

## **Question**

The Plaintiff alleged a series of acts spanning from December 2023 through May 2025, including wire fraud, Travel Act violations, and ongoing threats and communications, all in furtherance of a single scheme to defraud and injure the Plaintiff. To plead a valid RICO claim, a plaintiff must plausibly allege that a defendant “(1) conducted the affairs (2) of an enterprise (3) through a pattern (4) of racketeering activity.” (Johnson v. Heath, 56 F.4th 851, 858 (10th Cir. 2022)). A “pattern” requires both relatedness and continuity. (H.J. Inc. v. Nw. Bell Tel. Co., 492 U.S. 229, 239-41 (1989)). The judge found that the Plaintiff failed to allege a “pattern” because the predicate acts were “isolated,” directed at a single victim, and completed within a short period. However, the Plaintiff’s complaint specifically alleges both closed-ended and open-ended continuity, as well as relatedness, by stating: - “The scheme extends over a substantial period—from December 2023 through May 2025, over eighteen months.” (Complaint ¶ 86(i)) - “Defendants Myers and Branthoover have continued to further their racketeering activity through a series of ongoing illicit acts, demonstrating a clear pattern of continuity and relatedness. These acts include, but are not limited to: Myers and Branthoover continuing to engage in interstate communications regarding case details between one another across state lines, specifically between Texas and Oklahoma, in direct furtherance of their fraudulent scheme to see the divorce through to its finalization.” (Complaint ¶ 49) - “Branthroover delivering ongoing threats and intimidation to Plaintiff regarding his legitimate attempts to seek legal relief from the orders that were a product of the Defendants’ actions, which occurred in December of 2023, June of 2024, December of 2024, and May of 2025.” (Complaint ¶ 49) - “The scheme also poses a threat of continued criminal activity. Branthoover’s message on May 24, 2025, demonstrating continued monitoring of Plaintiff’s activities and threatening future retaliation, indicates that the racketeering activity could continue indefinitely given that they are unable to finalize the divorce.” (Complaint ¶ 86(ii)) The Plaintiff further alleges that the acts were not isolated, but part of a coordinated, ongoing enterprise: - “The factual allegations demonstrate the formation of an associate-in-fact enterprise between Myers and Branthoover that satisfies the definition in 18 U.S.C. § 1961 (2025).” (Complaint ¶ 91) - “The enterprise functioned as a continuing unit from December 2023 through May 2025, with consistent roles and coordinated actions throughout this period.” (Complaint ¶ 91(iii)) Thus, the Plaintiff’s complaint, when taken as true and liberally construed (as required for pro se pleadings), plausibly alleges both relatedness and continuity sufficient to meet the RICO “pattern” requirement. The judge erred by disregarding these well-pleaded allegations and by focusing solely on the initial acts, rather than the ongoing nature of the alleged scheme.

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

## **Short response**

The Plaintiff's complaint, when liberally construed and taken as true, plausibly alleges both relatedness and continuity sufficient to meet the RICO "pattern" requirement, and the judge erred by disregarding these well-pleaded allegations and focusing solely on the initial acts. The allegations of an ongoing scheme spanning eighteen months, involving multiple predicate acts and a threat of continued criminal activity, are sufficient under established RICO jurisprudence.

## **Summary**

The RICO statute requires a plaintiff to allege a "pattern of racketeering activity," which consists of both relatedness and continuity. The Plaintiff's complaint details a series of coordinated acts over an eighteen-month period, involving wire fraud, Travel Act violations, and ongoing threats, all in furtherance of a single fraudulent scheme, and further alleges a threat of continued criminal conduct—facts that, if true, satisfy both the relatedness and continuity prongs as interpreted by the Supreme Court and federal appellate courts.

The judge's conclusion that the acts were "isolated," directed at a single victim, and completed within a short period is inconsistent with the controlling legal standards, which recognize that a single scheme targeting one victim can still constitute a RICO pattern if the acts are related and either extend over a substantial period (closed-ended continuity) or pose a threat of future criminal activity (open-ended continuity). The Plaintiff's allegations, including the ongoing nature of the enterprise and the threat of future racketeering, are sufficient to survive a motion to dismiss under the relevant authorities.

## **Background and Relevant Law**

### **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 persons injured by a "pattern of racketeering activity" conducted through an "enterprise." The statute defines a "pattern of racketeering activity" as requiring at least two acts of racketeering within ten years, but the Supreme Court has clarified that two acts alone are not necessarily sufficient; the acts must be both related and continuous (*H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229 (1989); [Owinga v. Benistar 419 Plan Servs., Inc.](#), 694 F.3d 783, 795 (6th Cir. 2012)).

### **Case Law**

The Supreme Court in *H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229 (1989) established the "relationship plus continuity" test for the RICO pattern requirement. Relatedness is satisfied if the predicate acts have similar

purposes, results, participants, victims, or methods, or are otherwise interrelated and not isolated events. Continuity can be shown in two ways:

- **Closed-ended continuity:** A series of related predicate acts extending over a substantial period of time.
- **Open-ended continuity:** Predicate acts that pose a threat of continued criminal activity into the future.

Numerous federal appellate and district courts have applied and elaborated on these standards. For example, [GICC Capital Corp. v. Technology Finance Group, Inc., 67 F.3d 463 \(2d Cir. 1995\)](#) and [Heinrich v. Waiting Angels Adoption Servs., Inc., 668 F.3d 393 \(6th Cir. 2012\)](#) both reaffirm that continuity may be closed-ended (substantial period) or open-ended (threat of repetition). Courts have also recognized that a single scheme, even if directed at one victim, can satisfy the pattern requirement if these elements are met ([Ashland Oil, Inc. v. Arnett, 875 F.2d 1271 \(7th Cir. 1989\)](#); [U.S. v. Indelicato, 865 F.2d 1370 \(2d Cir. 1989\)](#)).

The Third Circuit in [Tabas v. Tabas, 47 F.3d 1280 \(3d Cir. 1995\)](#) (declined to extend on other grounds by Yucaipa Am. All. Fund I, LP v. Ehrlich, No. 16-3664 (3d Cir. Nov 15, 2017)) held that a scheme lasting over three years was sufficient to establish closed-ended continuity, and cited with approval cases finding periods as short as fourteen or nineteen months sufficient. However, the subsequent treatment in Yucaipa cautions against automatic application of Tabas to all fact patterns, particularly where the context or nature of the scheme differs, but does not undermine its core holding regarding duration.

## Secondary Materials

Secondary sources confirm that the “pattern” requirement is intentionally flexible, focusing on the relatedness and continuity of the acts. Both closed-ended and open-ended continuity are recognized, and courts are instructed to conduct a fact-specific, case-by-case analysis ([Civil Rico: A Tool of Advocacy](#); RICO: A Primer; [Racketeer influenced and corrupt organizations](#) (various years)).

## Analysis

### 1. Relatedness

The Plaintiff’s complaint alleges that Myers and Branthover engaged in a series of acts—wire fraud, Travel Act violations, and threats—over an eighteen-month period, all in furtherance of a single fraudulent scheme to injure the Plaintiff. The acts are described as coordinated, with consistent roles and ongoing communications between the defendants, and are alleged to have the same purpose (defrauding and injuring the Plaintiff), the same participants (Myers and Branthover), and the same victim (the Plaintiff).

This satisfies the relatedness prong as articulated in H.J. Inc. and its progeny, which require that the acts be connected by purpose, participants,

or method, and not be isolated events ([Chambers v. King Buick GMC, LLC, 43 F. Supp. 3d 575 \(D. Md. 2014\)](#); [Day v. DB Capital Grp. LLC, Civil Action No. DKC 10-1658 \(D. Md. Mar 11, 2011\)](#)). The secondary materials further confirm that relatedness is broadly construed and does not require multiple schemes or victims (RICO: A Primer; [U.S. v. Indelicato, 865 F.2d 1370 \(2d Cir. 1989\)](#)).

## 2. Continuity

### a. Closed-Ended Continuity

Closed-ended continuity is established by a series of related predicate acts extending over a “substantial period of time.” The Plaintiff alleges acts from December 2023 through May 2025—an eighteen-month period. Courts have found that periods of fourteen, eighteen, or nineteen months can be sufficient to establish closed-ended continuity ([Tabas v. Tabas, 47 F.3d 1280 \(3d Cir. 1995\)](#)) (noting that a nineteen-month period was sufficient); [Swistock v. Jones, 884 F.2d 755, 759 \(3d Cir. 1989\)](#) (fourteen months may suffice); [GICC Capital Corp. v. Technology Finance Group, Inc., 67 F.3d 463 \(2d Cir. 1995\)](#)). The secondary materials reinforce that a “substantial period” is a flexible concept, but periods of a year or more are generally sufficient ([Racketeer Influenced and Corrupt Organizations Act](#) (1999); RICO: A Primer).

While [Tabas](#) has been declined to extend in [Yucaipa Am. All. Fund I, LP v. Ehrlich](#), the subsequent case did not reject the principle that a scheme of this duration can satisfy closed-ended continuity; rather, it cautioned against mechanical application and emphasized the need to consider the nature of the scheme and the context. Here, the Plaintiff’s allegations of repeated, coordinated acts over eighteen months, with ongoing threats and communications, fit squarely within the type of conduct recognized as sufficient for closed-ended continuity.

### b. Open-Ended Continuity

Open-ended continuity is present where the predicate acts pose a threat of continued criminal activity into the future. The Plaintiff alleges that as of May 2025, the defendants continued to monitor and threaten the Plaintiff, and that the scheme could continue indefinitely if the divorce is not finalized. This ongoing threat, coupled with the history of repeated acts, supports a finding of open-ended continuity ([Heinrich v. Waiting Angels Adoption Servs., Inc., 668 F.3d 393 \(6th Cir. 2012\)](#); [Related Cos. v. Ruthling, 17-cv-4175 \(S.D.N.Y. Dec 15, 2017\)](#); [Gross v. Waywell, 628 F.Supp.2d 475 \(S.D.N.Y. 2009\)](#)).

The Supreme Court and lower courts have repeatedly held that a threat of future criminal conduct, even if the acts to date are limited in number or scope, can satisfy the continuity requirement (H.J. Inc.; [U.S. v. Busacca, 936 F.2d 232 \(6th Cir. 1991\)](#); [Olive Can Co., Inc. v. Martin, 906 F.2d 1147 \(7th Cir. 1990\)](#)). The Plaintiff’s allegations of ongoing threats and the potential

for continued racketeering activity are precisely the type of facts that courts have found sufficient for open-ended continuity.

### **3. Single Scheme and Single Victim**

The judge's focus on the fact that the acts were directed at a single victim and part of a single scheme is misplaced. Courts have expressly rejected the notion that multiple victims or schemes are required. A single scheme targeting one victim can constitute a pattern if the acts are related and continuous ([Ashland Oil, Inc. v. Arnett, 875 F.2d 1271 \(7th Cir. 1989\)](#); [U.S. v. Indelicato, 865 F.2d 1370 \(2d Cir. 1989\)](#); [Banks v. Wolk, 918 F.2d 418 \(3d Cir. 1990\)](#)). The key inquiry is whether the acts are related and whether they amount to or pose a threat of continued criminal activity, not the number of victims or schemes.

### **4. Pro Se Pleading Standard**

The Plaintiff's pro se status requires the court to construe the complaint liberally and accept all well-pleaded allegations as true at the motion to dismiss stage. The complaint's detailed allegations of ongoing, coordinated acts over an extended period, with a threat of future criminal conduct, are more than sufficient to survive dismissal under the relevant standards ([Chambers v. King Buick GMC, LLC, 43 F. Supp. 3d 575 \(D. Md. 2014\)](#); [ArmorSource, LLC v. Kapah, Case No. 2:18-cv-905 \(S.D. Ohio Mar 26, 2020\)](#)).

## **Exceptions and Caveats**

While the authorities overwhelmingly support the sufficiency of the Plaintiff's allegations, courts retain discretion to assess the particular facts of each case. The subsequent treatment of [Tabas v. Tabas](#) in Yucaipa Am. All. Fund I, LP v. Ehrlich means that duration alone is not dispositive; courts must also consider the nature of the scheme, the number and variety of predicate acts, and whether the conduct is the type of long-term criminal activity RICO was intended to address. However, the Plaintiff's allegations of repeated, coordinated acts, ongoing threats, and a continuing enterprise are precisely the type of conduct that courts have found sufficient.

It is also important to note that while the complaint must allege facts supporting each element, the ultimate burden of proof remains with the Plaintiff at later stages. At the pleading stage, however, the detailed and specific allegations in the complaint are sufficient.

## **Conclusion**

The Plaintiff's complaint, when liberally construed and taken as true, plausibly alleges both relatedness and continuity sufficient to meet the RICO "pattern" requirement. The judge erred by disregarding the ongoing nature of the alleged scheme and focusing solely on the initial acts. The authorities make clear that a single scheme targeting one victim, if it involves related

predicate acts over a substantial period or poses a threat of continued criminal activity, satisfies the RICO pattern requirement. The Plaintiff's allegations of an eighteen-month scheme with ongoing threats and communications, and a continuing enterprise, are more than sufficient to survive a motion to dismiss under established RICO jurisprudence.

## Legal Authorities

[U.S. v. Busacca, 936 F.2d 232 \(6th Cir. 1991\)](#)

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

#### **Extract**

In the recent case of H.J. Inc. v. Northwestern Bell Telephone, Inc., 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989), the Supreme Court explained RICO's pattern of racketeering activity requirement. The Court stated that a pattern of racketeering activity can be established by showing that 'the racketeering predicate acts are related, and that they amount to or pose a threat of continuing criminal activity.' ... 'Continuity' is both a closed- and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.... A party alleging a RICO violation may demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time. Predicate acts extending over a few weeks or months and threatening no future criminal conduct do not satisfy this requirement: Congress was concerned in RICO with long-term criminal conduct.

#### **Summary**

Continuity can be demonstrated through either a closed period of repeated conduct or a threat of future repetition. This aligns with the Plaintiff's allegations of both closed-ended and open-ended continuity, as well as relatedness, over an 18-month period, which could satisfy the RICO pattern requirement.

[GICC Capital Corp. v. Technology Finance Group, Inc., 67 F.3d 463 \(2nd Cir. 1995\)](#)

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

#### **Extract**

In H.J. Inc., the Supreme Court outlined the basic contours of the continuity requirement as follows: 'Continuity' is both a closed- and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.... A party alleging a RICO violation may demonstrate continuity

over a closed period by proving a series of related predicates extending over a substantial period of time. Predicate acts extending over a few weeks or months and threatening no future criminal conduct do not satisfy this requirement: Congress was concerned in RICO with long-term criminal conduct. Often a RICO action will be brought before continuity can be established in this way. In such cases, liability depends on whether the threat of continuity is demonstrated.

## **Summary**

The continuity requirement for a RICO claim can be satisfied by demonstrating either closed-ended continuity (a series of related predicates over a substantial period) or open-ended continuity (past conduct with a threat of future repetition). The Plaintiff's allegations of acts spanning over eighteen months and the threat of continued criminal activity align with the continuity requirement as outlined in H.J. Inc.

[Kehr Packages, Inc. v. Fidelcor, Inc., 926 F.2d 1406 \(3rd Cir. 1991\)](#)

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

#### **Extract**

In H.J. Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989), the Supreme Court stressed that a plaintiff must show also 'that the racketeering acts are related, and that they amount to or pose a threat of continued criminal activity.' Id. at 239, 109 S.Ct. at 2900 (emphasis in original). ... Rather, related predicate acts in furtherance of a single scheme can constitute a pattern if the acts constitute or present the threat of long-term continuous criminal activity. ... Continuity refers 'either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.' Id. at 241, 109 S.Ct. at 2902. ... The Court stated flatly (492 U.S. at 242, 109 S.Ct. at 2902) that '[a] party alleging a RICO violation may demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time.'

## **Summary**

The Supreme Court's interpretation in H.J. Inc. v. Northwestern Bell Telephone Co. is crucial for understanding the "pattern" requirement under RICO. The passage emphasizes that related predicate acts in furtherance of a single scheme can constitute a pattern if they present a threat of long-term continuous criminal activity. The Court's focus on continuity as a temporal concept, where a series of related predicates extending over a substantial period of time can demonstrate continuity, directly supports the Plaintiff's argument that the alleged acts from December 2023 through May 2025 meet the RICO pattern requirement.

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

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

**Extract**

We conclude that a scheme lasting over three years extends over a 'substantial' period of time and therefore constitutes the type of 'long-term criminal conduct' that RICO was enacted to address. See United States v. Pelullo, 964 F.2d 193, 209 (3d Cir.1992) (holding that a jury could find a nineteen month period of racketeering activity sufficient to satisfy continuity requirement); Swistock v. Jones, 884 F.2d 755, 759 (3d Cir.1989) (fourteen month period of conduct may be sufficient to establish closed-ended continuity). Accordingly, we find, from the strictly durational aspect of the scheme, that plaintiffs in the present case have made a sufficient showing to survive summary judgment on the 'continuity' prong of the pattern analysis.

**Summary**

The court in "Tabas v. Tabas" found that a scheme lasting over a substantial period, such as three years, constitutes long-term criminal conduct under RICO. The court also referenced other cases where periods of fourteen and nineteen months were deemed sufficient to establish continuity. This supports the proposition that the Plaintiff's alleged scheme, spanning over eighteen months, could meet the continuity requirement for a RICO claim.

[Banks v. Wolk, 918 F.2d 418 \(3rd Cir. 1990\)](#)

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

**Extract**

Predicate offenses committed in furtherance of a single criminal scheme can constitute a RICO pattern if the acts present the threat of future criminal activity. The criminal conduct need not be ongoing. Past conduct will satisfy the continuity requirement if 'by its nature [it] projects into the future with a threat of repetition.'

**Summary**

The court in Banks v. Wolk recognized that a single scheme can satisfy the RICO pattern requirement if it poses a threat of future criminal activity. This aligns with the Plaintiff's argument that the alleged scheme, although directed at a single victim, extends over a substantial period and poses a threat of continued criminal activity, thus meeting the continuity requirement.

[Related Cos. v. Ruthling, 17-cv-4175 \(S.D. N.Y. Dec 15, 2017\)](#)

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

### **Extract**

Prong three — known as the 'continuity requirement' — can be satisfied either by showing a 'closed-ended' pattern of racketeering activity (i.e., a series of related predicate acts extending over a substantial period of time) - or by demonstrating an 'open-ended' pattern of racketeering activity that poses a threat of continuing criminal conduct beyond the period during which the predicate acts were performed. H.J. Inc. v. Nw. Bell Tel. Co., 492 U.S. 229, 241-42 (1989); Kilkenny v. Law Office of Cushner & Garvey, L.L.P., No. 08 Civ. 588 (KMK), 2012 WL 1638326, at \*6 (S.D.N.Y. May 8, 2012).

### **Summary**

Continuity requirement for a RICO claim, which can be satisfied by either a closed-ended pattern (a series of related acts over a substantial period) or an open-ended pattern (posing a threat of continued criminal conduct). This directly relates to the Plaintiff's allegations of both closed-ended and open-ended continuity in their RICO claim, as they allege acts spanning over eighteen months and a threat of continued criminal activity.

## [U.S. v. Indelicato, 865 F.2d 1370 \(2nd Cir. 1989\)](#)

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

### **Extract**

For the reasons below, we conclude today that proof of two acts of racketeering activity without more does not suffice to establish a RICO pattern; that the concepts of relatedness and continuity are attributes of activity, not of a RICO enterprise, and that a RICO pattern may not be established without some showing that the racketeering acts are interrelated and that there is continuity or a threat of continuity; that a pattern may be established without proof of multiple schemes, multiple episodes, or multiple transactions; and that racketeering acts that are not widely separated in time or space may nonetheless, given other evidence of the threat of continuity, constitute a RICO pattern.

### **Summary**

A pattern can be established without multiple schemes or episodes, and even acts not widely separated in time or space can form a pattern if there is evidence of a threat of continuity. This supports the Plaintiff's argument that their allegations of ongoing acts over an extended period demonstrate the necessary continuity and relatedness to establish a RICO pattern.

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

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

### **Extract**

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). While the statute defines the minimum number of acts necessary to establish a pattern of racketeering activity, the Supreme Court has held that the minimum two acts are not necessarily sufficient. In order to show a “pattern” of racketeering activity, a plaintiff must show “that the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity.” *H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 237-39, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989). ... The continuity prong of the test can be satisfied by showing either a “close-ended” pattern (a series of related predicate acts extending over a substantial period of time) or an “open-ended” pattern (a set of predicate acts that poses a threat of continuing criminal conduct extending beyond the period in which the predicate acts were performed). *Id.* at 241-42, 109 S.Ct. 2893.

### **Summary**

Requirements for establishing a pattern of racketeering activity under RICO, emphasizing the need for relatedness and continuity. It explains that continuity can be demonstrated through either a close-ended pattern (acts over a substantial period) or an open-ended pattern (threat of ongoing criminal activity). This directly supports the Plaintiff's argument that their allegations meet the RICO pattern requirement by demonstrating both relatedness and continuity, as the alleged acts span over eighteen months and pose a threat of continued criminal activity.

[Ashland Oil, Inc. v. Arnett, 875 F.2d 1271 \(7th Cir. 1989\)](#)

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

### **Extract**

Characterizing the Count II allegations as a single scheme does not preclude the finding of a pattern. In *SK Hand Tool Corp.*, we noted that it is an exception to the general rule to find a pattern within a single scheme. 852 F. 2d at 941 (citing *Jones*, 845 F.2d at 758-59). However, we have done just that in a number of cases, including this court's most recent decision on the issue, in *Deppe*, 863 F.2d at 1364-66, and in *Morgan*, where we said 'the mere fact that the predicate acts relate to the same overall scheme or involve the same victim does not mean that the acts automatically fail to satisfy the pattern requirement.' 804 F.2d at 976.

## **Summary**

The court recognizes that a single scheme can still satisfy the "pattern" requirement for RICO claims. The passage specifically notes that even if predicate acts relate to the same scheme or involve the same victim, they do not automatically fail to meet the pattern requirement. This supports the Plaintiff's argument that their allegations, which involve a single scheme directed at one victim, can still constitute a pattern of racketeering activity.

[Gross v. Waywell, 628 F.Supp.2d 475 \(S.D. N.Y. 2009\)](#)

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

#### **Extract**

Plaintiffs must also show that they were injured in their business or property by reason of the alleged RICO violation. See 18 U.S.C. § 1964(c); Moss v. Morgan Stanley, 719 F.2d 5, 17 (2d Cir.1983). To satisfy the 'pattern' requirement, the factual allegations must meet two standards: relatedness and continuity. The pleadings must show that the predicate acts asserted are related and amount to or pose a threat of continuing criminal activity. ... These concepts refer 'either to a closed period of repeated conduct, or to post-conduct that by its nature projects into the future with a threat repetition.' Id. at 241, 109 S.Ct. 2893. Closed-ended continuity may be demonstrated by a series of related predicate acts which occurred over a substantial period of time. See id. Open-ended continuity requires a showing of the existence of a threat of continuing criminal activity beyond the period during which the predicate acts were performed. See Cofacrédit, 187 F.3d at 243.

## **Summary**

The passage from Gross v. Waywell discusses the requirements for establishing a "pattern" under RICO, emphasizing the need for relatedness and continuity. It explains that continuity can be either closed-ended, demonstrated by a series of related acts over a substantial period, or open-ended, shown by a threat of ongoing criminal activity. This directly supports the Plaintiff's argument that their allegations meet the RICO "pattern" requirement by demonstrating both closed-ended and open-ended continuity.

[Day v. DB Capital Grp. LLC, Civil Action No. DKC 10-1658 \(D. Md. Mar 11, 2011\)](#)

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

## **Extract**

To allege a pattern of racketeering activity, a plaintiff must show that at least two predicate acts occurred within ten years of each other, 18 U.S.C. § 1961(5), that the acts were related, and that they 'amount to or pose a threat of continued criminal activity,' H.J. Inc. v. Nw. Bell Tel. Co., 492 U.S. 229, 240 (1989). Acts are related if they 'have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.' Id. at 240 (quoting Sedima, 473 U.S. at 496, n.14). With respect to the continuity element, the Fourth Circuit has explained: Continuity... refers 'either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.' [H.J. Inc., 492 U.S. at 242](emphasis added). To satisfy the continuity element, a plaintiff must show that 'the predicates themselves amount to, or... otherwise constitute a threat of, continuing racketeering activity.' Id. at [240](emphasis in original).

## **Summary**

Requirements for establishing a "pattern of racketeering activity" under RICO, which includes demonstrating relatedness and continuity of predicate acts. The Plaintiff's allegations in the proposition align with these requirements by detailing acts over an extended period, suggesting both closed-ended and open-ended continuity, and showing relatedness through the same scheme and participants. The passage supports the argument that the Plaintiff's allegations could meet the RICO pattern requirement.

[Chambers v. King Buick GMC, LLC, 43 F. Supp. 3d 575 \(D. Md. 2014\)](#)

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

### **Extract**

To state a plausible claim of a pattern of racketeering activity, the plaintiff must allege facts establishing "that the racketeering predicates are related and that they amount to or pose a threat of continued criminal activity." Cf. H.J. Inc. v. Nw. Bell Tel. Co., 492 U.S. 229, 239, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989) (reversing a 12(b)(6) dismissal of a RICO complaint and discussing what a plaintiff in a RICO case must show to prove a pattern of racketeering activity). With respect to the requirement that the predicate acts be "related," the Fourth Circuit has explained that "[t]he relationship criterion may be satisfied by showing that the criminal acts 'have the same or similar purposes, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated events.'" ... A plaintiff can fulfill the continuity-of-activity requirement by establishing either a closed or open-ended pattern. H.J. Inc., 492 U.S. at 241, 109 S.Ct. 2893. A "closed-ended" pattern of racketeering activity involves a course of related predicate acts during a substantial period of time which naturally comes to a close, while an open-ended pattern involved conduct "that by its nature projects into the future with a threat of repetition."

## **Summary**

The passage discusses the requirements for establishing a pattern of racketeering activity under RICO, specifically the need for relatedness and continuity. It references the H.J. Inc. case, which is a key authority on this issue, and explains that continuity can be established through either a closed-ended or open-ended pattern. This directly supports the proposition that the Plaintiff's allegations of a scheme spanning over eighteen months with ongoing threats and communications could meet the RICO pattern requirement.

[Olive Can Co., Inc. v. Martin, 906 F.2d 1147 \(7th Cir. 1990\)](#)

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

#### **Extract**

The Supreme Court stated in Northwestern Bell that ' 'continuity' is both a closed- and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.' Id. at 2902. 'A party alleging a RICO violation may demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time. Predicate acts extending over a few weeks or months and threatening no future criminal conduct do not satisfy this requirement.' Id. Alternatively, a party may prove a pattern of racketeering activity by proving a 'specific threat of repetition extending indefinitely into the future' or that the 'predicate acts or offenses are part of an ongoing entity's regular way of doing business.' Id. at 2902.

## **Summary**

The Supreme Court's interpretation of the "pattern" requirement under RICO includes both closed-ended and open-ended continuity. The passage supports the proposition by explaining that continuity can be demonstrated by a series of related predicates over a substantial period or by showing a threat of continued criminal activity. This aligns with the Plaintiff's allegations of acts spanning over eighteen months and the threat of ongoing criminal conduct.

[Abraham v. Singh, 480 F.3d 351 \(5th Cir. 2007\)](#)

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

#### **Extract**

As in Word of Faith, the central issue in this appeal is whether the Plaintiffs adequately pled a 'pattern of racketeering activity.' See id. 'Racketeering

'activity' consists of two or more predicate criminal acts that are (1) related and (2) 'amount to or pose a threat of continued criminal activity.' Id. (citing H.J. Inc. v. Nw. Bell Tel. Co., 492 U.S. 229, 239, 109 S.Ct. 2893, 2900, 106 L.Ed.2d 195 (1989)). The district court assumed that the Plaintiffs had sufficiently alleged that the predicate acts were related. Addressing the continuity prong, however, the court found that the predicate acts did not pose a threat of continuing racketeering activity. We, too, need only address the continuity prong of the analysis.

## **Summary**

The court in "Abraham v. Singh" addressed the requirement of demonstrating a "pattern of racketeering activity" under RICO, which includes both relatedness and continuity. The passage highlights the necessity of showing that predicate acts are related and pose a threat of continued criminal activity, aligning with the requirements set forth in H.J. Inc. v. Nw. Bell Tel. Co. This supports the proposition that the Plaintiff's allegations of a pattern of racketeering activity, including both closed-ended and open-ended continuity, should be considered sufficient to meet the RICO "pattern" requirement.

[Ouwinga v. Benistar 419 Plan Servs., Inc., 694 F.3d 783 \(6th Cir. 2012\)](#)

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

### **Extract**

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 a minimum, two acts of racketeering activity within ten years of each other. 18 U.S.C. § 1961(5) (emphasis in original). The Supreme Court has held, however, that the minimum two acts are not necessarily sufficient and that a plaintiff must show "that the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity." H.J. Inc. v. Nw. Bell Tel. Co., 492 U.S. 229, 237-39, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989) (emphasis in original). This requirement is known as the "relationship plus continuity" test.

## **Summary**

To establish a RICO violation, a plaintiff must demonstrate a pattern of racketeering activity, which requires showing relatedness and continuity of the predicate acts. The passage supports the proposition by emphasizing the need for relatedness and continuity, which aligns with the Plaintiff's allegations of a scheme spanning over eighteen months with ongoing illicit acts, threats, and communications.

[ArmorSource, LLC v. Kapah, Case No. 2:18-cv-905 \(S.D. Ohio Mar 26, 2020\)](#)

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

### **Extract**

A pattern of racketeering activity requires, at a minimum, two acts of racketeering activity within ten years of each other. 18 U.S.C. § 1961(5). The Supreme Court has held, however, that the minimum two acts are not necessarily sufficient and that a plaintiff must show 'that the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity.' H.J. Inc. v. Nw. Bell Tel. Co., 492 U.S. 229, 239 (1989) (emphasis in original). This requirement is known as the 'relationship plus continuity' test. Ouwinga, 694 F.3d at 795.

### **Summary**

The passage explains the requirement for a "pattern" of racketeering activity under RICO, which includes both relatedness and continuity. This directly supports the proposition that the Plaintiff's allegations of a scheme spanning over eighteen months with ongoing acts could meet the RICO "pattern" requirement. The passage also emphasizes that the threat of continued criminal activity is a key factor, aligning with the Plaintiff's allegations of ongoing threats and communications.

## [USA Network v. Jones Intercable, Inc., 729 F.Supp. 304 \(S.D. N.Y. 1990\)](#)

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

### **Extract**

No matter how interrelated Jones' alleged predicate acts may have been, however, USA simply has not established the necessary 'threat of continuity' to satisfy the requirements of a 'pattern' of racketeering activity. Recognizing the difficulty of defining the concept of 'continuity,' the Supreme Court, in H.J. Inc., offered the following guidance: 'Continuity' is both a closed- and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition. (Citation omitted.) It is, in either case, centrally a temporal concept — and particularly so in the RICO context, where what must be continuous, RICO's predicate acts or offenses, and the relationship these predicates must bear one to another, are distinct requirements. A party alleging a RICO violation may demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time.

### **Summary**

Concept of continuity in the context of RICO claims, as defined by the Supreme Court in H.J. Inc. It explains that continuity can be demonstrated through either a closed period of repeated conduct or past conduct that

projects into the future with a threat of repetition. This aligns with the Plaintiff's allegations of both closed-ended and open-ended continuity in their RICO claim, as they allege a series of related acts over an 18-month period and a threat of continued criminal activity.

### Racketeer influenced and corrupt organizations.

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

#### **Extract**

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

#### **Summary**

The Supreme Court in *H.J., Inc. v. Northwestern Bell Telephone Co.* clarified that a "pattern" of racketeering activity under RICO requires both relationship and continuity. The passage explains that continuity can be shown through either a closed period of repeated conduct or an open-ended threat of continued activity. This directly supports the Plaintiff's argument that their allegations demonstrate both closed-ended and open-ended continuity, as well as relatedness, which are necessary to establish a RICO pattern.

### Racketeer influenced and corrupt organizations.

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

#### **Extract**

The Supreme Court has stated that a 'pattern of racketeering' can only be established if the predicate acts are continuous and interrelated. Thus, 'two isolated acts of racketeering do not constitute a pattern.' In *H.J. Inc. v. Northwestern Bell Telephone Co.*, the Court held that the government must establish both a relationship between the predicate acts and continuity of those acts to prove a 'pattern of racketeering activity' for RICO purposes. These requirements, referred to as the 'continuity plus relationship' test, must be proven independently, but the Court has recognized that evidence

establishing the two elements will often overlap. The 'continuity' component is met by either closed-ended continuity, defined as 'a series of related predicates extending over a substantial period of time,' or open-ended continuity, defined as conduct that poses a threat of extending into the future.

## Summary

The Supreme Court requires both continuity and relatedness to establish a "pattern of racketeering activity" under RICO. The passage explains the "continuity plus relationship" test, which aligns with the Plaintiff's allegations of both closed-ended and open-ended continuity, as well as relatedness. The Plaintiff's complaint alleges a series of acts over eighteen months, which could satisfy the closed-ended continuity, and ongoing threats, which could satisfy open-ended continuity. The passage supports the argument that the judge may have erred by not considering the ongoing nature of the alleged scheme.

### Racketeer influenced and corrupt organizations.

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

## Extract

The Supreme Court has stated that a 'pattern of racketeering' can only be established if the predicate acts are continuous and interrelated. Thus, 'two isolated acts of racketeering do not constitute a pattern.' In *H.J. Inc. v. Northwestern Bell Telephone Co.*, the Court held that the government must establish both a relationship between the predicate acts and continuity of those acts to prove a 'pattern of racketeering activity' for RICO purposes. These requirements, referred to as the 'continuity plus relationship' test, must be proven independently, but the Court has recognized that evidence establishing the two elements will often overlap. The 'continuity' component is met by either closed-ended continuity, defined as 'a series of related predicates extending over a substantial period of time,' or open-ended continuity, defined as conduct that poses a threat of extending into the future.

## Summary

The Supreme Court requires both continuity and relatedness to establish a "pattern of racketeering activity." The passage explains that continuity can be either closed-ended (over a substantial period) or open-ended (threat of future activity). The Plaintiff's allegations of acts spanning over eighteen months and the threat of continued activity align with these requirements, suggesting that the judge may have erred in dismissing the pattern claim.

[Racketeer influenced and corrupt organizations.](#)

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

## **Extract**

RICO applies only where the commission of two predicate acts constitutes a 'pattern of racketeering activity.' (43) While the statutory definition of 'pattern of racketeering activity' requires at least two acts of racketeering occurring within ten years of each other, (44) simply proving two acts may not be sufficient to establish a RICO violation. (45) The Supreme Court has stated that a 'pattern of racketeering' can only be established if the predicate acts are continuous and interrelated. (46) Thus, 'two isolated acts of racketeering do not constitute a pattern.' (47) In H.J. Inc. v. Northwestern Bell Telephone Co., (48) the Court held that the government must establish both a relationship between the predicate acts and continuity of those acts to prove a 'pattern of racketeering activity' for RICO purposes. (49) These requirements, referred to as the 'continuity plus relationship' test, (50) must be proven independently, but the Court has recognized that evidence establishing the two elements will often overlap. (51) In H.J. Inc., the Court looked to a provision of the Organized Crime Control Act of 1970 (52) for guidance in defining the relationship component of the pattern requirement of RICO: '[c]riminal conduct forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.' (53) The 'continuity' component is met by either closed-ended continuity, defined as 'a series of related predicates extending over a substantial period of time,' (54) or open-ended continuity, defined as conduct that poses a threat of extending into the future. (55)

## **Summary**

The RICO Act requires a "pattern of racketeering activity," which involves both continuity and relatedness. The passage explains that continuity can be either closed-ended (a series of related predicates over a substantial period) or open-ended (a threat of future criminal conduct). The Plaintiff's allegations of acts spanning over eighteen months and the threat of continued criminal activity align with these definitions, supporting the argument that a pattern exists.

[Racketeer influenced and corrupt organizations.](#)

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

## **Extract**

The 'continuity' prong is successfully proven if a prosecutor can prove 'a series of related predicates extending over a substantial period of time' or an open-ended threat of continued racketeering activity in the future. The H.J., Inc. court suggested a case-by-case examination of this issue. Noting that the existence of a 'threat of continued racketeering activity' is a function of particular facts, the Court avoided a black-letter enumeration of particular factors which may constitute a pattern.

## **Summary**

The continuity prong of the RICO pattern requirement can be satisfied by demonstrating either a series of related predicate acts over a substantial period or an open-ended threat of continued racketeering activity. The passage emphasizes the need for a case-by-case examination and highlights that the existence of a threat of continued activity is fact-specific. This supports the Plaintiff's argument that their allegations of acts spanning over eighteen months and the threat of continued activity meet the continuity requirement.

### Racketeer Influenced and Corrupt Organizations Act.

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

## **Extract**

See id. at 242 (suggesting closed ended continuity may be established by 'proving a series of related predicates extending over a substantial period of time'); see also United States v. Shenberg, 89 F.3d 1461, 1471 (11th Cir. 1996) (holding that two acts of case fixing within six months posed threat of continued criminal activity); Tabas v. Tabas, 47 F.3d 1280, 1295 (3d Cir. 1995) (holding that defendant's allegedly fraudulent distribution of estate over three and one half years was 'substantial' and satisfied RICO's closed ended continuity requirement).

## **Summary**

Concept of closed-ended continuity, which can be established by proving a series of related predicates extending over a substantial period of time. This directly supports the Plaintiff's argument that the alleged acts, spanning over eighteen months, demonstrate closed-ended continuity. The passage also references cases where similar timeframes were deemed substantial enough to satisfy RICO's continuity requirement, reinforcing the Plaintiff's position.

### Racketeer influenced and corrupt organizations.

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

**Extract**

In H.J. Inc. v. Northwestern Bell Telephone Co., (53) the Court held that the government must establish both a relationship between the predicate acts and continuity of those acts to prove a 'pattern of racketeering activity' for RICO purposes. (54) Although these two requirements, referred to as the 'continuity plus relationship' test, (55) must be separately established, the Court has recognized that evidence on these two prongs often will overlap. (56) ... The 'continuity' prong is satisfied by proof of either closed-ended continuity or open-ended continuity. Closed-ended continuity in the RICO context may be demonstrated 'by proving a series of related predicates extending over a substantial period of time.' (59) Open-ended continuity in the RICO context is conduct that may last only a short period of time but nonetheless, poses a threat of extending into the future. (60)

**Summary**

The "pattern" requirement under RICO involves both relatedness and continuity. The passage explains that continuity can be either closed-ended, demonstrated by a series of related predicates over a substantial period, or open-ended, where the conduct poses a threat of continuing into the future. This aligns with the Plaintiff's allegations of both closed-ended and open-ended continuity in the complaint.

[Racketeer influenced and corrupt organizations.](#)

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

**Extract**

RICO applies only where the commission of two predicate acts constitutes a 'pattern of racketeering activity.' (43) While the statutory definition of 'pattern of racketeering activity' requires at least two acts of racketeering occurring within ten years of each other, (44) simply proving two acts may not be sufficient to establish a RICO violation. (45) The Supreme Court has stated that a 'pattern of racketeering' can only be established if the predicate acts are continuous and interrelated. (46) Thus, 'two isolated acts of racketeering do not constitute a pattern.' (47) In H.J. Inc. v. Northwestern Bell Telephone Co., (48) the Court held that the government must establish both a relationship between the predicate acts and continuity of those acts to prove a 'pattern of racketeering activity' for RICO purposes. (49) These requirements, referred to as the 'continuity plus relationship' test, (50) must be proven independently, but the Court has recognized that evidence establishing the two elements will often overlap. (51) The 'continuity' component is met by either closed-ended continuity, defined as 'a series of related predicates extending over a substantial period of time,' (54) or open-

ended continuity, defined as conduct that poses a threat of extending into the future. (55)

## **Summary**

The passage explains the requirements for establishing a "pattern of racketeering activity" under RICO, which includes both relatedness and continuity. The passage supports the proposition by explaining that continuity can be established through either closed-ended continuity (a series of related predicates over a substantial period) or open-ended continuity (conduct posing a threat of future extension). The Plaintiff's allegations of acts spanning over eighteen months and the threat of continued criminal activity align with these definitions of continuity.

### Racketeer influenced and corrupt organizations.

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

## **Extract**

"forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events." (58) The "continuity" prong is satisfied by proof of either closed-ended continuity or open-ended continuity. Closed-ended continuity in the RICO context may be demonstrated "by proving a series of related predicates extending over a substantial period of time." (59) Open-ended continuity in the RICO context is conduct that may last only a short period of time but nonetheless poses a threat of extending into the future. (60) The Court suggested a case-by-case examination of this issue, noting that the existence of a "threat of continued racketeering activity" is a function of particular facts. (61)

## **Summary**

A pattern of racketeering activity under RICO requires both relatedness and continuity. The passage explains that relatedness involves criminal acts with similar purposes, results, participants, victims, or methods, and that continuity can be either closed-ended (a series of related predicates over a substantial period) or open-ended (conduct posing a threat of future continuation). This aligns with the Plaintiff's allegations of a scheme spanning over eighteen months with ongoing threats and communications, suggesting both closed-ended and open-ended continuity.

### Civil Rico: A Tool of Advocacy

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

## **Extract**

These acts must be related and continuous to constitute a pattern. The relatedness and continuity issue first came to prominence in a famous footnote to the Supreme Court's decision in *Sedima*. In *Sedima*, the Court noted that the term "pattern of racketeering activity" had been left intentionally vague by Congress, and it invited further clarification by the lower courts. The Court did not provide a precise definition of what constitutes a pattern in this context. This ambiguity in the definition of the statutory word "pattern" occasioned a split among the federal circuit courts as they attempted to interpret and apply the civil RICO statute. Two primary issues emerged: 1. Relatedness: This aspect of the pattern requirement concerns whether the alleged racketeering acts are related to each other. Courts have grappled with how closely connected these acts must be to meet the relatedness criterion. Some circuits adopted a broad interpretation, while others opted for a stricter nexus between the acts. 2. Continuity: The continuity issue pertains to the temporal aspect of the pattern. It questions whether the racketeering acts display a continuous course of conduct over time or whether they are isolated incidents. Courts have debated how long this course of conduct must persist to satisfy the continuity criterion. Some circuits adopted a closed-ended approach (requiring acts within a specific time frame), while others embraced an open-ended approach (focusing on the threat of future racketeering activity).

## **Summary**

The concept of a "pattern" in RICO cases involves both relatedness and continuity. The passage highlights that the term "pattern of racketeering activity" is intentionally vague, leading to different interpretations by various circuit courts. The passage also explains that relatedness involves the connection between acts, while continuity involves the temporal aspect and whether acts are isolated or part of a continuous course of conduct. This directly relates to the Plaintiff's argument that their complaint alleges both closed-ended and open-ended continuity, as well as relatedness, which the judge failed to consider.

## [RICO: A Primer](#)

## **Extract**

A 'pattern' may exist where any combination of two or more offenses occurred within a period of time. In *Sedima*, S.P.R.L. v. Imrex Co., 473 U.S. 479, the Supreme Court held that the RICO pattern element requires more than merely proving two predicate acts of racketeering. Rather, proof of 'continuity plus relationship' is necessary. Nonetheless, the Supreme Court has repeatedly recognized that Congress had a fairly flexible concept of a pattern in mind. ... A plaintiff may demonstrate a pattern by establishment that the predicate acts pose a threat of continued criminal activity, which is

generally demonstrated by showing either:

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

## **Summary**

The concept of a "pattern" in RICO claims requires both continuity and relatedness. The passage explains that continuity can be demonstrated through closed-ended continuity (a series of related acts over a substantial period) or open-ended continuity (a threat of ongoing criminal activity). This aligns with the Plaintiff's allegations of acts spanning over eighteen months and the threat of continued criminal activity, supporting the argument that a pattern exists.

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

## **Extract**

A 'pattern' may exist where any combination of two or more offenses occurred within a period of time. In *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, the Supreme Court held that the RICO pattern element requires more than merely proving two predicate acts of racketeering. Rather, proof of 'continuity plus relationship' is necessary. Nonetheless, the Supreme Court has repeatedly recognized that Congress had a fairly flexible concept of a pattern in mind. The racketeering acts need not be similar or directly related to each other; rather, it is sufficient that the racketeering acts are related in some way to the affairs of the charged enterprise, including, for example, that: the racketeering acts furthered the goals of or benefitted the enterprise, the enterprise or the defendant's role in the enterprise enabled the defendant to commit, or facilitated the commission of, the racketeering acts, the racketeering acts were committed at the behest of, or on behalf of, the enterprise, or the racketeering acts had the same or similar purposes, results, participants, victims or methods of commission. The continuity requirement is likewise satisfied where the predicates are a regular way of conducting the defendant's ongoing legitimate business (in the sense that it is not a business that exists for criminal purposes), or of conducting or participating in an ongoing and legitimate RICO 'enterprise.' A plaintiff may demonstrate a pattern by establishment that the predicate acts pose a threat of continued criminal activity, which is generally demonstrated by showing either:

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

## **Summary**

The concept of a "pattern" in RICO claims requires both continuity and relatedness. The passage explains that continuity can be demonstrated through closed-ended continuity (a series of related acts over a substantial period) or open-ended continuity (a threat of ongoing criminal activity). The Plaintiff's allegations of acts spanning over eighteen months and the threat of continued criminal activity align with these requirements. Additionally, the relatedness requirement is met as the acts are part of a coordinated scheme furthering the goals of the enterprise.

This memo was compiled by Vincent AI based on vLex materials available as of August 31, 2025. [View full answer on vLex](#)