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9 Attorneys for Plaintiffs
10 WILLIAMS & COCHRANE, LLP, *et al.*

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

13 **WILLIAMS & COCHRANE, LLP; and**
14 **FRANCISCO AGUILAR, MILO**
15 **BARLEY, GLORIA COSTA,**
16 **GEORGE DECORSE, SALLY**
17 **DECORSE, et al., on behalf of themselves**
18 **and all those similarly situated;**

19 *(All 27 Individuals Listed in ¶ 12)*

20 Plaintiffs,

21 vs.

22 **ROBERT ROSETTE; ROSETTE &**
23 **ASSOCIATES, PC; ROSETTE, LLP;**
24 **RICHARD ARMSTRONG;**
25 **QUECHAN TRIBE OF THE FORT**
26 **YUMA INDIAN RESERVATION, a**
27 **federally-recognized Indian tribe;**
28 **KEENY ESCALANTI, SR.; MARK**
WILLIAM WHITE II, a/k/a/ WILLIE
WHITE; and DOES 1 THROUGH 100;

Defendants.

Case No.: 17-CV-01436 GPC MDD

**SECOND AMENDED
COMPLAINT**

CLASS ACTION COMPONENT

JURY TRIAL DEMANDED

[ACTION FILED JULY 17, 2017]

INTRODUCTION

1
2 1. This case concerns the tortious interference of a contract by an individual who
3 has now done or attempted to do the same with three different clients of the plaintiff over
4 the span of the past eight years. In 2016, the firm of Williams & Cochrane concluded a
5 gaming compact-based lawsuit in this district against the State of California on behalf of
6 the Pauma Band of Mission Indians that led to the payment of a \$36.3 million judgment
7 in September 2016. *See Pauma Band of Luiseno Mission Indians v. California*, No. 09-
8 01955 (S.D. Cal. 2016) (“*Pauma*”). A case involving so much money naturally draws a
9 lot of undesired attention, and, in an unusual turn of events, an attorney by the name of
10 Robert Rosette tried to settle the case with the State of California even though he did not
11 represent the plaintiff tribe in the suit and even admitted as much in his covert communi-
12 cations with the Office of the Governor.¹ Lacking these e-mails, the presiding judge in
13 the prior case – Judge Cathy Ann Bencivengo – naturally took issue with the actions of
14 Robert Rosette, but, ultimately refrained from doing anything about his questionable con-
15 duct since he was not formally involved in the proceeding.

16 2. At the time various media outlets around Southern California were reporting on
17 the State paying this once-in-a-generation judgment to Pauma, another tribe situated in
18 this district known as the Quechan Tribe of the Fort Yuma Indian Reservation reached
19 out to Williams & Cochrane and asked if the firm could solve a similar but more compli-
20 cated dispute that the tribe had with the State of California concerning approximately \$40
21 million in overpayments under an allegedly void compact. After an in-person meeting,
22 numerous phone calls, and weeks of discussion and negotiation, Williams & Cochrane
23 and Quechan ultimately executed an Attorney-Client Fee Agreement that incorporated a
24 discounted 15% contingency fee in the event the firm was able to find an expedient way
25 to recover the \$40 million in overpayments (or the value thereof) through either negotia-

26
27 ¹ A true and correct copy of a series of July 2011 e-mails between Robert Rosette
28 and the State of California’s then-compact negotiator Jacob Appelsmith is attached hereto
as **Exhibit 1**.

1 tion or litigation.² Along with signing the contract, the Quechan Tribal Council executed
 2 a tribal resolution indicating that it had voted “5 for,” “0 against” on the issue of whether
 3 to accept the terms of the Attorney-Client Fee Agreement.³

4 3. With that, Williams & Cochrane got down to work and over the course of the
 5 next nine months, from October 2016 to June 2017, was able to convince the Office of
 6 the Governor to provide Quechan with a replacement compact that would eliminate over
 7 \$120 million in revenue sharing fees during the next 28 years and provide the tribe with
 8 the ability to generate another \$660 million in additional revenue as a result of new gam-
 9 ing rights. [REDACTED]

10 [REDACTED]
 11 [REDACTED]. And yet, on June 27, 2017, just three days before the
 12 parties were supposed to execute the compact and the 15% contingency fee would
 13 definitively attach without the aid of the premature termination section of the Attorney-
 14 Client Fee Agreement, the putative President of Quechan Keeny Escalanti transmitted a
 15 letter to Williams & Cochrane, via an e-mail on which no other Tribal Councilmembers
 16 were carbon copied, indicating that the tribe was terminating the firm effective immedi-
 17 ately and would not pay either the contingency fee or a reasonable fee in lieu thereof
 18 based upon the value of the services the tribe had received.⁴ In an apparent effort to
 19 convince Williams & Cochrane to simply walk away from the contract, putative Quechan
 20 President Keeny Escalanti included an extortive threat at the end of the letter that stated,
 21 “[w]e strongly advise you against pressing your luck any further out of concern for the
 22 reputation of your firm in Indian Country and in the State of California” – language that
 23 is reminiscent of what putative Quechan President Keeny Escalanti included in a separate

24 _____
 25 ² A true and correct copy of the September 29, 2016 “Attorney-Client Fee
 Agreement” between Williams & Cochrane and Quechan is attached hereto as **Exhibit 2**.

26 ³ A true and correct copy of the September 29, 2016 Quechan Resolution No. “R-
 27 195-16” is attached hereto as **Exhibit 3**.

28 ⁴ A true and correct copy of a June 26, 2017 letter from putative Quechan President
 Keeny Escalanti to Williams & Cochrane is attached hereto as **Exhibit 4**.

1 “Demand for Cease and Desist” three days later.⁵ After conveying the original threat,
2 putative Quechan President Keeny Escalanti then ended the June 27th letter by explaining
3 that Williams & Cochrane could not tell anyone else in the tribe about the message they
4 had just received (*i.e.*, other Tribal Councilmembers, tribal members, etc.), and simply in-
5 structed the firm to turn over the latest draft of the compact that Quechan and the State of
6 California were days away from executing to one Robert Rosette.

7 4. The bizarreness of the situation was not lost on the attorney general representing
8 the State of California in the compact negotiations, who called one of the partners of
9 Williams & Cochrane named Cheryl Williams after receiving a similar letter three days
10 before the conclusion of the negotiations and exclaimed “This has never happened before
11 [in my twenty-plus years of representing the Office of the Governor in tribal affairs] and
12 we don’t know what to do.” Unfortunately, Williams & Cochrane did know what to do –
13 and that was to turn over its incalculably valuable work product and simply step away
14 from the situation. While it does not know the full extent of the fraud in this matter, what
15 Williams & Cochrane does know is that Robert Rosette actually advertises on his website
16 that *he* successfully litigated the *Pauma* case that resulted in the \$36.3 judgment, and he
17 presumably solicited Quechan with similar misrepresentations about his role in the case
18 and then told the tribe to fire Williams & Cochrane once a compact in principle had been
19 reached so he could swoop in and take credit for the outcome.⁶ ⁷ This is the only logical
20 telling of a story that involves a person who either has or has tried to interfere with signif-
21 icant contracts between Williams & Cochrane and third parties on at least four separate
22 occasions this decade. Unfortunately, the only forum for resolving this issue is in federal
23 court because Robert Rosette has a long and well-documented history of coming in to
24

25 ⁵ A true and correct copy of a June 30, 2017 letter from putative Quechan President
Keeny Escalanti to Williams & Cochrane is attached hereto as **Exhibit 5**.

26 ⁶ A true and correct copy of a June 28, 2017 screen capture of the website
27 biography for Robert Rosette is attached hereto as **Exhibit 6**.

28 ⁷ A true and correct copy of an August 25, 2014 screen capture of the website
biography for Robert Rosette from the Internet Archive is attached hereto as **Exhibit 7**.

1 tribes through dubious means – like by representing singular persons or “factions” and
2 then claiming he represents the tribe as a whole – and then doing whatever it takes to
3 assume control and advance his agenda, even if it means the divided tribal members turn
4 against each other and resort to mass armed violence. *See* Section II(A), *infra*.

5 5. The decision to step to the side enabled Quechan to execute the compact Wil-
6 liams & Cochrane had negotiated, but not before Robert Rosette – who, by his own ad-
7 mission, was completely unfamiliar with the state of the negotiations just days before in-
8 terfering with them – was abused by a State negotiator intent on only giving lip service to
9 his good-faith-negotiation obligation so he could claw back on agreed-upon concessions
10 at the last minute as a result of the firm switch. Whether it was the loss of the deferral on
11 the State’s minimum wage law, the change in the fee rates for new machines, or the re-
12 payment of half of the outstanding revenue sharing payments, the harms Quechan suf-
13 fered as a result of Robert Rosette’s mishandling of the compact negotiations total in the
14 millions, if not tens of millions, of dollars.

15 6. The harms from the negligent winding up of the compact negotiations should be
16 the end of the story, but this one has an all-too-familiar addendum about the abuses that
17 happen once Robert Rosette and his confidantes are in positions of power. Despite sitting
18 on many millions of dollars in monies earmarked for revenue sharing fees that were never
19 actually paid to the State of California, the Robert Rosette-guided Tribal Council actually
20 cut off per capita payments altogether and manipulated other forms of financial assistance
21 to thousands of tribal members – like monies in minor trust accounts – while nevertheless
22 contemporaneously representing to outside government that such payments were being
23 made. Efforts to bring an end to the abuses of this Tribal Council have been ineffective,
24 as recalled Tribal Councilmembers have refused to step down and even retaliated against
25 those who have tried to shed light on their wrongdoing – like trying to evict one proposed
26 class members from tribal housing on false grounds while cutting off the utilities for a-
27 nother in the middle of the Yuman summer. As for Williams & Cochrane, Robert Rosette
28 and his confidantes on the Quechan Tribal Council have followed through on their threat

1 to ruin the “reputation of your firm in Indian Country and in the State of California”
2 through an unremitting course of actions that continues to this very day and has resulted
3 in one of Williams & Cochrane’s oldest clients staging an imminent special meeting to
4 discuss terminating the firm. These latest events should suffice to state two cognizable
5 claims under the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18
6 U.S.C. § 1961 *et seq.*, to go with the claims for breach of the Attorney-Client Fee Agree-
7 ment, malpractice, and false advertising under the Lanham Act, 15 U.S.C. § 1051 *et seq.*

8 JURISDICTION

9 7. The district court has jurisdiction over this matter pursuant RICO; the Lanham
10 Act; the Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. § 2701 *et seq.* (*see Caba-*
11 *zon Band of Mission Indians v. Wilson*, 124 F.3d 1050, 1056 (9th Cir. 1997)); and 28
12 U.S.C. §§ 1331 (“Federal Question Jurisdiction”) & 1367 (“Supplemental Jurisdiction”).

13 8. Venue is proper in this district under both the general venue statute and Section
14 1965(a) of RICO, respectively, since a substantial part of the events giving rise to this
15 suit occurred within this district – including the execution and subsequent breach of the
16 Attorney-Client Fee Agreement – and Robert Rosette “transacts his affairs” in San Diego
17 and Imperial Counties. 28 U.S.C. § 1391(b)(2); 18 U.S.C. § 1965(a); *Yavapai-Apache*
18 *Nation v. La Posta Band of Diegueno Mission Indians*, 2017 Cal. App. Unpub. LEXIS
19 4430 (4th Dist. June 28, 2017) (indicating Rosette represents the Southern District-based
20 La Posta tribe in a breach of contract lawsuit that resulted in a \$48,893,407.97 adverse
21 judgment); *Yavapai-Apache Nation v. Iipay Nation of Santa Ysabel*, 201 Cal. App. 4th
22 190 (4th Dist. 2011) (indicating Rosette has defended the Southern District-based Santa
23 Ysabel tribe in a like breach of contract action involving \$30+ million in damages).

24 9. Quechan has waived its sovereign immunity to suit in federal court pursuant to
25 Section 13 of the Attorney-Client Fee Agreement. *See* Ex. 2, § 13.

26 10. This action presents an actual and live controversy, in part, as to whether
27 Quechan repudiated the Attorney-Client Fee Agreement at the direction, and with the as-
28 sistance, of Robert Rosette, an attorney that has used the mail and wires to perpetuate an

1 ongoing series of fraud against Williams & Cochrane and the general members of its past
2 and present tribal clients, including Quechan. The district court has the power to remedy
3 the dispute in accordance with the Prayer for Relief, *infra*.

4 **PARTIES**

5 11. Williams & Cochrane, LLP is a partnership registered in the State of California
6 to provide legal services, with offices in both Solana Beach and Temecula, California.

7 12. Francisco Aguilar, Milo Barley, Gloria Costa, George DeCorse, Sally DeCorse,
8 Charles Denard, Gailla Golding, Jessica Golding, Tracey Hartt, Michael Jack, James
9 Jackovich, Tashena Johns, Leon Machada, Kenneth Meeden, Melissa Mills, Cecil Palone,
10 Dwayne Porter, Lamuel Porter, Louis Rosevelt, Priscilla San Miguel, Daniel Sestiaga,
11 James Slaughter, Kyle Slaughter, Kara Slaughter, Franklin Smith, Pascha Stoit, and
12 Frank White are individuals and enrolled members of Quechan.

13 13. The Quechan Tribe of the Fort Yuma Indian Reservation is a federally-
14 recognized Indian tribe listed in the January 17, 2017 Federal Register as the “Quechan
15 Tribe of the Fort Yuma Indian Reservation, California & Arizona.”

16 14. Robert Rosette is an individual and attorney licensed to practice law in the
17 States of Arizona and California who is the President and Director of Rosette & Associ-
18 ates, PC, which is in turn a general partner of a parent entity named Rosette, LLP.

19 15. Rosette & Associates, PC is a corporation organized in the State of Arizona to
20 provide legal services, with its principal office at 565 West Chandler Boulevard, Suite
21 212, Chandler, Arizona 85225.

22 16. Rosette LLP is also an entity registered in the State of Arizona to provide legal
23 services, with at least twenty-three attorneys and five offices, the principal one for which
24 is also located at 565 West Chandler Boulevard, Suite 212, Chandler, Arizona 85225.

25 17. Richard Armstrong is an individual and attorney licensed to practice law in the
26 States of Arizona and California who is a senior of counsel with Rosette, LLP.

27 18. Keeny Escalanti, Sr., is an individual and the putative Tribal Chairman of
28 Quechan.

1 19. Mark William White II, a/k/a Willie White, is an individual and a putative
2 Tribal Councilmember of Quechan.

3 20. Does 1 through 100 are other individuals or entities associated with Robert Ro-
4 sette or Quechan who partook in the fraud in this case. The “Doe” designations represent
5 fictitious names, with Williams & Cochrane ignorant of the true names on account of the
6 material evidence being within the exclusive possession of those parties or the presently-
7 named defendants in this action.

8 GENERAL ALLEGATIONS

9 I. THE CONTRACT BETWEEN QUECHAN AND WILLIAMS & COCHRANE

10 A. Background on the 1999 Compacts

11 21. Congress enacted the Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. §
12 2701 *et seq.*, in 1988 to regulate the various forms of gaming on Indian lands, including
13 “class III” games like house-banked card games and slot machines. For a tribe, class III
14 gaming is only legal if done pursuant to a tribal/state gaming compact, which a state must
15 negotiate in “good faith.” *See, e.g.*, 25 U.S.C. § 2710(d).

16 22. In 1999, the administration of then-California Governor Gray Davis negotiated
17 a model gaming compact for interested tribes (“1999 Compact”),⁸ which gave the signa-
18 tory tribe the right to, *inter alia*, operate a base number of slot machines that it could then
19 increase up to a maximum of 2,000 by obtaining licenses from a communal pool.

20 23. The only catch was that the 1999 Compact did not specify the total number of
21 available slot-machine licenses, instead including the following opaque formula within
22 Section 4.3.2.2(a)(1) of the agreement that states:

23 (1). The maximum number of machines that all Compact Tribes in the
24 aggregate may license pursuant to this Section shall be a sum equal to 350
25 multiplied by the number of Non-Compact tribes as of September 1, 1999,
26 plus the difference between 350 and the lesser number authorized under
Section 4.3.1.

27 ⁸ A true and correct copy of excerpts of the “Tribal-State Compact between the
28 State of California and the Quechan Indian Nation” is attached hereto as **Exhibit 8**.

1 See Ex. 8 at § 4.3.2.2(a)(1).

2 24. During the summer of 2002, approximately two-and-a-half years into the life of
3 the 1999 Compacts, the California Gambling Control Commission (“CGCC”) unilaterally
4 determined that this “license pool” formula provided for 32,151 licenses, and then used
5 this number when reviewing tribal license applications. See *Cachil Dehe Band of Wintun*
6 *Indians of Colusa Indian Cmty. v. California*, 618 F.3d 1066, 1071 (9th Cir. 2010).

7 25. Yet, on April 22, 2009, the United States District Court for the Eastern District
8 of California held that the license pool actually contains upwards of 10,549 more licenses
9 than the CGCC determined, and directed the Commission to make those additional
10 licenses available to the signatory tribes. See *Cachil Dehe Band of Wintun Indians of*
11 *Colusa Indian Cmty. v. California*, 629 F. Supp. 2d 1091 (E.D. Cal. 2009) (“*Colusa*”).

12 **B. The Pauma Band and its Compact Suit against the State of California**

13 26. The Pauma Band of Mission Indians (“Pauma”) was one of the sixty-plus
14 original tribal signatories to the 1999 Compact – an agreement it amended in 2004 (“2004
15 Amendment”) to obtain the ability to operate 2,000 slot machines after the CGCC deter-
16 mined the tribe could not obtain the necessary licenses under the 1999 Compact given its
17 restrictive interpretation of the license pool formula. See *Pauma Band of Luiseno Mission*
18 *Indians of Pauma & Yuima Reservation v. California*, 813 F.3d 1155, 1161-62 (9th Cir.
19 2015) (“*Pauma*”). The result of the amendment was that Pauma ended up paying approxi-
20 mately twenty-four times as much revenue sharing each year in order to operate machines
21 that should have been available under its original compact. *Id.* at 1162.

22 27. After learning about the ruling by the Eastern District of California in *Colusa*,
23 Pauma filed suit in the Southern District of California on September 4, 2009, requesting
24 rescission of the 2004 Amendment and restitution of the heightened fees paid thereunder
25 on the basis of any one of seven claims: unilateral and mutual mistake of fact, unilateral
26 and mutual mistake of law, frustration of purpose/failure of consideration, and two IGRA
27 violations. See *Pauma*, No. 09-01955, Dkt. No. 1, pp. 19-26 (S.D. Cal. Sept. 4, 2009).

28 28. At the time, Pauma was represented in the lawsuit by a law firm named Rosette

1 & Associates. The two attorneys solely responsible for preparing and filing the complaint
2 in the case were Cheryl A. Williams and Kevin M. Cochrane.

3 29. In fact, Cheryl Williams and Kevin Cochrane performed all the litigation work
4 in the case from the outset of the proceeding until their eventual departure from the firm
5 the ensuing year. This allegation is verified by Robert Rosette's October 26, 2010 deposi-
6 tion testimony in the antecedent case of *Pauma Band of Luiseno Mission Indians of the*
7 *Pauma Yuima Reservation, Cal. v. Harrah's Operating Co.*, No. GIC847406 (San Diego
8 County Sup. Ct. 2012). After suggesting he was the lead strategist for the case, Robert
9 Rosette responded as follows when asked about his specific involvement in the compact
10 litigation by the deposing attorney for Harrah's:

11 Q. Now, in terms of the [compact] litigation, the drafting and filing of the
12 complaint and the arguing, did you do all that yourself up to the time you
13 were removed from the case?

14 A. No, I – I have employees that work for me that conduct research, draft,
15 make court appearances, so on and so forth.

16 Q. All right. So outside of being sort of the lead strategist, did you make any
17 appearances or become an attorney of record at all?

18 A. I was an attorney of record. There was only one appearance that was
19 actually showing up, the oral argument for the preliminary injunction. And I
20 had a conflict that day.

21 Q. Who argued that case from your firm?

22 A. Cheryl Williams.

23 30. Shortly after filing suit, Pauma moved for a preliminary injunction to reduce
24 the revenue sharing fees of the 2004 Amendment to the prior rates of the 1999 Compact,
25 which the initial district judge assigned to the action – Judge Larry Alan Burns – granted
26 on April 12, 2010. *Pauma*, No. 09-01955, Dkt. No. 44 (S.D. Cal. Apr. 12, 2010).

27 31. Approximately one month after Judge Burns' issued his injunction order, on or
28 about May 15, 2010, both Cheryl Williams and Kevin Cochrane departed Rosette & As-
sociates, leaving the case in the care of their prior firm.

32. As the two attorneys were departing, the State of California appealed the in-

1 junction order to the United States Court of Appeals for the Ninth Circuit and then moved
2 to stay the order pending appeal. *See Pauma Band of Luiseno Mission Indians of Pauma*
3 *& Yuima Reservation v. California*, No. 10-55713, Dkt. No. 7 (9th Cir. May 21, 2010).

4 33. Though having left the firm, Cheryl Williams nevertheless offered to assist Ro-
5 sette & Associates in preparing the opposition to the State's motion to stay in the Ninth
6 Circuit so Pauma's interests would not be harmed. However, this request was quickly re-
7 buffed and the replacement attorneys with Rosette & Associates filed Pauma's opposition
8 on June 11, 2010. *See Pauma*, No. 10-55713, Dkt. No. 15 (9th Cir. June 11, 2010).

9 34. On July 28, 2010, the motions panel of the Ninth Circuit granted the State's
10 request to stay the injunction in a summary one-paragraph order. *See Pauma*, No. 10-
11 55713, Dkt. No. 39 (9th Cir. July 28, 2010).

12 35. Just two days after Rosette & Associates filed its ineffective opposition brief,
13 on or about Sunday June 13, 2010, the Pauma General Council held a meeting and voted
14 to terminate Rosette & Associates from the compact litigation and replace the firm with
15 Cheryl Williams and Kevin Cochrane, who had just formed their own law firm named
16 Williams & Cochrane, LLP. This allegation that Rosette & Associates was removed from
17 the case is again verified by Robert Rosette's October 26, 2010 deposition testimony in
18 the antecedent *Pauma v. Harrah's* case. When the deposing attorney for Harrah's asked
19 him to generally describe the status of the compact litigation as of that date (*i.e.*, just four
20 months after his termination), Robert Rosette explained that he did not know because he
21 was removed from the case in an exchange that went as follows:

22 Q. And then what is the current status of that case?

23 A. I don't know. I'm not – I was removed. ...

24 Q. And why were you terminated from representing Pauma?

25 A. They chose different legal counsel. Specifically, Cheryl Williams had left
26 my firm and started her own firm and took the case with her.

27 Q. Is she a solo practitioner now?

28 A. She's got a law partner, but I don't – I don't know how they're formed or
structured or anything. I don't – I don't care.

1 Q. And so she left your firm and simultaneously the matter transferred with
2 her; is that right?

3 A. No, I had the matter for probably over a month. I actually filed the initial
4 – I took it over myself for a while, just because I was the main attorney. I
5 just handled it myself for about 45 days and actually filed the preliminary
6 answers in federal court, and then I was told shortly thereafter that I was
7 being removed.

8 Q. And who told you that?

9 A. The chair – I was actually at – you know, my father had just passed away.
10 I was at his funeral in Montana. That’s why I couldn’t go to the general
11 council meeting. And the chairman had called me on – I think their general
12 council meetings are the first Sunday of every month. He called me on
13 Monday, when I was at home at Rocky Boy, Montana, and told me that the
14 general council made a decision to remove me.

15 Q. Was there any claim that you had some conflict in going ahead with this
16 case or any other reason other than simply going ahead with Cheryl? ...

17 A. I told you earlier that I respect tribal decisions, don’t question them, don’t
18 pry. I told them thank you for letting me know and that I would transfer the
19 files and I didn’t ask any other – and, you know, like I said, I don’t care. I
20 got other things I could do.

21 36. After resuming their role as counsel of record in the case, Cheryl Williams and
22 Kevin Cochrane convinced the Ninth Circuit to vacate its stay order and reinstate the
23 preliminary injunction. *See Pauma*, No. 10-55713, Dkt. No. 62 (9th Cir. Aug. 23, 2010).

24 37. The Ninth Circuit then followed this order up with another one disposing of the
25 interlocutory appeal entirely that kept the injunction in place pending any further consid-
26 eration by the district court. *See Pauma Band of Luiseno Mission Indians of Pauma &*
27 *Yuima Reservation v. California*, 410 F. App’x 20 (9th Cir. Nov. 30, 2010).

28 38. The procedural handling of the case following remand involved multiple tran-
sfers as magistrates were promoted to district judgeships, with the case first going from
Judge Burns to Judge Battaglia, and then from Judge Battaglia to Judge Bencivengo. *See*
Pauma, No. 09-01955, Dkt. Nos. 104 & 176 (S.D. Cal. Mar. 22, 2011 & Mar. 6, 2012)).

39. In the midst of these transfers, Williams & Cochrane filed a First Amended

1 Complaint on Pauma’s behalf with Judge Battaglia on September 9, 2011 that added a
2 wealth of allegations and a new claim for relief based on misrepresentation under federal
3 contract law. *See Pauma*, No. 09-01955, Dkt. No. 130, pp. 55 (S.D. Cal. Sept. 9, 2011).

4 40. When the case finally wound up before Judge Bencivengo, the court resolved
5 the case on summary judgment in Pauma’s favor on the basis of the misrepresentation
6 claim that Williams & Cochrane added in September 2011. *See Pauma*, No. 09-01955,
7 Dkt. No. 227 (Mar. 18, 2013). As a result of the decision, Pauma was immediately “entit-
8 led to rescission of the 2004 Amendment” and also subsequently received an order allow-
9 ing it to recoup the approximately \$36.3 million in overpayments the tribe made to the
10 State under the amendment as “specific performance” of the original 1999 Compact. *See*
11 *Pauma*, No. 09-01955, Dkt. Nos. 238 & 245 (S.D. Cal. June 11, 2013 & Dec. 2, 2013).

12 41. Along with that, the initial summary judgment order from Judge Bencivengo
13 also contained a *sua sponte* statute of limitations analysis that the State of California
14 failed to argue, presumably to stave off any future copycat suits. *See Pauma*, No. 09-
15 01955, Dkt. No. 227, pp. 17-18 (S.D. Cal. Mar. 18, 2013).

16 42. However, before awarding specific performance, Judge Bencivengo ordered
17 Pauma and the State of California to participate in a settlement conference with Magi-
18 strate Judge Mitchell Dembin to see if the dispute could be resolved without the need for
19 an appeal. *See Pauma*, No. 09-01955, Dkt. No. 227, p. 31 (S.D. Cal. Mar. 18, 2013).

20 43. The Pauma General Council met in advance of the settlement conference and
21 voted to negotiate for an extension on the term of the largely-revenue-sharing-free 1999
22 Compact with the State of California, using the \$36.3 million it was about to receive as a
23 bargaining chip. *See Pauma*, No. 09-01955, Dkt. No. 256-1, ¶ 4 (S.D. Cal. Jan. 30, 2014).

24 44. The parties met for settlement conferences with Magistrate Judge Dembin on
25 May 9, 2013 and May 20, 2013, but unfortunately “[n]o settlement was reached.” *Pauma*,
26 No. 09-01955, Dkt. Nos. 234 & 235 (S.D. Cal. May 9, 2013 & May 20, 2013).

27 45. On appeal, the Ninth Circuit affirmed the summary judgment orders of the
28 district court, reclassifying the \$36.3 million award as a form of restitution rather than

1 specific performance in the process. *See Pauma*, 813 F.3d 1155.

2 46. The State of California subsequently chose to petition the Supreme Court for a
3 writ of certiorari, but the Court ultimately declined to hear the petition after Williams &
4 Cochrane filed a competing one in the hopes of defusing the State's petition. *Compare*
5 *California v. Pauma Band of Luiseno Mission Indians of Pauma & Yuima Reservation*,
6 __ U.S. __, 136 S. Ct. 2511 (2016) with *Pauma Band of Luiseno Mission Indians of*
7 *Pauma & Yuima Reservation v. California*, __ U.S. __, 136 S. Ct. 2512 (2016).

8 47. Following the termination of the appeal process, the State of California satis-
9 fied the judgment in full during September 2016.

10 48. This \$36.3 million payment marked the first time that the State of California
11 has paid a monetary remedy to a tribe as part of a compact dispute since the late 1990s,
12 and even then the amount of funds at issue was a small fraction of those involved in
13 Pauma's case. *See Cabazon v. Wilson*, 124 F.3d at 1053-55 (explaining that the State had
14 to return license fees for simulcast wagering facilities).

15 49. When all was said and done, the Pauma case involved more than three-hundred
16 docket entries in the district court, two motions to dismiss, four summary judgement
17 processes, two appeals, and competing petitions for writs of certiorari to the Supreme
18 Court during the seven-plus-year history of the case.

19 50. At the culmination of the suit, Williams & Cochrane turned its attention to liti-
20 gating other complex and novel federal-Indian-law issues while Robert Rosette champ-
21 ioned the Pauma victory, advertising on his website that he "successfully litigated a case
22 saving the Pauma Band of Luiseno Mission Indians over \$100 Million in Compact pay-
23 ments allegedly owed to the State of California... ." *See Exs. 6 & 7.*

24 **C. The Quechan Tribe Hires Williams & Cochrane in the Wake of Pauma**

25 51. The decision by the Supreme Court to deny the State's petition for a writ of
26 certiorari in *Pauma* garnered a significant amount of media attention around California.
27 *See, e.g., California pays tribe \$36 million to settle years-old fight*, SAN DIEGO UNION-
28 TRIBUNE, Sept. 9, 2016, available at <http://www.sandiegouniontribune.com/sdut->

1 california-pays-tribe-36-million-to-settle-years-2016sep09-story.html (last visited July 2,
2 2017); *A Schwarzenegger-era casino deal will cost state \$36.3 million*, SACRAMENTO
3 BEE, Aug. 23, 2016, available at [http://www.sacbee.com/news/politics-government/
4 capitol-alert/article97452877.html](http://www.sacbee.com/news/politics-government/capitol-alert/article97452877.html) (last visited July 2, 2017).

5 52. Shortly after these news articles became public, the President of Quechan Mike
6 Jackson contacted Cheryl Williams to find out whether Williams & Cochrane was inter-
7 ested in representing his tribe to solve a similar compact dispute with the State of Califor-
8 nia, and invited her and her partner Kevin Cochrane to come out to the tribe's reservation
9 near Yuma, Arizona to discuss the situation with the Tribal Council.

10 53. Quechan has a long history of political infighting, but the one constant and
11 stabilizing force has been President Mike Jackson, a military veteran and son and grand-
12 son of tribal leaders who, aside from a single four-year hiatus, occupied the office of
13 President continuously from 1995 through 2016. President Jackson, who was profiled by
14 the New York Times in 2007 as he sought to protect Quechan's sacred sites from the
15 potential harms of a \$4 billion oil refinery (*see Far from the Reservation, but Still
16 Sacred?*, NEW YORK TIMES, Aug. 12, 2007, available at [http://www.nytimes.com/2007/
18 08/12/business/yourmoney/12tribe.html](http://www.nytimes.com/2007/
17 08/12/business/yourmoney/12tribe.html) (last visited July 2, 2017)), is the signatory for
19 the tribe's original and amended compacts with the State of California and held the posi-
20 tion of President when the tribe opened its original casino in California, the permanent
21 resort facility that replaced it, its casino in Arizona, and also when the tribe broke ground
22 on a health clinic designed to serve all the Yuma-area tribes.⁹ *See* Ex. 8; *Ground finally
23 broken on clinic for local tribes*, YUMA SUN, Jan. 28, 2016, available at [https://www.
24 pressreader.com/usa/yuma-sun/20160128/281479275438281](https://www.pressreader.com/usa/yuma-sun/20160128/281479275438281) (last visited July 2, 2017).

25 54. As mentioned above, Quechan has an amended compact with the State of Cali-
26 fornia that was approved by the Bureau of Indian Affairs on January 4, 2007 ("2007

27 ⁹ A true and correct copy of excerpts of the "Amendment to Tribal-State Compact
28 between the State of California and the Quechan Tribe of the Fort Yuma Indian
Reservation" is attached hereto as **Exhibit 9**.

1 Amendment”), or roughly two-and-a-half years after Pauma’s amendment and four-and-
2 a-half years after the CGCC restricted the size of the license pool under the 1999 Com-
3 pacts. *See* 72 Fed. Reg. 2007-08 (Jan. 17, 2007). The 2007 Amendment allows Quechan
4 to operate up to 1,100 slot machines inside of one reservation-based gaming facility until
5 December 31, 2025 in exchange for a base revenue sharing fee of 10% of the first \$50
6 million in net win the tribe generates each year. *See* Ex. 9 at § 4.3.3(a). For all intents and
7 purposes, the practical effect of this revenue sharing structure is that Quechan pays 10%
8 of its net win to the State of California off of the [REDACTED] in revenues the tribe
9 typically generates each year at its California casino.

10 55. Williams & Cochrane initially met with Quechan about its issues with its 2007
11 Amendment on or about September 14, 2016. Along with the partners for Williams &
12 Cochrane, the persons present at the meeting included President Jackson, four of the five
13 Tribal Councilmembers, the Tribal Council Secretary Regina Escalanti, the General Man-
14 ager of the Quechan Casino Resort Charles Montague (who is himself a Quechan tribal
15 member), and the Chief Financial Officer for the Quechan Casino Resort Phil Simons.

16 56. [REDACTED]
17 [REDACTED]
18 [REDACTED].

19 57. The cessation of revenue sharing payments is extremely dangerous under the
20 2007 Amendment, as it can empower the State of California to hold the tribe in material
21 breach of its compact, and/or shut down Quechan’s gaming floor until “30 days after full
22 payment of all outstanding amounts has been made” if the tribe’s revenue sharing is
23 “overdue... on more than two occasions.” *See* Ex. 9 at § 4.3.3(f). For Quechan, the
24 enforcement of this provision could result in the loss of at least [REDACTED] in gaming
25 revenue, and that assumes the tribe made immediate payment after the State of California
26 shuttered the casino’s gaming floor. One of the pertinent parts of the 2007 Amendment
27 detailing the State of California’s rights in the event of non-payment by Quechan states:

28 (f) Notwithstanding anything to the contrary in Section 9.0, if any portion of

1 [REDACTED]:

2 Sec. 12.1. The terms and conditions of this Gaming Compact may be amend-
3 ed at any time by the mutual and written agreement of both parties.

4 Ex. 8 at § 12.1.

5 60. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED].

9 61. As for the terms of the fee agreement between the parties, the Quechan Tribal
10 Council explained that they were exceedingly familiar with the costs of matters that had a
11 high likelihood of spiraling into federal litigation (*see, e.g., Quechan Tribe of Fort Yuma*
12 *Indian Reservation v. U.S. DOI*, 2012 U.S. Dist. LEXIS 71248 (S.D. Cal. 2012); *Quechan*
13 *Indian Tribe v. United States*, 535 F. Supp. 2d 1072 (S.D. Cal. 2008)), and preferred to
14 create a hybrid structure whereby the tribe would pay a discounted rate going forward
15 and then combine that with a contingency fee that was less than the normal 30 to 35%
16 that a firm would normally command. In response, Cheryl Williams explained that she
17 would provide the Quechan Tribal Council with two different proposals by the end of the
18 week, and the parties could then negotiate the final terms of a services agreement once
19 the Quechan Tribal Council selected the proposal with the general structure it preferred.

20 62. On September 16, 2016, Cheryl Williams sent an e-mail to the Quechan Tribal
21 Secretary Regina Escalanti and President Jackson to convey two different hybrid fee pro-
22 posals. As explained by Cheryl Williams, the fee structures were meant to be “a fair mid-
23 dle ground choice on the spectrum of fee arrangements that range from purely hourly on
24 one end (*i.e.*, \$475-\$500 per hour) to purely contingency on the other (*i.e.*, 33%-35% of
25 net recovery).” Further, they were also sensitive to (1) the potential liability for the firm
26 given the millions of dollars at stake, and (2) the massive amount of work that a represen-
27 tation of this nature would likely require given Williams & Cochrane’s experience repre-
28 senting Pauma in negotiations and litigation during its seven-year dispute with the State

1 of California. As for the terms of the proposals, both contained a progressive contingency
2 fee structure that started at 5% of any recovered value of the excess revenue sharing
3 payments Quechan made under the 2007 Amendment “if the matter is resolved before the
4 filing of a lawsuit or within 12 months thereof” and gradually increased to 15% “[i]f the
5 matter is resolved after 36 months of filing a lawsuit.” Along with this contingency fee,
6 one of the fee proposals was based on a discounted hourly rate of \$350 per hour while the
7 other incorporated a monthly flat fee of \$50,000 in lieu of the hourly rate.

8 63. On the ensuing Wednesday, September 21, 2016, President Jackson called
9 Cheryl Williams and explained the Quechan Tribal Council had discussed the terms of
10 the proposal fee agreements amongst themselves and an independent attorney and decide-
11 d that they wanted to go with the proposal containing the flat monthly fee arrangement.
12 However, since Quechan wanted a fix as quickly as possible, President Jackson stated
13 that the Tribal Council desired to modify the contingency fee structure to provide Wil-
14 liams & Cochrane with the 15% contingency fee if the firm was somehow able to resolve
15 the matter expediently through negotiations. Upon hearing this comment, Cheryl Wil-
16 liams double checked whether President Jackson and the Quechan Tribal Council wanted
17 this change (they did), inquired whether they wanted to negotiate any other provisions of
18 the proposed agreement (they did not), and then explained that she would get them a re-
19 vised and final version of the Attorney-Client Fee Agreement to re-review the next week.

20 64. On Monday, September 26, 2016, Cheryl Williams e-mailed a copy of the final
21 version of the Attorney-Client Fee Agreement to Tribal Secretary Regina Escalanti, an
22 Executive Secretary named Linda Cruz, and President Jackson.

23 65. As previously mentioned, the Attorney-Client Fee Agreement contains a
24 “Monthly Flat Fee” in Section 4, which explains that the “Client agrees to pay a flat fee
25 of \$50,000 per month for Firm’s services under this Agreement.” *See* Ex. 2 at § 4.

26 66. In addition, Section 5 of the Attorney-Client Fee Agreement contains a contin-
27 gency fee provision that explains Quechan will pay Williams & Cochrane a 15% contin-
28 gency fee on any revenue sharing discount Quechan receives under a negotiated succes-

1 sor compact as a result of the heightened payments the tribe made under the 2007 A-
2 mendment, and that such fee attaches the moment the tribe signs the new agreement. *See*
3 Ex. 2 at § 5. The pertinent part of Section 5 of the Attorney-Client Fee Agreement states:

4 Firm’s contingency fee will be calculated as follows if the representation
5 matter is resolved through settlement or negotiation:

- 6 (a) If the matter is resolved before the filing of a lawsuit or within 12
7 months thereof, then Firm’s contingency fee will be fifteen percent of
8 the net recovery. ...
- 9 (b) For purposes of subsection (a) alone, the matter is resolved at the
10 point in time that the Client signs a successor compact (whether new
11 or amended), which subsequently obtains the requisite State and
12 federal approvals and takes effect under the Indian Gaming
13 Regulatory Act, 25 U.S.C. § 2701 *et seq.*
- 14 (c) The contingency fee above is higher than the formative rates for
15 resolving the case through court action set forth in the ensuing
16 subsections below based upon the Client’s express request after
17 consultation and stated need to resolve the situation in as effective and
18 expeditious a manner as possible.

19 *See* Ex. 2 at § 4.

20 67. To address opportunistic early termination, the Attorney-Client Fee Agreement
21 also contains a Section 11 that explains that if Williams & Cochrane is discharged before
22 the contingency fee normally attaches, Quechan would still have to pay this fee if it had
23 become “entitled” to any amounts constituting the “net recovery” for contingency fee
24 purposes. *See* WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 758 (2002) (defining
25 “entitle” as “furnish with proper grounds for seeking or claiming some-thing”). For other
26 situations, Section 11 states that “Client agrees that Firm will be... paid... a reasonable
27 fee for the legal services provided in lieu of the contingency fee set forth in paragraph 5
28 of this Agreement,” the amount of which “will be determined by considering” a list of
factors that primarily turns upon the value of the services performed. *See* Ex. 2 at § 11.

68. Finally, the Attorney-Client Fee Agreement also contains a waiver of sovereign
immunity that provides in relevant part that the “Client hereby expressly and irrevocably
waives its sovereign immunity (and any defense based thereon) from any suit, action, or

1 proceeding or from any legal process with respect to any claims the Firm may bring
2 seeking payment under the terms of this Agreement.” *See* Ex. 2 at § 13(a).

3 69. As for the execution of the Attorney-Client Fee Agreement, President Jackson
4 signed the document at a Special Tribal Council Meeting on Monday, September 26,
5 2016, at which the Tribal Council passed a resolution by a vote of “5 for” and “0 against”
6 to “approve the attorney-client fee agreement between the Quechan Indian Tribe and
7 Williams & Cochrane.” *See* Ex. 3. The attorneys for Williams & Cochrane countersigned
8 and thereby executed the Attorney-Client Fee Agreement on September 29, 2016, provid-
9 ing Quechan with a copy of the fully-executed contract afterwards.

10 **D. Williams & Cochrane gets Quechan a Compact Offer that Excises \$120**
11 **Million in Revenue Sharing Payments and Enables the Generation of**
12 **around \$660 Million in New Gaming Revenues**

13 70. With the Attorney-Client Fee Agreement executed, Williams & Cochrane sent
14 a notice of dispute for the Office of the Governor on October 12, 2016 to convince it to
15 sit down with Quechan and negotiate a replacement compact for the 2007 Amendment.

16 71. On October 17, 2016, just five days later and approximately one month after
17 the State paid \$36.3 million to Pauma, the Office of the Governor agreed to “enter into
18 negotiations for a new tribal state gaming compact,” in a letter signed by the Office of the
19 Governor’s Senior Advisor for Tribal Negotiations Joginder (“Joe”) Dhillon.¹¹

20 72. As a result of this letter, the parties held their first negotiation session on No-
21 vember 9, 2016 at the State Capitol. Appearing on behalf of the Office of the Governor
22 was Senior Advisor Joe Dhillon, Senior Assistant Attorney General Sara Drake, and Dep-
23 uty Attorney General Jennifer Henderson. For Quechan, all seven members of the Tribal
24 Council were present as well as Cheryl Williams and Kevin Cochrane. [REDACTED]

25 [REDACTED]
26 [REDACTED].

27 ¹¹ A true and correct copy of an October 17, 2016 letter from the Office of the
28 Governor’s Senior Advisor for Tribal Negotiations Joe Dhillon to Cheryl A. Williams is
attached hereto as **Exhibit 11**.

1 73. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] 13 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED].

23 ¹² A true and correct copy of the December 6, 2016 draft “Tribal-State Compact
 24 between the State of California and the Quechan Tribe of the Fort Yuma Indian
 25 Reservation” is attached hereto as **Exhibit 12**.

26 ¹³ A true and correct copy of the “Regulatory Cost Reimbursement Invoice” that
 27 accompanied the December 6th draft compact is attached hereto as **Exhibit 13**.

28 ¹⁴ A true and correct copy of a December 6, 2016 letter from the Office of the
 Governor’s Senior Advisor for Tribal Negotiations Joe Dhillon to Quechan President
 Mike Jackson is attached hereto as **Exhibit 14**.

1 74. From a substantive perspective, the revenue sharing terms of the December 7th
2 initial draft compact were quite a victory to Williams & Cochrane because the State's
3 general practice is to demand a revenue sharing fee that totals at least six percent of net
4 win on all machines over 350 *in addition to the basic SDF payment that was included in*
5 *Quechan's draft proposal. See, e.g., California Gambling Control Commission, Tribal-*
6 *State Compact between the State of California and the Pala Band of Mission Indians §*
7 *5.2(a) (May 6, 2016) (imposing a 6% revenue sharing fee on all machines above 350 into*
8 *the Revenue Sharing Trust Fund), available at [http://www.cgcc.ca.gov/documents/](http://www.cgcc.ca.gov/documents/compacts/amended_compacts/Pala_Compact_2016.pdf)*
9 *compacts/amended_compacts/Pala_Compact_2016.pdf (last visited July 2, 2017). And*
10 *this standard arrangement does not even account for the intergovernmental agreements*
11 *that tribes are required to execute with political subdivisions to cover the cost of public*
12 *services – something that hardly effects Quechan since its location (at least on the*
13 *California side of the border) is far removed from other municipalities. See id. at § 4.4.*

14 75. From a procedural standpoint, the December 7th initial draft compact came
15 about much quicker than any tribe should expect. For instance, a coalition of dozens of
16 tribes called the 1999 Compact Tribes Steering Committee has been negotiating new
17 compacts with the Office of the Governor since the spring of 2013 and, based on infor-
18 mation and belief, these tribes are, at best, expected to execute compacts towards the end
19 of the 2018 legislative session. Quite simply, compact negotiations around the Nation are
20 traditionally rather time-consuming processes, as the factual backgrounds of successful
21 bad faith suits prove. *See, e.g., North Fork Rancheria of Mono Indians v. California,*
22 *2015 U.S. Dist. LEXIS 154729, *5-*6 (E.D. Cal. 2015) (indicating the compact nego-*
23 *tiations went from July 2004 to April 2008); Rincon Band of Luiseno Mission Indians of*
24 *Rincon Reservation v. Schwarzenegger, 2008 WL 6136699, *3 & *7 (S.D. Cal. 2008)*
25 *(revealing the compact negotiations went from February 26, 2004 to November 3, 2006).*

26 76. [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED].

13 77. With their marching orders in hand, Williams & Cochrane scheduled a follow-
14 up meeting with the Office of the Governor on January 31, 2016 at the State Capitol to go
15 through the December 7th initial draft compact and find out what the State was willing to
16 negotiate above and beyond the base offer it provided.

17 78. However, before this meeting could take place, election chaos erupted at Que-
18 chan. President Jackson and Vice President Michael Jack were in the midst of four-year
19 terms and not up for reelection during the midterm election in December 2016. However,
20 all five biannual Councilmember seats were up for vote, and initial results reportedly in-
21 dicated that aspirants won four of the five Council seats that were on the ballot. A recount
22 was soon ordered and Quechan spent the next two months mired in intractable infighting.
23 *See Quechan Tribe to re-do vote*, YUMA SUN, Feb. 9, 2017, available at [https://www.](https://www.pressreader.com/usa/yuma-sun/20170209/281509340930239)
24 [pressreader.com/usa/ yuma-sun/20170209/281509340930239](https://www.pressreader.com/usa/yuma-sun/20170209/281509340930239) (last visited June 30, 2017).

25 79. Ultimately, the four challengers were sworn into office on or about March 3,
26 2017. *See New Quechan Tribe Council Members sworn in nearly two months after elec-*
27 *tion*, KYMA-TV, Mar. 3, 2017, available at [http://www.kyma.com/news/new-quechan-](http://www.kyma.com/news/new-quechan-tribe-council-members-sworn-in-nearly-two-months-after-election/372997144)
28 [tribe-council-members-sworn-in-nearly-two-months-after-election/372997144](http://www.kyma.com/news/new-quechan-tribe-council-members-sworn-in-nearly-two-months-after-election/372997144) (last visi-

1 ted June 30, 2017). In succession, President Jackson resigned from his position almost
2 instantaneously with the swearing in of the new councilmembers and then Vice President
3 Jack stepped down in the ensuing months.

4 80. As the political turmoil at Quechan raged on, Cheryl Williams and Kevin
5 Cochran met with the Office of the Governor at the planned January 31, 2016 negoti-
6 ation session to see if any further progress could be made on the draft compact. [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED].

22 81. After the election turmoil at Quechan died down, Cheryl Williams and Kevin
23 Cochran travelled out to the reservation to meet with the reconstituted Tribal Council on
24 March 24, 2017. [REDACTED]

25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 82. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED] .¹⁵ ¹⁶ [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 83. [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 84. [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

¹⁵ A true and correct copy of a March 9, 2017 letter from CGCC Executive Director Stacy Luna Baxter to President Jackson is attached hereto as **Exhibit 15**.

¹⁶ A true and correct copy of an April 12, 2017 letter from CGCC Executive Director Stacy Lunda Baxter to the “Honorable Keeny Escalanti Sr., President Quechan Indian Nation” is attached hereto as **Exhibit 16**.

1 [REDACTED]

2 [REDACTED]

3 85. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 86. [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 87. [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]¹⁷ [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 88. [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

¹⁷ A true and correct copy of excerpts of the May 12, 2017 draft “Tribal State Compact between the State of California and the Quechan Tribe of the Fort Yuma Indian Reservation” is attached hereto as **Exhibit 17**.

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[REDACTED]

[REDACTED]

[REDACTED].¹⁸ After relaying the compact, Senior Assistant Attorney General Sara Drake set up another negotiation session between the attorneys for the parties on June 14, 2017 at the Office of the Attorney General in Sacramento, California.

89. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

90. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁸ A true and correct copy of the May 19, 2017 draft “Tribal State Compact between the State of California and the Quechan Tribe of the Fort Yuma Indian Reservation” is attached hereto as **Exhibit 18**.

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]. Thus, the State of California had not only offered an agreement that
5 would eliminate at least \$112 million in revenue sharing payments over the next 28 years,
6 but one that could generate another \$661,000,000 in new gaming revenue. [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 91. [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED].

23 **E. The Putative President of Quechan Keeny Escalanti Terminates Williams**
24 **& Cochrane Three Days before the Conclusion of Compact Negotiations to**
25 **Avoid Paying the Contingency Fee, Demanding that the Firm Turn Over**
26 **its Work Product to Robert Rosette by Using Threats to its Reputation**

26 92. [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED].

8 93. In keeping with the schedule agreed upon by the attorneys during the June 14th
9 negotiation session, Cheryl Williams transmitted the final set of redlines to the State of
10 California at 1:12 a.m. in the morning of Wednesday, June 21, 2017.¹⁹

11 94. However, the next conversation between Cheryl Williams and Senior Assist-
12 ant Attorney General Sara Drake did not begin with a discussion about finalizing the
13 Quechan compact. Rather, on Tuesday, June 27, 2016, Ms. Drake – who has been one of
14 (if not) the principal attorneys representing the State of California in tribal matters since
15 the mid-1990s (*see Cabazon Band of Mission Indians v. Wilson*, No. 90-01118, Dkt. Nos.
16 159 & 177 (E.D. Cal. Feb. 12, 1999 & Mar. 23 1999)) – began the conversation by stat-
17 ing, “This has never happened before and we don’t know what to do.” With that, Ms.
18 Drake then informed Cheryl Williams that the State had just received a letter indicating
19 that Williams & Cochrane had been terminated from the compact negotiations, just three
20 days before the negotiations were set to conclude, and replaced by Robert Rosette.

21 95. That same day Cheryl Williams received a similar letter. The letter was sent by
22 e-mail from the Quechan Executive Secretary Linda Cruz to Cheryl Williams with no
23 other individuals carbon copied on the message. The June 26, 2017 letter enclosed therein
24 was entitled “Termination of Attorney-Client Relationship” and signed by the putative
25 Quechan President Keeny Escalanti, Sr., who had purportedly assumed the seat left vac-

26 _____
27 ¹⁹ A true and correct copy of the June 21, 2017 draft “Tribal State Compact
28 between the State of California and the Quechan Tribe of the Fort Yuma Indian
Reservation” is attached hereto as **Exhibit 19**.

1 ant following President Jackson’s departure. *See* Ex. 4. The June 26th letter began by ex-
2 plaining “[t]he Fort Yuma Quechan Indian Tribe... is terminating the services of Wil-
3 liams & Cochrane... effective immediately upon your receipt of this letter.” *See id.*

4 96. Around the same time as the Quechan Executive Secretary had transmitted this
5 letter, Quechan had also sent four paychecks to Williams & Cochrane to cover the base
6 monthly fees for February 2017 to May 2017 that the tribe was behind in paying. With
7 that, the June 26th letter went on to explain that the tribe intended to pay a “prorated
8 [portion of the monthly flat] fee for your services” for the month of June (which it never
9 did), but that it would “not pay any contingency fee or ‘reasonable fee for the legal ser-
10 vices provided in lieu’ thereof.” *See* Ex. 4.

11 97. As for the reasons for repudiating the Attorney-Client Fee Agreement at the
12 eleventh hour, the June 26th letter stated that Williams & Cochrane had already been
13 “grossly overcompensated” given its failure to “produce better-than-boilerplate terms in
14 your negotiations so far with the State.” As such, the June 26th letter explained that the
15 payment of fees to date was “more than fair” and then warned, “*We strongly advise you*
16 *against pressing your luck further out of concern for the reputation of your firm in*
17 *Indian Country and in the State of California.*” *See* Ex. 4.

18 98. After conveying this threat, the June 26th letter that was signed only by puta-
19 tive Quechan President Keeny Escalanti explained that Williams & Cochrane could not
20 relay the message conveyed by this letter (or any other information obtained during their
21 representation, like the draft compacts) to anyone else within the tribe:

22 Finally, I remind you of the... confidentiality provisions which govern
23 attorney-client relations and that you not disclose to any employee, officer,
24 or official of the Tribe or any subdivision, agency, or enterprise of the Tribe
regarding any matter that was the subject of your engagement.

25 *See* Ex. 4.

26 99. Nevertheless, the June 26th letter then concludes by explaining that Williams
27 & Cochrane should “direct all communications regarding this matter to Robert A. Ro-
28 sette” and promptly provide him with a copy of Quechan’s case file – the very “confiden-

1 tial” materials that no one else within the tribe was supposedly allowed to see. *See* Ex. 4.

2 100. Though signed by putative Quechan President Keeny Escalanti, Williams &
3 Cochrane is informed and believes that the June 26th letter was actually drafted by Rob-
4 ert Rosette or one of the attorneys in his employ at Rosette, LLP.

5 101. Unlike the execution of the Attorney-Client Fee Agreement, the June 26th
6 letter was *not* accompanied by a resolution indicating how the Quechan Tribal Council
7 members voted on the issue – or if the other Councilmembers even knew about putative
8 Quechan President Keeny Escalanti’s actions at all.

9 102. The lack of any corroborating tribal resolution led Cheryl Williams to ask
10 Senior Assistant Attorney General Sara Drake whether she had received a resolution
11 removing Williams & Cochrane from the matter. In response, Ms. Drake indicated that
12 she had not but she planned on asking Mr. Rosette to provide one before the negotiations
13 would go forward. Further, before the call ended, Ms. Drake explained that she thought
14 the compact negotiation materials in the State’s possession were protected by the work
15 product privilege, and suggested Cheryl Williams carefully review the applicable case
16 law and ethical rules to determine whether she could lawfully disclose the compact nego-
17 tiation materials in this highly unusual situation given her duties to her actual client and,
18 supposedly, the State of California.

19 103. Following this call, on June 27, 2017, a second-year associate with Rosette,
20 LLP who works under the supervision of Richard Armstrong in the Folsom, California
21 office sent Cheryl Williams an e-mail demanding that she immediately turn over a copy
22 of the June 21st draft compact:

23 Ms. Williams,

24 As you know, our firm has been retained to represent the Fort Yuma
25 Quechan Indian Tribe in their compact negotiations with the State. While
26 there is a formal file request forthcoming, it is imperative that we receive,
27 immediately, the last compact, with any redlines, that was transmitted to the
28 State during your negotiations. Please provide said compact as soon as
possible. I am available to discuss any questions or concerns.

1 Thank you,
2 Cecilia Guevara Zamora
3 Rosette, LLP

4 104. While Cheryl Williams was considering the propriety of this request, Wil-
5 liams & Cochrane is informed and believe that on either June 28, 2017 or June 29, 2017,
6 Senior Assistant Attorney General Sara Drake spoke with Robert Rosette (or one of his
7 attorneys at Rosette, LLP) and asked him to provide an authenticating tribal resolution for
8 his involvement in the compact negotiations, explaining that she would not turn over the
9 most recent redlined draft of the compact until she received one.

10 105. Shortly thereafter, on June 30, 2017, Cheryl Williams received a second email
11 from the Quechan Executive Secretary, this time containing a “Demand for Cease and
12 Desist” letter that was signed by putative President Keeny Escalanti and again written by
13 Robert Rosette or an attorney in his employ at Rosette, LLP. *See Ex. 5.*

14 106. Since Robert Rosette was seemingly unable to obtain any of the negotiation
15 materials in his conversation with Senior Assistant Attorney General Sara Drake, the
16 June 30th letter demanded under threat of legal action that Williams & Cochrane refrain
17 from speaking with anyone from the State and immediately furnish “the most recent
18 redlined changes to the draft State-Tribal Compact, including any comments incorporated
19 therein” *See Ex. 5.* Though the previous June 26th letter purportedly terminated Williams
20 & Cochrane on the basis that it did not “produce better-than-boilerplate terms in your
21 negotiations so far with the State,” the June 30th letter reversed course and indicated that
22 the failure to produce the most recent redlines and comments would “result in irreparable
23 harm to the Tribe, particularly given the California legislative deadlines associated with
24 timely consideration of the Tribe’s Gaming Compact.” *See Ex. 5.*

25 107. Much like the prior June 26th letter, this second June 30th letter was not with-
26 out its own threats based on misrepresentations (*i.e.*, “Should you continue your obstruc-
27 tion of the Tribe’s interests, the Tribe will be left with no other choice than to pursue the
28 legal remedies available to it. We trust that the Firm will see the wisdom in promptly

1 complying with these demands.”) and hyperbolic if not slanderous accusations (“Through
2 its decades of dealings with numerous attorneys and law firms across the country, the
3 Tribe has not witnessed these types of outlandish actions or this level of unprofessional-
4 ism as it has from your Firm.”).

5 108. After spending the ensuing July 4th weekend reviewing the ethical rules and
6 Robert Rosette’s well-documented history of exacerbating intra-tribal strife when his po-
7 sition is threatened (*see* Section II(A), *infra*), the attorneys at Williams & Cochrane de-
8 cided that the best way to “avoid reasonably foreseeable prejudice” to Quechan was to
9 provide Rosette, LLP and the tribe (principally through its Executive Secretary Linda
10 Cruz) with a copy of the June 21st draft compact in the hopes that they could still con-
11 vince the State of California to execute a compact based on those terms before the end of
12 the legislative session, and to simply step away from the matter entirely. With that, Wil-
13 liams & Cochrane heard nothing else from either the putative Quechan Tribal Council or
14 anyone associated with Rosette, LPP until after the service of the complaint in this case.

15 109. A little over two months later, on September 5, 2017, Robert Rosette issued a
16 press release – which he contemporaneously uploaded to his firm’s website – announcing
17 that “Governor Edmund G. Brown and the Fort Yuma Quechan Indian Tribe... signed a
18 new Tribal-State Gaming Compact” the prior week that will “reduce the Tribe’s revenue
19 sharing obligations by approximately four million dollars (\$4,000,000) per year.”²⁰

20 110. The compact, which took effect on January 22, 2018 (*see* 83 Fed. Reg. 3015-
21 16 (Jan. 22, 2018)), in all positive material respects is one and the same with the one Wil-
22 liams & Cochrane sent to the State of California on June 21, 2017, including the reduced
23 revenue sharing fee structure for Quechan’s preexisting 1,100 machines (and the first 100
24 new ones). Like Rosette’s press release, both the recitals and Section 4.8 of the compact
25 contain language like the following that memorializes the \$4-plus million Quechan will

26
27 ²⁰ A true and correct copy of the August 31, 2017 “Tribal-State Compact between
28 the State of California and the Quechan Tribe of the Fort Yuma Indian Reservation” is
attached hereto as **Exhibit 20**.

1 save each year as a result of the agreement Williams & Cochrane negotiated:

2 This Compact reduces the Tribe's revenue sharing obligations by approxi-
3 mately four million dollars (\$4,000,000) per year, and simultaneously in-
4 creases the Tribe's ability to generate revenues through its Gaming
5 Operation by providing the right to operate additional Gaming Facilities and
6 Gaming Devices.

7 *See* Ex. 41 at Recitals & § 4.8.

8 111. The only material difference between Williams & Cochrane's June 21, 2017
9 final draft compact and the executed agreement lies in what the State took away. It turns
10 out that despite its good faith negotiation obligation, the State actually walked back from
11 a number of concessions it had agreed to when winding up the compact negotiations with
12 Williams & Cochrane simply because it was suddenly facing off with an unsophisticated
13 law firm that lacked the requisite negotiation and litigation experience to keep the State's
14 overreach in check. For instance, the Office of the Governor removed the largely nominal
15 fee structure on machines above 1,200 and the four-year deferral on each tranche of the
16 State's new minimum wage law. With Quechan's California casino having approximately
17 1,000 employees earning relatively depressed wages near the California/Arizona border,
18 the loss of this deferral likely cost the tribe millions, if not tens of millions, of dollars.

19 112. However, the real reason Quechan did not immediately execute the compact
20 following Williams & Cochrane's removal appears to be that the Office of the Governor
21 decided to try and take advantage of the firm switch, its good faith duty notwithstanding,
22 by suddenly demanding that Quechan pay back all the revenue sharing payments that the
23 tribe missed under the 2007 Amendment.

24 113. After two months of eleventh-hour negotiations on this issue, the State of Cal-
25 ifornia relented a bit and let the tribe pay back roughly half of the amount it had failed to
26 pay under the 2007 Amendment from July 2016 onward (*i.e.*, \$2 million), which the State
27 memorialized by inserting the following entirely new language into the compact:

28 [T]he Tribe agrees to satisfy its outstanding payment obligations to the State
under the 2006 Amendment, which obligations are ongoing and total
approximately four million dollars (\$4,000,000), exclusive of interest, as of

1 the execution date of this Compact, by making a reduced total payment of
2 two million dollars (\$2,000,000) to the State. The Tribe shall remit the
3 payment required by this section over a period not to exceed six years by
4 paying four (4) equal quarterly installments...

5 *See* Ex. 42 at § 4.8.

6 114. If not for Robert Rosette's interference at Quechan, Williams & Cochrane
7 would have received monthly flat fees of \$50,000 from June 1, 2017 to January 22, 2018
8 (*i.e.*, the date the compact took effect) and a contingency fee of roughly \$5,959,916.10, a
9 sum equivalent to 15% of the \$39,732,774.00 in heightened revenue sharing payments
10 that Quechan recouped under the new compact.

11 **II. THE TORTS BY ROBERT ROSETTE AGAINST WILLIAMS & COCHRANE**

12 **A. Background on Robert Rosette**

13 115. Robert Rosette is an Indian law attorney who, according to public records, has
14 a history of representing individual persons or factions within tribes while purporting to
15 represent the tribe itself, particularly when a tribe is fighting for control of sometimes
16 massive amounts of gaming revenues. For example, Robert Rosette and his firm Rosette,
17 LLP represented some "faction" of the Alturas tribe, who had over \$2 million in Revenue
18 Sharing Trust Funds ("RSTF") frozen on account of a leadership dispute that has spanned
19 more than seven years and frayed government-to-government relations with the United
20 States. *See Alturas Indian Rancheria v. Calif. Gambling Control Comm'n*, No. 11-02070,
21 Dkt. No. 9 (E.D. Cal. Aug. 9, 2011). Similarly, according to numerous adverse federal
22 court opinions, Robert Rosette and his firm have represented a four-person faction of a
23 supposedly five-member tribe known as the California Valley Miwok Tribe, the quartet
24 of which tried to disenroll the other member and block the enrollment of upwards of two
25 hundred and fifty Indians as they fight to get the CGCC to release over \$15.0 million in
26 frozen RSTF funds to themselves alone. *See, e.g., Calif. Valley Miwok Tribe v. Jewell*, 5
27 F. Supp. 3d 86 (D.D.C. 2013); California Gambling Control Commission, *Revenue*
28 *Sharing Trust Fund Report (RSTF) of Distribution of Funds to Eligible Recipient Indian*

1 *Tribes for the Quarter Ended December 31, 2017* at p. 12, available at http://www.cgcc.ca.gov/documents/rstfi/2017/14_RSTF_Distrib_65th_CommStaffReport.pdf (last visited
2 Jan. 26, 2018) (detailing the total amount of frozen RSTF funds).

3
4 116. These intra-tribal battles over accessing withheld revenue sharing allocations
5 pale in comparison to the fights that have erupted at tribes with immensely profitable
6 casino operations that have Robert Rosette lurking around in some capacity. As to that, a
7 Fresno Bee article from 2012 indicates that Robert Rosette represented some part of the
8 Tribal Council for the Picayune Rancheria of Chukchansi Indians – the tribe that operates
9 the 1,800-machine Chukchansi Gold Resort & Casino that is situated between Fresno and
10 Yosemite. *See Chukchansi fight partly over disenrollments*, Fresno Bee, Feb. 26, 2012.
11 According to the Fresno Bee, after the Tribal Council represented by Robert Rosette lost
12 a majority of seats at a December 2011 election, it held on to power by disqualifying one
13 of the election winners and then disenrolling large numbers of tribal members. *Id.* Other
14 news reports indicate that tribal members were concerned that the Tribal Council repre-
15 sented by Robert Rosette was misappropriating casino revenues and failing to file audits
16 with the National Indian Gaming Commission (which threatened to shut down the casino
17 because of this), and this led a group of twenty tribal members armed with bullet-proof
18 vests and guns to storm the casino in an attempt to take over the facility. *See, e.g.,*
19 *Gunmen storm Chukchansi Gold Resort & Casino in Madera County*, KFSN-TV, Oct. 9,
20 2014, available at [http://abc7.com/news/gunmen-storm-chukchansi-casino-in-madera-](http://abc7.com/news/gunmen-storm-chukchansi-casino-in-madera-county/344900/)
21 [county/344900/](http://abc7.com/news/gunmen-storm-chukchansi-casino-in-madera-county/344900/) (last visited July 3, 2017). Ultimately, the State of California obtained in-
22 junctive relief in federal court to shut down the Chukchansi Gold Resort & Casino in a
23 suit in which Robert Rosette and a slew of other attorneys purported to represent the
24 tribe. *See California v. Picayune Rancheria of Chukchansi Indians of Cal.*, 2014 U.S.
25 Dist. LEXIS 153737 (E.D. Cal. 2014). As a result, the tribe’s casino was shuttered from
26 roughly October 10, 2014 to December 31, 2015. *See Chukchansi resort and casino holds*
27 *grand opening ceremony Friday*, FRESNO BEE, Jan. 14, 2016, available at [http://www.fresnobee.com/news/local/](http://www.fresnobee.com/news/local/article54783505.html)
28 [article54783505.html](http://www.fresnobee.com/news/local/article54783505.html) (last visited July 3, 2017). An attorney

1 employed by Rosette, LLP who still appears on the firm website indicated to the Fresno
2 Bee shortly after the district judge issued its initial temporary restraining order that the
3 Chukchansi Gold Resort & Casino generated more than \$100,000,000 a year in net win
4 (*see Chukchansi casino hearing one for the history books*, FRESNO BEE, Oct. 15, 2014,
5 available at [http://www.fresnobee.com/news/local/news-columns-blogs/city-beat/article1](http://www.fresnobee.com/news/local/news-columns-blogs/city-beat/article19526154.html)
6 [9526154.html](http://www.fresnobee.com/news/local/news-columns-blogs/city-beat/article19526154.html) (last visited July 3, 2017)), meaning that the nearly fifteen-month closure
7 likely cost the tribe at least \$120,000,000 in revenues. Nevertheless, the disenrollments
8 reignited just months after Picayune was able to convince the federal and state regulatory
9 authorities to allow the casino to reopen. *See Chukchansi starting disenrollment for some*
10 *founding families' members*, FRESNO BEE, July 30, 2016, available at [http://www.fresno](http://www.fresnobee.com/news/local/article92839572.html)
11 [bee.com/news/local/article92839572.html](http://www.fresnobee.com/news/local/article92839572.html) (last visited July 3, 2017).

12 117. A situation like the one at Picayune should be unique in the annals of Indian
13 gaming, but a similar event happened almost contemporaneously at another tribe that
14 Robert Rosette claimed to represent. According to a special agent with the California
15 Bureau of Narcotic Enforcement named Eric Linch, two factions were vying for control
16 of the Paskenta Band of Nomlaki Indians, the tribe that operates the 840-machine Rolling
17 Hills casino located just off Interstate 5 due west of Chico, California. *See California v.*
18 *Paskenta Band of Nomlaki Indians*, No. 14-01449, Dkt. No. 3-4, ¶ 4 (E.D. Cal. June 17,
19 2014) (“*Paskenta*”). According to Special Agent Linch, a “significant number of Pasken-
20 ta tribal members recently were disenrolled from the Tribe, including a majority of the
21 Paskenta tribal council.” *Id.* As a result of the action, “there was a new majority on the
22 tribal council, the new majority was in charge of operating the Casino, and the disen-
23 rolled members of the tribal council were escorted off tribal property.” *Id.* at ¶ 5. The
24 attorney for the “faction” responsible for allegedly wresting control of the Tribal Council
25 and instituting these disenrollments was none other than Robert Rosette, who defiantly
26 explained to the San Jose Mercury News that the “tribe followed proper procedure when
27 removing the members.” *Northern California tribe in tense dispute over roll removal,*
28 *casino*, SAN JOSE MERCURY NEWS, June 11, 2014, available at [http://www.mercurynews.](http://www.mercurynews.com)

1 com/2014/06/11/northern-california-tribe-in-tense-dispute-over-roll-removal-casino/ (last
2 visited July 3, 2017). Nevertheless, the disenrollments spurred those affected to “plan to
3 conduct a hostile takeover of the Casino” using at least “two helicopters” before fifty
4 members of this group ultimately settled upon engaging in a “hand gun[], pepper spray,
5 and baton[]”-laden armed standoff outside the casino with an equal number of agents for
6 the other faction. *Id.* at ¶¶ 7-14. While the State of California refrained from shutting
7 down the casino in this instance, it did have to obtain injunctive relief in federal court to
8 prevent tribal members or armed personnel in their employ from bringing fire-arms with-
9 in one hundred yards of the Rolling Hills Casino. *See Paskenta*, No. 14-01449, Dkt Nos.
10 18 & 30 (E.D. Cal. Jun. 18, 2014 & July 7, 2014) (orders granting injunctive relief).

11 118. The questionable ways in which Robert Rosette tries to obtain tribal clients
12 has caused him trouble in the past. For instance, the Twenty-Nine Palms Band of Mission
13 Indians brought a civil action against a number of individuals including Robert Rosette,
14 claiming the tribe’s general counsel Gary Kovall had an arrangement with Robert Rosette
15 whereby he would refer work to him in exchange for a kickback that Mr. Rosette would
16 pay from an artificially-inflated fee that he would charge the tribe. The allegations in the
17 complaint ultimately led the United States Attorney’s Office to obtain an indictment for
18 Mr. Kovall, who in turn pled guilty to conspiracy to commit federal programs bribery
19 under 18 U.S.C. § 371. *See United States v. Kovall*, 857 F.3d 1060, 1063 (9th Cir. 2017).
20 About eight months after the grand jury indicted Mr. Kovall, Robert Rosette entered into
21 a settlement with Twenty-Nine Palms, the terms of which are apparently confidential.

22 119. Claims of improper billing practices by Robert Rosette continued after the
23 Twenty-Nine Palms incident. For example, on April 21, 2011, the Havasupai tribe sent a
24 letter to Robert Rosette to inform him that his firm had “submitted invoices without sup-
25 porting documents” and “the Tribal Council ha[d] passed a motion to initiate an invest-
26 igation of your firm’s business with us.” The Havasupai Tribal Council indicated that
27 Robert Rosette’s firm was “instructed not to conduct any more work or act on our behalf”
28 and to expect “no further payment” until “the investigation [was] completed.”

1 120. Representational questions aside, issues of improper conduct also affect the
2 decision-making of some of the tribes Robert Rosette is known to represent. For instance,
3 Robert Rosette also represents multiple tribal clients who have entered into significant
4 commercial contracts that they subsequently breached without making *any* meaningful
5 payments. As an example, the fifteen-member La Posta Band of Diegueno Mission In-
6 dians breached a \$23 million construction loan for its gaming facility without making any
7 payments, which recently resulted in an adverse judgment totaling \$48,893,407.97. *See*
8 *Yavapai-Apache Nation v. La Posta Band of Diegueno Mission Indians*, 2017 Cal. App.
9 Unpub. LEXIS 4430, *2 (4th Dist. June 28, 2017). The attorney representing La Posta in
10 this litigation is Robert Rosette (*see id.* at *1), who, on information and belief, was also
11 the attorney advising the tribe when it elected to completely default on its obligations.

12 121. The fact pattern in *Yavapai-Apache* closely mirrors that in another case in-
13 volving Robert Rosette, wherein he defended another tribe for defaulting on “\$36 mil-
14 lion-plus” in payments on a loan agreement that enabled the tribe to construct its own
15 gaming facility. *See Yavapai-Apache Nation v. Iipay Nation of Santa Ysabel*, 201 Cal.
16 App. 4th 190, 203 (4th Dist. 2011). This tribe was recently sued yet again for breaching a
17 contract with a medical marijuana grow company, with damages alleged to be in excess
18 of \$25,000,000. *See Outliers Collective v. Santa Ysabel Tribal Dev. Corp.*, No. 18-0834,
19 Dkt. No. 1 (S.D. Cal. Apr. 30, 2018). Based on information and belief, Williams &
20 Cochrane also believes that Robert Rosette advised San Pasqual when it elected to default
21 on its contractual obligations, just as he seemingly did with La Posta.

22 **B. Rosette’s Beginning and End at Pauma**

23 122. Despite these allegations of questionable representations and dubious contract
24 breaches, Robert Rosette actually started out providing legal representation to Pauma in a
25 forthright manner. One requirement of Pauma’s now rescinded 2004 Amendment was
26 that the tribe commence negotiations with San Diego County for an intergovernmental
27 agreement (“MOU”) before beginning construction on any gaming-related project in
28 order “to [provide] compensation for[:] law enforcement, fire protection, emergency

1 medical services and any other public services to be provided by the County to the
2 Tribe... as a consequence of the Project,” a gambling addiction program, and the general
3 mitigation of any adverse “effect on public safety attributable to the Project.”

4 123. On or about May 15, 2007, Robert Rosette executed a contract with Pauma to
5 “assist in negotiating an MOU with the County of San Diego” after the tribe hired him for
6 that specific purpose. A year-and-a-half later, on or about August 6, 2008, Pauma exe-
7 cuted a MOU with San Diego County that Robert Rosette negotiated, which, on top of
8 the \$7,750,000 in base revenue sharing each year of the 2004 Amendment, required an-
9 nual payments of \$400,000 for sheriff’s protection, \$200,000 for a gambling addiction
10 program, \$40,000 for the prosecution of casino related crimes, and some of the upwards
11 of \$38 million in road improvement expenditures the tribe committed itself to under the
12 agreement. *See Pauma Band of Luiseno Mission Indians of Pauma & Yuima Reservation*
13 *v. California*, No. 14-56104, Dkt. No. 29-1, p.89 (9th Cir. Apr. 13, 2015).

14 124. Despite being burdened with a very costly MOU, the following year Pauma
15 retained Rosette & Associates again in order to resolve the tribe’s dispute with the State
16 of California over the 2004 Amendment. The attorney who presented the idea of Rosette
17 & Associates doing the litigation work to the General Council was Cheryl Williams.

18 125. Approximately three to four months before this presentation, during February
19 and March 2010, Robert Rosette hired two attorneys by the names of Cheryl Williams
20 and Kevin Cochran in anticipation of litigating the *Pauma* case – with Ms. Williams
21 coming from the class action law firm of Milberg LLP and Mr. Cochran having worked
22 for an inter-tribal circuit-style court that served upwards of twenty tribes in the Southern
23 California area, including Pauma. As to that, Robert Rosette testified during his October
24 26, 2010 deposition in the *Pauma v. Harrah’s* case about his lack of litigation experience
25 and consequent habit of simply delegating this work wholesale to subordinate attorneys:

26 Q. All right. And during that period of time [before starting your own firm],
27 were you actively in litigation also as a –

28 A. From time to time I either assigned litigation to attorneys who have a

1 knack for doing that. You know, very rarely I'll make the court appearances
2 or head the litigation. I try to stay out of court. I like to – I like the business
3 transactions and I like to try to keep my clients out of litigation, but, you
4 know, sometimes you can't avoid it.

5 Q. The silver lining in every cloud. Some people have to be involved in it.
6 So did you have any major litigation, what you would describe as major
7 litigation, in which you were actually functioning as a litigator during
8 your... years [at the prior firm]?

9 A. Yeah, there were a few cases, I guess, I was involved in. I can't really
10 remember the captions or the names. I can remember the issues and the
11 tribes.

12 Q. Just generally, what were the tribes?

13 A. Well, Santa Rosa Rancheria, I was involved in the – CD Architects sued
14 the tribe. And that was an arbitration, actually. I was involved in that piece.
15 At the La Posta tribe here I was the lead attorney against the County of San
16 Diego with regard to mitigation of off-reservation impacts.

17 Q. Who is that on behalf of?

18 A. The La Posta Band of Mission Indians. It was a good result for the tribe,
19 bad result for San Diego County.

20 Q. What year was that?

21 A. That was in 2005. I was involved with an election issue, the application
22 of state law with regard to contributions. That was with the Santa Rosa
23 Rancheria. But like I said, I tried to avoid litigation mostly and would just –
24 you know, I've always hired litigators that I could delegate and assign work
25 to.

26 126. In keeping with this, although Robert Rosette claims to have been the brain-
27 child behind the litigation," Cheryl Williams and Kevin Cochrane did all of the litigation
28 work in the *Pauma* case for Rosette & Associates during their time at the firm, a fact that
29 is again confirmed by Robert Rosette's deposition testimony in *Pauma v. Harrah's*:

30 Q. Now, in terms of the litigation, the drafting and filing of the complaint
31 and the arguing, did you do all that yourself up to the time you were
32 removed from the case?

33 A. No, I – I have employees that work for me that conduct research, draft,
34 make court appearances, so on and so forth.

35 Q. All right. So outside of being sort of the lead strategist, did you may any

1 appearances or become an attorney of record at all?

2 A. I was an attorney of record. There was only one appearance that was
3 actually showing up, the oral argument for the preliminary injunction. And I
4 had a conflict that day.

5 Q. Who argued that case from your firm?

6 A. Cheryl Williams.

7 127. Concerns about the ethical practices at Rosette & Associates led Cheryl Wil-
8 liams and Kevin Cochrane to leave the firm the month after the issuance of the injunction
9 order in the *Pauma* case – just fourteen or so months after they both had joined the firm.
10 *See Pauma*, No. 09-01955, Dkt. No. 44 (S.D. Cal. Apr. 12, 2010). The civil suit brought
11 by Twenty-Nine Palms against Robert Rosette had been pending for the better part of a
12 year with rumors of federal indictments forthcoming (*see Twenty-Nine Palms Band of*
13 *Mission Indians of Cal. v. Edwards, Kovall, Rosette, et al.*, No. 30-2009 00311045, Dkt.
14 No. 1 (Orange County Sup. Ct. Oct. 13, 2009)), and Mr. Rosette had also begun taking a
15 position with another one of his clients that Cheryl Williams and Kevin Cochrane felt
16 was irreconcilable with his representation of Pauma. As to that, Robert Rosette had nego-
17 tiated a California compact for Upper Lake in 2009 that required the tribe to pay 15% of
18 its net win in order to operate 750 machines. And yet, while Robert Rosette was claiming
19 the revenue sharing fees in this partially-executed compact were legal, Cheryl Williams
20 and Kevin Cochrane were conversely arguing in *Pauma* while at Rosette & Associates
21 that a 10-15% revenue sharing fee was an illegal tax that necessarily voided a compact.

22 128. After the Assistant Secretary for Indian Affairs disapproved the Upper Lake
23 compact on account of it imposing an illegal tax under IGRA, Robert Rosette rushed to
24 meet with the newly-elected Governor Brown and negotiated a replacement compact for
25 Upper Lake that once again included a 15% revenue sharing fee for 750 devices, only this
26 time the fee escalated up to that point.

27 129. This second Upper Lake compact was derided by gaming tribes throughout
28 California, who felt that Governor Brown took advantage of a tribe that was willing to

1 “cut... a quick deal” and now had a template that his office would impose in all future
2 compact negotiations. When the attorney behind the seminal *Rincon Band of Luiseno*
3 *Mission Indians of Rincon Reservation v. Schwarzenegger*, 602 F.3d 1019 (9th Cir. 2010)
4 (holding “[t]he State’s demand for 10-15% of... net win... is simply an impermissible
5 demand for the payment of a tax by the tribe”), sent out a scathing mass e-mail that
6 claimed the revenue sharing structure of the new Upper Lake compact was nothing more
7 than “a tax... a tax... a tax,” Robert Rosette fired back, explaining that “[i]t is completely
8 unreasonable to expect Indian Tribes to pay little or nothing in exchange for compacts.”

9 130. Meanwhile in the *Pauma* suit, the departure of Cheryl Williams and Kevin
10 Cochrane from Rosette & Associates meant that Robert Rosette and his firm were first
11 tasked with opposing a motion for stay by the State of California that asked the Ninth
12 Circuit to halt the injunction order for the duration of the interlocutory appeal – a motion
13 that the Ninth Circuit would soon thereafter grant. *See Pauma*, No. 10-55713, Dkt. Nos.
14 15 & 39 (9th Cir. June 11, 2010 & July 28, 2010).

15 131. Just two days after Rosette & Associates filed its opposition brief, on Sunday,
16 June 13, 2010, the Pauma General Council convened for a meeting and voted to terminate
17 Rosette & Associate’s contract and to replace the firm with Williams & Cochrane.

18 **C. Rosette’s Tortious Interference at Pauma (Part One)**

19 132. After assuming the representation, Williams & Cochrane was able to convince
20 the Ninth Circuit to reinstate the injunction. *See Pauma*, No. 10-55713, Dkt. No. 55 (9th
21 Cir. Aug. 23, 2010) (order reinstating the injunction).

22 133. From thereon, Williams & Cochrane singlehandedly litigated the *Pauma* case
23 for the next six-plus years, ultimately convincing Judge Bencivengo to rescind the 2004
24 Amendment and retribute \$36.2 million in heightened revenue sharing payments on ac-
25 count of a misrepresentation claim that Williams & Cochrane added to the complaint on
26 September 9, 2011 – a full fifteen months *after* Robert Rosette was terminated from the
27 case. *See Pauma*, No. 09-01955, Dkt. No. 130, pp. 54-58 (S.D. Cal. Sept. 9, 2011).

28 134. An utter lack of involvement in the case has, nevertheless, not stopped Robert

1 Rosette for taking credit for the outcome in the *Pauma* litigation for four years now, as
2 his website (and, admittedly, numerous other promotional materials) advertises that “Mr.
3 Rosette also successfully litigated a case saving the Pauma Band of Luiseno Mission
4 Indians over \$100 Million in Compact payments allegedly owed to the State of California
5 against then Governor Schwarzenegger.” *See* Exs. 6, 7.

6 135. This claim that he had litigated the case has even been repeated in both print
7 and electronic format as part of a “25 People to Watch in the Gaming Industry” piece by
8 Global Gaming Business Magazine. As to that, the profile of Robert Rosette ends with:

9 Rosette also successfully litigated a case saving the Pauma Band of Luiseno
10 Mission Indians over \$100 million in compact payments allegedly owed to
11 the State of California against then-Governor Arnold Schwarzenegger.

12 136. Williams & Cochrane is informed and believes that Robert Rosette has made
13 similar claims about his supposed involvement in litigating the *Pauma* suit in other ad-
14 vertisements, promotional materials, and in both oral and written solicitations that have
15 been transmitted across state lines, including to Quechan (*see* Section II(G), *infra*).

16 137. The termination of Robert Rosette from the Pauma compact litigation should
17 have marked the end of his interaction with Williams & Cochrane, but the lure of the
18 monies saved by the injunction order brought him back around. To explain, in an act of
19 prudence, the monies Pauma saved under the injunction order issued by Judge Burns
20 were placed into a special, set aside account so the tribe would not find itself in a fin-
21 ancial bind if this preliminary remedy (which the Ninth Circuit had already stayed for a
22 brief period of time) was overturned and then vacated *en toto*.

23 138. Before his termination, on April 29, 2010, Robert Rosette wrote an opinion
24 letter that was not shared with any other attorneys in his firm working on Pauma’s com-
25 pact litigation in which he opined that the injunction savings “could... be distributed to
26 Pauma’s Tribal Government” even though the General Council had made no such direc-
27 tive.²¹ After his ouster, Robert Rosette transmitted a June 23, 2010 letter to Pauma’s then-

28 ²¹ A true and correct copy of the June 23, 2010 letter from Robert Rosette to

1 Chairman Christobal Devers in which he acknowledged his termination from the compact
2 litigation, claimed the Williams & Cochrane attorneys were “seek[ing] to have their self-
3 ish concerns take precedent [sic] over the best interests of the Tribe” by urging caution
4 with the injunction savings in light of the substandard opposition brief Mr. Rosette filed
5 before his termination, and stated that “[p]erhaps their issuance of a Legal Opinion allow-
6 ing the tribe to distribute [the reserved] funds to the General Council will demonstrate the
7 contrary.” Based on information and belief, Williams & Cochrane believes that Robert
8 Rosette was trying to get the injunction savings freed up for his own personal gain, not
9 for the benefit of the Pauma General Council.

10 139. What followed next was a five-month quest to tap into the injunction savings
11 by removing Williams & Cochrane from the picture. At the time, Robert Rosette still had
12 a powerful ally on the Pauma Tribal Council – then-Chairman Christobal Devers – and
13 Williams & Cochrane is informed and believes that Mr. Rosette advised Chairman De-
14 vers both in writing and telephonically to withhold payment of the firm’s invoices in the
15 hopes that the action would financially devastate the new business and enable Rosette &
16 Associates to take over the work.

17 140. As such, even though Williams & Cochrane began working for Pauma shortly
18 after the General Council vote on June 13, 2010, it nevertheless did not receive its first
19 payment until the morning of October 3, 2010 – just moments before Williams & Coch-
20 rane presented to the General Council for the first time on the status of the compact suit.

21 141. However, before this happened, Cheryl Williams and Kevin Cochrane met
22 with the Pauma Tribal Council on Friday, August 6, 2010, during which then-Chairman
23 Devers indicated that he would never pay Williams & Cochrane under their contract and
24 suggested that the two attorneys walk away from the representation altogether or he
25 would “ruin [their] reputation in Indian Country” – an abnormal statement that is nearly
26 verbatim to the one contained in the June 26th letter from putative Quechan President
27

28 Christobal Devers, then-Chairman of Pauma, is attached hereto as **Exhibit 21**.

1 Keeny Escalanti that was actually written by Robert Rosette or an attorney in his employ.

2 142. Based on information and belief, Williams & Cochrane believes that Robert
3 Rosette instructed Pauma's then-Chairman Christobal Devers both telephonically and
4 electronically in the days leading up to the August 6th meeting to threaten the attorneys
5 from Williams & Cochrane in the hopes that it would get them to abandon their client and
6 precipitate the freeing up of the millions of dollars in injunction savings for Mr. Rosette.

7 **D. Rosette's Tortious Interference at La Pena Law**

8 143. The aforesaid efforts by Robert Rosette to sever Williams & Cochrane's
9 contractual relationship with Pauma coincided with attempts to do the same elsewhere.

10 144. In 2010, one of the more successful Indian law attorneys in the State of Cali-
11 fornia was an individual named Michelle La Pena, who represented a number of the lar-
12 gest gaming tribes in the State of California, including the Yocha Dehe Wintun Nation –
13 a tribe that operated the 2,000-machine Cache Creek Casino approximately thirty miles
14 west of Davis – and the Shingle Springs Rancheria, which about a year-and-a-half earlier
15 opened the 2,000-machine Red Hawk Casino about fifteen miles east of Folsom.

16 145. The Shingle Springs Rancheria experienced a somewhat similar compact fate
17 as Pauma, in that the CGCC told the tribe that it would have to execute an amendment in
18 order to obtain licenses that should have been available under the 1999 Compact. Shingle
19 Springs did this and entered into an amendment with the State of California on June 30,
20 2008 that allowed it to increase its machine count in exchange for base annual payments
21 of a staggering 20% of net win into the General Fund plus \$4,600,000 into the RSTF. *See*
22 *California Gambling Control Commission, Amendment to the Tribal-State Gaming*
23 *Compact between the State of California and the Shingle Springs Band of Miwok Indians*
24 *§§ 4.3.1 & 4.3.2.2, available at http://www.cgcc.ca.gov/documents/compacts/amended_*
25 *compacts/Shingle_Springs_Compact.pdf* (last visited July 4, 2017).

26 146. Knowing that Michelle La Pena served in a general-counsel-like capacity for
27 these tribes and was not an experienced litigator, Kevin Cochrane met with Ms. La Pena
28 at her offices during the second half of July 2010 to discuss whether their firms could

1 work together to solve Shingle Springs' compact issue.

2 147. The initial meeting was productive, as Williams & Cochrane entered into an
3 of counsel relationship with La Pena Law and was immediately tasked with preparing a
4 presentation that Michelle La Pena could pitch to the Shingle Springs Tribal Council in
5 order to see if it had any interest in fixing the tribe's amended compact.

6 148. On or about Wednesday, August 4, 2010, Kevin Cochrane provided Michelle
7 La Pena with the desired litigation memorandum and supporting materials, which led her
8 to ask Mr. Cochrane to meet her at her office on the next Wednesday, August 11, 2010.

9 149. During the August 11th meeting, Michelle La Pena stated that she was rather
10 impressed with the quality of the Shingle Springs litigation memorandum and asked Kev-
11 in Cochrane to prepare a number of last minute documents for a temporary restraining
12 order hearing that she had to appear at the following morning. After Mr. Cochrane agreed
13 to do this last-minute work, Michelle La Pena explained that she thought the of-counsel
14 arrangement was not enough, and wanted to either absorb or merge with Williams &
15 Cochrane. Michelle La Pena told Kevin Cochrane to take some time to consider the pro-
16 posal and then provided him with a copy of a memorandum Robert Rosette had recently
17 sent her "explor[ing] the possibility of compact litigation for... Shingle Springs... based
18 on its similarities to the Pauma Band of Mission Indians," to alert him to the fact that
19 Robert Rosette, who at this point had been terminated from the Pauma compact litigation
20 for almost two months, was representing that he was responsible for litigating the Pauma
21 case and was trying to drum up work with Shingle Springs through her on that basis.²²

22 150. Based on information and belief, Williams & Cochrane believes that Michelle
23 La Pena spoke with Robert Rosette while vetting Kevin Cochrane and Williams & Coch-
24 rane at some point between Thursday, August 12, 2010 and the morning of Sunday, Aug-
25 ust 15, 2010, and was told by Mr. Rosette that the attorneys of Williams & Cochrane had
26 "stole" his client and would invariably "steal" her clients as well.

27 ²² A true and correct copy of an August 2, 2010 memorandum from Rosette &
28 Associates, PC to La Pena Law Corporation is attached hereto as **Exhibit 22**.

1 151. At 11:25 a.m. on the morning of Sunday, August 15, 2010, just four days
2 after suggesting that Williams & Cochrane merge with or be acquired by her firm, Mi-
3 chelle La Pena e-mailed Kevin Cochrane and explained that she was ending the of coun-
4 sel arrangement altogether, and “apologize[d]” if the decision “comes as a surprise, as I
5 really like you and think you have a great career ahead of you.”²³ Though stating that the
6 quality of work prepared by Williams & Cochrane was “quite stellar,” Michelle La Pena
7 went on to explain for the first time that “[t]here are issues with confidentiality and con-
8 flicts that I do not believe we can overcome with your firm.”

9 152. With that, Michelle La Pena terminated all communication with Williams &
10 Cochrane – the August 15th e-mail, in other words, marking the last communication that
11 Ms. La Pena has *ever* had with either Mr. Cochrane or Cheryl Williams.

12 **E. Rosette’s Tortious Interference at Pauma (Part Two)**

13 153. After the La Pena incident, Cheryl Williams and Kevin Cochrane long feared
14 that Robert Rosette had become emboldened and would try to interfere with their other
15 contracts, especially with respect to Pauma’s compact litigation since the amount of set-
16 aside monies saved by the injunction order grew as time went on.

17 154. Unfortunately, this situation came to pass during the summer of 2011. On
18 August 4, 2011, the counsel of record for the State of California in the compact litigation
19 – Deputy Attorney General T. Michelle Laird – called Cheryl Williams and in a rather
20 audibly uncomfortable manner explained that, after she “thought about it for a few days,”
21 she felt her ethical duties required her to disclose that Robert Rosette and his firm had set
22 up a meeting with the Office of the Governor’s then-compact negotiator (*i.e.*, Jacob
23 Appelsmith) for August 18, 2011, with the intention of settling “the federal [compact]
24 case.” *See, e.g., Pauma*, No. 09-01955, Dkt. Nos. 118-2, 123-1 (S.D. Cal. Aug. 22, 2011).

25 155. At the time, Williams & Cochrane had no idea how this meeting was set up,
26 and the State of California was neither willing to disclose that information nor cancel the

27 ²³ A true and correct copy of an August 15, 2010 e-mail from Michelle La Pena to
28 Kevin Cochrane is attached hereto as **Exhibit 23**.

1 August 18th settlement meeting. In light of this situation, Williams & Cochrane filed a
2 motion for protective order on August 15, 2011, asking the district court to direct the
3 State’s negotiator (who was a private attorney and not a public official) to communicate
4 through proper channels when dealing with matters related to Pauma’s compact or the
5 pending litigation. *See Pauma*, No. 09-01955, Dkt. No. 118 (S.D. Cal. Aug. 15, 2011).

6 156. The actual communications between Rosette, LLP and the State’s negotiator
7 were not before the district court as part of Pauma’s motion for protective order, but have
8 been attached to this complaint. *See Ex. 1*. The exchange started with Richard Armstrong
9 – a senior of-counsel attorney at Rosette, LLP who is typically deeply involved in Robert
10 Rosette’s schemes and appears to be an active participant in the Quechan situation (*see* ¶
11 103) – sending an e-mail to Mr. Appelsmith on July 26, 2011 explaining that the Pauma
12 “Tribal Council respectfully requests a meeting with the Governor’s office at your
13 earliest convenience to discuss compact related matters.” *See Ex. 1*. As is the case with
14 every communication between Rosette, LLP and the State’s negotiator detailed below,
15 not a single person affiliated with Pauma – including all four Tribal Councilmembers –
16 was carbon copied or otherwise included on this e-mail.

17 157. The next morning, Jacob Appelsmith replied to Richard Armstrong and asked
18 whether the meeting would involve “settlement discussion in the lawsuit” or instead
19 “seek[] to amend or renegotiate the compact.” *See Ex. 1*. After presenting these options,
20 Jacob Appelsmith suggested that “[i]t would seem to make more sense to have a settle-
21 ment discussion since the lawsuit is about the compact, but I leave that up to you.” *See id.*

22 158. Richard Armstrong responded by e-mail at 2:00 p.m. that afternoon, stating
23 “[t]he tribe indeed wants to meet *without their attorneys present* in order to establish a
24 better government to government relationship with the goal of settling the pending law-
25 suit with a new compact.” *See Ex. 1*.

26 159. A mere ten minutes later, and before Jacob Appelsmith could respond, Robert
27 Rosette sent a follow-up e-mail to Mr. Appelsmith, explaining that his firm was “not en-
28 gaged as legal counsel on the litigation,” Pauma had not hired him to do the work, but he

1 nevertheless wanted to set up a settlement process that would not involve the tribe's
2 attorneys of record but would involve him after an initial meeting between the parties:

3 Jacob,

4 I believe only the first meeting is without lawyers. Obviously thereafter we
5 will need to be involved. The good news is that the Tribe wants to pull us in,
6 and as you know, we are not engaged as legal counsel on the litigation. The
7 Tribe expressed to me a desire to settle the lawsuit through compact
8 negotiations. I think they want to meet with you to understand this process
9 first.

10 Thanks,

11 - Rob.

12 *See Ex. 1.*

13 160. In response to hearing that an attorney who admittedly had not been hired by
14 a tribe was nevertheless interested in settling a federal lawsuit behind the backs of the
15 tribe's counsel of record, Jacob Appelsmith replied that he wanted to go forward with the
16 settlement negotiation and to do so without other attorneys present:

17 I would like to meet with the Tribe and to do so as a settlement negotiation,
18 and I assume there will be no lawyers present (except myself, which I can't
19 avoid).

20 *See Ex. 1.*

21 161. Yet, the filing of the motion for protective order caused all those involved to
22 try and cover their tracks. Jacob Appelsmith transmitted a letter to Pauma postponing the
23 planned August 18, 2011 settlement meeting (*see Pauma*, No. 09-01955, Dkt. No. 123-2,
24 p. 6 (S.D. Cal. Aug. 22, 2011)), and Robert Rosette began to send e-mails to select mem-
25 bers of the Pauma Tribal Council in the hopes of absolving himself of any wrongdoing.

26 162. As to that, on August 23, 2011, Robert Rosette sent an e-mail that was adres-
27 sed to the Pauma Tribal Council as a whole but excluded the tribe's then-Chairman Ran-
28 dall Majel from the recipient list.²⁴ The purpose of the e-mail was to transmit two pre-

²⁴ A true and correct copy of an August 23, 2011 e-mail from Robert Rosette to various members of the Pauma Tribal Council is attached hereto as **Exhibit 24**.

1 prepared letters that Robert Rosette wanted a Pauma Tribal Councilmember to sign that
2 day. The first letter was prepared for the signature of Pauma's then-Secretary/Treasurer
3 by Robert Rosette, explaining that Mr. Rosette's actions were appropriately authorized
4 and that the tribe would "not hold [Mr. Rosette's] firm liable for any unauthorized actions
5 with the State of California, because no such actions were taken."²⁵ In pertinent part, this
6 letter drafted by Robert Rosette for the benefit of Robert Rosette states:

7 This letter is to make clear that your firm's action with respect to scheduling
8 a meeting with the Governor's Office, and any communications related
9 thereto, were all done at the express directive of the Tribal Council. You
10 notified every Tribal Council member of your actions and your
11 communications with the Governor's Office at every stage during this
12 process. We do not and will not hold your firm liable for any unauthorized
13 actions with the State of California, because no such actions were taken. It is
14 not the intention of the Tribal Council that any recently filed briefs may have
15 indicated the contrary.

16 *See Ex. 36.*

17 163. The second letter attached to Robert Rosette's August 23rd e-mail was a simi-
18 lar one intended for the signature of Pauma's Secretary/Treasurer that was instead addres-
19 sed to the State's negotiator Jacob Appelsmith.²⁶ As with the first one, this letter again
20 disclaims that Robert Rosette's actions were done at the "express directive of the Tribal
21 Council" and that "Rosette, LLP notified every Tribal Council member of his actions and
22 his communications with the Governor's Office at every stage during this process."

23 164. Based on information and belief, Williams & Cochrane believes that Pauma's
24 then-Secretary/Treasurer would not sign the two letters prepared by Robert Rosette that
25 sought to absolve Mr. Rosette of any wrongdoing, which in turn led Mr. Rosette to pres-
26 sure Pauma's then-Chairman Randall Majel (whom he had omitted from the earlier com-

27 ²⁵ A true and correct copy of the draft August 23, 2011 letter purportedly from
28 Pauma's then-Secretary/Treasurer to Robert Rosette, which was actually prepared by
Robert Rosette, is attached hereto as **Exhibit 25**.

²⁶ A true and correct copy of the draft August 23, 2011 letter purportedly from
Pauma's then-Secretary/Treasurer to Jacob Appelsmith, which was actually prepared by
Robert Rosette, is attached hereto as **Exhibit 26**.

1 munications) telephonically *over the course of the next twenty days* to sign a watered-
2 down version of the initial letter.

3 165. When the motion for protective order finally came on for hearing in the *Pauma*
4 *ma* case on May 18, 2012, Judge Bencivengo took issue with Robert Rosette even though
5 she did not have the benefit of any of the above e-mails, stating in pertinent part:

6 Well, I have a different issue with Mr. Rosette, who is not here today I
7 believe[,] as to whether or not he should be out purporting that he represents
8 your client when it’s not clear to me that he actually has that authority based
9 on some of the declarations that were provided.

10 *See Pauma*, No. 09-01955, Dkt. No. 182, 19:1-5 (S.D. Cal. May 23, 2012).

11 166. Ultimately, Judge Bencivengo directed the State of California to agree upon
12 “protocol to control [communications and] settlement discussions in this matter” (*see*
13 *Pauma*, No. 09-01955, Dkt. No. 183 (S.D. Cal. May 23, 2012)), though she refrained
14 from doing anything about Mr. Rosette since he was not formally part of the proceeding.

15 **F. Rosette’s Tortious Interference at Pauma (Part Three)**

16 167. The motion for protective order quelled interference from Robert Rosette in
17 the compact suit, but the conclusion of the case in September 2016 led him to resurface.

18 168. With the rescissionary and restitutionary remedies in hand, the Pauma General
19 Council tasked Williams & Cochrane with wrapping up its dispute with the State of Cali-
20 fornia by negotiating or litigating for a successor agreement to the 1999 Compact.

21 169. [REDACTED]
22 [REDACTED]
23 [REDACTED].

24 170. With that overture going nowhere, Robert Rosette changed tactics and began
25 covertly working for the new general manager of the tribe’s subordinate gaming facility –
26 with whom Mr. Rosette has a preexisting relationship – through a “straw man” attorney
27 so the Pauma Tribal Council and General Council would be none the wiser. As time pass-
28 ed and his presence went undetected by the decision-making bodies at Pauma, Robert Ro-

1 sette persuaded the general manager of the casino to hire a new chief financial officer by
2 the name of Flint Richardson – an individual who served in the same position for Robert
3 Rosette’s law firm Rosette & Associates from at least 2009 to 2011. On information and
4 belief, the attorneys with Williams & Cochrane believe that Robert Rosette tried to get
5 Flint Richardson to oversee the finances at Pauma’s casino so he could *finally* access the
6 remaining monies resulting from the tribe’s compact suit against the State of California.

7 171. Successfully obtaining these monies would have also required eliminating any
8 outside legal oversight so Robert Rosette began a renewed campaign against Williams &
9 Cochrane that would hopefully accomplish the twin goals of eliminating the firm from
10 Pauma while also making the present suit disappear.

11 172. This campaign largely turned upon abusing the rules and processes for the
12 instant lawsuit. It began with Robert Rosette disseminating the documents Williams &
13 Cochrane filed under seal in this case to the general manager of Pauma’s gaming facility
14 so he could in turn provide them to his allies within the tribe. Despite this being an intent-
15 tional disclosure, a partner for Rosette LLP filed a declaration with this Court – at Mr. Ro-
16 sette’s behest – claiming it was an isolated and inadvertent event. *See* Dkt. No. 81-1.

17 173. What this declaration and accompanying notice failed to disclose is that Rob-
18 ert Rosette made at least one more intentional dissemination of sealed documents in this
19 case around the same time – sending *all* the sealed documents in this case, including the
20 First Amended Complaint, to a Pauma tribal member who happens to be related to Keeny
21 Escalanti. These sealed documents spread like wildfire, as the Pauma tribal member in
22 question, in turn, mass e-mailed the documents to a litany of individuals both inside and
23 outside of the tribe. The attorneys with Williams & Cochrane were able to verify first-
24 hand that the version of the First Amended Complaint being circulated was the one filed
25 under seal because it had all the same metadata, all the way down to listing “cawlaw” – a
26 pseudonym for Cheryl Williams – as the author in the document properties.

27 174. When Robert Rosette ran out of sealed documents to disseminate, he simply
28 changed his strategy to try and tarnish the reputation of the firm by abusing the court

1 processes. As to that, Robert Rosette has a long and sordid professional relationship with
2 WilmerHale, one that involves them being co-counsel in the California Valley Miwok
3 Tribe faction dispute that pits their desire for tens of millions in frozen RSTF funds
4 against the needs of hundreds of displaced Indians who have been denied membership in
5 the tribe. *See Cal. Valley Miwok Tribe v. Jewell*, No. 16-01345, Dkt. No. 33-1, p. 167
6 (E.D. Cal. Sept. 9, 2016) (listing Rosette, LLP and WilmerHale as counsel for the Burley
7 faction). In this case, after the issuance of the order on the motions to dismiss, Robert
8 Rosette and the attorneys at WilmerHale – who are *not* his counsel – developed a strategy
9 to file a premature answer on behalf of Quechan containing a slew frivolous cross-claims
10 alleging the attorneys of Williams & Cochrane violated their ethical duties in connection
11 with their representation of the tribe. WilmerHale ultimately filed this answer on June 21,
12 2018 (*see* Dkt. No. 94), after which the firm and Robert Rosette carried out the rest of
13 their plan by disseminating this answer around Pauma along with the message that the
14 *allegations* of unethical contained therein are *proof positive* of unethical behavior.

15 175. One of the carriers of the misinformation Robert Rosette and his colleagues at
16 WilmerHale intentionally directed at Pauma is the aforesaid tribal member who is related
17 to Keeny Escalanti and responsible for disseminating the sealed documents in this case
18 around the tribe. In this instance, the tribal member in question used the message devised
19 by Robert Rosette and WilmerHale that the attorneys with Williams & Cochrane engaged
20 in unethical conduct to obtain enough tribal-member signatures to stage a special meeting
21 for July 26, 2018 to address Williams & Cochrane’s employment status at Pauma.

22 176. Thus, a firm that less than two years ago was responsible for securing for a
23 tribe the largest monetary judgment ever awarded under IGRA is now under threat of
24 being terminated by said tribe. Even if this special meeting does not result in termination,
25 the actions by Robert Rosette and WilmerHale have so tainted the waters at Pauma that
26 Williams & Cochrane’s relationship with the tribe is likely irreparably damaged, and one
27 that is now unlikely to continue long term.

28 **G. Rosette’s Tortious Interference at Quechan**

1 177. Though Robert Rosette resurfaced at Pauma in November 2016, Williams &
2 Cochrane is informed and believes that he did not appear at Quechan until the ensuing
3 year – long after the execution of the Attorney-Client Fee Agreement.

4 178. One of the reasons trouble tends to follow Robert Rosette is because he is the
5 ultimate purveyor of the “get-rich-quick” scheme, which in recent years has come in the
6 guise of creating internet-based “payday” lending operations on tribal lands so he can
7 evade state usury laws and the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, and stick
8 unsuspecting borrowers with loans carrying APRs of 800% or higher.

9 179. To date, Robert Rosette has created in excess of thirty distinct online payday
10 lending enterprises at more than a dozen tribes, including the following:

- 11 a. Golden Valley Lending (Habematolel Pomo of Upper Lake)
- 12 b. Mountain Summit Financial (Habematolel Pomo of Upper Lake)
- 13 c. Silver Cloud Financial (Habematolel Pomo of Upper Lake)
- 14 d. Arrow One Lending (Iipay Nation of Santa Ysabel)
- 15 e. Sierra Lending (Iipay Nation of Santa Ysabel)
- 16 f. Tall Grass Finance (Iipay Nation of Santa Ysabel)
- 17 g. 123 Wages (Kashia Band of Pomo Indians)
- 18 h. ABC Wages (Kashia Band of Pomo Indians)
- 19 i. Geyser Lending (Kashia Band of Pomo Indians)
- 20 j. InboxLoan (Kashia Band of Pomo Indians)
- 21 k. netPDL (Kashia Band of Pomo Indians)
- 22 l. Oxford Funding (Kashia Band of Pomo Indians)
- 23 m. PDLNow (Kashia Band of Pomo Indians)
- 24 n. PDY Services (Kashia Band of Pomo Indians)
- 25 o. QXL Online (Kashia Band of Pomo Indians)
- 26 p. ReadySetGo Finance (Kashia Band of Pomo)
- 27 q. Harvest Moon Loans (La Posta Band of Diegueno Mission Indians)
- 28 r. Blue Trust Loans (Lac Court Oreilles Band of Ojibwe Indians)

- 1 s. Ladder Credit (Lac Court Oreilles Band of Ojibwe Indians)
- 2 t. ChoiceLease (Lac Court Oreilles Band of Ojibwe Indians)
- 3 u. Bright Star Cash (Lac du Flambeau Band of Lake Superior Chippewa Indians)
- 4 v. Lend Green (Lac du Flambeau Band of Lake Superior Chippewa Indians)
- 5 w. Radiant Cash (Lac du Flambeau Band of Lake Superior Chippewa Indians)
- 6 x. Sky Trail Cash (Lac du Flambeau Band of Lake Superior Chippewa Indians)
- 7 y. Big Picture Loans (Lac Vieux Desert Band of Chippewa Indians)
- 8 z. American Web Loan (Otoe-Missouria Tribe of Indians)
- 9 aa. Great Plains Lending (Otoe-Missouria Tribe of Indians)
- 10 bb. Blue King Loans (Picayune Rancheria of Chukchansi Indians)
- 11 cc. Advance Me Today (Rosebud Sioux Tribe)
- 12 dd. First Pay Loans (Rosebud Sioux Tribe)
- 13 ee. MyQuickWallet (Rosebud Sioux Tribe)
- 14 ff. Q Credit (Rosebud Sioux Tribe)
- 15 gg. ZocaLoans (Rosebud Sioux Tribe)
- 16 hh. Blue Pine Lending (Sokaogon Chippewa Community of Mole Lake)
- 17 ii. Green Pine Lending (Sokaogon Chippewa Community of Mole Lake)
- 18 jj. Red Pine Lending (Sokaogon Chippewa Community of Mole Lake)
- 19 kk. White Pine Lending (Sokaogon Chippewa Community of Mole Lake)
- 20 ll. Comet Loans (Tonto Apache Tribe)

21 180. Through his experiences pitching tribes on setting up these enterprises, Robert
22 Rosette met Willie White, who campaigned for a position on the Quechan Tribal Council
23 during the fall of 2017 by telling the general membership of the tribe that he had an attor-
24 ney friend who could get the tribe involved in the payday lending fold.

25 181. Once Willie White secured a seat upon the Quechan Tribal Council in March
26 2017, Robert Rosette used this prior relationship to, admittedly, meet with Mr. White and
27 putative Quechan Chairman Keeny Escalanti on June 16, 2017 to discuss compact mat-
28 ters – just two weeks before the California compact negotiations were set to conclude and

1 after point-persons for both the Tribal Council and casino told Cheryl Williams that the
2 Tribal Council intended to abide by the General Council’s directive and execute whatever
3 compact Williams & Cochrane negotiated by the end of June. *See* Dkt. No. 52-2, ¶ 19.

4 182. According to a declaration filed in this case by an executive assistant for
5 Robert Rosette, the law firm of Rosette LLP “commission[s] the printing and distribution
6 of marketing brochures” in the “ordinary course of business” – brochures that contain a
7 biography for Mr. Rosette that mirrors the one on his website claiming he “successfully
8 litigated a case saving the Pauma Band of Luiseno Mission Indians over \$100 Million in
9 Compact payments allegedly owed to the State of California against then-Governor
10 Schwarzenegger.” Dkt. No. 54-2, ¶ 4 & p. 12

11 183. These standard promotional materials accompanied Robert Rosette on his
12 June 16, 2017 visit to meet with Mr. White and Mr. Escalanti, which he claims is the first
13 time he learned that “Quechan was represented in California compact negotiations by
14 Williams & Cochrane, LLP.” Dkt. No. 52-2, ¶ 21. Upon discovering this fact, Williams
15 & Cochrane is informed and believes that Robert Rosette explained, in line with his pro-
16 motional materials, that he was actually responsible for litigating the Pauma suit upon
17 which the Quechan compact work was in part based – inaccurately holding himself out as
18 an expert in both negotiating and litigating California compacts in the process.

19 184. Despite this, by his own admission, Robert Rosette was completely “[un]fam-
20 ilar with the Quechan Tribe’s legal issues in California, including Quechan’s compact
21 negotiations with California or California’s threatened claims against Quechan” as of the
22 meeting on June 16, 2017 – a mere two weeks before the negotiations were set to con-
23 clude and one week before he would interfere with them.

24 185. Nevertheless, Robert Rosette told Mr. White and Mr. Escalanti that he would
25 take over representing Quechan in this high-stakes matter about which he was completely
26 ignorant – along with compact negotiations in the State of Arizona – for the bargain base-
27 ment rate of \$10,000 per month. *See* Dkt. No. 54-2, Ex. 2. To assuage some very real
28 concerns on the part of the putative Tribal Councilmembers about acting in a rogue man-

1 ner,²⁷ Robert Rosette explained that he would try and deter Williams & Cochrane from
2 telling anyone else in the tribe about the interference in the California compact negotia-
3 tions in the termination letter he would draft, further assuring the two putative Quechan
4 Tribal Councilmembers that he could prepare and backdate a seemingly-authentic resolu-
5 tion regarding his hiring once the coast was clear.

6 186. Yet, rather than simply assume Quechan's California compact work in a law-
7 ful manner, the termination letter prepared by Robert Rosette and transmitted by the tribe
8 on June 27, 2017 caused a total repudiation of the Attorney-Client Fee Agreement by ex-
9 plaining that "[t]he Tribe will not pay any contingency fee or 'reasonable fee for the legal
10 services provided in lieu thereof.'" Ex. 4. The decision to take this approach towards
11 concluding the Attorney-Client Fee Agreement has caused Quechan to be named as a
12 defendant in this federal lawsuit in which it has paid WilmerHale more than \$750,000 to
13 simply engage in basic pleading practice,²⁸ and will likely pay WilmerHale more than the
14 full amount of the contingency fee once all is said and done.

15 187. In keeping with his promise, however, the July 26, 2017 termination letter
16 prepared by Robert Rosette tries to keep Williams & Cochrane quiet about the interfer-
17 ence by explaining "the confidentiality provisions of the Agreement and the confident-
18 iality provisions which govern attorney-client relations" require "that you not disclose to
19 any employee, officer, or official of the Tribe or any subdivision, agency, or enterprise of
20 the Tribe regarding any matter that was the subject of your engagement." Ex. 4.

21 188. In the hopes of ensuring that the attorneys heeded this warning, the June 26,
22 2017 termination letter went one step further and warned the attorneys of Williams &
23 Cochrane that, "[w]e strongly advise you against pressing your luck further out of con-
24 cern for your reputation of your firm in Indian Country and in the State of California."

25 ²⁷ A true and correct copy of the "Constitution and By-Laws of the Quechan Tribe
26 of the Fort Yuma Reservation California" is attached hereto as **Exhibit 27**.

27 ²⁸ For just the three-month period spanning March 2018 to May 2018, WilmerHale
28 was paid \$576,000 on invoices it submitted in the approximate amounts of \$118,000,
\$124,000, \$104,000, \$124,000, and \$106,000.

1 Ex. 4. Since the service of the complaint in this case, Robert Rosette and the two putative
 2 Quechan Tribal Councilmembers have gone to extraordinary lengths to ruin these reputa-
 3 tions, ultimately convincing Senior Advisor Joe Dhillon to file an acrimonious declara-
 4 tion in a dispute between two third parties and Pauma to hold a special meeting regarding
 5 the employment status of Williams & Cochrane.

6 **H. The Rosette Tribal Council's Subsequent Largescale Financial Fraud**

7 189. As mentioned above, the reduced billing rates that Robert Rosette offers are
 8 only possible because legal work is just the means to an end, with that end being him en-
 9 gaging in fraudulent enterprises that often come in the form of discreet business dealings.

10 190. The online payday lending operations are the quintessential example of this,
 11 as Robert Rosette recently made a presentation at the "Wiring the Rez" conference in
 12 Phoenix, Arizona during which he admitted that the ventures he sets up are not legitimate
 13 *tribal* business, but *private* businesses in which 97% of the revenues are directed to him-
 14 self and other associates outside of the tribe.²⁹ The remarks by Robert Rosette actually
 15 addressed this staggering split in revenues head on, but blamed the prevailing moral re-
 16 pugnancy for "rent a tribe" schemes like this not on the conniving businessmen who ven-
 17 ture into Indian Country to borrow a tribe's name for their own personal benefit, but on
 18 the courts for questioning how a tribe conducts its affairs:

19 The tribes are only making 3% gross approximately, [shifting to talk from
 20 his perspective] because they like to use gross numbers when talking about
 21 Indians in business. [Shifting back] They're making approximately 3% of
 22 gross profit. That's awful. Who is making the other 97%? And how much do
 your third parties make? ...

23 [Shifting again to talk from his perspective] Since when did these questions
 24 become the litmus test for determining whether you are the arm of a tribe?
 25 ... It has never been about how much a tribe makes nor should it be. If a
 26 tribe starts a business or pursues an opportunity in this new economy, and
 they're good at it and make money, you don't look at how much they make
 versus everyone else, you look at the decision making of the tribe that put

27 ²⁹ A true and correct copy of an excerpt from a February 1, 2018 presentation by
 28 Robert Rosette at the "Wiring the Rez" conference is attached hereto as **Exhibit 28**.

1 them in the position to make that profit. ...

2 [I know a lot of casinos in rural areas where] [e]veryone is making money
3 *but* the tribe. [Why is that not a rent-a-tribe scheme?] Why, because we have
4 always been able to articulate this test that it doesn't come down to these
5 notions of who's making what and how much and this is suspicious. Okay.
6 So we shouldn't allow judges or anybody to go down that road today.

7 191. The impact of this arrangement becomes apparent upon translating the per-
8 centages into real dollars. One of the many of lawsuits filed against a Rosette online pay-
9 day lending businesses was brought by the Consumer Financial Protection Bureau against
10 the lending entities superficially operated by the Upper Lake tribe. *See Consumer Fin.*
11 *Prot. Bureau v. Golden Valley Lending, Inc.*, No. 17-3155 (N.D. Ill. Filed on Apr. 27,
12 2017). The initial complaint filed by the Consumer Financial Protection Bureau explained
13 that during a five month period in 2013, two of the Upper Lake tribe's lending enterprises
14 "paid [their] business partners approximately \$35.8 million" while they "distributed
15 approximately \$536,000 to accounts held by the [tribe]." *Id.* at Dkt. No. 1, ¶¶ 91-92.

16 192. The standard business structure for entities like this involves a tribal council –
17 or some segment of it – exercising control over the regulatory *and* operational aspects of
18 the business, which enables it to run the enterprise in a clandestine manner, free from any
19 oversight or interference by the general membership of the tribe. This was the case for
20 both the Lac Vieux Desert Band and the Lac Courte Oreilles Band ("LCO"), tribes that
21 created subordinate regulatory and operational authorities that were either directly re-
22 sponsive to the respective tribal councils or actually comprised of Tribal Councilmem-
23 bers and confidantes with "substantial business, financial or industry experience" (*i.e.*, a
24 Rosette, LLP attorney or someone linked to the firm). *See, e.g.*, Lac Vieux Desert Band
25 of Lake Superior Chippewa Indians, *Tribal Consumer Financial Services Regulatory*
26 *Code*, available at [http://www.lvdtribal.com/pdf/2014-10-31-Tribal-Consumer-Financial-](http://www.lvdtribal.com/pdf/2014-10-31-Tribal-Consumer-Financial-Services-Regulatory-Code.pdf)
27 [Services-Regulatory-Code.pdf](http://www.lvdtribal.com/pdf/2014-10-31-Tribal-Consumer-Financial-Services-Regulatory-Code.pdf) (last visited Feb. 21, 2018).

28 193. Before long, this scheme that survives on furtiveness comes to light because
the involved parties begin to misappropriate the other revenues of the tribe to further their

1 ends. For instance, this happened at LCO, where the general membership discovered that
2 the Tribal Council was not only operating an unaudited online payday lending enterprise,
3 but that it was also misusing significant funds, including roughly \$800,000 in federal
4 grant funds that were earmarked for the remediation of fifty-plus mold-infested homes on
5 the reservation. See *Duffy alleges gross mismanagement of funds for tribe*, BARRON
6 NEWS-SHIELD, June 21, 2017, available at [http://www.news-shield.com/news/free_news/
7 article_a1616b1c-5681-11e7-9b03-3778827028c0.html](http://www.news-shield.com/news/free_news/article_a1616b1c-5681-11e7-9b03-3778827028c0.html) (last visited Feb. 21, 2017). At
8 the behest of one-hundred and thirteen (113) petitioning tribal members, United States
9 Representative Sean Duffy made a public request on October 6, 2016 that the LCO Tribal
10 Council allow the federal government to conduct an independent forensic audit of the
11 tribe – a request that the defiant and entrenched Tribal Council simply chose to ignore.³⁰

12 194. For Quechan, the suspension of revenue sharing payments to the State of
13 California at the beginning of July 2016 means that the tribe had in the vicinity of an ad-
14 ditional \$370,000 in gaming revenues each month. This translates to an extra \$2,930,000
15 by the time the new Tribal Council came into office in March 2017, and \$7,030,000 by
16 the time the new compact took effect near the end of January 2018.

17 195. Nevertheless, putative Quechan President issued a letter to the tribal member-
18 ship on April 20, 2017 stating “there will be no Per Capita payment for the [entire] 2017
19 calendar year” – a practice he has continued to date.

20 196. What this means is that putative Quechan President Keeny Escalanti has flatly
21 refused to comply with the “Tribal Revenue Allocation Plan” that the tribe enacted under
22 IGRA, which explains that 40% of the revenues that the casinos sends to the tribe each
23 month shall go to the general membership in the form of per capita payments. As a con-
24 sequence, approximately 2,565 adult members of Quechan and 1,172 minors have lost
25 out on the requisite per capita payments and payments into trust accounts, respectively,
26 for at least the seventeen month period extending from April 2017 through July 2018. Put

27 ³⁰ A true and correct copy of an October 6, 2016 letter from Representative Sean P.
28 Duffy to Interior Secretary Sally Jewel, amongst others, is attached hereto as **Exhibit 29**.

1 differently, that is upwards of 63,529 missed financial distributions to the tribal members.

2 197. And yet, just two days before putative Quechan President Keeny Escalanti
3 informed the general membership there would be no further per capita payments, on A-
4 pril 18, 2017, he sent a letter to the Arizona Department of Gaming to “certify that the
5 Quechan Indian Tribe is complying with the Indian Gaming Regulatory Act regarding the
6 Tribe’s use of net revenues from Class III Gaming Activity,” by using 40% of the net
7 gaming revenues for per capita payments.

8 198. Williams & Cochrane is informed and believes that putative Quechan Presi-
9 dent Keeny Escalanti sent a similar certification to the National Indian Gaming Commis-
10 sion around the same time to falsely inform the federal agency that 40% of the tribe’s net
11 gaming revenues were being used for per capita payments.

12 199. In addition to stopping per capita payments into the minor trust accounts, the
13 amounts distributed from these accounts to tribal members who reach the age of majority
14 as of late are substantially less than the total amount of per capita payments that should
15 have accumulated over time. On information and belief, in one such instance, a newly-
16 adult tribal member who elected to cash out his/her minor trust account got a payment of
17 roughly \$1,000 despite the expected balance of the account being ten-plus times higher.

18 200. On top of this, the Quechan Tribal Council has also taken retaliatory actions
19 against the potential class members in this action who have tried to shine a light on some
20 of the problems swirling within the tribe. [REDACTED]

21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED].

25 201. After the service of the complaint in this case, the general members of Que-
26 chan staged recall elections to remove certain Tribal Councilmembers from office, Mr.
27 Escalanti and Mr. White included. The first recall election occurred on Friday, December
28

1 29, 2017 and involved putative Councilmember Willie White and one other officer.³¹ The
 2 second recall election took place on Wednesday, January 17, 2018, and focused upon
 3 putative President Keeny Escalanti and three other officers.³² The results of the recall saw
 4 a vast majority of Quechan voters elect to remove both putative President Keeny Esca-
 5 lanti and putative Councilmember Willie White from office, with the final tallies being
 6 147-80 and 209-102, respectively. Nevertheless, the impacted Quechan Tribal Council-
 7 members devised a plan to remain in office with the assistance of Robert Rosette, ulti-
 8 mately refusing to step down on the basis that the votes were invalid because “the total
 9 number of voters did not meet the minimum set by the tribe’s constitution.” To date, both
 10 Mr. Escalanti and Mr. White remain in power, and both are expected to use fraudulent
 11 pretenses to continue to occupy their positions on the Tribal Council should the Quechan
 12 general membership vote them out of office yet again during the elections this fall.

13 202. As Mr. Escalanti and Mr. White have entrenched themselves in power, the
 14 general membership of Quechan has repeatedly questioned the Tribal Council regarding
 15 where the money from the casinos is going, but the Tribal Council refuses to disclose any
 16 financial information or audit reports. In fact, these questions have led the Tribal Council
 17 to say at least once that the proposed class members in this case should be banned from
 18 coming on to the reservation if not outright disenrolled from the tribe.

19 **FIRST CLAIM FOR RELIEF**

20 **[Breach of Contract]**

21 **[By Williams & Cochrane and Against Quechan]**

22 203. Williams & Cochrane incorporates by reference the preceding general allega-
 23 tions as if set forth in full.

24 204. A claim for a breach of contract requires an enforceable contract, the plain-
 25

26 ³¹ A true and correct copy of a January 12, 2018 Yuma Sun article inaptly entitled
 27 “Quechan council members survive recall effort” is attached hereto as **Exhibit 30**.

28 ³² A true and correct copy of a January 26, 2018 Yuma Sun article entitled “Results
 of Quechan Tribe’s recall vote thrown out” is attached hereto as **Exhibit 31**.

1 tiff's performance thereunder, the defendant's breach, and resultant damages. *See, e.g.,*
2 *Hickcox-Huffman v. US Airways, Inc.*, 855 F.3d 1057, 1062 (9th Cir. 2017) (citation
3 omitted). Further, the terms of a contract may contain an implied in fact agreement that
4 limits the ability of one contracting party to fire the other, with such implied agreement
5 standing on "equal footing with express terms." *See Foley v. Interactive Data Corp.*, 47
6 Cal. 3d 654, 677-78 (1988) (citing Restatement (Second) of Contracts §§ 4, 19 (1981)).

7 205. Quechan and Williams & Cochrane executed the Attorney-Client Fee
8 Agreement on September 29, 2016 after arms-length negotiation and the tribe consulted
9 with an independent attorney. The terms of the contract state that Williams & Cochrane
10 would provide legal services to Quechan pertaining to "reducing [the tribe's] payments
11 under its tribal/State gaming compact with the State of California and seeking return of
12 payments made under such agreement." In return for these services, Quechan agreed to
13 pay Williams & Cochrane a monthly flat fee of \$50,000 and a 15% contingency fee on
14 the roughly \$39,732,774 in heightened revenue sharing that Quechan paid to the State of
15 California under its 2007 Amendment if the firm was able to obtain a "credit, offset, or
16 other reduction in future compact payments to the State in a successor compact (whether
17 new or amended) as a result of" said past payments. The Attorney-Client Fee Agreement
18 also explains that if Quechan discharges Williams & Cochrane before the contingency fee
19 attaches, the tribe will still have to pay the full contingency fee if it has become "entitled"
20 to the aforementioned "credit, offset, or other reduction in future compact payments" that
21 serves as the basis for the fee. *See Merriam-Webster, Definition of Entitle, available at*
22 *https://www.merriam-webster.com/dictionary/entitle* (last visited July 15, 2017) (defining
23 "entitle" as "to furnish with proper grounds for seeking or claiming something"). Even if
24 this is not the case, the Attorney-Client Fee Agreement still requires Quechan to pay the
25 firm a "reasonable fee for the legal services provided in lieu of the contingency fee" that
26 will be determined on the basis of a list of factors that first looks at "[t]he amount of the
27 fee in proportion to the value of the services performed."

28 206. Williams & Cochrane performed under the Attorney-Client Fee Agreement

1 from the execution date of the contract to June 27, 2017, by which point it had reached an
2 agreement in principle with the State of California and was finalizing the terms of a
3 twenty-five year gaming compact that would eliminate at least \$112 million in revenue
4 sharing fees vis-à-vis the 2007 Amendment and provide Quechan with ability to generate
5 another \$660 million in additional gaming revenue as a result of new machine rights.

6 207. Yet, just three days before Quechan was tentatively set to sign the final
7 compact, putative President Keeny Escalanti caused a letter to be e-mailed to Williams &
8 Cochrane in which he stated that the firm had been terminated and the tribe would “not
9 pay any contingency fee or ‘reasonable fee for the legal services provided in lieu’
10 thereof” as required by the terms of the Attorney-Client Fee Agreement. Between this
11 and a second letter dated June 30, 2017, putative Quechan President Keeny Escalanti
12 directed Williams & Cochrane to turn over the final draft of the compact to an attorney
13 by the name of Robert Rosette so he could wind up the negotiations and have the tribe
14 sign the compact Williams & Cochrane had negotiated without delay. To make it
15 abundantly clear that Quechan would not pay any contingency or substitute fee under the
16 Attorney-Client Fee Agreement, putative Quechan President included a threat in his June
17 26th termination letter, telling Williams & Cochrane that he “strongly advise[s] you
18 against pressing your luck further out of concern for the reputation of your firm in Indian
19 Country and in the State of California.”

20 208. In addition to violating the express terms of the Attorney-Client Fee
21 Agreement, putative Quechan President Keeny Escalanti also breached an implied in fact
22 agreement that stands on “equal footing” with the express terms of the agreement, which
23 ensured that the tribe would not terminate the firm during the conclusion of the time-
24 sensitive negotiations. This implied in fact agreement is evidenced, in part, by the course
25 of conduct between the parties, as the point persons for both the Tribal Council and the
26 Quechan Casino Resort told Cheryl Williams in the weeks leading up to the transmission
27 of putative President Keeny Escalanti’s June 26th termination letter [REDACTED]
28 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED].

5 209. Quechan’s breach of both the express and implied terms of the Attorney-
6 Client Fee Agreement has caused Williams & Cochrane to suffer contract damages and
7 injuries totaling at least \$6,345,399.97, which the district judge or a jury can resolve in
8 accordance with the Prayer for Relief, *infra*.

9 **SECOND CLAIM FOR RELIEF**

10 **[Breach of the Implied Covenant of Good Faith and Fair Dealing]**

11 **[By Williams & Cochrane and Against Quechan]**

12 210. Williams & Cochrane incorporates by reference the preceding general allega-
13 tions as if set forth in full.

14 211. The implied covenant of good faith and fair dealing imposes basic duties that
15 inhere in all contracts. *See Talden Inv. Co. v. Comerica Mortg. Corp.*, 1990 U.S. Dist.
16 LEXIS 19951, *47 (N.D. Cal. 1990) (citing Restatement (Second) of Contracts § 205
17 (1981)). These duties require that a party to a contract not act in an opportunistic or bad
18 faith manner that will deprive the other party of the benefits of the agreement. *See, e.g.,*
19 *Mitchell v. Exhibition Food, Inc.*, 184 Cal. App. 3d 1033, 1043 (1986). The term “bad
20 faith” is what courts consider an “excluder phrase” that is “without general meaning (or
21 meanings) of its own and serves to exclude a wide range of heterogeneous forms of bad
22 faith.” *Price v. Wells Fargo Bank*, 213 Cal. App. 3d 465, 479 (1st Dist. 1989) (citation
23 omitted). While “a complete catalogue of types of bad faith is impossible” (Restatement
24 (Second) of Contracts § 205 cmt. d (1981)), judicial decisions have long recognized that
25 conduct that seeks to evade the spirit of the bargain is basic bad faith. *See id.* This princi-
26 ple means, *inter alia*, that “where a contract confers on one party a discretionary power
27 affecting the rights of the other, a duty is imposed to exercise that discretion in good faith
28 and in accordance with fair dealing.” *Okun v. Morton*, 203 Cal. App. 3d 805, 820 (2d

1 Dist. 1988) (quoting *Cal. Lettuce Growers v. Union Sugar Co.*, 45 Cal. 2d 474 (1955)).

2 212. Quechan and Williams & Cochrane executed the Attorney-Client Fee Agree-
3 ment as is discussed in the First Claim for Relief, *supra*.

4 213. The Attorney-Client Fee Agreement explains that Quechan “may discharge
5 [Williams & Cochrane] at any time,” but it will still have to pay the contingency fee if the
6 tribe has become “entitled” to a “credit, offset, or other reduction in future compact pay-
7 ments to the State in a successor compact (whether new or amended) as a result of” its
8 past, excess payments under the 2007 Amendment. *See, e.g.*, WEBSTER’S THIRD NEW IN-
9 TERNATIONAL DICTIONARY 758 (2002) (defining “entitle” as “furnish with proper grounds
10 for seeking or claiming something”). Even if this is not the case, the Attorney-Client Fee
11 Agreement still requires Quechan to pay the firm a “reasonable fee for the legal services
12 provided in lieu of the contingency fee,” which primarily turns upon “[t]he amount of the
13 fee in proportion to the value of the services performed.”

14 214. However, in this case, putative Quechan President Keeny Escalanti caused to
15 be transmitted to Williams & Cochrane a letter on July 27, 2017 that terminated the firm
16 just three days before the end of the negotiations and the planned execution date for the
17 resultant compact, explaining that the tribe would “not pay any contingency fee or ‘rea-
18 sonable fee for the legal services provided in lieu’ thereof.” Despite this, the putative
19 Quechan President demanded that Williams & Cochrane turn over the latest draft com-
20 pact to Robert Rosette using threats of legal action so this substitute attorney could sim-
21 ply step in as the attorney of record and have the tribe sign the compact that Williams &
22 Cochrane negotiated. This course of conduct blatantly evades the spirit of the bargain,
23 especially when a court takes into account that the point persons for both the Tribal
24 Council and Quechan Casino Resort had informed Cheryl Williams in the weeks leading
25 up to the transmission of the June 26th termination letter [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

1 [REDACTED]
2 215. Quechan’s breach of the implied covenant of good faith and fair dealing that
3 inheres in the Attorney-Client Fee Agreement has caused Williams & Cochrane to suffer
4 contract damages and injuries totaling at least \$6,345,399.97, which the district judge or a
5 jury can resolve in accordance with the Prayer for Relief, *infra*.

6 **THIRD CLAIM FOR RELIEF**

7 **[Violation of the Lanham Act – Robert Rosette’s False Advertising about the *Pauma***
8 **Suit (15 U.S.C. § 1051 *et seq.*)]**

9 **[By Williams & Cochrane and Against Robert Rosette; Rosette & Associates, PC;**
10 **and Rosette, LLP]**

11 216. Williams & Cochrane incorporates by reference the preceding general allega-
12 tions as if set forth in full.

13 217. The Lanham Act provides in relevant part that:

14 (1) Any person who, on or in connection with any goods or services, or any
15 container for goods, uses in commerce any... false or misleading description
16 of fact, or false or misleading representation of fact, which –

17 [...]

18 (B) in commercial advertising or promotion, misrepresents the nature,
19 characteristics, qualities, or geographic origin of his or another person’s
20 goods, services, or commercial activities, shall be liable in a civil action by
21 any person who believes that he or she is likely to be damaged by such act.

22 15 U.S.C. § 1125(a). Thus, a claim for false advertising under the Lanham Act requires a
23 plaintiff to show five things akin to: “(1) a false statement of fact by the defendant in a
24 commercial advertisement about its own or another’s product; (2) the statement actually
25 deceived or has the tendency to deceive a substantial segment of its audience; (3) the
26 deception is material, in that it is likely to influence the purchasing decision; (4) the
27 defendant caused its false statement to enter interstate commerce; and (5) the plaintiff has
28 been or is likely to be injured as a result of the false statement, either by direct diversion
of sales from itself to defendant or by a lessening of the goodwill associated with its
products.” *Skydive Ariz., Inc. v. Quattrocchi*, 673 F.3d 1105, 1110 (9th Cir. 2012).

1 218. Robert Rosette has a literally false representation of fact on the website for his
2 firm Rosette, LLP (of which Rosette & Associates, PC is a general partner), which adver-
3 tises to the general public and all potential clients in the Indian law field that “Mr. Ros-
4 ette... successfully litigated a case saving the Pauma Band of Luiseno Mission Indians
5 over \$100 Million in Compact payments allegedly owed to the State of California against
6 then Governor Schwarzenegger.” This statement is unequivocally false, though, given
7 that the attorneys for Williams & Cochrane (*i.e.*, Cheryl Williams and Kevin Cochrane)
8 were counsel of record in that matter from June 2010 till the conclusion of the case in
9 September 2016, and responsible for upholding the preliminary injunction, rescinding the
10 tribe’s 2004 Amendment on the basis of a claim they added to the complaint in Septem-
11 ber 2011, and obtaining \$36.3 million as restitution for the excess payments the tribe
12 made to the State of California under its amendment. In fact, according to his own depo-
13 sition testimony, Robert Rosette admits that he only had the case for forty-five days, dur-
14 ing which time he filed one substantive brief that resulted in the Ninth Circuit overturning
15 the preliminary injunction Cheryl Williams and Kevin Cochrane had obtained the tribe,
16 thus leaving the tribe with no interim or final remedies as a result of his short-lived
17 representation in the case. Not only that, but Robert Rosette’s deposition testimony also
18 reveals that Mr. Rosette did not even know what was happening in the *Pauma* case as of
19 October 2010 – a mere four months after his termination, eleven months before Williams
20 & Cochrane added the claim to the complaint on which Pauma would ultimately prevail,
21 and almost six years before the case would finally conclude.

22 219. This website advertisement by Robert Rosette about his involvement in the
23 Pauma litigation (which, he admits, is also part of his promotional materials) appears to
24 have actually deceived Quechan President Keeny Escalanti and putative Councilmember
25 Willie White, as they concocted a scheme to have Mr. Rosette (*i.e.*, the one other attorney
26 who was supposedly responsible for litigating the case on which their dispute was, in
27 part, based) replace Williams & Cochrane right on the cusp of the negotiations conclud-
28 ing. Moreover, this advertisement would also deceive most other tribal leaders not affili-

1 ated with Pauma in the normal course because the attorney information for the *Pauma*
 2 suit is largely hidden behind the paywalls for the federally-run PACER site, and Robert
 3 Rosette is capable of producing early court filings to substantiate his supposed claim
 4 given that his firm represented Pauma for nine months at the outset of the case, from the
 5 filing of the complaint on September 4, 2009 to approximately June 13, 2010.

6 220. Robert Rosette also caused this literally false statement of fact to enter
 7 interstate commerce by putting it on his website and keeping it there for four years now.

8 221. The abovenamed Rosette defendants' violation of the Lanham Act has caused
 9 Williams & Cochrane to suffer contract damages and injuries totaling at least
 10 \$6,345,399.97, which the district judge or a jury can resolve in accordance with the
 11 Prayer for Relief, *infra*.

12 **FOURTH CLAIM FOR RELIEF**

13 **[Violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. §**
 14 **1961 *et seq.*)]**

15 **[By Williams & Cochrane and Against Robert Rosette; Rick Armstrong; Rosette &**
 16 **Associates, PC; Rosette, LLP; and Does 1 through 100]**

17 222. Williams & Cochrane incorporates by reference the preceding general allega-
 18 tions as if set forth in full.

19 223. A *prima facie* RICO case requires that the plaintiff show “(1) conduct (2) of
 20 an enterprise (3) through a pattern (4) of racketeering activity.” *Avalos v. Baca*, 596 F.3d
 21 583, 592 (9th Cir. 2010) (citing *Miller v. Yokohama Tire Corp.*, 358 F.3d 616, 620 (9th
 22 Cir. 2004)). A “pattern” of racketeering activity requires proof of “at least two [predicate]
 23 acts of racketeering activity” within ten years of each other. *See* 18 U.S.C. § 1961(5). A
 24 predicate act of racketeering activity is defined as any act indictable under specified
 25 provisions of Title 18 of the United States Code, “and includes the predicate acts of mail
 26 [and] wire fraud.” *Cochran Firm P.C. v. McMurray*, 2014 U.S. Dist. LEXIS 194663, *17
 27 (C.D. Cal. 2014) (quoting *Turner v. Cook*, 362 F.3d 1219, 1229 (9th Cir. 2004)). In
 28 passing RICO, Congress mandated that “the provisions of this title shall be liberally con-

1 strued to effectuate its remedial purposes.” See Organized Crime Control Act of 1970,
2 Pub. L. No. 91-452, § 904(a), 84 Stat. 947 (1970).

3 224. The abovenamed Rosette defendants are individuals and business entities that
4 are associated in fact and have either participated in or conducted an enterprise that has
5 sought to fraudulently interfere with Williams & Cochrane’s contracts (often to commit
6 fraud against the firm’s tribal clients) using both the mail and the wires.

7 225. As to this, each of the abovenamed Rosette defendants has engaged in at least
8 two predicate acts of mail or wire fraud under 18 U.S.C. §§ 1341 and 1343, respectively,
9 over the last ten years, which includes the below defendants using said mails and wires:

10 **Robert Rosette (along with Rosette & Associates, PC and Rosette, LLP)**

11 (a) On or about August 11, 2010, to interfere with Williams & Cochrane's contract
12 with La Pena Law by erroneously claiming he was responsible for litigating the
13 *Pauma* case (*see* ¶ 149);

14 (b) On or about July 26, 2011, to direct Richard Armstrong to e-mail the State's ne-
15 gotiator to try and settle Pauma's compact suit even though his firm did not rep-
16 resent the tribe in the matter (*see* ¶ 156);

17 (c) On or about July 27, 2011, to communicate with the State's negotiator and er-
18 roneously claim that Pauma desired to settle its compact lawsuit through ne-
19 gotiations using him (*see* ¶ 159);

20 (d) Beginning on or about March 18, 2013, to post a false advertisement on his
21 website that he "successfully litigated a case saving the Pauma Band of Luiseno
22 Mission Indians over \$100 Million in Compact payments allegedly owed to the
23 State of California" (*see* ¶ 134);

24 (e) Countless times since March 18, 2013, to disseminate promotional materials to
25 actual and prospective clients in the admitted "ordinary course of business" that
26 contain identical representations that Mr. Rosette "successfully litigated a case
27 saving the Pauma Band of Luiseno Mission over \$100 Million in Compact pay-
28 ments allegedly owed to the State of California" (*see* ¶ 182);

- 1 (f) On or about June 16, 2017, to disseminate or arrange to disseminate these pro-
2 motional materials to putative Quechan President Keeny Escalanti and putative
3 Councilmember Willie White for the June 16, 2017 meeting (*see* ¶ 183);
- 4 (g) On or about June 27, 2017, to arrange to transmit the letter purportedly termin-
5 ating the Attorney-Client Fee Agreement even though Rosette, LLP did not of-
6 ficially represent Quechan at that point (*see* ¶¶ 95, 185);
- 7 (h) On or about December 2016, to try to interfere with Williams & Cochrane's
8 contract with Pauma by working through a "strawman" attorney for the tribe's
9 subordinate gaming facility (*see* ¶ 170);
- 10 (i) On or about April 18, 2018, to intentionally disseminate sealed documents in
11 this case to the general manager of Pauma's gaming facility while erroneously
12 claiming to this Court it was an inadvertent disclosure (*see* ¶ 172);
- 13 (j) On or about April 18, 2018, to intentionally disseminate sealed documents in
14 this case to a Pauma tribal member who is related to putative Quechan President
15 Keeny Escalanti while omitting this disclosure from its Court filing (*see* ¶ 173);
- 16 (k) On or about June 7, 2018, to arrange to have the attorney representing Quechan,
17 WilmerHale, file a premature answer for the real purpose of disseminating the
18 document around Pauma as supposed proof that the attorneys with Williams &
19 Cochrane engaged in unethical conduct (*see* ¶ 174); and
- 20 (l) On or about June 21, 2018, to intentionally disseminate the answer in this case
21 to a Pauma tribal member who is related to putative Quechan President Keeny
22 Escalanti along with the deceitful message that the allegations therein are proof
23 positive of unethical conduct (*see* ¶ 175).

24 **Richard Armstrong (along with Rosette & Associates, PC and Rosette, LLP)**

- 25 (a) On or about July 26, 2011, to e-mail the State's negotiator to erroneously claim
26 the Pauma Tribal Council desired a meeting to discuss its compact when he was
27 not even retained on the matter (*see* ¶ 156);
- 28 (b) On or about July 27, 2011, to e-mail the State's negotiator to erroneously claim

1 that Pauma wanted “to meet without their attorneys present... with the goal of
2 settling the pending lawsuit” when he was not even retained on the matter (*see*
3 ¶ 158);

4 (c) On or about June 27, 2017, to arrange, or assist in arranging, to send the letter
5 purportedly terminating the Attorney-Client Fee Agreement even though Ros-
6 ette, LLP did not officially represent Quechan at that point (*see* ¶¶ 95, 185); and

7 (d) On or about June 27, 2017, to direct a subordinate associate to e-mail Cheryl
8 Williams in an attempt to get the June 21st draft compact even though Rosette,
9 LLP did not officially represent Quechan at that point (*see* ¶ 103).

10 226. The aforementioned predicate acts and others evidence an eight-year scheme
11 to defraud Williams & Cochrane – and its tribal clients as well – that those involved with
12 Rosette, LLP had the specific intent to carry out, and did in fact carry out.

13 227. The abovenamed Rosette defendants’ violations of the Racketeer Influenced
14 and Corrupt Organizations Act have caused Williams & Cochrane to suffer contract
15 damages and injuries totaling at least \$6,345,399.97, which the district judge or a jury can
16 resolve in accordance with the Prayer for Relief, *infra*.

17 **FIFTH CLAIM FOR RELIEF**

18 **[Conspiring to Violate the Racketeer Influenced and Corrupt Organizations Act (18**
19 **U.S.C. § 1961 *et seq.*)]**

20 **[By Williams & Cochrane and Against Robert Rosette; Rick Armstrong; Rosette &**
21 **Associates, PC; Rosette, LLP; Keeny Escalanti, Sr.; Mark William White II; and**
22 **Does 1 through 100]³³**

23 228. Williams & Cochrane incorporates by reference the preceding general allega-
24 tions as if set forth in full.

25 229. A RICO conspiracy claim “is governed by traditional concepts of conspiracy
26 law, and ‘should not require anything beyond that required for a conspiracy to violate any

27 ³³ Williams & Cochrane reserves the right to amend this claim to bring it on behalf
28 of some or all of the named Quechan General Councilmembers, who are hesitant to name
themselves at present because of the ongoing threats of banishment/disenrollment.

1 other crimes.” *NOW v. Scheidler*, 897 F. Supp. 1047, 1075 (N.D. Ill. 1995) (quoting
 2 *United States v. Neapolitan*, 791 F.2d 489, 497 (7th Cir. 1986)). Thus, “[i]t is the mere
 3 agreement to violate RICO that [the statute] forbids; it is not necessary to prove any
 4 substantive RICO violations ever occurred as a result of the conspiracy,” *Oki Semicon-*
 5 *ductors*, 298 F.3d at 774-75 (citing *Aetna Cas. Sur. Co. v. P&B Autobody*, 43 F.3d 1546,
 6 1562 (1st Cir. 1994)). The illegal agreement need not be express “so long as its existence
 7 can be inferred from the words, actions, or interdependence of activities and persons
 8 involved.” *Id.* at 775. Proving a RICO conspiracy means that “[a]ll conspirators are liable
 9 for the acts of their co-conspirators.” *Id.*

10 230. The abovenamed Rosette and Quechan-related defendants are individuals and
 11 business entities that are associated in fact and have either conspired to participate in or
 12 conduct an enterprise aimed at fraudulently abusing the finances of the tribe in pursuit of
 13 a sham online payday lending business or for some other illicit end.

14 231. As to this, each of the abovenamed defendants has engaged in at least two
 15 predicate acts of mail or wire fraud under 18 U.S.C. §§ 1341 and 1343, respectively, over
 16 the last ten years, which includes using said mails and wires:

17 (a) On April 20, 2017, to altogether cut off per capita and minor trust account
 18 payments to the general membership of Quechan despite having \$3,000,000 in
 19 additional revenue (and now \$7,000,000) from not making revenue sharing
 20 payments to the State of California from July 2016 onwards (*see* ¶¶ 194-95);

21 (b) On a regular basis from April 2017 to the filing date of the complaint, to with-
 22 hold upwards of 63,529 financial distributions to the roughly 2,565 adult and
 23 1,172 minor general members of Quechan (*see* ¶ 196);

24 (c) On or about April 18, 2017, to certify to the Arizona Department of Gaming
 25 that Quechan was complying with its Tribal Revenue Allocation Plan by using
 26 40% of the net gaming revenues for per capita payments when in reality it was
 27 not (*see* ¶ 197);

28 (d) On or about May 2017, to make a similar certification to the National Indian

Gaming Commission that Quechan was complying with the percentages in its Tribal Revenue Allocation Plan when in reality it was not (*see* ¶ 198);

(e) At least once during 2017 and 2018, to distribute substantially less money from a minor's trust account to a newly-adult beneficiary than should have been available (*see* ¶ 199);

(f) On a regular basis from April 2017 to the filing date of this complaint, to refuse to turn over any financial information or audit reports for Quechan's gaming facilities to the general membership (*see* ¶ 202);

(g) [REDACTED] (see ¶ 200); and

(h) [REDACTED] (see ¶ 200).

232. The aforementioned predicate acts and others evidence a year-long conspiracy by the named defendants to take the necessary actions to use the public funds of the tribe for their own personally enrichment rather than the tribe generally, which they were only able to do after removing outside legal oversight (including Williams & Cochrane).

233. The abovenamed Rosette and Quechan-related defendants' conspiracy to violate the Racketeer Influenced and Corrupt Organizations Act has caused Williams & Cochrane to suffer contract damages and injuries totaling at least \$6,345,399.97, which the district judge or a jury can resolve in accordance with the Prayer for Relief, *infra*.

SIXTH CLAIM FOR RELIEF

[Negligence/Breach of Fiduciary Duty]

[By Named Quechan General Councilmembers on Behalf of Themselves and All Others Similarly Situated Against Robert Rosette; Rick Armstrong; Rosette & Associates, PC; Rosette, LLP; and Does 1 through 100]

234. Williams & Cochrane incorporates by reference the preceding general allega-

1 tions as if set forth in full.

2 235. Pursuant to Federal Rule of Civil Procedure 23, the named Quechan General
3 Councilmembers bring this claim on behalf of themselves and all those similarly situated,
4 who together form a class that is initially defined as follows:

5 **Malpractice Class:** All persons who are enrolled members of the Quechan
6 Tribe of the Fort Yuma Indian Reservation that did not serve on the Tribal
7 Council during June 2017.

8 236. Sufficient justification exists for allowing the Quechan General Councilmem-
9 bers to proceed as a class, including the following showings under the Federal Rules of
10 Civil Procedure:

11 (a) **Numerosity (FED. R. CIV. P. 23(a)(1)).** On information and belief, the Que-
12 chan tribe is comprised of more than 3,200 members, which makes the class
13 members so numerous that joinder is impractical;

14 (b) **Predominance of Common Questions of Law and Fact (FED. R. CIV. P.**
15 **23(a)(2)).** The entire fact pattern at issue involves one common set of actions
16 that affected all the members of the Quechan General Council in the same man-
17 ner, which means that common questions of fact and law should not only pre-
18 dominate but control;

19 (c) **Typicality (FED. R. CIV. P. 23(a)(3)).** The claims of the named Quechan Gen-
20 eral Councilmembers are typical of those of the entire class since each was a
21 member of the entity that Rosette, without authority, represented;

22 (d) **Adequacy of Representation (FED. R. CIV. P. 23(a)(4)).** Williams & Cochrane
23 is not just adequate, but the best representation for the proposed class since it
24 can effectively identify the concessions that were lost from the draft compact
25 following its termination from the representation. With substantial experience
26 in the niche field of compact negotiation and litigation, Williams & Cochrane is
27 also able to effectively argue whether Robert Rosette met the appropriate standard
28 of care in finishing the negotiations, and to deal with side issues that may come

1 up during discovery of these matters. Plus, in addition to being competent to
 2 handle the representation, Williams & Cochrane intends to prosecute the action
 3 vigorously and has interests that align with, and are not antagonistic to the class.
 4 To that end, Williams & Cochrane will structure the case so as to protect the
 5 class' interests if any actual or perceived conflict exists; and

6 **(e) Superiority (FED. R. CIV. P. 23(b)(3)).** A class action is the superior method
 7 for handling claims of this nature for a multitude of reasons, including the sheer
 8 number of members in the tribe, the cost and difficulty of pursuing individual
 9 actions, and the fact that the Tribal Council is unable to press these issues on
 10 the General Council's behalf since the majority of members were recalled and
 11 the rogue officials who remain in power have interests aligned with Robert Ros-
 12 ette. Further, many class members are hesitant to serve as named plaintiffs out
 13 of fear of disenrollment, banishment, or other forms of retaliation – fears that
 14 are now well founded. *See* ¶ 200, *supra*.

15 237. Under California law, an attorney has a duty to “protect his... client in every
 16 possible way.” *FDIC v. O’Melveny & Myers*, 969 F.2d 744, 748 (9th Cir. 1992) (citation
 17 omitted). This is not just a duty use the skill required of lawyers; “[r]ather is a wider obli-
 18 gation to exercise due care to protect a client’s best interests in *all* ethical ways and in *all*
 19 circumstances.” *T & R Foods, Inc. v. Rose*, 47 Cal. App. 4th Supp. 1, 8 (Cal. Super.
 20 1996). As for the level of care, though, an attorney only “fulfil[s] this duty by performing
 21 the legal services for which [he] ha[s] been engaged with ‘such skill, prudence, and
 22 diligence as lawyers or ordinary skill and capacity commonly possess.’” *FDIC*, 969 F.2d
 23 at 748 (citation omitted). An attorney who “specializes within the profession,” however,
 24 “must meet the standards of knowledge and skill of such specialists.” *Id.*

25 238. The admissions made in this case by Robert Rosette and his employees alone
 26 paint a picture of extreme negligence. The firm of Rosette, LLP maintains promotional
 27 materials that claim Robert Rosette litigated the Pauma case (*see* ¶ 182), and Mr. Rosette
 28 used the claims in these advertisements to try and convince Quechan to change counsel

1 just two weeks before the negotiations were set to conclude. *See* ¶ 183. Yet, by his own
 2 admission, Robert Rosette knew *nothing* about the status of Quechan’s compact negotia-
 3 tions at the time he solicited the work (*see* ¶ 184), including all of the intricacies and ar-
 4 guments in the prior *Pauma* case that helped convince the Office of the Governor to offer
 5 what it branded a “truly unique” compact. *See* ¶ 90. Yet, without educating himself about
 6 the *Pauma* matter or reaching out to the attorneys of Williams & Cochrane for assistance,
 7 Robert Rosette dove in headlong and engendered a state of affairs where Quechan lost a
 8 number of concessions at the last moment (*i.e.*, having to pay back \$2,000,000, losing a
 9 four-year deferral on each tranche of the State’s minimum wage law for 1,000 employees
 10 earning significantly less money). Not to mention, in his vitriolic haste, Robert Rosette
 11 also orchestrated and carried out a total repudiation of the Attorney-Client Fee Agree-
 12 ment that has exposed Quechan to a bad-faith breach claim, which he has tried to fix by
 13 directing the tribe to hire a monolithic international law firm (with whom he as a sordid
 14 preexisting relationship) that has already charged in excess of \$750,000 to conduct basic
 15 pleading practice. *See* n.28. On top of all of this, the real motivation for Robert Rosette
 16 was not the compact work, for which he claims he was only receiving \$10,000 per month
 17 (*see* ¶ 185), but getting into a position of power so he and his Tribal Council confidantes
 18 could abuse the finances of the tribe – a state of affairs that has come to pass with the
 19 Quechan Tribal Council not making upwards of 63,529 financial distributions to the
 20 2,565 adult and 1,172 minor general members of Quechan. *See* ¶ 196.

21 239. The abovenamed Rosette defendants’ negligence and breach of fiduciary duty
 22 has caused the Quechan General Council to suffer damages and injuries in an amount to
 23 be proven at trial, which the district judge or a jury can resolve in accordance with the
 24 Prayer for Relief, *infra*.

25 PRAYER FOR RELIEF

26 **WHEREFORE**, Williams & Cochrane prays as follows:

27 1. That the Court award contract damages against the Quechan Tribe of the Fort
 28 Yuma Indian Reservation in an amount of at least **\$6,345,399.97**;

1 2. That the Court award any other non-monetary relief (whether equitable or legal
2 in nature) against Quechan on the contract claims as needed or otherwise requested;

3 3. That the Court award treble damages under the Lanham Act in an amount of at
4 least **\$19,036,199.91** against the indicated Rosette defendants for the false advertise-
5 ment(s) about the *Pauma* lawsuit, as well as require the disgorgement of any of the direct
6 or indirect profits that they may have obtained as a result of such advertisement(s);

7 4. That the Court award injunctive relief under the Lanham Act against the indi-
8 cated Rosette defendants to prevent further false advertisements about the *Pauma* suit;

9 5. That the Court award treble damages under the RICO claim in an amount of at
10 least **\$19,036,199.91** against the indicated Rosette defendants; and

11 6. That the Court award treble damages under the conspiracy to commit RICO
12 claim in an amount to be proven at trial against the indicated Rosette and putative-
13 Quechan-Councilmember defendants.

14 **WHEREFORE**, the named Quechan General Councilmembers pray as follows:

15 7. That the Court certify their claim(s) to proceed as a class action; and

16 8. That the Court award damages in an amount to be proven at trial against the
17 indicated Rosette defendants for negligently representing Quechan in the California com-
18 pact negotiations and otherwise.

19 **WHEREFORE**, all the plaintiffs pray as follows:

20 9. That the Court award pre- and post-judgment interest on any monetary awards at
21 the maximum rate or rates permitted under State law;

22 10. That the Court award reasonable attorney fees as allowed by law (including
23 statutes like RICO and the Lanham Act) or equity;

24 11. That the Court award the costs of suit as allowed by law (including statutes like
25 RICO and the Lanham Act) or equity; and

26 12. That the Court award such other and further legal or equitable relief as it deems
27 appropriate, as justice requires, or as the law allows.

28 RESPECTFULLY SUBMITTED this 20th day of July, 2018

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