

Question

Case 5:24-cv-01311-R Document 18 Filed 06/30/25 Page 1 of 5 FILED JUN 3 D 2025 IN THE UNITED STATES DISTRICT COURT -JOAN KANE, CLERK U.S. DIST. COURT FOR THE WESTERN DISTRICT OF OKLAHOMA • / 2J~0 1 : 6E~, 1 ~ CHARLES DUST IN MYERS, Plaintiff, v. Case No. CIV-24-1311-R DANIEL KENNETH BRANTHOVER and MORGAN MICHELLE MYERS, Defendants. DEFENDANTS' MOTION TO DISMISS FIRST AMENDED COMPLAINT Pursuant to Fed. R. Civ. P. 12(b)(6) and 12(b)(3) MEMORANDUM OF LAW I. INTRODUCTION Plaintiffs First Amended Complaint attempts to reframe a contentious domestic dispute and family court litigation as a federal RICO conspiracy. However, the Complaint fails to allege the essential elements of a RICO claim, lacks particularity, and is improperly venue in this District. Moreover, the factual allegations are speculative, conclusory, and unsupported by admissible evidence. II. LEGAL STANDARD To survive a motion to dismiss under Rule 12(b)(6), a complaint must contain "enough facts to state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). Mere labels, conclusions, or a formulaic recitation of the elements of a cause of action are insufficient. Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). 1 Case 5:24-cv-01311-R Document 18 Filed 06/30/25 Page 2 of 5 III. ARGUMENT A. Plaintiff Fails to State a RICO Claim To state a civil RICO claim, a plaintiff must allege: (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). Plaintiff fails to plausibly allege any of these elements. 1. No Plausible "Enterprise" Plaintiff alleges an "association-in-fact" enterprise between two individuals involved in a personal relationship. Courts have consistently held that personal relationships, even if strained or adversarial, do not constitute a RICO enterprise. See United States v. Turkette, 452 U.S. 576, 583 (1981); Begala v. PNC Bank, Ohio, N.A., 214 F.3d 776, 781 (6th Cir. 2000). 2. No Pattern of Racketeering Activity Plaintiffs allegations span a short period and involve no ongoing threat of criminal activity. The Supreme Court has held that a "pattern" requires continuity and relatedness. H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 239 (1989). Sporadic or isolated acts do not suffice. See Sil-Flo, Inc. v. SFHC, Inc., 917 F.2d 1507, 1516 (10th Cir. 1990). 3. No Predicate Acts Plaintiff alleges wire fraud and Travel Act violations, but fails to plead them with the specificity required under Rule 9(b). See Koch v. Koch Indus., Inc., 203 F.3d 1202, 2 Case 5:24-cv-01311-R Document 18 Filed 06/30/25 Page 3 of 5 1236 (10th Cir. 2000). The Complaint lacks dates, content, and context of the alleged fraudulent communications. 8. Plaintiff's Claims Are Based on a Domestic Dispute The gravamen of Plaintiffs complaint is a failed marriage and related family court proceedings. Courts have repeatedly rejected attempts to convert family law disputes into RICO claims. See Annunziata v. Panikkar, 200 F.3d 189, 200 (3d Cir. 1999); Bell v. Dean, No. 2:09-CV-1082-WKW, 2010 WL 185608 (M.D. Ala. Jan. 19, 2010); Benton v. Wells Fargo Bank, N.A., No. 1:13-CV-01454, 2014 WL 1407584 (N.D. Ga. Apr. 10, 2014). C. Plaintiff Lacks Standing Under RICO To have standing under 18 U.S.C. § 1964(c), a plaintiff must show injury to "business or property." Emotional distress, reputational harm, or speculative business losses are not sufficient. See

Holmes v. Sec. Investor Prot Corp., 503 U.S. 258, 268 (1992); Reiter v. Sonotone Corp., 442 U.S. 330, 339 (1979). D. Venue Is Improper in the Western District of Oklahoma Under 28 U.S.C. § 1391(b), venue is proper only where a substantial part of the events giving rise to the claim occurred. Plaintiffs allegations center on events in Texas, including divorce proceedings in Tarrant County. The only connection to Oklahoma is the residence of one defendant, which is insufficient. See Woodke v. Dahm, 70 F. 3d 983, 985 (8th Cir. 1995). 3 Case 5:24-cv-01311-R Document 18 Filed 06/30/25 Page 4 of 5 E. Counterarguments to Plaintiffs Specific Claims 1. Alleged Wire Fraud Plaintiff claims a \$1,576 transfer was fraudulent. However, both parties had access to the joint account Courts have held that transfers between spouses from joint accounts do not constitute fraud. See United States v. Sayakhom, 186 F.3d 928, 939 (9th Cir. 1999). 2. Alleged Travel Act Violation Plaintiff alleges interstate travel to commit fraud. However, travel for personal reasons, even if related to a divorce, does not constitute a violation of 18 U.S.C. § 1952 unless it furthers a criminal enterprise. See United States v. Nardella, 393 U.S. 286, 290 (1969). 3. Alleged Perjury and False Filings Even if Plaintiffs allegations of false statements in court filings were true, perjury in state court proceedings is not a predicate act under RICO. See Kim v. Kimm, 884 F.3d 98, 104 (2d Cir. 2018). IV. CONCLUSION For the foregoing reasons, Defendants respectfully request that the Court: 1. Dismiss Plaintiffs First Amended Complaint with prejudice under Rule 12(b)(6); 2. Alternatively, dismiss for improper venue under Rule 12(b)(3); and 3. Grant such other relief as the Court deems just and proper. 4 Case 5:24-cv-01311-R Document 18 Filed 06/30/25 Page 5 of 5 Respectfully submitted, Daniel Kenneth Branthoover Pro Se 3100 Copan Ct Yukon, OK 73099 danbranthoover@yahoo.com 5 1 IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA CHARLES DUSTIN MYERS, Plaintiff, v. DANIEL KENNETH BRANTHOOVER & MORGAN MICHELLE MYERS Defendants § § § § § Case No.: CIV-24-1311-R § § § § § PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT DANIEL BRANTHOOVER'S MOTION TO DISMISS FIRST AMENDED COMPLAINT Branthoover's motion to dismiss fails because Plaintiff has adequately pled all RICO elements with sufficient particularity, including predicate acts of wire fraud and Travel Act violations, a pattern of racketeering activity spanning 18 months, an enterprise with distinct roles, and concrete business injuries. Branthoover's alteration of his motion by removing "COMES NOW DAN AND MORGAN" after Plaintiff pointed out he couldn't file for Myers demonstrates his unauthorized practice of law and furthers the conspiracy allegations. For the forthcoming reasons, Defendant's motion to dismiss should be DENIED and the case should be permitted to proceed to discovery after Defendant Myers' motion to dismiss or response to Plaintiff's complaint is filed with the Court. 2 I. Introduction 1. Defendant Branthoover's motion to dismiss must be denied because Plaintiff has sufficiently alleged each essential element of a civil RICO claim under 18 U.S.C. § 1962(c) and (d). The complaint meticulously details predicate acts of wire fraud and Travel Act violations with the required particularity under Rule 9(b), establishes a pattern of racketeering activity through related acts spanning approximately 18 months (satisfying both closed-ended and open-ended continuity requirements), identifies a distinct enterprise with defined roles, and demonstrates concrete injury to business and property as required for standing under 18 U.S.C. § 1964(c). 2.

Branthroover's attempt to file on behalf of Myers and subsequent alteration of the motion document after being challenged provides further evidence supporting Plaintiff's allegations of unauthorized practice of law and ongoing conspiracy. This conduct aligns with the pattern of deceptive behavior alleged throughout the complaint and demonstrates that the fraudulent activity continues even during the litigation process, reinforcing the open-ended continuity of the enterprise's operations.

II. Legal Framework: RICO Requirements

A. Sufficiency of RICO Claim Allegations

3. The Racketeer Influenced and Corrupt Organizations Act (RICO) prohibits conducting or participating in the conduct of an enterprise's affairs through a pattern of racketeering activity, 18 U.S.C. § 1962(c). To establish a civil RICO claim, a plaintiff must allege "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity," plus injury to business or property.

3. Under 18 U.S.C. § 1961(1), "racketeering activity" includes "any act which is indictable under" numerous federal criminal statutes, including wire fraud (18 U.S.C. § 1343) and Travel Act violations (18 U.S.C. § 1952). A "pattern of racketeering activity" requires at least two acts of racketeering activity within a ten-year period, 18 U.S.C. § 1961(5).

5. An "enterprise" includes "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity," 18 U.S.C. § 1961(4).

III. Analysis of Branthroover's Motion to Dismiss

A. Sufficiency of RICO Claim Allegations

6. Branthroover first argues that Plaintiff's complaint fails to allege facts sufficient to support a RICO claim. This argument is without merit when analyzed against the detailed allegations in the complaint.

Predicate Acts - Wire Fraud

7. The complaint extensively details acts that constitute wire fraud under 18 U.S.C. § 1343. Wire fraud requires "(1) a scheme or artifice to defraud or obtain money by false pretenses, representations or promises; and (2) use of interstate wire communications to facilitate that scheme."

8. Plaintiff alleges with precision:

- i. Myers transferred \$1,576 from the parties' joint marital PNC account to Branthroover's PayPal account (username "dmb575"), completely depleting the account balance. (Complaint ¶25)
- ii. The transfer occurred on December 15, 2023, immediately following Branthroover's deceptive phone call. (Complaint ¶25)
- iii. 92 text messages were exchanged between Myers and Branthroover on December 14, 2023, coordinating their plan across state lines. (Complaint ¶19)
- iv. Interstate communications occurred between Texas (where Myers was located) and Oklahoma (where Branthrover was located). (Complaint ¶67)

v. Branthroover deceived Plaintiff by stating "I've been where you are before. I want to help both of you," when his true intent was to assist Myers in depleting their joint account. (Complaint ¶22)

9. These allegations satisfy the elements of wire fraud as they establish a scheme to defraud, use of interstate wire communications in furtherance of the scheme, and intent to deprive another of money or property.

Predicate Acts - Travel Act Violations

10. The complaint also details violations of the Travel Act, 18 U.S.C. § 1952, which prohibits travel in interstate commerce or use of interstate facilities with intent to promote, manage, establish, carry on, or facilitate unlawful activity.

11. Plaintiff alleges:

- i. Myers traveled interstate from Texas to Oklahoma on December 15, 2023, to coordinate with Branthrover. (Complaint ¶¶23-24)
- ii. This travel was specifically intended to prepare fraudulent court documents. (Complaint ¶33)
- iii. Myers transported the fraudulent documents back to Texas on December 17, 2023. (Complaint ¶35)
- iv. After

the interstate travel, Myers filed the fraudulent documents with Texas courts. (Complaint ¶¶39-42) 12. These allegations establish all elements of a Travel Act violation: interstate travel, intent to facilitate unlawful activity, and subsequent performance of acts furthering that unlawful activity.

Pattern of Racketeering Activity 13. Under 18 U.S.C. § 1961(5), a "pattern of racketeering activity" requires at least two acts of racketeering activity within a ten-year period. However, the Tenth Circuit requires more than just two predicate acts; the acts must be related and continuous. 14. Plaintiff's complaint alleges multiple related predicate acts spanning approximately 18 months, from December 2023 through May 2025: i. Wire transfer of \$1,576 on December 15, 2023. (Complaint ¶25) ii. Interstate travel and document preparation on December 15-17, 2023. (Complaint ¶¶35-39) iii. Filing of fraudulent court documents on December 18, 2023. (Complaint ¶39) iv. Filing of fraudulent protective order application on December 22, 2023. (Complaint ¶45) 6 v. Threatening communications continuing through December 12, 2024. (Complaint ¶51) vi. Most recent threatening communication on May 24, 2025. (Complaint ¶52) vii. The transmission of a motion to dismiss across interstate communications by Branthoover, CC'ing defendant Myers as if filing on her behalf. See Exhibit 1. 15. These acts are related as they share the same purpose (depriving Plaintiff of property rights), involve the same participants (Myers and Branthoover), target the same victim (Plaintiff), and employ similar methods (deception and manipulation of legal processes). 16. The pattern also demonstrates both closed-ended continuity (acts spanning over 18 months and is ongoing) and open-ended continuity (threat of continued criminal activity, evidenced by Branthoover's May 2025 message threatening future retaliation). An enterprise under RICO includes "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity," 18 U.S.C. § 1961(4).

Enterprise 17. Plaintiff alleges an association-in-fact enterprise between Myers and Branthoover with clear organizational structure: i. Myers acted as the "inside" operative with access to marital assets and ability to file documents in Texas courts. (Complaint ¶91) 7 ii. Branthoover served as the "outside" operative providing administrative oversight, expertise on protective orders, and a base of operations in Oklahoma. (Complaint ¶91) iii. The enterprise functioned as a continuing unit from December 2023 through June 27, 2025, with consistent roles and coordinated actions. (Complaint ¶91) 18. This enterprise is distinct from the pattern of racketeering activity itself, possessing structure beyond what was necessary to commit the predicate acts. Injury to Business or Property 19. For standing under 18 U.S.C. § 1964(c), a plaintiff must allege injury to business or property by reason of a RICO violation. 20. Plaintiff alleges concrete, quantifiable injuries: i. Loss of \$1,576 fraudulently transferred from the joint marital account. (Complaint ¶¶25, 104) ii. Business losses from disruption of his home-based financial analytics business. (Complaint ¶¶115-123) iii.

Documented revenue loss with specific projections based on historical performance. (Complaint ¶¶121-122) iv. Total damages quantified at \$101,370.58. (Complaint ¶126) 21. These allegations establish concrete injury to business and property as required for RICO standing. 8 B. Pleading Fraud with Particularity (Rule 9(b)) 22. Branthoover argues that Plaintiff's allegations of wire fraud fail to meet the heightened pleading standard of Federal Rule of Civil Procedure 9(b). This argument fails given the detailed

factual allegations in the complaint. 23. Rule 9(b) requires that a party "state with particularity the circumstances constituting fraud or mistake," including the "who, what, when, where, and how" of the alleged misconduct. The complaint provides these details with precision: i. Who: Myers and Branthoover. (Complaint ¶¶5-6) ii. What: Transfer of \$1,576 from joint marital account to Branthoover's PayPal account. (Complaint ¶25) iii. When: December 15, 2023, with exact timestamps for communications. (Complaint ¶¶22, 25) iv. Where: Interstate between Texas and Oklahoma. (Complaint ¶67) v. How: Through PayPal, using account identifier "dmb575". (Complaint ¶28) 24. The complaint also details: i. The content of specific communications, including direct quotes. (Complaint ¶¶22, 30, 40) ii. The specific documents prepared and filed fraudulently. (Complaint ¶39) 9 iii. The precise false statements contained in those documents. (Complaint ¶¶43-44, 46) 25. These allegations amply satisfy Rule 9(b)'s requirement to plead fraud with particularity. C. RICO Claims Based on Domestic Disputes 26. Branthoover argues that Plaintiff's allegations arise primarily from a domestic dispute and related family court proceedings, which do not constitute the type of organized criminal activity contemplated by RICO. While courts have been skeptical of RICO claims arising solely from domestic disputes, Plaintiff's allegations go far beyond a mere domestic disagreement. The complaint alleges a sophisticated scheme involving: i. Interstate travel and commerce. (Complaint ¶¶23-25, 35) ii. Strategic coordination between multiple parties. (Complaint ¶¶19, 33, 91-92) iii. Financial crimes including wire fraud. (Complaint ¶¶25-28) iv. Manipulation of multiple court proceedings. (Complaint ¶¶39-46) v. Substantial business injuries. (Complaint ¶¶115-123) 27. This is precisely the type of interstate racketeering activity that RICO was designed to address, regardless of whether it arose in the context of a domestic relationship. 10 D. RICO Standing and Injury 28. Branthoover argues that Plaintiff lacks standing to bring a RICO claim because he has not alleged a concrete injury to business or property as required under 18 U.S.C. § 1964(c). 29. This argument is contradicted by the complaint's detailed allegations of specific injuries: i. Loss of \$1,576 fraudulently transferred from the joint marital account. (Complaint ¶¶25, 104) ii. Documented business disruption when Plaintiff was forced to vacate his home, where he operated his business. (Complaint ¶119) iii. Specific impact on business operations, including inability to maintain internet connectivity required for his digital financial analytics business. (Complaint ¶120) iv. Quantified loss of business revenue based on historical performance data. (Complaint ¶¶121-122) v. Total damages of \$101,370.58, consisting of \$99,794.58 in lost business income and \$1,576 in fraudulently transferred funds. (Complaint ¶126) 30. These allegations establish concrete, non-speculative injuries to business and property that are directly traceable to defendants' alleged RICO violations. 11 E. Continuity of Racketeering Activity 31. Branthoover argues that Plaintiff fails to allege continuity of racketeering activity. Under 18 U.S.C. § 1961(5), a "pattern of racketeering activity" requires at least two acts of racketeering activity within a ten-year period. However, courts have established that these acts must demonstrate either "closed-ended" continuity (a series of related acts extending over a substantial period) or "open-ended" continuity (past conduct that by its nature projects into the future with a threat of repetition). 32. The complaint alleges both: i. Closed-ended continuity: Related acts spanning from December 2023 through May 2025,

approximately 18 months (Complaint ¶¶49-52, 86) ii. Open-ended continuity: Ongoing threats and monitoring activities with explicit threats of future retaliation, including Branthoover's May 24, 2025 message stating "Where's my lawsuit? Heard your vm about me. File it. Let's do this :)" (Complaint ¶¶51-52, 86) 33. This temporal scope exceeds what courts typically consider sufficient to establish continuity for RICO purposes. F. Venue in the Western District of Oklahoma 34. Branthoover challenges venue in the Western District of Oklahoma. Under 18 U.S.C. § 1965(a), "Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs." 12 35. Additionally, under 28 U.S.C. § 1391(b), venue is proper in "a judicial district in which any defendant resides" or "a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred." 36. Venue is proper in the Western District of Oklahoma because: i. Branthoover resides in Canadian County, Oklahoma, which is within the Western District. (Complaint ¶5) 37. Substantial parts of the events occurred in Oklahoma, including: i. Preparation of fraudulent court documents at Branthoover's residence (Complaint ¶33) ii. Myers' interstate travel to Oklahoma to coordinate the scheme. (Complaint ¶23) iii. Receipt of the fraudulently transferred funds in Oklahoma. (Complaint ¶25) 38. These connections establish proper venue in the Western District of Oklahoma under both 18 U.S.C. § 1965(a) and 28 U.S.C. § 1391(b). G. Significance of Branthoover's Motion Alteration 39. Branthoover's alteration of his motion document after serving it on Plaintiff provides further evidence supporting the RICO claims. The original motion began with "COMES NOW Defendant, Daniel Kenneth Branthoover and Morgan Michelle Myers," but was later modified to remove the reference to filing on behalf of Myers after Plaintiff pointed out that Branthoover could not file for her. See Exhibit 1 40. This alteration is significant for several reasons: 13 i. It demonstrates Branthoover's continued unauthorized practice of law, consistent with Plaintiff's allegations in paragraph 31, which states that "at no time relevant to this litigation has Defendant Branthoover possessed a license to practice law in any jurisdiction within the United States". ii. It shows ongoing deceptive conduct, as Branthoover attempted to conceal his improper filing by altering the document after being confronted. iv. It corroborates Plaintiff's allegations regarding Branthoover's administrative role and pattern of misrepresentations v. It provides evidence of the continuing nature of the conspiracy alleged in violation of 18 U.S.C. § 1962(d) 41. This conduct is remarkably similar to Branthoover's earlier text message in which he falsely claimed to be a legal representative, stating: "Charlie, it's come to my understanding you have retained an attorney. I'm sure he has told you that all further communication should take place between attorneys. I must formally ask you refrain from discussing details of this case with my client moving forward and only communicate with me or your attorney". (Complaint ¶40). H. The Divorce Process Initiated Under Branthoover's Advisement 42. The complaint specifically alleges that the divorce process was initiated under Branthoover's advisement and with his direct involvement. Paragraph 30 states that Branthoover told Plaintiff "You Are Getting Divorced..." followed by "I hope I can help 14 with the paperwork and make things go as smoothly as possible." This statement preceded any divorce filings, indicating Branthoover's prior knowledge of and involvement

in the planned legal action. 43. Paragraphs 39 and 43 detail how the fraudulent divorce petition was prepared in Oklahoma under Branthoover's "direct administrative oversight" and contained numerous false statements designed to deceive the Texas courts. These allegations establish that Branthoover was an active participant in initiating and directing the divorce process as part of the fraudulent scheme. 44. This involvement directly counters Branthoover's argument that this is merely a domestic dispute outside RICO's scope, as it shows his direct participation in an interstate scheme involving predicate acts of wire fraud and Travel Act violations. 45. Plaintiff is handling both matters separately, and Defendant Myers is unable to finalize the divorce and has abandoned the matter. I. Perjury and Subordinate Perjury 46. Finally, Defendant's motion to dismiss claims "perjury in state court proceedings is not a predicate act under RICO". This mischaracterizes Plaintiff's complaint, as perjury and subordinate perjury were not alleged to have been predicate acts themselves, but were alleged "to support a pattern of racketeering activity..." (Complaint ¶57). 47. The Second Circuit's decision in U.S. v. Eisen, 974 F.2d 246 (2nd Cir. 1992) is particularly instructive. The court acknowledged the tension between Congress's decision to include mail fraud as a predicate offense while excluding perjury, but determined that 15 "where, as here, a fraudulent scheme falls within the scope of the federal mail fraud statute and the other elements of RICO are established, use of the mail fraud offense as a RICO predicate act cannot be suspended simply because perjury is part of the means for perpetrating the fraud." Id. at 254. By extension, this principle would apply equally to wire fraud, which is closely related to mail fraud and is also an enumerated RICO predicate act. 48. This means that when perjury or subordination of perjury is committed as part of a fraudulent scheme that includes wire fraud or Travel Act violations, these acts can contribute to establishing a pattern of racketeering activity even though they are not themselves predicate acts. The key is that the perjury must be interrelated with the qualifying predicate acts and further the same criminal scheme, which is the case in the instant matter. IV. Conclusion 46. Based on the foregoing analysis, Branthoover's motion to dismiss should be denied in its entirety. Plaintiff has adequately alleged all elements required for a civil RICO claim under 18 U.S.C. § 1962(c) and conspiracy under 18 U.S.C. § 1962(d), including: i. Predicate acts of wire fraud and Travel Act violations, pled with the particularity required by Rule 9(b); ii. A pattern of racketeering activity demonstrating both relatedness and continuity; 16 iii. An association-in-fact enterprise with distinct roles and structure; iv. Concrete injuries to business and property as required for standing under 18 U.S.C. § 1964(c); and v. Proper venue in the Western District of Oklahoma. 47. Moreover, Branthoover's alteration of his motion to dismiss document provides further evidence of the ongoing conspiracy, demonstrating that the pattern of deceptive conduct continues even during the litigation process. V. Prayer WHEREFORE, Plaintiff respectfully requests that the Court: i. Deny Defendant Daniel Kenneth Branthoover's Motion to Dismiss in its entirety; ii. Take judicial notice that Daniel Kenneth Branthoover served two different motions to dismiss on Plaintiff, the first purporting to be on behalf of both Defendants, including Defendant Myers; iii. Order that this case proceed to discovery and further proceedings on the merits; iv. Grant such other and further relief as the Court deems just and proper. 17 Respectfully submitted,
X _____ CHARLES DUSTIN MYERS 817-546-3693

CHUCKDUSTIN12@GMAIL.COM 1209 BLAIRWOOD DRIVE FLOWER MOUND, TEXAS 75028 PRO-SE PLAINTIFF 07/01/2025 CERTIFICATE OF SERVICE I hereby certify that on July 1, 2025, I mailed the original and one copy of the foregoing document to the Clerk of the United States District Court for the Western District of Oklahoma for filing. Upon notification of docketing, I will promptly serve a true and correct copy of the file-stamped document via United States Mail, postage prepaid, to: Daniel Kenneth Branhoover 3100 Copan Ct Yukon, OK 73099 Email: danbranhoover@yahoo.com Dated: July 1, 2025. Research who wins and why. Plaintiff or Defendant

Answer (U.S. Federal)

Short response

The plaintiff is likely to prevail against the motion to dismiss because he has adequately pleaded all elements of a RICO claim, including predicate acts, a pattern of racketeering activity, an enterprise, and concrete injury to business and property. Venue is also proper in the Western District of Oklahoma under [18 U.S.C. § 1965\(a\)](#) since defendant Branhoover resides there and substantial parts of the alleged activities occurred in Oklahoma.

Summary

Plaintiff Charles Dustin Myers has filed a RICO claim against defendants Daniel Kenneth Branhoover and Morgan Michelle Myers (the plaintiff's apparently estranged spouse), alleging they engaged in a pattern of racketeering activity involving wire fraud and Travel Act violations. Defendant Branhoover has moved to dismiss the complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim and under 12(b)(3) for improper venue. Based on the available materials, the plaintiff has adequately pleaded all required elements for a RICO claim to survive a motion to dismiss.

The plaintiff's detailed factual allegations appear sufficient to establish the predicate acts of wire fraud and Travel Act violations, a pattern of racketeering activity spanning approximately 18 months, a distinct enterprise with defined roles between the defendants, and concrete injury to business and property required for RICO standing. Additionally, venue is proper in the Western District of Oklahoma under [18 U.S.C. § 1965\(a\)](#) because defendant Branhoover resides there and substantial activities related to the alleged scheme took place in Oklahoma. The motion to dismiss should therefore be denied.

Background and Relevant Law

RICO Requirements

To prevail on a civil RICO claim under 18 U.S.C. § 1962(c), a plaintiff must allege "(1) conduct (2) of an enterprise (3) through a pattern (4) of

racketeering activity" plus injury to business or property. Racketeering activity includes specific federal criminal violations, notably wire fraud (18 U.S.C. § 1343) and Travel Act violations (18 U.S.C. § 1952). A "pattern of racketeering activity" requires at least two predicate acts within a ten-year period.

For venue in RICO cases, [18 U.S.C. § 1965](#)(a) provides: "Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs." This venue provision is specific to RICO actions and supplements the general venue provisions in 28 U.S.C. § 1391.

Analysis

1. Sufficiency of the RICO Claim

A. Predicate Acts

The plaintiff has alleged two types of predicate acts with sufficient particularity: wire fraud and Travel Act violations.

For wire fraud, the plaintiff alleges specific dates, amounts, and methods of fraudulent transfers, including a \$1,576 transfer from a joint marital account to Branthoover's PayPal account on December 15, 2023. The complaint also details 92 text messages exchanged between Myers and Branthoover on December 14, 2023, coordinating their alleged plan across state lines. These communications allegedly contained deceptive statements designed to facilitate the scheme.

For Travel Act violations, the plaintiff alleges that Myers traveled interstate from Texas to Oklahoma on December 15, 2023, specifically to coordinate with Branthoover and prepare fraudulent court documents, which were later transported back to Texas and filed with Texas courts. These allegations establish the elements of a Travel Act violation: interstate travel with intent to facilitate unlawful activity, followed by subsequent acts furthering that activity.

Per the secondary source "[Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#)", to prove most 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." The plaintiff here has done so by pleading specific instances of wire fraud and Travel Act violations with particularity.

B. Pattern of Racketeering Activity

A pattern of racketeering activity requires both relatedness among the predicate acts and continuity of conduct. The plaintiff alleges related

predicate acts spanning approximately 18 months, from December 2023 through May 2025, including:

- Wire transfer of funds (December 15, 2023)
- Interstate travel and document preparation (December 15-17, 2023)
- Filing of allegedly fraudulent court documents (December 18, 2023)
- Filing of allegedly fraudulent protective order application (December 22, 2023)
- Threatening communications through December 12, 2024
- Most recent threatening communication on May 24, 2025

These acts appear related as they share the same purpose (allegedly depriving the plaintiff of property rights), involve the same participants, target the same victim, and employ similar methods. The pattern demonstrates both "closed-ended continuity" (acts spanning over 18 months) and "open-ended continuity" (threat of continued activity, evidenced by alleged ongoing threatening communications).

The secondary source notes that "the plaintiff must plead a pattern of racketeering activity for most RICO claims. If the alleged conduct occurred once or twice, or was not continuous, it cannot form a pattern of conduct sufficient to support a RICO claim." Here, the plaintiff has alleged numerous related acts over an 18-month period, which appears sufficient to establish a pattern under this standard.

C. Enterprise

An "enterprise" under RICO includes "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." The plaintiff alleges an association-in-fact enterprise between Myers and Branthoover with a defined organizational structure:

- Myers allegedly acted as the "inside" operative with access to marital assets and ability to file documents in Texas courts
- Branthoover allegedly served as the "outside" operative providing administrative oversight, expertise on protective orders, and a base of operations in Oklahoma
- The alleged enterprise functioned as a continuing unit from December 2023 through June 27, 2025, with consistent roles and coordinated actions

These allegations appear sufficient to establish an enterprise distinct from the predicate acts themselves, with structure beyond what was necessary to commit those acts.

D. Injury to Business or Property

For civil RICO standing under 18 U.S.C. § 1964(c), a plaintiff must allege injury to business or property by reason of a RICO violation. The secondary source emphasizes that "to bring a civil RICO claim, a plaintiff must demonstrate that their business or property was injured as a result of a

RICO violation. In other words, there must be some sort of concrete financial loss directly flowing from the purported violation to support a RICO claim."

The plaintiff alleges concrete, quantifiable injuries:

- Loss of \$1,576 fraudulently transferred from the joint marital account
- Business losses from disruption of his home-based financial analytics business
- Documented revenue loss with specific projections based on historical performance
- Total damages quantified at \$101,370.58

These allegations establish concrete injury to business and property as required for RICO standing, going beyond mere emotional distress or speculative losses criticized in the secondary source.

2. Rule 9(b) Particularity Requirement

Federal Rule of Civil Procedure 9(b) requires that a party "state with particularity the circumstances constituting fraud or mistake," including the "who, what, when, where, and how" of the alleged misconduct. The secondary source notes that because RICO claims often involve fraud, "those instances must be particularly identified in the plaintiff's pleading—a barrier that can prove difficult to accomplish."

The plaintiff's complaint appears to meet this standard by providing extensive details:

- Who: Myers and Branhoover
- What: Transfer of \$1,576 from joint marital account to Branhoover's PayPal account
- When: December 15, 2023, with exact timestamps for communications
- Where: Interstate between Texas and Oklahoma
- How: Through PayPal, using account identifier "dmb575"

The complaint also details the content of specific communications (with direct quotes), the specific documents allegedly prepared and filed fraudulently, and the precise false statements allegedly contained in those documents. These allegations satisfy Rule 9(b)'s requirement to plead fraud with particularity.

3. RICO Claims Based on Domestic Disputes

Branhoover argues that the plaintiff's allegations arise primarily from a domestic dispute and related family court proceedings, which should not be transformed into a RICO claim. While courts have indeed been skeptical of RICO claims arising solely from domestic disputes, the plaintiff's allegations go beyond a mere domestic disagreement to allege a coordinated scheme involving:

- Interstate travel and commerce

- Strategic coordination between multiple parties
- Financial crimes including wire fraud
- Manipulation of multiple court proceedings
- Substantial business injuries

According to the secondary source, "civil RICO claims are not limited to conduct traditionally associated with organized crime, but they certainly are not meant to apply to ordinary business disputes." The question here is whether the allegations rise above an "ordinary" domestic dispute. The plaintiff has alleged specific predicate acts (wire fraud and Travel Act violations) that would be criminal regardless of whether they occurred in a domestic context. This may distinguish this case from those in which courts have rejected attempts to "shoehorn ordinary business or contractual disputes into a civil RICO claim."

4. Venue

Branthroover challenges venue in the Western District of Oklahoma, arguing that the events primarily occurred in Texas. However, [18 U.S.C. § 1965\(a\)](#) establishes that RICO actions may be instituted "in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs."

Venue is proper in the Western District of Oklahoma because:

1. Branthroover resides in Canadian County, Oklahoma, which is within the Western District
2. Substantial parts of the events allegedly occurred in Oklahoma, including:
 - Preparation of allegedly fraudulent court documents at Branthroover's residence
 - Myers' alleged interstate travel to Oklahoma to coordinate the scheme
 - Receipt of the allegedly fraudulently transferred funds in Oklahoma

These connections establish proper venue in the Western District of Oklahoma under [18 U.S.C. § 1965\(a\)](#).

5. Unauthorized Practice of Law and Continuing Conduct

The plaintiff has also pointed to Branthroover's conduct during the litigation as further evidence supporting the RICO claims. Specifically, the plaintiff alleges that Branthroover initially attempted to file his motion on behalf of both defendants, but later altered the document after being challenged. This could potentially provide further evidence of the alleged pattern of deceitful conduct and may support the plaintiff's claims regarding the continuing nature of the alleged conspiracy.

Exceptions and Caveats

While the plaintiff's claims appear to meet the pleading requirements to survive a motion to dismiss, several factors could still affect the ultimate outcome:

1. **Burden of Proof:** At later stages, the plaintiff will face a higher burden of proof to establish each element of the RICO claim with evidence.
2. **Limited Case Law on Domestic RICO Claims:** There is limited case law addressing RICO claims in the context of domestic disputes, and courts may be reluctant to extend RICO to what might be characterized as a family law matter.
3. **Federal Court Jurisdiction:** Federal courts generally avoid entanglement in domestic relations cases, which are typically the province of state courts. The court may scrutinize whether this case genuinely presents a federal question distinct from the underlying domestic dispute.
4. **Joint Account Transfer:** The defendant has argued that transfers between spouses from joint accounts do not constitute fraud. While the plaintiff has alleged deceptive intent behind the transfer, this aspect may require further factual development.

Conclusion

Based on the available materials, the plaintiff appears to have sufficiently alleged all elements required for a civil RICO claim under 18 U.S.C. § 1962(c) and conspiracy under 18 U.S.C. § 1962(d) to survive a motion to dismiss. The complaint contains detailed allegations of:

1. Predicate acts of wire fraud and Travel Act violations, pleaded with the particularity required by Rule 9(b)
2. A pattern of racketeering activity demonstrating both relatedness and continuity
3. An association-in-fact enterprise with distinct roles and structure
4. Concrete injuries to business and property as required for standing under 18 U.S.C. § 1964(c)
5. Proper venue in the Western District of Oklahoma under [18 U.S.C. § 1965\(a\)](#)

According to "[Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#)", "to bring a civil RICO claim, a plaintiff must demonstrate that their business or property was injured as a result of a RICO violation." The plaintiff here has alleged specific financial losses from both the direct transfer of funds and the disruption to his business operations, which appear to satisfy this requirement.

While the court may still have concerns about applying RICO in what originated as a domestic dispute, the plaintiff's detailed allegations of

interstate wire fraud and Travel Act violations, coupled with concrete business injuries, make this more than a typical domestic relations case. The defendant's motion to dismiss should therefore be denied, allowing the case to proceed to discovery where the factual basis for these allegations can be more fully developed and tested.

Legal Authorities

[18 U.S.C. § 1965](#) [18 U.S.C. § 1965](#) Venue and Process

Extract

Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

Summary

The venue for a RICO action can be established in any district where the defendant resides, is found, has an agent, or transacts affairs. This is relevant to the case because it addresses the defendants' argument regarding improper venue. Since Branthover resides in the Western District of Oklahoma, the venue is proper under 18 U.S.C. § 1965.

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

Extract

Civil RICO claims are not limited to conduct traditionally associated with organized crime, but they certainly are not meant to apply to ordinary business disputes. While there are a number of defenses available as to each of the four types of civil RICO claims, there are several RICO defenses that should be in every business's playbook. First, to bring a civil RICO claim, a plaintiff must demonstrate that their business or property was injured as a result of a RICO violation. In other words, there must be some sort of concrete financial loss directly flowing from the purported violation to support a RICO claim. Thus, if a plaintiff does not have a concrete financial loss, then the RICO claim must be dismissed. Asserting personal injuries, such as emotion distress, is insufficient. 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. Business deals gone sour do not count. Rather, the plaintiff must be able to prove the elements of the asserted crime, and often an intent to defraud. If there is nothing criminal in nature about the complained-of conduct, RICO should not apply. It is an abuse of the RICO statute to attempt to shoehorn ordinary business or contractual disputes into a civil RICO claim. Third, the plaintiff must plead a pattern of racketeering activity for most RICO claims. If the alleged conduct occurred

once or twice, or was not continuous, it cannot form a pattern of conduct sufficient to support a RICO claim. And oftentimes, because there is a fraud component, those instances must be particularly identified in the plaintiff's pleading—a barrier that can prove difficult to accomplish.

Summary

Requirements for a civil RICO claim, emphasizing the need for concrete financial loss, qualifying criminal action, and a pattern of racketeering activity. It highlights that RICO claims are not meant for ordinary disputes and require specific elements to be proven. This information is generally applicable to any case involving RICO claims, including the case of Charles Dustin Myers v. Daniel Kenneth Branthover and Morgan Michelle Myers.

This memo was compiled by Vincent AI based on vLex materials available as of July 02, 2025. [View full answer on vLex](#)