

commerce. And to state a RICO conspiracy, a plaintiff must allege the existence of an agreement to violate RICO's substantive provisions.

Antitrust & Trade Law > Private Actions > Racketeer Influenced & Corrupt Organizations > Claims > Fraud

[HN6] 18 U.S.C.S. § 1961(1) sets forth an exhaustive list of predicate acts that can constitute a pattern of racketeering activity, including 18 U.S.C.S. §§ 1341 and 1343 (mail and wire fraud, respectively).

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Criminal Law & Procedure > Criminal Offenses > Fraud > Wire Fraud > Elements
Criminal Law & Procedure > Criminal Offenses > Fraud > Mail Fraud > Elements

[HN7] The elements of mail or wire fraud are (i) a scheme to defraud (ii) to get money or property (iii) furthered by the use of interstate mail or wires. The gravamen of the offense is the scheme to defraud. A scheme to defraud is a plan to deprive a person of something of value by trick, deceit, chicane or overreaching. To make out such a scheme, a plaintiff must provide proof of a material misrepresentation.

Criminal Law & Procedure > Criminal Offenses > Fraud > Mail Fraud > Elements
Criminal Law & Procedure > Criminal Offenses > Fraud > Wire Fraud > Elements

Antitrust & Trade Law > Private Actions > Racketeer Influenced & Corrupt Organizations > Claims > Fraud

Civil Procedure > Pleading & Practice > Pleadings > Heightened Pleading Requirements > Fraud Claims

[HN8] The elements of mail and wire fraud must be pled with particularity. The complaint must detail the specific statements that are false or fraudulent, identify the speaker, state when and where the statements were made, and explain why the statements were fraudulent.

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Criminal Law & Procedure > Criminal Offenses > Fraud > Mail Fraud > Elements

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[HN9] The mail or wire communications themselves need not contain a false statement. When alleging use of the mail and wires, the pleader need only allege that the mail and wire fraud were in furtherance of a larger scheme to defraud and the communications themselves need not have contained false or misleading information. A detailed description of the underlying scheme and the connection therewith of the mail and/or wire communications is sufficient to satisfy Fed. R. Civ. P. 9(b). But a plaintiff still needs to allege a material misrepresentation as part of the defendants' scheme to fraud to state a violation of 18 U.S.C.S. § 1341 or 1343. That is so notwithstanding characterization of the alleged frauds as predicate acts of a racketeering conspiracy.

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