

EXHIBIT A

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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 **WILMERHALE, LLP;**
26 **CHRISTOPHER CASAMASSIMA;**
27 **QUECHAN TRIBE OF THE FORT**
28 **YUMA INDIAN RESERVATION, a**
federally-recognized Indian tribe;
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-THIRD~~ AMENDED
COMPLAINT**

CLASS ACTION COMPONENT

JURY TRIAL DEMANDED

[ACTION FILED JULY 17, 2017]

Case No.: 17-CV-01436 GPC MDD

~~SECOND-THIRD~~ AMENDED COMPLAINT

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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
26 Agreement” between Williams & Cochrane and Quechan is attached hereto as **Exhibit 2**.

27 ³ A true and correct copy of the September 29, 2016 Quechan Resolution No. “R-
28 195-16” is attached hereto as **Exhibit 3**.

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
 26 Keeny Escalanti to Williams & Cochrane is attached hereto as **Exhibit 5**.

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

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. WilmerHale, LLP is a self-described “full-service international law firm” that
28 employs “1,000 lawyers” and has” 12 offices in the United States, Europe and Asia.”

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

6 *See* Ex. 8 at § 4.3.2.2(a)(1).

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

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

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

18 28. The Pauma Band of Mission Indians (“Pauma”) was one of the sixty-plus
19 original tribal signatories to the 1999 Compact – an agreement it amended in 2004 (“2004
20 Amendment”) to obtain the ability to operate 2,000 slot machines after the CGCC deter-
21 mined the tribe could not obtain the necessary licenses under the 1999 Compact given its
22 restrictive interpretation of the license pool formula. *See Pauma Band of Luiseno Mission*
23 *Indians of Pauma & Yuima Reservation v. California*, 813 F.3d 1155, 1161-62 (9th Cir.
24 2015) (“*Pauma*”). The result of the amendment was that Pauma ended up paying approxi-
25 mately twenty-four times as much revenue sharing each year in order to operate machines
26 that should have been available under its original compact. *Id.* at 1162.

27 29. After learning about the ruling by the Eastern District of California in *Colusa*,
28 Pauma filed suit in the Southern District of California on September 4, 2009, requesting
rescission of the 2004 Amendment and restitution of the heightened fees paid thereunder

1 on the basis of any one of seven claims: unilateral and mutual mistake of fact, unilateral
2 and mutual mistake of law, frustration of purpose/failure of consideration, and two IGRA
3 violations. *See Pauma*, No. 09-01955, Dkt. No. 1, pp. 19-26 (S.D. Cal. Sept. 4, 2009).

4 30. At the time, Pauma was represented in the lawsuit by a law firm named Rosette
5 & Associates. The two attorneys solely responsible for preparing and filing the complaint
6 in the case were Cheryl A. Williams and Kevin M. Cochrane.

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

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

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

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

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

25 Q. Who argued that case from your firm?

26 A. Cheryl Williams.

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

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

4 34. As the two attorneys were departing, the State of California appealed the in-
5 junction order to the United States Court of Appeals for the Ninth Circuit and then moved
6 to stay the order pending appeal. *See Pauma Band of Luiseno Mission Indians of Pauma*
7 *& Yuima Reservation v. California*, No. 10-55713, Dkt. No. 7 (9th Cir. May 21, 2010).

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

13 36. On July 28, 2010, the motions panel of the Ninth Circuit granted the State's
14 request to stay the injunction in a summary one-paragraph order. *See Pauma*, No. 10-
15 55713, Dkt. No. 39 (9th Cir. July 28, 2010).

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

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

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

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

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

3 Q. Is she a solo practitioner now?

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

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

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

13 Q. And who told you that?

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

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

22 A. I told you earlier that I respect tribal decisions, don't question them, don't
23 pry. I told them thank you for letting me know and that I would transfer the
24 files and I didn't ask any other – and, you know, like I said, I don't care. I
25 got other things I could do.

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

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

40. The procedural handling of the case following remand involved multiple tran-

1 sfers as magistrates were promoted to district judgeships, with the case first going from
2 Judge Burns to Judge Battaglia, and then from Judge Battaglia to Judge Bencivengo. *See*
3 *Pauma*, No. 09-01955, Dkt. Nos. 104 & 176 (S.D. Cal. Mar. 22, 2011 & Mar. 6, 2012)).

4 41. In the midst of these transfers, Williams & Cochrane filed a First Amended
5 Complaint on Pauma's behalf with Judge Battaglia on September 9, 2011 that added a
6 wealth of allegations and a new claim for relief based on misrepresentation under federal
7 contract law. *See Pauma*, No. 09-01955, Dkt. No. 130, pp. 55 (S.D. Cal. Sept. 9, 2011).

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

16 43. Along with that, the initial summary judgment order from Judge Bencivengo
17 also contained a *sua sponte* statute of limitations analysis that the State of California
18 failed to argue, presumably to stave off any future copycat suits. *See Pauma*, No. 09-
19 01955, Dkt. No. 227, pp. 17-18 (S.D. Cal. Mar. 18, 2013).

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

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

28 46. The parties met for settlement conferences with Magistrate Judge Dembin on

1 May 9, 2013 and May 20, 2013, but unfortunately “[n]o settlement was reached.” *Pauma*,
2 No. 09-01955, Dkt. Nos. 234 & 235 (S.D. Cal. May 9, 2013 & May 20, 2013).

3 47. On appeal, the Ninth Circuit affirmed the summary judgment orders of the
4 district court, reclassifying the \$36.3 million award as a form of restitution rather than
5 specific performance in the process. *See Pauma*, 813 F.3d 1155.

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

12 49. Following the termination of the appeal process, the State of California satis-
13 fied the judgment in full during September 2016.

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

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

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

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

1 53. The decision by the Supreme Court to deny the State’s petition for a writ of
2 certiorari in *Pauma* garnered a significant amount of media attention around California.
3 *See, e.g., California pays tribe \$36 million to settle years-old fight*, SAN DIEGO UNION-
4 TRIBUNE, Sept. 9, 2016, *available at* [http://www.sandiegouniontribune.com/sdut-](http://www.sandiegouniontribune.com/sdut-california-pays-tribe-36-million-to-settle-years-2016sep09-story.html)
5 [california-pays-tribe-36-million-to-settle-years-2016sep09-story.html](http://www.sandiegouniontribune.com/sdut-california-pays-tribe-36-million-to-settle-years-2016sep09-story.html) (last visited July 2,
6 2017); *A Schwarzenegger-era casino deal will cost state \$36.3 million*, SACRAMENTO
7 BEE, Aug. 23, 2016, *available at* [http://www.sacbee.com/news/politics-government/](http://www.sacbee.com/news/politics-government/capitol-alert/article97452877.html)
8 [capitol-alert/article97452877.html](http://www.sacbee.com/news/politics-government/capitol-alert/article97452877.html) (last visited July 2, 2017).

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

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

26 _____
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 *broken on clinic for local tribes*, YUMA SUN, Jan. 28, 2016, available at <https://www.pressreader.com/usa/yuma-sun/20160128/281479275438281> (last visited July 2, 2017).

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

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

20 58. [REDACTED]
21 [REDACTED]
22 [REDACTED].

23 59. The cessation of revenue sharing payments is extremely dangerous under the
24 2007 Amendment, as it can empower the State of California to hold the tribe in material
25 breach of its compact, and/or shut down Quechan’s gaming floor until “30 days after full
26 payment of all outstanding amounts has been made” if the tribe’s revenue sharing is
27 “overdue... on more than two occasions.” *See* Ex. 9 at § 4.3.3(f). For Quechan, the
28 enforcement of this provision could result in the loss of at least [REDACTED] in gaming

1 revenue, and that assumes the tribe made immediate payment after the State of California
2 shuttered the casino’s gaming floor. One of the pertinent parts of the 2007 Amendment
3 detailing the State of California’s rights in the event of non-payment by Quechan states:

4 (f) Notwithstanding anything to the contrary in Section 9.0, if any portion of
5 the payments referenced in subdivision (a) pursuant to subdivisions (b) and
6 (d), is overdue after the State Gaming Agency has provided written notice to
7 the Tribe of the overdue amount with an opportunity to cure for at least 15
8 business days, and if more than 60 days has passed from the due date, then
9 the Tribe shall cease operating all Gaming Devices until full payment is
10 made; provided further that if any portion of the payments is overdue as
specified above on more than two occasions, the Tribe shall be required to
cease operating all Gaming Devices for an additional 30 days after full
payment of all outstanding amounts has been made.

11 See Ex. 9 at § 4.3.3(f).

12 60. [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]¹⁰

19 61. [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

26 _____
27 ¹⁰ A true and correct copy of a spreadsheet entitled [REDACTED]
28 [REDACTED] is attached hereto as **Exhibit 10.**

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]

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

8 Ex. 8 at § 12.1.

9 62. [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED].

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

24 64. On September 16, 2016, Cheryl Williams sent an e-mail to the Quechan Tribal
25 Secretary Regina Escalanti and President Jackson to convey two different hybrid fee pro-
26 posals. As explained by Cheryl Williams, the fee structures were meant to be “a fair mid-
27 dle ground choice on the spectrum of fee arrangements that range from purely hourly on
28 one end (*i.e.*, \$475-\$500 per hour) to purely contingency on the other (*i.e.*, 33%-35% of

1 net recovery).” Further, they were also sensitive to (1) the potential liability for the firm
2 given the millions of dollars at stake, and (2) the massive amount of work that a represen-
3 tation of this nature would likely require given Williams & Cochrane’s experience repre-
4 senting Pauma in negotiations and litigation during its seven-year dispute with the State
5 of California. As for the terms of the proposals, both contained a progressive contingency
6 fee structure that started at 5% of any recovered value of the excess revenue sharing
7 payments Quechan made under the 2007 Amendment “if the matter is resolved before the
8 filing of a lawsuit or within 12 months thereof” and gradually increased to 15% “[i]f the
9 matter is resolved after 36 months of filing a lawsuit.” Along with this contingency fee,
10 one of the fee proposals was based on a discounted hourly rate of \$350 per hour while the
11 other incorporated a monthly flat fee of \$50,000 in lieu of the hourly rate.

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

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

27 67. As previously mentioned, the Attorney-Client Fee Agreement contains a
28 “Monthly Flat Fee” in Section 4, which explains that the “Client agrees to pay a flat fee

1 of \$50,000 per month for Firm’s services under this Agreement.” *See* Ex. 2 at § 4.

2 68. In addition, Section 5 of the Attorney-Client Fee Agreement contains a contin-
3 gency fee provision that explains Quechan will pay Williams & Cochrane a 15% contin-
4 gency fee on any revenue sharing discount Quechan receives under a negotiated succes-
5 sor compact as a result of the heightened payments the tribe made under the 2007 A-
6 mendment, and that such fee attaches the moment the tribe signs the new agreement. *See*
7 Ex. 2 at § 5. The pertinent part of Section 5 of the Attorney-Client Fee Agreement states:

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

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

23 *See* Ex. 2 at § 4.

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

1 factors that primarily turns upon the value of the services performed. *See* Ex. 2 at § 11.

2 70. Finally, the Attorney-Client Fee Agreement also contains a waiver of sovereign
3 immunity that provides in relevant part that the “Client hereby expressly and irrevocably
4 waives its sovereign immunity (and any defense based thereon) from any suit, action, or
5 proceeding or from any legal process with respect to any claims the Firm may bring
6 seeking payment under the terms of this Agreement.” *See* Ex. 2 at § 13(a).

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

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

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

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

24 74. As a result of this letter, the parties held their first negotiation session on No-
25 vember 9, 2016 at the State Capitol. Appearing on behalf of the Office of the Governor
26 was Senior Advisor Joe Dhillon, Senior Assistant Attorney General Sara Drake, and Dep-

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 uity Attorney General Jennifer Henderson. For Quechan, all seven members of the Tribal
2 Council were present as well as Cheryl Williams and Kevin Cochrane. [REDACTED]

3 [REDACTED]

4 [REDACTED].

5 75. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED] ¹³ [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

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

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

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

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

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

1 (revealing the compact negotiations went from February 26, 2004 to November 3, 2006).

2 78. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED].

17 79. With their marching orders in hand, Williams & Cochrane scheduled a follow-

18 up meeting with the Office of the Governor on January 31, 2016 at the State Capitol to go

19 through the December 7th initial draft compact and find out what the State was willing to

20 negotiate above and beyond the base offer it provided.

21 80. However, before this meeting could take place, election chaos erupted at Que-

22 chan. President Jackson and Vice President Michael Jack were in the midst of four-year

23 terms and not up for reelection during the midterm election in December 2016. However,

24 all five biannual Councilmember seats were up for vote, and initial results reportedly in-

25 dicated that aspirants won four of the five Council seats that were on the ballot. A recount

26 was soon ordered and Quechan spent the next two months mired in intractable infighting.

27 *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)

28 [pressreader.com/usa/yuma-sun/20170209/281509340930239](https://www.pressreader.com/usa/yuma-sun/20170209/281509340930239) (last visited June 30, 2017).

1 81. Ultimately, the four challengers were sworn into office on or about March 3,
2 2017. *See New Quechan Tribe Council Members sworn in nearly two months after elec-*
3 *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)
4 [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-
5 ted June 30, 2017). In succession, President Jackson resigned from his position almost
6 instantaneously with the swearing in of the new councilmembers and then Vice President
7 Jack stepped down in the ensuing months.

8 82. As the political turmoil at Quechan raged on, Cheryl Williams and Kevin
9 Cochrane met with the Office of the Governor at the planned January 31, 2016 negoti-
10 ation session to see if any further progress could be made on the draft compact. [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 [REDACTED]
24 [REDACTED]
25 [REDACTED].

26 83. After the election turmoil at Quechan died down, Cheryl Williams and Kevin
27 Cochrane travelled out to the reservation to meet with the reconstituted Tribal Council on
28 March 24, 2017. [REDACTED]

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

7 84. [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 [REDACTED] ¹⁵ ¹⁶ [REDACTED]

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED].

22 85. [REDACTED]

23 [REDACTED]
24 [REDACTED]

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

28 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 86. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 87. [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 88. [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 89. [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

[REDACTED]

[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**.

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 90. [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED].¹⁸ After relaying the compact, Senior Assistant Attorney

8 General Sara Drake set up another negotiation session between the attorneys for the

9 parties on June 14, 2017 at the Office of the Attorney General in Sacramento, California.

10 91. [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 92. [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 _____

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**.

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[REDACTED]

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

[REDACTED]

93. [REDACTED]

[REDACTED]

E. The Putative President of Quechan Keeny Escalanti Terminates Williams & Cochrane Three Days before the Conclusion of Compact Negotiations to

1 **Avoid Paying the Contingency Fee, Demanding that the Firm Turn Over**
2 **its Work Product to Robert Rosette by Using Threats to its Reputation**

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

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

16 96. However, the next conversation between Cheryl Williams and Senior Assist-
17 ant Attorney General Sara Drake did not begin with a discussion about finalizing the
18 Quechan compact. Rather, on Tuesday, June 27, 2016, Ms. Drake – who has been one of
19 (if not) the principal attorneys representing the State of California in tribal matters since
20 the mid-1990s (*see Cabazon Band of Mission Indians v. Wilson*, No. 90-01118, Dkt. Nos.
21 159 & 177 (E.D. Cal. Feb. 12, 1999 & Mar. 23 1999)) – began the conversation by stat-
22 ing, “This has never happened before and we don’t know what to do.” With that, Ms.
23 Drake then informed Cheryl Williams that the State had just received a letter indicating
24 that Williams & Cochrane had been terminated from the compact negotiations, just three
25 days before the negotiations were set to conclude, and replaced by Robert Rosette.

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 97. That same day Cheryl Williams received a similar letter. The letter was sent by
2 e-mail from the Quechan Executive Secretary Linda Cruz to Cheryl Williams with no
3 other individuals carbon copied on the message. The June 26, 2017 letter enclosed therein
4 was entitled “Termination of Attorney-Client Relationship” and signed by the putative
5 Quechan President Keeny Escalanti, Sr., who had purportedly assumed the seat left vac-
6 ant following President Jackson’s departure. *See* Ex. 4. The June 26th letter began by ex-
7 plaining “[t]he Fort Yuma Quechan Indian Tribe... is terminating the services of Wil-
8 liams & Cochrane... effective immediately upon your receipt of this letter.” *See id.*

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

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

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

27 Finally, I remind you of the... confidentiality provisions which govern
28 attorney-client relations and that you not disclose to any employee, officer,

1 or official of the Tribe or any subdivision, agency, or enterprise of the Tribe
2 regarding any matter that was the subject of your engagement.

3 *See* Ex. 4.

4 101. Nevertheless, the June 26th letter then concludes by explaining that Williams
5 & Cochrane should “direct all communications regarding this matter to Robert A. Ro-
6 sette” and promptly provide him with a copy of Quechan’s case file – the very “confiden-
7 tial” materials that no one else within the tribe was supposedly allowed to see. *See* Ex. 4.

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

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

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

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

1 Ms. Williams,

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

8 Thank you,

9 Cecilia Guevara Zamora
10 Rosette, LLP

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

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

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

1 timely consideration of the Tribe’s Gaming Compact.” *See* Ex. 5.

2 108. Much like the prior June 26th letter, this second June 30th letter was not with-
3 out its own threats based on misrepresentations (*i.e.*, “Should you continue your obstruc-
4 tion of the Tribe’s interests, the Tribe will be left with no other choice than to pursue the
5 legal remedies available to it. We trust that the Firm will see the wisdom in promptly
6 complying with these demands.”) and hyperbolic if not slanderous accusations (“Through
7 its decades of dealings with numerous attorneys and law firms across the country, the
8 Tribe has not witnessed these types of outlandish actions or this level of unprofessional-
9 ism as it has from your Firm.”).

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

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

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

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

11 See Ex. 41 at Recitals & § 4.8.

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

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

28 115. After two months of eleventh-hour negotiations on this issue, the State of Cal-

1 ifornia relented a bit and let the tribe pay back roughly half of the amount it had failed to
2 pay under the 2007 Amendment from July 2016 onward (*i.e.*, \$2 million), which the State
3 memorialized by inserting the following entirely new language into the compact:

4 [T]he Tribe agrees to satisfy its outstanding payment obligations to the State
5 under the 2006 Amendment, which obligations are ongoing and total
6 approximately four million dollars (\$4,000,000), exclusive of interest, as of
7 the execution date of this Compact, by making a reduced total payment of
8 two million dollars (\$2,000,000) to the State. The Tribe shall remit the
payment required by this section over a period not to exceed six years by
paying four (4) equal quarterly installments...

9 *See* Ex. 42 at § 4.8.

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

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

16 **A. Background on Robert Rosette**

17 117. Robert Rosette is an Indian law attorney who, according to public records, has
18 a history of representing individual persons or factions within tribes while purporting to
19 represent the tribe itself, particularly when a tribe is fighting for control of sometimes
20 massive amounts of gaming revenues. For example, Robert Rosette and his firm Rosette,
21 LLP represented some “faction” of the Alturas tribe, who had over \$2 million in Revenue
22 Sharing Trust Funds (“RSTF”) frozen on account of a leadership dispute that has spanned
23 more than seven years and frayed government-to-government relations with the United
24 States. *See Alturas Indian Rancheria v. Calif. Gambling Control Comm’n*, No. 11-02070,
25 Dkt. No. 9 (E.D. Cal. Aug. 9, 2011). Similarly, according to numerous adverse federal
26 court opinions, Robert Rosette and his firm have represented a four-person faction of a
27 supposedly five-member tribe known as the California Valley Miwok Tribe, the quartet
28 of which tried to disenroll the other member and block the enrollment of upwards of two

1 hundred and fifty Indians as they fight to get the CGCC to release over \$15.0 million in
2 frozen RSTF funds to themselves alone. *See, e.g., Calif. Valley Miwok Tribe v. Jewell*, 5
3 F. Supp. 3d 86 (D.D.C. 2013); California Gambling Control Commission, *Revenue*
4 *Sharing Trust Fund Report (RSTF) of Distribution of Funds to Eligible Recipient Indian*
5 *Tribes for the Quarter Ended December 31, 2017* at p. 12, available at [http://www.cgcc.](http://www.cgcc.ca.gov/documents/rstfi/2017/14_RSTF_Distrib_65th_CommStaffReport.pdf)
6 [ca.gov/documents/rstfi/2017/14_RSTF_](http://www.cgcc.ca.gov/documents/rstfi/2017/14_RSTF_Distrib_65th_CommStaffReport.pdf)
7 [Distrib_65th_CommStaffReport.pdf](http://www.cgcc.ca.gov/documents/rstfi/2017/14_RSTF_Distrib_65th_CommStaffReport.pdf) (last visited
8 Jan. 26, 2018) (detailing the total amount of frozen RSTF funds).

9 118. These intra-tribal battles over accessing withheld revenue sharing allocations
10 pale in comparison to the fights that have erupted at tribes with immensely profitable
11 casino operations that have Robert Rosette lurking around in some capacity. As to that, a
12 Fresno Bee article from 2012 indicates that Robert Rosette represented some part of the
13 Tribal Council for the Picayune Rancheria of Chukchansi Indians – the tribe that operates
14 the 1,800-machine Chukchansi Gold Resort & Casino that is situated between Fresno and
15 Yosemite. *See Chukchansi fight partly over disenrollments*, Fresno Bee, Feb. 26, 2012.
16 According to the Fresno Bee, after the Tribal Council represented by Robert Rosette lost
17 a majority of seats at a December 2011 election, it held on to power by disqualifying one
18 of the election winners and then disenrolling large numbers of tribal members. *Id.* Other
19 news reports indicate that tribal members were concerned that the Tribal Council repre-
20 sented by Robert Rosette was misappropriating casino revenues and failing to file audits
21 with the National Indian Gaming Commission (which threatened to shut down the casino
22 because of this), and this led a group of twenty tribal members armed with bullet-proof
23 vests and guns to storm the casino in an attempt to take over the facility. *See, e.g.,*
24 *Gunmen storm Chukchansi Gold Resort & Casino in Madera County*, KFSN-TV, Oct. 9,
25 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/)
26 [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-
27 junctive relief in federal court to shut down the Chukchansi Gold Resort & Casino in a
28 suit in which Robert Rosette and a slew of other attorneys purported to represent the
tribe. *See California v. Picayune Rancheria of Chukchansi Indians of Cal.*, 2014 U.S.

1 Dist. LEXIS 153737 (E.D. Cal. 2014). As a result, the tribe’s casino was shuttered from
2 roughly October 10, 2014 to December 31, 2015. *See Chukchansi resort and casino holds*
3 *grand opening ceremony Friday*, FRESNO BEE, Jan. 14, 2016, available at <http://www.fresnobee.com/news/local/article54783505.html> (last visited July 3, 2017). An attorney
4 employed by Rosette, LLP who still appears on the firm website indicated to the Fresno
5 Bee shortly after the district judge issued its initial temporary restraining order that the
6 Chukchansi Gold Resort & Casino generated more than \$100,000,000 a year in net win
7 (see *Chukchansi casino hearing one for the history books*, FRESNO BEE, Oct. 15, 2014,
8 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)
9 [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
10 likely cost the tribe at least \$120,000,000 in revenues. Nevertheless, the disenrollments
11 reignited just months after Picayune was able to convince the federal and state regulatory
12 authorities to allow the casino to reopen. *See Chukchansi starting disenrollment for some*
13 *founding families’ members*, FRESNO BEE, July 30, 2016, available at [http://www.fresno](http://www.fresnobee.com/news/local/article92839572.html)
14 [bee.com/news/local/article92839572.html](http://www.fresnobee.com/news/local/article92839572.html) (last visited July 3, 2017).

15
16 119. A situation like the one at Picayune should be unique in the annals of Indian
17 gaming, but a similar event happened almost contemporaneously at another tribe that
18 Robert Rosette claimed to represent. According to a special agent with the California
19 Bureau of Narcotic Enforcement named Eric Linch, two factions were vying for control
20 of the Paskenta Band of Nomlaki Indians, the tribe that operates the 840-machine Rolling
21 Hills casino located just off Interstate 5 due west of Chico, California. *See California v.*
22 *Paskenta Band of Nomlaki Indians*, No. 14-01449, Dkt. No. 3-4, ¶ 4 (E.D. Cal. June 17,
23 2014) (“*Paskenta*”). According to Special Agent Linch, a “significant number of Pasken-
24 ta tribal members recently were disenrolled from the Tribe, including a majority of the
25 Paskenta tribal council.” *Id.* As a result of the action, “there was a new majority on the
26 tribal council, the new majority was in charge of operating the Casino, and the disen-
27 rolled members of the tribal council were escorted off tribal property.” *Id.* at ¶ 5. The
28 attorney for the “faction” responsible for allegedly wresting control of the Tribal Council

1 and instituting these disenrollments was none other than Robert Rosette, who defiantly
2 explained to the San Jose Mercury News that the “tribe followed proper procedure when
3 removing the members.” *Northern California tribe in tense dispute over roll removal,*
4 *casino*, SAN JOSE MERCURY NEWS, June 11, 2014, available at <http://www.mercurynews.com/2014/06/11/northern-california-tribe-in-tense-dispute-over-roll-removal-casino/> (last
5 visited July 3, 2017). Nevertheless, the disenrollments spurred those affected to “plan to
6 conduct a hostile takeover of the Casino” using at least “two helicopters” before fifty
7 members of this group ultimately settled upon engaging in a “hand gun[], pepper spray,
8 and baton[]”-laden armed standoff outside the casino with an equal number of agents for
9 the other faction. *Id.* at ¶¶ 7-14. While the State of California refrained from shutting
10 down the casino in this instance, it did have to obtain injunctive relief in federal court to
11 prevent tribal members or armed personnel in their employ from bringing fire-arms with-
12 in one hundred yards of the Rolling Hills Casino. *See Paskenta*, No. 14-01449, Dkt Nos.
13 18 & 30 (E.D. Cal. Jun. 18, 2014 & July 7, 2014) (orders granting injunctive relief).

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

26 121. Claims of improper billing practices by Robert Rosette continued after the
27 Twenty-Nine Palms incident. For example, on April 21, 2011, the Havasupai tribe sent a
28 letter to Robert Rosette to inform him that his firm had “submitted invoices without sup-

1 porting documents” and “the Tribal Council ha[d] passed a motion to initiate an invest-
 2 igation of your firm’s business with us.” The Havasupai Tribal Council indicated that
 3 Robert Rosette’s firm was “instructed not to conduct any more work or act on our behalf”
 4 and to expect “no further payment” until “the investigation [was] completed.”

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

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

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

27 124. Despite these allegations of questionable representations and dubious contract
 28 breaches, Robert Rosette actually started out providing legal representation to Pauma in a

1 forthright manner. One requirement of Pauma’s now rescinded 2004 Amendment was
2 that the tribe commence negotiations with San Diego County for an intergovernmental
3 agreement (“MOU”) before beginning construction on any gaming-related project in
4 order “to [provide] compensation for[:] law enforcement, fire protection, emergency
5 medical services and any other public services to be provided by the County to the
6 Tribe... as a consequence of the Project,” a gambling addiction program, and the general
7 mitigation of any adverse “effect on public safety attributable to the Project.”

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

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

22 127. Approximately three to four months before this presentation, during February
23 and March 2010, Robert Rosette hired two attorneys by the names of Cheryl Williams
24 and Kevin Cochran in anticipation of litigating the *Pauma* case – with Ms. Williams
25 coming from the class action law firm of Milberg LLP and Mr. Cochran having worked
26 for an inter-tribal circuit-style court that served upwards of twenty tribes in the Southern
27 California area, including Pauma. As to that, Robert Rosette testified during his October
28 26, 2010 deposition in the *Pauma v. Harrah’s* case about his lack of litigation experience

1 and consequent habit of simply delegating this work wholesale to subordinate attorneys:

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

4 A. From time to time I either assigned litigation to attorneys who have a
5 knack for doing that. You know, very rarely I'll make the court appearances
6 or head the litigation. I try to stay out of court. I like to – I like the business
7 transactions and I like to try to keep my clients out of litigation, but, you
8 know, sometimes you can't avoid it.

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

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

16 Q. Just generally, what were the tribes?

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

21 Q. Who is that on behalf of?

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

24 Q. What year was that?

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

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

33 Q. Now, in terms of the litigation, the drafting and filing of the complaint
34 and the arguing, did you do all that yourself up to the time you were

1 removed from the case?

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

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

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

9 Q. Who argued that case from your firm?

10 A. Cheryl Williams.

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

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

1 time the fee escalated up to that point.

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

12 132. Meanwhile in the *Pauma* suit, the departure of Cheryl Williams and Kevin
13 Cochrane from Rosette & Associates meant that Robert Rosette and his firm were first
14 tasked with opposing a motion for stay by the State of California that asked the Ninth
15 Circuit to halt the injunction order for the duration of the interlocutory appeal – a motion
16 that the Ninth Circuit would soon thereafter grant. *See Pauma*, No. 10-55713, Dkt. Nos.
17 15 & 39 (9th Cir. June 11, 2010 & July 28, 2010).

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

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

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

25 135. From thereon, Williams & Cochrane singlehandedly litigated the *Pauma* case
26 for the next six-plus years, ultimately convincing Judge Bencivengo to rescind the 2004
27 Amendment and retribute \$36.2 million in heightened revenue sharing payments on ac-
28 count of a misrepresentation claim that Williams & Cochrane added to the complaint on

1 September 9, 2011 – a full fifteen months *after* Robert Rosette was terminated from the
2 case. *See Pauma*, No. 09-01955, Dkt. No. 130, pp. 54-58 (S.D. Cal. Sept. 9, 2011).

3 136. An utter lack of involvement in the case has, nevertheless, not stopped Robert
4 Rosette for taking credit for the outcome in the *Pauma* litigation for four years now, as
5 his website (and, admittedly, numerous other promotional materials) advertises that “Mr.
6 Rosette also successfully litigated a case saving the Pauma Band of Luiseno Mission
7 Indians over \$100 Million in Compact payments allegedly owed to the State of California
8 against then Governor Schwarzenegger.” *See Exs. 6, 7*.

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

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

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

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

26 140. Before his termination, on April 29, 2010, Robert Rosette wrote an opinion
27 letter that was not shared with any other attorneys in his firm working on *Pauma*’s com-
28 pact litigation in which he opined that the injunction savings “could... be distributed to

1 Pauma’s Tribal Government” even though the General Council had made no such direc-
2 tive.²¹ After his ouster, Robert Rosette transmitted a June 23, 2010 letter to Pauma’s then-
3 Chairman Christobal Devers in which he acknowledged his termination from the compact
4 litigation, claimed the Williams & Cochrane attorneys were “seek[ing] to have their self-
5 ish concerns take precedent [sic] over the best interests of the Tribe” by urging caution
6 with the injunction savings in light of the substandard opposition brief Mr. Rosette filed
7 before his termination, and stated that “[p]erhaps their issuance of a Legal Opinion allow-
8 ing the tribe to distribute [the reserved] funds to the General Council will demonstrate the
9 contrary.” Based on information and belief, Williams & Cochrane believes that Robert
10 Rosette was trying to get the injunction savings freed up for his own personal gain, not
11 for the benefit of the Pauma General Council.

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

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

23 143. However, before this happened, Cheryl Williams and Kevin Cochrane met
24 with the Pauma Tribal Council on Friday, August 6, 2010, during which then-Chairman
25 Devers indicated that he would never pay Williams & Cochrane under their contract and
26 suggested that the two attorneys walk away from the representation altogether or he

27 ²¹ A true and correct copy of the June 23, 2010 letter from Robert Rosette to
28 Christobal Devers, then-Chairman of Pauma, is attached hereto as **Exhibit 21**.

1 would “ruin [their] reputation in Indian Country” – an abnormal statement that is nearly
2 verbatim to the one contained in the June 26th letter from putative Quechan President
3 Keeny Escalanti that was actually written by Robert Rosette or an attorney in his employ.

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

9 **D. Rosette’s Tortious Interference at La Pena Law**

10 145. The aforesaid efforts by Robert Rosette to sever Williams & Cochrane’s
11 contractual relationship with Pauma coincided with attempts to do the same elsewhere.

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

18 147. The Shingle Springs Rancheria experienced a somewhat similar compact fate
19 as Pauma, in that the CGCC told the tribe that it would have to execute an amendment in
20 order to obtain licenses that should have been available under the 1999 Compact. Shingle
21 Springs did this and entered into an amendment with the State of California on June 30,
22 2008 that allowed it to increase its machine count in exchange for base annual payments
23 of a staggering 20% of net win into the General Fund plus \$4,600,000 into the RSTF. *See*
24 *California Gambling Control Commission, Amendment to the Tribal-State Gaming*
25 *Compact between the State of California and the Shingle Springs Band of Miwok Indians*
26 *§§ 4.3.1 & 4.3.2.2, available at [http://www.cgcc.ca.gov/documents/compacts/amended_](http://www.cgcc.ca.gov/documents/compacts/amended_compacts/Shingle_Springs_Compact.pdf)*
27 *compacts/Shingle_Springs_Compact.pdf* (last visited July 4, 2017).

28 148. Knowing that Michelle La Pena served in a general-counsel-like capacity for

1 these tribes and was not an experienced litigator, Kevin Cochrane met with Ms. La Pena
2 at her offices during the second half of July 2010 to discuss whether their firms could
3 work together to solve Shingle Springs' compact issue.

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

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

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

24 152. Based on information and belief, Williams & Cochrane believes that Michelle
25 La Pena spoke with Robert Rosette while vetting Kevin Cochrane and Williams & Coch-
26 rane at some point between Thursday, August 12, 2010 and the morning of Sunday, Aug-

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 ust 15, 2010, and was told by Mr. Rosette that the attorneys of Williams & Cochrane had
2 “stole” his client and would invariably “steal” her clients as well.

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

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

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

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

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

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

1 157. At the time, Williams & Cochrane had no idea how this meeting was set up,
2 and the State of California was neither willing to disclose that information nor cancel the
3 August 18th settlement meeting. In light of this situation, Williams & Cochrane filed a
4 motion for protective order on August 15, 2011, asking the district court to direct the
5 State’s negotiator (who was a private attorney and not a public official) to communicate
6 through proper channels when dealing with matters related to Pauma’s compact or the
7 pending litigation. *See Pauma*, No. 09-01955, Dkt. No. 118 (S.D. Cal. Aug. 15, 2011).

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

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

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

28 161. A mere ten minutes later, and before Jacob Appelsmith could respond, Robert

1 Rosette sent a follow-up e-mail to Mr. Appelsmith, explaining that his firm was “not en-
2 gaged as legal counsel on the litigation,” Pauma had not hired him to do the work, but he
3 nevertheless wanted to set up a settlement process that would not involve the tribe’s
4 attorneys of record but would involve him after an initial meeting between the parties:

5 Jacob,

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

12 Thanks,

13 - Rob.

14 *See Ex. 1.*

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

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

22 *See Ex. 1.*

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

28 164. As to that, on August 23, 2011, Robert Rosette sent an e-mail that was adres-
sed to the Pauma Tribal Council as a whole but excluded the tribe’s then-Chairman Ran-

1 dall Majel from the recipient list.²⁴ The purpose of the e-mail was to transmit two pre-
 2 prepared letters that Robert Rosette wanted a Pauma Tribal Councilmember to sign that
 3 day. The first letter was prepared for the signature of Pauma's then-Secretary/Treasurer
 4 by Robert Rosette, explaining that Mr. Rosette's actions were appropriately authorized
 5 and that the tribe would "not hold [Mr. Rosette's] firm liable for any unauthorized actions
 6 with the State of California, because no such actions were taken."²⁵ In pertinent part, this
 7 letter drafted by Robert Rosette for the benefit of Robert Rosette states:

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

17 See Ex. 36.

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

24 166. Based on information and belief, Williams & Cochrane believes that Pauma's

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

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 then-Secretary/Treasurer would not sign the two letters prepared by Robert Rosette that
2 sought to absolve Mr. Rosette of any wrongdoing, which in turn led Mr. Rosette to pres-
3 sure Pauma’s then-Chairman Randall Majel (whom he had omitted from the earlier com-
4 munications) telephonically *over the course of the next twenty days* to sign a watered-
5 down version of the initial letter.

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

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

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

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

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

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

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

24 171. [REDACTED]
25 [REDACTED]
26 [REDACTED]

27 172. With that overture going nowhere, Robert Rosette changed tactics and began
28 covertly working for the new general manager of the tribe’s subordinate gaming facility –

1 with whom Mr. Rosette has a preexisting relationship – through a “straw man” attorney
2 so the Pauma Tribal Council and General Council would be none the wiser. As time pass-
3 ed and his presence went undetected by the decision-making bodies at Pauma, Robert Ro-
4 sette persuaded the general manager of the casino to hire a new chief financial officer by
5 the name of Flint Richardson – an individual who served in the same position for Robert
6 Rosette’s law firm Rosette & Associates from at least 2009 to 2011. On information and
7 belief, the attorneys with Williams & Cochrane believe that Robert Rosette tried to get
8 Flint Richardson to oversee the finances at Pauma’s casino so he could *finally* access the
9 remaining monies resulting from the tribe’s compact suit against the State of California.

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

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

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

1 pseudonym for Cheryl Williams – as the author in the document properties.

2 176. When Robert Rosette ran out of sealed documents to disseminate, he simply
3 changed his strategy to try and tarnish the reputation of the firm by abusing the court
4 processes. As to that, Robert Rosette has a long and sordid professional relationship with
5 WilmerHale, one that involves them being co-counsel in the California Valley Miwok
6 Tribe faction dispute that pits their desire for tens of millions in frozen RSTF funds
7 against the needs of hundreds of displaced Indians who have been denied membership in
8 the tribe. *See Cal. Valley Miwok Tribe v. Jewell*, No. 16-01345, Dkt. No. 33-1, p. 167
9 (E.D. Cal. Sept. 9, 2016) (listing Rosette, LLP and WilmerHale as counsel for the Burley
10 faction). In this case, after the issuance of the order on the motions to dismiss, Robert
11 Rosette and the attorneys at WilmerHale – who are *not* his counsel – developed a strategy
12 to file a premature answer on behalf of Quechan containing a slew frivolous cross-claims
13 alleging the attorneys of Williams & Cochrane violated their ethical duties in connection
14 with their representation of the tribe. WilmerHale ultimately filed this answer on June 21,
15 2018 (*see* Dkt. No. 94), after which the firm and Robert Rosette carried out the rest of
16 their plan by disseminating this answer around Pauma along with the message that the
17 *allegations* of unethical contained therein are *proof positive* of unethical behavior.

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

25 178. Thus, a firm that less than two years ago was responsible for securing for a
26 tribe the largest monetary judgment ever awarded under IGRA is now under threat of
27 being terminated by said tribe. Even if this special meeting does not result in termination,
28 the actions by Robert Rosette and WilmerHale have so tainted the waters at Pauma that

1 Williams & Cochrane’s relationship with the tribe is likely irreparably damaged, and one
2 that is now unlikely to continue long term.

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

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

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

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

- 14 a. Golden Valley Lending (Habematolel Pomo of Upper Lake)
- 15 b. Mountain Summit Financial (Habematolel Pomo of Upper Lake)
- 16 c. Silver Cloud Financial (Habematolel Pomo of Upper Lake)
- 17 d. Arrow One Lending (Iipay Nation of Santa Ysabel)
- 18 e. Sierra Lending (Iipay Nation of Santa Ysabel)
- 19 f. Tall Grass Finance (Iipay Nation of Santa Ysabel)
- 20 g. 123 Wages (Kashia Band of Pomo Indians)
- 21 h. ABC Wages (Kashia Band of Pomo Indians)
- 22 i. Geyser Lending (Kashia Band of Pomo Indians)
- 23 j. InboxLoan (Kashia Band of Pomo Indians)
- 24 k. netPDL (Kashia Band of Pomo Indians)
- 25 l. Oxford Funding (Kashia Band of Pomo Indians)
- 26 m. PDLNow (Kashia Band of Pomo Indians)
- 27 n. PDY Services (Kashia Band of Pomo Indians)
- 28 o. QXL Online (Kashia Band of Pomo Indians)

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

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

28 183. Once Willie White secured a seat upon the Quechan Tribal Council in March

1 2017, Robert Rosette used this prior relationship to, admittedly, meet with Mr. White and
2 putative Quechan Chairman Keeny Escalanti on June 16, 2017 to discuss compact mat-
3 ters – just two weeks before the California compact negotiations were set to conclude and
4 after point-persons for both the Tribal Council and casino told Cheryl Williams that the
5 Tribal Council intended to abide by the General Council’s directive and execute whatever
6 compact Williams & Cochrane negotiated by the end of June. *See* Dkt. No. 52-2, ¶ 19.

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

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

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

27 187. Nevertheless, Robert Rosette told Mr. White and Mr. Escalanti that he would
28 take over representing Quechan in this high-stakes matter about which he was completely

1 ignorant – along with compact negotiations in the State of Arizona – for the bargain base-
2 ment rate of \$10,000 per month. See Dkt. No. 54-2, Ex. 2. To assuage some very real
3 concerns on the part of the putative Tribal Councilmembers about acting in a rogue man-
4 ner,²⁷ Robert Rosette explained that he would try and deter Williams & Cochrane from
5 telling anyone else in the tribe about the interference in the California compact negotia-
6 tions in the termination letter he would draft, further assuring the two putative Quechan
7 Tribal Councilmembers that he could prepare and backdate a seemingly-authentic resolu-
8 tion regarding his hiring once the coast was clear.

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

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

24 190. In the hopes of ensuring that the attorneys heeded this warning, the June 26,

25 _____
26 ²⁷ A true and correct copy of the “Constitution and By-Laws of the Quechan Tribe
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 2017 termination letter went one step further and warned the attorneys of Williams &
 2 Cochrane that, “[w]e strongly advise you against pressing your luck further out of con-
 3 cern for your reputation of your firm in Indian Country and in the State of California.”
 4 Ex. 4. Since the service of the complaint in this case, Robert Rosette and the two putative
 5 Quechan Tribal Councilmembers have gone to extraordinary lengths to ruin these reputa-
 6 tions, ultimately convincing Senior Advisor Joe Dhillon to file an acrimonious declara-
 7 tion in a dispute between two third parties and Pauma to hold a special meeting regarding
 8 the employment status of Williams & Cochrane.

9 **H. The Rosette Tribal Council’s Subsequent Largescale Financial Fraud**

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

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

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

26 [Shifting again to talk from his perspective] Since when did these questions

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 become the litmus test for determining whether you are the arm of a tribe?
2 ... It has never been about how much a tribe makes nor should it be. If a
3 tribe starts a business or pursues an opportunity in this new economy, and
4 they're good at it and make money, you don't look at how much they make
5 versus everyone else, you look at the decision making of the tribe that put
6 them in the position to make that profit. ...

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

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

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

1 *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)*
2 *Services-Regulatory-Code.pdf* (last visited Feb. 21, 2018).

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

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

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

24 198. What this means is that putative Quechan President Keeny Escalanti has flatly
25 refused to comply with the “Tribal Revenue Allocation Plan” that the tribe enacted under
26 IGRA, which explains that 40% of the revenues that the casinos sends to the tribe each

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 month shall go to the general membership in the form of per capita payments. As a consequence, approximately 2,565 adult members of Quechan and 1,172 minors have lost
2 out on the requisite per capita payments and payments into trust accounts, respectively,
3 for at least the seventeen month period extending from April 2017 through July 2018. Put
4 differently, that is upwards of 63,529 missed financial distributions to the tribal members.
5

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

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

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

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

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

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

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

FIRST CLAIM FOR RELIEF

[Breach of Contract]

[By Williams & Cochrane and Against Quechan]

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**.

1 205. Williams & Cochrane incorporates by reference the preceding general allega-
2 tions as if set forth in full.

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

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

1 will be determined on the basis of a list of factors that first looks at “[t]he amount of the
2 fee in proportion to the value of the services performed.”

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

9 209. Yet, just three days before Quechan was tentatively set to sign the final
10 compact, putative President Keeny Escalanti caused a letter to be e-mailed to Williams &
11 Cochrane in which he stated that the firm had been terminated and the tribe would “not
12 pay any contingency fee or ‘reasonable fee for the legal services provided in lieu’
13 thereof” as required by the terms of the Attorney-Client Fee Agreement. Between this
14 and a second letter dated June 30, 2017, putative Quechan President Keeny Escalanti
15 directed Williams & Cochrane to turn over the final draft of the compact to an attorney
16 by the name of Robert Rosette so he could wind up the negotiations and have the tribe
17 sign the compact Williams & Cochrane had negotiated without delay. To make it
18 abundantly clear that Quechan would not pay any contingency or substitute fee under the
19 Attorney-Client Fee Agreement, putative Quechan President included a threat in his June
20 26th termination letter, telling Williams & Cochrane that he “strongly advise[s] you
21 against pressing your luck further out of concern for the reputation of your firm in Indian
22 Country and in the State of California.”

23 210. In addition to violating the express terms of the Attorney-Client Fee
24 Agreement, putative Quechan President Keeny Escalanti also breached an implied in fact
25 agreement that stands on “equal footing” with the express terms of the agreement, which
26 ensured that the tribe would not terminate the firm during the conclusion of the time-
27 sensitive negotiations. This implied in fact agreement is evidenced, in part, by the course
28 of conduct between the parties, as the point persons for both the Tribal Council and the

1 Quechan Casino Resort told Cheryl Williams in the weeks leading up to the transmission
2 of putative President Keeny Escalanti's June 26th termination letter [REDACTED]

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

12 **SECOND CLAIM FOR RELIEF**

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

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

15 212. Williams & Cochrane incorporates by reference the preceding general allega-
16 tions as if set forth in full.

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

1 ple means, *inter alia*, that “where a contract confers on one party a discretionary power
2 affecting the rights of the other, a duty is imposed to exercise that discretion in good faith
3 and in accordance with fair dealing.” *Okun v. Morton*, 203 Cal. App. 3d 805, 820 (2d
4 Dist. 1988) (quoting *Cal. Lettuce Growers v. Union Sugar Co.*, 45 Cal. 2d 474 (1955)).

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

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

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

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

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

9 **THIRD CLAIM FOR RELIEF**

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

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

14 218. Williams & Cochrane incorporates by reference the preceding general allega-
15 tions as if set forth in full.

16 219. The Lanham Act provides in relevant part that:

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

20 [...]

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

25 15 U.S.C. § 1125(a). Thus, a claim for false advertising under the Lanham Act requires a
26 plaintiff to show five things akin to: “(1) a false statement of fact by the defendant in a
27 commercial advertisement about its own or another’s product; (2) the statement actually
28 deceived or has the tendency to deceive a substantial segment of its audience; (3) the
deception is material, in that it is likely to influence the purchasing decision; (4) the
defendant caused its false statement to enter interstate commerce; and (5) the plaintiff has

1 been or is likely to be injured as a result of the false statement, either by direct diversion
2 of sales from itself to defendant or by a lessening of the goodwill associated with its
3 products.” *Skydive Ariz., Inc. v. Quattrocchi*, 673 F.3d 1105, 1110 (9th Cir. 2012).

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

25 221. This website advertisement by Robert Rosette about his involvement in the
26 Pauma litigation (which, he admits, is also part of his promotional materials) appears to
27 have actually deceived Quechan President Keeny Escalanti and putative Councilmember
28 Willie White, as they concocted a scheme to have Mr. Rosette (*i.e.*, the one other attorney

1 who was supposedly responsible for litigating the case on which their dispute was, in
2 part, based) replace Williams & Cochrane right on the cusp of the negotiations conclud-
3 ing. Moreover, this advertisement would also deceive most other tribal leaders not affili-
4 ated with Pauma in the normal course because the attorney information for the *Pauma*
5 suit is largely hidden behind the paywalls for the federally-run PACER site, and Robert
6 Rosette is capable of producing early court filings to substantiate his supposed claim
7 given that his firm represented Pauma for nine months at the outset of the case, from the
8 filing of the complaint on September 4, 2009 to approximately June 13, 2010.

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

11 223. The abovenamed Rosette defendants' violation of the Lanham Act has caused
12 Williams & Cochrane to suffer contract damages and injuries totaling at least
13 \$6,345,399.97, which the district judge or a jury can resolve in accordance with the
14 Prayer for Relief, *infra*.

15 **FOURTH CLAIM FOR RELIEF**

16 **[Violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. §**
17 **1961 *et seq.*)]**

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

20 224. Williams & Cochrane incorporates by reference the preceding general allega-
21 tions as if set forth in full.

22 225. A *prima facie* RICO case requires that the plaintiff show “(1) conduct (2) of
23 an enterprise (3) through a pattern (4) of racketeering activity.” *Avalos v. Baca*, 596 F.3d
24 583, 592 (9th Cir. 2010) (citing *Miller v. Yokohama Tire Corp.*, 358 F.3d 616, 620 (9th
25 Cir. 2004)). A “pattern” of racketeering activity requires proof of “at least two [predicate]
26 acts of racketeering activity” within ten years of each other. *See* 18 U.S.C. § 1961(5). A
27 predicate act of racketeering activity is defined as any act indictable under specified
28 provisions of Title 18 of the United States Code, “and includes the predicate acts of mail

1 [and] wire fraud.” *Cochran Firm P.C. v. McMurray*, 2014 U.S. Dist. LEXIS 194663, *17
 2 (C.D. Cal. 2014) (quoting *Turner v. Cook*, 362 F.3d 1219, 1229 (9th Cir. 2004)). In
 3 passing RICO, Congress mandated that “the provisions of this title shall be liberally con-
 4 strued to effectuate its remedial purposes.” See Organized Crime Control Act of 1970,
 5 Pub. L. No. 91-452, § 904(a), 84 Stat. 947 (1970).

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

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

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

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

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

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

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

27 (e) Countless times since March 18, 2013, to disseminate promotional materials to
 28 actual and prospective clients in the admitted "ordinary course of business" that

- 1 contain identical representations that Mr. Rosette "successfully litigated a case
2 saving the Pauma Band of Luiseno Mission over \$100 Million in Compact pay-
3 ments allegedly owed to the State of California" (*see* ¶ 182);
- 4 (f) On or about June 16, 2017, to disseminate or arrange to disseminate these pro-
5 motional materials to putative Quechan President Keeny Escalanti and putative
6 Councilmember Willie White for the June 16, 2017 meeting (*see* ¶ 183);
- 7 (g) On or about June 27, 2017, to arrange to transmit the letter purportedly termin-
8 ating the Attorney-Client Fee Agreement even though Rosette, LLP did not of-
9 ficially represent Quechan at that point (*see* ¶¶ 95, 185);
- 10 (h) On or about December 2016, to try to interfere with Williams & Cochrane's
11 contract with Pauma by working through a "strawman" attorney for the tribe's
12 subordinate gaming facility (*see* ¶ 170);
- 13 (i) On or about April 18, 2018, to intentionally disseminate sealed documents in
14 this case to the general manager of Pauma's gaming facility while erroneously
15 claiming to this Court it was an inadvertent disclosure (*see* ¶ 172);
- 16 (j) On or about April 18, 2018, to intentionally disseminate sealed documents in
17 this case to a Pauma tribal member who is related to putative Quechan President
18 Keeny Escalanti while omitting this disclosure from its Court filing (*see* ¶ 173);
- 19 (k) On or about June 7, 2018, to arrange to have the attorney representing Quechan,
20 WilmerHale, file a premature answer for the real purpose of disseminating the
21 document around Pauma as supposed proof that the attorneys with Williams &
22 Cochrane engaged in unethical conduct (*see* ¶ 174); and
- 23 (l) On or about June 21, 2018, to intentionally disseminate the answer in this case
24 to a Pauma tribal member who is related to putative Quechan President Keeny
25 Escalanti along with the deceitful message that the allegations therein are proof
26 positive of unethical conduct (*see* ¶ 175).

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

- 28 (a) On or about July 26, 2011, to e-mail the State's negotiator to erroneously claim

1 the Pauma Tribal Council desired a meeting to discuss its compact when he was
2 not even retained on the matter (*see* ¶ 156);

3 (b) On or about July 27, 2011, to e-mail the State’s negotiator to erroneously claim
4 that Pauma wanted “to meet without their attorneys present... with the goal of
5 settling the pending lawsuit” when he was not even retained on the matter (*see*
6 ¶ 158);

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

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

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

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

20 **FIFTH CLAIM FOR RELIEF**

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

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

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

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 tions as if set forth in full.

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

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

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

- 20 (a) On April 20, 2017, to altogether cut off per capita and minor trust account
21 payments to the general membership of Quechan despite having \$3,000,000 in
22 additional revenue (and now \$7,000,000) from not making revenue sharing
23 payments to the State of California from July 2016 onwards (*see* ¶¶ 194-95);
24 (b) On a regular basis from April 2017 to the filing date of the complaint, to with-
25 hold upwards of 63,529 financial distributions to the roughly 2,565 adult and
26 1,172 minor general members of Quechan (*see* ¶ 196);
27 (c) On or about April 18, 2017, to certify to the Arizona Department of Gaming
28 that Quechan was complying with its Tribal Revenue Allocation Plan by using

1 40% of the net gaming revenues for per capita payments when in reality it was
2 not (*see* ¶ 197);

3 (d) On or about May 2017, to make a similar certification to the National Indian
4 Gaming Commission that Quechan was complying with the percentages in its
5 Tribal Revenue Allocation Plan when in reality it was not (*see* ¶ 198);

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

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

12 (g) [REDACTED]
13 [REDACTED]
14 [REDACTED]; and

15 (h) [REDACTED]
16 [REDACTED]
17 [REDACTED].

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

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

26 **SIXTH CLAIM FOR RELIEF**

27 **[Negligence/Breach of Fiduciary Duty]**

28 **[By Named Quechan General Councilmembers on Behalf of Themselves and All**

1 in the niche field of compact negotiation and litigation, Williams & Cochrane is
 2 also able to effectively argue whether Robert Rosette met the appropriate standard
 3 of care in finishing the negotiations, and to deal with side issues that may come
 4 up during discovery of these matters. Plus, in addition to being competent to
 5 handle the representation, Williams & Cochrane intends to prosecute the action
 6 vigorously and has interests that align with, and are not antagonistic to the class.
 7 To that end, Williams & Cochrane will structure the case so as to protect the
 8 class' interests if any actual or perceived conflict exists; and

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

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

28 **240.** The admissions made in this case by Robert Rosette and his employees alone

1 paint a picture of extreme negligence. The firm of Rosette, LLP maintains promotional
2 materials that claim Robert Rosette litigated the Pauma case (*see* ¶ 182), and Mr. Rosette
3 used the claims in these advertisements to try and convince Quechan to change counsel
4 just two weeks before the negotiations were set to conclude. *See* ¶ 183. Yet, by his own
5 admission, Robert Rosette knew *nothing* about the status of Quechan’s compact negotia-
6 tions at the time he solicited the work (*see* ¶ 184), including all of the intricacies and ar-
7 guments in the prior *Pauma* case that helped convince the Office of the Governor to offer
8 what it branded a “truly unique” compact. *See* ¶ 90. Yet, without educating himself about
9 the *Pauma* matter or reaching out to the attorneys of Williams & Cochrane for assistance,
10 Robert Rosette dove in headlong and engendered a state of affairs where Quechan lost a
11 number of concessions at the last moment (*i.e.*, having to pay back \$2,000,000, losing a
12 four-year deferral on each tranche of the State’s minimum wage law for 1,000 employees
13 earning significantly less money). Not to mention, in his vitriolic haste, Robert Rosette
14 also orchestrated and carried out a total repudiation of the Attorney-Client Fee Agree-
15 ment that has exposed Quechan to a bad-faith breach claim, which he has tried to fix by
16 directing the tribe to hire a monolithic international law firm (with whom he as a sordid
17 preexisting relationship) that has already charged in excess of \$750,000 to conduct basic
18 pleading practice. *See* n.28. On top of all of this, the real motivation for Robert Rosette
19 was not the compact work, for which he claims he was only receiving \$10,000 per month
20 (*see* ¶ 185), but getting into a position of power so he and his Tribal Council confidantes
21 could abuse the finances of the tribe – a state of affairs that has come to pass with the
22 Quechan Tribal Council not making upwards of 63,529 financial distributions to the
23 2,565 adult and 1,172 minor general members of Quechan. *See* ¶ 196.

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

28 **SEVENTH CLAIM FOR RELIEF**

1 [Intentional Interference with Contract/Prospective Economic Advantage]
2 [By Williams & Cochrane and Against Robert Rosette; Rick Armstrong; Rosette &
3 Associates, PC; Rosette, LLP; Chris Casamassima; WilmerHale, LLP; and Does 1
4 through 100]

5 242. Williams & Cochrane incorporates by reference the preceding general allega-
6 tions as if set forth in full.

7 243. Intentional interference with contractual relationships has five elements and
8 requires (a) a valid contract between plaintiff and a third party; (b) defendant's knowl-
9 edge of the contract; (c) defendant's intentional acts designed to induce a breach or dis-
10 ruption of the contractual relationship; (d) actual breach or disruption of the contractual
11 relationship; and (e) resulting damage. See, e.g., *Pac. Gas & Elec. Co. v. Bear Stearns &*
12 *Co.*, 50 Cal. 3d 1118, 1126 (1990). A claim for intentional interference with prospective
13 economic advantage is almost identical save that it does not require an actual contractual
14 relationship, just some independently wrongful conduct. See, e.g., *Della Penna v. Toyota*
15 *Motor Sales, U.S.A.*, 11 Cal. 4th 376, 378 (1995).

16 244. Williams & Cochrane has or had contracts with Quechan and Pauma at all
17 times relevant to this claim.

18 245. In regards to Quechan, Robert Rosette admits in the declaration he previously
19 submitted with the Court that he learned that Williams & Cochrane was representing the
20 tribe in its compact negotiations with the State of California at a June 16, 2017 meeting
21 with putative Quechan President Keeny Escalanti and putative Councilmember Willie
22 White. See ¶ 185. Upon learning this information, Robert Rosette nevertheless solicited
23 taking over the California compact negotiation work using representations and promo-
24 tional materials he maintains in the ordinary course of business that erroneously claim he
25 is responsible for successfully litigating the *Pauma* lawsuit on which the Quechan work
26 was in part based. See ¶¶ 185, 187. Due at least in part on these false representations,
27 Robert Rosette caused a total repudiation of the Attorney-Client Fee Agreement just three
28 days before the anticipated conclusion of Quechan's compact negotiations with the State

1 of California, with the June 26, 2017 termination letter informing Williams & Cochrane
2 that “[t]he Tribe will not pay any contingency fee or ‘reasonable fee for the legal services
3 provided in lieu thereof.’” See ¶ 188.

4 246. As for Pauma, Robert Rosette and the attorneys with WilmerHale – who do
5 not have an attorney/client relationship, but do have a sordid preexisting co-counsel rela-
6 tionship (see ¶ 176) – have been targeting one of Williams & Cochrane’s clients for five
7 months now simply due to the firm filing this case. As to that, these two firms have work-
8 ed together to undo the sealing orders in this case, with the first step of that plan being
9 WilmerHale filing a declaration on behalf of the State’s compact negotiator Joe Dhillon
10 that publicly discloses all of the confidential negotiation materials Williams & Cochrane
11 transmitted to the State during the course of the negotiations. See Dkt. No. 50-4. Perhaps
12 thinking this action immunized any and all forthcoming disclosures, Robert Rosette and
13 the WilmerHale attorneys then began disseminating the pleading materials Williams &
14 Cochrane filed under seal – which still contained significant attorney/client privileged
15 and confidential information that had not been disclosed by Mr. Dhillon – to at least two
16 individuals affiliated with Pauma, including a tribal member who happens to be a relative
17 of putative Quechan President Keeny Escalanti. See ¶¶ 174-75. After Williams & Coch-
18 rane tried to call this Court’s attention to the devolving situation, these law firms then
19 worked together on filing a premature Answer containing a slew of punitive cross claims,
20 which they then relayed, or caused to be relayed, to Pauma tribal members with the mes-
21 sage that such claims are definitive proof that Williams & Cochrane acted in an unethical
22 manner in connection with its representation of Quechan. See ¶ 176. This course of action
23 has now resulted in Pauma scheduling an imminent meeting to discuss Williams & Coch-
24 rane’s employment future with the tribe. See ¶ 177.

25 247. The abovenamed Rosette and WilmerHale defendants’ intentional inter-
26 ference with Williams & Cochrane’s contractual and economic relationships with Pauma,
27 Quechan, and other tribes, as the case may be, has caused the firm to suffer damages and
28 injuries in an amount to be proven at trial, which the district judge or a jury can resolve in

1 accordance with the Prayer for Relief, *infra*.

2 **PRAYER FOR RELIEF**

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

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

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

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

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

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

16 6. That the Court award treble damages under the conspiracy to commit RICO
17 claim in an amount to be proven at trial against the indicated Rosette and putative-
18 Quechan-Councilmember defendants; ~~and~~.

19 7. That the Court award damages (including punitive damages) under the State-law
20 intentional interference claims in an amount proven at trial against the indicated Rosette
21 and WilmerHale defendants.

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

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

24 9. That the Court award damages in an amount to be proven at trial against the
25 indicated Rosette defendants for negligently representing Quechan in the California com-
26 pact negotiations and otherwise.

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

28 10. That the Court award pre- and post-judgment interest on any monetary awards

1 at the maximum rate or rates permitted under State law;

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

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

6 13. That the Court award such other and further legal or equitable relief as it deems
7 appropriate, as justice requires, or as the law allows.

8 RESPECTFULLY SUBMITTED this ~~20th~~23rd day of July, 2018

9
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