

# Question

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bc41-bbc08c814365 All references to the record are marked herein with "REC. [page]" and are hyperlinked to take the reader directly to the reference. The record is filed under affidavit, and remains unopposed at the time of filing this complaint. Therefore, Plaintiff respectfully asks that the Court take judicial notice of the record under Federal Rule of Evidence 201, filed on June 6, 2025, in the Texas Supreme Court under case numbers 25-0361, 25-0367, 25-0378, 25-0426, and 25-0458.

## II. TIMELINE OF EVENTS BACKGROUND

Morgan Michelle Myers, ("Myers") and Charles Dustin Myers, ("Plaintiff") were married on June 20, 2015, and have two daughters, C.R.M. and M.E.M, aged seven and nine. The evidence in this case will show that in early December of 2023, the entire family was blindsided by Myers' sudden announcement that she wanted a divorce from Plaintiff. REC. 717 The evidence will further show that Myers' reasoning for this divorce changes over time – beginning with how Plaintiff spoke to her, and then switches to abuse and sexual harassment, and allegations of drug abuse, claims that were only brought up in her initial pleadings. On December 12, 2023, Plaintiff discovered a large volume of text messages between Myers and two individuals identified as Debbie Price and Damen Kazlauskas of Fort Worth, Texas spanning between October 2022 and December 2023. REC. 254-714 In response to this discovery, Myers began to communicate with Defendant Daniel Kenneth Branthoover, a resident of Yukon, Oklahoma, who assisted her in the planning, drafting, traveling, and submitting of fraudulent documents to the 322nd District Court of Tarrant County designed to divest Plaintiff of his home and business operations. When these allegations were raised to the State, they failed to adjudicate them and violated the Plaintiff's constitutional rights when he was deprived of the guarantees of equal protection under the law and when he was not afforded due process before being deprived of his property. REC. 183. The central question is whether Defendants Munford, Kaitcer, Carter, and Baker are victims of the initial scheme – or willing participants in an expanded associate-in-fact enterprise that began in December of 2023 as the Myers-Branthoover enterprise.

### A. The Myers-Branthoover Enterprise 1.

On December 14, 2023, Defendants Morgan Michelle Myers ("Myers") and Daniel Kenneth Branthoover ("Branthoover"), acting in concert and under deceptive pretenses, (REC. 1704), initiated text-message communications through which they formed and advanced a common plan and agreement. Over the weekend of December 15, 2023, they met in Yukon, Oklahoma, to further that plan ( REC. 274-278). The deceptive text message from Defendant Branthoover claiming that he wanted to assist Plaintiff was following an attempt by Myers to receive an ex-parte order of protection from the 322nd District Court of Tarrant county, attempted on December 14, 2023 (REC. 78).

### B. Interstate Travel and Transfer 2.

As part of their agreement, both Defendants planned to draft and submit an original petition for divorce and an affidavit of indigency to the 322nd District Court of Tarrant County, with the intended and foreseeable result of removing Plaintiff from his matrimonial residence at 6641 Anne Court, Watauga, Texas 76148—which also serves as his place of business for clients in the United States, Canada, and the United Kingdom that rely on his market data services (REC. 812 ¶ 16).

### 3.

During Defendant Myers's interstate travel, she transferred the parties' marital funds into Defendant Branthoover's PayPal account in the amount of \$1,576 (REC. 723). Those proceeds funded a second mobile phone (817-940-0852), listed on the fraudulent pleadings that

Myers and Branthoover jointly prepared in Oklahoma, which Myers then carried from Yukon to Texas on December 17, 2023 (REC. 86; 99; 102; 107).

C. Admissions 4. On December 16, 2023, Plaintiff reached out to Branthoover and requested that the \$1,576 be returned as they were needed for Christmas gifts for the children, and for business advertising expenses for his business. REC. 728-729. In response, defendant Branthoover admitted that the purpose of defendant Myers' visit was to help her prepare paperwork for divorce litigation and confirmed that the transfer of \$1,576 did in fact occur. REC. 730. Plaintiff's bank statement from December 2023 further confirms this transaction. REC. 723. D. Post-submission Collaboration 5. On December 18, 2023, defendant Myers submitted the fraudulently prepared original petition for divorce, and an affidavit of indigency to the 322nd District Court of Tarrant County. After these documents were submitted, defendant Branthoover sent a text message to Plaintiff on December 19, 2023, at 5:50 P.M. CST, holding himself out to be defendant Myers' attorney, showing his involvement extends past the initial help in preparing the fraudulent documents. REC. 1712-1713 6. Four days later, on December 22, 2023, defendant Myers submitted another knowingly fraudulent application for protective to the 322nd District Court of Tarrant County claiming that family violence had occurred on December 18, 2023, supported by both an affidavit and unsworn declaration. REC. 108-109. E. Significant and Intentional Misrepresentations 7. On December 27 and December 28, 2023, respectively, the documents prepared by Myers with the assistance of Branthoover were served on Plaintiff via the U.S. Constable, and contained the following misrepresentations: i. That defendant Myers could not afford court costs; REC. 72, REC. 85-96 ii. That defendant Myers had an active order of protection against the Plaintiff with a finding of family violence that had occurred during the marriage; REC. 78 at 10 iii. That defendant Myers was financially responsible for the family vehicles, rent payments, utilities, and other household expenses, making herself appear as the primary breadwinner; REC. 92 iv. That defendant Myers would be harassed or abused if Plaintiff were given her newly acquired phone number that was obtained while in Oklahoma; REC. 81 at 15. v. That defendant Myers and Plaintiff ceased living together on December 1, 2023; REC. 74 at 4 vi. That family violence occurred on December 18, 2023, in the presence of the two Children. REC. 108-109. vii. That both family vehicles were defendant Myers' separate property acquired before marriage. REC. 79 at 11B F. Evidence to the Contrary 8. On the same day Defendant Myers claimed to be in an emergency requiring the Plaintiff's prompt removal from the home, she can be seen at the home with Plaintiff and the children in no state of emergency and also still cohabitating in the marital home. REC 1715. 9. Again, on December 29, 2023, Defendant Myers can be seen with Plaintiff at the family home, smiling and laughing with the children in no state of emergency and still collaborating with Plaintiff in the marital home. REC. 1735. 10. The citation for the application for protective order ordered Respondent to show cause as to why it should not issue with a hearing scheduled for January 16, 2024. REC. 118. 11. In response to extensive misrepresentation above, Plaintiff prepared an original answer, filed a motion to consolidate, and provided background information which alleged that defendant Myers was intentionally abusing the legal process. REC. 130-132. Plaintiff was ordered to show cause on January 16, 2024, regarding the protective order application. REC. 118 G. Inclement Weather

and First Appearance 12. On January 15, 2024, the Tarrant County District Courts Facebook page sent out a notice informing the members of the public that the court would be closed on January 16, 2024, due to inclement weather. REC. 1202. 13. Unaware of the closure at the time, the parties appeared at the 322nd District Court of Tarrant County on January 16, 2024, and were met with a dark courtroom, with only one judge in the building at the time of their arrival – Defendant James Munford (“Munford”). 14. Defendant Munford summarily ordered the Plaintiff out of his home, inadvertently assisting the Myers-Branthoover associate-in-fact enterprise of achieving their primary goal in having the Plaintiff removed from his residence, despite the broader goal being to obtain a decree of divorce to permanently divest Plaintiff of his interests. REC. 183. 15. Defendant Munford’s initial order was baseless, made in the absence of any emergency, without a hearing, and disregarded the Plaintiff’s pleadings, telling Myers “you’re going to have to find evidence of family violence!” clearly aware that this order was made without any regard to the Plaintiff’s constitutional rights. 16. Defendant Jeffrey Kaitcer, (“Kaitcer”) walked into the courtroom late due to the inclement weather and turned the courtroom into a laughing matter as he began to joke with Defendant Munford, and instructed the parties to download the AppClose app for communication, and the matter was reset for January 22, 2024. There exists no record of this proceeding, only marked appearances on the docket. H. Reset #1 – January 22, 2024, Setting 17. At the January 22 reset hearing, the parties appeared only to have the case reset once more because defendant Myers allegedly retained the services of Defendant Cooper Carter, (“Carter”) in the lobby of the courthouse just moments before the hearing was scheduled to begin. No appearance can be traced to this setting by either party on the docket (REC. 1551), and once again, no hearing was held, and the case reset for a second time to February 1, 2024. REC. 186. 18. Kaitcer permitted attorney Dan Bacalis, Plaintiff’s prior attorney, to fill out the Associate Judge’s Report, and the parties never went before him as indicated by the case docket’s lack of appearance on this date by either party. I. Reset #2 – February 1, 2024, Setting 19. One day prior to the February 1 setting, both attorneys, Defendant Carter and Dan Bacalis, both amended the petition for divorce and counterpetition for divorce without the parties’ knowledge. (REC. 189, REC. 209) These amended documents were similar, submitted on the same day, and raised concerns for Plaintiff regarding his quality of representation. 20. At the February 1 setting, both parties were in the conference rooms outside of Defendant Kaitcer’s courtroom, when attorney Bacalis walks in holding a settlement agreement. When Plaintiff refused this option and requested that they go have a hearing before the judge. 21. This is when Bacalis stated, as witness affidavits corroborate, that he “knows this Judge and this is the best we can get.” and further stated “[w]e’ll be here all day. We can come back and change it later.” 22. Outraged by this response, Plaintiff paid very close attention to the settlement offer Bacalis was pressuring him to sign, and noticed the following provisions: A typed written Order conforming to this Report will follow within 20 days from the date this Report is signed. The Temporary Order shall be prepared by DAN BACALIS. Each attorney should approve the Order. The parties do not need to approve the Order. The attorney reviewing the proposed Order shall have five (5) days to do so. There arc no ten (JO) day letters. If an agreement is not reached, a Motion to Sign shall be filed and set within thirty (30) days from

the signing of this Report. IT IS SO ORDERED (REC. 233) J. Termination of Counsel and the Emergency Motion 23. With the above provisions in mind, Plaintiff signed the document and immediately fired his attorney and provided notice to the court. REC. 221. By doing so, Plaintiff gained access back to the residency, invalidated the agreement, and was able to use the time back in the house to run damage control on his business operations while preparing to expose the Myers-Branthoover enterprise to the court via a MOTION TO RECONSIDER EVIDENCE AND VACATE TEMPORARY ORDERS, which was filed on February 9, 2024, within three business days of the February 1 agreed associate judge's report being served by the clerk. REC. 240 24. In this motion, it was specifically stated that: i. "I am seeking immediate court intervention to correct procedural errors and address the misuse of the legal system by the Petitioner." REC. 244 ii. "Particularly, Dan Branthoover became involved. He is the boyfriend of the Petitioner's Mother. Shortly thereafter, I received a notice from our joint bank account stating that \$1,576 had just been withdrawn. As our bank statement for December 2023 will demonstrate - the transaction record shows the funds being transferred directly to Mr. Branthoover's PayPal account" REC. 245 iii. "The Petitioner's action of filing for divorce under an Affidavit of Inability to pay three days after transferring \$1,576 to herself starkly contravenes the mandates set forth in Chapter 10, Section 10.001 of the Civil Practice and Remedies Code". REC 247 at B2 iv. "The Petitioner violated Chapter 10, Section 10.001 a second time within the same document when she intentionally elected to waive the 60-day waiting period claiming to have an active protective order against me that found family violence had occurred during our marriage." REC 247 at B3. v. "This suit was the second attempt by the Petitioner to have me removed from the home, which ultimately succeeded." REC 248 at D1 25. The motion went on to explain the factual pattern described up to this point, putting the court on notice of the key issues with provided exhibits which were duly served on Carter. In response to Plaintiff's motion, he received the first of just two email communications from Carter throughout the case's history, where she claimed she would be filing a counter motion when disclosing her availability for the hearing on Plaintiff's emergency motion. REC. 2794 No such countermotion was filed by Carter. K. Summary Judgment and Notice of Hearing 26. By February 22, no response had been filed by Carter, so Plaintiff filed a Partial Motion for Summary Judgment. REC. 758. Plaintiff also submitted a proposed parenting plan as Exhibit D. REC. 769. No response was ever received from Carter. 27. On February 27, 2024, Defendant Munford signed and issued a notice of hearing to the parties with the hearing set for March 14, 2024. REC. 776. L. Plaintiff's Notice to the Court and Defendant Myers' Self-Help Remedies 28. On March 3, 2024, Plaintiff notified the Court that he would not be leaving the home as it was not in the best interests of his children. REC. 782. 29. The following day, on March 6, 2024, while walking his daughters to school, Myers ran inside the family home, and locked him out of the marital residence, leaving a sign on the door that said "[y]ou should have been out by Saturday you are now locked out!" REC. 1748. 30. Plaintiff called local law enforcement to help him regain entry into the home, where mother produced the agreed associate judge's report signed on February 1, 2024, and used it as a means to block Plaintiff's entrance to the home. 31. To avoid further conflict, Plaintiff was escorted into the home where he was able to grab only his computer and a few clothes and went to Flower Mound to

temporarily stay with his father until the time of the hearing on his emergency motion, scheduled for March 14, 2024, at 9:00 A.M. L. The Hearing On Plaintiff's Emergency Motion 32. On March 14, 2024, the parties arrived at the 322nd District Court, and on the way into the courtroom, defendants Myers and Carter could be seen in the conference room, quickly shuffling papers back and forth. 33. After checking in with the bailiff, Plaintiff turned around to see defendant Carter extending to him a document titled "Temporary Orders" that were the reduced version of the February 1 associate judge's report. REC. 888. 34. These orders, which were not prepared by Dan Bacalis, which were not agreed to by the parties, were reduced well outside of the 20-day requirement as ordered by the judge, and which were never filed with the clerk, stated the following misrepresentations: i. On February 1, 2024, the Court heard Petitioner's motion for temporary orders. ii. The parties have agreed to the terms of this order as evidenced by the signatures below. REC. 888. iii. The Court, after examining the record and the agreement of the parties and hearing the evidence and argument of counsel, finds that all necessary prerequisites of the law have been legally satisfied and that the Court has jurisdiction of this case and of all the parties. REC. 888. iv. The dates that the parties would have access to the family residence was altered, changing the date Plaintiff was supposed to leave from March 1, 2024, to March 20, 2024, and changing Myers' date of re-entry from March 1, 2024, to March 30, 2024, leaving a 10-day window where no one would occupy the residence. v. This modification was made to prevent Myers from being liable for illegally locking Plaintiff out of the home on March 6, 2024. 35. On the last page of the orders, Plaintiff's attorney who was terminated weeks earlier did not sign the document, and Plaintiff refused to sign the document for the forthcoming reasons: i. It claimed a hearing occurred on a motion which was never set for a hearing or served on the Plaintiff and doesn't exist on the docket. ii. It was prepared by defendant Carter, not Dan Bacalis. iii. The associate judge was presiding over a de novo request of his own prior report. iv. The matrimonial address was incorrect, as it stated "6641 Anns Court", rather than 6641 Anne Court. REC. 915, REC. 922 v. The orders were not in the best interests of the children. vi. Notwithstanding the Plaintiff's revocation of consent by filing the emergency motion, the terms were altered right before they were rendered into effect by defendant Kaitcer. vii. Plaintiff did not agree to the terms as he was in court that very day to expose Myers. M. Predicate Acts: Extortion 36. Kaitcer, knowing that no response was filed, knowing that he was presiding over a hearing to which he had no subject matter jurisdiction, and knowing that the temporary orders produced by defendant Carter was served just moments earlier, signed another associate judge's report pre-drafted by defendant Carter, which summarily denied the Plaintiff's emergency motion, ignored the fact that Carter had not provided a response, and within the report itself, Plaintiff was ordered to sign the document that Carter had just presented to him despite raising objections to its' contents, and despite his consent not being present. REC. 795. 37. Finally, defendant Kaitcer refused to consider Plaintiff's exhibits, including six affidavits prepared by his business clients who have been directly affected by his inability to provide the real-time market data services his clients relied on, who were located throughout the United States. REC. 851; REC. 854; REC. 857; REC. 860; REC. 863; REC. 867; REC. 870. 38. Following the setting, the orders were rendered into

effect without Plaintiff's signature (REC. 925) , and Plaintiff filed a request for findings of fact and conclusions of law (REC. 883), and filed and amended a "Preparatory Notice for Judicial Review" which recounted the factual timeline up to that point, and included the affidavits that Kaitcer refused to accept on March 14, 2024. REC. 798, REC. 851, REC. 854, REC. 857, REC. 860, REC. 863, REC. 867, REC. 870. 39. The orders stated they were to remain in effect until the final decree of divorce, and Plaintiff's journey of one-sided appeals began. N. One Sided Appellate Efforts, and Defective IWO 40. Following the rendition of the temporary orders on March 26, 2024, Plaintiff spent between April 8, 2024 and September 15, 2024, appealing via mandamus to the Second Court of Appeals and the Texas Supreme Court. REC. 1010. 41. During the appellate efforts, Carter filed one of two motions in the case, which was a motion for pre-trial conference filed on April 24, 2024, on her behalf by Roderick D. Marx, a party not named in the suit. REC. 1014, REC. 1016. 42. Plaintiff immediately objected to the pre-trial conference, and no response was ever issued by Carter or the court. REC. 1018. 43. On April 30th, Plaintiff filed his notice of completion regarding the parenting course as ordered, despite actively trying to vacate them. REC. 1047. No parenting course was ever completed by Myers. 44. On May 2, 2024, Plaintiff's en banc reconsideration was denied in the Second Court of Appeals, and he began preparing an appeal to the Supreme Court of Texas. REC. 1067. 45. On May 19, 2024, Carter sent the second and last email correspondence that would be received in the case, which falsely claimed he agreed to the orders signed on March 14, 2024, and requested that he fill out an IWO, which Plaintiff found to be defective. REC. 1722, REC. 1728. No further correspondence was received by Carter. O. Fraudulent Intervention and Branthoover's Continued Involvement 46. On June 23rd Plaintiff filed a motion in state court entitled MOTION FOR JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION at 12:14 P.M. REC. 1075. This motion received no response from Carter. 47. On June 23rd at 1:54 P.M., directly following the submission of the motion, Branthoover texted Plaintiff stating "Lol. And here comes another denial. Please sue me individually. Please.", referring to the earlier filed motion and showing his continued oversight of the case's progression since his initial predicate acts. 48. Four days later, on June 28, 2024, the Texas Office of the Attorney General allegedly filed an intervention pleading, claiming that Plaintiff was past due on child support, and requested information from Plaintiff. REC. 1099. 49. Most notably, the certificate of service to this intervention pleading was allegedly signed by Holly Hayes, the designated attorney for the OAG, yet the name underneath the signature line reads CHOYA BURKLEY. REC. 1102. 50. Plaintiff promptly objected to the intervention, and never received any response from the OAG, Carter, or the court. REC. 1106. P. Supreme Court, Rule 12, and Emergency Temporary Orders 51. As Plaintiff continued to appeal to the Supreme Court of Texas, all prosecution came to an end in the trial court. It wasn't until September 15, 2024, that Plaintiff filed a first amended rehearing motion in the Texas Supreme Court, (REC. 1136) and after noticing Carter's lack of participation, he began to question her authority given several ambiguities surrounding her representation, and filed a rule 12 motion to show authority. REC. 1170. No response was ever received to this motion from Carter. 52. At this point, Plaintiff had been staying in Airbnb homes while he sought relief to ensure he could remain close to his daughters during this time. On September 26,

2024, he filed and later amended an EMERGENCY MOTION FOR TEMPORARY ORDERS and requested expedited relief by October 1, 2024, as that was when Plaintiff was forced to move away from the area due to cost of living being unsustainable. REC. 1184. No response was ever received from Carter regarding this motion. 53. By October 1, Plaintiff had no choice but to start pursuing administrative remedies, and thought the court was biased against him given the case's history up to that point. He began to prepare a Joint Motion to Recuse defendants Munford and Kaitcer and filed it with the clerk of the court on October 7, 2024. REC. 1197. Q. Predicate Act: Wire Fraud 54. On October 8, 2024, Defendant Munford signed and forwarded a "Joint Motion to Recuse" attached to his order of referral to regional presiding judge David L. Evans but was notably missing the exhibits and affidavit critical to the motion. REC. 1222 55. A copy of this exchange was sent via defendant Baker on 4:43 P.M. on October 8. REC. 1254 56. Plaintiff immediately pointed out the discrepancies between the motion filed and the motion forwarded to David L. Evans, where she replied and admitted that the full document had been e-filed and remains with the court. REC. 1255 57. Unsatisfied with this response, Plaintiff further pointed out that the filing size of the document filed and the one referring to David L. Evans was significantly different. No further correspondence was received by Baker until the following day. REC. 1256 58. The following day on October 8, 2024, defendant Munford signed and filed an "Amended Order of Referral" which had the full motion attached this time, albeit still modified as the hyperlinks and bookmarks had been removed. REC. 1282 59. This amended referral was sent via email correspondence by Baker at 11:17 A.M. on October 8, 2024, who stated that due to the size of the motion, it was split into three parts. REC. 1258. This excuse directly contradicts the standard filing procedure in Tarrant County, which was raised and subsequently ignored in an objection. REC. 1269. No response was filed in regard to the motion to recuse or objection by Carter. R. Recusal Denial and More Delays, and Federal Removal 60. Justice E. Lee Gabriel was assigned to hear the motion, which had to be rescheduled due to technical difficulties for November 7, 2024. REC. 1306. 61. The morning of the hearing, Plaintiff woke up with a dental emergency, and promptly notified all parties, and requested a reset for the hearing, which everyone agreed to. REC. 1393-1396. 62. Despite this agreement, the recusal was denied for failure to appear, and made no mention of the agreement or the emergency. REC. 1398. 63. With no other remedies left, Plaintiff removed the case to Federal Court on December 2, 2024, which was quickly remanded back on December 4, 2024. REC. 1426. 64. On December 14, 2024, defendant Branthoover texted Plaintiff, sending a threat which stated "[w]hen things all over, you get to deal with me." at 2:15 P.M. REC. 1720 65. On December 16, 2024, Plaintiff initiated suit against Daniel Kenneth Branthoover in the Western District of Oklahoma seeking relief in the form of damages from the ongoing deprivation from his home. REC. 1451. 66. Plaintiff notified the Texas court of this lawsuit on December 31, 2024. REC. 1446. S. Further Delays, Motion to Dismiss for Want of Prosecution, and the Original SAPCR 67. On January 24, 2025, Plaintiff filed a motion to dismiss for want of prosecution due to the total lack of participation in the case by the opposing party. REC. 1527. No response was ever received from Carter on this motion. 68. On January 29, 2025, defendant Myers began disposing of Plaintiff's personal belongings that remained on the family property. REC.



1629-1631. 69. On February 12, 2025, Plaintiff learned that his youngest daughter was suffering from dental pain due to Myers' failure to obtain dental insurance for the children. REC. 3281. 70. By March 14, (REC. 1833-1837) the judges had still not been reinstated from the first recusal, which led Plaintiff to reach out to Baker to request a hearing on his unopposed summary judgment that had been on the docket since February 22, 2024, where he had to remind her to reinstate the judges back into the case. REC. 1833-1837. 71. Given the delays, and since the case had been brought in bad faith initially, the Plaintiff opened an original SAPCR suit in the 233rd District Court of Tarrant County on March 18, 2025, where he argued for dominant jurisdiction in a cover letter sent to the clerk. REC. 2260. T. Counsel Suddenly Becomes Active 72. The very next day, defendant Carter filed an original answer filed on her behalf by Roderick Marx. REC. 2279. The motion was a boilerplate motion, and was followed by a motion to consolidate, which was filed in the wrong court, and was also filed on Carter's behalf by RODERICK D. MARX. REC. 2284. 73. The Plaintiff immediately responded by filing a motion to strike (REC. 1957) a Rule 12 motion to show authority challenging both Carter and RODERICK D MARX's authority (REC. 2288) and on March 24, 2025, an emergency ex-parte TRO to prevent Myers from barring Plaintiff's access to the home. (REC. 2302) No responses were ever received from Carter on these motions. 74. On March 26, 2025, an objection was filed to Carter's consolidation motion in the 233rd court. REC. 1881. 75. Plaintiff reached out to the coordinator from the 233rd and went through the process to present the motion to the judge. REC. 2338-2341. 76. On March 29, 2025, Plaintiff appeared before Associate Judge Kate Stone, who refused to hear Plaintiff's emergency motion despite no response being filed, and told him to leave the courtroom. The hearing date scheduled for April 10, 2025, as agreed by Carter and Plaintiff (REC. 2358), was actually un-set by Stone. REC. 2361. 77. The grounds for this outright refusal was due to Carter calling in a favor from the judge without even being present in the courtroom, to where Stone left the room, came back, and told the Plaintiff to leave informing him that a motion to consolidate would be filed by Carter the following week. U. Five Concurrent Mandamus Petitions 78. Subsequently, after he was turned away from the courtroom, Carter's consolidation motion wasn't filed until April 4, 2025 (REC. 2367), resulting in two mandamus petitions to try again to have the March 14, 2024, order signed by Kaitcer vacated, and to compel Kate Stone to hear the emergency TRO. See 25-0361, 25-0367. 79. On the same day the mandamus was filed against Stone, District Judge Kenneth Newell sua sponte granted Carter's consolidation motion in both courts without a hearing, and without addressing the emergency situation for the children or the Plaintiff's objections, leading to a third mandamus proceeding. REC. 2393, See also 25-0378. 80. On April 23, 2025, a notice of trial setting was served on the parties by defendant Munford in the midst of all of these issues. REC. 1773. 81. The same day, Plaintiff filed an objection and requested an emergency stay. REC. 2219. No response was received to this objection by either Munford or Carter. 82. Two days later on April 25, 2025, Plaintiff filed his second recusal motion, and amended it on April 28, 2025, this time only against Munford, and requested that the rules of procedure be followed, and objected to the involvement of the court coordinator given the prior recusal's ambiguity and significant delays caused by her involvement. REC. 2488 No response to this motion was ever filed from Carter. 83. Baker

continued to be involved in the recusal process, this time erroneously forwarding an order of referral from defendant Kaitcer, who was not named in the recusal motion. REC. 2615. 84. Plaintiff immediately objected on April 29, 2025, naming two issues: 1) the coordinator was still involved, and 2) the order of referral sent by Kaitcer was erroneous. REC. 2620. 84. Plaintiff objected to the order of assignment of John H. Cayce (REC. 3149) which was issued on May 7, 2025, due to the unresolves issues. REC. 2620. 85. David L. Evans overruled this objection on May 15, 2025, leading to mandamus petition 25-0426, a direct appeal to the Texas Supreme Court. REC. 3507. 86. On May 20, 2025, John H. Cayce summarily denied the recusal, including the denial of a motion to recuse Kaitcer which was never filed, leading to mandamus petition 25-0458, a second direct appeal to the Texas Supreme Court. 87. All five petitions were denied both initially and on rehearing, and all emergency motions to stay proceedings were dismissed. The only insights given from the appellate courts was: "Denied, per curiam." No response was filed by any implicated judge or opposing counsel. V. Federal RICO Case and the Push Towards Final Trial 88. In June of 2025, Plaintiff amended his complaint against Daniel Kenneth Branthoover and enjoined Myers as a defendant, which they defended pro-se. 89. Plaintiff communicated this action with the trial court, and no further action was taken in the case until August of 2025, when defendant Munford sua sponte set the case for final trial on December 10, 2025. 90. Plaintiff immediately objected to this trial setting, and moved to recuse Munford for a third time. 91. The court coordinator continued to be involved in the process, leading to a subsequent motion to recuse the regional presiding judge, David L. Evans. 92. Plaintiff now prepares this suit to hold defendants accountable for their collective actions, and to prevent their common goal from being achieved, which is to obtain defendant Myers a final decree of divorce. 93. For the forthcoming reasons, the conduct outlined herein constitutes conduct of an enterprise through a pattern of racketeering activity, as several predicate acts were committed, the enterprise shares a common purpose, and Plaintiff has suffered direct and ongoing injury to business and property as a direct result of the defendant's collective predicate acts. RICO The timeline and evidence provided demonstrate that the Myers-Branthoover group constitutes an association-in-fact enterprise under RICO, with a common goal to deprive the Plaintiff of his home and business through a pattern of racketeering activity—specifically, wire fraud, Travel Act violations, and fraudulent court filings—causing direct injury to the Plaintiff's business and property. The conduct, structure, and continuity among the participants, as well as the use of interstate communications and travel, satisfy the elements of a RICO claim in the Tenth Circuit, with the liability of other defendants depending on their knowledge and intent. A. Summary The Myers-Branthoover enterprise, as detailed in the factual timeline, meets the Tenth Circuit's requirements for a RICO claim by establishing an association-in-fact enterprise with a defined structure, purpose, and continuity. The group's coordinated actions—including interstate transfer of funds, preparation and submission of fraudulent legal documents, and ongoing manipulation of court proceedings—constitute a pattern of racketeering activity, with predicate acts of wire fraud and Travel Act violations that are related and continuous. Plaintiff's direct and ongoing injury to his business and property, including loss of home, business operations, and client relationships, is proximately caused by the enterprise's acts. While Myers and Branthoover's

liability is clear, the involvement of other defendants (Munford, Kaitcer, Carter, and Baker) may be characterized as inadvertent or willing participation, depending on their knowledge and intent, but the core elements of a RICO violation are satisfied by the conduct of Myers and Branthoover as outlined in the enumerated timeline. The additional acts committed by each defendant, as alleged, furthered the scheme of the enterprise despite each additional defendant having actual knowledge of the fraudulent scheme.

**RICO Statutory Framework** The Racketeer Influenced and Corrupt Organizations Act (RICO), codified at 18 U.S.C. §§ 1961–1968, provides a civil cause of action for individuals injured in their business or property by reason of a pattern of racketeering activity conducted through an enterprise affecting interstate or foreign commerce. The most commonly invoked provision, § 1962(c), prohibits any person employed by or associated with an enterprise from conducting or participating in the conduct of such enterprise’s affairs through a pattern of racketeering activity. Section 1962(d) further prohibits conspiracies to violate any of the substantive RICO provisions. To establish a civil RICO claim under § 1962(c), a plaintiff must prove: i. The existence of an enterprise; ii. The enterprise’s engagement in, or effect on, interstate or foreign commerce; iii. The defendant’s employment by or association with the enterprise; iv. The defendant’s participation, directly or indirectly, in the conduct of the enterprise’s affairs; v. The defendant’s participation through a pattern of racketeering activity or collection of unlawful debt. See *100 Mount Holly Bypass v. Axos Bank*, Case No. 2:20-CV-856-TS-CMR (D. Utah Jul 27, 2021).

**B. Predicate Acts and Pattern Requirement** RICO defines “racketeering activity” to include a wide range of criminal offenses, including wire fraud (18 U.S.C. § 1343) and violations of the Travel Act (18 U.S.C. § 1952). A “pattern of racketeering activity” requires at least two predicate acts within a ten-year period, but the acts must be related and amount to or pose a threat of continued criminal activity. The Supreme Court has clarified that a RICO violation requires both an “enterprise” and a “pattern of racketeering activity,” with the enterprise being a group of persons associated for a common purpose, and the pattern involving a series of criminal acts (*United States v. Harris*, 695 F.3d 1125 (10th Cir. 2012)). The Tenth Circuit has further explained that, to establish a pattern, it is not enough to simply show that two predicate acts occurred within ten years; the acts must also be related and pose a threat of continued criminal activity (*U.S. v. Smith*, 413 F.3d 1253 (10th Cir. 2005)). Note, however, that *U.S. v. Smith* has been stated as overruled by *United States v. Nissen*, 555 F.Supp.3d 1174 (D. N.M. 2021) on unrelated grounds, but its articulation of the pattern requirement remains consistent with current law.

**C. Enterprise and Association-in-Fact** An “enterprise” under RICO includes any individual, partnership, corporation, association, or group of individuals associated in fact, even if not a legal entity. For an association-in-fact enterprise, the Tenth Circuit requires: i. A purpose; ii. Relationships among those associated with the enterprise; iii. Longevity sufficient to permit the associates to pursue the enterprise’s purpose; iv. A decision-making framework or mechanism for controlling the group; v. Functioning as a continuing unit; vi. Existence separate and apart from the pattern of racketeering activity. See *100 Mount Holly Bypass*. D.

**Conspiracy** Section 1962(d) makes it unlawful to conspire to violate any of the substantive RICO provisions. A RICO conspiracy does not require the establishment of an enterprise but requires that a defendant adopts the goal

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

within ten years are required (U.S. v. Smith, 413 F.3d 1253 (10th Cir. 2005)), and the timeline shows multiple, related predicate acts over a substantial period (§§ 1–93).

**I. Pattern of Racketeering Activity: Relatedness and Continuity** The predicate acts were not isolated incidents but part of an ongoing scheme. The acts were related in that they all aimed to deprive the Plaintiff of his property and business, and they posed a threat of continued criminal activity, as the enterprise continued to operate and adapt its tactics over time (§§ 1–93). The timeline shows that the enterprise’s activities extended over a substantial period, with multiple acts occurring over months and involving ongoing coordination and adaptation to changing circumstances.

**J. Injury to Business or Property** Plaintiff suffered direct and ongoing injury to his business and property as a result of the enterprise’s actions. He was deprived of his home and business operations, lost access to marital funds, and was unable to provide services to clients, resulting in financial harm (§§ 2, 3, 4, 5, 6, 7, 37). These injuries are precisely the type of harm RICO is designed to redress. *Plains Resources, Inc. v. Gable*, 782 F.2d 883 (10th Cir. 1986).

**K. Participation of Other Defendants: Inadvertent or Willing** The timeline raises the question of whether Munford, Kaitcer, Carter, and Baker were victims of the initial scheme or willing participants in the expanded enterprise. The evidence suggests that, at a minimum, Myers and Branthoover were the core members of the enterprise, with others potentially becoming involved through their actions in the legal proceedings (§§ 14–93).

**i. Inadvertent Participation:** Some defendants may have participated inadvertently, such as by issuing orders or facilitating court processes without knowledge of the underlying scheme (§§ 14–93).

**ii. Willing Participation:** Others may have become willing participants if they knowingly furthered the enterprise’s objectives or ignored clear evidence of fraud and misrepresentation (§§ 14–93). RICO does not impose liability for inadvertent or unwitting participation; there must be knowing and willful involvement in the conduct of the enterprise’s affairs. For the forthcoming reasons, Plaintiff alleges that the Defendants are willing participants in the scheme.

**VICTIM OR PARTICIPANT RICO liability** extends to those who knowingly participate in the conduct of the enterprise’s affairs, even if they were not original members (RICO: A Primer (2022-01-31)). The timeline raises the question of whether Munford, Kaitcer, Carter, and Baker were victims of the initial scheme or willing participants in the expanded enterprise. The evidence suggests that, at a minimum, Myers and Branthoover were the core members of the enterprise, with others becoming involved through their actions in the legal proceedings (§§ 14–93). The timeline demonstrates that Carter, Kaitcer, and Myers engaged in extortion by leveraging the threat of adverse legal action, fraudulent court orders, and the manipulation of judicial process to coerce Plaintiff into relinquishing property and business interests, satisfying the elements of extortion as a predicate act under RICO and the Travel Act. Munford and Baker, for their part, committed wire fraud by intentionally sending altered or incomplete court documents via interstate email, with the intent to mislead, obstruct relief, and further the enterprise’s objective of finalizing the divorce and depriving Plaintiff of his property, thus meeting the requirements for wire fraud as a RICO predicate act. These acts, as detailed in the timeline, are not isolated but part of a coordinated pattern of racketeering activity within an association-in-fact enterprise, as required by RICO in the Tenth Circuit. The conduct of each defendant is tied to specific predicate acts—extortion

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

process, using the threat of legal action and the actual deprivation of Plaintiff's property to achieve her goal. Carter and Kaitcer acted in concert with Myers, knowingly facilitating the extortion by preparing, presenting, and enforcing fraudulent orders, and by using the authority of the court to coerce Plaintiff. The fact that Plaintiff was ordered to sign a document he objected to, under threat of continued deprivation of his home and business, is classic extortion by color of official right. All three defendants knew that Plaintiff did not agree to the order, as he had just fired his attorney to challenge any basis for an agreement. This implies that despite the motion being served on all defendants, they chose to ignore the allegations of a fraudulent scheme and further the affairs of the enterprise. These actions meet the requirements for extortion as a RICO predicate act: they involved the wrongful use of threats and official process to obtain property (the home and business) from Plaintiff, with his consent induced by fear of further loss or legal harm. The acts were not isolated but part of a coordinated scheme to achieve the enterprise's goal of finalizing the divorce and divesting Plaintiff of his property.

B. Wire Fraud by Munford and Baker

Wire fraud under 18 U.S.C. § 1343 requires a scheme to defraud, intent to defraud, and use of interstate wire communications to execute the scheme (*Clinton v. Sec. Benefit Life Ins. Co.*, 63 F.4th 1264 (10th Cir. 2023); *United States v. Holloway*, 826 F.3d 1237 (10th Cir. 2016)). The Tenth Circuit recognizes that sending altered or incomplete court documents via email, with the intent to mislead or deprive someone of property or rights, can constitute wire fraud if the deprivation of property is a central object of the scheme (*United States v. Tao*, 629 F.Supp.3d 1083). The timeline shows the following:

- i. Event 54: Munford signed and forwarded a "Joint Motion to Recuse" attached to his order of referral, but the document was missing critical exhibits and affidavits necessary for Plaintiff's relief.
- ii. Event 55: Baker sent a copy of this incomplete filing via email, representing it as the full document.
- iii. Event 56–57: When Plaintiff pointed out the discrepancies, Baker provided inconsistent explanations, first claiming the full document was e-filed, then later stating it was split into three parts due to size.
- iv. Event 58: Munford signed and filed an "Amended Order of Referral" with the full motion attached, but with hyperlinks and bookmarks removed, further impairing the document's integrity.
- v. Event 59, 83: Baker continued to forward altered or incomplete orders and referrals, even when procedural irregularities were raised. These acts involved the knowing use of interstate email to transmit altered or incomplete court documents, with the intent to prevent Plaintiff from obtaining relief and to further the enterprise's goal of finalizing the divorce and depriving Plaintiff of his property. The use of email to transmit these documents satisfies the interstate wire requirement, and the intent to defraud is evidenced by the deliberate alteration and misrepresentation of the filings. The conduct of Munford and Baker meets the elements of wire fraud: (1) a scheme to defraud Plaintiff of property and rights, (2) intent to defraud by preventing relief and misleading the court and Plaintiff, and (3) use of interstate wire communications (email) to execute the scheme (*Clinton v. Sec. Benefit Life Ins. Co.*, 63 F.4th 1264 (10th Cir. 2023)). The deprivation of property (Plaintiff's home and business) was a central object of the scheme, not a minor part.

**RELATIONSHIP AND CONTINUITY** All these acts—extortion by Carter, Kaitcer, and Myers, and wire fraud by Munford and Baker—were committed in furtherance of the Myers-Branthoover enterprise's overarching objective: to finalize the

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

## **Answer (Fifth Circuit)**

### **Short response**

In the Fifth Circuit, the introduction section of a civil RICO complaint must clearly allege the existence of an enterprise, a pattern of racketeering activity, the defendant's connection to the enterprise, and the resulting injury to the plaintiff's business or property, all supported by specific factual allegations. The introduction should also establish subject matter jurisdiction, identify the statutory basis for the claim, and frame the case by outlining the core elements and the factual context that will be detailed in the body of the complaint.

### **Summary**

To properly frame a civil RICO case in the Fifth Circuit, the introduction must do more than recite statutory language; it must succinctly set out the essential elements of a RICO claim—namely, the existence of an enterprise, a pattern of racketeering activity, the defendant's participation in the enterprise's affairs through that pattern, and a causal link to injury in the plaintiff's business or property. The introduction should also reference the



relevant statutory provisions (typically 18 U.S.C. § 1962), assert federal jurisdiction, and provide a concise overview of the factual circumstances that support each element, including the nature of the enterprise, the types of predicate acts alleged, and the harm suffered.

The Fifth Circuit requires that the introduction section of a RICO complaint provide a clear roadmap for the court and defendants, demonstrating that the plaintiff's claims are grounded in specific facts rather than conclusory statements. This includes identifying the parties, the enterprise (whether a legal entity or association-in-fact), the pattern and continuity of racketeering acts, and the direct injury to business or property, all while complying with the heightened pleading standards for fraud-based predicate acts under Rule 9(b) of the Federal Rules of Civil Procedure.

## Background and Relevant Law

### Statutory and Pleading Requirements

The [Racketeer Influenced and Corrupt Organizations Act](#) (RICO), codified at 18 U.S.C. §§ 1961–1968, provides a civil cause of action for any person injured in their business or property by reason of a violation of section 1962. The Fifth Circuit has consistently held that to state a civil RICO claim, a plaintiff must allege: (1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise ([Bustos v. Invierte En Tex.](#) (2024-06-03); [D&T Partners LLC v. Baymark Partners LP](#) (2022-05-09); [Aubrey v. D Magazine Partners, L.P.](#) (2020-02-10); [Gabriel v. Outlaw, CASE NO. 3:20-CV-60-E-BK \(N.D. Tex. Mar 01, 2021\)](#)).

The introduction must also establish that the alleged enterprise affects interstate or foreign commerce, that the defendant participated in the conduct of the enterprise's affairs, and that the plaintiff suffered injury to business or property as a result ([U.S. v. Welch, 656 F.2d 1039 \(5th Cir. 1981\)](#); RICO: A Primer (2022-01-31)). For claims based on fraud (such as wire or mail fraud), the complaint must meet the heightened pleading standard of Rule 9(b), requiring particularity as to the circumstances of the fraud—specifically, the time, place, content of the misrepresentations, and the identity of the persons making them ([Arruda v. Curves Int'l, Inc., No. 20-50734 \(5th Cir. Jun 28, 2021\)](#); [Holliday v. Goodell, Civil Action 25-264 \(E.D. La. Mar 06, 2025\)](#)).

### Case Law Guidance

Federal courts in the Fifth Circuit require that the introduction section of a RICO complaint do more than recite the elements; it must provide a plausible claim for relief, supported by factual allegations that allow the court to infer the existence of each element ([McCoy v. McCormick, Civil Action 22-443-BAJ-RLB \(M.D. La. Feb 15, 2023\)](#); [Bradley v. Phillips Petroleum Co., 527 F.Supp.2d 625 \(S.D. Tex. 2007\)](#)). The introduction should not be a mere formulaic recitation or a series of conclusory statements

([Arruda v. Curves Int'l, Inc., No. 20-50734 \(5th Cir. Jun 28, 2021\)](#); [Provost v. First Guar. Bank \(2019-07-26\)](#))).

The complaint must also allege the existence of an enterprise, which can be a legal entity or an association-in-fact, and must describe the structure, purpose, and continuity of the enterprise ([Crowe v. Henry, 43 F.3d 198 \(5th Cir. 1995\)](#); [Bordelon v. Wells Fargo Fin. La., LLC, CIVIL ACTION No. 18-2563 SECTION I \(E.D. La. Jul 25, 2018\)](#)). The introduction should briefly outline the nature of the enterprise and the relationship of the defendants to it.

## Analysis

### 1. Jurisdiction and Venue

The introduction must state the basis for federal subject matter jurisdiction, typically under 28 U.S.C. § 1331 (federal question) and 18 U.S.C. § 1964(c) (civil RICO). It should also assert that venue is proper in the district where the enterprise operated or where the alleged racketeering acts occurred ([Clark v. Sheriff's Office Calcasieu Par., DOCKET NO. 2:19-cv-0467 \(W.D. La. Nov 21, 2019\)](#))).

### 2. Parties

The introduction should identify the plaintiff(s) and defendant(s), specifying their roles in the alleged enterprise. The plaintiff must be a person or entity capable of holding a legal or beneficial interest in property, and the defendants must be alleged to have participated in the conduct of the enterprise's affairs ([D&T Partners LLC v. Baymark Partners LP \(2022-05-09\)](#))).

### 3. Statutory Basis and Core Elements

The introduction must cite the relevant RICO provisions (usually 18 U.S.C. § 1962(c) and/or (d)), and assert that the complaint is brought under 18 U.S.C. § 1964(c), which provides a private right of action for treble damages and attorney's fees to any person injured in their business or property by reason of a RICO violation ([Oblio Telecom, Inc. v. Patel, 711 F.Supp.2d 668 \(N.D. Tex. 2008\)](#); [Heden v. Hill, 937 F.Supp. 1230 \(S.D. Tex. 1996\)](#))).

The introduction should then succinctly allege:

- The existence of an enterprise (legal entity or association-in-fact) engaged in or affecting interstate commerce.
- The defendant's employment by or association with the enterprise.
- The defendant's participation, directly or indirectly, in the conduct of the enterprise's affairs.
- The defendant's participation through a pattern of racketeering activity (at least two related predicate acts within ten years).

- The injury to the plaintiff's business or property, proximately caused by the RICO violation (RICO: A Primer (2022-01-31); [Moore v. Town N. Auto., Inc., Civil Action No. 3:14-CV-1215-D \(N.D. Tex. Jul 11, 2014\)](#)).

## 4. Factual Framing

The introduction should provide a concise overview of the factual context, including:

- The nature of the enterprise (e.g., the Myers-Branthoover group as an association-in-fact).
- The time frame and continuity of the alleged racketeering activity (e.g., December 2023 through 2025).
- The types of predicate acts alleged (e.g., wire fraud, extortion, fraudulent court filings).
- The relationship among the defendants and their roles in the enterprise.
- The specific harm suffered by the plaintiff (e.g., loss of home, business, and income).

This factual framing is essential to demonstrate that the complaint is not based on mere speculation or conclusory allegations, but on specific, plausible facts that, if proven, would entitle the plaintiff to relief ([Williams v. Am. Commercial Lines, Civil Action 20-139-SDD-EWD \(M.D. La. Jul 29, 2021\)](#); [Samsung Elecs. Am., Inc. v. Yang Kun Chung, Civil Action No. 3:15-CV-4108-D \(N.D. Tex. Feb 16, 2017\)](#)).

## 5. Pleading Standards

The introduction must comply with Rule 8(a) of the Federal Rules of Civil Procedure, requiring a short and plain statement of the claim showing entitlement to relief, and with Rule 9(b) for fraud-based predicate acts, requiring particularity as to the circumstances of the fraud ([Holliday v. Goodell, Civil Action 25-264 \(E.D. La. Mar 06, 2025\)](#); [Mitchell Energy Corp. v. Martin, 616 F.Supp. 924 \(S.D. Tex. 1985\)](#)). This means the introduction should preview, but not fully detail, the specific facts that will be set out in the body of the complaint.

## 6. Pattern and Continuity

The introduction should allege that the predicate acts are related and amount to or pose a threat of continued criminal activity, satisfying the "pattern" requirement ([Burrell v. Concept AG, LLC, CIVIL ACTION NO. 4:19-cv-00124-NBB-JMV \(N.D. Miss. Sep 30, 2020\)](#); [Express Working Capital, LLC v. One World Cuisine Grp., LLC, Civil Action No.: 3:15-CV-3792-S \(N.D. Tex. Aug 16, 2018\)](#)). The introduction should make clear that the alleged conduct is not an isolated incident, but part of an ongoing scheme.

## 7. Causation and Injury

The introduction must allege that the plaintiff suffered injury to business or property, and that this injury was proximately caused by the defendant's RICO violation ([Racketeer influenced and corrupt organizations](#), (2009-03-22); [Clark v. Sheriff's Office Calcasieu Par., DOCKET NO. 2:19-cv-0467 \(W.D. La. Nov 21, 2019\)](#)). The introduction should briefly describe the nature of the injury and its connection to the alleged racketeering activity.

## 8. Conspiracy (if applicable)

If the complaint alleges a RICO conspiracy under § 1962(d), the introduction should state that the defendants agreed to participate in the conduct of the enterprise's affairs through a pattern of racketeering activity, and briefly describe the nature of the agreement and the overt acts in furtherance ([Gabriel v. Outlaw, CASE NO. 3:20-CV-60-E-BK \(N.D. Tex. Mar 01, 2021\)](#); [U.S. v. Martino, 648 F.2d 367 \(5th Cir. 1981\)](#)—noting that Martino was later vacated, but its articulation of conspiracy elements remains instructive).

## Exceptions and Caveats

- The introduction must avoid conclusory statements and must be supported by specific factual allegations; threadbare recitals of the elements are insufficient ([Arruda v. Curves Int'l, Inc., No. 20-50734 \(5th Cir. Jun 28, 2021\)](#)).
- For fraud-based predicate acts, failure to plead with particularity under Rule 9(b) is grounds for dismissal ([Peel v. cPaperless LLC, 4:23-CV-02417 \(S.D. Tex. Nov 08, 2024\)](#)).
- The introduction should not attempt to prove the case, but must provide enough detail to make the claim plausible and to put defendants on notice of the nature of the claims against them ([McCoy v. McCormick, Civil Action 22-443-BAJ-RLB \(M.D. La. Feb 15, 2023\)](#)).

## Conclusion

In summary, the introduction section of a civil RICO complaint in the Fifth Circuit must clearly and concisely allege the existence of an enterprise, a pattern of racketeering activity, the defendant's participation in the enterprise's affairs through that pattern, and a causal link to injury in the plaintiff's business or property. It must establish federal jurisdiction, cite the statutory basis for the claim, and provide a factual overview that supports each element, all while complying with the heightened pleading standards for fraud-based claims. Properly framing the case in this manner is essential to survive a motion to dismiss and to ensure that the complaint is taken seriously by the court and the defendants.

## Legal Authorities

[Crowe v. Henry, 43 F.3d 198 \(5th Cir. 1995\)](#)

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

### **Extract**

A plaintiff asserting a RICO claim must allege the existence of an enterprise. *Montesano v. Seafirst Commercial Corp.*, 818 F.2d 423, 427 (5th Cir.1987). A RICO enterprise can be either a legal entity or an association-in-fact. *Manax v. McNamara*, 842 F.2d 808, 811 (5th Cir.1988).

### **Summary**

In the Fifth Circuit, a civil RICO complaint must include allegations of the existence of an enterprise. This enterprise can be a legal entity or an association-in-fact. The introduction section of a RICO complaint should therefore clearly articulate the nature of the enterprise involved, whether it is a formal legal entity or an informal association-in-fact, to properly frame the case.

[\*Orthoflex, Inc. v. Thermotek, Inc.\*, Civil Action No. 3:10-CV-2618-D, Civil Action No. 3:11-CV-0870-D \(N.D. Tex. Jul 12, 2012\)](#)

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

### **Extract**

RICO makes it unlawful 'for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity.' 18 U.S.C. § 1962(c). 'Reduced to their simplest terms, the essential elements of a RICO claim are: (1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise.'

### **Summary**

The introduction section of a civil RICO complaint in the Fifth Circuit should clearly outline the essential elements of a RICO claim. These elements include: (1) identifying a person or entity who engages in the conduct, (2) establishing a pattern of racketeering activity, and (3) demonstrating a connection to the acquisition, establishment, conduct, or control of an enterprise. This framework is crucial for properly framing the case and ensuring that the complaint meets the legal requirements for a RICO claim.

[\*Bordelon v. Wells Fargo Fin. La., LLC\*, CIVIL ACTION No. 18-2563 SECTION I \(E.D. La. Jul 25, 2018\)](#)

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

### **Extract**

RICO does not require tha[t] an enterprise be a separate business-like entity. Instead, an association-in-fact enterprise includes 'a group of persons associated together for a common purpose of engaging in a course of conduct,' and that enterprise can be proved with 'evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit.' As the Fifth Circuit has explained, 'The linchpin of enterprise status is the continuity or ongoing nature of the association.' The enterprise must have continuity of its structure and personnel, which links the defendants, and a common or shared purpose.

### **Summary**

The passage provides insight into the requirements for establishing an enterprise under RICO in the Fifth Circuit. It emphasizes that an enterprise does not need to be a formal business entity but can be an association-in-fact, which requires evidence of a common purpose, ongoing organization, and continuity. This is crucial for framing a RICO case, as the introduction should establish the existence of such an enterprise and its continuity to meet the legal standards.

[Samsung Elecs. Am., Inc. v. Yang Kun Chung, Civil Action No. 3:15-CV-4108-D \(N.D. Tex. Feb 16, 2017\)](#)

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

### **Extract**

To recover for a violation of § 1962(a), a plaintiff must also plead injuries to its business or property. See 18 U.S.C. § 1964(c). The plaintiff's injuries must have... It is not enough, however, that the alleged predicate acts occurred. For a series of related predicate acts to constitute a RICO 'pattern of activity,' a plaintiff must also allege that the acts 'amount to or threaten continuing racketeering activity.' *Burzynski*, 989 F.2d at 742 (emphasis in original). 'It is 'continuity' that assures a federal cause of action.' *Id.* Continuity may be alleged as 'either a closed period of repeated conduct, or an open-ended period of conduct that 'by its nature projects into the future with a threat of repetition.'" *Word of Faith World Outreach Ctr. Church, Inc. v. Sawyer*, 90 F.3d 118, 122 (5th Cir. 1996) (quoting *H.J. Inc.*, 492 U.S. at 241).

### **Summary**

In the Fifth Circuit, a civil RICO complaint must include allegations of injuries to business or property as a result of the defendant's actions. Additionally, the complaint must establish a pattern of racketeering activity,



which requires more than just the occurrence of predicate acts. The plaintiff must demonstrate continuity, which can be shown through either a closed period of repeated conduct or an open-ended period that suggests a threat of future repetition. This ensures that the RICO claim is grounded in ongoing or future criminal activity, rather than isolated incidents.

[U.S. v. Welch, 656 F.2d 1039 \(5th Cir. 1981\)](#)

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

### **Extract**

Finally, Welch contends that the evidence presented at trial was insufficient to sustain a conviction on Count V the substantive RICO offense. This Court has recently stated that five elements comprise a substantive RICO charge: The government must prove (1) the existence of the enterprise; (2) that the enterprise affected interstate commerce; (3) that the defendant was employed by or associated with the enterprise; (4) that he participated in the conduct of the affairs of the enterprise; and (5) that he participated through a pattern of racketeering activity.

### **Summary**

Essential elements that must be proven in a substantive RICO charge, which are critical to framing a civil RICO complaint. These elements include the existence of an enterprise, its effect on interstate commerce, the defendant's association with the enterprise, participation in its affairs, and participation through a pattern of racketeering activity. These elements are foundational to any RICO claim and should be included in the introduction section to properly frame the case.

[U.S. v. Martino, 648 F.2d 367 \(5th Cir. 1981\)](#)

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

### **Extract**

A RICO substantive charge requires proof of the existence of an enterprise which affects interstate commerce and that the defendant participated in the conduct of the enterprise's affairs by committing at least two of the designated acts of racketeering activity. A RICO conspiracy charge requires the additional element of agreement; the defendant must have 'objectively manifested an agreement to participate, directly or indirectly, in the affairs of an enterprise through the commission of two or more predicate crimes.' Elliott, 571 F.2d at 903 (emphasis in original). The Elliott court also stated that the agreement involved in a RICO conspiracy must include the vital element of agreeing to commit the predicate acts. Upon proof of the

commission of racketeering activity, 'the inference of an agreement to do so is unmistakable.' Id.

## **Summary**

Essential elements required for a RICO charge in the Fifth Circuit. For a substantive RICO charge, it is necessary to prove the existence of an enterprise affecting interstate commerce, and that the defendant participated in the enterprise's affairs through a pattern of racketeering activity. For a RICO conspiracy charge, there must be an agreement to participate in the enterprise's affairs through the commission of predicate acts. These elements are crucial for framing a RICO case in the introduction section of a complaint.

[U.S. v. Cauble, 706 F.2d 1322 \(5th Cir. 1983\)](#)

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

#### **Extract**

RICO criminalizes the conduct of an enterprise through a pattern of racketeering activity and not merely the defendant's engaging in racketeering activity. Therefore, there must be a nexus between the enterprise, the defendant, and the pattern of racketeering activity. The mere fact that a defendant works for a legitimate enterprise and commits racketeering acts while on the business premises does not establish that the affairs of the enterprise have been conducted 'through' a pattern of racketeering activity. Similarly, a defendant's mere association with a lawful enterprise whose affairs are conducted through a pattern of racketeering activity in which he is not personally engaged does not establish his guilt under RICO.

## **Summary**

The passage emphasizes the importance of establishing a nexus between the enterprise, the defendant, and the pattern of racketeering activity in a RICO case. It clarifies that merely working for or associating with a legitimate enterprise is insufficient to establish RICO liability unless the defendant's actions are connected to the enterprise's conduct through a pattern of racketeering activity. This highlights the need for a clear connection between the defendant's actions and the enterprise's affairs in the introduction of a RICO complaint.

[Clark v. Sheriff's Office Calcasieu Par., DOCKET NO. 2:19-cv-0467 \(W.D. La. Nov 21, 2019\)](#)

### **U.S. District Court — Western District of Louisiana**



## **Extract**

Rule 8 of the Federal Rules of Civil Procedure requires a pleading to contain 'a short and plain statement of the claim showing that the pleader is entitled to relief.' FED. R. CIV. P. 8(a)(2). Under Rule 8, the complaint must allege 'sufficient facts from which the court can determine the existence of subject matter jurisdiction and from which the defendants can fairly appreciate the claim made against them.' *Bynum v. Terrebonne Parish Consol. Gov't*, 2011 WL 6654985, at \*3 (E.D. La. Nov. 8, 2011) (citations omitted). Plaintiff alleges a claim pursuant to 18 U.S.C. § 1962, under the Racketeer Influenced and Corrupt Organizations Act (RICO). '[A]ny person injured in his business or property by reason of a violation of section 1962' can sue for treble damages and fees.' *Welborn v. Bank of New York Mellon Corp.*, 557 Fed. Appx. 383, 2014 U.S. App. LEXIS 4152, 2014 WL 843262, at \*1 (5th Cir. Mar. 5, 2014) (citing 18 U.S.C. § 1964(c)). '[A] claim requires three elements: (1) a RICO violation under 18 U.S.C. § 1962; (2) an injury to any person's business or property; and (3) the injury must be 'by reason of' the alleged RICO violation.' *Id.* Under 18 U.S.C. § 1961 et seq., in order to state a valid claim under RICO, the plaintiff must allege four things: (1) conduct, (2) by an enterprise, (3) through a pattern, (4) of racketeering activity. See 18 U.S.C. 1961 et seq. First, in order to constitute sufficient 'conduct,' the Act has set out various 'predicate offenses,' at least one of which must be alleged in order to invoke jurisdiction under RICO. *Interstate Flagging, Inc. v. Town of Darien*, 283 F.Supp.2d 641, 645 (D.Conn. 2003). A RICO claim must also allege a 'pattern' of racketeering activity, consisting of at least two racketeering acts. *Heller Fin. Inc. v. Gramco Computer Sales*, 71 F.3d 518, 523 (5th Cir. 1996). Finally, a plaintiff must specifically allege some sort of agreement to commit predicate racketeering acts. *Crowe*, 43 F.3d at 206.

## **Summary**

Requirements for a civil RICO complaint under Rule 8 of the Federal Rules of Civil Procedure, which mandates a short and plain statement of the claim. It specifies that the complaint must allege sufficient facts to establish subject matter jurisdiction and allow defendants to understand the claims against them. For a RICO claim, the complaint must include a RICO violation, an injury to business or property, and a causal link between the injury and the RICO violation. Additionally, it must allege conduct by an enterprise through a pattern of racketeering activity, including at least two predicate acts and an agreement to commit these acts.

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

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

## **Extract**

A RICO claim has three elements: '1) a person engages in, 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.' *St. Germain v. Howard*, 556 F.3d 261,

263 (5th Cir. 2009) (citation omitted). A pattern of racketeering activity consists of two or more predicate criminal acts, federal or state, 'that are 1) related and 2) amount to or pose a threat of continued criminal activity.' Id. A RICO conspiracy claim requires one additional element — there must be an agreement between the conspirators to specifically commit the alleged predicate acts. *Snow Ingredients, Inc. v. SnoWizard, Inc.*, 833 F.3d 512, 526 (5th Cir. 2016). Civil RICO liability does not exist unless the pleadings allege actual criminal activity. Id.

## **Summary**

Essential elements required for a RICO claim in the Fifth Circuit, which include engaging in a pattern of racketeering activity connected to an enterprise. It also specifies that a RICO conspiracy claim requires an agreement to commit the predicate acts. This information is crucial for framing the introduction of a civil RICO complaint, as it sets the foundation for the allegations and legal arguments.

[Arruda v. Curves Int'l, Inc., No. 20-50734 \(5th Cir. Jun 28, 2021\)](#)

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

### **Extract**

The complaint must provide the grounds entitling the Plaintiffs to relief, 'requir[ing] more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.' *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). It must state a plausible claim for relief — one that may be inferred from the complaint's factual allegations. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Because Plaintiffs here rely on fraud as the predicate act for RICO, their complaint is subject to the heightened pleading standard of Federal Rule of Civil Procedure 9(b), requiring a plaintiff to 'state with particularity the circumstances constituting fraud.'

## **Summary**

A civil RICO complaint in the Fifth Circuit must provide more than mere labels and conclusions. It must state a plausible claim for relief that can be inferred from the factual allegations. When fraud is the predicate act, the complaint is subject to the heightened pleading standard of Federal Rule of Civil Procedure 9(b), which requires stating with particularity the circumstances constituting fraud.

[Mitchell Energy Corp. v. Martin, 616 F.Supp. 924 \(S.D. Tex. 1985\)](#)

## **U.S. District Court — Southern District of Texas**

## **Extract**

Generally, the Federal Rules of Civil Procedure require in a Complaint only a 'short and plain statement' of the cause of action relied upon by Plaintiff Fed.R. Civ.P. 8(a). However, under Fed.R.Civ.P. 9(b), 'in all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity.' The relationship between the two rules is 'complimentary.... The rules must be read in that fashion, avoiding an exclusive focusing on the requirements of one or the other.'

## **Summary**

The passage highlights the need for a civil RICO complaint to include a "short and plain statement" of the cause of action as per Rule 8(a), while also requiring that any allegations of fraud be stated with particularity under Rule 9(b). This means that the introduction section of a RICO complaint should clearly outline the basis of the claim and provide specific details about the fraudulent acts alleged.

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

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

## **Extract**

RICO makes it unlawful 'for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity.' Auto-Opt Networks, Inc. v. GTL USA, Inc., 2014 WL 2719219, at \*5 (N.D. Tex. June 16, 2014) (Fitzwater, C.J.) (quoting 18 U.S.C. § 1962(c)). 'Reduced to their simplest terms, the essential elements of a RICO claim are: (1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise.'

## **Summary**

Clear outline of the essential elements required for a RICO claim, which are crucial for framing the introduction section of a civil RICO complaint. These elements include the involvement of a person in a pattern of racketeering activity connected to an enterprise. This information is applicable to any RICO claim within the Fifth Circuit, making it relevant to the question.

[Burrell v. Concept AG, LLC, CIVIL ACTION NO. 4:19-cv-00124-NBB-JMV \(N.D. Miss. Sep 30, 2020\)](#)

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

## **Extract**

To state a viable RICO claim under any theory, plaintiffs must allege the following elements: '(1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise.' *St. Germain v. Howard*, 556 F.3d 261, 263 (5th Cir. 2009). '[T]he heart of any RICO complaint is the allegation of a pattern of racketeering.' *Agency Holding Corp. v. Malley-Duff & Assoc., Inc.*, 483 U.S. 143, 154 (1987). To establish a pattern of racketeering, plaintiffs must identify predicate acts with 'continuity plus relationship.' *H.J., Inc. v. Northwest Bell Tel. Co.*, 492 U.S. 229, 239 (1989).

## **Summary**

To properly frame a civil RICO complaint in the Fifth Circuit, the introduction section should include allegations that a person engaged in a pattern of racketeering activity connected to the acquisition, establishment, conduct, or control of an enterprise. The complaint must focus on the pattern of racketeering, which requires identifying predicate acts with continuity and relationship.

[\*Oblio Telecom, Inc. v. Patel\*, 711 F.Supp.2d 668 \(N.D. Tex. 2008\)](#)

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

## **Extract**

RICO provides a civil cause of action to recover treble damages for '[a]ny person injured in his business or property by reason of a violation of section 1962.' 18 U.S.C. § 1964. Oblio contends that Defendants violated subsections (a) through (d) of section 1962. Reduced to their simplest terms, these subsections mean: *Crowe v. Henry*, 43 F.3d 198, 203 (5th Cir.1995). 'Common elements are present in all four of these subsections. These common elements teach that any RICO claim necessitates 1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.' *Id.* at 204 (original emphasis) (internal citations and quotations omitted).

## **Summary**

Essential elements required for a RICO claim, which are crucial for framing the introduction of a civil RICO complaint. These elements include the existence of a person engaged in a pattern of racketeering activity connected to an enterprise. This foundational understanding is necessary to properly frame the case in the introduction section of a RICO complaint.

[\*Holliday v. Goodell\*, Civil Action 25-264 \(E.D. La. Mar 06, 2025\)](#)

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

### **Extract**

Rule 8(a) of the Federal Rules of Civil Procedure requires a Complaint set forth 'sufficient facts from which the court can determine the existence of subject matter jurisdiction and from which the defendants can fairly appreciate the claim made against them.' While Rule 8's pleading standard does not require 'detailed factual allegations,' it does demand more than an 'unadorned, the-defendant-unlawfully-harmed-me accusation.' Moreover, when a plaintiff alleges fraud, Rule 9 requires that the fraud claim be pleaded with particularity. 'At a minimum, Rule 9(b) requires allegations of the particulars of 'time, place, and contents of the false representations, as well as the identity of the person making the misrepresentation and what he obtained thereby.'

### **Summary**

Requirements under Rule 8(a) and Rule 9(b) of the Federal Rules of Civil Procedure, which are essential for framing a civil RICO complaint. Rule 8(a) requires sufficient facts to establish subject matter jurisdiction and to inform defendants of the claims against them. Rule 9(b) requires that fraud claims be pleaded with particularity, specifying the time, place, and contents of false representations, the identity of the person making them, and what was obtained as a result. These requirements are crucial for the introduction section of a civil RICO complaint to ensure that the complaint is not dismissed for lack of specificity or failure to state a claim.

[Williams v. Am. Commercial Lines, Civil Action 20-139-SDD-EWD \(M.D. La. Jul 29, 2021\)](#)

## **U.S. District Court — Middle District of Louisiana**

### **Extract**

Further, Plaintiff was advised that he must state specific facts to support the elements of a RICO violation and to explain how Defendants' conduct caused his injuries. [] Nonetheless, because it was 'not possible to tell...if Plaintiff could adequately allege a RICO claim,' it was recommended that Plaintiff be given an 'opportunity to amend his Complaint to state that claim, if possible.' ... In his Amended Complaint, Plaintiff still vaguely references that Defendants engaged in conduct that rises to the level of a substantive RICO violation, and that this conduct caused him injuries. [] It was explained to Plaintiff that it is not sufficient to simply state the elements of a cause of action. [] Despite this, Plaintiff's Amended Complaint contain those same vague-and-repetitious-references that Defendants engaged in conduct that rises to the level of a substantive RICO violation, and that this unspecified conduct injured Plaintiff's 'business or property.'

## Summary

A civil RICO complaint must include specific facts supporting the elements of a RICO violation and explain how the defendants' conduct caused the plaintiff's injuries. It is not enough to merely state the elements of a cause of action; the complaint must articulate specific facts that support the claim. This guidance is applicable to civil RICO complaints in the Fifth Circuit, as it addresses the requirements for adequately stating a RICO claim.

[Heden v. Hill, 937 F.Supp. 1230 \(S.D. Tex. 1996\)](#)

### **U.S. District Court — Southern District of Texas**

#### **Extract**

In 1970, Congress enacted RICO as Title IX of the Organized Crime Control Act to combat organized crime through both criminal prosecutions and private actions. See 18 U.S.C. § 1961 et seq. The 'legislative history forcefully supports the view that the major purpose of Title IX is to address the infiltration of legitimate business by organized crime.' *United States v. Turkette*, 452 U.S. 576, 591, 101 S.Ct. 2524, 2532, 69 L.Ed.2d 246 (1981). A private right of action is provided under 18 U.S.C. § 1964(c), which states in pertinent part: 'Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.'

## Summary

The introduction section of a civil RICO complaint in the Fifth Circuit should frame the case by referencing the legislative intent of RICO, which is to combat organized crime and its infiltration into legitimate businesses. It should also cite the statutory basis for a private right of action under 18 U.S.C. § 1964(c), which allows individuals injured in their business or property by a RICO violation to seek treble damages and attorney's fees. This foundational understanding helps set the stage for the specific allegations and claims that follow in the complaint.

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

### **U.S. District Court — Southern District of Texas**

#### **Extract**

In order to plead a pattern of racketeering activity, a RICO claimant must show two components: (1) predicate acts, the requisite predicate activity, and (2) a pattern of such acts. In *re Burzynski*, 989 F.2d 733, 742 (5th Cir. 1993). The RICO statute proscribes various categories of predicate acts that



may constitute racketeering activity. 18 U.S.C. § 1961(1). The first category lists certain generically enumerated offenses that are 'chargeable under State law and punishable by imprisonment for more than one year' and which involve 'murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in matter, or dealing in a controlled substance or listed chemical,' 18 U.S.C. § 1961(1)(A). A violation of the Hobbs Act is a predicate act as well.

## Summary

Requirement for a RICO claimant to demonstrate predicate acts and a pattern of such acts, which are essential elements in framing a RICO case. This is relevant to the introduction section of a civil RICO complaint as it sets the stage for the allegations and legal basis of the claim.

[Aubrey v. D Magazine Partners, L.P., CIVIL ACTION NO. 3:19-CV-0056-B \(N.D. Tex. Feb 10, 2020\)](#)

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

## Extract

In their proposed fourth amended complaint, Plaintiffs sought to include claims for violations of RICO. See Doc. 120, Pls.' Mot. for Leave, Ex. B, ¶¶ 762-82. Specifically, Plaintiffs attempted to bring claims against all Defendants for violations of 18 U.S.C. § 1962(d), 18 U.S.C. § 1962(c), and 18 U.S.C. § 1962(b). See *id.* All three of these claims require: '1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.' In *re* Burzynski, 989 F.2d 733, 741 (5th Cir. 1993) (citation and quotation marks omitted) (emphases in original).

## Summary

Essential elements required for a RICO claim in the Fifth Circuit, which are: (1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise. These elements are crucial for framing a RICO case and should be included in the introduction section of a civil RICO complaint to properly set the stage for the allegations.

[Express Working Capital, LLC v. One World Cuisine Grp., LLC, Civil Action No.: 3:15-CV-3792-S \(N.D. Tex. Aug 16, 2018\)](#)

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

## **Extract**

The Fifth Circuit has stated that '[t]he RICO person must be one that either poses or has posed a continuous threat of engaging in acts of racketeering,' and this 'requirement may not be satisfied if no more is pled than that the person has engaged in a limited number of predicate racketeering acts.' Crowe, 43 F.3d at 204 (quoting Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241, 243 (5th Cir. 1988), cert. denied, 489 U.S. 1079 (1989)).

## **Summary**

The passage highlights a critical requirement for a RICO claim in the Fifth Circuit: the defendant must pose a continuous threat of engaging in racketeering activities. This requirement is not met if the complaint only alleges a limited number of predicate acts. This indicates that the introduction of a RICO complaint should establish the defendant as a continuous threat, which is a foundational element of the claim.

[Peel v. cPaperless LLC, 4:23-CV-02417 \(S.D. Tex. Nov 08, 2024\)](#)

## **U.S. District Court — Southern District of Texas**

## **Extract**

Defendants ask the Court to dismiss Plaintiffs' RICO claim, after which the Court would lack subject matter jurisdiction over any remaining state law claims. Defendants argue that Plaintiffs fail to adequately plead any RICO predicate acts or the requisite pattern of racketeering activity. Plaintiffs oppose dismissal of the RICO claim but fail to directly respond to many of Defendants' arguments. Plaintiffs otherwise agree that without their RICO claim the Court lacks jurisdiction over the remaining claims. Although Defendants would prefer to allow Plaintiffs a chance to replead diversity jurisdiction and keep this litigation in federal court, Plaintiffs are less enthusiastic about that prospect. The Court addresses each of these issues below. ... Accordingly, despite multiple opportunities to amend and a clear checklist of what must be included to state a RICO claim, Order, ECF No. 44 at 13-14, Plaintiffs still fail to plead a single predicate act with the requisite particularity per Rule 9(b). Because a civil RICO claim requires at least two predicate acts to establish a 'pattern of racketeering activity,' 18 U.S.C. § 1961(5), Plaintiffs fail to state a RICO claim. The Court may dismiss Plaintiffs' civil RICO claim on this basis alone. However, because the Court specifically requested briefing on RICO's 'continuity' element, see Order, ECF No. 54 at 1-2, the Court also discusses those arguments below.

## **Summary**

A civil RICO complaint in the Fifth Circuit must include at least two predicate acts with particularity as per Rule 9(b) to establish a "pattern of racketeering activity." The introduction should frame the case by clearly



outlining these predicate acts and demonstrating the continuity of the alleged racketeering activity. The passage also highlights the importance of addressing the continuity element of RICO claims.

[McCoy v. McCormick, Civil Action 22-443-BAJ-RLB \(M.D. La. Feb 15, 2023\)](#)

## **U.S. District Court — Middle District of Louisiana**

### **Extract**

A Rule 12(b)(6) motion to dismiss tests the sufficiency of the complaint against the legal standard set forth in Rule 8, which requires 'a short and plain statement of the claim showing that the pleader is entitled to relief.' Fed.R.Civ.P. 8(a)(2). [ ] In order to survive a Rule 12(b)(6) motion, a pleading's language, on its face, must demonstrate that there exists plausibility for entitlement to relief. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 557 (2007). 'Determining whether a complaint states a plausible claim for relief [is]... a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.' *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

### **Summary**

General requirements for a civil complaint to survive a motion to dismiss under Rule 12(b)(6). It emphasizes the need for a "short and plain statement" of the claim that shows entitlement to relief, as per Rule 8. The complaint must demonstrate plausibility for entitlement to relief, which is a context-specific determination requiring judicial experience and common sense. This is relevant to framing a RICO complaint, as it must meet these general pleading standards to proceed.

[Bradley v. Phillips Petroleum Co., 527 F.Supp.2d 625 \(S.D. Tex. 2007\)](#)

## **U.S. District Court — Southern District of Texas**

### **Extract**

On its face, Federal Rule of Civil Procedure 8(a)(2) requires only 'a short and plain statement of the claim showing that the pleader is entitled to relief.' FED. R. Civ. P. 8(a)(2). The United States Supreme Court has made clear, however, that a plaintiff is obligated to provide 'more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.'

### **Summary**

The passage highlights the requirement under Federal Rule of Civil Procedure 8(a)(2) for a civil RICO complaint to include a "short and plain

statement of the claim" that demonstrates entitlement to relief. It emphasizes that the complaint must go beyond mere labels and conclusions, requiring a substantive presentation of the claim's elements.

### [Aubrey v. D Magazine Partners, L.P.](#)

#### **Extract**

In their proposed fourth amended complaint, Plaintiffs sought to include claims for violations of RICO. See Doc. 120, Pls.' Mot. for Leave, Ex. B, ¶¶ 762-82. Specifically, Plaintiffs attempted to bring claims against all Defendants for violations of 18 U.S.C. § 1962(d), 18 U.S.C. § 1962(c), and 18 U.S.C. § 1962(b). See *id.* All three of these claims require: '1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.' In *re Burzynski*, 989 F.2d 733, 741 (5th Cir. 1993) (citation and quotation marks omitted) (emphases in original).

#### **Summary**

To properly frame a RICO claim in the Fifth Circuit, the introduction section of a civil RICO complaint should include the following elements: (1) identification of a person who engages in the alleged conduct, (2) a pattern of racketeering activity, and (3) a connection to the acquisition, establishment, conduct, or control of an enterprise. These elements are essential to establish a RICO claim under 18 U.S.C. § 1962.

### [98 F.4th 198 D&T Partners L.L.C. v. Baymark Partners Mgmt., L.L.C.](#)

#### **Extract**

To eradicate 'organized crime in the United States,' Congress passed the Racketeer Influenced and Corrupt Organizations Act, a legislative package that provided the government 'new weapons of unprecedented scope' targeting organized crime at 'its economic roots.' *Russello v. United States*, 464 U.S. 16, 26, 104 S.Ct. 296, 78 L.Ed.2d 17 (1983). Among the new tools for prosecutors, RICO established innovative evidence-gathering procedures, created criminal prohibitions, and provided enhanced sanctions and remedies for victims. *United States v. Turkette*, 452 U.S. 576, 589, 101 S.Ct. 2524, 69 L.Ed.2d 246 (1981). Putting its provisions to use, the government has employed RICO to take down leaders from notorious crime outfits across the country. But even while '[o]rganized crime was without a doubt Congress' major target,' *H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 245, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989), RICO's central aim is prohibiting 'patterns' of crimes conducted through an 'enterprise,' no matter where or how such patterns occur.

## Summary

The passage highlights the central aim of RICO, which is to prohibit patterns of crimes conducted through an enterprise. This is relevant to framing a civil RICO complaint, as it underscores the need to establish a pattern of racketeering activity and the existence of an enterprise. The introduction section of a RICO complaint should therefore clearly articulate these elements, setting the stage for the detailed allegations that follow.

### [D&T Partners LLC v. Baymark Partners LP](#)

## Extract

D&T brings three RICO claims for violations of 18 U.S.C. § 1962(a), (c), and (d). Doc. 36, Am. Compl., ¶¶ 310-67. The claims under subsections (c) and (d) are against all Defendants, while the claim under subsection (a) is against Baymark, Ludlow, Hook, Denegre, Super G, SG Credit, BP Management, Smith, and Hallett & Perrin. See *id.* Because there are common elements in each subsection, *Crowe v. Henry*, 43 F.3d 198, 204 (5th Cir. 1995), the Court will analyze the RICO claims together. All four subsections of § 1962 have three common elements: “1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.” *Crowe*, 43 F.3d at 204 (emphasis omitted). The statute broadly defines “person” to include “any individual or entity capable of holding a legal or beneficial interest in property.” 18 U.S.C. § 1961(3); *Boyle v. United States*, 556 U.S. 938, 944 (2009) (“The term ‘any’ ensures that the definition has a wide reach ...”). “To establish th[e] pattern [element], a plaintiff must show both a relationship between the predicate offenses. .. and the threat of continuing activity.” *Malvino v. Delluniversita*, 840 F.3d 223, 231 (5th Cir. 2016). “[A]n enterprise. .. ‘is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit.’” *Boyle*, 556 U.S. at 945 (quoting *United States v. Turkette*, 452 U.S. 576, 583 (1981)).

## Summary

Legal requirements for a civil RICO complaint in the Fifth Circuit, specifically under 18 U.S.C. § 1962. It identifies the three common elements necessary for a RICO claim: a person engaging in a pattern of racketeering activity connected to an enterprise. It also explains that the pattern element requires a relationship between predicate offenses and a threat of continuing activity. The enterprise element is proved by evidence of an ongoing organization where associates function as a continuing unit.

### [Bustos v. Invierte En Tex.](#)

## **Extract**

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

## **Summary**

Essential elements required to state a civil RICO claim under 18 U.S.C. § 1962, which are applicable in the Fifth Circuit. These elements include the engagement in a pattern of racketeering activity connected to an enterprise. The passage also defines what constitutes "racketeering activity" or "predicate acts," which are crucial for framing a RICO case.

### [Provost v. First Guar. Bank](#)

## **Extract**

In the context of a motion to dismiss the Court must accept all factual allegations in the complaint as true and draw all reasonable inferences in the plaintiff's favor. *Lormand v. US Unwired, Inc.*, 565 F.3d 228, 232 (5th Cir. 2009) (citing *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308 (2007); *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974); *Lovick v. Ritemoney, Ltd.*, 378 F.3d 433, 437 (5th Cir. 2004)). However, the foregoing tenet is inapplicable to legal conclusions. *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009). Thread-bare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice. *Id.* (citing *Bell Atlantic Corp. v. Twombly*, 550, U.S. 544, 555 (2007)).

## **Summary**

The passage provides insight into the legal requirements for a civil complaint in the Fifth Circuit, emphasizing that factual allegations must be accepted as true and that the complaint must state a plausible claim for relief. This is relevant to the introduction section of a RICO complaint, as it must set the stage for the factual allegations that will support the RICO claims.

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

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

**Extract**

RICO's standing provision provides that '[a]ny person injured in his business or property by reason of a violation of [sections] 1962 of this chapter' may bring a civil action under RICO. The circuits are split on the specific standing requirements for a civil action under [sections] 1962(a). To allege a violation of [sections] 1962(a), a plaintiff must show that someone had (1) received income from a pattern of racketeering activity; and (2) used or invested this income in a RICO enterprise. In addition, the Supreme Court held that a plaintiff must prove the defendant's violation was the proximate cause of the plaintiff's injury in order to have standing under civil RICO.

**Summary**

For a civil RICO complaint, particularly in the Fifth Circuit, the introduction should establish standing by demonstrating that the plaintiff was injured in their business or property due to a violation of section 1962. The plaintiff must show that the injury was proximately caused by the defendant's violation, which involved receiving income from a pattern of racketeering activity and using or investing this income in a RICO enterprise. This foundational information is crucial for framing the case and establishing the court's jurisdiction.

[Racketeer influenced and corrupt organizations.](#)

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

**Extract**

Moreover, a plaintiff must prove that the defendant's violation of [section] 1962 was the proximate cause of the plaintiff's injury to have standing for a civil RICO action. In creating this proximate cause requirement, the Court reasoned that Congress modeled [section] 1964(c) on the civil action provisions in the Clayton Act, which federal courts have long held to require a showing of proximate causation. In addition, civil RICO is not available to compensate the economic consequences of personal injuries sustained as a result of a RICO predicate act.

**Summary**

The passage highlights the necessity for a plaintiff to demonstrate that the defendant's violation of section 1962 was the proximate cause of the plaintiff's injury. This requirement is crucial for establishing standing in a civil RICO action. The passage also clarifies that civil RICO is not intended

to compensate for personal injuries resulting from a RICO predicate act, focusing instead on injuries to business or property.

[Racketeer influenced and corrupt organizations.](#)

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

### **Extract**

To sue for a violation of [section] 1962(a), a plaintiff must show that someone both received income from a pattern of racketeering activity and then used or invested such income in an enterprise. (310) Most courts hold that a compensable injury must flow from the use or investment of the income and cannot just flow from the predicate acts. (311) ... To sue for a violation of [section] 1962(c), a plaintiff must ... (316.) 529 U.S. 494 (2000) (involving civil RICO claim based on alleged violation of [section] 1962(d) brought by plaintiff who was terminated from his employment for refusing to participate in racketeering activities).

### **Summary**

Requirements for establishing a civil RICO claim under different subsections of 18 U.S.C. § 1962, which are relevant to framing a RICO complaint. It highlights the need to demonstrate a pattern of racketeering activity, the use or investment of income from such activity, and the resulting injury to business or property.

[Racketeer influenced and corrupt organizations.](#)

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

### **Extract**

To have standing for a civil cause of action under RICO, a plaintiff must show: (i) a violation of [section] 1962(a), (b), (c), or (d); (ii) injury to her business or property; and (iii) causation of the injury by the violation. (299) To sue for a violation of [section] 1962(a), a plaintiff must show that someone both received income from a pattern of racketeering activity and then used or invested such income in an enterprise. (300) Most courts hold that a compensable injury must flow from the use or investment of the income and cannot just flow from the predicate acts. (301)... Moreover, a plaintiff must prove that the defendant's violation of [section] 1962 was the proximate cause of the plaintiff's injury to have standing for a civil RICO action. (310)

## Summary

To properly frame a civil RICO complaint, especially in the Fifth Circuit, the introduction should establish the plaintiff's standing by demonstrating a violation of one of the RICO sections (1962(a), (b), (c), or (d)), an injury to business or property, and causation of the injury by the violation. The introduction should also address the proximate cause requirement, showing that the defendant's violation directly caused the plaintiff's injury.

[Racketeer influenced and corrupt organizations.](#)

**American Criminal Law Review - Georgetown University Law Center - Holt, Michael W. - 2009-03-22**

## Extract

To have standing for a civil cause of action under RICO, a plaintiff must show: (i) a violation of [section] 1962(a), (b), (c), or (d); (ii) injury to her business or property; and (iii) that the violation caused the injury. (304) To sue for a violation of [section] 1962(a), a plaintiff must show that someone both received income from a pattern of racketeering activity and then used or invested such income in an enterprise. (305) Most courts hold that a compensable injury must flow from the use or investment of the income and cannot just flow from the predicate acts. (306)... Moreover, a plaintiff must prove that the defendant's violation of [section] 1962 was the proximate cause of the plaintiff's injury to have standing for a civil RICO action. (314)...

## Summary

The passage provides insight into the standing requirements for a civil RICO claim, which are essential for the introduction section of a complaint. It specifies that a plaintiff must demonstrate a violation of RICO sections, an injury to business or property, and a causal link between the violation and the injury. This information is crucial for framing the case in the introduction section of a RICO complaint.

[Racketeer influenced and corrupt organizations.](#)

**American Criminal Law Review - Georgetown University Law Center - Mecone, James Morrison - 2006-03-22**

## Extract

To sue for a violation of [section] 1962(c), a plaintiff must have suffered an injury to business or property caused by one of the predicate acts of racketeering. Moreover, a plaintiff must prove that the defendant's violation of [section] 1962 was the proximate cause of the plaintiff's injury to have



standing for a civil RICO action. In creating this proximate cause requirement, the Court reasoned that Congress modeled [section] 1964(c) on the civil action provisions in the Clayton Act, which federal courts have long held to require a showing of proximate causation. In addition, civil RICO is not available to compensate the economic consequences of personal injuries sustained as a result of a RICO predicate act.

## **Summary**

To properly frame a civil RICO complaint, particularly under section 1962(c), the introduction should establish that the plaintiff has suffered an injury to business or property due to a predicate act of racketeering. Additionally, it must be shown that the defendant's actions were the proximate cause of this injury. This aligns with the requirements modeled after the Clayton Act, emphasizing the need for proximate causation. The introduction should also clarify that the claim is not for personal injuries but for economic harm to business or property.

[Racketeer influenced and corrupt organizations.](#)

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

## **Extract**

Moreover, a plaintiff must prove that the defendant's violation of [section] 1962 was the proximate cause of the plaintiff's injury to have standing for a civil RICO action. (315) In creating this proximate cause requirement, the Court reasoned that... At least one commentator believes it is possible for a RICO action to be successfully litigated in the area of divorce if it meets the following criteria: (i) the plaintiff must show an injury to business or property because of the divorce proceedings; (ii) the plaintiff must show that the defendant acted as part of an enterprise to further the act of hiding assets to minimize divorce settlements; and (iii) there must be either multiple violations of the same predicate act, or the commission of more than one predicate act. (360)

## **Summary**

The passage provides insight into the requirements for a civil RICO action, emphasizing the need to demonstrate proximate cause between the defendant's violation and the plaintiff's injury. It also outlines specific criteria for applying RICO in divorce cases, which can be relevant to framing a RICO complaint in such contexts.

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

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



## **Extract**

A RICO-based complaint must be drafted with the following instructions from Sedima as a guide. A violation of § 1962(c), the section on which Sedima relies, requires (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity. The plaintiff must allege each of the elements to state a claim. They are all equally essential components, and the complaint will fail if any one of them is not adequately pleaded. In particular, RICO claims based on mail or wire fraud must comport with Federal Rule of Civil Procedure 9(b)'s requirement that allegations involving fraud be pleaded with particularity. The practitioner through their pleadings must articulate with great care and attention a viable racketeering conspiracy. The court must read the facts alleged in the complaint in the light most favorable to the plaintiff.

## **Summary**

A civil RICO complaint must include specific elements to be valid. These elements are conduct, an enterprise, a pattern, and racketeering activity. Each element must be adequately pleaded, and for claims involving fraud, the allegations must meet the particularity requirements of Federal Rule of Civil Procedure 9(b). The introduction section of a RICO complaint should frame the case by clearly outlining these elements and ensuring that the facts are presented in a manner that supports the plaintiff's claims.

### [RICO: A Primer](#)

## **Extract**

To prove a violation of Section 1962(c), a plaintiff must prove the following elements: \* Existence of an enterprise; \* The enterprise engaged in, or its activities affected, interstate or foreign commerce; \* The defendant was employed by or was associated with the enterprise; \* The defendant conducted or participated, either directly or indirectly, in the conduct of the affairs of the enterprise; and \* The defendant participated in the affairs of the enterprise through a pattern of racketeering activity or collection of unlawful debt.

## **Summary**

To properly frame a civil RICO complaint, particularly under Section 1962(c), the introduction should include allegations that establish the existence of an enterprise, its engagement in or effect on interstate commerce, the defendant's association with the enterprise, and the defendant's participation in the enterprise's affairs through a pattern of racketeering activity. These elements are essential to set the stage for a RICO claim and provide the necessary legal framework for the complaint.

## **Extract**

To prove a violation of Section 1962(c), a plaintiff must prove the following elements: \* Existence of an enterprise; \* The enterprise engaged in, or its activities affected, interstate or foreign commerce; \* The defendant was employed by or was associated with the enterprise; \* The defendant conducted or participated, either directly or indirectly, in the conduct of the affairs of the enterprise; and \* The defendant participated in the affairs of the enterprise through a pattern of racketeering activity or collection of unlawful debt.

## **Summary**

To properly frame a civil RICO complaint, particularly under Section 1962(c), the introduction should include allegations that establish the existence of an enterprise, its engagement in or effect on interstate commerce, the defendant's association with the enterprise, and the defendant's participation in the enterprise's affairs through a pattern of racketeering activity. These elements are essential to set the stage for a RICO claim and provide the necessary legal framework for the complaint.

This memo was compiled by Vincent AI based on vLex materials available as of September 20, 2025. [View full answer on vLex](#)