

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION – DETROIT

In the matter of  
THE CITY OF  
DETROIT, MICHIGAN

Case No. 13 53846 swr  
HONORABLE STEVEN W. RHODES

INDIVIDUAL / CREDITOR / CLAIMANT HEIDI PETERSON'S  
MEMORANDUM OF MATERIALS SUPPORTING CLAIM

There are attached to and made a part of this Memorandum Of Materials Supporting Claim the several exhibits submitted by Heidi Peterson and the voice recording of her position that had Peterson spoken at hearing September 19, 2013, she herself would have presented to the court.

The voice recording is attached as a wav file. The other materials are submitted as pdf files grouped in such a way as to not exceed the maximum size allowed for filing.

Peterson's beautiful home was stripped by a squatter who had formerly occupied the home as a tenant of Peterson. Police refused to charge the squatter criminally. Peterson sued for losses. It was Peterson's suit against among others the City of Detroit and the Detroit Police which said suit was stayed by the instant bankruptcy filing. To this day no prosecuting authority at any level city, state, or federal, is willing to bring a criminal action against the squatter.

The Court is urged to examine and consider the attached materials.

Further these materials are directed to the appropriate persons through the attorneys for the Chapter 9 debtor, David Heiman at Jones Day, Attorneys at Law, 901 Lakeside Avenue, Cleveland, Ohio 44114.

Dated: 11/09/2013

CHARLES BRUCE IDELSOHN  
By: /s/Charles Bruce Idelsohn  
Charles Bruce Idelsohn (P36799)  
P.O. BOX 856  
Detroit, MI 48231  
(586) 450-0128  
[charlesidelsohnattorney@yahoo.com](mailto:charlesidelsohnattorney@yahoo.com)

**DETROIT POLICE DEPARTMENT CRIME**

**REPORT**

DETROIT POLICE DEPARTMENT

Case No 1210240212  
 Report No 1210240212.1  
 Report Date: 10/24/2012

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Page 1 of 4

Subject: 01-TORU-20P09.3 / E UNOCCUPIED DWELLING

|                           |                       |                   |                           |                   |  |
|---------------------------|-----------------------|-------------------|---------------------------|-------------------|--|
| Case Report Status        | 1 - IN PROCESS        | Date Entered      | 10/24/2012 1:37:30 PM     | Reporting Officer |  |
| County                    | 02 - WAYNE            | Entered By        | HARRIS, LIANNA            | HARRIS, LIANNA    |  |
| City/Township             | 99 - DETROIT          | Date Verified     |                           | Assisted By       |  |
| Occurred On (and Between) | 8/10/2012 11:00:00 AM | Verified By       |                           | Assist Agency     |  |
| Location                  | 10/2/2012 3:00:00 PM  | Date Approved     |                           |                   |  |
| CSZ                       | 51 EDISON             | Approved By       |                           |                   |  |
| Census/Geo Code           | DETROIT MI 48202      | Connecting Cases  |                           |                   |  |
| Grid                      | 5323                  | Disposition       | ACTIVE                    |                   |  |
| Call Source               | C1 - 0101             | Tactical Actions  |                           |                   |  |
| Vehicle Activity          |                       | Clearance Reason  |                           |                   |  |
| Vehicle Travelling        |                       | Date of Clearance |                           |                   |  |
| Cross Street              |                       | Reporting Agency  | DETROIT POLICE DEPARTMENT |                   |  |
| Means                     |                       | Division          | TELEPHONE CRIME REPORTING |                   |  |
| Other Means               |                       | Notified          | SECTION                   |                   |  |
| Motive                    |                       |                   |                           |                   |  |
| Other Motives             |                       |                   |                           |                   |  |

Report Narrative PERP: UNKNOWN

SOURCE: VICTIM CALLED TORU

CIRCUMSTANCE: VICTIM STATES THAT SHE DISCOVERED ON THE ABOVE DATE AND TIME THAT AN UNKNOWN PERP GAINED ENTRY INTO THE PROPERTY BY BREAKING INTO THE FRONT DOOR AND TOOK THE BELOW LISTED ITEMS

OBSERVATIONS: NONE

TAKEN: RADIATORS; 6 LIVING AND DINING ROOM DOORS (A FULL LIST OF ITEMS WILL BE AVAILABLE FOR THE ASSIGNED INVESTIGATOR)

DAMAGES: BROKEN/CUT PIPES; BROKEN FRONT DOOR

**Offense Detail: 2275 - BURGLARY - UNOCCUPIED BUILDING OR OTHER STRUCTURE**

|                     |  |                    |                     |
|---------------------|--|--------------------|---------------------|
| Offense Description | 2275 - BURGLARY - UNOCCUPIED BUILDING OR OTHER STRUCTURE | Location           | 20 - RESIDENCE/HOME |
| IBR Code            | 220 - BURGLARY/BREAKING & ENTERING                       | Offense Completed? | YES                 |
| IBR Group           | A  | Hate/Bias          | 00 - NONE (NO BIAS) |
| Crime Against       | PR   | Domestic Violence  | NO                  |
| Offense File Class  | 22001 - BURGLARY - FORCED ENTRY                          | No. Prim. Entered  |                     |
| PACC                |  | Entry Method       | F - FORCIBLE        |
| Local Code          |  | Type Security      | 99 - NONE           |
| Using               |  | Tools Used         | 99 - OTHER          |
| Criminal Activity   |  |                    |                     |
| Weapons             |  |                    |                     |

**Suspect S1: UNKNOWN SUSPECT**

|                |                 |            |             |                  |  |
|----------------|-----------------|------------|-------------|------------------|--|
| Suspect Number | S1              | DOB        |             | Place of Birth   |  |
| Name           | UNKNOWN SUSPECT | Age        | 00          | SSN              |  |
| AKA            |                 | Sex        | U - UNKNOWN | DLN              |  |
| Alias(es)      |                 | Race       | U - UNKNOWN | DLN State        |  |
| Address        |                 | Ethnicity  | U - UNKNOWN | DLN Country      |  |
| CSZ            |                 | Ht         |             | Occupation/Grade |  |
| Home Phone     |                 | Wt         |             | Employer/School  |  |
|                |                 | Eye Color  |             | Employer Address |  |
|                |                 | Hair Color |             | Employer CSZ     |  |

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# DETROIT POLICE DEPARTMENT CRIME REPORT

DETROIT POLICE DEPARTMENT

Case No 1210240212  
 Report No. 1210240212.1  
 Report Date: 10/24/2012

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|                          |             |                 |
|--------------------------|-------------|-----------------|
| Work Phone               | Hair Style  | Res. County     |
| Email Address            | Hair Length | Res. County     |
|                          | Facial Hair | Resident Status |
|                          | Complexion  | U - UNKNOWN     |
|                          | Build       |                 |
|                          | Ten         |                 |
| Scars/Marks/Tattoos      |             |                 |
| Suspect MO               |             |                 |
| Other MO                 |             |                 |
| Altira                   |             |                 |
| Habitual Offender Status |             |                 |
| Suspect Notes            |             |                 |

**Victim V1: PETERSON, HEIDI**

|                      |                   |                 |   |
|----------------------|-------------------|-----------------|---|
| Victim Code          | V1                | Victim Of       | 2275 - BURGLARY - UNOCCUPIED BUILDING OR OTHER STRUCTURE                |
| Victim Type          | I - INDIVIDUAL    |                 |   |
| Name                 | PETERSON, HEIDI   | DOB             | 9/20/1976   |
| AKA                  |                   | Age             | 35  |
| Alert(s)             |                   | Sex             | F - FEMALE  |
|                      |                   | Race            | W - WHITE   |
| Address              | 51 Edison         | Ethnicity       | U - UNKNOWN   |
| CSZ                  | DETROIT, MI 48202 | Ht              |   |
|                      |                   | Wt              |   |
| Home Phone           | 861 842-4123      | Eye Color       |   |
| Work Phone           |                   | Hair Color      |   |
| Email Address        |                   | Facial Hair     |   |
|                      |                   | Complexion      |   |
| Altira               |                   |                 |   |
| Injury Circumstances |                   | Res. County     | WAYNE   |
|                      |                   | Res. County     | USA - UNITED STATES OF AMERICA  |
|                      |                   | Res. County     | R - RESIDENT OF THE COMMUNITY, CITY, OR TOWN WHERE THE OFFENSE OCCURRED |
|                      |                   | Resident Status |   |
|                      |                   |                 |   |
|                      |                   |                 |   |

|   |            |
|---|------------|
| Law Enforcement Officer Killed or Assaulted Information | Type       |
|   | Assignment |
|   | Activity   |
| Other ORI   |            |

|                                    |
|------------------------------------|
| Justifiable Homicide Circumstances |
|------------------------------------|

Victim Offender Relationship  
 Offender Relationship  
 S1 99 - RELATIONSHIP UNKNOWN

Victim Notes

**Property Description Item 1: 3111 - SINGLE FAMILY HOME - B/E VACANT DWELLING**

Item No. 1  
 Property Category 3111 - SINGLE FAMILY HOME  
 Property Class 29  
 IBR Type 29 - STRUCTURES - SINGLE OCCUPANCY DWELLINGS  
 UCR Type K - MISCELLANEOUS  
 Status I - INFORMATION ONLY  
 Count 1  
 Value 1  
 Manufacturer  
 Model

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**DETROIT POLICE DEPARTMENT CRIME  
REPORT**

DETROIT POLICE DEPARTMENT

Case No. 1210240212  
Report No. 1210240212.1  
Report Date: 10/24/2012

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Page 3 of 4

Serial No.  
License No.  
Color  
Description **E / E VACANT DWELLING**  
Vehicle Year  
Body Style  
State  
License Year  
Recovered Date/Time  
Owner  
Disposition  
Evidence Tag  
Lock Seals  
Evidence Recovered Date/Time  
Evidence Recovered By  
Evidence Recovered From  
Evidence Location  
Alert(s)  
Drug Type  
Drug Quantity  
Drug Measure

Property Notes **TAKEN: RADIATORS; 6 LIVING AND DINING ROOM DOORS (A FULL LIST OF ITEMS WILL BE AVAILABLE FOR THE ASSIGNED INVESTIGATOR)**

**Property Description Item 2: 2405 - FIXTURES - FAUCET, SINK, ETC. - PCP PIPES CUT THROUGH OUT**

Item No. **2**  
Property Category **2405 - FIXTURES - FAUCET, SINK ETC**  
Property Class **16**  
IGR Type **16 - HOUSE GOODS**  
UCR Type **H - HOUSEHOLD GOODS**  
Status **D - DESTROYED/DAMAGED/VANDALIZED**  
Count **1**  
Value **1**  
Manufacturer  
Model  
Serial No.  
License No.  
Color  
Description **PCP PIPES CUT THROUGH OUT**  
Vehicle Year  
Body Style  
State  
License Year  
Recovered Date/Time  
Owner  
Disposition  
Evidence Tag  
Lock Seals  
Evidence Recovered Date/Time  
Evidence Recovered By  
Evidence Recovered From  
Evidence Location  
Alert(s)  
Drug Type  
Drug Quantity  
Drug Measure

Property Notes

**Property Description Item 3: 9999 - OTHER - FRENCH DOORS**

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**DETROIT POLICE DEPARTMENT CRIME  
REPORT**

DETROIT POLICE DEPARTMENT

Case No. 1210240212  
Report No. 1210240212 1  
Report Date: 10/24/2012

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Item No. 3  
Property Category 9899 - OTHER  
Property Class 88  
IBR Type 77 - OTHER  
UCR Type K - MISCELLANEOUS  
Status S - STOLEN ETC.  
(BRIBED/DEFRAUDED/EMBEZZLED/RANSOMED/ET  
C.)  
Count 1  
Value 1  
Manufacturer  
Model  
Serial No.  
License No.  
Color  
Description FRENCH DOORS  
Vehicle Year  
Body Style  
State  
License Year  
Recovered Date/Time  
Owner  
Disposition  
Evidence Tag  
Lock Seals  
Evidence Recovered Date/Time  
Evidence Recovered By  
Evidence Recovered From  
Evidence Location  
Alert(s)  
Drug Type  
Drug Quantity  
Drug Measure  
Property Notes

7/2/13

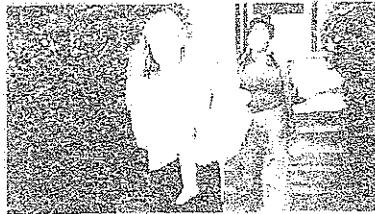
Inside Edition - News - Alleged Squatter and Homeowner Are Modern Day Odd Couple



News

News

### Alleged Squatter and Homeowner Are Modern Day Odd Couple



FULL SIZE IMAGE

INSIDE EDITION viewers are reacting to the story about the homeowner and the woman she says is a squatter--forced to live together in the same house

'You're not supposed to be doing any work on this house' said homeowner Heidi Peterson

'Well now you tell me' said alleged squatter Tracey Blair

'No, that's not true,' said Peterson.

Most viewers are outraged that the Detroit homeowner must now go to court to remove Blair from her own home.

Peterson says Blair is a squatter who moved into her house when she was out of the country. But Blair says she thought the house was abandoned, and she fixed it up.

'You left it open for a whole year,' said Blair.

'I didn't leave it open,' said Peterson.

Comments were overwhelmingly in favor of Peterson, the homeowner, on INSIDE EDITION's Facebook page:

'It's ridiculous she can't just push her out of the house,' said one viewer.

Another said, 'It is your home, you own it, kick their butts out!'

m.insideedition.com/News/AllegedSquatterHomeowner7KSID-6B36S8edOw45241fcd95e165e440cd1

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Page 1

INSIDE EDITION Blair and Peterson: Odd Couple Arrive in Day-Old Car

Another commented: How do owners don't have rights now? What is wrong with the system?

The bizarre living arrangement with Peterson and her one-year-old daughter living in one room and Blair living in another part of the house is right out of the classic TV series *The Odd Couple*.

The classic line from *The Odd Couple* theme song is: "Can two divorced men share an apartment without driving each other crazy?"

The two began squabbling when Peterson showed INSIDE EDITION the changes Blair made to the plumbing.

"There was another washer in here and it was broke," said Blair.

"This is out-of-control," said Peterson.

Only time will tell whether Peterson and Blair can share a house without driving each other crazy.

"Where's my refrigerator?" asked Peterson.

Blair said: "It wasn't working. Remember, I told you I let the junkman take it with the radiator."

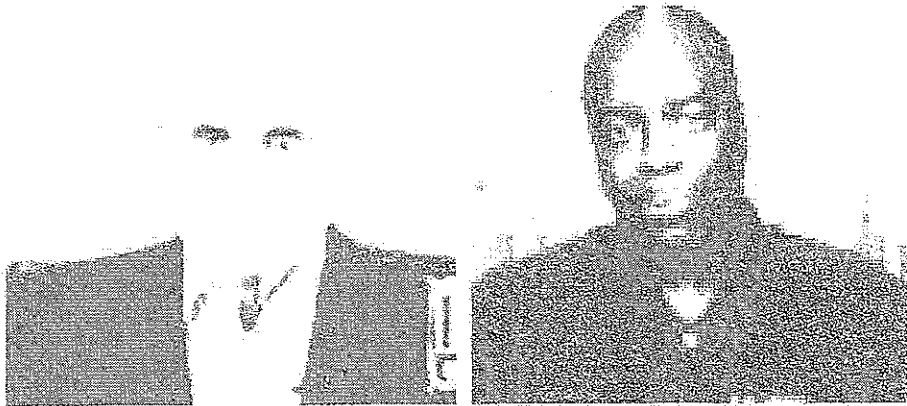
All Peterson could say was: "Oh my God."

[PREVIOUS POST](#)

[NEXT POST](#)

RELATED:

You might also like:



mjlsidedition.com/News/BlairandPetersonSquabbleHouses?KSID=0536792a-0545211fcdc05a165e40cd1

2/3

HEIN witness to part  
Trust (year 2011)

1. Items missing from Mantle  
and broken figurines  
while George (Tracy's  
brother) is carrying  
the painting (owned by Heidi)  
out of the home.

Police Report # 1102100210

2. Police Report Tracy Harassment  
1103100368

3. Witness of Tracy Harassment  
Jolynne Stalco  
31 Longfellow St  
Detroit M. 48202

4. Witness of Tracy & Friends  
activities & neighbors + DSS  
security. (currently)  
586-905-2305



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# CITIZEN COMPLAINT REPORT

CCR 53516  
BPC# 13-156

Date / Time of Report  
2/21/2013 - 5:00 PM

Name / Badge of Officer Preparing Report  
MCCONICO, MARQUITTA - 0

Unit Receiving Report  
O C I

## CITIZEN

|                                    |                |            |                |               |       |         |        |
|------------------------------------|----------------|------------|----------------|---------------|-------|---------|--------|
| Citizen's Involvement: COMPLAINANT | Last Name      | First Name | Mi             | Date of Birth | Age   | Race    | Sex    |
| Relation To Victim: SELF           | Peterson       | Heidi      |                | 9/20/1976     | 3     | Unknown | Female |
| Street Address                     |                | Apt        | City           | State         | Zip   |         |        |
| 51 Edison Street                   |                |            | Detroit        | MI            | 48202 |         |        |
| Resident Phone                     | Business Phone | Ext.       | Cellular Phone | Pager         |       |         |        |
| (561) 542-4123                     |                |            |                |               |       |         |        |

## COMPLAINT

|  |                    |       |      |
|--|--------------------|-------|------|
| Officer's Involvement: ACCUSED           | Officer's Name     | Badge | Rank |
| Unit Involved: CRIMINAL INVESTIGATIONS U | DONOVAN, MICHAEL T | 253   | SGT  |
| (1) ALLEGATION                           | FINDING            |       |      |
| PROCEDURE                                | "PENDING"          |       |      |

## INCIDENT

|                         |   |                  |              |     |           |          |
|-------------------------|---|------------------|--------------|-----|-----------|----------|
| Date / Time of Incident | Place of Incident   | Street Address   | Cross Street | Zip | Witnesses | Officers |
| 10/3/2012 11:00 AM      |   | 51 Edison Street |              |     | 0         | 0        |
| Activity                | Details of Incident   |                  |              |     |           |          |
|                         | Compl states Inv Donovan and unspecified officers did not properly investigate her case |                  |              |     |           |          |

|                             |                         |                                       |
|-----------------------------|-------------------------|---------------------------------------|
| Complaint Entered Elsewhere | Mode of Complaint Entry | Date of Complaint Entry               |
| No                          | Online                  | 2/21/2013                             |
| Forward To Unit             | Date Forwarded          | Person Entering Complaint Signed: Yes |
|                             |                         | Officer-in-Charge Signed: Yes         |



OFFICE OF THE CHIEF INVESTIGATOR  
45 CASHLAC SQUARE, SUITE 4000  
DETROIT, MICHIGAN 48226  
PHONE 313-596-2488 TTY:311  
FAX 313-596-2483  
WWW.DETROITPOLICE.COM

January 10, 2013

Heidi Peterson  
51 Edison  
Detroit, MI 48202

Dear Ms. Peterson:

RE: Citizen Complaint Report 63155 BPC 12-1096

On Tuesday, October 30, 2012 you filed a complaint against Detroit Police Officer(s). This correspondence serves as a 45-day update as to how the investigation of your complaint is progressing. Despite diligent steps taken toward the completion of your investigation, additional work needs to be conducted to ensure that the most thorough and comprehensive examination of your facts has been completed or achieved.

We apologize for the delay and you should be receiving the results of the investigation in the near future. If you have any questions, comments or concerns please feel free to contact the undersigned directly at (313) 596-2507.

Sincerely,

ELAINE BUCKNER

Sergeant

Office of the Chief Investigator



CITY OF DETROIT  
POLICE DEPARTMENT

OFFICE OF THE CHIEF INVESTIGATOR  
65 CADILLAC SQUARE, SUITE 4000  
DETROIT, MICHIGAN 48226  
PHONE: (313) 596-2488  
FAX: (313) 596-2482  
WWW.DETROITPOLICE.DEPT.MI

January 30, 2013

Heidi Peterson  
51 Edison  
Detroit, MI 48202

Dear Ms. Peterson:

RE: Citizen Complaint Report 63155, BPC 12-1096

The Board of Police Commissioners (BPC) mission is to provide an accountability through competent, objective and effective oversight of the Detroit Police Department

In cases where the evidence presented by a citizen, any witnesses and/or officers(s), supports the conclusion that it is *more likely than not* that a certain inappropriate conduct did in fact take place, then a **sustained** finding will be the result. This finding will then be submitted to the Chief of Police along with a recommendation that such officer(s) be disciplined.

In cases where the witness statements conflict and/or there is not enough trustworthy evidence supporting the complaint, the investigation will probably result in a **not sustained** finding.

In cases where the investigation revealed no facts to support that the incident complained of actually occurred, there will be an **unfounded** finding.

Finally, in cases where the evidence gathered indicates that the officer acted appropriately under the circumstances then our finding will be an **exonerated** finding.

A complete and thorough investigation has been conducted regarding your complaint. Our findings were as follows:

|           |               |
|-----------|---------------|
| Service   | Not Sustained |
| Procedure | Not Sustained |

Should you have any questions, please feel free to contact E. Buckner at 65 Cadillac Square, Detroit, Michigan, 48226, (313) 596-2507, Monday through Friday, 8 A.M. through 4 P.M.

Sincerely,

Pamela Davis-Drake  
Chief Investigator  
Office of the Chief Investigator

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL



BILL SCHUETTE  
ATTORNEY GENERAL

P.O. Box 30212  
LANSING MICHIGAN 48909

November 26, 2012

Ms. Heidi Peterson  
51 Edison Street  
Detroit, MI 48202

Re: **Constituent Complaint of Ms. Heidi Peterson**  
**Attorney General File No 2012-0025729**

Dear Ms Peterson:

Governor Rick Snyder forwarded your letter to the office of Attorney General Bill Schuette. Because of the subject matter, staff in the Opinions Division reviewed your inquiry. The following represents their findings.

We understand from the events you describe in your email, as well as recent local news reports, that a former tenant moved into your house without your permission while you were away from your house for an extended period. When you returned to your house, the former tenant initially refused to vacate and claimed that she owned the house. However, according to recent local news reports, the individual has since moved out of your home and the situation may have resolved itself.

Although we would like to be helpful, the issues, as stated in your email, are local in nature. The Attorney General serves as legal advisor to state officials and state agencies and is not authorized to provide legal services to private citizens regarding their private legal matters. When private citizens encounter legal questions in the course of conducting their private affairs, we generally encourage them to consult with private attorneys, who are in the best position to provide the personal legal guidance that may be needed under the particular circumstances.

Information regarding the State Bar of Michigan Lawyer Referral and Information Service (LRIS) is available on line at <http://www.michbar.org/> (accessed October 25, 2012). The referral service terms state, among other things, that the cost of an initial 30-minute consultation with a LRIS panel member will be no more than \$20.00. If you cannot afford to hire an attorney, there is a link on the website to other legal assistance programs and services. You may also wish to contact your local elected or appointed officials or law enforcement for help. The official website of the City of Detroit is <http://www.detroitmi.gov/> (accessed October 25, 2012).

Ms Heidi Peterson  
Page 2

With regard to your allegations of "illegal rulings" by the court, the Attorney General, as a member of the executive branch, does not review or modify decisions made by the judiciary. The Michigan Judicial Tenure Commission addresses purported violations of the Code of Judicial Conduct or Rules of Professional Conduct. It serves to promote the integrity of the judicial process and preserve public confidence in the courts. Anyone may file a request with the Commission for an investigation (or "grievance") against a state judge, magistrate, or referee.

You may request a copy of the Commission's Request for Investigation Form by telephone at (313) 875-5110, on-line from the Commission's website at <http://jtc.courts.mi.gov/> (accessed October 25, 2012), or by mail at:

Judicial Tenure Commission  
3034 West Grand Boulevard  
Suite 8-450  
Detroit, MI 48202

Also, with regard to your complaint about DTE, a member of the Department of Attorney General staff responded to your similar email on May 6, 2011. We are enclosing a copy of that response for your review.

I hope this information is helpful.

Sincerely yours,



Heather S. Meingast  
Division Chief  
Opinions Division

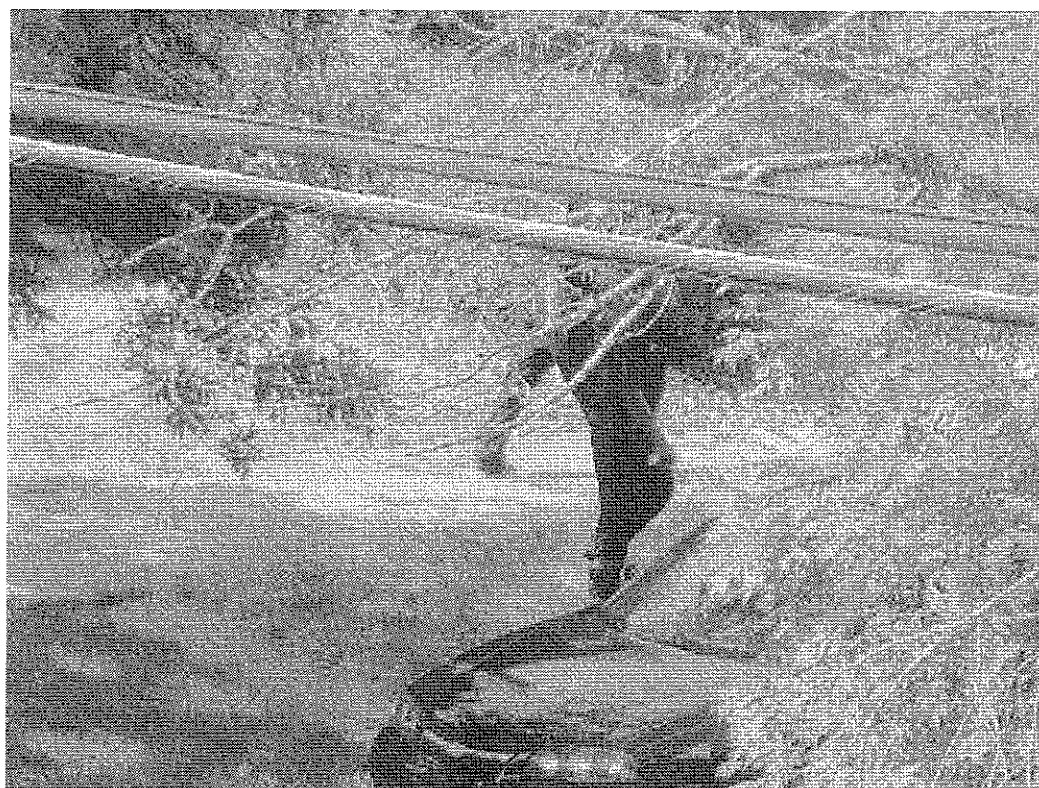
c: Governor Rick Snyder

Enc.













e

| <b>Crime</b>  | <b>Action</b>   | <b>Reaction of DPD</b>   | <b>Better Procedure</b>  |
|---|---|--|--|
| <p>Strange man cutting down my trees - crime of the man property damage</p>   | <p>Neighbor calls the police and takes picture of the man and police at my house</p>  | <p>Police come to the house talk to the neighbor and the people doing the crime don't take a report and leave</p>  | <p>The police should of wrote a report with the peoples names, and told the criminals if they don't have permission from the owner they will face charges. They should not assume criminals are telling the truth when evidence shows otherwise.</p>   |
| <p>Water company turns water on without permission from the owner and violates their own policy and procedures leading to flooding of the property, crime of the water department is property damage and trespass</p> | <p>I tell the water department to turn off the water and they ignore me I tell the police that the water department is trespassing and flooding my property crime property damage and trespass by the water department</p>  | <p>The police at my house don't take a report but tell me that I can be liable for water damage to city property although I did not turn or give permission to turn the water on and the water bill is in the squatter's name</p>  | <p>The police should of wrote a report found out if it is trespass and if they could fine the water department for recklessly damaging property and trespass to try to stop them from illegally turning on the water also they should do this when DTE turns on for squatters</p>  |
| <p>Tracey Blair was in my house "adversely possessing it" as well as stripping and damaging my property by way of her "construction work"</p>   | <p>called the police and turned in the evidence and made a report, called the television stations, recorded all the evidence via media using her own testimony plus collected evidence of who they called to scrap my cars as well as other potentially stolen library books found in the house</p> | <p>The police when coming to the scene of the crimes refused to take a report or arrest. By the deed they know who the owner is. By her own confession they knew she was trying to steal the house. The refused to arrest her for trespass. Detective Donovan said intent is needed and since we can't read criminals minds they can't be charged with a crime. This shows The police are not trained on the elements of of tort law or crime just by the mention that there needs to be shown intent or they are lying.</p> | <p>The detective should of investigated and turned in the evidence and witness statements to the prosecutor along with the media documentation of her confessions and her court fillings. They should of interviewed the water department and die to see how she got the water turned on in her name. The prosecutor said DPD had not delivered any information to them regarding this report.</p> |

|  |  |  |  |
|--|--|--|--|
| <p>Detective Donovan's violation not performing job duties and giving me protection under the law - not investigating or turning the report to the prosecutors office possible destruction of evidence</p> | <p>reported this to Criminal investigation unit that St Donovan and other officers did not take reports or investigate my case properly</p>  | <p>Criminal Investigation Unit assigned this to St. Buckner who did not investigate if the police did there jobs instead she stated that there was no crime and no reports and no one called the police she like St. Donovan disregarded all media recording, witnesses including Tracey's own testimony</p> | <p>stop lying and see if the police are following through on their duties</p>  |
| <p>Criminal investigation Unit did not do their job and perverted the facts to suit thier negligence and cover for Tracey and her gang of home strippers</p>   | <p>Let me present the evidence and witnesses and turn in the report to the prosecutors office myself then if Detroit Police are acting as the wall between the citizens and the prosecutor</p> | <p>Let me present the evidence and witnesses and turn in the report to the prosecutors office myself then if Detroit Police are acting as the wall between the citizens and the prosecutor</p>   | <p>Let me present the evidence and witnesses and turn in the report to the prosecutors office myself then if Detroit Police are acting as the wall between the citizens and the prosecutor</p> |

## Eric Kranz

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**From:** CHARLES IDELSOHN <charlesidelsonnattorney@yahoo.com>  
**Sent:** Tuesday, November 05, 2013 4:47 PM  
**To:** Eric Kranz  
**Subject:** Fw: RICO Claims  
**Attachments:** Rico Claims in Business Litigation.rtf

On Saturday, November 2, 2013 10:27 AM, Heidi Peterson <hdpeterson75@gmail.com> wrote:  
In general, there is no substantive difference between criminal and civil RICO. Both apply to the same conduct. There are exceptions to this rule, but these distinctions are based on the differences between civil and criminal law generally, and are not specific to RICO.  
For example, civil RICO conspiracy, like all civil conspiracy claims, requires proof of an "overt act" committed in furtherance of the conspiracy. Criminal RICO conspiracy does not require proof of an overt act—but in view of RICO's predicate act requirement, this amounts to a "distinction" without a "difference."

As another example, in a criminal RICO case, it generally is not necessary to prove that the criminal scheme was successful and that someone was injured as a result. In a civil RICO case, as in all civil actions, injury to the plaintiff is an essential element of the cause of action.

The primary differences between civil and criminal RICO are procedural. Civil RICO is litigated like other civil cases, with pleadings, discovery, motions etc., and at trial, the preponderance of evidence standard applies. In a criminal RICO case, the accused is entitled to the available constitutional and statutory protections, and at trial, the reasonable doubt standard is applicable. In *Sedima, S.P.L.R. v. Imrex Co.*, the United States Supreme Court held that a civil RICO claim may be maintained in the absence of a prior criminal conviction under RICO or under the specific statutes which outlaw the various defined acts of racketeering activity.

Summary of 18 U.S.C. 1961-1968 - applied to the aid and protection of property thieves in Michigan

### '1961 Definitions

#### (1) Racketeering Activity (the "Predicate acts"):

(A) Any act or threat involving robbery, bribery, extortion -which is chargeable under State law and punishable by imprisonment for more than one year; or -there is no question that this is crime intent to rob and destroy people's private property

(B) Any act which is indictable under any of the following provisions of title 18, United States Code:

*bribery - we don't know if she bribed someone but it is strange why would some one from the water department turn the water on without any documentation which was required to be scanned in the system*

obstruction of justice - it is easy to prove that Detroit Police Department is obstructing Justice by refusing to turn the crimes over to the prosecutors office - and possibly likely

destroying evidence - refusing to investigate the crime scene or call the witnesses to get testimony in a timely manner.

obstruction of criminal investigation, obstruction of State or local law enforcement, tampering with a witness, victim, or informant - Detective Donovan - he took our evidence and we don't know what he did with it , he refused to do a criminal investigation although he was the investigative detective assigned to the crimes and ignored crimes against private property! The police in the pictures which Neighbor Gerald took after reporting to them that people were robbing and destroying my property came to the scene of the crime allowed them to continue their crimes. **St Buckner** - The Office of the Chief investigator claimed that this event never happened and none of my neighbors had called the police! **St Buckner** - also stated there was no evidence that Tracey did not "always" live there! She did not even report any conclusion to me whether Detective Donovan properly investigated the crime, which you can see by the form was my written complaint.

tampering with a witness, victim, or informant

interference with commerce, robbery, or extortion

racketeering (the Hobbs Act)

interstate transportation of stolen motor vehicles

interstate transportation of stolen property

trafficking in certain motor vehicles or motor vehicle parts

St Buckner - Office of Chief investigator is a lair and a Fraud - they also used a fraud lien to attempt to take possession of my property

**The Scheme To Defraud**

In civil RICO cases, the federal courts have required proof of common law fraud (plus the additional element of using the mails or wires) to establish these predicate acts. The elements of common law fraud are:

- (1) A false representation of material fact or material omission;
- (2) That the defendant knew or believed to be false;
- (3) That the defendant made the material misrepresentation or omission with the intent to induce the plaintiff to rely;

(4) Action by the plaintiff in reliance on the misrepresentation or omission;

(5) Injury to the plaintiff as a result of such reliance.

### **PATTERN OF RACKETEERING ACTIVITY**

'196 1(5) "pattern of racketeering activity" requires at least two acts of racketeering activity ... and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

( there are many examples of this on the internet and that police officer we met said that a couple weeks ago a lady confronted city council because her house is now stolen we can find her and then show that the city council's response and that they are ignoring her private property rights and knowingly letting gangs take over! )

Continuity plus Relationship

In Sedima, the Supreme Court noted:

Two isolated acts of racketeering activity do not constitute a pattern. As the Senate Report explained: The target of [RICO] is thus not sporadic activity. The infiltration of legitimate business normally requires more than one 'racketeering activity' and the threat of continuing activity to be effective. It is this factor of continuity plus relationship which combines to form a pattern.

In 1989, the Supreme Court attempted to clarify the "continuity plus relationship" test:

Relationship

Criminal conduct forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated events.

Continuity

"Continuity" is both a closed and open-ended concept, referring to either a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.

Predicate acts extending over a few weeks or months and threatening no future criminal conduct do not satisfy this requirement.

Person

'1961(3) "person" includes any individual or entity capable of holding a legal or beneficial interest in property.

Comment:

Only persons can be defendants under RICO. The "persons" who commit the predicate offenses cannot simultaneously be the "enterprise."

Enterprise



'1961(4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.

Aiding and Abetting

Aiding and abetting liability has been imposed where, for each alleged predicate act, the defendant was associated with the wrongful conduct, participated with the intent to bring it about, and sought by his actions to make it succeed.

## THE CIVIL CAUSE OF ACTION

'1964(c)

Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefore in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of suit, including a reasonable attorneys' fee.

Comments:

The Supreme Court has held that state courts enjoy concurrent jurisdiction over civil RICO claims under '1964(c). The Court has also ruled that civil RICO claims are arbitrable.

### The Commerce Requirement

As a basis for federal jurisdiction, RICO requires that the enterprise affect interstate or foreign commerce. Historically, the commerce requirement has fueled very little litigation. Drawing on the Supreme Court's broad interpretation of the Commerce Clause in the U.S. Constitution, courts have held that virtually any business activity which involves the flow of goods or services in "commerce" affects interstate commerce.

In 1995 the Supreme Court handed down a major decision with respect the RICO commerce requirement. In *U.S. v. Robertson* the Court reviewed whether the commerce requirement had been met where the defendant was charged under '1962(a) with investing the proceeds of cocaine sales into a gold mine in Alaska. The question was whether the Alaskan gold mine - the enterprise - affected interstate commerce. The Ninth Circuit, below, in reversing the RICO conviction, held that the enterprise did not affect interstate commerce. The Supreme Court however, in a brief opinion, reversed, holding that the enterprise sufficiently affected interstate commerce.

### The Direct Causation Requirement

'1964(c) requires that the injury to business or property occur "by reason of" the RICO violation. In *Holmes v. Securities Investors Protection Corp.*, the Supreme Court held that this "proximate causation" requirement is narrower than the traditional "but for" standard in tort law. In *Holmes*, the Securities Investor Protection Corporation (SIPC) alleged that the defendant conspired in a stock-manipulation scheme, causing two broker dealers to default on their obligations to customers, and thereby triggering SIPC's duty to advance funds to reimburse the customers. The Court characterized SIPC's injury as a "secondary injury" which was not directly caused by the defendant's conduct.

### Statute Of Limitations

RICO does not contain a statute of limitations. In the interests of uniformity, the Supreme Court has imposed a four (4) year statute of limitations on all civil RICO claims.



## RICO CLAIMS IN BUSINESS LITIGATION

By

Carmen D. Caruso

(NOTE: This article was presented by Mr. Caruso to the GREATER CHICAGO CHAPTER of the NATIONAL ASSOCIATION OF CERTIFIED FRAUD EXAMINERS on October 20, 1994, and was updated in 2002)

The Racketeer Influenced and Corrupt Organizations Act (“RICO”) was signed into law by President Nixon on October 15, 1970 as Title IX of the 1970 Organized Crime Control Act. RICO contains both civil and criminal provisions. Civil RICO creates a cause of action which has been described by the American Bar Association as the “ultimate remedy in business and commercial litigation.” This ultimate remedy includes *treble damages* (three times the actual loss) plus cost of suit including reasonable *attorneys’ fees*.

### Civil and Criminal RICO

In general, there is no substantive difference between criminal and civil RICO. Both apply to the same conduct. There are exceptions to this rule, but these distinctions are based on the differences between civil and criminal law generally, and are not specific to RICO.

For example, civil RICO conspiracy, like all civil conspiracy claims, requires proof of an “overt act” committed in furtherance of the conspiracy. Criminal RICO conspiracy does not require proof of an overt act—but in view of RICO’s predicate act requirement, this amounts to a “distinction” without a “difference.”

As another example, in a criminal RICO case, it generally is not necessary to prove that the criminal scheme was successful and that someone was injured as a result. In a civil RICO case, as in all civil actions, injury to the plaintiff is an essential element of the cause of action.

The primary differences between civil and criminal RICO are procedural. Civil RICO is litigated like other civil cases, with pleadings, discovery, motions *etc.*, and at trial, the preponderance of evidence standard applies. In a criminal RICO case, the accused is entitled to the available constitutional and statutory protections, and at trial, the reasonable doubt standard is applicable. In *Sedima, S.P.L.R. v. Imrex Co.*, the United States Supreme Court held that a civil RICO claim may be maintained in the absence of a prior criminal conviction under RICO or under the specific statutes which outlaw the various defined acts of racketeering activity.

### The Purpose of RICO

RICO does not prohibit any conduct which is not already illegal. In enacting RICO, Congress intended to combat the perceived infiltration of organized crime into legitimate business. To achieve this goal, RICO provides enhanced criminal sanctions and civil liability for specified conduct (the *predicate acts of racketeering activity*) which are already prohibited by other state or federal criminal laws—where the conduct amounts to a *pattern of racketeering activity* in relation to an *enterprise*.

### RICO and “Legitimate” Business

Although RICO was enacted to combat organized crime, the Supreme Court has repeatedly held that Congress intended for the statute to be fully applicable to so-called legitimate businesses that violate

the statute. In *United States v. Turkette*, the Court held that:

[I]t was the declared purpose of Congress “to seek the eradication of organized crime in the United States by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime” . Considering this statement of the Act’s broad purposes, [a narrow] construction of RICO is unacceptable. Whole areas of organized criminal activity would be placed beyond the substantive reach of the enactment.

In *Sedima*, the Court confirmed that:

It is true that private civil actions under [RICO] are being brought almost solely against [“respected and legitimate enterprises”], rather than the archetypal, intimidating mobster. Yet this defect—if defect it is—is inherent in the statute as written, and its correction must lie with Congress.

### RICO and Rule 11

Federal Rule of Civil Procedure 11 (“Rule 11”) provides sanctions against attorneys who file claims that do not have a reasonable basis in fact or law. In *Brandt v. Schal Associates, Inc.*, the federal district court (Judge Shadur) imposed substantial monetary sanctions against an attorney who filed a RICO claim against a construction management firm, where it was established that the plaintiff did not have a reasonable basis in fact to allege that the defendant had perpetrated the alleged fraudulent scheme. The Court of Appeals affirmed.

However, recent amendments to Rule 11 decrease the likelihood that future defendants will be able to obtain substantial monetary sanctions against plaintiffs who file frivolous RICO claims. Under the amended Rule 11, monetary sanctions are more likely to be paid into the court.

### THE ELEMENTS OF A RICO CLAIM

RICO is codified in title 18, the United States Criminal Code, at sections 1961 through 1968. Reviewing this statute, the United States Court of Appeals for the Seventh Circuit observed that RICO “is construct-ed on the model of a treasure hunt.

#### Summary of 18 U.S.C”1961-1968

‘1961      Definitions

(1)    **Racketeering Activity** (the “**Predicate acts**”):

(A)    Any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in narcotic or other dangerous drugs, which is chargeable under State law and punishable by imprisonment for more than one year; or

(B)    Any act which is indictable under any of the following provisions of title 18, United States Code:

bribery

sports bribery  
counterfeiting  
theft from interstate shipments (felony)  
embezzlement from pension or welfare funds  
extortionate credit transactions  
transmission of gambling information  
mail fraud  
wire fraud  
transactions in obscene matters  
obstruction of justice  
obstruction of criminal investigation  
obstruction of State or local law enforcement  
tampering with a witness, victim, or informant  
interference with commerce, robbery, or extortion  
racketeering (the Hobbs Act)  
interstate transportation of wage paraphernalia  
unlawful welfare fund payments  
illegal gambling businesses  
money laundering  
monetary transactions in property derived from specified unlawful activity  
interstate transportation of stolen motor vehicles  
interstate transportation of stolen property  
trafficking in certain motor vehicles or motor vehicle parts  
trafficking in contraband cigarettes  
white slave traffic; or  
(C) illegal payments and loans to labor organizations

- embezzlement of union funds; or
- (D) bankruptcy fraud
- securities fraud
- any felonious drug offense
- violations of the Currency and Foreign Transactions Act

**Comments:**

The most common types of predicate acts used in commercial cases are mail and wire fraud

**Mail and Wire Fraud**

Mail fraud is prohibited by 18 U.S.C. § 1341, and wire fraud is prohibited by 18 U.S.C. § 1343. The fraud language in these two sections is identical, and the elements of these violations are (1) the existence of a scheme to defraud; (2) the defendant's knowing participation in that scheme; and (3) the use of the mail or wires in furtherance of that scheme.

**The Scheme To Defraud**

"Fraud" as used in the mail and wire fraud statutes is broader, in criminal prosecutions, than the common law definition of fraud. In a criminal case, specific intent to defraud is required, but it is generally unnecessary to prove that the intended victim relied on the fraud and was injured. In civil RICO cases, the federal courts have required proof of common law fraud (plus the additional element of using the mails or wires) to establish these predicate acts. The elements of common law fraud are:

- (1) A false representation of material fact or material omission;
- (2) That the defendant knew or believed to be false;
- (3) That the defendant made the material misrepresentation or omission with the intent to induce the plaintiff to rely;
- (4) Action by the plaintiff in reliance on the misrepresentation or omission;
- (5) Injury to the plaintiff as a result of such reliance.

**Promissory Fraud**

Promissory fraud has been used to establish the predicate act of mail fraud under RICO. In Illinois, a defendant that promises to perform an act in the future may be liable for fraud if at the time of making the promise, the defendant has no intention of ever performing the future act, but only if the false promise is the scheme or device used to accomplish an independent fraudulent scheme. Other jurisdictions, including California, have relaxed the requirements for establishing promissory fraud.

**Securities Fraud**

Though securities fraud was long considered a racketeering activity under RICO, this is no

longer the case since enactment of the Private Securities Litigation Reform Act of 1995. This provision eliminated securities fraud from the definition of racketeering. Though seemingly eliminating RICO actions based on securities fraud, plaintiff's still may attempt to bring investment cases by invoking RICO on the basis of mail and wire fraud.

### **PATTERN OF RACKETEERING ACTIVITY**

'1961(5) "pattern of racketeering activity" requires at least two acts of racketeering activity and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

#### **Continuity plus Relationship**

In *Sedima*, the Supreme Court noted:

Two isolated acts of racketeering activity do not constitute a pattern. As the Senate Report explained: The target of [RICO] is thus not sporadic activity. The infiltration of legitimate business normally requires more than one 'racketeering activity' and the threat of continuing activity to be effective. It is this factor of *continuity plus relationship* which combines to form a pattern

In 1989, the Supreme Court attempted to clarify the "continuity plus relationship" test:

#### **Relationship**

Criminal conduct forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated events.

#### **Continuity**

"Continuity" is both a closed and open-ended concept, referring to either a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.

Predicate acts extending over a few weeks or months and threatening no future criminal conduct do not satisfy this requirement.

#### **Person**

'1961(3)"person" includes any individual or entity capable of holding a legal or beneficial interest in property.

#### **Comment:**

Only persons can be defendants under RICO. The "persons" who commit the predicate offenses cannot simultaneously be the "enterprise."

#### **Enterprise**

'1961(4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.

**Comments:**

The “individuals associated in fact” aspect of RICO enterprise has created confusion:

- An enterprise is present even if the individuals are associated for a purely criminal purpose
- The enterprise and the pattern of racketeering activity remain separate elements. Proof that the defendants committed the predicate acts, and that the defendants formed an enterprise, may be co-extensive, but each element must be established separately.
- The Seventh Circuit has approved the “liberal” theory of enterprise, whereby “there is no distinction between a duly formed corporation that elects officers and holds annual meetings and an amoeba-like infrastructure that controls a secret criminal network.”

**THE OPERATIVE SECTIONS OF RICO**

18 U.S.C. “1962(a) through (d) prohibit four types of relationships between a pattern of racketeering activity and an enterprise.

**‘1962(a)**

It shall be unlawful for any person who has received income, directly or indirectly, from a pattern of racketeering activity or to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in the acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, inter-state or foreign commerce.

**Comments:**

Section 1962(a) requires a nexus between the income or proceeds from the underlying criminal activity and the enterprise, for the essence of the violation is the use of the illegal income in the enterprise. The courts generally do not require strict tracing requirements which would render RICO ineffective against “surreptitious accounting techniques” designed to frustrate tracing. A sufficient nexus between the illicit income and the enterprise has been established where:

- The deposit of income in one of the defendant’s companies (in the form of bank loan proceeds which were obtained by fraud) coincided with a comparable amount earned in the enterprise.
- Substantial deposits of income in the enterprise were being made at the same time that defendant was engaged in illicit activity.

**‘1962 (b)**

It shall be unlawful for any person through a pattern of racketeering activity . . . to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, inter-state or foreign commerce.



### Comments:

The majority of courts require a proprietary interest, such as ownership of stock, to establish an “interest” in an enterprise under Section 1962(b). On the question of “control”, the majority of courts reject the contention that formal control, e.g., a majority of stock, is required:

- A minority of stock was sufficient “control” where the minority was able to affect the selection of the board of directors
- Defendant who was serving as leasing agent and was a partner in a real estate venture defrauded his partners by mismanaging partnership property, allowing a co-defendant to acquire an interest in the partnership inexpensively. The court rejected the ‘1962(a) claim because the “use of proceeds” element was missing, but upheld the claim under ‘1962(b) because the co-defendant promised that the defendant would remain as leasing agent once the co-defendant acquired the property—giving the defendant a sufficient “interest” in the enterprise. Note: This case takes an expansive view of “interest”
- ‘1962(b) liability was rejected in a churning case where the customer always retained the power to terminate the broker
- ‘1962(b) liability was upheld where an oil company injured its competitor by using undue influence to obtain oil at below market prices.
- Creditors who exercise their rights under loan or security agreements are not generally liable under ‘1962(b). The determination of whether a creditor has exercised “control” is fact-specific.

### ‘1962(c)

It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity ....

### Comments:

‘1962(c) focuses on the conduct of the defendant, not the enterprise. Mere membership in a criminal enterprise does not constitute “conduct or participation” absent other behavior. The defendant’s conduct need not advance or benefit the enterprise to establish liability

In *Reves v. Ernst & Young*, the Supreme Court held that participation in the conduct of an enterprise requires an element of direction over the affairs of the enterprise. Formal control or responsibility is not required- the test of whether a defendant exercised sufficient “managerial or operational control” for liability under this section is factual. In *Reves*, an accounting firm did not participate in the conduct of an enterprise by auditing the company’s financial statements.

### RICO Conspiracy

### ‘1962(d)

It shall be unlawful for any person to conspire to violate any of the provisions of subsections (a), (b), or (c) of this section.

**Comments:**

- A RICO conspiracy is composed of two agreements:
  - (1) An agreement to commit at least two predicate acts which form the pattern of racketeering activity; and
  - (2) An agreement to the conduct which violates subsection (a), (b) or (c) of '1962, e.g an agreement to conduct or participate in the affairs of an enterprise (sub-section(c))
- A RICO conspiracy generally involves two groups of people- the conspirators and the enterprise.
- Under agency law, a corporation cannot conspire with its officers or employees.
- An overt act in furtherance of the conspiracy is required in civil cases. This requirement is distinct from the predicate act requirement, although the predicate act may satisfy the overt act requirement

**Aiding and Abetting**

Aiding and abetting liability has been imposed where, for each alleged predicate act, the defendant was associated with the wrongful conduct, participated with the intent to bring it about, and sought by his actions to make it succeed

**THE CIVIL CAUSE OF ACTION**

**'1964(c)**

Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefore in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of suit, including a reasonable attorneys' fee

**Comments:**

The Supreme Court has held that state courts enjoy concurrent jurisdiction over civil RICO claims under '1964(c). The Court has also ruled that civil RICO claims are arbitrable

**The Commerce Requirement**

As a basis for federal jurisdiction, RICO requires that the enterprise affect interstate or foreign commerce. Historically, the commerce requirement has fueled very little litigation. Drawing on the Supreme Court's broad interpretation of the Commerce Clause in the U.S. Constitution, courts have held that virtually any business activity which involves the flow of goods or services in "commerce" affects interstate commerce.

In 1995 the Supreme Court handed down a major decision with respect the RICO commerce

requirement In *U.S. v. Robertson* the Court reviewed whether the commerce requirement had been met where the defendant was charged under '1962(a) with investing the proceeds of cocaine sales into a gold mine in Alaska. The question was whether the Alaskan gold mine - the enterprise - affected interstate commerce. The Ninth Circuit, below, in reversing the RICO conviction, held that the enterprise did not affect interstate commerce. The Supreme Court however, in a brief opinion, reversed, holding that the enterprise sufficiently affected interstate commerce.

### The Direct Causation Requirement

'1964(c) requires that the injury to business or property occur "by reason of" the RICO violation. In *Holmes v. Securities Investors Protection Corp.*, the Supreme Court held that this "proximate causation" requirement is narrower than the traditional "but for" standard in tort law. In *Holmes*, the Securities Investor Protection Corporation (SIPC) alleged that the defendant conspired in a stock-manipulation scheme, causing two broker dealers to default on their obligations to customers, and thereby triggering SIPC's duty to advance funds to reimburse the customers. The Court characterized SIPC's injury as a "secondary injury" which was not *directly caused* by the defendant's conduct.

### Statute Of Limitations

RICO does not contain a statute of limitations. In the interests of uniformity, the Supreme Court has imposed a four (4) year statute of limitations on all civil RICO claims.

### **Problem One**

#### The Racketeering Restaurateur

Ms. Wealthy was asked by Mr. Slick to invest in a new restaurant that Mr. Slick would operate. Mr. Slick promises to form a corporation to own and operate the restaurant. Ms. Wealthy will receive 50% of the stock in exchange for her \$100,000 investment. Mr. Slick will receive 50% of the stock in exchange for his services in developing and running the restaurant.

Mr. Slick also represents that he has entered into a purchase contract for the real estate where the new restaurant will be located. He promises to transfer this contract to a new partnership between himself and Mrs. Wealthy. Mr. Slick makes all of these representations in a series of letters which are delivered by the mail and on the telephone. Ms. Wealthy invests, believing that her \$100,000 has bought her 50% of both the corporation and real estate partnership.

The restaurant opens and, at first, appears successful. But after a few months, Mr. Slick begins to report operating losses which he can't explain. Ms. Wealthy suspects skimming but she can't prove it. Mr. Slick tells Ms. Wealthy that because of the operating losses, he can't make the payments on the real estate purchase contract, and that Ms. Wealthy has to put more money into the restaurant or they will lose everything. She refuses.

Then Ms. Wealthy gets a letter in the mail from a man named Flunky who just happens to be a business associate of Mr. Slick in another restaurant. Flunky claims that he is holding an assignment of the real estate contract for the restaurant property, that he has made a \$15,000 payment to the seller on that contract, and that unless the restaurant reimburses his \$15,000 and makes the next payment on the contract, he will evict the restaurant. Ms. Wealthy checks and finds that Mr. Slick never transferred the real estate contract to the new partnership - instead he assigned the contract to Flunky on the same day that Flunky wrote the eviction letter. Mr. Slick calls Ms. Wealthy on the telephone and tells her to pay Flunky. He repeats that she will lose every-thing if she doesn't pay.

Ms. Wealthy refuses to pay Flunky, and the seller under the real estate contract files an eviction claim, causing the restaurant to close. Ms. Wealthy has lost her \$100,000.

**Could Ms. Wealthy bring a RICO claim against Mr. Slick?**

**How about against Flunky?**

**Problem Two**

Same facts as problem one, plus these additional facts:

When Flunky needed \$15,000 to make a payment on the real estate contract, he and Mr. Slick asked their friend, Chumpy, for the money. They told Chumpy that they were close to driving Ms. Wealthy out of the business, and as soon as she was gone, they would form a new business that would own the restaurant and real estate, and that each of them - Slick, Flunky and Chumpy - would own 1/3 of the venture. Believing that this deal was too good to be true, Chumpy gave Slick and Flunky the \$15,000.

The meeting among Slick, Flunky and Chumpy was held at the offices of Slick's lawyer, who sat in on the meeting and drafted a "partnership agreement" for Slick, Flunky and Chumpy to sign.

**Now can Ms. Wealthy bring a RICO claim against Mr. Slick?**

**Against Flunky?**

**Against Chumpy?**

**Against Mr. Slick's lawyer?**

## Eric Kranz

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**From:** CHARLES IDELSOHN <charlesidelsonnattorney@yahoo.com>  
**Sent:** Tuesday, November 05, 2013 4:50 PM  
**To:** Eric Kranz  
**Subject:** Fw: Fwd:  
**Attachments:** Squatters' Rights 2011 pdf

On Tuesday, September 17, 2013 3:28 PM, Heidi Peterson <hdpeterson75@gmail.com> wrote:  
Please Charles you don't need to rewrite the complaint just attach the old one to the filing of the new federal suit as an exhibit like the bankruptcy court.

It is not relevant about Tracey's past renting because she had no current rental agreement with me. How she got the community to participate with turning on the electrical and gas we don't know the full details so don't assume anything all I know is what Cheryl Scott told me and as far as I know she did not impersonate me she was outwardly just telling people she was adversely possessing my property and they were going a long with it.

She was not paying rent. She was a home invader who became a squatter by staying, stripping my property and trying to adversely possess the house. Below is the attachment which explains squatter's rights,

When the police are unwilling to arrest them for their crimes the Michigan laws expect the owner to regain the right to their own property by way of civil action... this is what contradicts the due process because by nature of allowing the home invasion and possession and theft of property and not considering it a criminal offense they are taking our property without due process... For example it is very unlikely I will see my personal items again so even the method below is an unreasonable and illegal remedy for the squatter problem.

"Second, if the police are unwilling to remove the squatter, a civil action may be filed. The action may only be brought by the owner of the property or an occupant.<sup>8</sup> Once an action is filed, the person bringing the action must prove they have a superior right or title to the property and the squatter must be served with a civil complaint.  
<sup>9</sup> Assuming the squatter cannot prove they have an interest, such as through adverse possession, the owner or occupant can ask the court for a writ of restitution that allows the squatter to be evicted by the sheriff or authorized officer.<sup>10</sup> The owner or occupant should not attempt to remove the squatter themselves because the law disfavors self-help evictions and often the evictor can be sued.<sup>11</sup>"

Hopefully this will allow you to understand the situation better.

Heidi

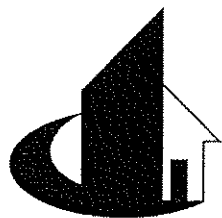
----- Forwarded message -----

**From:** Heidi Peterson <hdpeterson75@gmail.com>  
**Date:** Fri, Oct 5, 2012 at 5:48 PM  
**Subject:**

To: [info@clronline.org](mailto:info@clronline.org)

Dear Michigan Community Resources

Can you please make a demonstration to boston edison historical district home owners association about removing squatters they are giving advice which is wrong an contradicts your paper to the point they are allowing the neighborhood to be taken. Thanks, Heidi [561-542-4123](tel:561-542-4123)



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## **“Squatters” Rights in Detroit: A Legal Analysis**

*Prepared by Timothy M. Iannettoni, Jennifer L. Newby, and Scott A. Petz from Dickinson Wright PLLC, under the guidance of Community Legal Resources’ staff.*

### **I. INTRODUCTION**

There is concern within the City of Detroit over “squatters” and what concerned neighbors and community organizations can do about them. It is noteworthy that the term “squatter” is a legal misnomer. Generally, “squatters” fall into two (2) categories. “Squatters” are considered: (1) people who occupy what would otherwise be vacant or abandoned homes without the permission of the owner and (2) people who once had a legal right to occupy a home, but subsequently lost that right by defaulting on their mortgage or lease.<sup>1</sup> These two types of “squatters” are discussed in Section II and Section III respectively.

Two common questions often arise: (1) what rights, if any, do “squatters” have to occupy these homes and (2) what legal action, if any, may be taken against “squatters”? Answering these questions depends on the squatter’s relationship with the property and whether the party seeking to remove the squatter has the ability to do so under the law.

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<sup>1</sup> This second category is distinguishable from a “holdover tenant” which is a relationship created after the expiration of a lease whereby the landlord and tenant voluntarily continue the relationship and the default terms are on a month-to-month basis.

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## II. “SQUATTER” AS A TRESPASSER

### What is a “squatter”?

A “squatter” is another term for a trespasser.<sup>2</sup> A squatter is one who possesses property without right or title.<sup>3</sup> One way in which individuals “squat” is by taking up residence in vacant or abandoned property.

### What are “squatter’s rights”?

Individuals that are squatting may claim they have “squatter’s rights” to the property. “Squatter’s rights” is a colloquialism for the legal doctrine known as adverse possession.<sup>4</sup> A squatter does not have any legal interest in a property just because they have possession. However, if a squatter maintains possession under certain circumstances and for a prescribed length of time, they may gain title to the property. This is known as adverse possession. In order for a squatter to gain title under the doctrine of adverse possession they must openly live in a property as if they own it for an uninterrupted period of fifteen (15) years.<sup>5</sup> Because adverse possession, if proven, vests the squatter with title and extinguishes the rights of the former owner, courts strictly construe the requirements and require a high level of proof.<sup>6</sup> Most individuals squatting in vacant or abandoned homes will not be able to assert “squatter’s rights.”

### How can a “squatter” be removed from a property?

Although a squatter ordinarily does not have legal right or title to the property, the law forbids a citizen from removing the squatter by force. Instead, there are two possible legal

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<sup>2</sup> *Heilwig v Nybeck*, 179 Mich. 292, 297-298, 146 N.W. 141 (Mich. 1914).

<sup>3</sup> *Grand Rapids Trust Co. v. Doctor*, 222 Mich. 248, 254, 192 N.W. 641 (Mich. 1923)

<sup>4</sup> *Rink v Ratcliff*, No. 265517, 2006 Mich. App. LEXIS 806, \* 3-4 (Mich. App. 2006) (citing *Lawson v Bishop*, 212 Mich. 691, 699, 180 N.W. 596 (Mich. 1920)).

<sup>5</sup> *Mackinac Island Development Company, Ltd v Burton Abstract and Title Co.*, 132 Mich. App. 504, 512, 349 N.W.2d 191 (Mich. App. 1984) (“In order to secure title by adverse possession, the claimant’s possession must be actual, visible, open, notorious, exclusive, continuous, uninterrupted for the statutory period and under color or claim of right. .[a]cts of ownership which openly and publicly indicate an assumed control or use consistent with the character of the premises are sufficient.”)

<sup>6</sup> *Id.*



means to remove someone who is residing on a property unlawfully. First, the squatter is guilty of criminal trespass if they enter property after they have been told not to by the owner, responsible party, or occupant, or if they remain on the property after they have been told to leave by the owner, responsible party, or occupant of the property.<sup>7</sup> In this instance, the squatter can be removed by the local police and charged with a misdemeanor.

Second, if the police are unwilling to remove the squatter, a civil action may be filed. The action may only be brought by the owner of the property or an occupant.<sup>8</sup> Once an action is filed, the person bringing the action must prove they have a superior right or title to the property and the squatter must be served with a civil complaint.<sup>9</sup> Assuming the squatter cannot prove they have an interest, such as through adverse possession, the owner or occupant can ask the court for a writ of restitution that allows the squatter to be evicted by the sheriff or authorized officer.<sup>10</sup> The owner or occupant should not attempt to remove the squatter themselves because the law disfavors self-help evictions and often the evictor can be sued.<sup>11</sup>

### III. "SQUATTER" AS A MORTGAGE HOLDOVER

#### A. Overview of Foreclosure Process

This section deals with people who once had a legal right to occupy a home, but subsequently lost that right by defaulting on their mortgage, thereby turning into a mortgage holdover or "squatter." In order to understand how and when a mortgage holdover may be removed from a foreclosed home, it is necessary to have a basic understanding of Michigan's foreclosure law. The foreclosure process in Michigan is a heavily regulated statutory process.

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<sup>7</sup> Mich. Comp. Laws § 750.552.

<sup>8</sup> Mich. Comp. Laws §600.2932(1).

<sup>9</sup> *Malloy v Pearson*, No. 222597, 2001 Mich. App. LEXIS 294, \*3 (Mich. App. 2001).

<sup>10</sup> Mich. Comp. Laws §600.5744.

<sup>11</sup> *Deroshia v Union Terminal Piers*, 151 Mich. App. 715, 718-719, 391 N.W.2d 458 (Mich. App. 1986) (citing Mich. Comp. Laws §600.2918)).

## **1. Default**

The foreclosure process begins when a mortgagor, also referred to as a borrower, fails to pay their monthly mortgage payment. At first, the mortgagee, or lender, provides the borrower with a notice of default, and provides them with a period of time in which to make-up or cure their missed payments. However, if enough time passes and the borrower fails to make-up the missing payments, the lender will initiate foreclosure proceedings.

## **2. Foreclosure**

Generally, foreclosure proceedings can be initiated in two ways, either by judicial sale or sale by advertisement. While the procedures for both a judicial sale and sale by advertisement are different, when done properly, both result in a sheriff's sale of the property. The most common method of mortgage foreclosure in Michigan is by advertisement.

### **a. Sheriff's Sale**

Sheriff's sales are weekly public auctions where anyone is able to attend and purchase foreclosed homes. The highest bidder at a sheriff's sale, which is often the lender, will receive a sheriff's deed. This deed lists the details of the foreclosure, including the legal description of the premises, the parties, the buyer's name, the amount bid, and the redemption period. This deed makes the successful bidder the "owner" of the foreclosed property, subject to statutory redemption.

### **b. Statutory Redemption Period**

Borrowers are permitted a period of time to redeem their property following a sheriff's sale.<sup>12</sup> This period of time varies depending on the method of foreclosure and other factors including the size of the property, number of dwellings on the property, and whether the property is abandoned. Under the law, the new "owner" or the highest bidder at the sheriff's sale, is not the true owner of a foreclosed property until after the statutory redemption period has expired. At any time after the sheriff's sale and within the statutory redemption period the borrower can redeem his or her property by paying the auction price paid by the new "owner," plus any and all taxes, fees and interest, and regain ownership of the property. Statutory redemption is generally

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<sup>12</sup> MCL 600.3140; MCL 600.3240.

six (6) months for a homeowner in Michigan. However, if abandonment can be proven, the period can be shortened to thirty (30) days.

**B. Removing a “Mortgage Holdover”**

After the mortgage has been foreclosed and the borrower remains in the home, they are a “mortgage holdover.” The ability to evict a mortgage holdover is dependent upon whether the statutory redemption period has expired. Michigan’s eviction statute allows a party to maintain a legal proceeding for possession against a mortgage holdover only after the expiration of the statutory redemption period.<sup>13</sup> Once the redemption period has run, a party with a legal right in the property may file a civil action to recover possession.

A third party, however, may not file an action for possession or eviction unless the new “owner” deeds or assigns the property to the third party.<sup>14</sup> This is because MCL 600.5714 requires a party to have a “legal” right in the property before filing a suit against a “mortgage holdover.”<sup>15</sup> Therefore, the only way for neighbors or community groups to have standing to file a court action against a “mortgage holdover” would be to have the new “owner”, often the bank, deed or assign the property to them, thereby allowing the third party to maintain a legal action for possession or eviction pursuant to MCL 600.5714.

While deeding or assigning a bank’s rights to a third party is an option, convincing the bank to agree to this course of action is unlikely. Banks are unlikely to deed or assign its right to a third party because the bank would be exposing itself to potential liability for any torts committed by the third party in the eviction process. Put simply, a bank would rather avoid such liability and conduct its own eviction proceedings if it considered eviction necessary to protect the property.

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<sup>13</sup> *Kubczak v. Chemical Bank & Trust Co.*, 456 Mich 653 (1998); MCL 600.5714(f).

<sup>14</sup> *See* MCR 2.201; *Guardian Depositors’ Corp v Keller*, 286 Mich 403 (1938).

<sup>15</sup> *See* MCR 2.201; *Guardian Depositors’ Corp v Keller*, 286 Mich. 403 (1938)

#### IV. CONCLUSION

While third parties, such as neighbors or community organizations, do not have the right to bring a civil action to evict squatters or mortgage holdovers, that does not mean that they have no means to protect the neighborhood. It is unlawful for an individual to enter on the property of another without authority after having been forbidden to enter or notified to leave by the owner or occupant or agent of the owner or occupant. Thus, a neighbor could get in touch with the actual owner of the property to discuss potential actions to take against a squatter. If the owner of the property is unknown, a neighbor may go to the Wayne County Register of Deeds to find out who is the owner of record. One potential action to take against the squatter is for the neighbor, after receiving permission from the owner, to post "No Trespassing" signs on the property. Thereafter, if a squatter remains on the property, the neighbor could call the police and report a criminal trespass. Similarly, a neighbor may contact the police to report a home invasion if he or she witnesses a squatter stealing, vandalizing or committing drug offenses in the home. Finally, another indicator of squatting could be illegal utility connections, so notification to the appropriate utility company may be another course of action.

Another possibility is for a neighbor to contact the owner of the property and see if they will deed or assign the property to them, and thereby acquire a legal interest in the land. The neighbor would then be able to maintain a legal action to have the squatter evicted.

For more information on what you can do, visit Community Legal Resources' vacant property toolbox and legal manual, available at [www.clronline.org](http://www.clronline.org).

THIS PUBLICATION SHOULD BE USED AS A REFERENCE ONLY.  
**IT SHOULD NOT BE SUBSTITUTED FOR LEGAL ADVICE.**  
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