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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 WILLIAMS & COCHRANE, LLP,  
12 Plaintiff,  
13 v.  
14 ROBERT ROSETTE; ROSETTE &  
15 ASSOCIATES, PC; ROSETTE, LLP;  
16 QUECHAN TRIBE OF THE FORT  
17 YUMA INDIAN RESERVATION, a  
18 federally-recognized Indian tribe; and  
19 DOES 1 THROUGH 100,  
20 Defendant.

Case No.: 17-CV-01436-GPC-MSB

**ORDER STRIKING PLAINTIFF'S  
PRIOR MOTION FOR JUDGMENT  
ON THE PLEADINGS; VACATING  
PRIOR ORDER; REINSTATING  
OPERATIVE MOTION FOR  
JUDGMENT ON THE PLEADINGS**

[ECF Nos.: 238, 235, 227]

21 This order is necessitated by filing errors occasioned by multiple amended  
22 complaints and motions for judgment on the pleadings which misidentify the operative  
23 pleadings. The errors that have created confusion started with a motion for judgment on  
24 the pleadings (ECF No. 227) filed by Plaintiff Williams & Cochrane, LLP's ("Plaintiff")  
25 on October 2, 2019 against Defendant Quechan Tribe's answer to Plaintiff's *first*  
26 amended complaint and counterclaims which itself was filed on June 21, 2018. ECF No.  
27 94. However, as of December 6, 2018, Plaintiff had already filed a *third* amended  
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1 complaint (ECF No. 174) which then led Defendant Quechan Tribe to file an answer to  
2 the third amended complaint and counterclaims on December 20, 2018. ECF No. 182.  
3 Accordingly, the operative pleading on Defendant Quechan Tribe's counterclaims as of  
4 December 20, 2018 was Defendant Quechan Tribe's answer to the third amended  
5 complaint and counterclaims. Since the motion for judgment on the pleadings attacked a  
6 pleading that had been superseded and replaced, the motion for judgment on pleadings  
7 was moot. This mistake by counsel than led to the next one.

8       Thereafter, on September 25, 2019, Plaintiff filed a fourth amended complaint.  
9 ECF No. 220. On October 8, 2019, Defendant Quechan Tribe filed an answer to  
10 plaintiff's fourth amended complaint and counterclaims. ECF No. 231. On October 22,  
11 2019, Plaintiff filed what was titled an amended motion for judgment on the pleadings as  
12 to the answer to fourth amended complaint and counterclaims. ECF No. 235. Although  
13 this motion was captioned as an amended motion for judgment on the pleadings, it was  
14 not an amended motion since Plaintiff had not previously filed a motion for judgment on  
15 pleadings as to the answer to the fourth amended complaint and counterclaims.

16 Ultimately, this motion is, in fact, a standalone motion for judgment on the pleadings  
17 against Defendant Quechan Tribe's answer to Plaintiff's fourth amended complaint and  
18 counterclaims (ECF No. 231), which was filed on October 8, 2019. Recognizing it as  
19 such, the Court will reinstate the motion and treat it as the operative motion for judgment  
20 of pleadings on Quechan's answer to the fourth amended complaint and counterclaims.

21       In sum, the Court hereby **DENIES AS MOOT** ECF No. 227 (Plaintiff's motion  
22 for judgment on the pleadings against Defendant Quechan Tribe's answer to Plaintiff's  
23 first amended complaint and counterclaims); **WITHDRAWS** ECF No. 238 (the Court's  
24 order striking plaintiff's amended motion for judgment on the pleadings); and  
25 **REINSTATES** ECF No. 235 as the operative motion for judgment on the pleadings  
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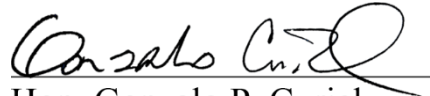
1 against Defendant Quechan Tribe's answer to Plaintiff's fourth amended complaint and  
2 counterclaims.

3 The Court notes that the above problems could have been avoided with more  
4 attention by Plaintiff's counsel to the operative pleadings.

5 Any response to ECF No. 235 must be filed by **January 3, 2020**. Any reply must  
6 be filed by **January 17, 2020**. The hearing on this matter shall be **re-scheduled for**  
7 **March 13, 2020** at 1:30 PM in Courtroom 2D.

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9 **IT IS SO ORDERED.**

10 Dated: December 5, 2019

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12 Hon. Gonzalo P. Curiel  
13 United States District Judge  
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