FREDRIC D. WOOCHER (SBN 96689)
STRUMWASSER & WOOCHER LLP
10940 Wilshire Boulevard, Suite 2000
Los Angeles, CA 90024
Telephone: (310) 576-1233
Facsimile: (310) 319-0156
E-mail: fwoocher@strumwooch.com

CHRISTOPHER E. BABBITT (SBN 225813)
WILMER CUTLER PICKERING HALE AND DORR LLP
1875 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
Telephone: (202) 663-6000
Facsimile: (202) 663-6363
E-mail: christopher.babbitt@wilmerhale.com

JOHN A. MAIER (SBN 191416)
MAIER PFEFFER KIM GEARY & COHEN LLP
1440 Broadway, Suite 812
Oakland, CA 94612
Telephone: (510) 835-3020
Facsimile: (510) 835-3040
E-mail: jmaier@jmandmplaw.com

Counsel for the North Fork Rancheria of Mono Indians

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MADERA

STAND UP FOR CALIFORNIA!; BARBARA LEACH, Plaintiffs, v. STATE OF CALIFORNIA et al., Defendants. NORTH FORK RANCHERIA OF MONO INDIANS, Intervenor-Defendant and Cross-Complainant, v. STATE OF CALIFORNIA et al.; DOES 51-100, Cross-Defendants, CHERYL SCHMIT, an individual, Real Party in Interest.	Case No. MCV062850 VERIFIED CROSS-COMPLAINT OF INTERVENOR-DEFENDANT NORTH FORK RANCHERIA OF MONO INDIANS FOR DECLARATORY RELIEF

Comes now Intervenor-Defendant and Cross-Complainant North Fork Rancheria of Mono Indians and alleges as follows:

INTRODUCTION

1. This Cross-Complaint seeks declaratory relief to resolve an important and ongoing controversy regarding the validity of a proposed referendum petition that seeks to revoke the Legislature's ratification of the tribal-state gaming compact (the "Compact") entered into between the State of California (the "State") and Intervenor-Defendant North Fork Rancheria of Mono Indians ("North Fork" or the "Tribe"). The petition, misleadingly entitled by its proponent "Referendum to Overturn Chapter 51, Statutes of 2013, Relating to Amended [sic] Tribal-State Gaming Compacts" (the "Referendum Petition"), purports to require a statewide vote of the electorate on the Legislature's ratification via Assembly Bill No. 277 (Stats. 2013, ch. 51 ("AB 277")) of two tribal-state gaming compacts negotiated and concluded by Governor Jerry Brown in accordance with the federal Indian Gaming Regulatory Act of 1988 ("IGRA"), 25 U.S.C. § 2701 et seq., and article IV, section 19 of the California Constitution: one between the State and North Fork, and another between the State and the Wiyot Tribe. On November 20, 2013, California Secretary of State Debra Bowen certified that a sufficient number of signatures had been submitted to qualify the Referendum Petition to appear on the November 2014 statewide general election ballot.

2. Based upon the Secretary of State's certification, California Attorney General Kamala Harris, on behalf of the State Defendants in this action, has asserted that "the North Fork Tribe's compact ratification statute has not taken effect under California law" and that "AB 277 cannot become law — if it is to become law — until after the referendum is submitted to the voters in November 2014." In other words, the State Defendants have taken the position in this litigation that the filing of the Referendum Petition has temporarily prevented the Compact between the Tribe and the State from taking effect and that, depending upon the outcome of the November 2014 election, the Referendum Petition may prevent the Compact from *ever* going into effect — notwithstanding that the Governor has duly executed the Compact, the Legislature has ratified the Compact, the

Secretary of State has submitted the executed Compact to the United States Secretary of the Interior, and, *more than four months ago*, the Secretary of the Interior published notice in the Federal Register that the Compact has "tak[en] effect" in accordance with federal law. (See 78 Fed. Reg. 62649 (Oct. 22, 2013) ["This notice publishes the Class III Gaming Compact between the North Fork Rancheria of Mono Indians and the State of California taking effect."]; 25 U.S.C. § 2710(d)(3)(B) [tribal-state compact shall take effect "when notice of approval by the Secretary of such compact has been published by the Secretary in the Federal Register"].)

3. The State Defendants' assertion that the Compact is not yet in effect and that it may somehow be "*un-ratified*" by the Referendum Petition is incorrect as a matter of law, because the referendum power cannot be used to undo the Legislature's ratification of a tribal-state gaming compact negotiated and agreed to by two sovereign governments acting pursuant to federal law. Under the California Constitution, the people's reserved power of initiative and referendum is limited to actions that constitute the exercise of the State's *legislative* power to create binding statutory law. (*American Federation of Labor v. Eu* (1984) 36 Cal.3d 687, 711-712.) In approving tribal-state gaming compacts, however, the Legislature is not exercising its inherent *lawmaking* authority to enact state legislation. Rather, the Legislature's role is explicitly limited to the "ratification" of compacts negotiated by the Governor. (See Cal. Const., art. IV, § 19(f) ["the Governor is authorized to negotiate and conclude compacts, *subject to ratification by the Legislature*"].) The phrase "ratification by the Legislature" has a well-established meaning, and it has long been held to *exclude* the people's exercise of the initiative or referendum power. (See, e.g., *Hawke v. Smith* (1920) 253 U.S. 221, 229 ["[R]atification . . . is not an act of legislation within the proper sense of the word. It is but an expression of the assent of the state to a proposed amendment."]; *Barlotti v. Lyons* (1920) 182 Cal. 575, 583 ["the people of the respective states shall speak on the question of ratification *solely and finally through their official representative legislative bodies*," not through the referendum process] [emphasis in original].)

4. Moreover, as the Supreme Court emphasized in *American Federation of Labor v. Eu, supra*, the people's initiative and referendum power is restricted to the adoption or rejection of a

"law" — i.e., "a general rule of conduct with appropriate means for its enforcement *declared by some authority possessing sovereign power over the subject.*" (36 Cal.3d at p. 711 [quoting *Opinion of the Justices* (Mass. 1928) 160 N.E. 439, 440] [emphasis added].) A tribal-state compact, however, is not a state "law." The State of California possesses no inherent regulatory power over Indian gaming, and the Legislature has no ability to dictate the terms of a compact. Rather, a tribal-state compact is a *contract* — negotiated and agreed to by two sovereign governments — and when the Legislature ratifies a compact, it is merely giving its approval to the terms of that mutual *agreement*, not exercising its lawmaking authority to unilaterally regulate the conduct of a party subject to its legislative control. As the Court of Appeal held in *Worthington v. City Council of the City of Rohnert Park* (2005) 130 Cal.App.4th 1132, 1143: "A governmental entity legislates when it unilaterally regulates . . . . The give-and-take involved when a government entity negotiates an agreement with a sovereign Indian tribe is not legislation, but is a process requiring the consent of both contracting parties." Accordingly, a referendum cannot be used to *overturn* a compact negotiated and entered into between the State and a sovereign Indian tribe any more than an initiative could be used to *impose* a compact on the tribe without its consent in the first place.

5. The proposed Referendum Petition must also be deemed to be invalid because subjecting the Legislature's ratification of the Compact to referendum would directly conflict with federal law. IGRA requires that the State must negotiate the terms of a compact in good faith upon the request of an Indian tribe. (25 U.S.C. § 2710(d)(1)(B).) Yet the referendum power is fundamentally incompatible with the State's ability and obligation to negotiate in good faith with an Indian tribe: There is no give-and-take bargaining involved in the referendum process; indeed, neither the Governor nor the tribe has any way of even *knowing* what the electorate's collective views might be with respect to the many terms of a compact. As the Supreme Court recognized in holding that the right of referendum was therefore inapplicable to a county board of supervisors' approval of an ordinance adopting a memorandum of understanding reached through a statutorily mandated collective bargaining process, "[i]f the power of referendum existed, then the Legislature would in effect be sanctioning a kind of bad faith bargaining process in which those who possess the

ultimate reservation of rights to approve the collective bargaining agreement — i.e., the electorate — are completely absent from the negotiating table." (*Voters for Responsible Retirement v. Board of Supervisors* (1994) 8 Cal.4th 765, 783.) Worse yet, if the negotiation and ratification of tribal-state gaming compacts were subject to referendum, an incumbent casino operator could use its enormous financial resources to delay and ultimately to prevent a tribe from *ever* conducting gaming on Indian lands by repeatedly qualifying referenda and funding successive campaigns against the electorate's approval of any new compact that might reduce the incumbent casino's profits — directly contrary to the principal objectives of IGRA, which include promoting economic development and self-sufficiency for *all* Indian tribes. (See, e.g., 25 U.S.C. §§ 2701, 2702; S. Rep. No. 100-446, at p. 13.)

6. Subjecting the ratification of a class III gaming compact to referendum would likewise be incompatible with the timing and procedures established by state and federal law for the approval of such compacts. Under state law, "[u]pon receipt of a statute ratifying a tribal-state compact," the Secretary of State is required to forward a copy of the executed compact and the ratifying statute to the Secretary of the Interior. (Gov. Code, § 12012.25(f).) Under federal law, the Secretary of the Interior then has 45 days from receipt of the executed compact to approve or disapprove it, and if the Secretary fails to act during that time period, the compact is deemed approved. (25 U.S.C. § 2710(d)(8)(C).) If the compact is either approved or considered to be approved, the Secretary is required to publish notice of the approval in the Federal Register, at which point the compact "shall take effect." (*Id.*, § 2710(d)(3)(B); see 25 C.F.R. § 293.15(a) ["An approved or considered-to-have-been-approved compact or amendment takes effect on the date that notice of its approval is published in the Federal Register."].) The notice of approval must be published in the Federal Register no later than 90 days from the date the compact was received by the Secretary. (*Id.*, § 293.15(b).) This procedure leaves no time for a referendum to challenge the Legislature's ratification of an executed compact prior to its approval by the Secretary of the Interior. Nor does it permit a referendum to "un-ratify" a compact that has already "take[n] effect" under federal law. Simply put, neither California nor federal law contemplates that ratification of a tribal-

state compact is subject to the referendum process.

7. In order not to violate the Supremacy Clause of the U.S. Constitution, California law must be construed to avoid conflicting with federal law and with the achievement of federal policy. (See *F & L Farm Co. v. City Council of Lindsay* (1998) 65 Cal.App.4th 1345, 1353.) That general proposition is particularly applicable in the context of the cooperative federal-state regime established by IGRA, in which the State's authority to regulate Indian gaming *at all* is derived solely from Congress' narrow delegation of *federal* authority to the State, and in which the State's role is limited to *negotiating* in good faith over the terms of a tribal-state compact, which must then be submitted to the Secretary of the Interior for approval pursuant to federal law. Article IV, section 19(f), of the California Constitution provides that "the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, for [class III gaming] by federally recognized Indian tribes on Indian lands in California in accordance with federal law." Given the well-established meaning of the term "ratification," the contractual nature of the tribal-state compact between two sovereign governments, and the manifest incompatibility of a referendum with the compact negotiation and approval process prescribed by IGRA, California law must be construed to foreclose subjecting the Legislature's ratification of a tribal-state gaming compact to referendum.

8. Finally, the proposed Referendum Petition is invalid because it does not comply with one of the most basic procedural requirements of the Elections Code for the exercise of the referendum power — that "[a]cross the top of each page" of the petition, "there shall be printed in 18-point gothic type a short title, in 20 words or less, showing the nature of the petition and the subject to which it relates." (Elec. Code, § 9011.) "The purpose of the 'short title' is to inform the prospective signer of the general purpose of the proposal, and to protect him from being misled or imposed upon." (*Clark v. Jordan* (1936) 7 Cal.2d 248, 252.) The short title on each page of the Referendum Petition in the present case told prospective signers that the proposal related to "*Amended* Tribal-State Gaming Compacts," when in fact the Referendum Petition actually seeks to overturn the ratification of entirely *new* compacts for tribes that have not previously conducted any gaming activities. This is an important distinction, and the erroneous title may well have misled

voters into signing the petition, particularly given that a State may not *deny* an eligible tribe a compact to conduct class III gaming on Indian lands in the first instance, but is under no obligation to *amend* a tribe's existing compact. "[S]tatutes passed for the purpose of protecting electors from confusing or misleading situations should be enforced." (*Ibid.*)

9. In order to ascertain the current legal status of the Compact and the respective rights and obligations of the State and North Fork under that agreement, this Cross-Complaint therefore seeks a judicial declaration that the pending Referendum Petition is invalid, void, and unenforceable to the extent that it purports to stay the effectiveness of the executed Compact between the State and the Tribe, and to the extent that it purports to trigger an election that could result in the "un-ratification" and revocation of the Compact. Every additional day of uncertainty in resolving the issues raised in the Cross-Complaint causes great and irreparable harm to the Tribe, to its 1,900 members, and to all of the other persons and entities who are depending upon the casino project to provide housing, educational, and other services, and to enable tribal self-determination and self-sufficiency as contemplated by IGRA.

PARTIES

10. Cross-Complainant NORTH FORK RANCHERIA OF MONO INDIANS is a federally recognized Indian tribe with approximately 1,900 tribal citizens. In November 2012, after many years of planning and analysis, the Secretary of the Interior agreed to take into trust for the Tribe a 305-acre parcel of land in Madera County, just outside the City of Madera. North Fork intends to use the land to develop a resort hotel and casino, as envisioned by IGRA. North Fork cannot feasibly build a gaming resort on its Rancheria land, which is steep, hilly, and located in an environmentally sensitive area immediately adjacent to the Sierra National Forest. Further, the Rancheria land is not held in trust for the Tribe; instead, it is held on behalf of individual tribal citizens. The Tribe will thus be unable to generate tribal income as contemplated by IGRA if it is barred from gaming on lands other than its Rancheria. Net income will be used to support tribal government; to provide housing, educational, and other services to citizens; and to enable tribal self-determination and self-sufficiency. As is detailed in its Compact with the State, the Tribe has also

committed, to the extent permitted by IGRA, to make reimbursements or mitigation payments to, or to share revenues with, the State and local governments potentially affected by the development, and California tribes that engage in no or limited gaming on their own lands (including the Wiyot Tribe, which can then afford to forego development on its environmentally sensitive lands). North Fork thus has a concrete and beneficial interest in maintaining the integrity of the referendum process and in preventing the unlawful Referendum Petition from interfering with the implementation of its Compact with the State.

11. Cross-Defendant STATE OF CALIFORNIA is the legal and political entity that is required by IGRA to negotiate in good faith with North Fork to enter into a class III gaming tribal-state compact, and which — by and through its designated agents — did indeed negotiate, conclude, ratify, execute, and enter into a tribal-state compact with North Fork that took effect on October 22, 2013, upon the publication by the Secretary of the Interior in the Federal Register of notice of the Compact's approval.

12. Cross-Defendant EDMUND G. BROWN, JR., is the Governor of the State of California and is sued herein in his official capacity. Governor Brown negotiated, concluded, and executed the Compact with North Fork that is the subject of the Referendum Petition.

13. Cross-Defendant KAMALA D. HARRIS is the Attorney General for the State of California and is sued herein in her official capacity. Attorney General Harris is responsible for the enforcement of state law and the Compact.

14. Cross-Defendant CALIFORNIA GAMBLING CONTROL COMMISSION is a five-member commission appointed by the Governor and is the body responsible for overseeing the State's interests in the Compact and supervising the distribution of revenues deposited into the Indian Gaming Special Distribution Fund and the Indian Gaming Revenue Sharing Trust Fund (RSTF).

15. Cross-Defendant CALIFORNIA BUREAU OF GAMBLING CONTROL is a state agency within the Department of Justice's Division of Law Enforcement. Among the Bureau's primary functions are conducting investigations into the qualifications of individuals and businesses

who apply for state gambling licenses and conducting compliance inspections of gambling operations throughout the state.

16. Cross-Complainant is unaware of the true names and capacities of Cross-Defendants DOES 51-100, inclusive, and they are therefore sued by such fictitious names pursuant to Code of Civil Procedure section 474. Cross-Complainant alleges on information and belief that each such fictitiously named Cross-Defendant is responsible or liable in some manner for the events and happenings referred to herein, and Cross-Complainant will seek leave to amend this Cross-Complaint to allege their true names and capacities after the same have been ascertained.

17. Real Party in Interest CHERYL SCHMIT is the official proponent of the proposed "Referendum to Overturn Chapter 51, Statutes of 2013, Relating to Amended [sic] Tribal-State Gaming Compacts," the Referendum Petition that is the subject of this Cross-Complaint.

JURISDICTION AND VENUE

18. This Court has jurisdiction over this Cross-Complaint pursuant to its general subject matter jurisdiction and section 1060 of the Code of Civil Procedure. Venue for this action is proper in the County of Madera under Code of Civil Procedure section 393(b) because the cause, or some part of the cause, arose in the County of Madera in that the site that was taken into trust for the purpose of North Fork's development of the class III gaming facility that is the subject of the Compact and the Referendum Petition is located within the County of Madera.

GENERAL ALLEGATIONS

Regulation of Indian Gaming Under IGRA

19. In 1988, Congress passed IGRA to provide a framework for the regulation of Indian gaming. IGRA seeks to balance the competing sovereign interests of the federal government, state governments, and Indian tribes by giving each a role in the regulatory scheme. In enacting IGRA, Congress intended "to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments." (25 U.S.C. § 2702(1).)

20. Under IGRA, all gaming activities are divided into three classes, with each subject

to a different level of regulation. Class III gaming, which is at issue in this case, includes the type of games typically associated with casino gaming, including the operation of mechanical and electronic gaming devices such as slot machines.

21. IGRA recognizes that "Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity." (*Id.*, § 2701(5).) IGRA permits class III gaming on Indian lands if such activities are: (1) authorized by an ordinance or resolution adopted by the governing body of the Indian tribe and the Chairman of the National Indian Gaming Commission ("NIGC"); (2) located in a state that permits such gaming for any purpose by any person, organization, or entity; and (3) conducted in conformance with a tribal-state compact entered into by the Indian tribe and the state and approved by the Secretary of the Interior. (*Id.*, § 2710(d)(1) & (d)(3)(B).)

22. Upon the request of any Indian tribe located within its borders, IGRA requires the state to negotiate with the tribe in good faith regarding the terms of a compact governing the conduct of class III gaming activities. IGRA specifically sets forth the subjects that may be negotiated in any tribal-state compact, including provisions regarding the application of the criminal and civil laws of the state that are directly related to, and necessary for, the licensing and regulation of gaming activities; the assessment by the state of fees in such amounts as are necessary to defray the costs of regulating such activities; standards for the operation and maintenance of the gaming facility; and any other subjects "that are directly related to the operation of gaming activities." (*Id.*, § 2710(d)(3)(C).)

Indian Gaming in California

23. After the enactment of IGRA, certain Indian tribes in California sought to negotiate compacts with the state to permit the operation of class III gaming on their reservations. During the administration of Governor Pete Wilson, the state refused to negotiate with respect to the specific types of class III games that the tribes sought to conduct — live banked or percentage card games and stand-alone electronic gaming devices (similar to slot machines). In November 1998, the voters

enacted Proposition 5, a statutory initiative measure that would have required the state to enter into a model class III gaming compact with federally recognized Indian tribes covering banked card games and slot machines.

24. In *Hotel Employees & Rest. Employees Int'l Union v. Davis* (1999) 21 Cal.4th 585, the California Supreme Court invalidated Proposition 5, ruling that article IV, section 19(e) of the California Constitution, which prohibited "casinos of the type currently operating in Nevada and New Jersey," likewise prohibited the type of class III games authorized by Proposition 5's model compact.

25. In response to the Supreme Court's decision in *Hotel Employees*, the Legislature proposed an amendment to the state Constitution (Proposition 1A) that would exempt Indian tribes from the prohibition against class III gaming. At the same time, Governor Davis and various Indian tribes engaged in negotiations over the terms of tribal-state compacts that would permit the conduct of certain class III games on Indian lands, subject to the voters' approval of the proposed state constitutional amendment.

26. In March of 2000, the people of California enacted Proposition 1A, amending the California Constitution to grant the Governor, "[n]otwithstanding . . . any other provision of state law," the explicit authority "to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of lottery games and banking and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law." (Cal. Const., art. IV, § 19, subd. (f).) Proposition 1A thereby established the exclusive procedure for the negotiation, ratification, and execution of tribal-state gaming compacts in California.

27. Pursuant to the authority granted by Proposition 1A, some 64 Indian tribes ultimately entered into gaming compacts with the State of California (the "1999 Compacts"), most of which were ratified by the Legislature in Assembly Bill 1385 (Stats. 1999, ch. 874), which enacted Government Code section 12012.25. Subdivision (c) of that statute explicitly acknowledges the right of other federally recognized Indian tribes to exercise their sovereignty to negotiate and enter into

tribal-state gaming compacts and provides, consistent with article IV, section 9(f), that "[t]hese compacts shall be ratified by a statute approved by each house of the Legislature, a majority of the members thereof concurring, and signed by the Governor . . . ." Subdivision (d) of Government Code section 12012.25 formally designates the Governor as the "state officer responsible for negotiating and executing, on behalf of the state, tribal-state gaming compacts with federally recognized Indian tribes located within the State of California pursuant to the federal Indian Gaming Regulatory Act of 1988."

North Fork's 2012 Compact

28. IGRA generally allows gaming on lands acquired by the United States in trust for an Indian tribe before 1988, when the statute was enacted. In contrast, land taken into trust after IGRA's enactment may not be used for gaming unless it falls within one of several statutory exceptions. Under one such exception, gaming is permitted if the Secretary of the Interior finds that: (1) "a gaming establishment on newly acquired lands would be in the best interest of the Indian tribe and its members," and (2) such an establishment "would not be detrimental to the surrounding community." (25 U.S.C. § 2719(b)(1)(A).) Because both elements must be satisfied, this finding is referred to as a "two-part determination." Even after the Secretary of the Interior has reached her own determination, however, gaming becomes permissible under this exception "only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination." (*Ibid.*)

29. After several years of consideration, the Assistant Secretary for Indian Affairs wrote to Governor Brown on September 1, 2011, informing the Governor that the Department of the Interior had made a favorable two-part determination with respect to IGRA gaming on a 305-acre parcel of land in Madera County proposed to be taken into trust for North Fork and requesting the Governor's concurrence in the siting and development of a proposed gaming facility on the Madera parcel. On August 31, 2012, Governor Brown both provided that concurrence and announced that he had signed a compact with North Fork that would allow the Tribe to operate a class III gaming facility on the Madera land.

30. After being informed of the Governor's actions, the Secretary of the Interior made the final decision to take the Madera land into trust for North Fork. On February 5, 2013, the Secretary took the land into federal trust for the Tribe.

31. On June 27, 2013, the Legislature passed AB 277, adding section 12012.59 to the Government Code and ratifying the Compact between the State and North Fork, as well as another compact between the State and the Wiyot Tribe. AB 277 also provided, consistent with Government Code section 12012.25(g), that in deference to tribal sovereignty, certain actions related to the execution of the Compact are deemed not to be projects for purposes of the California Environmental Quality Act. AB 277 was signed by the Governor on July 3, 2013, and chaptered as Chapter 51 of Statutes of 2013. In accordance with Government Code section 12012.25(f), upon receipt of the executed Compact from the Governor, California Secretary of State Bowen forwarded a copy of the Compact to the Secretary of the Interior for her review and approval. On October 22, 2013, following the expiration of the 45-day period for the Secretary to take action on the Compact, the Secretary published notice in the Federal Register that the Compact was considered to be approved and that it was therefore "taking effect." (78 Fed. Reg. 62649 (Oct. 22, 2013).)

32. In the meantime, on March 27, 2013, Plaintiffs Stand Up for California! and Barbara Leach filed this action against Governor Brown, alleging that his concurrence in the Secretary of the Interior's two-part determination with respect to IGRA gaming on the Madera parcel exceeded his authority and violated the separation of powers clause of the California Constitution. On or about September 27, 2013, Plaintiffs filed a First Amended Complaint, adding the State of California and other State officials and entities as Defendants, and challenging the constitutionality of AB 277 and the underlying tribal-state compact between the State and North Fork, as well.

33. On or about July 8, 2013, under the letterhead of Stand Up for California!, Cross-Defendant Schmit submitted to the office of the California Attorney General a request for title and summary for a "proposed statewide referendum of AB 277." On July 19, 2013, the Attorney General issued a title and summary, entitling the measure "Referendum to Overturn Indian Gaming Compacts," designated as File No. 13-0007. On November 20, 2013, Secretary of State Bowen

certified that the Referendum Petition had been signed by a sufficient number of registered voters to qualify for the November 2014 general election ballot.

FIRST CAUSE OF ACTION

(Declaratory Relief, Code Civ. Proc., § 1060)

34. Cross-Complainant realleges and incorporates by reference the allegations set forth in paragraphs 1 through 33 above.

35. An actual controversy has arisen and now exists between Cross-Complainant, on the one hand, and Cross-Defendants and Real Party in Interest, on the other, concerning the validity of the Referendum Petition and the legal status of the Compact between North Fork and the State, including Cross-Complainant's and Cross-Defendants' rights and duties with respect thereto. As set forth more fully above, Cross-Complainant contends that the Referendum Petition is invalid, void, and unenforceable, and that the Compact is in full force and effect and will remain so notwithstanding the outcome of any election on the Referendum Petition. On information and belief, Cross-Complainant alleges that Cross-Defendants and Real Party in Interest contend in all respects to the contrary. A judicial determination and declaration as to the validity of the Referendum Petition and its impact on the current status and future effectiveness of the Compact is therefore necessary and appropriate in order to determine the respective rights and duties of the parties.

PRAYER FOR RELIEF

WHEREFORE, Cross-Complainant prays for judgment as follows:

1. That this Court issue its judgment declaring that the Referendum Petition is invalid, void, and unenforceable insofar as it purports to stay the effectiveness of, and to overturn the ratification of, the tribal-state gaming compact entered into by North Fork and the State;

2. That this Court grant Cross-Complainant its costs, including out-of-pocket expenses and reasonable attorneys' fees; and

3. That this Court grant such other, different or further relief as the Court may deem just and proper.

Dated: February 27, 2014

MAIER PFEFFER KIM GEARY & COHEN LLP
John A. Maier

WILMER CUTLER PICKERING HALE AND DORR LLP
Christopher E. Babbitt

STRUMWASSER & WOOCHER LLP
Fredric D. Woocher

By _____
Fredric D. Woocher

Attorneys for Cross-Complainant
North Fork Rancheria of Mono Indians

VERIFICATION

I, Fredric D. Woocher, declare:

I am the attorney for Cross-Complainant North Fork Rancheria of Mono Indians in this action. I make this verification for the reason that Cross-Complainant is absent from the county in which I have my office. I have read the foregoing VERIFIED CROSS-COMPLAINT OF INTERVENOR-DEFENDANT NORTH FORK RANCHERIA OF MONO INDIANS FOR DECLARATORY RELIEF. I am informed and believe that the contents thereof are true, and on that ground I allege that the matters stated therein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27th day of February 2014, at Los Angeles, California.

Fredric D. Woocher

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF MADERA

Re: *Stand Up for California!, et al., v. State of California, et al.*
Madera County Case No. MCV062850

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 10940 Wilshire Boulevard, Suite 2000, Los Angeles, California 90024.

On **February 27, 2014** I served the foregoing document(s) described as **VERIFIED CROSS-COMPLAINT OF INTERVENOR-DEFENDANT NORTH FORK RANCHERIA OF MONO INDIANS FOR DECLARATORY RELIEF** on all appropriate parties in this action, as listed on the attached Service List, by the method stated:

☒ If electronic-mail service is indicated, by causing a true copy to be sent via electronic transmission from Strumwasser & Woocher LLP's computer network in Portable Document Format (PDF) this date to the e-mail address(es) stated, to the attention of the person(s) named.

☐ If fax service is indicated, by facsimile transmission this date to the fax number stated, to the attention of the person named, pursuant to Code of Civil Procedure section 1013(f).

☒ If U.S. Mail service is indicated, by placing this date for collection for mailing true copies in sealed envelopes, first-class postage prepaid, addressed to each person as indicated, pursuant to Code of Civil Procedure section 1013a(3). I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in the affidavit.

☐ If overnight service is indicated, by placing this date for collection by sending true copies in sealed envelopes, addressed to each person as indicated, pursuant to Code of Civil Procedure, section 1013(d). I am readily familiar with this firm's practice of collecting and processing correspondence. Under that practice, it would be deposited with an overnight service in Los Angeles County on that same day with an active account number shown for payment, in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **February 27, 2014**, at Los Angeles, California.

LaKeitha Oliver

SERVICE LIST

Stand Up for California!, et al., v. State of California, et al.
Madera County Case No. MCV062850

Kamala D. Harris
Sara J. Drake
William P. Torngren
Timothy M. Muscat
1300 I Street, Suite 125
PO Box 944255
Sacramento, California 94244-2550
Email: Timothy.Muscat@doj.ca.gov

Attorneys for Edmund G. Brown, Jr., in his official capacity as Governor of the State of California; State of California; Kamala D. Harris, in her official capacity as Attorney General of the State of California; California Gambling Control Commission; and Bureau of Gambling Control

Sean M. Sherlock
SNELL & WILMER LLP
600 Anton Boulevard, Suite 1400
Costa Mesa, California 92626-7689
Email: ssherlock@swlaw.com

Attorney for Stand Up for California!; and Barbara Leach