UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No.	**EDCV 14-2588-JGB (KKx)**	Date	April 27, 2016
Title	***John Black et al. v. CorVel Enterprise Inc. et al.***		

Present: The Honorable	JESUS G. BERNAL, UNITED STATES DISTRICT JUDGE

MAYNOR GALVEZ	Not Present
Deputy Clerk	Court Reporter

Attorney(s) Present for Plaintiff(s):	Attorney(s) Present for Defendant(s):
None Present	None Present

Proceedings: **Order (1) GRANTING Defendants CorVel Enterprise Comp, Inc. and Mextli Hyde's Motion to Dismiss (Doc. No. 77); (2) GRANTING Defendants York Risk Services Inc., Tanya Mullins, Paula Fantulin, and Britney Faith's Motion to Dismiss (Doc. No. 76); and (3) DISMISSING Plaintiffs' Third Amended Complaint WITH LEAVE TO AMEND (IN CHAMBERS)**

Before the Court are two motions. First, Defendants CorVel Enterprise Comp, Inc. ("CorVel") and Mextli Hyde ("Hyde") move to dismiss Plaintiffs' Third Amended Complaint ("TAC") in its entirety. ("CorVel MTD," Doc. No. 77.) Second, Defendant York Risk Services Inc. ("York") and its employees named as individual defendants—Tanya Mullins, Paula Fantulin, and Britney Faith (collectively, the "York Employees")—also move to dismiss the TAC. ("York MTD," Doc. No. 76.) After considering the papers submitted in support of and in opposition to the motions, the Court GRANTS the CorVel Motion to Dismiss, GRANTS the York Motion to Dismiss, and DISMISSES the TAC WITH LEAVE TO AMEND only as to Plaintiffs Tim Brayshaw, Joseph Viola, Jacob Huber, Carla McCullough, John Black, and Vernell Ross-Mullin's RICO and Section 1983 claims. The hearing on May 2, 2016 set for this matter is VACATED.

I. BACKGROUND

A. Procedural History

On December 16, 2014, Plaintiffs John Black, Victor Gregory, Thomas Stephenson, Jacob Huber, Carla McCullough, Tim Brayshaw, Dustin Fujiwara, Joseph Viola, Justin Veloz, Geoffrey Barrett, Brian Park, Russell Thurman, Boyd Mayo, and Vernell Ross-Mullin

(collectively, "Plaintiffs") filed a Complaint against Defendants CorVel, Hyde, York, and the York Employees (collectively, "Defendants"). ("Complaint," Doc. No. 1.)

Plaintiffs amended their complaint on February 16, 2015. ("FAC," Doc. No. 28.) The FAC raised six causes of action related to the management of workers' compensation claims for the City of Rialto, California ("Rialto") and the City of Stockton, California ("Stockton"): (1) RICO violations, pursuant to 18 U.S.C. § 1962; (2) constructive fraud; (3) fraud and fraud in the inducement; (4) violations of California's unfair competition law (the "UCL"), California Business and Professions Code §§ 17200 et seq.; (5) unconstitutional delays of benefits, in violation of 42 U.S.C. §§ 1983 and 1988; and (6) corporate liability for unconstitutional delays of benefits, in violation of 42 U.S.C. §§ 1983 and 1988. (Id.)

On May 21, 2015, the Court ordered Plaintiffs to file a RICO Case Statement providing additional specific information about their RICO claims. (Doc. No. 44.) Plaintiffs complied with the Court's order and submitted their RICO Case Statement on June 8, 2015. ("RICO Statement," Doc. No. 45.)

On June 22, 2015, Defendants moved to dismiss the FAC for failure to state a claim. Defendants CorVel and Hyde (collectively, the "CorVel Defendants") filed a first motion to dismiss, (Doc. No. 48), and Defendants York and the York Employees (collectively, the "York Defendants") filed a second motion to dismiss the FAC (Doc. No. 49).

On September 21, 2015, the Court issued an Order granting both motions to dismiss the FAC, with leave to amend. ("FAC MTD Order," Doc. No. 59.) In the Order, the Court found: (1) Plaintiffs had failed to allege the denial of a property interest sufficient to support their claims under RICO and 42 U.S.C. §§ 1983 and 1988; (2) Plaintiffs' fraud-related state law claims were preempted by the California Workers' Compensation Act; and (3) Plaintiffs' claims under the California Unfair Competition Law were vaguely alleged such that it was unclear whether they were preempted by the Workers' Compensation Act. (Id.)

On October 13, 2015, Plaintiffs filed a Second Amended Complaint ("SAC"), presenting new factual allegations in support of their claims. (Doc. No. 60.) The SAC asserted the same six causes of action raised in the FAC and also asserted a new claim for intentional infliction of emotional distress against CorVel. (Id.) On November 2, 2015, Defendants again moved to dismiss the SAC for failure to state a claim. (Doc. No. 64, 65.)

On January 21, 2016, the Court issued an Order granting both motions to dismiss the SAC, with leave to amend. ("SAC MTD Order," Doc. No. 71.) In the Order, the Court again found: (1) Plaintiffs had failed to allege the denial of a property interest sufficient to support their claims under RICO and 42 U.S.C. §§ 1983 and 1988; (2) Plaintiffs' state law claims for fraud and intentional infliction of emotional distress were preempted by the California Workers' Compensation Act; and (3) Plaintiffs' claims under the California Unfair Competition Law were vaguely alleged such that it was unclear whether they were preempted by the Workers' Compensation Act. (Id.)

On February 19, 2016, Plaintiffs filed the TAC, omitting their state law claims and asserting only three causes of action: (1) RICO violations pursuant to 18 U.S.C. § 1962; (2)

unconstitutional delays of benefits, in violation of 42 U.S.C. §§ 1983 and 1988; and (3) corporate liability for unconstitutional delays of benefits, in violation of 42 U.S.C. §§ 1983 and 1988. (Doc. No. 75.)

On March 11, 2016, the York Defendants filed their motion to dismiss. (Doc. No. 76.) On the same date, the CorVel Defendants filed their motion to dismiss, a supporting declaration by Ronda Loyd ("Loyd Decl."), and six accompanying exhibits. (Doc. No. 77, 78, 78-1.) On April 1, 2016, Plaintiffs filed oppositions to both motions. ("CorVel Opp'n," Doc. No. 79; "York Opp'n," Doc. No. 80.) On April 15, 2016, Defendants filed replies to Plaintiffs' oppositions. ("York Reply," Doc. No. 81; "CorVel Reply," Doc. No. 82.)

B. Factual Allegations in the TAC

The TAC raises three causes of action related to Rialto and Stockton's management of workers' compensation claims: (1) RICO claims pursuant to 18 U.S.C. § 1962 against CorVel and York; (2) claims of unconstitutional delays of benefits under 42 U.S.C. §§ 1983 and 1988, against all of the named defendants; and (3) corporate liability for unconstitutional delays of benefits under 42 U.S.C. §§ 1983 and 1988, against CorVel and York. The TAC alleges the following facts.

1. General Allegations

Rialto contracted with Gregory B. Bragg & Associates ("Bragg") to administer its workers' compensation claims. (TAC ¶ 4.) After Defendant York purchased Bragg in July 2008, it hired Defendant Hyde to adjust the Rialto workers' compensation claims. (Id.) York and Hyde (along with Rialto) consistently delayed and denied coverage for legitimate work-related injuries in an attempt to discourage claims, lower costs, and increase profits. (Id. ¶¶ 4-5.) Beginning in June 2011, Rialto contracted with Defendant CorVel for both third-party administration and bill review. (Id. ¶ 4.) CorVel hired Hyde, and they continued to wrongfully delay and deny workers' compensation claims. (Id.) The payment structure for CorVel and York involved a flat fee per claim from Rialto as well as a percentage of savings of utilization and bill review. (Id.) Plaintiffs assert that York and CorVel (in conjunction with Rialto) engaged in a pattern or practice of fraudulently delaying and denying legitimate claims. (Id. ¶¶ 5, 7.) That practice allowed Rialto to decrease costs and York and CorVel to increase revenues. (Id.) On September 30, 2010, a San Bernardino grand jury reported that York had improperly delayed and denied claims that should have been timely paid. (Id. ¶ 6.)

Like Rialto, Stockton contracted with Bragg to administer the city's workers' compensation claims before York purchased Bragg in 2008. (Id. ¶ 9.) Beginning in October 2010, Stockton contracted with CorVel to adjust workers' compensation claims for city employees. (Id.) CorVel hired York's adjusters to continue adjusting Stockton's workers' compensation claims. (Id.) Like Rialto, Stockton paid York and CorVel a flat fee per claim as well as a percentage of savings of utilization and bill review. (Id.) Plaintiffs contend that York and CorVel (along with Stockton) engaged in a pattern of fraudulently delaying and denying legitimate claims for work-related injuries in order to lower costs and increase profits. (Id. ¶¶ 9-10, 15.)

2. Allegations Specific to Plaintiffs

The TAC also includes specific facts relating to each Plaintiff's workers' compensation claims. (Id. ¶¶ 20-247.) Each Plaintiff is a current or former employee of the fire department or police department of Rialto or Stockton. (Id. ¶ 248.) The facts relevant to each Plaintiff follow a similar pattern. Each Plaintiff alleges that he or she sustained injuries in the course of his or her employment and applied for workers' compensation benefits. Defendants agreed or stipulated to pay Plaintiffs benefits and most of the Plaintiffs were awarded benefits in final judgments. Each benefits application was subsequently denied or delayed by York or CorVel, and the denial or reason for delay was communicated to the Plaintiff via a notice sent through the mail.

a. Dustin Fujiwara

Fujiwara worked as a firefighter with Rialto for twelve years. (Id. ¶ 20.) While on duty on August 25, 2010, Fujiwara injured his back lifting a patient. (Id.) Fujiwara began receiving physical therapy for his injury and subsequently applied for workers' compensation benefits. (Id.) In response, on September 30, 2010, Hyde (while working for York) sent Fujiwara to Dr. Steinmann for a medical evaluation, knowing Steinmann would not conduct an objective evaluation of Fujiwara's injury. (Id. ¶ 22.) Steinmann recommended discontinuing Fujiwara's physical therapy. (Id.)

Fujiwara then sought treatment from Dr. Chron, who continued Fujiwara's physical therapy and opined Fujiwara needed back surgery to treat his injuries. (Id. ¶ 23.) On March 24, 2011, Hyde apparently "denied authorization" for the surgery, refused to pay Fujiwara workers' compensation benefits, and accused Fujiwara of "Doctor Shopping." (Id.)

On May 4, 2011, Defendants "forced" Fujiwara to attend a medical evaluation with Dr. Wood. (Id. ¶ 25.) Wood confirmed Fujiwara was entitled to workers' compensation benefits for his injury and recommended surgery. (Id.) On July 20, 2011, York and CorVel finally agreed to pay for Fujiwara's surgery and "accepted" Fujiwara's claim for workers' compensation benefits. (Id.)

Despite York and CorVel's acceptance of Plaintiff's claim, "Hyde, York, Rialto, and CorVel intentionally underpaid and failed to reimburse Mr. Fujiwara for his benefits." (Id. ¶ 28.) Between September 2, 2011 and June 7, 2012, Hyde sent letters to Fujiwara notifying him his benefits were delayed, that she did not "know how to pay" Fujiwara, and that she had lost some of his paper work. (Id.) When Fujiwara asked for information as to how his benefits were calculated and whether they had been underpaid, Hyde replied she did not have to provide such information under California law. (Id.)

In September 2013, the California Division of Workers' Compensation finally ordered benefits be paid to Fujiwara for the period of time spanning October 2012 to July 2013.[1] (Id. ¶ 30.) The TAC does not make clear whether Defendants continued delaying payment of Fujiwara's benefits after the September 2013 order.

[1] Plaintiffs attach a copy of the order as an exhibit to the TAC. (TAC, Ex. 10.)

b. Victor Gregory

Gregory worked as a firefighter with Rialto. (Id. ¶ 40.) While working on duty on May 5, 2011, Gregory injured his knee while exercising. (Id.) Gregory's treating physician, Dr. Daniel Kharrazi, opined Gregory suffered from a "torn ACL" as a result of the injury. (Id.)

Gregory filed a claim for workers' compensation benefits based on his knee injury. Initially, despite Dr. Kharrazi's evaluation of Gregory's knee injury, Defendants refused to approve a surgery on Gregory's knee for months. (Id. ¶ 42.) At some point, Defendants approved the surgery, but subsequently denied or delayed payment of Gregory's benefits. (Id.)

On February 28, 2014, Gregory additionally suffered an on-the-job shoulder injury. (Id. ¶ 40.) Gregory filed a workers' compensation claim based on his shoulder injury. (Id. ¶ 43.) CorVel ignored Gregory's claim for nearly a year and then denied the claim, alleging it had lost Gregory's paperwork. (Id.) On June 16, 2015, Gregory re-filed his claim. (Id.) The TAC does not make clear whether Gregory's re-filed claim was considered or whether Gregory was ultimately paid workers' compensation benefits for his shoulder injury.

c. Timothy Brayshaw

Brayshaw worked as a police officer with Rialto for over eleven years and suffered several on-the-job injuries for which he was not issued workers' compensation benefits. (Id. ¶ 55.)

i. Clostridium Difficile and Pneumonia

Between April and August 2008, Brayshaw was diagnosed with clostridium difficile and pneumonia by his personal physician, Dr. Shiu. (Id. ¶ 56.) Dr. Shiu opined that the injury was work-related. (Id.) Hence, on June 3, 2009, Brayshaw filed a claim for workers' compensation based on these medical conditions. (Id.) In response, on October 8, 2010, Hyde (working for York at the time) repeatedly delayed and denied treatment recommended by Brayshaw's physicians. (Id. ¶ 58.) Hyde also personally discouraged Brayshaw from seeking workers' compensation benefits. (Id.) On June 25, 2012, the California Division of Workers' Compensation awarded workers' compensation benefits to Brayshaw.[2] (Id. ¶ 61.) The TAC alleges the award included indemnity benefits for 242.5 sick hours. (Id.) Defendants refused to pay Brayshaw benefits "for 242 hours of 4850 time (approximately, $10,000.00)" that were granted by the award. (Id. ¶ 63.)

ii. Injuries to Neck and Right Forearm

On June 2, 2011, while performing his duties, Brayshaw also suffered injuries to his neck and right forearm as a result of a car accident. (Id. ¶ 65.) On August 18, 2011, Brayshaw filed a workers' compensation claim based on these injuries. (Id.) Although several physicians recommended Brayshaw receive treatment for these injuries between June 2011 and July 2012,

[2] Plaintiffs attach a copy of the award as an exhibit to the TAC. (TAC, Ex. 5.)

CorVel delayed in approving treatment for Brayshaw. (Id. ¶ 67.) Consequently, Brayshaw was forced to obtain treatment from his personal physician using his own medical insurance and bear the financial burden of such treatment. (Id.) On August 21, 2012, CorVel sent Brayshaw a notice that payment of his workers' compensation benefits would be delayed because it was "conducting an employer level investigation." (Id.) On December 20, 2012, the California Division of Workers' Compensation awarded workers' compensation benefits to Brayshaw, including payment for six chiropractic visits a year. (Id. ¶ 70.) On February 23, 2013, orthopedic physician Dr. Hopkins recommended chiropractic treatment for Brayshaw. (Id. ¶ 71.) On May 22, 2013, Hyde mailed a letter denying Dr. Hopkins's medical treatment recommendation. (Id.) As a result, Brayshaw was forced to use his own personal medical insurance to pay for the cost of treatment. (Id.)

d. Joseph Viola

Viola worked as a police officer for Rialto for over twelve years. (Id. ¶ 83.) While on patrol, Viola suffered injuries to his lower back in the early 2000s. (Id.) On April 25, 2011, Viola filed a claim for workers' compensation benefits. (Id.) Although CorVel and Rialto initially denied Viola's claim, on September 17, 2013, the California Division of Workers' Compensation awarded Viola workers' compensation benefits, including a sum of $13,042.50.[3] (Id. ¶ 88.) Despite the award, CorVel, Rialto, and Hyde either delayed payment of Viola's benefits or underpaid Viola. (Id. ¶ 89.)

e. Jacob Huber

Huber worked as a firefighter for Rialto for over eight years. (Id. ¶ 100.) While lifting a patient on October 7, 2009, Huber injured his right shoulder. (Id.) Huber sought medical treatment and his treating physician opined Huber tore his rotator cuff. (Id.) Huber then filed a claim for workers' compensation benefits. (Id.) Although Rialto and CorVel initially accepted Huber's claim, they denied Huber's request for surgery for his injury even though "there was no doubt that surgery was required." (Id. ¶ 102.) Rialto and CorVel instead required that Huber receive physical therapy. (Id.) Subsequently, Huber requested Rialto approve the surgery and the surgery was immediately approved. (Id.)

On February 10, 2011, "the Court" ordered Rialto and York to pay workers' compensation benefits to Huber, including "future medical care pursuant to the report of Dr. John Portwood Dated 5/6/10."[4] (Id. ¶ 105.) Despite the order, Hyde and York "delayed financial payments for weeks without any basis" and "continued to deny medical treatment" identified by Dr. Portwood. (Id. ¶ 106.) Moreover, Hyde asked Dr. Portwood to alter his medical records to release Huber for work, even though Huber still had his arm in a sling. (Id. ¶ 107.) Dr. Portwood initially released Huber as Hyde requested, but then later determined Huber required physical therapy for four to six weeks and should remain off-work. (Id.)

[3] Plaintiffs attach a copy of the award as an exhibit to the TAC. (TAC, Ex. 6.)

[4] Plaintiffs attach a copy of the order as an exhibit to the TAC. (TAC, Ex. 8.)

On September 16, 2013, Huber finally received the benefits he was due, which "had been underpaid and delayed for years." (Id. ¶ 108.)

f. Carla McCullough

McCullough worked as a police officer for Rialto. (Id. ¶ 118.) While on patrol on October 13, 1998, McCullough was involved in a severe car accident. (Id.) On August 30, 2004, the California Division of Workers' Compensation ordered that Rialto provide lifetime medical benefits to McCullough, including chiropractic care recommended by McCullough's treating physician. (Id.)

On July 1, 2013, the California Workers' Compensation Appeals Board entered an additional award of workers' compensation benefits for McCullough.[5] (Id. ¶ 119.) The award granted $3,000 in benefits for disability payments from 2010 for injuries to McCullough's left leg, left calf, and left lower extremity. (Id.)

Despite the awards, CorVel, York, and Rialto "consistently denied and delayed coverage for Ms. McCullough's treatment, including chiropractic care (as prescribed by her treating physician) . . . ." (Id. ¶ 121.) From 2010 to 2015, instead of providing ongoing care and benefits, Hyde told McCullough she "needed to simply take muscle relaxers and ibuprofen." (Id.) Moreover, Hyde attempted to persuade McCullough to "use her own personal health insurance" to cover her medical expenses instead of seeking workers' compensation benefits. (Id.)

g. John Black

Black worked as a police officer for Rialto for over thirteen years. (Id. ¶ 133.) On December 29, 2008, while on the job, Black suffered an injury to his back. (Id.) Black filed a workers' compensation claim. (Id.) Initially, the City accepted Black's claim, but continued to deny medical care and benefits for the injury, including treatment required by Black's treating physicians. (Id.)

On May 14, 2012, the California Division of Workers' Compensation awarded Black "active medical care . . . including chiropractic treatment and physical therapy." (Id.) Despite the award, "Defendants consistently refused to pay for medical benefits owed to" Black, "forcing him to pay either out of pocket or through his own health insurance." (Id. ¶ 134.) Specifically, in communications in October 2012, March and April 2013, and February 2014, Defendants refused to pay for chiropractic treatment and physical therapy. (Id.)

h. Justin Veloz

Veloz worked in Rialto's fire department for over eight years and suffered several injuries within the scope of his employment. (Id. ¶ 145.) First, in 2009, Veloz suffered a hernia injury while lifting a patient. (Id.) Second, on September 27, 2010, Veloz injured his shoulder

[5] Plaintiffs attach a copy of the award as an exhibit to the TAC. (TAC, Ex. 9.)

while fighting a fire. (Id.) Veloz's treating physician opined that surgery was necessary for both his hernia and shoulder injury. (Id.)

Veloz submitted a workers' compensation claim based on these injuries. (Id. ¶¶ 146-47.) In response, Hyde "laughed" and "intentionally discouraged" Veloz from submitting a claim for benefits.[6] (Id. ¶ 147.) Defendants also "substantially delayed" Veloz's required surgery. (Id. ¶ 148.)

On June 11, 2014, "the Court" ordered workers' compensation benefits be paid to Veloz, including a permanent disability award. (Id. ¶ 151.) The TAC does not make clear whether Defendants complied with this order and issued benefits to Veloz.

i. Thomas Stephenson

Stephenson worked as a firefighter for Rialto for eleven years. (Id. ¶ 161.) While on duty in July 2012, Stephenson injured his shoulder while climbing down a water tower. (Id.) Stephenson's treating physician, Dr. Ronny Ghazal, opined Stephenson suffered a torn labrum. (Id.) Stephenson then filed a claim for workers' compensation benefits with CorVel. (Id.) In response, CorVel initially ignored Stephenson's claim. (Id. ¶ 163.) After several months, on December 10, 2012, Stephenson underwent surgery for his injury. (Id.) CorVel, however, "did not authorize this surgery." (Id.)

In February 2015, Defendants stipulated to award Stephenson $17,365 and lifetime medical benefits for his workers' compensation claim. (Id. ¶ 166.) Stephenson did not receive payment of his benefits in February 2015 and repeatedly called CorVel to ask about the status of the settlement. (Id.) CorVel employee Annett Jones told Stephenson that CorVel was "busy" and that it had "lost track" of his claim. (Id.) On December 14, 2015, the California Workers' Compensation Board entered judgment awarding Stephenson workers' compensation benefits, pursuant to Defendants' stipulation. (Id. ¶ 167.) The TAC does not make clear whether Defendants paid workers' compensation benefits to Stephenson after entry of the award.

j. Geoffrey Barrett

Barrett worked as a fire captain for Rialto's fire department. (Id. ¶ 178.) On August 22, 2013, Barrett suffered a knee and hamstring injury during the scope of his employment. (Id.) Barrett submitted workers' compensation claims based on both injuries. (Id.) Although Rialto and CorVel "accepted" Barrett's claim for his knee injury, they simply ignored his claim for his injured hamstring for months. (Id.)

CorVel and Rialto refused to authorize treatment for Barrett's hamstring for over a year. (Id. ¶ 179.) In late 2014, Rialto and CorVel finally approved treatment for Barrett's hamstring, including physical therapy. (Id.)

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[6] The TAC also alleges Hyde "refused to allow" Veloz to submit a claim for benefits. (TAC ¶ 147.) The meaning of this allegation is unclear because the same paragraph expressly states Veloz *did* submit a claim for benefits. (See id.)

Moreover, CorVel and Rialto repeatedly denied Barrett's request for surgery for his knee injury for months, despite "accepting" Barrett's claim for his knee injury. (Id. ¶ 184.) After months of delays, Barrett finally received surgery for his knee in July 2014. (Id.) Even after the surgery, however, CorVel and Rialto continued to refuse to authorize Barrett's post-surgery treatment, including anti-inflammatory prescriptions prescribed by his treating physician. (Id.)

k. Brian Park

Park worked as a fire captain for Rialto's fire department. (Id. ¶ 195.) On April 18, 2010, while fighting a fire on a hillside, a large boulder fell on Park, causing him to suffer injuries to his leg. (Id.) Park submitted a claim for workers' compensation benefits for the injury, which was initially "accepted" by CorVel, York, and Rialto. (Id.) CorVel, York, and Rialto authorized a surgery for Park's leg by Dr. Ghazal. (Id.)

Because Park continued to suffer severe pain in his leg after the surgery, he sought additional treatment and remained away from work for nearly a year on the advice of his doctor. (Id. ¶ 196.) Despite Park's time away from work, it remained clear to Park's physicians that he had not recovered and needed an additional surgery. (Id.) Hence, Dr. Merkel and Dr. Ghazal again recommended Park take time away from work. (Id.) In response, Hyde requested both doctors to change their recommendation to allow Park to return to work before completing his treatment. (Id.) Moreover, Rialto and York refused to issue payment of benefits on Park's workers' compensation claim and forced him to take sick time to cover his off-duty status. (Id.)

Park subsequently sought treatment from Dr. Kamran Jamshidinia for his leg and foot. (Id. ¶ 197.) York initially agreed to authorize such treatment, but later "cut off all care." (Id.) Rialto and York then told Park that his medical care had been denied because treatment for his injury would have involved a length recovery period of nine months. (Id.) Consequently, on April 4, 2011, Park had to return to work, despite being in severe pain. (Id.)

As of the filing of the TAC, Park has not received full payment of his workers' compensation benefits and has been "fraudulently denied indemnity benefits, treatment including surgery, and reimbursement for mileage and co-pays that were owed from the treatment." (Id. ¶ 198.) Plaintiffs allege "Defendants denied these benefits in order to force Mr. Park to start working for the city sooner." (Id.)

l. Russell Thurman

Thurman worked as a homicide detective for Stockton for eighteen years and sustained multiple injuries during his employment. (Id. ¶ 209.) First, on December 31, 2008, Thurman suffered an injury to his cervical and lumbar spine. (Id. ¶ 210.) Second, on June 11, 2009, while pursuing a suspect, Thurman kicked down the front door of a residence and injured his lower back. (Id.) Third, while doing surveillance work, Thurman injured his back when forced to jump out of a moving vehicle. (Id.) Thurman filed workers' compensation claims based on all of these injuries and Defendants promised to "accept [his] treating physician's opinions" regarding the injuries. (Id. ¶ 213.) Nonetheless, on November 5, 2009, Tanya Mullins, an adjuster working for York, sent Thurman a notice denying all medical treatment for his injuries.

(Id.) Mullins alleged his injuries were not compensable "because there was a lack of sufficient medical evidence to establish industrial causation." (Id.)

In addition, Thurman developed skin cancer because he was consistently exposed to harmful exposure from the sun during his work for Stockton. (Id. ¶ 214.) On August 18, 2011, Thurman requested workers' compensation coverage for his skin cancer treatment and impairment. (Id.) On November 1, 2011, Paula Fantulin, a senior adjuster for CorVel, filed a notice denying Thurman's workers' compensation claim. (Id.)

On July 24, 2013, CorVel agreed to "accept" Thurman's claims for all of his injuries. (Id. ¶ 220.) The TAC does not make clear whether Thurman was ultimately paid workers' compensation benefits.

m. Boyd Mayo

Mayo worked as a police officer for Stockton for over eight years. (Id. ¶ 226.) During the course of his employment, Mayo suffered a series of injuries. First, on May 9, 2009, Mayo suffered an injury to his right pinky finger. (Id. ¶ 227.) Second, on August 1, 2010, Mayo injured his back during an auto patrol. (Id. ¶ 228.) Third, on June 11, 2011, Mayo was injured while trying to subdue a suspect, causing injuries to his hand and knee. (Id. ¶ 229.)

Mayo filed workers' compensation claims based on all of these injuries. (Id. ¶ 230.) Defendants initially "promis[ed]" to "accept" Mayo's claims. (Id. ¶ 231.) Nonetheless, between October and December 2012, CorVel adjuster Britney Faith denied Mayo's claims.[7] (Id.)

On June 24, 2014, CorVel finally agreed to "accept" Mayo's claim and filed a stipulation for an award of benefits to Mayo with "the Court." (Id. ¶ 232.) The TAC does not make clear whether an award of benefits to Mayo was ever reduced to a final judgment or whether Defendants failed to pay workers' compensation benefits to Mayor after entry of the judgment.

n. Vernell Ross-Mullin

Ross-Mullin worked as a detective for Stockton. (Id. ¶ 234.) On March 16, 2010, Ross-Mullin developed anterior chest pain. (Id.) Dr. James Sepiol diagnosed Ross-Mullin with coronary artery disease and opined that the injury was work-related. (Id.) Ross-Mullin also suffered from human papillomavirus ("HPV"). (Id.) Ross-Mullin filed a claim for workers' compensation benefits based on these medical conditions. (Id. ¶ 236.) However, Defendants refused to authorize treatment for Ross-Mullin. (Id.)

Over a year later, on August 16, 2011, the California Division of Workers' Compensation awarded Ross-Mullin reasonable unpaid medical and legal expenses and treatment for HPV.[8] (Id. ¶¶ 237-238.) Despite this award, CorVel, York, and Stockton failed to "reimburse or pay for

[7] The TAC also alleges CorVel "delayed" Mayo's claims for years. (TAC ¶ 231.)

[8] Plaintiffs attach a copy of the award as an exhibit to the TAC. (TAC, Ex. 7.)

medical benefits" for Ross-Mullin and did not pay for Ross-Mullin's treatment for HPV and chest pain. (Id. ¶ 238.)

II. LEGAL STANDARD

Federal Rule of Civil Procedure 12(b)(6) allows a party to bring a motion to dismiss for failure to state a claim upon which relief can be granted. Rule 12(b)(6) is read in conjunction with Rule 8(a), which requires only a short and plain statement of the claim showing that the pleader is entitled to relief. Fed. R. Civ. P. 8(a)(2); Conley v. Gibson, 355 U.S. 41, 47 (1957) (holding that the Federal Rules require that a plaintiff provide "'a short and plain statement of the claim' that will give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests") (quoting Fed. R. Civ. P. 8(a)(2)); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007). When evaluating a Rule 12(b)(6) motion, a court must accept all material allegations in the complaint — as well as any reasonable inferences to be drawn from them — as true and construe them in the light most favorable to the non-moving party. See Doe v. United States, 419 F.3d 1058, 1062 (9th Cir. 2005); ARC Ecology v. U.S. Dep't of Air Force, 411 F.3d 1092, 1096 (9th Cir. 2005); Moyo v. Gomez, 32 F.3d 1382, 1384 (9th Cir. 1994).

"While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to provide the 'grounds' of his 'entitlement to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." Twombly, 550 U.S. at 555 (citations omitted). Rather, the allegations in the complaint "must be enough to raise a right to relief above the speculative level." Id.

Surviving a motion to dismiss requires a plaintiff to allege "enough facts to state a claim to relief that is plausible on its face." Twombly, 550 U.S. at 570; Ashcroft v. Iqbal, 556 U.S. 662, 697 (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. Where a complaint pleads facts that are 'merely consistent with' a defendant's liability, it stops short of the line between possibility and plausibility of 'entitlement to relief.'" Iqbal, 556 U.S. at 678 (quoting Twombly, 550 U.S. at 556). The Ninth Circuit has clarified that (1) a complaint must "contain sufficient allegations of underlying facts to give fair notice and to enable the opposing party to defend itself effectively," and (2) "the factual allegations that are taken as true must plausibly suggest an entitlement to relief, such that it is not unfair to require the opposing party to be subjected to the expense of discovery and continued litigation." Starr v. Baca, 652 F.3d 1202, 1216 (9th Cir. 2011).

Rule 9(b) presents heightened pleading requirements for plaintiffs alleging fraud or mistake. In alleging fraud or mistake, the plaintiff must "state with particularity the circumstances constituting fraud or mistake." Fed. R. Civ. P. 9(b). Failure to satisfy this heightened pleading requirement can result in dismissal of the claim. Vess v. Ciba–Geigy Corp. USA, 317 F.3d 1097, 1107 (9th Cir. 2003). In general, the plaintiff's allegations of fraud or mistake must be "specific enough to give defendants notice of the particular misconduct . . . so that they can defend against the charge and not just deny that they have done anything wrong." Id. at 1106. This heightened pleading standard requires the plaintiff to allege fraud or mistake by

detailing "the who, what, when, where, and how" of the misconduct charged. Id. at 1106-07. In other words, the plaintiff must specify the time, place, and content of the alleged fraudulent or mistaken misconduct. See id.

Although the scope of review on a Rule 12(b)(6) motion to dismiss is limited to the contents of the complaint, the Court may consider certain materials, such as documents attached to the complaint, documents incorporated by reference in the complaint, or matters of judicial notice. United States v. Ritchie, 342 F.3d 903, 907-08 (9th Cir. 2003). Under the incorporation by reference doctrine, the Court may consider documents not attached to the pleading if: (1) those documents are referenced extensively in the complaint or form the basis of the plaintiff's claim; and (2) if no party questions their authenticity. United States v. Ritchie, 342 F.3d 903, 908 (9th Cir. 2003).

III. DISCUSSION

Plaintiffs raise claims under RICO and Section 1983 relating to Defendants' alleged fraud in administering workers' compensation claims for Rialto and Stockton. For largely the same reasons set forth in its orders granting Defendants' motions to dismiss the FAC and SAC, the Court concludes the TAC's claims are subject to dismissal.

A. First Cause of Action: RICO Claim Against CorVel and York

Plaintiffs' first cause of action alleges that CorVel and York violated the RICO Act. The Court first summarizes the general requirements for bringing such a claim and then turns to discuss the sufficiency of Plaintiffs' RICO allegations.

1. Relevant Standard for RICO Liability

Pursuant to 18 U.S.C. § 1964(c), "[a]ny person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court." Plaintiffs' RICO claim alleges that CorVel and York engaged in fraud in violation of 18 U.S.C. § 1962(c) ("Subsection (c)") as well as conspiracy to commit that fraud in violation of 18 U.S.C. § 1962(d) ("Subsection (d)"). (TAC ¶¶ 272-83; RICO Statement at 2.)

Subsection (c) makes it "unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt." 18 U.S.C. § 1962(c). Accordingly, Plaintiffs must plead four elements: (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity. See Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479, 496 (1985); Eclectic Props. E., LLC v. Marcus & Millichap Co., 751 F.3d 990, 997 (9th Cir. 2014). For the purpose of construing those elements, "RICO is to be read broadly . . . [and] is to be liberally construed to effectuate its remedial purposes." Sedima, 473 U.S. at 497-98.

Subsection (d) forbids conspiracy to violate other parts of 18 U.S.C. § 1962: "It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section." Pleading a conspiracy RICO claim requires a plaintiff to first adequately plead

that the underlying conduct constitutes a substantive RICO violation. See Howard v. Am. Online, Inc., 208 F.3d 741, 751 (9th Cir. 2000).

2. Plaintiffs' RICO Claim

Plaintiffs bring their RICO claim pursuant to 18 U.S.C. § 1964(c), which provides that "[a]ny person injured in his business or property by reason of a violation of [18 U.S.C. § 1962 ("Section 1962")] may sue therefor in any appropriate United States district court." 18 U.S.C. § 1964(c) (emphasis added). Regardless of what unlawful act under Section 1962 Defendants are alleged to have committed, Plaintiffs must demonstrate that they have been "injured in [their] business or property." 18 U.S.C. § 1964(c). Moreover, "Rule 9(b)'s requirement that '[i]n all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity' applies to civil RICO fraud claims." Edwards v. Marin Park, Inc., 356 F.3d 1058, 1065-66 (9th Cir. 2004).

3. Analysis

Defendants argue Plaintiffs have failed to demonstrate an injury to their business or property for purposes of RICO. (York MTD at 3-8; CorVel MTD at 5-20.) Plaintiffs principally argue that they have a property right in their entitlement to workers' compensation benefits because the California Division of Workers' Compensation awarded them these benefits in various final judgments.[9] (CorVel Opp'n at 6-11.) Defendants disagree and argue: (1) several of

[9] Plaintiffs also contend that, even if they lack a property right to the receipt of workers' compensation benefits, they nevertheless "have a property interest in filing their claim for benefits." (CorVel Opp'n at 11-14; York Opp'n at 5-7.) Plaintiffs appear to argue Defendants deprived them of the right to file claims for benefits by discouraging Plaintiffs from filing claims for benefits, both verbally and by causing delays in the processing such claims. (Id.) In its orders granting Defendant's motions to dismiss the FAC and SAC, the Court explicitly rejected this argument, reasoning "Plaintiffs . . . have not been denied the opportunity to file their claims for workers' compensation benefits." (FAC MTD Order at 7; SAC MTD Order at 8-9.) Plaintiffs do not present any new arguments showing they were denied the opportunity to file claims for benefits. Indeed, even assuming Defendants discouraged Plaintiffs from filing claims for benefits as Plaintiffs contend, Plaintiffs still had a choice to file claims for benefits. Hence, Plaintiffs' allegations that they were deprived of their right to file claims for benefits cannot support their RICO claims.

Plaintiffs also assert that they possess a substantive due process right to receive their workers' compensation benefits without significant delay. (CorVel Opp'n at 16-17.) In so arguing, Plaintiffs rely on an analogy to a District of Oregon decision, Patru v. Rush, No. 3:13–cv–00357–SI, 2015 WL 2062193 (D. Or. May 4, 2015). However, as the Court noted in its orders granting Defendants' motions to dismiss the FAC and SAC, the opinion in Patru explained that "[b]ecause th[is] [c]ourt finds that Plaintiff has a property interest in [the benefit sought], Plaintiff can maintain a substantive due process claim for delay." Id. at *5. Here, by contrast, this Court has not determined that Plaintiffs have a property interest in their workers' (continued . . .)

the Plaintiffs do not allege sufficient facts showing their rights to workers' compensation benefits were reduced to a "final judgment"; and (2) even where Plaintiffs allege they were awarded benefits, Plaintiffs' allegations do not make clear how Defendants deprived them of these benefits.[10] (York MTD at 3-8; CorVel MTD at 5-20.)

a. Applicable Law

Courts "typically look to state law to determine 'whether a particular interest amounts to property.'" Diaz v. Gates, 420 F.3d 897 (9th Cir. 2005) (en banc). The United States Supreme Court addressed whether claimants have a property right to workers' compensation medical benefits under Pennsylvania law in American Manufacturers Mutual Insurance Co. v. Sullivan. 526 U.S. 40, 59-61 (1999). The Supreme Court explained that a claimant's entitlement to such benefits is not automatic. See id. at 60. Rather, "the employee must clear two hurdles: First, he must prove that an employer is liable for a work-related injury, and second, he must establish that the particular medical treatment at issue is reasonable and necessary." Id. at 60-61. The Supreme Court thus distinguished workers' compensation medical benefits from true entitlements, explaining that only after clearing those hurdles "does the employee's interest parallel that of the beneficiary of welfare assistance in Goldberg [v. Kelly, 397 U.S. 254 (1970),] and the recipient of disability benefits in Mathews [v. Eldridge, 424 U.S. 319 (1976)]." Sullivan, 526 U.S. at 61. Because the claimants had not cleared both hurdles at the time of the alleged due process violations, they lacked the required property interest in the payment of their workers' compensation medical benefits. Id.

Although Sullivan clearly addressed the existence of a property right to workers' compensation benefits, that case was based on Pennsylvania workers' compensation law. However, the Ninth Circuit very recently addressed the question of when workers' compensation claimants obtain a property right to their benefits under California law. Angelotti Chiropractic, Inc. v. Baker, 791 F.3d 1075, 1081-82 (9th Cir. 2015).[11] The panel explained that "the right to workers' compensation benefits is 'wholly statutory,' and such rights are not vested until they are 'reduced to final judgment.'" Id. (quoting Graczyk v. Workers' Comp. Appeals Bd., 184 Cal. App. 3d 997, 1006 (1986)). Similar to Sullivan, the Ninth Circuit noted that, before

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(. . . continued)
compensation benefits, and thus the same logic with respect to substantive due process rights is inapplicable to this case.

[10] In their Motion to Dismiss, Hyde and CorVel assert arguments as to the insufficiency of Plaintiffs' allegations concerning their property interest in workers' compensation benefits, in connection with Plaintiffs' claims under 42 U.S.C. § 1983. Given that these arguments also relate to Plaintiffs' RICO claims, the Court addresses them when considering Plaintiffs' RICO claims.

[11] Specifically, Angelotti addressed property rights to workers' compensation liens, but the Ninth Circuit explained that property rights in a lien "are derivative of the underlying workers' compensation claim" and thus the property right vests simultaneously. See Angelotti, 791 F.3d at 1081-82.

obtaining a property right, claimants must demonstrate both the purpose for which the medical expense was incurred and that the "expense was 'reasonably required to cure or relieve the injured worker from the effects of his or her injury.'" Angelotti, 791 F.3d at 1082 (quoting Cal. Lab. Code § 4600).

Despite the fact that the Angelotti decision addressed property rights under a Takings Clause analysis, the Court concludes Angelotti is controlling on the matter of when an individual acquires a property interest in workers' compensation benefits for purposes of RICO. It is true that the Ninth Circuit has recognized that some "property rights . . . [a]re safeguarded by due process, but still not vested." Bowers v. Whitman, 671 F.3d 905, 912 (9th Cir. 2012).[12] Accordingly, perhaps a claimant could possess a due process property right to workers' compensation benefits even though those rights have not yet vested. This Court, however, is unable to reconcile such a conclusion with Sullivan, 526 U.S. at 59-61. There, the Supreme Court held that Pennsylvania workers' compensation claimants lacked due process rights to their benefits because entitlement to those benefits was contingent upon determinations that a medical treatment is reasonable and necessary and that an employer is liable for the injury. Id. at 60-61.[13] Similarly, the Ninth Circuit recently stated that California workers' compensation benefits are contingent on a demonstration of the purpose for which the medical expense was incurred as well as a showing that the expense was reasonably required. See Angelotti, 791 F.3d at 1082. California Labor Code § 3600 also lists several conditions for an award of workers' compensation benefits, such as that the employee must have been injured in the course of her employment and the injury caused by her employment. See Cal. Lab. Code § 3600(a).

b. Plaintiffs Fujiwara, Gregory, Veloz, Stephenson, Barrett, Park, Thurman, and Mayo's RICO Claims are Dismissed

In its orders granting Defendants' motions to dismiss the FAC and SAC, the Court concluded Plaintiffs had failed to demonstrate they had a property interest in workers' compensation benefits allegedly delayed or denied by CorVel and York. (FAC MTD Order at 5-6; SAC MTD Order at 7-8.) Citing Angelotti, the Court reasoned Plaintiffs had not shown they had a right to workers' compensation benefits that had been "reduced to final judgment." (Id.) Hence, the Court dismissed Plaintiffs' RICO claims for failure to establish the injury to property required for a RICO cause of action. (Id.)

The Court finds Plaintiffs Fujiwara, Gregory, Veloz, Stephenson, Barrett, Park, Thurman, and Mayo's RICO claims are subject to dismissal because Plaintiffs have again failed to sufficiently allege facts in the TAC showing any of these individuals possessed property interests in workers' compensation benefits that were injured by CorVel and York. First, the TAC

[12] For example, the Ninth Circuit cited Goldberg as one case in which due process rights to property existed despite the fact that the property rights had not vested. Bowers, 671 F.3d at 912 (citing Goldberg, 397 U.S. 254).

[13] The Supreme Court distinguished a claimant's interest in workers' compensation benefits from a welfare beneficiary's property interest in her benefits, as established in Goldberg. Sullivan, 526 U.S. at 60-61 (citing Goldberg, 397 U.S. 254).

contains no allegations indicating Gregory, Barrett, Park, Thurman, and Mayo were ever awarded workers' compensation benefits in the form of a final judgment. Instead, the TAC alleges CorVel and York either stipulated or agreed to award these individuals workers' compensation benefits. (See TAC ¶¶ 42, 184, 195, 213, 220, 232.) As the Court explicitly noted in its Order dismissing the SAC, however, these stipulations to award benefits do not demonstrate Plaintiffs' rights to their benefits had vested under Angelotti. (SAC MTD Order 7-8.) Indeed, under California law, "while stipulations are permissible in workers' compensation cases and are treated as evidence in the nature of an admission, they are not binding on [either] the [workers' compensation judge] or the [Workers' Compensation Appeals Board]." Robinson v. Workers' Comp. Appeals Bd., 194 Cal. App. 3d 784, 790 (1987). Consequently, Plaintiffs Gregory, Barrett, Park, Thurman, and Mayo's claims are subject to dismissal under Angelotti.

Second, Plaintiffs Fujiwara, Veloz, and Stephenson's RICO claims are subject to dismissal. While the TAC alleges these individuals were awarded workers' compensation benefits in final judgments, the TAC does not allege Defendants withheld or interfered with payment of benefits after issuance of these judgments. Rather, the TAC only alleges Defendants either denied or delayed payment of benefits to these individuals *before* any final judgment was issued and, thus, before the individuals' rights to these benefits had fully vested. (See TAC ¶¶ 20-28, 145-48, 161-66.) Hence, under Angelotti, Plaintiffs Fujiwara, Veloz, and Stephenson's RICO claims must be dismissed for failure to allege an injury to a cognizable property interest. See Angelotti, 791 F.3d at 1081-82.

Accordingly, the Court GRANTS Defendants' Motions insofar as they seek dismissal of Plaintiffs Fujiwara, Gregory, Veloz, Stephenson, Barrett, Park, Thurman, and Mayo's RICO claims.

c. Plaintiffs Brayshaw, Viola, Huber, McCullough, Black, and Ross-Mullin's RICO Claims are Dismissed

In the TAC, Plaintiffs allege Plaintiffs Brayshaw, Viola, Huber, McCullough, Black, and Ross-Mullin received final awards of workers' compensation benefits from the California Workers' Compensation Division and that Defendants failed to issue benefits to these individuals pursuant to these awards. In support of these allegations, Plaintiffs attach copies of many of the final awards issued by the California Workers' Compensation Division to the TAC. (See TAC, Ex. 5-9.)

Defendants contend the TAC does not allege with sufficient particularity that any of these individuals were deprived of workers' compensation benefits awarded pursuant to a final judgment. (York MTD at 3-8; CorVel MTD at 5-20.) Moreover, Defendants contend the exhibits attached to the TAC and documents referenced in the TAC actually contradict Plaintiffs' allegations. (Id.)

For the reasons set forth below, the Court concludes the TAC's allegations do not sufficiently state RICO claims as to any of these individuals under Rules 8 and 9(b).

i. Brayshaw

The TAC alleges Brayshaw was awarded workers' compensation benefits in two judgments issued by the California Division of Workers' Compensation. The TAC alleges Defendants did not issue Brayshaw benefits pursuant to these judgments. (TAC ¶¶ 63, 71.) The Court addresses Plaintiffs' allegations as to each of these judgments in turn.

aa. June 25, 2012 Judgment

The TAC alleges Brayshaw was awarded indemnity benefits for 242.5 sick hours in an award on June 25, 2012, for his clostridium difficile and pneumonia.[14] (TAC ¶ 61, see also id., Ex. 5.) Plaintiffs allege Defendants refused to "make payment" to Brayshaw "for 242 hours of 4850 time (approximately, $10,000.00)" that were granted by the June 25, 2012 judgment.[15] (TAC ¶ 63.) Defendants argue Plaintiffs' allegations are contradicted by the express language of the June 25, 2012 judgment, which is attached to the TAC. (CorVel MTD at 9-10.) Defendants note the judgment stated "all claimed periods [for temporary disability benefits] have been adequately compensated" and provided that Rialto would "*convert* 242.5 sick hours to 4850/IOD for periods 4/18/08-4/28/08 and 7/25/08-8/31/08." (Id. (quoting TAC, Ex. 5 at 10) (emphasis in original).) Such language, Defendants argue, did not order either Rialto or Corvel to affirmatively pay Brayshaw for sick hours as Plaintiffs allege. (Id.) Rather, Defendants contend, to "convert" sick hours to "4850 time" is "merely a bookkeeping entry with the payroll department that could enable the claimant to seek a refund from the I.R.S. for any taxes paid on the wages received as sick pay." (Id. at 10 (internal citation and quotation marks omitted).)

The Court agrees with Defendants and concludes Brayshaw's RICO claim is subject to dismissal, to the extent it is based on Defendants' alleged failure to comply with the June 25, 2012 judgment. As Defendants argue, the language of the judgment contradicts Brayshaw's allegations that he was due any payments from the Defendants because it expressly provided Brayshaw had been "adequately compensated." (See TAC, Ex. 5 at 10.) At best, the language of the judgment is ambiguous as to whether Brayshaw was entitled to payment for 242.5 hours of sick time as Plaintiffs allege. Hence, absent further allegations, Plaintiffs have not alleged sufficient facts showing Brayshaw was deprived of a cognizable property interest for purposes of his RICO claim.

[14] The TAC also alleges "CorVel and Rialto also consistently failed to pay for Mr. Brayshaw's mileage and expenses related to his workers' compensation claims" and that "Brayshaw's expenses exceed three thousand dollars ($3,000.00)." (TAC ¶ 63.) However, it is unclear from the TAC and accompanying exhibits whether Brayshaw was awarded such expenses in the June 25, 2012 judgment.

[15] Plaintiffs' use of the number "4850" refers to California Labor Code 4850, which provides that certain public safety workers are entitled to take, in lieu of temporary disability benefits, a leave of absence of up to one year without loss of salary. Cal. Lab. Code § 4850.

bb. December 20, 2012 Judgment

The TAC alleges Brayshaw was awarded benefits for neck and forearm injuries in a December 20, 2012 judgment and that the award included six chiropractic visits a year. (Id. ¶ 70.) The TAC alleges Defendants refused to authorize chiropractic treatment for Brayshaw on May 22, 2013, contravening the December 20, 2012 judgment. (TAC ¶ 71.) Defendants argue Plaintiffs' allegations are contradicted by the language of the December 20, 2012 judgment. (CorVel MTD at 10-11.) In support, Defendants submit a copy of the December 20, 2012 judgment and note the judgment does not contain any reference to chiropractic treatment. (Id.; see Loyd Decl., Ex. A.)

Brayshaw's RICO claim is subject to dismissal to the extent it is based on Defendants' alleged failure to comply with the December 20, 2012 judgment. Plaintiffs do not question the authenticity of the copy of the judgment submitted by Defendants and the judgment forms the basis of Brayshaw's claim. Hence, the Court may consider the document under incorporation by reference doctrine. See United States v. Ritchie, 342 F.3d 903, 908 (9th Cir. 2003). Because the judgment does not contain any reference to an award of six chiropractic visits per year or otherwise mention chiropractic treatment, the TAC's allegations that Defendants did not authorize Brayshaw's chiropractic treatment fail to state a claim under RICO.

Accordingly, the Court GRANTS Defendants' Motions insofar as they seek dismissal of Plaintiff Brayshaw's RICO claims.

ii. Viola

The TAC alleges Viola was awarded workers' compensation benefits for an injury to his lower back in a September 17, 2013 judgment by the California Division of Workers' Compensation, which included a sum of $13,042.50. (TAC ¶ 88, Ex. 6.) Despite the award, Plaintiffs allege, on information and belief, that "Viola's payments for his permanent disability were repeatedly delayed and underpaid without any basis . . . ." (Id. ¶ 89.)

Defendants argue the TAC's allegations are vague and fail to allege the extent to which Defendants underpaid Viola and the length of the delay in paying Viola. (CorVel at 11-12.) Moreover, Defendants note the TAC's language leaves it ambiguous what benefits Defendants failed to issue to Viola: while the September 17, 2013 judgment awarded a lump-sum amount of $13,042.50 in disability benefits, the TAC states in the plural that Defendants have not issued "payments" to Viola for his permanent disability. (Id.)

The Court agrees with Defendants and concludes the TAC's allegations as to Viola's RICO claim lack sufficient specificity. The TAC fails to clarify exactly which benefits Viola was not paid and the extent of the delay in their payment. Accordingly, the Court GRANTS Defendants' Motions insofar as they seek dismissal of Plaintiff Viola's RICO claims.

iii. Huber

The TAC alleges that on February 10, 2011, "the Court" ordered Rialto and York to pay workers' compensation benefits to Huber for a shoulder injury, including "future medical care pursuant to the report of Dr. John Portwood Dated 5/6/10." (TAC ¶ 105, Ex. 8.) Despite the

order, Hyde and York "delayed financial payments for weeks without any basis" and "continued to deny medical treatment" identified by Dr. Portwood. (Id. ¶ 106.)

Defendants argue the TAC's allegations as to Huber fail to state a RICO claim. (CorVel MTD at 14.) In support, Defendants submit a copy of the May 6, 2010 report of Dr. Portwood referenced in the February 10, 2011 judgment. (Loyd Decl., Ex. B.) Defendants note Dr. Portwood's report expressly stated Plaintiff did "not need any ongoing active treatment" and only recommended that Plaintiff "be eligible for reevaluation for acute exacerbation of the shoulder." (CorVel MTD at 14-15 (citing Loyd Decl., Ex. B at 4).) Hence, Defendants argue Huber's claim is baseless because Huber was not entitled to any future medical care according to Dr. Portwood's report. (Id.) Moreover, to the extent Huber claims he was denied financial payment under the award, Defendants contend Huber's allegations are vague and lack sufficient specificity. (Id.)

Huber fails to state a RICO claim. Plaintiffs do not question the authenticity of the copy of Dr. Portwood's report submitted by Defendants and the report forms the basis of Huber's RICO claims. Hence, the Court may consider the document under incorporation by reference doctrine. See United States v. Ritchie, 342 F.3d 903, 908 (9th Cir. 2003). The report indicates Dr. Portwood did not recommend any future medical treatment for Huber. (See Loyd Decl., Ex. B at 4.) Thus, the report contradicts the TAC's allegations that Defendants were required by the February 10, 2011 judgment to provide Huber with any form of future medical care. Moreover, the TAC fails to sufficiently specify whether Defendants deprived Huber of any other benefits he was entitled to under the judgment. Accordingly, the Court GRANTS Defendants' Motions insofar as they seek dismissal of Plaintiff Huber's RICO claims.

iv. McCullough

The TAC alleges McCullough was awarded workers' compensation benefits in two final judgments. First, on August 30, 2004, the California Division of Workers' Compensation ordered that Rialto provide lifetime medical benefits to McCullough for injuries sustained during a car accident, including chiropractic care recommended by McCullough's treating physician. (TAC ¶ 118.) Second, on July 1, 2013, the California Workers' Compensation Appeals Board granted McCullough $3,000 in benefits for disability payments from 2010 for injuries to her left leg, left calf, and left lower extremity. (Id. ¶ 119, Ex. 9.) According to the TAC, despite the judgments, CorVel, York, and Rialto "consistently denied and delayed coverage for Ms. McCullough's treatment, including chiropractic care (as prescribed by her treating physician) . . . ." (Id. ¶ 121.)

Defendants argue McCullough's RICO claims should be dismissed because the August 30, 2004 and July 1, 2013 judgments contradict the TAC's allegations. (CorVel MTD at 15-16.) First, Defendants submit a copy of the August 30, 2004 judgment and note the judgment did not grant McCullough lifetime medical benefits or chiropractic care as the TAC claims. (Id. (citing Loyd Decl., Ex. C).) Instead, the judgment only noted there "may be need for medical treatment to cure or relieve from the effects of said injury . . . [with] [d]emand first to be made upon the defendants." (Id. (citing Loyd Decl., Ex. C at 3.)) Second, Defendants note the TAC does not allege they failed to comply with the July 1, 2013 judgment. (Id.)

The Court agrees with Defendants and concludes McCullough fails to state a RICO claim. First, as Defendants note, the TAC does not allege Defendants failed to comply with the July 1, 2013 judgment. Second, Plaintiffs do not question the authenticity of the copy of the August 30, 2004 judgment submitted by Defendants and the judgment forms the basis of McCullough's RICO claims. Hence, the Court may consider the document under incorporation by reference doctrine. See United States v. Ritchie, 342 F.3d 903, 908 (9th Cir. 2003). The judgment does not mandate that any of the Defendants provide McCullough with lifetime medical benefits or chiropractic care, as the TAC claims. (See Loyd Decl., Ex. C.) Thus, the judgment contradicts the TAC's claims that Defendants deprived McCullough of benefits she was entitled to under the judgment. Accordingly, the Court GRANTS Defendants' Motions insofar as they seek dismissal of Plaintiff McCullough's RICO claims.

v. Black

The TAC alleges that on May 14, 2012, the California Division of Workers' Compensation awarded Black "active medical care . . . including chiropractic treatment and physical therapy," for a back injury. (TAC ¶ 133.) According to the TAC, despite the award, "Defendants consistently refused to pay for medical benefits owed to" Black, "forcing him to pay either out of pocket or through his own health insurance." (Id. ¶ 134.) Specifically, in communications in October 2012, March and April 2013, and February 2014, Defendants refused to pay for chiropractic treatment and physical therapy. (Id.)

Defendants argue Black's RICO claims should be dismissed because the May 14, 2012 judgment did not grant Black either chiropractic treatment or physical therapy, as the TAC alleges. (CorVel MTD at 16-17.) In support, Defendants submit three documents: (1) the May 14, 2012 judgment; (2) a copy of an April 27, 2009 report by Dr. Emile Wakim referenced in the judgment; and (3) a copy of a June 15, 2009 letter by Dr. Wakim amending his report. (See Loyd Decl., Ex. D, E, F.) Defendants note that the judgment awarded Black "future medical care pursuant to the report of Dr. Emile dated 4/27/2009 and 6/15/2009." (CorVel MTD at 16-17 (citing Loyd Decl., Ex. D at 8).) Defendants also note that neither the April 27, 2009 report nor the June 15, 2009 letter prescribed physical therapy as a treatment for Black's injury. (Id. (citing Loyd Decl., Ex. E, F).) Instead, the report and letter recommended various other types of medical care, including orthopedic surgeon evaluations, oral analgesics, hyaluronic acid injections, and anti-inflammatory medications. (Id. (citing Loyd Decl., Ex. E, F).) Hence, Defendants contend these documents contradict the TAC's claims that Defendants deprived Black of chiropractic treatment and physical therapy he was entitled to under the May 14, 2012 judgment. (Id.)

The Court finds that Black fails to state a RICO claim. Plaintiffs do not question the authenticity of the copies of the May 14, 2012 judgment, April 27, 2009 report, and June 15, 2009 letter submitted by Defendants, and the documents form the basis of Black's RICO claims. Hence, the Court may consider the documents under incorporation by reference doctrine. See United States v. Ritchie, 342 F.3d 903, 908 (9th Cir. 2003). Read in conjunction with one another, the judgment, report, and letter do not require any of the Defendants to provide Black with physical therapy or chiropractic treatment, as the TAC claims. (See Loyd Decl., Ex. D, E, F.) Thus, these documents contradict the TAC's claims that Defendants deprived Black of

benefits he was entitled to under the May 14, 2012 judgment. Accordingly, the Court GRANTS Defendants' Motions insofar as they seek dismissal of Plaintiff Black's RICO claims.

vi. Ross-Mullin

The TAC alleges Ross-Mullin was awarded reasonable unpaid medical and legal expenses and treatment for HPV by the California Division of Workers' Compensation on August 16, 2011. (TAC ¶¶ 237-238, Ex. 7.) Despite the award, the TAC alleges CorVel, York, and Stockton failed to "reimburse or pay for medical benefits" for Ross-Mullin and did not pay for Ross-Mullin's treatment for HPV. (Id. ¶ 238.)

Defendants argue the very language of the August 16, 2011 judgment contradicts the allegations in the TAC. (CorVel MTD at 19.) Defendants note the judgment did not prescribe treatment for HPV. (Id. (citing TAC, Ex. 7.) Moreover, Defendants argue the TAC does not specify the nature of the other "medical benefits" that the Defendants failed to pay pursuant to the judgment. (Id.) Hence, Defendants contend Ross-Mullin's RICO claims should be dismissed. (Id.)

The Court finds that the August 16, 2011 judgment, by its express terms, did not mandate that Defendants provide Ross-Mullin with treatment for HPV. (See TAC, Ex. 7.) Moreover, while the judgment awarded Ross-Mullin "reasonable unpaid medical-legal expenses" for "microvascular ischemia/angina pectoris," the TAC alleges no facts indicating Defendants failed to award her such expenses. (See id. at 6-7.) In short, Ross-Mullin has not alleged facts showing she was deprived of a cognizable property interest by Defendants. Accordingly, the Court GRANTS Defendants' Motions insofar as they seek dismissal of Plaintiff Ross-Mullin's RICO claims.

B. Second and Third Causes of Action: Section 1983 Claims

In their second and third causes of action, Plaintiffs assert claims pursuant to 42 U.S.C. § 1983 ("Section 1983). Both the second and third causes of action assert unconstitutional delays of benefits. (TAC ¶¶ 284-301.) The second cause of action is brought against all Defendants while the third cause of action (for corporate liability) is raised against only CorVel and York. (Id.)

Plaintiffs premise their Section 1983 claims on Defendants' alleged acts of depriving them of their property—specifically, their workers' compensation benefits—without due process of law. (See id.) "The first inquiry in every due process challenge is whether the plaintiff has been deprived of a protected interest in 'property' or 'liberty.'" Am. Mfrs. Mut. Ins. Co. v. Sullivan, 526 U.S. 40, 59 (1999). As explained above, Plaintiffs have again failed to allege facts sufficient to establish that they have been denied a property right.

Accordingly, the Court GRANTS Defendants' Motions insofar as they seek dismissal of Plaintiffs' second and third causes of action.

C. Leave to Amend

Federal Rule of Civil Procedure 15 provides that leave to amend "shall be freely given when justice so requires." Fed. R. Civ. P. 15(a)(2). A district court, however, may in its discretion deny leave to amend "due to undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, [and] futility of amendment." Leadsinger, Inc. v. BMG Music Publ'g, 512 F.3d 522, 532 (9th Cir. 2008) (internal citation and quotation marks omitted).

Here, the Court previously granted Plaintiffs leave to amend when dismissing both the FAC and the SAC. In both of its dismissal orders, the Court instructed Plaintiffs that the FAC and SAC failed to state RICO and Section 1983 claims because Plaintiffs had not alleged Defendants deprived them of a cognizable property interest in workers' compensation benefits. (FAC MTD Order at 5-10; SAC MTD Order at 5-10.)

Plaintiffs have failed to correct the pleading deficiencies identified by the Court in its prior dismissal orders. As noted above, the TAC contains no allegations Plaintiffs Gregory, Barrett, Park, Thurman, and Mayo were ever awarded workers' compensation benefits in the form of a final judgment. Moreover, while the TAC alleges Plaintiffs Fujiwara, Veloz, and Stephenson were awarded workers' compensation benefits in final judgments, the TAC does not allege Defendants withheld or interfered with payment of these benefits after issuance of these judgments. Given Plaintiffs' repeated failure to remedy the pleading deficiencies identified by the Court with respect to these eight individuals, the Court DISMISSES Plaintiffs Fujiwara, Gregory, Veloz, Stephenson, Barrett, Park, Thurman, and Mayo's claims WITH PREJUDICE. See Zavala v. Bartnik, 348 F. App'x 211, 213 (9th Cir. 2009) ("Dismissal with prejudice was proper because Zavala was given two prior opportunities to amend his complaint in order to correct the deficiencies identified by the district court but failed to do so.").

At the same time, Plaintiffs have attempted to state viable claims with respect to Plaintiffs Brayshaw, Viola, Huber, McCullough, Black, and Ross-Mullin. Plaintiffs have alleged that each of these individuals were awarded workers' compensation benefits in final judgments and that Defendants did not issue benefits pursuant to these judgments. As noted above, the Court finds the TAC fails to state a claim with respect to any of these individuals because the TAC's allegations do not make clear exactly how Defendants violated the terms of the judgments. Because Plaintiffs may conceivably still be able to allege facts supporting viable claims under RICO and 42 U.S.C. § 1983 with respect to these individuals, the Court GRANTS Plaintiffs LEAVE TO AMEND their RICO and Section 1983 claims as to Plaintiffs Brayshaw, Viola, Huber, McCullough, Black, and Ross-Mullin. Because any Fourth Amended Complaint will be Plaintiffs' third opportunity to amend their complaint, the Court advises Plaintiffs it will not be disposed toward another dismissal with leave to amend.

IV. CONCLUSION

For the reasons stated above, the Court GRANTS the CorVel Motion to Dismiss and GRANTS the York Motion to Dismiss. The Court DISMISSES Plaintiffs' Third Amended Complaint WITH LEAVE TO AMEND only as to Plaintiffs Brayshaw, Viola, Huber, McCullough, Black, and Ross-Mullin's RICO and Section 1983 claims. Plaintiffs Fujiwara, Gregory, Veloz, Stephenson, Barrett, Park, Thurman, and Mayo are DISMISSED from this action. Plaintiffs shall file a fourth amended complaint, if any, within 21 days of this order.

The hearing on May 2, 2016 set for this matter is VACATED.

IT IS SO ORDERED.