	Case 3:14-cv-01281-DMS-BGS Docu	iment 1 Filed 05/23/14 Page 1 of 6					
1 2 3 4 5 6 7 8	DOUGLAS E. GEYMAN, ESQ. (CSBN 159417) Law Offices of Douglas E. Geyman 750 B Street, Suite 2870 San Diego, CA 92101-8183 Telephone: (619) 232-3533 Facsimile: (619) 232-3593 Attorneys for Plaintiff  UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA						
9	YANI K. TIDWELL, an individual, ?						
10		Case No.: '14CV1281 DMS BGS					
11	Plaintiff,						
12	v.	COMPLAINT FOR DAMAGES AND EQUITABLE RELIEF					
13	QUECHAN INDIAN TRIBE d/b/a						
14	QUECHAN CASINO RESORT;						
15	RONDA AGUERRO, an individual, and DOES 1 – 20, inclusive,						
16	Defendants.						
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		COMPLAINT					
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Plaintiff Yani K. Tidwell ("Plaintiff") alleges the following:

### I. PARTIES

- 1. Plaintiff is an individual currently residing in Yuma, Arizona.
- 2. Defendant Quechan Indian Tribe ("Quechan Indian Tribe") is a native American Indian tribe that owns and operates the Quechan Casino Resort ("Quechan Casino"), located in Winterhaven, California and Paradise Casino in Arizona.
- 3. Defendant Ronda Aguerro ("Aguerro") is the Vice President for Quechan Indian Tribe.
- 4. Defendant Amber Espino ("Espino") is the Human Resources Director for Quechan Indian Tribe.
- 5. Defendant Christina Tozcek ("Tozcek") is the Acting Finance Manager/General Ledger Accountant for Quechan Indian Tribe.
  - 6. Plaintiff was previously employed by the Quechan.
- 7. Plaintiff currently without knowledge of the true names and capacities of the defendants sued herein as Does One through Twenty, inclusive, and therefore sue those defendants by fictitious names. Plaintiff will amend the complaint to allege said defendants' true names and capacities when they are determined. Plaintiffs are informed and believe, and thereon allege, that each of the fictitiously named defendants is responsible for the unlawful acts alleged herein causing damages to Plaintiffs. Plaintiffs accordingly incorporate by reference each of the allegations set forth herein against each fictitiously named defendant.
- 8. Plaintiffis informed and believes, and thereon alleges, that each defendant was the agent of the other defendants and that each acted in the course and scope of their agency with the permission and consent of the other defendants.
- 9. Plaintiffis informed and believes, and thereon alleges, that each of the defendants was the alter ego of the others in that corporate formalities were not observed, that the business of each defendant was involved with the others to the extent that they cannot be separated, and the observance of the fiction of separate existence would promote injustice

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#### II. JURISDICTION

- 10. Plaintiff re-alleges and incorporates Paragraphs 1-9 as if fully set forth herein.
- Jurisdiction is proper in this Court as Plaintiff seeks equitable relief solely 11. in this matter pursuant to the doctrine of Ex parte Young, which permits a private plaintiff to sue a state and its officials, even where sovereign immunity has not been waived, where an official has acts outside the scope of his or her authority and in violation of the law.

#### III. **VENUE**

- Plaintiff re-alleges and incorporates Paragraphs 1 11 as if fully set forth 12. herein.
- 13. Venue is proper in the district court as the events giving rise to the complaint occurred within Imperial County, California

### IV. FACTUAL BACKGROUND

- Plaintiff is an Asian American female, with a national original of 14. Indonesia.
- Plaintiff was employed by the Quechan Indian Tribe beginning in October 15. 2003. During the entire term of her employment she received favorable evaluations and never any negative criticism of her work.
- Plaintiff was employed during this time as the Assistant to the Comptroller 16. for the Quechan Indian Tribe.
- Based on Plaintiff's history with the Quechan Indian Tribe and her 17. continued superior performance, Plaintiff looked forward to a long and beneficial employment with the Tribe.
- In May 2013, Plaintiff was terminated by Defendants for allegedly failing 18. to notify the Comptroller of an error in calculating a per capita distribution, failing to assist the Comptroller in processing a transfer of funds, and insubordination.
  - Each of the proffered reasons is factual incorrect and pretextual. 19.

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- 20. The error in the per capita distribution calculation occurred while she was on leave and was performed by the Comptroller during her absence. She was not in the position to have any knowledge of the error. The additional information that would have alerted her to the error was withheld from her by the comptroller.
- 21. The alleged failure to assist the Comptroller in the processing of the transfer of funds was also incorrect as the Plaintiff had no responsibility for such actions and was not asked to assist the comptroller with the transfer.
  - 22. Finally, the Plaintiff was never insubordinate.
- 23. In June 2013, Plaintiff appealed her termination in accordance with the Quechan Tribal procedures.
- 24. At her appeal hearing in October 2013, Plaintiff was denied the right to be represented by counsel of her choosing.
- 25. The appeals hearing itself was clearly little more than a perfunctory rubberstamp on the prior decision to terminate Plaintiff. Plaintiff was not allowed to be present when witness, who gave testimony regarding her employment and the decision to terminate her were present.
- 26. After the appeals hearing, which was presided over by Defendants Aguerro, the decision to terminate Plaintiff was upheld.
- 27. During her employment, Plaintiff has seen non-Asian employees as well as male employees engage in far worse behavior without any negative consequences.
- 28. As a consequence of Plaintiff's loss of employment as a result of her wrongful termination from the Quechan Indian Tribe, Plaintiff has lost income, benefits, suffered emotional distress, and incurred attorney's fees subject to proof at trial.

## IV. FIRST CAUSE OF ACTION INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (AGAINST ALL DEFENDANTS)

29. Plaintiff re-alleges and incorporates Paragraphs 1-28 as if fully set forth herein.

- 30. Defendants have knowingly and willfully deprived Plaintiff of her employment with Quechan Indian Tribe. Defendants deprived Plaintiff of her employment without due process and because of Plaintiff's ethnicity and/or national origin.
- 31. As a result of Defendants' actions, Plaintiff has suffered economic and non-economic damages to include, lost past and future wages, lost benefits and emotional distress.
  - 32. Plaintiff seeks damages for loss of income and emotional distress,
- 33. In the alternative, Plaintiff seeks equitable relief. Specifically, Plaintiff seeks reinstatement to her former position.

# V. SECOND CAUSE OF ACTION INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (AGAINST DEFENDANTS AGUERRO, TOZCEK and ESPINO)

- 34. Plaintiff re-alleges and incorporates Paragraphs 1-33 as if fully set forth herein.
- 35. Defendants Aguerro, Tozcek and Espino intentionally deprived Plaintiff of her employment with Quechan, knowing full well that there was no basis for them to terminate the Plaintiff.
- 36. Defendants Aguerro, Tozcek and Espino committed the above acts maliciously, fraudulently and oppressively with the knowledge and intent that those acts would cause Plaintiff to suffer severe emotional distress.
- 37. As a result of Defendants Aguerro, Tozcek and Espino's acts, Plaintiff has suffered severe emotional distress, to include depression, loss of enjoyment of life, and other mental distress to be proven at trial.

## PRAYER FOR RECOVERY

Accordingly, Plaintiff prays for Judgment as follows:

- 1. For all economic damages to be established at trial, trebled;
- 2. For pre-judgment interest as established by law;
- 3. For statutory penalties and attorneys' fees;

1	4.	For reinstatement to her prior position;				
2	5.	For costs of suit; and				
3	6.	For other such relief as the court may order.				
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5	Dated: May	22, 2014	LAW	OFFICES OF DOUG	LAS E. GEYMAN	
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