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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6

7 BRUCE REMINGTON,
8 Plaintiff,

9 v.

10 JOHN MATHSON, et al.,
11 Defendants.

Case No. 17-cv-02007-JST

**ORDER GRANTING MOTION TO
DISMISS**

Re: ECF Nos. 5, 8, 15

12 Before the Court are the Motions to Dismiss filed by Defendants John Mathson, Joy
13 Mathson, Paul Brisso, Russell Gans, Nicholas Kloepfel, Ryan Plotz, Julie Gilbride, and Mitchell,
14 Brisso, Delaney, and Vrieze, LLP (collectively, the “Mathson Defendants”), ECF No. 5, SHN
15 Consulting Engineers & Geologists and Jeff Nelson, ECF No. 8, and City of Eureka and Boyd
16 Davis, ECF No. 15.¹ The Court will grant the motions.

17 **I. BACKGROUND**

18 **A. Factual Allegations**

19 This is an action for damages and injunctive relief under, inter alia, Federal and state
20 environmental laws and the Racketeer Influenced and Corrupt Organizations Act (“RICO”). ECF
21 No. 1. The claims arise out of a dispute between two neighbors, Plaintiff Bruce Remington and
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23 ¹ In addition to filing their own motions to dismiss, Defendants SHN Consulting Engineers &
24 Geologists, and Jeff Nelson filed a notice of joinder in the motion to dismiss filed by the Mathson
25 Defendants. ECF No. 10. Defendant Morgan Randall also filed a notice of joinder in the Mathson
26 Defendants’ motion to dismiss. ECF No. 18. Defendants City of Eureka and Boyd Davis filed
27 notices of joinder in the motions to dismiss filed by the Mathson Defendants and SHN Consulting
28 Engineers & Geologists and Jeff Nelson. ECF Nos. 16, 17. All the motions make substantially
similar arguments and seek dismissal under Federal Rule of Civil Procedure 8, and Plaintiff
Remington filed a single opposition brief. ECF No. 21. Thus, the Court considers the motions
together, and unless otherwise indicated, the Court’s analysis applies equally to all motions.

1 Defendants John and Joy Mathson, who own adjoining land parcels in Eureka, California. ECF
2 No. 1 at 78-79. Mr. Remington and the Mathsons’ properties share a boundary of 300 feet, with
3 Mr. Remington’s property sitting below the Mathsons’ property at an angle of between forty and
4 seventy degrees. Id. at 79. The dispute began when the Mathsons had some excavation and
5 construction performed on their property between 1998 and 2001. Id. at 78. Mr. Remington
6 alleges that the Mathsons regraded (flattened) their land by installing large concrete blocks under
7 it, taking about a third of an acre of soil from Mr. Remington’s property, and placing the soil on
8 top of the large concrete blocks. Id. at 78-80. One of these concrete blocks allegedly rolled
9 downhill, causing damage to Mr. Remington’s property and flattening some of his trees. Id. at 79-
10 80.

11 Mr. Remington further alleges that all defendants conspired to dump large amounts of
12 toxic and hazardous waste on his property, which they then buried and concealed by placing
13 decaying vegetation on the dumping ground. Id. at 78. Specifically, Mr. Remington alleges that
14 major oil companies or their subcontractors paid defendant RAO Construction Inc. to dispose of
15 the waste, and that all defendants created a “vast Class I landfill” on Mr. Remington’s property
16 rather than properly disposing of it, in order to cut costs and increase profits. Id. at 88-94.
17 Consequently, Mr. Remington alleges that he is owed rent for storing the buried waste, which
18 includes car engines, car parts, car oil, construction waste, asbestos, and other materials that have
19 discharged hazardous contamination onto his property. Id. at 95-96. Additionally, Mr. Remington
20 alleges that he, SHN Consulting Engineers and Geologists, and “the County” have each conducted
21 a series of tests confirming “serious water & soil contamination” that results from the waste
22 allegedly buried on his property. Id. at 99-102.

23 Mr. Remington alleges that the Mathsons sought to intimidate and extort him by, among
24 other things, training wild animals to enter and damage his property, and that defendant Gans, the
25 Mathsons’ attorney, encouraged and orchestrated this behavior. ECF No. 1-2 at 7-8. Mr.
26 Remington also alleges that Mr. Gans “established an extortive racketeering enterprise” intended
27 to appropriate Mr. Remington’s land, destroy Mr. Remington, and destroy Mr. Remington’s store
28 – the Burl Tree. ECF No. 1-6 at 39.

B. Procedural History and Related Cases

1 On April 7, 2017, Mr. Remington filed this action pro se asserting claims for alleged
2 violations of several Federal and California laws, including the Toxic Substances Control Act
3 (“TSCA”), the Controlled Substances Act (“CSA”), the Clean Air Act (“CAA”), the Clean Water
4 Act (“CWA”), the Safe Drinking Water Act (“SDWA”), the Resource Conservation and Recovery
5 Act (“RCRA”), the Comprehensive Environmental, Response, Compensation and Liability Act
6 (“CERCLA”), the Victim and Witness Protection Act (“VWPA”), the False Claims Act (“FCA”),
7 the RICO Act, the California Civil Code, and the California Business and Professions Code. ECF
8 No. 1 at 1. Mr. Remington also asserts claims for private and public nuisance, continued trespass,
9 unjust enrichment and restitution, negligence, negligence per se, tortious and intentional
10 interference with contractual relations, damages, fraudulent intentional misrepresentation,
11 fraudulent concealment, conspiracy, criminal conspiracy, aiding and abetting, felony vandalism
12 and trespass, and intentional evidence spoliation. Id.

13 This is not the first case Mr. Remington has filed relating to his dispute with the Mathsons.
14 He previously filed a complaint in this Court alleging essentially the same set of facts as in this
15 case. Case No. 09-cv-4547 NJV, ECF No. 1; see also Remington v. Mathson, 42 F. Supp. 3d
16 1256, 1263-74 (N.D. Cal. 2012), aff’d, 575 F. App’x 808 (9th Cir. 2014). Mr. Remington asserted
17 the following claims in that complaint: “1) CWA violation for discharges from five water point
18 sources; 2) RCRA violation for discharge of hazardous wastes under 42 U.S.C. Section
19 6972(a)(1)(A); 3) RCRA violation for handling, storage, treatment, transportation or disposal of
20 solid or hazardous waste presenting an imminent and substantial danger to health or the
21 environment under 42 U.S.C. Section 6972(a)(1)(A); 4) CERCLA violation for discharging
22 hazardous materials; 5) EPCRA violation for failing to report the release of hazardous substances;
23 6) trespass for dumping substances onto Plaintiff’s property and the resulting discharge in
24 Plaintiff’s surface and groundwater; 7) nuisance resulting from Defendants’ contamination of
25 Plaintiff’s property and construction of a fence partially on Plaintiff’s property; 8) negligence and
26 negligence per se from Defendants’ contamination of Plaintiff’s property, and from Defendant’s
27 drainage pipes.” Remington, 42 F. Supp. 3d at 1258. Mr. Remington “requested a declaration
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1 that Defendants violated the CWA, RCRA, CERCLA, and EPCRA” and that “the Court order
2 Defendants to clean up their property and Plaintiff’s property; enjoin Defendants from storing,
3 disposing, or discharging hazardous substances; order Defendants to comply with CERCLA and
4 EPCRA reporting requirements; impose civil penalties for CWA and RCRA violations; and enjoin
5 other conduct by Defendants.” Id. at 1258, 1280.

6 On March 14, 2012, the defendants filed a status report notifying Judge Vadas that the
7 Department of Public Health of Humboldt County (“DPH”) had conducted an investigation of the
8 subject property to identify any hazardous waste and found none. Case No. 09-cv-4547 NJV, ECF
9 No. 91 at 1-2. The DPH found “that the fill placed on the Mathsons’ property does not constitute
10 solid waste, and the County found no violation of hazardous waste statutes or regulations.” Id.
11 By Order dated March 27, 2012, Judge Vadas granted summary judgment on Mr. Remington’s
12 Federal claims. Remington, 42 F. Supp. 3d at 1280. Judge Vadas declined to retain jurisdiction
13 over Mr. Remington’s remaining state law claims and dismissed them without prejudice to Mr.
14 Remington’s assertion of those claims in state court.² Id.

15 **II. LEGAL STANDARD**

16 Defendants move to dismiss Mr. Remington’s claims under Federal Rule of Civil
17 Procedure 8(a). This rule requires that a complaint contain a “short and plain statement of the
18 claim showing that the pleader is entitled to relief.” “Rule 8(a) has ‘been held to be violated by a
19 pleading that was needlessly long, or a complaint that was highly repetitious, or confused, or
20 consisted of incomprehensible rambling.’” Cafasso, U.S. ex rel. v. Gen. Dynamics C4 Sys., Inc.,
21 637 F.3d 1047, 1059 (9th Cir.2011) (quoting Charles A. Wright & Arthur R. Miller, 5 Federal
22 Practice & Procedure § 1217 (3d ed. 2010)). When a pro se plaintiff has filed a complaint, courts
23 must “construe the pleadings liberally and . . . afford the petitioner the benefit of any doubt.”
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25 ² The Mathson Defendants, and defendants SHN Consulting, Engineers & Geologists, and Jeff
26 Nelson, contend that Mr. Remington is estopped from asserting his claims in this action under the
27 doctrines of issue and claim preclusion as a result of Judge Vadas’ summary judgment order.
28 ECF No. 5 at 5; ECF No. 8 at 8. They state in their papers that they anticipate filing a motion to
dismiss under Rule 12(b)(6) and motion for sanctions under Rule 11 on this basis. As none of the
defendants seeks dismissal on this ground in the instant motions, the Court need not reach this
issue.

1 Hebbe v. Pliker, 627 F. 3d 338, 342 (9th Cir.2010) (quoting Bretz v. Kelman, 773 F.2d 1026, 1027
2 n. 1 (9th Cir.1985)). Nonetheless, courts may not supply essential factual elements that have not
3 been pled. Ivey v. Bd. Of Regents, 673 F. 2d 266, 268 (9th Cir. 1982). When a court grants a
4 motion to dismiss, it is normally required to supply pro se litigants with “an opportunity to amend
5 the complaint to overcome deficiencies unless it is clear that they cannot be overcome by
6 amendment.” Eldridge v. Block, 832 F. 2d 1132, 1335-36 (9th Cir. 1987). Leave to amend
7 should be liberally granted, but an amended complaint cannot allege facts inconsistent with the
8 challenged pleading. Id. at 296-97.

9 **III. REQUEST FOR JUDICIAL NOTICE**

10 As an initial matter, the Mathson Defendants and defendants SHN Consulting & Engineers
11 and Geologists, Jeff Nelson, and Morgan Randall request that the Court take judicial notice of
12 certain orders in the prior case filed by Mr. Remington, Remington v. Mathson, Case No. 09-4547
13 NJV. ECF Nos. 6, 9, 18. These orders include: (1) Judge Vadas’ summary judgment order; (2)
14 judgment entered in defendants’ favor and against Mr. Remington; (3) the memorandum opinion
15 by the Ninth Circuit affirming Judge Vadas’ grant of summary judgment; and (4) the mandate
16 entered by the Ninth Circuit. Id. The Court “must take judicial notice if a party requests it and the
17 court is supplied with the necessary information.” Fed. R. Evid. 201(c)(2). Under Ninth Circuit
18 law, courts may properly take notice of court orders and other matters of public record. Reyn’s
19 Pasta Bella, LLC v. Visa USA, Inc., 442 F.3d 741, 746 n. 6 (9th Cir. 2006). Accordingly, the
20 Court will take notice of the orders attached as Exhibits A-D to the requests for judicial notice.

21 **IV. DISCUSSION**

22 Defendants contend that Mr. Remington’s complaint does not include a short and plain
23 statement showing how Mr. Remington is entitled to relief, as required by Rule 8(a). They argue
24 that the complaint, which consists of four “volumes” and, inclusive of attachments, spans over one
25 thousand pages, is unreasonably long, incoherent, unintelligible, and rife with vitriolic and
26 inflammatory remarks.³ ECF No. 5 at 2; ECF No. 8 at 2; ECF No. 15 at 2. Defendants speculate

27 _____
28 ³ Defendants do not, however, seek to strike the allegations they deem inflammatory pursuant to
Rule 12(f). Fed. R. Civ. P. 12(f) (“The court may strike from a pleading an insufficient defense or

1 that Mr. Remington’s filing of this action and the allegations in the complaint are meant to
2 intimidate and punish them for their participation in prior cases related to this dispute, including
3 the prior Federal case and several state court actions. ECF No. 5 at 5; ECF No. 8 at 3; ECF No. 15
4 at 3. Defendants argue that the complaint fails to clearly articulate what claims are asserted and
5 against whom they are asserted, making it difficult to respond to the allegations. ECF No. 8 at 7;
6 ECF No. 15 at 5-6. Defendants further state that the complaint is illogically organized includes
7 redundant, argumentative, and conclusory allegations. ECF No. 5 at 8; ECF No. 8 at 7; ECF No.
8 15 at 6. Defendants further contend that the complaint does not comply with the requirements of
9 Rule 8(d) because each allegation in the complaint is not “simple, concise, and direct.”⁴ ECF No.
10 8 at 4.

11 Mr. Remington counters that the complaint is necessarily over one-thousand pages long
12 because it includes RICO claims, which must be pled with particularity under Federal Rule of
13 Civil Procedure 9(b). ECF No. 21 at 7. Mr. Remington notes that under this heightened pleading
14 standard, his complaint must “provide complete details and circumstances regarding all fraudulent
15 and alleged criminal predicate acts by at least 30-40 defendants, and other associated collusive and
16 co-conspirator wrongdoers and potential such.” ECF No. 21 at 22. Mr. Remington further argues
17 that his fraud allegations must also be pled with particularity and identify evidentiary support for
18 his allegations. ECF No. 21 at 7-8. Mr. Remington contends that in providing the level of detail
19 he has in his complaint, he has actually helped Defendants by familiarizing them with the “11
20 years of complex details” alleged in his claims. ECF No. 21 at 18. Mr. Remington notes that
21 Defendants have not identified any authority that would limit the number of pages he could
22 include in a RICO complaint, and that a complaint should not be dismissed merely because it is
23 too long. ECF No. 21 at 18.

24 Defendants respond that Mr. Remington’s defense of his complaint “confuses length with
25 clarity, organization, and specificity,” and note that not only is the complaint unnecessarily and
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27 any redundant, immaterial, impertinent, or scandalous matter.”).

28 ⁴ Defendants Davis and City of Eureka contend that they were not properly served. ECF No. 15 at 3. However, neither party has moved to quash or otherwise lodged any legal challenge to service.

1 unreasonably long, but it is filled with improper and irrelevant matter. ECF No. 22 at 2; ECF No.
2 22 at 4.

3 Mr. Remington is correct that a complaint should not be dismissed merely because of its
4 length. Hearns v. San Bernardino Police Dep't, 530 F.3d 1124, 1131 (9th Cir. 2008) (“Verbosity
5 or length by itself is not by itself a basis for dismissing the complaint.”); see also Wynder v.
6 McMahon, 360 F.3d 73, 80 (2d Cir.2004) (holding that district court erred in dismissing on Rule 8
7 grounds when the complaint, though long, was not “so confused, ambiguous, vague or otherwise
8 unintelligible that its true substance, if any, is well disguised” (internal quotation omitted)); Garst
9 v. Lockheed-Martin Corp., 328 F.3d 374, 378 (7th Cir.2003) (“Some complaints are windy but
10 understandable. Surplusage can and should be ignored.”). It is also true, as Mr. Remington points
11 out, that RICO and fraud allegations must be pled with particularity. Ebeid ex rel. U.S. v.
12 Lungwitz, 616 F.3d 993, 998 (9th Cir. 2010) (“‘in alleging fraud or mistake,’ Rule 9(b) requires a
13 party to ‘state with particularity the circumstances constituting fraud or mistake,’ including ‘the
14 who, what, when, where, and how of the misconduct charged.’”) (citations omitted) (internal
15 quotation marks omitted).

16 However, “[a] heightened pleading standard is not an invitation to disregard’s Rule 8’s
17 requirement of simplicity, directness, and clarity.” McHenry v. Renne, 84 F.3d 1172, 1178 (9th
18 Cir. 1996) (citations omitted). “The ‘particularity’ requirement of a heightened pleading standard,
19 requiring ‘nonconclusory allegations containing evidence of unlawful intent,’ as opposed to ‘bare
20 allegations of improper purpose,’ has among its purposes the avoidance of unnecessary
21 discovery If the pleading contains prolix evidentiary averments, largely irrelevant or of slight
22 relevance, rather than clear and concise averments stating which defendants are liable to plaintiffs
23 for which wrongs, based on the evidence, then this purpose is defeated.” McHenry, 84 F.3d at
24 1178.

25 The Court finds that Mr. Remington’s complaint fails to include a “short and concise”
26 statement showing he is entitled to relief as required by Rule 8(a)(2). Mr. Remington’s complaint
27 is replete with irrelevant information. As just one example, Mr. Remington goes into considerable
28 detail about how Ms. Melissa Martel, the Director of the Humboldt County Environmental Health

1 Division, has “inexplicably obfuscated, ‘dragged-her-feet’ and essentially has never taken
2 Remington’s offensive cases . . . seriously since about 2009.” ECF No. 1-2 at 36. Mr. Remington
3 dedicates at least six pages to his discussion of Ms. Martel’s role in the alleged conspiracy. But
4 not only is Ms. Martel not named as a defendant in this case, but Mr. Remington admits in this
5 lengthy discussion that “most of [Ms. Martel’s] decisions were to do nothing and essentially
6 condone Mathsons’, RAO’s, and Brisso’s . . . RICO enterprise’s dump and criminal behavior.”
7 ECF No. 1-8 at 96. In other words, Mr. Remington has an entire section of his complaint
8 dedicated to a non-party whose role in the conspiracy was to do nothing. Mr. Remington’s
9 allegations related to Ms. Martel have no apparent relevance to his underlying claims, but even if
10 they were relevant, they could have been stated in one to two sentences rather than several pages.
11 The complaint contains several similar discussions of other players that seem to have only a
12 peripheral role in the events that give rise to his claims. See, e.g., ECF No. 1-8 at 93 (describing
13 acts of non-party Gary Costa).

14 Indeed, Mr. Remington’s complaint is so long and unfocused that it appears even he
15 cannot keep track of his various allegations. For example, referring to “MD’s tree service,” the
16 Mathsons’ neighbor, Mr. Remington alleges that “there was even pedophilia rumored to be
17 emanating from that MD/Mathson vicinity.” ECF No. 1-7 at 74. However, in response to the
18 Mathson Defendants’ motion to dismiss, which pointed out this irrelevant and scandalous
19 allegation, Mr. Remington vigorously denied having ever made such an allegation. ECF No. 21 at
20 35 (calling the Mathson Defendants’ reference to allegations concerning pedophilia to be “a total
21 and unintelligible fabrication” and requesting that the Court question Defendants under oath
22 regarding their purported mischaracterization of the allegations in the complaint).

23 Not only is the complaint unnecessarily long and filled with irrelevant information, but the
24 organization of the complaint makes it difficult to follow. The complaint consists of four
25 “volumes.” Volume II of Mr. Remington’s complaint spans over 118 pages, but contains no table
26 of contents. Volume II also references other volumes – some consisting of several hundred pages
27 – that do not appear to have any relevance to his claims. ECF No. 21 at 27.

28 The complaint also does not put Defendants on notice of the exact nature of Mr.

1 Remington’s claims. For example, though the complaint enumerates fifteen statutory provisions
2 that allegedly form the basis for Mr. Remington’s claims, it rarely specifies the subsection that Mr.
3 Remington alleges has been violated. See ECF No. 1 at 1, 41. Moreover, Mr. Remington does
4 not clearly identify specific acts committed by specific defendants that give rise to his claims.
5 Instead, the complaint makes conclusory allegations such as the following: “ALL of the named
6 defendants committed SPECIFIC, repetitive wrongful acts against Remington which is why they
7 are specifically named here.” ECF No. 1 at 71.

8 Mr. Remington appears to acknowledge the flaws in his complaint. He admits that the
9 complaint is redundant and unnecessarily long. See ECF No. 21 at 18 (describing his “700+ page
10 RICO statement” as “somewhat redundant” and noting that it could “obviously be shortened”).
11 He contends that he does not have the time to revise his complaint, but that “the court should
12 remain very confident that most of the young defendant’s attorneys” are capable of understanding
13 the allegations. See id. at 23-24. He also notes that Volume II of his complaint, which is 118
14 pages, is a “fully and totally condensed” version of his RICO statement, so he need not revise
15 earlier portions of the complaint. Id. at 18.

16 Even if it were true that Mr. Remington had provided a condensed summary of his
17 complaint, or that Defendants and their lawyers could interpret Mr. Remington’s pleading to
18 understand the allegations, Defendants have to respond to the entire complaint, not just the portion
19 that Mr. Remington identifies as a condensed summary. Indeed, Defendants are now are faced
20 with the arduous task of responding to more than a thousand pages of allegations, identifying
21 which allegations actually apply to them and admitting or denying each one. Fed. R. Civ. P.
22 8(b)(1)(B) (requiring defendant to “admit or deny the allegations asserted against it by an
23 opposing party.”). Requiring Defendants to do so here would be extremely burdensome, if not
24 impossible. Cafasso, U.S. ex rel., 637 F.3d at 1059 (“Rather than straightforwardly stating her
25 claims and allegations, Cafasso would burden her adversary with the onerous task of combing
26 through a 733-page pleading just to prepare an answer that admits or denies such allegations, and
27 to determine what claims and allegations must be defended or otherwise litigated.”); In re
28 GlenFed, Inc. Sec. Litig., 42 F.3d 1541, 1553-54 (9th Cir. 1994) (en banc) (finding 113-page

1 complaint to be “unwieldy to the extreme” and “cumbersome almost to the point of abusiveness,”
2 and encouraging district court on remand to “requir[e], as a matter of prudent case management,
3 that plaintiffs streamline and reorganize the complaint before allowing it to serve as the document
4 controlling discovery, or, indeed, before requiring defendants to file an answer.”) (superseded by
5 statute on other grounds as stated in SEC v. Todd, 642 F.3d 1207, 1216 (9th Cir.2011)). The
6 Court will therefore grant Defendants’ motion to dismiss.

7 While the Court is sympathetic to the plight of Defendants in having to respond to Mr.
8 Remington’s complaint, the Court is also mindful of the challenges facing pro se litigants in
9 preparing a concise complaint that satisfies the applicable pleading standards. The Court will
10 therefore give Mr. Remington a chance to amend his complaint to comply with the requirements
11 of Rule 8(a). However, given Mr. Remington’s own admission that he is “‘hardheaded’ and
12 ‘rigidly set’ in his writing style,” ECF No. 21 at 25, the Court is concerned that Mr. Remington
13 will file an amended complaint that is not materially different from his original complaint.
14 Accordingly, as requested by Defendants, the Court will impose the following reasonable
15 constraints on the amended complaint:

16 (1) The complaint shall not exceed fifty (50) pages, inclusive of any exhibits;⁵

17 (2) The complaint should set forth each claim for relief under a separate heading that
18 substantially complies with the following sample:

19 FIRST CLAIM FOR RELIEF: NUISANCE

20 (Against Defendants X, Y, and Z)

21 (3) Under each claim for relief, the complaint shall set forth all factual allegations related
22 to the claim in a simple, concise, non-argumentative, and direct manner;

23 (4) The complaint should not include any character attacks or disparagement of any other
24 party; and

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26 ⁵ Mr. Remington argues that “cutting Remington’s pleading from about 1220 pages to 40 pages
27 would totally trash it and eliminate 97% of his allegations under Rule 9(b), and would directly
28 lead to his voluntary dismissal of the case and an appeal.” ECF No. 21 at 18. The Court
disagrees. Having reviewed the complaint, the Court concludes that Mr. Remington should have
no problem providing the essential facts giving rise to his claims in 50 pages or less, particularly
in light of the guidance the Court provides in this Order.

1 (5) The complaint should identify the subsection of each statute under which it seeks
2 relief.

3 In preparing his amended complaint, Mr. Remington should consider the purpose of a
4 complaint: to put the parties on notice of the nature of his claims. Self Directed Placement Corp.
5 v. Control Data Corp., 908 F.2d 462, 466 (9th Cir. 1990) (“Courts have recognized that the main
6 purpose of the complaint is to provide notice to the defendant of what plaintiff’s claim is and the
7 grounds upon which the claim rests.”). The allegations in the complaint are not evidence, and
8 need not meet any evidentiary standard. Though some of his claims must be pled with
9 particularity, Mr. Remington need not prove his claims at the pleading stage.⁶ See ECF No. 21 at
10 7-8 (Mr. Remington explaining that he included detailed allegations because many of his
11 allegations may require proof by “clear and convincing” evidence).

12 Mr. Remington may wish to avail himself of the resources for pro se litigants on the
13 Court’s website, www.cand.uscourts.gov/proselitigants. Specifically, the Court encourages Mr.
14 Remington to consult the manual “Representing Yourself in Federal Court: A Handbook for Pro
15 Se Litigants,” a copy of which may be downloaded at
16 <http://www.cand.uscourts.gov/prosehandbook> or obtained free of charge from the Clerk’s office.

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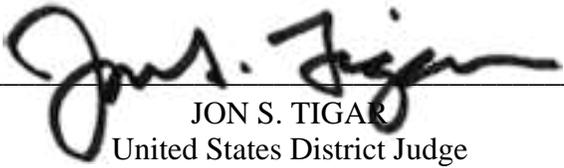
25 ⁶ For example, to establish a civil RICO claim, Mr. Remington need only allege facts showing “(1)
26 conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.” Odom v. Microsoft
27 Corp., 486 F.3d 541, 547 (9th Cir. 2007) (internal quotations and citation omitted). The facts must
28 “state with particularity the circumstances constituting fraud or mistake,” including ‘the who,
what, when, where, and how of the misconduct charged.’” Ebeid ex rel. U.S., 616 F.3d 993, 998
(9th Cir. 2010) (citations omitted) (internal quotation marks omitted). He need not, however,
provide an exhaustive list of evidence he may rely on to support each element of the claim.

CONCLUSION

Defendants’ motions to dismiss are granted. Mr. Remington’s complaint is dismissed without prejudice. Mr. Remington shall have a period of forty-five (45) days from the date of this Order to file an amended complaint in accordance with this Order.

IT IS SO ORDERED.

Dated: June 20, 2017



JON S. TIGAR
United States District Judge

United States District Court
Northern District of California

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