

## Question

Plaintiff alleges a coordinated scheme involving multiple defendants (Myers, Branthoover, Carter, Baker, Munford, Kaitcer) to deprive him of property, business interests, and parental rights through fraudulent court filings, misrepresentations, and manipulation of judicial process. To state a civil RICO claim under 18 U.S.C. § 1962(c), a plaintiff must allege: (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity (5) causing injury to business or property. See Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479, 496 (1985); St. Paul Mercury Ins. Co. v. Williamson, 224 F.3d 425, 439 (5th Cir. 2000). The timeline, if proven, supports each RICO element as follows: "Enterprise" under RICO includes any group of individuals associated in fact, even if not a legal entity. 18 U.S.C. § 1961(4); Boyle v. United States, 556 U.S. 938, 944 (2009). Paragraphs A, B, D, and Q describe a group (Myers, Branthoover, Carter, Baker, Munford, Kaitcer) acting in concert with a common purpose: to obtain a divorce decree for Myers and deprive Plaintiff of property and business interests. This satisfies the "enterprise" element. A "pattern of racketeering activity" requires at least two predicate acts of racketeering within ten years. 18 U.S.C. § 1961(5). The following timeline events allege predicate acts: - Wire fraud: B.3 (interstate transfer of funds via PayPal for fraudulent purpose), Q.54-58 (alleged manipulation of court filings via electronic means). - Mail fraud: E.7, E.8, E.9 (service of fraudulent pleadings via U.S. Constable). - Extortion: M.36 (alleged coercion to sign orders under threat of adverse judicial action). - Obstruction of justice: Q.54-59, R.60-66 (alleged tampering with court filings, denial of recusal hearings). - Travel Act violations: B.2, B.3 (interstate travel to further fraudulent scheme). Racketeering activity includes wire fraud (18 U.S.C. § 1343), mail fraud (18 U.S.C. § 1341), extortion (18 U.S.C. § 1951), and obstruction of justice (18 U.S.C. § 1503). See 18 U.S.C. § 1961(1). The timeline alleges at least two predicate acts by multiple defendants, satisfying the "pattern" requirement. RICO requires that the enterprise's activities affect interstate or foreign commerce. 18 U.S.C. § 1962(c). Plaintiff's business serves clients in the United States, Canada, and the United Kingdom (B.2), and the alleged wire fraud involved interstate transfers (B.3). The enterprise's activities affected interstate commerce. Plaintiff must show injury to business or property "by reason of" the RICO violation. 18 U.S.C. § 1964(c); Holmes v. Sec. Investor Prot. Corp., 503 U.S. 258, 268 (1992). Plaintiff alleges loss of business income, deprivation of residence, and loss of property as a direct result of the defendants' actions (B.2, F.8-9, M.37, K.28-31). Plaintiff has alleged injury to business and property proximately caused by the alleged racketeering activity. A RICO claim may proceed even if each defendant participated in different predicate acts, so long as each act was intended to further the enterprise's affairs. United States v. Elliott, 571 F.2d 880, 902 (5th Cir. 1978). The timeline attributes different roles and acts to each defendant, but all are alleged to further the enterprise's common purpose. In RICO mail/wire fraud cases, the plaintiff need not prove personal reliance, but must show that someone relied on the misrepresentations and that this caused the injury. Bridge v. Phoenix Bond & Indem. Co., 553 U.S. 639, 649 (2008). Plaintiff alleges that the court and law enforcement relied on the fraudulent

filings and misrepresentations, resulting in adverse orders and loss of property. Judicial immunity generally bars civil suits against judges for acts taken in their judicial capacity, but does not bar claims for non-judicial acts or acts taken in the clear absence of jurisdiction. See *Mireles v. Waco*, 502 U.S. 9, 11-12 (1991). Plaintiff alleges that certain acts by Munford and Kaitcer (e.g., ex parte orders, refusal to consider evidence, manipulation of filings) were outside their judicial capacity or in clear absence of jurisdiction (M.36, Q.54-59, R.60-66), but this is a high bar and will be a key defense issue. Court staff (e.g., coordinators) may have qualified immunity for discretionary acts, but not for ministerial or administrative acts outside the scope of their duties. See *Davis v. Tarrant County*, 565 F.3d 214, 228 (5th Cir. 2009). Allegations against Baker (Q.55-59, V.91) focus on administrative manipulation of filings, which may fall outside protected functions if proven. Attorneys may be liable under RICO if they participate in the conduct of the enterprise's affairs through racketeering activity. See *Handeen v. Lemaire*, 112 F.3d 1339, 1348 (8th Cir. 1997). Carter and Branthoover are alleged to have participated in preparing and submitting fraudulent documents and communications (B.2-3, D.5, M.36), supporting their inclusion as RICO defendants. A RICO complaint must plead facts with particularity for predicate acts of fraud (Fed. R. Civ. P. 9(b)), including time, place, content, and identity of the parties. The timeline provides detailed dates, communications, and actions for each alleged predicate act, supporting the particularity requirement. In sum, the timeline, if proven, alleges: (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity (5) causing injury to business or property, and ties specific acts to each defendant. The main legal hurdles will be judicial/staff immunity and causation, but the pleading meets the elements of a civil RICO claim under Fifth Circuit law.

## **Answer (Fifth Circuit)**

### **Short response**

If the plaintiff's allegations are taken as true and supported by evidence, the complaint sufficiently pleads all elements of a civil RICO claim under 18 U.S.C. § 1962(c) as interpreted by the Fifth Circuit, including conduct of an enterprise, a pattern of racketeering activity, and injury to business or property. The principal legal challenges will be judicial and staff immunity, as well as establishing proximate causation, but the pleading meets the threshold requirements for a RICO claim.

### **Summary**

The plaintiff alleges a coordinated scheme by multiple defendants to deprive him of property, business interests, and parental rights through fraudulent court filings, misrepresentations, and manipulation of the judicial process. Under Fifth Circuit law, to state a civil RICO claim, a plaintiff must allege (1) conduct, (2) of an enterprise, (3) through a pattern, (4) of racketeering activity, (5) causing injury to business or property, and the complaint, if proven, appears to satisfy each of these elements.

The timeline details predicate acts such as wire fraud, mail fraud, extortion, obstruction of justice, and Travel Act violations, all of which are recognized as racketeering activities under RICO. The complaint also alleges that the enterprise's activities affected interstate commerce and that the plaintiff suffered direct injury as a result. While the allegations are sufficient to survive a motion to dismiss, the main obstacles will be the application of judicial and staff immunity and the need to prove that the alleged racketeering activity was the proximate cause of the plaintiff's injuries.

## **Background and Relevant Law**

### **Statutory Framework**

Civil RICO claims are governed by 18 U.S.C. §§ 1961–1964. Section 1962(c) 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 in the conduct of such enterprise's affairs through a pattern of racketeering activity. Section 1961(1) defines "racketeering activity" to include a wide range of federal and state crimes, including mail fraud (18 U.S.C. § 1341), wire fraud (18 U.S.C. § 1343), extortion (18 U.S.C. § 1951), obstruction of justice (18 U.S.C. § 1503), and Travel Act violations (18 U.S.C. § 1952). Section 1961(4) defines "enterprise" to include any group of individuals associated in fact, even if not a legal entity. Section 1961(5) requires at least two acts of racketeering activity within ten years to establish a "pattern."

Section 1964(c) provides a private right of action for "[a]ny person injured in his business or property by reason of a violation of section 1962," allowing for treble damages.

### **Case Law**

The Fifth Circuit and Supreme Court have articulated the elements of a civil RICO claim as follows: (1) conduct, (2) of an enterprise, (3) through a pattern, (4) of racketeering activity, (5) causing injury to business or property, and (6) proximate causation between the RICO violation and the injury, as set out in [St. Paul Mercury Ins. Co. v. Williamson, 224 F.3d 425, 439 \(5th Cir. 2000\)](#) and *Holmes v. Sec. Investor Prot. Corp.*, 503 U.S. 258, 268 (1992). The "enterprise" element is satisfied by any group of individuals associated in fact for a common purpose, as clarified by the Supreme Court in *Boyle v. United States*, 556 U.S. 938, 944 (2009) and applied in [Allstate Ins. Co. v. Benhamou, 190 F.Supp.3d 631, 648 \(S.D. Tex. 2016\)](#).

A "pattern of racketeering activity" requires at least two predicate acts within ten years, and the acts must be related and amount to or pose a threat of continued criminal activity ([Megatel Homes, LLC v. Moayedi, Civil Action 3:20-CV-00688-L \(N.D. Tex. Nov 16, 2021\)](#); [Abraham v. Singh, 480 F.3d 351, 355 \(5th Cir. 2007\)](#)). Predicate acts include mail and wire fraud, extortion, and obstruction of justice (RICO: A Primer (2022)). The enterprise's activities must affect interstate or foreign commerce, but courts

have held that even a minimal or potential impact suffices ([Racketeer influenced and corrupt organizations](#). (2011)).

To have standing, the plaintiff must show injury to business or property proximately caused by the RICO violation (Holmes v. Sec. Investor Prot. Corp., 503 U.S. 258, 268 (1992); [Megatel Homes, LLC v. Moayedi, Civil Action 3:20-CV-00688-L \(N.D. Tex. Nov 16, 2021\)](#)). In RICO cases predicated on mail or wire fraud, the Supreme Court has held that the plaintiff need not show personal reliance on the misrepresentations, only that someone relied and that this caused the injury (Bridge v. Phoenix Bond & Indem. Co., 553 U.S. 639, 649 (2008); [Chapter 4. Elements of Cause of Action](#)).

## **Immunity Doctrines**

Judicial immunity generally bars civil suits against judges for acts taken in their judicial capacity, but not for non-judicial acts or acts taken in the clear absence of jurisdiction (Mireles v. Waco, 502 U.S. 9, 11-12 (1991)). Court staff may have qualified immunity for discretionary acts but not for ministerial or administrative acts outside the scope of their duties (Davis v. Tarrant County, 565 F.3d 214, 228 (5th Cir. 2009)). Attorneys may be liable under RICO if they participate in the conduct of the enterprise's affairs through racketeering activity (Handeen v. Lemaire, 112 F.3d 1339, 1348 (8th Cir. 1997)).

## **Pleading Standards**

RICO claims based on fraud must be pleaded with particularity under Federal Rule of Civil Procedure 9(b), requiring details as to the time, place, content, and identity of the parties involved in the alleged fraudulent acts ([Civil Rico: A Tool of Advocacy](#) (2024)).

## **Analysis**

### **1. Conduct of an Enterprise**

The complaint alleges that Myers, Branthoover, Carter, Baker, Munford, and Kaitcer acted in concert with a common purpose to obtain a divorce decree for Myers and deprive the plaintiff of property and business interests. Under RICO, an "enterprise" includes any group of individuals associated in fact, even if not a legal entity (18 U.S.C. § 1961(4); Boyle v. United States, 556 U.S. 938, 944 (2009)). The Fifth Circuit has consistently recognized that an association-in-fact enterprise may be formed by individuals who coordinate their actions for a common goal ([Allstate Ins. Co. v. Benhamou, 190 F.Supp. 3d 631, 648 \(S.D. Tex. 2016\)](#)). The timeline's description of coordinated actions by the defendants, if proven, is sufficient to satisfy the "enterprise" element.

## **2. Pattern of Racketeering Activity**

A “pattern of racketeering activity” requires at least two predicate acts within ten years (18 U.S.C. § 1961(5)). The complaint alleges multiple predicate acts, including:

- Wire fraud (interstate transfer of funds via PayPal for fraudulent purposes, manipulation of court filings via electronic means)
- Mail fraud (service of fraudulent pleadings via U.S. Constable)
- Extortion (coercion to sign orders under threat of adverse judicial action)
- Obstruction of justice (tampering with court filings, denial of recusal hearings)
- Travel Act violations (interstate travel to further the fraudulent scheme)

All of these are recognized as racketeering activities under RICO (18 U.S.C. § 1961(1); RICO: A Primer (2022)). The timeline attributes at least two predicate acts to multiple defendants, and the acts are related to the affairs of the alleged enterprise, satisfying the “pattern” requirement ([Megatel Homes, LLC v. Moayedi, Civil Action 3:20-CV-00688-L \(N.D. Tex. Nov 16, 2021\)](#); [St. Paul Mercury Ins. Co. v. Williamson, 224 F.3d 425, 439 \(5th Cir. 2000\)](#)).

The pattern requirement also demands continuity—either a closed-ended period of repeated acts or an open-ended threat of continued criminal activity (RICO: A Primer (2022); [Racketeer influenced and corrupt organizations.](#) (2021)). The complaint’s timeline, if accurate, describes a series of interrelated acts over a substantial period, supporting closed-ended continuity.

## **3. Effect on Interstate Commerce**

RICO requires that the enterprise’s activities affect interstate or foreign commerce (18 U.S.C. § 1962(c)). Courts have held that even a minimal or potential impact on interstate commerce is sufficient ([Racketeer influenced and corrupt organizations.](#) (2011); RICO: A Primer (2022)). The plaintiff’s business serves clients in the United States, Canada, and the United Kingdom, and the alleged wire fraud involved interstate transfers. These facts, if proven, are adequate to meet the interstate commerce requirement.

## **4. Injury to Business or Property and Proximate Cause**

To have standing, the plaintiff must show injury to business or property proximately caused by the RICO violation (*Holmes v. Sec. Investor Prot. Corp.*, 503 U.S. 258, 268 (1992); [Megatel Homes, LLC v. Moayedi, Civil Action 3:20-CV-00688-L \(N.D. Tex. Nov 16, 2021\)](#)). The complaint alleges loss of business income, deprivation of residence, and loss of property as a direct result of the defendants’ actions. These are recognized forms of injury under RICO ([St. Paul Mercury Ins. Co. v. Williamson, 224 F.3d 425, 439 \(5th Cir. 2000\)](#)).

In RICO cases predicated on mail or wire fraud, the Supreme Court has clarified that the plaintiff need not show personal reliance on the misrepresentations; it is sufficient that someone relied and that this caused the injury (Bridge v. Phoenix Bond & Indem. Co., 553 U.S. 639, 649 (2008); [Chapter 4. Elements of Cause of Action](#)). The complaint alleges that the court and law enforcement relied on the fraudulent filings and misrepresentations, resulting in adverse orders and loss of property, which is sufficient to meet this standard.

## 5. Participation by Multiple Defendants

RICO liability may attach even if each defendant participated in different predicate acts, as long as each act was intended to further the enterprise's affairs ([U.S. v. Elliott, 571 F.2d 880, 902 \(5th Cir. 1978\)](#)). The timeline attributes different roles and acts to each defendant, but all are alleged to further the enterprise's common purpose. The Fifth Circuit has recognized that direct evidence of agreement is not necessary; circumstantial evidence of coordinated conduct may suffice ([U.S. v. Elliott, 571 F.2d 880, 902 \(5th Cir. 1978\)](#)).

## 6. Pleading Particularity

RICO claims based on fraud must be pleaded with particularity under Rule 9(b), including details as to time, place, content, and identity of the parties involved ([Civil Rico: A Tool of Advocacy](#) (2024)). The complaint's timeline provides detailed dates, communications, and actions for each alleged predicate act, which supports the particularity requirement.

## 7. Immunity Issues

### Judicial Immunity

Judicial immunity generally bars civil suits against judges for acts taken in their judicial capacity, but not for non-judicial acts or acts taken in the clear absence of jurisdiction (Mireles v. Waco, 502 U.S. 9, 11-12 (1991)). The complaint alleges that certain acts by Munford and Kaitcer (e.g., ex parte orders, refusal to consider evidence, manipulation of filings) were outside their judicial capacity or in clear absence of jurisdiction. However, this is a high bar, and courts are reluctant to find that judges acted outside their judicial capacity or without jurisdiction. This will be a significant defense issue.

### Staff Immunity

Court staff may have qualified immunity for discretionary acts but not for ministerial or administrative acts outside the scope of their duties (Davis v. Tarrant County, 565 F.3d 214, 228 (5th Cir. 2009)). Allegations against Baker focus on administrative manipulation of filings, which, if proven to be outside protected functions, may not be shielded by immunity.

## **Attorney Liability**

Attorneys may be liable under RICO if they participate in the conduct of the enterprise's affairs through racketeering activity (Handeen v. Lemaire, 112 F.3d 1339, 1348 (8th Cir. 1997)). The complaint alleges that Carter and Branthoover participated in preparing and submitting fraudulent documents and communications, supporting their inclusion as RICO defendants.

## **8. Subsequent Negative Treatment of Authorities**

Some authorities cited in the analysis have been subject to subsequent negative treatment:

- [U.S. v. Phillips, 664 F.2d 971 \(5th Cir. 1981\)](#) was superseded by statute in United States v. Lechuga, No. 19-40483 (5th Cir. Jul 09, 2020). However, the basic elements of a RICO claim as articulated in Phillips remain consistent with current law, as confirmed by more recent authorities such as [St. Paul Mercury Ins. Co. v. Williamson, 224 F.3d 425 \(5th Cir. 2000\)](#) and [Abraham v. Singh, 480 F.3d 351 \(5th Cir. 2007\)](#).
- [Smoky Greenhaw Cotton Co., Inc. v. Merrill Lynch, Pierce, Fenner and Smith, Inc., 785 F.2d 1274 \(5th Cir. 1986\)](#) was stated as vacated by Jacobson v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 797 F.2d 1197 (3rd Cir. 1986). While this affects the precedential value of Smoky Greenhaw, the elements of a RICO claim as stated therein are consistent with subsequent Fifth Circuit and Supreme Court authority.

Accordingly, the analysis relies primarily on more recent and unaffected authorities for the core elements of a RICO claim.

## **Exceptions and Caveats**

While the complaint, if proven, meets the elements of a civil RICO claim, several significant hurdles remain:

- **Judicial Immunity:** Claims against judges for acts taken in their judicial capacity are likely to be barred unless the plaintiff can show the acts were non-judicial or taken in clear absence of jurisdiction, which is a difficult standard to meet.
- **Staff Immunity:** Court staff may be immune for discretionary acts but not for administrative acts outside their duties; the facts must support the latter.
- **Causation:** The plaintiff must establish that the alleged racketeering activity was the proximate cause of his injury. While the reliance requirement is relaxed for mail and wire fraud, causation must still be shown.
- **Pleading Particularity:** The complaint must continue to meet the heightened pleading standard for fraud under Rule 9(b).

# **Conclusion**

In summary, the plaintiff's complaint, if the allegations are proven, sufficiently pleads all elements of a civil RICO claim under 18 U.S.C. § 1962(c) as interpreted by the Fifth Circuit. The complaint alleges conduct of an enterprise, a pattern of racketeering activity, effect on interstate commerce, and injury to business or property proximately caused by the alleged racketeering. The main legal obstacles will be the application of judicial and staff immunity and the need to establish proximate causation, but the pleading meets the threshold requirements to proceed. The analysis is supported by current and controlling authority, with due consideration given to subsequent negative treatment of older cases.

# **Legal Authorities**

[Allstate Ins. Co. v. Donovan, CIVIL ACTION NO. H-12-0432 \(S.D. Tex. Jul 03, 2012\)](#)

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

### **Extract**

RICO provides civil causes of action for recovery of treble damages for '[a]ny person injured in his business or property by reason of a violation of section 1962 of this chapter.' 18 U.S.C. § 1964 (c). Plaintiffs have alleged that defendants have violated §§ 1962(c) and (d). These subsections state: 18 U.S.C. §§ 1962(c) and (d). The Fifth Circuit has interpreted these subsections to mean that '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 that] a person cannot conspire to violate subsection[...]. ... (c).' ... Defendants argue that plaintiffs' RICO claims should be dismissed because plaintiffs have not alleged facts capable of establishing (1) a pattern of racketeering activity, (2) a RICO enterprise, and/or (3) a RICO conspiracy.

### **Summary**

Requirements for a civil RICO claim under 18 U.S.C. § 1964(c), specifically addressing the need to establish a pattern of racketeering activity, a RICO enterprise, and a RICO conspiracy. It highlights the interpretation by the Fifth Circuit that a person associated with an enterprise cannot conduct its affairs through racketeering activity and cannot conspire to violate RICO provisions. This aligns with the proposition that the plaintiff must demonstrate a coordinated scheme involving multiple defendants to establish a RICO claim.

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

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

## **Extract**

The RICO count charged that the four defendants violated 18 U.S.C.A. § 1962(c) by conducting the affairs of the Sheriff's Office through a pattern of racketeering activity. Engaging in a 'pattern of racketeering activity' requires at least two acts of racketeering within a ten-year period. Finally, racketeering activity is expressly defined to include only certain types of conduct... As the Elliott Court concluded, the enterprise supplies a unifying link between all the predicate acts charged, since all the predicate acts must be committed in the conduct of the affairs of an enterprise.

## **Summary**

The case "U.S. v. Welch" provides a clear explanation of the elements required to establish a RICO violation, including the need for a pattern of racketeering activity and the conduct of an enterprise's affairs through such a pattern. This directly supports the proposition by illustrating how multiple defendants can be involved in a coordinated scheme that constitutes a RICO violation, as long as the predicate acts are related to the enterprise's affairs.

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

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

## **Extract**

RICO creates a civil cause of action for '[a]ny person injured in his business or property by reason of a violation of section 1962.' ... Under all those subsections, to state a RICO claim, there must be: '(1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise.' ... Despite the problems, we believe that St. Paul has sufficiently distinguished and established a genuine issue of material fact as to the existence of a prior pattern of racketeering activity, which may have produced income that was invested into a RICO enterprise, causing injuries to St. Paul in the form of legal costs.

## **Summary**

Necessary elements to state a RICO claim, which include a person engaging in a pattern of racketeering activity connected to an enterprise. The case also discusses the sufficiency of establishing a genuine issue of material fact regarding a pattern of racketeering activity, which is relevant to the proposition that the plaintiff alleges a coordinated scheme involving multiple defendants.

### [U.S. v. Edwards, 303 F.3d 606 \(5th Cir. 2002\)](#)

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

### **Extract**

Contrary to his assertion, Stephen Edwards is not being punished for committing the substantive acts found to be 'not proven.' He is being punished for conducting the affairs of an enterprise through a pattern of racketeering activity. The jury found that he and Brown were RICO co-conspirators and that Brown, as part of that conspiracy, extorted money pursuant to the LRGC/NORC scheme. Accordingly, the money extorted constitutes the proceeds of the enterprise. Therefore, Stephen Edwards is appropriately held responsible for that loss.

### **Summary**

The court upheld the RICO conviction by emphasizing that a defendant can be held responsible for the actions of co-conspirators within a RICO enterprise, even if they did not directly commit the acts themselves. This supports the proposition that different defendants can be held liable for participating in a coordinated scheme if their actions further the enterprise's affairs.

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

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

### **Extract**

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

### **Summary**

The RICO statute is designed to apply broadly to individuals associated with an enterprise, whether they are insiders or outsiders. The passage emphasizes that direct evidence of an agreement is not necessary; rather, inferences can be drawn from circumstantial evidence, such as the acts and conduct of the alleged conspirators. This supports the proposition that multiple defendants can be implicated in a coordinated scheme under RICO, even if their involvement varies in degree.

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

**U.S. District Court — Southern 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 or collection of unlawful debt.' Boyle v. United States, 556 U.S. 938, 943–45, 129 S.Ct. 2237, 173 L.Ed.2d 1265 (2009) (quoting 18 U.S.C. § 1962(c) ) (internal quotation marks omitted). Thus, to establish liability under § 1962(c) one must allege and prove the existence of two distinct entities: (1) a 'person'; and (2) an 'enterprise' that is not simply the same 'person' referred to by a different name.

**Summary**

Requirements for establishing a RICO violation under 18 U.S.C. § 1962(c), which includes proving the existence of a "person" and an "enterprise" engaged in racketeering activity. This directly supports the proposition that the plaintiff must allege a coordinated scheme involving multiple defendants (the "persons") acting as an "enterprise" to conduct racketeering activities, such as fraudulent court filings and misrepresentations.

[U.S. v. Phillips, 664 F.2d 971 \(5th Cir. 1981\)](#)

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

**Extract**

In order to prove a substantive RICO violation, 18 U.S.C.A. § 1962(c), the Government must prove the following elements: (1) the existence of an enterprise which affects interstate or foreign commerce; (2) that the defendant 'associated with' the enterprise; (3) that the defendant participated in the conduct of the enterprise's affairs; and (4) that the participation was through a pattern of racketeering activity, i.e., by committing at least two acts of racketeering activity designated in 18 U.S.C.A. § 1961(1). ... The enterprise is an entity, for present purposes a group of persons associated together for a common purpose of engaging in a course of conduct. The pattern of racketeering activity is, on the other hand, a series of criminal acts as defined by the statute. 18 U.S.C. § 1961(1).

**Summary**

Elements required to establish a substantive RICO violation under 18 U.S.C. § 1962(c), which aligns with the elements needed for the plaintiff's claim. It

emphasizes the need for an enterprise affecting interstate commerce, association with the enterprise, participation in its affairs, and a pattern of racketeering activity. This directly supports the proposition that the plaintiff's allegations, if proven, could meet the criteria for a RICO claim.

[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: ... (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). ... Plaintiffs have also alleged that Defendants conspired to violate § 1962(a), (b), and (c). '[B]ecause the core of a RICO civil conspiracy is an agreement to commit predicate acts, a RICO civil conspiracy complaint, at the very least, must allege specifically such an agreement.' ... Plaintiffs specifically alleged that the Defendants entered into an agreement and that each agreed to commit at least two predicate acts of racketeering.

**Summary**

The passage from "Abraham v. Singh" provides a precedent for the requirements to plead a RICO claim under 18 U.S.C. § 1962(c) and (d). It emphasizes the necessity of alleging a pattern of racketeering activity and a conspiracy to commit predicate acts. This aligns with the proposition that the plaintiff must demonstrate a coordinated scheme involving multiple defendants to conduct the affairs of an enterprise through racketeering activity. The case also highlights the importance of alleging an agreement among defendants to commit predicate acts, which supports the proposition's claim of a coordinated scheme.

[Smoky Greenhaw Cotton Co., Inc. v. Merrill Lynch, Pierce, Fenner and Smith, Inc., 785 F.2d 1274 \(5th Cir. 1986\)](#)

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

**Extract**

A violation of Sec. 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, of course, allege each of these elements to state a claim. Conducting an enterprise that affects interstate commerce is obviously not in itself a violation of Sec. 1962 nor is mere commission of the predicate offenses. In addition, the plaintiff only has standing if, and can

only recover to the extent that, he has been injured in his business or property by the conduct constituting the violation.

## **Summary**

The passage outlines the necessary elements to state a RICO claim under 18 U.S.C. § 1962(c), which includes conduct of an enterprise through a pattern of racketeering activity. It also emphasizes the requirement for the plaintiff to demonstrate injury to business or property as a result of the conduct. This aligns with the proposition that the plaintiff's allegations, if proven, could constitute a RICO claim by showing a coordinated scheme involving multiple defendants.

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

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

### **Extract**

RICO 'makes a private right of action available to '[a]ny person injured in his business or property by reason of a violation' of RICO's substantive restrictions, § 1964(c), provided that the alleged violation was the proximate cause of the injury.' Anza v. Ideal Steel Supply Corp., 547 U.S. 451 (2006) (citing Holmes v. Sec. Inv. Prot. Crop., 503 U.S. 258, 268 (1992)). ...

Racketeering activity means, inter alia, 'any act which is indictable under ... [18 U.S.C. §] 1341 (relating to mail fraud), section 1343 (relating to wire fraud),... [and] section[] 2314 [] (relating to interstate transportation of stolen property).' 18 U.S.C. § 1961(1)(B). ... To survive Defendants' Motion to Dismiss, Plaintiffs must adequately plead a 'pattern of racketeering activity.' See Abraham, 480 F.3d at 355 (citing Word of Faith, 90 F.3d at 122). To adequately plead a RICO pattern, Plaintiffs must also show 'that the predicate[] [acts] themselves amount to, or [] otherwise constitute a threat of, continuing racketeering activity.' H.J. Inc. v. Northwest Bell Tel. Co., 492 U.S. 229, 240 (1989) (emphasis in original).

## **Summary**

Requirements for a RICO claim, emphasizing the need for a pattern of racketeering activity and the proximate cause of injury to business or property. It also specifies the types of activities that qualify as racketeering, such as mail and wire fraud, which are relevant to the plaintiff's allegations of fraudulent court filings and misrepresentations. This supports the proposition by aligning with the elements needed to establish a RICO claim, as alleged by the plaintiff.

[Racketeer influenced and corrupt organizations.](#)

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

### **Extract**

To prosecute a defendant under RICO, the government must prove that the defendant: (i) through the commission of two or more acts constituting a pattern of racketeering activity; (ii) directly or indirectly invested in, maintained an interest in, or participated in, an enterprise; (iii) the activities of which affected interstate or foreign commerce... For RICO to apply, the alleged racketeering activity must affect interstate commerce... To sue for a violation of [section] 1962(c), a plaintiff must have suffered an injury to business or property caused... the Court established that plaintiff has a claim under [section] 1964(c) if defendant engaged in pattern of racketeering activity in a manner forbidden by [section] 1962 and such activity injured plaintiff in his business or property.

### **Summary**

Necessary elements to establish a RICO claim, including the requirement of two or more predicate acts of racketeering, participation in an enterprise, and an effect on interstate commerce. It also emphasizes the need for the plaintiff to demonstrate injury to business or property caused by the racketeering activity. These elements align with the proposition that the plaintiff's allegations, if proven, could constitute a civil RICO claim under 18 U.S.C. § 1962(c).

### Racketeer influenced and corrupt organizations.

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

### **Extract**

In contrast, courts have recognized that, under [section] 1962(c), the RICO person must be distinct from the alleged 'enterprise.' ... This suggests that the 'person' and 'enterprise' alleged under [section] 1962(c) need only be legally, not factually, distinct. ... For RICO to apply, the alleged racketeering activity must affect interstate commerce. ... Many courts, however, now exercise RICO jurisdiction if the predicate acts have even a de minimis impact on interstate commerce, demonstrated by 'proof of a probable or potential impact.' ... The effect on interstate commerce element may also be satisfied by proof that the enterprise's activities have an impact on interstate commerce, including activities that 'affect interstate commerce by impacting the victim.' ... 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. ... Recently, however, the Court has relaxed this requirement for plaintiffs bringing RICO claims predicated on mail and wire fraud. In *Bridge v. Phoenix Bond & Indemnity Co.*, the Supreme Court held that there is no requirement that

plaintiffs in such actions show, either as an element of their claim or as a prerequisite to establishing proximate cause, that they relied on the defendant's alleged misrepresentations.

## **Summary**

Under RICO, the "person" and "enterprise" need only be legally distinct, which supports the proposition that multiple defendants can form an enterprise. It also highlights that even a minimal impact on interstate commerce is sufficient for RICO jurisdiction, aligning with the plaintiff's claim of interstate business activities. Furthermore, the passage discusses the proximate cause requirement and the relaxed standard for mail and wire fraud claims, which is relevant to the plaintiff's allegations of fraudulent court filings and misrepresentations.

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

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

## **Extract**

The first element of RICO requires two or more predicate acts of 'racketeering activity.'(28) RICO defendants need not be convicted of each underlying offense before a civil or criminal RICO offense is charged.(29) Under [sections] 1961(1), the term 'racketeering activity' includes a broad assortment of state and federal crimes... The alleged racketeering activity must affect interstate commerce.(163) Courts initially held that the enterprise itself, and not the predicate acts, must affect interstate commerce. (164) In contrast, many courts now exercise RICO jurisdiction if the predicate acts have a de minimis impact on interstate commerce,(165) demonstrated by 'proof of a probable or potential impact.'(166) Moreover, the enterprise's activities may be held to impact interstate commerce indirectly; that is, its activities 'may affect interstate commerce by impacting the victim.'(167)

## **Summary**

Requirements for establishing a RICO claim, including the need for two or more predicate acts of racketeering activity and the effect on interstate commerce. It highlights that the predicate acts themselves can have a de minimis impact on interstate commerce, which aligns with the plaintiff's allegations of wire fraud and mail fraud affecting interstate commerce. This supports the proposition by confirming that the alleged activities, if proven, could meet the RICO requirements.

### [Racketeer influenced and corrupt organizations.](#)

## **Extract**

In contrast, courts have recognized that, under [section] 1962(c), the RICO person must be distinct from the alleged 'enterprise.' ... This suggests that the 'person' and 'enterprise' alleged under [section] 1962(c) need only be legally, not factually, distinct. ... For RICO to apply, the alleged racketeering activity must affect interstate commerce. ... Many courts, however, now exercise RICO jurisdiction if the predicate acts have even a de minimis impact on interstate commerce, ... To sue for a violation of [section] 1962(c), a plaintiff must have suffered an injury to business or property caused by one of the predicate acts of racketeering. ... Moreover, a plaintiff must prove that the defendant's violation of [section] 1962 was the proximate cause of the plaintiff's injury to have standing for a civil RICO action. ... Recently, however, the Court has relaxed this requirement for plaintiffs bringing RICO claims predicated on mail and wire fraud. In *Bridge v. Phoenix Bond & Indemnity Co.*, the Supreme Court held that there is no requirement that plaintiffs in such actions show, either as an element of their claim or as a prerequisite to establishing proximate cause, that they relied on the defendant's alleged misrepresentations.

## **Summary**

Under RICO, the "person" and "enterprise" need only be legally distinct, which supports the proposition that multiple defendants can form an enterprise. It also emphasizes that the racketeering activity must affect interstate commerce, which aligns with the plaintiff's allegations of interstate business impact. Furthermore, the passage discusses the requirement for injury to business or property caused by predicate acts and highlights the relaxed requirement for proving reliance in mail and wire fraud cases, which is relevant to the plaintiff's claims of fraudulent court filings and misrepresentations.

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

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

## **Extract**

In *Bridge*, the Supreme Court rejected the argument that a RICO plaintiff alleging mail fraud must plead and prove that the plaintiff personally relied on the defendant's fraudulent statement or omission. The Court deemed it irrelevant that reliance is an element of common-law fraud because 'Congress chose to make mail fraud, not common-law fraud, the predicate act for a RICO violation.' *Bridge*, 553 U.S. at 653. The *Bridge* Court stressed that 'a person can be injured 'by reason of' a pattern of mail fraud even if he has not relied on any misrepresentations.' *Id.* at 649.

## **Summary**

The Supreme Court in *Bridge v. Phoenix Bond & Indemnity Co.* clarified that a RICO plaintiff does not need to prove personal reliance on fraudulent statements to establish a RICO claim based on mail fraud. This supports the proposition by indicating that the plaintiff's allegations of fraudulent court filings and misrepresentations can form the basis of a RICO claim without needing to show personal reliance, as long as the fraudulent acts caused injury to the plaintiff's business or property.

### [Racketeer influenced and corrupt organizations.](#)

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

## **Extract**

For RICO to apply, the alleged racketeering activity must affect interstate commerce. (131) Courts initially held that the enterprise itself, and not the predicate acts, must affect interstate commerce. (132) Many courts, however, now exercise RICO jurisdiction if the predicate acts have even a de minimis impact on interstate commerce, (133) demonstrated by 'proof of a probable or potential impact.' (134) ... To have standing for a civil cause of action under RICO, a plaintiff must show: (i) a violation of [section][section] 1962(a), (b), (c), or (d); (ii) injury to her business or property; and (iii) that the violation caused the injury. (304) ... In *Bridge v. Phoenix Bond & Indemnity Co.*, (317) the Supreme Court held that there is no requirement that plaintiffs in such actions show, either as an element of their claim or as a prerequisite to establishing proximate cause, that they relied on the defendant's alleged misrepresentations. (318)

## **Summary**

The passage provides relevant information on the requirements for a RICO claim, specifically the need for the alleged racketeering activity to affect interstate commerce, which can be satisfied by even a minimal impact. It also discusses the standing requirements, emphasizing that a plaintiff must show a violation of RICO provisions, injury to business or property, and causation. Additionally, the passage references the *Bridge v. Phoenix Bond & Indemnity Co.* case, which supports the proposition by clarifying that reliance on misrepresentations is not required for establishing proximate cause in RICO claims predicated on mail and wire fraud.

### [Racketeer influenced and corrupt organizations.](#)

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

## **Extract**

A RICO offense requires two or more predicate acts of 'racketeering activity.'... The Supreme Court has stated that a 'pattern of racketeering' can only be established if the predicate acts are continuous and interrelated.... Courts now exercise RICO jurisdiction if the predicate acts have a de minimis impact on interstate commerce, demonstrated by 'proof of a probable or potential impact.'

## **Summary**

Requirements for a RICO offense, emphasizing the need for two or more predicate acts that are continuous and interrelated, which aligns with the plaintiff's allegations of a coordinated scheme involving multiple defendants. Additionally, the passage notes that RICO jurisdiction can be established if the predicate acts have even a minimal impact on interstate commerce, which supports the plaintiff's claim that the enterprise's activities affected interstate commerce.

## RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

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

## **Extract**

RICO applies only to those injuries resulting from commission of predicate acts constituting a "pattern of racketeering activity."<sup>58</sup> The statutory definition of "pattern of racketeering activity" requires at least two predicate acts occurring within ten years of each other.<sup>59</sup> A "pattern of racketeering activity" also requires evidence that the predicate acts are continuous and interrelated, rather than isolated and sporadic.<sup>60</sup> A plaintiff can satisfy RICO's pattern requirement two ways: by alleging a long-running series of interrelated predicate acts constituting a closed-ended conspiracy; or by alleging at least two interrelated predicate acts and the distinct threat of continued racketeering activities, demonstrating an open-ended conspiracy.<sup>61</sup>

## **Summary**

To establish a RICO claim, a plaintiff must demonstrate a pattern of racketeering activity, which involves at least two predicate acts that are continuous and interrelated. This aligns with the proposition that the plaintiff alleges a coordinated scheme involving multiple defendants, as the timeline provided in the proposition outlines multiple predicate acts such as wire fraud, mail fraud, and extortion, which are interrelated and continuous.

## 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.

### **Summary**

The passage outlines the essential elements required to establish a civil RICO claim under § 1962(c), which aligns with the proposition's assertion of a coordinated scheme involving multiple defendants. The passage emphasizes the need for particularity in pleading fraud, which is relevant to the proposition's allegations of fraudulent court filings and misrepresentations.

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

### **Extract**

Among other things, 'racketeering activities' include 'any act which is indictable under' a list of federal criminal statutes. The list covers an expansive range of violations, for example, violations of the Hobbs Act, 18 U.S.C. § 1951 (extortion); 18 U.S.C. § 1341 (mail fraud) and 1343 (wire fraud); 18 U.S.C. § 1831 (economic espionage); 18 U.S.C. § 1832 (theft of trade secrets); 18 U.S.C. § 1952 (Travel Act); 18 U.S.C. § 1956, 1957 (money laundering); and 18 U.S.C. § 2318-2320 (copyright infringement). Mail and wire fraud are the most common predicate acts. Notably, there must be some nexus to interstate or foreign commerce—it is a jurisdictional element of a civil RICO claim. Thus, predicate acts will often occur in several States.

### **Summary**

Types of activities that qualify as racketeering under RICO, including mail fraud, wire fraud, extortion, and violations of the Travel Act. These are directly relevant to the plaintiff's allegations of fraudulent court filings, misrepresentations, and manipulation of judicial processes. The passage also emphasizes the necessity of a nexus to interstate or foreign commerce, which aligns with the plaintiff's claim that the enterprise's activities affected interstate commerce. This supports the proposition by confirming that the alleged activities fall within the scope of RICO's definition of racketeering.

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

## **Extract**

Among other things, 'racketeering activities' include 'any act which is indictable under' a list of federal criminal statutes. The list covers an expansive range of violations, for example, violations of the Hobbs Act, 18 U.S.C. § 1951 (extortion); 18 U.S.C. § 1341 (mail fraud) and 1343 (wire fraud); 18 U.S.C. § 1952 (Travel Act)... Mail and wire fraud are the most common predicate acts. Notably, there must be some nexus to interstate or foreign commerce—it is a jurisdictional element of a civil RICO claim. Thus, predicate acts will often occur in several States... A plaintiff is required to demonstrate that the defendant conducted the affairs of an enterprise through a pattern of racketeering activity. The person and the enterprise generally must be distinct; but, of course, a Rico person can be a part of an enterprise... 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, including, for example, that: the racketeering acts furthered the goals of or benefitted the enterprise... 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**

Elements required to establish a RICO claim, including the need for predicate acts such as mail and wire fraud, extortion, and violations of the Travel Act, all of which are alleged in the plaintiff's case. It also emphasizes the necessity of a nexus to interstate commerce, which is satisfied by the plaintiff's business activities across multiple countries. The passage further explains the concept of an enterprise and the requirement for a pattern of racketeering activity, which can be demonstrated through closed-ended or open-ended continuity. These elements align with the plaintiff's allegations of a coordinated scheme involving multiple defendants to deprive him of property and business interests.

This memo was compiled by Vincent AI based on vLex materials available as of September 15, 2025. [View full answer on vLex](#)