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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Peter J Piper,
Plaintiff,
v.
Gooding & Company Incorporated, et al.,
Defendants.

No. CV-18-00244-PHX-DLR
ORDER

Before the Court is Defendant Gooding & Company’s (“Gooding”) amended motion to dismiss for failure to state a claim (Doc. 70), and Plaintiff Peter Piper’s motion for preliminary injunction (Doc. 74). The motions are fully briefed. On July 17, 2018, the Court held an evidentiary hearing on the preliminary injunction motion. For the reasons discussed below, Gooding’s motion to dismiss is granted in part and denied in part, and Piper’s preliminary injunction motion is granted.

MOTION TO DISMISS

I. Background

This case involves a dispute over the ownership of a rare 1954 Ferrari (“the Ferrari”). Piper’s father, James, purchased the Ferrari in 1962, had it restored in 1982, and won Most Elegant Sports car at the Pebble Beach Concours d’Elégance in August 1989. (Doc. 69 ¶¶ 13-15.) Following the Concours d’Elégance, a potential buyer offered James \$1.7 million for the Ferrari. (¶ 16.) He declined to sell it.

1 Also in 1989, James moved to Mexico and became romantically involved with
2 Maria Socorro De Rodriguez La Pine (“Socorro”). (¶ 17.) On September 19, 1989,
3 James died, purportedly from heart complications. (¶¶ 18, 79-80.) Because James’ body
4 was immediately cremated, further investigation into his cause of death was impossible.
5 At the time of James’ death he still owned the Ferrari. (¶ 75.)

6 Soon after James’ death, Socorro advised Piper that she was taking steps to protect
7 James’ assets for distribution to the family. (¶ 20.) Socorro represented to Piper that
8 James had hired an attorney to transfer title of his Ferraris, including the 1954 Ferrari,
9 into a holding entity for the benefit of Piper and his siblings. (¶ 87.) Piper met with
10 James’ attorney and orally authorized the transfer of the Ferraris to the holding entity.¹
11 (¶¶ 88-89.) Piper, however, never received documentation confirming the transfer. (¶¶
12 89-90.)

13 Unbeknownst to Piper, Socorro was suspected of murdering several prior love
14 interests and dispossessing the decedents of their assets. (¶¶ 19-20.) Despite being
15 unaware of this fact, Piper began to suspect that Socorro was involved in his father’s
16 death and confronted her. (¶ 90.) After being confronted by Piper, Socorro vanished.
17 Piper was left with no information concerning the whereabouts of the Ferrari, as James
18 and Socorro, the two people possessing that information, suddenly were gone. (¶ 91.)

19 In fact, the Ferrari was being stored in an empty shop next to Francorchamps of
20 America, Inc. (“FAI”), the same company that restored the Ferrari in 1982. (¶¶ 102-04.)
21 The Ferrari remained in FAI’s empty shop until 1991, at which time Socorro sold the
22 vehicle to Robert Butler. (¶¶ 106-07.) Butler purchased the Ferrari for \$300,000.00, less
23 than twenty percent of the market value just two years prior. (¶ 107.) Rod Drew, the
24 owner of FAI, was unaware of the allegations against Socorro until after she sold the
25 Ferrari. (¶ 109.) In 1995, Butler listed the Ferrari for sale, mislabeling it a 1955. (¶
26 117.) Butler then sold the Ferrari for \$150,000.00 to Todd Morici. (¶ 118.) Morici, in
27 turn, sold the Ferrari to Defendant Falcon Woods LLC (“Falcon Woods”). (¶ 119.)

28 ¹ Although not in the complaint, evidence was presented at the July 17, 2018
hearing that the name of this entity was V-Twelve, Ltd. (“V-Twelve”).

1 Piper intermittently searched for the Ferrari, including discussing with the FBI the
2 possibility that his father was murdered and the vehicle stolen. (¶ 22.) It was not until
3 December 2017 that Piper discovered information advertising the vehicle for sale at
4 auction. (*Id.*) Gooding, on behalf of Falcon Woods, planned to auction the Ferrari in
5 Scottsdale, Arizona on January 20, 2018, for an estimated price between \$1.6 million and
6 \$2 million. (¶¶ 140, 155.) Gooding’s provenance for the Ferrari contained multiple
7 errors, including that James sold the vehicle in 1991, two years after his death, and that
8 he initially acquired it in 1982. (¶¶ 141, 143.)

9 On January 18, 2018, Piper visited Gooding’s auction, viewed the Ferrari, and
10 confirmed that it was his father’s. (¶¶ 159-60.) That same day, Piper presented
11 Gooding’s in-house counsel with notice of his claim to the Ferrari. (¶ 161.) On January
12 19, 2018, Gooding placed a notice on the vehicle, informing potential purchasers that it
13 was processing a new title. (¶¶ 126, 162.) On January 20, 2018, the Ferrari was
14 withdrawn from auction. (¶ 169.) On January 23, 2018, Piper filed his verified
15 complaint and application for temporary restraining order application. (¶ 171.) Piper’s
16 complaint alleges seven claims, including: (1) conversion; (2) trespass to chattels; (3)
17 unjust enrichment; (4) civil conspiracy; (5) violations of the Racketeer Influence and
18 Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1961 *et seq.*; (6) violations of
19 Arizona’s RICO statute, A.R.S. § 13-2314; and (7) replevin of the Ferrari. Gooding
20 moves to dismiss all of Piper’s claims.²

21 **II. Legal Standard**

22 When analyzing a complaint for failure to state a claim to relief under Rule
23 12(b)(6), the well-pled factual allegations are taken as true and construed in the light
24 most favorable to the nonmoving party. *Cousins v. Lockyer*, 568 F.3d 1063, 1067 (9th
25 Cir. 2009). Legal conclusions couched as factual allegations are not entitled to the
26 assumption of truth, *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009), and therefore are
27 insufficient to defeat a motion to dismiss for failure to state a claim, *In re Cutera Sec.*

28 _____
² Falcon Woods did not join Gooding’s motion to dismiss.

1 *Litig.*, 610 F.3d 1103, 1108 (9th Cir. 2010). To avoid dismissal, the complaint must
2 plead sufficient facts to state a claim to relief that is plausible on its face. *Bell Atl. Corp.*
3 *v. Twombly*, 550 U.S. 544, 570 (2007). This plausibility standard “is not akin to a
4 ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant
5 has acted unlawfully.” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 556).

6 **III. Discussion**

7 Gooding argues that each of Piper’s tort claims (conversion, trespass to chattels,
8 unjust enrichment, and civil conspiracy) fail because Falcon Woods has superior title as a
9 result of Socorro conveying good title to the Ferrari. Gooding also argues that Piper’s
10 federal and state RICO claims should be dismissed for failure to properly allege a pattern
11 of racketeering activity or the requisite level of continuity.

12 **A. Tort Claims**

13 Assuming, as Piper alleges, that Socorro wrongfully acquired the Ferrari, Gooding
14 argues that Falcon Woods nonetheless has superior title for three independent reasons.
15 (Doc. 70 at 11.)

16 First, Gooding asserts that Socorro conveyed good title under California’s
17 innocent purchaser defense.³ As a general rule, “[t]he possessor of stolen goods has void
18 rather than voidable title, and therefore cannot convey good title . . . regardless of how
19 innocently the goods were acquired by him.” *Suburban Motors, Inc. v. State Farm Mut.*
20 *Auto. Ins. Co.*, 268 Cal. Rptr. 16, 19 (Cal. Ct. App. 1990). But under California’s
21 innocent purchaser defense, Cal. Com. Code § 2403(1), an innocent purchaser for value,
22 without actual or constructive notice that his vendor has secured the vehicle by a
23 fraudulent purchase, may take good title. *Id.* The law distinguishes between a purchaser
24 whose vendor obtained title by fraud and a purchaser whose vendor obtained title by
25 theft. *See* Cal. Com. Code § 2403(1); *State Farm Mut. Auto. Ins. Co. v. Dep’t of Motor*
26 *Vehicles*, 62 Cal. Rptr. 2d 178, 181 (Cal. Ct. App. 1997). Gooding argues that, at most,
27 the allegations in the complaint support that Socorro procured the Ferrari by fraud rather

28 ³ Because the parties apply California law to the conversion claim, the Court will do the same.

1 than theft, that Butler was a good faith purchaser without notice, and that the innocent
2 purchaser defense applies. The Court disagrees.

3 Piper has alleged sufficient facts that, if true, plausibly prevent application of the
4 innocent purchaser defense. According to the complaint, Piper and his siblings, as the
5 only heirs to James' estate, inherited the Ferrari through intestate succession. Absent
6 from the complaint is any allegation that Piper was defrauded into selling Socorro the
7 Ferrari or authorizing her to transfer ownership of it. Nevertheless, Socorro sold the
8 Ferrari. Accordingly, the Court finds that Piper has sufficiently alleged that Socorro
9 obtained the Ferrari by theft.

10 Second, Gooding argues that because Piper is not entitled “to the benefit of the
11 common law rule that a thief cannot pass title to stolen property” because he failed to
12 “utilize provisions of law that would protect his interest” in the Ferrari. (Doc. 70 at 11.)
13 Gooding contends that Piper fails to allege that he filed a police report “put[ting] the
14 public on constructive notice of [his] purported rights[.]” (*Id.* at 12-13.) For support,
15 Gooding cites California Civil Code § 3543, which provides that “[w]here one of two
16 innocent persons must suffer by the act of a third, he, by whose negligence it happened,
17 must be the sufferer.” California, however, has refused to apply § 3543 to cases where
18 criminal conduct, such as theft, is the proximate cause of the injury:

19 a party is not bound in transactions of this character either to
20 anticipate or take precaution against the commission of a
21 crime by which another may be deceived; that is where it is
22 through the instrumentality of a criminal act that the wrong is
23 accomplished, it is the crime, and not the negligent act, which
24 is the proximate cause of injury; and in such a case the maxim
25 that where one of two innocent persons must suffer from the
26 wrongful act of another, the loss must fall upon the one
27 making the act possible, has no application.

24 *Nathe v. Gray*, 75 Cal. App. 2d 682, 686 (Cal. Ct. App. 1946). Here, because Piper has
25 sufficiently alleged that Socorro stole the Ferrari—whether by theft or fraud—§ 3543
26 does not require dismissal.

27 Lastly, Gooding contends that “because [Piper] does not assert the existence of a
28 proceeding under California Probate Code § 255 (the Slayer Statute) as of 1991 (when

1 Butler acquired the Ferrari), Socorro’s being the alleged murderer of James[] would have
2 no effect on her ability to transfer title as an heir of Piper.” (Doc. 70 at 13.) This
3 argument fails because, according to the complaint, Socorro was not James’ surviving
4 spouse for purposes of probate because the two never legally married.⁴

5 In addition to these arguments, which are common to all of Piper’s tort claims,
6 Gooding raises additional defenses to each tort claim under the assumption that Socorro
7 failed to transfer good title and that Piper is the rightful owner of the Ferrari. The Court
8 discusses each in turn.

9 **i. Conversion**

10 Relying on *Simonian v. Patterson*, 32 Cal. Rptr. 2d 722 (Cal. Ct. App. 1994),
11 Gooding asserts that Piper’s conversion claim fails because, as a bailee of the Ferrari,
12 Gooding cannot be subject to a conversion action. The Court disagrees. The *Simonian*
13 court held that a defendant incurs no liability by acting as a “mere conduit” in
14 transferring items if he derives no personal gain from the transfer and delivers the items
15 pursuant to the bailment before “notice of the rights of the real owner.” *Id.* at 727. As
16 alleged, Gooding stands to financially gain from its bailment agreement and was on
17 notice of Piper’s ownership interest while still in possession of the vehicle. Gooding’s
18 motion to dismiss the conversion claim therefore is denied. *See* 5 Witkin Summary of
19 Cal. Law Torts, § 712(2) (10th ed. 2005) (“where a person entitled to possession
20 demands it, the wrongful, unjustified withholding is actionable as conversion”).

21 **ii. Trespass to Chattels**

22 Trespass to chattel “lies where an intentional interference with the possession of
23 personal property has proximately caused injury.” *Thrifty-Tel, Inc. v. Bezenek*, 54 Cal.
24 Rptr. 2d 468, 473 (Cal. Ct. App. 1996). A trespass to a chattel may be committed by

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26 ⁴ Gooding also takes the position that “unless [Piper] can plausibly allege that
27 every purchaser of the Ferrari up through Falcon Woods . . . was not a bona fide
28 purchaser for value” his claims must fail. (Doc. 70 at 13.) The Court disagrees. Under
California law, “a sale by the thief *or any other person claiming under the thief* does not
vest any title in the purchaser as against the owner, though the sale was made in the
ordinary course of trade and the purchaser acted in good faith.” *Suburban Motors*, 268
Cal. Rptr. at 19 (emphasis added).

1 intentionally (a) dispossessing another of the chattel, or (b) using or intermeddling with a
2 chattel in the possession of another. *Jamgotchian v. Slender*, 89 Cal. Rptr. 3d 122, 134
3 (Cal. Ct. App. 2009). Even without further damages, dispossession alone is actionable.
4 *Id.*; Restatement (Second) Torts § 218. A dispossession may take place by intentionally
5 preventing the possessor from having access to a chattel. Restatement (Second) Torts §
6 221(c) cmt. e. Piper has plausibly alleged that he is the rightful owner of the Ferrari, and
7 that Gooding is wrongfully in possession of and intentionally preventing Piper’s access to
8 it. As such, the Court denies Gooding’s motion to dismiss the trespass to chattels claim.

9 **iii. Unjust Enrichment**

10 Unjust enrichment is the “receipt of a benefit and the unjust retention of the
11 benefit at the expense of another.” *Peterson v. Cellco P’ship*, 80 Cal. Rptr. 3d 316, 323
12 (Cal. Ct. App. 2008). Gooding argues that the claim should be dismissed because it has
13 not received any benefit from the Ferrari, which has yet to be sold. For purposes of an
14 unjust enrichment claim, however, benefit is defined broadly and denotes any form of
15 advantage, including an interest in money, land, or chattels. *First Nationwide Sav. v.*
16 *Perry*, 15 Cal. Rptr. 2d 173, 176 (Cal. Ct. App. 1992) (citing Restatement Restitution § 1
17 cmt. b). Because Gooding has a future financial interest from the sale of the Ferrari,
18 Gooding’s motion to dismiss the unjust enrichment claim is denied.

19 **iv. Civil Conspiracy**

20 Civil conspiracy requires: (1) formation and operation of the conspiracy and (2)
21 damage resulting to the plaintiff (3) from an act done in furtherance of the common
22 design. *Thompson v. Cal. Fair Plan Ass’n*, 270 Cal. Rptr. 590, 593 (Cal. Ct. App. 1990).
23 To maintain such an action, “there must be alleged an act in furtherance of the conspiracy
24 which is itself a tort.” *Id.* (citing *Selby Realty Co. v. City of San Buenaventura*, 514 P.2d
25 111, 127 (Cal. 1973)). Piper sufficiently alleges each element of the claim to survive
26 Gooding’s motion to dismiss. Piper alleges that Gooding’s and Falcon Woods’ legal
27 representative conspired to commit tortious acts, including conversion by transporting
28 and selling Piper’s stolen Ferrari. (Doc. 69 ¶¶ 235-239.) Accordingly, Gooding’s motion

1 to dismiss the civil conspiracy claim is denied.

2 **B. RICO Claims**

3 Piper alleges claims under the federal RICO statute and its state law counterpart.
4 To state a civil RICO claim under federal law a plaintiff must allege “(1) conduct (2) of
5 an enterprise (3) through a pattern (4) of racketeering activity (known as predicate acts)
6 (5) causing injury to plaintiff’s business or property.” *Living Designs, Inc. v. E.I. DuPont*
7 *de Nemours & Co.*, 431 F.3d 353, 361 (9th Cir. 2005) (internal quotation and citation
8 omitted); *see* 18 U.S.C. § 1962(a). Arizona’s counterpart similarly requires that a
9 plaintiff allege a “pattern of racketeering activity.” A.R.S. § 13–2314.04(A).⁵ At issue is
10 whether Plaintiff properly alleged a pattern of racketeering activity.

11 A pattern of racketeering activity consists of at least two predicate acts committed
12 within a 10-year period. 18 U.S.C. §§ 1961(1), (5); *Hannosh v. Segal*, 328 P.3d 1049,
13 1053 (Ariz. Ct. App. 2014) (“A ‘pattern of racketeering activity’ means that there must
14 be at least two related and continuous acts of racketeering.”) (citations omitted). The
15 term “racketeering activity,” also referred to as “predicate acts,” includes “any act
16 indictable under several provisions of Title 18 of the United States Code” *Sanford*
17 *v. MemberWorks, Inc.*, 625 F.3d 550, 557 (9th Cir. 2010). Two acts are necessary, but
18 not sufficient, for finding a violation. *See H.J., Inc. v. Northwestern Bell Tel. Co.*, 492
19 U.S. 229, 238 (1989). Rather, a pattern of racketeering activity also requires proof that
20 the racketeering predicates are related and “that they amount to or pose a threat of
21 continued criminal activity.” *Id.* at 239. Gooding asserts that Piper has not adequately
22 alleged a pattern because (1) the claim is based on a single predicate act, and (2) lacks the
23 requisite degree of continuity. (Doc. 70 at 17-18.)

24 The complaint alleges that Gooding shipped the Ferrari from Wisconsin to
25 Arizona and then from Arizona to California. (Doc. 69 ¶ 127.) The issue of whether
26 each shipment constitutes a separate predicate act presents a close call. *Compare U.S. v.*

27 ⁵ Because the Arizona and federal statutes are analogous, Arizona courts look to
28 federal interpretations of the RICO statute for guidance. *Lifeflite Med. Air Transp., Inc.*
v. Native Am. Air Servs., Inc., 7 P.3d 158, 161 (Ariz. Ct. App. 2000). This Court will do
the same.

1 *Vaughn*, 797 F.2d 1485, 1493 (9th Cir. 1986), and *Harper v. New Japan Secs. Int'l., Inc.*,
2 545 F. Supp. 1002, 1004 (C.D. Cal. 1982), with *Schreiber Distrib. Co. v. Serv-Well*
3 *Furniture Co., Inc.*, 806 F.2d 1393, 1399 (9th Cir. 1986). The Court need not decide this
4 issue, however, because Piper's RICO claim fails to allege the requisite continuity.

5 "The continuity requirement . . . is aimed only at eliminating RICO actions
6 against perpetrators of isolated or sporadic acts and is not an attempt to limit RICO to
7 complicated systems or multiple schemes of criminal activity." *Sun Sav. and Loan Ass'n*
8 *v. Dierdorff*, 825 F.2d 187, 193-94 (9th Cir. 1987). "Continuity" is both a closed- and
9 open-ended concept, referring either to a closed period of repeated conduct, or to past
10 conduct that by its nature projects into the future with a threat of repetition. *H.J. Inc.*,
11 492 U.S. at 241. Although the Ninth Circuit has established a "flexible concept" of what
12 constitutes closed-ended continuity, and has rejected a bright-line one-year rule, the
13 pattern must nonetheless last for more than a few months. *Allwaste, Inc. v. Hecht*, 65
14 F.3d 1523, 1528 (9th Cir. 1995). Here, because Piper's allegations concern merely a
15 period of weeks, he cannot demonstrate closed-ended continuity.

16 Open-ended continuity, on the other hand, requires either (1) a threat of future
17 criminal conduct; or (2) conduct that constitutes the enterprise's regular way of doing
18 business. *H.J., Inc.*, 492 U.S. at 241-42. In either case, the touchstone of a pattern is past
19 conduct that by its nature projects into the future with a threat of repetition. *See Allwaste,*
20 *Inc.*, 65 F.3d at 1528. Piper alleges that the "Ferrari was transported several times in the
21 regular course of Gooding's business and the threat of future transport and sale remains
22 not only a possibility, but a near certainty give [sic] the intent to sell the vehicle." (Doc.
23 76 at 14.) A plaintiff, however, "cannot establish open-ended continuity if the
24 defendant's collective conduct is in a sense a single episode with a single purpose, rather
25 than a series of separate, related acts." *Straightshot Comms. Inc. v. Telekenex, Inc.*, No.
26 C10-268Z, 2010 WL 11488936, at *4 (W.D. Wash. Nov. 15, 2010) (citing *Sever v.*
27 *Alaska Pulp Corp.*, 978 F.2d 1529, 1535 (9th Cir. 1992)). Stated differently, where the
28 defendant's predicate acts are all directed to one goal, which has a definitive ending date,

1 there is no threat of future criminal activity once that goal is accomplished. *Id.* at *4
2 (citing *Religious Tech. Ctr. v. Wollersheim*, 971 F.2d 364, 366 (9th Cir. 1992)); *see also*
3 *Medallion Television Enters., Inc. v. SelectTV of Cal., Inc.*, 833 F.2d 1360, 1364 (9th Cir.
4 1987) (finding that predicate acts designed to bring about a single event (the signing of a
5 television contract) did not pose a threat of continuity). Because Gooding’s predicate
6 acts—shipping and receipt of stolen vehicles—are all directed to one goal—the sale of
7 the Ferrari—they present no threat of future criminal activity or open-ended continuity.
8 As such, Piper’s federal and state RICO claims are dismissed.⁶

9 PRELIMINARY INJUNCTION MOTION

10 **I. Legal Standard**

11 A plaintiff seeking a preliminary injunction must show that: (1) he is likely to
12 succeed on the merits; (2) he is likely to suffer irreparable harm without an injunction; (3)
13 the balance of equities tips in his favor; and (4) an injunction is in the public interest.
14 *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Am. Trucking Ass’n,*
15 *Inc. v. City of L.A.*, 559 F.3d 1046, 1052 (9th Cir. 2009). These elements are balanced on
16 a sliding scale, whereby a stronger showing of one element may offset a weaker showing
17 of another. *See Alliance for the Wild Rockies v. Cottrell*, 632 F. 3d 1127, 1131, 1134-35
18 (9th Cir. 2011). The sliding-scale approach, however, does not relieve the movant of the
19 burden to satisfy all four prongs for the issuance of a preliminary injunction. *Id.* at 1135.
20 Instead, “‘serious questions going to the merits’ and a balance of hardships that tips
21 sharply towards the plaintiff can support issuance of a preliminary injunction, so long as
22 the plaintiff also shows that there is a likelihood of irreparable injury and that the
23 injunction is in the public interest.” *Id.* A “serious question” is one on which the movant
24 has a fair chance of success on the merits. *Sierra On-Line, Inc. v. Phoenix Software,*
25 *Inc.*, 739 F.2d 1415, 1421 (9th Cir. 1984). The movant bears the burden of proof on each

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27 ⁶ Although Falcon Woods did not join this motion, Piper’s counsel conceded at
28 oral argument that if the RICO claims were dismissed as to Gooding, the claims should
be dismissed with respect to Falcon Woods as well. The Court therefore dismisses these
counts in the entirety.

1 element of the test. *Envtl. Council of Sacramento v. Slater*, 184 F. Supp. 2d 1016, 1027
2 (E.D. Cal. 2000).

3 **II. Discussion**

4 Piper alleges that Defendants are liable for conversion.⁷ “Conversion is the
5 wrongful exercise of dominion over the property of another.” *Lee v. Hanley*, 354 P.3d
6 334, 344 (Cal. 2015). Further, where a person entitled to possession demands it, the
7 wrongful, unjustified withholding is actionable as conversion. *CRS Recovery, Inc. v.*
8 *Laxton*, 600 F.3d 1138, 1145 (9th Cir. 2010) (citing 5 Witkin Summary of Cal. Law
9 Torts, § 712(2)). “Under California law, each time stolen property is transferred to a new
10 possessor, a new tort or act of conversion has occurred.” *von Saher v. Norton Simon*
11 *Museum of Art at Pasadena*, No. 07-CV-2866-JFW (JTLx), 2015 WL 12910626, at *7
12 (C.D. Cal. Apr. 2, 2015). The elements of a conversion claim are: (1) the plaintiff’s
13 ownership or right to possession of the property; (2) the defendant’s conversion by a
14 wrongful act or disposition of property rights; and (3) damages” *Lee*, 354 P.3d at
15 344.

16 The parties largely agree that the linchpin of Piper’s conversion claim is whether
17 he likely is the rightful owner of the Ferrari. (Doc. 80 at 3; Doc. 81 at 1-2.) Generally,
18 under California law, “[v]ehicle ownership is a fact question [] to [be] determine[d] in
19 light of all the circumstances.” *In re Stinson*, 443 B.R. 438, 443 (B.A.P. 9th Cir. 2010).
20 Title documents are prima facie evidence of ownership, but are not unimpeachable or
21 conclusive evidence of ownership. *Id.* Also applicable to the Court’s determination is
22 California’s recognition of the innocent purchaser defense, which, as explained above,
23 holds that a bona fide purchaser for value has superior title if the purchaser’s vendor
24 obtained title by voluntary transfer. *Suburban Motors*, 268 Cal. Rptr. at 18. This defense

25
26 ⁷ Although Piper argues that he is likely to succeed on the merits of his claim for
27 conversion, trespass to chattel, unjust enrichment, and conspiracy, a party seeking a
28 preliminary injunction need only demonstrate a likelihood of success on one claim for
which injunctive relief would otherwise be appropriate. *See Compass Bank v. Hartley*,
430 F. Supp. 2d 973, 983 (D. Ariz. 2006). The Court will limit its analysis to Piper’s
conversion claim, both because the parties’ briefs focus predominately on that claim and
because the Court finds sufficiently serious questions go to the merits of it.

1 is inapplicable, however, if the purchaser's vendor obtained title by theft. *Id.*

2 The Court finds that the evidence presented raises serious questions as to who is
3 the rightful owner of the Ferrari. The Court heard testimony that James purchased the
4 Ferrari in 1962, owned it as of his death on September 19, 1989, and died without a will.
5 Defendants' argument that plaintiff was not the owner turned on a Louisiana Certificate
6 of Title ("Louisiana Title"), reflecting that V-Twelve, not James, owned the Ferrari as of
7 September 12, 1989—a week prior to James' death (Doc. 74-1 at 8-9)—Piper cast
8 significant doubt on the veracity of the Louisiana Title. A "duplicate" copy of the title,
9 not the original, was offered in evidence at the preliminary injunction hearing. Because
10 of the inaccuracies contained on the face of this title, a question exists as to the original's
11 authenticity. For instance, the Louisiana Title wrongly states the year, color, and mileage
12 of the Ferrari. Even if the title is admitted in to evidence at trial, it might be of little or no
13 evidentiary value, because the inaccuracies and inconsistencies on its face suggest it is a
14 forgery.

15 The Court also finds that Piper's presentation of evidence raises serious questions
16 as to the applicability of the innocent purchaser defense. For instance, there is evidence
17 that the original buyer, Butler, knew or should have known that the vehicle was stolen
18 given that it was sold for a fraction of the market price for a Ferrari recently crowned
19 most elegant sports car at the Concours de Elégance. Moreover, there is evidence that the
20 vehicle's vendor, Socorro, obtained the Ferrari by theft and not fraudulent purchase. For
21 instance, the Ferrari's Louisiana Title had multiple errors indicative of a fabricated title.
22 *See Suburban Motors*, 268 Cal. Rptr. at 18 ("[T]here is no authority for [the] contention
23 that section 2403 validates a second chain of title to an automobile spuriously created
24 after it has been stolen."). The evidence also suggests that Socorro lacked authority to
25 sell the Ferrari on behalf of the heirs or V-Twelve.

26 With respect to irreparable harm and balancing of the hardships, the Court finds
27 that Piper has met his burden. Although some equivocal evidence and representations by
28 Piper's counsel suggests that Piper might eventually sell the Ferrari, this point is not

1 definitively established. To the extent that Piper intends to keep the vehicle because of
2 its sentimental value, monetary damages are an inadequate remedy. In comparison,
3 Falcon Woods represented at the hearing and in its papers that it plans to retain
4 possession of the vehicle until, at the earliest, completion of this suit. (Doc. 72 at 35 ¶
5 11.) As such, issuance of a preliminary injunction merely requires Falcon Woods to do
6 what it has stated it already intends. Finally, Piper has demonstrated that a genuine
7 public interest supports the issuance of a preliminary injunction. Specifically, there is a
8 “public interest in preventing the transport and sale of stolen vehicles.” (Doc. 74 at 21.)

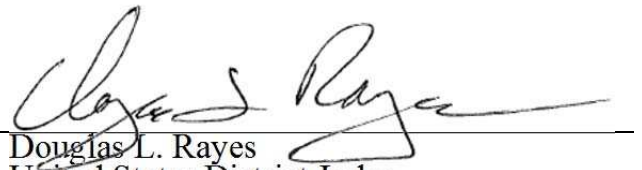
9 Having considered each of the factors required for a preliminary injunction, the
10 Court concludes that Piper has made an adequate showing as to all four prongs.
11 Accordingly, his request for a preliminary injunction is granted.

12 **IT IS ORDERED** that Gooding’s Motion to Dismiss (Doc. 70) is **GRANTED in**
13 **part and DENIED in part.** Piper’s RICO claims, Count V and VI, are dismissed for
14 failure to state a claim for which relief can be granted.

15 **IT IS FURTHER ORDERED** that Piper’s Motion for Preliminary Injunction
16 (Doc. 74) is **GRANTED** as follows:

- 17 1. Defendants must not move or transfer the Ferrari out of Santa Monica,
18 California.
- 19 2. Defendants must secure the Ferrari at Gooding’s facility in Santa Monica
20 (where Piper may inspect it) subject to the jurisdiction of this Court.
- 21 3. Defendants must not sell, promise, pledge, or otherwise lien or encumber
22 the Ferrari.

23 Dated this 10th day of August, 2018.

24
25
26 
27 Douglas L. Rayes
28 United States District Judge