akerman

Akerman Lens

Court Denies Emergency Injunction in Investment Fraud Case, Reinforcing PSLRA's Bar on RICO Claims Rooted in Securities Fraud

August 26, 2026

By Ryan Roman and Reginald E. Janvier

On August 13, 2026, Judge Roy K. Altman of the U.S. District Court for the Southern District of Florida denied plaintiffs' emergency motion for a preliminary injunction in *Siriani v. Feingold*, Case No. 26-cv-80119, a case involving allegations that defendants misappropriated approximately $150 million in investor funds through a complex web of fraudulent transfers and misrepresentations. The ruling offers important guidance on the intersection of RICO and securities fraud pleading, and it underscores the procedural hurdles plaintiffs face when seeking emergency relief during a statutorily mandated stay pursuant to the Private Securities Litigation Reform Act (PSLRA).

The Ruling

The plaintiffs — largely elderly retirees who invested their life savings in the L3 Funds — sought a temporary restraining order and preliminary injunction to prevent the sale of disputed infrastructure assets to D.R. Horton, alleging that defendants were dissipating assets in violation of

Related People

Reginald E. Janvier
Ryan Roman

Related Work

Litigation
Securities Litigation

RICO and state fraud statutes. The court denied the motion on two independent grounds. First, the court found that plaintiffs failed to demonstrate a substantial likelihood of success on either their RICO or fraud claims. Second, the court held that plaintiffs failed to establish irreparable injury because their complaint fundamentally seeks money damages, and “economic losses alone do not justify a preliminary injunction.”

Significance: The PSLRA’s RICO Bar

The most notable aspect of the ruling is the court’s application of the PSLRA’s prohibition on using conduct “actionable as fraud in the purchase or sale of securities” to establish a civil RICO violation. The court found that the conduct underlying plaintiffs’ RICO claim was functionally identical to the conduct supporting their securities fraud claim — namely, that defendants pocketed investor capital, misrepresented distributions, and fraudulently transferred assets. Because the court had already determined the PSLRA applied to the action (triggering an automatic discovery stay), the same statutory framework barred plaintiffs from bootstrapping their securities fraud allegations into a RICO claim.

The court also identified a statute-of-limitations problem: the alleged misconduct began in at least August 2021, if not earlier, yet the complaint was filed in February 2026 — beyond RICO’s four-year limitations period — and plaintiffs failed to address the timeliness issue entirely. On the fraud claim, the court found the complaint facially deficient under Federal Rule of Civil Procedure 9(b), as it failed to identify specific statements, dates, or individual responsibility for the alleged misrepresentations.

Practice Tips for Defense Counsel

Defense attorneys confronting RICO claims that overlap with securities fraud allegations should consider the following strategies:

1. **Invoke the PSLRA bar early.** Move to establish that the PSLRA applies to the action. Once triggered, the automatic stay halts discovery, and the statutory bar under 18 U.S.C. § 1964(c) becomes a powerful tool to preclude RICO claims predicated on the same conduct.
2. **Attack timeliness head-on.** Statute-of-limitations defenses can defeat likelihood-of-success showings at the preliminary injunction stage. Force plaintiffs to address accrual and discovery-rule arguments in their briefing.
3. **Enforce Rule 9(b) rigor.** Insist that fraud-based claims — including RICO predicates sounding in fraud — satisfy heightened pleading requirements. Group pleading that attributes misconduct to multiple defendants collectively, without specifying who said what and when, is vulnerable to dismissal.
4. **Challenge irreparable harm in investor cases.** Where plaintiffs are investors seeking the return of capital, frame the injury as purely economic. Courts consistently hold that monetary losses are compensable at law and do not warrant equitable intervention.

> Moreover, "[u]nder the [PSLRA], 'no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962 of the federal RICO Act.'" Dusek v. JPMorgan Chase & Co., 832 F.3d 1243, 1249 (11th Cir. 2016) (quoting 18 U.S.C. § 1964(c)). Here, the conduct underlying the Plaintiffs' RICO claim is the same as the conduct on which their securities-fraud claim is based.

www.law360.com/...