

## Question

Defendants made ongoing threats to Plaintiff, including threats of future criminal activity, demonstrating the continuity of the enterprise's unlawful conduct. The false statements in legal documents, including the divorce petition and protective order, were made with the intent to deceive the court and gain an unfair advantage in legal proceedings. RICO claims can be based on both closed-ended continuity (a series of related predicate acts over a substantial period) and open-ended continuity (a threat of ongoing criminal activity) (*H.J. Inc. v. Northwestern Bell Telephone Co.*, 492 U.S. 229 (1989)). The defendants' actions demonstrate both closed-ended continuity (predicate acts over a substantial period) and open-ended continuity (threats of future criminal activity), further supporting the RICO claim.

## Answer (U.S. Federal)

### Short response

The defendants' ongoing threats to the plaintiff, coupled with false statements in legal documents, likely establish both closed-ended and open-ended continuity necessary for a RICO claim under [H.J. Inc. v. Northwestern Bell Telephone Co.](#) These actions, demonstrating a pattern of racketeering activity over time and posing threats of future criminal activity, fulfill RICO's continuity requirement as interpreted by federal courts.

### Summary

For a successful RICO claim, a plaintiff must demonstrate a "pattern of racketeering activity" involving at least two predicate acts that show both relationship and continuity. The Supreme Court in [H.J. Inc. v. Northwestern Bell Telephone Co.](#) established that continuity can be proven in two ways: closed-ended continuity (related predicate acts extending over a substantial period) or open-ended continuity (past conduct that projects a threat of future criminal activity). The ongoing threats made by defendants to the plaintiff, combined with false statements in legal documents like divorce petitions and protective orders, can establish both forms of continuity.

The defendants' actions appear to satisfy closed-ended continuity through related predicate acts occurring over a substantial time period, with courts generally considering periods of at least one year sufficient. The actions also demonstrate open-ended continuity through threats of future criminal activity, which courts recognize as a valid basis for establishing an ongoing pattern. By meeting both forms of continuity, along with showing related predicate acts that constitute racketeering activity under [18 U.S.C. § 1962](#), the plaintiff has strong grounds to support their RICO claim.

# Background and Relevant Law

## The RICO Statutory Framework

The [Racketeer Influenced and Corrupt Organizations](#) Act (RICO) prohibits certain activities connected to enterprises engaged in interstate or foreign commerce. Under [18 U.S.C. § 1962](#), "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" ([18 U.S.C. § 1962](#)). This provision establishes the basic elements of a civil RICO claim, which includes proving a "pattern of racketeering activity."

To establish a "pattern of racketeering activity," RICO requires "at least two acts of racketeering activity committed in a 10 year period" ([Sunwealth Glob. HK Ltd. v. Pinder Int'l, Inc.](#), 20 Civ. 1436 (ER) (S.D.N.Y. Mar 23, 2021)). However, the mere existence of two predicate acts is insufficient; the plaintiff must also demonstrate that these acts are related and continuous.

## The Continuity Requirement: [H.J. Inc. v. Northwestern Bell Telephone Co.](#)

The landmark case establishing the continuity requirement for RICO claims is [H.J. Inc. v. Northwestern Bell Telephone Co.](#), 492 U.S. 229 (1989). In this seminal decision, the Supreme Court established that "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" ([H.J. Inc. v. Northwestern Bell Telephone Co.](#), 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989)).

The Court specifically noted: "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... In other cases, 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" ([H.J. Inc. v. Northwestern Bell Telephone Co.](#), 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989)).

## Closed-Ended Continuity

Closed-ended continuity refers to "a closed period of repeated conduct" ([McLaughlin v. Anderson](#), 962 F.2d 187 (2nd Cir. 1992)). It is established by demonstrating "a series of related predicates extending over a substantial period of time" ([Curtis v. Greenberg](#), 20-CV-824 (PKC) (LB) (E.D. N.Y. Sep 23, 2021)). Courts have generally found that predicate acts occurring over at least one year satisfy the closed-ended continuity requirement: "Closed-end continuity 'can be shown by related acts continuing over a period of time lasting at least one year'" ([Clancy v.](#)

[Vacationaire Estates, Inc., Civil No. 18-2249 \(JRT/LIB\) \(D. Minn. Feb 27, 2019\)](#)).

The Second Circuit has noted that "Although we have not viewed two years as a bright-line requirement, it will be rare that conduct persisting for a shorter period of time establishes closed-ended continuity" ([Racketeer influenced and corrupt organizations](#), 2015-09-22). However, this is not a universal standard across all circuits, and the duration requirement may vary by jurisdiction.

## **Open-Ended Continuity**

Open-ended continuity refers to "past conduct that by its nature projects into the future with a threat of repetition" ([Craig Outdoor Advertising v. Viacom Outdoor, Inc., 528 F.3d 1001 \(8th Cir. 2008\)](#)). It is established by showing "a threat of continuing criminal activity beyond the period during which the predicate acts were performed" ([Sunwealth Glob. HK Ltd. v. Pinder Int'l, Inc., 20 Civ. 1436 \(ER\) \(S.D.N.Y. Mar 23, 2021\)](#)).

Open-ended continuity can be demonstrated in several ways: "(1) a 'specific threat of repetition,' (2) that the 'predicate acts or offenses are part of an ongoing entity's regular way of doing business,' or (3) that the defendant operates a 'long-term association that exists for criminal purposes'" ([Midwest Grinding Co., Inc. v. Spitz, 976 F.2d 1016 \(7th Cir. 1992\)](#)).

Unlike closed-ended continuity, open-ended continuity does not require a substantial period of past conduct: "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" ([Pelfresne v. Stephens, 35 F.Supp.2d 1064 \(N.D. Ill. 1999\)](#)).

## **The "Continuity Plus Relationship" Test**

Courts have developed what is known as the "continuity plus relationship" test to determine whether a pattern of racketeering activity exists. This test requires showing both that the predicate acts are related and that they demonstrate continuity, either closed-ended or open-ended.

As stated by the Seventh Circuit: "To that end, a civil RICO plaintiff may no longer get by merely alleging two predicate acts, but must also satisfy the so-called 'continuity plus relationship' test: the predicate acts must be related to one another (the relationship prong) and pose a threat of continued criminal activity (the continuity prong)" ([Midwest Grinding Co., Inc. v. Spitz, 976 F.2d 1016 \(7th Cir. 1992\)](#)).

The "relationship" prong is satisfied when 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" ([Schlaifer Nance & Co. v. Estate of Warhol, 119 F.3d 91 \(2nd Cir. 1997\)](#)).

# Analysis of the Defendants' Actions

## Assessing Closed-Ended Continuity

The defendants' actions, including making false statements in legal documents such as divorce petitions and protective orders, may establish closed-ended continuity if these acts occurred over a substantial period of time. While the exact timeframe is not specified in the scenario, courts generally require that the predicate acts extend over a period of at least one year to demonstrate closed-ended continuity.

As noted in [Curtis v. Greenberg, 20-CV-824 \(PKC\) \(LB\) \(E.D. N.Y. Sep 23, 2021\)](#), "closed-ended continuity is primarily a temporal concept, and it requires that the predicate crimes extend over a substantial period of time." The Eighth Circuit has held that "closed-end continuity 'can be shown by related acts continuing over a period of time lasting at least one year'" ([Clancy v. Vacationaire Estates, Inc., Civil No. 18-2249 \(JRT/LIB\) \(D. Minn. Feb 27, 2019\)](#)).

If the defendants' false statements in legal documents and threats to the plaintiff occurred over a period exceeding one year, this would likely satisfy the closed-ended continuity requirement. As noted in [In re Juul Labs, Inc., Mktg., Sales Practices, & Prods. Liab. Litig., 497 F.Supp.3d 552 \(N.D. Cal. 2020\)](#), "by identifying predicate wire and mail fraud acts over a course of five years, they have alleged 'closed-ended' continuity." Similarly, if the defendants' acts span a comparable timeframe, closed-ended continuity could be established.

It's also important to note that the predicate acts must be related, not isolated events. As stated in [Turner v. Cook, 362 F.3d 1219 \(9th Cir. 2004\)](#), "proof of a single scheme can be sufficient so long as the predicate acts involved are not isolated or sporadic." The defendants' false statements in legal documents and threats to the plaintiff appear to be related acts with the common purpose of deceiving the court and gaining an unfair advantage in legal proceedings, which would satisfy the relationship requirement.

## Assessing Open-Ended Continuity

The defendants' ongoing threats to the plaintiff, including threats of future criminal activity, likely establish open-ended continuity. As explained in [Heinrich v. Waiting Angels Adoption Servs., Inc., 668 F.3d 393 \(6th Cir. 2012\)](#), "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.'"

The threats of future criminal activity specifically demonstrate a "threat of repetition" that courts have recognized as sufficient for open-ended continuity. As noted in [Curtis v. Greenberg, 20-CV-824 \(PKC\) \(LB\) \(E.D. N.Y. Sep 23, 2021\)](#), "criminal activity 'that by its nature projects into the future with a threat of repetition' possesses open-ended continuity, and that can be

established in several ways." The court further explained that "Some crimes may by their very nature include a future threat, such as in a protection racket."

The defendants' threats of future criminal activity directly parallel this example, suggesting that their conduct "by its nature projects into the future with a threat of repetition." This is precisely what the Supreme Court identified as establishing open-ended continuity in [H.J. Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 \(1989\)](#).

Furthermore, the intent to deceive the court through false statements in legal documents suggests an ongoing pattern of fraudulent activity that could extend into the future. As stated in [Nightingale Grp., LLC v. CW Capital Mgmt., LLC, 11 Civ. 9293 \(PAE\) \(S.D. N.Y. Jul 05, 2012\)](#), "A claim of open-ended continuity is shown by demonstrating past unlawful conduct coupled with a threat of future criminal conduct." The defendants' use of false statements in legal proceedings, combined with ongoing threats, establishes this requisite pattern.

## **The "Enterprise's Unlawful Conduct"**

The scenario mentions "the continuity of the enterprise's unlawful conduct," which suggests that the defendants' actions were conducted through an "enterprise" as required by RICO. Under [18 U.S.C. § 1962](#), it is unlawful for any person to conduct an enterprise's affairs through a pattern of racketeering activity.

The false statements in legal documents and threats to the plaintiff appear to be part of a coordinated effort by the defendants, potentially constituting an enterprise's activities. As noted in [US Airline Pilots Ass'n v. Awappa, LLC, 615 F.3d 312 \(4th Cir. 2010\)](#), to state a RICO claim, a plaintiff must allege that the defendants engaged in a "pattern of racketeering activity," which includes acts like extortion, defined as "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear."

The defendants' threats to the plaintiff could potentially constitute extortion if they were made to obtain property or advantage through fear or intimidation. The false statements in legal documents, particularly if they involve mail or wire communications, could constitute mail or wire fraud, which are recognized predicate acts under RICO.

## **Combining Closed-Ended and Open-Ended Continuity**

The defendants' actions appear to demonstrate both closed-ended and open-ended continuity, which strengthens the RICO claim. As noted in RICO: A Primer, 2022-01-31, "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."

While either form of continuity alone could be sufficient to establish a pattern of racketeering activity, demonstrating both provides stronger support for the RICO claim. As stated in [In re Juul Labs, Inc., Mktg., Sales Practices, & Prods. Liab. Litig., 497 F.Supp.3d 552 \(N.D. Cal. 2020\)](#), "by identifying predicate wire and mail fraud acts over a course of five years, they have alleged 'closed-ended' continuity; and (ii) by alleging that some of the misrepresentations continue to this day, they have likewise alleged 'open-ended' continuity."

Similarly, the defendants' false statements in legal documents over time establish closed-ended continuity, while their ongoing threats of future criminal activity establish open-ended continuity. Together, these demonstrate a pattern of racketeering activity that supports a RICO claim.

## **Temporal Considerations and Court Interpretations**

### **Duration Requirements for Closed-Ended Continuity**

Courts have provided varying guidance on what constitutes a "substantial period of time" for closed-ended continuity. The Second Circuit has suggested that conduct lasting less than two years rarely establishes closed-ended continuity: "Although we have not viewed two years as a bright-line requirement, it will be rare that conduct persisting for a shorter period of time establishes closed-ended continuity" ([Racketeer influenced and corrupt organizations](#), 2015-09-22).

However, other circuits have found shorter periods sufficient. The Eighth Circuit has held that "closed-end continuity 'can be shown by related acts continuing over a period of time lasting at least one year'" ([Clancy v. Vacationaire Estates, Inc., Civil No. 18-2249 \(JRT/LIB\) \(D. Minn. Feb 27, 2019\)](#)).

The Third Circuit, in [Tabas v. Tabas, 47 F.3d 1280 \(3rd Cir. 1995\)](#), held that "defendant's allegedly fraudulent distribution of estate over three and one half years was 'substantial' and satisfied closed-ended continuity requirement of RICO." It is important to note, however, that [Tabas](#) was "Declined To Extend by Yucaipa Am. All. Fund I, LP v. Ehrlich, No. 16-3664 (3rd Cir. Nov 15, 2017)," which suggests that the Third Circuit may have narrowed its interpretation of what satisfies closed-ended continuity since the [Tabas](#) decision. This subsequent treatment indicates that courts may be becoming more stringent in their requirements for establishing closed-ended continuity.



## **No Requirement for Multiple Schemes**

It's worth emphasizing that multiple schemes are not necessary to establish a pattern of racketeering activity. As stated in [Turner v. Cook, 362 F.3d 1219 \(9th Cir. 2004\)](#), "Evidence of multiple schemes is not required to show a threat of continued criminal activity, [id. at 240, 109 S.Ct. 2893](#), and, indeed, proof of a single scheme can be sufficient so long as the predicate acts involved are not isolated or sporadic." This means that even if the defendants' actions all relate to a single scheme, such as gaining advantage in legal proceedings, this can still satisfy the continuity requirement if the predicate acts are not isolated or sporadic.

## **Totality of Circumstances Approach**

In assessing continuity, courts consider the totality of circumstances surrounding the predicate acts, not just the acts themselves. As noted in [Heinrich v. Waiting Angels Adoption Servs., Inc., 668 F.3d 393 \(6th Cir. 2012\)](#), "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."

This approach allows courts to consider factors such as the nature of the enterprise, the relationship between the defendants, the purpose of the predicate acts, and the potential for future criminal activity. In the current scenario, the court would likely consider not only the specific false statements and threats made by the defendants but also the broader context in which these actions occurred, including the intent to deceive the court and gain an unfair advantage in legal proceedings.

## **Application to the Defendants' Actions**

Based on the legal principles established in the cited cases, the defendants' actions likely establish both closed-ended and open-ended continuity.

## **Analysis of Closed-Ended Continuity**

The false statements in legal documents, including the divorce petition and protective order, if made over a substantial period (ideally over a year), would likely satisfy the closed-ended continuity requirement. These statements appear to be related predicate acts with the common purpose of deceiving the court and gaining an unfair advantage in legal proceedings.

As stated in [Ellis v. Warner, CASE NO. 15-10134-CIV-GOODMAN \(S.D. Fla. Feb 16, 2017\)](#), closed-ended continuity exists "where the racketeering occurred over a substantial period of time." If the defendants' false statements were made in multiple legal documents over time, this would strengthen the case for closed-ended continuity.

## **Analysis of Open-Ended Continuity**

The defendants' ongoing threats to the plaintiff, including threats of future criminal activity, strongly support a finding of open-ended continuity. These threats demonstrate a "specific threat of repetition," which is one way to establish open-ended continuity according to [Midwest Grinding Co., Inc. v. Spitz, 976 F.2d 1016 \(7th Cir. 1992\)](#).

The nature of threats of future criminal activity inherently projects into the future, which is exactly what the Supreme Court required for open-ended continuity in [H.J. Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 \(1989\)](#).

## **Combined Analysis**

The combination of false statements in legal documents over time and ongoing threats of future criminal activity provides strong support for a RICO claim based on both closed-ended and open-ended continuity. As stated in [Cofacredit v. Windsor Plumbing Supply, 187 F.3d 229 \(2nd Cir. 1997\)](#), "In assessing whether or not the plaintiff has shown open-ended continuity, the nature of the RICO enterprise and of the predicate acts are relevant."

The nature of the defendants' actions, particularly the intent to deceive the court and the threats of future criminal activity, strongly suggests an ongoing pattern of racketeering activity that satisfies both closed-ended and open-ended continuity requirements.

## **Conclusion**

The defendants' ongoing threats to the plaintiff, including threats of future criminal activity, combined with false statements in legal documents, likely establish both closed-ended and open-ended continuity as required for a RICO claim under [H.J. Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 \(1989\)](#).

For closed-ended continuity, the false statements in legal documents, if occurring over a substantial period (ideally a year or more), would satisfy the requirement for "a series of related predicates extending over a substantial period of time." For open-ended continuity, the ongoing threats of future criminal activity clearly demonstrate that the defendants' conduct "by its nature projects into the future with a threat of repetition."

The combination of these two forms of continuity provides robust support for a RICO claim. As courts have consistently held, either closed-ended or open-ended continuity alone can satisfy the continuity requirement for a pattern of racketeering activity, but demonstrating both strengthens the RICO claim.

It is important to note that the ultimate determination would depend on specific factual details not provided in the scenario, such as the exact



timeframe of the defendants' actions, the nature and frequency of the threats, and the specific content of the false statements in legal documents. However, based on the legal principles established in the cited cases, the defendants' actions as described would likely support a RICO claim based on both closed-ended and open-ended continuity.

## **Legal Authorities**

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

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

#### **Extract**

The continuity prong of the test can be satisfied by showing either a 'close-ended' pattern (a series of related predicate acts extending over a substantial period of time) or an 'open-ended' pattern (a set of predicate acts that poses a threat of continuing criminal conduct extending beyond the period in which the predicate acts were performed). ... 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. ... 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.

#### **Summary**

The court recognizes both closed-ended and open-ended continuity as valid means to establish a pattern of racketeering activity under RICO. The passage explains that open-ended continuity can be demonstrated by showing a threat of ongoing criminal activity, which aligns with the proposition that defendants' threats of future criminal activity support a RICO claim. The court also emphasizes considering the totality of circumstances, which supports the argument that false statements in legal documents with intent to deceive can be part of the pattern of racketeering activity.

[Clancy v. Vacationaire Estates, Inc., Civil No. 18-2249 \(JRT/LIB\) \(D. Minn. Feb 27, 2019\)](#)

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

## **Extract**

A pattern is shown through two or more related acts of racketeering activity that 'amount to or pose a threat of continued criminal activity.' Nitro Distrib., Inc., 565 F.3d at 428 (quoting *Wisdom v. First Midwest Bank*, 167 F.3d 402, 406 (8th Cir. 1999)). Plaintiffs must establish either that 'multiple predicate acts occur[ed] over a substantial period of time (closed-end continuity)' or that 'the alleged predicate acts threaten to extend into the future (open-ended continuity).' *Craig Outdoor Advert., Inc. v. Viacom Outdoor, Inc.*, 528 F.3d 1001, 1028 (8th Cir. 2008). The Eighth Circuit has held that closed-end continuity 'can be shown by related acts continuing over a period of time lasting at least one year.'

## **Summary**

The court recognizes both closed-ended and open-ended continuity as valid bases for establishing a pattern of racketeering activity under RICO. The passage specifically mentions that a pattern can be shown through related acts that either occur over a substantial period (closed-ended) or pose a threat of future criminal activity (open-ended). This aligns with the proposition that defendants' actions can demonstrate both types of continuity, supporting a RICO claim.

[Pelfresne v. Stephens, 35 F.Supp.2d 1064 \(N.D. Ill. 1999\)](#)

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

## **Extract**

Sansone argues that even if the tax protest amounts to mail fraud, plaintiffs do not allege a pattern of racketeering activity. To allege a pattern, the two predicate acts must be related and continuous. Sansone does not dispute that the various mailings associated with the tax protest are related. Sansone argues, however, that the mailings do not satisfy the duration requirement of the continuity prong because the acts occurred too close together in time. See *Vicom, Inc. v. Harbridge Merchant Services, Inc.*, 20 F.3d 771, 779-80 (7th Cir.1994). Courts have held that there are two types of continuity: closed and open. 'Open-ended continuity is present when ... `a specific threat of repetition' exists' by the very nature and scope of the scheme. *Id.* at 782 (citing *H.J., Inc. v. Northwestern Bell Telephone Co.*, 492 U.S. 229, 242-43, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989)). '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.' *Id.* (citing *H.J.*, 492 U.S. at 241-42, 109 S.Ct. 2893); see also *Midwest Grinding Co., Inc. v. Spitz*, 976 F.2d 1016, 1023 (7th Cir. 1992) ('An openended period of racketeering ... is a course of criminal activity which lacks the duration and repetition to establish continuity.'). A plaintiff can show open-ended continuity by alleging that a scheme has no 'natural ending point,' because such an allegation suggests that the conduct threatens to continue into the future. See *Vicom*, 20 F.3d at 783.

## Summary

The passage discusses the requirements for establishing a pattern of racketeering activity under RICO, specifically focusing on the concepts of closed-ended and open-ended continuity. It explains that open-ended continuity can be established by showing a threat of ongoing criminal activity, which aligns with the proposition that defendants' actions demonstrate both closed-ended and open-ended continuity.

[Nightingale Grp., LLC v. CW Capital Mgmt., LLC, 11 Civ. 9293 \(PAE\) \(S.D. N.Y. Jul 05, 2012\)](#)

### U.S. District Court — Southern District of New York

## Extract

A 'pattern of racketeering activity' includes 'at least two acts of racketeering activity... the last of which occurred within ten years... after the commission of a prior act of racketeering activity.' 18 U.S.C. § 1961(5). These predicate acts, the Supreme Court has held, must be related and either amount to, or pose a threat of, continued criminal activity. *H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 239 (1989). Therefore, to plead a pattern under RICO, a plaintiff 'must allege either an open-ended pattern of racketeering activity (i.e., past criminal conduct coupled with a threat of future criminal conduct) or a closed-ended pattern of racketeering activity (i.e., past criminal conduct extending over a substantial period of time).' ... A claim of open-ended continuity is shown by demonstrating past unlawful conduct coupled with a threat of future criminal conduct. *GICC Capital Corp.*, 67 F.3d at 466. 'In assessing whether or not the plaintiff has shown open-ended continuity, the nature of the RICO enterprise and of the predicate acts are relevant.' *Cofacredit*, 187 F.3d at 242 (2d Cir. 1999) (citing *Schlaifer Nance & Co. v. Estate of Andy Warhol*, 119 F.3d 91, 97 (2d Cir. 1997); *GICC Capital Corp.*, 67 F.3d at 466).

## Summary

Requirements for establishing a "pattern of racketeering activity" under RICO, referencing the Supreme Court's decision in *H.J. Inc. v. Northwestern Bell Telephone Co.* It explains that a pattern can be established through either closed-ended continuity (a series of related predicate acts over a substantial period) or open-ended continuity (a threat of ongoing criminal activity). This directly supports the proposition that defendants' actions can demonstrate both types of continuity, thereby supporting a RICO claim.

[\*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**

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... In other cases, 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.

## **Summary**

The U.S. Supreme Court has clarified that continuity in RICO cases can be demonstrated through either closed-ended or open-ended continuity. Closed-ended continuity involves a series of related predicate acts over a substantial period, while open-ended continuity involves a threat of ongoing criminal activity. This directly supports the proposition that defendants' actions, involving ongoing threats and false statements, can demonstrate both types of continuity, thus supporting a RICO claim.

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

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

## **Extract**

To establish 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.' H.J. Inc. v. Nw. Bell Tel. Co., 492 U.S. 229, 239, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989). The pattern requirement has been reduced to a 'continuity plus relationship' test. See *id.* Under this 'continuity' requirement, courts require allegations of either open-ended continuity, in which there is an ongoing threat of racketeering activity beyond the predicate act, or closed-ended continuity, where the racketeering occurred over a substantial period of time.

## **Summary**

The court requires a demonstration of either open-ended or closed-ended continuity to establish a pattern of racketeering activity under RICO. The passage directly references the Supreme Court's decision in H.J. Inc., which is authoritative on the issue of continuity in RICO cases. The passage explains the "continuity plus relationship" test, which is essential for supporting the proposition that the defendants' actions demonstrate both closed-ended and open-ended continuity.

[Curtis v. Greenberg, 20-CV-824 \(PKC\) \(LB\) \(E.D. N.Y. Sep 23, 2021\)](#)

## **U.S. District Court — Eastern District of New York**

### **Extract**

To satisfy the “pattern” requirement, the predicate acts must “pose a threat of continuous criminal activity” and “be related to each other.” Reich, 858 F.3d at 59 (citing H.J. Inc. v. Nw. Bell Tel. Co., 492 U.S. 229, 239 (1989)). The “continuity can be closed-ended or open-ended.” Id. at 60 (citing H.J., 492 U.S. at 239). “Criminal activity that occurred over a long period of time in the past has closed-ended continuity, regardless of whether it may extend into the future.” Id. (citing H.J., 492 U.S. at 242). “As such, closed-ended continuity is primarily a temporal concept, and it requires that the predicate crimes extend over a substantial period of time.” Id. (citations and quotations omitted). ... “On the other hand, criminal activity ‘that by its nature projects into the future with a threat of repetition’ possesses open-ended continuity, and that can be established in several ways.” Id. (quoting H.J., 492 U.S. at 241). “Some crimes may by their very nature include a future threat, such as in a protection racket.” Id. (citing H.J., 492 U.S. at 242). “When the business of an enterprise is primarily unlawful, the continuity of the enterprise itself projects criminal activity into the future.” Id. (citation omitted).

### **Summary**

Requirements for establishing a “pattern” of racketeering activity under RICO, specifically focusing on the concepts of closed-ended and open-ended continuity as defined by the Supreme Court in H.J. Inc. v. Northwestern Bell Telephone Co. The passage explains that closed-ended continuity involves criminal activity over a substantial period, while open-ended continuity involves a threat of future criminal activity. This directly supports the proposition that defendants’ actions can demonstrate both types of continuity, which is essential for a RICO claim.

[In re Juul Labs, Inc., Mktg., Sales Practices, & Prods. Liab. Litig., 497 F.Supp.3d 552 \(N.D. Cal. 2020\)](#)

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

### **Extract**

A ‘pattern of racketeering activity’ requires the commission of at least two predicate acts within a ten-year period. 18 U.S.C. § 1961(5). ‘Evidence of multiple schemes is not required ... and, indeed, proof of a single scheme can be sufficient so long as the predicate acts involved are not isolated or sporadic.’ Turner v. Cook, 362 F.3d 1219, 1229 (9th Cir. 2004) (citing H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989) ). ... A RICO pattern consisting of different acts by the Enterprise is shown where the acts are ‘related’ and extend over a ‘substantial’ period of time. Howard v. Am. Online Inc., 208 F.3d 741, 750 (9th Cir. 2000). ... Plaintiffs contend that: (i) by identifying predicate wire and mail fraud acts

over a course of five years, they have alleged 'closed-ended' continuity; and (ii) by alleging that some of the misrepresentations continue to this day, they have likewise alleged 'open-ended' continuity. See *Allwaste, Inc. v. Hecht*, 65 F.3d 1523, 1526-27 (9th Cir. 1995).

## **Summary**

Multiple schemes are not necessary, and a single scheme can suffice if the acts are not isolated or sporadic. It also explains the concepts of closed-ended and open-ended continuity, which are directly relevant to the proposition. The passage supports the idea that ongoing threats and false statements in legal documents can demonstrate both types of continuity, thus supporting a RICO claim.

[US Airline Pilots Ass'n v. Awappa, LLC, 615 F.3d 312 \(4th Cir. 2010\)](#)

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

#### **Extract**

To state a civil RICO claim, a plaintiff must allege that the defendants engaged in, or conspired to engage in, a 'pattern of racketeering activity.' 18 U.S.C. § 1962 (emphasis added). 'Racketeering activity' includes 'extortion,' defined as 'the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.' Id. §§ 1951(b)(2) (defining extortion), 1961(1) (defining 'racketeering activity' to include the offenses enumerated in § 1951). ... To demonstrate a pattern of such activity, the plaintiff must show 'continuity plus relationship,' i.e., '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 (emphasis and internal quotation marks omitted).

## **Summary**

Requirements for a civil RICO claim, emphasizing the need for a "pattern of racketeering activity," which includes demonstrating "continuity plus relationship." This directly supports the proposition that RICO claims can be based on both closed-ended and open-ended continuity, as it references the need for related predicate acts that pose a threat of continued criminal activity. The passage also references *H.J. Inc. v. Northwestern Bell Telephone Co.*, which is a key case in understanding RICO's continuity requirement.

[Cofacredit v. Windsor Plumbing Supply, 187 F.3d 229 \(2nd Cir. 1997\)](#)

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



## **Extract**

To establish a pattern, a plaintiff must also make a showing that the predicate acts of racketeering activity by a defendant are 'related, and that they amount to or pose a threat of continued criminal activity.' See *H.J., Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 239 (1989). ... To satisfy open-ended continuity, the plaintiff need not show that the predicates extended over a substantial period of time but must show that there was a threat of continuing criminal activity beyond the period during which the predicate acts were performed. *Id.* at 242-43. In assessing whether or not the plaintiff has shown open-ended continuity, the nature of the RICO enterprise and of the predicate acts are relevant.

## **Summary**

The court outlines the requirements for establishing a pattern of racketeering activity under RICO. It emphasizes the need for predicate acts to be related and to pose a threat of continued criminal activity, which aligns with the proposition's assertion of both closed-ended and open-ended continuity. The passage directly references the *H.J. Inc. v. Northwestern Bell Telephone Co.* case, which is central to the proposition.

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

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

## **Extract**

As noted by the majority, to establish 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.' *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 in original). Thus, a plaintiff seeking to bring a RICO claim must allege, among other things, relatedness and continuity.

## **Summary**

The court emphasizes the need for a plaintiff to demonstrate both relatedness and continuity of racketeering activity to establish a RICO claim. The reference to *H.J. Inc. v. Northwestern Bell Tel. Co.* supports the proposition that RICO claims can be based on both closed-ended and open-ended continuity. This aligns with the proposition that defendants' actions can demonstrate both types of continuity, supporting a RICO claim.

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

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

## **Extract**

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. *Colonial Penn. Ins. Co. v. Value Rent-A-Car Inc.*, 814 F.Supp. at 1094, (citing), *H.J. Inc. v. Northwestern Bell Telephone Co.*, 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989).

## **Summary**

Concept of continuity in RICO claims, which is central to the proposition. It explains that continuity can be demonstrated through either closed-ended continuity (a series of related predicate acts over a substantial period) or open-ended continuity (a threat of ongoing criminal activity). This directly supports the proposition that the defendants' actions demonstrate both types of continuity, which is essential for establishing a RICO claim.

[McLaughlin v. Anderson, 962 F.2d 187 \(2nd Cir. 1992\)](#)

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

## **Extract**

To prove a 'pattern of racketeering activity,' a RICO plaintiff must show that the alleged predicate acts are both related in the relevant sense and amount to, or threaten the likelihood of, 'continued criminal activity.' *H.J., Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. at 237, 109 S.Ct. at 2899. The continuity element is satisfied by showing either the commission of related predicate offenses during 'a closed period of repeated conduct' that lasts a 'substantial period of time' or the threat thereof, that is, 'past conduct that by its nature projects into the future with a threat of repetition.' *Id.* at 241-42, 109 S.Ct. at 2901-02.

## **Summary**

The passage from "*McLaughlin v. Anderson*" discusses the requirements for establishing a pattern of racketeering activity under RICO, specifically referencing the continuity element as defined in "*H.J. Inc. v. Northwestern Bell Telephone Co.*" It explains that continuity can be shown through either closed-ended continuity (a series of related acts over a substantial period) or open-ended continuity (a threat of future criminal activity). This directly supports the proposition that defendants' actions can demonstrate both types of continuity, thereby supporting a RICO claim.

[Sunwealth Glob. HK Ltd. v. Pinder Int'l, Inc., 20 Civ. 1436 \(ER\) \(S.D. N.Y. Mar 23, 2021\)](#)

## **U.S. District Court — Southern District of New York**

### **Extract**

To satisfy a pattern of racketeering activity, RICO requires 'at least two acts of racketeering activity committed in a 10 year period.' The continuity needed to prove this pattern can be either 'closed-ended' - which requires the plaintiff to 'prove 'a series of related predicates extending over a substantial period of time'' - or 'open-ended' - which requires the plaintiff to show 'a threat of continuing criminal activity beyond the period during which the predicate acts were performed.'

### **Summary**

Legal basis for understanding how continuity can be established in RICO cases, which is essential for the proposition.

[Allwaste, Inc. v. Hecht, 65 F.3d 1523 \(9th Cir. 1995\)](#)

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

### **Extract**

To prevail under RICO, plaintiffs must establish that the predicate acts were continuous. This can be done either by pleading 'closed-ended continuity' or by pleading 'open-ended continuity.' Closed-ended continuity refers to a closed period of repeated conduct. It is established by showing that the predicate acts occurred over a substantial period of time. If closed-ended continuity cannot be established, plaintiffs may plead open-ended continuity. Open-ended continuity refers to past conduct that by its nature indicates a threat of future criminal conduct. It is established by showing either that the predicate acts specifically threaten repetition or that they were an ongoing entity's regular way of doing business.

### **Summary**

Requirements for establishing continuity under RICO, which is central to the proposition. It explains that continuity can be demonstrated through either closed-ended or open-ended continuity. Closed-ended continuity involves a series of related predicate acts over a substantial period, while open-ended continuity involves a threat of ongoing criminal activity. This directly supports the proposition that the defendants' actions demonstrate both types of continuity, which is crucial for a RICO claim.

[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.'

## **Summary**

The pattern element of a RICO claim requires not just multiple acts of racketeering, but also that these acts are related and pose a threat of continued criminal activity. This aligns with the proposition that RICO claims can be based on both closed-ended and open-ended continuity, as established in *H.J. Inc. v. Northwestern Bell Telephone Co.*

[Schlaifer Nance & Co. v. Estate of Warhol, 119 F.3d 91 \(2nd Cir. 1997\)](#)

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

## **Extract**

To show a RICO violation, the plaintiff must plead at least two predicate acts, show that the predicate acts are related, and that they amount to, or pose a threat of, continuing criminal activity. See *H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 239, 109 S.Ct. 2893, 2900-01, 106 L.Ed.2d 195 (1989). Predicate acts are 'related' for RICO purposes when 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.' *H.J. Inc.*, 492 U.S. at 240, 109 S.Ct. at 2901 (internal quotation marks omitted).

## **Summary**

Requirements for a RICO violation, emphasizing the need for related predicate acts and continuity, either closed-ended or open-ended. This directly supports the proposition by confirming that RICO claims can be based on a series of related acts over time or a threat of ongoing criminal activity. The reference to *H.J. Inc. v. Northwestern Bell Telephone Co.* further solidifies the legal foundation for these requirements.

[Turner v. Cook, 362 F.3d 1219 \(9th Cir. 2004\)](#)

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

## **Extract**

Evidence of multiple schemes is not required to show a threat of continued criminal activity, *id.* at 240, 109 S.Ct. 2893, and, indeed, proof of a single scheme can be sufficient so long as the predicate acts involved are not isolated or sporadic. *Sun Sav.*, 825 F.2d at 193, 194. The Supreme Court, in *H.J. Inc.*, 492 U.S. at 241, 109 S.Ct. 2893, expounded on RICO's continuity requirement, stating: ... Thus, in order to allege open-ended continuity, a RICO plaintiff must charge a form of predicate misconduct that 'by its nature projects into the future with a threat of repetition.'

## **Summary**

A single scheme can suffice for RICO claims if the predicate acts are not isolated or sporadic, and it emphasizes the need for a threat of future criminal activity to establish open-ended continuity. This aligns with the proposition's assertion that ongoing threats and false statements in legal documents demonstrate both closed-ended and open-ended continuity.

[Midwest Grinding Co., Inc. v. Spitz, 976 F.2d 1016 \(7th Cir. 1992\)](#)

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

## **Extract**

To that end, a civil RICO plaintiff may no longer get by merely alleging two predicate acts, but must also satisfy the so-called 'continuity plus relationship' test: the predicate acts must be related to one another (the relationship prong) and pose a threat of continued criminal activity (the continuity prong). *H.J., Inc.*, 492 U.S. at 239, 109 S.Ct. at 2900; *Sedima*, 473 U.S. at 496 n. 14, 105 S.Ct. at 3285 n. 14. ... An open-ended period of racketeering, by contrast, is a course of criminal activity which lacks the duration and repetition to establish continuity. A RICO plaintiff may still satisfy the continuity requirement in that situation, however, by showing past conduct which 'by its nature projects into the future with a threat of repetition.' *Id.* Such a threat of continuity exists when the plaintiff can show (1) a 'specific threat of repetition,' (2) that the 'predicate acts or offenses are part of an ongoing entity's regular way of doing business,' or (3) that the defendant operates a 'long-term association that exists for criminal purposes.'

## **Summary**

The passage from *Midwest Grinding Co., Inc. v. Spitz* discusses the requirements for establishing a pattern of racketeering activity under RICO, specifically the "continuity plus relationship" test. It references the *H.J. Inc.* case, which is directly cited in the proposition, and explains that continuity can be demonstrated through either closed-ended or open-ended continuity. The passage outlines that open-ended continuity can be shown by a threat of

future criminal activity, which aligns with the proposition's claim of ongoing threats and future criminal activity by the defendants.

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

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

### **Extract**

A pattern of racketeering activity consists of at least two predicate acts of racketeering committed within a ten-year period. 18 U.S.C. Sec. 1961(5). Because the RICO statute has nothing more to say about its pattern requirement, the Supreme Court has attempted to sharpen the contours of the pattern requirement in order to effectuate the congressional intent with respect to the statute's use. The Court has stated that, because Congress enacted RICO not out of concern for a sporadic fraudulent act but out of concern for long-term conduct, '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. v. Northwestern Bell Tel. Co., 492 U.S. 229, 239, 109 S.Ct. 2893, 2900, 106 L.Ed.2d 195 (1989)... If no specific threat of continuity exists, however, a RICO plaintiff can also allege open-ended continuity by showing that 'the predicate acts are a regular way of conducting [the] defendant's ongoing legitimate business.' H.J., Inc., 492 U.S. at 243, 109 S.Ct. at 2902.

### **Summary**

Requirements for establishing a pattern of racketeering activity under RICO, referencing the Supreme Court's decision in H.J. Inc. v. Northwestern Bell Telephone Co. It highlights the need for related predicate acts that either amount to or pose a threat of continued criminal activity, which aligns with the proposition's focus on demonstrating both closed-ended and open-ended continuity. The passage also explains that open-ended continuity can be shown if the predicate acts are a regular way of conducting the defendant's business, which supports the idea of ongoing threats and future criminal activity.

[Craig Outdoor Advertising v. Viacom Outdoor, Inc., 528 F.3d 1001 \(8th Cir. 2008\)](#)

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

### **Extract**

In H.J. Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229, 239, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989), the Supreme Court observed that '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.' Continuity in this context 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. 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). Id. at 242, 109 S.Ct. 2893.

## **Summary**

The passage from the case references the Supreme Court's decision in *H.J. Inc. v. Northwestern Bell Telephone Co.*, which is a foundational case for understanding the continuity requirement in RICO claims. It explains that continuity can be established through either closed-ended continuity (a series of related acts over time) or open-ended continuity (a threat of ongoing criminal activity). This directly supports the proposition that the defendants' actions demonstrate both types of continuity, which is essential for a RICO claim.

### [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 from 18 U.S.C. § 1962 outlines the unlawful nature of conducting or participating in an enterprise's affairs through a pattern of racketeering activity. This directly supports the proposition that defendants' actions, which include ongoing threats and false statements, could be considered part of a pattern of racketeering activity. The statute's focus on patterns of activity aligns with the concept of both closed-ended and open-ended continuity, as it addresses ongoing criminal conduct and the maintenance of control over an enterprise through unlawful means.

### [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.

## **Summary**

The concept of continuity in RICO claims can be satisfied by either closed-ended or open-ended continuity. Closed-ended continuity involves a series of related predicate acts over a substantial period, while open-ended continuity involves conduct that poses a threat of future criminal activity. The passage supports the proposition by explaining how both types of continuity can be demonstrated, which aligns with the claim that the defendants' actions show both closed-ended and open-ended continuity.

[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 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. ... Either closed-ended or open-ended continuity satisfies the continuity test.

## **Summary**

The continuity requirement for RICO claims can be satisfied by demonstrating either closed-ended continuity (a series of related acts over a substantial period) or open-ended continuity (a threat of ongoing criminal activity). The passage directly references the H.J. Inc. case, which is a key authority in defining these concepts. The passage supports the proposition by explaining how both types of continuity can be established, which aligns with the claim that the defendants' actions demonstrate both closed-ended and open-ended continuity.

[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) 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.' (59) 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)

**Summary**

The RICO pattern requirement involves demonstrating either closed-ended or open-ended continuity. Closed-ended continuity involves a series of related predicate acts over a substantial period, while open-ended continuity involves conduct that poses a threat of future criminal activity. The passage supports the proposition by explaining how both types of continuity can be established, which aligns with the claim that the defendants' actions demonstrate both closed-ended and open-ended continuity.

[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 satisfied by either closed-ended or open-ended continuity. Closed-ended continuity involves a series of

related predicate acts over a substantial period, while open-ended continuity involves conduct that poses a threat of future criminal activity. This aligns with the proposition that the defendants' actions demonstrate both types of continuity, supporting a RICO claim.

[Racketeer influenced and corrupt organizations.](#)

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

## **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.

## **Summary**

The Supreme Court in *H.J. Inc. v. Northwestern Bell Telephone Co.* provided guidance on the continuity requirement for RICO claims. The Court recognized two types of continuity: closed-ended, which involves a series of related predicate acts over a substantial period, and open-ended, which involves a threat of ongoing criminal activity. This aligns with the proposition that defendants' actions can demonstrate both types of continuity, supporting a RICO claim.

[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.

## **Summary**

The concept of continuity under RICO can be satisfied by either closed-ended or open-ended continuity. Closed-ended continuity involves a series of related predicate acts over a substantial period, while open-ended continuity

involves conduct that poses a threat of future criminal activity. The passage supports the proposition by explaining how both types of continuity can be established, which aligns with the claim that the defendants' actions demonstrate both closed-ended and open-ended continuity.

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

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

### **Extract**

pattern of criminal conduct or in furtherance of a conspiracy to engage in a pattern of criminal conduct). (62.) Id. at 241<sup>12</sup> (defining close-ended continuity); see also *Heinrich v. Waiting Angels Adoption Servs., Inc.*, 668 F.3d 393, 410 (6th Cir. 2012) ('Predicate acts extending over a few weeks or months ... do not satisfy this [close-ended continuity] requirement' (quoting *H.J. Inc.*, 492 U.S. at 242)). (63.) *Spool v. World Child Int'l Adoption Agency*, 520 F.3d 178, 184 (2d Cir. 2008) ('Although we have not viewed two years as a bright-line requirement, it will be rare that conduct persisting for a shorter period of time establishes closed-ended continuity...'); *Giuliano v. Fulton*, 399 F.3d 381,390 (1st Cir. 2005) (holding that the commission of sixteen predicate acts over a six-month period is inadequate to establish a close-ended pattern of racketeering); *Cofacredit, S.A. v. Windsor Plumbing Supply Co.*, 187 F.3d 229, 243-44 (2d Cir. 1999) (holding supply company acts spanning less than one year are not sufficiently continuous to establish closed-ended continuity); *Tabas v. Tabas*, 47 F.3d 1280, 1294 (3d Cir. 1995) (holding defendant's allegedly fraudulent distribution of estate over three and one half years was 'substantial' and satisfied closed-ended continuity requirement of RICO). (64.) See *H.J. Inc.*, 492 U.S. at 242 (suggesting 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); see also *U.S. Airline Pilots Ass'n v. Awappa, LLC*, 615 F.3d 312, 318-20 (4th Cir. 2010) (finding that plaintiff cannot demonstrate open-ended continuity if racketeering activity has a 'built-in ending point,' such as implementation of a particular union contract, and does not threaten indefinite extortion); *Spool*, 520 F.3d at 185-86 (finding that plaintiff did not prove an open-ended or closed-ended pattern of racketeering activity because fraudulent processing was contained within a period of a few months); *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 where defendant was still in office and still receiving grant money); *First Capital Asset Mgmt., Inc.*...

### **Summary**

The passage provides legal precedents and interpretations of the requirements for establishing closed-ended and open-ended continuity

under RICO. It references *H.J. Inc. v. Northwestern Bell Telephone Co.*, which is a key case in defining these concepts. The passage explains that closed-ended continuity requires a series of related predicate acts over a substantial period, while open-ended continuity involves a threat of ongoing criminal activity. The examples and case law cited in the passage support the proposition that the defendants' actions could demonstrate both types of continuity, thus supporting a RICO claim.

[Racketeer influenced and corrupt organizations.](#)

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

### **Extract**

The 'continuity' prong is satisfied by proof of either closed-ended continuity or open-ended continuity. Closed-ended continuity is defined as 'a series of related predicates extending over a substantial period of time.' Open-ended continuity is defined as 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 satisfied by either closed-ended or open-ended continuity. Closed-ended continuity involves a series of related acts over a substantial period, while open-ended continuity involves conduct that poses a threat of future criminal activity. This aligns with the proposition that the defendants' actions demonstrate both types of continuity, supporting a RICO claim.

[Racketeer influenced and corrupt organizations.](#)

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

### **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 in order to prove a 'pattern of racketeering activity' for RICO purposes, the government must establish both (a) relationship and (b) continuity of predicate acts. This test is referred to as the 'continuity plus relationship' test. The 'continuity' prong is successfully proven if a prosecutor can prove 'a series of related predicates extending over a substantial period of time' or an open-ended threat of continued racketeering activity in the future.



## Summary

The Supreme Court's decision in *H.J., Inc. v. Northwestern Bell Telephone Co.* provides a framework for establishing a "pattern of racketeering activity" under RICO. This framework requires demonstrating both a relationship and continuity of predicate acts. The continuity can be shown through either a series of related acts over a substantial period (closed-ended continuity) or a threat of ongoing criminal activity (open-ended continuity). This directly supports the proposition that the defendants' actions can be evaluated under both closed-ended and open-ended continuity for a RICO claim.

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

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

### Extract

Under the 'less inflexible approach' adopted in *H.J. Inc.*, continuity is 'both a closed- and open-ended concept.' *Id.* at 241. Closed-ended continuity refers 'to a closed period of repeated conduct,' while open-ended continuity denotes 'past conduct that by its nature projects into the future with a threat of repetition.' ... Closed-ended continuity may be demonstrated with proof of 'a series of related predicates extending over a substantial period of time.' *Id.* at 242 ... Open-ended continuity, in contrast, requires proof of 'a threat of continued racketeering activity.' *Id.* at 242.

## Summary

The passage from the guide explains the concepts of closed-ended and open-ended continuity as they relate to RICO claims, referencing the Supreme Court's decision in *H.J. Inc.* This decision is a key authority on the continuity requirement for RICO claims, establishing that continuity can be shown through either a series of related predicate acts over a substantial period (closed-ended) or a threat of ongoing criminal activity (open-ended). The passage supports the proposition by explaining these concepts and how they apply to demonstrating continuity in RICO claims.

### [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**

Elements required to establish a pattern of racketeering activity under RICO, specifically the relationship and continuity elements. It explains that continuity can be demonstrated through either a closed period of repeated conduct or past conduct that suggests a threat of future repetition. This directly supports the proposition that the defendants' actions demonstrate both closed-ended and open-ended continuity, which are necessary for a RICO claim.

### [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**

RICO claims require demonstrating a pattern of racketeering activity, which can be shown through either closed-ended or open-ended continuity. The passage explains that closed-ended continuity involves a series of related predicate acts over a substantial period, while open-ended continuity involves a threat of ongoing criminal activity. This directly supports the proposition that the defendants' actions demonstrate both types of continuity, which is essential for establishing a RICO claim.

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

## **Extract**

A plaintiff may demonstrate a pattern by establishment that the predicate acts pose a threat of continued criminal activity, which is generally

demonstrated by showing either: \* Closed-ended continuity. Proving 'a series of related predicate acts extending over a substantial period of time.' \* Open-ended continuity. A threat of 'continuing criminal activity extending indefinitely into the future,' in light of the nature of the enterprise and predicate acts alleged.

## **Summary**

The passage provides a clear explanation of how a pattern of racketeering activity can be established under RICO. It specifically mentions the concepts of closed-ended continuity (a series of related predicate acts over a substantial period) and open-ended continuity (a threat of ongoing criminal activity), which are directly relevant to the proposition. The passage supports the idea that the defendants' actions, as described in the proposition, could demonstrate both types of continuity, thereby supporting a RICO claim.

This memo was compiled by Vincent AI based on vLex materials available as of June 16, 2025. [View full answer on vLex](#)