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10 UNITED STATES DISTRICT COURT *for the* CENTRAL
11 DISTRICT OF CALIFORNIA, *Western Division*
12

13
14 ADAM JOHN MACKINTOSH,

15 Plaintiff,

16 v.
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18 GAVIN NEWSOM, ET AL.,

19 Defendants.
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PLAINTIFF'S OBJECTIONS
TO THE ISSUED AND
FILED REPORT AND
RECOMMENDATION (DKT. 18)

CASE NUMBER: 2:26-cv-08508-KK-KES

1 **I. INTRODUCTION**

2 1. Plaintiff Adam John Mackintosh (“Mr. Mackintosh”), objects
3 to the Report and Recommendation as erroneous (Dkt. 18) (the “R&R”) and
4 requests the Court’s de novo review. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P.
5 72(b)(2)-(3). These objections are timely. Fed. R. Civ. P. 72(b)(2), 6(d).

6 **II. MEMORANDUM OF LAW — STANDARD OF REVIEW**

7 2. Under 28 U.S.C. § 636(b)(1) and Rule 72(b)(2)-(3), the Court
8 reviews de novo each portion of the R&R to which specific objection is made,
9 and “may accept, reject, or modify, in whole or in part,” the R&R. *United*
10 *States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). The
11 R&R carries no presumptive weight; the district judge retains “total
12 responsibility” for the final determination. *Mathews v. Weber*, 423 U.S. 261,
13 270-71 (1976). Where an R&R does not reach an element or theory, the
14 district court supplies the missing analysis. *Moore v. It’s All Good Auto Sales,*
15 *Inc.*, 907 F. Supp. 2d 915 (W.D. Tenn. 2012). A complaint need only contain
16 “a short and plain statement of the claim.” Fed. R. Civ. P. 8(a)(2). “Specific
17 facts are not necessary,” and a pro se pleading, “however inartfully pleaded,
18 must be held to less stringent standards than formal pleadings drafted by
19 lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 93-94 (2007). At screening, all
20 factual allegations are taken as true “(even if doubtful in fact),” *Bell Atl. Corp.*
21 *v. Twombly*, 550 U.S. 544, 555 (2007); analysis is confined to the complaint’s
22 allegations, *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012); the
23 complaint is construed in the light most favorable to the plaintiff, *Wilhelm v.*
24 *Rotman*, 680 F.3d 1113, 1121 (9th Cir. 2012); *Lazy Y Ranch Ltd. v. Behrens*,
25 546 F.3d 580, 588 (9th Cir. 2008); and all reasonable inferences are drawn in
26 his favor, *Usher v. City of Los Angeles*, 828 F.2d 556, 561 (9th Cir. 1987).

27 3. One framing point guides these objections: the R&R nowhere
28 finds the Complaint frivolous, fanciful, or malicious. Yet it asserted, (a) that

1 the Defendants’ acts were justified under a Fourth Amendment analysis —
2 which resolves reasonable suspicion but not whether the same stops served
3 the extortionate scheme as pled; a justified stop can still function as a predicate
4 act (see ¶ 20 *infra*) — without weighing the takings of over \$950, before
5 release of the impounded dwelling (Dkt. 1, ¶¶ 70, 71A, 108, 138, 140-141);
6 (b) recited his witness status and a “target for retaliation” (Dkt. 18 at 4)
7 without weighing what it implies for the stops that followed; (c) asserted he
8 felt the citations were unfair, instead of tying them to the Scheme (Dkt. 18 at
9 7; Dkt. 1, ¶ 3); (d) read officers’ repeated firearm-grabbing at Stop Two as
10 risk he might grab their firearms — while he sat calmly in his car — rather
11 than intimidation (Dkt. 18 at 21); (e) failed to weigh Officer Cuillard’s
12 manufactured story of a “weapon” (knife) (Dkt. 5, Ex. A; Dkt. 1 at 27, ¶ 3)
13 that searches disproved (*Id.* at 27, ¶ 24) — a story asserted after Officer
14 Cuillard unclipped his firearm and grabbed it twice, before any threat existed
15 — the lodged video records Mr. Mackintosh naming the escalation as it
16 happened — conduct the Complaint pleads as intimidation (Dkt. 5, Ex. A;
17 Dkt. 1, ¶¶ 59-67); (f) asserted the plate was unreadable without ever weighing
18 the pled fact that cuts against it: at Stop One, officers completed the citation
19 with Mr. Mackintosh’s license information he never provided — information
20 obtained by reading the plate (Dkt. 1, ¶¶ 36-42) — the R&R did not construe
21 the Complaint “in the light most favorable to plaintiff,” *Wilhelm*, 680 F.3d at
22 1121; (g) even after citing *Ashcroft* for the Court’s power to draw inferences
23 (Dkt. 18 at 2), and though the lodged video records him stating that Officer
24 Cuillard was racketeering under 18 U.S.C. § 1961 and is going to ruin his life
25 (Dkt. 5, Ex. A), the R&R removed Stop Four as misjoined despite factual
26 content implicating the prior stops (Dkt. 1, ¶ 61), while RICO Claims One and
27 Two — which allow all stops to proceed together — were not analyzed (¶ 20
28 *infra*). Lastly: every recommended dismissal rests on asserted insufficiency

1 of detail, yet never identifies which facts were missing from which claim.
2 Under Rule 8 and *Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir. 2000) (en
3 banc), insufficient detail is the defect leave to amend exists to cure — not a
4 ground for prejudicial dismissal before defendant have appeared.

5 **III. OBJECTION 1: Four Clarifications For The Record**

6 4. First, the charge status. The R&R states Mr. Mackintosh “was
7 charged” under Cal. Penal Code § 148(a)(1) and describes it as “pending”
8 (Dkt. 18 at 8-9), while elsewhere reciting the LASC clerk’s confirmation that
9 “no accusatory pleading has been filed ... and that no case exists to be called.”
10 (Id. at 9, quoting Dkt. 11 at 2.) The accurate record: On August 5, 2026 at
11 7:45 a.m., he appeared for court; the clerk’s search at 8:02 a.m., confirmed
12 case 26-36951 has no charges, no case, and no filings, and a stamped
13 appearance notice issued at 8:05 a.m.; an August 27, 2026 recheck confirmed
14 the same; and no notice served. No charge is or was pending. (¶ 24 *infra*.)

15 5. The video of Stop Four (Dkt. 5, Ex. A) is part of the record this
16 Court may consider de novo. 28 U.S.C. § 636(b)(1). It removes any Younger
17 predicate; it supports the pled inference of witness tampering — an arrest
18 never resulting in a charge supports, rather than undermines, that inference
19 (Dkt. 1, ¶¶ 68-69, 116; ¶ 24 *infra*) — and it corrects a mischaracterization that
20 could follow Mr. Mackintosh. The unfiled charge still hangs over him — an
21 arrest record, no disposition. Should any charge follow, he preserves all
22 defenses against retaliatory or vindictive prosecution. *Hartman v. Moore*, 547
23 U.S. 250, 256 (2006); *Blackledge v. Perry*, 417 U.S. 21, 27-28 (1974). He
24 asks no advisory ruling — only that the Court’s order reflect these facts herein.

25 6. Second, the affordability characterization. The R&R states he
26 “protested that he could not afford to renew the registration” at Stop Four.
27 (Dkt. 18 at 8.) The record contains no such statement: his statement to
28 Officer Cuillard was that the registration was in legal dispute — contest,

1 not incapacity — and the only incapacity pled is one the Scheme’s takings
2 created, absent a proper jury trial, consuming the money he was saving
3 for the repair (Dkt. 1, ¶¶ 60, 60A, 60B; Dkt. 5, Ex. A.)

4 7. The dispute was documented before Stop Four. The Complaint
5 pleads its basis: citations against the same vehicle attach to its registration,
6 and as part of the Scheme, the DMV conditions renewal on paying those
7 citations plus its own fees and surcharges — a demand of \$1,209.89 after
8 Mr. Mackintosh demanded DMV remove approximately \$400 in late fees,
9 against a base renewal of approximately \$171. The gap is the Scheme’s
10 margin: a sum he satisfies by diverting the labor that sustains him to
11 California officials and their agencies — the coercion his referral request
12 describes. (Dkt. 14, ¶¶ 6-7, 9; Dkt. 1, ¶¶ 5, 35, 60B, 70-71, 79, 94-95.)

13 8. Mr. Mackintosh already put that mechanism in writing to
14 government offices in April 2024 (Id., ¶¶ 16, 35D), and had described the
15 Scheme to this Court in his referral request. (Dkt. 14, ¶¶ 1-2, 6-10.) Although
16 the referral was rejected at this stage (Dkt. 15), its factual description remains
17 part of the record and shows the dispute predated the stop.

18 9. Whether that pay-or-lose-your-dwelling condition, as escalated
19 against a litigant, constitutes extortion through fear of economic loss and total
20 economic loss under the Hobbs Act is precisely the Claims One and Two
21 question addressed in Objection 2 *infra* — a question the R&R remained silent
22 on. For present purposes the record point is narrow: “legal dispute” was stated,
23 and the dispute was real and documented.

24 10. Third, medical treatment. Addressing the Stop Three excessive
25 force claim, the R&R observes that Mr. Mackintosh “does not allege that
26 he sought any medical treatment for these injuries.” (Dkt. 18 at 21-22.)
27 The omission is curable, not an absence of facts: if leave is granted, the
28 First Amended Complaint will plead his treatment at an emergency room

1 within hours of the stop, with right-shoulder radiographs; his worsening
2 symptoms from the Fourth Stop; and imaging scheduled for October 2026.
3 *Lopez*, 203 F.3d at 1130-31.

4 11. Fourth, the frame-removal timing. (Dkt. 18 at 25.) As pled, no
5 frame was present at Stop Four (Dkt. 1, ¶¶ 59-71A) — which the R&R
6 itself describes as a registration stop. (Dkt. 18 at 8.) The lodged video
7 records Officer Cuillard stating the officers had probable cause “to cite or
8 tow” for expired registration — a civil condition, not a crime — and not
9 cause for assault, the unclipped-firearm threat, arrest, and imprisonment,
10 which are part of the First and Second Claims as pled. (Dkt. 5, Ex. A.)

11 12. The characterization of ongoing contest should not carry into any
12 order, nor be treated as justifying the alleged escalating retaliation, which the
13 Complaint pleads stop by stop. At Stop One, officers cited a license-plate
14 obstruction. In fact, a failure-to-provide-registration count without giving
15 Mr. Mackintosh time to locate the registration was added, among other counts
16 that compounded the sums later demanded. (Dkt. 1, ¶¶ 36-42.) At Stop Two,
17 officers repeated counts and added more, including a § 24002 unsafe-vehicle
18 count against the same car. (Id., ¶¶ 43-48.) At Stop Three, Officer Joseph
19 issued a duplicated citation from a prior count, used excessive force, and
20 threatened impoundment for expired registration. (Id., ¶¶ 49-58.) The same at
21 Stop Four expired registration ended in assault and battery that aggravated
22 Stop Three injuries, a threat of deadly force using a fabricated story (¶ 3 *supra*)
23 that could have ended Mr. Mackintosh’s life, arrest under Penal Code §
24 148(a)(1), impoundment, and searches — a criminal-obstruction citation
25 grown from a civil registration, never prosecuted. Officers also cut a military-
26 grade lanyard from his neck and seized the USB drive it held; whether its
27 contents were accessed or copied is unknown to him. (Id., ¶ 68; ¶¶ 62-71; Dkt.
28 18 at 8-9; Dkt. 11 at 2; ¶ 5 *supra*.)

1 13. Each successive stop multiplied counts using CVCs, causing the
2 costs against one vehicle to multiply, to compound the financial takings as
3 alleged in the Scheme (Dkt. 1, ¶¶ 3, 5, 35-35.1, 35A, 60B) — the escalation
4 addressed in Objections 2 and 5, *infra*. The frame’s removal answers the
5 R&R’s stated rationale — yet Stop Four happened anyway. Before any
6 contact, a database query located and flagged this same vehicle (Dkt. 1, ¶ 65),
7 and what followed was harms and injuries (¶¶ 7, 9, 10, 12 *supra*) — as alleged,
8 and an attempt to force Mr. Mackintosh into permanent homelessness through
9 the pattern the Complaint pleads. (Id., ¶¶ 35.1, 69, 118; ¶ 40(f) *infra*.)

10 **IV. OBJECTION 2: RICO (Claims One and Two)**

11 14. The R&R recommends dismissing the RICO claims for: (1)
12 insufficient enterprise facts across “different governmental agencies,” and
13 (2) that registration and license plate condition admission “adequately
14 explain why the stops occurred.” (Dkt. 18 at 11.) Mr. Mackintosh objects:

15 15. First, the governing construction. Congress directed that RICO
16 “shall be liberally construed to effectuate its remedial purposes.” Pub. L. No.
17 91-452, § 904(a), 84 Stat. 947; *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479,
18 497-98 (1985). An association-in-fact enterprise requires only “a purpose,
19 relationships among those associated with the enterprise, and longevity
20 sufficient to permit these associates to pursue the enterprise’s purpose” — no
21 hierarchy or formal structure. *Boyle v. United States*, 556 U.S. 938, 946
22 (2009); *Odom v. Microsoft Corp.*, 486 F.3d 541, 552-53 (9th Cir. 2007) (en
23 banc). Courts may not narrow it: “The fact that RICO has been applied in
24 situations not expressly anticipated by Congress does not demonstrate
25 ambiguity. It demonstrates breadth.” *Sedima*, 473 U.S. at 499. Indeed, this
26 extraordinary breadth is “inherent in the statute as written,” *Sedima, S.P.R.L.*
27 *v. Imrex Co.*, 473 U.S. 479, 499 (1985), and public employees enjoy no
28 categorical exemption from suit as a RICO “person.” (¶ 17 *infra*.)

1 16. The Complaint pleads each *Boyle* element with record citations:
2 a common purpose (Dkt. 1, ¶ 99); relationships shown by the LAPD-UCPD
3 interagency agreement (Id., ¶¶ 10, 22, 36), shared database infrastructure —
4 including the pre-contact query at Stop Four returning a delinquency alert tied
5 to the same conditions cited or raised at previous stops (Id., ¶¶ 49-58, 65) —
6 the DMV hold-and-renewal computer system adding citations to registrations
7 as consequences, including Newsom signing legislation to extend fines at ¶
8 95 (Id., ¶¶ 35D, 70-71, 95) (if leave to amend is granted, the Assembly Bills
9 signed by Newsom can be pled), and the recurring role of the private tow and
10 impound operator whose fees complete the alleged extraction (Id., ¶¶ 99-108);
11 and longevity spanning at least August 2024 through July 2026 (Id.,
12 ¶¶ 36-71), with antecedent conduct alleged from 2017 (Id., ¶¶ 77-98). The
13 R&R did not measure these allegations against *Boyle* and *Odom*’s elements.

14 17. Second, the individual officer Defendants and Girard Peterson,
15 Inc. are “persons” under 18 U.S.C. § 1961(3), and public employment confers
16 no RICO immunity from suit as a person. See *Cedric Kushner Promotions,*
17 *Ltd. v. King*, 533 U.S. 158, 163 (2001); *United States v. Cianci*, 378 F.3d 71,
18 83 (1st Cir. 2004); *United States v. Ruiz*, 905 F.2d 499, 506 (1st Cir. 1990)
19 (police officer as RICO person). Injury to employment/livelihood is injury to
20 “business or property” § 1964(c), (Dkt. 1, ¶¶ 77A, 97-123.) *Diaz v. Gates*, 420
21 F.3d 897, 898-900 (9th Cir. 2005) (en banc) (lost employment and lost wages
22 resulting from alleged police misconduct are cognizable RICO injuries).

23 18. Third, the alternative-explanation ruling. The conclusion (Dkt. 18
24 at 11) “adequately explain why the stops occurred” selects one of two
25 competing explanations at the stage where Mr. Mackintosh’s allegations are
26 assumed true. Under *Starr v. Baca*, 652 F.3d 1202, 1216-17 (9th Cir. 2011),
27 when two possible explanations exist, only one of which results in liability,
28 the complaint survives if the plaintiff’s explanation is plausible; he need not

1 show it is more probable than the innocent one. Which explanation is true is
2 a question for evidence, not screening. Nor is Mr. Mackintosh's alleged
3 mechanism novel or fanciful. The United States itself investigated materially
4 similar municipal practices — revenue-driven citation-fine-fee enforcement,
5 nonpayment escalation consequences, and associated uses of force — and
6 obtained a consent decree. *United States v. City of Ferguson*, No. 4:16-cv-
7 00180-CDP (E.D. Mo. Apr. 19, 2016) records exhibited to Mr. Mackintosh's
8 referral request. (Dkt. 14, Exs. A-E, at ECF pp. 17-30.) That decree binds no
9 one here and involves different parties; it is cited only to show the category of
10 Scheme alleged here is one the United States has treated as real — and
11 remediable. Whether these Defendants operated such a scheme is the question
12 screening reserves for evidence. *Starr*, 652 F.3d at 1216-17.

13 19. Fourth, the predicate-act analysis. The R&R invokes Rule 9(b)
14 (Dkt. 18 at 10), but Rule 9(b) governs only fraud. *Vess v. Ciba-Geigy Corp.*
15 *USA*, 317 F.3d 1097, 1103-05 (9th Cir. 2003). The Hobbs Act extortion
16 predicates (Dkt. 1, ¶¶ 102, 106, 108) are not fraud claims; they are tested under
17 Rule 8. Applying the heightened standard to them is legal error.

18 20. The R&R's Fourth Amendment discussion (Dkt. 18 at 17-21)
19 resolves reasonable-suspicion questions, but no portion of the R&R analyzes
20 the same events as pled predicate acts (Dkt. 1 at 47-57) — extortion (18 U.S.C.
21 § 1951), mail and wire fraud (18 U.S.C. §§ 1341, 1343), or obstruction,
22 witness tampering, and retaliation for First Amendment speech (Dkt. 1, Ex.
23 V; Dkt. 14 at 4) (18 U.S.C. §§ 1503, 1510, 1512, 1513; Dkt. 1, ¶¶ 103-117.)
24 That analysis remains for this Court de novo. The mail- and wire-fraud
25 predicates are pled with the particularity Rule 9(b) requires — through the
26 attached exhibits. Under Rule 10(c), “[a] copy of a written instrument that is
27 an exhibit to a pleading is a part of the pleading for all purposes,” and the
28 Court considers materials attached to the complaint at screening. *United States*

1 *v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003); *Hal Roach Studios, Inc. v.*
2 *Richard Feiner & Co.*, 896 F.2d 1542, 1555 n.19 (9th Cir. 1990). Rule 9(b)
3 asks for the time, place, and content of the communications. *Schreiber Distrib.*
4 *Co. v. Serv-Well Furniture Co.*, 806 F.2d 1393, 1400-01 (9th Cir. 1986).

5 21. The Complaint's exhibits supply exactly that: the citations and
6 notices themselves — dated, itemized mailings and electronic transmissions
7 identifying the who, what, when, where, and how — appear at Dkt. 1 at 77-
8 98. A pleading cannot be more particular about a mailing than attaching the
9 mailing. The R&R's Rule 9(b) ruling (Dkt. 18 at 10) does not address the
10 exhibits as part of the pleading under Rule 10(c). Any remaining particularity
11 gap is curable by amendment itemizing each exhibit by date and transmission
12 — the *Lopez* standard once more. The exhibits themselves supply the
13 enterprise-and-predicate detail the R&R found missing: DMV notices
14 itemizing LADOT citations, court codes, agency fees, and penalties on one
15 instrument, conditioning registration on payment of all of them (Dkt. 1, Exs.
16 L, M); municipal tow and impound invoices itemizing city administrative and
17 towing fees (Ex. N); citations stating amounts due with no trial court date (Ex.
18 O); parking citations issued under municipal codes that route directly to DMV
19 as consequences (Exs. S, T); the multi-count Stop One citation issued by
20 UCPD enforcing state and county fee schedules (Ex. U); Mr. Mackintosh's
21 written pre-suit demand to the State and City of Los Angeles and their officials
22 — naming Gavin Newsom, and Karen Bass, et al.'s offices — disputing a
23 citation with photographic evidence (Ex. V); and the court system's own page
24 offering payment, payment plans, and extensions — and no trial (Ex. W).

25 22. The extortionate method is elastic: it stretches a civil expired
26 registration matter — as Officer Cuillard himself framed Stop Four — into
27 criminal process, and money is extracted at every joint. Citations create a
28 debt (Dkt. 1, ¶¶ 36-48). DMV converts debt into a hold, so the car — Mr.

1 Mackintosh’s dwelling and instrumentality to earn (Id., ¶¶ 3, 8, 70) —
2 cannot lawfully move (Id., ¶¶ 70-71, 95). Officers ran a query before Stop
3 Four (Id., ¶¶ 4, 35.4, 65); seizure followed (Id., ¶¶ 59-71); and the car was
4 released only after sequential payment through both arms of the enterprise
5 — \$175 demanded by police station staff before Girard would even begin
6 its process, then Girard’s impound fees (Id., ¶¶ 70, 71A, 99-108).

7 23. That is obtaining property — the car and the fees — with consent
8 induced by wrongful fear of economic loss and total economic loss. 18 U.S.C.
9 § 1951; *Scheidler v. Nat’l Org. for Women, Inc.*, 537 U.S. 393, 404-05 (2003);
10 *Levitt v. Yelp! Inc.*, 765 F.3d 1123, 1130 (9th Cir. 2014). A civil fee dispute
11 cannot be collected through arrest, inability to pay cannot itself be punished.
12 *Bearden v. Georgia*, 461 U.S. 660, 667-68 (1983); (Dkt. 1, ¶¶ 152D-G; Dkt.
13 14 at 5.) The instruments say so themselves: the citation’s printed text invokes
14 Cal. Veh. Code §§ 22651.7 and 4760(a)(1) — a vehicle may be seized, and
15 the DMV may deny renewal, for nonpayment. (Dkt. 1, Ex. V at 91-92.)

16 24. The witness-tampering and retaliation predicates receive the same
17 silence. The Complaint pleads a two-step charging sequence at Stop Four. The
18 lodged video further records Officer Cuillard unclipping his firearm holster
19 over a DMV registration (Dkt. 5, Ex. A; Dkt. 1, ¶ 61.) That conduct bears
20 directly on the “intimidation” and “threats” § 1512(b) makes elements of the
21 predicate — and whether it was intimidation of a witness or routine procedure
22 is an inference that belongs to Mr. Mackintosh at this stage. *Usher*, 828 F.2d
23 at 561; *Starr*, 652 F.3d at 1216-17. In that sequence, officers first threatened
24 a felony accusation to compel Mr. Mackintosh to abandon his silence; when
25 he did not, a Penal Code § 148(a)(1) obstruction citation issued in its place.
26 (Dkt. 1, ¶¶ 68-69.) No accusatory pleading filed on that citation (Dkt. 11 at 2;
27 ¶ 4 *supra*) — an arrest and criminal citation from civil registration condition,
28 never prosecuted, whose arrest record will end Mr. Mackintosh’s income on

1 December 21, 2026. (Dkt. 1, ¶¶ 75, 95-96.) The R&R’s Fifth Amendment read
2 (Dkt. 18 at 23) does not reach this predicate. The R&R itself recites the threat
3 — a charge promised for silence — and whatever a standalone claim’s scope,
4 a threatened charge for silence is “intimidation” as pled under § 1512(b).

5 25. The Complaint pleads this conduct as witness tampering and
6 retaliation (Id., ¶ 116) (§§ 1512(b), 1513(e)) — predicate acts expressly
7 enumerated in 18 U.S.C. § 1961(1)(B). This case is an “official proceeding,”
8 18 U.S.C. § 1515(a)(1)(A), and the statute requires no proceeding to be
9 pending when the conduct occurs. § 1512(f)(1). He raised this same concern
10 in writing before the R&R issued — that a registration matter was stretched
11 into criminal process immediately before filing this action (Dkt. 14, ¶¶ 6-7)
12 — and the video of Stop Four records the sequence as it happened (Dkt. 5,
13 Ex. A), which the Court should consider de novo. 28 U.S.C. § 636(b)(1).

14 26. The Complaint’s own exhibits include the LADOT citation text
15 addressed to persons “experiencing homelessness” (Dkt. 1, Ex. V, at 91),
16 supporting the allegation that the same enforcement apparatus reaches vehicle
17 dwellers as a class — and that Mr. Mackintosh, whose vehicle is his dwelling,
18 is within it (Dkt. 1, ¶ 70). The Complaint likewise pleads that officers
19 continuously placed their hands on their firearms during a civil-infracton at
20 Stop Two, (Dkt. 1, ¶ 44) — conduct pled as intimidation of a witness, not as
21 an excessive force claim, and they did so while he peacefully sat in his car.

22 27. These acts are related to the extortionate pattern and extend it.
23 *H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 239-42 (1989). Whether
24 this sequence — threat, substitute charge, then no prosecution — was
25 retaliation against a witness or routine enforcement is a question *Starr*
26 reserves for evidence. *Starr*, 652 F.3d at 1216-17.

27 28. Fifth, Claim Two. The R&R contains no separate analysis of the
28 RICO conspiracy claim under 18 U.S.C. § 1962(d). Conspiracy liability

1 requires only agreement; a conspirator “need not himself commit or agree
2 to commit the two or more predicate acts.” *Salinas v. United States*, 522
3 U.S. 52, 63-65 (1997). Claim Two cannot fall automatically with Claim One’s
4 sufficiency analysis. The exhibit-based particularity discussed in ¶ 21, *supra*
5 applies equally here. (Dkt. 1, ¶¶ 77-98; ¶ 40 *infra*)

6 29. For the Court’s convenience on de novo review, the elements are
7 indexed in the form of a RICO case statement as follows: (a) **Provision:** §§
8 1962(c) and (d) (Dkt. 1, Claims One and Two). (b) **Defendants and conduct:**
9 the citing and arresting officers, stop by stop (Id., ¶¶ 36-71); the impound
10 operator completing the fee extraction after assault, imprisonment, charges
11 (Id., ¶¶ 99-108); coordination mechanisms (Id., ¶¶ 10, 22, 36, 65, 70-71, 77-
12 98). (c) **Victim and injury:** Mr. Mackintosh — approximately \$2,024 and
13 more in impound-related payments, citation sums, and lost income (Id., ¶¶
14 71A, 77A); injury to livelihood is cognizable, *Diaz*, 420 F.3d at 898-900. (d)
15 **Predicate acts, dates, and participants:** ¶¶ 103-117, with each stop’s date
16 and participants at ¶¶ 36-71; fraud particularity supplied by the mailed and
17 transmitted instruments themselves, attached under Rule 10(c) (Dkt. 1 at 77-
18 98; ¶¶ 21, 26 *supra*). (e) **Convictions or judgments on the predicates:** none
19 — and no accusatory pleading was ever filed (Dkt. 11 at 2). (f) **Relatedness**
20 **and continuity:** the predicate acts share the same victim, same vehicle, and
21 same method — citation, DMV hold, fee, and seizure — while drawing from
22 an overlapping and shifting menu of CVC conditions: registration, plate
23 display recurring, with “window tint” added at Stop One, an “unsafe vehicle”
24 count under § 24002 at Stop Two, and same counts at Stop Three, until Stop
25 Four proceeded on registration alone — the same condition for which Officer
26 Joseph had threatened a tow at Stop Three. (Dkt. 1, ¶¶ 36-71.) Relatedness
27 turns on “same or similar purposes, results, participants, victims, or methods
28 of commission” — not identical charges. *H.J. Inc.*, 492 U.S. at 240. The acts

1 repeated from August 2024 through July 2026, with antecedent conduct from
2 2017 (Id., ¶¶ 77-98) and post-filing events continuing the pattern (August 13,
3 2026 Notice of Changed Circumstances (Dkt. 19)), satisfying continuity. *H.J.*
4 *Inc.*, 492 U.S. at 239-42; *Allwaste, Inc. v. Hecht*, 65 F.3d 1523, 1527-28 (9th
5 Cir. 1995). Because the Scheme remains in operation, the conduct “projects
6 into the future with a threat of repetition” — open-ended continuity. *H.J. Inc.*,
7 492 U.S. at 241. (g) **Enterprise**: an association-in-fact of the officer
8 Defendants — police and parking enforcement — and Girard, coordination
9 mechanisms above; purpose at ¶ 99; benefit — the fees — at ¶¶ 99-108, 77A;
10 no hierarchy required, *Boyle*, 556 U.S. at 946; *Odom*, 486 F.3d at 552-53; the
11 defendants are persons distinct from the enterprise, *Cedric Kushner*, 533 U.S.
12 at 163. (h) **Interstate commerce**: only a *de minimis* effect is required. *United*
13 *States v. Shryock*, 342 F.3d 948, 985 (9th Cir. 2003); 18 U.S.C. § 1951(a)
14 (reaching whoever “in any way or degree obstructs, delays, or affects
15 commerce”); *Taylor v. United States*, 579 U.S. 301, 306-07 (2016). The
16 alleged enterprise includes tow operators (Dkt. 1, ¶¶ 99-108); the seizures and
17 holds halted Mr. Mackintosh’s vehicle-dependent purchases of fuel and goods
18 and interrupted his work; and, as alleged, Governor Newsom signed a 2019
19 investigative order concerning gasoline pricing during the same period as pled
20 (Id., ¶ 35D) — all affecting interstate commerce. (Id., ¶¶ 101, 103; see also ¶¶
21 35, 35A, 35C, 56, 76B, 87; ¶¶ 77-98 (prior seizures).) To the extent the Court
22 deems the commerce allegation insufficiently explicit, it is readily curable by
23 amendment. *Lopez*, 203 F.3d at 1130-31; see ¶ 40 *infra*.

24 The same Scheme is described consistently across the complaint and
25 record: Complaint (¶¶ 5, 70-71, 95, 99-108), referral request (Dkt. 14, ¶¶
26 6-7), Ex Parte application with video (Dkt. 5, Ex. A), Dkt. 19, (police
27 intimidating Mr. Mackintosh after Governor Newsom, Mayor Bass, Police
28 and California’s Attorney General, et al. received the referral) (Dkt. 14).

1 **V. OBJECTION 3: Misjoinder**

2 30. Mr. Mackintosh objects to dismissing all Stop Two, Stop Four,
3 and Excessive Fines claims as misjoined. (Dkt. 18 at 14-15, 31-32.)

4 31. Joinder was proper. Rule 20(a)(2) is construed liberally,
5 toward “the broadest possible scope of action.” *United Mine Workers v.*
6 *Gibbs*, 383 U.S. 715, 724 (1966). The four stops form one series: one
7 plaintiff, one vehicle, and recurring conditions the R&R itself recounts —
8 the stops “involved the same vehicle code violations.” (Dkt. 18 at 22.)

9 32. At Stop Three, Officer Joseph threatened to tow Mr.
10 Mackintosh’s car for expired registration (Dkt. 1, ¶ 53); before any contact at
11 Stop Four, officers performed a DMV registration delinquency extraction (Id.,
12 ¶ 65). Each stop fed the same collection machinery — citation, DMV hold,
13 fee, tow, impoundment — through which the DMV, the court system’s
14 collection apparatus, and Girard extracted payment, as alleged. (Id., ¶¶ 5, 60B,
15 70-71, 95, 99-108.) Stop Four sits inside that series, not outside it. The case
16 *Coughlin v. Rogers*, 130 F.3d 1348 (9th Cir. 1997) cited in the R&R, involves
17 (forty-nine unrelated petitioners), it does not resemble this record.

18 33. The misjoinder recommendation is also derivative of the RICO
19 recommendation: Claims One and Two name the officers from all four stops
20 as participants in one alleged enterprise and conspiracy (Dkt. 1, ¶¶ 97-99, 102-
21 114), supplying both the “same series of transactions” and the common
22 questions Rule 20(a)(2) requires. *Salinas*, 522 U.S. at 63-65. If Claims One
23 and Two proceed or are amendable (Objection 2), Officer Cuillard and Doe
24 Officer 2 are properly joined as alleged enterprise participants. The Court
25 should resolve Objection 2 before addressing misjoinder analysis.

26 34. Even if misjoinder were found, Rule 21 forecloses the suggested
27 remedy: “Misjoinder of parties is not a ground for dismissing an action.” Fed.
28 R. Civ. P. 21. The rule permits the court, “[o]n motion or on its own,” to sever

1 “on just terms” — preserving the original filing date where dismissal risks
2 limitations consequences. Because no state prosecution is pending (Dkt. 11 at
3 2), Younger supplies no alternative ground. (Dkt. 18 at 15.)

4 **VI. OBJECTION 4: The R&R Did Not Address Plaintiff’s Status**

5 35. The R&R recommends dismissing Claim Fourteen because Mr.
6 Mackintosh has not shown he was a witness in the Waymo case (Dkt. 18 at
7 25-26.) That addresses only half of the statute. Section 1985(2) reaches
8 conspiracies “to deter, by force, intimidation, or threat, any party or witness
9 in any court of the United States from attending such court, or from testifying
10 to any matter pending therein” (Dkt. 1, ¶¶ 3, 49, 51; ¶¶ 3 *supra*, 51-52 *infra*.)

11 36. First, in the Mackintosh cases, Case No. 3:20-cv-09334-VC, Dkt.
12 38, filed March 5, 2021, the Northern District Court Clerk and District Judge
13 Vince Chhabria declined to transfer his case to District Judge William Alsup
14 who ordered the investigation (related to Jacobs Letter and screen capture).
15 The action involved Mr. Mackintosh filing forensic screen-capture evidence
16 concerning the “Jacobs Letter”— which had previously been produced to
17 Judge Alsup pre-trial by the DOJ, National Security and Intellectual Property
18 Theft Sections—along with related facts and his testimony in litigation.
19 Second, Mr. Mackintosh is a party in this pending action before this Court.

20 37. Through no fault of the Magistrate Judge, the R&R could not
21 weigh his sworn Notice of Changed Circumstances: he submitted it through
22 EDSS on August 13, 2026 — a process EDSS said could take three to five
23 days — and the Clerk’s acceptance was confirmed by email on August 20,
24 2026 seven days later — the day after the R&R issued (Dkt. 19.) The Notice
25 describes events occurring after this case was filed and after his filings were
26 mailed to Defendants’ offices — repeated late-night patrol passes and slow-
27 downs at his parked dwelling, where officers made contact by rolling down
28 their window, made a statement, stared and circled him, the preserved videos

1 have dates, and times — bearing on ongoing intimidation and the threat of
2 total economic loss after Newsom, Attorney General, Bass, Police, and other
3 officials received the referral (Dkt. 14). On de novo review, this Court can and
4 should consider it. 28 U.S.C. § 636(b)(1) (court “may also receive further
5 evidence”). The R&R itself recounts the Complaint’s allegation that Mr.
6 Mackintosh is a “target for retaliation” (Dkt. 18 at 4; Dkt. 1, ¶¶ 28, 31, 35A,
7 35E), and the witness-protection predicates reach exactly that status: no
8 proceeding need be pending, 18 U.S.C. § 1512(f)(1), and § 1513(e) protects
9 those who provide truthful information to law enforcement. (¶ 29, *supra*.)

10 38. Mr. Mackintosh does not ask the Court to accept his interpretation
11 of those events now. He asks only that Claim Fourteen not be extinguished
12 with prejudice while a statutory theory the R&R did not reach remains
13 available. Because the § 1986 ruling rests entirely on the § 1985(2) analysis
14 (Dkt. 18 at 26), the § 1986 claim travels with it: if one is amendable, so is the
15 other. Under *Lopez*, dismissal with prejudice is proper only when amendment
16 is clearly futile. It is not. (¶ 40, *infra*)

17 39. Requested relief: leave to amend to plead deterrence of a party in
18 this pending proceeding, or dismissal of Claim Fourteen without prejudice
19 considering the Notice on de novo review.

20 **VII. OBJECTION 5: Dismissal Of Claim 5 (Retaliation)**

21 40. Mr. Mackintosh objects to the with-prejudice character of the
22 dismissal of Claim Five. *Lopez*, 203 F.3d at 1130-31. This Court’s own Civil
23 Standing Order recognizes that leave to amend should be granted “unless it is
24 clear that the complaint could not be saved by any amendment,” *Eminence*
25 *Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003), with
26 “**extreme liberality**,” *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d
27 708, 712 (9th Cir. 2001). The R&R recites *Lopez*’s standard, leave unless the
28 pleading “could not possibly be cured by the allegation of other facts” (Dkt.

1 18 at 27-28), but does not explain why Claim Five could not possibly be cured
2 by specific dated facts. Amendment could plead, with record citations:

3 (a) Mr. Mackintosh mailed a written petition to Defendants' offices to
4 their chain of command beginning April 2024 (Dkt. 1, ¶¶ 16, 35D, Ex. V)
5 as his attention turned toward the immediate threats of continued citations,
6 DMV holds, and further impoundment that repeated (Id. at 93);

7 (b) the stops thereafter escalated: Stop One's citation included a failure-
8 to-provide-registration count issued without time to locate the
9 registration, window tint, and other CVC counts that inflated the sums
10 demanded; Stop Two repeated counts and added § 24002 unsafe-vehicle;
11 Stop Three ended in Officer Joseph using excessive physical force —
12 kicking Mr. Mackintosh's leg out from under him in order to push him to
13 the ground, causing injuries — with a duplicative citation totaling
14 approximately \$828; and Stop Four ended in Officer Cuillard unclipping
15 his firearm, fabricating a weapon (knife) story, grabbing his firearm twice,
16 assault and battery, arrest, imprisonment, impoundment, deprivation of
17 property, and over \$2,024 in fees rather than a citation (Id., ¶¶ 36-71; ¶¶
18 5, 33, 35, 35D, 60B, 71A, 77A, 78, 92, 96, 99, 111, 134, 152E, 152G);

19 (c) on information and belief, the escalating multiplication of counts
20 and costs against one vehicle for the same recurring conditions reflects
21 direction or coordination through a chain of command rather than
22 coincidence — an inference that belongs to Mr. Mackintosh at this
23 stage, *Usher*, 828 F.2d at 561; *Starr*, 652 F.3d at 1216-17;

24 (d) comparator observations: he photographed thirteen or more vehicles
25 bearing similar license-plate frames, driven by other Americans who, on
26 information and belief, were not subjected to the escalated stops, citations,
27 seizures of property and liberty, threats, assaults, tows, impounds, strip
28 search, charges, or imprisonment — observations bearing on selective

1 enforcement, *cf. Nieves v. Bartlett*, 587 U.S. 391, 406-07 (2019); and
2 (e) the post-filing events described in his sworn Notice. (Dkt. 19.)
3 (f) Shortly before Stop Four, Mr. Mackintosh expended a large portion
4 of his resources on tire and suspension repairs necessary to keep the
5 vehicle — his dwelling and his means of work — roadworthy, while
6 continuing to save for the registration process and catalytic converter
7 next; the stop, arrest, and impoundment then arrived while those
8 resources were exhausted, and he retained his vehicle only by paying
9 the impound-related sums pled. (Dkt. 1, ¶¶ 71A, 77A.) On information
10 and belief, the timing of the Fourth Stop relative to that expenditure
11 bears on coordination and purpose — matters the database query
12 preceding the stop (*Id.*, ¶ 65) makes discoverable, ¶ 13, *supra*.
13 The R&R observes that Mr. Mackintosh “can still type.” (Dkt. 18 at 22.)
14 Writing ability does not change the pleading standard. Rule 8(a)(2)
15 requires only “a short and plain statement of the claim” — a complaint
16 that omits detail complies with the rule; it does not concede the detail’s
17 absence. *Erickson*, 551 U.S. at 93-94. The medical facts the R&R notes
18 as absent relate to Stop Four: the Complaint pleads that Officer Cuillard
19 and his Partner’s acts aggravated the injuries inflicted at Stop Three. (Dkt.
20 1, ¶¶ 57, 144.) That pled connection also ties the stops’ injuries into one
21 series. (¶ 32 *supra*.) To the extent further treatment details do not appear,
22 their absence reflects Rule 8’s command, and the cure is amendment —
23 not an adverse inference, and not prejudicial dismissal. *Lopez*, 203 F.3d
24 at 1130-31. The R&R offers it as context (Dkt. 18 at 4-6), yet no element
25 analysis relies on it — and extra-record context that colors screening
26 against a pleader is not the light most favorable to him. *Denton v.*
27 *Hernandez*, 504 U.S. 25, 32-33 (1992); *Lee v. City of Los Angeles*, 250
28 F.3d 668, 688-90 (9th Cir. 2001); ¶¶ 51-52 *infra*. Whatever their purpose,

1 neither observation — that he can still type, or that he has litigated
2 before — supplies a ground Rule 8 recognizes for dismissal.

3 41. Requested relief: convert the dismissal of Claim Five to without
4 prejudice, or grant leave to amend.

5 **VIII. OBJECTION 6: TRO Record, Compliance, And Dwelling**

6 42. The R&R recommends denying both TRO applications,
7 reasoning that “[t]here is no apparent reason why Plaintiff cannot remove the
8 illegal license plate frame/cover,” and that a plaintiff who cannot afford
9 registration “cannot afford to drive on public roadways” (Dkt. 18 at 29-30.)
10 Mr. Mackintosh objects on three factual grounds and one legal ground.

11 43. First, the frame is gone. It was removed months after Stop Three
12 — the stop where Officer Joseph used excessive physical force and threatened
13 a tow for expired registration — well before the R&R issued. No frame was
14 present at Stop Four, none is on the plate today, and the Complaint nowhere
15 alleges the frame remained after Stop Three. The condition the R&R identified
16 as defeating preliminary relief was cured by Mr. Mackintosh himself long ago.

17 44. Second, he is actively completing registration, not refusing it. He
18 holds a DMV-issued temporary operating permit and has engaged the State
19 referee process. A recurring check-engine condition tied to the converter
20 prevents completing the smog inspection — a defect predating his ownership:
21 the vehicle passed smog when CarMax sold it. (Dkt. 1, ¶¶ 24, 60B, 87.) His
22 inability to finish reflects a defect he did not create — one the stops’ financial
23 takings have left him unable to cure outright — and one he is curing.

24 45. Third, the vehicle is his dwelling. (Dkt. 1, ¶¶ 3, 8.) A further
25 impoundment does not delay travel; it renders him homeless — a seizure of
26 his home implicating the Fourth Amendment, *Lavan v. City of Los Angeles*,
27 693 F.3d 1022 (9th Cir. 2012), and the classic irreparable injury. Denying the
28 TRO leaves that threat standing: the same Scheme that impounded his

dwelling once, remains free to do so again. The deprivation of constitutional rights constitutes irreparable injury. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Moreover, “it is always in the public interest to prevent the violation of a party’s constitutional rights.” *Id.* (quoting *Sammartano v. First Judicial District Court*, 303 F.3d 959, 974 (9th Cir. 2002)). His sworn Notice (§ 37 *supra*), submitted before the R&R issued and accepted the day after, bears directly on that continuing risk, and this Court can and should weigh it *de novo*. As for the legal ground to object. The R&R recommends dismissing DMV Director Gordon by resolving the merits at the *Ex parte* Young threshold. (Dkt. 18 at 13-14.) But the inquiry is “straightforward”: whether the complaint “alleges an ongoing violation of federal law and seeks relief properly characterized as prospective.” *Verizon Md. Inc. v. Pub. Serv. Comm’n*, 535 U.S. 635, 645 (2002) (quoted at Dkt. 18 at 13). The Complaint alleges federal law violations, and the continuing registration holds that keeps his dwelling administratively seized, threatening a further impoundment (Dkt. 1, § 118) — an ongoing deprivation — and seeks only prospective relief. Whether the claim ultimately succeeds is a merits question the threshold does not decide.

IX. OBJECTION 7: Plaintiff’s Witness And Party Status

46. To remove any doubt, Mr. Mackintosh’s protected activity is pled with record citations: filing and prosecuting this lawsuit; lawfully recording each police encounter and preserving video of the stops (Dkt. 1, §§ 35E, 59); petitioning government offices in California in writing beginning April 2024, including concerning the fine-and-fee mechanisms alleged in the Complaint and the homelessness crisis those mechanisms produce (Dkt. 14; Dkt. 1, §§ 16, 35D, 70, 77-98) — writings that, as alleged, reached Defendants’ offices and their chains of command (Dkt. 1, §§ 77-98) — a route that, in government practice, ordinarily runs through legal counsel, an inference that belongs to

1 Mr. Mackintosh at this stage. *Usher*, 828 F.2d at 561; and filing evidence in
2 federal court proceedings — activity the R&R itself recounts as making him
3 “a target for retaliation” (Dkt. 18 at 4), and activity protected by the First
4 Amendment to the United States Constitution. (Dkt. 1, ¶¶ 28-31, 35A, 35E.)

5 47. The Complaint alleges the response: citations multiplying into the
6 thousands of dollars against one vehicle to drain the resources he holds and
7 litigates with (Dkt. 1, ¶¶ 5, 33, 35, 35D, 60B, 71A, 77A, 78, 92, 96, 99, 111,
8 134, 152E, 152G), chilling his liberty (Id., ¶ 132), and, as alleged, interference
9 with his Gap, Inc. employment and lost work caused by the aggravated
10 injuries from Stop Four (Id., ¶¶ 75, 95-96). His participation in this federal
11 action implicates the First Amendment’s Petition Clause, protects his access
12 to courts for redress of grievances. *Borough of Duryea v. Guarnieri*, 564 U.S.
13 379, 387-88 (2011), and by § 1985(2)’s plain text; his potential-witness status
14 is protected by the predicate statutes themselves, which require no pending
15 proceeding. 18 U.S.C. §§ 1512(f)(1), 1513(e), 1515(a)(1)(A). The same
16 Scheme is described consistently across the record: the Complaint (¶¶ 5,
17 70-71, 95, 99-108), referral request (Dkt. 14, ¶¶ 6-7), Ex Parte application
18 with the lodged video (Dkt. 5, Ex. A), and the EDSS Notice (Dkt. 19).

19 48. Finally, the R&R analyzes none of the elements that carry Claims
20 One and Two: not the predicate acts (extortion, 18 U.S.C. § 1951, Cal. Penal
21 Code §§ 518, 524; mail and wire fraud, §§ 1341, 1343; obstruction, §§ 1503,
22 1510; witness tampering and retaliation, §§ 1512, 1513, 1519 (¶¶ 103-117));
23 not relatedness or continuity, though the Complaint pleads the same victim,
24 vehicle, and citation-hold-fee method applied through an overlapping and
25 shifting menu of CVCs, repeated and escalating from August 2024 through
26 July 2026, with antecedent conduct from 2017 (Dkt. 1, ¶¶ 36-71, 77-98)
27 and post-filing events continuing the pattern (Dkt. 19), *H.J. Inc.*, 492 U.S.
28 at 239-42; and not injury, though the Complaint pleads concrete losses to

1 business and property — approximately \$2,024 in impound-related payments
2 and lost income (Id., ¶¶ 71A, 77A), with losses accruing daily — cognizable
3 under § 1964(c), *Diaz*, 420 F.3d at 898-900. On de novo review, this Court
4 supplies the analysis the R&R did not perform. 28 U.S.C. § 636(b)(1); *Moore*,
5 907 F. Supp. 2d 915.

6 **X. OBJECTION 8 – The Predicate Acts Were Never Analyzed**

7 49. The R&R’s detention, arrest, and search analysis (Dkt. 18 at 17-
8 21) evaluates the stops under the Fourth Amendment only. No portion of the
9 R&R analyzes the same events as the pled RICO predicate acts identified in
10 Objection 2, ¶¶ 14-29 *supra*, and announced on the Complaint’s first page by
11 its title — “Racketeering, Public Corruption, and Civil Rights Complaint for
12 Damages and Equitable Relief” (Dkt. 1 at 1) — and no portion analyzes Claim
13 Two’s conspiracy allegations under *Salinas*. The recommendation carries no
14 presumptive weight, and the district judge retains total responsibility for the
15 final determination. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). Where
16 an R&R does not reach an element or theory, the proper course is for the
17 district court to supply the analysis de novo — not to adopt a dismissal that
18 never performed it. 28 U.S.C. § 636(b)(1); *Moore*, 907 F. Supp. 2d at 917

19 **XI. OBJECTION 9: The Gavin Newsom And Karen Bass Dismissals**

20 50. Mr. Mackintosh objects to the dismissal of all claims against
21 Governor Newsom and Mayor Bass. The R&R’s dismissal sections (Dkt. 18
22 at 11-12) apply no legal framework: they cite no authority, identify no
23 elements, and end in the conclusion “insufficient” — the analysis this Court
24 must therefore supply de novo. *Mathews*, 423 U.S. at 270-71; 28 U.S.C. §
25 636(b)(1); *Moore*, 907 F. Supp. 2d at 917. The Complaint pleads specific
26 conduct. Newsom’s office was made aware in April 2024 of the fine-and-fee
27 practices that push citizens into homelessness (Dkt. 1, ¶ 16); knew of Mr.
28 Mackintosh’s witness status and did not intervene (Id., ¶¶ 35D, 152C);

1 Newsom also signed legislation extending penalties while raising agency pay
2 — strengthening the machinery alleged (Id., ¶ 95); and, as alleged, ordered a
3 gasoline-price investigation during the period, while Mr. Mackintosh was
4 influenced to work from his car, after his mother's death, among other alleged
5 timed acts (Id., ¶ 35D). The written demands also reached Mayor Bass's
6 office. (Id., ¶¶ 18, 35.) And the pre-suit demand attached to the Complaint —
7 part of the pleading under Rule 10(c) — asserts that these officials
8 appropriated tens of billions of dollars to address the homelessness crisis
9 while knowingly causing it through the alleged Scheme. (Id., Ex. V at 91-92.)
10 Escalation followed notice; correction did not. (Id., ¶¶ 35E, 87.) Inferences
11 from notice, non-intervention, and facilitation belong to Mr. Mackintosh at
12 this stage. *Usher*, 828 F.2d at 561; *Starr*, 652 F.3d at 1216-17. For Claim Two,
13 a § 1962(d) conspirator need not commit or agree to commit predicate acts
14 personally; agreement to further the endeavor suffices. *Salinas*, 522 U.S. at
15 63-65. No portion of the R&R analyzes Newsom or Bass under *Salinas*. At
16 minimum, *Lopez* forbids dismissal with prejudice: the R&R makes no finding
17 that amendment — pleading their knowledge, direction, or agreement — is
18 impossible. *Lopez*, 203 F.3d at 1130-31.

19 **XII. A Respectful Clarification Of Prior Actions And IFP Status**

20 51. The R&R cites past cases as context. (Dkt. 18 at 4-6.) Mr.
21 Mackintosh will not speak on them, and he does not relitigate them. The
22 Complaint itself lays out the facts: he redirected his focus toward the
23 immediate threats of citations, holds, and impoundments — now including
24 impoundment of his dwelling itself, threatening his only shelter, which would
25 **force his income to zero a fourth time**, seize his liberty, and leave him on
26 the streets of Los Angeles, Skid Row or worse. (Dkt. 1 at 93; Dkt. 14 at 2.)

27 52. Mr. Mackintosh respectfully declines to elaborate, out of genuine
28 fear of further harm, both immediate and future. The harm is ongoing, and the

1 record shows it: his pled fears (Dkt. 1, ¶¶ 28-31) and the harms that have
2 followed his speech and investigations, including losing of his wife and loss
3 of his mother, home, job, as his sworn Notice describes. (Dkt. 19.) He stands
4 on that record, as pled and as filed. This case rises or falls on its own
5 allegations — the Scheme used against him after he mailed a pre-suit demand
6 directed at the Defendants to dismiss his citation and that they are defrauding
7 the federal government and taxpayers, taking tens of billions of dollars to
8 address the homelessness crisis while, as the demand states, knowingly
9 causing it. (Dkt. 1; Dkt. 1, Ex. V.) Those allegations are taken as true and
10 confined to the Complaint at screening. *Watison*, 668 F.3d at 1112; *Wilhelm*,
11 680 F.3d at 1121. One narrow point about the table’s use: a court may take
12 judicial notice of other court’s records to establish their existence and
13 outcomes, but “may not, on the basis of judicial notice, assume the truth of
14 matters asserted in those records.” *Lee v. City of Los Angeles*, 250 F.3d 668,
15 688-90 (9th Cir. 2001); Fed. R. Evid. 201.

16 53. The in forma pauperis is a right of access, not a demerit. Mr.
17 Mackintosh asks that his IFP status carry no adverse weight in the assessment
18 of his claims (Dkt. 18 at 2.) Should the Court prefer, he is willing to pay the
19 \$405 filing fee from his remaining savings that will drop to about \$1,052.

20 **XIII. Conclusion & Relief Requested**

21 54. As demonstrated above, the R&R’s RICO analysis is erroneous
22 and incomplete: it did not reach the elements or theories of RICO (¶¶ 14-29
23 *supra*), did not construe the Complaint in the light most favorable to
24 Mr. Mackintosh, *Wilhelm*, 680 F.3d at 1121; *Denton v. Hernandez*, 504 U.S.
25 25, 32-33 (1992), and never analyzed the predicate acts, the pattern, or the
26 conspiracy. *Mathews*, 423 U.S. at 270-71; 28 U.S.C. § 636(b)(1). That error
27 was not contained: the misjoinder dismissals rest on the absence of the RICO
28 connection that was never analyzed (¶ 33, *supra*), and the dismissals of Claim

1 Five, Fourteen, and claims against Newsom and Bass each dispose of conduct
2 pled as part of the same Scheme without reaching it. A recommendation built
3 on an unanalyzed foundation cannot support the dismissals stacked upon
4 it. See 28 U.S.C. § 636(b)(1); *Mathews*, 423 U.S. at 270-71. Thus,
5 Mr. Mackintosh respectfully asks that the Court: (1) preserve RICO Claims
6 One and Two — the foundation on which his civil rights claims and every
7 remaining claim stand; (2) adopt the Section III record clarifications;
8 (3) or order that any dismissal be without prejudice with leave to amend,
9 considering the EDSS Notice (Dkt. 19) de novo; (4) decline to adopt the
10 misjoinder dismissals, so all stops proceed (Dkt. 1, ¶¶ 36-71, 77-98, 111);
11 (5) decline to adopt, or make without prejudice, the denial of the TRO
12 applications; and (6) permit the claims recommended for service — excessive
13 force, battery, and Bane Act — to proceed together with all claims revived
14 above, after the analysis ¶ 29 *supra* supplies. Mr. Mackintosh also objects
15 to each remaining dismissal recommended with prejudice or without leave
16 (Dkt. 1, ¶¶ 59, 64, 68) — for the reasons stated throughout: R&R silence on
17 elements, no defendant has appeared, asserted defects are factual
18 insufficiency, *Lopez* requires leave unless amendment is impossible, a finding
19 the R&R makes for no claim (¶ 40 *supra*.) *Lopez*, 203 F.3d at 1130-31.

20 Mr. Mackintosh submits these objections respectfully and in good
21 faith. He asks for nothing the law does not already promise: that his
22 Complaint be taken as true and construed in the light most favorable to
23 him on de novo review. He asks this knowing he is not the only one the
24 alleged Scheme has affected (Dkt. 14). He asks the Court to analyze every
25 claim in the light the law requires. The record will answer.

26 Respectfully Submitted, August 27, 2026

27 _____
28 Adam J. Mackintosh (Pro Se)