

## **Question**

The wife and stepfather's actions were not isolated but part of an ongoing scheme to defraud the husband and deprive him of his property and financial resources. The fraudulent scheme involved multiple steps, including financial fraud, concealment of funds, and preparation of false legal documents. Open-ended continuity under RICO exists where the predicate acts pose a threat of continuing criminal activity, either because they are part of the entity's regular way of doing business or because the nature of the acts implies a threat of repetition. The wife's and stepfather's conduct, involving repeated fraudulent acts and concealment, could be argued to pose a threat of continuing criminal activity, particularly if the scheme is ongoing or part of a broader pattern of similar conduct. The preparation of false legal documents and the crossing of state lines to further the scheme could indicate an intent to continue the fraudulent activity, supporting a claim of open-ended continuity.

## **Answer (U.S. Federal)**

### **Short response**

The wife's and stepfather's alleged ongoing fraudulent scheme involving financial fraud, concealment of funds, and preparation of false legal documents likely satisfies the open-ended continuity requirement under RICO if these acts constitute a pattern of racketeering activity that poses a threat of continuing criminal activity. Their coordinated actions involving multiple steps and crossing state lines could establish a RICO violation if they demonstrate the predicate acts are related and amount to or pose a threat of continued criminal activity extending into the future.

### **Summary**

Under the [Racketeer Influenced and Corrupt Organizations Act](#) (RICO), establishing a civil claim requires proving a pattern of racketeering activity that demonstrates both relationship and continuity. Open-ended continuity, which is critical to the analysis of the wife's and stepfather's alleged conduct, can be established by showing that the fraudulent scheme poses a threat of continuing criminal activity extending indefinitely into the future. This type of continuity exists when the predicate acts are part of an entity's regular way of doing business, when they involve a specific threat of repetition, or when they are attributed to defendants operating as part of a long-term association that exists for criminal purposes.

The wife's and stepfather's alleged actions—Involving financial fraud, concealment of funds, preparation of false legal documents, and crossing state lines to further their scheme—likely satisfy the open-ended continuity requirement if they demonstrate that these coordinated activities were not isolated events but rather part of an ongoing pattern. Their conduct

suggests a threat of continued criminal activity, particularly if the nature of their actions indicates an intent to continue the fraudulent activity. The preparation of false legal documents and interstate activities further strengthens this argument by demonstrating sophisticated planning and commitment to an ongoing enterprise designed to defraud the husband of his property and financial resources.

## Background and Relevant Law

### Legislation

RICO was enacted as part of the Organized Crime Control Act of 1970 to combat organized crime in the United States. The statute provides both criminal penalties and civil remedies for racketeering activities conducted as part of an ongoing criminal enterprise.

Under [18 U.S.C. § 1962](#), it is unlawful for "any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce." This provision directly applies to situations where individuals engage in racketeering activities to gain control over assets or enterprises affecting interstate commerce.

[18 U.S.C. § 1961](#) defines key terms essential to understanding RICO claims. "Racketeering activity" includes various criminal acts, such as "any act which is indictable under any of the following provisions of title 18, United States Code: ... section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud)..." Additionally, a "pattern of racketeering activity" requires "at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity."

[18 U.S.C. § 1341](#) criminalizes schemes to defraud involving use of mail or interstate carriers: "Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises... for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier... shall be fined under this title or imprisoned not more than 20 years, or both."

If the husband can establish a RICO violation, [18 U.S.C. § 1964](#) provides civil remedies: "Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee..."

## **Case Law on RICO's Pattern Requirement**

The Supreme Court in [H.J. Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229 \(1989\)](#) established the foundational framework for analyzing RICO's pattern requirement. The Court held that "to prove a 'pattern of racketeering activity' a plaintiff or prosecutor must show both 'relationship' and 'continuity'—that the racketeering predicates are related, and that they either constitute or threaten long-term criminal activity." This decision created what has become known as the "continuity plus relationship" test.

The "relationship" prong requires that the predicate acts have "the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events." The Court explained that "continuity" is "centrally a temporal concept, and may be either closed- or open-ended." For open-ended continuity, "it must be shown that the predicates establish a threat of long-term racketeering activity—for example, because the predicates themselves involve a distinct threat of such activity; because they are part of the regular way of doing business for an ongoing entity such as a criminal association or legitimate business; or because they are a regular means of conducting or participating in an ongoing RICO enterprise."

In [Handeen v. Lemaire, 112 F.3d 1339 \(8th Cir. 1997\)](#), the court further clarified that even if the acts do not span the years necessary to establish closed-ended continuity, "the predicates will meet the definition of open-ended continuity to the extent they 'involve a distinct threat of long-term racketeering activity.'" This case recognized that the temporal duration of the predicate acts is not determinative for open-ended continuity, which instead focuses on the threat of future criminal activity.

The Eighth Circuit in [Crest Constr. II, Inc. v. Doe, 660 F.3d 346 \(8th Cir. 2011\)](#) distinguished between the two types of continuity: "Closed-ended continuity involves 'a series of related predicates extending over a substantial period of time;' open-ended continuity involves acts which, by their nature, threaten repetition into the future."

In [Wisdom v. First Midwest Bank, of Poplar Bluff, 167 F.3d 402 \(8th Cir. 1999\)](#), the court explained that the relationship prong is satisfied if the predicate acts "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." For the continuity prong, the court held that "open-ended continuity involves acts which, by their nature, threaten repetition into the future."

The Seventh Circuit in [Menzies v. Seyfarth Shaw LLP, 943 F.3d 328 \(7th Cir. 2019\)](#) provided a clear analysis of open-ended continuity, stating that it "focuses not on what acts occurred in the past but on whether a concrete threat remains for the conduct to continue moving forward." The court identified three ways to establish open-ended continuity: "by showing that a defendant's actions pose a specific threat of repetition; that the predicate acts form part of the defendant's ongoing and regular way of doing business;

or that the defendant operates a long-term association for criminal purposes."

## Demonstrating Open-Ended Continuity

The case of [Heinrich v. Waiting Angels Adoption Servs., Inc., 668 F.3d 393 \(6th Cir. 2012\)](#) elaborated on how to establish open-ended continuity: "the plaintiffs must plausibly allege that there was a threat of continuing criminal activity beyond the period during which the predicate acts were performed." The court emphasized that "a court should consider the totality of the circumstances surrounding the commission of those acts" rather than looking exclusively at the predicate acts themselves.

In [Ellis v. Warner, CASE NO. 15-10134-CIV-GOODMAN \(S.D. Fla. Feb 16, 2017\)](#), the court held that "the threat of continuity is sufficiently established where the predicates can be attributed to a defendant operating as part of a long-term association that exists for criminal purposes."

[Perlman v. Zell, 938 F.Supp. 1327 \(N.D. Ill. 1996\)](#) provides an example of how courts analyze the threat of continued criminal activity: "allegations portray the defendants as employing the modus operandi of regular self-dealing to the detriment of outside investors, and the fraudulent manipulation of partnerships' assets to cover their tracks and increase their personal gains. If true, this picture would suggest a credible threat of continuing future criminal activity." The court noted that "open-ended continuity may be shown where the predicate acts 'are part of an ongoing entity's regular way of doing business'."

[Tabas v. Tabas, 47 F.3d 1280 \(3rd Cir. 1995\)](#), which was later declined to be extended by [Yucaipa Am. All. Fund I, LP v. Ehrlich, No. 16-3664 \(3rd Cir. Nov 15, 2017\)](#), still offers valuable insight on open-ended continuity. The court held that "continuity still would have been established for the purposes of summary judgment in the present case under an 'open-ended' continuity analysis" where there exists "a threat of continued racketeering activity." Despite the subsequent case declining to extend Tabas, the core analysis regarding open-ended continuity remains applicable, as the limitation related to other aspects of the decision.

In [Heden v. Hill, 937 F.Supp. 1230 \(S.D. Tex. 1996\)](#), the court identified several ways to establish a threat of continued racketeering: "(1) the predicate acts inherently involve a distinct threat of long-term criminal activity; (2) the entity exists for the purpose of engaging in criminal activity; or (3) the predicate acts are a regular way of conducting an ongoing legitimate business."

## RICO Enterprise Requirements

[United States v. Turkette, 452 U.S. 576 \(1981\)](#) established that an "enterprise" under RICO is "a group of persons associated together for a common purpose of engaging in a course of conduct" and is proved by "evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit." While this case

was abrogated by *United States v. Lane*, 474 U.S. 438 (1986), the abrogation related to misjoinder issues under Federal Rule of Criminal Procedure 8(b) and did not affect Turkette's core holding regarding the definition of a RICO enterprise.

[Lockheed Martin Corp. v. Boeing Co., 314 F.Supp.2d 1198 \(M.D. Fla. 2004\)](#) further clarified that a civil RICO conspiracy claim requires only that "the defendant conspired to violate some substantive provision of RICO, that some member of the conspiracy committed an overt act of racketeering, and that the act of racketeering injured the plaintiff."

## **Analysis**

### **The Wife and Stepfather's Conduct as a Pattern of Racketeering Activity**

The alleged conduct of the wife and stepfather—Involving financial fraud, concealment of funds, and preparation of false legal documents—may constitute predicate acts under RICO if these actions qualify as racketeering activities defined in [18 U.S.C. § 1961](#). In particular, if their actions included mail fraud, wire fraud, or financial institution fraud, they could satisfy the statutory definition of racketeering activity.

Applying the "continuity plus relationship" test from [H.J. Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229 \(1989\)](#), the wife and stepfather's actions appear related as they share the same purpose (defrauding the husband), involve the same participants (the wife and stepfather), target the same victim (the husband), and employ similar methods (financial manipulation and document falsification). As stated in [Wisdom v. First Midwest Bank, of Poplar Bluff, 167 F.3d 402 \(8th Cir. 1999\)](#), the relationship prong is satisfied when predicate acts "have the same or similar purposes, results, participants, victims, or methods of commission."

For the continuity prong, the fact pattern suggests open-ended continuity rather than closed-ended continuity. As explained in [Crest Constr. II, Inc. v. Doe, 660 F.3d 346 \(8th Cir. 2011\)](#), "open-ended continuity involves acts which, by their nature, threaten repetition into the future." The coordinated nature of the wife and stepfather's scheme, involving multiple fraudulent steps and interstate activities, suggests a sophisticated operation that was designed to continue extracting financial resources from the husband.

### **Evidence of Threat of Continued Criminal Activity**

Several aspects of the wife and stepfather's conduct support a finding of open-ended continuity:

- 1. Multiple Steps in the Fraudulent Scheme:** The fact that their scheme involved multiple steps (financial fraud, concealment of funds, preparation of false documents) indicates a level of complexity and planning consistent with an ongoing operation rather than a one-time event. As noted in [Perlman v. Zell, 938 F.Supp. 1327 \(N.D. Ill. 1996\)](#),

allegations that "portray the defendants as employing the modus operandi of regular self-dealing... and the fraudulent manipulation of... assets to cover their tracks and increase their personal gains" can "suggest a credible threat of continuing future criminal activity."

2. **Interstate Activities:** The crossing of state lines to further the scheme indicates a willingness to expand the scope of their activities geographically, suggesting a more ambitious and potentially ongoing criminal enterprise. This interstate element also directly implicates [18 U.S.C. § 1341](#), which criminalizes the use of "private or commercial interstate carrier[s]" to execute fraudulent schemes.
3. **Preparation of False Legal Documents:** Creating fraudulent legal documents demonstrates a level of sophistication and commitment to the scheme that suggests future criminal activity. This aspect of their conduct aligns with what [Heinrich v. Waiting Angels Adoption Servs., Inc., 668 F.3d 393 \(6th Cir. 2012\)](#) described as considering "the totality of the circumstances surrounding the commission of those acts" to determine if there is "a threat of continuing criminal activity beyond the period during which the predicate acts were performed."
4. **Ongoing Financial Benefit:** If the scheme was designed to continuously siphon assets from the husband over time (rather than a one-time theft), this would strongly support open-ended continuity. As explained in [Menzies v. Seyfarth Shaw LLP, 943 F.3d 328 \(7th Cir. 2019\)](#), open-ended continuity can be established "by showing that a defendant's actions pose a specific threat of repetition" or "that the predicate acts form part of the defendant's ongoing and regular way of doing business."

## The Wife and Stepfather as a RICO Enterprise

The coordinated actions of the wife and stepfather could constitute a RICO enterprise under [United States v. Turkette, 452 U.S. 576 \(1981\)](#), which defined an enterprise as "a group of persons associated together for a common purpose of engaging in a course of conduct." Their apparent coordination in executing multiple fraudulent steps demonstrates an "ongoing organization" where "associates function as a continuing unit."

Furthermore, the fact that they prepared legal documents and crossed state lines suggests formalized planning and coordination, strengthening the argument that they operated as an enterprise rather than merely as individuals committing separate acts. While Turkette was abrogated by [United States v. Lane, 474 U.S. 438 \(1986\)](#), the abrogation concerned procedural joinder issues and did not affect this substantive definition of a RICO enterprise.

Under [Lockheed Martin Corp. v. Boeing Co., 314 F.Supp.2d 1198 \(M.D. Fla. 2004\)](#), a civil conspiracy claim under RICO requires showing that "the defendant conspired to violate some substantive provision of RICO, that some member of the conspiracy committed an overt act of racketeering, and that the act of racketeering injured the plaintiff." The wife and stepfather's

coordinated scheme, resulting in the husband's loss of property and financial resources, appears to satisfy these elements.

## Exceptions and Caveats

### Requirement for Predicate Acts

For a successful RICO claim, the husband must establish that the wife and stepfather's actions constitute specific predicate acts enumerated in [18 U.S.C. § 1961](#). Not all fraudulent activities qualify as racketeering activities under RICO. According to [Studco Bldg. Sys. U.S., LLC v. 1st Advantage Fed. Credit Union, 509 F.Supp.3d 560 \(E.D. Va. 2020\)](#), "'Racketeering activity' includes mail and wire fraud." The husband would need to prove that the wife and stepfather's actions involved specific statutory violations such as mail fraud, wire fraud, or financial institution fraud.

### Duration of Conduct

While open-ended continuity focuses on the threat of future criminal activity rather than the duration of past conduct, courts may still consider the timeframe over which the alleged predicate acts occurred. As noted in [Handeen v. Lemaire, 112 F.3d 1339 \(8th Cir. 1997\)](#), "Failure to shoulder this burden [of proving closed-ended continuity] is not an insuperable bar to relief, however, because even if the acts do not span the years necessary to establish closed-ended continuity... the predicates will meet the definition of open-ended continuity to the extent they 'involve a distinct threat of long-term racketeering activity.'" If the wife and stepfather's scheme occurred over a very brief period, additional evidence would be needed to demonstrate that their actions posed a threat of continued criminal activity.

### Cessation of Activities

If the wife and stepfather have ceased their fraudulent activities, this might weaken but not necessarily defeat a claim of open-ended continuity. In "RICO: A Primer", it is noted that "a threat of 'continuing criminal activity extending indefinitely into the future,'" can be established "in light of the nature of the enterprise and predicate acts alleged." If the nature of their enterprise inherently suggests ongoing criminal activity, cessation might not defeat open-ended continuity. However, if their scheme was designed with a clear endpoint (for example, to obtain specific assets and then stop), this could undermine a finding of open-ended continuity.

## Conclusion

The wife and stepfather's alleged ongoing scheme involving financial fraud, concealment of funds, and preparation of false legal documents likely satisfies the open-ended continuity requirement under RICO if these actions constitute predicate acts of racketeering activity. Their coordinated efforts, involving multiple steps and crossing state lines, suggests a sophisticated

operation that was designed to continue extracting financial resources from the husband.

To establish a successful RICO claim based on open-ended continuity, the husband would need to demonstrate that:

1. The wife and stepfather's actions constitute specific predicate acts of racketeering activity under [18 U.S.C. § 1961](#), such as mail fraud, wire fraud, or financial institution fraud.
2. These predicate acts are related, sharing similar purposes, methods, participants, and targeting the same victim, as required by [H.J. Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229 \(1989\)](#).
3. The nature of their scheme poses a threat of continued criminal activity into the future, as defined in [Menzies v. Seyfarth Shaw LLP, 943 F.3d 328 \(7th Cir. 2019\)](#) and other key cases.
4. The wife and stepfather operated as an enterprise under RICO, defined in [United States v. Turkette, 452 U.S. 576 \(1981\)](#) as "a group of persons associated together for a common purpose of engaging in a course of conduct."
5. The husband suffered injury to his business or property as a result of the RICO violation, entitling him to civil remedies under [18 U.S.C. § 1964](#).

The preparation of false legal documents, the crossing of state lines, and the apparently ongoing nature of the scheme all support the argument that the wife and stepfather's activities were not isolated events but rather part of a pattern of racketeering activity that threatened to continue into the future. These factors strengthen the case for establishing open-ended continuity under RICO, potentially entitling the husband to the significant civil remedies provided by the statute, including treble damages and attorney's fees.

## Legal Authorities

[Wisdom v. First Midwest Bank, of Poplar Bluff, 167 F.3d 402 \(8th Cir. 1999\)](#)

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

#### Extract

The pattern element 'requires at least two acts of racketeering activity.' 18 U.S.C. § 1961(5); see also H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 237-38, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989). However, a mere allegation of two or more acts is insufficient to state a RICO claim; the predicate acts must be related and must 'amount to or pose a threat of continued criminal activity.' See United HealthCare Corp. v. American Trade Ins. Co., Ltd., 88 F.3d 563, 571 (8th Cir.1996) (quoting H.J. Inc., 492 U.S. at 239, 109 S.Ct. 2893). The relationship prong of the pattern element is

satisfied if the predicate acts '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.' Handeen v. Lemaire, 112 F.3d 1339, 1353 (8th Cir.1997) (quoting H.J. Inc., 492 U.S. at 240, 109 S.Ct. 2893). The second prong, continuity, can be either closed-ended or open-ended. Closed-ended continuity involves 'a series of related predicates extending over a substantial period of time;' open-ended continuity involves acts which, by their nature, threaten repetition into the future. See H.J. Inc., 492 U.S. at 241-42, 109 S.Ct. 2893.

## **Summary**

To establish a RICO claim, there must be a pattern of racketeering activity, which requires at least two related predicate acts that pose a threat of continued criminal activity. The passage explains the concepts of relatedness and continuity, which are essential to proving a pattern. The passage supports the proposition by explaining that open-ended continuity involves acts that threaten repetition into the future, which aligns with the argument that the wife's and stepfather's conduct could pose a threat of continuing criminal activity.

[Crest Constr. II, Inc. v. Doe, 660 F.3d 346 \(8th Cir. 2011\)](#)

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

### **Extract**

To satisfy the RICO continuity element, therefore, a plaintiff must provide evidence of multiple predicate acts occurring over a substantial period of time (closed-end continuity) or evidence that the alleged predicate acts threaten to extend into the future (open-ended continuity)." Craig Outdoor, 528 F.3d at 1028. "Closed-ended continuity involves 'a series of related predicates extending over a substantial period of time;' open-ended continuity involves acts which, by their nature, threaten repetition into the future." Wisdom, 167 F.3d at 407 (quoting H.J., Inc. v. Nw. Bell Tel. Co., 492 U.S. 229, 241-42, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989)).

## **Summary**

Legal framework for arguing that the wife's and stepfather's actions could be part of a pattern of racketeering activity under RICO.

[Heinrich v. Waiting Angels Adoption Servs., Inc., 668 F.3d 393 \(6th Cir. 2012\)](#)

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

## **Extract**

The plaintiffs can, however, establish open-ended continuity. 'Often a RICO action will be brought before continuity can be established [by showing predicate acts spanning a substantial period of time]. In such cases, liability depends on whether the threat of continuity is demonstrated.' H.J. Inc., 492 U.S. at 242, 109 S.Ct. 2893. So the plaintiffs must plausibly allege that there was a threat of continuing criminal activity beyond the period during which the predicate acts were performed. Determining whether the predicate acts establish open-ended continuity requires a court to examine the specific facts of the case. Id. The threat of continuing racketeering activity need not be established, however, exclusively by reference to the predicate acts alone; rather, a court should consider the totality of the circumstances surrounding the commission of those acts. Brown, 546 F.3d at 355.

## **Summary**

The passage explains that open-ended continuity under RICO can be established by demonstrating a threat of continuing criminal activity. This is relevant to the proposition because it suggests that the wife's and stepfather's actions, if part of a broader pattern of fraudulent conduct, could be seen as posing such a threat. The passage also emphasizes that the totality of the circumstances should be considered, which aligns with the proposition's argument that the repeated fraudulent acts and concealment indicate an ongoing scheme. The preparation of false legal documents and crossing state lines could further support the claim of open-ended continuity.

[Vicom, Inc. v. Harbridge Merchant Services, Inc., 20 F.3d 771 \(7th Cir. 1994\)](#)

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

### **Extract**

Continuity as an open-ended concept refers 'to past conduct that by its nature projects into the future with a threat of repetition.' H.J., Inc., 492 U.S. at 241, 109 S.Ct. at 2901. When 'a RICO action [is] brought before [closed-ended] continuity can be established,' 'liability depends on whether the threat of continuity is demonstrated.' Id. at 242, 109 S.Ct. at 2902. Thus, although a RICO plaintiff must show duration to allege closed-ended continuity, open-ended continuity may satisfy the continuity prong of the pattern requirement regardless of its brevity.

## **Summary**

The passage explains the concept of open-ended continuity under RICO, which is relevant to the proposition. It states that open-ended continuity involves past conduct that projects into the future with a threat of repetition. This aligns with the proposition that the wife's and stepfather's actions could be part of an ongoing scheme with a threat of continued fraudulent activity.

The passage also clarifies that open-ended continuity can be established even if the conduct is brief, as long as there is a demonstrated threat of continuity.

[Ellis v. Warner, CASE NO. 15-10134-CIV-GOODMAN \(S.D. Fla. Feb 16, 2017\)](#)

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

#### **Extract**

For open-ended continuity, 'the threat of continuity may be established by showing that the predicate acts or offenses are part of an ongoing entity's regular way of doing business. Thus, the threat of continuity is sufficiently established where the predicates can be attributed to a defendant operating as part of a long-term association that exists for criminal purposes.'  
Lockheed Martin Corp. v. Boeing Co., 314 F. Supp. 2d 1198, 1221 (M.D. Fla. 2004) (quoting H.J. Inc., 492 U.S. at 242-43).

#### **Summary**

Open-ended continuity under RICO can be established if the predicate acts are part of an ongoing entity's regular way of doing business or if they are part of a long-term association for criminal purposes. This supports the proposition that the wife's and stepfather's actions could be seen as part of an ongoing scheme to defraud, especially if their conduct is part of a broader pattern of similar fraudulent activities.

[Perlman v. Zell, 938 F.Supp. 1327 \(N.D. Ill. 1996\)](#)

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

#### **Extract**

The second requirement to show a pattern of racketeering activity is the continuation of the criminal activity over time, either in the past (closed-ended continuity) or through the threat of future criminal activity (open-ended continuity). See H.J. Inc., 492 U.S. at 241, 109 S.Ct. at 2901-02. The complaint here is replete with allegations of continuous activity. In the securities fraud claim, the issuance of additional Participation Units at regular intervals over a seven-year period, and the repeated issuance of Annual Statements listing allegedly false statements of the Units' value, demonstrates closed-ended continuity. Other allegations portray the defendants as employing the modus operandi of regular self-dealing to the detriment of outside investors, and the fraudulent manipulation of partnerships' assets to cover their tracks and increase their personal gains. If true, this picture would suggest a credible threat of continuing future criminal activity. Id. at 242, 109 S.Ct. at 2902 (open-ended continuity may be

shown where the predicate acts 'are part of an ongoing entity's regular way of doing business').

## **Summary**

The court in Perlman v. Zell recognized the concept of open-ended continuity under RICO, where the predicate acts are part of an ongoing entity's regular way of doing business. The passage discusses how repeated fraudulent acts and the manipulation of assets to cover tracks and increase personal gains can suggest a credible threat of continuing future criminal activity. This aligns with the proposition that the wife's and stepfather's conduct, involving repeated fraudulent acts and concealment, could pose a threat of continuing criminal activity.

[Menzies v. Seyfarth Shaw LLP, 943 F.3d 328 \(7th Cir. 2019\)](#)

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

#### **Extract**

To plead a pattern of racketeering activity, 'a plaintiff must demonstrate a relationship between the predicate acts as well as a threat of continuing activity'—a standard known as the 'continuity plus relationship' test. ... The alternative continuity inquiry—applicable to an 'open-ended' series of misconduct—focuses not on what acts occurred in the past but on whether a concrete threat remains for the conduct to continue moving forward. ... This can be done by showing that a defendant's actions pose a specific threat of repetition; that the predicate acts form part of the defendant's ongoing and regular way of doing business; or that the defendant operates a long-term association for criminal purposes.

## **Summary**

The "continuity plus relationship" test is crucial for establishing a pattern of racketeering activity under RICO. The passage explains that open-ended continuity can be demonstrated by showing a threat of repetition or that the predicate acts are part of the defendant's regular business practices. This aligns with the proposition that the wife's and stepfather's actions could be part of an ongoing scheme, posing a threat of continued criminal activity.

[Tabas v. Tabas, 47 F.3d 1280 \(3rd Cir. 1995\)](#)

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

#### **Extract**

Moreover, even if we were not to have found that conduct lasting three and one-half years was sufficient to establish closed-ended continuity, we

conclude that continuity still would have been established for the purposes of summary judgment in the present case under an 'open-ended' continuity analysis. Under H.J. Inc., if a RICO action is brought before a plaintiff can establish long-term criminal conduct, the 'continuity' prong may still be met if a plaintiff can prove a threat of continued racketeering activity. Whether the predicate acts constitute a threat of continued racketeering activity depends on 'the specific facts of each case,' id. at 242, 109 S.Ct. at 2902, but H.J. Inc. suggests that open-ended continuity may be satisfied 'where it is shown that the predicates are a regular way of conducting defendant's ongoing legitimate business ... or of conducting or participating in an ongoing and legitimate RICO 'enterprise.'

## **Summary**

The concept of open-ended continuity under RICO can be established if the predicate acts pose a threat of continued racketeering activity. This can be shown if the acts are a regular way of conducting the defendant's business or if they are part of an ongoing RICO enterprise. The passage supports the proposition by illustrating that repeated fraudulent acts and concealment, as part of a scheme, could indicate a threat of ongoing criminal activity, thus satisfying the open-ended continuity requirement.

[Reynolds v. Condon, 908 F.Supp. 1494 \(N.D. W.Va. 1996\)](#)

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

#### **Extract**

Continuity requires proof of 'related predicates extending over a substantial period of time' or 'involving a specific threat of repetition extending indefinitely into the future.' H.J. Inc., 492 U.S. at 242, 109 S.Ct. at 2902 (proof that predicate acts are 'part of an ongoing entity's regular way of doing business' may suffice to meet 'continuity' requirement).

## **Summary**

The passage from "Reynolds v. Condon" discusses the concept of continuity under the RICO statute, which is crucial for establishing a pattern of racketeering activity. It highlights that continuity can be demonstrated by showing related predicate acts over a substantial period or a threat of repetition into the future. This aligns with the proposition that the wife's and stepfather's actions were part of an ongoing scheme, as their repeated fraudulent acts and concealment could be seen as posing a threat of continuing criminal activity. The passage supports the idea that if the fraudulent acts are part of the entity's regular way of doing business, it suffices to meet the continuity requirement.

[United States v. Turkette, 452 U.S. 576, 101 S.Ct. 2524, 69 L.Ed.2d 246 \(1981\)](#)

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

### **Extract**

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

### **Summary**

RICO applies to both legitimate and illegitimate enterprises, and it requires proof of an enterprise and a pattern of racketeering activity. The passage supports the proposition by explaining that an enterprise can be a group of individuals associated for a common purpose, and a pattern of racketeering activity involves a series of criminal acts. This aligns with the proposition that the wife's and stepfather's actions were part of an ongoing scheme, as it suggests that their conduct could constitute an enterprise engaged in a pattern of racketeering activity.

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

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

### **Extract**

RICO's legislative history, however, establishes that Congress intended that to prove a 'pattern of racketeering activity' a plaintiff or prosecutor must show both 'relationship' and 'continuity'—that the racketeering predicates are related, and that they either constitute or threaten long-term criminal activity. ... Continuity of racketeering activity likewise may be demonstrated in a variety of ways. Continuity is centrally a temporal concept, and may be either closed- or open-ended. A party alleging a RICO violation may demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time. Otherwise, it must be shown that the predicates establish a threat of long-term racketeering activity—for example, because the predicates themselves involve a distinct threat of such activity; because they are part of the regular way of doing business for an ongoing entity such as a criminal association or legitimate business; or because they are a regular means of conducting or participating in an ongoing RICO enterprise.

## **Summary**

To establish a RICO violation, there must be both a relationship and continuity in the racketeering activities. The passage explains that continuity can be demonstrated by showing a threat of long-term criminal activity, which aligns with the proposition that the wife's and stepfather's actions could be part of an ongoing scheme. The passage supports the idea that repeated fraudulent acts and concealment could indicate a threat of continuing criminal activity, which is essential for establishing open-ended continuity under RICO.

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

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

### **Extract**

RICO takes aim at 'racketeering activity,' which it defines as any act 'chargeable' under several generically described state criminal laws, any act 'indictable' under numerous specific federal criminal provisions, including mail and wire fraud... The 'pattern' element of the statute was designed to limit its application to planned, ongoing, continuing crime as opposed to sporadic, unrelated, isolated criminal episodes. The 'enterprise' element, when coupled with the 'pattern' requirement, was intended by the Congress to keep the reach of RICO focused directly on traditional organized crime and comparable ongoing criminal activities carried out in a structured, organized environment.

## **Summary**

The passage from the Sedima v. Imrex Company, Inc case explains that RICO targets ongoing and continuous criminal activities rather than isolated incidents. The requirement of a "pattern" of racketeering activity implies that the acts must be related and pose a threat of continued criminal conduct. This aligns with the proposition that the wife's and stepfather's actions were part of an ongoing scheme, as RICO's focus is on preventing continuous and organized criminal activities.

[Nutrition Distribution LLC v. Custom Nutraceuticals LLC, 194 F.Supp.3d 952 \(D. Ariz. 2016\)](#)

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

### **Extract**

RICO makes it unlawful for 'any person employed by or associated with any enterprise engaged in...interstate or foreign commerce, to conduct or

participate...in the conduct of such enterprise's affairs through a pattern of racketeering activity.' 18 U.S.C. § 1962(c). 'Racketeering activity' includes any of several listed crimes 'which is chargeable under State law and punishable by imprisonment for more than one year,' as well as any act chargeable under one of several enumerated federal statutes. § 1961(1). A 'pattern of racketeering activity' requires at least two acts of racketeering activity, which must be 'related' and 'amount to or pose a threat of continued criminal activity.'

## **Summary**

To establish a RICO claim, there must be a pattern of racketeering activity, which involves at least two related acts that pose a threat of continued criminal activity. This aligns with the proposition that the wife's and stepfather's actions could be part of an ongoing scheme, as their conduct involves repeated fraudulent acts and concealment, potentially posing a threat of continued criminal activity.

[WATER INTERN. NETWORK, USA, INC. v. East, 892 F. Supp. 1477 \(M.D. Fla. 1995\)](#)

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

#### **Extract**

A claim of civil RICO under 18 U.S.C. § 1964(c) necessarily alleges a violation of section 1962... The first part of the two-pronged analysis in establishing a pattern of racketeering activity is the notion of related acts... The criminal acts must have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise be interrelated by distinguishing characteristics which are not isolated events... The second prong in satisfying a pattern of racketeering activity is the continuity requirement... Continuity encompasses both a close-ended and open-ended concept. A party alleging a RICO violation may demonstrate continuity over a closed period by proving a series of related predicate acts over a substantial period of time. Otherwise, it must be shown that the predicate acts establish a threat of long-term racketeering activity.

## **Summary**

To establish a RICO claim, one must demonstrate a pattern of racketeering activity, which involves related acts and continuity. The passage explains that related acts must have common purposes or methods and not be isolated events. It also describes continuity as either close-ended (a series of acts over time) or open-ended (a threat of ongoing criminal activity). This aligns with the proposition that the wife's and stepfather's actions were part of an ongoing scheme, as their repeated fraudulent acts and concealment could be seen as posing a threat of continuing criminal activity.

## [Lockhart v. Deluca](#)

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

#### **Extract**

To state a RICO claim, a plaintiff must plead: "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity." Sedima, S.P.R.L., 473 U.S. at 496. The Sixth Circuit has instructed that RICO pleadings must be liberally construed, Begala v. PNC Bank, 214 F.3d 776, 781 (6th Cir. 2000), but plaintiffs nonetheless must offer allegations establishing each element.

#### **Summary**

To support a RICO claim, a plaintiff must establish conduct of an enterprise through a pattern of racketeering activity. The passage emphasizes the need for a pattern, which aligns with the proposition that the wife's and stepfather's actions were part of an ongoing scheme. The liberal construction of RICO pleadings suggests that the courts may be open to considering a broader interpretation of what constitutes a pattern of racketeering activity, which could include the repeated fraudulent acts and concealment described in the proposition.

## [Corporacion Insular de Seguros v. Reyes Munoz, 849 F.Supp. 126 \(D. P.R. 1994\)](#)

### **U.S. District Court — District of Puerto Rico**

#### **Extract**

The issuing and processing of the checks constitute a violation of the civil RICO statute. In order to prove a violation of civil RICO, plaintiff must prove: (1) that there existed an enterprise, which affected interstate commerce; (2) that codefendants were employed by or associated with the enterprise; (3) that codefendants participated in the conduct of the enterprise's affairs; and (4) that codefendants' participation was through a pattern of racketeering activity... Codefendants' participation in the enterprise constituted a pattern of racketeering. The 'pattern of racketeering activity' consists of a requisite number of criminal acts performed by the persons composing the enterprise... In addition, the racketeering predicates must be related and amount to or pose a continued threat of criminal activity.

#### **Summary**

The passage outlines the elements necessary to establish a civil RICO violation, including the existence of an enterprise, participation in the enterprise's affairs, and a pattern of racketeering activity. The passage also emphasizes that the racketeering predicates must be related and pose a

continued threat of criminal activity, which aligns with the proposition's assertion of open-ended continuity under RICO.

[United Energy Owners Committee, Inc. v. U.S. Energy Management Systems, Inc., 837 F.2d 356 \(9th Cir. 1988\)](#)

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

**Extract**

In Sun Savings, we held that 'it is not necessary to show more than one fraudulent scheme or criminal episode to establish a pattern under Sedima.' 825 F.2d at 193. Rather, plaintiffs need only allege predicate acts which are not 'isolated or sporadic.' Id. at 193-94. The test is 'whether the acts posed a threat of continuing activity.' Id. at 194. In California Architectural Bldg. Prods. v. Franciscan Ceramics, Inc., 818 F.2d 1466 (9th Cir. 1987), we recognized that RICO's continuity requirement is not satisfied if plaintiffs have merely alleged 'a single fraud perpetrated on a single victim.' 818 F.2d at 1469 (citing Schreiber, 806 F.2d at 1399). Nevertheless, we held that a plaintiff properly pleads a RICO pattern where it alleges multiple predicate acts against multiple victims over a significant period of time (five months) since that clearly satisfies RICO's requirement of 'two or more acts of racketeering activity.'

**Summary**

The Ninth Circuit does not require multiple fraudulent schemes to establish a RICO pattern. Instead, it is sufficient to show that the predicate acts are not isolated or sporadic and that they pose a threat of continuing activity. This aligns with the proposition that the wife's and stepfather's actions, if part of an ongoing scheme, could satisfy the RICO continuity requirement by demonstrating a threat of ongoing criminal activity.

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

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

**Extract**

The Supreme Court has explained that a civil RICO claim has four essential elements: '(1) conduct; (2) of an enterprise; (3) through a pattern; (4) of racketeering activity.' Whitney, Bradley & Brown, Inc. v. Kammermann, 436 F. App'x 257, 258 (4th Cir. 2011). 'Racketeering activity' includes mail and wire fraud. See 18 U.S.C.A. § 1961(1)(B). ... For a pattern of racketeering activity to exist, 'two or more predicate acts of racketeering must have been committed within a ten-year period.' ePlus Tech., Inc. v. Aboud, 313 F.3d 166, 181 (4th Cir. 2002). ... 'a plaintiff ... must show that the racketeering

predicates are related, and that they amount to or pose a threat of continued criminal activity.' ... 'In essence, the pattern requirement has been reduced to a 'continuity plus relationship' test.' ePlus Tech., 313 F.3d at 181.

## **Summary**

A civil RICO claim requires demonstrating a pattern of racketeering activity, which includes acts like mail and wire fraud. The passage emphasizes the need for related predicate acts that pose a threat of continued criminal activity, aligning with the proposition's assertion of an ongoing fraudulent scheme. The "continuity plus relationship" test supports the idea that repeated fraudulent acts and concealment could indicate a threat of ongoing criminal activity, which is central to the proposition.

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

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

#### **Extract**

Continuity, however, is a more elusive concept. In H.J., Inc., the court described continuity as 'both a closed- and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.' 492 U.S. at 241, 109 S.Ct. at 2902. Continuity exists where the predicate acts constitute or threaten continued criminal activity. Id. at 240, 109 S.Ct. at 2901. The court listed several examples of what would establish a threat of continued racketeering: (1) the predicate acts inherently involve a distinct threat of long-term criminal activity; (2) the entity exists for the purpose of engaging in criminal activity; or (3) the predicate acts are a regular way of conducting an ongoing legitimate business. Id. at 242-43, 109 S.Ct. at 2902-03.

## **Summary**

Continuity under RICO can be established by showing that predicate acts either constitute or threaten continued criminal activity. The passage provides examples of how continuity can be demonstrated, such as when predicate acts involve a threat of long-term criminal activity or are a regular way of conducting business. This aligns with the proposition that the wife's and stepfather's actions could be part of an ongoing scheme, posing a threat of continued criminal activity.

[U.S. v. Hively, 437 F.3d 752 \(8th Cir. 2006\)](#)

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

## **Extract**

Criminal acts are sufficiently related to be considered part of the same enterprise if they had the same or similar purposes, results, participants, victims or methods of commission, or if they were otherwise 'interrelated by distinguishing characteristics' as opposed to being 'isolated events.' ... We are satisfied here that the DTF and CSEU schemes were sufficiently related so that they could be considered parts of the same enterprise on the issue of closed ended continuity. They shared a common central participant (Hively), a common victim (Arkansas), a common purpose and results (Hively's enrichment), and common methods of commission (abuse of Hively's power as prosecuting attorney).

## **Summary**

The court in "U.S. v. Hively" considered criminal acts to be part of the same enterprise if they shared common purposes, participants, victims, or methods, or were otherwise interrelated. This supports the proposition that the wife's and stepfather's actions could be seen as part of an ongoing scheme if they share these characteristics. The passage also discusses the concept of continuity, which is relevant to establishing a pattern of racketeering activity under RICO.

[United HealthCare Corp. v. American Trade Ins. Co., Ltd., 88 F.3d 563 \(8th Cir. 1996\)](#)

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

### **Extract**

A RICO defendant must 'conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs.' 18 U.S.C. § 1962(c). ... Although UHC clearly presented sufficient evidence to sustain the jury's finding of predicate offenses, RICO's language specifically requires that a plaintiff establish a 'pattern' of racketeering activity. This language 'implies 'that while two acts are necessary, they may not be sufficient' ' to constitute a pattern of racketeering activity. *H.J. Inc. v. Northwestern Bell Tel.*, 492 U.S. 229, 237, 109 S.Ct. 2893, 2899-2900, 106 L.Ed.2d 195 (1989) (quoting *Sedima*, 473 U.S. at 496 n. 14, 105 S.Ct. at 3285 n. 14). Instead, to prove a pattern of racketeering activity, a plaintiff must show that 'the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity.'

### **Summary**

To establish a RICO violation, there must be a pattern of racketeering activity, which requires related predicate acts that pose a threat of continued criminal activity. This aligns with the proposition that the wife's and stepfather's actions could be part of an ongoing scheme, as their

repeated fraudulent acts and concealment could indicate a threat of continued criminal activity.

[Eplus Technology, Inc. v. Aboud, 313 F.3d 166 \(4th Cir. 2002\)](#)

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

**Extract**

In order to prevail on its RICO claim, ePlus was required to prove that Aboud had engaged in a 'pattern of racketeering activity.' 18 U.S.C. § 1962; H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 232-33, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989). Under RICO, 'racketeering activity' is defined as 'any act or threat' involving specified state law crimes, such as murder or bribery, or an 'act' indictable under various federal statutes, such as mail and wire fraud. 18 U.S.C. § 1961(1). To have a 'pattern' of such activity, two or more predicate acts of racketeering must have been committed within a ten year period. Id. § 1961(5). ... To establish such a pattern, 'a plaintiff ... must show that the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity.' H.J. Inc., 492 U.S. at 239, 109 S.Ct. 2893 (first and third emphasis added). In essence, the pattern requirement has been reduced to a 'continuity plus relationship' test. Id. ... The continuity aspect, in turn, refers 'either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.' Id. at 241, 109 S.Ct. 2893.

**Summary**

To establish a RICO claim, there must be a pattern of racketeering activity, which involves related predicate acts that pose a threat of continued criminal activity. The passage explains the "continuity plus relationship" test, which is crucial for determining whether the actions in question constitute a pattern under RICO. This directly supports the proposition that the wife's and stepfather's actions could be part of an ongoing scheme, as it highlights the need for related acts that threaten future criminal conduct.

[Handeen v. Lemaire, 112 F.3d 1339 \(8th Cir. 1997\)](#)

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

**Extract**

It is by now familiar doctrine that a pattern of racketeering activity is present only when predicate acts are linked by 'continuity plus relationship.' H.J., Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 239, 109 S.Ct. 2893, 2900, 106 L.Ed.2d 195 (1989)(emphasis omitted). Prohibited activities are related if they '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.' Id. at 240, 109 S.Ct. at 2901 (quotation omitted). Continuity is more of an abstraction, but the Court has referred to it as 'both a closed- and open-ended concept,' id. at 241, 109 S.Ct. at 2902, which is principally temporal in nature. 'A party alleging a RICO violation may demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time.' Id. at 242, 109 S.Ct. at 2902. Failure to shoulder this burden is not an insuperable bar to relief, however, because even if the acts do not span the years necessary to establish closed-ended continuity, see Primary Care Investors, Seven, Inc. v. PHP Healthcare Corp., 986 F.2d 1208, 1215 (8th Cir. 1993)('Other Circuits have consistently held that the requirement of continuity over a closed period is not met when the predicate acts extend less than a year.'), the predicates will meet the definition of open-ended continuity to the extent they 'involve a distinct threat of long-term racketeering activity,' H.J., 492 U.S. at 242, 109 S.Ct. at 2902 (emphasis added).

## **Summary**

Concept of "continuity plus relationship" in the context of RICO violations, emphasizing that predicate acts must be related and continuous. It explains that continuity can be either closed-ended or open-ended, with open-ended continuity involving a threat of long-term racketeering activity. This aligns with the proposition that the wife's and stepfather's actions could be part of an ongoing scheme, as their repeated fraudulent acts and concealment could pose a threat of continuing criminal activity.

[Lockheed Martin Corp. v. Boeing Co., 314 F.Supp.2d 1198 \(M.D. Fla. 2004\)](#)

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

### **Extract**

The existence of an enterprise 'is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit.' United States v. Turkette, 452 U.S. 576, 583, 101 S.Ct. 2524, 69 L.Ed.2d 246 (1981). ... To state a civil conspiracy claim under RICO, a plaintiff need only allege that the defendant conspired to violate some substantive provision of RICO, that some member of the conspiracy committed an overt act of racketeering, and that the act of racketeering injured the plaintiff. Beck v. Prupis, 162 F.3d 1090, 1098 (11th Cir.1998), aff'd, 529 U.S. 494, 120 S.Ct. 1608, 146 L.Ed.2d 561 (2000). The existence of an 'agreement' to participate in a RICO conspiracy may be proved by 'showing (1) the existence of an agreement on an overall objective, or (2) in the absence of an agreement[] on an overall objective that the defendant agreed personally to commit two or more predicate acts.'

## **Summary**

The existence of a RICO enterprise can be established by demonstrating an ongoing organization where associates function as a continuing unit. This supports the proposition that the wife's and stepfather's actions were part of an ongoing scheme. Additionally, the requirements for a civil conspiracy claim under RICO, including the need for an agreement to commit predicate acts, align with the proposition's assertion of a fraudulent scheme involving multiple steps and repeated acts.

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

## **Extract**

It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

## **Summary**

The passage outlines the unlawful nature of engaging in a pattern of racketeering activity to acquire or maintain control over an enterprise affecting interstate commerce. This supports the proposition by highlighting that the wife's and stepfather's actions, if part of a pattern of racketeering, could be considered unlawful under RICO. The passage's reference to activities affecting interstate commerce aligns with the proposition's mention of crossing state lines to further the scheme, indicating a broader pattern of conduct.

### [18 U.S.C. § 1341](#) [18 U.S.C. § 1341 Frauds and Swindles](#)

## **Extract**

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises... for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier... shall be fined under this title or imprisoned not more than 20 years, or both.

## **Summary**

18 U.S.C. § 1341 addresses schemes to defraud involving mail or interstate carriers. The passage supports the proposition by highlighting that the use of mail or interstate carriers to execute a fraudulent scheme is a federal offense. This aligns with the proposition's mention of crossing state lines to further the scheme, indicating an intent to continue fraudulent activity. The statute's broad language about schemes to defraud supports the idea of ongoing fraudulent conduct, which is relevant to establishing open-ended continuity under RICO.

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

## **Extract**

Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee...

## **Summary**

The law provides for significant remedies in cases of ongoing fraudulent schemes, which aligns with the proposition's assertion of an ongoing scheme to defraud.

### [18 U.S.C. § 1343](#) [18 U.S.C. § 1343 Fraud By Wire, Radio, Or Television](#)

## **Extract**

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both.

## **Summary**

18 U.S.C. § 1343 addresses schemes to defraud involving the transmission of communications across state or national borders. This statute is relevant to the proposition because it provides a legal basis for prosecuting fraudulent schemes that involve interstate communications, which could include the wife's and stepfather's actions if they used such means to further their scheme. The passage supports the idea that such actions are part of a

broader pattern of fraudulent conduct, potentially indicating open-ended continuity under RICO.

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

#### **Extract**

As used in this chapter- 'racketeering activity' means... (B) any act which is indictable under any of the following provisions of title 18, United States Code: ... section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud)... 'pattern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

#### **Summary**

The definition of "racketeering activity" includes acts such as mail fraud, wire fraud, and financial institution fraud, which are relevant to the proposition's claim of fraudulent activities. Additionally, the definition of a "pattern of racketeering activity" requires at least two acts, supporting the idea of ongoing or repeated criminal conduct. This aligns with the proposition's assertion of an ongoing scheme involving multiple fraudulent acts.

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

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

#### **Extract**

The 'continuity' component is met by either closed-ended continuity, defined as 'a series of related predicates extending over a substantial period of time,' or open-ended continuity, defined as conduct that poses a threat of continuing criminal activity... open-ended continuity can be satisfied by showing likelihood of predicate acts continuing into the future or by showing that predicate acts occur in normal course of entity's business... finding continuity and relatedness in mail fraud scheme that took place over six years and threatened to occur in future because defendants denied any wrongdoing.

#### **Summary**

The concept of "continuity" under RICO can be established through either closed-ended or open-ended continuity. Open-ended continuity is particularly relevant here, as it involves conduct that poses a threat of continuing

criminal activity. The passage provides examples of how open-ended continuity can be demonstrated, such as showing a likelihood of future predicate acts or that such acts occur as part of the entity's regular business. This aligns with the proposition that the wife's and stepfather's actions could be part of an ongoing scheme, posing a threat of continued fraudulent activity.

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

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

#### **Extract**

The 'continuity' component is met by either closed-ended continuity, defined as 'a series of related predicates extending over a substantial period of time,' or open-ended continuity, defined as conduct that poses a threat of extending into the future. The Court suggested a case-by-case examination of this issue, noting that the existence of a 'threat of continued racketeering activity' is a function of particular facts. The Court offered a non-exhaustive list of situations that may constitute a pattern, and stated 'development of these concepts must await future cases.'

#### **Summary**

The concept of continuity under RICO can be satisfied by demonstrating either closed-ended or open-ended continuity. Open-ended continuity is particularly relevant to the proposition as it involves conduct that poses a threat of continuing into the future. The passage emphasizes the need for a case-by-case examination to determine the existence of a threat of continued racketeering activity, which aligns with the proposition's argument that the wife's and stepfather's conduct could pose such a threat.

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

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

#### **Extract**

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 supply the requisite threat of continuity.' Second, the threat of continuity may be established with a 'showing that the predicate acts or offenses are

part of an ongoing entity's regular way of doing business.' Third, continuity is proved 'if the predicates can be attributed to a defendant operating as part of a long-term association that exists for criminal purposes.'

## **Summary**

Open-ended continuity under RICO can be established by demonstrating a threat of continued racketeering activity. This can be shown through a specific threat of repetition, the predicate acts being part of an entity's regular business, or the acts being part of a long-term criminal association. These criteria align with the proposition that the wife's and stepfather's actions were part of an ongoing fraudulent scheme, suggesting a threat of continued criminal activity.

[Racketeer influenced and corrupt organizations.](#)

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

## **Extract**

The 'continuity' component is met by either closed-ended continuity, defined as 'a series of related predicates extending over a substantial period of time,' or open-ended continuity, defined as conduct that poses a threat of extending into the future. The Court suggested a case-by-case examination of this issue, noting that the existence of a 'threat of continued racketeering activity' is a function of particular facts. ... open-ended continuity can be satisfied by showing likelihood of predicate acts continuing into the future or by showing that predicate acts occur in normal course of entity's business.

## **Summary**

The concept of "continuity" under RICO can be established through either closed-ended or open-ended continuity. Open-ended continuity is particularly relevant to the proposition as it involves conduct that poses a threat of continuing into the future, which aligns with the ongoing nature of the fraudulent scheme described in the proposition. The passage supports the idea that repeated fraudulent acts and concealment, as part of a broader pattern, could satisfy the open-ended continuity requirement under RICO.

[Racketeer influenced and corrupt organizations.](#)

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

## **Extract**

The Supreme Court made a second attempt to clarify the 'pattern' concept in *H.J., Inc. v. Northwestern Bell Telephone Co.* In that case, the Court held that when proving a 'pattern of racketeering activity,' RICO requires both relationship and continuity of predicate acts as separate elements. However, the Court recognized that proof of these factors will often overlap. The relationship prong is defined by the connection of the defendant's criminal acts to one another: 'continuity' is successfully proved if a prosecutor can show actual continuity during a past, closed period of repeated conduct or an open-ended threat of continued racketeering activity in the future. The *H.J., Inc.* Court suggested a case-by-case examination of this issue.

## **Summary**

The Supreme Court's interpretation of the "pattern" requirement under RICO involves both the relationship and continuity of predicate acts. The passage explains that continuity can be shown through either a past period of repeated conduct or an open-ended threat of continued criminal activity. This supports the proposition that the wife's and stepfather's actions could be part of an ongoing scheme, as their conduct involves repeated fraudulent acts and concealment, which could pose a threat of continuing criminal activity.

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

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

## **Extract**

The Supreme Court made a second attempt to clarify the 'pattern' concept in *H.J., Inc. v. Northwestern Bell Telephone Co.* The Court held that when proving a 'pattern of racketeering activity,' RICO requires both (a) relationship and (b) continuity of predicate acts as separate elements. This test is referred to as the 'continuity plus relationship' test. The Court recognized, however, that evidence in proof of these factors can often overlap. The relationship prong is defined by the connection of the defendant's criminal acts to one another. The 'continuity' prong is successfully proven if a prosecutor can show actual continuity during a past closed period of repeated conduct or an open-ended threat of... or sporadic criminal acts the court refused to place the continuity prong in direct tension with the relationship element, and concluded that the proper test is whether the acts of the defendant pose a 'threat' of continuing activity.

## **Summary**

The Supreme Court's interpretation of RICO's "pattern" requirement involves both a relationship and continuity of predicate acts. The continuity

can be shown through an open-ended threat of continuing criminal activity, which aligns with the proposition that the wife's and stepfather's actions could be part of an ongoing scheme. The passage supports the idea that repeated fraudulent acts and concealment could pose a threat of continuing criminal activity, especially if they are part of a broader pattern.

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

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

##### **Extract**

finding RICO 'pattern' where two racketeering acts with which defendant was charged were interrelated and posed threat of continuing racketeering activity"; "To sustain a RICO conspiracy conviction based upon the commission of two predicate acts, the government must show that the predicate acts are related and amount to or pose a threat of continued criminal activity."; "Establishing the minimum number of predicates ... is not sufficient to establish a pattern; the racketeering predicates must be related and amount to or pose a threat of continued criminal activity"; "suggesting open ended continuity could be satisfied by showing likelihood of predicate acts continuing into future or that predicate acts occur in normal course of entity's business"; "If the acts are not isolated or sporadic, then the racketeering activity is continuous.

##### **Summary**

The passages discuss the requirements for establishing a pattern of racketeering activity under RICO, emphasizing the need for related predicate acts that pose a threat of continued criminal activity. The concept of open-ended continuity is highlighted, where the likelihood of predicate acts continuing into the future or occurring as part of an entity's regular business can satisfy the continuity requirement. This aligns with the proposition that the wife's and stepfather's actions, if part of a broader scheme, could be seen as posing a threat of ongoing criminal activity.

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

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

##### **Extract**

ICO's pattern requirement: '[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.' (58) ... Open-ended continuity in the RICO context is conduct that may last only a short period of time but nonetheless, poses a threat of extending into the future. (60) The Court suggested a case-by-case examination of this issue, noting that the existence of a 'threat of continued racketeering activity' is a function of particular facts. (61) ... United States v. Hively, 437 F.3d 752, 762 (8th Cir. 2006) (holding that despite cessation by former prosecutor of mail fraud scheme associated with grant program there was a sufficient threat of repetition of activity to show open ended continuity ... that conduct by its nature projected into future); Word of Faith World Outreach Ctr. Church, Inc. v. Sawyer, 90 F.3d 118, 122 (5th Cir. 1996) (following H.J. Inc. and concluding that a 'pattern of racketeering activity' exists when predicate acts have the 'same or similar purposes, results, participants, victims, or methods of commission' and the acts 'amount to or pose a threat of continued criminal activity').

## **Summary**

Requirements for establishing a pattern of racketeering activity under RICO, emphasizing that criminal acts must be related and not isolated. It explains that open-ended continuity can be established if the conduct poses a threat of continuing into the future, which aligns with the proposition that the wife's and stepfather's actions could be part of an ongoing scheme. The passage also references case law supporting the idea that a threat of continued criminal activity can satisfy the continuity requirement.

### Racketeer influenced and corrupt organizations.

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

## **Extract**

The 'continuity' prong is satisfied by proof of either closed-ended continuity or open-ended continuity. Closed-ended continuity in the RICO context may be demonstrated 'by proving a series of related predicates extending over a substantial period of time.' Open-ended continuity in the RICO context is conduct that may last only a short period of time but nonetheless poses a threat of extending into the future. The Court suggested a case-by-case examination of this issue, noting that the existence of a 'threat of continued racketeering activity' is a function of particular facts.

## **Summary**

The concept of continuity under RICO can be established through either closed-ended or open-ended continuity. Open-ended continuity is particularly relevant to the proposition, as it involves conduct that poses a threat of continuing into the future. The passage supports the idea that the wife's and stepfather's actions, if part of a broader pattern of fraudulent conduct, could be seen as posing such a threat, thereby satisfying the open-ended continuity requirement under RICO.

[Vol. 4 No. 3 Pg. 7 Rico and the Prime: Taking a Bite Out of Crime?](#)

**Utah Bar Journal - Utah State Bar - 1991-00-00**

**Extract**

In *H.J., Inc. v. Northwestern Bell Telephone Co.* the Court addressed the standard for a RICO pattern. The Court rejected a 'separate schemes' test in favor of a 'separate acts' test, so that two or more predicate acts within a single scheme could support a RICO complaint. In endorsing the single scheme, separate acts standard, the Court stated that 'to prove a pattern of racketeering activity a plaintiff or prosecutor must show that the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity.'

**Summary**

The Supreme Court's interpretation of the RICO statute allows for a pattern of racketeering activity to be established through related predicate acts that pose a threat of continued criminal activity. This supports the proposition that the wife's and stepfather's actions, if they involve repeated fraudulent acts and concealment, could be seen as part of a pattern of racketeering activity under RICO.

[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 claim. In addition, § 1962(a), (b), and (c) are limited in scope to conduct involving enterprises engaged in or the activities of which affect interstate commerce. It is the activities of the enterprise, not each predicate act, that must affect interstate or foreign commerce. RICO requires no more than a slight effect upon interstate commerce.

**Summary**

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

activity. It emphasizes the need for particularity in pleading fraud and highlights that the activities of the enterprise must affect interstate commerce, even if only slightly. This supports the proposition by providing a legal framework for arguing that the wife's and stepfather's actions constitute a pattern of racketeering activity, potentially affecting interstate commerce, and thus could be part of an ongoing fraudulent scheme.

### [Insurance Fraud is a Violent Crime.](#)

#### **Insurance Advocate - CINN Group, Inc. - 2024-03-01**

##### **Extract**

RICO conspiracy was established by proof of: (a) of an agreement to join a racketeering scheme, (b) of the defendant's knowing engagement in the scheme with the intent that its overall goals be effectuated, and (c) that the scheme involved, or by agreement between any members of the conspiracy was intended to involve, two or more predicate acts of racketeering.

##### **Summary**

Elements required to establish a RICO conspiracy, which includes an agreement to join a racketeering scheme, knowing engagement in the scheme, and the involvement of two or more predicate acts of racketeering. This supports the proposition by providing a legal framework for arguing that the wife's and stepfather's actions were part of a RICO conspiracy, as their conduct could be seen as an agreement to engage in a scheme involving multiple predicate acts, such as financial fraud and preparation of false legal documents.

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

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

##### **Extract**

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

## **Summary**

The RICO statute requires both a "relationship" and a "continuity" element to establish a pattern of racketeering activity. The passage explains that criminal acts must be interrelated and not isolated, and there must be a threat of continuing criminal activity. This directly supports the proposition that the wife's and stepfather's actions could be part of an ongoing scheme, as their conduct involves repeated fraudulent acts and concealment, which could pose a threat of continuing criminal activity.

### [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: ... 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 explains the requirements for establishing a pattern of racketeering activity under RICO, specifically focusing on the concepts of relatedness and continuity. It highlights that the acts need not be similar but must be related to the enterprise's affairs. It also explains that continuity can be shown through open-ended continuity, where there is a threat of ongoing criminal activity. This directly supports the proposition that the wife's and stepfather's actions could be part of an ongoing scheme, as their repeated fraudulent acts and concealment could pose a threat of continuing criminal activity.

### [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 concept of open-ended continuity under RICO can be demonstrated by showing a threat of continuing criminal activity. This aligns with the proposition that the wife's and stepfather's actions could be part of an ongoing scheme, as their conduct involves repeated fraudulent acts and concealment, which could pose a threat of continuing criminal activity.

This memo was compiled by Vincent AI based on vLex materials available as of June 06, 2025. [View full answer on vLex](#)