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

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

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

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

C. Pattern of racketeering activity

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

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

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

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

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

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

* * *

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

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

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

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

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

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

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

A. Plaintiffs were employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSION

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

Respectfully submitted,

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January 6, 2022

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CERTIFICATE OF COMPLIANCE

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

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

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

s/ Madeline Meth
Madeline Meth
Counsel for Plaintiffs-Appellants

ADDENDUM

~~AC 301~~

Public Contracts Division
165 West 46th Street

January 9, 1942
SOL:PKD:CP

(b)(6)

Dear (b)(6):

Reference is made to your letter of November 24.

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

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

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

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

Initials
(b)(6)
(b)(6)
18—26804-1 GPO

(b)(6)

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

Very truly yours,

L. Metcalfe Walling
Administrator

382787

Initials (b)(6)

16—26804-1 GPO

CERTIFICATE OF SERVICE

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

s/ Madeline Meth
Madeline Meth
Counsel for Plaintiffs-Appellants