

## PUBLICATION UPDATE

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# Civil RICO

Publication 527

Release 67

May 2022

## HIGHLIGHTS

### Recent Case Law

- Release 67 discusses numerous important new cases related to the RICO statute.

*Recent developments discussed in Release 67 include:*

In *Cisneros v. Petland, Inc.*, the court affirmed the dismissal of a complaint by a consumer who purchased a sick puppy that died within a week from a Petland franchisee. The consumer failed to plausibly allege an association-in-fact by showing the alleged participants in the enterprise “shared a common purpose to commit the massive fraud she alleges.” See Chapter 4, *The Pattern Element*, ¶ 4.04[10].

The Second Circuit has sustained a section 1962(b) claim based upon allegations that the defendants systematically plundered a probate estate in which plaintiff was a benefi-

ciary. In *D’Addario v. D’Addario*, a probate beneficiary alleged that she incurred legal expenses in responding to the executor’s control and maintenance of the estate through a pattern of racketeering. The Second Circuit ruled that the complaint allegation sufficiently alleged that the executor “maintained his position (and its attendant control of the Estate) through the” alleged scheme. See Chapter 6, *Instituting a Civil RICO Action*, ¶ 6.04[6][b].

In *Worldspan Marine, Inc. v. Comerica Bank*, the Eleventh Circuit upheld a Rule 8 dismissal of a shotgun pleading for the “sin” of alleging “multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions.” Without disputing the sinful character of such pleadings, there is a well-developed practice of permitting “group pleading” that minimizes the burden of pleading individual responsibility.

See Chapter 7, *Pretrial Proceedings*, ¶ 7.02[7][f].

In *Loughran v. Wells Fargo Bank, N.A.*, the district court stayed a federal RICO case pending the outcome of a state foreclosure proceeding. The Seventh Circuit affirmed. First, it

ruled that the stay was a “final” ruling subject to appeal, notwithstanding that the state court action lacks preclusive effect on the federal RICO action, because it would “‘largely’ resolve the federal litigation.” See Chapter 9, *Defenses*, ¶ 9.10[2][b].

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