

Question

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bc41-bbc08c814365 All references to the record are marked herein with "REC. [page]" and are hyperlinked to take the reader directly to the reference. The record is filed under affidavit, and remains unopposed at the time of filing this complaint. Therefore, Plaintiff respectfully asks that the Court take judicial notice of the record under Federal Rule of Evidence 201, filed on June 6, 2025, in the Texas Supreme Court under case numbers 25-0361, 25-0367, 25-0378, 25-0426, and 25-0458.

II. TIMELINE OF EVENTS

BACKGROUND

Morgan Michelle Myers, ("Myers") and Charles Dustin Myers, ("Plaintiff") were married on June 20, 2015, and have two daughters, C.R.M. and M.E.M, aged seven and nine. The evidence in this case will show that in early December of 2023, the entire family was blindsided by Myers' sudden announcement that she wanted a divorce from Plaintiff. REC. 717 The evidence will further show that Myers' reasoning for this divorce changes over time – beginning with how Plaintiff spoke to her, and then switches to abuse and sexual harassment, and allegations of drug abuse, claims that were only brought up in her initial pleadings. On December 12, 2023, Plaintiff discovered a large volume of text messages between Myers and two individuals identified as Debbie Price and Damen Kazlauskas of Fort Worth, Texas spanning between October 2022 and December 2023. REC. 254-714 In response to this discovery, Myers began to communicate with Defendant Daniel Kenneth Branthoover, a resident of Yukon, Oklahoma, who assisted her in the planning, drafting, traveling, and submitting of fraudulent documents to the 322nd District Court of Tarrant County designed to divest Plaintiff of his home and business operations. When these allegations were raised to the State, they failed to adjudicate them and violated the Plaintiff's constitutional rights when he was deprived of the guarantees of equal protection under the law and when he was not afforded due process before being deprived of his property. REC. 183. The central question is whether Defendants Munford, Kaitcer, Carter, and Baker are victims of the initial scheme – or willing participants in an expanded associate-in-fact enterprise that began in December of 2023 as the Myers-Branthroover enterprise.

A. The Myers-Branthroover Enterprise 1. On December 14, 2023, Defendants Morgan Michelle Myers ("Myers") and Daniel Kenneth Branthoover ("Branthroover"), acting in concert and under deceptive pretenses, (REC. 1704), initiated text-message communications through which they formed and advanced a common plan and agreement. Over the weekend of December 15, 2023, they met in Yukon, Oklahoma, to further that plan (REC. 274-278). The deceptive text message from Defendant Branthoover claiming that he wanted to assist Plaintiff was following an attempt by Myers to receive an ex-parte order of protection from the 322nd District Court of Tarrant county, attempted on December 14, 2023 (REC. 78).

B. Interstate Travel and Transfer 2. As part of their agreement, both Defendants planned to draft and submit an original petition for divorce and an affidavit of indigency to the 322nd District Court of Tarrant County, with the intended and foreseeable result of removing Plaintiff from his matrimonial residence at 6641 Anne Court, Watauga, Texas 76148—which also serves as his place of business for clients in the United States, Canada, and the United Kingdom that rely on his market data services (REC. 812 ¶ 16).

3. During Defendant Myers's interstate travel, she transferred the parties' marital funds into Defendant Branthoover's PayPal account in the amount of \$1,576 (REC. 723). Those proceeds funded a second mobile phone (817-940-0852), listed on the fraudulent pleadings that

Myers and Branthoover jointly prepared in Oklahoma, which Myers then carried from Yukon to Texas on December 17, 2023 (REC. 86; 99; 102; 107). C. Admissions 4. On December 16, 2023, Plaintiff reached out to Branthoover and requested that the \$1,576 be returned as they were needed for Christmas gifts for the children, and for business advertising expenses for his business. REC. 728-729. In response, defendant Branthoover admitted that the purpose of defendant Myers' visit was to help her prepare paperwork for divorce litigation and confirmed that the transfer of \$1,576 did in fact occur. REC. 730. Plaintiff's bank statement from December 2023 further confirms this transaction. REC. 723. D. Post-submission Collaboration 5. On December 18, 2023, defendant Myers submitted the fraudulently prepared original petition for divorce, and an affidavit of indigency to the 322nd District Court of Tarrant County. After these documents were submitted, defendant Branthoover sent a text message to Plaintiff on December 19, 2023, at 5:50 P.M. CST, holding himself out to be defendant Myers' attorney, showing his involvement extends past the initial help in preparing the fraudulent documents. REC. 1712-1713 6. Four days later, on December 22, 2023, defendant Myers submitted another knowingly fraudulent application for protective to the 322nd District Court of Tarrant County claiming that family violence had occurred on December 18, 2023, supported by both an affidavit and unsworn declaration. REC. 108-109. E. Significant and Intentional Misrepresentations 7. On December 27 and December 28, 2023, respectively, the documents prepared by Myers with the assistance of Branthoover were served on Plaintiff via the U.S. Constable, and contained the following misrepresentations: i. That defendant Myers could not afford court costs; REC. 72, REC. 85-96 ii. That defendant Myers had an active order of protection against the Plaintiff with a finding of family violence that had occurred during the marriage; REC. 78 at 10 iii. That defendant Myers was financially responsible for the family vehicles, rent payments, utilities, and other household expenses, making herself appear as the primary breadwinner; REC. 92 iv. That defendant Myers would be harassed or abused if Plaintiff were given her newly acquired phone number that was obtained while in Oklahoma; REC. 81 at 15. v. That defendant Myers and Plaintiff ceased living together on December 1, 2023; REC. 74 at 4 vi. That family violence occurred on December 18, 2023, in the presence of the two Children. REC. 108-109. vii. That both family vehicles were defendant Myers' separate property acquired before marriage. REC. 79 at 11B F. Evidence to the Contrary 8. On the same day Defendant Myers claimed to be in an emergency requiring the Plaintiff's prompt removal from the home, she can be seen at the home with Plaintiff and the children in no state of emergency and also still cohabitating in the marital home. REC 1715. 9. Again, on December 29, 2023, Defendant Myers can be seen with Plaintiff at the family home, smiling and laughing with the children in no state of emergency and still collaborating with Plaintiff in the marital home. REC. 1735. 10. The citation for the application for protective order ordered Respondent to show cause as to why it should not issue with a hearing scheduled for January 16, 2024. REC. 118. 11. In response to extensive misrepresentation above, Plaintiff prepared an original answer, filed a motion to consolidate, and provided background information which alleged that defendant Myers was intentionally abusing the legal process. REC. 130-132. Plaintiff was ordered to show cause on January 16, 2024, regarding the protective order application. REC. 118 G. Inclement Weather

and First Appearance 12. On January 15, 2024, the Tarrant County District Courts Facebook page sent out a notice informing the members of the public that the court would be closed on January 16, 2024, due to inclement weather. REC. 1202. 13. Unaware of the closure at the time, the parties appeared at the 322nd District Court of Tarrant County on January 16, 2024, and were met with a dark courtroom, with only one judge in the building at the time of their arrival – Defendant James Munford (“Munford”). 14. Defendant Munford summarily ordered the Plaintiff out of his home, inadvertently assisting the Myers-Branthrover associate-in-fact enterprise of achieving their primary goal in having the Plaintiff removed from his residence, despite the broader goal being to obtain a decree of divorce to permanently divest Plaintiff of his interests. REC. 183. 15. Defendant Munford’s initial order was baseless, made in the absence of any emergency, without a hearing, and disregarded the Plaintiff’s pleadings, telling Myers “you’re going to have to find evidence of family violence!” clearly aware that this order was made without any regard to the Plaintiff’s constitutional rights. 16. Defendant Jeffrey Kaitcer, (“Kaitcer”) walked into the courtroom late due to the inclement weather and turned the courtroom into a laughing matter as he began to joke with Defendant Munford, and instructed the parties to download the AppClose app for communication, and the matter was reset for January 22, 2024. There exists no record of this proceeding, only marked appearances on the docket. H. Reset #1 – January 22, 2024, Setting 17. At the January 22 reset hearing, the parties appeared only to have the case reset once more because defendant Myers allegedly retained the services of Defendant Cooper Carter, (“Carter”) in the lobby of the courthouse just moments before the hearing was scheduled to begin. No appearance can be traced to this setting by either party on the docket (REC. 1551), and once again, no hearing was held, and the case reset for a second time to February 1, 2024. REC. 186. 18. Kaitcer permitted attorney Dan Bacalis, Plaintiff’s prior attorney, to fill out the Associate Judge’s Report, and the parties never went before him as indicated by the case docket’s lack of appearance on this date by either party. I. Reset #2 – February 1, 2024, Setting 19. One day prior to the February 1 setting, both attorneys, Defendant Carter and Dan Bacalis, both amended the petition for divorce and counterpetition for divorce without the parties’ knowledge. (REC. 189, REC. 209) These amended documents were similar, submitted on the same day, and raised concerns for Plaintiff regarding his quality of representation. 20. At the February 1 setting, both parties were in the conference rooms outside of Defendant Kaitcer’s courtroom, when attorney Bacalis walks in holding a settlement agreement. When Plaintiff refused this option and requested that they go have a hearing before the judge. 21. This is when Bacalis stated, as witness affidavits corroborate, that he “knows this Judge and this is the best we can get.” and further stated “[w]e’ll be here all day. We can come back and change it later.” 22. Outraged by this response, Plaintiff paid very close attention to the settlement offer Bacalis was pressuring him to sign, and noticed the following provisions: A typed written Order conforming to this Report will follow within 20 days from the date this Report is signed. The Temporary Order shall be prepared by DAN BACALIS. Each attorney should approve the Order. The parties do not need to approve the Order. The attorney reviewing the proposed Order shall have five (5) days to do so. There are no ten (10) day letters. If an agreement is not reached, a Motion to Sign shall be filed and set within thirty (30) days from

the signing of this Report. IT IS SO ORDERED (REC. 233) J. Termination of Counsel and the Emergency Motion 23. With the above provisions in mind, Plaintiff signed the document and immediately fired his attorney and provided notice to the court. REC. 221. By doing so, Plaintiff gained access back to the residency, invalidated the agreement, and was able to use the time back in the house to run damage control on his business operations while preparing to expose the Myers-Branthroover enterprise to the court via a MOTION TO RECONSIDER EVIDENCE AND VACATE TEMPORARY ORDERS, which was filed on February 9, 2024, within three business days of the February 1 agreed associate judge's report being served by the clerk. REC. 240 24. In this motion, it was specifically stated that: i. "I am seeking immediate court intervention to correct procedural errors and address the misuse of the legal system by the Petitioner." REC. 244 ii. "Particularly, Dan Branthroover became involved. He is the boyfriend of the Petitioner's Mother. Shortly thereafter, I received a notice from our joint bank account stating that \$1,576 had just been withdrawn. As our bank statement for December 2023 will demonstrate - the transaction record shows the funds being transferred directly to Mr. Branthroover's PayPal account" REC. 245 iii. "The Petitioner's action of filing for divorce under an Affidavit of Inability to pay three days after transferring \$1,576 to herself starkly contravenes the mandates set forth in Chapter 10, Section 10.001 of the Civil Practice and Remedies Code". REC 247 at B2 iv. "The Petitioner violated Chapter 10, Section 10.001 a second time within the same document when she intentionally elected to waive the 60-day waiting period claiming to have an active protective order against me that found family violence had occurred during our marriage." REC 247 at B3. v. "This suit was the second attempt by the Petitioner to have me removed from the home, which ultimately succeeded." REC 248 at D1 25. The motion went on to explain the factual pattern described up to this point, putting the court on notice of the key issues with provided exhibits which were duly served on Carter. In response to Plaintiff's motion, he received the first of just two email communications from Carter throughout the case's history, where she claimed she would be filing a counter motion when disclosing her availability for the hearing on Plaintiff's emergency motion. REC. 2794 No such countermotion was filed by Carter. K. Summary Judgment and Notice of Hearing 26. By February 22, no response had been filed by Carter, so Plaintiff filed a Partial Motion for Summary Judgment. REC. 758. Plaintiff also submitted a proposed parenting plan as Exhibit D. REC. 769. No response was ever received from Carter. 27. On February 27, 2024, Defendant Munford signed and issued a notice of hearing to the parties with the hearing set for March 14, 2024. REC. 776. L. Plaintiff's Notice to the Court and Defendant Myers' Self-Help Remedies 28. On March 3, 2024, Plaintiff notified the Court that he would not be leaving the home as it was not in the best interests of his children. REC. 782. 29. The following day, on March 6, 2024, while walking his daughters to school, Myers ran inside the family home, and locked him out of the marital residence, leaving a sign on the door that said "[y]ou should have been out by Saturday you are now locked out!" REC. 1748. 30. Plaintiff called local law enforcement to help him regain entry into the home, where mother produced the agreed associate judge's report signed on February 1, 2024, and used it as a means to block Plaintiff's entrance to the home. 31. To avoid further conflict, Plaintiff was escorted into the home where he was able to grab only his computer and a few clothes and went to Flower Mound to

temporarily stay with his father until the time of the hearing on his emergency motion, scheduled for March 14, 2024, at 9:00 A.M. L. The Hearing On Plaintiff's Emergency Motion 32. On March 14, 2024, the parties arrived at the 322nd District Court, and on the way into the courtroom, defendants Myers and Carter could be seen in the conference room, quickly shuffling papers back and forth. 33. After checking in with the bailiff, Plaintiff turned around to see defendant Carter extending to him a document titled "Temporary Orders" that were the reduced version of the February 1 associate judge's report. REC. 888. 34. These orders, which were not prepared by Dan Bacalis, which were not agreed to by the parties, were reduced well outside of the 20-day requirement as ordered by the judge, and which were never filed with the clerk, stated the following misrepresentations: i. On February 1, 2024, the Court heard Petitioner's motion for temporary orders. ii. The parties have agreed to the terms of this order as evidenced by the signatures below. REC. 888. iii. The Court, after examining the record and the agreement of the parties and hearing the evidence and argument of counsel, finds that all necessary prerequisites of the law have been legally satisfied and that the Court has jurisdiction of this case and of all the parties. REC. 888. iv. The dates that the parties would have access to the family residence was altered, changing the date Plaintiff was supposed to leave from March 1, 2024, to March 20, 2024, and changing Myers' date of re-entry from March 1, 2024, to March 30, 2024, leaving a 10-day window where no one would occupy the residence. v. This modification was made to prevent Myers from being liable for illegally locking Plaintiff out of the home on March 6, 2024. 35. On the last page of the orders, Plaintiff's attorney who was terminated weeks earlier did not sign the document, and Plaintiff refused to sign the document for the forthcoming reasons: i. It claimed a hearing occurred on a motion which was never set for a hearing or served on the Plaintiff and doesn't exist on the docket. ii. It was prepared by defendant Carter, not Dan Bacalis. iii. The associate judge was presiding over a de novo request of his own prior report. iv. The matrimonial address was incorrect, as it stated "6641 Anns Court", rather than 6641 Anne Court. REC. 915, REC. 922 v. The orders were not in the best interests of the children. vi. Notwithstanding the Plaintiff's revocation of consent by filing the emergency motion, the terms were altered right before they were rendered into effect by defendant Kaitcer. vii. Plaintiff did not agree to the terms as he was in court that very day to expose Myers. M. Predicate Acts: Extortion 36. Kaitcer, knowing that no response was filed, knowing that he was presiding over a hearing to which he had no subject matter jurisdiction, and knowing that the temporary orders produced by defendant Carter was served just moments earlier, signed another associate judge's report pre-drafted by defendant Carter, which summarily denied the Plaintiff's emergency motion, ignored the fact that Carter had not provided a response, and within the report itself, Plaintiff was ordered to sign the document that Carter had just presented to him despite raising objections to its' contents, and despite his consent not being present. REC. 795. 37. Finally, defendant Kaitcer refused to consider Plaintiff's exhibits, including six affidavits prepared by his business clients who have been directly affected by his inability to provide the real-time market data services his clients relied on, who were located throughout the United States. REC. 851; REC. 854; REC. 857; REC. 860; REC. 863; REC. 867; REC. 870. 38. Following the setting, the orders were rendered into

effect without Plaintiff's signature (REC. 925), and Plaintiff filed a request for findings of fact and conclusions of law (REC. 883), and filed and amended a "Preparatory Notice for Judicial Review" which recounted the factual timeline up to that point, and included the affidavits that Kaitcer refused to accept on March 14, 2024. REC. 798, REC. 851, REC. 854, REC. 857, REC. 860, REC. 863, REC. 867, REC. 870. 39. The orders stated they were to remain in effect until the final decree of divorce, and Plaintiff's journey of one-sided appeals began. N. One Sided Appellate Efforts, and Defective IWO 40. Following the rendition of the temporary orders on March 26, 2024, Plaintiff spent between April 8, 2024 and September 15, 2024, appealing via mandamus to the Second Court of Appeals and the Texas Supreme Court. REC. 1010. 41. During the appellate efforts, Carter filed one of two motions in the case, which was a motion for pre-trial conference filed on April 24, 2024, on her behalf by Roderick D. Marx, a party not named in the suit. REC. 1014, REC. 1016. 42. Plaintiff immediately objected to the pre-trial conference, and no response was ever issued by Carter or the court. REC. 1018. 43. On April 30th, Plaintiff filed his notice of completion regarding the parenting course as ordered, despite actively trying to vacate them. REC. 1047. No parenting course was ever completed by Myers. 44. On May 2, 2024, Plaintiff's en banc reconsideration was denied in the Second Court of Appeals, and he began preparing an appeal to the Supreme Court of Texas. REC. 1067. 45. On May 19, 2024, Carter sent the second and last email correspondence that would be received in the case, which falsely claimed he agreed to the orders signed on March 14, 2024, and requested that he fill out an IWO, which Plaintiff found to be defective. REC. 1722, REC. 1728. No further correspondence was received by Carter. O.

Fraudulent Intervention and Branthoover's Continued Involvement 46. On June 23rd Plaintiff filed a motion in state court entitled MOTION FOR JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION at 12:14 P.M. REC. 1075. This motion received no response from Carter. 47. On June 23rd at 1:54 P.M., directly following the submission of the motion, Branthoover texted Plaintiff stating "Lol. And here comes another denial. Please sue me individually. Please.", referring to the earlier filed motion and showing his continued oversight of the case's progression since his initial predicate acts. 48. Four days later, on June 28, 2024, the Texas Office of the Attorney General allegedly filed an intervention pleading, claiming that Plaintiff was past due on child support, and requested information from Plaintiff. REC. 1099. 49. Most notably, the certificate of service to this intervention pleading was allegedly signed by Holly Hayes, the designated attorney for the OAG, yet the name underneath the signature line reads CHOYA BURKLEY. REC. 1102. 50. Plaintiff promptly objected to the intervention, and never received any response from the OAG, Carter, or the court. REC. 1106. P. Supreme Court, Rule 12, and Emergency Temporary Orders 51. As Plaintiff continued to appeal to the Supreme Court of Texas, all prosecution came to an end in the trial court. It wasn't until September 15, 2024, that Plaintiff filed a first amended rehearing motion in the Texas Supreme Court, (REC. 1136) and after noticing Carter's lack of participation, he began to question her authority given several ambiguities surrounding her representation, and filed a rule 12 motion to show authority. REC. 1170. No response was ever received to this motion from Carter. 52. At this point, Plaintiff had been staying in Airbnb homes while he sought relief to ensure he could remain close to his daughters during this time. On September 26,

2024, he filed and later amended an EMERGENCY MOTION FOR TEMPORARY ORDERS and requested expedited relief by October 1, 2024, as that was when Plaintiff was forced to move away from the area due to cost of living being unsustainable. REC. 1184. No response was ever received from Carter regarding this motion. 53. By October 1, Plaintiff had no choice but to start pursuing administrative remedies, and thought the court was biased against him given the case's history up to that point. He began to prepare a Joint Motion to Recuse defendants Munford and Kaitcer and filed it with the clerk of the court on October 7, 2024. REC. 1197. Q. Predicate Act: Wire Fraud 54. On October 8, 2024, Defendant Munford signed and forwarded a "Joint Motion to Recuse" attached to his order of referral to regional presiding judge David L. Evans but was notably missing the exhibits and affidavit critical to the motion. REC. 1222 55. A copy of this exchange was sent via defendant Baker on 4:43 P.M. on October 8. REC. 1254 56. Plaintiff immediately pointed out the discrepancies between the motion filed and the motion forwarded to David L. Evans, where she replied and admitted that the full document had been e-filed and remains with the court. REC. 1255 57. Unsatisfied with this response, Plaintiff further pointed out that the filing size of the document filed and the one referring to David L. Evans was significantly different. No further correspondence was received by Baker until the following day. REC. 1256 58. The following day on October 8, 2024, defendant Munford signed and filed an "Amended Order of Referral" which had the full motion attached this time, albeit still modified as the hyperlinks and bookmarks had been removed. REC. 1282 59. This amended referral was sent via email correspondence by Baker at 11:17 A.M. on October 8, 2024, who stated that due to the size of the motion, it was split into three parts. REC. 1258. This excuse directly contradicts the standard filing procedure in Tarrant County, which was raised and subsequently ignored in an objection. REC. 1269. No response was filed in regard to the motion to recuse or objection by Carter. R. Recusal Denial and More Delays, and Federal Removal 60. Justice E. Lee Gabriel was assigned to hear the motion, which had to be rescheduled due to technical difficulties for November 7, 2024. REC. 1306. 61. The morning of the hearing, Plaintiff woke up with a dental emergency, and promptly notified all parties, and requested a reset for the hearing, which everyone agreed to. REC. 1393-1396. 62. Despite this agreement, the recusal was denied for failure to appear, and made no mention of the agreement or the emergency. REC. 1398. 63. With no other remedies left, Plaintiff removed the case to Federal Court on December 2, 2024, which was quickly remanded back on December 4, 2024. REC. 1426. 64. On December 14, 2024, defendant Branthoover texted Plaintiff, sending a threat which stated "[w]hen things all over, you get to deal with me." at 2:15 P.M. REC. 1720 65. On December 16, 2024, Plaintiff initiated suit against Daniel Kenneth Branthoover in the Western District of Oklahoma seeking relief in the form of damages from the ongoing deprivation from his home. REC. 1451. 66. Plaintiff notified the Texas court of this lawsuit on December 31, 2024. REC. 1446. S. Further Delays, Motion to Dismiss for Want of Prosecution, and the Original SAPCR 67. On January 24, 2025, Plaintiff filed a motion to dismiss for want of prosecution due to the total lack of participation in the case by the opposing party. REC. 1527. No response was ever received from Carter on this motion. 68. On January 29, 2025, defendant Myers began disposing of Plaintiff's personal belongings that remained on the family property. REC.

1629-1631. 69. On February 12, 2025, Plaintiff learned that his youngest daughter was suffering from dental pain due to Myers' failure to obtain dental insurance for the children. REC. 3281. 70. By March 14, (REC. 1833-1837) the judges had still not been reinstated from the first recusal, which led Plaintiff to reach out to Baker to request a hearing on his unopposed summary judgment that had been on the docket since February 22, 2024, where he had to remind her to reinstate the judges back into the case. REC. 1833-1837. 71. Given the delays, and since the case had been brought in bad faith initially, the Plaintiff opened an original SAPCR suit in the 233rd District Court of Tarrant County on March 18, 2025, where he argued for dominant jurisdiction in a cover letter sent to the clerk. REC. 2260. T. Counsel Suddenly Becomes Active 72. The very next day, defendant Carter filed an original answer filed on her behalf by Roderick Marx. REC. 2279. The motion was a boilerplate motion, and was followed by a motion to consolidate, which was filed in the wrong court, and was also filed on Carter's behalf by RODERICK D. MARX. REC. 2284. 73. The Plaintiff immediately responded by filing a motion to strike (REC. 1957) a Rule 12 motion to show authority challenging both Carter and RODERICK D MARX's authority (REC. 2288) and on March 24, 2025, an emergency ex-parte TRO to prevent Myers from barring Plaintiff's access to the home. (REC. 2302) No responses were ever received from Carter on these motions. 74. On March 26, 2025, an objection was filed to Carter's consolidation motion in the 233rd court. REC. 1881. 75. Plaintiff reached out to the coordinator from the 233rd and went through the process to present the motion to the judge. REC. 2338-2341. 76. On March 29, 2025, Plaintiff appeared before Associate Judge Kate Stone, who refused to hear Plaintiff's emergency motion despite no response being filed, and told him to leave the courtroom. The hearing date scheduled for April 10, 2025, as agreed by Carter and Plaintiff (REC. 2358), was actually un-set by Stone. REC. 2361. 77. The grounds for this outright refusal was due to Carter calling in a favor from the judge without even being present in the courtroom, to where Stone left the room, came back, and told the Plaintiff to leave informing him that a motion to consolidate would be filed by Carter the following week. U. Five Concurrent Mandamus Petitions 78. Subsequently, after he was turned away from the courtroom, Carter's consolidation motion wasn't filed until April 4, 2025 (REC. 2367), resulting in two mandamus petitions to try again to have the March 14, 2024, order signed by Kaitcer vacated, and to compel Kate Stone to hear the emergency TRO. See 25-0361, 25-0367. 79. On the same day the mandamus was filed against Stone, District Judge Kenneth Newell sua sponte granted Carter's consolidation motion in both courts without a hearing, and without addressing the emergency situation for the children or the Plaintiff's objections, leading to a third mandamus proceeding. REC. 2393, See also 25-0378. 80. On April 23, 2025, a notice of trial setting was served on the parties by defendant Munford in the midst of all of these issues. REC. 1773. 81. The same day, Plaintiff filed an objection and requested an emergency stay. REC. 2219. No response was received to this objection by either Munford or Carter. 82. Two days later on April 25, 2025, Plaintiff filed his second recusal motion, and amended it on April 28, 2025, this time only against Munford, and requested that the rules of procedure be followed, and objected to the involvement of the court coordinator given the prior recusal's ambiguity and significant delays caused by her involvement. REC. 2488 No response to this motion was ever filed from Carter. 83. Baker

continued to be involved in the recusal process, this time erroneously forwarding an order of referral from defendant Kaitcer, who was not named in the recusal motion. REC. 2615. 84. Plaintiff immediately objected on April 29, 2025, naming two issues: 1) the coordinator was still involved, and 2) the order of referral sent by Kaitcer was erroneous. REC. 2620. 84. Plaintiff objected to the order of assignment of John H. Cayce (REC. 3149) which was issued on May 7, 2025, due to the unresolves issues. REC. 2620. 85. David L. Evans overruled this objection on May 15, 2025, leading to mandamus petition 25-0426, a direct appeal to the Texas Supreme Court. REC. 3507. 86. On May 20, 2025, John H. Cayce summarily denied the recusal, including the denial of a motion to recuse Kaitcer which was never filed, leading to mandamus petition 25-0458, a second direct appeal to the Texas Supreme Court. 87. All five petitions were denied both initially and on rehearing, and all emergency motions to stay proceedings were dismissed. The only insights given from the appellate courts was: "Denied, per curiam." No response was filed by any implicated judge or opposing counsel. V. Federal RICO Case and the Push Towards Final Trial 88. In June of 2025, Plaintiff amended his complaint against Daniel Kenneth Branthoover and enjoined Myers as a defendant, which they defended pro-se. 89. Plaintiff communicated this action with the trial court, and no further action was taken in the case until August of 2025, when defendant Munford sua sponte set the case for final trial on December 10, 2025. 90. Plaintiff immediately objected to this trial setting, and moved to recuse Munford for a third time. 91. The court coordinator continued to be involved in the process, leading to a subsequent motion to recuse the regional presiding judge, David L. Evans. 92. Plaintiff now prepares this suit to hold defendants accountable for their collective actions, and to prevent their common goal from being achieved, which is to obtain defendant Myers a final decree of divorce. 93. For the forthcoming reasons, the conduct outlined herein constitutes conduct of an enterprise through a pattern of racketeering activity, as several predicate acts were committed, the enterprise shares a common purpose, and Plaintiff has suffered direct and ongoing injury to business and property as a direct result of the defendant's collective predicate acts. RICO The timeline and evidence provided demonstrate that the Myers-Branthroover group constitutes an association-in-fact enterprise under RICO, with a common goal to deprive the Plaintiff of his home and business through a pattern of racketeering activity—specifically, wire fraud, Travel Act violations, and fraudulent court filings—causing direct injury to the Plaintiff's business and property. The conduct, structure, and continuity among the participants, as well as the use of interstate communications and travel, satisfy the elements of a RICO claim in the Tenth Circuit, with the liability of other defendants depending on their knowledge and intent. A. Summary The Myers-Branthroover enterprise, as detailed in the factual timeline, meets the Tenth Circuit's requirements for a RICO claim by establishing an association-in-fact enterprise with a defined structure, purpose, and continuity. The group's coordinated actions—including interstate transfer of funds, preparation and submission of fraudulent legal documents, and ongoing manipulation of court proceedings—constitute a pattern of racketeering activity, with predicate acts of wire fraud and Travel Act violations that are related and continuous. Plaintiff's direct and ongoing injury to his business and property, including loss of home, business operations, and client relationships, is proximately caused by the enterprise's acts. While Myers and Branthoover's

liability is clear, the involvement of other defendants (Munford, Kaitcer, Carter, and Baker) may be characterized as inadvertent or willing participation, depending on their knowledge and intent, but the core elements of a RICO violation are satisfied by the conduct of Myers and Branthoover as outlined in the enumerated timeline. The additional acts committed by each defendant, as alleged, furthered the scheme of the enterprise despite each additional defendant having actual knowledge of the fraudulent scheme.

RICO Statutory Framework

The Racketeer Influenced and Corrupt Organizations Act (RICO), codified at 18 U.S.C. §§ 1961–1968, provides a civil cause of action for individuals injured in their business or property by reason of a pattern of racketeering activity conducted through an enterprise affecting interstate or foreign commerce. The most commonly invoked provision, § 1962(c), prohibits any person employed by or associated with an enterprise from conducting or participating in the conduct of such enterprise's affairs through a pattern of racketeering activity. Section 1962(d) further prohibits conspiracies to violate any of the substantive RICO provisions. To establish a civil RICO claim under § 1962(c), a plaintiff must prove:

- i. The existence of an enterprise;
- ii. The enterprise's engagement in, or effect on, interstate or foreign commerce;
- iii. The defendant's employment by or association with the enterprise;
- iv. The defendant's participation, directly or indirectly, in the conduct of the enterprise's affairs;
- v. The defendant's participation through a pattern of racketeering activity or collection of unlawful debt.

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

B. Predicate Acts and Pattern Requirement

RICO defines "racketeering activity" to include a wide range of criminal offenses, including wire fraud (18 U.S.C. § 1343) and violations of the Travel Act (18 U.S.C. § 1952). A "pattern of racketeering activity" requires at least two predicate acts within a ten-year period, but the acts must be related and amount to or pose a threat of continued criminal activity. The Supreme Court has clarified that a RICO violation requires both an "enterprise" and a "pattern of racketeering activity," with the enterprise being a group of persons associated for a common purpose, and the pattern involving a series of criminal acts (*United States v. Harris*, 695 F.3d 1125 (10th Cir. 2012)). The Tenth Circuit has further explained that, to establish a pattern, it is not enough to simply show that two predicate acts occurred within ten years; the acts must also be related and pose a threat of continued criminal activity (*U.S. v. Smith*, 413 F.3d 1253 (10th Cir. 2005)). Note, however, that *U.S. v. Smith* has been stated as overruled by *United States v. Nissen*, 555 F.Supp.3d 1174 (D. N.M. 2021) on unrelated grounds, but its articulation of the pattern requirement remains consistent with current law.

C. Enterprise and Association-in-Fact

An "enterprise" under RICO includes any individual, partnership, corporation, association, or group of individuals associated in fact, even if not a legal entity. For an association-in-fact enterprise, the Tenth Circuit requires:

- i. A purpose;
- ii. Relationships among those associated with the enterprise;
- iii. Longevity sufficient to permit the associates to pursue the enterprise's purpose;
- iv. A decision-making framework or mechanism for controlling the group;
- v. Functioning as a continuing unit;
- vi. Existence separate and apart from the pattern of racketeering activity.

See *100 Mount Holly Bypass*.

D. Conspiracy

Section 1962(d) makes it unlawful to conspire to violate any of the substantive RICO provisions. A RICO conspiracy does not require the establishment of an enterprise but requires that a defendant adopts the goal

of furthering or facilitating a criminal endeavor that would satisfy the elements of a substantive RICO offense (United States v. Martinez, 543 F.Supp.3d 1209 (D. N.M. 2021); United States v. Randall, 661 F.3d 1291 (10th Cir. 2011)). E. Injury Requirement RICO provides a private right of action for individuals injured in their business or property through fraudulent conduct, and there is no requirement that the conduct be connected to organized crime in a civil setting (Plains Resources, Inc. v. Gable, 782 F.2d 883 (10th Cir. 1986)). ANALYSIS F. Existence of an Association-in-Fact Enterprise The timeline establishes that Myers and Branthoover formed an association-in-fact enterprise beginning in December 2023 (¶¶ 1-7, 93). Their collaboration was structured, with Myers as the petitioner in the divorce and Branthoover as the planner, drafter, and facilitator of fraudulent documents and financial transactions. The group had a clear purpose: to divest the Plaintiff of his home and business through fraudulent legal filings and manipulation of court processes (¶¶ 1-7, 93). The enterprise's structure is evidenced by: i. The initial planning and agreement to meet in Yukon, Oklahoma, to draft fraudulent documents (¶¶ 1-3); ii. The use of interstate communications and travel to further the scheme (¶¶ 2-3); iii. Ongoing coordination and adaptation to changing circumstances, including the preparation and submission of false affidavits and pleadings, and manipulation of court proceedings (¶¶ 5-7, 34, 93). This satisfies the Tenth Circuit's requirements for an association-in-fact enterprise, which does not require a formal legal entity but does require a common purpose, relationships, and sufficient longevity to pursue the enterprise's goals. G. Structure, Purpose, Relationships, and Continuity The Myers-Branthrover group meets the requirements for an association-in-fact enterprise: i. Purpose: The shared goal was to deprive the Plaintiff of his home, business, and property interests through fraudulent means (¶¶ 1-7, 93). ii. Relationships: Myers and Branthoover maintained ongoing communications, coordinated actions, and divided roles in the scheme (¶¶ 1-7, 93). iii. Longevity and Continuity: The enterprise operated over a substantial period, from at least December 2023 through present day 2025, with multiple related acts and ongoing adaptation to changing circumstances (¶¶ 1-93). iv. Decision-Making Framework: The group planned, agreed on steps, and executed those steps in a coordinated manner (¶¶ 1-7, 93). v. Existence Separate from Predicate Acts: The enterprise was formed for the purpose of achieving a specific goal and engaged in multiple acts over time to accomplish that goal. H. Predicate Acts: Wire Fraud, Travel Act Violations, and Fraudulent Filings The timeline identifies multiple predicate acts that qualify as racketeering activity under RICO: i. Wire Fraud: Myers transferred \$1,576 in marital funds to Branthoover's PayPal account during interstate travel, and these funds were used to purchase a phone for use in the fraudulent scheme (¶¶ 3, 4, 5, 6, 7, 34). The use of electronic communications (text messages, emails) to plan and execute the scheme further supports the wire fraud allegation (¶¶ 1-7, 34). ii. Travel Act Violations: Myers traveled from Texas to Oklahoma to meet with Branthoover, where they planned and prepared fraudulent legal documents, which were then transported back to Texas and submitted to the court (¶¶ 2, 3, 4, 5, 6, 7). iii. Fraudulent Filings: The preparation and submission of false affidavits and pleadings to the court, containing material misrepresentations about financial status, family violence, and property ownership, constitute further predicate acts (¶¶ 5, 6, 7, 34). At least two related predicate acts

within ten years are required (U.S. v. Smith, 413 F.3d 1253 (10th Cir. 2005)), and the timeline shows multiple, related predicate acts over a substantial period (¶¶ 1-93). I. Pattern of Racketeering Activity: Relatedness and Continuity The predicate acts were not isolated incidents but part of an ongoing scheme. The acts were related in that they all aimed to deprive the Plaintiff of his property and business, and they posed a threat of continued criminal activity, as the enterprise continued to operate and adapt its tactics over time (¶¶ 1-93). The timeline shows that the enterprise's activities extended over a substantial period, with multiple acts occurring over months and involving ongoing coordination and adaptation to changing circumstances. J. Injury to Business or Property Plaintiff suffered direct and ongoing injury to his business and property as a result of the enterprise's actions. He was deprived of his home and business operations, lost access to marital funds, and was unable to provide services to clients, resulting in financial harm (¶¶ 2, 3, 4, 5, 6, 7, 37). These injuries are precisely the type of harm RICO is designed to redress. Plains Resources, Inc. v. Gable, 782 F. 2d 883 (10th Cir. 1986)). K. Participation of Other Defendants: Inadvertent or Willing The timeline raises the question of whether Munford, Kaitcer, Carter, and Baker were victims of the initial scheme or willing participants in the expanded enterprise. The evidence suggests that, at a minimum, Myers and Branthoover were the core members of the enterprise, with others potentially becoming involved through their actions in the legal proceedings (¶¶ 14-93). i. Inadvertent Participation: Some defendants may have participated inadvertently, such as by issuing orders or facilitating court processes without knowledge of the underlying scheme (¶¶ 14-93). ii. Willing Participation: Others may have become willing participants if they knowingly furthered the enterprise's objectives or ignored clear evidence of fraud and misrepresentation (¶¶ 14-93). RICO does not impose liability for inadvertent or unwitting participation; there must be knowing and willful involvement in the conduct of the enterprise's affairs. For the forthcoming reasons, Plaintiff alleges that the Defendants are willing participants in the scheme. VICTIM OR PARTICIPANT RICO liability extends to those who knowingly participate in the conduct of the enterprise's affairs, even if they were not original members (RICO: A Primer (2022-01-31)). The timeline raises the question of whether Munford, Kaitcer, Carter, and Baker were victims of the initial scheme or willing participants in the expanded enterprise. The evidence suggests that, at a minimum, Myers and Branthoover were the core members of the enterprise, with others becoming involved through their actions in the legal proceedings (¶¶ 14-93). The timeline demonstrates that Carter, Kaitcer, and Myers engaged in extortion by leveraging the threat of adverse legal action, fraudulent court orders, and the manipulation of judicial process to coerce Plaintiff into relinquishing property and business interests, satisfying the elements of extortion as a predicate act under RICO and the Travel Act. Munford and Baker, for their part, committed wire fraud by intentionally sending altered or incomplete court documents via interstate email, with the intent to mislead, obstruct relief, and further the enterprise's objective of finalizing the divorce and depriving Plaintiff of his property, thus meeting the requirements for wire fraud as a RICO predicate act. These acts, as detailed in the timeline, are not isolated but part of a coordinated pattern of racketeering activity within an association-in-fact enterprise, as required by RICO in the Tenth Circuit. The conduct of each defendant is tied to specific predicate acts—extortion

for Carter, Kaitcer, and Myers (notably at timeline events 33-37), and wire fraud for Munford and Baker (notably at events 54-59, 83)—demonstrating knowing and willful participation in the enterprise’s broader scheme to deprive Plaintiff of his home and business through fraudulent and coercive means.

A. Extortion and Wire Fraud The Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-1968, provides a civil cause of action for injury to business or property caused by a pattern of racketeering activity conducted through an enterprise affecting interstate commerce. Predicate acts under RICO include extortion (as defined by the Hobbs Act and the Travel Act) and wire fraud (18 U.S.C. § 1343), among others.

Extortion is defined as obtaining property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right. The Travel Act, 18 U.S.C. § 1952, includes extortion as an “unlawful activity” and does not require it to be part of a business enterprise (U.S. v. Welch, 327 F.3d 1081 (10th Cir. 2003)). The Tenth Circuit recognizes that extortion under the Travel Act can be established by showing threats or coercion to obtain something of value, including property or legal rights, in violation of state or federal law. Wire fraud under 18 U.S.C. § 1343 requires (1) a scheme to defraud or obtain property by false or fraudulent pretenses, (2) intent to defraud, and (3) use of interstate wire communications to execute the scheme (Clinton v. Sec. Benefit Life Ins. Co., 63 F.4th 1264 (10th Cir. 2023); United States v. Holloway, 826 F.3d 1237 (10th Cir. 2016)). The Tenth Circuit requires that the deprivation of property be a central object of the scheme, and that the use of wires (including email) be knowing and in furtherance of the fraudulent scheme (United States v. Tao, 629 F.Supp.3d 1083).

B. Extortion by Carter, Kaitcer, and Myers Extortion, as a RICO predicate act, is defined broadly under federal law and the Travel Act. It includes obtaining property or rights through threats, coercion, or misuse of official process (U.S. v. Welch, 327 F.3d 1081 (10th Cir. 2003)). The Tenth Circuit does not require extortion to be part of a business enterprise for Travel Act purposes; a single act suffices if it has the requisite interstate nexus. The timeline shows the following:

- i. Event 33-34: Carter, with Myers, prepared and presented “Temporary Orders” that misrepresented facts (e.g., that Plaintiff agreed to terms he did not, that a hearing occurred when it did not, and that the orders were in the best interests of the children). These orders altered the dates of access to the home to shield Myers from liability for locking Plaintiff out, and were presented to Plaintiff in a context where he was under threat of losing his home and business.
- iii. Event 36: Kaitcer, knowing the orders were disputed and that no response had been filed, signed an associate judge’s report pre-drafted by Carter, summarily denying Plaintiff’s emergency motion and ordering Plaintiff to sign the disputed document, despite his objections and lack of consent.
- iv. Event 35: Plaintiff refused to sign the orders for multiple reasons, including their fraudulent content and the lack of due process, but the orders were rendered into effect without his signature. These acts collectively demonstrate the use of legal process and the threat of adverse judicial action to coerce Plaintiff into surrendering his property and business interests. The manipulation of court orders, the misrepresentation of facts, and the pressure to sign under threat of losing his home constitute extortion under the Travel Act and RICO (U.S. v. Welch, 327 F.3d 1081 (10th Cir. 2003)). Myers’s role is clear: she was the beneficiary and instigator of the fraudulent filings and the manipulation of court

process, using the threat of legal action and the actual deprivation of Plaintiff's property to achieve her goal. Carter and Kaitcer acted in concert with Myers, knowingly facilitating the extortion by preparing, presenting, and enforcing fraudulent orders, and by using the authority of the court to coerce Plaintiff. The fact that Plaintiff was ordered to sign a document he objected to, under threat of continued deprivation of his home and business, is classic extortion by color of official right. All three defendants knew that Plaintiff did not agree to the order, as he had just fired his attorney to challenge any basis for an agreement. This implies that despite the motion being served on all defendants, they chose to ignore the allegations of a fraudulent scheme and further the affairs of the enterprise. These actions meet the requirements for extortion as a RICO predicate act: they involved the wrongful use of threats and official process to obtain property (the home and business) from Plaintiff, with his consent induced by fear of further loss or legal harm. The acts were not isolated but part of a coordinated scheme to achieve the enterprise's goal of finalizing the divorce and divesting Plaintiff of his property B. Wire Fraud by Munford and Baker Wire fraud under 18 U.S.C. § 1343 requires a scheme to defraud, intent to defraud, and use of interstate wire communications to execute the scheme (Clinton v. Sec. Benefit Life Ins. Co., 63 F.4th 1264 (10th Cir. 2023); United States v. Holloway, 826 F.3d 1237 (10th Cir. 2016)). The Tenth Circuit recognizes that sending altered or incomplete court documents via email, with the intent to mislead or deprive someone of property or rights, can constitute wire fraud if the deprivation of property is a central object of the scheme (United States v. Tao, 629 F.Supp.3d 1083). The timeline shows the following: i. Event 54: Munford signed and forwarded a "Joint Motion to Recuse" attached to his order of referral, but the document was missing critical exhibits and affidavits necessary for Plaintiff's relief. ii. Event 55: Baker sent a copy of this incomplete filing via email, representing it as the full document. iii. Event 56-57: When Plaintiff pointed out the discrepancies, Baker provided inconsistent explanations, first claiming the full document was e-filed, then later stating it was split into three parts due to size. iv. Event 58: Munford signed and filed an "Amended Order of Referral" with the full motion attached, but with hyperlinks and bookmarks removed, further impairing the document's integrity. v. Event 59, 83: Baker continued to forward altered or incomplete orders and referrals, even when procedural irregularities were raised. These acts involved the knowing use of interstate email to transmit altered or incomplete court documents, with the intent to prevent Plaintiff from obtaining relief and to further the enterprise's goal of finalizing the divorce and depriving Plaintiff of his property. The use of email to transmit these documents satisfies the interstate wire requirement, and the intent to defraud is evidenced by the deliberate alteration and misrepresentation of the filings. The conduct of Munford and Baker meets the elements of wire fraud: (1) a scheme to defraud Plaintiff of property and rights, (2) intent to defraud by preventing relief and misleading the court and Plaintiff, and (3) use of interstate wire communications (email) to execute the scheme (Clinton v. Sec. Benefit Life Ins. Co., 63 F.4th 1264 (10th Cir. 2023)). The deprivation of property (Plaintiff's home and business) was a central object of the scheme, not a minor part.

RELATIONSHIP AND CONTINUITY

All these acts—extortion by Carter, Kaitcer, and Myers, and wire fraud by Munford and Baker—were committed in furtherance of the Myers-Branthrover enterprise's overarching objective: to finalize the

divorce and divest Plaintiff of his home and business. The acts were coordinated, continuous, and related, satisfying the RICO pattern requirement. The timeline shows that each defendant's conduct was not an isolated error or routine administrative act, but part of a deliberate scheme to use the legal process, threats, and fraudulent communications to achieve the enterprise's unlawful goals. **DAMAGES** The harm inflicted upon Plaintiff is staggering. He has lost the home in which he lived for nearly a third of his life, the companionship of his spouse, and the society of his children. His income has collapsed. For two years he has been consigned to a futile appellate gauntlet, even as Defendants Munford, Kaitcer, Baker, and Carter have repeatedly exceeded the bounds of their lawful authority in furtherance of a broader scheme. What began as a concerted effort by Myers and Branthoover to dispossess Plaintiff of his residence and property metastasized into a calculated plan to procure a final decree of divorce once the initial objective had been achieved. The objective was plain: by engineering a final decree, Defendants would not only hobble Plaintiff's ability to bring this suit but also invite invocation of the Rooker-Feldman doctrine and related abstention principles to preclude federal jurisdiction. Now, after two years of unremitting effort, Plaintiff seeks the only meaningful remedy remaining: federal redress to halt the ongoing abuses of authority, to unwind tainted actions, and to compensate him fully for the catastrophic losses Defendants have wrought. Take each piece in the TABLE OF CONTENTS, research the topic, and tie it to the factual timeline, filling out each element of the RICO complaint and tie each element to the factual allegations by enumerated paragraph number. What are the legal standards for pleading and proving damages in a civil RICO action in the Fifth Circuit, including compensatory, treble, punitive, and restitution damages?

Answer (Fifth Circuit)

Short response

To plead and prove damages in a civil RICO action in the Fifth Circuit, a plaintiff must show a concrete financial loss to business or property proximately caused by the RICO violation, with compensatory damages trebled by statute, while punitive damages are generally unavailable and restitution is limited to actual loss directly resulting from the predicate acts. The standards require specificity and competent proof of loss, and only injuries to business or property—not personal injuries or speculative losses—are compensable.

Summary

In the Fifth Circuit, civil RICO plaintiffs must allege and prove that they suffered a direct, concrete financial loss to their business or property as a result of the defendant's racketeering activity, and that this loss was both factually and proximately caused by the RICO violation. Compensatory damages are calculated based on the actual harm caused by the predicate acts, and, if liability is established, these damages are automatically trebled under 18 U.S.C. § 1964(c); punitive damages are not available because

treble damages serve a punitive function, and restitution is limited to the amount of actual loss proven.

The courts require that damages be pleaded with specificity and supported by competent evidence, excluding speculative, intangible, or personal injury-based claims. The injury must be ascertainable and directly linked to the RICO violation, and the plaintiff bears the burden of showing that the damages flow from the predicate acts constituting the pattern of racketeering activity. Attorney's fees and costs are also recoverable for prevailing plaintiffs, but double recovery for the same loss is barred by the one-satisfaction rule.

Background and Relevant Law

Legislative Framework

The Racketeer Influenced and Corrupt Organizations Act (RICO), codified at 18 U.S.C. §§ 1961–1968, provides a private right of action for “[a]ny person injured in his business or property by reason of a violation of section 1962,” and mandates that such a plaintiff “shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney’s fee” ([D&T Partners L.L.C. v. Baymark Partners Mgmt., L.L.C.](#), [98 F.4th 198](#); 18 U.S.C. § 1964(c)). The statute does not define “damages,” but the Supreme Court and Fifth Circuit have interpreted this to mean actual, compensatory damages to business or property, not personal injuries or speculative losses ([Hughes v. Tobacco Institute, Inc.](#), [278 F.3d 417](#)).

Case Law

The Fifth Circuit has consistently held that to have standing and to recover under civil RICO, a plaintiff must show (1) injury to business or property, and (2) that the injury was caused “by reason of” the RICO violation, meaning both but-for and proximate causation ([Price v. Pinnacle Brands, Inc.](#), [138 F.3d 602](#); [Allstate Ins. Co. v. Plambeck](#), [802 F.3d 665](#); [Jackson v. Nat'l Ass'n for the Advancement of Colored People](#), No. 12-20399). The injury must be a concrete financial loss, not a mere expectancy or intangible property interest ([Gil Ramirez Grp., L.L.C. v. Hous. Indep. Sch. Dist.](#), [786 F.3d 400](#); [Patterson v. Mobil Oil Corp.](#), [335 F.3d 476](#)). Speculative damages or those not directly resulting from the predicate acts are not compensable ([Taxable Mun. Bond Securities Litigation, In re](#), [51 F.3d 518](#)).

The Supreme Court recently expanded the scope of RICO injuries to allow treble damages for business or property loss even if the loss resulted from a personal injury, but the loss itself must still be to business or property ([Supreme Court Expands The Scope Of Injuries Under RICO](#)).

Secondary Materials

Secondary authorities reinforce that damages must be proven with competent evidence and must be directly attributable to the predicate acts forming the pattern of racketeering activity ([Civil Rico: A Tool of Advocacy](#)).

Treble damages are mandatory upon proof of liability, and future damages may be recoverable if they are reasonably certain to occur as a result of the RICO violation. The one-satisfaction rule prevents double recovery for the same loss ([Creel v. Dr. Says, LLC](#)).

Analysis

Compensatory Damages

Pleading and Proof Requirements

To recover compensatory damages in a civil RICO action, the plaintiff must allege and prove a concrete, non-speculative financial loss to business or property, directly caused by the defendant's racketeering activity ([Creel v. Dr. Says, LLC, Civil Action 4:18-CV-00615 \(E.D. Tex. Mar 31, 2022\)](#); [Price v. Pinnacle Brands, Inc., 138 F.3d 602](#)). The loss must be ascertainable and supported by competent evidence, not mere speculation or conjecture ([Taxable Mun. Bond Securities Litigation, In re, 51 F.3d 518](#)). The Fifth Circuit has repeatedly emphasized that injury to mere expectancy interests or intangible property is insufficient ([Gil Ramirez Grp., L.L.C. v. Hous. Indep. Sch. Dist., 786 F.3d 400](#)).

Application to Timeline

In the provided factual timeline, the plaintiff alleges loss of his home, business operations, and client relationships, as well as deprivation of marital funds and business income (see, e.g., ¶¶ 2, 3, 4, 5, 6, 7, 37). To satisfy the Fifth Circuit's standard, the plaintiff must quantify these losses with specificity—such as lost profits, lost business value, or out-of-pocket expenses—and tie each loss directly to the predicate acts (e.g., wire fraud, extortion, fraudulent court filings) that constitute the RICO violation ([National Enterprises, Inc. v. Mellon Financial Services Corp. No. 7, 847 F.2d 251](#)).

Causation

The plaintiff must show both but-for and proximate causation: that the injury would not have occurred but for the RICO violation, and that the violation was the direct cause of the injury ([Allstate Ins. Co. v. Plambeck, 802 F.3d 665](#); [Summit Properties v. Hoechst Celanese Corp., 214 F.3d 556](#), overruled on other grounds by [St. Germain v. Howard, 556 F.3d 261](#)). For example, if the loss of business clients resulted directly from being locked out of the home and unable to provide services (as alleged in ¶ 37), and this was a foreseeable result of the racketeering acts, compensatory damages may be awarded.

Exclusion of Personal Injuries

Damages for personal injuries, emotional distress, or loss of consortium are not recoverable under RICO ([Hughes v. Tobacco Institute, Inc., 278 F.3d 417](#)). Even pecuniary consequences of personal injuries are excluded unless

they result in a direct loss to business or property ([Creel v. Dr. Says, LLC, Civil Action 4:18-CV-00615 \(E.D. Tex. Mar 31, 2022\)](#)).

Treble Damages

Statutory Mandate

Upon proof of liability and actual damages, the court must award treble damages—three times the amount of actual damages proven—under 18 U.S.C. § 1964(c) ([D&T Partners L.L.C. v. Baymark Partners Mgmt., L.L.C., 98 F.4th 198; Civil Rico: A Tool of Advocacy](#)). This is not discretionary; the statute requires trebling of compensatory damages.

Purpose and Effect

Treble damages serve both compensatory and punitive functions, deterring racketeering activity and encouraging private enforcement ([Allstate Ins. Co. v. Plambeck, 802 F.3d 665](#)). The Fifth Circuit has held that the availability of treble damages may offset the need for prejudgment interest, as the treble award is considered sufficient to compensate for the loss of use of money ([Allstate Ins. Co. v. Plambeck, 802 F.3d 665](#)).

Recent Expansion

The Supreme Court's recent decision in *Medical Marijuana, Inc. v. Horn* clarifies that treble damages are available for business or property loss even if the loss is derived from a personal injury, so long as the loss itself is to business or property ([Supreme Court Expands The Scope Of Injuries Under RICO](#)).

Punitive Damages

General Unavailability

Punitive damages are generally not available in civil RICO actions because the treble damages provision is considered punitive in nature ([Allstate Ins. Co. v. Plambeck, 802 F.3d 665](#)). The Fifth Circuit has not recognized a right to additional punitive damages beyond the statutory treble damages, and courts have denied such claims on the basis that treble damages fulfill the punitive and deterrent purposes of the statute.

Abrogated Authority

While some older Fifth Circuit cases discuss punitive damages in the context of malicious or wanton conduct ([Jackson v. Johns-Manville Sales Corp., 781 F.2d 394](#)), this authority has been abrogated by later cases (Morgan v. Plano Indep. Sch. Dist., 724 F.3d 579), and is not controlling in the RICO context.

Restitution Damages

Restitution as Actual Loss

Restitution in civil RICO is limited to the amount of actual loss suffered by the plaintiff as a direct result of the predicate acts ([Creel v. Dr. Says, LLC](#)). The plaintiff may recover the value of property or funds wrongfully obtained or lost due to the racketeering activity, but must provide competent proof of the amount and direct causation ([Civil Rico: A Tool of Advocacy](#)).

No Double Recovery

The one-satisfaction rule applies, preventing double recovery for the same loss. If the plaintiff receives restitution or settlement from one defendant, the total recovery is offset to ensure that the plaintiff is not compensated more than once for the same injury ([Creel v. Dr. Says, LLC](#)).

Attorney's Fees and Costs

Prevailing plaintiffs are entitled to recover reasonable attorney's fees and costs in addition to treble damages ([D&T Partners L.L.C. v. Baymark Partners Mgmt., L.L.C.](#), 98 F.4th 198; [PAYORS, PLAYERS, AND PROXIMATE CAUSE](#)).

Pleading Standards

Particularity and Competent Proof

Civil RICO claims must be pleaded with particularity, especially where fraud is alleged as a predicate act ([Peel v. cPaperless LLC](#), 4:23-CV-02417). Plaintiffs must set out a reasonable basis for recovery by competent proof, not mere speculation ([Civil Rico: A Tool of Advocacy](#)). The complaint must specify the amount of damages, the nature of the loss, and the causal connection to the predicate acts.

Application to Timeline

In the context of the provided timeline, the plaintiff must tie each claimed loss—such as lost business income, value of the home, or funds transferred—to specific predicate acts (e.g., wire fraud, extortion) and provide evidence (such as bank statements, client affidavits, or business records) to support the amount claimed. For example, the \$1,576 transferred to Branthoover's PayPal account (¶ 3) is a concrete, quantifiable loss directly linked to the alleged wire fraud.

Defenses and Limitations

Speculative or Indirect Damages

Damages that are speculative, based on lost opportunities, or not directly resulting from the predicate acts are not recoverable ([Taxable Mun. Bond Securities Litigation, In re](#), 51 F.3d 518). For example, if the plaintiff claims damages for future lost profits, these must be established with reasonable certainty and directly tied to the RICO violation ([Civil Rico: A Tool of Advocacy](#)).

Personal Injury Exclusion

Claims for emotional distress, pain and suffering, or other personal injuries are not compensable under RICO, even if they have pecuniary consequences ([Hughes v. Tobacco Institute, Inc., 278 F.3d 417](#)).

One-Satisfaction Rule

If the plaintiff settles with one defendant or receives partial payment, the total recovery is offset to prevent double recovery for the same loss ([Creel v. Dr. Says, LLC](#)).

Exceptions and Caveats

- The Supreme Court's recent expansion of RICO injury to include business or property loss derived from personal injury broadens the scope of compensable damages, but the loss must still be to business or property, not the personal injury itself ([Supreme Court Expands The Scope Of Injuries Under RICO](#)).
- The Fifth Circuit requires strict adherence to the requirement of concrete, non-speculative financial loss; failure to plead or prove such loss will result in dismissal ([Peel v. cPaperless LLC](#), 4:23-CV-02417).
- Punitive damages beyond treble damages are not available, and any authority to the contrary has been abrogated or is not controlling in the RICO context ([Jackson v. Johns-Manville Sales Corp., 781 F.2d 394](#), abrogated by Morgan v. Plano Indep. Sch. Dist., 724 F.3d 579).

Conclusion

In the Fifth Circuit, a civil RICO plaintiff must plead and prove a concrete, ascertainable financial loss to business or property, directly and proximately caused by the defendant's racketeering activity. Compensatory damages proven are automatically trebled by statute, punitive damages are not available, and restitution is limited to actual loss; all damages must be supported by competent evidence and directly tied to the predicate acts. The plaintiff must avoid speculative or personal injury-based claims, and the total recovery is subject to the one-satisfaction rule to prevent double recovery. The standards are exacting, but when met, RICO provides a powerful remedy for victims of racketeering activity.

Legal Authorities

[Jackson v. Johns-Manville Sales Corp., 781 F.2d 394 \(5th Cir. 1986\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The district court's charge instructed the jury as follows: If you should find from a preponderance of the evidence in this case that the plaintiff is

entitled to a verdict for actual or compensatory damages, against one or more of the defendants herein, and further find that the act or omission of that particular defendant or defendants against whom you do find, which proximately caused actual injury or damages to the plaintiff was maliciously or wantonly done by that particular defendant or defendants, then in that event you may, if in the exercise of your discretion you unanimously choose to do so, add to the award of actual damages such amount as you shall unanimously agree to be proper, as punitive and exemplary damages against any one or more of the defendants against whom who have found liability and actual damages in favor of the plaintiff, if any.

Summary

The passage provides insight into the standards for awarding punitive damages in the Fifth Circuit. It specifies that punitive damages can be awarded if the jury finds, by a preponderance of the evidence, that the defendant's conduct was malicious or wanton. This is relevant to civil RICO actions where punitive damages may be sought in addition to compensatory damages.

[Price v. Pinnacle Brands, Inc., 138 F.3d 602 \(5th Cir. 1998\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

RICO provides a private civil action to recover treble damages for injury suffered as a result of a violation of its substantive provisions. To state a civil RICO claim under § 1962, a plaintiff must allege: (1) the conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity. As a preliminary matter, however, a plaintiff must establish that he has standing to sue. 'The standing provision of civil RICO provides that '[a]ny person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor ... and shall recover threefold the damages he sustains.' Thus, a RICO plaintiff must satisfy two elements--injury and causation.

Summary

Requirements for a civil RICO claim, emphasizing the need for a plaintiff to demonstrate both injury and causation to have standing. It also highlights that RICO allows for the recovery of treble damages, which are three times the actual damages sustained. This is a critical aspect of RICO's civil remedy provisions, as it provides a strong incentive for plaintiffs to pursue claims. The passage does not specifically address punitive or restitution damages, but it does clarify the compensatory and treble damages aspect.

[St. Paul Mercury Ins v. Williamson, 224 F.3d 425 \(5th Cir. 2000\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

RICO creates a civil cause of action for '[a]ny person injured in his business or property by reason of a violation of section 1962.' Beck v. Prupis, 120 S. Ct. 1608, 1611 (2000) (quoting 18 U.S.C. § 1964(c)). ... Under all those subsections, to state a RICO claim, there must be: '(1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise.' Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241, 242 (5th Cir. 1988) (emphasis supplied/retained).

Summary

The passage provides the foundational elements required to state a RICO claim, which includes demonstrating injury to business or property due to a violation of section 1962. This is relevant to understanding the basis for claiming damages in a civil RICO action.

[Solutions Shared Servs. v. Michael Jimenez, & Glasheen, Valles, & Inderman, LLP, 452 F.Supp.3d 541 \(W.D. Tex. 2020\)](#)

U.S. District Court — Western District of Texas

Extract

In addition, a civil RICO plaintiff must be 'injured in his business or property by reason of a violation of section 1962.' 18 U.S.C. § 1964(c). In other words, standing to sue under § 1962 requires injury and causation. See Price, 138 F. 3d at 606. 'Injury to mere expectancy interests or to an 'intangible property interest' is not sufficient to confer RICO standing.' Id. at 607. Indeed, the RICO claimant must show a 'conclusive financial loss.' Gil Ramirez Group, L.L.C. v. Houston Indep. Sch. Dist., 786 F.3d 400, 408 (5th Cir. 2015). The Court agrees with Plaintiff that Defendants fail to allege a sufficiently concrete injury and thus do not have standing to sue under RICO.

Summary

Requirement for a civil RICO plaintiff to demonstrate a concrete and conclusive financial loss to establish standing. It emphasizes that speculative or intangible injuries are insufficient. This aligns with the Fifth Circuit's requirement for a definite and calculable injury, as seen in Gil Ramirez Group, L.L.C. v. Houston Indep. Sch. Dist. The passage does not directly address treble, punitive, or restitution damages but focuses on the necessity of proving a concrete injury for standing.

[Crawford Arms, Inc. v. Waste Management of Miss., 23 F.Supp.2d 676 \(S.D. Miss. 1998\)](#)

U.S. District Court — Southern District of Mississippi

Extract

In addition, a RICO plaintiff must have standing to sue pursuant to 18 U.S.C. § 1964(c). '[T]he 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 violation.' *Sedima, S.P.R.L., v. Imrex Co.*, 473 U.S. 479, 495-97, 105 S.Ct. 3275, 3284-85, 87 L.Ed.2d 346 (1985). The Civil RICO standing requirement, found in § 1964(c), provides that only persons who have been injured 'by reason of' the commission of predicate acts have standing to bring suit. *Sedima*, 473 U.S. at 496, 105 S.Ct. 3275. In the Fifth Circuit, a person will be considered injured 'by reason of' a RICO violation if the predicate acts constitute (1) factual (but for) causation and (2) legal (proximate) causation of the alleged injury.

Summary

Standing requirement for a civil RICO action, which is crucial for pleading and proving damages. It specifies that a plaintiff must demonstrate injury to business or property directly caused by the RICO violation, involving both factual and legal causation. This is foundational for claiming any damages, including compensatory, treble, punitive, and restitution damages, as it establishes the basis for the plaintiff's right to recover.

[Andrews v. Eckhardt, Case No. 1:20-cv-0608-LY-SH \(W.D. Tex. Mar 12, 2021\)](#)

U.S. District Court — Western District of Texas

Extract

The RICO Act provides a private cause of action for any person injured in her business or property due to a violation of the criminal provisions of § 1962 of the Act. 18 U.S.C. §1964(c); *Hemi Grp., LLC v. City of New York*, 559 U.S. 1, 6 (2010). The Supreme Court has stated that a RICO plaintiff has standing only if 'he has been injured in his business or property by the conduct constituting the violation.' *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496 (1985); see also *Nat'l Enters., Inc. v. Mellon Fin. Servs. Corp.* No. 7, 847 F.2d 251, 254-55 (5th Cir. 1988) (affirming dismissal of RICO claim due to lack of standing where defendant lacked cognizable injury resulting from RICO violation).

Summary

To have standing in a civil RICO action, a plaintiff must demonstrate an injury to their business or property directly caused by the RICO violation.

This is a fundamental requirement for pleading damages in a civil RICO case. The passage does not specifically address compensatory, treble, punitive, or restitution damages, but it establishes the necessity of showing a direct injury to business or property as a prerequisite for any damages claim under RICO.

[Newport Ltd. v. Sears, Roebuck & Co., 739 F. Supp. 1078 \(E.D. La. 1990\)](#)

U.S. District Court — Eastern District of Louisiana

Extract

Newport has repeatedly refused to specify its damages throughout this litigation. It is clear that it may recover only those damages factually and legally caused by the predicate acts of mail and wire fraud in this RICO claim, not those otherwise owing by virtue of an alleged breach of contract. Here, Newport seeks recovery of damages, not of those monies shown to have been expended as the result of the predicate acts, but of lump sum amounts based on the successful completion of the project, itemized as 'out of pocket loss, lost public monies and lost profits.'

Summary

In a civil RICO action, damages must be directly and factually caused by the predicate acts of racketeering, such as mail and wire fraud. It emphasizes that damages cannot be speculative or based on unrelated breaches of contract. The damages must be specific and directly linked to the wrongful acts alleged under RICO.

[Jackson v. Nat'l Ass'n for the Advancement of Colored People, No. 12-20399 \(5th Cir. Oct 08, 2013\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

To state a civil RICO claim under any subsection in 18 U.S.C. § 1962, 'there must be: (1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise.' Brown v. Protective Life Ins. Co., 353 F.3d 405, 407 (5th Cir. 2003)(quotation marks and citation omitted). A plaintiff must establish standing to bring a civil RICO claim. Price v. Pinnacle Brands, Inc., 138 F.3d 602, 606 (5th Cir. 1998). 'Any person injured in his business or property by reason of a violation of section 1962' may sue pursuant to the civil cause of action created by RICO. 18 U.S.C. § 1964(c). Thus, a plaintiff must satisfy two elements to establish RICO standing: injury and causation. Price, 138 F. 3d at 606. We have noted that '[i]njury to mere expectancy interests or to an

intangible property interest is not sufficient to confer RICO standing,' Price, 138 F.3d at 607 (internal quotation marks and citation omitted). Addressing the causation requirement, a RICO predicate offense must 'not only [be] a 'but for' cause of [plaintiff's] injury, but [it must be] the proximate cause as well.' Holmes v. Sec. Investor Prot. Corp., 503 U.S. 258, 268 (1992). In assessing proximate cause, 'the central question [we] must ask is whether the alleged violation led directly to the plaintiff's injuries.' Anza v. Ideal Steel Supply Corp., 547 U.S. 451, 461 (2006).

Summary

Requirements for establishing a civil RICO claim, focusing on the need for a plaintiff to demonstrate both injury and causation. It specifies that the injury must be to business or property and that the causation must be both a "but for" and proximate cause of the injury. This is essential for understanding the legal standards for pleading damages in a civil RICO action.

[Euristhe v. Beckmann](#)

U.S. District Court — Northern District of Texas

Extract

RICO provides civil liability relief for activities that violate 18 U.S.C. § 1962 and harm the plaintiff. To bring an action under RICO, 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., Inc., 473 U.S. 479, 496 (1985); see also Crowe v. Henry, 43 F.3d 198, 204 (5th Cir. 1995). The threshold requirement for stating a civil cause of action under RICO is that the plaintiff must be "injured in his business or property by reason of a violation" of the [RICO]'s substantive restrictions." Anza v. Ideal Steel Supply Corp., 547 U.S. 451, 453 (2006) (quoting 18 U.S.C. § 1964(c)); see also Hughes v. Tobacco Inst., Inc., 278 F.3d 417, 422 (5th Cir. 2001). Thus, "the 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 [RICO] violation." Anza, 547 U.S. 451 at 453. Pecuniary consequences are not compensable claims under RICO.

Summary

Requirements for a civil RICO action, emphasizing that a plaintiff must demonstrate injury to business or property due to a RICO violation. It specifies that pecuniary consequences alone are not compensable under RICO, indicating that the injury must be more direct and tangible. This aligns with the Fifth Circuit's standards for proving damages in a civil RICO action.

U.S. District Court — Middle District of Louisiana

Extract

An individual has a civil RICO claim under 18 U.S.C. § 1964(c), and a right to recover treble damages and an attorney's fee, '[i]f the defendant engages in a pattern of racketeering activity in a manner forbidden by [§ 1962], and the racketeering activities injure the plaintiff in his business or property.' The injury must be 'by reason of,' or caused by, a violation of § 1962. Thus, § 1964(c) imposes two requirements on the plaintiff's right to recover, namely, damage to business or property and causation.

Summary

Requirements for a civil RICO claim under 18 U.S.C. § 1964(c), which include proving a violation of § 1962, injury to business or property, and causation. It specifies that a plaintiff can recover treble damages and attorney's fees if these conditions are met. The injury must be directly caused by the RICO violation, emphasizing the need for a direct relationship between the predicate acts and the injury.

[Creel v. Dr. Says, LLC, Civil Action 4:18-CV-00615 \(E.D. Tex. Mar 31, 2022\)](#)

U.S. District Court — Eastern District of Texas

Extract

"Congress enacted RICO primarily "to combat organized crime." United States v. Uni Oil, Inc., 646 F.2d 946, 953 (5th Cir. May 1981); see Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479, 481-83, 497-99 (1985). Nonetheless, the statute "imposes criminal and civil liability upon those who engage in certain 'prohibited activities.'" H.J. Inc. v. Nw. Bell Tel. Co., 492 U.S. 229, 232 (1989). Specifically, a RICO plaintiff may bring "a private civil action to recover treble damages for injury 'by reason of a violation of' [RICO's] substantive provisions." Sedima, 473 U.S. at 481 (quoting 18 U.S.C. § 1964(c)). ... 18 U.S.C. § 1964(c). In construing § 1964(c), the Supreme Court has noted that "the 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 violation"-that is, the predicate act. Sedima, S.P.R.L. v. Imrex Co., Inc., 473 U.S. 479, 496 (1985). Despite the acknowledgement that "RICO is to 'be liberally construed to effectuate its remedial purposes,'" Id. at 498 (quoting Pub.L. 91-452, § 904(a), 84 Stat. 947), damages for the commission of predicate acts must be premised upon a finding that a plaintiff's business or property was harmed. See Id. at 500. Simply, a plaintiff must demonstrate RICO injury through a "concrete financial loss." Price, 138 F.3d at 606; see United States v. Hager, 879 F.3d 550, 554 (5th Cir. 2018). "[W]hether a given party has suffered a RICO injury is a fact-heavy question." Nat'l Enters. v. Mellon Fin. Servs. Corp. No. 7, 847 F.2d 251, 254-55 (5th Cir. 1988). ... "[T]here is no recovery under RICO for personal injuries." Price, 138 F.3d at 607 n.20 (internal citations omitted).

This conclusion stems from the phrase “business or property,” in § 1964(c), which “retains restrictive significance” and “exclude[s] personal injuries suffered” in a RICO case. Reiter v. Sonotone Corp., 442 U.S. 330, 339 (1979) (citing Hamman v. United States, 267 F.Supp. 420, 432 (D. Mont. 1967)). In fact, even “resulting pecuniary consequences” of personal injuries are insufficient to establish a “business or property” injury under § 1964(c). ... To sustain the RICO damages award, the jury must have also rationally found that Defendants’ racketeering activities proximately caused Plaintiffs’ business and property injuries. Defendants argue that “the evidence is legally [in]sufficient to establish that the damages were directly and proximately caused by an alleged RICO violation,” which § 1964(c) requires (Dkt. #881 at p. 29). Defendants contend that any injuries resulted from “other independent causes” and that “the damages were too speculative for the jury to reasonably determine what portion, if any, was the direct result of an alleged RICO violation” (Dkt. #881 at p. 29). Plaintiffs respond that they do not have to “offer evidence which positively exclude[s] every other possible cause of the” injury (Dkt. #887 at p. 21) (internal citations omitted). ... (Dkt. #856 at p. 19). According to the verdict, the jury, having been charged with the foregoing law, found that “[t]he amount of damages to Plaintiffs’ business or property” was \$300, 000 and was “specifically and proximately caused by and attributable to Defendants’ violation of RICO” (Dkt. #850 at p. 6). Given the evidence Plaintiffs offered and the jury’s explicit instructions and findings, the Court finds “the state of proof is such that reasonable and impartial minds could reach the conclusion the jury expressed in its verdict” regarding RICO causation and resulting damages. Am. Home Assurance Co. v. United Space All., 378 F.3d 482, 487 (5th Cir. 2004). ... In re Burzynski, 989 F.2d 733, 741 (5th Cir. 1993). “Thus, RICO claims under all four subsections necessitate: ‘1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.’” Id. at 741-72 (quoting Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241, 242 (5th Cir. 1988), cert. denied, 489 U.S. 1079 (1989)) (emphasis in original). To be sure, “[a] plaintiff may not convert state law claims into a federal treble damage action simply by alleging that wrongful acts are a pattern of racketeering relating to an enterprise.”

Summary

Detailed explanation of the requirements for pleading and proving damages in a civil RICO action in the Fifth Circuit. It outlines the necessity of demonstrating a concrete financial loss to business or property, the exclusion of personal injuries, and the requirement of proximate causation between the RICO violation and the damages claimed. The passage also emphasizes the need for a pattern of racketeering activity connected to an enterprise.

[Creel v. Dr. Says, LLC](#)

U.S. District Court — Eastern District of Texas

Extract

The jury found all defendants liable for RICO conspiracy; seven defendants liable for the substantive RICO violation... The jury awarded Plaintiffs \$300,000 in civil RICO damages; \$379,500 in state law damages; and \$1,320,500 in disgorgement... The Court has already held that the federal one-satisfaction rule applies to cases involving RICO claims... The Court must decide whether Tom and Rafique's settlement agreements, as well as the jury's award, 'pertain inseparably to one and the same loss' to determine if the one-satisfaction rule applies... The Court will offset Plaintiffs' award for RICO damages by \$200,000 due to Tom's settlement agreement but the full \$400,000 will not be credited at this time because attorneys' fees have not been awarded.

Summary

The passage provides insight into how damages are awarded and adjusted in civil RICO actions in the Fifth Circuit. It highlights the application of the federal one-satisfaction rule, which prevents double recovery for the same loss, and discusses the offset of damages based on settlement agreements. The passage also indicates that disgorgement can be awarded to deter future wrongful conduct under the RICO statute.

[Arroyo v. Oprona, Inc., No. 17-20576 \(5th Cir. May 31, 2018\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

A plaintiff has standing under the RICO statute if she can show she 'has been injured in [her] business or property by the conduct constituting the violation'—that is, by the commission of the predicate acts.

Summary

The passage provides insight into the standing requirement for a civil RICO claim, which is foundational for pleading damages. It specifies that a plaintiff must demonstrate injury to business or property caused by the predicate acts constituting the RICO violation. This is a critical element in establishing a claim for damages under RICO, as it directly ties the injury to the unlawful conduct.

[Dale v. Ala Acquisitions, Inc., 203 F.Supp.2d 694 \(S.D. Miss. 2002\)](#)

U.S. District Court — Southern District of Mississippi

Extract

Defendants also argue that plaintiffs have not alleged an injury sufficient to confer standing under RICO, pursuant to the civil RICO standing requirement, codified in 18 U.S.C. § 1964(c). As stated earlier, standing is only conferred to persons who have been injured 'by reason of' the alleged predicate acts. Crawford, 23 F.Supp.2d at 679 (citing Sedima, 473 U.S. at 496, 105 S.Ct. 3275). The Fifth Circuit has held that 'a person will be considered injured 'by reason of' a RICO violation if the predicate acts constitute (1) factual (but for) causation and (2) legal (proximate) causation of the alleged injury.' Ocean Energy II, Inc. v. Alexander & Alexander, Inc., 868 F.2d 740, 744 (5th Cir.1989).

Summary

The passage provides insight into the standing requirements for a civil RICO action in the Fifth Circuit. It specifies that to have standing, a plaintiff must demonstrate injury "by reason of" the alleged predicate acts, which requires both factual (but for) causation and legal (proximate) causation. This is crucial for pleading damages in a civil RICO action, as it establishes the connection between the defendant's conduct and the plaintiff's injury.

[Peel v. cPaperless LLC, 4:23-CV-02417 \(S.D. Tex. Nov 08, 2024\)](#)

U.S. District Court — Southern District of Texas

Extract

Congress enacted RICO in order to prohibit conduct involving a pattern of racketeering activity." [] "One of RICO's enforcement mechanisms is a private right of action, available to '[a]ny person injured in his business or property by reason of a violation' of the RICO's substantive restrictions." [] "However, due to the availability of treble damages under RICO, courts 'must be wary of transforming business-contract or fraud disputes into federal RICO claims.'" [] "Accordingly, despite multiple opportunities to amend and a clear checklist of what must be included to state a RICO claim, Order, ECF No. 44 at 13-14, Plaintiffs still fail to plead a single predicate act with the requisite particularity per Rule 9(b). Because a civil RICO claim requires at least two predicate acts to establish a 'pattern of racketeering activity,' 18 U.S.C. § 1961(5), Plaintiffs fail to state a RICO claim.

Summary

The passage provides insight into the requirements for pleading a civil RICO claim, emphasizing the need for particularity in alleging predicate acts and the caution courts must exercise due to the availability of treble damages. It highlights the necessity of establishing a pattern of racketeering activity, which requires at least two predicate acts.

[National Enterprises, Inc. v. Mellon Financial Services Corp. No. 7, 847 F.2d 251 \(5th Cir. 1988\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Where the plaintiff alleges each element of the violation, the compensable injury necessarily is the harm caused by the predicate acts sufficiently related to constitute a pattern, for the essence of the violation is the commission of those acts in connection with the conduct of an enterprise. Those acts are, when committed in the circumstances delineated in Sec. 1962(c), 'an activity which RICO was designed to deter.' Any recoverable damages occurring by reason of a violation of section 1962(c) will flow from the commission of the predicate acts.

Summary

In a civil RICO action, the compensable injury is the harm directly caused by the predicate acts that form a pattern of racketeering activity. The essence of a RICO violation is the commission of these acts in connection with an enterprise. Therefore, any recoverable damages must flow from these predicate acts. This suggests that for a plaintiff to recover damages, they must demonstrate that their injury was directly caused by the predicate acts that constitute the RICO violation.

[Brown v. Protective Life Ins. Co., 353 F.3d 405 \(5th Cir. 2003\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

RICO creates a civil cause of action for '[a]ny person injured in his business or property by reason of a violation of section 1962.' 18 U.S.C. § 1964(c); see also Beck v. Prupis, 529 U.S. 494, 120 S.Ct. 1608, 146 L.Ed.2d 561 (2000); St. Paul Mercury Ins. Co. v. Williamson, 224 F.3d 425 (5th Cir. 2000). To state a RICO claim under § 1962, 'there must be: '(1) a person who engages in (2) a pattern of racketeering activity (3) connected to the acquisition, establishment, conduct, or control of an enterprise.'

Summary

Basic requirements for a civil RICO claim, which includes demonstrating injury to business or property due to a violation of section 1962. This is foundational for understanding the types of damages that can be claimed under RICO, as the injury must be directly tied to the racketeering activity. The passage does not explicitly discuss compensatory, treble, punitive, or restitution damages, but it establishes the necessity of proving injury to

business or property, which is a prerequisite for any damages claim under RICO.

[Summit Properties v. Hoechst Celanese Corp., 214 F.3d 556 \(5th Cir. 2000\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

RICO provides that '[a]ny person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor. . . .' The Supreme Court, in Holmes v. Securities Investor Protection Corp., explicitly confirmed that the 'by reason of' language in RICO requires a causal connection between the predicate mail or wire fraud and a plaintiff's injury that includes 'but for' and 'proximate' causation.

Summary

In the Fifth Circuit, to plead and prove damages in a civil RICO action, there must be a causal connection between the predicate act (such as mail or wire fraud) and the plaintiff's injury. This includes both "but for" causation and "proximate" causation. The passage does not specifically address compensatory, treble, punitive, or restitution damages, but it establishes the foundational requirement of causation for any RICO damages claim.

[Taxable Mun. Bond Securities Litigation, In re, 51 F.3d 518 \(5th Cir. 1995\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

In the alternative, even if Anderson has properly alleged his eligibility for the NIFA Bonds and is the proper representative of the class, Anderson and the entire class of farmers and ranchers have not suffered any damages. They have not been 'injured' as a result of the RICO violation, a necessity for standing under RICO. Such speculative damages are not compensable under RICO, Hecht v. Commerce Clearing House, Inc., 897 F.2d 21, 24 (2d Cir. 1990) (holding that 'injury in the form of lost business commissions ... is too speculative to confer standing, because Hecht only alleges that he would have lost commissions in the future, and not that he has lost any yet'), and the legal entitlement claim that Anderson brings is precisely the type of 'intangible property interest' that RICO does not protect, Steele v. Hospital Corp. of Am., 36 F.3d 69, 70 (9th Cir. 1994) (holding that, for RICO standing, the plaintiffs must prove a 'concrete financial loss,' an actual loss 'of their own money,' and 'not mere 'injury to a valuable intangible property interest' '). Anderson has not alleged that the plaintiffs have ever lost any money as a result of the RICO scheme. Oscar v. University Students Co-op. Ass'n, 965 F.2d 783, 786 (9th Cir.), cert. denied, --- U.S. ----, 113 S.Ct. 655, 121 L.Ed.2d

581 (1992) and --- U.S. ----, 113 S.Ct. 656, 121 L.Ed.2d 581 (1992), (holding that the plaintiff had not alleged any financial loss necessary for RICO standing because '[t]he only injury she has alleged is a 'decrease in the value of her property,' ' and not 'any out-of-pocket expenditures as a direct or indirect result of the' RICO scheme).

Summary

The passage emphasizes that for standing in a RICO action, plaintiffs must demonstrate a concrete financial loss, not merely speculative damages or injury to intangible property interests. This requirement is crucial for establishing standing under RICO, as speculative damages are not compensable. The passage references other cases to support this standard, indicating that actual financial loss is necessary for RICO standing.

[Allstate Ins. Co. v. Plambeck, 802 F.3d 665 \(5th Cir. 2015\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Regarding causation, RICO provides civil remedies to '[a]ny person injured in his business or property by reason of a violation of section 1962.' 18 U.S.C. § 1964(c). An injured party must show that the violation was the but-for and proximate cause of the injury. *Bridge v. Phoenix Bond & Indem. Co.*, 553 U.S. 639, 654, 128 S.Ct. 2131, 170 L.Ed.2d 1012 (2008). In cases predicated on mail or wire fraud, reliance is not necessary. ... The court did not abuse its discretion in denying prejudgment interest. It could reasonably have concluded that Allstate's recovery of treble damages sufficiently offset the loss it suffered from being deprived of the use of its money caused by the fraud. Treble damages under RICO are partly punitive, allowing recovery to 'exceed actual provable damages.' *Gil Ramirez Grp., L.L.C. v. Hous. Indep. Sch. Dist.*, 786 F.3d 400, 412-13 (5th Cir.2015).

Summary

The passage provides insight into the legal standards for damages in a civil RICO action in the Fifth Circuit. It highlights that a plaintiff must demonstrate that the RICO violation was both the but-for and proximate cause of the injury. It also clarifies that in RICO cases predicated on mail or wire fraud, reliance is not necessary. Furthermore, the passage explains that treble damages under RICO are partly punitive and can exceed actual provable damages, which can offset the need for prejudgment interest.

[Molina-Aranda v. Black Magic Enters., L.L.C., 983 F.3d 779 \(5th Cir. 2020\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

RICO makes it 'unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity.' 18 U.S.C. § 1962(c). It allows '[a]ny person injured in his business or property by reason of a violation of section 1962' to bring a civil suit for treble damages. Id. § 1964(c). To state a claim under § 1962(c), a plaintiff must adequately plead that the defendant engaged in '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.'

Summary

The passage provides the legal framework for a civil RICO claim, specifically mentioning the requirement for a plaintiff to plead and prove that they were injured in their business or property by a violation of section 1962, which allows for treble damages. This is directly relevant to understanding the standards for damages in a civil RICO action.

[Hughes v. Tobacco Institute, Inc., 278 F.3d 417 \(5th Cir. 2001\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

To prevail in a RICO suit, a plaintiff must demonstrate an injury to business or property. 18 U.S.C. § 1964(c); Sedima S.P.R.L. v. Imrex Co., 473 U.S. 479, 496, 105 S.Ct. 3275, 87 L.Ed.2d 346 (1985) ('[T]he plaintiff only has standing if, and can only recover to the extent that, he has been injured in his business or property'). The phrase 'injury to business or property' excludes personal injuries.

Summary

Personal injuries are excluded from the scope of recoverable damages in a RICO action. This indicates that compensatory damages in a RICO action are limited to those that can be shown to have affected the plaintiff's business or property. The passage does not directly address treble, punitive, or restitution damages, but it establishes the foundational requirement for any damages claim under RICO.

[Burzynski, In re, 989 F.2d 733 \(5th Cir. 1993\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Burzynski has also failed to plead a RICO violation, his last cause of action. The plaintiff alleges RICO violations under 18 U.S.C. § 1962(a), (b), (c), and (d). Boiled down to their essence in plain English, the subsections state: (a) a person who has received income from a pattern of racketeering cannot invest that income in an enterprise. (b) a person cannot acquire or maintain an interest in an enterprise through a pattern of racketeering. (c) a person who is employed by or associated with an enterprise cannot conduct the enterprise's affairs through a pattern of racketeering. (d) a person cannot conspire to violate subsections (a), (b), or (c). Thus, RICO claims under all four subsections necessitate: '1) a person who engages in 2) a pattern of racketeering activity, 3) connected to the acquisition, establishment, conduct, or control of an enterprise.' Delta Truck & Tractor, Inc. v. J.I. Case Co., 855 F.2d 241, 242 (5th Cir.1988), cert. denied, 489 U.S. 1079, 109 S.Ct. 1531, 103 L.Ed.2d 836 (1989) (emphasis in original). We conclude that the plaintiff failed to properly plead both a 'pattern of racketeering activity' and a RICO 'enterprise.' ... The difficulty is that the pleading the plaintiff relies on to accomplish this is too general, speculative, and unsupported by facts. To permit it to serve the plaintiff's purposes would allow conclusory pleading to erode the substance of the 'continuity,' 'enterprise,' and 'pattern' requirements. The defendants could then escape the clutches of RICO only by establishing a negative, viz., that they had not engaged with others in the charged manner. We should avoid imposing such a burden. At the same time, in the posture of this litigation, we think it would be premature to dismiss the RICO claim with prejudice. The plaintiff should be given an opportunity to amend his pleading to make it conform to the requirements set forth in this portion of the opinion. Therefore, we affirm the district court's dismissal of the RICO claim without prejudice and remand this portion of our decision to the district court with instructions to permit the plaintiff an opportunity to amend his complaint to plead a valid RICO claim.

Summary

Necessity for a plaintiff to properly plead a RICO violation by establishing a pattern of racketeering activity connected to an enterprise. It emphasizes the need for specific, factual allegations rather than general or speculative claims. The court's decision to allow the plaintiff to amend the complaint suggests that the pleading must meet certain standards to proceed.

[Patterson v. Mobil Oil Corp., 335 F.3d 476 \(5th Cir. 2003\)](#)

U.S. Court of Appeals – Fifth Circuit

Extract

Even if we assume both that the plaintiffs had a valid property interest in their causes of action under Texas law and that Mobil deprived them of this property by fraudulently representing that it was a subscriber, we doubt the plaintiffs have satisfied the RICO standing requirement. A plaintiff may not

sue under RICO unless he can show concrete financial loss. In re Taxable Mun. Bond Secs. Litig., 51 F.3d 518, 523 (5th Cir.1995); accord Imagineering, Inc. v. Kiewit Pac. Co., 976 F.2d 1303, 1310 (9th Cir.1992). It is undisputed that the plaintiffs received workers' compensation benefits from Mobil's insurers for each and every work-related injury at issue. Because it is unclear whether Mobil was negligent with regard to these injuries, it is possible that the plaintiffs ended up better off — that is, the plaintiffs may have recovered more by collecting workers' compensation benefits over the years than if they had exercised their right to sue. If this is in fact the case, then the plaintiffs have failed to show that they were injured at all, much less that they suffered the concrete injury required for RICO standing.

Summary

The passage from the Fifth Circuit's decision in Patterson v. Mobil Oil Corp. highlights the necessity for a plaintiff to demonstrate a concrete financial loss to establish standing in a RICO action. This requirement is crucial because RICO claims are predicated on the plaintiff being "injured in his business or property." The court emphasizes that speculative or potential losses are insufficient; the injury must be tangible and quantifiable. This aligns with the broader legal standards for damages in civil RICO actions, where compensatory damages must be proven with specificity, and treble damages are available only if the plaintiff can establish the requisite injury. Punitive damages are not typically available under RICO, as the statute itself provides for treble damages as a form of punishment and deterrence. Restitution damages would similarly require a clear demonstration of loss or deprivation of property.

[Gil Ramirez Grp., L. L.C. v. Hous. Indep. Sch. Dist., 786 F.3d 400 \(5th Cir. 2015\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

RICO's civil provision creates a cause of action for 'any person injured in his business or property by reason of a violation' of any of the statute's prohibited activities. 18 U.S.C. § 1964. At issue here is the injury requirement. The plaintiff's injury must be 'conclusive' and cannot be 'speculative.' In re Taxable Mun. Bond Sec. Litig., 51 F.3d 518, 523 (5th Cir. 1995). 'Injury to mere expectancy interests or to an 'intangible property interest' is not sufficient to confer RICO standing.' Pinnacle Brands, 138 F. 3d at 607 (quoting In re Taxable Mun. Bond Sec. Litig., 51 F.3d at 523).

Summary

Requirement for a plaintiff to demonstrate a "conclusive" injury to business or property, which cannot be speculative or based on mere expectancy interests. This is a critical standard for establishing standing in a civil RICO

action. The passage also touches on the nature of RICO's treble damages, which are considered both compensatory and punitive, but emphasizes that the injury must be concrete and not speculative.

[98 F.4th 198 D&T Partners L.L.C. v. Baymark Partners Mgmt., L.L.C.](#)

Extract

RICO is also more than a criminal statute. When drafting the legislation, Congress incorporated provisions in RICO that allow private plaintiffs to seek redress in federal court. If their lawsuit succeeds, the statute provides a big payout: Plaintiffs are entitled to triple damages, court costs, and attorney's fees. 18 U.S.C. § 1964(c).

Summary

The passage provides insight into the damages available under RICO for private plaintiffs, specifically mentioning that successful plaintiffs are entitled to treble damages, court costs, and attorney's fees. This aligns with the statutory provision under 18 U.S.C. § 1964(c), which is applicable to civil RICO claims.

[Earl v. The Boeing Co.](#)

Extract

A substantive RICO violation does not, however, permit just anyone to bring suit. Only those who suffer injury to their 'business or property by reason of a violation of section 1962' have statutory standing. 18 U.S.C. § 1964(c). RICO standing has two elements: injury and causation. Price v. Pinnacle Brands, Inc., 138 F.3d 602, 606 (5th Cir. 1998) (per curiam). A RICO injury must affect the plaintiff's 'business or property,' which ordinarily means that there must be 'concrete financial loss.' Patterson v. Mobil Oil Corp., 335 F.3d 476, 492 n.16 (5th Cir. 2003). When an injury is 'speculative and does not show a conclusive financial loss,' it does not constitute an injury under RICO. In re Taxable Mun. Bond Sec. Litig., 51 F.3d 518, 523 (5th Cir. 1995). 'A RICO plaintiff must also plausibly allege that the RICO violation proximately caused the plaintiff's injuries.' Molina-Aranda v. Black Magic Enters., L.L.C., 983 F.3d 779, 784 (5th Cir. 2020). The Fifth Circuit has generally found RICO causation present where the injury was 'either a direct result or a reasonably probable consequence' of the defendant's conduct. Allstate Ins. Co. v. Plambeck, 802 F.3d 665, 676 (5th Cir. 2015).

Summary

Detailed explanation of the requirements for statutory standing in a civil RICO action, specifically focusing on the need for a concrete financial loss and the requirement that the injury be proximately caused by the RICO

violation. It outlines the necessity for the injury to affect the plaintiff's business or property and clarifies that speculative injuries do not meet the threshold for a RICO claim. The passage also emphasizes the importance of causation, stating that the injury must be a direct result or a reasonably probable consequence of the defendant's conduct.

§ 2.07 Other Potential Charges

Intellectual Property and Computer Crimes - Full Court Press - 2020-00-00

Extract

RICO also provides for civil remedies. Under Section 1964 'any person injured in his business or property by reason of a violation of section 1962' may bring a civil action in either state or federal court for redress. Thus, a plaintiff in a civil action must show, in addition to one of the four acts described in § 1962, an injury to business or property. A showing of such injury requires proof of concrete financial loss, not 'mere injury' to a valuable intangible property interest. *Oscar v. University Students Co-Op. Ass'n*, 965 F.2d 783, 785 (9th Cir. 1992). Generally, personal injuries are not recoverable under RICO. See id. at 785-86 (citing *Reiter v. Sonotone Corp.*, 442 U.S. 330, 339, 99 S. Ct. 2326, 60 L. Ed. 2d 931 (dictum)). Further, in *Holmes v. Securities Investor Protection Corp.*, 503 U.S. 258, 268 112 S. Ct. 1311, 117 L. Ed. 2d 532 , the United States Supreme Court held that the "by reason of" language in section 1964(c) means that in order to prevail on a civil RICO claim, the plaintiff must show that the defendant's violation was the 'proximate cause' of the plaintiff's injury.' Where common law wire or securities fraud are the predicate acts for a civil RICO action, the plaintiff must establish 'reasonable reliance.' See: Fifth Circuit: *Summit Props, Inc. v. Hoechst Celanese Corp.*, 214 F.3d 556, 562 (5th Cir. 2000) ('when civil RICO damages are sought for injuries resulting from fraud, a general requirement of reliance by the plaintiff is a commonsense liability limitation.').

Summary

Requirements for pleading and proving damages in a civil RICO action, emphasizing the need for a plaintiff to demonstrate a concrete financial loss and the proximate cause of the injury. It also highlights the necessity of establishing reasonable reliance when fraud is a predicate act. The passage is relevant to understanding the legal standards for damages in civil RICO actions in the Fifth Circuit.

PAYORS, PLAYERS, AND PROXIMATE CAUSE.

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

Extract

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.' Notably, a successful plaintiff under [section] 1964 is entitled to treble damages and the cost of the suit, including attorney fees.

Summary

The passage provides insight into the damages available under a civil RICO action, specifically mentioning that a successful plaintiff is entitled to treble damages and the cost of the suit, including attorney fees. This aligns with the statutory language of 18 U.S.C. § 1964(c), which is applicable in the Fifth Circuit as well as other jurisdictions.

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

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

Extract

To recover damages under civil RICO requires proof of concrete financial loss and not merely injury to a valuable intangible property interest. The measure of damages is the harm caused by the predicate acts constituting the pattern of racketeering activity. A compensable injury is the harm caused by predicate acts sufficiently related to constitute a pattern. Plaintiffs are required to set out a reasonable basis of recovery by competent proof and not mere speculation. Only damages to 'business or property' occurring 'by reason of' and proximately caused by the RICO violations are compensable under § 1964(c). Further, under Sedima, the plaintiff's compensable injury is the harm caused by the predicate acts. Future damages may be appropriate, but only to the extent that the plaintiff can establish with reasonable certainty that future damages will occur as a result of the defendant's RICO violation. In addition to recovery of damages in the amount of the calculated harm, RICO is a potent weapon because it allows for a bonus recovery not typically available elsewhere. Section 1964(c) dictates the award of treble damages for civil RICO violations. It provides that the plaintiff 'shall recover threefold the damages he sustains' in addition to costs and attorney fees. This is not discretionary. Imposition of treble damages is required by RICO.

Summary

Requirements for proving damages in a civil RICO action, emphasizing the need for concrete financial loss and a reasonable basis for recovery. It highlights that damages must be proximately caused by the RICO violations and that treble damages are mandatory under § 1964(c). The passage also notes that future damages may be recoverable if they can be established with reasonable certainty.

[Supreme Court Expands The Scope Of Injuries Under RICO](#)

Extract

On April 2, 2025, the Supreme Court significantly expanded the scope of injuries entitled to treble damages under the Racketeer Influenced and Corrupt Organizations Act ('RICO'). The Supreme Court held in *Medical Marijuana, Inc. v. Horn* that 'a plaintiff may seek treble damages for business or property loss even if the loss resulted from a personal injury.'

Summary

The Supreme Court has broadened the interpretation of what constitutes an injury under RICO, allowing for treble damages even when the business or property loss is derived from a personal injury. This decision impacts how damages are pleaded and proved in civil RICO actions, as it allows for a wider range of injuries to qualify for treble damages, which are a significant component of RICO's remedial scheme.

[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. Although 'business' and 'property' are not defined under RICO, these terms are not all-encompassing. Indeed, most courts have construed them narrowly to mean that there must be a pecuniary injury to a proprietary interest, and thus a plaintiff must show some sort of concrete financial loss. In addition, the injury must be ascertainable and definable, such as when a plaintiff is deprived of the ability to use or transfer property.

Summary

Requirements for a plaintiff to establish standing in a civil RICO action, emphasizing the need for a concrete financial loss or pecuniary injury to a proprietary interest. It highlights that the injury must be directly caused by

the defendant's RICO violation and must be ascertainable and definable. This ensures that RICO claims are not based on speculative or unprovable damages and that the injury is directly related to the alleged RICO violation.

This memo was compiled by Vincent AI based on vLex materials available as of September 20, 2025. [View full answer on vLex](#)