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UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

Travis Middleton, et al., ) Case No. 2:16-cv-05224-SVW-AGR  
)  
Plaintiffs, ) **MEMORANDUM OF POINTS AND**  
) **AUTHORITIES IN SUPPORT OF**  
) **LEGISLATIVE DEFENDANTS’**  
v. ) **MOTION TO DISMISS**  
) **PLAINTIFFS’ SECOND AMENDED**  
19 Richard Pan, et al., ) **COMPLAINT**  
)  
20 Defendants. ) [F.R. Civ. P., Rule 12(b)(1) and (6)]  
)  
) Date: September 11, 2017  
) Time: 1:30 p.m.  
)  
) Courtroom 10A, Tenth Floor  
) Hon. Stephen V. Wilson

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1 **I. INTRODUCTION**

2 Plaintiffs' Second Amended Complaint (SAC), which is almost identical to  
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4 their First Amended Complaint, is similarly bereft of any factual allegations to support  
5 Plaintiffs' convoluted "conspiracy" claims of fraudulent activities related to the  
6  
7 passage of Senate Bill 277 (Ch. 35, Stats. 2015, hereafter "SB 277"), California's  
8  
9 "mandatory vaccine bill" that went into effect on July 1, 2016. Plaintiffs contend that  
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11 select Members of the California Legislature received payments from top drug  
12  
13 companies in exchange for their votes for SB 277, and that as a direct result of the  
14  
15 enactment of SB 277, Plaintiffs have been deprived of certain constitutional rights.  
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17 SAC, ¶ 94. On December 15, 2016, U.S. Magistrate Judge Alicia Rosenberg issued a  
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19 Report and Recommendation, which clearly delineated the deficiencies in Plaintiffs'  
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21 pleadings and recommended that the First Amended Complaint be dismissed with  
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23 prejudice as to the defendants who had appeared in the case. Docket No. 123. Instead  
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25 of addressing those deficiencies, Plaintiffs amended their complaint by asserting that  
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27 the magistrate judge and counsel for the Defendants joined the conspiracy against  
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29 Plaintiffs. SAC, ¶ 112.

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31 As Plaintiffs' SAC offers nothing but unsupported conclusory allegations and  
32  
33 legal conclusions, Legislative Defendants bring this Motion to Dismiss pursuant to the  
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35 Federal Rules of Civil Procedure, Rule 12(b). As with their FAC, Plaintiffs' SAC  
36  
37 fails to provide any facts that would allow Legislative Defendants to reasonably or  
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1 meaningfully respond to Plaintiffs’ allegations. Plaintiffs have not – *and cannot* –  
2 allege any facts to state a claim against Legislative Defendants that would not be  
3 barred by any well-established doctrines of immunity. As any further amendment to  
4 Plaintiffs’ complaint would be futile, Legislative Defendants respectfully request that  
5 this Court dismiss Plaintiffs’ SAC without leave to amend.  
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7  
8 **II. PLAINTIFFS FAIL TO ALLEGE FACTS TO SUPPORT ANY**  
9 **COGNIZABLE CAUSE OF ACTION AS TO LEGISLATIVE**  
10 **DEFENDANTS.**

11 **A. Standard of Review.**

12 A party may bring a motion to dismiss a complaint for “failure to state a claim  
13 upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). Such a motion tests the  
14 legal sufficiency of a claim. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001).  
15 Although a court ruling on such a motion must accept as true facts alleged in the  
16 complaint, it is not required to accept as true conclusory allegations or legal  
17 conclusions. *Parks School of Business, Inc. v. Symington*, 51 F.3d 1480, 1484 (9th Cir.  
18 1995); *Davis v. Astrue*, 513 F. Supp. 2d 1137, 1143 (N.D. Cal. 2007). Dismissal of a  
19 challenged claim is appropriate where there is a “lack of a cognizable legal theory or  
20 the absence of sufficient facts alleged under a cognizable legal theory.” *Balistreri v.*  
21 *Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir. 1990).  
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26 Although federal pleading standards are not burdensome – Rule 8 requires that  
27 a complaint include only a “short and plain statement of the claim showing that the  
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1 pleader is entitled to relief” – a plaintiff’s obligation “requires more than labels and  
2 conclusions, and a formulaic recitation of the elements of a cause of action.” *Bell*  
3 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 555, 167 L. Ed. 2d 929, 127 S. Ct. 1955  
4 (2007). While a court must accept as true all factual allegations, threadbare recitals of  
5 the elements of a claim, supported by mere conclusory statements, do not suffice. *Id.*  
6 In other words, a plaintiff must plead more than “an unadorned, the-defendant-  
7 unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 173 L. Ed.  
8 2d 868, 129 S. Ct. 1937 (2009). Thus, in order to survive a motion to dismiss, the non-  
9 conclusory “factual content,” and reasonable inferences from that content, must be  
10 plausibly suggestive of a claim entitling the plaintiff to relief. *Moss v. U.S. Secret*  
11 *Service*, 572 F.3d 962, 970 (9<sup>th</sup> Cir. 2009) (quoting *Ibqual*, 556 U.S. at 679).

12 Furthermore, while a *pro se* complaint is to be liberally construed, a *pro se*  
13 litigant bringing suit is not entitled to amend his complaint where it is clear that no  
14 amendment can cure the defect. *Cato v. United States*, 70 F. 3d 1103, 1106 (9th Cir.  
15 1995).

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22 **B. The Second Amended Complaint alleges no facts that support a claim**  
23 **against any Legislative Defendant.**

24 The SAC is again replete with unsupported allegations that provide no basis to  
25 impose liability against any Legislative Defendant. The SAC pleads no allegations  
26 specific to Defendants Wen-Li Wang and Bruce Wolk. There is but a single  
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1 paragraph in the SAC that pertains to the two spouses of Members of the Legislature  
2 that have been named in this action. In that paragraph, Plaintiffs summarily claim that  
3 “Defendant legislators’ spouses have conspired to aid, abet, encourage, and supported  
4 the Defendant legislators in their corrupt and criminal enterprises while receiving the  
5 financial benefit of their public officials’ corrupt activities.” SAC, ¶ 96. The SAC  
6 contains no factual allegations revealing what Ms. Wang or Mr. Wolk did in support  
7 of the alleged conspiracy. There are no specific facts plead as to any of them.  
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11 As to the named Members of the Legislature, Plaintiffs also fail to plead any  
12 factual allegations so as to apprise these Defendants what conduct they are alleged to  
13 have engaged in that gives rise to Plaintiffs’ claims. Plaintiffs’ SAC makes a broad,  
14 nonspecific claim that the Defendant Members improperly received “bribes” from  
15 drug companies in exchange for enacting SB 277. SAC, ¶¶ 81-84. In support of this  
16 contention, Plaintiffs’ SAC includes various charts and references describing monies  
17 that certain Members of the Legislature are alleged to have received from drug  
18 companies in 2013-2014. SAC, ¶ 85. Plaintiffs then make the unsupported accusation  
19 that these monies were offered by the drug companies and accepted by the Defendant  
20 Legislators as a bribe to enact SB 277. SAC, ¶¶ 86-87. Completely absent from the  
21 SAC are any factual allegations to support Plaintiffs’ bribery accusations. There are  
22 no facts connecting any Member to the improper receipt of financial contributions.  
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1 Furthermore, with regard to counsel for Legislative Defendants, Deputy  
2 Legislative Counsel Cara Jenkins, Plaintiffs allege that Ms. Jenkins, by performing  
3 her duties associated with litigating this matter, has joined the conspiracy of the other  
4 named defendants by “joining their efforts to corruptly influence the outcome of the  
5 December 13, 2016 hearing to create illegitimate claims against Plaintiffs’ law  
6 arguments by placing on the court record invalid evidence that Plaintiffs’ complaint  
7 was somehow deficient requiring dismissal.” SAC, ¶ 112. Again, Plaintiffs fail to  
8 provide any facts that would support the expansion of Plaintiffs’ allegations of  
9 conspiracy.  
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13 Accordingly, Plaintiffs’ “factual allegations” lack the requisite particularity to  
14 state a cause of action as to the Legislative Defendants. Plaintiffs’ vague allegations  
15 leave the Legislative Defendants to guess, with no guidance, what each is alleged to  
16 have done, and how exactly Plaintiffs were harmed. Insofar as the SAC fails to  
17 provide clear allegations showing facts as to the Legislative Defendants that give rise  
18 to liability under any cause of action, it would be unreasonable and contrary to Rule  
19 8’s “short and plain statement” requirements to require the Legislative Defendants to  
20 defend against Plaintiffs’ action.  
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25 **C. Plaintiffs’ Second Amended Complaint should be dismissed without**  
26 **leave to amend because Legislative Defendants are immune from suit in**  
27 **this matter.**

28 U.S. Magistrate Judge Rosenberg found that Plaintiffs’ claims are barred by

1 clearly established doctrines of immunity, and recommended that “the complaint be  
2 dismissed against the named defendant[s] with prejudice.” Report and  
3 Recommendation, Docket No. 123. Despite this, Plaintiffs’ SAC names the same  
4 Defendants, and includes the Magistrate Judge and the three government attorneys  
5 representing the Defendants, who are also immune from suit.  
6

7  
8 ***1. The doctrine of legislative immunity bars any claim as to the actions of  
9 the Members of the Legislature relating to legislation.***

10 Members of the State Legislature have complete immunity from civil liability  
11 for acts or omissions occurring within the sphere of their legislative activities. *Tenney*  
12 *v. Brandhove*, 341 U.S. 367, 95 L. Ed. 1019, 71 S. Ct. 783 (1951) (hereafter *Tenney*).  
13

14 “The privilege of legislators to be free from arrest or civil process for what they  
15 do or say in legislative proceedings has taproots in the Parliamentary struggles of the  
16 Sixteenth and Seventeenth Centuries.” *Tenney, supra*, 341 U.S. at p. 372. In *Tenney*,  
17 the plaintiff sued members of a committee of the California Legislature, among others,  
18 under federal civil rights statutes claiming damages resulting from statements made  
19 about him at a committee hearing. The United States Supreme Court concluded that  
20 federal civil rights statutes did not alter the longstanding tradition of immunity from  
21 civil liability of legislators for conduct within the sphere of legislative activity. *Id.*, at  
22 p. 376; *see also Bogan v. Scott-Harris*, 523 U.S. 44, 49, 140 L. Ed. 2d 79, 118 S. Ct.  
23 966 (1998); *Supreme Court of Va. v. Consumers Union*, 446 U.S. 719, 731-734, 64 L.  
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1 Ed. 2d 641, 100 S. Ct. 1967 (1980); *Lake Country Estates Inc. v. Tahoe Regional*  
2 *Planning Agency*, 440 U.S. 391, 99 S. Ct. 1171, 59 L. Ed. 2d 401 (1979); *Gutierrez v.*  
3 *Mun. Ct. of S.E. Judicial Dist.*, 838 F.2d 1031, 1046 (9th Cir. 1988).

5 This immunity applies to activities within “a field where legislators traditionally  
6 have power to act.” *Tenney, supra*, 341 U.S. at 379. This includes acts that are “an  
7 integral part of the deliberative and communicative processes by which Members  
8 participate in committee and House proceedings with respect to the consideration and  
9 passage or rejection of proposed legislation or with respect to matters which the  
10 Constitution places within the jurisdiction of either House.” *Gravel v. United States*,  
11 408 U.S. 606, 625, 33 L. Ed. 2d 583, 92 S. Ct. 2614 (1972).

15 Legislative immunity has been held to apply even to civil actions charging  
16 illegal activity –such as the taking of bribes – by legislators within the sphere of  
17 legislative activity, since the proof of the illegal act would necessarily involve delving  
18 into matters, including motive or purposes, underlying the legislative act. See  
19 *Thillens, Inc. v. Community Currency Exchange*, 729 F.2d 1128, 1131 (7th Cir. 1984).  
20 Importantly, the immunity of a legislator for legislative acts applies to the very claims  
21 brought by Plaintiffs: civil RICO claims based on bribery. *Chappell v. Robbins*, 73  
22 F.3d 918, 921 (9<sup>th</sup> Cir. 1996). In *Chappell v. Robbins*, purchasers of insurance brought  
23 a civil RICO action against a former Member of the California Legislature. The  
24 plaintiffs claimed that they were forced to pay excessive premiums because of a bill  
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1 that was enacted by the Legislature as a result of activities of the former Member,  
2 who, in fact, admitted to accepting bribes from insurance industry executives. The  
3 Ninth Circuit Court of Appeals held that the legislative privilege precluded the  
4 plaintiffs' RICO claim based on bribery, as the alleged harm was not caused by the  
5 bribery, but rather by the passage of a bill pursuant to protected activity. *Id.*, at pp.  
6 921-922.  
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9 In the case at issue, Plaintiffs similarly allege that they have been deprived of  
10 certain constitutional rights because SB 277 was enacted as a result of the efforts of  
11 certain Members of the Legislature made in exchange for "bribes" received from drug  
12 companies. As in *Chappell*, however, any harm to Plaintiffs was not the result of the  
13 alleged bribery and conspiracy scheme, but would have resulted from passage of SB  
14 277. Thus, to the extent that the actions of the Members of the Legislature in enacting  
15 SB 277 caused Plaintiffs harm, those actions would necessarily be official actions  
16 occurring within the sphere of the Members' official legislative activities. Plaintiffs'  
17 SAC, therefore, cannot be amended to allege any claim arising from Defendant  
18 Members' actions in enacting SB 277 because the Members are absolutely protected  
19 by legislative immunity from liability stemming from such legislative activities.  
20 Accordingly, Plaintiffs' SAC should be dismissed for failure to state a claim, and  
21 leave to amend should be denied because no claim can be stated that would not be  
22 covered by legislative immunity.  
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1                   **2. Plaintiffs’ claims against government attorneys are barred by absolute**  
2                   **immunity.**

3                   In Plaintiffs’ SAC, Plaintiffs named counsel for the Defendants, Deputy  
4                   Attorney Generals Jonathan E. Rich and Jacquelyn Y. Young, and Deputy Legislative  
5                   Counsel Cara L. Jenkins as defendants. Plaintiffs’ only basis for naming the  
6                   government attorneys as defendants is the attorneys’ representation of their respective  
7                   defendants in this matter.  
8

9                   A government attorney representing a party in a civil action has absolute  
10                  immunity from any claim for damages “to assure that . . . advocates . . . can perform  
11                  their respective functions without harassment or intimidation.” *Fry v. Melaragno*, 939  
12                  F.2d 832, 837 (9th Cir. 1991), citing *Butz*, 438 U.S. 478, 512 (1978). Because of “the  
13                  similarity of functions of government attorneys in civil, criminal and agency  
14                  proceedings, and the numerous checks on abuses of authority inherent in the judicial  
15                  process . . . [t]he reasons supporting the doctrine of absolute immunity apply with  
16                  equal force regardless of the nature of the underlying action.” *Fry*, 939 F.2d at 837,  
17                  quoting *Flood v. Harrington*, 532 F.2d 1248, 1251 (9<sup>th</sup> Cir. 1976). Absolute immunity  
18                  attaches so long as “the government attorney is performing acts ‘intimately associated  
19                  with the judicial phase’ of the litigation.” *Fry v. Melaragno*, 939 F.2d 832, 837;  
20                  accord, *Bly-Magee v. California*, 236 F.3d 1014, 1018 (9th Cir. 2001).  
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1 Plaintiffs allege that in the course of representing their respective parties in this  
2 civil action, counsel for Defendants joined the overall conspiracy upon which this  
3 action to “corruptly influence the outcome of the December 13, 2016 hearing to create  
4 illegitimate legal claims against Plaintiffs’ law arguments by placing on the court  
5 record invalid evidence that Plaintiffs’ complaint was somehow deficient requiring  
6 dismissal.” SAC, ¶ 112. To the contrary, in defending their clients, the government  
7 attorneys were performing acts associated with the judicial phase of the litigation. As  
8 such, any claims asserted by Plaintiffs are barred by absolute immunity, and should be  
9 dismissed with prejudice.  
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13 **3. Plaintiffs’ RICO claims fail as a matter of law.**  
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15 Even if Plaintiffs’ SAC were not barred by the doctrines of legislative immunity  
16 and absolute immunity, it would nevertheless warrant dismissal under Rule 12(b)(6),  
17 as Plaintiffs’ RICO claims fail as a matter of law.  
18

19 To establish a civil claim under RICO, a plaintiff must allege “ ‘(1) conduct (2)  
20 of an enterprise (3) through a pattern (4) of racketeering activity.’ ” *Odom v. Microsoft*  
21 *Corp.*, 486 F.3d 541, 547 (9th Cir. 2007) (quoting *Sedima, S.P.R.L. v. Imrex Co.*, 473  
22 U.S. 479, 496, 105 S. Ct. 3275, 3285, 87 L. Ed. 2d 346 (1985)). The plaintiff must  
23 also establish the defendant’s RICO violation proximately caused his or her injury.  
24  
25 *Holmes v. Sec. Inv’r Prot. Corp.*, 503 U.S. 258, 265, 112 S. Ct. 1311, 1316, 117 L.  
26 Ed. 2d 532 (1992); *Canyon Cnty. v. Syngenta Seeds, Inc.*, 519 F.3d 969, 972 (9th Cir.  
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1 2008); see also *Rezner v. Bayerische Hypo–Und Vereinsbank AG*, 630 F.3d 866, 873  
2 (9th Cir. 2010).

3  
4 *a. The SAC fails to allege facts establishing the existence of an enterprise.*

5 “To show the existence of an enterprise..., plaintiffs must plead that the  
6 enterprise has (A) a common purpose, (B) a structure or organization, and (C)  
7 longevity necessary to accomplish the purpose.” *Eclectic Props. East, LLC v. Marcus*  
8 *& Millichap Co.*, 751 F.3d 990, 997 (9th Cir. 2014) (citing *Boyle v. United States*, 556  
9 U.S. 938, 946, 129 S. Ct. 2237, 173 L. Ed. 2d 1265 (2009)); see also 18 U.S.C. §  
10 1961(4) (defining “enterprise” as “any individual, partnership, corporation,  
11 association, or other legal entity, and any union or group of individuals associated in  
12 fact although not a legal entity”).  
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16 Here, the SAC alleges no facts that establish the existence of an enterprise.  
17 Instead, the SAC provides conclusory statements, such as “Defendants and Co-  
18 conspirators formed an association-in-fact for the specific purpose of obstructing  
19 justice and extorting the constitutional rights of Plaintiffs and others similarly  
20 situated;” and “this association in fact, was an enterprise within the meaning of RICO,  
21 18 U.S.C. § 1961(4).” SAC, ¶¶ 106, 107, 128. However, alleging the existence of an  
22 enterprise is not the same as pleading facts that show its existence. The SAC fails to  
23 provide any details regarding the structure or organization of the alleged enterprise  
24 and, thus, does not plead sufficient facts to establish this element of a RICO claim.  
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*b. The SAC does not establish a pattern of racketeering activity.*

The SAC also fails to allege facts showing a “pattern of racketeering activity.” For civil liability to result from a substantive violation of RICO, a defendant must be shown to have engaged in a “pattern of racketeering activity.” 18 U.S.C. §§ 1962(a), (b), and (c). “Racketeering activity” is defined as the commission of various state and federal offenses enumerated in 18 U.S.C. § 1961(1), such as mail fraud, wire fraud, drug trafficking, murder, arson, gambling, bribery, extortion, or embezzlement. To sustain a RICO claim, at least one of these offenses must involve a pattern. These acts are called “predicate acts” of racketeering. A “pattern of racketeering activity” requires at least two related acts of racketeering activity within a ten-year period. 18 U.S.C. § 1961(5).

Here, the SAC is devoid of any factual allegations establishing a “pattern of racketeering activity.” Although it appears that Plaintiffs are alleging the RICO predicate acts of bribery and extortion, as discussed at length throughout this memorandum, Plaintiffs have failed to allege any facts supporting their conclusory allegations of bribery and extortion.

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1           c. *The SAC fails to establish that Plaintiffs suffered an injury from the alleged*  
2           *predicate acts.*

3           To have standing to sue under RICO, a plaintiff must allege that (1) he or she  
4 suffered an injury to business or property and that (2) defendant's RICO predicate acts  
5 were the cause of the injury. *Sedima, S.P.R.L. v. Imrex Co., Inc.*, 473 U.S. 479, 495-97  
6 (1985) (plaintiff has standing only to the extent he has been injured "by the conduct  
7 constituting the [RICO] violation"). The alleged RICO violations must be the  
8 "proximate cause" that "led directly to" the plaintiff's injury. *Holmes*, 112 S. Ct. at  
9 1317-18; *Anza v. Ideal Steel Supply Corp.*, 547 U.S. 451, 460-61 (2006); *Hemi Grp.,*  
10 *LLC v. City of N.Y., N.Y.*, 559 U.S. 1, 130 S. Ct. 983, 175 L. Ed. 2d 943 (2010).  
11 Proximate cause requires "some direct relation between the injury asserted and the  
12 injurious conduct alleged." *Holmes*, 112 S. Ct. at 1316. "A link that is too remote,  
13 purely contingent, or indirect is insufficient." *Hemi Grp.*, 130 S. Ct. at 989.

14           Plaintiffs' generalized allegations of injury are insufficient to meet this  
15 standard. Plaintiffs allege that they have "lost a substantial amount of their time,  
16 money, labor and constitutional freedoms" and that they have "been injured in their  
17 business and property in accordance with U.S.C. § 1962(a)(c)(d) [sic] as a direct and  
18 proximate result of the racketeering activities of Defendants..." SAC, ¶¶ 120, 136.  
19 These conclusory statements provide no insight as to exactly how Plaintiffs have been  
20 injured. As such, Plaintiffs have failed to properly plead a RICO injury to business or  
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1 property. Furthermore, Plaintiffs appear to blame their alleged injuries to business and  
2 property on Legislative Defendants’ allegedly unlawful activities, but the SAC  
3 contains no allegation showing a “direct causal link” between the alleged predicate  
4 acts and such injuries.  
5

6 To summarize, Plaintiffs’ SAC contains no factual allegations establishing (1)  
7 an enterprise; (2) a pattern of racketeering activity; or (3) an identifiable injury to  
8 Plaintiffs. As such, Plaintiffs fail, as a matter of law, to state facts sufficient to state a  
9 RICO claim. And because the SAC lacks allegations of a cognizable RICO violation,  
10 Plaintiffs’ claims of conspiracy to violate RICO also fail, as a matter of law. See  
11 *Sanford v. MemberWorks, Inc.*, 625 F.3d 550, 559 (9th Cir. 2010).  
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### 16 **III. CONCLUSION**

17 As established by the U.S. Magistrate Judge, because Plaintiffs’ alleged injury  
18 results from the passage of SB 277, Plaintiffs cannot state a claim upon which relief  
19 can be granted because the conduct that caused their injuries is legislative and  
20 therefore immune. Even if Plaintiffs’ Complaint were not barred by doctrines of  
21 immunity, the Court should deny leave to amend because such leave would be futile.  
22 Accordingly, the Legislative Defendants respectfully request this Court to grant the  
23 Motion to Dismiss without leave to amend.  
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28 Pursuant to Local Rule 5-4.3.4(a)(2)(i), the filers of this document attest that all

1 signatories listed on whose behalf the filing is submitted concur in the content and  
2 have authorized the filing.

3  
4  
5 Dated: August 14, 2017

6 Respectfully submitted,  
7 DIANE F. BOYER-VINE  
8 Legislative Counsel

9 By: /s/ Cara L. Jenkins  
10 CARA L. JENKINS  
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12 Attorneys for Legislative Defendants

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**CERTIFICATE OF SERVICE**

Case Name: Middleton et al. v. Pan et al.  
Case Number: 2:16-cv-05224-SVW-AGR

I hereby certify that on **August 14, 2017**, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

- **NOTICE OF LEGISLATIVE DEFENDANTS’ MOTION AND MOTION TO DISMISS PLAINTIFFS’ SECOND AMENDED COMPLAINT**
- **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF LEGISLATIVE DEFENDANTS’ MOTION TO DISMISS PLAINTIFFS’ SECOND AMENDED COMPLAINT**
- **[PROPOSED] ORDER GRANTING LEGISLATIVE DEFENDANTS’ MOTION TO DISMISS PLAINTIFFS’ SECOND AMENDED COMPLAINT**

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. On **August 14, 2017**, I caused to be delivered the foregoing document(s) via email to Plaintiff Travis Middleton at the email address [Travis\\_m\\_93101@yahoo.com](mailto:Travis_m_93101@yahoo.com), and by FedEx overnight courier to the non-CM/ECF participants listed on the attached service list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on **August 14, 2017**, at Sacramento, California.

Cara L. Jenkins

Declarant

/s/ Cara L. Jenkins

Signature

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