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Hiding assets from ex-spouse not racketeering: federal judge

By [Patricia Manson](#)
Law Bulletin staff writer

A woman who claims her husband and his father plotted to prevent her from getting her fair share of assets in a divorce does not have a case under federal racketeering law, a judge has held.

In an opinion made available Thursday, U.S. District Judge [George M. Marovich](#) dismissed the claim that Myra R. Ruttenberg brought under the Racketeer Influenced and Corrupt Organizations Act.

In bringing that claim, Ruttenberg tried to stretch the RICO statute to cover a situation not envisioned by Congress, according to Marovich.

Quoting *Gamboa v. Velez*, 457 F.3d 703 (7th Cir. 2006), Marovich said a RICO claim pursued under the statute's civil provisions "is a unique cause of action that is concerned with eradicating organized, long-term, habitual criminal activity."

But in her RICO claim, Ruttenberg did not allege that such activity took place, Marovich said.

Instead, Marovich said, Ruttenberg alleged that her husband and father-in-law worked with a third man to funnel her husband's income and assets into a trust so that she would not receive all of the money she was due.

"The alleged conduct is distasteful, but it does not amount to a RICO violation," Marovich wrote. "RICO is not meant to turn common-law fraud into a federal claim; it is aimed at long-term, organized crime."

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Ruttenberg included a RICO claim in a lawsuit she filed in Cook County Circuit Court. The defendants later removed the case to federal court.

Defendants named in the RICO claim included Ruttenberg's husband, Geoffrey W. Ruttenberg, and his father, [David W. "Buzz" Ruttenberg](#).

Geoffrey Ruttenberg is a real estate developer who handles his projects through a wholly owned corporation, Brixton Group LLC.

David Ruttenberg is a tax and real estate attorney who is a partner in Ruttenberg & Ruttenberg. His late father, David C. Ruttenberg, also was a partner in the law firm.

Also named in the RICO claim was Jerome Meyer, the trustee of the Aldine Trust. David Ruttenberg is the beneficiary of the trust, the suit says.

An amended complaint says Myra Ruttenberg filed for divorce in December 2005, but was persuaded by her husband to drop the action five months later.

The "reconciliation," however, was actually a ploy to buy time to move much of Geoffrey Ruttenberg's money into the Aldine Trust and out of his wife's reach, the amended complaint claims.

The complaint claims Geoffrey Ruttenberg accomplished that task with the help of his father and Meyer, and then filed for divorce himself in January 2008.

In dismissing the RICO claim, Marovich said Myra Ruttenberg had failed to allege all of the elements of such a claim.

For purposes of his ruling, Marovich said, he would accept as true the allegations that Brixton is a RICO enterprise and that the defendants engaged in racketeering activity in the form of the predicate crimes of mail and wire fraud.

But the RICO claim falters on the requirement that a pattern of racketeering activity be alleged, Marovich said.

Quoting *H.J. Inc. v. Northwestern Bell Telephone Co.*, 492 U.S. 229 (1989), Marovich said a litigant must show "that the predicates themselves amount to, or that they otherwise constitute a threat of, *continuing* activity" in order to allege such a pattern.

"In this case, plaintiff has alleged a scheme with a single goal: to hide Geoffrey's income so that it cannot be awarded to Myra in the divorce," Marovich wrote. "Although plaintiff alleges several instances of the use of mail and wires to further the goal, using the mail and wires multiple times does not necessarily show continuity because use of the mail and wires is ubiquitous in modern society."

Marovich said Myra Ruttenberg was not alone in alleging a RICO violation where none exists.

There has been "widespread abuse" of RICO's civil provisions, Marovich said, quoting *Midwest Grinding Co. Inc. v. Spitz*, 976 F.2d 1016 (7th Cir. 1992).

But despite the contrary view apparently held by many litigants, Marovich said, continuing to quote *Midwest Grinding*, RICO "has not federalized every state common-law cause of action available to remedy business deals gone sour."

"It is not surprising, then, that a number of courts have concluded that the sort of fraud involved in hiding assets in connection with a divorce does not constitute a pattern of racketeering for purposes of RICO," Marovich wrote, citing cases that included *Martinez v. Martinez*, 207 F.Supp.2d 1303 (D. N.M. 2002), *affirmed in relevant part*, 62 Fed. Appx. 309 (10th Cir. 2003).

Marovich declined to exercise supplemental jurisdiction over the claims that Myra Ruttenberg brought under Illinois law.

But in dismissing the state-law claims, Marovich noted that Myra Ruttenberg was free to file them in state court.

Marovich issued his ruling in *Myra R. Ruttenberg v. Geoffrey W. Ruttenberg, et al.*, No. 08 C 4898.

The lead attorneys for Myra Ruttenberg are [Michael A. Stiegel](#) and [Ronald H. Balson](#), both of Michael, Best & Friedrich LLP in Chicago.

Another attorney representing Myra Ruttenberg is [David I. Grund](#) of Grund & Leavitt P.C. in Chicago.

The lead attorney for Geoffrey and David Ruttenberg is [John D. Burke](#) of Ice, Miller in Chicago.

The lead attorneys for Meyer are [John Chen](#) and [Kristi L. Nelson](#), both of Chen, Nelson, Roberts Ltd. in Chicago.



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