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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.

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1 GABRIELINO-TONGVA TRIBE VS. STEIN, TRIAL DAY 28

2 ROUGH TRIAL TESTIMONY OF RAE LAMOTHE

3 11:05 AM.

4 THE COURT: Gabrielino-Tongva Tribe versus Mr.
5 Stein, BC361307 good morning.

6 MR. FORDYCE: Good morning Your Honor.

7 MS. IBARRA: Good morning.

8 THE COURT: Counsel make your [PA] experience
9 [-Z].

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

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

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

16 THE COURT: Thank you. Let's start, I have know
17 it's late but -- is this Rae Lamothe.

18 A. Yes.

19 THE COURT: Good morning?

20 A. Good morning Your Honor.

21 MS. IBARRA: Does she need to be re sworn.

22 THE COURT: As long as she can affirm that she
23 understands that she's still under oath.

24 A. Yes.

25 THE COURT: Okay you may proceed.

26 Q. BY MS. IBARRA: Good morning Ms. Lamothe, we left
27 off on your cross-examine and it's been six months so maybe
28 if we can just re touch on some of the -- to some of your

1 your background and we'll just start with the [TPARBGT]
2 that you stated that you were general counsel for the
3 tribe?

4 A. Yes.

5 Q. And do you recall the dates?

6 A. I ended in '06, in the summer of '06 I believe so
7 I would have begun five years earlier which would have been
8 spring of '01 I believe.

9 Q. And do you recall specific dates when you began?

10 A. I believe May but I'm not 100 percent certain.

11 Q. I also asked you about the resolutions that were
12 prepared for the tribe while you were general counsel?

13 A. Yes.

14 Q. And you said that you drafted a lot of them?

15 A. In the time that I was there, yes.

16 Q. Right. Did you -- did any of the resolutions ever
17 originate with somebody other than Mr. Stein, the substance
18 of the resolutions.

19 MR. STEIN: Objection.

20 MR. FORDYCE: Objection assumes facts.

21 THE COURT: Sustained.

22 MR. STEIN: And --.

23 Q. BY MS. IBARRA: Do you recall what your testimony
24 was about where you got direction about drafting the
25 resolutions?

26 A. Generally Mr. Stein would give bullet points of
27 what -- we need today accomplish this task we need a
28 resolution on that topic.

1 Q. Did you have get direction on drafting the
2 resolutions from anybody other than Mr. Stein?

3 A. It would also come up at council meetings I
4 believe.

5 Q. Okay. Did any of the tribal council members ever
6 give you direction on drafting the resolutions?

7 A. People may call me --.

8 MR. STEIN: Objection asked and answered.

9 THE COURT: No, overruled?

10 A. My recollection is that occasionally somebody
11 would call between meetings and say can we discuss this at
12 the next meeting or can we put this on the agenda or we
13 need -- we'd like do such and such and then we'd discuss it
14 at the meeting.

15 Q. Do you recall a specific issue or topic where you
16 got such a direction from the tribal council or an
17 individual tribal council member?

18 A. No but it would generally be things that were more
19 tribal as opposed to business, membership type questions,
20 generally.

21 Q. Okay. Tribal as opposed to business. So can you
22 give me more specifics about what you mean by that?

23 A. My recollection at one point there was an entity
24 set up as the business entity to operate the tribe, those
25 types of things were done through the developer.

26 Q. I see.

27 A. The tribal members didn't have any interest in
28 that.

1 Q. And so the tribal members would give you direction
2 on membership issues such as --?

3 A. They would call and say that they want a certain
4 thing discussed at the next meeting or you know we need to
5 work on such and such.

6 Q. With regards to membership as to who could join?
7 I'm trying to figure out what you mean by that?

8 A. Correct.

9 Q. Orange. So who could become a member or
10 membership requirements?

11 A. Or who was a member.

12 Q. Okay. We also touched upon contracts and you said
13 that you drafted most of the contracts?

14 A. Yes except once that a vendor had prepared their
15 version and sent us a draft for reviewer.

16 Q. Do you recall [PO*EL], a contract between the
17 drive and [PO*ELD]?

18 A. I don't have a specific recollection no. I know
19 he was retained but I don't have a recollection of that.

20 Q. Do you have a recollection that there was a
21 contract between the tribe and [PO*ELD]?

22 A. Yes but I believe it was as I was -- as I was
23 leaving or after I left.

24 Q. Okay. ?

25 A. I don't recall working with the Senator.

26 Q. And you don't have any independent knowledge of
27 whether Mr. Stein worked on it?

28 A. No. I don't have any recollection.

1 Q. All right. And you don't have -- do you have any
2 independent knowledge of Mr. Stein working on any contracts
3 on behalf of the tribe?

4 A. While I was there?

5 Q. Yes.

6 A. To the extent he would say he met with an
7 investor, vendor, et cetera, we discussed the terms that
8 the tribe was going to retain the vendor under and then he
9 would relay that information to me for the contract.

10 Q. So he would give you deal points?

11 A. Right.

12 Q. So for all the resolutions that went to the tribe,
13 did Mr. Stein have final say as to whether the resolution
14 was done and prepared to be presented to the tribe?

15 A. He certainly reviewed them to ensure that it
16 conformed to what they wanted done.

17 Q. Okay. What they wanted done or what he need
18 wanted done?

19 A. Both, what the goal was, whatever the resolution
20 was supposed to accomplish to make sure or to approve or to
21 double check that it was going to do the stated goal.

22 Q. Did you ever present either a resolution or a
23 contract -- a resolution you know what contract, present
24 any such thing to the tribe without it first going to Mr.
25 Stein for finalization or approval?

26 A. I can't recall a situation like that, no.

27 Q. We also touched upon the Morales litigation?

28 A. Yes.

1 Q. And can we just briefly so we don't go through all
2 of it, just recall your best recollection of the Morales
3 litigation?

4 A. My recollection is the tribe sued Anthony Morales
5 and his contingent because there was a dispute as to who
6 was going to use the name the Gabrielino-Tongva Tribe, as
7 to who the tribe was.

8 Q. And do you recall who the parties were, was it the
9 tribe or was it individual council members?

10 A. I believe both but I'm not 100 percent certain.

11 Q. And do you recall your role, was it as counsel of
12 record?

13 A. Yes.

14 Q. And do you recall who you represented?

15 A. I represented everybody but Sam Dunlap.

16 Q. So everybody, were they individuals or an entity?

17 A. That's what I'm not 100 percent certain. It was
18 either the other council members and/or the other council
19 members and the tribe.

20 Q. Okay.

21 A. And I don't --?

22 A. If I saw a caption it would refresh my
23 recollection but I don't recall.

24 Q. I think we have a caption. But do you recall --
25 you recall that you didn't represent Mr. Sam Dunlap that's
26 what you said?

27 A. Correct.

28 Q. So who represented Mr. Dunlap?

1 A. Mr. Stein.

2 Q. Mr. Stein. So were you co-counsel?

3 A. As to we were on the same side of the courtroom
4 but I wasn't co-counsel for Sam Dunlap and Mr. Stein wasn't
5 co-counsel to my clients.

6 Q. Got it.

7 A. But we were on the same side of the courtroom.

8 Q. But but work on pleadings together?

9 A. Yes to make sure it was coordinated.

10 Q. Do you recall as if there was a coordinated
11 strategy in the litigation?

12 A. Yes.

13 Q. Do you recall if you took the leadership role in
14 the strategy or Mr. Stein took the leadership role in the
15 strategy?

16 A. Mr. Stein took the leadership role in coming up
17 with the idea that the suit should be filed and then I did
18 the lion's share of the work and the strategy on the suit
19 itself.

20 Q. Okay. So you drafted the actual like pleading
21 documents and declarations and so forth?

22 A. Yes.

23 Q. So we also discussed the mediation?

24 A. Yes.

25 Q. And how did the mediation go?

26 A. It didn't settle the case.

27 Q. (Ditto). Was there anything in particular that
28 you remember about the actual mediation?

1 A. It was loud and the case did not settle.

2 Q. Was it acrimonious?

3 A. Yes very.

4 Q. Do you recall if Mr. Stein spoke on behalf of --
5 because you guys were the Plaintiffs, right, you
6 represented the Plaintiffs in that action?

7 A. Yes.

8 Q. Did he -- did Mr. Stein speak on behalf of all of
9 the Plaintiffs?

10 A. Yes. He was probably the -- since two people
11 can't speak at once he probably spoke more at the mediation
12 than I did.

13 Q. Okay. And do you recall that he was -- was he
14 identify as the tribes developer or as an attorney at the
15 mediation?

16 A. I would assume both.

17 Q. But do you have a specific recollection of that
18 right now, it's a long time ago?

19 A. No.

20 Q. There was he have eventually a judgment that was
21 entered?

22 A. Yes.

23 Q. And was it -- do you know who it was against?

24 A. Against all of the Plaintiffs, I believe the
25 Defendant prevailed on summary judgment.

26 Q. And --.

27 THE COURT: I'm sorry it was against the
28 Plaintiffs or --?

1 A. I believe so.

2 THE COURT: Okay?

3 A. I believe the Defendant prevailed on summary
4 judgment is my --.

5 THE COURT: On summary judgment.

6 Q. BY MS. IBARRA: So eventually it was a judgment
7 against the Plaintiffs and you and Mr. Stein represented
8 the Plaintiffs?

9 A. Correct.

10 Q. Did you ever substitute in as counsel for Mr.
11 Dunlap?

12 A. I believe after the litigation concluded, yes
13 because there was an issue of collection of the costs, et
14 cetera.

15 Q. Okay. So was --?

16 A. So somebody still had to represent Sam on that --
17 Mr. Dunlap on that part.

18 Q. Do you recall bankruptcy proceedings also related
19 to that?

20 A. Yes on the periphery, I know someone else handled
21 that, I didn't happen it will but I believe Mr. Dunlap, I
22 know Mr. Dunlap filed bankruptcy.

23 Q. So you represented him as well as the other
24 Plaintiffs in the collection of judgment issues related to
25 the [PHO*LS] litigation?

26 A. Correct.

27 Q. But had not in the bankruptcy?

28 A. Right.

1 Q. So then we looked brief [HRAO] at exhibit 36
2 that's going to be in the blue binders behind you, I'll
3 come help you.

4 THE COURT: I believe the white binder is up here,
5 because it says Defendant.

6 MS. IBARRA: No we're plaintiff.

7 THE COURT: I don't have yeah I know but I don't
8 have a Plaintiffs up here.

9 THE CLERK: What Number.

10 MS. IBARRA: It should be 36 and we're just going
11 to do in the first volume, I think all the ones we're going
12 to talk about is the first volume?

13 A. Let me just set this here.

14 MS. IBARRA: Yeah because I know these were copied
15 weird Lee.

16 MR. STEIN: Your Honor while we're doing that I'd
17 just like to state an objection on relevance, [TH*Z] this
18 is Sam Dunlap in his individual capacity declaring
19 bankruptcy for his own personal reasons we touched on this
20 before but I'd like to object as to the relevancy and the
21 need to use court time for this.

22 THE COURT: Well part of the problem is some of
23 this has to be re hashed for background for the Court, so I
24 do know we talked about bankruptcy and Mr. Dunlap but.

25 MR. STEIN: The idea is Mr. Dunlap brought his
26 individual claims on issues like his bankruptcy and not
27 being treated fairly, they were all adjudicated in 2012 and
28 he got nothing so what it sounds like is that the same

1 claims are being brought forward again in an attempt to
2 make it sound like the tribe somehow got damaged when in
3 fact Mr. Dunlap has gambling debts and other things that
4 caused the bankruptcy, a landscape business that went up
5 side down when he broke his leg and couldn't go to work.

6 MS. IBARRA: So if we look --

7 THE COURT: So what is the relevance of it.

8 MS. IBARRA: Yeah if we look at the e-mail we can
9 see the relevance of it.

10 THE COURT: Okay I'll reserve ruling until I look
11 at the e-mail.

12 Q. BY MS. IBARRA: So do you recall that we have
13 reviewed this six months ago when you were last here?

14 A. Yes.

15 Q. And for the record, can you state what the -- what
16 the document represents?

17 A. Exhibit 36 is an e-mail string between me and
18 Jonathan Stein and it starts -- it starts November 30 of
19 2005 and concludes March 23 of '06.

20 Q. Oh the last two pages got copied incorrectly so
21 let's just look at the first two, let's just ignore the
22 last ones?

23 A. Okay. I'll fold those over, okay. .

24 Q. So then if -- so then if you -- if we just look at
25 the first two pages?

26 A. Okay.

27 Q. Because I think the other two are unrelated.

28 A. Okay I'll restate my answer. It is an e-mail

1 string between me and Mr. Stein that starts at November 30
2 on 12:38 p.m. and concludes November 30, both of '05, at
3 7:14 p.m.

4 THE COURT: It's three pages.

5 MS. IBARRA: It's two pages and the next two we
6 did talk about, but they were copied incorrectly, they're
7 [H-RPB] related, so we saw them, it's in a different
8 e-mail -- it's in a different exhibit.

9 THE COURT: We should.

10 MS. IBARRA: Take them out because they're had
11 not.

12 THE COURT: Right we should take out what's not
13 relevant and we should put in the third page so we're
14 complete again. Again in this case you need to go through
15 everything and make sure everything is complete to the best
16 of your ability.

17 MS. IBARRA: So take out the third last two pages
18 here because they're [H-RPB] related and my copy of the
19 e-mail chain that's related is just two pages and that
20 should be yours as well, there was four?

21 A. Yes.

22 [RIGHT1]: So we have don't have Page 3.

23 MS. IBARRA: I only have two pages of this, I
24 don't have three pages of this and I think all the copies
25 are just two pages.

26 THE COURT: You want to look for Page 3. Like I
27 said, all of thieves documents, all of them need to be
28 complete.

1 MS. IBARRA: I will look for Page 3 but it didn't
2 originate with my clients, it was just -- this is a copy
3 documents that were -- this was -- this is a copy of a hard
4 copy not a copy an e-mail so the copy we may have gotten it
5 from may have just been two copies but three copies.

6 THE COURT: I mean what was produced to you you
7 mean.

8 MS. IBARRA: Yeah but we -- so we didn't get
9 [PHA*ELTZ] e-mails produced we got hard copies produced and
10 so there were binders that we went through and made copies
11 of so this was a document that was in binders. Does that
12 make sense.

13 THE COURT: Everybody has been saying that so.
14 Anyway, okay. Go forward, I'm just saying, incomplete
15 documents, the court just gives it whatever weight it can.

16 MS. IBARRA: Okay. If there's anything missing
17 it's -- well okay.

18 THE COURT: I understand.

19 Q. BY MS. IBARRA: So can you look at the first
20 page --

21 A. Uh-huh.

22 Q. -- of the document. This is the e-mails November
23 30, seven 14?

24 A. Correct.

25 Q. And that's -- that e-mail is about scheduling but
26 can you look at the one before that from Mr. Stein to Ms.
27 Lamothe at 506 on the same date?

28 A. Yes.

1 Q. Can you read that into the record?

2 A. Dear re: , Same needs to have his attorney to be
3 the attorney of record for his adversary proceeding, .
4 However, we have to represent the tribes point of view
5 which can probably be done through a declaration from the
6 tribal GC, backed up with an intensive list of exhibits.
7 The key points are paren one, we are the tribe and not the
8 Inc., [S*RBGZ]; paren two, the B K court should not decide
9 any such controversy as to who is quote the tribe and paren
10 three the exact nature of the judgment, which makes it
11 dischargeable h I would like to be sure that you do most of
12 the work under my supervision. Samples attorney should
13 work with us, but must follow our direction. If there is a
14 money problem, I will consider paying for it. But then,
15 not everyone may have be happy with my requirements if I do
16 so period, signature block.

17 Q. And do you recall if this was typical of your
18 working relationship with Mr. Stein.

19 MR. STEIN: Objection vague.

20 THE COURT: Overruled?

21 A. I don't know how to answer that as far as typical.
22 The bankruptcy was a -- an unusual event, and obviously the
23 concern was to make sure that nothing happened in the B K
24 court that would affect the tribe generally.

25 THE COURT: Well how often did he tell you, do
26 most of the work but under my supervision?

27 A. Sometimes he did but I wouldn't say -- certainly
28 not the majority, not -- and this was in the context of I

1 know nothing about bankruptcy.

2 MS. IBARRA: [TPHAOERD] do I?

3 A. So --.

4 THE COURT: Okay?

5 A. There would be room to spare on the head of a pin
6 if I were to tell you what I know about bankruptcy.

7 Q. BY MS. IBARRA: Well I guess my question was if
8 it's indicative of how had you coordinated legal work with
9 Mr. Stein.

10 MR. FORDYCE: Assumes facts.

11 THE COURT: Overruled?

12 A. I don't think it's indicative of the tribal work,
13 it certainly was indicative of the bankruptcy arena.

14 Q. Oh so you need today rely on him more in this
15 area, is that what you're -- I'm trying to understand?

16 A. Correct.

17 Q. What you're saying?

18 A. Correct, because I know -- I was going to say very
19 little about bankruptcy but that would be a gross
20 exaggeration, I know virtually nothing about bankruptcy
21 other than the one class in-law school.

22 THE COURT: Did Mr. Stein seem to know about
23 bankruptcy.

24 A. Yes he'd had case that's -- I don't know if he's
25 represented people in bankruptcy before but he had cases
26 where parts of them were in and out of bankruptcy court.

27 THE COURT: Sew had more familiarity than you is
28 what you're saying?

1 A. Correct.

2 THE COURT: Okay.

3 MS. IBARRA: So he guided you through the
4 bankruptcy issues.

5 A. Yes. There wasn't -- we didn't end up doing very
6 much is my recollection.

7 Q. But you were willing to?

8 A. Right.

9 Q. And he was willing to?

10 A. Yes.

11 Q. So my other question about this which I didn't get
12 to ask you before is if his willingness to pay for legal
13 work was also typical or atypical?

14 A. I don't -- I can't recall a prior situation where
15 it would have been necessary. I'm trying -- I can't think
16 of anything off the top of my head that we would have
17 wanted to retain outside counsel or somebody needed outside
18 counsel for.

19 THE COURT: So Is that a "no" that --?

20 A. No in the sense of I don't think any other
21 situation came up that --.

22 Q. BY MS. IBARRA: So you don't remember or you don't
23 think so?

24 A. I can't recall a situation where an individual or
25 the tribe asked Mr. Stein to pay for outside counsel.

26 Q. Okay?

27 A. Or he offered to, I can't recall a situation like
28 that.

1 Q. Did he pay you for legal work, for the services
2 you provided to the tribe?

3 A. No. When I was leaving an investor was coming in
4 and I was paid on my way out.

5 Q. So your compensation was deferred the entire
6 time?

7 A. Yes.

8 Q. And you never had any -- would it surprise you to
9 know that Mr. Stein has said he paid you, that he paid you
10 out of his own pocket?

11 A. Yes.

12 Q. Because you don't think that happened?

13 A. If I picked up lunch at a caterers and brought it
14 to my meeting he would reimburse me but other than that, I
15 can't -- I can't recall being paid for work, no.

16 Q. So moving on from that, we also touched upon the
17 Libra agreement?

18 A. Yes.

19 Q. And did you have any involvement with any of the
20 legal work regarding the Libra agreement?

21 A. My recollection is I did some because that -- my
22 recollection is that is the investor that was coming in as
23 I was leaving.

24 Q. Right. So you don't -- to the best of your
25 recollection you weren't?

26 A. I may have done a bit before I left but then when
27 I left, the tribe retained a transaction -- somebody who
28 was experienced in transaction work.

1 Q. Do you recall the name of that person?

2 A. Marilyn Barrett.

3 Q. And do you recall if she was -- if she was the
4 transactional lawyer during the entire life of the
5 negotiation of that agreement?

6 A. I wouldn't say the entire life because I believe
7 the discussion started before I left but the lion's share
8 of the work I believe was done after I left.

9 Q. We also looked briefly at Exhibit 41 so -- which
10 is just a few this is similar to the other one I think.

11 THE COURT: I have a question who were you
12 replacing, in other words was there another counsel that
13 you were replacing, I'm assuming there was but I don't
14 know, or was the tribe unrepresented before you came in?

15 A. There may have been a gap but I believe my
16 predecessor was Hugh Mac nullity, there were two people
17 before me and I forget which order they were in you Hugh
18 Mac mull inn and another gentleman.

19 THE COURT: Mac mull en okay?

20 A. I can't remember the other gentleman's name.

21 THE COURT: It was a man?

22 A. Yes angry elderly gentleman who I believe passed
23 away, I remember reading his oh by the rarely.

24 Q. BY MS. IBARRA: Did you ever meet them?

25 A. Yes.

26 Q. You met them?

27 A. Yes.

28 Q. Do you remember the context in which you

1 interacted with them?

2 A. Yes. At the bar at the -- at hair as ranch hey
3 way between here and San Francisco.

4 Q. Oh was there -- was if a Gabrielino related event?

5 A. No I was -- they were driving north and I was
6 driving south and we both happened to [STAP] there for the
7 night.

8 Q. And they were together?

9 A. Yes.

10 Q. These two prior counsel of the tribe were
11 together?

12 A. Yes.

13 Q. And so how did you make the connection that you
14 both [W*] worked for the [TKPWA*BZ]?

15 A. It was before I worked for the tribe. Making
16 small talk, a bunch of us and where are you from and I'm
17 from -- you know Saint Monica and then fast forward some
18 period of time I ran into Hugh at Mr. Stein's office.

19 Q. Oh okay. So you met Mr. Mac mull inn at Mr.
20 Stein's office?

21 A. Yes. .

22 Q. And then the other --?

23 A. Oh I shouldn't -- I don't know if I saw him again
24 at Mr. Stein's office. Once I became involved with the
25 tribe, then I saw his name -- well I had spoken with him at
26 hair as ranch and he had mentioned he had been working for
27 the tribe and the other gentleman had previously been
28 working for the tribe and then at some point I did as well.

1 Q. So the -- so the other gentleman who was with Mr.
2 McMullin was he partners with Mr. McMullin?

3 A. No he I believe represented the tribe before Mr.
4 McMullin, I believe. I think that was the sequence, I
5 think it was the fellow whose name I can't remember and
6 then Mr. McMullin, I believe that was the sequence.

7 MR. STEIN: Objection, just vague, I don't want to
8 give out the name but I would think that counsel would want
9 to give out the name to make the question more effective.

10 THE COURT: If she --.

11 MR. STEIN: We were discussing him at length
12 yesterday.

13 THE COURT: If she knows.

14 MS. IBARRA: Well but Mr. --.

15 MR. STEIN: May I say it without being out of
16 order.

17 THE COURT: No if she doesn't have a recollection
18 you can't suggest the answer to the witness.

19 MS. IBARRA: Well --.

20 MR. STEIN: Exactly what I want to avoid doing.

21 THE COURT: Right.

22 MS. IBARRA: And I mean my understanding of Mr.
23 McMullin and the relationship with the person he was
24 discussing yesterday was not that they were friends so that
25 was -- so I'm just --.

26 MR. STEIN: You don't want to name the person you
27 know exactly who we are talking about and you don't want
28 to use the name.

1 MS. IBARRA: No, I don't want to say Mr. -- can
2 you go to Exhibit 16?

3 A. 16?

4 Q. Yes. Have you ever seen this -- oh I'll let you
5 review it.

6 MR. STEIN: Your Honor so we're finished we're not
7 going to continue with the questioning on the other one,
8 we're going to questioning on --.

9 THE COURT: Apparently we're moving [ORPB] to
10 another --.

11 MR. STEIN: We're changing topics, I'll fix t I
12 just thought it was a bad use of time, that's all?

13 A. I'm not saying I have not seen it before but it
14 doesn't look familiar.

15 THE COURT: It doesn't?

16 A. It does not.

17 Q. .

18 THE COURT: Wait a minute, I have --.

19 MS. IBARRA: 16 should be -- it's a letter signed
20 by --.

21 THE COURT: Well it's not signed by anybody
22 because the pages I have are two first pages in the
23 [PWHAOBG] so I don't know.

24 MR. FORDYCE: We just have a first page.

25 THE COURT: Yeah single -- I have two first pages,
26 did somebody get two second pages.

27 MS. IBARRA: No I definitely have a complete set
28 of this, there's --.

1 THE COURT: Well then show that to the witness?

2 A. No I have the same as Your Honor two Page 1's.

3 MR. FORDYCE: And and we have just one, so my
4 guess is we have the first page and removed one of them.

5 THE COURT: Can you show that to counsel.

6 MS. IBARRA: Oh yeah yeah, we discussed this so.

7 MR. STEIN: Sure thank you.

8 MR. FORDYCE: Yeah.

9 MS. IBARRA: Okay?

10 A. Okay.

11 Q. Do you want to review it?

12 A. Okay.

13 Q. Do you know if the person you met was Mr. Otto?

14 A. It sounds vaguely familiar but hearing it doesn't
15 go oh yeah that was him but -- I believe -- it sounds
16 familiar.

17 Q. But you don't recall ever seeing this before?

18 A. No. I could have but it doesn't ring a bell with
19 me.

20 Q. You don't recall any controversy involving Mr.
21 Otto and whether he represented the tribe?

22 A. No.

23 Q. Okay I'll come back to this. We'll just go back
24 to --?

25 A. Although based on the date I may have had Mr.
26 McMullin and Mr. Otto flip flopped, I don't know.

27 Q. We'll come back to it. I'll ask you about --
28 because there's another e-mail that we covered, it was 41

1 and 42, documents, Exhibit 41 and Exhibit 42.

2 THE COURT: Well the second page, I don't have it
3 with me, can I see the document and I want to see who sent
4 the letter.

5 MS. IBARRA: Sorry (indicating).

6 THE COURT: That's okay, thank you. So this is a
7 letter dated March 8th, 2001, signed by Mr. Otto saying he
8 doesn't represent the tribe and didn't represent them in
9 connection with the Saint Monica development company and
10 resolutions.

11 MS. IBARRA: I thought we discussed this with some
12 other witnesses so --

13 THE COURT: I don't recall this the letter, in
14 other words testimony to that effect but I don't remember
15 if we ever saw this letter.

16 MR. STEIN: Your Honor if you remember Mr. Otto
17 was the original attorney who resigned before resolution 10
18 was adopted and that was one of the resignation letters
19 done so the idea is instead of showing her stuff from Mr.
20 Hamburger later, she's showing stuff from Mr. Otto from an
21 earlier date.

22 MS. IBARRA: Well we don't have Mr. Hamburger's
23 signature [STPHOEUR] there's nothing for me to show from
24 Mr. Hamburger.

25 THE COURT: I have no idea what you're talking
26 about so if you have an objection make an objection.

27 MR. STEIN: You have said huh hadn't seen this
28 letter before.

1 THE COURT: I hadn't seen this document before so
2 I don't know what showing her has anything to do with it
3 but okay so Otto is not the lawyer, okay that's what he's
4 saying here.

5 MS. IBARRA: Yes.

6 THE COURT: Okay.

7 MS. IBARRA: Witness list well.

8 THE COURT: Which I think we had testimony to that
9 effect.

10 MS. IBARRA: (Ditto).

11 THE COURT: All right but this is the writing.

12 MS. IBARRA: Yes this is the writing and I believe
13 it was discussed by other witnesses.

14 THE COURT: Yes okay.

15 MS. IBARRA: Can we go to Exhibit 4 two please?

16 A. Sorry 42.

17 Q. Sorry 41 first and then 42, and we've already
18 covered this so we just need to review them.

19 MR. STEIN: We've already covered this material in
20 cross-examination.

21 MS. IBARRA: Yes.

22 THE COURT: This one, 42.

23 MS. IBARRA: 41 and then 42, we did cover these.

24 THE COURT: I don't remember it but if it's in the
25 record, it's in the record.

26 MR. STEIN: Again so should I be --.

27 THE COURT: What's the objection.

28 MR. STEIN: I'm just trying to understand if we

1 covered the material before, why are we doing it again.

2 THE COURT: Well that's what I'm asking, did we or
3 didn't we.

4 {RIGHT1}: We did.

5 THE COURT: I don't remember.

6 MS. IBARRA: We did cover it.

7 MR. STEIN: She stated repeatedly why she did so
8 I'm trying to understand why she presenting too much of the
9 apple so I have to present my apple and take another bite.

10 THE COURT: Maybe but the problem is the court
11 needs a little refreshing it's been of months but.

12 MS. IBARRA: And I I this the witness needs a
13 little refreshing, as well.

14 THE COURT: Okay.

15 Q. BY MS. IBARRA: So do you recall we discussed
16 this?

17 A. Yes.

18 THE COURT: This being Exhibit 42.

19 MS. IBARRA: This, Exhibit 41 we're looking at
20 right now.

21 Q. Okay. And then you recall this?

22 A. Yes recall discussing it, yes.

23 Q. Discuss -- okay. And let's move quickly to 42
24 because it's similar. So -- and you recall we discussed
25 this as well?

26 A. Yes.

27 THE COURT: When you say discussed this, you mean
28 in the prior testimony.

1 MS. IBARRA: I'm sorry.

2 THE COURT: Okay.

3 Q. BY MS. IBARRA: Do you recall we have your
4 testimony on this issue?

5 A. Yes.

6 Q. That you gave testimony on this? And I think the
7 only important part about this is -- well can you describe
8 it for the record?

9 A. 42 is an e-mail string between me and Mr. Stein.

10 Q. And just date and time?

11 A. Beginning March 23rd, '06 at 11 '03 a.m. and
12 concluding March 23rd '06 at 126 p.m. and it appears to be
13 a for lack of a better term, to do list of information to
14 be collected to be forwarded -- for Mr. Stein to forward to
15 Libra, the potential investor.

16 Q. And then Number 3 is I any important, can you read
17 that.

18 THE COURT: So Mr. Stein had to -- he was the one
19 forwarding the information, because he's the developer so
20 he was the one forwarding the information to the investor?

21 A. Correct is it.

22 THE COURT: Balls he was handling the investor
23 part?

24 A. Correct. Number 3 at the top of the document,
25 please write a summary of the problems created for
26 [TKPWABZ] by the exclusivity clauses, I will then use that
27 to write how we will overcome the problems.

28 Q. BY MS. IBARRA: And was this typical of your

1 relationship with him where he identified legal issues and
2 then -- or he had you identify legal issues and then he
3 worked on figuring out how to overcome that?

4 A. I would -- Mr. Stein would ask me to research
5 particular issues that he anticipated coming up in a
6 particular meeting.

7 Q. Okay.

8 A. So if he was meeting with one person he knew there
9 was going to be a hot topic, he would call or e-mail and
10 say can you research such and such and in this case it
11 looks like it's exclusivity clauses of gaming compacts
12 with other sides.

13 Q. Would you say it's like an inside counsel inside
14 counsel relationship?

15 A. No.

16 Q. Why not?

17 A. Because -- I mean I was the general counsel and in
18 the course of negotiating either soliciting investors,
19 negotiating with potential investors, questions would come
20 up that Mr. Stein would want answered.

21 Q. Okay. Did you not think of that as legal work on
22 behalf of Mr. Stein?

23 A. I didn't think about it one way or the other. I
24 have mean I didn't sit down and go oh he's doing legal
25 work, I just didn't --.

26 Q. Okay that's fair. But sitting -- sitting here
27 now, do you think it's legal work.

28 THE COURT: I'm sorry do you think it's.

1 MS. IBARRA: Legal work.

2 MR. STEIN: Objection calls for expert testimony.

3 THE COURT: .

4 MS. IBARRA: I'm asking her capacity.

5 THE COURT: She's asking what she thinks her tasks
6 were, so she can have an understanding what her own tasks
7 are so overruled?

8 A. Well now, do I think what was legal work, the work
9 I was doing or the work Mr. Stein was doing.

10 Q. BY MS. IBARRA: What Mr. Stein was doing.

11 THE COURT: Oh I thought you were asking her what
12 she was doing.

13 MS. IBARRA: Oh I'm sorry.

14 MR. FORDYCE: Objection calls for expert opinion.

15 MS. IBARRA: I'm sorry I was asking about Mr.
16 Stein's, the kind of supervisor that he did of your work,
17 if that was legal work.

18 MR. STEIN: And again same objection where --.

19 THE COURT: You have know I think so sustained.

20 MR. FORDYCE: And add to it vague and ambiguous.

21 MR. STEIN: It's sustained.

22 MS. IBARRA: So it's sustained as to which
23 objection that it's vague or --.

24 THE COURT: No it's asking for a legal opinion.
25 She is a lawyer but I don't think -- you can ask her what
26 she thought she was supposed to do but -- anyway I'm going
27 to sustain it.

28 MS. IBARRA: Okay.

1 Q. BY MS. IBARRA: So during direct with Mr. Stein,
2 you discussed exhibit 569 which is the SMDC agreement?

3 A. Okay.

4 Q. So let's look at that?

5 THE CLERK: Do you want the exhibit.

6 THE COURT: We've seen it a number of times but
7 yes.

8 MR. STEIN: And Your Honor just so you know I'm
9 already a third of the way through exactly what you were
10 looking for yesterday.

11 THE COURT: That's fine, it's not the only one
12 that has the problem, I'll just say there are a lot of
13 things missing.

14 MR. STEIN: Well it's an essential document so
15 certainly.

16 MR. FORDYCE: And this is 569 correct.

17 THE COURT: Yes.

18 Q. BY MS. IBARRA: Do you recall that Mr. Stein took
19 you through the SMDC agreement and various provisions of
20 it?

21 A. Yes.

22 Q. And then he also took you through some of the
23 resolutions that are attached to it?

24 A. Yes.

25 Q. And I want to focus on the first resolution.

26 THE COURT: Just so it's clear, the resolutions
27 were not originally attached to this, those resolutions
28 came after the agreement correct?

1 A. That would make sense, I'd have to look.

2 THE COURT: Please don't shake your head up and
3 down.

4 MR. STEIN: Your Honor you're absolutely correct.

5 THE COURT: Right. You need to stop I've said
6 this over and over and I look over to you and you're
7 shaking your head indicating to her she had answer and it's
8 distract [-BG] had tore, now you're impeaching your
9 response and she gives a response and I think it's been
10 prompted by you.

11 MR. STEIN: My apologies and it's a bad habit and
12 it has knowing to do with bad motive but --.

13 THE COURT: Well unfortunately it doesn't help in
14 terms of her answer.

15 Q. BY MS. IBARRA: So since you've been here --.

16 THE COURT: So the answer is they were not
17 attached to this original agreement, those came afterwards,
18 correct, resolutions? I mean you were drafting the
19 resolutions right.

20 A. Yes but was it all done as a package, I don't
21 recall. I'd have to look at the dates and say.

22 THE COURT: Well I mean you were drafting them
23 so --?

24 A. Right.

25 Q. BY MS. IBARRA: But you weren't engaged engaged
26 when the original agreement?

27 A. Right.

28 Q. Was drafted right?

1 A. I don't -- I don't -- no. And I don't recall --.

2 THE COURT: Well left me ask p did you draft all
3 the resolutions?

4 A. No.

5 THE COURT: Oh okay, all right. Do you remember
6 which Number you started off with?

7 A. No.

8 Q. BY MS. IBARRA: Buff you said you were hired in
9 May?

10 A. I believe so.

11 Q. Okay so --.

12 THE COURT: That would be May 2001.

13 MS. IBARRA: One?

14 A. One.

15 THE COURT: Thank you.

16 Q. BY MS. IBARRA: So anything that preceded that,
17 had you think you weren't involved in drafting?

18 A. Correct.

19 Q. But you did draft resolutions afterwards?

20 A. After I arrived, yes.

21 Q. So did you make sure that when the -- so you
22 drafted resolutions that had to do with the SMDC agreement?

23 A. Yes. There were -- there were amendments and
24 subsequent documents that there were resolutions for.

25 Q. So some of the resolutions here have your name but
26 don't have your signature. So can we look at some of those
27 and so you will see resolution 10 and then you will see a
28 resolution 11 and a resolution 17?

1 A. Do you have a Page Number.

2 Q. And then the Bates on that is going to be zero
3 504. And moving on to 0507, there's another resolution,
4 has no space nor your signature, January 27th, 2012 is
5 resolution seven, that's '05 10 is the Bates stamp on it.

6 MR. STEIN: [WHAFRLS] the Bates stamp on it.

7 MR. FORDYCE: '05 10.

8 MS. IBARRA: Is the Bates number.

9 {RIGHT1}: What's the Bates number Ms. Ibarra.

10 THE COURT: '05 10.

11 MS. IBARRA: Disc.

12 THE COURT: And I believe that's referring to
13 resolution 37.

14 MS. IBARRA: Resolution 37.

15 THE COURT: If that helps.

16 MS. IBARRA: Yes.

17 Q. BY MS. IBARRA: So yeah, if you look at the last
18 page because that resolution appears to have an exhibit
19 attached to it and the exhibit begins at '05 14?

20 A. Okay.

21 Q. Do you see how the bottom says Exhibit A to
22 resolution 37?

23 A. Yes.

24 Q. And then it goes on for several pages into '05
25 18?

26 A. Yes.

27 Q. So do you see there's a space for your signature
28 but there's no --?

1 A. Yes.

2 Q. Do you know why there's no signature? And do you
3 want to review the document so that it might refresh your
4 recollection?

5 A. I don't know why -- I don't -- looking at this,
6 there's nothing that sticks out that would make me think I
7 declined to sign it so I don't know if there was another
8 version with my signature somewhere or if I was not at that
9 meeting or -- I don't know.

10 THE COURT: So you don't know why it's unsigned
11 is --?

12 A. Correct.

13 Q. BY MS. IBARRA: Do you have a specific
14 recollection of actually signing it?

15 A. No.

16 Q. Do you have a specific recollection of actually
17 preparing it?

18 A. A specific recollection, no.

19 Q. For something like this having to do with the SMDC
20 agreement would you have initiated -- because this appears
21 to be an amendment or modification. Would that be
22 something that you would have initiated or that would have
23 been initiated by somebody else?

24 A. It would have been initiated either by the counsel
25 or Mr. Stein.

26 Q. So either of them would have directed you to draft
27 a resolution modifying or amending?

28 A. Correct.

1 Q. It wouldn't have been something that you would
2 have decided that you need today review or modify?

3 A. Correct.

4 Q. Or you don't have a recollection of that?

5 A. Correct.

6 Q. Do you know what this modification -- what was
7 important about this amendment and modification?

8 A. I'd have to look at it very carefully to see what
9 the -- well actually let me --.

10 THE COURT: What was your question.

11 MS. IBARRA: So my question is when you presented
12 this to the tribe d [TKOUFP] a recollection of presenting
13 this to the tribe?

14 A. Not a specific recollection, no.

15 Q. Would it have been your practice to -- if you're
16 presenting a modification to an agreement, would it have
17 been your practice to have included the original agreement
18 that it's modifying to the tribe.

19 MR. FORDYCE: Vague as to included.

20 MS. IBARRA: Attached.

21 Q. I mean would you have just presented a resolution
22 with a modification and not the original agreement that
23 it's modifying?

24 A. I don't know. It would prove we depend on what
25 the changes were and if [STPHEUPB] had any questions about
26 the original, what was being changed, because everybody
27 already had those.

28 Q. And just to refresh or to -- was your testimony

1 that you e-mailed the resolutions to the council members?

2 A. Generally yes.

3 Q. When they were completed?

4 A. Generally they got eye packet before a meeting of
5 the agenda and then what was going to be discuss Ted
6 meeting.

7 THE COURT: How far in advance of the meeting did
8 they get it?

9 A. Depended on how -- when the packet was ready, I
10 mean there wasn't a set, it goes out 30 days ahead, we met
11 approximately once a month, so they got the packet
12 approximately a week before the meeting but it varied.

13 THE COURT: And they got it by e-mail is what
14 you're saying.

15 A. Generally, yes.

16 Q. BY MS. IBARRA: Is it possible your signature is
17 not here because you weren't at the meeting where this was
18 executed?

19 A. It's possible.

20 Q. So it's possible that this was e-mailed to them
21 and they discussed it without with you?

22 A. That's possible.

23 Q. So it's possible that you weren't present at the
24 meeting where this was executed?

25 A. That's possible.

26 Q. So who would have -- if you weren't there because
27 you weren't -- you said you were mostly at all the meetings
28 but you weren't at all the meetings?

1 A. Correct.

2 Q. So if you weren't there, then who would answer
3 questions regarding any matter that was before the council.

4 MR. FORDYCE: Calls for speculation she wasn't
5 there.

6 THE COURT: Sustained.

7 MS. IBARRA: Oh okay.

8 THE COURT: Sustained.

9 Q. BY MS. IBARRA: So was there anybody who they
10 could ask questions to.

11 MR. FORDYCE: Same objection.

12 THE COURT: Sustained.

13 Q. BY MS. IBARRA: So you don't know H was there
14 there a practice.

15 THE COURT: Ms. Ibarra I sustained the objection
16 so you keep asking the same question I'm going to sustain
17 [*RT] objection but was there a practice is fine.

18 Q. BY MS. IBARRA: Yes was there a practice if you
19 weren't there or if you had planned not to be there or
20 something?

21 A. Correct. People were either phone me or e-mail me
22 if they had discussed or whatever was discussed at the
23 meeting they would call me and say what about this, what
24 about that.

25 Q. And you don't recall that they did that for this?

26 A. I don't recall any particular meeting, no.

27 Q. Okay. I think that's a good please to finish.

28 I'm not quite finished, I have like 10 more minutes and

1 then I assume they want to do direct.

2 THE COURT: Orange so we've got to bring you back,
3 you're a lawyer so I know you're a busy lady so let's try
4 to figure out when we can bring you back?

5 A. No chance after lunch.

6 THE COURT: No Mr. Stein can't go longer than a
7 couple hours and I've agreed to do that for him.

8 MS. IBARRA: We can switch to an afternoon if
9 that's easier to counsel.

10 MR. FORDYCE: I can't unfortunately?

11 A. Today it Tuesday, are you guys continuing
12 tomorrow.

13 THE COURT: Yes, we are.

14 MS. IBARRA: Yes that would be great?

15 A. Okay.

16 THE COURT: Tomorrow then.

17 A. (Nods head.).

18 THE COURT: 10:00 o'clock then tomorrow.

19 MS. IBARRA: Thank you.

20 THE COURT: Thank you. .

21 MS. IBARRA: I'll try to fix those exhibits.

22 THE COURT: Well everybody has got to fix them,
23 there's things missing and if you can find them, it's best
24 to make them as complete as possible and you'll have an
25 opportunity at the end of the case when we're -- when
26 you're reviewing exhibits to actually put them together in
27 their final form.

28 MR. FORDYCE: Thank you Your Honor we'll do that.

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MS. IBARRA: Thank you 12:01 PM.