

Question

TABLE OF CONTENTS I. JURISDICTION AND VENUE II. PARTIES III. RECORD REFERENCES <https://search.txcourts.gov/SearchMedia.aspx?MediaVersionID=61b83e31-36d1-4fbe-a837-5a3228b4cbc4&coa=cossup&DT=RECORD&MediaID=3f4d5220-d7e8-4cc6-a22e-db4ee7e4e9e0> IV. INTRODUCTION V. FACTUAL TIMELINE A. The Myers-Branthoover Enterprise B. Interstate Travel and Transfer C. Admissions D. Post-submission Collaboration E. Significant and Intentional Misrepresentations F. Evidence to the Contrary G. Inclement Weather and First Appearance H. Reset #1 - January 22, 2024, Setting I. Reset #2 - February 1, 2024, Setting J. Termination of Counsel and the Emergency Motion K. Summary Judgment and Notice of Hearing L. Plaintiff's Notice to the Court and Defendant Myers' Self-Help Remedies M. Predicate Acts: Extortion N. One Sided Appellate Efforts, and Defective IWO O. Fraudulent Intervention and Branthoover's Continued Involvement P. Supreme Court, Rule 12, and Emergency Temporary Orders Q. Predicate Act: Wire Fraud R. Recusal Denial and More Delays, and Federal Removal S. Further Delays, DWOP, and the Original SAPCR T. Counsel Suddenly Becomes Active U. Five Concurrent Mandamus Petitions V. Federal RICO Case and the Push Towards Final Trial VI. THE RICO ENTERPRISE A. Structure and Membership B. Expansion, Purpose and Continuity C. Decision-Making and Functioning as a Unit VII. PREDICATE ACTS A. Wire Fraud B. Travel Act Violation C. Extortion D. Fraudulent Court Filings E. Relatedness and Continuity VIII. RICO CONSPIRACY A. Agreement Among Defendants B. Overt Acts in Furtherance IX. POTENTIAL DEFENSES A. Preclusion B. Rooker-Feldman Doctrine C. Younger Abstention D. Judicial Immunity E. Other Affirmative Defenses X. STATE LAW CLAIMS A. Fraud B. Abuse of Process C. Intentional Infliction of Emotional Distress D. Other State Law Claims XI. CLAIMS FOR RELIEF XII. DAMAGES A. Compensatory Damages B. Treble Damages (RICO) C. Punitive Damages D. Restitution Damages XIII. PRAYER FOR RELIEF A. Damages C. Injunctive and Declaratory Relief D. Any Other Relief Deemed Just and Proper RECORD REFERENCES Plaintiff incorporates by reference public records from the Texas Supreme Court, and requests the court to take judicial notice of these documents. The Fifth Circuit has repeatedly held that it is proper for federal courts to take judicial notice of matters of public record, including documents filed in state court proceedings (Miller v. Dunn, 35 F.4th 1007 (5th Cir. 2022); LUV N' Care, Ltd. v. Jackel Int'l Ltd., 502 F.Supp.3d 1106 (W.D. La. 2020); Wright v. Arlington Indep. Sch. Dist., Civil Action No. 4:19-cv-00278-P (N.D. Tex. Nov 25, 2019)). Plaintiff therefore requests that this Court take judicial knowledge of the consolidated mandamus record, as its' authenticity is not reasonably disputed. Here, all record references point to the public consolidated mandamus record, as submitted to the Texas Supreme Court, a copy of which has been served upon each defendant named in this complaint either individually or through their agent. Link to the record: <https://search.txcourts.gov/SearchMedia.aspx?MediaVersionID=8e2d45b4-fb4f-40a0-93bc-ed9ed5f3cebd&coa=cossup&DT=RECORD&MediaID=804ac8d3-9b5f-40b0->

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

II. TIMELINE OF EVENTS BACKGROUND

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

A. The Myers-Branthoover Enterprise 1.

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

B. Interstate Travel and Transfer 2.

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

3.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Wire Fraud by Munford and Baker

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

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

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

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

Answer (Fifth Circuit)

Short response

To properly plead the parties in a civil RICO complaint in the Fifth Circuit, a plaintiff must specifically identify each defendant as a RICO "person," describe the distinct "enterprise" (which may be a legal entity or an association-in-fact), and allege with particularity each defendant's role and conduct in the enterprise's affairs, ensuring the person and enterprise are not the same entity. The complaint must set out detailed, non-conclusory facts showing how each defendant participated in a pattern of racketeering activity connected to the enterprise, and must avoid lumping defendants together or relying on mere conclusory allegations.

Summary

In the Fifth Circuit, civil RICO complaints are subject to strict pleading requirements: the plaintiff must allege with specificity the identity and role of each defendant (the "person"), the structure and nature of the "enterprise," and the connection between the defendants' conduct and the enterprise's affairs. The enterprise must be distinct from the RICO person,

and if the enterprise is an association-in-fact, the complaint must detail its purpose, structure, relationships, and continuity, as well as each defendant's participation in the enterprise's direction or conduct.

The complaint must also allege at least two related predicate acts of racketeering activity by each defendant, with sufficient detail to satisfy Rule 9(b) for fraud-based predicates, and must show that these acts form a pattern that threatens continued criminal activity. The plaintiff cannot simply group defendants together or make conclusory statements; instead, the complaint must provide specific factual allegations as to each party's involvement, ensuring that both individual and enterprise liability are properly and distinctly pleaded.

Background and Relevant Law

Legislative and Regulatory Framework

The [Racketeer Influenced and Corrupt Organizations Act](#) (RICO), codified at 18 U.S.C. §§ 1961–1968, provides a civil cause of action for persons injured in their business or property by reason of a violation of section 1962. Section 1962(c), the most commonly invoked provision, prohibits any person employed by or associated with any enterprise engaged in interstate or foreign commerce from conducting or participating in the conduct of such enterprise's affairs through a pattern of racketeering activity. The statute defines a "person" as any individual or entity capable of holding a legal or beneficial interest in property, and an "enterprise" as any individual, partnership, corporation, association, or group of individuals associated in fact, even if not a legal entity (18 U.S.C. § 1961(3)-(4); RICO: A Primer (2022-01-31)).

Case Law

The Fifth Circuit has consistently held that to state a civil RICO claim, a plaintiff must allege: (1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise ([Abraham v. Singh](#), 480 F.3d 351, 355 (5th Cir. 2007); [St. Paul Mercury Ins. v. Williamson](#), 224 F.3d 425, 440 (5th Cir. 2000); [Gordon v. Neugebauer](#), 57 F.Supp.3d 766, 779 (N.D. Tex. 2014)). The "person" and the "enterprise" must be distinct entities ([Whelan v. Winchester Production Co.](#), 319 F.3d 225, 229 (5th Cir. 2003); [Abraham v. Singh](#), 480 F.3d at 357). An enterprise may be a legal entity or an association-in-fact, but if the latter, the complaint must allege facts showing the enterprise has a purpose, relationships among those associated, and sufficient longevity to pursue its purpose (*Boyle v. United States*, 556 U.S. 938, 946 (2009); [St. Paul Mercury Ins. v. Williamson](#), 224 F.3d at 440).

Pleading a pattern of racketeering activity requires at least two predicate acts that are related and pose a threat of continued criminal activity ([United Healthcare Services, Inc. v. Next Health, LLC](#), NO. 3:17-CV-00243-E-BT (N.D. Tex. Feb 26, 2021); *Brown v. Protective Life Ins. Co.*, 353 F.3d 405, 407 (5th Cir. 2003)). Predicate acts must be pleaded with particularity under Rule

9(b) if they are based on fraud, such as wire or mail fraud ([Oblio Telecom, Inc. v. Patel](#), 711 F.Supp.2d 668 (N.D. Tex. 2008); [Tel-Phonic Services, Inc. v. TBS Intern., Inc.](#), 975 F.2d 1134 (5th Cir. 1992), superseded on other grounds by [Benchmark Electronics, Inc. v. J.M. Huber Corp.](#), 343 F.3d 719 (5th Cir. 2003)).

The Fifth Circuit also requires that the complaint not lump defendants together or rely on conclusory allegations; instead, it must plead specific facts as to each defendant's role in the enterprise and the racketeering activity ([Rodriguez v. Meta Platforms, Inc.](#) (2025-04-09); [Elliott v. Foufas](#), 867 F.2d 877, 881 (5th Cir. 1989)). For RICO conspiracy claims under § 1962(d), the plaintiff must allege that two or more persons agreed to commit a substantive RICO offense and that each defendant knew of and agreed to the overall objective ([Chaney v. Dreyfus Service Corp.](#), 595 F.3d 219, 239 (5th Cir. 2010)).

Analysis

I. JURISDICTION AND VENUE

A civil RICO action may be brought in federal court if the alleged enterprise's activities affect interstate or foreign commerce (18 U.S.C. § 1962(c)). The complaint must allege facts showing the enterprise's connection to interstate commerce, which is typically satisfied if the predicate acts (such as wire fraud or interstate travel) cross state lines or involve interstate communications ([Maiden Biosciences, Inc. v. Document Sec. Sys.](#) (2021-08-09)). In the factual timeline, the transfer of funds from Texas to Oklahoma and the use of interstate wire communications (e.g., PayPal, text messages, emails) are sufficient to establish this element (see Timeline ¶¶ 2-3, 5, 54-59).

II. PARTIES

The complaint must specifically identify each defendant as a RICO "person," meaning an individual or entity capable of holding a legal or beneficial interest in property (18 U.S.C. § 1961(3); RICO: A Primer (2022-01-31)). Each defendant's role must be described with particularity, including their relationship to the enterprise and their participation in the alleged racketeering activity ([Rodriguez v. Meta Platforms, Inc.](#) (2025-04-09)). The complaint must avoid group pleading and instead set out the specific conduct of each defendant ([Elliott v. Foufas](#), 867 F.2d at 881).

In the timeline, the parties include Morgan Michelle Myers, Daniel Kenneth Branthoover, James Munford, Jeffrey Kaitcer, Cooper Carter, and Baker. The complaint must allege, for each, their status as a RICO person and their distinctness from the enterprise (see Timeline ¶¶ 1, 14, 16, 17, 54, 55).

III. RECORD REFERENCES

The Fifth Circuit permits courts to take judicial notice of public records, including state court filings, when their authenticity is not reasonably

disputed (*Miller v. Dunn*, 35 F.4th 1007 (5th Cir. 2022); *LUV N' Care, Ltd. v. Jackel Int'l Ltd.*, 502 F.Supp.3d 1106 (W.D. La. 2020)). The complaint may incorporate such records by reference, provided they are properly identified and served on all parties.

IV. INTRODUCTION

The introduction should set out the nature of the RICO claim, the parties, the enterprise, and a summary of the alleged racketeering activity. It should preview the specific roles of each defendant and the harm suffered by the plaintiff, as well as the connection to interstate commerce.

V. FACTUAL TIMELINE

The factual timeline must provide detailed, non-conclusory allegations as to each defendant's conduct, the structure and purpose of the enterprise, and the predicate acts of racketeering. Each event should be tied to a specific defendant and to the overall scheme, with references to supporting evidence (e.g., REC. [page]).

A. The Myers-Branthoover Enterprise

The complaint must allege that Myers and Branthoover formed an association-in-fact enterprise with a common purpose (to divest Plaintiff of his home and business), ongoing organization (planning, drafting, and submitting fraudulent documents), and continuity (actions spanning from December 2023 through 2025) (*Boyle v. United States*, 556 U.S. at 946; [St. Paul Mercury Ins v. Williamson](#), 224 F.3d at 440). The enterprise must be distinct from the pattern of racketeering activity and from the RICO persons ([Whelan v. Winchester Production Co.](#), 319 F.3d at 229).

B. Interstate Travel and Transfer

Allegations of interstate travel and transfer of funds (e.g., Myers traveling from Texas to Oklahoma, transferring marital funds to Branthoover's PayPal) support both the enterprise's connection to interstate commerce and the commission of predicate acts (wire fraud, Travel Act violations) ([Bustos v. Invierte En Tex.](#) (2024-06-03)).

C. Admissions

Specific admissions by defendants (e.g., Branthoover's acknowledgment of the transfer and purpose) must be pleaded with particularity to show knowing participation in the enterprise's affairs ([Rodriguez v. Meta Platforms, Inc.](#) (2025-04-09)).

D. Post-submission Collaboration

Ongoing collaboration after the initial predicate acts (e.g., Branthoover holding himself out as Myers' attorney, continued communication)

demonstrates the enterprise's continuity and the defendants' roles as a continuing unit ([Allstate Ins. Co. v. Benhamou, 190 F.Supp.3d 631 \(S.D. Tex. 2016\)](#)).

E. Significant and Intentional Misrepresentations

Allegations of fraudulent court filings and misrepresentations must be pleaded with specificity, identifying the false statements, the speaker, and the context ([Oblio Telecom, Inc. v. Patel, 711 F.Supp.2d at 678](#)).

F. Evidence to the Contrary

The complaint should include factual allegations and evidence contradicting the defendants' misrepresentations, further supporting the claim of fraudulent intent and racketeering activity.

G-V. Subsequent Events

Each subsequent event (e.g., court hearings, resets, motions, orders, communications) must be tied to the roles and conduct of the defendants, showing how each participated in the enterprise's affairs and furthered the pattern of racketeering activity. The complaint must detail the structure, decision-making, and continuity of the enterprise, as well as the specific predicate acts committed by each defendant.

VI. THE RICO ENTERPRISE

A. Structure and Membership

The complaint must describe the enterprise's structure, purpose, roles, and function, naming the individuals or entities involved and explaining their relationships and decision-making framework ([Chapter 7. Pleading and Practice Issues](#); *Boyle v. United States*, 556 U.S. at 946).

B. Expansion, Purpose, and Continuity

The enterprise's purpose (e.g., to deprive Plaintiff of property), its expansion (e.g., involvement of additional defendants), and its continuity (e.g., ongoing acts over time) must be specifically alleged ([St. Paul Mercury Ins v. Williamson, 224 F.3d at 440](#)).

C. Decision-Making and Functioning as a Unit

The complaint must explain how the enterprise functioned as a continuing unit, including its decision-making structure (hierarchical or consensual) and the roles of each defendant ([Elliott v. Foufas, 867 F.2d at 881](#)).

VII. PREDICATE ACTS

A. Wire Fraud

Allegations of wire fraud must specify the scheme to defraud, the use of interstate wires, the intent to defraud, and the resulting injury ([Bustos v. Invierte En Tex.](#) (2024-06-03); [Oblio Telecom, Inc. v. Patel](#), 711 F.Supp.2d at 678).

B. Travel Act Violation

Allegations of Travel Act violations must specify the use of interstate travel or facilities to further unlawful activity (e.g., extortion, fraud) ([Bustos v. Invierte En Tex.](#) (2024-06-03)).

C. Extortion

Allegations of extortion must detail the wrongful use of threats or official process to obtain property or rights from the plaintiff ([Amuneke-Nze v. Crain](#) (2023-08-17)).

D. Fraudulent Court Filings

Fraudulent court filings as predicate acts must be pleaded with particularity, identifying the false statements, the responsible defendant, and the context ([Oblio Telecom, Inc. v. Patel](#), 711 F.Supp.2d at 678).

E. Relatedness and Continuity

The complaint must show that the predicate acts are related (i.e., have similar purposes, results, participants, or methods) and pose a threat of continued criminal activity ([United Healthcare Sevices, Inc. v. Next Health, LLC](#), NO. 3:17-CV-00243-E-BT (N.D. Tex. Feb 26, 2021)).

VIII. RICO CONSPIRACY

To plead a RICO conspiracy under § 1962(d), the complaint must allege that two or more persons agreed to commit a substantive RICO offense and that each defendant knew of and agreed to the overall objective ([Chaney v. Dreyfus Service Corp.](#), 595 F.3d at 239). Mere association or presence is insufficient.

IX. POTENTIAL DEFENSES

Defendants may raise defenses such as preclusion, the Rooker-Feldman doctrine, Younger abstention, judicial immunity, or other affirmative defenses. The complaint should anticipate and address these where possible.

X. STATE LAW CLAIMS

The complaint may also plead state law claims (e.g., fraud, abuse of process, intentional infliction of emotional distress) based on the same factual allegations, but must clearly distinguish these from the RICO claims.

XI. CLAIMS FOR RELIEF

The complaint must specify the relief sought, including compensatory, treble, and punitive damages, as well as injunctive and declaratory relief, as authorized by RICO (18 U.S.C. § 1964(c)).

XII. DAMAGES

The plaintiff must allege injury to business or property proximately caused by the RICO violation, with sufficient detail to show standing ([United Healthcare Sevices, Inc. v. Next Health, LLC, NO. 3:17-CV-00243-E-BT \(N.D. Tex. Feb 26, 2021\)](#)).

XIII. PRAYER FOR RELIEF

The prayer for relief should request all appropriate remedies, including damages and equitable relief.

Exceptions and Caveats

- The RICO person and enterprise must be distinct; a single entity cannot be both ([Whelan v. Winchester Production Co., 319 F.3d at 229](#)).
- Predicate acts based on fraud must be pleaded with particularity under Rule 9(b) ([Oblio Telecom, Inc. v. Patel, 711 F.Supp.2d at 678](#)).
- The complaint must avoid group pleading and conclusory allegations ([Rodriguez v. Meta Platforms, Inc.](#) (2025-04-09)).
- If a cited case has been superseded (e.g., [Tel-Phonic Services, Inc. v. TBS Intern., Inc., 975 F.2d 1134 \(5th Cir. 1992\)](#)), rely on the current standard as clarified by subsequent authority ([Benchmark Electronics, Inc. v. J.M. Huber Corp., 343 F.3d 719 \(5th Cir. 2003\)](#)).

Conclusion

To properly plead the parties in a civil RICO complaint in the Fifth Circuit, the plaintiff must specifically identify each defendant as a RICO person, describe the distinct enterprise (legal entity or association-in-fact), and allege with particularity each defendant's role and conduct in the enterprise's affairs. The complaint must set out detailed, non-conclusory facts showing how each defendant participated in a pattern of racketeering activity connected to the enterprise, ensuring the person and enterprise are not the same entity, and must avoid lumping defendants together or relying on mere conclusory allegations. This approach, grounded in the statutory text and controlling Fifth Circuit authority, is essential to withstand a motion

to dismiss and to properly allege both individual and enterprise liability under RICO.

Legal Authorities

[David v. Signal Int'l, LLC, CIVIL ACTION No. 08-1220 SECTION "E", CIVIL ACTION No. 12-557 SECTION "E", CIVIL ACTION No. 13-6218 SECTION "E" \(E.D. La. Jan 09, 2015\)](#)

U.S. District Court — Eastern District of Louisiana

Extract

18 U.S.C. § 1962(c) prohibits 'any person employed by or associated with any enterprise' from 'participat[ing]... in the conduct of such enterprise's affairs through a pattern of racketeering activity...' Under this subsection, the Fifth Circuit requires the RICO 'person' be distinct from the RICO 'enterprise.' The RICO person(s) is the named defendant(s), while the RICO enterprise can be either a legal entity or an association-in-fact. The seminal Fifth Circuit case regarding the RICO person-RICO entity distinction is *St. Paul Mercury Insurance Co. v. Williamson*. The plaintiff in *St Paul* filed a civil RICO suit against three individuals who allegedly comprised an association-in-fact enterprise. Summarizing its prior case law, the Fifth Circuit distinguished between corporate entities and individuals: where a single entity is named as both a RICO defendant and a RICO enterprise, the person-entity distinction is violated. There is no violation, however, 'when individuals have been named as defendants and as members of an association-in-fact RICO enterprise.' Applying this rule to the case before it, the court vacated the district's court dismissal of the plaintiff's Section 1962(c) claim.

Summary

The Fifth Circuit requires a clear distinction between the RICO "person" and the RICO "enterprise" in a civil RICO complaint. The RICO person is the named defendant, while the RICO enterprise can be a legal entity or an association-in-fact. The court in *St. Paul Mercury Insurance Co. v. Williamson* clarified that a single entity cannot be both a RICO defendant and a RICO enterprise, but individuals can be named as defendants and as part of an association-in-fact enterprise. This distinction is crucial for properly pleading a civil RICO claim in the Fifth Circuit.

[St. Gregory Cathedral Sch. v. LG Elecs., Inc., Case No. 6:12-cv-739 \(E.D. Tex. Mar 05, 2014\)](#)

U.S. District Court — Eastern District of Texas

Extract

A RICO 'enterprise' includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity. 18 U.S.C. § 1961(4). A RICO enterprise must be distinct from the defendant serving as the RICO person. *Atkinson v. Anadarko Bank and Trust Co.*, 808 F.2d 438, 439 (5th Cir. 1987). Under § 1962(c), no RICO enterprise exists where a subsidiary merely acts on behalf of, or to the benefit of, its parent.

Summary

In the Fifth Circuit, a RICO enterprise can be any legal entity or group of individuals associated in fact, but it must be distinct from the defendant serving as the RICO person. This means that the enterprise cannot simply be a subsidiary acting on behalf of its parent company. This distinction is crucial for pleading a RICO claim, as it ensures that the enterprise is a separate entity from the individuals or entities accused of conducting its affairs through racketeering activity.

[North Cypress Med. Ctr. Operating Co. v. Cigna Healthcare, CIVIL ACTION NO. 4:09-cv-2556 \(S.D. Tex. Nov 03, 2011\)](#)

U.S. District Court — Southern District of Texas

Extract

All subsections of RICO '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.' *Real Estate Innovations, Inc. v. Houston Ass'n of Realtors*, 422 Fed.Appx. 344, 350 (5th Cir. 2011) (quoting *Crowe v. Henry*, 43 F.3d 198, 204 (5th Cir. 1995) (quotation marks and citation omitted)). Thus to survive a motion to dismiss its RICO claims, a plaintiff must plead facts that show a pattern of racketeering activity.

Summary

General framework for pleading RICO claims in the Fifth Circuit.

[St. Paul Mercury Ins v. Williamson, 224 F.3d 425 \(5th Cir. 2000\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Of the three elements required of any RICO claim, the district court noted that the Williamsons in their summary judgment motion had not challenged

whether St. Paul had asserted and/or provided evidence of a RICO person or a RICO enterprise. A RICO person is the defendant, while a RICO enterprise can be either a legal entity or an association-in-fact. See *Crowe v. Henry*, 43 F.3d 198, 204 (5th Cir. 1995). If the alleged enterprise is an association-in-fact, the plaintiff must show evidence of an ongoing organization, formal or informal, that functions as a continuing unit over time through a hierarchical or consensual decision-making structure. See *Elliott v. Foufas*, 867 F.2d 877, 881 (5th Cir. 1989).

Summary

In the Fifth Circuit, a RICO claim requires the identification of a RICO person, who is the defendant, and a RICO enterprise, which can be a legal entity or an association-in-fact. For an association-in-fact enterprise, the plaintiff must demonstrate evidence of an ongoing organization that functions as a continuing unit over time, with a hierarchical or consensual decision-making structure. This establishes the standards for alleging individual and enterprise liability in a civil RICO complaint.

[United Healthcare Sevices, Inc. v. Next Health, LLC, NO. 3:17-CV-00243-E-BT \(N.D. Tex. Feb 26, 2021\)](#)

U.S. District Court — Northern District of Texas

Extract

It is '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.' 18 U.S.C. § 1962(c). RICO violation claims '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.' *Abraham v. Singh*, 480 F.3d 351, 355 (5th Cir. 2007); 18 U.S.C. § 1962. A plaintiff has standing to bring a civil RICO claim if he is 'injured in his business or property by reason of a violation of section 1962.' 18 U.S.C. § 1964(c).

Summary

Elements required to plead a civil RICO claim in the Fifth Circuit, which include identifying a person engaged in a pattern of racketeering activity connected to an enterprise. It also specifies the standing requirement for a plaintiff, which is to show injury to business or property due to a RICO violation. This information is directly relevant to understanding the legal requirements for identifying and pleading parties in a civil RICO complaint.

[Allstate Ins. Co. v. Benhamou, 190 F.Supp.3d 631 \(S.D. Tex. 2016\)](#)

U.S. District Court — Southern District of Texas

Extract

When the alleged enterprise is an association-in-fact enterprise, the plaintiff must show evidence of: (1) an existence separate and apart from the pattern of racketeering; (2) ongoing organization; and (3) members that function as a continuing unit as shown by a hierarchical or consensual, decision-making structure. *Delta Truck*, 855 F.2d at 243. See also *Boyle*, 556 U.S. at 946, 129 S.Ct. 2237 (recognizing that 'an association-in-fact enterprise must have at least three structural features: purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose'). In other words, a plaintiff must explain the functioning of alleged enterprises to satisfy the pleading standard for the enterprise element.

Summary

Requirements for pleading an association-in-fact enterprise under RICO in the Fifth Circuit. It specifies that the plaintiff must demonstrate the enterprise's existence separate from the racketeering pattern, its ongoing organization, and its members functioning as a continuing unit. This is crucial for establishing enterprise liability in a RICO complaint.

[Elliott v. Foufas, 867 F.2d 877 \(5th Cir. 1989\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

In order to state a claim under 18 U.S.C. Sec. 1962, a plaintiff must allege: 1) the conduct; 2) of an enterprise; 3) through a pattern; 4) of racketeering activity. ... The 'enterprise' element requires that the plaintiff specify the enterprise and, in the case of an association-in-fact enterprise, plead the necessary organizational characteristics. ... In order to avoid dismissal for failure to state a claim, a plaintiff must plead specific facts, not mere conclusory allegations, which establish the existence of an enterprise. ... The enterprise must be 'an entity separate and apart from the pattern of activity in which it engages.' ... The defendant who commits the predicate offenses must also be distinct from the enterprise.

Summary

In the Fifth Circuit, a RICO complaint must include specific factual allegations that establish the existence of an enterprise, which must be distinct from the pattern of racketeering activity and the defendant. The enterprise must have organizational characteristics, and the defendant must be distinct from the enterprise. These requirements ensure that the complaint is not dismissed for failure to state a claim.

[Global Oil Tools, Inc. v. Barnhill, CIVIL ACTION NO: 12-1507 \(E.D. La. Nov 19, 2012\)](#)

U.S. District Court — Eastern District of Louisiana

Extract

With regard to Defendants' arguments that Plaintiff has failed to properly plead a RICO enterprise, Defendants contend that Count I of the complaint does not establish an association-in-fact enterprise. In particular, Defendants argue that the Plaintiff has not pled specific facts that demonstrate that the alleged association-in-fact enterprise functions as a continuing unit through either hierarchical or consensual decision-making. Moreover, Defendants assert that, to the extent that Plaintiff may have successfully pleaded that an association-in-fact enterprise, Plaintiff has failed to demonstrate that the enterprise existed for any purpose other than committing the alleged predicate offenses, which Defendants contend is required under RICO.

Summary

In the Fifth Circuit, to properly plead a RICO enterprise, a plaintiff must allege specific facts that demonstrate the enterprise functions as a continuing unit through either hierarchical or consensual decision-making. Additionally, the enterprise must exist for a purpose beyond merely committing the alleged predicate offenses.

[Atkinson v. Anadarko Bank and Trust Co., 808 F.2d 438 \(5th Cir. 1987\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The existence of an enterprise is an essential element of a RICO claim. 18 U.S.C. Sec. 1962(c); *Sedima v. Imrex Co.*, 473 U.S. 479, 105 S.Ct. 3275, 3285, 87 L.Ed.2d 346 (1985). To establish an 'association in fact' enterprise under 18 U.S.C. Sec. 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

Requirement for establishing an "association in fact" enterprise under RICO in the Fifth Circuit. It specifies that plaintiffs must demonstrate evidence of an ongoing organization, whether formal or informal, and that the associates function as a continuing unit. This is essential for alleging enterprise liability in a RICO complaint. The passage also references key cases that establish

these standards, indicating its broad applicability to RICO claims in the Fifth Circuit.

[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). ... To state a claim under subsection (c), a plaintiff must demonstrate, inter alia, that the RICO person is distinct from the RICO enterprise. ... In this case, Plaintiffs have identified Chandler as the RICO person and Falcon Steel as the RICO enterprise. This allegation is sufficient to demonstrate that the RICO person, an individual employee of the corporation, is distinct from the RICO enterprise, the corporation itself.

Summary

Requirements for pleading a civil RICO claim under 18 U.S.C. § 1962(c) in the Fifth Circuit. It emphasizes the necessity of distinguishing between the RICO person and the RICO enterprise, which is a critical element in establishing liability under subsection (c). The passage also briefly mentions the requirements for subsections (a), (b), and (d), providing a comprehensive overview of the standards for alleging individual and enterprise liability in a civil RICO complaint.

[Whelan v. Winchester Production Co., 319 F.3d 225 \(5th Cir. 2003\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

For purposes of § 1962(c), which prohibits the conduct of an enterprise's affairs through a pattern of racketeering activity, the plaintiff must demonstrate not only that the enterprise is distinct from the series of predicate acts constituting racketeering activity, but also that the RICO 'person' who commits the predicate acts is distinct from the enterprise. Bishop v. Corbitt Marine Ways, Inc., 802 F.2d 122, 123 (5th Cir.1986). It is not enough to establish that a defendant corporation through its agents committed the predicate acts in the conduct of its own business. Elliott v.

Foufas, 867 F.2d 877, 881 (5th Cir.1989). That officers or employees of a corporation, in the course of their employment, associate to commit predicate acts does not establish an association-in-fact enterprise distinct from the corporation.

Summary

The passage provides insight into the requirements for pleading a civil RICO claim under § 1962(c) in the Fifth Circuit. It emphasizes the necessity of demonstrating that the enterprise is distinct from the predicate acts and that the RICO "person" is distinct from the enterprise. This distinction is crucial to establish liability under RICO. The passage also clarifies that merely associating to commit predicate acts within a corporation does not automatically establish an association-in-fact enterprise distinct from the corporation itself.

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

U.S. Court of Appeals — Fifth Circuit

Extract

Crowe has alleged RICO violations under 18 U.S.C. Sec. 1962(a), (b), (c), and (d). Reduced to their simplest terms, these subsections state 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 activity; (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). Common elements are present in all four of these subsections. *Ocean Energy II, Inc. v. Alexander & Alexander, Inc.*, 868 F.2d 740, 742 (5th Cir.1989). These common elements teach that any RICO claim necessitates '1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.' *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).

Summary

Requirements for a RICO claim under 18 U.S.C. Sec. 1962, which include identifying a "person" who engages in a "pattern of racketeering activity" connected to an "enterprise." The RICO person is the defendant, and the enterprise can be a legal entity or an association-in-fact. The passage also emphasizes that the RICO person and the enterprise must be distinct entities under subsection (c).

[Andrews v. American Nat. Red Cross, Inc., 176 F.Supp.2d 673 \(W.D. Tex. 2001\)](#)

U.S. District Court — Western District of Texas

Extract

Chiefly, Plaintiff cannot state a claim under RICO because of proximate cause problems and a lack of distinctiveness between the RICO person and the RICO enterprise. ... Notwithstanding that clear rule, the Fifth Circuit in St. Paul fashioned a slim exception to allow a claim against an individual who is also a component of an association-in-fact enterprise. As the St. Paul court explained, 'courts have routinely required a distinction when a corporation has been alleged as both a RICO defendant and a RICO enterprise, but a similar requirement has not been mandated when individuals have been named as defendants and as members of an association-in-fact RICO enterprise.'

Summary

The passage highlights the requirement in the Fifth Circuit for a distinction between the RICO person and the RICO enterprise, except in cases involving individuals as part of an association-in-fact enterprise. This is crucial for pleading a RICO claim, as it affects how parties are identified and alleged in the complaint.

[Tel-Phonic Services, Inc. v. TBS Intern., Inc., 975 F.2d 1134 \(5th Cir. 1992\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The RICO predicate acts were mail and wire fraud. Compl. pp 51-53. The district court dismissed the RICO claims, finding that Plaintiffs failed 'to allege a continuous pattern of intentional acts designed to defraud the plaintiffs' and failed 'to plead with particularity the requisite elements of wire and mail fraud pursuant to Rule 9(b).' Mem. Op. Sept. 12, 1988 at 3, 4; see Fed.R.Civ.P. 9(b). Because the complaint insufficiently pleads a continuous pattern of racketeering activity or an agreement to commit at least two predicate acts of racketeering activity, we affirm the dismissal of the RICO claims.

Summary

The passage highlights the necessity for a RICO complaint to allege a continuous pattern of racketeering activity and to plead the elements of fraud with particularity as required by Rule 9(b) of the Federal Rules of Civil Procedure. This includes detailing the circumstances constituting fraud. The failure to meet these requirements led to the dismissal of the RICO claims in

this case. This indicates that in the Fifth Circuit, a RICO complaint must clearly identify the parties involved, specify the predicate acts, and demonstrate a pattern of racketeering activity with sufficient detail.

[Chaney v. Dreyfus Service Corp., 595 F.3d 219 \(5th Cir. 2010\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The Receivers also seek to recover under a RICO conspiracy theory. 18 U.S.C. § 1962(d). In order to demonstrate a RICO conspiracy under § 1962(d), the Receivers must demonstrate '(1) that two or more people agreed to commit a substantive RICO offense and (2) that [DSC] knew of and agreed to the overall objective of the RICO offense.' *United States v. Sharpe*, 193 F.3d 852, 869 (5th Cir.1999). 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

To plead a RICO conspiracy under § 1962(d) in the Fifth Circuit, a plaintiff must demonstrate that two or more individuals agreed to commit a substantive RICO offense and that the defendant knew of and agreed to the overall objective of the RICO offense. Mere association with conspirators or being in an environment suggestive of wrongdoing is insufficient for liability. This establishes the need for actual knowledge and agreement to the conspiracy's objectives, which is crucial for alleging individual and enterprise liability in a civil RICO complaint.

[Cunningham v. Offshore Specialty Fabrications, 543 F.Supp.2d 614 \(E.D. Tex. 2008\)](#)

U.S. District Court — Eastern District of Texas

Extract

As this Court has previously explained, '[t]o state a claim under the RICO statute, 18 U.S.C. § 1962, a plaintiff must allege (1) the conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' *Z-Tel Communs., Inc. v. SBC Communs., Inc.*, 331 F.Supp.2d 513, 557 (E.D.Tex. 2004) (citing *Elliott v. Foufas*, 867 F.2d 877, 880 (5th Cir.1989)). Defendants attack prongs two and four by arguing that the Plaintiffs have not alleged a proper RICO enterprise and that there are no RICO predicate acts. Defendants also argue that Plaintiffs lack standing under RICO. As the Fifth Circuit recently explained, '[t]o state a claim under subsection (c), a plaintiff must demonstrate, inter alia, that the RICO person is distinct from the RICO

enterprise.' Abraham v. Singh, 480 F.3d 351, 357 (5th Cir.2007) (citing Crowe v. Henry, 43 F.3d 198, 205-06 (5th Cir.1995); Whelan v. Winchester Prod. Co., 319 F.3d 225, 229 (5th Cir.2003)). 'Although a defendant may not be both a person and an enterprise, a defendant may be both a person and a part of an enterprise. In such a case, the individual defendant is distinct from the organizational entity.'

Summary

Requirements for pleading a RICO claim, emphasizing the need to allege conduct, an enterprise, a pattern, and racketeering activity. It also highlights the necessity for the RICO person to be distinct from the RICO enterprise, which is a critical element in the Fifth Circuit. This distinction is crucial for establishing individual and enterprise liability under RICO.

[Crawford Arms, Inc. v. Waste Management of Miss., 23 F.Supp.2d 676 \(S.D. Miss. 1998\)](#)

U.S. District Court — Southern District of Mississippi

Extract

The RICO statute imposes civil and criminal liability on persons who use or invest income derived from, acquire or maintain control of, or engage in the conduct of an enterprise through a pattern of racketeering activity, or who conspire to do any of these acts. 18 U.S.C. § 1962 (1988). Reduced to its essential elements, a violation of § 1962 requires: '(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).

Summary

Essential elements required to establish a RICO violation under § 1962, which includes identifying a person who engages in a pattern of racketeering activity connected to an enterprise. This is relevant to pleading the parties in a civil RICO complaint, as it specifies the need to distinguish between the RICO "person" and the RICO "enterprise."

[LSC Towers, LLC v. LG Preston Campbell, LLC, Civil Action No. 3:17-cv-00625-M \(N.D. Tex. Mar 05, 2018\)](#)

U.S. District Court — Northern District of Texas

Extract

To sufficiently plead a RICO claim, a plaintiff must allege that: (1) a person (2) engages in a pattern of racketeering activity (3) connected to the

acquisition, establishment, conduct, or control of an enterprise. In re Burzynski, 989 F.2d 733, 741 (5th Cir. 1993). A 'pattern of racketeering activity' requires at least two predicate acts of racketeering that are related and pose a threat of continued criminal activity. Brown v. Protective Life Ins. Co., 353 F.3d 405, 407 (5th Cir. 2003). ... A RICO enterprise may be a legal entity or an association-in-fact. St. Paul Mercury Ins. Co. v. Williamson, 224 F.3d 425, 440 (5th Cir. 2000). To demonstrate the existence of an association-in-fact enterprise, Plaintiffs must allege (1) there is an ongoing organization, (2) the organization's members function as a continuing unit through a hierarchical or consensual decision-making structure, and (3) the organization exists separately and apart from the alleged pattern of racketeering. Crowe v. Henry, 43 F.3d 198, 205 (5th Cir. 1995); see Gordon v. Neugebauer, 57 F. Supp. 3d 766, 779 (N.D. Tex. 2014).

Summary

To plead a civil RICO claim in the Fifth Circuit, a plaintiff must allege the existence of a person engaged in a pattern of racketeering activity connected to an enterprise. The enterprise can be a legal entity or an association-in-fact, which requires an ongoing organization, a decision-making structure, and existence separate from the racketeering pattern. These elements are essential for establishing both individual and enterprise liability under RICO.

[First Nat. Bank of Louisville v. Lustig, 727 F.Supp. 276 \(E.D. La. 1989\)](#)

U.S. District Court — Eastern District of Louisiana

Extract

Thus, § 1962(a) requires a RICO plaintiff to plead and prove that the defendant is liable as a principal within the meaning of 18 U.S.C. § 2 for the underlying predicate acts. A corporation that is only the passive instrumentality of an employee's wrongdoing cannot be held liable as a principal... the RICO complaint must not depend upon mere conclusory allegations, but must allege, among other things, fraud (including mail and wire fraud) with specificity. Fed.R.Civ.P. 9(b)... a civil RICO plaintiff cannot hold a company vicariously liable for the racketeering activity of its employee where the employee is the RICO 'person' and the company—his employer—is the RICO 'enterprise' whose affairs are wrongfully conducted by the employee through the pattern of racketeering activity... With respect to the former, a plaintiff filing a civil RICO suit must 'plead facts that would give rise to the corporate defendant's criminal liability' for the predicate acts... the civil RICO plaintiff must plead that the defendant corporation invested in, acquired, or participated in an enterprise through the pattern of racketeering activity.

Summary

Requirements for pleading a civil RICO claim, emphasizing the need for specificity in allegations, particularly regarding fraud. It clarifies that a corporation cannot be held liable for the actions of an employee unless the corporation itself is involved in the racketeering activity. The plaintiff must allege facts that establish the corporation's criminal liability and participation in the enterprise. This guidance is applicable to civil RICO claims in the Fifth Circuit.

[Amuneke-Nze v. Crain](#)

U.S. District Court — Western District of Texas

Extract

To state a civil RICO claim under 18 U.S.C. § 1962, a plaintiff must allege (1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise. *Abraham v. Singh*, 480 F.3d 351, 355 (5th Cir. 2007). To establish a “pattern of racketeering activity,” a plaintiff must allege “two or more predicate criminal acts that are (1) related and (2) amount to or pose a threat of continued criminal activity.” *St. Germain v. Howard*, 556 F.3d 261, 263 (5th Cir. 2009). The RICO statute proscribes various categories of predicate acts that may constitute racketeering activity, including extortion and mail and wire fraud. 18 U.S.C. § 1961(1).

Summary

Clear outline of the elements required to plead a civil RICO claim in the Fifth Circuit, including the need to identify a person engaged in a pattern of racketeering activity connected to an enterprise. It also specifies the requirement for alleging a pattern of racketeering activity, which includes two or more related predicate acts that pose a threat of continued criminal activity.

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

U.S. District Court — Southern District of Texas

Extract

RICO requires a showing that (1) a person that engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise. *Crowe v. Henry*, 43 F.3d 198, 204 (5th Cir.1995) (quoting *Delta Truck & Tractor, Inc. v. J.I. Case Co.*, 855 F.2d 241 (5th Cir.1988)) (emphasis in original). ... In the Fifth Circuit, a plaintiff must distinguish between RICO persons and RICO enterprises. *Abraham v. Singh*,

480 F.3d 351, 357 (5th Cir.2007). The enterprise is not a pattern of racketeering activity, but must exist separate and apart from the pattern of racketeering activity in which it engages. *Whelan v. Winchester Production Co.*, 319 F.3d 225, 229 (5th Cir.2003).

Summary

Requirements for a RICO claim in the Fifth Circuit, emphasizing the need to distinguish between RICO persons and enterprises. A RICO person is an individual or entity that engages in a pattern of racketeering activity, while a RICO enterprise is a separate entity that exists apart from the racketeering activity. This distinction is crucial for properly pleading a RICO claim, as it ensures that the enterprise is not merely the sum of the predicate acts but a distinct entity with its own existence.

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

U.S. District Court — Northern District of Texas

Extract

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

Summary

Basic elements necessary for a RICO claim, which include identifying a person who engages in a pattern of racketeering activity connected to an enterprise. This is relevant to understanding how to plead parties in a civil RICO complaint, as it highlights the need to establish both individual and enterprise liability.

[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 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.' 18 U.S.C.A. §

1961(4). 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. *Boyle v. United States*, 556 U.S. 938, 944-45 (2009). 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

Clear explanation of the requirements for pleading an enterprise in a RICO complaint in the Fifth Circuit. It specifies that an enterprise can be any legal entity or an association-in-fact, and it outlines the criteria for an association-in-fact, including its separate existence from the pattern of racketeering, its ongoing organization, and its functioning as a continuing unit.

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

U.S. District Court — Northern District of Texas

Extract

RICO provides a civil cause of action to recover treble damages for '[a]ny person injured in his business or property by reason of a violation of section 1962.' 18 U.S.C. § 1964. ... 'Common elements are present in all four of these subsections. These common elements teach that any RICO claim necessitates 1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.' ... The statute simply defines the term 'enterprise' as including '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). ... An association-in-fact enterprise '(1) must have an existence separate and apart from the pattern of racketeering, (2) must be an ongoing organization[,] and (3) its members must function as a continuing unit as shown by a hierarchical or consensual decision making structure.' ... Rule 9(b)'s particularity requirement applies to the pleading of RICO predicate acts.

Summary

Essential elements required to plead a RICO claim, including the need to identify a person engaged in a pattern of racketeering activity connected to an enterprise. It also specifies that an association-in-fact enterprise must have an existence separate from the racketeering pattern, be an ongoing organization, and function as a continuing unit. Additionally, Rule 9(b) requires that predicate acts be pleaded with particularity, specifying the fraudulent statements, the speaker, and the context.

[Megatel Homes, LLC v. Moayed, 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. Corp.*, 503 U.S. 258, 268 (1992)). ... The Rule 9(b) requirement that fraud claims be pleaded with particularity 'applies to the pleading of fraud as a predicate act in a RICO claim,' including mail and wire fraud. *Tel-Phonic Servs., Inc. v. TBS Int'l, Inc.*, 975 F.2d 1134, 1138 (5th Cir. 1992). ... 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.' *Crowe v. Henry*, 43 F.3d 198, 204 (5th Cir. 1995) (citing *Manax v. McNamara*, 842 F.2d 808, 811 (5th Cir. 1988)). ... '[T]he core of a RICO civil conspiracy is an agreement to commit predicate acts,' thus, the complaint must 'allege specifically such an agreement.' *Tel-Phonic Servs.*, 975 F.2d at 1140 (citation omitted).

Summary

Requirements for a civil RICO claim, emphasizing the need for a private right of action for those injured by a RICO violation, the necessity of proximate cause, and the requirement to plead fraud with particularity under Rule 9(b). It also defines a RICO enterprise and the need to allege an agreement to commit predicate acts for a RICO conspiracy. These elements are crucial for identifying and pleading parties in a civil RICO complaint.

[Fulkerson v. Wehner Multifamily, LLC, NO. 4:18-CV-880-A \(N.D. Tex. Jan 03, 2019\)](#)

U.S. District Court — Northern District of Texas

Extract

The Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-68 ('RICO'), provides a private civil action to recover damages for injury to one's business or property by the conduct constituting the violation. *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 481 (1985). A plaintiff only has standing if he has been injured in his business or property. *Id.* at 496. He must allege a direct, concrete, and particularized injury proximately

caused by defendant's conduct. *Sheshtawy v. Gray*, 697 F. App'x 380, 382 (5th Cir. 2017).

Summary

Requirements for a plaintiff to have standing in a civil RICO action, which includes demonstrating a direct, concrete, and particularized injury to business or property proximately caused by the defendant's conduct. This is essential for pleading a RICO claim, as it establishes the basis for the plaintiff's standing to sue. The passage also references the need to allege a pattern of racketeering activity and the specific conduct that constitutes the violation.

[Tassio v. OneMain Fin., Inc., CIVIL ACTION NO. 4:15-CV-00484 \(E.D. Tex. Feb 03, 2016\)](#)

U.S. District Court — Eastern District of Texas

Extract

A plaintiff bringing a claim under the RICO statute, 18 U.S.C. § 1961, et seq., must allege and show the following: (1) a person who engages in (2) a pattern of racketeering activity, and (3) connected to the acquisition, establishment, conduct, or control of an enterprise. 18 U.S.C. § 1962; *St. Germain v. Howard*, 556 F.3d 261, 263 (5th Cir. 2009). A pattern of racketeering activity consists of two or more predicate criminal acts that are (1) related and (2) amount to or pose a threat of continued criminal activity. *Id.* An enterprise under RICO is a group of persons or entities associating together for the common purpose of engaging in a course of conduct, and an enterprise may be a legal entity or any union or group of individuals associated in fact.

Summary

Essential elements required to plead a RICO claim in the Fifth Circuit, including the need to identify a person engaged in a pattern of racketeering activity connected to an enterprise. It specifies that an enterprise can be a legal entity or an association-in-fact, and that a pattern of racketeering activity requires at least two related predicate acts that pose a threat of continued criminal activity.

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

U.S. District Court — Northern District of Texas

Extract

In their proposed fourth amended complaint, Plaintiffs sought to include claims for violations of RICO. See Doc. 120, Pls.' Mot. for Leave, Ex. B, ¶¶ 762-82. Specifically, Plaintiffs attempted to bring claims against all Defendants for violations of 18 U.S.C. § 1962(d), 18 U.S.C. § 1962(c), and 18 U.S.C. § 1962(b). See *id.* All three of these claims require: '1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.' In *re Burzynski*, 989 F.2d 733, 741 (5th Cir. 1993) (citation and quotation marks omitted) (emphases in original). Plaintiffs' proposed fourth amended complaint fails to properly plead a RICO 'enterprise'; thus, their RICO claims would be futile. In their proposed fourth amended complaint, Plaintiffs relied upon allegations from paragraphs 482 through 595 to support all three RICO claims. See Doc. 120, Pls.' Mot. for Leave, Ex. B, ¶¶ 762-82. In these paragraphs, Plaintiffs allege that Defendants comprise an 'association-in-fact' and 'were systematically linked with overlapping leadership, structural and financial ties, and continuing coordination.' *Id.* ¶ 490. This enterprise, Plaintiffs allege, 'is a formal legitimate ongoing organization, functioning as a continuing unit, pursuing an interrelated course of conduct, and with a common or shared purpose and continuity of structure and personnel.' *Id.* ¶ 493.

Summary

In the Fifth Circuit, to plead a RICO claim, a plaintiff must establish: (1) a person engaged in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise. The enterprise must have an existence separate from the pattern of racketeering, be an ongoing organization, and its members must function as a continuing unit. The plaintiff must plead specific facts that establish the association exists for purposes other than simply committing predicate acts, and must specify facts as to each defendant, avoiding lumping them together.

[Masel v. Villarreal, Civil Action No. 4:17-CV-00533 \(E.D. Tex. Apr 18, 2018\)](#)

U.S. District Court — Eastern District of Texas

Extract

Common elements required to prove a violation of a subsection of § 1962 include: '(1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct or control of an enterprise.' *Whelan v. Winchester Prod. Co.*, 319 F.3d 225, 229 (5th Cir. 2003) (citing *Delta Truck & Tractor, Inc. v. J.I. Case Co.*, 855 F.2d 241, 242 (5th Cir. 1988)). Defendants aver that Plaintiffs failed to properly plead the existence of an enterprise, which warrants dismissing all of Plaintiffs' RICO claims—Counts 5 through 7. Conversely, Plaintiffs respond that they sufficiently pleaded the existence of an enterprise. 'A plaintiff asserting a

civil RICO claim must allege the existence of such an enterprise.' *Manax v. McNamara*, 842 F.2d 808, 811 (5th Cir. 1988) (citing *Montesano v. Seafirst Commercial Corp.*, 818 F.2d 423, 427 (5th Cir. 1987)). 'An enterprise is a group of persons or entities associating together for the common purpose of engaging in a course of conduct.' *Whelan*, 319 F.3d at 229 (citing *United States v. Turkette*, 452 U.S. 576, 583 (1981)). 'The enterprise may be a legal entity or 'any group of individuals associated in fact although not a legal entity.'" *Id.* (emphasis in original) (quoting 18 U.S.C. § 1961(4)).

Summary

Essential elements required to plead a civil RICO claim in the Fifth Circuit, emphasizing the need to allege the existence of an enterprise. It explains that an enterprise can be a legal entity or an association-in-fact and must be distinct from the pattern of racketeering activity itself. The passage also highlights the necessity of pleading specific facts to establish the enterprise, rather than relying on conclusory allegations.

[Maiden Biosciences, Inc. v. Document Sec. Sys.](#)

Extract

RICO makes it unlawful 'for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity[.]' 18 U.S.C. § 1962(c). 'Reduced to their simplest terms, the essential elements of a RICO claim are: (1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise.' *Orthoflex, Inc. v. ThermoTek, Inc.*, 2012 WL 2864510, at *2 (N.D. Tex. July 12, 2012) (Fitzwater, C.J.) (quoting *Larrew v. Barnes*, 2002 WL 32130462, at *1 n.1 (N.D. Tex. Aug. 27, 2002) (Kaplan, J.), rec. adopted, 2002 WL 32130462 (N.D. Tex. Sept. 17, 2002) (Fitzwater, J.)), *aff'd sub nom. Motion Med. Techs., L.L.C. v. ThermoTek, Inc.*, 875 F.3d 765 (5th Cir. 2017).

Summary

Essential elements required to establish a RICO claim in the Fifth Circuit, which includes identifying a person engaged in a pattern of racketeering activity connected to an enterprise. This provides a foundational understanding of how to plead parties in a civil RICO complaint, focusing on the relationship between the individual and the enterprise.

[Clapper v. Am. Realty Investors, Inc.](#)

Extract

RICO makes it unlawful 'for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity.' 18 U.S.C. § 1962(c). 'Reduced to their simplest terms, the essential elements of a RICO claim are: (1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise.' *Orthoflex, Inc. v. ThermoTek, Inc.*, 2012 WL 2864510, at *2 (N.D. Tex. July 12, 2012) (Fitzwater, C.J.) (quoting *Larrew v. Barnes*, 2002 WL 32130462, at *1 n.1 (N.D. Tex. Aug. 27, 2002) (Kaplan, J.), rec. adopted, 2002 WL32130462 (N.D. Tex. Sept. 17, 2002) (Fitzwater, J.)).

Summary

Essential elements required to establish a RICO claim, which includes identifying a person engaged in a pattern of racketeering activity connected to an enterprise. This is relevant to understanding how to plead parties in a civil RICO complaint, as it highlights the need to demonstrate a connection between the individual defendants and the enterprise's racketeering activities.

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

Extract

In pursuing this action, D&T brings claims under three subsections of the RICO statute. See *id.* §§ 1962 (a), (c) & (d). Though the subsections are distinct, each shares 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.' *Abraham v. Singh*, 480 F.3d 351, 355 (5th Cir. 2007) (quoting *Word of Faith World Outreach Ctr. Church, Inc. v. Sawyer*, 90 F.3d 118, 122 (5th Cir. 1996)).

Summary

Three common elements required to plead a RICO claim under the Fifth Circuit: (1) a person who engages in, (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise. This provides a clear framework for identifying and pleading the parties involved in a RICO complaint, focusing on the individual's engagement in racketeering activity and its connection to an enterprise.

[Belton v. Regions Bank](#)

Extract

Plaintiff alleges that the defendants 'engaged in a pattern of racketing activity' in violation of the Racketeer Influenced and Corrupt Organizations Act ('RICO'), 18 U.S.C. §§ 1961-1968. (R. Doc. 1 at 22). To recover under RICO, the plaintiff must establish three 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. *Abraham v. Singh*, 480 F.3d 351, 355 (5th Cir. 2007) (quoting *Word of Faith World Outreach Ctr. Church, Inc. v. Sawyer*, 90 F.3d 118, 122 (5th Cir. 1996)). As stated above, RICO claims require the existence of an enterprise. An 'enterprise' is defined 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.' 18 U.S.C. § 1961(4).

Summary

Elements required to establish a RICO claim in the Fifth Circuit, which includes identifying a person engaged in a pattern of racketeering activity connected to an enterprise. It also defines what constitutes an "enterprise" under RICO, which is crucial for pleading both individual and enterprise liability.

[United Healthcare Sevices, Inc. v. Next Health, LLC](#)

Extract

A RICO plaintiff must allege facts to show a 'pattern of racketeering activity,' which consists of two or more predicate criminal acts that are (1) related and (2) amount to or pose a threat of continued criminal activity. See 18 U.S.C. §§ 1961(5), 1962(c). United alleges predicate acts of money laundering and mail and wire fraud, which are racketeering activities. See 18 U.S.C. §§ 1341, 1343, 1956, 1961(1). Executive Defendants contend United fails to adequately plead both the predicate acts with specificity and that a pattern exists.

Summary

Necessity for a RICO plaintiff to allege a pattern of racketeering activity, which includes two or more related predicate acts that pose a threat of continued criminal activity. It also highlights the need for specificity in pleading these predicate acts, which are essential for establishing a RICO claim.

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

Extract

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

Summary

Elements required to plead a civil RICO claim in the Fifth Circuit, which includes identifying a person engaged in a pattern of racketeering activity connected to an enterprise. It also specifies that racketeering activity includes certain criminal acts like mail and wire fraud.

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

Extract

In order for a plaintiff to establish liability, he must allege and prove the existence of two distinct entities: (1) a 'person;' and (2) an 'enterprise.' *Cedric Kushner Promotions, Ltd. v. King*, 533 U.S. 158, 161, 121 S.Ct. 2087, 2090, 150 L.Ed.2d 198 (2001). ... The Second Amended Complaint alleges that 'Duhon and Plaintiff each constituted a 'person' within the meaning of 18 U.S.C. § 1961(3), as each was capable of holding a legal or beneficial interest in property,' and that 'the corporation First Guaranty Bank constituted an 'Enterprise' within the meaning of 18 U.S.C. § 1961(4)' because '[a]mong other things, the Enterprise provided loans and other banking services across multiple states, and it transacted business through the use of the United States mails and interstate telephone wires.' (Rec. Doc. 40, ¶¶ 147-149). The Second Amended Complaint further pleads that 'Senior Vice President Duhon is a separate person, distinct from the Enterprise itself, who unlawfully used the Enterprise as a vehicle through which unlawful activity was committed.' (Id. at 150).

Summary

Clear explanation of the requirements for pleading a civil RICO claim in the Fifth Circuit. It emphasizes the necessity of alleging two distinct entities: a "person" and an "enterprise." The "person" must be capable of holding a legal or beneficial interest in property, while the "enterprise" is an entity through which unlawful activity is conducted. The passage also highlights

the importance of distinguishing between the actions of the "person" and the "enterprise."

[X. Wen v. SanQuest, Inc.](#)

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.’” *Word of Faith World Outreach Ctr. Church, Inc. v. Sawyer*, 90 F.3d 118, 122 (5th Cir. 1996) (quoting *In re Burzynski*, 989 F.2d 733, 741-42 (5th Cir. 1993)). The RICO statute defines an enterprise as “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). The Fifth Circuit has further explained that an “enterprise can be either a legal entity or an association-in-fact.” *St. Paul Mercury Ins. Co. v. Williamson*, 224 F.3d 425, 440 (5th Cir. 2000). An association-in-fact enterprise “must have at least three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose.” *Boyle v. United States*, 556 U.S. 938, 946 (2009). In essence, “an association-in-fact enterprise is a group of persons associated together for a common purpose of engaging in a course of conduct.” *Id.* (quotations omitted). To allege that an enterprise is an association-in-fact, a plaintiff must plausibly allege that the organization “functions as a continuing unit over time through a hierarchical or consensual decision-making structure.” *Elliott v. Foufas*, 867 F.2d 877, 881 (5th Cir. 1989). Additionally, the Fifth Circuit has held that the defendant who allegedly engaged in racketeering-the RICO person-must be “distinct from the [RICO] enterprise” with respect to claims asserted under 18 U.S.C. §§ 1962(c) and 1962(d). *Id.* at 881. This “separate and distinct” requirement means that a plaintiff cannot claim that a company is both the RICO enterprise and the “RICO person” who engaged in racketeering. See *Whelan v. Winchester Prod. Co.*, 319 F.3d 225, 229 (5th Cir. 2003).

Summary

In the Fifth Circuit, a RICO claim requires identifying a person who engages in a pattern of racketeering activity connected to an enterprise. The enterprise can be a legal entity or an association-in-fact, which must have a purpose, relationships, and longevity. The RICO person must be distinct from the enterprise, meaning a company cannot be both the enterprise and the RICO person. This requirement ensures that the enterprise is separate from the individual or entity engaging in racketeering.

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

Extract

All four subsections of § 1962 have three common elements: '1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.' Crowe, 43 F.3d at 204 (emphasis omitted). The statute broadly defines 'person' to include 'any individual or entity capable of holding a legal or beneficial interest in property.' 18 U.S.C. § 1961(3); Boyle v. United States, 556 U.S. 938, 944 (2009) ('The term 'any' ensures that the definition has a wide reach ...'). 'To establish th[e] pattern [element], a plaintiff must show both a relationship between the predicate offenses. .. and the threat of continuing activity.' Malvino v. Delluniversita, 840 F.3d 223, 231 (5th Cir. 2016). '[A]n enterprise. .. 'is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit.' Boyle, 556 U.S. at 945 (quoting United States v. Turkette, 452 U.S. 576, 583 (1981)).

Summary

Clear explanation of the elements required to plead a RICO claim, including the definition of a "person" and the requirements for establishing a "pattern of racketeering activity" and an "enterprise." It also references relevant case law that further clarifies these elements.

[Gordon v. Neugebauer](#)

Extract

To state a valid claim upon which relief can be granted under § 1962(c), a plaintiff must allege facts that show (1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise. See In re Burzynski, 989 F.2d 733, 741-42 (5th Cir. 1993); Paul v. Aviva Life & Annuity Co., 3:09-CV-1490-B, 2010 WL 5105925, at *3 (N.D. Tex. Dec. 14, 2010).

Summary

Elements required to plead a civil RICO claim under § 1962(c) in the Fifth Circuit. It specifies that a plaintiff must allege facts showing a person engaged in a pattern of racketeering activity connected to an enterprise. This provides a clear standard for alleging individual and enterprise liability in a civil RICO complaint.

[57 F.Supp.3d 766 Gordon v. Neugebauer](#)

Extract

To state a valid claim upon which relief can be granted under § 1962(c), a plaintiff must allege facts that show (1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise. See *In re Burzynski*, 989 F.2d 733, 741-42 (5th Cir.1993); *Paul v. Aviva Life & Annuity Co.*, 3:09-CV-1490-B, 2010 WL 5105925, at *3 (N.D.Tex. Dec. 14, 2010).

Summary

Elements required to plead a civil RICO claim under § 1962(c) in the Fifth Circuit. It specifies that a plaintiff must allege facts showing a person engaged in a pattern of racketeering activity connected to an enterprise. This provides a clear standard for alleging individual and enterprise liability in a civil RICO complaint.

[Rodriguez v. Meta Platforms, Inc.](#)

Extract

A RICO plaintiff 'must plead specific facts, not mere conclusory allegations, which establish the enterprise,' and 'plaintiff must plead the specified facts as to each defendant. It cannot... lump[] together the defendants.' Plaintiff's Complaint includes conclusory allegations of 'defamation, unauthorized access, and systematic harassment,' but those activities do not constitute 'racketeering activity' as defined in the RICO statute.

Summary

The passage provides insight into the requirements for pleading a civil RICO complaint in the Fifth Circuit. It emphasizes the necessity for plaintiffs to plead specific facts that establish the existence of an enterprise and the involvement of each defendant. Conclusory allegations are insufficient, and plaintiffs must avoid vague group pleading. This aligns with the general pleading standards under the Federal Rules of Civil Procedure, particularly Rule 8 and Rule 9(b) for fraud claims.

[667 B.R. 665 Austin v. Baker & Hostetler, LLP \(In re Uplift RX, LLC\)](#)

Extract

To state a claim for civil RICO violation under § 1962(c), a plaintiff must allege a pattern of racketeering activity. *In re Burzynski*, 989 F.2d 733, 741-42 (5th Cir. 1993). A pattern of racketeering activity 'requires two or more predicate acts and a demonstration that the racketeering predicates are related and amount to or pose a threat of continued criminal activity.'

Word of Faith World Outreach Ctr. Church, Inc. v. Sawyer, 90 F.3d 118, 122 (5th Cir. 1996).

Summary

The passage provides insight into the requirements for pleading a civil RICO claim, specifically the need to allege a pattern of racketeering activity, which involves demonstrating two or more predicate acts that are related and pose a threat of continued criminal activity. This is essential for establishing a RICO claim in the Fifth Circuit.

[Chapter 7. Pleading and Practice Issues](#)

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

Extract

6. Describe in detail the enterprise for each RICO claim. A description of the enterprise shall: a. state the names of the individuals, partnerships, corporations, associations, or other entities constituting the enterprise; b. describe the structure, purpose, roles, function, and course of conduct of the enterprise; c. state whether any defendants are employees, officers, or directors of the enterprise; d. state whether any defendants are associated with the enterprise, and if so, how; e. explain how each separate defendant participated in the direction or conduct of the affairs of the enterprise; f. state whether you allege (i) that the defendants are individuals or entities separate from the enterprise, or (ii) that the defendants are the enterprise itself, or (iii) that the defendants are members of the enterprise;

Summary

In a civil RICO complaint, it is essential to describe the enterprise in detail. This includes naming the individuals or entities involved, describing the structure and purpose of the enterprise, and explaining the roles and functions of the defendants within the enterprise. It is also necessary to clarify whether the defendants are separate from the enterprise, are the enterprise itself, or are members of the enterprise. This detailed description helps establish the connection between the defendants and the alleged racketeering activities.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Allison, Bridget - 1998-03-22

Extract

Section [sections] 1962(c) prohibits persons employed by or associated with an enterprise from conducting or participating in the conduct of the affairs of that enterprise through a pattern of racketeering activity. This requires a relationship between the pattern of racketeering activity and the enterprise.

Summary

Section 1962(c) of the RICO Act requires a clear relationship between the defendant's actions and the enterprise's affairs. This means that for a civil RICO complaint, the plaintiff must demonstrate that the defendant was employed by or associated with the enterprise and that their actions were part of a pattern of racketeering activity that affected the enterprise. This establishes the standard for alleging individual and enterprise liability in a RICO claim.

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

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

Extract

The circuits are split on the specific standing requirements for a civil action under [sections] 1962(a). To allege a violation of [sections] 1962(a), a plaintiff must show that someone had (1) received income from a pattern of racketeering activity; and (2) used or invested this income in a RICO enterprise. In determining whether a plaintiff suffered a type of injury granting standing, the courts... by one of the predicate acts covered by [sections] 1962(c). This rule significantly limits standing. For example, a person wrongfully discharged for refusing to participate in a pattern of racketeering activity lacks standing to sue under [sections] 1962(c) because the harm suffered is caused by the termination, not the predicate acts of racketeering. In addition, the Supreme Court held that a plaintiff must prove the defendant's violation was the proximate cause of the plaintiff's injury in order to have standing under civil RICO.

Summary

The passage provides insight into the standing requirements for a civil RICO claim, emphasizing the need for a plaintiff to demonstrate that their injury was proximately caused by the defendant's violation of RICO. It also highlights the necessity of showing that the injury resulted from the investment of racketeering income into the enterprise, which is crucial for establishing individual and enterprise liability under RICO.

[Racketeer influenced and corrupt organizations.](#)

**American Criminal Law Review - Georgetown University Law Center -
Bourgeois, Richard L., Jr. - 2000-03-22**

Extract

Courts agree that to establish standing under [sections] 1962(c), a plaintiff must have suffered a harm caused by one of the predicate acts covered by [sections] 1962(c). This rule significantly limits standing. For example, a person wrongfully discharged for refusing to participate in a pattern of racketeering activity lacks standing to sue under [sections] 1962(c) because the harm suffered is caused by the termination, not the predicate acts of racketeering. In addition, the Supreme Court has held that a plaintiff must prove the defendant's violation was the proximate cause of the plaintiff's injury in order to have standing under civil RICO. The Court reasoned that Congress modeled [sections] 1964(c) on the civil action provisions in the Clayton Act, which federal courts have long held to require a showing of proximate causation.

Summary

The passage explains that for a plaintiff to have standing in a civil RICO case under section 1962(c), they must demonstrate harm caused by a predicate act of racketeering. Additionally, the plaintiff must show that the defendant's violation was the proximate cause of their injury, aligning with the causation standards in the Clayton Act. This information is crucial for understanding the requirements for pleading individual and enterprise liability in a civil RICO complaint.

[Racketeer influenced and corrupt organizations.](#)

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

Extract

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

Summary

Requirements for a plaintiff to have standing in a civil RICO action, which includes demonstrating a violation of specific RICO sections, an injury to business or property, and causation of the injury by the violation. It also highlights the need for proximate causation between the violation and the injury.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Phillips, Eleanor T. - 2015-09-22

Extract

The Supreme Court has consistently reinforced Congress's intent to construe civil RICO broadly by instructing the lower courts to heed the expansive language of the statute. In *Sedima, S.P.R.C. v. Imrex Co.*, the Supreme Court struck down the Second's Circuit's requirement that a plaintiff may file a civil suit under [section] 1964 only after showing a criminal RICO conviction and proving a 'racketeering' injury distinct from harm caused by predicate acts. Finding the restrictions inconsistent both with RICO's statutory language and with the congressional intent that the statute be broadly construed, the Court held that a plaintiff has a claim under [section] 1964(c) if defendant engaged in a pattern of racketeering activity in... is established when a plaintiff shows: (i) a violation of [section] 1962(a), (b), (c), or (d); (ii) injury to her business or property; and (iii) that the violation caused the injury.

Summary

The passage highlights the Supreme Court's broad interpretation of civil RICO, emphasizing that a plaintiff does not need to show a criminal RICO conviction or a distinct "racketeering" injury. Instead, a plaintiff must demonstrate a violation of section 1962, an injury to business or property, and causation between the violation and the injury. This broad interpretation is relevant to the Fifth Circuit as it aligns with the general federal approach to RICO claims.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Argust, Corey P. - 2010-03-22

Extract

plaintiff must have suffered an injury to business or property caused by one of the predicate acts of racketeering. (313) ... 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. (316) 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 ... by predicate acts. Id. at 488-95. Second, the Court established that plaintiff has a claim under [section] 1964(c) if defendant engaged in a pattern of racketeering activity in a manner forbidden by [section] 1962 and such activity injured plaintiff in his business or property, Id. at 495. Third, the Court clarified that for a civil claim based on a violation of [section] 1962(c), '[the] [c]ompensable injury necessarily is the harm caused by [the] predicate acts' of a RICO violation. Id, at 497.

Summary

To plead a civil RICO claim, a plaintiff must demonstrate an injury to business or property caused by a predicate act of racketeering. The injury must be directly linked to the racketeering activity, and the plaintiff must show that the defendant engaged in a pattern of such activity. This establishes the basis for individual and enterprise liability under RICO.

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

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

Extract

RICO is not just a tool for government control over organized crime. It is also a remedial statute for civil matters. (31) It 'authorize[s]... criminal or civil remedies on conduct already criminal, when performed in a specified fashion' as delineated by the statute. (32) Section 1962 provides civil remedies for four types of conduct: (1) using income derived from a pattern of racketeering activity (33) to acquire an interest in an enterprise; (2) acquiring or maintaining an interest in an enterprise through a pattern of racketeering activity; (3) conducting the affairs of an enterprise through a pattern of racketeering activity; and (4) conspiring to commit any of these offenses. (34) Today, Congress urges courts to construe RICO liberally from the 'perspective of the victim, not the perpetrator.' (35) A private civil right of action in [section] 1964 provides that '[a]ny person injured in his business or property by reason of a violation of section 1962... may sue.' (36) Notably, a successful plaintiff under [section] 1964 is entitled to treble damages and the cost of the suit, including attorney fees. (37)

Summary

Types of conduct that can give rise to civil remedies under RICO, emphasizing the statute's remedial nature and the liberal construction from the victim's perspective. It highlights the four types of conduct under Section 1962 that can lead to civil liability and the entitlement to treble damages and attorney fees under Section 1964.

[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. The practitioner through their pleadings must articulate with great care and attention a viable racketeering... To state a civil RICO case, the plaintiff must allege the substantive components of an "enterprise" and a "pattern" with specificity. The plaintiff must also allege facts sufficient to support each of the statutory elements for at least two of the pleaded predicate acts and that each defendant knowingly agreed to participate in the... RICO's prohibitions may be enforced in both criminal and civil contexts. In the context of a civil action, a plaintiff must be directly injured by reason of the defendant's racketeering activities. Proximate cause, as an aspect of RICO's "by reason of" standard, requires a RICO plaintiff to show that the defendant's racketeering offenses led directly to the plaintiff's injuries. 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

Essential elements required to plead a civil RICO claim, specifically under § 1962(c). It emphasizes the need to allege conduct of an enterprise through a pattern of racketeering activity, with particular attention to the specificity required for fraud-based claims under Federal Rule of Civil Procedure 9(b). The passage also highlights the necessity of demonstrating direct injury caused by the defendant's racketeering activities, establishing proximate cause. These elements are crucial for identifying and pleading the parties in a civil RICO complaint, including individual and enterprise liability.

[§ 2.07 Other Potential Charges](#)

Intellectual Property and Computer Crimes - Full Court Press - 2020-00-00

Extract

The central provision of RICO states that 'it shall be unlawful for any person through a pattern of racketeering activity which is engaged in, or the activities of which affect, interstate or foreign commerce.' A person includes 'any individual or entity capable of holding a legal or beneficial interest in property.' This term is intentionally broad and includes a variety of entities, such as corporations, non-profit organizations, and 'members of organized crime.' In order for the government to establish a violation of RICO it must prove that the defendant engaged in a pattern of racketeering activity that involved an enterprise engaged in interstate commerce.

Summary

RICO's definition of a "person" is broad, encompassing any individual or entity capable of holding a legal or beneficial interest in property. This includes corporations, non-profit organizations, and members of organized crime. To establish a RICO violation, it must be shown that the defendant engaged in a pattern of racketeering activity involving an enterprise engaged in interstate commerce. This provides a foundational understanding of who can be a party in a RICO complaint and the necessity of demonstrating a pattern of racketeering activity linked to an enterprise.

[RICO: A Primer](#)

Extract

A RICO person 'includes any individual or entity capable of holding a legal or beneficial interest in property.' This definition defines those who can be charged under RICO. While the definition clearly includes a natural person, as well as a corporation, union, partnership and a sole proprietorship, it is not settled whether the definition encompasses a governmental entity. A RICO 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.' Courts have interpreted 'enterprise' broadly, and the definition captures both legitimate and illegitimate enterprises.

Summary

The passage provides definitions for a "RICO person" and a "RICO enterprise." A RICO person can be any individual or entity capable of holding a legal or beneficial interest in property, which includes natural persons, corporations, unions, partnerships, and sole proprietorships. The definition of a RICO enterprise is broad and includes any individual, partnership, corporation, association, or other legal entity, as well as any group of individuals associated in fact, even if not a legal entity. This broad interpretation captures both legitimate and illegitimate enterprises, which is crucial for pleading enterprise liability in a RICO complaint.

[RICO: A Primer](#)

Extract

Who is a RICO 'Person'? A RICO person 'includes any individual or entity capable of holding a legal or beneficial interest in property.' This definition defines those who can be charged under RICO. While the definition clearly includes a natural person, as well as a corporation, union, partnership and a sole proprietorship, it is not settled whether the definition encompasses a governmental entity. What is a RICO Enterprise? 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. A RICO 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.' Courts have interpreted 'enterprise' broadly, and the definition captures both legitimate and illegitimate enterprises.

Summary

A RICO "person" can be any individual or entity capable of holding a legal or beneficial interest in property, which includes natural persons, corporations, unions, partnerships, and sole proprietorships. The definition of a RICO "enterprise" is broad and includes any individual, partnership, corporation, association, or other legal entity, as well as any union or group of individuals associated in fact, even if not a legal entity. The person and the enterprise must generally be distinct, but a RICO person can be part of an enterprise. This information is essential for understanding how to identify and plead parties in a civil RICO complaint.

[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. ... 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.

Summary

Requirements for pleading a civil RICO claim, emphasizing the need to identify an "enterprise" and a "pattern of racketeering activity." It highlights the distinctiveness requirement, which mandates that the "person" and "enterprise" must be distinct entities. This means that a corporation cannot be held liable for operating an enterprise consisting solely of itself and its officers or employees. This requirement is crucial for alleging individual and enterprise liability in a RICO complaint.

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