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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

**LAURIE MILLER, BRIAN DIMAS,
KIM MILLS, ANTHONY SOZA,
BRUCE CAMPBELL, KELLIE
BOWERS, TIM HUNTER, BRIAN
SAYLOR, MICHAEL SCHAMADAN,
INDIVIDUALLY AND AS
REPRESENTATIVE OF THE ESTATE
OF HIS WIFE, BRANDI SCHAMADAN,

Plaintiffs,

vs.

YORK RISK SERVICES GROUP,

Defendant.**

2:13-cv-1419 JWS

ORDER AND OPINION

[Re: Motion at Docket 8]

I. FINAL ORDER

After the parties' briefing was completed, the court set out its preliminary view on the motion at docket 8 in an order at docket 23 filed on December 9, 2013. Oral argument was then heard on December 19, 2013. This order provides the court's decision on the motion at docket 8.

After considering the lawyers' well articulated arguments and reviewing additional authority mentioned during oral argument, the court adopts the order at docket 23. Defendant's suggestions that certain questions of law be certified for appeal

1 to the Ninth Circuit and referred to the Arizona Supreme Court are rejected as
2 unnecessary.

3 **II. CONCLUSION**

4 For the reasons set out at length in the order at docket 23, Defendant's motion at
5 docket 8 to dismiss Plaintiffs' complaint pursuant to Rule 12(b)(6) is DENIED IN PART
6 and GRANTED IN PART as follows:

7 1. Defendant's request that Plaintiffs' RICO claims be dismissed is DENIED;

8 2. Defendant's request that Plaintiffs' aiding and abetting claims be
9 dismissed is DENIED;

10 3. Defendant's request that Mr. Schamadan's claims as representative of
11 the estate of Mrs. Schamadan be dismissed to the extent they seek
12 damages for pain and suffering is GRANTED;

13 4. Defendant's request that Mr. Schamadan's individual claims be
14 dismissed is GRANTED;

15 5. Mr. Shamadan's request to be permitted to seek leave to amend is
16 GRANTED. An amended complaint containing Mr. Shamadan's amended
17 claims shall be filed within 14 days from the date of this order. Defendant
18 shall respond within 14 days from the date the amended complaint is filed.

19 DATED this 19th day of December 2013.

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21 _____ /S/
22 JOHN W. SEDWICK
23 UNITED STATES DISTRICT JUDGE
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