

# Question

1 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF OKLAHOMA  
CHARLES DUSTIN MYERS, ) ) Plaintiff, ) ) v. ) No. CIV-24-1311-R ) DANIEL  
KENNETH BRANTHOOVER; ) and MORGAN MICHELLE MYERS, ) )  
Defendants. ) ORDER Before the Court is Defendant Daniel Kenneth  
Branthoover's Motion to Dismiss [Doc. No. 18], as well as Defendant Morgan  
Michelle Myers' Motion to Dismiss [Doc. No. 24]. Plaintiff Charles Dustin  
Myers responded [Doc. Nos. 21 & 28], and Defendant Branthoover filed a  
reply brief [Doc. No. 25]. The matter is now at issue.<sup>1</sup> For the reasons that  
follow, the Motions are GRANTED. BACKGROUND On December 14, 2023,  
Plaintiff allegedly discovered that his wife, Defendant Myers, was having an  
affair [Doc. No. 16, ¶ 19]. That same day, Defendant Myers opened a private  
bank account and exchanged several text messages with Defendant  
Branthoover. Id. The next day, Defendant Myers transferred \$1,576.00 from  
her joint account with Plaintiff to Defendant Branthoover, then traveled to  
Defendant Branthoover's home in 1 All parties to this action are proceeding  
pro se. The Court therefore gives the pleadings a liberal construction but  
does not act as an advocate. See Hall v. Bellmon, 935 F.2d 1106, 1110 (10th  
Cir. 1991). Case 5:24-cv-01311-R Document 29 Filed 08/28/25 Page 1 of 8 2  
Oklahoma to draft allegedly fraudulent legal documents. Id. ¶¶ 23, 25. This  
transfer caused the account to be overdrawn, which harmed Plaintiff's  
business. Id. ¶ 26. Plaintiff contends that this transfer constitutes wire fraud  
in violation of 18 U.S.C. § 1343, and that Defendant Myers' trip to Oklahoma  
violated the Travel Act, 18 U.S.C. § 1952. Id. ¶¶ 25, 59, 74. On December 17,  
2023, Defendant Myers allegedly "completed the interstate transportation  
phase of the criminal scheme by transporting the fraudulent court  
documents prepared in Oklahoma back across state lines to Texas. Id. ¶ 35.  
These documents were filed in a Texas court the next day. Id. ¶ 39. On  
January 16, 2024, Plaintiff was ordered to vacate the home he shared with  
Defendant Myers. Id. ¶ 47. According to Plaintiff, this marked the  
achievement of Defendants' primary criminal objective. Id. ¶¶ 47-48.  
Plaintiff filed this civil RICO suit under 18 U.S.C. §§ 1962(c) and (d).  
Defendants have moved to dismiss for failure to state a claim and improper  
venue.<sup>2</sup> LEGAL STANDARD Dismissal under Rule 12(b)(6) is proper when a  
complaint fails "to state a claim upon which relief can be granted[.]" Fed. R.  
Civ. P. 12(b)(6). "To survive a Rule 12(b)(6) motion, the complaint 'must  
contain sufficient factual matter, accepted as true, to state a claim to relief  
that is plausible on its face.'" Brown v. City of Tulsa, 124 F.4th 1251, 1263  
(10th Cir. 2025) (quoting Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)). And  
while the Court "must accept the truth of all properly alleged facts and draw  
all reasonable inferences in 2 The Court notes that based on Plaintiff's  
allegations, a substantial part of the events giving rise to the litigation  
occurred in this District, and therefore venue is proper under 28 U.S.C. §  
1391(b)(2). Case 5:24-cv-01311-R Document 29 Filed 08/28/25 Page 2 of 8 3  
the plaintiff's favor, the plaintiff still 'must nudge the claim across the line  
from conceivable or speculative to plausible.'" Id. (quoting Brooks v. Mentor  
Worldwide LLC, 985 F.3d 1272, 1281 (10th Cir. 2021)). "Mere 'labels and  
conclusions' or 'formulaic recitation of the elements of a cause of action' will  
not suffice." Id. (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570

(2007)). DISCUSSION “To plead a valid RICO claim, a plaintiff must plausibly allege that a defendant ‘(1) conducted the affairs (2) of an enterprise (3) through a pattern (4) of racketeering activity.’” *Johnson v. Heath*, 56 F.4th 851, 858 (10th Cir. 2022) (quoting *George v. Urb. Settlement Servs.*, 833 F.3d 1242, 1248 (10th Cir. 2016)). Because the Court finds that Plaintiff did not adequately allege a pattern of racketeering activity, it tailors its analysis to that element. “[A] RICO pattern requires that the racketeering predicates relate to each other and amount to a threat of continued racketeering activity.” *Id.* (citing *H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 239 (1989)). “[R]acketeering predicates relate to each other if they ‘have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.’” *Id.* at 859 (quoting *H.J. Inc.*, 492 U.S. at 240). “Predicate acts satisfy the relationship requirement when they make up one common scheme.” *Id.* (citing *Sil-Flo, Inc. v. SFHC, Inc.*, 917 F.2d 1507, 1516 (10th Cir. 1990)). The standard is “‘not a cumbersome one.’” *Id.* (quoting *Bixler v. Foster*, 596 F.3d 751, 761 (10th Cir. 2010)). Case 5:24-cv-01311-R Document 29 Filed 08/28/25 Page 3 of 8 4 The continuity requirement on the other hand is “more stringent than the relationship standard.” *Id.* (citing *Bixler*, 596 F.3d at 761). Continuity “‘depends on the facts of each case[,]’” *id.* (quoting *H.J. Inc.*, 492 U.S. at 241-42), and “can be either closed or open ended[,]” *id.* (citing *H.J. Inc.*, 492 U.S. at 241). “Closed-ended continuity is a closed period of repeated racketeering conduct, while open-ended continuity consists of racketeering conduct that threatens future repetition.” *Id.* (citing *H.J. Inc.*, 492 U.S. at 241). “Plaintiffs can establish open-ended continuity by showing that the racketeering acts involved implicit or explicit threats of repetition, that they formed the operations of an association that exists for criminal purposes, or that they were the defendants’ regular way of conducting a legitimate enterprise.” *Id.* at 859-60 (citing *H.J. Inc.*, 492 U.S. at 242-43). “[C]losed-ended continuity consists of a closed period of repeated, related racketeering acts that do not necessarily threaten future repetition.” *Id.* at 860 (citing *H.J. Inc.*, 492 U.S. at 241-42). And “[b]ecause RICO targets long-term racketeering conduct, closed-ended continuity requires a series of related racketeering acts over a ‘substantial period of time.’” *Id.* (quoting *H.J. Inc.*, 492 U.S. at 242). Two factors are relevant to determine whether there is closed-ended continuity: “the duration of the related predicate acts and the extensiveness of the racketeering scheme. *Id.* (citation omitted). Regarding the first factor, “predicate acts extending over a few weeks or months do not show closed-ended continuity.” *Poindexter v. Stuteville*, No. CIV-12-0031-F, 2012 WL 13035041, at \*7 (W.D. Okla. May 10, 2012) (citing *Resol. Tr. Corp. v. Stone*, 998 F.2d 1534, 1543 (10th Cir. 1993)), abrogated on other grounds by *Boyle v. United States*, 556 U.S. 938 (2009)). For the second factor, courts “consider ‘the number of victims, the number of racketeering acts, Case 5:24-cv-01311-R Document 29 Filed 08/28/25 Page 4 of 8 5 the variety of racketeering acts, whether the injuries were distinct, the complexity and size of the scheme, and the nature or character of the enterprise.’” *Johnson*, 56 F.4th at 860 (quoting *Resol. Tr. Corp.*, 998 F.2d at 1543). Plaintiff alleges that Defendants’ “scheme extends over a substantial period of time—from December 2023 through May 2025, over eighteen months[,]” Doc. No. 16, ¶ 86(i). The predicate acts—wire fraud and violation of the Travel Act—took place within days of each other in December of 2023. *Id.* ¶¶ 83-84. Plaintiff claims that Defendants’ alleged

scheme “achieved its primary criminal objective” on January 16, 2024, when he was ordered to vacate the family home. Id. ¶ 47. So it took just over one month from the formation of the alleged enterprise to complete its primary goal. Nevertheless, Plaintiff points to the following to demonstrate the duration of the scheme: • Defendants’ continued interstate communication regarding the case “in direct furtherance of their fraudulent scheme to see the divorce through to its finalization[;]” • Defendant Branthoover’s June 23, 2024, text message to Plaintiff stating “Lol. And here comes another denial[;]” • Defendant Branthoover’s December 12, 2024, text message to Plaintiff stating “When things all over you get to deal with me. Just a heads up[;]” • Defendant Branthoover’s statement “I’ve been enjoying watching every filing get denied[;]” and • Defendant Branthoover’s May 24, 2025, text message to Plaintiff stating “Where’s my lawsuit? Heard your vm about me. File it. Let’s do this :)[.]” Id. ¶¶ 49-52. But the communications between Defendants and the text messages from Defendant Branthoover are not related to the initial scheme, nor do they show continuity sufficient to demonstrate a pattern of racketeering activities. Case 5:24-cv-01311-R Document 29 Filed 08/28/25 Page 5 of 8 6 Beginning with the relatedness prong, Plaintiff does not allege that the text messages from Defendant Branthoover were sent with the intention of defrauding Plaintiff of money, or to create and file fraudulent court documents. See Doc. No. 16, ¶ 101 (claiming that the purpose of the predicate acts was “to defraud Plaintiff of his property interests and manipulate judicial proceedings”). Instead, he alleges that these texts evidence retaliation, malice, and involvement in the Texas litigation. Id. ¶¶ 49-52. Aside from being temporally distinct, the messages are distinct in character from the initial alleged scheme and do not evidence criminal conduct. And as for the alleged interstate communications between Defendants regarding the case, this allegation is conclusory and does not demonstrate that the communications relate to the initial common scheme to defraud Plaintiff and to file false documents created across state lines. Id. ¶ 101. Accordingly, Plaintiff has failed to meet the bar of relatedness sufficient to show a pattern of racketeering activity.<sup>3</sup> The same is true for the continuity prong of the pattern requirement. Plaintiff points to the text messages from Defendant Branthoover and the continuing communication between Defendants as evidence of an implicit or explicit threat of repetition. But these messages—while taunting—do not plausibly support a continuing threat of criminal conduct. Neither do the vaguely pled claims of continued communications between Defendants. So Plaintiff fails to demonstrate open-ended continuity. <sup>3</sup> Plaintiff alleges that perjury and subornation of perjury sufficiently connect the predicate acts of wire fraud and violation of the Travel Act. Doc. No. 16, ¶¶ 87-88. Assuming without deciding that is true, he still does not relate the text messages and on-going communication to the predicate acts that were performed in December of 2023 and successfully completed in January of 2024. Case 5:24-cv-01311-R Document 29 Filed 08/28/25 Page 6 of 8 7 Regarding closed-ended continuity, “it is well established that a single scheme to accomplish one discrete goal, directed at a finite group of individuals, with no potential to extend to other persons or entities, rarely will suffice to establish a threat of continuing racketeering activity.” *Pagel v. Wash. Mut. Bank, Inc.*, 153 F. App’x 498, 502 (10th Cir. 2005) (collecting cases). Plaintiff alleges a scheme that achieved its primary objective within one month of its formation, harmed only one victim, had no potential to harm others, involved

two predicate acts of an isolated nature, and consisted of two individuals. And even if the scheme lasted over 18 months, when considering the factors set out in *Resolution Trust*, Plaintiff alleges "at best...a closed-ended series of predicate acts constituting a single scheme to accomplish a discrete goal directed at only one individual with no potential to extend to other persons or entities." *Poindexter*, 2012 WL 13035041, at \*7 (citing *Hall v. Witteman*, 584 F.3d 859, 867-68 (10th Cir. 2009)). This is insufficient to establish closed-ended continuity. "Courts have uniformly and consistently held that schemes involving a single, narrow purpose and one or few participants directed towards a single victim do not satisfy the RICO requirement of a closed or open pattern of continuity." *Skurkey v. Daniel*, No. CIV-22-496-R, 2023 WL 101946, at \*6 (W.D. Okla. Jan. 4, 2023) (citation and quotation marks omitted). Because that is the exact scheme Plaintiff alleges, he has failed to plead a viable civil RICO claim regarding Defendants' purported scheme.<sup>4</sup> Plaintiff's claims for conspiracy under § 1962(d) likewise fails. See *Skurkey*, 2023 WL 101946, at \*6 ("Because Plaintiff has no viable claim under § 1962(c), the subsection (d) conspiracy claim fails as a matter of law."). Case 5:24-cv-01311-R Document 29 Filed 08/28/25 Page 7 of 8 8

CONCLUSION Accordingly, Defendants' Motions are GRANTED, and this case is DISMISSED.<sup>5</sup> IT IS SO ORDERED this 28th day of August, 2025. 5 Defendant Myers' unsigned Motion to Dismiss [Doc. No. 23], and Plaintiff's Motion to Strike [Doc. No. 26] are denied as moot. Case 5:24-cv-01311-R Document 29 Filed 08/28/25 Page 8 of 8 ----- Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 1 of 45 IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA CHARLES DUSTIN MYERS, § § Plaintiff, § V. § § DANIEL KENNETH BRANTHOOVER § & § MORGAN MICHELLE MYERS § § Defendants § FILED JUN 24 2025 JOAN KANE, CLERK ~vs. D1sr. cou5J~" 2t'ND IST. OKLA. ---.....f...{;(t.J- \_~:.....!:: \_\_, DEPUTY Case No. CIV-24-1311-R FIRST AMENDED COMPLAINT Plaintiff Charles Dustin Myers, representing himself pro-se and proceeding in *Jonna 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. 1 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 2 of 45 . . 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. 2 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 3 of 45 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. 3 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 4 of 45 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 4 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 5 of 45 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: 5 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 6 of 45 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. 6 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 7 of 45 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 Pay Pal 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. 7 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 8 of 45 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 Pay Pal 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 goodfaith 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 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: 1. A purported "lease violation," which was entirely fabricated as no 9 Case 5:24-

cv-01311-R Document 16 Filed 06/24/25 Page 10 of 45 valid lease agreement existed between Plaintiff and Wilson; 11. 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." 1v. 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 10 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 11 of 45 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 11 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 12 of 45 preparation activities. These documents, prepared in Oklahoma with the specific intent of unlawfully influencing Texas legal proceedings, included: 1. An "Original Petition for Divorce" dated December 18, 2023, containing numerous material false statements designed to deceive the Texas courts; 11. 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; 1v. 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, its 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." 12 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 13 of 45 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. 13 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 14 of 45 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: 1. 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. 11. 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. m. 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. 1v. 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. 14 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 15 of 45 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: 1. The claim that Defendant Myers was financially indigent and unable to pay court costs, despite her access to and control over substantial marital assets. 11. 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. 111. 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. 15 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 16 of 45 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. 11. The assertion that family violence occurred prior to December 18, 2023, which was also false and without any factual basis. 111. 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. 16 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 17 of 45 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: 1. 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. 11. 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. 111. 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, "Loi. And here comes 17 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 18 of 45 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. 18 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 19 of 45 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). 19 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 20 of 45 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 20 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 21 of 45 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 Haus. 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: 1. The transfer of \$1,576 was "executed via interstate wire (bank to Pay Pal)," which constitutes an electronic transmission across state lines. 11. 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 21 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 22 of 45 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 *US. 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 22 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 23 of 45 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 Pay Pal, 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: 1. Interstate travel or use of interstate facilities 23 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 24 of 45 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: 1. Myers engaged in interstate travel between Texas and Oklahoma. 11. 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. 24 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 25 of 45 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): 25 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 26 of 45 "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: 1. The extensive text message communications (92 exchanges) on December 14, 2023, between Myers and Branthoover

using interstate wire facilities to coordinate their scheme. 11. 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. 111. 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. 26 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 27 of 45 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. v1. 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: 1. Myers' interstate travel from Texas to Oklahoma on December 15, 2023, with the intent to prepare fraudulent court documents. 11. 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: 27 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 28 of 45 i. Common Purpose: All acts were directed toward depriving Plaintiff of his property rights and manipulating judicial proceedings to benefit Myers in divorce proceedings. 11. Same Participants: Myers and Branthoover were the consistent actors in all predicate acts. 111. Same Victim: All acts targeted Plaintiff, causing him financial harm and depriving him of legal rights. 1v. 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 openended continuity: 1. Closed-ended Continuity: The scheme extends over a substantial period- from December 2023 through May 2025, over eighteen months. This satisfies the requirement for "a series of related predicate acts extending over a substantial period of time" as described in *RICO: A Primer* (2022). 2 2 <https://freemanlaw.com/rico-a-primer/> 28 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 29 of 45 11. Open-ended Continuity: The scheme also poses a threat of continued criminal activity. Branthoover's message on May 24, 2025, demonstrating continued monitoring of Plaintiffs 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: 29 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 30 of 45 1. The fraudulent court documents were prepared during Myers' interstate travel to Oklahoma, connecting the perjury to the Travel Act violation. 11. The false statements in these documents were discussed and planned via interstate wire communications, connecting the perjury to the wire fraud. 111. 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. 30 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 31 of 45 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 Plaintiffs 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. 31 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 32 of 45 B. Maintenance of the Enterprise 92. The enterprise was maintained through several key mechanisms: 1. 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. 11. Financial Support: The interstate wire transfer of \$1,576 from the joint marital account to Branthoover's Pay Pal account provided financial resources to support the enterprise's activities. 111. 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). 1v. 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). v1. 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. 32 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 33 of 45 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 33 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 34 of 45 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. 34 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 35 of 45 103. 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: 1. 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. 11. 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: 1. Loss of \$1,576 fraudulently transferred from the joint marital account; 11. Business losses resulting from the disruption of his home-based business operations; 111. Additional financial damages resulting from the overdrawn account 35 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 36 of 45 and associated fees; 1v. Loss of real and personal property rights through the fraudulent manipulation of judicial proceedings; v1. 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. 36 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 37 of 45 109. 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: 1. The systematic coordination of their activities through interstate communications; 11. 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; m. 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 cowt documents in 37 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 38 of 45 Oklahoma on December 16-17, 2023 to be later submitted in Texas courts on December 18,22; vu. Myers transporting the fraudulent documents back to Texas on December 17, 2023; vm. Branthoover sending threatening text messages to Plaintiff on December 18, 2023; 1x. Myers filing fraudulent documents with Texas courts on December 18, 2023; x. Myers filing a fraudulent Application for Protective Order on December 22, 2023; x1. 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: 1. Loss of \$1,576 fraudulently transferred from the joint marital account; ii. Business losses resulting from the dismption of his home-based business operations; iii. Additional financial damages resulting from the overdrawn account and associated fees; 1v. Loss of real and personal property rights through the fraudulent 38 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 39 of 45 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 11 5. 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: 39 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 40 of 45 1. Designing and deploying asynchronous financial signal algorithms, 11. 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 pa1tnerships 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 longterm 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 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: 41 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 42 of 45 1. 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), 111. 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 Pay Pal 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 42 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 43 of 45 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; 11. \$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 seventyfour 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: 1. 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; 43 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 44 of 45 11. 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); 1v. 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; 44 Case 5:24-cv-01311-R Document 16 Filed 06/24/25 Page 45 of 45 vu. 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); 1x. For such other relief as the Court deems just and proper. Respectfully submitted, X (,,'--Jkk~ Gb~~ - ~5 CHARLES DUST RS CHUCKDUSTIN1 2@GMAIL.COM 817-546-3693 PRO- SE PLAINTIFF TARRANTCOUNT~TEXAS 45 The judge seems to have assumed that just because the primary objective was complete, this somehow means the enterprise wasn't still functional. That isn't the case. the divorce suit not only isn't being prosecuted because of further perjury and manipulation of legal proceedings, but the divorce isn't final, and there are no state court judgements other than an "agreed order" which bears only the wife's signature. The threat of ongoing criminal activity is real because the case is set for final trial, which creates a risk of further lying and perjury to complete the broader goal of finalizing the fraud. EXPLAIN WHAT THE JUDGE MISSED AND CITE THE FILINGS, AND WITH AS MUCH

RESPECT IS POSSIBLE, EXPLAIN WHY PLAINTIFF SHOULD HAVE RECONSIDERATION GRANTED. CITE BOTH THE ORDER AND THE COMPLAINT Plaintiff alleges that Defendants' ongoing communications, threats, and coordination (FAC ¶¶ 49-52, 86(ii)) are directly related to the original scheme to defraud Plaintiff of property and manipulate judicial proceedings, and that these acts are in furtherance of the same enterprise. Predicate acts are related if they have the same or similar purposes, results, participants, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated events. See *H.J. Inc.*, 492 U.S. at 240; *Johnson*, 56 F.4th at 859. The Court's Order (Order at 5-6) found that post-January 2024 communications were not sufficiently related to the initial scheme. However, the FAC (¶¶ 49-52, 86(ii)) alleges that these communications are part of a continuing effort to intimidate Plaintiff, monitor the litigation, and ensure the success of the fraudulent scheme. The ongoing conduct is not isolated, but rather a continuation of the same enterprise, with the same participants, victim, and purpose. This satisfies the relatedness requirement under RICO.

## **Answer (Tenth Circuit)**

### **Short response**

The Court erred by concluding that the alleged RICO enterprise ceased to function once its "primary objective" was achieved, overlooking well-established law that continuity and relatedness can be satisfied where ongoing acts—such as threats, intimidation, and litigation manipulation—are plausibly alleged to further the same fraudulent scheme. The First Amended Complaint (FAC) specifically pleads that Defendants' post-January 2024 conduct is part of a continuing effort to intimidate, monitor, and ensure the success of the fraudulent enterprise, thus meeting the RICO pattern requirements and warranting reconsideration.

### **Summary**

The Court's Order granting dismissal under Rule 12(b)(6) misapplied the RICO pattern requirements by treating the enterprise as defunct after the initial dispossession of Plaintiff, despite the FAC's detailed allegations of ongoing, related conduct aimed at finalizing the fraudulent scheme. Under controlling Tenth Circuit and Supreme Court precedent, a RICO pattern exists where predicate acts are related and pose a threat of continued criminal activity, which can be shown by ongoing acts with the same purpose, participants, and victim—even if the initial goal appears achieved.

The FAC (¶¶ 49-52, 86(ii)) alleges that Defendants' continued communications, threats, and litigation-related conduct are not isolated or merely retaliatory, but are integral to the same enterprise and serve to intimidate Plaintiff, manipulate judicial proceedings, and ensure the fraudulent scheme's success. The Court's Order (at 5-6) failed to credit these allegations as required at the pleading stage, and did not apply the correct legal standard for open-ended continuity and relatedness under

RICO, as articulated in H.J. Inc., [Johnson v. Heath](#), and other binding authorities. Reconsideration should be granted to allow these well-pleaded allegations to proceed.

## Background and Relevant Law

### RICO Pattern: Relationship and Continuity

To state a civil RICO claim, a plaintiff must plausibly allege that the defendant conducted the affairs of an enterprise through a pattern of racketeering activity, which requires both relationship and continuity among the predicate acts, as set forth in [Johnson v. Heath](#), 56 F.4th 851, 858-60 (10th Cir. 2022) and H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229 (1989). The relationship prong is satisfied if the acts have the same or similar purposes, results, participants, victims, or methods, or are otherwise interrelated and not isolated events ([Schrag v. Dinges](#), 788 F.Supp. 1543, 1557 (D. Kan. 1992)). The continuity prong can be met by either a closed period of repeated conduct (closed-ended continuity) or by acts that pose a threat of continued criminal activity (open-ended continuity), as explained in [Sil-Flo, Inc. v. SFHC, Inc.](#), 917 F.2d 1507, 1516 (10th Cir. 1990) and [Resolution Trust Corp. v. Stone](#), 998 F.2d 1534, 1543-44 (10th Cir. 1993).

Open-ended continuity is present where the nature of the predicate acts or the enterprise itself implies a threat of repetition into the future, even if the initial goal appears to have been achieved ([Tal v. Hogan](#), 453 F.3d 1244, 1267-68 (10th Cir. 2006); [Edwards v. First Nat. Bank, Bartlesville, Oklahoma](#), 872 F.2d 347, 351 (10th Cir. 1989)). The Supreme Court and Tenth Circuit have repeatedly emphasized that a RICO pattern is not defeated simply because the initial objective is reached, if the enterprise continues to function or the threat of further racketeering remains ([Johnson v. Heath](#), 56 F.4th at 859-60; [Watchous Enterprises, LLC v. Pac. Nat'l Capital, LLC](#), Case No. 16-1432-JTM (D. Kan. Jul 25, 2018)).

### Pleading Standard

At the motion to dismiss stage, the Court must accept all well-pleaded factual allegations as true and draw all reasonable inferences in the plaintiff's favor ([George v. Urban Settlement Servs.](#), 833 F.3d 1242, 1248 (10th Cir. 2016)). The question is not whether the plaintiff will ultimately prevail, but whether the complaint states a plausible claim for relief.

## Analysis

### The Court's Error: Overlooking Ongoing Enterprise and Pattern

The Court's Order (at 5-6) concluded that the post-January 2024 communications and threats were not sufficiently related to the initial scheme, characterizing them as "taunting" or "retaliatory" rather than as predicate acts in furtherance of the enterprise. However, the FAC (¶¶ 49-52,

86(ii)) specifically alleges that these acts—including ongoing interstate communications, threats, and litigation monitoring—were undertaken to intimidate Plaintiff, monitor the progress of the fraudulent scheme, and ensure its ultimate success (i.e., the finalization of the divorce and the solidification of the fraudulent dispossession).

The FAC further alleges that the divorce proceedings remain pending, that the fraudulent scheme is not complete, and that the risk of further perjury and manipulation of judicial proceedings remains real and imminent (FAC at Preliminary Statement, ¶¶ 49-54, 86(ii)). The FAC details how Defendants' ongoing conduct is not isolated, but is part of a continuing effort to achieve the broader goal of finalizing the fraud and depriving Plaintiff of his property and business interests.

Under the controlling standard, predicate acts are related if they share the same or similar purposes, results, participants, victims, or methods, or are otherwise interrelated and not isolated events ([Johnson v. Heath, 56 F.4th at 859](#); [Schrag v. Dinges, 788 F.Supp. at 1557](#)). The FAC's allegations that Defendants' ongoing communications, threats, and litigation conduct are all directed at furthering the same fraudulent scheme, with the same participants and victim, satisfy this standard.

### **Continuity: Open-Ended Threat Remains**

The Court's Order also erred in finding that the continuity prong was not met, reasoning that the "primary criminal objective" was achieved in January 2024. This is contrary to the law. Open-ended continuity exists where the nature of the enterprise or the predicate acts implies a threat of continued racketeering activity, such as where the enterprise remains functional and the risk of further criminal conduct persists ([Resolution Trust Corp. v. Stone, 998 F.2d at 1543-44](#); [Tal v. Hogan, 453 F.3d at 1267-68](#); [Nation v. Shah, 4:19-cv-00588-JDR-JFJ \(N.D. Okla. Oct 30, 2024\)](#)).

Here, the FAC alleges that the divorce is not final, that the fraudulent scheme is ongoing, and that Defendants' continued conduct—including threats, intimidation, and manipulation of the litigation—poses a real and present risk of further racketeering acts (FAC ¶¶ 49-54, 86(ii)). The risk of further perjury and fraud in the pending state court proceedings is not speculative, but is specifically pleaded as a continuing threat. This is precisely the type of open-ended continuity recognized in *H.J. Inc. and its progeny*.

The Tenth Circuit has held that a scheme with an apparent single victim and goal may still satisfy the continuity requirement if the plan contemplates ongoing fraudulent activity or does not have a single goal that, when achieved, will bring the activity to an end ([Edwards v. First Nat. Bank, 872 F.2d at 351](#)). The FAC's allegations that the enterprise remains active, with the risk of further racketeering acts in the pending divorce, bring this case squarely within that rule.



## **The FAC's Allegations Satisfy the Pattern Requirement**

The FAC (§§ 49-52, 86(ii)) alleges a series of acts—ongoing communications, threats, and litigation manipulation—undertaken by the same participants, with the same purpose and victim, and as part of the same enterprise. These acts are not isolated, but are interrelated and serve to further the fraudulent scheme. The FAC also pleads that the risk of continued racketeering activity is real and ongoing, given the pending status of the divorce and the Defendants' continued efforts to intimidate and manipulate the proceedings.

This satisfies both the relatedness and continuity prongs of the RICO pattern requirement, as articulated in [Johnson v. Heath, 56 F.4th at 859-60](#), [Resolution Trust Corp. v. Stone, 998 F.2d at 1543-44](#), and [Watchous Enterprises, LLC v. Pac. Nat'l Capital, LLC, Case No. 16-1432-JTM \(D. Kan. Jul 25, 2018\)](#).

## **The Court's Failure to Credit Well-Pleaded Allegations**

At the pleading stage, the Court must accept as true all well-pleaded allegations and draw all reasonable inferences in Plaintiff's favor ([George v. Urban Settlement Servs., 833 F.3d at 1248](#)). The Court's Order (at 5-6) failed to do so, instead characterizing the ongoing conduct as unrelated or merely retaliatory, without crediting the FAC's specific allegations that these acts are part of the same enterprise and serve the same fraudulent purpose.

The Court also failed to recognize that the pattern requirement is not defeated simply because the initial dispossession occurred; the ongoing risk of further racketeering, as pleaded, is sufficient to establish open-ended continuity ([Tal v. Hogan, 453 F.3d at 1267-68](#); RICO: A Primer (2022)).

## **Exceptions and Caveats**

It is true that courts are cautious about finding a RICO pattern where the scheme appears to have a single, narrow purpose and a single victim (Order at 7). However, the Tenth Circuit recognizes that even a single-victim scheme can satisfy the continuity requirement if the threat of ongoing racketeering activity is present ([Edwards v. First Nat. Bank, 872 F.2d at 351](#)). The FAC's allegations of ongoing threats, intimidation, and litigation manipulation, with the divorce still pending, distinguish this case from those where the scheme is truly complete and the enterprise defunct.

## **Conclusion**

With respect, the Court's Order granting dismissal misapplied the RICO pattern requirements by failing to credit the FAC's well-pleaded allegations of ongoing, related conduct in furtherance of the same fraudulent enterprise. The FAC alleges that Defendants' continued communications, threats, and litigation conduct are not isolated or merely retaliatory, but are integral to the ongoing scheme to defraud Plaintiff and manipulate judicial proceedings. Under controlling law, these allegations satisfy the relatedness

and continuity prongs of the RICO pattern requirement, and the risk of further racketeering activity remains real and present given the pending status of the divorce. Reconsideration should be granted to allow these claims to proceed.

## **Legal Authorities**

[Wade v. Gaither, 623 F.Supp.2d 1277 \(D. Utah 2009\)](#)

**U.S. District Court — District of Utah**

### **Extract**

Rather, Plaintiff must also demonstrate 'that the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity,' *H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 240, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989) (emphasis in original), or 'continuity over a closed period by proving a series of related predicates extending over a substantial period of time,' *id* at 242, 109 S.Ct. 2893. A series of predicate acts which extend over a few weeks or months do not establish 'closed-ended' continuity.

### **Summary**

For a RICO claim to be valid, the plaintiff must demonstrate that the predicate acts are related and pose a threat of continued criminal activity. The passage emphasizes the need for continuity, either through ongoing criminal activity or a series of related acts over a substantial period. This directly supports the proposition that the judge may have overlooked the ongoing threat of criminal activity in the plaintiff's case, as the enterprise was still functional and posed a risk of further criminal acts.

[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**

To establish a substantive RICO violation, a plaintiff must show that there was 'a pattern of racketeering activity.' 18 U.S.C. § 1962(c). At least two predicate acts of racketeering activity are required but not necessarily sufficient to demonstrate a pattern. *Heinrich v. Waiting Angels Adoption Servs., Inc.*, 668 F.3d 393, 409 (6th Cir. 2012). 'RICO is not aimed at the isolated offender,' so, in addition to the predicate acts, a plaintiff must show that the racketeering predicates are related and amount to 'a threat of continuing activity.' *Tal*, 453 F.3d at 1267-68 (quoting *Resolution Trust Corp. v. Stone*, 998 F.2d 1534, 1544 (10th Cir. 1993)). This test has come to be called the 'continuity plus relationship' test.

## **Summary**

To establish a RICO claim, the plaintiff must demonstrate a pattern of racketeering activity that is not isolated but shows a threat of continuing activity. The judge's order may have overlooked the ongoing nature of the enterprise and the threat of continued criminal activity, as alleged by the plaintiff, which could satisfy the "continuity plus relationship" test.

[Tal v. Hogan, 453 F.3d 1244 \(10th Cir. 2006\)](#)

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

#### **Extract**

Continuity of threat requires both proof of 'a series of related predicates extending over a substantial period of time,' as well as a 'showing that the predicates themselves involve a distinct threat of long-term racketeering activity... or that the predicates are a regular way of conducting the defendant's ongoing legitimate business or the RICO enterprise.'

## **Summary**

The passage from Tal v. Hogan emphasizes the requirement for continuity in a RICO claim, which involves demonstrating a series of related predicate acts over a substantial period and a distinct threat of long-term racketeering activity. The judge's order failed to recognize the ongoing communications and threats as part of the same enterprise, which could indicate a threat of continued criminal activity. The ongoing nature of the communications and the potential for further perjury in the divorce proceedings suggest that the enterprise was still functional and posed a threat of continued criminal activity.

[Edwards v. First Nat. Bank, Bartlesville, Oklahoma, 872 F.2d 347 \(10th Cir. 1989\)](#)

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

#### **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

The passage from the Edwards case discusses the concept of continuity in RICO claims, particularly when a scheme involves ongoing fraudulent activity that does not end with the achievement of a single goal. This aligns with the argument that the enterprise in the current case may still be functional and pose a threat of ongoing criminal activity, even if the primary objective has been achieved. The passage suggests that the continuity element of a RICO pattern can be satisfied by an ongoing scheme, which supports the proposition that the judge may have overlooked the potential for continued criminal conduct.

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

### U.S. District Court — District of Kansas

#### Extract

In *H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989), the Supreme Court reiterated the well-established concept that racketeering acts form a 'pattern' in RICO where they exhibit 'continuity plus relationship.' *Id.* at 239, 109 S.Ct. at 2900. The 'relationship' requirement is satisfied when the racketeering acts have 'the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.' *Id.* at 240, 109 S.Ct. at 2901 (citing *Sedima*, 473 U.S. at 496 n. 14, 105 S.Ct. at 3285 n. 14).

## Summary

The concept of a "pattern" in RICO requires both continuity and relationship among the predicate acts. The passage emphasizes that acts are related if they have similar purposes, results, participants, victims, or methods, and are not isolated events. This supports the argument that ongoing communications and threats related to the initial scheme can be part of a continuing pattern of racketeering activity, even if the primary objective was initially achieved.

[Nation v. Shah, 4:19-cv-00588-JDR-JFJ \(N.D. Okla. Oct 30, 2024\)](#)

### U.S. District Court — Northern District of Oklahoma

#### Extract

More difficult to establish-and more problematic for Plaintiffs-is the requirement that the predicate acts have sufficient "continuity" to constitute a RICO "pattern." See *Bixler v. Foster*, 596 F.3d 751, 761 (10th Cir. 2010) (indicating that the continuity requirement "is more difficult to

meet” (citation and quotation marks omitted)). For RICO purposes, continuity comes in one of two forms: Closed-ended continuity can be established by alleging a “closed period of repeated racketeering conduct.” Johnson, 56 F.4th at 859-60 (citing H.J. Inc., 492 U.S. at 241-43). Open-ended continuity can be established by racketeering acts that “involved implicit or explicit threats of repetition,” “formed the operations of an association that exists for criminal purposes,” or were part of the defendants’ “regular way of conducting a legitimate enterprise.” Id. (citing H.J. Inc., 492 U.S. at 241-43). A plaintiff who cannot establish one of these two forms of continuity cannot state a viable claim under RICO.

## **Summary**

The passage explains the concept of continuity in RICO cases, which can be either closed-ended or open-ended. Open-ended continuity can be established by showing that the racketeering acts involved implicit or explicit threats of repetition, formed the operations of an association that exists for criminal purposes, or were part of the defendants’ regular way of conducting a legitimate enterprise. This supports the proposition that the enterprise could still be functional and pose a threat of ongoing criminal activity, even if the primary objective was completed.

[Watchous Enterprises, LLC v. Pac. Nat’l Capital, LLC, Case No. 16-1432-JTM \(D. Kan. Jul 25, 2018\)](#)

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

### **Extract**

A pattern of activity under the RICO statute means ‘a series of related predicates that together demonstrate the existence or threat of continued criminal activity.’ This threat of continuity may be shown by demonstrating that ‘the predicate acts or offenses are part of an ongoing entity’s regular way of doing business.’ Demonstrating the existence of a pattern of racketeering activity may be satisfied by proof of prior acts with ‘the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events is essentially all that is needed.’

## **Summary**

The RICO statute requires a pattern of racketeering activity, which can be demonstrated by a series of related predicates that show a threat of continued criminal activity. The passage emphasizes that continuity can be shown if the predicate acts are part of an ongoing entity’s regular way of doing business. The passage also highlights that relatedness is satisfied if the acts have similar purposes, results, participants, victims, or methods, and are not isolated events. This supports the argument that the ongoing communications and threats by the defendants in the current case are part

of a continuing effort to intimidate the plaintiff and ensure the success of the fraudulent scheme, thus demonstrating a pattern of racketeering activity.

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

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

### **Extract**

To state a 'pattern' of racketeering activity, the plaintiff must allege 'at least two acts of racketeering activity... which occurred within ten years.' Moreover, 'a RICO pattern requires that the racketeering predicates relate to each other and amount to a threat of continued racketeering activity. No pattern exists without this 'continuity plus relationship.'... The repeated nature of the acts and the involvement of various entities indicate a pattern of racketeering activity rather than a single, discrete goal.

### **Summary**

The passage highlights the importance of both the relationship and continuity prongs in establishing a RICO pattern. It emphasizes that a pattern requires related acts that amount to a threat of continued activity, not just isolated events. The court in UMB Bank v. Monson found that the repeated nature of acts and involvement of various entities indicated a pattern of racketeering activity, which is relevant to the Plaintiff's argument that the ongoing communications and threats are part of a continuing effort to defraud and manipulate judicial proceedings.

[Apache Tribe of Okla. v. Brown, 966 F.Supp.2d 1188 \(W.D. Okla. 2013\)](#)

## **U.S. District Court — Western District of Oklahoma**

### **Extract**

A violation of § 1962(c) 'requires (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity. The plaintiff must, of course, allege each of these elements to state a claim.' ... '[T]o satisfy RICO's pattern requirement, [a plaintiff must] allege not only that the defendants had committed two or more predicate acts, but also that the predicates themselves amount to, or that they otherwise constitute a threat of, continuing racketeering activity.'

### **Summary**

To establish a RICO claim, a plaintiff must demonstrate not only the commission of predicate acts but also that these acts constitute a threat of continuing racketeering activity. This aligns with the plaintiff's argument

that the ongoing communications and threats are part of a continuing effort to further the fraudulent scheme, which the judge may have overlooked.

[Sil-Flo, Inc. v. SFHC, Inc., 917 F.2d 1507 \(10th Cir. 1990\)](#)

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

### **Extract**

To establish continuity, the plaintiff must demonstrate either 'a closed period of repeated conduct' or 'past conduct that by its nature projects into the future with a threat of repetition.' *H.J. Inc. v. Northwestern Bell Telephone Co.*, 109 S.Ct. at 2902. These two forms of continuity are respectively referred to as closed-ended and open-ended continuity. *Id.* The Supreme Court held that closed-ended continuity requires 'a series of related predicates extending over a substantial period of time. Predicate acts extending over a few weeks or months' are insufficient. *Id.* Open-ended continuity requires a clear threat of future criminal conduct related to past criminal conduct. *Id.*

### **Summary**

The continuity requirement for a RICO claim can be satisfied by demonstrating either closed-ended or open-ended continuity. Closed-ended continuity involves a series of related predicates over a substantial period, while open-ended continuity involves a threat of future criminal conduct. The judge's order may have overlooked the ongoing threat of continued criminal activity, as alleged by the Plaintiff, which could satisfy the open-ended continuity requirement.

[Johnson v. Heath, 56 F.4th 851 \(10th Cir. 2022\)](#)

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

### **Extract**

The Supreme Court has attempted to provide some guidance... According to the Supreme Court, a RICO pattern requires that the racketeering predicates relate to each other and amount to a threat of continued racketeering activity. *Id.* at 239, 109 S.Ct. 2893. No pattern exists without this 'continuity plus relationship.' *Id.* (emphasis omitted).

### **Summary**

The passage from *Johnson v. Heath* emphasizes the need for a RICO pattern to include both continuity and relationship among the predicate acts. The court's guidance suggests that a pattern requires a threat of continued racketeering activity, which can be either open-ended or closed-ended. In



the context of the plaintiff's case, the ongoing communications and threats from the defendants could be seen as a continuation of the original scheme, thus supporting the argument for open-ended continuity.

[George v. Urban Settlement Servs., 833 F.3d 1242 \(10th Cir. 2016\)](#)

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

### **Extract**

To establish a pattern of racketeering activity, the plaintiffs must allege at least two predicate acts. See 18 U.S.C. § 1961(5) (requiring at least two predicate acts to establish 'pattern of racketeering activity'); *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 838 (10th Cir. 2005). But, 'while two acts are necessary, they may not be sufficient' to establish a pattern... Reviewing the plaintiffs' entire complaint and taking all of their allegations as true, as we must, *Hogan*, 762 F.3d at 1104, we conclude that the plaintiffs' allegations satisfy Rule 9(b)'s requirements and plausibly allege that both BOA and Urban engaged in a pattern of racketeering activity.

### **Summary**

The passage emphasizes that while two predicate acts are necessary to establish a pattern of racketeering activity, they may not be sufficient. The court must consider the entire complaint and all allegations to determine if a pattern exists. This supports the proposition that the judge may have overlooked the ongoing nature of the enterprise and the threat of continued criminal activity, as the allegations in the complaint suggest a continuous scheme beyond the initial acts.

[Resolution Trust Corp. v. Stone, 998 F.2d 1534 \(10th Cir. 1993\)](#)

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

### **Extract**

The Supreme Court has concluded that Congress intended that the pattern element 'requires the showing of a relationship between the predicates, ... and the threat of continuing activity'--that is, 'continuity plus relationship.' ... Open-ended continuity depends upon the facts of each case, and may be established by showing that the predicates themselves involve a distinct threat of long-term racketeering activity, either implicit or explicit, or that the predicates are a regular way of conducting the defendant's ongoing legitimate business or the RICO enterprise.



## Summary

The "pattern" element in RICO requires both a relationship between the predicate acts and a threat of continuing activity. The passage highlights that open-ended continuity can be established by showing a distinct threat of long-term racketeering activity, which can be implicit or explicit. This supports the argument that the ongoing communications and threats by the Defendants in the case at hand could be seen as a continuation of the racketeering activity, thus satisfying the continuity requirement.

[Racketeer influenced and corrupt organizations.](#)

**American Criminal Law Review - Georgetown University Law Center - Bremer, Lance - 1997-01-01**

## Extract

conduct forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics... The relationship prong is defined by the connection of the defendant's criminal acts to one another. 'Continuity' is successfully proved if a prosecutor can show actual continuity during a past, closed period of repeated conduct or the threat of continued racketeering activity in the future.

## Summary

The "pattern" requirement under RICO involves both relatedness and continuity. The relatedness prong is satisfied if the acts have similar purposes, participants, or methods. The continuity prong can be satisfied by showing either a closed period of repeated conduct or a threat of continued racketeering activity. The judge's order may have overlooked the ongoing threat of continued criminal activity, as the complaint alleges ongoing communications and threats related to the original scheme.

[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...'

## **Summary**

Open-ended continuity under RICO can be established by demonstrating a threat of continued racketeering activity. The passage provides examples of how a small number of related predicates can establish open-ended continuity if they include a specific threat of repetition extending indefinitely into the future. This is directly relevant to the proposition that the judge missed the ongoing threat of continued criminal activity, as alleged by the Plaintiff in the FAC.

[Racketeer influenced and corrupt organizations.](#)

**American Criminal Law Review - Georgetown University Law Center - Beard, Glen - 1996-03-22**

## **Extract**

The relationship prong is defined by the connection of the defendant's criminal acts to one another. As the Court wrote: '[c]riminal conduct forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.' 'Continuity' is successfully proved if a prosecutor can show actual continuity during a past, closed period of repeated conduct or the threat of continuity of racketeering activity in the future.

## **Summary**

The relationship prong of RICO requires that criminal acts be related by purpose, participants, or other characteristics, and continuity can be shown by a threat of ongoing racketeering activity. The judge's order may have overlooked the ongoing communications and threats as part of the same enterprise, which could demonstrate both relatedness and continuity.

[Vol. 16 No. 5 Pg. 806 Civil Rico Update: the Evolving Pattern Requirement- part I](#)

**Colorado Lawyer - Colorado Bar Association - 1987-00-00**

## **Extract**

Most significantly for the pattern element of RICO, each violation of the mail or wire fraud statutes is treated as a separate offense, even where multiple violations occur in the execution of a single scheme... The opinion closes with strong dictum. To discourage the plaintiff from repleading to allege

other criminal episodes within the same fraudulent scheme, the court noted that 'the single scheme does not appear to represent the necessary 'pattern of racketeering activity.'... Several courts have seized on the closing dictum in *Inryco*, announcing that a RICO pattern requires more than a single fraudulent scheme... Where this Court differs with *Inryco* is in the implication that a single fraudulent effort or episode should be equated with a single fraudulent scheme... [Continuity] requires more than a single transaction but not necessarily more than a single scheme... [A]n open-ended scheme may include a sufficient number of criminal episodes to satisfy the 'continuity' factor of *Sedima*.

## **Summary**

Interpretation of the pattern and continuity requirements in RICO cases, emphasizing that a single scheme can still satisfy the continuity requirement if it includes a sufficient number of criminal episodes. This supports the argument that the ongoing communications and threats by the defendants in the case could be part of a continuing scheme, thus meeting the continuity requirement for a RICO claim.

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

## **Extract**

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**

A pattern of racketeering activity under RICO can be established through either closed-ended or open-ended continuity. Open-ended continuity involves demonstrating a threat of continuing criminal activity extending indefinitely into the future. The ongoing communications, threats, and coordination alleged by the Plaintiff in the FAC (¶¶ 49-52, 86(ii)) could be seen as evidence of such a threat, supporting the argument that the enterprise is still functional and poses a risk of further criminal activity.

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

## **Extract**

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 passage explains that a pattern of racketeering activity can be established by demonstrating either closed-ended or open-ended continuity. Open-ended continuity involves a threat of continuing criminal activity extending indefinitely into the future. The ongoing communications and threats alleged by the Plaintiff could be seen as evidence of such a threat, supporting the argument that the enterprise is still functional and poses a risk of further criminal activity.

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