

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
ALABAMA, JASPER DIVISION

RM Construction, Inc. v. 413 Cabins, LLC d/b/a Stone Canyon
Homes, LLC, et al.

RM Construction · No. 6:24-cv-01727-RDP · Decided March 10, 2026

SUMMARY

The court denied motions by 413 Cabins, LLC, Douglas Merryman, and George Outlaw seeking dismissal or judgment on the pleadings as to fraud and civil RICO claims. The court held that RM Construction sufficiently pleaded the alleged fraudulent conduct under Rules 8 and 9(b), and adequately alleged multiple predicate acts and open-ended continuity for its RICO claim. The court ordered the parties to meet and confer and file a revised Rule 26(f) report by April 30, 2026.

CASE DETAILS

COURT	United States District Court for the Northern District of Alabama, Jasper Division
JURISDICTION	United States District Court for the Northern District of Alabama, Jasper Division
DECIDED	March 10, 2026
DOCKET	6:24-cv-01727-RDP
DISPOSITION	other
PROCEDURAL POSTURE	Defendants 413 Cabins, LLC and Douglas Merryman moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the fraud and civil RICO claims. Defendant George Outlaw moved under Rule 12(c) for judgment on the pleadings as to the same claims.
STANDARD OF REVIEW	A Rule 12(b)(6) motion and a Rule 12(c) motion are analyzed under the same plausibility standard. The court accepts well-pleaded factual allegations as true, draws reasonable inferences in favor of the nonmoving party, disregards legal conclusions, and determines whether the complaint states a facially plausible claim. Fraud allegations must also satisfy Rule 9(b)'s particularity requirement.
PRECEDENTIAL VALUE	Unknown

TOPICS

motions to dismiss

motion for judgment on the pleadings

fraud

commercial litigation

civil procedure

PRACTICE AREAS

Civil procedure

RICO

Fraud

Commercial litigation

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QUESTIONS PRESENTED

1. Whether the complaint pleaded the alleged fraud with sufficient plausibility and particularity under Federal Rules of Civil Procedure 8(a) and 9(b).
2. Whether the complaint adequately alleged a pattern of racketeering activity, including at least two predicate acts and the continuity required for a civil RICO claim.
3. Whether the fraud and RICO claims should be dismissed under Rule 12(b)(6) or rejected on a Rule 12(c) motion for judgment on the pleadings.

HOLDINGS

1. The complaint sufficiently pleaded the alleged fraud under Rules 8(a) and 9(b) because it identified the defendants, the allegedly doctored photographs and related misrepresentations, the relevant payment dates, the manner in which the photographs were sent, and the resulting payments.
2. The complaint adequately alleged at least two predicate acts of wire fraud because it alleged multiple payments induced by separate transmissions of doctored photographs.
3. The complaint did not adequately allege close-ended continuity because the alleged predicate acts occurred over approximately five months, but it adequately alleged open-ended continuity by alleging a threat that defendants' scheme could continue against other victims.
4. The Rule 12(c) motion was governed by the same standard as the Rule 12(b)(6) motions, including the plausibility and Rule 9(b) requirements.

KEY QUOTATIONS

“Rule 9(b) requires the plaintiff to allege ‘the who, what, when[,] where, and how’ of the fraudulent conduct.”

“Thus, Plaintiff has successfully pled an open-ended continuity that may be further developed through discovery.”

FACTUAL BACKGROUND

RM Construction alleged that it ordered twelve manufactured homes from 413 Cabins for \$149,750 each and made several payments, including payments in April, July, and September 2024. It alleged that defendants sent photographs purporting to show completed homes, but that the photographs had been digitally altered and induced additional payments. When the complaint was filed, RM had received only four of the twelve homes and alleged that defendants acknowledged misrepresentations and proposed using funds from an Alabama state project to build the undelivered homes.

PROCEDURAL HISTORY

RM Construction filed its complaint on December 13, 2024, asserting fraud, conversion, unjust enrichment, and civil RICO claims arising from the purchase of manufactured homes. Outlaw answered, and 413 Cabins and Merryman later moved to dismiss the fraud and RICO counts while Outlaw moved for judgment on the pleadings. The court denied both motions and ordered the parties to meet and confer and file a revised Rule 26(f) report by April 30, 2026.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. The parties were ordered to meet and confer and file a revised Rule 26(f) report on or before April 30, 2026.

CASES CITED

- Hazewood v. Found. Fin. Grp., LLC, 551 F.3d 1223, 1224 (11th Cir. 2008)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 556, 557, 570 (2007)
- Watts v. Fla. Int'l Univ., 495 F.3d 1289, 1295 (11th Cir. 2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Kivisto v. Miller, Canfield, Paddock & Stone, PLC, 413 F. App'x 136, 138 (11th Cir. 2011)
- Am. Dental Ass'n v. Cigna Corp., 605 F.3d 1283, 1290-92 (11th Cir. 2010)
- Ziemba v. Cascade Int'l, Inc., 256 F.3d 1194, 1202 (11th Cir. 2001)
- Brooks v. Blue Cross & Blue Shield of Fla., Inc., 116 F.3d 1364, 1371 (11th Cir. 1997)
- Pop v. LuliFama.com LLC, 145 F.4th 1285, 1296 (11th Cir. 2025)
- Garfield v. NDC Health Corp., 466 F.3d 1255, 1262 (11th Cir. 2006)
- Otto Candies, LLC v. Citigroup Inc., 137 F.4th 1158, 1178 (11th Cir. 2025)
- Gose v. Native Am. Servs. Corp., 109 F.4th 1297, 1318 (11th Cir. 2024)
- Davide M. Carbone v. Cable News Network, Inc., Carbone v. Cable News Network, Inc., 910 F.3d 1345, 1350 (11th Cir. 2018)
- Hawthorne v. Mac Adjustment, Inc., 140 F.3d 1367, 1370 (11th Cir. 1998)
- Ent. Mktg. & Mgmt., Ltd. v. Fontenot, No. CV H-24-1461, 2024 WL 3243487 (S.D. Tex. June 26, 2024)
- Ray v. Spirit Airlines, Inc., 767 F.3d 1220, 1224 (11th Cir. 2014)
- Reves v. Ernst & Young, 507 U.S. 170, 172, 185 (1993)
- Jackson v. BellSouth Telecommunications, 372 F.3d 1250, 1264, 1266 (11th Cir. 2004)
- Cisneros v. Petland, Inc., 972 F.3d 1204, 1209, 1216, 1219 (11th Cir. 2020)
- H.J. Inc. v. Nw. Bell Tel. Co., 492 U.S. 229, 242 (1989)
- Harrison v. Westinghouse Savannah River Co., 176 F.3d 776, 784 (4th Cir. 1999)

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