

1 Christopher C. Saldaña, Esq. (SBN 269456)
2 **SHEWRY & SALDAÑA, LLP**
3 402 W. Broadway, Suite 950
4 San Diego, California 92101
5 Telephone: (619) 233-8824
6 Facsimile: (619) 233-1002
7 chris@shewrysaldanalaw.com

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8 Attorneys for Plaintiffs/Cross-Defendants ROBIN MARIEN,
9 AIR CALIFORNIA ADVENTURE, INC., and GABRIEL
10 JEBB

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION**

13 ROBIN MARIEN, an individual; GABRIEL
14 JEBB, an individual; and AIR CALIFORNIA
15 ADVENTURE, INC., a California corporation,

16 Plaintiffs.

17 v.

18 ROBERT MICHAEL KUCZEWSKI,
19 an individual; and DOES 1 THROUGH 20,
20 Inclusive,

21 Defendants.

22 AND CROSS-RELATED ACTION.

Case No.: 37-2015-00015685-CU-DF-CTL

**SECOND AMENDED COMPLAINT FOR
INTENTIONAL INTERFERENCE WITH
ECONOMIC ADVANTAGE;
DEFAMATION; INTENTIONAL
INFLICTION OF EMOTIONAL
DISTRESS; NEGLIGENT INFLICTION
OF EMOTIONAL DISTRESS;
DECLARATORY RELIEF; AND
INJUNCTIVE RELIEF**

JURY TRIAL DEMANDED

23 Plaintiffs ROBIN MARIEN, GABRIEL JEBB, and AIR CALIFORNIA ADVENTURE,
24 INC., by and through their attorneys of record, based upon information and belief, and demanding
25 a trial by jury, as against Defendants ROBERT MICHAEL KUCZEWSKI, an individual,
26 MARJORIE MAE HOLLAND, an individual, and DOES 2 THROUGH 20, inclusive, allege the
27 following:

28 **I. PARTIES**

1. Plaintiff ROBIN MARIEN (hereinafter referred to as "MARIEN"), is an individual and is now, and at all times mentioned in this Second Amended Complaint was, a

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1 resident of the County of San Diego, State of California. At all times relevant to this action,
2 Plaintiff ROBIN MARIEN, was and is the owner and principal shareholder of AIR
3 CALIFORNIA ADVENTURE, INC., which in turn is the concessionaire of the Torrey Pines
4 Gliderport (the “Gliderport”). The Gliderport is situated in the La Jolla section of San Diego and
5 is part of the Torrey Pines City Park. The Gliderport concession includes the responsibility to act
6 as the flight director to sail planes, radio control planes, hang gliding, and paragliding activity
7 over the premises.

8 2. Plaintiff AIR CALIFORNIA ADVENTURE, INC. (hereinafter referred to as
9 “ACA”), is now, and all times mentioned in this Second Amended Complaint was, a corporation
10 organized and existing under the laws of the State of California, with its principal place of
11 business located in the County of San Diego, State of California. ACA holds the lease and
12 concession at the Gliderport. Furthermore, because the Gliderport is an Airport, it must have a
13 flight director. Pursuant to its lease with the City of San Diego, ACA is the flight director of this
14 airport, and MARIEN is the individual who generally fills that role.

15 3. Plaintiff GABRIEL JEBB (hereinafter referred to as “JEBB”), is an individual and
16 is now, and at all times mentioned in this Second Amended Complaint was, a resident of the
17 County of San Diego, State of California. At all times relevant to this action, JEBB was and is an
18 employee of MARIEN and ACA at the Gliderport, where he has been a tandem instructor for
19 over ten years. ACA is former family business that once was owned by JEBB’s parents.

20 4. Defendant ROBERT MICHAEL KUCZEWSKI (hereinafter referred to as
21 “KUCZEWSKI”), is an individual, who is now, and at all times mentioned in this Second
22 Amended Complaint was, a resident of the County of San Diego, State of California.
23 KUCZEWSKI is a former patron of AIR CALIFORNIA ADVENTURE, INC. and the Gliderport.
24 KUCZEWSKI’s flying privileges were revoked by MARIEN and ACA in November 2014 for
25 one year. KUCZEWSKI’s membership in the United States Hang Gliding and Paragliding
26 Association was revoked in April 2015.

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1 5. Defendant MARJORIE MAE HOLLAND (hereinafter referred to as
2 “HOLLAND”), is an individual, who is now, and at all times mentioned in this Second Amended
3 Complaint was, a resident of the County of San Diego, State of California.

4 6. Plaintiffs are not aware of the true names and capacities of the Defendants sued
5 herein as DOES 2 through 20, inclusive, and therefore sues these Defendants by such fictitious
6 names. Each of these fictitiously named Defendants are responsible in some manner for the
7 activities alleged in this Second Amended Complaint. Plaintiffs will amend this Second Amended
8 Complaint to add the true names of the fictitiously named Defendants once they are discovered.

9 7. HOLLAND has at the direction and special insistence of Defendant ROBERT
10 MICHAEL KUCZEWSKI, or with his permission or acquiescence, or both, caused to be posted
11 to the Internet, as more fully set forth below, several videos of Defendant ROBERT MICHAEL
12 KUCZEWSKI making statements about the Plaintiffs, and each of them, that he and HOLLAND
13 knew, or had reason to know, were false and injurious to Plaintiffs’ reputations and business.
14 HOLLAND has, acting in concert with Defendant ROBERT MICHAEL KUCZEWSKI, caused
15 to be published these defamatory statements with the intent of interfering with the business of
16 Plaintiffs, and each of them, or in reckless disregard of the knowledge that publication of such
17 statements would interfere with Plaintiffs’ businesses and cause them economic harm and
18 emotional distress. HOLLAND often identifies herself on the Internet as “Majiemae”.

19 8. At all relevant times, each Defendant committed the acts, caused or directed others
20 to commit the acts, or permitted other to commit the acts alleged in this Second Amended
21 Complaint. Additionally, some or all of the Defendants acted as the agent of the other
22 Defendants, and all of the Defendants acted within the scope of their agency if acting as an agent
23 of another.

24 9. At all relevant times, each Defendants knew or realized that the other Defendants
25 were engaging in or planned to engage in the violations of law alleged in this Second Amended
26 Complaint. Knowing or realizing that other Defendants were engaging in or planning to engage in
27 unlawful conduct, each Defendant nevertheless facilitated the commission of those unlawful acts.

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1 Each Defendant intended to and did encourage, facilitate, or assist in the commission of the
2 unlawful acts, and thereby aided and abetted the other Defendants in the unlawful conduct.

3 II. JURISDICTION AND VENUE

4 10. Venue is proper in this Court in that Plaintiffs and Defendants reside and/or are
5 doing business in the City of San Diego.

6 III. FACTS

7 11. The Gliderport is situated in the La Jolla section of San Diego and is enveloped by
8 the Torrey Pines City Park. The Gliderport is a site world-renowned for its beauty and for its
9 importance to the sports of hang gliding and paragliding. The principal purpose of the Gliderport
10 site is to serve as a launching and landing space for full scale glider soaring, hang gliding,
11 paragliding, and radio-controlled model glider operations, as those terms are defined by San
12 Diego Municipal Code § 63.0201(a). Because the Gliderport serves these functions, it is also an
13 “Airport” as that term is utilized in San Diego Municipal Code § 68.0101(c).

14 12. Because the Gliderport is an Airport, it must have a flight director. Pursuant to its
15 lease with the City of San Diego, ACA is the flight director of this Airport, and MARIEN is the
16 individual who actually fills that role. Attached as Exhibit “A” and incorporated herein by this
17 reference is a true and correct copy of this lease. The Gliderport is FAA Location Identifier No.
18 CA 84.

19 13. Since MARIEN is the current acting flight director, he is empowered, pursuant to
20 San Diego Municipal Code § 68.0120, “...for good cause appearing to him to deny any person
21 admission to an airport by any means.” MARIEN is further empowered by San Diego Municipal
22 Code § 63.0201(b) to restrict the use of the Gliderport by individuals who willfully or wantonly
23 disregard the safety of persons or property, or to revoke or suspend the permit of an individual to
24 use the facility. The permit of ROBERT MICHAEL KUCZEWSKI to use the facility was
25 revoked by Mr. MARIEN on or about November 9, 2014. This revocation was undertaken for
26 good cause owing, among other things, to KUCZEWSKI’s continual disregard for the safety of
27 persons being trained to fly by ACA and the property of those students.

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1 14. Plaintiff MARIEN has been acquainted with KUCZEWSKI for over seven years.
2 MARIEN first became acquainted with KUCZEWSKI when the principal shareholder of ACA
3 was David Jebb, Plaintiff JEBB's father. At that time, the Gliderport lease and concession was
4 also held by ACA.

5 15. It was during David Jebb's time as the concessionaire that KUCZEWSKI began a
6 campaign of harassment against David Jebb, his family, and ACA based upon unknown reasons.
7 During the time David Jebb was the principal shareholder of ACA, KUCZEWSKI would routinely
8 appear at the Gliderport and engage in conduct the purpose of which was to kindle a physical
9 altercation or otherwise create a scene. KUCZEWSKI would routinely scream at instructors and
10 employees of the Gliderport and, in doing so, intimidate students being instructed and tandem
11 paragliding passengers. Most of KUCZEWSKI's outbursts would occur in what is known as a
12 "restricted area" at the facility, which is an area restricted to pilots and tandem passengers actively
13 engaging in paragliding or hang gliding.

14 16. The reason for the restricted area of the facility is to ensure the safety of pilots
15 and bystanders as the take-off and landing of hang gliders and paragliders can be a dangerous
16 activity. KUCZEWSKI essentially elevated his own need to be seen and heard above the safety of
17 pilots and passengers. KUCZEWSKI also created a dangerous condition at the whole of the
18 Gliderport by his mere presence there. As a result, David Jebb banned KUCZEWSKI from the
19 Gliderport.

20 17. In or about 2008, MARIEN became the principal shareholder of ACA and the
21 concessionaire of the Gliderport. Despite harboring concerns about doing so, MARIEN lifted
22 KUCZEWSKI's ban with intentions that they would start with a clean slate. Instead,
23 KUCZEWSKI has over the last several years simply elevated his vitriolic conduct, once again
24 serially loitering in the restricted area of the Gliderport and in other areas, confronting and
25 harassing employees and customers in an apparent effort to try and provoke a scene or a physical
26 confrontation.

27 18. KUCZEWSKI has assigned to himself the task of acting as a one-person
28 surveillance team in order to "catch" Plaintiffs and employees of ACA "violating" City

ordinances or claimed regulations or his general sense of how the concession should be run. According to KUCZEWSKI, it is his steadfast belief that catching such occurrences will convince the San Diego City Council to reinstate an Advisory Board to provide oversight of Plaintiffs and the Gliderport, which KUCZEWSKI himself would presumably control and oversee. In other words, KUCZEWSKI wants control of the flight operations and business of the site. KUCZEWSKI describes himself as the “Rosa Parks” of the Gliderport. KUCZEWSKI’s position entirely overlooks the legal effects of ACA’s leasehold on the premises. KUCZEWSKI has also solicited on several occasions financing in order to take over the concession once the City issues another request for proposal to bid for the concession at the Gliderport. KUCZEWSKI’s true motivation, evident from his solicitations of financing and individuals to wrest control of the Gliderport from ACA, is to run the concession which is lawfully held by ACA.

19. KUCZEWSKI’s manner of reaching his ultimate goal includes following: harassing, and audio/video recording Plaintiffs and ACA employees while they are performing their duties, including while they are providing instruction to student clients or taking tandem paragliding passengers for instructional rides, as well as serially defaming the Plaintiffs in person to person discussions with others, as well as on the Internet. KUCZEWSKI’s defamation of Plaintiffs is nearly legendary in its breadth and scope, and is intended to, and does, interfere with Plaintiffs’ businesses and cause to them injuries in the form of general and special damages. Plaintiffs have caused to be interviewed on dates KUCZEWSKI makes his appearances at the Gliderport several witnesses who indicated that they check KUCZEWSKI’s website for advance notice when he will be present, so that they are not there at the same time due to the upheaval he causes. Still other witnesses who had never previously been to the Gliderport have indicated they are unwilling to stay and may never return owing to the antics of KUCZEWSKI they witnessed first hand. Plaintiffs are informed, and believe, and on that basis thereon allege that the denigration of ACA’s business is the primary aim of KUCZEWSKI’s otherwise unbalanced conduct. The secondary aim of that conduct is to cause financial and emotional injury to Plaintiffs.

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1 20. Plaintiffs and employees of ACA have repeatedly notified KUCZEWSKI that he
2 does not have permission to follow them and record their likeness or their statements while inside
3 the boundaries of ACA's leasehold. KUCZEWSKI, despite his knowledge that Plaintiffs and
4 ACA employees have made it clear that they do not consent to recording of any kind (whether
5 within the concession edifice or outside in the open land within the boundaries of the leasehold)
6 and have an expectation that no recording or photography of their likeness will be made of them,
7 ignores their requests and continues to do so over repeated objections. KUCZEWSKI now
8 appears at the Gliderport with several cameras, invading the personal space of Plaintiffs and
9 others each time he is present.

10 21. KUCZEWSKI has also thrust his camera into Plaintiffs' faces, as well as the
11 faces of ACA employees. There have been times when KUCZEWSKI has made contact with
12 ACA employees' faces, bodies, or both. KUCZEWSKI has never been granted consent to make
13 such contact with Plaintiffs or the ACA staff. Furthermore, KUCZEWSKI posts these videos on
14 his personal website www.ushawks.org, and he, or, members of his organizational team
15 (including Defendant HOLLAND), also post these videos on www.youtube.com. Once posted,
16 the most vitriolic drivel is later written by KUCZEWSKI's cronies and by several of the DOE
17 defendants, further defaming Plaintiffs and their businesses, causing additional injury for which
18 Plaintiffs should recover general and special damages.

19 22. KUCZEWSKI's behavior has become increasingly more abusive, violent,
20 insulting, and barbaric. KUCZEWSKI has followed, stalked, and harassed ACA employees in an
21 unprecedented manner. He is relentless in his efforts to foment confrontations with ACA
22 employees. KUCZEWSKI's confrontations do not end with ACA staff, sometimes the
23 confrontations spill over to the students who are upset that their instruction time is being
24 interrupted. Many times, students have to be walked away from KUCZEWSKI by ACA staff to
25 avoid physical altercations.

26 23. One specific occasion in which KUCZEWSKI's illegal tactics interrupted the
27 training of Plaintiff JEBB, and the overall business of the Gliderport, occurred on November 9,
28 2014. On this date, JEBB asked KUCZEWSKI to move out the restricted area in order to ensure

1 the safety of those individuals flying hang gliders and paragliders at the time. Prior to being asked
2 to move, KUCZEWSKI was yelling at JEBB for not using a helmet to “kite”¹ when he was
3 instructing students. At the time of the incident, there was not a rule against this set in place by
4 the United States Paragliding and Hang Gliding Association, the trade organization which
5 promulgates rules generally followed in the sport. KUCZEWSKI refused to leave the restricted
6 area and as result, Plaintiffs were forced to call the police.

7 24. After the police arrived, and as he has done with us countless times before,
8 KUCZEWSKI refused to follow the officers’ instruction to leave the area and essentially dared
9 the police to arrest him for trespassing. The police, having no other choice given KUCZEWSKI’s
10 refusal to follow their instructions and orders, were forced to arrest KUCZEWSKI in order to
11 remove him from the premises. Following this incident, a petition for a workplace violence
12 restraining order was filed. Department C-64 of this Court denied that request though it did find
13 that KUCZEWSKI’s conduct was harassing and annoying.

14 25. Following the denial of the temporary restraining order, KUCZEWSKI again
15 appeared at the Gliderport on March 8, 2015. KUCZEWSKI was repeatedly asked to leave, and
16 was repeatedly told by MARIEN that he was reserving the right to refuse service to him.
17 KUCZEWSKI grew increasingly angry and persisted in his refusal to leave. MARIEN had no
18 choice but to seek police intervention once again. The police were called and KUCZEWSKI
19 was arrested for trespassing. KUCZEWSKI, as he had before, bandied about the order of
20 Department C-64 wildly mischaracterizing that order as one making a finding that he had a
21 “right” to be within ACA’s leasehold irrespective of Plaintiffs’ wish that he not be. The police
22 then read the transcript of the final date of the hearing, which stated in relevant part:

23 **MR. SALDANA:** Your Honor, just for the record, I want to state that the
24 testimony has reflected in this case that the gliderport, acting a flight director, has
25 asked Mr. Kuczewski not to return. I understand from his testimony he's going to
26 anyway. Obviously, there will be future issues, but what's -- what do we do about

27 ¹ A maneuver that inflates a paraglider with air but does not involve leaving the ground.
28

1 that?

2 **THE COURT:** I don't know. You know, I do not know what the authority of the
3 flight director is, what they can or cannot do. I cannot give you legal advice. You
4 might need to talk to –

5 **MR. SALDANA:** Well, I mean, I guess what I'm asking is is this something
6 touched upon in your rulings? I haven't read it yet. That's the issue. So that's the
7 question. Is there anything set forth in the ruling as something you deal with or
8 have dealt with at all in it?

9 **THE COURT:** I don't understand your question.

10 **MR. SALDANA:** Whether or not they have the authority to essentially trespass
11 Mr. Kuczewski from the property. Is that something that you dealt with in your
12 ruling or not? Not having read it, I can't speak to that, I suppose.

13 **THE COURT:** I know that he was arrested for trespassing because he was there
14 after hours. He was there. He was asked to leave. He didn't leave. That's what I
15 know. But other than that, he has a right to be there, right?

16 **MR. SALDANA:** Well, that's part of the dispute here, but I'm not sure this is the
17 venue for it, so I don't know whether or not it's in the ruling.

18 **THE COURT:** No, it's not. It's not, because that's not my decision.

19 **MR. SALDANA:** That was my question.

20 Mr. KUCZEWSKI was then arrested by the police.

21 26. On April 8, 2015, KUCZEWSKI once again appeared at the Gliderport. This
22 time, KUCZEWSKI entered the ACA offices with another gentleman who describes himself as a
23 journalist who was videotaping KUCZEWSKI's attempt to be on the premises and sign-in as a
24 pilot, all while KUCZEWSKI himself was videotaping as well. After KUCZEWSKI and his
25 friend entered the offices, JEBB asked KUCZEWSKI to leave the premises and further advised
26 him that his flying rights had been revoked for one-year, commencing on November 2014.
27 KUCZEWSKI grew increasingly impatient and upset, devolving into a ten-minute tantrum inside
28 the ACA office, and in front of other pilots, patrons, and guests. KUCZEWSKI's hysterics caused

1 him to block the front desk and did not allow other pilots and concession customers to enter the
2 area in order to sign in. In fact, a customer even asked KUCZEWSKI to move so he could
3 conduct business, but KUCZEWSKI's intimidatingly and obstinately refused that customer's
4 request that he do so.

5 27. JEBB tried to compromise with KUCZEWSKI and informed KUCZEWSKI that
6 JEBB would allow him to sit on the benches outside of the ACA office, but that KUCZEWSKI
7 was not authorized to go onto any other part of the Gliderport property, including the restricted
8 area. KUCZEWSKI demanded entry to the entire Gliderport property, in addition to being able to
9 hold his club meeting there. JEBB tried to reason with KUCZEWSKI by advising that any club
10 meetings needed to be pre-approved in advanced because additional staff is needed when club
11 meetings are held. KUCZEWSKI grew more visibly upset, and at one point his body started to
12 shake with anger. KUCZEWSKI's approach, tone, and body language were combative in nature.
13 KUCZEWSKI advised that he was not in agreement with JEBB, and once again that he had a
14 "Court Order" (the one denying Plaintiffs' restraining order) that stated he could be anywhere he
15 wanted on the Gliderport property. KUCZEWSKI continued to sell this obvious
16 mischaracterization of the Court's Order denying ACA's request for a restraining order, despite
17 having been present in open court when the restraining order Judge flatly stated she was not
18 ruling on whether or not ACA could trespass KUCZEWSKI from the property. Indeed,
19 KUCZEWSKI did not ask for affirmative relief in that matter at all. JEBB then advised
20 KUCZEWSKI that he would have to leave the Gliderport premises, or that JEBB would once
21 again be forced to phone the police. KUCZEWSKI refused to leave and the police were once
22 again called. KUCZEWSKI's confrontation was videotaped by an employee of ACA.

23 28. KUCZEWSKI proceeded to go outside the concession edifice where he sat on a
24 bench with his alleged Court Orders and waited for the police to arrive. As stated above, in
25 addition to the self-described reporter who was already video recording KUCZEWSKI's presence
26 at the Gliderport with his iPhone, KUCZEWSKI now had another man, this one with a large,
27 professional- style news video-camera, following him around and attempting to interview
28 employees and guests of the Gliderport. The scene that KUCZEWSKI caused was distracting to

1 all people at the Gliderport who were there that Sunday afternoon. KUCZEWSKI's scene was
2 also distracting to the students who were present and involved in instruction. At one point, all of
3 the instructors were tending to the scene KUCZEWSKI created and each of the students was left
4 to watch the scene KUCZEWSKI created, rather than continuing their instruction.

5 29. Once the police arrived, KUCZEWSKI was asked to leave. After KUCZEWSKI
6 repeatedly refused, he was once again told he would be arrested. KUCZEWSKI reluctantly agreed
7 to leave because he did not want to be arrested yet again, so the police escorted him and his
8 camera man to the parking lot surrounding the Gliderport property. KUCZEWSKI and the
9 cameraman proceeded to stand in that parking lot looking into the Gliderport for hours thereafter.
10 When MARIEN left the premises in his vehicle, KUCZEWSKI and the individual with the large
11 camera were posted at the only ingress/egress on the premises, and they loudly yelled "Pussy!" at
12 MARIEN when he drove away from them.

13 30. In addition to KUCZEWSKI's despicable behavior at the Gliderport, he has
14 engaged in a campaign of sustained harassment and annoyance against Plaintiffs and ACA
15 employees in a calculated effort to cause enough damage to Plaintiffs to strip the concession from
16 ACA and MARIEN. Having the concession stripped from ACA and MARIEN would provide
17 KUCZEWSKI and his hang gliding club, US HAWKS, to take over the Gliderport concession.

18 31. Since at least 2011, and continuing unabated through the date of this Second
19 Amended Complaint, KUCZEWSKI has been to the San Diego City Council almost every week it
20 has been in session, in an effort to solicit from the Council the removal of Plaintiffs MARIEN and
21 ACA as concessionaires. During some of his presentations, he has discussed the dubious
22 proposition that his club, U.S. HAWKS, can obtain insurance for \$250.00 per year to indemnify
23 the City of San Diego for any loss associated with hang gliding or paragliding at the Gliderport,
24 but only if the Request for Proposal ("RFP") is written in such a way to allow other potential
25 concessionaires, such as his club, to bid. He further openly claims in his presentation, that if the
26 RFP is not written in a manner that his club can submit a bid of this sort, then it proves that
27 Plaintiffs and the San Diego City Council are in cahoots with one another and therefore are
28 corrupt. True and correct portions of the transcripts from KUCZEWSKI's speeches to the San

1 Diego City Council are set forth in the latter pages of this Second Amended Complaint.
2 Furthermore, KUCZEWSKI has solicited in trade magazines the support of benefactors to support
3 his bid to become concessionaire and within trade markets has likewise denigrated Plaintiffs. **For**
4 **purposes of clarity, Plaintiffs do not seek to impose liability for defamation or interference-**
5 **related statements KUCZEWSKI while he is standing in front of the City Council; rather**
6 **Plaintiffs seek liability against Defendants for the broadcast of those statements on**
7 **television, on the Internet, and in person-to-person conversations because they are neither**
8 **matters of genuine public concern and not subject to any privilege when broadcast in such a**
9 **manner.**

10 32. Many of KUCZEWSKI's statements at City Council meetings that are
11 contemporaneously broadcast on television or later republished on the Internet or in person-to-
12 person conversations, denigrate Plaintiffs and are false. KUCZEWSKI and his club members
13 have re- published these defamatory statements over and again on the Internet, specifically, on
14 KUCZEWSKI's privately run website www.ushawks.org, on www.paraglidingforum.com²,
15 www.ozreport.com, www.youtube.com, hanggliding.org, and on other websites. Essentially,
16 KUCZEWSKI has dedicated his US HAWKS website, which he claims is a public forum for his
17 club, to spread lies and rumors about Plaintiffs in an effort to defame them, negatively impact
18 their businesses, and eventually become the next concessionaire of the Gliderport. KUCZEWSKI
19 and/or members of his club, also posts videos of KUCZEWSKI's defamation on
20 www.youtube.com. While KUCZEWSKI's statements while actually standing before the Council
21 may initially have been privileged, any privilege due to the forum in which those statements were
22 made was lost by his publication, or his knowing acquiescence in the republication or rebroadcast,

23 ² On August 1, 2014, KUCZEWSKI specifically makes reference to www.paraglidingforum.com
24 – with a direct link – on his website www.ushawks.org. On the page newly linked by
25 KUCZEWSKI, the viewer finds all of KUCZEWSKI's unprivileged, false, defamatory, and
26 injurious statements republished for the world to review. Also awaiting discovery by following
27 KUCZEWSKI's direction to click on the link he set up are newly minted, additionally,
28 unprivileged, defamatory statements about Plaintiffs. By directing users of a different and
unrelated website to his own specifically cited theater of defamation within ushawks.org,
KUCZEWSKI republished his entire body of defamatory and interference-related work against
Plaintiffs.

1 of those statements on the Internet, on television, and in person-to-person discussions. Neither the
2 Internet nor television are privileged forums, and case law is in accord with this theory of liability
3 as to republication by KUCZEWSKI or at his special insistence.

4 33. We are in an age where people turn to the Internet to obtain information regarding
5 products, services, and businesses. Reviews made online are very important to both consumers
6 and businesses alike. There are many student pilots who have reported that they have come across
7 KUCZEWSKI's website when doing research about the Gliderport and its instructors and were
8 initially inclined to go to another site for training because of the defamatory information found on
9 KUCZEWSKI's website about Plaintiffs. Fortunately, some of students decided to visit the
10 Gliderport in any event, met MARIEN and JEBB themselves, and decided to stay as students.
11 Unfortunately, due to KUCZEWSKI's antics, defamatory statements, and the like, there are many
12 other potential students who have not come to the Gliderport for instruction. This is clearly
13 injurious to Plaintiffs' business, and its expressly the objective of KUCZEWSKI's conduct.

14 34. JEBB was the Vice President of Operations of a company named adaptiveARC, Inc.
15 ("ARC"). During his time with ARC, JEBB's job was to gain clients and investors in that
16 company. During his tenure, JEBB was seeking millions of dollars from potential investors. A
17 simple search of JEBB's name by any potential investor would reveal KUCZEWSKI's Internet
18 posts, KUCZEWSKI's videos, KUCZEWSKI's website, and the false defamatory information
19 about JEBB and his family members. This caused JEBB and his company to lose business.

20 35. Likewise, other pilots and students have also commented that they now visit
21 KUCZEWSKI's website to find out when he will be visiting the Gliderport. They do this to avoid
22 going to the Gliderport on those days. Many students from outside San Diego are also aware that
23 KUCZEWSKI creates such a distraction that it would be a complete waste of time for them to go
24 to San Diego any day KUCZEWSKI is present, because their instructors will be distracted with
25 KUCZEWSKI's antics.

26 36. ACA was recently notified that KUCZEWSKI and/or members of his club,
27 illegally obtained and posted a video that belonged to ACA on various websites including
28 www.youtube.com, www.ozreport.com, www.ushawks.org, and others. On May 5, 2015, Google,

1 Inc. was notified by ACA's counsel of the infringement of ACA's intellectual property. On May
2 6, 2015, Google, Inc. immediately removed the video from all websites as the video is not owned
3 by KUCZEWSKI or any of his club members. The video was posted, like all of KUCZEWSKI's
4 other material, to interfere with Plaintiffs' business to the greatest extent possible.

5 **IV. FIRST CAUSE OF ACTION**
6 **INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**
7 **[Plaintiffs ROBIN MARIEN and AIR CALIFORNIA ADVENTURE, INC.**
8 **as to Defendants ROBERT KUCZEWSKI and MARJORIE MAE HOLLAND]**

9 37. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
10 each and every preceding paragraph in this Second Amended Complaint.

11 38. ACA and MARIEN are and have been in an economic relationship since 2009.
12 Plaintiff MARIEN is the owner and principal shareholder of ACA. ACA has been the leaseholder
13 and concessionaire of the Gliderport since 1998. The relationship between ACA and MARIEN is
14 an economic relationship that results in economic benefit to MARIEN.

15 39. Defendant KUCZEWSKI has known MARIEN for approximately seven years.
16 Defendant KUCZEWSKI is a pilot who has trained and flown at the Gliderport for many years.
17 He also makes nearly weekly presentations to the San Diego City Council about MARIEN and
18 ACA that demonstrate he is fully aware of the economic relationship between ACA and
19 MARIEN.

20 40. Defendant KUCZEWSKI's actions are intended to disrupt the economic
21 relationship between ACA and MARIEN. This is evident by KUCZEWSKI's own omissions,
22 which he posts on his privately run website, www.ushawks.org, on www.youtube.com, and
23 others, and by the videotaped statements he makes at the San Diego City Council meetings, which
24 he later republishes, or acquiesces in the republication of, on those same websites.
25 KUCZEWSKI's intentional acts are designed to disrupt and interfere with the economic
26 relationship between ACA and MARIEN, and between JEBB, ACA, MARIEN and others.

27 41. Defendant KUCZEWSKI, via his privately run website, presentations at the San
28 Diego City Council meetings which are rebroadcast or republished in non-privileged forums,
statements to others in person-to-person communications or via electronic means, and in his

1 obstreperous behavior at the Gliderport, has engaged in wrongful conduct including defamation,
2 misrepresentation, and fraud.

3 42. Defendant KUCZEWSKI has continually and purposefully disrupted the economic
4 relationship between ACA and MARIEN and between JEBB and others, including MARIEN and
5 ACA, and between JEBB, ACA, MARIEN, and others.

6 43. As a result of KUCZEWSKI's wrongful conduct through defamation,
7 misrepresentation, fraud, and intentionally interfering with the business of ACA, MARIEN and
8 JEBB, it has caused ACA and MARIEN, among other things, shame, mortification, hurt feelings,
9 loss of business, ridicule, harm and suspicion of criminality.

10 44. KUCZEWSKI's wrongful conduct through defamation, misrepresentation, and
11 fraud is a substantial factor in causing ACA and MARIEN, among other things, shame,
12 mortification, hurt feelings, loss of business, ridicule, harm, and, suspicion of criminality.

13 45. KUCZEWSKI's conduct is intentionally carried on with the purpose, or with
14 conscious disregard of the probability that, it would cause substantial and lasting injury to
15 Plaintiffs. In taking such action, KUCZEWSKI, HOLLAND, and DOES 2 through 20, inclusive,
16 and each of them, have been guilty of acting with oppression, fraudulently, and/or maliciously,
17 making them amenable to the imposition of punitive damages.

18 **V. SECOND CAUSE OF ACTION**
19 **INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**
20 **[Plaintiff GABRIEL JEBB as to Defendant ROBERT KUCZEWSKI]**

21 46. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
22 each and every preceding paragraph in this Second Amended Complaint.

23 47. As more fully discussed above, JEBB and ARC were in an economic relationship
24 that would have resulted in an economic benefit to JEBB.

25 48. KUCZEWSKI was aware of the economic relationship between JEBB and ARC.

26 49. KUCZEWSKI, through wrongful conduct including, defamation,
27 misrepresentation, and fraud, has intended to disrupt the relationship between JEBB and ARC.
28 KUCZEWSKI's intentional acts are designed to disrupt and interfere with the economic
relationship.

1 50. Defendant KUCZEWSKI has continually and purposefully disrupted the economic
2 relationship between JEBB and ARC.

3 51. As more fully discussed above, JEBB and ACA are in an economic relationship
4 that would have resulted in an economic benefit to JEBB.

5 52. KUCZEWSKI was aware of the economic relationship between JEBB and ACA.

6 53. KUCZEWSKI, through wrongful conduct including, defamation,
7 misrepresentation, and fraud, has intended to disrupt the relationship between JEBB and ACA.
8 KUCZEWSKI's intentional acts are designed to disrupt and interfere with that economic
9 relationship.

10 54. Defendant KUCZEWSKI has continually and purposefully disrupted the economic
11 relationship between JEBB and ACA.

12 55. As a result of KUCZEWSKI's conduct through wrongfulness, defamation,
13 misrepresentation, and fraud, KUCZEWSKI has caused JEBB shame, mortification, hurt feelings,
14 loss of business, ridicule, harm and being cast in the light of criminality.

15 56. KUCZEWSKI's wrongful conduct through defamation, misrepresentation, and
16 fraud is a substantial factor in causing JEBB shame, mortification, hurt feelings, loss of business,
17 ridicule, harm, and suspicion of criminality.

18 57. KUCZEWSKI's conduct is intentionally carried on with the purpose, or with
19 conscious disregard of the probability, that it would cause substantial and lasting injury to
20 Plaintiffs. In taking such action, KUCZEWSKI has been guilty of acting with oppression,
21 fraudulently, and/or maliciously, making him amenable to the imposition of punitive damages.

22 **VI. THIRD CAUSE OF ACTION**

23 DEFAMATION

24 [Plaintiffs ROBIN MARIEN, GABRIEL JEBB, and ACA
as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

25 58. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
26 each and every preceding paragraph in this Second Amended Complaint.

27 59. Since approximately seven years prior to the time of the filing of this Second
28 Amended Complaint, KUCZEWSKI and others members of KUCZEWSKI's hang gliding club

1 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN,
2 JEBB, and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never
3 been taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other
4 individuals to those statements by posting links on other, unaffiliated and unrelated websites,
5 which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via
6 members of his club, also posts these videos on other websites. Each and every one of these
7 statements continue to be published, through the date of filing this Second Amended Complaint
8 on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff,
9 by refusing to remove these statements and videos and instead directing a new group of web users
10 to them. Statements published on these websites include, but are not limited to the following
11 excerpt (which is dated by the original date of publication but which was later republished by
12 KUCZEWSKI's re-direction of web viewers to his site by link to the defamatory material in
13 question).

14 60. Plaintiffs seek to impose liability as against KUCZEWSKI, HOLLAND, and
15 DOES 2 through 20, inclusive, for the whole of the defamatory content written about them on
16 KUCZEWSKI's website and others. Amongst the Defendants responsible for these injuries to
17 Plaintiffs' business and reputation are KUCZEWSKI, HOLLAND (a/k/a "Majiemae"), and DOE
18 2 (a/k/a "Eagle"). One example only of Eagle's writing of or about Plaintiffs is the following
19 posted on ushawks.org on May 9, 2015:

20 The Torrey Pines Ridge RATS ~ Well Known for posing as pilots while (sic)
21 travelling the World.

22 The DEA, the Narcotics Department, and Homeland Security have been caught
23 with (sic) there Pants Down, Hence there (sic) poor attitude.

24 Bashing their Own organisation (sic) and tolerating there (sic) Own
25 Corruption. The dealers operate right under there (sic) noses and are Laughing
26 and Bragging About it.

27 Makes the entire Torrey Pines Gliderport look like fools at the risk of everyone's
28 Lives.

1 We the People have Known about it for Years

2 ~ They're above the Law and Yet still CRIMINALS ~

3 61. For his part, KUCZEWSKI replied on May 17, 2015: “Your post sums it up
4 perfectly!!!”

5 62. The examples of libelous material of this sort are simply too extensive to quote all
6 of them here, however one need do no more than search of MARIEN, JEBB, or ACA via
7 google.com or within the ushawks.org website in order to find offending material.

8 63. The examples provided in the above paragraph, only represents an iota of the
9 significantly defamatory statements KUCZEWSKI has written or made of MARIEN, ACA and
10 JEBB on his personal website, and on other websites, and/or of the statements KUCZEWSKI has
11 made at the San Diego City Council meetings which are shown on television and which he later
12 republished on his privately run website www.ushawks.org, www.paraglidingforum.com,
13 www.ozreport.com, www.youtube.com, and on other websites.

14 64. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or, as
15 “concessionaire” throughout, and also include photographs of MARIEN, and his employees,
16 including JEBB. It is understood by those who view KUCZEWSKI’s personal website, or on other
17 websites, attend San Diego City Council Meetings, and/or watch San Diego City Council Meetings
18 on television, that KUCZEWSKI is referring to MARIEN, JEBB, ACA, and ACA’s employees,
19 and that he claims Plaintiffs, and each of them, are “thugs” and criminals. By stating Plaintiffs’
20 conduct is “almost criminally weird”, Defendant is attempting to paint Plaintiffs as criminally-
21 inclined individuals who lack safety-consciousness. Neither is true.

22 65. The entire statement described in the above paragraphs is false as it pertains to
23 MARIEN, ACA and JEBB.

24 66. By Defendant by Defendant KUCZEWSKI on his website www.ushawks.org and
25 on other websites, are libelous and slanderous, respectively, on their face. It clearly exposes
26 MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they portray MARIEN as a
27 bully who pushes people to commit suicide, someone who disrespects the public and the City of
28 San Diego, someone who is part of the mafia, someone who is corrupt, someone who illegally uses

1 his connection to keep the ACA lease, and as someone who cares more about making profits for
2 himself and ACA, than being concerned for the safety of his pilots, students and guests that visit
3 the Gliderport. These statements and the import of them are flatly false.

4 67. The statement described in the above paragraph, is available on KUCZEWSKI's
5 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
6 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students,
7 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
8 and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's community as
9 a whole, and by and all persons who have accessed KUCZEWSKI's website, and any other like
10 websites, who have been present, or, who have watched the San Diego City Council meetings on
11 television.

12 68. As a proximate result of the above-described publications, Plaintiffs MARIEN and
13 ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
14 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
15 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
16 tortuous activities.

17 69. The above-described publication is not privileged because it was published by
18 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and
19 the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
20 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
21 damages in an amount to be established by proof at trial.

22 70. To the extent any of these statements were ever privileged under California law,
23 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
24 republication of defamatory comments in a non-privileged forum.

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**VII. FOURTH CAUSE OF ACTION
DEFAMATION**

[Plaintiffs ROBIN MARIEN and ACA
as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

71. Plaintiffs reallege and incorporate by reference as through fully set forth herein, each and every preceding paragraph in this Second Amended Complaint.

72. Since approximately seven years prior to the time of the filing of this Second Amended Complaint, KUCZEWSKI and others members of KUCZEWSKI's hang gliding club have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other individuals to those statements by posting links on other, unaffiliated and unrelated websites, which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via members of his club, also posts these videos on other websites. Each and every one of these statements continue to be published, through the date of filing this Second Amended Complaint on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff, by refusing to remove these statements and videos and instead directing a new group of web users to them. Statements published on these websites include, but are not limited to the following excerpt (which is dated by the original date of publication but which was later republished by KUCZEWSKI's re-direction of web viewers to his site by link to the defamatory material in question):

(A) On October 24, 2014: "Here in San Diego, paraglider crashes are often reported by the press as "hang glider" crashes. I wonder where they get that information? Imagine that you're a reporter doing a story on a rescue. Who are you going to call? The only public number for the Torrey Pines site is the concessionaire itself. Hmmm... So why do you think the press might be continually reporting paragliding crashes as "hang gliding" crashes?"

[Attached hereto as Exhibit "B" is a true and correct copy of this website post]

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1 73. The example provided in the above paragraph, only represents an iota of the
2 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his
3 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the
4 San Diego City Council meetings which are shown on television and which he later republished
5 on his privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
6 www.youtube.com, and on other websites. With this statement, KUCZEWSKI accuses Plaintiffs
7 of purposefully misdirecting others as to the nature of incidents occurring at the site, calling into
8 question Plaintiffs' veracity and dedication to safety, and thereby Plaintiffs suitability as
9 leaseholder and concessionaire.

10 74. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or,
11 as "concessionaire" throughout, and also include photographs of MARIEN, and his employees,
12 including JEBB. It is understood by those who view KUCZEWSKI's personal website, or on
13 other websites, attend San Diego City Council Meetings, and/or watch San Diego City Council
14 Meetings on television, that KUCZEWSKI is referring to MARIEN, JEBB, ACA, and ACA's
15 employees, and that he claims Plaintiffs, and each of them, are "thugs" and criminals.

16 75. The entire statement described in the above paragraphs is false as it pertains to
17 MARIEN, ACA and JEBB.

18 76. The statements written and spoken by Defendant KUCZEWSKI on his website
19 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face.
20 It clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
21 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
22 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
23 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
24 cares more about making profits for himself and ACA, than being concerned for the safety of his
25 pilots, students and guests that visit the Gliderport. These statements convey the impression that
26 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
27 flatly false.

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77. The statement described in the above paragraph, is available on KUCZEWSKI's website, and potentially on other websites, to be viewed by anyone who has access to the internet, which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students, potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's community as a whole, and by and all persons who have accessed KUCZEWSKI's website, and any other like websites, who have been present, or, who have watched the San Diego City Council meetings on television.

78. As a proximate result of the above-described publications, Plaintiffs MARIEN and ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business, ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended Complaint. These damages will continue unabated until Defendants, and each of them, cease their tortuous activities.

79. The above-described publication is not privileged because it was published by Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive damages in an amount to be established by proof at trial.

80. To the extent any of these statements were ever privileged under California law, each such statement lost any previously applicable privilege due to requested, or acquiesced or, republication of defamatory comments in a non-privileged forum.

VIII. FIFTH CAUSE OF ACTION

DEFAMATION

[Plaintiffs ROBIN MARIEN and ACA
as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

81. Plaintiffs reallege and incorporate by reference as through fully set forth herein, each and every preceding paragraph in this Second Amended Complaint.

82. Since approximately seven years prior to the time of the filing of this Second Amended Complaint, KUCZEWSKI and others members of KUCZEWSKI's hang gliding club

1 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN and
2 ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been taken
3 down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other individuals to
4 those statements by posting links on other, unaffiliated and unrelated websites, which direct users
5 to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via members of his club, also
6 posts these videos on other websites. Each and every one of these statements continue to be
7 published, through the date of filing this Second Amended Complaint on these websites.
8 KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff, by refusing to
9 remove these statements and videos and instead directing a new group of web users to them.
10 Statements published on these websites include, but are not limited to the following excerpt (which
11 is dated by the original date of publication but which was later republished by KUCZEWSKI's re-
12 direction of web viewers to his site by link to the defamatory material in question):

13 (B) On November 11, 2014: "My friend arrived just about the time that I tied
14 the glider to the roof of my van. I'd been thinking long and hard about the choice
15 in front of me. I thought about all the times that David Jebb and Gabe Jebb and
16 Robin Marien had bullied people and threatened them with arrest. I thought
17 about how they've always gotten away with it because everyone in the past
18 (including myself) had always backed down. Then I thought about Rosa Parks.
19 The choice was clear: I spent the good part of the evening and into the next
20 morning in jail. It was an extremely unpleasant experience, but I accepted it as
21 the price of justice." [Attached hereto as Exhibit "C" is a true and correct copy
22 of this website post]

23 83. The example provided in the above paragraph, only represents an iota of the
24 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his
25 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the
26 San Diego City Council meetings which are shown on television and which he later republished on
27 his privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
28 www.youtube.com, and on other websites. With this statement, KUCZEWSKI characterizes

1 Plaintiffs as bullies who inappropriately threaten people with arrest due to the previous owner's
2 status as a former police officer. KUCZEWSKI's claims of bullying and corruption call into
3 question the Plaintiffs suitability to act as leaseholder and concessionaire of the facility.

4 84. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or, as
5 "concessionaire" throughout, and also include photographs of MARIEN, and his employees,
6 including JEBB. It is understood by those who view KUCZEWSKI's personal website, or on other
7 websites, , and/or watch San Diego City Council Meetings on television, that KUCZEWSKI is
8 referring to MARIEN, JEBB, ACA, and ACA's employees, and that he claims Plaintiffs, and each
9 of them, are "thugs" and criminals.

10 85. The entire statement described in the above paragraphs is false as it pertains to
11 MARIEN, ACA and JEBB.

12 86. The statements written and spoken by Defendant KUCZEWSKI on his website
13 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face. It
14 clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
15 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
16 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
17 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
18 cares more about making profits for himself and ACA, than being concerned for the safety of his
19 pilots, students and guests that visit the Gliderport. These statements convey the impression that
20 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
21 flatly false.

22 87. The statement described in the above paragraph, is available on KUCZEWSKI's
23 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
24 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students,
25 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
26 and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's community as
27 a whole, and by and all persons who have accessed KUCZEWSKI's website, and any other like

28 ///

1 websites, who have been present, or, who have watched the San Diego City Council meetings on
2 television.

3 88. As a proximate result of the above-described publications, Plaintiffs MARIEN and
4 ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
5 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
6 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
7 tortuous activities.

8 89. The above-described publication is not privileged because it was published by
9 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and
10 the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
11 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
12 damages in an amount to be established by proof at trial.

13 90. To the extent any of these statements were ever privileged under California law,
14 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
15 republication of defamatory comments in a non-privileged forum.

16 **IX. SIXTH CAUSE OF ACTION**
17 **DEFAMATION**

18 [Plaintiffs ROBIN MARIEN and ACA
19 as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

20 91. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
21 each and every preceding paragraph in this Second Amended Complaint.

22 92. Since approximately seven years prior to the time of the filing of this Second
23 Amended Complaint, KUCZEWSKI and others members of KUCZEWSKI's hang gliding club
24 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN
25 and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been
26 taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other
27 individuals to those statements by posting links on other, unaffiliated and unrelated websites,
28 which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via
members of his club, also posts these videos on other websites. Each and every one of these

1 statements continue to be published, through the date of filing this Second Amended Complaint
2 on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff,
3 by refusing to remove these statements and videos and instead directing a new group of web users
4 to them. Statements published on these websites include, but are not limited to the following
5 excerpt (which is dated by the original date of publication but which was later republished by
6 KUCZEWSKI's re-direction of web viewers to his site by link to the defamatory material in
7 question):

8 (D) On May 4, 2015: "This is what you're up against. Robin and Jebb were at the
9 mafia table having lunch. Robin drives away with David Jebb, in a Red
10 Corvette....The Godfather." ³ [Attached hereto as Exhibit "D" is a true and correct
11 copy of this website post]

12 93. The example provided in the above paragraph, only represents an iota of the
13 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his
14 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the
15 San Diego City Council meetings which are shown on television and which he later republished
16 on his privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
17 www.youtube.com, and on other websites.

18 94. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or, as
19 "concessionaire" throughout, and also include photographs of MARIEN, and his employees,
20 including JEBB. It is understood by those who view KUCZEWSKI's personal website, or on
21 other websites, and/or watch San Diego City Council Meetings on television, that KUCZEWSKI
22 is referring to MARIEN, JEBB, ACA, and ACA's employees, and that he claims Plaintiffs, and
23 each of them, are "thugs" and criminals.

24 95. The entire statement described in the above paragraphs is false as it pertains to
25 MARIEN, ACA and JEBB.

26 ///

27 _____
28 ³ A picture of Robin Marien and David Jebb is inserted under this text.

1 96. The statements written and spoken by Defendant KUCZEWSKI on his website
2 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face.
3 It clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
4 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
5 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
6 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
7 cares more about making profits for himself and ACA, than being concerned for the safety of his
8 pilots, students and guests that visit the Gliderport. These statements convey the impression that
9 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
10 flatly false.

11 97. The statement described in the above paragraph, is available on KUCZEWSKI's
12 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
13 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students,
14 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
15 and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's community as
16 a whole, and by and all persons who have accessed KUCZEWSKI's website, and any other like
17 websites, who have been present, or, who have watched the San Diego City Council meetings on
18 television.

19 98. As a proximate result of the above-described publications, Plaintiffs MARIEN and
20 ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
21 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
22 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
23 tortuous activities.

24 99. The above-described publication is not privileged because it was published by
25 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and
26 the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
27 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive damages
28 in an amount to be established by proof at trial.

1 100. To the extent any of these statements were ever privileged under California law,
2 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
3 republication of defamatory comments in a non-privileged forum.

4 **X. SEVENTH CAUSE OF ACTION**
5 **DEFAMATION**

6 [Plaintiffs ROBIN MARIEN and ACA
7 as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

8 101. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
9 each and every preceding paragraph in this Second Amended Complaint.

10 102. Since approximately seven years prior to the time of the filing of this Second
11 Amended Complaint, KUCZEWSKI and others members of KUCZEWSKI's hang gliding club
12 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN and
13 ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been taken
14 down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other individuals to
15 those statements by posting links on other, unaffiliated and unrelated websites, which direct users
16 to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via members of his club, also
17 posts these videos on other websites. Each and every one of these statements continue to be
18 published, through the date of filing this Second Amended Complaint on these websites.
19 KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff, by refusing to
20 remove these statements and videos and instead directing a new group of web users to them.
21 Statements published on these websites include, but are not limited to the following excerpt (which
22 is dated by the original date of publication but which was later republished by KUCZEWSKI's re-
direction of web viewers to his site by link to the defamatory material in question):

23 (E) On June 13, 2015: "There have been numerous reports of paragliding being
24 used as a "poor man's air force" for both legal and illegal purposes. Uses
25 includedrug smuggling, surveillance, and law enforcement. It's been long
26 suspected that segments of the paragliding community are involved with some
27 of these legal and/or illegal aspects of the sport. This has particular relevance
28 to hang gliding since it may explain why the sport of paragliding seems to have

1 a “protected” status at places like Torrey Pines and USHPA.” KUCZEWSKI
2 then re-posted photographs that had originally been posted by another user
3 named “Eagle”. These photographs show paragliders in the air, aiming guns.
4 [Attached hereto as Exhibit “E” is a true and correct copy of this website post]

5 103. The example provided in the above paragraph, must be viewed in connection with
6 KUCZEWSKI’s several other claims that Plaintiffs represent individuals who take or deal illegal
7 narcotics on the site. Even still, this represents only an iota of the significantly defamatory
8 statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his personal website, and on
9 other websites, and/or of the statements KUCZEWSKI has made at the San Diego City Council
10 meetings which are shown on television and which he later republished on his privately run
11 website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com, www.youtube.com,
12 and on other websites.

13 104. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or, as
14 “concessionaire” throughout, and also include photographs of MARIEN, and his employees,
15 including JEBB. It is understood by those who view KUCZEWSKI’s personal website, or on other
16 websites, , and/or watch San Diego City Council Meetings on television, that KUCZEWSKI is
17 referring to MARIEN, JEBB, ACA, and ACA’s employees, and that he claims Plaintiffs, and each
18 of them, are “thugs” and criminals.

19 105. The entire statement described in the above paragraphs is false as it pertains to
20 MARIEN, ACA and JEBB.

21 106. The statements written and spoken by Defendant KUCZEWSKI on his website
22 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face. It
23 clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
24 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
25 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
26 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
27 cares more about making profits for himself and ACA, than being concerned for the safety of his
28 pilots, students and guests that visit the Gliderport. These statements convey the impression that

1 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
2 flatly false.

3 107. The statement described in the above paragraph, is available on KUCZEWSKI's
4 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
5 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students,
6 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
7 and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's community as
8 a whole, and by and all persons who have accessed KUCZEWSKI's website, and any other like
9 websites, who have been present, or, who have watched the San Diego City Council meetings on
10 television.

11 108. As a proximate result of the above-described publications, Plaintiffs MARIEN and
12 ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
13 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
14 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
15 tortuous activities.

16 109. The above-described publication is not privileged because it was published by
17 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and
18 the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
19 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
20 damages in an amount to be established by proof at trial.

21 110. To the extent any of these statements were ever privileged under California law,
22 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
23 republication of defamatory comments in a non-privileged forum.

24 **XI. EIGHTH CAUSE OF ACTION**
25 **DEFAMATION**

26 [Plaintiffs ROBIN MARIEN and ACA
27 as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

28 111. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
each and every preceding paragraph in this Second Amended Complaint.

1 112. Since approximately seven years prior to the time of the filing of this Second
2 Amended Complaint, KUCZEWSKI and other members of KUCZEWSKI's hang gliding club
3 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN
4 and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been
5 taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other
6 individuals to those statements by posting links on other, unaffiliated and unrelated websites,
7 which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via
8 members of his club, also posts these videos on other websites. Each and every one of these
9 statements continue to be published, through the date of filing this Second Amended Complaint
10 on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff,
11 by refusing to remove these statements and videos and instead directing a new group of web users
12 to them. Statements published on these websites include, but are not limited to (which is dated by
13 the original date of publication but which was later republished by KUCZEWSKI's re-direction of
14 web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on
15 the Internet of several videos of defamatory statements he has made during his attendance at San
16 Diego City Council meetings.

17 113. By republishing the videos of his statements at the San Diego City Council
18 meetings on his privately-run website, and directing others to that site, KUCZEWSKI waives any
19 and all privileges associated with the protection of City public forums and places each and every
20 claim within related to this particular conduct within the limitations period. KUCZEWSKI
21 himself, or via members of his club, also posts these videos on www.youtube.com. Furthermore,
22 these videos are broadcasted to the public on City TV. Below is an excerpt taken from a video
23 found on KUCZEWSKI's website. The excerpt begins with the date in which KUCZEWSKI
24 presented the following information to the San Diego City Council, all of which continues to be
25 published on these websites through the date of the filing of this Second Amended Complaint:

26 (B) June 7, 2011: "My name is Bob Kuczewski and I have spoken here many
27 times. Today, I am here to give voice to Lynne Perry who took her own life
28 earlier this year. I had asked to feature Lynne in our newsletter and this was

1 her reply: 'Bob, thanks for thinking of me, but I need to decline at this time. I
2 have been the victim of much bullying by some of the in pilots. I'm very
3 selective as to who I fly with and I will leave a site if certain other pilots are
4 there. Two years ago, I rarely left my home and did not fly for a period of five
5 months due to fear of a vicious verbal assault by Josh Gelb during a club
6 event. This was not an isolated event, just the final proverbial straw. The fact
7 that the other pilots just stood by and let it happen led me to believe that they
8 supported such behavior. I am still not emotionally healed and need to stay
9 incognito as much as possible. You may have noticed that I do not post on the
10 SDHGPA forum even though I am the owner. These days I typically fly with a
11 hang glider pilots and only a select few paraglider pilots. Blossom is my
12 passion and I am not going to let my fear get in the way of losing this site
13 because I didn't do anything. I wish that I were as thick skinned as you and
14 able to keep going in spite of the verbal abuse. When David or Gabe Jebb
15 bullied me, I let it go because I knew they bullied almost everyone. But when
16 it came from pilots who I thought were my friends, it devastated me. Thanks
17 again for thinking of me, but maybe at a later date. Lynne Perry, Paraglider
18 Pilot, Consulting Geologist, Alpine, California.' Now she's gone. We need
19 citizen oversight at the Torrey Pines Gliderport, Ms. Lightner. That's in your
20 district. The Torrey Pines City Park Advisory Board was formed by a lawsuit
21 that this City lost because they were not providing adequate oversight at that
22 Gliderport. The Advisory Board was formed, but it was not allowed to address
23 any of the issues at that Gliderport, any of the bullying, any of the misconduct,
24 any of the banning of pilots. It was not allowed to discuss any of the
25 management issues at that Gliderport. Instead they played games rearranging
26 the furniture. Where are we going to put the grass? Where are we going to put
27 the parking? The Gliderport doesn't need any discussion about grass and
28

1 parking, it needs discussion about the bullying and the management problems
2 at that site.”

3 114. The example provided in the above paragraph, only represents an iota of the
4 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his
5 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the
6 San Diego City Council meetings which are shown on television and which he later republished on
7 his privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
8 www.youtube.com, and on other websites.

9 115. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or, as
10 “concessionaire” throughout, and also include photographs of MARIEN, and his employees,
11 including JEBB. It is understood by those who view KUCZEWSKI’s personal website, or on other
12 websites, , and/or watch San Diego City Council Meetings on television, that KUCZEWSKI is
13 referring to MARIEN, JEBB, ACA, and ACA’s employees, and that he claims Plaintiffs, and each
14 of them, are “thugs” and criminals.

15 116. The entire statement described in the above paragraphs is false as it pertains to
16 MARIEN, ACA and JEBB.

17 117. The statements written and spoken by Defendant KUCZEWSKI on his website
18 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face. It
19 clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
20 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
21 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
22 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
23 cares more about making profits for himself and ACA, than being concerned for the safety of his
24 pilots, students and guests that visit the Gliderport. These statements convey the impression that
25 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
26 flatly false.

27 118. The statement described in the above paragraph, is available on KUCZEWSKI’s
28 website, and potentially on other websites, to be viewed by anyone who has access to the internet,

1 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students,
2 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
3 and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's community as
4 a whole, and by and all persons who have accessed KUCZEWSKI's website, and any other like
5 websites, who have been present, or, who have watched the San Diego City Council meetings on
6 television.

7 119. As a proximate result of the above-described publications, Plaintiffs MARIEN and
8 ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
9 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
10 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
11 tortuous activities.

12 120. The above-described publication is not privileged because it was published by
13 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and
14 the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
15 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
16 damages in an amount to be established by proof at trial.

17 121. To the extent any of these statements were ever privileged under California law,
18 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
19 republication of defamatory comments in a non-privileged forum.

20 **XII. NINTH CAUSE OF ACTION**
21 **DEFAMATION**

22 [Plaintiffs ROBIN MARIEN and ACA
as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

23 122. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
24 each and every preceding paragraph in this Second Amended Complaint.

25 123. Since approximately seven years prior to the time of the filing of this Second
26 Amended Complaint, KUCZEWSKI and other members of KUCZEWSKI's hang gliding club
27 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN and
28 ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been taken

1 down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other individuals to
2 those statements by posting links on other, unaffiliated and unrelated websites, which direct users
3 to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via members of his club, also
4 posts these videos on other websites. Each and every one of these statements continue to be
5 published, through the date of filing this Second Amended Complaint on these websites.
6 KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff, by refusing to
7 remove these statements and videos and instead directing a new group of web users to them.
8 Statements published on these websites include, but are not limited to (which is dated by the
9 original date of publication but which was later republished by KUCZEWSKI's re-direction of web
10 viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on the
11 Internet of several videos of defamatory statements he has made during his attendance at San
12 Diego City Council meetings.

13 124. KUCZEWSKI has also posted several videos of his attendance at the San Diego
14 City Council meetings. By republishing the videos of his statements at the San Diego City Council
15 meetings on his privately-run website, KUCZEWSKI waives any and all privileges associated with
16 the protection of City public forums. KUCZEWSKI himself, or via members of his club, also posts
17 these videos on www.youtube.com. Furthermore, these videos are broadcasted to the public on
18 City TV. Below is an excerpt taken from a video found on

19 KUCZEWSKI's website. The excerpt begins with the date in which KUCZEWSKI
20 presented the following information to the San Diego City Council, all of which continues to be
21 published on these websites through the date of the filing of this Second Amended Complaint:

22 (B) September 25, 2012: "This is the Torrey Pines lessee. This is what we see. This
23 is Robin Marien. This is just September 17th, 2012. Nicely pixilated, but I think
24 you can see through the pixels there. Next slide please. Here he is again twice as
25 nice, giving me two of those lovely signs that are not even allowed to be shown
26 in this Council or spoken, although somebody slipped through. Next slide please.
27 And again. Next slide please. And again. Next slide please. Robin Marien has a
28 free lease. Free lease to the multi-million dollar Torrey Pines Gliderport with no

1 citizen oversight. That's the most important point. No citizen oversight. Next
2 slide please. Does Robin look like a guy who needs no citizen oversight? Does
3 he? Does he look like the guy that should be running the Torrey Pines
4 Gliderport? It's a world class facility. We have people from all over the world
5 who come to fly at this site, come to enjoy this site and this is the thug who's
6 running it....

7 125. The example provided in the above paragraph, only represents an iota of the
8 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his
9 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the
10 San Diego City Council meetings which are shown on television and which he later republished
11 on his privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
12 www.youtube.com, and on other websites.

13 126. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or, as
14 "concessionaire" throughout, and also include photographs of MARIEN, and his employees,
15 including JEBB. It is understood by those who view KUCZEWSKI's personal website, or on
16 other websites, , and/or watch San Diego City Council Meetings on television, that KUCZEWSKI
17 is referring to MARIEN, JEBB, ACA, and ACA's employees, and that he claims Plaintiffs, and
18 each of them, are "thugs" and criminals.

19 127. The entire statement described in the above paragraphs is false as it pertains to
20 MARIEN, ACA and JEBB.

21 128. The statements written and spoken by Defendant KUCZEWSKI on his website
22 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face.
23 It clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
24 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
25 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
26 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
27 cares more about making profits for himself and ACA, than being concerned for the safety of his
28 pilots, students and guests that visit the Gliderport. These statements convey the impression that

1 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
2 flatly false.

3 129. The statement described in the above paragraph, is available on KUCZEWSKI's
4 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
5 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students,
6 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
7 and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's community as
8 a whole, and by and all persons who have accessed KUCZEWSKI's website, and any other like
9 websites, who have been present, or, who have watched the San Diego City Council meetings on
10 television.

11 130. As a proximate result of the above-described publications, Plaintiffs MARIEN and
12 ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
13 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
14 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
15 tortuous activities.

16 131. The above-described publication is not privileged because it was published by
17 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and
18 the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
19 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
20 damages in an amount to be established by proof at trial.

21 132. To the extent any of these statements were ever privileged under California law,
22 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
23 republication of defamatory comments in a non-privileged forum.

24 **XIII. TENTH CAUSE OF ACTION**
25 **DEFAMATION**

26 [Plaintiffs ROBIN MARIEN and ACA
as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

27 133. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
28 each and every preceding paragraph in this Second Amended Complaint.

1 134. Since approximately seven years prior to the time of the filing of this Second
2 Amended Complaint, KUCZEWSKI and other members of KUCZEWSKI's hang gliding club
3 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN
4 and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been
5 taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other
6 individuals to those statements by posting links on other, unaffiliated and unrelated websites,
7 which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via
8 members of his club, also posts these videos on other websites. Each and every one of these
9 statements continue to be published, through the date of filing this Second Amended Complaint
10 on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff,
11 by refusing to remove these statements and videos and instead directing a new group of web users
12 to them. Statements published on these websites include, but are not limited to (which is dated by
13 the original date of publication but which was later republished by KUCZEWSKI's re-direction of
14 web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on
15 the Internet of several videos of defamatory statements he has made during his attendance at San
16 Diego City Council meetings.

17 135. KUCZEWSKI has also posted several videos of his attendance at the San Diego
18 City Council meetings. By republishing the videos of his statements at the San Diego City
19 Council meetings on his privately-run website, KUCZEWSKI waives any and all privileges
20 associated with the protection of City public forums. KUCZEWSKI himself, or via members of
21 his club, also posts these videos on www.youtube.com. Furthermore, these videos are broadcasted
22 to the public on City TV. Below is an excerpt taken from a video found on KUCZEWSKI's
23 website. The excerpt begins with the date in which KUCZEWSKI presented the following
24 information to the San Diego City Council, all of which continues to be published on these
25 websites through the date of the filing of this Second Amended Complaint:

26 (C) March 5, 2013: "Over the years, I've been contacted by many people who
27 have been bullied, abused, and in some cases even beaten by the Torrey
28 Pines' concessionaire or their staff. In most cases, they've asked me to

1 remain quiet about it because they feared retribution. In other cases, they
2 have gotten financial settlements with an agreement to remain silent, so I
3 can't tell their stories. But I can tell Lynne's story. Lynne was a paraglider
4 pilot who ended up taking her own life in 2011. These are her own words to
5 me when I asked about featuring her site preservation efforts in our Torrey
6 Hawks Club Newsletter. Lynne wrote: 'Bob, thanks for thinking of me, but
7 I need to decline at this time. I have been the victim of much bullying by
8 some of the in pilots. I'm very selective as to who I fly with and will leave
9 the site if other certain pilots are there. Two years ago, I rarely left my
10 home and did not fly for a period of five months.' This is someone who
11 loves flying. 'Did not fly for a period of five months due to fear of a vicious
12 verbal assault by Josh Gelb during a club event. This was not an isolated
13 event, just the final proverbial straw. The fact that the other pilots just stood
14 by and let it happen led me to believe that the supported this behavior.' She
15 goes on to say 'I am still not emotionally healed and need to stay incognito
16 as much as possible. You may have noticed that I do not post to the San
17 Diego Hang Gliding Paragliding Association forum even though I am the
18 owner of that forum. These days I typically fly with a hang glider pilots and
19 only a few select paraglider pilots. Blossom'... which is a local flying site...
20 'is my passion and I am not going to let my fear in the way of losing the site
21 because I didn't do anything. I wish that I were as thick skinned as you.'
22 Talking about me. 'And able to keep going in spite of the verbal abuse.'
23 She says 'When David or Gabe Jebb bullied me.' David Jebb was the
24 concessionaire for ten years. He may still be the concessionaire, no one will
25 say. 'When David or Gabe Jebb bullied me, I let it go because I knew they
26 bullied almost everyone.' Isn't that a sad statement? The bullying there is so
27 common that she just accepts it because it happens to everyone. 'But when
28 it came from pilots whom I thought were my friends, it devastated me.

1 Thanks again for thinking of me, but maybe at a later date.’ There was no
2 later date. She eventually took her own life. She was a pilot in Alpine. She
3 doesn’t have a council representative on this staff because she’s from
4 Alpine. Next slide please. I’m asking this council to stop the bullying.
5 That’s the guy who currently claims he is the concessionaire. Those are four
6 different occasions. He’s giving people the finger. Please restart the
7 Advisory Board.”

8 136. The example provided in the above paragraph, only represents an iota of the
9 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his
10 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the
11 San Diego City Council meetings which are shown on television and which he later republished on
12 his privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
13 www.youtube.com, and on other websites.

14 137. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or, as
15 “concessionaire” throughout, and also include photographs of MARIEN, and his employees,
16 including JEBB. It is understood by those who view KUCZEWSKI’s personal website, or on other
17 websites, , and/or watch San Diego City Council Meetings on television, that KUCZEWSKI is
18 referring to MARIEN, JEBB, ACA, and ACA’s employees, and that he claims Plaintiffs, and each
19 of them, are “thugs” and criminals.

20 138. The entire statement described in the above paragraphs is false as it pertains to
21 MARIEN, ACA and JEBB.

22 139. The statements written and spoken by Defendant KUCZEWSKI on his website
23 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face. It
24 clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
25 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
26 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
27 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
28 cares more about making profits for himself and ACA, than being concerned for the safety of his

1 pilots, students and guests that visit the Gliderport. These statements convey the impression that
2 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
3 flatly false.

4 140. The statement described in the above paragraph, is available on KUCZEWSKI's
5 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
6 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students,
7 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
8 and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's community as
9 a whole, and by and all persons who have accessed KUCZEWSKI's website, and any other like
10 websites, who have been present, or, who have watched the San Diego City Council meetings on
11 television.

12 141. As a proximate result of the above-described publications, Plaintiffs MARIEN and
13 ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
14 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
15 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
16 tortuous activities.

17 142. The above-described publication is not privileged because it was published by
18 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and
19 the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
20 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
21 damages in an amount to be established by proof at trial.

22 143. To the extent any of these statements were ever privileged under California law,
23 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
24 republication of defamatory comments in a non-privileged forum.

25 ///

26 ///

27 ///

28 ///

**XIV. ELEVENTH CAUSE OF ACTION
DEFAMATION**

[Plaintiffs ROBIN MARIEN and ACA
as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

144. Plaintiffs reallege and incorporate by reference as through fully set forth herein, each and every preceding paragraph in this Second Amended Complaint.

145. Since approximately seven years prior to the time of the filing of this Second Amended Complaint, KUCZEWSKI and other members of KUCZEWSKI's hang gliding club have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other individuals to those statements by posting links on other, unaffiliated and unrelated websites, which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via members of his club, also posts these videos on other websites. Each and every one of these statements continue to be published, through the date of filing this Second Amended Complaint on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff, by refusing to remove these statements and videos and instead directing a new group of web users to them. Statements published on these websites include, but are not limited to (which is dated by the original date of publication but which was later republished by KUCZEWSKI's re-direction of web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on the Internet of several videos of defamatory statements he has made during his attendance at San Diego City Council meetings.

146. KUCZEWSKI has also posted several videos of his attendance at the San Diego City Council meetings. By republishing the videos of his statements at the San Diego City Council meetings on his privately-run website, KUCZEWSKI waives any and all privileges associated with the protection of City public forums. KUCZEWSKI himself, or via members of his club, also posts these videos on www.youtube.com. Furthermore, these videos are broadcasted to the public on City TV. Below is an excerpt taken from a video found on KUCZEWSKI's website. The excerpt begins with the date in which KUCZEWSKI presented the following

1 information to the San Diego City Council, all of which continues to be published on these
2 websites through the date of the filing of this Second Amended Complaint:

3 (D) March 19, 2013: "I did a brief internet search of various incidents that have
4 happened at the Gliderport over the last three years and I limited it to just three
5 years. March 6, 2013, less than two weeks ago we had a paraglider rescued from
6 the cliffs near Torrey Pines. December 24th, that was just three months ago, we
7 had a paraglider rescued from Torrey Pines Gliderport, taken to La Jolla
8 hospital. By the way, I tried to be fair to various news agencies and get a
9 smattering of all so we have the Union Tribune, we have the La Jolla Light, we
10 have Channel 10, Channel 8. Woman dies, Torrey Pines paraglider crash - that
11 was less than a year ago. Just this past year. Paraglider hurt in Torrey Pines area
12 crash, August 12th, 2011. This is Channel 10 news. July 24, 2011, paraglider
13 hurt after collision at Torrey Pines Gliderport. This was two students that
14 collided into each other. Two students that were supposed to be on a radio and
15 supposed to be being safeguarded by the instructors at the Gliderport to keep
16 them from colliding into each other. This was a collision between a hang glider
17 and an RC pilot. In fact, that was my hang glider and it was my friend flying that
18 hang glider. His wrists broken. This was not even reported in the news at all.
19 August 8, 2010, two paragliders collide in mid-air over Torrey Pines. Again, two
20 students supposedly on radio with the concession's instructors should be keeping
21 them safe, instead they are colliding into each other. I actually witnessed this as
22 well. After one of the incidents, we have Sergeant Bill Bender saying 'After the
23 accident there is a report that's taken. The report is done by officials here at the
24 Gliderport. That's used to determine what the outcome of the accident it was and
25 how it can be prevented in the future.' How do you think they're doing? Now, I
26 want to key on the fact that he says 'officials here at the Gliderport do the
27 report'. What officials are at the Gliderport? That would be this guy (pointing a
28 picture of Robin Marien). This is the guy that runs the Gliderport and makes the

1 money from throwing people off that cliff. He's the guy doing the report? We
2 need oversight of that Gliderport. San Diego City Council please reactivate the
3 Torrey Pines City Park Advisory Board so that there's some responsible and
4 independent oversight at the Torrey Pines Gliderport. That advisory Board is
5 made up of citizens and clubs who want to fly and use that park safely. Please
6 reactivate the Torrey Pines City Park Advisory Board before someone else gets
7 bullied, beaten, or airlifted. Thank you."

8 147. The example provided in the above paragraph, only represents an iota of the
9 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on
10 his personal website, and on other websites, and/or of the statements KUCZEWSKI has made
11 at the San Diego City Council meetings which are shown on television and which he later
12 republished on his privately run website www.ushawks.org, www.paraglidingforum.com,
13 www.ozreport.com, www.youtube.com, and on other websites.

14 148. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or, as
15 "concessionaire" throughout, and also include photographs of MARIEN, and his employees,
16 including JEBB. It is understood by those who view KUCZEWSKI's personal website, or on
17 other websites, , and/or watch San Diego City Council Meetings on television, that KUCZEWSKI
18 is referring to MARIEN, JEBB, ACA, and ACA's employees, and that he claims Plaintiffs, and
19 each of them, are "thugs" and criminals.

20 149. The entire statement described in the above paragraphs is false as it pertains to
21 MARIEN, ACA and JEBB.

22 150. The statements written and spoken by Defendant KUCZEWSKI on his website
23 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face.
24 It clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
25 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
26 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
27 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
28 cares more about making profits for himself and ACA, than being concerned for the safety of his

1 pilots, students and guests that visit the Gliderport. These statements convey the impression that
2 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
3 flatly false.

4 151. The statement described in the above paragraph, is available on KUCZEWSKI's
5 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
6 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students,
7 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
8 and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's community
9 as a whole, and by and all persons who have accessed KUCZEWSKI's website, and any other
10 like websites, who have been present, or, who have watched the San Diego City Council meetings
11 on television.

12 152. As a proximate result of the above-described publications, Plaintiffs MARIEN
13 and ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
14 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
15 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
16 tortuous activities.

17 153. The above-described publication is not privileged because it was published by
18 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA
19 and the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
20 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
21 damages in an amount to be established by proof at trial.

22 154. To the extent any of these statements were ever privileged under California law,
23 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
24 republication of defamatory comments in a non-privileged forum.

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27 ///

28 ///

**XV. TWELFTH CAUSE OF ACTION
DEFAMATION**

[Plaintiffs ROBIN MARIEN and ACA
as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

155. Plaintiffs reallege and incorporate by reference as through fully set forth herein, each and every preceding paragraph in this Second Amended Complaint.

156. Since approximately seven years prior to the time of the filing of this Second Amended Complaint, KUCZEWSKI and other members of KUCZEWSKI's hang gliding club have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other individuals to those statements by posting links on other, unaffiliated and unrelated websites, which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via members of his club, also posts these videos on other websites. Each and every one of these statements continue to be published, through the date of filing this Second Amended Complaint on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff, by refusing to remove these statements and videos and instead directing a new group of web users to them. Statements published on these websites include, but are not limited to (which is dated by the original date of publication but which was later republished by KUCZEWSKI's re-direction of web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on the Internet of several videos of defamatory statements he has made during his attendance at San Diego City Council meetings.

157. KUCZEWSKI has also posted several videos of his attendance at the San Diego City Council meetings. By republishing the videos of his statements at the San Diego City Council meetings on his privately-run website, KUCZEWSKI waives any and all privileges associated with the protection of City public forums. KUCZEWSKI himself, or via members of his club, also posts these videos on www.youtube.com. Furthermore, these videos are broadcasted to the public on City TV. Below is an excerpt taken from a video found on KUCZEWSKI's website. The excerpt begins with the date in which KUCZEWSKI presented the following

1 information to the San Diego City Council, all of which continues to be published on these
2 websites through the date of the filing of this Second Amended Complaint:

3 (E) April 9, 2013: “Hello, I’m here to talk about possibly a golden opportunity
4 for the Council today, for the Council to cooperate with Mayor Filner. Last
5 week, a delegation of five members of our club, the Torrey Hawks Hang
6 Gliding Club were able to meet with Mayor Filner and we presented him with a
7 series of slides about the Gliderport. We presented a series of slides about the
8 accidents that have happened at the Gliderport. Accidents that were actually
9 overseen by the concessionaire. The concessionaire was flying too many
10 students too close and they actually collided. These were students that were
11 supposedly under control of the concessionaire’s instructors and ended up
12 colliding into each other. We talked about the bullying at the Gliderport. I’ve
13 shown that slide here before. We talked about the many requests for the
14 Advisory Board to oversee the management of the Gliderport, repeatedly. And
15 these are actually from the minutes of the Torrey Pines City Park Advisory
16 Board. We talked about the concessionaire. About this guy. This is the guy who
17 runs the Gliderport for the City of San Diego. Not only is he disrespectful to
18 members of the public, but he’s breaking his own rules there. Smoking in a city
19 park where he is not supposed to smoke. You can go there any day and watch
20 him and some of his instructors smoking in our city park. I reminded him that
21 agreement the City agreed to was to create an Advisory Board. Words have
22 meanings folks. Advisory Board is an Advisory Board. Yet, somehow the City
23 Council in 2007 created this supposedly Advisory Board under City Charter
24 Section 43(b). 43(b) doesn’t define Advisory Boards. 43(b) defines citizens
25 committees. An Advisory Board is not a citizens committee. They’re not the
26 same. If the wording of the settlement agreement had been advisory committee
27 or citizen’s board, you might say there is some ambiguity. But the settlement
28 agreement is very clear. It said, the City shall create an established City Park

1 Advisory Board. So, we talked to the Mayor about this as well. And then we
2 presented our fix to this. And there are two fixes. One is that because the Mayor
3 can actually create citizen's committee's on his own, he can actually just create
4 a citizen's committee to advise the City, on the advisory, on any issue he picks
5 out like the management of the Gliderport. He can commission a citizen's
6 committee to advise that City on that management. He can just do that on his
7 own. Because the Mayor, City Council, or City Manager, which we don't have
8 anymore, may create an established citizen committee. However, Advisory
9 Boards are required to be created by the City Council. The City Council made
10 by ordinance to create and establish Advisory Boards. So, if we want to have an
11 Advisory Board, an on-going Board to oversee the Gliderport, it really should
12 be done through the City Council. And that's what I'm asking the City Council
13 to do. This is the resolution that I've suggested before. The City Council of San
14 Diego, pursuant to the City Charter Section 43(a), Torrey Pines City Park
15 Advisory Board should remain an active board meeting monthly, that's my
16 request, thank you."

17 158. The example provided in the above paragraph, only represents an iota of the
18 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his
19 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the
20 San Diego City Council meetings which are shown on television and which he later republished
21 on his privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
22 www.youtube.com, and on other websites.

23 159. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or, as
24 "concessionaire" throughout, and also include photographs of MARIEN, and his employees,
25 including JEBB. It is understood by those who view KUCZEWSKI's personal website, or on
26 other websites, , and/or watch San Diego City Council Meetings on television, that KUCZEWSKI
27 is referring to MARIEN, JEBB, ACA, and ACA's employees, and that he claims Plaintiffs, and
28 each of them, are "thugs" and criminals.

1 160. The entire statement described in the above paragraphs is false as it pertains to
2 MARIEN, ACA and JEBB.

3 161. The statements written and spoken by Defendant KUCZEWSKI on his website
4 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face.
5 It clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
6 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
7 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
8 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
9 cares more about making profits for himself and ACA, than being concerned for the safety of his
10 pilots, students and guests that visit the Gliderport. These statements convey the impression that
11 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
12 flatly false.

13 162. The statement described in the above paragraph, is available on KUCZEWSKI's
14 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
15 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students,
16 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
17 and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's community
18 as a whole, and by and all persons who have accessed KUCZEWSKI's website, and any other
19 like websites, who have been present, or, who have watched the San Diego City Council meetings
20 on television.

21 163. As a proximate result of the above-described publications, Plaintiffs MARIEN and
22 ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
23 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
24 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
25 tortuous activities.

26 164. The above-described publication is not privileged because it was published by
27 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA
28 and the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and

1 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
2 damages in an amount to be established by proof at trial.

3 165. To the extent any of these statements were ever privileged under California law,
4 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
5 republication of defamatory comments in a non-privileged forum.

6 **XVI. THIRTEENTH CAUSE OF ACTION**
7 **DEFAMATION**

8 [Plaintiffs ROBIN MARIEN and ACA
as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

9 166. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
10 each and every preceding paragraph in this Second Amended Complaint.

11 167. Since approximately seven years prior to the time of the filing of this Second
12 Amended Complaint, KUCZEWSKI and other members of KUCZEWSKI's hang gliding club
13 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN
14 and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been
15 taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other
16 individuals to those statements by posting links on other, unaffiliated and unrelated websites,
17 which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via
18 members of his club, also posts these videos on other websites. Each and every one of these
19 statements continue to be published, through the date of filing this Second Amended Complaint
20 on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff,
21 by refusing to remove these statements and videos and instead directing a new group of web users
22 to them. Statements published on these websites include, but are not limited to(which is dated by
23 the original date of publication but which was later republished by KUCZEWSKI's re-direction of
24 web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on
25 the Internet of several videos of defamatory statements he has made during his attendance at San
26 Diego City Council meetings.

27 168. KUCZEWSKI has also posted several videos of his attendance at the San Diego
28 City Council meetings. By republishing the videos of his statements at the San Diego City

1 Council meetings on his privately-run website, KUCZEWSKI waives any and all privileges
2 associated with the protection of City public forums. KUCZEWSKI himself, or via members of
3 his club, also posts these videos on www.youtube.com. Furthermore, these videos are broadcasted
4 to the public on City TV. Below is an excerpt taken from a video found on KUCZEWSKI's
5 website. The excerpt begins with the date in which KUCZEWSKI presented the following
6 information to the San Diego City Council, all of which continues to be published on these
7 websites through the date of the filing of this Second Amended Complaint:

8 (F) April 23, 2013: "...There's been bullying at the Gliderport. There's been
9 accidents at the Gliderport. And there's been this guy at the Gliderport. [Shows
10 slide of Robin Marien] Our old friend. This is the guy who runs the Gliderport
11 and decides everything that happens at the Gliderport because the City won't
12 oversee him in any way. He gets away with everything he wants to do, doesn't
13 he Sherri? [...] How's it been working out? Well, let's review how it's been
14 working out. A couple of months after she wrote that, Lynne took her life, citing
15 bullying to me before she died. A month later, or a couple months later, July
16 24th, we have an accident. Two paragliders collided under supervision of
17 instructors at the Gliderport. Who reviews that? The concessionaire at the
18 Gliderport. On August 12th, another paraglider hurt. May 12th, 2012, a woman
19 died in a paraglider crash. No oversight from the City at all. December 24th,
20 another injury. March 6th, just a month ago, another injury at the Torrey Pines,
21 another rescue. This is the guy who needs oversight. Sherri Lightner continues
22 to dodge the issue and I would request that Council President Gloria put this on
23 the agenda."

24 169. The example provided in the above paragraph, only represents an iota of the
25 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his
26 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the
27 San Diego City Council meetings which are shown on television and which he later republished

28 ///

1 on his privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
2 www.youtube.com, and on other websites.

3 170. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or,
4 as “concessionaire” throughout, and also include photographs of MARIEN, and his employees,
5 including JEBB. It is understood by those who view KUCZEWSKI’s personal website, or on
6 other websites, , and/or watch San Diego City Council Meetings on television, that KUCZEWSKI
7 is referring to MARIEN, JEBB, ACA, and ACA’s employees, and that he claims Plaintiffs, and
8 each of them, are “thugs” and criminals.

9 171. The entire statement described in the above paragraphs is false as it pertains to
10 MARIEN, ACA and JEBB.

11 172. The statements written and spoken by Defendant KUCZEWSKI on his website
12 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face.
13 It clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
14 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
15 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
16 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
17 cares more about making profits for himself and ACA, than being concerned for the safety of his
18 pilots, students and guests that visit the Gliderport. These statements convey the impression that
19 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
20 flatly false.

21 173. The statement described in the above paragraph, is available on KUCZEWSKI’s
22 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
23 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN’s employees, JEBB’s pilot students,
24 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
25 and JEBB’s family members, MARIEN and JEBB’s friends, MARIEN and JEBB’s community as
26 a whole, and by and all persons who have accessed KUCZEWSKI’s website, and any other like
27 websites, who have been present, or, who have watched the San Diego City Council meetings on
28 television.

1 174. As a proximate result of the above-described publications, Plaintiffs MARIEN
2 and ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
3 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
4 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
5 tortuous activities.

6 175. The above-described publication is not privileged because it was published by
7 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and
8 the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
9 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
10 damages in an amount to be established by proof at trial.

11 176. To the extent any of these statements were ever privileged under California law,
12 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
13 republication of defamatory comments in a non-privileged forum.

14 **XVII. FOURTEENTH CAUSE OF ACTION**
15 **DEFAMATION**

16 [Plaintiffs ROBIN MARIEN and ACA
17 as to Defendant ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

18 177. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
19 each and every preceding paragraph in this Second Amended Complaint.

20 178. Since approximately seven years prior to the time of the filing of this Second
21 Amended Complaint, KUCZEWSKI and other members of KUCZEWSKI's hang gliding club
22 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN
23 and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been
24 taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other
25 individuals to those statements by posting links on other, unaffiliated and unrelated websites,
26 which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via
27 members of his club, also posts these videos on other websites. Each and every one of these
28 statements continue to be published, through the date of filing this Second Amended Complaint
on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff,

1 by refusing to remove these statements and videos and instead directing a new group of web users
2 to them. Statements published on these websites include, but are not limited to(which is dated by
3 the original date of publication but which was later republished by KUCZEWSKI's re-direction of
4 web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on
5 the Internet of several videos of defamatory statements he has made during his attendance at San
6 Diego City Council meetings.

7 179. KUCZEWSKI has also posted several videos of his attendance at the San Diego
8 City Council meetings. By republishing the videos of his statements at the San Diego City
9 Council meetings on his privately-run website, KUCZEWSKI waives any and all privileges
10 associated with the protection of City public forums. KUCZEWSKI himself, or via members of
11 his club, also posts these videos on www.youtube.com. Furthermore, these videos are broadcasted
12 to the public on City TV. Below is an excerpt taken from a video found on KUCZEWSKI's
13 website. The excerpt begins with the date in which KUCZEWSKI presented the following
14 information to the San Diego City Council, all of which continues to be published on these
15 websites through the date of the filing of this Second Amended Complaint:

16 (D) July 23, 2013: "My name is Bob Kuczewski ...This slide are the words of a
17 women who ended up taking her life after saying that she had been the victim
18 of much bullying by some of the in pilots at Torrey Pines. She said when
19 David or Gabe Jebb bullied her, that those are the concessionaires, she let it go
20 because she knew they bullied almost everyone, yet you've done nothing.
21 What about the accidents? We have August 2010 paragliders collide, July 2011
22 paragliders hurt, August 2011 paraglider hurt , May 2012 a woman dies,
23 December 2012 a paraglider rescued, March 2013 paraglider rescued. How
24 long will it be until we get the next one? All of this courtesy of the San Diego
25 City's own Torrey Pines' concessionaire. [Shows a picture of Robin Marien]
26 There he is, breaking the rules....

27 180. The example provided in the above paragraph, only represents an iota of the
28 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his

1 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the
2 San Diego City Council meetings which are shown on television and which he later republished
3 on his privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
4 www.youtube.com, and on other websites.

5 181. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or,
6 as “concessionaire” throughout, and also include photographs of MARIEN, and his employees,
7 including JEBB. It is understood by those who view KUCZEWSKI’s personal website, or on
8 other websites, , and/or watch San Diego City Council Meetings on television, that KUCZEWSKI
9 is referring to MARIEN, JEBB, ACA, and ACA’s employees, and that he claims Plaintiffs, and
10 each of them, are “thugs” and criminals.

11 182. The entire statement described in the above paragraphs is false as it pertains to
12 MARIEN, ACA and JEBB.

13 183. The statements written and spoken by Defendant KUCZEWSKI on his website
14 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face.
15 It clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
16 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
17 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
18 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
19 cares more about making profits for himself and ACA, than being concerned for the safety of his
20 pilots, students and guests that visit the Gliderport. These statements convey the impression that
21 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
22 flatly false.

23 184. The statement described in the above paragraph, is available on KUCZEWSKI’s
24 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
25 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN’s employees, JEBB’s pilot students,
26 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
27 and JEBB’s family members, MARIEN and JEBB’s friends, MARIEN and JEBB’s community as
28 a whole, and by and all persons who have accessed KUCZEWSKI’s website, and any other like

1 websites, who have been present, or, who have watched the San Diego City Council meetings on
2 television.

3 185. As a proximate result of the above-described publications, Plaintiffs MARIEN
4 and ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
5 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
6 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
7 tortuous activities.

8 186. The above-described publication is not privileged because it was published by
9 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and
10 the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
11 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
12 damages in an amount to be established by proof at trial.

13 187. To the extent any of these statements were ever privileged under California law,
14 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
15 republication of defamatory comments in a non-privileged forum.

16 **XVII. FIFTEENTH CAUSE OF ACTION**
17 **DEFAMATION**

18 [Plaintiffs ROBIN MARIEN and ACA
19 as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

20 188. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
21 each and every preceding paragraph in this Second Amended Complaint.

22 189. Since approximately seven years prior to the time of the filing of this Second
23 Amended Complaint, KUCZEWSKI and other members of KUCZEWSKI's hang gliding club
24 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN
25 and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been
26 taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other
27 individuals to those statements by posting links on other, unaffiliated and unrelated websites,
28 which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via
members of his club, also posts these videos on other websites. Each and every one of these

1 statements continue to be published, through the date of filing this Second Amended Complaint
2 on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff,
3 by refusing to remove these statements and videos and instead directing a new group of web users
4 to them. Statements published on these websites include, but are not limited to(which is dated by
5 the original date of publication but which was later republished by KUCZEWSKI's re-direction of
6 web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on
7 the Internet of several videos of defamatory statements he has made during his attendance at San
8 Diego City Council meetings.

9 190. KUCZEWSKI has also posted several videos of his attendance at the San Diego
10 City Council meetings. By republishing the videos of his statements at the San Diego City
11 Council meetings on his privately-run website, KUCZEWSKI waives any and all privileges
12 associated with the protection of City public forums. KUCZEWSKI himself, or via members of
13 his club, also posts these videos on www.youtube.com. Furthermore, these videos are broadcasted
14 to the public on City TV. Below is an excerpt taken from a video found on KUCZEWSKI's
15 website. The excerpt begins with the date in which KUCZEWSKI presented the following
16 information to the San Diego City Council, all of which continues to be published on these
17 websites through the date of the filing of this Second Amended Complaint:

18 (H) September 21, 2013: "My name is Bob Kuczewski. [...]The Gliderport's free
19 lease expired in August of 2008. That is five years ago. It's never been put up
20 for bid and Jebb's company has kept that free lease all this time. What are the
21 odds that that was accidental? The current concessionaire posted, violated City
22 posted ordinances everyday. There's the guy that runs the place. See he has a
23 cigarette in his hand. I'm filming him and he points to the sign in the
24 background that says 'No Smoking'. It's the City of San Diego sign that says no
25 smoking. He points right at it, flagrantly, violating the City's ordinances right on
26 our own property. There he is, this is his response to the public. (Shows a slide
27 of Robin Marien) August - this is, this is- just a month ago, a month ago
28

1 tomorrow. There he is again. This is how he treats the public. What are the odds
2 that all of this is accidental? It all adds up to corruption.”

3 191. The example provided in the above paragraph, only represents an iota of the
4 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his
5 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the
6 San Diego City Council meetings which are shown on television and which he later republished
7 on his privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
8 www.youtube.com, and on other websites.

9 192. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or,
10 as “concessionaire” throughout, and also include photographs of MARIEN, and his employees, including
11 JEBB. It is understood by those who view KUCZEWSKI’s personal website, or on other websites, , and/or
12 watch San Diego City Council Meetings on television, that KUCZEWSKI is referring to MARIEN, JEBB,
13 ACA, and ACA’s employees, and that he claims Plaintiffs, and each of them, are “thugs” and criminals.

14 193. The entire statement described in the above paragraphs is false as it pertains to
15 MARIEN, ACA and JEBB.

16 194. The statements written and spoken by Defendant KUCZEWSKI on his website
17 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face.
18 It clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
19 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
20 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
21 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
22 cares more about making profits for himself and ACA, than being concerned for the safety of his
23 pilots, students and guests that visit the Gliderport. These statements convey the impression that
24 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
25 flatly false.

26 195. The statement described in the above paragraph, is available on KUCZEWSKI’s
27 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
28 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN’s employees, JEBB’s pilot students,

1 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
2 and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's community as
3 a whole, and by and all persons who have accessed KUCZEWSKI's website, and any other like
4 websites, who have been present, or, who have watched the San Diego City Council meetings on
5 television.

6 196. As a proximate result of the above-described publications, Plaintiffs MARIEN
7 and ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
8 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
9 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
10 tortuous activities.

11 197. The above-described publication is not privileged because it was published by
12 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and
13 the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
14 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
15 damages in an amount to be established by proof at trial.

16 198. To the extent any of these statements were ever privileged under California law,
17 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
18 republication of defamatory comments in a non-privileged forum.

19 **XIX. SIXTEENTH CAUSE OF ACTION**
20 **DEFAMATION**

21 [Plaintiffs ROBIN MARIEN and ACA
22 as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

23 199. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
24 each and every preceding paragraph in this Second Amended Complaint.

25 200. Since approximately seven years prior to the time of the filing of this Second
26 Amended Complaint, KUCZEWSKI and other members of KUCZEWSKI's hang gliding club
27 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN
28 and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been
taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other

1 individuals to those statements by posting links on other, unaffiliated and unrelated websites,
2 which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via
3 members of his club, also posts these videos on other websites. Each and every one of these
4 statements continue to be published, through the date of filing this Second Amended Complaint
5 on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff,
6 by refusing to remove these statements and videos and instead directing a new group of web users
7 to them. Statements published on these websites include, but are not limited to(which is dated by
8 the original date of publication but which was later republished by KUCZEWSKI's re-direction of
9 web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on
10 the Internet of several videos of defamatory statements he has made during his attendance at San
11 Diego City Council meetings.

12 201. KUCZEWSKI has also posted several videos of his attendance at the San Diego
13 City Council meetings. By republishing the videos of his statements at the San Diego City
14 Council meetings on his privately-run website, KUCZEWSKI waives any and all privileges
15 associated with the protection of City public forums. KUCZEWSKI himself, or via members of
16 his club, also posts these videos on www.youtube.com. Furthermore, these videos are broadcasted
17 to the public on City TV. Below is an excerpt taken from a video found on KUCZEWSKI's
18 website. The excerpt begins with the date in which KUCZEWSKI presented the following
19 information to the San Diego City Council, all of which continues to be published on these
20 websites through the date of the filing of this Second Amended Complaint:

21 (I) September 17, 2013: "Before I get started, I want to direct City TV to my slides.
22 I want my slides to be shown full screen throughout my entire presentation. So if
23 you're watching this on TV at home, and you see anything other than my slides
24 during the entire time that I am presenting, than you know that someone in this
25 City is trying to cover up what's been happening at the Torrey Pines Gliderport.
26 On July 30th, 2013, I showed 19 slides to this City Council. Only three of my
27 slides appeared on City TV. Why is that? And I called in advance to City TV and
28 asked them specifically to show my slides. And I believe I said so at the

1 microphone as well. On September 10th, just last week, I showed 50 slides. Not
2 one of my slides was on City TV. Who's trying to cover this up? What are Sherri
3 Lightner and Todd Gloria hiding from us? Sherri? Is it the accidents at Torrey
4 Pines? One after another, after another, after another, after another, after another,
5 after another, after another. Is it the bullying that's been going on at Torrey Pines
6 that hasn't been addressed by any oversight by the City of San Diego? (David
7 and Gabe Jebb's names are highlighted on the slide). Could it be the violations of
8 law? There's the concessionaire. (Shows a picture of Robin Marien) The guy
9 who has a free lease to our City park smoking and he can flick that cigarette and
10 hit that 'Non Smoking' sign. There he is giving the public the finger. Which is
11 very - properly considered inappropriate - but you need to see it because we see
12 it. And the public needs to see it because we see it. Because that's what we see at
13 that Gliderport. There he is again. This is just a month ago, August 11th. He is
14 smoking in front of the sign. In the upper left hand corner is the City of San
15 Diego sign. He knows that I am taking his picture, I am videotaping him. He
16 jokes about it, laughs, turns, and you will see him point at the sign just above his
17 finger that says 'No Smoking'. As if to say 'screw you San Diego, I can do
18 whatever I want at, at my Gliderport'. What kind of corruption brings this to our
19 City? What kind of corruption, Sherri Lightner, allows this to be in our City
20 park? What kind of corruption allows a settlement agreement that specified an
21 Advisory Board to be created under the wrong section of the City Charter? City
22 Charter Section 43(b) that does not address Advisory Boards at all. Instead it was
23 established as a, as a citizen's committee when the agreement was for an
24 Advisory Board. Finally, what ties David Jebb and Jerry Sanders together? I will
25 leave that as a cliff hanger for next week, thank you."

26 202. The example provided in the above paragraph, only represents an iota of the
27 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his
28 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the San

1 Diego City Council meetings which are shown on television and which he later republished on his
2 privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
3 www.youtube.com, and on other websites.

4 203. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or,
5 as “concessionaire” throughout, and also include photographs of MARIEN, and his employees,
6 including JEBB. It is understood by those who view KUCZEWSKI’s personal website, or on
7 other websites, , and/or watch San Diego City Council Meetings on television, that KUCZEWSKI
8 is referring to MARIEN, JEBB, ACA, and ACA’s employees, and that he claims Plaintiffs, and
9 each of them, are “thugs” and criminals.

10 204. The entire statement described in the above paragraphs is false as it pertains to
11 MARIEN, ACA and JEBB.

12 205. The statements written and spoken by Defendant KUCZEWSKI on his website
13 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face.
14 It clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
15 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
16 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
17 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
18 cares more about making profits for himself and ACA, than being concerned for the safety of his
19 pilots, students and guests that visit the Gliderport. These statements convey the impression that
20 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
21 flatly false.

22 206. The statement described in the above paragraph, is available on KUCZEWSKI’s
23 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
24 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN’s employees, JEBB’s pilot students,
25 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
26 and JEBB’s family members, MARIEN and JEBB’s friends, MARIEN and JEBB’s community
27 as a whole, and by and all persons who have accessed KUCZEWSKI’s website, and any other

28 ///

1 like websites, who have been present, or, who have watched the San Diego City Council meetings
2 on television.

3 207. As a proximate result of the above-described publications, Plaintiffs MARIEN and
4 ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
5 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
6 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
7 tortuous activities.

8 208. The above-described publication is not privileged because it was published by
9 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA
10 and the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
11 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
12 damages in an amount to be established by proof at trial.

13 209. To the extent any of these statements were ever privileged under California law,
14 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
15 republication of defamatory comments in a non-privileged forum.

16 **XX. SEVENTEENTH CAUSE OF ACTION**
17 **DEFAMATION**

18 [Plaintiffs ROBIN MARIEN and ACA
19 as to Defendant ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

20 210. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
21 each and every preceding paragraph in this Second Amended Complaint.

22 211. Since approximately seven years prior to the time of the filing of this Second
23 Amended Complaint, KUCZEWSKI and other members of KUCZEWSKI's hang gliding club
24 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN
25 and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been
26 taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other
27 individuals to those statements by posting links on other, unaffiliated and unrelated websites,
28 which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via
members of his club, also posts these videos on other websites. Each and every one of these

1 statements continue to be published, through the date of filing this Second Amended Complaint
2 on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff,
3 by refusing to remove these statements and videos and instead directing a new group of web users
4 to them. Statements published on these websites include, but are not limited to(which is dated by
5 the original date of publication but which was later republished by KUCZEWSKI's re-direction of
6 web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on
7 the Internet of several videos of defamatory statements he has made during his attendance at San
8 Diego City Council meetings.

9 212. KUCZEWSKI has also posted several videos of his attendance at the San Diego
10 City Council meetings. By republishing the videos of his statements at the San Diego City
11 Council meetings on his privately-run website, KUCZEWSKI waives any and all privileges
12 associated with the protection of City public forums. KUCZEWSKI himself, or via members of
13 his club, also posts these videos on www.youtube.com. Furthermore, these videos are broadcasted
14 to the public on City TV. Below is an excerpt taken from a video found on KUCZEWSKI's
15 website. The excerpt begins with the date in which KUCZEWSKI presented the following
16 information to the San Diego City Council, all of which continues to be published on these
17 websites through the date of the filing of this Second Amended Complaint:

18 (J) October 22, 2013: "My name is Bob Kuczewski and I am here to talk about the
19 Torrey Pines City Park Advisory Board and I am going to work on connecting
20 the dots. On the left we have David Jebb who ran the Gliderport for 10 years. On
21 the right, we have Mayor Jerry Sanders. Both served on the San Diego Police
22 Department together. Jebb writes a book, quote 'The Lieutenant says ok Blue
23 forget about the civil liberty lawyers, forget about the rules and regulations. Do
24 whatever you have to do. We don't care if you bury these blank heads. Is that
25 clear enough? Blue replied yes sir. I need to know just how far you are willing to
26 back me up if things get ugly.' By the way, I want the camera on my slides
27 during my entire presentation, thank you. 'The Captain stood up, leaned over the
28 desk and said, we will cover you to the limit Blue, as long as you keep your

1 mouth shut about our agreement and as long as you don't get caught operating
2 outside the department policies or the law. If you get caught, we'll deny ever
3 having this conversation. Do you understand? Blue replied, wouldn't have it any
4 other way.' Fiction or fact? Jebb gets a 10-year free lease to the million dollar
5 city property known as the Torrey Pines Gliderport, with no oversight. Jebb's
6 been known to be doing lots of bullying. We have a quote here from a woman
7 who ended up taking her life saying 'When David Jebb or Gabe Jebb bullied me,
8 I let it go because they bullied most everyone. Jebb bans individuals and entire
9 clubs from their own city park. Jebb violates his own lease. In 2007, the City is
10 sued for Jebb's violations. In June 2007, the City of San Diego agrees to pay
11 \$20,000 to form a Torrey Pines City Park Advisory Board as part of the
12 settlement. From June of 2007 through 2008, Sanders administrations delays
13 formation of the Board, even though it's supposed to be formed within 90 days.
14 Under Sanders' administration, eventually he creates the Board, an Advisory
15 Board, under the wrong section of the City Charter. He created it under 43(b)
16 which is citizen's committee, it's not Advisory Boards. Advisory Boards are
17 43(a). Sanders appoints Ginny Barnes to keep the Advisory Board from any
18 oversight of the management at that Gliderport. San Diego spends almost half a
19 million dollars on a plan with no implementation, wasted money. The only thing
20 we needed was oversight. Jebb's lease expires in 2008, but the City uses the
21 Advisory Board as an excuse to allow Jebb to keep the lease for another five
22 years without it going for public bid. Another inside deal. Jebb turns the lease
23 over to his second in command in an undisclosed deal in 2009. This is the guy.
24 This is the guy who now runs our Gliderport. There he is again violating the
25 City's own rules. 'No Smoking' - he smokes there everyday. We have accidents
26 at the rate of about two a year. No oversight or review of what's going on there.
27 The Soaring Council private organization is totally unbalanced, totally corrupt.
28 The City Park Advisory Board which is what we should have with equal balance

1 of clubs has been dis- banned. Who is watching over this guy, Sherri? Who is
2 watching over him? Who in this City is watching over what is going on in that
3 Gliderport, Sherri?"

4 213. The example provided in the above paragraph, only represents an iota of the
5 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his
6 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the
7 San Diego City Council meetings which are shown on television and which he later republished
8 on his privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
9 www.youtube.com, and on other websites.

10 214. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or,
11 as "concessionaire" throughout, and also include photographs of MARIEN, and his employees,
12 including JEBB. It is understood by those who view KUCZEWSKI's personal website, or on
13 other websites, , and/or watch San Diego City Council Meetings on television, that KUCZEWSKI
14 is referring to MARIEN, JEBB, ACA, and ACA's employees, and that he claims Plaintiffs, and
15 each of them, are "thugs" and criminals.

16 215. The entire statement described in the above paragraphs is false as it pertains to
17 MARIEN, ACA and JEBB.

18 216. The statements written and spoken by Defendant KUCZEWSKI on his website
19 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face.
20 It clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
21 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
22 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
23 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
24 cares more about making profits for himself and ACA, than being concerned for the safety of his
25 pilots, students and guests that visit the Gliderport. These statements convey the impression that
26 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
27 flatly false.

28 ///

1 217. The statement described in the above paragraph, is available on KUCZEWSKI's
2 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
3 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students,
4 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
5 and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's community as
6 a whole, and by and all persons who have accessed KUCZEWSKI's website, and any other like
7 websites, who have been present, or, who have watched the San Diego City Council meetings on
8 television.

9 218. As a proximate result of the above-described publications, Plaintiffs MARIEN
10 and ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
11 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
12 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
13 tortuous activities.

14 219. The above-described publication is not privileged because it was published by
15 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and
16 the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
17 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
18 damages in an amount to be established by proof at trial.

19 220. To the extent any of these statements were ever privileged under California law,
20 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
21 republication of defamatory comments in a non-privileged forum.

22 **XXI. EIGHTEENTH CAUSE OF ACTION**

23 DEFAMATION

24 [Plaintiffs ROBIN MARIEN and ACA
as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

25 221. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
26 each and every preceding paragraph in this Second Amended Complaint.

27 222. Since approximately seven years prior to the time of the filing of this Second
28 Amended Complaint, KUCZEWSKI and other members of KUCZEWSKI's hang gliding club

1 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN
2 and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been
3 taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other
4 individuals to those statements by posting links on other, unaffiliated and unrelated websites,
5 which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via
6 members of his club, also posts these videos on other websites. Each and every one of these
7 statements continue to be published, through the date of filing this Second Amended Complaint
8 on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff,
9 by refusing to remove these statements and videos and instead directing a new group of web users
10 to them. Statements published on these websites include, but are not limited to(which is dated by
11 the original date of publication but which was later republished by KUCZEWSKI's re-direction of
12 web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on
13 the Internet of several videos of defamatory statements he has made during his attendance at San
14 Diego City Council meetings.

15 223. KUCZEWSKI has also posted several videos of his attendance at the San Diego
16 City Council meetings. By republishing the videos of his statements at the San Diego City
17 Council meetings on his privately-run website, KUCZEWSKI waives any and all privileges
18 associated with the protection of City public forums. KUCZEWSKI himself, or via members of
19 his club, also posts these videos on www.youtube.com. Furthermore, these videos are broadcasted
20 to the public on City TV. Below is an excerpt taken from a video found on KUCZEWSKI's
21 website. The excerpt begins with the date in which KUCZEWSKI presented the following
22 information to the San Diego City Council, all of which continues to be published on these
23 websites through the date of the filing of this Second Amended Complaint:

24 (K) January 14, 2014: "My name is Bob Kuczewski and I'm here to talk about
25 the Torrey Pines City Park Advisory Board. I officially request that the City TV
26 show all of my slides. I have made this request by phone, by calling the City TV
27 and the City TV has refused to show my slides. I will point out that modifying a
28 speaker's presentation by either changing the slide order, or, not showing the

1 slides, is likely a violation of the Brown Act. The Brown Act gives people the
2 right to come here and speak, whether it's pleasant or unpleasant and to be seen
3 by the people who come to these meeting and that includes the people who watch
4 it on television, so I ask that my slides be shown. Now this is an offensive slide
5 to you Sherri. This is the guy who runs the Torrey Pines Gliderport. And this is
6 the most offensive slide that I have. It shows basically a hand, missing a few
7 fingers. This is the guy that is running the Gliderport. He's running it under your
8 auspices essentially, Sherri because I have asked you to have him removed. I
9 have asked you to put oversight on him. Actually, I haven't asked to have him
10 removed, I've asked for oversight. I have asked for an Advisory Board that will
11 oversee what this guy does at this Gliderport. You have refused to provide that
12 for years now. For years, Sherri. Now there is a connection in the City. I believe
13 there's corruption between David Jebb who owns the Gliderport, or manages the
14 Gliderport, and Jerry Sanders who was his Chief of police. They were both
15 policemen together. I believe there is corruption there. There is Jebb behind the
16 scenes just this past weekend, at the Gliderport, confiding with the guy who
17 owns the finger to the right there. Jebb wrote a book telling of his time in the
18 City of San Diego as a police officer. Jebb has a free-ten year lease. He's had a
19 free ten- year lease of that Gliderport and that lease expired in 2008. It's 2014
20 now and that lease has still not been put up for bid. He's been going on that free
21 lease for five more years without it going up for bid. Jebb has bullied pilots.
22 You've seen this slide before too. Someone saying I have been the victim of
23 much bullying by some of the in pilots. When David or Gabe Jebb bullied me, I
24 let it go because I know they bullied most everyone. This woman ended up
25 taking her life...[.]

26 224. The example provided in the above paragraph, only represents an iota of the
27 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his
28 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the

1 San Diego City Council meetings which are shown on television and which he later republished
2 on his privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
3 www.youtube.com, and on other websites.

4 225. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or,
5 as “concessionaire” throughout, and also include photographs of MARIEN, and his employees,
6 including JEBB. It is understood by those who view KUCZEWSKI’s personal website, or on
7 other websites, , and/or watch San Diego City Council Meetings on television, that KUCZEWSKI
8 is referring to MARIEN, JEBB, ACA, and ACA’s employees, and that he claims Plaintiffs, and
9 each of them, are “thugs” and criminals.

10 226. The entire statement described in the above paragraphs is false as it pertains to
11 MARIEN, ACA and JEBB.

12 227. The statements written and spoken by Defendant KUCZEWSKI on his website
13 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face.
14 It clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
15 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
16 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
17 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
18 cares more about making profits for himself and ACA, than being concerned for the safety of his
19 pilots, students and guests that visit the Gliderport. These statements convey the impression that
20 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
21 flatly false.

22 228. The statement described in the above paragraph, is available on KUCZEWSKI’s
23 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
24 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN’s employees, JEBB’s pilot students,
25 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
26 and JEBB’s family members, MARIEN and JEBB’s friends, MARIEN and JEBB’s community as
27 a whole, and by and all persons who have accessed KUCZEWSKI’s website, and any other like

28 ///

1 websites, who have been present, or, who have watched the San Diego City Council meetings on
2 television.

3 229. As a proximate result of the above-described publications, Plaintiffs MARIEN
4 and ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
5 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
6 Complaint. These damages will continue unabated until Defendants, and each of them, cease their
7 tortuous activities.

8 230. The above-described publication is not privileged because it was published by
9 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and
10 the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
11 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
12 damages in an amount to be established by proof at trial.

13 231. To the extent any of these statements were ever privileged under California law,
14 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
15 republication of defamatory comments in a non-privileged forum.

16 **XXII. NINETEENTH CAUSE OF ACTION**

17 **DEFAMATION**

18 [Plaintiffs ROBIN MARIEN and ACA
19 as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

20 232. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
21 each and every preceding paragraph in this Second Amended Complaint.

22 233. Since approximately seven years prior to the time of the filing of this Second
23 Amended Complaint, KUCZEWSKI and other members of KUCZEWSKI's hang gliding club
24 have published hundreds, if not thousands, of defamatory statements about Plaintiffs MARIEN
25 and ACA on KUCZEWSKI's website www.ushawks.org. Those statements have never been
26 taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other
27 individuals to those statements by posting links on other, unaffiliated and unrelated websites,
28 which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via
members of his club, also posts these videos on other websites. Each and every one of these

1 statements continue to be published, through the date of filing this Second Amended Complaint
2 on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff,
3 by refusing to remove these statements and videos and instead directing a new group of web users
4 to them. Statements published on these websites include, but are not limited to(which is dated by
5 the original date of publication but which was later republished by KUCZEWSKI's re-direction of
6 web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on
7 the Internet of several videos of defamatory statements he has made during his attendance at San
8 Diego City Council meetings.

9 234. KUCZEWSKI has also posted several videos of his attendance at the San Diego
10 City Council meetings. By republishing the videos of his statements at the San Diego City
11 Council meetings on his privately-run website, KUCZEWSKI waives any and all privileges
12 associated with the protection of City public forums. KUCZEWSKI himself, or via members of
13 his club, also posts these videos on www.youtube.com. Furthermore, these videos are broadcasted
14 to the public on City TV. Below is an excerpt taken from a video found on KUCZEWSKI's
15 website. The excerpt begins with the date in which KUCZEWSKI presented the following
16 information to the San Diego City Council, all of which continues to be published on these
17 websites through the date of the filing of this Second Amended Complaint:

18 (L) November 11, 2014: "My name is Bob Kuczewski and I am here to talk about
19 the Torrey Pines Gliderport. I officially request that City TV show all of my
20 slides so the public of San Diego can see what's been going on at that Gliderport.
21 Yesterday I was at the Gliderport and I was arrested for doing this. For taking
22 this photo of that gentleman standing there kiting his paraglider without a helmet.
23 That's a safety risk and he is demonstrating to students. He has students all
24 around him that he's showing how to paraglider. This is the Son of the owner
25 and, and he has not helmet. That's, that's inexcusable for him to be
26 demonstrating to students how to fly without a helmet. So I was documenting
27 that. I have every right as a citizen to be in that park and to take those photos of -
28 of what he was doing. He didn't like it. He saw me taking the photos and so he

1 drops his paraglider and approaches me. Step, by step, by step, by step, by step, by
2 step, by step. And he starts telling me that I have to leave the Gliderport and I am
3 not allowed to take pictures of him. Well how the heck are we going to get
4 oversight of that Gliderport if people aren't allowed to take pictures of what is
5 going on at that Gliderport. Mr. Goldsmith, this City relies on citizens bringing
6 evidence like this to you to show you what is going on in this City. And for them
7 to bring the police, and they start surrounding me, putting their face in my
8 camera, accusing me of - of attacking them, or following them. Look how close
9 they are. And I'm just standing there. They approached me. They all approached
10 me. These are the instructors at that Gliderport. At some point, that gentlemen
11 there who owns the Gliderport, starts untying my hang glider. He unties it, and
12 this guy, one of his thugs is basically blocking me from taking photos of him
13 untying the hang glider. But I got a few pictures of him doing it anyway. And
14 then he walks off, leaving my hang glider there, untied in the wind. That's a
15 tremendous safety hazard. That thing can blow away. Then they call the police
16 on me. And I spent the night, last night, a good part of last night in the jail
17 because I refused to leave our City park. For doing what? For having taken
18 pictures to bring to this Council to show you what is going on in that park?
19 That's why I spent the night in jail? This is ridiculous. This is an outrage that our
20 City parks are being given for free to that thug of a concessionaire to bully
21 people and then to call our own police against our people. They gave me a choice
22 of leaving the park or going to jail. I said, you know what? There's a woman
23 named Rosa Parks who stood up and brought the matter to Court and that's what
24 I'm doing. I ask this City to reinstate the Torrey Pines City Park Advisory Board
25 so we can get some oversight in that Gliderport."

26 235. The example provided in the above paragraph, only represents an iota of the
27 significantly defamatory statements KUCZEWSKI has made of MARIEN, ACA and JEBB on his
28 personal website, and on other websites, and/or of the statements KUCZEWSKI has made at the

1 San Diego City Council meetings which are shown on television and which he later republished
2 on his privately run website www.ushawks.org, www.paraglidingforum.com, www.ozreport.com,
3 www.youtube.com, and on other websites.

4 236. The website posts and videos refer to MARIEN, ACA, AND JEBB by name, or,
5 as “concessionaire” throughout, and also include photographs of MARIEN, and his employees,
6 including JEBB. It is understood by those who view KUCZEWSKI’s personal website, or on
7 other websites, , and/or watch San Diego City Council Meetings on television, that KUCZEWSKI
8 is referring to MARIEN, JEBB, ACA, and ACA’s employees, and that he claims Plaintiffs, and
9 each of them, are “thugs” and criminals.

10 237. The entire statement described in the above paragraphs is false as it pertains to
11 MARIEN, ACA and JEBB.

12 238. The statements written and spoken by Defendant KUCZEWSKI on his website
13 www.ushawks.org and on other websites, are libelous and slanderous, respectively, on their face.
14 It clearly exposes MARIEN and ACA to hatred, contempt, ridicule, and obloquy because they
15 portray MARIEN as a bully who pushes people to commit suicide, someone who disrespects the
16 public and the City of San Diego, someone who is part of the mafia, someone who is corrupt,
17 someone who illegally uses his connections to keep the Gliderport lease, and as someone who
18 cares more about making profits for himself and ACA, than being concerned for the safety of his
19 pilots, students and guests that visit the Gliderport. These statements convey the impression that
20 none of the Plaintiffs are fit to operate their business. These statements and the import of them are
21 flatly false.

22 239. The statement described in the above paragraph, is available on KUCZEWSKI’s
23 website, and potentially on other websites, to be viewed by anyone who has access to the internet,
24 which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN’s employees, JEBB’s pilot students,
25 potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport, MARIEN
26 and JEBB’s family members, MARIEN and JEBB’s friends, MARIEN and JEBB’s community as
27 a whole, and by and all persons who have accessed KUCZEWSKI’s website, and any other like

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1 websites, who have been present, or, who have watched the San Diego City Council meetings on
2 television.

3 240. As a proximate result of the above-described publications, Plaintiffs MARIEN
4 and ACA have suffered loss of reputation, shame, mortification, hurt feelings, loss of business,
5 ridicule, harm, and suspicion as criminals through the date of filing of the Second Amended
6 Complaint.

7 241. These damages will continue unabated until Defendants, and each of them, cease
8 their tortuous activities.

9 242. The above-described publication is not privileged because it was published by
10 Defendant KUCZEWSKI with malice, hatred and ill will toward Plaintiff MARIEN and ACA and
11 the desire to injure them, in that KUCZEWSKI had expressed a desire to "get" MARIEN and
12 ACA. Because of Defendants' malice in publishing, Plaintiffs MARIEN and ACA seeks punitive
13 damages in an amount to be established by proof at trial.

14 243. To the extent any of these statements were ever privileged under California law,
15 each such statement lost any previously applicable privilege due to requested, or acquiesced or,
16 republication of defamatory comments in a non-privileged forum.

17 **XXIII. TWENTIETH CAUSE OF ACTION**
18 **DEFAMATION**

19 [Plaintiff GABRIEL JEBB as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE
20 HOLLAND, and DOES 2-20]

21 244. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
22 each and every preceding paragraph in this Second Amended Complaint.

23 245. Since approximately seven years prior to the time of the filing of this Second
24 Amended Complaint, KUCZEWSKI and others members of his hang gliding club have published
25 hundreds, if not thousands, of defamatory statements about Plaintiff JEBB and of his Father
26 David Jebb, on his personal website www.ushawks.org, www.youtube.com, and others. Those
27 statements have never been taken down from KUCZEWSKI's website, and KUCZEWSKI has, in
28 fact, directed other individuals to those statements by posting links on other, unaffiliated and
unrelated websites, which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI

1 himself, or via members of his club, also posts these videos on other websites. Each and every
2 one of these statements continue to be published, through the date of filing this Second Amended
3 Complaint on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each
4 Plaintiff, by refusing to remove these statements and videos and instead directing a new group of
5 web users to them. Statements published on these websites include, but are not limited to(which is
6 dated by the original date of publication but which was later republished by KUCZEWSKI's re-
7 direction of web viewers to his site by link to the defamatory material in question)
8 KUCZEWSKI's posting on the Internet of several videos of defamatory statements he has made
9 during his attendance at San Diego City Council meetings:

10 (M) On November 20, 2014: "Yesterday I went with a friend to the local police
11 station to file a police report for assault and battery and false arrest. Brace
12 yourself. The San Diego police refuse - REFUSED - to take the report. How can
13 it be that citizens cannot even FILE a police report? Of course, let's not forget
14 that the report would implicate Gabriel Jebb - the son of former San Diego
15 police officer David Jebb." [Attached hereto as Exhibit "F" is a true and correct
16 copy of this website post]

17 246. The example provided in the above paragraph only represents an iota of the
18 significantly defamatory statements KUCZEWSKI has made of JEBB and his family on his
19 personal website.

20 247. The statements posted on these websites refer to Plaintiff JEBB and his family
21 members by name throughout, were made of and concerning JEBB and his family, and were so
22 understood by those who view those websites, that KUCZEWSKI is referring to JEBB and his
23 family members.

24 248. The statements described in the above paragraph are false as they pertain to
25 JEBB and his family members.

26 249. The written and oral statements made by Defendant KUCZEWSKI on his
27 personal website www.ushawks.org, and on other websites, as more fully set forth above, are
28 libelous and slanderous on their face. It clearly exposes JEBB and his family to hatred, contempt,

1 ridicule, and obloquy because they portray JEBB and his family members as a bullies who push
2 people to commit suicide, as members of the mafia, as conspiring with others from the San Diego
3 Police Department in order to corruptly obtain the Gliderport lease, makes claims that JEBB's
4 Father's book is autobiographical and therefore proves he is corrupt, accuses JEBB of being an
5 unsafe instructor, and accuses JEBB of demonstrating a pattern of intimidating people.

6 250. The statements described in the above paragraphs, are available on
7 KUCZEWSKI's website, and on other websites, to be viewed by anyone who has access to the
8 Internet, which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot
9 students, potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport,
10 MARIEN and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's
11 community at whole and by and all persons who have accessed the websites www.ushawks.org,
12 www.youtube.com, www.paraglidingforum.com, or have been seen KUCZEWSKI's diatribes
13 republished on that site and others.

14 251. As a proximate result of the above-described publication, JEBB has suffered loss
15 of his reputation, shame, mortification, hurt feelings, loss of business, ridicule, harm, and
16 suspicion as criminals through the date of filing of the Second Amended Complaint. These
17 damages will continue unabated until Defendants, and each of them, cease their tortious activities.

18 252. The above-described publications are not privileged because they were stated and
19 published by KUCZEWSKI with malice, hatred and ill will toward JEBB and the desire to injure
20 him, in that KUCZEWSKI has expressed a desire to "get" JEBB. Because of KUCZEWSKI's
21 malice in publishing, Plaintiff JEBB seeks punitive damages in an amount to be established by
22 proof at trial.

23 253. Moreover, any statements initially privileged because of the venue in which they
24 were spoken at, lost privilege because they were republished in a non-privileged forum at
25 KUCZEWSKI's direction, or with his knowledge and acceptance.

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XXIV. TWENTY-FIRST CAUSE OF ACTION
DEFAMATION

[Plaintiff GABRIEL JEBB as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE
HOLLAND, and DOES 2-20]

254. Plaintiffs reallege and incorporate by reference as through fully set forth herein, each and every preceding paragraph in this Second Amended Complaint.

255. Since approximately seven years prior to the time of the filing of this Second Amended Complaint, KUCZEWSKI and others members of his hang gliding club have published hundreds, if not thousands, of defamatory statements about Plaintiff JEBB and of his Father David Jebb, on his personal website www.ushawks.org, www.youtube.com, and others. Those statements have never been taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other individuals to those statements by posting links on other, unaffiliated and unrelated websites, which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via members of his club, also posts these videos on other websites. Each and every one of these statements continue to be published, through the date of filing this Second Amended Complaint on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff, by refusing to remove these statements and videos and instead directing a new group of web users to them. Statements published on these websites include, but are not limited to (which is dated by the original date of publication but which was later republished by KUCZEWSKI's re-direction of web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on the Internet of several videos of defamatory statements he has made during his attendance at San Diego City Council meetings:

(N) On November 11, 2014: “My friend arrived just about the time that I tied the glider to the roof of my van. I’d been thinking long and hard about the choice in front of me. I thought about all the times that David Jebb and Gabe Jebb and Robin Marien had bullied people and threatened them with arrest. I thought about how they’ve always gotten away with it because everyone in the past (including myself) had always backed down. Then I thought about Rosa Parks. The choice was clear: I spent the good part of the evening and into the next morning in jail. It was an extremely unpleasant experience, but I accepted it as

1 the price of justice.” [Attached hereto as Exhibit “C” is a true and correct copy of
2 this website post]

3 256. The example provided in the above paragraph only represents an iota of the
4 significantly defamatory statements KUCZEWSKI has made of JEBB and his family on his
5 personal website.

6 257. The statements posted on these websites refer to Plaintiff JEBB and his family
7 members by name throughout, were made of and concerning JEBB and his family, and were so
8 understood by those who view those websites, that KUCZEWSKI is referring to JEBB and his
9 family members.

10 258. The statements described in the above paragraph are false as they pertain to
11 JEBB and his family members.

12 259. The written and oral statements made by Defendant KUCZEWSKI on his
13 personal website www.ushawks.org, and on other websites, as more fully set forth above, are
14 libelous and slanderous on their face. It clearly exposes JEBB and his family to hatred, contempt,
15 ridicule, and obloquy because they portray JEBB and his family members as a bullies who push
16 people to commit suicide, as members of the mafia, as conspiring with others from the San Diego
17 Police Department in order to corruptly obtain the Gliderport lease, makes claims that JEBB’s
18 Father’s book is autobiographical and therefore proves he is corrupt, accuses JEBB of being an
19 unsafe instructor, and accuses JEBB of demonstrating a pattern of intimidating people.

20 260. The statements described in the above paragraphs, are available on
21 KUCZEWSKI’s website, and on other websites, to be viewed by anyone who has access to the
22 Internet, which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN’s employees, JEBB’s pilot
23 students, potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport,
24 MARIEN and JEBB’s family members, MARIEN and JEBB’s friends, MARIEN and JEBB’s
25 community at whole and by and all persons who have accessed the websites www.ushawks.org,
26 www.youtube.com, www.paraglidingforum.com, or have been seen KUCZEWSKI’s diatribes
27 republished on that site and others.

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1 261. As a proximate result of the above-described publication, JEBB has suffered loss
2 of his reputation, shame, mortification, hurt feelings, loss of business, ridicule, harm, and
3 suspicion as criminals through the date of filing of the Second Amended Complaint. These
4 damages will continue unabated until Defendants, and each of them, cease their tortious activities.

5 262. The above-described publications are not privileged because they were stated and
6 published by KUCZEWSKI with malice, hatred and ill will toward JEBB and the desire to injure
7 him, in that KUCZEWSKI has expressed a desire to "get" JEBB. Because of KUCZEWSKI's
8 malice in publishing, Plaintiff JEBB seeks punitive damages in an amount to be established by
9 proof at trial.

10 263. Moreover, any statements initially privileged because of the venue in which they
11 were spoken at, lost privilege because they were republished in a non-privileged forum at
12 KUCZEWSKI's direction, or with his knowledge and acceptance.

13 **XXV. TWENTY-SECOND CAUSE OF ACTION**
14 **DEFAMATION**

15 [Plaintiff GABRIEL JEBB as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE
16 HOLLAND, and DOES 2-20]

17 264. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
18 each and every preceding paragraph in this Second Amended Complaint.

19 265. Since approximately seven years prior to the time of the filing of this Second
20 Amended Complaint, KUCZEWSKI and others members of his hang gliding club have published
21 hundreds, if not thousands, of defamatory statements about Plaintiff JEBB and of his Father David Jebb,
22 on his personal website www.ushawks.org, www.youtube.com, and others. Those statements have never
23 been taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other individuals
24 to those statements by posting links on other, unaffiliated and unrelated websites, which direct users to
25 KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via members of his club, also posts these
26 videos on other websites. Each and every one of these statements continue to be published, through the
27 date of filing this Second Amended Complaint on these websites. KUCZEWSKI, therefore, effectively
28 republishes and reinjures each Plaintiff, by refusing to remove these statements and videos and instead
directing a new group of web users to them. Statements published on these websites include, but are not

1 limited to (which is dated by the original date of publication but which was later republished by
2 KUCZEWSKI's re-direction of web viewers to his site by link to the defamatory material in question)
3 KUCZEWSKI's posting on the Internet of several videos of defamatory statements he has made during his
4 attendance at San Diego City Council meetings:

5 (O) On March 10, 2015: "One of the things that came up was the patterns of abuse
6 from Gabe Jebb, and that reminded me of this incident from August 11, 2013.
7 It's interesting to see Gabe Jebb's pattern of approaching people to intimidate
8 them." [Attached hereto as Exhibit "G" is a true and correct copy of this website
9 post]

10 266. The example provided in the above paragraph only represents an iota of the
11 significantly defamatory statements KUCZEWSKI has made of JEBB and his family on his
12 personal website.

13 267. The statements posted on these websites refer to Plaintiff JEBB and his family
14 members by name throughout, were made of and concerning JEBB and his family, and were so
15 understood by those who view those websites, that KUCZEWSKI is referring to JEBB and his
16 family members.

17 268. The statements described in the above paragraph are false as they pertain to
18 JEBB and his family members.

19 269. The written and oral statements made by Defendant KUCZEWSKI on his
20 personal website www.ushawks.org, and on other websites, as more fully set forth above, are
21 libelous and slanderous on their face. It clearly exposes JEBB and his family to hatred, contempt,
22 ridicule, and obloquy because they portray JEBB and his family members as a bullies who push
23 people to commit suicide, as members of the mafia, as conspiring with others from the San Diego
24 Police Department in order to corruptly obtain the Gliderport lease, makes claims that JEBB's
25 Father's book is autobiographical and therefore proves he is corrupt, accuses JEBB of being an
26 unsafe instructor, and accuses JEBB of demonstrating a pattern of intimidating people.

27 270. The statements described in the above paragraphs, are available on
28 KUCZEWSKI's website, and on other websites, to be viewed by anyone who has access to the

1 Internet, which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot
2 students, potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport,
3 MARIEN and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's
4 community at whole and by and all persons who have accessed the websites www.ushawks.org,
5 www.youtube.com, www.paraglidingforum.com, or have been seen KUCZEWSKI's diatribes
6 republished on that site and others.

7 271. As a proximate result of the above-described publication, JEBB has suffered loss
8 of his reputation, shame, mortification, hurt feelings, loss of business, ridicule, harm, and
9 suspicion as criminals through the date of filing of the Second Amended Complaint. These
10 damages will continue unabated until Defendants, and each of them, cease their tortious activities.

11 272. The above-described publications are not privileged because they were stated and
12 published by KUCZEWSKI with malice, hatred and ill will toward JEBB and the desire to injure
13 him, in that KUCZEWSKI has expressed a desire to "get" JEBB. Because of KUCZEWSKI's
14 malice in publishing, Plaintiff JEBB seeks punitive damages in an amount to be established by
15 proof at trial.

16 273. Moreover, any statements initially privileged because of the venue in which they
17 were spoken at, lost privilege because they were republished in a non-privileged forum at
18 KUCZEWSKI's direction, or with his knowledge and acceptance.

19 **XXVI. TWENTY-THIRD CAUSE OF ACTION**
20 **DEFAMATION**

21 [Plaintiff GABRIEL JEBB as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE
22 HOLLAND, and DOES 2-20]

23 274. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
24 each and every preceding paragraph in this Second Amended Complaint.

25 275. Since approximately seven years prior to the time of the filing of this Second
26 Amended Complaint, KUCZEWSKI and others members of his hang gliding club have published
27 hundreds, if not thousands, of defamatory statements about Plaintiff JEBB and of his Father David Jebb,
28 on his personal website www.ushawks.org, www.youtube.com, and others. Those statements have never
been taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other individuals

1 to those statements by posting links on other, unaffiliated and unrelated websites, which direct users to
2 KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via members of his club, also posts these
3 videos on other websites. Each and every one of these statements continue to be published, through the
4 date of filing this Second Amended Complaint on these websites. KUCZEWSKI, therefore, effectively
5 republishes and reinjures each Plaintiff, by refusing to remove these statements and videos and instead
6 directing a new group of web users to them. Statements published on these websites include, but are not
7 limited to(which is dated by the original date of publication but which was later republished by
8 KUCZEWSKI's re-direction of web viewers to his site by link to the defamatory material in question)
9 KUCZEWSKI's posting on the Internet of several videos of defamatory statements he has made during his
10 attendance at San Diego City Council meetings:

11 (P) On April 23, 2015: "...Regarding the term "bullying", I knew a very nice female
12 paragliding pilot who wrote to me saying: 'When David or Gabe Jebb bullied
13 me, I let it go because I knew that they bullied most everyone, but when it came
14 from pilots whom I thought were my friends, it devastated me.' She ended up
15 taking her own life." [Attached hereto as Exhibit "H" is a true and correct copy
16 of this website post]

17 276. The example provided in the above paragraph only represents an iota of the
18 significantly defamatory statements KUCZEWSKI has made of JEBB and his family on his
19 personal website.

20 277. The statements posted on these websites refer to Plaintiff JEBB and his family
21 members by name throughout, were made of and concerning JEBB and his family, and were so
22 understood by those who view those websites, that KUCZEWSKI is referring to JEBB and his
23 family members.

24 278. The statements described in the above paragraph are false as they pertain to
25 JEBB and his family members.

26 279. The written and oral statements made by Defendant KUCZEWSKI on his
27 personal website www.ushawks.org, and on other websites, as more fully set forth above, are
28 libelous and slanderous on their face. It clearly exposes JEBB and his family to hatred, contempt,

1 ridicule, and obloquy because they portray JEBB and his family members as a bullies who push
2 people to commit suicide, as members of the mafia, as conspiring with others from the San Diego
3 Police Department in order to corruptly obtain the Gliderport lease, makes claims that JEBB's
4 Father's book is autobiographical and therefore proves he is corrupt, accuses JEBB of being an
5 unsafe instructor, and accuses JEBB of demonstrating a pattern of intimidating people.

6 280. The statements described in the above paragraphs, are available on
7 KUCZEWSKI's website, and on other websites, to be viewed by anyone who has access to the
8 Internet, which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot
9 students, potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport,
10 MARIEN and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's
11 community at whole and by and all persons who have accessed the websites www.ushawks.org,
12 www.youtube.com, www.paraglidingforum.com, or have been seen KUCZEWSKI's diatribes
13 republished on that site and others.

14 281. As a proximate result of the above-described publication, JEBB has suffered loss
15 of his reputation, shame, mortification, hurt feelings, loss of business, ridicule, harm, and
16 suspicion as criminals through the date of filing of the Second Amended Complaint. These
17 damages will continue unabated until Defendants, and each of them, cease their tortious activities.

18 282. The above-described publications are not privileged because they were stated and
19 published by KUCZEWSKI with malice, hatred and ill will toward JEBB and the desire to injure him, in
20 that KUCZEWSKI has expressed a desire to "get" JEBB. Because of KUCZEWSKI's malice in
21 publishing, Plaintiff JEBB seeks punitive damages in an amount to be established by proof at trial.

22 283. Moreover, any statements initially privileged because of the venue in which they
23 were spoken at, lost privilege because they were republished in a non-privileged forum at
24 KUCZEWSKI's direction, or with his knowledge and acceptance.

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1 **XXVII. TWENTY-FOURTH CAUSE OF ACTION**
2 **DEFAMATION**

3 [Plaintiff GABRIEL JEBB as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE
4 HOLLAND, and DOES 2-20]

5 284. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
6 each and every preceding paragraph in this Second Amended Complaint.

7 285. Since approximately seven years prior to the time of the filing of this Second
8 Amended Complaint, KUCZEWSKI and others members of his hang gliding club have
9 published hundreds, if not thousands, of defamatory statements about Plaintiff JEBB and of his
10 Father David Jebb, on his personal website www.ushawks.org, www.youtube.com, and others.
11 Those statements have never been taken down from KUCZEWSKI's website, and KUCZEWSKI
12 has, in fact, directed other individuals to those statements by posting links on other, unaffiliated
13 and unrelated websites, which direct users to KUCZEWSKI's theater of defamation.
14 KUCZEWSKI himself, or via members of his club, also posts these videos on other websites.
15 Each and every one of these statements continue to be published, through the date of filing this
16 Second Amended Complaint on these websites. KUCZEWSKI, therefore, effectively republishes
17 and reinjures each Plaintiff, by refusing to remove these statements and videos and instead
18 directing a new group of web users to them. Statements published on these websites include, but
19 are not limited to(which is dated by the original date of publication but which was later
20 republished by KUCZEWSKI's re-direction of web viewers to his site by link to the defamatory
21 material in question) KUCZEWSKI's posting on the Internet of several videos of defamatory
22 statements he has made during his attendance at San Diego City Council meetings:

23 (Q) On May 4, 2015: “This is what you’re up against. Robin and Jebb were at the
24 mafia table having lunch. Robin drives away with David Jebb, in a Red Corvette.
25 The Godfather.” ⁴ [Attached hereto as Exhibit “D” is a true and correct copy of
26 this website post]

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28 _____
⁴ A picture of Robin Marien and David Jebb is inserted under this text.

1 286. The example provided in the above paragraph only represents an iota of the
2 significantly defamatory statements KUCZEWSKI has made of JEBB and his family on his
3 personal website.

4 287. The statements posted on these websites refer to Plaintiff JEBB and his family
5 members by name throughout, were made of and concerning JEBB and his family, and were so
6 understood by those who view those websites, that KUCZEWSKI is referring to JEBB and his
7 family members.

8 288. The statements described in the above paragraph are false as they pertain to JEBB
9 and his family members.

10 289. The written and oral statements made by Defendant KUCZEWSKI on his personal
11 website www.ushawks.org, and on other websites, as more fully set forth above, are libelous and
12 slanderous on their face. It clearly exposes JEBB and his family to hatred, contempt, ridicule, and
13 obloquy because they portray JEBB and his family members as a bullies who push people to
14 commit suicide, as members of the mafia, as conspiring with others from the San Diego Police
15 Department in order to corruptly obtain the Gliderport lease, makes claims that JEBB's Father's
16 book is autobiographical and therefore proves he is corrupt, accuses JEBB of being an unsafe
17 instructor, and accuses JEBB of demonstrating a pattern of intimidating people.

18 290. The statements described in the above paragraphs, are available on
19 KUCZEWSKI's website, and on other websites, to be viewed by anyone who has access to the
20 Internet, which includes Plaintiff MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot
21 students, potential pilot students, potential visitors of the Gliderport, visitors of the Gliderport,
22 MARIEN and JEBB's family members, MARIEN and JEBB's friends, MARIEN and JEBB's
23 community at whole and by and all persons who have accessed the websites www.ushawks.org,
24 www.youtube.com, www.paraglidingforum.com, or have been seen KUCZEWSKI's diatribes
25 republished on that site and others.

26 291. As a proximate result of the above-described publication, JEBB has suffered loss
27 of his reputation, shame, mortification, hurt feelings, loss of business, ridicule, harm, and

28 ///

1 suspicion as criminals through the date of filing of the Second Amended Complaint. These
2 damages will continue unabated until Defendants, and each of them, cease their tortious activities.

3 292. The above-described publications are not privileged because they were stated and
4 published by KUCZEWSKI with malice, hatred and ill will toward JEBB and the desire to injure
5 him, in that KUCZEWSKI has expressed a desire to "get" JEBB. Because of KUCZEWSKI's
6 malice in publishing, Plaintiff JEBB seeks punitive damages in an amount to be established by
7 proof at trial.

8 293. Moreover, any statements initially privileged because of the venue in which they
9 were spoken at, lost privilege because they were republished in a non-privileged forum at
10 KUCZEWSKI's direction, or with his knowledge and acceptance.

11 **XXVIII. TWENTY-FIFTH CAUSE OF ACTION**
12 **DEFAMATION**

13 [Plaintiff GABRIEL JEBB as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE
14 HOLLAND, and DOES 2-20]

15 294. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
16 each and every preceding paragraph in this Second Amended Complaint.

17 295. Since approximately seven years prior to the time of the filing of this Second
18 Amended Complaint, KUCZEWSKI and others members of his hang gliding club have published
19 hundreds, if not thousands, of defamatory statements about Plaintiff JEBB and of his Father David Jebb,
20 on his personal website www.ushawks.org, www.youtube.com, and others. Those statements have never
21 been taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other individuals
22 to those statements by posting links on other, unaffiliated and unrelated websites, which direct users to
23 KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via members of his club, also posts these
24 videos on other websites. Each and every one of these statements continue to be published, through the
25 date of filing this Second Amended Complaint on these websites. KUCZEWSKI, therefore, effectively
26 republishes and reinjures each Plaintiff, by refusing to remove these statements and videos and instead
27 directing a new group of web users to them. Statements published on these websites include, but are not
28 limited to(which is dated by the original date of publication but which was later republished by
KUCZEWSKI's re-direction of web viewers to his site by link to the defamatory material in question)

1 KUCZEWSKI's posting on the Internet of several videos of defamatory statements he has made during his
2 attendance at San Diego City Council meetings:

3 (R) March 5, 2013: "Over the years, I've been contacted by many people who
4 have been bullied, abused, and in some cases even beaten by the Torrey
5 Pines' concessionaire or their staff. In most cases, they've asked me to
6 remain quiet about it because they feared retribution. In other cases, they
7 have gotten financial settlements with an agreement to remain silent, so I
8 can't tell their stories. But I can tell Lynne's story. Lynne was a paraglider
9 pilot who ended up taking her own life in 2011. These are her own words to
10 me when I asked about featuring her site preservation efforts in our Torrey
11 Hawks Club Newsletter. Lynne wrote: 'Bob, thanks for thinking of me, but
12 I need to decline at this time. I have been the victim of much bullying by
13 some of the in pilots. I'm very selective as to who I fly with and will leave
14 the site if other certain pilots are there. Two years ago, I rarely left my
15 home and did not fly for a period of five months.' This is someone who
16 loves flying. 'Did not fly for a period of five months due to fear of a vicious
17 verbal assault by Josh Gelb during a club event. This was not an isolated
18 event, just the final proverbial straw. The fact that the other pilots just stood
19 by and let it happen led me to believe that the supported this behavior.' She
20 goes on to say 'I am still not emotionally healed and need to stay incognito
21 as much as possible. You may have noticed that I do not post to the San
22 Diego Hang Gliding days I typically fly with a hang glider pilots and only a
23 few select paraglider pilots. Blossom'... which is a local flying site... 'is my
24 passion and I am not going to let my fear in the way of losing the site
25 because I didn't do anything. I wish that I were as thick skinned as you.'
26 Talking about me. 'And able to keep going in spite of the verbal abuse.'
27 She says 'When David or Gabe Jebb bullied me.' David Jebb was the
28 concessionaire for ten years. He may still be the concessionaire, no one will

1 say. 'When David or Gabe Jebb bullied me, I let it go because I knew they
2 bullied almost everyone.' Isn't that a sad statement? The bullying there is so
3 common that she just accepts it because it happens to everyone. 'But when
4 it came from pilots whom I thought were my friends, it devastated me.
5 Thanks again for thinking of me, but maybe at a later date.' There was no
6 later date. She eventually took her own life. She was a pilot in Alpine.
7 She doesn't have a council representative on this staff because she's from
8 Alpine. Next slide please. I'm asking this council to stop the bullying. That's
9 the guy who currently claims he is the concessionaire. Those are four different
10 occasions. He's giving people the finger. Please restart the Advisory Board."

11 296. The example provided in the above paragraph only represents an iota of the
12 significantly defamatory statements KUCZEWSKI has made of JEBB and his family on his
13 personal website, on others, and of the statements KUCZEWSKI has made at the San Diego City
14 Council meetings, which are shown on television, and which KUCZEWSKI later republished,
15 whether himself or through the assistance of others, on his personal website and on
16 www.youtube.com, and on other websites.

17 297. The videos and posts on these websites refer to Plaintiff JEBB and his family
18 members by name throughout, were made of and concerning JEBB and his family, and were so
19 understood by those who viewed those websites or watched San Diego City Council Meetings on
20 television or via Internet, that KUCZEWSKI was referring to JEBB and his family members.

21 298. The statements described in the above paragraphs are false as they pertain to
22 JEBB and his family members.

23 299. The written and oral statements made by Defendant KUCZEWSKI on his personal
24 website www.ushawks.org, on www.youtube.com, on www.paraglidingforum.com, and at the San
25 Diego City Council meetings as rebroadcast on television or the Internet as more fully set forth
26 above, are libelous and slanderous on their face. It clearly exposes JEBB and his family to hatred,
27 contempt, ridicule, and obloquy because they portray JEBB and his family members as bullies who
28 push people to commit suicide, as members of the mafia, as conspiring with others from the San

1 Diego Police Department in order to corruptly obtain the Gliderport lease, makes claims that
2 JEBB's Father's book is autobiographical and therefore proves he is corrupt, accuses JEBB of
3 being an unsafe instructor, and accuses JEBB of demonstrating a pattern of intimidating people.

4 300. The statements and videos described in the above paragraphs, are available on
5 KUCZEWSKI's website, on www.youtube.com, on www.paraglidingforum.com, and on other
6 websites, to be viewed by anyone who has access to the Internet, which includes Plaintiff
7 MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students, potential pilot students,
8 potential visitors of the Gliderport, visitors of the Gliderport, MARIEN and JEBB's family
9 members, MARIEN and JEBB's friends, MARIEN and JEBB's community at whole and by and
10 all persons who have accessed the websites www.ushawks.org, www.youtube.com,
11 www.paraglidingforum.com, or have been seen KUCZEWSKI's diatribes republished on that site
12 and others.

13 301. As a proximate result of the above-described publication, JEBB has suffered loss
14 of his reputation, shame, mortification, hurt feelings, loss of business, ridicule, harm, and suspicion
15 as criminals through the date of filing of the Second Amended Complaint. These damages will
16 continue unabated until Defendants, and each of them, cease their tortious activities.

17 302. The above-described publications are not privileged because they were stated
18 and published by KUCZEWSKI with malice, hatred and ill will toward JEBB and the
19 desire to injure him, in that KUCZEWSKI has expressed a desire to "get" JEBB. Because of
20 KUCZEWSKI's malice in publishing, Plaintiff JEBB seeks punitive damages in an amount to be
21 established by proof at trial.

22 303. Moreover, any statements initially privileged because of the venue in which they
23 were spoken at, lost privilege because they were republished in a non-privileged forum at
24 KUCZEWSKI's direction, or with his knowledge and acceptance.

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XXIX. TWENTY-SIXTH CAUSE OF ACTION
DEFAMATION

[Plaintiff GABRIEL JEBB as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE
HOLLAND, and DOES 2-20]

304. Plaintiffs reallege and incorporate by reference as through fully set forth herein, each and every preceding paragraph in this Second Amended Complaint.

305. Since approximately seven years prior to the time of the filing of this Second Amended Complaint, KUCZEWSKI and others members of his hang gliding club have published hundreds, if not thousands, of defamatory statements about Plaintiff JEBB and of his Father David Jebb, on his personal website www.ushawks.org, www.youtube.com, and others. Those statements have never been taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other individuals to those statements by posting links on other, unaffiliated and unrelated websites, which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via members of his club, also posts these videos on other websites. Each and every one of these statements continue to be published, through the date of filing this Second Amended Complaint on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff, by refusing to remove these statements and videos and instead directing a new group of web users to them. Statements published on these websites include, but are not limited to (which is dated by the original date of publication but which was later republished by KUCZEWSKI's re-direction of web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on the Internet of several videos of defamatory statements he has made during his attendance at San Diego City Council meetings.

306. KUCZEWSKI has also, personally or by directing others, or by acquiescing in or encouraging such postings, posted several videos about JEBB and his family in his presentations to the San Diego City Council. By republishing the videos of his presentations at the San Diego City Council meetings on his privately-run website, on www.youtube.com, and on other websites, KUCZEWSKI waives any and all privileges associated with the protection of City public forums. Below are excerpts taken from several videos found on KUCZEWSKI's website about JEBB and his family. Each excerpt begins with the date in which KUCZEWSKI presented the following information to the San Diego City Council:

1 (S) July 23, 2013: "My name is Bob Kuczewski and I would like to direct the
2 City camera to my slides. I am here to talk about Todd Gloria's hypocrisy and
3 the plundering of our city parks. Todd Gloria said, 'We as a City will not
4 tolerate intimidation and harassment'. Really, Mr. Gloria? How many times
5 have I shown you this slide? This slide are the words of a women who ended up
6 taking her life after saying that she had been the victim of much bullying by
7 some of the in pilots at Torrey Pines. She said when David or Gabe Jebb
8 bullied her, that those are the concessions, she let it go because she knew they
9 bullied almost everyone, yet you've done nothing. What about the accidents?
10 We have August 2010 paragliders collide, July 2011 paragliders hurt, August
11 2011 paraglider hurt, May 2012 a woman dies, December 2012 a paraglider
12 rescued, March 2013 paraglider rescued. How long will it be until we get the
13 next one? All of this courtesy of the San Diego City's own Torrey Pines'
14 concessionaire. [Shows a picture of Robin Marien] There he is, breaking the
15 rules. He's got a cigarette in his hand. He can flick that cigarette and hit that
16 sign from the City that says 'No Smoking Allowed', yet nobody in this City
17 will oversee this concessionaire. Yet Todd Gloria and Sherri Lightner do
18 nothing. Fast forward to this past Sunday, or Saturday, July 20th, you see that
19 Gliderport? That's where we are supposed to be landing our hang gliders. The
20 concessionaire has basically leased out our Gliderport to a private business for
21 their company party. No oversight involved. Here's my landing approach. I
22 don't know if you can see the hang glider coming in. See me landing right
23 there? That's where I landed last month in June. See that, those towers and
24 those trees? Focus on them. You see the same towers and trees there. This is
25 what our park looked like on Saturday. The concessionaire had basically sold it
26 to, to a company to come have their private picnic and they picketed off so we
27 couldn't land or use the park. Let's look at the lease. Lease says it is expressly
28 agreed that the premises are leased solely and exclusively for the purposes of a

1 flight Gliderport concession, the use of non-power aircrafts, and the general
2 public. Non-power aircraft? We can't fly there with cars parked in our landing
3 zone. This is our landing zone. The general public, they got a picket fence
4 saying 'provide commerce guests only'. We're excluded from our own city
5 park so he can make money. The lease says that, that they should only use it for
6 the purposes not expressly authorized herein. The use of any, of the premises
7 for any unauthorized purpose shall constitute substantial default and subject
8 this lease to termination. Nobody will enforce it. Consideration, the flight
9 director gets no, sends no money to the City. The City gets no money for this.
10 Yet he can sell that property and lease it out and make as much as he wants.
11 Assignment and subletting, flight directors lessee shall not assign this property
12 and shall not sublet the premises. Yet, he leased it out for this party just last
13 Saturday. Who in the City is overseeing this? Parks and Recreation? Real
14 Estate Assets? Nobody. The guy is getting away with whatever he wants to get
15 away with. There he is breaking the law smoking, breaking the law smoking,
16 rents our City, rents our City property for his own private business and nobody
17 will oversee it. There's no Advisory Board to advise the City on what needs to
18 be done at that Gliderport, thank you." He's giving people the finger. Please
19 restart the Advisory Board."

20 307. The example provided in the above paragraph only represents an iota of the
21 significantly defamatory statements KUCZEWSKI has made of JEBB and his family on his
22 personal website, on others, and of the statements KUCZEWSKI has made at the San Diego City
23 Council meetings, which are shown on television, and which KUCZEWSKI later republished,
24 whether himself or through the assistance of others, on his personal website and on
25 www.youtube.com, and on other websites.

26 308. The videos and posts on these websites refer to Plaintiff JEBB and his family
27 members by name throughout, were made of and concerning JEBB and his family, and were so

28 ///

1 understood by those who viewed those websites or watched San Diego City Council Meetings on
2 television or via Internet, that KUCZEWSKI was referring to JEBB and his family members.

3 309. The statements described in the above paragraphs are false as they pertain to
4 JEBB and his family members.

5 310. The written and oral statements made by Defendant KUCZEWSKI on his personal
6 website www.ushawks.org, on www.youtube.com, on www.paraglidingforum.com, and at the
7 San Diego City Council meetings as rebroadcast on television or the Internet as more fully set
8 forth above, are libelous and slanderous on their face. It clearly exposes JEBB and his family to
9 hatred, contempt, ridicule, and obloquy because they portray JEBB and his family members as
10 bullies who push people to commit suicide, as members of the mafia, as conspiring with others
11 from the San Diego Police Department in order to corruptly obtain the Gliderport lease, makes
12 claims that JEBB's Father's book is autobiographical and therefore proves he is corrupt, accuses
13 JEBB of being an unsafe instructor, and accuses JEBB of demonstrating a pattern of intimidating
14 people.

15 311. The statements and videos described in the above paragraphs, are available on
16 KUCZEWSKI's website, on www.youtube.com, on www.paraglidingforum.com, and on other
17 websites, to be viewed by anyone who has access to the Internet, which includes Plaintiff
18 MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students, potential pilot students,
19 potential visitors of the Gliderport, visitors of the Gliderport, MARIEN and JEBB's family
20 members, MARIEN and JEBB's friends, MARIEN and JEBB's community at whole and by and
21 all persons who have accessed the websites www.ushawks.org, www.youtube.com,
22 www.paraglidingforum.com, or have been seen KUCZEWSKI's diatribes republished on that site
23 and others.

24 312. As a proximate result of the above-described publication, JEBB has suffered loss
25 of his reputation, shame, mortification, hurt feelings, loss of business, ridicule, harm, and
26 suspicion as criminals through the date of filing of the Second Amended Complaint. These
27 damages will continue unabated until Defendants, and each of them, cease their tortious activities.

28 ///

1 313. The above-described publications are not privileged because they were stated and
2 published by KUCZEWSKI with malice, hatred and ill will toward JEBB and the desire to injure
3 him, in that KUCZEWSKI has expressed a desire to "get" JEBB. Because of

4 KUCZEWSKI's malice in publishing, Plaintiff JEBB seeks punitive damages in an
5 amount to be established by proof at trial.

6 314. Moreover, any statements initially privileged because of the venue in which they
7 were spoken at, lost privilege because they were republished in a non-privileged forum at
8 KUCZEWSKI's direction, or with his knowledge and acceptance.

9 **XXX. TWENTY-SEVENTH CAUSE OF ACTION**
10 **DEFAMATION**

11 [Plaintiff GABRIEL JEBB as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE
12 HOLLAND, and DOES 2-20]

13 315. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
14 each and every preceding paragraph in this Second Amended Complaint.

15 316. Since approximately seven years prior to the time of the filing of this Second
16 Amended Complaint, KUCZEWSKI and others members of his hang gliding club have published
17 hundreds, if not thousands, of defamatory statements about Plaintiff JEBB and of his Father
18 David Jebb, on his personal website www.ushawks.org, www.youtube.com, and others. Those
19 statements have never been taken down from KUCZEWSKI's website, and KUCZEWSKI has, in
20 fact, directed other individuals to those statements by posting links on other, unaffiliated and
21 unrelated websites, which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI
22 himself, or via members of his club, also posts these videos on other websites. Each and every
23 one of these statements continue to be published, through the date of filing this Second Amended
24 Complaint on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each
25 Plaintiff, by refusing to remove these statements and videos and instead directing a new group of
26 web users to them. Statements published on these websites include, but are not limited to(which is
27 dated by the original date of publication but which was later republished by KUCZEWSKI's re-
28 direction of web viewers to his site by link to the defamatory material in question)

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1 KUCZEWSKI's posting on the Internet of several videos of defamatory statements he has made
2 during his attendance at San Diego City Council meetings.

3 317. KUCZEWSKI has also, personally or by directing others, or by acquiescing in or
4 encouraging such postings, posted several videos about JEBB and his family in his presentations
5 to the San Diego City Council. By republishing the videos of his presentations at the San Diego
6 City Council meetings on his privately-run website, on www.youtube.com, and on other websites,
7 KUCZEWSKI waives any and all privileges associated with the protection of City public forums.
8 Below are excerpts taken from several videos found on KUCZEWSKI's website about JEBB and
9 his family. Each excerpt begins with the date in which KUCZEWSKI presented the following
10 information to the San Diego City Council:

11 (T) September 17, 2013: "Before I get started, I want to direct City TV to my
12 slides. I want my slides to be shown full screen throughout my entire
13 presentation. So if you're watching this on TV at home, and you see
14 anything other than my slides during the entire time that I am presenting,
15 than you know that someone in this City is trying to cover up what's been
16 happening at the Torrey Pines Gliderport. On July 30th, 2013, I showed 19
17 slides to this City Council. Only three of my slides appeared on City TV.
18 Why is that? And I called in advance to City TV and asked them specifically
19 to show my slides. And I believe I said so at the microphone as well. On
20 September 10th, just last week, I showed 50 slides. Not one of my slides
21 was on City TV. Who's trying to cover this up? What are Sherri Lightner
22 and Todd Gloria hiding from us? Sherri? Is it the accidents at Torrey Pines?
23 One after another, after another, after another, after another, after another,
24 after another, after another. Is it the bullying that's been going on at Torrey
25 Pines that hasn't been addressed by any oversight by the City of San Diego?
26 (David and Gabe Jebb's names are highlighted on the slide). Could it be the
27 violations of law? There's the concessionaire. (Shows a picture of Robin
28 Marien) The guy who has a free lease to our City park smoking and he can

1 flick that cigarette and hit that 'Non Smoking' sign. There he is giving the
2 public the finger. Which is very - properly considered inappropriate - but
3 you need to see it because we see it. And the public needs to see it because
4 we see it. Because that's what we see at that Gliderport. There he is again.
5 This is just a month ago, August 11th. He is smoking in front of the sign. In
6 the upper left hand corner is the City of San Diego sign. He knows that I am
7 taking his picture, I am videotaping him. He jokes about it, laughs, turns,
8 and you will see him point at the sign just above his finger that says 'No
9 Smoking'. As if to say 'screw you San Diego, I can do whatever I want at,
10 at my Gliderport.' What kind of corruption brings this to our City? What
11 kind of corruption, Sherri Lightner, allows this to be in our City park? What
12 kind of corruption allows a settlement agreement that specified an Advisory
13 Board to be created under the wrong section of the City Charter? City
14 Charter Section 43(b) that does not address Advisory Boards at all. Instead
15 it was established as a, as a citizen's committee when the agreement was for
16 an Advisory Board. Finally, what ties David Jebb and Jerry Sanders
17 together? I will leave that as a cliff hanger for next week, thank you."

18 318. The example provided in the above paragraph only represents an iota of the
19 significantly defamatory statements KUCZEWSKI has made of JEBB and his family on his
20 personal website, on others, and of the statements KUCZEWSKI has made at the San Diego City
21 Council meetings, which are shown on television, and which KUCZEWSKI later republished,
22 whether himself or through the assistance of others, on his personal website and on
23 www.youtube.com, and on other websites.

24 319. The videos and posts on these websites refer to Plaintiff JEBB and his family
25 members by name throughout, were made of and concerning JEBB and his family, and were so
26 understood by those who viewed those websites or watched San Diego City Council Meetings on
27 television or via Internet, that KUCZEWSKI was referring to JEBB and his family members.

28 ///

1 320. The statements described in the above paragraphs are false as they pertain to
2 JEBB and his family members.

3 321. The written and oral statements made by Defendant KUCZEWSKI on his personal
4 website www.ushawks.org, on www.youtube.com, on www.paraglidingforum.com, and at the
5 San Diego City Council meetings as rebroadcast on television or the Internet as more fully set
6 forth above, are libelous and slanderous on their face. It clearly exposes JEBB and his family to
7 hatred, contempt, ridicule, and obloquy because they portray JEBB and his family members as
8 bullies who push people to commit suicide, as members of the mafia, as conspiring with others
9 from the San Diego Police Department in order to corruptly obtain the Gliderport lease, makes
10 claims that JEBB's Father's book is autobiographical and therefore proves he is corrupt, accuses
11 JEBB of being an unsafe instructor, and accuses JEBB of demonstrating a pattern of intimidating
12 people.

13 322. The statements and videos described in the above paragraphs, are available on
14 KUCZEWSKI's website, on www.youtube.com, on www.paraglidingforum.com, and on other
15 websites, to be viewed by anyone who has access to the Internet, which includes Plaintiff
16 MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students, potential pilot students,
17 potential visitors of the Gliderport, visitors of the Gliderport, MARIEN and JEBB's family
18 members, MARIEN and JEBB's friends, MARIEN and JEBB's community at whole and by and
19 all persons who have accessed the websites www.ushawks.org, www.youtube.com,
20 www.paraglidingforum.com, or have been seen KUCZEWSKI's diatribes republished on that site
21 and others.

22 323. As a proximate result of the above-described publication, JEBB has suffered loss
23 of his reputation, shame, mortification, hurt feelings, loss of business, ridicule, harm, and
24 suspicion as criminals through the date of filing of the Second Amended Complaint. These
25 damages will continue unabated until Defendants, and each of them, cease their tortious activities.

26 324. The above-described publications are not privileged because they were stated and
27 published by KUCZEWSKI with malice, hatred and ill will toward JEBB and the desire to injure
28 him, in that KUCZEWSKI has expressed a desire to "get" JEBB. Because of KUCZEWSKI's

malice in publishing, Plaintiff JEBB seeks punitive damages in an amount to be established by proof at trial.

325. Moreover, any statements initially privileged because of the venue in which they were spoken at, lost privilege because they were republished in a non-privileged forum at KUCZEWSKI's direction, or with his knowledge and acceptance.

**XXXI. TWENTY-EIGHTH CAUSE OF ACTION
DEFAMATION**

[Plaintiff GABRIEL JEBB as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

326. Plaintiffs reallege and incorporate by reference as through fully set forth herein, each and every preceding paragraph in this Second Amended Complaint.

327. Since approximately seven years prior to the time of the filing of this Second Amended Complaint, KUCZEWSKI and others members of his hang gliding club have published hundreds, if not thousands, of defamatory statements about Plaintiff JEBB and of his Father David Jebb, on his personal website www.ushawks.org, www.youtube.com, and others. Those statements have never been taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other individuals to those statements by posting links on other, unaffiliated and unrelated websites, which direct users to KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via members of his club, also posts these videos on other websites. Each and every one of these statements continue to be published, through the date of filing this Second Amended Complaint on these websites. KUCZEWSKI, therefore, effectively republishes and reinjures each Plaintiff, by refusing to remove these statements and videos and instead directing a new group of web users to them. Statements published on these websites include, but are not limited to (which is dated by the original date of publication but which was later republished by KUCZEWSKI's re-direction of web viewers to his site by link to the defamatory material in question) KUCZEWSKI's posting on the Internet of several videos of defamatory statements he has made during his attendance at San Diego City Council meetings.

328. KUCZEWSKI has also, personally or by directing others, or by acquiescing in or encouraging such postings, posted several videos about JEBB and his family in his presentations to

1 the San Diego City Council. By republishing the videos of his presentations at the San Diego City
2 Council meetings on his privately-run website, on www.youtube.com, and on other websites,
3 KUCZEWSKI waives any and all privileges associated with the protection of City public forums.
4 Below are excerpts taken from several videos found on KUCZEWSKI's website about JEBB and
5 his family. Each excerpt begins with the date in which KUCZEWSKI presented the following
6 information to the San Diego City Council:

7 (U) January 14, 2014: "My name is Bob Kuczewski and I'm here to talk
8 about the Torrey Pines City Park Advisory Board. I officially request that the
9 City TV show all of my slides. I have made this request by phone, by calling the
10 City TV and the City TV has refused to show my slides. I will point out that
11 modifying a speaker's presentation by either changing the slide order, or, not
12 showing the slides, is likely a violation of the Brown Act. The Brown Act gives
13 people the right to come here and speak, whether it's pleasant or unpleasant and
14 to be seen by the people who come to these meeting and that includes the
15 people who watch it on television, so I ask that my slides be shown. Now this is
16 an offensive slide to you Sherri. This is the guy who runs the Torrey Pines
17 Gliderport. And this is the most offensive slide that I have. It shows basically a
18 hand, missing a few fingers. This is the guy that is running the Gliderport. He's
19 running it under your auspices essentially, Sherri because I have asked you to
20 have him removed. I have asked you to put oversight on him. Actually, I
21 haven't asked to have him removed, I've asked for oversight. I have asked for
22 an Advisory Board that will oversee what this guy does at this Gliderport. You
23 have refused to provide that for years now. For years, Sherri. Now there is a
24 connection in the City. I believe there's corruption between David Jebb who
25 owns the Gliderport, or manages the Gliderport, and Jerry Sanders who was his
26 Chief of police. They were both policemen together. I believe there is
27 corruption there. There is Jebb behind the scenes just this past weekend, at the
28 Gliderport, confiding with the guy who owns the finger to the right there. Jebb

1 wrote a book telling of his time in the City of San Diego as a police officer.
2 Jebb has a free-ten year lease. He's had a free ten-year lease of that Gliderport
3 and that lease expired in 2008. It's 2014 now and that lease has still not been
4 put up for bid. He's been going on that free lease for five more years without it
5 going up for bid. Jebb has bullied pilots. You've seen this slide before too.
6 Someone saying I have been the victim of much bullying by some of the in
7 pilots. When David or Gabe Jebb bullied me, I let it go because I know they
8 bullied most everyone. This woman ended up taking her life....[.]”

9 329. The example provided in the above paragraph only represents an iota of the
10 significantly defamatory statements KUCZEWSKI has made of JEBB and his family on his
11 personal website, on others, and of the statements KUCZEWSKI has made at the San Diego City
12 Council meetings, which are shown on television, and which KUCZEWSKI later republished,
13 whether himself or through the assistance of others, on his personal website and on
14 www.youtube.com, and on other websites.

15 330. The videos and posts on these websites refer to Plaintiff JEBB and his family
16 members by name throughout, were made of and concerning JEBB and his family, and were so
17 understood by those who viewed those websites or watched San Diego City Council Meetings on
18 television or via Internet, that KUCZEWSKI was referring to JEBB and his family members.

19 331. The statements described in the above paragraphs are false as they pertain to
20 JEBB and his family members.

21 332. The written and oral statements made by Defendant KUCZEWSKI on his
22 personal website www.ushawks.org, on www.youtube.com, on www.paraglidingforum.com, and
23 at the San Diego City Council meetings as rebroadcast on television or the Internet as more fully
24 set forth above, are libelous and slanderous on their face. It clearly exposes JEBB and his family
25 to hatred, contempt, ridicule, and obloquy because they portray JEBB and his family members as
26 bullies who push people to commit suicide, as members of the mafia, as conspiring with others
27 from the San Diego Police Department in order to corruptly obtain the Gliderport lease, makes
28 claims that JEBB's Father's book is autobiographical and therefore proves he is corrupt, accuses

1 JEBB of being an unsafe instructor, and accuses JEBB of demonstrating a pattern of intimidating
2 people.

3 333. The statements and videos described in the above paragraphs, are available on
4 KUCZEWSKI's website, on www.youtube.com, on www.paraglidingforum.com, and on other
5 websites, to be viewed by anyone who has access to the Internet, which includes Plaintiff
6 MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students, potential pilot students,
7 potential visitors of the Gliderport, visitors of the Gliderport, MARIEN and JEBB's family
8 members, MARIEN and JEBB's friends, MARIEN and JEBB's community at whole and by and
9 all persons who have accessed the websites www.ushawks.org, www.youtube.com,
10 www.paraglidingforum.com, or have been seen KUCZEWSKI's diatribes republished on that site
11 and others.

12 334. As a proximate result of the above-described publication, JEBB has suffered loss
13 of his reputation, shame, mortification, hurt feelings, loss of business, ridicule, harm, and
14 suspicion as criminals through the date of filing of the Second Amended Complaint. These
15 damages will continue unabated until Defendants, and each of them, cease their tortious activities.

16 335. The above-described publications are not privileged because they were stated
17 and published by KUCZEWSKI with malice, hatred and ill will toward JEBB and the desire to
18 injure him, in that KUCZEWSKI has expressed a desire to "get" JEBB. Because of
19 KUCZEWSKI's malice in publishing, Plaintiff JEBB seeks punitive damages in an amount to be
20 established by proof at trial.

21 336. Moreover, any statements initially privileged because of the venue in which they
22 were spoken at, lost privilege because they were republished in a non-privileged forum at
23 KUCZEWSKI's direction, or with his knowledge and acceptance.

24 **XXXII. TWENTY-NINTH CAUSE OF ACTION**
25 **DEFAMATION**

26 [Plaintiff GABRIEL JEBB as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE
27 HOLLAND, and DOES 2-20]

28 337. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
each and every preceding paragraph in this Second Amended Complaint.

1 338. Since approximately seven years prior to the time of the filing of this Second
2 Amended Complaint, KUCZEWSKI and others members of his hang gliding club have published
3 hundreds, if not thousands, of defamatory statements about Plaintiff JEBB and of his Father David Jebb,
4 on his personal website www.ushawks.org, www.youtube.com, and others. Those statements have never
5 been taken down from KUCZEWSKI's website, and KUCZEWSKI has, in fact, directed other individuals
6 to those statements by posting links on other, unaffiliated and unrelated websites, which direct users to
7 KUCZEWSKI's theater of defamation. KUCZEWSKI himself, or via members of his club, also posts these
8 videos on other websites. Each and every one of these statements continue to be published, through the
9 date of filing this Second Amended Complaint on these websites. KUCZEWSKI, therefore, effectively
10 republishes and reinjures each Plaintiff, by refusing to remove these statements and videos and instead
11 directing a new group of web users to them. Statements published on these websites include, but are not
12 limited to(which is dated by the original date of publication but which was later republished by
13 KUCZEWSKI's re-direction of web viewers to his site by link to the defamatory material in question)
14 KUCZEWSKI's posting on the Internet of several videos of defamatory statements he has made during his
15 attendance at San Diego City Council meetings.

16 339. KUCZEWSKI has also, personally or by directing others, or by acquiescing in or
17 encouraging such postings, posted several videos about JEBB and his family in his presentations
18 to the San Diego City Council. By republishing the videos of his presentations at the San Diego
19 City Council meetings on his privately-run website, on www.youtube.com, and on other websites,
20 KUCZEWSKI waives any and all privileges associated with the protection of City public forums.
21 Below are excerpts taken from several videos found on KUCZEWSKI's website about JEBB and
22 his family. Each excerpt begins with the date in which KUCZEWSKI presented the following
23 information to the San Diego City Council:

24 (V) November 11, 2014: "My name is Bob Kuczewski and I am here to talk
25 about the Torrey Pines Gliderport. I officially request that City TV show all of
26 my slides so the public of San Diego can see what's been going on at that
27 Gliderport. Yesterday I was at the Gliderport and I was arrested for doing this.
28 For taking this photo of that gentleman standing there kiting his paraglider

1 without a helmet. That's a safety risk and he is demonstrating to students. He has
2 students all around him that he's showing how to paraglide. This is the Son of the
3 owner and, and he has not helmet. That's, that's inexcusable for him to be
4 demonstrating to students how to fly without a helmet. So I was documenting
5 that. I have every right as a citizen to be in that park and to take those photos of -
6 of what he was doing. He didn't like it. He saw me taking the photos and so he
7 drops his paraglider and approaches me. Step, by step, by step, by step, by step, by
8 step, by step. And he starts telling me that I have to leave the Gliderport and I am
9 not allowed to take pictures of him. Well how the heck are we going to get
10 oversight of that Gliderport if people aren't allowed to take pictures of what is
11 going on at that Gliderport. Mr. Goldsmith, this City relies on citizens bringing
12 evidence like this to you to show you what is going on in this City. And for them
13 to bring the police, and they start surrounding me, putting their face in my
14 camera, accusing me of - of attacking them, or following them. Look how close
15 they are. And I'm just standing there. They approached me. They all approached
16 me. These are the instructors at that Gliderport. At some point, that gentlemen
17 there who owns the Gliderport, starts untying my hang glider. He unties it, and
18 this guy, one of his thugs is basically blocking me from taking photos of him
19 untying the hang glider. But I got a few pictures of him doing it anyway. And
20 then he walks off, leaving my hang glider there, untied in the wind. That's a
21 tremendous safety hazard. That thing can blow away. Then they call the police on
22 me. And I spent the night, last night, a good part of last night in the jail because I
23 refused to leave our City park. For doing what? For having taken pictures to bring
24 to this Council to show you what is going on in that park? That's why I spent the
25 night in jail? This is ridiculous. This is an outrage that our City parks are being
26 given for free to that thug of a concessionaire to bully people and then to call our
27 own police against our people. They gave me a choice of leaving the park or
28 going to jail. I said, you know what? There's a woman named Rosa Parks who

1 stood up and brought the matter to Court and that's what I'm doing. I ask this
2 City to reinstate the Torrey Pines City Park Advisory Board so we can get some
3 oversight in that Gliderport."

4 340. The example provided in the above paragraph only represents an iota of the
5 significantly defamatory statements KUCZEWSKI has made of JEBB and his family on his
6 personal website, on others, and of the statements KUCZEWSKI has made at the San Diego City
7 Council meetings, which are shown on television, and which KUCZEWSKI later republished,
8 whether himself or through the assistance of others, on his personal website and on
9 www.youtube.com, and on other websites.

10 341. The videos and posts on these websites refer to Plaintiff JEBB and his family
11 members by name throughout, were made of and concerning JEBB and his family, and were so
12 understood by those who viewed those websites or watched San Diego City Council Meetings on
13 television or via Internet, that KUCZEWSKI was referring to JEBB and his family members.

14 342. The statements described in the above paragraphs are false as they pertain to
15 JEBB and his family members.

16 343. The written and oral statements made by Defendant KUCZEWSKI on his
17 personal website www.ushawks.org, on www.youtube.com, on www.paraglidingforum.com, and
18 at the San Diego City Council meetings as rebroadcast on television or the Internet as more fully
19 set forth above, are libelous and slanderous on their face. It clearly exposes JEBB and his family
20 to hatred, contempt, ridicule, and obloquy because they portray JEBB and his family members as
21 bullies who push people to commit suicide, as members of the mafia, as conspiring with others
22 from the San Diego Police Department in order to corruptly obtain the Gliderport lease, makes
23 claims that JEBB's Father's book is autobiographical and therefore proves he is corrupt, accuses
24 JEBB of being an unsafe instructor, and accuses JEBB of demonstrating a pattern of intimidating
25 people.

26 344. The statements and videos described in the above paragraphs, are available on
27 KUCZEWSKI's website, on www.youtube.com, on www.paraglidingforum.com, and on other
28 websites, to be viewed by anyone who has access to the Internet, which includes Plaintiff

1 MARIEN, Plaintiff JEBB, MARIEN's employees, JEBB's pilot students, potential pilot students,
2 potential visitors of the Gliderport, visitors of the Gliderport, MARIEN and JEBB's family
3 members, MARIEN and JEBB's friends, MARIEN and JEBB's community at whole and by and
4 all persons who have accessed the websites www.ushawks.org, www.youtube.com,
5 www.paraglidingforum.com, or have been seen KUCZEWSKI's diatribes republished on that site
6 and others.

7 345. As a proximate result of the above-described publication, JEBB has suffered loss
8 of his reputation, shame, mortification, hurt feelings, loss of business, ridicule, harm, and
9 suspicion as criminals through the date of filing of the Second Amended Complaint. These
10 damages will continue unabated until Defendants, and each of them, cease their tortious activities.

11 346. The above-described publications are not privileged because they were stated
12 and published by KUCZEWSKI with malice, hatred and ill will toward JEBB and the
13 desire to injure him, in that KUCZEWSKI has expressed a desire to "get" JEBB. Because of
14 KUCZEWSKI's malice in publishing, Plaintiff JEBB seeks punitive damages in an amount to be
15 established by proof at trial.

16 347. Moreover, any statements initially privileged because of the venue in which they
17 were spoken at, lost privilege because they were republished in a non-privileged forum at
18 KUCZEWSKI's direction, or with his knowledge and acceptance.

19 **XXXIII. THIRTIETH CAUSE OF ACTION**
20 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
21 [Plaintiffs ROBIN MARIEN, AIR CALIFORNIA ADVENTURE, INC., and GABRIEL JEBB
22 as to Defendants ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

23 348. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
24 each and every preceding paragraph in this Second Amended Complaint.

25 349. KUCZEWSKI has acted intentionally and recklessly.

26 350. KUCZEWSKI's behavior has been extreme and outrageous. KUCZEWSKI has
27 demonstrated a pattern of conduct, this is not an isolated incident.

28 351. KUCZEWSKI's conduct is the cause of Plaintiff's distress.

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1 352. Plaintiffs suffered severe emotional distress as a result of KUCZEWSKI's
2 conduct. Plaintiffs' emotional distress includes suffering, anguish, fright, horror, nervousness,
3 grief, anxiety, worry, shock, humiliation, and shame.

4 353. KUCZEWSKI's conduct is so outrageous, and carried on intentionally with
5 malice, hatred, and ill will, with the desire to injure Plaintiffs, that KUCZEWSKI is amenable to
6 the imposition of punitive damages in an amount according to proof at trial.

7 **XXXIV. THIRTY-FIRST CAUSE OF ACTION**
8 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**
9 [Plaintiffs ROBIN MARIEN, AIR CALIFORNIA ADVENTURE, INC., and GABRIEL JEBB
 as to Defendant ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

10 354. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
11 each and every preceding paragraph in this Second Amended Complaint.

12 355. KUCZEWSKI has caused Plaintiffs to suffer serious emotional distress.

13 356. KUCZEWSKI has been negligent.

14 357. KUCZEWSKI's negligence is a substantial factor in causing serious emotional
15 distress. Plaintiffs' emotional distress includes suffering, anguish, fright, horror, nervousness,
16 grief, anxiety, worry, shock, humiliation, and shame.

17 **XXXV. THIRTY-SECOND CAUSE OF ACTION**
18 **DECLARATORY RELIEF**
19 [Plaintiffs ROBIN MARIEN, AIR CALIFORNIA ADVENTURE, INC., and GABRIEL JEBB
 as to Defendant ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

20 358. Plaintiffs reallege and incorporate by reference as through fully set forth herein,
21 each and every preceding paragraph in this Second Amended Complaint.

22 359. An actual controversy has arisen between Plaintiffs and KUCZEWSKI in that
23 there is a disagreement about whether the Gliderport is an Airport and whether Plaintiffs
24 MARIEN and ACA are empowered to deny any person admission to an Airport by any means if
25 there is good cause, per the San Diego Municipal Code § 68.020.

26 360. The principal purpose of the Gliderport site is to serve as a launching and landing
27 space for full scale glider soaring, hang gliding, and radio-controlled model glider operations, as
28 those terms are defined by San Diego Municipal Code § 63.0201(a). Because the Gliderport

1 serves these functions, it is also an “Airport” as that term is utilized in San Diego Municipal Code
2 § 68.01019(c).

3 361. The San Diego Municipal Code § 63.0201(b) also empowers MARIEN and ACA
4 to restrict the use of the Gliderport by individuals who willfully or wantonly disregard the safety
5 of persons or property, or to revoke or suspend the permit of an individual to use the facility.
6 Furthermore, Gov. Code § 36900(a), expressly provides that a violation of city ordinance may be
7 redressed by civil action.

8 362. KUCZEWSKI has been repeatedly requested by Plaintiffs to leave the
9 Gliderport property pursuant to San Diego Municipal Code § 68.0101(c) and San Diego
10 Municipal Code § 63.0201(b), however, he remains adamant that the Gliderport is not an Airport
11 and therefore, these ordinances do not apply and as such, cannot be requested to leave. The San
12 Diego Police Department has been called many times to assist Plaintiffs in removing
13 KUCZEWSKI from the Gliderport property. Twice he has been arrested and on the most recent
14 incident, April 8, 2015, he was escorted off the property by a sergeant and two police officers.

15 363. The reasons KUCZEWSKI is being requested to leave the Gliderport property
16 include, but are not limited to: he disrupts business operations; he harasses, follows and
17 intimidates ACA employees; he creates a distraction to the students trying to learn; he creates a
18 scene by following people with his camera; he unlawfully threatens the public’s enjoyment of the
19 Gliderport; he actively and purposefully antagonizes people in order to create confrontations; he
20 has been arrested twice at the property for trespassing; he has been escorted off the property by
21 the San Diego Police Department; he has held club meetings at the Gliderport without permission;
22 he disrupts critical business operations; and his overall disruptive behavior poses a continuous
23 serious danger to flight operations, to the pilots who are flying, and the students who are trying to
24 learn.

25 364. KUCZEWSKI’s pilot license has been revoked by the USHPA, so KUCZEWSKI
26 no longer has any right to be on the landing zone.

27 365. A judicial determination resolving this actual controversy is necessary and
28 appropriate at this time.

XXXVI. THIRTY-THIRD CAUSE OF ACTION
INJUNCTIVE RELIEF

[Plaintiffs ROBIN MARIEN, AIR CALIFORNIA ADVENTURE, INC., and GABRIEL JEBB as
to Defendant ROBERT KUCZEWSKI, MARJORIE MAE HOLLAND, and DOES 2-20]

366. Plaintiffs incorporate by reference as through fully set forth herein, each and every preceding paragraph in this Second Amended Complaint.

367. At all times herein relevant, KUCZEWSKI's wrongful and unlawful behavior, has included, but is not limited to the following: he disrupts business operations; he harasses, follows and intimidates ACA employees; he creates a distraction to the students trying to learn; he creates a scene by following people with his camera; he unlawfully threatens the public's enjoyment of the Gliderport; he actively and purposefully antagonizes people in order to create confrontations; he has been arrested twice at the property for trespassing; he has been escorted off the property by the San Diego Police Department; he has held club meetings at the Gliderport without permission; he disrupts critical business operations; and his overall disruptive behavior poses a continuous serious danger to flight operations, to the pilots who are flying, and the students who are trying to learn.

368. At all times herein relevant, Plaintiffs have demanded that KUCZEWSKI stop his wrongful conduct described above. KUCZEWSKI has refused and still refuses to refrain from his wrongful conduct.

369. Gov. Code § 36900(a), expressly provides that a violation of city ordinance may be redressed by civil action. Defendants' wrongful conduct, unless and until enjoined and restrained by order of this court, will cause great and irreparable injury to Plaintiffs in that they cannot effectively, efficiently, and safely run a business that involves the sport of paragliding and hang gliding, both of which are inherently dangerous without the added distraction that KUCZEWSKI presents. KUCZEWSKI's malicious actions only add an unnecessary layer of danger and creates an extra risk to Plaintiffs, the pilots and the public. In order for Plaintiffs MARIEN and ACA to provide a safe environment and conduct their business operations effectively, KUCZEWSKI needs to be restricted from the Gliderport property. In order for

///

1 Plaintiff JEBB and the other instructors at ACA to safely and effectively instruct and teach
2 student pilots, KUCZEWSKI needs to be restricted from the Gliderport.

3 370. Plaintiffs have no adequate remedy at law for the injuries currently being suffered
4 in that Plaintiffs to determine the precise amount of damage which they will suffer if
5 KUCZEWSKI's conduct is not restrained.

6 **XXXVII. PRAYER**

7 WHEREFORE, Plaintiffs ask for judgment against Defendants, and each of them, jointly
8 and severally to the extent jointly sued, as follows:

- 9 1. For general damages according to proof;
10 2. For special damages according to proof;
11 3. For a declaration of the rights and obligations of Plaintiffs, KUCZEWSKI,
12 HOLLAND, and DOES 2-20;
13 4. For injunctive relief;
14 5. For punitive damages according to proof;
15 6. For costs of suit; and
16 7. For such other and further relief as the court deems just and proper.

17
18 Dated: September 4, 2019

SHEWRY & SALDAÑA, LLP

19
20 By: 

21 Christopher C. Saldaña, Esq.
22 Attorneys for Plaintiffs/Cross-Defendants
23 ROBIN MARIEN, GABRIEL JEBB, and
24 AIR CALIFORNIA ADVENTURE, INC
25
26
27
28

EXHIBIT “A”

Flat Rate Lease

TORREY PINES CITY PARK

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**CITY OF SAN DIEGO
FLAT RATE LEASE**

THIS LEASE AGREEMENT is executed between THE CITY OF SAN DIEGO, a municipal corporation, hereinafter called "CITY," and AIR CALIFORNIA ADVENTURE, LLC, a California limited liability company hereinafter called "Flight Director/LESSEE."

RECITALS

WHEREAS, The Torrey Pines Gliderport is a San Diego City Historical site and is on the National Register of Historic Places, the State Register of Historic Sites and dedicated a National Soaring Landmark, and;

WHEREAS, CITY and Flight Director/LESSEE desire to maintain Torrey Pines Gliderport as a historical non-powered flight park, and;

WHEREAS, Flight Director/LESSEE will maintain rules and regulations governing flight and personal conduct at Torrey Pines Gliderport, and;

WHEREAS, Flight Director/LESSEE will consult with the Torrey Pines Soaring Council, which represents all soaring user groups, in forming the above mentioned rules and regulations.

NOW, Therefore, in consideration of the mutual covenants and recitals, the parties agree as follows:

SECTION 1: USES

- 1.1 Premises. CITY hereby leases to Flight Director/LESSEE and Flight Director/LESSEE leases from CITY all of that certain real property situated in the City of San Diego, County of San Diego, State of California, described

in Exhibit "A" attached hereto and by this reference made part of this agreement. Said real property is hereinafter called the "premises" or "leased premises."

- 1.2 Uses. It is expressly agreed that the premises are leased to Flight Director/LESSEE solely and exclusively for the purposes of the operation and maintenance of the premises and buildings for a gliderport concession, the use of non-powered aircraft and the general public. The sale of hangliding and paragliding parts and accessories; radio controlled models; sailplane equipment and parts and the sale of merchandise including but not limited to apparel and food and beverage shall be limited to the existing building in its present location or for such other related or incidental purposes as may be first approved in writing by the City Manager and for no other purpose whatsoever.

Flight Director/LESSEE covenants and agrees to use the premises for the above-specified purposes and to diligently pursue said purposes throughout the term hereof. Failure to continuously use the premises for said purposes, or the use thereof for purposes not expressly authorized herein, shall be grounds for termination by CITY.

The use of the premises for any unauthorized purpose shall constitute a substantial default and subject this lease to termination at the sole option of the CITY.

- 1.3 Related Council Actions. By the granting of this lease, neither CITY nor the Council of CITY is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to development or operation of the premises. Discretionary action includes but is not limited to rezonings, variances, environmental clearances, or any other governmental agency approvals which may be required for the development and operation of the leased premises.
- 1.4 Quiet Possession. Flight Director/LESSEE, performing the covenants and agreements herein, shall at all times during the term peaceably and quietly have, hold, and enjoy the premises. If CITY for any reason cannot deliver possession of the premises to Flight Director/LESSEE at the commencement of the term, or if during the lease term Flight Director/LESSEE is temporarily dispossessed through action or claim of a title superior to CITY'S, then and in either of such events, this lease shall not be voidable nor shall CITY be liable to Flight Director/LESSEE for any loss or damage resulting therefrom.

1.5 Easements and Reservations.

- a. CITY hereby reserves all rights, title, and interest in any and all subsurface natural gas, oil, minerals, and water on or within the premises.
- b. CITY reserves the right to grant and use easements or to establish and use rights-of-way over, under, along, and across the leased premises for utilities, thoroughfares, or access as it deems advisable for the public good.
- c. CITY has the right to enter the premises for the purpose of making repairs to or developing municipal resources and services.

However, CITY shall not unreasonably or substantially interfere with Flight Director/LESSEE'S use of the premises and will reimburse Flight Director/LESSEE for physical damages, if any, to the permanent improvements located on the leased premises resulting from CITY exercising the rights reserved in this section. CITY will pay the costs of maintenance and repair of all CITY installations made pursuant to these reserved rights.

- 1.6 Competent Management. Throughout the term of this lease agreement, Flight Director/LESSEE shall provide competent management of the leased premises to the satisfaction of the City Manager. For the purposes of this paragraph, "competent management" shall mean demonstrated ability in the management and operation of flight direction and gliderport concession services and related activities in a fiscally responsible manner. Flight Director/LESSEE shall institute rules and regulations governing flight and personal conduct so as to create a safe and enjoyable flight park, provided they are consistent with the rights of the general public and are designed to allow Flight Director/LESSEE to use the premises for the purposes specified herein. Rules and regulations shall be posted in plain view.
- 1.7 Operation of Facilities. A regular schedule of days and hours of operation shall be established by Flight Director/LESSEE to best serve the public as set forth in Section 10.4, Schedule of Days and Hours of Operation, hereof. Any changes in this schedule shall be subject to the prior written approval of the City Manager or his authorized representative. Flight Director/LESSEE shall diligently and in a creditable manner furnish services to the public in conformity with all applicable rules and regulations of the City of San Diego.
- 1.8 CITY Use. The premises shall be available to CITY for civic events and special programs, free of charge, except where Flight Director/LESSEE has

scheduled events or programs. After every CITY use, the premises shall be left in the same condition found, and Flight Director/LESSEE shall not be required to incur any additional costs by reason of CITY use.

- 1.9 Political Activities. The leased premises shall be used exclusively for the purposes specified in Section 1.2, Uses, hereof. The premises shall not be used for working or campaigning for the nomination or election of any individual to any public office, be it partisan or nonpartisan. Provided, however, that Flight Director/LESSEE shall not be precluded from providing a forum for open public debate by candidates such as occurs at a "candidate forum" and similar events.
- 1.10 Public Use. The general public shall not be wholly or permanently excluded from any portion of the premises. Flight Director/LESSEE may develop reasonable restrictions for the facility use provided they are consistent with the rights of the general public and are designed to allow Flight Director/LESSEE to use the premises for the purposes specified herein. Flight Director/LESSEE agrees that all activities conducted on the premises will be as stated in Section 1.2, Uses, hereof.
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Flight Director/LESSEE shall, at all times during the lease term, maintain a CITY-approved sign identifying the property as City-owned and available for public use consistent with the terms of this lease. The sign shall be installed by Flight Director/LESSEE at a location agreeable to CITY.

SECTION 2. : TERM

- 2.1 Commencement. The term of this agreement shall be five (5) years commencing on the 1st day of August, 1998. "Lease year" as used in this lease shall mean the 12-month period commencing on the 1st day of August, 1998.
- 2.2 Option to Extend. At CITY's sole option, Flight Director/LESSEE may extend this lease for one additional term of five (5) years subject to all original agreements, considerations, covenants and conditions. In order for extension to be considered by CITY, Flight Director/LESSEE must notify CITY in writing of Flight Director/LESSEE's desire to extend at least six (6) months (180 days) prior to the date on which this lease is first set to expire.
- 2.3 Holdover. Any holding over by Flight Director/LESSEE after expiration or termination shall not be considered as a renewal or extension of this lease. The occupancy of the premises after the expiration or termination of this

agreement constitutes a month-to-month tenancy, and all other terms and conditions of this agreement shall continue in full force and effect; provided, however, CITY shall have the right to apply a reasonable increase in rent to bring the rent to fair market value and to terminate the holdover tenancy at will.

- 2.4 Quitclaim and Surrender of Flight Director/LESSEE'S Interest: On execution of this lease, Flight Director/LESSEE shall deliver to CITY a quitclaim deed in recordable form quitclaiming all its rights in and to the premises. CITY may record such deed only on the expiration or earlier termination of this lease. In the event that CITY requires any subsequent quitclaim deed, Flight Director/LESSEE or its successor in interest shall deliver the same within five (5) days after receiving written demand therefor.

At the expiration or earlier termination of this lease, Flight Director/LESSEE shall surrender the premises to CITY free and clear of all liens and encumbrances, except those liens and encumbrances which existed on the date of execution hereof, and in a decent, safe, and sanitary condition. In the case of termination of this lease by CITY prior to the end of the specified lease term, any liens and encumbrances must be approved in writing by the City Manager.

- 2.5 Surrender of Premises. At termination of this lease for any reason, Flight Director/LESSEE shall execute, acknowledge, and deliver to CITY, within five (5) days after written CITY demand, a valid and recordable quitclaim deed covering all of the premises. The premises shall be delivered free and clear of all liens and encumbrances and in a decent, safe, and sanitary condition.

If Flight Director/LESSEE fails or refuses to deliver the required deed, CITY may prepare and record a notice reciting Flight Director/LESSEE'S failure to execute this lease provision, and the notice will be conclusive evidence of the termination of this lease and all Flight Director/LESSEE'S rights to the premises.

SECTION 3: RENT

- 3.1 Consideration. The Flight Director/LESSEE shall not remit any monetary consideration to the City. The Flight Director/LESSEE will be responsible for providing a full-time Flight Director that is easily identifiable, the maintenance and clean-up of all immediate adjacent property including but not limited to

the City-owned parking lot and providing and maintaining four (4) portable toilets for service to the public at no cost to the City.

- 3.2 Inspection of Records. Flight Director/LESSEE agrees to make any and all records and accounts available to CITY for inspection at all reasonable times so that CITY can determine Flight Director/LESSEE'S compliance with this lease. These records and accounts will be made available by Flight Director/LESSEE at the leased premises and will be complete and accurate showing all income and receipts from use of the premises. Flight Director/LESSEE'S failure to keep and maintain such records and make them available for inspection by CITY is a breach of this lease and cause for termination. Flight Director/LESSEE shall maintain all such records and accounts for a minimum period of five (5) years.

SECTION 4: ASSIGNMENT

- 4.1 Time is of Essence: Provisions Binding on Successors. Time is of the ~~essence of all of the terms, covenants, and conditions of this lease, and,~~ except as otherwise provided herein, all of the terms, covenants, and conditions of this lease shall apply to, benefit, and bind the successors and assigns of the respective parties, jointly and individually.

- 4.2 Assignment and Subletting. Flight Director/LESSEE shall not assign this lease or any interest therein and shall not sublet the premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person, except employees, agents, and guests of Flight Director/LESSEE, to use or occupy the premises or any part thereof, without the prior written consent of the City Manager in each instance. A consent to assignment, subletting, occupation, or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use by another person. Any such assignment or subletting without such consent shall be void and shall, at the option of CITY, terminate this lease. This lease shall not, nor shall any interest therein, be assignable as to the interest of Flight Director/LESSEE by operation of law, without the written consent of the City Manager.

"Assignment" for the purposes of this clause shall include any transfer of any ownership interest in this lease by Flight Director/LESSEE or by any partners, principals, or stockholders, as the case may be, from the original Flight Director/LESSEE, its general partners, or principals.

Approval of any assignment or sublease shall be conditioned upon the assignee or sublessee agreeing in writing that it will assume the rights and obligations thereby assigned or subleased and that it will keep and perform all covenants, conditions, and provisions of this agreement which are applicable to the rights acquired.

- 4.3 Encumbrance. Flight Director/LESSEE may not encumber this lease, its leasehold estate, and its improvements thereon by deed of trust, mortgage, chattel mortgage, or other security instrument to assure the payment of a promissory note or notes of Flight Director/LESSEE.

4.4 Defaults and Remedies.

a. Default. In the event that:

- (1) Flight Director/LESSEE shall default in the performance of any covenant or condition required by this lease to be performed by Flight Director/LESSEE and shall fail to cure said default within thirty (30) days following written notice thereof from CITY; or if any such default is not curable within thirty (30) days, and Flight Director/LESSEE shall fail to commence to cure the default(s) within said thirty-day period and diligently pursue such cure to completion; or
- (2) Flight Director/LESSEE shall voluntarily file or have involuntarily filed against it any petition under any bankruptcy or insolvency act or law; or
- (3) Flight Director/LESSEE shall be adjudicated a bankrupt; or
- (4) Flight Director/LESSEE shall make a general assignment for the benefit of creditors;

then CITY may, at its option, without further notice or demand upon Flight Director/LESSEE or upon any person claiming rights through Flight Director/LESSEE, immediately terminate this lease and all rights of Flight Director/LESSEE and of all persons claiming rights through Flight Director/LESSEE to the premises or to possession thereof; and CITY may enter and take possession of the premises. Provided, however, in the event that any default described in Section 4.4a.(1), hereinabove is not curable within thirty (30) days after notice to Flight Director/LESSEE, CITY shall not terminate this lease pursuant to the default if Flight Director/LESSEE immediately

commences to cure the default and diligently pursues such cure to completion.

b. Abandonment by Flight Director/LESSEE. Even though Flight Director/LESSEE has breached the lease and abandoned the property, this lease shall continue in effect for so long as CITY does not terminate this lease, and CITY may enforce all its rights and remedies hereunder, including but not limited to the right to recover the rent as it becomes due, plus damages, if applicable.

c. Waiver. Any CITY waiver of a default is not a waiver of any other default. Any waiver of a default must be in writing and be executed by the City Manager in order to constitute a valid and binding waiver. CITY delay or failure to exercise a remedy or right is not a waiver of that or any other remedy or right under this lease. The use of one remedy or right for any default does not waive the use of another remedy or right for the same default or for another or later default. CITY'S acceptance of any rents is not a waiver of any default preceding the rent payment. CITY and Flight Director/LESSEE specifically agree that the property constituting the premises is CITY-owned and held in trust for the benefit of the citizens of the City of San Diego and that any failure by the City Manager or CITY staff to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but CITY shall at all times, have the legal right to require the cure of any default when and as such defaults are discovered or when and as the City Council directs the City Manager to take action or require the cure of any default after such default is brought to the attention of the City Council by the City Manager or by any concerned citizen.

4.5 Eminent Domain. If all or part of the premises are taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of CITY and Flight Director/LESSEE (or beneficiary or mortgagee) will be as follows:

a. In the event the entire premises are taken, this lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.

b. In the event of a partial taking, if, in the opinion of CITY, the remaining part of the premises is unsuitable for the lease operation, this lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.

- c. In the event of a partial taking, if, in the opinion of CITY, the remaining part of the premises is suitable for continued lease operation, this lease shall terminate in regard to the portion taken on the date of the transfer of title or possession to the condemning authority, whichever first occurs, but shall continue for the portion not taken. The minimum rent shall be equitably reduced to reflect the portion of the premises taken.
- d. Award. All monies awarded in any such taking shall belong to CITY, whether such taking results in diminution in value of the leasehold or the fee or both; provided, however, Flight Director/LESSEE shall be entitled to any award attributable to the taking of, or damages to Flight Director/LESSEE'S then remaining leasehold interest in installations or improvements of Flight Director/LESSEE. CITY shall have no liability to Flight Director/LESSEE for any award not provided by the condemning authority.
- e. Transfer. CITY has the right to transfer CITY'S interests in the premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If a transfer occurs, Flight Director/LESSEE shall retain whatever interest it may have in the fair market value of any improvements placed by it on the premises in accordance with this lease.
- f. No Inverse Condemnation. The exercise of any CITY right under this lease shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon CITY for inverse condemnation.

- 4.6 Control by Specified Individuals or Entities. The corporation named herein as Flight Director/LESSEE shall remain owned and controlled by David Jebb, at least to the extent of fifty-one percent (51%) of the issued stock of said corporation, and they shall, as co-executives, actively administer and supervise the business enterprise operated on the premises. Provided, however, in the event that any of the above-named persons shall become incapacitated, then the other(s) shall continue in such active administration and supervision. In the event all parties are incapacitated, then the stockholders shall select an experienced manager acceptable to CITY to so administer and supervise the lease operations. Sale or transfer of stock or divestment of any interest in said corporation by the above-named persons in excess of five percent (5%) shall be considered an assignment of interest and shall be treated in accordance with the provisions of Section 4.2, Assignment and Subletting, provided, however, that the stock of any

stockholder may be assigned to his or her spouse or direct lineal heirs upon notification in writing to CITY. Pursuant to City Charter Section 225, the City Manager must review and approve every person or entity which will have a financial interest in this lease as an assignee. The City Manager's approval will not be unreasonably withheld, provided all such persons and entities are of good character and reputation in the community.

SECTION 5: INSURANCE RISKS/SECURITY

- 5.1 Indemnity. Flight Director/LESSEE agrees to defend, indemnify, protect, and hold the CITY, its agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to Flight Director/LESSEE'S employees, invitees, guests, agents, or officers, which arise out of or are in any manner directly or indirectly connected with the development or operation of the leasehold or the work and operations to be performed under this agreement, and all expenses of investigating and defending against same; provided, however, that Flight Director/LESSEE'S duty to indemnify

and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the CITY, its agents, officers, or employees.

5.2 Insurance.

- a. Flight Director/LESSEE shall take out and maintain at all times during the term of this lease the following insurance at its sole expense:
- (1) Public liability and property damage insurance in the amount of not less than One Million Dollars (\$1,000,000) Combined Single Limit Liability with an occurrence claims form, and One Million Dollars (\$1,000,000) in third person liability covering flight operations. This policy shall cover all injury or damage, including death, suffered by any party or parties from acts or failures to act by CITY or Flight Director/LESSEE or by authorized representatives of CITY or Flight Director/LESSEE on or in connection with the use or operation of the premises.
 - (2) Fire, extended coverage, and vandalism insurance policy on all insurable property on the premises in an amount to cover 100 percent of the replacement cost. Any proceeds from a loss shall be payable jointly to CITY and Flight Director/LESSEE. The proceeds shall be placed in a trust fund

to be reinvested in rebuilding or repairing the damaged property. If there is a mortgage or trust deed on the leasehold in accordance with Section 4.3, Encumbrance, hereof, the proceeds may be paid to the approved mortgagee or beneficiary so long as adequate provision reasonably satisfactory to CITY has been made in each case for the use of all proceeds for repair and restoration of damaged or destroyed improvements on the premises.

b. Flight Director/LESSEE'S responsibility to maintain said insurance also includes the following:

(1) Insurance from all Flight Clubs. Flight Director/LESSEE shall require that all clubs using the flight park facility for airborne operations provide a certificate of insurance and the required waiver for each user as provided for in Section 8.5, to Flight Director/LESSEE and CITY, naming Flight Director/LESSEE and CITY as additional insured. Also, no pilot shall use the facility without showing proof of liability insurance.

(2) Additional Insured. All insurance policies will name CITY as an additional insured, protect CITY against any legal costs in defending claims, and will not terminate without sixty (60) days' prior written notice to CITY. All insurance companies must be satisfactory to CITY and licensed to do business in California. All policies will be in effect on or before the first day of the lease, except "course of construction fire insurance" shall be in force on commencement of all authorized construction on the premises, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. A copy of the insurance policy will remain on file with CITY during the entire term of the lease. At least thirty (30) days prior to the expiration of each policy, Flight Director/LESSEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the terms of this lease.

(3) Modification. CITY, at its discretion, may require the revision of amounts and coverages at any time during the term by giving Flight Director/LESSEE sixty (60) days' prior written notice. CITY'S requirements shall be designed to assure protection from and against the kind and extent of risk existing on the premises. Flight Director/LESSEE also agrees to obtain

any additional insurance required by CITY for new improvements, in order to meet the requirements of this lease.

- (4) Accident Reports. Flight Director/LESSEE shall report to CITY any accident causing more than Ten Thousand Dollars (\$10,000) worth of property damage or any serious injury to persons on the premises. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses, and other pertinent information.
- (5) Failure to Comply. If Flight Director/LESSEE fails or refuses to take out and maintain the required insurance or fails to provide the proof of coverage, CITY has the right to obtain the insurance. Flight Director/LESSEE shall reimburse CITY for the premiums paid with interest at the maximum allowable legal rate then in effect in California. CITY shall give notice of the payment of premiums within thirty (30) days of payment ~~stating the amount paid, names of the insurer(s), and rate of~~ interest. Said reimbursement and interest shall be paid by Flight Director/LESSEE on the first (1st) day of the month following the notice of payment by CITY.

Notwithstanding the preceding provisions of this Subsection (4), if Flight Director/LESSEE fails or refuses to take out or maintain insurance as required in this lease or fails to provide the proof of insurance, CITY has the right to declare this lease in default without further notice to Flight Director/LESSEE, and CITY shall be entitled to exercise all legal remedies in the event of such default.

- 5.3 Waste, Damage, or Destruction. Flight Director/LESSEE agrees to give notice to CITY of any fire or other damage that may occur on the leased premises within ten (10) days of such fire or damage. Flight Director/LESSEE agrees not to commit or suffer to be committed any waste or injury or any public or private nuisance, to keep the premises clean and clear of refuse and obstructions, and to dispose of all garbage, trash, and rubbish in a manner satisfactory to CITY. If the leased premises shall be damaged by any cause which puts the premises into a condition which is not decent, safe, healthy, and sanitary, Flight Director/LESSEE agrees to make or cause to be made full repair of said damage and to restore the premises to the condition which existed prior to said damage; or, at CITY'S option, Flight Director/LESSEE agrees to clear and remove from the leased premises all debris resulting from said damage and rebuild the premises in

accordance with plans and specifications previously submitted to CITY and approved in writing in order to replace in kind and scope the operation which existed prior to such damage, using for either purpose the insurance proceeds as set forth in Section 5.2, Insurance, hereof.

Flight Director/LESSEE agrees that preliminary steps toward performing repairs, restoration, or replacement of the premises shall be commenced by Flight Director/LESSEE within thirty (30) days, and the required repairs, restoration, or replacement shall be completed within a reasonable time thereafter.

- 5.4 Security Deposit. A security deposit shall be paid to the CITY by Flight Director/LESSEE in the sum of five thousand dollars (\$5,000.00) on or before the commencement date of this lease. All or any portion of the principal sum shall be available unconditionally to CITY for correcting any default or breach of this lease by Flight Director/LESSEE, Flight Director/LESSEE'S successors or assigns, or for payment of expenses incurred by CITY as a result of Flight Director/LESSEE'S failure to faithfully ~~perform all terms, covenants, and conditions of this lease~~.
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The security deposit shall take one of the forms set out below:

- a. Cash. Cash deposits shall be deposited with CITY, and CITY shall not be liable to Flight Director/LESSEE for any interest thereon. Provided further, any interest earned by CITY from such deposit or redeposit shall be and remain the property of CITY.
- b. Instrument(s) of Credit. An instrument(s) of credit from one or more financial institutions, subject to regulation and insurance by the state or federal government, shall pledge that the funds are on deposit and guaranteed for payment and agree that any or all funds shall be paid to CITY upon demand by CITY. The financial institution and the form of any instrument pledging the funds must be approved by CITY.

Flight Director/LESSEE will maintain the required security deposit throughout the lease term and for ninety (90) days thereafter unless previously released by CITY. Failure to do so shall be considered a default and is grounds for immediate termination of this lease.

In the event CITY utilizes all or any portion of the security deposit, Flight Director/LESSEE shall reimburse the deposit within ten (10) days of notice from CITY to bring the security deposit up to the full specified amount.

The security deposit or any balance thereof will be returned to Flight Director/LESSEE within ninety (90) days following expiration or termination of this lease, provided Flight Director/LESSEE has faithfully complied with all terms, covenants, and conditions hereof.

The security deposit may be increased by CITY proportionate to any increased performance or rental liability of Flight Director/LESSEE upon sixty (60) days' prior written notice from CITY of such required increase.

SECTION 6: IMPROVEMENTS/ALTERATIONS/REPAIRS

- 6.1 Acceptance of Premises. By signing this lease, Flight Director/LESSEE represents and warrants that it has independently inspected the premises and made all tests, investigations, and observations necessary to satisfy itself of the condition of the premises. Flight Director/LESSEE agrees it is relying solely on such independent inspection, tests, investigations, and observations in making this lease. Flight Director/LESSEE further acknowledges that the premises are in the condition called for by this lease, that CITY has performed all work with respect to the premises, and that Flight Director/LESSEE does not hold CITY responsible for any defects whether apparent or latent, in the premises, including the presence of any hazardous wastes.
- 6.2 Maintenance. Except as hereinafter provided, Flight Director/LESSEE agrees to assume full responsibility and cost for the operation and maintenance of the premises throughout the term. Flight Director/LESSEE will perform all such repairs and replacements necessary to maintain and preserve the premises in a decent, safe, healthy, and sanitary condition satisfactory to CITY.
- 6.3 Improvements/Alterations. No improvements, structures, or installations shall be constructed on the premises, and the premises may not be altered by Flight Director/LESSEE without prior written approval by the City Manager. Further, Flight Director/LESSEE agrees that major structural or architectural design alterations to approved improvements, structures, or installations may not be made on the premises without prior written approval by the City Manager and that such approval shall not be unreasonably withheld. This provision shall not relieve Flight Director/LESSEE of any obligation under this lease to maintain the premises in a decent, safe, healthy, and sanitary condition, including structural repair and restoration of

damaged or worn improvements. CITY shall not be obligated by this lease to make or assume any expense for any improvements or alterations.

6.4 Utilities. Flight Director/LESSEE agrees to order, obtain, and pay for all utilities and service and installation charges in connection with the development and operation of the leased premises. All utilities will be installed underground.

6.5 Construction Bond. Whenever there is any construction to be performed on the premises, Flight Director/LESSEE shall deposit with CITY, prior to commencement of said construction, a faithful performance bond in the amount of 100 percent of the estimated construction cost of the work to be performed. The bond may be in cash or may be a corporate surety bond or other security satisfactory to CITY. The bond shall insure that the construction commenced by Flight Director/LESSEE shall be completed in accordance with the plans approved by CITY or, at the option of CITY, that the uncompleted construction shall be removed and the premises restored to a condition satisfactory to CITY. The bond or cash will be held in trust by CITY for the purpose specified above or at CITY'S option it may be placed in an escrow or other trust approved by CITY.

6.6 Liens. Flight Director/LESSEE shall at all times save CITY free and harmless and indemnify CITY against all claims for labor or materials in connection with operations, improvements, alterations, or repairs on or to the premises and the costs of defending against such claims, including reasonable attorney's fees.

If improvements, alterations, or repairs are made to the premises by Flight Director/LESSEE or by any party other than CITY, and a lien or notice of lien is filed, Flight Director/LESSEE shall within five (5) days of such filing either:

- a. take all actions necessary to record a valid release of lien, or
- b. file with CITY a bond, cash, or other security acceptable to CITY sufficient to pay in full all claims of all persons seeking relief under the lien.

6.7 Taxes. Flight Director/LESSEE agrees to pay, before delinquency, all taxes, assessments, and fees assessed or levied upon Flight Director/LESSEE or the premises, including the land, any buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by Flight Director/LESSEE or levied by reason of the business or other Flight Director/LESSEE activities

related to the leased premises, including any licenses or permits. Flight Director/LESSEE recognizes and agrees that this lease may create a possessory interest subject to property taxation, and that Flight Director/LESSEE may be subject to the payment of taxes levied on such interest, and that Flight Director/LESSEE shall pay all such possessory interest taxes. Flight Director/LESSEE further agrees that payment for such taxes, fees and assessments will not reduce any rent due CITY.

- 6.8 Signs. Flight Director/LESSEE agrees not to erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising without the prior written consent of CITY. If any such unauthorized item is found on the premises, Flight Director/LESSEE agrees to remove the item at its expense within 24 hours notice thereof by CITY, or CITY may thereupon remove the item at Flight Director/LESSEE'S cost.

6.9 Ownership of Improvements and Personal Property.

- a. Any and all improvements, trade fixtures, structures, and installations ~~or additions to the premises now existing or constructed on the~~ premises by Flight Director/LESSEE shall at lease expiration or termination be deemed to be part of the premises and shall become, at CITY'S option, CITY'S property free of all liens and claims, except as otherwise provided in this lease.
- b. If CITY elects not to assume ownership of all or any improvements, trade fixtures, structures, and installations, CITY shall so notify Flight Director/LESSEE thirty (30) days prior to termination or one hundred eighty (180) days prior to expiration, and Flight Director/LESSEE shall remove all such improvements, structures and installations as directed by CITY at Flight Director/LESSEE'S sole cost on or before lease expiration or termination. If Flight Director/LESSEE fails to remove any improvements, structures, and installations as directed, Flight Director/LESSEE agrees to pay CITY the full cost of any removal.
- c. Flight Director/LESSEE-owned machines, appliances, equipment (other than trade fixtures), and other items of personal property shall be removed by Flight Director/LESSEE by the date of the expiration or termination of this lease. Any said items which Flight Director/LESSEE fails to remove will be considered abandoned and become CITY'S property free of all claims and liens, or CITY may, at its option, remove said items at Flight Director/LESSEE'S expense.

- d. If any removal of such personal property by Flight Director/LESSEE results in damage to the remaining improvements on the premises, Flight Director/LESSEE agrees to repair all such damage.
 - e. Notwithstanding any of the foregoing, in the event Flight Director/LESSEE desires to dispose of any of its personal property used in the operation of said premises upon expiration or termination of this lease, then CITY shall have the first right to acquire or purchase said personal property.
 - f. It is understood that the "trailers" placed on the site which are used for office and retail outlet are the property of the Flight Director/LESSEE. The "trailers" may be removed by the Flight Director/LESSEE at the termination of this lease.
- 6.10 Unavoidable Delay. If the performance of any act required of CITY or Flight Director/LESSEE is directly prevented or delayed by reason of strikes, lockouts, labor disputes, unusual governmental delays, acts of God, fire, floods, epidemics, freight embargoes, or other causes beyond the reasonable control of the party required to perform an act, said party shall be excused from performing that act for the period equal to the period of the prevention or delay. Provided, however, this provision shall not apply to obligations to pay rental as required pursuant to this lease. In the event Flight Director/LESSEE or CITY claims the existence of such a delay, the party claiming the delay shall notify the other party in writing of such fact within ten (10) days after the beginning of any such claimed delay.
- 6.11 Hazardous/Toxic Waste. Flight Director/LESSEE will not allow the installation of additional underground storage tanks or release of hazardous substances in, on, under, or from the premises. For the purposes of this provision, a release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State's list of hazardous substances. A copy of the presently effective EPA and the State lists is on file in the Office of the City Clerk as Document 769704 and by this reference is incorporated herein.

In the event of any release of a hazardous substance, Flight Director/LESSEE shall be responsible for all costs of remediation and

removal of such substances in accordance with all applicable rules and regulations of governmental authorities.

Flight Director/LESSEE agrees to assume the defense of, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from Flight Director/LESSEE'S operations on the premises, including but not limited to costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

If Flight Director/LESSEE knows or has reasonable cause to believe that any hazardous substance has been released on or beneath the premises, Flight Director/LESSEE shall give written notice to the City Manager within ten (10) days of receipt of such knowledge or cause for belief. Provided, however, if Flight Director/LESSEE knows or has reasonable cause to believe that such substance is an imminent and substantial danger to public health and safety, Flight Director/LESSEE shall notify the City Manager immediately upon receipt of this knowledge or belief and shall take all actions necessary to alleviate such danger. Flight Director/LESSEE will notify the City Manager immediately of any notice of violation received or initiation of environmental actions or private suits relative to the premises. In addition, Flight Director/LESSEE and Flight Director/LESSEE'S sublessees shall not utilize or sell any hazardous substance on the property without the prior written consent of CITY.

At any time within the twelve (12) months before the expiration or earlier termination of this lease and with reasonable cause, Flight Director/LESSEE, at CITY'S sole option, shall cause an environmental assessment of the premises to be completed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. Said environmental assessment shall be obtained at the sole cost and expense of Flight Director/LESSEE and shall establish what, if any, hazardous substances exist on, in, or under the premises, and in what quantities. If any hazardous substances exist in quantities greater than that allowed by CITY, county, state, or federal laws, statutes, ordinances, or regulations, then said environmental assessment shall include a discussion of these substances with recommendations for remediation and removal necessary to effect compliance with those laws or statutes and estimates of the cost of such remediation or removal. Flight Director/LESSEE shall cause the remediation and/or removal recommended in the environmental assessment such that

compliance with environmental law is achieved and shall be solely responsible for all costs and expenses incurred.

SECTION 7: GENERAL PROVISIONS

7.1 Notices

- a. Any notice required or permitted to be given hereunder shall be in writing and may be served personally or by United States mail, postage prepaid, addressed to Flight Director/LESSEE at the leased premises or at such other address designated in writing by Flight Director/LESSEE; and to CITY as follows:

City Manager
Attention Real Estate Assets Director
City Administration Building
202 "C" Street, M.S. 9B
San Diego, CA 92101-4155

or to any mortgagee, trustee, or beneficiary, as applicable, at such appropriate address designated in writing by the respective party.

- b. Any party entitled or required to receive notice under this lease may by like notice designate a different address to which notices shall be sent.

- 7.2 Compliance with Law. Flight Director/LESSEE shall at all times in the construction, maintenance, occupancy, and operation of the premises comply with all applicable laws, statutes, ordinances, and regulations of CITY, county, state, and federal governments at Flight Director/LESSEE'S sole cost and expense. In addition, Flight Director/LESSEE shall comply with any and all notices issued by the City Manager or his authorized representative under the authority of any such law, statute, ordinance, or regulation.

- 7.3 CITY Approval. The approval or consent of CITY, wherever required in this lease, shall mean the written approval or consent of the City Manager unless otherwise specified, without need for further resolution by the City Council.

- 7.4 Nondiscrimination. Flight Director/LESSEE agrees not to discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in Flight Director/LESSEE'S use of the premises,

including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.

7.5 Compliance with CITY'S Equal Opportunity Contracting Program.

- a. Equal Opportunity Contracting. Flight Director/LESSEE acknowledges and agrees that it is aware of, and will comply with, City Council Ordinance No. 18173 (San Diego Municipal Code Sections 22.2701 through 22.2708, as amended), EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM, a copy of which is on file in the Office of the City Clerk and by this reference is incorporated herein. Flight Director/LESSEE and all of its subcontractors are individually responsible to abide by its contents.

Flight Director/LESSEE will comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations hereafter enacted. Flight Director/LESSEE will not discriminate against any employee or applicant for employment on any basis prohibited by law.

Flight Director/LESSEE submitted and CITY acknowledges receipt of a current Work Force Report or a current Equal Employment Opportunity (EEO) Plan as required by Section 22.2705 of the San Diego Municipal Code, which sets forth the actions that Flight Director/LESSEE will take to achieve the CITY'S commitment to equal employment opportunities.

Flight Director/LESSEE agrees to insert the foregoing provisions in all subcontracts for any work covered by this lease agreement so that such provisions will be binding upon each subcontractor. Flight Director/LESSEE agrees that compliance with EEO provisions flowing from the authority of both parties will be implemented, monitored, and reviewed by the CITY'S Equal Opportunity Contracting Program staff.

- b. Local Business and Employment. Flight Director/LESSEE acknowledges that the City of San Diego seeks to promote employment and business opportunities for local residents and firms in all CITY contracts. Flight Director/LESSEE will, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontracts, for work associated with this lease agreement from local residents and firms as opportunities occur. Flight

Director/LESSEE agrees to hire qualified local residents and firms whenever feasible.

Flight Director/LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements may result in termination of this lease agreement and debarment from participating in CITY contracts for a period of not less than one (1) year.

- 7.6 Partial Invalidity. If any term, covenant, condition, or provision of this lease is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions will remain in full force and effect.
- 7.7 Legal Fees. In the event of any litigation regarding this lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.
- 7.8 Number and Gender. Words of any gender used in this lease shall include any other gender, and words in the singular number shall include the plural, when the tense requires.
- 7.9 Captions. The Lease Outline, section headings, and captions for various articles and paragraphs shall not be held to define, limit, augment, or describe the scope, content, or intent of any or all parts of this lease. The numbers of the paragraphs and pages of this lease may not be consecutive. Such lack of consecutive numbers is intentional and shall have no effect on the enforceability of this lease.
- 7.10 Entire Understanding. This lease contains the entire understanding of the parties. Flight Director/LESSEE, by signing this agreement, agrees that there is no other written or oral understanding between the parties with respect to the leased premises. Each party has relied on its own examination of the premises, advice from its own attorneys, and the warranties, representations, and covenants of the lease itself. Each of the parties in this lease agrees that no other party, agent, or attorney of any other party has made any promise, representation, or warranty whatsoever which is not contained in this lease.

The failure or refusal of any party to read the lease or other documents, inspect the premises, and obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on these actions. No modification, amendment, or

alteration of this lease will be valid unless it is in writing and signed by all parties.

7.11 CITY Employee Participation Policy. It is the policy of CITY that all CITY contracts, agreements, or leases with consultants, vendors, or Flight Director/LESSEES shall include a condition that the contract, agreement, or lease may, at the sole option of CITY, be unilaterally and immediately terminated by CITY if the contractor or Flight Director/LESSEE employs an individual who, within the twelve months immediately preceding such employment, did in his/her capacity as a CITY officer or employee participate in negotiations with or otherwise have an influence on the recommendation made to the City Council in connection with the selection of the contractor or Flight Director/LESSEE. It is not the intent of this policy that these provisions apply to members of the City Council.

7.12 Drug-free Workplace. Flight Director/LESSEE shall be required to abide by the omnibus drug legislation passed by Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- a. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the leasehold and specifying the actions that will be taken against employees for violations of the prohibition.
- b. Establishing a drug-free awareness program to inform employees about all of the following:
 - (1) The dangers of drug abuse in the workplace.
 - (2) The Flight Director/LESSEE'S policy of maintaining a drug-free workplace.
 - (3) Any available drug counseling, rehabilitation, and employees assistance programs.
 - (4) The penalties that may be imposed upon employees' for drug abuse violations.
- c. Flight Director/LESSEE shall include in each sublease agreement language which indicates the sublessee's agreement to abide by the provisions of a drug-free workplace. Flight Director/LESSEE and

sublessees shall be individually responsible for their own drug-free workplace programs.

7.13 Disabled Access Compliance. Flight Director/LESSEE agrees to comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (ADA); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. Flight Director/LESSEE'S compliance shall include but not necessarily be limited to the following:

- a. Flight Director/LESSEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.
- b. No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of Flight Director/LESSEE.
- c. Flight Director/LESSEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site.
- d. Where required by law, Flight Director/LESSEE shall comply with CITY'S disabled access requirements by bringing up to code and making accessible any areas of the premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost of Flight Director/LESSEE.
- e. Flight Director/LESSEE shall include language in each sublease agreement which indicates the sublessee's agreement to abide by the foregoing provisions. Flight Director/LESSEE and sublessees shall be individually responsible for their own ADA employment programs.

Flight Director/LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements shall constitute a default under this lease.

7.14 Schedule of Prices. All prices of merchandise, equipment, and services of Flight Director/LESSEE and its sublessees shall be comparable with prices of like merchandise, equipment, and services offered in the San Diego area. All fees for flight shall be in accordance with the schedule set forth in Section

10.3, Schedule of Rates and Charges, hereof. Any changes in said schedule are subject to prior written approval by City Manager or his authorized representative.

- 7.15 Standard of Employees. Flight Director/LESSEE and its employees shall at all times conduct themselves and the operations on the leased premises in a creditable manner.
- 7.16 Supersedure. It is mutually agreed that this lease, upon commencement, supersedes and annuls that certain lease executed on the 1st day of August, 1993, with UP International, Document 282448, which is hereafter void and of no effect except as to any rentals and fees which may have accrued or any rights and remedies accrued or granted to CITY under such agreement.
- 7.17 Additional Consideration to City. Flight Director/LESSEE acknowledges that CITY expends considerable sums for maintenance of Torrey Pines City Park areas adjacent to the leasehold. Flight Director/LESSEE further acknowledges that the expenditure of such funds enhances the value of the leasehold. Flight Director/LESSEE and CITY agree that the exact amount of such enhancement is impossible to ascertain. However, CITY desires to be reimbursed to a reasonable extent in consideration for the continued maintenance of adjacent park areas. Therefore, Flight Director/LESSEE and CITY agree that in the event of an assignment; in the event of a subletting of the majority portion of the leasehold; or in the event of a refinancing creating an encumbrance against the leasehold after the permanent improvements have been constructed, Flight Director/LESSEE shall pay to CITY two percent (2%) of the gross amount paid for the leasehold in connection with an approved assignment of the lease, two percent (2%) of any amount paid Flight Director/LESSEE in consideration of a sublease of all or a majority portion of the leasehold, or two percent (2%) of the amount of any increased loan or encumbrance against the property over and above the amount of the encumbrance needed to finance the improvements. The amount upon which the two percent (2%) shall be based shall be the total consideration resulting from the transaction including total cash payments and the market value of non-cash consideration, including, but not limited to, stocks, bonds, deferred payments, secured and unsecured notes and forbearances regarding claims and judgments. Prior to CITY's consent to any assignment majority subletting or refinancing, Flight Director/LESSEE shall deliver to CITY a written statement of all sums due and owing to CITY from Flight Director/LESSEE pursuant to the provisions of this paragraph together with an acknowledgment from the proposed assignee, sublessee or refinancing agency as to the amount due CITY. The sum due CITY shall be payable in full to CITY concurrent with the completion of the transaction

be it an assignment, a sublease or a refinancing. Any assignment, subletting or refinancing in violation of the terms and conditions of this paragraph shall be void. The provisions of this paragraph shall not apply to:

- a. An assignment or transfer of a beneficial interest in the leasehold resulting from devise, bequest, intestate succession or by operation of law for the benefit of the spouse or descendants (i) of Flight Director/LESSEE (if an individual) or (ii) of Flight Director/LESSEE's principal owner or chief executive officer (if Flight Director/LESSEE is other than an individual);
- b. Such other assignment for which the City Manager determines that the legal and equitable ownership interests in the leasehold have remained unchanged, such as a change in the legal or fictitious name of the Flight Director/LESSEE without any other change in the equity in beneficial use of, or legal title to the leasehold as an asset, or the income produced thereby.

7.18 Plastic Food Containers.

- a. Flight Director/LESSEE shall not, after the effective date of this lease, provide to its customers any prepared food in polystyrene foam food packing, nor shall Flight Director/LESSEE obtain or keep any polystyrene foam food packing of a type, design and condition suited for providing prepared food to its customers for consumption off the leased premises.
- b. Flight Director/LESSEE's food packaging for prepared food to be consumed on the premises or for takeout food shall be degradable, and Flight Director/LESSEE shall provide upon demand evidence in the form of paid invoices to indicate the purchase of biodegradable containers in amounts sufficient to indicate compliance with this section. Flight Director/LESSEE's food packaging for prepared food to be consumed off the premises shall be biodegradable unless Flight Director/LESSEE demonstrates to the satisfaction of CITY that biodegradable food packaging materials are not available for purchase in the quantities required by Flight Director/LESSEE. In the event that biodegradable food packaging materials are not available for purchase in the quantities required by Flight Director/LESSEE, Flight Director/LESSEE may limit its use of such packaging to the amount actually available.

c. For purposes of this lease, the following definitions are applicable:

- (1) "Prepared food" means foods or beverages which are prepared on the leased premises by cooking, chopping, slicing, mixing, freezing or squeezing, and which require no further preparation to be consumed.
- (2) "Food packaging" means all bags, sacks, wrapping, containers, bowls, plates, trays, cartons, cups, straws and lids which are not intended for reuse, on or in which any foods or beverages are placed or packaged on the leased premises.
- (3) "Takeout food" means prepared foods or beverages requiring no further preparation to be consumed and which are purchased in order to be consumed off the leased premises.

SECTION 8: SPECIAL PROVISIONS

- 8.1 Flight Rules and Regulations. Flight Director/LESSEE or his representative will serve, act and be designated as an on-scene Flight Director during all times the flight operations are taking place. Flight Director/LESSEE or his representative shall enforce and administer all the Rules and Regulations posted onsite.
- 8.2 Equipment. Flight Director/LESSEE shall, and does hereby agree to furnish all equipment necessary for the operation of said concession, and agrees to properly maintain such equipment.
- 8.3 Supervision. Flight Director/LESSEE shall have qualified on-site personnel to operate the concession at all times when the premises are open to the public. Flight Director/LESSEE and its employees will at all times conduct themselves in the operations of the premises in a creditable and polite manner.
- 8.4 Maintenance of Adjacent Area. Flight Director/LESSEE shall keep the areas adjacent to the concession operations clean and clear of refuse, weeds and obstructions. Flight Director/LESSEE shall provide portable toilet facilities for its customers, employees and general public. CITY shall provide adequate trash receptacles, and shall dispose of all garbage, trash and rubbish. CITY agrees to be responsible for all landscaping of the grounds outside said adjacent areas.

- 8.5 Permit Form. Flight Director/LESSEE shall use waiver and indemnification forms intended to be used at the Flight Park that are acceptable to the CITY. Flight Director/LESSEE, on behalf of its members, hereby affirms that individual users will be required to execute a waiver and indemnification agreement as a condition of being permitted to use the Torrey Pines Flight Park. Also, all pilots must sign a statement certifying that they have read and understand the Rules and Regulations of flight.
- 8.6 Control and Administration of Agreement. Control and administration of this agreement is under the jurisdiction of the City Manager of CITY as to CITY's interest herein and any communication to the terms or conditions or any changes thereto or any notice or notices provided for by this agreement or by law to be given or served upon CITY may be given or served by letter deposited in the United States mails, postage prepaid, and addressed to the City Manager, Attention: Property Director, City Administration Building, Community Concourse, San Diego, CA 92101-4155. Any notice or notices provided for by this agreement or by law to be given or served upon Flight Director/LESSEE may be given or served by deposit in the United States mails, postage prepaid, a letter addressed to said Flight Director/LESSEE at the address stated at the commencement hereof, or may be personally served upon said Flight Director/LESSEE (or any one of them), or any person hereafter authorized by Flight Director/LESSEE to receive such notice. Any notice or notices given or served as provided herein shall be effectual and binding for all purposes upon the principals of the parties so served.
- 8.7 Merger. The voluntary or other surrender of this agreement by Flight Director/LESSEE, or a mutual cancellation thereof, shall not work a merger, and shall at the option of CITY, terminate all or any existing subconcessions or subtenancies, or may, at the option of CITY, operate as an assignment to it of any or all such subconcessions or subtenancies.

SECTION 9: SIGNATURES

9.1 Signature Page.

IN WITNESS WHEREOF, this lease agreement is executed by CITY, acting by and through its City Manager, and by Flight Director/LESSEE, acting by and through its lawfully authorized officers.

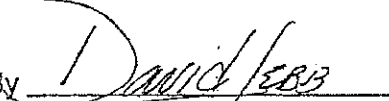
Date SEP 08 1998

THE CITY OF SAN DIEGO

By 

FLIGHT DIRECTOR/LESSEE:
AIR CALIFORNIA ADVENTURE

Date JULY 9, 1998

By 
David Jebb, President

By _____

APPROVED as to form and legality this 17th day of Sept., 1998.

CASEY GWINN, City Attorney

By 
Deputy City Attorney

CPA:jmj-n

5/21/98

KWP011998\ANDERSONLS-AIRC.AL

EXHIBIT "A"

Leasehold boundary



10.3 Schedule of Rates and Charges

- User rate is \$5.00 per day.
 - Torrey Pines Gulls member rate is \$3.00 per day.
 - Quarterly rate is \$35.00 for 90 days.
 - Semi Annual rate is \$60.00 for 180 days.
 - Annual rate is \$100.00 for 365 days.
 - Outside Tandem Fee is \$25.00 per day per person, plus the daily \$5.00 use fee.
 - Tandem Fee with a Torrey Pines instructor is \$125.00.
 - Instructional Fee is \$125.00 per day.
-

10.4 Schedule of Days and Hours of Operation

- Summer hours of operation are from 9:00 a.m. to 7:00 p.m.
- Winter hours of operation are from 9:00 a.m. to 5:00 p.m.

Hours of operation may be temporarily adjusted due to weather conditions.

EXHIBIT “B”

Very astute observations Rick!!

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bobk

Post subject: Re: Helmets optional at Torrey?

Posted: Fri Oct 24, 2014 10:39 am

Contributor



Joined: Fri Aug 13, 2010 2:40 pm
Posts: 2372
Location: San Diego, CA

wingspan33 wrote:

It looks like you sent a reply to the TV reporter. Bravo! I'm wondering, did you receive a reply?

I was thinking of doing the same. In thinking just now, I would have asked where the reporter got his stats. Perhaps the USHPA? Did the USHPA list only one (US?) PG fatality in 2010?

Here in San Diego, paraglider crashes are often reported by the press as "hang glider" crashes. I wonder where they get that information? Imagine that you're a reporter doing a story on a rescue. Who are you going to call? The only public phone number for the Torrey Pines site is the concessionaire itself. Hmmmm.... So why do you think the press might be continually reporting paragliding crashes as "hang gliding" crashes?

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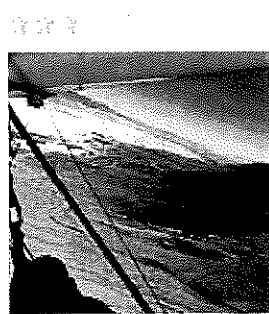
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RickMasters

Post subject: Re: Helmets optional at Torrey?

Posted: Fri Oct 24, 2014 1:51 pm

Contributor



Joined: Fri Jul 15, 2011 5:11 am
Posts: 218

Quote:

...why do you think the press might be continually reporting paragliding crashes as "hang gliding" crashes?

Well, in most cases the press simply doesn't know the difference. But I did find one hilarious incident from Austria of a soaring parachutist and his friends trying to evade the "dangerous sports" medical insurance exemption in their universal coverage. The poor guy slammed vertically onto a paved road and broke some limbs. He's lying there in bloody agony and his friends show up. But before they call the ambulance, they take off the victim's harness and hide it along with the sail. Then they grab a bicycle from somewhere and throw it down next to the guy so it looks like he had a bike crash. So the paramedics arrive and haul his broken body to the hospital but, after x-rays, the doctors realize there is no way his injuries could have happened in a bicycle crash. They're too severe. Pulverized bone fragments (comminuted fracture) or something. And they look like - gasp! - paragliding injuries - which doctors in that region are all too familiar with. So the doctors call the cops and ask them to check the scene a little more thoroughly. And the cops find the guy's bloody harness and paraglider in somebody's car trunk! Something like that. Anyway, it did not go well for all involved. Of course, hang glider pilots would never do anything like that. ;)

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eagle

Post subject: Re: Helmets optional at Torrey?

Posted: Fri Oct 24, 2014 3:12 pm

Contributor

- No Brains - No Comment -

ACA 368

EXHIBIT “C”



IMG_0628sc.JPG (107.28 KiB) Viewed 1852 times

My friend arrived just about the time that I tied my glider to the roof of my van. I'd been thinking very long and hard about the choice in front of me. I thought about all the times that David Jebb and Gabe Jebb and Robin Marien had bullied people and threatened them with arrest. I thought about how they've always gotten away with it because everyone in the past (including myself) had always backed down. Then I thought about Rosa Parks. The choice was clear:

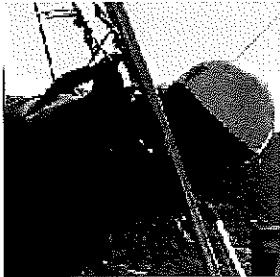


handcuffs1s.jpg (85.18 KiB) Viewed 1852 times

I spent the good part of that evening and into the next morning in jail. It was an extremely unpleasant experience, but I accepted it as the price of justice. Now I have both a video and a court date.

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bobk



Contributor



Posts: 2372

Joined: Fri Aug 13, 2010 2:40 pm

Location: San Diego, CA

- [Website](#)

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Re: Jailed for taking pictures at Torrey

by [eagle](#) » Tue Nov 11, 2014 12:02 pm

Crime Report ~ But WAIT ~ Lol ~ IS THAT LEGAL

ACA 411

EXHIBIT “D”



DSCF4563cs.JPG [41.07 KiB | Viewed 753 times]

The Jebb's control of Torrey Pines can be traced back to David Jebb's connections inside the City of San Diego through his work as a San Diego police officer (remember that former Mayor Jerry Sanders was also Chief of Police before becoming Mayor). I suspect that Jebb is showing up again because the Torrey Pines RFP (Request For Proposals) is coming up soon. Jebb will want his control to continue, and I am certain he will be flexing his connections inside our City government.

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bobk

Contributor



Joined: Fri Aug 13, 2010 2:40 pm
Posts: 3013
Location: San Diego, CA

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Post subject: Re: Jebbs still control Torrey

Posted: Mon May 04, 2015 10:00 am

The intimidation against speaking up at Torrey is strong, and I get a fair amount of information from anonymous sources or from people who wish to remain anonymous.

Here's a message and photo I got yesterday:

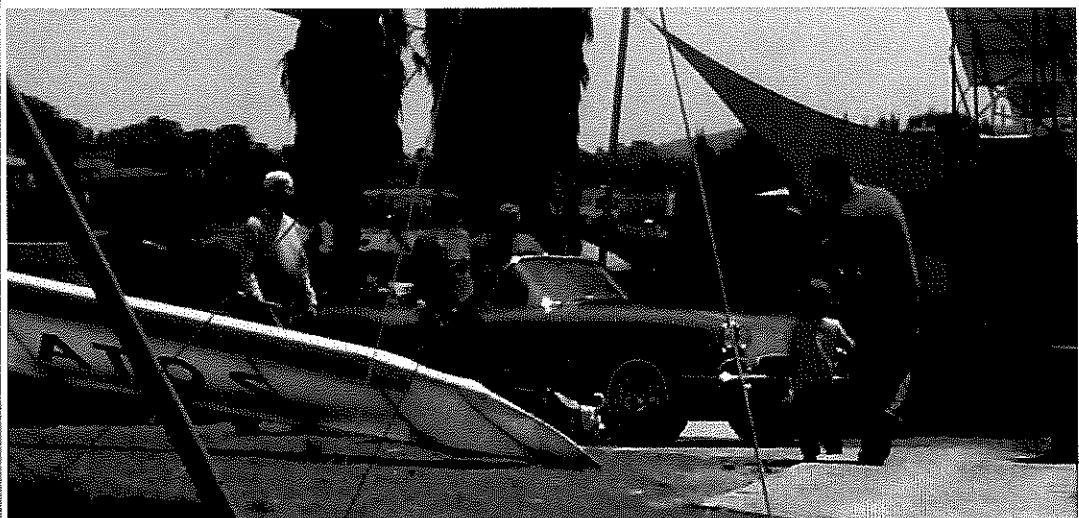
Anonymous wrote:

This is what you're up against.

Robin and Jebb were at the mafia table having lunch.

Robin drives away with David Jebb, in a Red Corvette ... The Godfather.

Attachment:



Jebb20150503rs.jpeg [64.83 KiB | Viewed 77 times]

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EXHIBIT “E”

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[Guns and Paragliding](#)

[Guns and Paragliding](#)

 by [bobk](#) » Sat Jun 13, 2015 10:45 am

There have been numerous reports of paragliding being used as a "poor man's air force" for both legal and illegal purposes. Uses include drug smuggling, surveillance, and law enforcement.

It's been long suspected that segments of the paragliding community are involved with some of these legal and/or illegal aspects of the sport. This has particular relevance to hang gliding since it may explain why the sport of paragliding seems to have a "protected" status at places like Torrey Pines and USHPA.

This topic is a place to discuss these issues, and it was prompted by the recent post by Eagle containing these photos:



Paraglider_gun_2.jpg (17.63 KiB) Viewed 117 times



Paraglider_gun_1.jpg (27.09 KiB) Viewed 117 times

Join a National Hang Gliding Organization: [US Hawks at ushawks.org](http://ushawks.org)

[bobk](#)



Contributor



Posts: 3187


Joined: Fri Aug 13, 2010 2:40 pm

Location: San Diego, CA

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[Re: Guns and Paragliding](#)

 by [bobk](#) » Sat Jun 13, 2015 10:47 am

Torrey Pines Connection to Paragliding and Law Enforcement

ABC News story at:

<http://abcnews.go.com/Travel/story?id=7492914&page=1&singlePage=true>

Paragliders Give Cops an Eye in the Sky

PALM BAY, Fla., May 9, 2009

By JOEL SIEGEL and STEPHANIE SY via World News





abc_paraglider_4_090509_wmain_large.jpg (36.03 KiB) Viewed 111 times

The Palm Bay, Fla., Police Department has become the first in the nation to put its officers in powered paragliders. The gliders have the ability to fly at low altitudes and controlled, low speeds, which may be useful in search-and-rescue operations and some types of surveillance.

In one Florida community, cops are not just walking the beat, they are soaring high above it.

The Palm Bay Police Department in Florida has become the first in the nation to put its officers in powered paragliders, the ultra-light flying machines usually associated with adventure sports, not police work.

Police Chief Bill Berger says they are a way for the department to have a bird's eye view of the semi-rural city at minimal cost.

"Because we don't have a lot of roadway here, this gives us the ability to basically take short cuts," said Berger.

Four officers are training to fly the powered paragliders, including Lt. Mark Renkins, who has flown recreationally for several years.

"It doesn't replace a helicopter or a fixed-wing [airplane]," said Renkins. "But it gives the department some aerial capability, when it had none at all."

It costs about \$10,000 to purchase the paragliding equipment and pay for training, which makes it a more affordable option for the 150-officer Palm Bay Police Department.

The gliders consist of little more than a seat tethered to a parachute and powered, essentially, by an oversized lawn-mower engine. The paraglider uses about a gallon of gas per hour.

The gliders have the ability to fly at low altitudes and controlled, low speeds, which may be

useful in search-and-rescue operations and some types of surveillance.

Palm Bay, Fla., is a sprawling community spanning more than 100 square miles with a substantial retirement community. Chief Berger sees the gliders as an ideal tool for searching for missing elderly people who have wandered away.

"The problem with helicopters is you can't go below 1,000 feet," said Berger. "The canopy of trees in our community prevented the helicopter from seeing a woman who had [died] close to her car. The paragliders would have been able to get much lower."

Weather Limits Paraglider Use

But there are limitations to the paragliders, weather being the biggest. Paragliders are at the mercy of winds, and when the Florida sun heats the ground quickly, wind turbulence can ground the gliders from mid-morning to late afternoon.

However, "even if the window is short, they can get a lot done in the small amount of time that they have got," said Phil Russman, a paragliding instructor who has been training the Palm Bay police officers.

Another limitation is that the paraglider must always have a spot to land. Because Palm Bay is surrounded by spacious rural areas, this is less of a problem. But the paragliders might be far less practical in more urban environments.

"The more congested the area ... the less options you have for landing safely," said Renkins.

Still, he added, "It's better to have in our opinion some capability of seeing from the air than having none at all."

The pilot program has the blessing of the U.S. Justice Department, which encourages police departments in small and rural towns to experiment with low-cost ways to get in the air. According to the department, out of almost 19,000 law enforcement agencies in the nation, only about 300 of them have aviation assets.

In an e-mail, Michael O'Shea, a law enforcement program manager, wrote, "We [are] looking for safe and low-cost aviation technologies that would allow an agency to have that "eye-in-the-sky" to look for marijuana grows and meth labs; to take pictures of critical infrastructure like schools and public buildings; to search for lost children, hikers, boaters; and to assess the damage from natural and man-made disasters."

Other Experiments

The DOJ's Aviation Technology Program is also exploring unmanned aircraft and light-sport, fixed-wing aircraft.

There has been some initial success with powered parachutes, which are similar to paragliders, but larger and more unwieldy. O'Shea said a police department in Sells, Ariz., recently used a powered parachute to recover two bodies that had been washed out of a car in rising water.

"The ability to give closure to the families quickly was the best result of this flight mission," wrote O'Shea.

The Palm Bay program is supported by paraglider manufacturer Dudek. The company has loaned the police department two gas-powered paragliders. After six months, the department will assess whether the gliders are effective and decide whether to purchase them for about \$25,000.

Palm Bay's high-flying officers certainly are sold on them.

"It's a lot more fun to patrol in that than in a patrol car," said Renkens. "Absolutely."

It's important to note that David Jebb (former San Diego Police Officer) has been connected to the Torrey Pines Gliderport since 1998 - which means he was in charge there on September 11th, 2001 - when law enforcement and aviation met head on. Is this one of the missing pieces in the inexplicable actions of the City of San Diego in failing to oversee the Torrey Pines Gliderport concessionaire for the past decade?

Join a National Hang Gliding Organization: [US Hawks at ushawks.org](http://ushawks.org)

bobk



Contributor



Posts: 3187

Joined: Fri Aug 13, 2010 2:40 pm

Location: San Diego, CA

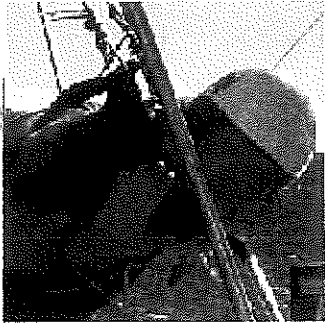
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Re: Guns and Paragliding

 by [RickMasters](#) » Sat Jun 13, 2015 1:30 pm

EXHIBIT “F”



Contributor

Posts: 2372

Joined: Fri Aug 13, 2010 2:40 pm

Location: San Diego, CA

- [Website](#)

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Re: Jailed for taking pictures at Torrey

by **bobk** » Thu Nov 20, 2014 11:17 am

Yesterday I went with a friend to the local police station to file a police report for assault and battery and false arrest.

Brace yourself. The San Diego police refused - REFUSED - to take the report. How can it be that citizens cannot even FILE a police report?

Of course, let's not forget that the report would implicate Gabriel Jebb - the son of former San Diego police officer David Jebb.

Join a National Hang Gliding Organization: [US Hawks at ushawks.org](http://ushawks.org)

bobk



Contributor

Posts: 2372

Joined: Fri Aug 13, 2010 2:40 pm

Location: San Diego, CA

EXHIBIT “G”

discussions with the press, ... and my regular day job. 🙄

One of the things that came up was the pattern of abuse from Gabe Jebb, and that reminded me of this incident from August 11th, 2013:

<http://ushawks.org/forum/viewtopic.php?f=4&t=1395>

It's interesting to see Gabe Jebb's pattern of approaching people to intimidate them. The video from this 2013 incident would have been good to add to the current case, but the Judge had said that she wanted to focus on the November 2014 incident.

I'm sorry I'm too overloaded right now to respond properly to all the great comments, but I'm reading them all and considering what to do next.

Thanks. 🙄🙄🙄🙄🙄🙄

Re: Jailed for taking pictures at Torrey

by **bobk**

Posted: **Wed Mar 11, 2015 5:11 pm**

Here are some frames from the videos taken on March 8th, 2015 when I was arrested again.

This first frame was taken when they barred me from signing in to fly. Note the employee behind the counter with the camera pointed at me.

EXHIBIT “H”



The Oz Report

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Goodbye Bob K?

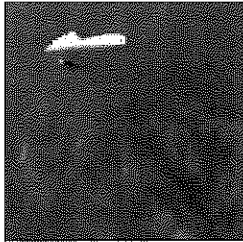
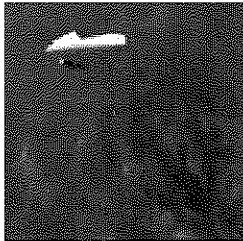
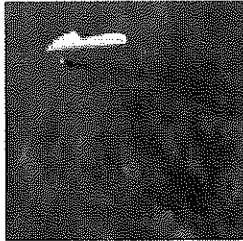
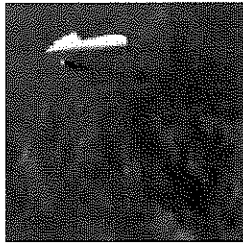
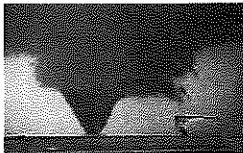
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Author	Message
Dhmartens	<p>Re: Goodbye Bob K? Thu, Apr 23 2015, 2:07:56 am</p>  <p>another . accused corruption bobk , paid off torrey, ushpa every thing in between, not spirit of fair competition, (noted, could hear silence and typing)</p> <p>http://hanglider.com Last edited by Dhmartens on Thu, Apr 23 2015, 2:26:00 am; edited 2 times in total profile 5:43 pm</p> <p>quote ignore</p>
Dhmartens	<p>Re: Goodbye Bob K? Thu, Apr 23 2015, 2:09:07 am</p>  <p>ushpa- pete - must solve torrey problem, steve roll call vote</p> <p>http://hanglider.com profile 5:43 pm</p> <p>quote ignore</p>
Dhmartens	<p>Re: Goodbye Bob K? Thu, Apr 23 2015, 2:12:05 am</p>  <p>unanimous , denis pagen needed to be awoken, bobk gets refund of dues, done</p> <p>http://hanglider.com profile 5:43 pm</p> <p>quote ignore</p>
Dhmartens	<p>Re: Goodbye Bob K? Thu, Apr 23 2015, 2:15:40 am</p>  <p>please note it was commented right at the end "Felipe always wins".</p> <p>please note these comments were made in association with pilot cooperation agreement drawn up by Chuck Hagel and Queen Elizabeth which has not been superseded.</p> <p>http://hanglider.com Last edited by Dhmartens on Thu, Apr 23 2015, 6:03:02 am; edited 1 time in total profile 5:43 pm</p> <p>quote ignore</p>
Joe Faust	<p>Hello, Bob. Hello: H lives with focus ... Thu, Apr 23 2015, 2:38:39 am</p>  <p>Otto Lilienthal is awake. Word is he will be at the May 23rd birthday party at Dockweiler site and other sites around the USA ... all at once. Let's fly now. "Yes you can!" https://www.youtube.com/watch?v=r8WEJ8fHqV0</p> <p>traum https://www.youtube.com/watch?v=MWvpf7fwM00</p>

hang gliding.

Bob has been pointing this out for years and City TV in violation of the Brown Act is not showing the viewers at home his evidence during his slide presentation.
USHPA in 2010 past a motion to work to get representation there and never did anything that I can see.

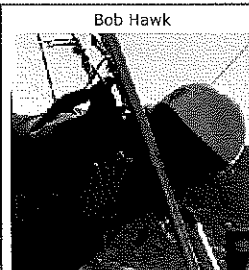
The lease on that millions of dollar ocean front property (Torrey Pines) ran out years ago and councilwoman Sherri Lightner in my opinion has failed in her fiduciary duties allowing for years to carry over a month to month lease without a dime collected over the table.

Nothing has turned up in searches that Air California Adventures ever signed a lease after the name change for there to be a carry over lease. I think that is squatting.
No oversight for years by the City at Torrey Pines and no procedure to cry foul on the squatters for making rules in violation of the original City lease.
These are just some of the issues that Bob has shown the light on but for years it has been wasted energy. USHPA agreed to help but didn't.
I'm seeing for the first time in more than 37 years how RD's voted. I've made a copy of the names that voted yes on expulsion so that I won't forget.
Those yes votes will put off corrections that need to be made in the USHPA.

Ben you have not allowed some of the facts above to get in the way of your point of view. Your back and forth with Bob makes this self evident.
Nothing personal here Ben we just aren't on the same page.
However on my page of the "yes" expulsion list of names, I'm going to type yours in at the bottom as a reminder to me that you are a person that is thwarting the changes that I want to see within the USHPA .
Good flying to you Ben
Bill C.

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Bob Hawk

Eric

Thu, Apr 23 2015, 4:47:47 am

Eric J:

As to the question of whether Bob asked Jack to commit voter fraud? I am pretty convinced at this point that that is complete hyperbole on Jack's part. Those who back up Jack's point of view, get to stay on Jack's site, and that includes some bullies.

Thanks for that analysis Eric. I always appreciate when people do their own thinking and come to their own conclusions. Thanks very much for your clear understanding of the "voter fraud" situation.

Regarding the term "bullying", I knew a very nice female paragliding pilot who wrote to me saying:

"When David or Gabe Jebb bullied me, I let it go because I knew that they bullied most everyone, but when it came from pilots whom I thought were my friends, it devastated me."

She ended up taking her own life.

That got me to thinking about what bullying really is, and I think it must always involve an element of superior power vested with the person doing the bullying. In the case of forums, the person who controls the "ban button" always has that power.

When I initiated the HGAA, I wanted to distribute that power to a group of us to keep it from being so centralized. Unfortunately, the actual control was still in the hands of one person (you guessed it ... Jack Axaopoulos "volunteered" to set up a site for us), and that effort only lasted a few months until it imploded.

I learned a lot from that, and we're trying to do a better job with the US Hawks (<http://ushawks.org>). So far, we've got a Board of Directors consisting of 5 good people from around the country, and we're slowly growing our membership. I still retain veto authority over the Board at this time, but we're working toward removing (or at least reducing) my power there as well.

What just happened at the USHPA Expulsion hearing reminds me that in addition to an elected Board, we're going to need a "Bill of Rights" to keep a corrupted Board from abusing the rights of our pilots. It's starting to sound like a rehash of the founding of our country ... and it probably is. The fundamentals behind governance and justice are probably similar across many situations.

It's been a long day, and I've just been expelled from USHPA, so I'm going to sign off for the night.

Davis, I am curious about the status of this topic and my own status on this forum. I would appreciate a little time to collect this topic as history before it's deleted or locked down again and before I'm re-banned. What are your thoughts on that topic.

Good night.

Join a National Hang Gliding Organization - US Hawks at: <http://ushawks.org>

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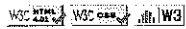
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