

# Question

What are the elements of RICO (Racketeer Influenced and Corrupt Organizations Act) that must be satisfied for a plaintiff to prevail in a civil RICO claim?

## Answer (U.S. Federal)

### Short response

To prevail in a civil RICO claim, a plaintiff must establish: (1) conduct of an enterprise, (2) through a pattern of racketeering activity, (3) causing injury to the plaintiff's business or property, and (4) a causal connection between the RICO violation and the injury.

### Summary

A civil RICO claim under the [Racketeer Influenced and Corrupt Organizations Act](#) requires several essential elements to be established by the plaintiff. At its core, a plaintiff must demonstrate that the defendant, through the commission of at least two acts constituting a "pattern of racketeering activity," has conducted or participated in the affairs of an "enterprise" that affects interstate or foreign commerce, and that this conduct has proximately caused an injury to the plaintiff's business or property. The statutory framework for civil RICO claims is established in [18 U.S.C. § 1962](#), which prohibits various forms of racketeering activities, and [18 U.S.C. § 1964\(c\)](#), which provides the private right of action for civil plaintiffs.

These elements contain important sub-elements and nuances that have been further developed through case law. For instance, the "pattern of racketeering activity" requires both "relationship" and "continuity" between the predicate acts. The "enterprise" must have a structure distinct from the pattern of racketeering activity itself. Additionally, the plaintiff must demonstrate standing by establishing concrete financial injury and showing that the RICO violation proximately caused this injury. Courts have consistently interpreted these requirements stringently, recognizing that RICO was designed to combat organized crime rather than to transform ordinary business disputes into federal cases with treble damages.

## Background and Relevant Law

### Statutory Framework

The [Racketeer Influenced and Corrupt Organizations Act](#) (RICO) provides a framework for both criminal prosecution and civil remedies against

organized criminal activity. The essential statutory provisions for civil RICO claims are found in 18 U.S.C. §§ 1961, 1962, and 1964.

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

Section 1962 outlines the prohibited activities under RICO:

"It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt... to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce..." [18 U.S.C. § 1962\(a\)](#)

"It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce..." [18 U.S.C. § 1962\(b\)](#)

"It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt..." [18 U.S.C. § 1962\(c\)](#)

"It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section." [18 U.S.C. § 1962\(d\)](#)

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

Section 1961 provides crucial definitions for terms used in RICO:

""[R]acketeering activity' means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; ..." [18 U.S.C. § 1961\(1\)](#)

""[P]attern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;" [18 U.S.C. § 1961\(5\)](#)

""[E]nterprise' includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;" [18 U.S.C. § 1961\(4\)](#)

## **Civil Remedies - [18 U.S.C. § 1964](#)**

Section 1964 establishes the civil remedies available under RICO:

"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..." [18 U.S.C. § 1964\(c\)](#)

## **Case Law Interpretation of RICO Elements**

Courts have consistently identified several essential elements that must be satisfied for a plaintiff to prevail in a civil RICO claim. While there are slight variations in how courts articulate these elements, they generally align with the statutory framework and can be synthesized into a coherent set of requirements.

### **Basic Elements of a Civil RICO Claim**

The foundation of a civil RICO claim requires proving a violation of the substantive RICO statute and injury resulting from that violation. In [Kerwick v. Pullman & Comley LLC, 3:24-CV-00427 \(KAD\) \(D. Conn. Dec 20, 2024\)](#), the court articulated this as:

"A private cause of action under RICO requires that the plaintiff allege: '(1) the defendant's violation of [18 U.S.C. § 1962](#), (2) an injury to the plaintiff's business or property, and (3) causation of the injury by the defendant's violation.'"

Similarly, in [Portionpac Chemical Corp. v. Sanitech Systems, 217 F.Supp.2d 1238 \(M.D. Fla. 2002\)](#), the court identified the elements as: "(1) a violation of section 1962; (2) injury to business or property; and (3) that the violation caused the injury."

To establish a violation of section 1962, particularly subsection (c) which is most commonly invoked, courts have identified specific requirements. In *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496 (1985), as cited in [Chambers v. King Buick GMC, LLC, 43 F. Supp. 3d 575 \(D. Md. 2014\)](#), the Supreme Court identified these elements as "(1) conduct; (2) of an enterprise; (3) through a pattern; (4) of racketeering."

### **Detailed Elements of a Civil RICO Claim**

#### **1. Conduct by a Person**

The first element requires the plaintiff to identify a "person" who engaged in the prohibited conduct. The Supreme Court has elaborated on the "conduct" requirement in [Reves v. Ernst Young, 507 U.S. 170, 113 S.Ct. 1163, 122 L.Ed.2d 525 \(1993\)](#):

"In order to 'participate, directly or indirectly, in the conduct of such enterprise's affairs,' one must have some part in directing those affairs... The 'operation or management' test expresses this requirement in a formulation that is easy to apply."

This "operation or management" test requires that the defendant had some role in directing the enterprise's affairs, although not necessarily a formal position or primary responsibility.

## **2. Enterprise**

The second element requires the existence of an "enterprise" that is engaged in, or the activities of which affect, interstate or foreign commerce. In [Lockhart v. Deluca](#), the court outlined the sub-elements necessary to plead an enterprise:

"1) an ongoing organization with some sort of framework or superstructure for making and carrying out decisions; 2) that the members of the enterprise functioned as a continuing unit with established duties; and 3) that the enterprise was separate and distinct from the pattern of racketeering activity in which it engaged."

This third sub-element—the requirement that the enterprise be separate from the pattern of racketeering activity—is particularly important as emphasized in [Gross v. Waywell](#), 628 F.Supp.2d 475 (S.D. N.Y. 2009).

Additionally, most RICO claims require a distinction between the "person" and the "enterprise." As noted in [Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#):

"For most RICO claims, the plaintiff also must plead that the alleged 'person' and 'enterprise,' as defined in RICO, are distinct. While often technical, this 'distinctiveness' requirement provides that a corporation generally will not be liable for operating an 'enterprise' consisting of itself and its officers or employees."

## **3. Pattern of Racketeering Activity**

The third element requires a "pattern of racketeering activity." The statutory definition in [18 U.S.C. § 1961](#)(5) merely requires "at least two acts of racketeering activity" within a ten-year period. However, the Supreme Court has elaborated on this requirement in H.J. [Inc v. Northwestern Bell Telephone Company](#), 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989):

"RICO's legislative history, however, establishes that Congress intended that to prove a 'pattern of racketeering activity' a plaintiff or prosecutor must show both 'relationship' and 'continuity'—that the racketeering predicates are related, and that they either constitute or threaten long-term criminal activity."

The court further explained that "sporadic or isolated wrongdoing does not suffice" and that the activities "must be long-term." This means that the

predicate acts must be related to each other and must demonstrate either a continued criminal activity or the threat of such activity.

#### **4. Racketeering Activity (Predicate Acts)**

The fourth element requires the commission of specific "predicate acts" that constitute "racketeering activity" as defined in [18 U.S.C. § 1961](#)(1). These include various state and federal crimes such as murder, kidnapping, gambling, arson, robbery, bribery, extortion, and dealing in controlled substances, as well as specific federal offenses like mail fraud and wire fraud.

In [Green Leaf Nursery v. E.I. Dupont De Nemours, 341 F.3d 1292 \(11th Cir. 2003\)](#), the court noted:

"Plaintiffs allege that mail fraud, in violation of 18 U.S.C. § 1341; wire fraud, in violation of 18 U.S.C. § 1343; obstruction of justice, in violation of 18 U.S.C. § 1503; and tampering with witnesses, in violation of 18 U.S.C. § 1512, constitute relevant predicate offenses for their civil RICO action."

Importantly, the Supreme Court clarified in [Bridge v. Phoenix Bond & Indem. Co., 128 S.Ct. 2131, 170 L.Ed.2d 1012, 553 U.S. 639](#) (2008) that for RICO claims predicated on mail fraud, a plaintiff need not show that it relied on the defendant's alleged misrepresentations, either as an element of the claim or as a prerequisite for establishing proximate causation.

#### **5. Injury to Business or Property**

The fifth element requires the plaintiff to demonstrate an injury to their "business or property." As noted in [Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#):

"To bring a civil RICO claim, a plaintiff must demonstrate that their business or property was injured as a result of a RICO violation. In other words, there must be some sort of concrete financial loss directly flowing from the purported violation to support a RICO claim. Thus, if a plaintiff does not have a concrete financial loss, then the RICO claim must be dismissed. Asserting personal injuries, such as emotion distress, is insufficient."

This requirement is derived directly from the statutory language in [18 U.S.C. § 1964](#)(c), which provides a private right of action for "[a]ny person injured in his business or property by reason of a violation of section 1962 of this chapter."

#### **6. Causation**

The sixth element requires a causal connection between the RICO violation and the injury to the plaintiff's business or property. This is commonly referred to as the "by reason of" requirement, as it stems from the statutory language in [18 U.S.C. § 1964](#)(c).

In [Canyon County v. Syngenta Seeds, Inc., 519 F.3d 969 \(9th Cir. 2008\)](#), the court explained:

"To have standing under § 1964(c), a civil RICO plaintiff must show: (1) that his alleged harm qualifies as injury to his business or property; and (2) that his harm was 'by reason of' the RICO violation, which requires the plaintiff to establish proximate causation."

It should be noted that this case was abrogated by *Ketayi v. Health Enrollment Grp., Corp.*, 516 F.Supp.3d 1092 (S.D. Cal. 2021). However, the specific articulation of these two standing requirements remains consistent with other authoritative interpretations of the civil RICO statute.

Similarly, in [Chambers v. King Buick GMC, LLC, 43 F. Supp. 3d 575 \(D. Md. 2014\)](#), the court noted:

"Plaintiff must additionally plead proximate cause, that is she was injured in her business or property 'by reason of' the RICO violation."

## **7. Interstate Commerce**

The seventh element requires a nexus to interstate commerce. As noted in *RICO: A Primer*:

"Notably, there must be some nexus to interstate or foreign commerce—it is a jurisdictional element of a civil RICO claim. Thus, predicate acts will often occur in several States."

This requirement stems from the statutory language in [18 U.S.C. § 1962](#), which specifies that the enterprise must be "engaged in, or the activities of which affect, interstate or foreign commerce."

# **Analysis**

## **Core Requirements for a Civil RICO Claim**

Based on the statutory provisions and case law interpretations, the essential elements that must be satisfied for a plaintiff to prevail in a civil RICO claim can be synthesized as follows:

1. **Conduct by a Person:** The defendant must be a "person" who has engaged in conduct that violates [18 U.S.C. § 1962](#). Under the "operation or management" test established in [Reves v. Ernst Young, 507 U.S. 170 \(1993\)](#), the person must have had some part in directing the enterprise's affairs.
2. **Enterprise:** There must be an "enterprise" that is engaged in, or the activities of which affect, interstate or foreign commerce. The enterprise must have: (a) an ongoing organizational structure, (b) members who function as a continuing unit with established duties, and (c) an existence separate and distinct from the pattern of racketeering activity.



3. **Pattern of Racketeering Activity:** The defendant must have engaged in a "pattern of racketeering activity," which requires at least two predicate acts within a ten-year period. These acts must demonstrate both "relationship" and "continuity" as established in *H.J. Inc v. Northwestern Bell Telephone Company*, 492 U.S. 229 (1989).
4. **Racketeering Activity (Predicate Acts):** The defendant must have committed specific "predicate acts" that constitute "racketeering activity" as defined in [18 U.S.C. § 1961](#)(1), such as mail fraud, wire fraud, or other specified state and federal crimes.
5. **Injury to Business or Property:** The plaintiff must have suffered an injury to their "business or property," which requires a concrete financial loss directly flowing from the RICO violation.
6. **Causation:** The plaintiff must establish that their injury was "by reason of" the RICO violation, which requires proving proximate causation between the violation and the injury.
7. **Interstate Commerce:** The enterprise must be engaged in, or its activities must affect, interstate or foreign commerce.

## Variations in Articulating the Elements

It's worth noting that different courts and secondary sources have articulated these elements in slightly different ways, sometimes combining certain elements or emphasizing particular aspects of the requirements. For example:

- In [Living Designs, Inc. v. E.I. Dupont De Nemours and Co.](#), 431 F.3d 353 (9th Cir. 2005), the court identified five elements: "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity (known as 'predicate acts') (5) causing injury to plaintiff's 'business or property.'"
- In [P & P MARKETING, INC. v. Ditton](#), 746 F. Supp. 1354 (N.D. Ill. 1990), the court identified five elements: "(1) a 'person'; (2) an 'enterprise' engaged in or affecting interstate commerce; (3) 'racketeering activity' which (4) occurred in a 'pattern' and (5) an injury."
- In [Sheftelman v. Jones](#), 605 F.Supp. 549 (N.D. Ga. 1984), the court identified seven elements: "(1) that the defendant (2) through the commission of two or more acts (3) constituting a 'pattern' (4) of 'racketeering activity' (5) directly or indirectly invests in, or maintains an interest in, or participates in (6) an 'enterprise' (7) the activities of which affect interstate or foreign commerce."

Despite these variations, the underlying statutory requirements remain the same, and the core elements consistently reflect the need to demonstrate a violation of [18 U.S.C. § 1962](#) and an injury to business or property caused by that violation.

## **Sub-elements and Additional Requirements**

### **Person-Enterprise Distinctiveness**

For claims under [18 U.S.C. § 1962\(c\)](#), there is an additional requirement that the "person" and the "enterprise" must be distinct entities. As noted in [Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#):

"For most RICO claims, the plaintiff also must plead that the alleged 'person' and 'enterprise,' as defined in RICO, are distinct. While often technical, this 'distinctiveness' requirement provides that a corporation generally will not be liable for operating an 'enterprise' consisting of itself and its officers or employees."

This means that a corporation cannot be both the "person" and the "enterprise" under § 1962(c), although it can be part of an enterprise.

### **Relationship and Continuity in the Pattern Requirement**

The Supreme Court's interpretation of the "pattern" requirement in H.J. [Inc v. Northwestern Bell Telephone Company](#), 492 U.S. 229 (1989) introduces important sub-elements:

"RICO's legislative history, however, establishes that Congress intended that to prove a 'pattern of racketeering activity' a plaintiff or prosecutor must show both 'relationship' and 'continuity'—that the racketeering predicates are related, and that they either constitute or threaten long-term criminal activity."

This means that the predicate acts must be related to each other (not isolated instances) and must demonstrate a continued or threatened continued criminal activity. Sporadic or isolated wrongdoing does not suffice.

### **Domestic Injury for Foreign Plaintiffs**

In cases involving foreign plaintiffs, there is an additional requirement that the plaintiff must demonstrate a "domestic injury," as noted in [Yegiazaryan v. Smagin : RICO Becomes A Tool For Foreign Plaintiffs To Collect On Arbitration Awards In The U.S.](#):

"To bring a RICO private action, a plaintiff must suffer harm to their business or property due to a substantive violation of RICO. The Supreme Court held in RJR Nabisco that a private plaintiff's harm must be a 'domestic injury.'"

This requirement ensures that RICO's civil remedies are focused on domestic injuries rather than being extended to address foreign harms.



# **Restrictions and Limitations on Civil RICO Claims**

## **Statute of Limitations**

Civil RICO claims are subject to a four-year statute of limitations, as noted in [Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#):

"RICO has a four-year statute of limitations, which is triggered by the date a plaintiff discovered or should have discovered the purported criminal activity. Therefore, if four years has passed since that date, the claim must be dismissed."

This time limitation is an important procedural hurdle that plaintiffs must overcome.

## **Pleading Requirements for Fraud-Based Claims**

Many civil RICO claims are based on predicate acts involving fraud, such as mail fraud or wire fraud. These claims are subject to heightened pleading standards under Rule 9 of the Federal Rules of Civil Procedure, as noted in [SCOTUS Clarified RICO's Domestic Injury Requirement, Did Not Create New Civil Right Of Action For Enforcing Arbitration Awards](#):

"When claims are fraud-based (most civil RICO theories are), the heightened specificity requirements of Rule 9 of the Federal Rules of Civil Procedure compound each of these burdens."

This means that plaintiffs must plead the circumstances of fraud with particularity, which adds an additional layer of difficulty to establishing a RICO claim.

# **Exceptions and Caveats**

## **Exception for Securities Fraud**

The civil RICO statute contains an important exception for securities fraud, as specified in [18 U.S.C. § 1964](#)(c):

"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, except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962."

This exception prevents plaintiffs from using securities fraud as a predicate act for a RICO claim, which was added by amendment in 1995 to prevent the overlap of RICO with securities laws.

## Variation in Requirements Across Jurisdictions

While the basic elements of a civil RICO claim are consistent across federal jurisdictions, there can be nuances and variations in how different circuits interpret certain requirements. For instance, some circuits may have more stringent interpretations of what constitutes a "pattern" or an "enterprise," or may apply different standards for establishing proximate causation.

## Standing Requirements May Limit Who Can Bring a Claim

Not every person affected by racketeering activity has standing to bring a civil RICO claim. As emphasized in [Canyon County v. Syngenta Seeds, Inc., 519 F.3d 969 \(9th Cir. 2008\)](#), a plaintiff must show "that his alleged harm qualifies as injury to his business or property" and "that his harm was 'by reason of' the RICO violation, which requires the plaintiff to establish proximate causation." This case was abrogated by *Ketayi v. Health Enrollment Grp., Corp.*, 516 F.Supp.3d 1092 (S.D. Cal. 2021), but the basic standing requirements remain valid across jurisdictions.

## Conclusion

To prevail in a civil RICO claim, a plaintiff must satisfy several stringent requirements derived from the statutory provisions and judicial interpretations. At its core, the plaintiff must demonstrate that the defendant, through the commission of at least two predicate acts constituting a pattern of racketeering activity, has conducted or participated in the affairs of an enterprise that affects interstate commerce, and that this conduct has proximately caused an injury to the plaintiff's business or property.

The elements of a civil RICO claim can be summarized as follows:

1. **Conduct by a Person:** The defendant must be a "person" who has engaged in conduct that violates [18 U.S.C. § 1962](#), typically by having some part in directing the enterprise's affairs under the "operation or management" test.
2. **Enterprise:** There must be an "enterprise" with an organizational structure, whose members function as a continuing unit, and which has an existence separate from the pattern of racketeering activity.
3. **Pattern of Racketeering Activity:** The defendant must have engaged in a "pattern of racketeering activity," requiring at least two predicate acts within ten years that demonstrate both "relationship" and "continuity."
4. **Racketeering Activity (Predicate Acts):** The defendant must have committed specific "predicate acts" that constitute "racketeering activity" as defined in [18 U.S.C. § 1961\(1\)](#).

5. **Injury to Business or Property:** The plaintiff must have suffered a concrete financial loss to their business or property.
6. **Causation:** The plaintiff must establish proximate causation between the RICO violation and their injury.
7. **Interstate Commerce:** The enterprise must be engaged in, or its activities must affect, interstate commerce.

Additionally, depending on the specific subsection of § 1962 being invoked and the nature of the claim, there may be additional requirements, such as the distinction between the "person" and the "enterprise" for § 1962(c) claims, or the demonstration of a "domestic injury" for foreign plaintiffs.

These stringent requirements reflect Congress's intent to create a powerful tool for combating organized crime without allowing RICO to become a means of federalizing ordinary business disputes or common law fraud cases. As courts have consistently recognized, RICO was designed to address long-term criminal activity, not isolated or sporadic wrongdoing.

## Legal Authorities

[Ray v. Spirit Airlines, Inc., 836 F.3d 1340 \(11th Cir. 2016\)](#)

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

#### Extract

18 U.S.C. § 1964(c). "To recover, a civil plaintiff must establish that a defendant (1) operated or managed (2) an enterprise (3) through a pattern (4) of racketeering activity that included at least two racketeering acts." Ray, 767 F.3d at 1224. A civil plaintiff must also show "(1) the requisite injury to 'business or property,' and (2) that such injury was 'by reason of' the substantive RICO violation." Williams v. Mohawk Indus., Inc., 465 F.3d 1277, 1282-83 (11th Cir. 2006), abrogated on other grounds as recognized in Simpson, 744 F.3d at 714-15.

#### Summary

Clear outline of the elements required for a civil RICO claim under 18 U.S.C. § 1964(c). It specifies that a plaintiff must demonstrate that the defendant operated or managed an enterprise through a pattern of racketeering activity, which must include at least two racketeering acts. Additionally, the plaintiff must show an injury to business or property caused by the RICO violation. This information is directly relevant to understanding the elements necessary for a civil RICO claim.

[Green Leaf Nursery v. E.I. Dupont De Nemours, 341 F.3d 1292 \(11th Cir. 2003\)](#)

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

### **Extract**

Plaintiffs in a civil RICO action must identify and prove a pattern of racketeering activity, which is defined as two predicate acts of racketeering activity within a ten-year period. 18 U.S.C. § 1961(5). Plaintiffs allege that mail fraud, in violation of 18 U.S.C. § 1341; wire fraud, in violation of 18 U.S.C. § 1343; obstruction of justice, in violation of 18 U.S.C. § 1503; and tampering with witnesses, in violation of 18 U.S.C. § 1512, constitute relevant predicate offenses for their civil RICO action. The district court found that Plaintiffs' mail and wire fraud claims failed because Plaintiffs were unable to establish reasonable reliance, which is an essential element of mail and wire fraud predicates in the civil RICO context.

### **Summary**

For a plaintiff to prevail in a civil RICO claim, they must prove a pattern of racketeering activity, which involves at least two predicate acts of racketeering within a ten-year period. The passage also highlights that for mail and wire fraud predicates, plaintiffs must establish reasonable reliance, which is an essential element in the civil RICO context. This information is generally applicable to civil RICO claims under federal law.

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

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

### **Extract**

Regardless of which subsection of Section 1962 defendants are alleged to have violated, five elements are common and necessary to every civil RICO claim. These essential elements are: (1) a 'person'; (2) an 'enterprise' engaged in or affecting interstate commerce; (3) 'racketeering activity' which (4) occurred in a 'pattern' and (5) an injury. Id. at 440; 18 USC § 1962(a)-(d).

### **Summary**

The passage clearly outlines the five essential elements required for a civil RICO claim under U.S. Federal law. These elements are: (1) a "person"; (2) an "enterprise" engaged in or affecting interstate commerce; (3) "racketeering activity"; (4) a "pattern" of such activity; and (5) an injury. This information is directly relevant to understanding what a plaintiff must establish to prevail in a civil RICO claim.

[Living Designs, Inc. v. E.I. Dupont De Nemours and Co., 431 F.3d 353 \(9th Cir. 2005\)](#)

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

### **Extract**

The elements of a civil RICO claim are as follows: '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity (known as `predicate acts') (5) causing injury to plaintiff's `business or property.'

### **Summary**

The passage clearly outlines the five essential elements that must be satisfied for a plaintiff to prevail in a civil RICO claim. These elements are conduct, enterprise, pattern, racketeering activity, and injury to business or property. This information is derived from a federal appellate court decision, which provides authoritative guidance on the requirements for a civil RICO claim.

[Roma Const. Co. v. aRusso, 96 F.3d 566 \(1st Cir. 1996\)](#)

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

### **Extract**

The Supreme Court has emphasized the broad reach of RICO's language: 'If the defendant engages in a pattern of racketeering activity ... and the racketeering activities injure the plaintiff in his business or property, the plaintiff has a claim under § 1964(c). There is no room in the statutory language for an additional ... requirement.' *Sedima*, 473 U.S. at 495, 105 S.Ct. at 3284.

### **Summary**

The Supreme Court has clarified the elements necessary for a civil RICO claim. Specifically, the defendant must engage in a pattern of racketeering activity, and these activities must injure the plaintiff in their business or property. The passage emphasizes that there are no additional requirements beyond these elements as per the statutory language.

[Gross v. Waywell, 628 F.Supp.2d 475 \(S.D. N.Y. 2009\)](#)

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

### **Extract**

This statutory design manifests in several provisions of the legislation that reflect both qualitative and quantitative measures, elements of dimensions and degrees that, working as a whole, operate to confine the range of RICO's remedies. The activities about which Congress was concerned must

be long-term. See *H.J. Inc.*, 492 U.S. at 242, 109 S.Ct. 2893. Such conduct must entail at least two predicate acts. The illegal activities must fall within the list of crimes specified in the statute. The racketeering offenses must be related and continuous. The criminal pattern must extend over a substantial period of time; sporadic or isolated wrongdoing does not suffice. See *id.*; *Sedima*, 473 U.S. at 497 n. 14, 105 S.Ct. 3275; *GICC*, 67 F.3d at 467.

## **Summary**

Clear outline of the elements necessary for a RICO claim, emphasizing the need for long-term conduct, at least two predicate acts, and a pattern of racketeering that is related and continuous. These elements are essential for a plaintiff to establish a RICO violation.

[\*Bd. of Managers of Trump Tower at City Ctr. Condo. v. Palazzolo\*, 346 F.Supp.3d 432 \(S.D. N.Y. 2018\)](#)

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

### **Extract**

For example, in *Securitron Magnalock Corp. v. Schnabolk*, 65 F.3d 256 (2d Cir. 1995), the Second Circuit concluded that an individual person and 'two separate and distinct corporations' may be held liable, as the three are 'clearly ... RICO person[s] as well as ... member[s] of a RICO enterprise.' *Id.* at 263. Indeed, the distinctness cases are not necessarily concerned with complete overlap of RICO persons and RICO enterprises. ... (Tobia Defs.' Mem 7 ('[S]imply lumping ... Defendants into collective allegations, as Plaintiff does in the Amended Complaint, fails the particularity requirement of Rule 9(b) regarding RICO claims under § 1962(c).' (internal quotation marks omitted); ACC Mem. 6 ('[A] plaintiff must allege that each RICO defendant committed at least two predicate acts of racketeering activity within the last 10 years.').)

## **Summary**

The passage provides insight into the requirements for a civil RICO claim under § 1962(c). It highlights the need for distinctness between RICO persons and enterprises, and the necessity for particularity in allegations, as per Rule 9(b). Additionally, it specifies that a plaintiff must allege that each RICO defendant committed at least two predicate acts of racketeering activity within the last 10 years. This information is generally applicable to RICO claims and is not limited to the specific case.

[\*Chambers v. King Buick GMC, LLC\*, 43 F. Supp. 3d 575 \(D. Md. 2014\)](#)

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

## **Extract**

In order for a civil RICO claim to survive a Rule 12(b)(6) motion to dismiss, plaintiff must allege “(1) conduct; (2) of an enterprise; (3) through a pattern; (4) of racketeering.” *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496, 105 S.Ct. 3275, 87 L.Ed.2d 346 (1985). Plaintiff must additionally plead proximate cause, that is she was injured in her business or property “by reason of” the RICO violation. *Hemi Group, LLC v. City of New York, N.Y.*, 559 U.S. 1, 6, 130 S.Ct. 983, 175 L.Ed.2d 943 (2010).

## **Summary**

Essential elements required for a civil RICO claim to proceed past a motion to dismiss. These elements are conduct, an enterprise, a pattern, and racketeering. Additionally, the plaintiff must demonstrate proximate cause, meaning the injury to their business or property must be directly caused by the RICO violation. This information is derived from established case law, making it broadly applicable to civil RICO claims in federal court.

[De Wit v. Firststar Corp., 879 F.Supp. 947 \(N.D. W.Va. 1995\)](#)

## **U.S. District Court — Northern District of West Virginia**

## **Extract**

Count I of the amended complaint alleges a violation of the provision of the Racketeer Influenced And Corrupt Organizations Act, 18 U.S.C. ? 1962(c), which pertains to interest in or control of a RICO enterprise. The complaint alleges that 'from at least September 30, 1993, and through June 3, 1994,' defendants, identified collectively as 'Firststar,' participated 'directly and/or indirectly' in and were associated with Morken's RICO enterprise. Complaint, ? 43. The 'pattern' of racketeering alleged in this count includes mail and wire fraud, fraud in the sale of securities, a scheme to defraud investors, and filing of false affidavits in bankruptcy. Complaint, ? 44... The court concludes that plaintiff's have failed to allege the first and threshold element of a RICO claim under ? 1962(c), conduct of a RICO enterprise, and therefore defendants' motion to dismiss the RICO claim should be granted. Nonetheless, the court will consider, as alternatives to this holding, the adequacy of plaintiffs' allegations of the other elements of such a claim. Plaintiffs' RICO claim must be dismissed, because it fails to plead sufficiently the elements of a RICO offense under 18 U.S.C. ? 1962(c). First, the court concludes that plaintiffs complaint is deficient on the critical threshold allegation of 'conduct' of a RICO enterprise by the defendants. The complaint does not allege that defendants participated in the conduct of Morken's RICO enterprise itself. Rather, it alleges only that defendants conducted that enterprise's banking scheme. As alleged, the court concludes that defendants' conduct was one step removed from management of the RICO enterprise itself, and thus liability will not lie under ? 1962(c).



## **Summary**

Elements necessary for a civil RICO claim under 18 U.S.C. § 1962(c). It specifies that a plaintiff must allege the "conduct" of a RICO enterprise, which is a critical threshold element. The court found that the plaintiffs failed to allege that the defendants conducted the RICO enterprise itself, which led to the dismissal of the RICO claim. This indicates that for a successful RICO claim, the plaintiff must show that the defendant had some level of control or management over the RICO enterprise, not just peripheral involvement.

[Securitron Magnalock Corp. v. Schnabolk, 65 F.3d 256 \(2nd Cir. 1995\)](#)

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

#### **Extract**

In response to specific questions regarding Securitron's RICO claim, the jury found: that the defendants Schnabolk, Kalon and Andra constituted an 'enterprise;' that the defendants engaged in two or more acts of 'racketeering;' that the racketeering acts were connected by a common scheme, plan or motive; that the acts were committed within ten years of each other and constituted a pattern of racketeering; and that Securitron suffered an injury in its business as the result of the pattern.

#### **Summary**

Elements necessary for a civil RICO claim: (1) the existence of an "enterprise," (2) engagement in two or more acts of "racketeering," (3) a connection between the racketeering acts through a common scheme, plan, or motive, (4) the acts must be within ten years of each other and form a pattern of racketeering, and (5) the plaintiff must have suffered an injury in business as a result of the pattern. These elements are essential for establishing a civil RICO claim under 18 U.S.C. Sec. 1962(c).

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

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

#### **Extract**

A plaintiff asserting a RICO claim predicated on mail fraud need not show, either as an element of its claim or as a prerequisite to establishing proximate causation, that it relied on the defendant's alleged misrepresentations. ... RICO's private right of action is contained in 18 U.S.C. § 1964(c), which provides in relevant part that '[a]ny 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.' Section 1962 contains RICO's criminal prohibitions. Pertinent here is § 1962(c), which makes it 'unlawful for any person employed by or associated with' an enterprise engaged in or affecting 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.'

## **Summary**

The passage from the U.S. Supreme Court case clarifies that for a civil RICO claim predicated on mail fraud, a plaintiff does not need to demonstrate reliance on the defendant's misrepresentations. The relevant statutory provisions are found in 18 U.S.C. § 1964(c) and § 1962(c), which outline the requirements for a private right of action and the unlawful conduct involving a pattern of racketeering activity, respectively. This information is generally applicable to civil RICO claims and provides insight into the elements required for such claims.

[Canyon County v. Syngenta Seeds, Inc., 519 F.3d 969 \(9th Cir. 2008\)](#)

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

### **Extract**

Under RICO's civil enforcement mechanism, '[a]ny person injured in his business or property by reason of a violation of [18 U.S.C. § 1962] 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....' 18 U.S.C. § 1964(c). To have standing under § 1964(c), a civil RICO plaintiff must show: (1) that his alleged harm qualifies as injury to his business or property; and (2) that his harm was 'by reason of' the RICO violation, which requires the plaintiff to establish proximate causation.

## **Summary**

For a plaintiff to prevail in a civil RICO claim, they must demonstrate two key elements: (1) an injury to their business or property, and (2) that this injury was caused by a RICO violation, which involves establishing proximate causation. This is a general requirement under the civil enforcement mechanism of RICO as outlined in 18 U.S.C. § 1964(c).

[Hemi Grp. LLC v. City of New York, 130 S.Ct. 983, 175 L. Ed. 2d 943 \(2009\)](#)

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

## **Extract**

RICO provides a private cause of action for '[a]ny person injured in his business or property by reason of a violation of section 1962 of this chapter.' 18 U.S.C. § 1964(c). Section 1962, in turn, contains RICO's criminal provisions. Specifically, § 1962(c), which the City invokes here, makes it 'unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate ... commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity.' 'Racketeering activity' is defined to include a number of so-called predicate acts, including the two at issue in this case — mail and wire fraud. See § 1961(1).

## **Summary**

Clear explanation of the elements required for a civil RICO claim. It specifies that a plaintiff must demonstrate an injury to business or property by reason of a violation of section 1962, which involves conducting or participating in an enterprise's affairs through a pattern of racketeering activity. The passage also clarifies that racketeering activity includes predicate acts such as mail and wire fraud. This information is directly relevant to understanding the elements necessary for a civil RICO claim.

[Reves v. Ernst Young, 507 U.S. 170, 113 S.Ct. 1163, 122 L.Ed.2d 525 \(1993\)](#)

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

### **Extract**

A provision of the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1962(c), makes it unlawful 'for any person employed by or associated with [an interstate] enterprise... to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity...' ... In order to 'participate, directly or indirectly, in the conduct of such enterprise's affairs,' one must have some part in directing those affairs. Of course, the word 'participate' makes clear that RICO liability is not limited to those with primary responsibility for the enterprise's affairs, just as the phrase 'directly or indirectly' makes clear that RICO liability is not limited to those with a formal position in the enterprise, but some part in directing the enterprise's affairs is required. The 'operation or management' test expresses this requirement in a formulation that is easy to apply.

### **Summary**

The passage from the *Reves v. Ernst Young* case provides insight into the elements required for a civil RICO claim under 18 U.S.C. § 1962(c). It specifies that a person must be employed by or associated with an enterprise engaged in interstate commerce and must conduct or participate

in the conduct of the enterprise's affairs through a pattern of racketeering activity. The "operation or management" test is crucial, indicating that the person must have some part in directing the enterprise's affairs, though not necessarily holding a formal position or primary responsibility.

[Williams v. Mohawk Industries, Inc., 465 F.3d 1277 \(11th Cir. 2006\)](#)

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

### **Extract**

Pursuant to 18 U.S.C. § 1962(c), it is illegal '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). Thus, in order to establish a federal civil RICO violation under § 1962(c), the plaintiffs 'must satisfy four elements of proof: `(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' ... In civil cases, however, RICO plaintiffs must also satisfy the requirements of 18 U.S.C. § 1964(c). Section 1964(c) states that '[a]ny person injured in his business or property by reason of' RICO's substantive provisions has the right to 'recover threefold the damages he sustains....' 18 U.S.C. § 1964(c). Thus, under § 1964(c), civil RICO claimants, such as the plaintiffs here, must show (1) the requisite injury to 'business or property,' and (2) that such injury was 'by reason of' the substantive RICO violation.

### **Summary**

The passage from the court case outlines the elements required to establish a federal civil RICO violation under 18 U.S.C. § 1962(c). It specifies that plaintiffs must prove conduct of an enterprise through a pattern of racketeering activity. Additionally, under 18 U.S.C. § 1964(c), plaintiffs must demonstrate an injury to business or property caused by the RICO violation. This information is directly relevant to understanding the elements necessary for a civil RICO claim.

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

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

### **Extract**

RICO's legislative history, however, establishes that Congress intended that to prove a 'pattern of racketeering activity' a plaintiff or prosecutor must show both 'relationship' and 'continuity'—that the racketeering predicates are related, and that they either constitute or threaten long-term criminal

activity. ... The Racketeer Influenced and Corrupt Organizations Act (RICO or Act), Pub.L. 91-452, Title IX, 84 Stat. 941, as amended, 18 U.S.C. §§ 1961-1968 (1982 ed. and Supp. V), imposes criminal and civil liability upon those who engage in certain 'prohibited activities.' Each prohibited activity is defined in 18 U.S.C. § 1962 to include, as one necessary element, proof either of 'a pattern of racketeering activity' or of 'collection of an unlawful debt.' 'Racketeering activity' is defined in RICO to mean 'any act or threat involving' specified state-law crimes, any 'act' indictable under various specified federal statutes, and certain federal 'offenses,' 18 U.S.C. § 1961(1) (1982 ed., Supp. V); but of the term 'pattern' the statute says only that it 'requires at least two acts of racketeering activity' within a 10-year period, 18 U.S.C. § 1961(5).

## **Summary**

Detailed explanation of the elements required to establish a "pattern of racketeering activity" under RICO. It specifies that a plaintiff must demonstrate both "relationship" and "continuity" in the racketeering predicates, meaning the acts must be related and either constitute or threaten long-term criminal activity. Additionally, the passage clarifies that RICO requires at least two acts of racketeering activity within a 10-year period. This information is crucial for understanding the elements necessary for a civil RICO claim.

[Sundquist v. Hultquist, Cause No. 1:20-CV-275-HAB \(N.D. Ind. Sep 09, 2020\)](#)

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

## **Extract**

Accordingly, to state a claim for a RICO violation, a plaintiff must allege a cognizable injury to its business or property resulting from the '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' Gamboa, 457 F.3d at 705.

## **Summary**

Clear outline of the elements required to establish a civil RICO claim. It specifies that a plaintiff must demonstrate an injury to business or property caused by conduct of an enterprise through a pattern of racketeering activity. This is a fundamental requirement for any civil RICO claim under U.S. Federal law.

[Kerwick v. Pullman & Comley LLC, 3:24-CV-00427 \(KAD\) \(D. Conn. Dec 20, 2024\)](#)

**U.S. District Court — District of Connecticut**

## **Extract**

A private cause of action under RICO requires that the plaintiff allege: ‘(1) the defendant's violation of 18 U.S.C. § 1962, (2) an injury to the plaintiff's business or property, and (3) causation of the injury by the defendant's violation.’” *Lerner v. Fleet Bank, N.A.*, 459 F.3d 273, 283 (2d Cir. 2006). To state a claim under 18 U.S.C. § 1962(c), a plaintiff must allege “(1) that the defendant (2) through the commission of two or more acts (3) constituting a ‘pattern’ (4) of ‘racketeering activity’ (5) directly or indirectly invests in, or maintains [an] interest in, or participates in (6) an ‘enterprise’ (7) the activities of which affect interstate or foreign commerce.”

## **Summary**

The passage from the *Kerwick v. Pullman & Comley LLC* case provides a clear outline of the elements required for a civil RICO claim. It specifies the need for a violation of 18 U.S.C. § 1962, an injury to business or property, and causation of the injury by the violation. Additionally, it details the requirements under 18 U.S.C. § 1962(c), including the commission of two or more acts constituting a pattern of racketeering activity, involvement in an enterprise, and the effect on interstate or foreign commerce. This information is directly relevant to understanding the elements necessary for a civil RICO claim.

[Lockhart v. Deluca](#)

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

## **Extract**

To state a RICO claim, a plaintiff must plead: “(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.” *Sedima, S.P.R.L.*, 473 U.S. at 496. Each of these elements, in turn, has its own sub-elements. To plead an enterprise, for instance, a plaintiff must allege: 1) an ongoing organization with some sort of framework or superstructure for making and carrying out decisions; 2) that the members of the enterprise functioned as a continuing unit with established duties; and 3) that the enterprise was separate and distinct from the pattern of racketeering activity in which it engaged.

## **Summary**

Clear outline of the elements required to establish a civil RICO claim, as well as additional details on the sub-elements necessary to plead an enterprise. This information is directly relevant to understanding the requirements for a plaintiff to prevail in a civil RICO claim.

[Sheftelman v. Jones, 605 F.Supp. 549 \(N.D. Ga. 1984\)](#)

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

### **Extract**

To state a claim for damages under RICO a plaintiff has two pleading burdens. He must allege that the defendant has violated the substantive RICO statute, 18 U.S.C. § 1962, and that he was injured in his business or property by reason of a violation of section 1962, 18 U.S.C. § 1964. *Moss v. Morgan Stanley, Inc.*, 719 F.2d 5, 17 (2d Cir.1983). Plaintiff must allege the existence of seven elements to satisfy the pleading burden under the substantive RICO statute: (1) that the defendant (2) through the commission of two or more acts (3) constituting a 'pattern' (4) of 'racketeering activity' (5) directly or indirectly invests in, or maintains an interest in, or participates in (6) an 'enterprise' (7) the activities of which affect interstate or foreign commerce.

### **Summary**

Clear outline of the elements required for a civil RICO claim, which are generally applicable in U.S. Federal jurisdiction. It specifies the need to allege a violation of the substantive RICO statute and an injury resulting from that violation. It further breaks down the elements into seven specific requirements, which are essential for understanding what a plaintiff must demonstrate to prevail in a civil RICO claim.

[Fairfield Fin. Mortg. Grp., Inc. v. Luca, 925 F.Supp.2d 344 \(E.D. N.Y. 2013\)](#)

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

### **Extract**

To state a claim for damages under RICO a plaintiff has two pleading burdens. First, he must allege that the defendant has violated the substantive RICO statute, 18 U.S.C. § 1962 (1976), commonly known as “criminal RICO.” In so doing, he must allege the existence of seven constituent elements: (1) that the defendant (2) through the commission of two or more acts (3) constituting a “pattern” (4) of “racketeering activity” (5) directly or indirectly invests in, or maintains an interest in, or participates in (6) an “enterprise” (7) the activities of which affect interstate or foreign commerce. 18 U.S.C. § 1962(a)-(c). Plaintiff must allege adequately defendant's violation, of section 1962 before turning to the second burden—i.e., invoking RICO's civil remedies of treble damages, attorneys fees and costs.

### **Summary**

Clear framework for understanding the legal requirements for a civil RICO claim.



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

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

**Extract**

To state a claim for damages under RICO a plaintiff has two pleading burdens. First, he must allege that the defendant has violated the substantive RICO statute, 18 U.S.C. § 1962 (1976), commonly known as 'criminal RICO.' In so doing, he must allege the existence of seven constituent elements: (1) that the defendant (2) through the commission of two or more acts (3) constituting a 'pattern' (4) of 'racketeering activity' (5) directly or indirectly invests in, or maintains an interest in, or participates in (6) an 'enterprise' (7) the activities of which affect interstate or foreign commerce.... Plaintiff must allege adequately defendant's violation of section 1962 before turning to the second burden — i.e., invoking RICO's civil remedies of treble damages, attorneys fees and costs....

**Summary**

To prevail in a civil RICO claim, a plaintiff must allege that the defendant violated the substantive RICO statute by committing two or more acts that form a pattern of racketeering activity, which involves an enterprise affecting interstate or foreign commerce. This is a general requirement for civil RICO claims in U.S. Federal courts.

[Portionpac Chemical Corp. v. Sanitech Systems, 217 F.Supp.2d 1238 \(M.D. Fla. 2002\)](#)

**U.S. District Court — Middle District of Florida**

**Extract**

The elements of a civil RICO claim are: '(1) a violation of section 1962; (2) injury to business or property; and (3) that the violation caused the injury.'

**Summary**

Clear and concise list of the elements required for a civil RICO claim, which are: a violation of section 1962, an injury to business or property, and a causal link between the violation and the injury. This information is directly relevant to understanding the requirements for a plaintiff to prevail in a civil RICO claim.

[Saine v. AIA, INC., 582 F.Supp. 1299 \(D. Colo. 1984\)](#)

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

### **Extract**

The statutory pattern reveals eight elements that are critical to a RICO claim: *Moss v. Morgan Stanley Inc.*, 719 F.2d 5, 17 (2d Cir.1983); *Taylor v. Bear Stearns & Co.*, 572 F.Supp. 667, 682 (N.D.Ga.1983).

### **Summary**

There are eight critical elements to a RICO claim, as identified in other cases such as *Moss v. Morgan Stanley Inc.* and *Taylor v. Bear Stearns & Co.* This suggests that these elements are well-established in the legal interpretation of RICO claims.

[\*Studco Bldg. Sys. U.S., LLC v. 1st Advantage Fed. Credit Union\*, 509 F.Supp. 3d 560 \(E.D. Va. 2020\)](#)

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

### **Extract**

Generally, the elements of a civil Racketeer Influenced and Corrupt Organizations Act (RICO) claim are (1) a person, (2) an enterprise, (3) a pattern of (4) racketeering activity (5) which causes injury to the plaintiff. 18 U.S.C.A. § 1962 (a, c). 'The injury and causation components [of element (5)] are viewed as standing requirements.' *D'Addario v. Geller*, 264 F.Supp.2d 367, at 396 (E.D. Va. 2003) ; see also, *Williams v. Equity Holding Corp.*, 498 F. Supp. 2d 831, 840 (E.D. Va. 2007). The Supreme Court has explained that a civil RICO claim has four essential elements: '(1) conduct; (2) of an enterprise; (3) through a pattern; (4) of racketeering activity.' *Whitney, Bradley & Brown, Inc. v. Kammermann*, 436 F. App'x 257, 258 (4th Cir. 2011). 'Racketeering activity' includes mail and wire fraud. See 18 U.S.C.A. § 1961(1)(B).

### **Summary**

Clear outline of the elements required for a civil RICO claim, which are generally applicable in the U.S. Federal jurisdiction. It specifies the elements as a person, an enterprise, a pattern of racketeering activity, and injury to the plaintiff. It also highlights that the injury and causation components are viewed as standing requirements, which is crucial for a plaintiff to establish in a civil RICO claim.

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

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

## **Extract**

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

## **Summary**

The passage from the U.S. Supreme Court case *Sedima v. Imrex Company, Inc.* provides insight into the elements required for a civil RICO claim. It specifies that RICO is directed at "racketeering activity," which includes acts indictable under federal criminal provisions such as mail and wire fraud. For a civil RICO claim, § 1964(c) allows for a private action to recover treble damages if a person is injured in their business or property "by reason of a violation of section 1962." Section 1962(c) specifically prohibits conducting or participating in the conduct of an enterprise through a pattern of racketeering activity. This indicates that the elements required for a civil RICO claim include: (1) the existence of an enterprise, (2) the defendant's conduct or participation in the conduct of the enterprise, (3) through a pattern of racketeering activity, and (4) injury to the plaintiff's business or property by reason of the violation.

[18 U.S.C. § 1964 18 U.S.C. § 1964 Civil Remedies](#)

## **Extract**

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, except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962.

## **Summary**

For a plaintiff to prevail in a civil RICO claim, they must demonstrate an injury to their business or property due to a violation of section 1962. The passage also specifies that the plaintiff can recover threefold the damages and the cost of the suit, including attorney's fees. However, it excludes reliance on conduct actionable as fraud in securities transactions unless there is a criminal conviction related to the fraud.

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

## **Extract**

It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce... It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce... It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt... It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

## **Summary**

Prohibited activities under the RICO statute, which are essential elements that must be satisfied for a civil RICO claim. These include: (1) the involvement in a pattern of racketeering activity or collection of unlawful debt, (2) the use or investment of income derived from such activities in an enterprise affecting interstate or foreign commerce, (3) acquiring or maintaining an interest in or control of such an enterprise through these activities, (4) conducting or participating in the conduct of the enterprise's affairs through these activities, and (5) conspiring to commit any of these acts.

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

## **Extract**

As used in this chapter- 'racketeering activity' means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; ... 'pattern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity; ... 'enterprise' includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

## Summary

The passage provides definitions for key terms used in the RICO Act, such as "racketeering activity," "pattern of racketeering activity," and "enterprise." These definitions are crucial for understanding the elements that must be satisfied for a plaintiff to prevail in a civil RICO claim. Specifically, a plaintiff must demonstrate a "pattern of racketeering activity," which involves at least two acts of racketeering activity, and the existence of an "enterprise" that is engaged in or affects interstate or foreign commerce.

### [PAYORS, PLAYERS, AND PROXIMATE CAUSE.](#)

**Notre Dame Law Review - University of Notre Dame Law School -  
Crusey, Elisabeth F. - 2022-05-01**

## Extract

Section 1964(c)'s language does not call for a plaintiff to allege a particular "racketeering injury" as an element to state a claim. (54) Unlike the requirements for alleging an "antitrust injury" under the Clayton Act, for RICO, as long as the plaintiff was injured--regardless of the type--by the defendant's racketeering activity, that plaintiff's claim does not fail for lack of a "racketeering injury." (55) Eight years later, the Court affirmed this lack of a requirement for a "racketeering injury" in *Holmes v. Securities Investor Protection Corp.* (*Holmes*). (56) On its face, it may seem that *Sedima* broadened the Court's conception of recovery under RICO by allowing plaintiffs to allege any injury. However, plaintiffs must still meet the second requirement of statutory standing to bring a valid claim: whether they were injured by reason of the alleged racketeering activity. (57) The instant split's disagreements center around this second requirement--what does "by reason of" mean? In *Holmes*, the Court evaluated the second part of statutory standing under [section] 1964(c)--that the injury must be "by reason of a RICO violation." (58) Despite the *Sedima* Court's departure from precedent that relies on the Clayton Act to interpret RICO injuries, the Court continues to derive RICO's meaning from the Clayton Act for the second part of the statutory standing requirement. (59) In *Holmes*, the Court determined that "by reason of" means that plaintiffs must establish that a defendant's alleged RICO violation proximately caused their injuries. (60)

## Summary

The passage provides insight into the elements required for a civil RICO claim, specifically focusing on the requirement that a plaintiff must demonstrate injury "by reason of" a RICO violation, which means establishing proximate cause between the defendant's alleged RICO violation and the plaintiff's injury. This is a critical element of statutory standing under Section 1964(c).

[Seeing the forest: a holistic view of the RICO statute of limitations.](#)

**Notre Dame Law Review - University of Notre Dame Law School -  
McNeill, Carli - 2010-03-01**

## **Extract**

In *Keystone*, the court sought an accrual rule that took into account the continuing nature of a RICO offense (i.e., its pattern element) (52) and that would not start the statute of limitations running until all of the elements of the cause of action existed. (53) ... the limitations period would start to run from the date the plaintiff knew or should have known that the elements of the civil RICO cause of action existed unless, as a part of the same pattern of racketeering activity, there is further injury to the plaintiff or further predicate acts occur, in which case the accrual period shall run from the time when the plaintiff knew or should have known of the last injury or the last predicate act which is part of the same pattern of racketeering activity. (54)

## **Summary**

The passage discusses the accrual rule for civil RICO claims, emphasizing the importance of the "pattern element" and the timing of when the statute of limitations begins. It highlights that the statute of limitations does not start until all elements of the cause of action exist, which includes the pattern of racketeering activity. This indicates that the elements of a civil RICO claim include the existence of a pattern of racketeering activity and the plaintiff's knowledge of the injury and the pattern.

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

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

## **Extract**

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. ... RICO creates a private cause of action under 18 U.S.C. § 1964(c). To state a civil RICO claim, a plaintiff must allege (1) two or more predicate racketeering offenses, (2) the existence of an enterprise affecting interstate commerce, (3) a connection between the racketeering offenses, and (4) an injury by reason of the above.

## **Summary**

Clear and direct answer to the question by listing these elements.

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

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

**Extract**

Section 1962 prohibits 'any person' from: (a) using income received from a pattern of racketeering activity or from the collection of an unlawful debt to acquire an... the language to have the same meaning.(394) Where the underlying violation is an alleged [sections] 1962(d)(395) 'RICO conspiracy claim,'(396) the circuits disagree as to which requirements must be met to establish standing for a civil suit. Specifically, the circuits are divided as to whether the conspiratorial act which results in an injury and provides the basis for a civil claim must be specifically codified as a RICO predicate act, (397) or whether any overt act in furtherance of a conspiracy to violate RICO is sufficient for standing.

**Summary**

The passage provides insight into the requirements for a civil RICO claim under Section 1962. It highlights that a plaintiff must demonstrate a pattern of racketeering activity or the collection of an unlawful debt. Additionally, it discusses the disagreement among circuits regarding whether the act causing injury must be a RICO predicate act or any overt act in furtherance of a RICO conspiracy. This information is crucial for understanding the elements necessary for a civil RICO claim.

[Racketeer influenced and corrupt organizations.](#)

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

**Extract**

Section 1962 of RICO prohibits 'any person' from: (i) using income derived from a pattern of racketeering activity, or... 1962(d). The Court held that an injury caused by an overt act that is not an act of racketeering nor otherwise unlawful under RICO is not sufficient to bring a civil RICO suit. (312) Therefore, a plaintiff bringing a civil RICO claim for injuries sustained from a violation of [section] 1962(d) must demonstrate that the injuries arose from a predicate act that is independently wrongful under RICO. (313) 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

Requirements for a civil RICO claim, specifically under Section 1962. It highlights that a plaintiff must demonstrate that their injuries arose from a predicate act that is independently wrongful under RICO. Additionally, the plaintiff must prove that the defendant's violation of Section 1962 was the proximate cause of the plaintiff's injury. These elements are essential for establishing standing in a civil RICO action.

[Racketeer influenced and corrupt organizations.](#)

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

## Extract

Section 1962 of RICO prohibits 'any person' from: (i) using income derived from a pattern of racketeering activity... a plaintiff bringing a civil RICO claim for injuries sustained from a violation of [section] 1962(d) must demonstrate that the injuries arose from a predicate act that is independently wrongful under RICO. 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.

## Summary

The passage outlines key elements necessary for a civil RICO claim: (1) the plaintiff must demonstrate that the injuries arose from a predicate act that is independently wrongful under RICO, and (2) the plaintiff must prove that the defendant's violation of Section 1962 was the proximate cause of the plaintiff's injury. These elements are crucial for establishing standing in a civil RICO action.

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

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

## Extract

to plead conspiracy adequately, the plaintiff must set forth allegations addressing a. the period of the conspiracy, b. the object of the conspiracy, c. the overt acts taken in furtherance of the conspiracy, d. the agreement to commit predicate acts, and e. knowledge that the acts were part of a pattern of racketeering activity conducted in such a way as to violate § 1962(a), (b), or (c); the plaintiff must also establish 3. injury to the plaintiff's business or property (§ 6(A)(2)–(3) supra) 4. by reason of (§ 6(A)(4) supra) 5. an overt act that must also be a predicate act

## Summary

The elements required for a civil RICO claim include: (1) allegations of a conspiracy with details on the period, object, overt acts, agreement to commit predicate acts, and knowledge of a pattern of racketeering activity; (2) injury to the plaintiff's business or property; (3) causation, meaning the injury must be "by reason of" the racketeering activity; and (4) an overt act that must also be a predicate act. These elements are essential for establishing a civil RICO claim.

[Racketeer influenced and corrupt organizations.](#)

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

## 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. (310) In creating this proximate cause requirement, the Court reasoned that Congress modeled [section] 1964(c) on the civil action provisions in the Clayton Act, (311) which federal courts have long held to require a showing of proximate causation. (312)

## Summary

The passage provides insight into one of the elements required for a civil RICO claim, specifically the need for the plaintiff to demonstrate that the defendant's violation of section 1962 was the proximate cause of the plaintiff's injury. This requirement is modeled after the civil action provisions in the Clayton Act, indicating its broad applicability in civil RICO cases.

[RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS](#)

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

## Extract

Standing for a civil cause of action under RICO is established when a plaintiff shows: a violation of § 1962(a), (b), (c), ... a plaintiff must prove the defendant's violation of § 1962 was the proximate cause of the plaintiff's injury.

## Summary

The passage provides insight into the elements required for a civil RICO claim, specifically focusing on the need for a plaintiff to demonstrate a

violation of § 1962 and that this violation was the proximate cause of the injury. This is a critical component of establishing standing in a civil RICO case.

[CRIMINAL LAW - NINTH CIRCUIT HOLDING HIGHLIGHTS CUMBERSOME APPLICATION OF PRESUMPTION AGAINST EXTRATERRITORIALITY IN FEDERAL STATUTES WITH STATE PREDICATES - UNITED STATES V. PEREZ.](#)

**Suffolk Transnational Law Review - Suffolk University Law School - Callahan, Kathleen - 2021-01-01**

### **Extract**

18 U.S.C. [section] 1961. Id. at (b)(1). See also 18 U.S.C. [section] 1961(1) (2018) (defining 'racketeering activity' under Racketeer Influenced and Corrupts Organizations (RICO) statute. RICO defines racketeering activity as 'Any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical... which is chargeable under State law and punishable by imprisonment for more than one year.' Id. at (1)(A). The statute also enumerates several other federal criminal statutes whose violation constitutes racketeering activity. Id. at (1)(B).

### **Summary**

Definition of "racketeering activity" under the RICO statute, which is crucial for understanding one of the elements that must be satisfied in a RICO claim. The definition includes a range of criminal acts that are chargeable under state law and punishable by more than one year of imprisonment. This is a key component in establishing a pattern of racketeering activity, which is necessary for a RICO claim.

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

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

### **Extract**

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

requires a 'continuity' element, 'referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.'

## **Summary**

The passage provides insight into the "pattern of racketeering activity" element of RICO, which is crucial for a civil RICO claim. It explains that a pattern requires criminal acts with similar purposes or methods, and these acts must be interrelated and not isolated. Additionally, the Supreme Court's interpretation adds the requirement of "continuity," meaning the conduct must either be repeated over a closed period or pose a threat of future repetition.

## [Crimes](#)

**The Florida Criminal Cases Notebook. Volume 1-2 - James Publishing  
- Joseph C. Bodiford - 2021-04-30**

## **Extract**

In a substantive Racketeer Influenced and Corrupt Organizations Act (RICO) prosecution, the five-year statute of limitations begins from the date of the last predicate act in which the defendant personally participated, not the date of the last predicate act committed by the enterprise as a whole. State must specifically plead a RICO conspiracy if it intends to charge a defendant accordingly. In a RICO conspiracy, the crime is premised not upon the commission of the predicate acts of racketeering, or even an agreement to commit predicate acts, but upon an agreement to participate in the affairs of the criminal enterprise through a pattern of racketeering activity. While the state may plead and prove a substantive RICO charge by establishing a pattern of racketeering activity that includes conspiracies to commit predicate acts, this does not convert a plainly pleaded substantive RICO charge into a RICO conspiracy. A conspiracy to commit predicate acts of racketeering is different in kind from a conspiracy to conduct the affairs of the enterprise through a pattern of racketeering activity. The former describes a method by which a substantive RICO can be charged and proven. The latter describes a RICO conspiracy offense.

## **Summary**

For a RICO claim, the statute of limitations is tied to the last predicate act the defendant participated in. A RICO conspiracy requires an agreement to participate in the enterprise's affairs through a pattern of racketeering activity, not just the commission of predicate acts. This distinction is crucial in understanding the elements required for a RICO claim.

## **Congressional Committee Reports**

### **Extract**

The Committee amends Section 1964(c) of Title 18 of the U.S. Code to remove any conduct that would have been actionable as fraud in the purchase or sale of securities as a predicate act of racketeering under civil RICO. The Committee intends this amendment to eliminate securities fraud as a predicate act of racketeering in a civil RICO action. In addition, a plaintiff may not plead other specified offenses, such as mail or wire fraud, as predicate acts of racketeering under civil RICO if such offenses are based on conduct that would have been actionable as securities fraud.

### **Summary**

The Private Securities Litigation Reform Act of 1995 amended the RICO statute to exclude securities fraud as a predicate act for civil RICO claims. This means that for a plaintiff to prevail in a civil RICO claim, they cannot use securities fraud as a basis for the claim. This amendment narrows the scope of what can be considered a predicate act under RICO, specifically excluding conduct that would be actionable as securities fraud.

[Santos v. Delta Airlines, Inc.](#)

## **USDOL Administrative Review Board Decisions**

### **Extract**

APPLYING THE MORRISON TEST TO CLAIMS ARISING UNDER THE RICO ACT... A review of these decisions reveals that district courts have had little trouble applying Morrison's first step, and have uniformly held that because the text of RICO is silent as to its extraterritorial application, the presumption of extraterritoriality dictates that RICO does not extend protection to 'extraterritorial' claims... the challenge of applying Morrison in RICO cases stems from the difficulty in ascertaining where a RICO enterprise is located... the court explained that 'the challenge of applying Morrison in RICO cases stems from the difficulty in ascertaining where a RICO enterprise is located.'... the court pointed out that because the RICO enterprise is not necessarily the named defendant in a RICO case, 'there is no necessary or, in many cases, even probable connection between where the RICO enterprise makes its decisions and whether the application of RICO to the racketeering activity at issue in a given case was the sort of activity with which Congress would have been concerned.'... the court found that 'the focus properly is on the pattern of racketeering activity and its consequences.'

## Summary

Application of the Morrison test to RICO claims, emphasizing the presumption against extraterritoriality and the focus on the pattern of racketeering activity. It highlights the challenges in determining the location of a RICO enterprise and the importance of the pattern of racketeering activity and its consequences. This is relevant to understanding the elements of a RICO claim, as it underscores the need to establish a pattern of racketeering activity and its impact on an enterprise.

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

## Extract

RICO provides for a civil action against persons engaged in a 'pattern of racketeering activity' or 'collection of an unlawful debt.' A successful plaintiff may recover treble damages, costs, and attorneys' fees. ... Notably, there must be some nexus to interstate or foreign commerce-it is a jurisdictional element of a civil RICO claim. Thus, predicate acts will often occur in several States. ... A plaintiff is required to demonstrate that the defendant conducted the affairs of an enterprise through a pattern of racketeering activity. The person and the enterprise generally must be distinct; but, of course, a Rico person can be a part of an enterprise.

## Summary

The elements that must be satisfied for a plaintiff to prevail in a civil RICO claim include: (1) engagement in a "pattern of racketeering activity" or "collection of an unlawful debt," (2) a nexus to interstate or foreign commerce, (3) the defendant must have conducted the affairs of an enterprise through a pattern of racketeering activity, and (4) the person and the enterprise must generally be distinct, although a RICO person can be part of an enterprise. These elements are essential for establishing a civil RICO claim.

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

## Extract

First, to bring a civil RICO claim, a plaintiff must demonstrate that their business or property was injured as a result of a RICO violation. In other words, there must be some sort of concrete financial loss directly flowing from the purported violation to support a RICO claim. Thus, if a plaintiff does not have a concrete financial loss, then the RICO claim must be dismissed. Asserting personal injuries, such as emotion distress, is insufficient. Second, to prove most types of RICO claims, the plaintiff must plead that the defendant committed some qualifying criminal action, the

most common of which is mail, wire or securities fraud. Business deals gone sour do not count. Rather, the plaintiff must be able to prove the elements of the asserted crime, and often an intent to defraud. If there is nothing criminal in nature about the complained-of conduct, RICO should not apply. It is an abuse of the RICO statute to attempt to shoehorn ordinary business or contractual disputes into a civil RICO claim. Third, the plaintiff must plead a pattern of racketeering activity for most RICO claims. If the alleged conduct occurred once or twice, or was not continuous, it cannot form a pattern of conduct sufficient to support a RICO claim. And oftentimes, because there is a fraud component, those instances must be particularly identified in the plaintiff's pleading—a barrier that can prove difficult to accomplish. Fourth, for most RICO claims, the plaintiff also must plead that the alleged 'person' and 'enterprise,' as defined in RICO, are distinct. While often technical, this 'distinctiveness' requirement provides that a corporation generally will not be liable for operating an 'enterprise' consisting of itself and its officers or employees. If a business is alleged to have violated RICO based on intracompany actions, then the RICO claim has a good chance of dismissal. Fifth, a RICO claim cannot exist without some nexus to interstate commerce. If the alleged conduct does not affect interstate commerce, it must be dismissed. While a company is unlikely to be involved in a dispute without a relationship to commerce, this element of a RICO claim should nevertheless be scrutinized as another fruitful avenue for early dismissal. Finally, RICO has a four-year statute of limitations, which is triggered by the date a plaintiff discovered or should have discovered the purported criminal activity. Therefore, if four years has passed since that date, the claim must be dismissed.

## **Summary**

Elements required for a civil RICO claim: (1) a concrete financial loss to the plaintiff's business or property due to a RICO violation, (2) a qualifying criminal action by the defendant, (3) a pattern of racketeering activity, (4) distinctiveness between the "person" and "enterprise," (5) a nexus to interstate commerce, and (6) adherence to a four-year statute of limitations. These elements are essential for a plaintiff to prevail in a civil RICO claim.

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

## **Extract**

First, to bring a civil RICO claim, a plaintiff must demonstrate that their business or property was injured as a result of a RICO violation. In other words, there must be some sort of concrete financial loss directly flowing from the purported violation to support a RICO claim. Thus, if a plaintiff does not have a concrete financial loss, then the RICO claim must be dismissed. Asserting personal injuries, such as emotion distress, is insufficient. Second, to prove most types of RICO claims, the plaintiff must plead that the defendant committed some qualifying criminal action, the most common of which is mail, wire or securities fraud. Business deals gone



sour do not count. Rather, the plaintiff must be able to prove the elements of the asserted crime, and often an intent to defraud. If there is nothing criminal in nature about the complained-of conduct, RICO should not apply. It is an abuse of the RICO statute to attempt to shoehorn ordinary business or contractual disputes into a civil RICO claim. Third, the plaintiff must plead a pattern of racketeering activity for most RICO claims. If the alleged conduct occurred once or twice, or was not continuous, it cannot form a pattern of conduct sufficient to support a RICO claim. And oftentimes, because there is a fraud component, those instances must be particularly identified in the plaintiff's pleading—a barrier that can prove difficult to accomplish. Fourth, for most RICO claims, the plaintiff also must plead that the alleged 'person' and 'enterprise,' as defined in RICO, are distinct. While often technical, this 'distinctiveness' requirement provides that a corporation generally will not be liable for operating an 'enterprise' consisting of itself and its officers or employees. If a business is alleged to have violated RICO based on intracompany actions, then the RICO claim has a good chance of dismissal. Fifth, a RICO claim cannot exist without some nexus to interstate commerce. If the alleged conduct does not affect interstate commerce, it must be dismissed. While a company is unlikely to be involved in a dispute without a relationship to commerce, this element of a RICO claim should nevertheless be scrutinized as another fruitful avenue for early dismissal.

## **Summary**

Essential elements that must be satisfied for a plaintiff to prevail in a civil RICO claim. These elements include: (1) demonstrating a concrete financial loss to business or property due to a RICO violation, (2) proving the defendant committed a qualifying criminal action, (3) establishing a pattern of racketeering activity, (4) showing distinctiveness between the "person" and "enterprise," and (5) proving a nexus to interstate commerce. These elements are critical for the viability of a civil RICO claim and are generally applicable in the U.S. Federal jurisdiction.

## [RICO: A Primer](#)

### **Extract**

RICO provides for a civil action against persons engaged in a "pattern of racketeering activity" or "collection of an unlawful debt." A successful plaintiff may recover treble damages, costs, and attorneys' fees. ... Notably, there must be some nexus to interstate or foreign commerce—it is a jurisdictional element of a civil RICO claim. Thus, predicate acts will often occur in several States. ... A plaintiff is required to demonstrate that the defendant conducted the affairs of an enterprise through a pattern of racketeering activity. The person and the enterprise generally must be distinct; but, of course, a Rico person can be a part of an enterprise.

## Summary

The passage outlines several key elements that must be satisfied for a civil RICO claim: (1) engagement in a "pattern of racketeering activity" or "collection of an unlawful debt," (2) a nexus to interstate or foreign commerce, (3) the defendant must have conducted the affairs of an enterprise through a pattern of racketeering activity, and (4) the person and the enterprise must generally be distinct. These elements are essential for establishing a civil RICO claim.

### [Defending RICO Claims In The Business Context Part II: RICO Claims Must Allege Injury To Business Or Property](#)

## Extract

If a plaintiff brings a civil suit alleging a RICO violation, the plaintiff must plausibly allege that his injury animating the RICO claim is associated with his business or property by reason of the defendant's violation of the RICO laws. Absent these allegations, the lawsuit must be dismissed. RICO standing is distinct from the more well-known concept of constitutional standing. For RICO claims, in addition to pleading a sufficiently specific injury, including allegations that the plaintiff has suffered known damages (as opposed to mere speculative or unprovable damages), the plaintiff must allege that he suffered an injury to his business or property that bears some causal relationship to the alleged act or acts that violated RICO.

## Summary

For a plaintiff to prevail in a civil RICO claim, they must allege an injury to their business or property that is directly caused by the defendant's violation of RICO laws. This requirement is distinct from constitutional standing and necessitates a specific, non-speculative injury with a causal link to the alleged RICO violation.

### [Yegiazaryan v. Smagin : RICO Becomes A Tool For Foreign Plaintiffs To Collect On Arbitration Awards In The U.S.](#)

## Extract

To bring a RICO private action, a plaintiff must suffer harm to their business or property due to a substantive violation of RICO. The Supreme Court held in *RJR Nabisco* that a private plaintiff's harm must be a 'domestic injury.'

## Summary

For a plaintiff to prevail in a civil RICO claim, they must demonstrate harm to their business or property due to a substantive violation of RICO.

Additionally, the harm must qualify as a "domestic injury," as clarified by the Supreme Court in the RJR Nabisco case. This requirement is essential for establishing standing in a RICO private action.

### [This Week At The Ninth: Cannabis Law](#)

#### **Extract**

The federal illegality of cannabis businesses did, however, mean that plaintiffs could not establish statutory standing. A RICO plaintiff must show, among other things, that 'his alleged harm qualifies as injury to his business or property.' Canyon Cnty. v. Syngenta Seeds, Inc., 519 F.3d 969, 972 (9th Cir. 2008).

#### **Summary**

The passage provides insight into one of the elements required for a civil RICO claim, which is that the plaintiff must demonstrate an injury to their business or property. This is a general requirement for establishing statutory standing under RICO, as highlighted by the reference to the case Canyon Cnty. v. Syngenta Seeds, Inc.

### [SCOTUS Clarified RICO's Domestic Injury Requirement, Did Not Create New Civil Right Of Action For Enforcing Arbitration Awards](#)

#### **Extract**

Would-be plaintiffs still must overcome highly-burdensome challenges inherent in civil RICO claims, including exacting requirements to establish a RICO enterprise, a pattern of racketeering activity and the elements of specifically-enumerated predicate acts. When claims are fraud-based (most civil RICO theories are), the heightened specificity requirements of Rule 9 of the Federal Rules of Civil Procedure compound each of these burdens.

#### **Summary**

The passage provides insight into the elements required for a civil RICO claim, specifically mentioning the need to establish a RICO enterprise, a pattern of racketeering activity, and the elements of specifically-enumerated predicate acts. It also highlights the additional burden of heightened specificity requirements under Rule 9 for fraud-based claims. This information is directly relevant to understanding the elements necessary for a plaintiff to prevail in a civil RICO claim.

### [Open Question: Use Of Stolen Trade Secrets May Or May Not Qualify As A Predicate Act Under RICO](#)

## **Extract**

### **Summary**

Clear list of elements that must be alleged by a plaintiff to state a civil RICO claim. These elements are foundational to any civil RICO claim and are applicable across cases involving the RICO statute. The passage is directly relevant to the question as it outlines the necessary components for a civil RICO claim.

[Open Question: Use Of Stolen Trade Secrets May Or May Not Qualify As A Predicate Act Under RICO](#)

## **Extract**

### **Summary**

The elements required to state a civil RICO claim include: (1) the existence of an enterprise affecting interstate commerce, (2) the defendant's employment by or association with the enterprise, (3) the defendant's participation in the conduct or affairs of the enterprise, and (4) the defendant's participation through a pattern of racketeering activity that includes at least two racketeering acts. This information is directly relevant to understanding the elements necessary for a civil RICO claim.

This memo was compiled by Vincent AI based on vLex materials available as of June 10, 2025. [View full answer on vLex](#)