No. 23-

IN THE

Supreme Court of the United States

ANGELA WILLIAMS, JANE DOE #1,
AND JANE DOE #2,

Petitioners,

v.

JOSEPH LOMBARDO, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF NEVADA; AARON FORD, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF NEVADA; CITY OF LAS VEGAS, CLARK COUNTY; AND NYE COUNTY,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Petitioners were sex trafficked within Nevada's legalized prostitution system, and sued the businesses that trafficked them, and the government entities that licensed, incentivized, and profited from the businesses, alleging the defendants cooperated in Petitioners' exploitation. Nevada government entities require persons in the sex trade to be controlled by a licensed business (i.e., a pimp), permit them to be subjected to debt bondage in legal brothels and strip clubs, and profit from the sex trafficking that results through licensing fees and taxes – including a state tax on escort agencies and strip clubs.

Petitioners alleged that Respondents violated the Trafficking Victims Protection Act by benefiting from sex trafficking and the Thirteenth Amendment by enabling slavery. The district court determined that Petitioners stated a claim for sex trafficking against a brothel and for benefiting from trafficking against a strip club, but dismissed the government defendants, citing lack of causation for Article III standing. On appeal, the Ninth Circuit extended this Court's principle that independent third parties "not before the court" may break the causal chain, *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992), to include parties to the case, who are before the court, concluding on this basis that Petitioners' injuries from being trafficked by co-defendant sex trade businesses were not "fairly traceable" to government defendants.

The questions presented are:

1. In an Article III standing analysis, may co-defendants in a lawsuit, against whom a claim has been stated, be treated as independent third parties "not before the court" for purposes of determining traceability as to government actors?

2. Does Article III standing's traceability requirement exclude Section 1983 claims based on government actors enabling slavery and involuntary servitude in violation of the Thirteenth Amendment and benefiting from sex trafficking under the Trafficking Victims Protection Act?

PARTIES TO THE PROCEEDING

Petitioners, and plaintiffs-appellants below, are Angela Williams, Jane Doe 1, and Jane Doe 2.

Respondents, and defendants-appellees below, are Joseph Lombardo, in his official capacity as Governor of Nevada; Aaron Ford, in his official capacity as Attorney General of Nevada; the City of Las Vegas; Clark County; and Nye County.

CORPORATE DISCLOSURE STATEMENT

No petitioner is a corporation.

STATEMENT OF RELATED PROCEEDINGS

Williams v. Sisolak, 2:21-cv-01676-APG-VCF, U.S. District Court for the District of Nevada. Judgment entered on Nov. 7, 2022.

Williams v. Sisolak, No. 22-16859, U.S. Court of Appeals for the Ninth Circuit. Order entered on Dec. 7, 2023.

Williams v. Sisolak, No. 22-16859, U.S. Court of Appeals for the Ninth Circuit. Amended Order entered on Jan. 18, 2024.

There are no other proceedings in state or federal court, or in this Court, directly related to this case under Supreme Court Rule 14.1(b)(iii).

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JURISDICTION

The District Court issued its order dismissing the government defendants on July 18, 2022, and an order entering final judgment as to the government defendants and staying the remainder of the case pending appeal on November 7, 2022. App. 5a-28a, E.R. 139. The Ninth Circuit issued its opinion on December 5, 2023, and its order denying rehearing on January 18, 2024. App. 1a-4a, 29a-30a. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The relevant provisions of the Trafficking Victims Protection Act, 18 U.S.C. § 1591 and § 1595(a), are reproduced at App. 34a-37a. Article III, § 2 of the United States Constitution is reproduced at App. 31a. The Thirteenth Amendment, U.S. Const. amend. XIII, § 1, is reproduced at App. 33a. 42 U.S.C. § 1983 is reproduced at App. 32a.

STATEMENT OF THE CASE

A. Factual background

Petitioners Angela Williams, Jane Doe 1, and Jane Doe 2 alleged that Nevada state and local government entities colluded with private entities to facilitate and profit from a legalized prostitution system in violation of the Thirteenth Amendment and federal laws against sex trafficking. E.R. 126, 130.[1]

Angela Williams was sex trafficked in Nevada for over a decade, particularly within a legal escort agency at the hands of Defendant Jamal "Mally Mall" Rashid, a hip-hop producer, who was on the payroll of Las Vegas Metro Police while actively selling women, and who was convicted of federal prostitution offenses in 2021. E.R. 79-83. Rashid controlled Angela's ability to sleep or eat, and forced her to give him 100% of her earnings, using the money to fund his music business. E.R. 76, 79-81. Rashid's escort agency, Defendant V.I.P. Entertainment, was licensed by Defendant City of Las Vegas. E.R. 79.

Jane Doe 1 experienced homelessness and sexual abuse in her childhood, and was first trafficked in Nevada when she was fighting her abuser for custody of their children and attempting to earn money for housing and a lawyer. E.R. 85. Jane Doe #1 was eventually sex trafficked by Defendant Chicken Ranch, a legal brothel licensed by Defendant Nye County that employed debt bondage. E.R. 88-90. Nye County did not even ask Jane Doe 1 for an ID

1. "E.R." refers to the excerpts of the record Petitioners filed with the Ninth Circuit in appeal No. 22-16859.

when issuing her the required brothel license. E.R. 88. And Jane Doe 1 did not have a government ID, because a previous trafficker had confiscated it. E.R. 88.

Jane Doe 2 was bullied and sexually abused as a child, and traveled to Las Vegas believing she was going on vacation. E.R. 90. She was instead sex trafficked by Defendants Sapphire and Hustler, strip clubs licensed by Defendant Clark County. E.R. 90-97. On busy nights, the clubs would take more than half of what Jane Doe 2 made, after watching violent sex buyers rape Jane Doe 2 through their audio and video feeds. E.R. 96-97.

Nevada has legalized prostitution – explicitly in rural county brothels, and implicitly through "entertainment by referral service,"[2] escorting, and strip clubs throughout the state. E.R. 67-68; E.R. 72-73. Plaintiffs were sex trafficked – that is, induced to engage in commercial sex acts through force, fraud, and coercion – including psychological manipulation and debt bondage – within that legalized system.

Independent prostitution is forbidden; the prostituted person must be under the control of a licensed brothel, escort agency, or strip club. E.R. 68-72. The government defendants receive taxes and licensing fees from legal brothels, escort agencies, and strip clubs. E.R. at 74-75. Thus, the government requires, licenses, and shares profits with pimps.

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2. *See* NEV. REV. STAT. § 244.345(8)(a) ("Entertainer for an entertainment by referral service" means "a natural person who is sent or referred for a fee to a hotel or motel room, home or other accommodation by an entertainment by referral service for the purpose of entertaining the person located in the hotel or motel room, home or other accommodation.").

The State of Nevada allows, and local officials license, regulate, and tax brothels, including Chicken Ranch, E.R. 67-69; E.R. 88-90, despite the brothels openly engaging in practices that amount to debt bondage: locking women inside the brothels, not allowing them to leave for weeks at a time, taking 50% of fees charged sex buyers, charging the women additional severe fines, forcing women to live on the premises and pay the brothel for room and board, and subjecting them to STI testing. E.R. 69-70; E.R. 88-90. In Storey County, a county commissioner is the brothel owner, who directly regulates his own brothel. E.R. 68.

The State mandates the forcible, one-sided STI testing in brothel prostitution. E.R. 67. This regulation does not apply to sex buyers. E.R. 67. Jane Doe 1 was subjected to these mandatory medical exams weekly at her own expense while sex trafficked by Chicken Ranch. E.R. 89. Defendant Las Vegas also requires women to undergo STI testing for escort licenses. E.R. 70.

Defendants Las Vegas and Clark County license and tax escort agencies and strip clubs, including the ones that trafficked Angela Williams and Jane Doe 2. E.R. 70-72; E.R.75. Defendants Sapphire and Hustler strip clubs coerced Jane Doe 2 using debt – through various fees, extensive tipping requirements (even to use the restroom), and severe fines. E.R. 92-96. The State specifically taxes escort agencies and strip clubs based on fees charged sex buyers. E.R. 75.

B. Procedural background

1. Lawsuit background

Plaintiffs sued the legal businesses that trafficked them: Defendants Western Best, Inc. d/b/a Chicken Ranch; Western Best LLC; V.I.P. Entertainment, LLC; Jamal "Mally Mall" Rashid;[3] SHAC, LLC d/b/a Sapphire Gentlemen's Club and/or Sapphire; SHAC MT, LLC; and Las Vegas Bistro, LLC d/b/a Larry Flynt's Hustler Club (Sex Industry Defendants). E.R. 49-50.

Plaintiffs also sued the government officials that enabled, incentivized, and profited from the Sex Industry Defendants: the State, through the Nevada Governor and Attorney General (State Defendants), Clark County, the City of Las Vegas, and Nye County (Municipal Defendants) (collectively, Government Defendants). E.R. 49-50.

Under the Trafficking Victims Protection Act (TVPRA), sex trafficking occurs if there is a commercial sex act involving a person under age 18 or a person induced by force, fraud, or coercion. 18 U.S.C. § 1591. The TVPRA allows lawsuits against perpetrators or anyone who "knowingly benefits" from participating in what they knew or should have known was a sex trafficking venture. 18 U.S.C. § 1595(a).

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3. Plaintiffs also sued various other businesses connected to Rashid: Mally Mall Music, LLC; Future Music, LLC; PF Social Media Management, LLC; E.P. Sanctuary; Blu Magic Music, LLC; Exclusive Beauty Lounge, LLC; First Investment Property LLC; MP3 Productions, Inc.; and MMM Productions, Inc. E.R. 49-50.

Under the Thirteenth Amendment, which categorically abolishes all forms of slavery, U.S. Const. amend. XIII, § 1, states cannot create conditions that enable slavery or involuntary servitude to flourish, *see Bailey v. Alabama*, 219 U.S. 219, 227–28 (1911) (ruling that indirect state enabling of debt bondage through fraud statute was unconstitutional).

Plaintiffs alleged Thirteenth Amendment and TVPRA violations against each defendant, asserting third-party standing on behalf of persons still trafficked by licensed Nevada sex trade businesses, and seeking injunctive relief against the Government Defendants and damages against Municipal and Sex Industry Defendants.

2. District court proceedings

The Government Defendants, Chicken Ranch, and Sapphire filed motions to dismiss. E.R. 130-35. The district court ruled that Plaintiffs stated a claim for direct sex trafficking against Chicken Ranch based on its own practices, and against Sapphire for benefiting from sex trafficking based on sex buyer violence. App. 20a-25a.[4]

The district court ruled that Plaintiffs had not sufficiently alleged traceability for Article III standing as to the Government Defendants because independent third parties (illegal traffickers and sex buyers) interrupted the causal chain. App. 12a-15a.

4. V.I.P. Entertainment, Jamal Rashid, and their related businesses all defaulted and thus were not addressed in the ruling. E.R. 137. Hustler remains as a party in the case but has not yet responded to the First Amended Complaint. E.R. 133. Plaintiffs brought substantially the same allegations against Hustler as against Sapphire. E.R. 90-97.

The district court denied Plaintiffs' motion for interlocutory appeal, issued final judgment in favor of Government Defendants, and stayed the case, E.R. 139-40, which Plaintiffs appealed, E.R. 107.

3. The Ninth Circuit's opinion

The Ninth Circuit ruled that Plaintiffs failed to sufficiently allege Article III standing as to Government Defendants, treating co-defendants as independent third parties in its causation analysis, and interpreting traceability to exclude claims for enabling and benefiting from sex trafficking.

On appeal, Plaintiffs argued:

- Government Defendants directly injured them by monetizing their abuse and forcing Jane Doe 1 to undergo STI testing.

- Sex Industry Defendants, who directly injured Plaintiffs by sex trafficking them, are not independent third parties, but co-defendants.

- Finding no causation would contradict Ninth Circuit precedent on standing, especially as to finding traceability based on government action's predictable effects.

- Finding no causation would also undermine federal law, as the Thirteenth Amendment and TVPRA forbid enabling and profiting from slavery, which by definition involve third parties' bad acts.

- Plaintiffs were denied the benefit of the motion to dismiss standard, as the district court appeared to ignore almost all the specific facts they alleged against Government Defendants, including the requirement under Nevada law that women in prostitution must be controlled by pimps.

(Pl.'s Opening Br. at 31-68, Apr. 13, 2023, [ECF No. 9].)

Without referencing any of these arguments, the Ninth Circuit summarily affirmed the dismissal and denied Plaintiffs leave to amend, in a memorandum decision on December 7, 2023. App. 2a-4a. The Ninth Circuit took the principle that independent third parties "not before the court" can make decisions that may break the causal chain, *see Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61, and extended it to include parties to the case, who were before the court. App. 3a-4a. That is, the Ninth Circuit ruled that the co-defendants in this case break the chain of causation, even where a cause of action was successfully pled against them.

The memorandum opinion did not discuss any facts that Plaintiffs alleged or the nature of their claims, and agreed with the district court that Plaintiffs could not sue Government Defendants because their "injuries are the result of allegedly illegal third-party conduct in Nevada's commercial sex industry." App. 3a.[5] The court reasoned:

5. Notably, the panel did not apply or even mention the motion to dismiss standard, which requires the court to "accept as true all facts alleged in the complaint and draw all reasonable inferences in favor of the plaintiff." *In re Tracht Gut, LLC*, 836 F.3d 1146, 1150 (9th Cir. 2016) (internal citations omitted). The panel mentioned almost none of the specific facts Plaintiffs alleged, and

"While the government defendants have various roles in regulating that industry, the injuries plaintiffs suffered were allegedly inflicted by the "independent action[s]" of third parties . . . namely, the traffickers, escort agencies, strip clubs, and brothels who were also named in their complaint." App. 3a. The court concluded its analysis:

> When plaintiffs raise claims based on government action or inaction, they must sufficiently allege that government defendants' actions "exert[ ] a 'determinative or coercive effect' on the third-party conduct that directly causes the[ir] injury." *WildEarth Guardians v. United States Forest Serv.*, 70 F.4th 1212, 1217 (9th Cir. 2023) (quoting *Bennett v. Spea*r, 520 U.S. 154, 169 (1997)). Plaintiffs' allegations do not meet that standard, especially when by the allegations of the complaint certain third parties engaged in conduct that violated federal and state laws against sex trafficking.

App. 4a-5a.[6]

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even erroneously stated that Plaintiffs brought state law claims. No. 22-16859, 2023 WL 8469159, at *1 (9th Cir. Dec. 7, 2023), *amended on denial of reh'g*, No. 22-16859, 2024 WL 194180 (9th Cir. Jan. 18, 2024).

6. With this statement, the Ninth Circuit also contravened the motion to dismiss standard by drawing inferences against the plaintiffs. Claiming that Plaintiffs had not sufficiently alleged causation against Government Defendants because the third parties they regulate were breaking the law is question-begging: it directly contradicts Plaintiffs' allegations that Government Defendants were *themselves* breaking the law by colluding with Sex Industry Defendants. *Compare* App. 3a-4a *with* E.R. 50-51.

Plaintiffs requested rehearing en banc, arguing that the decision conflicted with this Court, the Ninth Circuit, and every other federal circuit's precedents. Petition for R'hing, *Williams v. Sisolak*, No. 22-16859 (9th Cir. 2023). The Ninth Circuit denied rehearing *en banc* on January 18, 2024.[7] App. 29a-30a.

REASONS FOR GRANTING THE PETITION

Under the Ninth Circuit's heightened causation standard, a trafficking victim has no recourse to sue the state or local governments, regardless of how extensively their conduct facilitates the abuse, since there will always be at least one third-party bad actor in any sex trafficking enterprise. This result frustrates Congress's intent in the TVPRA, as well as the Thirteenth Amendment's purpose, by categorically excluding these cases and controversies against government defendants.

The petition for certiorari should be granted because I) the panel's decision created a new, heightened traceability requirement that directly conflicts with this Court's precedent, II) there is a circuit split on whether the traceability rule permits sex trafficking beneficiary claims, and this case is a good vehicle for resolving the question; and III) whether Article III standing forecloses Section 1983 claims based on government actors facilitating and benefiting from sex trafficking is a matter of national importance.

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7. The en banc denial amended the opinion slightly to correct the line that referenced state law claims. App. 29a-30a.

I. The panel's decision created a new, heightened traceability requirement that directly conflicts with this Court's precedent.

This Court has held that to establish constitutional standing, Plaintiffs must show three elements: an injury in fact that is 1) "concrete and particularized" and "actual or imminent, not conjectural or hypothetical"; 2) "fairly traceable" to the defendant's "challenged action," and "not the result of the independent action of some third party not before the court"; and 3) redressable "by a favorable decision." *Lujan,* 504 U.S. at 560–61 (cleaned up). At the motion to dismiss stage, Plaintiffs' burden as to causation and redressability is "relatively modest[.]" *Bennett v. Spear*, 520 U.S. 154, 171(1997).

Plaintiffs must allege more where independent third parties' actions have a significant effect on their injuries; this is fundamentally a concern about speculation. If causation depends on "the unfettered choices made by independent actors not before the courts and whose exercise of broad and legitimate discretion the courts cannot presume either to control or to predict," then it is the plaintiff's burden "to adduce facts showing that those choices have been or will be made in such manner as to produce causation." *Lujan*, 504 U.S. at 562 (cleaned up).

The Ninth Circuit's ruling conflicts with these precedents on two fronts. First, the Ninth Circuit extended the rule to co-defendants, who are by definition parties to the case and are before the court. Plaintiffs sued their direct traffickers, the Sex Industry Defendants, not independent third-party actors. Courts are not forced to speculate about parties' actions.

And by acknowledging that Plaintiffs were injured by the escort agencies, brothel, and strip clubs, the Ninth Circuit ruled that co-defendants who directly caused the relevant injuries somehow break the causal chain.[8] The ruling was not based on the inadequacy of specific allegations against the Government Defendants but on the mere fact of Plaintiffs' injuries at the co-defendants' hands. The Ninth Circuit created a heightened traceability standard that defies this Court's precedent and is thus incorrect as a matter of law.

By treating co-defendants' actions as the actions of independent third parties not before the court, the panel's decision is also at odds with every other federal circuit. *See, e.g., Wiener v. MIB Grp., Inc.*, 86 F.4th 76, 84 (1st Cir. 2023) (cleaned up)("The causation prong requires that the plaintiff's injury be fairly traceable to the defendant's conduct, rather than the result of "independent action" by some other party not before the court."); *Missouri v. Biden*, 83 F.4th 350, 369 (5th Cir. 2023), *cert. granted sub nom. Murthy v. Missouri*, No. 23-411, 2023 WL 6935337 (U.S. Oct. 20, 2023) (cleaned up) ("When, as is alleged here, the causal relation between the claimed injury and the challenged action depends upon the decision of an independent third party ... standing is not precluded, but it is ordinarily substantially more difficult to establish."); *Producers of Renewables United for Integrity Truth & Transparency v. Env't Prot. Agency*, No. 19-9532, 2022 WL 538185, at *7–8 (10th Cir. Feb. 23, 2022) (cleaned up) (causation concerns whether the "injury can be traced to

8. Plaintiffs are not suing to redress injuries inflicted by illegal, independent traffickers, only those committed by the Sex Industry Defendants in this case.

the defendant's challenged conduct, rather than to that of some other actor not before the court."); *J.B. v. Woodard*, No. 20-1212, 2021 WL 1903214 (7th Cir. May 12, 2021), *reh'g denied* (May 27, 2021) (cleaned up) (defendant's actions "need not be the very last step in the chain of causation," if the injury is "fairly traceable" to the defendant and "the independent action of some third party not before the court."); *In re SuperValu, Inc.*, 870 F.3d 763, 772 (8th Cir. 2017) (cleaned up) (causation concerns whether the injury results from the "independent action of some third party not before the court."); *Galaria v. Nationwide Mut. Ins. Co.*, 663 F. App'x 384, 390 (6th Cir. 2016) (cleaned up) (traceability excludes "cases in which a third party and not a party before the court causes the injury."); *Chevron Corp. v. Donziger*, 833 F.3d 74, 121 (2d Cir. 2016) (cleaned up) (causation is about whether the "injury could have been a consequence" of the defendant's actions "rather than…independent acts of some other person not before the court."); *Strickland v. Alexander*, 772 F.3d 876, 885 (11th Cir. 2014)(cleaned up) (causation must connect the injury to the defendant and is not satisfied if "the injury results instead from the independent action of some third party not before the court."); *Frank Krasner Enterprises, Ltd. v. Montgomery Cnty., MD*, 401 F.3d 230, 234–35 (4th Cir. 2005) ("We have…denied standing because the actions of an independent third party, who was not a party to the lawsuit, stood between the plaintiff and the challenged actions."); *Intell. Prop. Dev., Inc. v. TCI Cablevision of California, Inc.*, 248 F.3d 1333, 1346 (Fed. Cir. 2001) (cleaned up) (causation cannot generally be based on "the independent action of some third party not before the court"); *Fla. Audubon Soc. v. Bentsen*, 94 F.3d 658, 669–70 (D.C. Cir. 1996) (cleaned up) (causal links "presume certain independent actions of some third party not before this court.").

Second, the Ninth Circuit compounded its error by treating the independent third-party principle as an automatic or absolute bar to causation (unless the defendant forced the third party to commit the injurious act), misconstruing *Bennett*.

The Ninth Circuit relied on *WildEarth Guardians,* 70 F.4th at 1217, quoting *Bennett,* 520 U.S. at 169, to determine: "When plaintiffs raise claims based on government action or inaction, they must sufficiently allege that government defendants' actions exert a determinative or coercive effect on the third-party conduct that directly causes their injury." App. 3a-4a (cleaned up).

But this mischaracterizes this Court's rule in *Bennett*, which says that government action's coercive effect is *a* way to establish causation, not the *only* way. Indeed, *Bennett* emphasizes that the traceability requirement at the motion to dismiss stage is "relatively modest," and states that a defendant's actions need not be "the very last step in the chain of causation" to establish traceability, and while it "does not suffice if the injury complained of is the result of the *independent* action of some third party not before the court, that does not exclude injury produced by determinative or coercive effect upon the action of someone else." *Id. at* 168–69, 171 (emphasis in original) (cleaned up).

This Court has, in subsequent cases, made it clear that showing government action's predictable – not just determinative or coercive – effects on independent third parties suffices for causation.

For example, this Court held that causation was established in a case challenging a census question about citizenship. *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2565–66 (2019). Plaintiffs sued the federal government, alleging that the citizenship question would chill participation in the census, even though it was illegal for the federal government to penalize a person for their answer to a citizenship question, and it was illegal for a person to refuse to participate in the census. *Id.* at 2565–66. This Court stated in relevant part:

> [W]e are satisfied that, in these circumstances, respondents have met their burden of showing that third parties will likely react in predictable ways to the citizenship question, even if they do so unlawfully and despite the requirement that the Government keep individual answers confidential. The evidence at trial established that noncitizen households have historically responded to the census at lower rates than other groups, and the District Court did not clearly err in crediting the Census Bureau's theory that the discrepancy is likely attributable at least in part to noncitizens' reluctance to answer a citizenship question. Respondents' theory of standing thus does not rest on mere speculation about the decisions of third parties; it relies instead on the predictable effect of Government action on the decisions of third parties.

Id. at 2565–66 (internal citations omitted).

Relatedly, this Court has also said that it is reluctant to speculate "about the decisions of independent actors," unless the plaintiff shows "third parties will likely react in predictable ways." *California v. Texas*, 141 S. Ct. 2104, 2117 (2021) (cleaned up).

Based on these cases, even if the Sex Industry Defendants had not been named as co-defendants in this case and were independent third parties, Plaintiffs would not be required to allege that the Government Defendants coerced the third-party actions to establish traceability, as this Court's precedent states that causation is a "relatively modest" requirement at the motion to dismiss stage, and can be shown by alleging government decisions' predictable effects on third parties.

And Plaintiffs here sufficiently alleged that Sex Industry Defendants reacted in predictable ways to Government Defendants' legalized prostitution system: for example, Government Defendants force women in the sex trade to associate with pimps for licensure, E.R. 68-72, virtually guaranteeing they will be trafficked (i.e., subjected to force, fraud, or coercion). That is, legally mandated pimp control predictably leads to control by pimps.

Moreover, the Ninth Circuit's opinion also completely ignored Plaintiffs' allegations that the Government Defendants injured Jane Doe 1 directly. Plaintiffs alleged that the State mandated, and Nye County enforced, forced STI examinations to which Jane Doe 1 was subjected. ER-67 (citing Nev. Admin. Code § 441A.800). This is a government-specific injury, as it is a government requirement. So even under the heightened standard in

the Ninth Circuit's ruling, the State and Nye County's actions, at least, had a clear determinative and coercive effect on the testing regime.

By extending the definition of causation to exclude even contributory harm from other co-defendants, and by not considering the predictable effects of Government Defendants' actions, the panel impermissibly contravened this Court's precedent, imposing an improper and higher causation standard on Plaintiffs. This blatant defiance of an established rule merits summary reversal.

Petitioners wish to briefly address the memorandum's unpublished status. This Court has reviewed and reversed multiple unpublished decisions where there was a clear error. *See, e.g.*, *Comm'r v. McCoy*, 484 U.S. 3, 7 (1987) (reversing unpublished Sixth Circuit decision per curiam) ("We note in passing that the fact that the Court of Appeals' order under challenge here is unpublished carries no weight in our decision to review the case."); *Felkner v. Jackson*, 562 U.S. 594, 597-98 (2011) (per curiam reversal of two-paragraph Ninth Circuit unpublished memorandum opinion that neglected to include specific facts or reasoning beyond summarizing the "basic background legal principles" involved in civil rights case);

The Ninth Circuit's memorandum was only four paragraphs, and mostly devoted to summarizing the rules, rather than analyzing them, and gave Plaintiffs no meaningful guidance on how to proceed.

The decision's brevity and opacity, combined with its designation as unpublished – despite the novel legal questions and serious constitutional rights violations

at issue – appears to be judicial obfuscation to make it difficult to get the decision reviewed. As Justice Stevens stated in a dissent from denial of certiorari: "The fact that the Court of Appeals' opinion is unpublished is irrelevant. Nonpublication must not be a convenient means to prevent review. An unpublished opinion may have a lingering effect in the Circuit and surely is as important to the parties concerned as is a published opinion." *Smith v. United States*, 502 U.S. 1017, 1020 (1991) (Stevens, J., dissenting from denial of certiorari).

Particularly given the rights at issue and the Ninth Circuit's departure from this Court's precedent, the ruling merits review despite its unpublished memorandum status.

II. There is a circuit split on whether the traceability rule permits sex trafficking beneficiary claims, and this case is a good vehicle for resolving the question.

The TVPRA provides for civil liability for traffickers and those who benefit from participating in what they know or should know is trafficking, 18 U.S.C. § 1595(a), meaning a person or an entity can be liable for enabling and profiting from sex trafficking, even without directly causing the injury. That is, Section 1595 anticipates that trafficking victims can be injured by complicit persons, not just perpetrators. *Compare* 18 U.S.C. § 1595(a) *with* 18 U.S.C. § 1591.

There is a circuit split on whether independent third parties' uncoerced actions break the causal chain for TVPRA beneficiary liability claims. In a recent decision, the D.C. Circuit addressed this issue, responding to

arguments from defendants in a trafficking case that forced labor violations by other, non-party actors in the supply chain destroyed causation. *Doe 1 v. Apple Inc.*, 96 F.4th 403, 405-12 (D.C. Cir. 2024).

The lawsuit was against technology companies for benefiting from labor trafficking in Congolese mines. The companies bought cobalt from foreign firms, who obtained the cobalt from their DRC subsidiaries, and the subsidiaries acquired some cobalt mined via labor trafficking through various informal sources. *Id.* at 405-12.

The court ruled that even though numerous intermediaries – including mining subsidiaries and persons in the informal mining sector – were in the alleged causal chain, Plaintiffs sufficiently alleged traceability for labor trafficking as to the technology companies. *Id.* at 405-12.

Although the technology companies, who purchased cobalt that had been mined through labor exploitation, were at the end of a complex causal chain, the court found that the TVPRA creates a statutory causal chain, and plaintiffs had sufficiently alleged that the technology companies' conduct fell within the statute. *Id.* at 410-12.

The court stated:

> The Tech Companies in essence respond that, even if forced labor in the DRC is in some loose sense traceable to the Companies' involvement in the supply chain, the TVPRA's indirect liability for participation in a venture falls below the "fair traceability" floor of Article III

> standing. . . in the TVPRA Congress recognized a causal link between the injury of forced labor and actors who indirectly facilitate it. . . there is still a "fairly traceable" link between miners and the Tech Companies sufficient for Article III standing.

Id. at 412.

By contrast, the Ninth Circuit in this case had before it an even more direct causal chain, yet found that there was no traceability. App. 2a-4a. Given that the relevant injuries include benefiting from sex trafficking, the relevant causal chain necessarily concerns those injuries. The Ninth Circuit failed to even mention the TVPRA, let alone follow the causal chain found within the text of the TVPRA, and ruled that Article III's traceability prong effectively bars TVPRA beneficiary liability claims altogether.

And unlike the Apple case, where only the technology companies were defendants, and unnamed local actors were the ones actually engaging in the forced labor, *id.* at 411, in this case Petitioners alleged that Government Defendants facilitated and profited from the Sex Industry Defendants' direct sex trafficking, without any intermediaries.

The D.C. Circuit case was decided a few weeks after the Ninth Circuit's decision, suggesting that this is an issue likely to reoccur. This case is a good vehicle for resolving the split, not only because the Ninth Circuit reached a contradictory conclusion, but because it did so in the face of a simpler, less speculative causal chain than the one in *Apple*, *supra,* particularly as this lawsuit includes

both the direct traffickers and government beneficiaries as defendants.

Notably, unpublished decisions may contribute to a circuit split. *See Hall St. Assocs., L.L.C. v. Mattel, Inc.*, 552 U.S. 576, 583, 583 n.5 (2008) (internal citations omitted) (noting that the circuits had split over an issue, and that the Fourth Circuit took one "side of the split in an unpublished opinion."). And here, the Ninth Circuit has not addressed this particular causation issue in a published decision.

Because the D.C. and Ninth Circuits have split on whether Article III standing's traceability requirement excludes TVPRA beneficiary liability claims, the issue merits this Court's review.

III. Whether Article III standing forecloses Section 1983 claims based on government actors enabling and benefiting from sex trafficking is a matter of national importance.

The Ninth Circuit's decision, by ruling that co-defendants' contributing to the harm at issue destroys causation, effectively prevents victims from vindicating federal statutory and constitutional rights regarding their right to be free from slavery. The ruling categorically excludes claims against government actors for benefiting from trafficking under the TVPRA and from enabling slavery or involuntary servitude under the Thirteenth Amendment. This issue is thus one of national importance.

A. The Ninth Circuit's rule forecloses TVPRA beneficiary claims.

The TVPRA is a federal statute designed to secure and vindicate a fundamental constitutional right: to be free from slavery and involuntary servitude. 18 U.S.C. § 1589 et seq. When Congress first passed the TVPRA, it codified its purpose, noting that trafficking in persons was a "contemporary manifestation of slavery," and included persons trafficked in the sex industry, "predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services." 22 U.S.C. § 7101(a); (b)(1)-(2). Congress also emphasized the role of collusion in trafficking persons, stating that the crime was often committed by "organized, sophisticated criminal enterprises" aided by government corruption, thus "threatening the rule of law." 22 U.S.C. § 7101(b)(8). *See also* 22 U.S.C. § 7101(b)(16) (noting that governments may facilitate trafficking by "indifference, by corruption, and sometimes even by official participation[.]").

Finally, Congress, remarking that the Declaration of Independence "recognizes the inherent dignity and worth of all people," in its understanding of "inalienable rights," affirmed the TVPRA's significance:

> The right to be free from slavery and involuntary servitude is among those unalienable rights. Acknowledging this fact, the United States outlawed slavery and involuntary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and trafficking of women and children

> are similarly abhorrent to the principles upon which the United States was founded.

22 U.S.C. § 7101(b)(22).

This Court has already acknowledged that the TVPRA creates a cause of action for those indirectly involved with slavery, recognizing that Congress initially passed the TVPRA to "impose[] criminal liability for human trafficking." *Nestle USA, Inc. v. Doe*, 593 U.S. 628, 638 (2021) (internal citations omitted). This Court noted that Congress next added a private right of action for lawsuits against perpetrators, and then "created the present private right of action, allowing plaintiffs to sue defendants who are involved indirectly with slavery." *Id. a*t 638 (internal citations omitted).

Yet the Ninth Circuit's rule operates to bar beneficiary liability altogether, i.e., those who are involved indirectly. Third parties are always present in trafficking in persons (especially where, as plaintiffs have alleged here, the trafficking is widespread and systemic). For example, the rapes perpetrated by sex buyers are the primary source of sexual assault and other violence in the sex trade, *see* E.R.75-97, so numerous third parties' independent decisions (to buy sexual access) are always present in sex trafficking. Survivors would be unable to vindicate their rights if the presence of more than one actor contributing to the violation destroyed causation, especially in situations where the third parties are either too numerous or too dangerous to sue.

And, per the Ninth Circuit's ruling, if even a co-defendant's contribution to the relevant injury breaks

the causal chain, a plaintiff could never have Article III standing against a beneficiary of sex trafficking, even if that plaintiff also sued the direct perpetrator. This would categorically undercut accountability not only for complicit government actors, but even – beyond this case—for private violators.[9] Such a result profoundly undermines the TVPRA's purpose.

Plaintiffs stated a cause of action against Defendants Chicken Ranch and Sapphire despite unnamed third parties also contributing to some injuries (illegal traffickers and numerous sex buyers). *See* App. at 20a-25a. And Plaintiffs alleged that the Government Defendants knowingly profited from what a federal court has already said was trafficking. The Ninth Circuit's rule prevents Plaintiffs from having standing to prove an otherwise validly stated claim for a TVPRA beneficiary violation.

Congress created a statutory right (recovery from injury when someone benefitted from sex trafficking) to vindicate a constitutional right (to be free from slavery). But the Ninth Circuit's rule would make profiting from sex trafficking almost non-actionable, directly thwarting § 1595(a)'s purpose, and effectively nullifying beneficiary liability under it. Particularly given the massive, ongoing nationwide litigation over beneficiary liability in various lawsuits, this presents a question of national importance.

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9. Under the Ninth Circuit's rule, it seems the only possible TVPRA claims against government actors would require a virtually impossible scenario: where government actors – without acting in concert with anyone else – directly sex trafficked victims.

B. The Ninth Circuit's rule forecloses Thirteenth Amendment claims based on government actors' enabling slavery.

Whether Plaintiffs have sufficiently alleged causation for Section 1983 claims against government actors under the Thirteenth Amendment is also a question of national importance. Plaintiffs alleged that government defendants violated the Thirteenth Amendment, by creating conditions that allowed slavery and involuntary servitude in the form of sex trafficking to flourish. E.R. 51, 66-75, 98-99. Plaintiffs alleged private business and government actors colluded together to violate their fundamental rights, which is squarely within Section 1983's scope. *Compare* E.R. 51, 66-75, 99-10; *with* 42 U.S.C. § 1983.

The Thirteenth Amendment categorically abolishes slavery in all its forms. U.S. Const. amend. XIII, § 1. As this Court said in *Jones*: "By its own unaided force and effect, the Thirteenth Amendment abolished slavery, and established universal freedom." *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, 439 (1968) (citing *Civil Rights Cases*, 109 U.S. 3, 20 (1883)) (internal citations and quotation marks omitted). It also has been interpreted to invalidate state laws that permitted or encouraged slavery or involuntary servitude indirectly. *See Bailey,* 219 U.S. at 227–28 (holding that a facially neutral criminal fraud statute violated the Thirteenth Amendment because it indirectly enabled coerced labor.). Additionally, given the prevalence of sex trafficking within antebellum slavery, *see* E.R. 57-59, the Thirteenth Amendment is intended to apply to enabling sex trafficking.

The Thirteenth Amendment, unlike other constitutional rights, is not just a restriction on government behavior; it requires affirmative action from government entities: when it was ratified, independent, private actors were a constant threat to newly freed people, and states could be held responsible for not controlling them. *See* Neal Kumar Katyal, Men Who Own Women: A Thirteenth Amendment Critique of Forced Prostitution, 103 Yale L.J. 791, 817, 820–22 n.171-175 (1993) (internal citations omitted).

Had there been a rule that private third-party involvement destroyed standing, regardless of what state actors did to facilitate or collude with it, the Amendment would have been dead on arrival, because states were often the enablers of private parties' Thirteenth Amendment violations, such as employers who subjected people to debt bondage under the cover of contract law. *See e.g., Taylor v. State of Ga.*, 315 U.S. 25, 29 (1942) ("The necessary consequence is that one who has received an advance on a contract for services which he is unable to repay is bound by the threat of penal sanction to remain at his employment until the debt has been discharged. Such coerced labor is peonage."); *Bailey,* 219 U.S. at 244–45) (internal citations omitted) ("What the state may not do directly it may not do indirectly. . . Without imputing any actual motive to oppress, we must consider the natural operation of the statute here in question . . . and it is apparent that it furnishes a convenient instrument for the coercion which the Constitution and the act of Congress forbid [.]").

But under the Ninth Circuit's rule, regardless of whether a government creates conditions that enable slavery to flourish, as long as one person takes advantage of those conditions, the government can never be sued.

This is an absurd result. The Ninth Circuit has placed the traceability bar so high that government enabling of slavery is always foreclosed. The panel's ruling undermines any Section 1983 lawsuit where the government encourages and even profits but stops short of directly committing or coercing the bad acts.

The practical problem is that any human rights abuse that is systemic or entrenched is likely to have state protection on some level – and yet that is exactly the kind of suit this decision bars. Trafficking in persons, including both sex trafficking and labor trafficking, is generally how slavery manifests today. Plaintiffs alleged that those tasked with protecting the right to be free from slavery in Nevada are complicit in that's right's violation: if they cannot be sued, no recourse exists for victims. Slavery is effectively decriminalized where governments encourage, allow, and profit from it.

This ruling thus severely diminishes accountability of state and local officials for constitutional rights violations, which is a matter of national importance. Certiorari may be granted to correct errors that implicate constitutional rights. *See Fellers v. United States*, 540 U.S. 519, 523-35 (2004) (certiorari granted to correct circuit court error about Sixth Amendment violation); *Am. Tradition P'ship, Inc. v. Bullock*, 567 U.S. 516, 516-17 (2012) (per curiam opinion reversing state supreme court ruling that obviously unconstitutional political expenditure state law was constitutional).

Given the imbalances of power and the relatively few legal challenges to sex trafficking within Nevada's legalized prostitution system, even an unpublished memorandum decision can have a chilling, preclusive

effect: it is significant even if it is not precedential. It is certainly being referenced and cited as though it is precedent by Nevada counties (including the county with a commissioner who is also a brothel owner) in a lawsuit against them, licensed brothels, and the State. *See* Nye, Elko, and Storey Counties' Motion to Dismiss, *Doe v. Lombardo*, No. 3:24-cv-00065 at 3-4 (Feb. 25, 2024). Particularly, given that Plaintiffs were denied en banc review, on a constitutional issue of this magnitude, correction is merited.

Thus, the Ninth Circuit's standing decision presents issues of national importance because it prevents victims from bringing Section 1983 claims against government actors for facilitating and profiting from sex trafficking.

CONCLUSION

For the foregoing reasons this Court should grant the petition.

Respectfully submitted,

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APPENDIX

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APPENDIX A — AMENDED MEMORANDUM OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, FILED JANUARY 18, 2024

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 22-16859

D.C. No. 2:21-cv-01676-APG-VCF

ANGELA WILLIAMS; *et al.*,

Plaintiffs-Appellants,

v.

STEVE SISOLAK, GOVERNOR OF NEVADA, IN HIS OFFICIAL CAPACITY; *et al.*,

Defendants-Appellees,

and

JAMAL RASHID; *et al.*,

Defendants,

RUSSELL G. GREER,

Intervenor-Defendant.

Appeal from the United States District Court
for the District of Nevada
Andrew P. Gordon, District Judge, Presiding

Submitted December 5, 2023*
San Francisco, California

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* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Appendix A

AMENDED MEMORANDUM[**]

Before: S.R. THOMAS and BRESS, Circuit Judges, and EZRA,[***] District Judge.

Plaintiffs appeal the district court's dismissal of their claims against Nevada state and local officials for abuse plaintiffs allegedly suffered in Nevada's commercial sex industry. The district court determined that plaintiffs lacked Article III standing to assert these claims against the government defendants. We review the district court's grant of a motion to dismiss and questions of Article III standing de novo. *Manzarek v. St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1030 (9th Cir. 2008); *City & Cnty. of S.F. v. Garland*, 42 F.4th 1078, 1084 (9th Cir. 2022). We review the denial of leave to amend for abuse of discretion. *Garmon v. Cnty. of L.A.*, 828 F.3d 837, 842 (9th Cir. 2016). We have jurisdiction under 28 U.S.C. § 1291. We affirm.

To establish Article III standing, plaintiffs must allege "(i) that [they] suffered an injury in fact that is concrete, particularized, and actual or imminent; (ii) that the injury was likely caused by the defendant; and (iii) that the injury would likely be redressed by judicial relief." *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2203, 210 L. Ed. 2d 568 (2021) (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61, 112 S. Ct. 2130, 119 L. Ed. 2d 351

** This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

*** The Honorable David A. Ezra, United States District Judge for the District of Hawaii, sitting by designation.

(1992)). The second element, traceability, is at issue here. To meet that requirement, plaintiffs must allege that their injuries are "fairly traceable" to the defendants' conduct and "not the result of the independent action of some third party not before the court." *Namisnak v. Uber Techs., Inc.*, 971 F.3d 1088, 1094 (9th Cir. 2020) (quoting *Lujan*, 504 U.S. at 561). Although this does not require a showing of proximate cause, it does require plaintiffs to "establish a 'line of causation' between defendants' action and their alleged harm that is more than 'attenuated.'" *Maya v. Centex Corp.*, 658 F.3d 1060, 1070 (9th Cir. 2011) (quoting *Allen v. Wright*, 468 U.S. 737, 757, 104 S. Ct. 3315, 82 L. Ed. 2d 556 (1984)). Particularly relevant here, "[i]n cases where a chain of causation 'involves numerous third parties' whose 'independent decisions' collectively have a 'significant effect' on plaintiffs' injuries, the Supreme Court and this court have found the causal chain too weak to support standing at the pleading stage." *Id.*

The district court correctly concluded that plaintiffs lack Article III standing to sue the government defendants because plaintiffs' injuries are the result of allegedly illegal third-party conduct in Nevada's commercial sex industry. While the government defendants have various roles in regulating that industry, the injuries plaintiffs suffered were allegedly inflicted by the "independent action[s]" of third parties, *Lujan*, 504 U.S. at 560—namely, the traffickers, escort agencies, strip clubs, and brothels who were also named in their complaint. Plaintiffs' allegations are therefore insufficient to support traceability under Article III. *See id.* When plaintiffs raise claims based on government action or inaction,

they must sufficiently allege that government defendants' actions "exert[] a 'determinative or coercive effect' on the third-party conduct that directly causes the[ir] injury." *WildEarth Guardians v. United States Forest Serv.*, 70 F.4th 1212, 1217 (9th Cir. 2023) (quoting *Bennett v. Spear*, 520 U.S. 154, 169, 117 S. Ct. 1154, 137 L. Ed. 2d 281 (1997)). Plaintiffs' allegations do not meet that standard, especially when by the allegations of the complaint certain third parties engaged in conduct that violated federal and state laws against sex trafficking.

The record does not support plaintiffs' assertions that the district court failed to consider all their allegations. Nor did the district court abuse its discretion in denying leave to amend because amendment as to the government defendants would have been futile. *See Bonin v. Calderon*, 59 F.3d 815, 845 (9th Cir. 1995) ("Futility of amendment can, by itself, justify the denial of a motion for leave to amend.").

AFFIRMED.

APPENDIX B — ORDER OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA, DATED JULY 18, 2022

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Case No.: 2:21-cv-01676-APG-VCF

ANGELA WILLIAMS, *et al.*,

Plaintiffs,

v.

STEVE SISOLAK, *et al.*,

Defendants.

July 18, 2022, Decided
July 18, 2022, Filed

ANDREW P. GORDON, UNITED STATES DISTRICT JUDGE

ORDER ON MOTIONS TO DISMISS, STRIKE, AND INTERVENE
[ECF Nos. 53, 95, 98, 105, 133, 164, 168]

Plaintiffs Angela Williams, Jane Doe #1, and Jane Doe #2 (collectively, the plaintiffs) sue 20 defendants, alleging violations of the Thirteenth Amendment and the Trafficking Victims Protection Reauthorization

Act (TVPRA). The plaintiffs' claims arise from their experiences as victims of human trafficking that they contend were facilitated by Nevada's system of legal prostitution. Four motions to dismiss,[1] two motions to strike, and one motion to intervene are pending. I grant in part three motions to dismiss, I deny as moot the remaining motion to dismiss and the motions to strike, and I deny the motion to intervene.

I. BACKGROUND

The plaintiffs divide the defendants into five groups for ease of reference: (1) "State Defendants;" (2) "City Defendants;" (3) "Escort Agency Defendants;" (4) "Strip Club Defendants;" and (5) "Brothel Defendants." *Id.* at 5-6, 8-9. The State Defendants are Nevada Governor Steve Sisolak and Nevada Attorney General Aaron Ford, both sued in their official capacities. *Id.* at 5. The City Defendants are the City of Las Vegas, Clark County, and Nye County. *Id.* at 6. The Escort Agency Defendants are Jamal Rashid; Mally Mall Music, LLC; Future Music, LLC; PF Social Media Management, LLC; E.P. Sanctuary; Blu Magic Music, LLC; Exclusive Beauty Lounge, LLC; First Investment Property LLC; V.I.P. Entertainment, LLC; MP3 Productions, Inc.; and MMM Productions, Inc. *Id.* at 8. The Strip Club Defendants are SHAC, LLC doing business as Sapphire Gentleman's Club; SHAC MT, LLC; and Las Vegas Bistro doing business as Larry Flynt's Hustler Club. *Id.* The Brothel Defendants are Western

1. The first of these motions to dismiss was filed as a motion to strike the plaintiffs' First Amended Complaint or, in the alternative, to dismiss. *See* ECF No. 53.

Best LLC and Western Best, Inc. doing business as the Chicken Ranch. *Id.* at 9. The plaintiffs refer to the Escort Agency, Strip Club, and Brothel Defendants collectively as the "Sex Industry Defendants." *Id.*

Williams alleges that when she was 17 years old, non-party Andre McDaniels trafficked her in Houston. *Id.* at 27-28. She alleges that from 2006 to 2017, her victimization continued in Nevada, California, Illinois, and Texas under the control of another trafficker, defendant Jamal Rashid, and his affiliates, the Escort Agency Defendants. *Id.* at 27, 34. Her ordeal in Nevada also included being trafficked "through the strip club[] . . . Sapphire [Gentleman's Club]," which is one of the Strip Club Defendants. *Id.* at 35.

Jane Doe #1 alleges that she was trafficked from a young age. *Id.* at 37. While she does not specify where her trafficking began, a family member eventually "induced her to travel to Las Vegas" where multiple non-party pimps trafficked her from 2013 to 2018. *Id.* at 37-38. During this period, she was also trafficked in New York, New Jersey, Colorado, Oregon, Texas, New Mexico, California, Oklahoma, Arizona, and Georgia. *Id.* at 38. At some point, she "became engaged in legal brothel prostitution at the Chicken Ranch while being pimped by" non-party traffickers. *Id.* at 40. She further alleges that the Chicken Ranch, a Brothel Defendant, subjected her to debt bondage in the course of her employment. *Id.* at 41-42.

Jane Doe #2 claims that she was trafficked in Houston from the age of 18. *Id.* at 42. Eventually, she travelled to

Las Vegas where a series of non-party pimps trafficked her through Sapphire Gentleman's Club and Larry Flynt's Hustler Club, both Strip Club Defendants. *Id.* at 42-43. She contends that the Strip Club Defendants, like the Brothel Defendants, engaged in a form of debt bondage and were complicit in sexual abuses by clients. *Id.* at 46-48. Jane Doe #2's ordeal in Nevada spanned from March 2017 to September 2018. *Id.* at 42.

The plaintiffs allege that different subgroups of Sex Industry Defendants perpetrated and benefited from their trafficking in violation of the Thirteenth Amendment and the TVPRA. *See generally id.* While the plaintiffs were separately trafficked and their ordeals relative to one another were distinct, they contend that these experiences are collectively attributable to Nevada's system of legalized prostitution because "legal trade correlates with exponential increases in the illegal trade." *Id.* at 18. Given this alleged correlation, the plaintiffs assert the same Thirteenth Amendment and TVPRA claims against the State and City Defendants, seeking a declaration that Nevada's system of legal prostitution is unconstitutional, and seeking to enjoin that system. *Id.* at 3, 54.

Seven motions are pending. Clark County moves to strike the First Amended Complaint or, in the alternative, to dismiss. ECF No. 53. Its motion is joined by the remaining City Defendants, the State Defendants, and the Brothel Defendants. ECF Nos. 58; 69; 71; 99. The Brothel Defendants, Strip Club Defendants SHAC, LLC and SHAC, MT LLC (collectively, the Sapphire Club), and the State Defendants move separately to dismiss. ECF Nos.

98; 133; 168. The plaintiffs move to strike excess pages in Clark County's reply to their opposition to its motion to dismiss. ECF No. 95. Clark County moves to strike three errata filed by the plaintiffs to add the language "oral argument requested" to each of their first three briefs opposing dismissal. ECF No. 164. Finally, Russell G. Greer moves to intervene as a defendant. ECF No. 105.

II. ANALYSIS

A properly pleaded complaint must provide a "short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007). While Rule 8 does not require detailed factual allegations, it demands more than "labels and conclusions" or a "formulaic recitation of the elements of a cause of action." *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009) (quotation omitted). The complaint must set forth coherently "who is being sued, for what relief, and on what theory, with enough detail to guide discovery." *See McHenry v. Renne*, 84 F.3d 1172, 1178 (9th Cir. 1996). "Factual allegations must be enough to raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555. To survive a motion to dismiss, a complaint must "contain sufficient factual matter . . . to state a claim to relief that is plausible on its face." *Iqbal*, 556 U.S. at 678 (quotation omitted).

I apply a two-step approach when considering motions to dismiss. First, I must accept as true all well-pleaded factual allegations and draw all reasonable inferences

from the complaint in the plaintiffs' favor. *Iqbal*, 556 U.S. at 678; *Brown v. Elec. Arts, Inc.*, 724 F.3d 1235, 1247-48 (9th Cir. 2013). Legal conclusions, however, are not entitled to the same assumption of truth even if cast in the form of factual allegations. *Iqbal*, 556 U.S. at 679; *Brown*, 724 F.3d at 1248. Mere recitals of the elements of a cause of action, supported only by conclusory statements, do not suffice. *Iqbal*, 556 U.S. at 678.

Second, I must consider whether the factual allegations in the complaint allege a plausible claim for relief. *Id.* at 679. A claim is facially plausible when the complaint alleges facts that allow the court to draw a reasonable inference that the defendant is liable for the alleged misconduct. *Id.* at 678. Where the complaint does not permit the court to infer more than the mere possibility of misconduct, the complaint has "alleged—but it has not shown—that the pleader is entitled to relief." *Id.* at 679 (quotation omitted). When the claims have not crossed the line from conceivable to plausible, the complaint must be dismissed. *Twombly*, 550 U.S. at 570. "Determining whether a complaint states a plausible claim for relief will . . . be a context-specific task that requires the [district] court to draw on its judicial experience and common sense." *Iqbal*, 556 U.S. at 679.

A. Clark County's Motion to Dismiss (ECF No. 53)

Clark County argues that I lack subject matter jurisdiction because the plaintiffs fail to properly allege Article III standing. Specifically, Clark County contends that the plaintiffs fail to articulate a concrete,

particularized, and actual or imminent injury; that they allege a theory of causation that is too hypothetical and tenuous; and that the relief they seek would fail to redress their injuries.[2] The plaintiffs respond that they adequately allege both their own injuries and injuries of presently trafficked individuals by pleading third-party standing. They further respond that their injuries are sufficiently traceable to the City and State Defendants, and that the damages they seek would redress their own past injuries, while the declaratory and injunctive relief they seek would redress the injuries of presently trafficked individuals.[3] The State Defendants, Nye County, the City of Las Vegas, and the Brothel Defendants join Clark County's motion, largely echoing Clark County's arguments or providing no additional analysis.

Article III of the Constitution "limits the jurisdiction of federal courts to '[c]ases' and '[c]ontroversies.'" *Lance v. Coffman*, 549 U.S. 437, 439, 127 S. Ct. 1194, 167 L. Ed. 2d 29 (2007). "A suit brought by a plaintiff without Article III standing is not a case or controversy, and an Article III

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2. Clark County also presents several arguments on the merits.

3. The plaintiffs also argue that Clark County improperly attempts to "incorporate by reference" its prior, mooted motion to dismiss (ECF No. 36). While I agree with Clark County that Federal Rule of Civil Procedure 10(c) provides that "[a] statement in a pleading may be adopted by reference elsewhere," the rule does not contemplate wholesale incorporation of denied motions to effectively evade the Local Rules' page limits. Therefore, I base my decision on Clark County's pending motion, without reference to its previous motion.

federal court therefore lacks subject matter jurisdiction over the suit." *Braunstein v. Ariz. Dep't of Transp.*, 683 F.3d 1177, 1184 (9th Cir. 2012) (simplified). The "irreducible constitutional minimum of [Article III] standing consists of three elements." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338, 136 S. Ct. 1540, 194 L. Ed. 2d 635 (2016) (simplified). "The plaintiff must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Id.* Each element of Article III standing "must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, *i.e.*, with the manner and degree of evidence required at the successive stages of the litigation." *Lujan v. Defs. Of Wildlife*, 504 U.S. 555, 561, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992).

Surviving a motion to dismiss with respect to the causation element requires the plaintiffs to "establish a line of causation between defendants' action and their alleged harm that is more than attenuated." *Maya v. Centex Corp.*, 658 F.3d 1060, 1070 (9th Cir. 2011) (simplified). "A causation chain does not fail simply because it has several links, provided those links are not hypothetical or tenuous." *Id.* (simplified). But where "a chain of causation involves numerous third parties whose independent decisions collectively have a significant effect on plaintiffs' injuries, the Supreme Court and [the Ninth Circuit] have found the causal chain too weak to support standing at the pleading stage." *Id.* (simplified).

Appendix B

The plaintiffs do not plausibly allege that the injuries they suffered are fairly traceable to Nevada's system of legal prostitution or to the State or City Defendants. The plaintiffs allege that legal prostitution in Nevada "correlates with exponential increases in the illegal trade," in part due to Nevada's failure to "enforce its limited regulation." ECF No. 49 at 18, 27. But Nevada's legal system of prostitution is, at best, an attenuated cause of the plaintiffs' alleged injuries. The plaintiffs reference numerous third-party actors throughout the First Amended Complaint "whose independent decisions collectively [had] a significant effect on the plaintiffs' injuries." *Maya*, 658 F.3d at 1070 (simplified).

Williams alleges that she was groomed and trafficked by Andre McDaniels, an unnamed "violent trafficker," defendant Jamal Rashid, Tarnita Woodard, unnamed "managers [and] assistant traffickers" to Rashid, and an unnamed "final sex trafficker." ECF No. 49 at 27-36. She also references various complicit strip clubs. *Id.* Jane Doe #1 similarly alleges that she was groomed and trafficked by an unnamed abuser, that a family member introduced her to multiple pimps (one of which was the family member's spouse) who then trafficked her, and that a "guerilla" pimp, a "Romeo" pimp named Khalieff Wilson, a "madam" pimp named Nicole Flowers, and defendant Chicken Ranch also trafficked her. *Id.* at 37-42. Finally, Jane Doe #2 alleges that unnamed traffickers groomed and trafficked her before the age of 18, that "a series of" "Romeo" pimps trafficked her, followed by a second group of unnamed pimps, and that defendants Sapphire Gentlemen's Club and Larry Flynt's Hustler

Club trafficked her or benefited from her trafficking. *Id.* at 42-49.

Williams and Jane Doe #2 also allege that their trafficking began in Houston, and Williams and Jane Doe #1 allege that they were both trafficked in numerous states. *Id.* at 27-31, 34, 38, 42. Because numerous third parties and their independent actions collectively impacted the plaintiffs in a significant way, and because the out-of-state origins and continuations of the plaintiffs' trafficking further attenuate Nevada's role in their respective ordeals, the plaintiffs' alleged causal chain is too weak to support standing against the City and State Defendants. *See Charleston v. Nev.*, 423 F. Supp. 3d 1020, 1027-28 (D. Nev. 2019) (dismissing comparable action, including some identical parties, for lack of standing), *aff'd*, 830 F. App'x 948 (9th Cir. 2020). Consequently, I dismiss with prejudice the plaintiffs' claims against Clark County, Nye County, the City of Las Vegas, Steve Sisolak, and Aaron Ford.[4,5]

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4. The plaintiffs allege third-party standing on behalf of individuals currently being trafficked in Nevada. ECF No. 49 at 49-50. While I am unconvinced that the plaintiffs successfully plead a requisite special relationship with presently trafficked individuals to support third-party standing, and while that class as pleaded is amorphous, the same standing defect that is fatal to the plaintiffs' claims against the State and City Defendants applies equally in the third-party standing context.

5. In its motion, Clark County requests that I strike the First Amended Complaint for improper joinder of plaintiffs. A motion to sever the plaintiffs would have been more appropriate. Because I dismiss the State and City Defendants, and because their presence and the plaintiffs' claims implicating the constitutionality of legal

I deny amendment because the plaintiffs previously amended their complaint, and the standing deficiency cannot be cured by further amendment. *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000).

The Brothel Defendants joined in Clark County's motion. ECF No. 99. But because the Brothel Defendants also move separately to dismiss, I consider the claims against them under their own motion. The plaintiffs' motion to strike excess pages in Clark County's reply (ECF No. 95) is moot because the relevant causation analysis in the reply was within the page limit and the excess pages do not alter my decision. Aaron Ford and Steve Sisolak's motion to dismiss (ECF No. 168) is moot because Ford and Sisolak joined in Clark County's motion, they reiterate the same standing arguments in their own motion, and the parties had adequate opportunities to be heard on those issues while briefing Clark County's motion.

B. Brothel Defendants' Motion to Dismiss (ECF No. 98)

1. Thirteenth Amendment

The Brothel Defendants move to dismiss the plaintiffs' Thirteenth Amendment claim, arguing that there is no

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prostitution in Nevada may have been the primary commonality between the plaintiffs, it is unclear whether there is justification for the plaintiffs to remain joined. I therefore deny Clark County's motion to strike. If they deem it appropriate, the remaining defendants may file a motion to sever.

private right of action under the Thirteenth Amendment, that they are not state actors for purposes of 42 U.S.C. § 1983, and that the plaintiffs failed to join indispensable parties with interests in the laws and ordinances that permit prostitution in Nevada. The plaintiffs respond that the Brothel Defendants are sufficiently entangled with public entities that they may bring a § 1983 claim based on the alleged Thirteenth Amendment violation. They argue that this entanglement results primarily from governmental regulation, including the imposition of mandatory STI testing. They also argue that they joined all necessary and indispensable parties.[6]

Under the Thirteenth Amendment, "[n]either slavery nor involuntary servitude . . . shall exist within the United States," and "Congress shall have power to enforce this article by appropriate legislation." U.S. Const. amend. XIII §§ 1-2. The Thirteenth Amendment's Enabling Clause "clothed Congress with powers to pass all laws necessary and proper for abolishing all badges and incidents of slavery." *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, 439, 88 S. Ct. 2186, 20 L. Ed. 2d 1189 (1968) (simplified). "There is not a private right of action under the Thirteenth Amendment; rather, plaintiffs must instead base such claims on one of the statutes implementing" it. *Simpson v. Agatone*, No. 2:15-cv-00254-RFB-CWH, 2018

6. I need not address whether the plaintiffs joined all necessary and indispensable parties because I dismiss the State and City Defendants from this action. Because only claims against private parties remain, the injunctive and declaratory relief the plaintiffs seek against the State and City Defendants is no longer viable.

U.S. Dist. LEXIS 179310, 2018 WL 5074677, at *4 (D. Nev. Sept. 5, 2018); *see, e.g., Flores v. City of Westminster*, 873 F.3d 739,753 (9th Cir. 2017) (permitting a claim under 42 U.S.C. § 1981 in part because "[t]he Civil Rights Act of 1866 implemented the Thirteenth Amendment); *United States v. Diggins*, 36 F.4th 302, 306-11 (1st Cir. 2022) (analyzing congressional enforcement under the Thirteenth Amendment's Enabling Clause, and holding the Hate Crimes Prevention Act to be constitutional enforcement); *United States v. Roof*, 10 F.4th 314, 391-92 (4th Cir. 2021) (same). While the Ninth Circuit has not yet addressed the issue, a claim under 42 U.S.C. § 1983 may be an appropriate way to redress certain violations of the Thirteenth Amendment. *See Jobson v. Henne*, 355 F.2d 129, 132 (2d Cir. 1966) (holding that a plaintiff stated a claim under § 1983 for a violation of the Thirteenth Amendment).

Section 1983 prohibits interference with federal constitutional rights under color of state law, so claims must be based on "state action" rather than a private actor's conduct. *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 936, 102 S. Ct. 2744, 73 L. Ed. 2d 482 (1982); *see also Rendell-Baker v. Kohn*, 457 U.S. 830, 833, 102 S. Ct. 2764, 73 L. Ed. 2d 418 (1982) (explaining that § 1983's "under color of law" language is the "same thing" as the state action doctrine) (simplified). While there is no exact formula for determining what conduct constitutes state action, courts are guided by the public function test, the joint action test, the compulsion test, and the governmental nexus test. *Kirtley v. Rainey*, 326 F.3d 1088, 1092 (9th Cir. 2003). As argued here, the governmental nexus test asks whether

"there is such a close nexus between the [s]tate and the challenged action that the seemingly private behavior may be fairly treated as that of the [s]tate itself." *Id.* at 1095 (simplified). Despite the several tests, "the central question[s] remain[] whether the alleged infringement of federal rights is fairly attributable to the government," and "whether the defendant[s] [have] exercised power possessed by virtue of state law and made possible only because [they are] clothed with the authority of state law." *Id.* at 1096 (simplified); *Pasadena Republican Club v. W. Just. Ctr.*, 985 F.3d 1161, 1167 (9th Cir. 2021).

The plaintiffs seem to concede that there is no free-standing private right of action under the Thirteenth Amendment, and they instead argue that their claim is properly brought under § 1983 given sufficient entanglement between the governmental and private defendants. ECF Nos. 127 at 5; 49 at 51. But the plaintiffs have not sufficiently alleged a nexus between the governmental and private defendants such that the challenged conduct of sex trafficking can be fairly attributed to the state. While state entities license and regulate prostitution in Nevada, this conduct does not amount to "pervasive entwinement to the point of largely overlapping identity." *Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass'n*, 531 U.S. 288, 303, 121 S. Ct. 924, 148 L. Ed. 2d 807 (2001); *see also Rawson v. Recovery Innovations, Inc.*, 975 F.3d 742, 755 (9th Cir. 2020) ("[E]xtensive state regulation is not enough to create state action."). While the state mandates STI testing of legal sex workers as part of its regulatory scheme, and "state action may lie in private conduct that is affirmatively commanded by state protocols," the

plaintiffs do not challenge mandatory STI testing in their complaint. *See Rawson*, 975 F.3d at 755-56. Instead, the plaintiffs challenge trafficking and involuntary servitude which is not conduct affirmatively commanded by the state. The plaintiffs do not plausibly allege that the affirmative mandate of STI testing bears a relationship to sex trafficking. Consequently, the relationship between the challenged conduct and the mandate that the plaintiffs claim implicates state action is attenuated at best, and does not manifest an overlap in identity between the defendants and the state.

The plaintiffs likewise do not plausibly allege that the commission of sex trafficking is an exercise of power possessed by virtue of Nevada law or made possible only because of authority granted by Nevada. *See Pasadena*, 985 F.3d at 1167. Instead, the challenged conduct is illegal under Nevada law, and the plaintiffs allege that their experiences with trafficking both began and continued outside the state of Nevada, thereby further attenuating the nexus between the challenged conduct and the Nevada state government. *See* Nev. Rev. Stat. § 201.300; *Kirtley*, 326 F.3d at 1096. Consequently, the plaintiffs have not plausibly alleged a sufficient nexus between the state and the private defendants to make the defendants' conduct state action under § 1983.[7] This deficiency cannot be cured

7. Dismissal may also be appropriate on statute of limitations grounds. For actions arising under § 1983, I "apply [Nevada's] statute of limitations for personal injury actions, along with [Nevada's] law regarding tolling, . . . except to the extent any of these laws is inconsistent with federal law." *Jones v. Blanas*, 393 F.3d 918, 927 (9th Cir. 2004). The "applicable statute of limitations

by amendment, and the plaintiffs have already amended once, so I dismiss with prejudice the plaintiffs' Thirteenth Amendment claim against the Brothel Defendants. *Lopez*, 203 F.3d at 1130.

2. TVPRA

The Brothel Defendants move to dismiss the plaintiffs' claim[8] under the TVPRA, arguing that the plaintiffs insufficiently allege that the Brothel Defendants either perpetrated or benefited from sex trafficking. The plaintiffs respond that they adequately allege violations under both perpetrator and beneficiary theories because the Brothel Defendants subjected Jane Doe #1 to debt bondage at Chicken Ranch, and because the Brothel Defendants benefited financially from their own perpetration of sex trafficking.

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in Nevada is two years." *Rosales-Martinez v. Palmer*, 753 F.3d 890, 895 (9th Cir. 2014); Nev. Rev. Stat. § 11.190(4)(e). The plaintiffs allege that Williams escaped trafficking in 2017, Jane Doe #1 escaped the Brothel Defendants by 2018, and Jane Doe #2 escaped trafficking in 2018. ECF No. 49 at 36, 42. Consequently, absent applicable tolling, the two-year statute of limitations expired prior to the filing of the complaint in September 2021.

8. The plaintiffs plead two separate claims under the TVPRA, but the statutory provision underlying one claim describes criminal liability, while the provision underlying the other claim provides a civil right of action. *See* 18 U.S.C. § 1591 (criminal liability); *Id.* § 1595 (civil right of action). Because this is a civil lawsuit, I refer to the plaintiffs' allegations under the TVPRA as a single claim under § 1595.

Appendix B

A defendant perpetrates trafficking in violation of the TVPRA when it "knowingly . . . recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person[,] . . . knowing [that] . . . force, threats of force, fraud, [or] coercion . . . will be used to cause [that] person to engage in a commercial sex act." 18 U.S.C. §§ 1591(a)(1)-(2). Coercion means "threats of serious harm to or physical restraint against any person[, or] . . . any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm . . . or physical restraint." *Id.* §§ 1591(e)(2)(A)-(B). A defendant likewise violates the TVPRA if it "benefits, financially or by receiving anything of value, from participation in a venture which has engaged in" perpetrating trafficking. *Id.* § 1591(a)(2). Anyone "who is a victim of a violation of [§ 1591] may bring a civil action against the perpetrator" or beneficiary. 18 U.S.C. § 1595(a).

At this stage, Jane Doe #1 plausibly alleges that the Brothel Defendants trafficked her in violation of the TVPRA. She alleges that, during her employment at the Chicken Ranch, "the brothel arranged and controlled arrival and departure times for the prostituted women" via "the brothel's transportation system" between Las Vegas and Pahrump. ECF No. 49 at 41. The brothel required prostitutes to pay for this transportation, in addition to room, board, and mandatory medical examinations. *Id.* She also alleges that she was locked inside the brothel during her two-week shifts, that she "was not permitted to leave the brothel if she owed the brothel money" at the end of a shift, and that the Brothel Defendants otherwise subjected her to "debt bondage." *Id.* at 41-42.

These allegations support the reasonable inference that the Brothel Defendants transported, harbored, and maintained Jane Doe #1 while knowing that commercial sex acts were either forced or motivated by threats of restraint. *See* 18 U.S.C. §§ 1591(e)(2)(A)-(B). According to the Brothel Defendants, "[a]t most, these allegations suggest Jane Doe #1 may have been stranded at the Chicken Ranch, but they do not imply that the Chicken Ranch . . . coerced[] or forced [Jane Doe #1] to engage in a commercial sex act." ECF No. 98 at 9. I disagree. Controlling her transportation and prohibiting (or threatening to prohibit) her departure pending the payment of debt plausibly alleges force, threat of force, or coercion leading to commercial sex acts. It is reasonable to infer that engaging in commercial sex acts would be the likely way Jane Doe #1 would be able to pay a debt when "stranded" at the brothel until the debt is paid. Her allegations of debt bondage assert a "scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in . . . physical restraint." 18 U.S.C. § 1591(e)(2)(B). It may be reasonably inferred that many or all of the commercial sex acts she performed at the Chicken Ranch were motivated by the coercive plan. Thus, Jane Doe #1 plausibly alleges a violation of 18 U.S.C. § 1591(a)(1). She also plausibly alleges that the Chicken Ranch benefited financially from this arrangement because it received payment for her debts and it profited from sex acts she performed. I therefore deny the Brothel Defendants' motion to dismiss Jane Doe #1's claim under the TVPRA. Because neither Williams nor Jane Doe #2 allege any facts as to the Brothel Defendants, I grant the motion to dismiss as to them, and only Jane Doe #1's claim remains.

C. Sapphire Club's Motion to Dismiss[9] (ECF No. 133)

The Sapphire Club moves to dismiss the plaintiffs' Thirteenth Amendment claim. I dismiss the claim with prejudice for the same reasons I dismissed it against the Brothel Defendants. The Sapphire Club also moves to dismiss the plaintiffs' TVPRA claim, arguing that Williams and Jane Doe #1 fail to allege any facts as to it, and that Jane Doe #2 fails to state a claim against it for either perpetrator or beneficiary liability. The plaintiffs clarify that only Jane Doe #2 alleges that the Sapphire Club trafficked her or benefited from her trafficking in violation of the TVPRA.[10] ECF No. 146 at 6.

Jane Doe #2 fails to plausibly allege a TVPRA violation based on her debt-bondage theory of liability. She describes many expenses that dancers incur working at strip clubs. ECF No. 49 at 44-46. According to her, these expenses result in dancers becoming indebted to the clubs, resulting in debt bondage. *Id.* at 46. But she also alleges

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9. Defendant Las Vegas Bistro, LLC is a Strip Club Defendant with which the plaintiffs group the Sapphire Club in the First Amended Complaint, but it has neither moved to dismiss nor joined any pending motions. As a result, all claims against Las Vegas Bistro, LLC remain pending.

10. Williams alleges that "her final trafficker trafficked [her] through . . . Sapphire." ECF No. 49 at 35. That single statement in the First Amended Complaint is insufficient to support a plausible claim by Williams against the Sapphire Club. *Iqbal*, 556 U.S. at 679; *Brown*, 724 F.3d at 1248. Jane Doe #1 makes no allegations against the Sapphire Club.

that the clubs require dancers to pay outstanding debts upon signing in each night. *Id.* at 46-47.

These allegations are distinguishable from Jane Doe #1's allegations against the Brothel Defendants because Jane Doe #2 does not allege that dancers are transported by the clubs to remote locations or that they are barred from departing until debts are paid. Instead, she alleges that dancers cannot commence work until debts are paid. Thus, Jane Doe #2 could not dance at a club, and presumably perform commercial sex acts there, until she first cleared her debt. Although the onerous expenses imposed by the clubs may have precluded Jane Doe #2 from working, that does not plausibly allege debt bondage that would force her to perform sex acts as a condition precedent to freedom.

However, Jane Doe #2 plausibly alleges that the Sapphire Club violated the TVPRA by facilitating sexual abuse. She claims that many clients at the Sapphire Club "sexually assaulted [her]." ECF No. 49 at 48. She further alleges that "[a]fter sex buyers raped [her], the club[], knowing this, would insist on collecting [its 40% share of] tips from [her]." *Id.* at 48-49. The Sapphire Club's knowledge of rape and other sexual abuses came from "video and audio recording devices in each area of the club, including private rooms," which allowed the club to "see and hear all that occurred." *Id.* at 48-49. From these allegations, it can be reasonably inferred that the Sapphire Club "provided" Jane Doe #2, knowing, or in reckless disregard of the fact, that means of force would cause her to engage in commercial sex acts. *See* 18 U.S.C. § 1591(a)

(1). These allegations also support a claim of beneficiary liability because the club allegedly benefited from its receipt of both fees from customers and tip percentages from Jane Doe #2. Given the club's alleged perpetration, Jane Doe #2 plausibly alleges that it was a participant in its own venture, and that its perpetration implies knowledge of violations. *See* 18 U.S.C. § 1595(a). I therefore deny the Sapphire Club's motion to dismiss Jane Doe #2's claim under the TVPRA.[11] Because neither Williams nor Jane Doe #1 allege any facts as to the Sapphire Club, I grant the motion to dismiss as to them, and only Jane Doe #2's claim remains.

D. Greer's Motion to Intervene (ECF No. 105)

Russell G. Greer moves to intervene as of right, arguing that he has interests in the outcome of this litigation because only through legal prostitution in Nevada can he experience intimacy, and because he wishes to seek sanctions against plaintiffs' attorney, Jason D. Guinasso, for "waging" a "crusade" against legal brothels. He also argues that the disposition of this case could impair his access to brothels and that the existing parties do not represent his interests because neither the brothels he frequents nor the counties in which they reside are parties to this action. Alternatively, Greer seeks permissive intervention. The plaintiffs respond

11. Because this order resolves all pending motions to dismiss, I deny as moot Clark County's motion to strike the plaintiffs' errata seeking to add "Oral Argument Requested" to the captions of their dismissal oppositions. *See* ECF Nos. 161, 162, 163, 164.

that patronizing brothels and desiring to seek sanctions against an attorney are not significant, legally protectable interests, and that Greer's interests are adequately represented by the existing parties. The plaintiffs also argue that permissive intervention is inappropriate because Greer's interests are adequately represented, and intervention would cause undue delay and prejudice.

On timely motion, a party may intervene as of right under Federal Rule of Civil Procedure 24(a)(2) if he "claims an interest relating to the . . . transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede [his] ability to protect [his] interest, unless existing parties adequately represent that interest." Alternatively, I may permit permissive intervention if a party "has a claim or defense that shares with the main action a common question of law or fact," and whose intervention would not "unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(1)-(3). "The party seeking to intervene bears the burden of showing that all the requirements for intervention have been met." *United States v. Alisal Water Corp.*, 370 F.3d 915, 919 (9th Cir. 2004). When deciding whether intervention is appropriate, I am "guided primarily by practical and equitable considerations, and the requirements for intervention are broadly interpreted in favor of intervention." *Id.*

Because I grant Clark County's motion to dismiss (joined by the remaining State and City Defendants) the injunctive and declaratory relief the plaintiffs seek is no longer viable. Therefore, Greer's interest in legalized

prostitution is no longer in jeopardy and his motion to intervene is partially moot. And even assuming that Greer has significant, legally protectible interests in this action, those interests are adequately represented by the existing parties. Even if the brothels Greer frequents and the counties in which they reside are not parties to this action, the existing parties have identical interests in Nevada's system of legal prostitution and in guarding against frivolous lawsuits.[12] Thus, Greer fails to satisfy his burden of showing that the requirements for intervention as of right have been met. Permissive intervention is inappropriate because it would subject the plaintiffs to duplicative arguments and cause unnecessary delay. I thus deny Greer's motion for intervention.

III. CONCLUSION

I THEREFORE ORDER that defendant Clark County's motion to dismiss **(ECF No. 53) is GRANTED** in part. I dismiss with prejudice the plaintiffs' claims against the City and State Defendants (Clark County, Nye County, the City of Las Vegas, Steve Sisolak, and Aaron Ford). I deny Clark County's motion to the extent it requests I strike the First Amended Complaint.

I FURTHER ORDER that plaintiffs Angela Williams, Jane Doe #1, and Jane Doe #2's motion to strike **(ECF No. 95) is DENIED** as moot.

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12. This analysis is not to be understood as implying the plaintiffs' claims are frivolous.

I FURTHER ORDER that the State Defendants' (Steve Sisolak and Aaron Ford's) motion to dismiss **(ECF No. 168) is DENIED** as moot.

I FURTHER ORDER that the Brothel Defendants' (Western Best LLC and Western Best, Inc.'s) motion to dismiss **(ECF No. 98) is GRANTED** in part. I dismiss with prejudice the plaintiffs' Thirteenth Amendment claim. I also dismiss with prejudice the TVPRA claim as to plaintiffs Angela Williams and Jane Doe #2.

I FURTHER ORDER that the Sapphire Club's (SHAC, LLC and SHAC MT, LLC's) motion to dismiss **(ECF No. 133) is GRANTED** in part. I dismiss with prejudice the plaintiffs' Thirteenth Amendment claim. I also dismiss with prejudice the TVPRA claim as to plaintiffs Angela Williams and Jane Doe #1.

I FURTHER ORDER that defendant Clark County's motion to strike **(ECF No. 164) is DENIED** as moot.

I FURTHER ORDER that Russell G. Greer's motion to intervene **(ECF No. 105) is DENIED**.

I FURTHER ORDER that the remaining defendants may file motions to sever within 30 days of this order if they believe it is appropriate.

DATED this 18th day of July, 2022.

/s/ Andrew P. Gordon
ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE

APPENDIX C — DENIAL OF REHEARING OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, FILED JANUARY 18, 2024

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 22-16859

D.C. No. 2:21-cv-01676-APG-VCF
District of Nevada, Las Vegas

ANGELA WILLIAMS; *et al.*,

Plaintiffs-Appellants,

v.

STEVE SISOLAK, GOVERNOR OF NEVADA, IN HIS OFFICIAL CAPACITY; *et al.*,

Defendants-Appellees,

and

JAMAL RASHID; *et al.*,

Defendants,

RUSSELL G. GREER,

Intervenor-Defendant.

ORDER

Appendix C

Before: S.R. THOMAS and BRESS, Circuit Judges, and EZRA,* District Judge.

The memorandum disposition in the above-captioned matter filed on December 7, 2023 and reported at 2023 WL 8469159 is AMENDED as follows:

At *1, replace the sentence beginning with <Plaintiffs appeal the district court's dismissal . . .> with <Plaintiffs appeal the district court's dismissal of their claims against Nevada state and local officials for abuse plaintiffs allegedly suffered in Nevada's commercial sex industry.>

With this amendment, the panel unanimously voted to deny the petition for panel rehearing. Judge Bress voted to deny the petition for rehearing en banc and Judges Thomas and Ezra so recommended. The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35.

The petition for panel rehearing and rehearing en banc, Dkt. No. 52, is **DENIED**. No future petitions for rehearing or rehearing en banc will be entertained.

IT IS SO ORDERED.

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* The Honorable David A. Ezra, United States District Judge for the District of Hawaii, sitting by designation.

APPENDIX D — RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

Article III, Section 2

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;--to all cases affecting ambassadors, other public ministers and consuls;--to all cases of admiralty and maritime jurisdiction;--to controversies to which the United States shall be a party;--to controversies between two or more states;--between a state and citizens of another state;--between citizens of different states;--between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

Appendix D

42 U.S. Code § 1983 – Civil action for deprivation of rights.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

Appendix D

Amendment XIII, Section 1.

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Appendix D

18 U.S. Code § 1591 – Sex trafficking of children or by force, fraud, or coercion

(a) Whoever knowingly—

(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person; or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing, or, except where the act constituting the violation of paragraph (1) is advertising, in reckless disregard of the fact, that means of force, threats of force, fraud, coercion, described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

(b) The punishment for an offense under subsection (a) is—

(1) if the offense was effected by means of force, threats of force, fraud, or coercion described in subsection (e)(2), or by any combination of such means, or if the person recruited, enticed, harbored, transported, provided, obtained, advertised, patronized, or solicited had not attained the age of 14 years at the time of such offense,

by a fine under this title and imprisonment for any term of years not less than 15 or for life; or

(2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, obtained, advertised, patronized, or solicited had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title and imprisonment for not less than 10 years or for life.

(c) In a prosecution under subsection (a)(1) in which the defendant had a reasonable opportunity to observe the person so recruited, enticed, harbored, transported, provided, obtained, maintained, patronized, or solicited, the Government need not prove that the defendant knew, or recklessly disregarded the fact, that the person had not attained the age of 18 years.

(d) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be fined under this title, imprisoned for a term not to exceed 25 years, or both.

(e) In this section:

(1) 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, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) The term "coercion" means—

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of law or the legal process.

(3) The term "commercial sex act" means any sex act, on account of which anything of value is given to or received by any person.

(4) The term "participation in a venture" means knowingly assisting, supporting, or facilitating a violation of subsection (a)(1).

(5) 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 commercial sexual activity in order to avoid incurring that harm.

(6) The term "venture" means any group of two or more individuals associated in fact, whether or not a legal entity.

Appendix D

18 U.S. Code § 1595(a)

An individual who is a victim of a violation of this chapter may bring a civil action against the perpetrator (or whoever knowingly benefits, or attempts or conspires to benefit, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter) in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.