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12 UNITED STATES DISTRICT COURT

13 FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
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15 EVANS HOTELS, LLC, a California limited  
liability company; BH PARTNERSHIP LP, a  
16 California limited partnership; EHSW, LLC,  
a Delaware limited liability company,

17 Plaintiffs,

18 v.

19 UNITE HERE! LOCAL 30; BRIGETTE  
20 BROWNING, an individual; SAN DIEGO  
COUNTY BUILDING and  
21 CONSTRUCTION TRADES COUNCIL,  
AFL-CIO; TOM LEMMON, an individual;  
22 and DOES 1-10,

23 Defendants.  
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Case No.: 3:18-cv-02763-H-KSC

**AMENDED COMPLAINT FOR:**

1. **UNLAWFUL SECONDARY BOYCOTT**
2. **ATTEMPTED MONOPOLIZATION IN VIOLATION OF SECTION 2 OF THE SHERMAN ACT**
3. **CONSPIRACY TO MONOPOLIZE IN VIOLATION OF SECTION 2 OF THE SHERMAN ACT**
4. **VIOLATION OF THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT, 18 U.S.C. § 1962(c)**
5. **VIOLATION OF THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT, 18 U.S.C. § 1962(d), BY CONSPIRING TO VIOLATE 18 U.S.C. § 1962(c)**
6. **VIOLATION OF THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT, 18 U.S.C.**

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**§ 1962(d), BY CONSPIRING TO VIOLATE 18 U.S.C. § 1962(a)**

- 7. VIOLATION OF THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT, 18 U.S.C. § 1962(d), BY CONSPIRING TO VIOLATE 18 U.S.C. § 1962(b)**
- 8. INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**
- 9. ATTEMPTED EXTORTION**

**DEMAND FOR JURY TRIAL**

1 Plaintiffs Evans Hotels, LLC; BH Partnership, LP; and EHSW, LLC (collectively “Evans  
2 Hotels” or “Plaintiffs”) allege as follows:

3 **SUMMARY OF THE ACTION**

4 1. This is a case about unions and union leaders that, in their quest for increased dues and  
5 market power, have abandoned traditional (and legal) statutory systems of labor democracy in favor of  
6 a pattern of abusive and unlawful secondary boycotts, sham “environmental” and zoning opposition,  
7 extortion, bribery, threats, and intimidation. Defendants Unite Here! Local 30 (“Local 30”), the San  
8 Diego County Building and Construction Trades Council, AFL-CIO (“Building Trades”), and their  
9 respective leaders, Brigette Browning and Tom Lemmon (collectively “Defendants”), have combined  
10 and conspired with a rotating cast of “concerned citizens” in an attempt to dominate, monopolize, and  
11 control the hospitality labor market and restrain trade in the prime tourism regions of San Diego.

12 2. Defendants openly flaunt to owners, developers and the remaining City officials not  
13 under their thumb that it’s a “new day” in San Diego and that business owners and developers “better  
14 figure out who runs this town.” Of course, Defendants are not (nor have they ever been) elected  
15 officials. Rather, they obtained their control over the City of San Diego by bribing and extorting votes  
16 from elected officials in exchange for campaign funding and other “support.” Unfortunately, for the  
17 residents and taxpayers of San Diego, Defendants have used their power and control to hold  
18 development and progress in San Diego hostage and deny taxpayers more than a billion dollars in  
19 increased revenue. Defendants have engaged in this illegal behavior not to protect hotel or  
20 construction workers, but to advance their own economic interests and to restrict the development of  
21 competing non-union hotels and other projects in the prime tourism regions of San Diego.

22 3. For more than ten years, and with ever-increasing frequency, Defendants have refined  
23 their “playbook”: hold any non-union owner and developer hostage by impeding, delaying, or shutting  
24 down projects through threats of greenmail and unlawful secondary boycott activities. Defendants’  
25 conduct has delayed and, in many cases, shut down development of projects (and impeded the creation  
26 of tens of thousands of new jobs) at the expense of the City of San Diego and its residents.

27 4. Defendants’ playbook is designed for one objective—to use unlawful measures to  
28 unionize all labor in the construction and operation of hospitality properties in San Diego. For Local

1 30 and Ms. Browning, this objective is achieved by securing a card check neutrality agreement at non-  
2 union properties. For the Building Trades and Mr. Lemmon, this playbook means ensuring that  
3 hospitality developers agree to enter a Project Labor Agreement (“PLA”) or use only unionized labor  
4 on an upcoming construction project. As Mr. Lemmon said to a developer of a two-billion dollar  
5 project, he does not care if the project he is killing would provide thousands of jobs to his members  
6 and he does not care if the project is great for San Diego. He “owns five city council members” and  
7 although he acknowledges that Defendants’ unlawful actions will cost his members jobs today, he and  
8 Defendants will pay that price unless the developer agrees to his demands (including a card check  
9 neutrality agreement for Defendant Local 30, a union that does not represent his members).

10 5. Defendants’ success hinges in part on an alliance formed years ago between Ms.  
11 Browning (president of Defendant Local 30) and Mr. Lemmon (business manager of the Building  
12 Trades). Ms. Browning and Mr. Lemmon pledge mutual support to one another regardless of whether  
13 the project they are targeting would benefit the members of the union they represent, and they both  
14 have bragged about their collective control over the San Diego City Council and their ability to kill  
15 good projects for the residents of San Diego before they even get docketed by virtue of their ownership  
16 over a majority of City Council.

17 6. Defendants do not voice their opposition to non-union projects via traditional (and  
18 lawful) means—*e.g.*, lobbying, petitioning, etc. Rather, Defendants’ success hinges on their use of  
19 unlawful tactics, including bribery of public officials, to prevent a developer’s proposed project from  
20 being placed on the appropriate governmental bodies’ docket for hearing and approval. Thus, projects  
21 are held in limbo—sometimes for a period of years—until the developer is forced to either accede to  
22 the unions’ demands or abandon the project entirely.

23 7. The latest target of Defendants’ unlawful activity is the redevelopment of the Bahia  
24 Resort Hotel. The Bahia Resort Hotel is on Mission Bay Park, land owned by the City. It was the first  
25 commercial lessee on Mission Bay, and has operated under long term leases from the City since the  
26 1950s. The City of San Diego receives rent from the Bahia Resort Hotel based upon a percentage of  
27 the revenue generated by the property. Any increase in revenue equates to an increase in rent to the  
28 City. In the late 1980s, the Evans family submitted a redevelopment plan for the Bahia Resort Hotel in

1 Mission Bay, San Diego. The City of San Diego asked the Evans family to put the redevelopment plan  
2 on hold, so the City could finish updating its comprehensive land-use plan for the entirety of Mission  
3 Bay Park (the Mission Bay Park Master Plan Update, “MBMPU”). In 1994, after years of public  
4 input, over one hundred public meetings, and approval by the California Coastal Commission, the  
5 MBMPU was adopted by the City of San Diego. The approved land use plan expressly contemplated  
6 the new and expanded footprint for the Bahia Hotel. Because the land is leased from the City, a lease  
7 amendment from the City is required as part of any significant redevelopment.

8 8. Evans Hotels is now seeking an amendment to the Bahia lease agreement in order to  
9 redevelop the Bahia in accordance with the MBMPU. The redevelopment contemplates not just  
10 renovating the existing space but adding hundreds of additional rooms. Defendants have not engaged  
11 in negotiations with Evans Hotels regarding the use of organized labor in either the development of the  
12 Bahia or its staffing. Instead, Defendants presented sham environmental and zoning challenges to the  
13 lease amendment, made threats of extortion and delay, unlawfully targeted Evans Hotels’ business  
14 partners, and told Plaintiffs point blank that if they did not agree to a PLA and card check neutrality  
15 agreement they would use their control over City Council to kill the redevelopment.

16 9. Defendants’ conduct not only violates Section 8(b)(4) of the National Labor Relations  
17 Act and Section 303 of the Labor Management Relations Act, but in the aggregate demonstrates a  
18 pattern of anti-competitive, coercive, and unlawful conduct that is designed to (and has) stifled  
19 development, competition, and commerce in San Diego.

20 **THE PARTIES**

21 10. Evans Hotels was founded by San Diego natives William and Anne Evans in 1953. It  
22 operates three hotel properties in and around San Diego: the Bahia Resort Hotel (the first commercial  
23 lessee on Mission Bay); the Catamaran Resort Hotel and Spa (on the northwest corner of Mission  
24 Bay); and The Lodge at Torrey Pines (an AAA Five Diamond resort located near Torrey Pines State  
25 Reserve and Torrey Pines Golf Course).

26 11. Plaintiff Evans Hotels, LLC is a California limited liability company located at 998  
27 West Mission Bay Drive in San Diego. Evans Hotels, LLC is an employer within the meaning of the  
28 National Labor Relations Act (“NLRA”), 29 U.S.C. § 152(s). Evans Hotels, LLC is committed to its

1 employees. It employs over 1,186 individuals, many of whom have been with the company and its  
2 predecessors for more than a decade. Indeed, 8% of Evans Hotels, LLC's employees have over 20  
3 years of service, and the average tenure of all employees with over one year of service is 11 years.  
4 Annually, Evans Hotels, LLC pays over \$39 million to its employees and over \$9.5 million in  
5 employee benefits. Along with competitive health insurance and a matching 401(k) program, Evans  
6 Hotels, LLC offers all of its employees interest-free loans and hosts 35 free on-site health and wellness  
7 activities throughout the year. Evans Hotels, LLC is committed to training its employees and  
8 promoting based on merit. 45% of Evans Hotels, LLC's managers have received advanced training in  
9 leadership development. Evans Hotels, LLC is not engaged primarily in the building and construction  
10 industry. Evans Hotels, LLC's employees have never sought to be recognized by Local 30.

11 12. The Bahia Resort Hotel, which opened in 1953, is located in the heart of Mission Bay  
12 on the Bahia Peninsula. The Bahia is a full-service hotel, offering extensive visitor-serving amenities,  
13 on-site restaurants and bars, a fitness center, and resort activities. Plaintiff BH Partnership, LP is a  
14 California limited partnership located at 998 West Mission Bay Drive in San Diego. BH Partnership,  
15 LP owns the Bahia and is a party to the Bahia lease with the City. Members of the Evans family own  
16 and control BH Partnership, LP.

17 13. Plaintiff EHSW, LLC is a Delaware limited liability company located at 998 West  
18 Mission Bay Drive in San Diego. Members of the Evans family own and control EHSW, LLC.

19 14. Plaintiffs are informed and believe, and thereon allege, that Defendant Local 30 is an  
20 unincorporated association and a labor union. Local 30 is the local affiliate of the national UNITE  
21 HERE union (formed when the Union of Needletrades, Industrial and Textiles Employees combined  
22 with the Hotel Employees & Restaurant Employees International). Local 30 represents service  
23 workers in the San Diego region. Local 30 maintains offices at 2436 Market Street (in San Diego) and  
24 at 5256 Mission Road (in San Diego County). Local 30 is a labor organization within the meaning of  
25 Section 152(4)-(5) of the NLRA, 29 U.S.C. § 152(4)-(5).

26 15. Plaintiffs are informed and believe, and thereon allege, that Defendant Brigitte  
27 Browning is the president of Local 30 and works in San Diego. Defendant Browning is an individual  
28

1 capable of holding a beneficial interest in property. On information and belief, Ms. Browning will  
2 receive increased salary and/or benefits if the number of union members increases.

3 16. Plaintiffs are informed and believe, and thereon allege, that Defendant Tom Lemmon is  
4 the business manager of Defendant Building Trades, and lives and works in San Diego County.  
5 Defendant Lemmon is an individual capable of holding a beneficial interest in property. On  
6 information and belief, Mr. Lemmon will receive increased salary and/or benefits if the number of  
7 union members increases.

8 17. Plaintiffs are informed and believe, and thereon allege, that Defendant Building Trades  
9 consists of affiliated construction and trade unions in San Diego County. The Building Trades  
10 maintains an office at 3737 Camino del Rio South, Suite 202 in San Diego.

11 18. Unite Here regularly files quarterly lobbyist disclosure reports identifying Ms.  
12 Browning as a lobbyist under San Diego's Lobbying Ordinance, San Diego Municipal Code  
13 § 27.4001, *et seq.* It does not appear that the Building Trades or Tom Lemmon have filed any lobbyist  
14 disclosure forms with the City in the past 10 years. On information and belief, the Building Trades  
15 meets the definition of an "organization lobbyist" under Municipal Code § 27.4002 and is subject to  
16 the Lobbying Ordinance, including the requirement that it file quarterly disclosure reports disclosing  
17 its contacts with the City.

18 19. Plaintiffs are unaware of the true names or capacities, whether individual, corporate,  
19 associate, or otherwise, of Defendants sued herein as DOES 1 through 10, inclusive, and therefore sue  
20 these Defendants by such fictitious names. Plaintiffs will seek leave of the Court to amend this  
21 pleading to set forth the true names and capacities of said Doe Defendants when the same are  
22 ascertained. Plaintiffs are informed and believe, and on that basis allege, that each of the fictitiously  
23 named Defendants is responsible in some manner for the occurrences herein alleged, or was acting in  
24 concert with, and with the permission, approval, and authorization of, the specifically named  
25 Defendants.

26 **JURISDICTION AND VENUE**

27 20. This Court has jurisdiction over the subject matter of Plaintiffs' Amended Complaint  
28 under 28 U.S.C. § 1331 and § 1337, because the Amended Complaint arises under federal statutes: the

1 NLRA; the Labor Management Relations Act (“LMRA”); the Sherman Act, 15 U.S.C. § 2; the Clayton  
2 Act, 15 U.S.C. §§ 15, 26; and the Racketeering Influenced and Corrupt Practices Act (“RICO”), 18  
3 U.S.C. § 1964(a).

4 21. The conduct alleged in this Amended Complaint occurred in interstate commerce, and  
5 has substantially affected and will continue to substantially and directly affect interstate commerce.

6 22. The Court has personal jurisdiction over the Defendants and venue is proper in the  
7 Southern District of California because: (1) the Defendants reside and/or conduct business in the State  
8 of California and at least one of the Defendants resides and/or conducts business in this District; and  
9 (2) substantial parts of the events or omissions giving rise to the claims alleged herein occurred in this  
10 District.

11 23. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned  
12 herein and unless otherwise alleged, each Defendant was the agent, employee, partner, and/or  
13 representative of one or more of the other Defendants, and was acting within the course, scope, and  
14 authority of such relationship. Plaintiffs are further informed and believe, and thereon allege, that each  
15 of the Defendants herein consented to, ratified, and/or authorized, indeed encouraged, the acts alleged  
16 herein as to each of the remaining Defendants.

17 **DEFENDANTS’ UNLAWFUL CONDUCT**

18 **Defendants’ Goal: Increase Union Dues By Securing a Card Check Neutrality Agreement for**  
19 **Local 30 and a PLA for the Building Trades.**

20 **Card Check Neutrality Agreements**

21 24. With respect to unionizing employees, the differences between traditional, lawful labor  
22 organization and Defendants’ playbook cannot be overstated. Traditional, statutory NLRA rules focus  
23 on *employees’* wants and demands.

24 25. The unionization process generally begins with the union collecting signed  
25 authorization cards from 30% of the employees it seeks to represent in collective bargaining. The  
26 union then must petition the National Labor Relations Board (“NLRB”), which will determine whether  
27 the union made a timely and sufficient showing of employee interest and sought to represent an  
28 appropriate bargaining unit. If, following an investigation, discovery, and a hearing during which

1 witness testimony is taken, the NLRB finds it appropriate to schedule an election, a Board-regulated  
2 campaign period will follow. During this campaign, both the employer and the union can speak freely  
3 and openly with the employees regarding the costs and benefits of unionization. Only *after* an election  
4 is scheduled is the employer required to disclose to the union contact information for employees in the  
5 bargaining unit. Significantly, the union does not have the right to access and use the hotel owner's  
6 facilities during this "campaign" period. Once the campaign period is complete, the NLRB conducts a  
7 secret ballot election and the hotel owner has the right to object to the election procedure. Following  
8 additional discovery and a hearing, the Board will determine whether to void the election and schedule  
9 a new one. The Board will not certify the union as the exclusive representative of the employees until  
10 after the union receives the majority of the employees' informed votes in what the Board determines to  
11 be a fair election process.

12         26. Unionization of employees through the process set forth in the NLRA is far from  
13 guaranteed. Many employees do not wish to pay the initiation fees and membership dues associated  
14 with union representation. As a result, Defendants have developed an unlawful playbook that allows  
15 them to bypass this legal structure that Congress and the NLRB created for employees to express their  
16 desires regarding union representation. Instead of unionizing properties by securing employees'  
17 voluntary and informed consent, Defendants instead accomplish the same objective by unlawfully  
18 extorting hotel owners into signing Defendant Local 30's form card check neutrality agreement  
19 (hereinafter referred to as "card check neutrality agreement").

20         27. A card check neutrality agreement does not include any of the safeguards built into the  
21 NLRA to ensure that the decision to unionize is made by the employees and is both voluntary and  
22 informed. Instead, a hotel owner pledges to remain "neutral" in Local 30's organizing campaigns  
23 conducted in the employer's nonunion facilities and to not communicate with its employees regarding  
24 the ramifications of unionization. The employer further agrees that if Local 30 collects signed  
25 authorization cards from a majority of employees sought to be unionized, the employer will recognize  
26 the union, foregoing its legal right to a Board-conducted secret ballot election. Local 30 has additional  
27 rights under the agreement after the union is "recognized." For instance, the card check neutrality  
28 agreement requires the owner to furnish Local 30 on a monthly basis with a complete list of

1 employees, including their job classifications, departments, personal phone numbers, home addresses,  
2 and email addresses. The agreement further gives Local 30 the right to “engage in organizing efforts”  
3 on the premises. As part of that solicitation, the agreement permits Local 30 to hold “captive audience  
4 meetings,” in which the employer must require employees to attend union-sponsored speeches on the  
5 property during work hours. Finally, the employer waives its right to bargain the terms and conditions  
6 of employment to impasse, instead agreeing to submit disputed terms and conditions to arbitration.  
7 This is called an “interest arbitration.” The interest arbitrator alone then determines the terms and  
8 conditions of employment, including wages, benefits, and union dues, for the members. The  
9 agreement requires the interest arbitrator to examine the terms and conditions of employment in effect  
10 in the market by looking at comparable unionized hotels within a specific radius of the employer’s  
11 hotel. In exchange for compliance with its agreement, Local 30 agrees not to strike, picket or boycott  
12 the hotel.

13 28. Therefore, by its very nature, a card check neutrality agreement dramatically restricts  
14 the employer’s First Amendment rights, as it infringes upon an employer’s free speech right to  
15 communicate views to its employees. Regardless of how the employer feels, what relevant  
16 information the employer holds, or how long the employee has worked for the employer in a non-  
17 unionized environment, the employer is absolutely prohibited from speaking with its employees about  
18 the ramifications of joining the union other than to say it “welcomes the union.” The result of this  
19 sham employer “welcome” is that the employees are forced to choose for or against unionization  
20 without hearing from the employer regarding the costs and consequences of joining a union. The  
21 employer is not even permitted to advise its employees that a card check neutrality agreement is in  
22 place.

23 29. There are costs and consequences of unionization that employees may want to consider  
24 so as to make an informed decision. For instance, Evans Hotels’ employees would not be able to  
25 consider that employee contributions to the Evans Hotels’ 401(k) plan vest immediately and employer  
26 contributions vest in 25% increments over the course of five years. If an employee decides to leave  
27 Evans Hotels at any time, that employee keeps his or her vested account balance and may leave it in  
28 the Evans Hotels’ 401(k) plan, directly roll it over into another qualified plan, or withdraw the account

1 balance (subject to taxes and penalties for early distribution), regardless of where he or she decides to  
2 work, or what he or she decides to do. By contrast, the union’s pension plan’s benefits are generally  
3 not portable and are contingent on the employee working the required number of years at a union hotel  
4 that contributes to the pension plan. If that same employee leaves a contributing union hotel without a  
5 full five years of vesting service to work at a non-union property, the employee loses all his or her  
6 accrued benefits—even though these benefits were earned through contributions that came out of the  
7 employee’s wage and benefits package.

8 30. Other practical consequences of unionization that employees are not presented with  
9 during the card check process include union security agreements and union dues deduction  
10 authorization. Union security agreements require each employee to either become a member of Local  
11 30 or pay an upfront fee to Local 30 to cover Local 30’s collective bargaining costs. If the employee  
12 fails to either agree to join Local 30 or pay the upfront fee, the employer has no choice but to terminate  
13 the employee. Once the employees joins the union, Local 30 requires employers to deduct union dues  
14 from the employees’ compensation and remit the monies directly to Local 30. Upon information and  
15 belief, all union collective bargaining agreements governing workers at San Diego area hotels include  
16 union security agreements and union dues deduction authorization.

17 31. Although Defendants may use lawful, traditional organizing tactics to pressure hotel  
18 owners and developers into signing a card check neutrality agreement, actions designed to extort such  
19 agreements violate the First Amendment.

20 32. For obvious reasons, Defendants prefer a process where they retain exclusive control  
21 over the information presented to employees and where the employer is forced to stay silent as to the  
22 consequences of unionization. Defendants do not want to invest the time, effort, and money to allow  
23 employees to make an informed choice and face the risk of recovering nothing in the way of union  
24 initiation fees and monthly dues. Rather than seeking employees’ support, they pursue hotel owners  
25 and developers’ surrender. Defendants employ unlawful means in an effort to circumvent lawful  
26 organizing tactics and employees’ rights to information, voting, and consent by seeking involuntary  
27 card check neutrality agreements.

28

1           33. As Ms. Browning has recognized, if she were forced to try to organize hotel workers the  
2 traditional way, she “wouldn’t get an agreement.” Indeed, that is why historically many of the hotels  
3 in San Diego were non-union. Ms. Browning knows that with a card check neutrality agreement,  
4 there is no vote by the employees as to whether to join the union, much less a secret ballot. Instead,  
5 the union simply collects cards from the employees. It is very rare that a “card check vote” under this  
6 process results in a “no” for unionization. While there is a question as to whether employees benefit  
7 from unionization, there is no question as to the direct and immediate financial benefit to Defendants  
8 Browning and Local 30 in the form of increased union dues, initiation fees, and employer payments  
9 into union pension and health plans.

10           34. In fact, Local 30 receives a substantial portion of its income in the form of dues from its  
11 members. On average, a member pays the union \$400 a year in dues. Local 30 also imposes a one-  
12 time “initiation fee”—ranging from \$60-\$124—for each new member. Thus, an increase in dues-  
13 paying members causes an immediate increase in income to Local 30 and ongoing increases over time.  
14 On information and belief, those union dues and fees both fund the Defendants’ playbook, and benefit  
15 Defendant Ms. Browning personally in both salary and stature.<sup>1</sup> Local 30 received 99.6% of its  
16 \$3,494,626 income from dues and dues related fees alone.

17           35. Not surprisingly, employers are generally not inclined to agree to a card check neutrality  
18 agreement—a process that denies them their First Amendment right to oppose unionization and  
19 communicate with their employees. As a result, Defendants are willing to use unlawful means to force  
20 hotel owners to agree to a card check neutrality agreement against their will.

21 Project Labor Agreements

22           36. Similarly, in the construction context, most developers do not voluntarily agree to a  
23 PLA, which restricts the general contractor from allowing non-union subcontractors to bid on or  
24 perform construction work on the project. Plaintiffs are not engaged primarily in the building and  
25 construction industry. Nor do they employ employees engaged in the building and construction  
26 industry.

27 \_\_\_\_\_  
28 <sup>1</sup> Brigitte Browning was compensated a total of \$117,227 from her vice president role at UNITE HERE, and president role at UNITE HERE Local 30 in 2017.

1           37. Under a PLA, the developer agrees before beginning a project that it will work only  
2 with a unionized general contractor and that it will require that general contractor to subcontract work  
3 exclusively to unionized persons or entities regardless of cost, skill, experience or other factors such as  
4 the size of the company bidding the work and/or whether it is a minority owned business. Although it  
5 is not uncommon for developers to contract out work to unionized labor without a PLA in place, it is  
6 impossible to contract work to any of the thousands of non-unionized workers once a PLA is in place.  
7 Thus, by its nature, a PLA is designed to eliminate competition from non-union workers and preclude  
8 developers from being able to enter into contracts free of restriction.

9           38. Due to its restrictive nature, a PLA dramatically increases the costs of construction on  
10 real estate development projects. A PLA reduces the number of qualified bidders on a construction  
11 project to a small portion of the work force, which in turn weakens a developer’s bargaining power.  
12 Moreover, in most cases the employees working the project are required to join underfunded union-run  
13 multi-employer pension plan. Employers of union represented employees who join these union-run  
14 multi-employer plans incur the financial liability for the underfunding. That liability alone can exceed  
15 the value of the project and remain a burden on the employer long after construction is completed.  
16 Once the developer agrees to a PLA, it loses the right to contract with persons or entities based on  
17 skill, cost, or other intangibles such as a diversified workforce. Instead, all work, no matter how  
18 competitive or uncompetitive the bid may be, must be directed to unionized labor. It is for this reason  
19 that in many cases, the short-term and long-term costs associated with a PLA can make a once viable  
20 project financially unfeasible.

21           39. Because Defendants cannot present a business case as to why Plaintiffs should accede to  
22 their demands for a card check neutrality agreement or a PLA, they have resorted to unlawful means to  
23 force Plaintiffs and other hotel owners and developers to sign their rights away involuntarily. If  
24 Defendants had faith in their ability to reach their goals through traditional means of organizing  
25 labor—i.e., picketing, boycotting, lobbying, and/or negotiating for a voluntary labor agreement—they  
26 would not need to resort to unlawful acts, including extortion, bribery, and secondary pressure.

27           40. This repeated “playbook” harms not only the owners and developers of the projects, but  
28 also the residents of San Diego. New projects and redevelopment efforts translate into more jobs,

1 increased tourism (which translates into higher transient occupancy tax revenue) and healthy  
2 competition. Likewise, having union and non-union properties (as determined by legal and fair union  
3 voting practices) allows for competition in the hospitality and construction industries and choices for  
4 workers.

5 **Part 1 of Defendants’ Playbook: Attack the Non-Union Project on Environmental Grounds**

6 41. For each target, Defendants delay, oppose and, if necessary, eliminate the project by  
7 painting it as environmentally harmful. Initially, they send letters to public officials to express  
8 purported concern that a new development plan does not align with governing environmental  
9 regulations and zoning requirements. They also request documents from governmental agencies,  
10 namely all environmental materials applicable to the development. Next, they combine forces with  
11 environmental groups to draw public attention to the purported environmental issues, feigned  
12 environmental concerns, and sham zoning issues by creating websites dedicated solely to opposing the  
13 project and/or posting on social media.

14 42. While expressing opposition to a project is lawful, Defendants aggressively initiate this  
15 sham opposition—which they have openly referred to as “greenmail”—with every non-union project  
16 presented to City Council, the Coastal Commission, or the Port, regardless of size, merit, or  
17 consequence to the residents of San Diego. Defendants pursue these frivolous challenges to the  
18 development at every level (*e.g.*, local planning committees, City Council, then the California Coastal  
19 Commission, and finally by initiating litigation either directly or indirectly under state statutes such as  
20 the California Environmental Quality Act (“CEQA”). This sham opposition or greenmail results in a  
21 huge expenditure of resources not just for owners/developers, who are required to respond to hundreds  
22 or thousands of pages of drummed up environmental comments and prepare environmental  
23 assessments that would not otherwise be required, but also for the residents of San Diego, and the  
24 judicial system that is forced to expend precious resources on these proceedings.

25 43. These actions also delay development for years, causing owners/developers to lose  
26 financial backing, to incur costs associated with holding undeveloped land for an extended time, and to  
27 incur escalating construction costs. This environmental and zoning opposition bottlenecks the  
28

1 development cycle, resulting in limited development, less competition, less commerce, lower transient  
2 occupant tax (“TOT”) revenue, and lost rent revenue.

3 **Part 2 of Defendants’ Playbook: Threaten Third Parties and Public Officials**

4 44. While pursuing the frivolous environmental and zoning challenges, Defendants use  
5 additional unlawful tactics, such as threatening third parties who have a business relationship with the  
6 owner or developer and/or threatening elected public officials who have the authority to decide  
7 whether the project in question can move forward.

8 45. In terms of the former, Defendants target neutral third parties who do business with the  
9 non-union owner/developer, and use the threat of disruption to that third party/non-union developer’s  
10 business relationship as leverage to force the developer to accede to Defendants’ demands. Again,  
11 Defendants are not seeking to unionize that third party, but rather to pressure that third party to either  
12 discontinue its relationship with the owner/developer that Defendants want to organize or continue to  
13 be subject to threats, intimidation, and opposition from the union.

14 46. In terms of the latter, Defendants have explicitly told owners and current sitting  
15 Councilmembers that it is “a new day” in San Diego and that Defendants (not City Council) “run this  
16 town.” Defendants have seized control over City Council and other elected public officials by offering  
17 union money and support as a quid pro quo for voting against or delaying a particular project,  
18 regardless of whether it is in the best interest of the residents of San Diego. Both Mr. Lemmon and  
19 Ms. Browning brag about their “ownership” and control over City Council and have used their ability  
20 to unilaterally block projects from being docketed for a vote and/or approved by the City Council to  
21 extort agreement for card check neutrality agreements and PLAs.

22 47. Defendants are aware that surreptitiously lining up City Council votes prior to a public  
23 hearing violates California law. Upon information and belief, a majority of City Councilmembers  
24 communicate to Defendants behind closed doors long before the public hearing takes place that they  
25 will block a project from going forward unless and until there is a labor agreement in place.<sup>2</sup> As a  
26 result, the “public hearing” is nothing more than a pre-scripted proceeding in which the

27 \_\_\_\_\_  
28 <sup>2</sup> With respect to Mr. Lemmon, the only plausible way that he could “own[] five city councilmembers” is through meetings held in private, as he did not file a lobbying disclosure form.

1 owner/developer and public have no real ability to influence the outcome. Indeed, Defendants' control  
2 over these proceedings is so blatant that City Councilmembers often read information from scripts  
3 prepared for them by Defendants in advance of the hearing.

#### 4 **The Playbook in Action**

5 48. Defendants' playbook is common knowledge among owners, developers, local  
6 government in San Diego, and state government officials. Defendants have followed this playbook of  
7 unlawfully interfering with and obstructing non-union projects to attain control of any new or  
8 redeveloped hotels in the prime tourism areas in San Diego: Mission Bay, Downtown, and Mission  
9 Valley. Defendants target each non-union project not simply to unionize each individual project, but to  
10 send broader messages to hotel developers and owners in San Diego: Local 30 and the Building  
11 Trades—led by Ms. Browning and Mr. Lemmon—are the gatekeepers for any hospitality development  
12 in the prime tourism areas of the City. And the message they send is clear: no new development in  
13 the hospitality industry can move forward without agreeing to a PLA with the Building Trades and a  
14 card check neutrality agreement with Local 30.

15 49. Ms. Browning's and Mr. Lemmon's alliance maximizes their power and control over  
16 City officials. Ironically, this power and control is oftentimes used to the detriment of their respective  
17 members. For instance, Mr. Lemmon will threaten developers that he will block their projects from  
18 going forward *even with a signed PLA in place* unless and until the developer also agrees to execute a  
19 card check neutrality agreement. On one occasion, Mr. Lemmon revoked his express agreement to  
20 support a project with a PLA in place with the Building Trades for the stated reason that he would have  
21 to "go with Brigitte" and block the project from consideration by the City Council, unless and until the  
22 developer agreed to card check neutrality agreement. Mr. Lemmon's decision to renege on his  
23 agreement, and more than likely cost the members of the Building Trades thousands of jobs, speaks  
24 volumes as to the fact that the conduct at issue is about market control and domination, and not lawful  
25 organization.

26 50. Over the last ten years, Defendants have used this playbook to cause development of  
27 non-union projects in the market to grind to a halt, at times for years, and/or to cease entirely. Some of  
28 the more recent victims of Defendants' misconduct include the Ritz-Carlton/Cisterra development at

1 7th and Market Streets in Downtown San Diego (delay of over three years despite developer signing a  
2 PLA with the Building Trades); the Town and Country Hotel and Convention Center in Mission Valley  
3 (delay of one and a half years prior to entering into card check neutrality agreement); the Sunroad  
4 Resort Marina located on Harbor Island (delay of over five years before card check neutrality  
5 agreement signed, and hotel project still not constructed); the Convention Center; the Lane Field  
6 development (including the InterContinental and SpringHill Suites & Residence Inn) (delay of over  
7 one year); and the Hotel Del Coronado (delay of approximately eighteen months).

8 **The Playbook Illustrated:**

9 San Diego Convention Center Expansion, Phase 3

10 51. A publicized example of Defendants' playbook in action can be seen in Phase 3 of the  
11 San Diego Convention Center Expansion. In 2009, the City of San Diego began planning an  
12 expansion of its downtown Convention Center. Because the City owns the Convention Center and its  
13 expansion involved a matter of significant public interest, many of the details of the unions' actions  
14 were reported in local media. Thus, although that development did not directly involve a hotel,  
15 Defendants' actions during the Convention Center expansion follow the same playbook that has been  
16 directed at Plaintiffs and other owners/developers.

17 52. At the time the City began planning the Convention Center expansion, Local 30 already  
18 had a contract with the Convention Center. However, it was up for negotiation and Defendants wanted  
19 to make sure there was a PLA in place for the expansion effort. Defendants therefore engaged in the  
20 following acts:

- 21 • Mr. Lemmon and an agent for Local 30 spoke out against the Convention Center  
22 expansion at City Council and Port meetings. As reflected in lobbyist disclosure  
23 statements filed by Local 30, Ms. Browning lobbied individual members of the City  
24 Council outside of official meetings to pressure them to oppose the expansion.
- 25 • Local 30 filed a petition for writ of mandate against the City of San Diego, alleging  
26 that the financing plan proposed for the project was illegal. The named plaintiffs  
27 included Ms. Browning and Sergio Gonzales, who, on information and belief, is a  
28 member of Local 30's Executive Board. That action was dismissed after the trial

1 court sustained a demurrer to the petition without leave to amend. After the  
2 demurrer, Local 30 appealed the ruling, *Browning et al. v. The San Diego City*  
3 *Council*, Case No. D062216, which it later dismissed.

- 4 • Through a purported environmental group “San Diego Coalition for A Better  
5 Convention Center,” Defendants submitted a 62-page letter to the Port  
6 Commissioners claiming that the expansion violated CEQA. The environmental  
7 group consisted of a single named resident, Defendants Local 30 and the Building  
8 Trades, and “their local union affiliates and union members and their families who  
9 live, recreate and/or work in the City of San Diego and San Diego County.”
- 10 • Defendant Building Trades, through several of its affiliate unions, Sheet Metal  
11 Workers Local 206, Ironworkers Local 229, Electrical Workers Local 569, and  
12 United Association of Plumbers & Steamfitters Local 230, filed a CEQA lawsuit.
- 13 • On or around the fall of September 2012, the City’s former mayor, Jerry Sanders,  
14 brokered a compromise with Defendants and San Diego & Imperial Counties Labor  
15 Council. Under this compromise, the cases were dismissed with prejudice in  
16 exchange for, among other things, the Building Trades receiving a PLA for the  
17 Convention Center expansion.

18 53. The City thereby entered into three settlement agreements with Defendants: two to  
19 resolve the pending lawsuits and a third to foreclose a CEQA challenge by Unite Here, the Building  
20 Trades, and their sham environmental group. Notably, despite the dozens of purported defects in the  
21 City’s environmental impact report identified by Defendants, the settlement only provided for three  
22 cosmetic remedial actions. As part of the settlement agreements, Defendants agreed to “dismiss all  
23 litigation related to formation of the Convention Center . . . and refrain from filing future lawsuits.”  
24 Further, the “Parties agree[d] to work together to promote the Project.” Ms. Browning and Mr.  
25 Lemmon were both signatories to settlement agreements.

26 54. The Convention Center expansion has not yet been approved pending an initiative to  
27 approve an increase in the hotel tax. However, as reflected in 2018-2019 lobbyist disclosure forms,  
28 Local 30 and Ms. Browning are now lobbying in support of the Convention Center expansion. On

1 information and belief, Mr. Lemmon has spoken before the City Council in favor of, and also has  
2 lobbied in support of, the Convention Center expansion.

3 The Playbook Directed At Hotel Developments

4 55. As the facts about the Convention Center illustrate, Defendants’ playbook involves  
5 opposing projects on numerous, yet dubious grounds; filing voluminous objections to projects (also on  
6 dubious grounds); and pursuing sham lawsuits that are immediately abandoned once Defendants obtain  
7 PLAs and card check neutrality agreements.

8 56. This playbook has been pursued repeatedly by Defendants seeking to force hotel  
9 developers to agree to PLAs and card check-neutrality agreements. In repeating the playbook,  
10 Defendants count on the fact that hotel developers and owners will surrender after seeing what others  
11 have lost once Defendants stamped a red “X” on their back. A few examples of Defendants’ real life  
12 hotel targets follow:

13 **The Cisterra Development**

14 57. In December 2013, Cisterra Development (“Cisterra”), a real estate development  
15 company based in San Diego, began the process of completing a Request for Qualifications and  
16 Proposals (issued by Civic San Diego) to complete a \$400 million project on Market Street that would  
17 combine residential, hotel, office, and public parking uses. Although Cisterra agreed with the Building  
18 Trades to sign a PLA and use union labor for construction, it did not have authority or control to  
19 commit the owner of the housing/hotel complex (Marriott) to agree to a card check neutrality  
20 agreement. Thus, Defendants Local 30 and Ms. Browning—with the support of Mr. Lemmon—  
21 targeted Cisterra, the third party “secondary employer” which ironically had agreed to the PLA, in  
22 order to exert pressure on the primary target and employer, Marriott, to agree to sign a card check  
23 neutrality agreement for its employees. Although Cisterra’s comparable projects typically take three  
24 years to complete from planning through construction, the project still has not been constructed.  
25 Defendants’ efforts to block construction of this project with a union workforce in order to coerce  
26 Marriott into signing a card check neutrality agreement include the following acts:

- 1 • Forcing delay in negotiations between the City and Cisterra by insisting on a  
2 requirement the San Diego City Attorney found illegal: that all businesses operating  
3 in the development accept a card check neutrality agreement;
- 4 • Having staff members of Local 30, such as Rick Bates, speak at public hearings to  
5 oppose the project for a number of sham reasons, including the adequacy of the  
6 environmental review that was completed for the project;
- 7 • Through San Diegans for Responsible Planning and a nominal plaintiff who, on  
8 information and belief, is a member of Local 30’s Executive Board, filing a sham  
9 CEQA suit against the City of San Diego and Cisterra that challenged the City’s  
10 approval of the project; and
- 11 • Appealing the Court’s finding that substantial evidence existed to support the City’s  
12 approval.

13 58. On information and belief, Marriott entered into a card check neutrality agreement with  
14 Local 30. However, that was after the delays engendered by Defendants had already caused Whole  
15 Foods Market to terminate its agreement to lease space in the Cisterra project.

16 **Town and Country Development**

17 59. Atlas Hotels, the owner of the Town and Country Hotel and Convention Center site in  
18 the Mission Valley area of San Diego, formed a Joint Venture with financial backers in 2015 to  
19 consolidate and renovate the hotel and convention center, create a new compact multi-family  
20 residential neighborhood, restore San Diego River open space habitat, and establish recreational areas.  
21 Defendants’ efforts to block this development and coerce Town and Country into signing a card check  
22 neutrality agreement include the following acts:

- 23 • Sending a letter, through its local counsel Tony LoPresti (an attorney with Altschuler  
24 Berzon LLP, counsel for Defendants), to the Wetlands Advisory Board falsely  
25 claiming to have identified “serious flaws” in Town and Country’s Draft  
26 Environmental Impact Report (EIR);
- 27 • Sending a 123-page letter, signed by Mr. LoPresti, to the City of San Diego raising  
28 environmental challenges to the Draft EIR;

- Having staff members of Local 30 speak on behalf of Local 30 at public hearings to oppose the project, including the adequacy of the environmental review that was completed for the project.

60. The above-mentioned actions effectively stalled City Council’s consideration of the project by over eight months. Town and Country ultimately had no choice but to enter into a card check neutrality agreement with Local 30. Tellingly, once Town and Country acquiesced to the unions’ demands, the environmental litigation disappeared, and at the next City Council meeting, not a single person from Local 30 objected to the project and City Council approved the project.

**Sunroad Project**

61. In 2014, Sunroad Enterprises (“Sunroad”) began in earnest the process of developing a restaurant and hotel on Harbor Island in San Diego. Because Sunroad is non-union, Local 30 pushed to block the development by engaging in the following acts:

- Appealing the Port of San Diego’s determination to exclude the restaurant from coastal development permit requirements;
- Submitting a letter in support of its challenge, claiming that a proposed Port Master Plan Amendment sought for the property required the California Legislature to amend that California Coastal Act and that the proposed amendment should be denied because a proposed hotel on the property did not provide lower cost overnight accommodations;
- Having Ms. Browning meet with the President of Sunroad Holding Corp. to deliver the message that Local 30 would do everything in its power to stop the project because it wanted to set precedent that everyone who goes through the Port has to sign a card check neutrality agreement with Local 30;
- Threatening Sunroad to do everything in its power to block the project with the California Coastal Commission; and
- Pressuring the California Coastal Commission to veto the project. On information and belief, Ms. Browning and Mr. Lemmon met with Coastal Commissioners in the days before the Sunroad project was heard (and voted against) by the Coastal

1 Commission on August 13, 2015 and instructed them unlawfully to vote against the  
2 project unless and until Sunroad agreed to a card check neutrality agreement.

3 62. After years of opposition, Sunroad acquiesced in 2018 and signed a card check  
4 neutrality agreement. Once this happened, Local 30 dropped its opposition to the project.

5 **Seaport Village**

6 63. In October 2015, the Board of Port Commissioners directed staff to move forward on a  
7 plan to develop the Central Embarcadero, an area of land situated between downtown San Diego and  
8 the San Diego Bayfront. In May 2016, eleven developers submitted proposals for the project, six of  
9 which met the Port’s criteria for consideration. Oliver McMillan in partnership with Evans Hotels  
10 submitted one of the six bids that met the Port’s criteria for the project. Under the proposal, Evans  
11 Hotels would own and operate a hotel on the property.

12 64. In the spring of 2016, Defendant Browning began calling and threatening officers of  
13 Oliver McMillan. Initially, Ms. Browning demanded an in-person meeting. When Oliver McMillan  
14 noted it was too early in the process to come to an agreement on union issues, her tone turned  
15 threatening and she stated that Oliver McMillan’s proposal “would have a snowball’s chance in hell” if  
16 they didn’t cut a deal with her. Oliver McMillan refused to cave to Ms. Browning’s threats.

17 65. Upon information and belief, in or around the same period, Mr. Lemmon and Ms.  
18 Browning contacted other developers who submitted the other five bids. One of the other developers  
19 agreed to meet with Ms. Browning. Ms. Browning told the developer that if he agreed to a card check  
20 neutrality agreement, she would provide her support. The developer agreed to enter a card check  
21 neutrality agreement, as he understood that he needed labor’s support to compete against the remaining  
22 five, well-regarded developers. Shortly after he agreed, Ms. Browning later said that the deal was off  
23 because Mr. Lemmon, on behalf of Defendants, had secured an agreement from another developer.

24 66. Protea Waterfront Development, also known as Gafcon Inc. or 1HWHY1 (collectively,  
25 “Protea”), was the developer that first reached an agreement with Mr. Lemmon. Specifically, Protea  
26 agreed to Mr. Lemmon and Ms. Browning’s demands and represented that it would enter a card check  
27 neutrality agreement with Local 30 and a PLA with the Building Trades. Under the Protea proposal,  
28 the hotel on the property would be operated by Virgin Hotels North America.

1           67.     On July 13, 2016, the Port held a public hearing to discuss the proposed bids. A  
2 representative of Protea told the Port that it would enter into agreements with the unions. Ms.  
3 Browning also spoke at the hearing and commented that she was “really excited to hear [Protea]’s  
4 proposal when they talked about how they’re going to have agreements with [Local 30] and with the  
5 Construction Trades.” Upon information and belief, Protea was the only developer that agreed to sign  
6 labor agreements with both Defendants.

7           68.     At that hearing, the Board voted to continue discussions about Seaport Village  
8 *exclusively* with Protea. Upon information and belief, the Port’s decision to abandon the bid  
9 evaluation process and negotiate exclusively with the one developer that agreed to sign an agreement  
10 with both Defendants did not comply with standard competitive bidding processes in government  
11 contracting.

12           69.     In November 2016, the Board officially accepted the bid from Protea. In combining  
13 with Protea, a direct competitor of Plaintiffs, Defendants blocked all developers, including Evans  
14 Hotels, from competing for the Seaport Village development. Protea ensured its success by agreeing to  
15 enter into labor agreements with Defendants.

16 **The Hotel Del Coronado**

17           70.     Hotel Del Coronado is a national historic landmark that opened in 1888. Between 2003  
18 and 2008, KSL Resorts and CNL Hospitality Properties (hereafter “KSL Resorts”) sought and received  
19 permits to revise the Hotel Del Coronado’s Master Plan to allow for physical improvements to the  
20 property. KSL Resort’s contract with Local 30 was set to expire in 2009, and with labor uncertainty on  
21 the horizon in 2008, Local 30 exploited Hotel Del Coronado’s plans to expand and again turned to its  
22 pattern of coercion by completing the following acts:

- 23           • Appealing the approval of the permits to the California Coastal Commission;
- 24           • Filing a complaint against the City of Coronado, the City Council of Coronado, the  
25           Hotel Del Coronado, Hotel Del Partners, and KSL Management, with frivolous  
26           CEQA claims. On December 4, 2009, the Superior Court of San Diego found that  
27           the City did not violate CEQA and that there was substantial evidence to support the  
28           City’s decision to approve the Project;

- Demanding a full-blown and unnecessary Environmental Impact Report to further stall the City Council’s approval process and pressure the Hotel into agreeing to provide health care benefits only through Ms. Browning’s health care organization.

71. Not surprisingly, once the hotel came to an agreement with Local 30 regarding health benefits, Local 30 withdrew its appeal of the coastal development permits, and did not again threaten to block the Hotel’s expansion.

**San Diego Marriott Marquis & Marina**

72. The San Diego Marriott Marquis & Marina (the “Marriott Marquis”) is a hotel located at 333 West Harbor Drive in Downtown San Diego. In 2011, the Marriott Marquis proposed a redevelopment project that would result in reconstruction of its existing facilities, as well as construction of a public access way and a 25,000-square-foot public promenade. Consistent with its playbook, Local 30 engaged in the following acts to halt the Marriott’s proposed expansion:

- Appealing the City Council’s water easement determination in connection with the Marriott Marquis project, making the sham allegation that the project required further analysis under CEQA;
- Initially opposing the Board of Port Commissioners’ approval of a Port Master Plan Amendment for the Marriott’s expansion; and
- Sending a letter of opposition to the Coastal Commission through its attorneys regarding the Coastal Commission’s consideration of the Port Master Plan Amendment.

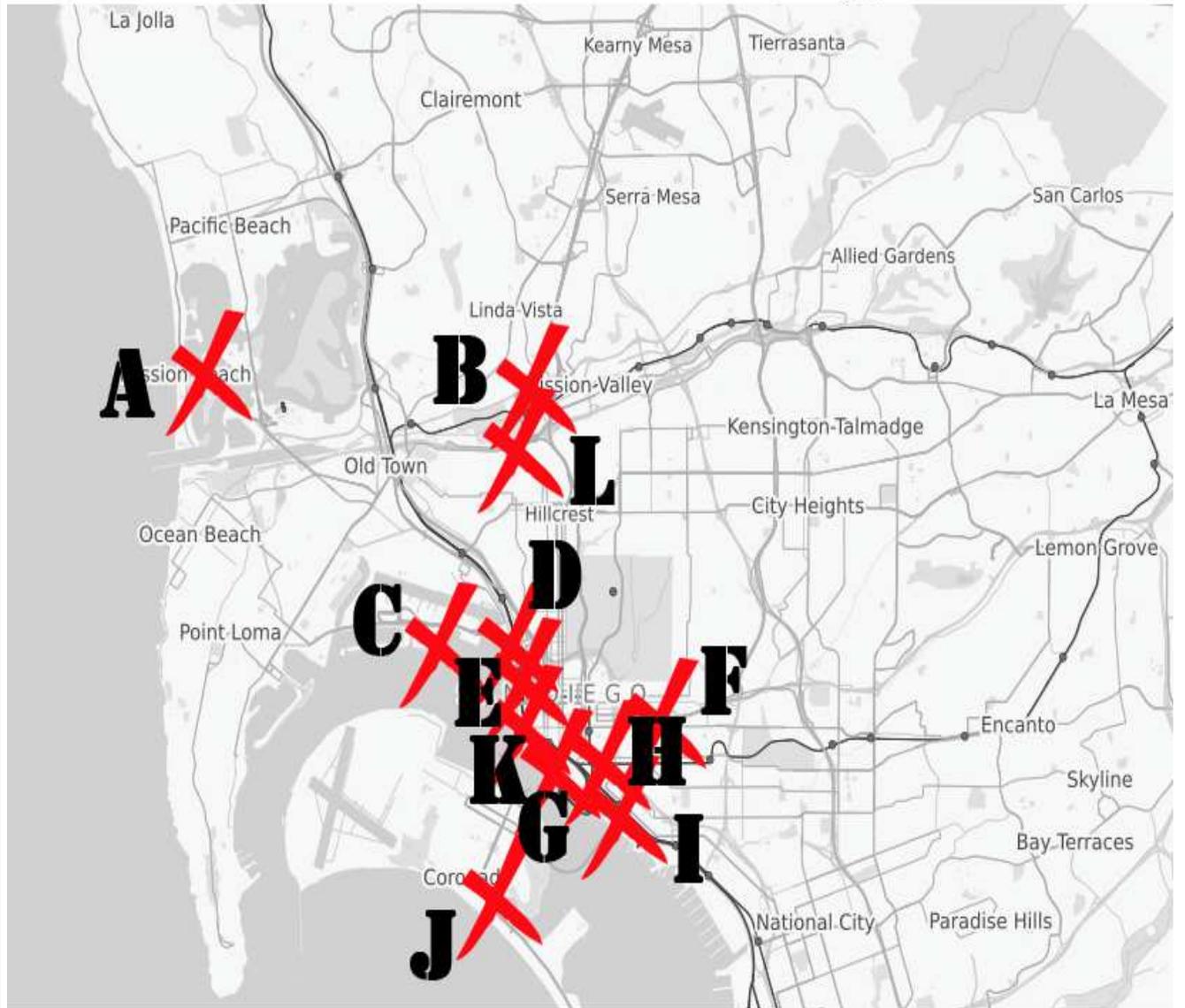
73. While the Port of San Diego approved the project in December 2011, the project could not move forward because the California Coastal Commission had not approved it. However, in November 2012, Defendants reached a deal with Mayor Sanders regarding the Convention Center that incorporated Mayor Sanders’ promise to meet with senior officials of the Marriott and support labor’s position for a card check neutrality agreement. The project was thereafter approved by the Coastal Commission.

74. Defendants’ playbook stems from the highest level of management within the union, as the former General President of Local 30’s then parent union, UNITE HERE, publically asserted that:

1 “[T]o be successful [in unionizing target companies], I believe you have to be relentless . . . We’re not  
2 businessmen, and at the end of the day they are. **If we’re willing to cost them enough, they’ll give**  
3 **in.**” (Bruce Raynor’s presentation at the annual meeting of the American Political Science  
4 Association, Atlanta, Georgia, September 3, 1999) (emphasis added).

5 75. In addition to the projects discussed above, Defendants have targeted other  
6 developments. As shown in the graphic below, Defendants have targeted virtually all significant, non-  
7 union projects on the coastline or in downtown San Diego over the course of the last fifteen years.

# Defendants' Targets



- |  |   |
|--|---|
| <b>A. Bahia Hotel</b>                  | <b>G. Marriott Marquis &amp; Marina</b> |
| <b>B. Town &amp; Country</b>           | <b>H. Cisterra Development</b>          |
| <b>C. Sunroad Project</b>              | <b>I. Convention Center Expansion</b>   |
| <b>D. Fat City Hotel Project</b>       | <b>J. Hotel Del Coronado</b>            |
| <b>E. Lane Field Hotel Development</b> | <b>K. Seaport Village</b>               |
| <b>F. AC Hotel Project</b>             | <b>L. Morris Cerullo Legacy Center</b>  |

1           76. As they did with each of the projects described above, Defendants are now using the  
2 same illegal playbook with the Bahia Resort Hotel redevelopment project. Defendants seek not only to  
3 unionize the Bahia Hotel and force a PLA, but also to make an example out of Evans Hotels. The  
4 message to all other non-union developers and owners is clear: see how much you will spend and lose  
5 if you resist Defendants' demands.

6 **Local 30 Targets Evans Hotels in the 1990s**

7           77. This situation is not the first time Local 30 has targeted Evans Hotels or the Bahia.

8           78. In 1996, Local 30, then under the helm of Ms. Browning's stepfather, Jef Eatchel, and  
9 Ms. Browning's mother, Nancy Browning, targeted the Bahia and the Catamaran, another Evans  
10 family-owned hotel. Specifically, Local 30 called and wrote letters to at least three of Evans Hotels'  
11 clients, including the ACLU, and threatened that if they did not cancel their reservation at Evans  
12 Hotels, Local 30 would disrupt their trip by picketing the hotel. When one of Evans Hotels' clients  
13 asked an agent of Local 30 why it was targeting Evans Hotels, the agent responded that it was due to  
14 purported anti-union actions that Bill Evans had taken in his role on the Board of the San Diego  
15 Convention Center Corporation. As a result of Local 30's unlawful secondary threats and conduct, at  
16 least two of Evans Hotels' clients canceled their scheduled conferences. It was only after Evans Hotels  
17 filed a lawsuit against Local 30 that Local 30 agreed to stop unlawfully targeting Evans Hotels. In  
18 fact, Local 30 agreed to cease any attempt to unionize the Bahia (or any other Evans Hotels-owned  
19 property) for a period of five years. While twenty years have now passed and the reigns of Local 30  
20 have been handed over from Jef Eatchel and Nancy Browning to daughter Brigitte Browning, Local 30  
21 continues to resort to the same unlawful conduct in an effort to impede competition and commerce.<sup>3</sup>

22 **Local 30 and the Building Trades Target the Bahia Redevelopment Project in 2018**

23           79. On November 5, 2015, BH Partnership requested City Council approval of the lease  
24 amendment for the Bahia. After working with the Development Services Department on associated  
25 environmental documents, BH Partnership met with the Department of Real Estate Assets and the City  
26 Attorney to negotiate the lease amendment at the end of January 2018.

27 \_\_\_\_\_  
28 <sup>3</sup> Nancy Browning earns an annual salary of \$91,312 from Local 30 for work as a contract administrator.

1           80. As expected, Defendants responded by implementing Part 1 of their playbook. On  
2 February 28, 2018, Tony LoPresti of the Altshuler Berzon firm (not coincidentally the same attorney  
3 who represented Local 30 in the Town and Country dispute referenced above) sent a letter on behalf of  
4 Local 30 to San Diego Mayor Kevin Faulconer and San Diego City Council members. Its re line read:  
5 “Access to information regarding environmental review of the Bahia Resort Hotel Lease Amendment.”  
6 Mr. LoPresti stated that he wrote on behalf of his client, Local 30, “to express concern regarding the  
7 lack of transparency and access to information pertaining to environmental review of the proposed  
8 Lease Amendment for the Bahia Resort Hotel Renovation Project . . . .” Mr. LoPresti expressed his  
9 concern that the Bahia redevelopment was being processed “to preclude public comment on  
10 environmental review under [CEQA]” because the project was being analyzed under an EIR addendum  
11 to the EIR previously approved for the MBMPU, which is not subject to public comment.

12           81. On May 11, 2018, Mr. LoPresti sent another letter to the Mayor and the City Council,  
13 this time claiming that because the project purported to eliminate Gleason Road it was not consistent  
14 with the 1997 MBMPU and therefore would require Evans Hotels to amend the MBMPU in order to  
15 move forward.

16           82. Defendants knew or had reason to know that the retention of Gleason Road was not a  
17 part of the MBMPU. Although the words “Retain Gleason Road” mysteriously appear (in a different  
18 font) on an unapproved, amended graphic that was prepared after the approvals for the Bahia  
19 redevelopment were articulated, this requirement is nowhere to be found in the administrative record.  
20 In fact, in December 2014, the Coastal Commission confirmed in an email that the Coastal  
21 Commission’s actions in 1997 did not require the retention of Gleason Road. On October 3, 2018, the  
22 Planning Department of the City of San Diego issued a formal memo stating that the City conducted a  
23 thorough examination of the administrative record and concluded again that the retention of Gleason  
24 Road is not part of the MBMPU. Therefore, the Bahia’s proposed lease amendment does not require  
25 an amendment to that plan. Notwithstanding this, Defendants continue to propagate false information  
26 that the MBMPU forbids the elimination of Gleason Road. Specifically, Defendants created and  
27 sponsored a website, “nomissionbaylandgrab.org,” and a related Facebook page to disseminate the  
28

1 false message that the Bahia redevelopment violates the MBMPU. Users on Facebook have shared a  
2 link to the website over 450 times.

3 83. Despite Mr. Lemmon’s statement that their opposition had nothing to do with Gleason  
4 Road and everything to do with keeping a non-union project out of the market, Defendants have  
5 continued their obstructive (and destructive) conduct. Initially, they met individually with City  
6 Councilmembers and demanded that they revoke or change their position regarding the proposed Bahia  
7 lease amendment unless Evans Hotels agreed to meet with Ms. Browning. Plaintiffs allege on  
8 information and belief that these meetings with City Councilmembers were conducted by Ms.  
9 Browning on behalf of Defendants.

10 84. Plaintiffs first learned of Defendants’ action in the February/March 2018 timeframe.  
11 On February 16, 2018, Bill Evans attended a party on Shelter Island. While Mr. Evans was standing in  
12 line to get a drink, he asked a current San Diego City Councilmember (hereinafter “Councilmember I”)   
13 about the Bahia redevelopment. Instead of discussing the merits of the project, she immediately asked  
14 Mr. Evans if he had spoken to Ms. Browning. Caught off guard, Mr. Evans responded that he had not  
15 as the hotel is not organized. Councilmember I then told Mr. Evans that he had to sign a card check  
16 neutrality agreement with Ms. Browning because “without it, [Councilmember I] would never support  
17 the project.” When Mr. Evans told Councilmember I that the project would bring in hundreds of  
18 millions of dollars for the City of San Diego, Councilmember I stopped him mid-sentence and told him  
19 that any hotel on public land must be union irrespective of how much revenue it would bring to the  
20 City.

21 85. Shortly thereafter, Mr. Evans related his discussion with Councilmember I to his sister  
22 Grace Cherashore, the Executive Chairwoman of Evans Hotels (hereinafter “Ms. Cherashore.”) In  
23 response, Ms. Cherashore scheduled a meeting at Councilmember I’s office on February 23, 2018 at  
24 10:00 a.m. At this meeting, Ms. Cherashore presented materials regarding the project and Evans  
25 Hotels generally. Ms. Cherashore specifically addressed why Evans Hotels did not want to unionize,  
26 including the fact that it would hinder Evans Hotels’ ability to have a direct relationship with its  
27 employees and promote based on merit. Ms. Cherashore talked about different employee programs,  
28 including the interest free loans it offers to employees, its high quality health insurance, and matching

1 401(k) program. The fact that Evans Hotels’ employees commute right past unionized hotel properties  
2 with job postings on the way to work, such as the Hilton or the Hyatt, speaks to the fact that many  
3 workers prefer a non-unionized work environment. Ms. Cherashore also noted that each of Evans  
4 Hotels’ properties are listed in the top 40 of Trip Advisor ratings, while competing union properties are  
5 all ranked significantly lower. Evans Hotels has scores of employees who have been with the business  
6 for more than a decade. For these reasons, Ms. Cherashore stated that although Evans Hotels was  
7 committed to the City of San Diego and prepared to invest hundreds of millions of dollars in the Bahia  
8 redevelopment, it would do so only if it could continue to operate in a non-unionized environment.  
9 Ms. Cherashore concluded by pointing out that the City would benefit to the tune of almost *half a*  
10 *billion dollars* in increased rent revenue over the course of the lease.

11 86. In response, Councilmember I indicated personal support for the proposal and  
12 strategized as to who else Ms. Cherashore should speak with in order to assure that the project get the  
13 necessary approvals from the City (*e.g.*, Municipal Employees Association). Councilmember I stated  
14 that a lunch meeting was already scheduled with Ms. Browning and that Councilmember I would  
15 speak to her and attempt to gain her support for the project.

16 87. Weeks later, Mr. Evans received a call from one of Councilmember I’s staff members.  
17 The staff member indicated on this call that there was now a “problem” with the Bahia proposal and  
18 that Councilmember I (and others on City Council) can “no longer support it.” When Mr. Evans  
19 pressed as to what had caused the Councilmember I to change stance, the staff member indicated that  
20 Councilmember I had met with Ms. Browning and that Ms. Browning had pressured Councilmember I  
21 to agree to oppose the project, regardless of what this would mean in terms of lost revenue for the City.  
22 On information and belief, Ms. Browning “pressured” Councilmember I by conditioning future  
23 funding and political support for Councilmember I on a quid pro quo agreement to oppose the Bahia  
24 unless Evans Hotels agreed to sign a card check neutrality agreement. Mr. Evans expressed his  
25 disappointment that the City’s change in stance ignored the merits of the project and the benefits to the  
26 City. Mr. Evans asked that Councilmember I communicate the change in position directly to Ms.  
27 Cherashore.

1           88.     Conditioning City Council support for a development on the developer’s acceptance of  
2 a card check neutrality agreement, which deprives employers of the right to demand a secret ballot  
3 election and communicate freely with their employees, is preempted by the NLRA. The San Diego  
4 City Attorney expressly advised the City Council of this fact in the 2015 Memorandum in response to  
5 efforts by Defendants to force City Councilmembers into conditioning support for Cisterra on  
6 negotiations for a card check neutrality agreement. The same legal analysis prohibits the City of San  
7 Diego from requiring Developers to execute a PLA for construction work on such development  
8 projects.

9           89.     On information and belief, when Ms. Browning covertly pressured Councilmember I to  
10 agree to support the project only if Evans Hotels agreed to a deal with Local 30 and the Building  
11 Trades, Defendants knew that conditioning City approval of a project on a card check neutrality  
12 agreement and/or a PLA was unlawful and contrary to the City Attorney’s analysis.

13           90.     On March 23, 2018, Councilmember I spoke with Ms. Cherashore at a luncheon they  
14 both attended at the Bahia Hotel. Councilmember I pulled Ms. Cherashore aside so they could speak  
15 privately. Councilmember I indicated that the lunch meeting with Ms. Browning took place, and that  
16 unless Evans Hotels agreed to a card check neutrality agreement at the Bahia, Councilmember I would  
17 have to oppose the project. When Ms. Cherashore reiterated the benefits of being a non-union property  
18 and how the proposed redevelopment would benefit the city of San Diego, Councilmember I  
19 responded that “not all card check neutrality agreements are the same.” Councilmember I insisted that  
20 Evans Hotels would need to sign some form of a card check neutrality agreement in order for  
21 Councilmember I to be able to support the project. Councilmember I made it clear that this position  
22 was based solely on the discussion Councilmember I had with Ms. Browning and that  
23 Councilmember I’s personal view that the project would benefit the residents of San Diego had not  
24 changed.

25           91.     When Evans Hotels refused to acquiesce, Ms. Browning sent her cohort, Tom Lemmon  
26 to meet with Mr. Evans and personally deliver a message. Specifically, on the morning of June 30,  
27 2018, Mr. Lemmon texted Mr. Evans to meet him at the Catamaran Hotel for a drink. After making  
28 small talk, Mr. Lemmon raised the Bahia redevelopment, initially stating that he thought the

1 redevelopment would result in a lack of access on Bahia Point. After discussing this point with Mr.  
2 Evans, Mr. Lemmon agreed that the new walkway proposed as part of the redevelopment would be  
3 better for bike and pedestrian access than the current road (Gleason), which is designed for cars.

4 92. Mr. Lemmon then abruptly shifted gears to the reason for the meeting and stated firmly  
5 that Evans Hotels needed to sign a card check neutrality agreement with Ms. Browning and Local 30.  
6 Initially, Mr. Lemmon focused on the benefit to Evans Hotels of unionizing—claiming that it would  
7 result in union money and guests flowing to Evans Hotels’ properties. When Mr. Evans made it clear  
8 that Evans Hotels would not voluntarily sign a card check neutrality agreement, the discussion quickly  
9 shifted to greenmail and other union tactics. Mr. Evans told Mr. Lemmon that Ms. Browning and  
10 Local 30 had already hired lawyers to threaten the redevelopment. He noted that those attorneys had  
11 already sent letters to the Mayor and City Council. Mr. Lemmon appeared excited by the reference to  
12 the letters, and told Mr. Evans that those were “my lawyers” and that “they always win.” He admitted  
13 to Mr. Evans that the unions were engaging in “greenmail,” but said the union would cover its tracks if  
14 Evans Hotels agreed to the neutrality agreement by requiring a couple of “small mitigation measures.”  
15 Mr. Lemmon made it clear to Mr. Evans that Local 30 and its allies, including Mr. Lemmon, intended  
16 to use CEQA and other environmental challenges to hold the Bahia redevelopment project hostage.  
17 Although Mr. Lemmon is not associated with Local 30, he did not hide the fact that Ms. Browning was  
18 behind the meeting and openly exchanged numerous text messages with Ms. Browning during the  
19 course of, and as part of, the discussion. Mr. Lemmon concluded the meeting by threatening Mr.  
20 Evans that if he did not give in to Ms. Browning, his project would be doomed as the union would hold  
21 it up by any and all means—stating “we know how to do it, we do it all the time.”

22 93. The threats were not idle. Soon thereafter, on September 11, Local 30 posted links on  
23 its Facebook pages to a website that it funded and created. This website, called “No Mission Bay Land  
24 Grab at Bahia Point by UNITE HERE Local 30,” contains false and misleading information regarding  
25 the Bahia Project and whether it violates a purported requirement to retain Gleason Road.

26 94. On September 19, 2018, Evans Hotels’ CEO, Robert Gleason, ran into Mr. Lemmon in  
27 the lobby of City Hall. Mr. Lemmon asked Mr. Gleason if he had seen all the social media about the  
28 Bahia project, to which Mr. Gleason responded that he had. Mr. Lemmon then asked Mr. Gleason if he

1 was interested in sitting down to talk about it, and advised that, “just so you know, we’re going to turn  
2 up the volume.” By “we,” Mr. Lemmon meant the Defendants.

3 95. In early October 2018, the City Real Estate Assets Department was trying to schedule a  
4 hearing on the Bahia lease amendment with a City Council Committee. Mr. Gleason learned that the  
5 Bahia lease amendment would not be placed on the agenda for the Committee meeting in mid-October  
6 because there were supposedly too many items on the agenda.

7 96. On October 9, 2018, a representative from Evans Hotels spoke with a staff member  
8 representing a different San Diego City Councilmember (hereinafter “Councilmember II”) on  
9 scheduling the Committee hearing. The staff member noted that Councilmember II would not calendar  
10 the Bahia lease amendment on the requested date because Ms. Browning and Councilmember II are  
11 “best friends” and that Ms. Browning had been “very good” to Councilmember II, and has helped  
12 Councilmember II out on many occasions.

13 97. Not surprisingly, far from being “too busy,” there were only three agenda items heard at  
14 one of the requested Committee hearing dates, and the other Committee hearing date was taken  
15 completely off calendar.

16 98. Sensing weakness, on October 19, 2018, Mr. Lemmon initiated a text message  
17 communication with Ms. Browning and Mr. Gleason, in which he said, “**Bahia** We should all huddle  
18 up.” Mr. Lemmon then told Ms. Browning to “send Robert [Gleason] [her] card check language in  
19 advance . . . I got the feeling he’s gonna need it.” After Ms. Browning responded, “Yep,” Mr.  
20 Lemmon then added, “Robert I’d like to see all construction and future maintenance be done by Union  
21 signatory contractors.” By this, Mr. Lemmon was referring to having Plaintiffs sign a PLA governing  
22 the Bahia.

23 **Defendants Threaten SeaWorld, Evans Hotels’ Business Partner**

24 99. While successfully carrying out Part 1 of their playbook and delaying a vote on the  
25 Bahia lease amendment, Defendants further turned up the volume by implementing Part 2. At the  
26 same time that Defendants were drumming up environmental opposition, strong-arming City Council  
27 officials to impose unlawful conditions and delay hearings, and posting false messages on its website,  
28

1 they also turned up the heat by going after Evans Hotels’ business partners, specifically Sea World  
2 LLC (“SeaWorld”).

3 100. Evans Hotels’ relationship with SeaWorld is long-standing. Evans Hotels and SeaWorld  
4 have had a cooperative marketing relationship since before 2010 and Evans Hotels sells SeaWorld  
5 tickets and branded room packages. On April 21, 2015, Evans Hotels entered into a business venture  
6 with SeaWorld when the parties signed a Letter of Intent to explore hotel development opportunities on  
7 the property of SeaWorld’s San Diego Park. Later that year, on November 4, 2015, SeaWorld and  
8 Evans Hotels entered into a Preliminary Project Agreement to develop an upscale, full service  
9 SeaWorld themed and branded hotel of approximately three hundred rooms adjacent to the theme park.  
10 Evans Hotels’ business agreement with SeaWorld was a matter of public knowledge as the parties  
11 issued a press release on November 9, 2015 announcing their intention to develop the hotel next to the  
12 theme park. In the ensuing days, the L.A. Times, Fox News and the San Diego Tribune wrote articles  
13 about the expected success of the Joint Venture.

14 101. After years of further negotiation and collaboration, on January 22, 2018, the parties  
15 executed a Joint Venture to develop, own and operate a hotel project (hereinafter “SeaWorld hotel”)  
16 leased by SeaWorld. The Joint Venture was formalized in a written Limited Liability Company  
17 Agreement.

18 102. Defendants knew about the Joint Venture and the significance of this opportunity for  
19 Evans Hotels’ business. SeaWorld is one of the top tourist attractions in San Diego and the Joint  
20 Venture contemplated Evans Hotels’ hotel to be the first hotel in the country branded with SeaWorld’s  
21 name.

22 103. Defendants also knew that it was important to SeaWorld to build new attractions in the  
23 San Diego Park. These new attractions require Coastal Commission approval.<sup>4</sup> SeaWorld had already

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24  
25 <sup>4</sup> Local Coastal Programs (LCPs) are planning tools created by local governments to guide  
26 development in the coastal zone, in partnership with the Coastal Commission. LCPs contain the  
27 ground rules for future development and the protection of coastal resources. LCPs are prepared by  
28 local government, but must conform with the goals and policies of California’s Coastal Act. Once a  
local government (e.g., a city council) adopts a LCP, the LCP is submitted to the Coastal Commission  
for review for consistency with Coastal Act requirements.

After an LCP has been finally approved, the Commission’s coastal permitting authority over  
most new development is transferred to the local government, which applies the requirements of the

1 encountered problems with the Coastal Commission in 2016 when the Commission had conditioned  
2 approval of SeaWorld’s \$100 million proposed expansion of the orca tank and habitat (referred to as  
3 “Blue World”) on SeaWorld’s agreement to discontinue its orca breeding program. Although  
4 SeaWorld initially sued the Coastal Commission on the ground that it had no legal basis to take the  
5 action it did, ultimately SeaWorld absorbed the loss and focused its energy on developing new  
6 attractions for its parks. SeaWorld was not back before the Coastal Commission until summer 2017  
7 when it sought approval of a new ride for its San Diego theme park called the “Electric Eel.”

8 104. In this timeframe, SeaWorld was working with a consultant, Allison Rolfe, President of  
9 Collaborative Land Use Solutions and former environmental activist, to facilitate its dealings with the  
10 California Coastal Commission and other environmental groups. Although SeaWorld did not agree to  
11 a PLA, Mr. Lemmon did not oppose the Electric Eel ride because of the large number of new union  
12 jobs that would be created in constructing it. SeaWorld was also able to get approval of a new roller  
13 coaster for construction and release in 2019. The unions’ support, however, was limited and was  
14 ultimately designed to send a message to SeaWorld that if it wanted to move forward with its new  
15 attractions and avoid disruption to its business generally, it would need Defendants’ continued support.

16 105. Not coincidentally, at all relevant times, Allison Rolfe has been a very close friend of  
17 Ms. Browning, and she has relied on this relationship to achieve success in her role as a consultant. As  
18 she states on her website, Ms. Rolfe relies on her relationships to “pioneer[] profitable solutions for  
19 high-profile development projects that would otherwise have faced intractable opposition.” In other  
20 words, Ms. Rolfe manufactures solutions by acting as the intermediary between Defendants and the

21 \_\_\_\_\_  
22 LCP in reviewing and approving new developments. The Commission retains permanent coastal  
23 permit jurisdiction over development proposed on tidelands, submerged lands, and public trust lands,  
24 and the Commission also acts on appeals from certain local government coastal permit decisions. The  
25 Commission reviews and approves any amendments to previously certified LCPs. The Mission Bay  
26 Park Master Plan Update and the Sea World Master Plan are both certified LCPs.

27 To ensure compliance with the LCP and the Coastal Act, developments in the coastal area need  
28 a Coastal Development Permit. Once the Commission certifies a LCP, local governments review and  
grant most coastal development permits. The Coastal Commission retains continuing permit  
jurisdiction over certain specified lands (such as tidelands and public trust lands), and it has appellate  
authority over specified categories of development.

Based on their location and scale, the new attractions planned by SeaWorld and the Hotel  
developments described herein generally require a multiple step process which includes both City  
Council approval and Coastal Commission approval.

1 owners and developers whom they target. Accordingly, on information and belief, Mr. Lemmon, Ms.  
2 Browning, and/or a Doe defendant communicated their messages to Evans Hotels in part through Ms.  
3 Rolfe, and Ms. Rolfe communicated messages to Evans Hotels from Defendants.

4 106. At the same time that Ms. Rolfe was working on securing Coastal Commission  
5 approvals for the upcoming SeaWorld attractions, Ms. Rolfe was also meeting and conversing with Mr.  
6 Evans regarding the Bahia and SeaWorld. Ms. Rolfe's first discussion with Mr. Evans was a telephone  
7 call in which she related her success stories in negotiating with Defendants, specifically Local 30. Ms.  
8 Rolfe related that she was close friends with Lorena Gonzalez (a state assemblyperson and former head  
9 of the San Diego & Imperial Counties Labor Council) and that she worked with her to broker a deal  
10 between Pacifica, Ms. Rolfe's client, and the Port of San Diego whereby the Port would trade property  
11 with the Pacifica for the site of its new hotel. As part of this deal, Ms. Rolfe confirmed that she  
12 secured a promise from Ms. Browning not to engage in greenmail in exchange for Pacifica's  
13 commitment to sign a card check neutrality agreement for the project. Ms. Rolfe assured Mr. Evans  
14 that if he were willing to agree to a card check neutrality agreement for the Bahia, she could get the  
15 same kind of result. Mr. Evans listened to Ms. Rolfe's story but said that unlike Pacifica, Bahia had  
16 been in operation for over 60 years and Evans Hotels was not willing to sign away its rights just to  
17 avoid the threat of greenmail and union opposition.

18 107. Ms. Rolfe met Mr. Evans for lunch on or around March 22, 2018 to discuss the Bahia  
19 proposal again, but with a new focus on SeaWorld and a potential quid pro quo relating to the  
20 SeaWorld hotel. Ms. Rolfe's communications made clear that she had spoken to Defendants Ms.  
21 Browning and Local 30 and they were after the Bahia redevelopment. Ms. Rolfe told Mr. Evans that  
22 Mr. LoPresti had sent a letter to the San Diego City Council on behalf of Local 30 opposing the Bahia.  
23 Because Mr. LoPresti's letter was dated February 28, 2018 and no one at City Council had yet shared  
24 this letter with Evans Hotels, Mr. Evans was unaware of its existence until he met with Ms. Rolfe. Ms.  
25 Rolfe was not working on the Bahia redevelopment, so no one from the City had reason to share the  
26 letter. Thus, the only way Ms. Rolfe could have known about this letter authored by Defendant Local  
27 30's counsel is from Defendants. On information and belief, Defendants shared the letter with Ms.  
28 Rolfe and authorized her to serve as the intermediary between Defendants and Evans Hotels. Indeed,

1 only a few weeks earlier, on February 23, 2018, Rick Bates, a Local 30 Research Analyst, submitted a  
2 Public Records Act request to the City of San Diego seeking information “regarding the SeaWorld  
3 Hotel or any lease amendment related to the SeaWorld Hotel.”

4 108. In this lunch meeting, Ms. Rolfe also made clear that she spoke to Ms. Browning when  
5 she told Mr. Evans that Ms. Browning has “a real problem with you.” Ms. Rolfe related that unless  
6 Mr. Evans did a deal with Ms. Browning, Defendants would target all of Evans Hotels’ projects and  
7 SeaWorld as Evans Hotels’ business partner. By contrast, if Evans Hotels agreed to a deal with Ms.  
8 Browning for the Bahia—which necessarily includes entering a PLA with the Building Trades—the  
9 environmental opposition would resolve itself at the Bahia and Defendants would not target SeaWorld.  
10 Although Mr. Evans offered to pay Ms. Rolfe for her time, she appeared uncomfortable and refused.

11 109. Ms. Rolfe spoke regularly with Mr. Evans during the Spring 2018 time frame and  
12 relayed the same message again and again: If you want to be able to move forward with SeaWorld,  
13 you need to do a deal with Defendants for the Bahia. On information and belief, Ms. Rolfe was sent  
14 by Defendants to communicate the message to Evans Hotels that unless it agreed to a card check  
15 neutrality agreement at the Bahia, the unions would continue its attack on the Bahia and come after  
16 SeaWorld as Evans Hotels’ business partner.

17 110. In or around June or July 2018, when Evans Hotels refused to acquiesce to Defendants’  
18 threats and demands, they turned their focus instead on SeaWorld, Evans Hotels’ business partner.  
19 Through Ms. Rolfe, Defendants communicated to SeaWorld that if SeaWorld continued its partnership  
20 with Evans Hotels, SeaWorld would face severe opposition from the unions and other union allies in  
21 connection with its plan to open new attractions every year. Defendants not only would interfere with  
22 SeaWorld’s ability to get approval for a master plan amendment at City Council and the Coastal  
23 Commission (the usual greenmail), but also would drum up negative publicity against SeaWorld  
24 designed to undermine SeaWorld’s reputation and public image. The message to SeaWorld was clear:  
25 either terminate your deal with Evans Hotels or face years of delay in getting future attractions  
26 approved and immeasurable damage to your image, reputation, and business in San Diego.

27 111. As expected, when faced with the prospect of the unions targeting SeaWorld’s  
28 reputation and core business plan to increase sales by opening up new attractions and harming its

1 image, SeaWorld had no choice but to agree to abandon its Joint Venture with Evans Hotels, resulting  
2 in an obligation to pay out more than \$2.8 million in termination fees.

3 112. In mid-July 2018, Bill Evans received a phone call from John Reilly, the interim CEO  
4 of SeaWorld, regarding the Joint Venture. Mr. Reilly stated on the call that he understood there was “a  
5 big problem” with the union relating to the Bahia. Upon information and belief, Mr. Reilly received  
6 this message from Defendants through Ms. Rolfe and/or another agent of SeaWorld, as the union’s  
7 opposition to the Bahia project was not yet public knowledge. Mr. Reilly then communicated to Mr.  
8 Evans that SeaWorld could not afford to be involved with anyone or any projects that could delay  
9 SeaWorld’s ability to get its master plan approved and/or otherwise adversely impact its business. Mr.  
10 Reilly said that while SeaWorld still liked conceptually the idea of a SeaWorld hotel and believed that  
11 it would bring millions of dollars in increased revenue, SeaWorld’s stock price is dependent on  
12 developing new attractions and that SeaWorld could not afford to become a target of the union.  
13 SeaWorld was faced with two options: it could either keep the hotel and inevitably spend years fighting  
14 the union and its asserted pressure tactics, or else drop the hotel, move forward with the planned  
15 opening of key attractions for the park, and avoid union organizing. SeaWorld had no choice but to  
16 break its venture with Evans Hotels.

17 113. Evans Hotels’ CEO, Robert Gleason, had a subsequent phone call with Mr. Reilly on  
18 the same subject on or around July 26, 2018. On this call, Mr. Reilly reiterated SeaWorld’s concern  
19 regarding the union and asked that the parties arrange for an in-person meeting in San Diego to  
20 discuss. Without going into much detail, Mr. Reilly reiterated that while there was still “interest”  
21 conceptually in doing a SeaWorld hotel, he said that attractions are the “lifeblood” of the organization  
22 and that would have to take priority. Mr. Reilly expressed concern that doing a hotel with Evans  
23 Hotels would make SeaWorld a target to union opposition generally and reiterated that SeaWorld could  
24 not afford any “wrinkle” in its plans.

25 114. On or around August 10, 2018, the parties convened at SeaWorld’s office in San Diego.  
26 Mr. Reilly again reiterated that SeaWorld’s focus was on its new attraction cadence and that being able  
27 to open up new attractions on an annual basis was critically important to SeaWorld’s success.  
28 Although SeaWorld had been able to get its new Electric Eel ride approved by the Coastal Commission

1 for 2018, there were other attractions in the pipeline pending approval which needed an amendment to  
2 the SeaWorld Master Plan. While SeaWorld still saw the value in a branded hotel, it told Evans Hotels  
3 that it could not move forward with the hotel plans at the expense of its core business of opening new  
4 attractions at its parks.

5 115. SeaWorld pointedly asked about the status of the Bahia and whether Evans Hotels had  
6 agreed to meet with Ms. Browning or anyone else at Local 30. When Mr. Evans responded that Evans  
7 Hotels had not agreed to meet with Ms. Browning, Corrine Brindley, SeaWorld's Vice President of  
8 State Affairs, said that SeaWorld's concern is that if Evans Hotels did not do a deal with Ms. Browning  
9 for the Bahia, Defendants would come after SeaWorld and its proposed new attractions with  
10 "pitchforks in air." Notably, Allison Rolfe reports directly to Ms. Brindley. When Mr. Evans  
11 responded that the greenmail is part of the Defendants' playbook, Ms. Brindley responded that  
12 SeaWorld also had other more pressing concerns relating to Defendants' stated ability to attack its  
13 reputation and image.

14 116. Mr. Reilly acknowledged that SeaWorld's decision effectively threw Evans Hotels  
15 under the bus but said, again, that SeaWorld had no choice but to "protect its bread and butter" from  
16 union interference.

17 117. On September 19, 2018, Tony Taylor, the General Counsel of SeaWorld, called Robert  
18 Gleason and formally terminated the Joint Venture with Evans Hotels. He stated that while SeaWorld  
19 valued its relationship with Evans Hotels, SeaWorld's leadership had decided that they could not move  
20 forward with the Joint Venture as it would jeopardize SeaWorld's underlying capital strategy of  
21 opening up new attractions at its theme park. He then stated that SeaWorld would move forward  
22 without Evans Hotels in the Master Plan Amendment so that it could formally get the entitlement  
23 process moving forward on new attractions. Mr. Taylor reiterated that while it was a difficult decision  
24 to make given the amount of time, energy and money invested by the parties in the SeaWorld hotel,  
25 SeaWorld had no choice but to protect its core business.

26 118. On November 7, 2018, SeaWorld issued an SEC filing formally announcing its decision  
27 to abandon the SeaWorld hotel. Although SeaWorld did not share in the press release the real reason  
28 why it was that it had decided at significant cost to abandon a hotel destined to bring thousands of jobs

1 and hundreds of millions of dollars in anticipated revenue to SeaWorld San Diego and rent revenue to  
2 the City of San Diego, the message was clear. In fact, the following day Mayor Faulconer pulled aside  
3 Mr. Evans and asked why it was that SeaWorld abandoned the project after years of investment and  
4 collaboration with Evans Hotels. When Mr. Evans declined to respond, the Mayor leaned in and said,  
5 “It was the Union, right?”

6 119. On November 15, 2018, a SeaWorld executive confirmed to David Cherashore,  
7 Executive Board Member of Evans Hotels, that the reason why the Board of Directors terminated the  
8 Joint Venture with Evans Hotels was because the unions threatened to target SeaWorld, including its  
9 plans to open up new attractions on an annual basis, if it continued in its Joint Venture with Evans  
10 Hotels. On information and belief, this threat was communicated by Defendants to Allison Rolfe or  
11 another agent of SeaWorld.

12 **Defendants Continue To Interfere with the Bahia Project After 2018 Election**

13 120. In November 2018, following the election, Evans Hotels was still trying to get the Bahia  
14 lease amendment set for hearing. Councilmember II refused to schedule the Bahia lease amendment  
15 for a hearing at the Committee level. When Evans Hotels requested that City Council President Myrtle  
16 Cole direct docket the Bahia lease amendment at City Council, Ms. Cole refused. When Mr. Evans  
17 called Ms. Cole to ask why the Bahia would not be docketed, Ms. Cole admitted that the unions had  
18 given her “hundreds of thousands of dollars to win this thing” and that they (Ms. Browning and Mr.  
19 Lemmon) would be upset if the Bahia was to get docketed before the new City Councilmembers took  
20 office.

21 121. After hearing that the President of City Council was unable to docket the project  
22 because of her relationship with Defendants, Evans Hotels turned to the Mayor of San Diego for help.  
23 Unfortunately, Defendants were undeterred. On November 26, 2018, Local 30 contacted the Mayor’s  
24 office and demanded that he stop asking the City Council to docket the Bahia for December 3, 2018.

25 122. Then and only then, after surrender by Evans Hotels was all but certain, Ms. Browning,  
26 Mr. Lemmon, and Carol Kim (Political Director for the Building Trades) met with Robert Gleason and  
27 Bill Evans at the Patio restaurant in Mission Hills on November 27, 2018 at 4 p.m. After exchanging  
28 brief pleasantries, Mr. Gleason raised the issue of the numerous environmental challenges to the Bahia

1 and Evans Hotels’ belief that the opposition all stemmed from Defendants’ desire to unionize the  
2 Bahia. Although Mr. Lemmon was careful not to discredit the environmental opposition, he  
3 acknowledged that neither he nor Ms. Browning could speak to any of the purported environmental  
4 concerns. Instead, he rationalized their opposition by stating that the union is a business and its  
5 objective is to sign up members via a signed PLA and card check neutrality agreement. When Mr.  
6 Evans posed the question as to why they should agree to do this, Ms. Browning responded bluntly “so  
7 that you can go forward with your project” and be able to pursue other opportunities in San Diego.  
8 They stated that they had the vote on the new City Council President “all locked up” and future City  
9 Councils would be even worse. In case the message was not clear enough, Mr. Lemmon likened the  
10 unions’ conduct to a “grenade with the pin on the table.” Mr. Lemmon threatened that although the  
11 “pin” had been taken out of the grenade, there was still time to put it back in. Ms. Browning made  
12 clear that the alternative for Evans Hotels would not be pretty. Citing her sham environmental suit  
13 with the Cisterra development and the affordable accommodation challenge she pulled out of “thin air”  
14 to oppose the Sunroad development, Ms. Browning assured Evans Hotels that they would stop at  
15 nothing to prevent the Bahia from going forward. When Mr. Evans asked why they were targeting  
16 Evans Hotels, as they were good employers, Mr. Lemmon appeared surprised and said this has nothing  
17 to do with Evans Hotels being “bad people” or a “bad employer.” To the contrary, both he and Ms.  
18 Browning reiterated that it is a “new era” for the unions. Mr. Lemmon summed it up by saying “we  
19 have a business just like you have a business” and that their focus was on increasing the number of  
20 members because that translates into increased dues. Ms. Browning added that the plan is to have  
21 10,000 members within a year’s time and ultimately to use their control over the City Council<sup>5</sup> and the  
22 California Coastal Commission to unionize “each and every hotel in San Diego.” Ms. Kim stated that  
23 using union labor is “no longer a market liability,” but rather the expectation. In other words, non-  
24 union hotel owners/developers in the market would need to sign up or be forced out of the Mission Bay  
25 and Downtown market.

26 \_\_\_\_\_  
27 <sup>5</sup> Ms. Browning has repeatedly mentioned that she is “best friends” with Councilmember II,  
28 and that her husband, who is Councilmember II’s political campaign consultant, was responsible for  
getting Councilmember II elected to office. Ms. Browning even referred to Councilmember II as the  
Council President, even though the election for that position had not yet occurred.

1           123. Defendants have taken all of these surreptitious actions knowing full well that that their  
2 ultimate objective—Evans Hotels’ *forced* execution of a card check neutrality agreement—is an  
3 unlawful act that neither the City Council nor any other state or local governmental entity may impose  
4 upon an employer, and it has been declared improper by the Supreme Court of the United States.  
5 Indeed, the San Diego City Attorney, in his 2015 Memorandum to the San Diego City Council,  
6 specifically advised the Council and the public of this federal prohibition.

7           124. Defendants have taken the steps described herein in an attempt to allow Local 30 and  
8 Building Trades to control and monopolize the prime tourist regions of San Diego, including the  
9 waterfront along Mission Bay and Downtown and to eliminate competition and development from  
10 non-union hotels. Defendants’ actions in opposing any hospitality development project by a full-  
11 service hotel in these areas whose labor is not represented by Local 30 and/or whose construction  
12 project is not subject to a PLA has the effect of forcing all existing hotels undergoing renovation and/or  
13 expanding their footprint (which all hotels must do regularly to continue to attract guests) to “go  
14 union” and forcing all newcomers to the San Diego hotel market to either use union labor, both in the  
15 construction and operation of the properties, or to build elsewhere. This is harmful to competition in  
16 the San Diego hospitality market in multiple ways, including but not limited to the following:

- 17           a. **First**, Defendants’ action in forcing San Diego hotels to “go union” has the effect of  
18 imposing certain wage scales and work rules on the construction and operation of all  
19 full-service hotels in the San Diego waterfront, regardless of a hotel’s ability to pay or  
20 desire to use non-union workers for reasons unrelated to wage scale (*e.g.*, because the  
21 hotel has found that its efficiency and performance is tied to its long-term employees,  
22 who have consistently refused to vote to unionize, and other more efficient operating  
23 methods). This has the effect of eliminating competition in the market.
- 24           b. **Second**, Defendants are successfully blocking hoteliers who employ a non-union labor  
25 workforce from entering the market, just as they did with the SeaWorld hotel, and from  
26 expanding their market share. Similarly, Defendants are successfully preventing non-  
27 union contractors from performing work in the relevant market by forcing developers to  
28

1 sign PLAs. These barriers to entry will stifle competition and result in Defendants’  
2 monopoly power in the San Diego hospitality labor market.

3 c. **Third**, Defendants’ actions in forcing San Diego full-service hotels to “go union” harm  
4 competition by restraining hospitality developers’ and their hotel employees’ rights to  
5 recognize a union or not. As discussed above, there are benefits to working at non-  
6 union hotels and for non-union contractors that would be eliminated if all full-service  
7 hotels in the area are forced to employ union labor or sign PLAs to use only unionized  
8 contractors and subcontractors.

9 125. Defendants will not stop their abusive and unlawful behavior with respect to the Bahia  
10 redevelopment until they receive a signed card check neutrality agreement and a PLA. And they will  
11 not stop this behavior in the City of San Diego going forward. Their illegal actions, violating the  
12 Sherman Act, NLRA, RICO laws, and state laws, ensure that they maintain control over the relevant  
13 hospitality labor market.

14 **FIRST CLAIM FOR RELIEF**

15 **(Unlawful Secondary Boycott)**

16 **(Against Defendants Unite Here! Local 30 and San Diego County Building and Construction**  
17 **Trades Council, AFL-CIO)**

18 126. Evans Hotels incorporates by reference the allegations contained in Paragraphs 1  
19 through 125, as if fully set forth herein.

20 127. Evans Hotels brings this action pursuant to Section 303 of the Labor Management  
21 Relations Act (“LMRA”), which states in pertinent part that “[i]t shall be unlawful . . . for any labor  
22 organization to engage in any activity or conduct defined as an unfair labor practice in section  
23 158(b)(4) of this title.” 29 U.S.C. § 187(a).

24 **Unlawful Secondary Boycott by Pressuring SeaWorld to Cease Doing Business with Plaintiffs.**

25 128. Section 8(b)(4) of the National Labor Relations Act (“NLRA”) states in pertinent part  
26 that “[i]t shall be an unfair labor practice for a labor organization or its agents . . . to threaten, coerce,  
27 or restrain any person engaged in commerce or in an industry affecting commerce, where in either case  
28

1 an object thereof is . . . forcing or requiring any person . . . to cease doing business with any other  
2 person.” 29 U.S.C. § 158(b)(4)(ii).

3 129. Local 30 is a “labor organization” under Section 303(a) of the LMRA and Section  
4 8(b)(4) of the NLRA.

5 130. Sea World LLC is a “person” under 29 U.S.C. § 152(1). SeaWorld is engaged in  
6 “commerce” and/or activities that “affect commerce,” including (but not limited to) operating  
7 SeaWorld branded theme parks.

8 131. SeaWorld and Evans Hotels, through EHSW, entered into a Joint Venture in January  
9 2018 to develop, own and operate a SeaWorld hotel. SeaWorld and Evans Hotels began working on  
10 the Joint Venture before April 2015, when they first entered into a letter of intent and had already  
11 started the initial stage of getting the approvals for the project.

12 132. Defendants knew about the Joint Venture and the significance of this opportunity for  
13 Evans Hotels’ business, as the plans to develop a SeaWorld branded hotel were released to the public  
14 on November 9, 2015. Defendants also knew about the importance to SeaWorld of increasing sales by  
15 maintaining a positive public image and meeting its business objective to get its new attractions passed  
16 through the Coastal Commission.

17 133. When Defendants were unsuccessful in getting Evans Hotels to agree to sign a card  
18 check neutrality agreement and a PLA with respect to the redevelopment of the Bahia, they decided to  
19 increase the pressure by targeting SeaWorld, Evans Hotels’ partner in the recently signed Joint Venture  
20 (i.e., a secondary party).

21 134. Defendants Mr. Lemmon, Ms. Browning, and/or Doe defendants, communicated with  
22 representatives of SeaWorld, including Ms. Rolfe, in the Spring/Summer 2018 and communicated the  
23 message to them that if Evans Hotels did not agree to a card check neutrality agreement at the Bahia  
24 they would target not just Evans Hotels’ other projects, but also SeaWorld. Specifically, Defendants  
25 threatened that they would impede SeaWorld’s ability to get attractions approved at the Coastal  
26 Commission, engage in union-organizing tactics against SeaWorld, and/or collaborate with SeaWorld  
27 opponents (e.g., People for the Ethical Treatment of Animals) to disrupt SeaWorld’s business and harm  
28 its name and reputation.

1           135. After these meetings with Defendants, SeaWorld did a sudden about face and, within  
2 months of signing a deal that had been negotiated and developed over more than three years, it  
3 announced to Evans Hotels in a meeting that took place on August 10, 2018 that it could no longer  
4 move forward as planned with the SeaWorld hotel. When pressed as to what prompted SeaWorld to  
5 suddenly abandon a project that it had so eagerly pursued for years, SeaWorld stated its concern that if  
6 Evans Hotels did not come to an agreement with Ms. Browning and Local 30 regarding the Bahia, that  
7 Defendants would target SeaWorld based on its relationship with Evans Hotels. SeaWorld said that  
8 while it understood why Evans Hotels did not want to do a deal with Defendants, SeaWorld did not  
9 want Defendants to come after SeaWorld with “pitchforks in air,” including but not limited to blocking  
10 its new projects that were pending city approval and engaging in efforts to force unionization.  
11 SeaWorld indicated that it could not afford to be targeted by the union or have the union support its  
12 other adversaries, as this assault would hurt its stock price and disrupt its core business.

13           136. On September 19, 2018, SeaWorld notified Evans Hotels of its decision to terminate the  
14 Joint Venture.

15           137. SeaWorld’s decision to terminate was a direct result of Defendants’ threat to target  
16 SeaWorld based on its relationship with Evans Hotels.

17           138. Defendants’ conduct was designed to and has in fact injured Evans Hotels. As a direct  
18 result of Defendants’ unlawful conduct, Evans Hotels has suffered substantial injury to its property  
19 and/or business, including but not limited to, lost profits in excess of \$100 million in connection with  
20 the opportunity to build a SeaWorld branded hotel, legal fees and other costs incurred because of, and  
21 in response to, Defendants’ coercive threats made in violation of NLRA Section 8(b)(4).

22 **Unlawful Secondary Boycott by Pressuring Plaintiffs to Sign a PLA to Force Contractors and**  
23 **Subcontractors to Employ Union Labor.**

24           139. Section 8(b)(4) of the NLRA also states in pertinent part that “[i]t shall be an unfair  
25 labor practice for a labor organization or its agents . . . to threaten, coerce, or restrain any person  
26 engaged in commerce or in an industry affecting commerce, where in either case an object thereof is . .  
27 . forcing or requiring any employer . . . to enter into any agreement which is prohibited by subsection  
28 (e)[.]” 29 U.S.C. § 158(b)(4)(ii)(A).

1           140. Section 8(e) of the NLRA also states in pertinent part that “[i]t shall be an unfair labor  
2 practice for any labor organization and any employer to enter into any contract or agreement, express  
3 or implied, whereby such employer ceases or refrains or agrees to cease or refrain from handling,  
4 using, selling, transporting or otherwise dealing in any of the products of any other employer, or to  
5 cease doing business with any other person[.]” 29 U.S.C. § 158(e).

6           141. Building Trades is a “labor organization” under Section 303(a) of the LMRA and  
7 Section 8(b)(4) of the NLRA.

8           142. Evans Hotels is not engaged primarily in the building and construction industry and  
9 does not employ workers engaged in the building and construction industry.

10           143. Mr. Lemmon, on behalf of the Building Trades, communicated to Evans Hotels that it  
11 will oppose the Bahia redevelopment project, as well as other Evans Hotels developments, by  
12 supporting sham environmental and zoning challenges and/or taking any and all other impeding  
13 actions unless Evans Hotels agrees to a PLA requiring the use of union workers for its upcoming  
14 construction developments.

15           144. Mr. Lemmon has demanded the PLA as a condition for Evans Hotels to “go forward  
16 with your project” and put the pin back in the “grenade.”

17           145. Mr. Lemmon’s threats are broad based and include any and all acts, not simply sham  
18 litigation.

19           146. Because Evans Hotels is not an employer primarily engaged in the construction industry  
20 and does not directly employ members of the Building Trades, this conduct amounts to a secondary  
21 boycott and unfair labor practices in violation of NLRA Section 8(b)(4) and a violation of NLRA  
22 Section 8(e), because the Building Trades has threatened Evans Hotels with opposition and financial  
23 harm unless it agrees to a PLA for the construction of the Bahia redevelopment project and other  
24 developments. These threats seek to apply economic pressure on Evans Hotels to employ only union  
25 contractors and cease or refrain from doing business with nonunion contractors.

26           147. The Building Trades’s conduct was designed to and has in fact injured Evans Hotels.  
27 As a direct result of the Building Trades’s unlawful conduct, Evans Hotels has suffered substantial  
28 injury to its property and/or business, including but not limited to, legal fees and other costs incurred

1 because of, and in response to, Defendants’ coercive threats made in violation of NLRA Section  
2 8(b)(4).

3 148. As a direct and proximate result of the Building Trades’s unfair labor practices, Evans  
4 Hotels has suffered business injuries and/or loss of property. Plaintiffs’ damages include but are not  
5 limited to the loss of its right to develop the Bahia in accordance with the Master Plan, loss of  
6 goodwill, lost profits, and lost property value.

7 **SECOND CLAIM FOR RELIEF**

8 **Attempted Monopolization in Violation of Section 2 of the Sherman Act**

9 **(Against All Defendants)**

10 149. Evans Hotels incorporates by reference the allegations contained in Paragraphs 1  
11 through 148, as if fully set forth herein.

12 150. Evans Hotels competes or has attempted to compete with other hotel operators in the  
13 Mission Bay and Downtown San Diego market for full-service, waterfront hotels in San Diego  
14 (hereinafter the “Relevant Market”). The Relevant Market not only includes the operations of such  
15 hotels, but also the use of contractors in the construction of hospitality properties in San Diego along  
16 the coastline of and in downtown San Diego.

17 151. Defendants use their presence in the Relevant Market and their unlawful practices to  
18 prevent non-union hotels from entering the market or increasing their market share. Specifically, as  
19 alleged above, Defendants have relied on their unlawful playbook to halt or stop the development of  
20 ten or more new non-union hotels in the San Diego market and permit development of hotels only if  
21 the owners agree to a card check neutrality agreement and a PLA. Plaintiffs are informed and believe,  
22 and thereon allege that hotels that have agreed to Defendants’ demands possess at a minimum a 60%  
23 share and up to a 70% share of the Relevant Market.

24 152. By virtue of Defendants’ threats, statements, behavior, conduct, acts, and omissions  
25 (and in combination with other groups and entities that give in to Defendants’ demands), Defendants  
26 prevent Evans Hotels and the other non-union developers described herein from competing in the  
27 Relevant Market and have a specific intent to destroy competition in the Relevant Market. Defendants’  
28 behavior described in this Amended Complaint demonstrates its specific intent to do so.

1           153. Defendants have engaged in predatory and/or anti-competitive conduct to attempt to  
2 exercise control over the Relevant Market and do whatever it takes to prevent non-union hotels from  
3 developing in San Diego. This conduct includes Defendants' actions with respect to the other non-  
4 union development projects, as well as the actions taken with respect to the Bahia redevelopment. One  
5 example of an unfair, unlawful and fraudulent action is Defendants' attempt to combine with non-labor  
6 groups (including but not limited to Protea and Virgin Hotels regarding the Seaport Village  
7 development, other developers who have agreed to Defendants' demands as a prerequisite to obtaining  
8 necessary approvals of their hotel developments, Citizens and Paddlers Against the Bahia Hotel Land  
9 Grab on Bahia Point, San Diegans for Responsible Planning, and Rick Bates, the member of Local 30  
10 who submitted a public records request regarding the SeaWorld hotel) to initiate or threaten to initiate  
11 sham CEQA, environmental, and zoning opposition that will prevent or delay the development of non-  
12 union hotel properties. Pursuant to Defendants' playbook, Defendants automatically initiate  
13 opposition to non-union developments without regard to the merits of their environmental and zoning  
14 claims. Defendants' willingness to abandon opposition, including CEQA challenges, by cooperating  
15 with developers—competitors of Plaintiffs—who agree to sign card check neutrality agreements and  
16 PLAs, demonstrates that such opposition is merely a sham.

17           154. Another example is that Defendants threaten and engage in unlawful secondary  
18 boycotts against third parties, such as SeaWorld, with the purpose of forcing the third party to cease  
19 doing business with the non-union hospitality developer. Yet another example is that Defendants rely  
20 on bribery and other unlawful tactics to gain "ownership" of City Councilmembers such that  
21 Defendants effectively unilaterally control the docketing and voting of projects submitted for approval  
22 to City Council. Defendants use their control over City Council to unlawfully attempt to extort a PLA  
23 and card check neutrality agreement from Evans Hotels and other developers.

24           155. Defendants' conduct in filing lawsuits and opposing projects before the City Council  
25 and the Coastal Commission based on non-labor statutes or ordinances, such as CEQA and local  
26 zoning laws, is not protected petitioning activity. Defendants have filed numerous lawsuits and have  
27 asserted CEQA and zoning challenges to the most significant non-union development projects before  
28 the City Council and/or Coastal Commission. As Ms. Browning told Mr. Evans, Defendants concoct

1 these challenges out of “thin air” to drive up the costs of the project and create delay. As illustrated by  
2 the public documents related to the Convention Center Phase 3, once Defendants obtain what they  
3 want—a PLA and card check neutrality agreement—Defendants abandon the litigation and opposition  
4 with, at best, only token provisions that fail to address most of the purported environmental or zoning  
5 issues raised in their challenges.

6 156. Defendants’ conduct also is not entitled to protection under the statutory and non-  
7 statutory exemptions to the antitrust laws. The statutory exemption does not apply because Defendants  
8 combine with non-labor groups, including hotel developers and/or owners in the relevant market that  
9 sign PLAs and card check neutrality agreements as a condition of obtaining approval for their new  
10 developments and expansion plans. Those developers and/or owners are Evans Hotels’ direct  
11 competitors. As illustrated by Defendants’ combination with Protea and Virgin Hotels, a direct  
12 competitor of Evans Hotels, to obtain approval of Protea’s proposal to the Port Commission,  
13 Defendants have effectively excluded Plaintiffs and other non-union developers and owners from the  
14 Relevant Market.

15 157. The statutory exemption also does not apply because Defendants’ actions are not in  
16 pursuit of a legitimate purpose. The unfair and unlawful business practices described herein, including  
17 but not limited to automatically protesting permits for development projects, filing baseless lawsuits,  
18 and bribery and extortion of public officials, and pressuring businesses to cease doing business with  
19 non-union developers, are not traditional organizational activities. Nor are engaging in acts to coerce  
20 employers to enter into PLAs and card check neutrality agreements. While employers may voluntarily  
21 enter into PLAs and card check neutrality agreements, unions may not use unlawful coercive tactics to  
22 force an involuntary agreement from the employers. Such tactics violate the NLRA, 28 U.S.C.  
23 § 158(c) and (f). Defendants’ use of these practices demonstrates that they are acting with improper  
24 purpose, outside their legitimate self-interest.

25 158. The nonstatutory exemption does not apply because the restraints Defendants seek to  
26 impose do not primarily affect the parties to agreements between Defendants and developers (as no  
27 such agreements exist at the time Defendants are engaging in their efforts to restrain trade); the  
28 agreements do not concern wages, hours, or conditions of employment that are mandatory subjects of

1 collective bargaining (as no collective bargaining agreements exist between the developers and  
2 Defendants); and any agreement that would result is not the product of bona fide arm's length  
3 collective bargaining, but rather the product of developers capitulating to Defendants' non-traditional  
4 and unlawful tactics.

5 159. Defendants' intent, power, and resources create a dangerous probability that Defendants  
6 will succeed in ensuring unionized hotels monopolize the Relevant Market. In fact, Defendants' illegal  
7 behavior to date (with respect to the Bahia redevelopment and other development projects described  
8 herein) and exclusionary intent that is evident in this behavior, poses such a danger to competition in  
9 the Relevant Market that, if left unchecked, will result in Defendants' acquisition of monopoly power.

10 160. Defendants have specific intent to prevent competition between union and non-union  
11 hotels in the Relevant Market. They seek to dominate the Relevant Market by using unlawful tactics to  
12 force hotel developers to sign card check neutrality agreements, thereby preventing any developers  
13 who refuse to sign such agreements (i.e., non-union hotel developers) from building or redeveloping  
14 their hotels. As Ms. Browning has stated repeatedly, Defendants' goal is to unionize "each and every  
15 hotel in San Diego." Ms. Carol Kim, Political Director for the Building Trades, stated that the use of  
16 union labor is "no longer a market liability," but rather the expectation.

17 161. Defendants also carry out this intent by preventing competition between union and non-  
18 union contractors. They have specific intent to monopolize the Relevant Market by using unlawful  
19 tactics to force hotel developers to sign PLAs, which would force Plaintiffs and other hotel developers  
20 to contract solely with contractors who employ union labor to construct their projects. Such PLAs  
21 prevent non-union contractors in the construction industry from performing construction work in the  
22 Relevant Market. As a result of these anti-competitive efforts, developers who seek to build or  
23 redevelop their hotels must pay increased labor costs.

24 162. Defendants have engaged in predatory and anticompetitive conduct to accomplish their  
25 purpose through the unfair and unlawful business practices described herein, including automatically  
26 protesting permits for development projects, filing baseless lawsuits, engaging in bribery and extortion  
27 of public officials, and pressuring businesses to cease doing business with non-union developers.  
28



1 developers who have agreed to Defendants' demands as a prerequisite to obtaining necessary approvals  
2 of their hotel developments, Citizens and Paddlers Against the Bahia Hotel Land Grab on Bahia Point,  
3 Rick Bates, the member of Local 30 who submitted a public records request regarding the SeaWorld  
4 hotel, and San Diegans for Responsible Planning, to monopolize the Relevant Market, as defined in  
5 paragraph 149.

6 170. Defendants use their presence in the Relevant Market and their unlawful practices to  
7 prevent non-union hotels from entering the market or increasing their market share. Specifically, as  
8 alleged above, Defendants have relied on their unlawful playbook to halt or stop the development of  
9 ten or more new non-union hotels in the San Diego market and permit development of hotels only if  
10 the owners agree to a card check neutrality agreement and a PLA. Plaintiffs are informed and believe,  
11 and thereon allege that hotels that have agreed to Defendants' demands possess at a minimum a 60%  
12 share and up to a 70% share of the Relevant Market.

13 171. Plaintiffs are informed and believe that Defendants seek to dominate the Relevant  
14 Market by preventing non-union contractors in the construction industry from performing construction  
15 work in the Relevant Market. By demanding that all significant developments in the Relevant Market  
16 be subject to PLA agreements, Defendants force Plaintiffs and other developers to contract solely with  
17 contractors who employ union labor to construct the Bahia redevelopment.

18 172. Defendants are not involved in a labor dispute for the purpose of acting in their own  
19 self-interest. Evans Hotels is not unionized and there is not a petition for an election. Further, the  
20 unfair and unlawful business practices described herein are not traditional organizational activities.  
21 Local 30's use of these practices demonstrates that it is acting illegitimately, outside its legitimate self-  
22 interest.

23 173. Evans Hotels also is not engaged primarily in the building and construction industry.  
24 Further, the unfair and unlawful business practices described herein are not traditional organizational  
25 activities. Defendants' use of these practices demonstrates that it is acting illegitimately, outside its  
26 legitimate self-interest.

27 174. Defendants have specific intent to prevent competition between union and non-union  
28 hotels in the Relevant Market. They seek to dominate the Relevant Market by using unlawful tactics to

1 force hotel developers to sign card check neutrality agreements; thereby preventing any developers  
2 who refuse to sign such agreements (i.e., non-union hotel developers) from building or redeveloping  
3 their hotels. As Ms. Browning has stated repeatedly, Defendants’ goal is to unionize “each and every  
4 hotel in San Diego.”

5 175. Defendants also carry out this intent by preventing competition between union and non-  
6 union contractors. They seek to dominate the Relevant Market by using unlawful tactics to force hotel  
7 developers to sign PLAs, which would force Plaintiffs and other hotel developers to contract solely  
8 with contractors who employ union labor to construct their projects. Such PLAs prevent non-union  
9 contractors in the construction industry from performing construction work in the Relevant Market. As  
10 a result of these anti-competitive efforts, developers who seek to build or redevelop their hotels must  
11 pay increased labor costs. .

12 176. Defendants committed overt acts and engaged in other conduct pursuant to, and in  
13 furtherance of, the conspiracy, including the acts alleged in this Amended Complaint. Defendants have  
14 engaged in anti-competitive conduct directed toward preventing non-union developers from building  
15 or expanding non-union hotels and toward preventing the hiring of non-union contractors and  
16 subcontractors, thereby destroying competition in the Relevant Market. Defendants did these acts and  
17 things pursuant to, and in furtherance of, the conspiracy.

18 177. Recent overt acts in pursuit of the above-described conspiracy include: (i) actions taken  
19 against other non-union properties, including raising and litigating sham claims against the developers  
20 of those properties; abandoning environmental and zoning claims when a developer agrees to  
21 Defendants’ demands, with, at best, only token provisions that fail to address most of the purported  
22 environmental or zoning issues raised in their challenges; combining with Protea and Virgin Hotels to  
23 obtain approval of Protea’s proposal for Seaport Village (over competing proposals for non-union  
24 hotels like Evans’); (ii) Ms. Browning’s communications with Councilmember I that she would not  
25 back down unless Evans Hotels signed a card check neutrality agreement; (iii) Mr. Lemmon promising  
26 that Defendants are “going to turn up the volume” in opposing Evans Hotels; and (iv) the text  
27 messages from Mr. Lemmon and Ms. Browning to Mr. Gleason.

28

1           178. Defendants’ conduct in filing lawsuits and opposing projects before the City Council  
2 and the Coastal Commission based on non-labor statutes or ordinances, such as CEQA and local  
3 zoning laws, is not protected petitioning activity. Defendants have filed numerous lawsuits and have  
4 asserted CEQA and zoning challenges to the most significant non-union development projects before  
5 the City Council and/or Coastal Commission. As Ms. Browning told Mr. Evans, Defendants concoct  
6 these challenges out of “thin air” to drive up the costs of the project and create delay. As illustrated by  
7 the public documents related to the Convention Center Phase 3, once Defendants obtain what they  
8 want—a PLA and card check neutrality agreement—Defendants abandon the litigation and opposition  
9 with, at best, only token provisions that fail to address most of the purported environmental or zoning  
10 issues raised in their challenges.

11           179. Defendants’ conduct also is not entitled to protection under the statutory and non-  
12 statutory exemptions to the antitrust laws. The statutory exemption does not apply because Defendants  
13 combine with non-labor groups, including hotel developers and/or owners in the relevant market that  
14 sign PLAs and card check neutrality agreements as a condition of obtaining approval for their new  
15 developments and expansion plans. Those developers and/or owners are Evans Hotels’ direct  
16 competitors. As illustrated by Defendants’ combination with Protea and Virgin Hotels, a direct  
17 competitor of Evans Hotels, to obtain approval of Protea’s proposal to the Port Commission,  
18 Defendants have effectively excluded Plaintiffs and other non-union developers and owners from the  
19 Relevant Market.

20           180. The statutory exemption also does not apply because Defendants’ actions are not in  
21 pursuit of a legitimate purpose. The unfair and unlawful business practices described herein, including  
22 but not limited to automatically protesting permits for development projects, filing baseless lawsuits,  
23 engaging in bribery and extortion of public officials, and pressuring businesses to cease doing business  
24 with non-union developers, are not traditional organizational activities. Nor are engaging in acts to  
25 coerce employers to enter into PLAs and card check neutrality agreements. While employers may  
26 voluntarily enter into PLAs and card check neutrality agreements, unions may not use unlawful  
27 coercive tactics to force an involuntary agreement from the employers. Such tactics violate the NLRA,  
28

1 28 U.S.C. § 158(c) and (f). Defendants’ use of these practices demonstrates that they are acting with  
2 improper purpose, outside their legitimate self-interest.

3 181. The nonstatutory exemption does not apply because the restraints they seek to impose  
4 do not primarily affect the parties to agreements between Defendants and developers (as no such  
5 agreements exist at the time Defendants are engaging in their efforts to restrain trade); the agreements  
6 do not concern wages, hours, or conditions of employment that are mandatory subjects of collective  
7 bargaining (as no collective bargaining agreements exist between the developers and Defendants); and  
8 any agreement that would result is not the product of bona fide arm’s length collective bargaining, but  
9 rather the product of developers capitulating to Defendants’ non-traditional and unlawful tactics.

10 182. As a direct and proximate result of Defendants’ anti-competitive activities in violation  
11 of Section 2 of the Sherman Act, Evans Hotels has suffered business injuries and/or loss of property.  
12 Plaintiffs’ damages include but are not limited to the loss of its right to develop the Bahia in  
13 accordance with the Master Plan, the lost opportunity to develop a non-union SeaWorld branded hotel,  
14 the loss of the opportunity to operate the hotel at the redeveloped Seaport Village; loss of goodwill, lost  
15 profits, and lost property value. Evans Hotels has suffered, and will continue to suffer, irreparable  
16 harm if Local 30 is not enjoined from engaging in its anti-competitive conduct.

17 183. Defendants’ anti-competitive activities have also caused, and continue to cause, among  
18 other things, a loss of revenue due to unlawful delays that will impact prices paid by consumers in the  
19 Relevant Market, increased prices to consumers in the Relevant Market due to the lack of meaningful  
20 market competition, reduced competition and reduced supply due to Defendants’ unlawful practice of  
21 preventing the development of non-union hotels, and blocked entry or reduced desirability of entry into  
22 the Relevant Market of Evans Hotels that would be competitors of Defendants (i.e., non-union labor  
23 market).

24 184. As a proximate result of the wrongful acts herein alleged, Evans Hotels has been  
25 damaged in excess of \$100 million. Evans Hotels is also entitled to recover treble damages, costs of  
26 suit, and attorneys’ fees.

**FOURTH CLAIM FOR RELIEF**

**Violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(c)  
(Against All Defendants)**

185. Evans Hotels incorporates the allegations contained in Paragraphs 1 through 184, as if fully set forth herein.

186. Evans Hotels, LLC, BH Partnership LP, and EHSW, LLC are each a “person” under 18 U.S.C. §§ 1961(3) and 1964(c).

187. Each of the Defendants is a “person” under 18 U.S.C. §§ 1961(3), 1962(c), and 1962(d).

188. Defendants Local 30, Ms. Browning, the Building Trades, and Mr. Lemmon, along with Tony LoPresti, San Diegans for Responsible Planning, and, Rick Bates, the member of Local 30 who submitted a public records request regarding the SeaWorld hotel, and all of their affiliated entities, agents, and/or any subsidiaries, constitute an “enterprise” engaged in, and whose activities affect, interstate commerce within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c) (the “Local 30 Enterprise”). The Local 30 Enterprise is an informal association that operates for the common purpose of forcing unionization of San Diego hotels and the employment of only union labor in hotel construction and redevelopment. The Local 30 Enterprise exists separate and apart from the pattern of racketeering activity alleged and the Defendants themselves.

189. As part of the Local 30 Enterprise, each of the Defendants was and is associated with the Local 30 Enterprise and has conducted or participated, directly or indirectly, in the management and operation of the affairs of the Local 30 Enterprise in relation to Evans Hotels and other developers, including, but not necessarily limited to, Cisterra, Atlas Hotels, Sunroad, Marriott, and the Convention Center, through a pattern of activity unlawful under 18 U.S.C. § 1961(A) and (B), including multiple, repeated, and continuous acts or threats involving extortion and/or attempted extortion, chargeable under 18 U.S.C. § 1951 and California Penal Code §§ 518, 522, 524.

190. Defendants also have engaged in multiple, repeated, and continuous acts or threats involving extortion and/or attempted extortion, chargeable under 18 U.S.C. § 1951 and California Penal Code §§ 518, 522, 524, by threatening entities that engage in business with employers like Evans Hotels as a means of forcing the employers to accede to Defendants’ demands. Defendants took such

1 actions against SeaWorld in an effort to extort Evans Hotels, against Cisterra as a means of forcing  
2 Marriott to agree to Defendants’ demands, and, on information and belief, have taken similar actions  
3 against other employers.

4 191. Defendants have threatened Evans Hotels and other developers with economic harm  
5 and harm to their property by threatening to ruin development plans by bringing baseless lawsuits and  
6 challenges for the purpose of delaying and frustrating developments—issues that have caused  
7 developers to lose business partners or financing, as well as incur substantial legal fees to fight the  
8 baseless challenges—and threatening harmful public relations campaigns regarding non-labor issues.

9 192. Defendants, through Allison Rolfe, threatened SeaWorld with negative publicity,  
10 otherwise non-existent union organizing, and baseless opposition to its future projects unless its  
11 business partner, Evans Hotels, agreed to enter into a PLA and card check neutrality agreement for the  
12 Bahia, a project unrelated to SeaWorld.

13 193. Defendants have carried out their threats by filing sham lawsuits, such as the action by  
14 Ms. Browning and Local 30 challenging the Convention Center Phase 3 financing plan and the CEQA  
15 action by the local unions that comprise the Building Trades. Defendants also threatened further sham  
16 CEQA litigation that was resolved in the settlement of the prospective CEQA action signed by Ms.  
17 Browning on behalf of Local 30 and by Mr. Lemmon on behalf of San Diego Coalition for a Better  
18 Convention Center and the Building Trades.

19 194. Defendants also have raised sham challenges against other developers, including the  
20 environmental suit with the Cisterra development that Ms. Browning admitted was a sham and the  
21 affordable accommodation challenge she pulled out of “thin air” to oppose the Sunroad development.

22 195. Defendants have threatened Evans Hotels with similar sham challenges, claiming the  
23 Bahia redevelopment project would violate a requirement to retain Gleason Road even though the City  
24 has informed Defendants that the MBMPU does not contain such a requirement. By referencing her  
25 past actions involving the Cisterra and Sunroad, Ms. Browning threatened Evans Hotels with similar  
26 sham litigation. Mr. Lemmon’s threats included describing Defendants’ conduct as a “grenade with the  
27 pin on the table” that could only be put back in the grenade if Evans Hotels capitulated to Defendants’  
28 demands for a PLA and card check neutrality agreement.

1           196. These threats have instilled reasonable fear in Evans Hotels and other developers of  
2 economic harm, leading to many developers capitulating to Defendants' demands.

3           197. Defendants have employed unlawful means to extort Evans Hotels and other  
4 developers, including but not limited to automatically disingenuously protesting permits for  
5 development projects, filing sham lawsuits and challenges to the project, engaging in bribery and  
6 extortion of public officials, and pressuring businesses to cease doing business with non-union  
7 developers.

8           198. Defendants' actions have been for the purpose of seeking unlawful ends. Defendants  
9 have no right to demand that Evans Hotels enter into PLAs or card check neutrality agreements  
10 involuntarily. Defendants also have strong-armed City officials to demand that Evans Hotels enter into  
11 such agreements as a condition of obtaining City approval of the lease amendment despite knowing  
12 that such conditions are unlawful.

13           199. As a result of their actions, Defendants have obtained property within the meaning of 18  
14 U.S.C. § 1951, including (i) money in the form of per capita payments, union dues, union fees, and  
15 other payments, such as contributions to union pension and health plans; (ii) developers' rights to have  
16 a vote for unionization carried out by secret ballot; (iii) the right to determine and pay specific wages,  
17 benefits, and union dues deducted from employee compensation; (iv) proprietary personnel  
18 information (i.e., employee contact lists) without having to obtain signed authorization cards from 30%  
19 of the employee unit and successfully petition the NLRB for an election; and (v) free access and use of  
20 the employer's premises for soliciting employees and holding captive audience speeches on working  
21 time.

22           200. As a result of their actions, Defendants have obtained property and consideration for  
23 purposes of Penal Code § 518, including (i) money in the form of per capita payments, union dues,  
24 union fees, and other payments, such as contributions to union pension and health plans; (ii)  
25 developers' rights to have a vote for unionization carried out by secret ballot; (iii) the right to  
26 determine and pay specific wages, benefits, and union dues deducted from employee compensation;  
27 (iv) proprietary personnel information (i.e., employee contact lists) without having to obtain signed  
28 authorization cards from 30% of the employee unit and successfully petition the NLRB for an election;

1 and (v) free access and use of the employer’s premises for soliciting employees and holding captive  
2 audience speeches on working time.

3 201. As a result of their threats, Defendants have caused other developers to sign agreements  
4 that give Defendants rights of actions against the developers, which is consideration for purposes of  
5 Penal Code § 522. Specifically, the PLAs give Defendants the right to bring actions against the  
6 developers if they employ non-union contractors or workers. Similarly, the card check neutrality  
7 agreements give Defendants the right to demand voluntary recognition of a union based solely on cards  
8 signed by employees and to bring actions to prevent developers from exercising their First Amendment  
9 rights to speak to their employees about unionization.

10 202. On information and belief, Defendants violated California Penal Code §§ 7(6) and 85,  
11 by giving, offering, or promising something of value or advantage in the form of future monetary and  
12 political support to Councilmembers to influence them to withdraw their support for the Bahia Project,  
13 cast a vote against the project when it is reviewed by the City Council, and prevent projects Defendants  
14 oppose from even getting placed on the City Council’s docket.

15 203. Although the specific statements made by Defendants to City Councilmember I are  
16 exclusively known to Defendants and City Councilmember I, the circumstances surrounding City  
17 Councilmember I’s abrupt decision to withdraw support for the Bahia redevelopment after meeting  
18 with Defendants (and that same Councilperson’s subsequent insistence that future support would be  
19 contingent on Evans Hotels agreeing to a card check neutrality agreement) provide grounds to  
20 reasonably infer that the Councilperson made a quid pro quo agreement with the Defendants. For  
21 example, City Councilmember I expressed support for and recognized the value of the project before a  
22 scheduled meeting with Ms. Browning. Weeks later, and after City Councilmember I met with Ms.  
23 Browning for lunch, Councilmember I’s representative told Mr. Evans that future support was  
24 conditioned on Evans Hotels’ agreement to sign a card check neutrality agreement with Local 30. City  
25 Councilmember I’s actions also are consistent with Mr. Lemmon’s repeated claim that he “own[s] five  
26 City Councilmembers,” and also with Defendants’ relationship with City Councilmember II.

27 204. These acts or threats form a pattern of racketeering activity as they all have occurred  
28 within 10 years of one another, are related insofar as they involve the same participants, share the same

1 purpose of forcing developers to cave to the demands made to enrich the Local 30 Enterprise, and  
2 employ the same methods, including, but not limited to pursuing sham opposition to and litigation over  
3 projects in City Council, administrative, Coastal Commission, and civil proceedings in an effort to hold  
4 projects hostage unless Evans Hotels and the other developers accede to Defendants' demands. Evans  
5 Hotels also alleges on information and belief, including Defendant Local 30's past conduct toward  
6 Evans Hotels in the 1990s and its actions toward SeaWorld, that Defendants also have employed the  
7 method of targeting third parties that do business with other developers such as Marriott and Cisterra,  
8 to force them to cease doing business unless the other developers caved to the demands of the Local 30  
9 Enterprise. These acts reflect use of Defendants' "playbook" dating back to the 1990s and including  
10 the multiple acts of racketeering activity in the last 10 years set forth herein.

11         205. Using the threat of injury to Evans Hotels' business interests, including the Bahia  
12 redevelopment project and the development of the SeaWorld branded hotel, Defendants have conspired  
13 and attempted to take property from Evans Hotels, including (i) money in the form of per capita  
14 payments, union dues, union fees, and other payments, such as contributions to union pension and  
15 health plans; (ii) developers' rights to have a vote for unionization carried out by secret ballot; (iii) the  
16 right to determine and pay specific wages, benefits, and union dues deducted from employee  
17 compensation; (iv) proprietary personnel information (i.e., employee contact lists) without having to  
18 obtain signed authorization cards from 30% of the employee unit and successfully petition the NLRB  
19 for an election; and (v) free access and use of the employer's premises for soliciting employees and  
20 holding captive audience speeches on working time.

21         206. Defendants' activities described herein were taken knowingly and willfully and have  
22 obstructed, delayed, or otherwise affected commerce.

23         207. Defendants' conduct was designed to, and has in fact, injured Evans Hotels. As a direct  
24 result of Defendants' unlawful and ongoing threats of extortion in violation of 18 U.S.C. § 1951 and  
25 Cal. Penal Code §§ 518, 522, and 524, SeaWorld terminated its contract with Evans Hotels due to  
26 Defendants' threat to target SeaWorld based on its relationship with Evans Hotels.

27         208. Evans Hotels has suffered substantial injury to its property and/or business, including  
28 but not limited to, lost profits in excess of \$100 million in connection with the opportunity to build a

1 SeaWorld branded hotel, legal fees and other costs incurred because of, and in response to,  
2 Defendants' extortionate conduct.

3 **FIFTH CLAIM FOR RELIEF**

4 **Violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C.**

5 **§ 1962(d), by Conspiring to Violate 18 U.S.C. § 1962(c)**

6 **(Against All Defendants)**

7 209. Evans Hotels incorporates the allegations contained in Paragraphs 1 through 208, as if  
8 fully set forth herein.

9 210. Evans Hotels, LLC, BH Partnership LP, and EHSW, LLC are each a "person" under 18  
10 U.S.C. §§ 1961(3) and 1964(c).

11 211. Each of the Defendants is a "person" under 18 U.S.C. §§ 1961(3), 1962(c), and 1962(d).

12 212. Defendants Local 30 (and its affiliated entities and/or any subsidiaries), Ms. Browning,  
13 the Building Trades, and Mr. Lemmon, along with Tony LoPresti, San Diegans for Responsible  
14 Planning, and Rick Bates, the member of Local 30 who submitted a public records request regarding  
15 the SeaWorld hotel, constitute the Local 30 Enterprise engaged in, and whose activities affect,  
16 interstate commerce within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c). The Local 30  
17 Enterprise is an informal association that operates for the common purpose of forcing unionization of  
18 San Diego hotels and the employment of only union labor in hotel construction and redevelopment.  
19 The Local 30 Enterprise exists separate and apart from the pattern of racketeering activity alleged and  
20 the Defendants themselves.

21 213. Each of the Defendants was and is associated with the Local 30 Enterprise and has  
22 conspired among themselves within the meaning of 18 U.S.C. § 1962(d) to violate 18 U.S.C.  
23 § 1962(c). Specifically, each of the Defendants agreed and intended, and/or adopted the goal of  
24 furthering or facilitating, the following endeavor: to conduct or participate, directly or indirectly, in the  
25 management and operation of the affairs of the Local 30 Enterprise in relation to Evans Hotels and  
26 other developers, including, but not necessarily limited to, Cisterra, Atlas Hotels, Sunroad, KSL  
27 Resorts, and Marriott, through a pattern of activity unlawful under 18 U.S.C. § 1961(A) and (B),  
28 including multiple, repeated, and continuous acts or threats involving extortion and/or attempted

1 extortion, chargeable under 18 U.S.C. § 1951 and California Penal Code §§ 518, 522, 524. Defendants  
2 engage in this endeavor with the purpose of obtaining involuntary PLAs and card check neutrality  
3 agreements, which will result in increased employment opportunities and wages for members of  
4 Defendants Local 30 and the Building Trades, with corresponding economic benefits to Defendants  
5 Local 30 and the Building Trades

6 214. Defendants also have engaged in multiple, repeated, and continuous acts or threats  
7 involving extortion and/or attempted extortion, chargeable under 18 U.S.C. § 1951 and California  
8 Penal Code §§ 518, 522, 524, by threatening entities that engage in business with employers like Evans  
9 Hotels as a means of forcing the employers to accede to Defendants' demands. Defendants took such  
10 actions against SeaWorld in an effort to extort Evans Hotels, against Cisterra as a means of forcing  
11 Marriott to agree to Defendants' demands, and, on information and belief, have taken similar actions  
12 against other employers.

13 215. Defendants have threatened Evans Hotels and other developers with economic harm  
14 and harm to their property by threatening to ruin development plans by bringing baseless lawsuits and  
15 challenges for the purpose of delaying and frustrating developments—issues that have caused  
16 developers to lose business partners or financing, as well as incur substantial legal fees to fight the  
17 baseless challenges—threatening harmful public relations campaigns regarding non-labor issues.

18 216. Defendants, through Allison Rolfe, threatened SeaWorld with negative publicity,  
19 otherwise non-existent union organizing, and baseless opposition to its future projects unless its  
20 business partner, Evans Hotels, agreed to enter into a PLA and card check neutrality agreement for the  
21 Bahia, a project unrelated to SeaWorld.

22 217. Defendants have carried out their threats by filing sham lawsuits, such as the action by  
23 Ms. Browning and Local 30 challenging the Convention Center Phase 3 financing plan and the CEQA  
24 action by the local unions that comprise the Building Trades. Defendants also threatened further sham  
25 CEQA litigation that was resolved in the settlement of the prospective CEQA action signed by Ms.  
26 Browning on behalf of Local 30 and by Mr. Lemmon on behalf of San Diego Coalition for a Better  
27 Convention Center and the Building Trades.

28

1           218. Defendants also have raised sham challenges against other developers, including the  
2 environmental suit with the Cisterra development that Ms. Browning admitted was a sham and the  
3 affordable accommodation challenge she pulled out of “thin air” to oppose the Sunroad development.

4           219. Defendants have threatened Evans Hotels with similar sham challenges, claiming the  
5 Bahia redevelopment project would violate a requirement to retain Gleason Road even though the City  
6 has informed Defendants that the MBMPU does not contain such a requirement. By referencing her  
7 past actions involving the Cisterra and Sunroad, Ms. Browning threatened Evans Hotels with similar  
8 sham litigation. Mr. Lemmon’s threats included describing Defendants’ conduct as a “grenade with the  
9 pin on the table” that could only be put back in the grenade if Evans capitulated to Defendants’  
10 demands for a PLA and card check neutrality agreement.

11           220. These threats have instilled reasonable fear in Evans and other developers of economic  
12 harm, leading to many developers capitulating to Defendants’ demands.

13           221. Defendants have employed unlawful means to extort Evans Hotels and other  
14 developers, including but not limited to automatically protesting permits for development projects,  
15 filing sham lawsuits and challenges to the project, bribery and extortion of public officials, and  
16 pressuring businesses to cease doing business with non-union developers.

17           222. Defendants’ actions have been for the purpose of seeking unlawful ends. Defendants  
18 have no right to demand that Evans Hotels enter into PLAs or card check neutrality agreements  
19 involuntarily. Defendants also have strong-armed City officials to demand Evans Hotels enter into  
20 such agreements as a condition of obtaining City approval of the lease amendment despite knowing  
21 that such conditions are unlawful.

22           223. As a result of their actions, Defendants have obtained property within the meaning of 18  
23 U.S.C. § 1951, including (i) money in the form of per capita payments, union dues, union fees, and  
24 other payments, such as contributions to union pension and health plans; (ii) developers’ rights to have  
25 a vote for unionization carried out by secret ballot; (iii) the right to determine and pay specific wages,  
26 benefits, and union dues deducted from employee compensation; (iv) proprietary personnel  
27 information (i.e., employee contact lists) without having to obtain signed authorization cards from 30%  
28 of the employee unit and successfully petition the NLRB for an election; and (v) free access and use of

1 the employer's premises for soliciting employees and holding captive audience speeches on working  
2 time.

3 224. As a result of their actions, Defendants have obtained property and consideration for  
4 purposes of Penal Code 518, including (i) money in the form of per capita payments, union dues, union  
5 fees, and other payments, such as contributions to union pension and health plans; (ii) developers'  
6 rights to have a vote for unionization carried out by secret ballot; (iii) the right to determine and pay  
7 specific wages, benefits, and union dues deducted from employee compensation; (iv) proprietary  
8 personnel information (i.e., employee contact lists) without having to obtain signed authorization cards  
9 from 30% of the employee unit and successfully petition the NLRB for an election; and (v) free access  
10 and use of the employer's premises for soliciting employees and holding captive audience speeches on  
11 working time.

12 225. As a result of their threats, Defendants have caused other developers to sign agreements  
13 that give Defendants rights of actions against the developers, which is consideration for purposes of  
14 Penal Code 522. Specifically, the PLAs give Defendants the right to bring actions against the  
15 developers if they employ non-union contractors or workers. Similarly, the card check neutrality  
16 agreements give Defendants the right to demand voluntary recognition of a union based solely on cards  
17 signed by employees and to bring actions to prevent developers from exercising their First Amendment  
18 rights to speak to their employees about unionization.

19 226. On information and belief, Defendants violated California Penal Code §§ 7(6) and 85,  
20 by giving, offering, or promising something of value or advantage in the form of future monetary and  
21 political support to Councilmembers to influence them to withdraw their support for the Bahia Project,  
22 cast a vote against the project when it is reviewed by the City Council, and prevent projects Defendants  
23 oppose from even getting placed on the City Council's docket.

24 227. Although the specific statements made by Defendants to City Councilmember I are  
25 exclusively known to Defendants and City Councilmember I, the circumstances surrounding City  
26 Councilmember I's abrupt decision to withdraw support for the Bahia redevelopment after meeting  
27 with Defendants (and that same Councilperson's subsequent insistence that future support would be  
28 contingent on Evans Hotels agreeing to a card check neutrality agreement) provide grounds to

1 reasonably infer that the Councilperson made a quid pro quo agreement with the Defendants.  
2 Specifically, City Councilmember I expressed support for and recognized the value of the project  
3 before a scheduled meeting with Ms. Browning. Weeks later, and after City Councilmember I met  
4 with Ms. Browning for lunch, Councilmember I’s representative told Mr. Evans that future support  
5 was conditioned on Evans Hotels’ agreement to sign a card check neutrality agreement with Local 30.  
6 City Councilmember I’s actions also are consistent with Mr. Lemmon’s repeated claim that he “own[s]  
7 five City Councilmembers,” and also with Defendants relationship with City Councilmember II.

8 228. These acts or threats form a pattern of racketeering activity as they all have occurred  
9 within 10 years of one another, are related insofar as they involve the same participants, share the same  
10 purpose of forcing developers to cave to the demands made to enrich the Local 30 Enterprise, and  
11 employ the same methods, including, but not limited to pursuing sham opposition to and litigation over  
12 projects in City Council, administrative, Coastal Commission, and civil proceedings in an effort to hold  
13 projects hostage unless Evans Hotels and the other developers accede to Defendants’ demands. Evans  
14 Hotels also alleges on information and belief, including Defendant Local 30’s past conduct toward  
15 Evans Hotels in the 1990s and its actions toward SeaWorld, that Defendants also have employed the  
16 method of targeting third parties that do business with other developers to force them to cease doing  
17 business unless the other developers caved to the demands of the Local 30 Enterprise. These acts  
18 reflect use of Defendants’ “playbook” dating back to the 1990s and including the multiple acts of  
19 racketeering activity in the last 10 years set forth herein.

20 229. Using the threat of injury to Evans Hotels’ business interests, including the Bahia  
21 redevelopment project and the development of the SeaWorld branded hotel, Defendants have conspired  
22 and attempted to take property from Evans Hotels, including (i) money in the form of per capita  
23 payments, union dues, union fees, and other payments, such as contributions to union pension and  
24 health plans; (ii) developers’ rights to have a vote for unionization carried out by secret ballot; (iii) the  
25 right to determine and pay specific wages, benefits, and union dues deducted from employee  
26 compensation; (iv) proprietary personnel information (i.e., employee contact lists) without having to  
27 obtain signed authorization cards from 30% of the employee unit and successfully petition the NLRB  
28

1 for an election; and (v) free access and use of the employer’s premises for soliciting employees and  
2 holding captive audience speeches on working time.

3 230. Defendants’ activities described herein were taken knowingly and willfully and have  
4 obstructed, delayed, or otherwise affected commerce.

5 231. Defendants’ conduct was designed to and has in fact injured Evans Hotels. As a direct  
6 result of Defendants’ unlawful and ongoing threats of extortion in violation of 18 U.S.C. § 1951 and  
7 Cal. Penal Code §§ 518, 522, and 524, SeaWorld terminated its contract with Evans Hotels as a direct  
8 result of Defendants’ threat to target SeaWorld based on its relationship with Evans Hotels.

9 232. Evans Hotels has suffered substantial injury to its property and/or business, including  
10 but not limited to, lost profits in excess of \$100 million in connection with the opportunity to build a  
11 SeaWorld branded hotel, legal fees and other costs incurred because of, and in response to,  
12 Defendants’ extortionate conduct.

13 **SIXTH CLAIM FOR RELIEF**

14 **Violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §**  
15 **1962(d), by Conspiring to Violate 18 U.S.C. § 1962(a)**  
16 **(Against All Defendants)**

17 233. Evans Hotels incorporates the allegations contained in Paragraphs 1 through 232, as if  
18 fully set forth herein.

19 234. Evans Hotels, LLC, BH Partnership LP, and EHSW, LLC are each a “person” under 18  
20 U.S.C. §§ 1961(3) and 1964(a).

21 235. Each of the Defendants is a “person” under 18 U.S.C. §§ 1961(3), 1962(c), and 1962(d).

22 236. Defendants Local 30 (and its affiliated entities and/or any subsidiaries), Ms. Browning,  
23 the Building Trades, and Mr. Lemmon, along with Tony LoPresti, constitute the Local 30 Enterprise  
24 engaged in, and whose activities affect, interstate commerce within the meaning of 18 U.S.C. §§  
25 1961(4) and 1962(a). The Local 30 Enterprise is an informal association of environmentalist groups,  
26 union-defendants, unions in unrelated industries, and their agents that operates for the common  
27 purpose of forcing unionization of San Diego hotels and the employment of only union labor in hotel  
28

1 construction and redevelopment. The Local 30 Enterprise exists separate and apart from the pattern of  
2 racketeering activity alleged and the Defendants themselves.

3 237. Each of the Defendants was and is associated with the Local 30 Enterprise and has  
4 conspired among themselves within the meaning of 18 U.S.C. § 1962(d) to violate 18 U.S.C.  
5 § 1962(a). Specifically, each of the Defendants agreed and intended, and/or adopted the goal of  
6 furthering or facilitating, the following endeavor: obtaining involuntary PLAs and card check  
7 neutrality agreements, which will result in increased employment opportunities and wages for  
8 members of Defendants Local 30 and the Building Trades, with corresponding economic benefits to  
9 Defendants Local 30 and the Building Trades in the form of per capita fees, union dues, and other  
10 payments, including contributions to union pension and health plans, and other financial concessions.  
11 Such income would be derived, directly or indirectly, from activities in relation to Evans Hotels and  
12 other developers, including, but not necessarily limited to, Cisterra, Atlas Hotels, Sunroad, KSL  
13 Resorts, and Marriott, through a pattern of activity unlawful under 18 U.S.C. §§ 1961(1), 1961(5), and  
14 1962(a), including multiple, repeated, and continuous acts or threats involving extortion and/or  
15 attempted extortion, chargeable under 18 U.S.C. § 1951 and California Penal Code §§ 518, 522, 524.

16 238. Defendants also have engaged in multiple, repeated, and continuous acts or threats  
17 involving extortion and/or attempted extortion, chargeable under 18 U.S.C. § 1951 and California  
18 Penal Code §§ 518, 522, 524, by threatening entities that engage in business with employers like Evans  
19 Hotels as a means of forcing the employers to accede to Defendants' demands. Defendants took such  
20 actions against SeaWorld in an effort to extort Evans Hotels, against Cisterra as a means of forcing  
21 Marriott to agree to Defendants' demands, and, on information and belief, have taken similar actions  
22 against other employers.

23 239. Defendants have threatened Evans Hotels and other developers with economic harm  
24 and harm to their property by threatening to ruin development plans by bringing baseless lawsuits and  
25 challenges for the purpose of delaying and frustrating developments – issues that have caused  
26 developers to lose business partners or financing, as well as incur substantial legal fees to fight the  
27 baseless challenges – and threatening harmful public relations campaigns regarding non-labor issues.

1           240. Defendants, through Allison Rolfe, threatened SeaWorld with negative publicity,  
2 otherwise non-existent union organizing, and baseless opposition to its future projects unless its  
3 business partner, Evans Hotels, agreed to enter into a PLA and card check neutrality agreement for the  
4 Bahia, a project unrelated to SeaWorld.

5           241. Defendants have carried out their threats by filing sham lawsuits, such as the action by  
6 Ms. Browning and Local 30 challenging the Convention Center Phase 3 financing plan and the CEQA  
7 action by the local unions that comprise the Building Trades. Defendants also threatened further sham  
8 CEQA litigation that was resolved in the settlement of the prospective CEQA action signed by Ms.  
9 Browning on behalf of Local 30 and by Mr. Lemmon on behalf of San Diego Coalition for a Better  
10 Convention Center and the Building Trades.

11           242. Defendants also have raised sham challenges against other developers, including the  
12 environmental suit with the Cisterra development that Ms. Browning admitted was a sham and the  
13 affordable accommodation challenge she pulled out of “thin air” to oppose the Sunroad development.

14           243. Defendants have threatened Evans Hotels with similar sham challenges, claiming the  
15 Bahia redevelopment project would violate a requirement to retain Gleason Road even though the City  
16 has informed Defendants that the MBMPU does not contain such a requirement. By referencing her  
17 past actions involving the Cisterra and Sunroad, Ms. Browning threatened Evans Hotels with similar  
18 sham litigation. Mr. Lemmon’s threats included describing Defendants’ conduct as a “grenade with the  
19 pin on the table” that could only be put back in the grenade if Evans Hotels capitulated to Defendants’  
20 demands for a PLA and card check neutrality agreement.

21           244. These threats have instilled reasonable fear in Evans Hotels and other developers of  
22 economic harm, leading to many developers capitulating to Defendants’ demands.

23           245. Defendants have employed unlawful means to extort Evans Hotels and other  
24 developers, including but not limited to automatically protesting permits for development projects,  
25 filing sham lawsuits and challenges to the project, bribery and extortion of public officials, and  
26 pressuring businesses to cease doing business with non-union developers.

27           246. Defendants’ actions have been for the purpose of seeking unlawful ends. Defendants  
28 have no right to demand that Evans Hotels enter into PLAs or card check neutrality agreements

1 involuntarily. Defendants also have strong-armed City officials to demand Evans Hotels to enter into  
2 such agreements as a condition of obtaining City approval of the lease amendment despite knowing  
3 that such conditions are unlawful.

4 247. As a result of their actions, Defendants have obtained property within the meaning of 18  
5 U.S.C. § 1951, including (i) money in the form of per capita payments, union dues, union fees, and  
6 other payments, such as contributions to union pension and health plans; (ii) developers' rights to have  
7 a vote for unionization carried out by secret ballot; (iii) the right to determine and pay specific wages,  
8 benefits, and union dues deducted from employee compensation; (iv) proprietary personnel  
9 information (i.e., employee contact lists) without having to obtain signed authorization cards from 30%  
10 of the employee unit and successfully petition the NLRB for an election; and (v) free access and use of  
11 the employer's premises for soliciting employees and holding captive audience speeches on working  
12 time.

13 248. As a result of their actions, Defendants have obtained property and consideration for  
14 purposes of Penal Code § 518, including (i) money in the form of per capita payments, union dues,  
15 union fees, and other payments, such as contributions to union pension and health plans; (ii)  
16 developers' rights to have a vote for unionization carried out by secret ballot; (iii) the right to  
17 determine and pay specific wages, benefits, and union dues deducted from employee compensation;  
18 (iv) proprietary personnel information (i.e., employee contact lists) without having to obtain signed  
19 authorization cards from 30% of the employee unit and successfully petition the NLRB for an election;  
20 and (v) free access and use of the employer's premises for soliciting employees and holding captive  
21 audience speeches on working time.

22 249. As a result of their threats, Defendants have caused other developers to sign agreements  
23 that give Defendants rights of actions against the developers, which is consideration for purposes of  
24 Penal Code § 522. Specifically, the PLAs give Defendants the right to bring actions against the  
25 developers if they employ non-union contractors or workers. Similarly, the card check neutrality  
26 agreements give Defendants the right to demand voluntary recognition of a union based solely on cards  
27 signed by employees and to bring actions to prevent developers from exercising their First Amendment  
28 rights to speak to their employees about unionization.

1           250. On information and belief, Defendants violated California Penal Code §§ 7(6) and 85,  
2 by giving, offering, or promising something of value or advantage in the form of future monetary and  
3 political support to Councilmembers to influence them to withdraw their support for the Bahia Project,  
4 cast a vote against the project when it is reviewed by the City Council, and prevent projects Defendants  
5 oppose from even getting placed on the City Council’s docket.

6           251. Although the specific statements made by Defendants to City Councilmember I are  
7 exclusively known to Defendants and City Councilmember I, the circumstances surrounding City  
8 Councilmember I’s abrupt decision to withdraw support for the Bahia redevelopment after meeting  
9 with Defendants (and that same Councilperson’s subsequent insistence that future support would be  
10 contingent on Evans Hotels agreeing to a card check neutrality agreement) provide grounds to  
11 reasonably infer that the Councilperson made a quid pro quo agreement with the Defendants.  
12 Specifically, City Councilmember I expressed support for and recognized the value of the project  
13 before a scheduled meeting with Ms. Browning. Weeks later, and after City Councilmember I met  
14 with Ms. Browning for lunch, Councilmember I’s representative told Mr. Evans that future support  
15 was conditioned on Evans Hotels’ agreement to sign a card check neutrality agreement with Local 30.  
16 City Councilmember I’s actions also are consistent with Mr. Lemmon’s repeated claim that he “own[s]  
17 five City Councilmembers and also with Defendants relationship with City Councilmember II.

18           252. These acts or threats form a pattern of racketeering activity as they all have occurred  
19 within 10 years of one another, are related insofar as they involve the same participants, share the same  
20 purpose of forcing developers to cave to the demands made to enrich the Local 30 Enterprise, and  
21 employ the same methods, including, but not limited to pursuing sham opposition to and litigation over  
22 projects in City Council, administrative, Coastal Commission, and civil proceedings in an effort to hold  
23 projects hostage unless Evans Hotels and the other developers accede to Defendants’ demands. Evans  
24 Hotels also alleges on information and belief, including Defendant Local 30’s past conduct toward  
25 Evans Hotels in the 1990s and its actions toward SeaWorld, that Defendants also have employed the  
26 method of targeting third parties that do business with other developers to force them to cease doing  
27 business unless the other developers caved to the demands of the Local 30 Enterprise. These acts  
28

1 reflect use of Defendants’ “playbook” dating back to the 1990s and including the multiple acts of  
2 racketeering activity in the last 10 years set forth herein.

3 253. Using the threat of injury to Evans Hotels’ business interests, including the Bahia  
4 redevelopment project and the development of the SeaWorld branded hotel, Defendants have conspired  
5 and attempted to take property from Evans Hotels, including (i) money in the form of per capita  
6 payments, union dues, union fees, and other payments, such as contributions to union pension and  
7 health plans; (ii) developers’ rights to have a vote for unionization carried out by secret ballot; (iii) the  
8 right to determine and pay specific wages, benefits, and union dues deducted from employee  
9 compensation; (iv) proprietary personnel information (i.e., employee contact lists) without having to  
10 obtain signed authorization cards from 30% of the employee unit and successfully petition the NLRB  
11 for an election; and (v) free access and use of the employer’s premises for soliciting employees and  
12 holding captive audience speeches on working time.

13 254. An object of Defendants’ conspiracy to violate 18 U.S.C. § 1962(a) was and is that the  
14 income described above, or the proceeds of such income, would thereafter be used and invested in the  
15 operation of the aforementioned enterprises for numerous legitimate and illegitimate purposes  
16 including, inter alia, the conduct of additional extortionate corporate campaigns against Evans Hotels  
17 and other employers and business entities, the payment of salaries and fees to the other Defendants for  
18 the purpose of engaging in future extortionate corporate campaigns and otherwise, and the ongoing  
19 operation of the enterprises described above.

20 255. Defendants’ activities described herein were taken knowingly and willfully, and have  
21 obstructed, delayed, or otherwise affected commerce.

22 256. Defendants’ conduct was designed to and has in fact injured Evans Hotels. As a direct  
23 result of Defendants’ unlawful and ongoing threats extortion in violation of 18 U.S.C. § 1951 and Cal.  
24 Penal Code §§ 518, 522, and 524, SeaWorld terminated its contract with Evans Hotels as a direct result  
25 of Defendants’ threat to target SeaWorld based on its relationship with Evans Hotels.

26 257. Evans Hotels has suffered substantial injury to its property and/or business, including  
27 but not limited to, lost profits in excess of \$100 million in connection with the opportunity to build a  
28

1 SeaWorld branded hotel, legal fees and other costs incurred because of, and in response to,  
2 Defendants' extortionate conduct.

3 **SEVENTH CLAIM FOR RELIEF**

4 **Violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §**  
5 **1962(d), by Conspiring to Violate 18 U.S.C. § 1962(b)**  
6 **(Against All Defendants)**

7 258. Evans Hotels incorporates the allegations contained in Paragraphs 1 through 257, as if  
8 fully set forth herein.

9 259. Evans Hotels, LLC, BH Partnership LP, and EHSW, LLC are each a "person" under 18  
10 U.S.C. §§ 1961(3) and 1964(b).

11 260. Each of the Defendants is a "person" under 18 U.S.C. §§ 1961(3), 1962(b), and  
12 1962(d).

13 261. Defendants Local 30 and the Building Trades (and their affiliated entities and/or any  
14 subsidiaries), along with Ms. Browning, Mr. Lemmon, and Tony LoPresti, constitute the Local 30  
15 Enterprise engaged in, and whose activities affect, interstate commerce within the meaning of 18  
16 U.S.C. §§ 1961(4) and 1962(b). Each of the Defendants was and is associated with the Local 30  
17 Enterprise and has conspired among themselves within the meaning of 18 U.S.C. § 1962(d) to violate  
18 18 U.S.C. § 1962(c). Specifically, each of the Defendants agreed and intended, and/or adopted the  
19 goal of furthering or facilitating, the following endeavor: obtaining involuntary PLAs and card check  
20 neutrality agreements, which will result in increased employment opportunities and wages for  
21 members of Defendants Local 30 and the Building Trades, with corresponding economic benefits to  
22 Defendants Local 30 and the Building Trades. The Local 30 Enterprise exists separate and apart from  
23 the pattern of racketeering activity alleged and the Defendants themselves.

24 262. Each of the Defendants were and are associated with the Local 30 Enterprise and has  
25 conspired among themselves within the meaning of 18 U.S.C. § 1962(d) to violate 18 U.S.C.  
26 § 1962(b). Specifically, each of the Defendants agreed and intended, and/or adopted the goal of  
27 furthering or facilitating, the following endeavor: to acquire or maintain, directly or indirectly, an  
28 interest in or control of Evans Hotels and other developers by forcing unionization and the

1 employment of only union labor in hotel construction and redevelopment. They achieve this objective  
2 through a pattern of activity unlawful under 18 U.S.C. §§ 1961(1), 1961(5), and 1962(b), including  
3 multiple, repeated, and continuous acts or threats involving extortion and/or attempted extortion,  
4 chargeable under 18 U.S.C. § 1951 and California Penal Code §§ 518, 522, 524.

5 263. Defendants also have engaged in multiple, repeated, and continuous acts or threats  
6 involving extortion and/or attempted extortion, chargeable under 18 U.S.C. § 1951 and California  
7 Penal Code §§ 518, 522, 524, by threatening entities that engage in business with employers like Evans  
8 Hotels as a means of forcing the employers to accede to Defendants' demands. Defendants took such  
9 actions against SeaWorld in an effort to extort Evans Hotels, against Cisterra as a means of forcing  
10 Marriott to agree to Defendants' demands, and, on information and belief, have taken similar actions  
11 against other employers.

12 264. Defendants have threatened Evans Hotels and other developers with economic harm  
13 and harm to their property by threatening to ruin development plans by bringing baseless lawsuits and  
14 challenges for the purpose of delaying and frustrating developments —issues that have caused  
15 developers to lose business partners or financing, as well as incur substantial legal fees to fight the  
16 baseless challenges—and threatening harmful public relations campaigns regarding non-labor issues.

17 265. Defendants, through Allison Rolfe, threatened SeaWorld with negative publicity,  
18 otherwise non-existent union organizing, and baseless opposition to its future projects unless its  
19 business partner, Evans Hotels, agreed to enter into a PLA and card check neutrality agreement for the  
20 Bahia, a project unrelated to SeaWorld.

21 266. Defendants have carried out their threats by filing sham lawsuits, such as the action by  
22 Ms. Browning and Local 30 challenging the Convention Center Phase 3 financing plan and the CEQA  
23 action by the local unions that comprise the Building Trades. Defendants also threatened further sham  
24 CEQA litigation that was resolved in the settlement of the prospective CEQA action signed by Ms.  
25 Browning on behalf of Local 30 and by Mr. Lemmon on behalf of San Diego Coalition for a Better  
26 Convention Center and the Building Trades.

1           267. Defendants also have raised sham challenges against other developers, including the  
2 environmental suit with the Cisterra development that Ms. Browning admitted was a sham and the  
3 affordable accommodation challenge she pulled out of “thin air” to oppose the Sunroad development.

4           268. Defendants have threatened Evans Hotels with similar sham challenges, claiming the  
5 Bahia redevelopment project would violate a requirement to retain Gleason Road even though the City  
6 has informed Defendants that the MBMPU does not contain such a requirement. By referencing her  
7 past actions involving the Cisterra and Sunroad, Ms. Browning threatened Evans Hotels with similar  
8 sham litigation. Mr. Lemmon’s threats included describing Defendants’ conduct as a “grenade with the  
9 pin on the table” that could only be put back in the grenade if Evans Hotels capitulated to Defendants’  
10 demands for a PLA and card check neutrality agreement.

11           269. These threats have instilled reasonable fear in Evans Hotels and other developers of  
12 economic harm, leading to many developers capitulating to Defendants’ demands.

13           270. Defendants have employed unlawful means to extort Evans Hotels and other  
14 developers, including but not limited to automatically protesting permits for development projects,  
15 filing sham lawsuits and challenges to the project, bribery and extortion of public officials, and  
16 pressuring businesses to cease doing business with non-union developers.

17           271. Defendants’ actions have been for the purpose of seeking unlawful ends. Defendants  
18 have no right to demand that Evans Hotels enter into PLAs or card check neutrality agreements  
19 involuntarily. Defendants also have strong-armed City officials to demand Evans Hotels to enter into  
20 such agreements as a condition of obtaining City approval of the lease amendment despite knowing  
21 that such conditions are unlawful.

22           272. As a result of their actions, Defendants have obtained property within the meaning of 18  
23 U.S.C. § 1951, including (i) money in the form of per capita payments, union dues, union fees, and  
24 other payments, such as contributions to union pension and health plans; (ii) developers’ rights to have  
25 a vote for unionization carried out by secret ballot; (iii) the right to determine and pay specific wages,  
26 benefits, and union dues deducted from employee compensation; (iv) proprietary personnel  
27 information (i.e., employee contact lists) without having to obtain signed authorization cards from 30%  
28 of the employee unit and successfully petition the NLRB for an election; and (v) free access and use of

1 the employer's premises for soliciting employees and holding captive audience speeches on working  
2 time.

3 273. As a result of their actions, Defendants have obtained property and consideration for  
4 purposes of Penal Code § 518 including (i) money in the form of per capita payments, union dues,  
5 union fees, and other payments, such as contributions to union pension and health plans; (ii)  
6 developers' rights to have a vote for unionization carried out by secret ballot; (iii) the right to  
7 determine and pay specific wages, benefits, and union dues deducted from employee compensation;  
8 (iv) proprietary personnel information (i.e., employee contact lists) without having to obtain signed  
9 authorization cards from 30% of the employee unit and successfully petition the NLRB for an election;  
10 and (v) free access and use of the employer's premises for soliciting employees and holding captive  
11 audience speeches on working time.

12 274. As a result of their threats, Defendants have caused other developers to sign agreements  
13 that give Defendants rights of actions against the developers, which is consideration for purposes of  
14 Penal Code § 522. Specifically, the PLAs give Defendants the right to bring actions against the  
15 developers if they employ non-union contractors or workers. Similarly, the card check neutrality  
16 agreements give Defendants the right to demand voluntary recognition of a union based solely on cards  
17 signed by employees and to bring actions to prevent developers from exercising their First Amendment  
18 rights to speak to their employees about unionization.

19 275. On information and belief, Defendants violated California Penal Code §§ 7(6) and 85,  
20 by giving, offering, or promising something of value or advantage in the form of future monetary and  
21 political support to Councilmembers to influence them to withdraw their support for the Bahia Project,  
22 cast a vote against the project when it is reviewed by the City Council, and prevent projects Defendants  
23 oppose from even getting placed on the City Council's docket.

24 276. Although the specific statements made by Defendants to City Councilmember I are  
25 exclusively known to Defendants and City Councilmember I, the circumstances surrounding City  
26 Councilmember I's abrupt decision to withdraw support for the Bahia redevelopment after meeting  
27 with Defendants (and that same Councilperson's subsequent insistence that future support would be  
28 contingent on Evans agreeing to a card check neutrality agreement) provide grounds to reasonably

1 infer that the Councilperson made a quid pro quo agreement with the Defendants. Specifically, City  
2 Councilmember I expressed support for and recognized the value of the project before a scheduled  
3 meeting with Ms. Browning. Weeks later, and after City Councilmember I met with Ms. Browning for  
4 lunch, Councilmember I’s representative told Mr. Evans that future support was conditioned on Evans  
5 Hotels’ agreement to sign a card check neutrality agreement with Local 30. City Councilmember I’s  
6 actions also are consistent with Mr. Lemmon’s repeated claim that he “own[s] five City  
7 Councilmembers,” and with Defendants relationship with City Councilmember II.

8 277. Using the threat of injury to Evans Hotels’ business interests, including the Bahia  
9 redevelopment project and the development of the SeaWorld branded hotel, Defendants have conspired  
10 and attempted to take property from Evans Hotels, including (i) money in the form of per capita  
11 payments, union dues, union fees, and other payments, such as contributions to union pension and  
12 health plans; (ii) developers’ rights to have a vote for unionization carried out by secret ballot; (iii) the  
13 right to determine and pay specific wages, benefits, and union dues deducted from employee  
14 compensation; (iv) proprietary personnel information (i.e., employee contact lists) without having to  
15 obtain signed authorization cards from 30% of the employee unit and successfully petition the NLRB  
16 for an election; and (v) free access and use of the employer’s premises for soliciting employees and  
17 holding captive audience speeches on working time.

18 278. Defendants’ activities described herein were taken knowingly and willfully, and have  
19 obstructed, delayed, or otherwise affected commerce.

20 279. Defendants’ conduct was designed to, and has in fact, injured Evans Hotels. As a direct  
21 result of Defendants’ unlawful and ongoing threats of extortion in violation of 18 U.S.C. § 1951 and  
22 Cal. Penal Code §§ 518, 522, and 524, SeaWorld terminated its contract with Evans Hotels as a direct  
23 result of Defendants’ threat to target SeaWorld based on its relationship with Evans Hotels.

24 280. Evans Hotels has suffered substantial injury to its property and/or business, including  
25 but not limited to, lost profits in excess of \$100 million in connection with the opportunity to build a  
26 SeaWorld branded hotel, legal fees and other costs incurred because of, and in response to,  
27 Defendants’ extortionate conduct.

28

**EIGHTH CLAIM FOR RELIEF**

**Interference with Contract**

**(Against All Defendants)**

1  
2  
3  
4 281. Evans Hotels incorporates by reference as if set forth herein the allegations contained in  
5 Paragraphs 1 through 47, 79 through 119, and 126 through 138. This interference alleged in this Eighth  
6 Claim for Relief is predicated solely on Defendants’ actions toward Evans Hotels and SeaWorld,  
7 resulting in the termination of their contractual relationship.

8 282. Evans Hotels pleads this claim in the alternative to its First Claim for Relief for  
9 Secondary Boycott. If Defendants dispute that Sections 8(b)(4)(ii) and 8(e) apply to their activities  
10 toward SeaWorld or those activities otherwise fall outside the scope of those statutes, and this Court  
11 agrees, this claim for relief would not be preempted by federal law.

12 283. Evans Hotels had a valid, existing, and valuable contract with SeaWorld in that EHSW  
13 and SeaWorld entered into a contract to form the Joint Venture in January 2018 to develop, own and  
14 operate a SeaWorld hotel.

15 284. Defendants knew of the Joint Venture between Evans Hotels and SeaWorld.

16 285. Defendants intentionally interfered with the contract between Evans Hotels and  
17 SeaWorld in order to induce SeaWorld to terminate the Joint Venture. Defendants’ unlawful conduct  
18 includes threatening to impede SeaWorld’s ability to get new attractions approved by the Coastal  
19 Commission and/or to disrupt SeaWorld’s business and harm its name unless SeaWorld terminated its  
20 Joint Venture with Evans Hotels. In order to protect its stock price, reputation, and business, and its  
21 plan to develop new attractions, SeaWorld had no reasonable choice but to terminate the Joint Venture  
22 and its business relationship with Evans Hotels. SeaWorld did so even in the face of its obligation to  
23 pay Evans Hotels’ termination fees.

24 286. Defendants’ misconduct (and/or that of their agents) was intentional and committed  
25 with the purpose of causing economic injury to Evans Hotels. Defendants took these illegal actions for  
26 their own pecuniary benefit.



1 and (v) free access and use of the employer’s premises for soliciting employees and holding captive  
2 audience speeches on working time.

3 291. Defendants have engaged in multiple acts in furtherance of their attempt to extortion.  
4 Defendants have threatened harm Evans Hotels’ property by threatening to ruin the Bahia  
5 redevelopment project by bringing baseless lawsuits and challenges for the purpose of delaying and  
6 frustrating developments—issues that have caused other developers to lose business partners or  
7 financing, as well as incur substantial legal fees to fight the baseless challenges.

8 292. Defendants, through Allison Rolfe, threatened SeaWorld with negative publicity,  
9 otherwise non-existent union organizing, and baseless opposition to its future projects unless its  
10 business partner, Evans Hotels, agreed to enter into a PLA and card check neutrality agreement for the  
11 Bahia, a project unrelated to SeaWorld.

12 293. Defendants have threatened Evans Hotels with sham litigation and challenges, claiming  
13 the Bahia redevelopment project would violate a requirement to retain Gleason Road even though the  
14 City has informed Defendants that the MBMPU does not contain such a requirement. By referencing  
15 her past actions involving the Cisterra and Sunroad, Ms. Browning threatened Evans Hotels with  
16 similar sham litigation. Mr. Lemmon’s threats included describing Defendants’ conduct as a “grenade  
17 with the pin on the table” that could only be put back in the grenade if Evans Hotels capitulated to  
18 Defendants’ demands for a PLA and card check neutrality agreement.

19 294. These threats were intended to instill fear in Evans Hotels to force it to capitulate to  
20 Defendants’ demands.

21 295. Although Defendants have been unsuccessful so far in their efforts, Evans Hotels has  
22 suffered substantial injury to its property and/or business, including but not limited to, lost profits in  
23 excess of \$100 million in connection with the opportunity to build a SeaWorld branded hotel, legal fees  
24 and other costs incurred because of, and in response to, Defendants’ unlawful conduct. Defendants’  
25 misconduct is intentional and malicious to such a degree that Evans Hotels is entitled to punitive or  
26 exemplary damages.

27 //

28 //

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs Evans Hotels, LLC, BH Partnership LP, and EHSW, LLC respectfully request that the Court issue the following relief:

**ON THE FIRST CLAIM FOR RELIEF:**

- A. Compensatory damages;
- B. Costs of suit incurred, including all costs, expenses, attorneys' and experts' fees;
- C. Punitive damages; and
- D. Such other relief as the Court deems just and proper.

**ON THE SECOND AND THIRD CLAIMS FOR RELIEF:**

- A. Defendants and their agents be enjoined during this litigation and permanently thereafter, from ongoing and future acts constituting violations of federal antitrust laws to maintain and/or secure a monopoly, as provided by 15 U.S.C. § 26;
- B. Treble damages under section 4 of the Clayton Act, 15 U.S.C. § 15, arising from harm Evans Hotels has suffered as a result of Defendants' violation of section 2 of the Sherman Act, 15 U.S.C. § 2;
- C. Prejudgment interest;
- D. Costs of suit incurred, including all costs, expenses, attorneys' and experts' fees; and
- E. Such other relief as the Court deems just and proper.

**ON THE FOURTH, FIFTH, SIXTH, AND SEVENTH CLAIMS FOR RELIEF:**

- A. Defendants and their agents be enjoined from engaging in further extortion and bribery in an effort to oppose Evans Hotels and/or the Bahia project;
- B. Damages against Defendants, jointly and severally, for a sum of money equal to the amount of damages Evans Hotels has sustained or will sustain (trebled pursuant to 18 U.S.C. § 1964(c));
- C. Prejudgment interest;
- D. Costs of suit incurred, including all costs, expenses, attorneys' and experts' fees;
- E. Punitive damages; and
- F. Such other relief as the Court deems just and proper.



**CERTIFICATE OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

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: 1999 Avenue of the Stars, Suite 600, Los Angeles, California 90067. On March 7, 2019, I served the foregoing document(s) described as: **AMENDED COMPLAINT** on the interested party(ies) below, using the following means:

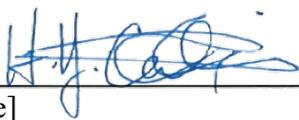
**All parties identified for Notice of Electronic Filing generated by the Court’s CM/ECF system under the referenced case caption and number**

BY ELECTRONIC MAIL OR ELECTRONIC TRANSMISSION. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the respective e-mail address(es) of the party(ies) as stated above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

(FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on March 7, 2019, at Los Angeles, California.

Hadiss Y. Calderon  
[Print Name of Person Executing Proof]

  
[Signature]

## Complaints and Other Initiating Documents

[3:18-cv-02763-H-KSC Evans Hotel, LLC et al v. Unite Here! Local 30 et al](#)

### U.S. District Court

### Southern District of California

#### Notice of Electronic Filing

The following transaction was entered by Leader, Susan on 3/7/2019 at 5:35 PM PST and filed on 3/7/2019

**Case Name:** Evans Hotel, LLC et al v. Unite Here! Local 30 et al

**Case Number:** [3:18-cv-02763-H-KSC](#)

**Filer:** Evans Hotels, LLC  
EHSW, LLC

**Document Number:** [19](#)

#### Docket Text:

**AMENDED COMPLAINT with Jury Demand against All Defendants, filed by Evans Hotels, LLC, EHSW, LLC. (Leader, Susan)**

#### **3:18-cv-02763-H-KSC Notice has been electronically mailed to:**

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#### **3:18-cv-02763-H-KSC Notice has been delivered by other means to:**

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1106146653 [Date=3/7/2019] [FileNumber=12930968-0  
][12897fbc67cdbc42cf1273390e0343e252aa647a55904a8692737784cc54fd5b2  
f159c966fa566f6e671e934d54861b871ca68d0a9e69c96dc67bebf3ef39]]