UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SARAH EDMONDSON, et al., Plaintiffs, v. KEITH RANIERE, at al., Defendants.	20-CV-485-ERK-CLP

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT SARA BRONFMAN'S MOTION TO DISMISS THE FIRST AMENDED COMPLAINT

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> "One might be tempted to think that a complaint spanning more than 100 pages and consisting of more than 200 paragraphs could not fail to be specific. The temptation is dangerous and must be resisted."[1]

PRELIMINARY STATEMENT

The 74 remaining plaintiffs in this lawsuit claim that a wide-ranging and differently-situated set of 15 defendants violated a laundry list of federal and state laws by virtue of their alleged connections to NXIVM. Yet, upon a fair reading of the First Amended Complaint (the "FAC") — which represents plaintiffs' second bite at the apple — it is difficult to discern what claim any of these plaintiffs might have against Ms. Sara Bronfman. The FAC does not contain any factual allegations suggesting that Ms. Sara Bronfman was aware of any inappropriate conduct at NXIVM, participated in any such conduct, or subjected ***any*** plaintiff to any harm.

Rather, the FAC's sheer length (1,020 paragraphs spread over 217 pages) masks the absence of any substantive allegations of wrongdoing on the part of Ms. Sara Bronfman. Thus — with wanton disregard for the strictures of Rule 8 of the Federal Rules of Civil Procedure — the FAC frequently and indiscriminately sweeps all of the defendants together under the defective moniker "Defendants" and then asserts blanket allegations against the "Defendants." The Second Circuit consistently rejects this type of group pleading.

Equally troubling is the FAC's frequent "group pleading" of the plaintiffs. For example, the FAC purports to assert human trafficking claims "on behalf of all plaintiffs." This makes no sense. The majority of the plaintiffs in this lawsuit allege ***only*** that they enrolled in or paid for NXIVM curriculum and allegedly were damaged thereby. It is frivolous for the FAC to allege that each of the 74 plaintiffs has a colorable trafficking claim. Nor do the FAC's pleading deficiencies end there. For ***over 40*** of the individual plaintiffs, the sole information provided by the FAC is the

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1 *In re Novastar Fin., Inc. Sec. Litig.*, 2008 WL 2354367, at *2 (W.D. Mo. Jun. 4, 2008).

particular plaintiff's state or country of residence and the boilerplate statement that on some unspecified date, that plaintiff enrolled in some unspecified NXIVM course and that — as a result of "Defendants'" conduct — he or she was emotionally and financially harmed in some manner. Against this backdrop, it is hardly surprising that the FAC fails to plead the requisite elements for ***any*** of the seven causes of action it asserts against Ms. Sara Bronfman.

RICO Claims. The RICO claim fails because the FAC does not allege that Ms. Sara Bronfman, through the commission of two or more predicate acts, participated in the management or operation of a RICO enterprise (or was even aware of the existence of any such enterprise). The separate RICO conspiracy claim fails because there are no allegations that Ms. Sara Bronfman "agreed with at least one other person or entity to commit a substantive RICO offense."

Trafficking. The FAC purports to assert claims under the Trafficking Victims Protection Reauthorization Act (the "TVPRA"). These claims fail as against Ms. Sara Bronfman. To begin with, the TVPRA provides a cause of action only to "a victim of a violation of" the TVPRA, but the FAC does not plausibly allege that all 74 plaintiffs were trafficking victims. Moreover, the FAC fails to allege the elements necessary to state a claim under the TVPRA with respect to ***any*** of the 74 plaintiffs — *i.e.*, that Ms. Sara Bronfman (i) knowingly participated in a trafficking venture, (ii) knowingly benefited from any (non-existent) participation in such venture, or (iii) knew or should have known that any venture was engaged in a violation of the TVPRA.

Negligence Per Se. The FAC purports to assert a claim for negligence per se predicated on an alleged violation of N.Y. Education Law § 6512, which makes it a felony to engage in the unauthorized practice of psychology or mental health counseling, or to aid and abet in the foregoing. This count fails as against Ms. Sara Bronfman because a negligence per se claim may ***only*** be predicated upon a statute that — unlike Section 6512 — contains an express or implied private cause of action, and (separately) because Ms. Sara Bronfman is not alleged to have engaged in the unauthorized practice of psychology or counseling, or to have aided or abetted such practice.

Gross Negligence. The FAC asserts that Ms. Sara Bronfman acted with gross negligence by failing to supervise other defendants in their treatment of Jane Does 20-22. As an initial matter, absent a special relationship, an individual has no duty to supervise the conduct of another person so as to prevent such other person from harming others. No such special relationship is alleged in the FAC. Moreover, even if a special duty did exist (it did not), there are no factual allegations suggesting that Ms. Sara Bronfman breached that duty.

Aiding and Abetting. The FAC asserts a claim against several defendants for allegedly aiding and abetting another individual in his alleged conduct of unauthorized human research. This claim fails because the FAC does not allege any facts suggesting that Ms. Sara Bronfman had any knowledge of that research, and because the FAC fails to allege that she provided ***any*** assistance — much less the requisite "substantial assistance" — to such individual.

Abuse of Process. The FAC's claim for malicious abuse of process fails for several reasons. First, such a claim requires a defendant to have employed legal process, but the only conduct attributed by the FAC to Ms. Sara Bronfman is that she purportedly provided "financial support" for unspecified legal actions. That is insufficient as a matter of law. Moreover, even if the FAC had alleged that Ms. Sara Bronfman filed the lawsuits at issue, the mere filing of a lawsuit (even a frivolous one) is insufficient to state a claim; rather, abusive conduct ***after*** the filing of the complaint is required. No such conduct is alleged here on the part of Ms. Sara Bronfman.

For all of these reasons, and those detailed below, we respectfully submit that the FAC should be dismissed in its entirety with prejudice as against Ms. Sara Bronfman pursuant to Rules 8 and 12(b)(6) of the Federal Rules of Civil Procedure.

SUMMARY OF ALLEGATIONS

Although the FAC is replete with allegations regarding the alleged conduct of other individuals or the generic "Defendants," its allegations regarding Ms. Sara Bronfman are few — and, as detailed below, do not support any of the seven causes of action asserted against her. Under familiar Second Circuit law, the following allegations are assumed to be true ***solely*** for purposes of this motion to dismiss. The FAC alleges that Ms. Sara Bronfman "served on the NXIVM board," was a "member of the Executive Board of ESP," and held various titles at NXIVM, including "head" of Rainbow Cultural Garden, "Master of Humanities," "Director of Humanities," "Regional Vice President" of ESP, "Professional Coach," and "Head Trainer." FAC ¶¶ 62, 702, 720. The FAC alleges that Ms. Sara Bronfman contributed money toward various NXIVM initiatives or activities, co-founded the Ethical Cultural Foundation and defendant Ethical Science Foundation, founded ESP's "VIP Programs," and opened a Rainbow Cultural Garden in London. FAC ¶¶ 36-37; 62, 72, 701-02, 705-06, 715, 732, 938, 966. The FAC alleges that Ms. Sara Bronfman provided funding for the Dalai Lama to speak at a NXIVM event and was involved in promoting NXIVM and recruiting people to join NXIVM. FAC ¶¶ 62, 702. No plaintiff, however, alleges that she or he was recruited to NXIVM by Ms. Sara Bronfman. Finally, the FAC alleges that — more than a year after the initial indictments were filed in April 2018 against certain defendants — Ms. Sara Bronfman attempted (in the days prior to the May 2019 trial of Raniere) to convince Adrian to leave the United States for the duration of the trial. FAC ¶¶ 855, 885, 897. The FAC acknowledges that Adrian remained in the United States for the trial. FAC ¶ 855.

ARGUMENT

I. THE FAC FAILS TO COMPLY WITH THE REQUIREMENTS OF RULE 8

Federal Rule of Civil Procedure 8(a)(2) mandates that every civil complaint "must contain … a short and plain statement of the claim showing that the pleader is entitled to relief." Here, the

FAC does not provide a "short and plain statement" showing how or why any of the plaintiffs (much less all 74 of them) are entitled to relief from Ms. Sara Bronfman. Instead, the FAC routinely sweeps all of the defendants together under the term "Defendants" and then proceeds to make allegations against them that cannot possibly refer to Ms. Sara Bronfman.

To take just one example, the FAC broadly claims that "Defendants" committed negligence per se by "branding women's pubic regions with Raniere's initials." FAC ¶ 930. Yet, this allegation cannot possibly pertain to Ms. Sara Bronfman inasmuch as a full read of the FAC makes clear that she was not involved in (and was unaware of) this conduct, which is alleged to have occurred only within DOS. *See, e.g.*, FAC ¶¶ 34, 816-824. The FAC acknowledges, as it must, that only "First Line Masters" knew about DOS, and makes clear that Ms. Sara Bronfman was ***not*** a member of that group. *See* FAC ¶ 19. The FAC likewise makes clear that Ms. Sara Bronfman was not a member of the so-called "Inner Circle." FAC ¶ 277 n.9.[2]

The Second Circuit rejects precisely this type of group pleading. *See Atuahene v. City of Hartford*, 10 F. App'x 33, 34 (2d Cir. 2001) (summary order) ("By lumping all the defendants together in each claim and providing no factual basis to distinguish their conduct, [plaintiff's] complaint failed to satisfy [Rule 8's] minimum standard…."); *Bardwil Indus. Inc. v. Kennedy*, 2020 WL 2748248, at *3 (S.D.N.Y. May 27, 2020) (dismissing claim; "undifferentiated allegations, which lump defendants together without providing any factual basis for distinguishing among them" fail under Rule 8); *Nesbeth v. N.Y.C. Mgmt. LLC*, 2019 WL 110953, at *3 (S.D.N.Y. Jan. 4, 2019) (same).

[2] The FAC also makes "group" allegations regarding supposed conduct by the "Bronfmans," as if the two sisters acted as one unit simply because they are related, notwithstanding that they are, of course, two distinct individuals. *See*, *e.g.*, FAC ¶¶ 707, 708 (referring to alleged conduct by the "Bronfmans"); *id*. ¶¶ 705, 715 (referring to purported non-profit funding provided by "the sisters" or "the Bronfman sisters").

In addition to its impermissible group pleading of defendants, the FAC employs the same stratagem with plaintiffs. For example, the FAC asserts a putative cause of action for human trafficking under 18 U.S.C. § 1595. Notwithstanding that the majority of the 74 plaintiffs base their claims on nothing more than having enrolled in one or more NXIVM courses — and thus cannot state a colorable trafficking claim — the FAC purports to bring this cause of action "on behalf of all plaintiffs." *See generally* FAC, Count III (B)-(D) at 182; *id*. ¶¶ 889-906. Just as group pleading of defendants is impermissible, so too is group pleading of plaintiffs. *See Holmes v. Allstate Corp.*, 2012 WL 627238, at *25-26 (S.D.N.Y. Jan. 27, 2012) (granting motion to dismiss and noting that "[t]he most glaring defect, under both rules [8(a) and 9(b)], is Plaintiffs' pervasive 'group pleading,' both with respect to (a) the injuries sustained by 'plaintiffs' (referred to collectively) and (b) the alleged misconduct of 'defendants' (also referred to collectively)"); *Atsushi Mori v. Mamoru Saito*, 2012 WL 13042573, at *9, *14 (S.D.N.Y. Feb. 16, 2012) (complaint did not comply with Rule 8(a) because it "lumped together the allegations of the twenty-one Plaintiffs in this case, making it difficult to discern which Defendants are alleged to be responsible to which Plaintiffs….").

Further illustrating the FAC's multiple fatal defects is the example of John Doe 21. The FAC's only factual allegations regarding John Doe 21 are that he is allegedly a resident of Canada who at some unspecified point in time "enrolled in and paid for NXIVM curriculum." FAC ¶ 542. This is the ***only*** information the FAC provides regarding John Doe 21. Yet, on these limited facts, the FAC boldly declares that, as a result of "Defendants'" conduct, "John Doe 21 was emotionally and financially harmed." *Id*. ¶ 545. John Doe 21 is not an isolated example of a plaintiff who must be dismissed because no meaningful facts are alleged regarding his claims. There are ***over 40 plaintiffs*** in this lawsuit for whom the FAC likewise provides the same limited information (or non-information).[3] All of these plaintiffs must be dismissed. *See Franzone v. City of N.Y.*, 2015 WL 2139121, at *7 (E.D.N.Y. May 4, 2015) (dismissing complaint that failed to "explain[ ] the role, if any," one of the plaintiffs "played in relevant events.").

In sum, the FAC should be dismissed because it does not furnish notice to Ms. Sara Bronfman as to what she allegedly did wrong or why she is named in this lawsuit. *Demirovic v. Ortega*, 2016 WL 1142745, at *9 (E.D.N.Y. Sept. 15, 2016) (Pollak, M.J.) (dismissing claims under Rule 8(a) because "generalized claims lumping all plaintiffs together are insufficient to place each plaintiff on notice of the charges he must defend himself against").

II. THE MAJORITY OF THE FAC'S CLAIMS ARE BARRED BY THE APPLICABLE STATUTES OF LIMITATIONS

A motion to dismiss on statute of limitations grounds is treated as any other motion to dismiss: courts must determine whether the complaint is legally sufficient. *HV Assocs. v. PNC Bank, N.A.*, 2020 WL 5819559, at *4 (S.D.N.Y. Sept. 30, 2020). As such, when attempting to plead that a claim fits within the statute of limitations, a plaintiff must meet the plausibility standard required by the Supreme Court in *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) and *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). *Myers Indus., Inc. v. Schoeller Arca Sys., Inc.*, 171 F. Supp. 3d 107, 115 (S.D.N.Y. 2016) ("Rule 12(b)(6)'s plausibility standard applies equally to motions to dismiss based on a statute of limitations defense."); *Watkins v. First Student, Inc.*, 2018 WL 1135480, at *6 (S.D.N.Y. Feb. 28, 2018) (noting that both *Iqbal* and *Twombly* apply to motions to dismiss based on statutes of limitations). When a "[p]laintiff neither explains when the claims accrued … nor provides a date as to when they accrued" the "[p]laintiff has not carried his

[3] These plaintiffs are Jane Does 24-25, 29-32, 34-39, 42, 44-45, 47-48, 52-54, 56-57, 60, and 62-63; John Does 3-7, 9-15, 19-20, and 22; and Tabitha Chapman and Ashley Mclean. Adding to the FAC's inscrutability, certain plaintiffs in its caption, such as Jane Does 16, 58, and 61, and John Doe 8, are not even mentioned in the FAC. Similarly, Jane Doe 59 is listed as a plaintiff in Count III(A), but is not otherwise mentioned in the FAC. Others, including Audrey, Adrienne Stiles, Adrian, Kayla, and Amanda are listed in the "Parties" section of the FAC (¶¶ 140-47, 212-18, 371-75, 552-56, 562-69), but do not appear as named plaintiffs in the docket or caption of this action.

burden" and dismissal is required. *Dallas v. Vosburgh*, 2019 WL 4573743, at *3 (W.D.N.Y. Sept. 20, 2019).

The Malicious Abuse of Process Claim is Barred. The statute of limitations for malicious abuse of legal process is one year. *Donofrio v. City of N.Y.*, 2007 WL 9723328, at *4 (E.D.N.Y. July 24, 2007); *see also Pedraglio Loli v. Citibank, Inc.*, 1997 WL 778750, at *3 (S.D.N.Y. Dec. 18, 1997). Some courts state that such a claim expires one year from institution of process. *See, e.g.*, *Korova Milk Bar of White Plains, Inc. v. PRE Properties, LLC*, 2013 WL 417406, at *15 (S.D.N.Y. Feb. 4, 2013). Others measure the claim as accruing from the time the action serving as the basis for the claim is terminated in the plaintiff's favor. *See, e.g.*, *Kanciper v. Lato*, 989 F. Supp. 2d 216, 235-36 (E.D.N.Y. Nov. 7, 2013).

The Court need not resolve this conflict, as no claim for malicious abuse of process accrued under either theory. As a threshold matter, as detailed in Section IX below, the FAC fails to plead facts showing that ***any*** proceeding was instituted by Ms. Sara Bronfman, let alone resolved in plaintiffs' favor. Moreover, from a statute of limitations perspective, although the FAC alleges that the generic "Defendants" commenced "dozens of meritless and frivolous civil actions" and "instigated the initiation of criminal investigations and proceedings" (FAC ¶¶ 934, 936), the FAC is silent concerning any facts regarding those proceedings, including dates (or even general time frames) for when these "actions" and "proceedings" were commenced — all information that is presumably readily available on a case docket.[4] As such, the FAC asserts a malicious abuse of process claim without ***any*** facts to suggest that the claim is timely filed.

[4] Only one allegation provides ***any*** detail concerning when alleged litigations were instituted, but the limited information provided fails to save the claim. The FAC alleges that "[i]n 2003, Defendants launched a legal crusade against … Rick Ross and Ross Institute" and "[o]ver the next fourteen years," "the [d]efendants" brought "parallel proceedings in multiple courts." FAC ¶ 742. Putting aside that Rick Ross is not a plaintiff in this action, and even accepting these allegations as true, this allegation would be barred by the one year statute of limitations.

The FAC Fails to Plead Facts Showing The Remaining Claims Are Timely. Plaintiffs fail to plead facts sufficient to satisfy the plausibility standard for purposes of determining whether their remaining claims fall within the applicable statute of limitations period. Plaintiffs' allegations against Ms. Sara Bronfman include (i) negligence per se, a three-year statute of limitations, *Bryant v. Broad. Music Inc.*, 721 F. App'x 78, 80 (2d Cir. 2018) (summary order); (ii) aiding and abetting unauthorized human research, a three-year statute of limitations, N.Y.C.P.L.R. § 214(2);[5] (iii) gross negligence, a three-year statute of limitations, *Aaron Ferer & Sons, Ltd. v. Chase Manhattan Bank, Nat'l Ass'n*, 731 F.2d 112, 122 (2d Cir. 1984); and (iv) RICO, a four-year statute of limitations, *Koch v. Christie's Int'l PLC*, 699 F.3d 141, 148 (2d Cir. 2012). For these claims, the FAC lacks sufficient facts to identify when (and whether) ***each*** plaintiff suffered an injury in the requisite time frame.

To illustrate, plaintiffs' claims against Ms. Sara Bronfman for negligence per se — premised on the alleged unauthorized practice of counseling by other defendants — do not plead facts to plausibly suggest that the alleged conduct against ***all*** 74 plaintiffs occurred within the statute of limitations. A cause of action for negligence accrues when acts or omissions constituting negligence produce injury. *Bryant*, 721 F. App'x at 80. The FAC broadly alleges that, for two decades, the "Defendants" engaged in and concealed an "abusive psychotherapeutic system." FAC ¶ 930. Plaintiffs cannot, however, bring suit for injuries allegedly suffered over two decades

[5] The statute of limitations for an aiding and abetting claim is determined by the underlying claim. *Canosa v. Ziff*, 2019 WL 498865, at *12 (S.D.N.Y. Jan. 28, 2019). Here, the underlying claim, N.Y. Public Health Law §§ 2442 and 2443, does not contain an express statute of limitations. For claims brought under the N.Y. Public Health Law, courts have typically applied ***either*** a negligence statute of limitations (three years) or a medical malpractice statute of limitations (thirty months). *Compare Spiro v. Healthport Techs., LLC*, 73 F. Supp. 3d 259, 276 (S.D.N.Y. 2014) (three-year period), *with Maloney v. Meadowbrook Care Ctr., Inc.*, 2009 N.Y. Slip Op. 31176(U), at *4-6 (N.Y. Sup. Ct. May 15, 2009) (thirty-month period). Under either statute of limitations period, plaintiffs' claim is barred. Separately, we note that the TVPRA is subject to a ten-year limitations period. *See* 18 U.S.C. § 1595(c). Therefore any plaintiff whose interaction with NXIVM concluded prior to January 2010 perforce does not have a timely claim under the TVPRA.

when the statute of limitations is only three years. While construing the FAC liberally would suggest that ***some*** of the 74 plaintiffs ***might*** have received the alleged counseling within the applicable three year period prior to the January 2020 filing of this lawsuit, it is wholly implausible to suggest that all 74 plaintiffs received the counseling at issue within that three-year period.

To take another example, in support of its aiding and abetting unauthorized human research and gross negligence claims, the FAC alleges that unauthorized human research was conducted from 2010 to 2017. FAC ¶ 711. Based on the three-year statutes of limitations, however, any injury occurring before 2017 would not be actionable. For this reason, Jane Doe 21's claim is time barred. FAC ¶¶ 254-55 (alleging that Jane Doe 21 qualified to participate in a NXIVM treatment for Tourette's syndrome in late 2014). For the other plaintiffs, the FAC does not include ***any*** additional details beyond the foregoing seven-year timeframe. Thus, the plaintiffs have not met their burden of pleading facts to plausibly suggest that each of the plaintiffs timely filed their claim. Plaintiffs were on notice of this issue, but declined the opportunity to amend their complaint and fix these defects. Dismissal is required.

III. THE FAC FAILS TO PLEAD A RICO VIOLATION (COUNT I)

Plaintiffs fail to adequately allege a RICO claim as against Ms. Sara Bronfman. The RICO statute has a narrow purpose and is not designed as a catch-all "instrument against all unlawful acts." *Hecht v. Com. Clearing House, Inc.*, 897 F.2d 21, 25 (2d Cir. 1990). To state a claim for a violation of 18 U.S.C. § 1962(c), a plaintiff must plead "(1) that the defendant (2) through the commission of two or more acts (3) constituting a 'pattern' (4) of 'racketeering activity' (5) directly or indirectly invests in, or maintains an interest in, or participates in (6) an 'enterprise' (7) the activities of which affect interstate or foreign commerce." *Moss v. Morgan Stanley, Inc.*, 719 F.2d 5, 17 (2d Cir. 1983). A plaintiff must also allege injury to his or her "business or property by reason of a violation of section 1962." *Id.* Each of these elements "must be established as to each individual defendant." *DeFalco v. Bernas*, 244 F.3d 286, 305-06 (2d Cir. 2001).

RICO enumerates an exclusive list of predicate acts of racketeering. *See* 18 U.S.C. § 1961(1). A complaint alleging RICO must "specify, for each RICO defendant, the commission of two predicate acts." *Franzone*, 2015 WL 2139121, at *8. "[T]o comply with Rule 8, a complaint should offer specification as to the particular activities by any particular defendant" constituting a RICO predicate act. *Harris v. NYU Langone Med. Ctr.*, 2013 WL 3487032, at *7 (S.D.N.Y. July 9, 2013); *United States v. Persico*, 832 F.2d 705, 714 (2d Cir. 1987) (the focus of § 1962(c) "is on the individual patterns of racketeering engaged in by a defendant, rather than the collective activities of the members of the enterprise").

A. The FAC Fails to Adequately Plead a RICO Predicate Act by Ms. Sara Bronfman, Much Less a Pattern

Despite reciting a laundry list of potential predicate acts (*see* FAC ¶¶ 868 (i)-(ix)) that the "Individual Defendants" purportedly engaged in, the FAC does not adequately allege any conduct by Ms. Sara Bronfman that amounts to a RICO predicate act. The RICO claim should be dismissed against her for that reason alone. *See Hoatson v. N.Y. Archdiocese*, 2007 WL 431098, at *4 (S.D.N.Y. Feb. 8, 2007) (pleading racketeering activity "requires more than a recitation of the statute purportedly violated"); *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Young*, 1994 WL 88129, at *15 (S.D.N.Y. Mar. 15, 1994) (dismissing complaint that failed to "specify which defendant is alleged to have committed a particular predicate act").

Group pleading of RICO predicate acts does not suffice. *See Gross v. Waywell*, 628 F. Supp. 2d 475, 495 (S.D.N.Y. 2009) ("'group pleading' does not comply with the requirements of RICO"); *Hoatson*, 2007 WL 431098, at *3 (complaint must make a "minimal attempt to allege which predicate acts were performed by which Defendants."). The ***sole*** allegation that could

potentially be considered a predicate act by Ms. Sara Bronfman is a vague allegation of witness tampering. *See* FAC ¶ 855 (alleging that Ms. Sara Bronfman "and her husband, Basit Igtet, attempted to obstruct or interfere with the trial by employing false pretenses and promises of money to entice a critical witness, Adrian, to leave the United States and remain outside of it during Raniere's criminal trial"). This conclusory allegation offers no details as to where and when this supposed discussion took place, what the alleged "false pretenses" were, or what "promise of money" was made. *See Homeless Patrol v. Joseph Volpe Family*, 2010 WL 2899099, at *16 (S.D.N.Y. June 29, 2010) (dismissing a RICO claim based on one "wholly conclusory" allegation of witness tampering and noting that "even if it would qualify as a predicate act," the one alleged instance "is insufficient to show a pattern of racketeering."); *Winters v. Jones*, 2018 WL 326518, at *10 (D.N.J. Jan. 8, 2018) (one sentence in the complaint was "completely conclusory" and "devoid of the necessary factual allegations" to allege witness tampering as a predicate act). Moreover, even assuming *arguendo* that the FAC has successfully pled this ***single*** predicate act, a "pattern" of racketeering activity under RICO "requires a showing of at least two related predicate acts." *Aerowest GmbH v. Freitag*, 2016 WL 3636619, at *4 (E.D.N.Y. June 28, 2016). The FAC does not plead ***two*** predicate acts by Ms. Sara Bronfman. Accordingly, the RICO claim against Ms. Sara Bronfman should be dismissed.

B. Ms. Sara Bronfman Is Not Alleged To Have Operated or Managed the Alleged Enterprise

The RICO claim must also be dismissed on the independently-sufficient basis that the FAC fails to plead that Ms. Sara Bronfman "operated or managed" a RICO enterprise. "Section 1962(c) imposes liability only upon defendants who operate or manage RICO enterprises." *W. 79th St. Corp. v. Congregation Kahl Minchas Chinuch*, 2004 WL 2187069, at *13 (S.D.N.Y. Sept. 29, 2004) (citing *Reves v. Ernst & Young*, 507 U.S. 170, 179 (1993)); *see also Azrielli v. Cohen Law*

Offices, 21 F.3d 512, 521 (2d Cir. 1994). To plead operation or management of a RICO enterprise, a complaint must "contain factual allegations concerning any discretionary authority exercised by the [defendants] or any other control exerted over the enterprise." *First Cent. Sav. Bank v. Meridian Residential Cap.*, 2011 WL 838910, at *8 (E.D.N.Y. Mar. 4, 2011). "There is a meaningful difference between actual control over an enterprise and association with an enterprise in ways that do not involve control." *W. 79th St.*, 2004 WL 2187069, at *13; *see also Conte v. Newsday, Inc.*, 703 F. Supp. 2d 126, 135-36 (E.D.N.Y. 2010). The FAC does not contain any such factual allegations as to Ms. Sara Bronfman.

Further, a defendant must participate in "those affairs which relate to the alleged RICO violation." *In re Express Scripts/Anthem ERISA Litig.*, 285 F. Supp. 3d 655, 685 (S.D.N.Y. 2018); *see also New Falls Corp. v. Soni Holdings, LLC*, 2020 U.S. Dist. LEXIS 59868, at *9-11 (E.D.N.Y. Mar. 31, 2020) (finding no operation or management when "[t]he Amended Complaint expressly alleges that [other defendants], not [the moving defendant], directed the underlying transactions"). The FAC does not contain any factual allegations suggesting that Ms. Sara Bronfman exercised "discretionary authority" or "control" over "those affairs which relate to the alleged RICO violation." *See First Cent. Sav. Bank*, 2011 WL 838910, at *8. The FAC's allegations regarding titles held by Ms. Sara Bronfman (FAC ¶¶ 62, 89, 702, 705-06) at most show that (like a number of the plaintiffs in this lawsuit) Ms. Sara Bronfman had been associated or involved with NXIVM. However, "the test is not involvement but control." *W. 79th St.*, 2004 WL 2187069, at *13. And the FAC makes abundantly clear that other individuals, and not Ms. Sara Bronfman, directed and controlled the relevant portions of NXIVM. *See, e.g.*, FAC ¶¶ 55, 80, 113, 127-28, 145, 598, 672, 790, 823-24, 829, 850, 883, 966. In sum, the FAC is devoid of allegations suggesting that Ms.

Sara Bronfman "operated" or "managed" — or was even aware of — the purported criminal enterprise. The RICO claim against her fails for this reason, too.

C. Plaintiffs Have No RICO Standing

In addition to the FAC's failure to plead the elements of a RICO claim, plaintiffs also lack standing to bring such a claim. To bring suit under RICO, each plaintiff must allege injury to his or her "business or property" caused "by reason of the substantive RICO violation." *Sykes v. Mel S. Harris & Assocs. LLC*, 780 F.3d 70, 91 (2d Cir. 2015).

Injury to Business or Property is Not Pled. Many of plaintiffs' alleged harms are not RICO injuries; in fact, they are precisely the type of physical, emotional, personal injuries that courts routinely reject in the RICO context.[6] "RICO provides recovery for injury to business and property; it does not provide recovery for physical and emotional injuries." *Williams v. Dow Chem. Co.*, 255 F. Supp. 2d 219, 225 (S.D.N.Y. 2003); *see also Geiss v. Weinstein Co. Holdings LLC*, 383 F. Supp. 3d 156, 170 (S.D.N.Y. 2019) (same); *Siddique v. Anwar,* 2017 WL 8776968, at *3 (E.D.N.Y. Dec. 8, 2017) (same). RICO likewise does not provide redress for the "economic consequences of personal injuries." *Navin v. Wells Fargo Bank, N.A.*, 199 F. Supp. 3d 646, 657 (D. Conn. 2016); *Zimmerman v. Poly Prep Country Day Sch.*, 888 F. Supp. 2d 317, 329-30 (E.D.N.Y. 2012). Further, several plaintiffs allege that they lost out on educational and other future opportunities. *See* FAC ¶¶ 88, 107, 255. These types of losses are too speculative to be redressed under RICO. *See DLJ Mortg. Cap., Inc. v. Kontogiannis*, 726 F. Supp. 2d 225, 236 (E.D.N.Y. 2010) (a "cause of action does not accrue under RICO until the amount of damages becomes clear

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[6] *See, e.g.*, FAC ¶ 10 ("moderate-to-severe psychological and emotional injuries, including post-traumatic stress disorder and complex post-traumatic stress disorder"); ¶ 51 ("emotional and psychological injuries"); ¶ 108 ("panic attacks, psychological breakdowns, and major setbacks in" therapy); ¶¶ 118, 128, 145 ("tremendous fear and intimidation"); ¶ 216 ("psychological abuse"); ¶ 238 ("unable to sleep"); ¶ 224 ("fearful"); ¶¶ 245-46 ("severe physical and psychological problems" and a "serious psychiatric crisis"); ¶ 262 ("nightmares and panic attacks"); ¶ 270 ("severely traumatized"); ¶ 288 ("serious emotional trauma"); ¶¶ 105, 116, 126, 137, 153, 162, 170, 186, 193, 199, 490, 567 ("shame and humiliation").

and definite."). Courts in this Circuit have held that a "loss of career" is too "speculative and indefinite" to state a claim under RICO, and the "loss of Plaintiff's reputation and resulting inability to gain future employment are personal injuries [that] are not compensable under RICO." *Mackin v. Auberger*, 59 F. Supp. 3d 528, 558 (W.D.N.Y. 2014).

Causation is Not Pled. The FAC also fails to allege that plaintiffs' purported injuries were caused by any conduct of Ms. Sara Bronfman that amounted to a RICO violation. RICO requires that each plaintiff allege injury "in his business or property ***by the conduct constituting the violation.***" *Geiss*, 383 F. Supp. 3d at 170 (emphasis in original); *see also S. Ill. Laborers' & Emp'rs Health & Welfare Fund v. Pfizer Inc.*, 2009 WL 3151807, at *6-7 (S.D.N.Y. Sept. 30, 2009) (same). The injuries plaintiffs may have suffered were not caused by any RICO violation committed ***by Ms. Sara Bronfman***. According to the FAC, plaintiffs' alleged injuries stem from the alleged assaults and actions of others, not from Ms. Sara Bronfman's conduct. Furthermore, the FAC makes the repeated, boilerplate allegation that, as "a result of Defendants' scheme, criminal acts, and misrepresentations and omissions," they were each "emotionally and financially harmed." *See, e.g.*, FAC ¶¶ 109, 119, 129, 138, 146, 154, 163, 171, 179, 187, 194, 200, 205. "[C]onclusory allegations" that RICO violations "were the proximate cause" of injuries "need not be accepted as true for the purposes of ruling on a motion to dismiss." *In re Am. Express Co. S'holder Litig.*, 39 F.3d 395, 400 n.3 (2d Cir. 1994); *Beter v. Murdoch,* 2018 WL 3323162, at *5-6 (S.D.N.Y. June 22, 2018) (same); *Canosa*, 2019 WL 498865, at *26.

IV. THE RICO CONSPIRACY CLAIM FAILS (COUNT II)

The FAC asserts a claim for conspiracy to violate RICO under 18 U.S.C. § 1962(d), which makes it "unlawful for any person to conspire to violate any of" Section 1962's other provisions. Because the FAC does not plead a substantive RICO violation, its conspiracy claim must fail. *See First Cap. Asset Mgmt., Inc. v. Satinwood, Inc.*, 385 F.3d 159, 182 (2d Cir. 2004) (upholding dismissal of RICO conspiracy claim where "Plaintiffs did not adequately allege a substantive violation of RICO"); *New York v. United Parcel Serv., Inc.*, 2016 WL 4203547, at *4 (S.D.N.Y. Aug. 9, 2016) ("[A]ny claim under § 1962(d) based on conspiracy to violate the other subsections of section 1962 necessarily must fail if the substantive claims are themselves deficient.").

Plaintiffs' RICO conspiracy claim against Ms. Sara Bronfman also fails because the FAC does not factually allege that she "agreed with at least one other entity to commit a substantive RICO offense." *Crawford v. Franklin Credit Mgmt. Corp.*, 758 F.3d 473, 487 (2d Cir. 2014). Where, as here, plaintiffs allege "no facts to show specifically that Defendants had any 'meeting of the minds' with respect to the alleged violations," a RICO conspiracy claim fails. *Wood v. GMC*, 2015 WL 1396437, at *10 (E.D.N.Y. Mar. 25, 2015). Plaintiffs are required to demonstrate that "each defendant knew about and agreed to facilitate a pattern of racketeering activity," by alleging (i) an agreement to join the conspiracy; (ii) the acts of each co-conspirator in furtherance of the conspiracy; and (iii) that each co-conspirator knowingly participated in the conspiracy. *Abbott Labs. v. Adelphia Supply USA*, 2017 WL 57802, at *9 (E.D.N.Y. Jan. 4, 2017); *Allen v. New World Coffee, Inc.*, 2001 WL 293683, at *9 (S.D.N.Y. Mar. 26, 2001) (dismissing RICO conspiracy claims where plaintiffs' allegations were "devoid of factual assertions concerning the nature of the agreement"). Because the "core of a RICO civil conspiracy is an agreement to commit predicate acts, a RICO civil conspiracy complaint, at the very least, must allege specifically such an agreement." *Hecht*, 897 F.2d at 25; *see also Metro-Gem Leasing & Funding Corp. v. Dancy*, 2017 WL 3491966, at *10 (E.D.N.Y. June 19, 2017) (dismissing RICO conspiracy claim because the complaint was "devoid of any factual allegations from which it may reasonably be inferred that [one set of] defendants agreed to join or participate in the alleged RICO enterprise with knowledge that predicate acts would be committed by the [other defendants] or any other alleged member of that enterprise"); *Heffernan v. HSBC Bank USA*, 2001 WL 803719, at *8 (E.D.N.Y. Mar. 26, 2001).

The FAC does not allege that Ms. Sara Bronfman had any "meeting of the minds" with anyone to commit a RICO violation. Rather, the FAC is rife with empty, conclusory allegations regarding a purported agreement, not specific to Ms. Sara Bronfman. *See, e.g.*, FAC ¶ 55 (alleging that Raniere "directed each Defendant herein to engage in, ***conspire*** to engage in or attempt to engage in unlawful acts") (emphasis added); ¶ 860 ("The Individual Defendants ***conspired*** to operate and operated a racketeering Enterprise") (emphasis added); ¶¶ 877, 895, 899 (same). Merely repeating the buzzword "conspiracy" is insufficient. *See Mathon v. Marine Midland Bank, N.A.*, 875 F. Supp. 986, 1001 (E.D.N.Y. 1995) (complaint's use of phrases such as "conspiratorial acts" and "conspiratorial pattern" insufficient to plead a RICO conspiracy); *Limtung v. Thomas*, 2021 WL 4443710, at *8-9 (E.D.N.Y. Sept. 28, 2021) (same).

V. THE TVPRA CLAIMS FAIL (COUNT III)

In Count III, the FAC asserts trafficking claims against all defendants under the TVPRA. No facts are alleged that could conceivably sustain a trafficking claim against Ms. Sara Bronfman.

A. Plaintiffs Have No Claim Under the 2003 TVPRA

As a threshold matter, plaintiffs fail to sufficiently identify when the alleged TVPRA violations allegedly took place. Timing matters because there are two operative amendments — the 2003 and 2008 amendments — that directly impact a plaintiff's right to pursue civil remedies under the TVPRA. The 2003 version provided that trafficking claims could be brought ***only against the perpetrator***. *See* Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, § 4(a)(4)(A), 117 Stat. 2875, 2878 (2003). In contrast, the 2008 version expanded liability to permit civil actions against those who knowingly benefit from a violation of the TVPRA. 18 U.S.C. § 1595(a). Thus, plaintiffs have no cognizable legal theory against Ms. Sara

Bronfman (who is not alleged to be a "perpetrator") if the claim arose prior to the 2008 Amendment. *See Velez v. Sanchez*, 693 F.3d 308, 325 (2d Cir. 2012) ("Nothing in the language of the TVPRA or its legislative history indicates that Congress intended retroactive application."). For the vast majority of the plaintiffs, the FAC fails to provide any timeframe for when the alleged trafficking occurred.

B. <u>The FAC Fails To Plead A Sex Trafficking Claim</u>

Section 1591 of the TVPRA provides two theories of liability for sex trafficking: perpetrator liability and beneficiary liability. Neither theory is adequately alleged.

Perpetrator Liability is Not Alleged. To state a claim under Section 1591(a)(1) for perpetrator liability, a plaintiff must plead that the defendant knowingly and in interstate or foreign commerce: (1) recruited, enticed, harbored, transported, provided, obtained, or maintained by any means a person, (2) knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, or coercion or any combination of such means would be used (3) to cause the person to engage in a commercial sex act. 18 U.S.C. § 1591(a)(1); *Noble v. Weinstein*, 335 F. Supp. 3d 504, 515 (S.D.N.Y. 2018). The FAC contains no facts suggesting that Ms. Sara Bronfman knowingly recruited or caused any person to engage in a commercial (or any other) sex act.[7]

Beneficiary Liability Is Not Alleged. To state a claim for beneficiary liability under Section 1591(a)(2), a plaintiff must plead that the defendant (i) knowingly benefitted (ii) from participation in a commercial sex trafficking venture (iii) when he knew or should have known (or was in reckless disregard of the fact) that means of force, fraud, or coercion would be used to cause

[7] The allegations in the FAC concerning the alleged recruitment of sexual partners make no mention of Ms. Sara Bronfman. For example, the FAC alleges that "First Line Masters were tasked with selecting attractive, trustworthy women who could become sexual partners for Raniere." FAC ¶ 20. The FAC makes clear that Ms. Sara Bronfman was not a "First Line Master" (or, indeed, even aware of the term, concept, or alleged activities of those individuals). *See* FAC ¶ 793.

the trafficked person to engage in a commercial sex act. *S.J. v. Choice Hotels Int'l, Inc.*, 473 F. Supp. 3d 147, 152-54 (E.D.N.Y. 2020). The FAC does not allege ***any*** of these elements, much less each of them. First, and most fundamentally, the FAC contains no allegations remotely suggesting that Ms. Sara Bronfman had any knowledge of any person engaging in sex trafficking. Plaintiffs are required to allege facts showing that Ms. Sara Bronfman knew, should have known, or acted in reckless disregard of any coercion allegedly being used to cause any plaintiff to engage in commercial sex acts. *Lawson v. Rubin*, 2018 WL 2012869, at *12 (E.D.N.Y. Apr. 29, 2018); *Canosa*, 2019 WL 498865, at *25 (dismissing TVPRA claim where complaint pled only conclusory allegations regarding defendant's knowledge of sex trafficking). Where, as here, the allegations are against multiple defendants, plaintiffs are required to plead the requisite scienter for ***each*** defendant. *S.J.*, 473 F. Supp. 3d at 154.

Second, the FAC does not allege facts suggesting that Ms. Sara Bronfman knowingly benefited in any way from any alleged participation in an alleged sex trafficking venture. To adequately allege "knowing benefit," a complaint must plead that the alleged trafficker provided "benefits to [the defendant] because of the [defendant's] facilitation of [the trafficker's] sexual misconduct." *Geiss*, 383 F. Supp. 3d at 169-70. Here, the FAC simply declares in conclusory fashion that "for Defendants Clare Bronfman and Sara Bronfman, the benefits they received, including perceived future benefits, warranted an investment of a reported $150 million." FAC ¶ 49. The FAC never details or elaborates on what these current or "perceived future benefits" entailed. To the contrary, the FAC alleges only that Ms. Sara Bronfman ***expended*** money. *Id.*

Third, the FAC fails to factually allege that Ms. Sara Bronfman "participated" in any sex trafficking venture. Participation requires "assisting, supporting, or facilitating" sex trafficking. *Geiss*, 383 F. Supp. 3d at 168 n.4 (citing 18 § U.S.C. 1591(e)(4)). In addition, the participation must be participation in a sex-trafficking venture, not participation in other activities engaged in by the sex traffickers that do not further the sex-trafficking aspect of their venture. *Id.* at 168-70. No such participation is alleged. In sum, the sex-trafficking claims should be dismissed as against Ms. Sara Bronfman because the FAC fails to plead each (or any) of the elements of that claim.

C. The FAC Fails to Plead A Forced Labor Claim

Section 1589 of the TVPRA provides two theories of liability for forced labor: perpetrator liability and beneficiary liability. Neither theory is adequately alleged against Ms. Sara Bronfman.

Perpetrator Liability is Not Alleged. To state a forced labor claim premised on perpetrator liability, a plaintiff must allege that the defendant knowingly obtained the labor or services of a person: (1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person; (2) by means of serious harm or threats of serious harm to that person or another person; (3) by means of abuse or threatened abuse of law or legal process; or (4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint. 18 U.S.C. § 1589(a); *see also Anora v. Oasis Prof'l Mgmt. Grp.*, 2021 U.S. Dist. LEXIS 54147, at *11-12 (S.D.N.Y. Mar. 19, 2021); *Mallela v. Cogent Infotech Corp.*, 2020 WL 2541860, at *4 (W.D. Pa. May 19, 2020). The FAC contains no allegations that Ms. Sara Bronfman knowingly obtained the labor or services of any person at any time or by any means, let alone by means of force or by threats of force, physical restraint, or any other harm. *See Jabagat v. Lombardi*, 2015 WL 11004900, at *3 (S.D. Miss. Jan. 30, 2015) (dismissing forced labor claim against certain defendants where allegations were "directed at conduct by other Defendants," and not the defendants in question).

Beneficiary Liability Is Not Alleged. To state a forced labor claim under 18 U.S.C. § 1589(b) premised on beneficiary liability, a plaintiff must allege that the defendant (1) knowingly benefited, financially or by receiving something of value (2) from participation in a venture which has engaged in the providing or obtaining of labor or services by any of the means described in 18 U.S.C. § 1589(a), discussed above, whilst (3) knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any such means. 18 U.S.C. § 1589(b); *see also Anora*, 2021 U.S. Dist. LEXIS 164972, at *4-5. As detailed above, the FAC fails to allege facts showing that Ms. Sara Bronfman knew about or recklessly disregarded the existence of any venture engaged in obtaining labor or services through prohibited means. Moreover, the FAC does not allege that Ms. Sara Bronfman knowingly received any "benefit" from any non-existent "participation" in any venture that engaged in forced labor. The FAC alleges that, through Rainbow Cultural Garden ("RCG") — which the FAC claims, without elaboration, was "headed" by Ms. Sara Bronfman (FAC ¶ 62) — the "Bronfmans obtained ***for NXIVM*** very low-cost labor with no taxes, because the payments went on the books as scholarships." FAC ¶ 707 (emphasis added). However, this merely alleges that NXIVM received a benefit (*i.e.*, low-cost or tax free labor). The FAC fails to allege how this inured to the benefit of Ms. Sara Bronfman. Moreover, even if the allegations regarding RCG were true, the FAC is devoid of any allegations suggesting that anyone even hinted to Ms. Sara Bronfman that any individual was working at RCG under the threat of force, or under any other condition prohibited by 18 U.S.C. § 1589. In sum, the forced labor beneficiary-liability claim fails for three independent reasons: there are no factual allegations that Ms. Sara Bronfman was (i) aware of, (ii) participated in, or (iii) benefited from any forced labor venture.

D. The FAC Fails to Plead Peonage

The FAC asserts a claim for peonage against all defendants under 18 U.S.C. § 1581 on behalf of "all plaintiffs." FAC ¶¶ 901-06. Peonage is a status or condition of compulsory service based upon the indebtedness of the peon to the master. *Stein v. World-Wide Plumbing Supply Inc.*, 71 F. Supp. 3d 320, 327-28 (E.D.N.Y. 2014). Section 1581 prohibits holding or returning any person to a condition of peonage, or arresting any person with the intent of placing him in or returning him to a condition of peonage. 18 U.S.C. § 1581(a). To state a claim for peonage, a complaint must allege that (1) the plaintiff was indebted to the defendant, (2) the plaintiff was not free to work anywhere else in order to pay off the debt, and (3) the defendant held the plaintiff against his or her will and coerced the plaintiff to work in order to satisfy the debt by physical restraint or force, legal coercion, or threats of legal coercion or physical force. *See Mohammed v. Sidecar Techs., Inc.*, 2016 WL 6647946, at *4 (N.D. Ill. Nov. 10, 2016). Here, the FAC fails to plead the "indispensable element of peonage ... indebtedness." *Smith v. Critelli's Auto Mart, LLC*, 2015 WL 13792265, at *4 (M.D. Fl. May 5, 2015) ("[A] complaint that fails to indicate that a plaintiff's servitude was based upon indebtedness to a master fails to state a claim under 18 U.S.C. § 1581."). The FAC does not allege that ***any*** plaintiff was indebted to Ms. Sara Bronfman.

E. <u>The FAC Fails to Plead Human Trafficking</u>

The FAC purports to assert a claim for human trafficking against all defendants under 18 U.S.C. § 1590 on behalf of "all plaintiffs." FAC ¶¶ 894-900. To state a cause of action for human trafficking, a plaintiff must factually allege that the defendant knowingly recruited, harbored, transported, provided, or obtained by any means, any person for labor or services in violation of the TVPRA. 18 U.S.C. § 1590(a). Section 1590(a) claims are derivative — *i.e.*, they "depend[] on a predicate TVPRA offense:" forced labor, peonage, slavery, or involuntary servitude. *See Mallela*, 2020 WL 2541860, at *3. Here, the FAC does not allege TVPRA claims premised on slavery or involuntary servitude, and its claims of forced labor and peonage are, as detailed above, insufficiently plead as against Ms. Sara Bronfman.

Even putting aside this fatal defect, a claim for human trafficking is not sufficiently pled where, as here, plaintiffs allege in a conclusory fashion that the defendants "fraudulently induced [the plaintiffs] to immigrate to the United States." *Shuvalova v. Cunningham*, 2010 WL 5387770, at *4 (N.D. Cal. Dec. 22, 2010); *see e.g.*, FAC ¶ 718 ("Most of the MDS were simply foreign recruits, brought to the United States under false pretenses."). While the FAC contains a section entitled "Defendants' Exploitation of Foreign Nationals," none of the allegations contained in that section (which does not even mention Ms. Sara Bronfman) allege that Ms. Sara Bronfman induced any of the plaintiffs to secure their labor or services in a manner that violates the TVPRA. *See* FAC ¶¶ 722-30. Accordingly, the FAC has not "stated a distinct claim for [human] trafficking." *Shuvalova*, 2010 WL 5387770, at *4.

F. The FAC Fails to Plead a TVPRA Conspiracy Claim

To plead a claim for conspiracy under the TVPRA (FAC ¶ 879), a complaint must allege an agreement to violate the prohibitions on sex trafficking, forced labor, human trafficking, or peonage. *Stein*, 71 F. Supp. 3d at 330. In particular, a plaintiff must allege facts that "plausibly show that [the defendant] and other alleged coconspirators entered into a joint enterprise with consciousness of its general nature and extent." *Id.* As detailed above, the FAC fails to allege any facts suggesting that Ms. Sara Bronfman had any knowledge of any schemes to engage in sex trafficking, forced labor, human trafficking, or peonage. The FAC likewise fails to allege that Ms. Sara Bronfman agreed to enter into any joint enterprise to engage in trafficking or other violations of the TVPRA. Rather, the FAC merely states in the most vague fashion (without mentioning Ms. Sara Bronfman) that "[e]ach Defendant joined the conspiracy" and each "agree[ed] that at least one co-conspirator would engage in at least one overt act." FAC ¶¶ 881, 890, and 895.

G. Plaintiffs Lack Standing to Assert Claims Under 18 U.S.C. §§ 1590(b) & 1591(d)

Plaintiffs do not have standing to assert a claim for obstruction under 18 U.S.C. §§ 1590(b) or 1591(d). These sections prohibit obstructing, attempting to obstruct, or interfering with enforcement of human trafficking and sex trafficking laws. The FAC alleges that Ms. Sara Bronfman attempted to obstruct the enforcement of trafficking by using alleged promises of money to entice Adrian to leave and remain outside of the United States shortly before the trial in *United States v. Raniere*. FAC ¶¶ 855, 885, 897. However, the TVPRA grants "an individual who is a victim" of a violation of the TVPRA the right to bring a civil action ***only*** against the perpetrator or a beneficiary, not an alleged obstructor. 18 U.S.C. § 1595(a).[8] Moreover, even assuming *arguendo* that the TVPRA grants a private right of action, plaintiffs lack the requisite standing. *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2205 (2021). To show standing, a plaintiff must show that (1) he or she suffered an injury in fact that is concrete, particularized, and actual or imminent, (2) the injury was likely caused by the defendant, and (3) the injury would likely be redressed by judicial relief. *Id*. at 2203. To show injury in fact, a plaintiff must show that she suffered some form of tangible harm (*e.g.*, physical harm or monetary harm) and/or intangible harm (*e.g.*, reputational harm or disclosure of private information). *Id.* at 2204. Here, the FAC pleads that Adrian "refused to comply" with the alleged attempt at obstruction (FAC ¶ 855), and thus plaintiffs were not harmed in any way. Moreover, plaintiffs cannot show that Adrian's alleged unavailability at the *Raniere* trial caused them to suffer any harm. After all, Raniere (the only defendant to stand trial) was found guilty of all charges, including sex trafficking and RICO conspiracy. FAC ¶¶ 856-57.

* * *

Because the federal claims (RICO and TVPRA) must be dismissed as against Ms. Sara Bronfman, and given the lack of any allegation of diversity jurisdiction, the FAC's state law claims must be dismissed as well. *Robertson v. Metlife Sec., Inc.*, 779 F. App'x 783, 786 (2d Cir. 2019)

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8 Outside the TVPRA context, obstruction of justice is a criminal charge for which no private cause of action exists. *See Daniels v. Am. Airlines*, 2020 WL 9816000, at *25 (E.D.N.Y. Sept. 4, 2020).

(summary order) (affirming refusal to consider state law claims because once "federal claims are dismissed before trial ... the state law claims should be dismissed as well"); *Erie Grp. LLC v. Guayaba Cap., LLC*, 110 F. Supp. 3d 501, 511 & n.68 (S.D.N.Y. 2015) ("it is axiomatic that a court should decline to exercise jurisdiction over state-law claims when it dismisses the federal claims prior to trial").

VI. THE NEGLIGENCE PER SE CLAIM FAILS (COUNT IV)

A claim for negligence requires a plaintiff to allege that (1) the defendant owed the plaintiff a duty of care, (2) the defendant breached that duty, and (3) the plaintiff's injury was substantially caused by that breach. *Cretcher v. U.S. Bank N.A.*, 2021 WL 1062057, at *3 (E.D.N.Y. Mar. 19, 2021). To state a claim for negligence per se, a plaintiff must allege a "violation of a State statute that imposes a specific duty." *Id*. at *3. For a state statute to impose a duty of care, a private cause of action must exist under that statute. *Id*. at *3-4; *see also Dubai Islamic Bank v. Citibank, N.A.*, 126 F. Supp. 2d 659, 668 (S.D.N.Y. 2000) ("The issue of whether a plaintiff can assert a cause of action based on negligence per se is closely related to the question of whether a private cause of action exists under a statute.").

Here, the claim for negligence per se fails because Section 6512 does not impose a private right of action expressly or by implication. Section 6512, a class E felony, prohibits an unauthorized person from practicing in a profession that requires a license and penalizes anyone who aids or abets such unlicensed practice. N.Y. Educ. Law § 6512(1). Under New York law, a person must have a license before engaging in the practices of psychology, psychoanalysis, or mental health counseling. N.Y. Educ. Law §§ 7601, 8405(2), 8402(2). Individuals engaged in these practices without a license are subject to criminal enforcement by the New York State Attorney General (the "AG") and civil penalties, which may be sought by the New York State Department of Education (the "DOE"). N.Y. Educ. Law § 6516.

"Rarely is there a private right of action under a criminal statute." *Dubai Islamic Bank*, 126 F. Supp. 2d at 668; *see also Schwartz v. F.S. & O. Assocs., Inc.*, 1991 WL 208056, at *2 (S.D.N.Y. Sept. 27, 1991) (same). The plain reading of the statutory scheme makes clear that there is no private right of action under Section 6512. Only the DOE and AG have jurisdiction over Section 6512 violations. N.Y. Educ. Law § 6516. The lack of an ***express*** private right of action in the statutory scheme "weighs heavily against implying a private right of action necessary to sustain a negligence per se claim." *Cohen v. Ne. Radiology, P.C.*, 2021 WL 293123, at *7, *8 (S.D.N.Y. Jan. 28, 2021). To determine whether an ***implied*** private right of action may exist, courts evaluate, *inter alia*, (i) whether the legislature intended to create a private right of action, (ii) whether an implied private right of action would be consistent with the purposes of the underlying statutory scheme, and (iii) whether the plaintiff is a member of a class for whose special benefit the statute was enacted. *Dubai Islamic Bank*, 126 F. Supp. 2d at 668. Statutes that do not provide a benefit to a class of persons more limited than the public at large weigh against an implied private right of action. *Id*. *See also Cretcher*, 2021 WL 1062057, at *3-4.

The legislative history of Section 6512 does not suggest that the legislature intended for a private right of action to exist. In 2003, Section 6512 was amended to expand its jurisdiction to include the DOE, yet the legislature expressly chose to provide ***only*** the DOE, and not private citizens, with civil enforcement powers. *See* Memorandum in Support of Bill S4960A, Bill Jacket, ch. 615, L. 2003, at 3 ("A new section 6516 is added to the education law providing the State Education Department with authority to issue cease and desist orders and seek civil restitution from those individuals engaged in illegal practice in order to protect the public."). Because Section 6512 contains no private right of action, the negligence per se claim must be dismissed.

Even assuming *arguendo* that there is an implied private right of action under Section 6512, the FAC sets forth no facts showing that Ms. Sara Bronfman violated Section 6512 or that her conduct was the proximate cause of the plaintiffs' alleged injury. In Count IV, the FAC describes the alleged misconduct of "Defendants." Yet, it offers no facts at all suggesting that Ms. Sara Bronfman engaged in the unauthorized practice of psychology, psychoanalysis, and/or mental health counseling or how she purportedly aided and abetted another defendant in such unauthorized practice. It likewise offers no facts suggesting that any such unspecified conduct caused or substantially contributed to alleged injuries of any of the plaintiffs.

VII. THE GROSS NEGLIGENCE AND RECKLESSNESS CLAIM FAILS (COUNT X)

In Count X, the FAC asserts a claim for gross negligence and recklessness on behalf of three plaintiffs; Jane Does 20, 21 and 22. FAC ¶¶ 965-71. To state a claim for gross negligence under New York law, a plaintiff must plead the elements of negligence as well as conduct that "evinces a reckless disregard for the rights of others or 'smacks' of intentional wrongdoing." *Schwartzco Enters. LLC v. TMH Mgmt., LLC*, 60 F. Supp. 3d 331, 355-56 (E.D.N.Y. 2014). Gross negligence, unlike ordinary negligence, requires the alleged act or omission to be of an "aggravated character, as distinguished from the failure to exercise ordinary care." *Cromer Fin. Ltd. v. Berger*, 137 F. Supp. 2d 452, 495 (S.D.N.Y. Apr. 17, 2001) (quoting *Curley v. AMR Corp.*, 153 F.3d 5, 13 (2d Cir. 1998)). This claim should be dismissed for two independent reasons: the FAC fails to plead that Ms. Sara Bronfman (i) owed these plaintiffs a duty of care, or (ii) acted with the requisite disregard of the alleged (but non-existent) duty of care.

A Duty of Care Is Not Alleged. The FAC fails to allege any facts suggesting that Ms. Sara Bronfman had a duty of care to supervise the individuals who allegedly treated Jane Does 20-22. The FAC asserts that Ms. Sara Bronfman funded Ethical Science Foundation ("ESF"), the entity that allegedly administered treatments for obsessive compulsive disorder and Tourette's

Syndrome. *See* FAC ¶¶ 254, 708. According to the FAC, these treatments allegedly were designed by Raniere and Nancy Salzman, overseen by Nancy Salzman, and administered by Brandon Porter. *Id.* ¶ 708. The FAC does not allege that Ms. Sara Bronfman administered, planned, or participated in these treatments. Rather, it asserts that Ms. Sara Bronfman breached her supposed duty of care by failing to ensure that the treatments met the standard of care that a reasonable doctor or nurse would provide in similar circumstances. *Id.* ¶ 969.

However, Ms. Sara Bronfman had no such duty to supervise or control the actions of those individuals. Absent a special relationship, a defendant has no duty to control the conduct of third persons so as to prevent them from harming others. *David v. Weinstein Co.*, 2019 WL 1864073, at *6-7 (S.D.N.Y. Apr. 24, 2019). A special relationship may exist ***only*** when there is a relationship between the defendant and a third person whose actions expose the plaintiff to harm such as would require the defendant to attempt to control the third person's conduct, or a relationship between the defendant and the plaintiff requiring the defendant to protect the plaintiff from the conduct of others. *Woo Hee Cho v. Oquendo*, 2018 WL 9945701, at *10-11 (E.D.N.Y. Aug. 25, 2018). Special relationships have been relegated to "quite narrow settings" — which are not alleged to be present here — such as: master-servant, parent-child, common carrier-passenger, landlord-tenant, innkeeper-guest, and employer-employee. *See Fazi v. United States*, 935 F.2d 535, 539-540 (2d Cir. 1991); *Rabin v. Dow Jones & Co.*, 2014 WL 5017841, at *2 (S.D.N.Y. Sept. 23, 2014).

While the FAC makes the rote assertion that Ms. Sara Bronfman had a duty of care to supervise Porter and Salzman's treatments of Jane Does 20-22 (FAC ¶ 969), it fails to explain the basis for this unsupported conclusion. Even accepting the FAC's allegation that Ms. Sara Bronfman participated in the founding of ESF (FAC ¶ 705), it contains no facts showing Ms. Sara

Bronfman served in any leadership or supervisory role at ESF. Nor would such a role even be dispositive in showing a special relationship. *See David*, 2019 WL 1864073, at *6-7 (holding that directors of The Weinstein Company were not liable in negligence for failing to prevent Harvey Weinstein from engaging in tortious acts). The FAC fails to include even bare allegations, much less concrete facts, asserting that Porter or Salzman, the individuals allegedly involved in administering the treatments, were subordinates or employees (or acted under the direction) of Ms. Sara Bronfman. At most, the FAC alleges that Ms. Sara Bronfman funded and founded ESF. FAC ¶¶ 72, 705, 708, 966. This purported relationship between Ms. Sara Bronfman — an alleged donor to ESF — and plaintiffs bears no resemblance to the special relationships traditionally recognized by New York courts. The Second Circuit has held that a "sponsor" is not liable for an injury if the sponsor has no particular expertise in the injurious activity. *See Mayer v. Cornell Univ.*, 1997 WL 32916, at *3 (2d Cir. Jan. 8, 1997) (summary order) (sponsors of a snorkeling trip were not liable for injuries sustained on the trip "because neither had any particular expertise in snorkeling" and did not have a "special relationship" with those controlling the event or the event participants). The FAC is devoid of allegations that Ms. Sara Bronfman had any involvement in or knowledge of these treatments, much less any medical expertise.

Recklessness Is Not Alleged. Even if the FAC adequately pled a duty (it does not), Count X would still fail because the FAC lacks allegations of any conduct on the part of Ms. Sara Bronfman that evinces a reckless disregard for the rights of others or smacks of intentional wrongdoing. Recklessness in the context of a gross negligence claim means "an extreme departure from the standards of ordinary care, such that the danger was either known to the defendant or so obvious that the defendant must have been aware of it." *D'Amico v. Waste Mgmt. of N.Y., LLC*, 2019 WL 1332575, at *8 (W.D.N.Y. Mar. 25, 2019). It requires "specific and particular allegations of extreme wrongdoing." *Tevdorachvili v. Chase Manhattan Bank*, 103 F. Supp. 2d 632, 644 (E.D.N.Y. 2000) (claims dismissed where plaintiff "alleged, albeit by nothing more than a rhetorical flourish, that [defendant] was 'reckless'" because "[i]n the absence of factual allegations showing more, heated language and indignation will not suffice").

No facts are alleged in the FAC suggesting any wrongdoing, much less extreme wrongdoing, on the part of Ms. Sara Bronfman. The FAC states in a conclusory fashion that the "Bronfmans ... used ESF to provide funding for a series of medical experiments using Nxians as subjects." FAC ¶ 708. The FAC does not contain any factual allegations suggesting that Ms. Sara Bronfman knew about the treatments being provided by other individuals to Jane Does 20-22. The FAC is likewise devoid of factual allegations that Ms. Sara Bronfman acted intentionally. To the contrary, the FAC does not allege that Ms. Sara Bronfman had ***any*** involvement with the treatments, and instead affirmatively alleges that three other, specifically-identified individuals designed and oversaw the treatments at issue. FAC ¶ 708. In sum, Count X should be dismissed because Ms. Sara Bronfman owed no duty of care to Jane Does 20-22, and because no facts are alleged suggesting that Ms. Sara Bronfman acted with gross negligence, *i.e.*, with recklessness.

VIII. THE AIDING AND ABETTING CLAIM FAILS (COUNT IX)

In Count IX, the FAC asserts a claim on behalf of five plaintiffs for aiding and abetting "With Respect to Unauthorized Human Research." FAC ¶¶ 956-64. Notably, there is no apparent source in New York law of liability for aiding and abetting alleged violations of N.Y. Pub. Health Law §§ 2442 and 2443. However, even if such a cause of action exists, it fails as a matter of law.

"[U]nder New York law, a plaintiff generally states a claim for aiding and abetting upon alleging facts sufficient to support an inference of (1) the existence of an underlying tort; (2) the defendant's knowledge of the underlying tort; and (3) that the defendant provided substantial assistance to advance the underlying tort's commission." *Bigio v. Coca-Cola Co.*, 675 F.3d 163, 172, 174-75 (2d Cir. 2012) (affirming dismissal of aiding and abetting claim). Here, even assuming *arguendo* that the FAC adequately states a claim for unauthorized human research against another defendant, the claim against Ms. Sara Bronfman must be dismissed for two independent reasons: the FAC fails to allege her (i) knowledge of any alleged underlying tort, and (ii) substantial assistance to advance the commission of the alleged unauthorized human research.

Actual Knowledge Is Not Alleged. To plead an aiding and abetting claim, a plaintiff must allege "actual knowledge" of the underlying tort, as opposed to constructive knowledge. *Stutts v. De Dietrich Grp.*, 2006 WL 1867060, at *13 (E.D.N.Y. June 30, 2006); *see also Butts v. N.Y.C. Dep't of Educ.*, 2018 WL 4725263, at *15 (E.D.N.Y. Sept. 28, 2018) (dismissing aiding and abetting claim for failure to plead defendant's knowledge). A plaintiff must "allege[] *facts* demonstrating actual knowledge." *Glob. Enter. Grp. Holding, S.A. v. Ottimo*, 2010 WL 11629556, at *6-7 (E.D.N.Y. June 8, 2010) (emphasis in original) (declining leave to add aiding and abetting claim to complaint as futile because the complaint, "in conclusory terms, [] has just stated that [the defendant] had actual knowledge. This is insufficient under *Twombly* and *Iqbal*, and the Court does not need to credit these conclusory statements.").

Here, the only allegation regarding Ms. Sara Bronfman's supposed actual knowledge of the alleged unauthorized human research is the conclusory statement that "Defendants had actual knowledge that Porter was conducting unauthorized human research on human subjects in violation of N.Y. Pub. Health Laws §§ 2442 and 2443." FAC ¶ 959. New York law is exceedingly clear that this rote recitation of the "actual knowledge" element of an aiding and abetting claim is insufficient to survive a motion to dismiss. *See GEO Grp., Inc. v. Cmty. First Servs., Inc.*, 2012 WL 1077846, at *10 (E.D.N.Y. Mar. 30, 2012) (dismissing aiding and abetting claims for failure to plead "actual knowledge or substantial participation 'above the speculative level'"); *Stutts*, 2006

WL 1867060, at *13, *14; *Ottimo*, 2010 WL 11629556, at *6-7. Accordingly, the aiding and abetting claim must be dismissed for failure to plead Ms. Sara Bronfman's "actual knowledge" of the underlying tort of alleged unauthorized human research.

Substantial Assistance Is Not Alleged. Even where, unlike here, a complaint adequately alleges "actual knowledge," a plaintiff must further allege "that the defendant's substantial assistance in the primary violation proximately caused the harm on which the primary liability is predicated." *STMicroelectronics v. Credit Suisse Grp.*, 775 F. Supp. 2d 525, 542 (E.D.N.Y. 2011). "[S]ubstantial assistance means more than just a little aid, and requires knowledge of the illegal activity that is being aided and abetted, a desire to help that activity succeed, and some act to further such activity to make it succeed." *Goldberg v. UBS AG*, 660 F. Supp. 2d 410, 425-26 (E.D.N.Y. 2009) (dismissing aiding and abetting claim for failure to plead substantial assistance). "A defendant provides substantial assistance only if it affirmatively assists, helps conceal, or by virtue of failing to act when required to do so enables [the tort] to proceed." *Ryan v. Hunton & Williams*, 2000 WL 1375265, at *9,*10 (E.D.N.Y. Sept. 20, 2000); *see also Consol. Catholic Admin. Servs. v. Usi Holdings Corp.*, 2007 WL 9724943, at *4-6 (E.D.N.Y. Sept. 30, 2007) (dismissing aiding and abetting claim for failure to plead actual knowledge or substantial assistance). The FAC's lone attempt to plead substantial assistance as to Ms. Sara Bronfman is its vague allegation that "Defendants Clare Bronfman and Sara Bronfman provided the funds for the rent of the premises and the purchase of the equipment used in the unauthorized human research through ESF, substantially assisting Porter." FAC ¶ 962. Even assuming *arguendo* that Ms. Sara Bronfman paid rent for the premises or purchased the unspecified equipment allegedly used by another defendant, these actions do not constitute substantial assistance because they fail to show "knowledge of the [unauthorized human research] that is being aided and abetted, [and] a desire to help [the unauthorized human research] succeed." *Goldberg*, 660 F. Supp. 2d at 425. The FAC also fails to plead that Ms. Sara Bronfman "proximately caused" the alleged unauthorized medical research. *STMicroelectronics*, 775 F. Supp. 2d at 542.

IX. THE MALICIOUS ABUSE OF LEGAL PROCESS CLAIM FAILS (COUNT V)

In Count V, the FAC purports to assert a claim for malicious abuse of process. "Under New York law, a malicious abuse-of-process claim lies against a defendant who (1) employs regularly issued legal process to compel performance or forbearance of some act (2) with intent to do harm without excuse or justification, and (3) in order to obtain a collateral objective that is outside the legitimate ends of the process." *Manhattan Enter. Grp. LLC v. Higgins*, 816 F. App'x 512, 514 (2d Cir. 2020) (summary order). The FAC fails to allege any of these elements against Ms. Sara Bronfman.

The FAC Fails to Allege that Ms. Sara Bronfman Employed Any Legal Process. As an initial matter, the abuse of process claim as against Ms. Sara Bronfman must be dismissed because the FAC fails to allege that she "employ[ed]" any actionable "legal process" whatsoever. In particular, Count V is alleged on behalf of plaintiffs Jane Doe 19, Edmondson, Salazar, Souki, Audrey, and Natalie (as well as John Doe 2 and Jane Doe 23, who subsequently withdrew). FAC at ¶¶ 933-39. Yet, none of these plaintiffs' allegations relate to ***Ms. Sara Bronfman***. They focus on the alleged actions of other individuals or of "Defendants" generally. *See, e.g.*, FAC ¶ 884 (alleging that other named individuals caused attorneys to send letters to several of the plaintiffs); ¶¶ 265, 833 (describing statements allegedly made by another individual to the Vancouver Police regarding Edmondson); ¶ 270 (alleging that "Raniere and Nancy Salzman embarked on a campaign of vexatious abuses of the legal system" against Natalie). Compounding this lack of specificity is the FAC's failure to identify the most basic information regarding the allegedly abusive actions.

Which actions are at issue? What courts were the actions brought in?[9] *Silver v. Kuehbeck*, 2005 WL 2990642, at *7 (S.D.N.Y. Nov. 7, 2005) ("[C]onclusory allegations are not sufficient to adequately plead a claim of abuse of process"; plaintiffs must allege "***how*** Defendants used court process after its issuance to cause grievous harm") (emphasis added).

The sole allegation against Ms. Sara Bronfman is that she purportedly "financed these efforts, spending millions of dollars on lawyers, private investigators and to cover other related expenses." FAC ¶ 938. But financing litigation is not a legal process and cannot support an abuse of process claim. *Cargill Soluciones Empresariales, S.A. de C.V., SOFOM, E.N.R. v. Desarrolladora Farallon S. de R.L. de C.V.*, 2017 N.Y. Slip Op. 31650(U), at *20-21 (Sup. Ct. N.Y. Cty. July 21, 2017) (rejecting abuse of process claim "based on the supposed wrongful nature of [a parties'] funding of defendants' litigation;" plaintiff "cite[d] no authority for the proposition that one who provides litigation funding for a baseless lawsuit may personally face liability").

The vague allegations of conduct attributed to "Defendants" (and not specifically to Ms. Sara Bronfman) fare no better. The filing of lawsuits (FAC ¶¶ 934-35) cannot serve as the basis for an abuse of process claim. *Manhattan Enter. Grp.*, 816 F. App'x at 514; *HC2, Inc. v. Delaney*, 510 F. Supp. 3d 86, 107 (S.D.N.Y. 2020) ("[T]he filing of a complaint itself does not constitute the requisite unlawful interference with one's person or property under color of process. Neither does the expense arising from the defense of a lawsuit, which is an insufficient injury to sustain the cause of action."); *Jeri v. Great Neck Cleaner & Hand Laundry, Inc.*, 2019 WL 718541, at *4, *3-4 (E.D.N.Y. Feb. 20, 2019) (granting motion to dismiss abuse of process claim "based solely on [Defendants'] belief that the Plaintiff's lawsuit lacks merit."); *Chord Assocs., LLC v. Protech 2003-D, LLC*, 2010 WL 3780380, at *5 (E.D.N.Y. Sept. 21, 2010) (same).

[9] In a curious and telling contrast, the FAC ***does*** identify specific cases involving parties ***not*** asserting this claim. *See, e.g.*, FAC ¶¶ 738 (*In re Dones*), 743 (*NXIVM Corp v. O'Hara*), 745-46 (*Raniere v. Microsoft Corp.*).

The few remaining allegations in Count V are likewise insufficient to support the claim. The alleged retention of private investigators cannot constitute an abuse of process because "aggressive investigatory tactics ... do not relate to the issuance of process." *Chord Assocs.*, 2010 WL 3780380, at *5. Similarly, "making false or misleading statements to law enforcement" (FAC ¶ 936) — to be clear, there are no allegations that Ms. Sara Bronfman made any such statements — is not a "legal process" that could sustain an abuse of process claim. *See Fox Indus., Inc. v. Gurovich*, 2009 WL 393949, at *3-4 (E.D.N.Y. Feb. 17, 2009).

Special Damages Are Not Pled. Count V also fails for the additional, independent reason that plaintiffs do not plead special damages. The FAC states only in the most conclusory fashion that "Plaintiffs suffered special injury as a result of Defendants' malicious abuses of legal process." FAC ¶ 939. This is insufficient. "[P]laintiffs must allege special damages in order to obtain relief for an abuse of process claim under New York law. Special damages are specific and measurable losses which must be alleged with sufficient particularity to identify actual losses and be related causally to the alleged tortious acts." *Demirovic*, 2016 WL 1142745, at *13, *14 (dismissing abuse of process claim because "Defendants' contention that they 'suffered compensatory damages of no less than $100,000' [] fails to adequately allege any special damages."); *see also Morea v. Saywitz*, 2010 WL 475302, at *3 (E.D.N.Y. Feb. 8, 2010).

CONCLUSION

For all of these reasons, the FAC should be dismissed with prejudice as against Ms. Sara Bronfman pursuant to Rules 8 and 12(b)(6) of the Federal Rules of Civil Procedure.[10]

[10] Ms. Sara Bronfman joins in and incorporates the arguments for dismissal made by the other defendants.

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Respectfully submitted,

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