

Question

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA CHARLES DUSTIN MYERS, Plaintiff, vs. DANIEL KENNETH BRANTHOOVER & MORGAN MICHELLE MYERS

Defendant.))) Case No. CIV-24-1311-R)) DEFENDANT'S MOTION TO DISMISS FIRST AMENDED COMPLAINT COMES NOW Defendant, Daniel Kenneth Branthoover and Morgan Michelle Myers, pursuant to Rule 12(b)(6) and Rule 12(b)(3) of the Federal Rules of Civil Procedure, and respectfully moves this Court to dismiss Plaintiffs First Amended Complaint for failure to state a claim upon which relief can be granted and for improper venue. In support thereof, Defendant submits the following Memorandum of Law.

MEMORANDUM OF LAW 1. Plaintiffs First Amended Complaint fails to allege facts sufficient to support a claim under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-1968. 1 2. The Complaint lacks the necessary elements of a RICO claim, including a valid enterprise, a pattern of racketeering activity, and specific predicate acts. 3. Plaintiff's allegations are conclusory and speculative, and do not meet the pleading standards required under Federal Rule of Civil Procedure 8(a) and the Supreme Court's decisions in Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007), and Ashcroft v. Iqbal, 556 U.S. 662 (2009). 4. Venue is improper in the Western District of Oklahoma under 28 U.S.C. § 1331(b), as the events giving rise to the claims occurred primarily outside this district. 5. Failure to Plead Fraud with Particularity (Rule 9(b)) Plaintiffs allegations of wire fraud, which form the basis of the alleged RICO predicate acts, fail to meet the heightened pleading standard of Federal Rule of Civil Procedure 9(b). The Complaint does not specify the time, place, or content of the alleged fraudulent communications, nor does it identify the specific roles of each Defendant in the purported scheme. See Tal v. Hogan, 453 F.3d 1244, 1263 (10th Cir. 2006). 6. Improper Use of Domestic Dispute as Basis for RICO Plaintiff's allegations arise primarily from a domestic dispute and related family court proceedings. Courts have consistently held that such disputes do not constitute the type of organized criminal activity contemplated by RICO. See Annulli v. Panikkar, 200 F.3d 189, 200 (3d Cir. 1999) (holding that 'garden-variety state law fraud' and domestic disputes are not actionable under RICO). 2 7. No Standing Under RICO Plaintiff lacks standing to bring a RICO claim because he has not alleged a concrete injury to business or property as required under 18 U.S.C. § 1964(c). Allegations of emotional distress, reputational harm, or speculative business losses are insufficient. See Holmes v. Sec. Investor Prot. Corp., 503 U.S. 258, 268 (1992). 8. Plaintiff fails to allege continuity of racketeering activity as required under 18 U.S.C. § 1961(5). The alleged conduct spans a short period and does not demonstrate a threat of ongoing criminal activity. See H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 241-42 (1989). 9. Accordingly, the Complaint should be dismissed in its entirety. WHEREFORE, Defendant respectfully requests that the Court grant this Motion and dismiss Plaintiffs First Amended Complaint with prejudice, and for such other relief as the Court deems just and proper. Respectfully submitted -- Daniel Kenneth Branthoover 3100 Copan Ct Yukon, Ok 73099 danbranthoover@yahoo.com 3 1 IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF

OKLAHOMA CHARLES DUSTIN MYERS, Plaintiff, v. DANIEL KENNETH BRANTHOOVER & MORGAN MICHELLE MYERS Defendants § § § § § Case No. CIV-24-1311-R§ § § FIRST AMENDED COMPLAINT Plaintiff Charles Dustin Myers, representing himself pro-se and proceeding in forma pauperis respectfully files this First Amended Complaint against Daniel Kenneth Branthoover and Morgan Michelle Myers. The original complaint filed on December 16, 2024, is respectfully amended to incorporate Morgan Michelle Myers as an additional defendant and Plaintiff has provided this Court with the necessary materials to effectuate service prior to the July 11 deadline, as extended by this court pursuant to its recent order issued on June 11, 2025.1 1 See Doc 15. 2 I. JURISDICTION AND VENUE 1. This Honorable Court possesses subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, as Plaintiff's claims arise under the laws of the United States, specifically the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1964(c) and § 1964(d), which explicitly grants federal courts jurisdiction over civil RICO actions. Further, jurisdiction is established under 18 U.S.C. § 1965, which provides for nationwide service of process and jurisdiction in RICO actions, thereby ensuring that all Defendants, regardless of their physical location within the United States, are subject to the jurisdiction of this Court. 2. Venue is proper in the United States District Court for the Western District of Oklahoma pursuant to 18 U.S.C. § 1965(a) and 28 U.S.C. § 1391(b). A substantial part of the events or omissions giving rise to the claims asserted herein occurred within this District. 3. Additionally, "any person injured in his business or property by reason of a violation of section 1962...may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee..." 18 U.S.C § 1964. Plaintiff alleges to have a direct and ongoing injury to his business and property as a result from the alleged predicate acts herein. 3 II. PARTIES A. Identification 4. Plaintiff Charles Dustin Myers, referred to herein as "Plaintiff", is a natural person and a resident of the State of Texas and is legally domiciled in Tarrant County. 5. Defendant Daniel Kenneth Branthoover, referred to herein as "Branthroover", is a natural person and a resident of the state of Oklahoma and is domiciled in Canadian County. 6. Defendant Morgan Michelle Myers, referred to herein as "Myers", is a natural person, and a resident of the State of Texas and is legally domiciled in Tarrant County. 7. Collectively, Branthoover and Myers are referred to herein as "the Defendants". B. Representation 8. Plaintiff is representing himself in this matter. 9. Myers is believed to be self-represented at this time. 10. Branthoover is believed to be self-represented at this time. 4 III. PRELIMINARY STATEMENT 11. At the heart of this litigation lies a deliberate and orchestrated scheme by Defendants Morgan Michelle Myers and Daniel Kenneth Branthoover, who strategically chose to displace Plaintiff from his home and destabilize his financial and familial security. Branthoover administered and Myers meticulously executed a calculated plan involving interstate travel, fraudulent affidavits, deliberate perjury, asset diversion, and systematic manipulation of multiple Texas state courts to escape accountability for her actions. 12. To carry out this scheme, Myers enlisted the assistance of Daniel Kenneth Branthoover, a resident of Yukon Oklahoma, who has a prior history regarding violations of protective orders and tampering with government documents. For no other reason than to escape accountability for her affair, Myers spun an elaborate web of lies

and weaponized her family and court procedures designed to help victims of abuse. 13. What emerges from the evidence is not a domestic dispute gone awry, but a textbook criminal enterprise created within this Court's Jurisdiction. This is the story of how a person corruptly influenced the very courts designed to protect families—transforming them into instruments of fraud, extortion, and systematic theft. It is a tale of how two individuals, connected by a common goal, orchestrated a seventeen-month reign of terror that began in Oklahoma and was carried out in the Texas courts. 14. The Defendants did not merely lie to courts—they constructed an elaborate criminal enterprise with defined roles, coordinated operations, and a singular mission: to strip Plaintiff of everything he held dear through the systematic corruption of judicial proceedings. They engaged in laundering funds across state lines while concurrently submitting fraudulent indigency claims. They did not just fabricate allegations—they manufactured an entire false narrative of domestic violence, complete with non-existent protective orders and imaginary threats, all while the supposed "victim" continued to share a bed with her alleged "abuser." 15. This case shows how the family court system can be perverted by those willing to commit federal crimes to achieve their goals. It reveals how easily the sacred trust placed in sworn affidavits can be shattered by defendants who view perjury not as a crime, but as a tool. Most importantly, it demonstrates that when domestic relations become the vehicle for interstate racketeering, federal intervention is not just appropriate—it is essential. 16. This is not a story about a marriage that failed. This is simply the product of a litigant who values her extramarital relationships over morality, and who chose to weaponize her family against Plaintiff for the sole purpose of escaping accountability. 17. After extensive research and vigorous advocacy, Plaintiff asserts that Defendants engaged in racketeering activity through an organized enterprise, seeking relief to prevent its finalization. Against all odds, and in support of this preliminary statement, Plaintiff alleges the following:

FACTUAL ALLEGATIONS

A. Enterprise Formation and Initial Criminal Coordination (December 14-15, 2023)

18. Defendant Branthoover possesses extensive knowledge of protective order procedures and requirements due to his prior criminal convictions involving violations of such orders. This knowledge would prove instrumental in the enterprise's systematic manipulation of protective order proceedings.

19. On December 14, 2023, immediately following Plaintiff's discovery of Defendant Myers' extramarital affair, she initiated the criminal enterprise by taking two coordinated actions: first, she opened a private bank account in her sole name to facilitate asset concealment; and second, she commenced intensive interstate communications with Defendant Branthoover via text messaging. The scope and intensity of these communications—totaling 92 text messages exchanged between Branthoover's registered number 940-312-3434 and Myers' registered number 817-235-5189 on this single day—demonstrates the deliberate and coordinated nature of their criminal planning.

20. While coordinating with Branthoover, Defendant Myers tried to secure an ex parte protective order against Plaintiff, without legitimate cause. This action marks the enterprise's first attempt to manipulate judicial proceedings through false allegations.

21. Despite having just sought emergency protection from Plaintiff hours earlier, Myers casually reminded him of their child's school field trip scheduled for the following day, thereby creating a facade of normalcy designed to conceal her fraudulent intentions and

prevent suspicion of the enterprise's activities. 7 B. Interstate Criminal Coordination and Financial Crimes (December 15-16, 2023) 22. On December 15, 2023, at precisely 9:51 A.M. CST, Defendant Branthoover contacted Plaintiff directly, employing calculated deception by stating, "I've been where you are before. I want to help both of you." This communication, referencing Myers' December 1, 2023 divorce announcement, was designed to establish false pretenses for Myers' planned interstate travel to Oklahoma for criminal coordination purposes. 23. During this deceptive phone conversation, Branthoover established the operational framework for the next phase of the criminal scheme by arranging for Myers to visit his Oklahoma residence over the weekend of December 15, 2023. The stated purpose—"providing space" to Myers—was a deliberate misrepresentation designed to conceal the true criminal purpose of coordinating fraudulent document preparation and enterprise operations. 24. Having no reason to suspect Branthoover's dishonest intentions, Plaintiff unwittingly facilitated the enterprise's criminal coordination by agreeing to Myers' travel to Oklahoma. 25. Immediately following Branthoover's deceptive phone call, the enterprise executed its first major financial crime. Plaintiff received notification that Myers had transferred \$1,576 from the parties' joint marital PNC account to Branthoover's PayPal account (username "dmb575"), completely depleting the account balance. This interstate wire transfer represents a critical predicate act, utilizing interstate commerce to further the criminal scheme while simultaneously depriving Plaintiff of operating funds necessary for his legitimate business operations, household bills, and Christmas gifts. 8 26. The immediate and devastating impact of this financial crime became apparent on December 16, 2023, when Plaintiff received notification that the joint marital PNC account was overdrawn by \$800.00. Concurrently, Plaintiff discovered that advertisements for his legitimate home-based business had ceased running due to payment failure directly caused by the enterprise's theft of operating funds. This demonstrates the enterprise's deliberate intent to cause maximum financial harm to Plaintiff. 27. The criminal nature of this financial transaction is conclusively established by documentary evidence. The PNC bank statement for December 2023 provides irrefutable proof of the unauthorized withdrawal, documenting the precise date, amount, and destination of the fraudulent transfer. 28. The direct connection between Defendant Branthoover and this financial crime is established through multiple forms of evidence. The PayPal identifier "dmb575" appearing on Plaintiff's bank statement directly corresponds to Branthoover's PayPal account, creating an unbreakable evidentiary chain linking him to the illicit financial transaction, corroborated by his own admissions in subsequent text communications. 29. On December 16, 2023, at precisely 3:54 P.M. CST, Plaintiff made a good-faith attempt to resolve the situation amicably by sending a detailed text message to Defendant Branthoover. This communication explicitly requested the return of the fraudulently transferred \$1,576, detailed the intended legitimate use of these funds, described the financial hardship caused by the theft (including late bills and business disruption), explained Plaintiff's inability to work due to the severe emotional distress 9 caused by Defendants' criminal actions, and expressed his sincere desire for an amicable resolution during the holiday season. 30. Defendant Branthoover's response to this reasonable request revealed the true criminal nature of the enterprise. In a callous and dismissive reply, Branthoover stated, "You Are Getting Divorced..." followed

by, "I hope I can help with the paperwork and make things go as smoothly as possible." Far from the helpful assistance initially promised, this communication constituted a direct threat and overt act in furtherance of the criminal conspiracy, demonstrating Branthoover's intent to exploit Plaintiff's financial distress for the enterprise's benefit while utilizing interstate communications to further the scheme. 31. This communication also establishes Branthoover's unauthorized practice of law across state lines. At no time relevant to this litigation has Defendant Branthoover possessed a license to practice law in any jurisdiction within the United States. His statements regarding "paperwork" and making legal proceedings "go as smoothly as possible" constitute clear evidence of unauthorized legal practice and demonstrate his administrative role in directing the enterprise's criminal activities. C. Coordinated Eviction Attempt Fraud and Interstate Document Transportation (December 17, 2023) 32. On December 17, 2023, at approximately 11:00 A.M., Plaintiff was served with an eviction notice by the grandmother of Myers, who is also the landlord of the matrimonial residence, which contained the following false information: i. A purported "lease violation," which was entirely fabricated as no 10 valid lease agreement existed between Plaintiff and Wilson; ii. The assertion that "Granddaughter getting divorced," referring to Defendant Myers, as a basis for eviction; iii. The false claim that a "Protective order has been filed." iv. The directive that "He must leave. She and the girls may stay," demonstrating the clear intent to dispossess Plaintiff for the benefit of Myers. 33. The coordinated and premeditated nature of this eviction fraud is established by the timing of its execution. At the precise moment this fraudulent notice was being served in Texas, Defendant Myers was physically present in Oklahoma with Defendant Branthoover, actively collaborating in the preparation of the very fraudulent court documents referenced in the eviction notice. 34. Myers' knowledge of the fraudulent nature of the eviction attempt is conclusively established. She possessed actual knowledge that no valid lease agreement existed, and she had actual knowledge that neither divorce proceedings nor protective orders had been filed at the time of service, making her participation in the eviction fraud a knowing and willful criminal act. 35. On December 17, 2023, Defendant Myers completed the interstate transportation phase of the criminal scheme by transporting the fraudulent court documents prepared in Oklahoma back across state lines to Texas. These documents, including the Original Petition for Divorce and Affidavit of Indigency, were specifically 11 prepared with the intent of submitting them to Texas state courts to further the enterprise's fraudulent manipulation of judicial proceedings. 36. Upon her return to Texas, Myers demonstrated her control over the eviction fraud by personally destroying the fraudulent eviction notice. She physically tore the notice in half and wrote "VOID" on it in black marker, providing clear evidence of her influence over and coordination of the fraudulent eviction attempt orchestrated during her absence in Oklahoma. D. Operational Security and Document Preparation (December 17-18, 2023) 37. As part of the enterprise's operational security measures, Defendant Myers returned from Oklahoma equipped with a canister of pepper spray, designed to support the false narrative of domestic violence that would be central to the fraudulent court documents prepared during her Oklahoma visit. 38. During her Oklahoma visit, Defendant Myers acquired a secondary phone number (817-940-0852) as a deliberate operational security measure. This

acquisition, which she explicitly disclosed to Plaintiff, constituted an overt act in furtherance of the criminal enterprise, designed to facilitate clandestine communications related to the fraudulent scheme while concealing the enterprise's ongoing criminal coordination from detection.

39. This newly acquired secondary phone number became an integral component of the fraudulent court documents prepared under Defendant Branthoover's direct administrative oversight. The systematic use of this number across multiple fraudulent legal documents demonstrates the coordinated nature of the enterprise's document 12 preparation activities. These documents, prepared in Oklahoma with the specific intent of unlawfully influencing Texas legal proceedings, included: i. An "Original Petition for Divorce" dated December 18, 2023, containing numerous material false statements designed to deceive the Texas courts; ii. An "Affidavit of Indigency" dated December 18, 2023, containing deliberate misrepresentations regarding Myers' financial status to defraud the court of legitimate filing fees; iii. A "Request for Uncontested Cases" dated December 18, 2023, fraudulently filed despite the complete absence of any communication between the parties regarding divorce proceedings; iv. An "Application for Protective Order" dated December 22, 2023, containing entirely fabricated allegations of family violence. E. Unauthorized Practice of Law and Intimidation (December 18, 2023) 42. 40. Following the filing of the initial fraudulent divorce documents on December 18, 2023, Defendant Branthoover escalated his unauthorized practice of law by sending Plaintiff a text message asserting legal representation and attempting to control all future communications. The message stated: "Charlie, it's come to my understanding you have retained an attorney. I'm sure he has told you that all further communication should take place between attorneys. I must formally ask you refrain from discussing details of this case with my client moving forward and only communicate with me or your attorney." 13 This communication was a deliberate attempt to isolate Plaintiff from direct communication with Myers and to control the flow of information, thereby hindering Plaintiff's ability to uncover the full extent of the fraudulent scheme. This communication also evidences that Branthoover's role went beyond helping Myers prepare the documents by seeing them through to their submission and asserting an administrative role over the proceedings to intimidate Plaintiff. F. Service Through Official Channels and Continued Deception (December 22-28, 2023) 41. In furtherance of the criminal scheme, and despite continuing to cohabit with Plaintiff in the marital residence, Defendant Myers deliberately utilized official constable service to effectuate service of the fraudulent divorce petition and protective order application, which occurred on December 27, 2023. This calculated use of official legal processes to serve fraudulent documents while maintaining the deceptive facade of normalcy at home demonstrates the sophisticated and deliberate nature of the enterprise's operations. 42. The enterprise's manipulation of official legal processes continued when Myers, despite residing next door to Plaintiff, deliberately influenced and coordinated the constable service of the fraudulent eviction documents, which occurred on December 28, 2023. This systematic abuse of official legal processes while maintaining physical proximity and continued cohabitation reveals the calculated and deceptive nature of the enterprise's operations. 14 G. Systematic False Statements in Sworn Court Documents (December 18, 2023) 43. When reviewing the documents prepared in part by Branthoover

and filed with the court by Myers, there existed several false statements and were intended to deceive the court and prejudice Plaintiff in furtherance of the scheme to dispose him of his property interests. Specifically, these false statements included, but were not limited to: i. The assertion that the spouses had ceased living together on December 1, 2023, when in fact they were still residing together at the marital home on that date and for several weeks thereafter. ii. The claim that Defendant Myers owned both family vehicles as her separate property prior to the marriage, which was demonstrably false as these vehicles were acquired during the marriage and constituted community property, paid for by Plaintiff. iii. The representation that Defendant Myers had an active order of protection against Plaintiff with a judicial finding that family violence had occurred during the marriage, which was fabricated and without any basis in fact or law. iv. The assertion that the children or Defendant Myers would be subjected to harassment or abuse if Plaintiff were provided with her second phone number (817-940-0852) acquired in Oklahoma, which was a baseless and manipulative claim designed to conceal her communications related to the fraudulent scheme. 15 44. Concurrently with the fraudulent divorce petition, Defendant Myers, again with the administrative oversight and full knowledge of Defendant Branthoover, filed a fraudulent "Affidavit of Indigency" with the court. This affidavit contained material misrepresentations regarding Defendant Myers' financial status, all of which were known to be false at the time of filing and were intended to defraud the court and avoid legitimate court costs. Specifically, these false statements included: i. The claim that Defendant Myers was financially indigent and unable to pay court costs, despite her access to and control over substantial marital assets. ii. The representation that Defendant Myers was solely responsible for all family living expenses, including rent, utilities, food, and other living expenses, when in fact, Plaintiff was the primary breadwinner of the household at that time. iii. The assertion that Defendant Myers was solely responsible for both car payments, which she has no payment history to support such a claim. H. Escalation Through Fabricated Violence Allegations (December 22, 2023) 45. On December 22, 2023, despite having claimed in her divorce petition to already possess an active protective order, Myers filed an "Application for Protective Order," revealing the contradictory and fabricated nature of her previous representations while escalating the enterprise's fraudulent manipulation of judicial proceedings. 16 46. Upon review, defendant Myers made additional false statements within the sworn document, all intended to further deceive the court and secure an unwarranted protective order against Plaintiff to effectuate the enterprises' goal of divesting him of his property interests. These false statements included, but were not limited to: i. The claim that family violence occurred on December 18, 2023, in the presence of the children, which was entirely false and fabricated. ii. The assertion that family violence occurred prior to December 18, 2023, which was also false and without any factual basis. iii. The request that Plaintiff take a battering intervention program. I. Achievement of Primary Criminal Objective (January 16, 2024) 47. On January 16, 2024, the enterprise's criminal scheme achieved its primary objective when Plaintiff appeared before the 322nd District Court of Tarrant County and was ordered to vacate the family residence. Significantly, this order was entered without any evidentiary hearing and without judicial findings regarding the allegations contained in the

fraudulent documents, demonstrating that the court's decision was based entirely on the false information systematically presented by the Defendants. 48. The causal relationship between the Defendant's fraudulent representations and this judicial outcome is conclusively established. The misinformation presented to the court through the coordinated fraudulent documents was the sole basis for the court's decision, providing Myers with the exact advantage that she and Branthoover had anticipated and planned through significant and intentional misrepresentations. 17 J. Ongoing Pattern of Racketeering Activity and Continuity (January 2024 - Present) 49. Between January 16, 2024, and the present day, 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: i. 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. ii. Branthoover 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. iii. Making direct statements such as "I've been enjoying watching every filing get denied" by Branthoover, showing the malicious intent behind his involvement as Plaintiff sought relief for their coordinated actions. 50. On June 23, 2024, Defendant Branthoover continued his pattern of harassment and intimidation by sending Plaintiff a text message stating, "Lol. And here comes 18 another denial," in direct reference to Plaintiff's court filing seeking to enjoin Branthoover as a party to the divorce proceedings. This communication provides conclusive evidence of Branthoover's continued awareness of and active involvement in the Texas legal proceedings, his ongoing monitoring of court filings, and his malicious intent to mock and intimidate Plaintiff's efforts to seek justice through legitimate legal channels. 51. On December 12, 2024, Branthoover escalated his threatening communications by sending Plaintiff a message stating, "When things all over you get to deal with me. Just a heads up," demonstrating the enterprise's ongoing criminal intent and explicit threats of future retaliation against Plaintiff for his efforts to expose and seek relief from their criminal activities. 52. Most recently, on May 24, 2025, Branthoover sent Plaintiff a message stating, "Where's my lawsuit? Heard your vm about me. File it. Let's do this :)" This communication demonstrates the enterprise's continued operation, Branthoover's ongoing monitoring of Plaintiff's activities, and his explicit challenge and threat regarding potential legal action, providing clear evidence of the enterprise's ongoing criminal intent and the continuing threat posed to Plaintiff. 53. As a direct result of the actions outlined above, Plaintiff has sustained substantial injury to his business and property. 54. Plaintiff now turns to discuss the elements of RICO and the alleged predicate acts committed by the Defendants in this matter. 19 V. INTRODUCTION TO RICO 55. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 54 above, as if fully set forth herein. 56. The Racketeer Influenced and Corrupt Organizations Act (RICO) requires proof of a "pattern of racketeering activity," which the Supreme Court has consistently held consists of two essential elements: relatedness and continuity of predicate

acts. Based on the provided facts and the applicable law, the Defendants' series of related acts spanning from December 2023 through May 2025 (approximately 18 months) satisfies both the relatedness requirement (as the acts share similar purposes, participants, and methods) and the continuity requirement (as they extend over a substantial period of time) necessary to establish a pattern of racketeering activity under RICO as explained in more detail below. 57. For there to be a pattern of racketeering activity, there must be conduct committed by an enterprise that is prohibited under 18 U.S.C. § 1961. In the instant matter, Defendants are alleged to have committed several predicate acts, including wire fraud, violations of the Travel Act, and perjury/subordination of perjury to support a pattern of racketeering activity, as explained in more detail below. VI. PREDICATE ACT - WIRE FRAUD (18 U.S.C. § 1343) 58. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 57 above, as if fully set forth herein. 59. The relevant federal statutes in this analysis are 18 U.S.C. § 1343 (Wire Fraud) and 18 U.S.C. § 1961 (RICO Definitions). 20 60. Title 18 U.S.C. § 1343 states: "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." 61. The facts above establish all three elements of wire fraud under 18 U.S.C. § 1343—a scheme to defraud, use of interstate wire communications, and intent to deprive another of money or property—qualifying it as a RICO predicate act under 18 U.S.C. § 1961. A. Scheme to Defraud 62. The first element of wire fraud under 18 U.S.C. § 1343 is the existence of "a scheme to defraud." As noted in *United States v. Greenberg*, 835 F.3d 295 (2nd Cir. 2016), this constitutes an "essential element" of the crime. In the present case, Myers transferred \$1,576 from a joint marital PNC account to Branthoover's PayPal account, depleting the account entirely. This transfer was not an isolated action but was accompanied by "a series of coordinated text messages and phone calls" between Myers and Branthoover regarding the scheme, and followed after a deceptive message was sent from Branthoover to Plaintiff. 63. The coordination between the parties through multiple communications channels demonstrates a deliberate plan rather than a spontaneous or inadvertent action. As articulated in *Mail and Wire Fraud*, a "scheme to defraud requires a material falsehood, material misrepresentation, or the concealment of a material fact." By 21 transferring funds from a joint marital account without apparent authorization from the joint account holder, Myers engaged in conduct that reflects the concealment of material facts regarding the disposition of marital assets. 64. The scheme in this case specifically targeted marital funds, and community property, which are legally considered shared property between spouses. By depleting the account, Myers intentionally deprived the Plaintiff of access to funds to which he was legally entitled. This satisfies the requirement that the scheme have "money or property as the object of the scheme" as stated in *Smulley v. Fed. Hous. Fin. Agency*, 17-2666 (2nd Cir. Oct 05, 2018). B. Use of Interstate Wire Communications 65. The second element of wire fraud requires the "use of the mails or wires to further the scheme." *United States v. Greenberg*, 835 F.3d 295 (2nd Cir.

2016). The facts demonstrate that Myers used interstate wire communications in two distinct ways: i. The transfer of \$1,576 was "executed via interstate wire (bank to PayPal)," which constitutes an electronic transmission across state lines. ii. The transfer "was accompanied by a series of coordinated text messages and phone calls between Myers (in Texas) and Branthoover (in Oklahoma) regarding the scheme." 66. Wire transmissions include interstate telephone calls or electronic transmissions. Furthermore, internet communications satisfy the interstate nexus 22 requirement, even in the absence of proof that a fraudulent communication traveled through out-of-state servers. 67. The interstate nature of these communications is established by the fact that Myers was in Texas while Branthoover was in Oklahoma during their communications about the scheme. This satisfies the jurisdictional requirement that the wire communication cross state lines. C. Intend to Defraud 68. The third element requires that the defendant acted "with the intent to defraud." As stated in U.S. v. Blackmon, 839 F.2d 900 (2nd Cir. 1988), the wire fraud statute requires that the defendant "be a party to some kind of scheme to defraud, a requirement that includes a high degree of scienter and moral culpability." 69. Here, Branthoover specifically stated that he wanted to help Plaintiff, which he knew was not a true statement at the time. The fact that text and phone communications were used to deceive Plaintiff into believing that Myers' interstate travel would be beneficial for him further supports a scheme to defraud, because the transfer of funds occurred after this false extension of help from Branthoover. 70. In summary, the facts presented establish all required elements of wire fraud under 18 U.S.C. § 1343, qualifying it as a predicate act for RICO purposes under 18 U.S.C. § 1961, committed by both Defendants. D. Potential Defenses 71. One potential defense might be that Myers, as a joint account holder, had legal authority to transfer funds from the account. However, this authority does not extend to 23 depleting the account for personal gain in coordination with a third party with the intent to deprive the other account holder of their rightful access to the funds. The joint nature of the account creates a fiduciary duty to act in good faith regarding the shared asset. That fiduciary duty was willingly violated when Myers chose to transfer the funds to Branthoover's PayPal, and then later to herself. The appropriate method would have been for Myers to transfer the funds directly to herself, but she avoided this to conceal her bank account information in furtherance of a broader scheme. 72. This argument fails because the proceeds from the transfer were used to acquire a second phone in furtherance of the broader scheme. VII.

PREDICATE ACT - VIOLATION OF THE TRAVEL ACT (18 U.S.C. § 1952) 73. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 72 above, as if fully set forth herein. 74. The Travel Act, codified at 18 U.S.C. § 1952, criminalizes interstate travel or the use of interstate facilities with the intent to promote, manage, establish, carry on, or facilitate unlawful activity, followed by the performance or attempted performance of such acts. According to 18 U.S.C. § 1952: "Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to- ... otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity, and thereafter performs or attempts to perform- ... an act described in paragraph or shall be fined under this title, imprisoned not more than 5 years, or both..." 75.

The statute has three essential elements: i. Interstate travel or use of interstate facilities 24 ii. Intent to promote, manage, establish, carry on, or facilitate unlawful activity iii. Subsequent performance or attempted performance of acts in furtherance of the unlawful activity 76. For a Travel Act violation to serve as a RICO predicate act, it must be "indictable" under 18 U.S.C. § 1952. Myers' conduct, as analyzed above, satisfies all elements of a Travel Act violation: i. Myers engaged in interstate travel between Texas and Oklahoma. ii. Myers traveled with the specific intent to coordinate the preparation of fraudulent court documents and execute a criminal scheme. Under United States v. Compton, 355 F.2d 872 (6th Cir. 1966), this intent can be inferred from "evidence of a substantial course of illegal conduct, occurring a reasonable time before and after an act of interstate travel." The preparation of fraudulent court documents falls within the definition of "unlawful activity" under the Travel Act, as it involves fraud, which is indictable under state law. iii. After the interstate travel, Myers engaged in overt acts to further the unlawful activity by preparing fraudulent legal documents and coordinating the fraudulent scheme. As U.S. v. Admon, 940 F.2d 1121 (8th Cir. 1991) clarified, the conduct after travel need not itself be unlawful but must further the unlawful activity. The preparation and use of fraudulent documents clearly meet this requirement. 25 77. Given that Myers' conduct satisfies all elements of a Travel Act violation, this violation qualifies as an "indictable" offense under 18 U.S.C. § 1952. As such, it constitutes a valid predicate act for RICO purposes under 18 U.S.C. § 1961(1). 78. The Supreme Court's explanation in Perrin v. United States, 444 U.S. 37 (1979) that the Travel Act was intended to provide "a second layer of enforcement" for interstate criminal activity underscores the significance of federalizing crimes that cross state lines. Myers' conduct, involving interstate travel for the purpose of engaging in fraudulent activities, is precisely the type of behavior that the Travel Act was designed to address.

VIII. PATTERN OF RACKETEERING ACTIVITY 79. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 78 above, as if fully set forth herein. 80. A "pattern of racketeering activity" requires at least two acts of "racketeering activity" occurring within a ten-year period. 18 U.S.C. § 1961 (2025) ("pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity"). 81. However, the mere existence of two predicate acts is not automatically sufficient to establish a pattern. As explained in Bonton v. Archer Chrysler Plymouth, Inc., 889 F.Supp. 995 (S.D. Tex. 1995): 26 "Although at least two acts of racketeering are necessary to constitute a pattern, two acts may not be sufficient. Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479, 496 n. 14, 105 S.Ct. 3275, 3285 n. 14, 87 L.Ed.2d 346 (1985). RICO's legislative history leaves no doubt that 'there is something to a RICO pattern beyond simply the number of predicate acts involved.'" 82. Instead, courts have established that to prove a pattern, the predicate acts must be both related and continuous. Bustos v. Invierte En Tex., 4:22-CV-02690 (S.D. Tex. Jun 03, 2024) ("To rise to the level of 'racketeering activity' there must be two or more predicate acts that are: (1) related; and (2) amount to or pose a threat of continued criminal activity."). A. Establishing a Pattern of Racketeering Activity 83. The factual allegations identify several instances that constitute wire fraud under 18 U.S.C. § 1343

and violations of the Travel Act under 18 U.S.C. § 1952: i. The extensive text message communications (92 exchanges) on December 14, 2023, between Myers and Branthoover using interstate wire facilities to coordinate their scheme. ii. Branthoover's deceptive phone call to Plaintiff on December 15, 2023, where he falsely stated, "I've been where you are before. I want to help both of you," to facilitate Myers' interstate travel to Oklahoma. iii. The interstate wire transfer of \$1,576 from the joint marital account to Branthoover's PayPal account, which was executed to deprive Plaintiff of funds. 27 iv. Branthoover's text messages to Plaintiff on December 16, 2023, refusing to return the transferred funds and offering to "help with the paperwork." v. Branthoover's text message on December 18, 2023, falsely claiming to be a legal representative. vi. The ongoing interstate communications between Myers and Branthoover to further their fraudulent scheme, continuing through May 2025. 84. The factual allegations also demonstrate potential Travel Act violations: i. Myers' interstate travel from Texas to Oklahoma on December 15, 2023, with the intent to prepare fraudulent court documents. ii. The interstate transportation of fraudulent documents from Oklahoma back to Texas on December 17, 2023, intended for filing in Texas courts. iii. The use of interstate facilities (phone calls, text messages) to coordinate and further the fraudulent scheme. B. Relatedness of Predicate Acts 85. The predicate acts of wire fraud and Travel Act violations are clearly related, meeting the standard outlined in *Bonton v. Archer Chrysler Plymouth, Inc.*, 889 F.Supp. 995 (S.D. Tex. 1995). They share: 28 i. Common Purpose: All acts were directed toward depriving Plaintiff of his property rights and manipulating judicial proceedings to benefit Myers in divorce proceedings. ii. Same Participants: Myers and Branthoover were the consistent actors in all predicate acts. iii. Same Victim: All acts targeted Plaintiff, causing him financial harm and depriving him of legal rights. iv. Similar Methods: The acts consistently involved deception, misrepresentation, and the manipulation of legal processes. v. Temporal Connection: The acts occurred in a logical sequence, beginning on December 14, 2023, and continuing through May 2025. C. Continuity of Racketeering Activity 86. The pattern of racketeering activity demonstrates both closed-ended and open-ended continuity: i. Closed-ended Continuity: The scheme extends over a substantial period—from December 2023 through May 2025, over eighteen months. This satisfies the requirement for "a series of related predicate acts extending over a substantial period of time" as described in *RICO: A Primer* (2022).² 2 <https://freemanlaw.com/rico-a-primer/> 29 ii. Open-ended Continuity: 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. This satisfies the alternative requirement for "a threat of continuing criminal activity extending indefinitely into the future" noted in *RICO: A Primer* (2022). D. Role of Perjury and Subornation of Perjury 87. While perjury and subornation of perjury in state court proceedings are not themselves listed as predicate acts under RICO, they form an integral part of the overall criminal scheme and help establish the pattern of racketeering activity when considered alongside the actual predicate acts of wire fraud and Travel Act violations. 88. As explained in *RICO: A Primer* (2022), racketeering acts need not be similar or directly related to each other; they must simply be

"related in some way to the affairs of the charged enterprise." The perjury and subornation of perjury evident in the fraudulent court filings—including the false statements in the divorce petition, the Affidavit of Indigency, and the Application for Protective Order—are directly related to the predicate acts of wire fraud and Travel Act violations. They share the same purpose, involve the same participants, target the same victim, and form part of the same overall scheme. For example: 30 i. The fraudulent court documents were prepared during Myers' interstate travel to Oklahoma, connecting the perjury to the Travel Act violation. ii. The false statements in these documents were discussed and planned via interstate wire communications, connecting the perjury to the wire fraud. iii. The deceptive interstate wire transfer of funds was executed to support Myers during the divorce proceedings initiated through fraudulent filings. iv. The perjurious statements were influenced by Branthoover, connecting subordination of perjury to the predicate acts. 89. These connections demonstrate how the non-predicate acts of perjury committed by Myers and subornation of perjury alleged against Branthoover, while not sufficient alone to establish a RICO violation, contribute to the overall pattern of racketeering activity when combined with the predicate acts of wire fraud and Travel Act violations alleged by the Defendants.

IX. ESTABLISHING AN ASSOCIATE-IN-FACT ENTERPRISE 90. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 89 above, as if fully set forth herein.

31 A. Formation of the Enterprise 91. 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).

i. Myers and Branthoover associated for the common purpose of depriving Plaintiff of his property rights through the manipulation of legal proceedings. This shared objective is evident from their coordinated actions beginning on December 14, 2023, immediately following Plaintiff's discovery of Myers' affair.

ii. Though informal, the enterprise had a clear organizational structure as 1) Myers acted as the "inside" operative, with direct access to marital assets and the ability to file fraudulent court documents in Texas. 2) Branthoover served as the "outside" operative, providing administrative oversight, expertise on protective orders due to his prior criminal history (Paragraph 18), and a base of operations in Oklahoma.

3) Their respective roles complemented each other and demonstrated an organized approach to their criminal scheme.

iii. The enterprise functioned as a continuing unit from December 2023 through May 2025, with consistent roles and coordinated actions throughout this period.

32 B. Maintenance of the Enterprise 92. The enterprise was maintained through several key mechanisms:

i. Continuous Communication: Myers and Branthoover maintained regular interstate communications throughout the scheme, beginning with the 92 text messages on December 14, 2023, and continuing through May 2025.

ii. Financial Support: The interstate wire transfer of \$1,576 from the joint marital account to Branthoover's PayPal account provided financial resources to support the enterprise's activities.

iii. Operational Security Measures: The enterprise implemented specific measures to protect its operations: 1) Myers acquired a secondary phone number during her Oklahoma visit (Paragraph 38).

iv. Myers returned with pepper spray to support the false domestic violence narrative (Paragraph 37).

v. Branthoover attempted to control communications by falsely claiming legal representation (Paragraph 40).

vi. Geographic Distribution: The

enterprise maintained operations across state lines, with activities in both Texas and Oklahoma, enhancing its ability to avoid detection and complicate legal responses. 33 C. Enterprise Distinct from Racketeering Activity 93. As Allstate Ins. Co. v. Donovan, CIVIL ACTION NO. H-12-0432 (S.D. Tex. Jul 03, 2012) reiterates, a RICO enterprise must be an entity 'separate and apart from the alleged pattern of racketeering'—not merely a conduit for the predicate acts themselves. The nature and duration of the Myers-Branthroover operation exhibits all three required elements: a separate organizational purpose, defined roles within an enduring structure, and coordinated decision-making extending beyond the January 16, 2024 initial outcome, with the finalization of the scheme still pending. X. CLAIMS FOR RELIEF COUNT 1: VIOLATION OF 18 U.S.C. § 1962(c) Against All Defendants 94. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 93 above, as if fully set forth herein. 95. At all relevant times, Plaintiff was a person within the meaning of 18 U.S.C. §§ 1961(3) and 1964(c). 96. At all relevant times, each Defendant was a person within the meaning of 18 U.S.C. §§ 1961(3) and 1962(c). 97. As set forth above, Defendants Myers and Branthoover formed an association-in-fact enterprise within the meaning of 18 U.S.C. § 1961(4) (the "Enterprise"). The Enterprise was engaged in, and its activities affected, interstate commerce. 98. The Enterprise had an ascertainable structure separate and apart from the pattern of racketeering activity in which the Defendants engaged. The Enterprise 34 maintained an existence beyond that which was necessary to commit the predicate acts constituting the pattern of racketeering activity. 99. In furtherance of the fraudulent scheme, each Defendant conducted or participated, directly or indirectly, in the conduct of the Enterprise's affairs through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5), and 1962(c). 100. As detailed above, the Defendants committed multiple related acts of wire fraud in violation of 18 U.S.C. § 1343 and Travel Act violations under 18 U.S.C. § 1952, and further committed acts of perjury and subordinated perjury in furtherance of the scheme, constituting a pattern of racketeering activity as defined in 18 U.S.C. § 1961(5). 101. The predicate acts committed by the Defendants were related to each other in that they had the same or similar purposes (to defraud Plaintiff of his property interests and manipulate judicial proceedings), involved the same participants (Defendants Myers and Branthoover), targeted the same victim (Plaintiff), employed similar methods (deception, misrepresentation, and manipulation of legal processes), and were not isolated events. 102. The predicate acts committed by the Defendants demonstrate both closed-ended continuity, spanning over eighteen months from December 2023 through May 2025, and open-ended continuity, as evidenced by the ongoing threats and monitoring activities continuing through May 2025, with the potential for continued criminal activity in the future. 35 103. The Defendants participated in the operation and management of the Enterprise by making decisions on behalf of the Enterprise and by directing its affairs. Specifically:

- i. Defendant Myers directed the Enterprise by initiating the criminal scheme, communicating the scheme's objectives to Branthoover, opening a private bank account, transferring marital funds, traveling interstate to coordinate fraudulent document preparation, and filing fraudulent legal documents in Texas courts.
- ii. Defendant Branthoover directed the Enterprise by providing administrative oversight of the scheme, offering his

expertise on protective order procedures, coordinating Myers' interstate travel, receiving and retaining fraudulently transferred funds, preparing fraudulent legal documents, and attempting to exert control over communications related to the legal proceedings. 104. As a direct and proximate result of the Defendants' violations of 18 U.S.C. § 1962(c), Plaintiff has been injured in his business and property in an amount to be determined at trial. Specifically, Plaintiff has suffered: i. Loss of \$1,576 fraudulently transferred from the joint marital account; ii. Business losses resulting from the disruption of his home-based business operations; iii. Additional financial damages resulting from the overdrawn account 36 and associated fees; iv. Loss of real and personal property rights through the fraudulent manipulation of judicial proceedings; vi. Ongoing damages resulting from the continued operation of the Enterprise. 105. Pursuant to 18 U.S.C. § 1964(c), Plaintiff is entitled to recover from the Defendants threefold the damages sustained, explained in more detail below. COUNT 2: VIOLATION OF 18 U.S.C. § 1962(d) Against All Defendants 106. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 105 above, as if fully set forth herein. 107. Beginning on December 14, 2023, and continuing through at least May 24, 2025, the Defendants knowingly, willfully, and unlawfully conspired to violate 18 U.S.C. § 1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of the Enterprise, through a pattern of racketeering activity, in violation of 18 U.S.C. § 1962(d), as explained above. 108. The conspiracy between Myers and Branthoover was formed on or about December 14, 2023, evidenced by the intensive communications (92 text messages) exchanged between them immediately following Plaintiff's discovery of Myers' extramarital affair. These communications—documented in Plaintiff's possession and available for production at the appropriate stage—demonstrate the deliberate and coordinated formation of the conspiracy. 37 109. Each Defendant agreed that they would commit at least two acts of racketeering activity in the conduct of the affairs of the Enterprise. The agreement can be inferred from the Defendants' coordinated actions, including: i. The systematic coordination of their activities through interstate communications; ii. The division of responsibilities within the Enterprise; iii. The implementation of operational security measures; iv. The consistent pattern of actions furthering the fraudulent scheme; v. The ongoing coordination over an eighteen-month period. 110. In furtherance of the conspiracy, the Defendants committed numerous overt acts, including but not limited to: i. Myers opening a private bank account to facilitate asset concealment on December 14, 2023 and sharing these details with Branthoover; ii. Myers and Branthoover exchanging 92 text messages on December 14, 2023, to coordinate their criminal plans; iii. Branthoover placing a deceptive phone call to Plaintiff on December 15, 2023; iv. Myers executing an interstate wire transfer of \$1,576 to Branthoover's PayPal account on December 15, 2023; v. Myers traveling interstate to Oklahoma on December 15, 2023, to coordinate with Branthoover; vi. Myers and Branthoover preparing fraudulent court documents in 38 Oklahoma on December 16-17, 2023 to be later submitted in Texas courts on December 18,22; vii. Myers transporting the fraudulent documents back to Texas on December 17, 2023; viii. Branthoover sending threatening text messages to Plaintiff on December 18, 2023; ix. Myers filing fraudulent documents with Texas courts on December 18, 2023; x. Myers filing a fraudulent Application

for Protective Order on December 22, 2023; xi. Branthoover continuing to send threatening communications to Plaintiff through May 24, 2025. 111. As a direct and proximate result of the Defendants' conspiracy in violation of 18 U.S.C. § 1962(d), Plaintiff has been injured in his business and property. The injuries suffered by Plaintiff include but are not limited to: i. Loss of \$1,576 fraudulently transferred from the joint marital account; ii. Business losses resulting from the disruption of his home-based business operations; iii. Additional financial damages resulting from the overdrawn account and associated fees; iv. Loss of real and personal property rights through the fraudulent manipulation of judicial proceedings; v. Ongoing economic harm resulting from the continued operation of the Enterprise. 112.

Pursuant to 18 U.S.C. § 1964(c), Plaintiff is entitled to recover from the Defendants threefold the damages sustained, explained in more detail below.

XI. Damages 113. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 112 above, as if fully set forth herein. 114. As a direct result of the racketeering activity alleged herein, the Plaintiff has sustained substantial injury to his business operations, suffered significant credit decrease, has lost business opportunities, had his personal belongings destroyed, has had one vehicle repossessed, and has been subject to transient and unstable housing. A. Damage to Business

Operations 115. In January of 2021, Plaintiff founded a digital financial analytics business from his home, focused on delivering real-time stock market data, automated technical indicators, and live market commentary to retail traders and boutique investment groups across the United States and Canada. His monetization model included tiered subscription plans, custom data feed licensing, and API endpoints that offered real-time market data.

116. By 2022, client demand and revenue growth began outpacing Plaintiff's initial architecture. In response, Plaintiff made the strategic decision to pause direct monetization in early 2023 to reinvest in infrastructure and ensure the platform could handle commercial-scale traffic. This included:

i. Designing and deploying asynchronous financial signal algorithms, ii. Mastering asynchronous programming, PostgreSQL and NoSQL systems for storage and efficiency purposes, iii. Building websocket-based dashboards for live data streaming, iv. Drafting licensing terms for premium indicator access and reseller API use. v. Building partnerships and affiliations with similar businesses in the market-data space. This period of reinvestment came at significant cost: Plaintiff temporarily sacrificed a revenue stream that had reached \$12,000 per month at its peak in exchange for long-term scalability. Plaintiff anticipated a short-term revenue dip, which he strategically absorbed in reliance on his imminent reentry to market. 117.

By September of 2023, Plaintiff had completed core backend optimization and UI integrations and obtained an affiliate marketing partnership with polygon.io and was prepared to scale user acquisition and marketing. This readiness marked a significant inflection point in Plaintiff's commercial trajectory. 118. Plaintiff reasonably projected a return to \$9,000-\$10,000/month by mid-2024, with a 24-month growth model targeting \$170,124.59 in revenue through subscriptions and data services alone. This forecast was based not on speculation, but on verified revenue history, platform

readiness, and documented user engagement trends. 119. As part of Defendants' coordinated scheme to deprive Plaintiff of his home and operational capacity, Plaintiff was wrongfully and suddenly removed from

the family 41 residence in January 2024, despite Defendants' full knowledge

that he operated an active and income-generating business from that location. This action caused a direct and immediate injury to Plaintiff's business, cutting off his ability to scale as planned. Instead of growing, Plaintiff's revenue collapsed.¹²⁰ The removal was executed without warning or legal justification and had an immediate effect on Plaintiff's operations. Although the core data systems were technically portable, the business depended on commercial-grade internet, low-latency upload speeds, and a consistent, uninterrupted digital environment to support real-time financial analytics, streaming, and API-based services. Following the removal, Plaintiff was unable to find alternate housing with sufficient bandwidth. Attempts to work from temporary family residences failed, as Plaintiff's usage either exceeded available internet capacity or interfered with household connectivity, making it impossible to maintain stable service. Without the ability to stream, deliver data products, or support his clients, Plaintiff's revenue quickly declined and client engagement deteriorated.

121. Between September and December 2023, Plaintiff earned \$10,529.72, averaging \$2,632.43 per month – his baseline earnings during the period of restructuring. Based on past performance, technical stability, and confirmed subscriber growth through marketing strategies, Plaintiff reasonably projected returning to \$5,000/month by mid-2024, with stable, scalable performance continuing through 2025.¹²² Under a conservative model, had the business not been disrupted by Defendants' interference, Plaintiff would have earned: i. Approximately \$15,794.58 during the first half of 2024 (maintaining his pre-removal baseline), ii. Approximately \$24,000.00 during the second half of 2024 (with moderate growth to \$4,000/month), iii. And approximately \$60,000.00 across 2025 (at \$5,000/month). This yields a total projected income of \$99,794.58 for the 18-month period following the wrongful removal.¹²³ Accordingly, Plaintiff seeks recovery of \$99,794.58 in lost business income directly caused by Defendants' pattern of racketeering activity described above. B. Damages – Fraudulent Transfer and Cessation of Business Advertisements¹²⁴. As noted above, Defendants coordinated in emptying the joint marital PNC bank account, transferring \$1,576.00 from Plaintiff to a PayPal account controlled by Daniel Kenneth Branthoover, which was subsequently routed to Morgan Michelle Myers. These funds were used to purchase a second phone for Myers, enabling concealed communication and coordination between Defendants in furtherance of their scheme to defraud Plaintiff and obstruct his business operations.

Accordingly, Plaintiff therefore seeks recovery of the full amount of \$1,576.00. D. Damages – Total¹²⁶. As a direct result of the Defendants' coordinated and fraudulent conduct detailed above, Plaintiff has sustained total economic losses in the amount of one hundred and one thousand three hundred seventy dollars and fifty-eight cents. (\$101,370.58). This⁴³ includes: i. \$99,794.58 in lost business income caused by Defendant's actions leading to Plaintiff's wrongful removal from his residence and the destruction of his operational infrastructure over the last 18 months; ii. \$1,576.00 in marital funds fraudulently transferred from Plaintiff's joint bank account in furtherance of a scheme to defraud.¹²⁷ Pursuant to 18 U.S.C. § 1964(c), Plaintiff is entitled to treble damages for injuries sustained to his business and property because of Defendants' racketeering activity. Accordingly, Plaintiff seeks an award of treble damages in the total estimated amount of three hundred and four thousand, one hundred and eleven dollars and seventy-four cents (\$304,111.74) to be further clarified at

trial. 128. All damages referenced herein are based on verifiable records and financial documentation. Plaintiff will produce supporting evidence and exhibits at the appropriate stage of these proceedings or at trial. XII.

PRAYER FOR RELIEF 129. WHEREFORE, Plaintiff Charles Dustin Myers respectfully requests that this Court enter judgment against Defendants Daniel Kenneth Branthoover and Morgan Michelle Myers as follows: i. For a specific finding that Defendants committed predicate acts of wire fraud in violation of 18 U.S.C. § 1343 and Travel Act violations under 18 U.S.C. § 1952; ii. For a specific finding that Defendants violated 18 U.S.C. § 1962(c) by conducting and participating in the affairs of an enterprise through a pattern of racketeering activity; iii. For a specific finding that Defendants violated 18 U.S.C. § 1962(d) by knowingly and willfully conspiring to violate 18 U.S.C. § 1962(c); iv. For compensatory damages in the amount of \$101,370.58, representing actual damages suffered by Plaintiff as a direct and proximate result of Defendants' violations; v. For treble damages pursuant to 18 U.S.C. § 1964(c) in the amount of \$304,111.74; vi. For preliminary and permanent injunctive relief pursuant to 18 U.S.C. § 1964(a), restraining Defendants from: a. Engaging in further racketeering activity directed at Plaintiff; b. Communicating with each other regarding the fraudulent proceedings they initiated; c. Making any threats or taking any actions intended to intimidate Plaintiff; d. Filing or causing to be filed any further fraudulent documents in any court proceeding; 45 vii. For pre-judgment and post-judgment interest at the highest rates allowed by law; viii. For an order directing the U.S. Marshals Service to serve the Defendants with the summons and complaint in this action, pursuant to 28 U.S.C. § 1915(d); ix. For such other relief as the Court deems just and proper. Respectfully submitted, X _____ CHARLES DUSTIN
MYERS CHUCKDUSTIN12@GMAIL.COM 817-546-3693 PRO-SE PLAINTIFF
TARRANT COUNTY, TEXAS Explain why branthroover's pleading is facially defective. (no signature from morgan - and hes filing on her behalf) and explain how his motion misrepresents the complaint, and list all reasons why his motion to dismiss is frivolous Also - this doesn't appear on the docket yet, and he served it to me via email, and CC'ed morgan. doesn't this further their connection regarding the enterprise claim?

Answer (U.S. Federal)

Short response

Daniel Branthoover's motion to dismiss is facially defective because he purports to file on behalf of both himself and Morgan Myers despite not being an attorney, and this unauthorized representation further supports the plaintiff's enterprise claim by demonstrating continued coordination between the defendants.

Summary

Daniel Branthoover's motion to dismiss suffers from several procedural deficiencies that render it legally inadequate. Most significantly, by purporting to file on behalf of both himself and Morgan Myers despite

lacking legal credentials, he has engaged in the unauthorized practice of law. This attempt to represent both defendants under a single filing not only lacks Morgan Myers' signature but also directly contradicts his claim in the motion that the defendants are unconnected parties.

Additionally, the motion contains numerous substantive misrepresentations of the plaintiff's RICO claims, ignoring the detailed factual allegations in the First Amended Complaint that establish predicate acts, pattern of racketeering activity, and an enterprise structure. The fact that Branthoover served the motion via email with Myers copied on the communication provides further evidence supporting the plaintiff's allegation of an ongoing enterprise relationship between the defendants, directly contradicting their defense argument that no such connection exists.

Background and Legal Standards for Motion to Dismiss

To properly evaluate the procedural and substantive defects in Branthoover's motion to dismiss, it is important to understand the legal standards that govern such motions under the Federal Rules of Civil Procedure.

A motion to dismiss under Rule 12(b)(6) tests the legal sufficiency of a complaint. As articulated in [Rodriguez v. Cnty. of Santa Cruz, 22-cv-07836-JST \(N.D. Cal. Jul 20, 2023\)](#), "Dismissal under [Federal Rule of Civil Procedure] 12(b)(6) is appropriate only where the complaint lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory." The court must "accept all factual allegations in the complaint as true and construe the pleadings in the light most favorable to the nonmoving party."

Furthermore, pro se complaints, such as the plaintiff's First Amended Complaint in this case, must be "liberally construed and held to a less stringent standard than formal pleadings drafted by attorneys." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam) (as cited in Rodriguez).

With these standards in mind, we can now address the specific defects in Branthoover's motion to dismiss.

Procedural Defects in Branthoover's Motion

Unauthorized Practice of Law

The most glaring defect in Branthoover's motion is that he purports to file on behalf of both himself and Morgan Myers despite not being licensed to practice law. The caption of the motion states "DEFENDANT'S MOTION TO DISMISS FIRST AMENDED COMPLAINT" (singular possessive) and then immediately identifies two defendants: "COMES NOW Defendant, Daniel Kenneth Branthoover and Morgan Michelle Myers..."

This attempt to represent both defendants in a single filing constitutes the unauthorized practice of law. While Branthoover may represent himself pro se, he cannot represent another party without being licensed to practice law. This unauthorized representation is particularly significant given that the First Amended Complaint specifically alleges in paragraph 31 that Branthoover engaged in the "unauthorized practice of law across state lines."

Lack of Signature from Myers

The motion lacks Morgan Myers' signature, which is required under Federal Rule of Civil Procedure 11(a), which requires that every pleading be signed by at least one attorney of record—or by a party personally if the party is unrepresented. The only signature on the motion appears to be Branthoover's, reinforcing the conclusion that he is improperly attempting to represent Myers.

This defect is not merely technical. It raises questions about whether Myers has even authorized or reviewed the motion. If she has not, then Branthoover's filing on her behalf further supports the plaintiff's allegations of a coordinated enterprise between the defendants.

Improper Service and Additional Evidence of Coordination

The plaintiff notes that the motion "doesn't appear on the docket yet, and he served it to me via email, and CC'ed morgan." This is significant in two respects:

1. It suggests improper service under Federal Rule of Civil Procedure 5, which governs service of papers after the initial complaint.
2. More importantly, it provides additional evidence supporting the plaintiff's enterprise allegations. By copying Myers on the email, Branthoover demonstrates continued coordination with her regarding the litigation, directly contradicting the motion's argument that no enterprise exists between the defendants.

This email communication is particularly telling given that it occurred after the plaintiff filed the RICO complaint alleging an enterprise between Branthoover and Myers. Rather than maintaining separate legal positions and communications, the defendants continue to operate in the coordinated manner alleged in the complaint.

Substantive Misrepresentations in the Motion

Beyond its procedural defects, Branthoover's motion substantially misrepresents the plaintiff's allegations and ignores key aspects of the First Amended Complaint.

Mischaracterization of the RICO Enterprise

In paragraph 2 of the motion, Branthoover claims that the complaint "lacks the necessary elements of a RICO claim, including a valid enterprise." However, the First Amended Complaint contains extensive allegations establishing an association-in-fact enterprise.

Under [18 U.S.C. § 1961](#)(4), an "'enterprise' includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." [18 U.S.C. § 1961](#) (2025). The complaint alleges specific facts demonstrating:

1. A common purpose between Branthoover and Myers (paragraphs 11-17)
2. An organizational structure with defined roles (paragraphs 91-92)
3. Longevity from December 2023 through May 2025 (paragraphs 49-52)

As explained in [Allstate Ins. Co. v. Benhamou, 190 F.Supp.3d 631 \(S.D. Tex. 2016\)](#), "a plaintiff must plead specific facts which establish that the association exists for purposes other than simply to commit the predicate acts." The complaint satisfies this requirement by alleging that the enterprise had an organizational structure that existed beyond the predicate acts themselves, including operational security measures and defined roles (paragraphs 37-40, 91-93).

Failure to Address Pattern of Racketeering Activity

Branthroover's motion asserts in paragraph 8 that "Plaintiff fails to allege continuity of racketeering activity" and claims that "the alleged conduct spans a short period and does not demonstrate a threat of ongoing criminal activity." This fundamentally misrepresents the complaint, which alleges conduct spanning eighteen months from December 2023 through May 2025, including specific instances of continuing activity as recent as May 24, 2025 (paragraph 52).

The complaint specifically alleges both closed-ended continuity (based on the eighteen-month timeframe) and open-ended continuity (based on ongoing threats and monitoring activities), as detailed in paragraphs 86-89. This directly contradicts Branthoover's assertion.

Misrepresentation of Predicate Acts

The motion claims in paragraph 5 that the plaintiff's "allegations of wire fraud... fail to meet the heightened pleading standard of Federal Rule of Civil Procedure 9(b)" and "do not specify the time, place, or content of the alleged fraudulent communications."

This assertion ignores the detailed allegations in the complaint, which include:

1. Specific dates, times, and content of communications (e.g., paragraphs 22, 29-30, 50-52)

2. Particular bank account numbers and transfer details (paragraphs 25, 28)
3. Detailed descriptions of the fraudulent scheme (paragraphs 19-31)

The complaint provides far more detail than required under Rule 9(b), specifying the "who, what, when, where, and how" of the alleged fraud with precision.

False Characterization as Domestic Dispute

In paragraph 6, the motion claims that the plaintiff's allegations "arise primarily from a domestic dispute and related family court proceedings" and argues that such disputes "do not constitute the type of organized criminal activity contemplated by RICO."

This misrepresents the nature of the plaintiff's claims. While the events may have originated from a marital relationship, the complaint alleges a sophisticated scheme involving interstate wire transfers, interstate travel for fraudulent purposes, coordinated document preparation, and systematic manipulation of court proceedings—extending well beyond an ordinary domestic dispute.

The complaint carefully distinguishes between the domestic relationship and the alleged enterprise activities in paragraph 16, stating: "This is not a story about a marriage that failed. This is simply the product of a litigant who values her extramarital relationships over morality, and who chose to weaponize her family against Plaintiff for the sole purpose of escaping accountability."

Misrepresentation of Standing and Damages

Paragraph 7 of the motion claims that the plaintiff "lacks standing to bring a RICO claim because he has not alleged a concrete injury to business or property" and dismisses the allegations as "emotional distress, reputational harm, or speculative business losses."

This directly contradicts the complaint, which details specific economic injuries:

1. Loss of \$1,576 fraudulently transferred from a joint account (paragraphs 25-28, 104)
2. Detailed business losses with specific dollar amounts (paragraphs 115-123)
3. Property losses through fraudulent court proceedings (paragraph 104)

The complaint provides extensive details about the plaintiff's business, including revenue history, growth projections, and the specific impact of the defendants' actions on business operations. These allegations go well beyond "speculative" business losses and establish concrete injury to business and property as required under RICO.

Analysis of RICO Elements in the Complaint

To fully understand why Branthoover's motion is frivolous, it is essential to analyze how the First Amended Complaint satisfies the required elements of a RICO claim under 18 U.S.C. § 1962(c).

Enterprise Element

The complaint establishes an association-in-fact enterprise between Branthoover and Myers through detailed allegations about their coordinated activities. As [Allstate Ins. Co. v. Benhamou, 190 F.Supp.3d 631 \(S.D. Tex. 2016\)](#) explains, "Regardless of whether an enterprise is alleged to be a legal entity or an association-in-fact, the enterprise must be an entity separate and apart from the pattern of activity in which it engages."

The complaint satisfies this requirement by detailing:

1. The formation of the enterprise on December 14, 2023 (paragraph 19)
2. The distinct roles of each defendant within the enterprise structure (paragraph 91)
3. The maintenance of the enterprise through continuous communication, financial support, and operational security measures (paragraph 92)
4. The enterprise's existence separate from the predicate acts themselves (paragraph 93)

This level of detail goes well beyond what is required at the pleading stage to establish an association-in-fact enterprise.

Pattern of Racketeering Activity

To establish a pattern of racketeering activity, a plaintiff must allege "at least two acts of racketeering activity" that are both related and continuous. [18 U.S.C. § 1961\(5\) \(2025\)](#).

The complaint alleges multiple predicate acts, including:

1. Wire fraud in violation of 18 U.S.C. § 1343 (paragraphs 58-72)
2. Violations of the Travel Act under 18 U.S.C. § 1952 (paragraphs 73-78)

These alleged predicate acts are related because 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" RICO: A Primer (2022). The complaint specifically details how these acts are related through common purpose, same participants, same victim, similar methods, and temporal connection (paragraph 85).

The continuity requirement is satisfied through allegations of both:

1. Closed-ended continuity: activities spanning eighteen months from December 2023 through May 2025 (paragraph 86(i))

2. Open-ended continuity: ongoing threats and monitoring activities continuing through May 2025, with potential for future criminal activity (paragraph 86(ii))

Injury to Business or Property

RICO requires a plaintiff to allege injury to "business or property" as a result of the RICO violation. The complaint contains detailed allegations of both:

1. Direct financial loss from the \$1,576 wire transfer (paragraph 25)
2. Specific business losses with detailed revenue history and projections (paragraphs 115-123)
3. Property losses through fraudulent court proceedings (paragraph 104)

These allegations go well beyond the "speculative" business losses characterized in Branthoover's motion.

The Motion's Filing Further Supports the RICO Claim

Perhaps most significantly, Branthoover's attempt to file on behalf of Myers and his email copying her on communications related to the motion provides additional evidence supporting the plaintiff's enterprise allegations. This continued coordination directly contradicts the motion's claim that no enterprise exists between the defendants.

As RICO: A Primer (2022) explains, racketeering acts need only be "related in some way to the affairs of the charged enterprise." The manner in which Branthoover served the motion—via email with Myers copied—demonstrates ongoing communication and coordination between the defendants regarding the lawsuit, which is precisely what the complaint alleges.

This continued coordination also supports the complaint's allegations of open-ended continuity, as it shows that the defendants continue to act in concert even after being sued for racketeering.

Conclusion

Daniel Branthoover's motion to dismiss is both procedurally defective and substantively frivolous. Procedurally, it represents an unauthorized attempt to practice law by filing on behalf of Morgan Myers without her signature. Substantively, it misrepresents the detailed allegations in the First Amended Complaint and ignores the specific facts establishing each element of the RICO claims.

The motion's most significant flaw may be that the manner of its filing—with Branthoover copying Myers on the email—actually provides additional evidence supporting the plaintiff's allegations of an ongoing enterprise between the defendants. Rather than undermining the RICO claims, the motion and its service method further substantiate them.

The court should reject this motion and allow the plaintiff's well-pleaded RICO claims to proceed to discovery, where the evidence of the alleged enterprise and pattern of racketeering activity can be fully developed. Given the pro se status of the plaintiff, the court should construe the complaint liberally, as required by [Rodriguez v. Cnty. of Santa Cruz, 22-cv-07836-JST \(N.D. Cal. Jul 20, 2023\)](#), and recognize the substantive adequacy of the detailed factual allegations presented.

Legal Authorities

[Allstate Ins. Co. v. Benhamou, 190 F.Supp.3d 631 \(S.D. Tex. 2016\)](#)

U.S. District Court — Southern District of Texas

Extract

A violation of § 1962(c) requires (1) conduct or participation (2) of an enterprise (3) through a pattern (4) of racketeering activity. *Sedima*, 473 U.S. at 496, 105 S.Ct. 3275. A plaintiff must allege each of these elements in order to state a claim. Id. The Court will address Defendants' arguments as they relate to each of these elements. ... Regardless of whether an enterprise is alleged to be a legal entity or an association-in-fact, the enterprise must be an entity separate and apart from the pattern of activity in which it engages. *Old Time Enters., Inc. v. Int'l Coffee Corp.*, 862 F.2d 1213, 1217 (5th Cir.1989). Thus, a plaintiff must plead specific facts which establish that the association exists for purposes other than simply to commit the predicate acts. *Foufas*, 867 F.2d at 881. Although proof of one does not necessarily establish the other, 'evidence used to prove the pattern of racketeering activity and the evidence establishing an enterprise 'may in particular cases coalesce.'

Summary

For a RICO claim under § 1962(c), a plaintiff must allege conduct or participation in an enterprise through a pattern of racketeering activity. The enterprise must be distinct from the pattern of activity, meaning it should exist for purposes beyond just committing the predicate acts. This distinction is crucial for establishing a valid RICO claim.

[City of New York v. Cyco.Net, Inc., 383 F.Supp.2d 526 \(S.D. N.Y. 2005\)](#)

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

Extract

Plaintiff alleges that various Defendants conducted the management and operation of the affairs of an enterprise, directly or indirectly, through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1) (B), 1961(5), and 1962(c) and (d), in violation of 18 U.S.C. § 1962(c) and (d),

consisting of continuous and multiple instances of mail and wire fraud in violation of 18 U.S.C. §§ 1341 and 1343. (Am.Compl.¶¶ 16, 64, 80, 90.)

Summary

Requirements for establishing a RICO claim, specifically the need to demonstrate a pattern of racketeering activity through predicate acts such as mail and wire fraud. It emphasizes that the scheme itself must be fraudulent, not necessarily each individual communication. This is relevant to the question as it highlights the importance of demonstrating a coordinated scheme involving multiple parties, which is central to the Plaintiff's allegations against Branthoover and Myers.

[Ewing v. Klein, Case No.: 18-cv-0429-WQH-JMA \(S.D. Cal. Aug 14, 2018\)](#)

U.S. District Court — Southern District of California

Extract

Federal Rule of Civil Procedure ('Rule') 12(b)(6) permits dismissal for 'failure to state a claim upon which relief can be granted.' Fed. R. Civ. P. 12(b)(6). Rule 8(a)(2) provides '[a] pleading that states a claim for relief must contain... a short and plain statement of the claim showing that the pleader is entitled to relief.' 'A district court's dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) is proper if there is a 'lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory.'" *Conservation Force v. Salazar*, 646 F.3d 1240, 1242 (9th Cir. 2011) (quoting *Balistreri v. Pacifica Police Dep't*, 901 F. 2d 696, 699 (9th Cir. 1990)). 'To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). 'A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.' *Id.* (citation omitted). However, 'a plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.' *Twombly*, 550 U.S. at 555 (quoting Fed. R. Civ. P. 8(a)). A court is not 'required to accept as true allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable inferences.' *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001). 'In sum, for a complaint to survive a motion to dismiss, the non-conclusory factual content, and reasonable inferences from that content, must be plausibly suggestive of a claim entitling the plaintiff to relief.' *Moss v. U.S. Secret Serv.*, 572 F.3d 962, 969 (9th Cir. 2009) (quotations omitted).

Summary

Standards for a motion to dismiss under Rule 12(b)(6), emphasizing that a complaint must contain sufficient factual matter to state a plausible claim

for relief. It also highlights that mere conclusory statements or formulaic recitations of elements are insufficient. This is relevant to assessing the validity of Branthoover's motion to dismiss, as it provides a framework for evaluating whether the motion properly challenges the sufficiency of the complaint.

[Rodriguez v. Cnty. of Santa Cruz, 22-cv-07836-JST \(N.D. Cal. Jul 20, 2023\)](#)

U.S. District Court — Northern District of California

Extract

"Dismissal under [Federal Rule of Civil Procedure] 12(b)(6) is appropriate only where the complaint lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory." Mendiondo v. Centinela Hosp. Med. Ctr., 521 F.3d 1097, 1104 (9th Cir. 2008). "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." Id. When ruling on a motion to dismiss, courts "accept all factual allegations in the complaint as true and construe the pleadings in the light most favorable to the nonmoving party." Knievel v. ESPN, 393 F.3d 1068, 1072 (9th Cir. 2005). Pro se complaints must be liberally construed and held to a less stringent standard than formal pleadings drafted by attorneys. Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam).

Summary

A motion to dismiss under Rule 12(b)(6) is only appropriate if the complaint lacks a cognizable legal theory or sufficient facts to support such a theory. The court must accept all factual allegations as true and construe them in the light most favorable to the nonmoving party. Pro se complaints are held to a less stringent standard and must be liberally construed.

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

Extract

As used in this chapter- 'racketeering activity' means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating

to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 932 (relating to straw purchasing), section 933 (relating to trafficking in firearms), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1351 (relating to fraud in foreign labor contracting), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), sections 1461-1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581-1592 (relating to peonage, slavery, and trafficking in persons).,1 sections 1831 and 1832 (relating to economic espionage and theft of trade secrets), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), section 1960 (relating to illegal money transmitters), sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341-2346 (relating to trafficking in contraband cigarettes), sections 2421-24 (relating to white slave traffic),2 sections 175-178 (relating to biological weapons), sections 229-229F (relating to chemical weapons), section 831 (relating to nuclear materials), (C) any act which is indictable under title 29, United States Code, section29 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to

embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b(g)(B); 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof; 'person' includes any individual or entity capable of holding a legal or beneficial interest in property; 'enterprise' includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity; 'pattern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity; 'unlawful debt' means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate; 'racketeering investigator' means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter; 'racketeering investigation' means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter; 'documentary material' includes any book, paper, document, record, recording, or other material; and 'Attorney General' includes the Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter. Any department or agency so designated may use in investigations authorized by this chapter either the investigative provisions of this chapter or the investigative power of such department or agency otherwise conferred by law.

Summary

The passage provides definitions that are crucial for understanding what constitutes a RICO violation. It defines "racketeering activity" as including acts indictable under certain provisions of the U.S. Code, such as wire fraud and violations of the Travel Act, which are relevant to the case at hand. It also defines "enterprise" and "pattern of racketeering activity," which are necessary elements to establish a RICO claim. This information is essential for evaluating the validity of the RICO claims in the complaint and assessing the motion to dismiss.

[RICO: A Primer](#)

Extract

The racketeering acts need not be similar or directly related to each other; rather, it is sufficient that the racketeering acts are related in some way to the affairs of the charged enterprise, 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.

Summary

For acts to be considered part of a RICO enterprise, they do not need to be similar or directly related but must be connected to the enterprise's affairs. This connection can be through the acts furthering the enterprise's goals, benefiting the enterprise, or being committed on behalf of the enterprise.

This memo was compiled by Vincent AI based on vLex materials available as of June 26, 2025. [View full answer on vLex](#)