

## **Appendix A**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

JAN 9 2020

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

JONATHAN MELVIN LEDEUX;  
LAWRENCE CROCETTI,

Plaintiffs-Appellants,

v.

JEANNETTE LOUISE ANTHONY, as an  
individual and in her official capacity as  
trustee of The Emmett and Aralee Charlton  
trust; JOSEPH M. MORRILL, as an  
individual and as an officer of the court and  
as a representative of Morrill Law Firm,

Defendants-Appellees.

No. 19-16747

D.C. No. 4:19-cv-04068-SBA  
Northern District of California,  
Oakland

ORDER

Before: CALLAHAN, NGUYEN, and HURWITZ, Circuit Judges.

The district court certified that this appeal is frivolous and not taken in good faith. *See* 28 U.S.C. § 1915(a). On September 24, 2019, this court ordered appellants to explain in writing why this appeal should not be dismissed as frivolous. *See* 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

Upon a review of the record and the response to the September 24, 2019 order, we conclude this appeal is frivolous. We therefore deny appellants' motion to proceed in forma pauperis (Docket Entry No. 3) and dismiss this appeal as

frivolous, pursuant to 28 U.S.C. § 1915(e)(2).

**DISMISSED.**

## **Appendix B**

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3 OAKLAND DIVISION  
4

5 JONATHAN MELVIN LEDEUX and  
6 LAWRENCE CROCETTI,

7 Plaintiffs,

8 vs.

9 JEANETTE LOUISE ANTHONY, as an  
10 individual and in her official capacity as  
11 trustee of the Emmett and Aralee Charlton  
trust, and JOSEPH M. MORRILL  
(SBN187207) as an individual and as an  
officer of the court and as a representative of  
MORRILL LAW FIRM, DOES 1-100,

12 Defendants.  
13

Case No: C 19-4068 SBA

**ORDER CERTIFYING THAT  
PLAINTIFFS' APPEAL IS  
FRIVOLOUS AND IS NOT TAKEN  
IN GOOD FAITH UNDER 28 U.S.C.  
§ 1915(a)(3)**

14 Plaintiffs Jonathan Melvin Ledeux ("LeDeux") and his brother Lawrence Crocetti  
15 filed the instant pro se federal question action against Jeanette Louise Anthony  
16 ("Anthony"), Trustee of the Emmet and Aralee Charlton Trust ("Trust"), and her attorney,  
17 Joseph M. Morrill ("Morrill") in this Court on July 16, 2019. Dkt. 1. Along with their  
18 Complaint, Plaintiffs filed a request to proceed in forma pauperis ("IFP"). Dkt. 2.

19 The gist of Plaintiffs' lengthy and prolix Amended Complaint is that Anthony and  
20 Morrill mishandled and engaged in misconduct concerning the administration of the Trust.<sup>1</sup>  
21 The Amended Complaint alleged four causes of action: (1) violation of 18 U.S.C. § 1349  
22 for "Honest Services Fraud" and 18 U.S.C. § 241 for "Conspiracy Against Rights";  
23 (2) violation of the Equal Protection Clause; (3) violation of 18 U.S.C. § 1956; and  
24 (4) violation of 42 U.S.C. §§ 1983 and 1985(2) based on the denial of equal protection.  
25 Am. Compl. ¶¶ 205-212. As relief, Plaintiffs sought damages; removal of Anthony as  
26 Trustee of the Trust; the appointment of LeDeux as Trustee in place of Anthony; payment

27 <sup>1</sup> The Trust, created by Plaintiffs' now deceased grandparents, has been administered  
28 by California probate courts, in both Alameda County Superior Court and Contra Costa  
County Superior Court. Dkt. 7 at 3.

1 of LeDeux's lost wages; the disgorgement of attorney's fees paid to Morrill and his law  
 2 firm; and the return of \$40,000, which allegedly represents Ledeux's deceased mother's  
 3 share of the sale proceeds from one of the Trust properties. Id. ¶¶ 214-220. He also sought  
 4 to vacate "all judgments" rendered by the state court with respect to the administration of  
 5 the Trust. Am. Compl. ¶ 1.

6 On August 12, 2019, the Court granted Plaintiffs' request to proceed in IFP and pre-  
 7 screened the Complaint in accordance with 28 U.S.C. § 1915(e)(2). The Court concluded  
 8 that it lacked subject matter jurisdiction over Plaintiffs' claims, and alternatively, that  
 9 Plaintiffs had failed to state a claim. See Fed. R. Civ. P. 12(h)(3) ("If the court determines  
 10 at any time that it lacks subject-matter jurisdiction, the court must dismiss the action."); id.  
 11 12(b)(6) (authorizing the court to dismiss a complaint for failure to state a claim upon  
 12 which relief can be granted). The Court entered judgment the same day. Dkt. 8. On  
 13 September 6, 2019, Plaintiffs filed a Notice of Appeal. Dkt. 9. In response, the Ninth  
 14 Circuit has issued a Referral Notice directing this Court to determine whether IFP status  
 15 "should continue for this appeal or whether the appeal is frivolous or taken in bad faith,"  
 16 within the meaning of 28 U.S.C. § 1915(a)(3). Dkt. 12.

17 In a civil matter, "[a]n appeal may not be taken in forma pauperis if the trial court  
 18 certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3); see Fed. R.  
 19 App. Proc. 24(A)(3)(a). The good faith standard is an objective one which is demonstrated  
 20 when an individual "seeks appellate review of any issue not frivolous." See Coppedge v.  
 21 United States, 369 U.S. 438, 445 (1962). For purposes of 28 U.S.C. § 1915, an appeal is  
 22 frivolous if it lacks any arguable basis in law or fact. See Neitzke v. Williams, 490 U.S.  
 23 319, 325 (1989).

24 The Court finds that Defendant's appeal is not taken in good faith. Plaintiffs  
 25 challenged the actions of Anthony, as Trustee, and her counsel Morrill, with respect to the  
 26 administration of the Trust. Plaintiffs also sought to overturn the decisions of the state  
 27 probate court, which has been overseeing the administration of the Trust. Under the  
 28 "probate exception," this Court has no jurisdiction over an action involving a trust if a


claim falls within the exclusive jurisdiction of state probate courts. Lepard v. NBD Bank, a Div. of Bank One, 384 F.3d 232, 237 (6th Cir. 2004). In California, the superior court “has exclusive jurisdiction of proceedings concerning the internal affairs of trusts.” Cal. Prob. Code § 17000(a). Because the claims alleged in the Complaint are within the state probate court’s exclusive jurisdiction, subject matter jurisdiction is lacking. E.g., Solomon v. Ling, No. CV 16-08216 RGK (SS), 2017 WL 8109984, at \*3 (C.D. Cal. Apr. 27, 2017); Wells Fargo Bank, N.A. v. Stern, No. C 02-5126 SI, 2003 WL 22114268 at \*2-\*3 (N.D. Cal. Sept. 8, 2003). Separate from the probate exception, this Court has no jurisdiction under the Rooker-Feldman<sup>2</sup> doctrine to review the probate court’s decision regarding the Trust, including Trustee’s handling of Trust assets. See Bianchi v. Rylaarsdam, 334 F.3d 895, 898 (9th Cir. 2003).

Even if the Court had subject matter jurisdiction, none of Plaintiffs’ causes of action state a claim. The first claim under 18 U.S.C. §§ 1349 and 241 failed because neither statute confers a private right of action. Dkt. 7 at 7-8. The second and fourth claims for denial of equal protection under 42 U.S.C. §§ 1983 and 1985 failed under the Noerr-Pennington doctrine and because none of the Defendants is a state actor for purposes of § 1983. Dkt. 7 at 9-10, 12-13. Finally, the third claim for violation of 18 U.S.C. § 1956(a)(1) failed under the Noerr-Pennington doctrine and because the statute does not confer a private right of action. Dkt. 7 at 10-12.

For the reasons stated above, and as set forth more fully in the Court’s Order Dismissing Amended Complaint, the Court CERTIFIES that Plaintiffs’ appeal is frivolous and is not taken in good faith. See 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

Dated: 9/17/19

  
SAUNDRA BROWN ARMSTRONG  
Senior United States District Judge

<sup>2</sup> See D.C. Court of Appeals v. Feldman, 460 U.S. 462, 482 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413, 415-16 (1923).

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JONATHAN MELVIN LEDEUX, et al.,

Plaintiffs,

v.

JEANNETTE LOUISE ANTHONY, et al.,

Defendants.

Case No.: 19-cv-04068-SBA

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that:

- (1) I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California; and
- (2) On 9/17/2019, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's office.

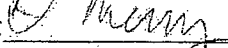
Jonathan Melvin Ledoux  
2595 Oro Bangor Highway  
Oroville, CA 95966

Lawrence Crocetti  
2595 Oro Bangor Highway Highway  
Oroville, CA 95966

Ninth Circuit Court of Appeals  
95 Seventh St  
San Francisco CA 94103

Dated: 9/17/2019

Susan Y. Soong  
Clerk, United States District Court

By:   
Doug Merry, Deputy Clerk to  
the Honorable Sandra Brown Armstrong



# **ATTACHMENT**

## **1**

Order from District Court dismissing this action

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

JONATHAN MELVIN LEDEUX and  
LAWRENCE CROCETTI,

Plaintiffs,

vs.

JEANETTE LOUISE ANTHONY, as an  
individual and in her official capacity as  
trustee of the Emmett and Aralee Charlton  
trust, and JOSEPH M. MORRILL  
(SBN187207) as an individual and as an  
officer of the court and as a representative of  
MORRILL LAW FIRM, DOES 1-100,

Defendants.

Case No: C 19-4068 SBA

**ORDER DISMISSING AMENDED  
COMPLAINT**

Dkt. 2, 5

Plaintiffs Jonathan Melvin Ledoux ("Jonathan") and his brother Lawrence Crocetti ("Lawrence") bring the instant pro se action against Jeanette Louise Anthony ("Jeanette"), Trustee of the Emmet and Aralee Charlton Trust ("Trust"), and her attorney, Joseph M. Morrill ("Morrill"), for alleged mishandling of Trust assets. The parties are presently before the Court on Plaintiffs' application to proceed in forma pauperis ("IFP"). Dkt. 2. Having read and considered the papers filed in connection with this matter and being fully informed, the Court hereby dismisses the Amended Complaint under 28 U.S.C. § 1915(e)(2).

1 **I. BACKGROUND**

2 **A. OVERVIEW OF RELEVANT TRUST PROVISIONS**

3 On July 31, 1990, husband and wife Emmett Charlton ("Emmett") and Aralee  
4 Charlton ("Aralee") created an *inter vivos* trust known as the Emmet and Aralee Charlton  
5 Trust. Am. Compl. ¶ 4 & Ex. A, Dkt. 5. ("Trust").<sup>1</sup> The Trust named Emmett and Aralee as  
6 the Trustees. Trust at 1. The Trust also identifies the children of Emmett and Aralee, as  
7 follows: Emmett Charlton Jr. ("Emmett Jr."); Emmett Charlton Sr.; Rowland Frederick  
8 Charlton; Mary Elizabeth LeDeux ("Mary") and Jeanette. *Id.* Mary, who is now deceased,  
9 is the mother of Plaintiffs Jonathan and Lawrence.

10 The Trust corpus included four properties, including one located at 1275 Primrose  
11 Drive, San Leandro, California ("Primrose Property"). *Id.* at 24-25. The Trust provides  
12 that upon the death of the surviving spouse (i.e., Aralee or Emmett), all properties except  
13 the Primrose Property, shall be distributed to specific individuals. *Id.* As for the Primrose  
14 Property, the Trust instructs that the property is to be distributed to the successor Trustee to  
15 be held and administered in accordance with the "Amplified Terms of Trust" provision  
16 contained within the Trust. *Id.* at 25.

17 The Amplified Terms specify that Mary may live rent free in the Primrose Property  
18 "for so long as she shall live," provided she pays for certain expenses. *Id.* at 25-26. Upon  
19 Mary's death or failure to pay the required expenses, the Primrose Property shall be  
20 distributed in equal shares to her living issue. *Id.* at 26. The interest of Mary's son  
21 Lawrence, an adult dependent, "shall go in trust to the successor Trustee...." *Id.* The Trust  
22 was amended on June 10, 1996 and November 19, 1996, by Trustor Aralee. The second

23  
24  
25 <sup>1</sup> Attached to the Amended Complaint is a copy of the Second and Final Account  
26 and Report of Trustee for Mary E. Ledoux Special Needs Trust; Petition for Settlement;  
27 Final Distribution and Discharge of Trustee. Attached as exhibits that that document are  
28 copies of the Trust and two subsequent amendments. The Court considers those documents  
in its pre-screening of the Complaint. See Nat'l Ass'n for the Advancement of  
Psychoanalysis v. Cal. Bd. of Psychology, 228 F.3d 1043, 1049 (9th Cir. 2000) (when  
determining if the complaint states a claim for relief "we may consider facts contained in  
documents attached to the complaint").

1 amendment created a Special Needs Trust for Mary to complement the sub-trust provisions  
2 contained in the Amplified Terms section of the Trust.

3 Emmet died on April 23, 1996 and Aralee died on September 11, 2012. Am. Compl.  
4 Ex. A, Dkt. 5 at 90. Pursuant to the terms of the Trust, Jeanette became the successor  
5 Trustee. Id. The Trust was administered in Alameda County until about September 2012,  
6 at which time the matter was transferred to the Contra Costa County Superior Court. Id.  
7 Attorney Morrill of the Morrill Law Firm represented Jeanette in her capacity as Successor  
8 Trustee with respect to the administration of the Trust. Id. The focus of the instant action  
9 centers on Jeanette's actions in her capacity as the successor Trustee and principally  
10 concerns the Primrose Property.<sup>2</sup>

## 11 B. SUMMARY OF THE INSTANT DISPUTE

### 12 1. Factual Summary

13 In 1998, Jonathan moved into the Primrose Property to help care for his mother,  
14 Mary. Am. Compl. ¶¶ 12, 39. As noted, the Trust granted Mary a life estate to live at the  
15 Primrose Property until her death. Trust at 25-26. After Mary died in September 2011,  
16 Jonathan and Lawrence continued to live at the property and refused to vacate the premises.  
17 Id. ¶ 47. Consequently, in November 2012, Jeanette, in her capacity as Trustee, filed an  
18 unlawful detainer ("UD") action in the Alameda County Superior Court to evict Plaintiffs  
19 from the Primrose Property. Id. Plaintiffs were evicted on December 19, 2013. Id. ¶ 60.

20 On November 14, 2014, the Trust sold the Property for \$250,000. Am. Compl. Ex.  
21 A, Dkt. 5 at 91. According to filings with the probate court, the Primrose Property was in  
22 poor condition and required extensive repairs before it could be sold. Id. After deductions  
23 for repairs, taxes and settlement charges, the Trust received \$132,516.93 in net sales  
24 proceeds. Id. Under the Trust's Amplified Terms, Lawrence's share of the proceeds were  
25 to be held in trust. Trust at 26. However, given the small amount of proceeds at issue,

26  
27 <sup>2</sup> The Trust also owned a property located at 13906 Rose Drive, San Leandro,  
28 California ("Rose house"). Id. ¶ 8; Trust at 24. Upon Trustor's death, the aforementioned  
property was distributed to the issue of Emmett Jr., one of Aralee's sons.

Jeanette determined that the continued management of those funds would unnecessarily deplete Lawrence's funds. Dkt. 5 at 92. Thus, exercising her discretion under Article X of the Trust (Small Trust Termination—Trustee Discretion), Jeanette opted to distribute his share rather than hold it in trust. Id.; Trust at 47.

## 2. Pleadings

On July 17, 2019, Plaintiffs filed the a 41-page, single-spaced typewritten complaint, the substance of which is difficult to discern. The pleadings are prolix and discursive, with extensive discussions of irrelevant information and numerous citations to cases—the import of which is unclear. For example, large sections of the Complaint consist of nothing more than string citations to cases and statutes and accompanying text ostensibly summarizing such authority. Nonetheless, the gravamen of the Complaint appears to be Plaintiffs' dissatisfaction with Jeanette's handling of the Trust as its successor Trustee and Morrill's actions as her counsel in connection with their eviction and sale of the Primrose Property.

The pleadings allege four causes of action: (1) violation of 18 U.S.C. § 1349 for "Honest Services Fraud" and 18 U.S.C. § 241 for "Conspiracy Against Rights"; (2) violation of the Equal Protection Clause; (3) violation of 18 U.S.C. § 1956; and (4) violation of 42 U.S.C. §§ 1983 and 1985(2) based on the denial of equal protection. Am. Compl. ¶¶ 205-212. As relief, Plaintiffs seek damages; removal of Jeanette as Trustee of the Trust; the appointment of Jonathan as Trustee in place of Jeanette; payment of Jonathan's lost wages; the disgorgement of attorney's fees paid to Merrill and his law firm; and the return of \$40,000, which allegedly represents Mary's share of the sale proceeds from one of the Trust properties. Id. ¶¶ 214-220. He also seeks to vacate "all judgments"

rendered by the state court with respect to the administration of the Trust. Am. Compl.

¶ 1.<sup>3</sup>

## II. LEGAL STANDARD

Under 28 U.S.C. § 1915(e)(2), federal courts are authorized to pre-screen claims filed IFP prior to service and to dismiss the case at any time if the court determines that: (1) the allegation of poverty is untrue; (2) the action is frivolous or malicious; (3) the action fails to state a claim; or (4) the action seeks monetary relief from a defendant who is immune from such relief. “[S]ection 1915(e) not only permits but *requires* a district court to dismiss an in forma pauperis complaint that fails to state a claim.” Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc) (emphasis added). Separately, the Court must dismiss an action if the court determines that it lacks subject matter jurisdiction. See Fed. R. Civ. P. 12(h)(3).

To determine whether an IFP complaint passes muster under § 1915, the Court applies the same standard applicable to motions to dismiss under Federal Rule of Civil Procedure 12(b)(6). See Barren v. Harrington, 152 F.3d 1193, 1194 (9th Cir. 1998). A complaint may be dismissed under Rule 12(b)(6) for failure to state a claim if the plaintiff neither states a cognizable legal theory nor alleges facts sufficient to support a cognizable legal theory. Balistreri v. Pacifica Police Dep’t, 901 F.2d 696, 699 (9th Cir. 1990). To survive a motion to dismiss, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). In reviewing the pleadings, the Court must construe them liberally. Balisteri, 901 F.2d at 699 (stating that pro se filings are to be liberally construed). If the court dismisses the

<sup>3</sup> Lawrence did not sign the Complaint, and Jonathan, as a non-attorney pro se litigant, cannot represent him. Moreover, to the extent that Lawrence is, in fact, an adult dependent, his claims can only be brought by a guardian ad litem, conservator, or similar representative appointed to represent him. See Jack v. Jack, No. C 12-02459 DMR, 2013 WL 557019, at \*4 (N.D. Cal. Feb. 12, 2013). Although these defects are curable, none of the claims alleged in the Complaint may be asserted in this Court or are otherwise cognizable.

1 complaint, it must grant leave to amend unless it finds that amendment would be futile.

2 Rodriguez v. Steck, 795 F.3d 1187, 1188 (9th Cir. 2015).

### 3 **III. DISCUSSION**

#### 4 **A. THE PROBATE EXCEPTION**

5 Federal courts have a duty to examine their jurisdiction sua sponte before proceeding  
6 with the merits of a case. See Snell v. Cleveland, Inc., 316 F.3d 822, 826 (9th Cir. 2002).  
7 Relevant here to the Court's jurisdictional assessment is the "probate exception," which  
8 specifies that a federal court may not exercise jurisdiction in any matter that would require  
9 it to "interfere with the probate proceedings or assume general jurisdiction of the probate or  
10 control of the property in the custody of the state court." Markham v. Allen, 326 U.S. 490,  
11 494 (1946); see Harris v. Zion Sv. Bank & Trust Co., 317 U.S. 447, 450 (1943) ("the  
12 settlement and distribution of decedents' estates and the right to succeed to the ownership  
13 of realty and personalty are peculiarly matters of state law"). Under this exception, a  
14 district court lacks subject matter jurisdiction over an action involving a trust if a claim falls  
15 within the exclusive jurisdiction of state probate courts. Lepard v. NBD Bank, a Div. of  
16 Bank One, 384 F.3d 232, 237 (6th Cir. 2004) ("The standard for determining whether  
17 federal jurisdiction may be exercised is whether under state law the dispute would be  
18 cognizable only by the probate court.") (internal quotations and citation omitted).

19 In California, "[t]he superior court having jurisdiction over the trust ... has exclusive  
20 jurisdiction of proceedings concerning the internal affairs of trusts." Cal. Prob. Code  
21 § 17000(a). "Proceedings concerning the internal affairs of a trust include, but are not  
22 limited to, proceedings ... [d]etermining questions of construction of a trust instrument"  
23 and "[a]scertaining beneficiaries and determining to whom property shall pass or be  
24 delivered upon final or partial termination of the trust." Cal. Prob. Code § 17200(b). The  
25 remedies a beneficiary may pursue against a trustee "are exclusively in equity." Saks v.  
26 Damon Raike & Co., 7 Cal. App. 4th 419, 429 (1992) (quoting in part Cal. Prob. Code  
27 § 16421).

1 Here, Plaintiffs' claims, at their core, are that Jeanette and her attorney wrongfully  
 2 administered the Trust.<sup>4</sup> Specifically, Plaintiffs allege that Jeanette had no right to evict  
 3 them from or sell the Primrose Property, which they contend rightfully belonged to Mary.  
 4 The propriety of a trustee's discretionary actions concerning the distribution of trust  
 5 property is precisely the type of matter which is subject to the probate court's sole  
 6 jurisdiction. See Cal. Prob. Code § 17200(b). Because the claims alleged in the Complaint  
 7 are within the state probate court's exclusive jurisdiction, subject matter jurisdiction is  
 8 lacking in accordance with the probate exception. E.g., Solomon v. Ling, No. CV 16-  
 9 08216 RGK (SS), 2017 WL 8109984, at \*3 (C.D. Cal. Apr. 27, 2017) ("the probate  
 10 exception applies to claims of conversion that are related to a trust and the proper  
 11 distribution of its assets"); Wells Fargo Bank, N.A. v. Stern, No. C 02-5126 SI, 2003 WL  
 12 22114268 at \*2-\*3 (N.D. Cal. Sept. 8, 2003) (remanding action brought by trustee against  
 13 co-trustee challenging distribution of assets from decedent's trust, finding that the dispute  
 14 fell within probate exception).

#### 15 B. INDIVIDUAL CAUSES OF ACTION

16 Although it is clear the Court lacks subject matter jurisdiction under the probate  
 17 exception, Plaintiffs' individual causes of action suffer from additional jurisdictional and  
 18 substantive defects requiring their dismissal.

##### 19 1. Violation of 18 U.S.C. § 1349 and 18 U.S.C. § 241

20 The first cause of action alleges that Defendants violated 18 U.S.C. §§ 1349 and 241  
 21 by conspiring to sell the Primrose Property "that they knew belonged to Mary ...." Am.  
 22 Compl. ¶ 206. The propriety of Jeanette's decision as Trustee to sell the Primrose Property  
 23 was addressed and approved by the state probate court. At a hearing in the Alameda  
 24 County Superior Court where Jonathan was present, the court ruled that Jeanette could  
 25

26 <sup>4</sup> The documents appended to the Complaint indicate that proceedings relating to the  
 27 Trust originally were venued in the Alameda County Superior Court. However, the matter  
 28 was later transferred to the Contra Costa County Superior Court. Am. Compl. Ex. O, Dkt.  
 5 at 39-93 (Reporter's Transcript of Proceedings, June 18, 2013, Alameda County Superior  
 Court, Hon. Cecilia Castellanos).



1 properly proceed with the UD action against Plaintiffs. Dkt. 5 at 84. In reaching its  
 2 decision, the court explained that Mary had a life estate in the Primrose Property which  
 3 terminated upon her death. Id. The court further explained that, as a result of Mary's  
 4 passing, "there's no legal impediment for [Jeanette] to sell the property" and that Jeanette,  
 5 in fact, "has the authority to sell the property." Id.

6 Separate from the probate exception discussed above, this Court has no jurisdiction  
 7 under the Rooker-Feldman<sup>5</sup> doctrine to review the probate court's decision regarding the  
 8 Trust, including Jeanette's handling of the Primrose Property. The Rooker-Feldman  
 9 doctrine proscribes a federal district court from exercising subject matter jurisdiction "over  
 10 a suit that is a de facto appeal from a state court judgment." Kougasian v. TMSL, Inc., 359  
 11 F.3d 1136, 1139 (9th Cir. 2004) (citing Bianchi v. Rylaarsdam, 334 F.3d 895, 898 (9th Cir.  
 12 2003)). A federal action constitutes such a de facto appeal where "claims raised in the  
 13 federal court action are 'inextricably intertwined' with the state court's decision such that  
 14 the adjudication of the federal claims would undercut the state ruling or require the district  
 15 court to interpret the application of state laws or procedural rules." Bianchi, 334 F.3d at  
 16 898. In this case, a determination in this action that Defendants acted wrongfully in  
 17 proceeding with the sale of the Primrose Property would "undercut" the state court's  
 18 determination that Jeanette had the authority under the Trust to sell the property. See id.  
 19 For that reason, the Court lacks subject matter jurisdiction under the Rooker-Feldman  
 20 doctrine to consider Plaintiffs' first claim on the merits.

21 Even if the Court had subject matter jurisdiction, Plaintiffs lack statutory standing to  
 22 pursue violations of Title 18.<sup>6</sup> Statutory (also referred to as "prudential") standing  
 23 concerns, among other things, whether the law invoked was intended to create a private  
 24 right of action for the plaintiff. See Lexmark Int'l, Inc. v. Static Control Components, Inc.,

25 <sup>5</sup> See D.C. Court of Appeals v. Feldman, 460 U.S. 462, 482 (1983); Rooker v.  
 26 Fidelity Trust Co., 263 U.S. 413, 415-16 (1923).

27 <sup>6</sup> "Statutory standing, unlike constitutional standing, is not jurisdictional." Jewel v.  
 28 Nat'l Sec. Agency, 673 F.3d 902, 907 n.4 (9th Cir. 2011) (internal quotation marks and  
 citation omitted).

572 U.S. 118, 125-128 (2014). The statutes at issue were not. Section 1349 criminalizes a conspiracy to commit a federal crime. See 18 U.S.C. § 1349. Section 241 likewise is a criminal statute that prohibits conspiracies to deprive another of his or her civil rights. See 18 U.S.C. § 241. Because neither statute was intended to nor creates a private right of action, Plaintiffs cannot predicate their claim on alleged violations thereof. See Allen v. Gold Country Casino, 464 F.3d 1044, 1048 (9th Cir. 2006) (finding that a civil claim under 18 U.S.C. § 241 is not actionable); see also Ellis v. City of San Diego, 176 F.3d 1183, 1189 (9th Cir. 1999) (noting that criminal statutes do not generally provide a private cause of action nor basis for civil liability).

## 2. Violation of Rights to Equal Protection

The second cause of action avers that Plaintiffs' rights to equal protection and due process were violated as a result of the UD action. Am. Compl. ¶ 209. Constitutional violations are actionable under 42 U.S.C. § 1983. See Thornton v. City of St. Helens, 425 F.3d 1158, 1164 (9th Cir. 2008) (section 1983 "is not itself a source of substantive rights, but merely provides a method for vindicating federal rights elsewhere conferred") (internal quotations and citations omitted). "To state a claim under § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of State law." Long v. Cty. of Los Angeles, 442 F.3d 1178, 1185 (9th Cir. 2006) (citing West v. Atkins, 487 U.S. 42, 48 (1988)).

Plaintiffs cannot proceed on their second claim. As discussed above, the state probate ruled that Jeanette, as Trustee, was authorized to commence a UD action in order to effectuate the sale of the Primrose Property. A determination in this action that Jeanette somehow acted wrongfully in pursuing the UD action would be at odds with the state court ruling that Jeanette had the right to proceed with Plaintiffs' eviction. Per the Rooker-Feldman doctrine, the Court therefore lacks jurisdiction to consider Plaintiffs' second claim. See Bianchi, 334 F.3d at 898.

On the merits, Plaintiffs' second claim fails under the Noerr-Pennington doctrine, which "derives from the Petition Clause of the First Amendment and provides that those who petition any department of the government for redress are generally immune from statutory liability for their petitioning conduct." Kearney v. Foley & Lardner, LLP, 590 F.3d 638, 643-644 (9th Cir. 2009); e.g., Sanghvi v. City of Claremont, 328 F.3d 532, 543 (9th Cir. 2003) (holding that the Noerr-Pennington doctrine barred § 1983 claims). This Court has previously ruled that the Noerr-Pennington doctrine bars "claims based on ... [a defendant's] conduct leading up and related to the prosecution of the UD action." Drawsand v. F.F. Properties, L.L.P., 866 F. Supp. 2d 1110, 1127 (N.D. Cal. 2011) (Armstrong, J.).

Even if Defendants were not immune from liability, Defendants are private actors who cannot be held liable under § 1983. See Polk County v. Dodson, 454 U.S. 312, 318 n.7 (1981) (noting that a private attorney, even one appointed by the court, does not act under the color of state law for purposes of 42 U.S.C. § 1983 when performing the traditional role of an attorney); Cooper v. Cooper, No. CV 4:16-1558-RBH-TER, 2016 WL 6205835, at \*2 (D.S.C. Aug. 25, 2016), report and recommendation adopted, No. 4:16-CV-01558-RBH, 2016 WL 6157506 (D.S.C. Oct. 24, 2016) (trustee of family trust was not a state actor for purposes of § 1983); see also Kennedy v. City of Ridgefield, 439 F.3d 1055, 1062 n.3 (9th Cir. 2006) (noting "private citizens" are not subject to § 1983 liability). Because Plaintiffs cannot establish that Defendants are state actors, Plaintiffs cannot state a claim under § 1983.

### 3. Violation of 18 U.S.C. § 1956(a)(1)

Plaintiffs' third claim alleges that Defendants conspired to "conduct a financial transaction affecting interstate commerce," in violation of 18 U.S.C. § 1956(a)(1)(A)(i). Am. Compl. ¶ 210. In an entirely confusing and conclusory manner, the pleadings aver that the financial transaction "involved the proceeds of a specific unlawful activity, that is dependent adult abuse in violation of Welfare and Institutes [sic] Code with the intent to promote the carrying on of specified unlawful activity, to wit: conspiracy to defraud the

beneficiaries of the TRUST in violation of The Emmett and Aralee Charlton Trust....” Id.  
 Read in tandem with other allegations of the Complaint, the Court liberally construes  
 Plaintiffs’ claim as alleging that Jeanette acted criminally in causing their eviction and sale  
 of the Primrose Property.

As with their other claims, Plaintiffs’ claim fails both procedurally and  
 substantively. First, as discussed above, the Court lacks subject matter jurisdiction, both  
 under the probate exception and the Rooker-Feldman doctrine. Second, Defendants are  
 immune from liability under the Noerr-Pennington doctrine for conduct relating to the UD  
 action. Finally, Plaintiffs lack prudential standing. Section 1956 is a criminal money  
 laundering statute that contains no private right of action. See Aldabe v. Aldabe, 616 F.2d  
 1089, 1092 (9th Cir. 1980); Vann v. Wells Fargo Bank, No. C 12-1181 PJH, 2012 WL  
 1910032, at \*5 (N.D. Cal. May 24, 2012) (finding that 18 U.S.C. § 1956(a)(1) “does not  
 allow for a private right of action”).

The Court notes that, although § 1956 is not independently actionable, money  
 laundering is one of many predicate acts that could support a civil claim under the  
 Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1962. “Under  
 RICO, it is “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.” 18 U.S.C. § 1962(c)  
 (emphasis added). “[R]acketeering activity’ is any act indictable under several provisions  
 of Title 18 of the United States Code....” Sanford v. MemberWorks, Inc., 625 F.3d 550,  
 557 (9th Cir. 2010) (citing Turner v. Cook, 362 F.3d 1219, 1229 (9th Cir. 2004)). A  
 “pattern” means two or more predicate acts. Id. Section 1962(d) makes it illegal to  
 conspire to violate any of the RICO provisions. See 18 U.S.C. § 1962(d).<sup>7</sup>

ly:

<sup>7</sup> Section 1962(d) states: “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.C. § 1962(d).

1 The Complaint fails to allege any facts that even remotely establish the requisite  
 2 elements of a RICO violation. Nor would Plaintiffs be able to allege additional facts to  
 3 overcome such deficiencies. As discussed above, Plaintiffs' allegations of misconduct  
 4 against Defendants are subject to the exclusive jurisdiction of the state probate court.  
 5 Resolution of a RICO claim will hinge on the determination of whether Defendants  
 6 comported themselves appropriately with respect to their administration of the Estate  
 7 during their respective tenures as Trustee and counsel for the Trustee. If Plaintiffs were to  
 8 succeed on this claim, there would be contradictory findings by different courts concerning  
 9 the propriety of Defendants' actions. As such, Plaintiffs cannot characterize Defendants'  
 10 conduct as violations of RICO and sue them in this Court. E.g., Cassity v. Pitts, 995 F.2d  
 11 1009, 1011-12 (10th Cir. 1993) (holding that RICO claims were barred because they  
 12 required the court "to construe the trust and define the duties, obligations and  
 13 responsibilities of [t]rustees"); Selseth v. Darwit, 536 F. Supp. 2d 883, 887 (N.D. Ill. 2008)  
 14 (finding that the probate exception barred plaintiffs' RICO claims, stating that "Plaintiffs  
 15 cannot simply re-title their claims from probate court against [the trustee] as RICO claims  
 16 in order to seek relief in a different forum."); Wozniak v. Corrigan, No. 105 CV 2259, 2006  
 17 WL 4512815, at \*4 (N.D. Ohio May 12, 2006) (ruling that the plaintiffs' RICO claim was  
 18 barred by the probate exception because the adjudication of the claim would "interfere with  
 19 a state probate proceeding"). Moreover, given the state court's ruling that Jeanette, as  
 20 Trustee, had a right under the Trust to carry out the eviction and sale of the property, the  
 21 Court lacks jurisdiction under the Rooker-Feldman doctrine to overturn those decisions.

#### 22 4. Violation of Equal Protection under 42 U.S.C. § 1983

23 Finally, Plaintiffs bring an equal protection claim under the auspices of 42 U.S.C.  
 24 §§ 1983 and 1985(2). Am. Compl. ¶ 211. For the reasons explained above in the context  
 25 of Plaintiffs' second claim, the Court lacks subject matter jurisdiction over this claim. Even  
 26  
 27  
 28

1 if the Court had subject matter jurisdiction, Plaintiffs cannot pursue a § 1983 claim against  
2 private actors such as Defendants.<sup>8</sup>

3 C. LEAVE TO AMEND

4 "Leave to amend should be granted unless the pleading could not possibly be cured  
5 by the allegation of other facts, and should be granted more liberally to pro se plaintiffs."<sup>9</sup>  
6 Lira v. Herrera, 427 F.3d 1164, 1176 (9th Cir. 2005). In the instant case, Plaintiffs cannot  
7 allege additional facts to support a federal claim that would not be barred by the probate  
8 exception, the Rooker-Feldman doctrine, the Noerr-Pennington doctrine or the lack of a  
9 legally viable theory of liability. The Court finds that leave to amend would be futile under  
10 the circumstances presented.

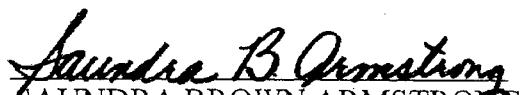
11 IV. CONCLUSION

12 For the reasons stated above,

13 IT IS HEREBY ORDERED THAT Plaintiffs' application to proceed IFP is  
14 GRANTED. The Amended Complaint is DISMISSED without leave to amend. The Court  
15 certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in  
16 good faith.

17 IT IS SO ORDERED.

18 Dated: 08/12/19

  
SAUNDRA BROWN ARMSTRONG  
Senior United States District Judge

23  
24  
25  
26  
27 <sup>8</sup> The Complaint also cites 42 U.S.C. § 1985(2)—which prohibits a conspiracy to  
28 obstruct justice or intimidate a party, witness, or juror. It is unclear how this statutory  
provision pertains to the allegations in the Amended Complaint.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

JONATHAN MELVIN LEDEUX and  
LAWRENCE CROCETTI,

Plaintiffs,

vs.

JEANETTE LOUISE ANTHONY, as an  
individual and in her official capacity as  
trustee of the Emmett and Aralee Charlton  
trust, and JOSEPH M. MORRILL  
(SBN187207) as an individual and as an  
officer of the court and as a representative of  
MORRILL LAW FIRM, DOES 1-100,

Defendants.

Case No: C 19-4068 SBA

**JUDGMENT**

In accordance with the Court's Order Dismissing Amended Complaint,

IT IS HEREBY ORDERED THAT a final judgment of dismissal be entered in this  
action.

IT IS SO ORDERED.

Dated: 08/12/19

  
SAUNDRA BROWN ARMSTRONG  
Senior United States District Judge

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JONATHAN MELVIN LEDEUX, et al.,  
Plaintiffs,

v.

JEANNETTE LOUISE ANTHONY, et al.,  
Defendants.

Case No.: 19-cv-04068-SBA

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that:

- (1) I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California; and
- (2) On 8/12/2019, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's office.

Jonathan Melvin Ledoux  
2595 Oro Bangor Highway  
Oroville, CA 95966

Lawrence Crocetti  
2595 Oro Bangor Highway Highway  
Oroville, CA 95966

Dated: 8/12/2019.

Susan Y. Soong  
Clerk, United States District Court

By: D. Merry  
Doug Merry, Deputy Clerk to  
the Honorable Sandra Brown Armstrong



**Additional material  
from this filing is  
available in the  
Clerk's Office.**