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The Racketeer Influenced and Corrupt Organizations Act and Workers' Compensation *

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In the article "Preserving" Civil RICO: How the Model Unfair Trade Practices Act Affects RICO'S Private Right of Action Under the McCarran-Ferguson Act, found at 86 Notre Dame Law Review, pages 1767-68 (2011), the following was stated:

"In August 2007, a confidential report surfaced exposing widespread fraud in the insurance industry. Written by the influential consulting firm McKinsey & Company, the report explained how insurance companies could fraudulently increase profits by decreasing payments to customers. When a policyholder filed a claim, the report said, the insurer should begin by offering them a lower settlement than their policy promised. If someone refused to accept this lower offer, McKinsey recommended the company fight back against the customer, and delay making required payments as long as possible. In so doing, the insurer could pressure policyholders to drop existing challenges, discourage others from even filing claims in the first place, or—at the very least—earn extra interest on its investments. Following McKinsey's "slow-pay, low-pay, no-pay" tactics, the industry earned record profits."

There is a belief among some members of the public that insurance companies routinely deny or dispute valid claims. Coupled with the Texas Supreme Court's decision in the Ruttiger case (*Tex. Mut. Ins. Co. v. Ruttiger,* 381 S.W.3d 430 (Tex. 2012)), will there be efforts to file civil RICO actions against workers' compensation insurance companies?

The genesis of this article was a WorkCompCentral article about the Texas law firm of Doyle Raizner of Houston, Texas, opening an office in Phoenix, Arizona, and filing a RICO action against York Risk Services Group [1] **and** the Federal 6th Circuit case of *Brown v. Cassens Transportation Company*. [2] This article will address the lawsuit against York Risk Services Group and the *Cassens Transportation Company* case.

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* This article is not intended as legal advice and the comments represent the opinions of John D. Pringle, not of John D. Pringle, P.C., or its clients

What is RICO?

The Racketeer Influenced and Corrupt Organizations Act (RICO), is a federal law, passed in 1970, that allows prosecution and civil penalties for certain acts (including illegal gambling, bribery, kidnapping, murder, and money laundering) performed as part of an ongoing criminal enterprise. [3] When it was passed in 1970, Congress' goal was to eliminate the ill-effects of organized crime on the nation's economy. Richard Nixon heralded RICO as a "major tool in the war against organized crime" when he signed it into law in 1970.

Today, the most common defendant to a civil RICO claim is not the stereotypical godfather figure, but is instead the CEO of a corporation, the controlling shareholder of a closed-corporation, the trustee of an estate or trust, or the leader of a political protest group. Even the Catholic Church has been named as a RICO defendant.

Congress recognized that organized crime and racketeers were highly adaptable in their infiltration of the American economy, it mandated that RICO be liberally construed. [4] Furthermore, Congress has amended the statutory list of underlying offenses to broaden RICO's enforcement powers. [5]

The RICO Act is found at 18 United States Code (USC) § 1961, *et seq.* Section 1961 provides the definitions that govern the ACT. "Racketeering activity" is broadly defined as "any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year. [6]

Racketeering activity" is also defined as any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), sections 471, 472, and 473(relating to counterfeiting), section 664 (relating to embezzlement from pension and welfare funds), section 1344 (relating to financial institution fraud), section 1351 (relating to fraud in foreign labor contracting), section 1503 (relating to obstruction of justice), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1951 (relating to interference with commerce, robbery, or extortion). [7]

The RICO Act defines the term "person" to include any individual or entity capable of holding a legal or beneficial interest in property. [8] "Enterprise" is defined to include any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity. [9] "Documentary material" is defined to include any book, paper, document, record, recording, or other material. [10]

It is unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. [11] It is also "unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt." [12] In addition, it is unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of section 1962. [13]

This RICO makes it criminal "to conduct" an "enterprise's affairs through a pattern of racketeering activity," [14] A "pattern" requires at least two acts of racketeering activity, the last of which occurred within 10 years after the commission of a prior act. [15] RICO imposes both criminal and civil liability on racketeering behavior. [16] Thus a person injured by a RICO violation may bring a civil RICO action. [17] Civil RICO cases represent a significant and growing portion of all case filings in the federal courts. Civil RICO suits, which began slowly in 1978 (eight years after the passage of the statute), have become a torrent. It is estimated that ten percent of all cases filed in the federal courts will contain civil RICO treble damage claims. [18]

A civil RICO lawsuit thus accomplishes twin goals - it compensates the racketeering victim, while furthering the government's goals of deterring criminal activity through private enforcement. [19] "Because a goal of civil RICO is compensation for injuries caused by racketeering activity, a plaintiff must have standing to bring his claim. Under section 1964(c), the four criteria for standing are: (1) the plaintiff must be a 'person' who has (2) suffered an 'injury' to (3) his 'business or property' (4) 'by reason of' the defendant's violation of section 1962." [20]

To constitute a "pattern," isolated acts of racketeering are insufficient: The pattern requires "continuity plus relationship." [21] "The Fifth Circuit has strictly required pleading and proof of the RICO enterprise, and has affirmed the dismissal of a number of suits which failed to satisfy the requirements for an 'enterprise.'" [22] The enterprise must affect interstate or foreign commerce. ~~23~~ A civil RICO plaintiff must show that the defendant's pattern of racketeering activity proximately and directly caused the plaintiff's injuries. [24] The United States Supreme Court explained its interpretation of RICO by demanding "some direct relation between the injury asserted and the injurious conduct alleged." [25] A criminal conviction is not a necessary prerequisite to a civil RICO action. [26]

The criminal penalties for a RICO violation are found in section 1963. I will not address those penalties in this article. The civil remedies are found in section 1964. The United States District Courts can enter injunctions to prevent and restrain. [27] However, it appears that this is limited to when the government is seeking the injunction and not a private plaintiff. [28] A private plaintiff can recover treble damages, and reasonable attorney's fees. [29] Damages for personal injury do not appear to be compensable under RICO. [30]

On May 9, 2012, the law firm of Doyle Raizner, L.L.P., posted the following announcement on the firm website:

> In response to the rising problem of insurance bad faith activity in Phoenix and across Arizona, Doyle Raizner has opened a Phoenix office in order to assist residents of Arizona who have been affected by insurance misconduct. With several insurance

> companies refusing to honor their contractual obligations and pay out on valid claims, many policyholders have been left unable to recover after suffering a serious injury or sustaining property damage in the aftermath of a disaster such as the October 2010 hailstorm. Doyle Raizner is looking forward to helping Arizona policyholders fight for the compensation they are entitled to.

http://www.doyleraizner.com/blog/2012/05/doyle-raizner-llp-opens-new-office-in-phoenix-2.html.

This now brings us to the case of *Miller v. York Risk Services Group*; in the United States District Court for the District of Arizona. Laurie Miller, Brian Dimas, Kim Mills, Anthony Soza, Bruce Campbell, Kellie Bowers, Tim Hunter, Brian Saylor, Michael Schamadan and the Estate of Brandi Schamadan are the Plaintiffs. The Defendant is York Risk Services Group (York). [31] The Plaintiffs are firefighters and the estate of a firefighter. The Defendant is a third party administrator. [32]

The Plaintiffs claim York "routinely and improperly chooses to hurl frivolous and legally unsound roadblock after roadblock to wrongfully deny care to Phoenix's firefighters, with the assistance of some Phoenix administrators. As a result, injured firefighters, and their families, endure significant delays in medical care, often severe financial distress, and deleterious impacts on their ultimate physical and financial condition."

The allegations regarding the deceased firefighter, Brandi Schamadan, are that she was a 10 year firefighter who was exposed to Polycyclic Aromatic Hydrocarbons ("PAH") during the course of fighting fires for the City of Phoenix. She was diagnosed with Stage 3 Colon Cancer. She underwent extensive treatment with costly medical bills. In 2011, Deputy Fire Chief Mike Smith informed her that her exposure to PAH was a potential cause for her cancer and she should file a workers' compensation claim. [33]

When Ms. Schamadan filed a worker's compensation claim for the cancer, York "denied the claim, alleging that it was untimely filed." It is alleged that a basic investigation would have confirmed that this legal defense was improperly asserted to block Ms. Schamadan's claim. "On April 20, 2011, Brian Heaton, an adjuster for York, sent Ms. Schamadan a notice of claim status through the United States Mail denying medical treatment for her on the job injury." The allegation is the denial of the workers' compensation claim was a "fraudulent communication because York knew that the injury was timely filed and must be paid." [34]

The claim must have gone into dispute resolution because it is alleged that the Industrial Commission of Arizona rejected York's denial that the application was not timely filed. "But York still refused to pay benefits and filed a request for rehearing." Upon receipt of a report of a Dr. Sullivan, a medical toxicologist, which confirmed the cancer developed from Ms. Schamadan's exposure to PAH while fighting fires, York formally abandoned its denial of Ms. Schamadan's claim. It is alleged that York also delayed and refused to reimburse the co-pays previously incurred by Ms. Schamadan and her husband for her care before York admitted liability. It is alleged the continued refusals to pay imposed severe financial strain on Ms. Schamadan and her family. [35]

It is alleged that Ms. Schamadan "relied on the fraudulent communication because she suffered financial loss, including attorney's fees, medical care (including unreimbursed deductibles, and medical mileage.)" It is further alleged that York's fraud directly caused injury to Ms. Schamadan because it deprived her of benefits and caused her to pay attorney's fees, medical care, suffer emotional pain and damages. [36]

The allegations regarding the firefighter, Tim Hunter, are that he worked as a firefighter for the City of Phoenix for over eight years. "While entering a building engulfed in flames on September 17, 2010, the building's roof collapsed and buried Mr. Hunter. Although injured, Mr. Hunter freed himself from the rubble and continued fighting the fire." It is alleged that as a result of his on the job injury, Mr. Hunter could not move his neck and experienced persistent numbness in his extremities. He allegedly filed a workplace injury report and sought treatment at the Fire Department's Health Center from a Dr. Flemming. [37]

Mr. Hunter filed a claim for workers' compensation for his injury on June 21, 2011. According to the first amended complaint, Chris Garland, an adjuster working for York, denied Hunter's claim because the Health Center, where he had sought treatment, had lost the records documenting his visit to Dr. Flemming. In addition, Dr. Flemming had died. It is alleged that York denied Hunter's claim "even though the Health Center's physician's assistant, Patrick Kelley, confirmed Mr. Hunter's visit for treatment." In addition, it is alleged that two of Hunter's fellow firefighters confirmed that the roof had collapsed, had fallen on Hunter, and that Hunter had received treatment from Dr. Flemming for the injury. [38]

It is further alleged that Garland, the adjustor, then sent Hunter a notice denying medical treatment for Hunter's on the job injury. Hunter alleges the denial was a fraudulent communication because York knew that the roof had collapsed on Hunter and injured him while he was fighting a fire. York then sent Hunter to an Independent Medical Examination ("IME") with a Dr. Beghin. It is alleged that an IME is supposed to be unbiased and undirected by York, but "York knows full well which 'IME' doctors will and which will not provide objective evaluations." The amended complaint goes on to alleged that Dr. Beghin diagnosed Hunter with "a chronic left sided radicular syndrome probably secondary to left C6 or C7 radiculopathy." But it is claimed that Dr. Beghin could not determine if the injury occurred from the roof collapsing incident because the Health Center had lost Hunter's treatment records with Dr. Flemming. It is alleged that Dr. Beghin concluded the on-the-job injury did not occur because of a clerical error while ignoring Hunter's condition and history of his injury. [39]

According to the amended complaint York expressly or implied communicated to Dr. Beghin that he should write a report stating Hunter's injury did not occur during the collapse of the building. "This allegation is based in part on information and belief, and is likely to have evidentiary support after a reasonable opportunity for investigation and discovery. " [40] Allegedly after the long delay caused by York's denial, the Industrial Commission of Arizona "fully vindicated Mr. Hunter and his need for care for his on the job injury." The delay allegedly denied coverage to Mr. Hunter for over two years for an injury that was obviously work related. [41]

Hunter claims he relied on the fraudulent communication (the denial) and suffered financial loss including attorney's fees, medical care, and medical mileage. It is alleged that York's fraud directly caused injury to Hunter because it deprived him of benefits and caused him to pay attorney's fees, medical care, suffer emotional pain and damages. [42]

The foregoing claims made by Hunter are also made by the remaining plaintiffs. All of the plaintiffs claim that York had a long term and ongoing scheme to delay and deny Arizona workers' compensation benefits to plaintiffs when York and the City of Phoenix knew that they did not have a sound basis to deny the claims. The plaintiffs also claim the activities of York affected interstate commerce because York: (a) operates in interstate commerce; (b) uses the mail, telephone, and facsimile lines and internet communications; (c) denial of benefits caused economic effects on medical service providers and other medical insurance companies many of whom operate in interstate commerce. [43]

The first amended complaint goes on to allege that York and the City of Phoenix, as part of an ongoing enterprise and scheme, acted with knowledge that the methods they were using to investigate claims, and to have workers examined by physicians of their choice, produced false evidence that the workers were not entitled to compensation. [44] The plaintiffs further allege that York knew the IMEs were not "independent" because they knew the "doctors were financially dependent to a significant degree on companies defending insurance claims (including employers, insurers and TPAs)." In addition, the plaintiffs claim York, and their agents and attorneys, "deliberately selected doctors to obtain a medical opinion which defendants either directed to be negative as to critical elements of a workers' compensation claim relating to disability or relationship to employment or knew from ample experience with such doctors would state negative opinions on these elements irrespective of the true facts." [45]

The plaintiffs seek "compensatory damages for physical pain and suffering, mental and emotional distress, anxiety, and all other general damages alleged and proved at the time of trial all tripled in accordance with RICO," expert witness fees, attorney fees, taxable costs, pre- and post-judgment interest, and punitive damages. [46] The claims for physical pain and suffering, , mental and emotional distress, and anxiety due not appear to be damages recoverable under RICO. RICO causes of action are subject to a four-year statute of limitations. [47]

Brown v. Cassens Transportation Company, has an interesting history. Paul Brown, William Fanaly, Charles Thomas, Robert Orlikowski, and Scott Way were allegedly injured while working for their employer, Cassens Transportation Company (Cassens). Cassens is self-insured and contracts with Crawford & Company (Crawford), to adjust worker's compensation claims brought by Cassens' employees. [48]

A Dr. Saul Margules evaluated all of the plaintiffs except Thomas. Cassens denied Brown's claim, a magistrate granted Brown full benefits, and Cassens appealed. Brown's claim was decided on its merits by the Michigan Worker's Compensation Appellate Commission (WCAC) which rendered a final determination. On June 22, 2004, the plaintiffs sued Cassens, Crawford, and Dr. Margules (except that Thomas did not sue Dr. Margules), alleging violations of RICO and intentional infliction of emotional distress.

The complaint alleged Cassens and Crawford solicited fraudulent medical reports from Dr. Margules and other physicians. It was also alleged that Dr. Margules was "not an expert in orthopedic conditions," which most injuries on the job involve. Dr. Margules was also alleged to be "biased due to the amount of money" Cassens and Crawford paid him over the years to examine Cassens' workers as well as to testify against them. The plaintiffs also claimed that Cassens and Crawford ignored other medical evidence that supported the plaintiffs' claims. The plaintiffs further alleged that a conspiracy among Cassens, Crawford and Dr. Margules was orchestrated by mail or by wire thereby implicating interstate commerce. [49] Each plaintiff sought

monetary damages measured by the amount of benefits improperly withheld, plus interest as provided by law, all tripled in accordance with RICO, together with attorney fees and costs.

The district court dismissed the case for the plaintiffs' failure to allege reliance on the defendants' fraudulent misrepresentations. *Brown v. Cassens Transp. Co.* (*Brown I*), 409 F. Supp. 2d 793 (E.D. Mich. 2005). A divided panel of the 6th Circuit Court of Appeals affirmed in *Brown v. Cassens Transp. Co.* (*Brown II*), 492 F.3d 640 (6th Cir. 2007). However, the United States Supreme Court vacated the Court of Appeals judgment and remanded the case in light of the case of *Bridge v. Phoenix Bond &Indemnity Co.*, 553 U.S. 639 (2008), which held that civil RICO plaintiffs do not need to demonstrate reliance on defendants' fraudulent representations. *Brown v. Cassens Transp. Co.*, 554 U.S. 901 (2008). [50] On remand from the Supreme Court the 6th Circuit Court of Appeals held that the "plaintiffs had pleaded a 'pattern' of unlawful activity." The Court also held that the McCarran-Ferguson Act, 15 USC § 1012, did not reverse preempt RICO claims because the Michigan's Worker's Disability Compensation Act (WDCA) was not enacted to regulate the business of insurance and, in any event, RICO would not "invalidate, impair, or supersede" the WDCA. *Brown v. Cassens Transp. Co.* (*Brown III*), 546 F.3d 347, 363 (6th Cir. 2008), *cert. denied*, 130 S. Ct. 795 (2009). [51]

On remand from the Court of Appeals to the district court, the district court again dismissed the plaintiffs' claims. *Brown v. Cassens Transp. Co.* (*Brown IV*), 743 F. Supp. 2d 651 (E.D. Mich. 2010). The district court held that the WDCA provided the exclusive state remedy via the Worker's Compensation Appellate Commission that foreclosed federal RICO claims; that monetary losses stemming from lost benefits were personal injuries that were not injury to business or property; and that the damages were too speculative to support standing. [52]

The plaintiffs then appealed again to the 6th Circuit Court of Appeals. A panel of the Court of Appeals held "the relative importance to the State of its own law is not material" when "a valid federal law" provides a cause of action based on overlapping facts. *Citing Ridgway v. Ridgway*, 454 U.S. 46, 54 (1981). "Due to the Supremacy Clause, Michigan does not have the authority to declare a state remedy exclusive of federal remedies. *See* U.S. Const. art. VI, cl. 2; *Roberts v. Roadway Express, Inc.*, 149 F.3d 1098, 1105 (10th Cir. 1998)." [53]

Injury to property for RICO purposes is generally determined by state law. [54] The plaintiffs' claim as injuries the deprivation and devaluation of their worker's compensation benefits. "Because statutory entitlements are property, the injury to which causes harm, we see no reason under RICO to distinguish between property entitlements that accrue as a result of a personal injury from those that do not. We hold that the plaintiffs' *claim* for benefits is an independent property interest, the devaluation of which also creates an injury to property within the meaning of RICO." [55] The Court acknowledged that recovery for physical injury or mental suffering is not allowed under civil RICO because it is not an injury to business or property. [56]

Jackson v. Sedgwick Claims Management Services, Inc.

Approximately seven months later a three judge panel of the Sixth Circuit Court of Appeals again addressed civil RICO arising out of workers' compensation claims in *Jackson v. Sedgwick Claims Management Services, Inc.* [57] Jackson and Scharnitzke sued Sedgwick Claims Management Services, Inc., Coca Cola Enterprises, Inc., and Dr. Paul Drouillard among other grounds for falsely denying their workers' compensation claims and issuing a false medical report. The Court reiterated its holding in "*Brown II* that injured Michigan employees 'acquire a

property interest in worker's compensation when employers learn of their employees' physical injuries.' The fraudulent denial of these benefits causes injury to this property interest, and the value of the lost property interest is readily ascertainable—it is the value of the worker's compensation that the plaintiff was entitled to receive under the WDCA's scheme for calculating benefits." *Citing Fleischhauer v.Feltner*, 879 F.2d 1290, 1299 (6th Cir. 1989). [58]

The Sixth Circuit Court held that: (1) mailing a knowingly false notice of dispute of benefits; (2) mailing by the adjuster to the injured worker a request for an "independent" medical examination by a doctor who was not in fact independent; (3) mailing by the doctor a false medical report to the state agency, the third party administrator and injured worker if true constitute mail fraud under RICO. [59] The Court also held that acts are related for RICO purposes if they "have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events." Citing *H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 240 (1989). [60]

Sedgwick Claims Management Services, Coca Cola Enterprises, and Dr. Drouillard filed a petition for rehearing *en banc* (before all of the justices of the Court of Appeals). [61] The *en banc* Court majority started its opinion with a lengthy description of Michigan's workers' compensation system. [62] A divided *en banc* Court of Appeals ruled that the two Coca-Cola workers who were injured on the job and who were initially were denied workers' compensation benefits failed to show that they were "injured in [their] business or property," as is required to state a claim for a civil RICO damages action. [63]

The *en banc* Court majority held that "both personal injuries and pecuniary losses flowing from those personal injuries fail to confer relief under" section 1964(c). [64] The *en banc* Court majority rejected the concept that the defendants' racketeering acts had devalued the "legal entitlement," to workers' compensation benefits of the plaintiffs thus causing an injury to the plaintiffs' property. [65] The Court held that:

> Michigan's decision to create a workers' compensation system does not transform a disappointing outcome in personal injury litigation into damages that can support a RICO civil action, even if Michigan law characterizes the benefits awarded under this system as a legal entitlement. Accordingly, racketeering activity leading to a loss or diminution of benefits the plaintiff expects to receive under a workers' compensation scheme does not constitute an injury to "business or property" under RICO. [66]

United States Court of Appeals for the Fifth Circuit

The question then arises, what would the Fifth Circuit Court of Appeals do in a similar case? I am unaware of any ruling by the Fifth Circuit concerning whether a scheme to fraudulently deny of workers' compensation benefits by an enterprise does or does not raise a RICO cause of action. However, in *Bradley v. Phillips Chemical Co*., the Fifth Circuit affirmed a U.S. District Court case wherein the Court held that an alleged misrepresentation regarding the existence of valid workers' compensation insurance coverage for the plaintiffs' injuries did not give rise to a civil RICO cause of action. [67]

There was a catastrophic explosion on March 27, 2000, at Phillips's Pasadena Plastics Complex. One worker was killed and many others were injured. “Two days later, on March 29, according to Plaintiffs, the injured employees were called to a meeting with representatives of the Williams Bailey law firm. The attorneys allegedly informed the employees that Phillips had a workers' compensation plan, written and carried by Pacific that would provide compensation for the employees' injuries.” [68] Williams Bailey allegedly told the injured workers that, under Texas law, because Phillips had workers' compensation insurance, the workers would be compensated but could not file personal injury claims against Phillips. [69]

Apparently the plaintiffs did not want to be bound by the exclusive remedy and tried to claim there was no workers’ compensation coverage. The District Court rejected the claim that there was a lack of workers’ compensation coverage and granted summary judgment to the defendants in the case on many of the plaintiffs ‘claims. The court appears to have rejected the civil RICO claim based on the exclusivity of the workers' compensation system. [70] In light of the Sixth Circuit’s decision in *Jackson v. Sedgwick Claims Management Services, Inc.*, I doubt the Fifth Circuit would find a civil RICO cause of action for a fraudulent scheme to deny workers compensation benefits.

Endnotes

1. WorkCompCentral, *Lawsuit Alleges Unjust Denial of Firefighter Benefits*, Aug. 7, 2013, https://ww3.workcompcentral.com/news/story/id/29ac252fc8bf06de623336949bca8b47g.

2. *Brown v. Cassens Transportation Company*, No. 10-2334, slip op. (6th Cir. Apr. 6, 2012) *cert. denied*, ttp://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/12-622.htm.

3. Michael Rowan, Leaving No Stone Unturned: Using RICO as a Remedy for Police Misconduct, 31 FLA. ST. U. L. REV. 231, 239 (2003).

4. Mary Catherine G. Isensee, Enforcing Against the Enforcers: Ensuring Immigration Compliance Through Civil RICO, 49 HOUS. L. REV. 101, 113 (2012).

5. *Id.*

6. 18 USC § 1961(1)(A).

7. 18 USC § 1961(1)(B).

8. 18 USC § 1961(3).

9. 18 USC § 1961(4).

10. 18 USC § 1961(9).

11. 18 USC § 1962(b).

12. 18 USC § 1962(c).

13. 18 USC § 1962(d).

14. 18 USC § 1962(c).

15. 18 USC § 1961(5).

16. Mary Catherine G. Isensee, Enforcing Against the Enforcers: Ensuring Immigration Compliance Through Civil RICO, 49 HOUS. L. REV. 101, 113 (2012).

17. 18 USC § 1964(c).

18. Robert E. Wood, Civil RICO, 19 TEX. TECH L. REV. 463 (1988).

19. Mary Catherine G. Isensee, Enforcing Against the Enforcers: Ensuring Immigration Compliance Through Civil RICO, 49 HOUS. L. REV. 101, 115 (2012).

20. *Id*. at 115,16.

21. David J. Beck, Legal Malpractice in Texas, 50 BAYLOR L. REV. 761, 804 (1998).

22. *Id.*

23. 18 USC. § 1962(a)

24. Mary Catherine G. Isensee, Enforcing Against the Enforcers: Ensuring Immigration Compliance Through Civil RICO, 49 HOUS. L. REV. 101, 116 (2012).

25. *Id. See Holmes v. Sec. Investor Prot. Corp*., 503 U.S. 258, 268-69 (1992).

26. *Sedima, S.P.R.L. Imrex Co.*, 473 U.S. 479, 488 (1985).

27. U.S. Department of Justice, Civil RICO: A Manual for Federal Attorneys 21 (2007).

28. Pamela Bucy Pierson, RICO, Corruption and White-Collar Crime, 85 TEMP. L. REV. 523, 527 n.22 (2013).

29. 18 USC § 1964(c).

30. *See, e.g., Grogan v. Platt*, 835 F.2d 844, 846 (11th Cir. 1988); *James v. Meow Media, Inc.*, 90 F. Supp.2d 798, 814 (W.D. Ky. 2000).

31. (No. 2:13-cv-01419-JWS; U.S. Dist. Ct. Az; Pls.' 1st Am. Comp. July 26, 2013).

32. *Id.* at ¶ 2.

33. *Id.* at ¶¶ 3-5.

34. *Id.* at ¶¶ 6-7.

35. *Id.* at ¶¶ 8-9.

36. *Id.* at ¶ 10.

37. *Id.* at ¶ 12.

38. *Id.* at ¶ 13.

39. *Id.* at ¶ 15.

40. *Id.* at ¶ 16.

41. *Id.* at ¶ 18.

42. *Id.* at ¶ 19.

43. *Id.* at ¶ 71.

44. *Id.* at ¶ 77.

45. *Id.* at ¶ 78.

46. *Id.* at ¶ VII.

47. *See Agency Holding Corp. v. Malley-Duff & Assocs.*, 483 U.S. 143, 156 (1987).

48. *Brown v. Cassens Transportation Company*, No. 10-2334, slip op. at 2-3 (6th Cir. Apr. 6, 2012).

49. *Id.*

50. *Id.* at 3.

51. *Id.* at 3,4.

52. *Id.* at 4.

53. *Id.* at 6.

54. *Id.* at 10.

55. *Id.* at 13.

56. *Id.* at 14.

57. *Jackson v. Sedgwick Claims Management Services, Inc*., No. 10-1453, slip op. at 9 (6th Cir. Nov. 2, 2012).

58. *Id.*

59. *Id*. at 16.

60. *Id*. at 17.

61. *Jackson v. Sedgwick Claims Management Services, Inc*., No. 10-1453, slip op. at 3 (6th Cir. Sept. 24, 2013)(en banc).

62. *Id*. at 3-6.

63. *Id.* at 9.

64. *Id*. at 13.

65. *Id*. at 14.

66. *Id*. at 14, 15.

67. *Bradley v. Phillips Chemical Co*., 484 F. Supp. 2d 604, 618 (S.D. Tex. 2007), *aff'd*, 337 F. App'x 397 (5th Cir. 2009).

68. *Id.* at 606.

69. *Id.* at 607.

70. *Id.* at 619.