

**US District Court Electronic Case Filing System
District of Utah (Central)
CIVIL DOCKET FOR CASE #: 2:20-cv-00641-HCN**

Miller v. Fluent Home LLC et al
Assigned to: Judge Howard C. Nielson, Jr
Demand: \$1,000,000
Cause: 18:1961 Racketeering (RICO) Act

Date Filed: 09/16/2020
Date Terminated: 08/20/2021
Jury Demand: Plaintiff
Nature of Suit: 470 Racketeer/Corrupt
Organization
Jurisdiction: Federal Question

Plaintiff

Greg Miller
an individual

represented by **Greg Miller**
7911 S CHADBOURNE DR UNIT A
COTTONWOOD HEIGHTS, UT 84121
801-808-7893
PRO SE

V.

Defendant

Fluent Home LLC
a Delaware limited liability company

represented by **Evan S. Strassberg**
MICHAEL BEST & FRIEDRICH LLP
2750 E COTTONWOOD PKWY STE 560
COTTONWOOD HEIGHTS, UT 84121
(801)833-0477
Email: esstrassberg@michaelbest.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Fluent Home
a Canadian corporation

represented by **Evan S. Strassberg**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

NPEC
a Utah limited liability company

represented by **Evan S. Strassberg**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

IVY Techs
a Delaware limited liability company

represented by **Evan S. Strassberg**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Jack Elbaum
an individual
also known as
Yaki Elbaum
also known as
Jack Inbar
also known as
Jack Inbar-Prater

represented by **Evan S. Strassberg**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Graham Wood
an individual

represented by **Evan S. Strassberg**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

J. Parker Hollis
an individual

represented by **Evan S. Strassberg**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Kristi L. Bettridge
an individual

represented by **Evan S. Strassberg**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Vivint
a Delaware corporation

represented by **Kody Lynn Condos**
CLYDE SNOW & SESSIONS
ONE UTAH CENTER
201 S MAIN ST STE 2200
SALT LAKE CITY, UT 84111-2216
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LEAD ATTORNEY
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Matthew A. Steward
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Email: mas@clydesnow.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Todd Pedersen
an individual

represented by **Kody Lynn Condos**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Matthew A. Steward
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/16/2020	<u>1</u>	Emergency MOTION to Seal Case filed by Defendants Jack Elbaum, IVY Techs, NPEC. (Attachments: # <u>1</u> Exhibit A - First Contempt Order, # <u>2</u> Exhibit B - Order on Vexatious Litigant Motion, # <u>3</u> Exhibit C - Sept 10, 2015 Order, # <u>4</u> Exhibit D - Email dated Oct. 1, 2015, # <u>5</u> Exhibit E - Second Contempt Order, # <u>6</u> Exhibit F - Third Contempt Order, # <u>7</u> Exhibit G - Order dated June 30, 2017, # <u>8</u> Exhibit H - Fourth Contempt Order, # <u>9</u> Exhibit I - July 18, 2019 Hearing Transcript, # <u>10</u> Exhibit J - Complaint in Advice Media v. Greg Miller, # <u>11</u> Exhibit K - Court's Motion to Declare Miller a Vexatious Litigant, # <u>12</u> Exhibit L - Order, # <u>13</u> Exhibit M - Order, # <u>14</u> Exhibit N - Order Granting Motion to Dismiss, # <u>15</u> Exhibit O - Ruling) Attorney Evan S. Strassberg added to party Jack Elbaum(pty:dft), Attorney Evan S. Strassberg added to party IVY Techs(pty:dft), Attorney Evan S. Strassberg added to party NPEC(pty:dft)(Strassberg, Evan) (Entered: 09/16/2020)
09/16/2020	<u>2</u>	COMPLAINT against All Defendants (Filing fee \$ 400, receipt number 4681091715) filed by Greg Miller. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Civil Cover Sheet) Assigned to Judge Howard C. Nielson, Jr (dw) (Entered: 09/16/2020)
09/16/2020	3	ORDER REFERRING CASE to Magistrate Judge Jared C. Bennett under 28:636 (b)(1) (A), Magistrate to hear and determine all nondispositive pretrial matters. No attached document. Motions referred to Jared C. Bennett. Signed by Judge Howard C. Nielson, Jr. on 9/16/2020. (lnp) (Entered: 09/16/2020)
09/18/2020	4	ORDER MODIFYING REFERRAL of Magistrate Judge Jared C. Bennett to 28:636 (b)(1) (B) from (b)(1)(A), Magistrate to handle case up to and including R&R on all dispositive matters. Signed by Judge Howard C. Nielson, Jr. on 9/18/2020. (lnp) (Entered: 09/18/2020)
09/23/2020	<u>5</u>	MEMORANDUM DECISION and Order denying <u>1</u> Motion to Seal Case. Signed by Magistrate Judge Jared C. Bennett on 9/23/20. (jwt) (Entered: 09/23/2020)
10/19/2020	<u>6</u>	AMENDED COMPLAINT against All Defendants. <i>New Defendants: Vivint, Inc. and Todd Pedersen</i> with Jury Demand filed by Greg Miller. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Civil Cover Sheet) (lnp) (Entered: 10/19/2020)
10/19/2020	<u>7</u>	WAIVER OF SERVICE Returned Executed filed by Jack Elbaum, J. Parker Hollis, Fluent Home, Fluent Home LLC, Kristi L. Bettridge, NPEC, Graham Wood, IVY Techs as to Jack Elbaum Waiver sent on 9/30/2020, answer due 11/30/2020; J. Parker Hollis Waiver sent on 9/30/2020, answer due 11/30/2020; Fluent Home Waiver sent on 9/30/2020, answer due 11/30/2020; Fluent Home LLC Waiver sent on 9/30/2020, answer due 11/30/2020; Kristi L. Bettridge Waiver sent on 9/30/2020, answer due 11/30/2020; NPEC Waiver sent on 9/30/2020, answer due 11/30/2020; Graham Wood Waiver sent on 9/30/2020, answer due 11/30/2020; IVY Techs Waiver sent on 9/30/2020, answer due 11/30/2020. (lnp) (Entered: 10/19/2020)
11/03/2020	<u>8</u>	WAIVER OF SERVICE Returned Executed filed by Greg Miller as to Kristi L. Bettridge Waiver sent on 10/20/2020, answer due 12/21/2020; Jack Elbaum Waiver sent on 10/20/2020, answer due 12/21/2020; Fluent Home Waiver sent on 10/20/2020, answer due 12/21/2020; Fluent Home LLC Waiver sent on 10/20/2020, answer due 12/21/2020; J.

		Parker Hollis Waiver sent on 10/20/2020, answer due 12/21/2020; IVY Techs Waiver sent on 10/20/2020, answer due 12/21/2020; NPEC Waiver sent on 10/20/2020, answer due 12/21/2020; Graham Wood Waiver sent on 10/20/2020, answer due 12/21/2020. (lnp) (Entered: 11/03/2020)
11/03/2020	9	WAIVER OF SERVICE Returned Executed filed by Greg Miller as to Todd Pedersen Waiver sent on 10/19/2020, answer due 12/18/2020; Vivint Waiver sent on 10/19/2020, answer due 12/18/2020. (Attachments: # 1 Exhibit)(lnp) (Entered: 11/03/2020)
12/18/2020	10	Defendant's MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Defendants Kristi L. Bettridge, Jack Elbaum, Fluent Home, Fluent Home LLC, J. Parker Hollis, IVY Techs, NPEC, Graham Wood. (Attachments: # 1 SEALED Exhibit A - 2017 Complaint (To Be Filed Under Seal), # 2 Exhibit B - Consolidation Order, # 3 Exhibit C - Order Dismissing 2017 Lawsuit, # 4 Exhibit D - Notice of Appeal, # 5 Exhibit E - NPEC v. Miller, # 6 Exhibit F - Certificate of Sale) Motions referred to Jared C. Bennett. Attorney Evan S. Strassberg added to party Kristi L. Bettridge(pty:dft), Attorney Evan S. Strassberg added to party Fluent Home(pty:dft), Attorney Evan S. Strassberg added to party Fluent Home LLC(pty:dft), Attorney Evan S. Strassberg added to party J. Parker Hollis(pty:dft), Attorney Evan S. Strassberg added to party Graham Wood(pty:dft)(Strassberg, Evan) Modified on 12/21/2020 by sealing Exhibit A per Order 16 (lnp). (Entered: 12/18/2020)
12/18/2020	11	Defendant's MOTION to Seal Document 10 Defendant's MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Defendants Kristi L. Bettridge, Jack Elbaum, Fluent Home, Fluent Home LLC, J. Parker Hollis, IVY Techs, NPEC, Graham Wood. (Attachments: # 1 Text of Proposed Order Granting Motion to Seal Exhibit "A" to Motion to Dismiss) Motions referred to Jared C. Bennett.(Strassberg, Evan) (Entered: 12/18/2020)
12/18/2020	12	**SEALED DOCUMENT** re 11 Defendant's MOTION to Seal Document 10 Defendant's MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , 10 Defendant's MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Defendants Kristi L. Bettridge, Jack Elbaum, Fluent Home, Fluent Home LLC, J. Parker Hollis, IVY Techs, NPEC, Graham Wood NOTE: Filer is instructed to serve the <u>sealed document</u> on all other parties.. (Strassberg, Evan) (Entered: 12/18/2020)
12/18/2020	13	NOTICE of Appearance by Matthew A. Steward on behalf of Todd Pedersen, Vivint (Steward, Matthew) (Entered: 12/18/2020)
12/18/2020	14	NOTICE of Appearance by Kody Lynn Condos on behalf of Todd Pedersen, Vivint (Condos, Kody) (Entered: 12/18/2020)
12/18/2020	15	NOTICE OF FILING of Joinder re 10 Defendant's MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM (<i>Fed.R.Civ.P.12(b)(6)</i>) filed by Defendants Todd Pedersen, Vivint. (Steward, Matthew) (Entered: 12/18/2020)
12/21/2020	16	ORDER granting 11 Motion to Seal Exhibit "A" to 10 Defendant's MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM. Signed by Magistrate Judge Jared C. Bennett on 12/21/2020. (lnp) (Entered: 12/21/2020)
01/05/2021	17	MEMORANDUM in Opposition to 10 Defendants' NPEC, LLC, Jack Elbaum, Ivy Techs, LLC, Fluent Home, LLC, Fluent Home, LTD., Graham Wood, J. Parker Hollis, and Kristi L. Bettridge's Motion to Dismiss filed by Plaintiff Greg Miller. (dla) (Entered: 01/05/2021)
01/19/2021	18	REPLY to Response to Motion re 10 Defendant's MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Defendants Kristi L. Bettridge, Jack Elbaum, Fluent Home, Fluent Home LLC, J. Parker Hollis, IVY Techs, NPEC, Graham Wood. (Strassberg, Evan) (Entered: 01/19/2021)

01/19/2021	<u>19</u>	NOTICE OF FILING of Joinder re <u>18</u> Reply Memorandum/Reply to Response to Motion, filed by Defendants Todd Pedersen, Vivint. (Steward, Matthew) (Entered: 01/19/2021)
02/02/2021	<u>20</u>	REQUEST to Submit for Decision re <u>10</u> Defendant's MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Defendants Kristi L. Bettridge, Jack Elbaum, Fluent Home, Fluent Home LLC, J. Parker Hollis, IVY Techs, NPEC, Graham Wood. (Strassberg, Evan) (Entered: 02/02/2021)
03/18/2021	<u>21</u>	REPORT AND RECOMMENDATIONS re <u>10</u> MOTION to Dismiss for Failure to State a Claim: Magistrate Judge recommends that Motion be granted, federal claims dismissed with prejudice and state law claims dismissed without prejudice. Signed by Magistrate Judge Jared C. Bennett on 3/18/21 (alt) (Entered: 03/18/2021)
04/05/2021	<u>22</u>	OBJECTION to <u>21</u> Report and Recommendation of Magistrate Judge filed by Greg Miller. (dla) (Entered: 04/06/2021)
04/15/2021	23	DOCKET TEXT ORDER. Defendants shall file a response to <u>22</u> Objection to Report and Recommendation of Magistrate Judge no later than April 26, 2021. Plaintiff may file a reply no later than May 3, 2021. SO ORDERED. Signed by Judge Howard C. Nielson, Jr., on 4/15/2021. (jcp) (Entered: 04/15/2021)
04/26/2021	<u>24</u>	Defendant's REPLY to Response to Motion re <u>21</u> REPORT AND RECOMMENDATIONS re <u>10</u> MOTION to Dismiss for Failure to State a Claim filed by J. Parker Hollis, Fluent Home, Fluent Home LLC, NPEC, IVY Techs, Graham Wood, Jack Elbaum, Kristi L. Bettridge. filed by Defendants Kristi L. Bettridge, Jack Elbaum, Fluent Home, Fluent Home LLC, J. Parker Hollis, IVY Techs, NPEC, Graham Wood. (Attachments: # <u>1</u> Exhibit A - Order of Dismissal, # <u>2</u> Exhibit B - Order Denying Motion)(Strassberg, Evan) (Entered: 04/26/2021)
04/26/2021	<u>25</u>	NOTICE OF FILING of Joinder re <u>24</u> Reply Memorandum/Reply to Response to Motion,, filed by Defendants Todd Pedersen, Vivint. (Steward, Matthew) (Entered: 04/26/2021)
05/03/2021	<u>26</u>	Plaintiff's REPLY to <u>21</u> REPORT AND RECOMMENDATIONS re <u>10</u> MOTION to Dismiss for Failure to State a Claim filed by Plaintiff Greg Miller. (jwt) (Entered: 05/03/2021)
07/14/2021	<u>27</u>	NOTICE of SUPPLEMENTAL AUTHORITY by Greg Miller. (dla) (Entered: 07/15/2021)
08/20/2021	28	On March 18, 2021, Magistrate Judge Bennett entered <u>21</u> Report and Recommendations recommending that this action be dismissed. Plaintiff then filed <u>22</u> Objection to Report and Recommendation of Magistrate Judge. Having carefully reviewed Judge Bennett's report and recommendation, Plaintiff's objection, and other relevant briefing, the court agrees with Judge Bennett that Plaintiff lacks standing to bring this action. The court does not reach the other issues decided by Judge Bennett. The court accordingly overrules <u>22</u> Objection to Report and Recommendation of Magistrate Judge and ADOPTS IN PART <u>21</u> Report and Recommendations. Plaintiff's action is DISMISSED WITHOUT PREJUDICE for lack of standing. SO ORDERED. Signed by Judge Howard C. Nielson, Jr., on 8/20/2021. No attached document. (jcp) (Entered: 08/20/2021)
08/20/2021	<u>29</u>	JUDGMENT IN A CIVIL CASE: This action is DISMISSED WITHOUT PREJUDICE for lack of standing. Case Closed. Magistrate Judge Jared C. Bennett no longer assigned to case. Signed by Judge Howard C. Nielson, Jr on 8/20/21. (dla) (Entered: 08/20/2021)

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