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APPENDIX

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

August Term 2018
(Argued: February 13, 2019 Decided: March 27, 2019) Docket No. 18-244-cv (L); 18-246-cv (Con)

EITAN ELIAHU, DOTAN NEWMAN, R. DAVID WEISSKOPF, ELDAD GIDON,

Plaintiffs-Appellants,

MICHAEL ZAMANSKY, YAKOV BOSSIRA, DAN SILBERMAN,

Plaintiffs,

- against -

JEWISH AGENCY FOR ISRAEL, NEW ISRAEL FUND, JEWISH FEDERATIONS OF NORTH AMERICA, NA'AMAT, WOMEN'S INTERNATIONAL ZIONIST ORGANIZATION, P.E.F. ISRAEL ENDOWMENT FUNDS, INC., TZIPI LIVNI, SHMUEL CHAMDANI, NA'AMA BOLTIN, MIRIAM DARMONY, EINAT GILEAD-MESHULAM, TOMER MOSKOWITZ, CLANIT BERGMAN, JOHN HAGEE, INTERNATIONAL FELLOWSHIP OF CHRISTIANS AND JEWS, JERUSALEM INSTITUTE OF JUSTICE, CARY SUMMERS, AMERICAN FRIENDS OF BAR-ILAN UNIVERSITY, JEFFREY ROYER, NOA REGEV, ALON SALEH, ZEV GABAI, ARIEL LAGANA, ORIT AVIGAIL YAHALOMI, MICHAEL DUWANI,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

Before PARKER, CHIN, and SULLIVAN, *Circuit Judges*.

Appeals from orders of the United States District Court for the Southern District of New York (Pauley, J.), dismissing plaintiffs-appellants' amended complaint in part for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1) and in part for failure to state a claim pursuant to Rule 12(b)(6). Plaintiffs-appellants contend that the district court erred in dismissing their amended complaint and issuing an anti-filing injunction against two of them.

AFFIRMED.

SAUL ROFFE, Law Offices of Saul Roffe, Esq., Marlboro, New Jersey, *for Plaintiffs-Appellants Dotan Newman, R. David Weisskopf, and Eldad Gidon.*

Eitan Eliahu, *pro se*, San Jose, California, *for Plaintiff- Appellant Eitan Eliahu.*

ROBERT REEVES ANDERSON (John B. Bellinger, III, Stephen K. Wirth, on the brief), Arnold & Porter Kaye Scholer LLP, Denver, Colorado, and Washington, DC, *for Defendants-Appellees Tzipi Livni, Shmuel Chamdani, Na'ama Boltin, Miriam Darmony, Einat Gilead-Meshulam, Tomer Moskowitz, Clanit Bergman, Orit Avigail Yahalomi, Zev Gabai, Ariel Lagana, Michael Duwani, Alona Sadeh, and Noa Regev.*

Kenneth B. Danielson, Kaufman, Dolowich & Voluck LLP, Hackensack, New Jersey,

for Defendants- Appellees New Israel Fund, Jewish Federations of North America, Na'amat, American Friends of Bar- Ilan University, International Fellowship of Christians and Jews, and Jeffrey Royer.

Gerald D. *Silver, Sullivan & Worcester LLP, New York, New York, for Defendants-Appellees Jewish Agency for Israel, Women's International Zionist Organization, Jerusalem Institute of Justice, and John Hagee.*

Robert E. Crotty, Kelley Drye & Warren LLP, New York, New York, *for Defendant-Appellee P.E.F. Israel Endowment Funds, Inc.*

PER CURIAM:

Plaintiffs-appellants Eitan Eliahu, Dotan Newman, R. David Weisskopf, and Eldad Gidon ("Plaintiffs") appeal from a December 28, 2017 order of the district court dismissing their action against defendants-appellees, current and former officials of the Government of Israel (the "Israeli Officials") and nine charitable organizations and three affiliated individuals. Plaintiffs' claims arise from their dissatisfaction with the outcome of divorce proceedings in Israel and subsequent efforts by their ex-wives, with the assistance of the charitable organizations, to collect child support from them. Weisskopf and Eliahu also appeal the district court's order permanently enjoining them from filing any future action in federal court related to the allegations asserted in this lawsuit without the district court's preauthorization. We affirm the district court's order of dismissal as well as its anti-filing injunction.

I. **Order of Dismissal**

"A case is properly dismissed for lack of subject

matter jurisdiction under Rule 12(b)(1) when the district court lacks the statutory or constitutional power to adjudicate it." Makarova v. United States, 201 F.3d 110, 113 (2d Cir. 2000). On appeal from a dismissal for lack of subject matter jurisdiction, factual findings are reviewed for clear error and legal conclusions are reviewed de novo. Id. For a motion to dismiss for failure to state a claim pursuant to Rule 12(b)(6), this Court reviews the district court's ruling de novo, "accepting as true all factual claims in the complaint and drawing all reasonable inferences in the plaintiff's favor." Fink v. Time Warner Cable, 714 F.3d 739, 740-41 (2d Cir. 2013) (per curiam). To survive a motion to dismiss for failure to state a claim, the complaint must plead "enough facts to state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007); see also Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).

The district court properly dismissed all claims against the Israeli Officials for lack of subject matter jurisdiction because, as foreign government officials acting their official capacity, they are entitled to immunity. See Underhill v. Hernandez, 168 U.S. 250, 252 (1897) (recognizing "[t]he immunity of individuals from suits brought in foreign tribunals for acts done within their own states, in the exercise of governmental authority . . . as civil officers"); Matar v. Dichter, 563 F.3d 9, 14 (2d Cir. 2009) (recognizing that foreign officials are entitled to immunity for acts performed in their official capacity).

Specifically, the Israeli Officials are eleven registrars or directors of Israel's Enforcement and Collection Authority, a retired Israeli judge, and Israel's former Minister of Justice and Foreign Affairs. Plaintiffs allege that these officials created fictious debts, impeded the payment of debts, and engaged in other similar misconduct while operating under color of Israeli law. Even assuming the officials' challenged conduct was improper under Israeli

law, there is no doubt that the conduct was official in nature. See Larson v. Domestic & Foreign Commerce Corp., 337 U.S. 682, 689-90 (1949) (distinguishing between an official's erroneous exercise of power, which is protected by sovereign immunity, and an official's acts taken in the absence of any delegated power, which are not so 6 protected); Velasco v. Gov 't Of Indonesia, 370 F.3d 392, 399 (4th Cir. 2004) (recognizing that foreign sovereign immunity, including foreign official immunity, "models federal common law relating to derivative U.S. sovereign immunity"). Accordingly, the Israeli Officials are entitled to foreign official immunity.

With respect to the remaining defendants, the district court held that Plaintiffs failed to satisfy the domestic injury requirement of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1964(c), or identify any requisite predicate acts of racketeering activity, id. § 1962(b)-(c). See Appellants' App'x. at 211-14. In addition, the district court held there is no private right of action that allows for Plaintiffs' claims of aiding and abetting a RICO violation, extortion, and mail fraud against defendants in the circumstances here. Id. at 11-12. For substantially the reasons set forth by the district court in its December 28, 2017 order, we conclude that Plaintiffs failed to state a plausible claim for relief as to these defendants as well.

As Judge Pauley correctly concluded, Plaintiffs' allegations that they suffered personal injuries, rather than "injur[ies] to business or property," do not state a cognizable civil RICO claim, Bascunan v. Elsaca, 874 F.3d 806, 817 (2d Cir. 7 2017), and Plaintiffs' allegations that they suffered business-related injuries fall short because the alleged injuries lack the requisite connection to Plaintiffs' domestic property or financial interests, see id. at 819. Plaintiffs' claims of extortion, mail fraud, and aiding and abetting a RICO violation fail as well. With respect to

the extortion claim, Plaintiffs have not identified a private cause of action under either federal or state law, and the Court is not aware of one. See Wisdom v. First Midwest Bank, of Poplar Bluff, 167 F.3d 402, 408-09 (8th Cir. 1999) (holding that there is no private cause of action under the federal extortion statute, 18 U.S.C. § 1951); Minnelli v. Soumayah, 839 N.Y.S.2d 727, 728 (N.Y. App. Div. 2007) ("[E]xtortion and attempted extortion are criminal offenses [under New York law] that do not imply a private cause of action." (citations omitted)). Similarly, there is no private cause of action under the federal mail fraud statutes cited in the amended complaint, Official Publ'ns, Inc. v. Kable News Co., 884 F.2d 664, 667 (2d Cir. 1989), or for aiding and abetting a civil RICO violation, see Penn. Ass'n of Edwards Heirs v. Reightenour, 235 F.3d 839, 843-44 (3d Cir. 2000). Thus, we affirm the district court's dismissal of Plaintiffs' claims under Rule 12(b)(6).

II. Anti-Filing Injunction

We also hold that the district court did not abuse its discretion in barring Weisskopf and Eliahu from filing future related actions against defendants without its permission. See Gollomp v. Spitzer, 568 F.3d 355, 368 (2d Cir. 2009) ("We review all aspects of a district court's decision to impose sanctions . . . for abuse of discretion." (citation omitted)). In determining whether to restrict a litigant's future ability to sue, a court must consider "whether a litigant who has a history of vexatious litigation is likely to continue to abuse the judicial process and harass other parties." Safir v. U.S. Lines, Inc., 792 F.2d 19, 24 (2d Cir. 1986); see also Richardson Greenshields Sec., Inc. v. Mui-Hin Lau, 825 F.2d 647, 652 (2d Cir. 1987) (explaining that "[a]bsent extraordinary circumstances, such as a demonstrated history of frivolous and vexatious litigation," a court has no power to prevent parties from filing legal documents authorized by the federal rules). We have identified the following factors to be considered in

deciding whether to impose an anti-filing injunction:

> (1) the litigant's history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation, e.g., does the litigant have an objective good faith expectation of prevailing?; (3) whether the litigant is represented by counsel; (4) whether the litigant has 9 caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties.

Iwachiw v. N.Y. State Dep't of Motor Vehicles, 396 F.3d 525, 528 (2d Cir. 2005) (per curiam) (quoting Safir, 792 F.2d at 24).

Here, the district court determined that the first, second, and fourth factors weighed in favor of issuing an anti-filing injunction against Weisskopf and Eliahu: their history of vexatious litigation; their improper motives for pursuing the litigation; and the expense to defendants and burden on the courts. See Appellants' App'x at 217-18. We agree with the district court's assessment as to those three factors, and we additionally conclude that the third and fifth factors also weigh against lifting the anti-filing injunction as to both Weisskopf and Eliahu.

First, we agree that Weisskopf has a demonstrable history of vexatious and baseless litigation against defendants. Id. Prior to this action, Plaintiffs, led by Weisskopf, filed twelve other actions in either federal or state courts throughout the United States[1]. Eliahu does not

1 See Weisskopf v. Marcus, 695 F. App'x 977 (7th Cir. 2017); Eliahu v. Israel, 659 F. App'x 451 (9th Cir. 2016); Ben-Haim v. Neeman, 543 F. App'x 152 (3d Cir. 2013) (per curiam); Weisskopf v. Jerusalem Found., No. 18-cv-5557 (N.D. Ill. Jan. 14, 2019); Ben-Haim v. Avraham, No. 15-cv-6669, 2016 WL 4621190 (D.N.J. Sept. 6, 2016); Ettiben-Issaschar v.

have the same history as he has only been involved in one of the prior thirteen actions. There is not, however, a strict numerosity requirement that must be met before a district court may exercise its discretion to enjoin a litigant from filing future actions. Rather, the court must consider the record as a whole and the likelihood that the litigant will continue to abuse the judicial process. See Safir, 792 F.2d at 24. In this case, the record contains several indications that Eliahu is likely to engage in further harassing, duplicative, and vexatious litigation against these defendants. As he recently lost in the Northern District of California and on appeal in the Ninth Circuit, Eliahu v. Israel, No, 14-cv-1636, 2015 WL 981517 (N.D. Cal. Mar. 3, 2015), aff'd, 659 F. App'x 451 (9th Cir. 2016), Eliahu was acutely aware that his claims lacked merit. Moreover, Eliahu added his name to the amended complaint in this action, which tracks -- verbatim -- the complaints dismissed in Plaintiffs' prior actions. As the district court observed, "[a]ll of [Weisskopf's and Eliahu's] cases are virtually carbon copies of one another . . . depict[ing] the same story, grievances, and requests for relief that federal courts in the United States are not ELI Am. Friends, No. 14-cv-5527 (E.D. Pa. Nov. 5, 2014); Issaschar v. ELI Am. Friends, No. 13-cv-2415, 2014 WL 716986 (E.D. Pa. Feb. 25, 2014); Weisskopf v. Jewish Agency for Israel, Inc., No. 12-cv-6844 (S.D.N.Y. Apr. 30, 2013); Weisskopf v. Neeman, No. 11-cv-665 (W.D. Wis. Mar. 20, 2013); Weisskopf v. United

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ELI Am. Friends, No. 15-cv-6441, 2016 WL 97682 (E.D. Pa. Jan. 7, 2016); Issaschar v. ELI Am. Friends, No. 14-cv-5527 (E.D. Pa. Nov. 5, 2014); Issaschar v. ELI Am. Friends, No. 13-cv-2415, 2014 WL 716986 (E.D. Pa. Feb. 25, 2014); Weisskopf v. Jewish Agency for Israel, Inc., No. 12-cv-6844 (S.D.N.Y. Apr. 30, 2013); Weisskopf v. Neeman, No. 11-cv-665 (W.D. Wis. Mar. 20, 2013); Weisskopf v. United Jewish Appeal-Fed'n of Jewish Philanthropies of N.Y., Inc., 889 F. Supp. 2d 912 (S.D. Tex. 2012); Ben-Haim v. Edri, 183 A.3d 252 (N.J. Super. Ct. App. Div. 2018).

Jewish Appeal- Fed'n of Jewish Philanthropies of N.Y., Inc., 889 F. Supp. 2d 912 (S.D. Tex. 2012); Ben-Haim v. Edri, 183 A.3d 252 (N.J. Super. Ct. App. Div. 2018). 11 authorized to grant." Appellants' App'x at 217. In these circumstances, Eliahu should not get a "pass" merely because he has filed only one prior lawsuit.

Second, the district court did not err in determining that Weisskopf and Eliahu lacked an objective good faith expectation of prevailing. They were unsuccessful with their claims and defenses in Israel, and yet they came to the United States continuing to press their claims. The dismissal of similar, if not identical, prior actions underscores that both Weisskopf and Eliahu had little, if any, good faith basis for believing they could prevail on their claims. See Iwachiw, 396 F.3d at 529 (upholding anti-filing injunction on appeal entered against plaintiff who brought a similar prior appeal).

With respect to the fourth factor, defendants have continually been forced to defend frivolous lawsuits at not insignificant costs and the courts have been burdened with adjudicating these repeating claims. Appellants' App'x at 217-18. Weisskopf, in particular, has repeatedly sued the Israeli Officials across the United States despite decisions from several courts holding that they lack jurisdiction over these foreign defendants. Likewise, Eliahu has now asserted his meritless claims in four courts -- the Northern District of California, the Ninth 12 Circuit, the Southern District of New York, and now this Circuit -- forcing defendants to defend themselves on both coasts.

While the district court did not discuss the third and fifth factors, we conclude that they also weigh against vacating the anti-filing injunction against Weisskopf and Eliahu. In considering a litigant's status, we have recognized that pro se litigants, in many cases, are entitled to special solicitude, but we have not altogether "excuse[d] frivolous or vexatious filings by pro se litigants." Triestman

v. Fed. Bureau of Prisons, 470 F.3d 471, 477 (2d Cir. 2006) (per curiam) (citation omitted); Iwachiw, 396 F.3d at 529 n.1 (recognizing that pro se complaints are reviewed using less stringent standards but rejecting the suggestion that ordinary procedural rules in civil litigation should excuse mistakes or frivolous or vexatious filings of pro se litigants). While Plaintiffs filed the amended complaint pro se, evidently they had assistance from counsel. The document plainly appears to have been drafted by, or with the assistance of, an attorney, and Plaintiffs, including Weisskopf and Eliahu, engaged counsel to represent them in arguing against defendants' motion to dismiss. On appeal, Weisskopf is represented by the same counsel and Eliahu proceeds pro se. Thus, at varied stages in this litigation, Eliahu and Weisskopf have received the assistance of 13 counsel. See Iwachiw, 396 F.3d at 529 (noting that "plaintiff appeared pro se below, while four groups of defendants each incurred the expense of being represented by counsel" in considering the parties' respective burdens). We find no basis to afford either Weisskopf or Eliahu the latitude usually granted to pro se litigants.

Finally, as to the fifth factor, we conclude that other sanctions against Weisskopf and Eliahu would be inadequate. Both complain of monetary injuries caused by Israeli judgments against them, but they clearly have the resources to pay the filing fees in actions against defendants in Israel and across the United States. Regardless of the precise details of Plaintiffs' financial circumstances, however, the record demonstrates that monetary sanctions are unlikely to dissuade them from continuing their litigation campaign. Thus, we affirm the district court's order enjoining both Weisskopf and Eliahu from filing future, related actions without its permission.

CONCLUSION

Accordingly, the orders of the district court dismissing this action for lack of subject matter and failure to state a claim and imposing the anti-filing injunction are **AFFIRMED**. Further, we assess double costs against Weisskopf and Eliahu under Federal Rule of Appellate Procedure 38 and this Court's inherent authority.

APPENDIX B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOTAN NEWMAN, *et al.*,	:	
Plaintiffs,	:	16-cv7593
	:	AMENDED
OPINION		: AND ORDER
-against-	:	
	:	
JEWISH AGENCY FOR ISRAEL, *et al.*,	:	
Defendants.	:	

WILLIAM H. PAULEY III, United States District Judge:

Defendants Jewish Agency for Israel, et al., move to dismiss Plaintiffs' amended complaint. For the reasons that follow, Defendants' motion to dismiss is granted.

BACKGROUND

The operative facts stem exclusively from proceedings in Israel. Plaintiffs are a group of seven divorced fathers who allege that they are victims of a conspiracy orchestrated by former and current Israeli government officials and a number of charities. Plaintiffs allege they were injured in various ways, ranging from wage garnishment to restrictions on their travel.

Distilling the allegations in the amended complaint ("Complaint"), which are accepted as true for purposes of this motion, the mechanics of the conspiracy unfold in the following manner: an Israeli family court enters an order related to the dissolution of a Plaintiff's marriage—usually for alimony and/or child support—imposing a financial obligation on that Plaintiff. The agency responsible for collecting payment on such obligations—the Debt Collections Office in Israel—"wrongfully refuse[s] to accept

[the] payments . . . and arbitrarily and capriciously," absent judicial approval, changes the amount owed and charges excessive fines resulting from a failure to pay the modified balance. (Amended Complaint ("Compl."), ECF No. 40, ¶ 8(b).) Israeli officials from various levels of the government (the "Israeli Officials") either control, oversee, or facilitate the Debt Collections Office's efforts to unlawfully collect these "arbitrary and excessive debts." (Compl. ¶ 45.)

As Plaintiffs' debts grow, the Debt Collections Office deploys a number of coercive tactics to obtain payment, ranging from making false arrests to threatening Plaintiffs' family members. (Compl. ¶ 8(b).) When Plaintiffs fail or refuse to pay these debts, they face severe consequences: an order freezing their bank accounts and credit cards, garnishment of theirwages, imposition of excessive interest rates, issuance of stop-travel orders prohibiting them from traveling outside of Israel, and revocation of their driver's licenses. To add insult to injury, Plaintiffs are cast as "deadbeat dads" and "abusive fathers" solely because of their failure to honor their financial obligations.

Another part of the conspiracy involves actions taken by various Jewish or Christian fundraising organizations and individuals (the "Fundraising Defendants"). According to the Complaint, the Fundraising Defendants offer money and services to Plaintiffs' ex-wives in exchange for their agreement to assert "false claims and [ ] false allegations against their exhusbands
relating to their payment of spousal and child support." (Compl. ¶ 58.) The filing of these complaints authorizes the Debt Collections Office to "manipulat[e] the amounts of the spousal and child support owed [by Plaintiffs] and thereby provide examples for the Fundraising Defendants to raise funds." (Compl. ¶ 59.) Those examples—"deadbeat" fathers who have abandoned their child support obligations—are prominently advertised on billboards and through communications soliciting donations on behalf of the

Fundraising Defendants' organizations.

As a result of their ex-wives' complaints, Plaintiffs lose custody of their children. (See e.g., Compl. ¶¶ 8, 95.) Consequently, their children are placed into childcare services managed by the Fundraising Defendants who profit from these arrangements. To maintain this lucrative scheme, the Fundraising Defendants interfere with Plaintiffs' subsequent attempts to regain custody.

Plaintiffs assert six separate causes of action against the Israeli Officials and Fundraising Defendants: (1) negligent infliction of emotional distress; (2) intentional infliction of
emotional distress; (3) aiding and abetting violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO"); (4) violations of RICO; (5) extortion; and (6) mail fraud.

DISCUSSION

I. Standard

To survive a motion to dismiss, the complaint must plead "enough facts to state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). A "plausible" claim is "more than a sheer possibility that a defendant has acted unlawfully" but is less than a "probability requirement." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). "With regard to pro se complaints, the court construes the complaint liberally, accepting
all factual allegations in the complaint as true, and drawing all reasonable inferences in the plaintiff[s'] favor."[1] Jackson

1 Plaintiffs commenced this action pro se and represented themselves in that capacity through the initial pretrial conference, amendment of their Complaint, and opposition to Defendants' motion to dismiss. At the eleventh hour before oral argument on this motion, however, an attorney appeared on their behalf, explaining that he would represent them solely for purposes of arguing their opposition to the motion to dismiss. Notwithstanding counsel's belated appearance,

v. Cnty. of Rockland, 450 F. App'x. 15, 18 (2d Cir. 2011).

II. Subject Matter Jurisdiction

Dismissal for lack of subject matter jurisdiction is proper "when the district court lacks the statutory or constitutional power to adjudicate [the claims]." Makarova v. United States, 201 F.3d 110, 113 (2d Cir. 2000). Under the common law, an individual foreign official is entitled to immunity for acts performed in his official capacity. Samantar v. Yousuf, 560 U.S. 305, 324 (2010); Weiming Chen v. Ying-jeou Ma, 2013 WL 4437607, at *3 (S.D.N.Y. Aug. 19, 2013).

Here, all of the Israeli Officials' acts were taken in their capacities as government officials. The Complaint alleges that the Israeli Officials entered illegal orders, made extrajudicial demands, arbitrarily altered amounts owed, and assessed improper fees against Plaintiffs. (Compl. ¶ 45.) The Israeli Officials also issued arrest warrants, froze bank accounts, and garnished wages. (Compl. ¶¶ 106, 138, 210, 222.) Each of these actions represent official conduct taken in response to Plaintiffs' apparent failure to comply with their child and spousal support obligations. The authority to take such actions arises directly from their positions as
government officials tasked with overseeing the Debt Collections Office, enforcing the child and spousal support orders, and providing judicial recourse for unpaid debts.

Plaintiffs characterize these actions as wrongful and illegal, but such slights do not render the acts any less official.[2] See, e.g., In re Terrorist Attacks on Sept. 11, 2001, 122 F. Supp. 3d 181, 189 (S.D.N.Y. 2015) ("Such an

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this Court construes the Plaintiffs' pleadings and papers under the liberal standard typically afforded to pro se litigants.

2. Nor do Plaintiffs allege that these acts amounted to a violation of a jus cogen norm that might vitiate the Israeli Officials' claim of immunity. See Omari v. Ras Al Khaimah Free Trade Zone Auth., 2017 WL 3896399, at *10 (S.D.N.Y. Aug. 18, 2017).

assertion is merely an artful way of implicating the jus cogens doctrine," which is "not a limitation to a foreign official's right to immunity in U.S. courts where, as here, that official acted in his official capacity."). Indeed, if Plaintiffs
could hurdle immunity simply by alleging that the acts were illegal, "such a rule would eviscerate the protection of foreign official immunity and would contravene federal law on foreign official immunity." Giraldo v. Drummond Co., Inc., 808 F. Supp. 2d 247, 250 (D.D.C. 2011). The dispositive question is whether the defendant was a government official authorized to take the actions at issue here. The Israeli Officials—as bureaucrats tasked with overseeing the Debt Collections Office and judges empowered to remedy delinquencies associated with divorce decrees—are entitled to immunity because their actions were taken through official channels "presumptively in furtherance of [the] enforcement of [Israel's] laws." Omari, 2017 WL 3896399, at *10. Without any basis for the exercise of subject matter jurisdiction, Defendants' motion to dismiss the claims against the Israeli Officials is granted.

III. Personal Jurisdiction

While lack of subject matter jurisdiction suffices to dispose of the claims against the Israeli Officials, it bears noting that there also is no basis to exercise personal jurisdiction. "Determining personal jurisdiction over a foreign defendant in a federal-question case such as this requires a two-step inquiry. First [the court] look[s] to the law of the forum state to determine whether personal jurisdiction will lie. If jurisdiction lies, [the court] consider[s]
whether the district court's exercise of personal jurisdiction over a foreign defendant comports with due process protections established under the United States Constitution." Licci ex rel.

Licci v. Lebanese Canadian Bank, SAL, 732 F.3d 161, 168 (2d Cir. 2013).

New York's C.P.L.R. § 302 applies to jurisdiction over non-domiciliaries. Under C.P.L.R. § 302(a), a court may exercise personal jurisdiction over any non-domiciliary who, either "in person or through an agent": (i) "transacts any business within the state or contracts anywhere to supply goods or services in the state"; (ii) "commits a tortious act within the state"; (iii) "commits a tortious act without the state causing injury to person or property within the state . . . if he [a] regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in the state, or [b] expects or should reasonably expect the act to have consequences in the state and derives substantial revenue from interstate or international commerce"; or (iv) "owns, uses or possesses any real property situated within the state." N.Y. C.P.L.R. § 302(a)(1)–(4).

None of the scenarios set forth in § 302(a) apply here. With the exception of a single, unsubstantiated reference to Defendant Livni's residence in Brooklyn, the Complaint is bereft of any allegation connecting the Israeli Officials to the State of New York. Even if Plaintiffs sought to use Livni's Brooklyn residence as a hook for jurisdiction under C.P.L.R. § 302(a)(4), such an attempt would fail because they must demonstrate "a relationship between the property and the cause of action sued upon." Lancaster v. Colonial Motor Freight Line, Inc., 177 A.D. 2d 152, 159 (N.Y. App. Div. 1st Dep't 1992). The underlying allegations lack any nexus to Livni's home in Brooklyn.

Moreover, an exercise of personal jurisdiction would not comport with constitutional due process. The Complaint makes no showing of the minimum contacts necessary to "justify the court's exercise of personal jurisdiction" over any of the Defendants.

Elsevier, Inc. v. Grossman, 77 F. Supp. 3d 331, 347 (S.D.N.Y. 2015). Even under a liberal construction, Plaintiffs' allegations fall woefully short of establishing that the Israeli Officials "purposefully avail[ed] [themselves] of the privilege of conducting activities" within New York, thus "invoking the benefits and protections of its laws . . . such that [they] should reasonably anticipate being haled into court" here. Best Van Lines, Inc. v. Walker, 490 F.3d 239, 242 (2d Cir. 2007) (quoting Burger King Corp. v. Rudzewicz, 471 U.S. 462, 474–75 (1985)).

Additionally, maintaining jurisdiction over Israeli Officials would be unreasonable. Their actions—which form the primary basis for the requested relief in this action—were taken exclusively in Israel in the course of their duties as current and former government officials. Compelling these defendants to litigate Plaintiffs' claims in New York would impose excessive burdens. Nor could Plaintiffs litigate this action anywhere else in the United States because no state has an interest in adjudicating this case. See Asahi Metal Indus. Co. v. Superior Court, 480 U.S. 102, 113–14 (1987).

The federal grounds for jurisdiction are equally unavailing. The RICO statute does not, by itself, confer personal jurisdiction. Laborers Local 17 Health & Ben. Fund v. Philip Morris, Inc., 26 F. Supp. 2d 593, 601 (S.D.N.Y. 1998) ("Plaintiffs asserting RICO claims against foreign defendants must rely on the long-arm statute of the state in which they filed suit."). And the federal long arm statute, under Rule 4(k)(2), provides no basis for jurisdiction on the facts alleged in the Complaint. While the rule authorizes personal jurisdiction for federal claims if doing so is "consistent with the United States Constitution," Plaintiffs' failure to establish minimum contacts and the reasonableness of exercising jurisdiction under C.P.L.R. § 302 extends with equal force

to the federal long arm statute. BMW of N. Am. LLC v. M/V Courage, 2017 WL 2223052, at *3 (S.D.N.Y. May 19, 2017) (requiring sufficient contacts with the United States as a whole); Porina v. Marward Shipping Co., 521 F.3d 122, 127 (2d Cir. 2008) (courts must consider whether "the assertion of personal jurisdiction is reasonable under the circumstances of the particular case"). Accordingly, all of Plaintiffs' claims against the Israeli Officials are also dismissed for lack of personal jurisdiction.

IV. Civil RICO

Plaintiffs assert a civil RICO claim against both the Israeli Officials and the Fundraising Defendants. Because all claims against the Israeli Officials are dismissed for lack of subject matter and personal jurisdiction, this Court focuses its analysis on the civil RICO claim as it pertains to the Fundraising Defendants.

Relief under the civil RICO statute is appropriate if the Plaintiffs can establish: (1) that they suffered an injury to business or property; (2) that their injury is a domestic one; and (3) that the injury was proximately caused by the defendants' violation of 18 U.S.C. § 1962. See 18 U.S.C. § 1964(c). The third requirement—violations of 18 U.S.C. § 1962—lays out the elements of a substantive RICO violation, including (1) that defendants were employed by, or associated with, an enterprise affecting interstate commerce; and (2) that they participated in the conduct of the enterprise's affairs through at least two predicate acts of racketeering activity. See 18 U.S.C. § 1962(b)–(c).

Plaintiffs' civil RICO claim fails at the first step—alleging facts to show a domestic injury to business or property. As an initial matter, it is difficult to discern the exact nature of Plaintiffs' injury. Plaintiffs allege a plethora

of injuries resulting from the Fundraising Defendants' activities—harassment, garnishment, personal injuries, false arrest, and asset freezes, among others. But only injuries to business or property are covered by the RICO statute. Bascunan v. Elsaca, 874 F.3d 806, 817 (2d Cir. 2017) ("A plaintiff bringing a civil RICO claim must allege an injury to his 'business or property'; he cannot, for example, recover for 'personal injuries.'"). Therefore, to the extent the Plaintiffs seek relief for "personal injury or harassment, not damage to business or property," their RICO claims fail on grounds that such injuries are "not [of] the sort . . . cognizable under RICO." Savine–Rivas v. Farina, 1992 WL 193668, at *3 (E.D.N.Y. Aug. 4, 1992); see also Burdick v. Am. Exp. Co., 865 F.2d 527, 529 (2d Cir. 1989) (interference with business and ability to earn living are "type[s] of harm [that are] simply too remotely related to the predicate acts of mail and securities fraud to support a claim under RICO").

But even the alleged injuries to business or property fail to make out a RICO injury because they are not domestic injuries. For example, the Complaint alleges that Defendants "took all the money in [Plaintiff Weisskopf's] bank account[,] intentionally leaving a negative balance in his bank account" without making any reference to the account's location. (Compl. ¶ 136.) Plaintiffs vaguely allude to other bank and financial accounts throughout the Complaint. (See e.g., Compl. ¶¶ 152, 176, 188, 196, 207, 210, 213.) From what this Court can gather, the thrust of Plaintiffs' grievance is that the Defendants' actions saddled them with outsized debts arising from fictitious orders that ultimately forced them to liquidate their assets leaving them in dire financial straits. But while "injury to tangible

property is generally a domestic injury only if the property was physically located in the United States," the Plaintiffs offer no specific allegations concerning where their accounts were located or used. Bascunan, 874 F.3d at 819.

Moreover, to the extent that Plaintiffs seek to establish a domestic connection by alleging that some of the Fundraising Defendants located in the United States made off with illicit proceeds derived from Plaintiffs' assets, the "only domestic connections alleged here were acts of the defendant[s]." Bascunan, 874 F.3d at 819 (emphasis original). It improperly turns the focus on the location of the Defendants, and not, as it should, on the location of Plaintiffs' property or financial interests. Bascunan, 874 F.3d at 819.

Finally, the civil RICO claim fails because the Plaintiffs have not sufficiently established the requisite predicate acts. The Complaint ticks off more than a dozen criminal acts, ranging from financial institution fraud to slavery, but "RICO claims must be pled with specificity." Jet One Grp., Inc. v. Halcyon Jet Holdings, Inc., 2009 WL 2524864, at *4 (E.D.N.Y. Aug. 14, 2009). The Complaint is particularly deficient with respect to predicate acts pertaining to fraud, since those acts "must be pled in accordance with the higher pleading requirements of Rule 9(b)." Morrow v. Black, 742 F. Supp. 1199, 1203 (E.D.N.Y. 1990). But beyond alleging in conclusory fashion that the Defendants devised a fraud using the mails and wires, the Complaint offers scant detail on the defendants, the communications, and the purpose or substance of such communications to meet the heightened standard under which mail fraud or wire fraud may be alleged as predicate acts. Rivera v. Golden Nat. Mortg. Banking Corp., 2005 WL 1514043, at *3 (S.D.N.Y. June 27, 2005) ("Plaintiff

states broadly that Defendants . . . engaged in a secret scheme of conduct . . . but neglects to include names, dates or even allege use of the mails or a telephone."); Wexner v. First Manhattan Co., 902 F.2d 169, 172–73 (2d Cir. 1990) (claim of mail or wire fraud must specify the content, date, and place of any alleged misrepresentation and identity of persons making them).

Mathon v. Feldstein, 303 F. Supp. 2d 317 (E.D.N.Y. 2004), is instructive to the extent it involved a civil RICO claim asserted by a pro se plaintiff who actually alleged with some specificity (more than the Plaintiffs here) the facts underlying the mail and wire fraud predicate acts. But even so, that court found such allegations insufficient because the plaintiff failed "to set forth the content of the items mailed and specify how each of the items were false and misleading," or to "identify the dates that the[] alleged conversations [took] place, where the phone calls [or emails] took place and that during these phone calls [or email communications], the defendants knowingly made false representations to the plaintiff." Mathon, 303 F. Supp. 2D at 323–24. Even under a liberal construction of the Complaint, Plaintiffs similarly fail to allege with sufficient specificity the predicate acts to their RICO claim.

Accordingly, the civil RICO claim against the Fundraising Defendants is dismissed.

V. No Private Right of Action

Plaintiffs assert a number of claims to which there are no private rights of action. Each claim is addressed in turn.

A. Aiding and Abetting a RICO Violation

The Complaint alleges a claim for aiding and abetting a RICO violation against the Fundraising Defendants. However, it has long been held by courts in this District and across the country that "there is no

private right of action for aiding and abetting a RICO violation." Goldfine v. Sichenzia, 118 F. Supp. 2d 392, 406 (S.D.N.Y. 2000) (citing LaSalle Nat'l Bank v. Duff & Phelps Credit Rating Co., 951 F. Supp. 1071, 1088–89 (S.D.N.Y. 1996)). Accordingly, Count Three of the Complaint is dismissed.

B. Extortion

Plaintiffs assert an extortion claim against both the Israeli Officials and the Fundraising Defendants. But extortion is a criminal offense and may not be converted into a private civil cause of action. Williams v. Jurow, 2007 WL 5463418, at *13 (S.D.N.Y. June 29, 2007) (There "is no private right of action under the federal extortion statute."). In fact, under New York law, "such claim is patently frivolous as extortion is a criminal offense, and may not be pled as a separate cause of action in a civil case." Naples v. Stefanelli, 972 F. Supp. 2D 373, 401 (E.D.N.Y. 2013). Accordingly, Count Five of the Complaint is dismissed.

C. Mail Fraud

Plaintiffs' final cause of action alleged in the Complaint is a claim for mail fraud pursuant to 18 U.S.C. §§ 1341 and 1343 against the Fundraising Defendants. But as with the prior claims, a mail fraud claim is not actionable as a private cause of action. The mail fraud statute is a "bare criminal statute with no indication of any intent to create a private cause of action, in either the section in question or any other section." Brandstetter v. Bally Gaming, Inc.,
2012 WL 4173193, at *6 (E.D.N.Y. Aug. 23, 2012).
Accordingly, Count Six of the Complaint is dismissed.

VI. Pre-Suit Injunction

In addition to dismissal, Defendants seek a "finding that [Plaintiffs'] claims are frivolous and an order barring Messrs. Weisskopf and Eliahu from filing future lawsuits without the Court's prior authorization." (Def. Memo. of

Law in Support of Motion to Dismiss, ECF No. 89, at 33.) "When a plaintiff files repeated lawsuits involving the same nucleus of operative facts, a district court has the inherent power to enjoin him from filing vexatious lawsuits in the future." Lacy v. Principi, 317 F. Supp. 2d 444, 449 (S.D.N.Y. 2004) (citing Malley v. N.Y. City Bd. of Educ., 112 F.3d 69, 69 (2d Cir. 1997)).

Relevant factors to consider include: (1) the litigant's history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation, e.g., whether the litigant has an objective good faith expectation of prevailing; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expenses to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties. Safir v. U.S. Lines, Inc., 792 F.2d 19, 24 (2d Cir. 1986). "Ultimately, the question the court must answer is whether a litigant who has a history of vexatious litigation is likely to continue to abuse the judicial process and harass other parties." Safir, 792 F.2d at 24.

The two plaintiffs here—Weisskopf and Eliahu—are not first-time litigants. Weisskopf previously filed a raft of other lawsuits, all of which have alleged claims predicated on facts substantially similar to the ones here, throughout the country including a second one in this District. Weisskopf v. Neeman, No. 11 Civ. 665 (W.D. Wisc. Mar. 20, 2013); Weisskopf v. United Jewish Appeal–Fed'n of Jewish Philanthropies of N.Y., Inc., 889 F. Supp. 2d 912 (S.D. Tex. 2012); Weisskopf v. Jewish Agency for Israel, Inc., No. 12 Civ. 6844 (S.D.N.Y. Apr. 30, 2013); Weisskopf v. Marcus, No. 16 Civ. 6381 (N.D. Ill. 2016). Eliahu filed a similar action in the Northern District of California which was dismissed before he commenced this action. Eliahu v. State of Israel, No. 14 Civ. 1636, 2015 WL 981517 (N.D. Cal. Mar.

3, 2015), aff'd, 659 F. App'x. 451 (9th Cir. Nov. 2, 2016).

Three factors weigh in favor of the injunctive relief sought by Defendants. First, there is a clear history of vexatious litigation, especially with regard to Weisskopf. In one case, the Western District of Wisconsin chastised Weisskopf for the "spurious, abusive nature of [his] repeated, failed efforts to invoke federal court jurisdiction in the United States over what is essentially an Israeli family-law dispute." Neeman, No. 11 Civ. 665, slip op. at 20. Eliahu, on the other hand, had the appeal in his only other action summarily dismissed by the Ninth Circuit. All of their cases are virtually carbon copies of one another—they depict the same story, grievances, and requests for relief that federal courts in the United States are not authorized to grant.

Second, Weisskopf and Eliahu's motives in pursuing this litigation are quite clear. Having achieved minimal success in Israel, they seek to find any forum in the United States that will entertain any one of their claims. The RICO statute's treble damages provides an extra layer of incentive, but also carves out a path to bypass Israel's ostensibly less generous remedial regimes. RJR Nabisco, 136 S. Ct. at 1206–07. However, their motive in bringing essentially the same lawsuit time and again is misguided because each successive action diminishes the likelihood that they will prevail.

Third, the Defendants have had to incur the necessary expense of defending these baseless lawsuits. These are not insignificant costs. Even if a future lawsuit contains claims that are so meritless that it is considered dead on arrival, Defendants nevertheless must retain counsel and incur the time and cost of defending even the most frivolous claims in federal court. They should be spared from that burden given the spate of cases —including those filed by other parties who are not

plaintiffs here—that have roundly been rejected by courts across the country.
See, e.g., Issaschar v. ELI Am. Friends of Israel Ass'n for Child Prot., Inc., No. 13 Civ. 2415 (E.D. Pa. 2014); Issaschar v. ELI Am. Friends of the Israel Ass'n for Child Prot., Inc., No. 15
Civ. 6441 (E.D. Pa. 2016).

Accordingly, Plaintiffs Weisskopf and Eliahu are enjoined from filing lawsuits in the future without this Court's prior authorization.

CONCLUSION

For the foregoing reasons, Defendants' motion to dismiss this action is granted.

Dated: December 28, 2017
New York, New York

SO ORDERED:

s/
WILLIAM H. PAULEY III
U.S.D.J.

APPENDIX C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOTAN NEWMAN, *et al.*,	:	
Plaintiffs,	:	16-cv7593
	:	OPINION
	:	AND ORDER
-against-	:	
	:	
JEWISH AGENCY FOR ISRAEL, *et al.*,	:	
Defendants.	:	

WILLIAM H. PAULEY III, United States District Judge:

Defendants Jewish Agency for Israel, et al., move to dismiss Plaintiffs' amended complaint. For the reasons that follow, Defendants' motion to dismiss is granted.

BACKGROUND

The operative facts stem exclusively from proceedings in Israel. Plaintiffs are a group of seven divorced fathers who allege that they are victims of a conspiracy orchestrated by former and current Israeli government officials and a number of charities. Plaintiffs allege they were injured in various ways, ranging from wage garnishment to restrictions on their travel.

Distilling the allegations in the amended complaint ("Complaint"), which are accepted as true for purposes of this motion, the mechanics of the conspiracy unfold in the following manner: an Israeli family court enters an order related to the dissolution of a Plaintiff's marriage—usually for alimony and/or child support—imposing a financial obligation on that Plaintiff. The agency responsible for collecting payment on such obligations—the Debt Collections Office in Israel—"wrongfully refuse[s] to accept

[the] payments . . . and arbitrarily and capriciously," absent judicial approval, changes the amount owed and charges excessive fines resulting from a failure to pay the modified balance. (Amended Complaint ("Compl."), ECF No. 40, ¶ 8(b).) Israeli officials from various levels of the government (the "Israeli Officials") either control, oversee, or facilitate the Debt Collections Office's efforts to unlawfully collect these "arbitrary and excessive debts." (Compl. ¶ 45.)

As Plaintiffs' debts grow, the Debt Collections Office deploys a number of coercive tactics to obtain payment, ranging from making false arrests to threatening Plaintiffs' family members. (Compl. ¶ 8(b).) When Plaintiffs fail or refuse to pay these debts, they face severe consequences: an order freezing their bank accounts and credit cards, garnishment of theirwages, imposition of excessive interest rates, issuance of stop-travel orders prohibiting them from traveling outside of Israel, and revocation of their driver's licenses. To add insult to injury, Plaintiffs are cast as "deadbeat dads" and "abusive fathers" solely because of their failure to honor their financial obligations.

Another part of the conspiracy involves actions taken by various Jewish or Christian fundraising organizations and individuals (the "Fundraising Defendants"). According to the Complaint, the Fundraising Defendants offer money and services to Plaintiffs' ex-wives in exchange for their agreement to assert "false claims and [ ] false allegations against their exhusbands
relating to their payment of spousal and child support." (Compl. ¶ 58.) The filing of these complaints authorizes the Debt Collections Office to "manipulat[e] the amounts of the spousal and child support owed [by Plaintiffs] and thereby provide examples for the Fundraising Defendants to raise funds." (Compl. ¶ 59.) Those examples—"deadbeat" fathers who have abandoned their child support obligations—are prominently advertised on billboards and through communications soliciting donations on behalf of the

Fundraising Defendants' organizations.

As a result of their ex-wives' complaints, Plaintiffs lose custody of their children. (See e.g., Compl. ¶¶ 8, 95.) Consequently, their children are placed into childcare services managed by the Fundraising Defendants who profit from these arrangements. To maintain this lucrative scheme, the Fundraising Defendants interfere with Plaintiffs' subsequent attempts to regain custody.

Plaintiffs assert six separate causes of action against the Israeli Officials and Fundraising Defendants: (1) negligent infliction of emotional distress; (2) intentional infliction of
emotional distress; (3) aiding and abetting violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO"); (4) violations of RICO; (5) extortion; and (6) mail fraud.

DISCUSSION

I. Standard

To survive a motion to dismiss, the complaint must plead "enough facts to state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). A "plausible" claim is "more than a sheer possibility that a defendant has acted unlawfully" but is less than a "probability requirement." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). "With regard to pro se complaints, the court construes the complaint liberally, accepting
all factual allegations in the complaint as true, and drawing all reasonable inferences in the plaintiff[s'] favor."[1] Jackson

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1 Plaintiffs commenced this action pro se and represented themselves in that capacity through the initial pretrial conference, amendment of their Complaint, and opposition to Defendants' motion to dismiss. At the eleventh hour before oral argument on this motion, however, an attorney appeared on their behalf, explaining that he would represent them solely for purposes of arguing their opposition to the motion to dismiss. Notwithstanding counsel's belated appearance,

v. Cnty. of Rockland, 450 F. App'x. 15, 18 (2d Cir. 2011).

II. Subject Matter Jurisdiction

Dismissal for lack of subject matter jurisdiction is proper "when the district court lacks the statutory or constitutional power to adjudicate [the claims]." Makarova v. United States, 201 F.3d 110, 113 (2d Cir. 2000). The Foreign Sovereign Immunities Act ("FSIA") is the "sole basis for obtaining jurisdiction over a foreign state in our courts." Argentine Rep. v. Amerada Hess Shipping Corp., 488 U.S. 428, 434 (1989). Under the FSIA, a foreign state is presumed to be immune from suit and is in fact immune unless one or more of the FSIA's exceptions apply. See 28 U.S.C. §§ 1604–1607; Saudi Arabia v. Nelson, 507 U.S. 349, 355 (1993). Such immunity extends to a foreign state's political subdivisions, agencies, and instrumentalities. See 28 U.S.C. § 1603(a).

Individuals acting in their official capacities are considered agencies or instrumentalities of a foreign state. Matar v. Dichter, 500 F. Supp. 2d 284, 289 (S.D.N.Y. 2007) ("[N]umerous courts have found that immunity under the FSIA extends also to agents of a foreign state acting in their official capacities."); Jungquist v. Sheikh Sultan Bin Khalifa Al Nahyan, 115 F.3d 1020, 1027 (D.C. Cir. 1997). "At the time the FSIA was enacted, the common law of foreign sovereign immunity recognized an individual official's entitlement to immunity for acts performed in his official capacity. An immunity based on acts—rather than status—does not depend on tenure in office." Matar v. Dichter, 563 F.3d 9, 14 (2d Cir. 2009). However, an official is "not entitled to immunity under the FSIA for acts that are not committed in an official capacity." Jungquist, 115 F.3d at 1027 (internal citations omitted).

Plaintiffs contend that no such immunity applies

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this Court construes the Plaintiffs' pleadings and papers under the liberal standard typically afforded to pro se litigants.

here because the Israeli Officials' alleged actions went "beyond the scope of [their] official responsibilities." Leutwyler v. Office of Her Majesty Queen Rania Al-Abdullah, 184 F. Supp. 2d 277, 287 (S.D.N.Y. 2001). Acts exceeding the scope of an official's duties are usually those of "a personal and private nature." Leutwyler, 184 F. Supp. 2d at 287. The focus, in determining whether the Israeli Officials' actions were properly within the ambit of their official duties, should be on "the individual[s'] alleged actions, rather than the alleged motives underlying them." Leutwyler, 184 F. Supp. 2d at 287.

Here, all of the Israeli Officials' acts were taken in their capacities as government officials. The Complaint alleges that the Israeli Officials entered illegal orders, made extrajudicial demands, arbitrarily altered amounts owed, and assessed improper fees against Plaintiffs. (Compl. ¶ 45.) The Israeli Officials also issued arrest warrants, froze bank accounts, and garnished wages. (Compl. ¶¶ 106, 138, 210, 222.) Each of these actions represent official conduct taken in response to Plaintiffs' apparent failure to comply with their child and spousal support obligations. The authority to take such actions arises directly from their positions as government officials tasked with overseeing the Debt Collections Office, enforcing the child and spousal support orders, and providing judicial recourse for unpaid debts.

Plaintiffs characterize these actions as wrongful and illegal, but such slights do not render the acts any less official.[2] See, e.g., In re Terrorist Attacks on Sept. 11, 2001, 122 F. Supp. 3d 181, 189 (S.D.N.Y. 2015) ("Such an assertion is merely an artful way of implicating the jus

2. Nor do Plaintiffs allege that these acts amounted to a violation of a jus cogen norm that might vitiate the Israeli Officials' claim of immunity. See Omari v. Ras Al Khaimah Free Trade Zone Auth., 2017 WL 3896399, at *10 (S.D.N.Y. Aug. 18, 2017).

cogens doctrine," which is "not a limitation to a foreign official's right to immunity in U.S. courts where, as here, that official acted in his official capacity."). Indeed, if Plaintiffs
could hurdle immunity simply by alleging that the acts were illegal, "such a rule would eviscerate the protection of foreign official immunity and would contravene federal law on foreign official immunity." Giraldo v. Drummond Co., Inc., 808 F. Supp. 2d 247, 250 (D.D.C. 2011). The dispositive question is whether the defendant was a government official authorized to take the actions at issue here. The Israeli Officials—as bureaucrats tasked with overseeing the Debt Collections Office and judges empowered to remedy delinquencies associated with divorce decrees—are entitled to immunity because their actions were taken through official channels "presumptively in furtherance of [the] enforcement of [Israel's] laws." Omari, 2017 WL 3896399, at *10. Without any basis for the exercise of subject matter jurisdiction, Defendants' motion to dismiss the claims against the Israeli Officials is granted.

III. Personal Jurisdiction

While lack of subject matter jurisdiction suffices to dispose of the claims against the Israeli Officials, it bears noting that there also is no basis to exercise personal jurisdiction. "Determining personal jurisdiction over a foreign defendant in a federal-question case such as this requires a two-step inquiry. First [the court] look[s] to the law of the forum state to determine whether personal jurisdiction will lie. If jurisdiction lies, [the court] consider[s]
whether the district court's exercise of personal jurisdiction over a foreign defendant comports with due process protections established under the United States Constitution." Licci ex rel.
Licci v. Lebanese Canadian Bank, SAL, 732 F.3d 161, 168

(2d Cir. 2013).

New York's C.P.L.R. § 302 applies to jurisdiction over non-domiciliaries. Under C.P.L.R. § 302(a), a court may exercise personal jurisdiction over any non-domiciliary who, either "in person or through an agent": (i) "transacts any business within the state or contracts anywhere to supply goods or services in the state"; (ii) "commits a tortious act within the state"; (iii) "commits a tortious act without the state causing injury to person or property within the state . . . if he [a] regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in the state, or [b] expects or should reasonably expect the act to have consequences in the state and derives substantial revenue from interstate or international commerce"; or (iv) "owns, uses or possesses any real property situated within the state." N.Y. C.P.L.R. § 302(a)(1)–(4).

None of the scenarios set forth in § 302(a) apply here. With the exception of a single, unsubstantiated reference to Defendant Livni's residence in Brooklyn, the Complaint is bereft of any allegation connecting the Israeli Officials to the State of New York. Even if Plaintiffs sought to use Livni's Brooklyn residence as a hook for jurisdiction under C.P.L.R. § 302(a)(4), such an attempt would fail because they must demonstrate "a relationship between the property and the cause of action sued upon." Lancaster v. Colonial Motor Freight Line, Inc., 177 A.D. 2d 152, 159 (N.Y. App. Div. 1st Dep't 1992). The underlying allegations lack any nexus to Livni's home in Brooklyn.

Moreover, an exercise of personal jurisdiction would not comport with constitutional due process. The Complaint makes no showing of the minimum contacts necessary to "justify the court's exercise of personal jurisdiction" over any of the Defendants.
Elsevier, Inc. v. Grossman, 77 F. Supp. 3d 331, 347

(S.D.N.Y. 2015). Even under a liberal construction, Plaintiffs' allegations fall woefully short of establishing that the Israeli Officials "purposefully avail[ed] [themselves] of the privilege of conducting activities" within New York, thus "invoking the benefits and protections of its laws . . . such that [they] should reasonably anticipate being haled into court" here. Best Van Lines, Inc. v. Walker, 490 F.3d 239, 242 (2d Cir. 2007) (quoting Burger King Corp. v. Rudzewicz, 471 U.S. 462, 474–75 (1985)).

Additionally, maintaining jurisdiction over Israeli Officials would be unreasonable. Their actions—which form the primary basis for the requested relief in this action—were taken exclusively in Israel in the course of their duties as current and former government officials. Compelling these defendants to litigate Plaintiffs' claims in New York would impose excessive burdens. Nor could Plaintiffs litigate this action anywhere else in the United States because no state has an interest in adjudicating this case. See Asahi Metal Indus. Co. v. Superior Court, 480 U.S. 102, 113–14 (1987).

The federal grounds for jurisdiction are equally unavailing. The RICO statute does not, by itself, confer personal jurisdiction. Laborers Local 17 Health & Ben. Fund v. Philip Morris, Inc., 26 F. Supp. 2d 593, 601 (S.D.N.Y. 1998) ("Plaintiffs asserting RICO claims against foreign defendants must rely on the long-arm statute of the state in which they filed suit."). And the federal long arm statute, under Rule 4(k)(2), provides no basis for jurisdiction on the facts alleged in the Complaint. While the rule authorizes personal jurisdiction for federal claims if doing so is "consistent with the United States Constitution," Plaintiffs' failure to establish minimum contacts and the reasonableness of exercising jurisdiction under C.P.L.R. § 302 extends with equal force to the federal long arm statute. BMW of N. Am. LLC v. M/V

Courage, 2017 WL 2223052, at *3 (S.D.N.Y. May 19, 2017) (requiring sufficient contacts with the United States as a whole); Porina v. Marward Shipping Co., 521 F.3d 122, 127 (2d Cir. 2008) (courts must consider whether "the assertion of personal jurisdiction is reasonable under the circumstances of the particular case"). Accordingly, all of Plaintiffs' claims against the Israeli Officials are also dismissed for lack of personal jurisdiction.

IV. Civil RICO

Plaintiffs assert a civil RICO claim against both the Israeli Officials and the Fundraising Defendants. Because all claims against the Israeli Officials are dismissed for lack of subject matter and personal jurisdiction, this Court focuses its analysis on the civil RICO claim as it pertains to the Fundraising Defendants.

Relief under the civil RICO statute is appropriate if the Plaintiffs can establish: (1) that they suffered an injury to business or property; (2) that their injury is a domestic one; and (3) that the injury was proximately caused by the defendants' violation of 18 U.S.C. § 1962. See 18 U.S.C. § 1964(c). The third requirement—violations of 18 U.S.C. § 1962—lays out the elements of a substantive RICO violation, including (1) that defendants were employed by, or associated with, an enterprise affecting interstate commerce; and (2) that they participated in the conduct of the enterprise's affairs through at least two predicate acts of racketeering activity. See 18 U.S.C. § 1962(b)–(c).

Plaintiffs' civil RICO claim fails at the first step—alleging facts to show a domestic injury to business or property. As an initial matter, it is difficult to discern the exact nature of Plaintiffs' injury. Plaintiffs allege a plethora of injuries resulting from the Fundraising

Defendants' activities—harassment, garnishment, personal injuries, false arrest, and asset freezes, among others. But only injuries to business or property are covered by the RICO statute.
Bascunan v. Elsaca, 874 F.3d 806, 817 (2d Cir. 2017) ("A plaintiff bringing a civil RICO claim must allege an injury to his 'business or property'; he cannot, for example, recover for 'personal
injuries.'"). Therefore, to the extent the Plaintiffs seek relief for "personal injury or harassment, not damage to business or property," their RICO claims fail on grounds that such injuries are
"not [of] the sort . . . cognizable under RICO." Savine–Rivas v. Farina, 1992 WL 193668, at *3 (E.D.N.Y. Aug. 4, 1992); see also Burdick v. Am. Exp. Co., 865 F.2d 527, 529 (2d Cir. 1989)
(interference with business and ability to earn living are "type[s] of harm [that are] simply too remotely related to the predicate acts of mail and securities fraud to support a claim under RICO").

But even the alleged injuries to business or property fail to make out a RICO injury because they are not domestic injuries. For example, the Complaint alleges that Defendants "took all the money in [Plaintiff Weisskopf's] bank account[,] intentionally leaving a
negative balance in his bank account" without making any reference to the account's location. (Compl. ¶ 136.) Plaintiffs vaguely allude to other bank and financial accounts throughout the
Complaint. (See e.g., Compl. ¶¶ 152, 176, 188, 196, 207, 210, 213.) From what this Court can gather, the thrust of Plaintiffs' grievance is that the Defendants' actions saddled them with outsized debts arising from fictitious orders that ultimately forced them to liquidate their assets leaving them in dire financial straits. But while "injury to tangible property is generally a domestic injury only if the property

was physically located in the United States," the Plaintiffs offer no specific allegations concerning where their accounts were located or used. Bascunan, 874 F.3d at 819.

Moreover, to the extent that Plaintiffs seek to establish a domestic connection by alleging that some of the Fundraising Defendants located in the United States made off with
illicit proceeds derived from Plaintiffs' assets, the "only domestic connections alleged here were acts of the defendant[s]." Bascunan, 874 F.3d at 819 (emphasis original). It improperly turns the
focus on the location of the Defendants, and not, as it should, on the location of Plaintiffs' property or financial interests. Bascunan, 874 F.3d at 819.

Finally, the civil RICO claim fails because the Plaintiffs have not sufficiently established the requisite predicate acts. The Complaint ticks off more than a dozen criminal acts,
ranging from financial institution fraud to slavery, but "RICO claims must be pled with specificity." Jet One Grp., Inc. v. Halcyon Jet Holdings, Inc., 2009 WL 2524864, at *4 (E.D.N.Y. Aug. 14, 2009). The Complaint is particularly deficient with respect to predicate acts pertaining to fraud, since those acts "must be pled in accordance with the higher pleading requirements of Rule 9(b)." Morrow v. Black, 742 F. Supp. 1199, 1203 (E.D.N.Y. 1990). But beyond alleging in conclusory fashion that the Defendants devised a fraud using the mails and wires, the Complaint offers scant detail on the defendants, the communications, and the purpose
or substance of such communications to meet the heightened standard under which mail fraud or wire fraud may be alleged as predicate acts. Rivera v. Golden Nat. Mortg. Banking Corp., 2005
WL 1514043, at *3 (S.D.N.Y. June 27, 2005) ("Plaintiff states broadly that Defendants . . . engaged in a secret

scheme of conduct . . . but neglects to include names, dates or even allege use of the mails or a telephone."); Wexner v. First Manhattan Co., 902 F.2d 169, 172–73 (2d Cir. 1990) (claim of mail or wire fraud must specify the content, date, and place of any alleged
misrepresentation and identity of persons making them).

Mathon v. Feldstein, 303 F. Supp. 2d 317 (E.D.N.Y. 2004), is instructive to the extent it involved a civil RICO claim asserted by a pro se plaintiff who actually alleged with some specificity (more than the Plaintiffs here) the facts underlying the mail and wire fraud predicate acts. But even so, that court found such allegations insufficient because the plaintiff failed "to set forth the content of the items mailed and specify how each of the items were false and misleading," or to "identify the dates that the[] alleged conversations [took] place, where the phone calls [or emails] took place and that during these phone calls [or email communications],
the defendants knowingly made false representations to the plaintiff." Mathon, 303 F. Supp. 2D at 323–24. Even under a liberal construction of the Complaint, Plaintiffs similarly fail to allege
with sufficient specificity the predicate acts to their RICO claim.

Accordingly, the civil RICO claim against the Fundraising Defendants is dismissed.

V. No Private Right of Action

Plaintiffs assert a number of claims to which there are no private rights of action. Each claim is addressed in turn.

A. Aiding and Abetting a RICO Violation

The Complaint alleges a claim for aiding and abetting a RICO violation against the Fundraising Defendants. However, it has long been held by courts in this District and across the country that "there is no private right of action for aiding and abetting a RICO

violation." Goldfine v. Sichenzia, 118 F. Supp. 2d 392, 406 (S.D.N.Y. 2000) (citing LaSalle Nat'l Bank v. Duff & Phelps Credit Rating Co., 951 F. Supp. 1071, 1088–89 (S.D.N.Y. 1996)). Accordingly, Count Three of the Complaint is dismissed.

B. Extortion

Plaintiffs assert an extortion claim against both the Israeli Officials and the Fundraising Defendants. But extortion is a criminal offense and may not be converted into a private civil cause of action. Williams v. Jurow, 2007 WL 5463418, at *13 (S.D.N.Y. June 29, 2007) (There "is no private right of action under the federal extortion statute."). In fact, under New York law, "such claim is patently frivolous as extortion is a criminal offense, and may not be pled as a separate cause of action in a civil case." Naples v. Stefanelli, 972 F. Supp. 2D 373, 401 (E.D.N.Y. 2013). Accordingly, Count Five of the Complaint is dismissed.

C. Mail Fraud

Plaintiffs' final cause of action alleged in the Complaint is a claim for mail fraud pursuant to 18 U.S.C. §§ 1341 and 1343 against the Fundraising Defendants. But as with the prior claims, a mail fraud claim is not actionable as a private cause of action. The mail fraud statute is a "bare criminal statute with no indication of any intent to create a private cause of action, in either the section in question or any other section." Brandstetter v. Bally Gaming, Inc.,
2012 WL 4173193, at *6 (E.D.N.Y. Aug. 23, 2012). Accordingly, Count Six of the Complaint is dismissed.

VI. Pre-Suit Injunction

In addition to dismissal, Defendants seek a "finding that [Plaintiffs'] claims are frivolous and an order barring Messrs. Weisskopf and Eliahu from filing future lawsuits without the Court's prior authorization." (Def. Memo. of Law in Support of Motion to Dismiss, ECF No. 89, at 33.)

"When a plaintiff files repeated lawsuits involving the same nucleus of operative
facts, a district court has the inherent power to enjoin him from filing vexatious lawsuits in the future." Lacy v. Principi, 317 F. Supp. 2d 444, 449 (S.D.N.Y. 2004) (citing Malley v. N.Y. City
Bd. of Educ., 112 F.3d 69, 69 (2d Cir. 1997)).

Relevant factors to consider include: (1) the litigant's history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation, e.g., whether the litigant has an objective good faith expectation of prevailing; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expenses to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties. Safir v. U.S. Lines, Inc., 792 F.2d 19, 24 (2d Cir. 1986). "Ultimately, the question the court must answer is whether a litigant who has a history of vexatious litigation is likely to continue to abuse the judicial process and harass other parties." Safir, 792 F.2d at 24.

The two plaintiffs here—Weisskopf and Eliahu—are not first-time litigants. Weisskopf previously filed a raft of other lawsuits, all of which have alleged claims predicated on facts substantially similar to the ones here, throughout the country including a second one in this District. Weisskopf v. Neeman, No. 11 Civ. 665 (W.D. Wisc. Mar. 20, 2013); Weisskopf v. United Jewish Appeal–Fed'n of Jewish Philanthropies of N.Y., Inc., 889 F. Supp. 2d 912 (S.D. Tex. 2012); Weisskopf v. Jewish Agency for Israel, Inc., No. 12 Civ. 6844 (S.D.N.Y. Apr. 30, 2013); Weisskopf v. Marcus, No. 16 Civ. 6381 (N.D. Ill. 2016). Eliahu filed a similar action in the Northern District of California which was dismissed before he commenced this action. Eliahu v. State of Israel, No. 14 Civ. 1636, 2015 WL 981517 (N.D. Cal. Mar.

3, 2015), aff'd, 659 F. App'x. 451 (9th Cir. Nov. 2, 2016).

Three factors weigh in favor of the injunctive relief sought by Defendants. First, there is a clear history of vexatious litigation, especially with regard to Weisskopf. In one case, the Western District of Wisconsin chastised Weisskopf for the "spurious, abusive nature of [his] repeated, failed efforts to invoke federal court jurisdiction in the United States over what is essentially an Israeli family-law dispute." Neeman, No. 11 Civ. 665, slip op. at 20. Eliahu, on the other hand, had the appeal in his only other action summarily dismissed by the Ninth Circuit. All of their cases are virtually carbon copies of one another—they depict the same story,
grievances, and requests for relief that federal courts in the United States are not authorized to grant.

Second, Weisskopf and Eliahu's motives in pursuing this litigation are quite clear. Having achieved minimal success in Israel, they seek to find any forum in the United States that will entertain any one of their claims. The RICO statute's treble damages provides an extra layer of incentive, but also carves out a path to bypass Israel's ostensibly less generous remedial regimes. RJR Nabisco, 136 S. Ct. at 1206–07. However, their motive in bringing essentially the same lawsuit time and again is misguided because each successive action diminishes the likelihood that they will prevail.

Third, the Defendants have had to incur the necessary expense of defending these baseless lawsuits. These are not insignificant costs. Even if a future lawsuit contains claims that
are so meritless that it is considered dead on arrival, Defendants nevertheless must retain counsel and incur the time and cost of defending even the most frivolous claims in federal court. They
should be spared from that burden given the spate of cases —including those filed by other parties who are not

plaintiffs here—that have roundly been rejected by courts across the country.
See, e.g., Issaschar v. ELI Am. Friends of Israel Ass'n for Child Prot., Inc., No. 13 Civ. 2415 (E.D. Pa. 2014); Issaschar v. ELI Am. Friends of the Israel Ass'n for Child Prot., Inc., No. 15
Civ. 6441 (E.D. Pa. 2016).

Accordingly, Plaintiffs Weisskopf and Eliahu are enjoined from filing lawsuits in the future without this Court's prior authorization.

CONCLUSION

For the foregoing reasons, Defendants' motion to dismiss this action is granted. The parties are directed to submit a proposed pre-suit injunctive order by December 15, 2017. The Clerk of Court is directed to terminate the motion pending at ECF No. 88.

CONCLUSION

For the foregoing reasons, Defendants' motion to dismiss this action is granted.

Dated: December 8, 2017
New York, New York

SO ORDERED:
s/
WILLIAM H. PAULEY III
U.S.D.J.

APPENDIX D

I. Racketeer Influenced and Corrupt Organizations
18 U.S. Code § 1961.Definitions

(1) "racketeering activity" means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891–894 (relating to extortionate credit transactions), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1351 (relating to fraud in foreign labor contracting), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), sections 1461–1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating

to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to falsestatement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581–1592 (relating to peonage, slavery, and trafficking in persons).,[1] sections 1831 and 1832 (relating to economic espionage and theft of trade secrets), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use ofinterstate commerce facilities in the commission of murder-for-hire), section 1960 (relating to illegal money transmitters), sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit

marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341–2346 (relating to trafficking in contraband cigarettes), sections 2421–24 (relating to white slave traffic), sections 175–178 (relating to biological weapons), sections 229–229F (relating to chemical weapons), section 831 (relating to nuclear materials), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the UnitedStates, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b(g)(5)(B);

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

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

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

(5) "pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

(6) "unlawful debt" means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;

(7) "racketeering investigator" means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter;

(8) "racketeering investigation" means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter or of any final order, judgment, or decree of any court of the United

States, duly entered in any case or proceeding arising under this chapter;

(9) "documentary material" includes any book, paper, document, record, recording, or other material; and

(10) "Attorney General" includes the Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter. Any department or agency so designated may use in investigations authorized by this chapter either the investigative provisions of this chapter or the investigative power of such department or agency otherwise conferred by law.

18 U.S. Code § 1962.Prohibited activities

(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, UnitedStates Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his

or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

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

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

18 U.S. Code § 1964.Civil remedies

(a) The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in anyenterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce;or ordering dissolution or reorganization of

anyenterprise, making due provision for the rights of innocent persons.

(b) The Attorney General may institute proceedings under this section. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

(c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee, except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962. The exception contained in the preceding sentence does not apply to an action against any person that is criminally convicted in connection with the fraud, in which case the statute of limitations shall start to run on the date on which the conviction becomes final.

(d) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this chapter shall estop the defendant from denying the essential allegations of the criminaloffense in any subsequent civil proceeding brought by the United States.

II. 18 U.S.C.§1341

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell,

dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

III. Hobbs Act (18 U.S. Code § 1951)

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce,
by robbery or extortion or attempts or conspires so to

do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

(b)As used in this section—

(1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2) The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

(3) The term "commerce" means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commercebetween points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

IV. Foreign Sovereign Immunities Act (FSIA)

28 U.S.C. §1602

The Congress finds that the determination by United

Statescourts of the claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would protect the rights of both foreign states and litigants in United States courts. Under international law,states are not immune from the jurisdiction of foreign courtsinsofar as their commercial activities are concerned, and their commercial property may be levied upon for the satisfaction of judgments rendered against them in connection with their commercial activities. Claims of foreign states to immunity should henceforth be decided by courts of the United States and of the States in conformity with the principles set forth in this chapter.

28 U.S.C. §1603

For purposes of this chapter—

(a) A "foreign state", except as used in section 1608 of this title, includes a political subdivision of a foreign stateor an agency or instrumentality of a foreign state as defined in subsection (b).

(b) An "agency or instrumentality of a foreign state" means any entity—

(1) which is a separate legal person, corporate or otherwise, and

(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

(3) which is neither a citizen of a State of the United States as defined in section 1332 (c) and (e) of this title, nor created under the laws of any third country.

(c) The "United States" includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

(d) A "commercial activity" means either a regular

course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

(e) A "commercial activity carried on in the United States by a foreign state" means commercial activity carried on by such state and having substantial contact with theUnited States.

28 U.S.C. §1604

Subject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of thecourts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter.

28 U.S.C. §1605

(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

(1) in which the foreign state has waived its immunity either explicitly or by implication, notwithstanding any withdrawal of the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver;

(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

(3) in which rights in property taken in violation of international law are in issue and that property or

any property exchanged for such property is present in the United States in connection with a commercial activity carried on in the United States by the foreign state; or that property or any property exchanged for such property is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity in the United States;

(4) in which rights in property in the United States acquired by succession or gift or rights in immovable property situated in the United States are in issue;

(5) not otherwise encompassed in paragraph (2) above, in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortious act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; except this paragraph shall not apply to—

(A) any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or

(B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights; or

(6) in which the action is brought, either to enforce an agreement made by the foreign state with or for the benefit of a private party to submit to arbitration all or any differences which have arisen or which may arise between the parties with respect to a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration under the laws of the United States, or to confirm an award made pursuant to such an

agreement to arbitrate, if (A) the arbitration takes place or is intended to take place in the United States, (B) the agreement or award is or may be governed by a treaty or other international agreement in force for the United States calling for the recognition and enforcement of arbitral awards, (C) the underlying claim, save for the agreement to arbitrate, could have been brought in a United States court under this section or section 1607, or (D) paragraph (1) of this subsection is otherwise applicable.

(b) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which a suit in admiralty is brought to enforce a maritime lien against a vessel or cargo of the foreign state, which maritime lien is based upon a commercial activity of the foreign state:Provided, That—

(1) notice of the suit is given by delivery of a copy of the summons and of the complaint to the person, or his agent, having possession of the vessel or cargo against which the maritime lien is asserted; and if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit, the service of process of arrest shall be deemed to constitute valid delivery of such notice, but the party bringing the suit shall be liable for any damages sustained by the foreign state as a result of the arrest if the party bringing the suit had actual or constructive knowledge that the vessel or cargo of a foreign state was involved; and

(2) notice to the foreign state of the commencement of suit as provided in section 1608 of this title is initiated within ten days either of the delivery of notice as provided in paragraph (1) of this subsection or, in the case of a party who was unaware that the

vessel or cargo of a foreign state was involved, of the date such party determined the existence of the foreign state's interest.

(c) Whenever notice is delivered under subsection (b)(1), the suit to enforce a maritime lien shall thereafter proceed and shall be heard and determined according to the principles of law and rules of practice of suits in rem whenever it appears that, had the vessel been privately owned and possessed, a suit in rem might have been maintained. A decree against the foreign state may include costs of the suit and, if the decree is for a money judgment, interest as ordered by the court, except that the court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose. Such value shall be determined as of the time notice is served under subsection (b)(1). Decrees shall be subject to appeal and revision as provided in other cases of admiralty and maritime jurisdiction. Nothing shall preclude the plaintiff in any proper case from seeking relief in personam in the same action brought to enforce a maritime lien as provided in this section.

(d) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any action brought to foreclose a preferred mortgage, as defined in section 31301 of title 46. Such action shall be brought, heard, and determined in accordance with the provisions of chapter 313 of title 46 and in accordance with the principles of law and rules of practice of suits in rem, whenever it appears that had the vessel been privately owned and possessed a suit in rem might have been maintained.

[(e) , (f) Repealed. Pub. L. 110–181, div. A, title X, § 1083(b)(1)(B), Jan. 28, 2008, 122 Stat. 341.]

(g)Limitation on Discovery.—

(1)In general.—
(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for section 1605A or section 1605B, the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.
(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.
(2)Sunset.—
(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.
(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—
(i) create a serious threat of death or serious bodily injury to any person;

(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or
(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.
(3)Evaluation of evidence.—
The court's evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.
(4)Bar on motions to dismiss.—
A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.
(5)Construction.—
Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.
(h)Jurisdictional Immunity for Certain Art Exhibition Activities.—
(1)In general.—If—
(A) a work is imported into the United States from any foreign state pursuant to an agreement that provides for the temporary exhibition or display of such work entered into between a foreign state that is the owner or custodian of such work and the United States or one or more cultural or educational institutions within the United States;
(B) the President, or the President's designee, has determined, in accordance with subsection (a) of Public Law 89–259 (22 U.S.C. 2459(a)), that such work is of cultural significance and the temporary exhibition or display of such work is in the national interest; and

(C) the notice thereof has been published in accordance with subsection (a) of Public Law 89–259 (22 U.S.C. 2459(a)),
any activity in the United States of such foreign state, or of any carrier, that is associated with the temporary exhibition or display of such work shall not be considered to be commercial activity by such foreign state for purposes of subsection (a)(3).
(2)Exceptions.—
(A)Nazi-era claims.—Paragraph (1) shall not apply in any case asserting jurisdiction under subsection (a)(3) in which rights in property taken in violation of international law are in issue within the meaning of that subsection and—
(i) the property at issue is the work described in paragraph (1);
(ii) the action is based upon a claim that such work was taken in connection with the acts of a covered government during the covered period;
(iii) the court determines that the activity associated with the exhibition or display is commercial activity, as that term is defined in section 1603(d); and
(iv) a determination under clause (iii) is necessary for the court to exercise jurisdiction over the foreign state under subsection (a)(3).
(B)Other culturally significant works.—In addition to cases exempted under subparagraph (A), paragraph (1) shall not apply in any case asserting jurisdiction under subsection (a)(3) in which rights in property taken in violation of international law are in issue within the meaning of that subsection and—
(i) the property at issue is the work described in paragraph (1);
(ii) the action is based upon a claim that such work was taken in connection with the acts of a foreign government as part of a systematic campaign of

coercive confiscation or misappropriation of works from members of a targeted and vulnerable group;
(iii) the taking occurred after 1900;
(iv) the court determines that the activity associated with the exhibition or display is commercial activity, as that term is defined in section 1603(d); and
(v) a determination under clause (iv) is necessary for the court to exercise jurisdiction over the foreign state under subsection (a)(3).
(3)Definitions.—For purposes of this subsection—
(A) the term "work" means a work of art or other object of cultural significance;
(B) the term "covered government" means—
(i) the Government of Germany during the covered period;
(ii) any government in any area in Europe that was occupied by the military forces of the Government of Germany during the covered period;
(iii) any government in Europe that was established with the assistance or cooperation of the Government of Germany during the covered period; and
(iv) any government in Europe that was an ally of the Government of Germany during the covered period; and
(C) the term "covered period" means the period beginning on January 30, 1933, and ending on May 8, 1945.

28 U.S.C. §1606

As to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state except for an agency or instrumentality thereof shall not be liable for punitive damages; if, however, in any case

wherein death was caused, the law of the place where the action or omission occurred provides, or has been construed to provide, for damages only punitive in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

28 U.S.C. §1607

In any action brought by a foreign state, or in which a foreign state intervenes, in a court of the United States or of a State, the foreign state shall not be accorded immunity with respect to any counterclaim —

(a) for which a foreign state would not be entitled to immunity under section 1605 or 1605A of this chapter had such claim been brought in a separate action against the foreign state; or

(b) arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state; or

(c) to the extent that the counterclaim does not seek relief exceeding in amount or differing in kind from that sought by the foreign state.

28 U.S.C. §1608

(a) Service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or

(2) if no special arrangement exists, by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial documents; or

(3) if service cannot be made under paragraphs (1) or

(2), by sending a copy of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned, or

(4) if service cannot be made within 30 days under paragraph (3), by sending two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services—and the Secretary shall transmit one copy of the papers through diplomatic channels to the foreign state and shall send to the clerk of the court a certified copy of the diplomatic note indicating when the papers were transmitted. As used in this subsection, a "notice of suit" shall mean a notice addressed to a foreign state and in a form prescribed by the Secretary of State by regulation.

(b) Service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

(2) if no special arrangement exists, by delivery of a copy of the summons and complaint either to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process in the United States; or in

accordance with an applicable international convention on service of judicial documents; or
(3) if service cannot be made under paragraphs (1) or (2), and if reasonably calculated to give actual notice, by delivery of a copy of the summons and complaint, together with a translation of each into the official language of the foreign state—
(A) as directed by an authority of the foreign state or political subdivision in response to a letter rogatory or request or
(B) by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or
(C) as directed by order of the court consistent with the law of the place where service is to be made.
(c) Service shall be deemed to have been made—
(1) in the case of service under subsection (a)(4), as of the date of transmittal indicated in the certified copy of the diplomatic note; and
(2) in any other case under this section, as of the date of receipt indicated in the certification, signed and returned postal receipt, or other proof of service applicable to the method of service employed.
(d) In any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint within sixty days after service has been made under this section.
(e) No judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or

political subdivision in the manner prescribed for service in this section.

28 U.S.C. §1609

Subject to existing international agreements to which the United States is a party at the time of enactment of this Act the property in the United States of a foreign state shall be immune from attachment arrest and execution except as provided in sections 1610 and 1611 of this chapter.

28 U.S.C. §1610

(a) The property in the United States of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

(1) the foreign state has waived its immunity from attachment in aid of execution or from execution either explicitly or by implication, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, or

(2) the property is or was used for the commercial activity upon which the claim is based, or

(3) the execution relates to a judgment establishing rights in property which has been taken in violation of international law or which has been exchanged for property taken in violation of international law, or

(4) the execution relates to a judgment establishing rights in property—

(A) which is acquired by succession or gift, or

(B) which is immovable and situated in the United States: Provided, That such property is not used for purposes of maintaining a diplomatic or consular mission or the residence of the Chief of such mission,

or
(5) the property consists of any contractual obligation or any proceeds from such a contractual obligation to indemnify or hold harmless the foreign state or its employees under a policy of automobile or other liability or casualty insurance covering the claim which merged into the judgment, or
(6) the judgment is based on an order confirming an arbitral award rendered against the foreign state, provided that attachment in aid of execution, or execution, would not be inconsistent with any provision in the arbitral agreement, or
(7) the judgment relates to a claim for which the foreign state is not immune under section 1605A or section 1605(a)(7) (as such section was in effect on January 27, 2008), regardless of whether the property is or was involved with the act upon which the claim is based.
(b) In addition to subsection (a), any property in the United States of an agency or instrumentality of a foreign state engaged in commercial activity in the United States shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—
(1) the agency or instrumentality has waived its immunity from attachment in aid of execution or from execution either explicitly or implicitly, notwithstanding any withdrawal of the waiver the agency or instrumentality may purport to effect except in accordance with the terms of the waiver, or
(2) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of section 1605(a)(2), (3), or (5) or 1605(b) of this chapter, regardless of whether the property is or was involved in the act upon which the claim is based, or

(3) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of section 1605A of this chapter or section 1605(a)(7) of this chapter (as such section was in effect on January 27, 2008), regardless of whether the property is or was involved in the act upon which the claim is based.
(c) No attachment or execution referred to in subsections (a) and (b) of this section shall be permitted until the court has ordered such attachment and execution after having determined that a reasonable period of time has elapsed following the entry of judgment and the giving of any notice required under section 1608(e) of this chapter.
(d) The property of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment prior to the entry of judgment in any action brought in a court of the United States or of a State, or prior to the elapse of the period of time provided in subsection (c) of this section, if—
(1) the foreign state has explicitly waived its immunity from attachment prior to judgment, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, and
(2) the purpose of the attachment is to secure satisfaction of a judgment that has been or may ultimately be entered against the foreign state, and not to obtain jurisdiction.
(e) The vessels of a foreign state shall not be immune from arrest in rem, interlocutory sale, and execution in actions brought to foreclose a preferred mortgage as provided in section 1605(d).
(f)
(1)
(A) Notwithstanding any other provision of law,

including but not limited to section 208(f) of the Foreign Missions Act (22 U.S.C. 4308(f)), and except as provided in subparagraph (B), any property with respect to which financial transactions are prohibited or regulated pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)),[1] section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701–1702), or any other proclamation, order, regulation, or license issued pursuant thereto, shall be subject to execution or attachment in aid of execution of any judgment relating to a claim for which a foreign state (including any agency or instrumentality or such state) claiming such property is not immune under section 1605(a)(7) (as in effect before the enactment of section 1605A) or section 1605A.

(B) Subparagraph (A) shall not apply if, at the time the property is expropriated or seized by the foreign state, the property has been held in title by a natural person or, if held in trust, has been held for the benefit of a natural person or persons.

(2)

(A) At the request of any party in whose favor a judgment has been issued with respect to a claim for which the foreign state is not immune under section 1605(a)(7) (as in effect before the enactment of section 1605A) or section 1605A, the Secretary of the Treasury and the Secretary of State should make every effort to fully, promptly, and effectively assist any judgment creditor or any court that has issued any such judgment in identifying, locating, and executing against the property of that foreign state or any agency or instrumentality of such state.

(B) In providing such assistance, the Secretaries—

(i) may provide such information to the court under seal; and
(ii) should make every effort to provide the information in a manner sufficient to allow the court to direct the United States Marshall's office to promptly and effectively execute against that property.
(3)Waiver.—
The President may waive any provision of paragraph (1) in the interest of national security.
(g)Property in Certain Actions.—
(1)In general.—Subject to paragraph (3), the property of a foreign state against which a judgment is entered under section 1605A, and the property of an agency or instrumentality of such a state, including property that is a separate juridical entity or is an interest held directly or indirectly in a separate juridical entity, is subject to attachment in aid of execution, and execution, upon that judgment as provided in this section, regardless of—
(A) the level of economic control over the property by the government of the foreign state;
(B) whether the profits of the property go to that government;
(C) the degree to which officials of that government manage the property or otherwise control its daily affairs;
(D) whether that government is the sole beneficiary in interest of the property; or
(E) whether establishing the property as a separate entity would entitle the foreign state to benefits in United States courts while avoiding its obligations.
(2)United sovereign immunity inapplicable.—
Any property of a foreign state, or agency or instrumentality of a foreign state, to which paragraph (1) applies shall not be immune from attachment in

aid of execution, or execution, upon a judgment entered under section 1605A because the property is regulated by the United States Government by reason of action taken against that foreign state under the Trading With the Enemy Act or the International Emergency Economic Powers Act.

(3)Third-party joint property holders.—

Nothing in this subsection shall be construed to supersede the authority of a court to prevent appropriately the impairment of an interest held by a person who is not liable in the action giving rise to a judgment in property subject to attachment in aid of execution, or execution, upon such judgment.

28 U.S.C. §1611

(a) Notwithstanding the provisions of section 1610 of this chapter, the property of those organizations designated by the President as being entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act shall not be subject to attachment or any other judicial process impeding the disbursement of funds to, or on the order of, a foreign state as the result of an action brought in the courts of the United States or of the States.

(b) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution, if—

(1) the property is that of a foreign central bank or monetary authority held for its own account, unless such bank or authority, or its parent foreign government, has explicitly waived its immunity from attachment in aid of execution, or from execution, notwithstanding any withdrawal of the waiver which the bank, authority or government may purport to effect except in accordance with the terms of the waiver; or

(2) the property is, or is intended to be, used in connection with a military activity and
(A) is of a military character, or
(B) is under the control of a military authority or defense agency.
(c) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution in an action brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to the extent that the property is a facility or installation used by an accredited diplomatic mission for official purposes.

V. Amendment XIV to the U.S. Constitution
Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2.

Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of

age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Section 3.

No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4.

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5.

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.