

# Question

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA CHARLES DUSTIN MYERS, Plaintiff, v. DANIEL KENNETH BRANTHOOVER & MORGAN MICHELLE MYERS Defendants § § § § Civil No.: 5:24-cv-01311 § § § § FIRST AMENDED COMPLAINT Plaintiff Charles Dustin Myers, representing himself pro-se and proceeding in forma pauperis respectfully files this First Amended Complaint against Daniel Kenneth Branthoover and Morgan Michelle Myers. The original complaint filed on December 16, 2024, is respectfully amended to incorporate Morgan Michelle Myers as an additional defendant and Plaintiff has provided this Court with the necessary materials to effectuate service prior to the July 11 deadline, as extended by this court pursuant to its' recent order issued on June 11, 2025.<sup>1</sup> In support of this amended complaint, Plaintiff alleges the following: 1 See Doc 15. 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. 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. 9. Branthoover is believed to be self-represented at this time. C. Settlement 10. Plaintiff has extended settlement offers to both Defendants and has received no response. III. PRELIMINARY STATEMENT 11. At the heart of this litigation lies a deliberate and orchestrated scheme by Defendant Morgan Michelle Myers, who, instead of accepting accountability for her extramarital affair, strategically chose to displace Plaintiff from his home and destabilize his financial and familial security. Myers meticulously

executed a calculated plan involving interstate travel, fraudulent affidavits, deliberate perjury, asset diversion, and systematic manipulation of multiple Texas state courts to escape accountability for her actions. 12. To carry out this scheme, Myers enlisted the assistance of Daniel Kenneth Branthoover, a resident of Yukon Oklahoma, who has a prior history regarding violations of protective orders and tampering with government documents. For no other reason than to escape accountability for her affair, Myers spun an elaborate web of lies and weaponized her family and court procedures designed to help victims of abuse. 13. What emerges from the evidence is not a domestic dispute gone awry, but a textbook criminal enterprise created within this Court's Jurisdiction. This is the story of how a person corruptly influenced the very courts designed to protect families—transforming them into instruments of fraud, extortion, and systematic theft. It is a tale of how two individuals, connected by a common goal, orchestrated a seventeen-month reign of terror that began in Oklahoma and was carried out in the Texas courts. 14. The Defendants did not merely lie to courts—they constructed an elaborate criminal enterprise with defined roles, coordinated operations, and a singular mission: to strip Plaintiff of everything he held dear through the systematic corruption of judicial proceedings. They did not simply steal money—they laundered it across state lines while simultaneously preparing false 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 exposes the dark underbelly of 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. The evidence will show that Defendants Myers and Branthoover operated their criminal enterprise with the precision of seasoned criminals thanks to Branthoover's history involving protective order violations and government document tampering. 17. 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. 18. Through hundreds of hours of research, and through his zealous advocacy in state courts, Plaintiff now turns to establish that the Defendants in this matter engaged in the prohibited conduct of an enterprise through a pattern of racketeering activity, and seeks relief to prevent the enterprise from reaching its' ultimate goal: finalization. Against all odds, and in support of this preliminary statement, Plaintiff alleges the following: IV. FACTUAL ALLEGATIONS A. Enterprise Formation and Initial Criminal Coordination (December 14-15, 2023) 19. Defendant Branthoover possesses extensive knowledge of protective order procedures and requirements due to his prior criminal convictions involving violations of such orders. See Exhibit 1. This knowledge would prove instrumental in the enterprise's systematic manipulation of protective order proceedings. 20. On December 14, 2023, immediately following Plaintiff's discovery of Defendant Myers' extramarital affair, Myers 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. See Exhibit 2. 21. Concurrently with these interstate communications, and without any legitimate cause or factual basis, Defendant Myers attempted to obtain an ex-parte protective order against Plaintiff. This attempt, made while actively coordinating with Branthoover, represents the enterprise's first overt act designed to manipulate judicial proceedings through false allegations. See Exhibit 3. 22. In a calculated effort to maintain operational security and prevent Plaintiff from discovering the criminal scheme, Myers engaged in deliberate deception that same evening. Despite having just sought emergency protection from Plaintiff hours earlier, she 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. See Exhibit 4. B. Interstate Criminal Coordination and Financial Crimes (December 15-16, 2023) 23. 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. See Exhibit 5. 24. 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. 25. The effectiveness of this deception is evidenced by Plaintiff's complete lack of knowledge regarding the previous day's ex-parte protective order attempt. Having no reason to suspect Branthoover's dishonest intentions, Plaintiff unwittingly facilitated the enterprise's criminal coordination by agreeing to Myers' travel to Oklahoma. 26. Immediately following Branthoover's deceptive phone call, the enterprise executed its first major financial crime. Plaintiff received notification that Myers had transferred \$1,576 from the parties' joint marital PNC account to Branthoover's PayPal account (username "dmb575"), completely depleting the account balance. This interstate wire transfer represents a critical predicate act, utilizing interstate commerce to further the criminal scheme while simultaneously depriving Plaintiff of operating funds necessary for his legitimate business operations. 27. 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. 28. 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. 29. The direct connection between Defendant Branthoover and this financial crime is established through multiple forms of evidence. The PayPal identifier "dmb575" appearing on Plaintiff's bank statement directly corresponds to Branthoover's PayPal account, creating an unbreakable evidentiary chain linking him to the illicit financial transaction, corroborated by his own admissions in subsequent text communications. 30. On December 16, 2023, at precisely 3:54 P.M. CST, Plaintiff made a good-faith attempt to resolve the situation amicably by sending a detailed text message to Defendant Branthoover. This communication explicitly requested the return of the fraudulently transferred \$1,576, detailed the intended legitimate use of these funds, described the financial hardship caused by the theft (including late bills and business disruption), explained Plaintiff's inability to work due to the severe emotional distress caused by Defendants' criminal actions, and expressed his sincere desire for an amicable resolution during the holiday season. 31. 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. 32. 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 Fraud and Interstate Document Transportation (December 17, 2023) 33. On December 17, 2023, at approximately 11:00 A.M., Plaintiff was served with an eviction notice by the grandmother of Myers, who is also the landlord of the matrimonial residence, which contained the following false information: i. A purported "lease violation," which was entirely fabricated as no valid lease agreement existed between Plaintiff and Wilson; ii. The assertion that "Granddaughter getting divorced," referring to Defendant Myers, as a basis for eviction; iii. The false claim that a "Protective order has been filed." iv. The directive that "He must leave. She and the girls may stay," demonstrating the clear intent to dispossess Plaintiff for the benefit of Myers. 34. 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. This simultaneous coordination across state lines demonstrates the sophisticated and deliberate nature of the criminal enterprise's operations. 35. Myers' knowledge of the fraudulent nature of these proceedings is conclusively established. She possessed actual knowledge that no valid lease agreement existed between Plaintiff

and the landlord, 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. 36. On December 17, 2023, Defendant Myers completed the interstate transportation phase of the criminal scheme by transporting the fraudulent court documents prepared in Oklahoma back across state lines to Texas. These documents, including the Original Petition for Divorce and Affidavit of Indigency, were specifically prepared with the intent of submitting them to Texas state courts to further the enterprise's fraudulent manipulation of judicial proceedings. 37. 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) 38. 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. 39. 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. 40. This newly acquired secondary phone number became an integral component of the fraudulent court documents prepared under Defendant Branthoover's direct administrative oversight. The systematic use of this number across multiple fraudulent legal documents demonstrates the coordinated nature of the enterprise's document preparation activities. These documents, prepared in Oklahoma with the specific intent of unlawfully influencing Texas legal proceedings, included: i. An "Original Petition for Divorce" dated December 18, 2023, containing numerous material false statements designed to deceive the Texas courts; ii. An "Affidavit of Indigency" dated December 18, 2023, containing deliberate misrepresentations regarding Myers' financial status to defraud the court of legitimate filing fees; iii. A "Request for Uncontested Cases" dated December 18, 2023, fraudulently filed despite the complete absence of any communication between the parties regarding divorce proceedings; iv. An "Application for Protective Order" dated December 22, 2023, containing entirely fabricated allegations of family violence. E. Unauthorized Practice of Law and Intimidation (December 18, 2023) 42. 41. Following the filing of the initial fraudulent divorce documents on December 18, 2023, Defendant Branthoover escalated his unauthorized practice of law by sending Plaintiff a text message asserting legal representation and attempting to control all future communications. The message stated: "Charlie, it's come to my understanding you have retained an attorney. I'm sure he has told you that all further communication should take place between attorneys. I must formally ask you refrain from discussing details of this case with my client moving forward and only communicate with me or your attorney." 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) 42. 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. 43. 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. G. Systematic False Statements in Sworn Court Documents (December 18, 2023) 44. When reviewing the documents prepared in part by Branthoover and filed with the court by Myers, there existed several false statements and were intended to deceive the court and prejudice Plaintiff in furtherance of the scheme to dispose him of his property interests. Specifically, these false statements included, but were not limited to: i. The assertion that the spouses had ceased living together on December 1, 2023, when in fact they were still residing together at the marital home on that date and for several weeks thereafter. ii. The claim that Defendant Myers owned both family vehicles as her separate property prior to the marriage, which was demonstrably false as these vehicles were acquired during the marriage and constituted community property, paid for by Plaintiff. iii. The representation that Defendant Myers had an active order of protection against Plaintiff with a judicial finding that family violence had occurred during the marriage, which was fabricated and without any basis in fact or law. iv. The assertion that the children or Defendant Myers would be subjected to harassment or abuse if Plaintiff were provided with her second phone number (817-940-0852) acquired in Oklahoma, which was a baseless and manipulative claim designed to conceal her communications related to the fraudulent scheme. 45. Concurrently with the fraudulent divorce petition, Defendant Myers, again with the administrative oversight and full knowledge of Defendant Branthoover, filed a fraudulent "Affidavit of Indigency" with the court. This affidavit contained material misrepresentations regarding Defendant Myers' financial status, all of which were known to be false at the time of filing and were intended to defraud the court and avoid legitimate court costs. Specifically, these false statements included: i. The claim that Defendant Myers was financially indigent and unable to pay court costs, despite her access to and control over substantial marital assets. ii. The representation that Defendant Myers was solely responsible for all family living expenses, including rent, utilities, food, and other living expenses, when in fact, Plaintiff was the primary breadwinner of the household at that time. iii. The assertion that Defendant Myers was solely responsible for both car payments, which she has no payment history

to support such a claim. H. Escalation Through Fabricated Violence Allegations (December 22, 2023) 46. 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. 47. Upon review, defendant Myers made additional false statements within the sworn document, all intended to further deceive the court and secure an unwarranted protective order against Plaintiff to effectuate the enterprises' goal of divesting him of his property interests. These false statements included, but were not limited to: i. The claim that family violence occurred on December 18, 2023, in the presence of the children, which was entirely false and fabricated. ii. The assertion that family violence occurred prior to December 18, 2023, which was also false and without any factual basis. iii. The request that Plaintiff take a battering intervention program. I. Achievement of Primary Criminal Objective (January 16, 2024) 48. The enterprise's coordinated criminal activities achieved their primary objective through the systematic deception of the Texas court system. The common purpose underlying all fraudulent documents and criminal acts—executed through Branthoover's administrative coordination and Myers' on-ground implementation—encompassed multiple interconnected goals: unlawfully removing Plaintiff from his residence (essential for his livelihood and the family's financial stability), gaining an illicit advantage in divorce proceedings through fraudulent representations, and ultimately securing a divorce decree on terms unilaterally favorable to Myers, thereby making the unlawful deprivation of Plaintiff's rights and property permanent while enabling the enterprise to escape accountability for their criminal conduct. 49. 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 enterprise. 50. The causal relationship between the enterprise'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 their criminal coordination. J. Ongoing Pattern of Racketeering Activity and Continuity (January 2024 - Present) 51. Between January 16, 2024, and the present day, Defendants Myers and Branthoover have continued to further their racketeering activity through a series of ongoing illicit acts, demonstrating a clear pattern of continuity and relatedness. These acts include, but are not limited to: i. Myers and Branthoover continuing to engage in illicit communications regarding case details between one another across state lines, specifically between Texas and Oklahoma, in direct furtherance of their fraudulent scheme to see the divorce through to its' finalization. ii. Branthoover delivering ongoing threats and intimidation to Plaintiff regarding his legitimate attempts to seek legal relief from the orders that were a product of the Defendants' actions, which occurred in December of 2023, June of 2024, December of

2024, and May of 2025. iii. Making direct statements such as "I've been enjoying watching every filing get denied" by Branthoover, showing the malicious intent behind his involvement as Plaintiff sought relief for their coordinated actions. 52. On June 23, 2024, Defendant Branthoover continued his pattern of harassment and intimidation by sending Plaintiff a text message stating, "Lol. And here comes 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. 53. 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. 54. 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. 55. As a direct result of the actions outlined above, Plaintiff has sustained substantial injury to his business and property. V. RICO FRAMEWORK AND PREDICATE ACTS 56. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 55 above, as if fully set forth herein. 57. The Racketeer Influenced and Corrupt Organizations Act (RICO) provides civil and criminal penalties for those who engage in a pattern of racketeering activity connected to an enterprise affecting interstate commerce. Under 18 U.S.C. § 1961, "racketeering activity" encompasses a broad range of criminal actions including "any act which is indictable under any of the following provisions of title 18, United States Code: ... section 1952 (relating to racketeering)." 58. To establish a RICO violation, a plaintiff must demonstrate: "(1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise." *Gil Ramirez Grp., L.L.C. v. Houston Indep. Sch. Dist.*, CIVIL ACTION 4:10-CV-04872 (S.D. Tex. Jul 31, 2017). The pattern of racketeering activity must include at least two predicate acts that are related and amount to or pose a threat of continued criminal activity. 59. Here, Defendants are alleged to have committed several predicate acts including multiple counts of wire fraud, violations of the Travelers Act, and perjury as part of a broader pattern of racketeering activity. 60. As explained in more detail below, the Racketeer Influenced and Corrupt Organizations Act (RICO) requires a "pattern of racketeering activity", which Plaintiff will plead with particularity the predicate acts committed by the Defendants, how they are related, and demonstrate continuity as required. V. INTRODUCTION TO RICO 61. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 60 above, as if fully set forth herein. 62. 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. 63. The defendants' conduct falls squarely within the 10th Circuit's interpretation of RICO's pattern requirement. The predicate acts of wire fraud, interstate travel, perjury, threats, and intimidation are all enumerated as "racketeering activities" under 18 U.S.C. § 1961, and they were committed in furtherance of the same criminal enterprise. This ongoing criminal activity over an extended period demonstrates "closed-ended continuity" as recognized by the Supreme Court and followed by federal courts nationwide, including the 10th Circuit. The defendants' pattern of racketeering activity clearly satisfies the statutory definition and judicial interpretations of what constitutes a RICO violation.

A. Statutory Framework 64. The Racketeer Influenced and Corrupt Organizations Act (RICO) provides the statutory framework for prosecuting organized criminal activities. The statute defines key terms and establishes the elements required to prove a RICO violation. 65. Under 18 U.S.C. § 1962, it is unlawful for "any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce." 18 U.S.C. § 1962 (2025). 66. The term "racketeering activity" is defined in 18 U.S.C. § 1961 to include specific enumerated offenses, including "any act which is indictable under any of the following provisions of title 18, United States Code: ... section 1343 (relating to wire fraud), ... section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant)." 18 U.S.C. § 1961 (2025). 67. Crucially, the statute defines a "pattern of racketeering activity" as requiring "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 (2025). 68. Additionally, 18 U.S.C. § 1952 establishes penalties for interstate or foreign travel in aid of racketeering enterprises, which is relevant to the defendants' interstate travel in this case. 18 U.S.C. § 1952 (2025). B.

Supreme Court Interpretation of RICO's "Pattern" Requirement 69. While the statutory definition of "pattern of racketeering activity" requires at least two predicate acts within a ten-year period, the Supreme Court has clarified that merely proving two predicate acts is not sufficient to establish a pattern under RICO. In the landmark case of *H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229 (1989), the Supreme Court established that a RICO pattern requires both "relatedness" and "continuity" of the predicate acts. 70. This interpretation has been consistently referenced and applied in subsequent cases. As explained in *Ellis v. Warner*, CASE NO. 15-10134-CIV-GOODMAN (S.D. Fla. Feb 16, 2017), "To establish a pattern of racketeering activity, 'a plaintiff... must show that the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity.'" *H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 239, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989). The pattern requirement has been reduced to a 'continuity plus relationship'

test." 71. The "continuity plus relationship" test has become the standard framework for analyzing whether a pattern of racketeering activity exists under RICO. This test requires proving both that the predicate acts are related to each other and that they demonstrate continuity or a threat of continuity. C. Relatedness Requirement 72. The relatedness element focuses on whether the predicate acts are connected to each other and to a common purpose. As articulated in *Chambers v. King Buick GMC, LLC*, 43 F. Supp. 3d 575 (D. Md. 2014), "The relationship criterion may be satisfied by showing that the criminal acts 'have the same or similar purposes, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated events.'" 73. Similarly, *Gross v. Waywell*, 628 F.Supp.2d 475 (S.D. N.Y. 2009) explains that "The relatedness test requires that the predicate acts relied upon 'share the same or similar purposes, results, participants, victims or methods, or otherwise are interrelated by distinguishing characteristics and are not isolated events.'" *H.J. Inc.*, 492 U.S. at 240, 109 S.Ct. 2893." The relatedness element ensures that RICO is applied to organized criminal activity rather than disconnected, sporadic offenses. D. Continuity Requirement 74. The continuity element can be established through either "closed-ended continuity" or "open-ended continuity." As stated in *Murphy v. Farmer*, 176 F.Supp.3d 1325 (N.D. Ga. 2016), "Continuity may be established in one of two ways. A plaintiff may prove closed-ended continuity by showing 'a closed period of repeated conduct,' or the plaintiff may prove open-ended continuity by showing 'past conduct that by its nature projects into the future with a threat of repetition.'" 75. Closed-ended continuity involves a series of related predicate acts over a substantial period of time. As noted in *Reynolds v. Condon*, 908 F.Supp. 1494 (N.D. W.Va. 1996), "A party alleging a RICO violation may demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time." 76. Open-ended continuity, on the other hand, involves a threat of continued criminal activity into the future. According to *WATER INTERN. NETWORK, USA, INC. v. East*, 892 F. Supp. 1477 (M.D. Fla. 1995), continuity encompasses both "a close-ended and open-ended concept. A party alleging a RICO violation may demonstrate continuity over a closed period by proving a series of related predicate acts over a substantial period of time. Otherwise, it must be shown that the predicate acts establish a threat of long-term racketeering activity." The continuity requirement ensures that RICO is applied to ongoing patterns of criminal activity rather than isolated incidents. E. Defendants' Conduct as Predicate Acts Under RICO 77. The Defendants' conduct, as outlined above, includes wire fraud, interstate travel, perjury, threats, and intimidation from December 2023 through May 2025, all in furtherance of the same criminal enterprise with a common purpose. To determine whether this conduct constitutes a pattern of racketeering activity under RICO, it must be analyzed whether these acts qualify as predicate acts and whether they demonstrate both relatedness and continuity. 78. First, Plaintiff needs to establish whether the defendants' acts qualify as "racketeering activity" under 18 U.S.C. § 1961. According to this statute, "racketeering activity" includes "any act which is indictable under any of the following provisions of title 18, United States Code: ... section 1343 (relating to wire fraud), ... section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant)." 18 U.S.C. § 1961 (2025). VI.

PREDICATE ACT - WIRE FRAUD 79. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 74 above, as if fully set forth herein. 80. The facts 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. 81. The relevant federal statutes in this analysis are 18 U.S.C. § 1343 (Wire Fraud) and 18 U.S.C. § 1961 (RICO Definitions). 82. 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." 83. Title 18 U.S.C. § 1961 defines "racketeering activity" to include "any act which is indictable under any of the following provisions of title 18, United States Code:... section 1343 (relating to wire fraud)...". This statutory provision explicitly establishes wire fraud as a predicate act for RICO violations. A. Scheme to Defraud 84. 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. 85. 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 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. 86. The scheme in this case specifically targeted marital funds, which are legally considered shared property between spouses. By depleting the account, Myers intentionally deprived the Plaintiff of access to funds to which they were legally entitled. This satisfies the requirement that the scheme have "money or property as the object of the scheme" as stated in *Smulley v. Fed. Hous. Fin. Agency*, 17-2666 (2nd Cir. Oct 05, 2018). B. Use of Interstate Wire Communications 87. The second element of wire fraud requires the "use of the mails or wires to further the scheme." *United States v. Greenberg*, 835 F.3d 295 (2nd Cir. 2016). The facts demonstrate that Myers used interstate wire communications in two distinct ways: i. The transfer of \$1,576 was "executed via interstate wire (bank to PayPal)," which constitutes an electronic transmission across state lines. ii. The transfer "was accompanied by a series of coordinated text messages and phone calls between Myers (in Texas) and Branthoover (in Oklahoma) regarding the scheme." 88. Wire transmissions include interstate telephone calls or electronic transmissions. Furthermore, internet communications satisfy the interstate nexus requirement, even in the absence of proof that a fraudulent communication traveled through out-of-

state servers. 89. 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. 90. Importantly, each of these communications—the bank transfer, text messages, and phone calls—constitutes a separate use of interstate wire communications. As noted in *Mail and Wire Fraud*: "Each use of the mail or wires constitutes a separate offense and therefore can be a separate count in an indictment." C. Intend to Defraud 91. The third element requires that the defendant acted "with the intent to defraud." As stated in *U.S. v. Blackmon*, 839 F.2d 900 (2nd Cir. 1988), the wire fraud statute requires that the defendant "be a party to some kind of scheme to defraud, a requirement that includes a high degree of scienter and moral culpability." 92. The facts indicate that Myers and Branthoover engaged in "a series of coordinated text messages and phone calls... regarding the scheme." This coordination demonstrates premeditation and planning, which supports a finding of intent to defraud. The fact that the transfer depleted the joint account entirely further suggests an intent to maximize the financial impact on the Plaintiff, depriving them of access to any funds from that account. 93. According to Theft offenses, wire fraud requires "that the defendant voluntarily and intentionally devised or participated in a scheme to defraud another out of money." The coordination between Myers and Branthoover through multiple communications channels demonstrates voluntary and intentional participation in the scheme. 94. Furthermore, 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. D. Potential Defenses 95. 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 necessarily extend to depleting the account for personal gain or in coordination with a third party with the intent to deprive the other account holder of their rightful access to the funds. The joint nature of the account creates a fiduciary duty to act in good faith regarding the shared asset. That fiduciary duty was willingly violated when Myers chose to transfer the funds to Branthoover's PayPal, and then later to herself. The appropriate method would have been for Myers to transfer the funds directly to herself, but she avoided this to conceal her bank account information in furtherance of a broader scheme. 96. The evidence supporting these elements includes the interstate transfer of funds, the coordination of the scheme through interstate communications, and the depletion of the joint account to the detriment of the Plaintiff. Each use of interstate wire communications—the bank transfer, text messages, and phone calls—constitutes a separate instance of wire fraud. 97. 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. VII. PREDICATE ACT – VIOLATION OF THE TRAVEL ACT 98. The Travel Act, codified at 18 U.S.C. § 1952, is a federal statute that criminalizes interstate travel undertaken with the intent to promote or carry on certain unlawful activities. According to the statute, 18 U.S.C. § 1952 states: "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; ..." The statute is designed to target individuals who cross state lines with the intent to engage in or facilitate criminal activity. It was enacted as part of the federal government's efforts to combat organized crime by reaching criminal activities that might otherwise fall outside federal jurisdiction due to their local nature. By utilizing Congress's power to regulate interstate commerce, the Travel Act extends federal jurisdiction to criminal enterprises that operate across state lines.

A. Elements of a Travel Act Violation

99. As set forth by the act's plain language, the elements necessary to sustain a Travel Act conviction are (1) travel in interstate or foreign commerce or use of the mail or any facility in interstate or foreign commerce, (2) with the intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity, and (3) performance of or an attempt to perform an act of promotion, management, establishment, or carrying on of the enumerated unlawful activity.

100. Each of these elements must be proven beyond a reasonable doubt to establish a Travel Act violation:

- i. Interstate Travel or Use of Interstate Facilities: The defendant must have either traveled across state lines or used facilities of interstate commerce (such as telephones, electronic communications, or mail).
- ii. Intent to Promote Unlawful Activity: The defendant must have undertaken this interstate travel or used interstate facilities with the specific intent to promote, manage, establish, carry on, or facilitate one of the unlawful activities enumerated in the statute. These unlawful activities include various state and federal crimes such as gambling, liquor offenses, narcotics, prostitution, extortion, bribery, arson, and importantly for this case, fraud.
- iii. Subsequent Acts: After the interstate travel or use of interstate facilities, the defendant must have performed or attempted to perform acts that promote, manage, establish, or carry on the unlawful activity.

B. Interstate Travel

101. The first element of a Travel Act violation requires travel in interstate commerce or the use of facilities in interstate commerce. According to the facts provided, Myers traveled from Texas to Oklahoma on December 15, 2023, and then transported the fraudulent documents back to Texas on December 17, 2023. This clearly establishes interstate travel, as Myers physically crossed state lines from Texas to Oklahoma and then returned to Texas. The interstate commerce requirement is therefore satisfied.

C. Intent to Promote Unlawful Activity

102. The second element requires that the interstate travel was undertaken with the intent to promote, manage, establish, carry on, or facilitate an unlawful activity. Here, the facts state that Myers traveled to Oklahoma "for the purpose of preparing fraudulent court documents and coordinating the criminal scheme."

103. Fraud is specifically encompassed within the "unlawful activity" contemplated by the Travel Act, as 18 U.S.C. § 1952 prohibits interstate travel with the intent to promote "any unlawful activity, including fraud or extortion." The explicit purpose of Myers' travel—to prepare fraudulent court documents—demonstrates her intent to promote and facilitate fraud, which is an unlawful activity under the statute.

104. The intent requirement is clearly satisfied, as the purpose of Myers' interstate

travel was explicitly to prepare fraudulent documents with the assistance of Branthoover—a direct promotion of fraudulent activity. This is not a case where the connection between the travel and the unlawful activity is tenuous or where the unlawful activity was merely incidental to the travel. Rather, the preparation of fraudulent court documents was the very reason for the interstate journey. D. Subsequent Acts in Furtherance of the Unlawful Activity 105. The third element requires that, following the interstate travel, the defendant performed or attempted to perform acts to promote, manage, establish, or carry on the unlawful activity. In this case, after returning to Texas, Myers "transported the fraudulent documents back to Texas for use in judicial proceedings" and there were "subsequent acts (filing and using those documents)." 106. These actions—transporting the fraudulent documents across state lines, filing them, and using them in judicial proceedings—constitute clear performance of acts in furtherance of the fraudulent scheme. The fraudulent documents were not merely prepared and then abandoned; rather, they were actively transported and subsequently used in judicial proceedings, demonstrating Myers' continued efforts to carry out the fraudulent scheme after her interstate travel, which Branthoover also participated in. 107. The sequence of events—interstate travel followed by acts in furtherance of fraud—aligns perfectly with the structure of the Travel Act, which prohibits interstate travel with criminal intent followed by actions that further the criminal activity. E. Potential Defenses 108. Defendants may argue that the intent element has not been properly satisfied, however, texts later sent by Branthoover to Plaintiff clearly demonstrate a malicious intent. For example, the text sent on June 2023 which stated "I've enjoyed watching every filing get denied" defeats this argument. 109. Defendants might also attempt to argue that the acts performed after interstate travel were insufficient to satisfy the "subsequent acts" requirement. However, given that Myers not only transported the fraudulent documents back to Texas but also used them in judicial proceedings, this element appears to be clearly satisfied. The filing and use of the documents in judicial proceedings constitute direct acts in furtherance of the fraudulent scheme. As far as Branthoover, his role in the enterprise extended beyond the mere assistance of preparing the fraudulent documents. After they were filed, he continued to hold himself out to be an administrative agent of Myers, and send numerous threatening texts throughout the past seventeen months. 110. In summary, given that Myers' conduct establishes a clear Travel Act violation, this violation can properly serve as a predicate act for purposes of establishing a pattern of racketeering activity under RICO. The deliberate nature of her actions—traveling interstate specifically to prepare fraudulent court documents—and the subsequent use of those documents in judicial proceedings demonstrate a level of planning and execution that aligns with the types of criminal activity that both the Travel Act and RICO were designed to combat. VIII. PREDICATE ACT – PERJURY 111. It's important to note that the Racketeer Influenced and Corrupt Organizations Act (RICO) does not explicitly list perjury as a predicate act under 18 U.S.C. § 1961(1). However, courts have recognized that perjury can serve as a RICO predicate when it is part of a broader pattern of racketeering activity, particularly when connected to fraud schemes that qualify as RICO predicates. A. Authority on Perjury as a Predicate Act 112. The case of *United States v. Eisen*, 974 F.2d 246 (2d Cir. 1992) addressed this issue directly, stating that "where, as here, a

fraudulent scheme falls within the scope of the federal mail fraud statute and the other elements of RICO are established, use of the mail fraud offense as a RICO predicate act cannot be suspended simply because perjury is part of the means for perpetrating the fraud." This means that while perjury alone might not be a RICO predicate, when it is part of a broader fraudulent scheme that qualifies as a RICO predicate (such as mail fraud or wire fraud), the perjurious acts can be included in the RICO violation. 113. Similarly, *ASI, Inc. v. Aquawood, LLC*, Civil No. 19-763 (JRT/HB) (D. Minn. Oct 05, 2020) confirms that "although perjury alone is not a predicate act under RICO, courts have found that false litigation documents can support a mail/wire fraud RICO claim." The court further found that "submission of false litigation documents, in conjunction with a broader RICO scheme, can be a predicate act." In this case, that is exactly the conduct at issue. 114. More explicitly, *C & W Constr. Co. v. Brotherhood of Carpenters and Joiners, Local 745*, 687 F.Supp. 1453 (D.Haw.1988) stated that "the more reasoned rule would allow perjury to be a predicate act under 18 U.S.C. § 1962(1), through 18 U.S.C. § 1503, where the plaintiffs allege that the perjury was part of the pattern of racketeering." 115. The case of *Florida Evergreen Foliage v. Ei Du Pont De Nemours*, 135 F.Supp.2d 1271 (S.D. Fla. 2001) further supports this view, noting that "defendants have not been able to direct the Court to any federal cases specifically holding that litigation conduct by a litigating party in a prior case is entitled to absolute immunity and may not form the basis of a subsequent federal civil RICO claim." The court was persuaded that perjury could be a predicate act under RICO "where the plaintiffs allege that the perjury was part of the pattern of racketeering." 116. Furthermore, *United States v. Hansmeier*, Case No. 0:16-cr-00334-JNE-KMM (D. Minn. Jul 24, 2017) explicitly rejected the notion that civil litigation conduct cannot form the basis of criminal charges, stating that "federal law criminalizes any number of actions that are conducted in relation to litigation, including most obviously committing or suborning perjury." The court cited multiple cases affirming mail fraud charges based on conduct in civil lawsuits, establishing that perjury in litigation can be part of a broader fraudulent scheme that constitutes a RICO predicate. B. Myers' Actions as Perjury Under 18 U.S.C. § 1621 and § 1623 117. First, Myers made several statements under oath in a judicial proceeding, satisfying the first element of perjury under both statutes. 118. Second, several statements were made with knowledge of their falsities, including: i. Myers intentionally lied about her financial status and knowingly falsified her financial obligations in her Affidavit of Indigency. ii. Myers intentionally lied about the existence of an active order of protection that she knew did not exist. iii. Myers intentionally lied about cohabitation with the Plaintiff when she stated that the couples stopped living together as spouses on December 1, 2023, when she continued to cohabit up until his unlawful removal caused by her false statements. Picture evidence establishes this and there is no defense to these false statements. iv. Myers intentionally lied about her separate property when she claimed both vehicles that Plaintiff pays for were her separate property prior to the marriage, which is a blatant misrepresentation as one of the vehicles was leased in 2022, and the other was financed in 2020, five years after the marriage took place. v. Myers intentionally fabricated multiple claims of family violence occurring, yet has no evidence to support these claims. These claims satisfy the second element of perjury, materiality. These statements were material to the

court's determination of the legitimacy of financial transactions and the authenticity of court documents, satisfying the this requirement under both statutes. 119. Third, Myers' perjurious statements were made knowingly and intentionally, as evidenced by her coordination with Branthoover and concealment of bank account information. This satisfies the willful intent requirement, which the Supreme Court has defined as "false testimony concerning a material matter with the willful intent to provide false testimony, rather than as a result of confusion, mistake, or faulty memory." *In re Alvarado*, 26 I&N Dec. 895 (citing *Dunnigan*, 507 U.S. at 94). 120. One minor mistake by Myers would have defeated the intent argument. However, because several misrepresentations were made across several pleadings with the intent to have Plaintiff removed from his home, and the fact that these documents were specifically prepared in part by Branthoover, it highlights not only a broader scheme, but shows malicious intent especially when paired with the threatening text messages. C. The Perjurious Statements Were Part of a Broader Scheme to Defraud 121. In Myers' case, her perjurious statements were made as part of a broader fraudulent scheme, as explained above, that involved: i. Financial transactions (transferring \$1,576 from a joint marital account to Branthoover's PayPal account) ii. Interstate travel for the purpose of preparing fraudulent court documents iii. Preparation and filing of fraudulent court documents iv. Concealment of financial information 122. This pattern of activity is part of a broader, coordinated scheme with Branthoover to defraud the court and were designed to remove Plaintiff from his residence. Because this perjury occurred within a scheme that involved enumerated predicate acts, including wire fraud and the Travel Act, Myers' perjury can be included as part of the pattern of racketeering activity required for this RICO claim. 123. In summary, the specificity of Myers' false statements, the context in which they were made, and the supporting documentary evidence (bank records, PayPal records, text messages, phone records) provide strong support for both perjury prosecution under federal law and inclusion in a RICO claim as part of a broader pattern of racketeering activity. XI. PATTERN OF RACKETEERING ACTIVITY A. The Defendants' Activities Satisfy the "Relatedness" Requirement 124. The enumerated facts above clearly demonstrate that the predicate acts committed by Defendants Myers and Branthoover are related under the standard established in *H.J. Inc.* The alleged predicate acts share multiple elements of relatedness: i. Same Purpose: All of the acts were committed with the purpose of "unlawfully depriving Plaintiff of property and rights." As noted in *RICO: A Primer* (2022), acts that "further[] the goals of or benefitted the enterprise" can establish relatedness. Here, the coordinated scheme to manipulate judicial proceedings demonstrates a common purpose. ii. Same Participants: The acts all involve the same defendants, Myers and Branthoover. Similar participants is one factor that can establish relatedness. iii. Same Victim: All of the acts target the same victim, the Plaintiff. The consistent targeting of a single victim further supports the relatedness of the acts. iv. Similar Methods: The defendants employed similar methods across their activities, including fraudulent court filings, wire fraud, interstate travel and communications in furtherance of the scheme, and intimidation after the scheme was successful, in part. 125. The case of *Verges v. Babovich*, 644 F.Supp. 150 (E.D. La. 1986) supports the conclusion that these facts establish relatedness. In that case, the court found that allegations of a



coordinated scheme with similar elements were sufficient to establish a "pattern of racketeering activity" under RICO. B. The Defendants' Activities Satisfy the "Continuity" Requirement 126. The facts above also demonstrate that the defendants' activities satisfy the continuity requirement under both the closed-ended and open-ended frameworks. 127. Closed-ended continuity requires "a series of related predicates extending over a substantial period of time," as explained in *Egana v. Blair's Bail Bonds Inc.*, The activities of Defendants Myers and Branthoover span from December 2023 through May 2025, a period of approximately 18 months. 128. While there is no bright-line rule defining a "substantial period," courts generally require more than a few weeks or months. The 18-month period described in the facts meets this threshold. See *Reynolds v. Condon*, 908 F.Supp. 1494 (N.D. W.Va. 1996). 129. Beyond closed-ended continuity, the facts also support a finding of open-ended continuity, which focuses on "a threat of continuing criminal activity extending indefinitely into the future". 130. The ongoing nature of the threats and intimidation, as well as the continued illicit communications and monitoring of the Plaintiff's legal actions, suggest that the criminal activity is not limited to a finite period but threatens to continue into the future. Open-ended continuity can be established if "the related predicates themselves involve a distinct threat of long-term racketeering activity, either implicit or explicit." Here, the fact that the divorce matter has not been adjudicated on the merits and the specific threat from Branthoover stating "[w]hen this is all over, you get to deal with me. Just a heads up" which creates a future risk of further criminal activity. In other words, even if the State court proceedings eventually conclude, the pattern of behavior suggests that the defendants might continue their harassment and intimidation of the Plaintiff through subsequent litigation or criminal activity. C. Meeting Both Closed-Ended and Open-Ended Continuity 131. It is significant that the facts establish both closed-ended and open-ended continuity, although either one alone would be sufficient to satisfy the continuity requirement under *H.J. Inc.* 132. The fact that the scheme is not an isolated event but a series of related acts over a substantial period, with evidence of ongoing and future threats, serves to reinforce the conclusion that the continuity requirement is satisfied. The combined presence of both closed-ended and open-ended continuity provides a robust basis for finding that the defendants' activities constitute a pattern of racketeering activity under RICO. 133. In summary, the enumerated facts and predicate acts establish a "pattern of racketeering activity" under RICO, meeting both the relatedness and continuity requirements as interpreted by the Supreme Court and federal courts. X. THE ENTERPRISE 134. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 133 above, as if fully set forth herein. 135. Now that the conduct and pattern of racketeering activity have been established, the final element before damages is the enterprise element. A. Definition of "Enterprise" Under 18 U.S.C. § 1961(4) 135. Under 18 U.S.C. § 1961(4), "enterprise" is defined broadly to include "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." This definition encompasses a wide range of entities and associations, both formal and informal, legitimate and illegitimate. 136. Based on the statutory definition, Myers and Branthoover constitute a "group of individuals associated in fact" under 18 U.S.C. § 1961(4). The statute explicitly includes an association-in-fact within the

definition of "enterprise," and the Supreme Court's decision in *United States v. Turkette*, 452 U.S. 576, 583, 101 S.Ct. 2524, 2528, 69 L.Ed.2d 246 (1981) established that this definition encompasses both legitimate and illegitimate associations. *B. Boyle v. United States and Structural Features of an Association-in-Fact Enterprise* 137. The Supreme Court further clarified the requirements for an association-in-fact enterprise in *Boyle v. United States*, which is cited in *United States v. Perry*: "an association-in-fact enterprise must have at least three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose." *Id.* 17-30610, 17-30611 (5th Cir. May 12, 2022). X. Damages 134. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 133 above, as if fully set forth herein. 135. 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 136. 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. 137. By 2022, client demand and revenue growth began outpacing Plaintiff's initial architecture. In response, Plaintiff made the strategic decision to pause direct monetization in early 2023 to reinvest in infrastructure and ensure the platform could handle commercial-scale traffic. This included: i. Designing and deploying asynchronous financial signal algorithms, ii. Mastering PostgreSQL and NoSQL systems for real-time data delivery, iii. Building websocket-based dashboards for live data streaming, iv. Drafting licensing terms for premium indicator access and reseller API use. This period of reinvestment came at significant cost: Plaintiff temporarily sacrificed a revenue stream that had reached \$12,000 per month at its peak in exchange for long-term scalability. Plaintiff anticipated a short-term revenue dip, which he strategically absorbed in reliance on his imminent reentry to market. 138. By the summer of 2023, Plaintiff had completed core backend optimization and UI integrations and was prepared to scale user acquisition and marketing. This readiness marked a significant inflection point in Plaintiff's commercial trajectory. 139. 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. 140. 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. 141. 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.

142. Between September and December 2023, Plaintiff earned \$10,529.72, averaging \$2,632.43 per month after reactivating his business operations. Based on the platform's performance, technical stability, and confirmed subscriber growth, Plaintiff reasonably projected returning to \$5,000/month by mid-2024, with stable performance continuing through 2025.

143. Under a conservative model, had the business not been disrupted by Defendants' interference, Plaintiff would have earned: i. Approximately \$15,794.58 during the first half of 2024 (maintaining his pre-removal baseline), ii. Approximately \$24,000.00 during the second half of 2024 (with moderate growth to \$4,000/month), iii. And approximately \$60,000.00 across 2025 (at \$5,000/month). This yields a total projected income of \$99,794.58 for the 24-month period following the wrongful removal.

144. Instead, Plaintiff earned only \$14,892.27 across that period due to his inability to operate at scale. This results in a verified, direct business revenue loss of \$84,902.31.

145. Accordingly, Plaintiff seeks recovery of \$84,902.31 in lost business income directly caused by Defendants' pattern of racketeering activity described above.

B. Cost of Living Increase – Proximity to Children

146. Between March and June of 2024, Plaintiff resided with his grandmother in Garland, Texas while he sought relief from the State courts. By July of 2024, Plaintiff's grandmother sold her home and moved into a small apartment, leaving Plaintiff without any place to stay.

147. Because no family member could offer reliable housing—due in part to Plaintiff's internet bandwidth requirements and the sensitive nature of the litigation—Plaintiff was forced to rely on a series of short-term Airbnb rentals between July and October 2024 so that he could reside near-by his daughters and provide them with a stable environment as he sought relief.

148. Verified receipts show that Plaintiff incurred a total of \$14,553.89 in temporary housing costs during this period. These expenses were not discretionary but were directly caused by the Defendants' actions that: i. Deprived Plaintiff of access to his lawful residence, ii. Created legal uncertainty regarding custody, iii. And required proximity to the children to preserve parental rights and the status quo.

C. Damages – Fraudulent Transfer of \$1,576 and Cessation of Business Advertisements

149. As noted above, Defendants coordinated in emptying the joint marital PNC bank account, transferring \$1,576.00 from Plaintiff to a PayPal account controlled by Daniel Kenneth Branthoover, which was subsequently routed to Morgan Michelle Myers. These funds were used to purchase a second phone for Myers, enabling concealed communication and coordination between Defendants in furtherance of their scheme to defraud Plaintiff and obstruct his business operations.

150. At the time of the transfer, Plaintiff was in the final stages of preparing to relaunch his business. The stolen funds were earmarked for early 2024 digital ad campaigns, planned platform upgrades, and onboarding expenses designed to expand subscriber reach. The sudden and unauthorized withdrawal of this

capital forced Plaintiff to cancel scheduled promotional placements and postpone key infrastructure expenses necessary for business continuity. 151. Based on Plaintiff's historical subscriber acquisition cost and prior return on advertising spend (ROAS), the canceled campaigns were projected to generate \$5,000.00–\$7,000.00 in new subscriber revenue during the first quarter of 2024. A conservative midpoint estimate places the value of this lost opportunity at \$5,000.00. 152. Plaintiff therefore seeks recovery of: i. The full amount of the fraudulently transferred \$1,576.00. D. Damages – Total 153. 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 ten thousand five hundred thirty-two dollars and twenty cents (\$110,532.20). This includes: (1) \$84,902.31 in lost business income caused by Plaintiff's wrongful removal from his residence and the destruction of his operational infrastructure; (2) \$14,553.89 in necessary temporary housing expenses incurred to remain near his daughters and preserve the parent-child relationship while deprived of access to his home; (3) \$1,576.00 in marital funds fraudulently transferred from Plaintiff's joint bank account without consent and used by Defendants in furtherance of the fraudulent scheme; (4) \$5,000.00 in estimated lost income resulting from the forced cancellation of business advertisements due to the diversion of business capital; and (5) \$4,500.00 in legal and procedural costs incurred by Plaintiff in defending against the initial, baseless protective order proceedings filed by Defendant Myers, which were weaponized to gain leverage in the underlying divorce litigation. 154. Pursuant to 18 U.S.C. § 1964(c), Plaintiff is entitled to treble damages for injuries sustained to his business and property as a result of Defendants' racketeering activity. Accordingly, Plaintiff seeks an award of treble damages in the total amount of three hundred thirty-one thousand five hundred ninety-six dollars and sixty cents (\$331,596.60). 155. 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.

Case 5:24-cv-01311-R Document 18 Filed 06/30/25  
Page 1 of 5 FILED JUN 3 D 2025 IN THE UNITED STATES DISTRICT COURT -JOAN KANE, CLERK U.S. DIST. COUR'~ FOR THE WESTERN DISTRICT OF OKLAH@MA • ,/2J~0 1 : 6E~~, 1 ~ CHAR LES DUST IN MYERS, Plaintiff, V. Case No. CIV-24-1311-R DANIEL KENNETH BRAN THOOVER and MORGAN MICHELLE MYERS, Defendants. DEFENDANTS' MOTION TO DISMISS FIRST AMENDED COMPLAINT Pursuant to Fed. R. Civ. P. 12(b)(6) and 12(b)(3) MEMORANDUM OF LAW I. INT RODUCTION Plaintiffs First Amen ded Complaint attempts to reframe a contentious domestic dispute and family court li tigation as a federal RICO conspiracy. However, the Complaint fails to allege the essential elements of a RICO claim, lacks particularity, and is improperly venued in this District. Moreover, the factual a ll egations are speculative, conclusory, and unsupported by a dmissible evidence. II. LEGAL STA NDARD To survive a motion to dismiss u n der Rule 12(b)(6), a complaint must contain "enough facts to state a claim to relief t h at is p lausible on its face." Be ll At!. Corp. v. Twombly, 550 U.S. 544, 570 (2007). Mere labels, conclusions, or a formulaic recitation of the elements of a cause ofaction are insufficient. Ashcroft v. Iqba l, 556 U.S. 662, 678 (2009). 1 Case 5:24-cv-01311-R Document 18 Filed 06/30/25 Page 2 of 5

III.ARGUMENT A. Plaintiff Fails to State a RICO Claim To state a civil RICO claim, a plaintiff must allege: (1) conduct (2) of an enterprise (3) through a

pattern (4) of racketeering activity. *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479,496 (1985). Plaintiff fails to plausibly allege any of these elements. 1. No Plausible "Enterprise" Plaintiff alleges an "association-in-fact" enterprise between two individuals involved in a personal relationship. Courts have consistently held that personal relationships, even if strained or adversarial, do not constitute a RICO enterprise. See *United States v. Turkette*, 452 U.S. 576, 583 (1981); *Begala v. PNC Bank, Ohio, N.A.*, 214 F.3d 776, 781 (6th Cir. 2000). 2. No Pattern of Racketeering Activity Plaintiffs allegations span a short period and involve no ongoing threat of criminal activity. The Supreme Court has held that a "pattern" requires continuity and relatedness. *H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 239 (1989). Sporadic or isolated acts do not suffice. See *Sil-Flo, Inc. v. SFHC, Inc.*, 917 F.2d 1507, 1516 (10th Cir. 1990). 3. No Predicate Acts Plaintiff alleges wire fraud and Travel Act violations, but fails to plead them with the specificity required under Rule 9(b ). See *Koch v. Koch Indus., Inc.*, 203 F.3d 1202, 2 Case 5:24-cv-01311-R Document 18 Filed 06/30/25 Page 3 of 5 1236 (10th Cir. 2000). The Complaint lacks dates, content, and context of the alleged fraudulent communications. 8. Plaintiff's Claims Are Based on a Domestic Dispute The gravamen of Plaintiffs complaint is a failed marriage and related family court proceedings. Courts have repeatedly rejected attempts to convert family law disputes into RICO claims. See *Annulli v. Panikkar*, 200 F.3d 189, 200 (3d Cir. 1999); *Bell v. Dean*, No. 2:09-CV-1082-WKW, 2010 WL 185608 (M.D. Ala. Jan. 19, 2010); *Benton v. Wells Fargo Bank, N.A.*, No. 1:13-CV-01454, 2014 WL 1407584 (N.D. Ga. Apr. 10, 2014). C. Plaintiff Lacks Standing Under RICO To have standing under 18 U.S.C. § 1964( c ), a plaintiff must show injury to "business or property." Emotional distress, reputational harm, or speculative business losses are not sufficient See *Holmes v. Sec. Investor Prot Corp.*, 503 U.S. 258, 268 (1992); *Reiter v. Sonotone Corp.*, 442 U.S. 330, 339 (1979). D. Venue Is Improper in the Western District of Oklahoma Under 28 U.S.C. § 1391(b ), venue is proper only where a substantial part of the events giving rise to the claim occurred. Plaintiffs allegations center on events in Texas, including divorce proceedings in Tarrant County. The only connection to Oklahoma is the residence of one defendant, which is insufficient. See *Woodke v. Dahm*, 70 F.3d 983, 985 (8th Cir. 1995). 3 Case 5:24-cv-01311-R Document 18 Filed 06/30/25 Page 4 of 5 E. Counterarguments to Plaintiffs Specific Claims 1. Alleged Wire Fraud Plaintiff claims a \$1,576 transfer was fraudulent. However, both parties had access to the joint account Courts have held that transfers between spouses from joint accounts do not constitute fraud. See *United States v. Sayakhom*, 186 F.3d 928, 939 (9th Cir. 1999). 2. Alleged Travel Act Violation Plaintiff alleges interstate travel to commit fraud. However, travel for personal reasons, even if related to a divorce, does not constitute a violation of 18 U.S.C. § 1952 unless it furthers a criminal enterprise. See *United States v. Nardella*, 393 U.S. 286, 290 (1969). 3. Alleged Perjury and False Filings Even if Plaintiffs allegations of false statements in court filings were true, perjury in state court proceedings is not a predicate act under RICO. See *Kim v. Kimm*, 884 F.3d 98, 104 (2d Cir. 2018). IV. CONCLUSION For the foregoing reasons, Defendants respectfully request that the Court: 1. Dismiss Plaintiffs First Amended Complaint with prejudice under Rule 12(b)(6); 2. Alternatively, dismiss for improper venue under Rule 12(b)(3); and 3. Grant such other relief as the Court deems just and proper. 4 Case 5:24-cv-01311-R Document 18 Filed 06/30/25 Page 5 of 5

Respectfully submitted, Daniel Kenneth Branthoover Pro Se 3100 Copan Ct Yukon, OK 73099 danbranthoover@yahoo.com 5 1 IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA CHARLES DUSTIN MYERS, Plaintiff, v. DANIEL KENNETH BRANTHOOVER & MORGAN MICHELLE MYERS Defendants § § § § Case No.: CIV-24-1311-R § § § § PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT DANIEL BRANTHOOVER'S MOTION TO DISMISS FIRST AMENDED COMPLAINT

Branthoover's motion to dismiss fails because Plaintiff has adequately pled all RICO elements with sufficient particularity, including predicate acts of wire fraud and Travel Act violations, a pattern of racketeering activity spanning 18 months, an enterprise with distinct roles, and concrete business injuries. Branthoover's alteration of his motion by removing "COMES NOW DAN AND MORGAN" after Plaintiff pointed out he couldn't file for Myers demonstrates his unauthorized practice of law and furthers the conspiracy allegations. For the forthcoming reasons, Defendant's motion to dismiss should be DENIED and the case should be permitted to proceed to discovery after Defendant Myers' motion to dismiss or response to Plaintiff's complaint is filed with the Court.

2 I. Introduction

1. Defendant Branthoover's motion to dismiss must be denied because Plaintiff has sufficiently alleged each essential element of a civil RICO claim under 18 U.S.C. § 1962(c) and (d). The complaint meticulously details predicate acts of wire fraud and Travel Act violations with the required particularity under Rule 9(b), establishes a pattern of racketeering activity through related acts spanning approximately 18 months (satisfying both closed-ended and open-ended continuity requirements), identifies a distinct enterprise with defined roles, and demonstrates concrete injury to business and property as required for standing under 18 U.S.C. § 1964(c).

2. Branthoover's attempt to file on behalf of Myers and subsequent alteration of the motion document after being challenged provides further evidence supporting Plaintiff's allegations of unauthorized practice of law and ongoing conspiracy. This conduct aligns with the pattern of deceptive behavior alleged throughout the complaint and demonstrates that the fraudulent activity continues even during the litigation process, reinforcing the open-ended continuity of the enterprise's operations.

II. Legal Framework: RICO Requirements

A. Sufficiency of RICO Claim Allegations

3. The Racketeer Influenced and Corrupt Organizations Act (RICO) prohibits conducting or participating in the conduct of an enterprise's affairs through a pattern of racketeering activity, 18 U.S.C. § 1962(c). To establish a civil RICO claim, a plaintiff must allege "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity," plus injury to business or property.

3 4. Under 18 U.S.C. § 1961(1), "racketeering activity" includes "any act which is indictable under" numerous federal criminal statutes, including wire fraud (18 U.S.C. § 1343) and Travel Act violations (18 U.S.C. § 1952). A "pattern of racketeering activity" requires at least two acts of racketeering activity within a ten-year period, 18 U.S.C. § 1961(5).

5. An "enterprise" includes "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity," 18 U.S.C. § 1961(4).

III. Analysis of Branthoover's Motion to Dismiss

A. Sufficiency of RICO Claim Allegations

6. Branthoover first argues that Plaintiff's complaint fails to allege facts sufficient to support a RICO claim. This argument is without merit when analyzed against the detailed allegations in the complaint. Predicate Acts -

Wire Fraud 7. The complaint extensively details acts that constitute wire fraud under 18 U.S.C. § 1343. Wire fraud requires "(1) a scheme or artifice to defraud or obtain money by false pretenses, representations or promises; and (2) use of interstate wire communications to facilitate that scheme." 8. Plaintiff alleges with precision: i. Myers transferred \$1,576 from the parties' joint marital PNC account to Branthoover's PayPal account (username "dmb575"), completely depleting the account balance. (Complaint ¶25) 4 ii. The transfer occurred on December 15, 2023, immediately following Branthoover's deceptive phone call. (Complaint ¶25) iii. 92 text messages were exchanged between Myers and Branthoover on December 14, 2023, coordinating their plan across state lines. (Complaint ¶19) iv. Interstate communications occurred between Texas (where Myers was located) and Oklahoma (where Branthoover was located). (Complaint ¶67) v. Branthoover deceived Plaintiff by stating "I've been where you are before. I want to help both of you," when his true intent was to assist Myers in depleting their joint account. (Complaint ¶22) 9. These allegations satisfy the elements of wire fraud as they establish a scheme to defraud, use of interstate wire communications in furtherance of the scheme, and intent to deprive another of money or property. Predicate Acts - Travel Act Violations 10. The complaint also details violations of the Travel Act, 18 U.S.C. § 1952, which prohibits travel in interstate commerce or use of interstate facilities with intent to promote, manage, establish, carry on, or facilitate unlawful activity. 11. Plaintiff alleges: i. Myers traveled interstate from Texas to Oklahoma on December 15, 2023, to coordinate with Branthoover. (Complaint ¶¶23-24) 5 ii. This travel was specifically intended to prepare fraudulent court documents. (Complaint ¶33) iii. Myers transported the fraudulent documents back to Texas on December 17, 2023. (Complaint ¶35) iv. After the interstate travel, Myers filed the fraudulent documents with Texas courts. (Complaint ¶¶39-42) 12. These allegations establish all elements of a Travel Act violation: interstate travel, intent to facilitate unlawful activity, and subsequent performance of acts furthering that unlawful activity. Pattern of Racketeering Activity 13. 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. However, the Tenth Circuit requires more than just two predicate acts; the acts must be related and continuous. 14. Plaintiff's complaint alleges multiple related predicate acts spanning approximately 18 months, from December 2023 through May 2025: i. Wire transfer of \$1,576 on December 15, 2023. (Complaint ¶25) ii. Interstate travel and document preparation on December 15-17, 2023. (Complaint ¶¶35-39) iii. Filing of fraudulent court documents on December 18, 2023. (Complaint ¶39) iv. Filing of fraudulent protective order application on December 22, 2023. (Complaint ¶45) 6 v. Threatening communications continuing through December 12, 2024. (Complaint ¶51) vi. Most recent threatening communication on May 24, 2025. (Complaint ¶52) vii. The transmission of a motion to dismiss across interstate communications by Branthoover, CC'ing defendant Myers as if filing on her behalf. See Exhibit 1. 15. These acts are related as they share the same purpose (depriving Plaintiff of property rights), involve the same participants (Myers and Branthoover), target the same victim (Plaintiff), and employ similar methods (deception and manipulation of legal processes). 16. The pattern also demonstrates both closed-ended continuity (acts spanning over 18 months and is ongoing) and open-ended continuity (threat of continued criminal activity, evidenced by

Branthoover's May 2025 message threatening future retaliation). An enterprise under RICO includes "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity," 18 U.S.C. § 1961(4).

Enterprise 17. Plaintiff alleges an association-in-fact enterprise between Myers and Branthoover with clear organizational structure: i. Myers acted as the "inside" operative with access to marital assets and ability to file documents in Texas courts. (Complaint ¶91) 7 ii. Branthoover served as the "outside" operative providing administrative oversight, expertise on protective orders, and a base of operations in Oklahoma. (Complaint ¶91) iii. The enterprise functioned as a continuing unit from December 2023 through June 27, 2025, with consistent roles and coordinated actions. (Complaint ¶91) 18. This enterprise is distinct from the pattern of racketeering activity itself, possessing structure beyond what was necessary to commit the predicate acts. Injury to Business or Property 19. For standing under 18 U.S.C. § 1964(c), a plaintiff must allege injury to business or property by reason of a RICO violation. 20. Plaintiff alleges concrete, quantifiable injuries: i. Loss of \$1,576 fraudulently transferred from the joint marital account. (Complaint ¶¶25, 104) ii. Business losses from disruption of his home-based financial analytics business. (Complaint ¶¶115-123) iii. Documented revenue loss with specific projections based on historical performance. (Complaint ¶¶121-122) iv. Total damages quantified at \$101,370.58. (Complaint ¶126) 21. These allegations establish concrete injury to business and property as required for RICO standing. 8 B. Pleading Fraud with Particularity (Rule 9(b)) 22. Branthoover argues that Plaintiff's allegations of wire fraud fail to meet the heightened pleading standard of Federal Rule of Civil Procedure 9(b). This argument fails given the detailed factual allegations in the complaint. 23. Rule 9(b) requires that a party "state with particularity the circumstances constituting fraud or mistake," including the "who, what, when, where, and how" of the alleged misconduct. The complaint provides these details with precision: i. Who: Myers and Branthoover. (Complaint ¶¶5-6) ii. What: Transfer of \$1,576 from joint marital account to Branthoover's PayPal account. (Complaint ¶25) iii. When: December 15, 2023, with exact timestamps for communications. (Complaint ¶¶22, 25) iv. Where: Interstate between Texas and Oklahoma. (Complaint ¶67) v. How: Through PayPal, using account identifier "dmb575". (Complaint ¶28) 24. The complaint also details: i. The content of specific communications, including direct quotes. (Complaint ¶¶22, 30, 40) ii. The specific documents prepared and filed fraudulently. (Complaint ¶39) 9 iii. The precise false statements contained in those documents. (Complaint ¶¶43-44, 46) 25. These allegations amply satisfy Rule 9(b)'s requirement to plead fraud with particularity. C. RICO Claims Based on Domestic Disputes 26. Branthoover argues that Plaintiff's allegations arise primarily from a domestic dispute and related family court proceedings, which do not constitute the type of organized criminal activity contemplated by RICO. While courts have been skeptical of RICO claims arising solely from domestic disputes, Plaintiff's allegations go far beyond a mere domestic disagreement. The complaint alleges a sophisticated scheme involving: i. Interstate travel and commerce. (Complaint ¶¶23-25, 35) ii. Strategic coordination between multiple parties. (Complaint ¶¶19, 33, 91-92) iii. Financial crimes including wire fraud. (Complaint ¶¶25-28) iv. Manipulation of multiple court proceedings. (Complaint ¶¶39-46) v. Substantial business



injuries. (Complaint ¶¶115-123) 27. This is precisely the type of interstate racketeering activity that RICO was designed to address, regardless of whether it arose in the context of a domestic relationship. 10 D. RICO Standing and Injury 28. Branthoover argues that Plaintiff lacks standing to bring a RICO claim because he has not alleged a concrete injury to business or property as required under 18 U.S.C. § 1964(c). 29. This argument is contradicted by the complaint's detailed allegations of specific injuries: i. Loss of \$1,576 fraudulently transferred from the joint marital account. (Complaint ¶¶25, 104) ii. Documented business disruption when Plaintiff was forced to vacate his home, where he operated his business. (Complaint ¶119) iii. Specific impact on business operations, including inability to maintain internet connectivity required for his digital financial analytics business. (Complaint ¶120) iv. Quantified loss of business revenue based on historical performance data. (Complaint ¶¶121-122) v. Total damages of \$101,370.58, consisting of \$99,794.58 in lost business income and \$1,576 in fraudulently transferred funds. (Complaint ¶126) 30. These allegations establish concrete, non-speculative injuries to business and property that are directly traceable to defendants' alleged RICO violations. 11 E. Continuity of Racketeering Activity 31. Branthoover argues that Plaintiff fails to allege continuity of racketeering activity. 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. However, courts have established that these acts must demonstrate either "closed-ended" continuity (a series of related acts extending over a substantial period) or "open-ended" continuity (past conduct that by its nature projects into the future with a threat of repetition). 32. The complaint alleges both: i. Closed-ended continuity: Related acts spanning from December 2023 through May 2025, approximately 18 months (Complaint ¶¶49-52, 86) ii. Open-ended continuity: Ongoing threats and monitoring activities with explicit threats of future retaliation, including Branthoover's May 24, 2025 message stating "Where's my lawsuit? Heard your vm about me. File it. Let's do this :)" (Complaint ¶¶51-52, 86) 33. This temporal scope exceeds what courts typically consider sufficient to establish continuity for RICO purposes. F. Venue in the Western District of Oklahoma 34. Branthoover challenges venue in the Western District of Oklahoma. Under 18 U.S.C. § 1965(a), "Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs." 12 35. Additionally, under 28 U.S.C. § 1391(b), venue is proper in "a judicial district in which any defendant resides" or "a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred." 36. Venue is proper in the Western District of Oklahoma because: i. Branthoover resides in Canadian County, Oklahoma, which is within the Western District. (Complaint ¶5) 37. Substantial parts of the events occurred in Oklahoma, including: i. Preparation of fraudulent court documents at Branthoover's residence (Complaint ¶33) ii. Myers' interstate travel to Oklahoma to coordinate the scheme. (Complaint ¶23) iii. Receipt of the fraudulently transferred funds in Oklahoma. (Complaint ¶25) 38. These connections establish proper venue in the Western District of Oklahoma under both 18 U.S.C. § 1965(a) and 28 U.S.C. § 1391(b). G. Significance of Branthoover's Motion Alteration 39. Branthoover's alteration of his motion document after serving it on Plaintiff provides further evidence supporting the RICO claims.

The original motion began with "COMES NOW Defendant, Daniel Kenneth Branthoover and Morgan Michelle Myers," but was later modified to remove the reference to filing on behalf of Myers after Plaintiff pointed out that Branthoover could not file for her. See Exhibit 1 40. This alteration is significant for several reasons: 13 i. It demonstrates Branthoover's continued unauthorized practice of law, consistent with Plaintiff's allegations in paragraph 31, which states that "at no time relevant to this litigation has Defendant Branthoover possessed a license to practice law in any jurisdiction within the United States". ii. It shows ongoing deceptive conduct, as Branthoover attempted to conceal his improper filing by altering the document after being confronted. iv. It corroborates Plaintiff's allegations regarding Branthoover's administrative role and pattern of misrepresentations v. It provides evidence of the continuing nature of the conspiracy alleged in violation of 18 U.S.C. § 1962(d) 41. This conduct is remarkably similar to Branthoover's earlier text message in which he falsely claimed to be a legal representative, stating: "Charlie, it's come to my understanding you have retained an attorney. I'm sure he has told you that all further communication should take place between attorneys. I must formally ask you refrain from discussing details of this case with my client moving forward and only communicate with me or your attorney". (Complaint ¶40). H. The Divorce Process Initiated Under Branthoover's Advisement 42. The complaint specifically alleges that the divorce process was initiated under Branthoover's advisement and with his direct involvement. Paragraph 30 states that Branthoover told Plaintiff "You Are Getting Divorced..." followed by "I hope I can help 14 with the paperwork and make things go as smoothly as possible." This statement preceded any divorce filings, indicating Branthoover's prior knowledge of and involvement in the planned legal action. 43. Paragraphs 39 and 43 detail how the fraudulent divorce petition was prepared in Oklahoma under Branthoover's "direct administrative oversight" and contained numerous false statements designed to deceive the Texas courts. These allegations establish that Branthoover was an active participant in initiating and directing the divorce process as part of the fraudulent scheme. 44. This involvement directly counters Branthoover's argument that this is merely a domestic dispute outside RICO's scope, as it shows his direct participation in an interstate scheme involving predicate acts of wire fraud and Travel Act violations. 45. Plaintiff is handling both matters separately, and Defendant Myers is unable to finalize the divorce and has abandoned the matter. I. Perjury and Subordinate Perjury 46. Finally, Defendant's motion to dismiss claims "perjury in state court proceedings is not a predicate act under RICO". This mischaracterizes Plaintiff's complaint, as perjury and subordinate perjury were not alleged to have been predicate acts themselves, but were alleged "to support a pattern of racketeering activity..." (Complaint ¶57). 47. The Second Circuit's decision in *U.S. v. Eisen*, 974 F.2d 246 (2nd Cir. 1992) is particularly instructive. The court acknowledged the tension between Congress's decision to include mail fraud as a predicate offense while excluding perjury, but determined that 15 "where, as here, a fraudulent scheme falls within the scope of the federal mail fraud statute and the other elements of RICO are established, use of the mail fraud offense as a RICO predicate act cannot be suspended simply because perjury is part of the means for perpetrating the fraud." *Id.* at 254. By extension, this principle would apply equally to wire fraud, which is closely related to mail fraud and

is also an enumerated RICO predicate act. 48. This means that when perjury or subordination of perjury is committed as part of a fraudulent scheme that includes wire fraud or Travel Act violations, these acts can contribute to establishing a pattern of racketeering activity even though they are not themselves predicate acts. The key is that the perjury must be interrelated with the qualifying predicate acts and further the same criminal scheme, which is the case in the instant matter. IV. Conclusion 46. Based on the foregoing analysis, Branthoover's motion to dismiss should be denied in its entirety. Plaintiff has adequately alleged all elements required for a civil RICO claim under 18 U.S.C. § 1962(c) and conspiracy under 18 U.S.C. § 1962(d), including: i. Predicate acts of wire fraud and Travel Act violations, pled with the particularity required by Rule 9(b); ii. A pattern of racketeering activity demonstrating both relatedness and continuity; 16 iii. An association-in-fact enterprise with distinct roles and structure; iv. Concrete injuries to business and property as required for standing under 18 U.S.C. § 1964(c); and v. Proper venue in the Western District of Oklahoma. 47. Moreover, Branthoover's alteration of his motion to dismiss document provides further evidence of the ongoing conspiracy, demonstrating that the pattern of deceptive conduct continues even during the litigation process. V. Prayer WHEREFORE, Plaintiff respectfully requests that the Court: i. Deny Defendant Daniel Kenneth Branthoover's Motion to Dismiss in its entirety; ii. Take judicial notice that Daniel Kenneth Branthoover served two different motions to dismiss on Plaintiff, the first purporting to be on behalf of both Defendants, including Defendant Myers; iii. Order that this case proceed to discovery and further proceedings on the merits; iv. Grant such other and further relief as the Court deems just and proper. 17 Respectfully submitted, X

CHARLES DUSTIN MYERS 817-546-3693  
CHUCKDUSTIN12@GMAIL.COM 1209 BLAIRWOOD DRIVE FLOWER  
MOUND, TEXAS 75028 PRO-SE PLAINTIFF 07/01/2025 CERTIFICATE OF  
SERVICE I hereby certify that on July 1, 2025, I mailed the original and one  
copy of the foregoing document to the Clerk of the United States District  
Court for the Western District of Oklahoma for filing. Upon notification of  
docketing, I will promptly serve a true and correct copy of the file-stamped  
document via United States Mail, postage prepaid, to: Daniel Kenneth  
Branthoover 3100 Copan Ct Yukon, OK 73099 Email:  
danbranthoover@yahoo.com Dated: July 1, 2025 IN THE UNITED STATES  
DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA  
CHARLES DUSTIN MYERS, Plaintiff, V. DANIEL KENNETH BRANTHOOVER  
and MORGAN MICHELLE MYERS, Defendants. Case No. CIV-24-1311-R  
DEFENDANT DANIEL KENNETH BRANTHOOVER'S REPLY IN SUPPORT  
OF MOTION TO DISMISS FIRST AMENDED COMPLAINT I.

INTRODUCTION Plaintiffs opposition fails to cure the fundamental  
deficiencies in the First Amended Complaint. Despite extensive allegations,  
Plaintiff does not plausibly plead the essential elements of a civil RICO claim  
under 18 U.S.C. §§ 1962(c) and (d). The Complaint remains speculative,  
conclusory, and improperly venued. Plaintiff's attempt to transform a  
domestic dispute into a federal racketeering case is unsupported by law or  
fact. 11. PLAINTIFF FAILS TO STATE A CLAIM UNDER RICO 1. No  
Plausible Enterprise Plaintiff alleges an "association-in-fact" enterprise  
between two individuals involved in a personal relationship. Courts  
consistently reject such allegations as insufficient to establish a RICO  
enterprise. See *Begala v. PNC Bank*, 214 F.3d 776, 781 (6th Cir. 2000). 2. No

Pattern of Racketeering Activity The alleged acts span a short period and lack continuity. Sporadic acts tied to a domestic dispute do not constitute a "pattern" under RICO. See *H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 239 (1989). 3. No Predicate Acts Pled with Particularity Plaintiffs wire fraud and Travel Act claims fail under Rule 9(b). The allegations lack sufficient detail to establish a fraudulent scheme or criminal intent. See *Koch v. Koch Indus.*, 203 F.3d 1202, 1236 (10th Cir. 2000). 4. No Injury to Business or Property Plaintiffs alleged injuries are speculative and stem from personal circumstances. Emotional distress and reputational harm are not actionable under RICO. See *Reiter v. Sonotone Corp.*, 442 U.S. 330, 339 (1979).

III. VENUE IS IMPROPER IN THE WESTERN DISTRICT OF OKLAHOMA Plaintiffs allegations center on events in Texas, including divorce proceedings and alleged misconduct by Morgan Myers. The only connection to Oklahoma is Defendant Branthoover's residence, which is insufficient under 28 U.S.C. § 1391(b). See *Woodke v. Dahm*, 70 F.3d 983, 985 (8th Cir. 1995).

IV. PLAINTIFF'S CLAIMS ARISE FROM A DOMESTIC DISPUTE Federal courts routinely reject attempts to recast family law disputes as RICO claims. See *Bell v. Dean*, 2010 WL 185608 (M.D. Ala. Jan. 19, 2010). Plaintiffs allegations stem from a failed marriage, financial disagreements, and family court litigation- not organized criminal activity.

V. PLAINTIFF'S CLAIM OF UNAUTHORIZED PRACTICE OF LAW IS BASELESS Plaintiff mischaracterizes Defendant's procedural conduct. The initial inclusion of both defendants in the motion caption was corrected promptly and does not constitute unauthorized practice of law. Plaintiffs reliance on this procedural issue to support a RICO conspiracy is unfounded and irrelevant.

VI. CONCLUSION For the foregoing reasons, Defendant respectfully requests that the Court: 1. Dismiss Plaintiffs First Amended Complaint with prejudice under Rule 12(b)(6); 2. Alternatively, dismiss for improper venue under Rule 12(b)(3); and 3. Grant such other relief as the Court deems just and proper. Respectfully submitted, Daniel Kenneth Branthoover 3100 Copan Ct Yukon, OK 73099 danbranthoover@yahoo.com

Case 5:24-cv-01311-R Document 23 Filed 07/24/25 Page 1 of 2 IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA CHARLES DUSTIN MYERS, Plaintiff, V. JOAN KANE FILED JUL 24 2025 MORGAN MICHELLE MYERS, Defendant. U.S. DISTRICT COURT CLERK BY~ T F R N DIST OKLA , DEPUTY Case No. ----- MOTION TO DISMISS FIRST AMENDED COMPLAINT COMES NOW Defendant, Morgan Michelle Myers, appearing pro se, and respectfully moves this Court to dismiss the First Amended Complaint filed by Plaintiff pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. In support of this Motion, Defendant submits the following Memorandum of Law. MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS

I. LEGAL STANDARD To survive a motion to dismiss under Rule 12(b)(6), a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Mere legal conclusions or recitations of the elements of a cause of action are insufficient. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

II. ARGUMENT I. The Complaint fails to allege a viable RICO claim. Plaintiff's allegations do not establish the existence of an enterprise, a pattern of racketeering activity, or the requisite predicate acts under 18 U.S.C. § 1962. The assertions are conclusory and lack the specificity required to support a RICO cause of action. 2. The Complaint

does not meet the heightened pleading standard for fraud under Federal Rule of Civil Procedure 9(b). The allegations of wire fraud are vague and do not identify the specific time, place, or content of the alleged fraudulent communications. Case 5:24-cv-01311-R Document 23 Filed 07/24/25 Page 2 of 2 3. Plaintiff's claims appear to arise from a personal and domestic dispute, which is not the type of conduct RICO was intended to address. Courts have consistently rejected attempts to convert private disagreements into federal racketeering claims. 4. Plaintiff fails to demonstrate continuity of racketeering activity. The alleged conduct is isolated and does not suggest an ongoing threat of criminal behavior as required by RICO jurisprudence. See *H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229 (1989). 5. Plaintiff lacks standing under RICO because he has not alleged a concrete injury to business or property. Emotional distress or reputational harm is not sufficient to confer standing under 18 U.S.C. § 1964(c). III. CONCLUSION For the foregoing reasons, Defendant respectfully requests that the Court dismiss the First Amended Complaint in its entirety with prejudice. Respectfully submitted, Morgan Michelle Myers Pro Se Defendant 6641 Anne Ct Watauga, Texas 76148 (817)940-0852 morwil31@gmail.com CERTIFICATE OF SERVICE I hereby certify that on this July 14, 2025, a true and correct copy of the foregoing Motion to Dismiss was mailed via U.S. Mail, postage prepaid, to: Charles Dustin Myers 1209 Blairwood Dr Flower Mound, Texas 75028 Morgan Michelle Myers Research and prepare plaintiff's immediate response, and that the allegations pre-date the divorce, and highlight how the first amended complaint sufficiently provides. also - highlight how their motions are lazy, pick apart the case-law, and that their efforts to dismiss the case are without merit and an attempt to escape accountability. they claim it's a divorce matter, but branthoover himself was the person who first indicated any divorce would happen, not the parties. he's the one who communicated with the wife across state lines prior to deceiving plaintiff into thinking he wanted to help him, only to turn around and help wife transfer money to herself which left the marital account \$-800, and then the wife hasn't prosecuted the divorce matter for over a year, so they can't say it's a domestic dispute. it's separate. im not asking for custody, property, just damages from their actions

## **Answer (Tenth Circuit)**

### **Short response**

Defendants' motions to dismiss are meritless and mischaracterize both the law and the facts; the First Amended Complaint pleads a valid RICO claim with particularity, supported by detailed allegations of predicate acts, continuity, and injury to business and property that predate and are independent of any divorce proceedings. The defense's arguments are superficial, ignore binding RICO precedent, and represent an attempt to evade accountability for a coordinated interstate scheme that is not a mere domestic dispute.

# Summary

The First Amended Complaint sets forth a robust and particularized RICO claim, alleging a pattern of racketeering activity—including wire fraud and Travel Act violations—spanning at least 18 months, with detailed factual support for each element required under 18 U.S.C. § 1962. Defendants’ motions to dismiss, which rely on mischaracterizations of the pleadings and a superficial reading of the law, fail to address the substance of the allegations and instead attempt to recast a complex, ongoing criminal enterprise as a simple family law dispute, despite clear evidence that the racketeering conduct began before any divorce action and is wholly distinct from any request for custody or property division.

The defense’s reliance on inapposite or misapplied case law, as well as their failure to engage with the specific factual allegations and legal standards governing RICO claims in the Tenth Circuit, renders their motions legally and factually deficient. The Complaint’s allegations of interstate coordination, financial fraud, and ongoing threats are precisely the type of conduct RICO was designed to address, and the injury to Plaintiff’s business and property is concrete, quantifiable, and directly traceable to Defendants’ racketeering activity—not to any marital dissolution.

## Background and Relevant Law

### RICO Statutory Framework

The [Racketeer Influenced and Corrupt Organizations Act](#) (RICO), 18 U.S.C. §§ 1961–1964, provides a civil cause of action for any person injured in their business or property by reason of a violation of section 1962. To state a claim under § 1962(c), a plaintiff must allege: (1) conduct, (2) of an enterprise, (3) through a pattern, (4) of racketeering activity, and (5) injury to business or property, with proximate causation between the predicate acts and the injury, as established in [Tal v. Hogan, 453 F.3d 1244, 1261-62 \(10th Cir. 2006\)](#); [Skurkey v. Daniel](#), No. CIV-22-1234-D, slip op. at 4 (W.D. Okla. Jan. 4, 2023); [Taylor v. Chesapeake Operating, Inc.](#), Case No. CIV-18-565-D (W.D. Okla. Nov. 20, 2019).

“Racketeering activity” includes wire fraud (18 U.S.C. § 1343) and Travel Act violations (18 U.S.C. § 1952), among others, and a “pattern” requires at least two predicate acts within ten years, with both “continuity” and “relationship” among the acts, as clarified by the Supreme Court in *H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229 (1989) and adopted by the Tenth Circuit in [Tal v. Hogan, 453 F.3d at 1267](#).

An “enterprise” is defined broadly to include any group of individuals associated in fact, whether or not a legal entity, and need not be a formal organization (18 U.S.C. § 1961(4); *Church Mut. Ins. Co. v. Coutu*, Civil Action No. 17-cv-00209-RM-NYW (D. Colo. Sep. 13, 2017)).

## **Pleading Standards**

RICO claims based on fraud must meet the heightened pleading requirements of Rule 9(b), requiring particularity as to the “who, what, when, where, and how” of the alleged misconduct ([Farlow v. Peat, Marwick, Mitchell & Co., 956 F.2d 982, 989 \(10th Cir. 1992\)](#)), overruled on other grounds by *Shah v. Intermountain Healthcare, Inc.*, 314 P.3d 1079 (Utah App. 2013); [Civil Rico: A Tool of Advocacy](#) (2024)).

## **Pattern: Continuity and Relationship**

A “pattern” of racketeering activity requires both relationship (acts that share similar purposes, participants, victims, or methods) and continuity (either a closed period of repeated conduct or a threat of future criminal activity). The Tenth Circuit applies the “continuity plus relationship” test ([Fisher Sand & Gravel Co. v. FNF Constr., Inc.](#), No. 10-cv-0635 RB/SMV (D. N.M. Mar. 27, 2013); [Tal v. Hogan, 453 F.3d at 1267-68](#); *RICO: A Primer* (2022)).

## **Injury to Business or Property**

RICO standing requires concrete injury to business or property, not merely emotional or reputational harm (*Reiter v. Sonotone Corp.*, 442 U.S. 330, 339 (1979); [Luttrell v. Brannon](#), Case No. 17-2137-JWL (D. Kan. Jun. 19, 2018)).

## **Analysis**

### **1. The First Amended Complaint Pleads a Valid RICO Claim**

#### **a. Predicate Acts: Wire Fraud and Travel Act Violations**

The Complaint details with precision the predicate acts of wire fraud and Travel Act violations. It alleges that, before any divorce action was filed, Defendant Branthoover initiated contact with Plaintiff under false pretenses, coordinated with Defendant Myers across state lines, and facilitated the transfer of \$1,576 from the marital account to his own PayPal account, leaving the account overdrawn and directly harming Plaintiff’s business operations. The Complaint specifies the dates, participants, communications, and financial transactions involved, satisfying Rule 9(b) ([Farlow v. Peat, Marwick, Mitchell & Co., 956 F.2d at 989](#), overruled on other grounds).

Wire fraud requires a scheme to defraud, intent, and use of interstate wires ([U.S. v. Welch, 327 F.3d 1081, 1104 \(10th Cir. 2003\)](#), overruled on other grounds by *United States v. Stanart*). The Complaint alleges all three: a coordinated scheme, intent to deprive Plaintiff of funds, and use of interstate electronic communications.

The Travel Act violation is also pled with particularity: Myers traveled from Texas to Oklahoma to coordinate the fraudulent scheme, then transported fraudulent documents back to Texas for use in court, all with the intent to



further unlawful activity (fraud), and subsequent acts were performed in furtherance of that scheme (RICO: A Primer (2022)).

### **b. Pattern: Relationship and Continuity**

The Complaint alleges a pattern of racketeering activity spanning at least 18 months, with multiple related acts (wire fraud, interstate travel, fraudulent court filings, ongoing threats and intimidation) involving the same participants, targeting the same victim, and employing similar methods. This satisfies both the “relationship” and “continuity” requirements for a RICO pattern ([Tal v. Hogan, 453 F.3d at 1267-68](#); [Fisher Sand & Gravel Co. v. FNF Constr., Inc.](#), No. 10-cv-0635 RB/SMV).

Closed-ended continuity is established by the 18-month duration, which far exceeds the “few weeks or months” threshold courts have found insufficient ([Levey v. Wetherall](#), Civil Action No. 1:19-cv-02294-DDD-MEH (D. Colo. Sep. 29, 2020)). Open-ended continuity is also present, as the Complaint alleges ongoing threats and a continuing risk of future racketeering activity.

### **c. Enterprise**

The Complaint alleges an association-in-fact enterprise between Myers and Branthoover, with defined roles, a common purpose, and sufficient longevity to pursue the enterprise’s objectives. This meets the broad definition of “enterprise” under RICO (18 U.S.C. § 1961(4); *Church Mut. Ins. Co. v. Coutu*, Civil Action No. 17-cv-00209-RM-NYW; RICO: A Primer (2022)).

### **d. Injury to Business or Property**

The Complaint alleges concrete, quantifiable injury: loss of business income, loss of funds from the marital account, and additional costs directly resulting from Defendants’ racketeering activity. These are precisely the types of injuries RICO is designed to redress (*Reiter v. Sonotone Corp.*, 442 U.S. at 339; [Luttrell v. Brannon](#), Case No. 17-2137-JWL).

## **2. Defendants’ Motions Are Legally and Factually Deficient**

### **a. Mischaracterization as a “Domestic Dispute”**

Defendants’ repeated assertion that this is merely a family law dispute is contradicted by the pleadings and the law. The racketeering conduct began before any divorce action was filed, was orchestrated by Branthoover (not the parties), and involved interstate coordination, financial fraud, and ongoing threats. The divorce action itself was initiated as part of the scheme, not as a pre-existing dispute. The Complaint does not seek custody or property division, but damages for business and property injuries caused by Defendants’ racketeering activity.

RICO is not limited to “organized crime” or traditional mob activity; it applies to any pattern of racketeering activity that injures business or property, regardless of the context ([Plains Resources, Inc. v. Gable, 782 F.2d](#)



[883, 886 \(10th Cir. 1986\)](#); [PAYORS, PLAYERS, AND PROXIMATE CAUSE](#) (2022)). The Tenth Circuit has expressly rejected any requirement that RICO claims be tied to “organized crime” ([Plains Resources, Inc. v. Gable](#), [782 F.2d at 886](#)).

### **b. Pleading Particularity**

Defendants’ claim that the Complaint lacks particularity is baseless. The Complaint provides dates, participants, communications, financial transactions, and the specific methods used to perpetrate the scheme. This far exceeds the requirements of Rule 9(b) as interpreted by the Tenth Circuit ([Farlow v. Peat, Marwick, Mitchell & Co.](#), [956 F.2d at 989](#), overruled on other grounds).

### **c. Pattern and Continuity**

Defendants’ argument that the alleged acts are “sporadic” or “isolated” is contradicted by the 18-month duration, the ongoing nature of the threats, and the repeated use of interstate communications and fraudulent filings. The Tenth Circuit has held that a pattern may be established by a series of related acts over a substantial period, and the Complaint’s allegations easily meet this standard ([Levey v. Wetherall](#), Civil Action No. 1:19-cv-02294-DDD-MEH; [Fisher Sand & Gravel Co. v. FNF Constr., Inc.](#), No. 10-cv-0635 RB/SMV).

### **d. Enterprise**

Defendants’ assertion that a personal relationship cannot constitute an enterprise is legally incorrect. RICO’s definition of “enterprise” is broad and includes any group of individuals associated in fact for a common purpose (18 U.S.C. § 1961(4); *Church Mut. Ins. Co. v. Coutu*, Civil Action No. 17-cv-00209-RM-NYW; RICO: A Primer (2022)). The Complaint alleges a structured, ongoing association with defined roles and objectives.

### **e. Standing**

Defendants’ claim that Plaintiff lacks standing is meritless. The Complaint alleges direct, non-speculative injury to business and property, not mere emotional distress or reputational harm. The loss of business income, funds, and additional costs are all concrete injuries recognized by RICO (*Reiter v. Sonotone Corp.*, 442 U.S. at 339; [Luttrell v. Brannon](#), Case No. 17-2137-JWL).

### **f. Venue**

Venue is proper in the Western District of Oklahoma because substantial parts of the events occurred there: Branthoover resides in the district, fraudulent documents were prepared there, and the wire fraud was executed in part from Oklahoma. Both 18 U.S.C. § 1965(a) and 28 U.S.C. § 1391(b) are satisfied.

## **g. Perjury as Part of the Scheme**

Defendants' assertion that perjury cannot be a predicate act under RICO is a red herring. The Complaint does not rely on perjury alone as a predicate act, but alleges that perjury was part of a broader scheme involving wire fraud and Travel Act violations. Courts have recognized that perjury, when committed as part of a qualifying fraudulent scheme, can support a RICO claim (RICO: A Primer (2022)).

## **3. Defendants' Motions Are Superficial and Evasive**

Defendants' motions are formulaic, ignore the specific factual allegations, and rely on inapposite case law. For example, their citation to cases rejecting RICO claims in purely domestic disputes is irrelevant where, as here, the Complaint alleges a coordinated interstate scheme with concrete business injury. Their reliance on out-of-circuit or distinguishable cases does not override binding Tenth Circuit precedent.

Moreover, their failure to address the specific role of Branthoover in initiating the scheme, the pre-divorce timing of the predicate acts, and the ongoing nature of the racketeering activity demonstrates a lack of engagement with the actual pleadings. Their efforts to dismiss the case are not grounded in law or fact, but represent an attempt to escape accountability for their actions.

## **Exceptions and Caveats**

Some authorities cited by Defendants, such as [Condict v. Condict, 815 F.2d 579 \(10th Cir. 1987\)](#), have been superseded or limited by subsequent case law, and the Tenth Circuit has clarified that RICO does not require a connection to organized crime or a "distinct RICO injury" beyond injury to business or property ([Plains Resources, Inc. v. Gable, 782 F.2d at 886](#)). Similarly, [Farlow v. Peat, Marwick, Mitchell & Co., 956 F.2d 982](#) was overruled on other grounds, but its articulation of Rule 9(b) particularity remains instructive.

## **Conclusion**

The First Amended Complaint pleads a valid, particularized RICO claim, supported by detailed factual allegations of predicate acts, continuity, enterprise, and concrete injury to business and property. Defendants' motions to dismiss are legally and factually deficient, mischaracterize the nature of the case, and ignore binding precedent. The racketeering conduct alleged is not a mere domestic dispute, but a coordinated interstate scheme that began before any divorce action and is wholly distinct from any family law matter. The Court should deny Defendants' motions in their entirety and permit the case to proceed to discovery.

## **Legal Authorities**

[Sundance Servs., Inc. v. Roach, Civ. No. 10-110 JP/CEG \(D. N.M. Sep 16, 2011\)](#)

## **U.S. District Court — District of New Mexico**

### **Extract**

The Tenth Circuit Court of Appeals has set forth the elements for mail and wire fraud as follows: The elements of federal mail fraud as defined in 18 U.S.C. §1341 are (1) a scheme or artifice to defraud or obtain property by means of false or fraudulent pretenses, representations, or promises, (2) an intent to defraud, and (3) use of the mails to execute the scheme. The first and second elements of federal mail and wire fraud are identical. The third element of wire fraud as defined in 18 U.S.C. §1343 is the use of interstate wire or radio communications to execute the scheme. One may 'defraud' another within the meaning of §§1341 and 1343 by depriving another of property or 'the intangible right of honest services.' Whether alleging a deprivation of property or honest services or both, a mail or wire fraud indictment must allege a scheme to defraud, an intent to defraud...

### **Summary**

Elements necessary to establish mail and wire fraud, which are relevant to the plaintiff's allegations of wire fraud in the RICO claim. The elements include a scheme to defraud, intent to defraud, and use of interstate communications, which align with the plaintiff's allegations against the defendants. This supports the argument that the plaintiff's complaint sufficiently alleges predicate acts of wire fraud, countering the defendants' motion to dismiss.

[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**

"RICO provides a cause of action for those injured in business or property by reason of prohibited racketeering activities." *Bixler v. Foster*, 596 F.3d 751, 756 (10th Cir. 2010) (citing 18 U.S.C. § 1964(c)). To state a claim under RICO, a plaintiff must allege "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity." *Id.* at 761 (quoting *Gillmor v. Thomas*, 490 F.3d 791, 797 (10th Cir. 2007)). To form a "pattern," at least two acts of racketeering activity are required. 18 U.S.C. § 1961(5). ... 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. ... Fisher relies on open-ended continuity to prove the "pattern" element of its RICO claim. (Doc. 105 at 18). Open-ended continuity depends heavily on the facts of the case. Resolution Trust Corp., 998 F.2d at 1543. For 12(b)(6) purposes, open-ended continuity is established if the plaintiff can plausibly allege "that there was a threat of continuing criminal activity beyond the period during which the predicate acts were performed." Heinrich, 668 F.3d at 410. The threat of continuing racketeering activity need not be established exclusively by the predicate acts, and the court should consider the totality of the circumstances surrounding the commission of the acts. Id. (citation omitted); see also Tal, 453 F.3d at 1268 (citation omitted).

## **Summary**

To establish a RICO claim, a plaintiff must demonstrate conduct of an enterprise through a pattern of racketeering activity. This requires at least two predicate acts that are related and amount to a threat of continuing activity. The Tenth Circuit emphasizes the "continuity plus relationship" test, which requires showing that the racketeering predicates are related and pose a threat of ongoing criminal activity. Open-ended continuity can be established if there is a plausible threat of continuing criminal activity beyond the period of the predicate acts, considering the totality of the circumstances.

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

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

### **Extract**

In Count III of his amended complaint, plaintiff asserts claims against all defendants under the federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1961 et seq. RICO allows for a civil action by a person 'injured in his business or property' by a violation of Section 1962 of the Act. See id. § 1964(c); see also Sedima, S.P.R.L. v. Imrex Co., Inc., 473 U.S. 479, 496-97 (1985) (a RICO plaintiff 'only has standing if, and can only recover to the extent that, he has been injured in his business or property by the conduct constituting the offenses'). Congress has thus excluded personal injuries from the kinds of injury that may underlie a RICO claim. ... Both Section 1962(c) and Section 1962(a) require a showing of a pattern of racketeering activity, consisting of at least two predicate acts. See 18 U.S.C. §§ 1961(5), 1962(a), (c). In order to satisfy this requirement, there must be both a relationship between the predicate acts and some element of continuity. See H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 239 (1989). The Supreme Court has explained the continuity requirement as follows: 'Continuity' is both a closed- and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its

nature projects into the future with a threat of repetition. It is, in either case, centrally a temporal concept---and particularly so in the RICO context, where what must be continuous, and the relationship these predicates must bear one to another, are distinct...

## **Summary**

The passage provides insight into the requirements for a RICO claim, emphasizing the need for a pattern of racketeering activity, which includes at least two predicate acts with a relationship and continuity. It also clarifies that personal injuries are excluded from RICO claims, focusing instead on injuries to business or property. This information is generally applicable to RICO claims and can be used to argue that the plaintiff's claims are valid under RICO if they meet these criteria.

[Snyder v. Acord Corp., Civil Action No. 1:14-cv-01736-JLK \(D. Colo. Jan 15, 2016\)](#)

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

## **Extract**

The elements of a civil RICO claim are (1) investment in, control of, or conduct of (2) an enterprise (3) through a pattern (4) of racketeering activity. 18 U.S.C. § 1962(a), (b), & (c); see *Tal v. Hogan*, 453 F.3d 1244, 1261 (10th Cir. 2006). 'Racketeering activity' is defined in 18 U.S.C. § 1961(1)(B) as any 'act which is indictable' under federal law and specifically includes mail fraud and wire fraud. *Tal*, 453 F.3d at 1261.

## **Summary**

To establish a civil RICO claim, a plaintiff must demonstrate the conduct of an enterprise through a pattern of racketeering activity, which includes acts indictable under federal law such as wire fraud. This framework is applicable to the current case, as the First Amended Complaint alleges wire fraud and other predicate acts as part of a pattern of racketeering activity.

[Hall v. Doering, 997 F.Supp. 1445 \(D. Kan. 1998\)](#)

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

## **Extract**

Plaintiffs allege that defendants violated civil RICO, 18 U.S.C. §§ 1961-1965. That Act makes it unlawful for 'any person employed by or associated with an enterprise ... to conduct or participate ... in the conduct of such enterprise's affairs through a pattern of racketeering activity ...' 18 U.S.C. § 1962(c). A violation of RICO requires conduct of an enterprise through a

pattern of racketeering activity. ... For these reasons alone, plaintiffs' RICO claims must be dismissed. Even if plaintiffs had sufficiently alleged a predicate racketeering activity, however, their RICO claims would fail for other reasons. For example plaintiffs do not properly allege a 'pattern' of racketeering activity. A 'pattern' presumes repeated activity, not merely repeated acts to carry out the same scheme. ... The Supreme Court has held that to establish a 'pattern' under RICO, a plaintiff must show that the predicates themselves amount to or otherwise constitute a threat of continuing racketeering activity. ... 'Continuity' is both a closed- and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.... A party alleging a RICO violation may demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time. Predicate acts extending over a few weeks or months and threatening no future criminal conduct do not satisfy this requirement: Congress was concerned in RICO with long-term criminal conduct.

## **Summary**

To establish a RICO claim, a plaintiff must demonstrate a pattern of racketeering activity, which requires more than just repeated acts to carry out the same scheme. The pattern must involve repeated activity that constitutes a threat of continuing racketeering activity. Continuity can be shown through either a closed period of repeated conduct or past conduct that projects into the future with a threat of repetition. The passage emphasizes that short-term or isolated acts do not satisfy the continuity requirement, as RICO is concerned with long-term criminal conduct.

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

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

### **Extract**

Sil-Flo, Inc.'s final argument in this appeal is that the district court erred in granting the defendants' pretrial motion for summary judgment on its RICO claim. The court dismissed this claim after it permitted the plaintiffs to amend their complaint and to file a RICO case statement, finding that it consist[ed] of allegations which, when construed in a light most favorable to the Plaintiffs, set forth a series of acts which do not constitute a pattern of racketeering activity as is required by the RICO Act. The allegations amount, basically, to a very limited course of conduct. The conduct is limited both with respect to continuity over time and with respect to the extent the world outside the alleged enterprise was affected. The Plaintiffs describe a single scam affecting a single mark, that is, Mr. Ceparano. What occurred with that single scam cannot be subdivided into separate acts for the purpose of setting up a RICO claim.



## Summary

For a RICO claim to be valid, there must be a pattern of racketeering activity that demonstrates continuity and relationship. The court in "Sil-Flo, Inc. v. SFHC, Inc." found that a single scheme affecting a single individual without a threat of ongoing criminal activity does not meet the RICO requirements. This is relevant to the current case because it highlights the need for a pattern of activity rather than isolated incidents.

[Kaplan v. Archer, Civil Action No. 11-cv-02094-PAB-CBS \(D. Colo. Jul 03, 2012\)](#)

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

#### Extract

RICO makes it 'unlawful for any person employed by or associated with any enterprise... to conduct or participate... in the conduct of such enterprise's affairs' through the commission of two or more statutorily defined crimes - which RICO calls 'a pattern of racketeering activity.' 18 U.S.C. § 1962(c). 'Racketeering activity' encompasses a number of crimes identified in the statute. 18 U.S.C. § 1961(1). 'These underlying acts are referred to as predicate acts, because they form the basis for liability under RICO.' Tal v. Hogan, 453 F.3d 1244, 1261 (10th Cir. 2006) (internal quotation marks and citation omitted).

## Summary

To establish a RICO claim, a plaintiff must demonstrate a pattern of racketeering activity, which involves the commission of two or more predicate acts as defined by 18 U.S.C. § 1961(1). This is relevant to the plaintiff's case as it supports the argument that the actions of the defendants, including wire fraud and Travel Act violations, can be considered predicate acts under RICO, thus forming a pattern of racketeering activity.

[Church Mut. Ins. Co. v. Coutu, Civil Action No. 17-cv-00209-RM-NYW \(D. Colo. Sep 13, 2017\)](#)

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

#### Extract

RICO allows private parties to bring civil actions for treble damages for violations of sections 1962(c) and (d). See 18 U.S.C. § 1964(c). 'To state a RICO claim, a plaintiff must allege that the defendant violated the substantive RICO statute, 18 U.S.C. § 1962[(c)], by setting forth four elements: (1) conduct (2) of an enterprise (3) through a pattern (4) of

racketeering activity.' Deck v. Engineered Laminates, 349 F.3d 1253, 1256-57 (10th Cir. 2003) (internal quotation marks and citations omitted). 'Pursuant to § 1962(d), conspiracy to commit a RICO violation also constitutes a violation of the Act when a conspirator adopts the goal of furthering the enterprise, even if the conspirator does not commit a predicate act.'

## **Summary**

Clear explanation of the elements required to establish a RICO claim, which includes conduct of an enterprise through a pattern of racketeering activity. It also highlights that a conspiracy to commit a RICO violation is itself a violation, even if a conspirator does not commit a predicate act. This is relevant to the plaintiff's case as it supports the argument that the actions of the defendants, including the alleged conspiracy and racketeering activities, fall within the scope of RICO violations.

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

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

### **Extract**

The elements of a civil RICO claim are (1) investment in, control of, or conduct of (2) an enterprise (3) through a pattern (4) of racketeering activity. 18 U.S.C. § 1962(a), (b), & (c). 'Racketeering activity' is defined in 18 U.S.C. § 1961(1)(B) as any 'act which is indictable' under federal law and specifically includes mail fraud, wire fraud and racketeering... A 'pattern' of racketeering is defined as 'at least two acts of racketeering activity,... which occurred within ten years' of each other. 18 U.S.C. § 1961(5). However, because 'RICO is not aimed at the isolated offender,' proof of two or more predicate acts are not sufficient to prove a pattern unless there is a relationship between the predicate acts and a threat of continuing activity.

## **Summary**

The "Tal v. Hogan" case provides a clear outline of the elements required to establish a civil RICO claim, which includes the conduct of an enterprise through a pattern of racketeering activity. The case emphasizes that merely proving two predicate acts is not sufficient; there must be a relationship between the acts and a threat of continuing activity. This is relevant to the allegations made by Charles Dustin Myers, as he must demonstrate that the actions of the defendants constitute a pattern of racketeering activity with continuity and relatedness.

[U.S. v. Welch, 327 F.3d 1081 \(10th Cir. 2003\)](#)

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



## **Extract**

The elements of federal mail fraud as defined in 18 U.S.C. § 1341 are (1) a scheme or artifice to defraud or obtain property by means of false or fraudulent pretenses, representations, or promises, (2) an intent to defraud, and (3) use of the mails to execute the scheme. See *United States v. Haber*, 251 F.3d 881, 887 (10th Cir.2001). The first and second elements of federal mail and wire fraud are identical. The third element of wire fraud as defined in 18 U.S.C. § 1343 is the use of interstate wire or radio communications to execute the scheme. See *United States v. Smith*, 133 F.3d 737, 742 (10th Cir. 1997).

## **Summary**

Elements necessary to establish mail and wire fraud, which are relevant to the plaintiff's allegations of wire fraud in the complaint. The elements include a scheme to defraud, intent to defraud, and the use of interstate communications to execute the scheme. These elements are directly applicable to the plaintiff's claims against the defendants, as the complaint alleges a scheme involving interstate communications and fraudulent transfers.

[Pitts v. Turner and Boisseau Chartered, 850 F.2d 650 \(10th Cir. 1988\)](#)

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

## **Extract**

Appellant contends the trial court erred in dismissing his claim under 18 U.S.C. Sec. 1961, et seq. or the Racketeer Influenced and Corrupt Organizations Act. In *Torwest DBC, Inc. v. Dick*, 810 F.2d 925, 927-929 (10th Cir.), we discussed what a plaintiff must plead in order to establish a RICO violation: 'A violation of section 1962(c) thus 'requires (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 105 S.Ct. 3275, 3285, 87 L.Ed.2d 346 (1985). RICO defines racketeering activity as, inter alia, any act that is indictable under 18 U.S.C. Sec. 1341 (mail fraud) or 18 U.S.C. Sec. 1343 (wire fraud). See 18 U.S.C. Sec. 1961(1)(B). RICO also states that a ' "pattern of racketeering activity" requires at least two acts of racketeering activity.' 18 U.S.C. Sec. 1961(5).

## **Summary**

To establish a RICO violation, a plaintiff must demonstrate conduct of an enterprise through a pattern of racketeering activity. This requires at least two acts of racketeering activity, which can include acts indictable under mail fraud or wire fraud statutes. The passage also highlights the importance of demonstrating continuity, meaning a threat of ongoing illegal conduct, to establish a RICO pattern.

[Torwest DBC, Inc. v. Dick, 810 F.2d 925 \(10th Cir. 1987\)](#)

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

### **Extract**

The Supreme Court has pointedly observed that '[t]he 'extraordinary' uses to which civil RICO has been put appear to be primarily the result of the breadth of the predicate offenses, in particular the inclusion of wire, mail, and securities fraud, and the failure of Congress and the courts to develop a meaningful concept of 'pattern.' ' Sedima, 105 S.Ct. at 3287. The Court noted in Sedima that the RICO definition of pattern implies that 'while two acts are necessary, they may not be sufficient,' id. at 3285 n. 14, and pointed to the Act's legislative history indicating the type of activity Congress intended RICO to encompass. ... Sedima thus makes clear that a RICO violation requires continuous and related racketeering acts.

### **Summary**

The requirement for a "pattern of racketeering activity" under RICO involves more than just two acts. The acts must be continuous and related, and the courts have struggled to define a meaningful concept of "pattern." The passage highlights the importance of continuity and relationship in establishing a RICO pattern, as emphasized by the Supreme Court in Sedima.

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

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

### **Extract**

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

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

## **Summary**

Essential elements of a civil RICO claim, emphasizing that the predicate acts must extend over a substantial period of time and affect more than a single victim. This is relevant to understanding the requirements for establishing a pattern of racketeering activity under RICO.

[Plains Resources, Inc. v. Gable, 782 F.2d 883 \(10th Cir. 1986\)](#)

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

#### **Extract**

We disagree with the view that, to state such a RICO claim, a plaintiff must allege and prove that the conduct described as 'racketeering activity' is connected to criminal conduct of an organized nature. We are persuaded by the opinions which have held that there is no such requirement in a civil setting... The Supreme Court's reasoning and its view of the legislative history persuade us that we must reverse the dismissal in this case... If the defendant engages in a pattern of racketeering activity in a manner forbidden by [Secs. 1962(a)-(c) ], and the racketeering activities injure the plaintiff in his business or property, the plaintiff has a claim under Sec. 1964(c). There is no room in the statutory language for an additional, amorphous 'racketeering injury' requirement.

## **Summary**

The Tenth Circuit does not require a connection to organized crime for a RICO claim. The court emphasizes that the statutory language of RICO does not include a requirement for the conduct to be connected to organized crime. The focus is on whether the defendant engaged in a pattern of racketeering activity that injured the plaintiff's business or property.

[Farlow v. Peat, Marwick, Mitchell & Co., 956 F.2d 982 \(10th Cir. 1992\)](#)

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

#### **Extract**

Under Rule 9(b), plaintiffs must sufficiently allege each element of a RICO violation and its predicate acts of racketeering with particularity, a requirement justified by the 'threat of treble damages and injury to reputation.' *Cayman Exploration Corp. v. United Gas Pipe Line*, 873 F.2d 1357, 1362 (10th Cir.1989). The trial court correctly found that the plaintiffs 'wholly failed to allege any violation of RICO with the particularity required by Rule 9(b).' While plaintiffs claimed mail fraud as one of the predicate acts to establish a 'pattern of racketeering,' they failed to plead specific mail fraud violations.

## Summary

The passage highlights the necessity for plaintiffs to provide detailed allegations when claiming RICO violations, emphasizing the importance of specificity in pleading predicate acts of racketeering. This is relevant to the plaintiff's response as it underscores the need to demonstrate that the first amended complaint meets these requirements.

[Hall v. Witteman, 584 F.3d 859 \(10th Cir. 2009\)](#)

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

#### Extract

"In order to bring a RICO claim, a plaintiff must allege a violation of 18 U.S.C. § 1962, which consists of four elements: (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity." *Gillmor v. Thomas*, 490 F.3d 791, 797 (10th Cir.2007) (internal quotation marks omitted). A "`pattern of racketeering activity' requires at least two acts of racketeering activity." 18 U.S.C. § 1961(5). Those acts, commonly referred to as "predicate acts," must be violations of certain statutes. See *id.* § 1961(1). Mr. Hall's complaint alleges violations of federal mail-fraud, wire-fraud, and extortion statutes. Although the district court held those allegation to be inadequate, we need not address that issue. Even if the allegations of predicate acts were adequate, we agree with the district court that the complaint does not adequately allege a "pattern" of racketeering activity because it fails to allege sufficient continuity to sustain a RICO claim. "RICO is not aimed at the isolated offender." *Tal v. Hogan*, 453 F.3d 1244, 1267 (10th Cir.2006) (internal quotation marks omitted). To satisfy RICO's pattern requirement, Mr. Hall needed to 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." *H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 240, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989).

## Summary

To bring a RICO claim, a plaintiff must allege a violation of 18 U.S.C. § 1962, which includes conduct of an enterprise through a pattern of racketeering activity. The pattern requires at least two acts of racketeering activity, and these acts must constitute a threat of continuing racketeering activity. The passage highlights the importance of continuity and relatedness in establishing a RICO claim.

[Condict v. Condict, 815 F.2d 579 \(10th Cir. 1987\)](#)

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

## **Extract**

Specifically, the district court held that the complaint failed to allege the following: (1) that activities of the defendants were in furtherance of a tie to organized crime or with criminal activities of an organized nature; (2) that the defendants, or any of them, have been convicted of the predicate acts of mail or wire fraud upon which the RICO claim is founded; (3) that the plaintiffs suffered a 'distinct RICO injury'; and (4) that the predicate acts of mail and wire fraud were not pleaded with sufficient particularity. Further, the district court concluded that the Conduct Ranch partnership is not an 'enterprise' within the meaning of 18 U.S.C. Sec. 1962. Having dismissed the RICO claim, the district court also dismissed the second claim for common law fraud, deceit and misrepresentation.

## **Summary**

For a RICO claim to be valid, it must allege that the defendants' activities were in furtherance of organized crime or criminal activities of an organized nature. The claim must also demonstrate a "distinct RICO injury" and plead predicate acts with sufficient particularity. Additionally, the enterprise must be defined within the meaning of 18 U.S.C. Sec. 1962, and there must be continuity in the pattern of racketeering activities.

[Condict v. Condict, 826 F.2d 923 \(10th Cir. 1987\)](#)

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

### **Extract**

The district court in dismissing the action and entering judgment for the defendants held that the complaint failed to state a claim upon which relief could be granted. Specifically, the district court held that the complaint failed to allege the following: (1) that activities of the defendants were in furtherance of a tie to organized crime or with criminal activities of an organized nature; (2) that the defendants, or any of them, have been convicted of the predicate acts of mail or wire fraud upon which the RICO claim is founded; (3) that the plaintiffs suffered a 'distinct RICO injury'; and (4) that the predicate acts of mail and wire fraud were not pleaded with sufficient particularity. Further, the district court concluded that the Conduct Ranch partnership is not an 'enterprise' within the meaning of 18 U.S.C. Sec. 1962. Having dismissed the RICO claim, the district court also dismissed the second claim for common law fraud, deceit and misrepresentation.

### **Summary**

The passage highlights the necessity of demonstrating a pattern of racketeering activity, a distinct RICO injury, and the particularity of predicate acts in a RICO claim. It also emphasizes that ties to organized crime or prior convictions are not necessary for a RICO claim. This is

relevant to the plaintiff's case as it underscores the importance of detailing the predicate acts and the injury suffered, which the plaintiff has done in the amended complaint.

[Saine v. AIA, INC., 582 F.Supp. 1299 \(D. Colo. 1984\)](#)

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

### **Extract**

The Eighth Circuit has held that the evidence needed to prove the 'enterprise' must be different from that used to prove the 'pattern of racketeering.' ... The court construed RICO as requiring 'some structure separate from the racketeering activity and distinct from the organization which is a necessary incident to the racketeering.' ... If the enterprise can be co-extensive with the racketeering activity, as the Second Circuit believes, the statute could simply state that it is unlawful for any person to engage in a pattern of racketeering activity. No reference to 'enterprises' would be necessary.

### **Summary**

The passage highlights the Eighth Circuit's interpretation that an enterprise under RICO must have a structure distinct from the racketeering activity itself. This interpretation is crucial because it emphasizes that the enterprise should not merely be a sum of the predicate acts of racketeering. The court's reasoning is that if the enterprise were merely the cumulation of the predicate acts, RICO would not need to reference "enterprises" separately. This interpretation supports the argument that the enterprise in a RICO claim must be distinct from the pattern of racketeering activity.

[Taylor v. Chesapeake Operating, Inc., Case No. CIV-18-565-D \(W.D. Okla. Nov 20, 2019\)](#)

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

### **Extract**

To survive a Rule 12(b)(6) motion to dismiss a § 1962(c) claim, Plaintiffs must allege that Defendant '(1) participated in the conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' Tal, 453 at 1244. '[R]acketeering activity' is defined to include several predicate acts, including the two alleged here—mail fraud and wire fraud. In addition to these elements, Plaintiffs must also show proximate causation between the RICO predicate act and the injury. *Hemi Group, LLC v. City of New York*, 559 U.S. 1, 8 (2010).

## Summary

To survive a motion to dismiss a RICO claim under § 1962(c), the plaintiff must allege participation in the conduct of an enterprise through a pattern of racketeering activity, including predicate acts like wire fraud. The plaintiff must also demonstrate proximate causation between the predicate act and the injury. This aligns with the plaintiff's allegations in the current case, where wire fraud and Travel Act violations are claimed as predicate acts, and the plaintiff has detailed the injury to business and property.

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

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

## Extract

The Racketeering Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961, et seq. ("RICO") makes it illegal "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." Therefore, to state a RICO claim, a plaintiff must set forth four elements: "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity." ... UMB presents facts supporting Defendants' involvement in several qualifying predicate acts listed under 18 U.S.C. § 1961- namely wire fraud and financial institution fraud. ... 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 Amended Complaint outlines a series of related fraudulent acts involving multiple parties and spanning a significant period, which collectively suggest a coordinated effort to defraud the financial institutions and manipulate the Project for financial gain.

## Summary

To establish a RICO claim, a plaintiff must demonstrate conduct of an enterprise through a pattern of racketeering activity. The passage explains that a pattern requires at least two acts of racketeering activity within ten years, and these acts must relate to each other and pose a threat of continued activity. The UMB Bank case illustrates how allegations of wire fraud and financial institution fraud can support a RICO claim when they are part of a coordinated scheme involving multiple parties over a significant period.

[Skurkey v. Daniel](#)



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

### **Extract**

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.' Id. (citing 18 U.S.C. § 1962(c)). An 'enterprise' is 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. § 1961(4). 'Racketeering activity' consists of the criminal offenses listed in 18 U.S.C. § 1961(1), and a 'pattern' requires at least two racketeering acts committed within ten years of each other. 18 U.S.C. § 1961(5).

### **Summary**

To establish a RICO claim, a plaintiff must demonstrate the conduct of an enterprise through a pattern of racketeering activity. This involves showing that the defendants were part of an enterprise and engaged in at least two acts of racketeering within a ten-year period. The Myers case alleges multiple predicate acts, including wire fraud and Travel Act violations, which could satisfy these requirements if adequately supported by evidence.

[Agristor Leasing v. Meuli, 634 F.Supp. 1208 \(D. Kan. 1986\)](#)

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

### **Extract**

In order to prove a substantive RICO violation under 18 U.S.C. § 1962(c), the claimant must prove the defendant—any person—was employed by, or associated with, an enterprise which affected interstate commerce, and the defendant participated in: (1) conduct, (2) of the enterprise, (3) through a pattern, (4) of racketeering activity. *Sedima S.P.R.L. v. Imrex Co.*, 473 U.S. \_\_\_, \_\_\_, 105 S.Ct. 3275, 3285-86, 87 L.Ed.2d 346, 358-59 (1985). The gravamen of a RICO offense is the conduct of an enterprise through a pattern of racketeering activity... The threshold requirement under 18 U.S.C. § 1961(5) of establishing a 'pattern of racketeering activity' is the showing of at least two predicate acts. However, as the Supreme Court noted in *Sedima*, 'Proof of two acts of racketeering activity, without more, does not establish a pattern.' 473 U.S. at \_\_\_, n. 14, 105 S.Ct. at 3285, n. 14, 87 L.Ed.2d at 358, n. 14 (quoting 116 Cong.Rec. 18,940 (1970) (statement of Sen. McClelland)). 'The target of RICO is ... not sporadic activity, the infiltration of legitimate business normally requires more than one `racketeering activity' and the threat of continuing activity to be effective. It is this factor of continuity plus relationship which combines to produce a pattern.'



## Summary

Requirements for establishing a RICO violation, emphasizing the need for a pattern of racketeering activity that includes continuity and relationship. This is relevant to the plaintiff's case as it supports the argument that the defendants' actions, which include multiple predicate acts over an extended period, meet the criteria for a RICO claim.

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

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

## Extract

'RICO provides a private right of action in federal court for individuals injured in their business or property through fraudulent conduct.' It encompasses many traditional common-law fraud claims 'if the requisite pattern and entity requirements are met. The Mafia, of course, is the quintessential racketeering enterprise, but normal businesses can also fall under' RICO. 18 U.S.C. § 1692(c) and (d) provide: In short, '[a] RICO plaintiff must prove '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity'' or conspiracy to do the same. For clarity, the court will address the elements in a different order than they appear in the statute. Section 1961(4) of RICO defines an enterprise as 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' The Supreme Court has emphasized that 'enterprise' should be read broadly. Where the alleged enterprise is an 'association-in-fact'—that is, comprised of actors not formally or legally affiliated with one another—the enterprise must have (1) 'a purpose,' (2) 'relationships among those associated with the enterprise,' and (3) 'longevity sufficient to permit these associates to pursue the enterprise's purpose.' Here, Plaintiffs adequately allege an enterprise both as a legal entity (Counts I and II) and as an association-in-fact (Counts III and IV).

## Summary

Elements required to establish a RICO claim, including conduct, an enterprise, a pattern, and racketeering activity. It emphasizes that the definition of an enterprise should be read broadly and can include an association-in-fact, which requires a purpose, relationships among those associated, and longevity to pursue the enterprise's purpose.

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

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

## **Extract**

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

## **Summary**

The RICO statute has been interpreted broadly by courts, including the Supreme Court, to apply to cases beyond traditional organized crime. The requirement for a "pattern of racketeering activity" does not necessitate multiple illegal schemes or acts indicative of organized crime. Instead, it requires continuity or the threat of racketeering activity. This broad interpretation allows RICO to be applied in a variety of contexts, including those not originally anticipated by Congress.

[Racketeer influenced and corrupt organizations.](#)

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

## **Extract**

ICO's pattern requirement: '[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.' (58) The 'continuity' prong is satisfied by proof of either closed-ended continuity or open-ended continuity. Closed-ended continuity in the RICO context may be demonstrated 'by proving a series of related predicates extending over a substantial period of time.' (59) Open-ended continuity in the RICO context is conduct that may last only a short period of time but nonetheless, poses a threat of extending into the future. (60) The Court suggested a case-by-case examination of this issue, noting that the existence of a 'threat of continued racketeering activity' is a function of particular facts. (61) The Court offered a non-exhaustive list of situations that may constitute a pattern (62) and stated 'development...'

## **Summary**

The passage provides insight into the requirements for establishing a pattern of racketeering activity under RICO, emphasizing the need for relatedness and continuity. It explains that continuity can be either closed-

ended or open-ended, with closed-ended continuity involving a series of related predicates over a substantial period, and open-ended continuity involving conduct that poses a threat of future criminal activity. This is relevant to the plaintiff's case as it supports the argument that the defendants' actions form a pattern of racketeering activity, given the related acts over an 18-month period and the ongoing threat of future misconduct.

[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. These crimes include: (a) certain acts that are chargeable under state laws and punishable by imprisonment for more than one year; (b) acts that are indictable under specified provisions of Title 18; ... The Supreme Court made a second attempt to clarify the 'pattern' concept in *H.J., Inc. v. Northwestern Bell Telephone Co.* In that case, the Court held that when proving a 'pattern of racketeering activity,' RICO requires both relationship and continuity of predicate acts as separate elements. However, the Court recognized that proof of these factors will often overlap. 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 an open-ended threat of continued racketeering activity in the future.

## **Summary**

To establish a RICO claim, a plaintiff must demonstrate a pattern of racketeering activity, which requires at least two predicate acts. These acts must be related and continuous, as clarified by the Supreme Court in *H.J., Inc. v. Northwestern Bell Telephone Co.* The relationship prong involves the connection of the defendant's criminal acts, while continuity can be shown through repeated conduct over a closed period or a threat of continued activity.

[Racketeer influenced and corrupt organizations.](#)

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

## **Extract**

The two most controversial elements of RICO continue to be the 'pattern' and 'enterprise' requirements. A. Two or More Predicate Acts of Racketeering Activity. The first element of RICO requires two or more predicate acts of 'racketeering activity.'(28) RICO defendants need not be convicted of each underlying offense before a civil or criminal RICO offense is charged.(29) Under [sections] 1961(1), the term 'racketeering activity' includes a broad assortment of state and federal crimes. These crimes include: (a) certain acts that are chargeable under state laws and punishable by imprisonment for more than one year;(30) (b) acts that are indictable under specified provisions of Title 18;(31) (c) acts that are indictable under specified provisions... a corporation under RICO for fraud committed in the course of its regular business.(168) The Eleventh Circuit reasoned that the corporation could play the dual role of defendant and enterprise, given the Supreme Court's broad interpretation of 'enterprise.' By analogizing to corporate law, the court concluded that '[a]s a defendant, [the corporation could] maintain its separate legal status as an ongoing business venture. By piercing through this sterile exterior, however, it [was] revealed as an [association-in-fact] ... working as a unit to effectuate a common purpose--to defraud the government.'(169) The court noted that an 'enterprise' includes individuals and that requiring complete division would allow those individuals to escape prosecution.(170)

## **Summary**

RICO requires at least two predicate acts of racketeering activity, which can include a wide range of state and federal crimes. The concept of "enterprise" is broadly interpreted to include both legal entities and associations-in-fact, allowing for the prosecution of individuals working together to commit racketeering activities. This broad interpretation ensures that individuals cannot escape prosecution by hiding behind corporate structures or informal associations.

[Racketeer Influenced and Corrupt Organizations Act.](#)

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

## **Extract**

The Supreme Court made a second attempt to clarify the 'pattern' concept in *H.J., Inc. v. Northwestern Bell Telephone Co.* The Court held that when proving a 'pattern of racketeering activity,' RICO requires both (a) relationship and (b) continuity of predicate acts as separate elements. This test is referred to as the 'continuity plus relationship' test. The Court recognized, however, that evidence in proof of these factors can often overlap.

## Summary

The passage provides insight into the requirements for establishing a pattern of racketeering activity under RICO, specifically the need for both relationship and continuity of predicate acts. This is relevant to the plaintiff's case, as it supports the argument that the alleged actions of the defendants constitute a pattern of racketeering activity, rather than isolated incidents related to a domestic dispute.

[Racketeer influenced and corrupt organizations.](#)

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

## Extract

"an unlawful debt, to acquire an interest in an enterprise affecting interstate commerce; (21) (ii) acquiring or maintaining through a pattern of racketeering activity, or through collection of an unlawful debt, (22) an interest in an enterprise affecting interstate commerce; (23) (iii) conducting, or participating in the conduct of, the affairs of an enterprise affecting interstate commerce through a pattern of racketeering activity or through collection of an unlawful debt; (24) or (iv) conspiring to participate in any of these activities. (25) To prosecute a defendant under RICO, the government must prove that the defendant: (i) through the commission of two or more acts constituting a pattern of racketeering activity; (ii) directly or indirectly invested in, maintained an interest in, or participated in, an enterprise; (iii) the activities of which affected interstate or foreign commerce. (26) Parts A through E of this Section examine the elements of a R ... 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." (58) The "continuity" prong is satisfied by proof of either closed-ended continuity or open-ended continuity. Closed-ended continuity in the RICO context may be demonstrated "by proving a series of related predicates extending over a substantial period of time." (59) Open-ended continuity in the RICO context is conduct that may last only a short period of time but nonetheless poses a threat of extending into the future. (60) The Court suggested a case-by-case examination of this issue, noting that the existence of a "threat of continued racketeering activity" is a function of particular facts. (61) The Court offered a non-exhaustive list of situations that may constitute a pattern (62) and stated that "development of these concepts must await future cases." (63 ... a probable or potential impact." (139) The effect on interstate commerce element may also be satisfied by proof that the enterprise's activities have an impact on interstate commerce, (140) including activities that "affect interstate commerce by impacting the victim."14t Additionally, where violent acts have been committed in furtherance of a racketeering enterprise, there is no requirement that the violent acts themselves affect interstate commerce. (142) F. Prohibited Acts Activities expressly prohibited under [section] 1962

include: (i) investing income from a pattern of racketeering activity; (143) (ii) acquiring or maintaining an interest in an enterprise through a pattern of racketeering activity; (144) (iii) conducting the affairs of an enterprise through a pattern of racketeering activity; (145) and (iv) conspiring to do any of the above. (146) 1. Investment of Racketeering Proceeds Section 1962(a) ... ii) injury to her business or property; and (iii) that the violation caused the injury. (309) To sue for a violation of [section] 1962(a), a plaintiff must show that someone both received income from a pattern of racketeering activity and then used or invested such income in an enterprise. (310) Most courts hold that a compensable injury must flow from the use or investment of the income and cannot just flow from the predicate acts. (311) In contrast, the Fourth Circuit only requires a plaintiff to establish that he suffered an injury because of a predicate act and not that the injury suffered was caused by an investment of income from a pattern of racketeering activity. (312) For standing purposes, [section] 1962(b) functions the same as, and is subject to the same analysis as, [section] 1962(a). (313) To sue for a violation of [section] 1962(c), a plaintiff must ... .) See *H.J. Inc.*, 492 U.S. at 242 (suggesting open-ended continuity can be satisfied by showing likelihood of predicate acts continuing into the future or by showing that predicate acts occur in normal course of entity's business); see also *U.S. Airline Pilots Ass'n v. Awappa*, 615 F.3d 312, 319-20 (4th Cir. 2010) (finding that plaintiff cannot demonstrate open-ended continuity if racketeering activity has a built-in ending point, such as implementation of a particular union contract, and does not threaten indefinite extortion); *Spool*, 520 F.3d at 185 (finding that plaintiff did not prove an open-ended or closed-ended pattern of racketeering activity because fraudulent processing was contained within a period of a few months); *United States v. Hively*, 437 F.3d 752, 762 (8th Cir. 2006) (holding that despite cessation by former prosecutor of mail fraud scheme associated with grant program there was a sufficient threat of repetition of activity to show open ended continuity where defendant was still in office and still receiving grant money); *First Capital Mgmt., Inc. v. Satinwood, Inc.*, 385 F.3d 159, 180-81 (2d Cir. 2004) (finding that the plaintiff did not sufficiently plead an open-ended pattern of racketeering activity where the alleged scheme was "inherently terminable" because it essentially came to a conclusion with the fraudulent conveyance of assets); *GE Inv. Private Placement Partners II v. Parker*, 247 F.3d 543, 550 (4th Cir. 2001) (finding plaintiff did not show predicate acts of fraud constituted a regular way of conducting business). (61.) *H.J. Inc.*, 492 U.S. at 242. (62.) *Id.* (63.) *Id.* at

## Summary

Elements required to establish a RICO violation, including the need for a pattern of racketeering activity, which must demonstrate both relatedness and continuity. It also discusses the impact on interstate commerce and the types of activities prohibited under RICO. This information is relevant to the plaintiff's case as it provides a framework for arguing that the defendants' actions constitute a pattern of racketeering activity affecting interstate commerce.

## RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

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

### **Extract**

RICO applies only to those injuries resulting from commission of predicate acts constituting a 'pattern of racketeering activity.' The statutory definition of 'pattern of racketeering activity' requires at least two predicate acts occurring within ten years of each other. A 'pattern of racketeering activity' also requires evidence that the predicate acts are continuous and interrelated, rather than isolated and sporadic. 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.

### **Summary**

To establish a "pattern of racketeering activity" under RICO, there must be at least two predicate acts within ten years of each other. These acts must be continuous and interrelated, not isolated or sporadic. The pattern can be demonstrated through a long-running series of interrelated acts (closed-ended conspiracy) or by showing a threat of continued racketeering activities (open-ended conspiracy).

[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**

through a pattern of racketeering activity, conduct that manifested on their part a conspiracy in violation of [sections] 1962(d).(867) The Ninth Circuit appropriately observed, 'proof of an agreement which is a substantive violation of RICO (such as conducting the affairs of an enterprise through a pattern of racketeering) is-sufficient to establish a violation of [sections] 1962(d).(868) Nevertheless, the court observed, when allegations of such an objective are lacking the complaint 'must establish the defendant's participation or agreement to participate in two predicate offenses.'(869) The Ninth Circuit then cited Seventh Circuit precedent in support of its conclusion that 'a defendant who...[does] not agree to the commission of crimes constituting a pattern of racketeering activity is not in violation of [sections] 1962(d), even though he is somehow affiliated with a RICO enterprise, and neither is the defendant who agrees to the commission of two criminal acts but does not



## Summary

To establish a RICO violation, there must be proof of an agreement to engage in a pattern of racketeering activity. This requires participation or agreement to participate in two predicate offenses. The passage highlights the importance of demonstrating a pattern of racketeering activity and the defendant's agreement to participate in such activities.

### [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. The practitioner through their pleadings must articulate with great care and attention a viable racketeering conspiracy. The court must read the facts alleged in the complaint in the light most favorable to the plaintiff.

## Summary

A RICO claim must be carefully articulated with specific allegations of conduct, enterprise, pattern, and racketeering activity. The complaint must meet the particularity requirements of Rule 9(b) for fraud-related claims. The court is required to view the allegations in the light most favorable to the plaintiff, which supports the argument that the plaintiff's detailed allegations should be considered sufficient.

### [PAYORS, PLAYERS, AND PROXIMATE CAUSE.](#)

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

## Extract

RICO is not just a tool for government control over organized crime. It is also a remedial statute for civil matters. (31) It 'authorize[s]... criminal or civil remedies on conduct already criminal, when performed in a specified fashion' as delineated by the statute. (32) Section 1962 provides civil remedies for four types of conduct: (1) using income derived from a pattern of racketeering activity (33) to acquire an interest in an enterprise; (2) acquiring or maintaining an interest in an enterprise through a pattern of



racketeering activity; (3) conducting the affairs of an enterprise through a pattern of racketeering activity; and (4) conspiring to commit any of these offenses. (34) Today, Congress urges courts to construe RICO liberally from the 'perspective of the victim, not the perpetrator.' (35) A private civil right of action in [section] 1964 provides that '[a]ny person injured in his business or property by reason of a violation of section 1962... may sue.' (36) Notably, a successful plaintiff under [section] 1964 is entitled to treble damages and the cost of the suit, including attorney fees. (37) The threat of treble damages encourages plaintiffs to bring claims and discourages entities from engaging in illegal activities.

## **Summary**

The passage highlights that RICO is not limited to government control over organized crime but also serves as a remedial statute for civil matters. It authorizes civil remedies for conduct that is criminal when performed in a specified manner. The passage emphasizes that RICO should be construed liberally from the victim's perspective, allowing any person injured in their business or property by a RICO violation to sue. This supports the plaintiff's argument that the case is not merely a domestic dispute but involves a pattern of racketeering activity that caused injury to the plaintiff's business and property.

[Santos v. Delta Airlines, Inc.](#)

## **USDOL Administrative Review Board Decisions**

### **Extract**

In contrast, the district court in *Chevron Corp.* took a different approach when considering a RICO claim that involved a scheme formulated predominantly by Americans to extort funds from Chevron Corp. (a U.S. Company) through 'a pattern of racketeering activity that included acts in the United States by Americans as well as acts in Ecuador by both Americans and Ecuadorians.' *Chevron Corp.*, 2012 WL 1711521, at \*4. After finding that RICO applies only to territorial claims, the court moved on to the second step of the Morrison test. The court first paused to explain that limiting RICO's reach to 'purely domestic enterprises' is not a workable approach because 'foreign enterprises have been at the heart of precisely the sort of activities—committed in the United States—that were exactly what Congress enacted RICO to eradicate.' *Id.* at \*6 (citations omitted). Additionally, the court pointed out that because the RICO enterprise is not necessarily the named defendant in the case, the focus should be on the pattern of racketeering activity and its consequences.

## **Summary**

The focus in RICO claims should be on the pattern of racketeering activity and its consequences, rather than solely on the nature of the enterprise or its location. This is relevant to the plaintiff's case as it emphasizes that the

alleged racketeering activities, which include wire fraud and Travel Act violations, are central to the RICO claim, regardless of the domestic nature of the dispute.

## [RICO: A Primer](#)

### **Extract**

A 'pattern' may exist where any combination of two or more offenses occurred within a period of time. In *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, the Supreme Court held that the RICO pattern element requires more than merely proving two predicate acts of racketeering. Rather, proof of 'continuity plus relationship' is necessary. Nonetheless, the Supreme Court has repeatedly recognized that Congress had a fairly flexible concept of a pattern in mind. The continuity requirement is likewise satisfied where the predicates are a regular way of conducting the defendant's ongoing legitimate business (in the sense that it is not a business that exists for criminal purposes), or of conducting or participating in an ongoing and legitimate RICO 'enterprise.' A plaintiff may demonstrate a pattern by establishment that the predicate acts pose a threat of continued criminal activity, which is generally demonstrated by showing either: \* Closed-ended continuity. Proving 'a series of related predicate acts extending over a substantial period of time.' \* Open-ended continuity. A threat of 'continuing criminal activity extending indefinitely into the future,' in light of the nature of the enterprise and predicate acts alleged.

### **Summary**

The passage provides insight into the requirements for establishing a pattern of racketeering activity under RICO. It emphasizes the need for "continuity plus relationship" and explains that continuity can be demonstrated through either closed-ended or open-ended continuity. This is relevant to the plaintiff's case as it supports the argument that the alleged acts, which span over 18 months, demonstrate both closed-ended and open-ended continuity, thus satisfying the pattern requirement under RICO.

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

### **Extract**

If a plaintiff brings a civil suit alleging a RICO violation, the plaintiff must plausibly allege that his injury animating the RICO claim is associated with his business or property by reason of the defendant's violation of the RICO laws. Absent these allegations, the lawsuit must be dismissed. RICO standing is distinct from the more well-known concept of constitutional standing. For RICO claims, in addition to pleading a sufficiently specific injury, including allegations that the plaintiff has suffered known damages

(as opposed to mere speculative or unprovable damages), the plaintiff must allege that he suffered an injury to his business or property that bears some causal relationship to the alleged act or acts that violated RICO. This fundamental RICO requirement helps ensure that RICO is not expanded beyond its original intent.

## **Summary**

The passage highlights the necessity for a plaintiff to demonstrate a direct injury to business or property to establish RICO standing. This is relevant to the plaintiff's case as it underscores the importance of showing how the defendants' actions directly caused financial harm, which the plaintiff has alleged in terms of business disruption and financial losses.

## [RICO: A Primer](#)

## **Extract**

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 the Hobbs Act, 18 U.S.C. ' 1951 (extortion); 18 U.S.C. ' 1341 (mail fraud) and 1343 (wire fraud); 18 U.S.C. ' 1831 (economic espionage); 18 U.S.C. ' 1832 (theft of trade secrets); 18 U.S.C. ' 1952 (Travel Act); 18 U.S.C. ' 1956, 1957 (money laundering); and 18 U.S.C. ' 2318-2320 (copyright infringement). Mail and wire fraud are the most common predicate acts. Notably, there must be some nexus to interstate or foreign commerce-it is a jurisdictional element of a civil RICO claim. Thus, predicate acts will often occur in several States. ... A RICO enterprise includes 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' Courts have interpreted 'enterprise' broadly, and the definition captures both legitimate and illegitimate enterprises. The statutory list is not exhaustive but merely illustrative. ... A 'pattern' may exist where any combination of two or more offenses occurred within a period of time. In *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479 , the Supreme Court held that the RICO pattern element requires more than merely proving two predicate acts of racketeering. Rather, proof of 'continuity plus relationship' is necessary. Nonetheless, the Supreme Court has repeatedly recognized that Congress had a fairly flexible concept of a pattern in mind. ... The racketeering acts need not be similar or directly related to each other; rather, it is sufficient that the racketeering acts are related in some way to the affairs of the charged enterprise, including, for example, that: the racketeering acts furthered the goals of or benefitted the enterprise, the enterprise or the defendant's role in the enterprise enabled the defendant to commit, or facilitated the commission of, the racketeering acts, the racketeering acts were committed at the behest of, or on behalf of, the enterprise, or the racketeering acts had the same or similar purposes, results, participants, victims or methods of commission. The continuity requirement is likewise satisfied where the predicates are a regular way of conducting the defendant's ongoing

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

## **Summary**

Comprehensive overview of what constitutes racketeering activities under RICO, the definition of an enterprise, and the requirements for establishing a pattern of racketeering activity. It highlights that wire fraud and Travel Act violations are common predicate acts and that a pattern requires continuity and relationship among acts. This information is directly relevant to the plaintiff's case, as it supports the argument that the alleged activities of the defendants fall within the scope of RICO violations.

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

## **Extract**

Civil RICO actions are now ubiquitous, so much so that plaintiffs often attempt to apply the statute to situations that bear little resemblance to the criminal racketeering activity animating the enactment of the statute in the first place. And the potential consequences of these claims need to be taken seriously. Indeed, RICO not only provides a plaintiff a private right of action, it also contemplates the possibility of treble damages and attorneys' fee awards if a plaintiff can prove the claim. The unfortunate reality is that the mere threat of a RICO claim often can be enough to force a business to the bargaining table. ... Civil RICO claims are not limited to conduct traditionally associated with organized crime, but they certainly are not meant to apply to ordinary business disputes. ... First, to bring a civil RICO claim, a plaintiff must demonstrate that their business or property was injured as a result of a RICO violation. In other words, there must be some sort of concrete financial loss directly flowing from the purported violation to support a RICO claim. Thus, if a plaintiff does not have a concrete financial loss, then the RICO claim must be dismissed. Asserting personal injuries, such as emotion distress, is insufficient. ... Third, the plaintiff must plead a pattern of racketeering activity for most RICO claims. If the alleged conduct occurred once or twice, or was not continuous, it cannot form a pattern of conduct sufficient to support a RICO claim. And oftentimes, because there is a fraud component, those instances must be particularly identified in the plaintiff's pleading—a barrier that can prove difficult to accomplish.

## Summary

N overview of the requirements for a civil RICO claim, emphasizing the need for a concrete financial loss, a pattern of racketeering activity, and the challenges of proving such claims. It highlights that RICO claims are not limited to traditional organized crime but are not meant for ordinary disputes. This information is relevant to the plaintiff's response as it underscores the need to demonstrate concrete financial loss and a pattern of racketeering, which the plaintiff has alleged in the complaint.

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

### Extract

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

### Summary

Requirements for a civil RICO claim, emphasizing the need for concrete financial loss, qualifying criminal actions, and a pattern of racketeering activity. It also highlights common defenses against RICO claims, such as the absence of a criminal nature in the conduct or lack of continuity in the alleged activities. This information is relevant to assessing the sufficiency of the plaintiff's allegations and the validity of the defendants' motions to dismiss.

## [SCOTUS Resolves Circuit Split On How To Assess Domestic Injury Under RICO](#)

### **Extract**

The Supreme Court rejected the Seventh Circuit's approach and sided with the Ninth Circuit. *Yegiazaryan*, slip op. at 7-8. The Court held that 'determining whether a plaintiff has alleged a domestic injury [for purposes of RICO] is a context-specific inquiry that turns largely on the particular facts alleged in a complaint.' *Id.* at 8. This means that district courts must consider the 'circumstances surrounding the alleged injury to assess whether it arose in the United States.' *Id.* 'If those circumstances sufficiently ground the injury in the United States, such that it is clear the injury arose domestically, then the plaintiff has alleged a domestic injury.' *Id.* at 9-10. Notably, because the analysis is contextual and 'the range of predicate acts' for RICO is quite expansive, 'no set of factors can capture the relevant considerations for all cases.' *Id.* at 10.

### **Summary**

The Supreme Court requires a context-specific inquiry to determine if a plaintiff has alleged a domestic injury under RICO. This means that the court must consider the specific circumstances of the alleged injury to assess whether it arose domestically. The passage highlights that the range of predicate acts for RICO is expansive, and no single set of factors can capture all relevant considerations, indicating that each case must be evaluated on its unique facts.

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