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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

**ACRES BONUSING, INC.**, a Nevada Corporation,  
and, **JAMES ACRES**, an individual,

Plaintiffs,

v.

**ARLA RAMSEY**, an individual and **THOMAS**  
**FRANK**, an individual

Defendants.

Case No.: 3:19-cv-05418

**FIRST AMENDED COMPLAINT FOR:**

- 1) WRONGFUL USE OF CIVIL PROCEEDINGS**
- 2) AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**
- 3) AIDING AND ABETTING CONSTRUCTIVE FRAUD**
- 4) RICO**

## INTRODUCTION

1. From January 2016 through July 2017, Blue Lake Rancheria (“Blue Lake”) and its confederates sued Acres Bonusing, Inc. (“ABI”) and James Acres (“Mr. Acres”), individually, within Blue Lake’s tribal court.<sup>1</sup> Blue Lake and its confederates sought ruinous judgments, within a court they controlled, before a judge they suborned, on conjured claims of fraud and breach of contract. Mr. Acres brought two federal lawsuits to enjoin Blue Lake from pursuing its meritless suit within its tribal court. As a consequence of that federal litigation, Blue Lake’s suborned Chief Judge Lester Marston was replaced with the Honorable Justice James Lambden (Ret.), from the California Court of Appeal. Mr. Acres filed a motion to dismiss the tribal action which, *sua sponte*, Justice Lambden transformed into a motion for summary judgement. Justice Lambden found “reasonable minds could come to only one conclusion,” and dismissed the case against Mr. Acres on the merits and with prejudice. ABI then demanded a bill of particulars from Blue Lake, whereupon Blue Lake immediately dismissed the case in its entirety and with prejudice.

## JURISDICTION, VENUE, RIPENESS, AND PARTY ALLEGATIONS

2. This Court has original jurisdiction over the eighth cause of action under 18 USC 1964(c), and supplemental jurisdiction over all other causes of action under 28 USC 1367.

3. Venue is proper in the Northern District of California as Judge Marston and several other defendants are resident here.

4. This case is related to *Acres v. Blue Lake I* (3:16-cv-02622-WHO) and *Acres v. Blue Lake II* (3:16-cv-05391) because it involves substantially the same parties and series of events as those two cases. Intradistrict assignment to the San Francisco Division is proper as assignment of the case to Judge Orrick under Civil L.R. 3-12 seems likely.

5. Several causes of action relate to the civil proceeding *Blue Lake v. ABI*. A true copy of the summons and complaint in *Blue Lake v. ABI* is attached as Exhibit 1. In July 2017 Justice Lambden issued an Order granting Mr. Acres summary judgment and dismissing him from *Blue Lake v. ABI*

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<sup>1</sup> *Blue Lake Casino & Hotel v. Acres Bonusing Inc., and James Acres*. Blue Lake Tribal Court Case No. C-15-1215JRL. Hereinafter referred to as “*Blue Lake v. ABI*.”

(“Justice Lambden’s Order”). A true copy of Justice Lambden’s Order is attached as Exhibit 2. On August 31, 2017, Justice Lambden issued a judgment of dismissal dismissing *Blue Lake v. ABI* in its entirety. A true copy of the judgment of dismissal in *Blue Lake v. ABI* is attached as Exhibit 3. Blue Lake tribal law requires any notice of appeal to be filed within thirty days, and no notice of appeal was ever filed or served on ABI. ABI’s claims for wrongful use of civil proceedings are therefore ripe, and the statute of limitations has not expired.

6. Several claims for relief relate to a breach of fiduciary duty by Judge Marston against ABI. Allegations of fact underpinning these claims describe conduct of a non-judicial nature extending until at least January 2017. A claim for breach of fiduciary duty is therefore still within the statute of limitations.

7. Plaintiff ABI is a Nevada Corporation.

8. Plaintiff Mr. Acres is, and at all times relevant was, an employee of ABI as well as its owner.

9. Blue Lake is a federally recognized Indian Tribe in Humboldt County, California, and is organized under the Constitution of the Blue Lake Rancheria. Blue Lake comprises approximately sixty members and approximately ninety acres of land. In each of 2015, 2016, and 2017 Blue Lake received over \$10,000.00 in federal grants.<sup>2</sup> Blue Lake is not currently named as a Defendant to this action and is identified here merely for convenience.

10. Under Blue Lake’s constitution, the Blue Lake Business Council is the executive political arm of Blue Lake. The Blue Lake Business Council is not currently named as a Defendant to this action and is identified here merely for convenience.

11. The Tribal Court of the Blue Lake Rancheria (“Blue Lake Tribal Court”) was established by the Blue Lake Business Council through its enactment of Ordinance No. 07-01, and under “its inherent sovereign authority to establish and operate its own judicial system.” The Blue Lake Tribal Court is not a Defendant to this action. The Blue Lake Tribal Court is as an enterprise as defined in 18 USC §1961(4), and was used by defendants to affect interstate commerce through a pattern of racketeering

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<sup>2</sup> Because of these grants, significant acts of conduct by defendants described in this complaint were illegal as a matter of law under 18 USC § 666.

1 activity.

2 12. The Blue Lake Casino & Hotel (“Blue Lake Casino”) is an economic enterprise owned and  
3 operated by Blue Lake. According to a gaming ordinance enacted by the Blue Lake Business Council,  
4 profits from gaming at the casino are deposited directly in Blue Lake’s general treasury. Blue Lake  
5 Casino was the plaintiff in *Blue Lake v. ABI*. Blue Lake Casino is not currently named as a Defendant to  
6 this action, and is identified here merely for convenience.

7 13. Defendant Arla Ramsey (“Ms. Ramsey”) was the CEO of Blue Lake Casino during *Blue Lake v.*  
8 *ABI*. Ms. Ramsey also served as Blue Lake’s Tribal Administrator, as a judge of Blue Lake’s Tribal  
9 Court, and as the vice-chair of Blue Lake Business Council. In her role as Tribal Administrator, Ms.  
10 Ramsey was responsible for the day to day business affairs of the tribal government, and supervised the  
11 work of the tribal court clerk. On information and belief, Ms. Ramsey is a resident of Humboldt  
12 County, California, and is named as a defendant in her individual capacity.

13 14. Defendant Thomas Frank (“Mr. Frank”) has sworn statements describing his employment in  
14 various executive roles for Blue Lake over the past 15 years, including as a Blue Lake Casino executive  
15 (until 2009) and as Director of Business Development for Blue Lake Rancheria (from 2010 until at least  
16 2015). On information and belief, Mr. Frank is a resident of Newcastle, Wyoming and is named as a  
17 defendant in his individual capacity.

18 15. Dismissed defendant Anita Huff<sup>3</sup> (“Clerk Huff”) was the Clerk of the Blue Lake Tribal Court  
19 during *Blue Lake v. ABI*. According to Clerk Huff’s LinkedIn page, while acting as Clerk, Clerk Huff  
20 was also employed by Blue Lake in various other roles, some of which, like “Grants and Contracts  
21 Manager,” included generating grant income for Blue Lake within her responsibilities. On information  
22 and belief, Clerk Huff is a resident of Humboldt County, California. Clerk Huff is named as a defendant  
23 in her individual capacity.

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25 <sup>3</sup> As of the filing date of this First Amended Complaint, most of the original  
26 defendants in the case have been dismissed on grounds of judicial or prosecutorial immunity.  
27 Plaintiffs intend to continue challenging these immunities at the Ninth Circuit and in the  
28 Supreme Court. To whatever extent plaintiffs are successful in these challenges, plaintiffs  
intend to continue their original causes of action against the dismissed defendants.

16. According to Blue Lake Tribal Court documents, Dismissed defendant Lester John Marston (“Judge Marston”) has been the Chief Judge of Blue Lake Tribal Court since at least 2002, and was the original presiding judge *Blue Lake v. ABI*. Judge Marston is also a named attorney at Rapport and Marston, and has represented Blue Lake and its interests as an attorney since at least 1983. During the autumn 2014, Judge Marston wrote a demand letter to the California DMV on Rapport and Marston letterhead in his capacity as Chief Judge of Blue Lake Tribal Court. In January 2015, Judge Marston wrote a memo to a lobbyist on Rapport and Marston letterhead in his capacity as Blue Lake’s “Tribal Attorney.” Judge Marston is a member of the California State Bar, No. 81030. On information and belief, Judge Marston is a resident of Mendocino County, California, and is named as a defendant in his individual capacity. While Judge Marston enjoys absolute judicial immunity from suit for any conduct that was essentially judicial in nature, Judge Marston is not immune from suit for conduct that was not essentially judicial in nature.

17. Dismissed defendant Rapport and Marston is an association of attorneys located in Mendocino County, California. Rapport and Marston appears to hold itself out as a law firm in state and federal court, shares work between attorneys, allows attorneys to sign court filings for each other, and bills work by multiple attorneys on a single invoice. However, Rapport and Marston does not appear to be registered with the State Bar Association as a law firm, or as an entity with the California Secretary of State, and Mr. Rapport and Judge Marston deny Rapport and Marston is a firm at all. ABI will amend this complaint to name Rapport and Marston in the proper capacity once that capacity is discovered.

18. Dismissed defendant David Rapport (“Mr. Rapport”) is the other named attorney at Rapport and Marston. Mr. Rapport has provided attorney services to Blue Lake and its interests alongside Judge Marston since at least 1983. Mr. Rapport is a member of the California State Bar, No. 54384. On information and belief, Mr. Rapport is a resident of Mendocino County, California. Mr. Rapport is named as a defendant in his individual capacity.

19. Dismissed defendant Ashley Rose Burrell (“Ms. Burrell”) is an associate judge of the Blue Lake Tribal Court, and an attorney associated with Rapport and Marston. Ms. Burrell is a member of the California State Bar, No. 289255. On information and belief, Ms. Burrell is a resident of Mendocino

County, California. Ms. Burrell is named as a defendant in her individual capacity.

20. Dismissed defendant Cooper Monroe DeMarse (“Mr. DeMarse”) is an associate judge of the Blue Lake Tribal Court, and an attorney associated with Rapport and Marston. Mr. DeMarse is a member of the Arizona State Bar. On information and belief, Mr. DeMarse is a resident of the State of Arizona. Mr. DeMarse is named as a defendant in his individual capacity.

21. Dismissed defendant Darcy Catherine Vaughn (“Ms. Vaughn”) is an associate judge of the Blue Lake Tribal Court, and an attorney associated with Rapport and Marston. Ms. Vaughn is a member of the California State Bar, No. 269907. On information and belief, Ms. Vaughn is a resident of Mendocino County, California. Ms. Vaughn is named as a defendant in her individual capacity.

22. Dismissed defendant Kostan Lathouris (“Mr. Lathouris”) is an attorney associated with Rapport and Marston. Mr. Lathouris is a member of the Nevada State Bar Association, No. 13905. On information and belief, Mr. Lathouris is a resident of the State of Nevada. Mr. Lathouris is named as a defendant in his individual capacity.

23. Dismissed defendant Boutin Jones, Inc. (“Boutin Jones”) is a law firm located in Sacramento, California. Boutin Jones attorneys filed the complaint in *Blue Lake v. ABI* and prosecuted the case for over a year. Boutin Jones also represented Blue Lake Casino in both related federal actions initiated by Mr. Acres to enjoin *Blue Lake v. ABI*. Boutin Jones also represents Blue Lake in *Blue Lake v. Lanier*<sup>4</sup>, an approximately twenty-million dollar employment tax dispute currently on appeal before the Ninth Circuit.<sup>5</sup> Boutin Jones represents Blue Lake in *Lanier* alongside Rapport and Marston. Boutin Jones is registered as a law corporation with the State of California, with the Secretary of State File Number C1946487, and is named as a defendant in that capacity.

24. Dismissed defendant Michael Chase (“Mr. Chase”) is Vice-President and a shareholder attorney at Boutin Jones. Mr. Chase personally appeared on behalf of Blue Lake Casino in *Acres v. Blue Lake I* and *Acres v. Blue Lake II*. When appearing in *Acres v. Blue Lake II*, Mr. Chase stated he had personal knowledge of the internal affairs of Rapport and Marston. Alongside Mr. Rapport, Mr. Chase is a

<sup>4</sup> *Blue Lake v. Lanier*, (2:11-cv-01124-JAM-JFM, E.D. Cal., 2015).

<sup>5</sup> *Blue Lake v. Lanier*, USCA Case No. 15-16340 (9<sup>th</sup> Cir.).

1 named attorney for Blue Lake in *Blue Lake v. Lanier*. Mr. Chase is a member of the California State  
 2 Bar, No. 214506. On information and belief, Mr. Chase is a resident of Sacramento County, California.  
 3 Mr. Chase is named defendant in his individual capacity.

4 25. Dismissed defendant Dan Stouder (“Mr. Stouder”) is Vice-President and a shareholder attorney  
 5 at Boutin Jones. Mr. Stouder was an attorney of record representing Blue Lake Casino in *Blue Lake v.*  
 6 *ABI*, and *Aces v. Blue Lake I and II*, and personally appeared in federal court on Blue Lake Casino’s  
 7 behalf in *Aces v. Blue Lake II*. Mr. Stouder is a member of the California State Bar, No. 226753. On  
 8 information and belief, Mr. Stouder is a resident of Sacramento County, California. Mr. Stouder is  
 9 named defendant in his individual capacity.

10 26. Dismissed defendant Amy O’Neill (“Ms. O’Neill”) was an attorney at Boutin Jones. Ms.  
 11 O’Neill was an attorney of record representing Blue Lake Casino in *Blue Lake v. ABI*, and personally  
 12 appeared in Blue Lake Tribal Court on Blue Lake Casino’s behalf. Ms. O’Neill was also an attorney of  
 13 record for Blue Lake Casino in *Aces v. Blue Lake I* and *Aces v. Blue Lake II*. Ms. O’Neill is a member  
 14 of the California State Bar, No. 294458. On information and belief, Ms. O’Neill is a resident of  
 15 Sacramento County, California. Ms. O’Neill is named defendant in her individual capacity.

16 27. Dismissed defendant Janssen Malloy LLP (“Janssen Malloy”) is a law firm located in Humboldt  
 17 County, California. In February 2017, Janssen Malloy replaced Boutin Jones as attorneys for Blue Lake  
 18 Casino in *Blue Lake v. ABI* and *Aces v. Blue Lake II*. While Janssen Malloy holds itself out as an LLP,  
 19 it does not appear to be registered with the California Secretary of State. ABI is unsure under what  
 20 capacity to name Janssen Malloy as a defendant and will amend this complaint when the true nature of  
 21 Janssen Malloy’s corporate status is discovered.

22 28. Dismissed defendant Megan Yarnall (“Ms. Yarnall”) is a partner at Janssen Malloy. She was an  
 23 attorney of record for Blue Lake Casino in both *Blue Lake v. ABI* and in *Aces v. Blue Lake II*, and Ms.  
 24 Yarnall personally appeared on Blue Lake Casino’s behalf in both actions. Ms. Yarnall is a member of  
 25 the California State Bar, No. 275319. On information and belief, Ms. Yarnall is a resident of Humboldt  
 26 County, California. Ms. Yarnall is named defendant in her individual capacity.

27 29. Dismissed defendant Amelia Burroughs (“Ms. Burroughs”) is an attorney at Janssen Malloy.  
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1 She was an attorney of record for Blue Lake Casino in *Blue Lake v. ABI*. Ms. Burroughs is described as  
 2 a partner of Janssen Malloy on Janssen Malloy's website. Ms. Burroughs is a member of the California  
 3 State Bar, No. 221490. On information and belief, Ms. Burroughs is a resident of Humboldt County,  
 4 California. Ms. Burroughs is named defendant in her individual capacity.

5 30. Plaintiffs do not know the true names and capacities of defendants sued in the complaint as Doe  
 6 1 through Doe 20. Plaintiffs will amend this complaint to allege the true names, capacities, and  
 7 culpabilities of the Doe Defendants when they are uncovered.

8 31. The Honorable Justice James N. Lambden ("Justice Lambden") is retired from the California  
 9 Court of Appeal. Justice Lambden now works as a private judge for ADR Services in San Francisco.  
 10 Justice Lambden replaced Judge Marston as the presiding judge in *Blue Lake v. ABI*. Justice Lambden  
 11 is not named as a defendant and is identified only for convenience.

12 32. In July 2018 Mr. Acres sued the above named defendants in *Acres v. Marston et al.*<sup>6</sup> on causes  
 13 substantially similar to causes one through seven below. Defendants successfully brought a motion to  
 14 quash for tribal sovereign immunity in that case, and Mr. Acres appeals that ruling.<sup>7</sup> However,  
 15 defendants also brought evidence in *Acres v. Marston* which undergird the eighth claim for racketeering  
 16 below. Because defendants also brought anti-SLAPP motions in *Acres v. Marston*, freezing the state-  
 17 court complaint, this is Mr. Acres' first opportunity to seek relief for defendants' racketeering conduct,  
 18 and he joins this complaint only to seek relief on the eighth cause of action for racketeering.

19 33. The General Fact Allegations below make references to Judge Marston's "Billing Records" (the  
 20 "Billing Records"). In December 2016 the Honorable William H. Orrick of the United States District  
 21 Court for Northern California ordered Judge Marston to provide Mr. Acres with Judge Marston's Billing  
 22 Records to Blue Lake. Judge Marston provided the Billing Records to Mr. Acres in January 2017. The  
 23 Billing Records are in the form of monthly invoices. Each invoice is from "Lester J. Marston" at  
 24 "Rapport and Marston" and are invoiced to "Blue Lake Rancheria ... Attn: Anita Huff," and bear the  
 25 legend "In Reference To: INVOICE FOR LEGAL SERVICES." The Billing Records begin on January

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26 <sup>6</sup> Sacramento Superior Court Case No. 2018-34-00236929.

27 <sup>7</sup> California Court of Appeal, Third District, Case No. C089344.



1, 2012 and end on December 31, 2016. Each entry in the Billing Records contained a date on which a piece of work was performed, initials identifying which attorney performed the work, and a short description of the work performed. In the allegations below, the capitalized past tense verb “Billed” is sometimes used as an explicit reference to work described in the Billing Records.

### GENERAL FACT ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

34. On January 12, 2016, the Billing Records show Judge Marston reviewed the complaint in *Blue Lake v. ABI*. The complaint was signed by Mr. Stouder and Ms. O’Neill. Under Blue Lake Tribal Court Rule<sup>8</sup> 5, the administrative decision of whether to preside over the case himself, or to assign the case to another judge, fell to Judge Marston.

35. At the time, Judge Marston had been serving for over a year as attorney of record for Blue Lake and Ms. Ramsey in the state court lawsuit *Blue Lake v. Shiimoto*.<sup>9</sup> Ms. Ramsey’s son, Jason Ramos, a senior official at Blue Lake’s casino regulatory agency, had recently married. Ms. Ramsey officiated at her son’s Blue Lake Tribal Court wedding in her role as Blue Lake Tribal Court Judge. When the California DMV refused to issue Ms. Ramsey’s new daughter-in-law, Jennifer Ramos, a driver’s license based on her tribal court marriage by Ms. Ramsey, Judge Marston sued the DMV in state court on behalf of Blue Lake, Ms. Ramsey, and Ms. Ramos.

36. According to the Billing Records, from March 2015 through February 2016 Judge Marston was also Billing Blue Lake for legal advice on gaming compact renegotiations with the state of California. Blue Lake’s gaming compact was set to expire at the end of the decade, and without a new compact, Blue Lake Casino would be unable to continue to offer “Las Vegas style” gaming. In August 2015, Judge Marston wrote on his personal Facebook page that helping tribes negotiate gaming compacts was part of a “warrior’s song,” and “a continuation of the struggle” that gives life meaning.

37. At the same time Judge Marston represented Ms. Ramsey as her attorney in *Blue Lake v. Shiimoto*, he presided over *Blue Lake v. ABI*. Ms. Ramsey was the CEO of Blue Lake Casino, the

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<sup>8</sup> Formally known as the “Rules of Pleading, Practice and Procedure for the Blue Lake Rancheria Tribal Court” and shortened here as “Blue Lake Tribal Court Rules.”

<sup>9</sup> *Blue Lake Rancheria et al., v. J. Shiimoto et al.* (Super. Ct. Humboldt County, Case No. CV140799).

1 plaintiff in *Blue Lake v. ABI*.

2 38. Ms. Yarnall stated at a *Blue Lake v. ABI* hearing that Blue Lake's "main business" is Blue Lake  
3 Casino. Under Blue Lake's Tribal Gaming Ordinance, all of Blue Lake Casino's gaming profits are  
4 deposited into Blue Lake's general treasury.

5 39. Under judicial conduct rules established by Judge Marston,<sup>10</sup> a Blue Lake Tribal Court judge  
6 should not preside over a case if:

7 a. "The judge has any bias or prejudice concerning a party;"

8 b. "Any party to a proceeding before the court, except the Business Council of the Tribe as part  
9 of a judicial services contract, has been a source of income to the judge within the preceding  
10 twelve months, other than the tribe paying the judge for work as a judge;" or

11 c. "The Judge knows or has reason to know that he ... has a financial interest ... or has any  
12 other interest that could be substantially affected by the proceedings."

13 40. Instead of assigning *Blue Lake v. ABI* to another judge, Judge Marston retained it for himself.  
14 The Billing Records show that on January 13, 2016, Judge Marston emailed Clerk Huff to acknowledge  
15 his receipt of various filings in *Blue Lake v. ABI*.

16 41. Clerk Huff issued a summons to serve on ABI and Mr. Acres. Blue Lake Tribal Court Rule 15  
17 requires defendants be given thirty days to respond to a summons. The summons issued by Clerk Huff,  
18 and which Mr. Stouder and Ms. O'Neill caused to be served on ABI and Mr. Acres, demanded an  
19 answer within five-days, under pain of default.

20 42. In February 2016, Mr. Acres spoke to Clerk Huff on the phone and asked her why the summons  
21 served in *Blue Lake v. ABI* required answer within five-days, instead of thirty days as required by tribal  
22 court rules. Clerk Huff responded she had no explanation. Later, in federal court, Clerk Huff swore  
23 under penalty of perjury she had inadvertently issued the summons form used for unlawful detainers.  
24 Clerk Huff attached the Blue Lake Tribal Court Rules to her declaration as an exhibit, and those rules do  
25 not provide for the issuance of a five-day summons for any reason whatsoever.

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27 <sup>10</sup> The "Rules of Judicial Conduct Governing the Conduct of Judges of the Tribal Court of the Blue Lake Rancheria,"  
28 which, by Order of Judge Marston dated April 1, 2007, govern the conduct of all judges in all proceedings.

43. In *Blue Lake v. ABI*, Blue Lake Casino demanded \$249,250.00, plus interest, costs, fees, punitive damages, and exemplary damages. At trial, any jury would be composed entirely of Blue Lake residents.

44. *Blue Lake v. ABI* centered around a 2010 “iSlot Agreement” between ABI and Blue Lake Casino. The iSlot Agreement was signed in July 2010, and under it, Blue Lake Casino purchased iSlot, a novel iPad based gaming platform, from ABI, for \$250,000.00. Beginning in October 2010, Blue Lake Casino used iSlot to serve 56 Las Vegas style slot machine games to its patrons. In 2011, Blue Lake Casino increased this to 88 Las Vegas style slot machine games.

45. During 2011 and 2012, Blue Lake initiated negotiations with ABI to obtain nation-wide distribution rights to the iSlot platform. As part of these negotiations Blue Lake employed its attorneys to draft a proposed distribution agreement. ABI is informed and believes that attorneys from Boutin Jones drafted this proposed distribution agreement. ABI did not accept Blue Lake’s proposal and the negotiations came to an end.

46. While negotiations between Blue Lake and ABI were ongoing, ABI obtained several other iSlot customers. One of these customers was Win-River Casino in Redding, California. Blue Lake represented to ABI that Blue Lake had performed significant work in causing Win-River to obtain iSlot under the belief that the negotiations between Blue Lake and ABI would be successful, and that Blue Lake was entitled to a portion of any revenue derived by ABI from iSlot at Win-River. In the spirit of good-faith, ABI paid Blue Lake a portion of the revenue ABI received for iSlot from Win-River.

47. In early 2013, Blue Lake Casino indicated to ABI iSlot had been “in mothballs” for some time because of personnel changes. Blue Lake Casino indicated it wished to make iSlot available to its patrons again and asked for technical support from ABI to accomplish this. Even though the iSlot Agreement expired in October of 2012, and no new agreement had been concluded between the parties, ABI agreed to provide Blue Lake Casino with the requested support. Blue Lake Casino did not avail itself of ABI’s offer to provide iSlot support, and ABI heard nothing more from any Blue Lake entity about iSlot, or anything else, for several years.

48. On August 17, 2015 Mr. Stouder sent a letter to ABI demanding ABI pay \$320,678.90 to Blue

1 Lake Casino in order to avoid “further legal action” regarding iSlot (“the Letter”). Mr. Stouder  
2 indicated Mr. Frank was copied on the Letter.

3 49. Upon receiving the Letter, Mr. Acres promptly phoned Mr. Stouder and asked him if he had read  
4 the iSlot Agreement. Mr. Stouder replied he had “a copy of the Agreement right in front of [him].”

5 50. Mr. Acres then drew Mr. Stouder’s attention to the portion of the iSlot Agreement stating the  
6 \$250,000.00 advanced deposit would be refunded “if, and only if” iSlot was not made available to Blue  
7 Lake Casino by October 1, 2010. Mr. Stouder opined “if, and only if” was a construction that “contains  
8 a lot of ambiguity.”

9 51. Justice Lambden’s Order found the “if, and only if” construction was an “express and strict  
10 limitation on the circumstances under which the deposit can be recovered.”

11 52. Blue Lake Casino and ABI exchanged correspondence through their attorneys for the remainder  
12 of 2015. Ultimately, Blue Lake served ABI with its five-day summons in January 2016. At no point did  
13 Blue Lake Casino indicate it was considering taking legal action against Mr. Acres, or indicate it  
14 believed Mr. Acres had engaged in fraudulent conduct. Instead, Mr. Stouder expressly stated Blue Lake  
15 Casino was not considering legal action against Mr. Acres because Mr. Acres was not a party to the iSlot  
16 Agreement.

17 53. Despite Mr. Acres not being a party to the iSlot Agreement, Blue Lake nevertheless sued him  
18 individually in *Blue Lake v. ABI*. Justice Lambden’s Order stated Blue Lake Casino’s inclusion of Mr.  
19 Acres in *Blue Lake v. ABI* was an “attempt[] to conjure a personal warranty” by Mr. Acres to  
20 supplement its action against ABI.

21 54. On January 17, 2016 at around 8:00am, ABI and Mr. Acres were served at Mr. Acres’ home with  
22 the complaint and five-day summons in *Blue Lake v. ABI*. Curious, Mr. Acres’ children asked who had  
23 come to the door so early on a Sunday morning. On learning of the suit filed by Blue Lake Casino in  
24 Blue Lake Tribal Court, Mr. Acres’ children were instantly reduced to tears, and Mr. Acres’ eight-year  
25 old daughter cried out, “but if it’s their court that means you’ll lose for sure!”

26 55. Civil money judgments from tribal courts are presumptively enforceable in California Superior  
27 courts under the Tribal Court Civil Money Judgement Act (the “TCMJA”) which was enacted in  
28

January 2015. ABI quickly learned Blue Lake sponsored the legislation which led to the TCMJA's enactment. Indeed, Judge Marston, in his role as Blue Lake lobbyist, worked throughout 2013 and 2014 to secure passage of the TCMJA. The TCMJA as originally passed contained a sunset provision. While presiding over *Blue Lake v. ABI*, Judge Marston Billed Blue Lake for work to secure legislative action to remove the sunset provision and make the TCMJA permanent. In this way, Judge Marston simultaneously Billed Blue Lake for presiding over *Blue Lake v. ABI*, and for working to ease Blue Lake's burden in collecting any judgement which might arise from *Blue Lake v. ABI*.

56. In 2012, Mr. Acres suffered a heart attack, a fact of which Blue Lake Casino personnel were aware. As a result, Mr. Acres suffers from chronic chest pain when faced with extreme stress. The stress of needing to answer Blue Lake Casino's five-day summons, for what Justice Lambden found to be a meritless personal fraud claim, within Blue Lake's own tribal court, and on pain of a default judgment enforceable under legislation Blue Lake itself sponsored, caused Mr. Acres to experience extreme chest pain indistinguishable from the pain caused by a heart attack, and necessitated an emergency room visit.

57. Mr. Acres stated in his opposition to Blue Lake Casino's first motion to dismiss *Acres v. Blue Lake I*<sup>11</sup> that he believed Blue Lake Casino's tribal court action against him to be wrongful, and that it was causing him to suffer chest pain so intense as to require emergency medical attention. Blue Lake Casino acknowledged in its reply briefing its awareness Mr. Acres "suffered pain and went to the hospital ... after being served with the complaint in the Tribal Court Action." Nevertheless, defendants persisted in pursuing the *Blue Lake v. ABI* claim against Mr. Acres.

58. Mr. Acres is a key employee of ABI. Throughout the pendency of *Blue Lake v. ABI*, ABI's business was harmed because of the stress placed on Mr. Acres by defendants' tortious conduct.

59. ABI is informed and believes that defendants were aware that Mr. Acres is a key employee of ABI.

60. On January 22, 2016 ABI and Mr. Acres made special appearances challenging Blue Lake Tribal Court jurisdiction, and the ability of the Blue Lake Tribal Court to provide due process, before the

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<sup>11</sup> *Acres v. Blue Lake et al.* (3:16-cv-02622-WHO, N.D. Cal., 2016).

1 expiration of the five-day summons. Mr. Acres represented both himself and ABI in the special  
 2 appearance and noted in an email accompanying the filings that the submissions were made without  
 3 benefit of counsel because of the arbitrary five-day summons.

4 61. On January 25, 2016, Clerk Huff used her discretion to reject the special appearance filings for  
 5 failing to substantially conform Blue Lake Tribal Court Rule 12 dealing with the “form, size, and  
 6 duplication of papers.”

7 62. The five-day period having expired, ABI feared a default would be issued. On January 26, 2016  
 8 ABI fixed the most grievous error it could find and resubmitted its special appearance. In an email  
 9 accompanying ABI’s re-submission, Mr. Acres pointed out Blue Lake Tribal Court Rules only required  
 10 rejection of papers which failed to “substantially conform,” and that Clerk Huff’s issuance of a five-day  
 11 summons was a substantial non-conformance with Blue Lake Tribal Court Rule 15 requiring defendants  
 12 be given thirty-days to respond to complaints against them. Mr. Acres also pointed out ABI was making  
 13 a good-faith effort to comply with the summons and make a timely submission, despite the summons’  
 14 variance from Rule 15.

15 63. Concurrent with her work as Clerk of the Blue Lake Tribal Court, Clerk Huff was also employed  
 16 by Blue Lake as its Director of Emergency Services, its Grants and Contracts Manager, as well as  
 17 having some responsibilities related to tribal realty. In some of this work, Clerk Huff reported directly  
 18 to Blue Lake Casino CEO Ms. Ramsey.

19 64. Judge Marston responded to these good-faith efforts on February 16, 2016 with a tribal court  
 20 order threatening to sanction Mr. Acres should he continue to “flout tribal court rules” (the “Flouting  
 21 Order”). According to the Billing Records, Ms. Vaughn drafted the Flouting Order for Judge Marston on  
 22 February 11-12, 2016. Also according to the Billing Records, in October and November 2015, Ms.  
 23 Vaughn assisted Judge Marston in representing Blue Lake and Ms. Ramsey in *Blue Lake v. Shiimoto*.

24 65. In February 2016, in addition to Billing Blue Lake for the Flouting Order, Judge Marston also  
 25 Billed Blue Lake for non-judicial work, including:

- 26 a. Work as a lobbyist to secure the legislative reauthorization of the TCMJA;
- 27 b. Work as attorney representing Blue Lake and Ms. Ramsey in *Blue Lake v. Shiimoto*; and,



c. Work as an attorney advising Blue Lake on prospective litigation related to casino gaming compact renegotiations with the State of California.

66. The Flouting Order also required ABI and Mr. Acres to file answers or other responsive pleadings in *Blue Lake v. ABI* within thirty days pursuant to Blue Lake Tribal Court Rule 30. Rule 30, however, is entitled “Dismissal of Actions” and deals with dismissals through plaintiff stipulation or failure to prosecute.

67. Not understanding how one could file an answer or responsive pleading pursuant to a rule regarding plaintiff dismissals, and threatened with sanctions should he fail to do so properly, on March 9, 2016, Mr. Acres filed *Acres v. Blue Lake I* in federal court, seeking protection from Blue Lake Tribal Court.<sup>12</sup> Unable to afford representation in federal litigation, ABI had no choice but to observe Mr. Acres’ suit and “hope for the best.”

68. On March 14, 2016, Judge Marston Billed for a “Conference with David Rapport regarding how he is going to respond to the lawsuit filed against the court.”

69. Rapport and Marston have a long history of working together and on Blue Lake’s behalf, including, but by no means limited to, when:

- a. In 1983 when Mr. Rapport and Judge Marston gained federal recognition for Blue Lake as an Indian Tribe as its attorneys in *Tillie Hardwick v. United States* (C 79-1710SW, N.D. Cal. 1983);
- b. In 2008 when Judge Marston and Mr. Rapport worked with Blue Lake on a tribal ordinance;
- c. In 2009 and 2010 when Judge Marston presided over unlawful detainer actions in Blue Lake Tribal Court in which Mr. Rapport represented Blue Lake as plaintiff;
- d. In 2011 when Mr. Rapport represented Judge Marston and Blue Lake Tribal Court in two separate federal actions in which the United Contractors Insurance Company and Admiral Insurance Company sought to escape Blue Lake Tribal Court jurisdiction<sup>13</sup>; and,

<sup>12</sup> *Acres v. Blue Lake et al.* (3:16-cv-02622-WHO, N.D. Cal., 2016).

<sup>13</sup> *United Contractors v. Blue Lake Tribal Court, et al.*, (CV-11-10161-JHK-SH, C.D. Cal., 2012) and *Admiral Insurance v. Blue Lake Tribal Court, et al.*, (5:12-cv-01266-LHK, N.D. Cal., 2012).



e. In 2013 when Judge Marston Billed Blue Lake for a “Conference with Rapport about whether the Tribal Court would have ancillary jurisdiction to impose sanctions on Admiral Insurance company if it failed to appear for oral argument.”

70. On March 29, 2016 Judge Marston Billed Blue Lake for a “conference with Rapport regarding the status of the filing of the Tribe’s brief in federal court.”

71. On March 30, 2016 Judge Marston Billed Blue Lake to “Review and revise the brief [to be] filed in support of the Tribe’s motion to dismiss in the Acres federal court case.”

72. On April 6, 2016, about a week after Judge Marston reviewed and revised Blue Lake Casino’s motion to dismiss *Acres v. Blue Lake I* in consultation with Mr. Rapport, the motion was filed in federal court by Mr. Stouder and Ms. O’Neill, Blue Lake Casino’s attorneys at the firm Boutin Jones.

73. In a December 2018 declaration filed in *Acres v. Marston*, Mr. Rapport stated that these filings were drafted by Mr. DeMarse, and that Mr. Rapport provided them to Boutin Jones for use in *Acres v. Blue Lake I*. Mr. Rapport also stated that he and Mr. DeMarse continued to provide drafts to Boutin Jones throughout *Acres v. Blue Lake I* and *Acres v. Blue Lake II*.

74. The law firms of Rapport and Marston and Boutin Jones have a significant history of collaboration:

a. Since June of 2011, Boutin Jones and Rapport and Marston have been associated as counsel for Blue Lake in *Blue Lake v. Lanier*,<sup>14</sup> a dispute between Blue Lake and the State of California involving approximately twenty-million dollars and currently on appeal before the Ninth Circuit;<sup>15</sup>

b. In 2013, and according to publicly available documents, Mr. Rapport referred approximately \$200,000.00 of billing with the City of Ukiah to Boutin Jones, noting he had worked with Boutin Jones on “several cases pending in state and federal court.”

c. In December of 2016 Mr. Chase appeared for Blue Lake at an *Acres v. Blue Lake* hearing and claimed to have personal knowledge about “the whole Rapport and Marston thing.”

<sup>14</sup> *Blue Lake v. Lanier*, (2:11-cv-01124-JAM-JFM, E.D. Cal., 2015).

<sup>15</sup> *Blue Lake v. Lanier*, USCA Case No. 15-16340 (9<sup>th</sup> Cir.).

75. ABI and Mr. Acres are informed and believe Mr. Chase and Mr. Rapport worked together to coordinate the despicable conduct of their respective firms towards ABI and Mr. Acres.

76. *Acres v. Blue Lake I* continued through July 2016. Throughout the action, Blue Lake Casino argued Mr. Acres enjoyed a “full and fair opportunity” to be heard within the tribal court. Judge Marston joined in all these arguments, even though he continued to represent Blue Lake and Ms. Ramsey as their attorney in the *Shiomoto* action, and he continued to advise Blue Lake Casino on its legal affairs.

77. During April and May 2016 Mr. Lathouris drafted a memorandum of decision whether Blue Lake Tribal Court could exercise jurisdiction over ABI and Mr. Acres, under the supervision of Judge. In February 2016, Mr. Lathouris aided Judge Marston both in *Blue Lake v. Shiomoto*, and in advising Blue Lake on whether or not it should sue the State of California for bad faith gaming compact negotiations.

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78. On August 30, 2016, Judge Marston Billed Blue Lake for work on four separate matters:
- Reviewing discovery filings by Jean Shiimoto and her co-defendants in the state court *Blue Lake v. Shiimoto* litigation, in which Judge Marston was Blue Lake and Ms. Ramsey's attorney; and,
  - Reviewing a draft of an order written by Ms. Burrell in *Blue Lake v. ABI*, in which Judge Marston presided over Blue Lake Casino's action against ABI and Mr. Acres; and,
  - Preparing an email to request the Executive Director of California Indian Legal Services aid Judge Marston in lobbying for the renewal of the TCMJA; and,
  - Reviewing and preparing a response to an email from Jack Norton, Human Resources Manager of Blue Lake Casino, regarding an employment dispute with an employee at the casino.

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		Hrs/Rate	Amount
	him in contempt.		
8/29/2016 AB	Legal Research re: violation of tribal, state or federal rules to identify Acres's particular violation of law when he left offensive voicemail for Clerk.		
AB	Legal Research state and tribal decisions holding defendant in contempt for the purpose of drafting opinion resulting from Acres offensive conduct.		
8/30/2016 LJM	Review of the answers to interrogatories filed by Ann Gieger, Mary Galvan and Jean Shiimoto in the DMV license case.		
LJM	Review of the order denying request to appear by telephone in the Acres case on the motion to strike answer and for judgment on the pleadings.		
LJM	Preparation of an email to the Executive Director of CILS requesting CILS's contact list to send the letter and survey to attorneys that practice in Tribal Court to complete the survey in support of SB 406.		
LJM	Review of the email from Norton regarding religious discrimination and preparation of an email in response.		

Figure 1: Excerpt from September 2016 Invoice from Rapport and Marston to Blue Lake, "LJM" is the billing code for defendant "Lester John Marston."

79. Judge Marston's Billing Records show Judge Marston continued to Bill Blue Lake for work in all four matters for the remainder of 2016, and that he shared this work with Ms. Burrell, Ms. Vaughn, Mr. DeMarse, and Mr. Lathouris. Concurrent with aiding Judge Marston in these matters, Mr. DeMarse was drafting filings for Boutin Jones to use in *Acres v. Blue Lake II*.

80. On September 9, 2016 Judge Marston presided over a *Blue Lake v. ABI* hearing on Mr. Acres' motion to disqualify Judge Marston; the motions by ABI and Mr. Acres for judgment on the pleadings; and Blue Lake's motion to strike ABI's filings and require ABI to retain counsel (the "September 9 Hearing").

81. Ms. O'Neill appeared on behalf of Blue Lake at the September 9 Hearing, and Mr. Acres appeared on behalf of himself and ABI. After Mr. Acres and Ms. O'Neill were seated, but before the hearing began, Clerk Huff gave Mr. Acres and Ms. O'Neill copies of Judge Marston's tentative ruling on Mr. Acres' motion to disqualify Judge Marston which, according to the Billing Records, Ms. Burrell drafted. Around the same time, Clerk Huff also gave Mr. Acres a copy of Blue Lake's Code of Judicial Conduct. Also before the hearing began, Judge Marston placed a call on his cell phone and was connected office manager to Ms. Burrell by Rapport and Marston's. Ms. Burrell then Billed Blue Lake to take notes for Judge Marston.

82. The circumstances under which the September 9 Hearing took place caused Mr. Acres to feel nervous and physically threatened because:

- a. The September 9 Hearing was held in a windowless conference room of Blue Lake Casino's hotel, which is attached to the casino;
- b. Of the seven individuals present at the September 9 Hearing, six were employed by Blue Lake, and three of them carried firearms;
- c. Mr. Acres was vigorously searched by an armed Blue Lake employee before being allowed to enter the hotel conference room, whereas all of Blue Lake's employees were allowed to enter the hotel conference room unmolested;
- d. Two of Blue Lake's armed employees maintained positions blocking the only two exits from the hotel conference room throughout the September 9 Hearing, and it was unclear to Mr.

Acres whether he was free to leave the September 9 Hearing;

e. A third armed Blue Lake employee maintained a position directly behind Mr. Acres for most of the September 9 Hearing, and;

f. Before entering the hotel conference room, Judge Marston engaged in a loud discussion with one of Blue Lake's armed employees about Blue Lake's ability to detain non-Indians.

83. Were Judge Marston to find he was disqualified, there were at least two separate lists of possible tribal court replacement judges. Both lists were styled "Tribal Court of the Blue Lake Rancheria General Order No. 5," and both were signed by Judge Marston. According to the Billing Records, Ms. Burrell drafted both orders.

84. The first "General Order No. 5" was dated July 18, 2016, and was available on the tribal court portion of Blue Lake's website for a week or two, after which time it disappeared. The first General Order No. 5 named Ms. Burrell, Ms. Vaughn, and Mr. DeMarse as judges "to be called upon to hear cases in the event of disqualification of a judge."

85. The second "General Order No. 5" was dated August 29, 2016. It was not available on Blue Lake's tribal court website and was given to Mr. Acres by Clerk Huff on September 9, 2016. The second "General Order No. 5" made no mention of the first General Order No. 5 and named four individuals "to be called upon to hear cases in the event of disqualification of a judge." These individuals were Mr. Anthony Cohen, Mr. David Dehnert, Ms. Burrell, and Ms. Vaughn.

86. Mr. Cohen and Mr. Dehnert are attorneys licensed to practice in California, however they do not appear to be associates at Rapport and Marston. Mr. Acres subsequently telephoned both Messrs. Cohen and Dehnert, and both denied any knowledge of being named to the Blue Lake Tribal Court as Associate Judges.

87. Immediately after being told of the second General Order No. 5 by Mr. Acres, Mr. Cohen emailed Clerk Huff stating he was never informed of his appointment as a Blue Lake Tribal Court Judge, and that he would not serve as a Blue Lake Tribal Court Judge.

88. When Mr. Acres asked Clerk Huff to explain the difference between the two General Orders No. 5, Clerk Huff responded that the first General Order No. 5 contained "typographical errors."

89. At the September 9 Hearing Judge Marston declined to disqualify himself from presiding over *Blue Lake v. ABI*. In both his written opinion, and orally during argument, Judge Marston stated since he had no relationship with Blue Lake other than being a judge hearing cases, there was no need for him to disqualify himself. Judge Marston further stated nothing under tribal law, or federal law, required his disqualification.

90. At the September 9 Hearing Ms. O'Neill echoed she saw "no valid reasons" Judge Marston should disqualify himself.

91. At the moment Ms. O'Neill stated there were "no valid reasons" Judge Marston should recuse himself her firm, Boutin Jones, was representing Blue Lake in *Blue Lake v. Lanier* alongside Rapport and Marston, and had done so continuously for more than five years.

92. In the months preceding Ms. O'Neill's statements that there were "no valid reasons" Judge Marston should recuse himself, Boutin Jones had received papers drafted by attorneys working at Judge Marston's law firm which Boutin Jones then filed in *Acres v. Blue Lake I*.

93. In a December 2018 *Acres v. Marston* declaration Judge Marston stated he "would have disqualified [him]self" from *Blue Lake v. ABI* if he had remembered he was Blue Lake's attorney in *Blue Lake v. Shiimoto*.

94. According to the Billing Records, on September 16, 2016, immediately prior to finalizing the *Blue Lake v. ABI* order declining to disqualify himself, Judge Marston wrote a memo updating Blue Lake on the status of *Blue Lake v. Shiimoto*.

95. After declining to disqualify himself, Judge Marston then continued to hear argument on the ABI and Acres motions for judgment on the pleadings, which Judge Marston declined to grant.

96. Judge Marston also heard argument on Blue Lake's motion to strike the ABI filings, and require ABI to retain an attorney to represent it in Blue Lake Tribal Court. Judge Marston granted Blue Lake's motion, despite the fact that Blue Lake Tribal Law specifically allows for parties to be represented by non-attorney "spokespersons."

97. An hour or so before the September 9 Hearing began, Mr. Acres and Judge Marston chanced to meet face to face in Blue Lake's tribal government building. Mr. Acres stretched out his arm, offering

to shake Judge Marston's hand. Judge Marston refused the gesture and walked away. After the September 9 Hearing, but before the participants left the conference room in which the hearing was held, and by way of explaining the refused handshake, Judge Marston stressed he would not have any communication whatsoever with either Mr. Acres or Ms. O'Neill unless both parties were present.

98. After Judge Marston made his September 9, 2016 statement explaining he would refuse to engage in ex-parte communication with litigants outside of court:

- a. Judge Marston continued to represent Blue Lake and Ms. Ramsey in the *Shiomoto* action as their attorney of record;
- b. Rapport and Marston continued to represent Blue Lake together with Boutin Jones in the *Lanier* action, in which Judge Marston Billed for the preparation of documents, and;
- c. Rapport and Marston and Boutin Jones continued to collaborate in the preparation of filings in *Acres v. Blue Lake II*<sup>16</sup>.

99. On November 8, 2016 Judge Marston submitted a sworn declaration in *Acres v. Blue Lake II* (the "November 8 Declaration"). Judge Marston swore he was submitting the November 8 Declaration in order to "correct for [the federal court's] record numerous misrepresentations made by [Mr. Acres] ... regarding [Judge Marston's] working relationship with [Blue Lake], which directly attack[ed Judge Marston's] personal integrity."

100. Judge Marston also swore in the November 8, 2016 federal declaration, among other things:

- a. "I do not act on behalf of [Blue Lake] in any capacity other than as the Chief Judge of the Tribal Court;" and,
- b. [Blue Lake] does not compensate me, directly or indirectly, for any services other than the services I provide under my judicial services contract;" and
- c. "I am not [Blue Lake's] attorney [and] do not represent [Blue Lake]."

101. Court records and the Billing Records reveal, however, among other things:

- a. Judge Marston was Blue Lake's attorney in *Blue Lake v. Shiomoto* from at least December 3, 2014 until May 24, 2017; and,

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<sup>16</sup> *Acres v. Blue Lake et al.*, (3:16-cv-02622-WHO, N.D. Cal., 2017).



b. Judge Marston Billed Blue Lake for his work as its attorney in the *Shiomoto* matter; including when,

c. Judge Marston performed his “Final proofing of the answers to requests for admission served on [Blue Lake] by the State in [*Blue Lake v. Shiomoto*],” a mere eleven days before making his November 8 federal declaration denying his attorney-client relationship with Blue Lake.

102. Shortly after Judge Marston swore the November 8 Declaration, Mr. Acres learned of Judge Marston’s work as Blue Lake’s attorney in *Blue Lake v. Shiomoto* and informed the federal court.

103. In early December 2016 Judge Orrick, presiding over *Acres v. Blue Lake II*, ordered Judge Marston to provide Mr. Acres with the Billing Records, and then to sit for a deposition by Mr. Acres.

104. On December 28, 2016, Judge Marston Billed for a “Phone Conference with David Rapport regarding the production of his records in the Acres case.” The very next entry in the Billing Records show Judge Marston beginning work on his *sua sponte* “Recusal Order.” The next day the Billing Records show Ms. Burrell proofed the Recusal Order. Clerk Huff emailed the Recusal Order to Mr. Acres as an unsigned and unstamped Microsoft Word document from [bluelakerancheriatribalcourt@gmail.com](mailto:bluelakerancheriatribalcourt@gmail.com).

105. Judge Marston’s Recusal Order denied any wrongdoing on Judge Marston’s part, and explained Judge Marston only recused himself because a possible appearance of bias might affect the public’s confidence in Blue Lake Tribal Court.

106. On January 3, 2017 Mr. Rapport informed Mr. Acres he would not be producing his own billing records to Blue Lake as his legal practice was separate from Judge Marston’s, and they did not share income or clients. Mr. Rapport further explained he had a separate legal obligation to defend the attorney-client privilege on Blue Lake’s behalf. Mr. Rapport informed Mr. Acres of all this via a letter on “Rapport and Marston” letterhead. The letterhead prominently displayed the names “David J. Rapport,” “Lester J. Marston,” and “Darcy Vaughn.”

107. Notwithstanding Mr. Rapport’s assertion on Rapport and Marston letterhead that Rapport and Marston shared neither clients nor income, the Billing Records describe multiple consultations between Judge Marston and Mr. Rapport. This includes an entry on June 15, 2016, when Judge Marston Billed

Blue Lake for a “Phone Conference with Brad Johnson regarding a breach of warranty case and transfer of Brad’s issue to David Rapport for a response.” According to LinkedIn, on June 15, 2016, Brad Johnson was the CFO of Blue Lake Casino.

108. From around 2015 and thereafter, the California Nations Indian Gaming Association formed a Compact Tribes Steering Committee (the “CTSC”). Many tribes had gaming compacts expiring in 2019 and they formed the CTSC to co-ordinate their compact re-negotiation efforts with the state. Federal law required California to renegotiate Blue Lake’s gaming compact in good faith. Judge Marston and Mr. Lathouris advised Blue Lake on compact negotiations and the possibility of suing California for renegotiating Blue Lake’s gaming compact in bad faith. ABI is informed and believes Mr. Rapport represented Blue Lake at CTSC meetings.

109. Following his recusal, on January 10, 2017, Judge Marston appointed Justice Lambden to preside over *Blue Lake v. ABI*. ABI is informed and believes Justice Lambden’s appointment to *Blue Lake v. ABI* was brokered by the California Judicial Council’s Tribal-Court State-Court Forum.

110. In early February 2017, Mr. Acres filed evidence in *Acres v. Blue Lake II* showing a single author had created documents filed by Judge Marston, Ms. O’Neill, and Mr. Stouder across both *Acres v. Blue Lake I and II* and *Blue Lake v. ABI*.<sup>17</sup>

111. In mid-February 2017, Ms. O’Neill, Mr. Stouder and Boutin Jones all withdrew from *Acres v. Blue Lake II* and *Blue Lake v. ABI*. Ms. Ramsey, in her capacity as Blue Lake Casino CEO, appointed Ms. Burroughs, Ms. Yarnall and the firm Janssen Malloy as Blue Lake’s attorneys in both actions.

112. In late February 2017, Judge Orrick held with the recusal of Judge Marston and the appointment of Justice Lambden, a finding of bad faith against Blue Lake Tribal Court could not be supported, and dismissed *Acres v. Blue Lake II*.

113. On July 18, 2017 Justice Lambden dismissed Mr. Acres from *Blue Lake v. ABI* on summary judgment. A few weeks later, ABI demanded Blue Lake Casino provide a bill of particulars to support its common counts against ABI. The next day, Ms. Yarnall communicated Blue Lake’s intention to dismiss its claims against ABI. *Blue Lake v. ABI* was then dismissed in its entirety.

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<sup>17</sup> Mr. Rapport indicated in his *Acres v. Marston* declaration that the common author was Mr. DeMarse.

1 114. During their time as Blue Lake's attorneys, Ms. Burroughs, Ms. Yarnall and Janssen Malloy LLP  
2 vigorously prosecuted *Blue Lake v. ABI*.

3 115. While prosecuting *Blue Lake v. ABI*, attorneys from Boutin Jones and Janssen Malloy prepared  
4 and filed many documents with the tribal court. These documents contained proofs of service, which  
5 contained sworn averments under penalty of perjury of the laws of the State of California. All attorneys  
6 from both firms also prominently displayed their California State Bar numbers on tribal court filings.

7 116. While prosecuting *Blue Lake v. ABI*, attorneys from Boutin Jones and Janssen Malloy prepared  
8 and filed several declarations with the tribal court. These declarations, including declarations made by  
9 Ms. O'Neill and Ms. Yarnall, were made under penalty of perjury under the laws of the State of  
10 California.

11 117. Justice Lambden's Order noted papers filed by Janssen Malloy, Ms. Burroughs, and Ms. Yarnall  
12 on Blue Lake's behalf "misstate[d] the evidence" in an "attempt[] to find direct evidence" to establish  
13 the scienter element of the *Blue Lake v. ABI* claim against Mr. Acres.

14 118. Justice Lambden presided over two hearings in *Blue Lake v. ABI*. Both hearings took place in  
15 conference rooms in Oakland, California. No portion of Oakland is within the Blue Lake Rancheria.  
16 ABI is informed and believes Ms. Yarnall drove approximately 1,000 miles on California State  
17 highways to attend *Blue Lake v. ABI* hearings.

18 119. Blue Lake failed to secure a space in which to hold the second of the Oakland based hearings.  
19 The hearing was only able to take place because ABI had hired a court reporter, and the court reporter's  
20 firm allowed the hearing to take place in one of its conference rooms.

21 120. According to his judicial services contract with Blue Lake, Judge Marston's primary place of  
22 business is in Ukiah, California. No portion of Ukiah is within the Blue Lake Rancheria. ABI is  
23 informed and believes Judge Marston drove approximately 350 miles on California State highways to  
24 attend a *Blue Lake v. ABI* hearing.

25 121. ABI is informed and believes Ms. O'Neill's primary residence and place of business is in  
26 Sacramento, California. No portion of Sacramento is within the Blue Lake Rancheria. ABI is informed  
27 and believes Ms. O'Neill drove approximately 600 miles on California State highways to attend a *Blue*  
28

1 *Lake v. ABI* hearing.

2 122. During *Blue Lake v. ABI*, Mr. Frank verified Blue Lake Casino's discovery responses to ABI and  
3 Mr. Acres, and made several sworn declarations. Some of Mr. Frank's verifications and declarations in  
4 *Blue Lake v. ABI* were made "under penalty of perjury under the laws of the State of California."  
5 Frank's discovery responses and declarations were caused to be served on ABI and Mr. Acres by Blue  
6 Lake Casino's attorneys with proofs of service that included declarations "under penalty of perjury  
7 under the laws of the State of California."

8 123. During *Blue Lake v. ABI*, most of the orders issued by Blue Lake Tribal Court were served on the  
9 parties by Clerk Huff. Most of these Blue Lake Tribal Court orders contained proofs of service that  
10 included declarations under penalty of perjury under the laws of the State of California.

11 124. From August 2015 through December 2016, the Billing Records show at least 229 entries from  
12 Judge Marston to Blue Lake for "Legal Services." This includes at least forty-eight entries in which  
13 Judge Marston performed work as an attorney for Blue Lake Casino or its CEO Ms. Ramsey. On at  
14 least five occasions, Judge Marston Billed Blue Lake for work as Ms. Ramsey's or Blue Lake Casino's  
15 attorney on the same day he Billed Blue Lake for his work as presiding judge in *Blue Lake v. ABI*.

16 125. From August 2015 through December 2016, the Billing Records show at least 86 entries from  
17 Ms. Burrell to Blue Lake for "Legal Services." This includes at least five entries in which Ms. Burrell  
18 Billed for work providing Blue Lake Casino with legal advice on employment disputes, at least eight  
19 entries in which Ms. Burrell performed work as an attorney representing Blue Lake or Ms. Ramsey, and  
20 at least 32 in which Ms. Burrell Billed for work assisting Judge Marston in presiding over *Blue Lake v.*  
21 *ABI*. On at least two occasions, Ms. Burrell Billed for work as Blue Lake Casino's attorney on the same  
22 day she Billed for work assisting Judge Marston in presiding over *Blue Lake v. ABI*.

23 126. From August 2015 through December 2016, the Billing Records show at least 56 entries from  
24 Ms. Vaughn to Blue Lake for "Legal Services." This includes at least nineteen entries in which Ms.  
25 Vaughn performed work as an attorney for Blue Lake and Ms. Ramsey in *Blue Lake v. Shiimoto*, and at  
26 least three in which Ms. Vaughn Billed for work assisting Judge Marston in presiding over *Blue Lake v.*  
27 *ABI*. Ms. Vaughn Billed for work as Blue Lake and Ms. Ramsey's attorney in *Blue Lake v. Shiimoto*

less than three months before she Billed for work assisting Judge Marston in presiding over *Blue Lake v. ABI*

127. From August 2015 through December 2016, the Billing Records show at least three dozen entries from Mr. Lathouris to Blue Lake for “Legal Services.” Of these, approximately two dozen entries were related to helping Judge Marston or Ms. Burrell with work related *Blue Lake v. ABI*. The balance of the entries included work on *Blue Lake v. Shiimoto*, advising Blue Lake on gaming compact litigation, research on the legality of arming tribal employees, and on enforcing tribal court domestic violence restraining orders outside the reservation. Mr. Lathouris performed his work advising Blue Lake on *Shiimoto* and gaming compact litigation around two months before he began his work in *Blue Lake v. ABI*.

128. From August 2015 through December 2016, the Billing Records show at least 36 entries from Mr. DeMarse to Blue Lake for “Legal Services.” Mr. DeMarse assisted Judge Marston both in presiding over *Blue Lake v. ABI*, and in defending against *Acres v. Blue Lake II*. The Billing Records show Mr. DeMarse assisted Judge Marston in preparing Judge Marston’s November 8, 2016 declaration, in which Judge Marston denied he performed work for Blue Lake as an attorney. In September and October of 2016, Mr. DeMarse Billed Blue Lake on at least ten occasions for assisting Judge Marston in providing Blue Lake, Blue Lake Casino, or Ms. Ramsey with services as an attorney. Significantly, the Billing Records do not disclose Mr. DeMarse’s work in preparing filings for Boutin Jones in *Acres v. Blue Lake I or II*.

129. While Blue Lake Casino prosecuted *Blue Lake v. ABI*, a Blue Lake entity<sup>18</sup> also prosecuted the case *Blue Lake v. Wright Construction, et al.*, also in Blue Lake Tribal Court. In *Blue Lake v. Wright*, a Blue Lake entity sued several companies involved with the construction of Blue Lake Casino’s hotel, ABI is informed and believes Blue Lake extracted at least \$1,000,000.00 in settlement payments from defendants in *Blue Lake v. Wright*. Judge Marston presided over *Blue Lake v. Wright*, and Ms. Burrell, Ms. Vaughn, and Mr. DeMarse all assisted Judge Marston in presiding over *Blue Lake v. Wright*.

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<sup>18</sup> Mr. Acres has not been able to ascertain whether Blue Lake, Blue Lake Casino, or some third Blue Lake entity was the plaintiff in the *Blue Lake v. Wright* action.

According to its website, Wright Construction is a firm engaged in interstate commerce with locations in Vancouver, WA and Las Vegas, NV.

130. During the time Blue Lake Casino was preparing to file *Blue Lake v. ABI*, Blue Lake Casino's CEO Ms. Ramsey was seeking an "order to enjoin civil harassment" in the Blue Lake Tribal Court case *Ramsey v. McKay*. Judge Marston presided over *Ramsey v. McKay*.

131. On November 6, 2015, Judge Marston presided over a tribal court hearing on Ms. Ramsey's

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		Hrs/Rate Amount
11/6/2015 LJM	Court Appearance to hold the hearing on the petition to enjoin civil harassment in Ramsey v. MacKay.	
LJM	Review and revise the declaration of Ramsey regarding the couple that wants to get married in Tribal Court and the final review of the memo to the Council regarding settlement of the case.	

Fig 2: Highlighted Excerpt from Marston's Billing Records to Blue Like, arranged to remove page break.

petition to enjoin civil harassment in *Ramsey v. McKay*. Later that day, Judge Marston, in his role as Ms. Ramsey's attorney, "reviewed and revised" a declaration by Ms. Ramsey to be submitted in the *Blue Lake v. Shiimoto* state court action, and performed a "final review" of a memo to Ms. Ramsey regarding settlement of *Blue Lake v. Shiimoto*. In a single day Judge Marston presided as judge over Ms. Ramsey's family law TRO (*Ramsey v. McKay*), and then acted as her attorney in another family law matter (*Blue Lake et al. v. Shiimoto*).<sup>19</sup>

132. The conduct of each of the defendants described in the General Allegations above was part of a pattern of despicable behavior, rife with malice, oppression and fraud in which they wrongfully used civil proceedings in Blue Lake Tribal Court for their own individual benefit. The Billing Records show this pattern of despicable conduct was continuous from at least January 2013 until at least December

<sup>19</sup> Ms. Ramsey is a named plaintiff in *Blue Lake v. Shiimoto*, as is her daughter-in-law. Both Ms. Ramsey and her daughter-in-law are represented by Judge Marston in *Blue Lake v. Shiimoto*.



2016. The Billing Records also show ABI and Mr. Acres were not the only victims of the defendants' despicable conduct.

133. Throughout the pendency of *Blue Lake v. ABI*, Mr. Acres continued to ask defendants to recognize their conduct was wrongful, and to cease the conduct.

### GENERAL FACT ALLEGATIONS ADDED TO "FLESH OUT" RICO

134. From at least 2008 to 2017 Ramsey used the Blue Lake Tribal Court to implement the "corrupt judicial scheme." The purpose of the corrupt judicial scheme was to secure judicial outcomes beneficial to Ramsey and her interests. Plaintiffs allege the corrupt judicial scheme worked as follows:

- d. Marston was named chief judge of Blue Lake's tribal court.
- e. Concurrent with his work as chief judge, Marston was provided with opportunities to be paid for non-judicial work for Ramsey and Blue Lake.
- f. Ramsey managed Marston's judicial and non-judicial work through frequent communications with Marston and Huff.
- g. Marston sent regular invoices to Blue Lake which combined his judicial and non-judicial work. The purpose of billing for judicial and non-judicial work on the same invoices was to conceal the payment of bribes from Blue Lake to Marston.
- h. Blue Lake paid these invoices with checks which combined payment for Marston's judicial and non-judicial work.
- i. The invoices were paid at Ramsey's direction. Ramsey intended these payments as bribes to reward Marston for providing judicial outcomes favorable to Ramsey and her interests.
- j. Marston understood these payments were bribes, accepted them, and in return provided judicial outcomes favorable to Ramsey and her interests in a series of tribal court cases from 2008 to 2017.

135. The corrupt judicial scheme included, but was not limited to, the following cases in the tribal court:



- a. *Blue Lake v. Acres Bonusing*. From January 2016 to August 2017 Blue Lake sued ABI and Acres in Blue Lake Tribal Court.
  - b. *Blue Lake v. Wright Development*. From June 2013 to September 2016 Blue Lake sued multiple parties involved in the construction of its hotel.
  - c. *Ramsey v. McKay*. In 2015 Ramsey sought a domestic violence restraining order against McKay.
  - d. *Mainstay Business Solutions v. Wood's Roofing* and at least eight other similar cases. From 2008 to 2012 Mainstay Business Solutions, a Blue Lake commercial entity, brought at least eight separate cases in Blue Lake Tribal Court.
  - e. *Blue Lake Rancheria v. Joe Batich*. From 2008 to 2009 Blue Lake used its tribal court to evict residents from a mobile home park purchased by the tribe.
136. Ramsey had an interest in each of the actions enumerated above.
- f. As CEO of Blue Lake Casino, Ramsey had an interest in the outcomes of *Blue Lake v. Acres Bonusing* and *Blue Lake v. Wright Development*.
  - g. As a party seeking a domestic violence restraining order Ramsey had an interest in the outcome of *Ramsey v. McKay*.
  - h. The *Mainstay* cases were all related to the unemployment insurance scheme operated by Blue Lake's staffing company. Ramsey was interested in these cases as Tribal Administrator and Vice-Chair of the Business Council. Ramsey also had a personal interest in this case as her son was the CEO of Mainstay.
  - i. As Tribal Administrator and Vice-Chair of the Business Council Ramsey had an interest in the *Batitch* action.

137. As part of the corrupt judicial scheme Judge Marston assigned himself to preside over each of the actions described above. By doing so, Judge Marston placed himself in position to provide judicial outcomes favorable to Ramsey and her interests.

138. As part of the corrupt judicial scheme Judge Marston was paid to perform non-judicial work on behalf of Blue Lake and Ramsey. Judge Marston performed this non-judicial work for Blue Lake and

Ramsey while he presided over cases brought by Blue Lake and Ramsey. Marston's non-judicial work included, but was not limited to:

- j. Representing Ramsey as her personal attorney in *Blue Lake v. Shiimoto*.
- k. Representing Blue Lake as a negotiator in gaming compact negotiations with California.
- l. Advising Blue Lake on establishing an energy company.
- m. Advising Blue Lake on taking land into trust.
- n. Advising Blue Lake Casino on employee disputes.
- o. Advising Ramsey on family realty matters.
- p. Lobbying the California Legislature to streamline state court enforcement of tribal court civil money judgments.
- q. Working to secure California enforcement of Blue Lake tribal court domestic violence restraining orders.
- r. Representing Blue Lake as its Tribal Attorney.

139. As part of the corrupt judicial scheme, Judge Marston used his judicial power to create judicial outcomes favorable to Ramsey's interests.

140. Beginning in 2008, Judge Marston furthered the corrupt judicial scheme in *Blue Lake v. Batitch* by managing the case such that it terminated in a settlement requiring *Batitch* to leave his home. Judge Marston's handling of the *Batitch* case was corrupt, because, among other reasons, Marston allowed Blue Lake to be represented by his law-partner Rapport in the action.

141. Admiral Insurance was a cross-defendant in one of the *Mainstay* cases. When Admiral attempted to challenge tribal jurisdiction in the tribal court Judge Marston responded by ordering cross-motions for summary judgment on the merits of the case. When Admiral persisted in attempting to challenge tribal jurisdiction prior to defending on the merits, Judge Marston responded with a series of confusing and conflicting scheduling orders. These orders continued to require Admiral defend on the merits before challenging jurisdiction and threatened sanctions for non-compliance. The upshot of these orders was to unreasonably increase the cost of defense for Admiral and intimidate its attorneys. These

1 unreasonable litigation costs and the fear of sanctions coerced Admiral into making a settlement  
2 favorable to Ramsey's interests.

3 142. Judge Marston furthered the corrupt judicial scheme in *Ramsey v. McKay* by issuing a domestic  
4 violence restraining order against McKay. Judge Marston's handling of the of the *McKay* case was  
5 corrupt, because, among other reasons, Judge Marston represented Ramsey as her personal attorney in  
6 *Blue Lake v. Shiimoto* while he presided over *McKay*, and even drafted a declaration for Ramsey in  
7 *Shiimoto* on the same day he presided over Ramsey's hearing in *McKay*. Judge Marston only agreed to  
8 issue the domestic violence restraining against McKay because he was being bribed by Ramsey as part  
9 of the corrupt judicial scheme.

10 143. Judge Marston's furtherance of the corrupt judicial scheme in *Wright Development* matched the  
11 pattern established in prior cases. When Wright Development attempted to escape tribal court  
12 jurisdiction by invoking the binding arbitration clause of its contract with Blue Lake, Judge Marston  
13 ruled the binding arbitration clause was unenforceable. Then, Judge Marston issued a series of costly  
14 and confusing procedural orders which unreasonably raised the cost of mounting a defense in the action.  
15 The various defendants in *Wright Development* were thereby coerced to make a series of settlements  
16 favorable to Ramsey and her interests, in an amount of over \$1,000,000.00. Judge Marston's conduct of  
17 *Wright Development* was a direct result of his being bribed by Ramsey as part of the corrupt judicial  
18 scheme.

19 144. Judge Marston's furtherance of the corrupt judicial scheme in *Blue Lake v. Acres Bonusing*  
20 matched the pattern established in prior cases from 2008 to 2016. Acres' initial challenges to tribal  
21 court jurisdiction were met with procedural confusion and threats of sanctions. Then, at the hearing on  
22 Acres' motion to disqualify Judge Marston from presiding over *Blue Lake v. Acres Bonusing*, Judge  
23 Marston falsely denied he was simultaneously being paid to provide non-judicial services to Blue Lake.  
24 In a show of raw-coercive force, Judge Marston arranged for Acres to be surrounded by gunmen  
25 working for Blue Lake while Judge Marston falsely denied the fact he was receiving bribes from  
26 Ramsey. Because of Judge Marston's conduct of *Blue Lake v. Acres Bonusing* in furtherance of the  
27 corrupt judicial scheme, ABI and Acres were forced to spend tens of thousands of dollars, and forego  
28

important business opportunities, to defend a frivolous lawsuit.

145. Judge Marston billed Blue Lake for the conduct described in the paragraphs above on monthly invoices.

146. These monthly invoices were sent from Rapport and Marston in Ukiah, California to Blue Lake Rancheria.

147. Ramsey directed these invoices be paid.

148. Blue Lake paid these invoices via check. From January 1, 2013 to December 31, 2016 these checks included:

- s. Check No. 1866 on January 7, 2013;
- t. Check No. 1884 on March 4, 2013;
- u. Check No. 1899 on March 22, 2013;
- v. Check No. 1914 on April 24, 2013;
- w. Check No. 1924 on May 14, 2013;
- x. Check No. 1935 on June 20, 2013;
- y. Check No. 1945 on July 11, 2013;
- z. Check No. 1952 on August 15, 2013;
- aa. Check No. 1962 on October 9, 2013;
- bb. Check No. 1973 on October 25, 2013;
- cc. Check No. 1992 on January 23, 2014;
- dd. Check No. 2002 on February 20, 2014;
- ee. Check No. 2018 on March 19, 2014;
- ff. Check No. 2022 on April 15, 2014;
- gg. Check No. 2033 on May 19, 2014;
- hh. Check No. 2041 on June 23, 2014;
- ii. Check No. 2045 on July 24, 2014;
- jj. Check No. 2050 on August 15, 2014;
- kk. Check No. 2055 on September 5, 2014;

ll. Check No. 2061 on September 30, 2014;  
mm. Check No. 2072 on November 21, 2014;  
nn. Check No. 2076 on December 18, 2014;  
oo. Check No. 2080 on January 20, 2015;  
pp. Check No. 2089 on February 20, 2015;  
qq. Check No. 2096 on March 27, 2015;  
rr. Check No. 2103 on April 24, 2015;  
ss. Check No. 2111 on May 22, 2015;  
tt. Check No. 2118 on June 10, 2015;  
uu. Check No. 2125 on July 17, 2015;  
vv. Check No. 06-087852 from the State of California reimbursement for Judicial  
Council Forum on August 12, 2015;  
ww. Check No. 2132 on September 8, 2015;  
xx. Check No. 2138 on September 14, 2015;  
yy. Check No. 2143 on October 30, 2015;  
zz. Check No. 8322 on November 20, 2015;  
aaa. Check No. 8350 on December 11, 2015;  
bbb. Check No. 8386 on February 1, 2016;  
ccc. Check No. 2165 on March 14, 2016;  
ddd. Check No. 2167 on March 17, 2016;  
eee. Check No. 2173 on April 29, 2016;  
fff. Check No. 2179 on May 24, 2016;  
ggg. Check No. 2183 on July 6, 2016;  
hhh. Check No. 2186 on July 18, 2016;  
iii. Check No. 2188 on August 12, 2016;  
jjj. Check No. 2191 on September 26, 2016;  
kkk. Check No. 2193 on October 27, 2016;

1           III. Check No. 2196 on November 18, 2016;

2   149.   Ramsay caused the U.S. mail to be used to deliver the checks described above.

3   150.   These checks were drawn from banks engaged in interstate commerce.

4   151.   These checks combined payment for Marston's non-judicial services representing Ramsey's  
5 interests with payments for his judicial services presiding over cases involving Ramsey's interests,  
6 including the cases described above.

7   152.   These checks were bribes from Ramsey to Marston, disguised as payments for legitimate  
8 services.

9   153.   Plaintiffs cannot specifically identify bribes paid prior to January 1, 2013 because checks paying  
10 those bribes were not disclosed as part of the Billing Records.

11  
12                                   **FIRST CAUSE OF ACTION BY ABI**  
13                                   **WRONGFUL USE OF CIVIL PROCEEDINGS**  
14                                   AGAINST MS. RAMSEY AND MR. FRANK  
15                                   (THAT "WRONGFUL USE DEFENDANTS")

16   154.   All of the General Allegations above are re-alleged in full. ABI alleges each defendant is  
17 independently liable for their own tortious conduct, regardless of whether relief is available from their  
18 co-defendants.

19   155.   ABI claims the Wrongful Use Defendants wrongfully brought or maintained a lawsuit against  
20 ABI.

21   156.   The Wrongful Use Defendants were each materially involved in bringing or continuing *Blue*  
22 *Lake v. ABI*, which included several causes of action against ABI. ABI was a defendant in *Blue Lake v.*  
23 *ABI* for over a year and a half.

24   157.   Blue Lake's dismissal of ABI from *Blue Lake v. ABI* immediately after ABI demanded a bill of  
25 particulars is a favorable termination for ABI.

26   158.   The Wrongful Use Defendants could not have reasonably believed there were reasonable  
27 grounds to bring or maintain *Blue Lake v. ABI* against ABI.

28   159.   The Wrongful Use Defendants brought or continued the *Blue Lake v. ABI* claim against ABI for

reasons other than succeeding on the merits of the claim.

160. ABI was harmed by the Wrongful Use Defendants.

161. The Wrongful Use Defendants substantially contributed to ABI's harm because each engaged in conduct wrongfully bringing or maintaining *Blue Lake v. ABI* against ABI.

162. The harm inflicted on ABI by the Wrongful Use Defendants' conduct was easily foreseeable.

163. The Wrongful Use Defendants' conduct harmed ABI in an amount to be proven at trial, but in no event less than \$1,000,000.00.

164. The Wrongful Use Defendants' conduct towards ABI was despicable, and rife with malice, oppression and fraud. ABI is entitled to an award of exemplary and punitive damages in an amount to be proven at trial.

**SECOND CAUSE OF ACTION – BY ABI  
AIDING AND ABETTING BREACH OF FIDUCIARY DUTY  
AGAINST MS RAMSEY AND MR. FRANK  
(THE “MARSTON BREACH ABETTORS”)**

165. All of the General Allegations above are re-alleged in full.

166. ABI claims Judge Marston breached his fiduciary duty to ABI.

167. Judges are fiduciaries to the general public, and to the litigants before them. (*United States v. Holzer*, 816 F.2d 304, 307 (7<sup>th</sup> Cir. 1987).) Judge Marston assumed a fiduciary duty to ABI when Judge Marston became the presiding judge in *Blue Lake v. ABI*. Among the fiduciary duties Judge Marston owed ABI were the duties of utmost good faith, confidentiality, and disclosure.

168. Judge Marston breached his fiduciary duties to ABI on many occasions, including, but not limited to, when:

- a. Judge Marston declined to assign *Blue Lake v. ABI* to another judge even though, at the time, Judge Marston was performing, and being compensated for non-judicial work for Blue Lake, Blue Lake Casino, or Ms. Ramsey;
- b. Judge Marston continued to perform work of a non-judicial nature for Blue Lake, Blue Lake Casino, or Ms. Ramsey while presiding over *Blue Lake v. ABI*;



- c. Judge Marston continued to be compensated for the non-judicial work he performed for Blue Lake, Blue Lake Casino, or Ms. Ramsey;
- d. Judge Marston failed to disclose to ABI he was performing work of a non-judicial nature for Blue Lake, Blue Lake Casino, or Ms. Ramsey while presiding over *Blue Lake v. ABI*;
- e. Judge Marston failed to disclose to ABI he was being compensated for work of a non-judicial nature for Blue Lake, Blue Lake Casino, or Ms. Ramsey while presiding over *Blue Lake v. ABI*;
- f. Judge Marston engaged in conduct which tended to conceal from ABI he was performing work of a non-judicial nature for Blue Lake, Blue Lake Casino, or Ms. Ramsey while presiding over *Blue Lake v. ABI*;
- g. Judge Marston engaged in conduct which tended to conceal from ABI he was being compensated for work of a non-judicial nature for Blue Lake, Blue Lake Casino, or Ms. Ramsey while presiding over *Blue Lake v. ABI*;
- h. Judge Marston informed Blue Lake, Blue Lake Casino, or Ms. Ramsey he was performing work of a non-judicial nature for them, and informed them he was concealing this fact from ABI;
- i. Judge Marston had ex-parte communication regarding *Blue Lake v. ABI* with individuals Judge Marston knew to be attorneys doing work for Blue Lake, Blue Lake Casino, or Ms. Ramsey; and when,
- j. Judge Marston allowed individuals he knew to be attorneys doing work for Blue Lake Casino to provide him with ex-parte memos and draft orders regarding *Blue Lake v. ABI*.

169. ABI was proximately damaged by Judge Marston's breach of fiduciary duty for many reasons, including:

- a. Judge Marston's failure to assign *Blue Lake v. ABI* to a different judge at the case's inception prolonged *Blue Lake v. ABI* by at least one year;
- b. Being subject to a presiding judge who fails to disclose he is performing non-judicial work for an opposing litigant is in and of itself harmful; and,

- 1 c. Being subject to a presiding judge who conceals he is performing non-judicial work for an  
 2 opposing litigant is in and of itself harmful; and,
- 3 d. ABI is informed and believes that *Blue Lake v. ABI* would never have been brought against  
 4 him but for Judge Marston's willingness to breach his fiduciary duty towards ABI on behalf  
 5 of Blue Lake and Ms. Ramsey.

6 170. Judge Marston's breach of his fiduciary duty to ABI constituted constructive fraud.

7  
 8 171. ABI claims the Marston Breach Abettors aided and abetted Judge Marston in breaching his  
 9 fiduciary duty to ABI.

10 172. The Marston Breach Abettors each knew Judge Marston was breaching his fiduciary duties to  
 11 ABI because each of the Marston Breach Abettors knew of a substantial portion of Judge Marston's  
 12 conduct described above.

13 173. The Marston Breach Abettors each engaged in conduct that was a substantial factor in causing at  
 14 least \$1,000,000.00 in harm to ABI because each Breach Abettor provided substantial assistance or  
 15 encouragement to Judge Marston when Judge Marston engaged in the conduct described in the fourth  
 16 cause of action.

17 174. The Marston Breach Abettors' conduct towards ABI was despicable, and rife with malice,  
 18 oppression and fraud. ABI is entitled to an award of exemplary and punitive damages in an amount to  
 19 be proven at trial.

20 175. While aiding Judge Marston in breaching his fiduciary duties to ABI, the Marston Breach  
 21 Abettors received compensation from Blue Lake, Blue Lake Casino, or Ms. Ramsey. ABI is entitled to  
 22 a disgorgement of any such compensation, in an amount to be proven at trial, but in no event less than  
 23 all compensation received by the Marston Breach Abettors from Blue Lake, Blue Lake Casino, Ms.  
 24 Ramsey, and any related entity, after August 1, 2015.

25 //

26 //

**THIRD CAUSE OF ACTION – BY ABI**  
**AIDING AND ABETTING CONSTRUCTIVE FRAUD**  
**AGAINST MS. RAMSEY AND MR. FRANK**  
**(THE “MARSTON FRAUD ABETTORS”)**

176. All of the General Allegations above are re-alleged in full, as are all the allegations in the second cause of action.

177. At all relevant times Judge Marston and ABI conducted most of their affairs in parts of California outside the Blue Lake Rancheria.

178. A fiduciary relationship existed between Judge Marston and ABI upon which ABI justifiably relied to its detriment. This fiduciary relationship was created when Judge Marston became ABI’s presiding judge in *Blue Lake v. ABI*. Pursuant to said duty, Judge Marston owed ABI a duty to disclose all material information Judge Marston knew or could reasonably obtain regarding Judge Marston’s relationship with Blue Lake, Blue Lake Casino, Ms. Ramsey, and any related parties.

179. Judge Marston accepted ABI’s reliance on the fiduciary relationship.

180. Judge Marston breached the fiduciary duty owed to ABI by failing to disclose the required material facts about his providing legal services to Blue Lake, Blue Lake Casino, Ms. Ramsey, and any related parties.

181. Judge Marston knew or should have known the above referenced material facts were unknown to ABI, and despite such knowledge failed to disclose such material and important facts.

182. As a direct and proximate result of Judge Marston’s breach of fiduciary duty to disclose these material facts to ABI, ABI was damaged in an amount to be proven at trial, but in no event less than \$1,000,000.00.

183. At all relevant times Rapport and Marston, Mr. Rapport, Ms. Burrell, Ms. Vaughn, Boutin Jones, Mr. Chase, Mr. Stouder, Ms. O’Neill were domiciled in the State of California, and conducted most of their affairs in portions of California outside the Blue Lake Rancheria.

184. At all relevant times, Ms. Ramsey, Mr. Frank, Clerk Huff, Mr. DeMarse, and Mr. Lathouris conducted a substantial portion of their affairs within the State of California.

1 185. ABI claims the Marston Fraud Abettors aided and abetted Judge Marston in committing  
2 constructive fraud against ABI.

3 186. The Marston Fraud Abettors each knew Judge Marston was committing constructive fraud  
4 against ABI because each of the Marston Fraud Abettors knew of a substantial portion of Judge  
5 Marston's conduct described above.

6 187. The Marston Fraud Abettors each engaged in conduct that was a substantial factor in causing at  
7 least \$1,000,000.00 in harm to ABI because each Marston Fraud Abettor provided substantial assistance  
8 or encouragement to Judge Marston when Judge Marston engaged in the conduct described in the sixth  
9 cause of action.

10 188. The Marston Fraud Abettors' conduct towards ABI was despicable, and rife with malice,  
11 oppression and fraud. ABI is entitled to an award of exemplary and punitive damages in an amount to  
12 be proven at trial.

13 189. While aiding Judge Marston in breaching his fiduciary duties to ABI, the Marston Fraud  
14 Abettors received compensation from Blue Lake, Blue Lake Casino, or Ms. Ramsey. ABI is entitled to  
15 a disgorgement of any such compensation, in an amount to be proven at trial, but in no event less than  
16 all compensation received by the Marston Fraud Abettors from Blue Lake, Blue Lake Casino, Ms.  
17 Ramsey, and any related entity, after August 1, 2015.

18 //

19 **FOURTH CAUSE OF ACTION – BY ABI AND MR. ACRES**  
20 **CONSPIRING TO VIOLATE RICO**  
**AGAINST MS. RAMSEY AND MR. FRANK.**

21 190. All of the General Allegations above are re-alleged in full, as are all of the allegations in the third  
22 cause of action. Plaintiffs allege each defendant is independently liable for the racketeering activity.  
23

24 **Conduct of an enterprise affecting interstate commerce.**

25 191. Blue Lake Tribal Court is an enterprise as defined in 18 USC 1961(4).

26 192. The enterprise affected interstate commerce because Blue Lake Tribal Court purchases goods  
27 and services in interstate commerce, and because Blue Lake Tribal Court issues orders and judgments  
28

1 which affect interstate commerce.

2 193. As Tribal Administrator Ramsey managed the day-to-day affairs of the Blue Lake Tribal Court,  
3 and used her position to implement the corrupt judicial scheme. Accordingly she was in the  
4 management of the Blue Lake Tribal Court.

5 194. Under the direction of Ramsey, Frank arranged to bring *Blue Lake v. Acres Bonusing* before the  
6 tribal court. Frank did this knowingly as a participant in the corrupt judicial scheme.

7  
8 **Pattern of racketeering activity: state bribery punishable by more than one-year in prison.**

9 195. California Penal Code §92 criminalizes offering bribes to judicial officers. It provides: “Every  
10 person who gives or offers to give a bribe to any judicial officer ... with intent to influence his vote,  
11 opinion, or decision upon any matter or question which is or may be brought before him for decision, is  
12 punishable by imprisonment in the state prison for two, three, or four years.”

13 196. California Penal Code §93 penalizes the acceptance of bribes by judicial officers. It provides:  
14 “Every judicial officer ... who asks, receives, or agrees to receive, any bribe, upon any agreement or  
15 understanding that his or her vote, opinion, or decision upon any matters or question which is or may be  
16 brought before him or her for decision, shall be influenced thereby, is punishable by imprisonment in the  
17 state prison for two, three, or four years.”

18 197. Violations of §92 and §93 are punishable by up to four years in prison, and accordingly are both  
19 forms of racketeering under 18 USC 1961(1)(A).

20 198. California Penal Code §92 and §93 both define judicial officers broadly to include “any person  
21 who may be authorized by law to hear or determine any question or controversy.” When he presided  
22 over tribal court cases Judge Marston was a judicial officer as defined in §92 and §93.

23 199. A violation of §92 occurs when i) a defendant gives or offers to give something of value to a  
24 judicial officer ii) with a corrupt intent to influence the judicial officer’s opinion or decision regarding  
25 any official matter that may be brought before the judicial officer.

26 200. A violation of §93 occurs when i) a defendant accepts something of value ii) as a judicial officer  
27 with the agreement or understanding that his opinion or decision will thereby be influenced.

201. The forty-six monthly checks described above were things of value.

202. Ramsey instructed Huff to give these checks to Marston with the corrupt intent of influencing Marston's opinions and decisions regarding cases in the tribal court.

203. Marston accepted these checks from Ramsey with the understanding and agreement that they would influence his opinions and decisions regarding cases in the tribal court.

204. These forty-six monthly payments were bribes and comprise forty-six independent violations §92 and forty-six independent violations of §93. These bribes constitute a pattern of racketeering activity under 18 USC 1961(1)(A).

205. These forty-six bribes, paid regularly from the beginning of 2013 until the end of 2016, specifically included bribes to further the corrupt judicial scheme in:

e. Several of the *Mainstay* cases.

f. *Blue Lake v. Wright Development*.

g. *Ramsey v. McKay*.

h. *Blue Lake v. Acres Bonusing*.

206. These forty-six bribes were part of the larger corrupt judicial scheme, a pattern of corrupt conduct stretching from 2008 to 2017 in which Ramsey corruptly influenced the judicial opinions or decisions of Judge Marston to obtain judicial outcomes beneficial to her interests.

**Pattern of racketeering activity: violations of the Travel Act.**

207. It is a violation of the Travel Act to use the mail to violate the bribery laws of California within California.

208. As described above, the mail was used on at least forty-six occasions to bribe Marston. All of these bribes were violations of California bribery law, occurring within the state of California.

209. The forty-six bribes were forty-six independent violations of 18 USC 1952(a)(3) and constituted a pattern of racketeering activity under 18 USC 1961(1)(B).

210. The forty-six bribes were all paid using checks drawn from banks involved in interstate commerce. The payments of these checks were forty-six independent violations of 18 USC 1952(a)(3)

and constituted a pattern of racketeering activity under 18 USC 1961(1)(B).

211. The corrupt judicial scheme was successful in generating income. Proceeds from the corrupt judicial scheme were shared with Marston in part through the payment of the forty-six bribes. Because these proceeds were shared via checks drawn from banks involved in interstate commerce, the sharing of proceeds also represents forty-six independent violations of 18 USC (1952)(a)(1) and constituted a pattern of racketeering activity under 18 USC 1961(1)(B).

212. These forty-six bribes were a continuance of the corrupt judicial scheme, a pattern of corrupt conduct stretching from 2008 to 2017 in which Ramsey corruptly influenced the judicial opinions or decisions of Judge Marston to obtain judicial outcomes beneficial to her interests across a multitude of proceedings.

213. These forty-six bribes specifically included bribes to further the corrupt judicial scheme in:

- i. Several of the *Mainstay Business* cases.
- j. *Blue Lake v. Wright Development*.
- k. *Ramsey v. McKay*.
- l. *Blue Lake v. Acres Bonusing*.

#### **Damages.**

214. ABI was proximately damaged by the corrupt judicial scheme in an amount to be determined at trial because, among other reasons:

- m. ABI was compelled to spend in excess of \$40,000.00 to defend itself against the tribal court action because of the corrupt judicial scheme.
- n. ABI lacked the resources to defend itself against the corrupt judicial scheme and pursue a business opportunity at Northern Quest Casino in 2016. This lost opportunity would have generated in excess of \$100,000.00 in profit.
- o. ABI lacked the resources to defend itself against the corrupt judicial scheme and grow its customer base during 2016 and 2017. These lost opportunities would have generated in excess of \$1,000,000.00 in profit.



215. Mr. Acres was proximately damaged by the corrupt judicial scheme in an amount to be determined at trial because, among other reasons:

- p. Mr. Acres was compelled to spend thousands of dollars to defend himself against the tribal court action, and was only compelled to do so because of the corrupt judicial scheme.
- q. The corrupt judicial scheme diminished the income Mr. Acres received from his employer, ABI.
- r. The need to defend himself from the corrupt judicial scheme prevented Mr. Acres from seeking alternative employment or sources of income.

#### PRAYER FOR RELIEF

1. ABI respectfully prays this Court to grant:

- a. Compensatory damages to be proven at trial, but no less than \$1,000,000.00.00 for Cause 1, \$1,000,000.00 for Cause 2, \$1,000,000.00 for Cause 3; and,
- b. Disgorgement of all compensation received by defendants from Blue Lake, Blue Lake Casino, Ms. Ramsey, and any related entity, after a date to be determined at trial, but in no event later than August 1, 2015; and,
- c. Triple the actual damages proven at trial for Cause 4; and,
- d. Costs of suit and attorney's fees; and.
- e. Punitive and exemplary damages in an amount to be proven at trial; and,
- f. Any other relief the court deems necessary or proper.

2. Mr. Acres respectfully prays this Court to grant:

- a. Triple the actual damages proven at trial for Cause 4; and,
- b. Costs of suit and attorney's fees; and.
- c. Any other relief the court deems necessary or proper.

**ABI AND MR. ACRES DEMAND A JURY TRIAL FOR ALL ISSUES TRIABLE BY JURY.**

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**BLUMBERG LAW GROUP**

/s/

Ronald H. Blumberg, attorneys for  
Acres Bonusing, Inc.

**JAMES ACRES**

/s/

James Acres,  
In pro per