

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION
Case 1:26-cv-00472-TDS-JLW

JAMES CURTIN,

Plaintiff,

v.

CYBERLUX CORPORATION, et al.,

Defendants.

**DEFENDANT HII MISSION
TECHNOLOGIES CORP.'S
MEMORANDUM OF LAW IN SUPPORT
OF MOTION TO DISMISS**

Defendant HII Mission Technologies Corp. (“HII”), by counsel, pursuant to Local Rule 7.2, states as follows in support of its Motion to Dismiss:

STATEMENT OF THE NATURE OF THE MATTER BEFORE THE COURT

Plaintiff James Curtin (“Curtin”) filed this action less than twenty-four hours after the Court *dismissed with prejudice* his claims against HII in Case No. 1:25-cv-782 (the “First Action”). The First Amended Complaint in this action (ECF 4) (the “FAC”) alleges claims arising out of the same events addressed in the First Action. Undeterred by the Court’s judgment, Curtin again asserts that HII failed to enforce its subcontract with Cyberlux Corporation (“Cyberlux”), which he contends led to Cyberlux spending funds unlawfully. Curtin further alleges that his online posts about Cyberlux prompted retaliation by individuals unaffiliated with HII.

Because the Court already dismissed Curtin’s claims based on these same alleged facts in a final judgment on the merits, all three claims against HII in this action – Counts I, II, and X – are barred by res judicata. Even if not barred by res judicata, each claim – Negligent Oversight, Civil Conspiracy, and RICO – fails to state a claim on which relief can be granted. The Court should dismiss the claims against HII in full without leave to amend.

STATEMENT OF THE FACTS

The FAC tracks the allegations of the Complaint dismissed in the First Action. Curtin characterizes this action as arising “from a coordinated campaign of retaliation, surveillance, doxxing, and professional interference executed against Plaintiff James Curtin after his investigative reporting exposed the misuse of \$38.7 million in congressionally appropriated Foreign Military Financing funds and fraud against the United States government.” FAC ¶ 1 (ECF 4, at 1-2). In the First Action, Curtin offered a nearly identical summary, asserting that the case “ar[ose] from a calculated and escalating campaign of retaliation, intimidation, and professional sabotage orchestrated by Chuck Watts and his associates after Plaintiff exposed serious legal, financial, and ethical risks associated with Cyberlux Corporation and its handling of federally funded contracts.” First Action, FAC ¶ 1 (attached as **Exhibit 1**).¹

The events alleged in the FAC span from “late 2023,” FAC ¶ 2 (ECF 4, at 2) through September 2025, *see* FAC ¶ 57 (ECF 4, at 36).² The First Action alleged events covering the same period. First Action FAC ¶¶ 29, 34.

A. The Subcontract

HII was the prime contractor with the federal government (the “Government”) for delivery of certain drones and equipment (the “Prime Contract”). FAC ¶¶ 12, 25. In August 2023, HII

¹ “[W]hen considering a motion to dismiss on grounds of res judicata, the court ‘may take judicial notice of facts from a prior judicial proceeding when the res judicata defense raises no disputed issue of fact.’” *Taylor v. Norfolk S. Ry. Co.*, 86 F. Supp. 3d 448, 452 (M.D.N.C. 2015) (citing *Q Int’l Courier, Inc. v. Smoak*, 441 F.3d 214, 216 (4th Cir. 2006)).

² Curtin also includes allegations regarding Cyberlux’s social media posting about the dismissal of the First Action in May of 2026 and follow-on online activity, but the allegations do not mention HII or any separate alleged conspiracy or cause of action. FAC ¶ 59. These are the sole allegations occurring after the dismissal of the First Action.

executed a subcontract with Cyberlux (the “Subcontract”) for delivery of certain drones and equipment. FAC ¶¶ 21, 25, 26.

On September 8, 2023, Cyberlux received payment under the Subcontract in accordance with its terms. FAC ¶ 31. Curtin alleges that within 114 days, \$35.5 million left Cyberlux’s account. FAC ¶ 31. Curtin alleges that Cyberlux’s spending of the funds paid by HII violated provisions of the Federal Acquisition Regulation (“FAR”) and the Subcontract. FAC ¶¶ 41, 63.

The Government terminated the Prime Contract for convenience under FAR 52.249-2, and HII terminated the Subcontract for convenience in turn. FAC ¶ 38. HII then negotiated a termination for convenience settlement with Cyberlux, ultimately paying it an additional \$25,769,369.03 memorialized in Modification No. 4 to the Subcontract (“Mod 4”). FAC ¶ 40.

Because several Cyberlux creditors claimed an interest in the amount owed under Mod 4, HII filed an interpleader action in the U.S. District Court for the Eastern District of Virginia. FAC ¶ 3.³ As Curtin acknowledges, “[t]he interpleader converted HII . . . into a discharged neutral stakeholder.” FAC ¶ 42.

B. Curtin’s Blog

Curtin alleges that “[f]rom November 2024 through May 2026, [he] published investigative articles at jacksonholt.com and cyberluxfiles.com documenting the advance fund diversions, the GWagon wire, the G2G wire, the commission ecosystem, the CTMC acquisition fraud, the FFP contract’s structural contradictions, the \$64 million total taxpayer cost, Cyberlux’s deteriorating financial condition, and the title and ownership questions surrounding the drone deliveries.” FAC ¶ 46.

³ Curtin alleges that “[i]n October 2024, HII filed in the Eastern District of Virginia stating it did not know what it owed and characterizing Cyberlux as nonresponsive — the legally correct FFP position.” FAC ¶ 38. But, HII did not file its interpleader action until June 24, 2025. *See* E.D. Va. Case No. 3:25-cv-483. It is unclear to what Curtin refers.

Curtin further alleges that his online posting resulted in a “pre-prepared” “campaign” on May 27, 2025 to disclose his identity, make disparaging remarks, and doxx him through an X account “operated, controlled, or facilitated by [Carson John] Tucker and/or G2G Global Ltd. And/or S3 Global LLC.” FAC ¶¶ 50-52. Curtin does not allege any act by HII in connection with this “campaign.” He instead concedes that “HII did not participate in the retaliation campaign, to Plaintiff’s present knowledge,” stating only that “the retaliation served HII’s institutional interests as directly as it served Cyberlux’s.” FAC ¶ 55.⁴

C. The First Action

Curtin commenced the First Action on July 31, 2025 and filed a First Amended Complaint on August 19, 2025. *See* First Action ECF 1 and 7. Following sua sponte transfer to this Court from the Eastern District of Virginia, HII moved to dismiss the First Amended Complaint on October 17, 2025. (ECF 20). In the First Action, Curtin alleged the same timeline of events underlying his current claims. *See* First FAC ¶ 39. HII was named in Counts III and IV in the First Action for “Breach of Fiduciary Duty/Misuse of Public Office” and “Negligent Supervision.”

By Memorandum Opinion and Order and Judgment entered May 20, 2026, the Court dismissed both Counts III and IV with prejudice. *See* First Action ECF 66, at 17; *see also* ECF 67. The Court dismissed Count III with prejudice because none of Curtin’s allegations established “a fiduciary duty owed to Curtin,” only allegations of duties “owing to ‘the public,’ ‘the U.S. government,’ and ‘foreseeable persons impacted by non-compliance’ with various federal and state

⁴ Curtin alleges that a provision in Mod 4 precluding Cyberlux from communicating directly with the Government – common in many subcontracts to preserve contractual privity – was how HII “HII participated in an information-exclusion mechanism that prevented the Contracting Officer from independently examining the financial record underlying the termination settlement.” FAC ¶ 61. But, the ordinary terms of Mod 4 making HII the sole point of contact for communications with the Government did not affect or preclude the Government’s vision into Cyberlux’s backup for the termination for convenience settlement.

laws and regulations.” First Action ECF 66, at 17. The Court dismissed Count IV because applicable state law did not recognize an independent cause of action for negligent supervision. *See* First Action ECF 66, at 14.

QUESTIONS PRESENTED

Whether Counts I, II, and X are barred by res judicata as to HII. Whether Curtin has otherwise stated a claim upon which relief can be granted against HII in Counts I, II, and X of the FAC.

LEGAL STANDARD

“To survive a motion to dismiss under Rule 12(b)(6), a complaint must contain sufficient factual matter, accepted as true, ‘to state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.*

Res judicata may be raised in a motion to dismiss under Rule 12(b)(6) when it appears on the face of the complaint. *Burrs v. United Techs. Corp.*, No. 1:18-cv-491, 2018 U.S. Dist. LEXIS 187929, at *3 (M.D.N.C. Nov. 2, 2018) (citing *Richmond, Fredericksburg & Potomac R.R. Co. v. Forst*, 4 F.3d 244, 250 (4th Cir. 1993)).

ARGUMENT

I. COUNTS I, II, AND X ARE BARRED BY RES JUDICATA/CLAIM PRECLUSION.

The Court should dismiss the FAC as to HII because the claims are precluded by the judgment in the First Action. “‘Under the doctrine of claim preclusion, a prior judgment bars the relitigation of claims that were raised or could have been raised in the prior litigation.’” *Burrs*, 2018 U.S. Dist. LEXIS 187929, at *4 (quoting *Pittston Co. v. United States*, 199 F.3d 694, 704

(4th Cir. 1999)).

“Generally, claim preclusion occurs when three conditions are satisfied: 1) the prior judgment was final and on the merits, and rendered by a court of competent jurisdiction in accordance with the requirements of due process; 2) the parties are identical, or in privity, in the two actions; and, 3) the claims in the second matter are based upon the same cause of action involved in the earlier proceeding.” *First Union Com. Corp. v. Nelson, Mullins, Riley, & Scarborough (In re Varat Enters.)*, 81 F.3d 1310, 1315 (4th Cir. 1996) (citing *Kenny v. Quigg*, 820 F.2d 665, 669 (4th Cir. 1987)). All three elements are present here.

First, the judgment in the First Action was a valid final judgment on the merits. Rule 41(b) makes clear that “an involuntary dismissal ‘except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19 [] operates as an adjudication on the merits.’” *Chandler v. Forsyth Tech. Cmty. Coll.*, 294 F. Supp. 3d 445, 452 (M.D.N.C. 2018) (quoting Fed. R. Civ. P. 41(b)). This includes judgments based on a granted Rule 12(b)(6) motion. *Federated Dep’t Stores v. Moitie*, 452 U.S. 394, 399 n.3 (1981) (“[D]ismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) is a ‘judgment on the merits.’”) (citing *Angel v. Bullington*, 330 U.S. 183, 190 (1947); *Bell v. Hood*, 327 U.S. 678 (1946)). The Court expressly dismissed Counts III and IV (the sole counts against HII) with prejudice. *See* First Action ECF 66, at 17; ECF 67, at 1. The judgment in the First Action was a valid final judgment on the merits.

Second, the parties in both actions are identical: Curtin and HII. This satisfies the second element as to HII. While Curtin adds additional defendants in this action, “the naming of additional parties does not eliminate the res judicata effect of a prior judgment.” *Cruthirds v. Lacey*, No. 5:14-CV-00260-BR, 2017 U.S. Dist. LEXIS 139624, at *15 (E.D.N.C. Aug. 30, 2017) (quoting *U.S. ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 249 (9th

Cir. 1992)). The judgment of the First Action precludes Curtin from relitigating any claims he brought, or could have brought, against HII in that case.

Lastly, the claims in this action arise out of the same cause of action as the First Action. To determine whether a claim is based upon the same cause of action “the general inquiry is whether the claims ‘arise out of . . . the same core of operative facts.’” *Burrs*, 2018 U.S. Dist. LEXIS 187929, at *6 (quoting *In re Varat Enters.*, 81 F.3d at 1316) (internal citation omitted). Thus, “res judicata will bar a newly articulated claim if it is based on the same underlying transaction [involved in the first suit] and could have been brought in the earlier action.” *Chandler*, 294 F. Supp. 3d at 453 (quoting *Providence Hall Assocs. Ltd. P’ship v. Wells Fargo Bank, N.A.*, 816 F.3d 273, 282 (4th Cir. 2016)).

Here, Curtin’s claims against HII all arise out of the same events underlying the First Action. The core of those alleged events are:

- **HII’s alleged negligence in executing the Subcontract with Cyberlux in 2023.** *Compare* FAC ¶ 62 (alleging HII “awarded the subcontract to a counterparty with forty prior financial judgments, an active civil judgment against the CEO, and a court-ordered settlement in active default without documented financial responsibility assessment.”), *with* First Action FAC ¶ 39 (“HII breached [its] duty by failing to conduct adequate due diligence before awarding the subcontract to an unqualified vendor.”); and
- **HII’s alleged failure to supervise or enforce its Subcontract with Cyberlux in late 2023.** *Compare* FAC ¶ 35 (“HII provided no documented oversight during the period in which \$35.5 million left Cyberlux’s account.”), *with* First Action FAC ¶ 49 (alleging HII “disbursed a \$38.7 million advance payment to an unqualified subcontractor; and failed to audit or track the use of those funds despite clear oversight provisions in the subcontract”).

All the claims in this action could have been, and in substance were, brought in the First Action.⁵ After these allegations concerning HII, Curtin alleges the same “campaign” of online communications and posts in 2025 that he says caused him injury. *See* FAC ¶¶ 50-55; First Action ECF 66, at 3 (outlining the alleged doxxing and harassment in May and June of 2025).

In *Chandler*, a community college student alleged various due process claims against her school and its board of trustees. 294 F. Supp. 3d at 449. The court dismissed the claims for failure to state a claim. *Id.* The plaintiff then filed a new action with additional defendants and more detailed allegations. *Id.* The court dismissed the second action based on res judicata, noting that the plaintiff failed to provide to “any reason why the present claims could not have been brought in the earlier action.” *Id.* at 453. As in *Chandler*, Curtin adds defendants and provides more detail, but he again challenges the legality of the same events identified in the First Action with no justification for why these claims could not have been brought earlier. Curtin’s claims should likewise be dismissed.

“By precluding parties in a subsequent proceeding from raising claims that were or could have been raised in a prior proceeding, ‘res judicata . . . bars vexatious litigation, and frees the courts to resolve other disputes.’” *Pueschel v. United States*, 369 F.3d 345, 354 (4th Cir. 2004) (quoting *Brown v. Felson*, 442 U.S. 127, 131 (1979)). The Court should preclude Curtin from relitigating claims the Court has already resolved and dismiss Counts I, II, and X as to HII with prejudice.

⁵ Count I here is identical to Count 4 dismissed with prejudice in the First Action, except Curtin now claims North Carolina law applies. In the First Action, Curtin alleged: “Plaintiff operates his business within the Eastern District of Virginia, and the harm from the acts described herein was felt in this District.” First Action FAC ¶ 28. Now, Curtin seeks to apply North Carolina law because “the challenged conduct was planned, directed, and substantially executed from North Carolina.” FAC ¶ 9. This “tweak” to the alleged claim does not save it from res judicata

II. EACH OF COUNTS I, II, AND X FAILS TO STATE A CLAIM.

Even if the Court does not dismiss Counts I, II, and X as barred by res judicata, it should dismiss them for failure to state a claim.

A. Count I (“Negligent Oversight”) Fails to State a Claim.

Count I in the FAC is the same claim the Court dismissed as Count IV in the First Action. Curtin now asserts his claim arises under North Carolina law, rather than Virginia law. *See* FAC ¶ 9. Curtin’s claim fails for two reasons.

First, Curtin’s purported North Carolina law claim fails because North Carolina law does not apply. As the Court recognized in the First Action, “[t]he Supreme Court of North Carolina’s ‘jurisprudence favors the use of the *lex loci* test in cases involving tort or tort-like claims.’” First Action ECF 66, at 7 (quoting *SciGrip, Inc. v. Osaе*, 838 S.E.2d 334, 343 (N.C. 2020)). As a result, the Court applies the “substantive law of the state ‘where the injury or harm was sustained or suffered.’” *Id.* at 8 (quoting *SciGrip, Inc. v. Osaе*, 838 S.E.2d at 343). Curtin alleges that *he* suffered the harm proximately caused by HII’s negligent oversight of Cyberlux, FAC ¶ 63, and he is a citizen of New York, with a business in Virginia. FAC ¶¶ 9, 10. HII’s principal place of business is in Virginia. FAC ¶ 12. Neither Curtin nor HII has any material connection to North Carolina. Because Curtin expressly pleads Count I as a North Carolina claim, and North Carolina law does not apply, Count I fails to state a claim.

Second, even if North Carolina law applies to Count I (it does not), Count I fails to state a claim.⁶ Curtin appears to allege that HII was negligent in contracting with Cyberlux in the first instance and negligent in enforcing its contractual rights under the Subcontract. Neither gives rise

⁶ And, even if New York law applies the result is the same. *See Brothers v. N.Y. State Elec. & Gas Corp.*, 11 N.Y.3d 251, 259 (2008) (“[A] contractual obligation, standing alone, will . . . not give rise to tort liability in favor of a third party.”) (citation omitted).

to a claim by Curtin against HII.

Curtin alleges no facts satisfy any negligent hiring, supervision, and/or retention exception to the general rule that “one who employs an independent contractor is not liable for the independent contractor’s [acts].”⁷ *Little v. Omega Meats I, Inc.*, 171 N.C. App. 583, 586 (2005) (quoting *Kinsey v. Spann*, 139 N.C. App. 370, 374 (2000)). HII and Cyberlux are independent contractors. See FAC ¶¶ 11-12. As a result, HII has no vicarious liability for Cyberlux’s acts and omissions. Curtin must make out a “direct claim against [HII] based upon the actionable negligence of [HII] in negligently hiring a third party.” *Little*, 171 N.C. App. at 586 (citation omitted). Because all common law negligence claims require “a legal duty which the defendant owed the plaintiff under the circumstances,” *Id.* (quoting *McMurray v. Surety Fed. Sav. & Loan Assn.*, 82 N.C. App. 729, 731 (1986)), Curtin must first allege facts to establish a legal duty owed by HII to Curtin at the time HII contracted with Cyberlux. *Little*, 171 N.C. App. at 586-87. If and only if that duty is established, then Curtin must allege four additional elements: “(1) the independent contractor acted negligently; (2) he was incompetent at the time of the hiring, as manifested either by inherent unfitness or previous specific acts of negligence; (3) the employer had notice, either actual or constructive, of this incompetence; and (4) the plaintiff’s injury was the proximate result of this incompetence.” *Kinsey*, 139 N.C. App. at 377. “It is only after a plaintiff has established that the defendant owed a duty of care that the trial court considers the other elements necessary to establish a claim for negligent hiring or retention of an independent contractor.” *Little*, 171 N.C. App. at 588 (citation omitted).

⁷ Negligent hiring, negligent supervision, and negligent retention share the same legal elements, and North Carolina courts apply a single four-part test to evaluate claims brought under any of these three theories. *Kelly v. Metro. Life Ins. Co.*, 2022 NCBC LEXIS 136, at *78 (N.C. Sup. Ct. Nov. 14, 2022) (citing *Medlin v. Bass*, 327 N.C. 587, 590-91 (1990)).

Just as in the First Action, Curtin’s allegations make out no legal duty owed by HII to him. HII had no connection or contractual relationship with Curtin, and Curtin never worked for Cyberlux. Curtin is a complete stranger to HII, and nothing in his allegations establishes any relationship that could give rise to a duty of care. There must be a “sufficient nexus between the employment relationship of the [HII] and [Cyberlux], on the one hand, and the injury alleged to have been visited on [Curtin], on the other hand, to provide proof that the injury for which compensation is sought was reasonably foreseeable by [HII].” *Kelly*, 2022 NCBC LEXIS 136, at *80. Curtin’s injury was not foreseeable by HII subcontracting with Cyberlux. Because Curtin alleges no duty owed by HII to Curtin, he cannot make out a negligence claim.⁸

In addition, even if Curtin could establish a duty, his claim also fails on, among others, the fourth element – that the plaintiff’s injury was the proximate result of the incompetence of the independent contractor. *Kinsey*, 139 N.C. App. at 377. Curtin’s alleged injuries – “retaliation, doxxing, defamation, and professional interference directed at Plaintiff personally,” FAC ¶ 64 – resulted from then intentional acts of online actors, not Cyberlux’s alleged inability to properly perform the Subcontract. The causal chain he alleges does not connect Cyberlux’s Subcontract performance to his claimed injuries. For this additional reason, Curtin’s Count I fails. The Court

⁸ Such a duty can sometimes be established “if the work to be performed by the independent contractor is either (1) ultrahazardous or (2) inherently dangerous, and the employer either knows or should have known that the work is of that type . . . because, in those two areas, the employer has a non-delegable duty for the safety of others.” *Kinsey*, 139 N.C. App. at 374 (internal citations omitted). But here, Cyberlux’s Subcontract was for the delivery of goods. FAC ¶ 25. It involved no ultrahazardous or inherently dangerous activities, and Curtin alleges no physical harm. Without any nondelegable public safety duties—none of which apply here—Curtin cannot identify a duty running from HII to him. Curtin cites only to “regulatory and contractual obligations,” FAC ¶ 62, and “HII’s own published Supplier Code of Ethics,” FAC ¶ 61 as potential sources of duties of HII. But, these are not common law tort duties. And, any duties created by the Subcontract, regulation, or statute—even assuming this exist—are not owed to Curtin. He is not a third-party beneficiary of the Subcontract. “[S]trangers to a contract acquire no rights under such contract.” *Thorsen v. Richmond SPCA*, 292 Va. 257, 267 (2016) (citing 13 *Williston on Contracts* § 37:1, at 14-15); accord *Town of Belhaven v. Pantego Creek, LLC*, 250 N.C. App. 459, 471 (2016) (“A person is a direct beneficiary of the contract if the contracting parties intended to confer a legally enforceable benefit on that person.”) (citation omitted).

should dismiss it without leave to amend.

B. Count II (Civil Conspiracy) Fails to State a Claim Against HII.

Next, Curtin’s attempt to allege a claim for civil conspiracy likewise fails. He alleges that Cyberlux, Mark Schmidt, HII, Chuck Watts, Watts Law, Bill Maadarani, Cyclops Defense, L.L.C., Tucker, G2G Global Ltd., and S3 Global, LLC “agreed, by unlawful means and for an unlawful purpose, to suppress Plaintiff’s investigative reporting, retaliate against him for that reporting, damage his professional reputation and business relationships, disseminate accusations of espionage, and conceal the financial misconduct underlying this action from government scrutiny.” FAC ¶ 64.

Because his claim arises under New York law, there can be no independent claim for civil conspiracy. Under North Carolina choice of law analysis, for “civil conspiracy [claims], the law of the state where the plaintiff was injured controls the outcome of the claim.” *Stetser v. TAP Pharm. Prods. Inc.*, 165 N.C. App. 1, 15 (2004). Plaintiff pleads that all his injuries were personal to him, and he resides in New York. FAC ¶¶ 9, 10. As a result, New York law applies to Count II. And, “New York does not recognize civil conspiracy to commit a tort as an independent cause of action” *Hebrew Inst. for the Deaf & Exceptional Children v. Kahana*, 870 N.Y.S.2d 85, 86 (App. Div. 2nd Dept. 2008) (citing *Salvatore v Kumar*, 845 N.Y.S.2d 384 (2007)); *see also Alexander & Alexander, Inc. v. Fritzen*, 68 N.Y.2d 968, 969 (1986) (“a mere conspiracy to commit a [tort] is never of itself a cause of action”) (citations omitted). Curtin’s claim fails because he fails to articulate any viable underlying tort. He neither identifies one or alleges facts supporting one.

Even if North Carolina or Virginia law applied, the result is the same. *See Esposito v. Talbert & Bright, Inc.*, 181 N.C. App. 742, 747 (2007) (“It is well established that ‘there is not a separate civil action for civil conspiracy in North Carolina.’”) (quoting *Dove v. Harvey*, 168 N.C. App. 687,

690 (2005)); *Almy v. Grisham*, 273 Va. 68, 80 (2007) (holding that common law conspiracy “requires proof that [an] underlying tort was committed”). Because Curtin alleges no viable underlying tort, his conspiracy claim fails under New York, North Carolina, and Virginia law.

In addition, Curtin’s claim fails because he does not allege facts plausibly supporting the existence of an agreement among the alleged coconspirators or a common scheme. *See Strickland v. Hedrick*, 194 N.C. App. 1, 19 (2008). Curtin does not allege any communications between the defendants or explain how or when any such agreement was reached. He alleges no facts to plausibly suggest a coordinated or planned scheme. His references to visits to his website from various IP addresses do not show a plausible conspiracy. For these reasons, Count II fails and should be dismissed without leave to amend.

C. Count X (RICO) Fails to State a Claim Against HII.

Lastly, Count X fails to state a plausible claim under the Racketeer Influence and Corrupt Organizations Act (“RICO”). RICO provides a private right of action for treble damages to “[a]ny person injured in his business or property by reason of a violation” of the Act’s criminal prohibitions. 18 U.S.C. § 1964(c). Curtin alleges that HII violated 18 U.S.C. § 1962(c), or alternatively was a RICO conspirator under § 1962(d).

Section 1962(c) provides that “[i]t shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity” “To plausibly allege a civil RICO claim under 18 U.S.C. § 1962(c), a plaintiff must plead [1] conduct [2] of an enterprise [3] through a pattern of [4] predicate acts constituting racketeering activity [5] that caused injury to plaintiff’s business or property.” *Nunes v. Fusion GPS*, 531 F. Supp. 3d 993, 1005 (E.D. Va. 2021)

(citing *Sedima, S. P. R. L. v. Imrex Co.*, 473 U.S. 479, 496 (1985)); see also *Clinkscale v. Davis*, No. 1:25-cv-158, 2025 LX 663971, at *17 (M.D.N.C. Nov. 3, 2025) (conclusory allegations fail to establish the necessary elements of RICO) (*adopted* at 2025 U.S. Dist. LEXIS 268081, M.D.N.C. Dec. 31, 2025).

The Fourth Circuit has warned that courts “must . . . exercise caution ‘to ensure that RICO’s extraordinary remedy does not threaten the ordinary run of commercial transactions; that treble damage suits are not brought against isolated offenders for their harassment and settlement value’” *US Airline Pilots Ass’n v. AWAPPA, LLC*, 615 F.3d 312, 317 (4th Cir. 2010) (quoting *Menasco, Inc. v. Wasserman*, 886 F.2d 681, 683 (4th Cir. 1989)). As a result, especially where a plaintiff relies on mail or wire fraud as the defendant’s alleged predicate acts, there must be a pattern of criminal conduct threatening society that is “sufficiently outside the heartland of fraud cases to warrant RICO treatment.” *Al-Abood v. Elshamari*, 217 F.3d 225, 238 (4th Cir. 2000).

Curtin’s RICO claim fails for at least five reasons. First, he fails to plausibly allege the existence of a RICO enterprise. To plead an association in fact enterprise, a plaintiff must plausibly allege facts showing “an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit.” *Boyle v. United States*, 556 U.S. 938, 945 (2009) (citing *United States v. Turkette*, 452 U.S. 576, 583 (1981)). “[C]onclusory assertions with no factual support are simply insufficient to satisfy the *Turkette* standard of enterprise.” *Baldino’s Lock & Key Serv. v. Google, Inc.*, 88 F. Supp. 3d 543, 549 (E.D. Va. 2015) (citing *Migdal v. Rowe Price-Fleming Int’l, Inc.*, 248 F.3d 321, 328 (4th Cir. 2001)). Here, Curtin alleges no facts (nor could he) to explain how the series of disparate acts in ¶ 76 of the FAC were coordinated and directed by a cohesive unit comprised of the defendants named in Count X. Curtin relies on labels rather than factual allegations, describing a “Cyberlux Enterprise” without pleading facts that

would support the existence of such an entity. This is insufficient to meet Rule 12(b)(6)'s requirements.

Second, Curtin alleges no “conduct” by HII related to the enterprise or the alleged predicate acts, so he does not satisfy the first RICO element. *Nunes*, 531 F. Supp. 3d at 1005. Indeed, Curtin concedes that “HII did not participate in the retaliation campaign.” FAC ¶ 55. “[T]o conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs [under RICO] one must participate in the operation or management of the enterprise itself.” *Solomon v. Am. Web Loan*, Civil Action No. 4:17cv145, 2019 U.S. Dist. LEXIS 48420, at *31 (E.D. Va. Mar. 20, 2019) (quoting *Reves v. Ernst & Young*, 507 U.S. 170, 185 (1993)). There is no plausible allegation that HII managed, controlled, or directed the affairs of the so-called “enterprise.” Curtin therefore does not satisfy the conduct requirement as to HII.

Third, Curtin fails to allege facts to plausibly establish proximate cause between his alleged injuries and HII’s alleged acts and omissions. For RICO proximate cause, the plaintiff’s injuries must be “the direct result of the alleged predicate act(s).” *Walters v. McMahan*, 684 F.3d 435, 444 (4th Cir. 2012). “RICO proximate causation is lacking when . . . the alleged RICO predicate violation is ‘too distinct’ or logically unrelated from the cause of the plaintiff’s injury.” *MSP Recovery Claims, Series Ltd. Liab. Co. v. Lundbeck Ltd. Liab. Co.*, 130 F.4th 91, 107 (4th Cir. 2025) (quoting *Albert v. Global Tel*Link*, 68 F.4th 906, 911 (4th Cir. 2023)).

In *MSP Recovery Claims, Series Ltd. Liab. Co.*, collections agencies specializing in Medicare Advantage recoveries sued actors in the pharmaceutical industry alleging that they colluded to artificially inflate drug prices, resulting in over-reimbursement by insurers in violation of RICO. 130 F.4th at 101-02. The insurers assigned their recovery rights to the plaintiff collection agencies. However, because many intervening factors between the initial alleged misconduct and

the resulting economic injury (like physicians' prescriptions) could have caused the increased volume of drug prescriptions, the court held that "[p]laintiffs never connect any particular misrepresentation to any particular economic injury, and thus fail to establish the necessary 'direct relation between the injury asserted and the injurious conduct alleged.'" *Id.* at 109 (quoting *Slay's Restoration, LLC v. Wright Nat'l Flood Ins. Co.*, 884 F.3d 489, 493 (4th Cir. 2018)). The court concluded that the "causal chain running from Defendants' donations and alleged misrepresentations to Assignors' Xenazine reimbursement expenses is simply too attenuated to support RICO liability." *Id.*

The same causal defect is present here. Curtin's alleged injury from the doxxing and online harassment, *see, e.g.*, FAC ¶ 76(j), is far too attenuated from HII's contracting with Cyberlux, drafting contract modifications, and other innocuous activities identified in ¶ 75 of the FAC. The elaborate and fanciful causal chain he proposes does not create the "direct relation" required for RICO liability. 130 F.4th at 109. RICO proximate cause "turns on the directness of the resultant harm, not the foreseeability of that harm." *Slay's Restoration, LLC*, 884 F.3d at 493 (citing *Hemi Group, LLC v. City of New York*, 559 U.S. 1 (2010)).

A RICO plaintiff's harm must directly relate to RICO predicate acts. *See Walters*, 684 F.3d at 444. The acts that caused Curtin's alleged injuries – doxxing and online communications – are not predicate acts. While he purports to label those doxxing activities collectively as a predicate act, they are not.⁹ Sending online communications "to execute doxxing, defamation, and professional interference" is not wire fraud or any other predicate under 18 U.S.C. § 1961. All of

⁹ "To be convicted of mail fraud or wire fraud, a defendant must specifically intend to lie or cheat or misrepresent with the design of depriving the victim of something of value." *United States v. Wynn*, 684 F.3d 473, 478 (4th Cir. 2012). Curtin's contention is that these actors committed no fraud in their postings, but rather publicly released true information about Curtin that he wanted to remain private. That is not wire fraud.

Curtin’s other alleged predicate acts in paragraph 76 of the FAC have no logical connection to his alleged injury. They seem largely focused on alleged misstatements intended to defraud Cyberlux investors¹⁰ or recitations wire transfers. Curtin does not allege that any of these alleged predicate acts “directly” caused his injury. *MSP Recovery Claims, Series LLC*, 130 F.4th at 108. Without a direct injury caused by a qualifying predicate act, Curtin’s RICO claim fails for lack of proximate cause.

Fourth, Curtin concedes he has no business injury. Section 1964(c) provides that “[a]ny person injured *in his business or property* by reason of a violation of [RICO] may sue. . . .” (Emphasis added.). “The ‘business or property’ requirement operates with respect to the kinds of *harm* for which the plaintiff can recover” *Med. Marijuana, Inc. v. Horn*, 604 U.S. 593, 601 (2025) (emphasis added). Curtin pleads that “[a]ll damages described in this Complaint are suffered by Plaintiff personally.” FAC ¶ 9; *see also* FAC ¶ 10 (“All damages described in this Complaint are suffered by Plaintiff in his personal capacity.”); FAC ¶ 79 (“All damages set forth herein are suffered by Plaintiff in his personal capacity.”).

While a plaintiff may recover business and property damages that derive from a personal injury, *Med. Marijuana, Inc.* 604 U.S. at 601, Curtin expressly alleges his *damages* are personal to him, not his business, Carotank Road Holdings, Inc., “a defence industry advisory.” FAC ¶ 10.¹¹ He seeks recovery for injuries such as his “[a]uthorial identity [being] destroyed” FAC ¶ 79(c), “[r]eputational harm,” ¶ 76(d), “[c]hilling effect,” ¶ 76(e), and “emotional distress and personal harm.” ¶ 76(f). A RICO plaintiff “cannot recover for his pain and suffering.” *Med. Marijuana,*

¹⁰ In addition, securities fraud is not a RICO predicate act unless the defendant already has a criminal conviction for the offense. 18 U.S.C. § 1964(c).

¹¹ Curtin also makes clear that “Carotank Road Holdings, Inc. is not a plaintiff in this action,” which of course would require retention of counsel.

Inc., 604 U.S. at 594. And none of the other damages he identifies plausibly constitute injury to business or property. *See* FAC ¶ 76(a).¹²

Finally, Curtin’s alternative RICO conspiracy theory fails. “A cause of action for conspiracy to violate RICO under 18 U.S.C. § 1962(d) ‘necessarily must fail if the substantive claims are themselves deficient.’” *Field v. GMAC LLC*, 660 F. Supp. 2d 679, 688 (E.D. Va. 2008) (quoting *Robinson v. Fountainhead Title Group Corp.*, 252 F.R.D. 275, 283 (D. Md. 2008)). Because Curtin has no plausible RICO claim, his § 1962(d) claim fails as well.

Relatedly, “RICO does not ‘criminalize mere association with an enterprise.’” *Solomon v. Am. Web Loan*, No. 4:17cv145, 2019 U.S. Dist. LEXIS 48420, at *36 (E.D. Va. Mar. 20, 2019) (quoting *United States v. Mouzone*, 687 F.3d 207, 218 (4th Cir. 2012)). “Instead, liability only attaches to ‘the knowing agreement to participate in an endeavor which, if completed, would constitute a violation of the substantive statute.’” *Id.* (quoting *Mouzone*, 687 F.3d at 218). Curtin alleges that “HII’s knowledge of the enterprise’s unlawful objective and its agreement to facilitate that objective may be inferred from its trust-property knowledge, invoice transmissions, termination-settlement conduct, and Clause 9 information-exclusion drafting.” FAC ¶ 75. But these routine business activities in the self-interest of HII do not plausibly suggest any agreement to join a common scheme with Cyberlux or the alleged “Cyberlux Enterprise.” To the contrary, HII negotiated an arms’ length termination for convenience of a government contract. Curtin’s contention that the Subcontract and Mod. 4 somehow obstructed the Government’s visibility into the settlement is inconsistent with FAR 52.249-2, which requires a prime contractor to “make [settlement] records and documents available to the Government, at the Contractor’s office, at all

¹² The alleged damages in FAC ¶¶ 76(a) and 76(b) also fail for lack of proximate cause because Curtin concedes he was the party that voluntarily withdrew from the business opportunity. He cannot manufacture his own injury.

reasonable times.” Curtin’s theory that a subcontract provision somehow misled the Government is therefore not plausible, much less causally connected to his alleged doxxing injuries. Curtin’s RICO conspiracy theory fails as to HII.

At bottom, Curtin’s FAC applies conclusory RICO labels to the same grievances raised in the First Action, but alleges no facts to support a plausible RICO claim. The Court should dismiss Count X.

CONCLUSION

Based on the foregoing, the Court should dismiss Curtin’s First Amended Complaint as to any and all claims against HII with prejudice.

I certify that the foregoing memorandum contains 6,202 words, in compliance with LR 7.3(d)(1).

This the 22nd day of June, 2026.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was filed with the Clerk of the Court using the CM/ECF system which will send electronic notification to all counsel of record.

The undersigned further certifies that the following *pro se*, non-CM/ECF registered party will be served on the following party by U.S. mail and email in compliance with Fed. R. Civ. P. 5:

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This the 22nd day of June, 2026.

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