Question

TABLE OF CONTENTS I. JURISDICTION AND VENUE II. PARTIES III. RECORD REFERENCES https://search.txcourts.gov/SearchMedia.aspx?MediaVersionID=61b83e31-36d1-4fbe-a837-5a3228b4cbc4&coa=cossup&DT=RECORD&MediaID=3f4d5220-d7e8-4cc6-a22e-db4ee7e4e9e0 IV. INTRODUCTION V. FACTUAL TIMELINE A. The Myers-Branthoover Enterprise B. Interstate Travel and Transfer C. Admissions D. Post-submission Collaboration E. Significant and Intentional Misrepresentations F. Evidence to the Contrary G. Inclement Weather and First Appearance H. Reset #1 – January 22, 2024, Setting I. Reset #2 – February 1, 2024, Setting J. Termination of Counsel and the Emergency Motion K. Summary Judgment and Notice of Hearing L. Plaintiff's Notice to the Court and Defendant Myers' Self-Help Remedies M. Predicate Acts: Extortion N. One Sided Appellate Efforts, and Defective IWO O. Fraudulent Intervention and Branthoover's Continued Involvement P. Supreme Court, Rule 12, and Emergency Temporary Orders Q. Predicate Act: Wire Fraud R. Recusal Denial and More Delays, and Federal Removal S. Further Delays, DWOP, and the Original SAPCR T. Counsel Suddenly Becomes Active U. Five Concurrent Mandamus Petitions V. Federal RICO Case and the Push Towards Final Trial VI. THE RICO ENTERPRISE A. Structure and Membership B. Expansion, Purpose and Continuity C. Decision-Making and Functioning as a Unit VII. PREDICATE ACTS A. Wire Fraud B. Travel Act Violation C. Extortion D. Fraudulent Court Filings E. Relatedness and Continuity VIII. RICO CONSPIRACY A. Agreement Among Defendants B. Overt Acts in Furtherance IX. POTENTIAL DEFENSES A. Preclusion B. Rooker-Feldman Doctrine C. Younger Abstention D. Judicial Immunity E. Other Affirmative Defenses X. STATE LAW CLAIMS A. Fraud B. Abuse of Process C. Intentional Infliction of Emotional Distress D. Other State Law Claims XI. CLAIMS FOR RELIEF XII. DAMAGES A. Compensatory Damages B. Treble Damages (RICO) C. Punitive Damages D. Restitution Damages XIII. PRAYER FOR RELIEF A. Damages C. Injunctive and Declaratory Relief D. Any Other Relief Deemed Just and Proper RECORD REFERENCES Plaintiff incorporates by reference public records from the Texas Supreme Court, and requests the court to take judicial notice of these documents. The Fifth Circuit has repeatedly held that it is proper for federal courts to take judicial notice of matters of public record, including documents filed in state court proceedings (Miller v. Dunn, 35 F.4th 1007 (5th Cir. 2022); LUV N' Care, Ltd. v. Jackel Int'l Ltd., 502 F.Supp.3d 1106 (W.D. La. 2020); Wright v. Arlington Indep. Sch. Dist., Civil Action No. 4:19-cv-00278-P (N.D. Tex. Nov 25, 2019)). Plaintiff therefore requests that this Court take judicial knowledge of the consolidated mandamus record, as its' authenticity is not reasonably disputed. Here, all record references point to the public consolidated mandamus record, as submitted to the Texas Supreme Court, a copy of which has been served upon each defendant named in this complaint either individually or through their agent. Link to the record: https://search.txcourts.gov/SearchMedia.aspx?MediaVersionID=8e2d45b4-fb4f-40a0-93bc-ed9ed5f3cebd&coa=cossup&DT=RECORD&MediaID=804ac8d3-9b5f-40b0-

bc41-bbc08c814365 All references to the record are marked herein with “REC. [page]” and are hyperlinked to take the reader directly to the reference. The record is filed under affidavit, and remains unopposed at the time of filing this complaint. Therefore, Plaintiff respectfully asks that the Court take judicial notice of the record under Federal Rule of Evidence 201, filed on June 6, 2025, in the Texas Supreme Court under case numbers 25-0361, 25-0367, 25-0378, 25-0426, and 25-0458. II. TIMELINE OF EVENTS BACKGROUND Morgan Michelle Myers, (“Myers”) and Charles Dustin Myers, (“Plaintiff”) were married on June 20, 2015, and have two daughters, C.R.M. and M.E.M, aged seven and nine. The evidence in this case will show that in early December of 2023, the entire family was blindsided by Myers’ sudden announcement that she wanted a divorce from Plaintiff. REC. 717 The evidence will further show that Myers’ reasoning for this divorce changes over time – beginning with how Plaintiff spoke to her, and then switches to abuse and sexual harassment, and allegations of drug abuse, claims that were only brought up in her initial pleadings. On December 12, 2023, Plaintiff discovered a large volume of text messages between Myers and two individuals identified as Debbie Price and Damen Kazlauskas of Fort Worth, Texas spanning between October 2022 and December 2023. REC. 254-714 In response to this discovery, Myers began to communicate with Defendant Daniel Kenneth Branthoover, a resident of Yukon, Oklahoma, who assisted her in the planning, drafting, traveling, and submitting of fraudulent documents to the 322nd District Court of Tarrant County designed to divest Plaintiff of his home and business operations. When these allegations were raised to the State, they failed to adjudicate them and violated the Plaintiff’s constitutional rights when he was deprived of the guarantees of equal protection under the law and when he was not afforded due process before being deprived of his property. REC. 183. The central question is whether Defendants Munford, Kaitcer, Carter, and Baker are victims of the initial scheme – or willing participants in an expanded associate-in-fact enterprise that began in December of 2023 as the Myers-Branthoover enterprise. A. The Myers-Branthoover Enterprise 1. On December 14, 2023, Defendants Morgan Michelle Myers (“Myers)” and Daniel Kenneth Branthoover (“Branthoover”), acting in concert and under deceptive pretenses, (REC. 1704), initiated text-message communications through which they formed and advanced a common plan and agreement. Over the weekend of December 15, 2023, they met in Yukon, Oklahoma, to further that plan (REC. 274-278). The deceptive text message from Defendant Branthoover claiming that he wanted to assist Plaintiff was following an attempt by Myers to receive an ex-parte order of protection from the 322nd District Court of Tarrant county, attempted on December 14, 2023 (REC. 78). B. Interstate Travel and Transfer 2. As part of their agreement, both Defendants planned to draft and submit an original petition for divorce and an affidavit of indigency to the 322nd District Court of Tarrant County, with the intended and foreseeable result of removing Plaintiff from his matrimonial residence at 6641 Anne Court, Watauga, Texas 76148—which also serves as his place of business for clients in the United States, Canada, and the United Kingdom that rely on his market data services (REC. 812 ¶ 16). 3. During Defendant Myers’s interstate travel, she transferred the parties’ marital funds into Defendant Branthoover’s PayPal account in the amount of $1,576 (REC. 723). Those proceeds funded a second mobile phone (817-940-0852), listed on the fraudulent pleadings that

Myers and Branthoover jointly prepared in Oklahoma, which Myers then carried from Yukon to Texas on December 17, 2023 (REC. 86; 99; 102; 107). C. Admissions 4. On December 16, 2023, Plaintiff reached out to 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. Plaintiff's bank statement from December 2023 further confirms this transaction. REC. 723. 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, at 5:50 P.M. CST, holding himself out to be defendant Myers' attorney, showing his involvement extends past the initial help in preparing the fraudulent 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 claiming that family violence had occurred on December 18, 2023, supported by both an affidavit and unsworn declaration. REC. 108-109. E. Significant and Intentional Misrepresentations 7. On December 27 and December 28, 2023, respectively, the documents prepared by Myers with the assistance of Branthoover 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. Plaintiff was ordered to show cause on January 16, 2024, regarding the protective order application. REC. 118 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 ("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 Myers "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 Jeffrey Kaitcer, ("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 for communication, and the matter was reset for January 22, 2024. There exists no record of this proceeding, only marked appearances on the docket. 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, ("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. 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 quality of 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 arc no ten (JO) 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 the above provisions in mind, Plaintiff signed the document and immediately fired his attorney and provided notice to the court. REC. 221. By doing so, Plaintiff gained access back to the residency, invalidated 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 e rrors 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 up to this point, putting the court on notice of the key issues with provided exhibits which were duly served on 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 on Plaintiff's emergency motion. REC. 2794 No such countermotion was filed by Carter. K. 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. L. 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 time of the hearing on his emergency motion, scheduled for March 14, 2024, at 9:00 A.M. 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 to 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, 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, leaving a 10-day window where no one would occupy the residence. 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, and 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. vii. Plaintiff did not agree to the terms as he was in court that very day to expose Myers. M. Predicate Acts: Extortion 36. 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 orders produced by defendant Carter was served just moments earlier, 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 that Carter had just presented to him 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. REC. 851; REC. 854; REC. 857; REC. 860; REC. 863; REC. 867; REC. 870. 38. Following the setting, 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. REC. 1197. 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 lad 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. RICO The timeline and evidence provided demonstrate that the Myers-Branthoover group constitutes an association-in-fact enterprise under RICO, with a common goal to deprive the Plaintiff of his home and business through a pattern of racketeering activity—specifically, wire fraud, Travel Act violations, and fraudulent court filings—causing direct injury to the Plaintiff’s business and property. The conduct, structure, and continuity among the participants, as well as the use of interstate communications and travel, satisfy the elements of a RICO claim in the Tenth Circuit, with the liability of other defendants depending on their knowledge and intent. A. Summary The Myers-Branthoover enterprise, as detailed in the factual timeline, meets the Tenth Circuit’s requirements for a RICO claim by establishing an association-in-fact enterprise with a defined structure, purpose, and continuity. The group’s coordinated actions—including interstate transfer of funds, preparation and submission of fraudulent legal documents, and ongoing manipulation of court proceedings—constitute a pattern of racketeering activity, with predicate acts of wire fraud and Travel Act violations that are related and continuous. Plaintiff’s direct and ongoing injury to his business and property, including loss of home, business operations, and client relationships, is proximately caused by the enterprise’s acts. While Myers and Branthoover’s

liability is clear, the involvement of other defendants (Munford, Kaitcer, Carter, and Baker) may be characterized as inadvertent or willing participation, depending on their knowledge and intent, but the core elements of a RICO violation are satisfied by the conduct of Myers and Branthoover as outlined in the enumerated timeline. The additional acts committed by each defendant, as alleged, furthered the scheme of the enterprise despite each additional defendant having actual knowledge of the fraudulent scheme. RICO Statutory Framework The Racketeer Influenced and Corrupt Organizations Act (RICO), codified at 18 U.S.C. §§ 1961–1968, provides a civil cause of action for individuals injured in their business or property by reason of a pattern of racketeering activity conducted through an enterprise affecting interstate or foreign commerce. The most commonly invoked provision, § 1962(c), prohibits any person employed by or associated with an enterprise from conducting or participating in the conduct of such enterprise's affairs through a pattern of racketeering activity. Section 1962(d) further prohibits conspiracies to violate any of the substantive RICO provisions. To establish a civil RICO claim under § 1962(c), a plaintiff must prove: i. The existence of an enterprise; ii. The enterprise's engagement in, or effect on, interstate or foreign commerce; iii. The defendant's employment by or association with the enterprise; iv. The defendant's participation, directly or indirectly, in the conduct of the enterprise's affairs; v. The defendant's participation through a pattern of racketeering activity or collection of unlawful debt. See 100 Mount Holly Bypass v. Axos Bank, Case No. 2:20-CV-856-TS-CMR (D. Utah Jul 27, 2021). B. Predicate Acts and Pattern Requirement RICO defines "racketeering activity" to include a wide range of criminal offenses, including wire fraud (18 U.S.C. § 1343) and violations of the Travel Act (18 U.S.C. § 1952). A "pattern of racketeering activity" requires at least two predicate acts within a ten-year period, but the acts must be related and amount to or pose a threat of continued criminal activity. The Supreme Court has clarified that a RICO violation requires both an "enterprise" and a "pattern of racketeering activity," with the enterprise being a group of persons associated for a common purpose, and the pattern involving a series of criminal acts (United States v. Harris, 695 F.3d 1125 (10th Cir. 2012)). The Tenth Circuit has further explained that, to establish a pattern, it is not enough to simply show that two predicate acts occurred within ten years; the acts must also be related and pose a threat of continued criminal activity (U.S. v. Smith, 413 F.3d 1253 (10th Cir. 2005)). Note, however, that U.S. v. Smith has been stated as overruled by United States v. Nissen, 555 F.Supp.3d 1174 (D. N.M. 2021) on unrelated grounds, but its articulation of the pattern requirement remains consistent with current law. C. Enterprise and Association-in-Fact An "enterprise" under RICO includes any individual, partnership, corporation, association, or group of individuals associated in fact, even if not a legal entity. For an association-in-fact enterprise, the Tenth Circuit requires: i. A purpose; ii. Relationships among those associated with the enterprise; iii. Longevity sufficient to permit the associates to pursue the enterprise's purpose; iv. A decision-making framework or mechanism for controlling the group; v. Functioning as a continuing unit; vi. Existence separate and apart from the pattern of racketeering activity. See 100 Mount Holly Bypass. D. Conspiracy Section 1962(d) makes it unlawful to conspire to violate any of the substantive RICO provisions. A RICO conspiracy does not require the establishment of an enterprise but requires that a defendant adopts the goal

of furthering or facilitating a criminal endeavor that would satisfy the elements of a substantive RICO offense (United States v. Martinez, 543 F.Supp.3d 1209 (D. N.M. 2021); United States v. Randall, 661 F.3d 1291 (10th Cir. 2011)). E. Injury Requirement RICO provides a private right of action for individuals injured in their business or property through fraudulent conduct, and there is no requirement that the conduct be connected to organized crime in a civil setting (Plains Resources, Inc. v. Gable, 782 F.2d 883 (10th Cir. 1986)). ANALYSIS F. Existence of an Association-in-Fact Enterprise The timeline establishes that Myers and Branthoover formed an association-in-fact enterprise beginning in December 2023 (¶¶ 1–7, 93). Their collaboration was structured, with Myers as the petitioner in the divorce and Branthoover as the planner, drafter, and facilitator of fraudulent documents and financial transactions. The group had a clear purpose: to divest the Plaintiff of his home and business through fraudulent legal filings and manipulation of court processes (¶¶ 1–7, 93). The enterprise's structure is evidenced by: i. The initial planning and agreement to meet in Yukon, Oklahoma, to draft fraudulent documents (¶¶ 1–3); ii. The use of interstate communications and travel to further the scheme (¶¶ 2–3); iii. Ongoing coordination and adaptation to changing circumstances, including the preparation and submission of false affidavits and pleadings, and manipulation of court proceedings (¶¶ 5–7, 34, 93). This satisfies the Tenth Circuit's requirements for an association-in-fact enterprise, which does not require a formal legal entity but does require a common purpose, relationships, and sufficient longevity to pursue the enterprise's goals. G. Structure, Purpose, Relationships, and Continuity The Myers-Branthoover group meets the requirements for an association-in-fact enterprise: i. Purpose: The shared goal was to deprive the Plaintiff of his home, business, and property interests through fraudulent means (¶¶ 1–7, 93). ii. Relationships: Myers and Branthoover maintained ongoing communications, coordinated actions, and divided roles in the scheme (¶¶ 1–7, 93). iii. Longevity and Continuity: The enterprise operated over a substantial period, from at least December 2023 through present day 2025, with multiple related acts and ongoing adaptation to changing circumstances (¶¶ 1–93). iv. Decision-Making Framework: The group planned, agreed on steps, and executed those steps in a coordinated manner (¶¶ 1–7, 93). v. Existence Separate from Predicate Acts: The enterprise was formed for the purpose of achieving a specific goal and engaged in multiple acts over time to accomplish that goal. H. Predicate Acts: Wire Fraud, Travel Act Violations, and Fraudulent Filings The timeline identifies multiple predicate acts that qualify as racketeering activity under RICO: i. Wire Fraud: Myers transferred $1,576 in marital funds to Branthoover's PayPal account during interstate travel, and these funds were used to purchase a phone for use in the fraudulent scheme (¶¶ 3, 4, 5, 6, 7, 34). The use of electronic communications (text messages, emails) to plan and execute the scheme further supports the wire fraud allegation (¶¶ 1–7, 34). ii. Travel Act Violations: Myers traveled from Texas to Oklahoma to meet with Branthoover, where they planned and prepared fraudulent legal documents, which were then transported back to Texas and submitted to the court (¶¶ 2, 3, 4, 5, 6, 7). iii. Fraudulent Filings: The preparation and submission of false affidavits and pleadings to the court, containing material misrepresentations about financial status, family violence, and property ownership, constitute further predicate acts (¶¶ 5, 6, 7, 34). At least two related predicate acts

within ten years are required (U.S. v. Smith, 413 F.3d 1253 (10th Cir. 2005)), and the timeline shows multiple, related predicate acts over a substantial period (¶¶ 1–93). I. Pattern of Racketeering Activity: Relatedness and Continuity The predicate acts were not isolated incidents but part of an ongoing scheme. The acts were related in that they all aimed to deprive the Plaintiff of his property and business, and they posed a threat of continued criminal activity, as the enterprise continued to operate and adapt its tactics over time (¶¶ 1–93). The timeline shows that the enterprise's activities extended over a substantial period, with multiple acts occurring over months and involving ongoing coordination and adaptation to changing circumstances. J. Injury to Business or Property Plaintiff suffered direct and ongoing injury to his business and property as a result of the enterprise's actions. He was deprived of his home and business operations, lost access to marital funds, and was unable to provide services to clients, resulting in financial harm (¶¶ 2, 3, 4, 5, 6, 7, 37). These injuries are precisely the type of harm RICO is designed to redress. Plains Resources, Inc. v. Gable, 782 F. 2d 883 (10th Cir. 1986)). K. Participation of Other Defendants: Inadvertent or Willing The timeline raises the question of whether Munford, Kaitcer, Carter, and Baker were victims of the initial scheme or willing participants in the expanded enterprise. The evidence suggests that, at a minimum, Myers and Branthoover were the core members of the enterprise, with others potentially becoming involved through their actions in the legal proceedings (¶¶ 14–93). i. Inadvertent Participation: Some defendants may have participated inadvertently, such as by issuing orders or facilitating court processes without knowledge of the underlying scheme (¶¶ 14–93). ii. Willing Participation: Others may have become willing participants if they knowingly furthered the enterprise's objectives or ignored clear evidence of fraud and misrepresentation (¶¶ 14–93). RICO does not impose liability for inadvertent or unwitting participation; there must be knowing and willful involvement in the conduct of the enterprise's affairs. For the forthcoming reasons, Plaintiff alleges that the Defendants are willing participants in the scheme. VICTIM OR PARTICIPANT RICO liability extends to those who knowingly participate in the conduct of the enterprise's affairs, even if they were not original members (RICO: A Primer (2022-01-31)). The timeline raises the question of whether Munford, Kaitcer, Carter, and Baker were victims of the initial scheme or willing participants in the expanded enterprise. The evidence suggests that, at a minimum, Myers and Branthoover were the core members of the enterprise, with others becoming involved through their actions in the legal proceedings (¶¶ 14–93). The timeline demonstrates that Carter, Kaitcer, and Myers engaged in extortion by leveraging the threat of adverse legal action, fraudulent court orders, and the manipulation of judicial process to coerce Plaintiff into relinquishing property and business interests, satisfying the elements of extortion as a predicate act under RICO and the Travel Act. Munford and Baker, for their part, committed wire fraud by intentionally sending altered or incomplete court documents via interstate email, with the intent to mislead, obstruct relief, and further the enterprise's objective of finalizing the divorce and depriving Plaintiff of his property, thus meeting the requirements for wire fraud as a RICO predicate act. These acts, as detailed in the timeline, are not isolated but part of a coordinated pattern of racketeering activity within an association-in-fact enterprise, as required by RICO in the Tenth Circuit. The conduct of each defendant is tied to specific predicate acts—extortion

for Carter, Kaitcer, and Myers (notably at timeline events 33–37), and wire fraud for Munford and Baker (notably at events 54–59, 83)—demonstrating knowing and willful participation in the enterprise's broader scheme to deprive Plaintiff of his home and business through fraudulent and coercive means. A. Extortion and Wire Fraud The Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961–1968, provides a civil cause of action for injury to business or property caused by a pattern of racketeering activity conducted through an enterprise affecting interstate commerce. Predicate acts under RICO include extortion (as defined by the Hobbs Act and the Travel Act) and wire fraud (18 U.S.C. § 1343), among others. Extortion is defined as obtaining property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right. The Travel Act, 18 U.S.C. § 1952, includes extortion as an "unlawful activity" and does not require it to be part of a business enterprise (U.S. v. Welch, 327 F.3d 1081 (10th Cir. 2003)). The Tenth Circuit recognizes that extortion under the Travel Act can be established by showing threats or coercion to obtain something of value, including property or legal rights, in violation of state or federal law. Wire fraud under 18 U.S.C. § 1343 requires (1) a scheme to defraud or obtain property by false or fraudulent pretenses, (2) intent to defraud, and (3) use of interstate wire communications to execute the scheme (Clinton v. Sec. Benefit Life Ins. Co., 63 F.4th 1264 (10th Cir. 2023); United States v. Holloway, 826 F.3d 1237 (10th Cir. 2016)). The Tenth Circuit requires that the deprivation of property be a central object of the scheme, and that the use of wires (including email) be knowing and in furtherance of the fraudulent scheme (United States v. Tao, 629 F.Supp.3d 1083). B. Extortion by Carter, Kaitcer, and Myers Extortion, as a RICO predicate act, is defined broadly under federal law and the Travel Act. It includes obtaining property or rights through threats, coercion, or misuse of official process (U.S. v. Welch, 327 F.3d 1081 (10th Cir. 2003)). The Tenth Circuit does not require extortion to be part of a business enterprise for Travel Act purposes; a single act suffices if it has the requisite interstate nexus. The timeline shows the following: i. Event 33–34: Carter, with Myers, prepared and presented "Temporary Orders" that misrepresented facts (e.g., that Plaintiff agreed to terms he did not, that a hearing occurred when it did not, and that the orders were in the best interests of the children). These orders altered the dates of access to the home to shield Myers from liability for locking Plaintiff out, and were presented to Plaintiff in a context where he was under threat of losing his home and business. iii. Event 36: Kaitcer, knowing the orders were disputed and that no response had been filed, signed an associate judge's report pre-drafted by Carter, summarily denying Plaintiff's emergency motion and ordering Plaintiff to sign the disputed document, despite his objections and lack of consent. iv. Event 35: Plaintiff refused to sign the orders for multiple reasons, including their fraudulent content and the lack of due process, but the orders were rendered into effect without his signature. These acts collectively demonstrate the use of legal process and the threat of adverse judicial action to coerce Plaintiff into surrendering his property and business interests. The manipulation of court orders, the misrepresentation of facts, and the pressure to sign under threat of losing his home constitute extortion under the Travel Act and RICO (U.S. v. Welch, 327 F.3d 1081 (10th Cir. 2003). Myers's role is clear: she was the beneficiary and instigator of the fraudulent filings and the manipulation of court

process, using the threat of legal action and the actual deprivation of Plaintiff's property to achieve her goal. Carter and Kaitcer acted in concert with Myers, knowingly facilitating the extortion by preparing, presenting, and enforcing fraudulent orders, and by using the authority of the court to coerce Plaintiff. The fact that Plaintiff was ordered to sign a document he objected to, under threat of continued deprivation of his home and business, is classic extortion by color of official right. All three defendants knew that Plaintiff did not agree to the order, as he had just fired his attorney to challenge any basis for an agreement. This implies that despite the motion being served on all defendants, they chose to ignore the allegations of a fraudulent scheme and further the affairs of the enterprise. These actions meet the requirements for extortion as a RICO predicate act: they involved the wrongful use of threats and official process to obtain property (the home and business) from Plaintiff, with his consent induced by fear of further loss or legal harm. The acts were not isolated but part of a coordinated scheme to achieve the enterprise's goal of finalizing the divorce and divesting Plaintiff of his property B. Wire Fraud by Munford and Baker Wire fraud under 18 U.S.C. § 1343 requires a scheme to defraud, intent to defraud, and use of interstate wire communications to execute the scheme (Clinton v. Sec. Benefit Life Ins. Co., 63 F.4th 1264 (10th Cir. 2023); United States v. Holloway, 826 F.3d 1237 (10th Cir. 2016)). The Tenth Circuit recognizes that sending altered or incomplete court documents via email, with the intent to mislead or deprive someone of property or rights, can constitute wire fraud if the deprivation of property is a central object of the scheme (United States v. Tao, 629 F.Supp.3d 1083). The timeline shows the following: i. Event 54: Munford signed and forwarded a "Joint Motion to Recuse" attached to his order of referral, but the document was missing critical exhibits and affidavits necessary for Plaintiff's relief. ii. Event 55: Baker sent a copy of this incomplete filing via email, representing it as the full document. iii. Event 56–57: When Plaintiff pointed out the discrepancies, Baker provided inconsistent explanations, first claiming the full document was e-filed, then later stating it was split into three parts due to size. iv. Event 58: Munford signed and filed an "Amended Order of Referral" with the full motion attached, but with hyperlinks and bookmarks removed, further impairing the document's integrity. v. Event 59, 83: Baker continued to forward altered or incomplete orders and referrals, even when procedural irregularities were raised. These acts involved the knowing use of interstate email to transmit altered or incomplete court documents, with the intent to prevent Plaintiff from obtaining relief and to further the enterprise's goal of finalizing the divorce and depriving Plaintiff of his property. The use of email to transmit these documents satisfies the interstate wire requirement, and the intent to defraud is evidenced by the deliberate alteration and misrepresentation of the filings. The conduct of Munford and Baker meets the elements of wire fraud: (1) a scheme to defraud Plaintiff of property and rights, (2) intent to defraud by preventing relief and misleading the court and Plaintiff, and (3) use of interstate wire communications (email) to execute the scheme (Clinton v. Sec. Benefit Life Ins. Co., 63 F.4th 1264 (10th Cir. 2023)). The deprivation of property (Plaintiff's home and business) was a central object of the scheme, not a minor part. RELATIONSHIP AND CONTINUITY All these acts—extortion by Carter, Kaitcer, and Myers, and wire fraud by Munford and Baker—were committed in furtherance of the Myers-Branthoover enterprise's overarching objective: to finalize the

divorce and divest Plaintiff of his home and business. The acts were coordinated, continuous, and related, satisfying the RICO pattern requirement. The timeline shows that each defendant's conduct was not an isolated error or routine administrative act, but part of a deliberate scheme to use the legal process, threats, and fraudulent communications to achieve the enterprise's unlawful goals. DAMAGES The harm inflicted upon Plaintiff is staggering. He has lost the home in which he lived for nearly a third of his life, the companionship of his spouse, and the society of his children. His income has collapsed. For two years he has been consigned to a futile appellate gauntlet, even as Defendants Munford, Kaitcer, Baker, and Carter have repeatedly exceeded the bounds of their lawful authority in furtherance of a broader scheme. What began as a concerted effort by Myers and Branthoover to dispossess Plaintiff of his residence and property metastasized into a calculated plan to procure a final decree of divorce once the initial objective had been achieved. The objective was plain: by engineering a final decree, Defendants would not only hobble Plaintiff's ability to bring this suit but also invite invocation of the Rooker–Feldman doctrine and related abstention principles to preclude federal jurisdiction. Now, after two years of unremitting effort, Plaintiff seeks the only meaningful remedy remaining: federal redress to halt the ongoing abuses of authority, to unwind tainted actions, and to compensate him fully for the catastrophic losses Defendants have wrought. Take each piece in the TABLE OF CONTENTS, research the topic, and tie it to the factual timeline, filling out each element of the RICO complaint and tie each element to the factual allegations by enumerated paragraph number. What are the most common and effective defenses to civil RICO claims in the Fifth Circuit, including preclusion, Rooker-Feldman, Younger abstention, judicial immunity, and other affirmative defenses?

Answer (Fifth Circuit)

Short response

The most common and effective defenses to civil RICO claims in the Fifth Circuit include preclusion doctrines (res judicata and collateral estoppel), the Rooker-Feldman doctrine, Younger abstention, judicial immunity, and other affirmative defenses such as lack of standing, failure to state a claim, and lack of proximate causation. These defenses are frequently successful because they attack either the federal court's jurisdiction or the sufficiency of the plaintiff's pleadings under the statutory elements of RICO.

Summary

Defendants in civil RICO actions in the Fifth Circuit routinely invoke a range of procedural and substantive defenses to defeat or limit liability. The most prominent are preclusion (res judicata and collateral estoppel), which bars relitigation of claims or issues already decided; the Rooker-Feldman doctrine, which prevents federal courts from acting as appellate bodies over state court judgments; Younger abstention, which discourages federal

interference in ongoing state proceedings; and judicial immunity, which shields judges from liability for acts taken in their judicial capacity.

In addition, defendants often assert affirmative defenses such as lack of standing, failure to state a claim (including failure to plead a pattern of racketeering activity or a RICO enterprise), lack of proximate causation, and attorney immunity. These defenses are effective because they either deprive the federal court of jurisdiction or demonstrate that the plaintiff has not met the demanding statutory requirements for a RICO claim.

Background and Relevant Law

Legislative and Regulatory Framework

Civil RICO claims are governed by 18 U.S.C. §§ 1961–1968, which require a plaintiff to establish: (1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise, as articulated in Bustos v. Invierte En Tex. (2024-06-03), Belton v. Regions Bank (2025-08-07), and Gordon v. Neugebauer (2014-11-21). Predicate acts must be specifically enumerated crimes, such as wire fraud or extortion.

Case Law

The Fifth Circuit and district courts within it have developed a robust body of law on defenses to civil RICO claims. Key authorities include:

- **Preclusion (Res Judicata and Collateral Estoppel):** These doctrines bar relitigation of claims or issues already decided in prior proceedings. See Stewart v. Wells (2020-05-26); McCloskey v. McCloskey (In re McCloskey) (2015-02-23).
- **Rooker-Feldman Doctrine:** Federal district courts lack jurisdiction to review or overturn state court judgments. See Watson v. Wray (2024-03-27); Miller v. Dunn, 35 F.4th 1007 (5th Cir. 2022).
- **Younger Abstention:** Federal courts should abstain from interfering in ongoing state proceedings. See Stewart v. Wells (2020-05-26).
- **Judicial Immunity:** Judges are absolutely immune from suit for acts taken in their judicial capacity, unless acting in the clear absence of all jurisdiction or performing nonjudicial acts. See Wiley v. Texas (2025-04-28).
- **Attorney Immunity:** Attorneys may be immune from suit for conduct undertaken in their role as advocates, subject to choice of law and the scope of representation. See Austin v. Baker & Hostetler, LLP (In re Uplift RX, LLC), 667 B.R. 665 (2024-12-11).
- **Standing and Subject Matter Jurisdiction:** Plaintiffs must establish standing and the court's subject matter jurisdiction; otherwise, the claim is dismissed. See Sneed v. La. Dep't of Pub. Safety & Corr. (2023-09-14).
- **Failure to State a Claim:** If the plaintiff fails to plead all elements of a RICO claim, the action is subject to dismissal. See Bustos v. Invierte En Tex. (2024-06-03); Burzynski, In re, 989 F.2d 733 (5th Cir. 1993).

- **Causation:** Plaintiffs must show both but-for and proximate causation between the alleged RICO violation and their injury. See WASTE MANAGEMENT OF LOUISIANA v. River Birch, Inc., 920 F.3d 958 (5th Cir. 2019).

Analysis

I. Preclusion (Res Judicata and Collateral Estoppel)

Preclusion is a powerful defense in civil RICO actions. Res judicata (claim preclusion) bars a plaintiff from relitigating claims that were or could have been raised in a prior action that resulted in a final judgment on the merits. Collateral estoppel (issue preclusion) prevents relitigation of specific issues actually litigated and decided in a prior proceeding.

In Stewart v. Wells (2020-05-26), the court recognized that res judicata and related doctrines are effective in barring duplicative RICO claims, especially where the underlying facts or legal issues have already been adjudicated. Similarly, McCloskey v. McCloskey (In re McCloskey) (2015-02-23) illustrates the use of preclusion to foreclose claims that were or could have been raised in earlier state court proceedings.

In the context of the provided factual timeline, if the plaintiff's RICO claims are based on the same nucleus of operative facts as those already litigated in state court divorce or custody proceedings, defendants can assert preclusion to bar the federal RICO action.

II. Rooker-Feldman Doctrine

The Rooker-Feldman doctrine deprives federal district courts of jurisdiction to review or overturn state court judgments. As explained in Watson v. Wray (2024-03-27), this doctrine applies when a federal plaintiff seeks to challenge the outcome of a state court proceeding or alleges that the state court judgment itself caused the injury.

The Fifth Circuit in Miller v. Dunn, 35 F.4th 1007 (5th Cir. 2022) clarified that Rooker-Feldman does not apply if the state court proceedings are still pending when the federal action is filed, but it does bar federal jurisdiction over final state court judgments. The doctrine is particularly relevant in RICO cases arising from contentious family law or property disputes, where the plaintiff's injury is inextricably linked to a state court order.

In the factual timeline, if the plaintiff's alleged injury (loss of home, business, or custody) is the direct result of a state court judgment, Rooker-Feldman may bar the federal RICO claim. However, if the plaintiff alleges independent acts of racketeering that are not merely collateral attacks on the state judgment, the doctrine may not apply.

III. Younger Abstention

Younger abstention requires federal courts to refrain from interfering in ongoing state proceedings that implicate important state interests, such as family law or criminal matters. Stewart v. Wells (2020-05-26) confirms that Younger abstention is a recognized defense in civil RICO cases, especially where the federal suit would disrupt ongoing state court litigation.

In the timeline, if the divorce or custody proceedings are still pending in state court, defendants can invoke Younger abstention to stay or dismiss the federal RICO action until the state proceedings conclude.

IV. Judicial Immunity

Judicial immunity is an absolute bar to civil liability for acts taken by judges in their judicial capacity, unless the judge acted in the clear absence of all jurisdiction or performed nonjudicial acts. Wiley v. Texas (2025-04-28) and Stewart v. Wells (2020-05-26) both affirm that allegations of bad faith or malice are insufficient to overcome judicial immunity.

In the factual scenario, claims against judges (e.g., Munford, Kaitcer) for issuing orders or managing proceedings are likely barred by judicial immunity, unless the plaintiff can show the judge acted outside all jurisdiction or performed nonjudicial acts. The mere assertion that a judge's orders were erroneous or motivated by malice does not suffice.

V. Attorney Immunity

Attorney immunity may shield lawyers from civil liability for conduct undertaken in their role as advocates, provided the conduct falls within the scope of representation. Austin v. Baker & Hostetler, LLP (In re Uplift RX, LLC), 667 B.R. 665 (2024-12-11) demonstrates that the application of attorney immunity in federal RICO cases may depend on choice of law and the specific facts of the representation.

In the timeline, if Carter or other attorneys are sued for actions taken in representing their clients in the divorce or related proceedings, they may assert attorney immunity, subject to the court's determination of the applicable law and the scope of their conduct.

VI. Standing and Subject Matter Jurisdiction

A plaintiff must establish standing and the court's subject matter jurisdiction. Sneed v. La. Dep't of Pub. Safety & Corr. (2023-09-14) explains that the burden is on the plaintiff to show jurisdiction, and failure to do so results in dismissal under Rule 12(b)(1).

If the plaintiff cannot show a concrete injury traceable to the defendants' conduct and redressable by the court, or if the RICO claim is otherwise outside the court's jurisdiction (e.g., barred by Rooker-Feldman), the action will be dismissed.

VII. Failure to State a Claim (Pleading Deficiencies)

Defendants can move to dismiss a RICO claim for failure to state a claim under Rule 12(b)(6) if the plaintiff does not adequately plead all required elements: a person, a pattern of racketeering activity, and a connection to an enterprise. See Bustos v. Invierte En Tex. (2024-06-03); Burzynski, In re, 989 F.2d 733 (5th Cir. 1993); Gordon v. Neugebauer (2014-11-21).

Common pleading deficiencies include failure to allege at least two related predicate acts, failure to show the existence of an enterprise, or failure to connect the alleged racketeering activity to the conduct of the enterprise's affairs. If the complaint is conclusory or lacks specific factual allegations, dismissal is likely.

VIII. Causation

Plaintiffs must establish both but-for and proximate causation between the alleged RICO violation and their injury. WASTE MANAGEMENT OF LOUISIANA v. River Birch, Inc., 920 F.3d 958 (5th Cir. 2019) holds that there must be a direct relation between the injury and the injurious conduct. If the injury is too remote or indirect, or if it was caused by intervening factors (such as a state court judgment), the RICO claim fails.

In the timeline, if the plaintiff's loss of home or business is the result of a state court order rather than the alleged racketeering activity, defendants can challenge causation.

IX. Other Affirmative Defenses

Other defenses include:

- **Lack of Service or Insufficient Process:** As noted in Stewart v. Wells (2020-05-26), procedural defects in service can result in dismissal.
- **Eleventh Amendment Immunity:** Bars claims against state entities.
- **Permissive or Mandatory Abstention:** In bankruptcy or related contexts, courts may abstain from hearing certain claims. See Mason v. Dillon Invs. (2023-10-11).
- **Attorney Immunity:** As discussed above, may bar claims against lawyers for conduct within the scope of representation.

Exceptions and Caveats

- **Judicial Immunity:** Does not apply to nonjudicial acts or acts taken in the clear absence of all jurisdiction (Wiley v. Texas (2025-04-28)).
- **Rooker-Feldman:** Does not bar federal claims that are independent of the state court judgment or where the state proceedings are still pending (Miller v. Dunn, 35 F.4th 1007 (5th Cir. 2022)).
- **Younger Abstention:** Applies only to ongoing state proceedings that implicate important state interests and where the federal plaintiff has an adequate opportunity to raise federal claims in state court.

- **Attorney Immunity:** May not apply if the attorney’s conduct was outside the scope of representation or involved criminal acts.

Conclusion

In the Fifth Circuit, defendants in civil RICO actions have a robust arsenal of defenses, including preclusion, Rooker-Feldman, Younger abstention, judicial immunity, attorney immunity, lack of standing, failure to state a claim, and lack of causation. These defenses are frequently successful because they either deprive the federal court of jurisdiction or demonstrate that the plaintiff has not met the demanding statutory requirements for a RICO claim. The effectiveness of each defense depends on the specific facts and procedural posture of the case, but collectively they present significant hurdles for plaintiffs seeking relief under civil RICO.

Legal Authorities

Miller v. Dunn, 35 F.4th 1007 (5th Cir. 2022)

U.S. Court of Appeals — Fifth Circuit

Extract

Finally, in Gross v. Dannatt, 736 F. App'x 493, 495 (5th Cir. 2018) (per curiam), a panel held Rooker - Feldman inapplicable under Illinois Central's understanding of Exxon Mobil because the plaintiff's state petition for review was pending before the Texas Supreme Court when he filed his federal action. Gross expressly declined to apply Hale given 'the guidance' the Supreme Court offered in Exxon Mobil and Lance.

Summary

Rooker-Feldman doctrine, which is a common defense in civil RICO claims. It highlights a specific instance where the doctrine was deemed inapplicable because the state court proceedings were still pending when the federal action was filed. This suggests that the timing of the federal filing in relation to the state court proceedings is crucial in determining the applicability of the Rooker-Feldman doctrine. The passage also references guidance from the Supreme Court, indicating that the interpretation of this doctrine is influenced by higher court rulings.

Watson v. Wray

U.S. District Court — Eastern District of Louisiana

Extract

The Federal Defendants posit that the Rooker-Feldman doctrine applies to prohibit Watson from collaterally attacking the adverse prior state court judgments rendered against him in Massachusetts. The Rooker-Feldman doctrine is more nuanced than res judicata (civil judgments) or Heck v. Humphrey, 512 U.S. 477 (1994) (criminal convictions) because the Rooker-Feldman doctrine recognizes that federal district courts lack jurisdiction to exercise appellate jurisdiction over state court judgments.

Summary

The passage highlights the Rooker-Feldman doctrine as a defense in civil RICO claims, emphasizing its role in preventing federal courts from acting as appellate bodies for state court decisions. This doctrine is particularly relevant in cases where a plaintiff attempts to use a federal lawsuit to overturn or challenge the outcome of a state court proceeding.

Word of Faith World Outreach Center Church, Inc. v. Sawyer, 90 F.3d 118 (5th Cir. 1996)

U.S. Court of Appeals — Fifth Circuit

Extract

The Church alleges the defendants violated 18 U.S.C. § 1962(c) and (d) of the Racketeer Influence and Corrupt Organization Act (RICO), 18 U.S.C. §§ 1961-1968. Subsection 1962(c) prohibits persons employed by or associated with any enterprise from conducting or participating in the enterprise's affairs through a pattern of racketeering. Subsection 1962(d) prohibits a conspiracy to violate 18 U.S.C. § 1962(a), (b), or (c). Under both subsections, RICO claims require '1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.' ... The Church's RICO claim was contained in its First Amended Complaint, its Second Amended Complaint, which the district court refused to accept, and its Third Amended Complaint, which the district court accepted. Further, the Church filed two Amended RICO Case Statements. The Church was given ample opportunity to plead its RICO claim. The district court did not abuse its discretion in denying the Church an opportunity to replead. Having decided that the Church failed to state a claim under RICO or § 1985(3), we do not reach appellees' res judicata arguments. The judgment of the district court is AFFIRMED.

Summary

Requirements for a RICO claim under 18 U.S.C. § 1962(c) and (d), emphasizing the need for a pattern of racketeering activity connected to an enterprise. It also highlights the court's discretion in allowing amendments to pleadings and the importance of adequately stating a claim. The passage

mentions that the court did not reach the appellees' res judicata arguments, indicating that preclusion defenses like res judicata can be relevant but were not addressed in this case.

Burzynski, In re, 989 F.2d 733 (5th Cir. 1993)

U.S. Court of Appeals — Fifth Circuit

Extract

Burzynski has also failed to plead a RICO violation, his last cause of action. The plaintiff alleges RICO violations under 18 U.S.C. § 1962(a), (b), (c), and (d). Boiled down to their essence in plain English, the subsections state: (a) a person who has received income from a pattern of racketeering cannot invest that income in an enterprise. (b) a person cannot acquire or maintain an interest in an enterprise through a pattern of racketeering. (c) a person who is employed by or associated with an enterprise cannot conduct the enterprise's affairs through a pattern of racketeering. (d) a person cannot conspire to violate subsections (a), (b), or (c). Thus, RICO claims under all four subsections necessitate: '1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.' Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241, 242 (5th Cir.1988), cert. denied, 489 U.S. 1079, 109 S.Ct. 1531, 103 L.Ed.2d 836 (1989) (emphasis in original). We conclude that the plaintiff failed to properly plead both a 'pattern of racketeering activity' and a RICO 'enterprise.'

Summary

Essential elements required to plead a RICO violation under 18 U.S.C. § 1962, emphasizing the necessity of demonstrating a "pattern of racketeering activity" and a "RICO enterprise." The failure to properly plead these elements can be a common and effective defense against civil RICO claims, as it can lead to dismissal of the claim.

WASTE MANAGEMENT OF LOUISIANA v. River Birch, Inc., 920 F.3d 958 (5th Cir. 2019)

U.S. Court of Appeals — Fifth Circuit

Extract

"The Supreme Court requires plaintiffs to establish both but for cause and proximate cause in order to show injury ‘by reason of’ a RICO violation." "Proximate cause should be evaluated in light of its common-law foundations [and] ... requires ‘some direct relation between the injury asserted and the injurious conduct alleged.’" "When a court evaluates a RICO claim for proximate cause, the central question it must ask is whether the alleged

violation led directly to the plaintiff's injuries." Therefore, to satisfy the causation element of RICO in this case, Plaintiff has the burden of establishing that the payment to Nagin was the but for cause and proximate cause of his decision to shutter the landfill. This burden requires Plaintiff to establish that its damages "w[ere] a foreseeable and natural consequence" of Defendants' action.

Summary

The passage highlights the importance of establishing both but-for and proximate causation in RICO claims, which is a critical element that defendants can challenge. If a plaintiff cannot establish a direct link between the alleged RICO violation and their injury, the claim may fail. This is a common defense strategy in civil RICO cases.

Stewart v. Wells

Extract

The Defendants argue that Stewart's claims should be dismissed because she lacks standing and fails to state a claim under Federal Rule of Civil Procedure 12(b)(6), and even if she overcame those jurisdictional obstacles, the Rooker-Feldman doctrine and the Eleventh Amendment bar her claims. ECF Nos. 11, 13. The County Defendants also argue that Stewart's claims should be dismissed because (1) they are duplicative, (2) they are barred by the Younger abstention doctrine, judicial immunity, and res judicata, (3) she cannot enjoin the County Defendants under 42 U.S.C. § 1983, and (4) service of process was insufficient. ECF No. 11 at 13-14, 23.

Summary

The Fifth Circuit recognizes several defenses to civil RICO claims. These include the Rooker-Feldman doctrine, which prevents federal courts from reviewing state court judgments; Younger abstention, which discourages federal court interference in ongoing state proceedings; judicial immunity, which protects judges from liability for actions taken in their official capacity; and res judicata, which bars claims that have already been litigated. Additionally, the Eleventh Amendment can bar claims against state entities, and procedural defenses such as lack of standing, failure to state a claim, and insufficient service of process can also be effective.

Gordon v. Neugebauer

Extract

To state a valid claim upon which relief can be granted under § 1962(c), a plaintiff must allege facts that show (1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition,

establishment, conduct, or control of an enterprise. See In re Burzynski, 989 F.2d 733, 741-42 (5th Cir. 1993); Paul v. Aviva Life & Annuity Co., 3:09-CV-1490-B, 2010 WL 5105925, at *3 (N.D. Tex. Dec. 14, 2010).

Summary

Elements required to state a valid RICO claim under § 1962(c) in the Fifth Circuit, which can be used to assess whether a plaintiff has met the necessary criteria. If a plaintiff fails to meet these criteria, it can serve as a defense to dismiss the claim.

McCloskey v. McCloskey (In re McCloskey)

Extract

Plaintiffs respond: (1) they have standing based on either a formal or an informal proof of claim; (2) they are not judicially estopped by any position taken in prior state court proceedings; (3) their state court garnishment proceedings were excepted from the automatic stay; (4) debtor's claims are foreclosed by res judicata and/or the Rooker-Feldman Doctrine; (5) this Court's orders lifted the stay as to all state court matters; and (6) all of their state court proceedings following debtor's bankruptcy case were excepted from the automatic stay.

Summary

The passage provides insight into the defenses used in civil proceedings, including res judicata and the Rooker-Feldman Doctrine, which are relevant to civil RICO claims. These defenses are used to argue that claims are barred due to prior judgments or that federal courts lack jurisdiction to review state court decisions.

Mason v. Dillon Invs.

Extract

Mason's mandatory abstention argument hinged on the following assertions: (1) the Adversary Proceeding has no independent basis for federal jurisdiction other than under 28 U.S.C. § 1334(b), which governs the bankruptcy courts' original but not exclusive jurisdiction in matters 'arising in or relating to' bankruptcy cases; (2) the Adversary Proceeding is not a 'core' bankruptcy proceeding; (3) the judicial estoppel issue is already pending before the State Court in the State Court Lawsuit; and (4) the judicial estoppel issue as to Mason could be timely adjudicated in the State Court Lawsuit. Finally, Mason's Motions contended that, in the alternative, the Bankruptcy Court should abstain under the permissive abstention doctrine for a number of reasons.

Summary

The passage provides insight into the use of abstention doctrines as a defense in civil proceedings, particularly in the context of bankruptcy. It highlights the arguments for mandatory and permissive abstention, which can be relevant in civil RICO claims when there are parallel state proceedings or when federal jurisdiction is not exclusive.

667 B.R. 665 Austin v. Baker & Hostetler, LLP (In re Uplift RX, LLC)

Extract

Baker Hostetler raises attorney immunity as a threshold matter, alleging that it is immune from suits by the Test Strip Manufacturers. The parties dispute whether Texas' or another state's attorney immunity doctrine would apply here. The parties provided supplemental briefing regarding the choice of law question. Austin argues that Texas law is inapplicable because attorney immunity is a substantive issue and that Texas does not bear the most significant relationship to the issues. ECF No. 176 at 5. Baker Hostetler argues that Texas law applies because it is a procedural issue, which is governed by Texas state law. ECF No. 177 at 2. The Court is not inclined to make a choice of law determination at this stage. Instead, the Court finds that Baker Hostetler did not sufficiently establish that its representation of Alliance falls within the protection of Texas' attorney immunity doctrine.

Summary

The passage provides insight into the use of attorney immunity as a defense in civil RICO claims. It highlights the complexity of applying state law doctrines like attorney immunity in federal RICO cases, especially when there is a dispute over which state's law applies. The court's reluctance to make a choice of law determination at the motion to dismiss stage suggests that such defenses may not be straightforward and require careful consideration of the facts and applicable law.

Wiley v. Texas

Extract

And Wiley alleges no facts that could overcome judicial immunity for the judicial defendant. '[A] judge generally has absolute immunity from suits for damages.' Davis v. Tarrant Cnty., Tex., 565 F.3d 214, 221 (5th Cir. 2009) (citing Mireles v. Waco, 502 U.S. 9, 9-10 (1991)). 'Judicial immunity is an immunity from suit, not just the ultimate assessment of damages.' Id. (citing Mireles, 502 U.S. at 11 (citing, in turn, Mitchell v. Forsyth, 472 U.S. 511, 526(1985))). There are only two circumstances under which judicial immunity may be overcome. 'First, a judge is not immune from liability for

nonjudicial actions, i.e., actions not taken in the judge's judicial capacity.' Mireles, 502 U.S. at 11 (citations omitted). 'Second, a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction.' Id. (citations omitted). Allegations of bad faith or malice are not sufficient to overcome judicial immunity. Id.

Summary

Clear explanation of judicial immunity as a defense in civil suits, including RICO claims. It outlines the conditions under which judicial immunity can be overcome, emphasizing that it is a strong defense unless the actions were nonjudicial or taken without jurisdiction.

Belton v. Regions Bank

Extract

Plaintiff alleges that the defendants 'engaged in a pattern of racketeering activity' in violation of the Racketeer Influenced and Corrupt Organizations Act ('RICO'), 18 U.S.C. §§ 1961-1968. (R. Doc. 1 at 22). To recover under RICO, the plaintiff must establish three elements: (1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise. Abraham v. Singh, 480 F. 3d 351, 355 (5th Cir. 2007) (quoting Word of Faith World Outreach Ctr. Church, Inc. v. Sawyer, 90 F.3d 118, 122 (5th Cir. 1996)).

Summary

The passage provides insight into the elements required to establish a RICO claim in the Fifth Circuit, which can be used to understand potential defenses. If a plaintiff fails to establish any of these elements, a defendant can use that failure as a defense. Additionally, the passage indirectly suggests that defenses could include challenging the existence of an enterprise, the pattern of racketeering activity, or the connection to the enterprise's conduct.

Sneed v. La. Dep't of Pub. Safety & Corr.

Extract

In a Rule 12(b)(1) motion, a party may raise the defense of lack of subject matter jurisdiction. See Fed.R.Civ.P. 12(b)(1). 'Under Rule 12(b)(1), a claim is ‘properly dismissed for lack of subject-matter jurisdiction when the court lacks the statutory or constitutional power to adjudicate' the claim.' In re FEMA Trailer Formaldehyde Prods. Liab. Litig., 668 F.3d 281, 286 (5th Cir. 2012) (quoting Home Builders Ass'n of Miss., Inc. v. City of Madison, 143 F. 3d 1006, 1010 (5th Cir. 1998)). 'The burden of proof for a Rule 12(b)(1) motion to dismiss is on the party asserting jurisdiction.' Ramming v. United

States, 281 F.3d 158, 161 (5th Cir. 2001) (citing McDaniel v. United States, 899 F.Supp. 305, 307 (E.D. Tex. 1995)). 'Accordingly, the plaintiff constantly bears the burden of proof that jurisdiction does in fact exist.' Id. (citing Menchaca v. Chrysler Credit Corp., 613 F.2d 507, 511 (5th Cir. 1980)).

Summary

The passage provides insight into the defense of lack of subject matter jurisdiction under Rule 12(b)(1) as a common defense in civil RICO claims. It explains that the burden of proof is on the party asserting jurisdiction, and the claim can be dismissed if the court lacks the statutory or constitutional power to adjudicate it.

Bustos v. Invierte En Tex.

Extract

To state a civil RICO claim under 18 U.S.C. § 1962, a plaintiff must allege three common elements: “(1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise.” N. Cypress Med. Ctr. Operating Co., Ltd. v. Cigna Healthcare, 781 F.3d 182, 201 (5th Cir. 2015) (quotation omitted). An act of “racketeering activity,” commonly referred to as a “predicate act,” is defined to include certain criminal acts, including mail and wire fraud, and any act indictable under the Immigration and Nationality Act. See 18 U.S.C § 1961 (defining “racketeering activity”); Waste Mgmt. of La., L.L.C. v. River Birch, Inc., 920 F.3d 958, 964 (5th Cir. 2019) (referring to racketeering activity as a “predicate act”).

Summary

Necessary elements to establish a civil RICO claim, which indirectly informs potential defenses. If a plaintiff fails to adequately allege any of these elements, a defendant can move to dismiss the claim. Common defenses include challenging the sufficiency of the alleged pattern of racketeering activity or the connection to an enterprise. Additionally, the passage mentions the requirement for predicate acts, which can be a focal point for defense if the acts do not meet the statutory definition.

The Rooker-Feldman doctrine: toward a workable role.

University of Pennsylvania Law Review - University of Pennsylvania, Law School - McLain, Adam - 2001-05-01

Extract

collateral attacks on state court judgments in lower federal courts. Accordingly, the doctrine is relevant only when a federal court plaintiff

alleges that the state court or its judgment caused the plaintiff's injury. When this occurs, the federal suit is generally a collateral attack seeking to 'undo what the [state] court did.'... This formulation helps illustrate the distinction between permissible general challenges, allowed under Feldman, and impermissible appeals from, or collateral attacks on, issues inextricably intertwined with state court judgments. As noted in Kamilewicz, the pivotal inquiry is 'whether the federal plaintiff seeks to set aside a state court judgment or whether he is, in fact, presenting an independent claim.' Generally, as recently explained by the Seventh Circuit in Remer v. Burlington Area School District, Rooker-Feldman 'bars federal jurisdiction when the federal plaintiff alleges that her injury was caused by a state court judgment.'

Summary

The Rooker-Feldman doctrine is a defense that can be used to bar federal jurisdiction in cases where a plaintiff's injury is alleged to be caused by a state court judgment. This doctrine is relevant in the context of civil RICO claims when the federal suit is essentially a collateral attack on a state court judgment. The passage highlights the distinction between permissible general challenges and impermissible appeals or collateral attacks on state court judgments.