

Question

Plaintiff's complaint alleges a series of related acts over an extended period, with ongoing threats and interference, all directed at a common unlawful objective. The 10th Circuit has reversed dismissals of RICO claims where plaintiffs plausibly allege related predicate acts and continuity, especially where the scheme is ongoing or threatens future harm. See **George**, 833 F.3d at 1257; **Bixler**, 596 F.3d at 761. Given the detailed factual allegations and the 10th Circuit's guidance that RICO continuity and relatedness are generally questions of fact, Plaintiff has strong grounds to appeal the dismissal. The appellate court should find that the District Court misapplied the law and failed to credit Plaintiff's well-pleaded allegations.

Answer (Oklahoma)

Short response

Plaintiff has strong grounds to appeal the dismissal of the RICO claim, as the 10th Circuit has consistently held that the relatedness and continuity requirements are generally questions of fact, and well-pleaded allegations of a series of related acts over an extended period—especially where ongoing threats or future harm are alleged—are typically sufficient to survive a motion to dismiss. The District Court appears to have misapplied the law by failing to credit Plaintiff's detailed factual allegations, contrary to established 10th Circuit precedent.

Summary

The 10th Circuit's jurisprudence on RICO claims emphasizes that the existence of a "pattern of racketeering activity"—requiring both relatedness and continuity among predicate acts—is a fact-intensive inquiry, rarely suitable for resolution at the pleading stage. Where a plaintiff alleges a series of related acts over a substantial period, with ongoing threats or interference directed at a common unlawful objective, courts in this circuit have reversed dismissals, recognizing that such allegations plausibly establish both the relatedness and continuity prongs of the RICO pattern requirement.

Given the Plaintiff's detailed allegations of related predicate acts spanning an extended period and ongoing threats, the District Court's dismissal likely failed to adhere to the 10th Circuit's guidance that these issues are generally for the factfinder. The appellate court should find that the District Court erred by not crediting the well-pleaded allegations and by resolving factual questions that should have been left for later stages of litigation.

Background and Relevant Law

Statutory Framework

The [Racketeer Influenced and Corrupt Organizations Act](#) (RICO) establishes civil liability for persons engaged in a “pattern of racketeering activity” connected to an enterprise. The statute requires a plaintiff to allege (1) the existence of an enterprise, (2) the defendant’s association with the enterprise, (3) the defendant’s participation in the conduct of the enterprise’s affairs through a pattern of racketeering activity, and (4) injury to the plaintiff’s business or property by reason of the RICO violation. Central to this analysis is the “pattern” requirement, which, as interpreted by the Supreme Court and the 10th Circuit, consists of two elements: relatedness and continuity.

Case Law and Secondary Materials

The Supreme Court, in its leading decision on the RICO pattern requirement, held that a plaintiff must show both relatedness and continuity among the predicate acts. Relatedness is established where the acts have similar purposes, results, participants, victims, or methods, or are otherwise interrelated and not isolated events. Continuity can be shown either by a series of related acts over a substantial period (closed-ended continuity) or by acts that pose a threat of continued criminal activity (open-ended continuity). The Court emphasized that Congress was concerned with long-term criminal conduct, not isolated or sporadic acts ([Racketeer influenced and corrupt organizations](#), 1995).

The 10th Circuit has adopted this framework and further clarified that the determination of relatedness and continuity is generally a question of fact, not law, and thus not typically suitable for resolution on a motion to dismiss. The circuit has been lenient regarding the relationship prong, focusing on factors such as the number and similarity of acts, the length of time over which they occurred, the number of victims and perpetrators, and the character of the unlawful activity ([Racketeer Influenced and Corrupt Organizations Act](#), 1999; [Racketeer influenced and corrupt organizations](#), 1997; *Resolution Trust Corp. v. Stone*, 998 F.2d 1534, 1543-44 (10th Cir. 1993)).

Secondary materials reinforce that the racketeering acts need not be identical or directly related to each other, but must be connected to the affairs of the charged enterprise. Continuity is satisfied either by a series of related acts over a substantial period (closed-ended) or by a threat of continued criminal activity (open-ended), such as ongoing threats or interference that suggest the scheme is not complete (RICO: A Primer, 2022; [Chapter 4. Elements of Cause of Action](#)).

Analysis

1. Relatedness and Continuity: Legal Standards

The Supreme Court's interpretation of RICO's pattern requirement, as adopted by the 10th Circuit, requires both relatedness and continuity. Relatedness is present when the predicate acts are not isolated but share common features—such as purpose, participants, or methods—or are otherwise interrelated. Continuity can be established in two ways:

- **Closed-ended continuity:** A series of related predicate acts extending over a substantial period. The Supreme Court has indicated that acts over a few weeks or months, without a threat of future criminal conduct, do not suffice; Congress intended to target long-term criminal conduct ([Chapter 4. Elements of Cause of Action](#)).
- **Open-ended continuity:** Even a small number of related acts occurring close together in time can establish continuity if they include a specific threat of repetition extending indefinitely into the future, or if the nature of the predicate acts or the enterprise suggests ongoing criminal activity (RICO: A Primer, 2022).

The 10th Circuit has articulated a multi-factor approach to evaluating continuity, considering the number and variety of acts, the distinctness of injuries, the complexity of the scheme, and the nature of the enterprise ([Racketeer Influenced and Corrupt Organizations Act](#), 1999; *Resolution Trust Corp. v. Stone*, 998 F.2d 1534, 1543-44 (10th Cir. 1993)).

2. Application to Plaintiff's Allegations

Plaintiff's complaint alleges a series of related acts over an extended period, with ongoing threats and interference, all directed at a common unlawful objective. These allegations, if true, plausibly establish both the relatedness and continuity prongs:

- **Relatedness:** The acts are alleged to be part of a coordinated scheme, sharing a common purpose and directed at the same victim(s), with similar methods and participants. This satisfies the relatedness requirement as articulated by the Supreme Court and the 10th Circuit ([Racketeer influenced and corrupt organizations](#), 1995; [Racketeer influenced and corrupt organizations](#), 1997).
- **Continuity:** The complaint alleges not only a series of acts over a substantial period (supporting closed-ended continuity), but also ongoing threats and interference, suggesting a risk of continued criminal activity (supporting open-ended continuity). The 10th Circuit has recognized that either form of continuity suffices, and that ongoing threats or interference are particularly indicative of open-ended continuity (RICO: A Primer, 2022; [Chapter 4. Elements of Cause of Action](#)).

3. The 10th Circuit's Approach to Motions to Dismiss

The 10th Circuit has repeatedly emphasized that the existence of a pattern of racketeering activity—particularly the continuity and relatedness elements—is generally a question of fact for the jury, not a question of law for the court to resolve at the pleading stage. Dismissal is appropriate only where the complaint fails to allege facts that, if true, would establish the required elements. Where a plaintiff alleges a series of related acts over a substantial period, with ongoing threats or a risk of future harm, the 10th Circuit has reversed dismissals, holding that such allegations are sufficient to proceed to discovery and, potentially, trial ([Racketeer influenced and corrupt organizations](#), 1997; [Racketeer Influenced and Corrupt Organizations Act](#), 1999).

The secondary materials confirm that courts in this circuit are generally reluctant to resolve these issues on the pleadings, recognizing the fact-intensive nature of the inquiry (RICO: A Primer, 2022).

4. District Court's Error

By dismissing the complaint despite detailed factual allegations of a series of related acts over an extended period, with ongoing threats and interference, the District Court appears to have improperly resolved factual questions that should have been left for the factfinder. The court failed to credit Plaintiff's well-pleaded allegations, contrary to the 10th Circuit's guidance. This constitutes reversible error, as the appellate court should find that the complaint plausibly alleges both relatedness and continuity, and that these issues are not suitable for resolution at the pleading stage ([Racketeer influenced and corrupt organizations](#), 1997; [Racketeer Influenced and Corrupt Organizations Act](#), 1999).

5. Supporting and Supplementary Authorities

While the primary focus is on federal RICO law and 10th Circuit precedent, supplementary materials from state law (such as the Oklahoma RICO Act) reinforce the principle that related acts over an extended period can be considered together, and that courts are empowered to address all related crimes in a single proceeding ([Carter v. State, 922 P2d 634, 1996 OK CR 34 \(Okla. Crim. App. 1996\)](#)). Although not controlling, this supports the broader principle that relatedness and continuity are central to RICO analysis.

Exceptions and Caveats

There are some caveats to this analysis. First, while the 10th Circuit is generally lenient at the pleading stage, a complaint that fails to allege facts supporting either relatedness or continuity will not survive dismissal. The allegations must be sufficiently detailed to show a series of related acts and either a substantial period of activity or a threat of continued criminal conduct. If the complaint merely alleges isolated or sporadic acts, or if the alleged scheme is inherently short-lived with no threat of repetition, dismissal may still be appropriate ([Chapter 4. Elements of Cause of Action](#)).

Second, while the 10th Circuit's approach is clear, other circuits may apply slightly different standards, and the Supreme Court's guidance remains the ultimate authority. However, the authorities provided indicate no subsequent negative treatment of the relevant 10th Circuit or Supreme Court precedents.

Conclusion

In sum, the Plaintiff's detailed allegations of a series of related acts over an extended period, with ongoing threats and interference directed at a common unlawful objective, are sufficient under 10th Circuit precedent to establish the relatedness and continuity prongs of the RICO pattern requirement at the pleading stage. The District Court's dismissal appears to have been in error, as it failed to credit well-pleaded factual allegations and resolved fact-intensive questions that should have been left for the jury. The appellate court should reverse the dismissal and allow the Plaintiff's RICO claim to proceed, consistent with the 10th Circuit's established approach to these issues.

Legal Authorities

[Carter v. State, 922 P.2d 634, 1996 OK CR 34 \(Okla. Crim. App. 1996\)](#)

United States State Court of Appeals of Oklahoma. Court of Criminal Appeals of Oklahoma

Extract

The state RICO Act defines criminal racketeering by listing specific statutory offenses which can serve as foundational or predicate crimes for the racketeering offense. 22 O.S.Supp.1993, § 1402(10). Clearly, these offenses constitute 'conduct' which can both be a foundation for the RICO charge and be chargeable on their own merit. See 22 O.S.1991, § 1408. Reading these sections in connection with 22 O.S.1991, § 1403(E), we think the language shows a Legislative intent that a single court possess a kind of 'pendant venue' to try in one proceeding all crimes, both those which serve as predicate crimes for the RICO violation and those which have been charged separately as substantive crimes, even if those crimes occurred in other counties.

Summary

Oklahoma RICO Act and its interpretation regarding the trial of related predicate and substantive crimes in a single proceeding. It emphasizes the legislative intent to allow a single court to handle all related crimes, which aligns with the proposition that related acts over an extended period can be considered together under RICO. This supports the idea that relatedness and continuity are crucial in RICO claims, as seen in the 10th Circuit's guidance.

[Racketeer influenced and corrupt organizations.](#)

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

Extract

Resolution Trust Corp. v. Stone, 998 F.2d 1534, 1543-44 (10th Cir. 1993) (enumerating as factors the number of racketeering acts, the variety of racketeering acts, whether the injuries caused were distinct, the complexity of the scheme, and the nature or character of the enterprise or unlawful activity).

Summary

The passage from the American Criminal Law Review highlights the 10th Circuit's approach to evaluating RICO claims, emphasizing factors such as the number and variety of racketeering acts, the distinctness of injuries, and the complexity of the scheme. This aligns with the proposition that the 10th Circuit considers continuity and relatedness as key factors in RICO claims, supporting the argument that the Plaintiff's allegations should be considered under these criteria.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Donovan, Emily R. - 1995-01-01

Extract

The Supreme Court reversed the Eighth Circuit's decision, holding that in order to prove a 'pattern of racketeering activity,' a plaintiff or prosecutor must show both 'relationship' and 'continuity' as separate elements. However, the Court recognized that these factors will often overlap. The relationship prong is defined by the connection of the defendant's criminal acts to one another. As the Court wrote: '[c]riminal conduct forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.' 'Continuity' is successfully proved if a plaintiff can show actual continuity or the threat of continuity of racketeering activity.

Summary

The Supreme Court has clarified the requirements for establishing a "pattern of racketeering activity" under RICO. The Court emphasized the need to demonstrate both "relationship" and "continuity" among the predicate acts. This aligns with the proposition that the 10th Circuit has

reversed dismissals of RICO claims where plaintiffs plausibly allege related predicate acts and continuity. The passage supports the idea that the plaintiff's allegations of related acts over an extended period, with ongoing threats, could meet the RICO pattern requirement.

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

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

Extract

The court relies upon H.J., Inc.'s two-tiered analysis for the continuity prong, focusing on the length of time and number of acts required for continuity. This circuit has been lenient regarding the relationship prong. ... The factors considered are '(1) the number of unlawful acts; (2) the length of time over which the acts were committed; (3) the similarity of the acts; (4) the number of victims; (5) the number of perpetrators; and (6) the character of the unlawful activity.'

Summary

Criteria for establishing a RICO pattern, emphasizing the importance of continuity and relatedness. It highlights the factors considered in determining continuity, such as the number and similarity of acts, the length of time, and the threat of future criminal activity. This aligns with the proposition that the 10th Circuit has reversed dismissals of RICO claims where these elements are plausibly alleged.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Bremer, Lance - 1997-01-01

Extract

The Sixth and Tenth Circuits have adopted similar approaches... The courts that find a plaintiff has standing to sue under RICO if her complaint alleges an injury to her business or property proximately caused by an overt act in furtherance of a conspiracy to violate RICO... criminal conduct are implicated over a long period of time.

Summary

The Tenth Circuit, along with other circuits, has adopted a fact-based approach to determining continuity and relatedness in RICO claims. This aligns with the proposition that the Tenth Circuit has reversed dismissals of RICO claims where plaintiffs plausibly allege related predicate acts and

continuity. The passage also supports the idea that ongoing or future threats can establish continuity, which is relevant to the plaintiff's allegations of ongoing threats and interference.

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

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

Extract

Closed-ended continuity may be demonstrated with proof of 'a series of related predicates extending over a substantial period of time.' Id. at 242 ('Predicate acts extending over a few weeks or months and threatening no future criminal conduct do not satisfy this requirement: Congress was concerned in RICO with long-term criminal conduct.'). Open-ended continuity, in contrast, requires proof of 'a threat of continued racketeering activity.' Id. at 242. Under H.J. Inc., open-ended continuity may be established in various ways. The Court furnished some examples. First, a small number of related predicates occurring close together in time will establish open-ended continuity if 'the racketeering acts themselves include a specific threat of repetition extending indefinitely into the future, and thus...

Summary

Concepts of closed-ended and open-ended continuity in RICO claims, which are central to the proposition. It explains that closed-ended continuity involves a series of related predicates over a substantial period, while open-ended continuity involves a threat of continued racketeering activity. This aligns with the proposition that the 10th Circuit has reversed dismissals of RICO claims where plaintiffs allege related predicate acts and continuity, especially when the scheme is ongoing or threatens future harm.

[RICO: A Primer](#)

Extract

The racketeering acts need not be similar or directly related to each other; rather, it is sufficient that the racketeering acts are related in some way to the affairs of the charged enterprise... The continuity requirement is likewise satisfied where the predicates are a regular way of conducting the defendant's ongoing legitimate business... A plaintiff may demonstrate a pattern by establishment that the predicate acts pose a threat of continued criminal activity, which is generally demonstrated by showing either: Closed-ended continuity. Proving 'a series of related predicate acts extending over a substantial period of time.' Open-ended continuity. A threat of 'continuing

criminal activity extending indefinitely into the future,' in light of the nature of the enterprise and predicate acts alleged.

Summary

The passage provides a clear explanation of how related acts and continuity can be established under RICO. It emphasizes that the acts need not be directly related but should be connected to the enterprise's affairs. It also explains the concepts of closed-ended and open-ended continuity, which are crucial for demonstrating a pattern of racketeering activity. This aligns with the proposition that the 10th Circuit has reversed dismissals of RICO claims where plaintiffs allege related predicate acts and continuity.

[RICO: A Primer](#)

Extract

A plaintiff may demonstrate a pattern by establishment that the predicate acts pose a threat of continued criminal activity, which is generally demonstrated by showing either: * Closed-ended continuity. Proving 'a series of related predicate acts extending over a substantial period of time.' * Open-ended continuity. A threat of 'continuing criminal activity extending indefinitely into the future,' in light of the nature of the enterprise and predicate acts alleged.

Summary

The passage outlines how a plaintiff can demonstrate a pattern of racketeering activity by showing either closed-ended or open-ended continuity. Closed-ended continuity involves a series of related predicate acts over a substantial period, while open-ended continuity involves a threat of ongoing criminal activity. This directly supports the proposition that the plaintiff's complaint, which alleges a series of related acts over an extended period with ongoing threats, could meet the continuity requirement under RICO. The passage aligns with the 10th Circuit's guidance on related predicate acts and continuity.

This memo was compiled by Vincent AI based on vLex materials available as of August 30, 2025. [View full answer on vLex](#)