

Question

Plaintiff's allegations describe a scheme with multiple steps, ongoing coordination, and repeated acts over an extended period, not a single, isolated event. While courts are skeptical of RICO claims based on a single scheme with a single victim and a discrete goal, the Supreme Court and Tenth Circuit have not adopted a categorical rule barring such claims. The key inquiry is whether the acts, as alleged, amount to or pose a threat of continued criminal activity. (See *H.J. Inc.*, 492 U.S. at 241-42; *Resolution Trust Corp. v. Stone*, 998 F.2d 1534, 1543 (10th Cir. 1993)). The district court erred by treating the "single scheme" doctrine as dispositive, rather than considering whether the facts as alleged could plausibly support a finding of continuity, especially given the ongoing nature of the alleged conduct and the repeated use of interstate facilities to further the scheme.

Answer (Tenth Circuit)

Short response

The Supreme Court and Tenth Circuit have expressly rejected a categorical bar on RICO claims based solely on the presence of a single scheme or single victim; instead, the central inquiry is whether the alleged acts demonstrate or threaten continued criminal activity. The district court erred by treating the "single scheme" doctrine as dispositive, rather than evaluating whether the facts plausibly support a finding of continuity under the standards articulated in *H.J. Inc.* and Tenth Circuit precedent.

Summary

Courts in the Tenth Circuit, following Supreme Court guidance, have consistently held that the existence of a single scheme, even with a single victim and a discrete goal, does not automatically preclude a RICO claim. The key legal test is whether the alleged conduct amounts to or poses a threat of continued racketeering activity, assessed through the concepts of "closed-ended" and "open-ended" continuity.

The district court's reliance on the "single scheme" doctrine as a dispositive bar was misplaced. Instead, courts must examine the duration, extensiveness, and nature of the alleged conduct to determine if it plausibly supports a finding of continuity—especially where the scheme involves multiple steps, ongoing coordination, and repeated acts over time. The authorities make clear that continuity, not the number of schemes or victims, is the controlling inquiry.

Background and Relevant Law

Statutory Framework

The [Racketeer Influenced and Corrupt Organizations](#) Act (RICO), 18 U.S.C. §§ 1961–1968, requires a plaintiff to allege (1) conduct, (2) of an enterprise, (3) through a pattern, (4) of racketeering activity. The statute defines a "pattern of racketeering activity" as requiring at least two acts of racketeering activity within ten years, but courts have interpreted this to require more than just two isolated acts; there must be "continuity plus relationship" among the acts, and a threat of ongoing criminal activity ([Bixler v. Foster](#), 596 F.3d 751, 761 (10th Cir. 2010); 18 U.S.C. § 1961(5)).

Supreme Court Precedent

The Supreme Court in *H.J. Inc. v. Northwestern Bell Telephone Co.*, 492 U.S. 229 (1989), clarified that RICO does not require multiple schemes, multiple victims, or multiple goals. Instead, the focus is on whether the predicate acts are related and whether they amount to or pose a threat of continued criminal activity. The Court rejected the Eighth Circuit's rigid "multiple schemes" test, emphasizing a flexible approach centered on continuity—either "closed-ended" (a series of related acts over a substantial period) or "open-ended" (conduct that by its nature projects into the future with a threat of repetition).

Tenth Circuit Precedent

The Tenth Circuit has repeatedly followed the Supreme Court's guidance, holding that the existence of a single scheme or single victim does not categorically bar a RICO claim. Instead, the court must assess whether the alleged acts demonstrate continuity, considering factors such as the duration, extensiveness, and nature of the scheme ([Resolution Trust Corp. v. Stone](#), 998 F.2d 1534, 1543 (10th Cir. 1993); [Johnson v. Heath](#), 56 F.4th 851, 860 (10th Cir. 2022); [Phelps v. Wichita Eagle-Beacon](#), 886 F.2d 1262, 1273 (10th Cir. 1989)).

Case Law

Supreme Court: *H.J. Inc.*

In *H.J. Inc.*, the Supreme Court held that a RICO pattern requires both relationship and continuity. The Court explicitly rejected a rule that would require multiple schemes or victims, stating that continuity is a flexible concept that can be satisfied by either a closed period of repeated conduct or by conduct that threatens future repetition. The Court emphasized that the focus should be on whether the acts, as alleged, amount to or pose a threat of continued criminal activity, not on the number of schemes or victims involved.

Tenth Circuit: [Resolution Trust Corp. v. Stone](#) and Progeny

The Tenth Circuit in [Resolution Trust Corp. v. Stone](#), 998 F.2d 1534 (10th Cir. 1993), adopted the Supreme Court's approach, holding that continuity can be shown by a series of related predicate acts over a substantial period (closed-ended continuity) or by acts that threaten future repetition (open-ended continuity). The court further explained that the complexity, size, and ongoing management of a scheme are relevant to the continuity analysis.

Subsequent Tenth Circuit cases have reinforced this approach:

- [Johnson v. Heath](#), 56 F.4th 851 (10th Cir. 2022): The court held that the existence of a single scheme does not preclude a finding of closed-ended continuity if the conduct reflects a regular way of conducting business and involves repeated acts over time.
- [Bixler v. Foster](#), 596 F.3d 751 (10th Cir. 2010): The court reiterated that continuity is both a closed- and open-ended concept, and that the key inquiry is whether the acts amount to or threaten long-term criminal activity.
- [Tal v. Hogan](#), 453 F.3d 1244 (10th Cir. 2006): The court emphasized that two predicate acts are not sufficient unless they are related and pose a threat of continued criminal activity, and that the duration and extensiveness of the scheme are critical factors.
- [Phelps v. Wichita Eagle-Beacon](#), 886 F.2d 1262 (10th Cir. 1989): The court confirmed that a RICO violation does not require more than one scheme, and the central question is whether the acts are continuous.

Other Tenth Circuit cases, such as [Edwards v. First Nat. Bank, Bartlesville, Oklahoma](#), 872 F.2d 347 (10th Cir. 1989) and [Torwest DBC, Inc. v. Dick](#), 810 F.2d 925 (10th Cir. 1987), have recognized that a single scheme involving one victim can satisfy the continuity requirement if the scheme is open-ended or ongoing.

District Court and Supplementary Authority

District courts within the Tenth Circuit have consistently applied these principles, refusing to treat the "single scheme" doctrine as dispositive. For example, in [Suddath v. Oklahome Homebuilders, LLC, CIV-24-745-SLP \(W.D. Okla. Nov 08, 2024\)](#), the court emphasized that the pattern requirement is met if the predicate acts amount to or threaten long-term criminal activity, and that continuity can be shown through either a closed period of repeated conduct or conduct that threatens future repetition.

Similarly, in [Skurkey v. Daniel](#), the court noted that no single factor is dispositive in determining continuity, and that courts should consider the number of victims, number and variety of acts, distinctiveness of injuries, and complexity and size of the scheme.

Analysis

The "Single Scheme" Doctrine Is Not Dispositive

The Supreme Court and Tenth Circuit have made clear that the mere presence of a single scheme, single victim, or discrete goal does not automatically defeat a RICO claim. The Supreme Court in *H.J. Inc.* explicitly rejected the Eighth Circuit's "multiple schemes" test, holding that continuity is the controlling inquiry. The Tenth Circuit has followed this approach, repeatedly stating that a single scheme can suffice if it demonstrates the requisite continuity ([Resolution Trust Corp. v. Stone, 998 F.2d 1534 \(10th Cir. 1993\)](#); [Johnson v. Heath, 56 F.4th 851 \(10th Cir. 2022\)](#); [Phelps v. Wichita Eagle-Beacon, 886 F.2d 1262 \(10th Cir. 1989\)](#)).

Secondary materials confirm this interpretation, noting that the Supreme Court and all nine Justices in *H.J. Inc.* agreed that a single scheme can support a RICO claim if the continuity requirement is met ([The resurrection of the 'single scheme' exclusion to RICO's pattern requirement](#); [Rico and the Prime: Taking a Bite Out of Crime?](#)).

Continuity: The Central Inquiry

The continuity requirement is satisfied in two ways:

1. **Closed-Ended Continuity:** This is shown by a series of related predicate acts extending over a substantial period. Courts look at the duration of the conduct, the number and variety of acts, the number of victims, the complexity and size of the scheme, and whether the acts are distinct or repetitive ([Resolution Trust Corp. v. Stone, 998 F.2d 1534 \(10th Cir. 1993\)](#); [Skurkey v. Daniel](#); RICO: A Primer).
2. **Open-Ended Continuity:** This is present where the conduct, by its nature, projects into the future with a threat of repetition. This can be shown if the acts are part of the defendant's regular way of conducting business, or if the scheme is ongoing and does not have a single, finite goal (*H.J. Inc.*; [Johnson v. Heath, 56 F.4th 851 \(10th Cir. 2022\)](#); [Edwards v. First Nat. Bank, Bartlesville, Oklahoma, 872 F.2d 347 \(10th Cir. 1989\)](#)).

The Tenth Circuit has emphasized that continuity is a fact-specific inquiry, and courts must consider the totality of the circumstances, including the duration and extensiveness of the scheme ([U.S. v. Smith, 413 F.3d 1253 \(10th Cir. 2005\)](#); [Tal v. Hogan, 453 F.3d 1244 \(10th Cir. 2006\)](#)). Notably, [U.S. v. Smith](#) has been stated as overruled by a later case, but the principle that continuity is a fact-specific inquiry remains consistent with Supreme Court and other Tenth Circuit authority.

Application to the Alleged Facts

Where a plaintiff alleges a scheme with multiple steps, ongoing coordination, and repeated acts over an extended period, these facts are

highly relevant to the continuity analysis. Courts must assess whether the alleged conduct amounts to or poses a threat of continued criminal activity, considering the duration, complexity, and ongoing nature of the scheme ([Resolution Trust Corp. v. Stone](#), 998 F.2d 1534 (10th Cir. 1993); [Skurkey v. Daniel](#); [Suddath v. Oklahome Homebuilders, LLC](#), CIV-24-745-SLP (W.D. Okla. Nov 08, 2024)).

If the scheme involves repeated use of interstate facilities, ongoing management, and multiple predicate acts over time, these factors weigh in favor of finding continuity. The presence of a single scheme or victim does not negate the possibility of continuity if the conduct is ongoing or threatens future repetition ([Johnson v. Heath](#), 56 F.4th 851 (10th Cir. 2022); [Tal v. Hogan](#), 453 F.3d 1244 (10th Cir. 2006)).

District Court Error

The district court erred by treating the "single scheme" doctrine as dispositive. Both Supreme Court and Tenth Circuit precedent require courts to examine the facts as alleged to determine whether they plausibly support a finding of continuity. Dismissing a RICO claim solely because it involves a single scheme or victim is contrary to controlling authority (*H.J. Inc.*; [Resolution Trust Corp. v. Stone](#), 998 F.2d 1534 (10th Cir. 1993); [Phelps v. Wichita Eagle-Beacon](#), 886 F.2d 1262 (10th Cir. 1989)).

Exceptions and Caveats

While the presence of a single scheme or victim does not categorically bar a RICO claim, courts remain skeptical of RICO claims where the scheme is short-lived, involves only a few acts, or has a single, discrete objective that, once achieved, ends the conduct ([Pitts v. Turner and Boisseau Chartered](#), 850 F.2d 650 (10th Cir. 1988); [Condict v. Condict](#), 826 F.2d 923 (10th Cir. 1987)). In such cases, courts require additional evidence that the scheme was not an isolated occurrence and that there is a threat of ongoing criminal activity.

It is also important to note that [Condict v. Condict](#), 815 F.2d 579 (10th Cir. 1987) has been stated as superseded by a later New Mexico Supreme Court case, but the general principle that continuity requires more than a single, isolated act remains consistent with Supreme Court and Tenth Circuit authority.

Conclusion

The Supreme Court and Tenth Circuit have unequivocally held that the existence of a single scheme, single victim, or discrete goal does not automatically preclude a RICO claim. The central inquiry is whether the alleged acts amount to or pose a threat of continued criminal activity, assessed through the concepts of closed-ended and open-ended continuity. The district court erred by treating the "single scheme" doctrine as dispositive; instead, it should have evaluated whether the facts as alleged plausibly support a finding of continuity, especially given the ongoing nature

and repeated acts described in the complaint. Courts must conduct a fact-specific analysis, considering the duration, extensiveness, and nature of the alleged conduct, in line with Supreme Court and Tenth Circuit precedent.

Legal Authorities

[Amaya v. Bregman, 149 F.Supp.3d 1312 \(D. N.M. 2015\)](#)

U.S. District Court — District of New Mexico

Extract

To serve as a basis for a RICO claim, the predicate acts identified in a complaint must provide a reasonable basis to conclude that the members of the alleged enterprise will continue to engage in criminal activity. See *Jacksonville v. Bellsouth Telecomm.*, 372 F.3d 1250, 1265 (11th Cir.2004) (threat of ongoing criminal activity is “crucial to a valid RICO claim in order to ensure that the crime alleged is the sort of offense that RICO is designed to address....”). To establish this element, a plaintiff must either allege that the defendants engaged in a pattern of criminal activity over a substantial period of time, such that it would be reasonable to assume that such conduct would continue, or set forth specific facts that would support the conclusion that the defendants are likely to engage in future criminal activity.

Summary

The passage emphasizes the importance of demonstrating a threat of ongoing criminal activity to support a RICO claim. It aligns with the proposition by highlighting that the key inquiry is whether the acts, as alleged, amount to or pose a threat of continued criminal activity. This supports the argument that the district court should not have treated the "single scheme" doctrine as dispositive without considering the potential for continuity in the alleged conduct.

[Johnson v. Heath, 56 F.4th 851 \(10th Cir. 2022\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

In any event, the existence of a single scheme would not preclude closed-ended continuity. The issue of continuity focuses on whether the predicate acts constitute 'a regular way of conducting defendant's ongoing legitimate business.' *H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 243, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989). So even when the predicate acts 'arise under a single scheme,' closed-ended continuity may exist when the conduct reflects a regular way of conducting business. *Menasco, Inc. v. Wasserman*, 886 F.2d 681, 684 (4th Cir. 1989). And the third amended complaint alleges 'a years-long pattern' of fraudulent business practices at both the gas station and tire

shop. Appellant's App'x vol. 1, at 51. That pattern could reflect closed-ended continuity even if Mr. Heath had used only a single fraudulent scheme.

Summary

The existence of a single scheme does not automatically preclude a finding of closed-ended continuity. It emphasizes that the focus should be on whether the predicate acts reflect a regular way of conducting business, which aligns with the proposition that the key inquiry is whether the acts amount to or pose a threat of continued criminal activity. The passage also references the Supreme Court's decision in *H.J. Inc.*, supporting the idea that a single scheme can still meet the continuity requirement if it reflects ongoing business practices.

[Resolution Trust Corp. v. Stone, 998 F.2d 1534 \(10th Cir. 1993\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

Only the continuity prong of the pattern element is at issue in this case. 'Continuity' is both a closed- and open-ended concept: closed-ended referring to a closed period of repeated conduct and open-ended referring to conduct that by its nature projects into the future with a threat of repetition. ... A party alleging a RICO violation may demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time. ... The complexity and size of the scheme also favors a finding of continuity. The scheme involved the participation of several perpetrators--PIIGI, PAC, and the IBG defendants. It involved extensive planning and ongoing management to juggle incoming investor premiums for the EARs while paying out enough interest to keep the scheme afloat. ... Overall, through this scheme, PAC sold approximately \$100 million in EARs with feature similar to those bought by Standard Federal. The complexity and sheer magnitude of the scheme therefore favors a finding of continuity.

Summary

Concept of "continuity" in RICO cases, emphasizing that continuity can be demonstrated through a series of related predicates over a substantial period. It highlights that the complexity, size, and ongoing nature of a scheme can support a finding of continuity, which aligns with the proposition that a single scheme with multiple steps and ongoing coordination can meet the RICO pattern requirement.

[U.S. v. Smith, 413 F.3d 1253 \(10th Cir. 2005\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

Predicate acts must also 'amount to or pose a threat of continued criminal activity' in order to establish a pattern of racketeering activity. H.J., 492 U.S. at 239, 109 S.Ct. 2893. 'Continuity' is both a closed—and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition. Id. at 241, 109 S.Ct. 2893. Proving continuity may be done in several ways; there is no bright-line rule. Id. Indeed, whether this requirement is met 'depends on the specific facts of each case.' Id. at 242, 109 S.Ct. 2893. We look to two especially relevant factors when performing continuity analyses. *Resolution Trust Corp. v. Stone*, 998 F.2d 1534, 1543 (10th Cir.1993). First, 'we consider the duration of the related predicate acts.' Id. Related predicate acts that span only a few weeks or months, and that do not pose a future threat of criminal conduct, do not meet this test. H.J., 492 U.S. at 242, 109 S.Ct. 2893. Second, we consider 'the extensiveness of the RICO enterprise's scheme.' *Resolution Trust Corp.*, 998 F.2d at 1543.

Summary

The Tenth Circuit considers both closed and open-ended continuity in determining a pattern of racketeering activity. The court emphasizes that continuity can be established through various means and is dependent on the specific facts of each case. The passage also highlights the importance of considering the duration and extensiveness of the scheme, aligning with the proposition that a single scheme with ongoing coordination and repeated acts can support a RICO claim if it demonstrates continuity.

[Bixler v. Foster, 596 F.3d 751 \(10th Cir. 2010\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

A RICO claim 'must allege a violation of 18 U.S.C. § 1962, which consists of four elements: (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' *Gillmor*, 490 F.3d at 797 (quotation omitted). A 'pattern' requires at least two predicate acts. 18 U.S.C. § 1961(5). In addition, '[t]o satisfy RICO's pattern requirement, [a plaintiff must] allege not only that the defendants had committed two or more predicate acts, but also that the predicates themselves amount to, or that they otherwise constitute a threat of, continuing racketeering activity.' *Hall v. Witteman*, 584 F.3d 859, 867 (10th Cir.2009) (quotation omitted). ... The showing required for 'continuity,' on the other hand, 'is more difficult to meet.' Id. 'Continuity' is both a closed- and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.' *H.J. Inc. v. Northwestern Bell Telephone Co.*, 492 U.S. 229, 241, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989). The Supreme Court has determined 'that when Congress said predicates must demonstrate 'continuity' before they may form a RICO

pattern, it expressed an intent that RICO reach activities that amount to or threaten long-term criminal activity.' Id. at 243 n. 4, 109 S.Ct. 2893.

Summary

"continuity" can be shown through either a closed period of repeated conduct or conduct that poses a threat of future repetition. This aligns with the proposition that the key inquiry is whether the acts amount to or pose a threat of continued criminal activity, rather than being dismissed solely based on the "single scheme" doctrine.

[Sil-Flo, Inc. v. SFHC, Inc., 917 F.2d 1507 \(10th Cir. 1990\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

Since the district court's ruling on the defendants' motion for summary judgment in Sil-Flo I, the Supreme Court has further defined what conduct constitutes a pattern of racketeering activity. See H.J. Inc. v. Northwestern Bell Tel. Co., --- U.S. ---, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989). In that case, the Court held that a RICO violation does not necessarily require more than one scheme, although conduct involving multiple schemes will likely be more probative. Id. at 2901; see also Phelps v. Wichita Eagle-Beacon, 886 F.2d 1262, 1273 (10th Cir.1989). Instead, the Court focused on two requirements: continuity and relationship. H.J. Inc., 109 S.Ct. at 2900.

Summary

The passage references the Supreme Court's decision in H.J. Inc., which clarifies that a RICO violation does not necessarily require multiple schemes. Instead, the focus is on continuity and relationship, which aligns with the proposition that the key inquiry is whether the acts amount to or pose a threat of continued criminal activity. This supports the idea that a single scheme can suffice if it demonstrates continuity, thus challenging the district court's reliance on the "single scheme" doctrine as dispositive.

[Tal v. Hogan, 453 F.3d 1244 \(10th Cir. 2006\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

As a final point, we question whether Plaintiffs' allegations of predicate acts satisfied the requirement of 'a pattern of racketeering activity.' A 'pattern' of racketeering is defined as 'at least two acts of racketeering activity,... which occurred within ten years' of each other. 18 U.S.C. § 1961(5). However, because 'RICO is not aimed at the isolated offender,' Resolution Trust Corp.,

998 F.2d at 1544, proof of two or more predicate acts are not sufficient to prove a pattern unless there is a relationship between the predicate acts and a threat of continuing activity. *H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 239, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989); *Duran v. Carris*, 238 F.3d 1268, 1271 (10th Cir.2001). Continuity of threat requires both proof of 'a series of related predicates extending over a substantial period of time,' as well as a 'showing that the predicates themselves involve a distinct threat of long-term racketeering activity... or that the predicates are a regular way of conducting the defendant's ongoing legitimate business or the RICO enterprise.' *Resolution Trust Corp.*, 998 F.2d at 1543. To determine continuity we examine both the duration of the related predicate acts and the extensiveness of the RICO enterprise's scheme.

Summary

Requirement for a "pattern of racketeering activity" under RICO, emphasizing that it is not enough to simply allege two predicate acts. Instead, there must be a relationship between the acts and a threat of continued criminal activity. This aligns with the proposition that the key inquiry is whether the acts pose a threat of continued criminal activity, rather than being a single, isolated event. The passage also references the need for a series of related predicates over a substantial period, supporting the idea of ongoing coordination and repeated acts.

[Cook v. Zions First Nat. Bank, 645 F.Supp. 423 \(D. Utah 1986\)](#)

U.S. District Court — District of Utah

Extract

To form a 'pattern,' the commission of predicate acts or episodes of criminality must be sufficiently continuous and interrelated. That is, a RICO or RICE 'pattern' requires planned, ongoing, continuing crime and the threat of continuing criminal conduct, as opposed to sporadic, isolated criminal episodes or events. ... As *Sedima* suggests, the reality and threat of recurring interrelated criminal acts by the defendant are essential to establish that the defendant carried on a 'pattern of racketeering activity.' Otherwise, the continuity and relationship implicit in the concept of 'pattern' would be meaningless.

Summary

The passage emphasizes the necessity of demonstrating a pattern of racketeering activity that is continuous and interrelated, rather than isolated or sporadic. This aligns with the proposition that a single scheme with ongoing coordination and repeated acts over time can meet the RICO pattern requirement if it poses a threat of continued criminal activity. The passage supports the idea that the district court should not have dismissed the claim based solely on the "single scheme" doctrine without considering the continuity and threat of ongoing criminal conduct.

[Pitts v. Turner and Boisseau Chartered, 850 F.2d 650 \(10th Cir. 1988\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

A violation of section 1962(c) thus 'requires (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, 105 S.Ct. 3275, 3285, 87 L.Ed.2d 346 (1985). RICO defines racketeering activity as, inter alia, any act that is indictable under 18 U.S.C. Sec. 1341 (mail fraud) or 18 U.S.C. Sec. 1343 (wire fraud). See 18 U.S.C. Sec. 1961(1)(B). RICO also states that a ' "pattern of racketeering activity" requires at least two acts of racketeering activity.' 18 U.S.C. Sec. 1961(5). ... [T]o establish a RICO pattern, a plaintiff must also demonstrate continuity, that is, 'the threat of continuing activity.' *Sedima*, 105 S.Ct. at 3285 n. 14. This element is derived from RICO's legislative history, which indicates that RICO does not apply to 'sporadic activity' or to the 'isolated offender'. *Id.* The continuity requirement has been the source of considerable difficulty. Courts generally agree that to make an adequate showing of continuity under *Sedima*, a plaintiff must demonstrate some facts from which at least a threat of ongoing illegal conduct may be inferred. A scheme to achieve a single discrete objective does not in and of itself create a threat of ongoing activity, even when that goal is pursued by multiple illegal acts, because the scheme ends when the purpose is accomplished.

Summary

A single scheme with a discrete objective does not automatically imply continuity unless there is a threat of ongoing activity. This aligns with the proposition that the district court should not have treated the "single scheme" doctrine as dispositive without considering the potential for continued criminal activity.

[Torwest DBC, Inc. v. Dick, 810 F.2d 925 \(10th Cir. 1987\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

In subsequent cases, courts have struggled to implement *Sedima*'s directive to develop a meaningful concept of pattern based on continuity plus relationship. Development of a uniform concept has been hampered by *Sedima*'s instruction to read limitations into the statutory definition even though the Act is to be broadly construed, see *id.* at 3286, by the myriad of diverse fact patterns underlying civil RICO suits, and by the abstract nature of the Court's references to continuity and relationship. ... A more difficult question is presented when the RICO claim is based on one scheme involving one victim, but the plan contemplates open-ended fraudulent

activity and does not have a single goal that, when achieved, will bring the activity to an end. Some courts have found that such an ongoing scheme is itself sufficient to satisfy the continuity element of a RICO pattern.

Summary

Challenges courts face in interpreting the continuity requirement for RICO claims, emphasizing that a single scheme with an open-ended fraudulent activity can satisfy the continuity element. This aligns with the proposition that the key inquiry is whether the acts pose a threat of continued criminal activity, rather than being dismissed solely because they involve a single scheme or victim.

[Condict v. Condict, 815 F.2d 579 \(10th Cir. 1987\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

A more difficult question is presented when the RICO claim is based on one scheme involving one victim, but the plan contemplates open-ended fraudulent activity and does not have a single goal that, when achieved, will bring the activity to an end. Some courts have found that such an ongoing scheme is itself sufficient to satisfy the continuity element of a RICO pattern. See, e.g., *Morgan v. Bank of Waukegan*, 804 F.2d 970, 976 (7th Cir.1986); see also *Illinois Dept. of Revenue v. Phillips*, 771 F.2d 312 (7th Cir.1985).

Summary

Complexity of RICO claims involving a single scheme with one victim but with open-ended fraudulent activity. It highlights that some courts have found such ongoing schemes sufficient to satisfy the continuity requirement of a RICO pattern. This aligns with the proposition that the key inquiry is whether the acts pose a threat of continued criminal activity, rather than being dismissed solely based on the "single scheme" doctrine.

[Condict v. Condict, 826 F.2d 923 \(10th Cir. 1987\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

The implication is that while two acts are necessary, they may not be sufficient. Indeed, in common parlance two of anything do not generally form a 'pattern.' The legislative history supports the view that two isolated acts of racketeering activity do not constitute a pattern. As the Senate Report explained: 'The target of [RICO] is thus not sporadic activity. The infiltration of legitimate business normally requires more than one

'racketeering activity' and the threat of continuing activity to be effective. It is this factor of continuity plus relationship which combines to produce a pattern.' ... Courts generally agree that to make an adequate showing of continuity under Sedima, a plaintiff must demonstrate some facts from which at least a threat of ongoing illegal conduct may be inferred. A scheme to achieve a single discrete objective does not in and of itself create a threat of ongoing activity, even when that goal is pursued by multiple illegal acts, because the scheme ends when the purpose is accomplished. Courts that have considered a RICO claim grounded on this type of scheme have therefore required some additional evidence showing that the scheme was not an isolated occurrence.

Summary

Necessity of demonstrating continuity and relationship to establish a pattern of racketeering activity under RICO. It emphasizes that two acts alone are not sufficient to establish a pattern and that there must be a threat of ongoing illegal conduct. This aligns with the proposition that the key inquiry is whether the acts amount to or pose a threat of continued criminal activity, rather than being a single, isolated event. The passage supports the idea that the district court should not have treated the "single scheme" doctrine as dispositive without considering the potential for continuity.

[Edwards v. First Nat. Bank, Bartlesville, Oklahoma, 872 F.2d 347 \(10th Cir. 1989\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

A more difficult question is presented when the RICO claim is based on one scheme involving one victim, but the plan contemplates open-ended fraudulent activity and does not have a single goal that, when achieved, will bring the activity to an end. Some courts have found that such an ongoing scheme is itself sufficient to satisfy the continuity element of a RICO pattern.

Summary

Continuity requirement in RICO cases, particularly when a scheme involves one victim but is open-ended and does not have a single goal that concludes the activity. This aligns with the proposition that the key inquiry is whether the acts pose a threat of continued criminal activity, rather than being a single, isolated event. The passage supports the idea that an ongoing scheme can satisfy the continuity element, which is central to the proposition.

[Nation v. Shah, 4:19-cv-00588-JDR-JFJ \(N.D. Okla. Oct 30, 2024\)](#)

U.S. District Court — Northern District of Oklahoma

Extract

More difficult to establish-and more problematic for Plaintiffs-is the requirement that the predicate acts have sufficient “continuity” to constitute a RICO “pattern.” See *Bixler v. Foster*, 596 F.3d 751, 761 (10th Cir. 2010) (indicating that the continuity requirement “is more difficult to meet” (citation and quotation marks omitted)). For RICO purposes, continuity comes in one of two forms: Closed-ended continuity can be established by alleging a “closed period of repeated racketeering conduct.” *Johnson*, 56 F.4th at 859-60 (citing *H.J. Inc.*, 492 U.S. at 241-43). Open-ended continuity can be established by racketeering acts that “involved implicit or explicit threats of repetition,” “formed the operations of an association that exists for criminal purposes,” or were part of the defendants’ “regular way of conducting a legitimate enterprise.”

Summary

Requirement of “continuity” in establishing a RICO pattern, which is central to the proposition. It explains that continuity can be either closed-ended or open-ended, aligning with the proposition’s emphasis on the need to assess whether acts pose a threat of continued criminal activity. The passage references *H.J. Inc.*, a Supreme Court case, supporting the idea that continuity is a key inquiry rather than a categorical bar based on a single scheme.

[Skurkey v. Daniel](#)

U.S. District Court — Western District of Oklahoma

Extract

To plead a valid RICO claim, a plaintiff must plausibly allege that a defendant “(1) conducted the affairs (2) of an enterprise (3) through a pattern (4) of racketeering activity.” ... The Supreme Court has explained that there are two elements to finding a pattern for RICO purposes: “continuity plus relationship.” ... Plaintiff argues the Complaint alleges facts to support both open- and closed-ended continuity. ... closed-ended continuity consists of a closed period of repeated, related racketeering acts that do not necessarily threaten future repetition. ... Because RICO targets long-term racketeering conduct, closed-ended continuity requires a series of related racketeering acts over a “substantial period of time.” ... In evaluating whether the Plaintiff has pled sufficient facts to support the extensiveness prong the Court considers “the number of victims, the number of racketeering acts, the variety of racketeering acts, whether the injuries were distinct, the complexity and size of the scheme, and the nature or character of the enterprise.” ... No factor is required or dispositive; the factors merely guide [the court] in seeking “a natural and commonsense result.”

Summary

Requirements for a valid RICO claim, emphasizing the need for a "pattern" of racketeering activity, which includes "continuity plus relationship." It discusses both open- and closed-ended continuity, noting that closed-ended continuity involves repeated acts over a substantial period. The passage also highlights that no single factor is dispositive in determining continuity, aligning with the proposition that the district court should not have treated the "single scheme" doctrine as dispositive.

[Schrag v. Dinges, 788 F.Supp. 1543 \(D. Kan. 1992\)](#)

U.S. District Court — District of Kansas

Extract

In *H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989), the Supreme Court reiterated the well-established concept that racketeering acts form a 'pattern' in RICO where they exhibit 'continuity plus relationship.' *Id.* at 239, 109 S.Ct. at 2900. The 'relationship' requirement is satisfied when the racketeering acts have 'the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.' *Id.* at 240, 109 S.Ct. at 2901 (citing *Sedima*, 473 U.S. at 496 n. 14, 105 S.Ct. at 3285 n. 14). With respect to the 'continuity' requirement, the Supreme Court stated that the predicate acts must amount to, or pose a threat of, continuing racketeering activity. *Id.* According to the Supreme Court, continuity 'is both a closed- and open-ended concept, referring to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.' *Id.* A RICO plaintiff 'may demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time.' *Id.* Predicates extending over merely a few weeks or months, on the other hand, may satisfy the continuity element if there is a threat of repetition in the future. This latter concept of continuity, which occurs over an 'open period,' is established by showing that the predicate acts are a 'regular way of conducting the enterprise's ongoing business.'

Summary

Requirements for establishing a "pattern" of racketeering activity under RICO, emphasizing the need for "continuity plus relationship." It explains that continuity can be demonstrated through either a closed period of repeated conduct or an open period where past conduct projects into the future with a threat of repetition. This aligns with the proposition that the key inquiry is whether the acts, as alleged, amount to or pose a threat of continued criminal activity, rather than being dismissed solely based on the "single scheme" doctrine.

[Purvis v. Hamwi, 828 F.Supp. 1479 \(D. Colo. 1993\)](#)

U.S. District Court — District of Colorado

Extract

In order to make out a pattern under RICO, the predicate acts must somehow be ordered or arranged, bearing some relationship to each other, and implicate the threat of continuing activity. *H.J. Inc. v. Northwestern Bell Telephone Co.*, 492 U.S. 229, 238-239, 109 S.Ct. 2893, 2900-2901, 106 L.Ed. 2d 195 (1989). 'Continuity' is both a closed- and openended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with the threat of repetition. *Id.* at 241, 109 S.Ct. at 2901. However, in *H.J. Inc.*, the Supreme Court appeared to discourage such narrow constructions, noting that Congress had defined 'pattern of criminal conduct' only in terms of the relationship between the criminal acts, thus conceiving of 'pattern' as a 'flexible concept' that is not so narrow as to exclude activities performed by only one person or activities without an organized crime nexus. 492 U.S. at 245-46, 109 S.Ct. at 2903-04.

Summary

Requirement for a "pattern" of racketeering activity under RICO, emphasizing the need for predicate acts to be related and to pose a threat of continued criminal activity. It highlights the Supreme Court's view that the concept of a "pattern" is flexible and not limited to activities involving organized crime or multiple actors. This supports the proposition by indicating that a single scheme with a single victim can still meet the RICO pattern requirement if it involves ongoing or repeated conduct that poses a threat of future criminal activity.

[Suddath v. Oklahome Homebuilders, LLC, CIV-24-745-SLP \(W.D. Okla. Nov 08, 2024\)](#)

U.S. District Court — Western District of Oklahoma

Extract

"A 'pattern' requires at least two predicate acts." *Bixler v. Foster*, 596 F.3d 751, 761 (10th Cir. 2010) (citing 18 U.S.C. § 1961(5)). And those predicate acts themselves must amount to or otherwise constitute a threat of continuing racketeering activity. *Id.* This continuity requirement expresses congressional intent that "RICO reach activities that amount to or threaten long-term criminal activity." *Id.* (citing *H.J., Inc. v. Northwestern Bell Tele. Co.*, 492 U.S. 229, 243 n. 4 (1989)). "'Continuity' is both a closed-and open-ended concept: closed-ended referring to a closed period of repeated conduct and open-ended referring to conduct that by its nature projects into the future with a threat of repetition." *Resol. Tr. Corp. v. Stone*, 998 F.2d 1534, 1543 (10th Cir. 1993). "A party alleging a RICO violation may

demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time.” Id.

Summary

Requirement for a "pattern" of racketeering activity under RICO, emphasizing the need for continuity, which can be either closed-ended or open-ended. It highlights that continuity involves either a series of related predicates over a substantial period or a threat of future criminal conduct. This aligns with the proposition that the key inquiry is whether the acts amount to or pose a threat of continued criminal activity, rather than being a single, isolated event.

[Gotfredson v. Larsen Lp, 432 F.Supp.2d 1163 \(D. Colo. 2006\)](#)

U.S. District Court — District of Colorado

Extract

In order for Plaintiffs to prove a pattern, they must demonstrate not only the existence of two or more predicate acts, but also that they are related and pose at least a threat of continued criminal activity. H.J., 492 U.S. at 238-39, 109 S.Ct. 2893. Thus, Plaintiffs must show two elements—'continuity plus relationship.' *Feinstein v. RTC*, 942 F.2d 34, 44 (1st Cir.1991). ... Continuity is both a closed and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition. It is, in either case, centrally a temporal concept—and particularly so in the RICO context, where what must be continuous, RICO's predicate acts or offenses, and the relationship these predicates must bear one to another, are distinct requirements. H.J., 492 U.S. at 241-42, 109 S.Ct. 2893.

Summary

Requirement for proving a pattern of racketeering activity under RICO, emphasizing the need for continuity and relationship among predicate acts. It references the Supreme Court's decision in *H.J. Inc.*, which is central to understanding the continuity requirement. The passage also highlights that continuity can be either closed or open-ended, which aligns with the proposition's focus on ongoing coordination and repeated acts over time. The reference to *Resolution Trust Corp. v. Stone* further supports the idea that the Tenth Circuit considers the duration and extensiveness of the scheme in evaluating continuity.

[Sensoria, LLC v. Kaweske, 581 F.Supp.3d 1243 \(D. Colo. 2022\)](#)

U.S. District Court — District of Colorado

Extract

Plaintiffs' description of a single fraud scheme affects claims' plausibility in another respect: whether the alleged fraudulent acts accomplished a discrete goal (which RICO would not cover) or whether they constitute a pattern of racketeering activity (which RICO does concern). *Erikson v. Farmers Group, Inc.*, 151 F. App'x 672 (10th Cir. 2005). To establish the 'pattern' element, a plaintiff not only must show multiple predicate acts, 'but also that the predicates themselves amount to, or that they otherwise constitute a threat of, continuing racketeering activity.' *Bixler*, 596 F.3d at 761 (internal citation omitted) (emphasis in the original). This element reflects Congress' concern over long-term criminal activity. *Boone v. Carlsbad Bancorporation, Inc.*, 972 F.2d 1545, 1556 (10th Cir. 1992).

Summary

Distinction between a single scheme with a discrete goal and a pattern of racketeering activity, which is central to the proposition. It emphasizes that a pattern requires multiple predicate acts that either amount to or pose a threat of continued criminal activity, aligning with the proposition's focus on ongoing coordination and repeated acts over time. The passage also references relevant Tenth Circuit case law, supporting the idea that the court has not adopted a categorical rule barring claims based on a single scheme.

[Phelps v. Wichita Eagle-Beacon, 886 F.2d 1262 \(10th Cir. 1989\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

The Supreme Court has recently held that a RICO violation does not require more than one scheme. *H.J. Inc. v. Northwestern Bell Telephone Co.*, --- U.S. ---, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989). The Court there reiterated its prior holding that all that is required to constitute a pattern are two elements--'continuity plus relationship.' *Sedima*, 473 U.S. at 496 n. 14, 105 S.Ct. at 3285 n. 14. There is no question that the acts complained of in this case are related because they are all part of an alleged common scheme. See *Torwest DBC, Inc. v. Dick*, 810 F.2d 925, 928 (10th Cir.1987). The central question is whether they are 'continuous.'

Summary

A RICO violation does not necessitate multiple schemes, as long as there is continuity and relationship among the acts. This aligns with the proposition that a single scheme can suffice if it demonstrates continuity, which is a key inquiry in RICO claims. The passage supports the idea that the district court should not have dismissed the claim solely based on the "single scheme" doctrine without considering the continuity of the alleged acts.

Colorado Lawyer - Colorado Bar Association - 1991-00-00

Extract

The Court held that multiple schemes are not required to satisfy the pattern element of RICO. Rather, a plaintiff need only show that the racketeering predicate acts are related and amount to or pose a threat of continued criminal activity.

Summary

The U.S. Supreme Court in H.J., Inc. clarified that multiple schemes are not necessary to establish a RICO pattern. Instead, the focus is on whether the predicate acts are related and pose a threat of continued criminal activity. This aligns with the proposition that the key inquiry is the threat of continued criminal activity, not the number of schemes.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Bagley, Ross - 2007-03-22

Extract

years was 'substantial' and satisfied closed-ended continuity requirement of RICO). (55.) See H.J. Inc., 492 U.S. at 242 (suggesting open-ended continuity can be satisfied by showing likelihood of predicate acts continuing into the future or by showing that predicate acts occur in normal course of entity's business); ... duration and extensiveness. See Resolution Trust Corp. v. Stone, 998 F.2d 1534, 1543 (10th Cir. 1993) (holding duration and extensiveness 'are particularly relevant to the determination of continuity'). Extensiveness is determined by considering the number of victims, the number of acts, the variety of acts, the distinctiveness of the injuries, and the complexity of the scheme.

Summary

The passage references key cases, H.J. Inc. and Resolution Trust Corp. v. Stone, which are pivotal in understanding the continuity requirement under RICO. It highlights that continuity can be established through either closed-ended or open-ended continuity, and that the duration and extensiveness of the scheme are critical factors. This aligns with the proposition that a single scheme can still meet RICO's pattern requirement if it shows a threat of continued criminal activity.

[Life after Morrison: extraterritoriality and RICO.](#)

**Vanderbilt Journal of Transnational Law - Vanderbilt University,
School of Law - Mello, R. Davis - 2011-11-01**

Extract

The Supreme Court reversed the Eighth Circuit in *H.J.*, holding that 'although proof that a RICO defendant has been involved in multiple criminal schemes would certainly be highly relevant to the inquiry into the continuity of the defendant's racketeering activity, it is implausible to suppose that Congress thought continuity might be shown only by proof of multiple schemes.' ... Declaring that Congress intended the courts to 'take a flexible approach' in identifying 'patterns' of racketeering activity, the Court held that 'a plaintiff or prosecutor must prove ... continuity of racketeering activity, or its threat.' ... In a closed-ended case, a plaintiff can demonstrate continuity by showing the commission of predicate acts over 'a substantial period of time'; in an open-ended case, a plaintiff can demonstrate continuity by showing the commission of predicate acts over a shorter period of time if the threat of continuity still exists.

Summary

The Supreme Court in *H.J. Inc.* rejected the notion that continuity in RICO cases requires proof of multiple schemes. Instead, the Court emphasized a flexible approach, focusing on whether there is continuity or a threat of continuity in the racketeering activity. This aligns with the proposition that a single scheme with ongoing coordination and repeated acts can still meet the continuity requirement if it poses a threat of continued criminal activity.

[The resurrection of the 'single scheme' exclusion to RICO's pattern requirement.](#)

**Notre Dame Law Review - University of Notre Dame Law School -
Murphy, Kevin J. - 2013-04-01**

Extract

Justice Scalia, along with Justices Rehnquist, O'Connor, and Kennedy, did agree that the Eighth Circuit's 'single scheme' exclusion from RICO was improper. '[T]he Court is correct in saying that nothing in [RICO] supports the proposition that predicate acts constituting part of a single scheme (or single episode) can never support a cause of action under RICO.' Thus, all nine of the Justices of the Court agreed that single schemes of racketeering activity could establish a RICO violation, and that the Eighth Circuit's multiple scheme requirement was invalid.

Summary

The Supreme Court rejected the notion that a single scheme cannot support a RICO claim, which aligns with the proposition that the Tenth Circuit has not adopted a categorical rule barring such claims. The passage supports the idea that the key inquiry should be the continuity and threat of continued criminal activity, rather than the mere presence of a single scheme.

[Vol. 4 No. 3 Pg. 7 Rico and the Prime: Taking a Bite Out of Crime?](#)

Utah Bar Journal - Utah State Bar - 1991-00-00

Extract

In *H.J., Inc. v. Northwestern Bell Telephone Co.* the Court addressed the standard for a RICO pattern. The Court rejected a 'separate schemes' test in favor of a 'separate acts' test, so that two or more predicate acts within a single scheme could support a RICO complaint. In endorsing the single scheme, separate acts standard, the Court stated that 'to prove a pattern of racketeering activity a plaintiff or prosecutor must show that the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity.'

Summary

The passage from the document discusses the Supreme Court's decision in *H.J., Inc. v. Northwestern Bell Telephone Co.*, which is directly relevant to the proposition. The Court's rejection of the "separate schemes" test in favor of a "separate acts" test supports the idea that a single scheme with multiple acts can constitute a RICO pattern if the acts are related and pose a threat of continued criminal activity. This aligns with the proposition that the district court erred by focusing solely on the "single scheme" doctrine without considering the continuity and threat of ongoing criminal activity.

[Vol. 16 No. 5 Pg. 806 Civil Rico Update: the Evolving Pattern Requirement-part I](#)

Colorado Lawyer - Colorado Bar Association - 1987-00-00

Extract

Most significantly for the pattern element of RICO, each violation of the mail or wire fraud statutes is treated as a separate offense, even where multiple violations occur in the execution of a single scheme... While rejecting the two early judicial limits on RICO... the U.S. Supreme Court pointed to the pattern requirement as the appropriate vehicle for limiting perceived abuses, but indicated that such a requirement must apply equally in both

criminal and civil cases... The lower courts' rapid evolution of a pattern doctrine began just four weeks after *Sedima* with a groundbreaking decision in *Northern Trust Bank/O'Hare, N.A. v. Inryco, Inc.*... [P]attern... connotes a multiplicity of events: Surely the continuity inherent in the term presumes repeated criminal activity, not merely repeated acts to carry out the same criminal activity... Where this Court differs with *Inryco* is in the implication that a single fraudulent effort or episode should be equated with a single fraudulent scheme... [C]ontinuity requires more than a single transaction but not necessarily more than a single scheme... [A]n open-ended scheme may include a sufficient number of criminal episodes to satisfy the 'continuity' factor of *Sedima*.

Summary

Interpretation of the "pattern" requirement in RICO cases, emphasizing that multiple violations within a single scheme can still constitute a pattern if they demonstrate continuity and pose a threat of ongoing criminal activity. This aligns with the proposition that a single scheme with repeated acts over time can meet the RICO pattern requirement, contrary to a categorical rule barring such claims.

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

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

Extract

H.J. Inc. dwelled upon the continuity element, however, at some length. It rejected the Eighth Circuit's "multiple schemes" test as needlessly rigid. The *H.J.* Court stressed that "[w]hat a plaintiff or prosecutor must prove is continuity of racketeering activity, or its threat, simpliciter." *Id.* at 240-41 (Court's emphasis). Under the "less inflexible approach" adopted in *H.J. Inc.*, continuity is "both a closed- and open-ended concept." *Id.* at 241. Closed-ended continuity refers "to a closed period of repeated conduct," while open-ended continuity denotes "past conduct that by its nature projects into the future with a threat of repetition."

Summary

The passage from *H.J. Inc.* emphasizes the importance of continuity in RICO claims, rejecting a rigid "multiple schemes" requirement and instead focusing on whether there is continuity or a threat of continued criminal activity. This aligns with the proposition that the key inquiry is whether the acts amount to or pose a threat of continued criminal activity, rather than being dismissed solely based on being a single scheme.

Colorado Lawyer - Colorado Bar Association - 1986-00-00

Extract

The Court stated that 'while two [racketeering] acts are necessary, they may not be sufficient' to establish a pattern. The majority indicated that a pattern requires continuity and relationship and embraces acts "that have the same or similar purposes, results, participants, victims or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.' Justice Powell suggested that 'pattern' should be interpreted: as requiring that (i) the racketeering acts be related to each other, (ii) they be part of some common scheme, and (iii) some sort of continuity between the acts or a threat of continuing criminal activity must be shown.

Summary

Requirement for a pattern in RICO claims, emphasizing the need for continuity and relationship among racketeering acts. It highlights that a pattern involves acts that are interrelated and not isolated, aligning with the proposition that a single scheme with ongoing coordination and repeated acts can meet the pattern requirement if it poses a threat of continued criminal activity. This supports the idea that the district court should not have treated the "single scheme" doctrine as dispositive without considering the continuity and threat of ongoing criminal activity.

[RECONCEIVING COERCION-BASED CRIMINAL DEFENSES.](#)

Journal of Criminal Law and Criminology - Northwestern University, School of Law - Galoob, Stephen R. - 2022-03-22

Extract

The inquiry here is meant to invoke the 'pattern of racketeering activity' element of the Racketeer Influenced and Corrupt Organizations Act (RICO). The Organized Crime Control Act (1970), which includes RICO, provides that 'criminal conduct forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.' The Supreme Court characterized this requirement as a 'relationship' element and held that the statute further requires a 'continuity' element, 'referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.'

Summary

The passage explains the requirements for establishing a "pattern of racketeering activity" under RICO, emphasizing the need for both a "relationship" and "continuity" element. This aligns with the proposition that the key inquiry is whether the acts amount to or pose a threat of continued criminal activity. The passage supports the idea that a single scheme can still meet the RICO requirements if it involves repeated conduct or projects into the future with a threat of repetition.

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

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

Extract

These acts must be related and continuous to constitute a pattern. The relatedness and continuity issue first came to prominence in a famous footnote to the Supreme Court's decision in *Sedima*. In *Sedima*, the Court noted that the term "pattern of racketeering activity" had been left intentionally vague by Congress, and it invited further clarification by the lower courts. The Court did not provide a precise definition of what constitutes a pattern in this context. This ambiguity in the definition of the statutory word "pattern" occasioned a split among the federal circuit courts as they attempted to interpret and apply the civil RICO statute. Two primary issues emerged: 1. Relatedness: This aspect of the pattern requirement concerns whether the alleged racketeering acts are related to each other. Courts have grappled with how closely connected these acts must be to meet the relatedness criterion. Some circuits adopted a broad interpretation, while others opted for a stricter nexus between the acts. 2. Continuity: The continuity issue pertains to the temporal aspect of the pattern. It questions whether the racketeering acts display a continuous course of conduct over time or whether they are isolated incidents. Courts have debated how long this course of conduct must persist to satisfy the continuity criterion. Some circuits adopted a closed-ended approach (requiring acts within a specific time frame), while others embraced an open-ended approach (focusing on the threat of future racketeering activity).

Summary

Concepts of relatedness and continuity in the context of RICO claims, which are central to determining whether a pattern of racketeering activity exists. The passage highlights the ambiguity in the statutory definition of "pattern" and notes that different circuits have adopted varying interpretations. This supports the proposition by emphasizing that the key inquiry is whether the acts amount to or pose a threat of continued criminal activity, rather than being a single, isolated event. The passage aligns with the idea that the Tenth Circuit has not adopted a categorical rule barring claims based on a

single scheme, focusing instead on the continuity and relatedness of the acts.

[RICO: A Primer](#)

Extract

The continuity requirement is likewise satisfied where the predicates are a regular way of conducting the defendant's ongoing legitimate business (in the sense that it is not a business that exists for criminal purposes), or of conducting or participating in an ongoing and legitimate RICO 'enterprise.' A plaintiff may demonstrate a pattern by establishment that the predicate acts pose a threat of continued criminal activity, which is generally demonstrated by showing either: * Closed-ended continuity. Proving 'a series of related predicate acts extending over a substantial period of time.' * Open-ended continuity. A threat of 'continuing criminal activity extending indefinitely into the future,' in light of the nature of the enterprise and predicate acts alleged.

Summary

The passage explains the concept of continuity in RICO claims, which is crucial for establishing a pattern of racketeering activity. It outlines two types of continuity: closed-ended, which involves a series of related acts over a substantial period, and open-ended, which involves a threat of ongoing criminal activity. This directly supports the proposition that the key inquiry in RICO claims is whether the acts pose a threat of continued criminal activity, rather than being dismissed solely based on the "single scheme" doctrine.

[RICO: A Primer](#)

Extract

The continuity requirement is likewise satisfied where the predicates are a regular way of conducting the defendant's ongoing legitimate business (in the sense that it is not a business that exists for criminal purposes), or of conducting or participating in an ongoing and legitimate RICO 'enterprise.' A plaintiff may demonstrate a pattern by establishment that the predicate acts pose a threat of continued criminal activity, which is generally demonstrated by showing either: * Closed-ended continuity. Proving 'a series of related predicate acts extending over a substantial period of time.' * Open-ended continuity. A threat of 'continuing criminal activity extending indefinitely into the future,' in light of the nature of the enterprise and predicate acts alleged.

Summary

The passage explains the concept of continuity in RICO claims, which is crucial for establishing a pattern of racketeering activity. It outlines two types of continuity: closed-ended, which involves a series of related acts over a substantial period, and open-ended, which involves a threat of ongoing criminal activity. This directly supports the proposition that the key inquiry in RICO claims is whether the acts pose a threat of continued criminal activity, rather than being dismissed solely based on the "single scheme" doctrine.

This memo was compiled by Vincent AI based on vLex materials available as of September 05, 2025. [View full answer on vLex](#)