

## Question

The complaint details a coordinated scheme by Myers, Branthoover, and Wilson, including specific dates, communications, and actions: Myers and Branthoover exchanged interstate calls and texts, Myers traveled to Oklahoma to draft false legal documents, Wilson served an eviction notice based on fabricated grounds, and all used mail and wire communications. The complaint provides dates, content of communications, and the roles of each defendant. Ongoing threats and coordination are documented through specific text messages and events from December 2023 through May 2025. A RICO conspiracy claim under 18 U.S.C. § 1962(d) must satisfy Federal Rule of Civil Procedure 8(a) and, for predicate acts of fraud, Rule 9(b), requiring that the complaint allege with particularity the circumstances constituting fraud, including the who, what, when, where, and how of the alleged misconduct. The complaint's detailed chronology, identification of participants, specific communications, and description of each defendant's role and actions meet the heightened pleading requirements for RICO conspiracy and fraud-based predicate acts.

## Answer (U.S. Federal)

### Short response

Based on the provided legal materials, the complaint's detailed allegations regarding the coordinated scheme between Myers, Branthoover, and Wilson, including specific dates, communications, actions, and roles of each defendant, satisfy both the basic pleading standards of Rule 8(a) and the heightened particularity requirements of Rule 9(b) for RICO conspiracy claims under [18 U.S.C. § 1962](#)(d) involving fraud-based predicate acts.

### Summary

The complaint in question adequately fulfills the pleading requirements for a RICO conspiracy claim under [18 U.S.C. § 1962](#)(d) by providing a detailed chronology of events, identifying all participants, documenting specific communications, and describing the distinct roles and actions of each defendant in the alleged fraudulent scheme. This level of detail satisfies both the standard pleading requirements of Federal Rule of Civil Procedure 8(a), which requires "a short and plain statement of the claim showing that the pleader is entitled to relief," and the heightened particularity requirements of Rule 9(b) applicable to fraud-based claims, which demands specificity regarding the "who, what, when, where, and how" of the alleged misconduct.

The complaint's allegations of interstate calls and texts between Myers and Branthoover, Myers' travel to Oklahoma to draft false legal documents, Wilson's service of an eviction notice based on fabricated grounds, and the defendants' use of mail and wire communications are particularly

significant. These detailed allegations establish the predicate acts of mail and wire fraud necessary for a RICO claim while demonstrating the existence of a coordinated scheme among the defendants. The complaint's documentation of ongoing threats and coordination through specific text messages and events from December 2023 through May 2025 further supports the "relationship" and "continuity" requirements essential to establishing a pattern of racketeering activity under RICO jurisprudence.

## **Legal Framework for RICO Conspiracy Claims**

### **Statutory Basis**

The Racketeer Influenced and Corrupt Organizations Act (RICO) provides civil and criminal liability for racketeering activity connected to an enterprise. The specific conspiracy provision at issue is found in [18 U.S.C. § 1962\(d\)](#), which states: "It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section." [18 U.S.C. § 1962\(d\)](#)

To understand what constitutes a conspiracy under RICO, it's essential to recognize what the underlying substantive violations entail. Section 1962(c), which is commonly the basis for RICO conspiracy claims, prohibits "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." [Heinrich v. Waiting Angels Adoption Servs., Inc.](#), 668 F.3d 393, 404 (6th Cir. 2012)

Wire fraud, one of the predicate acts alleged in the complaint, is defined under [18 U.S.C. § 1343](#), which prohibits: "Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice." [18 U.S.C. § 1343](#)

### **Elements of a RICO Claim**

To state a RICO civil claim, a plaintiff must allege "(1) the conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity." [Nutrition Distribution LLC v. Custom Nutraceuticals LLC](#), 194 F.Supp.3d 952, 957 (D. Ariz. 2016) Additionally, "the conduct must be (5) the proximate cause of harm to the victim." *Id.*

For a RICO conspiracy claim specifically, a plaintiff must "successfully allege all the elements of a RICO violation, as well as alleging 'the existence of an illicit agreement to violate the substantive RICO provision.'" [Jones v. Tenn. Dep't of Corr.](#), 3:20-cv-00340 (M.D. Tenn. Jan 18, 2022) ("To plausibly state a RICO conspiracy claim, 'plaintiffs must successfully allege all the elements

of a RICO violation, as well as alleging 'the existence of an illicit agreement to violate the substantive RICO provision.'")

Importantly, the Supreme Court has established that to prove a RICO conspiracy, there is no requirement that each defendant "himself committed or agreed to commit the two predicate acts requisite for a substantive RICO offense." RICO: A Primer (2022-01-31) Rather, it is sufficient to show that each defendant "knowingly agreed that a conspirator would commit a violation of [18 U.S.C. § 1962](#)(c)." Id.

## **Pattern of Racketeering Activity Requirement**

A pattern of racketeering activity requires, at a minimum, two acts of racketeering activity within ten years of each other. [Heinrich v. Waiting Angels Adoption Servs., Inc., 668 F.3d 393, 409 \(6th Cir. 2012\)](#) However, the Supreme Court has clarified that establishing a pattern requires more than just showing two predicate acts—the plaintiff must also demonstrate both "relationship" and "continuity." [Inc v. Northwestern Bell Telephone Company, 492 U.S. 229 \(1989\)](#) ("RICO's legislative history, however, establishes that Congress intended that to prove a 'pattern of racketeering activity' a plaintiff or prosecutor must show both 'relationship' and 'continuity'—that the racketeering predicates are related, and that they either constitute or threaten long-term criminal activity.")

## **Pleading Standards for RICO Claims**

### **Rule 8(a) Basic Pleading Standard**

Under Federal Rule of Civil Procedure 8(a), "a pleading in a civil action must contain 'a short and plain statement of the claim showing that the pleader is entitled to relief.'" [Wilson v. EverBank, N.A., 77 F. Supp. 3d 1202 \(S.D. Fla. 2015\)](#) This rule requires that a complaint "provide the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests." Id.

### **Rule 9(b) Heightened Pleading Standard for Fraud**

When a RICO claim is based on predicate acts involving fraud, such as mail or wire fraud, the allegations must satisfy the heightened pleading standard of Rule 9(b). [Ketayi v. Health Enrollment Grp., Corp., 516 F.Supp.3d 1092 \(S.D. Cal. 2021\)](#) ("A plaintiff must allege facts with the particularity required by Rule 9(b) for predicate acts involving fraud for civil RICO claims.")

Rule 9(b) requires that "a party must state with particularity the circumstances constituting fraud or mistake," although "conditions of a person's mind," such as malice, intent, and knowledge may be alleged generally. [In re Takata Airbag Prods. Liab. Litig., 396 F.Supp.3d 1101 \(S.D. Fla. 2019\)](#)

This heightened pleading standard requires plaintiffs to allege:

1. "The precise statements, documents, or misrepresentations made"

2. "The time, place, and person responsible for the statement"
  3. "The content and manner in which these statements misled the Plaintiffs"
  4. "What the defendants gained by the alleged fraud"
- [Tusha v. Richmond](#), (M.D. Fla. Dec. 15, 2023)

Similarly, for mail and wire fraud specifically, which are common predicate acts in RICO claims, courts require the complaint to "state the contents of the communications, who was involved, where and when they took place, and explain why they were fraudulent." [Odyssey re \(London\) v. Stirling Cooke Brown Hold.](#), 85 F.Supp.2d 282 (S.D. N.Y. 2000)

## **Application to the Present Case**

### **Adequacy of the Complaint's Allegations**

The complaint at issue contains detailed allegations that satisfy both the basic pleading standard of Rule 8(a) and the heightened requirements of Rule 9(b) for RICO conspiracy claims involving fraud-based predicate acts.

### **Specific Details Regarding the Scheme**

The complaint details a coordinated scheme by Myers, Branthoover, and Wilson, including specific dates, communications, and actions. It alleges that Myers and Branthoover exchanged interstate calls and texts, Myers traveled to Oklahoma to draft false legal documents, Wilson served an eviction notice based on fabricated grounds, and all defendants used mail and wire communications in furtherance of their scheme.

These allegations satisfy the requirement to plead "the time, place, and specific content of the false representations as well as the identities of the parties to the misrepresentation." [Edwards v. Marin Park, Inc.](#), 356 F.3d 1058 (9th Cir. 2004) The complaint has effectively identified the "who" (Myers, Branthoover, and Wilson), the "what" (the coordinated fraudulent scheme), the "when" (specific dates from December 2023 through May 2025), the "where" (including interstate communications and travel to Oklahoma), and the "how" (through calls, texts, fraudulent legal documents, and a fabricated eviction notice) of the alleged misconduct.

### **Enterprise and Pattern of Racketeering Activity**

By alleging that the defendants worked together in a coordinated scheme, using interstate communications and engaging in fraudulent activities over a period from December 2023 through May 2025, the complaint establishes both the "enterprise" and "pattern of racketeering activity" elements required for a RICO claim.

The complaint's allegations of ongoing threats and coordination over this extended period satisfy the "relationship" and "continuity" requirements established in [Inc v. Northwestern Bell Telephone Company](#), 492 U.S. 229 (1989). The Supreme Court explained in that case that "to prove a 'pattern

of racketeering activity' a plaintiff or prosecutor must show both 'relationship' and 'continuity'—that the racketeering predicates are related, and that they either constitute or threaten long-term criminal activity."

### **Predicate Acts of Mail and Wire Fraud**

The complaint's allegations regarding interstate calls and texts between Myers and Branthoover constitute predicate acts of wire fraud under [18 U.S.C. § 1343](#), which prohibits the transmission of communications in interstate commerce for the purpose of executing a fraudulent scheme. [18 U.S.C. § 1343](#)

To properly allege mail and wire fraud as predicate acts, a complaint must show "(1) the existence of a scheme to defraud, (2) the defendant's knowing or intentional participation in the scheme, and (3) the use of interstate mails or transmission facilities in furtherance of the scheme." [Odyssey re \(London\) v. Stirling Cooke Brown Hold., 85 F.Supp.2d 282 \(S.D. N.Y. 2000\)](#)

The complaint satisfies these requirements by detailing:

1. The scheme to defraud (coordinated actions to draft false legal documents and serve an eviction notice based on fabricated grounds)
2. Each defendant's knowing participation (specifying their individual roles)
3. The use of interstate communications (calls and texts between Myers and Branthoover, as well as mail and wire communications by all defendants)

### **Agreement to Violate RICO**

The complaint also adequately alleges the "illicit agreement" necessary for a RICO conspiracy claim under [18 U.S.C. § 1962\(d\)](#). As noted in [Jones v. Tenn. Dep't of Corr.](#), 3:20-cv-00340 (M.D. Tenn. Jan 18, 2022), a RICO conspiracy claim requires allegations of "the existence of an illicit agreement to violate the substantive RICO provision."

The detailed allegations of coordination between the defendants, including their communications and specified roles in the scheme, support the inference of an agreement to engage in a pattern of racketeering activity. As explained in RICO: A Primer (2022-01-31), a RICO conspiracy does not require each defendant to have personally committed or agreed to commit two predicate acts. Rather, it is sufficient to show that "each defendant knowingly agreed that a conspirator would commit a violation of [18 U.S.C. § 1962\(c\)](#)."

### **Compliance with Rule 9(b)'s Particularity Requirement**

Courts have consistently emphasized that for RICO claims based on fraud, "the complaint must: (1) specify the statements that the plaintiff contends were fraudulent, (2) identify the speaker, (3) state where and when the statements were made, and (4) explain why the statements were

fraudulent." [Am. Fed'n of State & Municipal Emp. Dist. Council 37 Health & Sec. Plan v. Bristol-Myers Squibb Co., 948 F.Supp.2d 338 \(S.D. N.Y. 2013\)](#)

The complaint in this case meets these requirements by:

1. Specifying the fraudulent statements (the content of communications between defendants)
2. Identifying the speakers (Myers, Branthoover, and Wilson)
3. Stating where and when the statements were made (specific dates from December 2023 through May 2025)
4. Explaining why the statements were fraudulent (as part of a scheme involving false legal documents and fabricated grounds for eviction)

In [VAN DORN CO., CENT. STATES CAN. CO. v. Howington, 623 F.Supp. 1548 \(N.D. Ohio 1985\)](#), the court stated that when alleging wire and mail fraud as predicate acts, a claimant must, pursuant to Rule 9(b), describe "such matters as the time, place and content of false representations, as well as the identity of the person making the misrepresentation and what was obtained or given up thereby."

Similarly, in [Wilson v. Askew, 709 F.Supp. 146 \(W.D. Ark. 1989\)](#), the court emphasized that RICO complaints must set forth "the dates, content, and the 'actors' involved in sufficient acts of mail or wire fraud to satisfy the RICO statutes" as well as "the role such communication played in the overall schemes."

The complaint in this case, with its detailed chronology, identification of participants, specific communications, and description of each defendant's role and actions, satisfies these requirements.

## **Comparative Case Analysis**

### **Cases Supporting Sufficiency of the Pleadings**

In [Tryco Trucking Co. v. Belk Store Services, Inc., 608 F.Supp. 812 \(W.D. N.C. 1985\)](#), the court found that a complaint that "identifies the transactions, the fraudulent representations, the material concealments, the parties' identity, and their intent alleges with the requisite specificity several fraudulent schemes." This supports the conclusion that the complaint in the present case, with its detailed allegations, meets the pleading requirements for a RICO claim.

Similarly, the court in [Tusha v. Richmond](#), (M.D. Fla. Dec. 15, 2023) outlined that a plaintiff establishes a RICO conspiracy claim by showing either that "the defendant agreed to the overall objective of the conspiracy" or that "the defendant agreed to commit two predicate acts." The detailed allegations of coordination and specific actions by each defendant in the present case support the inference of such an agreement.



## Cases Finding Insufficient Pleadings (Distinguished)

In contrast to the present case, the court in [Wilson v. Askew, 709 F.Supp. 146 \(W.D. Ark. 1989\)](#) found that "conclusory allegations" of wire and mail fraud "have repeatedly been held to be insufficient in RICO cases." The court required the plaintiff to "amend the complaint setting forth the dates, content, and the 'actors' involved in sufficient acts of mail or wire fraud."

Unlike the complaint at issue in [Wilson v. Askew](#), the present complaint does not rely on conclusory allegations but provides specific details about the dates, content of communications, and the roles of each defendant in the fraudulent scheme.

Similarly, in [Bieganek v. Wilson, 642 F.Supp. 768 \(N.D. Ill. 1986\)](#), the court found that a RICO claim was "not pled with enough detail" because it failed to "sketch out both the scheme to defraud and how the mail or wires furthered that scheme." The court required the plaintiff to "identify the mailings and the role they played in the fraud."

It should be noted that [Bieganek v. Wilson, 642 F.Supp. 768 \(N.D. Ill. 1986\)](#) was stated as vacated by [Khalid Bin Alwaleed Foundation v. EF Hutton & Co., Inc., 709 F. Supp. 815 \(N.D. Ill. 1989\)](#). However, even if we were to consider the reasoning in [Bieganek](#), the present complaint would be distinguishable because it specifically details how the interstate calls, texts, and other communications furthered the defendants' fraudulent scheme.

## Legal Principles Applied to the Case

### Pattern of Racketeering Activity

The complaint's allegations of ongoing threats and coordination documented through specific text messages and events from December 2023 through May 2025 establish a pattern of racketeering activity that satisfies both the "relationship" and "continuity" requirements established by the Supreme Court in [Inc v. Northwestern Bell Telephone Company, 492 U.S. 229 \(1989\)](#).

The temporal scope of the alleged activities (spanning from December 2023 to May 2025) demonstrates continuity, while the coordinated nature of the defendants' actions shows relationship between the predicate acts. This is sufficient to establish a pattern of racketeering activity as required for a RICO claim.

### Interstate Commerce Connection

The complaint's allegations regarding interstate calls and texts between Myers and Branthoover, as well as Myers' travel to Oklahoma to draft false legal documents, establish the necessary connection to interstate commerce required for a RICO claim. As noted in RICO: A Primer (2022-01-31), one of the elements that must be proven for a RICO conspiracy violation is that "the enterprise was (or would be) engaged in, or its activities affected (or would affect), interstate or foreign commerce."

## Fraud-Based Predicate Acts

The complaint's detailed allegations about the defendants' use of mail and wire communications in furtherance of their fraudulent scheme establish the predicate acts necessary for a RICO claim. As explained in *Fraud and Misrepresentation* (2014-01-01), "a RICO violation alleging mail or wire fraud as a predicate requires proof of a scheme to defraud and use of the mails (or other interstate communications media) in furtherance of the scheme."

The complaint in this case provides specific details about the defendants' use of interstate calls, texts, and other communications, as well as their roles in creating and using false legal documents, which satisfies the requirement to show "a scheme to defraud" and "use of the mails (or other interstate communications media) in furtherance of the scheme."

## Conclusion

The complaint's detailed allegations regarding the coordinated scheme between Myers, Branthoover, and Wilson, including specific dates, communications, actions, and the roles of each defendant, satisfy both the basic pleading requirements of Rule 8(a) and the heightened particularity standards of Rule 9(b) for RICO conspiracy claims under [18 U.S.C. § 1962\(d\)](#) involving fraud-based predicate acts.

The complaint effectively establishes all the necessary elements for a RICO conspiracy claim:

1. The existence of an enterprise (the coordinated group of defendants)
2. A pattern of racketeering activity (ongoing coordinated actions from December 2023 through May 2025)
3. Predicate acts (mail and wire fraud through interstate communications)
4. An agreement among the defendants to participate in the scheme
5. The specific role of each defendant in the fraudulent activities

By providing detailed information about the "who, what, when, where, and how" of the alleged misconduct, the complaint meets the heightened pleading requirements for fraud-based RICO claims as established in cases like [Am. Fed'n of State & Municipal Emp. Dist. Council 37 Health & Sec. Plan v. Bristol-Myers Squibb Co.](#), 948 F.Supp.2d 338 (S.D. N.Y. 2013) and [Odyssey re \(London\) v. Stirling Cooke Brown Hold.](#), 85 F.Supp.2d 282 (S.D. N.Y. 2000).

The level of detail in the complaint—including the specific dates of communications, the content of those communications, the travel to Oklahoma, the drafting of false legal documents, the service of an eviction notice based on fabricated grounds, and the distinct roles of each defendant—provides the defendants with fair notice of the claims against them while satisfying the particularity requirements for allegations of fraud.

As established in [Civil Rico: A Tool of Advocacy](#) (2024-01-01), "the practitioner through their pleadings must articulate with great care and



attention a viable racketeering claim." The complaint in this case has done exactly that, providing a detailed and particularized account of the alleged RICO conspiracy that satisfies the applicable pleading standards.

## **Legal Authorities**

[Wilson v. Askew, 709 F.Supp. 146 \(W.D. Ark. 1989\)](#)

**U.S. District Court — Western District of Arkansas**

### **Extract**

Notwithstanding that it is possible for plaintiff to replead the RICO allegations to satisfy the 'continuity' prong, plaintiff's allegations are woefully deficient under Rule 9(b). Rule 9(b), which requires that fraud be pleaded with particularity, applies to the pleading of RICO predicate acts. See *Flowers v. Continental Grain Co.*, 775 F.2d 1051 (8th Cir.1985). Plaintiff has pled that wire fraud and mail fraud were committed in furtherance of the scheme of which he was a victim on numerous occasions between 1969 and 1988. Such conclusory allegations have repeatedly been held to be insufficient in RICO cases. See *Van Dorn v. Howington*, 623 F.Supp. 1548 (N.D.Ohio 1985); *Bieganek v. Wilson*, 642 F.Supp. 768 (N.D.Ill.1986). This is more so true where it is the plaintiff who is the recipient of the mail or wire communications. Plaintiff is directed to amend the complaint setting forth the dates, content, and the 'actors' involved in sufficient acts of mail or wire fraud to satisfy the RICO statutes within 30 days of the filing of this opinion or the RICO claims will be subject to dismissal. Further, the amended complaint should set forth the role such communication played in the overall schemes.

### **Summary**

The court emphasizes the necessity for a RICO complaint to plead fraud with particularity, as required by Rule 9(b). This includes detailing the dates, content, and participants involved in the fraudulent acts, as well as the role of each communication in the overall scheme. This aligns with the proposition's assertion that the complaint provides a detailed chronology, identification of participants, specific communications, and description of each defendant's role and actions, meeting the heightened pleading requirements for RICO conspiracy and fraud-based predicate acts.

[Am. Fed'n of State & Municipal Emp. Dist. Council 37 Health & Sec. Plan v. Bristol-Myers Squibb Co.](#), 948 F.Supp.2d 338 (S.D. N.Y. 2013)

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

## **Extract**

RICO claims based on mail and wire fraud are subject to the heightened pleading standard established by Rule 9(b), which provides that '[i]n alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake.' See *McLaughlin v. Anderson*, 962 F.2d 187, 191 (2d Cir.1992) (noting that Rule 9(b)'s heightened pleading standard applies where mail fraud is alleged as a RICO predicate offense). '[T]o comply with Rule 9(b), 'the complaint must: (1) specify the statements that the plaintiff contends were fraudulent, (2) identify the speaker, (3) state where and when the statements were made, and (4) explain why the statements were fraudulent.'

## **Summary**

For a RICO claim involving mail and wire fraud, the complaint must meet the heightened pleading standard of Rule 9(b). This requires specifying the fraudulent statements, identifying the speaker, stating when and where the statements were made, and explaining why they were fraudulent. The proposition claims that the complaint provides detailed information about the fraudulent scheme, including specific communications and actions by the defendants, which aligns with the requirements outlined in the passage.

[Odyssey re \(London\) v. Stirling Cooke Brown Hold., 85 F.Supp.2d 282 \(S.D. N.Y. 2000\)](#)

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

## **Extract**

A complaint alleging mail and wire fraud must show (1) the existence of a scheme to defraud, (2) the defendant's knowing or intentional participation in the scheme, and (3) the use of interstate mails or transmission facilities in furtherance of the scheme. ... any alleged predicate acts involving fraud must be pled with the same specificity required by Rule 9(b). ... '[A]llegations of predicate mail and wire fraud acts should state the contents of the communications, who was involved, where and when they took place, and explain why they were fraudulent.'

## **Summary**

For a RICO claim involving mail and wire fraud, the complaint must detail the scheme to defraud, the defendant's participation, and the use of mail or wire communications. The allegations must be specific, detailing the contents, participants, timing, and fraudulent nature of the communications. This aligns with the proposition's requirement for detailed allegations in a RICO conspiracy claim.

[Wilson v. EverBank, N.A., 77 F. Supp. 3d 1202 \(S.D. Fla. 2015\)](#)

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

**Extract**

A pleading in a civil action must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed.R.Civ.P. 8(a)(2). To satisfy the Rule 8 pleading requirements, a complaint must provide the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests... To state a civil RICO claim, a plaintiff must sufficiently allege “(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.”... Because Plaintiffs' RICO claims are predicated on allegations of fraud, their allegations must satisfy the heightened pleading requirement of Fed.R.Civ.P. 9(b) and allege: “(1) the precise statements, documents, or misrepresentations made; (2) the time, place, and person responsible for the statement; (3) the content and manner in which these statements misled the Plaintiffs; and (4) what the defendants gained by the alleged fraud.”

**Summary**

Requirements for pleading a civil RICO claim, emphasizing the need for a complaint to provide fair notice of the claim and the grounds upon which it rests, as per Rule 8(a). It also highlights the necessity of meeting the heightened pleading standard of Rule 9(b) for fraud-based predicate acts, requiring specific details about the fraudulent conduct. This aligns with the proposition's assertion that the complaint must detail the who, what, when, where, and how of the alleged misconduct to meet these standards.

[Ketayi v. Health Enrollment Grp., Corp., 516 F.Supp.3d 1092 \(S.D. Cal. 2021\)](#)

**U.S. District Court — Southern District of California**

**Extract**

The Federal Rules of Civil Procedure provide a heightened pleading standard for complaints alleging fraud. Under Rule 9(b), a complaint must state with particularity the circumstances constituting fraud. Fed. R. Civ. P. 9(b). Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally. *Id.* To satisfy this heightened pleading requirement, the plaintiff must set forth 'the time, place, and specific content of the false representations as well as the identities of the parties to the misrepresentation.' ... A plaintiff must allege facts with the particularity required by Rule 9(b) for predicate acts involving fraud for civil RICO claims. *Edwards v. Marin Park, Inc.*, 356 F.3d 1058, 1065–66 (9th Cir. 2004).

## **Summary**

Requirements under Rule 9(b) for pleading fraud with particularity, which is directly relevant to the proposition that the complaint must allege the circumstances of fraud with specificity. It also confirms that for RICO claims involving fraud, the same heightened pleading standard applies. This supports the proposition that the complaint in question meets these requirements by detailing the specific actions, communications, and roles of the defendants.

[In re Takata Airbag Prods. Liab. Litig., 396 F.Supp.3d 1101 \(S.D. Fla. 2019\)](#)

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

### **Extract**

Where a cause of action sounds in fraud, however, Federal Rule of Civil Procedure 9(b) must be satisfied in addition to the more relaxed standard of Rule 8. Under Rule 9(b), 'a party must state with particularity the circumstances constituting fraud or mistake,' although 'conditions of a person's mind,' such as malice, intent, and knowledge may be alleged generally. Fed. R. Civ. P. 9(b). 'The 'particularity' requirement serves an important purpose in fraud actions by alerting defendants to the 'precise misconduct with which they are charged' and protecting defendants 'against spurious charges of immoral and fraudulent behavior.' ... As the Eleventh Circuit has explained, because 'fair notice' is perhaps the most basic consideration underlying Rule 9(b), plaintiffs who plead fraud 'must reasonably notify the defendants of their purported role in the scheme.' Brooks, 116 F.3d at 1381 (internal citations and quotations omitted). This means that in a case involving multiple defendants, 'the complaint should inform each defendant of the nature of his alleged participation in the fraud.'

## **Summary**

Rule 9(b) requires fraud allegations to be stated with particularity, which includes detailing the specific misconduct and the role of each defendant. This aligns with the proposition that the complaint must provide a detailed chronology, identification of participants, and specific communications to meet the heightened pleading requirements for RICO conspiracy and fraud-based predicate acts. The passage also emphasizes the importance of notifying defendants of their roles in the alleged scheme, which supports the need for detailed allegations as described in the proposition.

[VAN DORN CO., CENT. STATES CAN. CO. v. Howington, 623 F.Supp. 1548 \(N.D. Ohio 1985\)](#)

**U.S. District Court — Northern District of Ohio**

## **Extract**

When alleging wire and mail fraud as predicate acts of racketeering, a claimant must, pursuant to Rule 9(b), describe with particularity the circumstances constituting the fraud. The Eighth Circuit described these circumstances in a RICO action to, at a minimum, 'include such matters as the time, place and content of false representations, as well as the identity of the person making the misrepresentation and what was obtained or given up thereby.' *Bennett v. Berg*, supra 685 F.2d at 1063.

## **Summary**

The passage emphasizes the necessity of particularity in pleading fraud-based predicate acts under RICO, specifically wire and mail fraud. It aligns with the proposition's requirement that the complaint must detail the "who, what, when, where, and how" of the alleged misconduct. The passage supports the proposition by confirming that the complaint's detailed chronology, identification of participants, and specific communications meet the heightened pleading requirements for RICO conspiracy and fraud-based predicate acts.

[Bieganek v. Wilson, 642 F.Supp. 768 \(N.D. Ill. 1986\)](#)

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

## **Extract**

Only Count VI (RICO) is not pled with enough detail. A RICO claim predicated on mail or wire fraud must sketch out both the scheme to defraud and how the mail or wires furthered that scheme. See, e.g., *Ghouth*, 642 F.Supp. at 1331; *Dunham v. Independence Bank of Chicago*, 629 F.Supp. 983, 986 (N.D.Ill.1986). A plaintiff must identify the mailings and the role they played in the fraud. See, e.g., *Ghouth*, 642 F.Supp. at 1331; *Harris Trust & Savings Bank v. Ellis*, 609 F.Supp. 1118, 1123 (N.D.Ill.1985) (Aspen, J.) (plaintiff must sketch who caused what to be mailed when, and how the mailing furthered the scheme).

## **Summary**

Necessity for a RICO claim to detail the scheme to defraud and the role of mail or wire communications in furthering that scheme. It emphasizes the need for specificity in identifying the mailings and their role in the fraud, aligning with the proposition's requirement for detailed allegations in a RICO conspiracy claim.

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

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

### **Extract**

RICO's legislative history, however, establishes that Congress intended that to prove a 'pattern of racketeering activity' a plaintiff or prosecutor must show both 'relationship' and 'continuity'—that the racketeering predicates are related, and that they either constitute or threaten long-term criminal activity. ... RICO renders criminally and civilly liable 'any person' who uses or invests income derived 'from a pattern of racketeering activity' to acquire an interest in or to operate an enterprise engaged in interstate commerce, § 1962(a); who acquires or maintains an interest in or control of such an enterprise 'through a pattern of racketeering activity,' § 1962(b); who, being employed by or associated with such an enterprise, conducts or participates in the conduct of its affairs 'through a pattern of racketeering activity,' § 1962(c); or, finally, who conspires to violate the first three subsections of § 1962, § 1962(d).

### **Summary**

The RICO statute requires showing both a relationship and continuity in racketeering activities to establish a pattern. The passage also clarifies that RICO applies to any person involved in a pattern of racketeering activity, including those who conspire to violate the statute. This supports the proposition by highlighting the necessity of demonstrating a coordinated scheme with specific actions and communications, as detailed in the complaint, to meet the RICO requirements.

## [Tusha v. Richmond](#)

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

### **Extract**

A plaintiff establishes a RICO conspiracy claim “(1) by showing that the defendant agreed to the overall objective of the conspiracy; or (2) by showing that the defendant agreed to commit two predicate acts.” Additionally, when the underlying racketeering activity involves fraud, the plaintiff must satisfy Rule 9(b)&#39;s heightened pleading requirements. In this context, Rule 9(b) requires Plaintiffs to allege: “(1) the precise statements, documents, or misrepresentations made; (2) the time, place, and person responsible for the statement; (3) the content and manner in which these statements mislead the Plaintiffs; and (4) what the defendants gained by the alleged fraud.”

### **Summary**

Requirements for establishing a RICO conspiracy claim, specifically under 18 U.S.C. § 1962(d). It emphasizes the need for a plaintiff to show either an



agreement to the overall objective of the conspiracy or an agreement to commit two predicate acts. Furthermore, it highlights the necessity of meeting Rule 9(b)'s heightened pleading standards when fraud is involved, requiring detailed allegations about the fraudulent acts. This directly supports the proposition that the complaint must provide specific details about the conspiracy, including the roles and actions of each defendant, to meet these legal standards.

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

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

### **Extract**

To state a RICO civil claim, a plaintiff must allege '(1) the conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' *Eclectic Props. E., LLC v. Marcus & Millichap Co.*, 751 F.3d 990, 997 (9th Cir.2014) (citation omitted). 'In addition, the conduct must be (5) the proximate cause of harm to the victim.' *Id.* (citation omitted). Pleading a pattern of racketeering activity requires the plaintiff to allege that the defendant participated in at least two acts that were chargeable under the enumerated federal statutes. The plaintiff must adequately plead the elements of each predicate act, satisfying the pleading standard that would apply if the predicate act were a stand-alone claim. See *Alan Neuman Prods., Inc. v. Albright*, 862 F.2d 1388, 1392 (9th Cir.1988) (complaint failed to state a RICO claim because it failed to adequately plead the elements of the predicate act; where predicate act is mail or wire fraud, complaint must plead the elements of this offense with the level of particularity required by Federal Rule of Civil Procedure 9(b) ).

### **Summary**

Requirements for stating a RICO civil claim, emphasizing the need to allege a pattern of racketeering activity with particularity, especially when fraud is involved. This aligns with the proposition's assertion that the complaint must meet heightened pleading standards under Rule 9(b) for fraud-based predicate acts. The passage supports the proposition by confirming that detailed allegations, including specific communications and roles of defendants, are necessary to satisfy RICO's pleading requirements.

[Jones v. Tenn. Dep't of Corr., 3:20-cv-00340 \(M.D. Tenn. Jan 18, 2022\)](#)

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

### **Extract**

To state a RICO claim, a plaintiff must allege "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity." *Heinrich v.*

Waiting Angels Adoption Servs., Inc., 668 F.3d 393, 404 (6th Cir. 2012) (quoting *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496 (1985)). ... To plausibly state a RICO conspiracy claim, “plaintiffs must successfully allege all the elements of a RICO violation, as well as alleging ‘the existence of an illicit agreement to violate the substantive RICO provision.’” *Id.* at 411 (quoting *United States v. Sinito*, 723 F.2d 1250, 1260 (6th Cir. 1983)).

## **Summary**

Necessary elements to state a RICO claim, which includes conduct, an enterprise, a pattern, and racketeering activity. It also specifies that for a RICO conspiracy claim, there must be an allegation of an illicit agreement to violate the RICO provision. This supports the proposition by confirming that the detailed allegations in the complaint regarding the coordinated scheme, specific communications, and roles of each defendant are necessary to meet the pleading requirements for a RICO conspiracy claim.

[ESTATE OF DEARING BY DEARING v. Dearing, 646 F.Supp. 903 \(S.D. W.Va. 1986\)](#)

**U.S. District Court — Southern District of West Virginia**

## **Extract**

The problem with the Plaintiffs' complaint — and the Defendants implicitly argue this point — is that it does not plead fraud with the particularity required under Rule 9(b) of the Federal Rules of Civil Procedure. The requirement of that rule applies to fraud allegations in civil RICO claims. *Haroco, Inc. v. American National Bank & Trust Co. of Chicago*, 747 F.2d 384 (7th Cir.1984), affirmed on other grounds, 473 U.S. 606, 105 S.Ct. 3291, 87 L.Ed.2d 437 (1985); *Tryco Trucking Co., Inc. v. Belk Store Services, Inc.*, 608 F.Supp. 812 (W.D.N.C.1985).

## **Summary**

The passage highlights the necessity for a complaint alleging fraud in a civil RICO claim to meet the particularity requirements of Rule 9(b). This aligns with the proposition that the complaint must detail the circumstances of the fraud, including the who, what, when, where, and how. The passage supports the proposition by emphasizing the importance of particularity in fraud allegations within RICO claims.

[Tryco Trucking Co. v. Belk Store Services, Inc., 608 F.Supp. 812 \(W.D. N.C. 1985\)](#)

**U.S. District Court — Western District of North Carolina**

## **Extract**

The requirement in Fed.R.Civ.P. 9(b) of specificity in pleading fraud applies to fraud allegations in civil RICO claims. The Complaint in this action, which Complaint identifies the transactions, the fraudulent representations, the material concealments, the parties' identity, and their intent alleges with the requisite specificity several fraudulent schemes.

## **Summary**

Requirement of specificity in pleading fraud under Rule 9(b) in the context of civil RICO claims. It highlights that the complaint in the case identified transactions, fraudulent representations, material concealments, parties' identities, and their intent with the requisite specificity. This aligns with the proposition's assertion that the complaint in question meets the heightened pleading requirements for RICO conspiracy and fraud-based predicate acts by providing detailed information about the alleged misconduct.

[Edwards v. Marin Park, Inc., 356 F.3d 1058, 2004 WL 112642 \(9th Cir. 2004\)](#)

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

## **Extract**

Rule 9(b)'s requirement that '[i]n all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity' applies to civil RICO fraud claims. *Alan Neuman Prods., Inc. v. Albright*, 862 F.2d 1388, 1392 (9th Cir.1989). To avoid dismissal for inadequacy under Rule 9(b), Edwards's complaint would need to 'state the time, place, and specific content of the false representations as well as the identities of the parties to the misrepresentation.'

## **Summary**

Rule 9(b) requires that fraud claims, including those under RICO, must be stated with particularity. This includes specifying the time, place, content of false representations, and identities of the parties involved. This aligns with the proposition's assertion that the complaint must detail the who, what, when, where, and how of the alleged misconduct to meet the heightened pleading requirements for RICO conspiracy and fraud-based predicate acts.

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

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

## **Extract**

The plaintiffs challenge the dismissal of their RICO claim under 18 U.S.C. § 1962(c), which provides: It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt. ... To establish a substantive RICO violation, a plaintiff must show "a pattern of racketeering activity." 18 U.S.C. § 1962(c). A pattern of racketeering activity requires, at minimum, two acts of racketeering activity within ten years of each other. 18 U.S.C. § 1961(5). ... The plaintiffs also challenge the dismissal of their RICO conspiracy claim under 18 U.S.C. § 1962(d). To plausibly state a claim for a violation of 18 U.S.C. § 1962(d), plaintiffs must successfully allege all the elements of a RICO violation, as well as alleging "the existence of an illicit agreement to violate the substantive RICO provision." *United States v. Sinito*, 723 F.2d 1250, 1260 (6th Cir.1983). "An agreement can be shown if the defendant objectively manifested an agreement to participate directly or indirectly in the affairs of an enterprise through the commission of two or more predicate crimes."

## **Summary**

Requirements for establishing a RICO violation under 18 U.S.C. § 1962(c) and a RICO conspiracy under 18 U.S.C. § 1962(d). It emphasizes the need for a pattern of racketeering activity and the existence of an illicit agreement. The passage supports the proposition by highlighting the necessity of demonstrating a pattern of racketeering activity and an agreement among the defendants, which aligns with the detailed allegations of coordinated actions and communications in the complaint.

[Haroco, Inc. v. American Nat. Bank and Trust Co. of Chicago, 747 F.2d 384 \(7th Cir. 1984\)](#)

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

## **Extract**

A private civil action under RICO is grounded upon the premise that a party has twice engaged in 'racketeering activity.' The Act defines 'racketeering activity' as behavior 'indictable' under specified provisions of the United States Code. Before a court can assess the merit of a plaintiff's treble damages claim it must determine whether there is probable cause to believe the named defendant committed the alleged predicate crimes. That determination is possible only if the factual basis of those 'acts of racketeering' is set out with particularity. Thus, a factual statement similar to a bill of particulars is needed in pleadings that allege a violation of the RICO treble damages provision.

## **Summary**

The passage emphasizes the necessity for a RICO claim to be grounded on the premise of engaging in "racketeering activity" and that the factual basis of these acts must be set out with particularity. This aligns with the proposition's requirement for detailed allegations in a RICO conspiracy claim, including specific dates, communications, and actions, to meet the heightened pleading standards under Federal Rules of Civil Procedure 8(a) and 9(b).

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

## **Extract**

It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

## **Summary**

The passage from 18 U.S.C. § 1962(d) explicitly states that it is unlawful for any person to conspire to violate the provisions of subsections (a), (b), or (c). This directly supports the proposition that a RICO conspiracy claim can be made if there is a coordinated scheme involving multiple parties, as described in the complaint. The detailed actions and communications of Myers, Branthoover, and Wilson, as outlined in the proposition, align with the concept of a conspiracy to engage in racketeering activity, which is prohibited under this statute.

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

## **Extract**

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

## **Summary**

The passage from 18 U.S.C. § 1343 outlines the federal crime of wire fraud, which involves using wire communications in interstate or foreign commerce to execute a scheme to defraud. This is directly relevant to the proposition because the complaint alleges that Myers, Branthoover, and Wilson used interstate wire communications (calls and texts) as part of their fraudulent

scheme. The passage supports the claim that such actions can constitute a predicate act of wire fraud under RICO, which is necessary for establishing a RICO conspiracy claim.

### [Fraud and Misrepresentation](#)

#### **Business Torts and Unfair Competition Handbook - American Bar Association - 2014-01-01**

##### **Extract**

A fraud claim under RICO differs from a state common law fraud claim. To prove fraud amounting to a RICO violation, there must be an enterprise, an effect upon interstate commerce, and two predicate offenses. When predicate acts such as mail or wire fraud are relied upon to establish the requisite pattern of racketeering activity, the elements of those offenses must be shown in addition to the other elements of a RICO claim. Generally, a RICO violation alleging mail or wire fraud as a predicate requires proof of a scheme to defraud and use of the mails (or other interstate communications media) in furtherance of the scheme. Mail fraud 'requires proof of a specific intent to defraud or deceive.'

##### **Summary**

Requirements for establishing a RICO violation based on fraud, specifically highlighting the need for an enterprise, an effect on interstate commerce, and two predicate offenses. It emphasizes the necessity of proving a scheme to defraud and the use of mail or wire communications in furtherance of that scheme, which aligns with the proposition's description of the coordinated actions and communications among the defendants. The passage also underscores the requirement of specific intent to defraud, which is relevant to the detailed allegations in the complaint.

### [Civil Rico: A Tool of Advocacy](#)

#### **The Brief - American Bar Association - 2024-01-01**

##### **Extract**

A RICO-based complaint must be drafted with the following instructions from Sedima as a guide. 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.

## **Summary**

Essential elements required to establish a RICO claim under § 1962(c), emphasizing the need for particularity in pleading fraud-based predicate acts, as required by Federal Rule of Civil Procedure 9(b). This aligns with the proposition's assertion that the complaint must detail the specific actions, communications, and roles of the defendants to meet the heightened pleading requirements for RICO conspiracy and fraud-based predicate acts.

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

## **Extract**

Under Section 1962(d), it is a violation to conspire to commit any of the three substantive RICO offenses. To prove a violation of Section 1962(d), a plaintiff must prove the following elements: \* The existence of an enterprise (or that an enterprise would exist); \* That the enterprise was (or would be) engaged in, or its activities affected (or would affect), interstate or foreign commerce; and \* That each defendant knowingly agreed that a conspirator would commit a violation of 18 U.S.C. ' 1962(c). The Supreme Court held that to establish a RICO conspiracy offense under Section 1962(d), there is no requirement that the defendant 'himself committed or agreed to commit the two predicate acts requisite for a substantive RICO offense under ' 1962(c).'

## **Summary**

Elements required to establish a RICO conspiracy under Section 1962(d), which aligns with the proposition's claim that the complaint must detail the conspiracy and the roles of each defendant. The passage confirms that a RICO conspiracy does not require each defendant to commit the predicate acts themselves, which supports the proposition's emphasis on detailing the coordination and agreement among the defendants. The requirement for the enterprise to affect interstate commerce is also relevant, as the proposition mentions interstate communications and actions.

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

## **Extract**

Under Section 1962(d), it is a violation to conspire to commit any of the three substantive RICO offenses. To prove a violation of Section 1962(d), a plaintiff must prove the following elements: The existence of an enterprise (or that an enterprise would exist); That the enterprise was (or would be)

engaged in, or its activities affected (or would affect), interstate or foreign commerce; and That each defendant knowingly agreed that a conspirator would commit a violation of 18 U.S.C. ' 1962(c). The Supreme Court held that to establish a RICO conspiracy offense under Section 1962(d), there is no requirement that the defendant 'himself committed or agreed to commit the two predicate acts requisite for a substantive RICO offense under ' 1962(c).

## **Summary**

To establish a RICO conspiracy under Section 1962(d), it is sufficient to show that the defendants knowingly agreed that a conspirator would commit a violation of Section 1962(c). This aligns with the proposition that the complaint details a coordinated scheme involving specific actions and communications among the defendants, which could demonstrate such an agreement. The passage supports the notion that the detailed allegations in the complaint, including the roles and actions of each defendant, meet the requirements for pleading a RICO conspiracy.

This memo was compiled by Vincent AI based on vLex materials available as of June 17, 2025. [View full answer on vLex](#)