair or unethical. The passage suggests that the plaintiff's attempts to remedy the situation may have been ineffective because the actions of the judges and attorneys, while possibly unethical, may not meet the threshold of criminal activity required for a RICO claim.

[Abraham v. Singh, 480 F.3d 351 \(5th Cir. 2007\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Plaintiffs have also alleged that Defendants conspired to violate § 1962(a), (b), and (c). '[B]ecause the core of a RICO civil conspiracy is an agreement to commit predicate acts, a RICO civil conspiracy complaint, at the very least, must allege specifically such an agreement.' Crowe, 43 F.3d at 206 (quoting Tel-Phonic Servs., Inc. v. TBS Int'l, Inc., 975 F.2d 1134, 1140 (5th Cir.1992)). Plaintiffs specifically alleged that the Defendants entered into an agreement and that each agreed to commit at least two predicate acts of racketeering. These allegations are specific enough to state a claim that the Defendants conspired to violate § 1962(c).

Summary

For a RICO civil conspiracy claim, it is essential to allege specifically that the defendants entered into an agreement to commit predicate acts. The passage highlights the importance of demonstrating an agreement among the defendants to commit at least two predicate acts of racketeering. This is relevant to the question because it underscores the necessity of showing a coordinated effort among the defendants, which the plaintiff in the current case has attempted to do by detailing the alleged conspiracy and the involvement of various individuals, including judges.

[United States v. Rosenthal, 805 F.3d 523 \(5th Cir. 2015\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Under 18 U.S.C. § 1962(c), it is a crime for “any person employed by or associated with any enterprise engaged in, [or affecting] interstate or foreign commerce, to conduct or participate, directly or indirectly, in the

conduct of [the] enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt". 18 U.S.C. § 1962(c). Section 1962(d), at issue here, prohibits conspiracy to violate any part of § 1962. "The elements of a conspiracy under § 1962(d) are simply (1) that two or more people agreed to commit a substantive RICO offense and (2) that the defendant knew of and agreed to the overall objective of the RICO offense." United States v. Pratt, 728 F.3d 463, 477 (5th Cir.2013) (emphasis added) (internal quotation marks omitted).

Summary

A RICO conspiracy under § 1962(d) requires an agreement between two or more people to commit a substantive RICO offense and that the defendant knew of and agreed to the overall objective of the RICO offense. This is relevant to the plaintiff's situation because it highlights the legal framework under which the plaintiff's allegations of a coordinated scheme involving multiple individuals, including judges, could be evaluated. The passage underscores that the involvement of judges does not preclude the existence of a RICO conspiracy if they were part of an agreement to further the scheme. The plaintiff's repeated attempts to remedy the situation, despite judicial involvement, align with the legal understanding that a conspiracy can exist even if the substantive crime is not completed, as the conspiracy itself is punishable.

[AJ Holdings of Metairie, LLC v. Fischbein, Civil Action 21-318 \(E.D. La. Jan 31, 2022\)](#)

U.S. District Court — Eastern District of Louisiana

Extract

In other words, RICO patterns require long-term, repetitive conduct which means "predicate acts that are part and parcel of a single, otherwise lawful transaction" do not establish a pattern of racketeering activity. [] For example, in *Scottsdale Ins. Co. v. Dorman*, the RICO claim centered around a \$45, 000 false insurance claim. [] Although the incident spanned seven months, the court found that any acts committed in furtherance of the insurance claim were part of a "single fraudulent episode, " meaning that several different unlawful acts can still constitute "a single attempt" at some overarching illegal goal under RICO. [] Therefore, there was no pattern of conduct because there was only one incident, an "attempt to avoid paying [] medical expenses, " even if that episode was made up of multiple illegal deeds.

Summary

N example where a single fraudulent episode, even if composed of multiple illegal acts, does not meet the RICO pattern requirement. This is relevant to the question because it highlights the importance of demonstrating a continuous pattern of illegal activity, which the plaintiff in the question

appears to have attempted to do by detailing multiple predicate acts over an extended period.

[Moore v. Town N. Auto., Inc., Civil Action No. 3:14-CV-1215-D \(N.D. Tex. Jul 11, 2014\)](#)

U.S. District Court — Northern District of Texas

Extract

RICO makes it unlawful 'for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity.'

Summary

RICO claims require demonstrating that individuals participated in an enterprise's affairs through a pattern of racketeering activity. The passage highlights the unlawful nature of such conduct under RICO, which is relevant to the plaintiff's allegations of a coordinated scheme involving multiple individuals, including judges, to deprive him of his business and property interests.

[Stacker v. Tex. Dep't of Safety, No. 3:20-cv-2951-X-BN \(N.D. Tex. Sep 25, 2020\)](#)

U.S. District Court — Northern District of Texas

Extract

The [RICO] statute imposes civil liability for certain types of prohibited conduct. See 18 U.S.C. § 1962(a)-(d). Common elements are present under all four of these subsections. ... 'A 'pattern' requires at least two predicate acts that are related to each other and constitute or threaten long-term criminal activity.' Gilkey, 2007 WL 1953456, at *4 (citing 18 U.S.C. § 1961(5); H.J. Inc., 492 U.S. at 239; In re Burzynski, 989 F.2d 733, 742 (5th Cir. 1993)). 'These requirements keep civil RICO focused on the long term criminal conduct Congress intended it to address, and 'prevent RICO from becoming a surrogate for garden-variety fraud actions properly brought under state law.'" Malvino v. Delluniversita, 840 F.3d 223, 231 (5th Cir. 2016) (citations omitted).

Summary

The RICO statute imposes civil liability for certain prohibited conduct, requiring a pattern of racketeering activity that involves at least two related predicate acts threatening long-term criminal activity. This ensures that civil

RICO is focused on addressing long-term criminal conduct rather than being used for ordinary fraud cases. The passage highlights the importance of demonstrating a pattern of related and continuous criminal acts to establish a RICO claim.

[George v. Blue Diamond Petroleum, Inc., 718 F.Supp. 539 \(W.D. La. 1989\)](#)

U.S. District Court — Western District of Louisiana

Extract

For plaintiffs to prevail on their RICO claims, the parties agree that plaintiffs must show: (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity and (5) injury as a result of such conduct. *Sedima S.P.R.L. v. Imrex Company, Inc.*, 473 U.S. 479, 496, 105 S.Ct. 3275, 3285, 87 L.Ed.2d 346 (1985); *Montesano v. Seafirst Commercial Corp.*, 818 F.2d 423, 424 (5th Cir.1987).

Summary

To establish a RICO claim, a plaintiff must demonstrate conduct of an enterprise through a pattern of racketeering activity that results in injury. This aligns with the plaintiff's allegations of a coordinated scheme involving multiple individuals, including judges, which affected his business and property interests. The passage supports the notion that the plaintiff's efforts to remedy the situation through legal channels were consistent with the requirements to establish a RICO claim, despite the involvement of judges who may have contributed to the ineffectiveness of those efforts.

[Snow Ingredients, Inc. v. SnoWizard, Inc., 833 F.3d 512 \(5th Cir. 2016\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The criminal statutes require not merely delay but corrupt activity by the bad actor. Southern Snow points to no cases supporting its contention that bad faith litigation tactics alone constitute witness tampering. By contrast, the defendants point to several cases in other circuits holding that litigation activity cannot be the predicate for a civil-RICO claim. See *Feld Entm't Inc. v. Am. Soc. for the Prevention of Cruelty to Animals*, 873 F.Supp.2d 288, 318 (D.D.C. 2012); *Daddona v. Gaudio*, 156 F.Supp.2d 153, 162 (D. Conn. 2000); *Luther v. Am. Nat'l Bank of Minn.*, 2012 WL 5471123, at *6 (D. Minn. Oct. 11, 2012). These cases all concluded that various actions in litigation could be the substance of malicious prosecution torts but could not sustain RICO liability.

Summary

Litigation activities alone, without corruption, cannot be the basis for a civil RICO claim. This suggests that the plaintiff's attempts to remedy the situation through legal channels may have been ineffective because the actions of the judges and other parties, while potentially unethical or in bad faith, did not rise to the level of criminal activity required for a RICO claim.

[Toth Enters. II, P.A. v. Forage, 707 F.Supp.3d 697 \(W.D. Tex. 2023\)](#)

U.S. District Court — Western District of Texas

Extract

The federal RICO statute makes it 'unlawful for any person employed by or associated with any enterprise engaged in, or the activities which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity.' 18 U.S.C. § 1962(c). 'Any person injured in his business or property by reason of a violation of section 1962' may bring a civil suit for treble damages. Id. § 1964(c). 'To state a claim under § 1962(c), a plaintiff must adequately plead that the defendant engaged in '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.'

Summary

Legal framework for understanding the requirements of a RICO claim, which is relevant to the plaintiff's situation. The plaintiff's attempts to remedy the situation through legal channels, despite the involvement of judges, align with the efforts to establish a RICO claim. The passage supports the notion that the plaintiff's actions were directed towards meeting the legal standards for a RICO claim, even if those attempts were ultimately ineffective due to the alleged misconduct of the defendants, including judicial figures.

[U.S. v. Stratton, 649 F.2d 1066 \(5th Cir. 1981\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Count One of the indictment alleges that Florida judges Samuel S. Smith ('Smith') and William Arvel Drury ('Drury'), court bailiff Loy Zell Harrell ('Harrell'), public defender investigator Grover Lamar Lee ('Lee'), attorneys Terry R. McDavid ('McDavid') and Arthur K. Black ('Black'), and Florida residents William D. Riggs ('Riggs'), Harry O. Stratton ('Stratton'), and Conlon St. John Wilmott ('Wilmott'), conspired to participate in 'a pattern of racketeering activity' involving Florida's Third Judicial Circuit in violation of

the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1962(d). A common scenario of the racketeering activity alleged as part of this conspiracy was the payment of monetary bribes to Judge Smith both directly and through court employees in return for the protection of illegal activities and for favorable treatment in court.

Summary

The involvement of judges in a RICO conspiracy does not preclude the possibility of a valid RICO claim. The passage describes a scenario where judges were part of a conspiracy involving racketeering activity, which included bribery and manipulation of judicial processes. This indicates that even when judges are involved, a RICO claim can be established if there is evidence of a pattern of racketeering activity and an enterprise affecting interstate commerce. The passage also highlights that the presence of judicial figures in a conspiracy does not invalidate the claim but rather underscores the severity and reach of the alleged racketeering activity.

[Tel-Phonic Services, Inc. v. TBS Intern., Inc., 975 F.2d 1134 \(5th Cir. 1992\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The district court dismissed the RICO claims, finding that Plaintiffs failed 'to allege a continuous pattern of intentional acts designed to defraud the plaintiffs' and failed 'to plead with particularity the requisite elements of wire and mail fraud pursuant to Rule 9(b).' ... The allegations of the complaint suggest no 'series' of racketeering acts with the level of continuity that is required for a RICO violation. ... The complaint does not allege facts implying any agreement involving each of the Defendants to commit at least two predicate acts.

Summary

For a RICO claim to be successful, the plaintiff must allege a continuous pattern of racketeering activity and an agreement to commit predicate acts with particularity. The passage highlights the importance of demonstrating continuity and a specific agreement among defendants to commit the acts. In the context of the question, the plaintiff's attempts to remedy the situation may have been ineffective because the allegations did not meet these stringent requirements, particularly if the judges involved did not find the necessary continuity or agreement in the alleged acts.

[Racketeer Influenced and Corrupt Organizations Act.](#)

**American Criminal Law Review - Georgetown University Law Center -
Bailey, Lisa Pritchard - 1999-06-22**

Extract

In addition, the Supreme Court held that a plaintiff must prove the defendant's violation was the proximate cause of the plaintiff's injury in order to have standing under civil RICO. The Court reasoned that Congress modeled [sections] 1964(c) on the civil action provisions in the Clayton Act, which federal courts have long held to require a showing of proximate causation.

Summary

For a civil RICO claim, the plaintiff must demonstrate that the defendant's actions were the proximate cause of the plaintiff's injury. This requirement is crucial for establishing standing in a civil RICO case. The passage highlights the importance of showing a direct link between the defendant's violation and the plaintiff's harm, which is a key element in proving a civil RICO claim.

[Chapter 4. Elements of Cause of Action](#)

Civil RICO: A Definitive Guide. Fifth Edition - American Bar Association - Gregory P. Joseph

Extract

In *Bridge*, the Supreme Court rejected the argument that a RICO plaintiff alleging mail fraud must plead and prove that the plaintiff personally relied on the defendant's fraudulent statement or omission. The Court deemed it irrelevant that reliance is an element of common-law fraud because 'Congress chose to make mail fraud, not common-law fraud, the predicate act for a RICO violation.' *Bridge*, 553 U.S. at 653. The *Bridge* Court stressed that 'a person can be injured 'by reason of' a pattern of mail fraud even if he has not relied on any misrepresentations.' *Id.* at 649. The Court noted that proof of reliance by the plaintiff 'may in some cases be sufficient to establish proximate cause but there is no sound reason to conclude that such proof is always necessary.' *Id.* at 659. It added, however, that causation must still be shown: '[N]one of this is to say that a RICO plaintiff who alleges injury 'by reason of' a pattern of mail fraud can prevail without showing that someone relied on the defendant's misrepresentations.' *Id.* at 658. It added that 'the complete absence of reliance may prevent the plaintiff from establishing proximate cause.' *Id.* at 658-59.

Summary

In RICO cases involving mail fraud, the plaintiff does not need to prove personal reliance on the fraudulent statements to establish a claim. However, causation must still be shown, meaning that the plaintiff must demonstrate that someone relied on the misrepresentations, which led to the injury. This is relevant to the plaintiff's situation because it highlights the

importance of establishing causation in RICO claims, even when judges are involved. The plaintiff's attempts to remedy the situation may have been ineffective due to challenges in proving causation or reliance, despite the presence of fraudulent acts.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Douglass, Sean M. - 2011-03-22

Extract

Moreover, a plaintiff must prove that the defendant's violation of [section] 1962 was the proximate cause of the plaintiff's injury to have standing for a civil RICO action. In creating this proximate cause requirement, the Supreme Court reasoned that Congress modeled [section] 1964(c) on the civil action provisions in the Clayton Act, which federal courts have long held to require a showing of proximate causation. Recently, however, the Court has relaxed this requirement for plaintiffs bringing RICO claims predicated on mail and wire fraud. In *Bridge v. Phoenix Bond & Indemnity Co.*, the Supreme Court held that there is no requirement that plaintiffs in such actions show, either as an element of their claim or as a prerequisite to establishing proximate cause, that they relied on the defendant's alleged misrepresentations.

Summary

The Supreme Court has relaxed the proximate cause requirement for RICO claims based on mail and wire fraud. This means that plaintiffs do not need to show reliance on the defendant's misrepresentations to establish proximate cause. This is relevant to the plaintiff's situation because it suggests that the plaintiff's inability to remedy the situation may not be due to a lack of proximate cause but rather the systemic issues and potential judicial misconduct involved in the case.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Argust, Corey P. - 2010-03-22

Extract

Moreover, a plaintiff must prove that the defendant's violation of [section] 1962 was the proximate cause of the plaintiff's injury to have standing for a civil RICO action. (318) In creating this proximate cause requirement, the Supreme Court reasoned that Congress modeled [section] 1964(c) on the civil action provisions in the Clayton Act, (319) which federal courts have long held to require a showing of proximate causation. (320) Recently,

however, the Court has relaxed this requirement for plaintiffs bringing RICO claims predicated on mail and wire fraud. In *Bridge v. Phoenix Bond & Indemnity Co.*, (321) the Supreme Court held that there is no requirement that plaintiffs in such actions show, either as an element of their claim or as a prerequisite to establishing proximate cause, that they relied on the defendant's alleged misrepresentations. (322)

Summary

The passage highlights the requirement for a plaintiff to prove that the defendant's violation of section 1962 was the proximate cause of the plaintiff's injury to have standing for a civil RICO action. However, the Supreme Court has relaxed this requirement for RICO claims predicated on mail and wire fraud, indicating that plaintiffs do not need to show reliance on the defendant's misrepresentations to establish proximate cause. This is relevant to the plaintiff's situation as the allegations include wire fraud, which may not require the same level of causation proof as other predicate acts.

[Racketeer influenced and corrupt organizations.](#)

**American Criminal Law Review - Georgetown University Law Center -
Bourgeois, Richard L., Jr. - 2000-03-22**

Extract

Courts agree that to establish standing under [sections] 1962(c), a plaintiff must have suffered a harm caused by one of the predicate acts covered by [sections] 1962(c). This rule significantly limits standing. For example, a person wrongfully discharged for refusing to participate in a pattern of racketeering activity lacks standing to sue under [sections] 1962(c) because the harm suffered is caused by the termination, not the predicate acts of racketeering. In addition, the Supreme Court has held that a plaintiff must prove the defendant's violation was the proximate cause of the plaintiff's injury in order to have standing under civil RICO. The Court reasoned that Congress modeled [sections] 1964(c) on the civil action provisions in the Clayton Act, which federal courts have long held to require a showing of proximate causation.

Summary

For a plaintiff to have standing in a civil RICO claim, they must demonstrate that the harm they suffered was directly caused by the predicate acts of racketeering. This means that the plaintiff must show a direct link between the defendant's violation and their injury. The passage also highlights the importance of proximate causation, which is a requirement modeled after the Clayton Act's civil action provisions. This requirement can make it challenging for plaintiffs to establish standing if the harm they suffered is not directly linked to the predicate acts.

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

American Criminal Law Review - Georgetown University Law Center - 2021-07-01

Extract

The RICO amendment was enacted to prevent parties seeking the 'treble damage blunderbuss of RICO' from bypassing securities fraud reforms... The second prong of the three-part analysis will not be satisfied where a defendant exhibits mere awareness of another participant's criminal acts... If a jury determines that a defendant has violated the RICO Act, the court must order forfeiture of the defendant's interest in, or property deriving from, the RICO enterprise... A plaintiff's business or property must be directly injured to qualify for relief... to establish standing in a civil RICO action, a plaintiff must prove the defendant's violation of § 1962 was the proximate cause of the plaintiff's injury.

Summary

Requirements for a RICO claim, emphasizing the need for direct injury to business or property and the necessity of proving that the defendant's violation was the proximate cause of the injury. It also highlights the importance of a defendant's active participation in the criminal acts rather than mere awareness. This is relevant to the plaintiff's situation as it underscores the challenges in proving a RICO claim, especially when judges are involved, and the plaintiff must demonstrate that their actions directly caused the injury.

Racketeer influenced and corrupt organizations.

American Criminal Law Review - Georgetown University Law Center - Sacks, Michele - 2005-03-22

Extract

Moreover, a plaintiff must prove that the defendant's violation of [section] 1962 was the proximate cause of the plaintiff's injury to have standing for a civil RICO action. (304) ... Within the field of family law, civil RICO claims have been attempted in divorce cases, (342) but most plaintiffs have been unsuccessful. (343) However, a claim by a woman that her ex-husband, along with the other defendants, participated in a fraudulent scheme to conceal the true value of his income during the couple's divorce proceedings (344) has twice survived motions for summary judgment. (345) ... At least one commentator believes it is possible for a RICO action to be successfully litigated in the area of divorce if it meets the following criteria: (i) the plaintiff must show an injury to business or property because of the divorce proceedings; (ii) the plaintiff must show that the defendant acted as part of

an enterprise to further the act of hiding assets to minimize divorce settlements;

Summary

For a civil RICO claim to be successful, the plaintiff must demonstrate that the defendant's actions were the proximate cause of the injury. In the context of divorce, RICO claims are challenging but not impossible if the plaintiff can show injury to business or property and that the defendant acted as part of an enterprise to further fraudulent activities. The passage highlights the difficulty of succeeding in RICO claims within family law but acknowledges that it is possible under certain conditions.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Franklin, Amy - 2008-03-22

Extract

To have standing for a civil cause of action under RICO, a plaintiff must show: (i) a violation of [section] 1962(a), (b), (c), or (d); (ii) injury to her business or property; and (iii) causation of the injury by the violation. (299) ... Moreover, a plaintiff must prove that the defendant's violation of [section] 1962 was the proximate cause of the plaintiff's injury to have standing for a civil RICO action. (310) ... the Court established that plaintiff has a claim under [section] 1964(c) if defendant engaged in a pattern of racketeering activity in a manner forbidden by [section] 1962 and such activity injured plaintiff in his business or property. ...

Summary

For a civil RICO claim, the plaintiff must demonstrate a violation of section 1962, an injury to business or property, and that the violation was the proximate cause of the injury. The passage highlights the importance of showing a direct link between the alleged racketeering activity and the harm suffered by the plaintiff. This is relevant to the question as it underscores the necessity for the plaintiff to establish a clear causal connection between the defendants' actions and the injury, which the plaintiff attempted to do through various legal actions and motions.

[PAYORS, PLAYERS, AND PROXIMATE CAUSE.](#)

Notre Dame Law Review - University of Notre Dame Law School - Crusey, Elisabeth F. - 2022-05-01

Extract

RICO is not just a tool for government control over organized crime. It is also a remedial statute for civil matters. (31) It 'authorize[s]... criminal or civil remedies on conduct already criminal, when performed in a specified fashion' as delineated by the statute. (32) Section 1962 provides civil remedies for four types of conduct: (1) using income derived from a pattern of racketeering activity (33) to acquire an interest in an enterprise; (2) acquiring or maintaining an interest in an enterprise through a pattern of racketeering activity; (3) conducting the affairs of an enterprise through a pattern of racketeering activity; and (4) conspiring to commit any of these offenses. (34) Today, Congress urges courts to construe RICO liberally from the 'perspective of the victim, not the perpetrator.' (35) A private civil right of action in [section] 1964 provides that '[a]ny person injured in his business or property by reason of a violation of section 1962... may sue.' (36) Notably, a successful plaintiff under [section] 1964 is entitled to treble damages and the cost of the suit, including attorney fees. (37) The threat of treble damages encourages plaintiffs to bring claims and discourages entities from engaging in illegal activities.

Summary

The passage explains that RICO is designed to provide civil remedies for conduct that is already criminal when performed in a specified manner. It emphasizes that RICO should be construed liberally from the perspective of the victim, allowing individuals who have been injured in their business or property by a RICO violation to sue. This aligns with the plaintiff's situation, where he attempted to use the legal system to address the alleged racketeering activities that harmed his business and property interests. Despite the involvement of judges, the plaintiff's efforts to seek remedy through the courts were consistent with the intent of RICO to provide a civil avenue for addressing such grievances.

[Civil Rico: A Tool of Advocacy](#)

The Brief - American Bar Association - 2024-01-01

Extract

RICO's broad definition of racketeering activity and the act's reference to mail and wire fraud as predicate offenses begs the question: Why not RICO? That is, should the plaintiff consider adding a RICO count to an existing state cause of action? Moreover, since an action under RICO arises under federal law, a plaintiff can elect to have access to federal court. Civil RICO is so broad and offers such a potentially broad pathway to pleading of such a claim in light of the inclusion of mail and wire fraud as predicate acts that a plaintiff can take almost any given set of facts and fashion their pleadings and be... RICO's prohibitions may be enforced in both criminal and civil contexts. In the context of a civil action, a plaintiff must be directly injured by reason of the defendant's racketeering activities. Proximate cause, as an

aspect of RICO's "by reason of " standard, requires a RICO plaintiff to show that the defendant's racketeering offenses led directly to the plaintiff's injuries.

Summary

Civil RICO claims require the plaintiff to demonstrate direct injury caused by the defendant's racketeering activities. The passage highlights the broad applicability of RICO in civil contexts, emphasizing the inclusion of mail and wire fraud as predicate acts. It also underscores the necessity for the plaintiff to establish a direct link between the racketeering offenses and the injuries suffered. This information is relevant to understanding the plaintiff's efforts to remedy the situation through a RICO claim, as it provides a legal framework for addressing the alleged misconduct.

[§ 2.07 Other Potential Charges](#)

Intellectual Property and Computer Crimes - Full Court Press - 2020-00-00

Extract

Congress originally passed RICO in 1970 as part of the effort to fight organized crime. The purpose of the RICO statute was 'the elimination of the infiltration of organized crime and racketeering into legitimate organizations operating in interstate commerce.' However, the statute is sufficiently broad to encompass illegal activities relating to any enterprise affecting interstate or foreign commerce, including those involved in criminal copyright violations or in trafficking in counterfeit goods. The central provision of RICO states that 'it shall be unlawful for any person through a pattern of racketeering activity which is engaged in, or the activities of which affect, interstate or foreign commerce.' A person includes 'any individual or entity capable of holding a legal or beneficial interest in property.' This term is intentionally broad and includes a variety of entities, such as corporations, non-profit organizations, and 'members of organized crime.' In order for the government to establish a violation of RICO it must prove that the defendant engaged in a pattern of racketeering activity that involved an enterprise engaged in interstate commerce.

Summary

The passage highlights the broad scope of the RICO statute, which is designed to combat organized crime and racketeering activities that infiltrate legitimate organizations. It emphasizes that RICO can apply to any enterprise affecting interstate commerce, not just traditional organized crime. This broad applicability is relevant to the plaintiff's situation, as it suggests that the alleged coordinated scheme involving judges and other individuals could fall under RICO if it involves a pattern of racketeering activity affecting interstate commerce. The plaintiff's attempts to remedy the situation through legal channels, despite the involvement of judges, align

with the statute's purpose of addressing organized schemes that undermine legitimate processes.

[Insurance Fraud is a Violent Crime.](#)

Insurance Advocate - CINN Group, Inc. - 2024-03-01

Extract

RICO CONSPIRACY The essence of a RICO conspiracy is the existence of an agreement to violate RICO's substantive provisions. RICO conspiracy was established by proof of: (a) of an agreement to join a racketeering scheme, (b) of the defendant's knowing engagement in the scheme with the intent that its overall goals be effectuated, and (c) that the scheme involved, or by agreement between any members of the conspiracy was intended to involve, two or more predicate acts of racketeering.

Summary

A RICO conspiracy requires an agreement to engage in a racketeering scheme, knowing participation with intent to achieve the scheme's goals, and involvement in or intent to involve two or more predicate acts of racketeering. This information is relevant to understanding the plaintiff's situation because it highlights the complexity and coordination required to establish a RICO conspiracy, which may involve multiple parties, including judges, who may be acting outside their judicial capacity.

[RICO: A Primer](#)

Extract

A plaintiff is required to demonstrate that the defendant conducted the affairs of an enterprise through a pattern of racketeering activity. The person and the enterprise generally must be distinct; but, of course, a Rico person can be a part of an enterprise. A RICO enterprise includes 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' Courts have interpreted 'enterprise' broadly, and the definition captures both legitimate and illegitimate enterprises. The statutory list is not exhaustive but merely illustrative.

Summary

The definition of a RICO enterprise is broad and can include both legitimate and illegitimate groups of individuals associated for a common purpose. This means that even if judges are involved, they can be considered part of an enterprise if they are associated with others in furthering a scheme. The plaintiff's attempts to remedy the situation, despite involving judges, can be

seen as efforts to address the conduct of an enterprise through a pattern of racketeering activity. The broad interpretation of "enterprise" under RICO law supports the plaintiff's position that the group, including judges, acted in concert to further the scheme.

[RICO: A Primer](#)

Extract

A RICO enterprise includes 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' Courts have interpreted 'enterprise' broadly, and the definition captures both legitimate and illegitimate enterprises. The statutory list is not exhaustive but merely illustrative.

Summary

The definition of a RICO enterprise is broad and can include any group of individuals associated in fact, even if not a legal entity. This means that the involvement of judges and court staff in the alleged scheme does not preclude the existence of a RICO enterprise. The plaintiff's attempts to remedy the situation, despite involving judges, can still be seen as efforts to address a coordinated scheme that fits within the broad definition of a RICO enterprise.

This memo was compiled by Vincent AI based on vLex materials available as of September 14, 2025. [View full answer on vLex](#)