

Question

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

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

II. TIMELINE OF EVENTS

BACKGROUND

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

A. The Myers-Branthroover Enterprise 1. On December 14, 2023, Defendants Morgan Michelle Myers ("Myers") and Daniel Kenneth Branthoover ("Branthroover"), acting in concert and under deceptive pretenses, (REC. 1704), initiated text-message communications through which they formed and advanced a common plan and agreement. Over the weekend of December 15, 2023, they met in Yukon, Oklahoma, to further that plan (REC. 274-278). The deceptive text message from Defendant Branthoover claiming that he wanted to assist Plaintiff was following an attempt by Myers to receive an ex-parte order of protection from the 322nd District Court of Tarrant county, attempted on December 14, 2023 (REC. 78).

B. Interstate Travel and Transfer 2. As part of their agreement, both Defendants planned to draft and submit an original petition for divorce and an affidavit of indigency to the 322nd District Court of Tarrant County, with the intended and foreseeable result of removing Plaintiff from his matrimonial residence at 6641 Anne Court, Watauga, Texas 76148—which also serves as his place of business for clients in the United States, Canada, and the United Kingdom that rely on his market data services (REC. 812 ¶ 16).

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

Myers and Branthoover jointly prepared in Oklahoma, which Myers then carried from Yukon to Texas on December 17, 2023 (REC. 86; 99; 102; 107). C. Admissions 4. On December 16, 2023, Plaintiff reached out to Branthoover and requested that the \$1,576 be returned as they were needed for Christmas gifts for the children, and for business advertising expenses for his business. REC. 728-729. In response, defendant Branthoover admitted that the purpose of defendant Myers' visit was to help her prepare paperwork for divorce litigation and confirmed that the transfer of \$1,576 did in fact occur. REC. 730. Plaintiff's bank statement from December 2023 further confirms this transaction. REC. 723. D. Post-submission Collaboration 5. On December 18, 2023, defendant Myers submitted the fraudulently prepared original petition for divorce, and an affidavit of indigency to the 322nd District Court of Tarrant County. After these documents were submitted, defendant Branthoover sent a text message to Plaintiff on December 19, 2023, at 5:50 P.M. CST, holding himself out to be defendant Myers' attorney, showing his involvement extends past the initial help in preparing the fraudulent documents. REC. 1712-1713 6. Four days later, on December 22, 2023, defendant Myers submitted another knowingly fraudulent application for protective to the 322nd District Court of Tarrant County claiming that family violence had occurred on December 18, 2023, supported by both an affidavit and unsworn declaration. REC. 108-109. E. Significant and Intentional Misrepresentations 7. On December 27 and December 28, 2023, respectively, the documents prepared by Myers with the assistance of Branthoover were served on Plaintiff via the U.S. Constable, and contained the following misrepresentations: i. That defendant Myers could not afford court costs; REC. 72, REC. 85-96 ii. That defendant Myers had an active order of protection against the Plaintiff with a finding of family violence that had occurred during the marriage; REC. 78 at 10 iii. That defendant Myers was financially responsible for the family vehicles, rent payments, utilities, and other household expenses, making herself appear as the primary breadwinner; REC. 92 iv. That defendant Myers would be harassed or abused if Plaintiff were given her newly acquired phone number that was obtained while in Oklahoma; REC. 81 at 15. v. That defendant Myers and Plaintiff ceased living together on December 1, 2023; REC. 74 at 4 vi. That family violence occurred on December 18, 2023, in the presence of the two Children. REC. 108-109. vii. That both family vehicles were defendant Myers' separate property acquired before marriage. REC. 79 at 11B F. Evidence to the Contrary 8. On the same day Defendant Myers claimed to be in an emergency requiring the Plaintiff's prompt removal from the home, she can be seen at the home with Plaintiff and the children in no state of emergency and also still cohabitating in the marital home. REC 1715. 9. Again, on December 29, 2023, Defendant Myers can be seen with Plaintiff at the family home, smiling and laughing with the children in no state of emergency and still collaborating with Plaintiff in the marital home. REC. 1735. 10. The citation for the application for protective order ordered Respondent to show cause as to why it should not issue with a hearing scheduled for January 16, 2024. REC. 118. 11. In response to extensive misrepresentation above, Plaintiff prepared an original answer, filed a motion to consolidate, and provided background information which alleged that defendant Myers was intentionally abusing the legal process. REC. 130-132. Plaintiff was ordered to show cause on January 16, 2024, regarding the protective order application. REC. 118 G. Inclement Weather

and First Appearance 12. On January 15, 2024, the Tarrant County District Courts Facebook page sent out a notice informing the members of the public that the court would be closed on January 16, 2024, due to inclement weather. REC. 1202. 13. Unaware of the closure at the time, the parties appeared at the 322nd District Court of Tarrant County on January 16, 2024, and were met with a dark courtroom, with only one judge in the building at the time of their arrival – Defendant James Munford (“Munford”). 14. Defendant Munford summarily ordered the Plaintiff out of his home, inadvertently assisting the Myers-Branthrover associate-in-fact enterprise of achieving their primary goal in having the Plaintiff removed from his residence, despite the broader goal being to obtain a decree of divorce to permanently divest Plaintiff of his interests. REC. 183. 15. Defendant Munford’s initial order was baseless, made in the absence of any emergency, without a hearing, and disregarded the Plaintiff’s pleadings, telling Myers “you’re going to have to find evidence of family violence!” clearly aware that this order was made without any regard to the Plaintiff’s constitutional rights. 16. Defendant Jeffrey Kaitcer, (“Kaitcer”) walked into the courtroom late due to the inclement weather and turned the courtroom into a laughing matter as he began to joke with Defendant Munford, and instructed the parties to download the AppClose app for communication, and the matter was reset for January 22, 2024. There exists no record of this proceeding, only marked appearances on the docket. H. Reset #1 – January 22, 2024, Setting 17. At the January 22 reset hearing, the parties appeared only to have the case reset once more because defendant Myers allegedly retained the services of Defendant Cooper Carter, (“Carter”) in the lobby of the courthouse just moments before the hearing was scheduled to begin. No appearance can be traced to this setting by either party on the docket (REC. 1551), and once again, no hearing was held, and the case reset for a second time to February 1, 2024. REC. 186. 18. Kaitcer permitted attorney Dan Bacalis, Plaintiff’s prior attorney, to fill out the Associate Judge’s Report, and the parties never went before him as indicated by the case docket’s lack of appearance on this date by either party. I. Reset #2 – February 1, 2024, Setting 19. One day prior to the February 1 setting, both attorneys, Defendant Carter and Dan Bacalis, both amended the petition for divorce and counterpetition for divorce without the parties’ knowledge. (REC. 189, REC. 209) These amended documents were similar, submitted on the same day, and raised concerns for Plaintiff regarding his quality of representation. 20. At the February 1 setting, both parties were in the conference rooms outside of Defendant Kaitcer’s courtroom, when attorney Bacalis walks in holding a settlement agreement. When Plaintiff refused this option and requested that they go have a hearing before the judge. 21. This is when Bacalis stated, as witness affidavits corroborate, that he “knows this Judge and this is the best we can get.” and further stated “[w]e’ll be here all day. We can come back and change it later.” 22. Outraged by this response, Plaintiff paid very close attention to the settlement offer Bacalis was pressuring him to sign, and noticed the following provisions: A typed written Order conforming to this Report will follow within 20 days from the date this Report is signed. The Temporary Order shall be prepared by DAN BACALIS. Each attorney should approve the Order. The parties do not need to approve the Order. The attorney reviewing the proposed Order shall have five (5) days to do so. There are no ten (10) day letters. If an agreement is not reached, a Motion to Sign shall be filed and set within thirty (30) days from

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

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

effect without Plaintiff's signature (REC. 925), and Plaintiff filed a request for findings of fact and conclusions of law (REC. 883), and filed and amended a "Preparatory Notice for Judicial Review" which recounted the factual timeline up to that point, and included the affidavits that Kaitcer refused to accept on March 14, 2024. REC. 798, REC. 851, REC. 854, REC. 857, REC. 860, REC. 863, REC. 867, REC. 870. 39. The orders stated they were to remain in effect until the final decree of divorce, and Plaintiff's journey of one-sided appeals began. N. One Sided Appellate Efforts, and Defective IWO 40. Following the rendition of the temporary orders on March 26, 2024, Plaintiff spent between April 8, 2024 and September 15, 2024, appealing via mandamus to the Second Court of Appeals and the Texas Supreme Court. REC. 1010. 41. During the appellate efforts, Carter filed one of two motions in the case, which was a motion for pre-trial conference filed on April 24, 2024, on her behalf by Roderick D. Marx, a party not named in the suit. REC. 1014, REC. 1016. 42. Plaintiff immediately objected to the pre-trial conference, and no response was ever issued by Carter or the court. REC. 1018. 43. On April 30th, Plaintiff filed his notice of completion regarding the parenting course as ordered, despite actively trying to vacate them. REC. 1047. No parenting course was ever completed by Myers. 44. On May 2, 2024, Plaintiff's en banc reconsideration was denied in the Second Court of Appeals, and he began preparing an appeal to the Supreme Court of Texas. REC. 1067. 45. On May 19, 2024, Carter sent the second and last email correspondence that would be received in the case, which falsely claimed he agreed to the orders signed on March 14, 2024, and requested that he fill out an IWO, which Plaintiff found to be defective. REC. 1722, REC. 1728. No further correspondence was received by Carter. O.

Fraudulent Intervention and Branthoover's Continued Involvement 46. On June 23rd Plaintiff filed a motion in state court entitled MOTION FOR JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION at 12:14 P.M. REC. 1075. This motion received no response from Carter. 47. On June 23rd at 1:54 P.M., directly following the submission of the motion, Branthoover texted Plaintiff stating "Lol. And here comes another denial. Please sue me individually. Please.", referring to the earlier filed motion and showing his continued oversight of the case's progression since his initial predicate acts. 48. Four days later, on June 28, 2024, the Texas Office of the Attorney General allegedly filed an intervention pleading, claiming that Plaintiff was past due on child support, and requested information from Plaintiff. REC. 1099. 49. Most notably, the certificate of service to this intervention pleading was allegedly signed by Holly Hayes, the designated attorney for the OAG, yet the name underneath the signature line reads CHOYA BURKLEY. REC. 1102. 50. Plaintiff promptly objected to the intervention, and never received any response from the OAG, Carter, or the court. REC. 1106. P. Supreme Court, Rule 12, and Emergency Temporary Orders 51. As Plaintiff continued to appeal to the Supreme Court of Texas, all prosecution came to an end in the trial court. It wasn't until September 15, 2024, that Plaintiff filed a first amended rehearing motion in the Texas Supreme Court, (REC. 1136) and after noticing Carter's lack of participation, he began to question her authority given several ambiguities surrounding her representation, and filed a rule 12 motion to show authority. REC. 1170. No response was ever received to this motion from Carter. 52. At this point, Plaintiff had been staying in Airbnb homes while he sought relief to ensure he could remain close to his daughters during this time. On September 26,

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

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

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

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

RICO Statutory Framework

The Racketeer Influenced and Corrupt Organizations Act (RICO), codified at 18 U.S.C. §§ 1961–1968, provides a civil cause of action for individuals injured in their business or property by reason of a pattern of racketeering activity conducted through an enterprise affecting interstate or foreign commerce. The most commonly invoked provision, § 1962(c), prohibits any person employed by or associated with an enterprise from conducting or participating in the conduct of such enterprise's affairs through a pattern of racketeering activity. Section 1962(d) further prohibits conspiracies to violate any of the substantive RICO provisions. To establish a civil RICO claim under § 1962(c), a plaintiff must prove:

- i. The existence of an enterprise;
- ii. The enterprise's engagement in, or effect on, interstate or foreign commerce;
- iii. The defendant's employment by or association with the enterprise;
- iv. The defendant's participation, directly or indirectly, in the conduct of the enterprise's affairs;
- v. The defendant's participation through a pattern of racketeering activity or collection of unlawful debt.

See *100 Mount Holly Bypass v. Axos Bank*, Case No. 2:20-CV-856-TS-CMR (D. Utah Jul 27, 2021).

B. Predicate Acts and Pattern Requirement

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

C. Enterprise and Association-in-Fact

An "enterprise" under RICO includes any individual, partnership, corporation, association, or group of individuals associated in fact, even if not a legal entity. For an association-in-fact enterprise, the Tenth Circuit requires:

- i. A purpose;
- ii. Relationships among those associated with the enterprise;
- iii. Longevity sufficient to permit the associates to pursue the enterprise's purpose;
- iv. A decision-making framework or mechanism for controlling the group;
- v. Functioning as a continuing unit;
- vi. Existence separate and apart from the pattern of racketeering activity.

See *100 Mount Holly Bypass*.

D. Conspiracy

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

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

within ten years are required (U.S. v. Smith, 413 F.3d 1253 (10th Cir. 2005)), and the timeline shows multiple, related predicate acts over a substantial period (¶¶ 1-93). I. Pattern of Racketeering Activity: Relatedness and Continuity The predicate acts were not isolated incidents but part of an ongoing scheme. The acts were related in that they all aimed to deprive the Plaintiff of his property and business, and they posed a threat of continued criminal activity, as the enterprise continued to operate and adapt its tactics over time (¶¶ 1-93). The timeline shows that the enterprise's activities extended over a substantial period, with multiple acts occurring over months and involving ongoing coordination and adaptation to changing circumstances. J. Injury to Business or Property Plaintiff suffered direct and ongoing injury to his business and property as a result of the enterprise's actions. He was deprived of his home and business operations, lost access to marital funds, and was unable to provide services to clients, resulting in financial harm (¶¶ 2, 3, 4, 5, 6, 7, 37). These injuries are precisely the type of harm RICO is designed to redress. Plains Resources, Inc. v. Gable, 782 F. 2d 883 (10th Cir. 1986)). K. Participation of Other Defendants: Inadvertent or Willing The timeline raises the question of whether Munford, Kaitcer, Carter, and Baker were victims of the initial scheme or willing participants in the expanded enterprise. The evidence suggests that, at a minimum, Myers and Branthoover were the core members of the enterprise, with others potentially becoming involved through their actions in the legal proceedings (¶¶ 14-93). i. Inadvertent Participation: Some defendants may have participated inadvertently, such as by issuing orders or facilitating court processes without knowledge of the underlying scheme (¶¶ 14-93). ii. Willing Participation: Others may have become willing participants if they knowingly furthered the enterprise's objectives or ignored clear evidence of fraud and misrepresentation (¶¶ 14-93). RICO does not impose liability for inadvertent or unwitting participation; there must be knowing and willful involvement in the conduct of the enterprise's affairs. For the forthcoming reasons, Plaintiff alleges that the Defendants are willing participants in the scheme. VICTIM OR PARTICIPANT RICO liability extends to those who knowingly participate in the conduct of the enterprise's affairs, even if they were not original members (RICO: A Primer (2022-01-31)). The timeline raises the question of whether Munford, Kaitcer, Carter, and Baker were victims of the initial scheme or willing participants in the expanded enterprise. The evidence suggests that, at a minimum, Myers and Branthoover were the core members of the enterprise, with others becoming involved through their actions in the legal proceedings (¶¶ 14-93). The timeline demonstrates that Carter, Kaitcer, and Myers engaged in extortion by leveraging the threat of adverse legal action, fraudulent court orders, and the manipulation of judicial process to coerce Plaintiff into relinquishing property and business interests, satisfying the elements of extortion as a predicate act under RICO and the Travel Act. Munford and Baker, for their part, committed wire fraud by intentionally sending altered or incomplete court documents via interstate email, with the intent to mislead, obstruct relief, and further the enterprise's objective of finalizing the divorce and depriving Plaintiff of his property, thus meeting the requirements for wire fraud as a RICO predicate act. These acts, as detailed in the timeline, are not isolated but part of a coordinated pattern of racketeering activity within an association-in-fact enterprise, as required by RICO in the Tenth Circuit. The conduct of each defendant is tied to specific predicate acts—extortion

for Carter, Kaitcer, and Myers (notably at timeline events 33-37), and wire fraud for Munford and Baker (notably at events 54-59, 83)—demonstrating knowing and willful participation in the enterprise’s broader scheme to deprive Plaintiff of his home and business through fraudulent and coercive means.

A. Extortion and Wire Fraud The Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-1968, provides a civil cause of action for injury to business or property caused by a pattern of racketeering activity conducted through an enterprise affecting interstate commerce. Predicate acts under RICO include extortion (as defined by the Hobbs Act and the Travel Act) and wire fraud (18 U.S.C. § 1343), among others.

Extortion is defined as obtaining property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right. The Travel Act, 18 U.S.C. § 1952, includes extortion as an “unlawful activity” and does not require it to be part of a business enterprise (U.S. v. Welch, 327 F.3d 1081 (10th Cir. 2003)). The Tenth Circuit recognizes that extortion under the Travel Act can be established by showing threats or coercion to obtain something of value, including property or legal rights, in violation of state or federal law. Wire fraud under 18 U.S.C. § 1343 requires (1) a scheme to defraud or obtain property by false or fraudulent pretenses, (2) intent to defraud, and (3) use of interstate wire communications to execute the scheme (Clinton v. Sec. Benefit Life Ins. Co., 63 F.4th 1264 (10th Cir. 2023); United States v. Holloway, 826 F.3d 1237 (10th Cir. 2016)). The Tenth Circuit requires that the deprivation of property be a central object of the scheme, and that the use of wires (including email) be knowing and in furtherance of the fraudulent scheme (United States v. Tao, 629 F.Supp.3d 1083).

B. Extortion by Carter, Kaitcer, and Myers Extortion, as a RICO predicate act, is defined broadly under federal law and the Travel Act. It includes obtaining property or rights through threats, coercion, or misuse of official process (U.S. v. Welch, 327 F.3d 1081 (10th Cir. 2003)). The Tenth Circuit does not require extortion to be part of a business enterprise for Travel Act purposes; a single act suffices if it has the requisite interstate nexus. The timeline shows the following:

- i. Event 33-34: Carter, with Myers, prepared and presented “Temporary Orders” that misrepresented facts (e.g., that Plaintiff agreed to terms he did not, that a hearing occurred when it did not, and that the orders were in the best interests of the children). These orders altered the dates of access to the home to shield Myers from liability for locking Plaintiff out, and were presented to Plaintiff in a context where he was under threat of losing his home and business.
- iii. Event 36: Kaitcer, knowing the orders were disputed and that no response had been filed, signed an associate judge’s report pre-drafted by Carter, summarily denying Plaintiff’s emergency motion and ordering Plaintiff to sign the disputed document, despite his objections and lack of consent.
- iv. Event 35: Plaintiff refused to sign the orders for multiple reasons, including their fraudulent content and the lack of due process, but the orders were rendered into effect without his signature. These acts collectively demonstrate the use of legal process and the threat of adverse judicial action to coerce Plaintiff into surrendering his property and business interests. The manipulation of court orders, the misrepresentation of facts, and the pressure to sign under threat of losing his home constitute extortion under the Travel Act and RICO (U.S. v. Welch, 327 F.3d 1081 (10th Cir. 2003)). Myers’s role is clear: she was the beneficiary and instigator of the fraudulent filings and the manipulation of court

process, using the threat of legal action and the actual deprivation of Plaintiff's property to achieve her goal. Carter and Kaitcer acted in concert with Myers, knowingly facilitating the extortion by preparing, presenting, and enforcing fraudulent orders, and by using the authority of the court to coerce Plaintiff. The fact that Plaintiff was ordered to sign a document he objected to, under threat of continued deprivation of his home and business, is classic extortion by color of official right. All three defendants knew that Plaintiff did not agree to the order, as he had just fired his attorney to challenge any basis for an agreement. This implies that despite the motion being served on all defendants, they chose to ignore the allegations of a fraudulent scheme and further the affairs of the enterprise. These actions meet the requirements for extortion as a RICO predicate act: they involved the wrongful use of threats and official process to obtain property (the home and business) from Plaintiff, with his consent induced by fear of further loss or legal harm. The acts were not isolated but part of a coordinated scheme to achieve the enterprise's goal of finalizing the divorce and divesting Plaintiff of his property B. Wire Fraud by Munford and Baker Wire fraud under 18 U.S.C. § 1343 requires a scheme to defraud, intent to defraud, and use of interstate wire communications to execute the scheme (Clinton v. Sec. Benefit Life Ins. Co., 63 F.4th 1264 (10th Cir. 2023); United States v. Holloway, 826 F.3d 1237 (10th Cir. 2016)). The Tenth Circuit recognizes that sending altered or incomplete court documents via email, with the intent to mislead or deprive someone of property or rights, can constitute wire fraud if the deprivation of property is a central object of the scheme (United States v. Tao, 629 F.Supp.3d 1083). The timeline shows the following: i. Event 54: Munford signed and forwarded a "Joint Motion to Recuse" attached to his order of referral, but the document was missing critical exhibits and affidavits necessary for Plaintiff's relief. ii. Event 55: Baker sent a copy of this incomplete filing via email, representing it as the full document. iii. Event 56-57: When Plaintiff pointed out the discrepancies, Baker provided inconsistent explanations, first claiming the full document was e-filed, then later stating it was split into three parts due to size. iv. Event 58: Munford signed and filed an "Amended Order of Referral" with the full motion attached, but with hyperlinks and bookmarks removed, further impairing the document's integrity. v. Event 59, 83: Baker continued to forward altered or incomplete orders and referrals, even when procedural irregularities were raised. These acts involved the knowing use of interstate email to transmit altered or incomplete court documents, with the intent to prevent Plaintiff from obtaining relief and to further the enterprise's goal of finalizing the divorce and depriving Plaintiff of his property. The use of email to transmit these documents satisfies the interstate wire requirement, and the intent to defraud is evidenced by the deliberate alteration and misrepresentation of the filings. The conduct of Munford and Baker meets the elements of wire fraud: (1) a scheme to defraud Plaintiff of property and rights, (2) intent to defraud by preventing relief and misleading the court and Plaintiff, and (3) use of interstate wire communications (email) to execute the scheme (Clinton v. Sec. Benefit Life Ins. Co., 63 F.4th 1264 (10th Cir. 2023)). The deprivation of property (Plaintiff's home and business) was a central object of the scheme, not a minor part.

RELATIONSHIP AND CONTINUITY

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

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

Answer (Fifth Circuit)

Short response

To plead the existence, structure, and membership of a RICO enterprise in the Fifth Circuit, a plaintiff must allege specific facts showing an ongoing organization—formal or informal—with a common purpose, relationships among members, and continuity, all of which must be distinct from the pattern of racketeering activity itself. These elements must be supported by detailed factual allegations as to each defendant's role, the enterprise's structure and function, and how the enterprise operated as a continuing unit.

Summary

The Fifth Circuit requires that a RICO complaint set out, with particularity, the existence of an enterprise that is separate from the racketeering acts, has an ongoing organization, and whose members function as a continuing unit. The complaint must provide specific facts—not mere conclusory statements—detailing the enterprise's structure, purpose, relationships, and

the roles of each defendant, as well as how the enterprise's affairs were conducted through a pattern of racketeering activity.

To satisfy these standards, a plaintiff must name the individuals or entities constituting the enterprise, describe the structure and purpose of the group, explain the relationships and decision-making processes among members, and show that the enterprise existed independently of the predicate acts. Each defendant's participation must be individually described, and the complaint must plausibly allege that the group functioned as a continuing unit over time, with sufficient longevity to pursue its purpose, as supported by the factual timeline and record references.

Background and Relevant Law

Legislative and Regulatory Framework

The [Racketeer Influenced and Corrupt Organizations](#) Act (RICO), codified at 18 U.S.C. §§ 1961–1968, provides a civil cause of action for injury to business or property by reason of a pattern of racketeering activity conducted through an enterprise affecting interstate or foreign commerce. The statute defines a RICO “enterprise” as any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity (18 U.S.C. § 1961(4)). The “person” alleged to have engaged in racketeering must be distinct from the enterprise (18 U.S.C. § 1961(3); see also [Provost v. First Guar. Bank](#) (W.D. La. 2019)).

A civil RICO claim under § 1962(c) requires the plaintiff to allege: (1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise ([Bustos v. Invierte En Tex.](#) (W.D. Tex. 2024); [D&T Partners L.L.C. v. Baymark Partners Mgmt., L.L.C.](#) (5th Cir. 2024); [Maiden Biosciences, Inc. v. Document Sec. Sys.](#) (N.D. Tex. 2021)). A “pattern of racketeering activity” requires at least two predicate acts that are related and amount to or pose a threat of continued criminal activity ([Austin v. Baker & Hostetler, LLP \(In re Uplift RX, LLC\)](#) (Bankr. N.D. Tex. 2024); [St. Germain v. Howard](#) (5th Cir. 2009)).

Case Law

The Fifth Circuit has developed a clear framework for pleading a RICO enterprise, especially when the alleged enterprise is an “association-in-fact” rather than a formal legal entity. The key requirements are:

- 1. Existence Separate from Racketeering:** The enterprise must exist independently of the pattern of racketeering activity; it cannot be defined solely by the predicate acts ([Guardino v. Hart](#) (5th Cir. 2023); [Oblio Telecom, Inc. v. Patel](#) (N.D. Tex. 2008); [United Healthcare Services, Inc. v. Next Health, LLC](#) (N.D. Tex. 2021); [Whelan v. Winchester Production Co.](#) (5th Cir. 2003); [Montesano v. Seafirst Commercial Corp.](#) (5th Cir. 1987); [U.S. v. Cauble](#) (5th Cir. 1983)).

2. **Ongoing Organization:** The enterprise must be an ongoing organization, formal or informal, with associates functioning as a continuing unit (Boyle v. United States, 556 U.S. 938 (2009), as adopted in [United Healthcare Services, Inc. v. Next Health, LLC](#) (N.D. Tex. 2021); [Fulkerson v. Wehner Multifamily, LLC](#) (N.D. Tex. 2019); [Delta Truck & Tractor, Inc. v. J.I. Case Co.](#) (5th Cir. 1988)).
3. **Common Purpose and Structure:** The enterprise must have a common purpose, relationships among those associated, and sufficient longevity to pursue the enterprise's purpose ([X. Wen v. SanQuest, Inc.](#) (N.D. Tex. 2025); [Masel v. Villarreal](#) (E.D. Tex. 2018); [Megatel Homes, LLC v. Moayedi](#) (N.D. Tex. 2021)).
4. **Decision-Making Structure:** The enterprise must function as a continuing unit, which can be shown by a hierarchical or consensual decision-making structure ([Gordon v. Neugebauer](#) (S.D. Tex. 2014); [Douglass v. Beakley](#) (N.D. Tex. 2012)).
5. **Specificity in Pleading:** The complaint must plead specific facts, not mere conclusory allegations, establishing the enterprise and the roles of each defendant ([Rodriguez v. Meta Platforms, Inc.](#) (N.D. Tex. 2025); [Masel v. Villarreal](#) (E.D. Tex. 2018)).
6. **Distinctness:** The RICO "person" must be distinct from the "enterprise" ([Whelan v. Winchester Prod. Co.](#) (5th Cir. 2003); [Provost v. First Guar. Bank](#) (W.D. La. 2019)).
7. **Association-in-Fact Enterprises:** For an association-in-fact, the plaintiff must show (1) existence separate from the racketeering pattern, (2) ongoing organization, and (3) members functioning as a continuing unit ([Oblio Telecom, Inc. v. Patel](#) (N.D. Tex. 2008); [Gordon v. Neugebauer](#) (S.D. Tex. 2014); [Delta Truck & Tractor, Inc. v. J.I. Case Co.](#) (5th Cir. 1988)).
8. **Conspiracy:** For a RICO conspiracy claim under § 1962(d), the plaintiff must allege an agreement to commit predicate acts and plead the conspiracy and overt acts with particularity ([Allstate Ins. Co. v. Donovan](#) (S.D. Tex. 2012); [Chaney v. Dreyfus Service Corp.](#) (5th Cir. 2010)).

Analysis

Application to the Factual Timeline and Table of Contents

I. Jurisdiction and Venue

Jurisdiction and venue are foundational but not unique to RICO; the complaint must allege that the enterprise's activities affect interstate or foreign commerce, as required by 18 U.S.C. § 1962(c) ([Maiden Biosciences, Inc. v. Document Sec. Sys.](#) (N.D. Tex. 2021)). The factual timeline supports this by referencing interstate transfers (e.g., funds from Texas to Oklahoma)

and the impact on business operations serving clients in multiple states and countries (see timeline, ¶2).

II. Parties

The complaint must identify the RICO “person(s)”—the defendants alleged to have engaged in racketeering—and the “enterprise,” which must be distinct from the person(s) ([Provost v. First Guar. Bank](#) (W.D. La. 2019); [X. Wen v. SanQuest, Inc.](#) (N.D. Tex. 2025)). The timeline names Myers, Branthoover, Munford, Kaitcer, Carter, and Baker, and describes their roles in the alleged enterprise (see timeline, ¶¶1–93).

III. Record References

The Fifth Circuit permits courts to take judicial notice of public records, including state court filings, when authenticity is not reasonably disputed ([Miller v. Dunn](#) (5th Cir. 2022); [LUV N' Care, Ltd. v. Jackel Int'l Ltd.](#) (W.D. La. 2020)). The complaint’s incorporation of the Texas Supreme Court mandamus record is proper and supports the factual allegations.

IV. Introduction

The introduction should summarize the nature of the enterprise, the pattern of racketeering activity, and the injury to the plaintiff’s business or property, as required by RICO ([Bustos v. Invierte En Tex.](#) (W.D. Tex. 2024)).

V. Factual Timeline (A-V)

Each subsection of the timeline should be tied to the elements of a RICO claim:

- **A. The Myers-Branthroover Enterprise:** The complaint must allege specific facts showing that Myers and Branthoover formed an association-in-fact enterprise with a common purpose (to deprive Plaintiff of his home and business), ongoing organization (planning, drafting, and filing documents), and continuity (actions spanning months) ([Boyle v. United States](#), as adopted in [United Healthcare Services, Inc. v. Next Health, LLC](#) (N.D. Tex. 2021); [Gordon v. Neugebauer](#) (S.D. Tex. 2014)).
- **B. Interstate Travel and Transfer:** Allegations of interstate activity (e.g., Myers traveling to Oklahoma, transferring funds) support the enterprise’s engagement in interstate commerce and the use of interstate wires, both of which are required for RICO jurisdiction and for certain predicate acts (wire fraud, Travel Act violations) ([Bustos v. Invierte En Tex.](#) (W.D. Tex. 2024)).
- **C-E. Admissions, Post-submission Collaboration, Significant Misrepresentations:** These sections provide factual detail about the roles and relationships among enterprise members, the group’s purpose, and the ongoing nature of their collaboration, all of which are

necessary to plead an association-in-fact enterprise ([Fulkerson v. Wehner Multifamily, LLC](#) (N.D. Tex. 2019); *Masel v. Villarreal* (E.D. Tex. 2018)).

- **F. Evidence to the Contrary:** Allegations that contradict the defendants' representations support the claim that the enterprise engaged in fraudulent conduct, a key component of many RICO predicate acts (e.g., wire fraud, extortion).
- **G-L. Court Proceedings and Manipulation:** The timeline's detailed account of court proceedings, resets, and manipulation of legal process demonstrates the enterprise's ongoing organization and decision-making structure, as well as the roles of each defendant in furthering the enterprise's goals ([Gordon v. Neugebauer](#) (S.D. Tex. 2014); *Oblio Telecom, Inc. v. Patel* (N.D. Tex. 2008)).
- **M. Predicate Acts: Extortion:** The complaint must allege specific facts showing that certain defendants used threats, coercion, or misuse of official process to obtain property or rights from Plaintiff, which constitutes extortion under RICO ([Bustos v. Invierte En Tex.](#) (W.D. Tex. 2024); *St. Germain v. Howard* (5th Cir. 2009)).
- **N-Q. Appellate Efforts, Fraudulent Intervention, Wire Fraud:** These sections provide further detail about the enterprise's continuity, the roles of each defendant, and the use of interstate wires to further the scheme, all of which are necessary to plead a pattern of racketeering activity and the structure of the enterprise (*Boyle v. United States*; [United Healthcare Sevices, Inc. v. Next Health, LLC](#) (N.D. Tex. 2021)).
- **R-V. Delays, Mandamus, Federal RICO Case:** The ongoing nature of the enterprise, the adaptation to changing circumstances, and the continued pursuit of the enterprise's goals over time all support the requirement of longevity and continuity ([Delta Truck & Tractor, Inc. v. J.I. Case Co.](#) (5th Cir. 1988)).

VI. The RICO Enterprise (A-C)

- **A. Structure and Membership:** The complaint must name the individuals or entities constituting the enterprise, describe their roles, and explain how they functioned as a continuing unit ([Chapter 7. Pleading and Practice Issues](#); [X. Wen v. SanQuest, Inc.](#) (N.D. Tex. 2025)). The timeline's detailed account of each defendant's actions supports this requirement.
- **B. Expansion, Purpose, and Continuity:** The complaint must allege facts showing the enterprise's purpose (e.g., to deprive Plaintiff of property), the relationships among members, and the group's continuity over time (*Boyle v. United States*; [Gordon v. Neugebauer](#) (S.D. Tex. 2014)).

- **C. Decision-Making and Functioning as a Unit:** The complaint should describe the enterprise's decision-making structure, whether hierarchical or consensual, and provide examples of coordinated actions and adaptation to changing circumstances (*Oblio Telecom, Inc. v. Patel* (N.D. Tex. 2008)).

VII. Predicate Acts (A-E)

The complaint must allege at least two predicate acts of racketeering activity that are related and pose a threat of continued criminal activity ([Austin v. Baker & Hostetler, LLP \(In re Uplift RX, LLC\)](#) (Bankr. N.D. Tex. 2024); *St. Germain v. Howard* (5th Cir. 2009)). The timeline provides detailed factual allegations of wire fraud, extortion, Travel Act violations, and fraudulent court filings, all of which are recognized predicate acts under RICO ([Bustos v. Invierte En Tex.](#) (W.D. Tex. 2024)).

VIII. RICO Conspiracy (A-B)

For a RICO conspiracy claim, the complaint must allege an agreement among defendants to commit predicate acts and describe overt acts taken in furtherance of the conspiracy, with particularity ([Allstate Ins. Co. v. Donovan](#) (S.D. Tex. 2012); [Chaney v. Dreyfus Service Corp.](#) (5th Cir. 2010)).

IX. Potential Defenses

The complaint should anticipate and address potential defenses, such as preclusion, Rooker-Feldman, Younger abstention, and judicial immunity, as these may bar or limit the RICO claim ([Rodriguez v. Meta Platforms, Inc.](#) (N.D. Tex. 2025)).

X. State Law Claims

While not required for a RICO claim, the inclusion of state law claims (fraud, abuse of process, intentional infliction of emotional distress) may provide alternative bases for relief and support the overall narrative of the enterprise's conduct.

XI-XIII. Claims for Relief, Damages, Prayer for Relief

The complaint must specify the relief sought, including compensatory, treble, and punitive damages, as well as injunctive and declaratory relief, as permitted by RICO and related statutes.

Pleading Standards

The Fifth Circuit applies the plausibility standard from Twombly and Iqbal: the complaint must contain enough factual matter, accepted as true, to state a claim to relief that is plausible on its face ([Douglass v. Beakley](#) (N.D. Tex. 2012)). Labels, conclusions, and formulaic recitations of elements are

insufficient; the complaint must “nudge” the claim across the line from conceivable to plausible.

Supporting Factual Allegations

To meet these standards, the complaint should:

- Name each individual or entity in the enterprise and describe their roles and relationships.
- Detail the structure, purpose, and function of the enterprise, including how decisions were made and how the group operated as a continuing unit.
- Provide specific facts as to each defendant’s participation in the enterprise’s affairs and the commission of predicate acts.
- Demonstrate that the enterprise existed independently of the racketeering acts and had sufficient longevity to pursue its purpose.
- Tie each factual allegation to the relevant element of the RICO claim, using record references and supporting documentation.

Exceptions and Caveats

- The enterprise must be distinct from the pattern of racketeering activity; simply alleging a group committed predicate acts is insufficient ([Guardino v. Hart](#) (5th Cir. 2023); [Oblio Telecom, Inc. v. Patel](#) (N.D. Tex. 2008)).
- The RICO “person” must be distinct from the “enterprise” ([Provost v. First Guar. Bank](#) (W.D. La. 2019); [X. Wen v. SanQuest, Inc.](#) (N.D. Tex. 2025)).
- The complaint must avoid lumping defendants together and must plead specific facts as to each defendant’s role ([Rodriguez v. Meta Platforms, Inc.](#) (N.D. Tex. 2025)).
- [Khurana v. Innovative Health Care Systems, Inc., 130 F.3d 143 \(5th Cir. 1997\)](#), was vacated by a later case, so while its discussion of association-in-fact enterprises is instructive, reliance should be placed on more recent and controlling Fifth Circuit authority.

Conclusion

In the Fifth Circuit, pleading the existence, structure, and membership of a RICO enterprise requires detailed, specific factual allegations showing an ongoing organization with a common purpose, relationships among members, and continuity, all distinct from the racketeering acts themselves. The complaint must describe the enterprise’s structure, purpose, and function, name each member and their role, and tie each defendant’s conduct to the enterprise’s affairs and the commission of predicate acts, as supported by the factual timeline and record references. Meeting these standards is essential to survive a motion to dismiss and proceed with a RICO claim.

Legal Authorities

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

U.S. Court of Appeals — Fifth Circuit

Extract

A plaintiff asserting a RICO claim must allege the existence of an enterprise. Montesano v. Seafirst Commercial Corp., 818 F.2d 423, 427 (5th Cir.1987). A RICO enterprise can be either a legal entity or an association-in-fact. Manax v. McNamara, 842 F.2d 808, 811 (5th Cir.1988). ... To establish an association-in-fact enterprise, a plaintiff must 'show evidence of an ongoing organization, formal or informal, and ... evidence that the various associates function as a continuing unit.'

Summary

In the Fifth Circuit, a plaintiff must allege the existence of a RICO enterprise, which can be a legal entity or an association-in-fact. For an association-in-fact, the plaintiff must show evidence of an ongoing organization, whether formal or informal, and that the associates function as a continuing unit. This establishes the legal standard for pleading a RICO enterprise in the Fifth Circuit.

[Montesano v. Seafirst Commercial Corp., 818 F.2d 423 \(5th Cir. 1987\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

In Atkinson v. Anadarko Bank & Trust Co., 808 F.2d 438 (5th Cir.1987), we held that to establish an association in fact enterprise, the plaintiff must show 'evidence of an ongoing organization, formal or informal, and ... evidence that the various associates function as a continuing unit.' Id. at 440 (quoting United States v. Turkette, 452 U.S. 576, 583, 101 S.Ct. 2524, 2528, 69 L.Ed.2d 246 (1981); Shaffer v. Williams, 794 F.2d 1030, 1032 (5th Cir. 1986)). This enterprise is not a 'pattern of racketeering activity,' but must be 'an entity separate and apart from the pattern of activity in which it engages.'

Summary

Clear standard for pleading a RICO enterprise in the Fifth Circuit. It requires evidence of an ongoing organization, whether formal or informal, and evidence that the associates function as a continuing unit. Importantly, the enterprise must be distinct from the pattern of racketeering activity itself, meaning it must exist as an entity separate from the illegal acts it engages in. This standard is crucial for plaintiffs to meet when alleging a RICO violation, as the existence of an enterprise is an essential element of a RICO claim.

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

U.S. District Court — Southern District of Texas

Extract

The Fifth Circuit has stated that 'the core of a RICO civil conspiracy is an agreement to commit predicate acts, [therefore] a RICO civil conspiracy complaint, at the very least, must allege specifically such an agreement.' Tel-Phonic, 975 F.2d at 1140. '[A] plaintiff alleging a conspiracy to commit fraud [claim] must 'plead with particularity the conspiracy as well as the overt acts... taken in furtherance of the conspiracy.' Kanneqanti, 565 F.3d at 193.

Summary

The passage provides insight into the requirements for pleading a RICO enterprise in the Fifth Circuit. It emphasizes the necessity of alleging an agreement to commit predicate acts and the need to plead the conspiracy and overt acts with particularity. This aligns with the broader requirement in RICO cases to establish the existence of an enterprise and its activities through detailed factual allegations.

[Khurana v. Innovative Health Care Systems, Inc., 130 F.3d 143 \(5th Cir. 1997\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The statutory definition of enterprise includes 'any individual, partnership, corporation, association, or other alleged legal entity, and any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. § 1961(4). Khurana alleged that the enterprise is an association-in-fact of all five defendants (the three individuals and the two corporate entities).

Summary

The passage provides insight into the statutory definition of a RICO enterprise under 18 U.S.C. § 1961(4), which includes any group of individuals associated in fact, even if not a legal entity. The case illustrates that a RICO enterprise can be alleged as an association-in-fact of multiple defendants, including individuals and corporate entities. This aligns with the requirement that a RICO enterprise must have a structure, purpose, and continuity, and the factual allegations should support these elements by detailing the relationships and roles of the members within the enterprise.

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

U.S. District Court — Northern District of Texas

Extract

A RICO plaintiff must allege facts to show a 'pattern of racketeering activity,' which consists of two or more predicate criminal acts that are (1) related and (2) amount to or pose a threat of continued criminal activity. See 18 U.S.C. §§ 1961(5), 1962(c). ... Walker v. Beaumont Indep. Sch. Dist., 938 F.3d 724, 738 (5th Cir. 2019) (citing In re McCann, 268 F. App'x 359, 366 (5th Cir. 2008)); see also Boyle v. United States, 556 U.S. 938, 946 (2009) (an informal enterprise, or association-in-fact enterprise, must have at least three structural features: 'a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose.'). If a complaint 'alleges an enterprise created by the alleged racketeering activity itself,' it has not sufficiently pleaded 'the existence of an enterprise separate and apart from the pattern of racketeering activity in which it engages.'

Summary

Requirements for pleading a RICO enterprise in the Fifth Circuit, emphasizing the need for a pattern of racketeering activity and the structural features of an association-in-fact enterprise. It highlights that an enterprise must have a purpose, relationships, and longevity, and must exist separately from the racketeering activity.

[Samsung Elecs. Am., Inc. v. Yang Kun Chung, Civil Action No. 3:15-CV-4108-D \(N.D. Tex. Feb 16, 2017\)](#)

U.S. District Court — Northern District of Texas

Extract

RICO defines an enterprise as 'any individual, partnership, corporation, association or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' Allstate Ins. Co. v. Plambeck, 802 F.3d 665, 673 (5th Cir. 2015) (quoting 18 U.S.C. § 1961(4)).

Summary

Definition of a RICO enterprise as recognized in the Fifth Circuit, which includes any individual, partnership, corporation, association, or group of individuals associated in fact, even if not a legal entity. This definition is crucial for understanding how to plead the existence of a RICO enterprise in the Fifth Circuit.

[Guardino v. Hart, 22-20278 \(5th Cir. Jun 05, 2023\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

18 U.S.C. § 1962(b) and (c) prohibit any person from gaining an interest in or conducting the affairs of an enterprise through a pattern of racketeering activity. While the RICO statute defines 'enterprise' broadly to include a 'group of individuals associated in fact although not a legal entity,' 18 U.S.C. § 1961(4), an association-in-fact enterprise must have an existence 'that can be defined apart from the commission of the predicate acts.'

Summary

The passage provides insight into the requirements for pleading a RICO enterprise in the Fifth Circuit. It emphasizes that an association-in-fact enterprise must have an existence that is separate and distinct from the pattern of racketeering activity. This means that the enterprise should have a purpose, structure, and function that are independent of the criminal acts it engages in. The passage highlights the necessity of alleging more than just the commission of predicate acts to establish the existence of a RICO enterprise.

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

U.S. Court of Appeals — Fifth Circuit

Extract

Central to the district court's grant of summary judgment was its conclusion that Whelan failed to demonstrate an enterprise. An enterprise is a group of persons or entities associating together for the common purpose of engaging in a course of conduct. *United States v. Turkette*, 452 U.S. 576, 583, 101 S.Ct. 2524, 2528, 69 L.Ed.2d 246 (1981). The enterprise may be a legal entity or 'any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. § 1961(4) (emphasis added). The plaintiff alleging an association-in-fact enterprise must adduce evidence demonstrating 'an ongoing organization, formal or informal, and ... evidence that the various associates function as a continuing unit'.

Summary

Clear definition of what constitutes an enterprise under RICO in the Fifth Circuit. It emphasizes that an enterprise can be a legal entity or an association-in-fact, which requires evidence of an ongoing organization and that the associates function as a continuing unit. This aligns with the broader understanding of RICO enterprises, as established in *United States v. Turkette*. The passage is applicable to any RICO case within the Fifth

Circuit, making it a general standard for pleading the existence, structure, and membership of a RICO enterprise.

[Amuneke-Nze v. Crain](#)

U.S. District Court — Western District of Texas

Extract

To state a civil RICO claim under 18 U.S.C. § 1962, a plaintiff must allege (1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise. Abraham v. Singh, 480 F.3d 351, 355 (5th Cir. 2007). To establish a 'pattern of racketeering activity,' a plaintiff must allege 'two or more predicate criminal acts that are (1) related and (2) amount to or pose a threat of continued criminal activity.' St. Germain v. Howard, 556 F.3d 261, 263 (5th Cir. 2009). The RICO statute proscribes various categories of predicate acts that may constitute racketeering activity, including extortion and mail and wire fraud. 18 U.S.C. § 1961(1). Section 1961 defines an enterprise as 'any individual, partnership, corporation, association or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' Allstate Ins. Co. v. Plambeck, 802 F.3d 665, 673 (5th Cir. 2015) (quoting 18 U.S.C. § 1961(4)). An enterprise '(1) must have an existence separate and apart from the pattern of racketeering, (2) must be an ongoing organization and (3) its members must function as a continuing unit as shown by a hierarchical or consensual decision making structure.' Id. (citation omitted).

Summary

Clear outline of the legal standards for pleading a RICO claim in the Fifth Circuit. It specifies the need to allege a person engaged in a pattern of racketeering activity connected to an enterprise. It also defines what constitutes a pattern of racketeering activity and an enterprise, emphasizing the need for the enterprise to have an existence separate from the racketeering activity and to function as a continuing unit.

[Dell Inc. v. Mishra, CAUSE NO.: A-16-CV-00641-SS \(W.D. Tex. Aug 03, 2018\)](#)

U.S. District Court — Western District of Texas

Extract

RICO defines 'enterprise' to include 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C.A. § 1961(4). If the alleged enterprise is an association-in-fact, the plaintiff must show evidence of an ongoing organization, formal or informal, and by

evidence that the various associates in the enterprise function as a continuing unit with a common purpose. Boyle v. United States, 556 U.S. 938, 944-45 (2009). The Fifth Circuit also requires a plaintiff establish the association-in-fact enterprise (1) has an existence separate and apart from the pattern of racketeering, (2) is an ongoing organization and (3) has members that function as a continuing unit as shown by a hierarchical or consensual decision making structure.

Summary

Clear explanation of the legal standards for pleading a RICO enterprise in the Fifth Circuit. It specifies that an association-in-fact enterprise must have an existence separate from the racketeering pattern, be an ongoing organization, and have members functioning as a continuing unit with a decision-making structure. This aligns with the requirements set forth in Boyle v. United States and is applicable to RICO claims in the Fifth Circuit.

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

U.S. District Court — Southern District of Texas

Extract

RICO requires a showing that (1) a person that engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise. Crowe v. Henry, 43 F.3d 198, 204 (5th Cir.1995) (quoting Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241 (5th Cir.1988)) (emphasis in original). ... In the Fifth Circuit, a plaintiff must distinguish between RICO persons and RICO enterprises. Abraham v. Singh, 480 F.3d 351, 357 (5th Cir.2007). The enterprise is not a pattern of racketeering activity, but must exist separate and apart from the pattern of racketeering activity in which it engages. Whelan v. Winchester Production Co., 319 F.3d 225, 229 (5th Cir.2003). The Court is not aware of cases which indicate that the Fifth Circuit requires any sort of formal structure within an association-in-fact enterprise.

Summary

Requirements for a RICO claim in the Fifth Circuit, emphasizing the need to distinguish between RICO persons and enterprises. It clarifies that an enterprise must exist separately from the pattern of racketeering activity and does not require a formal structure. This information is crucial for understanding how to plead the existence, structure, and membership of a RICO enterprise in the Fifth Circuit.

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

U.S. Court of Appeals — Fifth Circuit

Extract

In order to demonstrate a RICO conspiracy under § 1962(d), the Receivers must demonstrate '(1) that two or more people agreed to commit a substantive RICO offense and (2) that [DSC] knew of and agreed to the overall objective of the RICO offense.' United States v. Sharpe, 193 F.3d 852, 869 (5th Cir.1999). A person cannot be held liable for a RICO conspiracy 'merely by evidence that he associated with other... conspirators or by evidence that places the defendant in a climate of activity that reeks of something foul.'

Summary

Requirements for pleading a RICO conspiracy in the Fifth Circuit. It specifies that to establish a RICO conspiracy, it must be shown that two or more people agreed to commit a substantive RICO offense and that the defendant knew of and agreed to the overall objective of the RICO offense. Mere association with conspirators or being in a suspicious environment is insufficient for liability. This provides a clear standard for what must be demonstrated in terms of agreement and knowledge for a RICO conspiracy claim.

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

U.S. District Court — Northern District of Texas

Extract

A RICO enterprise is 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. § 1961. Generally, '[a] RICO enterprise can be either a legal entity or an association-in-fact.' Crowe v. Henry, 43 F.3d 198, 204 (5th Cir. 1995) (citing Manax v. McNamara, 842 F.2d 808, 811 (5th Cir. 1988)). An association-in-fact enterprise, however, is 'simply a continuing unit that functions with a common purpose.' Boyle v. United States, 556 U.S. 938, 948 (2009). It need not have a hierarchical structure, fixed roles, or even a name. Id.

Summary

Clear definition of what constitutes a RICO enterprise, emphasizing that it can be a legal entity or an association-in-fact. It highlights that an association-in-fact enterprise is a continuing unit with a common purpose, and it does not require a hierarchical structure, fixed roles, or even a name. This aligns with the standards set by the Supreme Court in Boyle v. United States.

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

U.S. District Court — Eastern District of Texas

Extract

A plaintiff asserting a civil RICO claim must allege the existence of such an enterprise. An enterprise is a group of persons or entities associating together for the common purpose of engaging in a course of conduct. The enterprise may be a legal entity or 'any group of individuals associated in fact although not a legal entity.' An association-in-fact enterprise, 'need not have a hierarchical structure or a 'chain of command'; decisions may be made on an ad hoc basis and by any number of methods. Members of the group need not have fixed roles; different members may perform different roles at different times.' The plaintiff 'must plead specific facts, not mere conclusory allegations, which establishes the enterprise.'

Summary

Requirements for pleading a RICO enterprise in the Fifth Circuit, emphasizing the need for specific factual allegations that demonstrate a group of individuals associating for a common purpose. It clarifies that an enterprise can be an association-in-fact without a formal structure, and that plaintiffs must provide specific facts rather than conclusory statements to establish the enterprise.

[Huawei Techs. Co. v. Huang, Civil Action No. 4:17-CV-00893 \(E.D. Tex. Apr 25, 2018\)](#)

U.S. District Court — Eastern District of Texas

Extract

Further, common elements required to prove a violation of a subsection of § 1962 include: '(1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct or control of an enterprise.' Whelan v. Winchester Prod. Co., 319 F.3d 225, 229 (5th Cir. 2003) (citing Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241, 242 (5th Cir. 1988)). 'A RICO claim, 18 U.S.C. § 1962(c), 'requires (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.'" Manax v. McNamara, 842 F.2d 808, 811 (5th Cir. 1988) (quoting Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479 (1985)). 'An enterprise is a group of persons or entities associating together for the common purpose of engaging in a course of conduct.' Whelan, 319 F.3d at 229 (citing United States v. Turkette, 452 U.S. 576, 583 (1981)). 'The enterprise may be a legal entity or 'any group of individuals associated in fact although not a legal entity.'" Id. (emphasis in original) (quoting 18 U.S.C. § 1961(4)).

Summary

Elements required to establish a RICO claim under 18 U.S.C. § 1962(c) in the Fifth Circuit, which includes demonstrating conduct of an enterprise through a pattern of racketeering activity. It specifies that an enterprise can be a legal entity or an association-in-fact, which is a group of individuals associated together for a common purpose. The passage emphasizes the need for specific factual allegations to establish the existence of an enterprise.

[U.S. v. Cauble, 706 F.2d 1322 \(5th Cir. 1983\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The statute states: 'enterprise' includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' The Supreme Court has held that this language encompasses both wholly legal entities and completely illegal associations-in-fact. But '[t]he 'enterprise' is not the 'pattern of racketeering activity'; it is an entity separate and apart from the pattern of activity in which it engages.' Therefore, in every case the government must prove not only that there was a pattern of racketeering activity but that it was conducted through an enterprise as thus defined.

Summary

The passage from U.S. v. Cauble provides insight into the legal standards for pleading a RICO enterprise in the Fifth Circuit. It clarifies that an "enterprise" under RICO can include both legal entities and associations-in-fact, which are groups of individuals associated together for a common purpose. Importantly, the enterprise must be distinct from the pattern of racketeering activity itself. This means that in a RICO case, it is not enough to show that racketeering acts occurred; it must also be demonstrated that these acts were conducted through an enterprise. This distinction is crucial for establishing the existence, structure, and membership of a RICO enterprise.

[Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241 \(5th Cir. 1988\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The concept of continuity as a means of controlling the scope of RICO has also been incorporated into the enterprise element of section 1962. An enterprise 'includes any individual, partnership, corporation, association, or

other legal entity, and any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. Sec. 1961(4). In *United States v. Turkette*, 452 U.S. 576, 583, 101 S.Ct. 2524, 2528-29, 69 L.Ed.2d 246 (1981), the Supreme Court stressed that continuity is a necessary attribute of an association-in-fact enterprise. We have incorporated this notion of continuity into our definition of such enterprises.

Summary

The passage highlights that in the Fifth Circuit, the concept of continuity is essential for defining an association-in-fact enterprise under RICO. This means that the enterprise must have a continuous existence beyond the commission of the predicate acts. The enterprise can include any group of individuals associated in fact, even if not a legal entity, and must have a structure that allows it to pursue its goals over time.

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

U.S. District Court — Northern District of Texas

Extract

An enterprise is a group of persons or entities associating for the common purpose of engaging in a course of conduct. *Whelan v. Winchester Prod. Co.*, 319 F.3d 225, 229 (5th Cir. 2003). The statute defines 'enterprise' as including any individual, partnership, corporation, association or other legal entity, and any union or group of individuals associated in fact although not a legal entity. 18 U.S.C. § 1961(4). The enterprise must be an entity separate and apart from the pattern of activity in which it engages. *United States v. Turkette*, 452 U.S. 576, 583 (1981). Moreover, the defendant who commits the predicate offenses must also be distinct from the enterprise.

Summary

Clear definition of what constitutes an enterprise under RICO, which is essential for pleading such a case.

[Tujague v. Eckerd, Civil Action No. 4:18-CV-00408 \(E.D. Tex. Jul 11, 2018\)](#)

U.S. District Court — Eastern District of Texas

Extract

A 'person' within the meaning of RICO 'includes any individual or entity capable of holding a legal or beneficial interest in property.' 18 U.S.C. § 1961(3). Describing the definition as 'very broad,' the Fifth Circuit stated that a 'RICO person must be one that either poses or has posed a continuous

threat of engaging in the acts of racketeering.' Crowe v. Henry, 43 F.3d 198, 204 (5th Cir. 1995). ... Finally, the third element—connection to the acquisition, establishment, conduct or control of an enterprise. 'An enterprise is a group of persons or entities associating together for the common purpose of engaging in a course of conduct.' Whelan, 319 F.3d at 229 (citing United States v. Turkette, 452 U.S. 576, 583 (1981)). 'The enterprise may be a legal entity or 'any group of individuals associated in fact although not a legal entity.' Id. (emphasis in original) (quoting 18 U.S.C. § 1961(4)). 'An association-in-fact enterprise is simply a continuing unit that functions with a common purpose.' Boyle v. United States, 556 U.S. 938, 948 (2009).

Summary

The passage provides insight into the legal standards for pleading a RICO enterprise in the Fifth Circuit. It explains that a RICO "person" is broadly defined and must pose a continuous threat of engaging in racketeering acts. It also clarifies that an "enterprise" can be a legal entity or an association-in-fact, which is a group of individuals associated together for a common purpose. This association must function as a continuing unit. These elements must be supported by factual allegations demonstrating the enterprise's structure, purpose, and continuity.

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

U.S. District Court — Northern District of Texas

Extract

An association-in-fact enterprise "(1) must have an existence separate and apart from the pattern of racketeering, (2) must be an ongoing organization[,] and (3) its members must function as a continuing unit as shown by a hierarchical or consensual decision making structure." Crowe, 43 F.3d at 205; Calcasieu, 943 F.2d at 1461; Delta Truck, 855 F.2d at 243. "Since an association-in-fact enterprise must have an existence separate and apart from the pattern of racketeering, proof of a pattern of racketeering activity does not necessarily establish a RICO enterprise." Calcasieu, 943 F. 2d at 1461 (internal citation omitted).

Summary

Requirements for pleading a RICO enterprise in the Fifth Circuit. It specifies that an association-in-fact enterprise must have an existence separate from the pattern of racketeering, be an ongoing organization, and have members functioning as a continuing unit with a decision-making structure. This means that simply proving a pattern of racketeering is insufficient; there must be specific factual allegations that establish the enterprise's separate existence and organizational structure.

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

Extract

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

Summary

Requirement for a RICO claim to establish two distinct entities: a "person" and an "enterprise." It emphasizes that the "person" must be distinct from the "enterprise" and that the enterprise must engage in activities affecting interstate commerce. The passage also illustrates how factual allegations should support these elements by detailing the roles and actions of the "person" and the "enterprise."

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

Extract

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

Summary

Essential elements of a RICO claim in the Fifth Circuit, which include a person engaging in a pattern of racketeering activity connected to the acquisition, establishment, conduct, or control of an enterprise. This provides a clear framework for what must be pleaded to establish a RICO enterprise, emphasizing the need for factual allegations that demonstrate these elements.

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

Extract

In pursuing this action, D&T brings claims under three subsections of the RICO statute. See id. §§ 1962 (a), (c) & (d). Though the subsections are distinct, each shares three common elements: '(1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise.' Abraham v. Singh, 480 F.3d 351, 355 (5th Cir. 2007) (quoting Word of Faith World Outreach Ctr. Church, Inc. v. Sawyer, 90 F.3d 118, 122 (5th Cir. 1996)).

Summary

Three common elements required to establish a RICO claim under the Fifth Circuit: (1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise. This provides a clear framework for what must be pleaded in a RICO case, emphasizing the need for factual allegations that demonstrate these elements.

[Gordon v. Neugebauer](#)

Extract

The Fifth Circuit has applied a three-part test to determine whether an alleged enterprise is indeed an association-in-fact for RICO purposes: (1) the enterprise must have an existence separate and apart from the pattern of racketeering, (2) the enterprise must have an ongoing organization, and (3) the members of the enterprise must function as a continuing unit as shown by a hierarchical or consensual decision making structure. See Crowe v. Henry, 43 F.3d 198, 205 (5th Cir. 1995).

Summary

Clear three-part test used by the Fifth Circuit to determine the existence of a RICO enterprise. This test requires that the enterprise be distinct from the racketeering activity, have an ongoing organization, and function as a

continuing unit with a decision-making structure. These elements must be supported by specific factual allegations in the complaint.

[900 F.Supp.2d 736 Douglass v. Beakley](#)

Extract

In analyzing a motion under Federal Rule of Civil Procedure 12(b)(6) ("Rule 12(b)(6)"), the Court accepts all well-pleaded facts as true, viewing them in the light most favorable to the plaintiff. *Martin K. Eby Constr. Co. v. Dall. Area Rapid Transit*, 369 F.3d 464, 467 (5th Cir.2004). The motion should be granted only if the complaint does not include enough facts to state a claim to relief that is plausible on its face. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007). A claim must be "nudged ... across the line from conceivable to plausible." Id. "A pleading that offers 'labels and conclusions' or 'a formulaic recitation of the elements of a cause of action will not do.' " *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (quoting *Twombly*, 550 U.S. at 555, 127 S.Ct. 1955). "Factual allegations must be enough to raise a right to relief above the speculative level...." *SW Bell Tel., LP v. City of Hous.*, 529 F.3d 257, 260 (5th Cir.2008) (quoting *Twombly*, 550 U.S. at 555, 127 S.Ct. 1955).

Summary

General pleading standards under Rule 12(b)(6) in the Fifth Circuit, emphasizing that a complaint must state a claim that is plausible on its face, rather than merely conceivable. It highlights the necessity for factual allegations to raise a right to relief above a speculative level, which is crucial for pleading the existence, structure, and membership of a RICO enterprise.

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

Extract

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

Summary

Essential elements of a RICO claim, which include the existence of a person engaged in a pattern of racketeering activity connected to an enterprise. This provides a foundational understanding of what must be pleaded to establish a RICO claim in the Fifth Circuit.

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

Extract

The statutory definition of a RICO enterprise is an 'individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. § 1961(4). An enterprise 'does not have to be a formal or legal entity, but it must have some sort of hierarchical or consensual decision-making structure, and it must exist for purposes other than just to commit predicate acts.' Walker v. Beaumont Indep. Sch. Dist., 938 F.3d 724, 738 (5th Cir. 2019) (citing In re McCann, 268 F. App'x 359, 366 (5th Cir. 2008)); see also Boyle v. United States, 556 U.S. 938, 946 (2009) (an informal enterprise, or association-in-fact enterprise, must have at least three structural features: 'a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose.').

Summary

Clear definition of what constitutes a RICO enterprise under 18 U.S.C. § 1961(4) and outlines the requirements for an association-in-fact enterprise, which include having a purpose, relationships among those associated, and sufficient longevity. This is applicable to any RICO claim within the Fifth Circuit.

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

Extract

The Fifth Circuit has applied a three-part test to determine whether an alleged enterprise is indeed an association-in-fact for RICO purposes: (1) the enterprise must have an existence separate and apart from the pattern of racketeering, (2) the enterprise must have an ongoing organization, and (3) the members of the enterprise must function as a continuing unit as shown by a hierarchical or consensual decision making structure.

Summary

Clear three-part test used by the Fifth Circuit to determine the existence of an association-in-fact enterprise under RICO. This test requires that the enterprise have a separate existence from the racketeering activity, an ongoing organization, and a decision-making structure. These elements must be supported by specific factual allegations in the complaint.

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

Extract

Although the Racketeer Influenced and Corrupt Organization Act (“RICO”) recognizes a civil RICO claim,[1] Plaintiff cites to RICO, he fails to identify which of the four substantive violations he asserts. See 18 U.S.C. § 1962(a)-(d). The elements required to state a claim vary according to the particular RICO claim asserted.[2] Regardless of which of the four RICO sections Plaintiff relies upon, three threshold elements must be met.[3] The defendant must be (1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise.[4] A pattern of racketeering activity consists of two or more predicate acts, federal or state, that are (1) related and (2) amount to or pose a threat of continued criminal activity.[5] A RICO plaintiff “must plead specific facts, not mere conclusory allegations, which establish the enterprise,”[6] and “plaintiff must plead the specified facts as to each defendant. It cannot. .. ‘lump[] together the defendants.’”[7] Plaintiff’s Complaint includes conclusory allegations of “defamation, unauthorized access, and systematic harassment,”[8] but those activities do not constitute “racketeering activity” as defined in the RICO statute.[9] Further, he does not allege any specific facts, dates, names, communications or events to support his conclusory allegations of criminal activity, nor does he explain how these acts constitute “racketeering” activity or are related to a continued threat of criminal activity. Plaintiff’s broad use of the term “RICO” is insufficient to state a claim.

Summary

Requirements for pleading a RICO claim in the Fifth Circuit, emphasizing the need for specific factual allegations rather than conclusory statements. It highlights the necessity of identifying the specific RICO violation, establishing a pattern of racketeering activity, and connecting it to an enterprise. The passage also stresses the importance of detailing the involvement of each defendant individually, rather than making generalized allegations against a group.

Extract

To state a claim for civil RICO violation under § 1962(c), a plaintiff must allege a pattern of racketeering activity. *In re Burzynski*, 989 F.2d 733, 741-42 (5th Cir. 1993). A pattern of racketeering activity 'requires two or more predicate acts and a demonstration that the racketeering predicates are related and amount to or pose a threat of continued criminal activity.' *Word of Faith World Outreach Ctr. Church, Inc. v. Sawyer*, 90 F.3d 118, 122 (5th Cir. 1996).

Summary

Clear standard for what constitutes a pattern of racketeering activity under RICO in the Fifth Circuit. It specifies that a plaintiff must allege two or more predicate acts that are related and pose a threat of continued criminal activity. This is essential for establishing a RICO claim, as it defines the threshold for what constitutes a pattern of racketeering activity.

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

Extract

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

Summary

Racketeering activity includes criminal acts like mail and wire fraud. This provides a clear framework for what must be included in a RICO claim, emphasizing the need for specific allegations of criminal acts and their connection to an enterprise.

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

Extract

RICO claims require '1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment,

conduct, or control of an enterprise.'" Word of Faith World Outreach Ctr. Church, Inc. v. Sawyer, 90 F.3d 118, 122 (5th Cir. 1996) (quoting *In re Burzynski*, 989 F.2d 733, 741-42 (5th Cir. 1993)). The RICO statute defines an enterprise as "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." 18 U.S.C. § 1961(4). The Fifth Circuit has further explained that an "enterprise can be either a legal entity or an association-in-fact." *St. Paul Mercury Ins. Co. v. Williamson*, 224 F.3d 425, 440 (5th Cir. 2000). An association-in-fact enterprise "must have at least three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose." *Boyle v. United States*, 556 U.S. 938, 946 (2009). In essence, "an association-in-fact enterprise is a group of persons associated together for a common purpose of engaging in a course of conduct." Id. (quotations omitted). To allege that an enterprise is an association-in-fact, a plaintiff must plausibly allege that the organization "functions as a continuing unit over time through a hierarchical or consensual decision-making structure." *Elliott v. Foufas*, 867 F.2d 877, 881 (5th Cir. 1989). Additionally, the Fifth Circuit has held that the defendant who allegedly engaged in racketeering—the RICO person—must be "distinct from the [RICO] enterprise" with respect to claims asserted under 18 U.S.C. §§ 1962(c) and 1962(d). Id. at 881. This "separate and distinct" requirement means that a plaintiff cannot claim that a company is both the RICO enterprise and the "RICO person" who engaged in racketeering. See *Whelan v. Winchester Prod. Co.*, 319 F.3d 225, 229 (5th Cir. 2003).

Summary

Detailed explanation of the legal standards for pleading a RICO enterprise in the Fifth Circuit. It outlines the requirements for an enterprise, including the need for a distinct RICO person and enterprise, and the structural features of an association-in-fact enterprise. This information is directly relevant to understanding how to support a RICO claim with factual allegations.

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

Extract

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

informal, and by evidence that the various associates function as a continuing unit.' Boyle, 556 U.S. at 945 (quoting United States v. Turkette, 452 U.S. 576, 583 (1981)).

Summary

Legal standards for pleading a RICO enterprise in the Fifth Circuit, emphasizing the need to demonstrate a person engaged in a pattern of racketeering activity connected to an enterprise. It highlights the requirement for an enterprise to be an ongoing organization, either formal or informal, with associates functioning as a continuing unit. This is crucial for establishing the existence, structure, and membership of a RICO enterprise.

[Earl v. The Boeing Co.](#)

Extract

A RICO person 'includes any individual or entity capable of holding a legal or beneficial interest in property,' 18 U.S.C. § 1961(3), while a RICO enterprise 'includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity,' id. § 1961(4). 'Racketeering activity' means any of the predicate acts specified in § 1961(1). Two or more of these predicate acts form a 'pattern of racketeering activity' when they are '(1) related and (2) amount to or pose a threat of continued criminal activity.' St. Germain v. Howard, 556 F.3d 261, 263 (5th Cir. 2009); see 18 U.S.C § 1961(5).

Summary

Definitions of a RICO person and enterprise, as well as the requirements for a pattern of racketeering activity. It specifies that a RICO enterprise can be any group of individuals associated in fact, even if not a legal entity, and that a pattern of racketeering activity requires at least two related predicate acts that pose a threat of continued criminal activity. This is applicable to RICO cases in the Fifth Circuit.

[Midwest Feeders, Inc. v. Bank of Franklin](#)

Extract

A conspiracy under Mississippi law is 'a combination of persons for the purpose of accomplishing an unlawful purpose or a lawful purpose unlawfully.' To establish a civil conspiracy a plaintiff must prove: '(1) an agreement between two or more persons, (2) an unlawful purpose, (3) an overt act in furtherance of the conspiracy, and (4) resulting damages to the plaintiff.'

Summary

Foundational understanding of how to demonstrate the existence and structure of a conspiracy, which can be applied to RICO cases in terms of showing the existence of an enterprise and the defendant's involvement.

Racketeer influenced and corrupt organizations.

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

Extract

To sue for a violation of [section] 1962(c), a plaintiff must show that someone both received income from a pattern of racketeering activity and then used or invested such income in an enterprise. (310) Most courts hold that a compensable injury must flow from the use or investment of the income and cannot just flow from the predicate acts. (311)... The court also held that the plaintiff was unable to show that the health insurance companies had associated with an enterprise engaged in racketeering activity and thus, found no violation of [section] 1962(c) or [section] 1962(d). (362)

Summary

Necessity for a plaintiff to demonstrate that income from racketeering activity was used or invested in an enterprise, and that a compensable injury must result from this use or investment. It also highlights the requirement to show association with an enterprise engaged in racketeering activity, which is crucial for pleading a RICO enterprise.

Chapter 7. Pleading and Practice Issues

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

Extract

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

separate from the enterprise, or (ii) that the defendants are the enterprise itself, or (iii) that the defendants are members of the enterprise;

Summary

When pleading a RICO enterprise, the plaintiff must provide a detailed description of the enterprise. This includes naming the individuals or entities involved, describing the structure and purpose of the enterprise, and explaining the roles and functions of the defendants within the enterprise. The plaintiff must also clarify whether the defendants are separate from the enterprise, are the enterprise itself, or are members of the enterprise. This detailed pleading is necessary to satisfy the requirements for a RICO claim.

Racketeer influenced and corrupt organizations.

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

Extract

To establish liability under 1962(c), a plaintiff must prove the existence of two distinct entities: (i) a 'person,' and (ii) an 'enterprise' that is not simply the same entity referred to by a different name. The enterprise must be engaged in, or its activities must affect, interstate or foreign commerce. The plaintiff must also demonstrate that the defendant's violation of [section] 1962 was the proximate cause of the plaintiff's injury to have standing for a civil RICO action.

Summary

Clear explanation of the requirements for establishing a RICO enterprise, emphasizing the need for distinct entities and the impact on interstate commerce. It also highlights the necessity of demonstrating proximate cause for standing in a civil RICO action.

Chapter 3. Standing

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

Extract

The plaintiff is required to prove the existence of the defendant's association with the enterprise, or its § 1962(c) claim is lost. See, e.g., *Avirgan v. Hull*, 932 F.2d 1572 (11th Cir. 1991), cert. denied, 502 U.S.

Summary

For a RICO claim under § 1962(c), the plaintiff must prove the existence of the defendant's association with the enterprise. This is a critical element, as failure to establish this association results in the loss of the claim. The passage suggests that the courts treat the question of "associating with" as a factual matter, meaning that the plaintiff must provide factual allegations that demonstrate this association.

[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

To plead a RICO claim under § 1962(c), a plaintiff must allege conduct of an enterprise through a pattern of racketeering activity. Each element must be adequately pleaded, and claims involving fraud must meet the particularity requirement of Federal Rule of Civil Procedure 9(b). The enterprise's activities must affect interstate commerce, but only a slight effect is required. This guidance is applicable to RICO claims in the Fifth Circuit.

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

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

Extract

To plead conspiracy adequately, the plaintiff must set forth allegations addressing a. the period of the conspiracy, b. the object of the conspiracy, c. the overt acts taken in furtherance of the conspiracy, d. the agreement to

commit predicate acts, and e. knowledge that the acts were part of a pattern of racketeering activity conducted in such a way as to violate § 1962(a), (b), or (c); the plaintiff must also establish 3. injury to the plaintiff's business or property (§ 6(A)(2)-(3) supra) 4. by reason of (§ 6(A)(4) supra) 5. an overt act that must also be a predicate act (§

Summary

Necessary elements to adequately plead a RICO conspiracy, including the period, object, overt acts, agreement, and knowledge of the conspiracy, as well as the requirement to show injury to business or property and a causal connection to the predicate acts. These elements are essential for establishing the existence, structure, and membership of a RICO enterprise.

Racketeer influenced and corrupt organizations.

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

Extract

To have standing for a civil cause of action under RICO, a plaintiff must show: (i) a violation of [section][section] 1962(a), (b), (c), or (d); (ii) injury to her business or property; and (iii) that the violation caused the injury. Moreover, a plaintiff must prove that the defendant's violation of [section] 1962 was the proximate cause of the plaintiff's injury to have standing for a civil RICO action.

Summary

Requirements for standing in a civil RICO action, which includes showing a violation of RICO provisions, injury to business or property, and proximate causation. These elements are essential for pleading the existence, structure, and membership of a RICO enterprise, as they establish the connection between the enterprise's activities and the plaintiff's injury.

Racketeer influenced and corrupt organizations.

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

Extract

Moreover, a plaintiff must prove that the defendant's violation of [section] 1962 was the proximate cause of the plaintiff's injury to have standing for a civil RICO action. (315) In creating this proximate cause requirement, the Court reasoned that... At least one commentator believes it is possible for a RICO action to be successfully litigated in the area of divorce if it meets the

following criteria: (i) the plaintiff must show an injury to business or property because of the divorce proceedings; (ii) the plaintiff must show that the defendant acted as part of an enterprise to further the act of hiding assets to minimize divorce settlements; and (iii) there must be either multiple violations of the same predicate act, or the commission of more than one predicate act. (360)

Summary

The passage highlights the necessity for a plaintiff to demonstrate that the defendant's RICO violation was the proximate cause of their injury. It also outlines criteria for a successful RICO action in divorce cases, emphasizing the need to show injury to business or property, the defendant's participation in an enterprise, and multiple predicate acts. This aligns with the broader requirements for pleading a RICO enterprise, which include demonstrating the existence of an enterprise, its structure, and the defendant's participation in it.

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

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

Extract

RICO CONSPIRACY The essence of a RICO conspiracy is the existence of an agreement to violate RICO's substantive provisions. 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 necessary to establish a RICO conspiracy, which include an agreement to join a racketeering scheme, knowing engagement in the scheme with intent to achieve its goals, and involvement in or intent to involve two or more predicate acts of racketeering. These elements are crucial for pleading the existence, structure, and membership of a RICO enterprise, as they demonstrate the coordinated and intentional nature of the enterprise's activities.

[Santos v. Delta Airlines, Inc.](#)

USDOL Administrative Review Board Decisions

Extract

RICO, 18 U.S.C. § 1962(c), prohibits 'any person employed by or associated with any enterprise engaged in ... interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity.' The statute thus requires the plaintiff to allege an enterprise, the conduct of the affairs of the enterprise through a pattern of racketeering activity, and injury to [its] business or property ... caused by the violation of Section 1962.

Summary

Clear outline of the statutory requirements for a RICO claim under 18 U.S.C. § 1962(c). It specifies that a plaintiff must allege the existence of an enterprise, the conduct of the enterprise's affairs through a pattern of racketeering activity, and an injury to business or property caused by the violation. This aligns with the general legal standards for pleading a RICO enterprise, which require detailed factual allegations to support the existence, structure, and membership of the enterprise.

[RICO: A Primer](#)

Extract

A plaintiff is required to demonstrate that the defendant conducted the affairs of an enterprise through a pattern of racketeering activity. The person and the enterprise generally must be distinct; but, of course, a Rico person can be a part of an enterprise. A RICO enterprise includes 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' Courts have interpreted 'enterprise' broadly, and the definition captures both legitimate and illegitimate enterprises. The statutory list is not exhaustive but merely illustrative.

Summary

A RICO enterprise can include a wide range of entities, both legitimate and illegitimate. The definition is broad and not limited to formal legal entities, allowing for a group of individuals associated in fact to qualify as an enterprise. This broad interpretation means that factual allegations should demonstrate how the defendants conducted the affairs of such an enterprise through a pattern of racketeering activity, ensuring that the person and the enterprise are distinct, although a RICO person can be part of the enterprise.

[RICO: A Primer](#)

Extract

A plaintiff is required to demonstrate that the defendant conducted the affairs of an enterprise through a pattern of racketeering activity. The person and the enterprise generally must be distinct; but, of course, a RICO person can be a part of an enterprise. A RICO enterprise includes 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' Courts have interpreted 'enterprise' broadly, and the definition captures both legitimate and illegitimate enterprises. The statutory list is not exhaustive but merely illustrative.

Summary

A RICO enterprise can be any legal or associated-in-fact entity, and the definition is broad enough to include both legitimate and illegitimate enterprises. The person and the enterprise must generally be distinct, but a RICO person can be part of the enterprise. This broad interpretation allows for flexibility in pleading the existence, structure, and membership of a RICO enterprise.

[Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#)

Extract

RICO is not a simple statute. It pertains to conduct associated with an 'enterprise' and 'a pattern racketeering activity.' An enterprise is an individual or legal entity, or a union or group of individuals associated in fact although not a legal entity, while a pattern of racketeering activity requires long-term, organized conduct to violate state and federal laws.

Summary

To plead a RICO enterprise, the plaintiff must demonstrate conduct associated with an "enterprise" and a "pattern of racketeering activity." An enterprise can be an individual, legal entity, or a group of individuals associated in fact, even if not a legal entity. The pattern of racketeering activity requires long-term, organized conduct that violates state and federal laws. This provides a foundational understanding of what constitutes a RICO enterprise and the necessary elements to establish it in a legal claim.

[Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#)

Extract

RICO is not a simple statute. It pertains to conduct associated with an 'enterprise' and 'a pattern racketeering activity.' An enterprise is an individual or legal entity, or a union or group of individuals associated in fact although not a legal entity, while a pattern of racketeering activity requires long-term, organized conduct to violate state and federal laws. ... Third, the plaintiff must plead a pattern of racketeering activity for most RICO claims. If the alleged conduct occurred once or twice, or was not continuous, it cannot form a pattern of conduct sufficient to support a RICO claim. And oftentimes, because there is a fraud component, those instances must be particularly identified in the plaintiff's pleading—a barrier that can prove difficult to accomplish.

Summary

Requirements for pleading a RICO claim, emphasizing the need to establish an "enterprise" and a "pattern of racketeering activity." An enterprise can be an individual, legal entity, or a group of individuals associated in fact. The pattern of racketeering activity must involve long-term, organized conduct that violates state and federal laws. The plaintiff must particularly identify instances of fraud in their pleading, which can be challenging. This information is relevant to understanding the legal standards for pleading a RICO enterprise in the Fifth Circuit.

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