

## Question

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

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. § 1391(b), as the events giving rise to the claims occurred primarily outside this district.

5. Failure to Plead Fraud with Particularity (Rule 9(b)) Plaintiff's 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).

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.

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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA CHARLES DUSTIN MYERS, Plaintiff, v. DANIEL KENNETH BRANTHOVER & 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 "Branthoover", 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: 6 IV. 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 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 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 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 cohabitate 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).<sup>2 2</sup> <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-Branthoover 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 39 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: 40

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: 42 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 Advertisements 124. 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 - Total 126. 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). This 43 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; 44 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 RESEARCH, GRANT OR DENY THE MOTION TO DISMISS AND STATE WHY

## **Answer (United States)**

### **Short response**

The Defendants' Motion to Dismiss should be denied because Plaintiff has adequately pled the essential elements of a RICO claim, including an enterprise engaged in interstate commerce, a pattern of racketeering activity with sufficient continuity and relatedness, and concrete injury to business and property, while the Western District of Oklahoma is a proper venue under [18 U.S.C. § 1965](#)(a) as a substantial part of the alleged criminal enterprise's activities occurred there.

### **Summary**

Plaintiff Charles Dustin Myers has filed a civil RICO action against defendants Daniel Kenneth Branthoover and Morgan Michelle Myers, alleging they formed a criminal enterprise to defraud him through various interstate activities, including wire fraud and violations of the Travel Act. The complaint details how the defendants allegedly coordinated across state lines to transfer funds from a joint marital account, prepared fraudulent

court documents, and filed false statements in Texas courts, which ultimately resulted in the plaintiff being removed from his home and suffering substantial business losses.

The defendants' motion to dismiss under Rules 12(b)(6) and 12(b)(3) argues that the complaint fails to state a RICO claim and that venue is improper in the Western District of Oklahoma. However, after analyzing the relevant statutes and legal standards, I find that the plaintiff has sufficiently alleged facts that, if proven true, would establish all elements required for a civil RICO claim, including specific predicate acts, a pattern of racketeering activity with both relatedness and continuity, an enterprise separate from the pattern of racketeering activity, and concrete injuries to business and property. Additionally, venue is proper in the Western District of Oklahoma under [18 U.S.C. § 1965\(a\)](#) because defendant Branthoover resides there and substantial activities forming the alleged enterprise occurred within that district.

## **Background and Relevant Law**

### **Federal Jurisdiction and Venue for RICO Claims**

The Racketeer Influenced and Corrupt Organizations Act (RICO) provides federal courts with jurisdiction over civil claims brought by persons injured in their business or property by violations of the statute. Under [28 U.S.C. § 1331](#), "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." This establishes federal question jurisdiction over RICO claims, which arise under federal law.

Venue for RICO actions is specifically addressed in [18 U.S.C. § 1965\(a\)](#), which states: "Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs." This venue provision is broader than the general venue statute and provides specific authorization for RICO claims to be brought in districts where any defendant resides or conducts activities.

The general venue statute, [28 U.S.C. § 1391\(b\)](#), provides that a civil action may be brought in "a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;" or "a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred."

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

To establish a RICO violation under [18 U.S.C. § 1962\(c\)](#), a plaintiff must prove several elements. According to RICO: A Primer (2022), these elements include:

1. "Existence of an enterprise;"

2. "The enterprise engaged in, or its activities affected, interstate or foreign commerce;"
3. "The defendant was employed by or was associated with the enterprise;"
4. "The defendant conducted or participated, either directly or indirectly, in the conduct of the affairs of the enterprise;" and
5. "The defendant participated in the affairs of the enterprise through a pattern of racketeering activity or collection of unlawful debt."

Additionally, for a plaintiff to have standing to bring a civil RICO claim, [18 U.S.C. § 1964](#)(c) requires that a person be "injured in his business or property by reason of a violation of section 1962." The statute provides that such a person "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."

## **Pattern of Racketeering Activity**

A "pattern of racketeering activity" is a central element of a RICO claim. According to [18 U.S.C. § 1961](#), this 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."

However, as noted in RICO: A Primer (2022), establishing a pattern requires more than just two predicate acts. The predicate acts must demonstrate both relatedness and continuity:

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

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

## **Predicate Acts Under RICO**

[18 U.S.C. § 1961](#) defines "racketeering activity" to include numerous federal and state offenses. Relevant to this case are wire fraud ([18 U.S.C. § 1343](#)) and violations of the Travel Act ([18 U.S.C. § 1952](#)).

Wire fraud under [18 U.S.C. § 1343](#) occurs when someone "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."

The Travel Act, [18 U.S.C. § 1952](#), prohibits anyone who "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" acts in furtherance of that unlawful activity.

## **Pleading Standards for RICO Claims**

Civil RICO claims must satisfy the pleading requirements set forth in *Bell Atlantic Corp. v. Twombly* and *Ashcroft v. Iqbal*. As explained in [Sylvester v. Parexel Int'l LLC](#), these cases "have heightened the pleading requirements established in the Federal Rules of Civil Procedure" such that "[f]actual allegations must be enough to raise a right to relief above the speculative level" and must be sufficient "to state a claim to relief that is plausible on its face." The court further clarified that "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."

## **Analysis**

### **Subject Matter Jurisdiction**

The court has subject matter jurisdiction over this case pursuant to [28 U.S.C. § 1331](#), as the plaintiff's claims arise under federal law, specifically the RICO Act. Additionally, [18 U.S.C. § 1964](#)(c) explicitly grants federal district courts jurisdiction over civil RICO actions, stating that any person injured in business or property by reason of a RICO violation "may sue therefor in any appropriate United States district court."

### **Venue Analysis**

The defendants argue that venue is improper in the Western District of Oklahoma under [28 U.S.C. § 1391](#)(b), claiming that the events giving rise to the claims occurred primarily outside this district. However, RICO has its own venue provision that takes precedence in this case.

Under [18 U.S.C. § 1965](#)(a), venue is proper in "any district in which such person [i.e., the defendant] resides, is found, has an agent, or transacts his affairs." Here, defendant Branthoover is alleged to be "a resident of the state of Oklahoma and is domiciled in Canadian County," which falls within the Western District of Oklahoma. This alone would make venue proper under the RICO venue provision.

Moreover, the complaint alleges that substantial activities related to the enterprise occurred in Oklahoma, including:

1. Myers' travel to Oklahoma to meet with Branthoover on December 15, 2023
2. The preparation of allegedly fraudulent court documents in Oklahoma

3. Branthoover's receipt of funds transferred from the joint marital account while in Oklahoma
4. The planning and coordination of the alleged scheme from Branthoover's residence in Oklahoma

These activities constitute a substantial part of the events giving rise to the claims. Therefore, venue is proper in the Western District of Oklahoma under both [18 U.S.C. § 1965](#)(a) and [28 U.S.C. § 1391](#)(b)(2).

## **Sufficiency of RICO Allegations**

The defendants argue that the plaintiff's complaint fails to allege facts sufficient to support a RICO claim, specifically challenging the existence of a valid enterprise, a pattern of racketeering activity, and specific predicate acts. I will address each element in turn.

### **1. Existence of an Enterprise**

To establish a RICO violation, the plaintiff must first demonstrate the existence of an "enterprise." According to [CIVIL RICO SUITS AGAINST HARM-CAUSING MARIJUANA OPERATIONS: MOMTAZI FAMILY, LLC V. WAGNER AS A CASE STUDY](#), an "enterprise" can be "an individual, a legal entity, like a corporation, or 'any union or group of individuals associated in fact although not a legal entity.'"

The plaintiff alleges that Myers and Branthoover formed an association-in-fact enterprise with a common purpose of depriving the plaintiff of his property rights through the manipulation of legal proceedings. The complaint details their coordinated activities, including:

- Extensive communications (92 text messages exchanged on December 14, 2023)
- Interstate travel for coordination purposes
- Transfer of funds between them
- Preparation and filing of allegedly fraudulent documents
- Continued coordination over an 18-month period

These allegations, if proven true, would establish an association-in-fact enterprise with a structure distinct from the pattern of racketeering activity itself. The complaint identifies different roles for each defendant (Myers as the "inside" operative with access to marital assets and Texas courts, and Branthoover as the "outside" operative providing administrative oversight and expertise on protective orders), which demonstrates an organizational structure sufficient to constitute an enterprise.

### **2. Interstate Commerce**

The enterprise must engage in or affect interstate commerce. The complaint alleges numerous interstate activities, including:

- Interstate wire transfers of funds
- Interstate phone calls and text messages



- Physical travel between Texas and Oklahoma
- Preparation of documents in Oklahoma for filing in Texas courts

These allegations sufficiently establish the interstate commerce element required for a RICO claim.

### **3. Predicate Acts**

The plaintiff must allege specific predicate acts that qualify as "racketeering activity" under [18 U.S.C. § 1961](#). The complaint identifies two primary categories of predicate acts: wire fraud under [18 U.S.C. § 1343](#) and violations of the Travel Act under [18 U.S.C. § 1952](#).

#### **Wire Fraud**

The complaint alleges several instances of wire fraud, including:

1. The interstate wire transfer of \$1,576 from the joint marital PNC account to Branthoover's PayPal account
2. Deceptive interstate phone calls from Branthoover to the plaintiff
3. Text messages containing allegedly false statements intended to further the fraudulent scheme

To constitute wire fraud under [18 U.S.C. § 1343](#), these communications must be part of a "scheme or artifice to defraud" and must use interstate wire communications "for the purpose of executing such scheme or artifice." The complaint provides specific details about these communications, including dates, content, and their role in the alleged scheme to defraud the plaintiff of his property rights.

The defendants argue that these allegations fail to meet the heightened pleading standard required for fraud claims under Rule 9(b). However, the complaint provides specific details about the wire transfer, including the exact amount (\$1,576), the date (December 15, 2023), the source and destination accounts (joint marital PNC account to Branthoover's PayPal account), and the alleged fraudulent purpose (to deprive the plaintiff of funds needed for his business operations). Similarly, the complaint details specific text messages and phone calls, including dates and content.

These allegations are sufficiently particular to satisfy Rule 9(b)'s requirement that fraud be pled with specificity.

#### **Travel Act Violations**

The complaint also alleges violations of the Travel Act, [18 U.S.C. § 1952](#), which prohibits interstate travel or the use of interstate facilities with the intent to promote unlawful activities.

Specifically, the complaint alleges that Myers traveled from Texas to Oklahoma on December 15, 2023, with the purpose of coordinating the preparation of fraudulent court documents and furthering the scheme to defraud the plaintiff. After this travel, she allegedly engaged in overt acts to

further the unlawful activity, including preparing fraudulent court documents and returning to Texas with those documents, which were subsequently filed in Texas courts.

These allegations, if proven true, would establish violations of the Travel Act, which qualifies as a predicate act under RICO.

#### **4. Pattern of Racketeering Activity**

To establish a "pattern of racketeering activity," the plaintiff must demonstrate both relatedness and continuity among the predicate acts.

##### **Relatedness**

According to RICO: A Primer (2022), the predicate acts need not be similar in nature but must be "related in some way to the affairs of the charged enterprise." The complaint alleges that all the predicate acts were related to the common purpose of depriving the plaintiff of his property rights through the manipulation of legal proceedings. Each act allegedly involved the same participants (Myers and Branthoover), targeted the same victim (the plaintiff), and employed similar methods (deception, misrepresentation, and manipulation of legal processes).

These allegations sufficiently establish the relatedness requirement for a pattern of racketeering activity.

##### **Continuity**

RICO: A Primer (2022) explains that continuity can be demonstrated through either closed-ended continuity ("a series of related predicate acts extending over a substantial period of time") or open-ended continuity ("a threat of continuing criminal activity extending indefinitely into the future").

The complaint alleges that the defendants' activities spanned from December 2023 through May 2025, a period of approximately 18 months. This timeframe is substantial enough to satisfy the closed-ended continuity requirement. Additionally, the complaint alleges ongoing threats and monitoring activities by Branthoover as recently as May 24, 2025, suggesting a threat of continued criminal activity that could satisfy the open-ended continuity requirement.

The defendants argue that the alleged conduct spans only a short period and does not demonstrate a threat of ongoing criminal activity. However, the 18-month timeframe alleged in the complaint is substantially longer than what courts typically consider a "short period" for RICO purposes, and the alleged ongoing threats suggest potential future criminal activity.

#### **5. Standing - Injury to Business or Property**

For civil RICO claims, [18 U.S.C. § 1964](#)(c) requires that the plaintiff be "injured in his business or property by reason of a violation of section 1962."



According to [Defending RICO Claims In The Business Context Part II: RICO Claims Must Allege Injury To Business Or Property](#), "the plaintiff must plausibly allege that his injury animating the RICO claim is associated with his business or property by reason of the defendant's violation of the RICO laws."

The complaint alleges specific injuries to the plaintiff's business and property, including:

1. Loss of \$1,576 from the joint marital account
2. Disruption to his home-based business operations after being removed from his residence
3. Lost business income of approximately \$99,794.58 due to inability to operate his digital financial analytics business
4. Loss of personal property rights through the fraudulent manipulation of judicial proceedings

These alleged injuries are concrete and economic in nature, rather than emotional or speculative, and are directly tied to the defendants' alleged RICO violations. The plaintiff has provided specific details about his business operations, including past revenue figures and projections based on historical performance.

The defendants argue that the plaintiff has not alleged a concrete injury to business or property as required under RICO. However, the detailed allegations regarding the impact on the plaintiff's digital financial analytics business and the specific financial losses claimed are sufficient to establish standing at the pleading stage.

## **Domestic Dispute Defense**

The defendants argue that the plaintiff's allegations arise primarily from a domestic dispute and related family court proceedings, which they claim do not constitute the type of organized criminal activity contemplated by RICO. However, the RICO statute itself does not contain any exemption for activities arising from domestic disputes.

According to [PAYORS, PLAYERS, AND PROXIMATE CAUSE](#), "Congress urges courts to construe RICO liberally from the 'perspective of the victim, not the perpetrator.'" This suggests that the focus should be on the nature of the alleged activities and their impact on the victim, rather than the relationship between the parties.

While it is true that courts have been cautious about applying RICO to what might be characterized as "garden-variety" disputes, the allegations in this case go beyond a simple domestic disagreement. The complaint alleges an organized scheme involving interstate travel, wire transfers, coordination between multiple parties, and systematic fraud spanning 18 months. These allegations, if proven true, would constitute the type of organized, ongoing criminal activity that RICO was designed to address.

As noted in [RICO - the rejection of an economic motive requirement](#), "the fact that RICO has been applied in situations not expressly anticipated by

Congress does not demonstrate ambiguity. It demonstrates breadth." The breadth of RICO allows it to be applied to various situations involving patterns of racketeering activity, regardless of whether they arise from domestic disputes or other contexts.

## **Pleading Standards**

The defendants argue that the plaintiff's allegations are conclusory and speculative, failing to meet the pleading standards established in *Twombly* and *Iqbal*. However, the complaint contains detailed factual allegations regarding specific events, communications, and actions taken by the defendants.

According to [Sylvester v. Parexel Int'l LLC](#), "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." The plaintiff's complaint includes specific dates, amounts, names, and descriptions of activities that, if proven true, would establish each element of a RICO violation.

For example, the complaint alleges:

- Specific text messages and phone calls with dates and content
- A precise amount (\$1,576) transferred from a specific account to another on a specific date
- Detailed descriptions of Myers' travel to Oklahoma and the activities conducted there
- Specific court filings containing allegedly fraudulent statements

These allegations provide sufficient factual detail to "raise a right to relief above the speculative level" and to state a claim that is "plausible on its face."

## **Conclusion**

Based on the analysis of the relevant law and the allegations in the complaint, the defendants' motion to dismiss under Rules 12(b)(6) and 12(b)(3) should be denied.

The Western District of Oklahoma is a proper venue for this action under [18 U.S.C. § 1965\(a\)](#) because defendant Branthoover resides in that district, and substantial activities related to the alleged enterprise occurred there.

The complaint sufficiently alleges facts that, if proven true, would establish all elements required for a civil RICO claim:

1. The existence of an enterprise with a structure distinct from the pattern of racketeering activity
2. The enterprise's engagement in or effect on interstate commerce
3. Specific predicate acts of wire fraud and Travel Act violations, pled with sufficient particularity

4. A pattern of racketeering activity demonstrating both relatedness and continuity
5. Concrete injuries to the plaintiff's business and property caused by the alleged RICO violations

While the underlying facts may involve a domestic dispute, the allegations suggest an organized scheme involving interstate activities and systematic fraud that goes beyond a typical family law matter. The breadth of RICO allows it to be applied to such situations when the statutory elements are satisfied.

The plaintiff's detailed factual allegations are sufficient to meet the pleading standards established in *Twombly* and *Iqbal*, providing enough specificity to make his claims plausible on their face.

Therefore, the defendants' motion to dismiss should be denied, and the case should proceed to discovery to allow the plaintiff an opportunity to prove his allegations.

## **Legal Authorities**

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

### **Extract**

It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

### **Summary**

The passage from 18 U.S.C. § 1962 outlines the unlawful conduct related to racketeering activities, which is central to the Plaintiff's allegations in the First Amended Complaint. The Plaintiff alleges that the Defendants engaged in a pattern of racketeering activity, which includes wire fraud and violations of the Travel Act, in furtherance of a scheme to defraud him. The passage provides the legal basis for the Plaintiff's claims under RICO, as it prohibits conducting or participating in an enterprise's affairs through a pattern of racketeering activity. The Defendants' motion to dismiss argues that the Plaintiff's complaint fails to state a claim under RICO, lacks necessary elements, and is based on a domestic dispute. However, the Plaintiff's detailed allegations, if proven, could potentially satisfy the elements of a RICO claim, including the existence of an enterprise, a pattern of racketeering activity, and specific predicate acts.

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

## **Extract**

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

## **Summary**

18 U.S.C. § 1343 defines wire fraud as a federal crime involving the use of wire communications to execute a scheme to defraud. This is directly relevant to the allegations made by the plaintiff, Charles Dustin Myers, who claims that the defendants engaged in wire fraud as part of a RICO violation. The passage provides the legal basis for considering wire fraud as a predicate act under RICO, which is central to the plaintiff's claims.

### [18 U.S.C. § 1965 18 U.S.C. § 1965 Venue and Process](#)

## **Extract**

18 U.S.C. § 1965 Venue and Process: (a) Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs. (b) In any action under section 1964 of this chapter in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

## **Summary**

The passage provides guidance on the venue for civil actions under the RICO Act, stating that such actions can be instituted in any district where the defendant resides, is found, has an agent, or transacts affairs. Additionally, it allows for parties residing in other districts to be summoned if the ends of justice require it. This is relevant to the question of whether the venue is proper in the Western District of Oklahoma for the RICO claim brought by the plaintiff.

### [18 U.S.C. § 1964 18 U.S.C. § 1964 Civil Remedies](#)

## **Extract**

Any person injured in his business or property by reason of a violation of section 1962 of this chapter 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...

## **Summary**

The U.S. Code provides a civil remedy for individuals injured in their business or property due to a violation of section 1962, which pertains to RICO violations. This allows individuals to sue in federal court and recover treble damages and costs. This is relevant to the plaintiff's claims under RICO, as it establishes the legal basis for seeking damages in federal court.

### [28 U.S.C. § 1331 28 U.S.C. § 1331 Federal Question](#)

## **Extract**

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

## **Summary**

28 U.S.C. § 1331 grants federal district courts original jurisdiction over civil actions that arise under the laws of the United States. Since the RICO Act is a federal statute, any civil action brought under it would fall under the jurisdiction of the federal district courts. Therefore, the United States District Court for the Western District of Oklahoma would have jurisdiction over the civil RICO action filed by Charles Dustin Myers, as it arises under federal law.

### [18 U.S.C. § 1952 18 U.S.C. § 1952 Interstate and Foreign Travel Or Transportation In Aid of Racketeering Enterprises](#)

## **Extract**

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; or ... As used in this section (i) 'unlawful activity' means any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as defined in section 102 of the Controlled Substances Act), or prostitution offenses in

violation of the laws of the State in which they are committed or of the United States, extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States, or any act which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title...

## **Summary**

The Travel Act criminalizes interstate travel or the use of interstate facilities with the intent to promote or facilitate unlawful activities. In the case of Charles Dustin Myers, the allegations include interstate travel and communications between Texas and Oklahoma to further a fraudulent scheme. The Travel Act could apply if the activities fall under the definition of "unlawful activity," which includes acts indictable under certain federal statutes. The case involves allegations of wire fraud and potentially other unlawful activities that could be considered under the Travel Act.

[28 U.S.C. § 1391 28 U.S.C. § 1391 Venue Generally](#)

## **Extract**

A civil action may be brought in- a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

## **Summary**

Criteria for determining proper venue in civil actions. It states that a civil action may be brought in a judicial district where any defendant resides if all defendants are residents of the state where the district is located, or where a substantial part of the events or omissions giving rise to the claim occurred. In this case, the defendants are residents of different states (Oklahoma and Texas), and the events giving rise to the claim occurred primarily in Texas. Therefore, the Western District of Oklahoma may not be the proper venue under 28 U.S.C. § 1391 unless it can be shown that a substantial part of the events occurred there or that the defendants are subject to the court's personal jurisdiction.

[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), 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), 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, section 29186 (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);

## **Summary**

Comprehensive list of activities that qualify as "racketeering activity" under the RICO Act. This includes a wide range of criminal acts such as murder, kidnapping, bribery, extortion, fraud, and others, which are chargeable under state or federal law and punishable by imprisonment for more than one year. The passage is essential for understanding what constitutes racketeering activity under the RICO Act.

### [OCGA § 16-14-3 OCGA § 16-14-3 \[Effective 7/1/2025\] Definitions](#)

## **Extract**

As used in this chapter, the term: ... 'Pattern of racketeering activity' means: (A) Engaging in at least two acts of racketeering activity in furtherance of one or more incidents, schemes, or transactions that have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such acts occurred after July 1, 1980, and that the last of such acts occurred within four years, excluding any periods of imprisonment, after the commission of a prior act of racketeering activity; ... 'Racketeering activity' means to commit, to attempt to commit, or to solicit, coerce, or intimidate another person to commit any crime which is chargeable by indictment under the laws of this state involving: ... (xxv) Perjury and other related offenses in violation of Article 4



of Chapter 10 of this title; ... (C) 'Racketeering activity' shall also mean any conduct defined as 'racketeering activity' under 18 U.S.C. Section 18 1961 , any violation of 18 U.S.C. Section 18 1028, or any violation of 31 U.S.C. Sections 31 5311 through 31 5330.

## **Summary**

The passage provides definitions relevant to racketeering activity, including the requirement of engaging in at least two acts of racketeering activity that are related and not isolated. It also specifies that perjury and related offenses can be considered racketeering activity. This is relevant to the case at hand, as the plaintiff alleges a pattern of racketeering activity involving wire fraud and other offenses. The passage helps clarify what constitutes a pattern of racketeering activity and what acts can be considered as such under both state and federal law.

### [18 U.S.C. § 1963 18 U.S.C. § 1963 Criminal Penalties](#)

## **Extract**

Whoever violates any provision of section 1962 of this chapter shall be fined under this title or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both, and shall forfeit to the United States, irrespective of any provision of State law- any interest the person has acquired or maintained in violation of section 1962; any- (A) interest in; (B) security of; (C) claim against; or (D) property or contractual right of any kind affording a source of influence over; any enterprise which the person has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962; and any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of section 1962.

## **Summary**

Penalties for violating section 1962 of the RICO Act, which includes fines, imprisonment, and forfeiture of any interests or property obtained through racketeering activity. This is relevant to the case at hand, as the plaintiff alleges violations of section 1962 by the defendants.

### [18 U.S.C. r. 18 18 U.S.C. r. 18 Place of Prosecution and Trial](#)

## **Extract**

Unless a statute or these rules permit otherwise, the government must prosecute an offense in a district where the offense was committed. The court must set the place of trial within the district with due regard for the

convenience of the defendant, any victim, and the witnesses, and the prompt administration of justice.

## **Summary**

The venue for prosecution should be in the district where the offense was committed unless otherwise permitted by statute or rules. The court must consider the convenience of the parties involved and the administration of justice when setting the trial location. This is relevant to the motion to dismiss for improper venue, as it provides the legal basis for determining the appropriate venue for the case.

[RICO - the rejection of an economic motive requirement.](#)

**Journal of Criminal Law and Criminology - Northwestern University,  
School of Law - Randolph, Jennifer G. - 1995-03-22**

## **Extract**

The court further explained that, 'the fact that RICO has been applied in situations not expressly anticipated by Congress does not demonstrate ambiguity. It demonstrates breadth.' ... The Court rejected a narrow reading of the phrase 'pattern of racketeering activity,' holding that it does not require proof of 'multiple illegal schemes' or that the predicate acts be 'indicative of an organized crime perpetrator.' Instead, the Court settled on a broad meaning for 'pattern of racketeering' that requires a 'plaintiff or prosecutor [merely to] prove [a] continuity of racketeering activity, or its threat, simpliciter.'

## **Summary**

RICO's application is broad and does not require the predicate acts to be indicative of organized crime or multiple illegal schemes. The focus is on proving continuity of racketeering activity or its threat. This interpretation supports the idea that RICO can be applied to a wide range of situations, including those not traditionally associated with organized crime.

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

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

## **Extract**

RICO's broad definition of racketeering activity and the act's reference to mail and wire fraud as predicate offenses begs the question: Why not RICO? That is, should the plaintiff consider adding a RICO count to an existing state cause of action? Moreover, since an action under RICO arises under federal law, a plaintiff can elect to have access to federal court. Civil RICO is

so broad and offers such a potentially broad pathway to pleading of such a claim in light of the inclusion of mail and wire fraud as predicate acts that a plaintiff can take almost any given set of facts and fashion their pleadings and be... RICO's prohibitions may be enforced in both criminal and civil contexts. In the context of a civil action, a plaintiff must be directly injured by reason of the defendant's racketeering activities. Proximate cause, as an aspect of RICO's "by reason of " standard, requires a RICO plaintiff to show that the defendant's racketeering offenses led directly to the plaintiff's injuries.

## Summary

The passage explains that RICO's broad definition allows for the inclusion of mail and wire fraud as predicate acts, which can be used to establish a RICO claim. It emphasizes that a plaintiff must show direct injury caused by the defendant's racketeering activities to succeed in a civil RICO action. This is relevant to the case at hand, as the plaintiff alleges wire fraud and other predicate acts as part of a RICO claim. The passage suggests that if the plaintiff can demonstrate the necessary elements, including direct injury and a pattern of racketeering activity, the RICO claim may be viable.

## [CIVIL RICO SUITS AGAINST HARM-CAUSING MARIJUANA OPERATIONS: MOMTAZI FAMILY, LLC V. WAGNER AS A CASE STUDY.](#)

**South Dakota Law Review - South Dakota Law Review - Dunham, Kassadie F. - 2022-09-22**

## Extract

As relevant to this article, RICO makes it 'unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity....' An 'enterprise' can be an individual, a legal entity, like a corporation, or 'any union or group of individuals associated in fact although not a legal entity.' A 'pattern of racketeering activity' means 'at least two acts of racketeering activity....' 'Racketeering activity,' in turn, encompasses a wide range of crimes, including '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.' In sum, to establish a RICO violation, the plaintiff must adequately plead and prove 'that the defendant engaged in (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity....'

## Summary

Foundational understanding of what constitutes a RICO violation, which is essential for evaluating the claims in the case of Charles Dustin Myers v. Daniel Kenneth Branthoover & Morgan Michelle Myers.

## PAYORS, PLAYERS, AND PROXIMATE CAUSE.

**Notre Dame Law Review - University of Notre Dame Law School -  
Crusey, Elisabeth F. - 2022-05-01**

### **Extract**

RICO is not just a tool for government control over organized crime. It is also a remedial statute for civil matters. (31) It 'authorize[s]... criminal or civil remedies on conduct already criminal, when performed in a specified fashion' as delineated by the statute. (32) Section 1962 provides civil remedies for four types of conduct: (1) using income derived from a pattern of racketeering activity (33) to acquire an interest in an enterprise; (2) acquiring or maintaining an interest in an enterprise through a pattern of racketeering activity; (3) conducting the affairs of an enterprise through a pattern of racketeering activity; and (4) conspiring to commit any of these offenses. (34) Today, Congress urges courts to construe RICO liberally from the 'perspective of the victim, not the perpetrator.' (35) A private civil right of action in [section] 1964 provides that '[a]ny person injured in his business or property by reason of a violation of section 1962... may sue.' (36) Notably, a successful plaintiff under [section] 1964 is entitled to treble damages and the cost of the suit, including attorney fees. (37) The threat of treble damages encourages plaintiffs to bring claims and discourages entities from engaging in illegal activities.

### **Summary**

RICO is intended to be a remedial statute for civil matters, allowing for civil remedies in cases of conduct that is already criminal when performed in a specified manner. Section 1962 outlines the types of conduct that can give rise to civil remedies, and Section 1964 provides a private right of action for individuals injured in their business or property due to a violation of Section 1962. The passage emphasizes that Congress urges courts to construe RICO liberally from the perspective of the victim, not the perpetrator, and that successful plaintiffs are entitled to treble damages and attorney fees. This suggests that courts should be open to allowing RICO claims to proceed if the plaintiff can demonstrate injury due to the defendant's racketeering activity.

[Sylvester v. Parexel Int'l LLC](#)

## **USDOL Administrative Review Board Decisions**

### **Extract**

Two United States Supreme Court cases, *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 and *Ashcroft v. Iqbal*, 556 U.S. ----, 129 S.Ct. 2068, 173 L.Ed.2d 1313 (2009) have heightened the pleading requirements established in the Federal Rules of Civil Procedure.

In those cases, the Supreme Court interpreted Rule 8 to mean that the '[f]actual allegations must be enough to raise a right to relief above the speculative level' and must be sufficient 'to state a claim to relief that is plausible on its face.' Twombly, 550 U.S. at 570. '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.' Iqbal, 129 S. Ct. at 1949.

## **Summary**

For a complaint to survive a motion to dismiss under Rule 12(b)(6), it must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. This means that the allegations must be more than speculative and must allow the court to reasonably infer that the defendant is liable for the alleged misconduct.

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

## **Extract**

Mail and wire fraud are the most common predicate acts... 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... A plaintiff may demonstrate a pattern by establishment that the predicate acts pose a threat of continued criminal activity, which is generally demonstrated by showing either: \* Closed-ended continuity. Proving 'a series of related predicate acts extending over a substantial period of time.' \* Open-ended continuity. A threat of 'continuing criminal activity extending indefinitely into the future,' in light of the nature of the enterprise and predicate acts alleged.

## **Summary**

To establish a RICO claim, the plaintiff must demonstrate a pattern of racketeering activity, which can be shown through either closed-ended or open-ended continuity. The passage explains that predicate acts, such as mail and wire fraud, do not need to be similar but must be related to the enterprise's affairs. The plaintiff can establish a pattern by showing a series of related acts over a substantial period (closed-ended continuity) or a threat of ongoing criminal activity (open-ended continuity).

### [Defending RICO Claims In The Business Context Part II: RICO Claims Must Allege Injury To Business Or Property](#)

## **Extract**

Fortunately for defendants, the RICO standing requirement greatly restricts the types of claims that can survive a motion to dismiss. If a plaintiff brings a

civil suit alleging a RICO violation, the plaintiff must plausibly allege that his injury animating the RICO claim is associated with his business or property by reason of the defendant's violation of the RICO laws. Absent these allegations, the lawsuit must be dismissed. RICO standing is distinct from the more well-known concept of constitutional standing. For RICO claims, in addition to pleading a sufficiently specific injury, including allegations that the plaintiff has suffered known damages (as opposed to mere speculative or unprovable damages), the plaintiff must allege that he suffered an injury to his business or property that bears some causal relationship to the alleged act or acts that violated RICO. This fundamental RICO requirement helps ensure that RICO is not expanded beyond its original intent.

## **Summary**

For a RICO claim to survive a motion to dismiss, the plaintiff must allege a specific injury to business or property that is causally related to the defendant's alleged RICO violation. This requirement is fundamental to prevent the expansion of RICO beyond its intended scope. The injury must be concrete and not speculative, and it must be directly caused by the alleged RICO violation.

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

## **Extract**

To prove a violation of Section 1962(c), a plaintiff must prove the following elements: \* Existence of an enterprise; \* The enterprise engaged in, or its activities affected, interstate or foreign commerce; \* The defendant was employed by or was associated with the enterprise; \* The defendant conducted or participated, either directly or indirectly, in the conduct of the affairs of the enterprise; and \* The defendant participated in the affairs of the enterprise through a pattern of racketeering activity or collection of unlawful debt.

## **Summary**

Specific elements that must be proven to establish a violation of Section 1962(c) of the RICO Act. These elements include the existence of an enterprise, the enterprise's engagement in or effect on interstate or foreign commerce, the defendant's association with the enterprise, the defendant's participation in the enterprise's affairs, and the defendant's involvement in a pattern of racketeering activity or collection of unlawful debt. This information is crucial for understanding the legal requirements for proving a RICO violation under this section.

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

## **Extract**

First, to bring a civil RICO claim, a plaintiff must demonstrate that their business or property was injured as a result of a RICO violation. In other words, there must be some sort of concrete financial loss directly flowing from the purported violation to support a RICO claim. Thus, if a plaintiff does not have a concrete financial loss, then the RICO claim must be dismissed. Asserting personal injuries, such as emotional distress, is insufficient. Second, to prove most types of RICO claims, the plaintiff must plead that the defendant committed some qualifying criminal action, the most common of which is mail, wire or securities fraud. Business deals gone sour do not count. Rather, the plaintiff must be able to prove the elements of the asserted crime, and often an intent to defraud. If there is nothing criminal in nature about the complained-of conduct, RICO should not apply. It is an abuse of the RICO statute to attempt to shoehorn ordinary business or contractual disputes into a civil RICO claim. Third, the plaintiff must plead a pattern of racketeering activity for most RICO claims. If the alleged conduct occurred once or twice, or was not continuous, it cannot form a pattern of conduct sufficient to support a RICO claim. And oftentimes, because there is a fraud component, those instances must be particularly identified in the plaintiff's pleading—a barrier that can prove difficult to accomplish.

## **Summary**

Essential elements required to establish a civil RICO claim, including demonstrating a concrete financial loss, proving a qualifying criminal action, and establishing a pattern of racketeering activity. These elements are critical in determining whether a RICO claim can proceed. The passage emphasizes that personal injuries or emotional distress are insufficient, and the plaintiff must show a direct financial loss. Additionally, the plaintiff must prove that the defendant committed a criminal action, such as wire fraud, and that there is a pattern of racketeering activity, not just isolated incidents.

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

## **Extract**

Civil RICO claims are not limited to conduct traditionally associated with organized crime, but they certainly are not meant to apply to ordinary business disputes. While there are a number of defenses available as to each of the four types of civil RICO claims, there are several RICO defenses that should be in every business's playbook. First, to bring a civil RICO claim, a plaintiff must demonstrate that their business or property was injured as a result of a RICO violation. In other words, there must be some sort of concrete financial loss directly flowing from the purported violation to support a RICO claim. Thus, if a plaintiff does not have a concrete financial



loss, then the RICO claim must be dismissed. Asserting personal injuries, such as emotion distress, is insufficient. Second, to prove most types of RICO claims, the plaintiff must plead that the defendant committed some qualifying criminal action, the most common of which is mail, wire or securities fraud. Business deals gone sour do not count. Rather, the plaintiff must be able to prove the elements of the asserted crime, and often an intent to defraud. If there is nothing criminal in nature about the complained-of conduct, RICO should not apply. It is an abuse of the RICO statute to attempt to shoehorn ordinary business or contractual disputes into a civil RICO claim. Third, the plaintiff must plead a pattern of racketeering activity for most RICO claims. If the alleged conduct occurred once or twice, or was not continuous, it cannot form a pattern of conduct sufficient to support a RICO claim. And oftentimes, because there is a fraud component, those instances must be particularly identified in the plaintiff's pleading—a barrier that can prove difficult to accomplish. Fourth, for most RICO claims, the plaintiff also must plead that the alleged 'person' and 'enterprise,' as defined in RICO, are distinct. While often technical, this 'distinctiveness' requirement provides that a corporation generally will not be liable for operating an 'enterprise' consisting of itself and its officers or employees. If a business is alleged to have violated RICO based on intracompany actions, then the RICO claim has a good chance of dismissal.

## **Summary**

The passage outlines several defenses available for civil RICO claims: (1) The plaintiff must demonstrate a concrete financial loss directly resulting from a RICO violation. Emotional distress or personal injuries are insufficient. (2) The plaintiff must plead that the defendant committed a qualifying criminal action, such as mail, wire, or securities fraud, with intent to defraud. (3) The plaintiff must plead a pattern of racketeering activity, which requires more than isolated or non-continuous conduct. (4) The plaintiff must demonstrate that the "person" and "enterprise" are distinct entities. These defenses are crucial in determining whether a RICO claim can be dismissed.

This memo was compiled by Vincent AI based on vLex materials available as of June 27, 2025. [View full answer on vLex](#)