

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

FILED BY 	D.C.
SEP - 4 2026	
ANGELA E. NOBLE CLERK U.S. DIST. CT. S. D. OF FLA. - MIAMI	

HERIBERTO VALIENTE,)
Plaintiff,)
v.)
GATORS SPINE & WELLNESS)
CLINIC, INC.,)
Defendant.)

GATORS SPINE & WELLNESS)
CLINIC, INC., and)
DR. WENDY L. FLYNN, D.C.,)
individually,)
Counter-Plaintiffs,)
v.)
HERIBERTO VALIENTE;)
PEREGONZA THE ATTORNEYS,)
PLLC;)
JUAN J. PEREZ, ESQ., individually;)
ROBERTO GONZALEZ, ESQ.,)
individually;)
RENZO MORA, ESQ., individually;)
and)
JOHN DOES 1-10,)
Counter-Defendants.)

Case No.:

REMOVED FROM:
County Court of the Eleventh
Judicial Circuit
in and for Miami-Dade County,
Florida
Small Claims Division
State Court Case No.: 2026-
099206-SP-05

DEFENDANT'S NOTICE OF REMOVAL TO FEDERAL COURT
PRELIMINARY STATEMENT

This case is a shakedown. Plaintiff Heriberto Valiente—a "*professional plaintiff*" who has filed over 147 substantially identical lawsuits in three months—is the front man for a fraudulent litigation enterprise operated by PereGonza The Attorneys, PLLC. The scheme is simple: deploy automated bots to scrape and copy proprietary website code, generate boilerplate complaints alleging violations of the Florida Security of Communications Act, cap damages at \$8,000 to remain in small claims

court where defense costs exceed settlement costs, and collect payments from businesses that cannot afford to fight.

Dr. Wendy Flynn is a licensed Doctor of Chiropractic who has practiced for over thirty years. She relocated from Illinois to Florida in February 2025 to open Gators Spine & Wellness Clinic in Gainesville. She treats families, athletes, University of Florida students, and anyone seeking relief from chronic pain. She has never illegally surveilled anyone. Her website has a published Privacy Policy. The accusations in the underlying complaint are false.

The clinic is located in Gainesville—330 miles from Miami. Valiente, allegedly a Miami resident, had no intention of seeking chiropractic care in Gainesville. He did not visit the website as a consumer. On information and belief, he did not visit the website at all. The *"Website Privacy Audit Report"* attached to the complaint was generated by automated scanning software, and the complaint was generated from a template used in at least 147 other cases filed by Valiente between June and August 2026. See Exhibit C (Miami-Dade County Clerk of Courts Docket Search Results).

This filing removes the state court action to federal court so that Defendant may assert compulsory counterclaims under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-1968, the Lanham Act, 15 U.S.C. § 1125(a), the Copyright Act, 17 U.S.C. § 101, and Florida common law fraud.

I. PROCEDURAL BACKGROUND

1. On July 28, 2026, Plaintiff Heriberto Valiente filed a Statement of Claims against Gators Spine & Wellness Clinic, Inc. in the County Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, Small Claims Division, Case No. 2026-099206-SP-05 (the "State Court Action").
2. The Statement of Claims alleges that the clinic's website violated the Florida Security of Communications Act ("FSCA"), Fla. Stat. §§ 934.03 and 934.31, by deploying tracking technologies characterized as "pen registers" and "trap and trace devices" without user consent.
3. Defendant Gators Spine & Wellness Clinic, Inc. was served with the Summons and Statement of Claims on July 31, 2026, via service on Dr. Wendy L. Flynn at 3201 SW 42nd Street, Suite 130, Gainesville, Florida 32608.
4. This Notice of Removal is timely filed within thirty (30) days of service, as required by 28 U.S.C. § 1446(b)(1).
5. Pursuant to 28 U.S.C. § 1446(a), attached hereto as **Exhibit A** is a true and correct copy of all process, pleadings, and orders served upon Defendant in the State Court Action.
6. Written notice of the filing of this Notice of Removal is being promptly served on all adverse parties and filed with the Clerk of the State Court, as required by 28 U.S.C. § 1446(d).

II. GROUNDS FOR REMOVAL

A. Federal Question Jurisdiction – 28 U.S.C. § 1331

7. This Court has original federal question jurisdiction under 28 U.S.C. § 1331 because Defendant is concurrently filing compulsory counterclaims arising under federal law.
8. Defendant's counterclaims arise under the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-1968. Specifically, Counter-Plaintiffs allege that Counter-Defendants have violated 18 U.S.C. § 1962(c) by conducting the affairs of an enterprise through a pattern of racketeering activity.
9. Defendant's counterclaims also arise under the Lanham Act, 15 U.S.C. § 1125(a), and the Copyright Act, 17 U.S.C. § 101 et seq. This Court has original jurisdiction over these claims pursuant to 15 U.S.C. § 1121, 28 U.S.C. § 1331, and 28 U.S.C. § 1338(a).
10. The federal counterclaims are compulsory under Fed. R. Civ. P. 13(a) because they arise out of the same transaction or occurrence as Plaintiff's claims—specifically, the operation of the clinic's website, the unauthorized scraping of that website, and the filing of the underlying lawsuit targeting that website.

B. The RICO Claims Satisfy Interstate Commerce Requirements

11. RICO requires that the enterprise be "*engaged in, or the activities of which affect, interstate commerce.*" 18 U.S.C. § 1962(c). This requirement is satisfied here.

12. The website at issue, <https://gatorsspinewellnessclinic.com/>, is hosted on commercial web infrastructure that operates across state lines. Data transmitted to and from the website necessarily crosses state lines.
13. Counter-Defendants' scheme likewise affects interstate commerce through the use of interstate wire communications (electronic court filings, internet-based scanning software, and interstate banking networks).

C. Diversity Jurisdiction – 28 U.S.C. § 1332 (Alternative Basis)

14. In the alternative, this Court has original jurisdiction under 28 U.S.C. § 1332 based on diversity of citizenship.
15. Defendant is a Florida corporation with its principal place of business in Alachua County, Florida.
16. On information and belief, Plaintiff Valiente is identified as a "*resident of Miami-Dade County, Florida.*" However, the "*Website Privacy Audit Report*" attached to the Statement of Claims contains metadata indicating the automated website scan was conducted from outside Florida, potentially from California. If Valiente is domiciled in a state other than Florida, complete diversity exists.
17. The amount in controversy exceeds \$75,000, exclusive of interest and costs, because Defendant's RICO counterclaim seeks treble damages, and the Lanham Act and Copyright Act counterclaims seek disgorgement of Counter-Defendants' profits and statutory damages well in excess of the jurisdictional threshold.

D. Supplemental Jurisdiction – 28 U.S.C. § 1367

18. This Court has supplemental jurisdiction over all state-law claims and counterclaims pursuant to 28 U.S.C. § 1367(a) because they arise from the same case or controversy as the federal claims.

E. Venue

19. Venue is proper in the Southern District of Florida, Miami Division, pursuant to 28 U.S.C. § 1441(a), because the State Court Action was pending in Miami-Dade County at the time of removal.

III. TIMELINESS

20. Defendant was served with the Statement of Claims on July 31, 2026. This Notice of Removal is filed on September 2, 2026, within thirty (30) days of service as required by 28 U.S.C. § 1446(b)(1).

21. Upon filing of this Notice of Removal, the State Court Action is automatically stayed. 28 U.S.C. § 1446(d).

IV. PROCEDURAL REQUIREMENTS

22. Pursuant to 28 U.S.C. § 1446(a), the following documents are attached:

- **Exhibit A:** State Court Filings (Statement of Claims, Summons, Website Privacy Audit Report)
- **Exhibit B:** Civil Cover Sheet (Form JS-44)

23. Pursuant to 28 U.S.C. § 1446(d), Defendant will promptly file a copy of this Notice of Removal with the Clerk of the County Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, and serve written notice upon Plaintiff's counsel.

Respectfully submitted,

GATORS SPINE & WELLNESS CLINIC, INC.

By: /s/ Wendy L. Flynn

Dr. Wendy L. Flynn, D.C.
President, Gators Spine & Wellness Clinic, Inc.
Pro Se, Pending Retention of Counsel

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Dated: September 2, 2026

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 2, 2026, a true and correct copy of this Notice of Removal was served via U.S. Mail and Electronic Mail to: Juan J. Perez, Esq., Roberto Gonzalez, Esq., Renzo Mora, Esq., PereGonza The Attorneys, PLLC, 850 NW 42nd Avenue, Suite 205, Miami, Florida 33126 (eservice@pereggonza.com).

/s/ Wendy L. Flynn

NOTICE TO CLERK OF STATE COURT

Pursuant to 28 U.S.C. § 1446(d):

This Notice of Removal has been filed in the United States District Court for the Southern District of Florida. The state court proceeding, **Case No. 2026-099206-SP-05**, is hereby removed to federal court. **The state court may proceed no further unless and until the case is remanded.** The pretrial conference scheduled for September 2, 2026 at 2 PM is automatically stayed.