424 F.3d 659, RICO Bus.Disp.Guide 10,941
(Cite as: 424 F.3d 659)

United States Court of Appeals,
Seventh Circuit.
ROGER WHITMORE'S AUTOMOTIVE SERVICES, INC., and Roger Whitmore, Plaintiffs-Appellants,
v.
LAKE COUNTY, ILLINOIS, Gary Del Re, Sheriff of Lake County, Gary Stryker, Undersheriff of Lake County, and Citizens to Elect Gary Del Re, Defendants-Appellees.

No. 04-1978, 05-1033.
Argued Nov. 8, 2004.
Decided Sept. 22, 2005.

KANNE, Circuit Judge.

Towing operator Roger Whitmore and his company sued Gary Del Re, Gary Stryker, and others for violation of the Racketeer Influenced Corrupt Organization Act (RICO) and for retaliation based on constitutionally protected speech. The district court granted summary judgment to the remaining defendants on all counts and, later, granted motions for attorneys' fees and awarded costs. The plaintiffs appeal both the summary judgment and the award of fees. We affirm the order granting summary judgment on the merits. As to the award of fees, we affirm in part, reverse in part, and remand to the district court for further proceedings.

I. History

Large municipalities make extensive use of towing services to deal with stranded vehicles, accidents, and the like. The towing fees can be quite expensive for motorists and profitable to the companies furnishing the tow trucks. Since at least 1968, the Lake County, Illinois, Sheriff's Department has implemented a system that spreads this wealth among certain of the county's towing operators. The department maintains a list of "approved" towers, each of which is assigned a particular territory within the county. When the department requires the services of a tow truck, the sheriff's dispatcher calls the towing company of the vehicle operator's choice; if no tower is specified, the dispatcher calls the listed tower whose territory includes the location of the vehicle in question.

The various Lake County sheriffs implementing this system over the years have done so without the benefit of any local ordinances or written procedures, guidelines, or rules to govern the selection of which towing companies receive a spot on the list and an assigned territory. These assigned towing areas are occasionally redrawn and towers added or removed from the list, particularly following elections. From 1997-1999, there were about a dozen towers on the list.

Roger Whitmore ("Roger [FN1]"), president of Roger Whitmore's Automotive Services, Inc. ("Roger's"), operates a listed towing service that has done work for the sheriff's department since 1972. In 1980, Roger's was allocated a specific towing territory in the northeastern corner of Lake County and retained that area with some adjustments through at least 1999. According to Roger, inclusion on the list does not come cheap. Three different sheriffs had, over the years, personally visited Roger in order to sell tickets for political fund raisers. For example, Sheriff Thomas Brown made personal appearances at Roger's with tickets in hand. Sheriff Mickey Babcox came to Roger's, placed fund-raiser tickets on the counter, and collected checks from Roger. Sheriff Clinton Grinnell did likewise. Sheriff's deputies often followed up these visits, to pick up checks or to verify that Roger would be attending the fund raisers.

FN1. Both parties use this convention, so we shall follow suit for simplicity's sake. In addition, "Roger" denotes both plaintiffs-the person and the corporation-collectively.

Roger felt pressured to purchase the tickets for several reasons. For one, the officers appeared at Roger's business openly displaying badge and gun. Plus, Roger had heard rumors that a towing company refusing to purchase tickets had found itself "kicked off" the approved list. ***664** Roger therefore felt intimidated and concluded that he had no choice but to purchase the tickets, because otherwise "maybe they would take [his] business away." Even when some

sheriffs mailed tickets, rather than making personal appearances, Roger felt “slightly uncomfortable.” Until 1998, Roger always supported the incumbent sheriff during elections.

A. Del Re's Campaign for Sheriff

In 1996, Sheriff Grinnell retired, and the county board appointed Undersheriff Gary Del Re as Grinnell's replacement for the remainder of the term. When Del Re assumed the helm as Grinnell's replacement, he delegated responsibility for all towing matters to Gary Stryker, his replacement as undersheriff. In 1997, Del Re kicked off a campaign to be elected sheriff in his own right. Del Re duly formed a campaign committee that included Stryker and several others. The committee was officially in charge of obtaining campaign contributions for Del Re and for filing all required disclosure forms. Del Re also enlisted the services of Tom Crichton, a real estate broker, who had extensive experience (including fund raising) in various political campaigns in Lake County and statewide.

During the campaign, Crichton introduced Del Re, who was relatively new to Lake County, to various business owners in the county. The parties dispute whether Del Re's meet-and-greets were for the purpose of soliciting campaign funds.[FN2] Of the businesses Del Re visited, only three of them were towing operators-Ray's Shell, A-Tire, and Max Johnson's Auto Center. Johnson's was a used car dealership that provided the sheriff's department with a number of vehicles for use in undercover investigations. Johnson's was also a backup tower for the sheriff's department and not on the approved list.

> FN2. Of course, we construe all facts and draw all reasonable inferences in Roger's favor. *McDonald v. Vill. of Winnetka,* 371 F.3d 992, 1001 (7th Cir.2004). We take this opportunity, however, to note that Roger repeatedly violated Local Rule 56.1 of the Northern District of Illinois in the manner in which he contested summary judgment in the court below. As we have often pointed out, L.R. 56.1 and similar rules assist the district court by “organizing the evidence, identifying undisputed facts, and demonstrating precisely how each side proposed to prove a disputed fact with admissible evidence.” *Bordelon v. Chi. Sch. Reform Bd. of Trs.,* 233 F.3d 524, 527 (7th Cir.2000) (citation omitted). It is not the duty of the district court to scour the record in search of material factual disputes, nor is it ours. *See Carter v. Am. Oil Co.,* 139 F.3d 1158, 1163 (7th Cir.1998); *United States v. Dunkel,* 927 F.2d 955, 956 (7th Cir.1991) (“Judges are not like pigs, hunting for truffles buried in” the record.).
>
> Roger took the wrong approach-in several egregious examples, Roger denies certain of the defendants' factual assertions by citation to all 244 paragraphs of his own statement of facts. Roger also repeatedly responds to factual assertions with conclusory allegations that the statements are “fabrications.” Needless to say, this does not cut it. It is true, as Roger blithely reminds us, that this court's duty is to review the entire record. But *de novo* review does not mean that we must make and support the parties' arguments for them, even if the district court did not take Roger to task for failure to follow L.R. 56.1. It is the parties' duty to package, present, and support their arguments, and we shall not waste our time searching in vain for a dispute of material fact if we come across a factual contention or denial not adequately supported in the record by citation to admissible evidence. *Cf. Albrechtsen v. Bd. of Regents of the Univ. of Wis. Sys.,* 309 F.3d 433, 436 (7th Cir.2002).

Roger initially supported Del Re's campaign for sheriff. In February 1998, however, Roger decided to switch his support to Willie Smith, Del Re's challenger in the primary election. Roger's change of heart came about following a conversation with another towing operator, Ernie Vole. Vole passed on a rumor that Wildwood Towing ***665** Service “had the ear of Sheriff Del Re” and was working to exclude Roger's from a new towing area coming open due to an operator being dropped from the list. According to the rumor, Del Re had planned to split the new territory between Roger's and Wildwood, but Wally Herman, Wildwood's owner, convinced Del Re to “screw” Roger's and give Wildwood the entire territory.

Shortly after his conversation with Vole, Roger contacted Undersheriff Stryker and asked about the rumors. Stryker denied them as “nonsense,” but Roger was not convinced. He also believed that Willie Smith had a decent shot of winning the election and would be more accessible than Del Re, who, Roger believed, didn't “like to return his phone calls and stuff like that.” Thereafter, Roger attended several fund raisers for Smith. Smith promised Roger that he would be “fair” in towing area distributions, which Roger interpreted to mean that Smith would “divvy” the new towing area between Roger's and Wildwood. Roger donated $500 to Smith for his primary challenge. Roger also lent Smith a van from his shop at no charge for use in campaigning. A-Tire and Ernie's Wrecker Service (owned by Vole), both on the approved list, also supported Smith and donated money to his primary campaign ($1000 and $500, respectively).

Later, Roger informed Undersheriff Stryker that he and his brother Randy (who owned Whitmore's Service, another approved tow operator) had decided to support Smith. Stryker expressed disappointment with the brothers' decision.

Unfortunately for Smith and his backers, however, Del Re won the primary election in April 1998. Shortly thereafter, in June 1998, Roger donated $250 to Del Re's general election campaign. Other Smith backers, including A-Tire, Ernie's Wrecker Service, and Roger's brother, did likewise, contributing various sums. Del Re went on to win the general election in November of 1998, and towing matters proceeded as normal for the remainder of 1998. Roger's continued to tow for the sheriff's department as it had before, and for a while, Roger did not notice any difference in the way his company was being treated by the department.

B. Del Re's Modification of Towing Areas

Sometime in early 1999, Del Re decided to change the towing boundaries. Del Re discussed his decision with Stryker and brought up the possibility of having Max Johnson do some towing for the department. During Del Re's campaign, Johnson had spoken to Crichton to ask how he might receive towing referrals from the department. The parties dispute whether Johnson contacted the sheriff's department directly to request a towing area, or if he spoke only with Crichton. At any rate, Del Re decided to include Johnson on the list. Del Re ordered one of his deputies to inspect Johnson's Auto Center as soon as possible to ensure that it met all the requirements of the Illinois Vehicle Code.

When devising the new towing boundaries, Stryker split off part of Roger's territory to give to Johnson because his business was located within Roger's geographic area, and Roger's received substantially more calls than most of the towers on the list. In April 1999, upon Del Re's approval of Stryker's plan, the sheriff's department sent letters to each of the twelve towers on the list advising them of the changes. The letter stated that the department planned to “slightly modify” assigned territories in order to “maintain organizational efficiency.”

As a result of the new plan, at least five of the towers experienced changes in their towing boundaries. Roger believed that ***666** his business suffered “significant loss” of territory due to the split with Johnson. Ernie's Wrecker Service picked up all of Illinois Route 60, whereas before it had only isolated portions of the roadway. A-Tire's boundaries changed “slightly” or not at all. Randy, Roger's brother, lost a busy intersection. The areas of other listed towers, including H & H Towing, Snyder's, and Wildwood, were modified slightly or remained the same.

C. Del Re's Fund Raising

Unlike his predecessors, Del Re established a policy that no uniformed officers could solicit campaign contributions; instead, he solicited the purchase of fund-raiser tickets through the mail. All told, Del Re received $11,585 in campaign contributions from towing operators, out of about $88,500 in total contributions to his primary and general election campaigns.

After winning the general election, Del Re carried considerable campaign debt. In late summer of 1999, Crichton formulated a plan to raise money to pay off Del Re's campaign debt. After consultation with Stryker, Crichton planned a fund-raising event for that purpose. Crichton broached the idea with towing operators Fred Moser, Ed Kohlmeyer, and Wally Herman. Four towing companies on the approved list-A-Tire, Johnson's Auto Center, Wildwood, and Ray's Shell-contributed to the fund raiser. Kevin's Towing, a company not on the approved list, donated $2000 to Del Re's campaigns.

D. Roger's Lawsuit

Roger was dissatisfied with Del Re's new towing plan, believing that it had an adverse effect on his business. In April 1999, within weeks of receiving Del Re's new plan, Roger and his company filed a two count complaint against Lake County and Del Re seeking damages and injunctive relief pursuant to 42 U.S.C. § 1983 for alleged retaliation by Del Re for Roger's support of Smith in the primary election. On April 7, 2000, the plaintiffs filed an amended complaint adding Stryker, Del Re's campaign committee, Crichton, and a host of Roger's rival towing operators. The amended complaint also added various RICO and fraud claims. The plaintiffs later filed a second amended complaint further refining the RICO allegations and dropping several defendants.

After several rounds of dismissals weeded out various parties and claims, the plaintiffs had remaining a handful of claims against a few defendants-most important for our purposes, two RICO counts against Del Re and Stryker and two retaliation claims brought under § 1983 against Del Re. In March 2004, the district court granted summary judgment in the defendants' favor on all remaining counts. The defendants also filed a motion for attorneys' fees pursuant to 42 U.S.C. § 1988, which the district court granted. Roger appeals the grant of summary judgment in Del Re and Stryker's favor, as well as the grant of attorneys' fees.[FN3]

FN3. This is a consolidated appeal of the district court's order granting summary judgment and the order awarding attorneys' fees to the defendants. The appeal of the attorneys' fees was submitted on the briefs.

II. Discussion

Roger devotes much, if not most, of his briefs and argument to an extensive critique of the district court's memorandum opinion. It is the district court's judgment that we review, however, and we do so *de novo*. *See Corley v. Rosewood Care Ctr., Inc.,* 388 F.3d 990, 1001 (7th Cir.2004). We view the facts and make all reasonable inferences therefrom in the ***667** light most favorable to the nonmoving party, Roger. *Id.* Summary judgment is appropriate if the record as a whole reveals no genuine issue of material fact for trial, and the moving party therefore is entitled to judgment as a matter of law. *See* Fed.R.Civ.P. 56(c). Thus, summary judgment is not appropriate if a dispute about a material fact is " 'genuine,' that is, if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson v. Liberty Lobby, Inc.,* 477 U.S. 242, 248, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986). The nonmoving party must offer something more than a "scintilla" of evidence to overcome summary judgment, *see id.* at 252, 106 S.Ct. 2505, and must do more than simply "show that there is some metaphysical doubt as to the material facts." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.,* 475 U.S. 574, 586, 106 S.Ct. 1348, 89 L.Ed.2d 538 (1986).

The gravamen of Roger's complaint is that Del Re and Stryker punished Roger for supporting Willie Smith in the primary race for sheriff. Roger also broadly alleges that Del Re and Stryker operated a corrupt "pay-for-play" system for towing in Lake County, in which the defendants intimidated towing operators into donating money to Del Re's campaign to remain on the towing list and solicited bribes from towing operators seeking to buy a spot on the approved list. In sum, Roger's legal claims are that: (1) Del Re retaliated against Roger for exercising his constitutional right to support the political candidate of his choice (counts 7 and 8), and (2) the defendants accepted bribes, engaged in extortion, and otherwise acted corruptly in violation of RICO (counts 3 and 4). We take these arguments in turn.

* * * *

B. RICO Claims

Roger's RICO claims purport violations of 18 U.S.C. §§ 1962(c) and 1962(d). We first tackle the § 1962(c) claims. To prove a violation of § 1962(c), a plaintiff must establish that there has been (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity. *See Sedima, S.P.R.L. v. Imrex Co.,* 473 U.S. 479, 496, 105 S.Ct. 3292, 87 L.Ed.2d 346 (1985). A pattern of racketeering activity consists of at least two predicate acts of racketeering committed within a ten-year period. 18 U.S.C. § 1961(5).

Roger asserts that the enterprises in question are Del Re's election committee and the Lake County Sheriff's Department. He argues that the racketeering activity consists of the defendants' solicitation and acceptance of various contributions relating to Del Re's primary and general elections. In essence, Roger

claims that the defendants enforced a corrupt "pay-for-play" system in which towers bribed their way onto the approved list or felt intimidated into making sizable campaign contributions so that Del Re would not take their business away. Roger alleges the following predicate acts in connection with defendants' scheme: (1) extortion in violation of the Hobbs Act, 18 U.S.C. § 1951; (2) mail fraud, 18 U.S.C. § 1341; (3) wire fraud, 18 U.S.C. § 1343; ***671** and (4) bribery and intimidation in violation of Illinois law, 720 Ill. Comp. Stat. 5/33-1 and 5/12-6.

At the outset, we note that it is far from clear that the defendants' deeds qualify as racketeering activity, particularly the alleged violations of the Hobbs Act. It is undisputed that the ultimate object of the alleged predicate acts was to raise money for Del Re's primary and general election campaigns. Campaign contributions, of course, are not in and of themselves illegal, and they reflect the nature of the American political system for better or worse. *E.g., McCormick v. United States,* 500 U.S. 257, 272-74, 111 S.Ct. 1807, 114 L.Ed.2d 307 (1991); *United States v. Giles,* 246 F.3d 966, 972 (7th Cir.2001); *United States v. Allen,* 10 F.3d 405, 410-11 (7th Cir.1993). Illinois law authorizes the sort of solicitation of campaign contributions at issue in this case. *See* 10 Ill. Comp. Stat. 5/9-1.4(2). Yet Roger claims that the defendants engaged in Hobbs Act extortion, defined as "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right." 18 U.S.C. § 1951(b)(2).

In cases in which "color of official right" extortion is alleged, it can be difficult to separate above-board political contributions from the shady. *Cf. Giles,* 246 F.3d at 972 ("[C]ampaign contributions often are made with the hope that the recipient, if elected, will further interests with which the contributor agrees; there is nothing illegal about such contributions."). The Supreme Court therefore requires proof of a *quid pro quo. Evans v. United States,* 504 U.S. 255, 268, 112 S.Ct. 1881, 119 L.Ed.2d 57 (1992) ("[T]he [plaintiff] need only show that a public official has obtained a payment to which he was not entitled, knowing that the payment was made in return for official acts."); *Giles,* 246 F.3d at 972 ("To distinguish legal from illegal campaign contributions, it makes sense to require the [plaintiff] to prove that a particular contribution was made in exchange for an explicit promise or undertaking by the official."). For the other type of Hobbs Act extortion at issue-the fear-induced variety-the victim's fear must be reasonable. *See Sutherland v. O'Malley,* 882 F.2d 1196, 1202 (7th Cir.1989).

For either type of extortion, Roger's evidence is woefully inadequate. Roger offers no objective evidence that the defendants were extorting the campaign funds from him or other towing operators. Instead, Roger merely points to evidence that Del Re accepted money from him and other towers (which, of course, is undisputed) and contends that the contributions could only have been in exchange for presence on the list or from fear of being removed from the list. Roger relies heavily on subjective belief that the payments were a sort of *quid pro quo* or offered out of fear. For example, he offers the fact that towers made up a disproportionate percentage of Del Re's campaign contributions. He claims that the defendants received one contribution of cash in an envelope, and argues that Del Re violated his rule prohibiting face-to-face solicitation. Roger also testified to his discomfort at having sheriffs sporting guns and badges personally pick up contributions and cites isolated testimony from a fellow tower that "it helps" to make contributions to the incumbent sheriff. All of this, Roger contends, is proof that the defendants extorted funds from towers.

We do not believe a rational jury could find in Roger's favor on the basis of this evidence. For one, it should hardly be surprising that towers made up a disproportionate percentage of Del Re's campaign contributions, given the manner in ***672** which the Lake County sheriff's department has long used a list of approved towers. *Cf. Allen,* 10 F.3d at 411 ("It would be naive to suppose that contributors do not expect some benefit-support for favorable legislation, for example-for their contributions."). This is the very nature of politics, and in the absence of evidence indicating some wrongdoing independent of legal solicitation of campaign contributions, this proportional disparity is evidence of nothing. As stated, Illinois law expressly allows for solicitation of contributions like Del Re's, so merely accepting cash is not evidence of extortion, especially when there is no separate evidence of an explicit, promised *quid pro quo. See Evans,* 504 U.S. at 268, 112 S.Ct. 1881; *cf. United States v. Martin,* 195 F.3d 961, 966 (7th Cir.1999) (collecting authority).

Likewise, Roger's bald assertion that he and other towers had been intimidated does not carry the day. As noted, any fear that Roger or the others may have felt must be reasonable. This is where Roger's failure to present some objective evidence of extortion-for example, historical data tying the award or denial of towing to contributions made or not made-becomes a serious problem for Roger's case. If a plaintiff's subjective discomfort with uniformed and armed law enforcement officers dropping by for contributions is enough to qualify as Hobbs Act extortion, it won't be long before all police fund raisers (for political or other purposes) come to an end. There must be objective evidence to indicate that the plaintiff's fears are reasonable and otherwise to allow a jury to find Hobbs Act extortion; we find none in this record to satisfy Roger's burden of establishing a material issue of fact for trial.

In any event, we need not delve into a discussion of whatever flaws there may be in the remaining predicate acts that allegedly amount to racketeering activity. Even if we generously assume that all of the remaining acts in question so qualify, Roger still must show a *pattern* of racketeering activity. The Supreme Court long ago made clear that the statutory definition of a pattern-two racketeering acts within ten years-did "not so much define a pattern of racketeering activity as state a minimum necessary condition for the existence of such a pattern." *H.J. Inc. v. N.W. Bell Tel. Co.,* 492 U.S. 229, 237, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989). To establish a pattern of racketeering activity, a plaintiff must show continued criminal activity (or the threat thereof) and relationship between the predicate acts-a standard commonly dubbed the "continuity plus relationship" test. *See id.* at 239, 109 S.Ct. 2893.

Relatedness of the alleged predicate acts does not pose a problem here. All of the acts complained of were indisputably for the purpose of raising funds for Del Re's primary and general election campaigns or paying off his campaign debt, so we shall assume that Roger meets the relationship prong. *See id.* at 240, 109 S.Ct. 2893 (teaching that predicate acts are related if they have "the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events") (citation omitted).

Roger does not, however, supply sufficient evidence to satisfy the continuity prong. As the Court has noted, continuity is "both a closed- and open-ended concept." *Id.* at 241, 109 S.Ct. 2893. As its name suggests, a closed period of racketeering activity involves a course of criminal conduct that has ended. A plaintiff may demonstrate a closed period of continuity by proving a series of related predicates extending over a substantial period of time. *Id.* at 242, 109 S.Ct. 2893. On ***673** the other hand, an open-ended period of racketeering is a course of criminal conduct that lacks the duration and repetition to establish continuity. A plaintiff may nevertheless satisfy continuity by showing past conduct that by its nature projects into the future with a threat of repetition. *See id.* To summarize, a RICO plaintiff can satisfy the continuity prong either by (1) demonstrating a close-ended series of conduct that existed for such an extended period of time that a threat of future harm is implicit, or (2) an open-ended series of conduct that, while short-lived, shows clear signs of threatening to continue into the future. *See Midwest Grinding Co. v. Spitz,* 976 F.2d 1016, 1023 (7th Cir.1992).

This court has analyzed continuity under a multifactor test, in which we consider (1) the number and variety of predicate acts and the length of time over which they were committed, (2) the number of victims, (3) the presence of separate schemes, and (4) the occurrence of distinct injuries. *See Morgan v. Bank of Waukegan,* 804 F.2d 970, 975 (7th Cir.1986). No one factor is dispositive of a claim. *Olive Can Co. v. Martin,* 906 F.2d 1147, 1151 (7th Cir.1990). Rather, our analysis of the continuity prong is fact-specific and undertaken with the goal of achieving a "natural and commonsense" result, consistent with Congress's concern with long-term criminal conduct. *See id.; see also Vicom, Inc. v. Harbridge Merch. Servs., Inc.,* 20 F.3d 771, 780 (7th Cir.1994) (citations omitted); *Sutherland,* 882 F.2d at 1204.

Analysis of the various factors present in this case leads us to conclude that Roger has not shown closed-ended continuity. As previously noted, Roger's RICO claim is against both Del Re and Stryker. The campaign contributions at issue spanned at most about two years-from 1997, when Del Re started off his campaign for sheriff, to 1999, when Del Re solicited donations to pay off his campaign

debt. Perhaps the most important element of RICO continuity is its temporal aspect. *See, e.g., Midwest Grinding Co.,* 976 F.2d at 1024. Although we have not employed a bright-line rule for how long a closed period must be to satisfy continuity, we have not hesitated to find that closed periods of several months to several years did not qualify as "substantial" enough to satisfy continuity. *See id.* (citing *H.J. Inc.* and collecting additional authority).

Likewise, the number of predicate acts alleged is not large. Roger points to several different instances of what he believes to be mail fraud-mailings of solicitations for purchase of fund-raising tickets and Del Re's notice to towers that the towing areas would be revised. Roger also claims that various phone calls between Johnson and Crichton and the department constituted wire fraud. Finally, Roger broadly asserts that the handful of face-to-face meetings between the defendants and some towing operators constituted bribery and intimidation. The fairly small number of predicate acts cuts against showing continuity, particularly when a large proportion of the acts involved wire or mail fraud, neither of which are favored means of establishing a RICO pattern in this circuit. *See Vicom,* 20 F.3d at 781 (collecting authority).

What is more, the victims of the defendants' activities were confined to a small group-the dozen or so approved towers from 1997 to 1999-which does not help Roger's case for continuity. *Cf. W. Assocs. Ltd. v. Market Square Assocs.,* 235 F.3d 629, 635 (D.C.Cir.2001) (distinguishing a single "set" of victims from a "class of victims who are all similarly and directly injured"). Most important, Roger alleges only one overarching scheme-that the defendants illegally obtained contributions to fund Del Re's election campaign. Although***674** a RICO pattern may be established on the basis of a single scheme, "it is not irrelevant, in analyzing the continuity requirement, that there is only one scheme." *Sutherland,* 882 F.2d at 1204 (citing *H.J. Inc.,* 492 U.S. at 240, 109 S.Ct. 2893); *U.S. Textiles, Inc. v. Anheuser-Busch Co.,* 911 F.2d 1261, 1269 (7th Cir.1990). The campaign at issue was Del Re's first, and all of the predicate acts alleged were for the purpose of raising money for that campaign. There is no indication that the defendants engaged in any other racketeering scheme before or after that closed period associated with Del Re's campaign, or that there was a concurrent and unrelated scheme to use the campaign contributions for other purposes. Thus, the fact that we are faced with a single, isolated scheme with a confined set of victims also supports the conclusion that Roger has not shown closed-ended continuity, even if we generously assume that the alleged scheme brought about distinct injuries to the affected towers.

We also conclude that Roger has not established open-ended continuity. Instead of presenting meaningful evidence and argument on this score, Roger merely recites the legal standard for showing open-ended continuity and complains that the district court "did not credit material evidence as to pattern." Conclusory and unsupported allegations of this sort will not carry the day for Roger. *Cf. Vicom,* 20 F.3d at 783 ("A threat of continuity cannot be found from bald assertions....").

In any event, schemes with a "clear and terminable goal have a natural ending point." *Id.* at 782. As discussed, Roger has alleged that defendants' scheme involved raising funds for Del Re's 1998 campaign (both the primary and the general election) and retirement of its campaign debt. All of the predicate acts Roger alleged related to the solicitation of funds for the 1998 campaign. In this regard, Roger pleaded himself out of showing a continuing threat of continued activity, because the alleged scheme had a natural ending point when Del Re was elected sheriff and he retired the debt accrued in that campaign. *See id.; Olive Can,* 906 F.2d at 1151; *accord Hindes v. Castle,* 937 F.2d 868, 874 (3d Cir.1991); *Int'l Bhd. of Teamsters v. Carey,* 297 F.Supp.2d 706, 718 (S.D.N.Y.2004), *aff'd sub nom.,* 124 Fed.Appx. 41 (2d Cir.2005). Nor has Roger offered anything more than the unadorned allegation in his complaint that "the schemes were a regular ... way the enterprises did business"; a generous review of the record does not indicate the existence of evidence to satisfy that aspect of open-ended continuity. *Cf. Vicom,* 20 F.3d at 784.

In sum, our review of the record supports the conclusion that Roger has not satisfied the continuity prong and thus has not presented evidence of a RICO pattern sufficient to survive summary judgment on his § 1962(c) claim. This is a "natural and commonsense" result, given the facts alleged and our analysis of the various continuity factors. *See, e.g., U.S. Textiles,* 911 F.2d at 1269.

As for Roger's § 1962(d) claim, he again offers only his conclusory assertion that a conspiracy *must* be present, because the defendants' conspiratorial intent can be shown through circumstantial evidence-namely, the fact that the defendants were present "when illegal acts occur[red]." This is wholly inadequate. A conspiracy to violate RICO may be shown "by proof that the [defendant], by his words or actions, objectively manifested an agreement to participate, directly or indirectly, in the affairs of an enterprise, through the commission of two or more predicate crimes." ***675***United States v. Neapolitan,* 791 F.2d 489, 497 (7th Cir.1986) (citation omitted); *see also* *Gagan v. Am. Cablevision, Inc.,* 77 F.3d 951, 961 (7th Cir.1996). The fact that defendants may have been physically present during commission of predicate acts, without more, is insufficient to defeat summary judgment on the § 1962(d) claim (indeed, such an expansive view would transform virtually all substantive RICO violations into conspiracies). Roger steers us to no specific evidence sufficient to raise a material issue of fact on this score, nor does our review of the record reveal such evidence. The district court properly granted summary judgment on Roger's § 1962(d) claim.

* * * *

III. Conclusion

For the reasons stated, we AFFIRM the district court's order granting summary judgment in the defendants' favor. We REVERSE the award of fees in Del Re's favor and REMAND for a determination of the appropriate amount, if any, to be awarded to Lake County.

C.A.7 (Ill.),2005.
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