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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

FORD MOTOR COMPANY, a Delaware Corporation,

Plaintiff,

v.

KNIGHT LAW GROUP LLP; STEVE B. MIKHOV; AMY MORSE; ROGER KIRNOS; DOROTHY BECERRA; THE ALTMAN LAW GROUP; BRYAN C. ALTMAN; WIRTZ LAW APC; and RICHARD M. WIRTZ,

Defendants.

Case No. 2:25-cv-04550-MWC-PVC

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANTS KNIGHT LAW GROUP LLP, STEVE B. MIKHOV, AMY MORSE, ROGER KIRNOS, AND DOROTHY BECERRA'S MOTION TO DISMISS AND MOTION TO STRIKE

[Filed concurrently with Notice of Motion and Motion to Dismiss and Motion to Strike; Declaration of Matthew Laroche; Request for Judicial Notice; and [Proposed] Order

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PRELIMINARY STATEMENT

This retaliatory lawsuit by Plaintiff Ford Motor Company ("Ford") amounts to an attempt to use the "thermonuclear device" of the federal RICO statute, *Quach v. Cross*, 2004 WL 2860346, at *4 (C.D. Cal. June 10, 2004), to chill its litigation adversaries—law firms, lawyers, and staff who represent consumers harmed by Ford's defective vehicles. As alleged in the Complaint and reflected in numerous California Supreme Court and Appellate Court published opinions, for nearly two decades Defendant Knight Law Group LLP ("Knight Law") has been at the forefront of protecting consumers by bringing successful claims against Ford under California's "Lemon Law," the Song-Beverly Consumer Warranties Act (the "Song-Beverly Act"). *See* Compl. ¶¶ 2, 19, 45, 46.[1]

Knight Law has successfully litigated hundreds of those cases against Ford and has obtained record-setting, multimillion-dollar jury verdicts, several of which have included punitive damages based on Ford's fraudulent concealment of defects in its trucks. Knight Law has obtained findings confirmed by appellate courts revealing that Ford "engaged in a pattern or practice of deceitful misconduct" against consumers. *Anderson v. Ford Motor Co.*, 74 Cal. App. 5th 946, 973 (2022). Knight Law exposed internal Ford correspondence reflecting Ford's extensive efforts to cover up its practices through emails showing, *inter alia*, Ford's high-level employees and executives "strongly urge[d] that th[e] information NOT be shared" because they did "not have a definitive repair action" while continuing to sell trucks to consumers; another employee advised his colleagues to "delete these emails" or Ford "might face a class action"; and that they cannot inform the public or its dealerships because if "we advertise we have carte blanche replacement it will surely get worse and

[1] *See, e.g.*, *In re Ford Motor Warranty Cases*, --- P.3d ----, 2025 WL 1830882, at *1 (Cal. July 3, 2025); *Berroteran v. Superior Court* (real party in interest Ford Motor Co.), 12 Cal. 5th 867 (Cal. 2022); *Ford Motor Warranty Cases*, 89 Cal. App. 5th 1324 (2023); *Anderson v. Ford Motor Co.,* 74 Cal. App. 5th 946 (2022); *Bowser v. Ford Motor Co.*, 78 Cal. App. 5th 587 (2022); *Berroteran v. Superior Court* (real party in interest Ford Motor Co.), 41 Cal. App. 5th 518 (2019); *Reynolds v. Ford Motor Co.*, 47 Cal. App. 5th 1105 (2020); *Ford Motor Warranty Cases*, 11 Cal. App. 5th 626 (2017).

we may never get beyond this." *Id.* at 956-58; *see also Bowser v. Ford Motor Co.*, 78 Cal. App. 5th 587, 593 (2022). As a result of these victories and many others against Ford, and because the Song-Beverly Act confers an award of attorneys' fees to prevailing consumers, Knight Law has litigated hundreds of fee petitions against Ford, which were opposed by Ford and reviewed by trial courts already. *See* Compl. ¶¶ 19, 45, 46; Cal. Civ. Code § 1794(d).

Courts are wary of RICO claims asserted against litigation adversaries and deeply scrutinize such lawsuits at an early stage. And for good reason: RICO claims based on underlying litigation activity could impermissibly chill the exercise of fundamental First Amendment rights. As one court put it, if litigation activities could serve as a basis for a RICO claim, "almost any lawsuit could spawn a retaliatory action, which would inundate the federal courts with procedurally complex RICO pleadings, engender wasteful satellite litigation, and spawn ad infinitum litigation with each party claiming that the opponent's previous action was malicious and meritless." *Acres Bonusing, Inc. v. Ramsey*, 2022 WL 17170856, at *11 (N.D. Cal. Nov. 22, 2022) (cleaned up). Such claims also undermine finality and promote collateral litigation by allowing dissatisfied litigants to relitigate matters resolved in prior judicial proceedings.

The most fundamental problem with Ford's Complaint—as held in a series of Supreme Court and Ninth Circuit cases—is that the allegedly wrongful acts identified in the Complaint constitute "petitioning activity" (*i.e.*, litigation activity) protected by the First Amendment and the *Noerr-Pennington* doctrine. *Noerr-Pennington* recognizes a party's right to litigate in court without fear of reprisal and requires dismissal of claims predicated on underlying litigation activity to avoid chilling the exercise of that right. *Noerr-Pennington* bars this action in its entirety, as it is premised solely on Defendants' litigation conduct against Ford, and the Complaint does not, and cannot, allege that the narrow "sham litigation" exception to *Noerr-Pennington* applies.

Ford's claims fail on their face for multiple additional reasons, any one of which requires dismissal.

First, Ford's theory—that three law firms, which were at times engaged as co-counsel to jointly represent a client in consumer litigation and have a long track record of prevailing in that litigation, somehow constitute a criminal RICO enterprise—is unfounded, and if upheld, would represent an unprecedented (and dangerous) expansion of civil RICO liability. A routine co-counsel relationship among law firms representing the same client, formed for the purpose of litigating a legitimate lawsuit, is a far cry from what the RICO statute was created to combat: the infiltration of legitimate business organizations by organized crime. Courts regularly reject attempts to characterize routine commercial relationships, like the co-counsel relationships at issue here, as RICO enterprises.

Second, Ford fails to plausibly allege that each Defendant participated in the conduct of the purported enterprise. The enterprise conduct element requires allegations that each Defendant had some degree of direction or control over the enterprise's affairs and acted in furtherance of the enterprise, rather than their own affairs. No such factual allegations are present in the Complaint. The allegations show, at most, that lawyers engaged in conduct on behalf of their own law firms and in their own commercial interests, not for any purported enterprise.

Third, Ford does not allege racketeering activity—*i.e.*, predicate acts of wire and mail fraud—with the particularity required by Rule 9(b). Ford's Complaint is littered with conclusory allegations of overbilling and fraud, but Ford rarely identifies any specific misrepresentations, as it must. Ford instead relies on two spreadsheets listing purported examples of billing inefficiencies—hardly the stuff of wire fraud. Ford also fails to connect any specific misrepresentations with any particular payment or injury, in violation of basic pleading requirements and in a transparent effort to circumvent the statute of limitations. The closest Ford comes to particularized allegations is in Paragraph 50, which attempts to

connect an alleged misrepresentation in the *Buck* and *Duk* Lemon Law cases with an alleged injury, as RICO requires. But the underlying fee petitions in those cases reveal that Ford's allegations are false, or at least highly misleading. *See infra* p.5. Those allegations are also barred by (i) the statute of limitations (because the alleged injury occurred more than four years ago) and (ii) claim and issue preclusion (because Ford already challenged the fee petitions as being inflated in state court).

Finally, Ford fails to allege that each individual Defendant participated in the conduct of a criminal RICO enterprise or engaged in a pattern of racketeering activity. Ford engages in conclusory and baseless group-pleading as to all nine "Defendants" as a monolith without any distinction between the different Defendants and their conduct. And the Complaint's few Defendant-specific allegations are vague, conclusory, and fall well short of the concrete, particularized factual allegations the law requires.

For these reasons, as detailed below, the Court should dismiss this ill-conceived lawsuit with prejudice. Ford is no victim here: this suit is a transparent effort to punish its litigation adversaries. Allowing this claim to proceed would come at the serious cost of further harming the reputations of the Defendants and chilling consumers and law firms from bringing legitimate claims against Ford.

SUMMARY OF ALLEGATIONS

According to the Complaint, Defendants—consumer advocacy law firms and their staff—violated RICO by representing prevailing consumers in underlying Lemon Law litigation against Ford, and by recovering attorneys' fees based on purportedly "inflated" fee petitions filed in those cases. Compl. ¶¶ 19-21, 45-46. The Complaint alleges that, since 2015, Defendants have filed numerous Lemon Law cases against Ford. *Id.* ¶ 45. The Complaint does not allege that those underlying cases were unjustified or that Ford's vehicles were not, in fact, defective. To the contrary, the Complaint is predicated solely on underlying Lemon Law cases that Ford *lost*.

Under the Lemon Law, only prevailing consumers are entitled to recover attorneys' fees. Cal. Civ. Code § 1794(d). The Complaint alleges that, pursuant to that statute, Defendants have filed hundreds of fee petitions on behalf of prevailing consumers, and that Knight Law alone has obtained fee awards from Ford totaling millions of dollars resulting, in part, from supposedly "inflated" fee petitions. Compl. ¶¶ 45, 46.

A. Ford Fails to Connect the Allegedly "Inflated" Fee Petitions to any RICO Enterprise

The Complaint alleges that Ford identified supposedly inflated fee petitions by examining "only a small sample of fee applications submitted by Defendants." *Id*. ¶ 27. As categories of purportedly inflated billing entries, the Complaint identifies instances of attorneys working more than 24 hours in a day, attorneys appearing simultaneously in different locations, supposedly duplicative and vague billing entries, and undated billing entries. *Id*. ¶¶ 27-39, Exs. A-B. But with limited exceptions, the Complaint does not identify any purportedly inflated entries, included in specific fee petitions, which resulted in fee awards paid by Ford.

On the only occasions it does, *see id*. ¶¶ 32-33, 50, its allegations are revealed to be false, or at least highly misleading. Paragraphs 32-33 misleadingly suggest that the court ordered Ford to pay fees in "*Jordan v.* ***Ford Motor Company***, Alameda Co., Case No. RG16820118." *Id*. ¶ 32 (emphasis added). Contrary to the italicized language, Fiat Chrysler, not Ford, was the defendant in the *Jordan* case; Ford, therefore, paid no money and suffered no RICO injury. *See* Ex. 7 at p.2 (Order, *Jordan v. FCA US LLC, et al.*, Case No. RG16820118 (Cal. Sup. Ct. June 4, 2019)). Paragraph 50 asserts that in both the *Buck* and *Duk* matters, the courts ordered Ford to pay fees based on petitions that supposedly included billed time on two days (November 30, 2016, and March 23, 2017) for Ms. Morse, who allegedly billed more than 24 hours on both days. *Id*. ¶ 50. Contrary to Ford's allegations, the fee applications reflect that in the *Buck* case, ***Ms. Morse billed no time on November 30, 2016***, *see* Ex. 1 at pp. 26-44, and in *Duk*, ***she billed no time on March 23, 2017***, *see* Ex. 3 at pp.31-41. Moreover, in the *Buck* and *Duk* cases, Ford already litigated

and lost the specific issue it seeks to re-litigate here—whether the fees were inflated. *See infra* Section VI.

Based on this alleged conduct, the Complaint claims that Defendants "are a group of persons constituting an association-in-fact" enterprise. Compl. ¶ 68. The enterprise allegations span a few paragraphs and are entirely conclusory. *Id.* ¶¶ 68-71. For example, the Complaint alleges that the enterprise has a "common purpose," "has an informal governing structure," "has been in continuous operation for over five years," "has generally been structured to operate as a continuing unit," and that each Defendant "participates in the operation or management of the Enterprise." *Id.* ¶ 68. There are no factual allegations supporting those assertions. In fact, there is not a single allegation in the Complaint reflecting that any Defendant *communicated* about the purported enterprise, much less acted in a coordinated manner with a unified purpose.

B. Defendant-Specific Allegations Are Profoundly Sparse

With a few exceptions, the Complaint groups all nine Defendants together when alleging conduct. *See, e.g.*, Compl. ¶¶ 4, 5, 18-23, 25-27, 41-42, 60-81. Most of the Complaint's Defendant-specific allegations have no factual support. Instead, Ford claims on information and belief that each Defendant "participated in the unlawful activities alleged herein." *Id.* ¶¶ 7-15.

1. The Knight Law Defendants

Knight Law. Ford alleges that Knight Law filed certain fee applications in furtherance of the enterprise. *Id.* ¶¶ 50-57. Ford also alleges that "at certain times" the enterprise was "led by . . . [Knight Law]" and that the "Defendants were financially intertwined" because Knight Law cashed checks for attorney fee awards on behalf of other plaintiff lawyers and firms "without obtaining proper endorsements." *Id.* ¶¶ 68, 70.

Defendant Mikhov. Ford claims, without any supporting factual allegations, that Mr. Mikhov is the "ringleader" of the enterprise and "continues to wield considerable influence" over it. *Id.* ¶ 8. Yet Ford provides no factual allegations supporting that

assertion and simultaneously claims that Mr. Mikhov is retired. *Id.* The only other allegations about Mr. Mikhov are that (i) he "submitted" "suspicious" and "implausible" time entries in unspecified cases (*id.* ¶¶ 38-39); (ii) Ford sent letters enclosing fee awards addressed to Mr. Mikhov on a few occasions (*id.* ¶ 50); and (iii) Mr. Mikhov submitted declarations in support of a few fee applications (*id.* ¶¶ 54, 55).

Defendant Morse. Ford claims that Ms. Morse billed more than 24 hours in a day on 30 occasions, that she billed repetitive time entries to discovery tasks, and that some of those entries were included in fee applications. *Id.* ¶¶ 29, 50, Exs. A, B. However, the Complaint almost never identifies any specific cases or fee petitions in which Ms. Morse allegedly submitted these billing entries, and there are no other factual allegations about Ms. Morse, such as allegations that she was involved in submitting or reviewing fee applications, submitted a declaration in support of fee petitions, or communicated with anyone about them or the purported enterprise.

Defendant Kirnos. In 2020, Mr. Kirnos told a court that Knight Law was "going to be ethical" and "not going to submit lies to this Court." *Id.* ¶ 43. Ford alleges that he made this statement knowing Defendants were "committing criminal acts," but no facts are offered supporting that claim. *Id.* The only other allegations about Mr. Kirnos are that he submitted a declaration with one fee application (*id.* ¶ 53) and sent one email identified on Exhibit C. The Complaint does not explain why the declaration or email was fraudulent or identify any instance where Mr. Kirnos allegedly overbilled his own time.

Defendant Becerra. There are no factual allegations about any conduct by Ms. Becerra, a paralegal. Ford alleges that ***Ford*** addressed settlement checks to Ms. Becerra on three occasions. *Id.* ¶¶ 50, 52, 54. The only other allegations about Ms. Becerra are made on information and belief—that she allegedly "over[saw] other paralegals participating in the fraudulent scheme, receive[d] and transact[ed] checks for what she knew were fraudulently obtained fee payments, and develop[ed] the formula for KBG's [*sic*] split" of attorney fee awards with other attorneys. *Id.* ¶ 11.

2. The Altman Defendants

There are virtually no allegations about the Altman Defendants. Ford claims that a court ordered a reduction in attorneys' fees for a case that the Altman Group and Knight Law worked on together. Mr. Altman also allegedly submitted a declaration in support of two fee applications in 2017 and 2018 (*id.* ¶¶ 55-56), and sent an email to Ford's outside counsel in 2022 (*id.* at Ex. C, Row 35), but there are no factual allegations about how any of those actions were in furtherance of a purported RICO enterprise rather than just actions undertaken by and for Mr. Altman and his law firm.

3. The Wirtz Defendants

As noted, Ford alleges that Mr. Wirtz and one of his associates billed time on the same day for matters in separate locations. *Id*. ¶¶ 32-33. The only other allegations about the Wirtz Defendants are that some of their time was included in a fee motion in 2019 (*id.* ¶ 52), and that Mr. Wirtz submitted a declaration in support of a fee motion (*id.* ¶ 57). Again, the Complaint does not allege any facts supporting that these actions were in furtherance of a RICO enterprise.

LEGAL STANDARD

In RICO cases, motions to dismiss perform a critical function in weeding out meritless claims. *See, e.g.*, *Oscar v. Univ. Students Co-Operative Ass'n*, 965 F.2d 783, 786 (9th Cir. 1992) (RICO was not intended to "provide a federal cause of action and treble damages to every tort plaintiff"); *Gomez v. Guthy-Renker*, 2015 WL 4270042, at *11 (C.D. Cal. July 13, 2015) (holding that "the substantive requirements for RICO liability cannot be circumvented through sophistic pleading practices"); *see also Fifth Third Bancorp v. Dudenhoeffer*, 573 U.S. 409, 425 (2014). Given the "quasi-criminal" nature of civil RICO claims and the "stigmatizing effect on those named as defendants," flawed RICO claims, such as those at issue here, should be "flush[ed] out" at the early stages of litigation. *Wagh v. Metris Direct Servs., Inc.*, 348 F.3d 1102, 1108-09 (9th Cir. 2003), *overruled on other*

grounds by, *Odom v. Microsoft Corp.*, 486 F.3d 541 (9th Cir. 2007); *see also Quach v. Cross*, 2004 WL 2860346, at *4-5 (C.D. Cal. June 10, 2004).

Dismissal is appropriate if the complaint fails to "state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The Court must only "accept as true the well-pleaded factual allegations of the complaint." *Doan v. Singh*, 617 F. App'x 684, 685 (9th Cir. 2015). The "court is not required to accept legal conclusions cast in the form of factual allegations that cannot reasonably be drawn from the facts alleged." *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754-55 (9th Cir. 1994). Moreover, when a defendant is engaging in activity that is facially legitimate, "a significant level of factual specificity is required to allow a court to infer reasonably that such conduct is plausibly part of a fraudulent scheme." *Eclectic Props. v. Marcus & Millichap Co.,* 751 F.3d 990, 998 (9th Cir. 2014).

Plaintiffs face another deep barrier: RICO claims must meet Rule 9(b)'s heightened pleading standard when they sound in fraud. *Edwards v. Marin Park, Inc.*, 356 F.3d 1058, 1065-66 (9th Cir. 2004); *Aetna Life Ins. Co. v. Young*, 2024 WL 5182638, at *4 (C.D. Cal. Sept. 25, 2024). Under Rule 9(b), a plaintiff must state with particularity the circumstances constituting fraud, including "the who, what, when, where, and how of the misconduct charged." *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1106 (9th Cir. 2003) (cleaned up). Group pleading is impermissible. *Parducci v. Overland Sols., Inc.*, 399 F. Supp. 3d 969, 977-79 (N.D. Cal. 2019). Rather, a plaintiff must differentiate its allegations to inform each defendant separately of the allegations against them. *Id.*; *Swartz v. KPMG LLP*, 476 F.3d 756, 764-65 (9th Cir. 2007) ("Rule 9(b) does not allow a complaint to merely lump multiple defendants together but 'requires plaintiffs to differentiate their allegations when suing more than one defendant.'") (cleaned up).

ARGUMENT

I. THE *NOERR-PENNINGTON* DOCTRINE BARS FORD'S RICO COMPLAINT BECAUSE IT IS PREDICATED ON UNDERLYING LITIGATION ACTIVITY

Ford's RICO action—which is predicated on successful fee petitions filed by lawyers who represented prevailing consumers in Lemon Law litigation against Ford—is barred by the *Noerr-Pennington* doctrine, which provides First Amendment immunity to judicial branch petitioning. There is one narrow exception to that broad doctrine: sham litigation is not protected by the First Amendment. Ford does not, and cannot, allege that the underlying litigation was a sham. Ford sold defective vehicles to consumers; the consumers prevailed in the underlying litigation against Ford; the Defendant-lawyers litigated and won the cases at issue; the prevailing consumers had a statutory right to recover attorneys' fees; and the allegations in the Complaint assert, at most, that fee petitions were inflated.

A. *Noerr-Pennington* Immunizes Judicial Branch Petitioning

Under the *Noerr-Pennington* doctrine, persons who petition any branch of government for redress, including the judicial branch, are "generally immune from statutory liability for their petitioning conduct." *Relevant Grp., LLC v. Nourmand*, 116 F.4th 917, 927 (9th Cir. 2024); *see also E.R.R. Presidents Conf. v. Noerr Motor Freight, Inc.*, 365 U.S. 127 (1961); *United Mine Workers of Am. v. Pennington*, 381 U.S. 657 (1965). As to litigation activity, "the doctrine 'overprotects baseless petitions so as to ensure citizens enjoy the right of access to the courts without fear of prosecution.'" *Relevant Grp.*, 116 F.4th at 927-28 (quoting *Sosa v. DIRECTV, Inc.*, 437 F.3d 923, 934 (9th Cir. 2006)); *see also id*. at 934-35.

The *Noerr-Pennington* doctrine bars RICO claims, like the present one, predicated on underlying litigation activity. *See Relevant Grp.*, 116 F.4th at 923.[2] And it bars claims

[2] Ford's counsel here also represented the RICO plaintiff in *Relevant* in which the Ninth Circuit held that *Noerr-Pennington* barred a RICO claim predicated on litigation activity.

against parties in the underlying litigation as well as their lawyers. *See Freeman v. Lasky, Haas & Cohler*, 410 F.3d 1180, 1186 (9th Cir. 2005).

B. Ford Does Not, and Cannot, Allege That the Narrow "Sham" Litigation Exception Applies to the Underlying Litigation

The broad immunity that the *Noerr-Pennington* doctrine provides to litigation activity is subject only to a "narrow 'sham litigation' exception." *Sosa*, 437 F.3d at 932 n.6. For that exception to apply, the plaintiff attacking the underlying litigation must include allegations sufficient to show that the underlying litigation was a "sham." *Id.*; *see also Relevant Grp.*, 116 F.4th at 928; *Kottle v. Nw. Kidney Ctrs.*, 146 F.3d 1056, 1062-63 (9th Cir. 1998).

Ford's Complaint does not allege that the underlying litigation against it was a sham. In fact, it alleges the opposite. The Complaint alleges that Defendants' clients prevailed in the underlying litigations against Ford, and the courts ordered Ford to pay their attorneys' fees. *See* Compl. ¶ 50. "A winning lawsuit is by definition not a sham." *Relevant Group*, 116 F.4th at 932 (cleaned up); *see also Kottle*, 146 F.3d at 1063 (same). Ford cannot establish, based on the facts and theories already alleged, that submitting allegedly inflated fee petitions to courts in the underlying litigation "***deprive[d] the litigation of its legitimacy***." *Relevant Grp.*, 116 F.4th at 928 (emphasis added); *see also Freeman*, 410 F.3d at 1185 n.2 ("Our conclusion that the defense as a whole was not a sham also establishes that this isolated instance of litigation misconduct would not, if proven, deprive the defense as a whole of its legitimacy.").

Indeed, Ford does not dispute that legal services were rendered during those litigations and, thus, that fees were owed to Defendants. As a result, the underlying fee petitions were not a "sham" even if one accepts Ford's claim that some unknown portion of them were supposedly "inflated." Moreover, Ford already litigated its challenges to the reasonableness of Defendants' fees in the underlying litigation, including its allegations of inflated fees. *See infra* Section VI. Ford does not meet its burden of alleging sham

litigation by "simply recast[ing] disputed issues from the underlying litigation as 'misrepresentations' by the other party." *Kottle*, 146 F.3d at 1063 (quoting *Or. Nat. Res. Council v. Mohla*, 944 F.2d 531, 536 (9th Cir. 1991)).

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In sum, *Noerr-Pennington* serves a critical purpose of allowing litigants to advocate without fear of collateral suit attacking their conduct. Indeed, under Ford's expansive theory of RICO liability, Ford's attorneys potentially could be sued for the positions they took defending Ford in Lemon Law cases, which could be characterized as "fraudulent" when they argued Ford's cars were not defective. *See, e.g.*, *Anderson*, 74 Cal. App. 5th at 973 (Ford subject to punitive damages because it "engaged in a pattern or practice of deceitful misconduct" against consumers who brought Lemon Law claims).

Noerr-Pennington ensures that litigation losses do not give rise to tit-for-tat reprisals. Because Defendants' underlying litigation conduct is immune under the *Noerr-Pennington* doctrine and the Complaint fails to allege that the narrow sham litigation exception applies, the Court should grant the motion to dismiss. *See, e.g.*, *Freeman*, 410 F.3d at 1185-86 (affirming dismissal based on *Noerr-Pennington* immunity); *Kottle*, 146 F.3d at 1063-64 (same); *B&G Foods N. Am., Inc. v. Embry*, 29 F.4th 527, 542 (9th Cir. 2022) (same); *Or. Nat. Res. Council*, 944 F.2d at 536 (same); *Silver*, 2022 WL 16859646, at *6 (dismissing based on *Noerr-Pennington* immunity); *Limon v. Carpenters Loc. Union 721*, 2021 WL 4925444, at *5 (C.D. Cal. Jan. 11, 2021) (same); *Mir*, 2015 WL 12746231, at *7 (same); *Thomas*, 2006 WL 5670938, at *10 (same); *see also Sosa*, 437 F.3d at 942 (affirming dismissal on *Noerr-Pennington* grounds and construing RICO not to reach prelitigation demand to settle legal claims that do not amount to a sham).

II. FORD FAILS TO STATE A RICO CLAIM IN COUNT ONE

Beyond the threshold *Noerr-Pennington* bar, Ford fails to plausibly allege a RICO claim. To state a claim under 18 U.S.C. § 1962(c), Ford must allege with detailed specificity that each Defendant (i) conducted the affairs (ii) of an enterprise (iii) through a

pattern (iv) of racketeering activity. *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496 (1985); *Eclectic Props.*, 751 F.3d at 997. Ford must also plead that the alleged harm injured its business or property and was caused "by reason of" the RICO violation, which requires Ford to establish proximate causation.[3] *See Canyon Cnty. v. Syngenta Seeds, Inc.*, 519 F.3d 969, 927 (9th Cir. 2008). Ford has not adequately alleged these elements.

A. Ford Has Not Adequately Alleged the Formation, Existence, or Ongoing Organization of a RICO Enterprise

The inclusion of the enterprise concept in the federal RICO statute reflects Congress's intent of preventing racketeers from establishing and investing in "wholly illegal enterprises" or "infiltrat[ing]" legitimate business organizations. *United States v. Turkette*, 452 U.S. 576, 588-91 (1981). To show the existence of an association-in-fact enterprise, as Ford has alleged here, Ford must plead specific facts showing that the enterprise has "(A) a common purpose, (B) a structure or organization, and (C) longevity necessary to accomplish the purpose." *See Eclectic Props.*, 751 F.3d at 997 (citing *Boyle v. United States*, 556 U.S. 938, 946 (2009)). Ford's allegations do not come close to alleging such an enterprise.

As discussed below, Ford attempts to premise a criminal RICO enterprise on allegations that three law firms occasionally served as co-counsel while jointly representing a consumer client. There are no allegations supporting the notion that the law firms associated together for the common purpose of fraudulent billing or that they engaged in coordinated activity through an "ongoing organization," as opposed to simply multiple different co-counsel relationships to prosecute meritorious cases for different clients over time.

1. Ford Has Not Alleged Members of the Purported Enterprise Associated Together for a Common Purpose

[3] As noted throughout, Ford often cites conduct that purportedly resulted in allegedly inflated fee payments by *other car manufacturers*. Harm to third parties is definitionally not a RICO injury.

An enterprise must be "bound by common purpose." *Shaw v. Nissan N. Am., Inc.*, 220 F. Supp. 3d 1046, 1054 (C.D. Cal. 2016); *see also Boyle*, 556 U.S. at 944 (an enterprise is "a group of persons associated together for a common purpose" (cleaned up)). "Courts have overwhelmingly rejected attempts to characterize routine commercial relationships as RICO enterprises." *Gomez*, 2015 WL 4270042, at *8 (collecting cases). This is because RICO liability requires more than alleging a pattern of racketeering activity. If action in furtherance of a routine business relationship was enough to allege a common purpose, then a plaintiff alleging a pattern of predicate racketeering acts involving commercial parties would automatically state a RICO claim. This in turn would transform any run-of-the-mill fraud claim involving more than one business relationship into a presumptive RICO claim, which "would necessarily expand RICO beyond the scope intended by Congress." *Id.*; *see also In re Toyota Motor Corp. Unintended Acceleration Mktg., Sales Pracs. & Prods. Liab. Litig. (In re Toyota UA)*, 826 F. Supp. 2d 1180, 1202-03 (C.D. Cal. 2011).

Against this backdrop, Ford's common purpose allegations fail. Ford alleges in conclusory fashion that Defendants "have the common purpose to unlawfully operate an ongoing criminal enterprise engaged in fraudulent billing." Compl. ¶ 68; *see id.* ¶¶ 5, 69, 81 (similar). Ford's theory would require specific factual allegations showing that these three independent law firms came together *for the purpose of* committing billing improprieties, rather than to represent consumers pursuing claims against Ford for defective vehicles. But the Complaint lacks particularized allegations supporting the claim that Defendants "associated together for" or are "bound by" an alleged fraudulent purpose. *Boyle*, 556 U.S. at 944 (first quote); *Shaw*, 220 F. Supp. 3d at 1054 (second quote). Instead, the Complaint supports that the co-counsel relationships among Defendants were created for the purpose of representing consumers with meritorious claims and winning Lemon Law cases, which is exactly what those law firms did against Ford.

Ford cannot establish an enterprise with a common purpose by alleging that Defendants engaged in a pattern of racketeering activity—overbilling—on cases in which they served as co-counsel. Ford's problematic pleading is in line with RICO cases that were dismissed on common purpose grounds. For example, in *In re Toyota UA*, the complaint alleged that Toyota Motor Corporation and its subsidiaries and manufacturers participated in an enterprise with the common purpose of selling vehicles they knew were defective. 826 F. Supp. 2d at 1199. The court dismissed the complaint because it "alleges no more than that Defendants' primary business activity—the design, manufacture, and sale or lease of Toyota vehicles—was conducted fraudulently." *Id.* at 1202-03.

Similarly, in *Shaw*, the court dismissed a complaint alleging that Nissan and its subsidiaries and supplier "participated in an enterprise bound by the common purpose of fraudulently selling defective vehicles at inflated prices." 220 F. Supp. 3d at 1057. The court contrasted the *Shaw* complaint with a complaint that survived a motion to dismiss in which plaintiffs "included 'pages of references of specific communications' showing the defendants 'acting as an enterprise' and 'engaged in a collaborative scheme to defraud.'" *Id.* (quoting *In re Takata Airbag Litig.*, 2015 WL 9987659, at *1-2 (S.D. Fla. Dec. 2, 2015)). The *Shaw* plaintiffs had done nothing of the sort; they had "not given [the court] any specific facts that move their allegations from the realm of the possible to the plausible." *Id.*[4]

Numerous other cases have dismissed RICO claims involving similar allegations. *See, e.g.*, *In re Jamster Mktg. Litig.*, 2009 WL 1456632, at *5 (S.D. Cal. May 22, 2009)

[4] Ford's Complaint is bereft of such specifics. Instead, Ford repeatedly states that it would need to conduct a broad, unspecified fishing expedition into nearly decades-old billing entries to obtain the specifics it needs to support its accusations. Compl. ¶¶ 16, 25, 27, 60-63, 67. Ford has the process backwards. *See Vieira v. Mentor Worldwide, LLC*, 392 F. Supp. 3d 1117, 1130 (C.D. Cal. 2019) ("Plaintiffs claim that 'discovery is necessary' to provide a basis for their claims but Plaintiffs cannot be permitted to engage in discovery when they have not met the most basic pleading standards."); *Timmons v. Linvatec Corp.*, 263 F.R.D. 582, 585 (C.D. Cal. 2010) (similar).

("Plaintiffs herein allege an overarching common purpose to engage in fraudulent conduct [*i.e.*, that businesses fraudulently sold certain content], but fail to identify specific allegations in support of the common purpose."); *Chagby v. Target Corp.*, 2008 WL 5686105, at *2 (C.D. Cal. Oct. 27, 2008) ("Plaintiff has failed to allege any common purpose between Defendant and its advertising agency, fraudulent or otherwise, other than through conclusory allegations or legal characteristics."); *Ellis v. J.P. Morgan Chase & Co.*, 950 F. Supp. 2d 1062, 1089 (N.D. Cal. 2013) (complaint "lack[ed] factual allegations that show that the unidentified enterprise members *associated together* with Defendants *for* [the] alleged common purpose"); *Fraser v. Team Health Holdings, Inc.*, 2022 WL 971579, at *12 (N.D. Cal. Mar. 31, 2022) ("[C]ommon purpose element unsatisfied where the alleged enterprise reflects a routine contract for services in which the entities are pursuing their individual economic interests and not a shared purpose."); *In re General Motors LLC Ignition Switch Litig.*, 2016 WL 3920353, at *16 (S.D.N.Y. July 15, 2016) (similar).

The foregoing cases are squarely on point and compel dismissal. As in those cases, Ford "attempt[s] to transform Defendant's business relationships into a RICO enterprise" by asserting in conclusory fashion that the enterprise had a common purpose. *Fraser*, 2022 WL 971579, at *12. Ford cannot make any factual allegations because there is no basis to allege that Defendants entered into anything other than standard co-counsel relationships with each other, just as each has done with numerous other law firms and lawyers. And there is a serious harm from letting lawsuits such as this one fester, potentially chilling organizations like Knight Law that protect consumers.

2. Ford Has Not Alleged an Ongoing Organization

For similar reasons, Ford fails to plausibly allege an enterprise with "an ongoing organization, either formal or informal." *Turkette*, 452 U.S. at 583. This requires allegations that the members of the enterprise created a "vehicle for the commission of two or more predicate crimes" that is separate from themselves and the underlying racketeering

acts. *Odom*, 486 F.3d at 552 (cleaned up); *see also Boyle*, 556 U.S. at 946; *Turkette*, 452 U.S. at 583. As with common purpose, this element is not met by alleging only that business entities worked together in a fraudulent manner.

But that is all Ford has alleged here. Ford's allegations amount to three law firms at times acting as co-counsel and, from time to time, submitting inflated fee applications on their own behalf. Ford's allegations suggest at most that two Defendant firms co-counseled on cases (but never all three together) on no more than a few occasions over thousands of cases, which hardly shows an ongoing organization.

While Ford claims that the enterprise has an "informal governing structure" and at certain unspecified times "a command hierarchy" (Compl. ¶ 68), those allegations are entirely conclusory and never particularized; it is easy to lob such accusations, which is precisely why particularity is required. Courts have repeatedly rejected similar allegations involving business entities. *See Chagby*, 2008 WL 5686105, at *3 ("Simply hiring [an] advertising agency, regardless of whether such advertisements were commissioned for fraudulent purposes, does not mean that Defendants and the agency established a vehicle to commit the predicate acts of mail or wire fraud."); *Ellis*, 950 F. Supp. 2d at 1089 (dismissing complaint where it failed to "identify the structure of the alleged enterprise" and as a result, the court could not "determine whether Defendants have engaged in conduct of the enterprise, as opposed to their own affairs"); *Experian Info. Sols. Inc. v. Stein Saks, PLLC*, 2024 WL 5261159, at *10 (C.D. Cal. Nov. 19, 2024) (declining to find a RICO enterprise where plaintiff "fail[ed] to adequately allege that Defendants were 'aware of the essential nature and scope of the enterprise and intended to participate in it'") (quoting *Baumer v. Pachl*, 8 F.3d 1341, 1346 (9th Cir. 1993)).

Ford's allegations contrast sharply with those in RICO complaints that have survived motions to dismiss. For example, in *Odom*, the plaintiff stated a claim by including extensive factual detail showing that Microsoft and Best Buy entered into a written "cross-marketing contract" in which each "agreed to promote" the other and that Microsoft made

a $200 million investment in Best Buy in furtherance of that relationship. *Odom*, 486 F.3d at 552 (citing *United States v. Qaoud*, 777 F.2d 1105, 1117 (6th Cir. 1985) (stating that "coordinated nature" of defendant's activity supported finding of RICO enterprise)). Similarly, in *California Pharmacy Management, LLC v. Zenith Insurance Co.*, plaintiff stated a claim by alleging "coordination and continuity between the acts of the enterprise's alleged participants" through allegations that enterprise members "communicate[d] the manner in which [the] scheme to defraud . . . was to be effected" and "instructed the employees of [other enterprise members] to utilize identical tactics when engaging [the victim]." 669 F. Supp. 2d 1152, 1165 (C.D. Cal. 2009)

Ford's bare-bones allegations are not remotely similar. There are no allegations of an agreement *among the Defendant law firms* to create and maintain an ongoing enterprise, as in *Odom*.[5] There are no allegations of "coordination and continuity" among the enterprise members involving actions taken together towards the ends of the enterprise, separate and apart from the individual ends of the members, like those in *Zenith.* 669 F. Supp. 2d at 1165. There are no allegations that Defendants did anything that could be characterized as "forming a vehicle" for the commission of RICO predicate acts of fraud once their co-counsel relationship began, as courts require. *Odom*, 486 F.3d at 552. The Complaint does not even allege communications among the three law firms beyond what would be strictly necessary to engage in an ordinary co-counsel relationship (*e.g.*, entering into co-counsel agreements; making referrals; and submitting joint motions).

Because Ford has alleged no facts showing that Defendants created and maintained an organization or vehicle with a joint common purpose, as opposed to simply continuing

[5] Ford's allegation that Knight Law cashed checks "on behalf of other plaintiff lawyers and firms associated with the enterprise . . . without obtaining proper endorsements" does not support that "Defendants were financially intertwined." Compl. ¶ 70; *see id.* ¶ 51. Ford concedes that these checks were jointly issued *by Ford* to both Knight Law and the other law firms, reflecting that this was the kind of ordinary business practice that courts find insufficient to state a RICO claim. *See Chagby*, 2008 WL 5686105, at *2.

to operate their law firms as they always had, Ford's RICO Complaint must be dismissed for failure to allege an enterprise.

3. An Enterprise Involving Only the Knight Law Defendants Fails for Lack of Distinctiveness

If the Court dismisses the Wirtz and Altman Defendants, as it should given the extreme paucity of factual allegations against them, then it must also dismiss the case against the Knight Law Defendants. To establish an enterprise, Ford "must allege and prove the existence of two distinct entities: (1) a 'person'; and (2) and 'enterprise' that is not simply the same 'person' referred to by a different name." *Cedric Kushner Promotions, Ltd. v. King,* 533 U.S. 158, 161 (2001). Without the Wirtz and Altman Defendants, all that remains is Knight Law and its employees. It is well settled that a business entity "carrying out its own activities (even fraudulent ones) only through its agents and employees does not constitute an enterprise." *In re: Gen. Motors LLC Ignition Switch Litig.*, 2016 WL 3920353, at *12 (S.D.N.Y. July 15, 2016) (collecting cases); *see also Chagby v. Target Corp.*, 358 F. App'x 805, 808 (9th Cir. 2009) ("Chagby's alternative theory that an enterprise existed between Target Corporation and its wholly-owned subsidiaries fails to meet the distinctiveness requirement of civil RICO claims."); *Kirkeby v. JP Morgan Chase Bank, N.A.*, 2014 WL 7205634, at *8 (S.D. Cal. Dec. 17, 2014) (similar).

B. Ford Has Not Adequately Alleged That Any Defendant Engaged in Conduct for the Purported RICO Enterprise

RICO enterprise conduct "requires some participation in the operation or management of the enterprise itself." *Reves v. Ernst & Young*, 507 U.S. 170, 176 (1993) (cleaned up). To satisfy this element, Ford must allege that each Defendant (i) had "*some* part in directing the enterprise's affairs," and (ii) "conducted or participated in the conduct of the enterprise's affairs,' not just their own affairs." *Id.* at 179, 185; *Walter v. Drayson*, 538 F.3d 1244, 1249 (9th Cir. 2008). Ford has not alleged facts supporting that any Defendant participated in the operation or management of the purported enterprise's affairs, such as meetings or communications among Defendants related to the alleged

scheme, or to maintain the relationship among Defendants as a standalone enterprise. The Complaint alleges only that the law firms and their staff performed activities that are typical of law firms jointly representing clients. This does not come close to plausibly alleging RICO conduct.

Instead, Ford relies principally on the entirely conclusory allegation that Defendants participated "in the conduct, management, or operation of the Enterprise's affairs through a 'pattern of racketeering activity.'" Compl. ¶ 68. This allegation fails for at least three reasons.

First, Ford cannot establish RICO conduct relying solely on predicate racketeering acts. RICO prohibits "the *operation* of an enterprise through a pattern of racketeering activity." *Reves*, 507 U.S. at 182 (emphasis in original). Thus, "one is not liable under [RICO] unless one has participated in the operation or management of the enterprise itself," which is separate and apart from the racketeering acts. *Id.* at 183; *see also Gomez*, 2015 WL 4270042 at *7-8 ("RICO liability requires more than a pattern of . . . predicate crimes."). Ford has offered no such allegations here. *See United States v. Cianci*, 378 F.3d 71, 82 (1st Cir. 2004) (actors jointly engaging in conduct amounting to "pattern of racketeering activity do not automatically thereby constitute an association-in-fact RICO enterprise"); *Walter*, 538 F.3d at 1249 ("Simply performing services for the enterprise does not rise to the level of direction . . . ."); *Chagby*, 358 F. App'x at 808 (similar).

Second, participating in a co-counsel relationship with other members of the purported enterprise does not evidence direction over enterprise affairs. Ford's allegations here amount to nothing more than that Defendants participated in a standard legal relationship, which fails to plausibly allege RICO enterprise conduct. There are no allegations supporting that anyone directed the affairs of an enterprise separate and apart from the individual law firms, such as through meetings and communications among the Defendants concerning the purported enterprise. *See, e.g.*, *In re WellPoint, Inc. Out-of-Network UCR Rates Litig.*, 865 F. Supp. 2d 1002, 1034-35 (C.D. Cal. 2011) ("[T]he

existence of a business relationship [among defendants] without more does not show that [defendant] conducted the enterprise."); *Downey Surgical Clinic, Inc. v. Ingenix, Inc.*, 2013 WL 12114069, at *13 (C.D. Cal. Mar. 12, 2013) (allegations that defendant was "carrying out the functions it was contractually required to perform" did not demonstrate that it "participated in the operation or management of the alleged RICO enterprise").

There is no claim that any person directed any other person to inflate bills in a coordinated fashion pursuant to agreed-upon procedures. Indeed, the Complaint does not include any allegations at all concerning the manner and mode by which Defendants allegedly directed the supposed enterprise. The closest Ford comes to alleging direction over the purported enterprise is to claim, without particularity or factual support, that at certain unspecified times, "Defendants Mikhov and Knight Law" "led" the enterprise. Compl. ¶ 68. These types of conclusory allegations fail to state a RICO claim. *See, e.g.*, *Slack v. Int'l Union of Operating Eng'rs*, 2014 WL 4090383, at *22 (N.D. Cal. Aug. 19, 2014) (finding that "general allegations of 'direction,' 'counseling,' 'commanding,' 'inducing,' or 'procuring,' unadorned by any factual support are insufficient to state a claim sufficient to satisfy *Twombly* and *Iqbal*"); *In re Jamster*, 2009 WL 1456632, at *5 (dismissing RICO claim because after setting aside plaintiff's legal conclusions, all that remained was "conduct consistent with ordinary business conduct and an ordinary business purpose"). Ford does not, and cannot, allege any facts indicating that Mr. Mikhov, or anyone else at Knight Law, led or directed the Altman or Wirtz Defendants in a plan to overbill. *See Downey Surgical Clinic, Inc. v. Ingenix, Inc.*, 2013 WL 12114070, at *6 (C.D. Cal. Dec. 11, 2013) ("[N]owhere do [the allegations] show that United required, or at least directed, other members of the enterprise to [target plaintiffs as part of the enterprise].").

Finally, Ford's allegations reflect Defendants conducting their own affairs for their own commercial interests, not those of any enterprise. *See Reves*, 507 U.S. at 185. As described above, Ford alleges that three law firms filed inflated fee applications seeking fee awards for each individual law firm. But Ford never explains how *any* of that alleged

RICO activity reflects participation in the conduct of the *enterprise's* affairs or benefited the *enterprise* versus the individual law firms. In fact, Ford's allegations suggest—accurately—that Knight Law co-counseled with a "consortium of . . . legal professionals, including other law firms and attorneys" on Lemon Law cases, and that the Defendant law firms were not always co-counsel. Compl. ¶ 16. This undermines any suggestion that Defendants were acting in furtherance of an enterprise, rather than their own affairs.

Courts routinely dismiss complaints with similar allegations. *See, e.g.*, *In re Countrywide Fin. Corp. Mortgage-Backed Sec. Litig.*, 2012 WL 10731957, at *9 (C.D. Cal. June 29, 2012) (plaintiffs failed to allege enterprise where they "alleged no facts that support any allegation of 'coordinated behavior' among the Defendants"); *Comm. to Protect our Agric. Water v. Occidental Oil & Gas Corp.*, 235 F. Supp. 3d 1132, 1175 (E.D. Cal. 2017) (dismissing where "plaintiffs allege only a series of disconnected incidents, each involving a subset of the overall group of defendants, with no clear indication of unified agenda"); *United Food & Com. Workers Unions & Emp'rs Midwest Health Benefits Fund v. Walgreen Co.*, 719 F.3d 849, 855 (7th Cir. 2013) (similar); *GM Ignition Switch Litig.*, 2016 WL 3920353, at *14 (similar).

Ford's allegations stand in stark contrast to those that this Court recently found sufficient to survive a motion to dismiss. *See Blue Cross & Blue Shield v. S. Coast Behav. Health LLC*, No. 24 Civ. 10683 (MWC), Dkt. 67 (C.D. Cal. June 20, 2025). *Blue Cross* alleged a wide-ranging scheme among providers of addiction services to harm health insurers through fraudulent enrollment and billing practices. As to each defendants' participation in the enterprise, the complaint detailed how defendants "improperly led aspects of the scheme, including finding potential targets, sending them to [another enterprise member], working with [that enterprise member] to falsify insurance applications, allowing individuals to live for free in their homes while Blue Cross paid insurance claims, and improperly accepting a split of the insurance payments." *Id.* at 18-19; *see Blue Cross* Compl. ¶¶ 57-58; 60-67 (alleging how each defendant's actions

furthered the goals of the enterprise; highlighting communications between enterprise members, at times including screenshots of those communications; and recounting frequent meetings among the enterprise members).

Ford's conclusory allegations are nowhere close to the particularized allegations this Court highlighted in *Blue Cross*. There are no factual allegations of coordination, communication, or meetings between Defendants to set up or maintain the three law firms as a purported standalone enterprise. There are no allegations detailing which Defendants led what aspects of the scheme or describing how Defendants' conduct reflects management or direction of the enterprise separate from the alleged pattern of racketeering. There are no allegations describing how Defendants worked together to effectuate the scheme, rather than in their own commercial self-interest as co-counsel on Lemon Law cases.

C. Rule 9(b)'s Heightened Pleading Standard Is Not Met by Ford's Conclusory Allegations of Racketeering Activity

Dismissal is separately warranted because Ford fails to allege racketeering activity—predicate acts of mail and wire fraud—with particularity under Rule 9(b), which applies to its RICO claims. *See* Fed. R. Civ. P. 9(b); *Edwards*, 356 F.3d at 1065-66; *see also Kearns v. Ford Motor Co.*, 567 F.3d 1120, 1124 (9th Cir. 2009) ("[A]verments of fraud must be accompanied by the who, what, when, where, and how of the misconduct charged.") (internal quotation marks omitted); *Vess v. Ciba-Geigy Corp. USA,* 317 F.3d 1097, 1106 (9th Cir. 1986) (complaint "must set forth what is false or misleading about a statement, and why it is false"). The heightened pleading standard serves three purposes: (1) "to provide defendants with adequate notice to allow them to defend the charge and deter plaintiffs from the filing of complaints as a pretext for the discovery of unknown wrongs"; (2) "to protect those whose reputation would be harmed as a result of being subject to fraud charges"; and (3) to "prohibit plaintiffs from unilaterally imposing upon the court, the

parties, and society enormous social and economic costs absent some factual basis." *Kearns*, 567 F.3d at 1125 (cleaned up).

The Complaint primarily opts for bluster and hand-waving concerning the alleged racketeering acts, which plainly is inadequate. *See id.* at 1124 ("Any averments which do not meet [the heightened pleading standard] should be disregarded or stripped from the claim for failure to satisfy Rule 9(b)." (cleaned up)). When the hyperbole is set aside, and the factual allegations are analyzed under the requirements of Rule 9(b), the Complaint comes up woefully short. With limited exceptions, noted previously and discussed below, the Complaint does not allege any purportedly false billing entries, included in specific fee petitions, which resulted in fee awards paid by Ford. Instead, the Complaint alleges fee awards paid by Ford with ***no allegations*** that those awards were based on fee petitions containing purportedly inflated billing entries. The Complaint separately alleges false billing entries with ***no allegations*** that those entries were included in fee petitions that resulted in fee awards paid by Ford. These allegations fail to satisfy Rule 9(b) for these reasons and for additional reasons discussed below.

1. Paragraphs 49-58: Alleged Payments by Ford Untethered to Allegedly False Statements

The allegations in Paragraphs 49 through 58 and in Exhibit C, relating to Defendants' alleged uses of the U.S. mail and interstate wires, are fatally defective: they do not allege RICO violations because, although they allege payments by Ford, they do not allege that these payments were based on alleged misrepresentations by Defendants. Indeed, in Paragraph 58, Ford all but concedes that it cannot satisfy Rule 9(b)'s particularity requirement by linking these payments to alleged misrepresentations. *See* Compl. ¶ 58 ("***On information and belief***, all of the above checks were sent in reliance on false, fraudulent, and inflated fee applications or billing statements . . . ." (emphasis added)).

In these Paragraphs, Ford identifies a number of payments made by wire or check.[6] *See* Compl. ¶¶ 49-58. But Ford has utterly failed to allege how the mailings and wires referenced in its Complaint played a role in the alleged scheme. *See Sun Sav. & Loan Ass'n v. Dierdorff*, 825 F.2d 187, 196 (9th Cir. 1987) (complaint satisfies Rule 9(b) where it "describes the dates on which the letters were written, by whom and to whom the letters were sent, the letters' content, a*nd the letters' role in the fraudulent scheme*" (emphasis added)); *see also id.* ("18 U.S.C. § 1341 requires that the mailings alleged in a mail fraud complaint have been made for the purpose of executing the fraudulent scheme.").

As judges in this District routinely acknowledge, "[c]ourts have been particularly sensitive to Fed. R. Civ. P. 9(b)'s pleading requirements in RICO cases in which the 'predicate acts' are mail fraud and wire fraud." *Hill v. Opus Corp.*, 841 F. Supp. 2d 1070, 1089 (C.D. Cal. 2011). For this reason, complaints must include not only "specific allegations as to which defendant caused what to be mailed (or made which telephone calls)," but also "*when and how* each mailing (or telephone call) furthered the fraudulent scheme." *Id.* (emphasis added). Bare assertions that Defendants mailed checks or used wires, without connecting such activities to any specific misrepresentation, fall short.

In fact, courts in this Circuit have specifically rejected complaints "purport[ing] to allege the predicate acts of wire fraud" where the complaint failed to allege "how each communication furthered the alleged scheme," even when the complaint lists the "forged checks by date." *Vaugh v. Diaz*, 2013 WL 150487, at *3 (S.D. Cal. Jan. 14, 2013); *see also Choudhuri v. Specialized Loan Servicing*, 2023 WL 6277327, at *8 (N.D. Cal. Sept. 26, 2023) (dismissing complaint that "[did] not identify" how the alleged mailings "violated the relevant wire and mail fraud statutes"); *United Centrifugal Pumps v. Schotz*, 1991 WL 274232, at *2 (N.D. Cal. June 12, 1991) ("This conclusory statement does not

[6] Some of these payments were made by other manufacturers, not Ford, and cannot be used to establish RICO injuries suffered by Ford. *See* Compl. ¶¶ 50, 52.

satisfy Rule 9(b), in part because the letter's content and role in the scheme is not alleged."). Ford's conclusory allegations are thus too generalized to satisfy Rule 9(b).

As noted above, the allegations in Paragraph 50 concerning the *Buck* and *Duk* cases are the only instances in the Complaint that attempt to link allegedly inflated fee petitions with fee awards paid by Ford.[7] These allegations demonstrate why Rule 9(b)'s specificity requirement is so important. Precisely because the allegations in Paragraph 50 are stated with a modicum of specificity, it is immediately clear that they are fatally flawed. They are directly contradicted by the very documents that Ford relies on. *See supra* at p. 5. Furthermore, these allegations, which relate to alleged payments in 2018, are barred both by the four-year statute of limitations and by the doctrines of claim and issue preclusion because Ford opposed the *Buck* and *Duk* fee petitions on the grounds that they were supposedly inflated; it cannot relitigate that issue by filing an untimely and improper collateral attack under the guise of RICO. *See infra* Sections IV & VI. Details matter, especially when it comes to highly charged allegations of fraud. Ford cannot use this RICO action as a license to impose litigation and collateral burdens on its adversaries; it is required to plead viable allegations of fraud with specificity.

2. Paragraphs 27-39: Alleged Categories of False Statements Lacking Specificity and Untethered to Fee Petitions Paid by Ford

In Paragraphs 27 to 39 of the Complaint, Ford purports to identify the alleged misrepresentations (*i.e.*, the inflated billing entries) on which its fraud claims are based. However, these Paragraphs flunk elementary pleading requirements. For one thing, the Complaint does not link these allegedly inflated billing entries with specific fee petitions.

[7] The allegations in Paragraph 50 relating to *Burgess*, *Duenas*, and *Orosco* are facially inadequately pled: Ford alleges that "Morse's fraudulent billing records were also used to support fee awards" in those cases, but does not allege what is supposedly false or misleading about her billing entries in those cases or why. *See Vess,* 317 F.3d at 1106 (complaint "must set forth what is false or misleading about the statement, and why it is false").

Rule 9(b) requires Ford to identify "the time, place, and specific content of the false representations as well as the identities of the parties to the misrepresentation." *Schreiber Distrib. Co. v. Serv-Well Furniture Co.*, 806 F.2d 1393, 1401 (9th Cir. 1986). By failing to identify specific billing entries and fee petitions in which Defendants made these alleged misrepresentations, and the specific persons who made them, Ford violates nearly every requirement of Rule 9(b). *Id.* The allegations in these paragraphs are also defective because Ford does not connect these alleged misrepresentations with any payments or injuries. By failing to link the alleged misrepresentations to specific fee petitions—let alone a fee petition that Ford actually paid—the Complaint does not plausibly allege that Ford suffered any injury from these alleged misrepresentations. *See, e.g.*, *Anza v. Ideal Steel Supply Corp.*, 547 U.S. 451, 461 (2006).[8]

A closer examination reveals additional defects. Paragraphs 27 to 39 purport to identify four categories of billing entries that, according to Ford, are "made-up" and "physically impossible," Compl. ¶¶ 27-39, but Ford fails to substantiate each category of alleged misrepresentations.

First, Ford alleges that Defendants "filed false billing records indicating that individual attorneys worked more than 24 hours a day on numerous occasions." Compl. ¶¶ 28-31. Ford does not specify any fee petitions in which those attorneys supposedly billed more than 24 hours on days when time is aggregated across multiple petitions. As shown above, the claims of billing exceeding 24 hours in a day in *Buck* and *Duk* are undermined by the fee petitions themselves.

Second, Ford alleges that Defendants "falsely represented that attorneys made full-day appearances in different locations on the same day." Compl. ¶¶ 32-34. Again, however, Ford identifies only a handful of specific billing entries—none of which involved attorneys from Knight Law. *Id.* The allegations in Paragraph 34 relate to Larry Castruita,

[8] As set forth previously, Paragraph 32 purports to link alleged misrepresentations to a fee award paid by Ford, but Fiat Chrysler, not Ford, was the defendant in the *Jordan* case, contrary to what Ford alleges. *See supra* p. 5.

who is not alleged to have worked for Knight Law (because he never did), and Ford does not allege that Mr. Castruita's firm is a member of the alleged RICO enterprise. In fact, he was employed by an entirely different law firm that worked as co-counsel with Knight Law on some cases, but which is not named as a Defendant or member of the alleged enterprise. Ford also does not allege that Mr. Castruita billed false time *to Ford*; the entries identified in the Complaint relate to cases against *other manufacturers*, which Ford has no standing to raise (and as to which Knight Law has no knowledge). *See* Compl. ¶ 34. Although Ford alleges that Knight Law filed the fee applications with these billing entries, it does not allege that Knight Law was aware of the allegedly false billing entries.[9] Thus, these allegations do not make out a claim of fraud against the Knight Law Defendants. *See Lancaster Cmty. Hosp. v. Antelope Valley Hosp. Dist.*, 940 F.2d 397, 404 (9th Cir. 1991) (where entity "was not even aware of any dishonest activities," it "plainly lacked the specific intent to deceive which is an element of mail fraud").

Third, Ford alleges that "Defendants generate substantial phantom legal fees by billing for the same repetitive tasks across a multitude of cases at the same time and by billing the same work through separate law firms or timekeepers." Compl. ¶¶ 35-37. Ford relies on two exhibits listing unremarkable billing entries for typical litigation tasks. *See* Compl., Exs. A & B. As an initial matter, the billing entries in Exhibits A and B are attributed to various timekeepers, but the Complaint does not allege whether any of them, other than Ms. Morse, was a member of the RICO enterprise. Regardless, Ford does not plausibly allege *how* these billing entries were false, as required by Rule 9(b). The billing entries in Exhibits A and B show that individuals billed about an hour, sometimes more and sometimes less, to draft a meet-and-confer letter of undescribed length and to conduct related legal research for deficient discovery responses, and billed less than an hour, on average, to draft requests for admission. Ford claims that those amounts, by themselves,

[9] A review of the referenced fee applications reveals that, once again, Ford's pleadings are deeply flawed. Contrary to the Complaint's misleading description, Mr. Castruita's billing entries appear in a declaration submitted by his firm—*not* Knight Law. *See* Exs. 5, 6.

are evidence of fraud seemingly because Ford expects better economies of scale for the work—but neither the case law nor common sense supports that speculation. *See Eclectic Props.*, 751 F.3d at 998 (holding that where a defendant is engaged in activity that is facially legitimate, "a significant level of factual specificity is required to allow a court to infer reasonably that such conduct is plausibly part of a fraudulent scheme").

At most, Ford complains that Defendants are inefficient. Compl. ¶ 36 ("[T]he chart demonstrates that there are no economies of scale over time."). To be sure, it would take more time to prepare original requests for admissions, or other written discovery, but for the ability to use existing templates. And Ford has made this exact argument many times before. *See, e.g.,* Ex. 2 at p.9, Def. Ford Motor Co.'s Opp. to Pls.' Mot. ("*Buck* Opp."), *Buck v. Ford Motor Co.*, No. 2008745 (Cal. Sup. Ct. Mar. 21, 2018) ("As a result of their industrialization of Lemon Law cases, through the use of form templates and standardized pleadings and discovery, KLG should be spending fewer hours litigating and trying cases, not the same or more time as each case proceeds to trial."); Ex. 4 at pp.10-11, Def. Ford Motor Co.'s Opp. to Pls.' Mot. ("*Duk* Opp."), *Duk v. Ford Motor Co.*, No. 37-2016-00012779-CU-BC-CTL (Cal. Sup. Ct. Aug. 20, 2018) (similar). Even so, inefficiency is not fraud; otherwise, a plaintiff would be able to turn every unsuccessful challenge to a fee petition into a federal RICO claim. *Accord Hensley v. Eckerhart,* 461 U.S. 424, 433 (1983) (a district court may reduce an award of attorneys' fees for hours that are "excessive, redundant, or otherwise unnecessary"). All these exhibits show is that attorneys working on Lemon Law cases used the same generic descriptions for common billing events over the course of a decade. While Ford may contend that these descriptions lacked the detail a court might desire in assessing a fee petition, such a practice is hardly commensurate with *organized crime.*[10] Moreover, these complaints could have been, should have been, and in many cases were raised in the underlying actions.

[10] Another reason Ford's allegations are deficient is because most entries in Exhibits A and B relate to cases against *other manufacturers*, not Ford. Ford does not and cannot allege

Fourth, Ford alleges that undated billing entries are fraudulent because they are "suspicious." Compl. ¶¶ 38-39. Ford argues that the state courts could not have "determin[ed] the reasonableness of [these] hourly fees" because they were undated. Compl. ¶ 38. But that is an argument addressed to the wrong court—not a federal court under RICO but rather to the state courts adjudicating the fee petitions. Ford already asserted this argument in its oppositions to fee applications in the underlying actions—and courts went both ways on allowing or denying recovery for the time in those undated entries. *See, e.g.*, Ex. 2 at p.8, *Buck* Opp. ("These same billing entries are contained in *every* fee motion filed by KLG[.]"). In California state courts, there is no requirement that time descriptions be dated at all. *See Weber v. Langholz*, 39 Cal. App. 4th 1578, 1587 (1995); *see also Raining Data Corp. v. Barrenechea*, 175 Cal. App. 4th 1363, 1375 (2009) ("[A]n award of attorney fees may be based on counsel's declarations, without production of detailed time records."). Ford's vague and subjective "suspicion" is not the type of particularized factual allegation that satisfies Rule 9(b). *See Eclectic Props.*, 751 F.3d at 998 (where a defendant is engaged in activity that is facially legitimate, "a significant level of factual specificity is required to allow a court to infer reasonably that such conduct is plausibly part of a fraudulent scheme"); *Vess,* 317 F.3d at 1106 (holding that plaintiff "must set forth what is false or misleading about the statement, and why it is false").

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that it suffered any injury from these entries. *See* Compl. Exs. A & B (approximately half of the cases listed are against Hyundai, General Motors, Kia, FCA, Chrysler, BMW, and others).

D. Ford Fails to Allege a Claim Against the Individual Defendants

The foregoing sections identify fundamental defects in Ford's Complaint. Those pleading failures become even more glaring when assessing Ford's allegations on an individual-by-individual basis.

To state a claim against the Individual Defendants, Ford must allege particularized facts showing that ***each*** Individual Defendant participated in the conduct of the purported enterprise through a pattern of racketeering activity. *See, e.g.*, *In re Wellpoint Litig.*, 865 F. Supp. 2d at 1035 ("Where RICO is asserted against multiple defendants, a plaintiff must allege at least two predicate acts by *each* defendant."). Instead, Ford repeatedly groups all nine "Defendants" together—on approximately 100 occasions—when making allegations about their purported conduct. These allegations fail to state a claim against any Individual Defendant as a matter of law. *Swartz*, 476 F.3d at 764-65 ("Rule 9(b) does not allow a complaint to merely lump multiple defendants together but 'require[s] plaintiffs to differentiate their allegations when suing more than one defendant . . . and inform each defendant separately of the allegations surrounding his alleged participation in the fraud.'" (citation omitted)); *see also Doan*, 617 F. App'x at 686 (general allegations that individuals "conspired," "assisted," "colluded," or "helped," without specifying "what exactly each individual did, when they did it, or how they functioned together as a continuing unit," fail to state a RICO claim against individual defendants).

Ford's primary allegation against the Individual Knight Defendants is a verbatim repetition of the conclusory statement, made on information and belief, that Defendants Mikhov, Morse, and Kirnos each "knowingly . . . [made] and [allowed] fraudulent entries for time not actually worked." Compl. ¶¶ 8-10. Ford does not even make this allegation against Ms. Becerra and simply alleges, again on information and belief, that she oversaw "paralegals participating in the fraudulent scheme," without alleging that she knowingly participated in the alleged scheme. Compl. ¶ 11. Allegations made upon information and

belief are insufficient to meet Rule 9(b)'s heightened pleading standard. *See Tortilla Factory, LLC v. Health-Ade LLC*, 2018 WL 6174708, at *8 (C.D. Cal. July 13, 2018).

When Ford's Complaint is stripped of impermissible group pleading, conclusory statements unsupported by facts, and information and belief allegations, very few factual allegations remain specific to the Individual Defendants. Ford's few Defendant-specific allegations do not state a claim.

1. Defendant Becerra

Ms. Becerra was a career paralegal at Knight Law, and her inclusion as a named Defendant in this litigation is outrageous. ***Ford does not allege a single factual allegation about Ms. Becerra's conduct in the entire Complaint***. The only factual allegations about Ms. Becerra are that she ***received*** settlement checks ***mailed by Ford*** on three occasions. Compl. ¶¶ 50, 52, 54. Ford's allegations against Ms. Becerra fail at every RICO element.

First, Ford must allege that Ms. Becerra associated together with other members of the alleged enterprise for a common purpose in furtherance of an ongoing organization. *Boyle*, 556 U.S. at 944; *Turkette*, 452 U.S. at 583. Ford has made no such allegations. In fact, there are no allegations that Ms. Becerra was even aware of the purported enterprise, let alone that she knowingly associated with other enterprise members for the common purpose of filing inflated fee statements. *See Experian*, 2024 WL 5261159, at *10 (dismissing case where plaintiff "fail[ed] to adequately allege that Defendants were 'aware of the essential nature and scope of the [RICO] enterprise and intended to participate in it'" (quoting *Baumer v. Pachl*, 8 F.3d 1341, 1346 (9th Cir. 1993)). Similarly, there are no allegations in the Complaint connecting Ms. Becerra in any way to the Wirtz or Altman Defendants.

Second, Ford must allege that Ms. Becerra was involved in directing the enterprise's affairs and participated in the operation or management of the enterprise. *Reves*, 507 U.S. at 176. There are no such allegations. This is not surprising because Ms. Becerra was a paralegal who had no control over the litigation filings that purportedly serve as the basis

for Ford's Complaint. *See Walter*, 538 F.3d at 1249 ("Simply performing services for the enterprise does not rise to the level of direction . . . .").

Finally, Ford must allege with particularity that Ms. Becerra engaged in a "pattern" of mail or wire fraud in furtherance of the enterprise. *See Howard v. Am. Online Inc.*, 208 F.3d 741, 746 (9th Cir. 2000) ("To show a pattern under RICO, Plaintiffs must prove that there are a sufficient number of predicate acts 'indictable' as mail or wire fraud."). But Ford's factual allegations against Ms. Becerra reflect ***Ford's conduct, not hers***. Ford alleges that ***Ford*** addressed settlement checks to Ms. Becerra on three occasions. Compl. ¶¶ 50, 52, 54. This says nothing about what Ms. Becerra knew or did. Ford does not allege that Ms. Becerra engaged in any conduct that actually caused Ford to send her these checks. The fact that Ford chose to address mail to Ms. Becerra does not make her part of a RICO enterprise.

The remaining allegations against Ms. Becerra are in Paragraph 11 and made on information and belief, which are insufficient under Rule 9(b). *See Tortilla Factory, LLC*, 2018 WL 6174708, at *8. Ford claims that Ms. Becerra oversaw "other paralegals participating in the fraudulent scheme, receiv[ed] and transact[ed] checks for what she knew were fraudulently obtained payments, and develop[ed] the formula for [Knight Law's] split of those payments with other attorneys." Again, there is not a single factual allegation that provides a basis for any of those statements: there are no allegations about what paralegal activity Mr. Becerra allegedly oversaw, how she allegedly knew the checks she received were fraudulent, what her role was in terms of the "split" of attorney's fees, or how anything she did in a ministerial capacity advanced or even related to the purported RICO enterprise.

Even if its information and belief allegations were supported by particularized facts, Ford's claim still would fail. Ms. Becerra's alleged conduct—overseeing paralegals, receiving checks, and developing a formula to split attorneys' fees—does not plausibly allege her participation in a pattern of racketeering activity. *See Hamilton v. Willms*, 2005

WL 3797562, at *8 (E.D. Cal. Oct. 28, 2005) ("The allegations that Defendant . . . should have known or might [have] known about certain things the alleged . . . Enterprise was doing at most suggests that Defendant . . . was aware of and may have benefitted from the alleged enterprise. Knowledge of a RICO enterprise's actions is simply not sufficient."); *Goren v. New Vision Int'l, Inc.*, 156 F.3d 721, 728 (7th Cir. 1998) ("Indeed, simply performing services for an enterprise, even with knowledge of the enterprise's illicit nature, is not enough to subject an individual to RICO liability under § 1962(c); instead, the individual must have participated in the operation and management of the enterprise itself.").

2. Defendant Mikhov

Ford's allegations against Mr. Mikhov are very limited and insufficient. Ford alleges that Mr. Mikhov, Knight Law's founding partner, was the "ringleader" of the purported enterprise and that he submitted "suspicious" time entries and filed several declarations. These allegations, which are conclusory, vague, and asserted on information and belief, fail at every stage of the RICO analysis.

First, Ford does not include any allegations that Mr. Mikhov associated together with other members of the alleged enterprise for a common purpose in furtherance of an ongoing organization. *Boyle*, 556 U.S. at 944; *Turkette*, 452 U.S. at 583. Ford alleges that Mr. Mikhov and Knight Law "engage, coordinate, and conspire" with other Defendants and law firms to submit inflated fee applications, but those allegations are conclusory and based on information and belief, which are insufficient to state a claim. Compl. ¶ 16 ("On information and belief . . . ."); *Tortilla Factory, LLC*, 2018 WL 6174708, at *8. In any event, all Ford has alleged is the unremarkable fact that Mr. Mikhov worked with co-counsel in Lemon Law litigations. Courts have "overwhelmingly rejected attempts to characterize routine commercial relationships as RICO enterprises." *Gomez*, 2015 WL 4270042, at *8

Second, Ford has not alleged that Mr. Mikhov was involved in directing the enterprise's affairs or participated in the operation and management of the enterprise. *Reves*, 507 U.S. at 176. There are no allegations—conclusory or otherwise—that Mr. Mikhov communicated or coordinated with any Defendant about the purported enterprise or racketeering activities. Instead, Ford makes the conclusory assertion that Mr. Mikhov is "the ringleader of Defendants' criminal enterprise" (Compl. ¶¶ 8, 68), but offers no facts to support that statement. *Arch Ins. Co. v. Allegiant Pro. Bus. Servs., Inc.*, 2012 WL 1400302, at *4 (C.D. Cal. Apr. 23, 2012) (holding a "conclusory allegation" about defendant's role in the enterprise is "insufficient to show that [he] played any part in directing the affairs of the alleged enterprise").

Finally, Ford fails to allege that Mr. Mikhov participated in a pattern of racketeering activity. *See Howard*, 208 F.3d at 746. The only nonconclusory allegations about Mr. Mikhov are that he (i) "submitted hundreds of invoices that contain fee entries with no date" (Compl. ¶¶ 27(d), 38); (ii) "billed a total of 18.1 hours [on July 31, 2017] that included 84 separate entries in 59 separate cases" (*id.* ¶ 39); and (iii) submitted declarations in support of fee applications (*id.* ¶¶ 54-57). Ford's allegations about Mr. Mikhov's time entries and declarations fail for the reasons discussed above: submitting billing entries and declarations are innocuous litigation activities, not acts of fraud. They also fail because there are no allegations that Mr. Mikhov knew that any allegedly false billing entries were included in fee applications, or that his declaration was fraudulent (and if it was, how). *See, e.g.*, *Neubronner v. Milken*, 6 F.3d 666, 673 (9th Cir. 1993) (dismissing fraud claim where plaintiff provided "no factual basis for his allegation . . . that [defendant] read and approved the prospectus, other than his blanket assertion that [defendant] was responsible for all offerings and sales of securities"); *Lancaster Cmty. Hosp.*, 940 F.2d at 404 (similar).

Even if Ford asserted particularized allegations against Mr. Mikhov (it has not), his conduct would be barred by the four-year statute of limitations. Ford alleges that Mr. Mikhov submitted declarations in four cases from 2017 to 2019, and the courts in those

cases issued fee awards by September 2019. As a result, this conduct cannot serve as the basis for a RICO claim against Mr. Mikhov. *See infra* Section IV; *Grimmett v. Brown*, 75 F.3d 506, 511 (9th Cir. 1996).

3. Defendant Morse

Ford's allegations regarding Ms. Morse, a Knight Law attorney, are likewise defective.

First, the Complaint does not include any allegations that Ms. Morse associated together with other members of the alleged enterprise for a common purpose in furtherance of an ongoing organization. *Boyle*, 556 U.S. at 944; *Turkette*, 452 U.S. at 583. In fact, Ford does not even allege that Ms. Morse knew about the purported enterprise or ever communicated with anyone about it. *See Experian*, 2024 WL 5261159, at *10.

Second, Ford has not alleged that Ms. Morse engaged in any RICO enterprise conduct. *Reves*, 507 U.S. at 176. There are no allegations that Ms. Morse had any formal or informal position in the enterprise's structure, directed enterprise affairs, participated in the operation or management of the enterprise, or communicated or coordinated with any of the other Individual Defendants about the enterprise. *See, e.g.*, *In re Countrywide Litig.*, 2012 WL 10731957, at *9. Ford has alleged no more than that Ms. Morse participated in RICO enterprise conduct through a pattern of racketeering activity (Compl. ¶ 89), but this does not satisfy Ford's pleading burden. *Gomez*, 2015 WL 4270042 at *7-8 ("RICO liability requires more than a pattern of . . . predicate crimes."). Ms. Morse was an associate at Knight Law while working on the *Buck* case, further undercutting the theory that she operated or managed the alleged enterprise. Ex. 1 at p.8; *see Reves*, 507 U.S. at 183 ("[O]ne is not liable under [RICO] unless one has participated in the operation or management of the enterprise itself.").

Finally, Ford fails to allege that Ms. Morse engaged in a pattern of racketeering activity. *See Howard*, 208 F.3d at 746. The Complaint's only non-conclusory allegations about Ms. Morse are that her billing entries reflect that she worked more than 24 hours on

30 occasions, and that she billed for drafting discovery requests on several cases. Compl. ¶ 29. Ford's allegations fail to satisfy Rule 9(b) for the reasons discussed above. These allegations also fail because Ford does not allege that Ms. Morse had any involvement with creating or reviewing invoices or fee motions, submitted declarations in support of fee motions, knew that her hours were included in fee motions, or acted with an intent to defraud. Ford cannot state a claim against Mr. Morse without particularized allegations of her knowing participation in the scheme or underlying racketeering acts. *See, e.g.*, *Neubronner*, 6 F.3d at 673; *Lancaster Cmty. Hosp.*, 940 F.2d at 404. There are no such allegations against her.

4. Defendant Kirnos

Mr. Kirnos is a partner at Knight Law. Ford's very limited allegations against him reflect that he engaged in the conduct of a lawyer at a law firm. Ford does not allege that any of Mr. Kirnos's time entries were inflated, duplicative, false, or in any other way improper. As with the other Individual Knight Law Defendants, Ford fails to state a claim against Mr. Kirnos.

First, the Complaint does not include any allegations that Mr. Kirnos associated together with other members of the alleged enterprise for a common purpose in furtherance of an ongoing organization. *Boyle*, 556 U.S. at 944; *Turkette*, 452 U.S. at 583. There is not a single factual allegation that Mr. Kirnos knew about the purported enterprise or when he joined it. Ford's only allegations about Mr. Kirnos are that he made statements during an oral argument in one case (Compl. ¶ 43), filed a declaration in another (*id.* ¶ 53), and sent an email to Ford's outside counsel (Exhibit C, Row 47), but the cases identified in those allegations do not even involve any other law firm that was part of the purported enterprise. *See Ellis v. J.P. Morgan Chase & Co.*, 950 F. Supp. 2d 1062, 1089 (N.D. Cal. 2013) (dismissing RICO complaint because it "lack[ed] factual allegations that show that the unidentified enterprise members ***associated together*** with Defendants ***for*** [the] alleged common purpose").

Second, Ford includes no allegations that Mr. Kirnos engaged in enterprise conduct. *Reves*, 507 U.S. at 176. There are no allegations supporting that Mr. Kirnos participated in the operations or management of the enterprise, directed enterprise affairs, had a formal or informal role in the enterprise's chain of command, or communicated or coordinated with other purported members of the enterprise about the enterprise's affairs. There are no allegations regarding Mr. Kirnos prior to when he joined Knight Law in 2017. *See, e.g.*, *In re Countrywide Litig.*, 2012 WL 10731957, at *9; *Arch Ins. Co.*, 2012 WL 1400302, at *4.

Finally, Ford's few allegations against Mr. Kirnos do not plausibly allege that he engaged in a pattern of racketeering activity. *See Howard*, 208 F.3d at 746. Instead, Ford attempts to insert him into this litigation by raising two separate and distinct situations. As noted, Ford alleges that Mr. Kirnos orally advocated in court in support of an attorney fee motion when, Ford claims without any factual support, he "knew" Defendants were submitting inflated fee applications. But Ford includes no allegations supporting that Mr. Kirnos had any purported knowledge of Ford's version of events. Compl. ¶ 43. Ford's "blanket assertion" that Mr. Kirnos knew about fraudulent conduct is insufficient to survive a motion to dismiss. *See Neubronner*, 6 F.3d at 673. Regardless, Ford does not allege that the fee application that Mr. Kirnos was arguing about was inflated, let alone satisfy Rule 9(b) by specifying how it was fraudulent, how it harmed Ford, or how it was part of the alleged RICO scheme. *Id.*

Ford also alleges that Mr. Kirnos submitted a declaration in support of a single fee application containing time entries for himself, Mr. Mikhov, and Ms. Morse, but this also fails under Rule 9(b). Compl. ¶ 53. Ford does not even allege that those time entries were inflated. Nor does Ford include particularized allegations about how Mr. Kirnos's declaration was false, or that he knew it was false. *See In re Jamster*, 2009 WL 1456632, at *5 (dismissing RICO claim because after setting aside plaintiff's legal conclusions, all that remained was "conduct consistent with ordinary business conduct and an ordinary

business purpose"). Finally, Ford alleges that Mr. Kirnos recently sent an email (as part of an ordinary meet-and-confer process) to Ford's outside counsel attaching fee statements for Ford's review and comment. Compl., Ex. C, Row 47. Ford does not identify the underlying fee statements, does not allege that they contained misstatements (or explain how their billing entries were inflated), does not allege that Mr. Kirnos knew these fee statements contained any purported misstatements, and does not even allege that Ford paid fees or was otherwise harmed by the email. *See, e.g.*, *Neubronner*, 6 F.3d at 673; *Vess*, 317 F.3d at 1103-04; *Canyon Cnty. v. Syngenta Seeds, Inc.*, 519 F.3d 969, 975 (9th Cir. 2008).

At bottom, Ford has alleged that Mr. Kirnos engaged in conduct—such as oral advocacy, filing a declaration in a court filing, and emailing opposing counsel—that amounts to the normal practice of law by an attorney at a law firm. Ford has not come close to stating a claim against him. *See Eclectic Props.*, 751 F.3d at 998 (when a defendant is engaging in business activity that is facially legitimate, "a significant level of factual specificity is required to allow a court to infer reasonably that such conduct is plausibly part of a fraudulent scheme").

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For the reasons stated above, Ford has utterly failed to state a claim against any of the Individual Knight Law Defendants, and the Court should dismiss them from this lawsuit. Allowing a claim to proceed against these Defendants on such sparse and conclusory allegations would compound the harm Ford's baseless Complaint has already caused these people, who have been unfairly stigmatized as members of a purported criminal enterprise based on nothing but the most vague and conclusory of allegations.

III. FORD FAILS TO PLEAD A RICO CONSPIRACY CLAIM IN COUNT TWO

Because Ford fails to plead a substantive RICO claim, its RICO conspiracy claim also fails. "Plaintiffs cannot claim that a conspiracy to violate RICO existed if they do not

adequately plead a substantive violation of RICO." *Howard*, 208 F.3d at 751; *see also Sanford v. MemberWorks, Inc.*, 625 F.3d 550, 559 (9th Cir. 2010) (same).

Ford's RICO conspiracy claim also fails under Rule 9(b) because the Complaint does not include particularized allegations of (i) an agreement to commit an unlawful act, which is the "essence of a conspiracy," or (ii) an injury caused by an unlawful overt act performed in furtherance of the agreement. *United States v. Jimenez Recio*, 537 U.S. 270, 274 (2003); *Tatung Co. v. Hsu*, 2015 WL 11072178, at *25 (C.D. Cal. Apr. 23, 2015) (citing *Vess*, 317 F.3d at 1106). "Conclusory allegations that RICO defendants entered into an agreement are insufficient." *In Re ZF-TRW Airbag Control Units Prods. Liab. Litig.*, 601 F. Supp. 3d 625, 758 (C.D. Cal. 2022) (simplified).

Yet Ford asserts in conclusory fashion that "each Defendant knew about and agreed to facilitate the Enterprise's scheme." Compl. ¶ 97. The absence of factual allegations supporting any such agreement is glaring. Nowhere does Ford allege a meeting of the minds or even an implicit agreement, much less an agreement to perform an unlawful act. Ford also does not allege any meetings or communications among the purported enterprise members. At best, Ford has made "an allegation of parallel conduct and a bare assertion of conspiracy," which does "not suffice." *Twombly*, 550 U.S. at 556. Ford's conclusory conspiracy-based RICO claim does not satisfy the heightened pleading standard of Rule 9(b) and must be dismissed.

IV. FORD'S CLAIMS ARE BARRED BY THE STATUTE OF LIMITATIONS

Ford's claims are barred by RICO's four-year statute of limitations. *See Agency Holding Corp. v. Malley-Duff & Assocs., Inc.*, 483 U.S. 143, 156 (1987). The Ninth Circuit follows the "injury discovery" rule: "the civil RICO limitations period begins to run when a plaintiff knows or should know of the injury that underlies his cause of action." *Grimmett v. Brown*, 75 F.3d 506, 511 (9th Cir. 1996) (quotation marks omitted). The injuries alleged in the Complaint—Ford's payment of fee awards based on purportedly inflated fee

petitions—occurred more than four years prior to Ford's filing of the Complaint and Ford knew about the alleged injuries at the time they occurred.

Paragraphs 49 and 51 to 58 identify several payments allegedly made by wire or check which Ford uses to try to extend the limitations period, but as explained in Section II.C, Ford does not allege that any of these payments constituted a RICO injury because none of these alleged payments are linked to alleged misrepresentations—let alone misrepresentations alleged with sufficient particularity under Rule 9(b). All Ford alleges in Paragraphs 51 through 57 are payments mailed to Defendants by Ford—or, in some cases, payments made by ***other car manufacturers***. Because Ford does not plausibly allege, with the requisite specificity under Rule 9(b), that any of these payments constituted a RICO injury, these allegations do not establish a RICO violation within the statute of limitations. *See supra* Section II.C; *see also Molus v. Swan*, 2009 WL 160937, at *6 (S.D. Cal. Jan. 22, 2009) (agreeing, in a RICO conspiracy suit, that plaintiffs had "not proved that [their] claim resulted from a new and independent act inflicting a new injury within the limitations period").

The only payments by Ford identified in the Complaint that are linked to any purported misrepresentations are the payments in Paragraph 50 relating to *Buck* and *Duk*. There, Ford alleges that it mailed checks on July 24, 2018 and October 1, 2018 in satisfaction of fee petitions that incorporated billing entries by Ms. Morse on dates when she purportedly billed more than 24 hours in a day. *See* Compl. ¶ 50. But the payments in *Buck* and *Duk* were allegedly made in 2018—***seven years*** before Ford filed its Complaint and therefore well outside the limitations period.

Ford knew of its alleged injuries in *Buck* and *Duk* by the time the courts ordered it to make those payments in 2018. In *Buck*, Ford argued in its opposition to the fee petition that "the invoices contain numerous examples of overcharging for services, overbilling for work, charging for unrelated services, and double billing for the exact same projects." Ex. 2 at p.7, *Buck* Opp. And in its opposition in *Duk*, Ford alleged that Defendants "inflated

the fee claim" and billed more hours than they had actually worked. *See* Ex. 4, *Duk* Opp. at 3-6. These pleadings establish that Ford was aware of its alleged injury in 2018, and thus the statute of limitations on its RICO claim began to run at that point. Indeed, Ford was making the very same arguments it has alleged here since early 2018. *Compare Buck* Opp. at 3 ("Mr. Mikhov purportedly billed 2.20 hours to do the initial case intake. These same billing entries are contained in *every* fee motion filed by KLG[.]"), *with* Compl. ¶ 38 ("Nearly all [of Mikhov's] entries are a combination of (i) initial communication with client, (ii) initial evaluation of client's claims, and (iii) analysis of vehicle documents. The entries describe identical tasks with only slight wording differences."); *and Duk* Opp. at 9 ("[T]he purpose of utilizing form documents is to make the litigation more efficient and cost effective. This is not reflected in the extensive billing plaintiff's counsel claims."), *with* Compl. ¶¶ 35-37 ("The chart is in chronological order and shows days and periods of time when many letters were drafted without any economy of scale reduction in time allotments.").

Ford seems to suggest that the Court should extend the limitations period because the alleged scheme was not immediately apparent. *See* Compl. ¶ 44 ("[B]ecause the court was looking only at the fee applications in a single case, it was unable to discern the true extent of the fraud that Defendants concealed by spreading their fictitious billings across multiple clients, cases, and law firms."). Not so. The Supreme Court has flatly rejected a so-called "pattern discovery rule," where, as here, plaintiffs have tried to claim that they knew about the underlying acts and injuries but had not "discovered" that they were part of a pattern of misconduct implicating RICO. *See Rotella v. Wood,* 528 U.S. 549, 555-61 (2000); *see also Evans v. Ariz. Cardinals Football Club, LLC*, 761 F. App'x 701, 703 (9th Cir. 2019) ("Even prior to *Rotella*, this Circuit has applied the 'injury discovery' rule, which provides that the civil RICO limitations period begins to run when a plaintiff knows or should know of the injury that underlies his cause of action.") (quotations omitted). The Ninth Circuit has repeatedly dismissed RICO claims such as this one where plaintiffs had

brought claims in a prior proceeding, and then later attempted to raise those same claims on a theory that they were committed as part of a racketeering enterprise.[11] *See*, *e.g.*, *Grimmett*, 75 F.3d at 506; *Kurtz v. Goodyear Tire & Rubber Co.,* 859 F. App'x 22 (9th Cir. 2021).

V. FORD'S TIME-BARRED ALLEGATIONS SHOULD BE STRUCK

At a minimum, the Court should strike the time-barred allegations in Ford's Complaint pursuant to Rule 12(f). *See Tounget v. City of Hemet*, 2009 WL 536835, at *14 (C.D. Cal. Feb. 24, 2009) ("A court may strike surplusage or time-barred allegations in the complaint pursuant to Fed.R.Civ.P. 12(f)."); *May v. Google LLC*, 2024 WL 4681604, at *8-10 (N.D. Cal. Nov. 4, 2024) (granting motion to strike "Plaintiff's class allegations for compensatory damages . . . to the extent that they encompass periods beyond those permitted by the statutes of limitations"). As set forth in the prior section, Paragraph 50 is the only paragraph in Ford's 99-paragraph, 26-page Complaint that attempts to link Ford's payments to purported misrepresentations. But several other Paragraphs reference alleged billing issues untethered to Ford payments, Ford payments untethered to alleged billing issues, or other alleged conduct that occurred more than four years before the filing of the Complaint. *See* Compl. ¶¶ 3, 21, 29, 30, 32, 33, 34, 35, 36, 39, 43, 44, 45, 50, 51, 52, Exs. A, B, & C. All of these time-barred allegations should be struck.

[11] Ford's suggestion that it did not become aware of the extent of the alleged misrepresentations until recently is contradicted by its own media campaign about this case, which began before the Complaint was filed. In a *Los Angeles Times* article, Ford's counsel is quoted as saying that it reported its allegations of widespread fraud to the United States Attorney's Office by the Fall of 2021, and that, by that time, it had already spent "thousands" of hours investigating these allegations. *See* Ex. 8 at p.5 (Connor Sheets, Ford files $10-milion suit over alleged 'Lemon Law' scheme by L.A. lawyers, L.A. TIMES (May 21, 2025)).

VI. FORD'S CLAIMS ARE BARRED BY THE DOCTRINES OF CLAIM AND ISSUE PRECLUSION

Ford's RICO claims, which are nothing more than a collateral attack on prior state court fee awards, are also barred by the doctrines of claim and issue preclusion.[12] These doctrines bar Ford from relitigating its overbilling claims in this federal court action because Ford had an opportunity to litigate, and did in fact litigate, its overbilling claims in connection with Defendants' fee petitions in the underlying Lemon Law actions. This is illustrated by the allegations in Paragraph 50 relating to the *Buck* and *Duk* matters—the only allegations linking payments by Ford to purported misrepresentations. As even Ford recognized in its opposition to the *Buck* fee application, Federal courts cannot be called upon to second-guess valid state court judgments. *See* Ex. 2 at p.7, *Buck* Opp. ("Ultimately, this Motion is the only oversight for the attorneys' fees and costs claimed by Plaintiffs' counsel.").

A. Claim Preclusion Bars Ford's RICO Claims

Claim preclusion "acts to bar claims that were, or should have been, advanced in a previous suit involving the same parties." *DKN Holdings LLC v. Faerber*, 61 Cal. 4th 813, 824 (2015). Claim preclusion arises if a second suit involves (1) the same cause of action, (2) between the same parties or their privies, (3) after a final judgment on the merits in the first suit. *Id.* Claim preclusion bars not only the relitigation of "claims that were conclusively determined in the first action, but also matter that was within the scope of the action, related to the subject matter, and relevant to the issues so that it could have been raised." *Burdette v. Carrier Corp.*, 158 Cal. App. 4th 1668, 1674-75 (2008).

1. Ford Seeks to Litigate the Same Cause of Action That Was Litigated in the Prior State-Court Fee Petitions

[12] In considering the preclusive effects of prior state-court decisions, this Court applies California preclusion law. *See Hardwick v. Cnty. of Orange*, 980 F.3d 733, 740 (9th Cir. 2020).

The determination of whether two cases involve the same "cause of action" does not turn on whether the same legal theory or claim is asserted in each case. *See Crowley v. Katleman*, 8 Cal. 4th 666, 681-82 (1994). Rather, "California courts employ the 'primary rights' theory to determine what constitutes the same cause of action." *Gonzales v. Cal. Dep't of Corr.*, 739 F.3d 1226, 1232 (9th Cir. 2014). Under the primary rights theory, "if two actions involve the same injury to the plaintiff and the same wrong by the defendant, then the same primary right is at stake even if in the second suit the plaintiff pleads different theories of recovery, seeks different forms of relief and/or adds new facts supporting recovery." *Eichman v. Fotomat Corp.*, 147 Cal. App. 3d 1170, 1174 (1983); *see also Kougasian v. TMSL, Inc.*, 208 F. App'x 561, 563 (9th Cir. 2006) (similar); *Slater v. Blackwood*, 15 Cal. 3d 791, 795 (1975) (similar). Accordingly, as long as two claims are "part and parcel of the same primary right," claim preclusion applies even where they are "distinct claims." *Furnace v. Giurbino*, 838 F.3d 1019, 1026 (9th Cir. 2016).

As detailed above, in opposing the state-court fee petitions in *Buck* and *Duk*, Ford claimed that Defendants had engaged in overbilling. Ex. 2 at p.7, *Buck* Opp.; Ex. 4 at pp. 3-6, *Duk* Opp. Thus, the same alleged primary right—the right to be free from paying inflated attorneys' fees—is at issue in both this federal action and the prior state-court cases. *See Crowley*, 8 Cal. 4th at 681 ("[T]he primary right is simply the plaintiff's right to be free from the particular injury suffered.").

Accordingly, Ford may not repackage its "inflated attorneys' fees" arguments as new RICO claims.[13] The Ninth Circuit has refused to allow claims "to be relitigated in the RICO context" where "[t]he harm alleged is fundamentally the same injury" at issue in the earlier proceedings. *Monterey Plaza Hotel Ltd. P'ship v. Loc. 483 of Hotel Emps. & Rest.*

[13] Although Ford could recover greater damages on a RICO claim, "the opportunity to recover treble damages does not affect the determination of the primary rights at stake." *Delta Aliraq, Inc. v. Martin*, 2017 WL 11615775, at *8 & n.4 (C.D. Cal. Aug. 4, 2017); *Hong Sang Mkt., Inc. v. Peng*, 20 Cal. App. 5th 474, 490 (2018) (similar); *Gonzales*, 739 F.3d at 1232 (similar).

Emps. Union, 215 F.3d 923, 928 (9th Cir. 2000); *see also Mazzocco v. Lehavi*, 2015 WL 12672026, at *9 (S.D. Cal. Apr. 13, 2015) (holding that claims were precluded because the "same primary right was at stake" in both actions, even though plaintiffs added a new RICO theory based on predicate acts they had not yet discovered at the time of the first judgment); *Kamal v. Cnty. of Los Angeles*, 2018 WL 4328467, at *11 (C.D. Cal. Sept. 6, 2018) (similar), *R. & R. adopted,* 2018 WL 4292190 (C.D. Cal. Sept. 7, 2018).

It does not matter whether Ford raised the exact same allegations of overbilling in the prior cases. The fee petitions allegedly led to the same injury claimed here—payment of excessive fees due to overbilling—and were part of a single alleged RICO scheme. Thus, the RICO claims implicate the same primary right as the state-court proceedings, irrespective of whether the allegations in this federal action exactly mirror the allegations of overbilling made in state court. *See Monterey Plaza*, 215 F.3d at 927-28 (holding that allegations must be "distilled down" to their essence to identify the relevant primary right, and that "[s]imply pleading different acts in the same scheme does not raise more than one primary right, provided the wrongful acts are all directed to the same injury"); *Kamal*, 2018 WL 4328467, at *11 (similar). The allegations made in this case could have been (and in many cases *were*) made in the prior cases, which is sufficient for claim preclusion. *See, e.g.*, *Burdette*, 158 Cal. App. 4th at 1675 (stating that claim preclusion bars litigation of a matter that was "within the scope of the [original] action, related to the subject matter, and relevant to the issues so that it could have been raised," even if it was not actually raised in the original action).

2. The Cases Involve the Same Parties or Their Privies

Claim preclusion applies when the two suits are "between the same parties or parties in privity with them." *DKN Holdings*, 61 Cal. 4th at 824. That requirement is easily satisfied here. Ford was a party to each of the earlier state-court proceedings. Defendants were in privity with the underlying plaintiffs whom they represented because Defendants' interest in the outcome of the fee petitions was at least as strong as the underlying plaintiffs'

interest, Defendants adequately protected their own interest in the fee petitions by litigating the validity of the fee petitions, and Defendants unquestionably were bound by the courts' decisions on the fee petitions. *See Helfand v. Nat'l Union Fire Ins. Co.*, 10 Cal. App. 4th 869, 902 (1992) ("Privity exists where the nonparty has an identity of interest with, and adequate representation by, the party in the first action and the nonparty should reasonably expect to be bound by the prior adjudication.").

3. The Prior Cases Involved Final Judgments on the Merits

Each of the underlying cases resulted in a final judgment on the merits. *See* Compl. ¶ 50. Thus, the third element of claim preclusion is satisfied.

B. Issue Preclusion Bars Ford from Relitigating Whether Defendants Actually Worked the Hours Submitted in the Fee Petitions

Issue preclusion also bars Ford from relitigating the issue of Defendants' alleged overbilling. Issue preclusion applies "(1) after final adjudication (2) of an identical issue (3) actually litigated and necessarily decided in the first suit and (4) asserted against one who was a party in the first suit or one in privity with that party." *DKN Holdings*, 61 Cal. 4th at 825. The underlying cases, *Buck* and *Duk*, resulted in final orders or judgments requiring that Ford pay attorneys' fees. Thus, there can be no dispute that the first and fourth elements have been met. Elements two and three are met as well.

1. Ford Raised the Identical Issue in the Prior Suits

The issue presented in Ford's current Complaint—whether Defendants actually worked the hours reflected in the invoices submitted with their fee petitions—is identical to an issue that was litigated in the underlying state-court proceedings. Indeed, the state courts were *required* to address that issue before granting the fee petitions: "California courts have consistently held that *a computation of time spent on a case* and the reasonable value of that time is *fundamental* to a determination of an appropriate attorneys' fee award." *Margolin v. Reg'l Planning Comm'n*, 134 Cal. App. 3d 999, 1004-05 (1982) (emphases added); *see also Goglin v. BMW of N. Am., LLC*, 4 Cal. App. 5th 462, 470

(2016) ("The statute requires the trial court to make an initial determination of the actual time expended; and then to ascertain whether under all the circumstances of the case the amount of actual time expended and the monetary charge being made for the time expended are reasonable.") (quotation marks omitted).

In its Complaint, Ford alleges that Defendants "falsely and fraudulently inflat[ed] their legal fees under California's Lemon Law" by submitting "thousands of hours in fictitious billings for time never worked." Compl. ¶ 1; *see also id.* ¶ 2 ("To effectuate this scheme, Defendants submitted false and inflated fee applications and fee demands based on wholly fictitious work and time entries."). That same issue was raised in Ford's oppositions to the underlying fee petitions. *See, e.g.*, Ex. 2 at p.7, *Buck* Opp.; Ex. 4 at 3-6, *Duk* Opp.

It is immaterial whether Ford's RICO Complaint alleges specific instances or methods of overbilling that were not alleged in the underlying fee petitions. "An issue decided in a prior proceeding establishes collateral estoppel even if some factual matters or legal theories that could have been presented *with respect to that issue* were not presented." *Textron Inc. v. Travelers Cas. & Sur. Co.*, 45 Cal. App. 5th 733, 747 (2020). Ford's RICO Complaint seeks to relitigate an issue that was presented and litigated in the underlying fee petitions: whether Defendants actually worked the hours reflected in their fee petitions.

2. This Issue Was Both "Necessarily Decided" and "Actually Litigated"

This issue was both "necessarily decided" and "actually litigated." Those two requirements are "interrelated." *Cook v. Harding*, 879 F.3d 1035, 1042 (9th Cir. 2018). "Inasmuch as an issue was necessarily decided in a prior proceeding, it was also actually litigated." *Id.*; *see also In re Harmon*, 250 F.3d 1240, 1248 (9th Cir. 2001) (same).

California courts interpret the "necessarily decided" prong to require "only that the issue not have been 'entirely unnecessary' to the judgment in the initial proceeding." *Id.*

(quoting *Lucido v. Superior Court*, 51 Cal. 3d 335, 342 (1990)). As noted above, the state courts must have decided whether Defendants' work was actually and reasonably incurred in the commencement and prosecution of the underlying actions. *See* Cal. Civ. Code § 1794(d); *Goglin*, 4 Cal. App. 5th at 470 ("The [attorney fee] statute requires the trial court to make an initial determination of the actual time expended; and then to ascertain whether under all the circumstances of the case the amount of actual time expended and the monetary charge being made for the time expended are reasonable." (citation omitted)).

It is presumed that the courts complied with the statutory requirements and determined whether Defendants actually worked the hours reflected in the invoices before granting the fee petitions. *See Castillo v. City of Los Angeles*, 92 Cal. App. 4th 477, 482 (2001) (holding that an issue was necessarily decided by virtue of the examiner's decision, because "if the hearing examiner were to have found that the reasons for discharge were merely a pretext for discrimination, she would not have found the discharge was appropriate"). Thus, by awarding fees, the state court judges necessarily decided that Defendants actually worked the hours reflected in their invoices.[14]

***

In sum, claim and issue preclusion bar Ford's claims. Having lost its arguments in the state courts, Ford cannot now relitigate them in a collateral federal action that is devoid of the facts and context considered by the state courts. Allowing Ford to proceed in this manner would undo the finality of the state-court judgments and allow litigants such as Ford to take a second bite at the apple in a new federal action any time they are dissatisfied with a state court's unfavorable decision. Ford's remedy was to bring its arguments to the

[14] For similar reasons, the Complaint should be dismissed because this action is, in effect, an impermissible appeal of state and federal court orders awarding attorneys' fees. *See, e.g.*, *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1139 (9th Cir. 2004) (federal district courts cannot hear *de facto* appeals from state court judgments under the *Rooker-Feldman* doctrine); *Roberts v. Langford*, 2017 WL 5952777 at *2 (C.D. Cal. Sept. 1, 2017) ("District courts lack jurisdiction to review the rulings and decisions of other district courts." (citing *Celotex Corp. v. Edwards*, 514 U.S. 300, 313 (1995)); 28 U.S.C. § 1291.

state courts adjudicating the fee petitions, not to ask a federal court to reconsider objections that could have been—and were—raised in the state courts.

CONCLUSION

Based on the foregoing, the Court should dismiss Ford's Complaint. Because amendment would be futile, the Complaint should be dismissed with prejudice. *See, e.g.*, *Ziegler v. Bank of America, NT & SA*, 99 F. App'x 819, 820 (9th Cir. 2004) (affirming dismissal with prejudice of RICO and RICO conspiracy claims under doctrine of claim preclusion); *Flores-Ramirez v. Three Unknown Federal Task Force Agents*, 2020 WL 3038128, at *2 (C.D. Cal. Apr 14, 2020) (recommending dismissal with prejudice of claims barred by the statute of limitations), *R. & R. adopted*, 2020 WL 3037216 (C.D. Cal. June 5, 2020).

DATED: July 25, 2025

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FILER'S ATTESTATION

Pursuant to Local Rule 5-4.3.4(a)(2)(i), I, Aaron S. Dyer, attest under penalty of perjury that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

DATED: July 25, 2025 */s/ Aaron S. Dyer*