

**IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Baltimore Division**

GLENDORA MANAGO, *et al.*,

Plaintiffs,

v.

CANE BAY PARTNERS VI, LLLP, *et al.*,

Defendants.

Case No. 1:20-cv-00945-LKG

**DEFENDANTS' REPLY IN SUPPORT OF THEIR MOTION TO DISMISS
THE OUT-OF-STATE PLAINTIFFS' CLAIMS
FOR LACK OF PERSONAL JURISDICTION AND IMPROPER VENUE**

Plaintiffs concede that, as result of the Fourth Circuit's decision in *Hengle v. Treppa*, 19 F.4th 324, 353-57 (4th Cir. 2021), their RICO claims against the Tribal Defendants¹ must be dismissed because RICO does not provide a private right of action for equitable relief, the sole form of relief Plaintiffs seek under RICO as to the Tribal Defendants. Opp. at 1. Plaintiffs likewise concede that, given the required dismissal of the RICO claims against the Tribal Defendants, the Out-of-State Plaintiffs'² claims against the Tribal Defendants also must be dismissed for lack of personal jurisdiction and improper venue because RICO provides the only basis for this Court to assert personal jurisdiction (and venue) over the Out-of-State Plaintiffs' claims. *Id.*

It is, therefore, undisputed that only the following claims remain in this dispute: (i) Plaintiffs' RICO and state law claims against the Cane Bay Defendants;³ and (ii) Plaintiff

¹ The Tribal Defendants are Richard Mayer, Karen Rabbithead, David Blacksmith, Wesley Scott Wilson, Mark Fox, Cory Spotted Bear, Sherry Turner-Lone Fight, Mervin Packineau, V. Judy Brugh, Fred Fox, and Monica Mayer.

² The Out-of-State Plaintiffs are Karen Peterson of Florida, Diana Costa of Florida, Colleen Hunter of Texas, Sharon Davis of North Carolina, Leslie Turner of Oregon, Camilla Vernon of Michigan, and LaShaunya Morris of South Carolina. See First Amended Class Action Complaint ("Compl.") ¶¶ 18-24, ECF No. 40.

³ The Cane Bay Defendants are Cane Bay Partners VI, LLLP, David Johnson, and Kirk Chewning.

Manago's causes of action under the Declaratory Judgment Act (Count 20) and for "Violations of State Law" (Count 21) against the Tribal Defendants. For the reasons outlined in the concurrently-filed Reply in Support of Defendants' Motion to Dismiss for Failure to State a Claim ("12(b)(6) Reply"), all of Plaintiffs' RICO claims against the Cane Bay Defendants and Plaintiff Manago's remaining claims against Defendants fail as a matter of law.⁴

If the Rule 12(b)(6) Motion is properly granted, the only claims that would remain before this Court are the Out-of-State Plaintiffs' state law claims against the Cane Bay Defendants. However, Plaintiff does not (and cannot) dispute that RICO provides the only basis for personal jurisdiction and venue in this Court over the Out-of-State Plaintiffs' state law claims.⁵ Thus, if Plaintiffs' RICO claims against the Cane Bay Defendants are dismissed on the Rule 12(b)(6) Motion, then this Court also has no basis for asserting personal jurisdiction over (and venue is improper for) the Out-of-State Plaintiffs' remaining state law claims against the Cane Bay Defendants, and those claims should also be dismissed for lack of personal jurisdiction and improper venue.⁶ *See, e.g., United States ex rel. Fadlalla v. DynCorp Int'l LLC*, 402 F. Supp. 3d 162, 178 (D. Md. 2019) (only where federal claim establishes personal jurisdiction over the defendants, can a court exercise pendent personal jurisdiction over other state law claims that arise under a "common nucleus of operative fact" as the federal claim); *Hardwire, LLC v. Ebaugh*, No. 20-0304, 2021 WL 3809078, at *4 (D. Md. Aug. 26, 2021) (dismissing plaintiff's RICO claim under Rule 12(b)(6) and plaintiffs' remaining claims for lack of personal jurisdiction); *Taylor v. Bettis*, 976 F. Supp. 2d 721, 751-52 (E.D.N.C. 2013), *aff'd*, 693 F. App'x 190 (4th Cir. 2017) (declining to exercise pendent personal jurisdiction over remaining claims against defendants, where plaintiffs failed to state a claim under RICO); *Cameron v. Thornburgh*, 983 F.2d 253, 257

⁴ Defendants expressly incorporate the arguments made in the 12(b)(6) Reply into this brief.

⁵ *Cf* Plaintiffs' Opposition to Defendants' Motion to Dismiss the Out-of-State Plaintiffs' Claims for Lack of Personal Jurisdiction and Improper Venue ("Opp.") at 1 (acknowledging that without a viable RICO claim against the Tribal Defendants, the Out-of-State Plaintiffs' pendent state law claims must also be dismissed).

⁶ Should the Court find in ruling on the Rule 12(b)(6) Motion that only the RICO claims warrant dismissal, the result would be the same, as Plaintiffs concede the Out-of-State Plaintiffs' state law claims are only properly before this Court if the RICO claim survives. *Cf* Opp. at 1.

(D.C. Cir. 1993) (finding that venue was improper as to a *Bivens* claim against federal officers where all of the actions alleged in the complaint occurred in a different venue and the anchor federal claim for injunctive relief had become moot due to the plaintiff having been provided the relief requested); *Walsh v. Bank of Am. NA*, 113 F. Supp. 3d 108, 114 (D.D.C. 2015) (dismissing remaining claim for improper venue where anchor federal claim was dismissed and noting that “a court . . . may not exercise pend[en]t venue based on a claim that has been dismissed”).

Because the Motions before the Court resolve Plaintiffs’ claims in their entirety, Defendants respectfully request that the Complaint be dismissed with prejudice.

Dated: March 25, 2022

Respectfully submitted,

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