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and Steven S. Dickert, in his capacity as Trustee  
of Basil Management Trust

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

JORDEN HOLLINGSWORTH,  
Plaintiff,

v.

SANOFI-AVENTIS US; CHATTEM INC.;  
QUTEN RESEARCH INSTITUTE LLC;  
AMJ SERVICES LLC; STEVEN S.  
DICKERT, in his capacity as Trustee of  
BASIL MANAGEMENT TRUST,  
Defendants.

Case No. 3:25-cv-02308-SB

**DEFENDANTS AMJ SERVICES LLC  
AND STEVEN S. DICKERT’S  
(1) MOTION TO DISMISS OR, IN THE  
ALTERNATIVE (2) MOTION TO  
STRIKE PLAINTIFF’S COMPLAINT  
OR, IN THE ALTERNATIVE  
(3) MOTION TO COMPEL  
ARBITRATION**

**REQUEST FOR ORAL ARGUMENT**

**LR 7-1 CERTIFICATION**

Pursuant to LR 7-1(a), counsel for Defendants AMJ Services, LLC (“AMJ”) and Steven S. Dickert, in his capacity as Trustee for Basil Management Trust (“Dickert”) (AMJ and Dickert are collectively referred to as “Defendants”), certifies that they have made good faith

efforts to confer with Plaintiff Jordan Hollingsworth (“Plaintiff”) concerning the nature and grounds for these Motions and were unable to resolve their dispute.

### **MOTION TO DISMISS**

Defendants, through undersigned counsel, respectfully move this Court to dismiss with prejudice, pursuant to Rule 12(b)(1), 12(b)(6), and 9(f) of the Federal Rules of Civil Procedure (FRCP), all causes of action asserted in Plaintiff’s Complaint. Specifically, AMJ and Dickert request:

1. Motion One: For an Order dismissing Plaintiff’s Complaint in its entirety as Plaintiff lacks standing.
2. Motion Two: For an Order dismissing Plaintiff’s First Claim for Relief: Fraud. The Complaint fails to plead fraud with particularity.
3. Motion Three: For an Order dismissing Plaintiff’s Second Claim for Relief: Fraudulent Concealment. The Complaint fails to plead fraud with particularity.
4. Motion Four: For an Order dismissing Plaintiff’s Third Claim for Relief: Civil Conspiracy. This claim relies on Plaintiff properly pleading underlying unlawful activity, which Plaintiff did not do.
5. Motion Five: For an Order dismissing Plaintiff’s Fourth Claim for Relief: Alter-Ego/Piercing the Corporate Veil. Piercing the corporate veil/alter-ego is not a standalone claim; rather, it is a theory of joint liability. Plaintiff did not plead facts sufficient to impute liability for any damages he may have suffered to AMJ or Dickert.

6. Motion Six: For an Order dismissing Plaintiff's Fifth Claim for Relief: Successor Liability. Successor liability is not a standalone claim; rather, it is a theory of joint liability. Plaintiff did not plead facts sufficient to impute liability for any damages he may have suffered to AMJ or Dickert.

This Motion is supported by the pleadings and papers in the Court record, the accompanying Memorandum of Law, and the Declarations of Bobbi Edwards and Steve Dickert in Support of Defendants AMJ and Dickert's Motion to Dismiss Plaintiff's Complaint.

### **MOTION TO STRIKE**

Alternatively, AMJ and Dickert respectfully move this Court to strike Plaintiff's entire Complaint pursuant to FRCP 12(f). This Motion is supported by the pleadings and papers in the Court record, the accompanying Memorandum of Law, and the Declarations of Bobbi Edwards and Steve Dickert in support of Defendants AMJ and Dickert's Motion to Strike Plaintiff's Complaint.

### **MOTION TO COMPEL ARBITRATION**

Alternatively, if the Court concludes that Plaintiff has standing, has adequately pleaded his claims, and has properly named AMJ and Dickert as defendants, AMJ and Dickert respectfully request that the Court compel arbitration of any claims asserted against them. Plaintiff executed a written Arbitration Agreement with his former employer, DRVM LLC, and AMJ and Dickert are entitled to enforce that agreement as intended third-party beneficiaries. This Motion is supported by the pleadings and papers in the Court record, the accompanying Memorandum of Law, and the Declarations of Bobbi Edwards and Steve Dickert in support of Defendants AMJ and Dickert's Motion to Compel Arbitration of Plaintiff's claims.

## MEMORANDUM OF LAW

### I. EXECUTIVE SUMMARY

This lawsuit is Plaintiff's bad faith attempt to circumvent this Court's order that he arbitrate claims arising from his employment with DRVM, LLC ("DRVM"), and DRVM alone. Plaintiff has transformed what began as a dispute with his former employer over penalty wages<sup>1</sup> into a \$15,000,000,000 claim against an ever-changing panel of defendants, all at the expense of this Court and all named defendants.<sup>2</sup>

As discussed in more detail below, pursuant to a valid and binding agreement to arbitrate his claims ("Arbitration Agreement" or the "Agreement"), Plaintiff initiated arbitration against DRVM on February 19, 2025, asserting damages of a \$10,050 wage penalty stemming from DRVM's failure to timely pay his final wages upon termination. (*See* Compl. ¶ 1; Edwards Decl. Ex. B.) Plaintiff amended his arbitration demand on February 26, 2025, to assert additional claims of (1) successor liability fraud, (2) payroll misclassification, (3) wage structure fraud, and (4) fraudulent concealment of employer identities and payroll responsibilities. (Edwards Decl. Ex. A at 34-36.) Over the course of two months, through his amendments to his arbitration demand ("Demand(s)"), Plaintiff added and dropped named respondents. (Edwards Decl. Ex. A at 2-3, 13, 80, 83.) AMJ, Sanofi-Aventis U.S. LLC, Chattem Inc., and Quten Research Institute, LLC, who are named as defendants in this lawsuit, were consistently named in Plaintiff's Demands. (*Id.*)

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<sup>1</sup> Compl. at 1.

<sup>2</sup> *See* Edwards Decl. Ex. A and <https://www.15billiondollarcas.com/> and [www.tiktok.com/@jordenhollingsworth](https://www.tiktok.com/@jordenhollingsworth)

Further, through his Demand amendments, Plaintiff increased his alleged damages from \$10,050 to \$15,000,000,000 based on “compounded reputational harm,” “economic damage due to non-engagement,” “systemic risk,” “public interest betrayal,” “financial collapse,” and “regulatory scrutiny.” (Edwards Decl. Ex. A at 11, 58, 79, 80, 83.)

On July 31, 2025, Plaintiff petitioned this Court to compel all respondents (nine in total) to arbitrate the claims raised in his Demands and require that the Court appoint an arbitrator experienced in a litany of specialties, including but not limited to AI-litigation, pharmaceutical fraud, and shell corporations. (Edwards Decl. ¶ 9.) Ultimately, this Court dismissed all parties except for DRVM and ordered Plaintiff and DRVM to submit to the JAMS rank and strike process but prohibited Plaintiff from objecting to an arbitrator based on the selection criteria requested by Plaintiff. (Compl., Ex. F at 39.)

AMJ and Dickert respectfully move the Court to dismiss this lawsuit because, first, Plaintiff failed to assert any actual or imminent injury caused by either AMJ or Dickert. Plaintiff’s underlying factual allegations arise out of his employment relationship with DRVM, and his damages – if any – can adequately be redressed in the pending arbitration action between Plaintiff and DRVM.

Second, Plaintiff fails to state with particularity the circumstances constituting his claims – a requirement of Rule 9(f). While the Complaint is replete with legal conclusions, Plaintiff has not alleged the foundational facts necessary to give AMJ and Dickert the ability to respond.

In the alternative, AMJ and Dickert respectfully request that the Court strike the Complaint in full because it is indecipherable, filled with excessive and confusing information, and contains conflicting details. The Complaint fails to provide coherent claims or fair notice, making it

impossible for AMJ and Dickert to respond meaningfully. Plaintiff's inclusion of immaterial, confusing, and contradictory factual claims, prevents AMJ and Dickert from providing a sufficient response. Therefore, the Court should strike the Complaint in its entirety to prevent unnecessary confusion and expense.

In the alternative, should the Court not grant AMJ and Dickert's Motion to Dismiss, or in the alternative, its Motion to Strike, AMJ and Dickert request that the Court grant their Motion to Compel Arbitration based on their standing as third-party beneficiaries to the Arbitration Agreement executed between DRVM and Plaintiff.

## II. STATEMENT OF FACTS

### A. Relationship Between the Parties

#### 1. Steven Dickert, Trustee of Basil Management Trust

Steven Dickert serves as the Chief Financial Officer for DRVM and is the trustee for the Basil Management Trust, which holds a controlling interest in DRVM, Plaintiff's former employer. (Dickert Decl. ¶ 1.) Dickert has held this position since January 1, 2017. (*Id.*) DRVM is a duly formed and properly registered foreign limited liability company that maintains its separate legal existence and corporate formalities. (Dickert Decl. ¶ 2.) On or around January 4, 2024, DRVM's authority to conduct business was revoked by the Oregon Secretary of State due to its failure to file an annual report. (Dickert Decl. ¶ 3.) Pursuant to ORS 65.747, on or around April 25, 2025, DRVM applied for reinstatement with the Secretary of State, which was granted. (Dickert Decl. ¶ 4.) Under ORS 65.747(f), the reinstatement relates back to the effective date of the administrative revocation, allowing DRVM to resume business as if the revocation had never occurred."

## 2. AMJ Services LLC

AMJ is a duly formed and properly registered foreign limited liability company in the State of Nevada, consistently maintaining its separate legal existence and corporate formalities. (Dickert Decl. ¶ 5.) Steven Dickert has served as Chief Financial Officer of AMJ Services since February 1, 2025. (Dickert Decl. ¶ 1.) AMJ provides employee management services and operational support to various entities, including DRVM. (Dickert Decl. ¶¶ 6-7.) DRVM employees are provided with the following contact information for human resources and payroll inquiries: “hr@directdemo.net” or “payroll@directdemo.net” (See Compl. ¶ 27; Dickert Decl. ¶ 8.) Plaintiff was able to promptly contact AMJ’s payroll coordinator for DRVM. (Compl. ¶¶ 27-37.) DRVM’s payroll and operations are funded through the Company’s own business activities and payroll is processed through a third-party payroll service, ADP, using DRVM’s Employer Identification Number. Further, DRVM has consistently filed its own income tax returns during its legal existence. (Dickert Decl. ¶ 9.)

### B. Plaintiff’s Employment with DRVM

Plaintiff’s claims arise from a dispute over penalties owed after DRVM failed to issue his final wages within one business day following termination. Plaintiff worked for DRVM as a Sales Promoter in an unaffiliated warehouse store from October 15, 2024, to December 12, 2024. (Dickert Decl. ¶ 10; *see also* Compl. ¶ 23.) Plaintiff was compensated \$25.00 per hour worked with a flat commission of \$3.00 per unit of product sold if certain sales targets were achieved. (See Compl. Ex. E at 26.) Upon hire, Plaintiff signed an Arbitration Agreement requiring arbitration for any claim relating to or arising from his employment with DRVM. (See Compl. Ex. F at 31; *see also* Edwards Decl. Ex. A.) The Agreement’s enforceability has not been undisputed, and an

arbitration hearing is scheduled for December 8, 2026. (*See* Compl. Ex. F at 2; *see also* Edwards Decl. ¶ 11.)

Plaintiff was terminated for cause on December 12, 2024. (Dickert Decl. ¶ 11.) Under ORS 652.140, he was owed all wages by December 13, 2024. On December 15, 2024, Plaintiff demanded his final wages in writing. (Dickert Decl. ¶ 12.) In compliance with ORS 652.150(2)(a), DRVM paid Plaintiff \$637.15, covering all unpaid wages and commissions, via direct deposit on December 27, 2024.<sup>3</sup> (Dickert Decl. ¶ 13.) ORS 652.150(2)(a) caps the wage penalty at 100 percent of unpaid wages if the employer makes payment within the statutory 12-day notice period, which limited the wage penalty to \$637.15.

On January 4, 2025, Plaintiff demanded \$10,050, claiming entitlement to a full 30-day penalty, an amount that DRVM disputed. (Dickert Decl. ¶ 14.) On January 8, 2025, DRVM paid the capped penalty of \$637.15. (Dickert Decl. ¶ 15.)

### **C. Plaintiff's Arbitration and Litigation History**

#### **1. February 18, 2025: Demand of Arbitration**

On February 18, 2025, Plaintiff initiated arbitration through JAMS against his former employer, DRVM, as well as AMJ, and DRVM manager, Maged Boutros. Plaintiff alleged damages of \$10,050, representing his calculation of a 30-day penalty based on his daily wages. Plaintiff did not allege claims against Dickert. (Edwards Decl. ¶ 2.)

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<sup>3</sup> Plaintiff sent his demand for wages on Sunday, December 15, 2024 at 11:48 a.m. and the payment was issued on December 27, 2024, hours before the expiration of the 12-day notice period.

2. February 26, 2025: Amended Demand for Arbitration

On February 26, 2025, Plaintiff amended his Demand to increase his monetary demand to an estimated amount of \$310,500 claiming punitive damages and emotional distress. (Edwards Decl. ¶ 3.) Plaintiff also amended the Demand to include additional respondents including Chatterm Inc., Quten Research Institute LLC, Sanofi-Aventis U.S. LLC, TPD IP LLC, and various other individuals. (*Id.*) Plaintiff did not include claims against Dickert in the Amended Demand. (*Id.*)

3. March 31, 2025: Second Amended Demand for Arbitration

On March 31, 2025, Plaintiff amended his Demand to increase his alleged damages from \$310,500 to \$6 billion dollars due to “expanded scope of financial, reputational, and regulatory exposure,” “increased damages revealed through newly uncovered exhibits,” the “systemic nature of concealment and benefit derived across interconnected entities,” and the “Respondents’ procedural retreat and refusal to participate in prior filings, signaling potential bad faith and avoidance of liability.” (Edwards Decl. ¶ 3; *see also* Edwards Decl. Ex. A at 79.)

4. April 7, 2025: Third Amended Demand for Arbitration

On April 7, 2025, Plaintiff increased his alleged damages to \$10 billion dollars due to the escalation of public harm, reputational damage, and economic instability related to the “Hands Off!” protests, and JAMS decision to remove several entities Plaintiff named in his arbitration demands. (Edwards Decl. ¶ 3; *see also* Edwards Decl. Ex. A at 80-82.)

5. April 8, 2025: Fourth Amended Demand for Arbitration

A day later, on April 8, 2025, Plaintiff amended his Arbitration Demand to increase his alleged damages to \$15 billion dollars citing “ongoing reputational, financial, and systematic

fallout triggered by this matter and now compounding by public, legal, and regulatory exposure.” (Edwards Decl. ¶ 3; *see also* Edwards Decl. Ex. A at 83-85.)

6. Petition for Court Appointed Arbitrator

On July 31, 2025, Plaintiff petitioned this Court to appoint an arbitrator and compel all respondents to participate in the arbitration. (Edwards Decl. ¶ 9.) It was Plaintiff’s position that the arbitrator needed to have “experience in AI-assisted litigation, whistleblower law, pharmaceutical fraud” and “complex shell restructuring.” (Compl. Ex. F at 38.) It was DRVM’s position that, at a minimum, the arbitrator’s experience include Oregon wage and hour as DRVM believed the wage penalty was the only cognizable claim asserted by Plaintiff. (Edwards Decl. ¶ 10; *see also* Compl. Ex. F at 36.)

7. Court’s Ruling & Active Arbitration

On November 24, 2025, this Court compelled Plaintiff and DRVM to arbitration, ordering the parties to use the JAMS rank and strike process to select an arbitrator. (Compl. Ex. F at 30-39.) The Court prohibited Plaintiff from striking any arbitrator based on a lack of expertise in areas such as artificial intelligence, emerging technologies, pharmaceutical fraud, shell corporations, whistleblower law, federal oversight, AI-assisted litigation, or similar fields (*Id.* at 39.) Furthermore, the Court dismissed all other respondents, rejecting Plaintiff’s attempt to impute liability to entities beyond his actual employer, DRVM. The Court determined that even if Plaintiff’s factual allegations were true regarding “corporate concealment,” “misuse of shell entities,” and the “multi-layered payroll structuring operation through a centralized financial hub,” he failed to demonstrate that the alleged corporate structure caused his injury (Compl. Ex. F at 35-36.)

Plaintiff and DRVM selected Hon. Dean Lum to arbitrate Plaintiff's claims, with a hearing scheduled for December 8, 2026. (Edwards Decl. ¶ 11.)

8. Plaintiff's Complaint is rife with inaccurate, misleading, and conclusory allegations.

Throughout the Complaint, Plaintiff omits material facts that undermine his theories, pleads inconsistent factual allegations, mischaracterizes this Court's ruling on the arbitrability of his claims, and substitutes conclusory legal labels for well-pleaded facts. He further misrepresents the relationships among the named defendants, fails to allege any cognizable injury with the specificity necessary to permit a meaningful defense, and seeks remedies unavailable as a matter of law on the claims asserted.

Additionally, the Complaint incorrectly asserts that this Court "limited" Plaintiff's arbitrable claims to wage-and-hour issues (Compl. ¶ 147.) However, nothing in the Court's Opinion and Order imposed any such limitation. To the contrary, the Court recognized that the Arbitration Agreement encompasses "any claim . . . that arises out of or relates to any service Employee has performed for Employer." (Compl. Ex. F at 31; *see also* Edwards Decl. Ex. A.) Accordingly, to the extent Plaintiff contends he suffered any injury or damages, arbitration with his employer – not this action – is the proper forum to litigate and, if warranted, recover on those alleged harms.

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### III. MOTION TO DISMISS: PLAINTIFF LACKS ARTICLE III STANDING

#### A. Legal Standing Under Fed. R. Civ. P. 12(b)(1)

Plaintiff lacks standing under Article III of the Constitution and as required by FRCP 12(b)(1). Article III of the U.S. Constitution limits the jurisdiction of federal courts to “cases” and “controversies.”<sup>4</sup> “For there to be a case or controversy under Article III, the plaintiff must have a ‘personal stake’ in the case—in other words, standing.”<sup>5</sup> Plaintiff must demonstrate standing for each claim alleged and each form of relief sought.<sup>6</sup>

To establish standing, a plaintiff must show “(i) that he 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.”<sup>7</sup> Plaintiff bears the burden of establishing these elements as the party invoking federal jurisdiction.<sup>8</sup>

#### B. Plaintiff Has Not Alleged a Concrete, Particularized, and Actual or Imminent Injury in Fact

Plaintiff’s allegations are insufficient to demonstrate a concrete, particularized injury that actually exists or is certainly impending.<sup>9</sup> Conclusory assertions of statutory violations, risk of future harm, or generalized grievances do not satisfy Article III’s injury requirement, which

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<sup>4</sup> U.S. Const. art. III, § 2; Fed. R. Civ. P. 12(b)(1); *Maya v. Centex Corp.*, 658 F.3d 1060, 1067 (9th Cir. 2011) (“lack of *Article III* standing requires dismissal for lack of subject matter jurisdiction”) (italics in original).

<sup>5</sup> *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021) (citations omitted).

<sup>6</sup> *Id.* at 431.

<sup>7</sup> *TransUnion*, 594 U.S. at 423 (citation omitted); *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016).

<sup>8</sup> *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016).

<sup>9</sup> *See Lujan*, 504 U.S. at 560.

demands a real, personal harm directly affecting the Plaintiff.<sup>10</sup> Allegations of mere procedural noncompliance without real-world harm are inadequate, as are speculative future injuries or abstract interests. Here, Plaintiff repeatedly claims to have incurred “tax, financial, and legal” injuries. (Compl. ¶¶ 8, 11, 14, 176, 189.) While AMJ and Dickert acknowledge that Plaintiff need not assign an exact dollar value to his claim, he has failed to provide any factual basis for plausible damages beyond the wage penalty dispute with his former employer, DRVM. (*Id.*) Because Plaintiff pleads at most conclusory, statutory, and vague harms, the Complaint fails at the threshold.

**C. Plaintiff Has Not Alleged AMJ or Dickert Caused His Injury**

Plaintiff’s pleading fails at the threshold because it does not plausibly allege that Dickert or AMJ caused any legally cognizable injury. Although the Complaint repeatedly attributes “injury” to “Defendants” collectively, it fails to identify any specific act, omission, statement, or decision by Dickert or AMJ that allegedly resulted in Plaintiff’s harm. Plaintiff must allege facts showing that his injury is “fairly traceable” to the challenged conduct of each defendant, which he has not done here.

The Complaint’s own narrative points to DRVM as the source of the alleged unlawful wage practices, payroll issues, and employment-related events that supposedly caused his damages. Plaintiff never explains – much less pleads plausible facts showing – how Dickert or AMJ participated in those decisions, directed the complained-of conduct, or made any actionable

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<sup>10</sup> *See Spokeo*, 578 U.S. at 340.

misrepresentation that would render them responsible for Plaintiff's injuries. In short, Plaintiff alleges he has suffered injury, but he does not specify who did what to cause it.

**D. Plaintiff's Harms Will Be Redressed Through Arbitration With DRVM**

In his Complaint, Plaintiff acknowledges that DRVM was his employer: he received paychecks and wage statements from DRVM, executed an Arbitration Agreement with DRVM, and is actively pursuing claims against DRVM in arbitration. DRVM has appeared and participated in the arbitration, made timely payments for multiparty arbitration, and is prepared to defend against Plaintiff's \$15 billion dollar demand, which is wildly untethered to the law or any cognizable legal claim or injury. Put simply, the only alleged injury Plaintiff articulates is fully capable of being remedied, if at all, in the pending arbitration against DRVM.

**IV. MOTION TO DISMISS: PLAINTIFF FAILS TO STATE A CLAIM**

**A. Fed. R. Civ. P. 12(b)(6) Requires Dismissal of Implausible Claims**

A court must dismiss a complaint for failure to state a claim upon which relief can be granted if it fails to allege "sufficient facts" under a "cognizable legal theory."<sup>11</sup> Sufficient factual matter only exists if the facts alleged state a claim for relief that is "plausible on its face."<sup>12</sup> "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged."<sup>13</sup> In other words, the complaint must allege facts that are more than "merely consistent with" a defendant's liability.<sup>14</sup>

<sup>11</sup> *Woods v. U.S. Bank N.A.*, 831 F.3d 1159, 1162 (9th Cir. 2016).

<sup>12</sup> *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) ("*Iqbal*") (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007) ("*Twombly*")).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* (quoting *Twombly*, 550 U.S. at 557).

When ruling on a motion to dismiss, courts presume the truth of all well-pleaded facts.<sup>15</sup> However, no presumption of truth attaches to “threadbare recitals . . . supported by mere conclusory statements.”<sup>16</sup> A court can consider certain materials, such as documents incorporated by reference into a complaint, “if the plaintiff refers extensively to the document or the document forms the basis of the plaintiff’s claim” without converting the motion to dismiss into a motion for summary judgment.<sup>17</sup> Under these standards, the analysis of determining whether a complaint survives a motion to dismiss focuses on two questions: (1) whether the allegations are supported by well-pleaded factual allegations, not just conclusions, entitling the factual allegations to an assumption of truth; and (2) whether the facts, assuming their truth, would plausibly give rise to an entitlement of relief.<sup>18</sup>

As discussed below, each of Plaintiff’s claims fail to allege sufficient facts to support his legal theories. Plaintiff’s conclusory allegations regarding facts and law need not be assumed as true, and the remaining factual allegations are insufficient to state a plausible entitlement of relief.

**B. Plaintiff’s Fraud Claim Should be Dismissed**

Plaintiff’s fraud claim should be dismissed for failure to state a claim. Rule 9(b) imposes a heightened pleading standard for allegations of fraud, requiring that “the circumstances constituting fraud or mistake shall be stated with particularity.” The Ninth Circuit consistently requires that fraud allegations include the “who, what, when, where, and how” of the alleged

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<sup>15</sup> *Brown v. Elec. Arts, Inc.*, 724 F.3d 1235, 1247 (9th Cir. 2013).

<sup>16</sup> *Iqbal*, 556 U.S. at 678.

<sup>17</sup> *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003).

<sup>18</sup> *See generally id.*

misconduct.<sup>19</sup> This means the complaint must specify the time, place, and specific content of the alleged false representations, as well as the identities of the parties involved. Under Oregon law, the essential elements of a common-law fraud claim are: (1) the defendant made a material misrepresentation that was false; (2) the defendant knew the representation was false; (3) the defendant intended the plaintiff to rely on the misrepresentation; (4) the plaintiff justifiably relied on the misrepresentation; and (5) the plaintiff was damaged as a result of that reliance.<sup>20</sup> To prevail, the plaintiff must present evidence to support each element.<sup>21</sup>

The Complaint identified no false representations made by AMJ or Dickert. Instead, the Complaint’s “fraud” theory appears to be that all defendants, acting jointly, represented – through their unified conduct – that DRVM was Plaintiff’s employer when it was supposedly a “legally defunct shell.” (Compl. ¶¶ 43, 170–172.) This theory fails for at least two independent reasons.

First, the premise is legally and factually false. Dickert confirms, in his capacity as AMJ’s CFO and as Trustee of Basil Management (*DRVM’s controlling-interest member*), that DRVM was Plaintiff’s employer throughout Plaintiff’s employment. (Dickert Decl. ¶ 10.) Plaintiff’s contrary assertion hinges on his belief that DRVM could not have been his employer because the Oregon Secretary of State had administratively revoked DRVM’s authority to conduct business in Oregon. However, Plaintiff fails to recognize that under Oregon law, once reinstatement becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution, allowing the entity to resume business as if the dissolution had never occurred.<sup>22</sup> Even accepting

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<sup>19</sup> *Lake v. Esposito*, 3:21-cv-601-SI (D. Or. Mar 20, 2024).

<sup>20</sup> *Strawn v. Farmers Ins. Co. of Or.*, 350 Or. 336, 258 P.3d 1199 (Or. 2011).

<sup>21</sup> *Id.* at 362.

<sup>22</sup> *See* ORS 65.747.

Plaintiff's premise that DRVM experienced an administrative dissolution, Plaintiff pleads no facts plausibly suggesting AMJ, Dickert, or any other defendant knew of and intended to exploit a purported "defunct" status to mislead Plaintiff, which is an essential element of fraud.

Second, to the extent Plaintiff attempts to recast "inaccurate wage and tax documents" as fraudulent misrepresentations, he still does not identify which document(s) contained false statement(s), who prepared or issued them, why any reliance was reasonable, or how reliance caused him injury. Instead, Plaintiff impermissibly lumps AMJ and Dickert together with all other defendants and offers conclusions of wrongdoing without plausible underlying factual support. This is precisely what Rule 9(b) forbids, warranting dismissal of the fraud claim.

**C. Plaintiff Failed to Plead Facts to Support a Claim of Fraudulent Concealment**

As an initial matter, Plaintiff's "fraudulent concealment" claim is not a new theory but rather a repackaged fraud theory with the same underlying alleged injuries and factual premises addressed above. Plaintiff's fraudulent concealment claim should be dismissed for the same reason: Plaintiff does not plead fraud with the particularity required by Federal Rule of Civil Procedure 9(b). Plaintiff failed to allege facts regarding the "who, what, when, where, and how" of the misconduct charged<sup>23</sup>

Where fraud is based on silence or nondisclosure, Plaintiff must demonstrate that the defendant either (1) remained silent when they had a duty to speak, or (2) assumed the obligation to make a full and fair disclosure of the whole truth by making a representation in the nature of a

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<sup>23</sup> *Kearns v. Ford Motor Co.*, 567 F.3d 1120, 1124 (9th Cir. 2009).

“half-truth.”<sup>24</sup> Where fraud is based on actual concealment, as opposed to simple nondisclosure, a duty to speak is not required.<sup>25</sup> Plaintiff must still plead facts showing the underlying elements of fraud: AMJ or Dickert concealed a material fact, with the intent to mislead, and Plaintiff’s reliance on the facts as stated caused him injury.

Plaintiff’s claim fails because he does not plead any facts to support the essential elements of fraud under Oregon law. Even taking the Complaint’s allegations as true – which many are plainly false and contradictory on the face of the pleading – for purposes of a motion to dismiss, Plaintiff does not plead facts identifying what information AMJ or Dickert supposedly concealed, when they concealed it, how they concealed it, or any harm stemming from the alleged concealment. Instead, the Complaint offers speculation and legal conclusions wholly untethered to any reliance-based injury. To the extent that Plaintiff asserts that AMJ, as DRVM’s management and operations services provider, and Dickert, in his role as Trustee of Basil Management Trust, had a duty to disclose DRVM’s underlying corporate structure, AMJ and Dickert fail to find a statutory or common law basis for the existence of such duty. To the extent Plaintiff asserts that AMJ or Dickert’s failure to inform him that its registration with the Oregon Secretary of State had lapsed and that DRVM was administratively dissolved for a period of time, Plaintiff does not assert facts that AMJ or Dickert purposely withheld information about DRVM’s Oregon Secretary of State revocation of authority, that AMJ or Dickert intended to mislead Plaintiff, Plaintiff acted in reliance of the information known to him, or that DRVM’s revocation of authority caused him

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<sup>24</sup> *Smith v. U.S. Bank, N.A.*, No. CIV. 10-3077-CL, 2011 WL 7628515, at \*6 (D. Or. Oct. 26, 2011), report and recommendation adopted, No. 1:10-CV-03077-CL, 2012 WL 1029364 (D. Or. Mar. 26, 2012).

<sup>25</sup> *Caldwell v. Pop’s Homes, Inc.*, 54 Or. App. 104, 113 (1981).

damages as a direct result of his failure to know of the administrative dissolution. Instead, Plaintiff relies on impermissible group pleading, lumping all defendants together without identifying the particular role each defendant played leaving the defendants and the Court to guess at each defendant's role in the supposed fraudulent conduct. That is precisely what Rule 9(b) forbids. Accordingly, AMJ and Dickert request that the Court dismiss fraudulent concealment claim.

**D. Plaintiff's Claim for Liability Through a Civil Conspiracy Fails**

Plaintiff's civil conspiracy claim fails at the threshold because Plaintiff has not properly pled any unlawful conduct by AMJ, Dickert, or any other defendant to this lawsuit. Oregon law does not recognize civil conspiracy as a free-standing tort but rather a way another person may become jointly liable for another's tortious conduct.<sup>26</sup> To state a civil conspiracy claim under Oregon law, Plaintiff must plausibly allege, with nonconclusory facts, (1) two or more persons, (2) a meeting of the minds or agreement, (3) an unlawful objective or unlawful means, (4) one or more overt acts in furtherance of the agreement, and (5) damages proximately caused by those acts.<sup>27</sup> Federal courts apply the *Twombly/Iqbal* plausibility standard to these allegations, meaning Plaintiff must plead facts that make an agreement plausible, not merely possible, and may not rely on conclusory assertions, labels, or a formulaic recitation of elements.<sup>28</sup>

Here, Plaintiff's conspiracy allegations are tied to the same defective fraud-based theories addressed elsewhere in this Motion. Because those predicate tort allegations are not plausibly or particularly pleaded, Plaintiff cannot salvage them by relabeling the same narrative as "conspiracy." Even if Plaintiff had pleaded a viable underlying tort – which he has not – his

<sup>26</sup> *Granewich v. Harding*, 329 Or. 47, 53, 985 P.2d 788, 792 (1999).

<sup>27</sup> *Bonds v. Landers*, 279 Or. 169, 174, 566 P.2d 513, 516 (1977) (applying 15A C.J.S. § 8).

<sup>28</sup> *Ashcroft v. Iqbal*, 556 U.S. 662 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007).

conspiracy claim independently fails under federal pleading standards. The Complaint contains no concrete facts showing a specific agreement: who agreed with whom, when the agreement was formed, what the conspirators decided to do, or how they coordinated any unlawful conduct. Instead, the Complaint relies on the very kind of generalized “they must have been working together” narrative that *Twombly* and *Iqbal* reject as speculative.

Further, Plaintiff’s reliance on overlapping corporate features such as shared agents of incorporation, shared officers, affiliated entities, or coordinated corporate activity through management services does not supply the missing agreement or unlawful purpose. Corporate groups commonly share infrastructure and management; those ordinary facts may be consistent with lawful coordination and are not, without more, a plausible basis to infer a “meeting of the minds” to commit a tort. The Complaint offers no nonconclusory factual evidence that AMJ and Dickert acted with an unlawful objective or used unlawful means; Plaintiff simply assumes wrongdoing because the corporate structure is complex.

The conspiracy claim also runs headlong into the intra-corporate conspiracy doctrine. If all the defendants are truly one corporate enterprise as alleged by Plaintiff – again, to AMJ and Dickert’s knowledge, the corporate defendants are all duly incorporated, separate entities – the enterprise could not conspire with itself.<sup>29</sup> Our courts have long held that a corporation generally cannot conspire with its own employees, officers, or agents acting within the scope of their duties; in that circumstance, there are not “two or more persons” capable of forming the requisite

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<sup>29</sup> *Bliss v. S. Pac. Co.*, 212 Or. 634, 644, 321 P.2d 324, 329 (1958).

conspiracy.<sup>30</sup> Plaintiff does not plead facts showing that any individual defendant acted outside the scope of his corporate role or for a purely personal, independent purpose. Absent such allegations, Plaintiff's attempt to plead a conspiracy among a company and its agents is legally defective.

Finally, as discussed throughout, Plaintiff's asserted conspiracy narrative relies on his contention that DRVM was a "defunct shell," and that defendants collectively misrepresented DRVM as his employer. But the foundation of that theory is legally flawed: the reinstatement of an administratively dissolved Oregon entity relates back, restoring the entity's authority as if the dissolution had not occurred.<sup>31</sup> And, critically, this Court has already directed Plaintiff to arbitrate employment-related claims with his former employer, DRVM, who is participating in that forum and is prepared to defend itself there. The conduct Plaintiff complains of, and any damages Plaintiff may have suffered is, at their core, products of an employment dispute that is already proceeding in the contractually chosen forum. Plaintiff's conspiracy claim is nothing more than a bad faith attempt to turn what Plaintiff's admits was a "small wage issue" into something more. (*See* Compl. ¶ 27.)

For each of these reasons: failure to plead a viable underlying tort, failure to plead a plausible agreement and unlawful overt act, the intra-corporate conspiracy doctrine, and the legally defective premise giving rise to Plaintiff's alleged "scheme," Plaintiff's civil conspiracy claim should be dismissed.

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<sup>30</sup> *Id.* (recognizing limits on converting otherwise lawful conduct into a tort by layering conspiracy allegations).

<sup>31</sup> ORS 65.747(f).

**E. Plaintiff’s Successor Liability Theory Also Fails**

Plaintiff’s successor-liability theory should be dismissed because it is not a standalone legal claim but a theory of liability. In the Ninth Circuit, successor liability in the employment context is an equitable doctrine applied on a “case-by-case” basis and requires facts supporting three essential elements: (1) continuity of operations and workforce between the predecessor and alleged successor, (2) notice to the alleged successor of the predecessor’s legal obligations, and (3) the predecessor’s inability to provide adequate relief directly.<sup>32</sup> Courts also assess “substantial continuity” under a detailed, multi-factor analysis examining whether the alleged successor uses the same plant, workforce, supervisors, jobs and working conditions, equipment and methods, and produces the same product or service.<sup>33</sup> Under *Twombly* and *Iqbal*, Plaintiff must plead concrete, nonconclusory facts making those elements plausible; he cannot simply assert that one entity is a “successor” and demand that discovery supply the missing transaction and operational details.

Plaintiff does not plead facts satisfying any of the required elements. He does not allege a cognizable predecessor-to-successor transfer; there are no allegations of merger, asset purchase, consolidation, replacement, or other mechanism through which AMJ or Dickert purportedly stepped into DRVM’s shoes. As discussed above, Plaintiff’s core premise – that DRVM could not have been his employer because it was administratively dissolved in Oregon for a period of time – is not legally correct. DRVM’s authority was reactivated by Oregon’s Secretary of State,

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<sup>32</sup> *Bates v. Pac. Mar. Ass’n*, 744 F.2d 705, 710 (9th Cir. 1984); *see also Reaves v. Nexstar Broad., Inc.*, 327 F. Supp. 3d 1352, 1380 (D. Or. 2018).

<sup>33</sup> *Slack v. Havens*, 522 F.2d 1091 (9th Cir. 1975).

resulting in retroactive authority, meaning it was as if the revocation never happened. He likewise does not plead any allegations that DRVM failed to operate its day-to-day business or used the period of revocation to avoid the Company's liabilities or defraud its employees.

Most importantly, Plaintiff cannot satisfy the third element to support the application of joint liability. Successor liability exists to prevent an employee from being left remediless when the predecessor cannot satisfy a judgment or award.<sup>34</sup> Here, DRVM remains able to provide full relief. DRVM has appeared in the arbitration, paid arbitration fees, and has been participating in arbitration in good faith. Because DRVM stands ready and capable of providing adequate relief in the contractually designated forum, imposing successor liability on AMJ or Dickert is neither fair nor necessary.

**F. Plaintiff Cannot Request to Pierce the Corporate Veil as There Are No Actionable Claims Asserted Against Defendants**

Plaintiff's veil-piercing theory should be dismissed because Oregon law treats veil piercing as an extraordinary remedy, which exists as a last resort where there is no other adequate and available remedy to repair Plaintiff's injury.<sup>35</sup> Specifically, under the Oregon Supreme Court's framework, a plaintiff seeking to collect a corporate obligation from an individual or affiliate by virtue of control must plausibly allege: (1) the defendant exercised actual control over the corporation; (2) the defendant engaged in improper conduct through that control; and (3) the plaintiff's inability to collect from the corporation resulted from the defendant's improper conduct.<sup>36</sup>

<sup>34</sup> *Bates*, 744 F.2d 705, 710 (9th Cir. 1984).

<sup>35</sup> *State ex rel. Neidig v. Superior Nat. Ins. Co.*, 343 Or. 434, 445, 173 P.3d 123, 131 (2007), quoting *Amfac Foods v. Int'l Systems*, 294 Or. 94, 103, 654 P.2d 1092 (1982).

<sup>36</sup> *Amfac Foods, Inc. v. Int'l Sys. & Controls Corp.*, 294 Or. 94 (1982).

While Plaintiff seeks to hold other entities responsible for harms stemming from his employment with DRVM through a theory of common ownership, management, or business relationship, Oregon courts have repeatedly clarified that “control and ownership alone” are insufficient; the corporate form must be used to perpetrate injustice or fraud, and the remedy is reserved to prevent misuse of entity separateness to evade responsibility.<sup>37</sup> Here, the only clear injury discernible from the Complaint is a dispute over penalties due after DRVM failed to pay final wages within the statutory timeframe. The Complaint lacks facts to support Plaintiff’s conclusions that AMJ or Dickert used the DRVM entity to evade responsibility or perpetrate fraud. In fact, Plaintiff acknowledges receiving paychecks through DRVM, contacting payroll support for late wages, receiving prompt responses, and being ordered by this Court to arbitrate his claims with DRVM.<sup>38</sup> (Compl. ¶¶ 31-36, 49, 147; *see also* Compl. Exs. E and F.) Absent from the Complaint are any facts that make AMJ or Dickert responsible for DRVM’s alleged wrongdoing or any injuries Plaintiff alleges due to his employment with DRVM.

Most critically, piercing the corporate veil is improper because Plaintiff can obtain meaningful relief directly from DRVM through the agreed forum. Oregon law does not permit bypassing the corporate form for convenience or leverage. Veil piercing exists to prevent wrongdoers from using the corporate form to evade responsibility when the corporation cannot

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<sup>37</sup> *Amfac*, 294 Or. 94 (1982); *Sterling Sav. Bank ex rel. Nw. Lending Partners, LLC v. Emerald Dev. Co.*, 266 Or. App. 312 (2014).

<sup>38</sup> Plaintiff misstates that this Court limited his arbitrable claims to the “unpaid-wage-and-penalty” dispute. *See* Compl. Ex. F for the Court’s Opinion and Order.

provide relief, not to entrap corporate partners, managers, clients, and agents when a complete remedy remains available from the employer itself.<sup>39</sup>

**V. MOTION TO STRIKE: RULE 12(f) AUTHORIZES COURTS TO STRIKE IMPROPER ALLEGATIONS OR THE ENTIRE PLEADING**

Courts are empowered to strike “from a pleading . . . any redundant, immaterial, impertinent, or scandalous matter.”<sup>40</sup> The court may strike either on its own or on a motion by a party, and has considerable discretion in striking any redundant, immaterial, impertinent or scandalous matter.<sup>41</sup> “Ordinarily, the proper response in the face of a motion to strike a pleading is only the offending parts of it.”<sup>42</sup> “However, if the complaint violates FRCP 8 such that a great deal of judicial energy would have to be devoted to eliminating the unnecessary matter and restructuring the pleading . . . [the Court] may strike the entire pleading while granting leave to replead.”<sup>43</sup> “An unnecessarily long or confusing complaint makes it difficult for both the defendant and the court.”<sup>44</sup> It becomes difficult for the defendant to file a responsive pleading and makes

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<sup>39</sup> See *Neidig*, 343 Or. 434, 445 (2007); *Salem Tent & Awning Co. v. Schmidt*, 79 Or. App. 475 (1986).

<sup>40</sup> Fed. R. Civ. P. 12(f).

<sup>41</sup> *Id.*; *Talbot v. Robert Matthews Distrib. Co.*, 961 F.2d 654, 665 (7th Cir.1992).

<sup>42</sup> *Eszter Pryor v. USA Diving, Inc.*, 2018 WL 8786888 (S.D. Ind. Oct. 1, 2018), citing *Hardin v. Am. Elec. Power*, 188 F.R.D. 509, 511 (S.D. Ind. 1999); see *Wright & Miller* § 1281 (4<sup>th</sup> ed.) at 522.

<sup>43</sup> *Id.*; see also *Vicom, Inc. v. Harbridge Merch. Servs., Inc.*, 20 F.3d 771, 776 (7th Cir. 1994) (noting the district court’s power to have dismissed the complaint with prejudice due to its ‘egregious violation of Rule 8(a)’).

<sup>44</sup> See *Vicom*, 20 F.3d at 775-76.

conducting an orderly litigation difficult for the court.”<sup>45</sup> A motion to strike should be granted where it properly results in the removal of unnecessary clutter and expedites a case.<sup>46</sup>

The Complaint spans dozens of pages and hundreds of paragraphs but fails to present a short and plain statement of any claim. Instead, it strings together sweeping narratives, editorial commentary, conflicting accusations, and legal conclusions that obscure the elements of any cognizable claim. These allegations are immaterial and impertinent because they are untethered to the relief sought and serve only to prejudice and burden the defense, which is left attempting to discern which fact supports which claim. Rule 12(f) exists to remove precisely this type of clutter at the outset.<sup>47</sup> Such pleadings contravene Rule 8 because they fail to give fair notice of the claims and the grounds on which they rest, impeding a sensible, orderly defense.

Further, rather than plead facts tying specific conduct to specific defendants at specific times, the Complaint uses collective references to “Defendants,” repeatedly lumping all defendants together. This undifferentiated group pleading deprives each defendant of fair notice, complicates any attempt to answer, and invites satellite disputes over what allegations apply to whom. Courts strike such impertinent and confusing matter and require the plaintiff to clarify the “who, what, when, where, and how” of the alleged misconduct.<sup>48</sup>

Finally, striking the Complaint now will prevent unnecessary motion practice over an unintelligible pleading, allow Defendants to prepare a meaningful response, and conserve judicial resources. Granting this Motion with leave to amend his Complaint will allow Plaintiff the

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<sup>45</sup> See *Pryor*, 2018 WL 8786888.

<sup>46</sup> *Heller Fin., Inc. v. Midwhey Powder Co.*, 883 F.2d 1286, 1294 (7<sup>th</sup> Cir. 1989).

<sup>47</sup> *Pryor*, 2018 WL 8786888.

<sup>48</sup> See *Heller Fin., Inc. v. Midwhey Powder Co.*, 883 F.2d 1286, 1294 (7<sup>th</sup> Cir. 1989).

opportunity to file a FRCP 8-compliant pleading that: (a) sets forth a short and plain statement of each claim; (b) identifies the specific defendant(s) allegedly responsible; and (c) pleads facts tied to the elements of each cause of action.

**VI. THE FEDERAL ARBITRATION ACT REQUIRES THAT THIS COURT COMPEL THIS CASE INTO ARBITRATION**

**A. Because This Case Is Subject to Arbitration, This Court May Dismiss Under Fed. R. Civ. P. 12**

Alternatively, should this Court find that Plaintiff properly pled his causes of action and that Plaintiff has asserted plausible injuries that were caused by AMJ or Dickert, AMJ and Dickert request that the Court dismiss this action and permit AMJ and Dickert to enforce arbitration of Plaintiff's claims as third-party beneficiaries to the Arbitration Agreement. The Federal Arbitration Act (FAA) reflects "a liberal federal policy favoring arbitration" and requires courts to compel the arbitration of any claims covered by an arbitration agreement in accordance with its terms.<sup>49</sup> The "unmistakably clear" congressional purpose of the FAA is that the arbitration procedure selected by the parties be "speedy and not subject to delay and obstruction in the courts."<sup>50</sup> "[A]ny doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration."<sup>51</sup> When evaluating a motion to compel arbitration, courts generally limit their review to: "(1) whether there is an agreement to arbitrate between the parties; and (2) whether the agreement covers the dispute."<sup>52</sup> If the answer to both questions is affirmative, like it is here, a court must compel arbitration.

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<sup>49</sup> *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 338 (2011).

<sup>50</sup> *Prima Paint Corp. v. Flood Conklin Manufacturing Co.*, 388 U.S. 395, 404 (1967).

<sup>51</sup> *Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 24 (1983).

<sup>52</sup> *Brennan v. Opus Bank*, 796 F.3d 1125, 1130 (9th Cir. 2015).

In moving to compel arbitration, a defendant may also request dismissal under Fed. R. Civ. P. 12(b).<sup>53</sup> Courts are divided in which subpart of Fed. R. Civ. P. 12(b) applies. Some hold that a motion to compel arbitration challenges the Court's subject matter jurisdiction under Rule 12(b)(1).<sup>54</sup> In considering a Rule 12(b)(1) motion, the Court may consider evidence outside the pleadings to resolve factual disputes.<sup>55</sup> Other courts have considered whether Rule 12(b)(6) is a proper vehicle but have concluded that such a motion would have to be treated as one of subject matter jurisdiction, albeit limited to the issue of arbitration.<sup>56</sup> In any instance, the Court may consider extrinsic evidence as necessary to resolve that issue.<sup>57</sup>

**B. Plaintiff Signed a Valid and Enforceable Mutual Arbitration Agreement**

Under the FAA, written arbitration agreements “shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.” 9 U.S.C. § 2. An offer of employment is sufficient consideration for the employee's agreement to arbitrate future employment-related legal claims.<sup>58</sup> Here, the binding nature of the Arbitration Agreement has not been disputed. (*See* Compl. Ex. F at 30-39.) Plaintiff and DRVM have an arbitration scheduled on December 8, 2026. (Edwards Decl. ¶ 11.)

<sup>53</sup> *Riso, Inc. v. Witt Co.*, No. 03:13-CV-02064-HZ, 2014 WL 3371731, at \*4 (D. Or. July 9, 2014).

<sup>54</sup> *Id.*; *see also* *Gilbert v. Donahoe*, 751 F.3d 303, 306 (5th Cir. 2014) (“[A] district court lacks subject matter jurisdiction over a case and should dismiss it pursuant to Federal Rule of Civil Procedure 12(b)(1) when the parties' dispute is subject to binding arbitration”).

<sup>55</sup> *Robinson v. United States*, 586 F.3d 683, 685 (9th Cir. 2009).

<sup>56</sup> *Dodo Int'l Inc. v. Parker*, No. C20-1116-JCC, 2021 WL 4060402, at \*5 (W.D. Wash. Sept. 7, 2021).

<sup>57</sup> *Id.*

<sup>58</sup> *EEOC v. Luce, Forward, Hamilton & Scripps*, 345 F.3d 742, 749-50 (9th Cir. 2003) (holding employers can require employees to arbitrate their future Title VII claims as a condition of employment).

**C. The Arbitration Agreement Squarely Encompasses Plaintiff's Claims**

The Agreement, applies to “any claims . . . that arises out of or relates to any service Employee has performed for Employer.” This broad language encompasses any controversy, dispute, or disagreement so long as the subject matter arises out of, or relates to, Plaintiff’s employment. On the face of the pleadings, Plaintiff’s claims stem from alleged wage violations, purported payroll errors, and his employment relationship generally. Although Plaintiff may argue that the Arbitration Agreement does not expressly include “fraud” or “conspiracy” claims, courts routinely hold that similarly expansive “arising out of or relating to” language reaches statutory and common-law theories that have their factual nexus in the employment relationship.<sup>59</sup> Accordingly, Plaintiff’s fraud and conspiracy-based claims fall within the scope of the Arbitration Agreement and must be resolved in arbitration. (Edwards Decl. Ex. A.)

**D. AMJ and Dickert Have the Right to Compel Arbitration Based on Their Status as Third-Party Beneficiaries**

The United States Supreme Court has held that a litigant who is not a party to an arbitration agreement may invoke arbitration under the FAA if the relevant state contract law allows the litigant to enforce the agreement.<sup>60</sup> “Generally, a third party’s right to enforce a contractual promise in its favor depends on the intentions of the parties to the contract.”<sup>61</sup> Oregon courts “. . . consider not only the arbitration clause itself, but the entire contract, as well as the relationship of

<sup>59</sup> See *Livingston v. Metro. Pediatrics, LLC*, 234 Or. App. 137, 148, 227 P.3d 796, 804 (2010).

<sup>60</sup> *Kramer v. Toyota Motor Corp.*, 705 F.3d 1122, 1128 (9th Cir. 2013) (discussing *Arthur Andersen LLP v. Carlisle*, 556 U.S. 624, 632, 129 S.Ct. 1896, 173 L.Ed.2d 832 (2009)).

<sup>61</sup> *Cornelio v. Premere Rehab, LLC*, 342 Or. App. 399, 409, 577 P.3d 847, 853 (2025), quoting *Livingston v. Metropolitan Pediatrics, LLC*, 234 Or App 137, 149, 227 P.3d 796 (2010).

the parties, the subject matter of the contract, and the practical construction the parties themselves may have placed on the contract by their act.”<sup>62</sup>

Federal courts have consistently held that a non-signatory can invoke the protections of an arbitration clause “when the signatory to the contract containing an arbitration clause raises allegations of substantially interdependent and concerted misconduct by both the nonsignatory and one or more of the signatories to the contract.”<sup>63</sup> “[I]f the rule were otherwise, a party could easily avoid the practical consequences of an agreement to arbitrate by naming non-signatory parties as [defendants] in his complaint or signatory parties in their individual capacities only [and] the effect of the rule requiring arbitration would, in effect, be nullified.”<sup>64</sup> The Arbitration Agreement between Plaintiff and DRVM covers all claims raised in the present lawsuit and permits the enforcement of its terms by third parties. Specifically, the Arbitration Agreement explicitly states, “This Agreement includes any covered claim brought by or against a third party, including any client of Employer. This Agreement can be enforced by any such third party.” (Edwards Decl. Ex. A.) Further, Plaintiff’s claims against AMJ, Dickert, and other defendants in this lawsuit are the very same claims he asserts against DRVM and all claims of wrongdoing arise from his employment. The very throughline of Plaintiff’s Complaint is that AMJ, Dickert, and other defendants controlled Plaintiff’s employment. The Complaint repeatedly states his belief that AMJ

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<sup>62</sup> *Marshall v. Healthy Living Network Res., LLC*, No. 6:21-CV-01304-MK, 2022 WL 2015325, at \*3 (D. Or. May 11, 2022), report and recommendation adopted, No. 6:21-CV-1304-MK, 2022 WL 1988000 (D. Or. June 6, 2022), quoting *Livingston v. Metro. Pediatrics, LLC*, 234 Or. App. 137, 139 (2010).

<sup>63</sup> *Bos. Telecommunications Grp., Inc. v. Deloitte Touche Tohmatsu*, 278 F. Supp. 2d 1041, 1048 (N.D. Cal. 2003), *aff’d*, 249 F. App’x 534 (9th Cir. 2007), quoting *Westmoreland v. Sadoux*, 299 F.3d 462, 467 (5th Cir.2002).

<sup>64</sup> *Id.*

and Dickert were part of a “single, unified enterprise.” Put another way, the Complaint asserts that AMJ and Dickert’s alleged misconduct was clearly intertwined and interdependent and therefore subject to arbitration.

**E. This Court Should Dismiss Judicial Proceedings and Compel Arbitration**

The FAA permits a court to dismiss an action in compelling arbitration. *Smith v. Spizzirri*, 601 U.S. 472, 478 (2024). But AMJ and Dickert do not dispute that the Supreme Court’s decision in *Spizzirri* makes a stay the most appropriate remedy if the Plaintiff requests it. *Id.*; 9 U.S.C. § 3. Accordingly, on the assumption that Plaintiff will request a stay, AMJ and DRVM will not oppose such a request. Plaintiff signed a binding agreement to arbitrate his employment claims against DRVM and third parties, including those in his Complaint. Rather than pursue his claims in arbitration against his former employer, DRVM, he is attempting to circumvent the Agreement through this lawsuit. The Court therefore is required to compel arbitration and to dismiss or stay judicial proceedings pending the outcome of that arbitration.

**VII. CONCLUSION**

For all the above reasons, Dickert and AMJ respectfully request that this Court grant their Motions to Dismiss Plaintiff’s Complaint in its entirety and with prejudice based on Plaintiff’s lack of standing and his failure to state a claim. In the alternative, Dickert and AMJ request that the Court strike Plaintiff’s full Complaint and order him to replead in conformity with FRCP 8. In the alternative, should the Court determine that Plaintiff has standing, has properly pled his claims,

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and that AMJ and Dickert are proper defendants, AMJ and Dickert request that this Court compel arbitration of any claims against AMJ or Dickert as third-party beneficiaries to the Arbitration Agreement.

DATED this 6th day of February 2026.

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