

1 Robert K. Sall, Esq. (SBN 83782)
rsall@sallspencer.com
2 Suzanne Burke Spencer, Esq. (SBN 188597)
sspencer@sallspencer.com
3 SALL SPENCER CALLAS & KRUEGER
A Law Corporation
4 32351 Coast Highway
Laguna Beach, CA 92651
5 Telephone No.: (949) 499-2942
Facsimile No.: (949) 499-7403

6 Attorneys for Plaintiffs
7 BOARD OF TRUSTEES of the LEGAL DEFENSE FUND of PORAC

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10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**
12 **SACRAMENTO DIVISION**

13 BOARD OF TRUSTEES of the LEGAL
DEFENSE FUND of the PEACE OFFICERS
14 RESEARCH ASSOCIATION OF
CALIFORNIA (PORAC), an ERISA trust,

15 Plaintiff,

16 v.

17 LACKIE, DAMMEIER, MCGILL & ETHIR,
18 an unspecified entity;
DIETER C. DAMMEIER, an individual;
19 MICHAEL A. MCGILL, an individual;
SAKUNTHALA E. ETHIRVEERASINGAM,
20 also known as SAKU E. ETHIR, an
individual;
21 PETER J. HORTON, an individual;
KASEY L. SIRODY, an individual;
22 CHRISTOPHER L. GASPARD, an
individual;
23 KASEY A. CASTILLO, an individual;
JOHN H. BAKHIT, an individual;
24 and DOES 1 through 25, inclusive,

25 Defendants.

CASE NO.

COMPLAINT FOR:

- (1) **ENGAGING IN PROHIBITED TRANSACTION FORBIDDEN BY ERISA § 406(A), 29 U.S.C. § 1106(A)**
- (2) **VIOLATION OF RACKETEERING INFLUENCED AND CORRUPTION ORGANIZATION ACT (“RICO”) [18 U.S.C. § 1961 et seq.]**
- (3) **CONSPIRACY TO VIOLATE RICO;**
- (4) **LEGAL MALPRACTICE;**
- (5) **BREACH OF FIDUCIARY DUTY;**
- (6) **FRAUD;**
- (7) **UNJUST ENRICHMENT;**
- (8) **NEGLIGENT SUPERVISION; AND**
- (9) **VIOLATION OF BUS. & PROF. CODE § 17200 (UNFAIR COMPETITION)**

DEMAND FOR JURY TRIAL

1 Plaintiff the Board of Trustees of the Legal Defense Fund (“**LDF**”) of the Peace Officers
2 Research Association of California (“**PORAC**”) alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 because the claims asserted
5 in this action arise under Title I of the Employee Retirement Income Security Act of 1974
6 (“ERISA”) [29 U.S.C. §§ 1001, *et seq.*] and the Racketeering Influenced and Corruption
7 Organization Act (“RICO”) [18 U.S.C. §§ 1961, *et seq.*].

8 2. This Court has subject matter jurisdiction over this action pursuant to ERISA
9 § 502(e)(1) (29 U.S.C. § 1132(e)(1)) and 18 U.S.C. § 1964(a).

10 3. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a) over the
11 state law claims asserted herein in that those claims form part of the same case or controversy under
12 Article III of the United States Constitution as the claims arising under federal law.

13 4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and 18 U.S.C.
14 § 1965(a) because Plaintiff is informed and believes that the entity defendant resides in this district
15 because it is subject to personal jurisdiction in this district and further pursuant to 28 U.S.C.
16 § 1391(b) because a substantial part of the events giving rise to the claims asserted occurred in this
17 district. Venue is further proper in this district pursuant to ERISA § 502(e)(2) (29 U.S.C.
18 § 1132(e)(2)) because the employee benefit plan at issue was administered in this district during the
19 relevant time.

20 **INTRA-DISTRICT ASSIGNMENT**

21 5. Assignment to the Sacramento Division of this Court is proper under L.R. 120(d)
22 because the claims giving rise to venue in this Court arose in San Joaquin County.

23 **PARTIES**

24 6. Plaintiff BOARD OF TRUSTEES (“**Trustees**” or “**Plaintiff**”) of the of the LEGAL
25 DEFENSE FUND of the PEACE OFFICERS RESEARCH ASSOCIATION OF CALIFORNIA
26 (PORAC) (the “**Plan**” or “**LDF**”) is a welfare benefit plan providing prepaid group legal services
27 to peace officers and other public safety employees, within and without the State of California.
28 LDF is governed by the Employee Retirement Income Security Act of 1974 (“**ERISA**”) and has its

1 principal place of business in Stockton, California. The Trustees are the “named fiduciaries,”
2 “fiduciaries,” the “plan administrator” and the “plan sponsor,” as those terms are use in ERISA.

3 7. Defendant LACKIE, DAMMEIER, MCGILL & ETHIR (“**LDME**”) is a de facto
4 unspecified entity purporting to be a professional corporation which, in violation of Corporations
5 Code § 13404 and Business & Professions Code § 6160, *et seq.*, is not now and never was
6 registered to practice law with the State Bar of California. LDME had its principal place of
7 business at 367 North Second Ave., Upland, California 91786, San Bernardino County, but
8 Plaintiff is informed and believes and thereon alleges that LDME is no longer in business or
9 operating as a going concern. At all times relevant to the matters alleged herein, Plaintiff is
10 informed and believes and thereon alleges that LDME did business and represented clients in
11 Counties throughout California, including Sacramento, Humboldt, Los Angeles, Riverside, San
12 Bernardino, Orange, Ventura, and San Diego.

13 8. Plaintiff is informed and believes and thereon alleges that Defendant DIETER C.
14 DAMMEIER (“**Dammeier**”) is an individual residing in the County of San Bernardino, State of
15 California. Defendant Dammeier is a lawyer duly licensed to practice law in the State of
16 California, holding State Bar No. 188759. Plaintiff is informed and believes and thereon alleges
17 that Defendant Dammeier is, and at all relevant times has been, a partner/shareholder in LDME and
18 participated in the theft of pension funds from LDF, and in the management and operation of the
19 RICO enterprise alleged herein. At all times relevant to the matters alleged herein, Plaintiff is
20 informed and believes and thereon alleges that Dammeier did business and represented clients in
21 Counties throughout California, including Sacramento, Humboldt, Los Angeles, Riverside, San
22 Bernardino, Orange, Ventura, and San Diego.

23 9. Plaintiff is informed and believes and thereon alleges that Defendant MICHAEL A.
24 MCGILL (“**McGill**”) is an individual residing in the County of Orange, State of California.
25 Defendant McGill is a lawyer duly licensed to practice law in the State of California, holding State
26 Bar No. 231613. Plaintiff is informed and believes and thereon alleges that Defendant McGill was,
27 and at all relevant times has been, a partner/shareholder in LDME and participated in the theft of
28 pension funds from LDF, and in the management and operation of the RICO enterprise alleged

1 herein. At all times relevant to the matters alleged herein, Plaintiff is informed and believes and
2 thereon alleges that McGill did business and represented clients in Counties throughout California,
3 including Sacramento, Humboldt, Los Angeles, Riverside, San Bernardino, Orange, Ventura, and
4 San Diego.

5 10. Plaintiff is informed and believes and thereon alleges that Defendant
6 SAKUNTHALA E. ETHIRVEERASINGAM is also known as SAKU E. ETHIR ("*Ethir*") and is
7 an individual residing in the County of Riverside, State of California. Defendant Ethir is a lawyer
8 duly licensed to practice law in the State of California, holding State Bar No. 201498. Plaintiff is
9 informed and believes and thereon alleges that Defendant Ethir is, and at all relevant times has
10 been, a partner/shareholder in LDME and participated in the theft of pension funds from LDF, and
11 in the management and operation of the RICO enterprise alleged herein. At all times relevant to the
12 matters alleged herein, Plaintiff is informed and believes and thereon alleges that Ethir did business
13 and represented clients in Counties throughout California, including Sacramento, Humboldt, Los
14 Angeles, Riverside, San Bernardino, Orange, Ventura, and San Diego.

15 11. Plaintiff is informed and believes and thereon alleges that Defendant PETER J.
16 HORTON ("*Horton*") is an individual residing in the County of Ventura, State of California.
17 Defendant Horton is a lawyer duly licensed to practice law in the State of California, holding State
18 Bar No. 227678. Plaintiff is informed and believes and thereon alleges that Defendant Horton is,
19 and at all relevant times has been, a partner/shareholder in LDME and participated in the theft of
20 pension funds from LDF, and in the management and operation of the RICO enterprise alleged
21 herein. At all times relevant to the matters alleged herein, Plaintiff is informed and believes and
22 thereon alleges that Horton did business and represented clients in Counties throughout California,
23 including Sacramento, Humboldt, Los Angeles, Riverside, San Bernardino, Orange, Ventura, and
24 San Diego.

25 12. Plaintiff is informed and believes and thereon alleges that Defendant KASEY L.
26 SIRODY ("*Sirody*") is an individual residing in the County of Ventura, State of California.
27 Defendant Sirody is a lawyer duly licensed to practice law in the State of California, holding State
28 Bar No. 206405. Plaintiff is informed and believes and thereon alleges that Defendant Sirody was,

1 and at all relevant times has been, an associate attorney with LDME and participated in the theft of
2 pension funds from LDF, and in the operation of the RICO enterprise alleged herein. At all times
3 relevant to the matters alleged herein, Plaintiff is informed and believes and thereon alleges that
4 Sirody did business and represented clients in Counties throughout California, including
5 Sacramento, Humboldt, Los Angeles, Riverside, San Bernardino, Orange, Ventura, and San
6 Diego..

7 13. Plaintiff is informed and believes and thereon alleges that Defendant
8 CHRISTOPHER L. GASPARD (“*Gaspard*”) is an individual residing in the County of San
9 Bernardino, State of California. Defendant Gaspard is a lawyer duly licensed to practice law in the
10 State of California, holding State Bar No. 275763. Plaintiff is informed and believes and thereon
11 alleges that Defendant Gaspard is, and at all relevant times has been, a partner/shareholder in
12 LDME and participated in the theft of pension funds from LDF, and in the management and
13 operation of the RICO enterprise alleged herein. At all times relevant to the matters alleged herein,
14 Plaintiff is informed and believes and thereon alleges that Gaspard did business and represented
15 clients in Counties throughout California, including Sacramento, Humboldt, Los Angeles,
16 Riverside, San Bernardino, Orange, Ventura, and San Diego.

17 14. Plaintiff is informed and believes and thereon alleges that Defendant KASEY A.
18 CASTILLO (“*Castillo*”) is an individual residing in the County of Riverside, State of California.
19 Defendant Castillo is a lawyer duly licensed to practice law in the State of California, holding State
20 Bar No. 236690. Plaintiff is informed and believes and thereon alleges that Defendant Castillo is,
21 and at all relevant times has been, a partner/shareholder in LDME and participated in the theft of
22 pension funds from LDF, and in the management and operation of the RICO enterprise alleged
23 herein. At all times relevant to the matters alleged herein, Plaintiff is informed and believes and
24 thereon alleges that Castillo did business and represented clients in Counties throughout California,
25 including Sacramento, Humboldt, Los Angeles, Riverside, San Bernardino, Orange, Ventura, and
26 San Diego.

27 15. Plaintiff is informed and believes and thereon alleges that Defendant JOHN H.
28 BAKHIT (“*Bakhit*”) is an individual residing in the County of San Bernardino, State of California.

1 Defendant Bakhit is a lawyer duly licensed to practice law in the State of California, holding State
2 Bar No. 246643. Plaintiff is informed and believes and thereon alleges that Defendant Bakhit is,
3 and at all relevant times has been, a partner/shareholder in LDME and participated in the theft of
4 pension funds from LDF, and in the management and operation of the RICO enterprise alleged
5 herein. At all times relevant to the matters alleged herein, Plaintiff is informed and believes and
6 thereon alleges that Bakhit did business and represented clients in Counties throughout California,
7 including Sacramento, Humboldt, Los Angeles, Riverside, San Bernardino, Orange, Ventura, and
8 San Diego.

9 16. The true names and capacities of Defendants DOES 1 through 25, inclusive, and
10 each of them, are presently unknown to Plaintiff and Plaintiff therefore sues said defendants by
11 such fictitious names. Plaintiff will seek leave of Court to amend this pleading to allege the true
12 names and capacities of said defendants when ascertained. Plaintiff is informed and believes and
13 thereon alleges that each of said DOE defendants performed, participated in, abetted in some
14 manner, or is otherwise responsible in some manner for the conduct alleged herein and is liable to
15 Plaintiff for the relief sought in this Complaint.)

16 17. Defendants Dammeier, McGill, Ethir, Horton, Gaspard, Sirody, Castillo and Bakhit,
17 are sometimes referred to collectively herein as the "Individual Defendants." LDME and the
18 Individual Defendants and DOES 1-25 are collectively referred to herein as "Defendants."

19 18. Plaintiff is informed and believes and thereon alleges that at all times mentioned
20 herein, Defendants, and each of them, were members of a RICO enterprise as that is defined
21 pursuant to Title 18 United States Code § 1961(4) of RICO and were the agents, partners, servants,
22 co-conspirators, and/or employees of each of the other Defendants, and were acting within the
23 course and scope of such enterprise, agency, partnership, service, conspiracy, and/or employment
24 while doing the acts hereinafter alleged. Further, Plaintiff is informed and believes and thereon
25 alleges that each of the Defendants named herein has ratified, condoned and knowingly accepted
26 the benefits of the wrongful conduct of the other Defendants. Among other things, Plaintiff is
27 informed and believes that, between at least 2006 through July 2013, the LDME partners and other
28 LDME attorneys met monthly to review the attorney's billings before sending the bills for payment

1 to LDF and its other clients. Plaintiff is further informed and believes that each of the Individual
2 Defendants had access to the time slips or similar timekeeping software used to generate LDME's
3 invoices and the ability to ascertain, and used reports at their monthly meetings to track, the total
4 hours they and other LDME attorneys were billing to LDF matters.

5 19. Plaintiff is informed and believes and thereon alleges that at all relevant times,
6 LDME failed to register as a law corporation with the State Bar of California. As a result of
7 LDME's failure to register, LDME has at all times been engaged in the unauthorized practice of
8 law and may be required to disgorge all legal fees paid to it. As a further result of such failure,
9 none of LDME's shareholders/partners is entitled to the protections governing corporations and is
10 liable personally, jointly and severally, for all liability and damages caused by LDME as alleged
11 herein.

12 **FACTUAL BACKGROUND**

13 **The LDF Group Prepaid Legal Services Plan**

14 20. LDF is an employee welfare benefit plan providing prepaid group legal services for
15 peace officers and public safety employees for matters related to their employment. LDF has
16 existed since 1974 and currently has more than approximately 100,000 members.

17 21. LDF is governed by a Trust Agreement and Plan Document which provides that the
18 Trustees have the power and duty to control and manage the plan. The Trustees are empowered to
19 retain, and have retained, the services of a Legal Administrator to supervise the provision of legal
20 services under the Plan. That Legal Administrator is Legal Defense Administrators, Inc. ("**LDA**"),
21 which is run by Edward Marc Fishman, a licensed attorney in the State of California.

22 22. Under the terms of the operative Trust Agreement, the Trustees are authorized to
23 provide legal service benefits to "Participants" by direct contract with one or more law firms or by
24 direct employment of licensed lawyers. Plan Participants are the public safety officers eligible for
25 benefits under the plan. Legal service benefits are provided, here, by direct contract between the
26 Trustees and one or more law firms, defined as a "Panel Attorney" under the LDF Plan document.
27 The Panel Attorneys submit bills directly to LDF who pays such bills through LDA. There is a
28 relationship akin to a tripartite attorney-client relationship among LDF, the Plan Participants and

1 the Panel Attorneys.

2 23. In California, to be eligible for benefits under LDF, a participant must be a dues-
3 paying member of a police association, defined as a “Member Association” in the Plan document,
4 that itself is a dues-paying member of PORAC. PORAC is the sponsoring organization of LDF in
5 California. A Member Association’s termination of membership in PORAC or LDF terminates the
6 right to any benefits under the Plan.

7 24. LDF offers different levels of benefit plans. Member Associations select the
8 particular benefit plan that it will make available to its members. Provided that more than 50% of
9 the total membership of the Member Association signs up for, and contributes to, LDF, the
10 Association and its members may participate in LDF under the terms of the Plan Document.

11 25. The benefits provided under all levels of LDF’s plans includes the provision of a
12 Panel Attorney or Field Representative to a Participant in need of legal services arising out of civil,
13 criminal or administrative actions (depending on the plan) and all “customary, necessary, and
14 reasonable services related to” such actions. Appeals are generally not covered under the plan,
15 unless there exists a “reasonable likelihood of success on the appeal.” Benefits may be terminated
16 if the Administrator determines that it is in the “best interest of a participant” to cease participation
17 in any particular case, included where continued proceedings may subject the Participant to more
18 severe sanctions or attorney’s fees. Benefits may also be terminated if the Participant rejects a
19 reasonable settlement offer.

20 26. Benefits are provided in accordance with a fee schedule for Panel Attorneys set by
21 the Administrator. The LDF Administrator is responsible for referring the defense of an eligible
22 participant to a Panel Attorney, but the Member Associations may designate the Panel Attorney
23 firms to which its participants’ cases may be referred. In other words, from the list of Panel
24 Attorneys approved by LDF to provide legal services under the plan, Member Associations select
25 one or more such firms or attorneys to provide services under the plan to that Association’s
26 members.

The Relationship Between LDF and LDME

1
2 27. Since it was formed in or about 2006, LDME was one of the firms on LDF's panel
3 of attorneys to whom LDF's plan participants' cases could be assigned. Michael Lackie, the first
4 named individual in the LDME firm, was a former police officer and solo practitioner who joined
5 LDF's panel in 1993. In 1993, Mr. Lackie executed a "Contract for Professional Legal Services"
6 (the "**1993 Agreement**") with LDF which provided that he would deliver legal services as a Panel
7 Attorney pursuant to LDF's Plan. This 1993 Agreement expressly provided that the Panel
8 Attorney "understood and agreed" that his "covenants, duties and obligations under this Contract
9 are subject to the provisions of the California Rules of Professional Conduct and the highest
10 standards of the legal profession . . ." The 1993 Agreement also provided that the "Panel Attorney
11 hereby agrees to submit bills for legal services rendered and costs incurred pursuant to this Contract
12 in conformance with the format and policies established by the LEGAL ADMINISTRATOR and
13 Trustees." Mr. Lackie executed another "Contract for Professional Legal Services" with LDF in
14 1997 (the "**1997 Agreement**"). The provisions of the 1997 Agreement were in all substantial
15 aspects identical to the 1993 Agreement.

16 28. Mr. Lackie's firm expanded over the years as Mr. Lackie added partners, including
17 named partners Dieter Dammeier, Michael McGill, and Saku Ethir. Plaintiff is informed and
18 believes and thereon alleges that LDME was formed as a corporation on or about March 24, 2006.
19 At all times since its formation, LDME was purporting to be a professional corporation and
20 practiced law, albeit not properly registered with the State Bar. Plaintiff is informed and believes
21 and thereon alleges that each of the Individual Defendants practiced law through LDME. Plaintiff
22 reasonably relied upon the representations of Defendants as to LDME's status as a law corporation,
23 and LDF accepted LDME as a law corporation and member of the panel.

24 29. Commencing on January 1, 2012, and continuing to the present, the supervision of
25 legal services provided under the plan was performed by LDA. These services include performing
26 case intakes, assigning cases to panel counsel, keeping apprised of case developments and
27 supervising the provision of legal services, and receiving and making payment for invoices received
28 for legal services provided to plan participants. LDF's panel attorney billings were reviewed and

1 paid by LDA, as administrator for LDF using LDF funds. Where errors appeared on the face of the
2 invoices, LDA corrected or made adjustments to the invoices before paying them.

3 30. In order to fulfill its responsibilities under the Plan Document to control and manage
4 the legal services plan and to supervise the provision of services under the plan, the Trustees and
5 LDA are entitled to receive confidential information concerning a participant's case. In connection
6 with cases being handled by LDME attorneys, such confidential information would be provided by
7 LDME to LDA, together with frequent consultation between LDA and the LDME attorney
8 handling the case. Such consultations and information permitted the Trustees (through LDA) to
9 determine what legal services were customary, necessary and reasonable for the case, whether an
10 appeal was likely to succeed, whether a settlement offer made was reasonable and/or whether it was
11 in the best interest of a participant to cease participation in a case. These determinations – which
12 are required under the Plan to be made by LDA for the Trustees – were made based in part on the
13 advice, counsel and opinion of the LDME attorney assigned to handle the case. LDF, the defended
14 Participant and LDME at all times shared a common interest in the subject matter of LDME's
15 representation: the legal defense of the Participant under the terms of the Plan.

16 31. At all times relevant to the claims asserted herein, Plaintiff reposed trust and
17 confidence in Defendants as their attorneys to provide such counsel and advice. Defendants
18 recognized and understood that Plaintiff placed great trust and confidence in them, and that Plaintiff
19 depended upon them to be truthful, provide competent advice, and maintain confidences, trust,
20 loyalty and independent judgment on behalf of Plaintiff, unimpaired by Defendants' own personal
21 interests or the interests of others not shared in common with LDF.

22 32. LDME and the Individual Defendants further owed Plaintiff a duty of care,
23 including the obligations of diligence, competence, loyalty, confidentiality, full and fair disclosure,
24 utmost candor and the duty to use and possess such knowledge, ordinary care and skill as is
25 commonly used and possessed by other attorneys in the community under like circumstances.
26 Included among such duties were obligations imposed upon said Defendants as fiduciaries to avoid
27 putting themselves in a position where their own interests conflicted with those of their clients,
28 including not charging excessive and unwarranted fees, to avoid conflicts of interest, and to make

1 full and complete disclosure of all pertinent facts known to said Defendants, including the
2 obligation to bill accurately, and to correct any errors or inaccuracies in the bills which resulted in
3 excessive or unwarranted fees.

4 **LDF's Discovery of Billing Anomalies**

5 33. In or about late June 2013, based upon new billing software that gave LDA the
6 capacity to run more sophisticated comparative reports and analyses, LDA discovered certain
7 anomalies in LDME's bills, especially with regard to the amount of billable hours charged by
8 LDME attorneys.

9 34. For example, in 2012, Defendants Horton and Bakhit had billed LDF over 3,000
10 hours each and Defendant Ethir had billed 4,275 hours to LDF. These numbers of billable hours far
11 exceeded the average hours billed by other LDF panel attorneys. These numbers do not include
12 any hours these attorneys would have billed to other, non-LDF clients.

13 35. Prior to obtaining the ability to run these reports, LDF was unaware of these
14 excessive billing practices by LDME. LDME consistently handled a high volume of cases for
15 LDF, and LDA processes high volumes of attorney invoices from all LDF panel attorneys (on
16 average 1,400 invoices per month in 2013). In the eighteen months preceding June 2013, LDME
17 attorneys had handled over 1800 matters for LDF participants and routinely staggered the dates
18 upon which bills were submitted. Prior to the electronic billing that began with invoices issued in
19 January 2012, LDME, like all other LDF panel attorneys, submitted paper invoices – one invoice
20 for each matter. In all of the invoices submitted by LDME (paper and electronic), each attorney's
21 time is distributed across multiple client matters. In other words, attorneys do not invoice their time
22 by attorney, but by client matter. Given the volume of matters and matter-based manner of attorney
23 billing, it was not reasonably possible for LDF to discover the billing anomalies without
24 sophisticated billing software running the proper reports on a sufficient amount of billing data. The
25 new billing system was not populated with enough data to run a meaningful comparative analysis
26 until in or about June 2013. LDF could not have reasonably discovered the facts underlying the
27 claims asserted herein prior to June 2013. Once it did, it acted promptly to investigate and remedy
28 the problem, ultimately, and after giving LDME ample opportunity to adequately explain the

1 anomalies, by removing LDME as panel counsel.

2 **LDF Investigates and Uncovers LDME's Fraudulent Billing Practices**

3 36. On or about July 9, 2013, LDF (through its administrator LDA) contacted LDME
4 and informed it that certain anomalies had been discovered and requested LDME's cooperation in
5 LDA's efforts to investigate those anomalies. Over the next several days, LDA had numerous
6 discussions and exchanged emails with LDME attorneys, asking them to explain certain billing
7 anomalies and, in particular, to explain how those attorneys had billed in many instances in excess
8 of 20 hours per day on multiple days.

9 37. During these exchanges, LDME attorneys acknowledged numerous errors in their
10 bills to LDF (*e.g.*, duplicate billings, or excessive billing for a task or travel), but never refunded to
11 LDF the amounts over-paid. Instead, during this same time period, LDME insisted that its
12 outstanding invoices be paid. Unless paid immediately, LDME threatened to inform LDF
13 participants that LDF was not paying its bills and the legal representation of the participants was in
14 jeopardy. On July 17, 2013, managing partner Ethir asked LDA to meet with LDME attorneys to
15 discuss the billing dispute.

16 38. Given the volume of billing entries (more than 40,000) at issue and the complexities
17 of detecting padded invoices, LDA consulted with an outside CPA to assist LDA in its preliminary
18 analysis of the billing anomalies. In response to LDME's request for an in-person meeting, a
19 meeting was arranged by trustee Peter Hoh and Defendant Dammeier. This meeting took place on
20 or about August 8, 2013 in Sacramento at a regular Trustees' meeting. LDME attorneys
21 Dammeier, Ethir and Michael Schwartz attended. LDA, trustee counsel and all five of the LDF
22 Trustees were present.

23 39. At the meeting, LDA showed the LDME attorneys some of the preliminary results of
24 LDA's analysis of LDME's bills. The purpose of the meeting from the Trustees perspective was to
25 hear LDME's explanation for the excessive fees charged, such as Ethir's 4,275 hours in a single
26 year. Among the preliminary items discussed at this meeting was the finding that in LDF's
27 approximately 20-year history, the highest number of hours billed by a single panel attorney in a
28 single year was approximately 2,700 (and that in a year when a particularly high profile trial

1 occurred). Only 5 attorneys (excluding LDME attorneys) in the history of LDF had ever billed
2 over 2000 hours in a single year, and none of those attorneys did so in more than one year. Several
3 LDME attorneys, however, billed in excess of 3,000 hours per year in multiple years.

4 40. In response to the Trustees' inquiries, the LDME attorneys confirmed that the
5 excessive hours billed by the LDME attorneys looked "about right" and angrily exclaimed that they
6 achieved such high billable hours by double and triple billing for time spent. In other words, for
7 example, while traveling and billing the travel time for LDF client matters, they would also
8 simultaneously bill for the time to make a telephone call and also bill simultaneously for sending an
9 email or text. When asked if they billed more than 24 hours in a day, Ethir responded "you bet I
10 do. I can bill 24, 25 or 26 hours in a day." The Trustees requested that LDME submit all of its
11 billings, including non-LDF billings (redacted as necessary to protect privilege and confidentiality)
12 for review by an outside, independent CPA. LDME ultimately refused this request. After some
13 additional dialogue, during which LDME attorneys became more and more agitated, Dammeier
14 abruptly ended the meeting proclaiming that the Trustees had 30 days to "stop this" and pay
15 LDME's pending bills. Otherwise, LDME would stop work and tell their LDF clients that LDME
16 was not paying its bills.

17 41. After the LDME attorneys left, the Trustees deliberated. Ultimately, the Trustees
18 authorized its counsel to retain an independent, certified fraud examiner to review LDME's billings
19 to LDF. Fearful that LDME would abandon its LDF clients, the Trustees also authorized a
20 substantial payment to LDME on the outstanding balance that LDME claimed it was owed.

21 42. Late in the evening of August 9, 2013, at approximately 1:00 a.m., Defendant
22 Horton called Fred Rowbotham, the Chairman of the LDF Board of Trustees, railing on him for
23 raising billing issues with LDME, saying "do you like being chairman? don't fuck with us" and
24 threatened to use the Member Associations to have the LDF board removed, specifically claiming
25 that LDME had Brian Smith (President of the Riverside Police Officers Association ("**RPOA**")
26 preparing a petition to remove Rowbotham and/or the other non-compliant LDF trustees. Horton
27 further claimed that Rowbotham's "world will turn upside down" in eight days. Horton said words
28 to the effect that LDME would then be so big and powerful, LDF will not be able to control it.

1 43. A few days after the August 8, 2013 meeting, LDME withdrew its 30-day ultimatum
2 and provided additional information to the Trustees, including numerous tables and written
3 explanations for “innocent mistakes” made in the billings. No refunds were ever received by LDF
4 for these “innocent mistakes” in LDME’s billings. Ethir also provided written explanations from
5 all LDME attorneys for days in which more than 19 hours was billed by that attorney. LDME
6 requested that these explanations and additional information be submitted to the third party fraud
7 examiner the Trustees had retained so that he could have complete information when preparing his
8 report. LDF did so.

9 44. LDF’s investigation continued through the month of August. LDF provided all
10 information it received from LDME to the fraud examiner before he generated a report of his
11 findings. A special meeting of the Trustees was set for September 8, 2013 to discuss the LDME
12 billing issues. LDME attorneys were invited to attend the meeting. On September 5, 2013, LDME
13 delivered to LDF an “Audit Report” conducted by a legal audit service LDME had retained. The
14 Audit Report and the supporting exhibits and documentation were all submitted to the Trustees and
15 to LDF’s third party fraud examiner before he delivered his report to LDF.

16 45. On August 8, 2013, the certified fraud examiner retained by LDF presented his
17 conclusions to the Trustees. His analysis included an examination of all panel attorney billing
18 entries, including all of LDME’s bills from October 2011 through July 2013. The examiner
19 concluded that LDME’s billing information for that time period indicated fraud, and there was no
20 indicia of any wrongdoing by any other panel attorneys, or any similar pattern to the billing
21 anomalies revealed in the examination of LDME billings.

22 46. Among other things uncovered by the examiner, Defendant Ethir billed on all but
23 two days in calendar year 2012 and billed for numerous consecutive 20 plus hour days. There were
24 also numerous instances of LDME attorneys billing over 24 hours in a single day and many
25 instances of double and triple billing as well, where attorneys were billing on two or three different
26 matters for work performed at the same time. The examiner’s report also revealed evidence of
27 attorneys, such as Defendants Sirody and Horton, billing travel time for travel not taken, including
28 billing for travel three times to the same location for three interviews conducted on the same day by

1 the same attorney, when the attorney only travelled once to the interview location.

2 47. Moreover, Defendant Ethir billed in 2012 on days she was suspended by the State
3 Bar from the practice of law, thus engaging in the unauthorized practice of law in violation of Bus.
4 & Prof. Code § 6125. LDME also violated Bus. & Prof. Code § 6133 by allowing Defendant Ethir
5 to practice law while suspended. Neither LDME nor any of the Individual Defendants ever
6 informed LDF of Ethir's suspension. A total of 17.5 hours was billed to LDF while Ethir was
7 suspended. Neither LDME nor Ethir has ever refunded to LDF the amounts paid for Ethir's legal
8 services while suspended by the State Bar.

9 48. Since removing LDME and the Individual Defendants as panel counsel, Plaintiff has
10 continued its investigation, including review of the legacy billing data that LDA received from
11 Plaintiff's prior administrator when it took over the administrative operations of Plaintiff. That data
12 includes paper invoices that were submitted by LDME and its predecessor entities through the
13 years, and a limited amount of computerized data based on those paper invoices. When LDA
14 became the Administrator under the Plan, it converted the legacy data into an electronically
15 searchable form. The prior Administrator had not maintained the invoices in a readily accessible or
16 searchable format. The analysis of those invoices to date reveal similar billing abuses by LDME
17 that could not have reasonably been ascertained prior to Plaintiff becoming aware of LDME's
18 excessive billing practices in June 2013. Among other things, those legacy records reflect
19 numerous days in which LDME attorneys, including Defendant Dammeier, billed Plaintiff well in
20 excess of 24 hours in a day across numerous invoices for numerous matters. Plaintiff is informed
21 and believes and thereon alleges that in one such instance, for time allegedly spent on
22 September 4, 2007, Mr. Dammeier billed over 80 hours in a single day. Plaintiff could not
23 reasonably have discovered these billing practices earlier because they were buried in dozens –
24 sometimes hundreds – of individual time entries over hundreds of invoices and hundreds of
25 individual matters.

26 49. LDF is informed and believes and thereon alleges that LDME and its attorneys
27 billed for services and activities never performed, or over-billed for such services and activities.
28 LDF is further informed and believes and thereon alleges that the Individual Defendants further

1 padded LDME's bills by adding time onto the bills in excess of the time that LDME's attorneys
2 actually reported and recorded in LDME's time and billing program. The fees charged by
3 Defendants are thus unconscionable, excessive, unreasonable, and fraudulent.

4 50. LDF is further informed and believes and thereon alleges that LDME and the
5 Individual Defendants intentionally managed LDME, including the supervision of their partners,
6 attorneys and/or employees, encouraging, requiring, and rewarding them for submitting bills
7 seeking unconscionable, excessive, unreasonable and/or fraudulent fees and engaging in abusive
8 and fraudulent billing practices.

9 51. After hearing the examiner's presentation, the Trustees met in person with
10 Dammeier, Ethir and Horton on September 8, 2013 to discuss the billing issues. The Trustees
11 asked the LDME attorneys to present any information or argument they wanted to support the
12 propriety of the bills, as they claimed. The LDME attorneys presented the documentation and
13 argument they deemed appropriate and then confirmed that they had no additional information to
14 provide and had completed their presentation. They then left the meeting. Thereafter, the Trustees
15 deliberated for approximately two hours after which LDF's trustees voted to remove LDME as an
16 LDF panel attorney, but to allow LDF to finish whatever LDF cases it had in progress. Shortly
17 thereafter, Dammeier sent a widespread email to LDF's members, falsely claiming that LDME was
18 removed because of its aggressive representation of LDF participants, that LDF did not want Panel
19 Attorneys to put much effort into defending LDF Participants, and announced a competing
20 "Premier Coverage Plan" to be offered by LDME to all of its LDF clients desiring to keep LDME
21 as their counsel. Having publicly taken such positions openly antagonistic to LDF, it was obvious
22 to LDF that LDME would not cooperate with LDF, as required if LDME was to finish up the
23 remaining cases it had in progress. Accordingly, the Trustees later authorized the transfer of the
24 pending cases from LDME to approved Panel Attorneys.

25 **Defendants' Use of Illicit Means to Gain "Loyalty" Among Police Organizations**

26 52. As set forth above, Member Associations in LDF designate the Panel attorney or
27 attorneys who will provide LDF services to that association's members. To obtain such
28 designations by, and the loyalty of, Member Associations, LDME routinely used improper means,

1 including, personally attacking and/or unduly pressuring decision makers or providing money and
2 gifts and other things of value to the union leaders.

3 53. For example, during 2012, LDME further claimed to have funnelled money to the
4 President of the Riverside Sheriff Association (RSA), and thereby to control the decisions of the
5 RSA, including the ability to control the RSA legal defense trust, contrary to the interests of the
6 membership in favor of LDME. Defendant Dammeier proposed that LDA should agree to be the
7 purported fair and impartial legal administrator for the RSA trust but to steer all of the legal defense
8 work to LDME alone.

9 54. In June 2012, apparently in response to attempts by LDME and the Individual
10 Defendants to control the RSA legal defense trust as claimed by Dammeier, the Riverside Sheriff's
11 Association, Legal Defense Trust, banned LDME and its individual attorneys from working for the
12 panel for a period of 3 years, finding in part that LDME and its attorneys, engaged in improper
13 activities. A true and correct copy of the RSA's June 2012 resolution is attached hereto.

14 55. Defendant Ethir admitted to Fishman that she and LDME intend to use, and continue
15 using, the attorney-client privilege to shield LDME and its attorneys and to prevent disclosure of
16 evidence of their wrongful conduct, including the use of a private investigator and "female
17 operative" to attempt to get a sitting member of the Costa Mesa City Council in a compromising
18 position at a time that LDME was negotiating an agreement on behalf of the Costa Mesa Police
19 Association with the City of Costa Mesa.

20 56. When LDF confronted LDME about its excessive and fraudulent billings, LDME
21 threatened to use against LDF and some of the individual Trustees its purchased influence with
22 certain Member Associations. In some cases, as with Brian Smith and the RPOA, LDME's
23 purchase has come through and those Associations have taken steps to do the bidding of LDME,
24 even though LDME, as described below, is prohibited from directly engaging in such conduct.

25 **LDME's Post-Removal Use of Its "Playbook" Against Its Own Former Client**

26 57. In 2012, LDME's use of a primer then available on its website, entitled
27 "Negotiations After Impasse," was well publicized. *See, e.g.,* [http://www.abajournal.com/news/
28 article/law_firms_playbook_shows_how_police_play_hardball_at_bargaining_table;](http://www.abajournal.com/news/article/law_firms_playbook_shows_how_police_play_hardball_at_bargaining_table)

1 <http://www.ocregister.com/taxdollars/strong-478876-public-police.html>. The primer outlined
2 certain tactics to use when collective bargaining negotiations between police associations and the
3 municipalities they serve break down. The tactics included adopting a public message that distracts
4 the public from the issues actually being negotiated, *i.e.* pay, medical coverage and pension plans,
5 and instead focus on “public safety,” such as billboards that read “crime is up and the City could
6 care less about your safety,” making the City appear as if it cares only about costs; storming the city
7 council and “publicly chastising them”; “actively campaigning” against any member of the
8 governing body up for election; starting referendums to remove those in decision making positions;
9 focusing on a single individual, such as a city manager or mayor and pursuing them until loyalty is
10 assured before moving on to the next “victim”; and starting a website to cast your opponent in a bad
11 light (such as “GardenGroveSucks.com,” a “big hit,” according to Dammeier).

12 58. After the story was published, LDME took the primer down. It is clear, however,
13 that the tactics set forth therein are still very much a part of its playbook, as they are the exact
14 tactics LDME is now employing against LDF and certain individual Trustees in an effort to strong
15 arm its way back onto the LDF panel. As ethically questionable as such tactics may otherwise be in
16 other relationships, using such tactics against a former client with respect to the circumstances
17 under which an attorney’s services were terminated and relating to the subject matter of the
18 attorney’s prior representation, is a violation of the attorneys’ ethical and legal duties.

19 59. Here, among other things, after the billing anomalies were raised and continuing
20 after LDME was removed as panel counsel for LDF, Defendants have, among other things,
21 threatened baseless litigation against Trustees Kerry Condon and Fred Rowbotham; started a
22 purported “watchdog” website promoting the litigation they are instigating against LDF; and
23 attempted (unsuccessfully) to manipulate the election of Trustee Kerry Condon as President of the
24 Anaheim Police Association, a position he presently holds, by backing candidates sympathetic to
25 LDME, and in an attempt to remove Condon and other Trustees from their positions with LDF, all
26 to manipulate those in decision-making power to accede to LDME’s demands.

27 60. Further, subsequent to the termination of LDME as panel counsel, the Defendants
28 have engaged in a campaign to attempt to influence LDF participants to leave LDF and join other

1 legal defense program providers. This campaign has included divulging alleged attorney-client
2 privileged communications between LDF and LDME and taking actions directly adverse to LDF
3 with respect to the subject matter of LDME's prior representation of LDF. Just as advised in the
4 playbook, LDME has adopted a public message attempting to distract from the real issue (LDME's
5 desire to line its own pockets with LDF's funds) by falsely claiming that the Trustees have
6 informed LDME that they are concerned only with the costs of representation and do not want LDF
7 attorneys to zealously represent LDF participants.

8 61. Following the disclosure of the discovery of overbilling, Defendants further began
9 threatening to personally attack and remove LDF board members if they take any action based upon
10 the overbilling and claiming to have the power to control Member Association actions to remove
11 board members who act against LDME.

12 62. Plaintiff is further informed and believes that the Defendants have further
13 encouraged police association participants in LDF to sue LDF (its former client) for, among other
14 things, over-paying LDME as a result of LDME's fraudulent billing practices and removing LDME
15 from the LDF panel. Such conduct violates the Defendants' duty of confidentiality (Bus. & Prof.
16 Code § 6068(e) and Rules of Professional Conduct 3-100) and their ongoing duty of loyalty to their
17 former client and person to whom they owed a fiduciary duty, LDF. Defendants Dammeier and
18 Horton have each filed or threatened to file baseless lawsuits against LDF and/or individual
19 Trustees on behalf of certain of their loyal followers, all in an effort to intimidate and pressure LDF
20 to accede to Defendants' demands to be admitted back on the LDF panel.

21 **LDME's Unauthorized Practice of Law**

22 63. On or about September 25, 2013, LDF learned that LDME was not registered as a
23 professional corporation with the State Bar as required by Corporations Code § 13404 and Business
24 & Professions Code § 6160, et seq. LDME never informed LDF that LDME was not registered,
25 and had not been registered for the entire time that LDME was representing itself to LDF and
26 members of the public and the employee associations which it represented as a corporation lawfully
27 engaged in the practice of law. Accordingly, every letter, phone call, wire transfer, bill, pleading,
28 and other action using the corporate identity as a law corporation is a separate act of mail, or wire

1 fraud and if not entitled to charge fees, then all of the fees were improperly obtained from LDF in
2 violation of 18 U.S.C. § 664 (theft or conversion of ERISA funds).

3 64. Plaintiff is informed and believes and thereon alleges that LDME was thus engaged
4 in the unauthorized practice of law and was not a properly formed corporation such that it should be
5 deemed a de facto general partnership and its partners should be held individually liable for the acts
6 of the purported corporation.

7 65. Each of the Individual Defendants directly engaged in fraudulent billing practices
8 and/or knew and promoted those practices by the other Individual Defendants, and/or are
9 responsible as partners and as members of the enterprise for the actions and conduct of LDME and
10 of one another.

11 66. LDF is further informed and believes and thereon alleges that LDME and the
12 Individual Defendants intentionally managed LDME, including the supervision of their partners,
13 attorneys and/or employees, encouraging, requiring, and rewarding them for submitting bills
14 seeking unconscionable, excessive, unreasonable and fraudulent fees and engaging in abusive and
15 fraudulent billing practices.

16 67. In all, LDF has paid to LDME in excess of \$19 million in attorney's fees since 2006,
17 all of which should be disgorged as a result of the claims alleged herein.

18 **FIRST CLAIM FOR RELIEF**

19 *(Engaging in Prohibited Transaction Forbidden by ERISA § 406(a),*

20 *29 U.S.C. § 1106(a) Against All Defendants)*

21 68. Plaintiff incorporates herein as if fully stated paragraphs 1 through 67, inclusive,
22 above.

23 69. LDF is an employee welfare benefit plan within the meaning of ERISA § 3(1) (29
24 U.S.C. § 1002(1)), in that it is established or maintained by an employee organization for the
25 purpose of providing for its participants prepaid legal services.

26 70. LDME was at all relevant times a party in interest to LDF within the meaning of
27 ERISA § 3(14)(B) (29 U.S.C. § 1002(14)(B)), in that it and its attorneys provided services to the
28 plan.

1 71. ERISA §§ 406(a) and 408(b) (29 U.S.C. §§ 1106(a) and 1108(b)) prohibit
2 transactions in which a party in interest to an ERISA plan receives more than reasonable
3 compensation for services to the plan. LDF knew that LDME was such a party in interest, but did
4 not know at the time it made payments to LDME that LDME had submitted fraudulent or excessive
5 billings or was receiving more than reasonable compensation for the service provided.

6 72. Defendants engaged in prohibited transactions in violation of these provisions when
7 they received payments of amounts overbilled and in excess of reasonable compensation for the
8 services provided.

9 73. ERISA § 502(a)(3) (29 U.S.C. § 1132(a)(3)), permits a plan fiduciary (the LDF
10 Board of Trustees here) to bring a lawsuit to enforce the provisions of Title I of ERISA (Title 29,
11 Chapter 18, Subchapter I of the United States Code), which includes 29 U.S.C. §§ 1106 and 1108.

12 74. Defendants have profited in an amount to be proven at trial from the prohibited
13 transactions by receiving more than reasonable compensation for the services rendered.

14 75. LDME is a transferee of assets of LDF that were more than reasonable
15 compensation for the services it rendered to LDF. Upon learning of the excessive fees paid to
16 LDME, Plaintiff acted promptly to prevent further overbilling by removing LDME from the panel
17 and to recover for the Plan the excess amounts paid.

18 76. Accordingly, LDF is entitled to disgorgement, constructive trust, and other
19 appropriate equitable relief from Defendants and its attorney's fees and costs pursuant to ERISA
20 § 502(g) (29 U.S.C. § 1132(g)) incurred in pursuing its claims against LDME.

21 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

22 **SECOND CLAIM FOR RELIEF**

23 *(For Violation of Racketeering Influenced and Corruption Organization Act (RICO)*

24 *[18 U.S.C. § 1961 et seq.] Against All Defendants)*

25 77. Plaintiff incorporates herein by reference as if fully stated paragraphs 1 through 67,
26 69 through 76, above.

27 78. Plaintiff and Defendants are each "persons," as that term is defined in 18 U.S.C.
28 § 1961(3).

1 79. At all relevant times, in violation of 18 U.S.C. § 1962(c), Defendants engaged and/or
2 participated, directly and/or indirectly, in the affairs of an association-in-fact enterprise identified
3 herein, the affairs of which affected interstate commerce through a pattern of racketeering activity.

4 80. Defendants, by and through their own conduct and participation and/or through their
5 associations in fact, engaged and/or participated in, directly or indirectly, a pattern of racketeering
6 activity as defined in 18 U.S.C. § 1961(1). Such racketeering activity includes, but is not limited
7 to, violation on at least two occasions of 18 U.S.C. §§ 664 (theft or conversion from employee
8 benefit plan), 1341 (mail fraud), and 1343 (wire fraud), beginning in 2006 through the present by,
9 among other things, using the mails, telephone, facsimile, and/or other devices to convert LDF trust
10 assets through fraudulent, excessive and unconscionable overbillings

11 81. Defendants' association in fact with one another in the continued conduct of their
12 business constitutes an "Enterprise" within the meaning of RICO.

13 82. Plaintiff is informed and believes and thereon alleges that Defendants, as described
14 herein, devised and/or intended to devise a scheme or artifice to defraud and/or injure as alleged
15 herein through the use of the United States mails and wires in interstate and foreign commerce and
16 otherwise used fraudulent and deceptive means as herein alleged to obtain the property and/or
17 money of Plaintiff.

18 83. In furtherance of the common scheme, LDME, the other Defendants, and the
19 employees of LDME routinely falsely billed for work not performed, often resulting in over 24
20 hours of work allegedly performed by a single attorney in a day, these billings included regularly
21 billing travel as if it had occurred from the LDME office in Upland resulting in exaggerated travel
22 time, and admitted double and triple billing simultaneously. Among the fraudulent bills sent via
23 mail and/or wire, and paid via mail and/or wire, in furtherance of the Enterprise, are the following
24 instances:

- 25 i. For work allegedly performed by Kasey Sirody on July 2, 2013, LDME
26 billed 6 hours for travel when the actual time spent was approximately 4
27 hours or less, and triple billed for mileage, which was 69 miles round trip,
28 but billed a total of 207 miles, 138 of which did not occur;

1 (a) The fraudulent billings for Kasey Sirody on July 2, 2013, were billed
2 over multiple invoices, which were sent via wire by LDME to Legal
3 Defense Administrators, Inc., servers on or about July 5, 2013, including
4 invoices dated July 5, 2013, Nos. 64026, 64058, and 64059.

5 (b) The invoices dated July 2, 2013, Nos. 64026, 64058, and 64059 were
6 paid via wire transfer on or about August 12, 2013, wire transfer no. 12973.

7 ii. For work allegedly performed by Peter Horton on or about November 14,
8 2012, LDME billed 11.2 hours for travel when the actual time spent was
9 approximately 5.0 hours, and submitted reimbursement requests for 473
10 miles driven when the actual miles were approximately 269;

11 (a) The fraudulent billings for Peter Horton on November 14, 2012, were
12 spread out over multiple invoices, which were sent via wire by LDME to
13 Legal Defense Administrators, Inc. servers, on or about December 7, 2012,
14 including invoices dated December 7, 2012, Nos. 61195, 61218, and
15 61257.

16 (b) The invoices dated December 7, 2012, Nos. 61195, 61218, and 61257
17 were paid on or about December 31, 2012, wire transfer no. 11830.

18 iii. For work allegedly performed by Saku Ethir on or about April 11, 2012,
19 LDME billed 27.0 hours, including 7.7 hours of travel, work not actually
20 performed, double and triple billing, 8.5 hours of hearings/interrogations,
21 2.8 hours of plan and prepare, and 4 hours of in person meetings with
22 clients;

23 (a) The fraudulent billings for Saku Ethir on April 11, 2012, were spread
24 over multiple invoices, which were sent via wire by LDME to Legal
25 Defense Administrators, inc. servers, on or about May 4, 2012, including
26 invoices dated May 4, 2012, Nos. 58354, 58355, 58376, 58377, 58380,
27 58386, 58476, 58498, 58535, 58560, 58589, 58612.
28

1 (b) The invoices dated May 4, 2012, including, Nos. 58354, 58377,
2 58380, 58386, 58589, 58612, were paid on or about, May 21, 2012, wire
3 transfer no. 10672; No. 58355 was paid on or about August 30, 2012,
4 wire transfer no. 11181; Nos. 58376, 58560 were paid on or about May 30,
5 2012, wire transfer no. 10747; Nos. 58498, 58535, were paid on or about
6 May 30, 2012, wire transfer no. 10710; Nos. 58476 and 58581 were paid on
7 or about, May 14, 2012, wire transfer no. 10628.

8 84. Defendant LDME billed for hours allegedly worked by Saku Ethir while suspended
9 from the practice of law from July 2-4, 2012. Practicing law while suspended by the State Bar is the
10 unauthorized practice of law in violation of Bus. & Prof. Code § 6125.

11 (a) The fraudulent billings for Saku Ethir for July 2, 3, and 4, 2012 were
12 spread over multiple invoices, which were sent via wire by LDME to Legal
13 Defense Administrators, Inc., servers, on or about July, 3, 2012; August 3,
14 2012; and September 7, 2012, which included invoice numbers 59696,
15 59735, 59755, 59813, 59830, 59834, 59968, 59696A, 59429, 59713,
16 59821.

17 (b) The invoices dated July, 3, 2012, August 3, 2012, and September 7,
18 2012, including No. 59429 was paid on or about July 23, 2012, wire
19 transfer number 10963; Nos. 59696, 59813, 59968, 59821 were paid on or
20 about August 30, 2012, wire transfer number 11181; Nos. 59735, 59755,
21 59830, 59834, 59713 were paid on about September 28, 2012, wire transfer
22 number 11306; and No. 59696A was paid on or about October 31, 2012,
23 wire transfer number 11491.

24 85. Plaintiff is informed and believes that each of the members of the Enterprise was
25 involved in the continuing coordination of activities between the Individual Defendants and the
26 Enterprise. As to each Defendant, there was a common communication network by which
27 information concerning the Enterprise was exchanged on a regular basis. Typically this
28 communication occurred by the use of electronic mail, text message, or the telephone in which

1 Defendants planned and coordinated the operation of the Enterprise alleged herein and ran its
2 continuing operation.

3 86. Defendants' illegal conduct and wrongful practices were carried out by an array of
4 employees, as well as by consultants and investigators and co-conspirators, who necessarily relied
5 upon frequent transfers of documents and information and funds by the U.S. mails and interstate
6 wire facilities.

7 87. Each invoice sent and paid that contains double or triple-billed time, travel time
8 billed for trips never taken or in excess of the time actually travelled, or time billed to LDF that was
9 not actually spent by the attorney billing the time forms the basis of the theft of ERISA funds from
10 LDF and is an act of wire and mail fraud. Alleging each of the precise dates each of the fraudulent
11 invoices was sent and paid would be unreasonably burdensome and to some extent not possible
12 without conducting discovery. Many of the precise dates of Defendants' uses of the U.S. mails and
13 interstate wire facilities (and corresponding RICO predicate acts of violation of 18 U.S.C. Section
14 1341 (mail fraud) and violations of 18 U.S.C. Section 1343 (wire fraud) and violations of 18 U.S.C.
15 Section 664 (theft or conversion of ERISA funds) have been hidden and cannot be alleged without
16 access to the LDME and Individual Defendants' books and records. Indeed, an essential part of the
17 successful operation of the Enterprise alleged herein depended upon secrecy, and in hiding behind
18 the attorney-client privilege as alleged above, and Defendants took deliberate steps to conceal their
19 wrongdoing and to pressure and influence those operating outside of the Enterprise to not reveal
20 information learned or revealed to them by unlawful means. Plaintiff has, however, described
21 herein more than two occasions on which the RICO predicate acts of mail fraud, wire fraud, and
22 theft from an ERISA fund and how those acts were in furtherance of the Enterprise.

23 88. Under the provisions of 18 U.S.C. § 1964(c), Defendants are jointly and severally
24 liable to Plaintiff for three times the damages that Plaintiff has sustained, plus the costs of bringing
25 this suit, including reasonable attorneys' fees.

26 89. As a proximate result of Defendants' racketeering activities as described herein,
27 Plaintiff suffered injury to its business and property in an amount to be proven at trial.

28 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

THIRD CLAIM FOR RELIEF

(For Conspiracy to Violate RICO Against All Defendants Against All Defendants)

90. Plaintiff incorporates herein by reference as if fully stated paragraphs 1 through 67, 69 through 76, and 78 through 89, inclusive, set forth above.

91. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, conspired and agreed among themselves to violate 18 U.S.C. § 1962 as set forth in the Second Claim for Relief above.

92. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, further agreed to violate said statute for the purpose of destroying and/or diminishing Plaintiff's business and financial interests and to otherwise injure Plaintiff.

93. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, did the acts alleged herein pursuant to, and in furtherance of, the conspiracy and above-alleged agreement.

94. Plaintiff is informed and believes and thereon alleges that each of Defendants furthered the conspiracy by cooperation with, and/or lent aid and encouragement to, and/or ratified and adopted the acts alleged herein of, each of the other Defendants. Each of the Defendants is therefore liable for all the acts, omissions, and/or breaches of the others, all of which were done in furtherance of the conspiracy and for the benefit of any or all of the co-conspirators.

95. Plaintiff is informed and believes and thereon alleges that Defendants continue through the present to commit overt acts in furtherance of the above-described conspiracy. As a proximate result of this conspiracy and agreement, Plaintiff has been damaged, and continues to be damaged, in an amount to be proven at trial.

WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

FOURTH CAUSE OF ACTION

(By Plaintiffs Against All Defendants for Legal Malpractice)

96. Plaintiffs reallege and incorporate herein by reference each of the allegations of paragraphs 1 through 67, inclusive, of this Complaint.

97. To the extent – and only to the extent – that this claim for relief is based on

1 collection and attempts to collect unreasonable compensation, it is pled in the alternative to the First
2 Claim for Relief. To the extent based on conduct other than charging an unreasonable fee, this
3 claim for relief is in addition, and not in the alternative, to the First Claim for Relief.

4 98. Plaintiff and Defendants had an attorney-client relationship based on the tripartite
5 relationship among Defendants, LDF and LDF Plan Participants.

6 99. As Plaintiff's attorneys, Defendants owed Plaintiff a duty of care, including the
7 obligations of diligence, competence, loyalty, confidentiality, full and fair disclosure, utmost candor
8 and the duty to use and possess such knowledge, ordinary care and skill as is commonly used and
9 possessed by other attorneys in the community under like circumstances.

10 100. At all times herein mentioned, Defendants and each of them, negligently and
11 carelessly acted, or omitted to act, in connection with the foregoing matters, including but not
12 limited to the following:

- 13 i. Charging Plaintiff excessive, unreasonable and unconscionable fees;
- 14 ii. Failing to efficiently manage the provision of legal services and contain
15 fees or costs, resulting in exorbitant and unnecessary fees and costs;
- 16 iii. Rendering services that were duplicative, unnecessary and unwarranted,
17 and charging Plaintiff for the fees allegedly incurred;
- 18 iv. Failing to comply with the Rules of Professional Conduct, in particular Cal.
19 R. Prof. Cond. 1-120, 1-300 and 4-200;
- 20 v. Charging Plaintiff for legal services rendered by suspended attorneys and
21 engaging in the unauthorized practice of law; and
- 22 vi. Failing to submit bills only for services rendered and in conformance with
23 policies established by LDA and LDF's Trustees.

24 101. The conduct alleged herein by Defendants fell below the standard of care.

25 102. As a proximate result of the wrongful conduct of the Defendants herein alleged,
26 Plaintiff has been damaged in an amount according to proof, including but not limited to in
27 incurring and paying exorbitant and unconscionable fees far in excess of the value of the services
28 rendered. Plaintiff is informed and believes and thereon alleges that the excessive fees generated

1 by Defendants due to the wrongful conduct alleged herein total over \$1,000,000.

2 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

3 **FIFTH CAUSE OF ACTION**

4 ***(For Breach of Fiduciary Duty Against All Defendants)***

5 103. Plaintiff realleges and incorporates herein by reference the allegations of paragraphs
6 1 through 67, inclusive, of this Complaint.

7 104. To the extent – and only to the extent – that this claim for relief is based on
8 collection and attempts to collect unreasonable compensation, it is pled in the alternative to the First
9 Claim for Relief. To the extent based on conduct other than charging an unreasonable fee, this
10 claim for relief is in addition, and not in the alternative, to the First Claim for Relief.

11 105. As attorneys and fiduciaries, Defendants owed fiduciary duties to Plaintiff of
12 undivided service, loyalty, integrity, full and fair disclosure, candor and utmost good faith.
13 Included among such duties were obligations imposed upon said Defendants as fiduciaries to avoid
14 putting themselves in a position where their own interests conflicted with those of their clients,
15 including not charging excessive and unwarranted fees, to avoid conflicts of interest, and to make
16 full and complete disclosure of all pertinent facts known to said Defendants, including the existence
17 of errors or inaccuracies in the bills which resulted in excessive or unwarranted fees. Defendants
18 further had an ongoing duty of loyalty not to do any acts or disclose any alleged confidences
19 injurious Plaintiff or LDF Participants with respect to the subject matter of their prior
20 representation.

21 106. At all times mentioned herein, Plaintiff reposed trust and confidence in Defendants
22 as their attorneys. Defendants recognized and understood that Plaintiff placed great trust and
23 confidence in them, and that Plaintiff depended upon them to maintain certain confidences, trusts,
24 loyalty and independent judgment on behalf of Plaintiff, unimpaired by said Defendants' own
25 personal interests or the interests of others not shared in common with Plaintiff.

26 107. Plaintiff is informed and believes and thereon alleges that Defendants, and each of
27 them, willfully and intentionally breached their fiduciary duties to Plaintiff, including, but not
28 limited to, by:

- 1 i. Charging Plaintiff excessive, unreasonable and unconscionable fees;
- 2 ii. Rendering services that were duplicative, unnecessary and unwarranted, and
- 3 charging Plaintiff for the fees allegedly incurred;
- 4 iii. Concealing from the Plaintiff material facts such as billing errors and
- 5 improprieties, the suspension of Saku Ethir and the unauthorized practice of
- 6 law by LDME;
- 7 iv. Failing to comply with the Rules of Professional Conduct, in particular Cal.
- 8 R. Prof. Cond. 1-120, 1-300 and 4-200;
- 9 v. Failing to refund to LDF the amount that they acknowledged were paid or
- 10 charged as the result of billing errors and failing to refund to LDF the
- 11 amounts paid for services rendered while Ethir was suspended from the
- 12 practice of law;
- 13 vi. Violating Business and Professions Code § 6068(e) and Rules of
- 14 Professional Conduct 3-100 by revealing and using confidential information
- 15 of the Trustees and LDF Participants against them after LDME was removed
- 16 as panel counsel. Such conduct is ongoing;
- 17 vii. Violating their ongoing duties to Plaintiff and violating Business and
- 18 Professions Code §§ 6068(d) (attorneys may employ those means “only as
- 19 are consistent with the truth”) and 6106 (an act involving dishonesty is
- 20 grounds for attorney suspension or disbarment) by, among other things,
- 21 falsely stating that the Trustees made statements suggesting that the Trustees
- 22 are concerned only with the cost of representation of LDF Participants, not
- 23 the quality of representation, that one or more of the Trustees stated that cops
- 24 in need of LDME’s services “don’t deserve to be cops” or words to such
- 25 effect, and that the Trustees have jeopardized LDF’s membership by
- 26 removing LDME as panel counsel. Such conduct is ongoing;
- 27 viii. Violating Rules of Professional Conduct 1-400 in communications directed
- 28 to potential clients, and further violating Business and Professions Code

1 §§ 6068(d) (attorneys may employ those means “only as are consistent with
2 the truth”) and 6106 (an act involving dishonesty is grounds for attorney
3 suspension or disbarment), by repeatedly falsely claiming to LDF’s
4 membership that LDME and attorney Ethir were the “most winningest [sic]”
5 LDF Attorneys in California and the LDF attorneys with the “best track
6 record in California,” without any factual or legal basis to make such claims
7 and without even access to the comparative data upon which such a
8 statement could truthfully be based. Such conduct is ongoing;

9 ix. After being terminated as panel counsel, engaging in communications and
10 conduct, including the dissemination of false information concerning
11 Plaintiff’s financial condition, designed to induce LDF’s participants to stop
12 their participation in LDF. Such conduct is ongoing;

13 x. Engaging in conduct injurious to their former client, LDF, with respect to the
14 subject matter of LDME’s prior representation of Plaintiff, including without
15 limitation encouraging others to sue LDF for alleged claims arising out of
16 Defendants’ over and fraudulent billings and/or the removal of LDME as
17 panel counsel. Such conduct is ongoing; and

18 xi. Attempting to collect illegal and unconscionable fees by, among other things,
19 attempting to collect, and threatening to sue LDF Participants to collect,
20 allegedly past due fees that LDME cannot collect because it was not
21 authorized to practice law at the time the fees were allegedly incurred.
22 Accordingly, the fees are illegal and cannot be collected, notwithstanding
23 LDME’s continued efforts to collect said fees.

24 108. The conduct of the said Defendants herein alleged was in breach of the Defendants’
25 fiduciary duties of full and fair disclosure, confidence, loyalty, candor and diligence, and therefore
26 constitutes a breach of said fiduciary duties.

27 109. In doing the acts herein alleged, Defendants intentionally and willfully favored their
28 own interests over the Plaintiff, with full knowledge that such action would cause economic loss

1 and injury to the Plaintiff, including but not limited to the payment of unreasonable, unconscionable
2 and excessive fees and the payment of legal fees to defend the third party lawsuits prompted by
3 Defendants.

4 110. As a proximate result of the wrongful conduct of the Defendants herein alleged,
5 Plaintiff has suffered general, special and consequential damages in an amount subject to proof but
6 believed to be in excess of \$1,000,000.

7 111. This conduct of Defendants was done fraudulently and with a conscious disregard
8 for Plaintiff's rights and constitutes despicable conduct, and was done with the intent to vex, injure,
9 or annoy Plaintiff such as to constitute oppression, fraud, or malice under California Civil Code
10 § 3294, entitling Plaintiff to punitive damages in an amount appropriate to punish or make an
11 example of Defendants.

12 112. As a result of Defendants' breach of fiduciary duty as herein alleged, LDF is faced
13 with pending and/or threatened lawsuits that relate to or arise from or are the result of the conduct
14 of Defendants. All legal fees and costs LDF incurs in defense of said lawsuits are recoverable from
15 Defendants under, among other legal principles (including indemnification and/or contribution), the
16 "tort of another" doctrine.

17 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

18 **SIXTH CAUSE OF ACTION**

19 ***(Actual Fraud Against All Defendants)***

20 113. Plaintiff realleges and incorporates herein by reference each of the allegations of
21 paragraphs 1 through 67 of this Complaint.

22 114. To the extent – and only to the extent – that this claim for relief is based on
23 collection and attempts to collect unreasonable compensation, it is pled in the alternative to the First
24 Claim for Relief. To the extent based on conduct other than charging an unreasonable fee, this
25 claim for relief is in addition, and not in the alternative, to the First Claim for Relief.

26 115. Based upon the fiduciary relationship between Plaintiff and Defendants, Defendants
27 had a duty of full and fair disclosure to Plaintiff.

28 116. As alleged herein, each of the Defendants failed to disclose material facts to

1 Plaintiff. Some of the material non-disclosures include:

- 2 i. Intentionally suppressing the fact that Defendants were submitting invoices
- 3 to LDF for excessive, unconscionable and unreasonable fees;
- 4 ii. Intentionally suppressing the fact that Defendants were billing LDF for
- 5 services not performed for LDF members;
- 6 iii. Intentionally suppressing the fact that Defendants were billing LDF for travel
- 7 not taken on LDF matters;
- 8 iv. Intentionally suppressing the fact that Defendants were double and triple
- 9 billing without LDF's consent on LDF member matters;
- 10 v. Intentionally suppressing the fact that Defendants were padding the bills by
- 11 adding time onto the bills in excess of the time attorneys had recorded in
- 12 LDME's time slips program;
- 13 vi. Intentionally suppressing the fact that LDME attorneys were billing in excess
- 14 of 24 hours of legal services in a single day; and
- 15 vii. Intentionally suppressing the suspension of Saku Ethir from the practice of
- 16 law and that LDME was engaged in the unauthorized practice of law.

17 117. These facts were concealed by Defendants intentionally with the intent to defraud
18 Plaintiff, cover-up their misconduct and overbilling, to serve their own financial interest in
19 continuing to collect excessive and unwarranted fees for services in excess of the value of services
20 performed, and to undermine Plaintiff's ability to protect its own interests.

21 118. Until no sooner than June of 2013, Plaintiff was not aware of the facts concealed.

22 119. Plaintiff reasonably relied on the omissions to its detriment. Had the true facts been
23 disclosed to Plaintiff concerning the overbilling, Plaintiff would have immediately terminated
24 Defendants as panel attorneys and not paid the invoices as submitted.

25 120. As a proximate result of the wrongful conduct of the Defendants herein alleged,
26 Plaintiff has suffered general and special damages in an amount subject to proof, but believed to be
27 in excess of \$1,000,000.

28 121. This conduct of each of the Individual Defendants was done fraudulently and with a

1 conscious disregard for Plaintiff's rights and constitutes despicable conduct, and was done with the
2 intent to vex, injure, or annoy Plaintiff such as to constitute oppression, fraud, or malice under
3 California Civil Code § 3294, entitling Plaintiff to punitive damages in an amount appropriate to
4 punish or make an example of Defendants.

5 122. LDME's conduct described herein was undertaken by its officers or managing
6 agents – the Individual Defendants except Sirody – who were responsible for LDME's general
7 management and operations. The conduct was therefore undertaken on behalf of LDME with fraud
8 and in conscious disregard for Plaintiff's rights. LDME had advance knowledge of the actions and
9 conduct of its employees, partners, agents, and managing agents, whose conduct was encouraged,
10 ordered, ratified, authorized, and approved by each of the Individual Defendants.

11 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

12 **SEVENTH CAUSE OF ACTION**

13 *(For Negligent Supervision Against All Defendants Except Sirody)*

14 123. Plaintiff realleges and incorporates herein by reference the allegations of paragraphs
15 1 through 67, inclusive, of this Complaint.

16 124. To the extent – and only to the extent – that this claim for relief is based on
17 collection and attempts to collect unreasonable compensation, it is pled in the alternative to the First
18 Claim for Relief. To the extent based on conduct other than charging an unreasonable fee, this
19 claim for relief is in addition, and not in the alternative, to the First Claim for Relief.

20 125. Defendants LDME, Dammeier, Ethir, Horton and McGill had a duty to supervise
21 attorneys and other employees in their provision of services to LDF participants and in preparation
22 of their billings to LDF. Said Defendants also owed a fiduciary duty to LDF of undivided service,
23 loyalty, integrity, full and fair disclosure, candor and utmost good faith.

24 126. Plaintiff is informed and believes and thereon alleges that said Defendants failed to
25 adequately supervise LDME attorneys and supervisors to ensure that the bills sent to LDF were
26 accurate and included only reasonable and customary fees for services actually performed.

27 127. Defendants knew, or in the exercise of reasonable care for Plaintiff's financial
28 interests should have known, that LDME attorneys submitted excessive, unreasonable, duplicative

1 or inaccurate bills to LDF and engaged in fraudulent billing practices – such as double and triple
2 billing for legal services and charging for travel that did not actually occur.

3 128. As a direct, proximate and legal result of this negligent supervision, Plaintiff was
4 damaged by, among other things, over-paying LDME for services that were not performed or
5 improperly billed.

6 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

7 **EIGHTH CAUSE OF ACTION**

8 *(For Unjust Enrichment Against All Defendants Except Sirody)*

9 129. Plaintiff realleges and incorporates herein by reference the allegations of paragraphs
10 1 through 67, inclusive, of this Complaint.

11 130. To the extent – and only to the extent – that this claim for relief is based on
12 collection and attempts to collect unreasonable compensation, it is pled in the alternative to the First
13 Claim for Relief. To the extent based on conduct other than charging an unreasonable fee, this
14 claim for relief is in addition, and not in the alternative, to the First Claim for Relief.

15 131. Defendants will be unjustly enriched if allowed to retain the fees paid by Plaintiff
16 based on excessive, inaccurate or duplicative bills and incurred while LDME was not authorized to
17 practice law.

18 132. Due to Defendants' unjust enrichment at Plaintiff's expense, Plaintiff has been
19 damaged in an amount according to proof, but believed to be in excess of \$1,000,000.

20 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

21 **NINTH CLAIM FOR RELIEF**

22 *(For Unfair Business Practices, Violation of Bus. & Prof. Code § 17200*

23 *Against All Defendants)*

24 133. Plaintiff realleges and incorporates herein by reference the allegations of paragraphs
25 1 through 67, 69 through 76, and 78 through 89, inclusive, of this Complaint.

26 134. Beginning at a date currently unknown but at least four years prior to the filing of
27 the herein action, all Defendants at one time or another have committed, and on information and
28 belief continue to commit, certain business acts and practices that actually harmed the Plaintiff and

1 LDF members, and those in the general public similarly situated. Since such business acts and
2 practices are unlawful, unfair and fraudulent, they violate the Unfair Competition Law (“UCL“),
3 Bus. & Prof. Code § 17200, et seq., and are actionable by Plaintiff for injunctive relief and
4 restitution. Those actionable business acts and practices are already alleged with factual
5 particularity hereinabove in paragraphs 33 through 67, 69 through 76, 78 through 89, 100, 106 and
6 116, and those allegations are incorporated by reference as though set forth fully at this point. The
7 hereinabove-alleged allegations of business acts and practices become actionable under the UCL in
8 conjunction with the following additional allegations:

- 9 i. Such business acts and practices are “unlawful” in that they violate, inter
10 alia without limitation, Cal. R. Prof. Cond. 1-120, 1-300, 1-400, 3-100, 4-
11 200, Corp. Code § 13404, Bus. & Prof. Code §§ 6068(d), (e), 6106, 6126 and
12 6160; 18 U.S.C. § 664, 29 U.S.C. § 1106(a) and 18 U.S.C. § 1962(c).
- 13 ii. Such business acts and practices are “unfair” in that the harm to Plaintiff
14 outweighs their utility, if any, to the Defendants or to society.

15 135. The foregoing unlawful, unfair and fraudulent business acts and practices by the
16 Defendants present a continuing threat to the Plaintiff and those in the general public similarly
17 situated, in that Defendants will continue to collect illegal, excessive and unconscionable fees and
18 continue to breach their duties of confidentiality and loyalty to Plaintiff. Under Bus. & Prof. Code
19 § 17203, therefore, the Court should enter a preliminary injunction order and a permanent
20 injunction judgment enjoining the Defendants from engaging in their unlawful, unfair and
21 fraudulent business acts and practices. Such injunctive relief is the only way to prevent great harm
22 and irreparable injury to Plaintiff and those in the general public similarly situated.

23 136. As a direct and proximate consequence of the foregoing unlawful, unfair and
24 fraudulent business acts and practices by Defendants, Plaintiff suffered injury in fact by losing
25 money to the Defendants who took them as profits or unjust enrichments. Under Bus. & Prof.
26 Code § 17203 and pursuant to the Court's equitable powers, therefore, the Court should order
27 disgorged from the Defendants and restored to the Plaintiff all such profits and unjust enrichments
28 that the Defendants continue to hold, in an amount to be established by the evidence.

1 137. In the interests of justice, Plaintiff should be awarded attorneys' fees under CCP
2 § 1021.5 for having borne the private burden to prosecute this action to enforce important rights
3 under the UCL affecting public interests and conferring a significant benefit to the general public.

4 WHEREFORE, Plaintiff prays for judgment as follows:

5 **PRAYER FOR RELIEF**

6 **ON THE FIRST CLAIM FOR RELIEF**

- 7 1. A declaration that the Defendants and each of them engaged in prohibited
8 transactions in violation of ERISA § 406(a) (29 U.S.C. § 1106(a)) by
9 receiving compensation in excess of a reasonable fee for the services
10 performed;
- 11 2. Order Defendants, and each of them, make good to the LDF Plan the losses
12 resulting from their prohibited transactions;
- 13 3. Order that Defendant Fiduciaries provide other appropriate equitable relief
14 to the LDF Plan, including but not limited to, disgorging all excessive
15 payments received, imposing a constructive trust and/or equitable lien on
16 any funds wrongfully held or transferred by any of the Defendants,
17 including the assets into which such funds may be traced;
- 18 4. Order Defendants to pay prejudgment interest;
- 19 5. Award Plaintiff reasonable attorneys' fees and costs of suit incurred herein
20 pursuant to ERISA § 502(g) (29 U.S.C. § 1132(g)) and/or for the benefit
21 obtained for the common fund; and
- 22 6. Award such other and further relief as the Court deems equitable and just.

23 **ON THE SECOND AND THIRD CAUSES OF ACTION**

- 24 1. For general, special and consequential damages according to proof,
25 including without limitation, disgorgement of all legal fees paid to LDME;
- 26 2. For treble damages as provided in 18 U.S.C. § 1964 (c);
- 27 3. For interest on those amounts at the legal rate as allowed by law;
- 28 4. For costs of suit and attorney's fees as provided in 18 U.S.C. § 1964(c);

1 **ON THE FOURTH, SEVENTH AND EIGHTH CAUSES OF ACTION**

- 2 1. For general, special and consequential damages according to proof,
3 including without limitation, disgorgement of all legal fees paid to LDME;
4 2. For interest thereon, and prejudgment interest, at the legal rate;

5 **ON THE FIFTH AND SIXTH CAUSES OF ACTION**

- 6 1. For general, special and consequential damages according to proof,
7 including without limitation, disgorgement of all legal fees paid to LDME;
8 2. For interest thereon, and prejudgment interest, at the legal rate
9 3. For punitive and exemplary damages in amount according to proof;

10 **ON THE NINTH CLAIM FOR RELIEF**

- 11 1. For general, special and consequential damages according to proof;
12 2. For restitutionary and injunctive relief, enjoining Defendants from
13 engaging in the conduct herein alleged, and disgorgement pursuant to
14 California Bus. & Prof. Code § 17203;

15 **ON ALL CLAIMS FOR RELIEF**

- 16 1. For reasonable attorney’s fees and costs herein incurred as permitted by
17 law;
18 2. For interest, and prejudgment interest, at the legal rate on all sums owed;
19 3. For such other and further relief as the Court deemed proper.

20 **DEMAND FOR JURY TRIAL**

21 Plaintiff hereby demands trial by jury on all matters and issues triable by jury.

22 DATED: April 5, 2014

THE SALL LAW FIRM
A Professional Corporation

24 /s/ Suzanne Burke Spencer
25 By: _____
Suzanne Burke Spencer

26 Attorneys for Plaintiff BOARD OF TRUSTEES of the
27 LEGAL DEFENSE FUND of PORAC