UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS, PLANO DIVISION

RON SHAHAR, *Plaintiff*, *v.* SIGALIT OFEK, *et al.*, *Defendants*.	No. 4:22-cv-632 (SDJ/CAN)

DEFENDANTS' JOINT MOTION TO DISMISS

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Defendants Sigalit Ofek, Naftali Shilo, Einat Meshulam, Lauren Akuka, Gideon Sa'ar, Esther Hayut (the "Israeli Officials"), Ruth Halperin-Kaddari, and Nefesh B'Nefesh Aliyah ("Nefesh B'Nefesh") (collectively, "Defendants") jointly move to dismiss the Complaint (ECF 1) under Rules 12(b)(1), 12(b)(2), 12(b)(5), and 12(b)(6) of the Federal Rules of Civil Procedure.[1]

INTRODUCTION

This lawsuit is the latest in a litigation campaign conducted in U.S. courts by a small group of disgruntled Israeli men, the aim of which is to harass Israeli judges and other government officials, various charities, and private individuals that are involved in or support Israel's family-law system. Beginning over a decade ago, at least fifteen actions have been filed in federal and state courts in California, Florida, Illinois, New Jersey, New York, Pennsylvania, Texas, and Wisconsin. Nearly *fifty* Israeli officials have been named in these suits, including four Israeli Supreme Court justices, dozens of other judges and magistrates, and many high-ranking ministers and former ministers. All of the government officials have been sued solely with respect to their official government acts in Israel.

These suits, like Plaintiff Ron Shahar's complaint here, all concern Israeli family-law proceedings that the plaintiffs allege are tainted by an anti-male bias. But rather than focusing their efforts on litigation in Israeli courts or through Israel's political process, these plaintiffs have chosen to litigate their grievances against Israel by harassing and personally suing its judges and officials in U.S. courts under various frivolous legal theories. Unsurprisingly, not a single one of these

[1] Plaintiff has sued the Israeli Officials in this Court for actions taken in their official capacities on behalf of the State of Israel. As such, the State of Israel has retained undersigned counsel to represent the Israeli Officials in this lawsuit. After carefully considering the interests of judicial economy, the State of Israel has decided to submit this motion to dismiss jointly with Defendants Nefesh B'Nefesh and Halperin-Kaddari. For the avoidance of doubt, the Israeli Officials do not join or take a position regarding the other Defendants in the case, including with regard to any facts or arguments that pertain only to the other Defendants.

lawsuits has survived a motion to dismiss. Suit after suit has been swiftly dismissed on the basis of foreign official immunity, lack of personal jurisdiction, and failure to state a claim.[2]

In this, the latest suit of the litigation campaign, Plaintiff Ron Shahar alleges a racketeering enterprise run by the Israeli judges and magistrates who presided over his divorce and alimony proceedings in Israel. He spins his disagreements with the adverse decisions issued by those officials into a vast RICO conspiracy—comprising not only the judges and magistrates in his case, but also the former Minister of Justice, the presiding Chief Justice of the Israeli Supreme Court, an Israeli nonprofit, and an Israeli academic—who he says are carrying out a "holocaust" against Israeli men, a scurrilous claim that has no place in a federal court pleading. Compl. ¶ 86.

These baseless and offensive allegations are strikingly similar to another lawsuit brought *three times* by a different Israeli plaintiff taking part in this campaign, Yaakov Ben-Issaschar, against Israeli judges and a U.S. charity. The federal judge in Pennsylvania dismissed those cases with prejudice—twice *sua sponte*—for failure to state a RICO claim and for lack of jurisdiction over the Israeli officials. *See Issaschar v. ELI American Friends of the Israel Ass'n for Child Prot., Inc.*, No. 13-cv-2415, 2014 WL 716986 (E.D. Pa. Feb. 25, 2014); *Issaschar v. ELI American Friends of the Israel Ass'n for Child Prot., Inc.*, No. 15-cv-6441, 2016 WL 97682 (E.D. Pa. Jan. 7, 2016). And when a different set of plaintiffs copied Ben-Issaschar's tactics, filing a similar

[2] *See, e.g.*, *Newman v. Jewish Agency for Israel*, No. 16-cv-7593, 2017 WL 6628616 (S.D.N.Y. Dec. 28, 2017), *aff'd sub nom. Eliahu v. Jewish Agency for Israel*, 919 F.3d 709 (2d Cir. 2019); *Weisskopf v. Marcus*, No. 16-cv-6381, 2017 WL 1196953, at *1 (N.D. Ill. Mar. 31, 2017), *aff'd as modified*, 695 F. App'x 977 (7th Cir. 2017); *Issaschar v. ELI American Friends of the Israel Ass'n for Child Prot., Inc.*, No. 15-cv-6441, 2016 WL 97682 (E.D. Pa. Jan. 7, 2016); *Issaschar v. ELI American Friends of the Israel Ass'n for Child Prot., Inc.*, No. 13-cv-2415, 2014 WL 716986 (E.D. Pa. Feb. 25, 2014); *Weisskopf v. Neeman*, No. 11-cv-665 (W.D. Wis. Mar. 20, 2013), ECF 46; *Ben-Haim v. Neeman*, No. 12-cv-351, 2013 WL 12157279 (D.N.J. Jan. 23, 2013), *aff'd*, 543 F. App'x 152 (3d Cir. 2013); *Weisskopf v. United Jewish Appeal-Fed'n of Jewish Philanthropies of N.Y., Inc.*, 889 F. Supp. 2d 912 (S.D. Tex. 2012).

RICO suit in New York, the federal judge in that case not only dismissed their claims but imposed a broad anti-suit injunction against two of the plaintiffs as a sanction for their repeated frivolous and vexatious suits against Israeli officials. *Newman v. Jewish Agency for Israel*, No. 16-cv-7593, 2017 WL 6628616 (S.D.N.Y. Dec. 28, 2017), *aff'd sub nom. Eliahu v. Jewish Agency for Israel*, 919 F.3d 709 (2d Cir. 2019).

The baseless claims in this lawsuit similarly have no place in a court of the United States. Plaintiff cannot establish this Court's jurisdiction over any Defendant: the six Israeli Officials are all immune from suit for their official acts, and none of the Defendants has any contact with Texas (or the United States as a whole) sufficient to exercise personal jurisdiction here. Nor does the Complaint plead even the most basic elements of a civil RICO claim, such as predicate acts, injury to domestic business or property, or the existence of a RICO enterprise. Plaintiff's other substantive claims—if they can be called that—amount to nothing more than slanderous accusations without any legal or factual basis. Finally, this Court's collateral review of Israeli administrative and judicial actions is improper under the act of state doctrine and as a matter of international comity.

Plaintiff simply does not like the result of his litigation with his ex-wife in Israel and has gone to extraordinary lengths to harass the judges in that dispute (and others he perceives to be aligned with them). But this is not the proper forum to air those grievances. The Complaint should be dismissed with prejudice as to all Defendants, and Plaintiff should be admonished for filing this spurious and abusive lawsuit.

BACKGROUND

A. Allegations in the Complaint

This lawsuit arises out of Plaintiff Ron Shahar's divorce proceedings in Israel. *See* Compl. ¶¶ 4-5 (ECF 1). He alleges that, during those Israeli proceedings, Israeli judges and magistrates,

acting in their official capacities, issued unfair orders and decisions against him, resulting in adverse judgments and restrictions on his liberty in Israel. ¶¶ 39-62.

Notwithstanding the fact that his grievances arise out of alleged conduct by Israeli officials in Israel, Plaintiff filed suit in the Eastern District of Texas. His Complaint names as Defendants six Israeli Officials, including sitting judges and magistrates (Defendants Ofek, Shilo, Meshulam, and Akuka), the former Israeli Minister of Justice (Defendant Sa'ar), and the presiding Chief Justice of the Supreme Court of Israel (Defendant Hayut). He has also sued the Israeli director of an academic center at the Bar Ilan University in Israel (Defendant Halperin-Kaddari) and an Israeli nonprofit organization that supports immigration to Israel (Defendant Nefesh B'Nefesh). ¶¶ 9-16.

Plaintiff alleges that these Defendants are engaged in "a malicious extortion ring in Israel that targets non-Israeli men married to Israeli women and extorts them with the purpose of robbing them of all property and using parental alienation as a secondary extortionist tool." ¶ 1. He claims that he is a victim of this scheme, based on a series of adverse decisions issued by Israeli judges in his dispute with his ex-wife over child-support payments he owes in Israel. *See, e.g.*, ¶¶ 51, 54, 60, 62. And he claims that "the defendants, jointly or severally committed against Plaintiff acts of extortion and illegal detainer of his body as collateral (by holding Plaintiff hostage in Israel under bogus no exit order) and a subsequent extortion of the Plaintiff by demanding that he return to Israel, or face a default judgment, and if he does return he shall risk long loss of freedom of movement, and possibly never be able to get out for life." ¶ 71.

Notably, the Complaint includes no factual allegations regarding any conduct taken by former Minister Sa'ar or Chief Justice Hayut against Plaintiff. *See* ¶¶ 14, 15, 30, 79. Nor does he allege that Defendant Halperin-Kaddari took any action directed at him personally. *See* ¶¶ 99-122 (alleging that Defendant Halperin-Kaddari creates anti-male propaganda that supports the alleged extortion scheme). As for Nefesh B'Nefesh, Plaintiff alleges only that this organization, whose

mission is encouraging emigration to Israel, "lured" Plaintiff to emigrate to Israel, ¶ 39, without disclosing that Israel is, in his opinion, "a vicious, brutal, violent and corrupt country with a corrupt legal system," ¶ 93.

Plaintiff claims that Defendants' conduct violates the Racketeer Influenced and Corrupt Organizations Act (RICO) and amounts to "crimes against humanity." ¶¶ 63-122. He also claims that Nefesh B'Nefesh acted negligently by failing to disclose "the real face of Israel." ¶ 94. He seeks compensatory damages in the amount of $8,576,000, and $6,000,000 in punitive damages, against all Defendants, jointly and severally. ¶¶ 1, 83, 91, 98, 122; p. 27.

In addition to Plaintiff's allegations concerning his divorce proceedings, the Complaint contains scurrilous attacks on Defendants' personal character, including assertions that Defendants are part of a "radical feminism cult," ¶¶ 14, 15, 79, that they are "male hate monger[s]," ¶¶ 3, 9, 10, and that, like "Nazis," they are "perpetrating a holocaust on any Jew who is male, just because he is a man," ¶ 86. Plaintiff even compares himself to "anna frank [*sic*]" and Defendants to "Joseph Mengele." ¶ 88; *see also* ¶¶ 16, 89 120. These offensive statements are entirely inappropriate to be included in a pleading, and the Court would be well within its discretion to strike them *sua sponte*—if the Court permits Plaintiff's suit to proceed at all. *See* Fed. R. Civ. P. 11(b), 12(f)(1).

B. Procedural Background

Plaintiff filed suit on July 25, 2022, and the case lay dormant until, on October 5, Magistrate Judge Nowak issued a Notice of Impending Dismissal, notifying Plaintiff that "the action shall be dismissed without prejudice as to any unserved Defendants unless Plaintiff completes service of process within 90 days after the filing of the complaint." ECF 13.

On October 25—a day after his response to Magistrate Judge Nowak's order was due—Plaintiff submitted documents, signed by a man named Yohanan Weininger, purporting to prove service. ECF 14-21. The proofs of service with respect to Defendants Sigalit Ofek, Naftali Shilo,

Einat Meshulam, and Lauren Akuka state that, on October 6, 2022, Mr. Weininger attempted service through the Directorate of Courts, which is Israel's designated Central Authority for service under the Hague Service Convention, but he was asked to return at a later date. ECF 14-15, 17-18. For Defendant Sa'ar, Mr. Weininger states that on October 23, he attempted personal service at the Israeli Ministry of Justice but was refused entry by a security officer. ECF 19. For Defendant Hayut, Mr. Weininger states that he attempted personal service at the Supreme Court of Israel but was refused entry by a security officer. ECF 20.[3] Mr. Weininger states that, on October 23 and 24, he sent the complaint and summons to each of the Israeli Officials by registered mail, but the respective proofs of service do not include any signed receipt or other proof of delivery. *See* ECF 14-15, 17-20. With respect to Defendant Halperin-Kaddari, the "proof of service" states that Mr. Weininger sent the complaint and summons to her office by registered mail on October 24, but, again, the proof of service does not include proof of delivery or receipt. ECF 21. As to Nefesh B'Nefesh, the proof of service states that Mr. Weininger personally served "Mr. Zev Gershinsky, Exec. V.P., Administration" on September 22, 2022. ECF 16.

ARGUMENT

I. The Israeli Officials Are Immune from Suit.

As a threshold matter, the Israeli Officials are immune from suit arising out of their alleged official acts committed in their capacities as foreign government officials. This Court therefore lacks subject-matter jurisdiction over all claims against the Israeli Officials.

Official-acts immunity has a long history of recognition under U.S. federal common law.

[3] The proofs of service for Defendants Ofek, Shilo, Akuka, and Hayut attach a second page, signed by a man named Noam Huppert, which states, "I personally served the summon [*sic*] to the court secretary." ECF 14, 15, 18, 20. These unnamed "court secretar[ies]" are not Defendants in this lawsuit and are not authorized to accept service on behalf of any Defendant.

In 1797, the U.S. Attorney General first opined that "a person acting under a commission from the sovereign of a foreign nation is not amenable for what he does in pursuance of his commission, to any judicial tribunal in the United States." *Actions Against Foreigners*, 1 Op. Att'y Gen. 81, 81 (1797). A century later, in *Underhill v. Hernandez*, 168 U.S. 250 (1897), the Supreme Court described the doctrine of official-acts immunity as "[t]he immunity of individuals from suits brought in foreign tribunals for acts done within their own states, in the exercise of governmental authority … as civil officers." *Id.* at 252. And in the 2010 decision *Samantar v. Yousuf*, 560 U.S. 305, the Supreme Court affirmed the continuing validity of official-acts immunity under the common law. Since then, courts throughout the Nation have consistently reaffirmed the immunity of foreign officials for conduct undertaken in their official capacities, including in suits against Israeli judges and officials that were in every material respect identical to Plaintiff's lawsuit here. *See, e.g.*, *Newman v. Jewish Agency for Israel*, No. 16-cv-7593, 2017 WL 6628616 (S.D.N.Y. Dec. 28, 2017), *aff'd sub nom. Eliahu v. Jewish Agency for Israel*, 919 F.3d 709 (2d Cir. 2019).

Under this doctrine, "foreign government officials acting [in] their official capacity … are entitled to immunity." *Eliahu*, 919 F.3d at 712. *Samantar* provides a two-step framework for the analysis. 560 U.S. at 311. The first step, which does not apply here, provides that the court must "surrender[] its jurisdiction" when the State Department issues a "suggestion of immunity." *Id.* When the State Department has not taken a position, however, the second step of *Samantar* requires the district court to "decide for itself whether all the requisites for such immunity exist[]." *Id.* Courts can undertake this task because the United States has stressed that the principles governing foreign official immunity "are susceptible to general application by the judiciary without the need for recurring intervention by the Executive, particularly in the form of suggestions of immunity filed on a case-by-case basis." Brief for the United States of America as Amicus Curiae in Support of Affirmance at 21 n.*, *Matar v. Dichter*, 563 F.3d 9 (2d Cir. 2009) (No. 07-2579),

2007 WL 6931924. Accordingly, courts have not hesitated to grant official-acts immunity even without guidance from the Executive Branch.[4]

This is a clear-cut case of foreign official immunity. The Israeli Officials are all sitting officials of a foreign government. Indeed, Plaintiff's own Complaint recognizes that "the members of the racketeering ring are members of the Israeli judiciary or government" (Compl. ¶ 3), and it describes the Israeli Officials' various government positions: Defendants Ofek, Akuka, Shilo, and Meshulam are judges (¶¶ 9-10, 12-13); Defendant Sa'ar was, at the time the Complaint was filed, Israel's Minister of Justice and is now a member of the Knesset (the Israeli legislature) (¶ 14); and Defendant Hayut is the presiding Chief Justice of the Supreme Court of Israel (¶ 15).

All of the allegations in this case, moreover, relate to purported acts undertaken in the Israeli Officials' official capacity. The gravamen of Plaintiff's Complaint is that the Israeli Officials issued adverse decisions against him in his divorce and alimony proceedings in Israeli family court. Plaintiff attempts to characterize that exercise of governmental authority as "extortion" and "racketeering," but the alleged acts are simply normal conduct by government officials acting in their official capacities. *See, e.g.*, ¶ 51 ("Defendant Ofek issued orders … and denied [Plaintiff's] motions …."); ¶ 54 ("Defendant Ofek ordered the police to take Plaintiff out of the Courtroom, decided that Plaintiff shall be deemed as if he failed to appear, ordered Plaintiff to pay … attorney

[4] *See, e.g.*, *Eliahu*, 919 F.3d at 712-13 (finding conduct-based immunity where plaintiffs alleged that Israeli cabinet member, judge, and civil servants acted in official capacities); *Doe 1 v. Buratai*, 318 F. Supp. 3d 218, 238 (D.D.C. 2018) (finding conduct-based immunity where Nigeria ratified its official's conduct), *aff'd on other grounds*, No. 18-7170, 2019 WL 668339 (D.C. Cir. Feb. 15, 2019); *Farhang v. Indian Inst. of Tech.*, 655 F. App'x 569, 571 (9th Cir. 2016) (finding conduct-based immunity where plaintiffs alleged that Indian official acted in official capacity); *In re Terrorist Attacks on Sept. 11, 2001*, 122 F. Supp. 3d 181, 189 (S.D.N.Y. 2015) (finding conduct-based immunity for Saudi official where only non-conclusory allegations were official acts); *Moriah v. Bank of China Ltd.*, 107 F. Supp. 3d 272, 277-80 (S.D.N.Y. 2015) (finding conduct-based immunity for former Israeli official related to official acts); *Wultz v. Bank of China Ltd.*, 32 F. Supp. 3d 486, 492-98 (S.D.N.Y. 2014) (same).

fees … [,] and granted a default judgment ….”); ¶ 60 (“Defendant Ofek refused to set dates for conferences and trial in Plaintiffs counterclaims ….”); ¶ 62 (“Defendant Naftali Shilo … denied the motion to suspend proceedings pending an appeal. And found nothing wrong with the conduct of his fellow extortionists Ofek, Meshulam or Akuka.”).

Plaintiff attempts to plead around immunity, alleging: “Although the members of the racketeering ring are members of the Israeli judiciary or government, that ‘judiciary’ is not entitled to any immunity or state action recognition of sovereignty, because the courts they operate do not resemble anything that even remotely looks like an adversarial tribunal with fair justice and equal protection.” Compl. ¶ 3. But foreign official immunity does not turn on a party’s opinion of the foreign government in question. Indeed, it would undermine longstanding international abstention doctrines for the Court to interrogate the fairness of Israel’s judiciary. *See infra* Section IV. The only question is whether, during the events in question, the defendants were foreign officials acting in their official capacities. *Eliahu*, 919 F.3d at 712.

Nor does it matter that Plaintiff contends that the Israeli Officials’ conduct is wrongful, or even illegal. To be clear, the Israeli Officials strongly dispute Plaintiff’s allegations, but even if they are assumed true for the purposes of this motion, such characterizations are irrelevant for purposes of foreign-official immunity. There is no exception to foreign-official immunity for wrongful, unlawful, or illegal conduct. *See In re Terrorist Attacks on Sept. 11, 2001*, 122 F. Supp. 3d 181, 189 (S.D.N.Y. 2015) (citing *Rosenberg v. Pasha*, 577 F. App’x 22, 23 (2d Cir. 2014) (unpublished)). It is well-established that an alleged illegal act does not render an official’s conduct any less official; nor does it render a foreign official any less immune. *See Newman v. Jewish Agency for Israel*, No. 16-cv-7593, 2017 WL 6628616, at *2 (S.D.N.Y. Dec. 28, 2017), *aff’d sub nom. Eliahu v. Jewish Agency for Israel*, 919 F.3d 709 (2d Cir. 2019). “Indeed, if Plaintiff[] could hurdle immunity simply by alleging that the acts were illegal, ‘such a rule would eviscerate the

protection of foreign official immunity and would contravene federal law on foreign official immunity.'" *Id.* (quoting *Giraldo v. Drummond Co.*, 808 F. Supp. 2d 247, 250 (D.D.C. 2011)). The only relevant consideration is whether, during the events in question, the defendants were foreign officials acting in their official capacities. *Eliahu*, 919 F.3d at 712.

The Complaint is unequivocal that all of the Israeli Officials' alleged conduct was undertaken in their official capacities as judges or high-ranking officials. The Court therefore should "dismiss[] all claims against the Israeli Officials for lack of subject matter jurisdiction because, as foreign government officials acting their official capacity, they are entitled to immunity." *Id.*

II. The Court Lacks Personal Jurisdiction over the Defendants.

The Court should independently dismiss the Complaint for lack of personal jurisdiction. *See Newman*, 2017 WL 6628616, at *2-4 (dismissing claims against Israeli officials on immunity grounds and also independently dismissing for lack of personal jurisdiction).

Personal jurisdiction "is an essential element of the jurisdiction of a district court, without which the court is powerless to proceed to an adjudication." *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583-84 (1999). Plaintiff bears the burden of establishing this Court's personal jurisdiction over each Defendant by proving he properly served each Defendant with a copy of the complaint and summons and by alleging "specific acts connecting [each] defendant to the forum." *Second Amend. Found. v. U.S. Conf. of Mayors*, 274 F.3d 521, 524 (D.C. Cir. 2001). Plaintiff has failed to satisfy either requirement.

A. Plaintiff failed to properly serve the Israeli Officials and Defendant Halperin-Kaddari.

Service of a U.S. lawsuit on defendants in Israel is governed by the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Hague Service Convention), Nov. 15, 1965, 20 U.S.T. 361, 658 U.N.T.S. 163, to which the United States

and Israel are both parties. *See* Hague Conference on Private Int'l Law, Status Table, https://www.hcch.net/en/instruments/conventions/status-table/?cid=17. "[T]he Hague Service Convention specifies certain approved methods of service and pre-empts inconsistent methods of service wherever it applies." *Water Splash v. Menon*, 137 S. Ct. 1504, 1507 (2017) (quotation marks omitted).

The Hague Service Convention authorizes what has been called "one main channel of transmission" and "several alternative channels of transmission." Permanent Bureau of the Hague Conference on Private Int'l Law, *Practical Handbook on the Operation of the Service Convention* ¶ 110 (4th ed. 2016). "Main channel" service consists of a two-step process that proceeds through a "Central Authority" designated by the contracting state: First, the plaintiff submits a request for service to the receiving state's Central Authority; then—if the request complies with the Convention and the receiving state does not object under Article 13—the Central Authority effects service on the defendant and provides the plaintiff with a certificate of service as proof. *See* Convention arts. 2, 4-6, 13; *Saint-Gobain Performance Plastics Eur. v. Bolivarian Republic of Venezuela*, 23 F.4th 1036, 1041 (D.C. Cir. 2022).

Alternative "methods of service" are set forth in Articles 8 through 11 and Article 19. *See Volkswagenwerk Aktiengesellschaft v. Schlunk*, 486 U.S. 694, 699 (1988); *Saint-Gobain*, 23 F.4th at 1042. These alternative methods—some of which are available only if the receiving state does not object under Article 21—are: direct consular or diplomatic channels (Article 8); indirect service through the "authorities of another Contracting State" or diplomatic channels (Article 9); postal channels (Article 10(a)); direct communication between judicial officers, officials, or other competent persons (Article 10(b)); direct communication between an interested party and judicial officers, officials, or other competent persons of the state of destination (Article 10(c)); and such other "channels of transmission" as the contracting states may "agree[] to permit" (Article 11).

Israel has objected to Article 10(a) service via postal channels "with respect to documents addressed to the State of Israel, including its political subdivisions, agencies, authorities and instrumentalities, and to officials, or agents acting or who acted on behalf of the Government of Israel." Hague Conference on Private Int'l Law, Article 21 Declaration of the State of Israel (Aug. 16, 2021), https://www.hcch.net/en/notifications/?csid=405&disp=resdn.

The proofs of service submitted by Plaintiff with respect to the Israeli Officials do not demonstrate effective service in compliance with the terms of the Hague Convention. *First*, Plaintiff's attempt to effect service on the Israeli Officials through postal channels is barred under the Convention because Israel has objected, pursuant to Article 21, to service through postal channels "with respect to documents addressed to … officials … acting or who acted on behalf of the Government of Israel." *Id.* As explained above, *supra* Section I, Plaintiff's lawsuit concerns alleged conduct undertaken by the Israeli Officials acting on behalf of the Government of Israel. Accordingly, "[s]ervice of such documents shall be effected, subject to the provisions of the Convention, through the Directorate of Courts," which is Israel's Central Authority for service under the Convention. *Id.*[5]

Second, Plaintiff's proofs of service make clear that he did not effect service through the Directorate of Courts, as required. The proofs of service with respect to Defendants Sa'ar and Hayut do not mention any attempt to effect service through the Directorate of Courts. *See* ECF 19, 20. As for Defendants Ofek, Shilo, Meshulam, and Akuka, the proofs of service submitted by Plaintiff state that Mr. Weininger attempted to request service through the Directorate of Courts,

[5] Even if Plaintiff could serve the Israeli Officials through postal channels—and he cannot—the proofs of service he submitted are still deficient as they do not include "a receipt signed by the addressee" or any "other evidence … that the summons and complaint were delivered to the addressee." Fed. R. Civ. P. 4(*l*)(2)(B).

but, according to him, "[t]hey refused to receive the service against local officials." ECF 14; *see* ECF 15, 17-18. In fact, Mr. Weininger attempted to request service, and he was asked to return at a later date. In any event, this attempt does not constitute service under the Hague Convention; rather, the Convention requires both delivery of the *request for service* to the Central Authority followed by *actual service* on the defendants by the Central Authority. *See* Convention arts. 2, 5, 6; *see Saint-Gobain*, 23 F.4th at 1041 ("The Convention states in Article 2 that the Central Authority receives requests for service, not that this constitutes legal service ….").[6] Here, actual service never occurred. Notably, Plaintiff has not submitted a certificate of service issued by the Central Authority pursuant to Article 6, which is the proper form of proof of service under the Convention. *See* Convention art. 6; *Saint-Gobain*, 23 F.4th at 1040-41.[7]

Plaintiff's attempt to serve Defendant Halperin-Kaddari also failed to comply with the Hague Convention and Federal Rule of Civil Procedure 4. According to the proof of service, Mr. Weininger apparently attempted to serve Defendant Halperin-Kaddari through registered mail sent to her university office. ECF 21. But Plaintiff has not provided any proof of delivery (*i.e.*, a receipt or "green card" equivalent). Article 10(a) of the Hague Convention permits service by registered mail, but also requires compliance with Rule 4, which requires proof of delivery or receipt. *See Stallard v. Goldman Sachs Grp., Inc.*, No. 20-cv-2703, 2022 WL 59395, at *8 (D.D.C. Jan. 6, 2022). Beyond that, Plaintiff has not attempted or effected service on Defendant Halperin-Kaddari

[6] The distinction between a request for service and actual service matters because "under Articles 4 and 13, the Central Authority retains the power to object to requests [for service] that do not comply with the Convention or that infringe the receiving state's sovereignty." *Saint-Gobain*, 23 F.4th at 1041; *see* Convention art. 13 ("[T]he State … may refuse to comply [with a request for service] … if [the State] deems that compliance would infringe its sovereignty or security.").

[7] Likewise, the purported attempts by Mr. Huppert to serve unnamed "court secretar[ies]," ECF 14, 15, 18, 20, fail because these unidentified persons are not Defendants in this lawsuit and are not authorized to accept service on behalf of any Defendant in this lawsuit.

in any other way authorized under the Convention. Accordingly, Plaintiff has failed to effectively serve Defendant Halperin-Kaddari.

B. Defendants lack minimum contacts with the United States.

Apart from service of process, Plaintiff also cannot establish personal jurisdiction over Defendants consistent with due process, and the Court should dismiss on this separate basis.

Whether the exercise of jurisdiction over a foreign defendant satisfies the Due Process Clause depends on whether the defendant has "sufficient contacts with the United States as a whole." *Sys. Pipe & Supply, Inc. v. M/V VIKTOR KURNATOVSKIY*, 242 F.3d 322, 324 (5th Cir. 2001). The Fifth Amendment's Due Process Clause protects defendants from "being subject to the binding judgments of a forum with which [they have] established no meaningful contacts, ties, or relations," and requires "fair warning that a particular activity may subject them to the jurisdiction of a foreign sovereign." *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472 (1985).

There are two types of personal jurisdiction: "general" and "specific." *Id.* at 56. Plaintiff asserts no basis for general jurisdiction, as none of the Defendants may be "fairly regarded as at home" in the United States. *Daimler AG v. Bauman*, 571 U.S. 117, 127 (2014). None of the individual defendants is a U.S. citizen or resident, and Nefesh B'Nefesh is not incorporated in Texas, nor does it maintain its principal place of business here. *See id.*

Instead, Plaintiff appears to rely on specific jurisdiction, which requires an "affiliation between the forum and the underlying controversy." *Walden v. Fiore*, 571 U.S. 277, 283 n.6 (2014)). Specific jurisdiction cannot be based on "random, fortuitous, or attenuated contacts" between a defendant and the United States. *Id.* at 286 (quoting *Burger King*, 471 U.S. at 475). Rather, a defendant must have "purposefully directed" its activities here. *Burger King*, 471 U.S. at 472-73. And the defendant's forum contacts must form the basis for the plaintiff's suit: Plaintiff must show that his claims "arise out of or relate to the defendant's contacts" with the forum. *Ford Motor Co.*

v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1025 (2021).

Plaintiff's Complaint includes no factual allegations that Defendants directed their conduct at the United States. Indeed, his Complaint hardly even mentions Texas or the United States. Plaintiff claims that Defendant Ofek issued judgments in Israeli family court against him in favor of his ex-wife, which his ex-wife may attempt to domesticate in Texas at some future point. Compl. ¶ 9. But whether Plaintiff's *ex-wife* might eventually attempt to domesticate those judgments has nothing to do with any conduct by the Defendants. "[I]t is the *defendant*, not the plaintiff or third parties, who must *create contacts* with the forum State." *Walden*, 571 U.S. at 291 (emphasis added). Plaintiff also claims that "Defendants operate business [*sic*] in the State of Texas" without identifying which Defendants or what business they operate. ¶ 18. These bare and conclusory assertions, bereft of any supporting factual allegations, cannot support the exercise of personal jurisdiction. *See Sealed Appellant 1 v. Sealed Appellee 1*, 625 F. App'x 628, 631 (5th Cir. 2015) ("In evaluating whether the plaintiffs have presented a prima facie case of personal jurisdiction, we will not 'credit conclusory allegations, even if uncontroverted.'" (quoting *Panda Brandywine Corp. v. Potomac Elec. Power Co.*, 253 F.3d 865, 869 (5th Cir. 2001))).

As for Plaintiff's claim that Defendant Nefesh B'Nefesh "operates out of Jewish Community Center of Dallas where they hold Nefesh b'Nefesh Pre-Aliyah Planning Workshops" (Compl. ¶ 11), this allegation cannot support specific jurisdiction because the alleged conduct—holding workshops in Dallas—lacks any relationship to Plaintiff's claims. *See Seiferth*, 472 F.3d at 274-75. Plaintiff does not, for example, allege that he attended one of those Dallas workshops or even availed himself of Nefesh B'Nefesh's services at all, much less while living in the United States. Indeed, it is not even clear whether Plaintiff emigrated to Israel from the United States or Australia, his home country, or where he has resided during the long period of time that encompasses the allegations in the Complaint. *See* Compl. ¶ 8. And even if Plaintiff had made those allegations,

Nefesh B'Nefesh's conduct—encouraging emigration to Israel—is too attenuated from Plaintiff's claims related to his Israeli divorce and alimony proceedings to support personal jurisdiction. *See Walden*, 571 U.S. at 283 ("[T]he defendant's suit-related conduct must create a substantial connection with the forum State."); *Ford*, 141 S. Ct. at 1025 (each claim must "arise out of or relate to the defendant's contacts" with the forum).

Similarly, Plaintiff's allegation that Defendant Halperin-Kaddari's organization (not Defendant Halperin-Kaddari personally) solicits donations in all "50 US States" (Compl. ¶ 16) cannot support a finding of specific jurisdiction because: (i) the allegation does not relate to Defendant Halperin-Kaddari individually; (ii) the alleged solicitations do not have any relationship to Plaintiff's claims; (iii) the alleged solicitations are not alleged to have caused Plaintiff any injury; and (iv) any solicitation of donations by Defendant Halperin-Kaddari's organization is too attenuated from Plaintiff's claims about his divorce proceedings. *See Walden*, 571 U.S. at 283; *Ford*, 141 S. Ct. at 1025.

Plaintiff asserts that venue (not jurisdiction) is proper in the District because "Defendants … directed their actions and calculated their extortionist scheme towards property of the Defendant in Portland, Texas." ¶ 19. This conclusory allegation lacks factual support and therefore should not be credited. *See Panda Brandywine Corp.*, 253 F.3d at 869. The mere fact that *Plaintiff* resides in Texas and has assets here is insufficient to create personal jurisdiction over Defendants. Again, "it is the *defendant*, not the plaintiff or third parties, who must *create contacts* with the forum State." *Walden*, 571 U.S. at 291 (emphasis added). Even if Defendants "knew" that their conduct would have some effect in Texas—and there is no factual allegation that they did—mere "knowledge" of domestic effects cannot support personal jurisdiction. *Id.* at 289 ("Petitioner's actions in Georgia did not create sufficient contacts with Nevada simply because he allegedly directed his conduct at plaintiffs whom he knew had Nevada connections.").

Ultimately, this lawsuit, which is brought against Israeli defendants arising from alleged conduct in Israel, does not have a sufficient connection to the United States to support personal jurisdiction, and the Court should dismiss the suit in its entirety on these grounds.

III. The Complaint Fails to State a Valid Claim for Relief.

Immunity and personal jurisdiction are sufficient to dismiss the Complaint in full, but the Court can—and should—dismiss the Complaint for the additional reason that Plaintiff has failed to plead "enough facts to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 677 (2009). A court considering a motion to dismiss "must assume that all factual allegations in the complaint are true," *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007), but a "pleading that offers 'labels and conclusions' or 'a formulaic recitation of the elements of a cause of action will not do," *Iqbal*, 556 U.S. at 678.

Plaintiff's Complaint lacks *any* plausible factual allegations regarding an injury that is actionable under the RICO statute; any predicate RICO conduct; or the existence of an enterprise or agreement. Nothing alleged in the Complaint comes anywhere near "crimes against humanity" or "torture." Compl. ¶¶ 85-90. Nor did Nefesh B'Nefesh act negligently when it allegedly "lured" Plaintiff to emigrate to Israel, ¶ 39. Plaintiff's claims should be dismissed on the merits under Rule 12(b)(6).

A. The Complaint fails to state a RICO claim.

The RICO Act makes it unlawful to "invest" in an enterprise derived from a pattern of racketeering activity, 18 U.S.C. § 1962(a), "to acquire or maintain" an interest in an enterprise through a pattern of racketeering activity, § 1962(b), "to conduct or participate … in the conduct" of an enterprise through a pattern of racketeering activity, § 1962(c), or to "conspire to" violate any of those provisions, § 1962(d). Section 1964(c) creates a private civil cause of action for certain injuries resulting from a violation of the Act.

In order to recover under § 1964(c), Plaintiff must make a threshold showing that (1) he was injured in his business or property, (2) his injury is a domestic one, and (3) his injury was proximately caused by the defendant's violation of § 1962. *RJR Nabicso, Inc. v. Eur. Cmty.*, 579 U.S. 325, 354 (2016). Section 1962, in turn, requires Plaintiff to establish (1) that the defendants were employed by, associated with, or otherwise acquired or maintained an interest in an enterprise affecting interstate commerce; and (2) that the defendants participated in the conduct of the enterprise's affairs through at least two predicate acts of racketeering activity. 18 U.S.C. § 1962(c); *see* Compl. ¶ 6 ("Plaintiff's complaint is based on 18 U.S.C. § 1962(c) …."). Plaintiff fails to clear any of these hurdles.

1. Plaintiff was not injured in his business or property by reason of the alleged RICO predicate offenses.

A plaintiff has no standing to sue under the civil RICO statute unless he can show a domestic injury to his business or property by reason of a RICO predicate offense. *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496 (1985); *see* 18 U.S.C. § 1964(c). That is, he must show "some direct relation between the injury asserted and the injurious conduct alleged." *Hemi Grp. LLC v. City of New York*, 559 U.S. 1, 9 (2010). A plaintiff who claims only "physical, emotional or reputational harm" cannot recover under the civil RICO statute. *Papageorge*, 31 F. Supp. 31 at 15 (quoting *State Farm Mut. Aut. Ins. Co. v. CPT Med. Servs. P.C.*, 375 F. Supp. 2d 141, 152 (E.D.N.Y. 2005)). In addition, a RICO plaintiff must "allege and prove a *domestic* injury to business or property" because RICO "does not allow recovery for foreign injuries." *RJR Nabisco*, 579 U.S. at 354. The racketeering activity must be the "proximate cause" of the plaintiff's injury to his business or property to state a valid claim under the statute. *Holmes v. Sec. Inv. Prot. Corp.*, 503 U.S. 258, 268 (1992); *Hemi Grp.*, 559 U.S. at 13 ("[T]he compensable injury flowing from a [RICO] violation … necessarily is the harm caused by [the] predicate acts." (internal quotation

marks omitted)).

Plaintiff alleges no domestic injury to his business or property arising from any alleged RICO predicate offenses. To begin, Plaintiff's alleged personal injuries (such as his detention in Israel) do not qualify as an "injury to business or property" sufficient to establish standing under RICO. *Westchester Cty. Indep. Party v. Astorino*, 137 F. Supp. 3d 586, 612 (S.D.N.Y. 2015). Similarly, any purported injury arising out of Plaintiff's divorce and alimony proceedings in Israel flow from Plaintiff's personal obligations under Israeli family law and the execution of judgments issued under the judicial authority of Israel. Such obligations, and Israel's efforts to enforce them in compliance with Israeli law and policy, do not constitute an "injury to business or property" within the meaning of RICO. The mere recitation of this element, *see* Compl. ¶ 19, is quintessential elements pleading prohibited by *Iqbal* and *Twombly*.

But even if the Court were to construe Plaintiff's adverse Israeli judgments as an "injury to business or property," those adverse judgments were incurred *in Israel*. The fact that Plaintiff may choose to satisfy adverse Israeli judgments with U.S. assets does not transform those foreign obligations into domestic injuries. *See Bascunan v. Elsaca*, 874 F.3d 806, 818-19, 824 (2d Cir. 2017); *Newman*, 2017 WL 6628616, at *4 (dismissing nearly identical claims for failure to allege domestic injury). Similarly, the fact that his ex-wife *might* eventually seek to domesticate Plaintiff's adverse Israeli judgments (Compl. ¶ 9) is too far attenuated from the alleged RICO violations to be actionable, *see Holmes*, 503 U.S. at 268; *Hemi Grp.*, 559 U.S. at 13, and cannot transform Plaintiff's adverse foreign judgments into a domestic injury, *see Bascunan*, 874 F.3d at 818-19, 824.

2. Plaintiff fails to sufficiently allege any predicate act.

To state a RICO claim, Plaintiff also must sufficiently allege at least two predicate acts of racketeering activity. *H.J. Inc. v. NW Bell Tel. Co.*, 492 U.S. 229, 239 (1989); 18 U.S.C. § 1961(1),

(5). Plaintiff attempts to satisfy this requirement by listing a litany of irrelevant criminal statutes. *See* Compl. ¶ 81. But the Complaint does not plausibly allege even a *single* violation of any of those statutes—none of which has anything to do with the allegations related to his divorce and alimony proceedings in Israel.

Mail and wire fraud. Plaintiff's claims for mail and wire fraud under 18 U.S.C. §§ 1341 and 1343 fail from the start. Because both predicates sound in fraud, Rule 9(b) of the Federal Rules of Civil Procedure requires Plaintiff to plead *with specificity* "the particulars of 'time, place, and contents of the false representations, as well as the identity of the person making the misrepresentation and what he obtained thereby.'" *Tel-Phonic Servs., Inc. v. TBS Int'l, Inc.*, 975 F.2d 1134, 1139 (5th Cir. 1992) (quoting 5 C. Wright & A. Miller, *Federal Practice and Procedure* § 1297, at 590 (1990)). Plaintiff's claims do not allege any of these elements: they lack any specificity whatsoever with regard to *who* said *what* and *when*. Indeed, Plaintiff does not identify any specific misrepresentations made by any Defendant. Instead, Plaintiff claims that the Defendants emailed him "the [judicial] decisions" issued during his divorce and alimony proceedings in Israel, which he characterizes as "threatening him that if he does not travel to Israel under the risk of being locked in the country indefinitely, his assets will be confiscated and turned over to his wife and sanctions can be imposed." Compl. ¶ 81.a. But that allegation does not state a claim for fraud, much less with the specificity required under Rule 9(b).

Plaintiff asserts that emailing him judicial decisions "satisfies the use of the mail and wires to perpetrate *extortion*," not fraud. Compl. ¶ 81.a (emphasis added). But using the mail and wires to perpetrate extortion is a different section of the U.S. Code, *see* 18 U.S.C. ch. 41, which is not incorporated into the RICO Act's definition of racketeering activity, *see* 18 U.S.C. § 1961(1). In any event, Plaintiff has not satisfied any element of using interstate communications for extortion under 18 U.S.C. § 875. He does not allege any "demand or request for a ransom," § 875(a), any

"threat to kidnap" or "injure" anyone, § 875(b)-(c), or any "threat to injure" his "property or reputation," § 875(d). Simply put, emailing Plaintiff Israeli judicial decisions issued in the course of his divorce and alimony proceedings does not amount to a "threat" of any kind—even if those decisions carry legal consequences—nor do those communications demonstrate any "intent to extort" him. *See, e.g.*, *Elonis v. United States*, 575 U.S. 723, 733-40 (2015).

But even if the Court were to construe the Complaint broadly to allege garden-variety "extortion," that claim would fail as well. Plaintiff has not alleged extortion under federal law because he has alleged no "obstruct[ion]" of "commerce," or even that any Defendant unlawfully "obtain[ed]" his "property." *See* 18 U.S.C. § 1951(a), (b)(2). Nor has Plaintiff alleged extortion under state law with plausible factual allegations that any Defendant unlawfully appropriated any of his property. *See* Tex. Penal Code §§ 31.02, 31.03.

Obstruction of justice. Plaintiff also invokes 18 U.S.C. § 1503, claiming that Defendants "endeavored to influence, intimidate, or impede proceedings in the United States Court of Claims where Plaintiff is suing to recover seized merchandize." Compl. ¶ 81.b. But the Complaint alleges no facts to substantiate this claim beyond the allegation that Defendants "manufactur[ed] a judgment created by extortion in Israel that would levy on the products of the litigation." *Id.* "[M]anufacturing a judgment" (*id.*) in a foreign court (whatever that means) is not an element of the statute. *See, e.g.*, *United States v. Richardson*, 676 F.3d 491, 502 (5th Cir. 2012). Nor has Plaintiff plausibly alleged that any Defendants "had knowledge of" Plaintiff's U.S. court proceedings, much less intended to "influence, obstruct, or impede" them. *See id.*

Retaliating against a witness, victim, or an informant. Plaintiff's claims of witness retaliation under 18 U.S.C. § 1513 also fail. His theory of witness retaliation is that a variety of restrictions related to COVID-19 lockdowns prevented him from attending proceedings in person in Israel, but he fails to explain how those restrictions "caused bodily injury to Plaintiff or damaged

the tangible property of Plaintiff, or threatened to do so." Compl. ¶ 81.c. Beyond that, 18 U.S.C. § 1513 applies extraterritorially only to the extent that the defendant attempted to influence judicial proceedings taking place in the United States, which Plaintiff does not allege. *See* 18 U.S.C. § 1513(g).

Interference with commerce by threats or violence. Plaintiff's claims of interference with commerce by robbery or extortion under 18 U.S.C. § 1951 are similarly farfetched. He asserts that Defendants prevented him from "exiting Israel to complete transactions originating from China and intended for consummation in the [United States]." Compl. ¶ 81.d. The "no exit" orders that allegedly restricted Plaintiff's ability to leave Israel do not amount to "robbery" or "extortion" as defined in 18 U.S.C. § 1951(b)(1) and (2).

Interstate and foreign travel or transportation in aid of racketeering enterprises. Finally, Plaintiff fails to allege a violation of 18 U.S.C. § 1952. He does not plausibly allege that any Defendant "travel[ed] in interstate or foreign commerce." 18 U.S.C. § 1952(a). Nor does he plausibly allege that any Defendant engaged in any commerce whatsoever (international or otherwise). *See id.* Nor does he plausibly allege that any Defendant used "the mail or any facility in interstate or foreign commerce." *Id.* Nor does he plausibly allege that any Defendant "distribute[d] the proceeds of any unlawful activity" or "commit[ted] any crime of violence." § 1952(a)(1)-(2). Nor does the complaint plausibly allege that any Defendant engaged in any "unlawful activity," including extortion. § 1952(b). As explained, emailing Plaintiff judicial decisions in his own case—something this Court does every day through its automated CM/ECF system—does not amount to a threat of any sort, much less a violation of federal law.

3. Plaintiff fails to allege the existence of an "enterprise."

Beyond the lack of any domestic RICO injury and Plaintiff's failure to plead two predicate acts, the Complaint also fails because it does not establish the existence of an "enterprise."

To plead a RICO enterprise, a Plaintiff must allege (1) a common purpose among the participants, (2) organization, and (3) continuity. *See In re Burzynski*, 989 F.2d 733, 743 (5th Cir. 1993). It is not enough for a group of individuals or entities to commit the predicate acts. Rather, an enterprise must be "proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates [comprising the enterprise] function as a continuing unit." *United States v. Turkette*, 452 U.S. 576, 583 (1981). The enterprise must also be legally distinct from the RICO persons who are alleged to be engaging in a pattern of racketeering activity through the enterprise's affairs. *Kushner*, 533 U.S. at 161. Simply stating "[l]egal conclusions couched as factual allegations" is insufficient. *Bates*, 466 F. Supp. 2d at 77 (internal quotation marks and brackets omitted).

But that is precisely what the Complaint does here. Plaintiff alleges in broad strokes that various Israeli officials hate men and are committing an anti-male "holocaust" (Compl. ¶¶ 86, 89) and that this anti-male ideology is shared by a nonprofit organization and the director of an academic institute. But he does not allege the existence of an overarching enterprise that comprises these distinct defendants, or even that these defendants have acted in concert. It is unclear, for example, whether Plaintiff suggests that the "enterprise" consists of all individuals and entities together, or of some grouping of Defendants. Equally unilluminating are Plaintiff's claims regarding the alleged activities of each Defendant, which do nothing to demonstrate that the Defendants were "conduct[ing] or participat[ing] in the conduct of the enterprise's affairs, not just their own affairs." *Kushner*, 533 U.S. at 163. Nor does the Complaint explain how the Defendants associated or operated with each other through "a shared decision-making structure." *Dodd v. Infinity Travel*, 90 F. Supp. 2d 115, 117 (D.D.C. 2000). To the extent he means to allege that the State of Israel or the Israeli judiciary is the RICO "enterprise" here, such an allegation would simply reinforce Defendants' immunity, act of state, and comity arguments. *See supra* Section I; *infra* Section IV.

Plaintiff cannot plead an enterprise by simply "recit[ing] legal conclusions and regurgitat[ing] the RICO elements without ever linking the defendants together through allegations of common control." *Stankevich v. Kaplan*, 156 F. Supp. 3d 86, 95 (D.D.C. 2016) (cleaned up). Even on a motion to dismiss, Plaintiff's baseless and conclusory allegations, lacking any factual support, fail to state a valid claim for relief. *See Iqbal*, 556 U.S. at 678.

4. Plaintiff's separate claim against Defendant Halperin-Kaddari does not state any element of a RICO claim.

Plaintiff's Complaint also does not allege any facts to support any of the elements of his separate RICO claim against Defendant Halperin-Kaddari, individually, for reasons similar to those set forth above. *See* Compl. ¶¶ 99-122.

First, Plaintiff does not allege his business or property was injured as a result of Defendant Halperin-Kaddari's organization's conduct (even though he has sued Defendant Halperin-Kaddari in her individual capacity, and not named her organization as a party). But even considering the conduct of the organization, Plaintiff hyperbolically alleges—without detail or support—that its "propaganda" against men is "responsible for the deaths of 300-500 men every year" and Plaintiff "sustained $8.5 million." Compl. ¶¶ 120-122. Plaintiff does not identify how he "sustained $8.5 million" or how that has any relation to Defendant Halperin-Kaddari. *See Hemi Grp.*, 559 U.S. at 9. Further, even if some injury is alleged, it is not apparent that it was "domestic" as required under § 1964(c). Indeed, any of the allegations related to damages in the other sections of the Complaint all relate to the results of Plaintiff's divorce and alimony proceedings *in Israel*, with which Defendant Halperin-Kaddari had zero involvement or connection.

Second, Plaintiff does not allege Defendant Halperin-Kaddari committed *any* specific predicate act. *See* Compl. ¶¶ 99-122. Instead, Plaintiff generically alleges she runs a "network of extortion" (Comp. ¶ 99), which is insufficient to allege a RICO claim. *See* 18 U.S.C. 1961(1).

Third, Plaintiff fails to adequately allege the existence of an "enterprise." *See In re Burzynski*, 989 F.2d at 743. Plaintiff merely alleges Defendant Halperin-Kaddari is the head of an organization that acts as a "propaganda center for male hate mongering," but does not identify any particular individuals in the organization who allegedly acted with a "common purpose" with Defendant Halperin-Kaddari or how there was any continuity or organization to their alleged conduct. *See Bates*, 466 F. Supp. 2d at 77. Accordingly, the standalone RICO claim against Defendant Halperin-Kaddari should also be dismissed.

B. The Complaint fails to state a claim under the ATCA or TVPA.

Plaintiff's claims of "crimes against humanity" (Compl. ¶¶ 85-89) based on a supposed "modern holocaust in the name of the cult of 'feminism'" (¶ 89) are implausible, false, and deeply offensive. These claims have no legal or factual basis and instead seem intended only to coopt this Court as a venue in which to slander Defendants with scandalous and inappropriate accusations. The allegations fail to state a claim under either the Alien Tort Claims Act (ATCA) or Trafficking Victims Protection Act (TVPA). *See* Compl. ¶ 90.

Plaintiff cannot state a claim under the ATCA for conduct arising outside of the United States. *See Kiobel v. Royal Dutch Petroleum Co.*, 569 U.S. 108, 124 (2013); *see, e.g.*, *Ben-Haim*, 543 F. App'x at 154-55 ("Although we very much doubt that the allegations in the amended complaint concerning Israel's family law system are actionable under the [ATCA] …, we need not reach the issue because, in *Kiobel*, the Supreme Court held that the [ATCA] does not apply when all of the relevant conduct took place outside the United States." (citation and footnote omitted)). Plaintiff's ATCA claim therefore must be dismissed.

Nor does the Complaint allege any conduct that remotely amounts to "torture" under the TVPA. Torture refers to "extreme, deliberate and unusually cruel practices, for example, sustained systematic beating, application of electric currents to sensitive parts of the body, and tying up or

hanging in positions that cause extreme pain." *Simpson v. Socialist People's Libyan Arab Jamahiriya*, 326 F.3d 230, 234 (D.C. Cir. 2003) (internal quotations omitted). Plaintiff's claims—which boil down to gender discrimination, adverse or unfair judicial decisions, restrictions on his liberty and access to his children, and monetary harms (*see* Compl.¶ 85)—do not allege extreme, deliberate, and unusually cruel practices amounting to torture. *See Ben-Haim*, 543 F. App'x at 155-56 (dismissing similar TVPA claims against Israeli officials).

C. The Complaint fails to state a claim for negligence.

In the absence of any properly pleaded federal claims, the Court should decline to exercise supplemental jurisdiction over Plaintiff's common-law negligence claim against Nefesh B'Nefesh (which is not pleaded against the other Defendants). *See* 28 U.S.C. § 1367(c)(3); *United Mine Workers v. Gibbs*, 383 U.S. 715, 726 (1966). But if the Court opts to exercise supplemental jurisdiction, it should dismiss Plaintiff's negligence claim as well for failure to state a claim.

Under Texas law, "[t]o prevail on a common law negligence claim, a plaintiff must be able to prove three elements: (1) a legal duty owed by one person to another; (2) a breach of that duty; and (3) damage proximately caused by the breach." *Gann v. Anheuser–Busch, Inc.*, 394 S.W.3d 83, 88 (Tex. App. 2012). The Complaint does not allege plausible facts to support any of these elements.

The gravamen of Plaintiff's negligence claim is that Nefesh B'Nefesh should have disclosed to him that Israel is "a vicious, brutal, violent and corrupt country with a corrupt legal system that does not follow any international standards and deprives men of anything they own, as soon as the wife wishes to 'dump' the man (just like trash) when the divorce starts." Compl. ¶ 93. Putting aside the facial absurdity of this claim, Plaintiff fails to allege that Nefesh B'Nefesh owed any legal duty to him to make those disclosures.

"Whether a legal duty exists is a threshold question of law for the court to decide from the

facts surrounding the occurrence in question. If there is no duty, there cannot be negligence liability." *Thapar v. Zezulka*, 994 S.W.2d 635, 637 (Tex. 1999) (footnotes omitted). "Generally, no duty of disclosure arises without evidence of a confidential or fiduciary relationship." *Insurance Co. of N. Am. v. Morris*, 981 S.W.2d 667, 674 (Tex. 1998). Plaintiff had no confidential or fiduciary relationship with Nefesh B'Nefesh that would have mandated any disclosure of anything about Israel. Indeed, Plaintiff had no relationship whatsoever with Nefesh B'Nefesh.[8] He thus has no legal basis upon which to complain about the content of its workshops. Plaintiff has failed to allege a plausible basis upon which the Court could conclude that Nefesh B'Nefesh owed him a legal duty. "If the court determines there is no duty, the inquiry regarding negligence ends." *Oberc v. BP PLC*, No. 4:13-cv-01382, 2013 WL 6007211, at *8 (S.D. Tex. Nov. 13, 2013).

Even if Nefesh B'Nefesh did owe him a legal duty, Plaintiff has not alleged that Nefesh B'Nefesh's conduct proximately caused his injuries. He states that, had Nefesh B'Nefesh made these disclosures, "he would have never married an Israeli woman[,] would never [have] immigrate[d] to Israel[,] and would never [have] voluntarily put himself directly in the 'mouth of the beast' that wants to eat him alive." Compl. ¶ 95. To say that Plaintiff's alleged injuries—adverse judgments in his divorce and alimony proceedings—are "attenuated" from any alleged conduct by Nefesh B'Nefesh is an understatement. Plaintiff's negligence claim relies on a chain of causal inferences so long and so fragile as to be utterly unforeseeable: not only did he have to choose to emigrate to Israel based on Nefesh B'Nefesh's advice, he had to marry an Israeli woman (as he

[8] With no particularized injury caused by Nefesh B'Nefesh, Plaintiff has no standing to sue Nefesh B'Nefesh. *See Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81 (2000); *see also Mugworld, Inc. v. G.G. Marck & Assocs.*, 563 F. Supp. 2d 659, 668 (E.D. Tex. 2007) ("[B]ecause Marck is not a customer of Mugworld, it is unclear how it would have relied on any representation by Mugworld … and therefore lacks standing"). The Court therefore can independently dismiss Plaintiff's claims against Nefesh B'Nefesh for lack of subject matter jurisdiction under Rule 12(b)(1).

was not married when he was "lured" to Israel); he then had to divorce her (in this case, a *decade* later); and then he had to lose his claims in Israel's (allegedly man-hating) family courts. Simply put, Nefesh B'Nefesh cannot be held legally responsible for that unforeseeable series of events. *See, e.g.*, *Columbia Rio Grande Healthcare, L.P. v. Hawley*, 284 S.W.3d 851, 857-58 (Tex. 2009); *Dew v. Crown Derrick Erectors, Inc.*, 208 S.W.3d 448, 451 (Tex. 2006).

IV. The Suit Is Barred by Foreign-Policy Abstention Doctrines.

Finally, Plaintiff's attack on the Israeli Officials, their official decisions, and the family-law system of Israel as a whole has no place in a U.S. court and is barred by the act of state doctrine and international comity. *See Weisskopf v. Neeman*, No. 11-cv-665 (W.D. Wis. Mar. 20, 2013), ECF 46 (dismissing suit against Israeli officials on multiple grounds, including the act of state doctrine and international comity). In light of the obvious jurisdictional and merits-based defects of this case, these doctrines are only briefly set forth below.

Act of State. "The act of state doctrine 'precludes the courts of this country from inquiring into the validity of the public acts a recognized foreign sovereign power committed within its own territory.'" *World Wide Minerals, Ltd. v. Republic of Kaz.*, 296 F.3d 1154, 1164 (D.C. Cir. 2002) (quoting *Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398, 401 (1964)). The doctrine applies in any case where "'the relief sought or the defense interposed would [require] a court in the United States to declare invalid the official act of a foreign sovereign performed within' its boundaries." *Id.* (quoting *W.S. Kirkpatrick & Co. v. Envtl. Tectonics Corp., Int'l*, 493 U.S. 400, 405 (1990)). The act of state doctrine applies not only to the public acts of a foreign state, but also to the acts of a government official taken in an official capacity. *See Samantar*, 130 S. Ct. at 2290. The act of state doctrine requires that "in the process of deciding [a case], the acts of foreign sovereigns taken within their own jurisdictions shall be deemed valid." *W.S. Kirkpatrick*, 493 U.S. at 409. Because Plaintiff's claims are based on the purported invalidity of Israeli judicial determinations and the

official acts of Israeli judges and officials in Israel, this suit is barred by the act of state doctrine.

Comity. International comity is "the recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens, or of other persons who are under the protection of its laws." *Hilton v. Guyot*, 159 U.S. 113, 164 (1895). "Generally, United States courts will not review acts of foreign governments and will defer to proceedings taking place in foreign countries, allowing those acts and proceedings to have extraterritorial effect in the United States." *Gross v. German Found. Indus. Initiative*, 456 F.3d 363, 392 (3d Cir. 2006). Any judicial review of this case in the United States threatens international comity. Plaintiff seeks millions of dollars in damages from Israeli judges and others based on their official acts and the purported policies and laws of Israel. Judicial oversight by a U.S. court of Israel's judiciary, particularly in the area of family law, is the antithesis of comity. Comity counsels that this Court should decline Plaintiff's invitation to exercise review over the operation of Israel's family-law and judicial systems and should instead dismiss this case.

CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court dismiss the Complaint with prejudice.

Respectfully Submitted,

Dated: January 13, 2023

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CERTIFICATE OF SERVICE

I hereby certify that Plaintiff has consented in writing to electronic service of all filings via email. I further certify that, on January 13, 2023, I effected electronic service of the foregoing document via email at the following address, provided by Plaintiff: shahar_ronnie@yahoo.com.

s/ Stephen K. Wirth
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