

## **Question**

Based on the above, Defendants Myers and Branthoover have committed multiple RICO predicate acts—wire fraud, interstate travel in aid of racketeering, and perjury—forming a pattern of racketeering activity. Their conduct constitutes violations of 18 U.S.C. § 1962(c) and (d) (substantive and conspiracy RICO), and Plaintiff has standing to bring a civil RICO claim for injury to business and property.

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

### **Short response**

The predicate acts of wire fraud, interstate travel in aid of racketeering, and perjury alleged against Defendants Myers and Branthoover can establish a pattern of racketeering activity sufficient to constitute violations of both substantive and conspiracy RICO provisions under [18 U.S.C. § 1962\(c\)](#) and (d). If Plaintiff can demonstrate injury to business or property caused by these violations, they would have standing to bring a civil RICO claim under [18 U.S.C. § 1964\(c\)](#).

### **Summary**

To establish violations of the [Racketeer Influenced and Corrupt Organizations Act](#) (RICO) under [18 U.S.C. § 1962\(c\)](#) and (d), a plaintiff must demonstrate that the defendants conducted or participated in an enterprise's affairs through a pattern of racketeering activity, which requires at least two predicate acts of racketeering occurring within a ten-year period. The alleged predicate acts of wire fraud (18 U.S.C. § 1343), interstate travel in aid of racketeering (18 U.S.C. § 1952), and perjury all qualify as racketeering activity under [18 U.S.C. § 1961\(1\)](#). Furthermore, these predicate acts must be related and demonstrate continuity to form a pattern of racketeering activity as required by RICO jurisprudence.

For the plaintiff to have standing to bring a civil RICO claim, they must have been injured in their business or property "by reason of" the RICO violations. Under [18 U.S.C. § 1964\(c\)](#), any person who suffers such injury has standing to sue and may recover treble damages, costs, and attorney's fees. Given the alleged predicate acts and assuming they can be proven to have caused injury to the plaintiff's business or property, the plaintiff would have standing to pursue civil RICO claims against Defendants Myers and Branthoover for violations of both the substantive RICO provision (§ 1962(c)) and the conspiracy provision (§ 1962(d)).

# **Background and Relevant Law**

## **Statutory Framework**

RICO was designed as a flexible tool to combat organized crime but has been interpreted broadly to apply beyond traditional organized crime activities. The statute provides both criminal penalties and civil remedies for violations of its substantive provisions.

## **Definition of Racketeering Activity**

Under [18 U.S.C. § 1961](#)(1), "racketeering activity" is broadly defined to include numerous federal and state crimes. Relevant to the current analysis, the statute specifically identifies wire fraud (18 U.S.C. § 1343) and interstate travel in aid of racketeering (18 U.S.C. § 1952) as predicate acts:

"'[R]acketeering activity' means... (B) any act which is indictable under any of the following provisions of title 18, United States Code: ... section 1343 (relating to wire fraud), ... section 1952 (relating to racketeering)..."[18 U.S.C. § 1961](#)

## **Pattern of Racketeering Activity**

The statute also defines what constitutes a "pattern of racketeering activity":

"'[P]attern 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."  
[18 U.S.C. § 1961](#)(5)

## **Prohibited Activities**

The relevant prohibited activities are set forth in [18 U.S.C. § 1962](#)(c) and (d):

"It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt."[18 U.S.C. § 1962](#)(c)

"It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section."[18 U.S.C. § 1962](#)(d)

## **Civil Remedies**

Civil remedies for RICO violations are provided in [18 U.S.C. § 1964](#)(c):

"Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United

States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee..." [18 U.S.C. § 1964\(c\)](#)

## Case Law Interpretation of RICO Elements

### Elements of a Civil RICO Claim

Courts have consistently outlined the elements required to establish a RICO violation. The U.S. Supreme Court in [H.J. Inc. v. Northwestern Bell Telephone Company, 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 \(1989\)](#) explained that RICO "renders criminally and civilly liable 'any person' who uses or invests income derived 'from a pattern of racketeering activity' to acquire an interest in or to operate an enterprise engaged in interstate commerce, § 1962(a); who acquires or maintains an interest in or control of such an enterprise 'through a pattern of racketeering activity,' § 1962(b); who, being employed by or associated with such an enterprise, conducts or participates in the conduct of its affairs 'through a pattern of racketeering activity,' § 1962(c); or, finally, who conspires to violate the first three subsections of § 1962, § 1962(d)."

More recently, in [Holcomb v. Nissan N. Am., Inc.](#) (W.D.N.C. Feb. 8, 2024), the court summarized the elements of a RICO claim under § 1962(c) as: "(1) the conducting; (2) of an enterprise; (3) through a pattern; (4) of racketeering activity."

Similarly, [Studco Bldg. Sys. U.S., LLC v. 1st Advantage Fed. Credit Union, 509 F.Supp.3d 560 \(E.D. Va. 2020\)](#) articulated that "the elements of a civil Racketeer Influenced and Corrupt Organizations Act (RICO) claim are (1) a person, (2) an enterprise, (3) a pattern of (4) racketeering activity (5) which causes injury to the plaintiff."

### Pattern of Racketeering Activity

The Supreme Court in [H.J. Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 \(1989\)](#) established that a "pattern of racketeering activity" requires a showing that "the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity."

The Ninth Circuit in [Ticor Title Ins. Co. v. Florida, 937 F.2d 447 \(9th Cir. 1991\)](#) elaborated that the "relationship requirement is satisfied by a showing that the racketeering predicates '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.'"

### Predicate Acts

Courts have recognized wire fraud and interstate travel in aid of racketeering as predicate acts under RICO. In [Chambers v. King Buick GMC, LLC, 43 F. Supp. 3d 575 \(D. Md. 2014\)](#), the court noted that "racketeering

activity is defined under [18 U.S.C. § 1961](#)(1), as 'any act which is indictable' under a number of enumerated criminal provisions, which include violations of 18 U.S.C. §§ 1341 (mail fraud), 1343 (wire fraud), and 2314 (interstate transport of money converted or fraudulently obtained)."

[U.S. v. International Longshoremen's Ass'n, 518 F.Supp.2d 422 \(E.D. N.Y. 2007\)](#) further explained that "a substantial number of the predicate acts alleged in the Amended Complaint are asserted to be violations of the federal mail and wire fraud statutes, 18 U.S.C. §§ 1341, 1343. As the Second Circuit has repeatedly recognized, '[t]he essential elements of a mail [or wire] fraud violation are (1) a scheme to defraud, (2) money or property [as the object of the scheme], and (3) use of the mails [or wires] to further the scheme.'"

## **Standing for Civil RICO Claims**

The standing requirements for civil RICO claims are addressed in [D'Addario v. Geller, 264 F.Supp.2d 367 \(E.D. Va. 2003\)](#), which stated that a plaintiff must allege "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity" and additionally show that "(5) he was injured in his business or property (6) by reason of the RICO violation. These two additional elements are viewed as standing requirements... both but-for and legal cause must be shown."

[American Chiropractic v. Trigon Healthcare, 367 F.3d 212 \(4th Cir. 2004\)](#) confirmed that "any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue... and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee."

## **Secondary Materials**

Secondary sources provide additional insight into RICO's interpretation. According to [Civil Rico: A Tool of Advocacy](#) (2024), "To establish a § 1962(c) RICO claim, the following elements must be proven:

- Enterprise: A structured group of individuals associated for a common purpose.
- Pattern of racketeering activity: At least two acts of racketeering, as specified within the statute, within 10 years.
- Conduct: Directly or indirectly conducting the enterprise's affairs through racketeering.
- Injury: An injury to business or property due to the racketeering activity."

RICO: A Primer (2022) notes that "RICO provides for a civil action against persons engaged in a 'pattern of racketeering activity'... Among other things, 'racketeering activities' include 'any act which is indictable under' a list of federal criminal statutes. The list covers an expansive range of violations, for example, violations of... 18 U.S.C. ' 1343 (wire fraud);... 18 U.S.C. ' 1952 (Travel Act)."

# **Analysis**

## **Predicate Acts**

The first step in analyzing whether Defendants Myers and Branthoover have violated RICO is to determine if they have committed predicate acts that qualify as "racketeering activity" under the statute.

### **Wire Fraud**

Wire fraud is explicitly listed as a predicate act under [18 U.S.C. § 1961\(1\)\(B\)](#). As explained in [U.S. v. International Longshoremen's Ass'n, 518 F.Supp.2d 422 \(E.D. N.Y. 2007\)](#), the essential elements of wire fraud are "(1) a scheme to defraud, (2) money or property [as the object of the scheme], and (3) use of the mails [or wires] to further the scheme."

If the defendants used electronic communications, such as emails, phone calls, or other electronic transmissions, to further a fraudulent scheme with the intent to obtain money or property, these acts would constitute wire fraud under 18 U.S.C. § 1343, and thus qualify as predicate acts under RICO.

### **Interstate Travel in Aid of Racketeering**

Interstate travel in aid of racketeering, criminalized under 18 U.S.C. § 1952, is also explicitly listed as a predicate act under [18 U.S.C. § 1961\(1\)\(B\)](#). According to RICO: A Primer (2022), violations of "18 U.S.C. ' 1952 (Travel Act)" are included in the "expansive range of violations" that constitute racketeering activities.

If Defendants Myers and Branthoover traveled across state lines or used interstate facilities with intent to promote, manage, establish, or carry on an unlawful activity, these actions would qualify as predicate acts under RICO.

### **Perjury**

While not directly mentioned in the cited materials as a predicate act, if the perjury committed by Defendants Myers and Branthoover relates to obstruction of justice, it may qualify as a predicate act. [D'Addario v. Geller, 264 F.Supp.2d 367 \(E.D. Va. 2003\)](#) notes that "racketeering must involve the commission of two or more predicate acts, including mail fraud and obstruction of justice."

### **Pattern of Racketeering Activity**

Having established that the defendants' alleged acts qualify as predicate acts under RICO, the next step is to determine whether these acts form a "pattern of racketeering activity."

## **Two or More Predicate Acts**

Under [18 U.S.C. § 1961\(5\)](#), a "pattern of racketeering activity" requires at least two acts of racketeering activity within a ten-year period. As stated in [Chambers v. King Buick GMC, LLC, 43 F. Supp. 3d 575 \(D. Md. 2014\)](#), to show a pattern of racketeering activity, a plaintiff must "adequately plead at least two predicate acts of racketeering activity."

The proposition indicates that Defendants Myers and Branthover have committed "multiple RICO predicate acts," including wire fraud, interstate travel in aid of racketeering, and potentially perjury. If at least two of these acts occurred within the statutory timeframe, the numerical requirement for a pattern would be satisfied.

## **Relatedness and Continuity**

However, the mere commission of two predicate acts within ten years is not sufficient to establish a pattern. As clarified by the Supreme Court in [H.J. Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 \(1989\)](#) and reiterated in [Ticor Title Ins. Co. v. Florida, 937 F.2d 447 \(9th Cir. 1991\)](#), the predicate acts must be "related" and "amount to or pose a threat of continued criminal activity."

The relationship requirement is satisfied when the predicate 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." If the defendants' alleged wire fraud, interstate travel in aid of racketeering, and perjury were all committed as part of a common scheme or plan, with similar purposes or targets, they would likely satisfy the relatedness requirement.

Continuity can be shown through either "a closed-ended conspiracy" (a series of related predicate acts extending over a substantial period) or an "open-ended conspiracy" (past conduct that by its nature projects into the future with a threat of repetition). As noted in [RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS](#) (2021), "A plaintiff can satisfy RICO's pattern requirement two ways: by alleging a long-running series of interrelated predicate acts constituting a closed-ended conspiracy; or by alleging at least two interrelated predicate acts and the distinct threat of continued racketeering activities, demonstrating an open-ended conspiracy."

If the defendants' predicate acts occurred over a significant time period or demonstrate a threat of continuing criminal activity, the continuity requirement would be satisfied.

## **Enterprise**

A RICO violation under § 1962(c) requires that the defendants conducted or participated in an "enterprise" through a pattern of racketeering activity. The Supreme Court in [Boyle v. United States, 129 S.Ct. 2237, 173 L.Ed.2d 1265, 556 U.S. 938, 77 USLW 4474 \(2009\)](#) addressed the enterprise requirement, noting that RICO makes it "unlawful for any person employed

by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity."

[Civil Rico: A Tool of Advocacy](#) (2024) defines an enterprise as "A structured group of individuals associated for a common purpose." If Defendants Myers and Branthoover were associated with such a group engaged in or affecting interstate commerce, and conducted its affairs through their pattern of racketeering activity, the enterprise requirement would be satisfied.

## **Violations of [18 U.S.C. § 1962\(c\)](#) and [\(d\)](#)**

Based on the analysis above, if Defendants Myers and Branthoover (1) were associated with an enterprise affecting interstate commerce, (2) conducted or participated in the enterprise's affairs (3) through a pattern of racketeering activity consisting of related and continuous predicate acts, they would have violated [18 U.S.C. § 1962\(c\)](#).

Furthermore, [18 U.S.C. § 1962\(d\)](#) makes it unlawful to conspire to violate subsections (a), (b), or (c) of § 1962. As noted in [Holcomb v. Nissan N. Am., Inc.](#) (W.D.N.C. Feb. 8, 2024), to plead a conspiracy violation under § 1962(d), a plaintiff must allege that "each defendant agreed that another coconspirator would commit two or more acts of racketeering."

If the defendants agreed between themselves or with others to participate in the enterprise's affairs through a pattern of racketeering activity, they would also have violated the conspiracy provision of § 1962(d).

## **Plaintiff's Standing**

Finally, to bring a civil RICO claim, the plaintiff must have standing, which requires showing injury to business or property caused by the RICO violations.

## **Injury to Business or Property**

Under [18 U.S.C. § 1964\(c\)](#), "Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court."

[Studco Bldg. Sys. U.S., LLC v. 1st Advantage Fed. Credit Union, 509 F.Supp. 3d 560 \(E.D. Va. 2020\)](#) notes that "The injury and causation components [of element (5)] are viewed as standing requirements."

If the plaintiff can demonstrate that they suffered concrete financial harm to their business interests or property as a result of the defendants' RICO violations, they would satisfy the injury requirement for standing.

## **Causation**

In addition to showing injury, the plaintiff must establish that their injury was caused "by reason of" the RICO violation. [D'Addario v. Geller, 264 F.Supp.2d 367 \(E.D. Va. 2003\)](#) clarifies that "both but-for and legal cause must be shown."

If the plaintiff can demonstrate that their injury would not have occurred but for the defendants' RICO violations, and that there is a direct relationship between the defendants' racketeering activities and the harm suffered, the causation requirement would be satisfied.

## **Exceptions and Caveats**

### **Specificity in Pleading**

It's important to note that RICO claims, particularly those based on wire fraud, are subject to heightened pleading standards. [Civil Rico: A Tool of Advocacy](#) (2024) points out that "RICO claims based on mail or wire fraud must comport with Federal Rule of Civil Procedure 9(b)'s requirement that allegations involving fraud be pleaded with particularity."

To successfully pursue a RICO claim based on wire fraud, the plaintiff would need to plead the specific circumstances constituting fraud, including the time, place, and content of the fraudulent representations, the identity of the person making the misrepresentation, and what was obtained or given up as a consequence.

### **Standing Requirements in Circuit Split**

There is a circuit split regarding standing requirements for RICO conspiracy claims. According to [Racketeer Influenced and Corrupt Organizations Act.](#) (1999), "the circuits are divided as to whether the conspiratorial act which results in an injury and provides the basis for a civil claim must be specifically codified as a RICO predicate act, or whether any overt act in furtherance of a conspiracy to violate RICO is sufficient for standing."

Depending on the circuit in which the case is brought, the plaintiff may need to show that their injury resulted from a specific predicate act, rather than merely from an overt act in furtherance of a RICO conspiracy.

## **Conclusion**

Based on the analysis of the provided materials, if Defendants Myers and Branthoover committed the predicate acts of wire fraud, interstate travel in aid of racketeering, and perjury as alleged, and if these acts form a pattern of racketeering activity by being related and continuous, their conduct would constitute violations of both [18 U.S.C. § 1962\(c\)](#) (substantive RICO) and [§ 1962\(d\)](#) (conspiracy RICO).

Furthermore, if the plaintiff can demonstrate that they suffered injury to their business or property that was caused by these RICO violations, they would have standing to bring a civil RICO claim under [18 U.S.C. § 1964\(c\)](#).

The RICO statute provides a powerful tool for plaintiffs who have been harmed by patterns of criminal activity affecting their business or property interests. As [P & P MARKETING, INC. v. Ditton, 746 F. Supp. 1354 \(N.D. Ill. 1990\)](#) notes, civil actions for RICO violations are authorized by § 1964(c), which allows for recovery of "treble damages and costs including attorney's fees."

However, successfully pursuing a RICO claim requires careful pleading and substantial evidence to establish each element of the violation and the plaintiff's standing. The plaintiff must be prepared to demonstrate not only the commission of predicate acts but also their relationship and continuity, the existence and nature of the enterprise, and the causal connection between the RICO violations and the plaintiff's injuries.

Given the complexity of RICO litigation, the outcome will depend heavily on the specific facts of the case and the ability to meet the heightened pleading standards associated with RICO claims, particularly those based on predicate acts of fraud. Nevertheless, if all elements can be proven, the plaintiff would be entitled to pursue their civil RICO claim against Defendants Myers and Branthoover.

## Legal Authorities

[Boyle v. United States, 129 S.Ct. 2237, 173 L.Ed.2d 1265, 556 U.S. 938, 77 USLW 4474 \(2009\)](#)

### U.S. Supreme Court

#### Extract

RICO makes it 'unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity.' 18 U.S.C. § 1962(c) (emphasis added). ... Given that it is also unlawful to conspire to violate § 1962(c), see § 1962(d), this comment provides no assurance that RICO and § 371 offenses remain distinct.

#### Summary

Under 18 U.S.C. § 1962(c), it is unlawful for individuals associated with an enterprise to conduct its affairs through a pattern of racketeering activity. Additionally, § 1962(d) makes it unlawful to conspire to violate § 1962(c). This supports the proposition that Myers and Branthoover's alleged actions could constitute violations of these sections if they engaged in a pattern of racketeering activity as part of an enterprise. The passage also highlights

the distinct nature of RICO offenses compared to other criminal conspiracies, reinforcing the applicability of RICO in this context.

[P & P MARKETING, INC. v. Ditton, 746 F. Supp. 1354 \(N.D. Ill. 1990\)](#)

**U.S. District Court — Northern District of Illinois**

**Extract**

Civil actions for RICO violations are authorized by Section 1964(c) which provides that 'any person injured in his business or property by reason of a violation of Section 1962' may recover treble damages and costs including attorney's fees. 18 USC § 1964(c)... Regardless of which subsection of Section 1962 defendants are alleged to have violated, five elements are common and necessary to every civil RICO claim. These essential elements are: (1) a 'person'; (2) an 'enterprise' engaged in or affecting interstate commerce; (3) 'racketeering activity' which (4) occurred in a 'pattern' and (5) an injury... Defendants contend that plaintiff has failed to sufficiently plead the necessary predicate acts of 'racketeering activity' and (2) have failed to allege facts sufficient to demonstrate a 'pattern of racketeering activity'... Defendants contend plaintiff failed to adequately allege a pattern of racketeering activity. As a necessary element of any civil RICO claim, a plaintiff must allege a 'pattern of racketeering activity'. See 18 USC § 1962(a)-(d)... Applying the factors listed in Morgan to the facts of this case, the court finds plaintiff's allegations sufficient to meet the continuity element of the pattern requirement... Plaintiff has adequately alleged facts in support of a 'pattern of racketeering injury'.

**Summary**

Framework for understanding how to establish a RICO claim, which supports the proposition that Defendants Myers and Branhoover's alleged actions could constitute RICO violations if they meet these elements.

[Inc v. Northwestern Bell Telephone Company, 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 \(1989\)](#)

**U.S. Supreme Court**

**Extract**

The Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-1968, which is Title IX of the Organized Crime Control Act of 1970 (OCCA), imposes criminal and civil liability upon persons who engage in certain 'prohibited activities,' each of which is defined to include, as a necessary element, proof of a 'pattern of racketeering activity,' § 1962. 'Racketeering activity' means 'any act or threat involving' specified state-law crimes, any 'act' indictable under specified federal statutes, and certain

federal 'offenses.' § 1961(1). A 'pattern' requires 'at least two acts of racketeering activity' within a 10-year period. § 1961(5). ... RICO renders criminally and civilly liable 'any person' who uses or invests income derived 'from a pattern of racketeering activity' to acquire an interest in or to operate an enterprise engaged in interstate commerce, § 1962(a); who acquires or maintains an interest in or control of such an enterprise 'through a pattern of racketeering activity,' § 1962(b); who, being employed by or associated with such an enterprise, conducts or participates in the conduct of its affairs 'through a pattern of racketeering activity,' § 1962(c); or, finally, who conspires to violate the first three subsections of § 1962, § 1962(d).

## **Summary**

Requirements for establishing a RICO violation, including the need for a "pattern of racketeering activity," which involves at least two acts of racketeering within a 10-year period. It also clarifies that RICO applies to any person involved in such activities, whether through direct participation or conspiracy. This supports the proposition that Defendants Myers and Branthoover's alleged actions could constitute RICO violations if they meet these criteria.

[Sedima v. Imrex Company, Inc, 473 U.S. 479, 105 S.Ct. 3275, 87 L.Ed.2d 346 \(1985\)](#)

## **U.S. Supreme Court**

### **Extract**

The Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-1968, which is directed at 'racketeering activity'—defined in § 1961(1) to encompass, *inter alia*, acts 'indictable' under specific federal criminal provisions, including mail and wire fraud—provides in § 1964(c) for a private civil action to recover treble damages by any person injured in his business or property 'by reason of a violation of section 1962.' Section 1962(c) prohibits conducting or participating in the conduct of an enterprise 'through a pattern of racketeering activity.'

## **Summary**

The passage explains that RICO allows for a private civil action for treble damages if a person is injured in their business or property due to a violation of section 1962. Section 1962(c) specifically prohibits conducting an enterprise through a pattern of racketeering activity, which includes acts like wire fraud. This directly supports the proposition that if Defendants Myers and Branthoover committed wire fraud and other predicate acts as part of a pattern of racketeering activity, they could be liable under RICO, and the plaintiff would have standing to bring a civil RICO claim.

[Sedima, S.P.R.L. v. Imrex Co., Inc., 741 F.2d 482 \(2nd Cir. 1984\)](#)

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

**Extract**

Two of the RICO counts allege that the fraudulent purchase orders, invoices and credit memoranda constitute a pattern of racketeering activity, the predicate acts being separate and numerous violations of the Mail Fraud Act, 18 U.S.C. Sec. 1341 (1982) and the Wire Fraud Act, 18 U.S.C. Sec. 1343 (1982). The third count charges a RICO conspiracy under 18 U.S.C. Sec. 1962(c) and (d). ... Section 1964(c) states that anyone 'injured' 'by reason of' a violation of section 1962 is entitled to treble damages. Section 1962 'violations' include conducting 'enterprises' 'through a pattern of racketeering'; a 'pattern of racketeering' is defined by section 1961(5) as two or more 'acts of racketeering' occurring within a given time. 'Acts of racketeering' are defined by section 1961(1), *inter alia*, as any of a number of acts 'chargeable under State law,' acts 'indictable' under a variety of federal laws, or an 'offense' under the federal securities law.

**Summary**

Elements required to establish a RICO claim, including the need for a pattern of racketeering activity, which can be constituted by acts of wire fraud, among others. It also clarifies that a plaintiff can bring a civil RICO claim if they are injured by a violation of section 1962, which includes conducting enterprises through a pattern of racketeering. This directly supports the proposition that Defendants Myers and Branthoover's alleged actions could constitute RICO violations if they involve multiple predicate acts like wire fraud and perjury.

[Holcomb v. Nissan N. Am., Inc.](#)

**U.S. District Court — Western District of North Carolina**

**Extract**

The Racketeer Influenced and Corrupt Organizations Act 'creates civil liability for those who engage in a pattern of racketeering activity.' GE Investment Private Placement Partners II v. Parker, 247 F.3d 543, 548 (4th Cir. 2011). Under 18 U.S.C. § 1964(c), 'RICO contains a private right of action for '[a]ny person injured in his business or property by reason of a violation of section 1962 of this chapter.' Chubirko v. Better Bus. Bureau of S. Piedmont, Inc., 763 F.Supp.2d 759, 766 (W.D. N.C. 2011). ... The elements of a RICO claim under 18 U.S.C. § 1962(c) are: (1) the conducting; (2) of an enterprise; (3) through a pattern; (4) of racketeering activity. ... A 'pattern of racketeering activity' is defined as at least two acts of racketeering, typically referred to as predicate acts. See 18 U.S.C. § 1961(5). To plead a conspiracy violation under § 1962(d), a plaintiff must allege that 'each defendant agreed that another coconspirator would commit two or more acts of racketeering.'

## **Summary**

Clear explanation of the elements required to establish a RICO claim under 18 U.S.C. § 1962(c) and (d). It specifies that a pattern of racketeering activity involves at least two predicate acts, which aligns with the proposition that Defendants Myers and Branthover committed multiple predicate acts. Additionally, the passage confirms that a private right of action exists for individuals injured in their business or property due to a RICO violation, supporting the plaintiff's standing to bring a civil RICO claim.

[Nutrition Distribution LLC v. Custom Nutraceuticals LLC, 194 F.Supp.3d 952 \(D. Ariz. 2016\)](#)

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

### **Extract**

RICO makes it unlawful for 'any person employed by or associated with any enterprise engaged in...interstate or foreign commerce, to conduct or participate...in the conduct of such enterprise's affairs through a pattern of racketeering activity.' 18 U.S.C. § 1962(c). 'Racketeering activity' includes any of several listed crimes 'which is chargeable under State law and punishable by imprisonment for more than one year,' as well as any act chargeable under one of several enumerated federal statutes. § 1961(1). A 'pattern of racketeering activity' requires at least two acts of racketeering activity, § 1961(5), which must be 'related' and 'amount to or pose a threat of continued criminal activity.'

## **Summary**

Clear explanation of what constitutes a RICO violation under 18 U.S.C. § 1962(c), including the requirement of a "pattern of racketeering activity" which involves at least two predicate acts. It also specifies that these acts must be related and pose a threat of continued criminal activity. This directly supports the proposition that Defendants Myers and Branthover's alleged actions could constitute a RICO violation if they meet these criteria.

[Arizona Premium Finance, Inc. v. Bielli, 77 F.Supp.2d 341 \(E.D. N.Y. 1999\)](#)

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

### **Extract**

To state a claim for damages under RICO a plaintiff has two pleading burdens. First, he must allege that the defendant has violated the substantive RICO statute, 18 U.S.C. § 1962 (1976), commonly known as 'criminal RICO.' In so doing, he must allege the existence of seven

constituent elements: (1) that the defendant (2) through the commission of two or more acts (3) constituting a 'pattern' (4) of 'racketeering activity' (5) directly or indirectly invests in, or maintains an interest in, or participates in (6) an 'enterprise' (7) the activities of which affect interstate or foreign commerce.... Plaintiff must allege adequately defendant's violation of section 1962 before turning to the second burden — i.e., invoking RICO's civil remedies of treble damages, attorneys fees and costs.... To establish such a pattern of racketeering activity, 'a plaintiff must plead at least two predicate acts, show that the acts are related and that they amount to, or pose a threat of, continuing criminal activity.' H.J. Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229, 239, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989). RICO is aimed at 'racketeering activity,' which the statute defines, in relevant part, as certain acts indictable under Federal law, including mail and wire fraud, and violations of the Hobbs Act. 18 U.S.C. § 1961(1)(B).

## **Summary**

Elements required to establish a RICO claim, which include the commission of two or more predicate acts that form a pattern of racketeering activity. It specifies that these acts must be related and pose a threat of continued criminal activity. The passage also identifies wire fraud as a type of racketeering activity under RICO. This directly supports the proposition that Defendants Myers and Branthoover's alleged actions, including wire fraud, could constitute a pattern of racketeering activity under RICO.

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

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

### **Extract**

To show a "pattern of racketeering activity," a plaintiff must "adequately plead at least two predicate acts of racketeering activity [.]" Am. Chiropractic Assoc., Inc. v. Trigon Healthcare, Inc., 367 F.3d 212, 233 (4th Cir.2004) (citing 18 U.S.C. § 1961(5)). Racketeering activity is defined under 18 U.S.C. § 1961(1), as "any act which is indictable" under a number of enumerated criminal provisions, which include violations of 18 U.S.C. §§ 1341 (mail fraud), 1343 (wire fraud), and 2314 (interstate transport of money converted or fraudulently obtained). Plaintiff cites these three sections as Defendants' predicate acts.

## **Summary**

Requirement for a plaintiff to plead at least two predicate acts of racketeering activity to establish a pattern of racketeering under RICO. It also specifies that wire fraud and interstate transport of money fraudulently obtained are considered racketeering activities under 18 U.S.C. § 1961(1). This directly supports the proposition that Defendants Myers and Branthoover's alleged acts of wire fraud and interstate travel in aid of racketeering could constitute a pattern of racketeering activity under RICO.

[Gutierrez v. Givens, 1 F.Supp.2d 1077 \(S.D. Cal. 1998\)](#)

**U.S. District Court — Southern District of California**

**Extract**

To state a cause of action under RICO, Plaintiffs must establish (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity (5) causing injury to the Plaintiffs' business or property by the conduct constituting the violation. See Sedima v. Imrex Co., Inc., 473 U.S. 479, 496, 105 S.Ct. 3275, 87 L.Ed.2d 346 (1985). RICO, in pertinent part, defines 'racketeering activity,' as 'any act or threat ... which is indictable' under an enumerated list of offenses codified in Title 18 of United States Code and 'which is chargeable under State law and punishable by imprisonment for more than one year.' 18 U.S.C. § 1961(1). A pattern of racketeering activity exists when a person commits two or more specified acts ('predicate acts') that have sufficient continuity and relationship so as to pose a threat of continued criminal activity. See, e.g., Ticor Title Ins. Co. v. Florida, 937 F.2d 447, 450 (9th Cir.1991). From the list of predicate acts, Plaintiffs allege that Defendants' liability may be invoked from indictable violations of the following sections of Title 18: § 1341 (mail fraud), § 1343 (wire fraud), § 1952 (interstate or foreign travel or use of interstate commerce in aid of racketeering enterprises)...

**Summary**

Elements necessary to establish a RICO claim, which include demonstrating conduct of an enterprise through a pattern of racketeering activity that causes injury to business or property. It specifies that a pattern of racketeering activity involves committing two or more predicate acts, such as wire fraud and interstate travel in aid of racketeering, which are relevant to the proposition. The passage also references the relevant sections of the U.S. Code that define these predicate acts and the requirements for a RICO claim.

[Portionpac Chemical Corp. v. Sanitech Systems, 217 F.Supp.2d 1238 \(M.D. Fla. 2002\)](#)

**U.S. District Court — Middle District of Florida**

**Extract**

Congress designed the Federal Racketeering Influenced and Corrupt Organizations Act (RICO), Title 18, United States Code, Section 1961, et seq. as a flexible tool to fight organized crime. As such, it makes the following activities unlawful: ... (c) conducting or participating in the affairs of any enterprise which affects interstate commerce through a pattern of racketeering activity or collection of an unlawful debt; or (d) conspiring to

violate any of the provisions of Section 1962(a)-(c). 18 U.S.C. § 1962. 'Racketeering activities' covers a wide range of federal and state crimes, including acts that are 'chargeable' under several generically described state criminal laws, any act 'indictable' under numerous specific federal criminal provisions, including mail and wire fraud, and any 'offense' involving bankruptcy or securities fraud or drug-related activities that [are] 'punishable' under federal law. ... To engage in a 'pattern of racketeering activity,' the defendant must have participated in 'at least two acts of racketeering activity, one of which occurred after the effective date of [RICO] and the last of which occurred within ten years (excluding any term of imprisonment) after the commission of a prior act of racketeering activity.' 18 U.S.C. § 1961(5). ... The elements of a civil RICO claim are: '(1) a violation of section 1962; (2) injury to business or property; and (3) that the violation caused the injury.'

## **Summary**

Detailed explanation of the RICO statute, including the types of activities that constitute racketeering, the requirement for a pattern of racketeering activity, and the elements necessary to establish a civil RICO claim. This directly supports the proposition by confirming that wire fraud and other acts can be considered predicate acts under RICO, and that a pattern of such acts can lead to a violation of 18 U.S.C. § 1962(c) and (d). Additionally, it confirms that a plaintiff has standing to bring a civil RICO claim if they can demonstrate injury to business or property caused by the RICO violation.

[Studco Bldg. Sys. U.S., LLC v. 1st Advantage Fed. Credit Union, 509 F.Supp. 3d 560 \(E.D. Va. 2020\)](#)

## **U.S. District Court — Eastern District of Virginia**

### **Extract**

Plaintiff alleges Civil RICO against 1st Advantage and John Doe, pursuant to 18 U.S.C. §§ 1961 et seq. ECF No. 11 at ¶¶ 257-269. Generally, the elements of a civil Racketeer Influenced and Corrupt Organizations Act (RICO) claim are (1) a person, (2) an enterprise, (3) a pattern of (4) racketeering activity (5) which causes injury to the plaintiff. 18 U.S.C.A. § 1962 (a, c). 'The injury and causation components [of element (5)] are viewed as standing requirements.' D'Addario v. Geller, 264 F.Supp.2d 367, at 396 (E.D. Va. 2003); see also, Williams v. Equity Holding Corp., 498 F. Supp. 2d 831, 840 (E.D. Va. 2007). The Supreme Court has explained that a civil RICO claim has four essential elements: '(1) conduct; (2) of an enterprise; (3) through a pattern; (4) of racketeering activity.' Whitney, Bradley & Brown, Inc. v. Kammermann, 436 F. App'x 257, 258 (4th Cir. 2011). 'Racketeering activity' includes mail and wire fraud. See 18 U.S.C.A. § 1961(1)(B).

## **Summary**

Essential elements required to establish a civil RICO claim, which include the existence of a person, an enterprise, a pattern of racketeering activity, and an injury to the plaintiff. It also specifies that racketeering activity includes acts like mail and wire fraud, which are relevant to the proposition. The passage further clarifies that the injury and causation components are viewed as standing requirements, which supports the proposition that the plaintiff has standing to bring a civil RICO claim.

[U.S. v. International Longshoremen's Ass'n, 518 F.Supp.2d 422 \(E.D. N.Y. 2007\)](#)

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

#### **Extract**

The Government alleges fifteen acts of racketeering undertaken by some or all of the Racketeering Defendants... which it argues establish the 'pattern of racketeering' necessary for RICO liability... Scollo eventually pleaded guilty to RICO conspiracy in connection with his involvement in a number of the racketeering schemes... All of the other Gotti defendants mentioned in this action... were found guilty at trial of RICO conspiracy, substantive RICO violation, and various acts of extortion, wire fraud, and money laundering that were co-extensive with the predicate acts alleged in the RICO counts... A substantial number of, the predicate acts alleged in the Amended Complaint are asserted to be violations of the federal mail and wire fraud statutes, 18 U.S.C. §§ 1341, 1343. As the Second Circuit has repeatedly recognized, '[t]he essential elements of a mail [or wire] fraud violation are (1) a scheme to defraud, (2) money or property [as the object of the scheme], and (3) use of the mails [or wires] to further the scheme.'

## **Summary**

Elements necessary to establish a RICO violation, including the requirement of a pattern of racketeering activity and the involvement in predicate acts such as wire fraud. It highlights that a pattern of racketeering can be established through multiple predicate acts, which is relevant to the proposition that Defendants Myers and Branthover committed multiple RICO predicate acts. The passage also outlines the essential elements of wire fraud, which is one of the predicate acts alleged against the defendants in the proposition.

[Ticor Title Ins. Co. v. Florida, 937 F.2d 447 \(9th Cir. 1991\)](#)

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

## **Extract**

In *H.J. Inc. v. Northwestern Bell Telephone Co.*, 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989), the Supreme Court discussed the term 'pattern of racketeering activity,' and held that it requires a plaintiff to 'show that the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity.' *Id.* at 239, 109 S.Ct. at 2900 (emphasis in original). The relationship requirement is satisfied by a showing that the racketeering predicates '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 (quotation omitted).

## **Summary**

Legal standard for establishing a "pattern of racketeering activity" under RICO, which requires showing that the predicate acts are related and pose a threat of continued criminal activity. This is relevant to the proposition because it supports the argument that Myers and Branthoover's actions could constitute a pattern of racketeering activity if they meet these criteria.

[Williams v. Equity Holding Corp., 498 F.Supp.2d 831 \(E.D. Va. 2007\)](#)

## **U.S. District Court — Eastern District of Virginia**

### **Extract**

The Williams are also required to prove that defendants engaged in a 'pattern of racketeering activity.' *ePlus Tech., Inc. v. Aboud*, 313 F.3d 166, 181 (4th Cir.2002) (quoting 18 U.S.C. § 1962). 'Under RICO, 'racketeering activity' is defined as 'any act or threat' involving specified state law crimes, such as murder or bribery, or an 'act' indictable under various federal statutes, such as mail and wire fraud.' *Id.* (quoting 18 U.S.C. § 1961(1)). To properly allege a pattern of such activity, 'two or more predicate acts of racketeering must have been committed within a ten year period.' *Id.* (citing 18 U.S.C. § 1961(5)). Two acts are necessary, but not sufficient to establish such a pattern.

### **Summary**

Requirements for establishing a RICO claim, specifically the need to demonstrate a "pattern of racketeering activity," which includes committing two or more predicate acts within a ten-year period. It also specifies that wire fraud is considered a predicate act under RICO. This directly supports the proposition that Myers and Branthoover's alleged acts of wire fraud could form part of a pattern of racketeering activity, thus constituting a violation of 18 U.S.C. § 1962(c) and (d).

[American Chiropractic v. Trigon Healthcare, 367 F.3d 212 \(4th Cir. 2004\)](#)

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

### **Extract**

RICO provides, in pertinent part, that '[i]t shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity ... to use or invest, directly or indirectly, any part of such income, or the proceeds of such income ... [in] the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.' 18 U.S.C.A. § 1962(a). 'Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue ... and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.' 18 U.S.C.A. § 1964(c). A plaintiff bringing a civil RICO action under § 1964(c) must adequately plead at least two predicate acts of racketeering that form a 'pattern of racketeering.' 18 U.S.C.A. § 1961(5).

### **Summary**

Requirements for a civil RICO claim, including the need to demonstrate a pattern of racketeering activity through at least two predicate acts. It also clarifies that a person injured in their business or property due to a RICO violation has standing to sue and recover damages. This directly supports the proposition that Defendants Myers and Branthoover's alleged actions could constitute RICO violations if they meet these criteria.

[D'Addario v. Geller, 264 F.Supp.2d 367 \(E.D. Va. 2003\)](#)

## **U.S. District Court — Eastern District of Virginia**

### **Extract**

Title 18 U.S.C. § 1962(c) provides that 'it shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.' According to 18 U.S.C. § 1961, racketeering must involve the commission of two or more predicate acts, including mail fraud and obstruction of justice. A plaintiff must plead all elements of the alleged violation of section 1962 in order to state a civil claim under section 1964(c). *Sedima, S.P.R.L. v. Imrex, Co.*, 473 U.S. 479, 496, 105 S.Ct. 3275, 87 L.Ed.2d 346 (1985). Thus, plaintiff must allege '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' Id. Plaintiff must additionally show that (5) he was injured in his business or property (6) by reason of the RICO violation. These two additional elements are viewed as standing requirements, *id.* at 496-97, 105 S.Ct. 3275; both but-for and legal cause must be shown.

## **Summary**

Legal framework for understanding how multiple predicate acts, such as wire fraud and perjury, can form a pattern of racketeering activity, thus supporting the proposition.

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

#### **Extract**

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

## **Summary**

18 U.S.C. § 1962(c) makes it unlawful for individuals associated with an enterprise affecting interstate commerce to conduct or participate in the enterprise's affairs through a pattern of racketeering activity. Additionally, 18 U.S.C. § 1962(d) makes it unlawful to conspire to violate the provisions of subsections (a), (b), or (c). These provisions directly relate to the proposition that Defendants Myers and Branthoover's conduct constitutes violations of 18 U.S.C. § 1962(c) and (d) due to their alleged pattern of racketeering activity, including wire fraud, interstate travel in aid of racketeering, and perjury.

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

#### **Extract**

As used in this chapter- 'racketeering activity' means... (B) any act which is indictable under any of the following provisions of title 18, United States Code: ... section 1343 (relating to wire fraud), ... section 1952 (relating to racketeering), ... '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;

## **Summary**

The passage defines "racketeering activity" to include acts indictable under specific sections of Title 18, such as wire fraud (section 1343) and racketeering (section 1952). It also defines a "pattern of racketeering

activity" as requiring at least two acts of racketeering activity within a specified timeframe. This directly supports the proposition that Myers and Branthoover's actions, if they include wire fraud and interstate travel in aid of racketeering, could constitute a pattern of racketeering activity under RICO. The definitions provided are essential for establishing the legal basis for a RICO claim.

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

#### **Extract**

Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee...

#### **Summary**

The passage from 18 U.S.C. § 1964(c) explicitly states that any person injured in their business or property due to a violation of section 1962 can bring a lawsuit in a U.S. district court. This supports the proposition by confirming that the plaintiff has standing to bring a civil RICO claim if they have been injured by the defendants' alleged RICO predicate acts. The provision for treble damages and attorney's fees further underscores the legal remedy available to the plaintiff.

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

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

#### **Extract**

RICO requires that the enterprise have an economic motive, the Court defined enterprise as 'an entity,... a group of persons associated together for a common purpose of engaging in a course of conduct,' which does not require an economic motive. Thus, the Court established precedent for a liberal reading of RICO, and specifically the term 'enterprise.' ... Shortly after Haroco, the Supreme Court rejected a special standing requirement for civil RICO plaintiffs in Sedima, S.P.R.L. v. Imrex Co., Inc. The fact pattern in Sedima also did not involve organized crime. The dispute arose when a joint international venture between the Belgian company, Sedima, and the New York company, Imrex, went awry. Sedima alleged that Imrex committed 'violations of [sections] 1962(c), based on ... mail and wire fraud' when Imrex 'present[ed] inflated bills, cheating Sedima out of a portion of its proceeds by collecting for nonexistent expenses.' The Court rejected the Second Circuit's amorphous 'organized crime' standing requirement that demanded a RICO plaintiff to 'allege a 'racketeering injury'—

## **Summary**

Broad interpretation of RICO by the courts, emphasizing that an economic motive is not required for an enterprise under RICO. It also highlights that the Supreme Court has rejected special standing requirements for civil RICO plaintiffs, as seen in the Sedima case, where wire fraud was a predicate act. This supports the proposition that wire fraud can be a predicate act under RICO and that plaintiffs do not need to demonstrate an economic motive or organized crime involvement to have standing.

### Racketeer influenced and corrupt organizations.

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

## **Extract**

The Court implored the lower courts to read RICO broadly(382) and to heed the expansive language of the statute.(383) In reversing the Second Circuit's standing limitations on [sections] 1962(c) claims, the Court held that the 'compensable injury necessarily is the harm caused by [the] predicate acts' of a RICO violation.(384)... RICO's standing provision(385) provides that '[a]ny person injured in his business or property by reason of a violation of [sections] 1962' may bring a civil action under RICO.(386)... Some courts hold that in order to establish standing in a civil conspiracy case, the act causing the injury must be specifically codified as a RICO predicate act. (403)...

## **Summary**

Broad interpretation of RICO by the courts, emphasizing that compensable injury is the harm caused by predicate acts of a RICO violation. It also clarifies that any person injured in their business or property by a RICO violation has standing to bring a civil action. This supports the proposition that the plaintiff has standing to bring a civil RICO claim for injury to business and property due to the alleged predicate acts by the defendants. The passage also highlights the requirement that the act causing the injury must be a RICO predicate act, which aligns with the proposition that the defendants committed multiple RICO predicate acts.

### Racketeer Influenced and Corrupt Organizations Act.

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

## **Extract**

RICO's standing provision(380) provides that '[a]ny person injured in his business or property by reason of a violation of [sections] 1962 of this chapter' may bring a civil action under RICO.(381)... Courts agree that to establish standing under [sections] 1962(c),(388) a plaintiff must have suffered a harm caused... Where the underlying violation is an alleged [sections] 1962(d)(395) 'RICO conspiracy claim,'(396) the circuits disagree as to which requirements must be met to establish standing for a civil suit. Specifically, the circuits are divided as to whether the conspiratorial act which results in an injury and provides the basis for a civil claim must be specifically codified as a RICO predicate act,(397) or whether any overt act in furtherance of a conspiracy to violate RICO is sufficient for standing.

## **Summary**

N overview of the standing requirements under RICO, specifically under sections 1962(c) and (d). It highlights that a person injured in their business or property due to a RICO violation has standing to bring a civil action. It also discusses the circuit split regarding the requirements for standing in a RICO conspiracy claim under section 1962(d), which is relevant to the proposition that Defendants committed acts forming a pattern of racketeering activity. This supports the notion that if the plaintiff can demonstrate injury from the predicate acts or acts in furtherance of a conspiracy, they may have standing to bring a RICO claim.

### Racketeer influenced and corrupt organizations.

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

## **Extract**

The first element of RICO requires two or more predicate acts of 'racketeering activity.' RICO defendants need not be convicted of each 'racketeering activity' before a substantive RICO offense is charged. Under [sections] 1961(1), the term 'racketeering activity' includes a broad assortment of state and federal crimes... Courts are in agreement that to establish standing under [sections] 1962(c), a plaintiff must have suffered a harm caused by one of the predicate acts covered by [sections] 1962(c).

## **Summary**

Requirements for establishing a RICO claim, including the necessity of two or more predicate acts of racketeering activity. It also clarifies that a plaintiff must demonstrate harm caused by one of these predicate acts to have standing under § 1962(c). This directly supports the proposition that Myers and Branthoover's alleged actions could constitute a pattern of racketeering activity under RICO, and that the plaintiff may have standing to

bring a civil RICO claim if they can show injury to business or property caused by these acts.

## RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

### **American Criminal Law Review - Georgetown University Law Center - 2021-07-01**

#### **Extract**

Pattern RICO applies only to those injuries resulting from commission of predicate acts constituting a "pattern of racketeering activity."<sup>58</sup> The statutory definition of "pattern of racketeering activity" requires at least two predicate acts occurring within ten years of each other.<sup>59</sup> A "pattern of racketeering activity" also requires evidence that the predicate acts are continuous and interrelated, rather than isolated and sporadic.<sup>60</sup> A plaintiff can satisfy RICO's pattern requirement two ways: by alleging a long-running series of interrelated predicate acts constituting a closed-ended conspiracy; or by alleging at least two interrelated predicate acts and the distinct threat of continued racketeering activities, demonstrating an open-ended conspiracy.<sup>61</sup>

#### **Summary**

Requirements for establishing a "pattern of racketeering activity" under RICO, which is essential for proving violations of 18 U.S.C. § 1962(c) and (d). It specifies that at least two predicate acts must occur within ten years of each other and that these acts must be continuous and interrelated. This directly supports the proposition that Defendants Myers and Branhoover's actions could constitute a pattern of racketeering activity if they committed multiple predicate acts like wire fraud, interstate travel in aid of racketeering, and perjury.

## Reflections on Reves v. Ernst & Young: its meaning and impact on substantive, accessory, aiding abetting and conspiracy liability under RICO.

### **American Criminal Law Review - Georgetown University Law Center - Blakey, G. Robert - 1996-01-01**

#### **Extract**

Consistent with RICO's Liberal Construction Directive and the approach of common law civil conspiracy, the Third and Seventh Circuits correctly held that a person possesses 'standing' to bring a civil action for a RICO conspiracy if he was injured in his business or property by an overt act in furtherance of the conspiracy. The courts further held that the overt act need not also be 'racketeering activity' as defined under [sections] 1961 (1),

and the person need not possess independent 'standing' to sue for the substantive offenses under [sections] 1962(a), (b), or (C).

## **Summary**

The Third and Seventh Circuits have interpreted RICO's provisions to allow a person to have standing to bring a civil RICO conspiracy claim if they were injured by an overt act in furtherance of the conspiracy. This interpretation supports the proposition that a plaintiff can bring a civil RICO claim for injury to business and property, even if the overt act is not a defined racketeering activity under section 1961(1). This aligns with the proposition that Defendants Myers and Branthoover's actions could form a pattern of racketeering activity under RICO.

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

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

#### **Extract**

A violation of § 1962(c), the section on which Sedima relies, requires (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity. The plaintiff must allege each of the elements to state a claim. They are all equally essential components, and the complaint will fail if any one of them is not adequately pleaded. In particular, RICO claims based on mail or wire fraud must comport with Federal Rule of Civil Procedure 9(b)'s requirement that allegations involving fraud be pleaded with particularity. ... A plaintiff only has standing to sue if they have been injured in their business or property by conduct constituting the violation. To establish a § 1962(c) RICO claim, the following elements must be proven:

- Enterprise: A structured group of individuals associated for a common purpose.
- Pattern of racketeering activity: At least two acts of racketeering, as specified within the statute, within 10 years.
- Conduct: Directly or indirectly conducting the enterprise's affairs through racketeering.
- Injury: An injury to business or property due to the racketeering activity.

## **Summary**

Essential elements required to establish a civil RICO claim under § 1962(c), which includes demonstrating conduct of an enterprise through a pattern of racketeering activity, and an injury to business or property. It also emphasizes the need for particularity in pleading fraud-related predicate acts, such as wire fraud. This directly supports the proposition by providing the legal framework and requirements that align with the alleged actions of Defendants Myers and Branthoover.

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

## **Extract**

RICO provides for a civil action against persons engaged in a 'pattern of racketeering activity'... Among other things, 'racketeering activities' include 'any act which is indictable under' a list of federal criminal statutes. The list covers an expansive range of violations, for example, violations of... 18 U.S.C. § 1343 (wire fraud);... 18 U.S.C. § 1952 (Travel Act)... Mail and wire fraud are the most common predicate acts... A plaintiff is required to demonstrate that the defendant conducted the affairs of an enterprise through a pattern of racketeering activity... A plaintiff may demonstrate a pattern by establishing that the predicate acts pose a threat of continued criminal activity... Section 1962(c)... it is a violation to conduct the affairs of an enterprise affecting interstate or foreign commerce 'through' a pattern of racketeering activity... To prove a violation of Section 1962(c), a plaintiff must prove the following elements:... The defendant participated in the affairs of the enterprise through a pattern of racketeering activity... Section 1962(d)... it is a violation to conspire to commit any of the three substantive RICO offenses.

## **Summary**

Legal framework for understanding how these acts can form a pattern of racketeering activity, supporting the claim that their conduct constitutes violations of RICO.

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

## **Extract**

RICO provides for a civil action against persons engaged in a 'pattern of racketeering activity'... Among other things, 'racketeering activities' include 'any act which is indictable under' a list of federal criminal statutes. The list covers an expansive range of violations, for example, violations of... 18 U.S.C. § 1343 (wire fraud);... 18 U.S.C. § 1952 (Travel Act)... Mail and wire fraud are the most common predicate acts... There are four separate and distinct RICO violations set out in section 1962:... (c) conducting the affairs of an enterprise using racketeering activities; and (d) conspiring to so acquire, control, or conduct.

## **Summary**

The passage outlines that wire fraud and interstate travel in aid of racketeering are considered predicate acts under RICO. It also explains the elements required to establish a violation of 18 U.S.C. § 1962(c) and (d), which include conducting the affairs of an enterprise through a pattern of racketeering activity and conspiring to commit such acts. This directly supports the proposition that Myers and Branhoover's actions could constitute RICO violations if they engaged in these predicate acts as part of a pattern of racketeering activity.

This memo was compiled by Vincent AI based on vLex materials available as of June 21, 2025. [View full answer on vLex](#)