

## **Question**

Morgan and Daniel engaged in multiple acts, including the preparation of false court documents and the use of those documents in legal proceedings. Under 18 U.S.C. § 1961(1), "racketeering activity" includes acts indictable under certain provisions of Title 18, such as mail fraud (18 U.S.C. § 1341) and wire fraud (18 U.S.C. § 1343). The preparation and use of false court documents likely involved fraudulent communications (e.g., mail or electronic communications), which could qualify as predicate acts of mail or wire fraud under RICO.

## **Answer (U.S. Federal)**

### **Short response**

The preparation and use of false court documents by Morgan and Daniel likely constitutes "racketeering activity" under RICO if these actions involved the use of mail or electronic communications in furtherance of a scheme to defraud, which would qualify as predicate acts of mail fraud ([18 U.S.C. § 1341](#)) or wire fraud ([18 U.S.C. § 1343](#)). Their multiple acts could establish the required "pattern of racketeering activity" needed for RICO liability if they are related and amount to or threaten continued criminal activity.

### **Summary**

Based on the provided materials, Morgan and Daniel's actions in preparing and using false court documents in legal proceedings could qualify as "racketeering activity" under the Racketeer Influenced and Corrupt Organizations Act (RICO) if these actions involved the use of mail or wire communications in furtherance of a scheme to defraud. The definition of "racketeering activity" under [18 U.S.C. § 1961](#)(1) explicitly includes acts indictable under the mail fraud statute ([18 U.S.C. § 1341](#)) and the wire fraud statute ([18 U.S.C. § 1343](#)). If Morgan and Daniel used mail, private carriers, or electronic communications to prepare or transmit these false court documents as part of a fraudulent scheme, their actions could constitute predicate acts of mail or wire fraud under RICO.

To establish a RICO violation, however, more than isolated predicate acts is required. The predicate acts must form a "pattern of racketeering activity," which requires at least two acts of racketeering activity within a ten-year period that are related and amount to or threaten continued criminal activity. If Morgan and Daniel engaged in multiple acts involving fraudulent communications through mail or wire in furtherance of their scheme to prepare and use false court documents, and these acts were related and posed a threat of continued criminal activity, their conduct could satisfy the requirements for a RICO violation.

# **Background and Relevant Law**

## **Legislation**

The RICO statute defines "racketeering activity" to include various federal criminal offenses, including mail fraud and wire fraud. According to the current version of [18 U.S.C. § 1961](#)(1), as provided in the materials:

"racketeering activity' means... (B) any act which is indictable under any of the following provisions of title 18, United States Code:... section 1341 (relating to mail fraud), section 1343 (relating to wire fraud)..." [18 U.S.C. § 1961 Definitions, 18 U.S.C. § 1961](#). This definition establishes that acts indictable under the mail fraud or wire fraud statutes qualify as predicate acts of racketeering activity under RICO.

The mail fraud statute, [18 U.S.C. § 1341](#), prohibits: "Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises... for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier... shall be fined under this title or imprisoned not more than 20 years, or both." [18 U.S.C. § 1341 Frauds and Swindles, 18 U.S.C. § 1341](#).

Similarly, the wire fraud statute, [18 U.S.C. § 1343](#), prohibits: "Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both." [18 U.S.C. § 1343 Fraud By Wire, Radio, Or Television, 18 U.S.C. § 1343](#).

## **Case Law**

The Supreme Court has provided guidance on what constitutes a "pattern of racketeering activity" under RICO. In [Inc v. Northwestern Bell Telephone Company, 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 \(1989\)](#), the Court held that "RICO's legislative history, however, establishes that Congress intended that to prove a 'pattern of racketeering activity' a plaintiff or prosecutor must show both 'relationship' and 'continuity'—that the racketeering predicates are related, and that they either constitute or threaten long-term criminal activity..." The Court also acknowledged that RICO's expansive uses "appear to be primarily the result of the breadth of the predicate offenses, in particular the inclusion of wire, mail, and securities fraud..."

In [Bridge v. Phoenix Bond & Indem. Co., 553 U.S. 639](#), 128 S.Ct. 2131, 170 L.Ed.2d 1012 (2008), the Supreme Court clarified that "a plaintiff asserting a RICO claim predicated on mail fraud need not show, either as an element of its claim or as a prerequisite to establishing proximate causation, that it relied on the defendant's alleged misrepresentations." The Court explained that mail fraud "occurs whenever a person, 'having devised or intending to devise any scheme or artifice to defraud,' uses the mail 'for the purpose of executing such scheme or artifice.'"

Lower courts have further elaborated on what constitutes mail and wire fraud as predicate acts under RICO. In [Doe v. Varsity Brands, LLC](#), U.S. District Court — District of South Carolina (2023), the court stated: "RICO is founded on the concept of racketeering activity... The RICO statute contains an exhaustive list of predicate acts that qualify as 'racketeering activity.' [18 U.S.C. § 1961](#)(1). Included in the list is 'any act which is indictable under' [18 U.S.C. § 1341](#) (mail fraud) or [18 U.S.C. § 1343](#) (wire fraud). [18 U.S.C. § 1961](#)(1)(B)."

In [Norfe Grp. Corp. v. R.Y. Espinosa Inc., Civil No. 19-1897 \(BJM\) \(D. P.R. May 07, 2021\)](#), the court explained: "RICO liability breaks down to four essential elements: '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479, 496 (1985)." The court further specified that mail fraud "occurs whenever a person, 'having devised or intending to devise any scheme or artifice to defraud,' uses the mail 'for the purpose of executing such scheme or artifice or attempting so to do.'" Similarly, for wire fraud, a plaintiff must allege that defendants "engaged in a scheme to defraud with the specific intent to defraud and that they used... the interstate wires in furtherance of the scheme."

[Uselmann v. Pop, 495 F.Supp.3d 528 \(E.D. Mich. 2020\)](#) reiterated that "RICO defines 'racketeering activity' to include a multitude of offenses that are either 'chargeable' under certain state criminal laws or 'indictable' under specified federal criminal laws. [18 U.S.C. § 1961](#)(1). Both the mail fraud statute, [18 U.S.C. § 1341](#), and the wire fraud statute, [18 U.S.C. § 1343](#), are listed as predicate racketeering offenses under RICO."

The elements of mail and wire fraud were further elucidated in [Westchester Cnty. Independence Party v. Astorino, 137 F.Supp.3d 586 \(S.D. N.Y. 2015\)](#): "The elements of wire fraud under [18 U.S.C. § 1343](#) are (i) a scheme to defraud (ii) to get money or property, (iii) furthered by the use of interstate wires... The elements of mail fraud under [18 U.S.C. § 1341](#) are identical, except that mail fraud must be furthered by use of the mails."

In [Hall v. Witteman, 569 F.Supp.2d 1208 \(D. Kan. 2008\)](#), the court explained that to establish the predicate act of mail fraud, a plaintiff must allege "(1) the existence of a scheme or artifice to defraud or obtain money or property by false pretenses, representations or promises, and (2) use of the United States mails for the purpose of executing the scheme." Similarly, the elements of wire fraud "are very similar, but require that the defendant use interstate wire, radio or television communications in furtherance of the scheme to defraud."

It's important to note that [U.S. v. Massa, 740 F.2d 629 \(8th Cir. 1984\)](#), which stated that for mail fraud, "it is not necessary that the scheme contemplated the use of the mails as an essential element," but rather "it is enough if the mailing is 'incident to an essential part of the scheme,'" was stated as overruled by *United States v. Reichel*, 911 F.3d 910 (8th Cir. 2018). However, the principle that the mailing need only be incident to an essential part of the scheme is still valid law, as it was initially established by the Supreme Court in *Pereira v. United States*, 347 U.S. 1 (1954), which has not been overruled on this point.

Similarly, [United States v. Turkette, 452 U.S. 576, 101 S.Ct. 2524, 69 L.Ed. 2d 246 \(1981\)](#), which discussed the elements of a RICO violation, was abrogated by *United States v. Lane*, 474 U.S. 438 (1986). However, *Lane* addressed issues of misjoinder under Federal Rule of Criminal Procedure 8(b) and did not affect *Turkette*'s core holdings regarding the definition of an "enterprise" and a "pattern of racketeering activity" under RICO.

[P & P MARKETING, INC. v. Ditton, 746 F. Supp. 1354 \(N.D. Ill. 1990\)](#) further clarified that for mail and wire fraud, "it is not required that the false representations be sent through the U.S. mails or made through the use of interstate wires." Instead, "it is only necessary to have a scheme to defraud coupled with a mailing or use of interstate wires in furtherance of the scheme and the use of the mails or interstate wires need not be an essential part of the scheme, but it is sufficient if such use is incident to an essential component of the scheme."

[Ashland Oil, Inc. v. Arnett, 875 F.2d 1271 \(7th Cir. 1989\)](#) emphasized that "in mail and wire fraud, each mailing or interstate communication is a separate indictable offense, even if each relates to the same scheme to defraud, and even if the defendant did not control the number of mailings or communications."

[Federal Ins. Co. v. Webne, 513 F.Supp.2d 921 \(N.D. Ohio 2007\)](#) outlined that under RICO, a plaintiff must allege "at least two predicate acts occurring within a ten year time period" to establish "racketeering activity." The court confirmed that "mail fraud, wire fraud, money laundering, and racketeering are included in the definition of 'racketeering activity' in § 1961."

[U.S. v. Reifler, 446 F.3d 65 \(2nd Cir. 2006\)](#) noted that to prove a RICO offense, the government must show a "pattern of racketeering activity," which is interpreted to mean "multiple racketeering predicates—which can be part of a single scheme—that are related and that amount to, or threaten the likelihood of, continued criminal activity."

[U.S. v. Goldin Industries, Inc., 219 F.3d 1271 \(11th Cir. 2000\)](#) illustrated how mail fraud can establish RICO liability, noting that the defendants "violated RICO by sending invoices and checks to the customers who had been cheated in the Goldin Corporations' various schemes. The invoices and checks fraudulently misrepresented the amounts actually due to the victims of these schemes."

[Wisdom v. First Midwest Bank, of Poplar Bluff, 167 F.3d 402 \(8th Cir. 1999\)](#) explained that when pled as RICO predicate acts, mail and wire fraud

require showing: "(1) a plan or scheme to defraud, (2) intent to defraud, (3) reasonable foreseeability that the mail or wires will be used, and (4) actual use of the mail or wires to further the scheme."

[U.S. v. Palumbo Bros., Inc., 145 F.3d 850 \(7th Cir. 1998\)](#) emphasized that "separate violations of other federal and state criminal statutes are the predicate acts upon which a pattern of racketeering activity is created" and that "RICO specifically identifies mail fraud as a predicate act for liability."

[Adler v. Berg Harmon Associates, 790 F.Supp. 1222 \(S.D. N.Y. 1992\)](#) outlined the elements necessary to state a claim under RICO: "(1) that the defendant (2) through the commission of two or more acts (3) constituting a 'pattern' (4) of 'racketeering activity' (5) directly or indirectly invests in, or maintains an interest in, or participates in (6) an 'enterprise' (7) the activities of which affect interstate or foreign commerce."

[Al-Kazemi v. General Acceptance & Inv. Corp., 633 F. Supp. 540 \(D. D.C. 1986\)](#) confirmed that under RICO, "racketeering activity" is defined to include mail fraud and wire fraud, and that evidence showing "a scheme to defraud and the mailing or transmission by wire of a document or communication for the purpose of executing the scheme" satisfies the requirements of the mail and wire fraud statutes.

[U.S. v. Hewes, 729 F.2d 1302 \(11th Cir. 1984\)](#) illustrated a case where defendants were charged with RICO conspiracy and substantive RICO violations, along with "numerous counts of mail and wire fraud." The court noted that the "overt acts and substantive predicate crimes that were alleged in the indictment to have furthered the pattern of racketeering were sufficiently connected that their interrelationship constituted an offense of a series of acts or transactions."

## **Administrative Decisions**

An administrative decision in [Matter of \[Name redacted\]](#) (2017) stated that mail fraud under [18 U.S.C. § 1341](#) occurs when "a person, 'having devised or intending to devise any scheme or artifice to defraud,' uses the mail 'for the purpose of executing such scheme or artifice.'"

## **Secondary Materials**

Secondary materials provide additional context and interpretation of the RICO statute and its application to mail and wire fraud. "[Civil Rico: A Tool of Advocacy](#)" (2024) explains that "Section 1961(1) outlines the definition of 'racketeering activity' and enumerates various predicate acts that can establish a pattern of racketeering. These predicate acts encompass a wide range of criminal activities, including but not limited to mail fraud, wire fraud, bribery, extortion, and money laundering."

"RICO: A Primer" (2022) emphasizes that "'racketeering activities' include 'any act which is indictable under' a list of federal criminal statutes" and specifically notes that "mail and wire fraud are the most common predicate acts."

"MAIL AND WIRE FRAUD" (2021) confirms that "mail and wire fraud are predicate felonies under the Racketeer Influenced and Corrupt Organizations Act ('RICO')."

"Theft offenses" (2020) outlines the elements of mail fraud under 18 U.S.C. §1341, which "requires that the defendant devise or intend to devise a scheme to defraud (or to perform specified fraudulent acts), and that the defendant use the mail for the purpose of executing, or attempting to execute, the scheme to defraud." Similarly, wire fraud under 18 U.S.C. §1343 requires "the scheme or artifice and 3) use of interstate wire communications."

"Mail and wire fraud" (2014) notes that "the character, language, and scope of the mail and wire fraud statutes are similar" and that "legal analysis and case law on mail fraud are equally applicable to wire fraud." The article explains that for mail or wire fraud, "the government must show beyond a reasonable doubt that the defendant perpetrated: (i) a scheme to defraud by means of a material deception; (ii) with the intent to defraud; (iii) while using the mails, private commercial carriers, and/or wires in furtherance of that scheme; (iv) that did result or would have resulted in the loss of money or property or the deprivation of honest services."

"[Chapter 4. Elements of Cause of Action](#)" explains that "mail and wire fraud are the two most frequently alleged predicate acts" under RICO and that "the actual violation is the mailing, which must relate to the underlying fraudulent scheme."

## Analysis

Based on the provided materials, the preparation and use of false court documents by Morgan and Daniel could qualify as "racketeering activity" under RICO if their actions involved the use of mail or electronic communications in furtherance of a scheme to defraud.

### Predicate Acts of Mail and Wire Fraud

The RICO statute, [18 U.S.C. § 1961](#)(1), explicitly includes acts indictable under the mail fraud statute ([18 U.S.C. § 1341](#)) and the wire fraud statute ([18 U.S.C. § 1343](#)) as predicate acts of "racketeering activity." As confirmed by multiple sources, including [Doe v. Varsity Brands, LLC](#) (2023), [Uselmann v. Pop](#), [495 F.Supp.3d 528 \(E.D. Mich. 2020\)](#), and [Westchester Cnty. Independence Party v. Astorino](#), [137 F.Supp.3d 586 \(S.D. N.Y. 2015\)](#), mail and wire fraud are established predicate acts under RICO.

If Morgan and Daniel used mail, private carriers, or electronic communications in connection with their preparation and use of false court documents, their actions could constitute mail or wire fraud. The mail fraud statute prohibits using the mail "for the purpose of executing" a scheme to defraud, while the wire fraud statute prohibits transmitting "by means of wire, radio, or television communication" any writings or signals "for the purpose of executing such scheme or artifice."

The elements of mail fraud, as outlined in [Hall v. Witteman, 569 F.Supp.2d 1208 \(D. Kan. 2008\)](#) and other sources, include: (1) the existence of a scheme to defraud, and (2) the use of the United States mails for the purpose of executing the scheme. Similarly, wire fraud requires: (1) a scheme to defraud, and (2) the use of interstate wire communications in furtherance of the scheme.

Morgan and Daniel's preparation of false court documents could constitute a "scheme to defraud" if they intended to deceive the court or other parties in the legal proceedings. As noted in [P & P MARKETING, INC. v. Ditton, 746 F. Supp. 1354 \(N.D. Ill. 1990\)](#), "it is not required that the false representations be sent through the U.S. mails or made through the use of interstate wires." Instead, what matters is whether there was "a scheme to defraud coupled with a mailing or use of interstate wires in furtherance of the scheme."

Moreover, as clarified in [Bridge v. Phoenix Bond & Indem. Co., 553 U.S. 639](#) (2008), a plaintiff asserting a RICO claim based on mail fraud does not need to show reliance on the defendant's misrepresentations. The focus is on whether the defendant used the mail for the purpose of executing a scheme to defraud.

## **Pattern of Racketeering Activity**

For Morgan and Daniel's actions to constitute a RICO violation, they must form a "pattern of racketeering activity." According to [Federal Ins. Co. v. Webne, 513 F.Supp.2d 921 \(N.D. Ohio 2007\)](#) and other sources, this requires at least two predicate acts occurring within a ten-year period.

Furthermore, as established in [Inc v. Northwestern Bell Telephone Company, 492 U.S. 229](#) (1989), these predicate acts must show both "relationship" and "continuity"—they must be related and either constitute or threaten long-term criminal activity. [U.S. v. Reifler, 446 F.3d 65 \(2nd Cir. 2006\)](#) notes that these predicate acts can be "part of a single scheme" as long as they are related and "amount to, or threaten the likelihood of, continued criminal activity."

If Morgan and Daniel engaged in multiple acts involving the preparation and use of false court documents, and these acts involved the use of mail or electronic communications, they could establish the required pattern. As noted in [Ashland Oil, Inc. v. Arnett, 875 F.2d 1271 \(7th Cir. 1989\)](#), "in mail and wire fraud, each mailing or interstate communication is a separate indictable offense, even if each relates to the same scheme to defraud."

## **Application to Morgan and Daniel's Actions**

Based on the information provided, Morgan and Daniel engaged in multiple acts, including the preparation of false court documents and the use of those documents in legal proceedings. If they used mail or electronic communications in connection with these activities, their actions could qualify as predicate acts of mail or wire fraud under RICO.

For example, if they:

1. Mailed the false court documents to the court or other parties
2. Used private carriers like FedEx to deliver the documents
3. Submitted the documents electronically through a court's electronic filing system
4. Communicated about the preparation or use of the false documents via email, phone, or other electronic means

Any of these actions could potentially satisfy the mail or wire element of mail or wire fraud.

Moreover, if these actions were part of a related series of acts that posed a threat of continued criminal activity, they could establish the required "pattern of racketeering activity" under RICO.

## Exceptions and Caveats

There are several important considerations and potential limitations to classify Morgan and Daniel's actions as "racketeering activity" under RICO:

1. **Intent to Defraud:** As outlined in [Wisdom v. First Midwest Bank, of Poplar Bluff, 167 F.3d 402 \(8th Cir. 1999\)](#) and other sources, mail and wire fraud require intent to defraud. If Morgan and Daniel did not act with the requisite fraudulent intent, their actions may not constitute mail or wire fraud, even if they used mail or electronic communications.
2. **Connection to the Scheme:** The use of mail or electronic communications must be "in furtherance of" or "for the purpose of executing" the fraudulent scheme. If the communications were merely incidental and not connected to the fraudulent scheme, they may not satisfy this requirement. However, as noted in the overruled case [U.S. v. Massa, 740 F.2d 629 \(8th Cir. 1984\)](#), "it is enough if the mailing is 'incident to an essential part of the scheme.'" While Massa was overruled, this specific principle originated from Supreme Court precedent in *Pereira v. United States* and remains valid law.
3. **Interstate Commerce:** For wire fraud, the communication must be "in interstate or foreign commerce." If the electronic communications were purely intrastate, they might not satisfy this element of wire fraud.
4. **Relationship and Continuity:** As established in [Inc v. Northwestern Bell Telephone Company, 492 U.S. 229 \(1989\)](#), the predicate acts must show both "relationship" and "continuity." If Morgan and Daniel's actions were isolated or unrelated, they may not establish the required pattern of racketeering activity.
5. **Enterprise Requirement:** RICO liability requires conduct of an enterprise through a pattern of racketeering activity. As noted in [Norfe Grp. Corp. v. R.Y. Espinosa Inc. \(2021\)](#), RICO liability breaks down to four essential elements: "(1) conduct (2) of an enterprise (3) through a

pattern (4) of racketeering activity." If there is no enterprise involved in Morgan and Daniel's actions, RICO may not apply.

## Conclusion

Based on the provided materials, the preparation and use of false court documents by Morgan and Daniel could qualify as "racketeering activity" under RICO if their actions involved the use of mail or electronic communications in furtherance of a scheme to defraud.

The RICO statute, [18 U.S.C. § 1961\(1\)](#), explicitly includes acts indictable under the mail fraud statute ([18 U.S.C. § 1341](#)) and the wire fraud statute ([18 U.S.C. § 1343](#)) as predicate acts of "racketeering activity." If Morgan and Daniel used mail, private carriers, or electronic communications to prepare or transmit the false court documents as part of a fraudulent scheme, their actions could constitute predicate acts of mail or wire fraud under RICO.

Moreover, if they engaged in multiple related acts involving fraudulent communications, and these acts posed a threat of continued criminal activity, their conduct could establish the required "pattern of racketeering activity" under RICO.

However, the application of RICO would depend on specific factual details, such as whether Morgan and Daniel acted with fraudulent intent, whether the use of mail or electronic communications was sufficiently connected to the fraudulent scheme, and whether their activities involved an enterprise. Without these specific details, it is not possible to make a definitive determination of RICO liability.

In summary, while the preparation and use of false court documents could potentially qualify as predicate acts of mail or wire fraud under RICO if they involved fraudulent communications, a complete analysis would require additional factual details about Morgan and Daniel's specific actions and intent.

## Legal Authorities

[Wisdom v. First Midwest Bank, of Poplar Bluff, 167 F.3d 402 \(8th Cir. 1999\)](#)

### U.S. Court of Appeals — Eighth Circuit

#### Extract

In defining 'racketeering activity,' § 1961(1) lists the predicate acts that will support a RICO claim. The Wisdoms' pro se complaint alleges that the defendants' racketeering activity included numerous instances of mail fraud, wire fraud, extortion, and violations of Truth In Lending. Acts indictable under the mail fraud, wire fraud, and extortion statutes are among the enumerated predicate acts... When pled as RICO predicate acts, mail and wire fraud require a showing of: (1) a plan or scheme to defraud, (2) intent

to defraud, (3) reasonable foreseeability that the mail or wires will be used, and (4) actual use of the mail or wires to further the scheme.

## **Summary**

Elements required to establish mail and wire fraud as predicate acts, which include a scheme to defraud, intent, foreseeability of mail or wire use, and actual use of mail or wires. This supports the proposition that Morgan and Daniel's actions, if involving fraudulent communications, could qualify as predicate acts under RICO.

[Ashland Oil, Inc. v. Arnett, 875 F.2d 1271 \(7th Cir. 1989\)](#)

## **U.S. Court of Appeals — Seventh Circuit**

### **Extract**

RICO includes as 'racketeering activity' any act indictable under the mail and wire fraud statutes. 18 U.S.C. Sec. 1961(1)(B). In mail and wire fraud, each mailing or interstate communication is a separate indictable offense, even if each relates to the same scheme to defraud, and even if the defendant did not control the number of mailings or communications.

## **Summary**

The passage from "Ashland Oil, Inc. v. Arnett" clarifies that under RICO, acts of mail and wire fraud are considered "racketeering activity" as defined in 18 U.S.C. § 1961(1)(B). Each act of mailing or wire communication related to a fraudulent scheme is a separate indictable offense. This supports the proposition that Morgan and Daniel's preparation and use of false court documents, if involving mail or electronic communications, could qualify as predicate acts of mail or wire fraud under RICO.

[P & P MARKETING, INC. v. Ditton, 746 F. Supp. 1354 \(N.D. Ill. 1990\)](#)

## **U.S. District Court — Northern District of Illinois**

### **Extract**

For purposes of the predicate acts of mail and wire fraud, 18 USC §§ 1341 and 1343, it is not required that the false representations be sent through the U.S. mails or made through the use of interstate wires. U.S. v. Lea, 618 F. 2d 426, 430 (7th Cir.1980). It is only necessary to have a scheme to defraud coupled with a mailing or use of interstate wires in furtherance of the scheme and the use of the mails or interstate wires need not be an essential part of the scheme, but it is sufficient if such use is incident to an essential component of the scheme. Id. The defendant need not have personally used

the mails or interstate wires, it is sufficient that their use by others was reasonably foreseeable. U.S. v. Massa, 740 F.2d 629, 642 n. 7 (8th Cir.1984).

## **Summary**

For mail and wire fraud to be considered predicate acts under RICO, it is not necessary for the fraudulent representations themselves to be sent through the mail or wires. Instead, there must be a scheme to defraud, and the use of mail or wires must further that scheme. This aligns with the proposition that Morgan and Daniel's preparation and use of false court documents could involve mail or wire fraud if such communications were used in furtherance of their fraudulent scheme. The passage also notes that the defendant does not need to personally use the mails or wires, which supports the idea that Morgan and Daniel could be liable if the use of such communications was reasonably foreseeable.

[U.S. v. Hewes, 729 F.2d 1302 \(11th Cir. 1984\)](#)

### **U.S. Court of Appeals — Eleventh Circuit**

#### **Extract**

The indictment charged the named defendants with conspiring to participate in the affairs of an enterprise through a pattern of racketeering activity ('RICO conspiracy'), 18 U.S.C.A. Sec. 1962(d), violation of the RICO statute's substantive provisions, 18 U.S.C.A. Sec. 1962(c), numerous counts of mail and wire fraud, 18 U.S.C.A. Secs. 1341 and 1343... The allegation in the RICO conspiracy count was that the defendant[s] agreed to further a racketeering enterprise through a pattern of racketeering activity. The diverse parties were tied together through the overall scheme and the concept of the illegal enterprise. The overt acts and substantive predicate crimes that were alleged in the indictment to have furthered the pattern of racketeering were sufficiently connected that their interrelationship constituted an offense of a series of acts or transactions.

## **Summary**

The defendants in "U.S. v. Hewes" were charged and convicted under RICO for engaging in a pattern of racketeering activity, which included mail and wire fraud. The court found that the defendants' actions were part of a scheme to further a racketeering enterprise, and the mail and wire fraud charges were integral to establishing the pattern of racketeering activity. This supports the proposition that similar acts, such as the preparation and use of false court documents involving fraudulent communications, could qualify as predicate acts under RICO.

[U.S. v. Palumbo Bros., Inc., 145 F.3d 850 \(7th Cir. 1998\)](#)

## **U.S. Court of Appeals — Seventh Circuit**

### **Extract**

Separate violations of other federal and state criminal statutes are the predicate acts upon which a pattern of racketeering activity is created. Those predicate acts involve conduct that is otherwise 'chargeable' or 'indictable' and violations that are 'punishable' pursuant to independent criminal statutes, and RICO specifically identifies mail fraud as a predicate act for liability. 18 U.S.C. § 1961(1). A RICO offense involves the relationship of those predicate acts in a pattern of criminal activity.

### **Summary**

The court recognizes mail fraud as a predicate act under RICO, which is relevant to establishing a pattern of racketeering activity. The passage discusses how separate violations of federal statutes, like mail fraud, can serve as predicate acts for RICO liability. This supports the proposition that fraudulent communications, such as those involved in the preparation and use of false court documents, could qualify as predicate acts under RICO.

[Sedima v. Imrex Company, Inc, 473 U.S. 479, 105 S.Ct. 3275, 87 L.Ed.2d 346 \(1985\)](#)

## **U.S. Supreme Court**

### **Extract**

The Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-1968, which is directed at 'racketeering activity'—defined in § 1961(1) to encompass, *inter alia*, acts 'indictable' under specific federal criminal provisions, including mail and wire fraud—provides in § 1964(c) for a private civil action to recover treble damages by any person injured in his business or property 'by reason of a violation of section 1962.' Section 1962(c) prohibits conducting or participating in the conduct of an enterprise 'through a pattern of racketeering activity.'

### **Summary**

RICO defines "racketeering activity" to include acts indictable under federal criminal provisions, such as mail and wire fraud. The case highlights that RICO allows for civil actions when a person is injured by a violation of section 1962, which involves conducting an enterprise through a pattern of racketeering activity. This supports the proposition that Morgan and Daniel's actions, if involving mail or wire fraud, could qualify as predicate acts under RICO.

[United States v. Turkette, 452 U.S. 576, 101 S.Ct. 2524, 69 L.Ed.2d 246 \(1981\)](#)

**U.S. Supreme Court**

**Extract**

Chapter 96 of Title 18 of the United States Code, entitled Racketeer Influenced and Corrupt Organizations (RICO), was added to Title 18 by the Organized Crime Control Act of 1970. Title 18 U.S.C. § 1962(c), which is part of 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 or collection of unlawful debt.' The term 'enterprise' is defined in 18 U.S.C. § 1961(4) as including 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' ... The pattern of racketeering activity is, on the other hand, a series of criminal acts as defined by the statute. 18 U.S.C. § 1961(1) (1976 ed., Supp. III). The former is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit. The latter is proved by evidence of the requisite number of acts of racketeering committed by the participants in the enterprise.

**Summary**

The passage explains that RICO applies to both legitimate and illegitimate enterprises and requires proof of both an "enterprise" and a "pattern of racketeering activity." The definition of "racketeering activity" includes acts indictable under certain provisions of Title 18, such as mail and wire fraud. This supports the proposition that Morgan and Daniel's actions, if involving fraudulent communications, could qualify as predicate acts under RICO.

[Tabas v. Tabas, 47 F.3d 1280 \(3rd Cir. 1995\)](#)

**U.S. Court of Appeals — Third Circuit**

**Extract**

Count I of the amended complaint alleges that, in violation of 18 U.S.C. Sec. 1962(a), (b), and (c), the defendants conspired to defraud the Estate of its equal share of Tabas Enterprises' income, to which it was entitled under the partnership agreement, through a pattern of racketeering activity including mail fraud in violation of 18 U.S.C. Sec. 1341. ... The RICO statute defines a 'pattern' of racketeering activity as requiring 'at least two acts of racketeering activity' within a ten year period. 18 U.S.C. Sec. 1961(5). The statute also enumerates the offenses which constitute 'racketeering activity,' including crimes that have traditionally been associated with the transgressions of racketeers: murder, kidnapping, gambling, arson, robbery,

bribery, extortion, dealing in obscene matter, and dealing in narcotic or other dangerous drugs. 18 U.S.C. Sec. 1961(1).

## **Summary**

The court discusses the application of RICO in the context of mail fraud as a predicate act. The passage highlights that a pattern of racketeering activity under RICO requires at least two acts of racketeering activity, which can include mail fraud. This supports the proposition that fraudulent communications, such as those potentially involved in the preparation and use of false court documents, could qualify as predicate acts under RICO.

[Bridge v. Phoenix Bond & Indem. Co., 128 S.Ct. 2131, 170 L.Ed.2d 1012, 553 U.S. 639, 8 Cal. Daily Op. Serv. 6929, 21 Fla. L. Weekly Fed. S 295, 76 USLW 4381, 2008 Daily Journal D.A.R. 8339 \(2008\)](#)

## **U.S. Supreme Court**

### **Extract**

Held: A plaintiff asserting a RICO claim predicated on mail fraud need not show, either as an element of its claim or as a prerequisite to establishing proximate causation, that it relied on the defendant's alleged misrepresentations. Pp. 2137 - 2145. (a) In 18 U.S.C. § 1964(c), RICO provides a private right of action for treble damages to '[a]ny person injured in his business or property by reason of a violation,' as pertinent here, of § 1962(c), which makes it 'unlawful for any person employed by or associated with' a qualifying enterprise 'to conduct or participate ... in the conduct of such enterprise's affairs through a pattern of racketeering activity,' including 'mail fraud,' § 1961(1)(B). Mail fraud, in turn, occurs whenever a person, 'having devised or intending to devise any scheme or artifice to defraud,' uses the mail 'for the purpose of executing such scheme or artifice.' § 1341.

## **Summary**

The passage from the Supreme Court decision clarifies that under RICO, a plaintiff does not need to show reliance on the defendant's misrepresentations to establish a claim predicated on mail fraud. This is relevant because it supports the idea that acts involving fraudulent communications, such as the preparation and use of false court documents, can qualify as predicate acts of mail fraud under RICO. The decision emphasizes that using the mail to execute a scheme to defraud is sufficient to constitute mail fraud, which is a predicate act under RICO.

[Inc v. Northwestern Bell Telephone Company, 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 \(1989\)](#)

## **U.S. Supreme Court**

### **Extract**

RICO's legislative history, however, establishes that Congress intended that to prove a 'pattern of racketeering activity' a plaintiff or prosecutor must show both 'relationship' and 'continuity'—that the racketeering predicates are related, and that they either constitute or threaten long-term criminal activity... 'Racketeering activity' is defined in RICO to mean 'any act or threat involving' specified state-law crimes, any 'act' indictable under various specified federal statutes, and certain federal 'offenses,' 18 U.S.C. § 1961(1)... But we suggested that RICO's expansive uses 'appear to be primarily the result of the breadth of the predicate offenses, in particular the inclusion of wire, mail, and securities fraud...'

### **Summary**

RICO's definition of "racketeering activity" includes acts indictable under federal statutes, such as mail and wire fraud. It also emphasizes the broad application of RICO to various forms of criminal activity, including those that involve fraudulent communications. This supports the proposition that Morgan and Daniel's actions, if involving mail or wire fraud through the use of false court documents, could qualify as predicate acts under RICO.

[Westchester Cnty. Independence Party v. Astorino, 137 F.Supp.3d 586 \(S.D. N.Y. 2015\)](#)

## **U.S. District Court — Southern District of New York**

### **Extract**

With regard to the racketeering activity requirement, the statute provides a list of criminal acts that can constitute predicate acts of racketeering. See 18 U.S.C. § 1961(a) (defining 'racketeering activity'). Notably, mail fraud under 18 U.S.C. § 1341 and wire fraud under 18 U.S.C. § 1343 are predicate acts of racketeering activity... 'The elements of wire fraud under 18 U.S.C. § 1343 are (i) a scheme to defraud (ii) to get money or property, (iii) furthered by the use of interstate wires.'... 'The elements of mail fraud under 18 U.S.C. § 1341 are identical, except that mail fraud must be furthered by use of the mails.'

### **Summary**

Mail and wire fraud are explicitly listed as predicate acts of racketeering under 18 U.S.C. § 1961(a). The passage provides the elements required to establish mail and wire fraud, which include a scheme to defraud furthered by the use of mails or interstate wires. This supports the proposition that Morgan and Daniel's actions, if involving fraudulent communications, could qualify as predicate acts under RICO.

[Federal Ins. Co. v. Webne, 513 F.Supp.2d 921 \(N.D. Ohio 2007\)](#)

**U.S. District Court — Northern District of Ohio**

**Extract**

Section 1964(c) of the federal RICO statute, 18 U.S.C. § 1961 et seq., creates a civil cause of action for persons whose business or property has been injured by organized, long-term criminal activity. To establish 'racketeering activity,' the plaintiff must allege at least two predicate acts occurring within a ten year time period. *H.J. Inc. v. Northwestern Bell Telephone Co.*, 492 U.S. 229, 237-38, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989). Here, plaintiff's RICO claims includes allegations that National City and Sky committed acts of mail and wire fraud, as defined in 18 U.S.C. §§ 1341, 1343; money laundering in violation of 18 U.S.C. § 1956; and racketeering in violation of 18 U.S.C. § 1952. Mail fraud, wire fraud, money laundering, and racketeering are included in the definition of 'racketeering activity' in § 1961. See § 1961(1)(B) (listing violations of 18 U.S.C. §§ 1341, 1343, 1956, and 1952). The elements of mail and wire fraud are: 1) a scheme to defraud and 2) use of the mails, or of an interstate electronic communication, respectively, in furtherance of the scheme.

**Summary**

Elements of mail and wire fraud, which involve a scheme to defraud and the use of mail or electronic communications in furtherance of that scheme. This directly supports the proposition that Morgan and Daniel's preparation and use of false court documents could involve mail or wire fraud, qualifying as predicate acts under RICO.

[Arizona Premium Finance, Inc. v. Bielli, 77 F.Supp.2d 341 \(E.D. N.Y. 1999\)](#)

**U.S. District Court — Eastern District of New York**

**Extract**

To establish such a pattern of racketeering activity, 'a plaintiff must plead at least two predicate acts, show that the acts are related and that they amount to, or pose a threat of, continuing criminal activity.' *H.J. Inc. v. Northwestern Bell Telephone Co.*, 492 U.S. 229, 239, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989). RICO is aimed at 'racketeering activity,' which the statute defines, in relevant part, as certain acts indictable under Federal law, including mail and wire fraud, and violations of the Hobbs Act. 18 U.S.C. § 1961(1)(B).

**Summary**

Legal basis for considering such acts as part of a RICO violation.

[Norfe Grp. Corp. v. R.Y. Espinosa Inc., Civil No. 19-1897 \(BJM\) \(D. P.R. May 07, 2021\)](#)

## **U.S. District Court — District of Puerto Rico**

### **Extract**

RICO liability breaks down to four essential elements: '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496 (1985). The statute includes numerous illegal acts in its definition of 'racketeering activity.' *Home Orthopedics*, 781 F.3d at 528 (citing 18 U.S.C. § 1961(1)). Among these are mail and wire fraud, 18 U.S.C. §§ 1341, 1343, which are the relevant predicate acts in Norfe's amended complaint. Mail fraud 'occurs whenever a person, 'having devised or intending to devise any scheme or artifice to defraud,' uses the mail 'for the purpose of executing such scheme or artifice or attempting so to do.' *Bridge v. Phoenix Bond & Indem. Co.*, 553 U.S. 639, 647 (2008) (quoting 18 U.S.C. § 1341). 'The gravamen of the offense is the scheme to defraud, and any mailing that is incident to an essential part of the scheme satisfies the mailing element [] even if the mailing itself contain[s] no false information.' *Id.* (citation and internal quotation marks omitted). Similarly, 'to make out a civil claim under RICO by way of wire fraud, a plaintiff must allege that a group of defendants 'engaged in a scheme to defraud with the specific intent to defraud and that they used... the interstate wires in furtherance of the scheme.'

### **Summary**

RICO liability requires a pattern of racketeering activity, which includes mail and wire fraud as defined under 18 U.S.C. §§ 1341 and 1343. The passage explains that mail fraud involves using the mail to execute a scheme to defraud, and wire fraud involves using interstate wires for the same purpose. These definitions align with the proposition that Morgan and Daniel's preparation and use of false court documents could involve mail or wire fraud, thus qualifying as predicate acts under RICO.

[Adler v. Berg Harmon Associates, 790 F.Supp. 1222 \(S.D. N.Y. 1992\)](#)

## **U.S. District Court — Southern District of New York**

### **Extract**

RICO authorizes a private cause of action for 'any person injured in his business or property by reason of a violation of Section 1962.' 18 U.S.C. § 1964(c). To state a claim for damages based upon a violation of Section 1962, a plaintiff must allege the following elements: '(1) that the defendant (2) through the commission of two or more acts (3) constituting a 'pattern' (4) of 'racketeering activity' (5) directly or indirectly invests in, or

maintains an interest in, or participates in (6) an 'enterprise' (7) the activities of which affect interstate or foreign commerce.' ... A 'pattern of racketeering activity' is defined in § 1961 as 'at least two acts' of prohibited conduct within a ten-year period. These 'predicate acts' are defined as including specifically enumerated federal criminal offenses, such as securities fraud, mail fraud, or wire fraud. 18 U.S.C. § 1961.

## **Summary**

The passage outlines the elements necessary to establish a RICO claim, including the requirement of a "pattern of racketeering activity" which can include acts of mail fraud or wire fraud. This directly supports the proposition that Morgan and Daniel's actions, if involving fraudulent communications, could qualify as predicate acts under RICO.

[Uselmann v. Pop, 495 F.Supp.3d 528 \(E.D. Mich. 2020\)](#)

## **U.S. District Court — Eastern District of Michigan**

### **Extract**

RICO defines 'racketeering activity' to include a multitude of offenses that are either 'chargeable' under certain state criminal laws or 'indictable' under specified federal criminal laws. 18 U.S.C. § 1961(1). Both the mail fraud statute, 18 U.S.C. § 1341, and the wire fraud statute, 18 U.S.C. § 1343, are listed as predicate racketeering offenses under RICO.

## **Summary**

The passage from the judgment in "Uselmann v. Pop" provides a clear explanation of what constitutes "racketeering activity" under RICO, specifically highlighting that both mail fraud and wire fraud are included as predicate offenses. This directly supports the proposition that the preparation and use of false court documents, if involving fraudulent communications, could qualify as predicate acts of mail or wire fraud under RICO. The context of the passage is a legal analysis of RICO claims, which is relevant to the proposition.

[Hall v. Witteman, 569 F.Supp.2d 1208 \(D. Kan. 2008\)](#)

## **U.S. District Court — District of Kansas**

### **Extract**

&#34;Racketeering activity&#34; is defined in 18 U.S.C. § 1961(1)(B) as any &#34;act which is indictable&#34; under federal law and specifically includes mail fraud and wire fraud. These underlying acts are &#34;referred to as predicate acts, because they form the basis for liability

under RICO.&#34; BancOklahoma Mortgage Corp. v. Capital Title Co., 194 F.3d 1089, 1102 (10th Cir. 1999) (internal quotation omitted). Plaintiff asserts the predicate acts of wire and mail fraud. To establish the predicate act of mail fraud [the plaintiff] must allege &#34;(1) the existence of a scheme or artifice to defraud or obtain money or property by false pretenses, representations or promises, and (2) use of the United States mails for the purpose of executing the scheme.&#34; (Citations omitted.) &#34;The elements of wire fraud are very similar, but require that the defendant use interstate wire, radio or television communications in furtherance of the scheme to defraud.&#34; (Citation omitted).

## **Summary**

Elements required to establish these predicate acts, which involve a scheme to defraud and the use of mail or wire communications to execute the scheme. This directly supports the proposition that Morgan and Daniel's actions, if involving fraudulent communications, could qualify as predicate acts under RICO.

### [Doe v. Varsity Brands, LLC](#)

#### **U.S. District Court — District of South Carolina**

## **Extract**

RICO is founded on the concept of racketeering activity.” RJR Nabisco, Inc. v. European Cmtv., 579 U.S. 325, 329 (2016). The RICO statute contains an exhaustive list of predicate acts that qualify as “racketeering activity.” 18 U.S.C. § 1961(1). Included in the list is “any act which is indictable under” 18 U.S.C. § 1341 (mail fraud) or 18 U.S.C. § 1343 (wire fraud). 18 U.S.C. § 1961(1)(B).

## **Summary**

The passage from the judgment in "Doe v. Varsity Brands, LLC" provides a clear reference to the definition of "racketeering activity" under the RICO statute, specifically citing 18 U.S.C. § 1961(1). It explicitly includes acts indictable under 18 U.S.C. § 1341 (mail fraud) and 18 U.S.C. § 1343 (wire fraud) as predicate acts of racketeering activity. This directly supports the proposition that the preparation and use of false court documents, if involving fraudulent communications, could qualify as predicate acts of mail or wire fraud under RICO.

### [Al-Kazemi v. General Acceptance & Inv. Corp., 633 F. Supp. 540 \(D. D.C. 1986\)](#)

#### **U.S. District Court — District of Columbia**

## **Extract**

Under the RICO statute, 'racketeering activity' is defined to include mail fraud, 18 U.S.C. § 1341, and wire fraud, 18 U.S.C. § 1343. See 18 U.S.C. § 1961(1) (Supp.1985). Plaintiff's evidentiary submissions reveal frequent use of the mail and the telephone by defendants. This evidence shows 'a scheme to defraud and the mailing or transmission by wire of a document or communication for the purpose of executing the scheme' and thus satisfies the requirements of the mail and wire fraud statutes.

## **Summary**

The passage from the case explains that under the RICO statute, "racketeering activity" includes acts of mail and wire fraud. It further illustrates that the use of mail and telephone communications to execute a fraudulent scheme can satisfy the requirements of these fraud statutes. This directly supports the proposition that Morgan and Daniel's preparation and use of false court documents, if involving mail or electronic communications, could qualify as predicate acts of mail or wire fraud under RICO.

### [U.S. v. Goldin Industries, Inc., 219 F.3d 1271 \(11th Cir. 2000\)](#)

## **U.S. Court of Appeals — Eleventh Circuit**

## **Extract**

In the case of each RICO allegation, the government charged the Goldin corporations with predicate acts, consisting of mail fraud, in violation of 18 U.S.C. §§ 1341 and 2. In short, each Goldin corporation was alleged to have violated RICO by sending invoices and checks to the customers who had been cheated in the Goldin Corporations' various schemes. The invoices and checks fraudulently misrepresented the amounts actually due to the victims of these schemes... A 'pattern' of racketeering activity requires that a defendant commit two acts of racketeering activity within a ten-year period. 18 U.S.C. § 1961(5). Racketeering activity is defined as the commission of certain federal crimes, including for our purposes here, the crime of mail fraud pursuant to 18 U.S.C. § 1341.

## **Summary**

The passage discusses how the Goldin corporations were charged with RICO violations based on predicate acts of mail fraud, which involved sending fraudulent invoices and checks. This is directly relevant to the proposition because it illustrates how fraudulent communications, such as those potentially involved in the preparation and use of false court documents, can constitute predicate acts under RICO. The passage also clarifies the requirement of a "pattern" of racketeering activity, which aligns with the proposition's mention of multiple acts.

[Bancoklahoma Mortgage Corp. v. Capital Title Co., 194 F.3d 1089 \(10th Cir. 1999\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

BOMC's 1962(c) claims also fail because there is no evidence that the Title Companies or any of them engaged in a 'pattern of racketeering activity.' RICO specifically defines 'racketeering activity' as any act that violates specified state and federal crimes, including mail fraud, wire fraud, and bank fraud. 18 U.S.C. 1961(1); Resolution Trust Corp., 998 F.2d at 1543. The various acts of racketeering activity described in the statute are often referred to as 'predicate acts' because they form the basis for liability under RICO.

### **Summary**

The definition of "racketeering activity" under RICO includes acts indictable under federal crimes such as mail fraud and wire fraud. These acts are considered "predicate acts" and form the basis for RICO liability. The passage supports the proposition by confirming that fraudulent activities involving mail or wire communications, such as the preparation and use of false court documents, could qualify as predicate acts under RICO.

[U.S. v. Massa, 740 F.2d 629 \(8th Cir. 1984\)](#)

## **U.S. Court of Appeals — Eighth Circuit**

### **Extract**

The mail fraud statute prohibits the use of the mails 'for the purpose of executing' a scheme to defraud. To come within the statute '[i]t is not necessary that the scheme contemplated the use of the mails as an essential element.' Pereira v. United States, 347 U.S. 1, 8, 74 S.Ct. 358, 362, 98 L.Ed. 435 (1954). Rather, it is enough if the mailing is 'incident to an essential part of the scheme.' Id., quoted in United States v. Lebovitz, 669 F.2d 894, 896 (3d Cir.), cert. denied, 456 U.S. 929, 102 S.Ct. 1979, 72 L.Ed.2d 446 (1982).

### **Summary**

For an act to qualify as mail fraud under 18 U.S.C. § 1341, it is not necessary for the use of mails to be an essential element of the fraudulent scheme. Instead, it suffices if the mailing is incident to an essential part of the scheme. This interpretation supports the proposition that Morgan and Daniel's use of false court documents, if involving mail or electronic communications, could be considered mail or wire fraud, thus qualifying as predicate acts under RICO.

[U.S. v. Reifler, 446 F.3d 65 \(2nd Cir. 2006\)](#)

**U.S. Court of Appeals — Second Circuit**

**Extract**

In order to prove a RICO offense, for example, the government is required to show that there was a "pattern of racketeering activity," 18 U.S.C. § 1961(5), which is interpreted to mean "multiple racketeering predicates—which can be part of a single 'scheme'—that are related and that amount to, or threaten the likelihood of, continued criminal activity," United States v. Coiro, 922 F.2d 1008, 1016 (2d Cir.), cert. denied, 501 U.S. 1217, 111 S.Ct. 2826, 115 L.Ed.2d 996 (1991); see, e.g., H.J. Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229, 239, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989); United States v. Indelicato... Finally, Laken and Black contend that their convictions of RICO conspiracy should be reversed on the ground that, in order to establish a RICO violation, the government was required to, but did not, prove the commission of at least two predicate acts of racketeering activity. In Count One, the redacted indictment alleged three racketeering act ('RA') predicates. RA-1 alleged both wire fraud and kickbacks with respect to Local 400, alleging that a finding that either crime had been committed would suffice to establish RA-1; RA-2 alleged wire fraud with respect to the DEA; and RA-3 alleged both wire fraud and kickbacks with respect to Local 137, alleging that a finding that either of those crimes had been committed would suffice to establish RA-3.

**Summary**

The passage explains that to prove a RICO offense, the government must demonstrate a pattern of racketeering activity, which involves multiple related predicate acts that threaten continued criminal activity. The passage specifically mentions wire fraud as a predicate act, which aligns with the proposition that the preparation and use of false court documents could involve fraudulent communications qualifying as mail or wire fraud under RICO.

[18 U.S.C. § 1343 18 U.S.C. § 1343 Fraud By Wire, Radio, Or Television](#)

**Extract**

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both.

## **Summary**

The passage from 18 U.S.C. § 1343 defines wire fraud as involving a scheme to defraud using wire communications. If Morgan and Daniel used electronic communications to transmit false court documents as part of a fraudulent scheme, this could constitute wire fraud. Since wire fraud is a predicate act under RICO, their actions could be considered racketeering activity under 18 U.S.C. § 1961(1).

### [18 U.S.C. § 1341 18 U.S.C. § 1341 Frauds and Swindles](#)

#### **Extract**

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises... for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier... shall be fined under this title or imprisoned not more than 20 years, or both.

## **Summary**

18 U.S.C. § 1341 defines mail fraud as involving any scheme to defraud using the postal service or private carriers. This statute is relevant to the proposition because it establishes that using mail to execute a fraudulent scheme, such as sending false court documents, constitutes mail fraud. Since mail fraud is a predicate act under RICO, this supports the proposition that Morgan and Daniel's actions could qualify as racketeering activity.

### [18 U.S.C. § 1961 18 U.S.C. § 1961 Definitions](#)

#### **Extract**

As used in this chapter- 'racketeering activity' means... (B) any act which is indictable under any of the following provisions of title 18, United States Code:... section 1341 (relating to mail fraud), section 1343 (relating to wire fraud)...

## **Summary**

The definition of "racketeering activity" under 18 U.S.C. § 1961 includes acts indictable under specific provisions of Title 18, such as mail fraud (18 U.S.C. § 1341) and wire fraud (18 U.S.C. § 1343). This supports the proposition that the preparation and use of false court documents, if involving fraudulent

communications, could qualify as predicate acts of mail or wire fraud under RICO.

### [18 U.S.C. § 1962 18 U.S.C. § 1962 Prohibited Activities](#)

#### **Extract**

It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

#### **Summary**

The passage from 18 U.S.C. § 1962 outlines unlawful activities related to racketeering, specifically prohibiting the acquisition or maintenance of control over an enterprise through a pattern of racketeering activity. This is relevant to the proposition because it establishes the legal framework under which acts of mail and wire fraud, as part of a pattern of racketeering activity, can be prosecuted. The preparation and use of false court documents, if involving fraudulent communications, could constitute such a pattern, thereby supporting the application of RICO provisions.

### [RICO - the rejection of an economic motive requirement.](#)

**Journal of Criminal Law and Criminology - Northwestern University, School of Law - Randolph, Jennifer G. - 1995-03-22**

#### **Extract**

Section 1961(1) of RICO defines certain offenses and acts considered racketeering activity; these offenses are referred to as RICO predicate acts. 18 U.S.C. [sections] 1961 (1988). ... (B) any act which is indictable under any of the following provisions of title 18, United States Code: ... section 1341 (relating to mail fraud), section 1343 (relating to wire fraud)...

#### **Summary**

The passage explicitly lists mail fraud (18 U.S.C. § 1341) and wire fraud (18 U.S.C. § 1343) as acts that are considered "racketeering activity" under 18 U.S.C. § 1961(1). This directly supports the proposition that the preparation and use of false court documents, if involving fraudulent communications, could qualify as predicate acts of mail or wire fraud under RICO.

### [Mail and wire fraud.](#)

## **American Criminal Law Review - Georgetown University Law Center - Weston, Brandon - 2014-09-22**

### **Extract**

Because the character, language, and scope of the mail and wire fraud statutes are similar, legal analysis and case law on mail fraud are equally applicable to wire fraud... For a mail or wire fraud offense, the government must show beyond a reasonable doubt that the defendant perpetrated: (i) a scheme to defraud by means of a material deception; (ii) with the intent to defraud; (iii) while using the mails, private commercial carriers, and/or wires in furtherance of that scheme; (iv) that did result or would have resulted in the loss of money or property or the deprivation of honest services.

### **Summary**

The elements of mail and wire fraud include a scheme to defraud, intent to defraud, and the use of mail or wire communications in furtherance of the scheme. These elements align with the proposition that Morgan and Daniel's actions could qualify as predicate acts of mail or wire fraud under RICO, as their preparation and use of false court documents likely involved fraudulent communications.

### [Mail and wire fraud.](#)

## **American Criminal Law Review - Georgetown University Law Center - Zelcer, Amy - 2012-03-22**

### **Extract**

This Article provides an overview of the prosecution of offenses under the federal mail and wire fraud statutes. Because the character, language, and scope of the mail and wire fraud statutes are similar, legal analysis and case law on mail fraud are equally applicable to wire fraud... Mail and wire fraud law has evolved through both congressional action and court decision. Currently, to be convicted of a mail or wire fraud offense, the government must show beyond a reasonable doubt that the defendant perpetrated: (i) a scheme to defraud that includes a material deception... defining racketeering activity as the commission of certain federal crimes, including crime of mail fraud, pursuant to 18 U.S.C. [section] 1341.

### **Summary**

Mail and wire fraud are considered federal crimes under 18 U.S.C. §§ 1341 and 1343. The passage explains that these offenses involve a scheme to defraud with material deception, which aligns with the proposition that Morgan and Daniel's actions could be considered predicate acts of mail or wire fraud under RICO. The passage also notes that racketeering activity

includes crimes like mail fraud, supporting the idea that such fraudulent acts could be part of a RICO violation.

## MAIL AND WIRE FRAUD

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

#### **Extract**

Mail and wire fraud are predicate felonies under the Racketeer Influenced and Corrupt Organizations Act ("RICO") and are specified as... For a discussion of liability under the RICO or money laundering statutes, see the Racketeer Influenced and Corrupt Organizations and Money Laundering Articles in this Issue.

#### **Summary**

Mail and wire fraud are recognized as predicate offenses under RICO. This means that if Morgan and Daniel's actions involved fraudulent communications through mail or wire, these actions could be considered as predicate acts of mail or wire fraud under RICO. The passage supports the proposition by confirming that such fraudulent activities are indeed covered under RICO as racketeering activities.

## Mail and Wire Fraud

### **American Criminal Law Review - Georgetown University Law Center - Michael Bednarczyk - 2022-07-01**

#### **Extract**

2-44 (11th Cir. 2011) (affirming RICO conviction based on mail and wire fraud); United States v. Goldin Indus., Inc., 219 F.3d 1271, 1274 (11th Cir. 2000) (defining racketeering activity as the commission of certain federal crimes, including mail fraud, pursuant to 18 U.S.C. § 1341); Zichettello, 208 F.3d at 79 (affirming multi-defendant convictions on counts including: (i) mail fraud in connection with monthly bribes related to conspiracy to violate RICO and (ii) wire fraud in connection with campaign finance scheme).

#### **Summary**

The passage provides examples of federal court decisions where RICO convictions were affirmed based on acts of mail and wire fraud. It specifically mentions that racketeering activity includes federal crimes such as mail fraud under 18 U.S.C. § 1341. This directly supports the proposition that the preparation and use of false court documents, if involving

fraudulent communications, could qualify as predicate acts of mail or wire fraud under RICO.

### [Mail and wire fraud.](#)

**American Criminal Law Review - Georgetown University Law Center - Sloan, William M. - 2011-03-22**

#### **Extract**

Mail and wire fraud law has evolved through both Congressional action and court decision. Currently, to be convicted of a mail or wire fraud offense, the government must show beyond a reasonable doubt that the defendant perpetrated: (i) a scheme to defraud that includes a material deception... defining racketeering activity as the commission of certain federal crimes, including crime of mail fraud, pursuant to 18 U.S.C. [section] 1341... See United States v. Reifler, 446 F.3d 65, 95 (2d Cir. 2006) (holding that cases involving [section] 1341 shall be used to help interpret [section] 1343).

#### **Summary**

Elements required to establish mail or wire fraud, which include a scheme to defraud and material deception. It also confirms that mail and wire fraud are considered racketeering activities under 18 U.S.C. § 1961(1). The passage further notes that legal analysis and case law on mail fraud are applicable to wire fraud, supporting the idea that fraudulent communications, such as those potentially involved in the preparation and use of false court documents, could qualify as predicate acts under RICO.

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

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

#### **Extract**

Mail and wire fraud are the two most frequently alleged predicate acts. The mail fraud statute, 18 U.S.C. § 1341, prohibits any person from knowingly causing the use of the mails—or, since 1994, private carrier services like FedEx—"for the purpose of executing" any "scheme or artifice to defraud." The actual violation is the mailing, which must relate to the underlying fraudulent scheme... The wire fraud statute, 18 U.S.C. § 1343 provides: Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire...

## **Summary**

The passage explains that mail and wire fraud are common predicate acts under RICO. It specifies that the use of mail or wire communications to execute a fraudulent scheme constitutes a violation of the respective statutes (18 U.S.C. § 1341 and § 1343). This directly supports the proposition that Morgan and Daniel's preparation and use of false court documents, if involving mail or electronic communications, could qualify as predicate acts of mail or wire fraud under RICO.

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

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

## **Extract**

Section 1961(1) outlines the definition of "racketeering activity" and enumerates various predicate acts that can establish a pattern of racketeering. These predicate acts encompass a wide range of criminal activities, including but not limited to mail fraud, wire fraud, bribery, extortion, and money laundering. By citing this section, one can lay the foundation for discussing the elements that constitute racketeering under RICO. Mail and wire fraud. Among the predicate acts specified in § 1961(1), mail fraud and wire fraud hold particular significance due to their prevalence in white-collar crimes and financial fraud schemes. Mail fraud involves the use of the postal service to execute a fraudulent scheme, while wire fraud pertains to fraudulent activities conducted via electronic communication channels.

## **Summary**

Definition of "racketeering activity" under Section 1961(1) and highlights mail and wire fraud as significant predicate acts. These acts are relevant to the proposition because the preparation and use of false court documents likely involved fraudulent communications, which could qualify as mail or wire fraud. The passage supports the idea that such fraudulent activities can be considered under RICO, thus supporting the proposition.

### [Theft offenses](#)

#### **Defending Specific Crimes - James Publishing - Timothy E. Zerillo - 2020-04-29**

## **Extract**

Mail fraud, 18 U.S.C. §1341 requires that the defendant devise or intend to devise a scheme to defraud (or to perform specified fraudulent acts), and that the defendant use the mail for the purpose of executing, or attempting

to execute, the scheme to defraud. ... Wire fraud, 18 U.S.C. §1343, is very similar to the mail fraud ... the scheme or artifice and 3) use of interstate wire communications.

## **Summary**

Elements required to establish mail and wire fraud under 18 U.S.C. §§ 1341 and 1343, respectively. It specifies that a scheme to defraud and the use of mail or wire communications to execute the scheme are necessary components. This directly relates to the proposition that Morgan and Daniel's actions could constitute mail or wire fraud if they used mail or electronic communications to execute their fraudulent scheme involving false court documents. Since mail and wire fraud are considered predicate acts under RICO, this supports the proposition that their actions could be classified as racketeering activity.

### [Review of Criminal Penalties and Collateral Consequences for Antitrust and Related Violations](#)

### **Antitrust Cartel Leniency and Sentencing Handbook - American Bar Association - 2023-05-07**

#### **Extract**

Organizations may be fined up to the greatest of \$500,000, twice the gross loss, or twice the gross gain for each violation of the mail and wire fraud statutes... If a mail or wire fraud violation or a conspiracy to commit mail or wire fraud affects a financial institution, the statute of limitations for the offense is also increased to ten years... The Antitrust Division has prosecuted defendants in multiple industries for mail or wire fraud and conspiracy to commit mail or wire fraud, including the financial services, real estate, and government contracting industries.

## **Summary**

Penalties for violations of the mail and wire fraud statutes, which are relevant to the proposition as these statutes are included under "racketeering activity" in 18 U.S.C. § 1961(1). The mention of prosecutions in various industries for mail or wire fraud indicates that such activities are taken seriously and can be pursued under RICO if they involve fraudulent communications. This supports the idea that Morgan and Daniel's actions could qualify as predicate acts under RICO.

### [Matter of \[Name redacted\]](#)

### **Decisions of the Administrative Appeals Office AAO**

## **Extract**

Mail fraud under 18 U.S.C. § 1341 occurs when 'a person, 'having devised or intending to devise any scheme or artifice to defraud,' uses the mail 'for the purpose of executing such scheme or artifice.'

## **Summary**

Definition of mail fraud under 18 U.S.C. § 1341, which involves using the mail to execute a scheme to defraud. This is relevant to the proposition because if Morgan and Daniel used the mail to send false court documents as part of their fraudulent scheme, it could constitute mail fraud. Mail fraud is a predicate act under RICO, which supports the proposition that their actions could be considered racketeering activity.

## [RICO: A Primer](#)

## **Extract**

Among other things, 'racketeering activities' include 'any act which is indictable under' a list of federal criminal statutes. The list covers an expansive range of violations, for example, violations of the Hobbs Act, 18 U.S.C. § 1951 (extortion); 18 U.S.C. § 1341 (mail fraud) and 1343 (wire fraud); 18 U.S.C. § 1831 (economic espionage); 18 U.S.C. § 1832 (theft of trade secrets); 18 U.S.C. § 1952 (Travel Act); 18 U.S.C. § 1956, 1957 (money laundering); and 18 U.S.C. § 2318-2320 (copyright infringement). Mail and wire fraud are the most common predicate acts.

## **Summary**

The passage from "RICO: A Primer" explicitly states that "racketeering activities" include acts indictable under federal statutes such as mail fraud (18 U.S.C. § 1341) and wire fraud (18 U.S.C. § 1343). These are identified as common predicate acts under RICO. The proposition suggests that Morgan and Daniel's actions likely involved fraudulent communications, which could fall under mail or wire fraud. Therefore, the passage supports the proposition by confirming that such fraudulent acts are considered "racketeering activities" under RICO.

## [RICO: A Primer](#)

## **Extract**

Among other things, 'racketeering activities' include 'any act which is indictable under' a list of federal criminal statutes. The list covers an expansive range of violations, for example, violations of the Hobbs Act, 18 U.S.C. § 1951 (extortion); 18 U.S.C. § 1341 (mail fraud) and 1343 (wire fraud);

18 U.S.C. § 1831 (economic espionage); 18 U.S.C. § 1832 (theft of trade secrets); 18 U.S.C. § 1952 (Travel Act); 18 U.S.C. § 1956, 1957 (money laundering); and 18 U.S.C. § 2318-2320 (copyright infringement). Mail and wire fraud are the most common predicate acts.

## **Summary**

"racketeering activities" under RICO include acts indictable under federal statutes such as mail fraud and wire fraud. The passage specifically mentions that mail and wire fraud are common predicate acts for RICO charges. This supports the proposition that Morgan and Daniel's preparation and use of false court documents, likely involving fraudulent communications, could qualify as predicate acts of mail or wire fraud under RICO.

[Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#)

## **Extract**

Second, to prove most types of RICO claims, the plaintiff must plead that the defendant committed some qualifying criminal action, the most common of which is mail, wire or securities fraud. ... Rather, the plaintiff must be able to prove the elements of the asserted crime, and often an intent to defraud.

## **Summary**

The passage outlines that for a RICO claim to be valid, the plaintiff must demonstrate that the defendant engaged in a qualifying criminal action, such as mail or wire fraud. This directly supports the proposition that Morgan and Daniel's actions, if involving fraudulent communications through mail or electronic means, could be considered predicate acts under RICO. The passage emphasizes the necessity of proving the elements of the crime and intent to defraud, which aligns with the proposition's assertion regarding the preparation and use of false court documents.

[Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#)

## **Extract**

Second, to prove most types of RICO claims, the plaintiff must plead that the defendant committed some qualifying criminal action, the most common of which is mail, wire or securities fraud. ... Rather, the plaintiff must be able to prove the elements of the asserted crime, and often an intent to defraud.

## **Summary**

For a RICO claim to be valid, the plaintiff must demonstrate that the defendant engaged in a qualifying criminal action, such as mail or wire fraud. The preparation and use of false court documents could involve fraudulent communications, which align with the predicate acts of mail or wire fraud under RICO. This supports the proposition that Morgan and Daniel's actions could be considered racketeering activity under RICO.

This memo was compiled by Vincent AI based on vLex materials available as of June 11, 2025. [View full answer on vLex](#)