**18.14 RICO—Pattern of Racketeering Activity**

**(18 U.S.C. § 1961(5))**

To establish a pattern of racketeering activity, the government must prove each of the following beyond a reasonable doubt:

First, at least two acts of racketeering were committed within a period of ten years of each other;

Second, the acts of racketeering were related to each other, meaning that there was a relationship between or among the acts of racketeering; and

Third, the acts of racketeering amounted to or posed a threat of continued criminal activity.

With respect to the second element, acts of racketeering are related if they embraced the same or similar purposes, results, participants, victims, or methods of commission, or were otherwise interrelated by distinguishing characteristics.

Sporadic, widely separated, or isolated criminal acts do not form a pattern of racketeering activity.

Two racketeering acts are not necessarily enough to establish a pattern of racketeering activity.

**Comment**

In determining whether two racketeering activities occurred within ten years, any period of imprisonment after the commission of a prior act must be excluded. 18 U.S.C. § 1961(5).

*See* *United States v. Camez*, 839 F.3d 871, 876 (9th Cir. 2016) (holding that pattern of racketeering activity requires at least two predicate acts, one of which may have occurred while defendant was minor if criminal conduct in issue continued past age of majority); *United States v. Jaimez,* 45 F.4th 1118 (9th Cir. 2022) (holding that even if insufficient evidence presented for other predicate acts, if jury finds two predicate acts RICO conviction stands); *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496 n.14 (1985) (explaining that although at least two acts are necessary under the definition of “pattern of racketeering activity,” two acts may not be sufficient to constitute a pattern); s*ee also H.J. Inc. v. NW Bell Tel. Co.*,492 U.S. 229, 239 (1989) (pattern of racketeering activity requires a “showing that the racketeering predicates are related, *and* that they amount to or pose a threat of continued criminal activity”); *Sever v. Alaska Pulp Corp.*,978 F.2d 1529, 1535-36 (9th Cir. 1992) (applying *Northwestern Bell*); *Ikuno v. Yip*, 912 F.2d 306, 309 (9th Cir. 1990) (same); *United States v. Rodriguez*, 971 F.3d 1007, 1013-14 (9th Cir. 2020) (holding that pattern of racketeering activity extends to attempts and conspiracies, even if no racketeering offense is completed).

*Revised Sept. 2022*