

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS

RAYMOND E. BUTLER II,

Plaintiff,

v.

HON. GEORGIA N. ALEXAKIS, et al.,

Defendants.

No. 1:25-cv-10904

**OPPOSITION BY HON. GEORGIA ALEXAKIS AND HON. NANCY MALDONADO  
TO PLAINTIFF'S MOTION TO AMEND**

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Plaintiff Raymond Butler II, through his counsel Katherine London, filed this lawsuit against Judge Georgia Alexakis and Judge Nancy Maldonado, each in an individual capacity, taking issue with their judicial rulings in another case where Butler is the plaintiff. Butler demands money damages and injunctive relief under the Racketeer Influenced and Corrupt Organizations Act (“RICO”) and 42 U.S.C. § 1983. Judge Alexakis and Judge Maldonado have moved to dismiss because Butler’s claims are defective in several respects. Rather than respond to the motion to dismiss, Butler filed an untimely and unapproved amended complaint. After the Court alerted Butler to his tardiness, Butler filed a motion to amend the complaint, followed by an updated motion to amend days later. But Butler has neither responded to Defendants’ motion to dismiss his currently operative complaint, nor has he sought relief from his long overdue obligation to do so.

Butler’s proposed amended complaint would be futile and the motion to amend should therefore be denied. Like the claims in the operative complaint, the proposed amended claims against Judge Alexakis and Judge Maldonado arise from Butler’s disagreement with their judicial decisions in litigation about a trust in which Butler claims an interest. Butler’s proposed amended complaint contains new allegations about the purported RICO conspiracy against him and converts the § 1983 claims against Judge Alexakis and Judge Maldonado into a *Bivens* claims. Notwithstanding these changes, the proposed claims against Judge Alexakis and Judge Maldonado could not survive a motion to dismiss. First, Judge Alexakis and Judge Maldonado are shielded by judicial immunity. Butler tries to get around that immunity by baldly insisting that the judges’ nominations were signed by an autopen. But that is irrelevant. Judicial immunity asks not whether the judge at issue had authority to take the challenged action, but whether the nature of the act was judicial: was it the type normally performed by a judge and while the plaintiff dealt with the judge in a judicial capacity? Under that analysis, absolute judicial immunity bars this action. Second,

this Court cannot interfere in Butler’s other ongoing litigation by issuing injunctions against the judges or ordering their recusal, both because the Court lacks jurisdiction to do so and because the availability of appeal forecloses such equitable relief. Finally, Butler fails to plead plausible claims. He falls far short of pleading the necessary elements of a RICO claim and his *Bivens* claim fails because it would arise in a new context and because special factors preclude extending a *Bivens* remedy to suits against federal judges.

For these reasons, Butler’s motion to amend his complaint should be denied and the claims against Judge Alexakis and Judge Maldonado dismissed with prejudice.

## **BACKGROUND**

### **A. Butler’s Underlying Civil Action**

Plaintiff Raymond Butler II claims to be the beneficiary of a trust that he says his grandfather created to benefit Butler and his siblings. Am. Compl. ¶¶ 1–4, 108–13 (ECF No. 71), *Butler v. Eddi* (“*Butler I*”), No. 25-cv-4443 (N.D. Ill. Sept. 20, 2024). In August 2024, he brought a lawsuit against thirty-one defendants in the United States District Court for the Western District of Michigan, alleging that funds from the trust had been diverted and decanted to other trusts and entities controlled by some of the defendants, that a release of Butler’s interest in the trust was forged or fraudulently obtained, and that he was entitled to collect “in excess of \$100,000,000.” *Id.* ¶¶ 4, 60, 131–33.

The district court stayed the action pending a related case by Butler against some of the same defendants in Cook County Probate Court—*Butler v. Eddi*, No. 22 CH 675 (Ill. Cir. Ct. Jan. 26, 2022)—because the outcome of that case could result in preclusive findings material to the federal case. Order at 7–8 (ECF No. 79), *Butler I* (Sept. 25, 2024). In February 2025, after inappropriate conduct by Butler towards some of the defendants, the Michigan federal court temporarily lifted the stay to enter a protective order requiring Butler to communicate with certain

defendants and witnesses only through his attorney at the time, Racine Miller. Order at 6 (ECF No. 101), *Butler I* (Feb. 12, 2025).

On April 22, 2025, with the stay and protective order still in place, the court transferred the case to the United States District Court for the Northern District of Illinois because the Western District of Michigan was an improper venue. Order (ECF No. 119), *Butler I* (Apr. 22, 2025). In the Northern District of Illinois, the case was assigned to Judge Georgia Alexakis. Judge Alexakis held a status hearing on June 9, 2025, during which she decided to maintain the stay pending the still-ongoing state-court proceedings. Min. Entry (ECF No. 163), *Butler I* (June 9, 2025). Judge Alexakis also kept the protective order in place but modified it to allow communications with defendants and witnesses by Butler's newly entered counsel, Katherine London. *Id.*

Several weeks later, Butler filed what he styled as an “ex parte emergency motion to vacate stay, vacate protective order, freeze trust assets, and appoint neutral fiduciary to preserve trust res.” Mot. to Vacate (ECF No. 167), *Butler I* (July 30, 2025). Butler claimed to have uncovered evidence of transfers of ownership in certain skilled nursing facilities that he asserted had been held by trusts in which he had an interest. *Id.* at 8–9. The same day, the court entered an order declining to consider the motion on an ex parte basis and instead setting an expedited briefing schedule with a motion hearing to occur on August 18, 2025. Min. Entry (ECF No. 169), *Butler I* (July 30, 2025). Butler immediately appealed the scheduling order to the United States Court of Appeals for the Seventh Circuit, Not. of Appeal (ECF No. 170), *Butler I* (July 30, 2025), and the district court vacated the briefing schedule pending the Circuit's decision, Min. Entry (ECF No. 177), *Butler I* (Aug. 4, 2025).

On August 6, 2025, a unanimous panel consisting of Circuit Judges David Hamilton, Michael Brennan, and Nancy Maldonado dismissed Butler's appeal for lack of jurisdiction. Order

(ECF No. 10), *Butler v. Eddi*, No. 25-2315 (7th Cir. Aug. 6, 2025). The court of appeals noted that a denial of a temporary restraining order is not immediately appealable and that Butler could proceed in district court on his request for preliminary injunctive relief. *Id.* at 2.

The day after dismissal of the appeal, the district court reentered a briefing schedule on Butler's motion to freeze assets, Min. Entry (ECF No. 188), *Butler I* (Aug. 7, 2025), and held a motion hearing on August 27, 2025, Min. Entry (ECF No. 208), *Butler I* (Aug. 27, 2025). Though it was scheduled as an in-person hearing, Butler and his counsel appeared only remotely. Butler's counsel, Katherine London, explained that she did not feel safe leaving her home because she believed that suspicious people were stalking her and interfering with her computer network in connection with her work on Butler's case. Hr'g Tr. at 10:3–22 (ECF No. 218), *Butler I* (Sept. 2, 2025). The court nevertheless proceeded and, after hearing arguments from both sides and testimony from Butler, denied Butler's motion. The court concluded that Butler was effectively requesting the court to establish a fund from which a later award of damages could be satisfied, which was not permissible. Hr'g Tr. at 100:7–101:2 (ECF No. 218), *Butler I* (Sept. 2, 2025). The court also concluded that Butler had not shown a likelihood of success on the merits because the evidence that the trusts were created for Butler's benefit was "slim to none," *id.* at 104:19–107:23, and Butler presented no evidence demonstrating that assets were being transferred from trusts that purportedly belonged to him, *id.* at 109:23–110:3. Butler immediately appealed that decision. Not. of Appeal (ECF No. 209), *Butler I* (Aug. 27, 2025).

Days after the hearing, on September 2, 2025, Miller moved to withdraw as counsel for Butler, which would leave Butler represented only by London. Mot. to Withdraw (ECF No. 216), *Butler I* (Sept. 2, 2025). Some defendants opposed Miller's withdrawal because of London's unwillingness to appear for in-person proceedings. Opp'n to Withdrawal (ECF No. 219), *Butler I*

(Sept. 3, 2025). The court set a hearing to resolve the opposed motion. Min Entry (ECF No. 220), *Butler I* (Sept. 8, 2025). The court later vacated the hearing, however, as part of a broader stay of proceedings pending Butler’s appeal of the denial of an asset freeze. Min Entry (ECF No. 227), *Butler I* (Sept. 11, 2025).

Meanwhile, Butler’s September 10, 2025, appeal of Judge Alexakis’s denial of his motion to freeze assets proceeded in the Seventh Circuit. Before briefing, Butler, through his counsel London, filed a motion to disqualify Judge Maldonado “from participating in any aspect” in the appeal. Mot. to Disqualify, *Butler v. Eddi* (“*Butler IP*”), No. 25-2589 (7th Cir. Sept. 24, 2025). The motion argued that Judge Maldonado has an “unavoidable conflict of interest and a reasonable appearance of partiality” because Butler had sued her in the instant case. *Id.* at 2. The motion also demanded recusal because of asserted “incompetence” and general “bias” on the part of Judge Maldonado. *Id.* at 3. Judge Maldonado denied the motion, Order, *Butler II* (Oct. 3, 2025), and the court of appeals, in a per curiam order, directed London to show cause “why she should not be subject to disciplinary action, which may include suspension or disbarment, for conduct unbecoming a member of this court’s bar . . . in making scurrilous and unfounded allegations against a judge of this court,” Order, *Butler II*, (Oct. 10, 2025). London responded that her motion was based on “verifiable facts” and continued to accuse Judge Maldonado of “collusion” and “bias.” Resp. to Order at 2–3, *Butler II* (Oct. 20, 2025). She insisted that those accusations were not mere conjecture because they were set forth in a sworn affidavit by Butler. *Id.* at 8.

In another per curiam order, the court of appeals found that London’s motion to disqualify made “unfounded accusations of judicial misconduct and ideological bias” against Judge Maldonado, and London’s response to the show-cause order “took no responsibility for her actions and continued to present unsupported allegations denigrating Judge Maldonado’s conduct and

character.” Order at 1 (ECF No. 42), *Butler II* (Nov. 7, 2025). The court noted that London had filed a “similar motion with similarly egregious allegations against Judge Alexakis in the district court.” *Id.* The court concluded that London has “shown disrespect for members of this court and knowingly misrepresented facts in court filings.” *Id.* at 2. It therefore ordered London to pay a fine of \$750 to the court and directed the clerk to “forward a copy of [the] order, which serves as a public reprimand, to the Attorney Registration and Disciplinary Commission of the Illinois Supreme Court for any action it deems appropriate.” *Id.* The court later denied London’s motion for en banc review, Order (ECF No. 50), *Butler II* (Nov. 19, 2025), and for rehearing, Order (ECF No. 55), *Butler II* (Nov. 21, 2025). London filed an application to vacate the order in the Supreme Court of the United States, which denied the application on March 2, 2026. *See London v. U.S. Ct. of Appeals for Seventh Cir.*, No. 25A773 (U.S. filed Dec. 19, 2025).

Butler also filed a motion to disqualify Judge Alexakis based on him having brought this action against her. Judge Alexakis granted Butler’s motion to disqualify on March 13, 2026. Min. Entry, *Butler I* (ECF No. 239). Her order noted that there is no legitimate basis for Butler’s suit against her and that courts have said baseless suits do not require disqualification, but she recused herself “in an abundance of caution.” *Id.* The case was reassigned to Judge April Perry. Min. Entry, *Butler I* (ECF No. 241). Butler has moved to disqualify Judge Perry in part because, he contends, her nomination was signed with an autopen, giving her a “direct personal stake” in the instant litigation. Mot. to Disqualify at 8, *Butler I* (ECF No. 245). Judge Perry denied the motion on April 9, 2026. Min. Entry, *Butler I* (ECF No. 249).

## **B. This Case**

Shortly after the denial of his motion to freeze assets in the underlying litigation, Butler brought this civil action against Judge Alexakis, Judge Maldonado, and unnamed “co-conspirators.” Butler’s vituperative complaint, submitted by his counsel London, accused Judge

Alexakis and Judge Maldonado of being “unethical ‘judges’” who are part of a “cesspool consisting of corrupt elements within the federal judiciary” attempting to “shamelessly favor their crooked allies in the underlying litigation, *Butler v. Eddi*.” Compl. at 1 (ECF No. 1). It charged Judge Alexakis with “arrogant overreach” and called Judge Maldonado “biased and incompetent.” *Id.* at 4. It asserted claims under the Racketeer Influenced and Corrupt Organizations Act (“RICO”) and 42 U.S.C. § 1983 and demanded “at least \$500,000,000” in damages (trebled under RICO), “injunctive relief” against “further acts,” and the “immediate removal from the bench” of Judge Alexakis and Judge Maldonado, among other things. *Id.* at 19–21.

Judge Alexakis and Judge Maldonado moved to dismiss, asserting judicial immunity. Mot. to Dismiss at 8–9 (ECF. No. 39). They also argued that this Court lacked jurisdiction to enjoin them from taking actions in Butler’s related litigation, *id.* at 10; that Butler failed to plead a viable RICO claim, *id.* at 11–12; and that Butler failed to allege that they were acting under color of state law for the § 1983 claim, *id.* at 13.

Rather than timely respond to the motion to dismiss, Butler filed an untimely amended complaint without the Court’s leave or defendants’ stipulation (ECF No. 44). After the Court alerted Butler to the untimeliness of his amended complaint (ECF No. 53), Butler filed an opposed motion to amend (ECF No. 54), which he later supplemented (ECF No. 59). At no point, however, has Butler filed any response to the pending motion to dismiss his still-operative complaint or sought relief from his overdue obligation to do so.

Like the initial complaint, the proposed amended complaint challenges (1) Judge Alexakis’s decision not to rule on Butler’s motion to freeze assets on an ex parte basis, Prop. Am. Compl. at 12–13 (ECF No. 59); (2) the Seventh Circuit’s dismissal of his appeal of that decision and subsequent denial of en banc review, *id.* at 13; (3) Judge Alexakis’s reentering of a briefing

schedule following the dismissal of the appeal, *id.* at 14; (4) Judge Alexakis’s denial of injunctive relief at the motion hearing, *id.* at 14–15; and (5) Judge Alexakis’s scheduling a hearing on the opposed motion to withdraw Miller as counsel for Butler, *id.* at 15. It asserts claims against Judge Alexakis and Judge Maldonado under RICO and *Bivens*. *Id.* at 52. It insists that Judge Alexakis and Judge Maldonado are not entitled to judicial immunity against these claims because their nominations “were executed via autopen or unauthorized means without President Biden’s personal signature.” *Id.* at 48. It demands damages “exceeding \$1.5 billion” and “injunctive relief” against “further enterprise activities” and “requiring their recusal from related cases,” among other things. *Id.* at 53.

The proposed amended complaint also seeks to add several new defendants. These include judges from the Circuit Court of Cook County, Illinois and the Twelfth Circuit Court of Michigan. Prop. Am. Compl. at 8–9 (ECF No. 59). Butler alleges that these judges participated in the alleged RICO conspiracy largely by issuing decisions in other cases that were not in his favor. *Id.* at 16–29. Butler also seeks to add as defendants the Illinois Attorney Registration and Disciplinary Commission, as well as two of its attorneys. *Id.* 9–10. He accuses the Commission and its attorneys of participating in the RICO conspiracy by refusing to investigate attorneys that he has complained about and by requiring a response from his attorney London to complaints filed against her, including the referral from the United States Court of Appeals for the Seventh Circuit. *Id.* at 31–38. Finally, Butler moves to add as a defendant Beth Bischof, the current wife of Katherine London’s ex-husband. *Id.* at 10–11. Butler accuses her of participating in the RICO conspiracy by filing a complaint against Katherine London with the Commission. *Id.* at 38–39.

## LEGAL STANDARDS

### A. Pleading Amendments

Though district courts “should freely give leave [to amend] when justice so requires,” Fed. R. Civ. P. 15(a), a district court may deny leave to amend due to “undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, [or] futility of amendment,” *Foman v. Davis*, 371 U.S. 178, 182 (1962). “District courts may refuse to entertain a proposed amendment on futility grounds when the new pleading would not survive a motion to dismiss.” *McCoy v. Iberdrola Renewables, Inc.*, 760 F.3d 674, 685 (7th Cir. 2014). Defendants contend that the proposed amended complaint would not survive a motion to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).

### B. Rule 12(b)(1)

“Federal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). A court must dismiss a case pursuant to Rule 12(b)(1) when it lacks subject matter jurisdiction. The plaintiff bears the burden of establishing subject matter jurisdiction. *Ctr. for Dermatology & Skin Cancer, Ltd. v. Burwell*, 770 F.3d 586, 588–89 (7th Cir. 2014).

### C. Rule 12(b)(6)

Defendants also move to dismiss for failure to state a claim under Rule 12(b)(6). “To survive a [Rule 12(b)(6)] motion to dismiss, 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)). In *Iqbal*, the Supreme Court reiterated the two principles underlying its decision in *Twombly*. “First, the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to

legal conclusions,” and “[s]econd, only a complaint that states a plausible claim for relief survives a motion to dismiss.” *Id.* at 678-79. A claim is facially plausible when the pleaded factual content “allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678 (citing *Twombly*, 550 U.S. at 556). “The plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Id.* (quoting *Twombly*, 550 U.S. at 556).

## ARGUMENT

### I. The defendants are covered by judicial immunity.

Judge Alexakis and Judge Maldonado are shielded from all of Butler’s proposed claims by judicial immunity. Judicial officials are immune from civil suits based on conduct taken in their judicial capacities. *Stump v. Sparkman*, 435 U.S. 349, 355–56 (1978). This immunity is broad; it “is not overcome by allegations of bad faith or malice” but rather in “only two sets of circumstances”: where liability would be for “actions not taken in the judge’s judicial capacity” or where it would turn on actions that, “though judicial in nature,” were “taken in the complete absence of all jurisdiction.” *Mireles v. Waco*, 502 U.S. 9, 11–12 (1991). Judicial immunity promotes the independence of the judiciary. Judges may be called upon to decide “controversial cases that arouse the most intense feelings in the litigants”; any errors made in the course of resolving such cases “may be corrected on appeal,” but judges “should not have to fear that unsatisfied litigants may hound [them] with litigation charging malice or corruption.” *Pierson v. Ray*, 386 U.S. 547, 554 (1967).

Butler’s proposed claims against Judge Alexakis and Judge Maldonado are precisely the sort of claims that judicial immunity is intended to prevent. The proposed claims challenge actions that were obviously taken in a “judicial capacity.” *Mireles*, 502 U.S. at 11–12. Butler challenges Judge Alexakis’s denials of his motion to freeze assets, Compl. at 12–13, 14, and her scheduling

orders setting a briefing schedule on the motion to freeze assets and a hearing on Miller's opposed motion to withdraw as counsel, *id.* at 13–14. Butler also challenges Judge Maldonado's participation in a panel dismissing his appeal of the district court's decision not to consider his motion on an *ex parte* basis and her involvement in the court's *en banc* decision denying his request for further review, *id.* at 13. Those actions are obviously "judicial in nature" and well within the jurisdictional purview of a judicial officer. *Mireles*, 502 U.S. at 11–12.

Butler's only attempt to avoid the application of judicial immunity is to assert that the nominations of Judge Alexakis and Judge Maldonado "were executed via autopen or unauthorized means without President Biden's personal signature." Prop. Am. Compl. at 48 (ECF No. 59). There are many flaws in this argument. First, it is conclusory and speculative. Butler's conclusory insistence that the that the nominations were executed with an autopen is supported by insufficient factual detail to render it "plausible." *Iqbal*, 556 U.S. at 678. This absence of detailed factual allegations shows that Butler's assertion is also speculative. Tellingly, his initial complaint admitted of more uncertainty, only speculating that the nominations "may" have been executed with an autopen. Compl. at 12 (ECF No. 1). Second, Butler's argument is unreasoned. He baldly asserts that the alleged auto-penned nominations "renders [the] commission void from the outset." Prop. Am. Compl. at 48 (ECF No. 59). But he does not explain as a legal matter why the signing of a nomination by autopen would have any effect on the abilities of Judge Alexakis and Judge Maldonado to act as judicial officers, especially when Butler does not allege any independent impropriety in their subsequent confirmations by the Senate, commissioning, and swearing into office.

Third, and most importantly, Butler's contentions have no place in the application of judicial immunity. Courts do not look at whether a judicial officer has the specific authority to

perform the specific act challenged in the complaint. *Mireles*, 502 U.S. at 12. As the Supreme Court put it, “if judicial immunity means anything, it means that a judge will not be deprived of immunity because the action [she] took was in error or was in excess of [her] authority.” *Id.* at 12–13. Instead, the immunity inquiry focuses on “the nature of the act itself, i.e., whether it is a function normally performed by a judge, and to the expectation of the parties, i.e., whether they dealt with the judge in [a] judicial capacity.” *Id.* at 12. Applying that analysis here, judicial immunity plainly applies. Notwithstanding Butler’s speculative and unreasoned assertion that Judge Alexakis and Judge Maldonado lacked the authority to take the specific actions that they took, there is no doubt that those actions were the types of functions “normally performed by a judge” and that Butler dealt with them “in [a] judicial capacity.” *Mireles*, 502 U.S. at 12. Judge Alexakis and Judge Maldonado are therefore immune from all of Butler’s proposed claims.

## **II. This Court lacks jurisdiction to review judicial actions in Butler’s other case.**

Separately, this Court lacks subject matter jurisdiction over Butler’s other ongoing litigation. Butler’s proposed amended complaint asks this Court to enjoin Judge Alexakis and Judge Maldonado “from further enterprise activities” and “requiring their recusal from related cases,” Prop. Am. Compl. at 53 (ECF No. 59), in direct derogation of the Seventh Circuit’s order specifically refusing to require the recusal of Judge Maldonado (which led to a public reprimand and bar referral for Butler’s counsel), Order, *Butler II*, (Oct. 10, 2025); Order (ECF No. 42), *Butler II* (Nov. 7, 2025). But once a court has issued a decision on a matter, any errors can be corrected only ““by orderly review,”” either through reconsideration or ““by a higher court””; otherwise, the court’s ““orders based on its decision are to be respected.”” *Celotex Corp. v. Edwards*, 514 U.S. 300, 313 (1995) (quoting *Walker v. Birmingham*, 388 U.S. 307, 314 (1967)); *see also Klayman v. Rao*, 49 F.4th 550, 552 (D.C. Cir. 2022) (“A federal district court lacks jurisdiction to review decisions of other federal courts.”). Butler therefore may only challenge the orders, including any

denials of motions to recuse, in his other litigation through the normal means of direct appeal and certiorari, as he has done.

The principles articulated above similarly forbid equitable relief because Butler has another remedy: appeal. Equitable relief is unavailable where, as here, a plaintiff seeks to retrospectively challenge results reached in prior federal litigation. In these circumstances, there is an adequate remedy at law—namely, appellate review in connection with the original litigation. *See Klayman*, 49 F.4th at 553–54 (holding that a “right to appeal” and “to petition for review in the Supreme Court” provided “a remedy at law” precluding equitable relief); *see also Crane by Crane v. Indiana High Sch. Athletic Assn.*, 975 F.2d 1315, 1326 (7th Cir. 1992) (party seeking injunctive relief must prove “no adequate legal remedy”). Butler can appeal (and has appealed) orders in his other case to the Seventh Circuit, and he may seek certiorari from the Supreme Court for orders from the Seventh Circuit. These available remedies preclude him from pursuing injunctive relief.

### **III. Butler’s proposed amended complaint fails to plead viable claims.**

In addition to the failure of all of Butler’s proposed claims due to judicial immunity and Butler’s inability to obtain equitable relief against the actions of another district court and federal court of appeals, Butler’s proposed claims also suffer several additional flaws that would warrant dismissal under Rule 12(b)(6).

#### **A. Butler fails to plead a cause of action under RICO.**

Butler’s proposed pleading accuses Judge Alexakis and Judge Maldonado of engaging in “coordinated sabotage” to “obstruct” his other litigation and “harass” his attorney London. Prop. Am. Compl. at 12 (ECF No. 59). To state a cause of action under RICO, a plaintiff must show “(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.” *Vicom, Inc. v. Harbridge Merch. Servs., Inc.*, 20 F.3d 771, 778 (7th Cir. 1994) (citation omitted). First, Butler fails to allege anything close to “racketeering activity.” To do so, he must show that each defendant

committed “two predicate acts of racketeering . . . within a ten-year time period,” and those predicate acts must be on “a specified list of criminal laws.” *Goren v. New Vision Int’l, Inc.*, 156 F.3d 721, 728 (7th Cir. 1998); *see also* 18 U.S.C. § 1961(1) (defining “racketeering activity”). Butler first alleges wire fraud, Compl. at 5, 6, 7 (ECF No. 59), which is one of the categories of crimes on the list, 18 U.S.C. § 1961(1) (listing 18 U.S.C. § 1343)). But the Seventh Circuit has “repeatedly rejected RICO claims that rely so heavily on mail and wire fraud allegations to establish a pattern” for RICO purposes. *Jennings v. Auto Meter Products, Inc.*, 495 F.3d 466, 475 (7th Cir. 2007). In any event, allegations of wire fraud must be particularized and must include “the identity of the person who made the misrepresentation, the time, place and content of the misrepresentation, and the method by which the misrepresentation was communicated to the plaintiff.” *Vicom*, 20 F.3d at 777 (citation omitted). Butler fails to do so. He first alleges that Judge Alexakis and Judge Maldonado accessed his attorney’s public website. Prop. Am. Compl. at 12–14 (ECF No. 59). But he fails to identify any “misrepresentation” involved in allegedly visiting a public website. Butler also alleges that the judges electronically filed orders that he baldly labels as “false.” *id.* at 15, 40. But he fails to plead facts identifying with particularity any specific misrepresentation in any order.

Butler also accuses Judge Alexakis and Judge Maldonado of “obstruction of justice” by forming an “unholy alliance” to deny his request for appellate review. Prop. Am. Compl. at 13 (ECF No. 59) (citing 18 U.S.C. § 1503). But Butler does not come close to plausibly establishing that either Judge Alexakis or Judge Maldonado acted “corruptly.” 18 U.S.C. § 1503. The mere fact that he disagrees with the order dismissing his appeal does not establish that there was corruption behind it.

Nor does the complaint adequately allege an “enterprise.” To do so, it must allege facts to plausibly suggest “a group of persons associated together for a common purpose of engaging in a course of conduct.” *Boyle v. United States*, 556 U.S. 938, 946 (2009) (quoting *United States v. Turkette*, 452 U.S. 576, 583 (1981)). This definition is interpreted broadly, but it requires “at least three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise’s purpose.” *Id.* But Butler makes only conclusory and implausible references to a “cohesive unit” consisting of federal and state judges, disciplinary authorities with the Illinois State Bar, and his counsel’s ex-husband’s current wife. Prop. Am. Compl. at 29 (ECF No. 59). Butler contends that these individuals are “directly link[ed]” because they all visited the public website of his attorney. *Id.* at 30. But independently visiting a public website falls far short of indicating a coordinated “corrupt cabal” constituting a RICO enterprise. *Id.* at 40.

The failure to establish an enterprise or a pattern of racketeering activity is also fatal to Butler’s proposed RICO conspiracy claim. That claim requires him to show “that (1) the defendant[s] agreed to maintain an interest in or control of an enterprise or to participate in the affairs of an enterprise through a pattern of racketeering activity, and (2) the defendant[s] further agreed that someone would commit at least two predicate acts to accomplish these goals.” *Empress Casino Joliet Corp. v. Balmoral Racing Club, Inc.*, 831 F.3d 815, 823 (7th Cir. 2016) (internal citation omitted). Because he failed to allege facts plausibly showing a pattern of racketeering activity or an underlying enterprise, he likewise does not adequately plead a conspiracy claim.

**B. Butler fails to plead a *Bivens* claim.**

Butler’s proposed *Bivens* claim likewise fails on its face (in addition to being barred by immunity). In *Bivens*, the Supreme Court “recognized for the first time an implied private action for damages against federal officers alleged to have violated a citizen’s constitutional rights.” *Corr.*

*Servs. Corp. v. Malesko*, 534 U.S. 61, 66 (2001) (citing *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)). The doctrine initially applied to claims of Fourth Amendment violations, see *Bivens*, 403 U.S. at 389, but was later extended to cover federal officers' alleged violations of the Fifth and Eighth Amendments, see *Carlson v. Green*, 446 U.S. 14 (1980) (Eighth Amendment); *Davis v. Passman*, 442 U.S. 228 (1979) (Fifth Amendment).

The Supreme Court has more recently emphasized that creating a *Bivens* remedy is a “disfavored’ judicial activity.” *Ziglar v. Abbasi*, 582 U.S. 120, 135 (2017); see also *Egbert v. Boule*, 596 U.S. 482, 491 (2022). To determine whether a plaintiff may seek a remedy under *Bivens*, courts must first “ask whether the case presents ‘a new *Bivens* context’—i.e., is it ‘meaningful[ly]’ different from the three cases in which the Court has implied a damages action.” *Egbert*, 596 U.S. at 483 (quoting *Ziglar*, 582 U.S. at 139). If so, a court next asks whether “there are ‘special factors’ indicating that the Judiciary is at least arguably less equipped than Congress ‘to weigh the costs and benefits of allowing a damages action to proceed.’” *Id.* (quoting *Ziglar*, 582 U.S. at 136). The Seventh Circuit has explained that, following *Egbert*, “even a modest extension of an existing context is all but forbidden.” *Sargeant v. Barfield*, 87 F.4th 358, 366 (7th Cir. 2023) (quotation marks omitted); see also *Egbert*, 596 U.S. at 490–91 (describing the only three contexts in which the Supreme Court has recognized a *Bivens* cause of action).

Butler’s proposed *Bivens* claim would obviously extend a *Bivens* remedy to a new context, not least because it involves a “new category of defendants,” *Egbert*, 596 U.S. at 492, namely federal judges. See *Sibley v. Roberts*, 224 F. Supp. 3d 29, 36 (D.D.C. 2016) (noting that “the *Bivens* doctrine has never been extended to apply to the actions of judicial officers”), *aff’d*, 696 F. App’x 526 (D.C. Cir. 2017). And the fact that judicial officers are traditionally immune from suit, *Stump*, 435 U.S. at 355–56, is a special factor that precludes recognition of a new form of *Bivens* liability.

*See Holtzclaw v. Morgan*, No. 6:24-CV-07562-DCC-KFM, 2025 WL 897802, at \*4 (D.S.C. Feb. 5, 2025) (holding that judicial immunity is a special factor that counsels against extending a *Bivens* remedy to federal judges), *report and recommendation adopted*, No. 6:24-CV-07562-DCC, 2025 WL 896851 (D.S.C. Mar. 24, 2025), *aff'd*, No. 25-6319, 2026 WL 241845 (4th Cir. Jan. 29, 2026). Butler's proposed *Bivens* claim therefore would not survive a motion to dismiss and his motion to amend should be denied.

### CONCLUSION

For these reasons, Butler's motion to amend should be denied as futile.

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Respectfully submitted,

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