IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

BIJU MAKRUKKATTU JOSEPH, *et al.*	§	
	§	
v.	§	**1:13-CV-324**
	§	
SIGNAL INTERNATIONAL L.L.C., *et al.*	§	
	§	

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

This case is assigned to the Honorable Ron Clark, United States District Judge, and is referred to the undersigned United States Magistrate Judge for all pretrial matters pursuant to a Referral Order. (Doc. No. 4.) Pending before the undersigned is Defendant Malvern C. Burnett, the Law Offices of Malvern C. Burnett, A.P.C., and Gulf Coast Immigration Law Center, L.L.C.'s (hereinafter referred to interchangeably as "Burnett" and "the Burnett Defendants") "Motion and Memorandum in Support of Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(2)." (Doc. No. 31.)[1] The undersigned has considered the pending motion and the corresponding response (Doc. No. 44), reply (Doc. No. 50) and sur-reply (Doc. No. 56). The Burnett Defendants' motion should be denied because: 1) the court has personal jurisdiction over the Defendants because the RICO statute provides for nationwide service of process; and 2) the court also has specific personal jurisdiction over the Defendants given the number of alleged tortious acts committed by the Defendants both outside and inside Texas that injured the Plaintiffs within Texas.

1. This motion was previously denied as moot in light of the Plaintiffs filing their second amended complaint. (Doc. No. 67.) The Defendants subsequently filed a "Motion and Memorandum to Reassert Motions to Dismiss (Doc. No. 32) and Motion to Dismiss for Lack of Jurisdiction (Doc. No. 31)." (Doc. No. 69.) As such, the undersigned will analyze and discuss the original motion that was previously denied as moot.

I. Background

A. Procedural Background

On March 7, 2008, twelve individuals who were allegedly trafficked into the United States filed a putative class action against the Defendants in the Eastern District of Louisiana asserting trafficking, RICO, civil rights, and state law contract and fraud claims.[2] See David v. Signal Int'l, LLC, Civ. A. No. 08-1220 (E.D. La.). That Court denied class certification;[3] and, as a result of this ruling, the Plaintiffs in the instant action filed suit in this District, where they were allegedly subjected to deplorable working conditions at a Signal facility in Orange, Texas. (Doc. No. 64.) On May 21, 2013, the Plaintiffs filed their original complaint in this court. (Doc. No. 1.) Subsequently, they filed their first amended complaint on August 1, 2013 (Doc. No. 19) and their second amended complaint on December 19, 2013. (Doc. No. 64.)

B. Factual Background

In the aftermath of Hurricane Katrina, approximately 590 men, including the Plaintiffs, were allegedly trafficked into the United States through the federal government's H-2B guest worker program to provide labor and services to the Signal Defendants. (Doc. No. 64 , p. 2.) The Plaintiffs claim they were lured to work for Signal through the fraudulent promise of legal and permanent work-based immigration to the United States for themselves and their families. (Id.) Subsequently, after coming to the United States, the Plaintiffs were allegedly subjected to forced labor and other serious abuses at Signal operations in Orange, Texas. (Id. at 3.) The Burnett Defendants consist of Malvern C. Burnett and his two corporations: Gulf Coast Immigration Law

2. The Plaintiffs presumably still have FLSA claims pending in the Eastern District of Louisiana. (Doc. No. 44, p. 5.)

3. David v. Signal Int'l, LLC, Civ. A. No. 08-1220, 2012 U.S. Dist. LEXIS 114247, at *129 (E.D. La. Jan. 3, 2012).

Center, L.L.C. and Law Offices of Malvern C. Burnett, A.P.C. The Plaintiffs accuse Burnett of conspiring with Signal and other Defendants to recruit Indian welders and pipefitters to fill anticipated H-2B guest worker jobs at Signal's Orange, Texas operations with false promises of permanent residency in the United States for the workers and their families. (Id., p. 24.)

II. Jurisdiction

The Burnett Defendants move to dismiss the instant case under Federal Rule of Civil Procedure 12(b)(2) alleging that this court lacks personal jurisdiction over them. (Doc. No. 31.) Rule 12(b)(2) requires a court to dismiss a claim if it does not have personal jurisdiction over the defendant. Grynberg v. BP P.L.C., 855 F. Supp. 2d 625, 638 (S.D. Tex. 2012); see FED. R. CIV. P. 12(b)(2). "When a court rules on a motion to dismiss for lack of personal jurisdiction without holding an evidentiary hearing, the party asserting jurisdiction is required to present facts sufficient to constitute a *prima facie* case of personal jurisdiction to satisfy its burden." Duke Energy Int'l, L.L.C. v. Napoli, 748 F. Supp. 2d 656, 678 (S.D. Tex. 2010) (citing Central Freight Lines Inc. v. APA Transport Corp., 322 F.3d 376, 380 (5th Cir. 2003); Alpine View Co. v. Atlas Copco A.B., 205 F.3d 208, 214 (5th Cir. 2000)). "[O]n a motion to dismiss for lack of jurisdiction, uncontroverted allegations in the plaintiff's complaint must be taken as true, and conflicts between the facts contained in the parties' affidavits must be resolved in the plaintiff's favor for purposes of determining whether a *prima facie* case for personal jurisdiction exists." Bullion v. Gillespie, 895 F.2d 213, 217 (5th Cir. 1990).

A. Nationwide Service of Process under the RICO Statute, 18 U.S.C. § 1965(b)

In their complaint, the Plaintiffs allege RICO claims against all of the Defendants, including the Burnett Defendants. (Doc. No. 64.) A federal court obtains personal jurisdiction over a defendant in a suit based upon a federal statute if that statute provides for nationwide service

of process and the defendant has had minimum contacts with the United States. Busch v. Buchman, Buchman & O'Brien, Law Firm, 11 F.3d 1255, 1258 (5th Cir. 1994). The Burnett Defendants have minimum contacts with the United States. (See Doc. No. 31, Ex. 1, Affidavit of Malvern Burnett.) Thus, the next issue to be decided is whether the RICO statute provides nationwide service of process.

Title 18 U.S.C. § 1965 provides, in pertinent part:

> (a) Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.
> (b) In any action under section 1964 [the civil RICO remedies] of this chapter in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

While the Fifth Circuit has not yet ruled on this issue, it appears all of the district courts in this Circuit have interpreted § 1965(b) to confer nationwide jurisdiction in a RICO action over nonresident defendants if the plaintiff can establish personal jurisdiction over at least one defendant under § 1965(a). Allstate Ins. Co. v. Plambeck, No. 3-08-cv-0388-M, 2009 WL 347423, at *3 (N.D. Tex. Feb. 11, 2009) (citing Rolls–Royce Corp. v. Heros, Inc., 576 F. Supp. 2d 765, 778-79 (N.D. Tex. 2008); Oblio Telecom, Inc. v. Patel, No. 3–08–cv–0279–L, 2008 WL 4936488, at *4 (N.D. Tex. Nov. 18, 2008)); see also Hawkins v. Upjohn Co., 890 F. Supp. 601, 606 (E.D. Tex. 1994); Paolino v. Argyll Equities, L.L.C., 401 F. Supp. 2d 712, 719 (W.D. Tex. 2005); cf. Flores v. Koster, No. 3:11-cv-0726-M-BH, 2013 WL 4874117, at *4 (N.D. Tex. June 28, 2013). Furthermore, the majority of circuit courts have determined that § 1965(b) confers nationwide service of process in RICO cases. See Allstate Ins. Co., 2009 WL 347423, at *3 n.2

(collecting cases). Accordingly, the undersigned will follow the majority rule that § 1965(b) of the RICO statute provides for nationwide service of process if the plaintiff can establish personal jurisdiction over at least one defendant under § 1965(a). That is easily met here. In the instant case, it is clear that Defendant Signal transacts its affairs in this forum as they have a facility in Orange, Texas.[4]

Having decided § 1965(b) provides nationwide service of process, the last inquiry is whether the "ends of justice require" Burnett, who resides and conducts business in the Eastern District of Louisiana and Southern District of Mississippi, be brought before the court in the Eastern District of Texas. See 18 U.S.C. § 1965(b) ("In any action under section 1964 of this chapter in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned . . . ."). "[T]he 'ends of justice' is a flexible concept uniquely tailored to the facts of each case." Cory v. Aztec Steel Building, Inc., 468 F.3d 1226, 1232 (10th Cir. 2006). The Fifth Circuit has not implemented any legal test as to what exact set of facts meet "the ends of justice" requirement. See Hewlett-Packard Co. v. Byd:Sign, Inc., No. 6:05-cv-456, 2006 WL 2822151, at *9 (E.D. Tex. Sept. 28, 2006). While courts have used somewhat differing tests, the two considerations that are used most frequently are 1) whether no other district court

4. The Burnett Defendants argue that even if the RICO statute provides nationwide service of process, the Plaintiffs cannot use the nationwide service of process provision because "the Plaintiffs, opting to utilize the waiver provisions of Rule 4 rather than request service pursuant to the nationwide service provisions of RICO, waived any claim for establishment of personal jurisdiction through the use of RICO's national service provisions." (Doc. No. 50, p. 2.) Burnett did not cite to any authority to support this argument, nor has the undersigned found any cases supporting this assertion. While it is true that a waiver of service does not waive an *objection* to personal jurisdiction, see Fed. R. Civ. P. 4(d)(5), it certainly does not eliminate a party's ability to obtain personal jurisdiction over a defendant through a nationwide service of process provision.

Burnett also argues that even if § 1965(b) provides for nationwide service of process, "the requirements of the constitution and due process must still be fulfilled." (Doc. No. 31, p. 2.) This argument is somewhat irrelevant. Due process concerns are subsumed when a federal court exercises personal jurisdiction over a defendant in a suit based upon a federal statute providing for nationwide service of process and the defendant has minimum contacts with the United States. Busch, 11 F.3d at 1258.

would have personal jurisdiction over *all* of the alleged RICO conspirators,[5] and 2) judicial economy.[6]

The "ends of justice" require the Burnett Defendants to answer in this forum because numerous defendants reside in different states, and there is likely no alternative forum in which jurisdiction would be proper as to all defendants.[7] For reasons of judicial economy, the "ends of justice" should also require the Burnett Defendants to litigate this suit in Texas. There are currently forty-eight plaintiffs in this case and over forty in the four companion cases in which the Burnett Defendants are parties.[8] Most of these same plaintiffs already have pending FLSA claims in the Eastern District of Louisiana stemming from the same allegations. This court has already denied Signal's vigorous attempts to transfer this case to Louisiana. (Doc. Nos. 74, 97.) Thus, it can be assumed that approximately ninety plaintiffs will be trying this case here in Texas against the lead Defendant Signal and the other defendants that have not sought transfer. If the Burnett Defendants were dismissed from this case, most of the plaintiffs in this and the companion cases would be litigating their FLSA claims against Signal in Louisiana, all of the plaintiffs would be litigating their RICO, federal law and state law claims against the remaining defendants here, and

5. Butcher's Union Local No. 498 v. SDC Investment, Inc., 788 F.2d 535, 539 (9th Cir.1986).

6. Farmers Bank of State of Del. v. Bell Mortg. Corp., 577 F. Supp. 34, 35 (D.C. Del. 1978).

7. The various Signal Defendants have operations in Texas, Mississippi and Alabama and are organized under the laws of Delaware; Defendant Michael Pol is a Mississippi resident; Defendant Global Resources, Inc. is organized under the laws of Mississippi; Defendant Sachin Dewan is a resident of India while Defendant Dewan Consultants is organized under the laws of India; Defendant Malvern Burnett is a Louisiana Resident who practices law in Louisiana and Mississippi; Defendants Law Office of Malvern Burnett, APC and Gulf Coast Immigration Center were corporations organized under the laws of Louisiana; Defendant Indo-Amerisoft, L.L.C. is organized under the laws of Louisiana; Defendant Kurella Rao maintains offices in Louisiana; Defendant J&M Associates of Mississippi, Inc. and J&M Marine & Industrial, L.L.C. are organized under the laws of Mississippi; and Defendant Billy R. Wilks is a resident of Mississippi. (Doc. No. 64, pp. 14-21.) The Plaintiffs generally aver that most, if not all, of the Defendants have "substantial business contacts in Texas."

8. See 1:13-cv-323; 1:13-cv-497; 1:13-cv-499; 1:13-cv-498.

then potentially those same RICO, federal law and state law claims against only the Burnett Defendants would be litigated in an entirely different forum. That would be contrary to Congress' intent for the "ends of justice" provision, which enables plaintiffs to bring all members of a nationwide RICO conspiracy before a court in a single trial. Butcher's Union, 788 F.2d 535, 539. The undersigned also notes that it would be impractical to require roughly ninety plaintiffs to travel to a different forum all for the sake of the Burnett Defendants, who consist of a single attorney and two "inactive" companies located in a contiguous state.

The Burnett Defendants argue that given the conclusory allegations against them in the complaint, the "ends of justice" do not require they be brought before this court. They argue the Plaintiffs have failed to plead enough facts in their complaint to show the Burnett Defendants engaged in a conspiracy or a scheme to defraud or commit illegal acts subjecting them to the personal jurisdiction of this court. These are not relevant considerations when deciding whether "the ends of justice" require the Burnett Defendants to be brought to Texas. Questions of whether the complaint sufficiently pleads violations of the RICO statute should not be raised in a motion under Rule 12(b)(2) challenging personal jurisdiction. See Allstate Ins. Co., 2009 WL 347423, at *4. In fact, it is already subject of another motion to dismiss filed by the Burnett Defendants. (Doc. No. 32.)

B. The Burnett Defendants are also subject to specific personal jurisdiction in this District

Although this court has personal jurisdiction over the Burnett Defendants due to the nationwide service provisions of the RICO statute, this court also has specific personal jurisdiction over the Burnett Defendants. Absent a statute that permits nationwide service of process, when a suit is based on a federal statute, the court looks to the long-arm statute of the state in which it sits to determine whether a defendant is subject to personal jurisdiction. Omni Capital Intern., Ltd.

Rudolf Wolff & Co., Ltd., 484 U.S. 97, 105 (1987). The Texas long-arm statute confers jurisdiction to the limits of the federal constitution. Companion Prop. & Cas. Ins. Co. v. Palermo, 723 F.3d 557, 559 (5th Cir. 2013). Therefore, the undersigned's focus is whether the exercise of personal jurisdiction offends or satisfies constitutional requirements of due process.

In order to satisfy due process, the Burnett Defendants must have "certain minimum contacts with [Texas] such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice." Parker v. Pro W. Contractors, L.L.C., No. 13-30142, 2013 WL 3534082, at *1 (5th Cir. July 15, 2013) (citing Int'l Shoe Co. v. State of Wash., 326 U.S. 310, 316 (1945)). "The minimum contacts requirement is satisfied by either: (1) contacts that give rise to general personal jurisdiction or (2) contacts that give rise to specific personal jurisdiction." Id. (citing Wilson v. Belin, 20 F.3d 644, 647 (5th Cir. 1994)). Because the Plaintiffs do not argue minimum contacts are satisfied through general personal jurisdiction, the undersigned will focus only on whether the Burnett Defendants have sufficient contacts that give rise to specific personal jurisdiction.

"Specific jurisdiction is proper where the defendant has 'purposefully directed his activities at residents of the forum, and the litigation results from alleged injuries that arise out of or relate to those activities.'" Parker, 2013 WL 3534082, at *1 (5th Cir. July 15, 2013) (citing Burger King Corp. v. Rudzewicz, 471 U.S. 462, 474 (1985)); see also Electrosource, Inc. v. Horizon Battery Techs. Ltd., 176 F.3d 867, 871 (5th Cir. 1999) (litigation must arise out of or relate to activities purposefully directed at residents of the forum). "The constitutional requirement for specific jurisdiction is that the defendant has 'minimum contacts' with the forum state such that imposing a judgment would not 'offend traditional notions of fair play and substantial justice.'" Stroman Realty, Inc. v. Wercinski, 513 F.3d 476, 484 (5th Cir. 2008)

(quoting Int'l Shoe Co. v. State of Wash., Office of Unemployment Comp. & Placement, 326 U.S. 310, 316 (1945)).

The complaint (Doc. No. 64) raises these allegations against the Burnett Defendants:

> Signal authorized the Burnett Defendants to act as their agents for the purposes of recruiting and providing Indian welders and pipefitters to fill anticipated H-2B guest worker jobs at Signal's Orange, Texas operations. Signal further authorized the Burnett Defendants to represent that Signal would agree to sponsor *bona fide* green card applications for the Plaintiffs and obtain at least two H-2B visa extensions which would allow them to remain in the United States working for Signal while their green card applications were being processed.
>
> Burnett induced the Plaintiffs to enter into the green card contracts without intending to diligently pursue the Plaintiffs' green card applications. Burnett falsely represented that (i) the companies and/or entities purportedly sponsoring the Plaintiffs' applications were financially solvent and had reliable and stable employment opportunities to provide the Plaintiffs; (ii) green card applications sponsored by such companies would be valid and *bona fide* under U.S. immigration law; and, (iii) such applications were likely to be successfully completed and approved within the promised timelines. Burnett also promised that the Plaintiffs would promptly receive a refund of all or nearly all of their payments if they did not succeed in securing green cards. However, since first contracting with the Burnett Defendants, the Plaintiffs have yet to receive the green cards. Despite clear contractual provisions requiring them to do so, Burnett has refused to refund any of the money the Plaintiffs paid.
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> Instead of getting green cards for the Plaintiffs, the Burnett Defendants assisted Signal in securing H-2B visas that would temporarily allow the Plaintiffs to live in the United States. In July and August of 2006, the Burnett Defendants, on behalf of Signal, filed with the United States Citizenship and Immigration Service the completed I-129 forms and attachments seeking 590 H-2B visas. Knowing that Signal's labor need was projected to be at least two to three years, Signal attested to a 10-month labor need running from October 1, 2006 - July 31, 2007 in these H-2B visa applications. Signal falsely represented to the government that at the end of this 10 month period, it intended to return all H-2B workers back to India. The Burnett Defendants declared that the applications were based on all information of which they had any knowledge despite the fact that they believed Signal's intentions for these workers exceeded ten months.

> In reasonable reliance on the Burnett Defendants' explicit and repeated promises regarding the procurement of green cards and employment opportunities in the United States, the Plaintiffs undertook considerable economic, personal and familial sacrifices in order to amass the funds necessary to initiate the green card process with Signal. Signal authorized Burnett to falsely represent that Signal would apply for at least two to three H-2B visa extensions on behalf of all the Indian H-2B workers to allow them to remain in the United States working for Signal while Plaintiffs' green card applications were being processed. In reliance on the representations of Burnett and others, the Plaintiffs entered the United States on H-2B guest worker visas in late 2006 and early 2007 for the purposes of working for Signal at its Orange, Texas facility. Upon arrival at Signal's facilities in Orange, Texas, the workers were shocked to discover the awful conditions they would be forced to live and work in.
>
> After the Indian workers started to organize and complain about their terrible working and living conditions, Signal contacted the Burnett Defendants to express its concerns about worker organizing efforts. During these conversations the Recruiter Defendants, the Burnett Defendants, and Signal reached an agreement regarding steps that they would take to discourage further worker organizing efforts to ensure that the majority of the Indian H-2B workforce continued to work at Signal without complaint, as well as to prevent the Indian H-2B workforce from exercising their legal rights. Signal called a workforce-wide meeting on or about March 8, 2007 in the Pascagoula camp, attended by Signal management and Burnett. At this meeting, Signal management told the Pascagoula workers that Signal would fight back against organizing efforts by the workers. These threats were promptly reported to the workers in Orange, including Plaintiffs.
>
> Subsequently, Defendants Dewan and Burnett came to the Signal camp in Orange, Texas and again falsely promised, in the presence of Signal personnel, that Signal, through its attorney Defendant Burnett, would make *bona fide* applications for green cards and obtain several H-2B visa extensions for the workers who had not been terminated by Signal. The Plaintiffs reasonably believed these false promises.

In the RICO Fraud Chart attached to the complaint as Exhibit 1, the Plaintiffs further allege:

> Malvern C. Burnett, Gulf Coast Immigration Law Center L.L.C., and Law Offices of Malvern C. Burnett, A.P.C. filed with

> the Mississippi Department of Employment Security, the Texas Workforce Commission, and the United States Department of Labor the completed forms ETA 750 and attachments seeking permission to import and hire 590 foreign guest workers under 8 U.S.C. § 1101(a)(15)(H)(ii)(b), attendant regulations 8 C.F.R. § 214.2(h)(6) and 20 C.F.R. § 655.3, and associated administrative letters and/or guidance (commonly known as "the H-2B guest worker program"). In the applications to the state workforce commissions and forms ETA 750, Malvern C. Burnett and Signal stated that Signal would employ workers from October 1, 2006 to July 31, 2007, despite their knowledge that the projected labor need would be at least two-to-three years. Signal stated in letters of support to these applications that its need for H- 2B guest workers was "peak load and a one-time occurrence" and that "the temporary workers will work for the length of the prescribed dates of need, will be paid in accordance with the prevailing wage, and will return to their home country at the end of employment." Signal executives and Malvern Burnett signed these applications swearing, under penalty of perjury, to the veracity of the information in these applications.
>
> On March 15, 2007, Burnett attended a meeting with the Plaintiffs at Signal's Orange, Texas facility. At this meeting, Signal representatives and Malvern Burnett said that if Texas workers conducted activities "like the workers in Mississippi" they would be deported. They also told the Indian H-2B Signal employees that they would apply for green cards for all of them.

First, the Plaintiffs have clearly satisfied the minimum contact requirement by alleging the Burnett Defendants defrauded the Plaintiffs within Texas. The Plaintiffs accuse Burnett of attending a meeting at Signal's Orange, Texas facility where he falsely promised the Plaintiffs he would make *bona fide* applications for green cards and obtain several H-2B visa extensions. Furthermore, the Plaintiffs allege Burnett supplied false information to the Texas Workforce Commission in the documents he filed to gain permission to import and hire the Plaintiffs to work for Signal.

Second, the Plaintiffs have also satisfied the minimum contacts requirement by alleging the Burnett Defendants committed acts outside of Texas that caused tortious injuries within Texas. The Fifth Circuit has held that sufficient minimum contacts are established "[w]hen a nonresident

defendant commits a tort within the state, *or an act outside the state that causes tortious injury within the state*." Guidry v. United States Tobacco Co., 188 F.3d 619, 628 (5th Cir. 1999) (collecting cases). "Even an act done outside the state that has consequences or effects within the state will suffice as a basis for jurisdiction in a suit arising from those consequences if the effects are seriously harmful and were intended or highly likely to follow from the nonresident defendant's conduct." Id. (collecting cases). An individual injured in Texas "need not go to [another jurisdiction] to seek redress from persons who, though remaining in other states, intentionally, knowingly and recklessly caused severe physical, emotional and economic injuries to the plaintiffs and others" in Texas. Id. at 630. Based upon the complaint, the Plaintiffs have established that the Burnett Defendants have sufficient minimum contacts with Texas because the alleged tortious acts committed by the Burnett Defendants, even if most were committed outside of Texas, caused tortious injuries within Texas. The Burnett Defendants, who allegedly conspired with Signal to lure the Plaintiffs to Orange, Texas with false promises, cannot credibly argue that they could not reasonably have anticipated being sued in this District.

Finally, it will not "offend traditional notions of fair play and substantial justice" for this court to exercise personal jurisdiction over the Burnett Defendants. The Fifth Circuit has used the following test to assess the reasonableness of a court's exercise of personal jurisdiction: "(1) the burden upon the nonresident defendant to litigate in that forum; (2) the forum state's interests in the matter; (3) the plaintiff's interest in securing relief; (4) the interstate judicial system's interest in obtaining the most efficient resolution of controversies; and (5) the several states' shared interest in furthering substantive social policies." Stroman Realty, Inc. v. Wercinski, 513 F.3d 476, 487 (5th Cir. 2008) (citing Asahi Metal Industry Co. v. Superior Court, 480 U.S. 102, 113 (1987)). First, the Burnett Defendants will not face a large burden in litigating the instant case in

this District, because the Burnett Defendants, who consist of a single attorney and two "inactive" companies, are located in Louisiana, which is contiguous to Texas. Second, the forum state, Texas, does have an interest in the matter because the forty-eight Plaintiffs were allegedly injured while working at Signal's Orange, Texas facility. Third, keeping the Burnett Defendants claims in this District will provide the most efficient resolution of this case. Notwithstanding their status as putative class members, the Plaintiffs have already moved their case once from a different federal district court after their motion for class certification was denied. David v. Signal Int'l, LLC, Civ. A. No. 08-1220, 2012 U.S. Dist. LEXIS 114247, at *129 (E.D. La. Jan. 3, 2012). The most expeditious option at this point would be to continue this case in this District. Finally, the Burnett Defendants have not pointed out any clashes between the substantive social policies of Texas and any other potential forum state in regards to this case. Taking these factors into consideration, the undersigned finds that this court will not offend traditional notions of fair play and substantial justice by exercising personal jurisdiction over the Burnett Defendants.

In summary, the undersigned finds the Plaintiffs have presented sufficient facts to establish a *prima facie* case of personal jurisdiction over the Defendants because the RICO statute provides for nationwide service of process. Furthermore, the undersigned finds the Plaintiffs have also established a *prima facie* case that this court has personal jurisdiction over the Burnett Defendants by showing: 1) the Burnett Defendants have sufficient minimum contacts with Texas; and 2) it will not offend traditional notions of fair play and substantial justice for this court to exercise personal jurisdiction over the Burnett Defendants.

IV. Recommendation

For the reasons stated above, the "Motion and Memorandum in Support of Motion of Malvern C. Burnett, the Law Offices of Malvern C. Burnett, A.P.C., and Gulf Coast Immigration

Law Center, L.L.C. to Dismiss pursuant to Fed. R. Civ. P. 12(b)(2)" (Doc. No. 31) should be **DENIED**.

V. Objections

Pursuant to 28 U.S.C. § 636(b)(1)(c) (Supp. IV 2011), each party to this action has the right to file objections to this report and recommendation. Objections to this report must (1) be in writing, (2) specifically identify those findings or recommendations to which the party objects, and (3) be served and filed within fourteen (14) days after being served with a copy of this report. See 28 U.S.C. § 636(b)(1)(c); FED R. CIV. P. 72(b)(2). A party who objects to this report is entitled to a *de novo* determination by the United States District Judge of those proposed findings and recommendations to which a specific objection is timely made. See 28 U.S.C. § 636(b)(1)(c); FED R. CIV. P. 72(b)(3).

A party's failure to file specific, written objections to the proposed findings of fact and conclusions of law contained in this report, within fourteen (14) days of being served with a copy of this report, bars that party from: (1) entitlement to de novo review by the United States District Judge of the findings of fact and conclusions of law, see Rodriguez v. Bowen, 857 F.2d 275, 276–77 (5th Cir. 1988), and (2) appellate review, except on grounds of plain error, of any such findings of fact and conclusions of law accepted by the United States District Judge, see Douglass v. United Serv. Auto. Ass'n., 79 F.3d 1415, 1428–29 (5th Cir. 1996).

SIGNED this 18th day of June, 2014.

Zack Hawthorn
United States Magistrate Judge

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SIGNED this 18th day of June, 2014.

Zack Hawthorn
United States Magistrate Judge