

No 22_____

APPENDICES

IN THE SUPREME COURT OF THE UNITED STATES

KARIM CHRISTIAN KAMAL,

Petitioner

v.

JOSEPH FARROW et al,

Respondents.

BOOKLET 1	PAGE
APPENDIX A: Ninth Circuit Memorandum.....	1
APPENDIX B: USDC Judgment.....	3
APPENDIX C: Recommendations SAC.....	4
APPENDIX D: Recommendations 4AC.....	31
APPENDIX E: Order denying rehearing.....	46
APPENDIX F: Second Amended Complaint.....	48

BOOKLET 2

APPENDIX G: Fourth Amended Complaint.....	107
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NO 22 _____

APPENDIX A

IN THE SUPREME COURT OF
THE UNITED STATES

KARIM CHRISTIAN KAMAL,
_F

Petitioner

v.

JOSEPH FARROW et al,

Respondents

SEPTEMBER 23, 2021

MEMORANDUM OF THE COURT OF APPEALS
BEFORE JUDGES PAEZ, NGUYEN, OWENS

FILED
SEPT 23 2021
MOLLY C. DWYER,
CLERK, U.S COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

KARIM CHRISTIAN KAMAL,

Plaintiff-Appellant,

v.

JOSEPH A. FARROW, Individual
capacity; et al.,

Defendants-Appellees,

and

DONNA FIELDS GOLDSTEIN,
Individual capacity; et al.,

Defendants.

No. 20-55065

D.C.No.2:17-cv-01986-
RGK-DFM

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California

R. Gary Klausner, District Judge, Presiding
Submitted September 14, 2021**

Before: Paez, Nguyen, and Owens, Circuit Judges

* This disposition is not appropriate for publication and is not
precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for
decision without oral argument. See Fed. R. App. P. 34(a)(2).

Karim Christian Kamal appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 and Racketeer Influenced and Corrupt Organizations Act ("RICO") action. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Fed. R. Civ. P. 12(b)(6). *Hebbe v. Pliler*, 627 F.3d 338, 341 (9th Cir. 2010). We affirm.

The district court properly dismissed Kamal's action because Kamal failed to state a plausible claim. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *see also Eclectic Props. E, LLC v. Marcus & Millichap Co.*, 751 F.3d 990, 997 (9th Cir. 2014) (stating the elements of a RICO claim); *Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir. 1996) ("Liability for improper custom may not be predicated on isolated or sporadic incidents; it must be founded upon practices of sufficient duration, frequency and consistency that the conduct has become a traditional method of carrying out policy."); *Maynard v. City of San Jose*, 37 F.3d 1396, 1404 (9th Cir. 1994) ("Intentional discrimination means that a defendant acted at least in part *because of* a plaintiff's protected status.").

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.

NO 22 _____

APPENDIX B

IN THE SUPREME COURT OF
THE UNITED STATES

KARIM CHRISTIAN KAMAL,

Petitioner

v.

JOSEPH FARROW et al,

Respondents

DECEMBER 23, 2019

USDC JUDGMENT

BEFORE JUDGE GARY KLAUSNER

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

KARIM CHRISTIAN KAMAL, No. CV 17-01986
RGK (DFM)

Plaintiff,

v.

JUDGMENT

COUNTY OF LOS ANGELES,
et al,

Defendants

Pursuant to the Court's Order Accepting the Report
and Recommendation of United States Magistrate
Judge, IT IS ADJUDGED that this action is
dismissed with prejudice.

Date: December 23, 2019

Gary Klausner

R. GARY KLAUSNER
United States District Judge

O

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

KARIM CHRISTIAN KAMAL, No. CV 17-01986
RGK (DFM)

Plaintiff,

v.

COUNTY OF LOS ANGELES, Report and
et al, Recommendations
of United States
Magistrate Judge

Defendants

This Report and Recommendation is submitted to the Honorable R. Gary Klausner, United States District Judge, under 28 U.S.C. § 636 and General Order 05-07 of the United States District Court for the Central District of California.

I. BACKGROUND

On March 13, 2017, Karim Christian Kamal ("Plaintiff") filed a civil rights complaint under 42 U.S.C. § 1983. See Dkt. 1 ("Complaint"). Plaintiff

filed a First Amended Complaint on July 19, 2017. See Dkt. 43 (“FAC”). After the Court recommended granting various motions to dismiss, see Dkt. 131 (“FAC Order”), Plaintiff filed the operative Second Amended Complaint, see Dkt. 137 (“SAC”).

In the SAC, Plaintiff brings claims against California Highway Patrol (“CHP”) Commissioner Joseph Farrow; CHP Commander I.J. Tillman; CHP Captain Bill Dance; CHP custodian of records Gurwinder Rakkar; CHP employees Jose Haro and Dustin Sherman; the law firm of Hurrell Cantrall LLP and its named partners, Thomas Hurrell and Melinda Cantrall; City of Los Angeles attorney Warren Williams; Los Angeles County Sheriff Department custodian of records Alma Aguirre; the State of California; the Judicial Council of California; and three judicial officers, California Supreme Court Chief Justice Tani Cantil-Sakauye, California Court of Appeals Justice Patricia Bigelow, and Los Angeles Superior Court Judge Samantha Jessner. See SAC ¶¶ 6-24.¹ Broadly stated, Plaintiff alleges that Defendants violated the Racketeer Influenced and Corrupt Organizations Act (“RICO”) and his constitutional rights.

¹ Where practical, the Court groups the Defendants as follows: Farrow, Tillman, Dance, Rakkar, Haro, and Sherman are referred to as “CHP Defendants.” Hurrell Cantrall LLP, Hurrell, Cantrall, and Williams are referred to as “Attorney Defendants.” The State of California, the Judicial Council of California, Chief Justice Cantil-Sakauye, Justice Bigelow, and Judge Jessner are referred to as “State Defendants.”

Before the Court are Defendants' motions to dismiss. See Dkts. 139, 140, 154, 157. For the reasons set forth below, the Court recommends that the motions to dismiss be granted, in part with prejudice and in part without prejudice.

II. FACTUAL ALLEGATIONS

A. Motor Vehicle Accident and Road Conditions

On April 17, 2011, Plaintiff was involved in a motorcycle collision with Samuel Morales on Big Tujunga Canyon Road in the Angeles National Forest. See SAC ¶ 25. The road is owned by the United States but is operated by the County of Los Angeles ("County"), with enforcement from CHP in conjunction with the Los Angeles County Sheriff Department ("LACSD"). See id. ¶¶ 26-27.

The collision occurred when Morales made a "sharp, unmarked blind turn," veered into Plaintiff's lane, and collided with him. Id. ¶ 25. Although the road has a speed limit of 55 MPH, Plaintiff contends that the turn cannot be safely driven at a speed greater than 30 MPH. See id. ¶ 29.

About an hour after the collision, U.S. Forest Service rangers discovered Plaintiff and Morales and called the County, which arranged to have the County Fire Department airlift the injured to the hospital. See id. ¶ 30. As a result of the accident, Morales sustained irreversible brain injuries and Plaintiff suffered permanent disability. See id. ¶¶ 34, 36.

B. Accident Investigation

CHP employee Sherman “willfully wrote a false report” at the direction of CHP Captain Dance and other officials. SAC ¶ 54. In the report, Sherman concealed the fact that he tried to pressure Plaintiff into making statements that would “pin the blame” on excessive speed by either Plaintiff or Morales. Id. Sherman intended to prevent the discovery that factors other than speed or negligence caused the collision. See id. ¶ 55.

At Dance’s direction, Sherman set out to stage the collision scene. See id. ¶ 57. Under this plan, CHP Officers did not mark critical pieces of evidence, such as skid marks or the victims’ positions. See id. ¶ 58. Sherman interviewed Luis Osorio, who testified falsely that he saw Morales speed up just before the collision. See id. ¶ 60. Sherman “intentionally concealed” the presence of other CHP officers that were present at the accident scene. Id. ¶ 61. Sherman later gave “false and misleading” testimony at his April 2013 deposition. Id. ¶ 62. CHP Commissioner Farrow and Dance “knowingly instructed, directed, ratified and approved” Sherman’s conduct. Id. ¶ 63.

C. State and Federal Lawsuit

Plaintiff filed a personal injury action in state court against Morales, the County, and former Director of Public Works Gail Farber in May 2012. See SAC ¶ 37. Hurrell Cantrall LLP and Williams represented the County. See id. ¶ 39. In March 2015, Judge Jessner granted the County’s motion for summary judgment. See id. ¶ 38. The

California Court of Appeal affirmed the ruling. See id.

Plaintiff also filed a federal lawsuit in the Central District of California alleging that the United States was liable for his injuries. See id. ¶ 40. Plaintiff alleges several instances of misconduct during the course of that lawsuit, including:

. Justice Bigelow, Williams, Hurrell Cantrall attorneys, and unknown County employees tried to fabricate a false record that Plaintiff was mentally disturbed to discredit him in the federal action. See id. ¶ 68.

. Justice Bigelow, Hurrell Cantrall attorneys, and Williams had a mental health care employee visit Plaintiff to assess his mental health. See id. ¶ 71

. Justice Bigelow told several people that Plaintiff was "crazy." Id. ¶ 73

. Hurrell Cantrall attorneys and Williams worked to "stall, hinder and delay" Plaintiff's access to subpoenaed documents, including its fire and sheriff departments' reports and records/transcripts of communication between Plaintiff and first responders. Id. ¶¶ 75-77, 86, 87.

. Aguirre filed a false declaration stating that there were no documents responsive to Plaintiff's discovery requests. See id. ¶¶ 79-80. Aguirre did so at the direction of Williams. See id. ¶ 81. Williams later filed a false declaration stating the

County had just retained him in order to cover up his role in instructing Aguirre to obstruct discovery. See id. ¶ 82.

Statistics produced by CHP were “doctor[ed]” to “further conceal that factors other than speed caused or contributed to the collision.” Id. ¶ 64.

D. Superior Court Treatment

In May 2018, Plaintiff attended a hearing before Judge Jessner. See SAC ¶ 92. A courtroom assistant made comments about Plaintiff’s English abilities and brought in an armed Deputy Sheriff to watch him. See id. ¶¶ 93-94. Judge Jessner was “uninterested” that Plaintiff felt he was being discriminated against on the basis of national origin. Id. ¶ 97.

E. Claims

The SAC asserts six claims against various Defendants: Counts One through Four allege violations of RICO and conspiracy to commit RICO, 18 U.S.C. §§ 1962(c) and (d); Count Five alleges national origin discrimination; and Count Six seeks declaratory and injunctive relief with respect to allegedly unconstitutional courtroom practices. See SAC ¶¶ 101-67.

At the core of Plaintiff’s RICO claims are eighteen predicate acts, summarized as follows: covering up the events surrounding the accident (Predicate Acts 1-5); producing doctored reports

from the Statewide Integrated Traffic Records System ("SWITRS") in response to discovery requests (Predicate Acts 6-8); attempting to discredit Plaintiff as mentally ill (Predicate Acts 9-10); and failing to produce/refusing to comply with discovery requests (Predicate Acts 11-18).

Defendants moved to dismiss the SAC. See Dkts. 139 ("CHP MTD"), 140 ("Attorney MTD"), 154 ("State MTD"), 157 ("Aguirre MTD"). Plaintiff has filed opposition papers to each motion. See Dkts. 148 ("Attorney Opp'n"), 149 ("CHP Opp'n"), 159 ("Aguirre Opp'n"), 161 ("State Opp'n"). Defendants filed replies. See Dkts. 150 ("CHP Reply"), 151 ("Attorney Reply"), 162 ("Aguirre Reply"), 163 ("State Reply").

III. LEGAL STANDARD

Dismissal for failure to state a claim "can be based on the lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory." Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1988) (as amended). The complaint is construed in the light most favorable to Plaintiff and all material allegations are taken to be true. See Love v. United States, 915 F.2d 1242, 1245 (9th Cir. 1989). A complaint must "state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). This means that the complaint must plead "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged."

Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). “The plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted unlawfully.” Id.

“In civil rights cases where the plaintiff appears pro se, the court must construe the pleadings liberally and must afford plaintiff the benefit of any doubt.” Karim-Panahi v. L.A. Police Dep’t, 839 F.2d 621, 623 (9th Cir. 1988). “A pro se litigant must be given leave to amend his or her complaint unless it is absolutely clear that the deficiencies of the complaint could not be cured by amendment.” Id. Before dismissing a pro se civil rights complaint for failure to state a claim, the district court “must give the plaintiff a statement of the complaint’s deficiencies.” Id.

IV. DISCUSSION

In their various motions to dismiss, Defendants advance six arguments:

(i) Plaintiff improperly added defendants, (ii) Plaintiff’s claims are barred by the Eleventh Amendment, (iii) Plaintiff’s claims are barred by the Noerr- Pennington doctrine, (iv) Plaintiff’s claims are barred by claim and issue preclusion, (v) Plaintiff fails to state a cognizable equal protection claim, and (vi) Plaintiff fails to state a cognizable RICO claim because he lacks standing and has not met federal pleading standards. Given the substantial overlap among legal arguments raised in these motions and Plaintiff’s oppositions, the Court addresses the motions collectively.

A. New Defendants

The Court previously dismissed Justice Bigelow and Judge Jessner from this action based on judicial immunity and instructed Plaintiff to “discontinue any efforts to serve [them].” See Dkt. 10 at 5. Plaintiff did not seek reconsideration of the Court’s order or seek leave to add Justice Bigelow or Judge Jessner as defendants. Consequently, these defendants should be dismissed with prejudice.

The SAC also seeks to add claims against defendant Alma Aguirre. Although the Court permitted Plaintiff to include “supplemental allegations” in the SAC, see FAC Order at 47 n.12, it did not permit him to add new defendants without their consent or leave of the Court, as required by Federal Rule of Civil Procedure 15(a)(2). In any event, the SAC’s claims against Aguirre are deficient for the reasons set forth later in this Order.

While Plaintiff is proceeding pro se, he is expected to read and comply with the Court’s orders. Future violations will be met with Rule 11 sanctions.

B. Eleventh Amendment

Defendants argue that Plaintiff’s claims against the State Defendants are barred by the Eleventh Amendment. See State MTD at 6-8.

The Eleventh Amendment bars private citizens’ claims against state governments without the

state's consent. See Kentucky v. Graham, 473 U.S. 159, 167 (1985). Application of Eleventh Amendment immunity subjects a complaint to dismissal for lack of subject matter jurisdiction. See Savage v. Glendale Union High Sch., 343 F.3d 1036, 1039-40 (9th Cir. 2003).

State immunity extends to state agencies and to state officers who act on behalf of the state. See Puerto Rico Aqueduct and Sewer Auth. v. Metcalf & Eddy, Inc., 506 U.S. 139, 142-46 (1993). Pursuant to the Eleventh Amendment, state agencies and officials are generally immune from liability under RICO and § 1983. See Thornton v. Brown, 757 F.3d 834, 839 (9th Cir. 2013) (as amended). However, the Eleventh Amendment does not bar suits against state officials sued in their individual capacity for acts taken during the course of their official duties. See Hafer v. Melo, 502 U.S. 21, 31 (1991).

An entity invoking Eleventh Amendment immunity generally bears the burden of asserting and ultimately proving those matters necessary to establish its defense. See Del Campo v. Kennedy, 517 F.3d 1070, 1075 (9th Cir. 2008). Once it does so, the burden shifts to plaintiff to demonstrate that an exception to immunity applies. See id. There are three principle exceptions. First, Congress may abrogate state sovereign immunity by acting pursuant to a grant of constitutional authority. See Kimel v. Fla. Bd. Of Regents, 528 U.S. 62, 80 (2000). Second, a state may waive its sovereign immunity by consent. See Coll. Sav. Bank v. Fla. Prepaid Postsecondary Educ. Expense Bd., 527 U.S. 666, 675-76 (1999). Third, under Ex

parte Young, 209 U.S. 123 (1908), Eleventh Amendment immunity does not bar a claim against a state official when that claim seeks prospective injunctive relief. See Puerto Rico Aqueduct, 506 U.S. at 146.

Plaintiff's equal protection claim against the State of California, the Judicial Council of California, and Chief Justice Cantil-Sakauye is barred by the Eleventh Amendment. See Peters v. Lieuallen, 693 F.2d 966, 970 (9th Cir. 1982) ("There is no doubt that suit under either §§ 1981 or 1983 against [a state agency] is a suit against the state qua state and is, therefore, barred by the Eleventh Amendment."). Indeed, the Supreme Court has held that Congress did not abrogate the states' Eleventh Amendment sovereign immunity by enacting § 1983. See Quern v. Jordan, 440 U.S. 332, 339-40 (1979).

Plaintiff contends that Congress has crafted an "unambiguous waiver" of immunity in 42 U.S.C. § 2000d-7.62, which applies to suits under several anti- discrimination statutes. See State Opp'n at 12-13. But Plaintiff does not bring suit under any of those statutes, instead alleging that the State Defendants violated the Equal Protection Clause. Plaintiff also argues for an express waiver by virtue of California's "contract" with the United States to receive federal funds to prevent discrimination and provide court interpreters. Id. This is not sufficient to defeat Eleventh Amendment immunity. See Lane v. Pena, 518 U.S. 187, 192 (1996) (noting the "critical requirement" that express waivers must be "unequivocally

expressed" in statutory texts, and will not be implied).

Plaintiff seeks declaratory and injunctive relief in Count Six. He acknowledges that this claim is only permissible against state officials and drops the State of California and Judicial Council of California, leaving Chief Justice Cantil-Sakauye.² Plaintiff maintains his claim is not barred due to the applicability of the Ex parte Young doctrine.

The Court disagrees. Under Ex parte Young, the state officer sued "must have some connection with the enforcement of the [allegedly unconstitutional act]." 209 U.S. at 157. "This connection must be fairly direct; a generalized duty to enforce state law or general supervisory power over the persons responsible for enforcing the challenged provision will not subject an official to suit." L.A. Cty. Bar Ass'n v. Eu, 979 F.2d 697, 704 (9th Cir. 1992).

Plaintiff does not connect Chief Justice Cantil-Sakauye to his allegations of harm. The SAC alleges that a courtroom assistant made comments about Plaintiff's English abilities and brought in an armed deputy sheriff to watch and intimidate him, see SAC ¶¶ 93-94; Judge Jessner was "uninterested" in Plaintiff's allegations of discrimination, which constituted her tacit approval, id. ¶ 97; there was no reason to bring the deputy in, see id. ¶ 100; and Chief Justice Cantil-Sakauye has been a "vocal opponent" of the presence of ICE officers in state courtrooms, id. ¶

² Count Six also names Judge Jessner

166. But the SAC does not allege facts suggesting Chief Justice Cantil-Sakauye controls or gives effect to the policies relating to when and where deputies may be used in the courtroom. See Snoeck v. Brussa, 153 F.3d 984, 987 (9th Cir. 1998) (finding Eleventh Amendment barred plaintiffs' action because there were no allegations that the defendant was expressly charged with enforcing the challenged act). Nor is it clear how Chief Justice Cantil-Sakauye's unrelated remarks regarding ICE officers connect her to Plaintiff's claims.

Counts Five and Six are thus subject to dismissal on the basis of Eleventh Amendment immunity.

C. Noerr-Pennington Doctrine

Defendants argue that several of Plaintiff's claims are barred by the First Amendment's Noerr-Pennington doctrine. See Attorney MTD at 5-6; Aguirre MTD at 13-14.

Under the Noerr-Pennington doctrine, those who petition any department of the government for redress are generally immune from statutory liability for their petitioning conduct, or for conduct that is "incidental" to valid petitioning conduct. Sosa v. DIRECTV, Inc., 437 F.3d 923, 929-30, 934 (9th Cir. 2006). The doctrine applies to civil RICO claims. See id. at 930-32. Immunity under Noerr-Pennington is not absolute however, and is withheld when the petitioning is a "sham." Kottle v. Nw. Kidney Ctrs., 146 F.3d 1056 1060 (9th Cir. 1998). The sham exception applies when a defendant uses government processes, as opposed

to the outcome of the processes, as a mechanism to injure plaintiffs. See Empress LLC v City and County of San Francisco, 419 F.3d 1052, 1057 (9th Cir. 2005).

Defendants argue that Plaintiff's claims against them are barred by the Noerr-Pennington doctrine, because those claims seek to attach liability based on their petitioning activity in various lawsuits. See Attorney MTD at 5-6; Aguirre MTD at 13-14. The Court agrees. The Court previously dismissed with prejudice Plaintiff's RICO claims against the Attorney Defendants to the extent they were based on petitioning-related conduct in the state and federal lawsuits. See FAC Order at 24-26. The allegations in the SAC largely mirror those made in the FAC and fare no better. Once again, the Court finds that Plaintiff's RICO claims seek to attach liability to petitioning conduct protected under the First Amendment, i.e., defendants' alleged failure to produce various documents and records in discovery. See, e.g., SAC ¶¶ 75 (alleging Attorney Defendants "schemed to stall, hinder and delay the production of documents"); 80 (alleging Aguirre wrote a "false declaration"); 86 (alleging Williams "delayed the production of documents").

Plaintiff contends that Noerr-Pennington does not apply to discovery. He is wrong. The Ninth Circuit has repeatedly held that discovery is incidental to litigation and comes within the doctrine if the underlying litigation is protected. See Freeman v. Lasky, Haas & Cohler, 410 F.3d 1180, 1184 (9th Cir. 2005). As the underlying state and federal lawsuits constituted protected activity,

it follows that the misconduct Plaintiff alleges in the discovery surrounding those actions comes within the doctrine as well.

The only remaining question, then, is whether one of the three "sham" exceptions to Noerr-Pennington immunity applies. Plaintiff argues for the third one: where the alleged conduct "consists of making intentional misrepresentations to the court" and those misrepresentations or the "party's knowing fraud upon . . . the court deprive the litigation of its legitimacy." Kottle, 146 F.3d at 1060.

With respect to Hurrell Cantrall, the SAC alleges that the firm "schemed to stall, hinder and delay the production of documents causing the plaintiff to file motions to compel the production of the documents requested." SAC ¶ 75. These allegations of dilatory discovery tactics come nowhere close to fitting the requirements for an intentional misrepresentation to the court. Cf. Kearny v. Foley & Lardner, LLP, 590 F.3d 638, 647-48 (9th Cir. 2009) (finding third exception applied where plaintiff alleged that defendant suppressed evidence that ultimately led the court to value her property lower than it should have).

For Williams and Aguirre, the SAC alleges that beyond hindering discovery, they submitted false declarations in the federal action. See SAC ¶¶ 79, 80, 82. Taken as true, Plaintiff has alleged intentional misrepresentations to the court. However, as Defendants point out, the context in which they are alleged to have proffered the falsehoods—in the context of discovery—would not have "deprive[d] the litigation of its legitimacy,"

because the documents were eventually produced to Plaintiff and used in the litigation. See, e.g., SAC ¶¶ 83 (“On November 17, 2015, . . . Williams mailed to the plaintiff some of the documents that were responsive to the requests.”), 84 (“On January 13 and then 21, 2016 only did Defendant Aguirre allegedly finish producing documents). This case is, therefore, unlike other cases in which the defendant’s discovery misconduct changed the course of the proceedings. See Living Designs, Inc. v. E.I. Dupont de Nemours & Co., 431 F.3d 353 (9th Cir. 2005) (“After Plaintiffs settled their product liability claims against DuPont, it became clear that DuPont had not revealed to Plaintiffs during discovery damaging test results).

In light of the foregoing, the “sham” exception does not apply. Consequently, Noerr-Pennington immunity protects the Attorney Defendants and Aguirre from Plaintiff’s RICO claims based on alleged discovery misconduct committed in connection with the earlier federal litigation. Plaintiff’s RICO claims should accordingly be dismissed.

D. Claim and Issue Preclusion

Separately, Aguirre seeks dismissal of Plaintiff’s RICO claims against her under claim and issue preclusion. See Aguirre MTD at 4-8.

The Court previously dismissed with prejudice Plaintiff’s claims that relied on discovery misconduct in the state court action because they “were or could have been litigated in the prior action.” FAC Order at 18-23. The SAC repeats the

FAC's allegations with one difference: it references discovery misconduct in the federal action. See, e.g., SAC ¶ 140. But Plaintiff was aware of the discovery issues during the pendency of his federal lawsuit. Indeed, the SAC alleges that after failed meet-and-confer attempts, Plaintiff filed a motion to compel to resolve discovery issues in the federal lawsuit. See id. ¶¶ 75, 81- 82; see also Kamal v. United States, No. 15-1585 (C.D. Cal. filed Mar. 4, 2015), Dkts. 15, 28.³

In opposition, Plaintiff mostly repeats arguments that the Court previously found unpersuasive. He also argues that because his motion to compel was dismissed without prejudice, there was not a "final judgment." But the "final judgment" requirement applies to the merits of the entire lawsuit, not individual motions. And there is no dispute that Plaintiff's federal action was dismissed with prejudice. See Kamal, No. 15-1585, Dkt. 213. Consequently, the Court concludes that Plaintiff's claims that rely on Aguirre's allegedly fraudulent declarations must be dismissed with prejudice because they were or could have been litigated in the prior federal action.

³ The Court takes judicial notice of documents filed in the earlier federal court action to determine what issues or claims were previously litigated. See Fed. R. Evid. 201(c); Reyn's Pasta Bella, LLC v. Visa USA, Inc., 442 F.3d 741, 746 n.6 (9th Cir. 2006).

E. Civil Rights Claims

Defendants contend that Plaintiff's equal protection claim and request for declaratory/injunctive relief fail to state a claim. See State MTD at 11-12.

To state an equal protection claim, a plaintiff must show that the defendants "acted with an intent or purpose to discriminate against the plaintiff based upon membership in a protected class." Lee v. City of Los Angeles, 250 F.3d 668, 686 (9th Cir. 2001) (citation omitted). "Intentional discrimination means that a defendant acted at least in part because of a plaintiff's protected status." Maynard v. City of San Jose, 37 F.3d 1396, 1404 (9th Cir. 1994). Alternatively, a plaintiff may allege facts showing that he has been intentionally treated differently from others similarly situated without a rational basis for the difference in treatment. See Village of Willowbrook v. Olech, 528 U.S. 562, 564 (2000) (per curiam).

Plaintiff's equal protection claim in Count Five is factually deficient. Notably, the claim is brought against Chief Justice Cantil-Sakauye, the State of California, and the Judicial Council, none of which is alleged to have been directly involved in the deprivation of Plaintiff's rights. See Jones v. Williams, 297 F.3d 930, 934 (9th Cir. 2002) ("In order for a person acting under color of state law to be liable under section 1983 there must be a showing of personal participation in the alleged rights deprivation[.]"). In addition, the SAC merely alleges that a courtroom assistant brought in a deputy after asking Plaintiff to fill out a form

“in proper English,” and that Judge Jessner did not act on Plaintiff’s complaints. SAC ¶¶ 93-97. Taken as true, these allegations do not state a plausible claim that any of the State Defendants acted with intent or purpose to discriminate against Plaintiff based on national origin, nor do they indicate he was treated differently than others similarly situated. Given that the SAC fails to allege a cognizable civil rights claim, Plaintiff’s request for declaratory and injunctive relief in Count Six—based on alleged unequal treatment—also fails.

F. RICO Claims

All Defendants argue that Plaintiff’s RICO claims should be dismissed for lack of standing and failure to state a claim. See State MTD at 10-11; Aguirre MTD at 8-12; Attorney MTD at 6-13; CHP MTD at 10-19.

1. Standing

To maintain an action in federal court, a plaintiff must allege facts showing that they have Article III standing. See Lujan v. Defenders of Wildlife, 504 U.S. 555, 560 (1992). A plaintiff bringing claims under the federal RICO statute must also meet additional standing requirements. “To have standing under § 1964(c), a civil RICO plaintiff must show: (1) that his alleged harm qualifies as injury to his business or property; and (2) that his harm was ‘by reason of’ the RICO violation, which requires the plaintiff to establish proximate causation.” Canyon County v. Syngenta

Seeds, Inc., 519 F.3d 969, 972 (9th Cir. 2008) (quoting Holmes v. Sec. Inv'r Prot. Corp., 503 U.S. 258, 268 (1992)). Injury to business or property requires tangible and concrete financial loss, rather than speculative or uncertain harm. See Chaset v. Fleer/Skybox Intern., LP, 300 F.3d 1083, 1086-87 (9th Cir. 2002).

Defendants argue that Plaintiff has not sufficiently alleged an injury or established causation. In opposition, Plaintiff contends that the legal fees and costs he incurred in the federal action to refute the “willfully false evidence” submitted by Defendants is an economic injury. See CHP Opp'n at 6-7; see also SAC ¶¶ 121 (alleging attorney and expert fees incurred to refute the United States' defenses), 142 (alleging attorney fees incurred to compel the production of documents in the federal action).

The Court rejects Plaintiff's contention. Notably, the Ninth Circuit has specifically declined to recognize legal fees as a cognizable injury under RICO. See, e.g., Thomas v. Baca, 308 F. App'x 87, 88 (9th Cir. 2009) (“This court has not recognized the incurrence of legal fees as an injury cognizable under RICO, and we decline to do so here.”); see also Ogden v. Wells Fargo Bank, N.A., No. 14-3579, 2015 WL 13413390, at *2 (C.D. Cal Feb. 20, 2015) (“The Ninth Circuit has generally refused to recognize legal fees as a valid injury to a business or property under RICO.”). Plaintiff offers no argument that the Ninth Circuit would depart from its conclusion in Thomas that legal fees are insufficient to establish standing.

Even were the Court to conclude that legal fees qualified as an injury compensable under RICO, the SAC does not sufficiently allege causation. See Holmes, 503 U.S. at 268 (explaining that RICO standing requires plaintiff show "that defendant's violation not only was was a 'but for' cause of his injury, but was the proximate cause as well"). An examination of out of circuit cases in which legal fees were deemed sufficient to confer standing reveals that the link between the plaintiff's injury and the conduct constituting the RICO violation was much more direct than the link asserted here. For example, in Bankers Trust Co. v. Rhoades, 859 F.2d 1096, 1105 (2d Cir. 1988), the Second Circuit held that the plaintiff had standing on the basis of legal fees incurred in connection with the defendant's fraudulently initiated frivolous lawsuits and its bribery of a judge. Similarly, in Handeen v. Lemaire, 112 F.3d 1339, 1354 (8th Cir. 1997), the Eighth Circuit held that legal fees could confer standing when incurred in challenging fraudulent claims asserted by defendant's in a bankruptcy action that they initiated, the same wrongful conduct that formed the basis of the plaintiff's RICO claim.

By contrast, the SAC alleges that Plaintiff incurred legal fees in a lawsuit that was neither brought by nor involved Defendants. Rather, the fees were incurred in the federal lawsuit that was initiated by Plaintiff against the federal government, an entity not alleged to be part of the RICO enterprise. Accordingly, the link between Plaintiff's injury and the Defendants' alleged wrongful conduct is too remote to confer standing.

Plaintiff's claims are also distinguishable for another reason: in the cases cited above, the lawsuits initiated by the defendants were found to be frivolous. See, e.g., Bankers Tr., 859 F.2d at 1105. That is not the case here, as the United States prevailed in the federal action. Plaintiff has not established standing.

2. Pleading Sufficiency

Defendants additionally argue that Plaintiff's RICO claims fail under federal pleading standards.

To state a RICO claim under § 1962(c), a plaintiff must allege: "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activities (known as predicate acts) (5) causing injury to the plaintiff's business or property." Grimmett v. Brown, 75 F.3d 506, 510 (9th Cir. 1996). To plead a violation of § 1962(d), a plaintiff must allege "either an agreement that is a substantive violation of RICO or that the defendants agreed to commit, or participated in, a violation of two predicate offenses." Howard v. Am. Online, Inc., 208 F.3d 741, 751 (9th Cir. 2000).

Generally, plaintiffs pursuing RICO claims under both §§ 1962(c) and must satisfy the pleading standards of Rule 8(a). See Wagh v. Metris Direct, Inc., 363 F.3d 821, 828 (9th Cir. 2003), overruled on other grounds by Odom v. Microsoft Corp., 486 F.3d 541, 551 (9th Cir. 2007). However, when a RICO claim is based on a predicate offense of fraud, the "circumstances constituting fraud . . . shall be stated with particularity" pursuant to Rule 9(b).

Edwards v. Marin Park, Inc., 356 F.3d 1058, 1066 (9th Cir. 2004).

Here, Defendants argue that Plaintiff has not adequately pled the existence of a RICO enterprise or a pattern of racketeering activity.

a. RICO enterprise

To plead the existence of an enterprise under RICO, a plaintiff must plead three elements: (1) a common purpose, (2) a structure or organization, and (3) longevity necessary to accomplish its purpose. See Eclectic Props. E, LLC v. Marcus & Millichap Co., 751 F.3d 990, 997 (9th Cir. 2014).

In Count One, Plaintiff alleges that the CHP Defendants “form[ed] the enterprise” through which they “engaged in a pattern of racketeering activities.” SAC ¶ 103. In pursuit of their common purpose, CHP Defendants set out to stage the collision scene to pin the blame on factors other than speed. See id. ¶ 57. They also gave misleading testimony, authored false reports, and produced doctored SWITS. See id. ¶¶ 55-64. In Count Three, Plaintiff alleges that various Defendants were part of the “Cover Up Enterprise,” which shared the common purpose of (1) obstructing Plaintiff’s federal action and any official proceedings in connection with the County’s management of the road and (2) inflicting economic damage to Plaintiff in order to discourage him from pursuing the federal action. Id. ¶¶ 134-35.

The SAC suffers from several deficiencies. Most notably, Plaintiff has not alleged either a

formal or an informal organizational structure amongst the Defendants. Instead, the SAC alleges in conclusory fashion that Defendants were “related because they all have in-depth knowledge of the plaintiff’s allegations” and were “all in the possession of evidence of each other’s wrongdoing and they sought to protect one another.” Id. ¶¶ 136-37. But the SAC does not allege specific facts as to the nature of the connection between the Defendants. It also does not contain factual allegations explaining the structure of the alleged enterprise or explain how Defendants coordinated to carrying out the RICO predicate crimes. Cf. Odom., 486 F.3d at 552 (finding that plaintiff had pled an ongoing organization when defendants allegedly entered into a cross-marketing contract and created mechanisms for transferring the plaintiff’s information in exchange for money). Indeed, the SAC is silent as to any connection between, for example, CHP Defendants and Attorney Defendants, State Defendants, or Aguirre. Merely alleging that they are all “government employees” is not sufficient.

Nor does Plaintiff adequately allege that defendants coordinated their activities as a continuing unit. The SAC alleges without any elaboration that the defendants “associated over a period of 7 years, from April 17, 2011 and at least until January of 2018.” SAC ¶ 137. But the SAC does not offer facts showing that Defendants acted jointly over a period of time, alleging instead only isolated incidents each involving some but not all of the named defendants. Plaintiff has thus failed to allege Defendants acted as a “continuing unit.”

b. Racketeering activity pattern

“A ‘pattern of racketeering activity’ consists of at least two acts of racketeering activity,” which is any one of the acts listed in 18 U.S.C. § 1961(1), within a 10-month period. Cal. Architectural Bldg. Prods., Inc. v. Franciscan Ceramics, Inc., 818 F.2d 1466, 1469 (9th Cir. 1987). Where RICO claims under § 1962(c) are asserted against multiple defendants, a plaintiff must allege at least two predicate acts by each defendant. See In Re WellPoint, Inc. Out-of-Network UCR Rates Litig., 903 F. Supp. 2d 880, 914 (C.D. Cal. 2012). To plead a pattern of racketeering activity, plaintiffs must allege: (i) that the racketeering predicates are related, and (ii) that they amount to or pose a threat of continued criminal activity. Turner, 362 F.3d at 1229.

While the SAC alleges eighteen predicate acts, they fall into three distinct RICO predicates—obstruction of justice in a federal court proceeding, 18 U.S.C. § 1503; witness tampering, id. § 1512; and witness retaliation, id. § 1513. While the Courts has doubts that the SAC’s allegations of litigation misconduct could act as predicate offenses for a civil RICO claim, see Kim v. Kimm, 884 F.3d 98, 103-06 (2d Cir. 2018) (collecting cases for the proposition that litigation misconduct, including false declarations, could not be predicate acts under RICO), the Court need not decide this issue because Plaintiff has failed to demonstrate standing or the existence of a RICO enterprise.

3. Conspiracy to Commit RICO

Because Plaintiff has failed to adequately allege a § 1962(c) RICO claim, he cannot plausibly allege a RICO conspiracy under § 1962(d). See Howard, 208 F.3d at 751 (“Plaintiffs cannot claim that a conspiracy to violate RICO existed if they do not adequately plead a substantive violation of RICO.”).

V. LEAVE TO AMEND

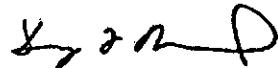
The Court has considered whether Plaintiff is capable of further amending the SAC to state any cognizable claims for relief. A district court should provide leave to amend upon granting a motion to dismiss unless it is clear that the complaint could not be saved by any amendment. See Karim-Panahi, 839 F.2d at 623. “Valid reasons for denying leave to amend include undue delay, bad faith, prejudice, and futility.” Cal. Architectural Bldg. Prod., 818 F.2d at 1472.

Applying these standards, the Court denies leave to amend with respect to all Plaintiff’s claims found by the Court to be barred by Eleventh Amendment or Noerr-Pennington immunity, including all claims against the State Defendants, Attorney Defendants, and Alma Aguirre. Despite several opportunities, Plaintiff has been unable to allege facts indicating that any exception to these doctrines would apply. In an abundance of caution, the Court grants Plaintiff leave to amend with respect to his RICO claims against the CHP Defendants because it is not clear that Plaintiff could not possibly cure the deficiencies in the SAC through the allegation of other facts.

VI. CONCLUSION

IT THEREFORE IS RECOMMENDED that the District Judge issue an Order: (1) approving and accepting this Report and Recommendation, (2) granting State Defendants' motion to dismiss with prejudice and without leave to amend; (3) granting Attorney Defendants' motion to dismiss with prejudice and without leave to amend; (4) granting Defendant Aguirre's motion to dismiss with prejudice and without leave to amend; and (5) granting CHP Defendants' motion to dismiss without prejudice and with leave to amend.

Plaintiff may file a third amended complaint within thirty-five (35) days, if he can do so consistent with Rule 11 and this Order. The amended complaint should bear the docket number assigned in this case, be labeled "Third Amended Complaint," and be complete in and of itself without reference to the prior complaints or any other pleading, attachment, or document. Failure to file an amended complaint will waive the right to do so. Leave to add defendants or claims (including those dismissed with prejudice) must be sought by a separate, properly noticed motion.



Date: May 2, 2019 DOUGLAS F. McCORMICK
United States Magistrate Judge

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

KARIM CHRISTIAN KAMAL, No. CV 17-01986
RGK (DFM)

Plaintiff,
v.
COUNTY OF LOS ANGELES, Report and
et al, Recommendations
of United States
Magistrate Judge

Defendants

This Report and Recommendation is submitted to the Honorable R. Gary Klausner, United States District Judge, under 28 U.S.C. § 636 and General Order 05-07 of the United States District Court for the Central District of California.

I. BACKGROUND

On March 13, 2017, Karim Christian Kamal (“Plaintiff”) filed a civil rights complaint under 42 U.S.C. § 1983. See Dkt. 1. After extensive motion practice, Plaintiff filed the operative Fourth Amended Complaint (“4AC”) on September 11, 2019. See Dkt. 180. The 4AC alleges ten claims against current and former employees of the California Highway Patrol (“CHP”).

The CHP Defendants now move to dismiss the 4AC. See Dkts. 184, 193-94.¹ Plaintiff filed oppositions, see Dkts. 188, 196-97, and CHP filed replies, see Dkts. 190, 198-99. For the reasons set forth below, the Court recommends that the motions be granted and this action dismissed with prejudice.

II. FACTUAL ALLEGATIONS

The following factual allegations are drawn from the 4AC and are accepted as true for purposes of this motion to dismiss. See al-Kidd v. Ashcroft, 580 F.3d 949, 956 (9th Cir. 2009), rev'd on other grounds, 563 U.S.731.

A. Motor Vehicle Accident

On April 17, 2011, Plaintiff was involved in a motorcycle collision with Samuel Morales on a road in the Angeles National Forest. See 4AC ¶¶ 21-22. The road is in the CHP Altadena jurisdiction in the County of Los Angeles ("the County"). See id. ¶ 21. The road network is "notorious" for its high collision rate. Id. ¶ 34.

The accident occurred when Morales departed his lane at a "sharp, unmarked blind turn" and collided with Plaintiff. Id. ¶ 22. There were no signs at the turn to warn of the dangers ahead. See id. ¶ 38. Plaintiff and other bystanders were unable to call for help due to the lack of cell phone service. See id. ¶ 23.

¹ The motions are mostly identical, except that the latter two include a statute of limitations argument.

About an hour after the collision, United States Forest Service (“USFS”) rangers discovered Plaintiff and Morales and called the County, which arranged to have the County Fire Department airlift the injured to the hospital. See id. ¶ 24. As a result of the accident, Morales sustained irreversible brain injuries and Plaintiff suffered permanent disability. See id. ¶¶ 28, 30.

B. Accident Investigation

CHP Altadena employees Dustin Sherman, Jose Garcia and Rebecca Lynch responded to the collision. See 4AC ¶47. In the helicopter en route to the hospital, Sherman harassed Plaintiff to make statements that would “pin the blame” on excessive speed by either Plaintiff or Morales. Id. ¶ 55.

After Sherman told Garcia and Lynch that Morales would not survive, they “carried out a scheme” to show that excessive speed caused the collision. Id. ¶ 57. Pursuant to this plan, CHP Altadena defendants deliberately failed to mark critical pieces of evidence, such as skid marks and the victims’ positions, tampered with evidence, and destroyed and removed material evidence. See id. ¶¶ 61-63. Additionally, Sherman—at Lynch and Garcia’s behest—agreed to write a fraudulent incident report indicating that speed led to the accident. See id. ¶ 64.

To support the fraudulent report, Sherman interviewed Luis Osorio, who testified falsely that Morales, to avoid hitting the motorcyclist in front of him, swerved out of his lane and hit Plaintiff. See id. ¶¶ 67-68. Sherman's report included a statement from a witness named Hernandez, who stated that he was riding at 60 MPH and that Morales was part of his group. See id. ¶ 69. However, Sherman "deliberately omitted" key parts of Hernandez's statement. Id. ¶¶ 70-72. Sherman also concealed, both in his report and later in his deposition testimony, the presence of other responders at the scene. See id. ¶ 73.

The traffic collision report was formally submitted to CHP on May 3, 2011. See id. ¶ 74. Lynch did not sign the report because she knew it was false, so instructed another CHP supervisor to do so. See id. Meanwhile, CHP Sacramento employees mailed to Plaintiff doctored and fraudulent reports from the Statewide Integrated Traffic Records System (SWITRS) relating to the road where the collision occurred. See id. ¶¶ 86-88.

CHP supervisors directed and endorsed the above conduct because they knew that Plaintiff would eventually file a claim for damages. See id. ¶¶ 90-92.

C. Compensation Claims and Legal Proceedings

On October 6, 2011, Plaintiff filed a claim for damages with the County Compensation Board. See 4AC ¶ 76. Based on Sherman's report, the County's insurer denied the claim. See id.

In May 2012, Plaintiff filed a personal injury action against Morales in state court, believing that Sherman's report (blaming Morales's excessive speed) was truthful. See id. ¶ 77. At his deposition, Sherman made several false statements regarding his report. See id. ¶ 80. Sherman later pressured Garcia and Osorio to lie or be evasive during their respective depositions in order to corroborate his false report. See id. ¶¶ 82-83. In October 2015, Lynch made evasive statements during her deposition. See id. ¶ 84. Plaintiff eventually dismissed the action after learning that Sherman's report was false. See id. ¶ 77.

On March 13, 2013, Plaintiff filed a claim for damages with the USFS. See id. ¶ 78. Based on Sherman's report, USFS denied the claim. See id.

On March 4, 2015, Plaintiff filed a negligence action against the United States in federal court. See id. ¶ 79. Relying on Sherman's report, Plaintiff alleged that USFS failed to adequately warn motorists to reduce their speed and to ensure a proper speed limit. See id. During the action, Plaintiff learned that speed was not a factor in the collision, CHP Altadena employees did not conduct a proper investigation, and that the produced SWITRS were falsified. See id. ¶¶ 93-94. The action was eventually dismissed at summary judgment on the ground of discretionary immunity. See id. ¶ 79.

D. Witness Retaliation

Between November 2016 and June 2019, Plaintiff and his immediate family suffered harassment, including smashed windows and defaced property. See 4AC ¶¶ 98-103. Plaintiff believes CHP defendants were responsible, acting in retaliation for Plaintiff's accusations of wrongdoing. See id. ¶ 107.

E. Claims

The 4AC asserts ten claims for violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO") and conspiracy to commit RICO, 18 U.S.C. §§ 1962(c) and (d). See 4AC ¶¶ 110-324. At the core of Plaintiff's RICO claims are the predicate acts of witness tampering, mail and wire fraud, and obstruction of justice. See id.

III. LEGAL STANDARD

To overcome a Rule 12(b)(6) motion, "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)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Id. The Court accepts the complaint's factual allegations as true and draws all permissible inferences in the plaintiff's favor.

See al-Kidd, 580 F.3d at 956. While a plaintiff need not plead detailed factual allegations to survive a motion to dismiss, “[t]hreadbare recitals of the elements of the cause of action, supported by mere conclusory statements, do not suffice.” Iqbal, 556 U.S. at 678.

Where, as here, the plaintiff appears pro se, the Court “must construe the pleadings liberally and must afford plaintiff the benefit of any doubt.” Karim-Panahi v. L.A. Police Dep’t, 839 F.2d 621, 623 (9th Cir. 1988). “A pro se litigant must be given leave to amend his or her complaint unless it is absolutely clear that the deficiencies of the complaint could not be cured by amendment.” Id. (quoting Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987)).

IV. DISCUSSION

A. Civil RICO

To state a civil RICO claim under 18 U.S.C. § 1962(c), Plaintiff must plausibly allege that CHP defendants participated, directly or indirectly, in (1) the conduct (2) of an enterprise that affects interstate commerce, (3) through a pattern (4) of racketeering activity. See Eclectic Props. E, LLC v. Marcus & Millichap Co., 751 F.3d 990, 997 (9th Cir. 2014). Plaintiff must also satisfy RICO’s statutory standing requirements by plausibly alleging an (1) an injury to “business or property,” that is (2) “by reason of a violation of section 1962.” 18 U.S.C. § 1964(c).

Conspiring to violate RICO is a separate offense under 18 U.S.C. § 1962(d). “To establish a violation of section 1962(d), Plaintiffs must allege either an agreement that is a substantive violation of RICO or that the defendants agreed to commit, or participated in, a violation of two predicate offenses.” Howard v. Am. Online Inc., 208 F.3d 741, 751 (9th Cir. 2000).

1. RICO Injury

CHP argues that Plaintiff fails to allege a RICO injury. See Motions at 4-7. The Court agrees.

To successfully plead a RICO injury, Plaintiff must satisfy two requirements. First, he must plausibly allege “a harm to a specific business or property interest,” which is a “categorical inquiry typically determined by reference to state law.” Diaz v. Gates, 420 F.3d 897, 900 (9th Cir. 2005) (en banc). Second, Plaintiff must plausibly allege that his injury has resulted in “concrete financial loss.” Canyon Cty. v. Syngenta Seeds, Inc., 519 F.3d 969, 975 (9th Cir. 2008) (citation omitted).

Plaintiff has previously argued that his legal fees incurred in refuting CHP’s “false evidence” constituted a RICO injury, a position the Court rejected. See Dkt. 166 at 16 (citing Thomas v. Baca, 308 F. App’x 87, 88 (9th Cir. 2009)). Plaintiff now alleges that, but for CHP’s fraudulent conduct, he would have prevailed in his compensation claims before the County and USFS. See 4AC ¶¶ 138, 140. In opposition to the motions to dismiss, Plaintiff characterizes this injury as interference with his

prospective economic advantage, a tort under California law. See Opp'n at 8-9.²

CHP contends that Plaintiff's alleged loss of compensation for his personal injuries does not confer RICO standing. See Reply at 2-3. But CHP glosses over the distinction between personal injuries and property injuries, best illustrated by the Ninth Circuit's decisions in Diaz and Guerrero.

In Diaz, the Ninth Circuit held that plaintiff's allegation he was unable to pursue gainful employment while defending himself against unjust charges and while unjustly incarcerated was an injury to "business or property" within the meaning of RICO. See 420 F.3d at 898. The court reasoned that the plaintiff suffered two types of injuries: (1) the personal injury of false imprisonment and (2) the property injury of interference with contract and interference with prospective business relations. See id. at 900-02.

² Citing Smith v. Superior Court, 151 Cal. App. 3d 491 (1984), the opposition could be read to suggest a separate injury of intentional spoliation of evidence. See Opp'n at 9-10. Since Smith, the California Supreme Court has held that there is no cause of action for negligent or intentional spoliation of evidence by a third party. See Temple Cnty. Hosp. v. Superior Court, 20 Cal. 4th 464, 478 (1999).

“Treating the two as separate, and denying recovery for the first but letting the suit go forward on the second, is both analytically cleaner and truer to the language of the [RICO] statute.” Id. at 902.³

A year later, in Guerrero v. Gates, the Ninth Circuit held that plaintiff’s allegation that he lost employment prospects during his wrongful incarceration established a RICO injury. See 442 F.3d 697, 707- 08 (9th Cir. 2006). “Under Diaz, [plaintiff’s] alleged harm amounts to intentional interference with contract and interference with prospective business relations, which are torts under California law that constitute injury to business or property under RICO.” Id. at 707.

Per Diaz and Guerrero, intentional interference with prospective economic advantage unquestionably constitutes an injury to business or property. As Diaz requires, the Court looks to state law for guidance in determining whether Plaintiff has alleged a viable interference claim. In California, the tort has five elements:

³ CHP’s argument that Plaintiff’s theory of injury would create a “spiral of unending litigation under the RICO Act,” Reply at 2, was considered in Diaz: “(O)ur approach allows more claims to go forward....But these policy consequences, assuming they are undesirable, cannot blind us to the statutory language.” Diaz, 420 F.3d at 901.

(1) an existing economic relationship between plaintiff and a third party, with the probability of future economic benefit; (2) defendant's knowledge of the relationship; (3) intentional acts on the part of defendant designed to disrupt that relationship, (4) actual disruption of the relationship; and (5) economic harm to plaintiff proximately caused by defendants' acts. See Roy Allan Slurry Seal, Inc. v. Am. Asphalt S., Inc., 2 Cal. 5th 505, 512 (2017).

Plaintiff fails to satisfy the first element. The economic relationship element has two parts: "(1) an existing economic relationship that (2) contains the probability of an economic benefit to the plaintiff." Id. In Blank v. Kirwan, 39 Cal. 3d 311 (1985), plaintiff alleged that defendant had interfered with his application for a city license to operate a poker club. The California Supreme Court held that the relationship between plaintiff and the city could not be characterized as an economic relationship, and that, even if it could, "it would make little difference," as intentional interference with prospective economic advantage "traditionally protected the expectancies involved in ordinary commercial dealings – not the 'expectancies,' whatever they may be, involved in the government licensing process." Id. at 330. The court concluded that the city's discretion to grant or deny applications was so broad that it "negate[d] the existence of the requisite 'expectancy' as a matter of law." Id.

Recently, in Roy Allan, the California Supreme Court held that a disappointed bidder on a public works contract failed to allege the requisite economic relationship with a public entity. See 2

Cal. 5th at 516-22. Citing Blank with approval, the Supreme Court explained that there could be no existing relationship between plaintiffs and public entities, plaintiffs had no protectable expectancy where the city had discretion to reject their (or any other entities') bids, and that holding otherwise would encourage frivolous litigation. See id.

Similarly, Plaintiff's attempt to allege an economic relationship with the County and USFS Compensation Boards fails. Blank and Roy Allan counsel against recognizing an "economic relationship" containing the "probability of future economic benefit" solely because Plaintiff believed he would prevail on his compensation claims. Without some sort of guarantee, Plaintiff's expectation of success was at most a hope for an economic relationship and a desire for future benefit. See Roy Allan, 2 Cal. 5th at 518 ("The tort of intentional interference with prospective economic advantage traditionally has not protected speculative expectancies.") (citation and quotation omitted).

Indeed, the tort's requirements "presuppose the relationship existed at the time of the defendant's allegedly tortious acts lest liability be imposed for actually and intentionally disrupting a relationship which has yet to arise." Westside Ctr. Assocs. v. Safeway Stores 23, Inc., 42 Cal. App. 4th 507, 526 (1996). Here, when CHP allegedly engaged in fraudulent behavior, Plaintiff had not yet filed a compensation claim. Plaintiff "cannot rely on the of later events to prove that [defendant] interfered with an existing economic relationship." Roy Allan, 2 Cal. 5th at 518.

Additionally, the Court is mindful that “RICO was intended to combat organized crime, not to provide a federal cause of action and treble damages to every tort plaintiff.” Oscar v. Univ. Students Co-op. Ass’n, 965 F.2d 783, 786 (9th Cir. 1992), abrogated on other grounds by Diaz, 420 F.3d 897. Under Plaintiff’s position, just about every dissatisfied claimant could allege a RICO claim. It is not hard to imagine a plaintiff asserting a RICO injury based on allegations that a state agency conducted a lackluster investigation to avoid future liability. Such was not the intent of Congress in enacting RICO.

In short, Plaintiff’s speculative expectation that he would have succeeded in his compensation claims but for CHP’s meddling fails to state a claim for intentional interference with prospective economic advantage as a matter of law. Consequently, it cannot serve as the basis of his injury under RICO.

Plaintiff’s other alleged injury is that CHP’s fraud “induced” him to sue Morales and the USFS, leading to “considerable attorney’s fees.” 4AC ¶¶ 139, 141. Plaintiff cites no authority—and the Court found none—that California law creates a property-like entitlement to sue the “correct party.” This leaves Plaintiff’s legal fees as his remaining RICO injury, a position the Court again rejects. The Ninth Circuit has not recognized legal fees as a valid injury to a business or property under RICO. See Thomas, 308 F. App’x at 88 (“This court has not recognized the incurrence of legal fees as an injury cognizable under RICO, and we decline to do so here.”). Moreover, any link between Plaintiff’s

injury and CHP's conduct is far too indirect and attenuated. Notably, Plaintiff incurred fees in lawsuits that he initiated, lost, and did not involve CHP beyond some limited discovery. Cf. Handeen v. Lemaire, 112 F.3d 1339, 1354 (8th Cir. 1997) (holding that legal fees could confer standing under RICO when incurred in challenging fraudulent claims asserted by defendants in a prior bankruptcy action they initiated).

In sum, Plaintiff has not alleged an injury sufficient to confer standing on his RICO claims.⁴ Plaintiff's RICO claims fail to state a claim for relief.

2. Conspiracy under 18 U.S.C. § 1962(d)

As Plaintiff lacks standing to plead violations under § 1962(c), he cannot allege the existence of a conspiracy to violate RICO. See Howard, 208 F.3d at 751; Sanford v. MemberWorks, Inc., 625 F.3d 550, 559 (9th Cir. 2010).

⁴ The Court does not reach CHP's remaining arguments that Plaintiff fails to sufficiently allege a RICO enterprise or pattern of racketeering activity, and that any RICO claim is barred by Rooker-Feldman, issue preclusion, and claim preclusion.

B. Leave to Amend

A district court should provide leave to amend upon granting a motion to dismiss unless it is clear that the complaint could not be saved by any amendment. See Karim-Panahi, 839 F.2d at 623. "Valid reasons for denying leave to amend include undue delay, bad faith, prejudice, and futility." Cal. Architectural Bldg. Prod. v. Franciscan Ceramics, 818 F.2d 1466, 1472 (9th Cir. 1987). At this point, the Court believes that amendment would be futile. Plaintiff has had five chances to state a RICO claim against the CHP and has not been able to do so. Plaintiff seems especially unable to sufficiently allege an injury to "business or property," which is required to establish standing.

Consequently, the Court recommends that leave to amend be denied.

CONCLUSION

IT IS THEREFORE RECOMMENDED that the District Judge issue an Order: (1) approving and accepting this Report and Recommendation; (2) granting the motions to dismiss; and (3) enter judgment dismissing this action with prejudice.

Date: November 26, 2019



DOUGLAS F. McCORMICK
United States Magistrate Judge

FILED DEC 28 2021
MOLLY C. DWYER, CLERK,
U.S COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

KARIM CHRISTIAN KAMAL,

Plaintiff-Appellant,

v.

JOSEPH A. FARROW, Individual
capacity; et al.,

Defendants-Appellees,

and

DONNA FIELDS GOLDSTEIN,
Individual capacity; et al.,

Defendants.

No. 20-55065

D.C.No.2:17-cv-01986-

RGK-DFM

Central district of
California, Los Angeles

ORDER

Before: Paez, Nguyen, and Owens, Circuit judges
The panel has voted to deny the petition for
rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R. App. P. 35.

Kamal's petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 65) are denied.

No further filings will be entertained in this closed case.

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kamalkarim@yahoo.com
In Pro Per

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KARIM CHRISTIAN
KAMAL,

Plaintiff,

v.

Joseph A. Farrow, I.J
Tillman, Jose E. Haro,
Gurwinder Rakkar, Bill
Dance, Dustin Sherman,
Hurrell Cantrall LLP,
Thomas Hurrell, Melinda
Cantrall, Warren Williams,
Alma Aguirre, Patricia
Bigelow, Superior Court of
California, Judicial Council
of California and Tani
Cantil-Sakauye in her
official capacity

Defendants.

CASE NO. CV 17-
01986 RGK (DFM)
SECOND amended
complaint for
violation of the
federal rico act (18
u.s.c 1962 (c));
conspiracy to
violate the federal
rico act (18 u.s.c.
1962 (d); violation
of civil rights
(fourteenth
amendment of the
constitution of the
united states); for
declaratory
judgment and
permanent
injunctive relief
demand for jury
trial.

JURISDICTION

1. The plaintiff brings this action under the federal Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1964 ("RICO"), 18 U.S.C. 1962 (c) and (d) and the Fourteenth Amendment to the Constitution of the United States.
2. This Court has jurisdiction pursuant to the following statutes:
 - a. 28 U.S.C. Section 1331, which gives district courts original jurisdiction over civil actions arising under the Constitution, laws of treaties of the United States; and because the plaintiff and the defendants reside in different states (28 U.S.C. 1332) and the amount in controversy exceeds \$75,000.00. The Court has the authority to grant declaratory and injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. Sections 2201 and 2202.
3. Venue is appropriate because several of the defendants reside in this judicial district and the facts giving rise to this complaint occurred in this judicial district.

PARTIES

4. The plaintiff Karim Kamal is a resident of the State of Nevada and he was a resident of the County of Los Angeles at all the times herein mentioned.
5. The plaintiff is an individual residing in the Clark County. The plaintiff is self-supporting, owns a pet care and dog training business, has been in a stable

6-year relationship with a female who is an MD-OB/GYN in Las Vegas, holds a master degree in business from a French University, has no substance or alcohol abuse issues of any kind and has a social life made of friends who are themselves outstanding and contributing members of society. The plaintiff has never been diagnosed with a mental illness. Family, friends and the plaintiff's medical providers have never expressed to the plaintiff any concern about his mental fitness. No court has declared the plaintiff a vexatious or disruptive litigant.

6. Joseph A. Farrow is an individual. Defendant Farrow ("Farrow") was at all the times relevant herein the Commissioner for the California Highway Patrol ("CHP").

7. Relevant facts about non-defendant the California Highway Patrol ("CHP").

CHP is not a defendant. CHP is a department of the State of California, created and organized under the Constitution and the laws of the State of California. CHP is a law enforcement agency with patrol jurisdiction all over California. CHP was created in 1929. CHP also investigates traffic collisions and compiles and keeps collision statistics called SWITRS. CHP is organized with, at its top a Commissioner, at its bottom a cadet and above the cadet, an officer.

The mission of the California Highway Patrol is to provide the highest level of Safety, Service, and Security. The main duty of a CHP officer is to ensure road safety in California. Additional duties include protecting state buildings, conducting

criminal investigations, and assisting local law enforcement agencies and operations. CHP officers are thus charged with enforcing the California Vehicle Code, ensuring safety and public order, and writing tickets and reports when necessary and appropriate. The duties of CHP Officers include: rejection of corrupting influence and loyalty to the precepts of the Highway Patrol.
<https://www.chp.ca.gov/home/about-us>.

The CHP California Investigation Manual ("CIM") lays down the principles and methods for competent traffic collision investigations. The 2010 CIM, in force at the time the collision occurred, states on page 110.5:

"Collision documentation is the foundation for any effective traffic safety program. To attain a reduction in the frequency and severity of traffic collisions, it is important that the information exchanged among users be identical in definition and type of data. The statewide use of the standard Traffic Collision Report forms in accordance with the instructions in this manual will meet this requirement and provide meaningful data concerning each of the following subjects:"

".... The success or failure of collision prevention programs will be determined through evaluation of statistics gathered from traffic collision report forms.".... "The reports allow law enforcement and public works agencies to identify high collision frequency locations, collision causing violations, types of collisions, types and ages of parties involved, and other information to assist the analysis of traffic collisions."... " This is accomplished

through comparisons with other local, state and national traffic safety statistics."; ".... The collection of traffic collision data will help identify highway design, law enforcement, vehicle and driver deficiencies. Corrective countermeasures may then be developed by traffic engineers, law enforcement agencies, driver improvement analysts and educators."

8. Defendant I.J. Tillman is an individual residing or employed in Sacramento, California. Defendant Tillman ("Tillman") was, at all the times relevant herein, the CHP Commander of the Support Services Section, and as such he was responsible for the maintenance of the SWITRS in 2014 and 2015. I.J. Tillman is sued in his individual capacity.
9. Jose E. Haro is an individual residing or employed in Sacramento, California. Defendant Haro ("Haro") is the person to contact regarding SWITRS that CHP produced on August 21, 2015 in response to a subpoena in the USDC action. Defendant Haro was, at all the relevant times herein, employed by CHP. Defendant Haro is sued in his individual capacity.
10. Gurwinder Rakkar is an individual residing or employed in Sacramento, California. Defendant Rakkar ("Rakkar") is/was, at all the times relevant herein, employed by CHP, and she was the custodian of records of SWITRS. Gurwinder Rakkar is sued in her individual capacity.
11. Dustin Sherman is an individual residing or employed in the County of Los Angeles. Defendant

Sherman (“Sherman”) was, at all the times relevant herein, employed by CHP. Defendant Sherman is sued in his individual capacity.

12. Bill Dance is an individual who was residing and employed in the County of Los Angeles at all the times relevant herein. Defendant Dance (“Dance”) was the Captain of the Altadena CHP station in April of 2011. He is sued in his individual capacity.

13. All the defendants employed by the CHP, namely Defendants Farrow, Tillman, Haro, Dance, Sherman and Rakkar, are hereinafter referred to as “CHP Defendants”. The CHP defendants acted for their own political and pecuniary gains in committing the acts stated below.

14. Hurrell Cantrall LLP (“Hurrell Cantrall”) is a law firm organized under the laws of California. Hurrell Cantrall LLP does business in California. Hurrell Cantrall LLP is the attorney of record of the County of Los Angeles in representing the County as a Third Party Witness in the action titled Kamal v. United States, CV 15-1585 FMO (JCx) (“USDC action”) as this action is described further below

15. Warren Williams is an individual who was residing or employed in the County of Los Angeles at all the times relevant herein. Defendant Williams (“Williams”) was the attorney for the County of Los Angeles. Warren Williams is/was the attorney of record of the County of Los Angeles. As such he represented the County as a Third Party Witness in the action titled Kamal v. United States, CV 15-1585 FMO (JCx) (“USDC action”) as this action is

described further below. He is an employee for the law firm Hurell Cantrall.

16. Thomas Hurrell is an individual who was residing or employed in the County of Los Angeles at all the times relevant herein. Defendant Hurrell ("Hurrell") is an owner, manager, principal, partner or director of Hurrell Cantrall. Hurrell is/was an attorney for the County of Los Angeles. As such, he represented the County as a Third Party Witness in the action titled Kamal v. United States, CV 15-1585 FMO (JCx) ("USDC action") as this action is described further below.

17. Melinda Cantrall is an individual who was residing or employed in the County of Los Angeles at all the times relevant herein. Defendant Cantrall ("Cantrall") is an owner, manager, principal, partner or director of Hurrell Cantrall. Defendant Cantrall is/was an attorney for the County of Los Angeles. As such, she represented the County as a Third Party Witness in the action titled Kamal v. United States, CV 15-1585 FMO (JCx) ("USDC action") as this action is described further below.

18. The defendants Hurrell Cantrall, Williams, Hurrell and Cantrall are collectively referred as the Attorney Defendants. The attorney defendants acted for their own political and pecuniary gains when committing the acts stated below.

19. Alma Aguirre ("Aguirre") is an individual who was at all the times relevant herein a resident of the County of Los Angeles and an employee of the Los Angeles County Sheriff Department ("LACSD") of

which she was the custodian of records. Aguirre acted for her own political and pecuniary gain when committing the acts stated below. Aguirre is sued in her individual capacity.

20. Defendant Patricia Bigelow is an individual. Defendant Bigelow (“Bigelow”) was residing or employed in the County of Los Angeles at all the times relevant herein. Patricia Bigelow is an influential judicial figure, holding the office of Presiding Justice of Division 8 of the Second Appellate District of the California Court of Appeal. Bigelow acted for her own political and pecuniary gain in committing the acts stated below. She is sued in her individual capacity.

21. Defendant State of California (“California”) is a state of the United States. California is a legal and political entity having judicial power pursuant to Article 6, Section 1 of the California Constitution. Judicial Power is vested in the Supreme Court, courts of appeal, and superior courts, all of which are courts of record. Under Section 2, the Supreme Court consists of the Chief Justice of California and 6 associate justices.

22. The Judicial Council is the policymaking body of the California courts, the largest court system in the nation. California Constitution, Article 6, Section 6. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. Judicial Council staff implements the council’s policies.

23. Tani Cantil-Sakauye (“Chief Justice”) is the Chief Justice of the California Supreme Court and the head of the Judicial Council. According to the official California Court website, as the “leader of California’s judicial branch of government and chair of the Judicial Council, Chief Justice has focused on a vision for improving the public’s access to justice”. Chief Justice is sued solely in her official capacity.

24. Samantha P. Jessner (“Jessner”) is a judge of the Superior Court of California in the County of Los Angeles. Jessner is sued solely in her official capacity.

ALLEGATIONS GENERAL FACTUAL BACKGROUND

The collision

25. On April 17, 2011 the plaintiff was the victim of a catastrophic motorcycle collision with another vehicle on Big Tujunga Canyon Road (“the road”). The road is part of a network of roads in Angeles National Forest (“ANF”), a property of the United States. The road is located in the CHP Altadena jurisdiction. The collision occurred after Samuel Morales (“Morales”), the other victim of the collision, departed his lane at a sharp, unmarked blind turn on a mountain road, designated as a major collector, in ANF. After departing his lane, Morales hit the plaintiff head on while the plaintiff was on his lane. Both victims were 50 at the time.

26. The road is situated in the unincorporated area of the County of Los Angeles (“County”) and is

owned by the United States. However, the United States gave County of Los Angeles special use permits to construct and operate the road in 1930 and 1943. Under the terms of the special use permit of 1943, the County is to comply with all federal, state and local laws in constructing and operating the road. The County must operate the road in a manner that is satisfactory to the United States; and the United States may terminate the permit at any time for cause.

27. While County operates the road, CHP provides law enforcement on the road. CHP provides law enforcement on the road in conjunction with the Los Angeles County Sheriff Department ("LASD") itself a law enforcement agency having authority over the road.

28. The road is, and has been since its construction decades ago, used by the public. Hundreds of motorists have been using the road every day for decades.

29. The road is about 10 miles long and has an allowed speed of 55 MPH. However, according to a study conducted by County employees, the turn where the collision occurred cannot be safely driven at a speed greater than 30 MPH. The turn also came at the end of a long straight away in the direction of travel of Samuel Morales. On approach, the grade sloped down to a grade well over 8%, in excess to what the plans provide. The road was defectively constructed: while the plans that County submitted to the United States and that the United States approved, provided for a smooth 300-feet radius at

the subject turn, as constructed, the corner is an irregular, compound curve with several arcs. There were no signs at that sharp blind corner to warn of the combined dangers ahead.

30. The collision occurred at about 1:45 PM. The victims were discovered in the middle of the road by United States Forestry rangers by total happenstance at about 2: 39 PM. Samuel Morales was lying on the road with his head split open while the plaintiff was lying a few feet away with a nearly severed leg. Both victims were in a critical condition. The United States Forestry rangers called the County for assistance. The Los Angeles County Fire Department ("LACOFD") airlifted the victims to the nearest trauma center at 3:19 pm and turned the victim's care over to the hospital at 3:26 PM. The trauma center is about 16 miles from the location of the collision.

31. Thus, the victims were on the ground for well over one hour and thirty minutes before being transferred in the care of a trauma center. Section 1797.198 (a) and (e) California Health and Welfare Code provide respectively:

"Trauma care is an essential public service. It is as vital to the safety of the public as the services provided by law enforcement and fire departments..."; and: "It is essential for persons in need of trauma care to receive that care within the 60-minute period immediately following injury. It is during this period, referred to as the "golden hour," when the potential for survival is greatest,

*and the need for treatment for shock or
injury is most critical."*

32. About 20 responders came to the scene at different times, including officials from the United States Forestry, the CHP, LASD, LACOFD and the City of Los Angeles Fire Department (LAFD"). LAFD came to assist the overwhelmed County of Los Angeles responders. The County forces were overwhelmed because of the several severe injury collisions that occurred that day in the area.

33. Despite the severity of his injuries, plaintiff was and remained fully aware of what was happening around him and of the neglect he had to endure.

34. According to the Emergency Medical Services medical records relating to the collision, Samuel Morales' condition deteriorated at the scene. Samuel Morales has sustained irreversible brain injuries and has since been confined in hospice care after being transferred out of the trauma center.

35. The delay in the evacuation is due to the number of severe injury collisions that occurred in succession in proximity, on the road and on other Angeles National Forest Road. The County's and the CHP resources were inadequate to respond to the several collisions. As he lay on the ground, asking when he would be evacuated, the plaintiff was told by officials at the scene to keep quiet, that there were other collisions to respond to and that he would have to wait for a helicopter to become available.

36. The plaintiff underwent multiple surgeries to salvage his leg from amputation and nearly died of a pulmonary embolism caused by the injuries to his leg. The plaintiff suffers from permanent disability as a result of the injuries sustained in the collision.

37. The plaintiff filed a personal injury action against Samuel Morales, the County and former Director of Public Works ("DPW") Gail Farber in May of 2012. Samuel Morales filed a separate lawsuit against the County, alleging as the plaintiff did, that the dangerous condition of the road caused the injuries. The cases were consolidated for all purposes by the Los Angeles Superior Court ("LASC") in September of 2012.

38. The trial court (Judge Samantha P. Jessner) terminated the plaintiff's case by granting the County summary judgment as to the plaintiff on March 13, 2015 while denying the same MSJ as to Samuel Morales, though both motions were heard and argued at the same time and though they raised the same issues of law and facts. The California Court of Appeal affirmed the ruling. Justice Patricia A. Bigelow delivered the opinion of the Court. County settled with Morales, giving Morales monetary compensation while Plaintiff was ordered to pay County a significant amount in costs.

39. The defendants Hurrell Cantrall LLP, Williams, Cantrall and Hurrell represented the County in the LASC and have thus are familiar with the plaintiff's allegations and contentions regarding the circumstances surrounding the collision.

40. On March 13, 2015, the plaintiff also filed an action against the United States, the owner of the road in which the collision occurred, for negligence, titled Kamal v. United States, CV15-1585 FMO (JCx) (“USDC action”).

41. As will be fully set forth below, defendants obstructed the USDC action while sharing the common purpose of preventing the plaintiff, the USDC, the United States Forest Service, the United States Attorney’s office, the National Highway Traffic Safety Administration, the Federal Highway Administration and the public from discovering that factors other than speed, including hidden dangers such as a defective construction, caused, or at least contributed to, not only the underlying collision but several other collisions over the years.

42. These defendants worked with a common objective: obstructing the discovery, prior to and in the course of the USDC action, that (1) County constructed the road in violation of the plans that County submitted to the United States at the time that the road was constructed in 1943; that (2) County, a recipient of federal funds for road safety purposes, mismanaged the federal funds; and that (3) County failed to take appropriate counter-measures to the dangers it knew existed on the segment of the road on which the collision occurred. The obstruction started on April 17, 2011, continued throughout the trial court phase of the USDC action until January of 2018 and is continuing as the USDC action is on appeal. CHP has not come clean about the false evidence it submitted to obstruct the USDC action and that is now before the Court of

Appeal for the 9th Circuit.

The road

43. The road is a major collector that is used daily by commuters between Los Angeles and Antelope Valley. The road gives access to forest roads that lead to recreation areas such as Stonyvale and Vogel Flats. According to a study conducted by the United States Forest Service, recent immigrants and their families are the predominant users of these recreation areas.

44. The road network in that part of Angeles National Forest is notorious for their alarmingly high collision rate. The local media has expressed public concern over the years for the high collision rate of these roads that have, over the years and as Los Angeles grew, become commuter roads linking Antelope Valley with Los Angeles.

45. A week prior to the subject collision, there was a fatality in another head on collision on the same segment of the road. That same segment of the road was previously designated by the State of California, in collaboration with County, as one among those exhibiting the most severe highway safety needs in an August 2010 official report ("5%" Report") that the State of California submitted to the United States Federal Highway Administration. The 5% report was submitted in support of the State's annual application for its yearly share of federal funds under the Highway Safety Improvement Program ("HSIP"), a core Federal-aid program with the purpose to achieve a significant

reduction in traffic fatalities and serious injuries on all public roads, including by addressing safety issues and hazardous conditions on roads. 23 U.S.C 148.

Brief overview of the main federal grant programs for road safety that County and CHP have been benefitting for years, long before the subject collision, to address safety issues on the road.

Traffic Safety

46. The California Office of Traffic Safety (“OTS”) is a California state agency which goal is to eliminate traffic deaths and injuries. It does so by making available grants to local and state public agencies for programs to help them to enforce traffic laws, educate the public in traffic safety, and provide varied means to reduce fatalities, injuries and economic losses from collisions.

47. OTS is a partnership between the National Highway Traffic Safety Administration (“NHTSA”) and California. OTS is designated by the Governor of California to receive federal traffic safety funds for coordinating California highway safety programs. Each year OTS develops a Highway Safety Plan (“HSP”) identifying the key highway safety problems in the state and the most effective countermeasures to address them. OTS then solicits proposals statewide to address the identified problems and allocates funds to state and governmental agencies to implement traffic safety programs and grants. Areas of concentration include

traffic police services, including traffic law enforcement, emergency medical services, roadway safety, motorcycle safety and traffic records, as "accurate and current identification and to evaluate countermeasure effectiveness" records are needed to support problem". The core mission of OTS is stated on its official website at https://www.ots.ca.gov/OTS_and_Traffic_Safety/AboutOTS.asp

48. OTS has noted that Angeles National Roads are increasingly frequented by motorcyclists, many being riders of mature age. OTS has for mission "*to effectively and efficiently administer traffic safety grant funds to reduce traffic deaths, injuries, and economic losses.*" The OTS states on its official website that

"The California Highway Safety Program is a partnership effort between the National Highway Traffic Safety Administration (NHTSA) and California. OTS is designated by the Governor to receive federal traffic safety funds for coordinating California's highway safety programs. Each year OTS develops a Highway Safety Plan (HSP) identifying the key highway safety problems in the state and the most effective countermeasures to address them. OTS then solicits proposals statewide to address the identified problems and allocates funds to state and local governmental agencies to implement traffic safety programs and grants".

Highway Improvement

49. The HSIP includes the Strategic Highway Safety Plan (SHSP), the Railway-Highway Crossing Program (RHCP) and resulting program of highway safety improvement projects (or State HSIP). To obligate funds under the HSIP, States are required to: 1) develop, implement and update a SHSP; 2) produce a program of projects or strategies; and 3) evaluate the SHSP on a regular recurring basis. This program is regulated by the Federal Highway Administration (FHWA) under 23 CFR 924. The HSIP is a Federally assisted, State-administered program. While the State Departments of Transportation (SDOT) have been delegated the responsibility to administer the HSIP, FHWA Division Offices are required to ensure that States are doing so in accordance with the law and regulation. As such, each agency has stewardship and oversight responsibilities, as defined in a stewardship and oversight agreement. Program assessments are frequently used to provide stewardship and oversight of the HSIP. See <https://safety.fhwa.dot.gov/hsip/resources/fhwasa15015/fhwasa15015.pdf>

50. The HSIP includes the following components:

- Strategic Highway Safety Plan (SHSP)**—A statewide coordinated safety plan that provides a comprehensive framework for reducing highway fatalities and serious injuries on all public roads.
- Highway safety improvement projects**—A program of highway safety improvement projects

that are consistent with the State's SHSP, target an identified safety problem using a data-driven process, and contribute to a reduction in fatalities and serious injuries. A comprehensive program should include both spot and systemic safety improvements.

51. The program of highway safety improvement projects is generated using a roadway safety management process administered at the State, regional, or local level. The roadway safety management process involves four basic steps—analyze the data, identify appropriate countermeasures, prioritize and select projects, and evaluate results.

<https://safety.fhwa.dot.gov/hsip/resources/fhwasa15012/>

52. The determination that the segment of the road is among those exhibiting the most severe highway safety needs was made in August of 2010 pursuant to a methodology adopted by Counties for roads owned or managed or operated by the County. The “County methodology” takes into account the number of fatalities and/or severe injuries that occurred within the past 3 years.

County's mismanagement of federal funds

53. Documents that CALTRANS produced in January and March 2015 in the USDC action show that the United States Federal Highway Administration granted the State of California its share of federal funds to repair roads listed as including segments that present the most severe

highway safety needs years before the collision. The State in turn disbursed funds to County. As of the spring of 2015, the County did not spend one dollar in federal monies to remedy the dangerous condition of the segment of the road where the collision occurred.

SPECIFIC ALLEGATIONS AS TO EACH DEFENDANT

Defendant Sherman (“Sherman”)

54. Sherman authored the traffic collision report relating to the collision, pinning the blame on Morales. Sherman willfully wrote a false report at the direction of Defendant Dance and in concert with other CHP officials higher up in the hierarchy whose identities are unknown to the plaintiff. Sherman concealed that he got onboard the helicopter transporting the victims and that, while onboard, he questioned the plaintiff about the collision. Sherman attempted to pressure the plaintiff, who was in excruciating pain and clinging to life, into making statements that would pin the blame on excessive speed by either Samuel Morales or the plaintiff. As the plaintiff's answers did not point to excessive speed by either the plaintiff or Samuel Morales, Sherman kept asking over and over again at what speed the plaintiff and Morales were driving.

55. Sherman acting for his own political and pecuniary gain intended to prevent the discovery that factors other than speed and/or Morales' negligence caused the collision. These other factors

include County's defective construction of the road, County's mismanagement of the road, County's mismanagement of public funds, County's failure to comply with the terms of the special use permit that the United States granted the County and, as a result of these failures, that the segment of the road had been experiencing an abnormally high collision rate. Several of these collisions resulted in fatalities and severe injuries.

56. Defendant concealed his attempt to pressure the plaintiff by falsely reporting that he first met and then interrogated the plaintiff while the plaintiff was in the emergency room. The plaintiff's condition was too critical for a chat at the emergency room. The plaintiff lost consciousness soon after being in the care of a medical team. The plaintiff underwent life saving volume resuscitation. The medical records make no mention of the presence of Officer Sherman in the emergency room and/or that the medical team suspended urgent and vital care to allow Sherman to interrogate the plaintiff.

57. While he was in the helicopter or momentarily after the victims were transferred to the care of the trauma center, Sherman informed officials on the ground and still at the scene that given Morales' injuries, Morales would not survive and that the collision was to be considered fatal. This was believed then to be the second fatality in a week at that location. That's when Sherman, at the direction of Captain Dance and in concert with other officers, set out to stage the collision scene to pin the blame on speed and Morales. These officers communicated among themselves, directly or indirectly, in person,

by radio, telephone or other devices and means to elaborate and execute the plan.

58. Pursuant to the plan, officers at the scene, including Sherman, did not mark evidence on the ground. They failed to mark the position of crucial evidence such as debris, skid marks, the point of impact, the trajectory of the motorcycles after impact, the positions of the victims, the blood pools and where Samuel Morales' helmet was found. They staged the collision scene and committed the above acts intentionally to prevent any reconstruction of the collision that would show that speed was not the culprit.

59. The traffic collision report was finalized two weeks after the collision, on or about May 5, 2011. In the course of these two weeks, Sherman communicated with Defendant Dance and other CHP officers higher up in the hierarchy about the cover up. Sherman, directly or indirectly, communicated with employees of County of Los Angeles and state actors unknown to the plaintiff about ways to prevent the discovery that factors other than speed contributed to the collision.

60. In furtherance of the objective, Sherman "interviewed" a certain Luis Osorio ("Osorio") who testified in a manner that pinned the blame on speed. Osorio was not at the scene at the time of the collision. Sherman knew Osorio was not at the scene of the collision. Osorio falsely testified that he saw Morales speed up just before the collision and Sherman relied on Osorio's statement in his report.

61. Sherman intentionally concealed the presence of ANF officers and of other CHP officers that were present at the scene.

62. Having willfully authored a false and intentionally incomplete report, and to further his false report, Sherman gave false and misleading testimony at his deposition in the LASC action on April 18 of 2013. Sherman lied about when he first met the plaintiff, consistent with his false report, and continued to testify to pin the blame on Morales.

63. Farrow and Dance knowingly instructed, directed, ratified and approved Sherman's actions and false report and testimony for the reasons stated above, knowing that Traffic Collision Reports and traffic collision investigations serve as a basis for the compilation of SWITRS and that appropriate statistics are the foundation for countermeasures on roads that are hazardous, and that it is based on information gathered from SWITRS that a list of dangerous road segments are identified for federal grant purposes under the Highway Safety Improvement Program.

64. The USDC issued a subpoena to CHP for the production of SWITRS for the road. To further conceal that factors other than speed caused or contributed to the collision, acting in concert and in furtherance of the cover up, Farrow, Tillman, Haro and Rakkar, acting in concert, set out to alter, doctor and then to produce the altered SWITRS on August 21, 2015 in response to the subpoena.

65. SWITRS retrieved from the CHP Internet Database SWITRS v. SWITRS produced by CHP pursuant to subpoena of August 21, 2015 issued in USDC action for Big Tujunga Canyon Road from 2002 to 08/06/2015 show the alteration.

Accidents not reported.....	167
Accidents reported.....	29
Fatalities not reported.....	8
Fatalities reported.....	1

Accidents shown at a different location...9 as explained in the chart below:

SWITRS	PRODUCED	DATABASE
Page 4, #5	15840 feet	1584 feet
Page 5, #1	13200 feet	1320 feet
Page 7, #6	26400 feet	2640 feet
Page 12, #2	14520 feet	1452 feet
Page 27, #1	21120 feet	2112 feet
Page 31, #5	11458 feet	1145 feet
Page 31, #6	11458 feet	1145 feet
Page 39, #5	10560 feet	1056 feet
Page 43, #2	23760 feet	2376 feet

66. Rakkar separately informed Keith Staub, Assistant United States Attorney and legal counsel for the United States in the USDC, that it had produced SWITRS to the plaintiff in response to the subpoena, referring to what the plaintiff found out later were doctored SWITRS.

67. In its defense in the USDC action, the United States used Sherman false report. Rakkar, Haro, Tillman and Farrow's doctored SWITRS furthered Defendant Sherman's misleading investigation and false report. The United States adopted as one of its

defenses that Morales was to blame for the collision. The plaintiff expended considerable attorney and expert fees in the USDC action to refute Sherman's report, Sherman's testimony and the doctored SWITRS in the USDC action.

**Defendants Bigelow, Hurrell Cantrall LLP,
Williams, Hurrell and Cantrall**

68. While the USDC action was pending Bigelow, Hurrell Cantrall LLP, Williams, Hurrell and Cantrall, and other County employees unknown to the plaintiff attempted to fabricate a false record that the plaintiff is "crazy" or mentally disturbed with the intent to discredit the plaintiff in the USDC action and in any other judicial or federal action related to the plaintiff's allegations of government official negligence and misconduct.

69. Bigelow became familiar with the plaintiff's allegations both in her judicial and individual capacity as a state court judge that participated in the adjudication of the plaintiff's state court complaint against the County. The plaintiff raised the allegations in the course of the appeal before the California Court of Appeal. The plaintiff also informed the Court of Appeal of the pendency of the USDC action. Bigelow also became familiar with the allegations in her personal capacity, outside her courtroom and judicial office, because the plaintiff publicized his allegations through public events of which Bigelow was aware.

70. Defendants Hurrell Cantrall LLP, Williams, Hurrell and Cantrall knew of the plaintiff's

allegations through their representations of County in the state court action and as a third party witness in the USDC action.

71. On or about September 26, 2016, Defendants Bigelow, Hurrell Cantrall LLP, Williams, Hurrell and Cantral caused a mental health care employee of the Los Angeles County Mental Health Department to approach the plaintiff, accompanied by a uniformed Santa Monica Police Department ("SMPD") officer to assess the plaintiff's mental health without disclosing the purpose of their visit, under the guise of a chance encounter in front of the plaintiff's home and under the pretense of engaging in a casual conversation. The plaintiff was not alone when he was approached. There was nothing in the SMPD officer and the mental health employee that indicated that there was any emergency they were responding to that day. Under the Mental Health Services procedure, the pairing of a uniformed police officer and a mental health care employee and their dispatch to the field is for emergency situations involving an alleged violent or mentally ill person that needs to be taken away to an institution under California Welfare and Institutions Code Section 5150 hold.

72. The mental health care employee did not disclose at the time that she was with the mental health care department and that she was otherwise evaluating the plaintiff. However, she intently observed the plaintiff while he was engaged in a conversation with the SMP officer. The plaintiff discovered who the person was ten days later, on

October 6, 2016 at 11 a.m., when the same SMPD officer approached the plaintiff again, while the plaintiff was resting in front of his building, to inquire on the plaintiff's allegations of government official misconduct. In response to the plaintiff's inquiry, the SMPD officer stated to the plaintiff that the person he was with on September 26, 2016 was "with the mental health services".

73. On or about May 25, 2017, Bigelow told notable figures, outside the Court of Appeal and outside her office, that the plaintiff is "crazy". Defendant Bigelow knew that her statement, considering her prominent judicial position, was likely to affect the USDC action and any other judicial or federal proceeding action related to the plaintiff's allegations of government official negligence and misconduct. Two judicial figures, who are also clients of the plaintiff, heard the statement. At the time Bigelow made the statement, she knew that the plaintiff is foreign-born and that English is not his native language as the plaintiff has appeared before her court in *pro per* on September 26, 2016. Bigelow's conduct made the plaintiff, whom she also knows is identifiably of Arab descent, a target for prejudice and discrimination.

**Defendants Aguirre, Hurrell Cantrall LLP,
Williams, Hurrell and Cantrall.**

74. The plaintiff caused four subpoenas to be issued in the USDC action to be served on (1) County of Los Angeles; (2) County of Los Angeles Department of Public Works; (3) County of Los Angeles Sheriff Department and (4) County of Los Angeles Fire

Department. The subpoenas were served on these entities on or about July 31, 2015, The subpoenas had a return date of September 10, 2015. The discovery cut-off date was February 10, 2016.

75. Defendants Hurrell Cantrall LLP, Williams, Hurrell and Cantrall, in concert with the custodians of records of the County upon whom a subpoena was served schemed to stall, hinder and delay the production of documents causing the plaintiff to file motions to compel the production of the documents requested.

76. The subpoena ordered the LASD to produce all documents related to the collision, including record and transcripts of communications between LASD and anyone. The three requests are stated verbatim below:

Request No.1

Documents relating to or evidencing communications County of Los Angeles Sheriff Department employees have had with anyone, including but not limited to other employees of the County of Los Angeles Sheriff Department, LA County Fire Department, paramedics, helicopter pilots, and/or the California Highway Patrol and/or the United States Government, regarding the motor vehicle collision of April 17, 2011 on Big Tujunga Canyon Road involving Karim Kamal and Samuel Morales from April 17, 2011 inclusive to December 31, 2011.

Request No. 2

Documents relating to County of Los Angeles Sheriff

Department assistance in the motor collision of April 17, 2011 involving Karim Kamal on Big Tujunga Canyon Road, including but not limited to traffic collision report, report of incident, dispatch calls, medical records, transcript of communications, audio recordings of communications, records of communication with anyone, including Chaplain, from Providence Holy Cross Hospital, records showing time rescue helicopter arrived at and departed from scene, record showing who was on board of helicopter when helicopter airlifted Mr. Kamal, who was present when helicopter landed at Holy Cross Providence hospital and who was present at time Karim Kamal was transferred to care of Holy Cross Providence personnel. The time period for this request is limited to April 17, 2011.

Request No. 3

County of Los Angeles Sheriff Department Traffic Collision or traffic-related Incident Reports for Big Tujunga Canyon Road for time period from January 1, 2005 to date of production of documents. Names and identifications of victims and witnesses may be redacted for privacy purposes.

77. The subpoena served upon the LACOFD requested the same documents as in Request No. 1 addressed to LASD. Also the subpoena addressed to the Board of Supervisors and the DPW requested the same documents relating to the County's response to the collision (Request No. 8).

78. On August 12, Defendant Williams notified the plaintiff that he would be representing the County in its response to the subpoenas. On August 13,

2015, Williams notified the plaintiff that the subpoenas were objected to wholesale.

79. On August 25, 2018 Defendant Aguirre filed a declaration stating that, after conducting a search, she found no documents that were responsive to the request. The plaintiff knew that Aguirre's declaration was false because LASD came to the scene.

80. Aguirre wrote the false declaration upon the instruction and advice of Williams and other County officials.

81. The plaintiff and Williams met and conferred on September 18, 2015 to resolve the discovery dispute. The plaintiff notified Williams on September 24, 2015 that he would forward his portion of the joint stipulation to Williams on September 28, 2015. Williams knew that the plaintiff was seriously working toward filing his motion to compel. The plaintiff served his portion of a joint stipulation to compel the production of the documents requested upon Defendant Aguirre on October 2, 2015. On the same day, Defendant Williams informed the plaintiff's counsel in the LASC action that Deputy Aguirre had mistakenly declared that LASD had no documents that were responsive to the request.

82. In LASD' opposition to the motion to compel, on October 9, 2015, Williams submitted to the court a declaration falsely stating that he had "just" been retained by County to handle the subpoena served upon LASD. Faced with a motion to compel, Williams wrote the false declaration to cover up his

role in instructing Aguirre to obstruct discovery by writing the false declaration of August 25, 2015 and to justify a further delay in producing the documents requested. In fact, Williams was retained by County of Los Angeles for all subpoenas to County's subdivisions at the same time.

83. On November 17, 2015, on the day of the hearing, Williams mailed to the plaintiff some of the documents that were responsive to the requests.

84. On January 13 and then 21, 2016 only did Defendant Aguirre allegedly finish producing documents in response to Requests No. 1, 2 and 3, this with an initial discovery cut-off date of February 10, 2016, of which Aguirre and Williams were aware. It thus took over 5 months for Aguirre to complete the production of the documents requested, and over 4 months from the return date.

85. On September 29, 2015, Los Angeles Fire Department custodian of records Michael Kranther ("Kranther") mailed documents that were responsive to the subpoena. There was no reason for the delay as the documents requested were ready for production and in Kranther's hand on August 11, 2015. Also, on September 18, 2015, after a meet-and-confer with the plaintiff, Williams waived all objections he had opposed to the request on behalf of LAFD.

86. Williams delayed the production of documents, instructed Kranther to delay the production of documents and to not comply with the return date of September 10, 2015. Kranther only produced the

documents after the plaintiff informed Williams on September 24, 2015 that the plaintiff would forward to Williams the plaintiff's joint stipulation to compel on Monday September 28, 2015.

87. Williams acted in concert with Hurrell, Cantrall and Hurrell Cantrall LLP in causing Aguirre and Kranther to hinder discovery. As a result of these defendants' actions, hindrance, the plaintiff incurred attorney's fees and costs, including loss of income attending hearings and meet- and-confers, to obtain the documents and to prepare a new motion to compel.

**The Superior Court of California and
California Chief Justice Tani Cantil-Sakauye**

General Legal and Factual Background

88. In February 2011, the Civil Rights Division of the United States Department of Justice (DOJ) initiated an investigation of the LASC and the Judicial Council of California. DOJ's investigation was prompted by a complaint filed by the Legal Aid Foundation of Los Angeles that alleged discrimination against Limited English Proficiency ("LEP") individuals on the basis of national origin. Specifically, the complainants alleged that LASC fails to provide LEP individuals with meaningful access to its court services, including civil proceedings and court operations by failing to provide interpreters services.

89. The Civil Rights Division is responsible for investigating complaints against recipients of federal financial assistance under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7, and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d(c). Together, these statutes and their implementing regulations prohibit discrimination on the basis of race, color, national origin, sex, or religion by recipients of federal financial assistance. See 42 U.S.C. §§ 2000d, 3789d(c); 28 C.F.R. Part 42, Subparts C and D. LASC, the AOC, and the Judicial Council are subject to the requirements of Title VI and the Safe Streets Act because these entities are part of the unified state court system of California, which receives federal financial assistance, including from DOJ.

90. On May 22, 2013, DOJ informed the Chief Justice that it found a pattern of discrimination against participants in the judicial process whose English abilities are limited. DOJ also found that federal funds to provide LEP litigants meaningful access to courts were not applied as required by the terms of the contract between DOJ and the Superior Court of California.

91. In September of 2016, the Superior Court of California and the DOJ reached an agreement whereby the Superior Court of California would take corrective measures to ensure LEP litigants meaningful access to the courts.

The Superior Court of California'
treatment of the plaintiff

92. On May 7, 2018, the plaintiff was in the Los Angeles Superior Court at 111 North Hill Street, Department 31, Judge Samantha P. Jessner presiding, to attend a hearing in the LASC action. A Los Angeles County Deputy Sheriff (Garcia) was called to the courtroom to watch the plaintiff.

93. On July 5, 2018, the plaintiff was in the courtroom of Department 31, Judge Samantha P. Jessner presiding, to attend a hearing in the LASC action. The courtroom assistant, an employee for the Superior Court of California, asked the plaintiff to fill out a form for the court's use, "in proper English", further stating: "I know my English is good. I don't know about you. Make sure the court understands you."

94. Thereafter, the courtroom assistant brought in an armed Deputy Sheriff in the courtroom. The plaintiff suspected that the Deputy Sheriff was called to watch or take action against the plaintiff. The presence of the Deputy Sheriff intimidated the plaintiff.

95. After the plaintiff's case was called, the plaintiff noted for the record the courtroom employee's comment regarding the plaintiff's English proficiency and the presence of the Deputy Sheriff.

96. The plaintiff was afraid that the judge might order the plaintiff's arrest if the plaintiff made any statement that displeased the court.

97. Judge Jessner appeared uninterested in the plaintiff's allegations though they clearly pointed to discrimination on the basis of national origin in her courtroom. Judge Jessner's lack of inquiry or response indicated a tacit approval of the courtroom assistant's conduct.

98. The presence of the Deputy Sheriff stifled the plaintiff's oral argument, intimidated and humiliated the plaintiff.

99. At the conclusion of the hearing, the Deputy Sheriff, (Roman Krajewski) on his own, handed his business card to the plaintiff, stating: "Sir, here is my business card. Keep it for your records". The Deputy Sheriff's unsolicited approach of the plaintiff indicated to the plaintiff that the Deputy Sheriff was called to watch the plaintiff and be ready to intervene.

100. There was no reason for bringing in an armed Deputy Sheriff in the courtroom. The plaintiff never gave cause for safety concern to any court.

COUNT I
RICO

**(18 U.S.C 1962 (c); against CHP Defendants
Sherman, Tillman, Haro, and Rakkar).**

101. The plaintiff incorporates by reference all the paragraphs of the complaint above as though fully set forth herein.

102. At various times and places partially enumerated in this complaint above, all CHP Defendants did associate with a RICO enterprise the activities of which affect interstate and foreign commerce.

The CHP RICO enterprise:

103. CHP ("CHP RICO Enterprise") form the enterprise through which the CHP defendants Sherman, Tillman, Haro and Rakkar engaged into a pattern of racketeering activities. CHP is engaged in and/or affects interstate commerce and the CHP defendants engaged in activities affecting interstate commerce. The CHP RICO enterprise, as alleged herein, was not limited to RICO Defendants' predicate acts and has activities extending beyond RICO Defendants' racketeering activity. The CHP Enterprise exists separate and apart from the pattern of racketeering activity. RICO Defendants have had and do have legitimate governmental business plans outside the pattern of racketeering activity related to the CHP RICO Enterprise.

104. CHP Defendants did conduct and/or participate, either directly or indirectly, in the conduct of the affairs of said RICO enterprise through a pattern of racketeering activity, all in violation of 18 U.S.C. §§ 1961(4), (5), (9), and 1962(c).

Pattern of racketeering activity

105. During the ten (10) calendar years starting on April 17, 2011 and preceding March 13, 2017 all CHP Defendants did cooperate jointly and severally in, and directed, aided, abetted and/or ratified or

covered up, the commission of two (2) or more of the RICO predicate acts that are itemized in the RICO laws at 18 U.S.C. §§ 1961(1)(A) and (B), and did so in violation of the RICO law at 18 U.S.C. 1962(c) (Prohibited activities) for their own pecuniary and political gains or for the pecuniary or political gains of others.

106. Plaintiff further alleges that all Defendants did commit two (2) or more of the offenses itemized above in a manner that they calculated and premeditated intentionally to threaten continuity, *i.e.* a continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. 1962(c) *supra*.

107. More specifically, CHP defendants willfully committed the following predicate acts to pin the blame on Morales and to prevent, through a pattern of evidence tampering and obstruction of justice in connection with a federal official and/or federal court proceeding, including the USDC action, the plaintiff's discovery and exposure that factors other than speed and Morales' alleged negligence caused or contributed to the collision. The CHP Defendants hindered the plaintiff in his defense against the United States' contention that Morales was solely responsible for the collision by committing the predicate acts below. CHP defendants endeavored to prevent the discovery by the plaintiff, the public and the United States (namely the United States Forest Service, the Federal Highway Administration the United Attorney's Office, the USDC and other

federal agencies) that the collisions, some fatal, that occurred over the years long prior to the subject collision, were caused, at least partially, by a defectively constructed road and a mismanagement of the road which included a mismanagement of federal funds as is explained in the complaint above. The CHP defendants intentionally endeavored to exhaust the plaintiff financially and to inflict economic damage to plaintiff in order to hinder the prosecution of his USDC case and any federal official proceeding.

108. Predicate Act 1: April 17, 2011: Sherman attempted to pressure the plaintiff into making statements pinning the blame on speed and Morales.

109. Predicate Act 2: April 17, 2011: Sherman acting in concert with other CHP officials and County officials caused, directed and participated in the tampering of the evidence at the scene in furtherance of the cover up.

110. Predicate Act 3: Between April 17, 2011 and May 3, 2011: Sherman in concert in concert with other CHP officials and County officials procured a false witness in furtherance of the cover up.

111. Predicate Act 4: May 3, 2011 Sherman, in concert with and at the direction of other CHP Officials and County officials, wrote a false report in furtherance of the cover up. The United States relied on Sherman's report in its defense in the USDC action.

112. Predicate Act 5: April 18, 2011, Sherman, in concert with and at the direction of other CHP Officials and County officials, provided false testimony in the LASC action in furtherance of the cover up.

113. Predicate Act 6: Sometime in August of 2015: Tillman, Haro and Rakkar, acting in concert with other CHP officials, doctored and tampered with SWITRS.

114. Predicate Act 7: On August 21, of 2015, Tillman, Haro and Rakkar, acting in concert with other CHP officials, knowingly caused to be mailed and/or mailed to the plaintiff the altered and doctored SWITRS in response to subpoena in the USDC action.

115. Predicate Act 8: August 21, 2015: Tillman, Haro and Rakkar, acting in concert with other CHP officials, knowingly caused to be mailed and mailed to the Assistant United States Attorney Keith Staub a copy of the custodian of records' declaration indicating that CHP custodian of record complied with the subpoena, while concealing that the CHP custodian of records produced doctored SWITRS.

116. The CHP Defendants did commit two (2) or more of the offenses itemized above in a manner which they calculated and premeditated intentionally to threaten continuity, i.e. a continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. § 1962(c)

117. The CHP defendants endeavored to obstruct any federal proceedings and the plaintiff's case by making the prosecution of the plaintiff's USDC case financially onerous, and with the intent to exhaust the plaintiff financially to prevent the discovery and the exposure of government officials' misconduct in connection with the subject collision and County's defective construction and management of the road.

118. The CHP defendants' actions victimized the plaintiff pending the trial phase of the USDC action, which was one of their objectives. They also victimized the public, including the numerous road users, the United States Forestry Service ("USFS"), the United States Attorney's Office, the Federal Highway Administration, the CHP, and the federal courts.

119. Road users have an interest in safe roads. The USFS has an interest in knowing how the County manages its roads and whether it complied with the terms of the special use permit. The United States Attorney's office and other federal investigative agencies generally has an interest in knowing whether government misconduct occurred that has severe consequences on the public and that concern federal interests. The Federal Highway Administration has an interest in reliable traffic collision reports and SWITRS to take appropriate action in road safety matters. The USDC has an interest in the search for truth in administering justice. CHP defendants obstructed and defrauded these federal bodies and agencies in their judicial and administrative functions, and these federal bodies and agencies continue to be obstructed and

defrauded. Without government intervention, these actions are likely to continue.

120. The doctored SWITRS are now part of judicial records and they are likely to continue misleading the federal courts absent a correction or an order finding that the SWITRS are inaccurate. Furthermore, the USDC action is on appeal and these defendants, knowing that the USDC action is on appeal, have not come clean and corrected the record. The CHP defendants continue to seek rulings that could be based on or affected by the false evidence in this matter of grave public concern.

Damages:

121. The United States relied on Sherman's false report and the CHP defendants' fraudulent actions in defending against the plaintiff's USDC action. Plaintiff expended considerable resources refuting the claims. The plaintiff expended considerable amounts in attorney and expert fees and costs to refute the United States defense. The CHP defendants' actions were the direct and proximate cause of the plaintiff's economic injuries.

COUNT II

(18 U.S.C 1962 (d)); Conspiracy to violate the RICO Act-Against all the CHP Defendants)

122. The plaintiff incorporates by reference all the paragraphs of the complaint above as though fully set forth herein.

123. At all relevant times, CHP Defendants each were “person[s]” pursuant to 18 U.S.C. §§ 1961(3) and 1962(d). 128. At all relevant times, the CHP constitutes an “Enterprise” (CHP RICO Enterprise) within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, the CHP was engaged in, and/or its activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c).

124. At all times relevant hereto, RICO Defendants each held a position in or were otherwise affiliated with the CHP RICO Enterprise as well as participated in the operation, management, and directed the affairs of the CHP RICO Enterprise. The CHP, as alleged herein, was not limited to RICO Defendants’ predicate acts and has activities extending beyond RICO Defendants’ racketeering activity. The CHP RICO Enterprise exists separate and apart from the pattern of racketeering activity. RICO Defendants have had and do have legitimate governmental business plans outside the pattern of racketeering activity related to the CHP.

125. CHP RICO enterprise Defendants have unlawfully, knowingly and willfully combined, conspired, confederated and agreed together and with others to violate 18 U.S.C. § 1962(c) as described above, in violation of 18 U.S.C. § 1962(d). 136. Beginning on the day of the collision, on April 11, 2017 and continuing to the date of this complaint, there was an agreement between each and every CHP RICO Enterprise defendant to commit the predicate acts described in COUNT ONE above.

126. Each CHP defendant knowingly agreed that a conspirator would commit a violation of 18 U.S.C. § 1962(c). The CHP defendants became members of the conspiracy knowing its objects and intending to help accomplish it.

127. More specifically, CHP defendants willfully committed the following predicate acts to pin the blame on Morales and to prevent, through a pattern of evidence tampering and obstruction of justice in connection with a federal official and/or federal court proceeding, including the USDC action, the plaintiff's discovery and exposure that factors other than speed and Morales' alleged negligence caused or contributed to the collision. The CHP Defendants hindered the plaintiff in his defense against the United States' contention that Morales was solely responsible for the collision by committing the predicate acts below. CHP defendants endeavored to prevent the discovery by the plaintiff, the public and the United States (namely the United States Forest Service, the Federal Highway Administration the United Attorney's Office, the USDC and other federal agencies) that the collisions, some fatal, that occurred over the years long prior to the subject collision, were caused, at least partially, by a defectively constructed road and a mismanagement of the road which included a mismanagement of federal funds as is explained in the complaint above. The CHP defendants endeavored and intended to exhaust the plaintiff financially and to inflict economic damage to plaintiff in order to hinder the prosecution of his USDC case and any federal official proceeding.

128. All the CHP Defendants did commit two (2) or more of the offenses itemized above in a manner which they calculated and premeditated intentionally to threaten continuity, i.e. a continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. § 1962(c).

129. The defendants and each of them also agreed to cover up each other's violations of 18 U.S.C. § 1962(c).

130. Farrow and Dance instructed, approved or ratified and covered up the actions of Sherman. Farrow instructed, approved or ratified and covered up Dance's actions. Farrow instructed, approved or ratified and covered up Tillman, Haro and Rakkar's actions. Tillman and Haro instructed, approved or ratified and covered up Rakkar's actions.

131. To conspire and carry out the purpose of the conspiracy, the CHP defendants communicated directly or indirectly in person, by written communications, and by using the United States mail and wire.

132. The conspiracy was carried out with the result that the United States relied on Sherman's false report and the CHP defendants' fraudulent actions in defending against the plaintiff's actions. Plaintiff expended considerable attorney and expert witness fees and costs to refute the United States defense. The CHP defendants' actions were the direct and proximate cause of the plaintiff's economic injuries.

COUNT III
RICO

(18 U.S.C 1962 (c); against CHP Defendants
Sherman, Tillman, Haro, Rakkar, Attorney
Defendants, Aguirre and Bigelow).

133. The plaintiff incorporates by reference all the paragraphs of the complaint above as though fully set forth herein.

134. At various times and places partially enumerated in this complaint above, all CHP Defendants, Attorney Defendants and Bigelow did associate with a RICO enterprise of activities the activities of which affect interstate and foreign commerce, the "Cover Up Enterprise".

The "Cover Up Enterprise"

135. The defendants shared the common purpose of (1) obstructing the plaintiff's USDC action and any official proceeding in connection with County's management of the road, and for the purpose of preventing the plaintiff from discovering and then exposing the County's mismanagement of the road, the County's mismanagement of federal funds that the United States granted the County to address safety and maintenance issues pertaining to the road, that County built a defective road in violation of the plans, that the defective construction of the road poses a danger to motorists, that there was a high collision rate on the segment of the road on which the collision occurred, and that County's mismanagement caused numerous collisions,

including severe injury and fatal collisions over the years; and (2) inflicting economic damage to the plaintiff in order to make his prosecution of his USDC action so onerous that it would discourage the plaintiff from further pursuing his action or otherwise hinder his USDC action.

136. These defendants are related because they all have in-depth knowledge of the plaintiff's allegations, they were all government employees who, through their offices, became involved in one capacity or another in the plaintiff's case starting with the events surrounding the collision on April 17, 2011, they were all in the possession of evidence of each other's wrongdoing and they sought to protect one another, they were all in a position of power to obstruct the USDC action and any federal official proceeding, they all had an interest, political, financial and/or other in preventing the United States from discovering the County's mismanagement of the road and they were all animated by hostility toward the plaintiff for pursuing his USDC action and exposing County and CHP's employees incompetence, misconduct and obstruction of justice.

137. These individuals associated over a period of 7 years, from April 17, 2011 and at least until January of 2018, that is at the conclusion of the trial court phase of the USDC action in favor of the United States. The association existed long enough to achieve its purpose and it continues to exist because the USDC case is on appeal and proceedings such as this one are ongoing.

The pattern of racketeering activities

138. During the ten (10) calendar years starting on April 17, 2011 and preceding March 13, 2017 all CHP Defendants did cooperate jointly and severally in, and directed, aided, abetted and/or ratified or covered up, the commission of two (2) or more of the RICO predicate acts that are itemized in the RICO laws at 18 U.S.C. §§ 1961(1)(A) and (B), and did so in violation of the RICO law at 18 U.S.C. 1962(c) (Prohibited activities) for their own pecuniary and political gains or for the pecuniary or political gains of others.

139. Plaintiff further alleges that all Defendants did commit two (2) or more of the offenses itemized above in a manner that they calculated and premeditated intentionally to threaten continuity, *i.e.* a continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. 1962(c) *supra*.

140. More specifically, the "Cover Up Enterprise" defendants willfully committed the following predicate acts to obstruct the plaintiff's USDC action and any federal official proceeding related to the underlying collision and the County's management of the road. The defendants committed the following predicate acts:

1. **Predicate Acts 1 through 8:** CHP defendants: these acts were alleged above in the complaint and are re-alleged herein.
2. **Predicate Act 9:** on September 26, 2016 in concert with County officials, Bigelow caused an

employee of County Mental Health Services to approach the plaintiff accompanied by a uniformed SMPD police officer to assess the plaintiff's mental health in an attempt to discredit the plaintiff and to be prepared for a California Welfare and Institutions Code Section 5150 hold. The pairing of a Uniformed Police Officer and a mental health care employee and their dispatch is for emergency situations involving an alleged violent or mentally ill person that needs to be taken away to an institution.

3. **Predicate Act 10:** on May 25, 2017, Bigelow stated to other notable figures that the plaintiff is crazy, knowing that she has no basis for making such a statement and intending to discredit the plaintiff.

4. **Predicate Act 11:** Aguirre: on August 25, 2015, Aguirre falsely declared in response to subpoena that USDC issued to LASD that she had not located any document responsive to the requests for documents.

5. **Predicate 12:** Aguirre: From July 31, 2015 to January 21, 2016, acting in concert with Williams and other County officials Aguirre hindered the production of documents listed in the USDC subpoena by trickling them after first attempting to conceal their existence.

6. **Predicate 13:** On November 17, 2016 Aguirre submitted a false declaration of custodian of records falsely stating that LASD had provided all records relating to the collision. Aguirre did not submit the Incident Report log relating to the collision such that the recordings of communications relating to

the collision are confusing. There is also a manifest discrepancy appearing on the face of the record produced. The incident report states that 12 personnel responded and that LASD personnel cleared the scene after the victims were airlifted. The record is otherwise scant and does not even include any record of what the 12 LASD officers did at the scene. The audio recording appears interrupted at 3.08pm mid sentence. The Plaintiff believes and alleges that Aguirre did not include the rest of the communications relating to the collision.

7. **Predicate Act 14:** Between July 31, 2015 to January 21, 2016, Williams instructed and/or caused Aguirre to not comply with the subpoena.

8. **Predicate Act 15:** Between July 31, 2015 to January 21, 2016, Williams instructed and/or caused Aguirre to write and then mail to the plaintiff on August 25, 2015 a false custodian of records declaration that Aguirre found no documents that were responsive to the subpoena.

9. **Predicate Act 16:** On October 9, 2015, at the time that County and the plaintiff submitted their joint stipulation re the plaintiff's motion to compel, in order to cover up his role in causing Aguirre to file a false declaration on August 25, 2015 and in order to justify a further delay in complying with the subpoena, Williams filed a false and misleading declaration with the USDC court stating to the court that Williams had "just" been asked by LASD to handle the subpoena matter.

10. **Predicate Act 17:** On or before November 17, 2015, and between July 31, 2015 and November 17, 2015, Williams instructed and caused Aguirre to

write a false custodian declaration stating the LASD had produced all records responsive to the request.

11. Predicate Act 18: Between July 31, 2015 and September 29, 2015, Williams, instructed and/or caused Kranther to not comply with the subpoena and to delay the production of the documents requested as much as possible for no valid reason.

141. The defendants achieved their goal which was to obstruct the USDC action pending the trial court phase of the USDC action and to obstruct any federal proceeding; they are likely to continue their pattern of racketeering activities unless enjoined.

142. As a direct and proximate result of the activities of the defendants, the plaintiff suffered economic and financial damages to obtain the documents. The plaintiff incurred costs and attorney's fees to compel the production of the documents. He also lost income attending two meet and confers and a hearing on the motion to compel.

COUNT IV

(18 U.S.C 1962 (d)); Conspiracy to violate the RICO Act-Against all the CHP Defendants, Attorney Defendants, Aguirre and Bigelow)

143. The plaintiff incorporates by reference all the paragraphs of the complaint above as though fully set forth herein.

144. At all relevant times, the RICO "Cover Up Enterprise" defendants each were "person[s]" pursuant to 18 U.S.C. §§ 1961(3) and 1962(d).

145. At all relevant times, the RICO Obstruction and Cover Up Enterprise constitutes an "Enterprise" within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, the RICO Obstruction and Cover Up Enterprise was engaged in, and/or its activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c).

146. At all times relevant hereto, RICO Obstruction and Cover Up Enterprise Defendants each held a position in or were otherwise affiliated with the RICO "Cover Up Enterprise" as well as participated in the operation, management, and directed the affairs of the RICO Obstruction and Cover Up Enterprise.

147. RICO "Cover Up Enterprise" Defendants have unlawfully, knowingly and willfully combined, conspired, confederated and agreed together and with others to violate 18 U.S.C. § 1962(c) as described above, in violation of 18 U.S.C. § 1962(d).

136. Beginning on the day of the collision, on April 11, 2017 and continuing to the date of this complaint, there was an agreement between each and every RICO Obstruction and Cover Up Enterprise defendant to commit the predicate acts described in COUNT ONE above.

148. Each RICO "Cover Up Enterprise" defendant knowingly agreed that a conspirator, would commit a violation of 18 U.S.C. § 1962(c). The RICO "Cover Up Enterprise" defendants became members of the conspiracy knowing its objects and intending to help accomplish it.

149. More specifically, RICO Obstruction and Cover Up Enterprise defendants willfully committed the following predicate acts to pin the blame on Morales and to prevent, through a pattern of evidence tampering and obstruction of justice in connection with a federal official and/or federal court proceeding, including the USDC action, the plaintiff's discovery and exposure that factors other than speed and Morales' alleged negligence caused or contributed to the collision. The RICO "Cover Up Enterprise" Defendants hindered the plaintiff in his defense against the United States' contention that Morales was solely responsible for the collision by committing the predicate acts below. CHP defendants endeavored to prevent the discovery by the plaintiff, the public and the United States (namely the United States Forest Service, the Federal Highway Administration the United Attorney's Office, the USDC and other federal agencies) that the collisions, some fatal, that occurred over the years long prior to the subject collision, were caused, at least partially, by a defectively constructed road and a mismanagement of the road which included a mismanagement of federal funds as is explained in the complaint above. The RICO "Cover Up Enterprise" defendants endeavored and intended to exhaust the plaintiff financially and to inflict economic damage to plaintiff in order to hinder the prosecution of his USDC case and any federal official proceeding.

150. All the RICO "Cover Up Enterprise" Defendants did commit two (2) or more of the offenses itemized above in a manner which they

calculated and premeditated intentionally to threaten continuity, i.e. a continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. § 1962(c).

151. The defendants and each of them also agreed to cover up and support or facilitate each other's violations of 18 U.S.C. § 1962(c).

152. To conspire and carry out the purpose of the conspiracy, the RICO "Cover Up Enterprise" defendants communicated directly or indirectly in person, by written communications, and by using the United States mail and wire.

153. The conspiracy was carried out with the result that the United States relied on Sherman's false report and the RICO "Cover Up Enterprise" defendants' fraudulent actions in defending against the plaintiff's actions. Plaintiff expended considerable attorney and expert witness fees and costs to refute the United States defense.

154. The plaintiff expended attorney's fees and costs to clear his name as a result of Bigelow's public portrayal of the plaintiff as "crazy". Bigelow caused the plaintiff damage in his business by passing him as crazy among his customers, rendering the plaintiff's ability to prosecute his USDC action even more difficult

155. The RICO "Cover Up Enterprise" defendants' actions were the direct and proximate cause of the plaintiff's economic injuries.

COUNT V
VIOLATION OF CIVIL RIGHTS

**(Against State of California, Judicial Council
and Tani Cantil Sakauye (“State Defendants”)**

156. The plaintiff incorporates by reference all the paragraphs of the complaint above as though fully set forth herein.

157. Plaintiff is a member of a suspect class and was unlawfully discriminated against because of his foreign national origin.

158. Plaintiff was similarly situated in all relevant aspects to other litigants. The State defendants treated the plaintiff differently, denigrated him, and deprived him of his right to meaningful access to the court because of his foreign national origin.

159. All of the actions taken by the State Defendants had the effect of depriving Plaintiffs of rights secured by the Constitution and laws of the United States, specifically the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

160. The State Defendants subjected the plaintiff to fear, embarrassment and ridicule. As a direct and proximate result of the State defendants' actions, the plaintiff is afraid to participate in the California judicial process, and he has been suffering from mental grief, ridicule and embarrassment.

COUNT VI

(For Declaratory Judgment and Injunctive Relief-Against State of California, Judicial Council, Tani Cantil Sakauye, Samantha P. Jessner (“State Defendants”).

161. The plaintiff incorporates by reference all the paragraphs of the complaint above as though fully set forth herein.

162. The Defendants arbitrarily calling in or causing Los Angeles Superior Court personnel to call in an armed Deputy Sheriff to the courtroom without any finding that the plaintiff is a vexatious litigant or otherwise disruptive or dangerous, violates the plaintiff's rights to the equal protection of the laws and to meaningful, access to the courts as these rights are secured by the First and Fourteenth Amendment to the Constitution of the United States. The plaintiff also seeks declaratory judgment that the policy of arbitrarily and without any basis calling in an armed Deputy Sheriff on some but not other litigants is unconstitutional.

163. The State Defendants have denied, and will continue to deny the plaintiff meaningful access to the California Superior Court by the intimidating presence of an armed Deputy Sheriff.

164. The plaintiff must be able to have access to the Superior Court unfettered and at any time without intimidation or being subjected to fear of harm. In this particular case, the plaintiff is of foreign-origin and an Arab-American who, considering a general

bias and feeling of distrust toward members of his community, is at heightened risk of harm or of a mishap in encounters with armed persons, including law enforcement. As a result of the State Defendants actions, the plaintiff is afraid of participating in the California legal process because of the intimidating and unjustified presence of law enforcement in the courtroom when the law enforcement is called just for him.

165. The belief that the State Defendants actions are unconstitutional have caused the Deputy Sheriff called by Jessner and/or the personnel of her courtroom at the hearing of July 5, 2018, to provide the plaintiff the Deputy Sheriff's name and contact information for the plaintiff's records, unsolicited by the plaintiff and while the plaintiff was still in the courtroom just after the hearing.

166. Chief-Justice has been a vocal opponent of the presence of ICE in state courtrooms to search for and arrest undocumented immigrants. Chief-Justice is quoted by the press as stating, in August of 2017:

"This is a national concern...that deserves more attention," she said. "We're seeing people not coming to court, not reporting to court, not coming for services (and) not coming to testify...."

<https://www.sacbee.com/news/politics-government/capitol-alert/article168714487.html>

Chief-Justice agrees that the presence of law enforcement in courtrooms for litigants that pose no threat is unfair and intimidating. Chief-Justice

wrote to Attorney General Jeff Sessions and General Kelly this open letter on March 16, 2017:

"Our courts are the main point of contact for millions of the most vulnerable Californians in times of anxiety, stress, and crises in their lives. Crime victims, victims of sexual abuse and domestic violence, witnesses to crimes who are aiding law enforcement, limited-English speakers, unrepresented litigants, and children and families all come to our courts seeking justice and due process of law. As finders of fact, trial courts strive to mitigate fear to ensure fairness and protect legal rights. Our work is critical for ensuring public safety and the efficient administration of justice.

Most Americans have more daily contact with their state and local governments than with the federal government, and I am concerned about the impact on public trust and confidence in our state court system if the public feels that our state institutions are being used to facilitate other goals and objectives, no matter how expedient they may be.

.....

The federal and state governments share power in countless ways, and our roles and responsibilities are balanced for the public good. As officers of the court, we judges uphold the constitutions of both the United States and California, and the executive branch does the same by ensuring that our laws are fairly and safely enforced. But

enforcement policies that include stalking courthouses and arresting undocumented immigrants, the vast majority of whom pose no risk to public safety, are neither safe nor fair. They not only compromise our core value of fairness but they undermine the judiciary's ability to provide equal access to justice. I respectfully request that you refrain from this sort of enforcement in California's courthouses."

<https://newsroom.courts.ca.gov/news/chief-justice-cantil-sakauye-objects-to-immigration-enforcement-tactics-at-california-courthouses>

167. The plaintiff requests that he too be treated fairly by the State Defendants in accordance with the Constitution of the United States and the core principles that the State Defendants claim for others similarly situated.

WHEREFORE the plaintiff demands relief against the defendants, jointly and severally:

- Compensatory damages in treble amount for the damages for COUNTS ONE, TWO, THREE and FOUR (RICO ACT) in an amount to be determined at trial;
- Compensatory damages to be determined by the jury in an amount no less than two million dollars for COUNT V;
- Declaratory judgment that the State Defendants violated the plaintiff's constitutional rights;
- Declaratory judgment that the State Defendants actions are unconstitutional;
- Permanent Injunctive Relief so that the plaintiff may again participate in the legal process in the

California Superior Court without being subjected to the watch of armed law enforcement in the courtroom absent a basis in fact.

- For Attorney's fees and costs; and for
- Such other further and appropriate relied as this Court may deem just and proper.

Dated: **October 11, 2018**

By: /s/ Karim Kamal
Karim Kamal, Plaintiff,
in Pro Per

NO 22_____

APPENDIX G

IN THE SUPREME COURT OF
THE UNITED STATES

KARIM CHRISTIAN KAMAL,

Petitioner

v.

JOSEPH FARROW et al,

Respondents

SEPTEMBER 11, 2019

USDC FOURTH AMENDED COMPLAINT

BEFORE JUDGE GARY KLAUSNER

Karim Christian Kamal
10021 Crimson Palisades Pl. #203
Las Vegas, NV 89144
(310) 403-6986.

In Pro Per

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Karim Christian
Kamal,

Plaintiff,

v.

Joseph A. Farrow,
I.J. Tillman, Jose E.
Haro, Gurwinder
Rakkar, Dustin
Sherman, Jose
Garcia and Rebecca
Lynch.

Defendants.

CASE NO. CV
17-01986 RGK
(DFM)

FOURTH
AMENDED
COMPLAINT
FOR VIOLATION
OF THE FEDERAL
RICO ACT (18 U.S.C
1962 (c));
CONSPIRACY
TO VIOLATE THE
FEDERAL RICO
ACT (18 U.S.C. 1962
(d).
DEMAND FOR
JURY
TRIAL.

JURISDICTION

1. The plaintiff brings this action under the Federal RICO ACT: 18 U.S.C 1962 (c) and (d).
2. This Court has jurisdiction pursuant to the following statutes:
 - a. 28 U.S.C. Section 1331, which gives district courts original jurisdiction over civil actions arising under the Constitution, laws of treaties of the United States.
 3. Venue is appropriate because the defendants reside in this judicial district and the facts giving rise to this complaint occurred in this judicial district. 28 U.S. 1391.

PARTIES

4. The plaintiff Karim Kamal is a resident of the State of Nevada. The plaintiff was a resident of the County of Los Angeles at all the times herein mentioned.
5. The plaintiff is self-supporting, has been in a stable 7-year relationship with a female who is an MD-Surgeon in the State of Nevada. No court has declared the plaintiff a vexatious or disruptive litigant. Every time he appeared before a court of law, the plaintiff was respectful and peaceful.
6. Defendant Joseph A. Farrow ("Farrow") is a former Commissioner for the California Highway

Patrol (“CHP”). Farrow is a California law enforcement officer and was at all the times herein alleged the Commissioner of the CHP. He was principally based in the CHP headquarter in Sacramento. At all the times herein alleged, Commissioner Farrow was aware of the actions of CHP Officer Dustin Sherman and participated in, directed, approved and/or ratified and aided the defendants Rakkar, Tillman and Haro’s actions as alleged herein below. Joseph Farrow is sued in his individual capacity.

7. Defendant I.J. Tillman (“Tillman”) is and was at all the times herein alleged a California law enforcement officer employed by CHP and was the CHP Commander of the Support Services Section and as such was responsible for the maintenance, storage and management of the State Wide Integrated Traffic Records System (“SWITRS”) in 2014 and 2015. SWITRS are vital collision statistics gathered from traffic collision reports. At all the times herein alleged, Tillman was employed in the CHP headquarter in Sacramento. Tillman knowingly participated in, directed, approved and/or ratified and aided the defendants Rakkar and Haro’s actions as alleged herein below. Tillman is sued in his individual capacity.

8. Defendant Jose E. Haro (“Haro”) is or was at all the times herein alleged a California law enforcement officer employed by CHP. Haro is or was employed in the CHP headquarter in Sacramento and his duties included storing and managing documents including SWITRS. Haro is identified as the person to contact at the CHP

should anyone have a question relating to SWITRS that CHP custodian of records Gurwinder Rakkar produced as the CHP custodian of records for SWITRS in response to the plaintiff's subpoena in the state and USDC proceedings. At all the times herein alleged, Haro was aware of the actions of Gurwinder Rakkar and knowingly participated in, directed, aided and abetted, approved and/or ratified Rakkar's actions. Haro is sued in his individual capacity.

9. Defendant Gurwinder Rakkar ("Rakkar") is or was at all the times herein alleged a California law enforcement officer employed by CHP or an employee of CHP, and is/was the custodian of records for CHP SWITRS. Gurwinder Rakkar was based in the CHP headquarter in Sacramento at all the times herein. Rakkar also knowingly participated in, aided and abetted and otherwise approved the actions of Farrow, Haro and Tillman. Rakkar is sued in her individual capacity.

10. Defendant Dustin Sherman ("Sherman") is or was at all the times herein alleged a California law enforcement officer employed by CHP. At the times alleges herein, Defendant Sherman was assigned to patrol the area in which a collision that is related to this RICO action occurred on April 17, 2011 ("the collision") on Big Tujunga Canyon Road ("the road"), in Angeles National Forest ("ANF"), involving the plaintiff. Sherman was a CHP officer in the CHP Altadena jurisdiction that includes the ANF area where the collision occurred. At all the times herein alleged, Sherman informed his supervisors, including Sergeant Rebecca Lynch, Captains Steve

Strull and Bill Dance, and Commissioner Farrow, either directly or indirectly through the chain of command, in person, in writing, by telephone, radio and all mean of electronic communications of all the actions Sherman undertook herein. Sherman is sued in his individual capacity.

11. Defendant Jose Garcia ("Garcia") is or was at all the times herein alleged a California law enforcement officer employed by CHP. At the times alleges herein, Defendant Garcia was assigned to patrol and respond to vehicle collisions in the area including on the road. Garcia responded to the collision involving the plaintiff on April 17, 2011. Garcia was a CHP officer on the CHP Altadena jurisdiction. At all the times herein alleged, Garcia informed his supervisors, including Sergeant Rebecca Lynch, Captains Steve Strull and Bill Dance, and Commissioner Farrow, either directly or indirectly through the chain of command, in person, in writing, by telephone, radio and all mean of electronic communications of all the actions Garcia undertook herein. Garcia is sued in his individual capacity.

12. Defendant Rebecca Lynch ("Lynch") is or was, at all the times herein alleged, a CHP sergeant in the CHP Altadena jurisdiction. Sergeant Lynch was the supervising sergeant at the CHP Altadena office and she was Garcia and Sherman's superior. At all the times herein alleged, Lynch informed her supervisors, including Captains Steve Strull and Bill Dance, and Commissioner Farrow, either directly or indirectly through the chain of command, in person, in writing, by telephone, radio and all

mean of electronic communications of all the actions Garcia undertook herein. Lynch is sued in her individual capacity.

13. At all the times herein, Sherman, Lynch, Garcia, Farrow, Rakkar, Haro and Tillman committed acts in violation of state and federal laws, policies and procedures, both civil and criminal as stated further below. Defendants Farrow, Rakkar, Haro and Tillman are referred to below as the "CHP Sacramento Defendants".

14. At all the times herein, Lynch, Sherman and Garcia, committed acts in violation of state and federal laws, policies and procedures, both civil and criminal as stated further below. Defendants Lynch, Sherman and Garcia are referred to below as the "CHP Altadena Defendants".

15. All the defendants are sued in their individual capacities.

THE CALIFORNIA HIGHWAY PATROL
("CHP")

16. The CHP is not a defendant in this action. The purpose of the following paragraphs is to provide a background about, and to describe, CHP, which is the RICO enterprise that the individual defendants named-above participated in, conducted and operated through a pattern of racketeering activity.

17. CHP was created in 1929 to provide uniform traffic law enforcement throughout the state. The

stated mission of the CHP is to provide the highest level of Safety, Service, and Security. The main duty of a CHP officer is to ensure road safety in California. Additional duties include protecting state buildings, conducting criminal investigations, and assisting local law enforcement agencies and operations. CHP officers are thus charged with enforcing the California Vehicle Code, ensuring safety and public order, and writing tickets and reports when necessary and appropriate. The duties of CHP Officers include: rejection of corrupting influence and loyalty to the precepts of the Highway Patrol and its fellow officers.
<https://www.chp.ca.gov/home/about-us>.

18. The CHP gathers, as mandated by law and in the ordinary course of business, collisions statistics called SWITRS based on data including traffic collisions reports. The CHP California Investigation Manual ("CIM") lays down the principles and methods for competent traffic collision investigations. The 2010 CIM, in force at the time the collision occurred, states on page 110.5: "Collision documentation is the foundation for any effective traffic safety program. To attain a reduction in the frequency and severity of traffic collisions, it is important that the information exchanged among users be identical in definition and type of data. The statewide use of the standard Traffic Collision Report forms in accordance with the instructions in this manual will meet this requirement and provide meaningful data concerning each of the following subjects:"

".... The success or failure of collision prevention programs will be determined through evaluation of

statistics gathered from traffic collision report forms.".... "The reports allow law enforcement and public works agencies to identify high collision frequency locations, collision causing violations, types of collisions, types and ages of parties involved, and other information to assist the analysis of traffic collisions."... " This is accomplished through comparisons with other local, state and national traffic safety statistics."; ".... The collection of traffic collision data will help identify highway design, law enforcement, vehicle and driver deficiencies. Corrective countermeasures may then be developed by traffic engineers, law enforcement agencies, driver improvement analysts and educators". Also per CIM 110.5 , "[t]he [traffic collision] reports allow law enforcement and public works agencies to identify high collision frequency locations, collision causing violations, types of collisions, types and ages of parties involved, and other information to assist in the analysis of traffic collisions." Also, "[C]ollision data is used by many agencies and individuals in addition to law enforcement and public works agencies. A partial list of users includes:

1. *Department of Transportation*
2. *Department of Motor Vehicles*
3. *California Legislature*
4. *Courts*
5. *Private Citizens*
6. *Attorneys*
7. *Research Organizations*
8. *National Highway Traffic Safety Administration*
9. *Safety Councils*
10. *Insurance Companies. CIM 110.5.*

19. The duties of public office include those lying squarely within its scope, those essential to accomplishment of the main purposes for which the office was created, and those which, although only incidental and collateral, serve to promote the accomplishment of the principal purposes. White v. Towers, 37 Cal. 2d 727, 733 [235 P.2d 209, 28 A.L.R.2d 636].

20. The defendants, all employees of the CHP, acted willfully, corruptly and deliberately and in concert, acting as each other's agent in the commission of the acts alleged in this complaint, which actions amount to (1) Using the United States mail and wire to carry out a fraudulent scheme upon the plaintiff, Morales, and numerous others such as the public, insurance companies, courts, and the United States including but not limited to the USFS, the National Highway Traffic Safety Administration ("NHTSA"), the Federal Highway Administration, the State of California including CALTRANS and OTS which both administer federal grants for road safety purposes; (2) evidence tampering in a federal official proceeding; (3) obstruction of justice in a federal judicial proceeding and (4) Witness retaliation.

ALLEGATIONS GENERAL FACTUAL BACKGROUND

The collision

21. On April 17, 2011 the plaintiff was the victim of a catastrophic motorcycle collision with another vehicle on the road. The road is part of a network of roads in ANF, a property of the United States. The

road is located in the CHP Altadena jurisdiction in the County of Los Angeles ("County").

22. The collision occurred after Samuel Morales ("Morales"), the other victim of the collision, departed his lane at a sharp, unmarked blind turn and hit the plaintiff head on while the plaintiff was on his lane, close to the white lane on his right side. There was no biker ahead of Morales immediately preceding the collision. Morales came out from around a blind corner and took a straight line at the plaintiff. Both victims were 50 at the time. According to Morales' son's testimony, Morales was a safe and experienced driver. Morales enjoyed going on motorcycle rides with his son, also a biker.

23. Immediately after the collision, the plaintiff pulled out his cell phone to call for help. He attempted to dial several telephone numbers because none responded. There was no cell phone signal. The plaintiff and Morales were alone for a few minutes on the road before motorcyclists, about four or five, came upon the scene and stopped. There was confusion and panic as there was no cell phone connection and all attempts to call failed. A biker suggested going to Los Angeles to get help. Another biker spoke with the plaintiff to check whether the plaintiff was conscious, which the plaintiff was, and asked the plaintiff whether he knew what had happened.

24. The collision occurred at about 1:45 PM. The victims were discovered in the middle of the road by United States Forest Service ("USFS") rangers by total happenstance at about 2:39 pm as the rangers

were on their way to respond to another collision in the area. Morales was lying on the road with his head split open while the plaintiff was lying a few feet away with a nearly severed leg. Both victims were in a critical condition. The USFS rangers called the County for assistance. The Los Angeles County Fire Department airlifted the victims to the nearest trauma center at 3:19 pm and turned the victim's care over to the hospital at 3:26 pm. The trauma center is about 16 miles from the location of the collision.

25. Thus, the victims were on the ground for about one hour and forty-five minutes before being transferred to the care of a trauma center. Section 1797.198 (a) and (e) California Health and Welfare Code provide respectively:

"Trauma care is an essential public service. It is as vital to the safety of the public as the services provided by law enforcement and fire departments..."; and: "It is essential for persons in need of trauma care to receive that care within the 60-minute period immediately following injury. It is during this period, referred to as the "golden hour," when the potential for survival is greatest, and the need for treatment for shock or injury is most critical."

26. About 20 responders came to the scene at different times, including officials from the USFS, the CHP, the Los Angeles County Sheriff Department, the Los Angeles County Fire Department and the City of Los Angeles Fire Department. The City of Los Angeles Fire Department came to assist the overwhelmed County

of Los Angeles responders. The County forces were overwhelmed because of the several severe injury collisions that occurred that day in the area.

27. The plaintiff clung to life and struggled to remain conscious throughout the events. The plaintiff lost consciousness once in the care of doctors at the trauma center. Thus the plaintiff was fully aware of what was happening around him.

28. According to the County Emergency Medical Services ("EMS") medical records relating to the collision, Morales' condition deteriorated at the scene. Morales sustained irreversible brain injuries and has since been confined in hospice care after being transferred out of the trauma center.

29. The delay in the evacuation is due to the number of severe injury collisions that occurred in succession in proximity, on the road and on other Angeles National Forest Road. The County and the CHP resources were inadequate to respond to the several collisions. As he lay on the ground, asking when he would be evacuated, the plaintiff was told by officials at the scene to keep quiet, that there were other collisions to respond to and that he would have to wait for a helicopter to become available.

30. The plaintiff was grievously wounded, underwent multiple surgeries to salvage his leg from amputation and nearly died of a pulmonary embolism caused by the injuries to his leg. The plaintiff suffers from permanent physical disability as a result of the injuries sustained in the collision.

The road

31. The United States owns the road, financed its construction and has been financing its repair and maintenance by granting funds to County. The road links Los Angeles to Angeles Forest Highway itself leading to Antelope Valley. The road gives access to recreation areas such as Stonyvale and Vogel Flats. According to a study conducted by the USFS, recent immigrants with limited English-speaking abilities and their families are the predominant users of these recreation areas.

32. USFS stated on its ANF website:

*“Big Tujunga Canyon Place
Big Tujunga Canyon Road*

...” The Big Tujunga Canyon Place functions as a year-round day-use recreation landscape for families seeking a gathering spot in a river-based woodland setting “Vogel flats...Due to the accessibility of water, this area is marked by concentrated public use, mostly family-based, and with cultures associated with recent immigration to this country.”

33. In an August 24, 1990 judgment, a judge of the United States District Court for the Central District of California ruled against USFS in a personal injury case that occurred in the recreation areas:

“District personnel testified that they were reluctant to police and inspect certain areas, “to go down there,” because they found it (mingling with the users) unpleasant. The District Ranger remarked that if signs were to be put up they would have to be in Spanish

and "Asian". One of the "subdivision" residents testified more bluntly. In her opinion, the area was overrun with "80 percent Mexicans and 20 percent undesirable whites."

This racial overtone is unfortunate and, undoubtedly, was a contributing factor in the Forest Service's failure to carry out its mission in this racially heterogeneous metropolis." Soto v. United States 748 F. Supp. 727 (C.D. Cal. 1990).

34. The road network in that part of ANF is notorious for its alarmingly high collision rate. The road network includes Big Tujunga Canyon Road, Angeles Crest Highway, Angeles Forest Highway and Upper Big Tujunga.

35. Six days prior to the subject collision, there was a fatality in another head on collision on the same segment of the road. That same segment of the road was previously designated by the State of California, in collaboration with County, as one among those exhibiting the most severe highway safety needs in an August 2010 official report ("5%" Report") that the State of California submitted to the United States Federal Highway Administration ("FHWA"). The 5% report was submitted in support of the State's annual application for its yearly share of federal funds under the Highway Safety Improvement Program ("HSIP"), a core Federal-aid program with the purpose to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including by addressing safety issues and hazardous conditions on roads. 23 U.S.C 148.

36. The determination that the segment of the road is among those exhibiting the most severe highway safety needs was made pursuant to a methodology adopted by Counties for roads owned, managed or operated by the County. The "County methodology" takes into account the number of fatalities and/or severe injuries that occurred within the past 3 years.

37. The road was the only road to access ANF coming from Los Angeles on the day of the collision. The other road giving access from Los Angeles, Angeles Crest Highway, was closed at La Canada-Flintridge. Thus, in order to travel to Palmdale from Los Angeles or to rejoin the upper part of Angeles Crest Highway, all motorists had to enter the road, as the plaintiff did that day, through Oro Vista, which is at the entrance of the road. Angeles Crest Highway had been closed at La Canada-Flintridge for months already and it remained closed a few more months due to road repairs. At the time of the collision, the road had thus been frequented more than usual.

38. The road is a narrow mountainous two-lane road of about 10 miles long. There were no signs at that sharp blind corner to warn of the combined dangers ahead.

39. The local media has expressed public concern over the years for the high collision rate of these roads that have, over the years and as Los Angeles grew, become commuter roads linking Antelope

Valley with Los Angeles. Below are copies of publications on the issue:

a.http://articles.latimes.com/1992-03-15/local/me-6755_1_canyon-roads

"Braving the 'Palmdale 500': Traffic: Mountain routes lure commuters from the congested freeway. With them come more accidents.

March 15, 1992 | HUGO MARTIN | TIMES STAFF WRITER

Locals call it the "Palmdale 500"--a high-speed race through Angeles National Forest, snaking along narrow canyon roads and in some places coming perilously close to 1,000-foot drops.

But this is no sanctioned racing event. This is the daily commute.

Mountain roads such as the Angeles Forest and Angeles Crest highways, Big Tujunga Canyon Road and Sierra Highway have increasingly become the preferred commuter routes for Antelope Valley motorists trying to avoid the traffic jams that have developed on the Antelope Valley Freeway.

On the two most heavily used roads, Angeles Crest and Angeles Forest highways, the number of cars using the roads daily increased by 129% from 1,529 in 1989 to 3,500 in 1990, according to a study last year by the California Highway Patrol.

And as more motorists have chosen the quicker but more dangerous routes through the forest, the number of traffic accidents has increased. CHP officials said the number of collisions has grown by 160% since 1988.

Last year alone, there were 140 accidents on Angeles Crest and Angeles Forest highways and Big Tujunga Canyon Road, resulting in two deaths and 102 injuries, CHP officials reported.

Commuters race along the canyon roads during morning and afternoon rush hours at speeds of up to 80 mph, say residents and CHP officials. Often they try to pass one another on blind curves. Many times they don't succeed.

The increased traffic can be attributed to the population boom in Lancaster and Palmdale, which was the fastest growing city in California from 1980 to 1990, according to a report by a Palo Alto-based private research group. The population in Palmdale grew 360% from 12,277 to 56,476 during that 10-year period.

Motorists traveling from the Antelope Valley to the San Fernando Valley can save up to an hour by taking the canyon routes - which are mostly two-lane roads- are fraught with dangers such as rockslides, ice, snow and animals that cross motorists' path.

Some residents of Angeles National Forest say they come across accident scenes almost monthly.

"There are so many skid marks on the highway, I couldn't tell you how many accidents there have been," said Bill Bagwell, a gold miner who has lived near Angeles Crest Highway for more than 20 years.

b.http://today.msnbc.msn.com/id/44728314/ns/today-today_people/t/six-days-after-cliff-plunge-kids-find-dad/

Updated 9/30/2011 7:57:20 PM ET 2011-09-30T 23:57:20

CASTAIC, Calif. — A 67-year-old man found alive days after his car plunged 200 feet off a mountain road built a makeshift camp, ate leaves and drank water from a nearby creek to survive, his daughter said.

After several days of radio silence from their dad, David Lavau's kids reported him missing to police. As rescue workers conducted an official search for the missing man, the Lavaus set out on their own. The family members were the ones who located David Lavau at the bottom of a ravine in the Angeles National Forest in California Thursday. "We stopped at every ravine," daughter Lisa Lavau told NBC News. "We kept screaming. We found him, no one else did. We did."

c. La Canadaonline.com/new/tn-vsl-achaccidents-20100929,0,4426477.story. La Canada CHP grant suspended due to state budget crisis Money was to be used to address uptick in motorcycle accidents.

Megan O'Neil, September 29, 2010

The article discusses the alarming number of motorcycle collisions on Angeles National Forest roads.

40. CHP officers that patrol the road daily several times a day, including Sherman, Garcia and Lynch, know/knew or should know/should have known of the condition of the road and the alarming collisions rate on the road and adjacent roads in ANF.

41. Over the years, before and after the collision, the United States Federal Highway Administration ("FHWA") has granted the State, including CHP, federal funds to identify and address safety issues on ANF roads, including the road.

Brief overview of the main Federal grant programs for road safety that CHP has been benefitting starting long before the subject collision.

Traffic Safety

42. The California Office of Traffic Safety (“OTS”) is a California state agency aiming to eliminate traffic deaths and injuries. It does so by making available grants to local and state public agencies for programs to help them to enforce traffic laws, educate the public in traffic safety, and provide varied means to reduce fatalities, injuries and economic losses from collisions.

43. OTS is a partnership between the National Highway Traffic Safety Administration (“NHTSA”) and California. OTS is designated by the Governor of California to receive federal traffic safety funds for coordinating California highway safety programs. Each year OTS develops a Highway Safety Plan (“HSP”) identifying the key highway safety problems in the state and the most effective countermeasures to address them. OTS then solicits proposals statewide to address the identified problems and allocates funds to state and governmental agencies to implement traffic safety programs and grants. Areas of concentration include traffic police services, including traffic law enforcement, emergency medical services, roadway safety, motorcycle safety and traffic records, as “accurate and current identification and to evaluate countermeasure effectiveness” records are needed to support problem”. The core mission of OTS is stated

on its official website at
https://www.ots.ca.gov/OTS_and_Traffic_Safety/AboutOTS.asp

44. OTS has noted that Angeles National Roads are increasingly frequented by motorcyclists, many being riders of mature age. OTS has for mission

"to effectively and efficiently administer traffic safety grant funds to reduce traffic deaths, injuries, and economic losses." The OTS states on its official website that "The California Highway Safety Program is a partnership effort between the National Highway Traffic Safety Administration (NHTSA) and California. OTS is designated by the Governor to receive federal traffic safety funds for coordinating California's highway safety programs. Each year OTS develops a Highway Safety Plan (HSP) identifying the key highway safety problems in the state and the most effective countermeasures to address them. OTS then solicits proposals statewide to address the identified problems and allocates funds to state and local governmental age.

CHP mismanagement of the road, including federal funds

45. CHP mismanaged public funds, including federal funds CHP was granted under the HSIP and other federal road safety programs. CHP has failed to properly manage and apply public funds including federal grants so that, in an area that is

as notorious for the number of collisions, many involving fatalities and severe injuries, as ANF is, there is adequate law enforcement, including adequate CHP patrols to respond to collisions, to reduce injuries and fatalities. Currently, CHP is dealing with a massive corrupt scheme in its Los Angeles office due to dozens of officers overbilling the state for hours of work they did not perform, pursuant to a local CHP culture of corruption, as stated by CHP Division Chief Mark Garrett on May 6, 2019. The corruption ensnared CALTRANS because CALTRANS paid for CHP officers to protect road construction sites. CALTRANS has now launched an investigation into whether the CHP local culture of corruption affected and seeped into CALTRANS (and/or vice versa), causing CALTRANS to have paid for a CHP presence that was not, or to have put CALTRANS construction workers in harm's way without the CHP protection CALTRANS paid for. Similarly in this case, CHP' presence was inadequate in ANF.

46. Though the road has been classified as a major collector and though, on that particular day, the road was expected to experience more traffic than usual due to Angeles Crest Highway access closure at la Canada-Flintridge, CHP did not provide adequate law enforcement and patrol with the result that Morales and the plaintiff were on the ground in critical condition for forty-five minutes before the victims were discovered by total happenstance by USFS rangers.

ALLEGATIONS

The CHP Altadena defendants:

47. The CHP Altadena defendants (Sherman, Garcia and Lynch) responded to the collision. The CHP Altadena defendants, in concert with, and at the direction and with the approval and ratification of, other CHP officers higher up in the hierarchy engaged in a fraudulent scheme to prevent the plaintiff and other concerned persons from discovering that factors other than speed caused the collision, knowing that their fraudulent scheme would result in economic injuries to the plaintiff.

48. Against the backdrop of the discriminatory undertone in the management of the road by different government actors including CHP, the CHP Altadena defendants, schemed to defraud not only the plaintiff, but also Morales, the public, other victims of similar collisions at the same location, the CHP itself, CHP officials, USFS, the FHWA, the NHTSA, the OTS, CALTRANS, various other federal, state and local agencies having jurisdiction over the road and/or the authority to audit, look into or investigate the management of the road, including the management of state and federal grants for road safety purposes. In carrying out their fraud upon the plaintiff, the CHP Altadena defendants also intended to, and did defraud federal, state and local governmental entities, agencies or officials and the public of vital information necessary to identify road safety issues and to take appropriate counter-measures on the road, in particular at the location of the collision.

49. The CHP Altadena defendants schemed to hinder, delay and obstruct federal official proceedings that these defendants knew or should have known would be commenced because they all knew that the collision occurred on United States property. In carrying out their schemes, the CHP Altadena defendants committed the acts set forth further below in the complaint.

50. The CHP Altadena defendants succeeded in their goals to defraud the plaintiff intending and knowing that their fraud would result in the plaintiff sustaining economic damages as will be more fully set forth further below in the complaint.

Tampering with evidence at the scene and
staging the fraud

51. The first CHP responder at the scene was Garcia. Sherman responded later. Sherman alleges that he received the dispatch call at 14:30 pm and that he responded 16:41 pm only because he was busy with another collision in the area. The plaintiff first became aware of Sherman in the helicopter that airlifted the victims to Holy Cross Providence trauma center. Morales was also onboard the helicopter, unconscious, in an extremely critical state. Sherman arrived at the scene moments before getting onboard the helicopter.

52. Garcia and Sherman acted at all the times at the instruction of higher up CHP officers, including Lynch their supervisor, knowing that their supervisors were asking them to carry out illegal

orders. Garcia and Sherman were eager to please Lynch to advance their careers even if that meant breaking the law.

53. Lynch was also at the crash scene. Lynch holds a higher rank than Sherman and Garcia. Lynch had been a CHP officer since 1990 and a sergeant since 2006. She was their supervisor and had significant seniority over Garcia and Sherman. Lynch's duties included evaluating CHP officers. Lynch is a highly experienced CHP crash scene manager and investigator, with extensive experience in investigating major crashes, including crashes involving multiple fatalities, spills and bomb threats. Lynch came to the scene because the collision was major as it was considered fatal.

54. There was also a fourth CHP officer whose identity is unknown to the plaintiff. The CHP Altadena defendants all carefully and deliberately concealed the presence and identity of the fourth CHP officer, a material witness of the state of the collision scene and the manner in which the investigation was conducted at the scene, as is set forth below.

55. In the helicopter, Sherman pressured the plaintiff, who was in excruciating pain and clinging to life, to make statements that would pin the blame on excessive speed by either Morales or the plaintiff. Sherman engaged in a pressing, unrelenting and repetitive interrogation solely focused on speed. As the plaintiff's answers did not point to excessive speed by either the plaintiff or Morales, and as the plaintiff's answers remained the same despite the

repetitive questions, Sherman kept asking, in an elevated, pressing and intense tone, over and over and over again at what speed the plaintiff and Morales were driving. Sherman harassed the plaintiff to obtain the answer he was seeking and that was: Morales and/or the plaintiff were speeding in excess of the legal limit at the time of the collision. Sherman also endeavored to imprint in the plaintiff's mind that the collision was caused by excessive speed by his repeated questions about speed and speed only: "How fast were you going? How fast was the other guy going? How fast? How fast?", over and over again despite the plaintiff repeating the same answers. At one point the plaintiff objected: "I already told you" and "why do you keep asking me?".

56. Sherman got off the helicopter at Holy Cross Hospital, followed the plaintiff while he was being rushed to the emergency room ("ER") and kept pressuring and brainwashing the plaintiff about the speed at which Morales was riding. Sherman's insistence in his pursuit of the plaintiff, and his harassment of the plaintiff, was met with a Holy Cross staff member's objection as the doors of the ER opened to let the plaintiff and attending medical team through. The staff member essentially asked Sherman to let medical personnel care for the plaintiff. That's how and when the plaintiff was rid of Sherman and his pressing interrogation. Sherman did not ask the plaintiff any question past the doors of the ER upon the medical staff's objection. Sherman did not get past the ER doors and that's how the plaintiff was rid of Sherman's harassment.

57. Shortly or immediately after the victims were transferred to the care of the trauma center, Sherman informed other officials who were at the crash scene, including USFS officers and Garcia and Lynch, that Morales would not survive and that the collision was to be considered fatal. This was then believed to be the second fatal head on collision at that location in six days, that location already being known to the CHP, in particular the defendants, for its high collision rate and its high incidence of fatalities according to a study conducted by the State in the three years prior to 2010. That's when Garcia, Lynch and Sherman devised and then carried out a scheme to tamper with evidence to concoct a report showing excessive speed as the cause of the collision.

58. Garcia was the first to arrive and to interact with USFS officers and bystanders and witnesses at the scene. The USFS officers had already stopped traffic and were managing the scene when Garcia arrived. A fourth CHP officer responded. Garcia, Lynch and the fourth CHP officer inspected the scene, including the motorcycles, while Sherman was away. Lynch, Garcia and the fourth officer stayed until after the motorcycles were towed away and the road was cleared.

59. Sherman's inspection of the scene was cursory and he was not in a position to fairly and properly handle the investigation and write the report. Sherman, a certified CHP motorcycle rider, initially arrived that day by motorcycle, just before getting on board the helicopter with the plaintiff. Sherman

got onboard the helicopter wearing his boots.

60. Believing that the collision was fatal per Sherman's representations to Lynch, Garcia and others at the scene, the CHP Altadena defendants set out to stage or cause to be staged the collision scene to pin the blame on speed and Morales.

61. Pursuant to the plan to pin the blame on speed and Morales and to prevent the discovery that factors other than speed caused or contributed to the collision, the CHP Altadena defendants did not mark evidence on the ground. They deliberately failed to mark the position of crucial evidence such as debris, scratch marks that indicated the trajectory of the motorcycles after impact, the positions of the victims, the blood pools and where Samuel Morales and the plaintiff's helmets were found. The CHP Altadena defendants and the fourth CHP officer at the scene tampered with Morales's instrument cluster, moved the instrument cluster around to neatly put it on display on the road face up near Morales' motorcycle for a photograph as evidence that Morales was riding at 65 MPH. The instrument cluster looked like it was neatly cut off or unscrewed from the motorcycle body while the plaintiff's instrument cluster remained attached to the plaintiff's motorcycle though the plaintiff's motorcycle sustained equal damage. Garcia, who was carrying wire cutting pliers as he handled the motorcycles, cut off or sliced off or detached the instrument cluster from the body of Morales' motorcycle, tampered with the instrument cluster and then neatly staged the scene to provide trumped-up evidence that Morales was riding at the

break-neck speed of 65MPH at least. Sherman stated later that he observed that the instrument cluster was "sliced off" but appeared to indicate that the instrument was sliced off or "sheered off" due to the collision.

62. Garcia attempted to tamper, and came close to tampering with the plaintiff's motorcycle using wire-cutting pliers. Garcia abandoned his attempt after observing the plaintiff's motorcycle. The plaintiff's instrument cluster was electronic and thus, unlike Morales' analog instrument cluster, the instrument cluster could not be tampered with even if sliced off.

63. The CHP Altadena defendants also destroyed, removed, or caused to be destroyed and removed or made to disappear material evidence that would help reconstruct the collision. Morales' helmet was evidence of Morales' negligence because Morales's helmet was not a full-faced, Department of Transportation ("DOT")-approved helmet, and the helmet came off at impact. Lynch photographed the helmet as evidence and the helmet was later returned to Morales' family. By contrast, the plaintiff's full faced helmet is not mentioned anywhere or photographed and it disappeared. The plaintiff did not recover his helmet. Other material evidence that would establish conclusively that Sherman lied and that he did tamper with the plaintiff is available and won't be disputed.

64. After discussions with Lynch and Garcia, Sherman agreed to write and take responsibility for a deliberately fraudulent report that would be based on tampered evidence to show speed was the cause

of the collision.

The fraudulent report

65. Sherman initially completed his investigation and submitted his report a week after the collision, pursuant to the CIM stated policy that investigations should be completed and reports should normally be submitted and available to the public within 8 working days from the collision.

66. About eight days after the collision, on Easter Sunday, the day after the plaintiff's third surgery to salvage his leg from amputation, Sherman visited the plaintiff at the hospital and personally informed the plaintiff that he had concluded his investigation. Sherman informed the plaintiff that Morales' speed was the cause of the collision. Sherman also informed the plaintiff that the plaintiff's representative or attorney could retrieve the report at the CHP Altadena office.

67. Due to lack of evidence that Morales was speeding, having tampered with the evidence and to solidify their fraud, and after giving it a second thought, Sherman, in concert with the other CHP Altadena defendants and other CHP officials higher up in the hierarchy whose names are unknown to the plaintiff, deliberately set out to find and procure or otherwise collude with a false witness that Morales was riding at breakneck speed. Sherman allegedly interviewed the false witness on April 30, 2011, that is a week after the report was due to be submitted per CIM policy and seven days after Sherman represented to the plaintiff that he had

completed his investigation and that the report could be retrieved at the Altadena office. The false witness is Luis Osorio ("Osorio"). Sherman knew that Osorio was not at the scene of the collision.

68. Osorio fabricated, at Sherman and others' behest, including Lynch and other CHP officers higher up in the hierarchy including Captain Dance, and based on information Sherman fed Osorio, the narrative that Morales closed in on two motorcycles that were allegedly ahead of him, and that, to avoid hitting the motorcyclist immediately in front of him, Morales swerved out of lane and hit the plaintiff. In truth, Osorio was not at the scene of the crash at the time of the collision and Sherman knew it.

69. Sherman authored the traffic collision report. To solidify his fraud, in his report, Sherman falsely imputed to another witness, Hernandez, whom he contacted in the evening of the day of the collision, a statement the witness denied making late as is explained further below in this complaint. That alleged statement was that Hernandez, who was the leader of the pack that Morales joined with Hernandez' permission that day just before the ride into ANF, was riding at 60 MPH. Sherman then, based on Hernandez' allegedly admitted excessive speed, splurged in his report raising his finding of speed to be between 65 to 70 MPH as Morales was approaching the blind turn. Morales' alleged speed was damning as it indicated that Morales was unforgivably reckless.

70. Sherman deliberately omitted from his fraudulent report key parts of Hernandez' statement

to Sherman to conceal the falsity of Osorio's statement and to make Osorio's statement appear plausible. Sherman did not ask Hernandez who was the leader of the pack of motorcyclists that Morales joined for the names and contact information of other members of the pack, about five of them all friends of Hernandez, to interview these witnesses. Hernandez stated to Sherman that his pack had fallen behind and that Hernandez turned around at some point to check on the pack, and then discovered the victims. Hernandez testified that the members of his pack that had fallen behind were at the scene when Hernandez arrived.

71. Sherman contacted Hernandez under the false pretense of asking Hernandez to help him identify Morales. Sherman falsely represented to Hernandez that he did not know the identity of the victim and wanted to know whether Hernandez could assist. In fact, Sherman knew the identities of the plaintiff and Morales at the time Sherman got involved in the investigation, as established by Sherman's traffic collision report. Sherman's false pretense in approaching Hernandez was to test the waters for the fraud he had in mind. Sherman needed to first determine whether Hernandez knew Morales. After Hernandez told Sherman that he did not know Morales and that Morales had only joined Hernandez' pack for the first time that day just before the ride in ANF, Sherman felt it was safe for him to lie about Morales's alleged break neck speed and pin the blame on Morales. There would be no friend of Morales' or witnesses to contradict any report.

72. Having established that Morales was not a friend of Hernandez or any member of Hernandez' pack, rather than inquire with Hernandez about the identities and contact information of the members of Hernandez's pack that had fallen behind with Morales, Sherman looked for Osorio instead, without explaining how he got to Osorio. Sherman stayed clear of any witness that would not incriminate Morales. Hernandez does not know Osorio, has no recollection of Osorio joining his pack, Osorio asking to join Hernandez pack or of permitting Osorio to join his pack. On August 15, 2013, Osorio falsely stated to the plaintiff, his counsel, Morales' counsel and Counsel for County that he, Osorio, was part of Hernandez's pack and that's how he saw the collision happen. Osorio lied based on basic and incomplete information Sherman or others provided Osorio directly or indirectly to make up a statement incriminating Morales. As a result, Osorio's false statements do not place him at the scene of the collision when the collision occurred. Osorio was evasive about how Sherman came in contact with him just as Sherman was evasive as to how he became aware of Osorio.

73. To further the CHP Altadena's defendants' fraud, to prevent the reconstruction of the collision and of the timeline of the response to the collision, to obstruct evidence that Sherman was onboard the helicopter tampering with the plaintiff and that Osorio was not at the scene of the collision, Sherman concealed in his report and later at his deposition testimony the presence and/or identities of other responders, including the four USFS officers who initially discovered the victims, and a

fourth CHP officer.

74. The traffic collision report was formally reviewed and submitted to CHP on May 3, 2011. CIM requires traffic collision reports to be signed by the investigative CHP officer and then reviewed and signed by another CHP supervisor at the office. Lynch reviewed and approved the report on or about May 3, 2011 knowing that Sherman had written a false and deliberately incomplete and misleading report. Lynch, however, did not and would not sign the report as the reviewer of Sherman's report because she knew that the report was fraudulent. Lynch kept a low profile. Lynch caused another CHP supervisor at the Altadena office to sign as the reviewer.

75. The officer that reviewed the report did not type his name as required, and inserted instead an illegible signature in the "reviewer" box. The plaintiff's discovery of the name of the reviewer, Steve Allen, was thus delayed. Steve Allen is not the fourth unidentified CHP officer that was at the scene. It took two depositions in the LASC action for the plaintiff to ascertain the name of the reviewer.

The effect of the fraudulent report on the plaintiff

76. The CHP Altadena defendants willfully deprived the plaintiff of the correct material facts he needed to properly assess his demand for compensation. On October 6, 2011, the plaintiff filed a claim for damages with County compensation board. The plaintiff framed his claim for damages based on

Sherman's fraudulent report and on fraudulently erroneous material facts, alleging however that a speed warning sign ahead of the turn would have alerted Morales to slow down ahead of the blind turn. Due to Sherman's report charging Morales of riding at an inexcusably break neck speed, County's Insurer Carl Warren and Co. denied of course the plaintiff's claim for damages on January 24, 2012.

77. The CHP Altadena defendants willfully deprived the plaintiff of the correct material facts he needed to properly assess any court action against Morales or any other person that could be liable. In May of 2012, the plaintiff filed a personal injury action against Samuel Morales in the Los Angeles Superior Court ("LASC action") believing Sherman's report that Morales was riding at excessive speed. As the true facts regarding the factors that caused the collision emerged through the USDC action identified below, the plaintiff dismissed his action against Morales in May of 2018 after expending considerable attorney's fees and costs and loss of income suing Morales.

78. The CHP Altadena defendants willfully deprived the plaintiff of the correct material facts he needed to properly assess any demand for compensation to USFS. On March 13, 2013, the plaintiff filed a claim for damages with the USFS. The plaintiff's claim for damages was, again, based on Sherman's fraudulent report, thus on erroneous material facts. The plaintiff claimed however that a warning sign to reduce speed ahead of the turn would have averted the collision. On September 15, 2015, the USFS of course rejected the plaintiff's claim for damages.

Morales' allegedly inexcusably breakneck speed caused USFS to reject the plaintiff's claim.

79. The CHP Altadena defendants willfully deprived the plaintiff of the correct material facts he needed to properly assess any action against USFS or any other person that could be liable. On or about March 4, 2015, the plaintiff filed an action for negligence against the United States, the owner of the road based on erroneous material facts. Kamal v. United States, CV15-1585 FMQ (JCx) ("USDC action"). On the basis of Sherman's willfully fraudulent report, the plaintiff alleged that USFS failed to adequately warn motorists to reduce speed ahead of the turn and to ensure a proper speed limit for the road. Had the plaintiff known about the true facts, he would not have sued the USFS based on facts he believed to be true and they were false. The USDC action was financially costly to the plaintiff in terms of attorney's fees and costs and loss of income to attend court hearings. The USDC granted the United States summary judgment on the ground of discretionary immunity.

The fraud continues

80. Having willfully authored a false, misleading and intentionally incomplete report, and to further his fraud, at his deposition in the LASC action, Sherman made false material statements about his investigation of the collision to the plaintiff, plaintiff's counsel, Morales' counsel and counsel for County on April 18, 2013. Sherman confirmed the content of his report, lied about when he first met the plaintiff, consistent with his false report, and

continued to falsely testify to pin the blame on Morales and to perpetrate his fraud on Morales, the plaintiff, the public and state and federal authorities as stated above in this complaint.

81. After Sherman made the false material statements, as he was leaving the room in which the statements were made, Sherman engaged in a chat with the plaintiff under the guise of asking the plaintiff how he had been since the collision. The plaintiff discussed his injuries with Sherman who commented without missing a beat: "That's what happens when people speed" intending again to imprint in the plaintiff's mind that Morales was speeding and that the speed caused the plaintiff's injuries.

82. Two weeks later, Sherman and Garcia discussed the collision. Sherman and Garcia colluded ahead of Garcia's deposition on May 9, 2013 so that Garcia would lie and be evasive. Sherman pressured Garcia to lie or to be evasive in a manner that would corroborate Sherman's report. As a result, Garcia's answers to questions on May 9, 2013 were replete with "I don't recall". Garcia stated at his deposition that all he did was to take party information and take measurements in connection with the investigation and that he did nothing else so as to not interfere with Sherman's investigation. Garcia mentioned nothing about the wire cutting pliers he carried around the scene and about the presence of a fourth CHP officer, a white male of heavy stature who was wearing sunglasses at the scene.

83. Sherman, in concert with the other CHP

86. To carry out their fraud, the CHP Sacramento defendants, acting in concert together, mailed or caused to be mailed to the plaintiff and others, over four years, doctored and fraudulent SWITRS relating to the road, and in particular the segment of the road on which the collision occurred. The doctored SWITRS prevented the plaintiff from establishing high collision concentration areas on the road and other roads that are connected to the road, thus preventing the plaintiff and other concerned parties to identify and correct road defects and hazards.

87. The CHP Sacramento defendants first doctored and then mailed or caused to be mailed, using United States mail, fraudulent SWITRS to County intending for County to forward the doctored SWITRS to the plaintiff and others. County did forward the doctored SWITRS to the plaintiff as is set forth further below in the complaint.

88. Thereafter, the CHP Sacramento defendants mailed or caused to be mailed doctored SWITRS to the plaintiff directly on four occasions between November 2012 and August 2015 in response to subpoenas, three of which were in the course of the LASC action and one of which was in the course of the USDC action.

89. In the SWITRS they mailed, the CHP Sacramento defendants also falsified statistics at several locations on the road, including where the collision occurred, and at locations on other roads including Angeles Crest Highway, Angeles Forest

Altadena defendants also caused Osorio to make false material statements at his deposition of August 15, 2013 in the LASC action. These defendants caused Osorio to testify in a manner that corroborated Sherman's fraudulent report and made the tampering of the evidence at the scene unnoticeable.

84. On October 12, 2015, at her deposition in the LASC action, Lynch made evasive statements as to material facts to the plaintiff, his counsel, Morales counsel and counsel for County regarding the collision. Lynch prevented, through her evasive statements, the establishment of a timeline of Sherman's involvement, including when Sherman arrived at the scene, when he left and what he actually did at the scene; and how the collision scene looked upon her arrival. Lynch concealed that Garcia used wire cutting pliers in her presence and that a fourth officer was present. Lynch's testimony was replete with "I don't know" and "I don't recall". Lynch testified that she reviewed Sherman's report. She however caused another CHP officer, Steve Allen, to sign as the reviewer.

The CHP Sacramento Defendants' actions

85. The CHP Sacramento defendants knowingly directed and/or participated in and/or assisted, aided and abetted the CHP Altadena defendants' fraud. The CHP Sacramento defendants engaged in a separate scheme for the same fraudulent purpose as the CHP Altadena defendants knowing that their fraudulent scheme would result in economic injuries to the plaintiff.

Highway and Upper big Tujunga. The CHP Sacramento Defendants underreported the true number of collisions and shifted on paper the locations where several of the collisions occurred by adding one digit to the real location of the collision as it was entered into the CHP SWITRS database. For instance, a collision that occurred 1584 feet west of a marker was reported as having occurred 15840 feet west of the same marker, with the result that the falsification made it impossible for the plaintiff and other concerned persons including federal and state governments to properly identify high collision concentration areas and to assess safety issues that would point to collision causing factors other than or in addition to speed.

90. At all the times stated above, the CHP Sacramento defendants knew that they were mailing or causing to be mailed falsified SWITRS. Farrow, Haro, Tillman, directed, instructed, participated in and/or knowingly ratified Rakkar's actions. Rakkar, knowing that she was producing falsified SWITRS directed any inquiry to Haro in three of her four declarations of custodian of records.

The CHP Altadena and Sacramento defendants knew the plaintiff and Morales would seek compensation from County and the USFS for their injuries.

91. The CHP Altadena and Sacramento defendants knew that the road is situated in the County of Los Angeles and that the County manages the road. The CHP Altadena defendants were aware or should

have been aware that the plaintiff would seek compensation for his injuries from County.

92. The CHP Altadena and Sacramento defendants knew that ANF is a United States property and that the road is owned by the United States and under the jurisdiction of the USFS. The CHP Altadena and Sacramento defendants were aware or should have been aware that the plaintiff would file claim for damages with the USFS compensation board and that the plaintiff would file proceedings against the United States for liability. The CHP Altadena and Sacramento defendants intended to destroy and impair any valid claim for compensation or cause of action the plaintiff had for his injuries, and not only did they succeed but they cause the plaintiff to unnecessarily spend money suing the wrong parties and on the wrong facts. Each misrepresentation was about a material fact for the purpose of this RICO action.

The plaintiff's discovery of the fraud

93. The plaintiff did not suspect the CHP defendants' fraud and corrupt schemes, and the magnitude of the scheme, and the plaintiff did not discover his economic injuries until well into the USDC action. It is in the course of the USDC action that evidence, provided by the USFS, came to the surface, showing that high, excessive or reckless speed was not a factor in the collision and that, per the USFS collision reconstruction expert, Morales was actually riding at low speed. Also, the USDC action revealed evidence that County defectively constructed the road, in violation of the plans. The

investigation also revealed that, according to Robert Snook, a retired CHP sergeant who is an expert in CIM procedures, the CHP Altadena defendants did not follow all of the requirements as set forth in the CIM such that the investigation lacked pertinent facts of the collision event.

94. It is also in the course of the USDC action that the plaintiff discovered that the SWITRS that CHP produced since 2012 were falsified and that the CHP defendants all engaged in a fraudulent scheme to pin the blame on Morales's alleged break neck speed, to hinder federal proceedings arising out of the collision and to obstruct justice in the USDC action. The defendants defrauded the plaintiff just as they defrauded the United States because they did not want the USFS to become aware that state and local governments failed in their duties to properly manage the road and to police it. Like any other catastrophic injury collision in the area, the plaintiff's case could draw attention to the management and policing of the road by the state and local government, and that's what CHP wanted to hinder for the benefit of state and local governments officials.

The plaintiff's reliance in the CHP Altadena and Sacramento defendants' actions was justified.

95. The plaintiff was justified in relying on the CHP Altadena and Sacramento defendants' representations because the CHP is a law enforcement entity that is supposed to be neutral in its investigations and because CHP's mandate is to

uphold and enforce laws and to protect and serve. CHP officers are supposed to help save lives, not to endanger lives by falsifying traffic collision investigations and statistics.

Witness retaliation

96. The CHP defendants, acting in concert, and faced with the plaintiff's resilience, engaged in a campaign of harassment against a family member of the plaintiff who is also a material witness to some of the plaintiff's allegations herein, and who also was counsel for the plaintiff in the LASC and USDC actions.

97. In October of 2016, the plaintiff became vocal about his belief that there was government breakdown and that the County Department Public Works and other government agencies mismanaged the road and misappropriated public funds allocated for the road.

98. In November of 2016, as the plaintiff's counsel and sister was momentarily inside her home, which is situated in a quiet part of Santa Monica, at about 2 pm, someone damaged the license plate of her car. The plaintiff's sister did not file a police report believing this was the act of some mischievous teen in the neighborhood.

99. In January of 2017, in the middle of the night, someone smashed the rear window of a car that was parked, with the plaintiff's sister's permission, on the plaintiff's sister's parking space behind the house. The owner of the car filed a police report. The

plaintiff's sister believed this to be a random act of violence.

100. On January 11, 2017, again, someone damaged the plaintiff's sister's car' license plate, in broad daylight while the plaintiff's sister was home and while the car was parked in its usual space. The plaintiff's sister did not file a police report, still thinking this was the act of some mischievous teen. The incident was documented.

101. On May 10, 2017, in broad daylight, between the hours of 11 am and 2 pm, someone obstructed the exhaust pipes of the plaintiff's sister's car while it was parked in its usual space. The plaintiff's sister did not file a police report. The incident was documented.

102. On August 8, 2017, in broad daylight, while the plaintiff's sister was at home, someone stole the license plate of the plaintiff's sister's car while the car was parked in its usual space. The plaintiff's sister did not file a police report. The incident was documented. The plaintiff's sister filed a police report.

103. In the night of June 19, 2019 to June 20, 2019, the plaintiff's sister's property was defaced, near the place where the plaintiff's sister parks her car, with a large graffiti that resembles a cryptic message, made of a G, followed to the right with two square crosses each in a circle, reminiscent of far right movement symbols, beneath which there was a drawing depicting three cones, two of the same size while the middle one was taller, reminiscent of Ku

Flux Klan hoods, above a straight line, and to the left of the graffiti, a scribble resembling a signature.

104. The cryptic message appeared two days after the USDC issued the ruling on June 17, 2019 in this action, and a day after the plaintiff requested from Mr. Brown, counsel for CHP, a meet-and-confer to discuss the plaintiff's motion to amend to add a claim for racial discrimination. Eventually the plaintiff filed his motion, set for hearing on September 3, 2019. The plaintiff's sister filed a police report with a summary of the harassment she had been the target of since October 2016.

105. The plaintiff's sister has been living in peace with her neighbors for 30 years, has no personal conflict with anyone of any kind, and she has never been harassed and intimidated in this manner before.

106. The vandalism was committed in a provocative and arrogant fashion by persons who think they are above the law and have the power to prevent any investigation into the harassment. To the plaintiff's knowledge, the Santa Monica Police Department did not investigate or contact the plaintiff's sister regarding the incidents.

107. The plaintiff believes and has reason to believe, and alleges, that the harassment and intimidation were caused by the CHP defendants, acting individually or in concert, directly or indirectly through accomplices, and that the harassment and intimidation is directly related to the plaintiff's

allegations of RICO activities and government wrong doing.

108. The CHP Altadena's predicates were committed pursuant to a well-oiled scheme involving the highest levels of the CHP and that was carried out through the CHP chain of command. The pattern continues and will continue because the defendants were not stopped or made accountable for their actions; because the well-oiled and continuous scheme has become the defendants regular manner of doing business at CHP; because the practice of fraud revealed by the underlying collision has extended to far beyond the named defendants at CHP and affects far more persons than the plaintiff; and because the CHP defendants have a complete sense of impunity.

The plaintiff's sustained economic damages

109. As a direct result of the CHP Altadena and Sacramento defendants' fraud pinning the blame on Morales' alleged breakneck speed and preventing the plaintiff from discovering that factors other than speed caused or contributed to causing the collision, the plaintiff was hindered in his ability to make a fair assessment of the facts of the case before submitting claims for damages or initiating any legal action for damages, to his great economic detriment, including unnecessary attorney's fees and costs, loss of income to attend court proceedings and loss of compensation for his injuries by County and USFS compensation boards, as is set forth below.

COUNT I: RICO
(Against the CHP Altadena defendants-
witness tampering (18 U.S.C. 1512)
(18 U.S.C 1962 (c))

110. The plaintiff re-alleges and incorporates by reference paragraphs 1 through 109 of the complaint above as though fully set forth herein.

111. At all the times stated herein, all the CHP Altadena defendants and each of them participated in the conduct of CHP through a pattern of racketeering activity as is more fully set forth below.

CHP is the RICO enterprise:

112. CHP forms the enterprise that the CHP Altadena defendants conducted through a pattern of racketeering activities at the direction, and with the knowledge, approval and ratification, of other CHP officers higher up in the hierarchy, some of whom are unknown to the plaintiff at this time, and including Altadena CHP jurisdiction Captains Bill Dance and Steve Strull and the defendant Farrow. At all the relevant times, CHP constitutes an "Enterprise" ("CHP") within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, CHP was engaged in, and/or its activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c).

113. At various times and places enumerated in this complaint above, all the individual defendants did

associate with CHP, the activities of which affect interstate and foreign commerce.

114. At all relevant times, the CHP Altadena defendants were employed by CHP. While in the employment of CHP, these defendants participated in the operation, management, and direction of the affairs of CHP. CHP, as alleged herein, was not limited to the defendants' predicate acts and have activities extending beyond the defendants' racketeering activity. CHP exists separate and apart from the pattern of racketeering activity for the legitimate governmental business purpose of providing law enforcement. The defendants have had and do have legitimate governmental functions outside the pattern of racketeering activity related to CHP.

In particular:

115. CHP is a highly organized California state government structure that has been in existence since 1929 for the purpose of enforcing traffic laws on all public roads, patrolling roads and maintaining the safety and security of millions of residents and visitors across the State. CHP investigates traffic collisions and compiles collisions statistics.

116. CHP top executive is the Commissioner. At the times herein stated, Joseph Farrow was the CHP Commissioner. The Deputy Commissioner is the second in command. CHP's headquarter is in Sacramento. The Commissioner has two Assistant Commissioners: one Assistant Commissioner is

responsible for administrative matters including information management itself including the compiling and keeping copies of Traffic Collision Reports and SWITRS.

117. The other Assistant Commissioner is responsible for field operations broken onto several divisions. Each division is headed by a Chief and is split into offices located in different part of the area covered by the division. Offices are under the supervision of a captain. CHP patrol officers patrol roads. Orders travel through a chain of command established by law, and the procedure and policies of the CHP.

118. The CHP Altadena Office has jurisdiction over approximately 72 officers and nine sergeants. The Altadena CHP supports the Crescenta Valley Sheriffs and the Pasadena, Glendale and Burbank police. The Altadena office, like all CHP offices, helps out state properties and agencies like the DMV, state employment development department and the courts.

119. The Altadena office oversees the unincorporated areas of Los Angeles that include La Crescenta, Altadena, portions of Rosemead, Angeles Crest Highway, Tujunga and the Ventura (101) Freeway, Hollywood (170) Freeway, and the Foothill (210) Freeway from the Ronald Reagan (118) Freeway to Rosemead and the Golden State (5) Freeway from Griffith Park to the 118. In short, the Altadena CHP office patrols more than 62 miles of freeway and 368 miles of county roadway.

120. At the times herein alleged, the CHP Altadena defendants were first under the authority of Altadena Captain Bill Dance. Captain Steve Strull replaced Captain Dance in July of 2011 after Captain Dance was promoted Assistant Chief of the Southern Division. As an Assistant Chief, Bill Dance oversees several CHP areas.

**Conduct of CHP and Pattern of
racketeering activity.**

121. While in the employ of CHP, the CHP Altadena defendants did conduct and/or participate, either directly or indirectly, in the conduct of the affairs of CHP through a pattern of racketeering activity, all in violation of 18 U.S.C. §§ 1961(4), (5), (9), and 1962(c).

122. Within ten (10) calendar years, all the defendants did cooperate jointly and severally participated in, and directed, aided, abetted and/or ratified the commission of two (2) or more of the RICO predicate acts that are itemized in the RICO laws at 18 U.S.C. §§ 1961(1)(A) and (B), and did so in violation of the RICO law at 18 U.S.C. 1962(c) (Prohibited activities).

123. Plaintiff further alleges that all the CHP Altadena Defendants did commit two (2) or more of the offenses itemized below in a manner that they calculated and premeditated intentionally to threaten continuity, i.e. a continuing threat of their

respective racketeering activities, also in violation of the RICO law at 18 U.S.C. 1962(c) supra.

124. The defendants intentionally, and fully knowing that Morales was not riding anywhere near the high speed he was charged with, defrauded and harmed the plaintiff as they defrauded and harmed others including Morales, the public and government entities.

125. The CHP Altadena defendants knew or must have known that the plaintiff would initiate County, state and federal proceedings for compensation because they knew that the road is owned by the United States and/or that it is situated on United States property and that they also knew that the road is operated by County.

126. The defendants acted intentionally, corruptly and with malice in carrying out their fraud and in committing the predicates described below. The CHP Altadena defendants and other persons unknown at this time, acting in concert, participated in, committed and approved the following predicates, as these predicates are more fully explained above in this complaint.

In particular:

127. **Predicate 1:** April 17, 2011: Sherman, acting in concert with the other CHP Altadena defendants, harassed and pressured the plaintiff to make statements pinning the blame on speed and Morales, and attempted to brainwash, and did

brainwash the plaintiff into believing and then believe, and repeating to others, the lie that Morales was riding at break neck speed and that Morales' break neck speed caused the collision.

128. **Predicate 2:** April 17, 2011: the CHP Altadena defendants corruptly persuaded one another to tamper with the scene and stage it in anticipation of a fraudulent traffic collision report Sherman agreed to author, and they all schemed together, participated in, discussed, directed and caused the tampering of the evidence at the scene in furtherance of their fraudulent scheme.

129. **Predicate 3.** On April 17, 2011 Lynch corruptly persuaded Sherman and Garcia to participate in the corrupt scheme and to take responsibility for the fraudulent investigation and report. Lynch corruptly persuaded Sherman to sign the report though Sherman only spent only minutes at the collision scene. Lynch used her position as a higher ranked officer and as the performance evaluator of officers to corrupt Sherman and Garcia. Sherman and Garcia agreed to participate in the scheme for a good evaluation in return.

130. **Predicate 4:** Between April 17, 2011 and May 3, 2011: Sherman, in concert with the other CHP Altadena defendant and other persons accepted a testimony he knew to be false, suborned perjury and procured a false witness, Osorio, to fabricate the case that Morales was riding at breakneck speed, while willfully overlooking that several other witnesses, including Hernandez' pack members, were available.

131. **Predicate 5:** May 3, 2011 Sherman in concert with the other CHP Altadena defendants and their accomplices intentionally wrote and filed a false, misleading and damning report against Morales.

132. **Predicate 6:** On April 18, 2013, Sherman, in concert with the other CHP Altadena defendants, willfully made false and evasive statements as to material facts to the plaintiff and his counsel, to Morales through his counsel and to County through its counsel about the collision.

133. **Predicate 7:** On April 18, 2013, Sherman tampered with the plaintiff, again, to imprint in the plaintiff's mind that Morales was riding at excessive speed.

134. **Predicate 8:** In the first week of May 2013, unbeknownst to the plaintiff at the time, a week prior to Garcia's scheduled deposition, Sherman in concert with Lynch pressured Garcia to either lie or provide evasive answers to the plaintiff and other concerned persons' inquiries ahead of Garcia's deposition in the LASC action. At the same time, Garcia colluded with Sherman to give false and evasive answers.

135. **Predicate 9:** On May 9, 2013, Garcia, in concert with the other CHP Altadena defendants made false and willfully evasive statements about material facts relating to the collision.

136. **Predicate 10.** Evidence tampering. On October 2, 2015, Lynch, in concert with the other

CHP Altadena defendants, made willfully evasive statements about material facts relating to the collision.

Economic damages

137. The CHP Altadena defendants' pattern of fraud are of a nature to cause economic damages because plaintiffs, defendants, insurance companies, government compensation boards and courts rely on fair traffic collision investigations and reports to make a proper assessment as to any claim for compensation or grounds for law suit, including suing the proper party on the proper factual grounds. The plaintiff was hindered in his ability to properly assess the facts before filing any claim for compensation and any law suit for damages, to his great economic detriment. More specifically:

138. Claim for compensation to County: Plaintiff believed that the report was true and was thus fraudulently induced to repeat Sherman's lies to County when the plaintiff submitted his claim for damages to County compensation board. Plaintiff based his claim for compensation based on the fraudulently erroneous facts stated in Sherman's report, contending however that had signage been adequate and lawful, Morales would have slowed down. County did of course refuse to compensate the plaintiff for the injuries he suffered because the fraudulent report, itself based on tampered evidence, pinned the blame entirely on Morales, stating that Morales was riding at the alleged inexcusable, reckless breakneck speed of 65 to 70 MPH on the road.

139. LASC Action: Plaintiff believed the report was true and was thus fraudulently induced to sue Morales for damages in the state court. The plaintiff expended considerable attorney's fees unnecessarily suing Morales based on the CHP Altadena's fraudulent actions and suffered loss of income to attend court proceedings.

140. Claim for damages to USFS: Plaintiff believed Sherman's report and was thus fraudulently induced to repeat Sherman's lies to USFS when the plaintiff submitted a claim for damages to USFS compensation board, with supporting statement of facts. Of course, USFS did not compensate the plaintiff for injuries that were allegedly caused by Morales' alleged breakneck and inexcusably high speed.

141. USDC action: Having been willfully misled by the CHP Altadena defendants' fraud, and based on the fraudulently erroneous facts of the report, in his action against USFS the plaintiff erroneously put at issue, front and center, that the collision was caused by the absence or inadequacy of speed warning signs. Had this fake speed issue not been fabricated, the plaintiff would not have sued the USFS for negligence on the ground of lack of adequate warning signage and speed limit as he did. The fake speed issue directly caused the plaintiff unnecessary attorney's fees and costs and loss of income to attend court proceedings.

142. The plaintiff's injury was caused by the defendants' commissions of two or more of the predicate acts as these acts are defined by 18 U.S.C. 1961 (1) and as these acts are set forth above in this complaint.

143. The plaintiff was injured in his money and property ("economic damages") by reason of the Defendants' violation of 18 U.S.C. § 1962(c).

144. The defendants' injuries to Plaintiffs were the "but-for", direct, actual, proximate, and reasonably foreseeable result of their violation of 18 U.S.C. § 1962(c).

145. Pursuant to 18 U.S.C. § 1962(c) and 1964 (c), Plaintiff is entitled to recover treble damages plus costs and attorneys' fees from CHP Altadena Defendants as well as any other relief authorized by statute.

COUNT II: CONSPIRACY TO COMMIT
RICO
(Against the CHP Altadena defendants-
witness tampering (18 U.S.C. 1512)
(18 U.S.C 1962 (d))

146. The plaintiff re-alleges and incorporates by reference paragraphs 1 through 145 of the complaint above as though fully set forth herein.

147. At all relevant times, the CHP Altadena Defendants were "person[s]" pursuant to 18 U.S.C. §§ 1961(3) and 1962(d). 128. At all relevant times,

the CHP constitutes an Enterprise within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, the CHP was engaged in, and/or its activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c).

148. At all times relevant hereto, the CHP Altadena defendants each held a position in or were otherwise affiliated with the CHP Enterprise as well as participated in the operation, management, and directed the affairs of the CHP. The CHP, as alleged herein, was not limited to Defendants' predicate acts and has activities extending beyond the Defendants' racketeering activity. The CHP exists separate and apart from the pattern of racketeering activity. The Defendants have had and do have legitimate governmental business plans outside the pattern of racketeering activity related to the CHP.

149. The CHP Altadena defendants knew that they were engaged in a conspiracy to commit the predicate acts, and they knew that the predicate acts were part of such racketeering activity, and the participation and agreement of each of CHP Altadena defendants was necessary to allow the commission of this pattern of racketeering activity. The CHP Altadena Defendants' conduct constitutes a conspiracy to violate 18 U.S.C. § 1962(c), in violation of 18 U.S.C. § 1962(d).

150. Each CHP Altadena defendant was aware of the evidence tampering and the fraud that the other defendants were planning to perpetrate, as this fraud is fully described above in this complaint, on the plaintiff, Morales, the public and federal, state

and local authorities. Each CHP Altadena defendant agreed with the other defendants and intended that the fraud and evidence tampering be committed.

151. The CHP Altadena Defendants have unlawfully, knowingly and willfully combined, conspired, confederated and agreed together and with others to violate 18 U.S.C. § 1962(c) as described above, in violation of 18 U.S.C. § 1962(d). Beginning on the day of the collision, on April 11, 2017 and continuing to October 2015 and beyond, there was an agreement between each and every CHP Altadena defendant to commit the predicate acts described in COUNT I above.

152. Each CHP Altadena defendant knowingly agreed that a conspirator would commit a violation of 18 U.S.C. § 1962(c). The defendants became members of the conspiracy knowing its objects and intending to help accomplish it.

153. All the CHP Altadena defendants did commit two (2) or more of the offenses itemized above in a manner which they calculated and premeditated intentionally to threaten continuity, i.e. a continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. § 1962(c).

154. The defendants and each of them also agreed to participate in and facilitate each other's violations of 18 U.S.C. § 1962(c).

155. To conspire and carry out the purpose of the conspiracy, the CHP Altadena defendants

communicated directly or indirectly, in person, by telephone, radio, written communications, and by using the United States mail and wire.

156. The defendants conspired all along with continuity from the moment they became aware of the collision on April 17, 2011, throughout the plaintiff's LASC and USDC actions, and continuing to day. The defendants conspired, using the chain of command, in their physical offices, on the collision scene, at work locations or at other locations, each time, before and after the time that they committed the predicates acts listed above in this complaint to commit and/or cover up these predicate acts.

157. The plaintiff suffered economic damages by reason of the Defendants' violation of 18 U.S.C. § 1962(d). The defendants' actions were the but-for, direct, actual and proximate cause of the plaintiff's economic injuries as these injuries are described in paragraphs 137-141 in COUNT I above, which paragraphs are fully incorporated by reference herein.

158. Pursuant to 18 U.S.C. § 1962(d) and 1965 (c), Plaintiff is entitled to recover treble damages plus costs and attorneys' fees from CHP Altadena Defendants as well as any other relief authorized by statute.

COUNT III: RICO
(Against the CHP Altadena defendants-mail
and wire fraud (18 U.S.C. 1341, 1343)
(18 U.S.C 1962 (c))

159. The plaintiff re-alleges and incorporates by reference paragraphs 1 through 109 and all paragraphs in COUNT 1 above of the complaint above as though fully set forth herein.

160. Having devised their fraudulent scheme and having set the stage for their fraud, the CHP Altadena defendants used the United States mail and wire to carry out their fraud, intending to destroy and impair any valid claim for compensation or cause of action from any person having any liability for the plaintiff's injuries, as is set forth below:

161. **Mail fraud 1:** After submitting his fraudulent report, Sherman and/or Lynch and/or Garcia mailed or caused to be mailed a copy of Sherman's fraudulent report to the CHP headquarter, per CIM requirements that a copy of all traffic collision reports be mailed to Sacramento within eight days from the submission of the report as follows:

California Highway Patrol
Information Management Division
Support Services Section
Production Controls Unit
P. O. Box 942898
Sacramento, CA 94298-0001

162. **Mail and/or wire fraud 2.** Sometime between the time that Sherman submitted his fraudulent

report on May 3, 2011 and May 13, 2011, Sherman and/or Lynch and/or Garcia mailed or caused to be mailed and/or wired, using interstate mail and the internet or other electronic means, a copy of Sherman's fraudulent report to the plaintiff by first mailing or wiring, or causing the mailing and wiring of the report to Metropolitan Report Bureau ("Metro"), a company based in Pennsylvania. This mailing or wire is in itself mail or wire fraud. Metro gathers traffic collision reports from all over the country and forwards them to insurers nationwide upon request when an insurance claim is made. Metro then mailed or wired the fraudulent report to the plaintiff's insurer, AAA. This mailing or wire is in itself mail or wire fraud. AAA forwarded in turn the report to the plaintiff. This mailing or wire in itself is mail or wire fraud. Each transmission was completed using United States mail interstate carrier and/or wire and in the ordinary course of each business' sender. The mail and wire transmissions were each reasonably foreseeable to Sherman and/or Lynch and/or Garcia because they were done in the ordinary course of business of each sender. The plaintiff initially came into possession of the report on May 13, 2011 by electronic means. It was reasonably foreseeable for the CHP Altadena defendants that Sherman's report would reach the plaintiff in this manner because Sherman knew, as indicated in his report, that Morales and the plaintiff's motorcycles were insured and that an insurance claim would be made.

163. Mail fraud 3. Between May 3, 2011 and January 18, 2013 Sherman and/or Lynch/and/or Garcia mailed or caused to be mailed, using the

United States mail or an interstate mail carrier, a copy of the fraudulent report to County.

164. Mail fraud 4. On or about January 18, 2013, Sherman and/or Lynch and/or Garcia caused County to mail, using the United States mail or an interstate mail carrier, the fraudulent report to the plaintiff's attorney in response to the plaintiff's discovery requests in the LASC action. It was reasonably foreseeable for the CHP Altadena defendants that Sherman's report would be forwarded to the plaintiff's attorney.

165. Mail and wire fraud 5. On September 16, 2012, Sherman and/or Lynch and/or Garcia caused the plaintiff to mail, using the United States mail or an interstate mail carrier, Sherman's fraudulent report to the USFS in support of the plaintiff's claim for damages. Sherman caused the plaintiff to repeat Sherman's lies in his claim for damages. The claim was initially mailed to the USFS office in Albuquerque, Mexico. The Albuquerque officer then forwarded the claim to Washington DC in the ordinary course of business, using United States mail, or an interstate carrier or wire and other electronic communication means. It was reasonably foreseeable for Sherman that transmission of the report to USFS by mail or wire out of state would occur because the collision occurred on United States property. Sherman, Lynch and Garcia knew or should have known that the plaintiff intended to file a claim for damages against USFS and that a copy of the report was required to be submitted as evidence the collision occurred, where and how with a determination of fault.

166. Mail fraud 6. Sometime between April 18, 2013 and June 1, 2013, Sherman mailed or caused to be mailed, using United States mail or an interstate carrier, the original of Sherman's deposition transcript to the Court Reporter who transcribed Sherman's fraudulent testimony after putting Sherman under oath.

167. Mail fraud 7: Thereafter, after reviewing the transcript of his fraudulent deposition, Sherman caused the court reporter to, using United States mail or an interstate carrier, mail the original and copies of Sherman's deposition transcript, including the fraudulent report that was attached as an exhibit to the deposition transcript: to County, Morales, the plaintiff and all counsel in the LASC action. It was discussed with, and reasonably foreseeable for, Sherman that the court reporter would mail the transcript to the plaintiff, Morales and all counsel in the LASC action as the transcripts were intended for use by these persons.

168. Mail fraud 8. On or about September 15, 2013, between August 15, 2013 and August 15, 2013, Sherman and/or Lynch and/or Garcia mailed or caused to be mailed, using the United States mail or interstate mail carrier, Osorio's fraudulent deposition to the plaintiff, Morales and all counsel and in the LASC action. Osorio's fraudulent deposition transcript included excerpts of Sherman's fraudulent report. Attached to the deposition transcript was the fraudulent report. It was reasonably foreseeable for Sherman that the Osorio deposition transcript would be mailed to the

plaintiff, Morales and all counsel since the testimony transcript was for these persons' use.

169. Mail fraud 9. On or about July 22, 2013, between June 22, 2013 and July 22, 2013, Sherman and/or Lynch and/or Garcia mailed or caused to be mailed, using the United States mail or interstate mail carrier, Hernandez' deposition transcript to the plaintiff, Morales and all counsel in the LASC action. Hernandez' deposition transcript included excerpts of Sherman's fraudulent report. Attached to the deposition transcript was the fraudulent report. It was reasonably foreseeable for Sherman that the Hernandez deposition transcript would be mailed to Morales, the plaintiff and all counsel.

170. Mail fraud 10. Between about October 2, 2015 and November 2, 2015, Lynch mailed or caused to be mailed, using the United States mail or interstate mail carrier, Lynch's deposition transcripts with excepts of Sherman's report to the court reporter and then to Morales, the plaintiff and all counsel, all within thirty days of giving their deposition testimonies. It was reasonably foreseeable that Lynch's deposition transcripts would be mailed to the court reporter and then to Morales, the plaintiff and all counsel because Lynch testimony was intended for the use of these persons.

171. Mail fraud 11. Between about May 9, 2013 and April 9, 2013, Garcia mailed or caused to be mailed, using the United States mail or interstate mail carrier, Garcia's deposition transcripts with excepts of Sherman's report to the court reporter and then to Morales, the plaintiff and all counsel, all

within thirty days of giving their deposition testimonies. It was reasonably foreseeable that Garcia's deposition transcripts would be mailed to the court reporter and then to Morales, the plaintiff and all counsel because Garcia testimony was intended for the use of these persons.

172. Mail fraud 12. On March 27, 2014, Sherman and/or Lynch and/or Garcia mailed or caused to be mailed, using the United States mail or interstate mail carrier, Sherman's fraudulent report to the plaintiff's attorney through Deputy Attorney General of California Vanessa Martinez in response to subpoena issued in the LASC action. It was reasonably foreseeable for Sherman that the California Attorney General Office would mail the fraudulent report to the plaintiff's attorney.

Economic Damages

173. Claim for compensation to County: The defendants communicated the report to the plaintiff by mail and wire. Plaintiff believed that the report was true and was thus fraudulently induced to repeat Sherman's lies to County when the plaintiff submitted his claim for damages to County compensation board. Plaintiff based his claim for compensation based on the fraudulently erroneous facts stated in Sherman's report as this report was mailed to the plaintiff, contending however that had signage been adequate and lawful, Morales would have slowed down. County did not of course compensate the plaintiff for injuries because the fraudulent report, itself based on tampered evidence, pinned the blame entirely on Morales,

stating that Morales was riding at the alleged inexcusable, reckless breakneck speed of 65 to 70 MPH on the road.

174. LASC Action: Plaintiff believed the report that the defendants mailed to him was true and he was thus fraudulently induced by the report to sue and then persist in suing Morales for damages in the state court. The plaintiff expended considerable attorney's fees unnecessarily suing Morales based on the CHP Altadena's fraudulent actions and suffered loss of income to attend court proceedings.

175. Claim for damages to USFS: Plaintiff believed Sherman's report that the defendants mailed or caused to be mailed to the plaintiff and was thus fraudulently induced to repeat Sherman's lies to USFS when the plaintiff submitted a claim for damages to USFS compensation board, with supporting statement of facts. Of course, USFS did not compensate the plaintiff for injuries that were allegedly caused by Morales' alleged breakneck and inexcusably high speed.

176. USDC action: Having been willfully misled by the CHP Altadena defendants' mail fraud and based on the fraudulently erroneous facts of the mailed report, in his action against USFS the plaintiff erroneously put at issue, front and center, that the collision was caused by the absence or inadequacy of speed warning signs. Had this fake speed issue not been fabricated and communicated to the plaintiff by wire and mail, the plaintiff would not have sued the USFS for negligence on the ground of lack of adequate warning signage and speed limit as he did.

The fake speed issue directly caused the plaintiff unnecessary attorney's fees and costs and loss of income to attend court proceedings.

177. The plaintiff's injury was caused by the defendants' commissions of two or more of the predicate acts as these acts are defined by 18 U.S.C. 1961 (1) and as these acts are set forth above in this complaint.

178. The plaintiff was injured in his money and property by reason of the Defendants' violation of 18 U.S.C. § 1962(c).

179. The defendants' injuries to Plaintiffs were the "but-for", direct, actual, proximate, and reasonably foreseeable result of their violation of 18 U.S.C. § 1962(c).

180. Pursuant to 18 U.S.C. § 1962(c) and 1964 (c), Plaintiffs are entitled to recover treble damages plus costs and attorneys' fees from RICO CHP Altadena Defendants as well as any other relief authorized by statute.

COUNT IV CONSPIRACY TO COMMIT RICO
(Against the CHP Altadena defendants- mail
and wire fraud (18 U.S.C. 1341, 1343)
(18 U.S.C 1962 (d))

181. The plaintiff re-alleges and incorporates by reference paragraphs 1 through 109 and all paragraphs in COUNT III above as though fully set forth herein.

182. At all relevant times, the CHP Altadena Defendants were "person[s]" pursuant to 18 U.S.C. §§ 1961(3) and 1962(d). 128. At all relevant times, the CHP constitutes an Enterprise within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, the CHP was engaged in, and/or its activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c).

183. At all times relevant hereto, the CHP Altadena defendants each held a position in or were otherwise affiliated with the CHP Enterprise as well as participated in the operation, management, and directed the affairs of the CHP. The CHP, as alleged herein, was not limited to Defendants' predicate acts and has activities extending beyond the Defendants' racketeering activity. The CHP exists separate and apart from the pattern of racketeering activity. The Defendants have had and do have legitimate governmental business plans outside the pattern of racketeering activity related to the CHP.

184. The CHP Altadena defendants knew that they were engaged in a conspiracy to commit the predicate acts, and they knew that the predicate acts were part of such racketeering activity, and the participation and agreement of each of CHP Altadena defendants was necessary to allow the commission of this pattern of racketeering activity. The CHP Altadena Defendants' conduct constitutes a conspiracy to violate 18 U.S.C. § 1962(c), in violation of 18 U.S.C. § 1962(d).

185. Each CHP Altadena defendant was aware of the fraud and the use of the United States mail and wire to carry out the fraud that the other defendants were planning to perpetrate, as this fraud is fully described above in this complaint, on the plaintiff, Morales, the public and federal, state and local authorities. Each CHP Altadena defendant agreed with the other defendants and intended that the fraud and used of the United States mail and wire be committed.

186. The CHP Altadena Defendants have unlawfully, knowingly and willfully combined, conspired, confederated and agreed together and with others to violate 18 U.S.C. § 1962(c) as described above, in violation of 18 U.S.C. § 1962(d). Beginning on the day of the collision, on April 11, 2017 and continuing to October 2015 and beyond, there was an agreement between each and every CHP Altadena defendant to commit the predicate in COUNT III above.

187. Each CHP Altadena defendant knowingly agreed that a conspirator would commit a violation of 18 U.S.C. § 1962(c). The defendants became members of the conspiracy knowing its objects and intending to help accomplish it.

188. All the CHP Altadena defendants did commit two (2) or more of the offenses itemized above in a manner which they calculated and premeditated intentionally to threaten continuity, i.e. a continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. § 1962(c).

189. The defendants and each of them also agreed to participate in and facilitate each other's violations of 18 U.S.C. § 1962(d).

190. To conspire and carry out the purpose of the conspiracy, the CHP Altadena defendants communicated directly or indirectly, in person, by telephone, radio, written communications, and by using the United States mail and wire.

191. The defendants conspired all along with continuity from the moment they became aware of the collision on April 17, 2011, throughout the plaintiff's LASC and USDC actions, and continuing to day. The defendants conspired, using the chain of command, in their physical offices, on the collision scene, at work locations or at other locations, each time, before and after the time that they committed the predicates acts listed above in this complaint to commit and/or cover up these predicate acts.

192. The plaintiff suffered economic injuries by reason of the Defendants' violation of 18 U.S.C. § 1962(d). The defendants' actions and the defendants' actions were the but-for, direct, actual and proximate cause of the plaintiff's economic injuries as these injuries are described in paragraphs 173-177 in COUNT III above.

193. Pursuant to 18 U.S.C. § 1962(d) and 1965 (c), Plaintiffs are entitled to recover treble damages plus costs and attorneys' fees from CHP Altadena Defendants as well as any other relief authorized by statute.

COUNT V: RICO
(Against the CHP Sacramento defendants.
Witness tampering (18 U.S.C. 1512)
(18 U.S.C 1962 (c))

194. The plaintiff re-alleges and incorporates by reference paragraphs 1 through 109 of the complaint above as though fully set forth herein.

195. At all the times stated herein, all the CHP Sacramento defendants and each of them participated in the conduct of CHP through a pattern of racketeering activity.

CHP is the RICO enterprise:

196. CHP forms the enterprise that the CHP Sacramento defendants conducted through a pattern of racketeering activities at the direction, and with the knowledge, approval and ratification, of other CHP officers higher up in the hierarchy, some of whom are unknown to the plaintiff at this time, and including Farrow. At all the relevant times, CHP constitutes an "Enterprise" ("CHP") within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, CHP was engaged in, and/or its activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c).

197. At various times and places enumerated in this complaint above, all the Sacramento defendants did associate with CHP, the activities of which affect interstate and foreign commerce.

198. CHP, as alleged herein, was not limited to the defendants' predicate acts and have activities extending beyond the defendants' racketeering activity. CHP exists separate and apart from the pattern of racketeering activity for the legitimate governmental business purpose of providing law enforcement. The defendants have had and do have legitimate governmental functions outside the pattern of racketeering activity related to CHP.

Conduct of CHP and Pattern of racketeering activity.

199. Farrow, Tillman, Haro and Rakkar were or are based in the CHP headquarters in Sacramento. Tillman, Haro and Rakkar were or are employed in the department that manages, keeps, and analyzes records and documents such as SWITRS and as such were the managers, keepers, analysts and custodians of these records and documents. Tillman, Haro and Rakkar's names appear on the declaration of custodian of records of CHP relating to the fraudulent SWITRS. Farrow knew at all the times that Tillman, Haro and Rakkar doctored SWITRS because Farrow instructed, directed, authorized or otherwise ratified the doctoring of the SWITRS and their mailing as is set forth below.

200. While in the employ of CHP, the CHP Sacramento defendants did conduct and/or participate, either directly or indirectly, in the conduct of the affairs of CHP through a pattern of

racketeering activity, all in violation of 18 U.S.C. §§ 1961(4), (5), (9), and 1962(c).

201. Within ten (10) calendar years, all the CHP Sacramento defendants did cooperate jointly and severally participated in, and directed, aided, abetted and/or ratified the commission of two (2) or more of the RICO predicate acts that are itemized in the RICO laws at 18 U.S.C. §§ 1961(1)(A) and (B), and did so in violation of the RICO law at 18 U.S.C. 1962(c) (Prohibited activities).

202. Plaintiff further alleges that all the CHP Sacramento Defendants did commit two (2) or more of the offenses itemized below in a manner that they calculated and premeditated intentionally to threaten continuity, i.e. a continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. 1962(c) supra.

203. The CHP Sacramento defendants knew or must have known that the plaintiff filed the LASC action at the time they committed the predicates described below.

204. The CHP Sacramento defendants knew or must have known, at the time they committed the predicates described below, that the plaintiff would initiate federal proceedings for compensation and/or and that he would file an action against the United States for liability as these defendants knew or must have known that the road is a United States property.

205. The defendants acted intentionally, corruptly and with malice in carrying out their fraud. The CHP Sacramento defendants and other persons

unknown at this time, acting in concert, participated in, committed and approved the following predicates

Witness Tampering.

206. The Sacramento defendants engaged in a scheme, this one consisting of tampering with witnesses with the same objective of defrauding the plaintiff, other concerned persons including government entities, and hindering official federal proceedings. The CHP Sacramento defendant intended to solidify and continue the CHP Altadena defendants' fraud.

207. SWITRS are material evidence to establish whether a collision pattern exists at a location and whether the location experiences a high collision rate, which both could point to collision causing defects such as defective signage, design or construction or deficient law enforcement. The CHP Sacramento defendants committed the following predicates to prevent the discovery that factors other than Morales' alleged speed caused or contributed to cause the collision and to hinder official federal proceedings.

208. **Predicate 1.** SWITRS 1. Witness tampering. Sometime between September 9, 2012 and January 18, 2013, in the course of the LASC action, the CHP Sacramento Defendants doctored and then mailed or caused to be mailed to County, using the United States mail and/or interstate carrier, doctored SWITRS 1 that were run on September 9, 2012, with a copy produced to the plaintiff.

209. The Sacramento defendants tampered with County by mailing to County SWITRS 1 that were run on September 9, 2012 because County employees, including but not limited to the custodian of records of County Department of Public Works, were material witnesses having information and records about collisions that occurred in the area where the collision occurred, and other relevant information about the road.

210. Predicate 2: SWITRS 2. Witness tampering.

On or about October 24, 2012, the CHP Sacramento Defendants doctored then mailed or caused to be mailed to County, using the United States mail and/or interstate carrier, a copy of the doctored SWITRS 2 with Rakkar's declaration of custodian of records with a copy produced to the plaintiff.

211. The Sacramento defendants tampered with County by mailing to County SWITRS 2 that were run on September 9, 2012 because County employees, including but not limited to the custodian of records of County Department of Public Works, were material witnesses having information and records about collisions that occurred in the area where the collision occurred and about relevant information about the road.

212. Predicate 3: SWITRS 3. Witness tampering.
On or about May 12, 2014, the CHP Sacramento Defendants doctored then mailed or caused to be mailed to the County, using the United States mail and/or interstate carrier, doctored SWITRS 3 that

were run on May 12, 2014, with a copy produced to the plaintiff.

213. The Sacramento defendants tampered with County witnesses including County custodian of records and County employees having relevant information about collisions and the condition of the road by mailing SWITRS 3 on May 12, 2014.

214. **Predicate 4:** SWITRS 3. Witness tampering. On or about May 12, 2014, the CHP Sacramento Defendants mailed or caused to be mailed to County Department of Public Works, using the United States mail and/or interstate carrier, doctored SWITRS 3 with a copy produced to the plaintiff.

215. The Sacramento defendants tampered with County witnesses including County custodian of records and County employees having relevant information about collisions and the condition of the road by mailing to these witnesses SWITRS 3 on May 12, 2014.

216. **Predicate 5:** SWITRS 3. Witness tampering. On or about May 12, 2014, the CHP Sacramento Defendants mailed or caused to be mailed to CALTRANS, using the United States mail and/or interstate carrier, doctored SWITRS 3 with a copy produced to the plaintiff. CALTRANS was not a party to the action and there was no proceeding in the LASC action involving CALTRANS as a third-party witness such as a subpoena or discovery motion. As indicated on its website at <https://dot.ca.gov/programs/local-assistance>, CALTRANS local assistance program oversees more

than one billion dollars annually available to over 600 cities, counties and regional agencies for the purpose of improving their transportation infrastructure or providing transportation services. This funding comes from various Federal and State programs specifically designed to assist the transportation needs of local agencies.

217. The Sacramento defendants tampered with CALTRANS witnesses, including CALTRANS custodian of records and CALTRANS information analysts having relevant information and records about the road.

218. Predicate 6: SWITRS 4. Witness tampering. On or about October 7, 2014, the CHP Sacramento Defendants mailed or caused to be mailed the doctored SWITRS 4 to County witnesses including County custodian of records and County employees having relevant information about collisions and the road, with a copy produced to the plaintiff.

219. The Sacramento defendants tampered with County witnesses including County custodian of records and County employees having information about collisions by mailing doctored SWITRS 3 on May 12, 2014.

220. A comparison of SWITRS 5, as produced by CHP Sacramento Defendants, and the SWITRS that the plaintiff and or his attorney retrieved directly from the CHP Internet SWITRS Database ("DATABASE SWITRS") for the period from 2002 to August 06, 2015 for the road shows the fraud. The comparison, which required the plaintiff to

scrutinize thousands of entries over hundreds of pages, shows in SWITRS 5:

Number of collisions not reported.....167
Number of collisions reported.....29
Number of fatalities not reported.....8
Number of fatalities reported.....1
Number of collisions that were shifted to a location different than the location identified in the DATABASE SWITRS: 9 as explained in the chart below:

SWITRS	PRODUCED	DATABASE
Page 4, #5	15840 feet	1584 feet
Page 5, #1	13200 feet	1320 feet
Page 7, #6	26400 feet	2640 feet
Page 12, #2	14520 feet	1452 feet
Page 27, #1	21120 feet	2112 feet
Page 31, #5	11458 feet	1145 feet
Page 31, #6	11458 feet	1145 feet
Page 39, #5	10560 feet	1056 feet
Page 43, #2	23760 feet	2376 feet

221. The Sacramento Defendants used a similar scheme to doctor SWITRS 1, 2, 3 and 4. It is in the course of, and well into, the USDC action that the plaintiff discovered that the CHP Sacramento Defendants falsified the SWITRS the Sacramento defendants produced.

222. **Predicate 7:** SWITRS 5. Witness tampering. On August 21, 2015, the CHP Sacramento Defendants mailed or caused to be mailed to County Department of Public Works, using the United States mail and/or interstate

carrier, a copy of doctored SWITRS 5 with a copy produced to the plaintiff. County was not a party to the USDC action and the production of SWITRS 5 were not connected to any USDC action involving County at that time except that County custodian of records and other employees having information about the road were material witnesses.

223. The CHP Sacramento defendants tampered with County witnesses. These witnesses were material because the USFS contended in its defense that Morales was riding at high speed based on Sherman's report, and therefore he was solely responsible for the plaintiff's injuries. The County witnesses had information on whether factors other than speed caused or contributed to the collision.

224. The CHP Sacramento defendants' fraudulent actions were committed pursuant to a well-oiled scheme involving the highest levels of the CHP, including Farrow, Tillman and Haro, and that was carried out through the CHP chain of command. The pattern continues and will continue because the defendants were not stopped or made accountable for their actions; because the well-oiled and continuous scheme has become the defendants regular manner of doing business at CHP; and because the practice of fraud revealed by the underlying collision has extended to far beyond the named defendants at CHP and affects far more persons than the plaintiff.

Economic Damages:

225. LASC Action: the CHP Sacramento defendants

actions induced the Plaintiff to believe the doctored SWITRS that the CHP Sacramento defendants mailed to the plaintiff were true and the plaintiff was thus fraudulently induced to persist in suing Morales in the LASC action at great economic cost to him, including attorney's fees and costs and loss of income to attend court proceedings and he was hindered in his ability to make a proper and fair assessment as to the whether the plaintiff should persist in suing Morales for damages.

226. Claim for damages to USFS: As a result of the CHP Sacramento defendants' actions relating to SWITRS 1 through 4, all mailed before and/or while the plaintiff's claim for compensation submitted to USFS was pending, the plaintiff was hindered in his demand for compensation by USFS compensation board. The plaintiff was unable to show that factors other than Morales' alleged break neck speed caused the collision. As a result of the CHP Sacramento defendants' hindrance and fraud, the plaintiff was deprived of vital information to submit a proper claim and, consequently, the USFS compensation board denied the plaintiff compensation for his injuries.

227. USDC action: Having been willfully misled by the CHP Sacramento defendants actions, the plaintiff unnecessarily alleged against USDC, and put at issue, front and center, and litigated, that the collision was caused by the absence or inadequacy warning signs to slow down considering the characteristics of the road. Had the fake speed issue not been fabricated and maintained by the CHP Sacramento defendants' fraud, the plaintiff would

not have sued the USFS for negligence on the ground of lack of adequate warning signage and speed limit as he did. The plaintiff was hindered in his ability to make a fair assessment as to any claim or complaint for damages before filing any action for damages. The fake speed issue directly caused the plaintiff unnecessary attorney's fees and costs and loss of income to attend court proceedings.

228. The plaintiff suffered economic injuries by reason of the Defendants' violation of 18 U.S.C. § 1962(c). The defendants' actions were the but-for, direct, actual and proximate cause of the plaintiff's economic injuries.

229. Pursuant to 18 U.S.C. § 1962(c) and 1965 (c), Plaintiff is entitled to recover treble damages plus costs and attorneys' fees from CHP Altadena Defendants as well as any other relief authorized by statute.

COUNT VI: CONSPIRACY TO COMMIT RICO

(Against the CHP Sacramento defendants.
Witness tampering (18 U.S.C. 1512)
(18 U.S.C 1962 (c))

230. The plaintiff re-alleges and incorporates by reference paragraphs 1 through 109 and all paragraphs in COUNT V above of the complaint above as though fully set forth herein.

231. At all relevant times, the CHP Sacramento Defendants were "person[s]" pursuant to 18 U.S.C.

§§ 1961(3) and 1962(d). 128. At all relevant times, the CHP constitutes an Enterprise within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, the CHP was engaged in, and/or its activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c).

232. At all times relevant hereto, the CHP Sacramento defendants each held a position in or were otherwise affiliated with the CHP Enterprise as well as participated in the operation, management, and directed the affairs of the CHP. The CHP, as alleged herein, was not limited to Defendants' predicate acts and has activities extending beyond the Defendants' racketeering activity. The CHP exists separate and apart from the pattern of racketeering activity. The Defendants have had and do have legitimate governmental business plans outside the pattern of racketeering activity related to the CHP.

233. The CHP Sacramento defendants knew that they were engaged in a conspiracy to commit the predicate acts, and they knew that the predicate acts were part of such racketeering activity, and the participation and agreement of each of CHP Sacramento defendant was necessary to allow the commission of this pattern of racketeering activity. The CHP Sacramento Defendants' conduct constitutes a conspiracy to violate 18 U.S.C. § 1962(c), in violation of 18 U.S.C. § 1962(d).

234. Each CHP Sacramento defendant was aware of the evidence tampering that the other defendants

were planning to perpetrate in order to defraud the plaintiff, Morales, the public and federal, state and local authorities. Each CHP Sacramento defendant agreed with the other defendants and intended that the fraud be carried out.

235. The CHP Sacramento Defendants have unlawfully, knowingly and willfully combined, conspired, confederated and agreed together and with others to violate 18 U.S.C. § 1962(c) as described above, in violation of 18 U.S.C. § 1962(d). Beginning on the day of the collision, on April 11, 2017 and continuing to October 2015 and beyond, there was an agreement between each and every CHP Sacramento defendant to commit the predicates described COUNT V above.

236. Each CHP Sacramento defendant knowingly agreed that a conspirator would commit a violation of 18 U.S.C. § 1962(c). The defendants became members of the conspiracy knowing its objects and intending to help accomplish it.

237. All the CHP Sacramento defendants did commit two (2) or more of the offenses itemized above in a manner which they calculated and premeditated intentionally to threaten continuity, i.e. a continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. § 1962(c).

238. The defendants and each of them also agreed to participate in and facilitate each other's violations of 18 U.S.C. § 1962(c).

239. To conspire and carry out the purpose of the conspiracy, the CHP Sacramento defendants communicated directly or indirectly, in person, by telephone, radio, written communications, and by using the United States mail and wire.

240. The defendants conspired all along with continuity from the moment they became aware of the collision on April 17, 2011, throughout the plaintiff's LASC and USDC actions, and continuing to day. The defendants conspired, using the chain of command, in their physical offices, on the collision scene, at work locations or at other locations, each time, before and after the time that they committed the predicates acts listed above in this complaint to commit and/or cover up these predicate acts.

241. The plaintiff suffered economic injuries by reason of the Defendants' violation of 18 U.S.C. § 1962(d). The defendants' actions were the but-for, direct, actual and proximate cause of the plaintiff's economic injuries, as these injuries are described in paragraphs 225 through 227 above in this complaint, in COUNT V above.

242. Pursuant to 18 U.S.C. § 1962(d) and 1965 (c), Plaintiffs are entitled to recover treble damages plus costs and attorneys' fees from CHP Sacramento Defendants as well as any other relief authorized by statute.

COUNT VII: RICO
(Against the CHP Sacramento Defendants;
mail and wire fraud (18 U.S.C. 1341, 1343)
(18 U.S.C 1962 (c))

234. The plaintiff re-alleges and incorporates by reference paragraphs 1 through 109 and all the paragraphs in COUNT V above as though fully set forth herein.

235. At all the times stated herein, all the CHP Sacramento defendants and each of them participated in the conduct of CHP through a pattern of racketeering activity as is more fully set forth below.

CHP is the RICO enterprise:

236. CHP forms the enterprise that the CHP Sacramento defendants conducted through a pattern of racketeering activities at the direction, and with the knowledge, approval and ratification, of other CHP officers higher up in the hierarchy, some of whom are unknown to the plaintiff at this time, and including Farrow. At all the relevant times, CHP constitutes an "Enterprise" ("CHP") within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, CHP was engaged in, and/or its activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c).

237. At various times and places enumerated in this complaint above, all the individual defendants did

associate with CHP, the activities of which affect interstate and foreign commerce.

238. CHP, as alleged herein, was not limited to the defendants' predicate acts and have activities extending beyond the defendants' racketeering activity. CHP exists separate and apart from the pattern of racketeering activity for the legitimate governmental business purpose of providing law enforcement. The defendants have had and do have legitimate governmental functions outside the pattern of racketeering activity related to CHP.

Conduct of CHP and Pattern of racketeering activity.

239. Farrow, Tillman, Haro and Rakkar were and are based in the CHP headquarters in Sacramento. Tillman, Haro and Rakkar were employed in the department that manages, keeps, and analyzes records and documents such as SWITRS and as such were the managers, keepers, analysts and custodians of these records and documents. Tillman, Haro and Rakkar's names appear on the declaration of custodian of records of CHP relating to the fraudulent SWITRS. Farrow knew at all the times that Tillman, Haro and Rakkar doctored SWITRS because Farrow instructed, directed, authorized or otherwise ratified the doctoring of the SWITRS and their mailing as is set forth below.

240. While in the employ of CHP, the CHP Sacramento defendants did conduct and/or participate, either directly or indirectly, in the

conduct of the affairs of CHP through a pattern of racketeering activity, all in violation of 18 U.S.C. §§ 1961(4), (5), (9), and 1962(c).

241. Within ten (10) calendar years, all the CHP Sacramento defendants did cooperate jointly and severally participated in, and directed, aided, abetted and/or ratified the commission of two (2) or more of the RICO predicate acts that are itemized in the RICO laws at 18 U.S.C. §§ 1961(1)(A) and (B), and did so in violation of the RICO law at 18 U.S.C. 1962(c) (Prohibited activities).

242. Plaintiff further alleges that all the CHP Sacramento Defendants did commit two (2) or more of the offenses itemized below in a manner that they calculated and premeditated intentionally to threaten continuity, i.e. a continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. 1962(c) *supra*.

243. The CHP Sacramento defendants knew or must have known that the plaintiff submitted a claim for compensation with County compensation board.

244. The CHP Sacramento Defendants knew of the LASC action at the time they committed the predicates described below.

245. The CHP Sacramento defendants knew or must have known, at the time they committed the predicates described below, that the plaintiff would initiate federal proceedings for compensation and/or and that he would file an action against the United States for liability as these defendants knew or must have known that the road is a United States property. The defendants were also aware of the USDC action at the time they committed some of

the actions described above, including when they mailed doctored SWITRS 5 to the plaintiff, County and the USFS through USFS' attorney in the USDC action, Assistant United States Attorney Keith Staub.

246. The defendants acted intentionally, corruptly and with malice in carrying out their fraud.

247. The Sacramento defendants engaged in a scheme, this one consisting of doctoring, then mailing using the United States mail, SWITRS for the same fraudulent purpose as the CHP Altadena defendants, and that was to prevent the plaintiff and others from discovering that factors other than speed caused the collision with the intent to destroy and impair any valid claim for compensation or cause of action for his injuries the plaintiff had. The CHP Sacramento defendants intended to solidify and continue the CHP Altadena defendants' fraud and predicates.

248. SWITRS are material evidence to establish whether there is a collision pattern at a location and whether the location experiences a high collision rate, which could point to collision causing defects such as defective signage, design or construction. The CHP Sacramento defendants committed the following mail fraud predicates to prevent the discovery that factors other than Morales' alleged speed caused or contributed to cause the collision.

249. **Predicate 1: mail fraud. SWITRS 1.** Sometime between September 9, 2012 and January 18, 2013, in the course of the LASC action, the CHP

Sacramento Defendants doctored and then mailed or caused to be mailed to County, using the United States mail and/or interstate carrier, doctored SWITRS 1 that were run on September 9, 2012, with a copy mailed to the plaintiff.

250. Predicate 2: mail fraud. SWITRS 2. On or about October 24, 2012 the CHP Sacramento defendants doctored then mailed or caused to be mailed to the plaintiff and/or his attorney, using the United States mail and/or interstate carrier, doctored SWITRS 2 with a copy mailed to the plaintiff.

251. Predicate 3: mail fraud. SWITRS 2. On or about October 24, 2012, the CHP Sacramento Defendants doctored then mailed or caused to be mailed to County, using the United States mail and/or interstate carrier, a copy of the doctored SWITRS 2 with Rakkar's declaration of custodian of records, with a copy mailed to the plaintiff.

252. Predicate 4: mail fraud. SWITRS 3. On or about May 12, 2014, the CHP Sacramento Defendants doctored then mailed or caused to be mailed to the plaintiff and/or his attorney, using the United States mail and/or interstate carrier, doctored SWITRS 3 that were run on May 12, 2014, with a copy mailed to the plaintiff.

253. Predicate 5: mail fraud. SWITRS 3. On or about May 12, 2014, the CHP Sacramento Defendants mailed or caused to be mailed to County Department of Public Works, using the United States mail and/or interstate carrier, doctored

SWITRS 3, with a copy mailed to the plaintiff.

254. Predicate 6: mail fraud. SWITRS 3. On or about May 12, 2014, the CHP Sacramento Defendants mailed or caused to be mailed to CALTRANS, using the United States mail and/or interstate carrier, SWITRS 3, with a copy mailed to the plaintiff. CALTRANS was not a party to the action and there was no proceeding in the LASC action involving CALTRANS as a third-party witness such as a subpoena or discovery motion. As indicated on its website at <https://dot.ca.gov/programs/local-assistance>, CALTRANS local assistance program oversees more than one billion dollars annually available to over 600 cities, counties and regional agencies for the purpose of improving their transportation infrastructure or providing transportation services. This funding comes from various Federal and State programs specifically designed to assist the transportation needs of local agencies. The Sacramento defendants tampered with CALTRANS witnesses, including CALTRANS custodian of records and CALTRANS information analysts having information and records about the road.

255. Predicate 7: mail fraud. SWITRS 4. On or about October 7, 2014, the CHP Sacramento Defendants mailed or caused to be mailed to the plaintiff and/or his attorney, using the United States mail and/or interstate carrier, doctored SWITRS 4 that were run on October 3, 2014, with a copy mailed to the plaintiff.

256. Predicate 8: mail fraud SWITRS 4. On or

about October 7, 2014, the CHP Sacramento Defendants mailed or caused to be mailed to County Department of Public Works, using the United States mail and/or interstate carrier, doctored SWITRS 4 with a copy mailed to the plaintiff.

257. Predicate 9: mail fraud SWITRS 5. On or about August 21, 2015, the CHP Sacramento Defendants mailed or caused to be mailed to the plaintiff, using the United States mail and/or interstate carrier, SWITRS 5. The mailing occurred in the course and in connection with the USDC action. The defendants sought to confuse and tamper with the plaintiff.

258. Predicate act 10: mail fraud SWITRS 5. On or about August 21, 2015, the CHP Sacramento Defendants mailed or caused to be mailed to Assistant United States Attorney Keith Staub, using the United States mail and/or interstate carrier, a declaration by the custodian of record SWITRS 5 purporting to represent that CHP had complied with the plaintiff's discovery request in the USDC action.

259. Predicate 11: mail fraud SWITRS 5. On August 21, 2015, the CHP Sacramento Defendants mailed or caused to be mailed to County Department of Public Works, using the United States mail and/or interstate carrier, a copy of the SWITRS 5, with a copy mailed to the plaintiff. County was not a party to the USDC action and the production of SWITRS 5 were not connected to any USDC action involving County at that time except that County custodian of records and other County

employees were material witnesses having relevant information about the road.

260. The CHP Sacramento defendants' fraudulent actions were committed pursuant to a well-oiled scheme involving the highest levels of the CHP, including Farrow, Tillman and Haro, and that was carried out through the CHP chain of command. The pattern continues and will continue because the defendants were not stopped or made accountable for their actions; because the well-oiled and continuous scheme has become the defendants regular manner of doing business at CHP; and because the practice of fraud revealed by the underlying collision has extended to far beyond the named defendants at CHP and affects far more persons than the plaintiff.

Damages:

261. LASC Action: As a result of the mail fraud, Plaintiff was induced to believe that the SWITRS that the CHP Sacramento defendants mailed to the plaintiff were true. That copies of the SWITRS were also mailed by the Sacramento defendants to government agencies such as CALTRANS made the plaintiff believe the SWITRS were true. The plaintiff was thus fraudulently induced to persist in suing Morales in the LASC action at great economic cost to him including attorney's fees and costs and loss of income to attend court proceedings.

262. Claim for damages to USFS: As a result of the CHP Sacramento defendants' actions relating to SWITRS 1 through 4, all mailed before and while

the plaintiff's claim for compensation filed with USFS was pending, the plaintiff was hindered in his demand for compensation by USFS compensation board. The plaintiff was unable to show that factors other than Morales' alleged break neck speed caused the collision. As a result of the CHP Sacramento defendants' hindrance and fraud, the plaintiff was deprived of vital information to support his claim and, consequently, the USFS compensation board denied the plaintiff compensation for his injuries.

263. USDC action: Having been willfully misled by the CHP Sacramento defendants fraud, the plaintiff unnecessarily alleged against USDC, and put at issue, front and center, and litigated, that the collision was caused by the absence or inadequacy warning signs to slow down considering the characteristics of the road. Had the fake speed issue not been fabricated and maintained by the CHP Sacramento defendants' fraud, the plaintiff would not have sued the USFS for negligence on the ground of lack of adequate warning signage and speed limit as he did. The fake speed issue directly caused the plaintiff unnecessary attorney's fees and costs and loss of income to attend proceedings.

264. The plaintiff suffered economic damages by reason of the Defendants' violation of 18 U.S.C. § 1962(c). The defendants' actions were the but-for, direct, actual and proximate cause of the plaintiff's economic injuries.

265. Pursuant to 18 U.S.C. § 1962(c) and 1965 (c), Plaintiffs are entitled to recover treble damages plus costs and attorneys' fees from CHP Sacramento

Defendants as well as any other relief authorized by statute.

COUNT VIII: CONSPIRACY TO COMMIT RICO
(Against the CHP Sacramento Defendants;
mail and wire fraud) (18 U.S.C. 1341, 1343)
(18 U.S.C 1962 (d))

266. The plaintiff re-alleges and incorporates by reference paragraphs 1 through and 109 and all paragraphs in COUNT VII above in the complaint above as though fully set forth herein.

267. At all relevant times, the CHP Sacramento Defendants were "person[s]" pursuant to 18 U.S.C. §§ 1961(3) and 1962(d). 128. At all relevant times, the CHP constitutes an Enterprise within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, the CHP was engaged in, and/or its activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c).

268. At all times relevant hereto, the CHP Sacramento defendants each held a position in or were otherwise affiliated with the CHP Enterprise as well as participated in the operation, management, and directed the affairs of the CHP. The CHP, as alleged herein, was not limited to Defendants' predicate acts and has activities extending beyond the Defendants' racketeering activity. The CHP exists separate and apart from the pattern of racketeering activity. The Defendants have had and do have legitimate governmental

business plans outside the pattern of racketeering activity related to the CHP.

269. The CHP Sacramento defendants knew that they were engaged in a conspiracy to commit the predicate acts of mail fraud and they knew that the predicate acts were part of such racketeering activity, and the participation and agreement of each of CHP Defendants was necessary to allow the commission of this pattern of racketeering activity. The CHP Sacramento defendants conduct constitutes a conspiracy to violate 18 U.S.C. § 1962(c), in violation of 18 U.S.C. § 1962(d).

270. Each CHP Sacramento defendant was aware of the fraud that the other defendants were planning to perpetrate, as this fraud is fully described above in this complaint, on the plaintiff, Morales, the public and federal, state and local authorities. Each CHP Sacramento defendant agreed with the other defendants and intended that the fraud be committed. Each defendant knew and agreed that their co-conspirators would use the mail in furtherance of the fraud.

271. The CHP Sacramento Defendants have unlawfully, knowingly and willfully combined, conspired, confederated and agreed together and with others to violate 18 U.S.C. § 1962(c) as described above, in violation of 18 U.S.C. § 1962(d). Beginning on the day of the collision, on April 11, 2017 and continuing to the date of this complaint, there was an agreement between each and every CHP Sacramento defendant to commit the predicate acts described in COUNT VII above.

272. Each CHP Sacramento defendant knowingly agreed that a conspirator would commit a violation of 18 U.S.C. § 1962(c). The defendants became members of the conspiracy knowing its objects and intending to help accomplish it.

273. All the CHP Sacramento defendants did commit two (2) or more of the offenses itemized above in a manner which they calculated and premeditated intentionally to threaten continuity, i.e. a continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. § 1962(c).

274. The defendants and each of them also agreed to participate in, facilitate and cover up each other's violations of 18 U.S.C. § 1962(c).

275. Farrow, Haro, Tillman and Rakkar instructed, participated in, approved or ratified Sherman's actions. Farrow participated in, instructed, approved or ratified Tillman, Haro and Rakkar's actions. Tillman and Haro participated in instructed, approved or ratified Rakkar's actions.

276. To conspire and carry out the purpose of the conspiracy, the CHP Sacramento defendants communicated directly or indirectly, in person, by telephone, radio, written communications, and by using the United States mail and wire.

277. The defendants conspired all along with continuity from the moment they became aware of the collision and continuing today. The defendants

conspired, using the chain of command, in their physical offices, on the collision scene, at work locations or at other locations, each time, before and after the time that they committed the predicates acts listed above in this complaint to commit and/or cover up these predicate acts.

278. The plaintiff suffered economic damages by reason of the Defendants' violation of 18 U.S.C. § 1962(d). The defendants' actions were the but-for, direct, actual and proximate cause of the plaintiff's economic injuries as these injuries are fully described in paragraphs 261 through 263 in COUNT VII above, which paragraphs are incorporated by reference herein.

279. Pursuant to 18 U.S.C. § 1962(d) and 1965 (c), Plaintiffs are entitled to recover treble damages plus costs and attorneys' fees from CHP Sacramento Defendants as well as any other relief authorized by statute.

COUNT IX

(Against all the CHP defendants. Witness tampering; Witness retaliation; mail fraud; obstruction of justice. 18 U.S.C 1512, 1513, 1341, 1343 and 1503).

(18 U.S.C 1962 (c))

280. The plaintiff re-alleges and incorporates by reference paragraphs 1 through 109 and all paragraphs in COUNTS 1, 3, 5 and 7 above as though fully set forth herein.

281. At all the times stated herein, all the CHP defendants and each of them participated in the conduct of CHP through a pattern of racketeering activity as is more fully set forth below.

CHP is the RICO enterprise:

282. CHP forms the enterprise that the CHP defendants conducted through a pattern of racketeering activities at the direction, and with the knowledge, approval and ratification, of other CHP officers higher up in the hierarchy, some of whom are unknown to the plaintiff at this time, and including Farrow. At all the relevant times, CHP constitutes an "Enterprise" ("CHP") within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, CHP was engaged in, and/or its activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c).

283. At various times and places enumerated in this complaint above, all the individual defendants did associate with CHP, the activities of which affect interstate and foreign commerce.

284. CHP, as alleged herein, was not limited to the defendants' predicate acts and have activities extending beyond the defendants' racketeering activity. CHP exists separate and apart from the pattern of racketeering activity for the legitimate governmental business purpose of providing law enforcement. The defendants have had and do have

legitimate governmental functions outside the pattern of racketeering activity related to CHP.

Conduct of CHP and Pattern of racketeering activity.

285. While in the employ of CHP, the CHP defendants did conduct and/or participate, either directly or indirectly, in the conduct of the affairs of CHP through a pattern of racketeering activity, all in violation of 18 U.S.C. §§ 1961(4), (5), (9), and 1962(c).

286. Within ten (10) calendar years, all the CHP defendants did cooperate jointly and severally participated in, and directed, aided, abetted and/or ratified the commission of two (2) or more of the RICO predicate acts that are itemized in the RICO laws at 18 U.S.C. §§ 1961(1)(A) and (B), and did so in violation of the RICO law at 18 U.S.C. 1962(c) (Prohibited activities).

287. Plaintiff further alleges that all the CHP Defendants did commit two (2) or more of the offenses itemized below in a manner that they calculated and premeditated intentionally to threaten continuity, i.e. a continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. 1962(c) supra.

288. The CHP defendants knew or must have known that the plaintiff submitted a claim for compensation with County compensation board.

289. The CHP Defendants knew of the LASC action at the time they committed the predicates described below.

290. The CHP defendants knew or must have known, at the time they committed the predicates described below, that the plaintiff would initiate federal proceedings for compensation and/or and that he would file an action against the United States for liability as these defendants knew or must have known that the road is a United States property.

291. The CHP defendants acted intentionally, corruptly and with malice in carrying out their fraud against the plaintiff.

292. The CHP defendants, acting in concert through the chain of command, either directly or indirectly, at each other's direction and with each other's participation, upon instructions given through the chain of command from the Sacramento headquarter to the Altadena office, from Farrow down to Lynch, Sherman and Garcia, and from the field up to Farrow for instructions and to inform the top level, with all defendants sharing the same objective to defraud, hinder federal proceedings and obstruct justice and to other wise commit the predicates described in COUNTS 1, 3, 5 and 7 above which the plaintiff incorporates herein by reference.

The defendants, acting in concert, also committed or caused to be committed the following predicates:

293. **Predicate 1: obstruction of justice**
SWITRS 5. The CHP Sacramento defendants

obstructed justice in the USDC action by mailing to County, the United States attorney and USFS, and the plaintiff doctored SWITRS. The fraudulent SWITRS were material because they related to the cause of action for negligence the plaintiff stated in his complaint based on the fraudulently erroneous fact that Morales was riding at high speed and the time of the collision.

294. Predicates 1 and 2. Witness tampering and witness retaliation. In November of 2016, as the plaintiff's counsel and sister was momentarily inside her home, which is situated in a quite part of Santa Monica, at about 2 pm, someone damaged the license plate of her car. The plaintiff's sister did not file a police report believing this was the act of some mischievous teen. These predicates were committed directly or indirectly by an accomplice at the behest of the CHP defendants acting in concert or at the behest of on CHP defendant acting in concert and/or with the approval or encouragement of the other CHP defendants.

295. Predicates 3 and 4. Witness tampering and witness retaliation. In January of 2017, in the middle of the night, someone smashed the rear window of a car that was sparked, with the plaintiff's sister's permission, on the plaintiff's sister's parking space behind the house. The owner of the car filed a police report. The plaintiff's sister believed this to be a random act of violence. These predicates were committed by an accomplice at the behest of the CHP defendants acting in concert and/or with the approval or encouragement of the other CHP defendants.

296. Predicates 5 and 6. Witness tampering and witness retaliation. On January 11, 2017, again, someone damaged the plaintiff's sister's car' license plate, in broad daylight while the plaintiff's sister was home and while the car was parked in its usual space. The plaintiff's sister did not file a police report, still thinking this was the act of some mischievous teen. The incident was documented. These predicates were committed by an accomplice at the behest of the CHP defendants acting in concert and/or with the approval or encouragement of the other CHP defendants.

297. Predicates 7 and 8. Witness tampering and witness retaliation. On May 10, 2017, in broad daylight, between the hours of 11 am and 2 pm, someone obstructed the exhaust pipes of the plaintiff's sister's car while it was parked in its usual space. The plaintiff's sister did not file a police report. The incident was documented. These predicates were committed by an accomplice at the behest of the CHP defendants acting in concert and/or with the approval or encouragement of the other CHP defendants.

298. Predicates 9 and 10. Witness tampering and witness retaliation. On August 8, 2017, in broad daylight, someone stole the license plate of the plaintiff's sister's car while the car was parked in its usual space. The plaintiff's sister did not file a police report. The incident was documented. The plaintiff's sister filed a police report. These predicates were committed by an accomplice at the behest of the CHP defendants acting in concert

and/or with the approval or encouragement of the other CHP defendants.

299. Predicates 11 and 12. Witness tampering and witness retaliation. In the night of June 19, 2019 to June 20, 2019, the plaintiff's sister's property was defaced, near the place where the plaintiff usually parks her car, with a large graffiti that resembles a cryptic message, made of a G, followed to the right with two square crosses each in a circle, reminiscent of extreme right movement symbols, beneath which there was a drawing depicting three cones, two of the same size while the middle one was taller, reminiscent of Ku Flux Klan hoods, above a straight line, and to the left of the graffiti, a scribble resembling a signature. These predicates were committed by an accomplice at the behest of the CHP defendants acting in concert and/or with the approval or encouragement of the other CHP defendants.

300. The CHP defendants' pattern of fraud, tampering, obstruction and retaliation are of a nature to cause economic damages because plaintiffs, defendants, insurance companies, government compensation boards and courts rely on fair traffic collision investigations and reports and witness statements free of fear to make a proper assessment as to any claim for compensation or grounds for law suit, including suing the proper party on the proper factual grounds. The CHP defendants' conduct of CHP through a pattern of racketeering activities made it impossible for the plaintiff to present a valid claim for damages for compensation for his injuries by those having

jurisdiction over the road. The defendants intended, and did, destroy and impair any valid claim for compensation or cause of action the plaintiff had against any person bearing liability for his injuries. The plaintiff was prevented from making the proper assessment as to material facts relating to the collision before filing any demand for compensation or filing any court proceeding, directly resulting in economic damages to the plaintiff as the plaintiff was deprived of any fair opportunity to be compensated for his injuries, and as the plaintiff spend money suing the wrong person and/or suing on the wrong factual basis.

301. The plaintiff suffered economic damages as a result of the CHP Defendants fraud, hindrance, obstruction and retaliation as follows:

302. Claim for compensation to County: The defendants deprived the plaintiff of the true or fair facts to submit a proper claim for damages to County compensation board, a claim he had a right to file. Plaintiff believed that the report that the CHP Altadena defendants caused to be mailed was true and was thus fraudulently induced to repeat Sherman's lies to County when the plaintiff submitted his claim for damages to County compensation board. County did not of course compensate the plaintiff for injuries because the fraudulent report, itself based on tampered evidence, pinned the blame entirely on Morales, stating that Morales was riding at the alleged inexcusable, reckless breakneck speed of 65 to 70 MPH on the road.

303. LASC Action: Plaintiff believed that the report and the SWITRS that the defendants caused to be mailed to the plaintiff were true; thus the CHP Defendants fraudulently induced the plaintiff to sue, and then to persist in suing Morales for damages in the state court, and to sue based on fraudulently erroneous facts. The plaintiff expended considerable attorney's fees unnecessarily suing Morales based on the CHP Altadena's fraudulent actions.

304. Claim for damages to USFS: Plaintiff believed that Sherman's report and the SWITRS that reached the plaintiff by mail before and pending the claim's review were true; thus the CHP defendants fraudulently induced to repeat Sherman's lies to USFS when the plaintiff submitted a claim for damages to USFS compensation board, with supporting statement of facts. Of course, USFS did not compensate the plaintiff for injuries that were allegedly caused by Morales' alleged breakneck and inexcusably high speed.

305. USDC action: Having been willfully misled by the CHP defendants' fraud, hindrance and based on the fraudulently erroneous facts of the report and the falsified and then mailed SWITRS, in his action against USFS the plaintiff erroneously put at issue, front and center, that the collision was caused by the absence or inadequacy of speed warning signs. Had this fake speed issue not been fabricated and had the false SWITRS not reached the plaintiff by mail, the plaintiff would not have sued the USFS for negligence on the ground of lack of adequate warning signage and speed limit as he did. The fake

speed issue directly caused the plaintiff unnecessary attorney's fees and costs and loss of income to attend court hearings.

306. Also, the plaintiff incurred expenses to install locks and security cameras because of the retaliation.

307. The plaintiff's injury was caused by the defendants' commissions of two or more of the predicate acts as these acts are defined by 18 U.S.C. 1961 (1). The defendants acted pursuant to a well-oiled scheme indicative that this is not the first time they were perpetrating that scheme upon the victim of a collision in a road that is either defective in its construction or design or that has been willfully neglected.

308. The plaintiff was injured in his money and property by reason of the Defendants' violation of 18 U.S.C. § 1962(c).

309. The defendants' actions were the but-for, direct, actual and proximate cause of the plaintiff's economic injuries.

**COUNT X: CONSPIRACY TO COMMIT
RICO**

**(Against all the CHP defendants. Witness
tampering; Witness retaliation; mail fraud;
obstruction of justice. 18 U.S.C 1512, 1513,
1341, 1343 and 1503). (18 U.S.C 1962 (c))**

310. The plaintiff re-alleges and incorporates by reference paragraphs 1 through 126 and all paragraphs in COUNTS 1, 3, 5, 7 and 9 above as though fully set forth herein.

311. At all relevant times, the CHP Defendants were "person[s]" pursuant to 18 U.S.C. §§ 1961(3) and 1962(d). At all relevant times, the CHP constitutes an Enterprise within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, the CHP was engaged in, and/or its activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c).

312. At all times relevant hereto, the CHP defendants each held a position in or were otherwise affiliated with the CHP Enterprise as well as participated in the operation, management, and directed the affairs of the CHP. The CHP, as alleged herein, was not limited to Defendants' predicate acts and has activities extending beyond the Defendants' racketeering activity. The CHP exists separate and apart from the pattern of racketeering activity. The Defendants have had and do have legitimate governmental business plans outside the pattern of racketeering activity related to the CHP.

313. The CHP defendants knew that they were engaged in a conspiracy to commit the predicate acts, and they knew that the predicate acts were part of such racketeering activity, and the participation and agreement of each of RICO Defendants was necessary to allow the commission of this pattern of racketeering activity. The CHP

defendants conduct constitutes a conspiracy to violate 18 U.S.C. § 1962(c), in violation of 18 U.S.C. § 1962(d).

314. Each CHP defendant was aware of the predicates that the other defendants were planning to perpetrate, as these predicates are fully described above in this complaint, on the plaintiff, Morales, the public and federal, state and local authorities. Each CHP defendant agreed with the other defendants and intended that the fraud be committed.

315. The CHP Defendants have unlawfully, knowingly and willfully combined, conspired, confederated and agreed together and with others to violate 18 U.S.C. § 1962(c) as described above, in violation of 18 U.S.C. § 1962(d). Beginning on the day of the collision, on April 11, 2017 and continuing to the date of this complaint, there was an agreement between each and every CHP defendant to commit the predicates described paragraphs 127 through 136, 161 through 172, 208 through 224 and 249 through 260 and 276 through 304.

316. Each CHP defendant knowingly agreed that a conspirator would commit a violation of 18 U.S.C. § 1962(c). The defendants became members of the conspiracy knowing its objects and intending to help accomplish it.

317. All the CHP defendants did commit two (2) or more of the offenses itemized above in a manner which they calculated and premeditated intentionally to threaten continuity, i.e. a

continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. § 1962(c).

318. The CHP defendants and each of them also agreed to participate in, facilitate and cover up each other's violations of 18 U.S.C. § 1962(c).

319. The CHP defendants approved, ratified and participated in each other's actions, directly or indirectly to achieve the object of the conspiracy. The CHP defendants acted upon each other's instructions, through the chain of command or outside the chain of command from the field office up to the headquarter in Sacramento and down. Farrow, Haro and Tillman instructed, participated in, approved or ratified Sherman, Lynch and Garcia's actions. Farrow participated in, instructed, approved or ratified Tillman, Haro and Rakkar's actions. Tillman and Haro participated in instructed, approved or ratified Rakkar's actions.

320. To conspire and carry out the purpose of the conspiracy, the CHP defendants communicated directly or indirectly, in person, by telephone, radio, written communications, and by using the United States mail and wire.

321. The CHP defendants conspired all along with continuity from the moment they became aware of the collision and continuing today. The defendants conspired, using the chain of command, in their physical offices, on the collision scene, at work locations or at other locations, each time, before and after the time that they committed the predicates

acts listed above in this complaint to commit and/or cover up these predicate acts.

322. The plaintiff was injured in his money and property by reason of the Defendants' violation of 18 U.S.C. § 1962(c).

323. The defendants' actions were the but-for, direct, actual and proximate cause of the plaintiff's economic injuries.

324. Pursuant to 18 U.S.C. § 1962(c) and 1965 (c), Plaintiff is entitled to recover treble damages plus costs and attorneys' fees from CHP defendants as well as any other relief authorized by statute.

WHEREFORE the plaintiff demands relief against the defendants, jointly and severally as follows:

- Compensatory damages in an amount to be proven at trial, and in an amount no less than four millions dollars for each COUNT, and in treble damages.
- For Attorney's fees and costs; and for
- Such other further and appropriate relief as this Court may deem just and proper.

JURY DEMAND
The plaintiff demands jury trial.

September 10, 2019

By: /s/ Karim Kamal
Karim Kamal,
Plaintiff in Pro Per