No. 21-2846

IN THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

William Burrell, Jr. et al.,

Plaintiffs-Appellants,

v.

Lackawanna Recycling Center, Inc. et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Pennsylvania
No. 3:14-cv-01891 (Mariani, J.)

BRIEF OF PLAINTIFFS-APPELLANTS WILLIAM BURRELL, JR. ET AL.

Marielle Macher
COMMUNITY JUSTICE PROJECT
118 Locust St.
Harrisburg, PA 17101

Juno Turner*
TOWARDS JUSTICE
2840 Fairfax St.,
Suite 200
Denver, CO 80207

Matthew Handley
Rachel Nadas
HANDLEY FARAH & ANDERSON PLLC
200 Massachusetts Ave., NW, 7th Floor
Washington, D.C. 20001

Jacob Demree
Samuel Myers
Jacob Rosen
Student Counsel

Madeline Meth
D.C. Bar No. 230473
Brian Wolfman
GEORGETOWN LAW APPELLATE COURTS IMMERSION CLINIC
600 New Jersey Ave., NW, Suite 312
Washington, D.C. 20001
(202) 662-9549

Counsel for Plaintiffs-Appellants

January 6, 2022

* Application for admission forthcoming

TABLE OF CONTENTS

Page(s)

TABLE OF AUTHORITIES

Cases **Page(s)**

Constitutional Provision

Statutes and Rule

Other Authorities

INTRODUCTION

Defendants-Appellees forced Plaintiffs-Appellants William Burrell, Jr., Joshua Huzzard, Dampsey Stuckey, and other civilly detained child-support debtors to work at the Lackawanna Recycling Center, tearing open trash bags and separating recyclable materials. Child-support debtors like Plaintiffs work for roughly eight hours a day, five days a week, choking on hazardous fumes at the Center as broken bottles slash their hands and feet and nails slice through their shoes. When they try to wipe away sweat—the worksite gets to over one hundred degrees—shards of glass lodge deeper into their skin. They suffer from a painful skin condition—"trash rash"—caused by prolonged contact with toxic materials in the trash, including vomit and feces. For their work, they are paid $5 a day—about sixty-two-and-a-half cents an hour.

The Lackawanna Solid Waste Management Authority (the Authority), a government agency, owns the Center and contracts with Lackawanna Recycling Center, Inc. (LRCI)—a private company run by Louis and Dominick DeNaples—to operate it. LRCI staffs the Center with detainees enlisted in the Lackawanna County Prison's so-called Community Service Program.

Though Defendants dress up their forced-labor scheme as "community service," participation is far from voluntary. To become eligible for work release—Plaintiffs' only means to pay down their debt and obtain their

freedom—detained child-support debtors are required to work for token wages that drive down LRCI's operating costs. So, when Burrell, Huzzard, and Stuckey fell behind on child-support payments and found themselves locked up and unable to pay their way out of prison, they had no choice but to work at the Center.

Defendants' scheme constitutes unlawful forced labor. By leaving child-support debtors no choice but to work, Defendants violate the Thirteenth Amendment and the Trafficking Victims Protection Act. Defendants also violate the Racketeer Influenced and Corrupt Organizations Act by engaging in a pattern of repeated acts of forced labor through an enterprise of distinct public and private entities.

This scheme to use a captive workforce and gain an unfair competitive advantage by paying subminimum wages into prison commissary accounts violates the Fair Labor Standards Act, the Pennsylvania Minimum Wage Act, and the Pennsylvania Wage Payment and Collection Law. By profiting off Plaintiffs' forced and nearly unpaid labor, Defendants are also unjustly enriched.

Despite Plaintiffs' well-pleaded allegations, the district court dismissed each claim. In its view, Plaintiffs were not forced to work at the Center and were not entitled to the minimum wage even though their work provided their private employer with unfair advantages over every other private business that is covered by minimum-wage requirements and lacks the benefit of a captive workforce. This Court should reverse.

STATEMENT OF JURISDICTION

The district court had subject-matter jurisdiction under 28 U.S.C. §§ 1331, 1343(a), and 1367(a). On August 6, 2021, the district court granted Defendants' motions to dismiss the Second Amended Complaint. On August 31, 2021, the district court issued a separate Final Judgment, which disposed of all claims against all parties. Plaintiffs filed a timely notice of appeal on September 30, 2021. This Court has jurisdiction under 28 U.S.C. § 1291.

ISSUES PRESENTED

I. Did the district court err in dismissing Plaintiffs' Thirteenth Amendment and TVPA claims where Plaintiffs alleged that they were forced to work in brutal conditions at the Center for pennies an hour to gain access to work release?[1]

II. Did the district court err in dismissing Plaintiffs' RICO claim where Plaintiffs plausibly alleged that LRCI and its owners—Louis and Dominick DeNaples—operated as an enterprise such that, by violating the TVPA, Defendants also violated RICO?[2]

III. Did the district court err in dismissing Plaintiffs' FLSA and Pennsylvania Minimum Wage Act claims despite allegations establishing that LRCI, the Authority, and the County suffered or permitted Plaintiffs to

[1] Raised: Vol. 2 at 137-38; Dkt. 134 at 3-11. Ruling: Vol. 1 at 59-65.

[2] Raised: Vol. 2 at 141; Dkt. 134 at 11-12. Ruling: Vol. 1 at 66-68.

work by requiring Plaintiffs to demonstrate that they "freely contracted" with Defendants?[3]

IV. Did the district court err in dismissing Plaintiffs' Pennsylvania Wage Payment and Collection Law claim where Plaintiffs alleged that Defendants failed to pay promised wages in lawful money by cash or check?[4]

V. Did the district court err in dismissing Plaintiffs' claim that Defendants were unjustly enriched in violation of Pennsylvania common law by profiting off Plaintiffs' forced, nearly unpaid labor?[5]

STATEMENT OF RELATED CASES

The Court has previously heard this case. *See Burrell v. Loungo*, 750 F. App'x 149 (3d Cir. 2018) (per curiam), *cert. denied*, 139 S. Ct. 2640 (2019); *In re Burrell*, 668 F. App'x 13 (3d Cir. 2016) (per curiam); *In re Burrell*, 626 F. App'x 33 (3d Cir. 2015) (per curiam).

STATEMENT OF THE CASE

Under the guise of "community service," Defendants forced Plaintiffs to work under inhumane and dangerous conditions for $5 a day—approximately sixty-two-and-a-half cents an hour. Plaintiffs first provide legal background on Pennsylvania's child-support, civil-contempt, and

[3] Raised: Vol. 2 at 138-40; Dkt. 128 at 2-6. Ruling: Vol. 1 at 69-79.

[4] Raised: Vol. 2 at 140-41; Dkt. 128 at 6-8; Ruling: Vol. 1 at 79-83.

[5] Raised: Vol. 2 at 140-42; Dkt. 134 at 12-15. Ruling: Vol. 1 at 68-69.

work-release procedures, and then provide the facts giving rise to their claims and the decision below.

I. Pennsylvania statutory background

A. Child-support procedures and civil contempt

Under Pennsylvania law, someone who "willfully fails" to pay child-support obligations may be held in civil contempt and imprisoned for up to six months. 23 Pa. Stat. and Cons. Stat. § 4345(a), (a)(1). A civil contempt order must be designed only to coerce the defendant to comply with a prior court order. *Turner v. Rogers*, 564 U.S. 431, 441 (2011); *see Hyle v. Hyle*, 868 A.2d 601, 604 (Pa. Super. Ct. 2005). Thus, a civil-contempt order that sends a debtor to prison must also provide the debtor with a "purge" amount, which the debtor can pay to be released from prison; otherwise, as a constitutional matter, the order would be transformed from a coercive civil order into a punitive criminal order. *See Turner*, 564 U.S. at 445; *Hyle*, 868 A.3d at 605-06; *e.g.*, Vol. 2 at 145.[6] The court must set the purge amount at a level that the debtor can presently pay. *See Hyle*, 868 A.2d at 605-06.

When a child-support debtor experiences a "material and substantial change in circumstance," such as criminal incarceration, a court may modify or terminate the debtor's support order. 23 Pa. Stat. and Cons. Stat. § 4352(a.2). But a court may not modify or terminate a debtor's support order

[6] All references to Appendix Volume 2 are to the Second Amended Complaint unless otherwise noted.

when the debtor is incarcerated pursuant to a civil-contempt order for "nonpayment of support." *Id.* This means that individuals civilly detained for not paying child support—who are likely to be in precarious financial circumstances to begin with, *see Turner*, 564 U.S. at 445—fall further into debt during their imprisonment.

B. Work release under Pennsylvania law: purposes and eligibility

When a debtor is incarcerated for a term of less than five years, including when incarcerated pursuant to a civil-contempt order, the court may enter "an order making the offender eligible to leave" detention to work. 42 Pa. Stat. and Cons. Stat. § 9813(a). Work release allows prisoners to leave prison during the day, earn wages from an employer, and then return to the prison each night. Vol. 2 at 131. The work-release program, like other County-run correctional programs, must be "implemented and operated" for specific purposes: to "protect society," "promote accountability of offenders to their local community," and "provide opportunities for offenders who demonstrate special needs to receive services which enhance their ability to become contributing members of the community." 42 Pa. Stat. and Cons. Stat. § 9803(1)-(4).

II. Factual background

A. Plaintiffs fall behind on child support and are imprisoned.

Plaintiffs William Burrell, Jr., Joshua Huzzard, and Dampsey Stuckey each fell behind on their child-support obligations between 2013 and 2014.

Vol. 2 at 115, 119, 121. A workplace injury left Burrell bedridden, unable to work for three weeks, and thus unable to pay his weekly $55 obligations. *Id*. at 115. Likewise, Stuckey fell behind on his $25-$40 weekly support obligations because of health problems. *Id*. at 121. This was not the first time Stuckey was unable to pay his modest obligations. Just months before he was arrested for failure to pay child support, his payments had been set to zero because he lacked income and assets. *Id*. at 165 (Pa. Child Supp. Docket). Huzzard fell behind on his $100-$125 weekly obligations in mid-2013. *Id.* at 119.

Plaintiffs were held in civil contempt for failure to pay their obligations, and they were each sent to prison for either one or two six-month sentences, with the option to pay a "purge amount," to secure their freedom. Vol. 2 at 115-16, 119, 121, 130. The form orders setting Burrell's purge amounts for his concurrent sentences state that Burrell "ha[d] the ability to pay," that he would be released from prison "upon payment of $2,129.43" for one sentence and "$4,904.29" for the other, and that his "total purge" was "$7,033." *Id*. at 145; Dkt. 1-1 at 2.[7]

[7] It is not clear whether the court determined that Burrell had the present ability to pay the individual purge amounts or the full $7,033. Vol. 2 at 145. Only Burrell's court orders are in the record. Plaintiffs therefore use his case to illustrate their circumstances, as did the district court. *See* Vol. 1 at 61.

B. Defendants tell Plaintiffs that they must work at the Recycling Center to qualify for work release and leave prison.

When Plaintiffs arrived in Lackawanna County Prison, their child-support debt, among other financial obligations, continued to accrue. *See* 23 Pa. Stat. and Cons. Stat. § 4352(a.2). Plaintiffs thus could not pay their growing debts or court-set purge amounts without working. Vol. 2 at 117, 120, 122.

In addition to finding Plaintiffs in civil contempt and setting a purge amount, the court ordered that each Plaintiff be provided "immediate work release if he qualifies." *See, e.g.*, Vol. 2 at 145. But Lackawanna County Prison staff declared Plaintiffs and other debtors ineligible for work release until they worked half of their sentences at the Lackawanna Recycling Center as part of the prison's "Community Service Program." *Id.* at 116, 119, 122.

This additional condition created substantial profits for a private entity that benefited from Plaintiffs' coerced, low-cost labor. Vol. 2 at 141. The building that houses the Center is owned by the Authority, a government agency, but the Center is operated under a fifteen-year-old contract between the Authority and a private company, LRCI, owned by Louis and Dominick DeNaples. *Id.* at 127, 131, 134, 152. Under the contract, the Authority provides LRCI with prisoners sufficient to operate the Center. *Id.* at 129.

Work at the Center stood between Plaintiffs and their freedom in at least two respects. First, unless they worked at the Center, in horrendous and unhealthy conditions, Plaintiffs would not be able to access the modest and

partial freedom of working outside of detention in decent conditions on work release. Vol. 2. at 134. And because obtaining work release was necessary for Plaintiffs and other child-support debtors to meet their mounting financial obligations, working at the Center was necessary to obtain freedom from detention. *Id.*

C. Plaintiffs labor in gruesome conditions at the Center.

Plaintiffs worked at the Center at a fast-moving conveyor belt, tearing open trash bags, sorting debris, and separating types of shattered glass. Vol. 2 at 117, 132. As part of this work, they handled "dirty diapers, dead animals, medications, and chemicals" while "[l]iquids from the garbage splatter[ed] onto their arms and faces" and "pieces of glass lodge[d] in their skin." *Id*. at 113. Plaintiffs frequently did this work in extreme heat, while inhaling unknown fumes without masks. *Id*. at 133. The conditions caused vomiting and an "extremely itchy, burning rash" that workers called "trash rash." *Id.* at 113, 133. If Plaintiffs worked too slowly, guards took away their prison-provided lunches. *Id.* at 132-33.

In exchange for their work, Plaintiffs were paid $5 a day, approximately sixty-two-and-a-half cents an hour, with that money going not to them directly but into "tightly controlled" prison commissary accounts. Vol. 2 at 113, 115, 119, 121.

III. Procedural background

Burrell filed a pro se complaint in September 2014 and an amended complaint in December 2014 describing the Center's hazardous conditions and subminimum wages and alleging, as relevant here, Thirteenth Amendment, TVPA, RICO, and state-law claims. Dkt. 1 at 1; Dkt. 11 at 2. Although Burrell did not expressly invoke the FLSA, he alleged that he was paid $5 a day to work forty hours per week at the Center. Dkt. 11 at 9-10.

The district court dismissed the amended complaint before service of process, Dkt. 44, and this Court affirmed in part and vacated in part. *See Burrell v. Loungo*, 750 F. App'x 149, 160 (3d Cir. 2018). As to Burrell's original Thirteenth Amendment and TVPA allegations, nearly identical to those pleaded in the Second Amended Complaint at issue here, this Court held it was unclear whether declaring civil contemnors ineligible for work release if they chose not to work at the Center was "out of the range of involuntary servitude." *Id.* at 159. The Court remanded the Thirteenth Amendment and TVPA claims, *id.*, rejecting the magistrate's conclusion, adopted by the district court, that Burrell's decision not to spend "twelve months in prison" and instead "work at the recycling center in unpleasant conditions for meager pay … was clearly a *choice*," Dkt. 33 at 36; *see* Dkt. 44 (adopting report and recommendation).

Burrell then obtained counsel and filed a Second Amended Class-Action Complaint, which added Huzzard and Stuckey as named Plaintiffs. Plaintiffs again brought claims under the Thirteenth Amendment, TVPA,

and RICO, as well as under the FLSA and Commonwealth law. Vol. 2 at 137-42. Several other Plaintiffs opted in under 29 U.S.C. § 216(b), which authorizes collective FLSA actions. *See* Dkt. 84, 114, 119. The district court then granted Defendants' motions to dismiss on all counts. Vol. 1 at 83-84.[8]

The district court first concluded that the *Rooker-Feldman* doctrine did not deprive it of jurisdiction over Plaintiffs' Thirteenth Amendment and TVPA claims. Vol. 1 at 52-53. As to whether Plaintiffs' labor had been coerced in violation of the Thirteenth Amendment and TVPA, the district court reasoned that Plaintiffs "chose" to work at the Center and could have left the work and prison at any time by paying off their debts. *Id.* at 65 & n.6. The district court also dismissed Plaintiffs' unjust-enrichment claim, reasoning that the claim "rises or falls" with the Thirteenth Amendment and TVPA claims. *Id.* at 68-69.

The district court dismissed Plaintiffs' RICO claim, concluding that because Plaintiffs had not pleaded a TVPA claim they did not plead predicate acts to support the racketeering element. Vol. 1 at 66.[9]

---

[8] All references to Appendix Volume 1 are to the district court's opinion unless otherwise noted.

Plaintiffs do not appeal the dismissal of their claims against Tom Staff. *See* Vol. 1 at 12-14.

[9] Plaintiffs press their RICO claim against LRCI and the DeNaples, but no longer pursue it against the County and the Authority.

The district court also rejected Plaintiffs' FLSA and Pennsylvania Minimum Wage Act claims. Contradicting its earlier conclusion that Plaintiffs "chose to" work at the Center, Vol. 1 at 65 n.6, the Court held that Plaintiffs were not entitled to the minimum wage or other employee protections because they did "not establish" that "their work at the Center was voluntary." *Id.* at 78. The district court also dismissed Plaintiffs' Pennsylvania Wage Payment and Collection Law claim, concluding Plaintiffs' allegations failed to state a claim based on an implied-contract theory. *Id.* at 82.

SUMMARY OF ARGUMENT

I.A. Plaintiffs' Thirteenth Amendment and TVPA claims are not barred by the *Rooker-Feldman* doctrine because Plaintiffs' injuries were not caused by state courts but by Defendants, who exploited Plaintiffs' incarceration and ever-worsening financial circumstances to coerce their labor. *Rooker-Feldman* is also no bar because Plaintiffs' federal claims are independent of the state-court contempt proceedings. Plaintiffs pleaded that they were forced to labor in violation of the Thirteenth Amendment and TVPA, claims that have never been raised or adjudicated in state court. Although the district court reached the correct *Rooker-Feldman* outcome, its reasoning was flawed. It incorrectly concluded that because the state court orders set a purge amount, Plaintiffs' factual allegations that they were coerced to work were "not entitled to a presumption of truth." Vol. 1 at 62. This analysis is

contrary to the motion-to-dismiss standard and ignores Plaintiffs' allegations that Defendants coerced their labor independent from and after the state court's civil-contempt orders.

B. Plaintiffs state plausible Thirteenth Amendment violations because Defendants procured their labor using abuse or threatened abuse of legal process and threats of physical restraint. The district court failed to accept as true Plaintiffs' well-pleaded allegations that they were in debt and unable to purge themselves out of prison. Defendants exploited Plaintiffs' vulnerabilities to leave them no choice but to work in brutal conditions for $5 a day or sit in a cell as their debt compounded. And as civil detainees not convicted of a crime, Plaintiffs fit no Thirteenth Amendment exception.

C. Plaintiffs also state a civil claim under the TVPA. Plaintiffs' allegations demonstrate that the County is liable as a primary perpetrator because it violated a substantive TVPA provision, 18 U.S.C. § 1589(a), by knowingly attempting to provide and providing Plaintiffs' forced labor to the other Defendants. By conditioning work-release eligibility on their work at the Center, the County both threatened Plaintiffs with serious harm and manipulated the legal process for work-release eligibility. Plaintiffs have also plausibly alleged that the other Defendants—the Authority, LRCI, and the DeNaples—are, at minimum, liable under a venture-beneficiary theory because they knew or should have known that Plaintiffs' labor was forcibly acquired.

II. Plaintiffs plausibly allege that LRCI and the DeNaples also violated RICO. Defendants comprised an association-in-fact enterprise under RICO because they had the common and continuing purpose of obtaining and profiting from Plaintiffs' low-wage labor. Defendants' involvement in the enterprise amounted to multiple violations of the TVPA—a statutory predicate act—constituting a pattern of racketeering activity.

III. Plaintiffs plausibly allege that LRCI, the Authority, and the County violated the FLSA and Pennsylvania Minimum Wage Act by paying Plaintiffs subminimum wages. Plaintiffs allege that Defendants allowed Plaintiffs to labor at the Center, making them employees covered by these statutes.

IV. Plaintiffs plausibly allege that Defendants violated the Pennsylvania Wage Payment and Collection Law. LRCI, the Authority, and the County employed Plaintiffs and owed them wages under an implied-in-fact contract. Defendants did not pay Plaintiffs in cash or check as Pennsylvania law requires.

V. Plaintiffs plausibly allege that Defendants were unjustly enriched by Plaintiffs' work through cheaper operation of the Center and the daily wages paid to the County through prison commissary accounts. Allowing Defendants to profit from Plaintiffs' forced, nearly unpaid labor would be unjust.

STANDARD OF REVIEW

This Court reviews dismissals for failure to state a claim de novo, accepting the complaint's well-pleaded factual allegations as true, construing those allegations and all reasonable inferences in Plaintiffs' favor, and then determining whether they "plausibly give rise to an entitlement to relief." *See Oakwood Labs. LLC v. Thanoo*, 999 F.3d 892, 904 (3d Cir. 2021).

ARGUMENT

I. Defendants forced Plaintiffs to work at the Center in violation of the Thirteenth Amendment and the TVPA.

The district court considered, as a threshold matter, whether it lacked jurisdiction over Plaintiffs' Thirteenth Amendment and TVPA claims under *Rooker-Feldman*. Although the court correctly concluded that *Rooker-Feldman* does not apply here, its analysis was based on a misunderstanding of the role played by the state court's civil-contempt orders in Plaintiffs' detention and work at the Center and infected the merits analysis of Plaintiffs' Thirteenth Amendment and TVPA claims. For the reasons described below, *Rooker-Feldman* does not bar Plaintiffs' claims and the district court erred in granting Defendants' motions to dismiss.

A. *Rooker-Feldman* does not bar Plaintiffs' claims or undermine the plausibility of their allegations.

The *Rooker-Feldman* doctrine "precludes federal district courts from exercising jurisdiction over appeals from unfavorable state court judgments—typically a task reserved for the United States Supreme Court."

Vuyanich v. Smithton Borough, 5 F.4th 379, 382-83 (3d Cir. 2021); *see Rooker v. Fid. Tr. Co.*, 263 U.S. 413, 416 (1923). *Rooker-Feldman* bars a complaint only when (1) a litigant loses in state court; (2) the litigant complains of injuries caused by the state-court judgment; (3) the state-court judgment occurred before the federal suit; and (4) the litigant asks the federal court to "review and reject[]" the state-court judgment. *See Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). "When even one of the four prongs is not satisfied, it is not proper to dismiss on *Rooker-Feldman* grounds." *Vuyanich*, 5 F.4th at 382. *Rooker-Feldman* presents no bar because neither the second nor fourth prong is satisfied.

1. Prong two: *Rooker-Feldman* does not apply because Defendants, and not a state court, caused Plaintiffs' injuries.

For *Rooker-Feldman* to apply, Plaintiffs' "injury must actually be 'produced by a state-court judgment and not simply ratified, acquiesced in, or left unpunished by it.'" *Vuyanich*, 5 F.4th at 385 (quoting *Great W. Mining & Min. Co. v. Fox Rothschild LLP*, 615 F.3d 159, 167 (3d Cir. 2010)). As the district court recognized, injuries may "relate" to state-court orders without being "*caused*" by them. *Holton v. Henon*, 832 F. App'x 781, 784 (3d Cir. 2020); *see* Vol. 1 at 52. When a plaintiff challenges conduct occurring after a state-court decision, the "timing of the plaintiff's injury" may suggest that the state court did not *cause* that injury. *See Vuyanich*, 5 F.4th at 386 n.7.

Because Plaintiffs allege injuries caused by events occurring *after* the state-court orders—their ever-worsening financial circumstances and Defendants'

exploitation of them—their claims are not barred by *Rooker-Feldman*. Pennsylvania law recognizes that imprisonment will almost invariably make paying off growing debt difficult or impossible, and thus prisoners are generally permitted to modify or terminate their child-support obligations once incarcerated. *See* 23 Pa. Stat. and Cons. Stat. § 4352(a.2). But Plaintiffs did not stop accruing debt when they were imprisoned because the only incarcerated individuals not allowed to pause or end child-support obligations are those detained for nonpayment of support. *See id.* Because Plaintiffs belonged to that group, their financial insecurity increased once detained.

Thus, for example, though a state court had determined that Burrell could pay at least $2,129.43 at *some* point, his allegation that he could no longer pay while later forced to work for Defendants is highly plausible. Vol. 2 at 115, 117. That is because, taking his allegations as true, it took Burrell mere weeks of hardship to fall behind on his child-support debt in the first place and become unable to pay just $55 in weekly obligations. *Id.* at 115. With child-support debt still accruing alongside other financial obligations such as utilities, rent, insurance, and the like—responsibilities that do not always disappear when someone is incarcerated—it is commonsense that Burrell subsequently became unable to pay $2,129.43.

For Stuckey, the record shows that just four months before he was arrested for nonpayment, his obligations had been "set to zero due to lack of income and assets." Vol. 2 at 121, 165 (Pa. Child Support Docket). And if a

state court had recently determined that Stuckey had been unable to pay anything at all, it is reasonable to infer that, once imprisoned, he, too, "lack[ed] any other option" and "was compelled to begin working at the Center" to earn anything he could to pay off his debt and leave prison. *Id.* at 122.

The district court's concern about a conflict between Plaintiffs' allegations and their contempt orders failed to account for the gap in time between Plaintiffs' contempt hearings and their work at the Center. Stuckey, for instance, pleaded that he was imprisoned sometime around March or April 2018. Vol. 2 at 121. Stuckey further alleged that he began working at the Center in May or June of that year—one to three months after his imprisonment—and worked for two or three months thereafter. *Id.* at 122. In other words, Stuckey was working at the Center as many as five months after his contempt hearing, further demonstrating that Plaintiffs' allegations that they were forced to work bear little relationship to any state-court determination.

Construed in the light most favorable to Plaintiffs, the factual allegations and reasonable inferences drawn therefrom plead plausible claims that do not conflict with the underlying contempt orders. Indeed, as explained below (at 24-25), the conditions Plaintiffs allege alone give rise to a reasonable inference that they had no choice but to work for Defendants. Vol. 2 at 113, 117, 132-33. And if Plaintiffs were forced by Defendants to work

for even one day—let alone the weeks or months pleaded here—then they are entitled to relief for the harm suffered on that day.

2. Prong four: *Rooker-Feldman* does not apply because Plaintiffs' claims are independent from their state-court proceedings.

Rooker-Feldman also presents no bar when a plaintiff "bring[s] no direct challenge to the state court order itself"—that is, when the plaintiff presents independent claims. *Vuyanich*, 5 F.4th at 388. Claims are independent even if granting relief depends on "review of state-court judgments and even a conclusion that they were erroneous," *id.* at 387 (quoting *Great W. Mining*, 615 F.3d at 173), so long as a federal court need not "declare a state court's judgment 'null and void,'" *id.* at 388.

Plaintiffs do not ask this Court to nullify their state-court contempt proceedings. Rather, they present the independent claim that Defendants subjected them to involuntary servitude, which is based on facts not present during their state contempt proceedings. Plaintiffs' state-court contempt hearings could not have concerned whether procuring their labor through exploitation of their financial circumstances and work-release eligibility was lawful because that exploitation had not yet happened. Plaintiffs "challenge conditions of … confinement imposed by Defendants, not the state court." *Brown v. Taylor*, 677 F. App'x 924, 927 (5th Cir. 2017). Put differently, Plaintiffs' claims are independent because they ask for a "form of relief …

unavailable at the state level." *Tobia v. Lakewood Bd. of Educ.*, 2020 WL 7334209, at *9 (D.N.J. Dec. 14, 2020).

Even assuming (counterfactually) that Plaintiffs' allegation that they were forced to work *did* "den[y] a legal conclusion reached by the state court"—that Plaintiffs once had the present ability to pay—there still would be no jurisdictional bar. *Great W. Mining*, 615 F.3d at 169. That is because Plaintiffs' ability to pay would be only one "previously litigated" *issue* in their Thirteenth Amendment and TVPA claims, *id.*, just as it was only one *issue* (of several) in their contempt proceedings, *see* 23 Pa. Stat. and Cons. Stat. § 4345(a) (to be held in contempt, one must also be found to have violated a court order and to have done so willfully).

Barring Plaintiffs' forced-labor allegations would not serve *Rooker-Feldman*'s purpose—preserving the Supreme Court's sole authority to review state-court judgments—because no state court adjudicated the claim that Plaintiffs were forced to work. *See Skinner v. Switzer*, 562 U.S. 521, 532 (2011). Plaintiffs therefore do not ask for "[p]rohibited appellate review" but only for a federal court to determine whether, given Plaintiffs' inability to pay their way out of confinement, Defendants forced them to work. *Great W. Mining*, 615 F.3d at 169.

3. The district court improperly conflated the *Rooker-Feldman* doctrine with issue preclusion.

If a state court had in fact decided that Plaintiffs were not forced to work at the Center as part of its civil-contempt order, which it did not, that could

raise a question that is distinct from the *Rooker-Feldman* doctrine: issue preclusion. The district court held that Plaintiffs' allegations that they had no choice but to work for Defendants were not entitled to a presumption of truth, despite the motion-to-dismiss posture, because "state law establishe[d]" that they "had the ability to pay the[ir] purge[s]" and *Rooker-Feldman* barred Plaintiffs from asserting otherwise. Vol. 1 at 62. This analysis improperly conflates the *Rooker-Feldman* doctrine with issue preclusion. *See Lance v. Dennis*, 546 U.S. 459, 466 (2006) (per curiam); *see also Exxon Mobil Corp*, 544 U.S. at 284 (explaining that "[w]hen there is parallel state and federal litigation," state preclusion law may become decisive, but "[p]reclusion ... is not a jurisdictional matter.").

Because Defendants never raised preclusion—an affirmative defense—Plaintiffs do not address it here. Indeed, "[u]nder Federal Rule of Civil Procedure 8, a complaint need not anticipate or overcome affirmative defenses" to state a claim for relief and defeat a Rule 12(b)(6) motion to dismiss; thus, preclusion could not be a proper ground for affirming the district court's decision. *Schmidt v. Skolas*, 770 F.3d 241, 248 (3d Cir. 2014). If Defendants raise a preclusion defense on remand, Plaintiffs will show why a state-court conclusion that they had an ability to pay their purge amounts *at the time of* the civil contempt orders does not preclude their plausible claims that Defendants subsequently forced them to work at the Center in violation of the Thirteenth Amendment and TVPA.

B. Defendants coerced Plaintiffs to work in violation of the Thirteenth Amendment.

The Thirteenth Amendment outlaws "slavery" and "involuntary servitude," with only one exception: "punishment for crime whereof the party shall have been duly convicted." U.S. Const. amend. XIII, § 1. Taking Plaintiffs' allegations and reasonable inferences drawn therefrom as true, they had no choice but to work in dangerous conditions, and they were convicted of no crime that would place them outside the Thirteenth Amendment.

Involuntary servitude arises when "the victim's only choice is between performing the labor on the one hand and physical and/or legal sanctions on the other." *Steirer ex rel. Steirer v. Bethlehem Area Sch. Dist.*, 987 F.2d 989, 999 (3d Cir. 1993) (citing *United States v. Kozminski*, 487 U.S. 931, 943 (1988)). "Modern day examples of involuntary servitude" include "labor camps" and "forced confinement." *Id.* at 999. Peonage, whereby individuals must work off debts under the "constant fear of imprisonment," is forbidden by the Thirteenth Amendment. *Kozminski*, 487 U.S. at 943 (quoting *United States v. Reynolds*, 235 U.S. 133, 146 (1914)).

1. Use or threatened use of physical and legal coercion. Plaintiffs pleaded that "[b]y telling [d]ebtors that they must work at the Center to qualify for work release," Defendants forced their labor "through the abuse or threatened abuse of legal process" and the threat of "physical restraint in the form of continued incarceration without the opportunity to work outside

the Prison in the work release program." Vol. 2 at 134. Burrell, for instance, was sentenced to two six-month prison terms for failing to pay his debt. Vol. 2 at 145 (Burrell Contempt Order). Once in prison, prison staff told Burrell that he would not qualify for work release without working at the Center. *Id.* at 116-17. By conditioning the "immediate work release"— promised by state-court order—on work at the Center, Defendants denied Burrell his freedom. Vol. 2 at 145.

Moreover, Burrell's wages were paid directly to his commissary account, which the prison "tightly controlled." Vol. 2 at 117, 132. Thus, as in *United States v. Churuk*, where one relevant fact to an involuntary-servitude scheme was that "[p]ayment for … labor went directly to" the organization coercing the work, the County benefited from Plaintiffs' forced labor while Plaintiffs did not. 797 F. App'x 680, 682 (3d Cir. 2020).

Because work release would allow Plaintiffs to shorten their incarceration and obtain freedom during their sentences, denying them work-release eligibility for not participating in Defendants' profit-making scheme was a "threat of physical restraint" that both deprived Plaintiffs the opportunity to spend time outside the prison during their sentences and the ability to earn wages to pay their purges, "lengthen[ing] a[] period of incarceration" in violation of the Thirteenth Amendment. *McGarry v. Pallito*, 687 F.3d 505, 512 (2d Cir. 2012); *see also Ruelas v. Cnty. of Alameda*, 519 F. Supp. 3d 636, 658 (N.D. Cal. 2021).

Work release under Pennsylvania law is an important rehabilitative program operating under state judges' discretion, *see* 42 Pa. Stat. and Cons. Stat. § 9813(a), not a benefit to be bought and sold in contracts between private companies and municipal authorities. But Defendants abused Pennsylvania's child support, civil-contempt, and work-release procedures by conditioning access to work release on woefully underpaid labor for a for-profit company in abysmal conditions disguised as a "community service program." Defendants used threats of legal penalties, physical restraint in prison, and the vulnerability of Plaintiffs' accruing debt to leave Plaintiffs with no choice but to serve in Defendants' profit-making scheme. Vol. 2 at 117.

2. Conditions and vulnerabilities. "[E]vidence of … extremely poor working conditions is relevant to corroborate disputed evidence regarding the use or threatened use of physical or legal coercion" in involuntary-servitude cases. *Kozminski*, 487 U.S. at 952; *see also United States v. Djoumessi*, 538 F.3d 547, 551 (6th Cir. 2008). Allegations that work resulted in physical harm, *McGarry*, 687 F.3d at 509; *United States v. Veerapol*, 312 F.3d 1128, 1132 (9th Cir. 2002), took place in "sweltering conditions," *United States v. Sheikh*, 481 F. Supp. 3d 1052, 1055 (E.D. Cal. 2020), and involved subminimum wages, *United States v. Farrell*, 563 F.3d 364, 374 (8th Cir. 2009), give rise to an inference that the work was involuntary. Plaintiffs' allegations detail how they suffered each of these injuries: They worked in extreme heat, sorting through dead animals and unknown toxins; glass pierced their skin and they

developed rashes; and they were paid only $5 a day. *Supra* at 9. Because dangerous and degrading work conditions and subminimum wages substantiate claims of forced labor and undermine claims of voluntariness, Plaintiffs pleaded Thirteenth Amendment violations.

Also relevant to forced-labor claims are Plaintiffs' "special vulnerabilities." *Kozminski*, 487 U.S. at 952; *see United States v. Bell*, 761 F.3d 900, 913 (8th Cir. 2014). Debt makes individuals particularly vulnerable to legal coercion. *See* Noah D. Zatz, *A New Peonage?: Pay, Work, or Go to Jail in Contemporary Child Support Enforcement and Beyond*, 39 Seattle U. L. Rev. 927, 939 (2016) (noting the reason why individuals in debt historically "were vulnerable to peonage" was "the obvious structural fact that the workers in question had no resources" to pay their obligations); *Doe I v. The Gap, Inc.*, 2001 WL 1842389, at *21 (D.N. Mar. Is. Nov. 26, 2001) (allegations that plaintiffs were indebted to their employer supported peonage claim).

As noted above (at 5-6), Plaintiffs' debts were accruing while they were imprisoned, increasing the likelihood that they would be arrested and imprisoned again if released. Indeed, although Pennsylvania civil-contempt law allows for prison terms of only six months at a time, debtors may face consecutive terms indefinitely as they plunge further into debt. *See, e.g., Hyle v. Hyle*, 868 A.2d 601, 603 (Pa. Super. Ct. 2005) (a contemnor had been imprisoned for over three-and-a-half years for failure to pay debts). Knowing this, Plaintiffs *had* to work—to earn *some* money—to mitigate their

debts and prevent future imprisonment. Defendants exploited that vulnerability to obtain nearly free labor.

Despite allegations of brutal conditions and the vulnerability of debtors to labor coercion, the district court assumed that Plaintiffs chose this work and could have left prison at any time. *See* Vol. 1 at 64-65. To the contrary, it is implausible to suggest that Plaintiffs, whose major vulnerability was their debt, willingly chose to endure horrible working conditions and continue to accrue *more* debt.

3. No exception applies. Plaintiffs were not "duly convicted" and then forced to work as "punishment for" a "crime" with no legal right to their freedom. U.S. Const. amend. XIII, § 1. The Thirteenth Amendment therefore applies unless Plaintiffs' claims fall within one of its limited exceptions. This is not a case, however, where the coerced labor benefited the worker and therefore was subject to an exception to the Thirteenth Amendment. *See Steirer*, 987 F.2d at 999-1000 (citing *United States v. Redovan*, 656 F. Supp. 121, 128–29 (E.D. Pa. 1986), *aff'd*, 826 F.2d 1057 (3d Cir. 1987)). And it is not a case where the work performed is plausibly part of a civic duty like military service or jury duty. *Immediato v. Rye Neck Sch. Dist.*, 73 F.3d 454, 459 (2d Cir. 1996).

Rather, here, Defendants forced Plaintiffs to work as a condition of their liberty for Defendants' private benefit. That conduct falls squarely within the Thirteenth Amendment. In reviewing Burrell's First Amended Complaint, this Court concluded that an individual not convicted of a crime may

plausibly plead a Thirteenth Amendment claim when he alleges that he has been coerced to work by Defendants' manipulation of work-release eligibility. *Burrell v. Loungo*, 750 F. App'x 149, 159 (3d Cir. 2018) (per curiam). The Court thus explained that Burrell's complaint should not have been dismissed before service of process under the in forma pauperis statute, 28 U.S.C. § 1915(e)(2)(B)(ii). *See id.* at 160. The standard for reviewing an in forma pauperis complaint for failure to state a claim is the same as the standard for reviewing a motion to dismiss for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Compare* 28 U.S.C. § 1915(e)(2)(B)(ii) ("fails to state a claim") *with* Fed. R. Civ. P. 12(b)(6) ("failure to state a claim"). It cannot be, then, that remand of Burrell's First Amended Complaint was appropriate, but his Second Amended Complaint—alleging the same events but in more detail—was properly dismissed for failure to state a claim.

C. Defendants also violated the TVPA by obtaining and benefiting from Plaintiffs' forced labor.

The district court was even more misguided in dismissing Plaintiffs' claims under the TVPA because that statute sweeps more broadly than the Thirteenth Amendment to combat forms of worker exploitation that do not "rise to the level of involuntary servitude." *United States v. Kaufman*, 546 F.3d 1242, 1261 (10th Cir. 2008) (quoting H.R. Conf. Rep. No. 106–939, at 101). The TVPA's more-expansive definitions of coercion reflect the "increasingly subtle" means by which labor may be compelled, *United States v. Dann*, 652

F.3d 1160, 1169 (9th Cir. 2011), including both physical and "nonphysical forms of coercion," *see Muchira v. Al-Rawaf*, 850 F.3d 605, 617 (4th Cir. 2017) (citing *United States v. Calimlim*, 538 F.3d 706, 714 (7th Cir. 2008)).

The TVPA creates a private right of action for forced-labor victims against those who have unlawfully coerced their labor—principal perpetrators—and against those who participated in a venture that benefited from that labor—venture beneficiaries. 18 U.S.C. § 1595(a). Discovery may reveal that LRCI, the Authority, and the DeNaples, jointly with the County, served as principal perpetrators of the forced-labor scheme. To demonstrate why Plaintiffs are entitled to remand, however, Plaintiffs focus on the allegations that show the County was the principal perpetrator, providing Plaintiffs' forced labor to the other Defendants, who are (at minimum) liable as venture beneficiaries.

1. The County provided Plaintiffs' forced labor to the other Defendants.

The TVPA assigns principal-perpetrator liability to anyone who knowingly acquires or provides the forced labor of anyone else, by, among other means, threatening their victims with serious harm or by abusing relevant legal processes. 18 U.S.C. § 1589(a).

a. The TVPA applies to all forced labor, whoever the victim or perpetrator may be. This Court's "starting point" for interpreting the TVPA is its "ordinary meaning," *Food Mktg. Inst. v. Argus Leader Media*, 139 S. Ct. 2356, 2364 (2019), and if the text is "clear and unambiguous, the inquiry

comes to an end," *Kaufman v. Allstate New Jersey Inc. Co.*, 561 F.3d 144, 155 (3d Cir. 2009). The TVPA states that "whoever" provides or obtains forced labor from a "person," or benefits from it, may be held liable. 18 U.S.C. § 1589(a). Neither operative word—"whoever" or "person"—limits the TVPA to particular classes of individuals. *See Gonzalez v. CoreCivic, Inc.*, 986 F.3d 536, 538 (5th Cir. 2021); *Barrientos v. CoreCivic, Inc.*, 951 F.3d 1269, 1279-80 (11th Cir. 2020); *United States v. Callahan*, 801 F.3d 606, 617 (6th Cir. 2015). And, unlike the Thirteenth Amendment, the TVPA includes no textual exceptions. *Compare* 18 U.S.C. § 1589 *with* U.S. Const. amend. XIII, § 1.

b. **The County knew that Plaintiffs' labor was forced.** The County had actual knowledge that Plaintiffs' labor at the Center was forced because the County's own policy mandated that Plaintiffs "ha[d] to work at the Center" before they could "apply for work release." Vol. 2 at 116. That is, because the County was the entity forcing Plaintiffs into laboring at the Center, as discussed immediately below, it necessarily had the requisite knowledge about Plaintiffs' labor.

c. The County coercively acquired and provided Plaintiffs' labor. As discussed above (at 22-27), Plaintiffs have plausibly alleged that, by forcing them to work, Defendants violated the Thirteenth Amendment. Because the TVPA is broader than the Thirteenth Amendment, Plaintiffs have necessarily shown that their labor was coerced under the TVPA as well.

The TVPA prohibits all persons from providing or obtaining a person's labor or services through "serious harm or threats thereof," or through

"abuse of legal process." 18 U.S.C. § 1589(a)(2), (3). As those statutory terms have been applied by courts, the County's scheme to force Plaintiffs to work at the Center violated the TVPA.

(i) The County threatened serious harm to Plaintiffs if they did not work at the Center. The term "serious harm" means "any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services to avoid incurring that harm." 18 U.S.C. § 1589(c)(2).

Taking Plaintiffs' allegations as true and drawing reasonable inferences in their favor, the threat of withholding eligibility for the work-release program was serious enough to compel Plaintiffs to work at the Center. *See Bridges v. Poe*, 487 F. Supp. 3d 1250, 1261 (N.D. Ala. 2020). *Bridges* held that the defendant had coerced an inmate into providing sexual acts in violation of 18 U.S.C. § 1591 by threatening to remove her from a program that allowed her to "leave her cell block to perform work under the supervision of her jailers." *Id.* at 1255, 1261. Here too, work release was a key that allowed Plaintiffs to leave prison during the day. Denying Plaintiffs' work-release eligibility was a "threat of physical restraint," *Kozminski*, 487 U.S. at 944, that both deprived Plaintiffs the opportunity to spend time outside the prison during their sentences and the ability to earn wages to pay their purges and leave prison permanently. Accordingly, the prospect of being unable to

participate in the work-release program was a sufficiently "serious harm" to compel a reasonable person in Plaintiffs' circumstances to capitulate to the County's demands and labor at the Center.

(ii) The County also coerced Plaintiffs' labor by abusing or threatening to abuse the legal process for work-release eligibility. The term "abuse or threatened abuse of law or legal process" means the "use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, to exert pressure on another person to cause that person to take some action." 18 U.S.C. § 1589(c)(1).

As explained earlier (at 6), Pennsylvania law authorizes state correctional facilities to implement and operate work-release programs, which enable inmates to temporarily leave their correctional facility to work in the community. But these programs must serve several statutory purposes (and only those purposes): to promote "accountability of offenders to their community," to provide "opportunities for offenders to enhance their ability to become contributing members of the community," and to "protect society." 42 Pa. Stat. and Cons. Stat. § 9803(1)-(4). Here, the County operated its work-release program in a manner directly at odds with these purposes, manipulating the qualification standards for work-release eligibility solely to gain a pecuniary benefit.

The County abused or attempted to abuse this process by disguising debtors' work for a private company in dangerous conditions for cents-an-

hour as a "community service program" and prerequisite for work release, Vol. 2 at 116, in direct conflict with the statutory purpose. Pennsylvania's work-release procedures were not designed to subject debtors to pitiful wages and abysmal working conditions or ensure that a private company "will have access to a steady supply of low-cost labor." Vol. 2 at 134. The County's demand that Plaintiffs subject themselves to the Center's dangerous conditions posed significant health and safety risks to Plaintiffs and prohibited them from improving the financial circumstances that caused them to be imprisoned in the first place. The County thus made Plaintiffs' ability to provide for their children and their later reintegration into society even harder, contrary to the express purposes of work release. *See* 42 Pa. Stat. and Cons. Stat. § 9803(4). Plaintiffs' labor had no purpose other than to provide Defendants with cheap labor that would increase their profits and drive down costs.

2. LRCI, the Authority, and the DeNaples benefited from their participation in a venture that they knew or should have known had obtained Plaintiffs' forced labor.

At minimum, Plaintiffs have also plausibly alleged a TVPA Section 1595(a) beneficiary claim against LRCI, the Authority, and the DeNaples because Plaintiffs have alleged that these Defendants (1) benefited financially or received something of value (2) from participation in a venture (3) that they knew or should have known engaged in a substantive TVPA violation, here, forced labor. 18 U.S.C. § 1595(a).

a. Benefit. Plaintiffs plausibly allege that LRCI, the Authority, and the DeNaples benefited financially from their forced labor because that labor "reduced the Center's operating costs," thus increasing Defendants' profits. Vol. 2 at 134.

b. Participation. Plaintiffs plausibly allege that all Defendants participated in a TVPA "venture." Although "venture" is not defined in Section 1595, courts have adopted the definition used in Section 1591(e)(6), which defines "venture" as "any group of two or more individuals associated in fact, whether or not a legal entity." *See Bistline v. Parker*, 918 F.3d 849, 873 (10th Cir. 2019); *Ricchio v. McLean*, 853 F.3d 553, 556 (1st Cir. 2010) (Souter, J., by designation).

To show that a venture existed, Plaintiffs must allege only that there was an informal, tacit understanding between the Defendants that they would together benefit from labor that they knew or should have known was forcibly obtained. *See A.B. v. Marriott Int'l, Inc.*, 455 F. Supp. 3d 171, 186 (E.D. Pa. 2020); *M.A. v. Wyndham Hotels & Resorts, Inc.*, 425 F. Supp. 3d 959, 964 (S.D. Ohio 2019). For example, in *Ricchio*, allegations that motel owners rented a room to someone who was apparently using the room to sexually traffic the plaintiff was enough to prove that the owners participated in a venture with the sex trafficker. 853 F.3d at 555. The First Circuit reasoned that, based on these facts, it could be inferred that the motel owners, in receiving payment from the trafficker, were "associating with him." *Id.*

Plaintiffs allege more than a tacit agreement among Defendants. The Authority and LRCI (which is run by the DeNaples) had an express operating agreement memorializing their relationship. Vol. 2 at 127-128, 147-163. And the success of that business relationship depended on the County's critical contribution: practically free labor obtained through the coercion of Plaintiffs and other debtors, who the County transported to the Center. *Id.* at 116, 135. Thus, the Authority, LRCI, and the DeNaples participated in a venture with one another and with the County to collectively benefit from Plaintiffs' forced labor.

c. Knowledge. Plaintiffs' pleadings show that the venture-Defendants "knew or should have known" that their venture benefited from Plaintiffs' forced labor. 18 U.S.C. § 1595(a). That Plaintiffs continued to toil under abhorrent conditions for $5 a day in commissary funds should have itself alerted Defendants that Plaintiffs' labor had been acquired through force. Vol. 2 at 132-34. Moreover, the Authority and LRCI signed the Agreement, which expressly required the Authority to provide prisoners as labor, including, under County policy, child-support debtors. *Id.* at 150. The DeNaples signed the Agreement with the Authority, *id.* at 163, and, as LRCI's owners and officers, jointly operated the Center and employed Plaintiffs, *id.* at 112, 129, 163. Taken together, Plaintiffs have plausibly alleged that LRCI and the DeNaples should have known that they were benefiting from Plaintiffs' forced labor, which is all that is required to succeed under a TVPA beneficiary theory.

II. Defendants violated RICO by participating in an enterprise to obtain Plaintiffs' coerced labor.

Plaintiffs have plausibly alleged that Defendants violated RICO by pleading (1) the existence of an enterprise; (2) that Defendants were employed by or associated with the enterprise; (3) that Defendants participated, either directly or indirectly, in the conduct of the enterprise's affairs; and (4) that Defendants participated through a pattern of racketeering activity. 18 U.S.C. § 1962(c); *United States v. Bergrin*, 650 F.3d 257, 265 (3d Cir. 2011).

Plaintiffs have also plausibly shown that they were "injured in [their] business or property by reason of a violation" of the statute's criminal prohibitions. 18 U.S.C. § 1964(c). Defendants do not dispute that Plaintiffs have alleged "some direct relation" between their injuries and Defendants' predicate offenses—their TVPA violations. *St. Luke's Health Network, Inc. v. Lancaster Gen. Hosp.*, 967 F.3d 295, 301 (3d Cir. 2020) (quoting *Holmes v. Secs. Inv. Prot. Corp.*, 503 U.S. 258, 268 (1992)). Nor could they: Plaintiffs allege that LRCI and the DeNaples' TVPA violations had the natural and foreseeable consequence of depriving Debtors the wages that they would otherwise earn during work release. Vol. 2 at 136.

A. Enterprise: an association-in-fact

RICO defines "enterprise" as including any "group of individuals associated in fact although not a legal entity." 18 U.S.C. § 1961(4). Defendants comprised an association-in-fact because they had (a) a common purpose;

(b) an ongoing organization, formal or informal; and (c) various associates functioning as a continuing unit. *United States v. Turkette*, 452 U.S. 576, 583 (1981).

The same allegations that show Defendants' knowledge and participation in a "venture" under the TVPA, *see supra* at 32-34**,** also show that Defendants participated in an association-in-fact enterprise. Plaintiffs allege that since at least 2005, Vol. 2 at 127, the enterprise has had the common purpose of illegally obtaining and benefiting from Plaintiffs' low-cost manual labor, *id.* at 135-36. The Agreement's terms illuminate the enterprise's structure and organization. *Id.* at 127-28.[10]

B. Participation in the conduct of the enterprise's affairs

A person participates in the conduct of an enterprise's affairs when she "lead[s], run[s], manage[s], or direct[s]" the enterprise. *Reves v. Ernst & Young*, 507 U.S. 170, 177 (1993). Liability is not limited, however, only to people with primary responsibility for the enterprise's affairs or those with significant control over the enterprise. *Id.* at 179. Rather, a person is liable when she plays "*some* part" in the enterprise's operation or management. *Id.*

[10] Though the municipal Defendants—the County and the Authority—cannot be liable under RICO, *see Gentry v. Resolution Tr. Corp.*, 937 F.2d 899, 914 (3d Cir. 1991), they "can be included within association-in-fact RICO enterprises" and thus can be used to prove the existence of an association-in-fact enterprise. *See United States v. Cianci*, 378 F.3d 71, 83 (1st Cir. 2004).

As alleged, and as memorialized in part in the Agreement, the relevant Defendants each played an active role in the scheme to coerce and benefit from Plaintiffs' labor at the Center. Vol. 2 at 127-29. LRCI and the DeNaples participated in the enterprise's affairs by operating the Center using Plaintiffs' coerced labor. *Id.* at 135. These Defendants thus generated financial value for the enterprise—the labor costs saved by using Plaintiffs and others—that was the ultimate purpose of the enterprise.

The DeNaples are not insulated from liability for actions taken within the scope of their authority for LRCI. Contrary to the district court's conclusion, Plaintiffs' allegations need not establish the DeNaples' participation "separate and apart from their roles as corporate officers." *See* Vol. 1 at 66-67 & n.7. This conclusion relies on a misreading of *Cedric Kushner Promotions, Ltd. v. King*, 533 U.S. 158, 162 (2001). *Cedric Kushner* clarified the "distinctness" principle, which requires some difference between the alleged RICO person and the alleged RICO enterprise in cases where the enterprise is a corporation and the person is one of its corporate officers. *Id.* But here, where the alleged enterprise involves multiple distinct entities and people (again, the County, the Authority, LRCI, and the DeNaples), the distinctness principle is met.

It is well-settled that RICO applies to "corporate employee[s] who conduct[] the corporation's affairs through an unlawful RICO 'pattern of . . . activity.'" *Cedric Kushner*, 533 U.S. at 164-65. Holding otherwise "would immunize from RICO liability many of those at whom … RICO directly

aims—*e.g.*, high-ranking individuals in an illegitimate criminal enterprise, who, seeking to further the purposes of that enterprise, act within the scope of their authority." *Id.* at 165. Here, Plaintiffs alleged that the DeNaples themselves operated the Center. Vol. 2 at 135. And Louis DeNaples signed and is named in the Operating Agreement between LRCI and the Authority. *Id.* at 162-63. These allegations, at the very least, raise a reasonable inference that the DeNaples participated in the enterprise, thus plausibly pleading a claim against the DeNaples.

C. Pattern of racketeering activity

Plaintiffs have plausibly alleged that Defendants committed two or more "related" predicate acts that "amount to or pose a threat of continued criminal activity." *Bergrin*, 650 F.3d at 266-67 (quoting *H.J., Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 239 (1989)). TVPA violations, including a venture-beneficiary theory of forced labor under 18 U.S.C. § 1589(b), are considered predicate acts under the statute. 18 U.S.C. § 1961(1).

As addressed above (at 34), Plaintiffs plausibly allege that Defendants committed continuous civil TVPA violations against multiple Plaintiffs under 18 U.S.C. § 1595 because the circumstances show that venture-beneficiary Defendants, at the very least, "should have known" that Plaintiffs' labor was forcibly acquired. *Id.* § 1595(a). And the same allegations showing that Defendants "should have known" the truth about Plaintiffs' labor also show that Defendants acted with a "reckless disregard" of that

fact, the mental state necessary for a Section 1589(b) criminal violation. The circumstances alleged here—the working conditions at the Center, the County's policy demanding work at the Center, and Plaintiffs' need for work release—provide "obvious reasons" for venture-beneficiary Defendants "to doubt" that Plaintiffs labored at the Center of their own volition. *See United States v. Brown*, 631 F.3d 638, 645 (3d Cir. 2011) (quoting *Wilson v. Russo*, 212 F.3d 781, 788 (3d Cir. 2000)); *see also Ricchio*, 853 F.3d at 555. Plaintiffs allege that the venture-beneficiary Defendants possessed the mental state required to violate the TVPA's criminal provision, 18 U.S.C. § 1589(b), and thus that their actions are RICO predicate acts, 18 U.S.C. § 1961(1).

Defendants' racketeering acts were related because they "ha[d] the same or similar purposes, results, participants, victims, or methods of commission," and because they were "interrelated by distinguishing characteristics and [were] not isolated events," either of which is independently sufficient to satisfy RICO's relatedness requirement. *Bergrin*, 650 F.3d at 267 (quoting *H.J., Inc.*, 492 U.S. at 240). As alleged, Defendants forcibly obtained Plaintiffs' labor to increase their profits and drive down labor costs. Vol. 2 at 135. Each TVPA violation involved the same participants and the same victims. And Plaintiffs alleged that Defendants consistently operated with the same method: conditioning Plaintiffs' work-release eligibility on working at the Center.

Defendants' predicate acts also satisfy the "continuity" requirement—that is, they "amount to or pose a threat of continued criminal activity"—

because the acts extend[ed] over a substantial period of time," *Bergrin*, 650 F.3d at 267, and, separately, because Plaintiffs plausibly allege that the predicate acts may continue "into the future with the threat of repetition," *H.J., Inc.*, 492 U.S. at 241. Plaintiffs allege that "for at least the last 14 years," Defendants operated a scheme to compel the work of civilly detained child-support debtors for Defendants' benefit, Vol. 2 at 112, which qualifies as a sufficiently "substantial period of time." *Cf. Bergrin*, 650 F.3d at 270 (finding four years sufficiently continuous). And Plaintiffs allege that the Operating Agreement between LRCI and the Authority remains in effect, indicating that the enterprise may continue to benefit from forced labor. Vol. 2 at 127.

* * *

As explained above in Parts I and II, Plaintiffs plausibly allege forced-labor claims under the Thirteenth Amendment, the TVPA, and RICO. Because Plaintiffs could not afford their purge amounts when they were imprisoned, they had no other way to escape prison or earn wages to pay down their debts beyond participating in the prison's work-release program. Thus, the County's policy that Plaintiffs could not participate in work release unless they worked at the Center coerced Plaintiffs into providing their labor to the Center. LRCI, the Authority, and the DeNaples benefited from Plaintiffs' forced labor knowing, actually or constructively, that it was forcibly obtained. Defendants' conduct thus violated the Thirteenth Amendment and the TVPA. Defendants' multiple TVPA violations also constitute a pattern of racketeering activity. Because Defendants comprised

an association-in-fact enterprise, LRCI and the DeNaples are liable under RICO as well.

III. LRCI, the Authority, and the County violated the FLSA and the Pennsylvania Minimum Wage Act by paying Plaintiffs approximately sixty-two-and-a-half cents per hour.

LRCI, the Authority, and the County paid Plaintiffs $5 a day—around sixty-two-and-a-half cents per hour—in violation of the FLSA, 29 U.S.C. § 206(a)(1)(C), and the Pennsylvania Minimum Wage Act, 43 Pa. Stat. and Cons. Stat. § 333.104(a.1). These Defendants are Plaintiffs' employers, and, contrary to the district court's conclusion, Vol. 1 at 78, Plaintiffs were their employees. Nobody disputes that Plaintiffs or their employers were engaged in commerce, as required for FLSA coverage, *see* 29 U.S.C. § 206(a). Thus, LRCI, the Authority, and the County owed Plaintiffs the minimum wage.[11]

The district court erred by applying an additional pleading requirement that an employee's labor be "freely contracted" to fall within the FLSA's protections. Vol. 1 at 76-77. This extratextual requirement undermines the FLSA's stated goals and contradicts Supreme Court precedent. *See Tony & Susan Alamo Found. v. Sec'y of Lab.*, 471 U.S. 290, 302 (1985). Moreover, the D.C. Circuit precedent on which the district court relied is improperly based on the penal exception to the Thirteenth Amendment—an exception that is

[11] Courts look to the FLSA for guidance in interpreting the Pennsylvania Minimum Wage Act, so the two claims are discussed together here. *See Pa. Dep't of Lab. & Indus., Bureau of Lab. L. Compliance v. Stuber*, 822 A.2d 870, 873-74, *aff'd*, 859 A.2d 1253 (Pa. 2004) (per curiam).

irrelevant under the FLSA, and, in any case, certainly inapplicable to Plaintiffs, who were not convicted of a crime, *see supra* at 26-27. This Court should reverse.

A. Plaintiffs were employees.

1. Plaintiffs—civil detainees working outside a prison—were employees under the FLSA.

Under the FLSA, "employ" means "to suffer or permit to work," 29 U.S.C. § 203(g). And "employee" means "any individual employed by an employer." *Id.* § 203(e)(1). This statutory definition—"the broadest definition that has ever been included in any one act," *United States v. Rosenwasser*, 323 U.S. 360, 363 n.3 (1945)—is "necessarily broad to effectuate the [FLSA's] remedial purposes," *Martin v. Selker Bros. Inc.*, 949 F.2d 1286, 1293 (3d Cir. 1991), and "insure that every person whose employment contemplated compensation should not be compelled to sell his services for less than the prescribed minimum wage," *Walling v. Portland Term. Co.*, 330 U.S. 148, 152 (1947). Workers not specifically exempted from FLSA coverage are thus generally protected by the statute. *See Resch v. Krapf's Coaches, Inc.*, 785 F.3d 869, 872 (3d. Cir. 2015).

Definitions of "suffer" and "permit" contemporaneous to the FLSA's enactment show that the statute covers any circumstance where an employer *allows* someone to work. *See Suffer*, *Webster's New International Dictionary* (2d ed. 1934) ("to allow; to permit; not to forbid or hinder"); *Permit*, *Webster's New International Dictionary* (2d ed. 1934) ("to allow; to give an opportunity;

to make possible"); *see also Walling v. Jacksonville Term. Co.*, 148 F.2d 768, 770 (5th Cir. 1945) ("one is an employer if he permits another to work for him"). And "to work" means "to exert oneself … for gain," including "under compulsion of any kind," or to "be engaged … in some occupation." *Work*, *Webster's New International Dictionary* (2d ed. 1934).

Plaintiffs allege that the County permitted them to work at the Center as part of the so-called Community Service Program, Vol. 2 at 116, 119, 122, 129, which was controlled by the prison, *id.* at 114. County prison guards drove Plaintiffs to the Center, controlled by LRCI and the Authority, where Plaintiffs then operated Center machinery. *Id.* at 117, 129. The County, the Authority, and LRCI each *allowed* Plaintiffs to work—they had to, or else Plaintiffs could not have left the prison or entered the Center's grounds to start working with its equipment. For their labor, Plaintiffs were provided with (and expected to be paid) wages of $5 per day. *Id.* at 116, 130-31. Plaintiffs thus plausibly alleged that they fell squarely within the FLSA's definition of "employee," the broadest in federal employment law. *See Razak v. Uber Techs., Inc.*, 951 F.3d 137, 142 (3d Cir. 2020), *cert. denied*, 141 S. Ct. 2629 (2021).

The district court's holding that Plaintiffs were not employees under the FLSA not only runs roughshod over the statutory text and purpose but conflicts with longstanding Department of Labor guidance entitled to deference under *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944). Just four years after the FLSA was enacted, DOL advised that prisoners of war were

employees owed minimum wage. Department of Labor, Pub. Conts. Div., Letter (Jan. 9, 1942) (reproduced in Addendum (Add. 1a)).[12] The prisoners' work was covered if, as is undisputed here, they were engaged in interstate commerce. *Id.* Since then, DOL has maintained that prisoner-workers are owed the minimum wage when, as here, they "are contracted out by an institution to a private company or individual." Department of Labor, Wage & Hour Div., Opinion Letter WH-245, 1973 WL 36851, at *1 (Nov. 28, 1973); Department of Labor, *FLSA Coverage*, *Field Operations Handbook* ¶ 10b27(b) (2018).[13]

Likewise, patients working at psychiatric hospitals—another institutional setting—are FLSA-covered employees when their work has "any consequential economic benefit" to their employer. *Souder v. Brennan*, 367 F. Supp. 808, 813 (D.D.C. 1973). *Souder* held that DOL must enforce the FLSA's minimum-wage provision for patient-workers because, without any statutory exemption, therapy could not be "the sole justification" for excluding them from the statute's broad definition of "employee." *Id.* Using imprisonment as the sole justification for paying subminimum wages to otherwise covered employees is equally concerning here, where nothing in

[12] This letter persuasively applies the FLSA's unambiguous text. *See Lucas v. Jerusalem Cafe, LLC*, 721 F.3d 927, 935-36 (8th Cir. 2013); *Patel v. Quality Inn S.*, 846 F.2d 700, 703 (11th Cir. 1988).

[13] https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/FOH_Ch10.pdf.

the FLSA's text exempts imprisoned workers (let alone, as here, civil detainees working outside a prison) from coverage. *See Bennett v. Frank*, 395 F.3d 409, 409-10 (7th Cir. 2005).

2. Placing Plaintiffs outside the protections of the FLSA would undermine the statute's goals.

The FLSA's express purposes include eliminating "labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers" and preventing "unfair method[s] of competition in commerce." 29 U.S.C. § 202(a)-(b); *see Kasten v. Saint-Gobain Performance Plastics Corp.*, 563 U.S. 1, 11 (2011). Private companies, like LRCI, that rely on subminimum-wage labor to gain an unfair advantage over competitors undermine "the standard of living and general well-being of the American worker," exactly what Congress sought to prevent in passing the FLSA. *Tourscher v. McCullough*, 184 F.3d 236, 243 (3d Cir. 1999) (quoting *Villarreal v. Woodham*, 113 F.3d 202, 207 (11th Cir. 1997)). These negative consequences result whether imprisoned or non-imprisoned workers are at issue. In *Watson v. Graves*, 909 F.2d 1549 (5th Cir. 1990), for example, a private employer violated the FLSA's minimum-wage provision by exploiting prisoners—a "captive" workforce—for token wages. *Id.* at 1555. This situation was "fraught with the very problems that [the] FLSA was drafted to prevent—grossly unfair competition among employers and employees alike." *Id.*

Defendants' forced-labor scheme exploited a captive pool of imprisoned workers to make a profit. Under the arrangement between LRCI, the Authority, and the County, Plaintiffs were paid token wages. *See* Vol. 2 at 131-32. LRCI used non-imprisoned workers (whom it's reasonable to infer received at least minimum wage, over eleven times more per hour than Plaintiffs) only if there were not enough prisoners available. *Id.* at 133. This arrangement undermines the FLSA's goals.

3. The economic realities of Plaintiffs' circumstances establish employee status.

Courts have long applied what they call an "economic reality test" "rather than technical concepts" to assess employment under the FLSA. *See, e.g.*, *In re Enterprise Rent–A–Car Wage & Hour Emp't Prac. Litig.*, 683 F.3d 462, 467-68 (3d Cir. 2012) (citing *Goldberg v. Whitaker House Co-op., Inc.*, 366 U.S. 28, 33 (1961)). The economic reality here demands the conclusion that Plaintiffs adequately pleaded employee status. Plaintiffs were "entirely dependent" on LRCI, the Authority, and the County, which suffered or permitted their work. *See Alamo Found.*, 471 U.S. at 301. The FLSA therefore covers Plaintiffs' labor.

Although some courts have been reluctant to grant imprisoned workers the FLSA's protections, Plaintiffs here have alleged sufficient free-market "indicia" to show they were covered employees. *See Tourscher*, 184 F.3d at 244. The factors typically used to evaluate prisoners' work all weigh in favor of coverage: Plaintiffs' work primarily benefited private employers and had

no penological purpose, *e.g.*, *Watson*, 909 F.2d at 1556; recognizing coverage would not unduly burden the prison, *e.g.*, *Matherly v. Andrews*, 859 F.3d 264, 278 (4th Cir. 2017); and the employment relationship was the product of a bargained-for exchange, *e.g.*, *Henthorn*, 29 F.3d at 686.

First, Plaintiffs' labor benefited LRCI, the County, and the Authority. Vol. 1 at 38. It was performed outside the prison, not as part of any hard-labor, criminal sentence. *Cf. Matherly*, 859 F.3d at 278; *Watson*, 909 F.2d at 1556. Plaintiffs were civil contemnors detained because they failed to comply with a court order—not prisoners convicted of a crime. Vol. 2 at 112. Forcing them to work in hazardous conditions for token wages could not have served a penological goal because they were not imprisoned for penological purposes in the first place. *Id.* at 130-31. Furthermore, requiring Plaintiffs to work for only a few dollars a day actually undermined the reason for their imprisonment by making it more difficult for them to pay their debts. *Id.* at 113.

Second, although the County provided them with food and shelter, Plaintiffs performed work *for a private company*—their labor did not offset the prison's costs of feeding or housing them. *See Matherly*, 859 F.3d at 278. Relatedly, construing the facts in Plaintiffs' favor, finding for Plaintiffs would not burden the prison with the cost of minimum wage, forcing it to shrink its work programs, because a private employer would bear that cost. *See* U.S. Gov't Accountability Off., GAO/GGD-93-98, *Prisoner Labor:*

Perspectives on Paying the Federal Minimum Wage 8 (1993).[14] Imprisonment cannot be the sole justification for refusing to apply the FLSA's protections to Plaintiffs' work. *See Souder*, 367 F. Supp. at 813.

Finally, Plaintiffs' labor was the product of a bargained-for exchange. The Authority and the County decided to employ prisoners to work at the Center, sent the compensation to Plaintiffs' prison accounts, and determined Plaintiffs' work schedules. Vol. 2 at 129-30, 152; *see Carter v. Dutchess Cmty. Coll.*, 735 F.2d 8, 15 (2d Cir. 1984). This relationship was formalized in a contract between LRCI and the Authority. *See* Vol. 2 at 147-63. As detainees, Plaintiffs couldn't bargain any other way—but similar arrangements are not unusual outside the prison context. A subcontractor's or staffing agency's employee, for example, can be employed by an employer with which that worker never directly bargained. *See New York v. Scalia*, 490 F. Supp. 3d 748, 776-77 (S.D.N.Y. 2020); *e.g.*, *Field v. DIRECTV LLC*, 2015 WL 13620424, at *2 (E.D. Pa. Aug. 21, 2015).

4. The additional pleading requirement adopted by the district court undermines the FLSA's broad remedial goals.

Instead of applying the statutory text or considering Plaintiffs' economic reality, the district court extended the holding of *Henthorn v. Department of Navy*, 29 F.3d 682, 686-87 (D.C. Cir. 1994), which held (incorrectly) that an inmate convicted of a crime may only be an "employee" under the FLSA if

[14] https://www.gao.gov/assets/ggd-93-98.pdf.

"the prisoner has freely contracted with a non-prison employer to sell his labor." The imposition of this additional pleading requirement lacks any basis in the FLSA's text or purpose. As the Supreme Court has explained, "[i]f an exception to the Act were carved out for employees willing to testify that they performed work 'voluntarily,' employers might be able to use superior bargaining power to coerce employees to make such assertions, or to waive their protections under the Act." *Alamo Found.*, 471 U.S. at 302.

The district court's holding that, to obtain the FLSA's benefits, workers must "freely contract[]" with an employer, Vol. 1 at 78, runs contrary to the FLSA's protection of non-imprisoned, low-wage, at-will workers who lack the bargaining power to negotiate with private employers. Affirming the holding would thus strip the FLSA's protections from those "workers most in need of the Act's help." *Kasten*, 563 U.S. at 12. Absent minimum-wage protections for work-release participants contracted to private employers, imprisoned workers would displace employees on private worksites. Why hire a worker at the minimum wage when the work of incarcerated individuals can be obtained for almost nothing? *See* U.S. Gov't Accountability Off., *supra*, at 11 (noting concerns of businesses and labor groups about unfair competition from cheap labor). Bidding for public contracts between private businesses like LRCI would become a reverse auction for the lowest-paid (and, here, involuntary) labor.

Moreover, in applying *Henthorn*, the district court conjured a non-existent tension between forced-labor and wage-theft laws to hold that Plaintiffs

pleaded insufficient freedom to be owed the minimum wage yet had too much choice for their labor to be forced. *See* Vol. 1 at 78-79.

Finally, even if the Thirteenth Amendment's penal exception were relevant to FLSA liability (and it's not), the district court made an additional error in applying *Henthorn* because Plaintiffs did not labor at the center "as part of a *penological* work assignment." 29 F.3d at 686 (emphasis added); *see supra* at 26-27. Their labor at the Center was not required by any court order or sentence.

B. LRCI, the Authority, and the County are joint employers.

Plaintiffs plausibly allege that LRCI, the Authority, and the County are joint employers because they each "suffer[ed] or permit[ted]" Plaintiffs "to work," 29 U.S.C. § 203(g), and they share control over terms of employment, like hiring, supervision, discipline, and firing, *see In re Enter. Rent-A-Car Wage & Hour Employment Pracs. Litig.*, 683 F.3d 462, 469 (3d Cir. 2012). The County selects debtors to work at the Center and, like LRCI, can terminate them. Vol. 2 at 129. LRCI and the Authority jointly determine work rules and assignments. *Id.* They all collaborate to determine debtors' hours. *Id.* The Authority and the County set debtors' pay. *Id.* at 130. And County prison guards supervise debtors, taking away their lunch if they do not work fast enough. *Id.*

IV. LRCI, the Authority, and the County violated the Pennsylvania Wage Payment and Collection Law by failing to pay Plaintiffs in cash or check.

The Pennsylvania Wage Payment and Collection Law requires that employers pay employees their promised wages in lawful money by cash or check, and the requirement is nonwaivable. 43 Pa. Stat. and Cons. Stat. §§ 260.3(a), 260.7. Plaintiffs were employed by LRCI, the Authority, and the County and were promised $5 for each workday. Yet Defendants paid Plaintiffs' wages to prison-controlled commissary accounts rather than by cash or check. *See* Dkt. 132 at 12-14 (disputing the existence of a promise, but not that a payment to commissary accounts is not by cash or check).

A. Plaintiffs were employed by LRCI, the Authority, and the County.

Defendants have not explicitly disputed Plaintiffs' employment status with respect to the Pennsylvania Wage Payment and Collection Law. Regardless, Plaintiffs sufficiently allege that they were Defendants' employees under the common-law right-to-control test, which considers factors such as whether the employer supplies the equipment for the job, whether the employer's business depended on the workers in question, and whether the employer could fire its workers. *See Estate of Accurso v. Infra-Red Servs., Inc.*, 805 F. App'x 95, 101-02 (3d Cir. 2020) (discussing factors from *Morin v. Brassington*, 871 A.2d 844, 850 (Pa. Super. Ct. 2005)). As discussed above (at 43), Defendants had overwhelming control over Plaintiffs' labor. Defendants also supplied the (woefully inadequate) equipment for the job,

such as uniforms, non-water- and non-glass-resistant gloves, and boots with holes. Vol. 2 at 132-33. Their recycling business depended on the work of imprisoned child-support debtors, *id.* at 133, 150 (Operating Agreement), and Defendants could fire Plaintiffs at any time, *id.* at 129.

B. LRCI, the Authority, and the County owed Plaintiffs wages under an implied contract.

Plaintiffs' complaint alleges that Defendants told them they would be paid $5 a day for their work at the Center. Vol. 2 at 116, 131. That promise is binding as an implied oral agreement because Defendants knowingly benefited from Plaintiffs' operation of the Center—a valuable service that Defendants paid other employees to do. *Id.* at 133; *see Oxner v. Cliveden Nursing & Rehab. Ctr. PA, LP*, 132 F. Supp. 3d 645, 649 (E.D. Pa. 2015). Despite noting Plaintiffs' allegation that "prison staff" promised the $5-per-day wages, Vol. 1 at 83; *see* Vol. 2 at 116, the district court concluded that no one with authority to speak for Defendants promised to pay Plaintiffs' wages. Vol. 1 at 83. That conclusion was inappropriate on a motion to dismiss because it ignores Plaintiffs' well-pleaded allegations.

Alternatively, under a promissory-estoppel theory, the $5-a-day promise is binding because Plaintiffs detrimentally relied on it: They worked in hazardous conditions and gave up time that would not otherwise have been spent working at the Center. Vol. 2 at 132-34; *see Weaver Bros. Ins. Assoc., Inc. v. Braunstein*, 2014 WL 2599929, at *16 n.15 (E.D. Pa. June 10, 2014); Restatement (Second) of Contracts § 90 (Am. Law Inst. 1981). The only way

to remedy the injustice—Defendants' breach of their promise to pay—is to enforce the promise as a binding agreement.

V. Defendants were unjustly enriched by Plaintiffs' forced, nearly unpaid labor.

Pennsylvania common law includes two types of unjust-enrichment claims: "(1) a quasi-contract theory of liability . . . brought as an alternative to a breach of contract claim" and "(2) a theory based on unlawful or improper conduct established by an underlying claim, such as fraud, in which case the unjust enrichment claim is a companion to the underlying claim." *Mifflinburg Tel, Inc. v. Criswell*, 277 F. Supp. 3d 750, 801 (M.D. Pa. 2017). Plaintiffs allege that the Defendants engaged in improper and manifestly unjust conduct—obtaining their labor in violation of the TVPA and the Thirteenth Amendment—and as a result were unjustly enriched. *See Supra* 22-34. Thus, Plaintiffs' unjust-enrichment claim survives Defendants' motion to dismiss alongside their TVPA and Thirteenth Amendment claims.

Moreover, Plaintiffs plausibly alleged the three elements of an unjust-enrichment claim, independent from their TVPA and Thirteenth Amendment claims. *See generally Ne. Fence & Iron Works, Inc. v. Murphy Quigley Co.*, 933 A.2d 664, 669 (Pa. Super. Ct. 2007).

First, Plaintiffs conferred the benefits of their labor (work at the Center and the resulting lower operating costs) on all Defendants. *See Babyage.com v. Toys "R" Us, Inc.*, 558 F. Supp. 2d 575, 588 (E.D. Pa. 2008); *see also* Vol. 2 at 148 (Operating Agreement explaining the flow of revenue from LRCI to the

Authority). The County further benefited by receiving Plaintiffs' daily wages into the prison commissary accounts, which were "tightly controlled by the prison." Vol. 2 at 131-32.

Second, all Defendants knowingly obtained those benefits. *See supra* at (34).

Third, Defendants unlawfully forced Plaintiffs' labor to obtain the benefits, *see supra* at 22-34, making retention unjust. *See Whitaker v. Herr Foods, Inc.*, 1998 F. Supp. 3d 476, 492-93 (E.D. Pa. 2016). It is also unjust for Defendants to retain benefits gained from an unfair competitive advantage by paying subminimum wages into commissary accounts they "tightly control." Vol. 2 at 131-32.

CONCLUSION

This Court should reverse the district court's judgment on all of Plaintiffs-Appellants' claims and remand for further proceedings.

Respectfully submitted,

Marielle Macher
COMMUNITY JUSTICE PROJECT
118 Locust St.
Harrisburg, PA 17101

Matthew Handley
Rachel Nadas
HANDLEY FARAH & ANDERSON PLLC
200 Massachusetts Ave., NW, 7th Floor
Washington, D.C. 20001

Jacob Demree
Samuel Myers
Jacob Rosen
Student Counsel

s/ Madeline Meth
Madeline Meth
D.C. Bar No. 230473
Brian Wolfman
GEORGETOWN LAW APPELLATE COURTS IMMERSION CLINIC
600 New Jersey Ave. NW, Suite 312
Washington, D.C. 20001
(202) 662-9549

Juno Turner*
TOWARDS JUSTICE
2840 Fairfax St., Suite 200
Denver, CO 80207

January 6, 2022

Counsel for Plaintiffs-Appellants

*Application for admission forthcoming

CERTIFICATE OF COMPLIANCE

1. In accordance with Rule 32(g), I certify that this brief (i) complies with the type-volume limitation of Rule 32(a)(7)(B) because it contains 12,827 words, including footnotes and excluding the parts of the brief exempted by Rule 32(f); and (ii) complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared using Microsoft Office Word 365, set in Palatino Linotype font in 14-point type.

2. In accordance with Local Rule 28.3(d), I certify that I am a member of the bar of the Third Circuit in good standing.

3. In accordance with Local Rule 31.1(c), I certify that (i) this brief has been scanned for viruses using McAfee LiveSafe and is free of viruses; and (ii) when paper copies are required by this Court, the paper copies will be identical to the electronic version of the brief filed via CM/ECF.

s/ Madeline Meth
Madeline Meth
Counsel for Plaintiffs-Appellants

ADDENDUM

~~AC 301~~

Public Contracts Division
165 West 46th Street

January 9, 1942
SOL:PKD:CP

(b)(6)

Dear (b)(6):

Reference is made to your letter of November 24.

As far as the Fair Labor Standards Act is concerned, it contains no prohibition against the employment of interned enemy aliens. They are in the same category as any other person and during workweeks in which they are engaged in the production of goods for interstate commerce, should be paid at least the minimum wage rate of 30 cents per hour and time and one-half for all hours worked over 40 in such workweek.

Neither you nor the aliens would be required to make any reports, but the person who might employ them would be required to maintain records for these employees similar to those which the Fair Labor Standards Act requires that he maintain for his other employees.

Whether the employees may be trained without pay depends upon the nature of the training and upon the disposition of the articles on which the training work is performed. The test of the applicability of the Act to any employee is whether the employee in a particular workweek "is engaged in interstate commerce or in the production of goods for interstate commerce." If the training consists entirely in working on scrap material which does not leave the State, the Fair Labor Standards Act would not be applicable in weeks in which only that work was performed. But in any workweek in which they do any work on material destined to leave the State, the Act would be applicable and would require that they be paid in accordance with the provisions outlined above for all hours worked.

I cannot answer your question whether the employment of these persons would be in violation of any anti-prison law.

Initials
(b)(6)
(b)(6)
18—26804-1 GPO

(b)(6)

There is a Federal statute which prohibits the interstate transportation of prison made goods under some circumstances. That law is enforced by the Department of Justice and I have forwarded a copy of your letter to the Attorney General in order that he might answer this particular question.

Very truly yours,

L. Metcalfe Walling
Administrator

382787

Initials (b)(6)

16—26804-1 GPO

CERTIFICATE OF SERVICE

I certify that on January 6, 2022, this brief was filed using the Court's CM/ECF system. All attorney participants in the case are registered CM/ECF users and will be served electronically via that system.

s/ Madeline Meth
Madeline Meth
Counsel for Plaintiffs-Appellants