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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

APR 16 2012

John A. Clarke, Executive Officer/Clerk
BY [Signature], Deputy
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Attorneys for Plaintiff:
SAN PASQUAL Band of Mission Indians

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

BC482875

SAN PASQUAL BAND OF MISSION
INDIANS, a federally recognized Indian Tribe

CASE NO.:

Plaintiff.

COMPLAINT FOR DAMAGES FOR:

VS.

1. Breach of Contract

STATE OF CALIFORNIA; CALIFORNIA
GAMBLING CONTROL COMMISSION, an
agency of the State of California; and
DOES 1-25, inclusive

Defendants.

Plaintiff, the SAN PASQUAL BAND OF MISSION INDIANS, hereby complains and alleges
as follows:

1. Plaintiff, SAN PASQUAL BAND OF MISSION INDIANS (hereinafter referred to as "PASQUAL") is a federally recognized Indian Tribe within the meaning of federal Indian Gaming Regulatory Act (IGRA), and operates a gaming casino under the name Valley View Casino. For all times alleged herein, SAN PASQUAL is a signatory to a Tribal-State Compact (hereinafter referred to as the "Contract") with Defendant-State of California that is

CIT/CASE: BC482875
RECEIVED: 4/16/12
DATE PAID: 4/16/12
PAYMENT: \$375.00
RECEIVED: 4/16/12
CHECK: 95.00
CASH: 0.00
CHARGE: 0.00
TOTAL: 135.00
OFFICE: 4/16/12
CLERK: 4/16/12
DEPT: 4/16/12
FILE: 4/16/12

1 in effect. The Contract was executed on September 10, 1999, and took effect upon the
2 publication in the Federal Register on or about May 16, 2000.

3 2. Defendant-STATE OF CALIFORNIA is a sovereign state of the United States.
4 The STATE OF CALIFORNIA is a signatory to the Contract with Plaintiff-SAN PASQUAL.

5 3. Defendant-CALIFORNIA GAMBLING CONTROL COMMISSION
6 (hereinafter "CGCC") is an agency of the State that, pursuant to Executive Order D-31-01,
7 administers the gaming device license draw process under Section 4.3.2.2(a)(3), and controls,
8 collects and accounts for all license fees under Section 4.3.2.2(a)(2); enforces the rights of the
9 State of California to enforce the provisions of Sections 4.3.2.2(a)(1) through (3) and (e), and
10 all subparagraphs thereunder, of the Contract; and ensures that the allocation of machines
11 among California Indian Tribes does not exceed the allowable number of machines as
12 provided in the Contract and shall determine whether the machine license draw(s) complies
13 with the provisions of the Contract. At all times relevant to the facts and claims alleged in
14 this Complaint, the CGCC was acting or purporting to act as an agent of the State and the
15 Governor of California. (Defendants STATE OF CALIFORNIA and the CGCC are
16 hereinafter collectively referred to as the "STATE."). DOES 1- 25 are fictional named
17 Defendants whose identities and/or companies or liability have not yet been identified.

18
19 **I. FACTUAL ALLEGATIONS**

20 **A. The Public Policy Objectives Of the Indian Gaming Regulatory Act**

21 4. This action seeks to protect a delicate, and now threatened, balance of Tribal and
22 State Governmental interests embodied within the Contract, which was executed in 1999
23 pursuant to IGRA.

24 5. Congress enacted IGRA in 1988 in response to the United States Supreme Court
25 decision in *California v Cabazon Band of Mission Indians*, 480 U.S. 202 (1987), which
26 recognized the rights of Indian tribes to engage in certain kinds of gaming within California.

27 6. IGRA recognized that "numerous Indian tribes have become engaged in or have
28 licensed gaming activities on Indian lands as a means of generating tribal governmental

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1 revenue,” 25 U.S.C. § 2701 (1), and set forth “a statutory basis for the operation of gaming by
2 Indian tribes as a means of promoting tribal economic development, self-sufficiency, and
3 strong tribal governments.” 25 U.S.C. §2702(1). Congress found that “Indian tribes have the
4 exclusive right to regulate gaming activity on Indian lands if the gaming activity is not
5 specifically prohibited by Federal law and is conducted within a State which does not, as a
6 matter of criminal law and public policy, prohibit such gaming activity.” 25 U.S.C. § 2701(5).

7 7. IGRA divides gaming into three classifications: Class I, comprising of social or
8 traditional forms of gaming connected with tribal ceremonies or celebrations; Class II,
9 encompassing bingo and similar or associated games, and non-banking card games (e.g.,
10 poker); and Class III, encompassing all other forms of gaming, including slot machines,
11 banked card games (e.g. blackjack), lottery, horse racing, and the like, provided such gaming
12 is permitted within the State. 25 U.S.C. § 2703. At issue in this Action is SAN PASQUAL’s
13 rights to operate Class III Gaming Devices (Slot Machines) and the damages SAN PASQUAL
14 suffered because of the STATE’s failure to issue SAN PASQUAL all available Gaming
15 Device Licenses pursuant to its obligations under its Contract with SAN PASQUAL.

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17 **B. The State of California Drafted the Contract that Allows Class III Gaming**
18 **(Slot Machines) and Presented the Contract to SAN PASQUAL on a “Take It**
19 **or Leave It” Basis. Therefore, Any Ambiguity Contained in the Contract**
20 **Must Be Construed in Favor of SAN PASQUAL and Against the State**

21 8. On September 10, 1999, SAN PASQUAL executed its Contract with the State of
22 California that permits the operation of Class III gaming on Indian Lands.

23 9. The STATE unilaterally drafted the Contract and all of its provisions
24 including, but limited to, Sections 4.3, 4.3.1, 4.3.2, 4.3.2.2, 9.0, 9.1, 9.2, 9.3 and 9.4. The
25 STATE then presented the Contract, in its final form, to SAN PASQUAL on the evening of
26 September 9, 1999 on a “take-it-or-leave-it” basis. Therefore, any ambiguity contained in any
27 provision of the Contract including, but limited to, Sections 4.3, 4.3.1, 4.3.2, 4.3.2.2, 9.0, 9.1,
28 9.2, 9.3 and 9.4 must be construed in favor of SAN PASQUAL and against the STATE,

1 which was the drafter of the Contract. In addition, case law requires that the Contract be
2 interpreted in an Indian Tribe's favor and therefore in favor of SAN PASQUAL.

3 10. The Contract at issue herein is a valid, binding agreement, in effect as a matter of
4 tribal, federal and state law. SAN PASQUAL has performed all its material obligations
5 thereunder. The Contract is set to expire on December 31, 2020. Not sooner than eighteen
6 months of that termination date either party may request the other party to negotiate an
7 extension of this Contract or to enter into a new contract. If the parties have not agreed to
8 extend the termination date of the Contract or entered into a new contract by the termination
9 date, then the termination date of the Contract shall be June 30, 2022, unless the parties
10 agreed to an earlier termination date.

11 11. Explicitly by its terms, the STATE entered into the Contract with SAN
12 PASQUAL "out of respect for the sovereignty of the Tribe; in recognition of the historical
13 fact that Indian gaming has become the single largest revenue-producing activity for Indian
14 tribes in the United States; out of a desire to terminate pending 'bad faith' litigation between
15 the Tribe and the State; to initiate a new era of tribal-state cooperation in areas of mutual
16 concern; out of a respect for the sentiment of the voters of California who, in approving
17 Proposition 5, expressed their belief that the forms of gaming authorized herein should be
18 allowed; and in anticipation of voter approval of SCA 11 [Prop. 1A] as passed by the
19 California Legislature." (Contract, Preamble ¶ D.)

20 12. Section 1.0(a) of the Contract states its terms are designed and intended, among
21 other things, to "[e]vidence the goodwill and cooperation of the Tribe and the State in
22 fostering a mutually respectful government-to-government relationship that will serve the
23 mutual interests of the parties."

24 13. The Contract provides in relevant part, as follows:

- 25 a. Contract §2.6 defines the term "Gaming Device" to mean a slot machine.
26 b. Contract §4.3.1(b) authorizes SAN PASQUAL to operate 350 Gaming Devices
27 as a matter of right and without the need to obtain a Gaming Device License.
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- 1 c. Contract §4.3.2.2 provides that SAN PASQUAL may acquire Gaming Device
- 2 licenses to operate Gaming Devices in excess of 350. For each Gaming
- 3 Device License obtained, SAN PASQUAL must pay the applicable fees to be
- 4 deposited into the Revenue Sharing Trust Fund.
- 5 d. Contract §4.3.2.2(a) limits SAN PASQUAL to operate no more than 2,000
- 6 Gaming Devices. In order for SAN PASQUAL to operate 2,000 Gaming
- 7 Devices, it must obtain 1,650 Gaming Device Licenses since it is permitted to
- 8 operate 350 Gaming Devices as a matter of right and without the need to
- 9 obtain a Gaming Device License.
- 10 e. Contract §4.3.2.2(a)(1) states that the number of Gaming Device Licenses
- 11 available for all Compact Tribes in the aggregate is at least 40,201 Gaming
- 12 Device Licenses.
- 13 f. The Contract provides in §4.3.2.2(a)(3) that Gaming Device Licenses are to be
- 14 “awarded” through a draw process. The STATE conducts this draw process in
- 15 which Gaming Device Licenses are awarded.
- 16 g. As of October 9, 2008, SAN PASQUAL had 1,222 Gaming Device Licenses
- 17 issued to it by the STATE and was also authorized to operate 350 Gaming
- 18 Devices as a matter of right and without the need to obtain a License. Thus, as
- 19 of October 9, 2008, SAN PASQUAL could operate 1,572 Gaming Devices and
- 20 was entitled to an additional 428 Gaming Device Licenses (to get to the 2,000
- 21 License individual limit) if there were sufficient Licenses available for a Draw
- 22 after a result of a correct application of an aggregate limit contained in
- 23 Contract § 4.3.2.2(a)(1).

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1 C. In June 2002, the CGCC, on Behalf of the State of California, Announced Its
2 Incorrect Interpretation that Contract §4.3.2.2(a)(1) authorized the Issuance
3 of Only 32,151 Gaming Device Licenses. This Decision Initiated the
4 "DISPUTE," but there was not yet a Breach of the Contract Since SAN
5 PASQUAL had not yet Sustained Damage.

6 14. On or around June 19, 2002, the CGCC, on behalf of the State of California,
7 announced its incorrect interpretation that Contract §4.3.2.2(a)(1) authorized the issuance of
8 only 32,151 Gaming Device Licenses, thus initiating the "DISPUTE" between the parties,
9 creating the WRONG, but SAN PASQUAL had not, as of that date, sustained any monetary
10 damages. As of that date, June 19, 2002, SAN PASQUAL had not yet demanded from the
11 STATE, and been denied by the STATE CGCC, any additional Gaming Device Licenses due
12 to the STATE'S incorrect calculation of the aggregate number of Licenses available, and
13 therefore no Breach of the Contract had yet occurred.

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15 D. Due to the CGCC, on behalf of the State of California, Incorrectly
16 Interpreting Contract §4.3.2.2(a)(1), A "Controversy" Existed Between SAN
17 PASQUAL and the State and Therefore, SAN PASQUAL Filed an Action
18 Seeking a Judicial Declaration as to the Correct Number of Gaming Device
19 Licenses Authorized to Be Issued to 1999 Compact Tribes pursuant to SAN
20 PASQUAL's Contract

21 15. Because a "controversy" existed due to the incorrect interpretation by the
22 CGCC, on behalf of the State of California, otherwise known as the DISPUTE or WRONG,
23 SAN PASQUAL filed a lawsuit for Declaratory Relief on May 3, 2006 against the State of
24 California, the CGCC, and Arnold Schwarzenegger, in his capacity as Governor of California,
25 in the United States District Court for the Southern District of California (Case No. 06-
26 CV0988) (hereinafter the "Federal Action"). In the Federal Action, SAN PASQUAL sought a
27 judicial declaration that the CGCC, on behalf of the State of California, incorrectly interpreted
28 the State Aggregate Limit.

1 16. On March 20, 2007, the District Court in the Federal Action incorrectly
2 granted the STATE'S Motion to Dismiss SAN PASQUAL's Second Amended Complaint for
3 an alleged failure to join all Indispensable Parties per F.R.C.P. 19. However, the Ninth
4 Circuit Court of Appeals reversed this erroneous decision on October 6, 2008 and remanded
5 the matter back to the District Court.

6 17. On March 29, 2010, the District Court in the Federal Action granted SAN
7 PASQUAL's Summary Judgment and thereby declared that the STATE's interpretation that
8 Contract §4.3.2.2(a)(1) authorizes only 32,151 licenses was indeed erroneous. The STATE
9 appealed the District Court judgment to the Ninth Circuit Court of Appeals.

10 18. On August 20, 2010, while the STATE'S appeal to the Ninth Circuit was
11 pending, the Ninth Circuit issued a decision in *Cachil Dehe Band of Indians v. State of*
12 *California et. al. (Colusa)* holding that the correct interpretation of § 4.3.2.2(a)(1) was not, as
13 the STATE had suggested, 32,151, but rather 40,201. In its opinion, the Ninth Circuit also
14 upheld the remedy ordered by the *Colusa* district court – a license draw in which all Compact
15 Tribes could participate – in order to distribute the additional licenses made available by the
16 new State Aggregate limit of 40,201.

17 19. On or about July 8, 2011, in the Federal Action now before the Ninth Circuit,
18 SAN PASQUAL and the STATE submitted a Joint Stipulation in which the parties agreed to
19 request that the Ninth Circuit dismiss without prejudice the Federal Action because the parties
20 agree that Contract §4.3.2.2(a)(1) authorizes the issuance of 40,201 Licenses and therefore the
21 Federal Action is moot since a controversy no longer exists.

22 20. On or about September 12, 2011, due to the matter becoming moot, the Ninth
23 Circuit Court of Appeals reversed the decision of the District Court by vacating the judgment
24 and remanding the matter back to the district court in order for the Federal Action to be
25 dismissed without prejudice.

26 21. Thereafter, on September 5, 2002, July 10, 2003, December 19, 2003, October
27 22, 2004, October 7, 2005, August 16, 2006, October 10, 2007, and December 11, 2008, the
28 CGCC conducted Gaming Device License Draws utilizing 32,151 as the total number of

1 Gaming Device Licenses available in the pool of Gaming Device licenses issued or available
2 to be issued to California tribes with 1999 Compacts. At six (6) of these eight (8) Draws SAN
3 PASQUAL demanded additional Licenses but was denied as a result of the CGCC utilizing
4 and applying the incorrect calculations of aggregate Licenses at 32,151. Each of the six (6)
5 separate Draws caused SAN PASQUAL to sustain separate unique damages on each of these
6 six (6) occasions where the wrong aggregate number was used.

7 22. SAN PASQUAL requested but was denied 500 Licenses in the July 10, 2003
8 Draw due to the CGCC's incorrect interpretation that only 32,151 Licenses were available to
9 be issued to 1999 Compact Tribes. This was the first (1st) unique Breach of the Contract. SAN
10 PASQUAL requested 341 Licenses but was granted only 72 Licenses in the October 22, 2004
11 Draw due to the CGCC's incorrect interpretation that only 32,151 Licenses are available to be
12 issued to 1999 Compact Tribes. This was the second (2nd) unique Breach of the Contract.
13 SAN PASQUAL requested but was denied 333 Licenses in the October 7, 2005 Draw due to
14 the CGCC's incorrect interpretation that only 32,151 Licenses are available to be issued to
15 1999 Compact Tribes. This was the third (3rd) unique Breach of the Contract. SAN
16 PASQUAL requested but was denied 50 Licenses in the August 16, 2006 Draw due to the
17 CGCC's incorrect interpretation that only 32,151 Licenses are available to be issued to 1999
18 Compact Tribes. This was the fourth (4th) unique Breach of the Contract. SAN PASQUAL
19 requested but was denied 300 Licenses in the October 10, 2007 Draw due to the CGCC's
20 incorrect interpretation that only 32,151 Licenses are available to be issued to 1999 Compact
21 Tribes. This was the fifth (5th) unique Breach of the Contract. SAN PASQUAL requested but
22 was denied 428 Licenses in the December 11, 2008 Draw due to the CGCC's incorrect
23 interpretation that only 32,151 Licenses are available to be issued to 1999 Compact Tribes.
24 This was the sixth (6th) and most recent unique Breach of the Contract, while based upon the
25 same "dispute." Each of these breaches caused separate independent unique damages to
26 accrue to SAN PASQUAL, and thus each breach independently created a separate claim or
27 cause of Action for each for statute of limitations purposes.

28

1 23. The separate independent unique damages each caused damages to accrue, as
2 of the date of that respective DRAW, in an amount equal to the product of multiplying the
3 number of Licenses denied by the dollar value of each daily "win" generated by each slot
4 machine times the number of days SAN PASQUAL would have operated that Gaming Device
5 but for the denial on the date of that particular DRAW. As just one example, the damages
6 caused by the Breach created on October 7, 2005 will be the product of multiplying 333
7 Licenses (denied that day) by \$250 (theoretical daily win used only for this example) which is
8 \$83,250 per day. Then multiply \$83,250 by the number of days these Licenses were denied
9 (assume 100 days for this example only), which equals approximately \$8,325,000 solely for
10 that one Breach of the Contract. Each of the other five (5) breaches occurred on different
11 dates of different DRAWS with different numbers of Licenses demanded and denied by the
12 CGCC at each of those times. Each breach, therefore, has a unique separate independent date
13 for accrual of the Breach of Contract cause of Action as to that particular breach.

14 24. Each of the six (6) independent unique DRAWS caused unique damages, and
15 each was a Breach of the Contract arising from the "DISPUTE." This claim for compensation
16 for the damages caused by each breach is timely brought in this Action. As the most recent
17 example of these independent breaches, the breach that occurred on December 12, 2008 when
18 the CGCC denied issuing the 428 Licenses demanded by SAN PASQUAL is set forth in
19 detail below. Note, however, that each of the previous breaches have a similar analysis to be
20 applied, albeit with different factual details for each breach, i.e. date of breach, amount of
21 breach, accrual date of breach, calculation of dollar value of breach.

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1 E. The State Most Recently Breached Its Recurring Obligation to Issue All
2 Available Licenses When On December 11, 2008 the CGCC Failed To Issue
3 SAN PASQUAL The 428 Licenses It Requested for that Specific Draw
4 Despite SAN PASQUAL Providing Multiple Written Notices That The
5 STATE Would Be In Breach If It Failed To Issue All Available Licenses

6 25. On October 9, 2008, the STATE mailed to SAN PASQUAL a Notice that the
7 CGCC would conduct a public hearing on December 11, 2008 in order to determine how to
8 issue available Gaming Device Licenses. In this October 9, 2008 Notice of Draw, the STATE
9 erroneously declared that only 75 Gaming Device Licenses were available. The State's
10 determination that only 75 Licenses were available was due to the STATE's incorrect
11 application of Contract §4.3.2.2(a)(1) that sets forth the aggregate limit of Licenses available
12 under the Contract. The STATE informed SAN PASQUAL that if it sought Licenses in this
13 Draw, then it must submit its application on or before November 12, 2008.

14 26. On November 5, 2008, SAN PASQUAL submitted its application for 428
15 Gaming Device Licenses and concurrently submitted a cashier's check for \$535,000 in
16 accordance with the Contract's requirement that SAN PASQUAL submit a prepayment of
17 \$1,250 for each of the 428 requested Licenses.

18 27. Recognizing that the State erroneously contended that only 75 Gaming Device
19 Licenses were available at the December 11, 2008 Draw and accordance with the Contract's
20 suggestion that the parties "meet and confer" to informally try to resolve disputes,¹ SAN
21 PASQUAL submitted written notice of its concern that the State may not issue all available
22 Licenses at the December 11, 2008 Draw. To wit, the November 5, 2008 letter from SAN
23 PASQUAL to the STATE clearly articulates SAN PASQUAL's concern that:

24 "Although the CGCC has advertised only 75 Licenses are
25 available, that is based upon the CGCC's erroneous
26 interpretation of the Compact terms, and thus issuing to SAN
27 PASQUAL any number of Licenses less than 428 Licenses

28 ¹ The suggestion to "meet and confer" to informally try to resolve disputes was a permissive suggestion and not a
mandatory requirement before filing an action.

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will constitute a Breach of the Compact, which is a Breach of Contract.

The State of California has incorrectly interpreted the State Aggregate Limit of gaming device licenses as defined in Section 4.3.2.2 (a)(1) of the Compact. The State, acting through the CGCC, has incorrectly determined the State Aggregate Limit to be 32,151 gaming device licenses. However, under the express terms of Section 4.3.2.2 (a)(1) of the Tribal-State Gaming Compact, the correct State Aggregate Limit is at least 42,700 gaming device licenses. A correct interpretation of the Compact will yield enough available licenses to provide all 428 Licenses demanded herein.

We respectfully request that a copy of this letter be circulated to all Commissioners of the CGCC prior to the November 25, 2008 public hearing, and made part of the record at the November 25, 2008 and the December 11, 2008 public hearings.

Please also find enclosed SAN PASQUAL's Gaming Device License Application and Exhibit A thereto that requests the CGCC to issue 428 Gaming Device Licenses to SAN PASQUAL. SAN PASQUAL has also enclosed a cashier's check made payable to the CGCC in the amount of \$535,000 in accordance with the terms of the Compact for its request for 428 Gaming Device Licenses.

Please contact the undersigned if you have any questions or would like to discuss these issues further. We look forward to hearing from you."

28. Despite the receipt of this written notice, the STATE chose not to contact SAN PASQUAL with any questions and chose not to contact SAN PASQUAL "to discuss these issues further." SAN PASQUAL reasonably took the non-response from the State as an admission that the STATE understood SAN PASQUAL's concerns and that the STATE did not want to discuss these issues in order to try and resolve this dispute, and therefore SAN PASQUAL had fully complied with the Contract's suggestion that it "meet and confer" with the STATE.

29. On November 12, 2008, the STATE did request that SAN PASQUAL submit an amended Gaming Device License Application that reflected a demand for only 75 Licenses.

1 The STATE did not request any further information concerning the dispute as to the number
2 of Gaming Device Licenses available at the December 11, 2008 Gaming Device License
3 Draw. In response to the STATE's request and explicitly without waiving or releasing its
4 rights to assert that more than 75 Licenses would be available at the December 11, 2008
5 Draw, on November 12, 2008, SAN PASQUAL did submit an amended application that
6 requested only 75 Licenses solely in order to try to obtain 75 additional Licenses since each
7 License is very valuable and SAN PASQUAL was required to, and did, try to mitigate its
8 damages caused by the STATE's breach.

9 30. Again in accordance with the Contract's suggestion that the parties "meet and
10 confer," SAN PASQUAL once again submitted written notice on November 12, 2008 of its
11 concern that the State is unlawfully choosing not to issue all available Licenses at the
12 December 11, 2008 Draw. To wit, the November 5, 2008 letter states that:

13 "Per the request made today, November 12, 2008, by CGCC
14 Staff Management Auditor Frank Lechner, please find enclosed
15 an Amended Gaming Device License Application. This
16 Application reflects a demand by this Tribe for the 75 licenses
17 the CGCC has advertised as available in the upcoming
18 scheduled draw. By making this Amended Demand please
19 note that the Tribe does not in any way waive or release its
20 rights and remedies to its continued demand for all licenses
21 necessary to bring the number of licenses held by the Tribe to a
22 total of 2,000.

23 The Tribe continues to maintain its contention, and intention to
24 exercise all available remedies, that the CGCC erroneously
25 interprets the Compact terms. Thus issuing to SAN
26 PASQUAL any number of Licenses less than 428 Licenses will
27 constitute a Breach of the Compact, which is a Breach of
28 Contract. Notwithstanding this contention, the CGCC has
advertised that only 75 Licenses are available, and per the
request of Mr. Lechner the enclosed Amended Demand is
being submitted.

To reiterate, the State of California has incorrectly interpreted
the State Aggregate Limit of gaming device licenses as defined
in Section 4.3.2.2 (a)(1) of the Compact. The State, acting
through the CGCC, has incorrectly determined the State
Aggregate Limit to be 32,151 gaming device licenses.

1 However, under the express terms of Section 4.3.2.2 (a)(1) of
2 the Tribal-State Gaming Compact, the correct State Aggregate
3 Limit is at least 42,700 gaming device licenses. A correct
4 interpretation of the Compact will yield enough available
5 licenses to provide all 428 Licenses which would provide 2,000
6 devices to the Tribe.

7 We respectfully request that a copy of this letter, as well as all
8 prior correspondence and Application materials, be circulated
9 to all Commissioners of the CGCC prior to the November 25,
10 2008 public hearing, and made part of the record at the
11 November 25, 2008 and the December 11, 2008 public
12 hearings, as well as all other proceedings relative to the
13 upcoming Gaming License draw.”

14 31. After receiving this second written notice, the STATE again chose not to contact
15 SAN PASQUAL with any questions and chose not to respond in any way to the issues and
16 concerns raised by SAN PASQUAL. SAN PASQUAL reasonably took this second non-
17 response from the State to its second written notice of SAN PASQUAL’s concerns as a
18 further admission that the STATE understood SAN PASQUAL’s concerns and that the
19 STATE did not want to discuss these issues and therefore SAN PASQUAL had fully
20 complied with the Contract’s suggestion that it “meet and confer” with the STATE.

21 32. The STATE held a public hearing on December 11, 2008 to determine how to
22 issue available Gaming Device Licenses. The STATE incorrectly asserted on December 11,
23 2008 that only 32,151 Gaming Device Licenses were available and therefore incorrectly
24 asserted that only 75 Licenses were available.² Thus, because the STATE unjustifiably
25 asserted that only 32,151 Gaming Device Licenses were available in the aggregate for all
26 Tribes, the State incorrectly asserted that it had issued all available Gaming Device Licenses
27 and therefore did not issue SAN PASQUAL any of the 428 Gaming Device Licenses that
28 were requested. Under the correct interpretation of the Contract, there were more than

² The process by which the STATE awarded Gaming Device Licenses in December 2008 occurred over a span of three days that included December 10, 11 and 12, 2008. Throughout the Complaint, SAN PASQUAL’s use of December 11, 2008 is a collective reference to the relevant events that occurred on December 10, 11 and 12, 2008 whereby the STATE failed to issue SAN PASQUAL the 428 Gaming Device Licenses it requested.

1 enough Licenses available at the December 11, 2008 License Draw in order for the STATE to
2 award 428 Licenses to SAN PASQUAL, as it had properly requested.

3 33. Because the STATE refused to issue all available Gaming Device Licenses on
4 December 11, 2008, SAN PASQUAL only possessed Licenses for, and operated, only 1,572
5 Gaming Devices instead of the 2,000 Gaming Devices that it was authorized to operate under
6 the Contract but for the STATE's refusal to issue all available Gaming Device Licenses and
7 its Breach of Contract on December 11, 2008 and its refusal to meet and confer to try to
8 informally resolve this dispute.

9 34. Other unique independent Breaches of Contract also occurred on July 10, 2003,
10 October 22, 2004, October 7, 2005, August 16, 2006, and October 10, 2007.

11
12 **F. While Not A Mandatory Requirement Prior To Filing Suit, SAN PASQUAL "Met**
13 **And Conferred" With The State Regarding The Allegations Contained Herein**
14 **Beginning October 2005, And Many Times Before, During, and After the Federal**
15 **Action was Commenced.**

16 1. **A Meet and Confer of the Dispute Between the Parties Took Place Many**
17 **Times from March 2006 to Present.**

18 35. Beginning in October 2005 and continuing thereafter including after the filing of
19 this Action, SAN PASQUAL made numerous efforts to Meet and Confer with the State,
20 including the submission of approximately 35 written notices about the Dispute to the State of
21 California. Additionally, on at least the following dates the Parties engaged in meet and
22 confer efforts, or attempted to do so, in an attempt to resolve the dispute: March 15, 2006,
23 May 19, 2009, March 1, 2011, and March 24, 2011.

24 36. If the State does assert as its defense that the Compact requires San Pasqual to
25 meet and confer prior to filing this Action, then the State has the burden to prove that defense.
26 However, the State will not be successful in asserting this defense given the numerous "meet
27 and confer" actions by San Pasqual each individually and certainly collectively comply with
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1 the "meet and confer" provisions in the Compact, or, at minimum, substantially comply with
2 those requirements.

3 **2. Despite All the Meet and Confer That Took Place, it is Clear the Efforts and**
4 **Future Efforts, Were, Are, and Will be a Futile Act**

5 37. Despite all the Meet and Confer that took place, it is clear the efforts and future
6 efforts, were, are, and will be a futile act; nevertheless, if desired SAN PASQUAL will further
7 engage in such further efforts.

8
9 **II. THE CLAIM FOR EACH, AND/OR ALL, OF EACH INDEPENDENT**
10 **BREACHES OF CONTRACT THAT OCCURRED IS TIMELY.**

11 38. Whether applying the 4 year Statute of Limitations set forth in CCP §337 or
12 applying CCP 355 or applying the Doctrine of Equitable Tolling, the Cause of Action for each
13 breach is timely made. While the facts reflecting the application of each statute and/or
14 doctrine remain in dispute, the result is that all breaches are timely commenced, either on their
15 own or by relation back, or both.

16
17 **A. Under the Doctrine of Equitable Tolling, SAN PASQUAL's Filing of the**
18 **Federal Action Tolled the Statute of Limitations as to the Facts Underlying**
19 **the Federal Action**

20 39. SAN PASQUAL timely filed its Federal Action on May 3, 2006 in the
21 Southern District of California (Case NO. 06-CV-0988), which was within four years of the
22 State's initial breach of the Compact on July 10, 2003.

23 40. The STATE now claims the Federal Action is "based on same facts" as this
24 Action filed in State Court. Therefore, the STATE concedes that the Federal Action gave it
25 notice of the facts at issue in this Action filed in State Court since the STATE contends that
26 both actions are "based on same facts."

27 41. In the current Action, the parties have in stipulated to the basic underlying
28 facts and the STATE has repeatedly asserted that discovery should not be permitted into the

1 parties' interpretations since those matters are resolved. Moreover, the STATE was able to
2 gather and preserve evidence related to the interpretation of § 4.3.2.2(a)(1) after being notified
3 and served with the federal action and has retained agendas, minutes and records of the
4 various CGCC meetings at which the STATE failed to issue SAN PASQUAL its Licenses
5 and is therefore not prejudiced by the filing of this Action in State Court.

6 42. With regard to its filing and pursuing the Federal Action and this Action in
7 State Court, SAN PASQUAL acted at all times in Good Faith. SAN PASQUAL filed this
8 Action in State Court while the Federal Action was still pending, and, in fact, over 20 months
9 before the federal action became final. Additionally, SAN PASQUAL never took any
10 affirmative action to state that it would not pursue this Action for damages and in fact
11 repeatedly informed the STATE that its acts and omissions were causing SAN PASQUAL to
12 suffer millions of dollars in damages.

13 43. Code of Civil Procedures §355 also applies to allow this San Pasqual in this
14 Action to pursue the earliest breaches based upon the above facts and circumstances.

15
16 **III. DEFENDANTS DO NOT POSSESS GOVERNMENT IMMUNITY FROM A**
17 **BREACH OF CONTRACT CAUSE OF ACTION AND THEREFORE SAN**
18 **PASQUAL IS PERMITTED TO FILE THIS ACTION IN STATE COURT AND**
19 **SEEK MONETARY DAMAGES**

20 44. The STATE does not have Government Immunity from a Breach of Contract
21 Cause of Action. No statute creates immunity for the STATE from a Breach of Contract
22 Cause of Action. No case has ever held that the State of California has immunity from a
23 Breach of Contract Cause of Action.

24 45. The STATE therefore has no sovereign immunity for this Breach of Contract
25 with SAN PASQUAL, and this court therefore has jurisdiction over this Action and SAN
26 PASQUAL's cause of action for Breach of the Contract because a compact is a contract,
27 *Texas v. New Mexico*, 482 U.S. 124, 128 (1987), and the STATE does not have immunity
28 from this Action alleging the STATE breached the Contract.

1 46. While the Contract contains a waiver of immunity by both the STATE and SAN
2 PASQUAL, SAN PASQUAL is not relying upon that waiver to file this lawsuit because such
3 reliance is not necessary. Because SAN PASQUAL is not relying upon the Limited Waiver
4 contained in Contract §9.4, SAN PASQUAL is not restricted by the conditions imposed by
5 the Limited Waiver, such as the restriction against monetary damages.

6 47. With regard to a Breach of Contract claim, the STATE only has immunity from
7 suit in federal court, not because it is a breach of contract claim, but only because of the
8 Eleventh Amendment to the United States Constitution, which provides the STATE with
9 immunity from any action filed in a federal court (whether it is for Breach of Contract or any
10 other claim) unless the STATE waives that Eleventh Amendment Immunity. Because the
11 STATE has no immunity from a Breach of Contract claim in State Court and only possesses
12 immunity from a federal Breach of Contract claim due to its general Eleventh Amendment
13 immunity, the waiver of immunity in the Contract is only necessary to bring suit for an action
14 arising under the Contract that is filed in federal court. Thus, the prohibition on monetary
15 damages that appears solely in Contract §9.4, entitled "Limited Waiver of Sovereign
16 Immunity," is applicable only when the STATE is sued in federal court by using the waiver of
17 Eleventh Amendment immunity contained in Contract §9.4.

18 48. By its explicit terms, the waiver of immunity in the Contract is not the exclusive
19 remedy for SAN PASQUAL to enforce the terms of the Contract. Because the STATE does
20 not have immunity from a Breach of Contract cause of action filed in State Court, SAN
21 PASQUAL may file this Action in State Court on that basis and without relying upon the
22 waiver of immunity in the Contract and without the monetary damages prohibition contained
23 in the Contract's Limited Waiver applying to this Action in State Court.

24 49. Furthermore, Contract §9.3 explicitly permits SAN PASQUAL to file this
25 Action for Breach of the Contract in State Court because it states "This Section 9.0 may not
26 be construed to waive, limit or restrict any remedy that is otherwise available to either party."
27 Because the STATE does not have immunity from a breach of contract cause of action, SAN
28 PASQUAL has and always had available to it the right to file this Action for breach of the

1 Contract in state court and seek monetary damages. Therefore, Contract §9.3 explicitly
2 permits SAN PASQUAL to file this Action in state court and seek monetary damages.

3 50. SAN PASQUAL timely filed this Action in state court on February 9, 2010
4 regarding the State's breach of the Contract on December 11, 2008, as well as for all other
5 unlawful conduct alleged herein.

6

7 **III. VENUE**

8 51. C.C.P. §395 states that venue is proper for a breach of contract cause of action in
9 "the superior court in the county where the obligation is to be performed, where the contract
10 in fact was entered into, or where the defendant or any defendant resides at the
11 commencement of the action." The State conducts Gaming Device License Draws in the
12 County of Sacramento, the Contract was entered into in the County of Sacramento, and the
13 CGCC's office is in Sacramento County. Therefore, this action could be commenced or tried
14 in Sacramento County under C.C.P. §395.

15 52. C.C.P. §401, however further states that "[w]henver it is provided by any law of
16 this State that an action or proceeding against the State ... shall or may be commenced in,
17 tried in, or removed to the County of Sacramento, the same may be commenced and tried in
18 any city or city and county of this State in which the Attorney General has an office."

19 53. The Attorney General has an office in Los Angeles County. Therefore, this
20 Action was commenced in Los Angeles County pursuant to C.C.P. §401.

21

22 **FIRST CAUSE OF ACTION**

23 (Breach of Contract against All Defendants)

24 54. SAN PASQUAL realleges all the allegations contained in paragraphs 1 through
25 53, inclusive, and hereby incorporate each of them by this reference.

26 55. SAN PASQUAL and the STATE OF CALIFORNIA entered into the Contract
27 on or about September 10, 1999.

28

1 56. SAN PASQUAL has done everything that the Contract requires SAN
2 PASQUAL to do.

3 57. On or about June 19, 2002, when the CGCC announced its interpretation that
4 Contract §4.3.2.2(a)(1) authorized the issuance of only 32,151 Gaming Device Licenses, the
5 STATE thereby announced its then present intention not to comply with the terms of the
6 Contract.

7 58. For the July 2003 License Draw, all conditions required by this Contract for the
8 STATE's performance had occurred including, but not limited to, SAN PASQUAL timely
9 submitting its Gaming Device License Application for 500 Gaming Device Licenses and
10 tendering to the STATE a prepayment of \$625,000 for the 500 requested Gaming Device
11 Licenses. Therefore, STATE was required to issue SAN PASQUAL the additional 500 Gaming
12 Device Licenses requested by SAN PASQUAL at the July 10, 2003 Gaming Device License
13 Draw.

14 59. For the October 2004 License Draw, all conditions required by this Contract for
15 the STATE's performance had occurred including, but not limited to, SAN PASQUAL timely
16 submitting its Gaming Device License Application for 341 Gaming Device Licenses and
17 tendering to the STATE a prepayment of \$426,250 for the 341 requested Gaming Device
18 Licenses. Therefore, STATE was required to issue SAN PASQUAL the additional 341 Gaming
19 Device Licenses requested by SAN PASQUAL at the October 22, 2004 Gaming Device
20 License Draw.

21 60. For the October 2005 License Draw, all conditions required by this Contract for
22 the STATE's performance had occurred including, but not limited to, SAN PASQUAL timely
23 submitting its Gaming Device License Application for 333 Gaming Device Licenses and
24 tendering to the STATE a prepayment of \$416,250 for the 333 requested Gaming Device
25 Licenses. Therefore, STATE was required to issue SAN PASQUAL the additional 333 Gaming
26 Device Licenses requested by SAN PASQUAL at the October 7, 2005 Gaming Device License
27 Draw.

28

1 61. For the August 2006 License Draw, all conditions required by this Contract for
2 the STATE's performance had occurred including, but not limited to, SAN PASQUAL timely
3 submitting its Gaming Device License Application for 50 Gaming Device Licenses and
4 tendering to the STATE a prepayment of \$62,500 for the 50 requested Gaming Device
5 Licenses. Therefore, STATE was required to issue SAN PASQUAL the additional 50 Gaming
6 Device Licenses requested by SAN PASQUAL at the August 16, 2006 Gaming Device License
7 Draw.

8 62. For the October 2007 License Draw, all conditions required by this Contract for
9 the STATE's performance had occurred including, but not limited to, SAN PASQUAL timely
10 submitting its Gaming Device License Application for 300 Gaming Device Licenses and
11 tendering to the STATE a prepayment of \$375,000 for the 300 requested Gaming Device
12 Licenses. Therefore, STATE was required to issue SAN PASQUAL the additional 300 Gaming
13 Device Licenses requested by SAN PASQUAL at the October 10, 2007 Gaming Device
14 License Draw.

15 63. All conditions required by this Contract for the STATE's performance had
16 occurred including, but not limited to, SAN PASQUAL timely submitting its Gaming Device
17 License Application for 428 Gaming Device Licenses and tendering to the STATE a
18 prepayment of \$535,000 for the 428 requested Gaming Device Licenses. Therefore, STATE
19 was required to issue SAN PASQUAL the additional 428 Gaming Device Licenses requested
20 by SAN PASQUAL at the December 11, 2008 Gaming Device License Draw.

21 64. Based upon the CGCC's erroneous interpretation, the STATE failed to issue
22 SAN PASQUAL 500 Gaming Device Licenses requested by SAN PASQUAL at the July 10,
23 2003 Gaming Device License Draw. SAN PASQUAL was harmed by the STATE's failure to
24 issue SAN PASQUAL the 500 Gaming Device Licenses requested by SAN PASQUAL at the
25 July 10, 2003 Gaming Device License Draw.

26 65. Based upon the CGCC's erroneous interpretation, the STATE failed to issue
27 SAN PASQUAL 269 Gaming Device Licenses requested by SAN PASQUAL at the October
28 22, 2004 Gaming Device License Draw. SAN PASQUAL was harmed by the STATE's failure

1 to issue SAN PASQUAL the 269 Gaming Device Licenses requested by SAN PASQUAL at
2 the October 22, 2004 Gaming Device License Draw.

3 66. Based upon the CGCC's erroneous interpretation, the STATE failed to issue
4 SAN PASQUAL 333 Gaming Device Licenses requested by SAN PASQUAL at the October 7,
5 2005 Gaming Device License Draw. SAN PASQUAL was harmed by the STATE's failure to
6 issue SAN PASQUAL the additional 333 Gaming Device Licenses requested by SAN
7 PASQUAL at the October 7, 2005 Gaming Device License Draw.

8 67. Based upon the CGCC's erroneous interpretation, the STATE failed to issue
9 SAN PASQUAL 50 Gaming Device Licenses requested by SAN PASQUAL at the August 16,
10 2006 Gaming Device License Draw. SAN PASQUAL was harmed by the STATE's failure to
11 issue SAN PASQUAL the additional 50 Gaming Device Licenses requested by SAN
12 PASQUAL at the August 16, 2006 Gaming Device License Draw.

13 68. Based upon the CGCC's erroneous interpretation, the STATE failed to issue
14 SAN PASQUAL 300 Gaming Device Licenses requested by SAN PASQUAL at the October
15 10, 2007 Gaming Device License Draw. SAN PASQUAL was harmed by the STATE's failure
16 to issue SAN PASQUAL the additional 300 Gaming Device Licenses requested by SAN
17 PASQUAL at the October 10, 2007 Gaming Device License Draw.

18 69. The STATE failed to issue SAN PASQUAL any of the additional 428 Gaming
19 Device Licenses requested by SAN PASQUAL at the December 11, 2008 Gaming Device
20 License Draw. SAN PASQUAL was harmed by the STATE's failure to issue SAN PASQUAL
21 the additional 428 Gaming Device Licenses requested by SAN PASQUAL at the December 11,
22 2008 Gaming Device License Draw.

23 70. As a direct and proximate result of such wrongful conduct by the STATE,
24 SAN PASQUAL suffered and will continue to suffer in the future direct, incidental and
25 consequential economic compensatory damages in an amount to be determined at trial, but at
26 least two hundred million dollars (\$200,000,000), as well as prejudgment and postjudgment
27 interest of; and other damages in an amount subject to proof at trial.

28

1 WHEREFORE, SAN PASQUAL prays as follows:

2 **For the First Cause of Action Against All Defendants (Breach of Contract):**

- 3 1. For all general, special damages, direct damages, incidental damages, and
4 consequential damages, in an amount exceeding the jurisdictional minimum of this
5 court, which amount is to be adduced according to proof at trial, but which shall not
6 be less than two hundred million dollars (\$200,000,000); and,
7 2. For such other and future special and/or general damages in an amount subject to
8 proof at trial; and,
9 3. For Pre-Judgment and Post Judgment interest at lawful rates; and,
10 4. For those Causes of Action allowing attorneys fees, reasonable attorneys fees; and,
11 5. For costs of suit; and,
12 6. For such other further and further relief as the court may deem proper.

13
14 DATED: April 16, 2012

SOLOMON, SALTSMAN & JAMIESON

15
16
17 By: _____

Stephen Warren Solomon
Stephen Allen Jamieson
R. Bruce Evans
Ryan M. Kroll

18
19
20 Attorneys for Plaintiff-SAN PASQUAL Band of
21 Mission Indians
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25
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27
28

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Stephen Jamieson SBN 115805 Solomon, Saltsman & Jamieson 426 Culver Blvd Playa del Rey, CA 90293 TELEPHONE NO.: 310-822-9848 FAX NO.: 310-822-3512 ATTORNEY FOR (Name): Plaintiff		FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES APR 16 2012 John A. Clarice, Executive Officer/Clerk BY <u>[Signature]</u> Deputy Amber La-Fleur-Clayton	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: 111 North Hill Street CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Stanley Mosk		CASE NUMBER: JUDGE: 8C482875 DEPT:	
CASE NAME: San Pasqual Band of Mission Indians vs. State of California, et al		CASE NUMBER:	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1–6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input checked="" type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): One
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 16, 2012

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)--Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice--Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach--Seller
Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case--Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ--Administrative Mandamus
Writ--Mandamus on Limited Court Case Matter
Writ--Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal--Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400--3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SHORT TITLE:

San Pasqual Band of Mission Indians vs. State of California, et al

CASE NUMBER

Non-Personal Injury/Property
Damage/ Wrongful Death Tort

Employment

Contract

Real Property

Unlawful Detainer

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input checked="" type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels_____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

21/01/00

LACIV 109 (Rev. 03/11)

LASC Approved 03-04

CIVIL CASE COVER SHEET ADDENDUM
AND STATEMENT OF LOCATION

Local Rule 2.0

Page 2 of 4

SHORT TITLE:

San Pasqual Band of Mission Indians vs. State of California, et al

CASE NUMBER

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Miscellaneous Civil Complaints	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

8/1/15/13

SHORT TITLE:

San Pasqual Band of Mission Indians vs. State of California, et al

CASE NUMBER

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., **Step 3** on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. <input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 312 North Spring Street
CITY: Los Angeles	STATE: CA	ZIP CODE: 90012

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: April 16, 2012

(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

04/16/12