United States Court of Appeals
for the Fifth Circuit

No. 25-10541

Maurice Fitzpatrick Jr.,

Movant-Appellant,

versus

Brand Engagement Network, Incorporated,

Plaintiff-Appellee,

versus

Ralph Wright Brewer, III; AFG Companies Incorporated; AFG Technologies LLC; Automotive Financial Group Incorporated; CareGard Warranty Services Incorporated; DaidaX Incorporated; Delaporte Learning Incorporated; Prime Reserve Plus Incorporated; Southwest Colonial Reinsurance Limited,

Defendants-Appellees,

Appeal from the United States District Court
for the Northern District of Texas, Dallas Division
USDC No. 3:25-CV-00114

OPENING BRIEF OF APPELLANT MAURICE FITZPATRICK, JR.
Submitted Pro Se

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I. CERTIFICATE OF INTERESTED PERSONS

Pursuant to Fifth Circuit Rule 28.2.1, the undersigned certifies that the following persons and entities have an interest in the outcome of this case:

1. Brand Engagement Network, Inc. – Plaintiff-Appellee
2. Ralph Wright Brewer III – Defendant-Appellee
3. AFG Companies Incorporated – Defendant-Appellee
4. AFG Technologies LLC – Defendant-Appellee
5. Automotive Financial Group Incorporated – Defendant-Appellee
6. CareGard Warranty Services Incorporated – Defendant-Appellee
7. DaidaX Incorporated – Defendant-Appellee
8. Delaporte Learning Incorporated – Defendant-Appellee
9. Prime Reserve Plus Incorporated – Defendant-Appellee
10. Southwest Colonial Reinsurance Limited – Defendant-Appellee
11. Maurice Fitzpatrick, Jr. – Movant-Appellant (Pro Se)

Attorneys of Record:

1. Sheppard Mullin (Stephen Fox, Jonathan Clark)
2. Scheef & Stone LLP (Brent Kugler, Kelly Kleist, Mark Hill, Michael Smith)
3. Yarbrough Law Group (Matthew Yarbrough, Jason Blackstone)
4. Baker Donelson (Alexis Del Rio)

II. STATEMENT REGARDING ORAL ARGUMENT

Appellant submits that this appeal presents purely legal issues appropriate for de novo review based on the existing district court record, supplemented where necessary and on account of filings being struck and removed from the district court docket as an effect of Dkt. No. 62 et. seq. Accordingly, Appellant does not affirmatively request oral argument at this time. However, to the extent Appellees seek to inject factual disputes, mischaracterize the record, or otherwise raise matters outside the procedural posture of this record-only appeal, Appellant respectfully reserves the right to request oral argument to clarify the factual and procedural record and to protect constitutional and statutory interests.

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V. JURISDICTIONAL STATEMENT

The district court had jurisdiction under 28 U.S.C. §§ 1331 (federal question), 1332 (diversity), and 1443 (civil rights removal).

This Court has jurisdiction under 28 U.S.C. § 1291 as this is an appeal from a final judgment denying intervention and granting remand.

Notice of Appeal was timely filed on April 17, 2025.

VI. INTRODUCTION

This appeal presents a case of first impression before this Court: whether Appellant, a pro se federal whistleblower, exposing ongoing securities fraud, market manipulation, and corporate misconduct implicating public investors, can be denied intervention, stripped of constitutional protections, and barred from asserting rights granted under the Racketeer Influenced and Corrupt Organizations Act (RICO), solely because of procedural technicalities and strategic mischaracterizations by Appellees.

Appellant Maurice Fitzpatrick, Jr., acting without counsel, sought to intervene in proceedings that directly threatened his federally protected rights under the First Amendment, the Fourteenth Amendment, the Sarbanes-Oxley Act, Dodd-Frank Act, and civil RICO statutes. Instead of safeguarding these rights, the district court denied intervention, struck critical filings *en masse* without

individualized review, and disregarded newly controlling Supreme Court authority affirming a whistleblower's ability to seek treble damages under RICO for business and property injuries.

This case raises urgent questions of first impression concerning the intersection of federal whistleblower protections, access to courts, and the private enforcement mechanism Congress deliberately created in civil RICO. It asks whether a whistleblower, standing alone, can be silenced through misuse of litigation tactics orchestrated by a sophisticated racketeering enterprise operating under the guise of legitimate corporate structures. The public interest in preserving judicial integrity, the rule of law, and market transparency demands that the Court reverse and remand with instructions.

This case is not about individual grievance, it is about a systematic failure to protect federal constitutional rights, the integrity of public markets, judicial independence, and whistleblower protections. Appellant uncovered a coordinated Enterprise involving private actors and judicial misuse designed to retaliate against protected activities, suppress exposure of a multi-hundred-million-dollar financial fraud, and manipulate public trust. Within five months, Appellant navigated from hostile state court intervention proceedings to federal district court, and now into the Fifth Circuit, having preserved every constitutional and statutory issue cleanly for appellate review.

The district court's conduct, failing to adjudicate federal civil rights claims, striking filings, denying hearings, ignoring preserved objections, and rubber-stamping enterprise misconduct, violated fundamental constitutional principles and statutory mandates, exacerbating the same acts and/or omissions having occurred in the removed Tarrant and Denton County cases. Public interest and constitutional integrity demand reversal and remand (with instructions) for full adjudication.

VII. STATEMENT OF THE CASE

In March 2024, Appellant Maurice Fitzpatrick, Jr. was recruited and fraudulently induced into employment by Defendant-Appellees, under false representations concerning the nature and legitimacy of their business dealings and operations. Appellant was presented with assurances of lawful corporate governance, sound financial practices, regulatory compliance with local, state, and federal laws. Relying on these representations, Appellant accepted employment, unaware that his true role, which had been deliberately concealed from him, was to serve as a buffer and shield for an orchestrated scheme to inflate the value of Brand Engagement Network (BEN) securities through a merger with DHC Acquisition Corp. (DHCAC), culminating in a March 15, 2024, transaction. The Enterprise's objective was to create the appearance of legitimate business operations while

facilitating a pump-and-dump strategy benefiting insiders and affiliated entities that include Appellees.

Between March and October 2024, Appellant identified numerous internal irregularities which he raised and challenged directly with AFG executives. On October 11, 2024, Appellant was summoned into a pivotal conversation with AFG's Chief Technology Officer, Dave Duggan, and President, Jason De LaPorte, at AFG's Grapevine, Texas headquarters. During this meeting, Duggan explicitly acknowledged the existence of an "Exclusive Reseller Agreement" (ERA) between AFG and Brand Engagement Network, Inc. (BEN), which prohibited AFG from developing or marketing competing artificial intelligence (AI) solutions. Duggan admitted that BEN had failed to meet its obligations under the ERA and that AFG leadership had therefore undertaken efforts to clandestinely circumvent these contractual restrictions. Duggan further revealed that AFG executives, acting in concert with Ralph Wright Brewer III, engaged in unauthorized alternative solution development, justified internally by a supposed need to protect Brewer's significant financial investments. Duggan described BEN's leadership as "crooks," conceded that AFG had secretly developed parallel frameworks and data automation solutions, and disclosed efforts to continue presenting a compliant facade while preparing for independent AI deployment through AFG's own "Symphainy" platform. These admissions corroborated Appellant's concerns about

systemic fraud, misrepresentation, and the broader Enterprise scheme to defraud investors and the public while retaliating against internal dissenters.

Despite Appellant's escalation of these concerns regarding ongoing misconduct, compliance, and securities law violations, Duggan and Enterprise leadership sought to minimize and suppress Appellant's disclosures. Within weeks, on October 30, 2024, Appellees took direct aim at Appellant wrongfully terminating him in clear retaliation for raising protected concerns tied to public disclosures, regulatory compliance, and protected activities.

Following his termination, Appellant uncovered further evidence that his employment had been procured under fraudulent pretenses, not for genuine corporate expansion, but rather as part of an Enterprise strategy to bolster credibility during the BEN-DHCAC business combination and to deter or suppress whistleblowing activities, and carry out continuing frauds on the public, regulators, investors, public markets, and the judicial machinery that was co-opted to give the illusion of legitimacy. These facts form part of the broader continuum of Enterprise misconduct that Appellant sought to expose through intervention in pending litigation and when he was delayed intervention, denied access, and retaliated against further, Appellant sought removal of retaliatory and unlawful state court actions to federal court upon learning on January 17, 2025, of filing by Matthew

Yarbrough of the Brand Engagement Network Inc v. Brewer, III et al (3:25-cv-00114).

In or about the last week of October 2024, Appellant learned of an ongoing Tarrant County lawsuit against Enterprise participant Genuine Lifetime LLC and Tyler J. Luck alleging breach of contract tied to the business combination and the planning leading up to it, specifically an alleged $4M loan. Appellant sought intervention in this Tarrant County litigation to expose securities fraud, fraud on the court, and judicial misuse connected to the fraudulent business combination and an immediate pump and dump scheme that was carried out and which siphoned +/- $430M worth of illicit market capitalization value out of the public financial market at the expense of the public and investors.

After Appellant was wrongfully terminated, Enterprise retaliation did not cease but escalated sharply. Enterprise participants engaged in a coordinated campaign of harassment, intimidation, threats, and judicial abuse against Appellant including:

1. Misuse of the City of Grapevine, the Grapevine Police Department, the government of Tarrant County, and the Tarrant County District Attorney's Office, under color of law, to harass, intimidate, and threaten Appellant with felony warrants and arrest at his then home and via text messages and telephone;

2. Misuse of the judicial machinery in the 442nd District Court of Denton County, where enterprise actors procured an *ex parte* restraining order from Judge Tiffany Haertling against Appellant under false and fraudulent circumstances; and
3. The filing of fabricated pleadings and the perpetration of fraud upon the District Courts of both Tarrant and Denton County which has now bled over into multiple circuits of the federal court.

In response, Appellant removed the retaliatory state court actions (Tarrant and Denton County cases) to federal court pursuant to 28 U.S.C. § 1443, simultaneous with his Motion to Intervene in the present action now on appeal. Notably, the very lawsuit filed by Enterprise participants on January 16, 2025, nominally against Appellant, was itself one of several coordinated "*smokescreen*" lawsuits designed to preempt Appellant's claims, obstruct scrutiny of Enterprise misconduct and invoke a public relations apparatus to mischaracterize and misrepresent facts for the benefit, preservation, and continuity of the enterprise.

In district court, Appellant filed detailed objections (Dkt. No. 58 et. seq.) raising constitutional, RICO, and civil rights issues.

The court summarily dismissed Appellant without hearings, without adjudicating objections, and without applying de novo review standards mandated by Rule 72(b)(3) and Supreme Court precedent.

Following Appellant's attempt at intervening in the present case, now on appeal (Brand Engagement Network Inc v. Brewer, III et al), parallel Enterprise lawsuits began to multiply, further confirming a pattern of concealment, continuity, and ongoing predicate act violations of the enterprise. These enterprise "*smokescreen*" lawsuits are known by Appellant to include, but may not be limited to the following:

1. Genuine Lifetime et al v. Brewer III et al (N.D. Tex.);
2. Due Figlie LLC et al v. AFG Companies Inc et al (in N.D. Tex.);
3. Brand Engagement Network, Inc. v. AFG Companies, Inc. (in S.D.N.Y.).

Appellant respectfully seeks reversal of Dkt. No. 62 et. seq., or alternatively, remand with instructions for case reclassification, leave to file a Civil RICO Complaint, consolidation, and full adjudication.

VIII. STATEMENT OF THE ISSUES

A. Whether the district court erred by denying Appellant's IFP, motion to intervene and state court removals where substantial, protectable interests were at stake.

B. Whether the district court violated Appellant's due process rights by summarily striking critical filings and refusing meaningful de novo review.

C. Whether the district court failed to properly apply the Supreme Court's decision in Medical Marijuana, Inc. v. Horn, 604 U.S. ___ (2025).

D. Whether fraud upon the court and collusive litigation conduct tainted proceedings and demanded judicial inquiry, not suppression.

E. Whether Enterprise actors retaliated against Appellant's protected activities, violating the First and Fourteenth Amendments.

F. Whether civil rights removal under 28 U.S.C. § 1443 was properly invoked to protect constitutional whistleblower rights.

G. Whether cumulative procedural irregularities deprived Appellant of meaningful access to the courts.

H. Whether the district court erred by denying Appellant leave to file a Civil RICO Complaint through intervention.

I. Whether the district court erred by requiring Appellant to initiate an independent action for Civil RICO claims rather than permitting intervention within the pending proceedings.

J. Whether the public interest and judicial integrity demand reversal and publication of the Court's opinion.

IX. SUMMARY OF THE ARGUMENT

The district court's procedural failures, striking filings, denying hearings, refusing de novo review, ignoring civil rights removal grounds, and denying RICO intervention, reflect fundamental due process violations.

Enterprise participants orchestrated coordinated retaliation through misuse of legal processes, collusive and fraudulent court filings, judicial backchanneling, and suppression of and/or mischaracterization of whistleblower disclosures.

Public interest, judicial integrity, and market stability demand reversal, remand, and publication of the Court's ruling.

X. RECENT SUPREME COURT AUTHORITY CONFIRMS RICO RECOVERY FOR BUSINESS AND PROPERTY LOSSES

In *Medical Marijuana, Inc. v. Horn*, the Supreme Court held unequivocally that a plaintiff pursuing a civil RICO claim may seek treble damages for business or property losses, even if such losses stem from an antecedent personal injury. The Court expressly rejected any "*antecedent-personal-injury bar*," reaffirming that §1964(c) protects against economic injuries resulting from predicate acts, irrespective of whether personal harms also occurred. Here, Appellant's claims of lost business opportunities, reputational harm, wrongful termination, retaliation, fraud on the court, and obstruction of whistleblower disclosures allege precisely the type of business and property injuries recognized as recoverable under RICO. Accordingly, the district court's dismissal of Appellant's intervention and preliminary RICO claims, based on misapplied injury distinctions and

misapplication of law, violates binding Supreme Court precedent and independently mandates reversal.

XI. STANDARD OF REVIEW

Judicial Standards Governing Pro Se Whistleblower and RICO Claims

Supreme Court precedent mandates that courts afford pro se litigants liberal construction of their filings and claims, ensuring meaningful access to judicial remedies. "*A document filed pro se is 'to be liberally construed,' and 'a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers*.'") See *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). Due process further requires individualized and fair adjudication of constitutional and statutory rights. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314–15 (1950) ("*An elementary and fundamental requirement of due process in any proceeding ... is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections*."). Most recently, in *Medical Marijuana, Inc. v. Horn*, the Supreme Court emphasized that civil RICO plaintiffs are entitled to seek treble damages for business or property harms even if those harms stem from personal injuries, thereby affirming Congress's deliberate design of RICO as a private enforcement mechanism not subject to artificial procedural

barriers. These principles collectively demand rigorous, individualized review of Appellant's constitutional, statutory, and RICO-based claims in this appeal.

This appeal arises from a record-only disposition without evidentiary hearings or factual development below. Accordingly, the Court applies de novo review to all issues presented, including denial of intervention, dismissal of removed actions, constitutional due process violations, civil rights removal under 28 U.S.C. § 1443, and suppression of statutory and constitutional claims.

See *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (en banc), in that the district court's failure to conduct de novo review of specific objections requires reversal; see also *Medical Marijuana, Inc. v. Horn.*

The Fifth Circuit reviews alleged fraud upon the court, constitutional violations, and jurisdictional dismissals without deference to the district court's conclusions. See *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944); *Johnson v. Mississippi*, 421 U.S. 213 (1975).

XII. INTRODUCTION TO ARGUMENT

The issues presented on appeal are primarily procedural and constitutional in nature, arising from undisputed events reflected in the district court's record and supplemented where necessary. Appellant respectfully submits that, because no evidentiary hearings were held and no factual development occurred, this Court's

review is plenary and de novo. The following Argument demonstrates that the district court's rulings violated controlling constitutional, statutory, and procedural law, warranting reversal and remand with instruction.

XIII. ARGUMENT

A. The District Court Erred by Denying Intervention Despite Protectable Interests

The district court's denial of Appellant's Motions to Intervene and for IFP (Dkt. Nos. 21 and 22) constitutes reversible error under Federal Rule of Civil Procedure 24(a)(2). Intervention as of right is mandatory where an applicant claims an interest relating to the property or transaction at issue and where the applicant's ability to protect that interest may be impaired. See *Edwards v. City of Houston*, 78 F.3d 983, 999 (5th Cir. 1996). Appellant demonstrated significant protectable interests, including exposing Enterprise misconduct involving securities fraud, retaliation, and public market manipulation surrounding Brand Engagement Network, Inc.'s (BEN's) public listing. The district court failed to engage with the substantive merits of Appellant's interests, summarily denying intervention without the necessary individualized inquiry. In light of the substantial public interest implicated and Appellant's direct economic and constitutional injuries tied to Enterprise retaliation, intervention should have been granted.

B. The District Court Violated Due Process by Striking Filings Without Notice

The district court's mass striking of nearly all Appellant's filings (including motions for Judicial Notice under Federal Rules of Evidence, Rule 201) without individualized consideration violated Appellant's procedural due process rights under the Fifth and Fourteenth Amendments. See *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306 (1950), supporting due process requiring notice and opportunity to be heard. Federal courts must provide pro se litigants with a fair opportunity to develop claims. See *Erickson v. Pardus*, 551 U.S. 89 (2007). Here, the court's actions denied Appellant any opportunity to be heard, suppressed critical evidence of Enterprise misconduct, and reflected institutional bias against whistleblower disclosures. Striking substantive filings wholesale, including objections to RICO retaliation, fraud upon the court, and constitutional violations, without notice or hearing deprived Appellant of fundamental rights to access the courts.

C. The Supreme Court's Horn Decision Requires Reversal

The Supreme Court's recent decision in *Medical Marijuana, Inc. v. Horn*, reinforces the district court's reversible error. The Supreme Court held unequivocally that a plaintiff pursuing a civil RICO claim may seek treble damages for business or property losses, even if such losses stem from an antecedent

personal injury. The Court expressly rejected any "antecedent-personal-injury bar," reaffirming that §1964(c) protects against economic injuries resulting from predicate acts, irrespective of whether personal harms also occurred. Here, Appellant's claims of lost business opportunities, reputational harm, wrongful termination, obstruction of whistleblower disclosures, and ongoing retaliation and fraud on the court by Appellees allege precisely the type of business and property injuries recognized as recoverable under RICO.

The collective principles established in *Horn*, *Erickson*, and *Mullane* require rigorous individualized adjudication of whistleblower retaliation and civil RICO claims.

Accordingly, the district court's dismissal of Appellant's IFP, intervention, striking and unfiling of his civil rights removals, and preliminary RICO claims, based on misapplied intervention and injury distinctions, violates binding Supreme Court precedent and independently mandates reversal.

Moreover, because the district court struck Appellant's filings without individualized adjudication, including the 67 objections filed at Dkt. No. 58 et. seq., and failed to apply a true de novo review standard mandated by Rule 72(b)(3) and controlling precedent, the material facts and allegations contained therein stand unrebutted for purposes of appellate review. As such, Appellant's allegations of Enterprise misconduct, constitutional violations, conspiracy, and RICO predicate

act violations must be taken as true, and the district court's refusal to hear or consider them independently violated Appellant's fundamental Due Process.

D. Fraud Upon the Court Requires Vacatur

Enterprise participants engaged in fraud upon the court by concealing critical actors (such as Michael Todd Lucas, CEO of Genuine Lifetime LLC), misrepresenting party alignments, and structuring smokescreen litigation designed to mislead the judiciary into believing their many lawsuits are merely "contract disputes" rather than bickering over the spoils of the enterprise's collective frauds. Fraud upon the court occurs where officers of the court perpetrate a fraud that subverts the judicial process itself. See *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944); *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44 (1991). Appellees failed to disclose material party relationships and orchestrated parallel federal lawsuits (Due Figlie v. AFG; Genuine Lifetime v. AFG; BEN v. AFG Companies, Inc. et. al.) only after Appellant began exposing Enterprise coordination. Misleading the court about the true structure and relationships of involved parties corrupted the judicial process and independently requires vacatur of the district court's rulings.

E. Attorney Misconduct and Collusion Required Judicial Inquiry, Not Suppression

The record demonstrates that Enterprise-aligned attorneys, including Mark Hill (Scheef & Stone LLP), Matthew Yarbrough (Yarbrough & Blackstone Law Firm and Yarbrough Blackstone PLLC), and Levi McCathern (McCathern Law PLLC), engaged in coordinated efforts to deceive, entrap, and retaliate against Appellant. Yarbrough contacted Appellant directly under false pretenses in January 2025 while coordinating with Enterprise attorneys, violating Texas Disciplinary Rules of Professional Conduct Rule 4.02. McCathern and Hill simultaneously maneuvered enterprise filings to obscure conflicts and manipulate judicial forums. Such misconduct should have triggered judicial inquiry, not suppression. Courts have inherent authority to address fraud and collusion by attorneys. See *Chambers v. NASCO*, Inc., 501 U.S. 32 (1991). The district court's mass striking of Appellant's filings, rather than investigating these allegations, further evidences reversible error and undermines judicial integrity.

F. Retaliatory Misuse of the Legal Process Supports RICO Enterprise Allegations

Appellant alleged, with specificity, that Enterprise participants used legal processes as weapons of retaliation. These included:

1. Filing of overlapping and strategically fragmented lawsuits,
2. Securing ex parte TROs through personal judicial relationships (Judge Tiffany Haertling),

3. Deceptive outreach to neutralize Appellant's protected disclosures.

Such retaliatory misuse constitutes "predicate acts" supporting RICO claims under 18 U.S.C. § 1961(1) including obstruction of justice, bribery, wire fraud, witness tampering, and abusive litigation as a RICO predicate act. See *Snow Ingredients, Inc. v. SnoWizard, Inc.*, 833 F.3d 512 (5th Cir. 2016). Appellant demonstrated a pattern and continuity of retaliatory conduct tied to the Enterprise's common purpose of concealing securities fraud and suppressing whistleblower activity. The district court's refusal to permit Appellant's RICO claims to proceed further suppressed critical constitutional and statutory rights.

G. Removal Under 28 U.S.C. § 1443 Was Properly Invoked to Protect Civil Rights

Appellant's removal to federal court pursuant to 28 U.S.C. § 1443 was proper. Section 1443 protects defendants who are denied or cannot enforce civil rights in state court proceedings. Appellant demonstrated that retaliatory litigation in Tarrant and Denton County, initiated under color of law with fabricated claims and biased *ex parte* orders, deprived Appellant of federally protected rights to petition, speak, and seek redress. See *Johnson v. Mississippi*, 421 U.S. 213 (1975). The district court's failure to even analyze Appellant's § 1443 grounds before

remanding constitutes reversible error, particularly given the colorable constitutional violations demonstrated in the record.

H. The District Court Erred by Denying Leave to File Appellant's Civil RICO Complaint Through Intervention

Congress enacted civil RICO to empower private parties to pursue racketeering claims without undue procedural barriers. See *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479 (1985). Appellant sought leave to intervene and file a RICO complaint directly tied to the property and fraudulent transactions at issue. Rule 24 intervention is appropriate where interests are impaired, and existing parties do not adequately represent the applicant. Judicial economy and congressional intent favor allowing RICO whistleblowers to pursue enterprise misconduct within pending litigation. The district court's refusal to permit intervention, effectively forcing Appellant to start anew, undermines RICO's enforcement purpose and creates procedural inefficiency contrary to controlling authority.

I. The District Court Erred by Requiring an Independent Action for Civil RICO Claims Rather Than Permitting Intervention

The district court erred by implying, and effectively requiring, that Appellant file a separate, independent civil RICO action to assert his claims, rather than

allowing intervention in the existing proceedings. Nothing in the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961–1968, mandates initiation of a stand-alone lawsuit to assert RICO claims where the same parties, same enterprise, and same underlying fraudulent conduct are already at issue.

Under the Federal Rules of Civil Procedure, civil RICO claims are treated like other federal causes of action, subject to ordinary procedural mechanisms such as amending pleadings under Rule 15(a) or intervening under Rule 24(a)(2). See *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 492 (1985), confirming that civil RICO is to be liberally construed to effectuate its remedial purposes and treated as an ordinary cause of action. Intervention is appropriate where, as here, Appellant asserts an interest related to the property or transaction at issue and existing parties do not adequately represent that interest. Fed. R. Civ. P. 24(a)(2).

Appellant's RICO allegations, encompassing securities fraud, market manipulation, retaliation, and misuse of judicial processes, directly relate to the same enterprise conduct underlying the pending litigation between Appellees. Judicial economy and fairness favored permitting Appellant to intervene rather than compelling duplicative, piecemeal litigation. See *SEC v. Flight Transportation Corp.*, 699 F.2d 943, 949 (8th Cir. 1983), recognizing judicial economy considerations in intervention contexts.

By refusing intervention and suggesting that a separate lawsuit was necessary, the district court misapplied Rule 24 standards, undermined the broad remedial purpose of civil RICO, and disregarded judicial efficiency. The Supreme Court has emphasized that when intervention protects important statutory and constitutional rights, courts must exercise discretion to promote full and fair adjudication, not procedural evasion. See *Medical Marijuana, Inc. v. Horn*, reinforcing the liberal construction of RICO's private enforcement provisions.

Accordingly, the district court's refusal to permit intervention, coupled with the mass striking of Appellant's filings without adjudication on the merits, constitutes reversible error under governing federal law.

J. Public Interest and Judicial Integrity Compel Reversal

This case presents far more than private grievances. It implicates systemic misconduct that threatens:

1. The integrity of public markets,
2. The credibility of federal and state judicial proceedings,
3. The protection of whistleblower rights under federal law.

Federal courts serve as guardians of constitutional protections and market integrity. See *Pulliam v. Allen*, 466 U.S. 522 (1984), in that courts must remain open and impartial for civil rights vindication. Suppressing a whistleblower's

exposure of coordinated racketeering schemes not only violates individual rights, but it also erodes public trust in the judiciary itself.

Accordingly, reversal and remand are essential to preserve constitutional order and public confidence.

XIV. EXCEPTIONAL IMPORTANCE OF THE ISSUES

This appeal raises issues of exceptional public importance, including the protection of federal whistleblower rights, the proper enforcement of civil RICO statutes, the constitutional right to petition the courts without retaliation, and the safeguarding of judicial integrity against fraud upon the court. The underlying misconduct of Appellees involves not only private interests but implicates broader public trust in the fairness of judicial proceedings at all levels, the stability of financial markets, and the enforcement of constitutional protections. In light of these substantial interests, Appellant respectfully submits that this Court's resolution of the issues presented will have significant implications beyond the immediate parties.

XV. CONCLUSION AND PRAYER FOR RELIEF

Respectfully, Appellant requests that the Court:

1. Reverse the district court's dismissal, remand orders, and the striking and unfiling of Appellant's filings from the record (Dkt. No. 62 et. seq.),
2. Grant Appellant the intervention rights he has been long deprived of,
3. Remand with instruction granting Appellant leave to file formal Civil RICO complaint in this case and for full adjudication,
4. Remand with instruction for consideration of consolidation of related Enterprise cases under FRCP 42(a),
5. Publish an opinion in light of the novel and important constitutional, civil rights, whistleblower protections, intervention and individual private right of action under RICO and FRCP, and the market and judicial integrity issues presented.

Respectfully submitted,

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XVI. CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limit of Federal Rule of Appellate Procedure 32(a)(7)(B) because it contains approximately 4,231 words.

This document complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6) because it has been prepared in a proportionally spaced typeface using 14-point Times New Roman font.

Respectfully submitted,

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XVII. CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of April, 2025, I caused a true and correct copy of the foregoing *Opening Brief of Appellant Maurice Fitzpatrick, Jr.,* to be served via electronic mail, in accordance with Rule 25 of the Federal Rules of Appellate Procedure, on the following last known counsel of record for the Appellees in the district court case (3:25-CV-00114):

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Executed this 28th day of April, 2025.

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