

1 CAUTIONS IN USING A REALTIME PARTIALLY EDITED TRANSCRIPT

2

3 IN A REALTIME PARTIALLY EDITED TRANSCRIPT, YOU MAY
4 SEE THE REPORTER'S RAW SHORTHAND NOTES. CONSEQUENTLY, YOU
5 MAY SEE ERRORS IN CAPITALIZATION AND PUNCTUATION,
6 MISSPELLINGS, SMALL WORDS MISSING (SUCH AS "THE," "IT,"
7 "A"), TRANSPOSED WORDS, DOUBLE WORDS, CONTEXTUAL HEARING
8 MISTAKES, HEARING MISTAKES OF SOUND-ALIKE WORDS, POSSIBLE
9 INCORRECT SPEAKER IDENTIFICATION, AND AT TIMES STENO
10 OUTLINES THAT HAVE NOT BEEN TRANSLATED.

11 BE ASSURED THAT IN THE FINAL EDITED VERSION OF THE
12 TRANSCRIPT, ALL ERRORS ARE CORRECTED. AN UNEDITED OR
13 PARTIALLY EDITED TRANSCRIPT REPRESENTS A FIRST DRAFT AND
14 SHOULD BE USED ACCORDINGLY.

15 THEREFORE, IT IS NOT RECOMMENDED YOU RELY ON THE
16 UNEDITED VERSION AS YOU WOULD A FINAL EVIDENTIARY CERTIFIED
17 TRANSCRIPT. ALTHOUGH AN UNEDITED OR PARTIALLY EDITED
18 TRANSCRIPT WILL BE VERY READABLE AND MOSTLY ACCURATE, IT
19 SHOULD BE USED WITH GREAT CARE.

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

GABRIELINO-TONGVA TRIBE VS. STEIN

TRIAL DAY 42, TRIAL TESTIMONY OF J. STEIN

10:20 AM.

THE COURT: Gabrielino versus Stein, BC361307.
Good morning counsel.

MR. FORDYCE: Good morning Your Honor.

MS. IBARRA: Good morning.

THE COURT: Make your appearances please.

MS. IBARRA: Delia Ibarra on behalf of plaintiff
Gabrielino-Tongva Tribe.

MR. FORDYCE: Niall Fordyce on behalf of Mr. Stein
and law offices of Jonathan Stein.

MR. STEIN: Jonathan Stein on behalf of SMDC and
the Crane Group.

THE COURT: Thank you. Okay. Mr. Stein you're
writing something on the board?

A. Only to remind me as I made -- I put aside what
the court wishes.

THE COURT: All right thank you. Let's continue.
I think it was redirect.

MS. IBARRA: Yes. Were there some pending
questions that you want today answer.

THE COURT: Oh yes. Well Neli who are the
questions we were going to have Mr. Stein answer, he was
going to look through some documents.

MR. FORDYCE: Do you have want the laptop backup
there or do you have everything.

1 MR. STEIN: Actually I think this will do it.

2 THE COURT: Oh that was what Your Honor putting up
3 there?

4 A. Only to be able to answer the question, otherwise
5 I'd have to pull anything out.

6 THE CLERK: I'm reading off my shorthand notes
7 Your Honor. Reflection to Barrett in Talley report.

8 THE COURT: Right.

9 THE CLERK: And then the Libra agreement.

10 THE COURT: Okay. So Barrett entries in the
11 Talley report. And what was the other one Libra.

12 THE CLERK: The Libra agreement.

13 THE COURT: Is that what everybody remembers are
14 the questions.

15 MS. IBARRA: Yes.

16 MR. FORDYCE: I think so Your Honor.

17 THE COURT: And Mr. Stein you did that and it
18 looks like you did some research overnight which is good
19 which is what I wanted to you do?

20 A. Should I answer the court's questions?

21 THE COURT: Yeah might as well?

22 A. And if I say something I assume counsel with can
23 object. So if we go to exhibit 57 seven.

24 THE COURT: That's the Talley report right?

25 A. That's the Talley report.

26 THE COURT: Yes?

27 A. And Page 31 17.

28 THE COURT: Page 31 17?

1 A. And if we can get there I'll then.

2 THE COURT: Five '77 Page 31 17?

3 A. So rather than go right to the place, if I can
4 give the court some foundation and then the court can ask
5 some questions after we go to the place. So the foundation
6 is part of the Talley report was to do profit and loss from
7 May 1 through October 3, 2006, October 3 being the end
8 date, and May 1 being three weeks before Libra actually
9 funded the Libra agreement. So this shows as income
10 2,000,000 -- two-million-one-sixty-six, in other words the
11 2.15 million plus a little bit of interest.

12 THE COURT: That's what -- yeah I see total income
13 there, 2,168,000?

14 A. 168 yeah, and if you court will look above you'll
15 see the 1.25 million payment mentioned.

16 THE COURT: Yes.

17 A. You'll see the 9,000 execution payment mentioned.

18 THE COURT: Right.

19 A. And you'll see interest income that she had
20 records for and then interest income that she believes had
21 occurred but she did not have records for. So it's just
22 the interest income is split in true for an accountants
23 accuracy.

24 MS. IBARRA: This is Page 3 17.

25 A. Yes.

26 THE COURT: Yes?

27 A. And so that's -- this is the profit and loss and
28 so that's the income and then there were expenses. And

1 under the expenses are transaction costs and these are --.

2 THE COURT: Okay.

3 A. Yeah, in other words when you get a \$2,000,000
4 investment, you've got --

5 THE COURT: Okay.

6 A. Transaction costs. If it was 20,000,000 or
7 200,000,000, the transaction costs are a smaller share. In
8 this case they were quite large compared to the 2.15 only
9 because it costs a certain amount of money to deal with
10 investors. So you have the Libra placement fee that was
11 their investment banking fee on the part of Libra
12 securities, that's Jess Ravitch and Sammy Lai. And
13 investor group attorneys' fees, that was Morrison &
14 Foerster, you traditionally paid them a fee plus you have
15 to pay their attorneys. Then the Indian law lawyer is Judy
16 Shapiro.

17 THE COURT: Who is lawyer was that?

18 A. That was the tribes lawyer for -- for the Libra
19 agreement had certain Indian law aspects that Marilyn
20 Barrett testified she couldn't handle.

21 THE COURT: Oh okay?

22 A. So the assumption was oh Mr. Stein was the
23 attorney, no it was Judy Shapiro. This small amount of 166
24 zero is because SMDC had paid her a retainer already, this
25 was just an amount above the retainer.

26 THE COURT: Okay that's Shapiro, okay?

27 A. And outside counsel that is Marilyn Barrett.

28 THE COURT: Yeah but outside counsel for whom, it

1 doesn't quite say?

2 A. For.

3 THE COURT: Was it the tribe or?

4 A. It's the tribe and SMDC.

5 THE COURT: Okay so it's both, okay?

6 A. Yeah. And that was 17 Five eight '06, that was
7 the amount left in escrow with Libra, you may recall the
8 testimony by both Ms. Barrett and myself that Ms. Barrett
9 wanted a lot of money, made threats to kill the deal, I
10 said no we're not going to pay you that and I'm firing you
11 for SMDC and I'm going to go the council and see if they
12 will fire you, which they did and we closed the deal
13 without her, the documents were already 99 percent done, 95
14 percent done in Ms. Barrett estimation and the -- and what
15 I had done is assure her that nobody was out to screw her
16 and that's why we left in escrow all that we could afford
17 which was more than in the exhibit E budget but less than
18 her demand for \$300,000.

19 THE COURT: So outside counsel 17 Five, this is
20 the first quote reference it to her although it doesn't
21 name her but this is your explanation of who outside
22 counsel was for the SMDC and the tribe with an entries of
23 17 5,000 eight '06-d?

24 A. Yes.

25 THE COURT: Okay?

26 A. And there's extensive documentation of the escrow,
27 there are extensive e-mails back and forth and again Ms.
28 Barrett is not our witness we don't care.

1 THE COURT: I'd have to see the documents?

2 A. Right.

3 THE COURT: And that's what I'm trying to figure
4 out is where are the documents that support this 17 5,000
5 but okay?

6 A. And again that's Ms. Ibarra's job we really don't
7 care about Marilyn Barrett's role other than fact that she
8 was the attorney and we have the documents in here that
9 are. This is her claim against me saying I'm the attorney
10 for the tribe because I fired Marilyn Barrett, I think it's
11 a ridiculous claim so we don't have any of the 30 or 40
12 documents that should be here, Ms. Barrett's chosen to
13 produce them.

14 MS. IBARRA: Well I'll object that I've chosen to
15 not to produce hem, we have produced the records and when
16 she was here about the dispute between the tribe and Libra
17 with regards to the dispute for her representation of the
18 tribe with respect to the Libra deal, she's actually
19 available to come back after we do the experts so that --
20 we're looking at like March 1, March 2. And she's
21 available to come back and give testimony about this but
22 her -- but we also have records with respect to that deal
23 but not -- there's no records with respect to the
24 representation of her firm to SMDC, especially not with
25 respect to the Libra deal.

26 THE COURT: And that's what I -- that's what Mr.
27 Stain said, is just -- you know the claim has been that she
28 was outside counsel for both and I'm just looking for

1 records that support that, ask for where this is referenced
2 in this Talley report is just one aspect of that, it isn't
3 the end of the question, I'm just saying where is it in
4 here, instead of saying in my view this is outside counsel,
5 I guess this is how much was allocated through this Talley
6 report?

7 A. And we have three references in the Libra
8 agreement which is the Court's second question.

9 THE COURT: Yes are there anymore references in
10 the Talley report in your view to SMDC before we move on to
11 Libra?

12 A. Niall was kind enough to drive all the way to
13 Santa Monica yesterday so that we could go through this
14 and this is the reference we found.

15 THE COURT: Okay. This is the reference; okay.
16 So now you want to move on to Libra. Got it?

17 A. And Niall --

18 MR. FORDYCE: 644?

19 A. So Exhibit 644 is the Libra agreement and the --
20 it's partially paginated and partially not paginated so if
21 we will go to -- oh and there are Bates stamps.

22 MS. IBARRA: Yeah.

23 MR. FORDYCE: Oh there might be Old Bates stamps?

24 A. So let me -- what is '73 plus '85 Five should be
25 nine 28.

26 MR. FORDYCE: Hang on I'll tell, I've got it in
27 the computer it will take just seconds, unfortunately
28 Exhibit E is not Bates stamped, it's Page 73 so it's?

1 A. It's Bates stamped nine 27.

2 MR. FORDYCE: Oh is it in the -- I'm sorry my
3 electronic version doesn't have it.

4 THE COURT: Okay nine 27.

5 MR. FORDYCE: Sorry for confusion, that is me.

6 THE COURT: Okay what is this document again
7 Exhibit E?

8 A. This is Exhibit E.

9 THE COURT: Well it's exhibit -- let's see. It's
10 Exhibit 64 four.

11 MS. IBARRA: 644?

12 A. It's Exhibit 64 four and within that Exhibit 64
13 four you have Exhibit E.

14 THE COURT: Yes?

15 A. Bates stamped nine 27.

16 MS. IBARRA: Exhibit E okay the Libra funding
17 agreement identifies Exhibit A Exhibit B Exhibit C Exhibit
18 D?

19 A. We've seen this page.

20 MR. FORDYCE: 15 times?

21 A. 15 times? I'd say close to 10.

22 THE COURT: Ms. Ibarra what is the issue? You
23 said you haven't seen this.

24 MS. IBARRA: No we have seen the budget before
25 that was attached to the Libra funding agreement?

26 A. On the bottom nine 27.

27 THE COURT: No I'm there, I'm just asking what is
28 the issue if there is one.

1 MS. IBARRA: I just realized it's not identified
2 in the actual funding agreement because the actual funding
3 agreement begins at.

4 THE COURT: Oh you're right transaction documents
5 on Page 8 56 don't identify Exhibit E, it says -- it goes
6 up to Exhibit D unless somewhere in the text.

7 MS. IBARRA: Yes.

8 THE COURT: That was in error but if not then it
9 needs to be removed.

10 MS. IBARRA: Yeah so everything else is
11 identified?

12 A. It would be too late to remove it because it's
13 been in evidence for 12 different references.

14 MR. FORDYCE: Can I just direct the court.

15 THE COURT: Yes.

16 MR. FORDYCE: Article Five, 5.1 B approval by --.

17 THE COURT: Hold on.

18 MR. FORDYCE: Sorry.

19 THE COURT: Article Five, I want to get there
20 because --.

21 MS. IBARRA: Is there a Bates for that.

22 MR. FORDYCE: Unfortunately for some reason my --?

23 A. Yeah 5.1 B would be Bates '87 six and '87 seven.

24 MR. FORDYCE: The tribe has furnished a budget to
25 the investors in the form of Exhibit E attached here to,
26 that's actually on to the next page but it's the
27 continuation of 5.1 B , that's one reference to it
28 directly.

1 THE COURT: Hold on Mr. Fordyce, I might -- Page
2 87 six is that where you're reading from.

3 MR. FORDYCE: Unfortunately -- Jonathan is that
4 correct.

5 MS. IBARRA: Yeah I think it's '87 six so under
6 covenant?

7 A. It's '87 six and '77.

8 MR. FORDYCE: Yeah '87 six to eight '77 Your
9 Honor.

10 THE COURT: Oh I see.

11 MS. IBARRA: 5.1 B .

12 MR. FORDYCE: Yeah and you'll see?

13 A. E or B e-d ward --.

14 MR. FORDYCE: 5.1 B as in boy and you'll see the
15 reference to Exhibit E attached here to not Page 87 seven.

16 MS. IBARRA: Oh I see. Okay so it is identified
17 in the document but not in the cover page -- not in the
18 table of contents.

19 THE COURT: It could have been a mistake?

20 A. The table of contents is not officially part of
21 the document really.

22 MS. IBARRA: Okay.

23 THE COURT: Exhibit E is fine?

24 A. And once again the entire package is signed off
25 on. So Exhibit E, so we're going to back to Page 9 27 now
26 and that's Exhibit E and let me again give the foundation
27 and then the exact reference. So Exhibit E was how 2.15
28 million dollars was going to be spent, the actual amount is

1 a little bit higher than 2.15 because of interest earnings
2 on the un spent balance.

3 THE COURT: Right?

4 A. The tribal council got certain payments from it,
5 those are listed, including --.

6 THE COURT: Okay wait, let's just go -- where is
7 Barrett?

8 A. Barrett is under transaction costs, just adds he
9 was under transaction costs in the Talley report.

10 THE COURT: All right?

11 A. You have Marilyn Barrett financing three times
12 actual for contingency and that matches Marilyn Barrett's
13 own description of the deal except that the amount is
14 130,000 and she was demanding 300,000 which led to her
15 termination by SMDC and later by the tribal council which
16 Virginia Carmelo acknowledged in her own testimony.

17 THE COURT: Okay.

18 MS. IBARRA: Well objection as to what she
19 acknowledged in her -- as to what she testified to.

20 THE COURT: Okay?

21 A. Niall can you pull up your summary of Virginia
22 Carmelo.

23 THE COURT: Why don't you refrain from as she said
24 do you know during your testimony, I'll remember what the
25 testimony is?

26 A. That's exactly right. So below that is Indian law
27 counsel that's Judy Shapiro who was budgeted for 10,000,
28 not all of that amount was -- that amount was paid by SMDC

1 up front but only the 166 zero was listed as paid by the
2 tribe, it's not clear as to whether SMDC was reimbursed or
3 not. And then you see the Libra placement fee and then
4 investor down and out-of-pocket expenses of 80,000, that
5 was the 76,000 for MoFo they came a little bit under
6 budget.

7 THE COURT: So there's a reference to it but it
8 doesn't layout she's SMDC's counsel she's tribes counsel
9 whatever, but these are the references that you could find
10 in the documents?

11 A. These are some of them, there are two more to
12 review.

13 THE COURT: All right let's go to those?

14 A. And I think the court's characterization is
15 correct so far. Then we go to Page 9 38 and that is the
16 bottom two whereas clauses.

17 THE COURT: Yes.

18 A. Should I read that?

19 THE COURT: Sure.

20 A. Whereas outside counsel Marilyn Barrett of McGuire
21 Woods LLP and Jonathan Stein have had several long
22 negotiating sessions with Libra on behalf of the tribe
23 prior to creation of the final version of the development
24 agreement attached as Exhibit A. I'll save my commentary
25 for questioning.

26 THE COURT: Okay?

27 A. Whereas on May 6, May 10 May 13 and May 20 in
28 lengthy meetings the tribal council has had an opportunity

1 to have review, discuss ask consider Exhibit A with outside
2 counsel Marilyn Barrett, tribal general counsel Rae Lamothe
3 and assistant tribal general counsel Elizabeth Aronson and
4 obtained their advice.

5 THE COURT: Okay so there's a resolution which
6 references?

7 A. Right. And again they signed this resolution,
8 their signatures I assume mean that it's true, that they
9 wouldn't sign it unless it was true and the law assumes
10 that and then --.

11 THE COURT: That she is their counsel?

12 A. That's right. And then on Page 9 40, there is one
13 other clause, this is at the top of page 40, nine 40, top
14 whereas the tribal council after being fully advised as to
15 the comport and obligation that's arise purchase sewer
16 tonight development funding agreement and after each voting
17 member of the tribal council has had the opportunity to
18 review the agreement attached here to and discuss the same
19 with Marilyn Barrett, Rae Lamothe and Elizabeth Aronson
20 prior to voting, considers it to be in the best interest of
21 the tribe to execute the development fund willing agreement
22 that is attached here to as Exhibit A.

23 THE COURT: Okay?

24 A. Okay. Then the last reference is -- that's the
25 resolution -- there's a second resolution.

26 THE COURT: What number resolution is that?

27 A. That's '06 '01.

28 THE COURT: Resolution Number 96?

1 A. That was resolution Number 96 that we just
2 finished that's correct, and then on Page 94 four you have
3 an almost identical resolution, so on '94 four you have the
4 bottom whereas clauses.

5 THE COURT: And this is resolution zero six dash
6 '01.

7 MR. FORDYCE: That's right?

8 A. Yeah but this one -- it was -- it mentions March
9 4, March 11 March 15 tribal council spent over six hours
10 reviewing earlier Libra drafts of the tribal financing and
11 the SMDC financing including a term sheet for the tribal
12 financing and whereas outside counsel Marilyn Barrett of
13 McGuire Woods and Jonathan Stein have had several long
14 negotiations with the tribe.

15 THE COURT: Well it says Libra on behalf of the
16 tribe?

17 A. Right; with Libra. Forgive me.

18 THE COURT: Counsel Marilyn Barrett and Jonathan
19 Stein have had several long negotiating sessions with Libra
20 on behalf of the tribe prior to the final version of the
21 development agreement. Okay?

22 A. And then the next whereas clause, whereas on May
23 6, May 10, May 13 and May 20 in lengthy meetings the tribal
24 council and the managing board has had the opportunity to
25 have review, discuss and consider Exhibit A with outside
26 counsel Marilyn Barrett, general counsel Rae Lamothe and
27 assistant general counsel Elizabeth Aronson and obtained
28 their advice. I'll just point out the last -- the next

1 whereas clause only because it's in both places, this is a
2 summary of all the terms of the agreement so that the
3 council could -- besides having negotiated this stuff,
4 would have one last chance before signing it to actually
5 see what exactly are we agreeing to.

6 THE COURT: Had you mean the material terms that
7 what you're referring to.

8 A. Right, exactly. And then you'll see that this is
9 also signed by all six of them.

10 THE COURT: Page '09 47?

11 A. Uh-huh.

12 THE COURT: Okay all right thank you. We'll ask
13 Barrett about that?

14 A. I'll leave these up here in case we need to refer.

15 THE COURT: Yes thank you?

16 A. I made some corrections, of little mistakes.

17 THE COURT: And thank you for checking for
18 references so we didn't have to spend time shuffling
19 through -- having you thumb through binders and binders
20 looking for records?

21 A. Oh, you should thank Mr. Fordyce.

22 THE COURT: He have did the searching?

23 A. He's the heavy lifter. He's the heavy lifter.

24 THE COURT: And we'll ask Barrett about these.

25 MS. IBARRA: Before we leave the topic because I
26 do want to move on to other things, is unless I missed
27 something all of these are references to Ms. Barrett doing
28 work for the tribe and representing the tribe in the Libra

1 deal, which is not in dispute. The tribe acknowledges that
2 Ms. Barrett was their lawyer in the transaction the
3 majority of the deal. So is there additional references
4 that you wanted to point out --

5 A. Yes.

6 Q. -- that show that she was the specific counsel for
7 SMDC?

8 A. I would want to point out three things, if I can
9 just answer that question.

10 Q. Sure.

11 A. A three part answer if you'll forgive. Number one
12 please note there's no reference to Jonathan Stein as
13 giving legal advice in any of these very long very detailed
14 explanations as to who the lawyers for the tribe are.

15 Q. Uh-huh.

16 A. It's very clear that Marilyn Barrett, Rae Lamothe
17 and Elizabeth Aronson gave legal advice and it's very clear
18 that Jonathan Stein did not. What Jonathan Stein did do as
19 head of SMDC was --.

20 THE COURT: Mr. Stein just answer her question?

21 A. Number 2, Number 2, it appears to me that if SMDC
22 paid a retainer to Ms. Barrett, my best recollection is
23 SMDC did pay a retainer to Barrett's when she was at the
24 Van Etten law firm, SMDC did not seek reimbursement of that
25 amount because she was SMDC's lawyer so if she's acting in
26 part for SMDC it's fair for SMDC to pay part of the legal
27 cost and not seek reimbursement for the tribe since she was
28 acting on behalf of SMDC as well.

1 THE COURT: So there is no reference -- there are
2 no references here, I'm assuming you would have found them
3 had they been there to Barrett being SMDC's lawyer but your
4 explanation is because we didn't seek reimburse. That
5 information didn't make it into these documents?

6 A. That's correct and the fact that it's not in here
7 is an inference in favor of my recollection that SMDC did
8 pay her the retainer and then did not seek reimbursements
9 for SMDC's purposes.

10 MS. IBARRA: Well that part is argument.

11 THE COURT: Sustained.

12 MS. IBARRA: And I don't think there's any such
13 inference can be made.

14 THE COURT: The answer is stricken, well the court
15 will draw whatever inference is wants but I understand your
16 position and you'll be able to argue that far at the end of
17 the case and certainly in any brief that I ask you to
18 submit.

19 MR. FORDYCE: And, Your Honor, we would just also
20 direct your honor back to the July 12th testimony of the
21 rough that's between pages 27 and 31. It's Ms. Carmelo,
22 but for whatever it was worth Ms. Carmelo is a little
23 equivocal yeah okay he could fire Barrett on behalf of
24 SMDC, there wasn't an relationship between SMDC and Barrett
25 and the tribe and Barrett. So again, Your Honor can weigh
26 Ms. Carmelo's testimony as she sees fit.

27 THE COURT: So Carmelo denied that SMDC was her
28 lawyer?

1 MR. FORDYCE: We're talking specifically about
2 this issue and the relationship between Barrett and SMDC
3 and Barrett and the tribe and Carmelo acknowledges those
4 two relationships.

5 MS. IBARRA: Well --?

6 A. And what page --.

7 MR. FORDYCE: 27 through 30 on July 12th.

8 MS. IBARRA: Without having the transcript in
9 front of me, my recollection of what she said was that
10 she -- she was presented with a conflict waiver as to Ms.
11 Barrett representing both the tribe and SMDC but the
12 conflict waiver didn't say anything about representing them
13 concurrently with the Libra agreement which is a separate
14 thing. So.

15 THE COURT: It's still unclear whether it was
16 executed, it's unsigned.

17 MS. IBARRA: Exactly so --.

18 THE COURT: We'll have to ask her about that but I
19 will keep that in mind that Carmelo was examined on July
20 12th and testifies about it.

21 MR. FORDYCE: It's rough, so you know when the
22 final transcripts -- I'm not sure what Your Honor uses.

23 MS. IBARRA: And her answers with respect to the
24 agreement whether it was executed -- the conflict waiver,
25 whether it was executed was equivocal. She said maybe?

26 A. Hold on a second. Niall, do you want to read it.

27 MR. FORDYCE: In light of your refreshed
28 recollection that Ms. Barrett worked for SMDC and the tribe

1 both, was Mr. Stein able to fire Marilyn Barrett on behalf
2 of SMDC? Response from Ms. Carmelo, I would think so.
3 That's just one part of the testimony.

4 THE COURT: So she's making -- read it again I'm
5 just trying to understand because if she's giving -- she's
6 given the assumption that -- if she's given the question of
7 you know Mr. Stein and Ms. Barrett -- not Mr. Stein, SMDC
8 and Ms. Barrett are in an attorney relationship, can SMDC
9 fire her, she's prove belief going to say yes so there's
10 assumptions built into that question then it's a problem
11 and that's why we need to talk to Ms. Barrett?

12 A. Niall would you like to start reading maybe a page
13 earlier.

14 MR. FORDYCE: I'm happy to if the court would
15 like.

16 THE COURT: Why don't you print it out for me.

17 MR. FORDYCE: Sure.

18 THE COURT: And then we can.

19 MR. FORDYCE: Yes Your Honor you can do that.

20 THE COURT: Or e-mail it to Neli, she can print it
21 out for us and we can all look at it.

22 MS. IBARRA: And Barrett did say she could be here
23 March 1 and March 2 and if that's good with everybody I
24 will confirm with her.

25 THE COURT: We'll talk about that later but thank
26 you everybody for digging up these references. Do you want
27 to continue?

28 A. I have want to write down March 1 and two.

1 Forgive me. Very helpful.

2 Q. BY MS. IBARRA: So I'll just ask you questions, we
3 won't go through a whole lot of documents today. Mr. Stein
4 do you contend that every action that you took on behalf of
5 the tribe was within the course and scope of your
6 affiliation with SMDC?

7 A. Yes. The scope of work was extremely broad and
8 all of my work with the tribe was under the SMDC agreement.

9 Q. Okay. So does that mean that every position that
10 you held with the tribe and you've described three, so
11 every position that you held with the tribe was within the
12 course and scope of your affiliation with SMDC?

13 A. That's correct.

14 Q. So when you resigned on September 9th, so you
15 admitted that you resigned, that you were resigning all of
16 your -- all of SMDC -- you were resigning on behalf of SMDC
17 is that correct?

18 A. No, it's not. It was -- actually you're
19 phraseology is throwing me off, if I can rephrase.

20 Q. Yes.

21 A. The first stationery the tribe listed, listed SMDC
22 as the tribal developer and Jonathan Stein as president of
23 SMDC, then the stationery used for a little under a year
24 listed Jonathan Stein as tribal development officer it says
25 tribal developer Saint Monica development.

26 THE COURT: Mr. Stein I have need you to answer
27 point question questions?

28 A. Sure.

1 THE COURT: The question is when you resigned on
2 September 9th did you resign on behalf of SMDC yes or no?

3 A. No.

4 THE COURT: Okay next question.

5 Q. BY MS. IBARRA: So did you resign on a personal
6 capacity?

7 A. No.

8 Q. But you only held positions with respect to the
9 tribe within the course and scope of SMDC so -- and if you
10 weren't resigning on behalf of SMDC and you weren't
11 resigning on behalf of Mr. Stein?

12 A. Oh I'm sorry.

13 Q. Then --?

14 A. I understand your question.

15 Q. Okay.

16 A. It's very -- the resignation was on behalf of SMDC
17 on September 9th that's correct, but it was not a
18 termination of the SMDC agreement, so forgive me I
19 misunderstood your question.

20 Q. Okay he I see. I see your answer. So you were
21 resigning on behalf of SMDC but you have weren't
22 terminating the agreement?

23 A. Right. That was terminated by the tribe -- this
24 controversy arose, what did September 9th mean, nobody
25 seemed to know and Mr. McShane approached me as part of the
26 controversy and I said listen Mr. McShane let's just get
27 rid of the Missirlian mist tree, just accepted a written
28 letter terminating me and so that was what he did on

1 October 3.

2 Q. Okay. So what you --

3 A. And that letter recited the September 9th
4 resignation as a nominal officer and then recited -- and
5 then said on top of that we're terminating you -- we're
6 giving 30 days notice of termination of the SMDC
7 agreement.

8 Q. Okay. But I want to take you back to September
9 9th and the resignation?

10 A. Yes.

11 Q. So now you've acknowledged it was a relation
12 nation of SMDC even though it was not a termination of the
13 agreement right that is correct?

14 A. That was my view today and I've been persuaded by
15 11 years addressing this issue.

16 Q. So you resigned but you didn't terminate the
17 agreement did you then expect that the SMDC agreement was
18 in force and you were still accruing was it \$25,000 in
19 payment even though you weren't going to be doing any more
20 work?

21 A. Yes. The payments would be accruing -- well SMDC
22 so stopped doing work only when instructed by the tribe on
23 September 29, that's when the tribe -- Sheppard Mullin
24 wrote a letter saying we are now officially the tribes
25 lawyers and our first thing we want to do is have you
26 suspend your work on behalf of the tribe on September 29th.
27 On October 3 was the termination.

28 Q. Yes.

1 A. Under the terms of the SMDC agreement, the
2 termination is a 30 day written notice and so the actual
3 termination was November 3.

4 Q. Okay so but the SMDC agreement provides that you
5 will -- that by you in this case I mean SMDC, that SMDC was
6 going to perform certain work and for that work it was
7 going to accrue certain money due and owing every month.
8 So did you expect that you would resign and -- resign your
9 only position from the tribe and still continue to do work,
10 that's what is confusing?

11 A. Well.

12 MR. FORDYCE: It lacks foundation and it misstates
13 his testimony.

14 THE COURT: I think it might misstate the
15 testimony. My understanding was that the answer was no, I
16 they he said I'm not doing any work, I resigned and I
17 stopped doing work, I was officially terminated on October
18 3rd so. I mean I don't know did I misunderstand.

19 MS. IBARRA: Can I ask --.

20 THE COURT: Let's ask the witness.

21 A. Yes as a matter of fact this exact point that is
22 being commented on by the Court and questioned on by
23 counsel, this exact point is why in the final demand
24 letters we talked about 1,595,000 being owed and
25 immediately payable plus 25,000 we separated out the 25,000
26 because it's not clear whether the 25,000 gets earned once
27 they say we're ordering you to suspend work, it's not clear
28 that you should get a monthly fee for that so we made a

1 claim for it but we separated it out to recognize this
2 inherent complexity.

3 Q. BY MS. IBARRA: Okay. So did you stop work after
4 you resigned.

5 MR. FORDYCE: And to be specific, you're referring
6 to the September --.

7 MS. IBARRA: September 9th.

8 MR. FORDYCE: Ninth.

9 A. No the nominal officer Ship's in my mind then and
10 in my mind now were not at all important. There were four
11 years -- there was four solid years of work without being a
12 nominal officer, then I was a nominal officer of the tribe
13 for less than a year and then I became a nominal officer of
14 an entity that did not exist, it just didn't exist yet
15 because Judy Shapiro never finished her work, I mean it did
16 have a bank account.

17 Q. So let me just go back to my question, so did you
18 stop work after you resigned?

19 A. I stopped work for the Dunlap group but once I
20 stopped work for them, once I was terminated I was a free
21 agent, just like a basketball that is released from a team,
22 just like a football player that's released from the team,
23 I was a free agent, I could work for whoever I wanted.
24 There was no noncompete clause in the SMDC agreement after
25 termination.

26 Q. And by --.

27 THE COURT: So did you stop working for tribe
28 after September 9th is the question?

1 A. No I stopped working.

2 THE COURT: No okay?

3 A. For the tribe when instructed on September 29th.

4 Q. BY MS. IBARRA: So -- and by I do you mean
5 Jonathan Stein or do you mean SMDC?

6 A. Well all of Jonathan Stein's work was through
7 SMDC, there was no work that was not under the SMDC
8 agreement so --.

9 THE COURT: So my understanding just so I'm clear
10 is that Mr. Stein stopped working on September 29th on
11 behalf of the tribe as SMDC, right?

12 A. Right.

13 THE COURT: All right.

14 MS. IBARRA:

15 Q. So okay. Got it. But you never performed -- or
16 SMDC never performed any work for the tribe without having
17 a title right?

18 A. Completely the opposite of everything I've said.
19 So wrong. It's completely the opposite of what I've said a
20 dozen times over.

21 Q. Before the September 9th, all the work that SMDC
22 did was as -- with Jonathan Stein and SMDC having a title
23 with reference to the tribe.

24 MR. FORDYCE: Well it's vague and ambiguous to?

25 A. That's exactly the opposite.

26 MR. FORDYCE: As to title, what --.

27 THE COURT: Yeah sustained, you need to be more
28 specific.

1 Q. BY MS. IBARRA: Beginning in 2001, in March of
2 2001, SMDC adopted the title of tribal developer?

3 A. That was not a title from the tribe, that was just
4 a listing that it was the developer for the tribe, there
5 was no title from the tribe for four years, that was just a
6 listing on the stationery just like Marnel architects were
7 the tribal architect, they were not some officer of the
8 tribe, they were just the architects and like SMDC, SMDC
9 was the developer listed and the accountant listed was
10 Talley and company so those three were all three to show
11 that Jonathan Stein was working for SMDC not that he was an
12 officer of the tribe, that officer ship of the tribal was a
13 nominal officer ship only for less than one year as tribal
14 development officer which went from sometime in late 2005
15 to very early in 2006 when there was actually a letter of
16 resignation, actually it was mid 2006 there was a letter of
17 resignation.

18 MS. IBARRA: Yeah it was in August or something.
19 Let's move on to a different topic.

20 THE COURT: Can I just clarify.

21 MS. IBARRA: Yeah sure.

22 THE COURT: So I understand the what the testimony
23 is. So from March 2001 forward there were references for
24 example the station Terry, documents, resolutions saying
25 SMDC was tribal developer but that was not an official
26 office given by the tribe to you?

27 A. Right.

28 THE COURT: But you would be referred to as tribal

1 developer on the stationery and in other places. In 2005
2 and 2006 you were the tribal development officer, you
3 meaning SMDC?

4 A. I was listed as the tribal development officer,
5 Jonathan Stein comma Saint Monica development company LLC
6 and that's right on the tribes stationery.

7 THE COURT: Did the tribe pass a resolution or
8 something that did that?

9 THE COURT: How did it get placed on stationery
10 that way?

11 A. Simply it was -- it was on the stationery pursuant
12 to Kathy Levee, Rae Lamothe, Sam Dunlap and myself all
13 reviewed the drafts of Kathy Levee and the.

14 THE COURT: Kathy Levee.

15 A. Was the designer that actually wrote the
16 stationery and wrote everything.

17 THE COURT: So it was put on the stationery?

18 A. Informally.

19 THE COURT: But it didn't mean that you were the
20 tribal development officer?

21 A. No. There was no resolution making me the tribal
22 development officer, there was no action of the
23 organization making me the tribal development officer and
24 that's why you're called a nominal officer. And I compare
25 that to when you see a salesman and he's got a card that
26 says he's a vice president of marketing, often he's an
27 independent contractor that is marketing in the northeast
28 for a company based in California.

1 THE COURT: Okay. And then was there another
2 office after that? I don't know if you were finished.

3 A. Yeah, the Gabrielino tribal gaming authority,
4 which again had never made any resolution and didn't
5 actually exist, it was only -- the court has called in an
6 arm of the tribe. It didn't actually exist and so I was
7 CEO of this non existent entity.

8 THE COURT: And when was that in time because --?

9 A. Okay so that was -- that was beginning in August
10 2006 and ending in September 2006.

11 THE COURT: Okay?

12 A. It was supposed to be for a lot longer.

13 THE COURT: Just so I'm clear what the --?

14 A. Yeah.

15 THE COURT: All right I know this may be a little
16 disruptive to the flow but just so I'm clear because the
17 testimony is unclear or questions are unclear or answers
18 are unclear, I just want to clarify. All right you may
19 continue.

20 MS. IBARRA: Actually I will look at a few
21 documents. Can we look at Plaintiffs 44 which is adopting
22 the amended constitution. Actually let's look at 45 which
23 is the ordinance authorizing. Mr. Stein are you familiar
24 with this document?

25 A. Nope.

26 THE COURT: Hang on let's look. 44.

27 MS. IBARRA: Sorry 45.

28 THE COURT: Oh 45. Exhibit 45 all right.

1 MS. IBARRA: Yes.

2 THE COURT: Which is titled ordinance number zero
3 six dash one of the.

4 MS. IBARRA: Gabrielino-Tongva Tribe.

5 THE COURT: Gabrielino-Tongva Tribe establishes
6 Gabrielino-Tongva gaming authority.

7 MS. IBARRA: It looks to be a draft, right?

8 A. I'm not familiar with this because Judy Shapiro
9 wrote this --

10 Q. So this is --

11 A. -- the Washington based Indian lawyer.

12 MS. IBARRA: So she got paid \$2,000 for this is
13 what we see in the Tally report?

14 A. She got paid -- 10,000 was in the budget, she's
15 listed as 1600 at the tribe's expense and she was paid an
16 amount by SMDC, which I could look up if you want me to.

17 Q. BY MS. IBARRA: A separate amount from SMDC?

18 A. Yeah the retainer amount much like -- as I recall
19 Judy Shapiro got a retainer from SMDC forwarding it as a
20 reimburse an expense from the tribe and then was paid by
21 the tribe and those amounts are all listed in the Talley
22 report.

23 Q. Yeah we just looked at it and we've referenced it
24 about 30 minutes ago.

25 THE COURT: I guess my question would be?

26 A. No no, we didn't look up Judy Shapiro she's
27 separate from Marilyn Barrett.

28 MS. IBARRA: Yeah buff we looked at the lawyer

1 fees and she was referred to as the Indian lawyer?

2 A. Yes.

3 MS. IBARRA: And that's who you said was Judy
4 Shapiro?

5 A. Yes but there's actual checks and payments to Judy
6 Shapiro to the extent you're asking was 1600 or a larger
7 amount I'm telling you it's a larger amount.

8 Q. I see.

9 A. And the amounts are listed in the Talley report.

10 Q. I see, okay.

11 THE COURT: And just -- I mean I hear testimony
12 that says I don't recognize it but yet you're saying this
13 is the draft that was done by Judy Shapiro so I think
14 there's foundation for it if your intention was I'm not
15 going to recognize it because I don't want it admitted into
16 evidence but it's in fact something Judy Shapiro wrote and
17 was never adopted then it's in evidence.

18 MS. IBARRA: Maybe I misunderstood the question, I
19 didn't ask if you drafted it?

20 A. She asked if he was familiar with it.

21 THE COURT: Oh familiar, so you do recognize it,
22 you know that it was drafted by Judy Shapiro.

23 A. Yes and I actually had input on it too, so if I --
24 if I were more familiar with it, I could say oh over here
25 but I'm hoping that she will guide me through what she
26 wants.

27 MS. IBARRA: No I'm sorry.

28 THE COURT: It was unclear -- I was just unclear.

1 MS. IBARRA: I just wanted you to identify it, I
2 didn't -- if I ask --?

3 A. You said the word familiar and I answered the word
4 familiar.

5 Q. So maybe that's too vague?

6 A. Huh.

7 Q. So can you identify it?

8 A. Give me a second.

9 Q. I think you already did but it's --?

10 A. This would be a draft dated May 12 of 2006, that's
11 10 days before the Libra closing and it was written -- it
12 was what Judy Shapiro was hired to do and I had input into
13 it.

14 Q. Okay. And this is then a final draft?

15 A. I have no --.

16 MR. FORDYCE: Calls for speculation?

17 A. There's no signature line.

18 THE COURT: Overruled?

19 A. And I have no idea.

20 THE COURT: Mr. Stein just a remind-er if your
21 counsel is making objections if you want me to rule on them
22 you've got to let him get it out so I can rule but okay.

23 Q. BY MS. IBARRA: So was your testimony that it was
24 the GTGA was never established?

25 A. I don't think that there were any papers filed
26 with any government agency for the GTGA.

27 Q. I see. Okay. Can we look at exhibit 46.

28 MR. FORDYCE: Counsel just so I'm clear, is

1 counsel saying that SMDC is somehow mentioned or Mr. Stein
2 is mentioned in 45? If so, it would be great to point that
3 out.

4 MS. IBARRA: No that wasn't the point of it, the
5 point of it was that it was extensively discussed and
6 whether or not it was finalized and I wasn't sure if that
7 was a final document or not.

8 MR. FORDYCE: Okay.

9 MS. IBARRA: And I think maybe he might identify
10 it.

11 Q. BY MS. IBARRA: So but 46, are you familiar with
12 this resolution?

13 A. If you'll give me a moment. Uh-huh, sure.

14 Q. Do you recall being there when it was adopted?

15 A. Yes.

16 Q. And can I point you to the bottom of the first
17 page, the second to the last where is, can you read that?

18 A. Whereas on May 13, 2006 the council executed
19 Resolution 94 authorizing amongst other things, the
20 appointment of Jonathan Stein as chief executive office of
21 the Gabrielino tribal gaming authority.

22 Q. Can you read the second, whatever follows?

23 A. Whereas the tribal council after much
24 deliberations finds it's in the best interest of the tribe
25 to authorize the chief executive officer of the tribal
26 gaming authority to sell, sign, endorse, or transfer
27 certificates representing stocks, bonds, or other
28 securities now registered or herein after registered in the

1 name of Gabrielino-Tongva Tribe.

2 Q. So is it still your best recollection that
3 whatever ordinance finalizing the GTGA was never finalized?

4 A. It was never finalized. Once again it's one thing
5 for the tribe to say we're setting it up, it's another
6 thing for them to file it with a government agency and
7 officially become a person under the law.

8 Q. All right. But they took other action pursuant to
9 that position, right and then they gave you a -- they gave
10 you some authority under it.

11 MR. FORDYCE: Calls for speculation compound vague
12 and ambiguous?

13 A. This is --.

14 THE COURT: Overruled it's in the document?

15 A. That's right.

16 THE COURT: It's his duty?

17 A. This is 100 percent -- well not 100 percent
18 consistent but it is over 90 percent consistent with
19 everything I've said, this simply says that Jonathan Stein
20 will be CEO of the Gabrielino tribal gaming authority, it
21 doesn't say that the tribal gaming authority will exist t
22 says there would be a bank account, which I've said there
23 will be a bank account and make sure that the money is kept
24 in U.S. Government securities, U.S. Government agency
25 security and corporate securities and this is exactly what
26 I thought -- this is why I said it's either Elizabeth
27 Aronson or me you have to make a choice was Elizabeth
28 Aronson took all this money out and then just started

1 spending it on anything that was not in the budget and you
2 see the last page of this is the budget.

3 THE COURT: Mr. Stein I guess my only concern
4 about the testimony is I have a note here where you just
5 testified a few minutes ago where there was no resolution
6 of the tribe making you CEO, this is --?

7 A. And I am now refreshed, I am wrong.

8 THE COURT: Okay?

9 A. But I would have thought that this would have come
10 out much earlier than now apparently it's been hiding so
11 that I sound like a liar but I now realize there was a
12 Resolution 97, this is the first I've seen in document in
13 11 years.

14 THE COURT: Was this signed.

15 MS. IBARRA: Yeah this is signed actually?

16 A. And why this was not brought forward when I was
17 asked the question, I was asked the question to be made to
18 look a fool of instead of bringing it forward saying is
19 this accurate? And of course this is accurate and my
20 testimony was wrong and my recollection is now refreshed.

21 MS. IBARRA: Okay.

22 THE COURT: And these are shall?

23 A. The cheap lawyer tricks are the game of the day.

24 MR. FORDYCE: Let's keep you are answers.

25 THE COURT: Mr. Stein.

26 MR. FORDYCE: Jonathan.

27 THE COURT: Mr. Stein, please. No --

28 A. Sure.

1 THE COURT: -- name calling or -- all right?

2 Q. BY MS. IBARRA: Can can we move on to a different
3 topic? Have you testified that you paid for some of the
4 lawyers who did work for the tribe?

5 A. SMDC provided funds that would be -- that would be
6 reimbursed to SMDC to cover expenses of GT Tribe including
7 amounts for the tribal council, amounts for professionals
8 working for the tribal council, some of those professionals
9 were lawyers including Elizabeth Aronson and I -- and
10 others, such as -- I saw later Armand Arabian was one of
11 them.

12 Q. So any of the earlier counsel before Ms. Aronson
13 because Ms. Aronson came in when the Libra agreement was
14 already in place?

15 A. Well now that I've been caught in cheap lawyers
16 tricks, I don't recall, I'm not going to make an effort to
17 recall, I don't recall. Let's all spend Five or six extra
18 days here I'll say I don't recall.

19 MR. FORDYCE: Your Honor I would ask that if
20 counsel is going to ask a question in the ever so slightly
21 Gotcha kind of way if she's got a document that's going to
22 present him one way or the other.

23 THE COURT: You know, look this is called
24 cross-examination.

25 MR. FORDYCE: Understood, Your Honor.

26 THE COURT: And if you're go to impeach somebody
27 this is how you do it and you know both sides have done it
28 and it was the way lawyering is done, and it may be just

1 upsetting but that's kind of how it's done and Mr. Stein
2 you're up you've upset a couple witnesses yourself with
3 cross-examination.

4 A. Yes that's a very good point to coordinate.

5 MS. IBARRA: Can I just respond to the specific
6 charge because we have -- I mean I've seen a lot of
7 declarations where Mr. Stein represents himself as CEO so I
8 didn't expect that this was going to be that that
9 foundational question was going to be an issue that I
10 needed to prepare to do cross-examine.

11 THE COURT: Ms. Ibarra I don't need to hear that
12 argument this is cross-examination, both sides do what they
13 have to do, I don't need to hear any more, let's just ask
14 our next question.

15 Q. BY MS. IBARRA: All right. So we were talking
16 about the payment for lawyers, did you pay anybody besides
17 Ms. Aronson.

18 THE COURT: I think that's been asked and
19 answered?

20 A. Yes.

21 THE COURT: He said he paid and he was seeking
22 reimbursement for the payment, right.

23 MS. IBARRA: But he just said Ms. Aronson.

24 THE COURT: All right, other than Ms. Aronson.

25 A. No I have said Ms. Aronson and I said Armand
26 Arabian and if I could review the Talley report I could
27 tell you there are others.

28 Q. BY MS. IBARRA: Okay why don't we review the

1 Talley report.

2 THE COURT: Which is what 57 seven.

3 MS. IBARRA: 57 seven.

4 MR. FORDYCE: Yes Your Honor.

5 THE COURT: Well that page that you originally
6 looked at Mr. Stein had some lawyers listed, right.

7 MS. IBARRA: Yes.

8 THE COURT: Page is it 59 Five profit and loss,
9 outside transaction costs?

10 A. We can start there.

11 THE COURT: Zero 59 Five might be a good place to
12 start. And it says Indian law lawyer, outside counsel
13 under the transaction costs, does that help you remember at
14 all?

15 A. Yeah. The outside lawyer counsel for -- the
16 Indian law lawyer is Judy Shapiro for 1,000 56 zero, I
17 believe SMDC paid and sought reimbursement for the retainer
18 for Judy Shapiro. Outside counsel Marilyn Barrett for 17
19 5,000, SMDC paid but did not seek reimbursement and I
20 believe the reason for that, my best recollection is that
21 she was SMDC counsel as well and therefore, SMDC sought no
22 reimbursement.

23 MS. IBARRA: So that's why it's not reflected
24 here, is that your testimony?

25 A. Right. And then under tribal administration, the
26 tribal GC for 25 '66 six, that was Elizabeth Aronson's
27 payments, many of which were made by SMDC and then
28 reimbursed to SMDC, and then tribal GC Lamothe 60,000 was

1 the payment to Rae Lamothe.

2 Q. Can I ask you a general question about this
3 document though? You're not --?

4 A. And then if I can continue.

5 Q. Yes.

6 A. Some of the tribes tribal council compensation
7 here was the 51,000 48 zero, some of that was paid by SMDC
8 because the council people asked foreperson loans and SMDC
9 was put in a position where they couldn't say no.

10 Q. Oh I see where is that?

11 A. So got reimbursed by some personal loans by SMDC
12 to the council.

13 Q. So can I ask you now this is a good time to
14 generally ask you about that, are you saying that this
15 reflects everything that SMDC paid and is asking for
16 reimbursement for?

17 A. No that's later in the document I just wanted to
18 start where the court was.

19 Q. But that's not what this document says though
20 because had you didn't pay for Morrison & Foerster?

21 A. This document says what the tribe used the
22 2,000,000 166 for and so it was either the tribes direct
23 expenditure or reimbursement to SMDC by the tribal.

24 Q. So --?

25 A. And the reimbursements of SMDC are listed later in
26 the document, the court directed me to start here.

27 Q. So let's go to the reimbursements to SMDC, because
28 that's kind of.

1 THE COURT: So this is sort of the allocation for
2 the attorneys, so now we're going to look for who paid for
3 what?

4 A. No no that was the money -- the cash that the
5 tribe paid either directly to the attorney or to reimburse
6 SMDC and that's why it's part of the two point 166 million
7 on the profit and loss but the SMDC reimbursables and the
8 payments made to SMDC are listed later in the document and
9 I'm looking for exact right please.

10 MR. STEIN: H*.

11 MR. FORDYCE: Perhaps starting on Bates '06 '05.

12 THE COURT: Vendor balance detail? .

13 MR. FORDYCE: Or --?

14 A. No actually '06 '09.

15 MR. FORDYCE: '09, sorry my bad.

16 MS. IBARRA: Oh this doesn't contain -- this
17 document doesn't contain detail that?

18 A. Well here's 16 them David DeKorte research.

19 Q. Where is it?

20 A. David DeKorte research.

21 Q. Oh yes.

22 A. 5,000 350 was reimbursed to SMDC, it was laid out
23 by SMDC and then reimbursed. Edgar Perez loan was a loan
24 to one of the tribal councilmen for \$500 that was
25 reimbursed.

26 THE COURT: We're looking for I guess attorney
27 reimbursements, right?

28 A. Right, so you would look folks.

1 THE COURT: So where is that? I mean you
2 mentioned David DeKorte but.

3 MS. IBARRA: He was a law student.

4 THE COURT: He was a law student?

5 A. Right.

6 THE COURT: So any of the attorneys, not law
7 students?

8 A. So under the bill payments -- may I stabbed Your
9 Honor.

10 THE COURT: Sure and let us know what page when
11 you get there?

12 A. Thanks. I'm going to go a little bit slow so that
13 I don't overlook something.

14 THE COURT: I see one thing that says Rae Lamothe
15 reimbursement, April 30th.

16 A. So on Armand Arabian.

17 THE COURT: Where are you?

18 A. On Page 60 one.

19 MS. IBARRA: 601.

20 THE COURT: What about six 12, there's some
21 listing of expenses there, I don't know if that's -- that
22 was what I was referring to.

23 MS. IBARRA: Yeah it says in 601 there's Armand
24 Arabian and Cruz Reynoso?

25 A. Yeah and Cruz Reynoso apparently he was paid
26 \$10,000.

27 THE COURT: This is 601.

28 MS. IBARRA: 601 towards the bottom of the page

1 there's payments to Mr. Arabian and Mr. Reynoso?

2 A. Right. And those include a reimbursement to SMDC
3 of \$5,000 so that was an SMDC amount paid for a lawyer
4 working for the tribe. Cruz Reynoso has paid SMDC
5 reimbursement of \$2,000 and that was a payment reimbursed
6 to SMDC for monies it had paid for a lawyer for the tribe,
7 and then I'll work my way up to the Court's -- what the
8 court has found. Judy Shapiro is on Page 602 and Santa
9 Monica paid a \$2500 amount for the retainer was 2500.

10 THE COURT: What about law offices of David
11 Helfant. Is that also.

12 A. Yeah David Helfant.

13 THE COURT: Oh, that's a talent agency?

14 A. No, No, he wasn't a talent -- law offices of David
15 Helfant, we were going to enlist LA based entertainers who
16 would be very interested in casinos, casino acts, casinos
17 have given a second life to all the classic rock and roll
18 guys so David Helfant is a well-known entertainment
19 attorney especially for older rock and rollers so he was
20 paid 2500 by SMDC on behalf of the tribe.

21 THE COURT: Oh.

22 MS. IBARRA: And was he more like --?

23 A. Then Old son, following through Olson Hagel &
24 Fishburn was an amount -- they were attorneys for the
25 Sacramento lobbying done on behalf of the tribe but they
26 were paid directly by the tribe.

27 THE COURT: What page are you on Mr. Stein?

28 A. That was Page 603.

1 THE COURT: Oh okay.

2 Q. And then 604 Rae Lamothe was paid 10,000 and
3 then -- was paid \$60,000 only and that was directly by the
4 tribe, and then Rae Lamothe's --.

5 THE COURT: Forgiveness of loan, it was a loan?

6 A. Apparently.

7 MS. IBARRA: Where are we, I'm sorry.

8 MR. FORDYCE: 604.

9 MS. IBARRA: 604.

10 A. Apparently there was some sort of credit for --
11 credit for Rae Lamothe to Dunlap, this looks like an entry
12 that she worked for Dunlap and got -- forgave 55,000 Five
13 40 billings to Dunlap. I don't know what that's about
14 because I was not part of that.

15 Q. BY MS. IBARRA: Who kept custody of the Quickbooks
16 where this was entered into?

17 A. The Quickbooks stayed at the tribal administration
18 office, they were the computer, and the tribal councilmen
19 when had he left, they left the computer.

20 Q. So do you think Rae Lamothe entered this?

21 A. No I think Elizabeth Aronson; Elizabeth Aronson or
22 Lorna Dertadian. This may be, the 55,540 may actually
23 refer to the judgment amount and may not be properly
24 labeled. It's put under Rae Lamothe, whereas it should be
25 under J for judgment. 55,540 I believe is the judgment
26 amount.

27 Q. I see. There's another loan to Sam Dunlap loan on
28 605.

1 THE COURT: There's a separate entry for the
2 judgment, isn't there? I thought I saw a separate entry
3 for the judgment?

4 A. Once again the court may very well be right, I
5 have haven't looked at the details of this for a long, long
6 time.

7 THE COURT: It's Morales -- we could be in a
8 different document I thought I that you Morales judgment
9 somewhere in here.

10 MS. IBARRA: It was in the Libra budget we've seen
11 it?

12 A. Yeah there is under Morales judgment under M Page
13 6 '03, is the court looking for that.

14 THE COURT: Yeah there was a different.

15 MS. IBARRA: Yeah.

16 THE COURT: Yeah there you go?

17 A. So that's the judgment is 50,000 and that was paid
18 by cashier's check.

19 MS. IBARRA: Interesting?

20 A. There's a little bit more I don't know where the
21 rest of it is but that looks right and Sam Dunlap had his
22 loans of 51,480n were paid, as well?

23 A. And then let me continue going through. And then
24 there are the SMDC entries, the Talley entries and that
25 looks to be it for the lawyers although there should be in
26 here for Elizabeth Aronson for.

27 MS. IBARRA: Yeah this is something for the
28 Elizabeth Aronson?

1 A. Where to that be? That would be Page 6 hundred.

2 Q. Yes there's payments to Ms. Aronson in May 2006,
3 so it was May 2006 when the Libra agreement was finalized?

4 A. Yeah.

5 Q. And you said you had the money two days after
6 that?

7 A. Well no. May 22, we had the money by May 24.

8 Q. I see. ?

9 A. So -- so she began working apparently in April, so
10 it says bill payment check on May 24, so the second we got
11 the money Ms. Aronson got paid, April May June and coast
12 a-, I don't know what that means, for 7,000 246.

13 THE COURT: This is under Aronson?

14 A. Under E for Elizabeth.

15 THE COURT: I see her full name printed at the
16 type right Elizabeth Aronson?

17 A. Yeah.

18 THE COURT: And where is the entry you call coast
19 a-?

20 A. I don't know.

21 MS. IBARRA: .

22 MR. FORDYCE: That's Five in.

23 MS. IBARRA: Oh April May June and cost a-.

24 A. See the bill indicated -- the bill indicates that
25 you're enter into Quickbooks what is owed by the tribe, the
26 bill payment dash check indicates that a payment was made
27 against that bill so that's why there's a minus for the
28 payments and a plus for the bills.

1 Q. BY MS. IBARRA: So Mr. Stein did you seek
2 reimbursement for all of the payments that you made to any
3 lawyers who did --

4 A. (Shakes head.)

5 Q. No?

6 A. No, I didn't get reimbursements, I don't know
7 seeking or getting, I wanted all 232,000 that -- about
8 \$250,000 in reimburse annals were do, I got paid 31 but I
9 sought all 250 and it should have been paid out of the
10 exhibit E budget.

11 Q. So my question is did you seek reimbursement for
12 all of the lawyer payments that you made and lawyer
13 payments, I mean lawyers who worked on behalf of the tribe?

14 A. No because I didn't seek reimbursement for Marilyn
15 Barrett's retainer if in fact I paid one.

16 Q. I know but you also said that she was doing work
17 for the -- for SMDC, right?

18 A. Right.

19 Q. So you're not seeking -- so let me just qualify my
20 question to headache make sure that it's absolutely clear.
21 I'm asking if you sought reimbursement for alternate all
22 the lawyers that you paid who did work for the tribe?

23 A. Yes.

24 Q. So did you seek -- did you pay -- you said Mr.
25 Otto asked you, made a demand for a certain amount and you
26 didn't pay him, you refused to pay him, right?

27 A. Right.

28 Q. Did Mr. --?

1 A. And once en he was the existing lawyer for the for
2 the tribal group that formed GT Tribe, this unincorporated
3 association was another group and they were run by chief
4 Velasquez, he was chief Velasquez's existing lawyer and
5 when it became time to talk about money, he asked me for so
6 much saying I don't have that kind of money go get it from
7 Jim Velasquez or do whatever you have to do, he wasn't my
8 lawyer, he was GT Tribe's lawyer and they had had an
9 opportunity to employ counsel f the guy they chose they
10 couldn't fund that's their problem, was my view.

11 Q. Okay, yeah. So what about -- what about Hugh
12 McMullin?

13 A. Hugh McMullin I have no recollection of. I didn't
14 even realize he had worked for tribe, you showed me a
15 letter that he did.

16 Q. It was in 2000?

17 A. Well that was before the SMDC agreement.

18 Q. Right, okay so what --?

19 A. And before there was a tribe, there was no tribe
20 in 2000.

21 Q. So what about Ed Hamburger?

22 A. Ed Hamburger should have been paid by SMDC.

23 Q. Was he paid by SMDC?

24 A. Yes as far as I can recall, yes.

25 Q. Did you seek reimbursement for payment that you
26 made? Because it was basically a balancing fee right?

27 A. Yes I sought reimbursement for all of my expenses
28 including that one.

1 Q. Is it indicated somewhere in here?

2 A. It's not indicated in the Talley report, the
3 Talley report was a snapshot of what happened to the Libra
4 money between Libra funding their money and when October 3,
5 when SMDC was terminated, it was supposed to capture a
6 snapshot so that -- and it was the only thing that anybody
7 did. The GT Tribe tribal council never did it, they
8 tried -- they cooperated in the production of this, they
9 didn't do anything else. There's no other document, thank
10 goodness we have at least this snapshot other than there
11 would be nothing.

12 Q. So let me go back to my question, so did you seek
13 reimbursement from the tribe or from the Libra agreement --
14 from the Libra funds for any money that you paid Ed
15 Hamburger?

16 A. Yes.

17 Q. But is it somewhere in -- you said it's not in the
18 Talley report, is it somewhere else?

19 A. Exhibit E budget to have the expenses that the
20 2.15 million was supposed to cover which was supposed to
21 include all the reimbursements to SMDC.

22 Q. Let's look at if, is it going to say Ed Hamburger?

23 A. No.

24 Q. Then in what category would it be listed under?

25 A. I would like to go and take a look.

26 Q. Okay. .

27 MR. FORDYCE: 644.

28 THE COURT: Is this on Talley report or is

1 this --?

2 A. Libra agreement.

3 MS. IBARRA: This is in Libra, so 644. So 644 and
4 it's Exhibit E to 644?

5 A. It's Page 9 27.

6 THE COURT: Exhibit E. Is this supposed to be the
7 budget?

8 A. Yeah it is the budget for the 2.15 million plus
9 interest.

10 THE COURT: What page is that?

11 A. Nine 27.

12 THE COURT: Where it says transaction costs or is
13 it somewhere else?

14 A. It's there -- it's kind of throughout this, there
15 is no line reimbursed SMDC, there's a line for SMDC's fees
16 for 10 months, \$500,000 and then there are various lines
17 that would be applied to so for example Olson Hagel &
18 Fishburn for 10,000, part of that.

19 THE COURT: Let me find that one?

20 A. On the right-hand side under tribal professionals.

21 MS. IBARRA: Under tribal professionals.

22 THE COURT: I don't see it, I'm sure it's there
23 but I think it's because I don't have any glasses on. On
24 the right-hand side.

25 MS. IBARRA: On the right-hand side.

26 THE COURT: Of nine 27, tribal professionals.

27 MR. FORDYCE: About halfway down the page Your
28 Honor?

1 A. Olson Hagel & Fishburn.

2 THE COURT: Yes?

3 A. Election lawyers.

4 THE COURT: Yes I see that?

5 A. 10,000 and that would cover amounts that SMDC had
6 already paid so part of that 10 that you would come back to
7 SMDC. Summer researcher, federal land claims, 12,000, part
8 of that would come back to SMDC.

9 THE COURT: So my question -- was Hamburger
10 associated with Olson, is that?

11 A. No, no.

12 THE COURT: So where does Olson, where does
13 Hamburger fit fit in here?

14 A. He would come in under a contingency reserve the
15 '74, he was paid a small amount of money.

16 THE COURT: He was going to be paid out of the
17 contingency reserve?

18 A. Right as other reimbursables would also be paid.

19 Q. BY MS. IBARRA: So but this is -- at this point he
20 wasn't affiliated with the tribe any more, right?

21 A. Right, that's right, so he was lower priority.

22 Q. Do you have any signed writings from Mr. Ed
23 Hamburger.

24 MR. FORDYCE: Vague as to what.

25 THE COURT: Overruled, any I guess.

26 MS. IBARRA: Any because we've seen his name?

27 A. I would have to look.

28 Q. We haven't seep his signature?

1 A. You saw his name on the resolutions but he didn't
2 sign the resolutions because it was the habit of the tribal
3 council to only have tribal council signatures not
4 signatures by attorneys.

5 Q. So my question is do we have anything that
6 reflects his signature in any documents?

7 A. I have no idea. I have no idea just take a look
8 through.

9 Q. Yeah no, I have and it's not in our documents,
10 it's not in your documents, I wouldn't furr there's
11 somewhere else?

12 A. There's likely to be somewhere else, I've got
13 maybe 50,000 documents from five years of work and one of
14 those 50,000 may be a signed writing by Ed Hamburger.

15 Q. There a retainer agreement with Mr. Hamburger.

16 MR. FORDYCE: Calls for speculation.

17 THE COURT: Overruled?

18 A. I don't recall I don't know.

19 THE COURT: You don't know?

20 A. I don't know. I don't recall, No, I don't know.
21 I'm sure it's somewhere along the way.

22 Q. BY MS. IBARRA: Do you know if there's any ethical
23 restrictions about a third party paying for a clients legal
24 services.

25 MR. FORDYCE: Calls for expert witness testimony.

26 MS. IBARRA: I'm asking.

27 THE COURT: Overruled.

28 MS. IBARRA: His experience as a lawyer?

1 A. I have in the last 30 years had people other than
2 my clients pay me and I know that there are form -- state
3 bar forms for exactly that because I -- most of my -- my
4 own experience as part of law offices of Jonathan Stein was
5 using state bar forms for almost every fee agreement I've
6 done.

7 Q. So do you know in this situation because you
8 allege that you did pay for the tribes fees p done that you
9 complied with those requirements?

10 A. There are no requirements that I know of that
11 apply to that situation, there are forms that help you with
12 it, but I don't know of any requirements for that. Your
13 client is the client. It doesn't matter who pays the
14 client, your client is the client. So Ed Hamburger's duty
15 was to GT Tribe regardless of who paid his bills, Rae
16 Lamothe's duty was to GT Tribe even though Libra ended up
17 providing the money to pay her bills.

18 Q. But you described some forms from The State Bar?

19 A. Yeah if you look object state bar, I don't know
20 they've got a new generation of forms but if you look oh
21 Old forms.

22 Q. And and they've changed a little bit, sorry?

23 A. Yes they did.

24 Q. Do you know if there's certain disclosures that
25 you have to make when you pay for --?

26 A. I have know of none, I you should ask bill mills
27 when here.

28 Q. Okay.

1 A. Or Mr. Margolis when he's here.

2 THE COURT: So you don't foe if there are any
3 disclosures that need to be paid when someone is advancing
4 payment for attorneys' fees?

5 A. I don't know.

6 Q. BY MS. IBARRA: So I'll move on to Ms. Rae
7 Lamothe, you describe Ms. Rae Lamothe as having negotiated
8 against you on the SMDC agreement?

9 A. That's not what I said.

10 Q. Okay. Can you explain what you said?

11 A. Rae Lamothe went through the SMDC agreement and
12 made amendments and modifications on two different
13 occasions, one was captured by resolution 37 and one was
14 captured by resolution 46 and that's it I believe.

15 Q. So it's your testimony that that didn't constitute
16 a negotiation?

17 A. No she was representing the tribe and she was
18 adverse to SMDC but I didn't consider her against SMDC, we
19 were hopefully all trying to get a casino but she was
20 adverse to SMDC and she was representing GT Tribe in
21 connection with the SMDC agreement.

22 Q. Okay. But you do -- you would characterize that
23 as being adverse because you're opposite parties to an
24 agreement?

25 A. That's exactly right.

26 Q. But you also supervised her, correct?

27 A. I supervised her but she has -- she reported to
28 the council, I think there's quite a lot of testimony about

1 that yes. But she on her day to day, on her day to day
2 tasks she reported to you.

3 MR. FORDYCE: Misstates testimony?

4 A. No on the day to day tasks.

5 THE COURT: Overruled?

6 A. I gave her assignments and the tribal council had
7 the ability to say no we don't want to you do that, that's
8 actually what happened with Elizabeth Aronson a lot but
9 with Rae Lamothe was as smooth as could be and the council
10 was very pleased for her to do the work that she had
11 indicate today them she wanted to do and she indicated that
12 she wanted to cooperate and try to get a casino because it
13 would be how she would get paid too and we were all going
14 to -- the tribal council, SMDC and Rae Lamothe were all
15 going to get paid if the Libra deal went through or a deal
16 like that and so that effort was very strongly supported by
17 the tribal council, its attorney Rae Lamothe and by SMDC as
18 contractor charged with getting the investment.

19 Q. But I think my question was if you supervised her
20 on her daily tasks.

21 MR. FORDYCE: Asked and answered.

22 THE COURT: No overruled. Just yes or no?

23 A. The answer would be yes and no objection I
24 supervised her for some tasks but you really wouldn't call
25 it supervision because she did it on her own. I assigned
26 her things to do, the tribal council would have to concur
27 that she should spend her time on it or she would have to
28 say I will do it without checking with the tribal council

1 but she usually checked the tribal council and the tribal
2 council concurred almost 100 percent of the time because
3 they wanted this casino project to succeed and all of my
4 assignments were things that I needed done for the casino
5 project. Her retainer agreement with the tribe said you
6 will to all the legal work for the scope of work, SMDC said
7 you will do the scope of work.

8 Q. But you did say that for the SMDC agreement there
9 were -- you were adverse parties, right?

10 A. Oh absolutely, sure.

11 Q. Did you visit tribal council that with respect to
12 that agreement and with respect to all the resolutions
13 referring to that agreement that you were an adverse party?

14 A. Oh absolutely and I didn't have to advise them of
15 anything, it was in the documents all over the place, they
16 knew that I was only a contractor and they knew I was
17 adverse.

18 THE COURT: So just so I'm clear, yes, you did or
19 no you didn't advise them?

20 A. I gave -- I gave no advice to the council, I told
21 them what the situation was from SMDC's point of view
22 including that they were adverse to SMDC, from SMDC's point
23 of view they were adverse.

24 THE COURT: So you did tell them?

25 A. Yes.

26 THE COURT: On behalf of SMDC?

27 A. Yes.

28 THE COURT: That SMDC was adverse to the tribe?

1 A. A dozen times even though it was completely
2 unnecessary, these were smart, well educated people, these
3 were the cream of the crop of thousands of the descendents
4 of the Gabrielino-Tongva Tribe. That's why we got funded
5 by investors because I had helped them move forward on a
6 casino project and the investors recognized that these guys
7 were the cream of the crop.

8 Q. BY MS. IBARRA: That's not -- but that's not at
9 issue, the question is whether you just made that
10 disclosure, that's all. Did you make it in writing?

11 A. Rae Lamothe did all the writings and the writings
12 made clear that SMDC was adverse, SMDC was a contractor.

13 THE COURT: Of the question was did you do it, I
14 don't think she's asking whether Lamothe did it, she's
15 asking whether you did t did you make -- was anything in
16 writing?

17 A. No because I was not their -- I was not their
18 attorney, I didn't have to disclose anything or do anything
19 other than make money for SMDC as best I could and make
20 money for the tribe pursuant to the SMDC contract.

21 THE COURT: So the answer is no you never did
22 that?

23 A. Right. I was not their lawyer, I had no duties to
24 them as a lawyer but they knew I was adverse, I told them I
25 was adverse and there is no writing as if I had been a
26 lawyer and had to produce a writing.

27 Q. BY MS. IBARRA: Okay but you were the supervisor
28 of Ms. Lamothe misstates testimony?

1 A. I was not the supervisor of Lamothe in the sense
2 you're trying to establish, I gave her assignments, I
3 suggested things that needed to be changed, she was
4 supervised by the tribal council on a day-to-day basis, my
5 assignments went through to her, were approved by the
6 tribal council, virtually 100 percent of the time because
7 we were all trying to get the casino funded and get the
8 casino project moved forward politically.

9 Q. So your assignments were approved by the tribe 99
10 percent of the time is that what you said?

11 A. My assignments to Rae Lamothe with -- my
12 understanding is she sought approval of the tribal council
13 to do what she did when I asked her to do something and
14 that 99 percent, if not 100 percent of the time they said
15 fine.

16 Q. So every little thing that you asked Lamothe to
17 do, did you then bring it up with the tribal council and
18 get approval?

19 A. It wasn't my job.

20 THE COURT: Let her --?

21 A. It was her job.

22 THE COURT: Mr. Stein let her finish the question?

23 A. Forgive me Your Honor.

24 THE COURT: Because I need to hear it too.

25 A. Yes absolutely.

26 THE COURT: So the question is.

27 Q. BY MS. IBARRA: So you said that '99 to maybe 100
28 percent of the tasks that you assigned her were approved by

1 the tribal council and I'm asking whether there was a
2 process for doing that, whether you after you made
3 assignments to her, whether individually or collectively
4 you brought these tasks to the tribal council and then they
5 decided that they were approving of those tasks?

6 A. That was between Ms. Lamothe and her bosses on the
7 tribal council, it had -- it had very little to do with me
8 other than I needed these things done as compared to not
9 done. When Elizabeth Aronson came on board, they started
10 not getting done and I'd say why aren't you doing this and
11 she'd say well the tribal council told me I didn't have to
12 and finally --.

13 THE COURT: Well we're not answering the question
14 any more?

15 A. Very good.

16 THE COURT: So Lamothe and Mr. Stein on behalf of
17 SMDC did not bring Lamothe's tasks that were assigned by
18 SMDC to the tribal council?

19 A. Lamothe.

20 THE COURT: You were not involved or you as in
21 SMDC were not involved in bringing Lamothe's tasks to the
22 tribal council?

23 A. But from my conversations with Lamothe it was
24 clear that she had a process where she got approval
25 beforehand from the tribal council or informed them
26 afterwards and sought their approval afterwards because she
27 was very diligent about being independent counsel for the
28 GT Tribe, her clients being the tribal council and SMDC

1 being adverse.

2 THE COURT: So Lamothe said she took them to the
3 tribal council, is that my understand, .

4 A. Yes as far as my.

5 THE COURT: Well you said Lamothe told you that
6 every task you gave her she took to the tribal council to
7 get approval for it, is that what I'm hearing?

8 A. I'm assume that it was every but I didn't ask her
9 about every, because I didn't care, it wasn't my job, I was
10 a contractor.

11 THE COURT: Right?

12 A. It was her job to get approval from the tribal
13 council.

14 THE COURT: But you made a statement that Lamothe
15 told you something.

16 A. Yes.

17 THE COURT: Why don't had you told me what it is
18 that Lamothe told you?

19 A. It was clear from conversations over the course of
20 five years that she got everything approved either
21 beforehand or afterwards by the tribal council that I
22 assigned her, that she thoroughly discussed it with the
23 council, got her okay to do the work that she did, which
24 included writing all the resolutions and included other
25 legal tasks.

26 THE COURT: All right so either before they were
27 done or after they were done?

28 A. Right.

1 THE COURT: The assignments that you gave to
2 Lamothe she said she got approval from the tribal council?

3 A. Right. They fully understood what she was doing,
4 they fully approved of what she was doing, when I say hey
5 Rae I need a resolution to hire lobbyists in Sacramento,
6 hey Rae I need a resolution to hire a field poll, hey Rae I
7 need a resolution to hire an architect.

8 Q. BY MS. IBARRA: So is it your contention that they
9 specifically approve it or that they didn't object to any
10 of the tasks?

11 A. My understanding is that they approved it and
12 whether they were less vocal about it and simply didn't
13 object I don't know because I was not part of the
14 communication chain between Rae and her clients, I was just
15 not part of that chain so I wouldn't know -- which of those
16 two things that you're asking.

17 Q. Is there -- do you recall that she ever sent them
18 e-mails where she didn't cc you?

19 A. She sent --

20 MR. FORDYCE: Well, that calls for speculation.
21 How does he know if he wasn't CC'd?

22 A. -- tons of --

23 THE COURT: Hold on.

24 MR. FORDYCE: Calls for speculation.

25 THE COURT: All right.

26 Q. BY MS. IBARRA: But let me rephrase. Do you have
27 any reason to believe she had separate communications with
28 the tribal council? Well, just e-mails. Do you have any

1 reason to believe that she sent them e-mails without cc-ing
2 you?

3 A. It is my belief that over the course of Five years
4 she sent hundreds if not thousands of e-mails or phone
5 calls with the tribal council that did not include me. It
6 was between her and her client. Many did include me
7 because it might be on a topic that I cared about which was
8 getting investors, getting politicians lined up, getting
9 architects and the various infrastructure together to
10 present a major league victory for a casino in LA County.

11 Q. Okay. Moving on to a different topic, well
12 actually related topic but Seyfarth Shaw was your separate
13 counsel?

14 A. Yes, SMDC's counsel.

15 Q. SMDC's counsel, sorry. But they also you are
16 contend drafted the SMDC agreement?

17 A. For SMDC that's exactly what they did.

18 Q. You contend, disputed but you contend that they
19 also drafted the resolutions?

20 A. The initial approval of resolutions, yes,
21 Resolution 10 in particular.

22 Q. And you paid them for that?

23 A. Yes.

24 Q. Did you pay them for the drafting the SMDC
25 agreement?

26 A. Yes.

27 Q. And for drafting the resolutions?

28 A. Yes.

1 Q. Did you think the drafting resolutions was done on
2 blast of the tribe or on behalf of --?

3 A. No it's typical of corporate work that Tom Watt
4 did --.

5 THE COURT: No we're not asking if it's typical,
6 what did you think?

7 A. What I did think about what.

8 THE COURT: About on whose behalf he was drafting
9 the documents?

10 A. Oh absolutely, SMDC and for the tribes
11 resolutions, that's what SMDC wanted them to say, saying
12 hey you work free work you've got to write -- you've got to
13 make an approval in that form, if you want free work, if
14 you want somebody as talented as me to work for you without
15 charging you current lie and you have no money to pay,
16 you've got to adopt it in that form, and if you don't SMDC
17 is not going to work for you.

18 Q. Oh and so that was a statement from you from SMDC
19 to the tribe?

20 A. That's correct but it was a lot softer because
21 there was a back and forth with intelligent people that
22 were trying to do their job for the tribe, so there was a
23 back and forth over many, many many meetings including a
24 back and forth about the resolutions.

25 Q. I see.

26 A. Of course that back and forth continued when they
27 had Rae Lamothe for the later resolutions, 37 and 46, it
28 continued when they have had Ed Hamburger who worked on

1 resolutions 17 and 20.

2 Q. Do you think that Seyfarth Shaw owed the tribe any
3 duties at that point?

4 A. No absolutely not.

5 Q. Even though they were doing work for them.

6 MR. FORDYCE: Misstates testimony?

7 A. Oh God.

8 MR. FORDYCE: Lacks foundation.

9 THE COURT: Yeah sustained Seyfarth -- well his
10 testimony was -- Seyfarth was doing work for the SMDC so it
11 does misstates testimony.

12 Q. BY MS. IBARRA: Mr. Stein have you ever done pro
13 bono work as a lawyer?

14 A. Pro bono, tons of it, far more than anybody else I
15 know.

16 Q. And that means you don't get paid, right?

17 A. That's correct.

18 Q. So -- and you're still liable for malpractice
19 right if you miss a deadline or do something in a pro bono
20 capacity as a lawyer?

21 A. I'm not clear on if that's the case at all.

22 Q. Oh okay. So what is your understanding?

23 A. I don't have one. I did maybe 4,000 hours of pro
24 bono work, that's equivalent of two solid years on the
25 Santa Monica airport matter, didn't get paid for that at
26 all, Went 30,000 bucks out of my pocket, I've done pro bono
27 work on other matters that are not so prominent, didn't
28 result in newspaper articles and I don't have an

1 understanding about what my ethical obligations are in pro
2 bono work I just try to do my best.

3 Q. Okay but you still understand that you can't give
4 advice in a pro bono capacity that's going to benefit you
5 and not your client?

6 A. I don't have any understanding of that.

7 Q. Okay?

8 A. And I don't have any understanding on paid work
9 that you can't give advice that benefits you. I think your
10 version of ethics is not what California has adopted as
11 law.

12 Q. That might be subject of expert testimony. So
13 let's move on to a different topic.

14 THE COURT: Just so you know there's Five more
15 minutes, so but you can use the five minutes and we'll
16 resume tomorrow.

17 MS. IBARRA: I'm near done actually so. So when
18 had you adopted the SMDC agreement, not you but when the
19 tribal council adopted the SMDC agreement initially in
20 2001, did you bring several copies of the SMDC agreement.

21 MR. FORDYCE: Asked and answered. At what point
22 are we cumulative.

23 THE COURT: It may be but I don't remember what
24 the answer was so I'm going to allow her to answer it
25 again, you may be right Mr. Fordyce but I don't remember
26 what the answer was?

27 A. Tons of copies, tons of copies, there were 10
28 people and there were -- there were 10 people, there were

1 multiple versions in multiple meetings and in each meetings
2 there would have to be sufficient copies for everybody to
3 review that came to the meeting, not all 10 people who come
4 to all the meetings, there were too many.

5 Q. BY MS. IBARRA: Did they get to take them home for
6 their records?

7 A. Absolutely. And if their testimony was otherwise,
8 they were not correct.

9 Q. So that was at the initial meeting?

10 A. That -- No, it was not initial meeting, there
11 were -- the meetings set forth in Resolution 10, there's a
12 paragraph saying when the meetings were, in those meetings
13 when I had new drafts of the agreement, I would provide
14 copies of the draft sufficient for everybody to show up.
15 Usually not all 10 showed to all the meetings.

16 Q. But that paragraph doesn't say that they got
17 copies?

18 A. I would have to see what the paragraphs say.

19 Q. We can look at the paragraph, it's in -- it's
20 contained on 569 but we gave it -- because it's actually
21 Resolution 10 right that you're referring to right, it's
22 not the actual agreement.

23 THE COURT: We're looking at exhibit 569 or what
24 are we looking at.

25 MR. FORDYCE: One of the additional ones Your
26 Honor we renumbered.

27 MS. IBARRA: We gave it a different number.

28 THE COURT: Oh.

1 MS. IBARRA: Yeah it's 569 and then we renumbered
2 it as -- it used to be 569. 1542 is what we renumbered it,
3 Resolution 10.

4 THE COURT: 1542.

5 MR. FORDYCE: I think that's right?

6 A. That's what I've got.

7 MR. FORDYCE: Yeah.

8 Q. BY MS. IBARRA: And it's the -- it's numbered Page
9 33 and the Bates is zero 234 is one Bates, another one is
10 zero 49 seven.

11 THE COURT: Neli I don't have that one, Resolution
12 10.

13 THE CLERK: 1542.

14 THE COURT: And I think we'll --.

15 MS. IBARRA: This will be it.

16 THE COURT: Okay.

17 Q. BY MS. IBARRA: Oh actually the specific paragraph
18 that I was referring to was a paragraph on the next page
19 34?

20 A. 498.

21 Q. Yeah it's to page 34, 498 the last paragraph on?

22 A. It's not the -- the Bates stamp number is 498.

23 THE COURT: I have 49 seven?

24 A. It was the following page. And then you'll need
25 the 499 as well.

26 THE COURT: Do you have a question about --.

27 Q. BY MS. IBARRA: Yes the question was does this
28 reflect that they got a copy -- that they each get a copy

1 that they could take home?

2 A. This reflects when they meet can what they
3 discussed, it does not reflect whether they have copies.

4 Q. It does say the first paragraph does say whereas,
5 -- this is the last paragraph on page 34 Bates stamp zero
6 498 whereas the council, one received a draft of the
7 development agreement of this resolution, for each council
8 member -- for each council member in early 2000 from Mr.
9 Stein?

10 A. It seems to indicate that each council member
11 received a draft of this development agreement and this
12 resolution so that would indicate 10 copies.

13 Q. Right. It doesn't indicate whether they got to
14 take them home. Okay thank you?

15 A. Is that the end of today or end of --.

16 MS. IBARRA: That's the ebbed of today, I have
17 very little for tomorrow.

18 THE COURT: Well tomorrow, is it try didn't you
19 have something to do on Friday.

20 MS. IBARRA: Tomorrow is a short day?

21 A. Yes the court said to come in at 10 45.

22 THE COURT: All right 10 45 and Mr. Stein Mr.
23 Stein if there's a -- please keep up apprised if you get
24 held up or something is going on okay?

25 A. Oh yeah that's right I'll give a call to Neli.

26 THE COURT: All right thank you.

27 MR. FORDYCE: Thank you Your Honor. 12:01 PM
28