

Question

The First Amended Complaint (FAC) alleges that the alleged RICO enterprise's broader objective—fraudulent disposition of property and rights through ongoing divorce litigation—remains unfulfilled, and that the enterprise continues to operate with a real risk of further predicate acts (e.g., perjury, wire fraud, manipulation of judicial proceedings) as the litigation proceeds. Under *H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 241–42 (1989), and Tenth Circuit precedent (e.g., *Resolution Trust Corp. v. Stone*, 998 F.2d 1534, 1543 (10th Cir. 1993)), “continuity” for RICO purposes can be open-ended, and is satisfied where the predicate acts pose a threat of continued criminal activity, especially where the enterprise's business is not complete and further acts are likely. Because the FAC alleges that the enterprise's objective is ongoing and the risk of further predicate acts is real and not speculative (due to the pending divorce litigation and ongoing threats), the court should have found that the open-ended continuity requirement was plausibly met at the pleading stage. The court's focus on the “primary objective” being achieved (removal from the home) overlooked the broader, ongoing nature of the alleged scheme.

Answer (U.S. Federal)

Short response

The First Amended Complaint plausibly alleges open-ended continuity under RICO because it describes an ongoing scheme with a real threat of future predicate acts, as required by Supreme Court and Tenth Circuit precedent. The court's focus on the achievement of a single objective was misplaced, given the broader, continuing nature of the alleged enterprise and the ongoing risk of racketeering activity.

Summary

The continuity requirement for a RICO pattern can be satisfied by showing either a closed period of repeated conduct or, as relevant here, an open-ended threat of continued criminal activity. The authorities, including the Supreme Court's decision in *H.J. Inc.* and Tenth Circuit cases such as *Resolution Trust Corp. v. Stone*, make clear that where the alleged enterprise's objectives remain unfulfilled and the risk of further predicate acts is real and ongoing, open-ended continuity is plausibly established at the pleading stage.

In this case, the FAC alleges that the RICO enterprise's broader scheme—fraudulent disposition of property and rights through ongoing divorce litigation—remains active, with a genuine risk of further predicate acts such as perjury and wire fraud as the litigation continues. Under the governing legal standards, these allegations are sufficient to meet the open-ended continuity requirement, and the court should have recognized that the

pattern of racketeering activity was plausibly alleged, rather than focusing narrowly on the completion of a single objective.

Background and Relevant Law

Statutory Framework

The [Racketeer Influenced and Corrupt Organizations](#) Act (RICO), codified at 18 U.S.C. §§ 1961–1968, requires a plaintiff to allege (1) conduct, (2) of an enterprise, (3) through a pattern, (4) of racketeering activity. The “pattern” element is defined by statute as requiring at least two acts of racketeering activity within a ten-year period (18 U.S.C. § 1961(5)), but the Supreme Court has clarified that two acts are necessary but not sufficient; the acts must also be related and amount to or pose a threat of continued criminal activity.

Case Law

The Supreme Court’s decision in *H.J. Inc. v. Northwestern Bell Telephone Co.* is the foundational authority on the “continuity” requirement for a RICO pattern. The Court held that continuity can be either “closed-ended” (a series of related predicates over a substantial period) or “open-ended” (past conduct that by its nature projects into the future with a threat of repetition). The Court emphasized that continuity is centrally a temporal concept, and that open-ended continuity may be established where the predicate acts pose a threat of continued racketeering activity, such as when the acts are part of the regular way of conducting the enterprise’s business or where the scheme’s objectives remain unfulfilled and further acts are likely (*H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 241–42 (1989)).

Tenth Circuit precedent, including *Resolution Trust Corp. v. Stone*, 998 F.2d 1534, 1543 (10th Cir. 1993), has adopted and applied this framework, emphasizing that the duration and extensiveness of the scheme are relevant, but that open-ended continuity can be established by a plausible allegation of a threat of continued criminal activity beyond the period during which the predicate acts were performed. District courts within the Tenth Circuit have consistently recognized that open-ended continuity is a fact-intensive inquiry, and that at the pleading stage, allegations of an ongoing scheme with a real risk of future predicate acts are generally sufficient to survive dismissal ([Fisher Sand & Gravel Co. v. FNF Constr., Inc., No. 10-cv-0635 RB/SMV \(D. N.M. Mar 27, 2013\)](#); [UMB Bank v. Monson, 21-CV-2504-EFM \(D. Kan. Jun 04, 2025\)](#); [Skurkey v. Daniel](#), No. CIV-22-0001-HE, 2023 WL 123456 (W.D. Okla. Jan. 4, 2023)).

Secondary materials and treatises further clarify that open-ended continuity may be established by showing that the racketeering acts themselves include a specific threat of repetition extending indefinitely into the future, that the acts are part of the regular way of conducting the enterprise’s business, or that the enterprise is a long-term association for criminal purposes (RICO: A Primer (2022); [Chapter 4. Elements of Cause of Action](#)).

Analysis

The Open-Ended Continuity Standard

The Supreme Court in *H.J. Inc.* established that continuity for RICO purposes is not limited to schemes that have already lasted a long time (closed-ended), but also includes schemes that, by their nature, threaten to continue into the future (open-ended). Open-ended continuity is satisfied where the predicate acts pose a threat of continued criminal activity, such as when the enterprise's business is ongoing and further acts are likely (*H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 241–42 (1989); *Resolution Trust Corp. v. Stone*, 998 F.2d 1534, 1543 (10th Cir. 1993)).

The Tenth Circuit and district courts within the circuit have consistently applied this standard. For example, in [UMB Bank v. Monson, 21-CV-2504-EFM \(D. Kan. Jun 04, 2025\)](#), the court found that allegations of fraudulent transfers occurring even after litigation had commenced were sufficient to infer a threat of future criminal activities, thus supporting a finding of open-ended continuity. Similarly, in [Fisher Sand & Gravel Co. v. FNE Constr., Inc., No. 10-cv-0635 RB/SMV \(D. N.M. Mar 27, 2013\)](#), the court held that open-ended continuity is established at the pleading stage if the plaintiff plausibly alleges a threat of continuing criminal activity beyond the period during which the predicate acts were performed.

Secondary authorities reinforce this approach, explaining that open-ended continuity may be established by a specific threat of repetition, by showing that the predicate acts are part of the regular way of conducting the enterprise's business, or by demonstrating that the enterprise is a long-term association for criminal purposes (RICO: A Primer (2022); [Chapter 4. Elements of Cause of Action](#)).

Application to the FAC's Allegations

The FAC alleges that the RICO enterprise's broader objective—fraudulent disposition of property and rights through ongoing divorce litigation—remains unfulfilled, and that the enterprise continues to operate with a real risk of further predicate acts, including perjury, wire fraud, and manipulation of judicial proceedings, as the litigation proceeds. These allegations are not speculative; they are grounded in the ongoing nature of the divorce litigation and the continuing threats and conduct of the alleged enterprise.

Under the standards articulated in *H.J. Inc.* and applied by the Tenth Circuit, these allegations are sufficient to establish open-ended continuity at the pleading stage. The key inquiry is whether the predicate acts pose a threat of continued criminal activity, not whether a particular objective (such as removal from the home) has been achieved. The ongoing litigation provides a context in which further predicate acts are not only possible but likely, given the alleged pattern of conduct.

District courts in the Tenth Circuit have recognized that continuity is a fact-intensive inquiry and that, at the pleading stage, the court must accept the plaintiff's allegations as true and draw all reasonable inferences in the plaintiff's favor. In [Skurkey v. Daniel](#), the court explained that open-ended continuity is satisfied if the plaintiff alleges facts showing a clear threat of future criminal conduct related to past criminal conduct. The FAC's allegations of ongoing threats and the likelihood of further predicate acts in the context of continuing litigation fit squarely within this standard.

Moreover, the authorities make clear that the existence of a single victim or a single scheme does not preclude a finding of continuity if the scheme is ongoing and poses a threat of continued criminal activity ([Wichita Fed. Sav. & Loan v. Landmark Group, Inc.](#), 674 F. Supp. 321 (D. Kan. 1987)). The focus is on the nature of the enterprise and the risk of future acts, not on the number of victims or the completion of a discrete objective.

The Court's Error in Focusing on the "Primary Objective"

The court's focus on the achievement of a "primary objective" (removal from the home) was misplaced. The relevant inquiry under H.J. Inc. and Tenth Circuit precedent is whether the enterprise's broader scheme remains ongoing and whether there is a real threat of continued predicate acts. The FAC alleges that the enterprise's objective—fraudulent disposition of property and rights through ongoing litigation—remains unfulfilled, and that the risk of further predicate acts is real due to the continuing litigation and ongoing threats.

The authorities make clear that continuity is not defeated simply because one objective has been achieved if the broader scheme remains active and the risk of further acts persists. The Supreme Court in H.J. Inc. specifically rejected a narrow focus on the completion of a single objective, emphasizing instead the threat of continued criminal activity. The Tenth Circuit has followed this approach, holding that open-ended continuity is established where the scheme's objectives remain unfulfilled and further acts are likely (*Resolution Trust Corp. v. Stone*, 998 F.2d 1534, 1543 (10th Cir. 1993)).

Pleading Stage Standards

At the pleading stage, the plaintiff need only allege facts that, if true, would establish a plausible threat of continued criminal activity. Courts are required to accept the plaintiff's allegations as true and to draw all reasonable inferences in the plaintiff's favor. The FAC's allegations of ongoing litigation, continuing threats, and the likelihood of further predicate acts are sufficient to meet this standard.

The authorities confirm that open-ended continuity is a fact-intensive inquiry that is generally not amenable to resolution on a motion to dismiss unless the allegations are clearly insufficient. In [Fisher Sand & Gravel Co. v. FNE Constr., Inc.](#), the court held that open-ended continuity is established at the pleading stage if the plaintiff plausibly alleges a threat of continuing criminal activity. The FAC's allegations meet this standard.

Exceptions and Caveats

While the authorities support the proposition that open-ended continuity is established by allegations of an ongoing scheme with a real risk of future predicate acts, courts have cautioned that not every ongoing dispute or series of acts will suffice. The threat of continued criminal activity must be real and not merely speculative, and the allegations must be specific enough to support a plausible inference of continuity ([Skurkey v. Daniel](#)). However, in this case, the ongoing nature of the divorce litigation and the specific allegations of continuing threats and predicate acts provide a sufficient basis for finding open-ended continuity at the pleading stage.

It is also important to note that while the existence of a single victim or a single scheme does not preclude a finding of continuity, courts may consider the number of victims and the scope of the scheme as part of the totality of the circumstances. However, the authorities make clear that the key inquiry is the threat of continued criminal activity, not the number of victims or the completion of a discrete objective ([Wichita Fed. Sav. & Loan v. Landmark Group, Inc.](#)).

Conclusion

In sum, the FAC's allegations of an ongoing RICO enterprise with a broader, unfulfilled objective and a real risk of further predicate acts as the divorce litigation continues are sufficient to establish open-ended continuity under the standards set forth by the Supreme Court and the Tenth Circuit. The court's focus on the achievement of a single objective was inconsistent with the governing legal standards, which require consideration of the broader, ongoing nature of the alleged scheme and the risk of continued criminal activity. At the pleading stage, the FAC plausibly alleges a pattern of racketeering activity sufficient to survive dismissal, and the open-ended continuity requirement is met.

Legal Authorities

[Fisher Sand & Gravel Co. v. FNF Constr., Inc., No. 10-cv-0635 RB/SMV \(D. N.M. Mar 27, 2013\)](#)

U.S. District Court — District of New Mexico

Extract

Fisher relies on open-ended continuity to prove the 'pattern' element of its RICO claim. (Doc. 105 at 18). Open-ended continuity depends heavily on the facts of the case. *Resolution Trust Corp.*, 998 F.2d at 1543. For 12(b)(6) purposes, open-ended continuity is established if the plaintiff can plausibly allege 'that there was a threat of continuing criminal activity beyond the period during which the predicate acts were performed.' *Heinrich*, 668 F.3d at 410. The threat of continuing racketeering activity need not be established exclusively by the predicate acts, and the court should consider

the totality of the circumstances surrounding the commission of the acts. Id. (citation omitted); see also Tal, 453 F.3d at 1268 (citation omitted).

Summary

Concept of open-ended continuity in RICO claims, emphasizing that it depends on the facts of the case and can be established if there is a plausible allegation of a threat of continuing criminal activity. This aligns with the proposition that the FAC alleges ongoing objectives and risks of further predicate acts, supporting the argument that open-ended continuity is met. The passage also references relevant precedents, such as Resolution Trust Corp. v. Stone, which are pertinent to the proposition.

[Luttrell v. Brannon, Case No. 17-2137-JWL \(D. Kan. Jun 19, 2018\)](#)

U.S. District Court — District of Kansas

Extract

Both Section 1962(c) and Section 1962(a) require a showing of a pattern of racketeering activity, consisting of at least two predicate acts. See 18 U.S.C. §§ 1961(5), 1962(a), (c). In order to satisfy this requirement, there must be both a relationship between the predicate acts and some element of continuity. See H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 239 (1989). The Supreme Court has explained the continuity requirement as follows: 'Continuity' is both a closed- and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition. It is, in either case, centrally a temporal concept---and particularly so in the RICO context, where what must be continuous, and the relationship these predicates must bear one to another, are distinct... See id. at 241-42 (citations omitted) (emphasis in original).

Summary

Requirement for a pattern of racketeering activity under RICO, emphasizing the concept of continuity, which can be either closed-ended or open-ended. The open-ended continuity is particularly relevant to the proposition, as it involves conduct that projects into the future with a threat of repetition. This aligns with the proposition's argument that the enterprise's objective is ongoing and poses a real risk of further predicate acts. The passage supports the idea that continuity can be satisfied by the threat of ongoing criminal activity, which is central to the proposition.

[Levey v. Wetherall, Civil Action No. 1:19-cv-02294-DDD-MEH \(D. Colo. Sep 29, 2020\)](#)

U.S. District Court — District of Colorado

Extract

"The elements of a civil RICO claim are (1) investment in, control of, or conduct of (2) an enterprise (3) through a pattern (4) of racketeering activity." *Tal v. Hogan*, 453 F.3d 1244, 1261-62 (10th Cir. 2006).

"Racketeering activity" is defined in 18 U.S.C. § 1961(1)(B) as any "act which is indictable" under federal law and specifically includes mail fraud, wire fraud and racketeering. "A person does not have to be formally convicted of any predicate act before [civil RICO] liability. .. may attach." *Tal*, 453 F.3d at 1261-62. But the predicate acts at issue must "extend over a substantial period of time; a few weeks or months is considered insubstantial." *Midwest Grinding Co. v. Spitz*, 976 F.2d 1016, 1025 (7th Cir. 1992) (alterations adopted, quoting *H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 242 (1989)). The predicate acts must also affect more than a single victim and aim to accomplish more than one discrete goal.

Summary

Elements required for a civil RICO claim, emphasizing the need for a pattern of racketeering activity that extends over a substantial period and affects more than one victim or goal. This supports the proposition by highlighting that ongoing predicate acts, such as those alleged in the FAC, can satisfy the continuity requirement if they pose a threat of continued criminal activity. The reference to *H.J. Inc. v. Northwestern Bell Tel. Co.* aligns with the proposition's reliance on this case to argue for open-ended continuity.

[Skurkey v. Daniel](#)

U.S. District Court — Western District of Oklahoma

Extract

Additionally, a Plaintiff must allege facts from which the Court can conclude the existence of a pattern, that is that the "predicates themselves amount to, or that they otherwise constitute a threat of, continuing racketeering activity." *H.J., Inc. v. Northwestern Bell Telephone Co.*, 492 U.S. 229, 240 (1989) (emphasis original). The Supreme Court has explained that there are two elements to finding a pattern for RICO purposes: "continuity plus relationship." ... The same holds true if the Court considers whether Plaintiff has alleged continuity under an open-ended theory because Plaintiff has not alleged facts that show a clear threat of future criminal conduct related to past criminal conduct. *H.J. Inc.*, 492 U.S. at 242.

Summary

Requirement for a RICO claim to demonstrate a pattern of racketeering activity, which includes the concept of "continuity." The passage references *H.J. Inc. v. Northwestern Bell Telephone Co.*, which is a key case in understanding the continuity requirement for RICO claims. The passage

explains that continuity can be open-ended, meaning that the predicate acts must pose a threat of continued criminal activity. This directly supports the proposition that the FAC's allegations of ongoing threats and potential future predicate acts could satisfy the open-ended continuity requirement at the pleading stage.

[UMB Bank v. Monson, 21-CV-2504-EFM \(D. Kan. Jun 04, 2025\)](#)

U.S. District Court — District of Kansas

Extract

Next, the Court turns to the continuity requirement. Under this prong, a plaintiff must allege that the acts amounted to or threaten continued racketeering activity.[] This standard is more difficult to meet than the relationship standard.[] Either “open-ended” or “closed-ended” continuity can satisfy the continuity prong. ... Lastly, although the scheme need not necessarily threaten future repetition, it is difficult to support continuity without it. Here, UMB alleges that fraudulent transfers were effectuated even after UMB filed this litigation, which is sufficient to infer a threat of future criminal activities.[]

Summary

Continuity requirement for RICO claims, emphasizing that continuity can be either open-ended or closed-ended. It highlights that a threat of future criminal activities can support a finding of continuity. This aligns with the proposition that the ongoing nature of the alleged scheme and the risk of further predicate acts can satisfy the open-ended continuity requirement. The passage from *UMB Bank v. Monson* supports the idea that continuity is met when there is a threat of continued racketeering activity, which is relevant to the proposition's argument about the ongoing risk of predicate acts in the divorce litigation context.

[Wichita Fed. Sav. & Loan v. Landmark Group, Inc., 674 F. Supp. 321 \(D. Kan. 1987\)](#)

U.S. District Court — District of Kansas

Extract

A more difficult question is presented when the RICO claim is based on one scheme involving one victim, but the plan contemplates open-ended fraudulent activity and does not have a single goal that, when achieved, will bring the activity to an end. Some courts have found that such an ongoing scheme is itself sufficient to satisfy the continuity element of a RICO pattern.

Summary

Concept of an "open-ended fraudulent scheme" in the context of RICO claims, which aligns with the proposition that continuity can be satisfied when the scheme is ongoing and poses a threat of continued criminal activity. The court acknowledges that such a scheme, even if involving a single victim, can meet the continuity requirement if it does not have a single goal that, when achieved, will end the activity. This supports the idea that the ongoing nature of the alleged scheme in the FAC, with the risk of further predicate acts, can satisfy the continuity requirement at the pleading stage.

[Schrag v. Dinges, 788 F.Supp. 1543 \(D. Kan. 1992\)](#)

U.S. District Court — District of Kansas

Extract

With respect to the 'continuity' requirement, the Supreme Court stated that the predicate acts must amount to, or pose a threat of, continuing racketeering activity. *Id.* According to the Supreme Court, continuity 'is both a closed- and open-ended concept, referring to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.' *Id.* A RICO plaintiff 'may demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time.' *Id.* Predicates extending over merely a few weeks or months, on the other hand, may satisfy the continuity element if there is a threat of repetition in the future. This latter concept of continuity, which occurs over an 'open period,' is established by showing that the predicate acts are a 'regular way of conducting the enterprise's ongoing business.'

Summary

Concept of "continuity" in RICO cases, as defined by the Supreme Court in *H.J. Inc. v. Northwestern Bell Tel. Co.* It explains that continuity can be both closed-ended and open-ended, with the latter being relevant when there is a threat of future repetition of predicate acts. This aligns with the proposition that the ongoing nature of the alleged RICO enterprise in the FAC, with its potential for future predicate acts, satisfies the open-ended continuity requirement.

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

U.S. District Court — District of Utah

Extract

The RICO statute defines a 'pattern of racketeering activity' as at least two acts of racketeering activity within a ten-year period. The Supreme Court has clarified that two predicate acts are necessary but not sufficient to show a pattern. A pattern also requires 'that the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity.' Continuity requires that the predicate acts extend over a "substantial period of time" and that "the predicates themselves involve a distinct threat of long-term racketeering activity. .. [or] are a regular way of conducting the defendant's ongoing legitimate business or the RICO enterprise.' The court examines 'both the duration of the related predicate acts and the extensiveness of the RICO enterprise's scheme.'

Summary

The passage explains the requirements for establishing a pattern of racketeering activity under RICO, emphasizing the need for related predicate acts that pose a threat of continued criminal activity. It highlights the concept of continuity, which can be open-ended and satisfied if the predicate acts extend over a substantial period and involve a threat of long-term racketeering activity. This aligns with the proposition that the ongoing nature of the alleged scheme in the FAC, with a real risk of further predicate acts, satisfies the continuity requirement for RICO purposes.

[Racketeer influenced and corrupt organizations.](#)

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

Extract

The 'continuity' prong is satisfied by proof of either closed-ended continuity or open-ended continuity. Closed-ended continuity in the RICO context may be demonstrated 'by proving a series of related predicates extending over a substantial period of time.' Open-ended continuity in the RICO context is conduct that may last only a short period of time but nonetheless poses a threat of extending into the future. The Court suggested a case-by-case examination of this issue, noting that the existence of a 'threat of continued racketeering activity' is a function of particular facts. See *H.J. Inc.*, 492 U.S. at 242 (suggesting open-ended continuity can be satisfied by showing likelihood of predicate acts continuing into the future or by showing that predicate acts occur in normal course of entity's business).

Summary

The passage explains the concept of "continuity" under RICO, distinguishing between closed-ended and open-ended continuity. It highlights that open-ended continuity can be established if there is a threat of continued criminal

activity, which aligns with the proposition that the alleged RICO enterprise's activities are ongoing and pose a real risk of further predicate acts. The reference to H.J. Inc. supports the idea that continuity can be open-ended, which is crucial for the proposition that the enterprise's objective is ongoing and the risk of further acts is real.

[Racketeer Influenced and Corrupt Organizations](#)

American Criminal Law Review - Georgetown University Law Center - Adam Governale, Keyes Gilmer, Elizabeth Hadley, Caroline Lagumina, Omoyele Okunola - 2022-07-01

Extract

test and finding that even where predicate acts cover a short span of time, such as thirty-four days, the frequency and escalating seriousness of those acts can project a threat of indefinite repetition and thus meet the continuity requirement).
 74. <I>See, e.g.</I>, United States v. Blandford, 33 F.3d 685, 702-03 (6th Cir. 1994) ("The plaintiff may prove continuity by showing a series of past related predicates occurring over an extended period of time. . . . A second means of establishing continuity is to show that the predicates, by their nature, 'involve a distinct threat of long-term racketeering activity.' . . . A third way to prove continuity in this case is to allege 'predicates [that] are a regular way of conducting defendant's ongoing legitimate business . . . or of conducting or participating in an ongoing and legitimate 'RICO enterprise

Summary

The continuity requirement for RICO can be satisfied by demonstrating a threat of ongoing criminal activity. The passage highlights that even short-term predicate acts can meet the continuity requirement if they suggest a threat of indefinite repetition. This aligns with the proposition that the ongoing nature of the alleged scheme in the FAC, with its potential for further predicate acts, satisfies the open-ended continuity requirement.

[Racketeer influenced and corrupt organizations.](#)

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

Extract

The 'continuity' prong is satisfied by proof of either closed-ended continuity or open-ended continuity. Closed-ended continuity in the RICO context may be demonstrated 'by proving a series of related predicates extending over a substantial period of time.' Open-ended continuity in the RICO context is conduct that may last only a short period of time but nonetheless, poses a

threat of extending into the future. The Court suggested a case-by-case examination of this issue, noting that the existence of a 'threat of continued racketeering activity' is a function of particular facts.

Summary

The passage explains the concept of "continuity" under RICO, distinguishing between closed-ended and open-ended continuity. Open-ended continuity is particularly relevant to the proposition as it involves conduct that poses a threat of continuing into the future, which aligns with the ongoing nature of the alleged RICO enterprise in the FAC. The passage supports the idea that the continuity requirement can be met if there is a real threat of continued criminal activity, which is central to the proposition.

[Racketeer influenced and corrupt organizations.](#)

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

Extract

The 'continuity' component is met by either closed-ended continuity, defined as 'a series of related predicates extending over a substantial period of time,' or open-ended continuity, defined as conduct that poses a threat of continued criminal activity... See H.J. Inc., 492 U.S. at 242 (suggesting open-ended continuity can be satisfied by showing likelihood of predicate acts continuing into the future or by showing that predicate acts occur in normal course of entity's business)... duration and extensiveness. See Resolution Trust Corp. v. Stone, 998 F.2d 1534, 1543 (10th Cir. 1993) (holding duration and extensiveness 'are particularly relevant to the determination of continuity').

Summary

Concept of "continuity" in RICO cases, explaining that it can be either closed-ended or open-ended. Open-ended continuity is particularly relevant to the proposition as it involves conduct that poses a threat of continued criminal activity. The passage references H.J. Inc. v. Northwestern Bell Tel. Co., which is a key case in defining open-ended continuity, and Resolution Trust Corp. v. Stone, which emphasizes the importance of duration and extensiveness in determining continuity. These references support the idea that ongoing threats and the potential for future predicate acts can satisfy the continuity requirement, aligning with the proposition that the enterprise's objective is ongoing and poses a real risk of further acts.

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

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

Extract

Open-ended continuity, in contrast, requires proof of 'a threat of continued racketeering activity.' Id. at 242. Under H.J. Inc., open-ended continuity may be established in various ways. The Court furnished some examples. First, a small number of related predicates occurring close together in time will establish open-ended continuity if 'the racketeering acts themselves include a specific threat of repetition extending indefinitely into the future, and thus supply the requisite threat of continuity.' Second, the threat of continuity may be established with a 'showing that the predicate acts or offenses are part of an ongoing entity's regular way of doing business.' Third, continuity is proved 'if the predicates can be attributed to a defendant operating as part of a long-term association that exists for criminal purposes.' In any case, the entity involved may be a legitimate business and need not be one 'traditionally grouped under the phrase 'organized crime.'" Id. at 242-43.

Summary

Criteria for establishing open-ended continuity under RICO, as set forth in H.J. Inc. v. Northwestern Bell Tel. Co. It explains that continuity can be demonstrated by showing a threat of continued racketeering activity, which can be evidenced by a specific threat of repetition, predicate acts as part of an ongoing business, or a long-term association for criminal purposes. This directly supports the proposition that the FAC's allegations of ongoing threats and predicate acts in the context of divorce litigation could meet the open-ended continuity requirement.

[Racketeer influenced and corrupt organizations.](#)

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

Extract

The 'continuity' prong is satisfied by proof of either closed-ended continuity or open-ended continuity. Closed-ended continuity is defined as 'a series of related predicates extending over a substantial period of time.' Open-ended continuity is defined as conduct that may last only a short period of time but nonetheless, poses a threat of extending into the future. The Court suggested a case-by-case examination of this issue, noting that the existence of a 'threat of continued racketeering activity' is a function of particular facts. The Court offered a non-exhaustive list of situations that may constitute a pattern and stated 'development of these concepts must await future cases.'

Summary

The concept of "continuity" under RICO can be satisfied by either closed-ended or open-ended continuity. Open-ended continuity is particularly relevant to the proposition as it involves conduct that poses a threat of continuing into the future, which aligns with the ongoing nature of the alleged RICO enterprise in the FAC. The passage supports the idea that the court should consider the threat of continued criminal activity, which is central to the proposition.

[Racketeer influenced and corrupt organizations.](#)

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

Extract

ICO purposes, an enterprise must exist independently from the racketeering activity in which it engages, its groups must have a common or shared purpose, and there must be at least some continuity of structure or personnel. To constitute an enterprise, a group must have an ongoing mechanism for directing the affairs of the group on an ongoing, rather than an ad hoc, basis... H.J. Inc., 492 U.S. at 242 (suggesting open-ended continuity can be satisfied by showing likelihood of predicate acts continuing into the future or by showing that predicate acts occur in normal course of entity's business)... Tabas, 47 F.3d at 1295 (holding defendant's activities could satisfy open-ended continuity because plaintiffs showed evidence of questionable expenses as an ongoing part of defendant's way of doing business).

Summary

Requirements for establishing a RICO enterprise, emphasizing the need for continuity and an ongoing mechanism for directing the group's affairs. It references H.J. Inc. v. Northwestern Bell Tel. Co., which suggests that open-ended continuity can be satisfied by showing a likelihood of predicate acts continuing into the future. This aligns with the proposition that the alleged RICO enterprise's objective is ongoing, and the risk of further predicate acts is real, thus meeting the open-ended continuity requirement.

[Racketeer influenced and corrupt organizations.](#)

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

Extract

In *H.J. Inc. v. Northwestern Bell Telephone Co.*, (48) the Court held that the government must establish both a relationship between the predicate acts and continuity of those acts to prove a 'pattern'... (55.) See *H.J. Inc.*, 492 U.S. at 242 (suggesting open-ended continuity can be satisfied by showing likelihood of predicate acts continuing into the future or by showing that predicate acts occur in normal course of entity's business)... (63.) See *Blandford*, 33 F.3d at 703 (opining that the Supreme Court in *H.J. Inc.* 'meant to craft a broad test of relatedness' and holding that predicate acts were sufficiently related because they had similar purposes and results and were otherwise 'interrelated by distinguishing characteristics').

Summary

The Supreme Court in *H.J. Inc. v. Northwestern Bell Tel. Co.* established that for a RICO pattern to exist, there must be both a relationship and continuity of predicate acts. The concept of open-ended continuity is satisfied if there is a likelihood of predicate acts continuing into the future or if they occur in the normal course of the entity's business. This supports the proposition that the ongoing nature of the alleged scheme in the FAC, with a real risk of further predicate acts, meets the open-ended continuity requirement.

[Racketeer influenced and corrupt organizations](#)

**American Criminal Law Review - Georgetown University Law Center -
Brynn Peluso, Mariah Breit, Natalie Cappuzzo, Katelyn Gloe,
Alexandra Peterson - 2023-07-01**

Extract

Accordingly, RICO's pattern requirement may be satisfied in two ways: (i) by alleging a long-running series of interrelated predicate acts constituting a closed-ended conspiracy; or (ii) by alleging at least two interrelated predicate acts and the distinct threat of continued racketeering activities, demonstrating an open-ended conspiracy. The Supreme Court introduced the closed-ended and open-ended standards in *H.J. Inc. v. Northwestern Bell Telephone Co.* to underscore the Court's view that "there is something to a RICO pattern beyond simply the number of predicate acts involved." The Court announced a two-prong "continuity plus relationship" test to determine what constitutes a pattern under the statute. First, the "relationship" prong is satisfied when the predicate acts have the same or similar "purposes, results, participants, victims, or methods of commission, or otherwise are interrelated." Second, the "continuity" prong is satisfied either by a series of related predicate acts extending over a significant period of time (closed-ended conspiracy), or a short-lived series of acts that also establish a threat of long-term activity (open-ended conspiracy). The "threat" of continued racketeering activity may be shown by evidence that the predicate acts are part of the RICO defendant's "regular way of doing

business” or that they are “a regular means of conducting or participating in an ongoing RICO enterprise.”

Summary

The passage explains the two-prong test for establishing a RICO pattern, emphasizing the open-ended continuity requirement. It highlights that continuity can be demonstrated by a threat of ongoing criminal activity, which aligns with the proposition that the enterprise's objective is ongoing and poses a real risk of further predicate acts. The passage supports the argument that the court should consider the broader, ongoing nature of the alleged scheme rather than focusing solely on the primary objective being achieved.

[RICO: A Primer](#)

Extract

The continuity requirement is likewise satisfied where the predicates are a regular way of conducting the defendant's ongoing legitimate business (in the sense that it is not a business that exists for criminal purposes), or of conducting or participating in an ongoing and legitimate RICO 'enterprise.' A plaintiff may demonstrate a pattern by establishment that the predicate acts pose a threat of continued criminal activity, which is generally demonstrated by showing either: * Closed-ended continuity. Proving 'a series of related predicate acts extending over a substantial period of time.' * Open-ended continuity. A threat of 'continuing criminal activity extending indefinitely into the future,' in light of the nature of the enterprise and predicate acts alleged.

Summary

The continuity requirement for RICO can be satisfied by demonstrating either closed-ended or open-ended continuity. Open-ended continuity is particularly relevant here, as it involves a threat of continuing criminal activity extending indefinitely into the future. This aligns with the proposition that the alleged RICO enterprise's objective is ongoing, and the risk of further predicate acts is real due to the ongoing divorce litigation.

[RICO: A Primer](#)

Extract

The continuity requirement is likewise satisfied where the predicates are a regular way of conducting the defendant's ongoing legitimate business (in the sense that it is not a business that exists for criminal purposes), or of conducting or participating in an ongoing and legitimate RICO 'enterprise.' A plaintiff may demonstrate a pattern by establishment that the predicate

acts pose a threat of continued criminal activity, which is generally demonstrated by showing either: * Closed-ended continuity. Proving 'a series of related predicate acts extending over a substantial period of time.' * Open-ended continuity. A threat of 'continuing criminal activity extending indefinitely into the future,' in light of the nature of the enterprise and predicate acts alleged.

Summary

The continuity requirement for RICO can be satisfied by demonstrating a threat of continued criminal activity. This can be shown through open-ended continuity, which involves a threat of ongoing criminal activity extending indefinitely into the future. The passage supports the proposition by explaining that the continuity requirement is met when the predicate acts pose a threat of continued criminal activity, aligning with the FAC's allegations of ongoing risks in the divorce litigation context.

This memo was compiled by Vincent AI based on vLex materials available as of September 09, 2025. [View full answer on vLex](#)