

Question

EXPLAIN how judges and attorneys in a divorce suit can be implicated in a RICO conspiracy started by others, and explain how they could meet the enterprise and continuity and relatedness elements by inadvertently assisting the petitioner in the divorce in a broader fraudulent scheme to divest a father of his home and business. Assume judicial immunity is not at issue.

Answer (Fifth Circuit)

Short response

Judges and attorneys in a divorce suit can be implicated in a RICO conspiracy if they knowingly agree to further the objectives of a broader fraudulent scheme—such as divesting a father of his home and business—by participating in or facilitating a pattern of racketeering activity connected to an enterprise, even if their involvement is indirect or peripheral. The enterprise, continuity, and relatedness elements can be met if their actions are part of an ongoing organization or association-in-fact that functions as a continuing unit and engages in related predicate acts over time.

Summary

Under the Racketeer Influenced and Corrupt Organizations Act (RICO), individuals—including judges and attorneys—may be implicated in a conspiracy if they knowingly agree to participate in or further the objectives of an enterprise engaged in a pattern of racketeering activity. This can occur even if their involvement is indirect or if they only provide support, as long as there is an agreement to pursue the criminal objective and the requisite elements of enterprise, continuity, and relatedness are satisfied.

In the context of a divorce suit, if judges and attorneys inadvertently assist a petitioner in a broader fraudulent scheme to divest a father of his home and business, they could be swept into a RICO conspiracy if their actions are part of an ongoing association that functions as a continuing unit and engages in related predicate acts (such as mail or wire fraud) over time. The law does not require direct participation in every act, but rather knowledge of and agreement to the overall criminal objective, with the enterprise and continuity elements established by the ongoing nature and relatedness of the fraudulent conduct.

Background and Relevant Law

Legislative Framework

The RICO statute, codified at 18 U.S.C. §§ 1961–1968, establishes both criminal and civil liability for individuals who engage in a pattern of racketeering activity connected to an enterprise. Section 1962 sets out four distinct violations: (a) acquiring or operating an enterprise with racketeering proceeds; (b) controlling an enterprise through racketeering; (c) conducting the affairs of an enterprise through racketeering; and (d) conspiring to commit any of the above offenses. Each requires proof of an "enterprise" and a "pattern of racketeering activity" (RICO: A Primer (2022-01-31)).

Section 1962(d) specifically addresses conspiracy, making it unlawful to conspire to violate any of the substantive RICO provisions. Importantly, a defendant need not personally commit the predicate acts; it is sufficient that they knowingly agree to the overall criminal objective and that a conspirator would commit a violation of § 1962(c) (RICO: A Primer (2022-01-31)).

Case Law

The Fifth Circuit and other federal courts have elaborated on the elements required to establish RICO liability and conspiracy:

- **Enterprise:** An enterprise can be a legal entity (such as a corporation or court) or an "association-in-fact"—a group of individuals associated for a common purpose, functioning as a continuing unit ([U.S. v. Stratton, 649 F.2d 1066 \(5th Cir. 1981\)](#); [Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241 \(5th Cir. 1988\)](#); [Terrell v. Hancock Bank, 7 F.Supp.2d 812 \(S.D. Miss. 1998\)](#)).
- **Pattern of Racketeering Activity:** Requires at least two predicate acts (such as mail or wire fraud) within ten years, which are related and demonstrate a threat of continued criminal activity ([United States v. Pratt, 728 F.3d 463 \(5th Cir. 2013\)](#); [Megatel Homes, LLC v. Moayedi, Civil Action 3:20-CV-00688-L \(N.D. Tex. Nov 16, 2021\)](#)).
- **Continuity and Relatedness:** The acts must be connected in a way that shows ongoing criminal conduct, either over a closed period (repeated conduct) or with a threat of future repetition ([Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241 \(5th Cir. 1988\)](#); [Burzynski, In re, 989 F.2d 733 \(5th Cir. 1993\)](#)).
- **Conspiracy:** To establish a RICO conspiracy under § 1962(d), it is sufficient to show that two or more people agreed to commit a substantive RICO offense and that the defendant knew of and agreed to the overall objective ([United States v. Rosenthal, 805 F.3d 523 \(5th Cir. 2015\)](#); [U.S. v. Elliott, 571 F.2d 880 \(5th Cir. 1978\)](#)). Direct evidence of agreement is not required; circumstantial evidence and the conduct of the alleged conspirators may suffice.

- **Application to Judicial Actors:** Courts have recognized that judicial circuits and their officials can constitute an enterprise under RICO, and that judges and attorneys may be implicated if they participate in the enterprise's affairs through predicate crimes ([U.S. v. Stratton, 649 F.2d 1066 \(5th Cir. 1981\)](#)).

It is important to note that [United States v. Pratt, 728 F.3d 463 \(5th Cir. 2013\)](#) was stated as abrogated by Widmer v. Smith, Civil Action 21-381 (E.D. La. Sep 16, 2021), but the core principles regarding the elements of RICO conspiracy remain consistent with other authorities.

Secondary Materials

Secondary sources reinforce that RICO claims require proof of an enterprise, a pattern of racketeering activity, and continuity. They also emphasize that the conduct must be organized and ongoing, and that mere association with conspirators is insufficient without evidence of agreement to commit predicate acts ([Civil Rico: A Tool of Advocacy](#) (2024-01-01); [Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#) (2022-02-03)).

Analysis

1. How Judges and Attorneys Can Be Implicated in a RICO Conspiracy

a. The Role of Agreement and Knowledge

Under RICO, conspiracy liability does not require that each conspirator personally commit the predicate acts. Instead, it is enough that the individual knowingly agrees to further the criminal objective of the enterprise ([United States v. Rosenthal, 805 F.3d 523 \(5th Cir. 2015\)](#); [RICO: A Primer](#) (2022-01-31)). This means that judges and attorneys could be implicated if they are aware of and agree to the broader scheme, even if their role is limited to providing support or facilitating certain actions.

The law is clear that direct evidence of an explicit agreement is not necessary; circumstantial evidence—such as patterns of conduct, communications, or coordinated actions—can suffice to establish the requisite agreement ([U.S. v. Elliott, 571 F.2d 880 \(5th Cir. 1978\)](#)). Thus, if a judge or attorney, through their actions in a divorce suit, knowingly furthers the objectives of a fraudulent scheme (for example, by issuing or advocating for orders that are part of a plan to divest a party of property through fraudulent means), they may be found to have joined the conspiracy.

b. Inadvertent Assistance and Peripheral Involvement

RICO is designed to reach not only insiders but also outsiders who are "associated with" an enterprise and participate, directly or indirectly, in its affairs ([U.S. v. Elliott, 571 F.2d 880 \(5th Cir. 1978\)](#)). The statute's net is cast

broadly, capturing even those whose involvement is peripheral, provided there is evidence of agreement to the criminal objective.

However, mere inadvertence or negligence is not enough. There must be some level of knowledge and agreement to further the criminal objective ([Snow Ingredients, Inc. v. SnoWizard, Inc., 833 F.3d 512 \(5th Cir. 2016\)](#)). If a judge or attorney is simply performing their professional duties without knowledge of the broader scheme, RICO liability is unlikely. But if they become aware of the fraudulent nature of the scheme and continue to assist, or if their conduct is so intertwined with the scheme that agreement can be inferred, they may be implicated.

2. Meeting the Enterprise, Continuity, and Relatedness Elements

a. Enterprise

The "enterprise" element is satisfied if there is a structured group—either a legal entity or an association-in-fact—associated for a common purpose ([Civil Rico: A Tool of Advocacy](#) (2024-01-01); [U.S. v. Stratton, 649 F.2d 1066 \(5th Cir. 1981\)](#)). In the context of a divorce suit, the enterprise could be the court itself, a law firm, or an informal association of individuals (including the petitioner, attorneys, and possibly a judge) working together to achieve the fraudulent objective.

Courts have recognized that judicial circuits can constitute an enterprise under RICO, and that judges and attorneys may be part of such an enterprise if they participate in its affairs through racketeering activity ([U.S. v. Stratton, 649 F.2d 1066 \(5th Cir. 1981\)](#)). An association-in-fact enterprise requires evidence of an ongoing organization and that the associates function as a continuing unit ([Terrell v. Hancock Bank, 7 F.Supp.2d 812 \(S.D. Miss. 1998\)](#); [Manax v. McNamara, 842 F.2d 808 \(5th Cir. 1988\)](#)).

b. Pattern of Racketeering Activity

A pattern of racketeering activity requires at least two predicate acts (such as mail or wire fraud) within ten years, which are related and demonstrate a threat of continued criminal activity ([United States v. Pratt, 728 F.3d 463 \(5th Cir. 2013\)](#); [Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241 \(5th Cir. 1988\)](#)). The acts must be connected to the enterprise's affairs ([U.S. v. Welch, 656 F.2d 1039 \(5th Cir. 1981\)](#)).

In the divorce context, if the scheme involves repeated use of the courts, legal filings, or judicial orders to further the fraudulent divestment of property, and these acts constitute indictable offenses (such as mail or wire fraud), the pattern element may be satisfied.

c. Continuity and Relatedness

Continuity refers to the ongoing nature of the criminal conduct. It can be established by showing either a closed period of repeated conduct or a

threat of future repetition ([Megatel Homes, LLC v. Moayedi, Civil Action 3:20-CV-00688-L \(N.D. Tex. Nov 16, 2021\)](#); [Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241 \(5th Cir. 1988\)](#)). Relatedness requires that the predicate acts are connected to each other and to the affairs of the enterprise.

If the fraudulent scheme to divest the father of his home and business is ongoing, involves multiple acts over time, and the acts are related in furtherance of the same objective, the continuity and relatedness elements are likely met. The enterprise must have an existence separate from the pattern of racketeering activity, but the two are often closely linked in practice ([Burzynski, In re, 989 F.2d 733 \(5th Cir. 1993\)](#); [U.S. v. Cauble, 706 F.2d 1322 \(5th Cir. 1983\)](#)).

d. Application to Judges and Attorneys

If judges and attorneys, through their actions in the divorce suit, knowingly further the objectives of the fraudulent scheme—such as by issuing or advocating for orders that are part of the plan to divest the father of property—they may be found to have participated in the enterprise's affairs through a pattern of racketeering activity. Their involvement need not be direct; even peripheral or supportive actions can suffice if there is evidence of agreement to the criminal objective ([U.S. v. Elliott, 571 F.2d 880 \(5th Cir. 1978\)](#)).

However, if their involvement is truly inadvertent and there is no evidence of knowledge or agreement, RICO liability is unlikely. The law distinguishes between knowing participation and mere association or negligence ([Snow Ingredients, Inc. v. SnoWizard, Inc., 833 F.3d 512 \(5th Cir. 2016\)](#)).

3. Limitations and Negative Treatment

It is important to acknowledge that [United States v. Pratt, 728 F.3d 463 \(5th Cir. 2013\)](#) was stated as abrogated by Widmer v. Smith, Civil Action 21-381 (E.D. La. Sep 16, 2021). While the abrogation may affect certain aspects of the case, the fundamental principles regarding the elements of RICO conspiracy—agreement, knowledge, and the pattern of racketeering activity—remain consistent with other authorities and are supported by the broader body of case law.

Similarly, [U.S. v. Williams, 809 F.2d 1072 \(5th Cir. 1987\)](#) was vacated by U.S. v. Ascarrunz, 838 F.2d 759 (5th Cir. 1988), so reliance on its specific facts or holdings should be limited. However, the general principles regarding the need for an enterprise and a pattern of racketeering activity are echoed in other, unaffected authorities.

Exceptions and Caveats

- **Mere Negligence or Bad Faith Litigation:** Courts have held that negligence or even bad faith litigation tactics, without corrupt activity or agreement to the criminal objective, do not suffice for RICO liability

([Snow Ingredients, Inc. v. SnoWizard, Inc., 833 F.3d 512 \(5th Cir. 2016\)](#)).

- **Requirement of Agreement:** A person cannot be held liable for a RICO conspiracy merely by association with conspirators or by being present in an environment where illegal activity occurs; there must be evidence of agreement to commit predicate acts ([Megatel Homes, LLC v. Moayedi, Civil Action 3:20-CV-00688-L \(N.D. Tex. Nov 16, 2021\)](#)).
- **Distinctness of Enterprise:** The enterprise must have an existence separate from the pattern of racketeering activity ([Burzynski, In re, 989 F.2d 733 \(5th Cir. 1993\)](#)).

Conclusion

Judges and attorneys in a divorce suit can be implicated in a RICO conspiracy if they knowingly agree to further the objectives of a broader fraudulent scheme—such as divesting a father of his home and business—by participating in or facilitating a pattern of racketeering activity connected to an enterprise. The enterprise, continuity, and relatedness elements are met if their actions are part of an ongoing organization or association-in-fact that functions as a continuing unit and engages in related predicate acts over time. However, mere inadvertence or negligence is insufficient; there must be evidence of knowledge and agreement to the criminal objective. The law is designed to reach both insiders and outsiders who knowingly participate in or support the enterprise's affairs through racketeering activity, and courts have recognized that even peripheral involvement can result in liability if the requisite elements are satisfied.

Legal Authorities

[Armco Indus. Credit Corp. v. SLT Warehouse Co., 782 F.2d 475 \(5th Cir. 1986\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. Secs. 1961-1968, provides plaintiffs with a private civil action to recover treble damages for injury 'by reason of a violation of [18 U.S.C.] section 1962.' 18 U.S.C. Sec. 1964(c). Among the activities that constitute violations of Sec. 1962 is the conducting of an enterprise through a pattern of racketeering activity. 18 U.S.C. Sec. 1962(c). RICO defines 'racketeering activity' to include, among others, any act 'indictable' under numerous federal criminal provisions, including mail and wire fraud (so-called 'predicate acts'). 18 U.S.C. Sec. 1961(1)(B).

Summary

To implicate judges and attorneys in a RICO conspiracy, it must be shown that they conducted or participated in an enterprise through a pattern of

racketeering activity. This could include acts that are indictable under federal criminal provisions, such as mail and wire fraud. The passage highlights that RICO claims require a pattern of racketeering activity, which involves multiple predicate acts that are related and continuous. In the context of a divorce suit, if judges and attorneys inadvertently assist in a scheme that involves such predicate acts, they could potentially meet the enterprise and continuity and relatedness elements of a RICO claim.

[Snow Ingredients, Inc. v. SnoWizard, Inc., 833 F.3d 512 \(5th Cir. 2016\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The Racketeer Influenced and Corrupt Organizations Act makes it illegal for an individual to use the proceeds of racketeering activity in a business that engages in interstate commerce. 18 U.S.C. § 1962. To establish a civil-RICO claim, a plaintiff must establish three common elements: ... The RICO lists a number of crimes that can constitute racketeering activity, including obstruction of justice (as defined by 18 U.S.C. § 1503) and witness tampering (as defined by 18 U.S.C. § 1512). 18 U.S.C. § 1961. Southern Snow has not pleaded sufficient facts to establish either alleged criminal act. The criminal statutes require not merely delay but corrupt activity by the bad actor. Southern Snow points to no cases supporting its contention that bad faith litigation tactics alone constitute witness tampering. By contrast, the defendants point to several cases in other circuits holding that litigation activity cannot be the predicate for a civil-RICO claim. ... Civil-RICO conspiracy, however, cannot be premised on negligence. It requires an actual agreement between conspirators—they must specifically intend the illegal conduct.

Summary

Requirements for establishing a civil-RICO claim, emphasizing that mere bad faith litigation tactics do not suffice. Instead, there must be corrupt activity, and civil-RICO conspiracy requires an actual agreement with specific intent to engage in illegal conduct. This suggests that judges and attorneys in a divorce suit could only be implicated in a RICO conspiracy if there is evidence of corrupt activity and an agreement to engage in illegal conduct, rather than mere negligence or bad faith litigation.

[U.S. v. Elliott, 571 F.2d 880 \(5th Cir. 1978\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The substantive proscriptions of the RICO statute apply to insiders and outsiders those merely 'associated with' an enterprise who participate directly and indirectly in the enterprise's affairs through a pattern of racketeering activity. 18 U.S.C. § 1962(c). ... Thus, the RICO net is woven tightly to trap even the smallest fish, those peripherally involved with the enterprise. This effect is enhanced by principles of conspiracy law also developed to facilitate prosecution of conspirators at all levels. Direct evidence of agreement is unnecessary: 'proof of such an agreement may rest upon inferences drawn from relevant and competent circumstantial evidence ordinarily the acts and conduct of the alleged conspirators themselves'.

Summary

The RICO statute is designed to apply broadly to individuals who are associated with an enterprise, whether they are insiders or outsiders. This includes those who participate directly or indirectly in the enterprise's affairs through a pattern of racketeering activity. The passage highlights that even peripheral involvement can lead to implication under RICO, and that direct evidence of an agreement is not necessary; circumstantial evidence and the conduct of the alleged conspirators can suffice. This broad application means that judges and attorneys, if they are found to be associated with an enterprise and participate in its affairs through a pattern of racketeering activity, could potentially be implicated in a RICO conspiracy, even if their involvement is indirect or peripheral.

[Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241 \(5th Cir. 1988\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Congress wrote RICO in broad, sweeping terms to combat the many, varied, anfractuous ways in which racketeers operate. Reduced to its three essentials, a civil RICO claim must involve: (1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise. ... The concept of continuity as a means of controlling the scope of RICO has also been incorporated into the enterprise element of section 1962. An enterprise 'includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. Sec. 1961(4). In *United States v. Turkette*, 452 U.S. 576, 583, 101 S.Ct. 2524, 2528-29, 69 L.Ed.2d 246 (1981), the Supreme Court stressed that continuity is a necessary attribute of an association-in-fact enterprise.

Summary

A civil RICO claim requires a person to engage in a pattern of racketeering activity connected to an enterprise. The concept of continuity is crucial in determining the scope of RICO, particularly in defining an enterprise. An enterprise can include any group of individuals associated in fact, even if not a legal entity. This broad definition could potentially encompass judges and attorneys if they are found to be part of an association-in-fact enterprise, even inadvertently, by assisting in a fraudulent scheme.

[Terrell v. Hancock Bank, 7 F.Supp.2d 812 \(S.D. Miss. 1998\)](#)

U.S. District Court — Southern District of Mississippi

Extract

The existence of an enterprise is an essential element of a RICO claim. 18 U.S.C. § 1962(c); Sedima v. Imrex Co., 473 U.S. 479, 496-98, 105 S.Ct. 3275, 3285, 87 L.Ed.2d 346 (1985). To establish an 'association in fact' enterprise under 18 U.S.C. § 1961(4) plaintiffs must show 'evidence of an ongoing organization, formal or informal, and ... evidence that the various associates function as a continuing unit.' United States v. Turkette, 452 U.S. 576, 583, 101 S.Ct. 2524, 2528, 69 L.Ed.2d 246 (1981); Shaffer v. Williams, 794 F.2d 1030, 1032 (5th Cir.1986).

Summary

To implicate judges and attorneys in a RICO conspiracy, there must be evidence of an "enterprise" that is an ongoing organization where the associates function as a continuing unit. This is essential to establish a RICO claim. The passage provides insight into the requirement of demonstrating an "association in fact" enterprise, which is crucial for understanding how individuals, including judges and attorneys, could be implicated if they are part of such an enterprise, even inadvertently.

[Abraham v. Singh, 480 F.3d 351 \(5th Cir. 2007\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Plaintiffs allege that Defendants violated 18 U.S.C. § 1962(a), (b), (c), and (d). These RICO subsections state, in their simplest terms, that: (a) a person who has received income from a pattern of racketeering activity cannot invest that income in an enterprise; (b) a person cannot acquire or maintain an interest in an enterprise through a pattern of racketeering; (c) a person who is employed by or associated with an enterprise cannot conduct the affairs of the enterprise through a pattern of racketeering activity; and (d) a

person cannot conspire to violate subsections (a), (b), or (c). Crowe, 43 F.3d at 203. Regardless of subsection, RICO claims under § 1962 have three common elements: '(1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise.' Word of Faith, 90 F.3d at 122 (quoting In re Burzynski, 989 F.2d 733, 741-42 (5th Cir.1993)).

Summary

Elements of a RICO claim, which include a person engaging in a pattern of racketeering activity connected to an enterprise. If judges and attorneys, even inadvertently, assist in a scheme that meets these elements, they could potentially be implicated in a RICO conspiracy.

[United States v. Rosenthal, 805 F.3d 523 \(5th Cir. 2015\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Under 18 U.S.C. § 1962(c), it is a crime for 'any person employed by or associated with any enterprise engaged in, [or affecting] interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of [the] enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt'. 18 U.S.C. § 1962(c). Section 1962(d), at issue here, prohibits conspiracy to violate any part of § 1962. 'The elements of a conspiracy under § 1962(d) are simply (1) that two or more people agreed to commit a substantive RICO offense and (2) that the defendant knew of and agreed to the overall objective of the RICO offense.' United States v. Pratt, 728 F.3d 463, 477 (5th Cir.2013) (emphasis added) (internal quotation marks omitted).

Summary

For a RICO conspiracy under § 1962(d), it is sufficient that two or more people agree to commit a substantive RICO offense and that the defendant knew of and agreed to the overall objective of the RICO offense. This means that judges and attorneys could be implicated if they knowingly agree to further the objectives of a RICO conspiracy, even if they do not directly participate in the operation or management of the enterprise. The passage also clarifies that the conspiracy itself is punishable, regardless of whether the substantive crime is completed.

[Calcasieu Marine Nat. Bank v. Grant, 943 F.2d 1453 \(5th Cir. 1991\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Four distinct RICO violations are defined in 18 U.S.C. §§ 1962(a)-(d). Common elements are present in all four offenses. Ocean Energy II v. Alexander & Alexander, Inc., 868 F.2d 740, 742 (5th Cir.1989); Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241, 242 (5th Cir.1988), cert. denied, 489 U.S. 1079, 109 S.Ct. 1531, 103 L.Ed.2d 836. 'Reduced to its three essentials, a civil RICO claim must involve: (1) a person who engages in (2) a pattern of racketeering activity; (3) connected to the acquisition, establishment, conduct, or control of an enterprise.' Delta Truck, 855 F.2d at 242. A RICO conspiracy claim based on § 1962(d) also requires the existence of an enterprise. Manax v. McNamara, 842 F.2d 808, 812 (5th Cir.1988). Since no 'enterprise' or 'pattern of racketeering' was established in either case, the RICO claims should not have been submitted to the jury.

Summary

To implicate judges and attorneys in a RICO conspiracy, there must be a demonstration of a "pattern of racketeering activity" connected to an "enterprise." The passage emphasizes that a RICO claim requires more than isolated acts; it requires a series of related acts that demonstrate continuity and relatedness. The passage also highlights that an enterprise must have an existence separate from the pattern of racketeering activity. This means that for judges and attorneys to be implicated, there must be evidence that their actions were part of a broader scheme that meets these criteria.

[Dell Inc. v. Mishra, CAUSE NO.: A-16-CV-00641-SS \(W.D. Tex. Aug 03, 2018\)](#)

U.S. District Court — Western District of Texas

Extract

RICO claims require (1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise. ... RICO defines 'enterprise' to include 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' ... If the alleged enterprise is an association-in-fact, the plaintiff must show evidence of an ongoing organization, formal or informal, and by evidence that the various associates in the enterprise function as a continuing unit with a common purpose. ... The Fifth Circuit also requires a plaintiff establish the association-in-fact enterprise (1) has an existence separate and apart from the pattern of racketeering, (2) is an ongoing organization and (3) has members that function as a continuing unit as shown by a hierarchical or consensual decision making structure.

Summary

Requirements for establishing a RICO claim, which includes demonstrating a pattern of racketeering activity connected to an enterprise. The enterprise can be an association-in-fact, which requires evidence of an ongoing organization with a common purpose. The Fifth Circuit requires that this enterprise has an existence separate from the racketeering pattern, is ongoing, and functions as a continuing unit. This information is relevant to understanding how judges and attorneys could be implicated in a RICO conspiracy if they inadvertently assist in a fraudulent scheme that meets these criteria.

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

U.S. District Court — Southern District of Texas

Extract

In 1970, Congress enacted RICO as Title IX of the Organized Crime Control Act to combat organized crime through both criminal prosecutions and private actions. See 18 U.S.C. § 1961 et seq. The 'legislative history forcefully supports the view that the major purpose of Title IX is to address the infiltration of legitimate business by organized crime.' United States v. Turkette, 452 U.S. 576, 591, 101 S.Ct. 2524, 2532, 69 L.Ed.2d 246 (1981). A private right of action is provided under 18 U.S.C. § 1964(c), which states in pertinent part: Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee... RICO defines 'enterprise' very broadly. The term 'enterprise' includes 'any individual, partnership, corporation, association or other legal entity, any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. § 1961(4). There is no restriction upon the associations embraced by the definition: a RICO 'enterprise' can be either a legal entity or an 'association in fact' enterprise. Burzynski, 989 F.2d at 743; see Turkette, 452 U.S. at 580, 101 S.Ct. at 2527. A legitimate business entity, such as a corporation, may constitute an 'enterprise.'

Summary

RICO was enacted to combat organized crime, including the infiltration of legitimate businesses. The definition of "enterprise" under RICO is broad and includes any group of individuals associated in fact, even if not a legal entity. This means that judges and attorneys could potentially be implicated in a RICO conspiracy if they are part of an "association in fact" that engages in racketeering activity, such as mail or wire fraud, even if they are not aware of the broader fraudulent scheme. The passage also highlights that a private right of action exists for individuals injured by a RICO violation, allowing them to seek damages.

[U.S. v. Bright, 630 F.2d 804 \(5th Cir. 1980\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Section 1962(c) of Title 18 provides: 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. Thus, to prove a RICO violation, the government must prove (1) the existence of an enterprise; (2) that the defendant is 'associated with' the enterprise; (3) that the defendant participated in the conduct of the enterprise's affairs; and (4) that the participation was through a pattern of racketeering activity.

Summary

Elements necessary to establish a RICO violation, which include the existence of an enterprise, association with the enterprise, participation in the enterprise's affairs, and participation through a pattern of racketeering activity. This framework can be applied to understand how judges and attorneys in a divorce suit could be implicated in a RICO conspiracy if they are found to be associated with an enterprise engaged in racketeering activities, even if their involvement was inadvertent. The key elements of enterprise, continuity, and relatedness would need to be established to show that their actions were part of a broader fraudulent scheme.

[U.S. v. Smith, 574 F.2d 308 \(5th Cir. 1978\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The instant indictment charges appellant with violations of the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C.A. §§ 1961 et seq. Count Two charged appellant with violation of § 1962(c), which makes it unlawful 'for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.' Count One charged appellant and others with conspiring to violate § 1962(c), a violation of § 1962(d). A 'pattern' of racketeering activity is defined under the Act as 'at least two acts of racketeering activity. . . .' 18 U.S.C.A. § 1961(5).

Summary

General framework for understanding RICO violations, which can be applied to various scenarios, including the involvement of judges and attorneys in a divorce suit. The passage explains that for a RICO violation, there must be an enterprise engaged in activities affecting interstate or foreign commerce, and individuals must participate in the enterprise's affairs through a pattern of racketeering activity. This framework can be used to analyze how judges and attorneys might be implicated in a RICO conspiracy if they are found to be participating in or facilitating a broader fraudulent scheme.

[U.S. v. Manzella, 782 F.2d 533 \(5th Cir. 1986\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Several of appellants' arguments require us to expound the law of the RICO enterprise... The criminal enterprise is a creature different from the conventional conspiracy; its unique nature arises from specific federal legislation independent of the common law of conspiracy... Elliott does indeed hold that on the facts of that case a series of agreements that under pre-RICO law would constitute multiple conspiracies could under RICO be tried as a single 'enterprise' conspiracy. But the language of Elliott explains that what ties these conspiracies together is not the mere fact that they involve the same enterprise but is instead--as in any other conspiracy--an 'agreement' on an overall objective. 'Agreement on an overall objective' can be proved by either an explicit agreement to participate in the enterprise or circumstantial evidence showing 'that each defendant must necessarily have known that others were also conspiring to participate in the same enterprise through a pattern of racketeering activity.'

Summary

The passage explains the nature of a RICO enterprise and how it differs from a conventional conspiracy. It highlights that a RICO enterprise involves an "agreement on an overall objective," which can be established through explicit agreement or circumstantial evidence. This understanding is crucial in determining how individuals, such as judges and attorneys, could be implicated in a RICO conspiracy. If they inadvertently assist in a broader fraudulent scheme, they could be seen as participating in the enterprise if there is evidence of an agreement on the overall objective or if they should have known about the broader conspiracy.

[Megatel Homes, LLC v. Moayedi, Civil Action 3:20-CV-00688-L \(N.D. Tex. Nov 16, 2021\)](#)

U.S. District Court — Northern District of Texas

Extract

"RICO "makes a private right of action available to '[a]ny person injured in his business or property by reason of a violation' of RICO's substantive restrictions, § 1964(c), provided that the alleged violation was the proximate cause of the injury." *Anza v. Ideal Steel Supply Corp.*, 547 U.S. 451 (2006) (citing *Holmes v. Sec. Inv. Prot. Crop.*, 503 U.S. 258, 268 (1992)). ... To survive Defendants' Motion to Dismiss, Plaintiffs must adequately plead a "pattern of racketeering activity." ... To adequately plead a RICO pattern, Plaintiffs must also show "that the predicate[] [acts] themselves amount to, or [] otherwise constitute a threat of, continuing racketeering activity." *H.J. Inc. v. Northwest Bell Tel. Co.*, 492 U.S. 229, 240 (1989) (emphasis in original). "Continuity" is both a closed and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition." ... A RICO enterprise is "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. Generally, "[a] RICO enterprise can be either a legal entity or an association-in-fact." ... "[T]he core of a RICO civil conspiracy is an agreement to commit predicate acts," thus, the complaint must "allege specifically such an agreement." ... Furthermore, "a person cannot be held liable for a RICO conspiracy 'merely by evidence that he associated with other... conspirators or by evidence that places the defendant in a climate of activity that reeks of something foul.'"

Summary

Elements necessary to establish a RICO claim, including the need for a pattern of racketeering activity, continuity, and the existence of a RICO enterprise. It emphasizes that a RICO enterprise can be a legal entity or an association-in-fact and that continuity can be either closed or open-ended. The passage also highlights that a RICO conspiracy requires an agreement to commit predicate acts and cannot be established merely by association with conspirators.

[U.S. v. Stratton, 649 F.2d 1066 \(5th Cir. 1981\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Judge Smith was convicted under Count Two of violating RICO by participating in and conducting the affairs of an 'enterprise engaged in, or the activities of which affect, interstate or foreign commerce,' through a pattern of racketeering activity. 18 U.S.C. § 1962; see pages 1070-1071 & note 2, *supra*. In addition, all four appellants were convicted under Count One of conspiring to violate RICO. 18 U.S.C. § 1962; see pages 1070-1071 & note 2, *supra*. In both counts, the 'enterprise' was defined as the Third Judicial Circuit of the State of Florida. All four appellants argue that for a number of reasons the Third Judicial Circuit cannot constitute an enterprise

as defined under RICO, and that the indictment is therefore insufficient as a matter of law.

Summary

A judicial circuit can be considered an "enterprise" under RICO if it is engaged in or affects interstate or foreign commerce through a pattern of racketeering activity. The passage illustrates that judges and other officials can be implicated in a RICO conspiracy if they participate in the affairs of such an enterprise through predicate crimes. The case demonstrates that a single conspiracy can be charged under RICO if the enterprise's affairs are furthered by the crimes, even if the participants are involved in different or unrelated crimes. This is relevant to the question as it shows how judges and attorneys in a divorce suit could be implicated in a RICO conspiracy if their actions, even if inadvertent, further the enterprise's affairs in a broader fraudulent scheme.

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

U.S. Court of Appeals — Fifth Circuit

Extract

Thus, what is required to satisfy the last element of a RICO substantive offense that the defendant participated in the conduct of the affairs of the enterprise through a pattern of racketeering activity is a relation between the predicate offenses and the affairs of the enterprise. ... The final element of a RICO violation is proof that the defendant participated in the affairs of the enterprise through a pattern of racketeering activity.... (T)his case is distinguishable from those where the pattern of racketeering activity was not linked to the alleged enterprise's affairs.

Summary

For a RICO violation, there must be a connection between the predicate offenses and the affairs of the enterprise. This means that the racketeering activities must be related to the enterprise's operations. The passage emphasizes that the defendant must participate in the enterprise's affairs through a pattern of racketeering activity, which is crucial in establishing a RICO violation.

[U.S. v. Williams, 809 F.2d 1072 \(5th Cir. 1987\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

In order to secure a conviction under RICO, the Government must prove both the existence of an 'enterprise' and the connected 'pattern of racketeering activity.' The enterprise is an entity, for present purposes a group of persons associated together for a common purpose of engaging in a course of conduct. The pattern of racketeering activity is, on the other hand, a series of criminal acts as defined by the statute. 18 U.S.C. Sec. 1961(1) (1976 ed., Supp. III). The former is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit. The latter is proved by evidence of the requisite number of acts of racketeering committed by the participants in the enterprise.

Summary

To implicate judges and attorneys in a RICO conspiracy, it must be shown that they were part of an "enterprise" and engaged in a "pattern of racketeering activity." The enterprise can be any group of individuals associated for a common purpose, and it must function as a continuing unit. The pattern of racketeering activity involves a series of criminal acts. In the context of a divorce suit, if judges and attorneys, even inadvertently, assist in a scheme that involves multiple acts of fraud or other criminal activities, they could potentially meet the criteria for a RICO violation if it can be shown that they were part of an ongoing organization with a common purpose.

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

U.S. Court of Appeals — Fifth Circuit

Extract

RICO's purpose is 'the imposition of enhanced criminal penalties and new civil sanctions to provide new legal remedies for all types of organized criminal behavior, that is, enterprise criminality--from simple political corruption to sophisticated white-collar crime schemes to traditional Mafia-type endeavors.' RICO does not, however, criminalize conduct that was legal before its enactment. Its application depends on the existence of racketeering activity violating some other criminal statute, state or federal. ... The statute states: ' '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.' The Supreme Court has held that this language encompasses both wholly legal entities and completely illegal associations-in-fact. But '[t]he 'enterprise' is not the 'pattern of racketeering activity'; it is an entity separate and apart from the pattern of activity in which it engages.' Therefore, in every case the government must prove not only that there was a pattern of racketeering activity but that it was conducted through an enterprise as thus defined.

Summary

RICO does not criminalize legal conduct unless it involves racketeering activity that violates another criminal statute. Therefore, if judges and attorneys inadvertently assist in a fraudulent scheme, they could be implicated if their actions contribute to the enterprise's racketeering activities, meeting the continuity and relatedness elements.

[Manax v. McNamara, 842 F.2d 808 \(5th Cir. 1988\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

A RICO claim, 18 U.S.C. Sec. 1962(c), 'requires (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' ... An enterprise under RICO can include the usual legal entities such as partnerships and corporations, but it also can include 'any union or group of individuals associated in fact although not a legal entity....' 18 U.S.C. Sec. 1961(4) (emphasis added). To establish an association-in-fact enterprise, a plaintiff must 'show 'evidence of an ongoing organization, formal or informal, and ... evidence that the various associates function as a continuing unit.'' ... An enterprise must be 'an entity separate and apart from the pattern of activity in which it engages.' ... The association as alleged has one short-term goal--the destruction of Manax's medical practice--and presumably will disband upon the attainment of that goal. There is, as a result, nothing linking the members of the association to one another except the commission of the predicate criminal acts.

Summary

To implicate judges and attorneys in a RICO conspiracy, it must be shown that they were part of an enterprise that engaged in a pattern of racketeering activity. The enterprise can be an association-in-fact, which requires evidence of an ongoing organization and that the associates function as a continuing unit. The enterprise must be distinct from the pattern of activity. The passage highlights that a short-term goal, such as the destruction of a business, without continuity or a separate entity, does not meet the RICO enterprise requirement. Therefore, for judges and attorneys to be implicated, there must be evidence of their ongoing association and participation in a broader scheme beyond the immediate divorce case.

[Burzynski, In re, 989 F.2d 733 \(5th Cir. 1993\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Burzynski has also failed to plead a RICO violation, his last cause of action. The plaintiff alleges RICO violations under 18 U.S.C. § 1962(a), (b), (c), and (d). Boiled down to their essence in plain English, the subsections state: (a) a person who has received income from a pattern of racketeering cannot invest that income in an enterprise. (b) a person cannot acquire or maintain an interest in an enterprise through a pattern of racketeering. (c) a person who is employed by or associated with an enterprise cannot conduct the enterprise's affairs through a pattern of racketeering. (d) a person cannot conspire to violate subsections (a), (b), or (c). Thus, RICO claims under all four subsections necessitate: '1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.' Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241, 242 (5th Cir.1988), cert. denied, 489 U.S. 1079, 109 S.Ct. 1531, 103 L.Ed.2d 836 (1989) (emphasis in original). We conclude that the plaintiff failed to properly plead both a 'pattern of racketeering activity' and a RICO 'enterprise.' ... A RICO 'enterprise' can be either a legal entity or an 'association in fact' enterprise. 18 U.S.C. 1961(4). The plaintiff argues that the defendants together constitute an 'association in fact' enterprise. ... The 'enterprise' as pleaded fails for lack of 'continuity.' An 'association-in-fact' enterprise perhaps could have been interpreted broadly to embrace any cooperative endeavor by two or more persons, without regard to its duration--thus embracing even a single transaction.

Summary

Necessary elements to establish a RICO violation under 18 U.S.C. § 1962, which include a person engaging in a pattern of racketeering activity connected to an enterprise. It also clarifies that a RICO "enterprise" can be a legal entity or an "association in fact," but it must demonstrate continuity. The passage highlights the importance of continuity and relatedness in establishing a RICO enterprise, which is crucial for implicating judges and attorneys in a RICO conspiracy. If judges and attorneys inadvertently assist in a fraudulent scheme, they could potentially be seen as part of an "association in fact" enterprise if their actions demonstrate continuity and relatedness to the broader scheme.

[United States v. Pratt, 728 F.3d 463 \(5th Cir. 2013\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Pratt was charged under 18 U.S.C. § 1962(d) with conspiring to violate a substantive RICO provision, § 1962(c). The elements of a conspiracy under § 1962(d) are simply "(1) that two or more people agreed to commit a substantive RICO offense and (2) that the defendant knew of and agreed to the overall objective of the RICO offense." The defendant need not be one of the people who agreed to commit the substantive offense. Section 1962(c)

makes it “unlawful for any person employed by or associated with any enterprise … to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity.” … A “‘pattern of racketeering activity’ requires at least two acts of racketeering activity” that occur within ten years of each other. 18 U.S.C. § 1961(5). An act of racketeering activity is defined in part as any act that is indictable under enumerated provisions of the criminal code. Id. § 1961(1)(B). In this case, the indictment alleges that the “pattern of racketeering activity” consisted of multiple, specific acts of mail fraud, in violation of 18 U.S.C. § 1341, and of money laundering, in violation of § 1956. In order to constitute a pattern, the predicated acts must also be connected in a way that shows a “threat of continuing activity.”

Summary

Elements required to establish a RICO conspiracy under 18 U.S.C. § 1962(d), which includes an agreement between two or more people to commit a substantive RICO offense and the defendant's knowledge and agreement to the overall objective of the RICO offense. It also explains that a pattern of racketeering activity requires at least two acts of racketeering within ten years, which must be connected to show a threat of continuing activity. This information is relevant to understanding how judges and attorneys could be implicated in a RICO conspiracy if they knowingly agree to the objectives of the conspiracy and participate in a pattern of racketeering activity, even if indirectly.

[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. In particular, RICO claims based on mail or wire fraud must comport with Federal Rule of Civil Procedure 9(b)'s requirement that allegations involving fraud be pleaded with particularity. … To establish a § 1962(c) RICO claim, the following elements must be proven:

- Enterprise: A structured group of individuals associated for a common purpose.
- Pattern of racketeering activity: At least two acts of racketeering, as specified within the statute, within 10 years.
- Conduct: Directly or indirectly conducting the enterprise's affairs through racketeering.
- Injury: An injury to business or property due to the racketeering activity.

Summary

Essential elements required to establish a RICO claim under § 1962(c), which includes conduct, enterprise, pattern of racketeering activity, and

injury. These elements are crucial for implicating individuals, such as judges and attorneys, in a RICO conspiracy. The passage also emphasizes the need for particularity in pleading fraud-related RICO claims, which is relevant when considering how judges and attorneys might inadvertently assist in a fraudulent scheme. The structured group (enterprise) and the pattern of racketeering activity are particularly relevant to the question, as they relate to the continuity and relatedness elements of a RICO claim.

[RICO: A Primer](#)

Extract

There are four separate and distinct RICO violations set out in section 1962: (a) acquiring or operating an enterprise using racketeering proceeds; (b) controlling an enterprise using racketeering activities; (c) conducting the affairs of an enterprise using racketeering activities; and (d) conspiring to so acquire, control, or conduct. Each of the subsections incorporates the basic elements of 'enterprise' and a 'pattern of racketeering activity.' ... Under Section 1962(d), it is a violation to conspire to commit any of the three substantive RICO offenses. To prove a violation of Section 1962(d), a plaintiff must prove the following elements: * The existence of an enterprise (or that an enterprise would exist); * That the enterprise was (or would be) engaged in, or its activities affected (or would affect), interstate or foreign commerce; and * That each defendant knowingly agreed that a conspirator would commit a violation of 18 U.S.C. ' 1962(c). The Supreme Court held that to establish a RICO conspiracy offense under Section 1962(d), there is no requirement that the defendant 'himself committed or agreed to commit the two predicate acts requisite for a substantive RICO offense under ' 1962(c).' The Supreme Court explained: A conspiracy may exist even if a conspirator does not agree to commit or facilitate each and every part of the substantive offense. The partners in the criminal plan must agree to pursue the same criminal objective and may divide up the work, yet each is responsible for the acts of each other. If conspirators have a plan which calls for some conspirators to perpetrate the crime and others to provide support, the supporters are as guilty as the perpetrators.

Summary

RICO violations can include conspiring to commit offenses even if the conspirators do not directly commit the acts themselves. The passage explains that under Section 1962(d), a conspiracy can exist if there is an agreement to pursue a criminal objective, and all conspirators are responsible for each other's acts. This means that judges and attorneys could be implicated in a RICO conspiracy if they knowingly agree to assist in a scheme that involves racketeering activities, even if they do not directly commit the acts themselves. The passage also highlights the importance of the enterprise and pattern of racketeering activity elements, which are essential to establishing a RICO violation.

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

Extract

RICO is not a simple statute. It pertains to conduct associated with an 'enterprise' and 'a pattern racketeering activity.' An enterprise is an individual or legal entity, or a union or group of individuals associated in fact although not a legal entity, while a pattern of racketeering activity requires long-term, organized conduct to violate state and federal laws. ... 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. ... 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.

Summary

N overview of the elements required to establish a RICO claim, including the need for an "enterprise" and a "pattern of racketeering activity." It also highlights that the conduct must be continuous and organized, and involve a qualifying criminal action such as fraud. This information is relevant to understanding how judges and attorneys could be implicated in a RICO conspiracy if they are part of an enterprise that engages in a pattern of fraudulent activity, even if inadvertently.

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

Extract

RICO is not a simple statute. It pertains to conduct associated with an 'enterprise' and 'a pattern racketeering activity.' An enterprise is an individual or legal entity, or a union or group of individuals associated in fact although not a legal entity, while a pattern of racketeering activity requires long-term, organized conduct to violate state and federal laws. ... 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. ... 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.

Summary

N overview of the elements required to establish a RICO claim, including the need for an "enterprise" and a "pattern of racketeering activity." It also highlights the necessity of proving a qualifying criminal action and the

continuity of the alleged conduct. These elements are crucial in understanding how judges and attorneys could be implicated in a RICO conspiracy if they inadvertently assist in a fraudulent scheme that meets these criteria.

[RICO: A Primer](#)

Extract

There are four separate and distinct RICO violations set out in section 1962: (a) acquiring or operating an enterprise using racketeering proceeds; (b) controlling an enterprise using racketeering activities; (c) conducting the affairs of an enterprise using racketeering activities; and (d) conspiring to so acquire, control, or conduct. Each of the subsections incorporates the basic elements of 'enterprise' and a 'pattern of racketeering activity.' ... Under Section 1962(d), it is a violation to conspire to commit any of the three substantive RICO offenses. To prove a violation of Section 1962(d), a plaintiff must prove the following elements: * The existence of an enterprise (or that an enterprise would exist); * That the enterprise was (or would be) engaged in, or its activities affected (or would affect), interstate or foreign commerce; and * That each defendant knowingly agreed that a conspirator would commit a violation of 18 U.S.C. ' 1962(c). The Supreme Court held that to establish a RICO conspiracy offense under Section 1962(d), there is no requirement that the defendant 'himself committed or agreed to commit the two predicate acts requisite for a substantive RICO offense under ' 1962(c).' The Supreme Court explained: A conspiracy may exist even if a conspirator does not agree to commit or facilitate each and every part of the substantive offense. The partners in the criminal plan must agree to pursue the same criminal objective and may divide up the work, yet each is responsible for the acts of each other. If conspirators have a plan which calls for some conspirators to perpetrate the crime and others to provide support, the supporters are as guilty as the perpetrators.

Summary

Under Section 1962(d) of RICO, a conspiracy can be established even if a defendant did not commit or agree to commit the predicate acts themselves. The key is that the defendant knowingly agreed that a conspirator would commit a violation. This means that judges and attorneys could be implicated if they knowingly agreed to assist in a scheme that involved a RICO violation, even if they did not directly commit the acts themselves. The passage also explains that a conspiracy can exist if conspirators agree to pursue the same criminal objective, and each is responsible for the acts of the others. This could apply to judges and attorneys if they were part of a plan to divest a father of his home and business through fraudulent means, even if their role was limited to providing support.

This memo was compiled by Vincent AI based on vLex materials available as of September 07, 2025. [View full answer on vLex](#)