

1 CAUTIONS IN USING A REALTIME PARTIALLY EDITED TRANSCRIPT

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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 15
2 ROUGH TRIAL TESTIMONY OF VIRGINIA CARMELO AND
3 RICHARD POLANCO.

4
5 THE COURT: All right so we're bringing Carmelo
6 up.

7 MS. IBARRA: Yes.

8 THE COURT: So we need to take those documents off
9 the stand, the ones are --.

10 MS. IBARRA: She's are the ones that Mr. Stein was
11 questioning her up.

12 THE COURT: So I guess we need to take out the van
13 [ET] en letter. The other one we'll give it a go.

14 MR. STEIN: And can I get the Court's copy back as
15 well so we can.

16 THE COURT: No I'll hold onto them are you going
17 to try to get this in.

18 MR. STEIN: Van Etten yeah I really want to try to
19 refresh her recollection.

20 THE COURT: Who's, the witness.

21 THE COURT: All right.

22 MR. STEIN: So can I keep it up there.

23 THE COURT: Hold on to it for now.

24 MR. STEIN: Hold on to it, very good.

25 THE COURT: Now remember when you refresh
26 recollection you just hand it to her, ask her to read it to
27 herself. Good morning ma'am come forward, stand behind my
28 court reporter face the clerk to any right.

1 THE CLERK: Your Honor she was already sworn in.

2 THE COURT: Oh that's right, I didn't recognize
3 you, you look different today?

4 A. I was wondering if I needed to be sworn in again.

5 THE COURT: No you don't need to be sworn in.

6 THE COURT: And I can't remember was she on

7 [SKWROEBGS].

8 MR. FORDYCE: No she was still on direct.

9 MS. IBARRA: No I had finished.

10 THE CLERK: We were just starting with cross.

11 THE COURT: And when [WAO*R] we're talking
12 about -- well we'll talk later, okay. Maybe you can turn
13 the projector maybe.

14 MR. FORDYCE: No what happened is stage right is
15 too far back.

16 THE COURT: It looks like there's something blue
17 underneath the projector.

18 MR. STEIN: That's to keep it from being worse.

19 (Discussion held off the record.).

20 MR. STEIN: Is that okay, may I ask the witness is
21 that legible for you?

22 A. I can see it, yes.

23 Q. And again we'll -- to explain to the court for
24 some things we've seen many times I'd just like to go from
25 page to page quickly and hopefully that will make for a
26 quick her presentation.

27 THE COURT: Just make sure you identify what
28 you're shoring her, the exhibit number, Mr. Fordyce can

1 help with that. I still want to call you Mr. know nor dyes
2 though, I have to catch myself and make sure I call you for
3 dice.

4 MR. FORDYCE: Forever going to be
5 [known|no one] -- not as if there's not enough confusion
6 with my first name.

7 MR. STEIN: Good morning Ms. Carmelo?

8 A. Good morning.

9 Q. Thank you very much for coming back today?

10 A. Thank you.

11 Q. You had testified that you hadn't seen the actual
12 body of the SMDC agreement. Does that look familiar to
13 you.

14 MS. IBARRA: Objection misstates her testimony.

15 THE COURT: Okay why don't you ask her if she's
16 ever seen t sustained.

17 Q. BY MR. STEIN: Have you seen this document before?

18 A. I have.

19 Q. I see.

20 THE COURT: This document is the SMDC agreement
21 correct?

22 A. Yes Your Honor.

23 Q. BY MR. STEIN: Yesterday you testified that you
24 have had never seen the original agreement and now had you
25 say you saw it before, why the difference.

26 THE COURT: Did we establish -- did you say that
27 yesterday you had never seen.

28 A. I think I said that the week before, I had never

1 seen it until 2006, I never saw the entire document.

2 THE COURT: So she hadn't seen it up until 2006.

3 Q. BY MR. STEIN: But you then did see this?

4 A. Yes.

5 Q. Okay. And I would like to point out the
6 economic -- the scope of work right here and it says the
7 scope of work shall include but is not necessarily limited
8 to economic development tasks. If you'll excuse me for a
9 second, I was caught mid changeover.

10 THE COURT: What's the exhibit number again of the
11 SMDC agreement.

12 MR. FORDYCE: 569 Your Honor.

13 THE COURT: Thank you. What page is that the
14 scope of work.

15 MR. STEIN: The fifth page, should be about the
16 fifth page.

17 THE COURT: Roughly the fifth page of the
18 agreement.

19 MR. STEIN: Scope of work, economic development
20 tasks.

21 THE COURT: Yes I'm there thank you.

22 MR. STEIN: Okay.

23 Q. BY MR. STEIN: Was it your understanding that Mr.
24 Stein had certain economic development tasks that he was
25 supposed to be doing under the SMDC agreement?

26 A. Yes.

27 Q. And that these were loosely get federal
28 recognition, get a casino?

1 A. Yes.

2 Q. Now, I'd like to walk you through the economic
3 development tasks, to procure, help, select and supervisor
4 the professionals necessary for federal recognition, was
5 that one of his tasks ****not quoted****.

6 A. Yes.

7 Q. So that would be a task that he completed as part
8 of being a contracting party with GT Tribe is that correct?

9 A. Yes.

10 Q. So I'm just going to write supervise
11 professionals.

12 THE COURT: That was a task is that what you
13 asked.

14 MR. STEIN: And she said yes.

15 THE COURT: Okay.

16 Q. BY MR. STEIN: Those professionals given what you
17 understand about what happened include Marilyn Barrett for
18 example?

19 A. Well I think the word supervise, I understood the
20 work to be to bring in the professionals and once they were
21 in then that relationship would be direct towards the tribe
22 and the tribal council.

23 Q. Right. And did you supervise the day-to-day
24 activities of Marilyn Barrett?

25 A. No.

26 Q. Who did?

27 A. Well I would think Marilyn Barrett would, she had
28 a job to perform and I would think that she would perform

1 it and she kept us updated.

2 Q. Did you supervise Elizabeth Aronson day-to-day,
3 saying do this today and do that tomorrow?

4 A. No.

5 Q. Who did?

6 A. Well I know Jonathan Stein, you did to an extent I
7 guess have directions, directive taking place.

8 Q. So then as you understood the SMDC agreement, part
9 of what Mr. Stein was doing was he had to get federal
10 recognition and so he would supervise the professionals
11 whether it [WO*] be Marilyn Barrett or Elizabeth Aronson or
12 perhaps Rae Lamothe in assigning tasks, they would do it
13 even if they were ultimately reportable to the tribal
14 council?

15 A. Yes but I think some of the tasks were also run by
16 the tribal council before they were passed onto whoever
17 would complete the [TAS] [STKPHR-BG] so then you were
18 well-informed of what the tasks of the professionals were?

19 A. Not necessarily.

20 Q. Yeah because you -- you testified earlier that you
21 were not informed and that was one of the problems that led
22 to this lawsuit and now you're saying you actually were
23 well-informed enough to supervise day-to-day activities of
24 professionals?

25 A. Well I'm not saying necessarily. For a long time
26 I really didn't understand the full capacity of Rae Lamothe
27 as the general counsel and so as time passed by my
28 understanding increased.

1 Q. And was -- so you agree that one of the SMDC
2 economic development tasks was to supervise professionals
3 to achieve federal recognition?

4 A. Well I totally did understand that you Mr. Stein
5 were directing a lot of different things, as items would
6 come up you were the director.

7 Q. I see. And that's what you contract with SMDC for
8 is to get at Mr. Stein's talent for doing that?

9 A. Well I never was on board when the original
10 contract was -- when it began, when it started.

11 Q. But you affirmed with resolution 17 and 20 and 37
12 and 46, correct?

13 A. That is correct but I had not read the full
14 document.

15 Q. Well that's your problem isn't it?

16 A. It.

17 Q. You had a lawyer, couldn't you say hey lawyer, hey
18 Rae Lamothe show me the full document I've got to vote
19 here, did you ask Rae Lamothe to show you the full document
20 so you could vote on resolution you affirmed SMDC agreement
21 in respiratory owes 17, 20 and we'll go over them, 36, 47,
22 46?

23 A. Most of the time, Jonathan you were the one to
24 explain what those resolutions were for and what they
25 were -- what they talked about so I just took your word for
26 what it was.

27 Q. Why didn't you ask -- did you ask your tribal
28 general counsel Rae Lamothe about this agreement, yes or

1 no?

2 A. No.

3 Q. Did you ask Barbara Garcia, the tribal
4 administrator saying hey can you find a copy of the
5 agreement in our notebooks and show it to me?

6 A. No.

7 Q. So you did not ask your attorney's Rae Lamothe and
8 did you ask Elizabeth Aronson?

9 A. No.

10 Q. And you did not ask Barbara Garcia?

11 A. No.

12 Q. So let me ask you in light that you didn't ask it,
13 why is it Mr. Stein's problem that you didn't read it
14 before voting?

15 A. I'm not saying it's his problem, what I'm saying
16 is that the explanations that were given were given by you
17 and at the time that was enough for me.

18 Q. So you didn't bother -- and you said that. Let's
19 go on. Number 3 is it says to pro do you remember, help --
20 to procure, help select and supervise political
21 professionals and consultants to build support in County of
22 Los Angeles, State of California, and Washington, D.C. For
23 federal recognition is. Did Mr. Stein act within the four
24 corners of the SMDC agreement to do that?

25 A. Yes.

26 Q. And was one of those professionals Richard
27 Polanco?

28 A. Yes.

1 Q. Now, Mr. Polanco resigned; is that your
2 understanding?

3 A. When are you talking about?

4 Q. At one point in the thing. Did you know about Mr.
5 Polanco's activities well enough to know that he resigned
6 as a political consultant at one point?

7 A. No I didn't know.

8 Q. Oh I see.

9 THE COURT: That's facts not in evidence yet but
10 I'm assuming that there will be something later that proves
11 that but until we hear it.

12 MR. STEIN: Sure let me separate that guidance.

13 MS. IBARRA: Mr. Polanco did testify to that.

14 THE COURT: He testified he resigned.

15 MS. IBARRA: He resigned and then he was rehired
16 but it may not be within the scope of her knowledge.

17 THE COURT: Well I guess we'll hear from him.

18 MS. IBARRA: Yeah.

19 Q. BY MR. STEIN: Then Number 4 -- so if Mr. Stein
20 wrote something for the attorney general Lockyer, wasn't he
21 just doing his job under the SMDC agreement to procure,
22 select and supervise professionals in order to build
23 support?

24 A. Yes, he was doing that aspect of the job.

25 Q. So that would be the attorney -- that would be
26 Exhibit 32, the attorney general Lockyer letter.

27 THE COURT: So just so I'm clear the Polanco --
28 you're saying you were involved in hiring -- well let me

1 ask the witness, was it your testimony that Mr. Stein was
2 involved in the hiring of Polanco and also in obtaining the
3 attorney general letter.

4 MR. STEIN: In or writing it.

5 THE COURT: Or I'm sorry.

6 MR. STEIN: Or writing it, we had the attorney
7 general Lockyer letter written by Mr. Stein, that was
8 within this agreement.

9 THE COURT: Was this your understanding?

10 A. Yes.

11 THE COURT: I just want to be clear that -- thank
12 you.

13 Q. BY MR. STEIN: And the professionals, supervising
14 professionals would be -- would include Marilyn Barrett's
15 work on the Libra transaction; is that the case?

16 A. My understanding in speaking with Marilyn Barrett
17 when she initially came on was that she was coming on to
18 protect our -- the tribes rights pertaining to that
19 contract that was being developed so at that point I felt
20 like she was independently our lawyer, not being supervised
21 by you. Of course there was communications as to when
22 meetings would take place and such.

23 Q. Wasn't Marilyn Barrett engaged by both GT Tribe
24 and SMDC? Wasn't she employed by both GT Tribe and SMDC at
25 her own request to help ensure payment?

26 A. I'm not sure. I just remember that she did
27 indicate to us that she was protecting -- that she was
28 developing -- working on the contract for the benefit of

1 the tribe.

2 Q. Well you said that you're not sure, I'd like to
3 refresh your recollection as to whether Ms. Marilyn Barrett
4 worked for both the tribe and SMDC. So I'd like to see if
5 you recognize a conflict of interest.

6 THE COURT: No just show her the record, don't
7 read it into record, show her the document that's marked as
8 1508 and ask her if it refreshes her recollection.

9 MR. STEIN: Thank you for better guidance.

10 THE COURT: Thank you. Otherwise the text of
11 something that's refreshed the recollection gets into the
12 record and it's not appropriate so that's why.

13 MR. STEIN: Your Honor thank you for guidance I
14 need it.

15 THE COURT: Right, okay. Just let's be clear?

16 A. That's quite lengthy, I don't know if you want me
17 to read it all.

18 MR. STEIN: No no?

19 A. Okay.

20 Q. So is your -- let me see if I'm doing this right,
21 and I hope the court will give me further guidance if I'm
22 not -- is it not.

23 THE COURT: Let's ask -- no.

24 MR. FORDYCE: Ma'am after reading that does that
25 refresh your recollection?

26 A. Yes it does.

27 THE COURT: Okay then re-ask your question.

28 MR. STEIN: Okay.

1 Q. BY MR. STEIN: Is it your understanding that
2 engagement letters were entered into by Ms. Barrett with GT
3 Tribe and SMDC both on March 16th of 2006?

4 A. March 16th, okay that looks correct, uh-huh.

5 Q. So Barrett worked for SMDC and GT Tribe and can
6 we -- does this -- can we identify this document for the
7 record as an unsigned version of the conflict of interest
8 waiver signed --.

9 THE COURT: First of all, it's not a conflict of
10 interest waiver, it's an unsigned document so no it cannot
11 be marked that way.

12 MR. STEIN: Very good, okay very good.

13 THE COURT: It's a document used to refresh
14 recollection and that is all it is. There is no such thing
15 as a conflict of interest waiver in this -- at this --.

16 MR. STEIN: This is actually it.

17 THE COURT: Well until we have somebody who says
18 that it's not.

19 MR. STEIN: Very good. Good point.

20 Q. BY MR. STEIN: Now, in light of the fact that
21 Marilyn Barrett worked for the SMDC and GT Tribe.

22 MS. IBARRA: Objection that hasn't been
23 established it's unsigned.

24 MR. STEIN: She just established that.

25 THE COURT: Well I think she testified -- she has
26 testimony to that he if he can but the document, whatever
27 that document is just refreshed her recollection but -- so.

28 MS. IBARRA: But the question was.

1 MR. STEIN: In light of.

2 THE COURT: Hold on the question was.

3 MS. IBARRA: But objection, the question was
4 whether it refreshed her recollection but the question
5 wasn't whether Ms. Barrett had an attorney-client
6 relationship with both of them.

7 THE COURT: Let's go back and read the question
8 and the answer, I think it was but maybe I'm mistaken.

9 (Record read.).

10 THE COURT: Overruled. She testified that that's
11 what happened?

12 A. Yeah and I would like to see a signed letter but
13 you know but --.

14 MR. STEIN: Ms. Carmelo.

15 THE COURT: You want to see a signed letter for
16 what?

17 A. This is an unsigned -- like he said an unsigned
18 document and I remember having a discussion about conflict
19 of interest and what I'm testifying today is it seems to me
20 that it did follow through but this is not signed so you
21 know same thing for me, I don't have that information for
22 me.

23 Q. BY MR. STEIN: Ms. Carmelo are you trying to
24 resist telling the truth now?

25 A. No absolutely not.

26 Q. Then may I ask you to answer my questions
27 truthfully?

28 A. Yes.

1 Q. So in light of your refreshed recollection that
2 Ms. Barrett worked for the SMDC and GT Tribe both, was Mr.
3 Stein able to fire Marilyn Barrett on behalf of SMDC?

4 A. I would think so.

5 Q. As a supervisor under SMDC's treatment right here
6 within the four corners of this agreement, was Mr. Stein
7 acting within the four corners of this agreement
8 recommending to you that the GT Tribe AI council fire
9 Marilyn Barrett when she said I will kill the deal unless
10 you double my fees?

11 A. Myself and the tribal council did not feel that
12 you had authority to fire her on our behalf.

13 Q. And did you act to fire her as a tribal council
14 after Mr. Stein's recommendation.

15 THE COURT: Well okay. So let's break that down,
16 was there a recommendation from Mr. Stein to fire Barrett?

17 A. I don't remember that. I just remember hearing
18 that she was fired.

19 THE COURT: From whom?

20 A. Sam Dunlap.

21 Q. BY MR. STEIN: Do you recall -- do you recall a
22 phone conversation while Mr. Stein was driving through the
23 Adams Morgan section of Washington, D.C. having lost his
24 way because he was talking to you about firing Marilyn
25 Barrett on Monday, the day after Mr. Stein was shooting in
26 Virginia on Sunday and heard Marilyn Barrett say --.

27 MS. IBARRA: Objection that's a narrative, facts
28 not in evidence.

1 MR. STEIN: If you have don't pay my more I'll
2 kill that deal.

3 THE COURT: Why don't we break that down, the
4 questions stricken.

5 MR. STEIN: Very good.

6 THE COURT: Let's --.

7 MR. STEIN: Very good.

8 Q. BY MR. STEIN: Did Mr. Stein ever call you from
9 Washington, D.C. regarding firing Marilyn Barrett?

10 A. I don't remember that right now.

11 Q. Do you remember any phone calls from Mr. Stein
12 from Washington, D.C. right before the closing of the Libra
13 transaction?

14 A. I don't remember any calls from -- I don't
15 remember you calling and saying I'm in Washington, D.C.,
16 no, I don't remember that.

17 Q. Did you ever get a phone call from Mr. Stein on
18 his cell phone?

19 A. Yeah many times.

20 Q. Right before the closing of the Libra transaction?

21 A. I'm sure I did, yes, we had many conversations.

22 Q. Uh-huh. And did Mr. Stein recommend to you in one
23 of those phone calls that the tribal council act to fire
24 Marilyn Barrett right before the closing of the Libra
25 transaction?

26 A. You know I don't remember that conversation.

27 Q. Moving to the next, four it says procure, select
28 and supervise professionals, investors and others that will

1 identify, finance and transfer to trust stat you go real
2 property for the Tongva. Was part of Mr. Stein's job to
3 locate cities where an Indian reservation could be
4 established from the Gabrielino-Tongva?

5 A. Yes that was my understanding.

6 Q. Now, let's go on and then Number 5, to procure,
7 select and supervise professionals to negotiate a state
8 tribal gaming compact. Was that another action Mr. Stein
9 should take within the four corners of the agreement?

10 A. Yes.

11 Q. Now in taking these actions, do you feel that Mr.
12 Stein was rendering legal advice as your attorney?

13 A. Many times.

14 Q. And on these same topics?

15 A. Yes many times? .

16 Q. So let me just clarify that I think that's a very
17 fundamental point. So when Mr. Stein was doing his work
18 under one of the economic development tasks, right, the
19 economic development tasks here, when he was doing his work
20 there, your testimony is that he was actually working as
21 the attorney for the GT Tribe rendering legal advice to
22 you?

23 A. Many times.

24 Q. And I'm going to write down here many times. So
25 is it accurate to say that your testimony is that Mr. --
26 I'll ask you to look at it -- that Mr. Stein was working as
27 GT [TKPW*TS] attorney when [TKPOG] the economic development
28 tasks and you're saying that happened not once but many

1 times?

2 A. That's -- yeah.

3 Q. So that's accurate?

4 A. That's what I'm saying, yes.

5 Q. That's what you're saying. Now are you saying
6 that because Mr. Stein is an attorney?

7 A. I'm saying that because many times Mr. Stein who
8 is an attorney referenced what I would call legal
9 situations or relative -- things relative to legalities.

10 Q. I see. And you -- so what you're saying is
11 whenever had he did anything that was legal in nature,
12 would that be a fair phrase used that he's doing his
13 economic development task, comes across something that's
14 legal in nature and then he's your attorney because he's
15 explaining it to you?

16 A. I think that's a fair description.

17 Q. Okay. And so is it accurate to write here that
18 it's legal in nature because he's explaining it to the
19 tribal council?

20 A. No not because he's explaining it to the tribal
21 council, because he's a lawyer and he's talking about
22 things of in a legal nature and the [HREUS] [TPHERZ]
23 including myself at that time considered that the lawyer
24 who's explaining things of legal nature is acting in his
25 capacity as a lawyer.

26 Q. But why didn't you just turn around to Rae Lamothe
27 and say Rae Lamothe you're our attorney, is that right or
28 wrong?

1 A. You know the dynamics at that time was Rae Lamothe
2 had somewhat of a back seat and there were sometimes when
3 she would confirm some legalities there were times when we
4 did ask her.

5 Q. So it's fair to say that Carmelo could turn to Rae
6 Lamothe on same topic, would that be fair to say?

7 A. Could turn to Rae Lamothe on same topic. I guess
8 that's fair, uh-huh.

9 Q. But you didn't bother doing that is correct right?

10 A. Right.

11 Q. Why is that Mr. Stein's problem?

12 A. I don't even consider it that a problem, what I
13 consider is that being in a meeting and you directing and
14 doing the talking and basically being at the helm, that's
15 where the -- that's where everything was directed so if you
16 were giving whatever information or advice, it was just
17 accepted so Rae Lamothe many times didn't have an input.

18 Q. But you could have had an input you could have
19 turned to Rae Lamothe and say Rae You're a lawyer, you're
20 loyal to us, he's just a [SREBD], he's got a contract, he's
21 not our lawyer, Rae , Is that right or wrong, did you to
22 that?

23 A. I didn't do that because that wasn't my perception
24 at the time. I didn't perceive you as a vendor.

25 Q. How did you -- why -- why did you have that
26 perception as something other than a vendor under the SMDC
27 agreement?

28 A. Because during that time you were basically

1 managing a lot of the -- a lot of what was going on so
2 that's not what a vendor does.

3 Q. So what you're saying is your lawyer because
4 managing casino project, is that accurate?

5 A. What's that?

6 Q. That you thought that Mr. Stein was your lawyer
7 because he was managing the casino project?

8 A. No that's not why, although that is -- he was
9 managing the project but that's not why I thought he was
10 our lawyer.

11 Q. Why did you think he was your lawyer?

12 A. Because at that time I felt that he was using his
13 lawyering skills to further the tribes project.

14 Q. So he was using his lawyering skills to further
15 the casino project?

16 A. Yes.

17 Q. Is that correct?

18 A. Yes.

19 Q. Wasn't that what he was supposed to do under the
20 SMDC agreement?

21 A. Yes that's what he was supposed to do.

22 Q. So he's supposed to do that under the SMDC
23 agreement?

24 A. Well the SMDC agreement doesn't say that he's
25 supposed to use his lawyering skills but the actuality of
26 what was happening was that.

27 Q. Okay. And wasn't one of the true [EUZ] [-PLZ]
28 that Mr. Stein supported the money, this project out of the

1 limited budget that SMDC had for five years before the
2 Libra money came in?

3 A. Yes.

4 Q. And if Mr. Stein didn't do legal work he'd have to
5 pay to have a lawyer to do work that was legal in nature?

6 A. Yes I would think so.

7 Q. But Mr. Stein because he in fact was a lawyer
8 could perform tasks for SMDC that were legal in nature?

9 A. He could.

10 Q. And he did so to save money to your understanding?

11 A. Yes.

12 Q. And did that for SMDC is that correct?

13 A. You know, many times -- many times tits were done
14 for the tribe which is what was important to me. What he
15 did for SMDC I don't -- I don't know.

16 Q. But I thought that SMDC had to do the economic
17 development tasks to get a casino?

18 A. Uh-huh, yes.

19 Q. So SMDC had to do economic development tasks, so
20 wasn't Mr. Stein doing for work for SMDC so that SMDC could
21 fulfill its contract with GT Tribe?

22 A. You know, SMDC was this entity that was out there
23 that Jonathan Stein and SMDC were both working for the
24 tribe to get these projects done. So from my thought -- my
25 perception is they're one in the same.

26 Q. SMDC and Stein are one in the same?

27 A. For me, yes.

28 Q. So if we can go now to recital D in the SMDC

1 agreement.

2 THE COURT: This is recital D.

3 MR. STEIN: Recital D that's on the fourth page.

4 Q. Now you said you didn't read this agreement until
5 2006?

6 A. Yeah.

7 Q. So when you formed your idea that Mr. Stein was
8 your attorney you hadn't read this agreement?

9 A. No.

10 Q. And you read the SMDC agreement in 2006?

11 A. Yes.

12 Q. Could you read right D?

13 A. The Tongva and developer wish to enter into an
14 independent contractor relationship, and not an
15 attorney-client relationship. Developer may, however,
16 supervise one or more lawyers or law firms or work with
17 tribal council to, to accomplish tasks which may be legal
18 in nature.

19 Q. And by voting for resolutions 37 and 46 you were
20 reaffirming and ratifying and adopting that statement?

21 A. I don't know what those resolutions are but if you
22 say that that's what they cover, I would think so.

23 Q. Should we stop and hook at those resolutions for a
24 moment? It will slow things down but I'm happy to do that
25 and I'll give the court the page number in a moment. So
26 let's just take resolution 46 for example, that's on the
27 46th page. And going to the back of the resolution
28 Virginia.

1 THE COURT: Hold on I'm not there yet 46.

2 MR. STEIN: Very good.

3 THE COURT: Which is that 00 246 or some other.

4 MR. STEIN: Good point, good point, I'm actually
5 going to 00 25 one thank you you were.

6 THE COURT: I just want to make sure we're on the
7 same page. 25 one.

8 MS. IBARRA: It's 250.

9 THE COURT: 00 25 one.

10 MS. IBARRA: .

11 MR. STEIN: Let's start there, is that your
12 signature Ms. Carmelo?

13 A. That's my signature.

14 Q. And by signing this agreement -- and then going
15 back to 250.

16 THE COURT: That's with respect to resolution 46.

17 MR. STEIN: Yes.

18 THE COURT: Okay.

19 Q. BY MR. STEIN: And it says therefore, be it
20 resolved that development agreement a- deposited-d
21 resolution 10 reaffirmed and rat tied 17 and 37 are hereby
22 approved and ratified as of today, and the second
23 statement, the council acknowledges 28 months of
24 satisfactory performance of economic development tasks by
25 developer. Were you agreeing with that statement when you
26 signed it?

27 A. I believe so.

28 Q. And does it say that Stein is acting -- that we're

1 in fact [ABG] following that Stein is acting as our
2 attorney anywhere?

3 A. That's not what it says.

4 Q. Right. That's not what it says. And then be it
5 resolved further up to here, could you read that statement
6 please?

7 A. Be it resolved further, that the development
8 agreement as amended and modified by the 2003 amendment, be
9 and hereby is declared to be an effective, valid and
10 binding obligation of the tribe and tribal council, and
11 tribal secretary Sam Dunlap is hereby authorized to execute
12 the modification in the form set forth in Exhibit A
13 attached hereto on behalf of this tribal council and the
14 tribe; and.

15 Q. And it says that Stein was acting as the developer
16 on that; is that correct?

17 A. In that particular --.

18 Q. 28 months of satisfactory performance?

19 A. I think so.

20 Q. Of economic development tasks by developer. And
21 nowhere here does it say that Stein was acting as an
22 attorney, is that your understanding of that resolution?

23 A. I didn't see that it said that anywhere.

24 Q. Uh-huh. Let us now go back with that
25 understanding -- oh and by the way, let's go further -- to
26 the -- let's go back to the resolution 46, I skipped
27 something.

28 THE COURT: Page 469, zero 249.

1 MR. STEIN: Thank you very much Your Honor.

2 Q. And that resolution was to adopt an amendment and
3 modification agreement.

4 THE COURT: Wait a minute we're on a different
5 page now.

6 MR. STEIN: We're now on Page 25 two.

7 THE COURT: 25 two, okay. Amendment.

8 MR. STEIN: Right.

9 THE COURT: Wait a minute.

10 MR. STEIN: I'm going to skip down and tell me if
11 I should slow down but I'm going to skip down to the
12 signature page on page 256.

13 THE COURT: Okay.

14 MR. STEIN:

15 Q. And do you recognize Sam Dunlap's signature on the
16 amendment?

17 A. Uh-huh yes.

18 Q. And do you recognize tribal general counsel Rae
19 Lamps signature on the amendment?

20 A. Yes.

21 Q. And Mr. Stein's signature as manager for St.
22 Monica development company?

23 A. Yes.

24 Q. Did Mr. Stein act as your attorney when you
25 adopted this resolution?

26 A. Most of the time the resolutions were explained to
27 us as the meetings --.

28 THE COURT: Ma'am he didn't ask you that, listen

1 to the question. Do you want to re-read the question or do
2 you want to re-ask it?

3 A. Okay.

4 THE COURT: Hold object hold on do you want to
5 re-ask the question or do you wan top read it it.

6 MR. STEIN: Re-read it please.

7 THE COURT: Okay listen to the question that's
8 being asked.

9 (Record read.)?

10 A. Mr. Stein gave explanations of the resolution.

11 THE COURT: So yes -- are you saying yes? You
12 need to say yes or no?

13 A. Well I feel explaining something of the legal
14 nature, yes, is acting as an attorney.

15 Q. BY MR. STEIN: Was it Rae Lamothe acting as your
16 attorney on the this resolution and the amendment?

17 A. You know in fact she was but it was secondary,
18 that appearance was always secondary.

19 THE COURT: So just so I'm clear, there was two
20 attorneys acting on your behalf that would be the Defendant
21 and Rae Lamothe?

22 A. There were always two attorneys.

23 THE COURT: Buff question is were they acting both
24 on your behalf because you're saying he was and then you're
25 saying she was?

26 A. Well what I'm saying is Mr. Stein gave us
27 explanations which I considered you know from his lawyer
28 standing to be legal and Rae Lamothe was in fact just the

1 person was acting as the tribal general counsel but always
2 seemed to have a bit of a secondary position.

3 Q. BY MR. STEIN: Wasn't Mr. Stein giving his
4 explanations from the other side of the table from the as
5 the contracting party?

6 A. That's possible.

7 Q. So Mr. Stein's legal advice that you're saying
8 went to you was in fact an explanation from the other side
9 of the legal as manager of SMDC?

10 A. Well it was always annex [PHRAP] nation of both,
11 this is what was adopted previously and then amended and --
12 it was always being both, this was SMDC and this is the
13 tribe and we're going to sign this resolution and that's
14 that.

15 THE COURT: Did Rae Lamothe ever offer any
16 explanation of what was going on, in other words did she
17 explain things to you?

18 A. Occasionally.

19 THE COURT: Occasionally?

20 A. But not as a standard, no.

21 THE COURT: Did anybody ask her for an explanation
22 or --?

23 A. I think I remember one time Sam asking him is that
24 correct Rae Or something like that but it was rare.

25 THE COURT: And that one time he asked for an
26 explanation, what happened?

27 A. I think -- I think one time she said well yes, you
28 know she would confirm, recite whatever law [S*] it

1 pertained to.

2 THE COURT: When you say yes?

3 A. Yes.

4 THE COURT: Are you saying yes she confirmed
5 whatever Mr. Stein was saying?

6 A. Yes.

7 THE COURT: Okay.

8 Q. BY MR. STEIN: Are you saying she was not loyal to
9 you as a client, that he was loyal to Mr. Stein instead?

10 A. No, I'm not saying that, I'm just saying that --.

11 Q. If that's a no -- may I interrupt her or am I
12 interrupting.

13 THE COURT: No let her explain.

14 MR. STEIN: Please.

15 THE COURT: So what are you trying to say is what
16 you're asking?

17 A. Well I'm repeating myself, she seemed to have a
18 secondary position.

19 THE COURT: So you're not saying she was Lyle to
20 Mr. Stein but she had a secondary position?

21 A. Yes.

22 THE COURT: All right.

23 Q. BY MR. STEIN: So fair to say she was loyal to GT
24 Tribe and not Stein?

25 A. At the time I did feel she was loyal to GT
26 Tribe.

27 Q. And so she was not violating her ethical
28 obligations to be an attorney for the GT Tribe?

1 A. I don't believe so.

2 Q. And she was not committing malpractice by being so
3 sloppy and being so secondary that she was committing
4 malpractice because Stein was running rough shod right over
5 the top of you.

6 THE COURT: That's an expert opinion she doesn't
7 know whether she's committing malpractice?

8 A. Thank you.

9 THE COURT: So I'm going to sustain my own
10 objection to that, she wouldn't know whether it's
11 malpractice or not.

12 MR. STEIN: I see, okay.

13 Q. BY MR. STEIN: And now moving back to the
14 substance, I'd like to go to Section 6 of the agreement
15 that you approved on Page 25 Five. Could you read Section
16 6 please?

17 A. Legal advice, the language of section 23 of the
18 agreement shall be modified by adding the following
19 sentence to the end of the section: The tribal tribal
20 council further [ABG] [TPHOLGZ] that tribal general counsel
21 Rae Lamothe Esquire as reviewed the agreement, as amended,
22 and found that it is the valid, binding and enforceable
23 obligation of the tribal council, on its own behalf and
24 behalf of the tribe. In addition, tribal general counsel
25 has drafted this 2003 amendment, and found that it is the
26 valid, binding and enforceable -- oh the valid, binding and
27 enforceable obligation of the tribal council, on its own
28 behalf and on behalf of the tribe.

1 Q. In light of that section, do you still feel that
2 Mr. Stein was acting as the tribes attorney when you were
3 proving this agreement with SMDC?

4 A. Well we weren't approving the whole agreement, we
5 were just amending a portion of it. So I never had the
6 opportunity to approve the entire SMDC agreement.

7 Q. But the agreement as amended is being found to be
8 valid, binding and enforceable. Why do you say that
9 doesn't approve the whole agreement.

10 MS. IBARRA: Objection calls for a legal
11 conclusion.

12 THE COURT: Well overruled, he's asking what her
13 understanding is.

14 MR. STEIN: That's right.

15 THE COURT: What was your understanding of that
16 provision?

17 A. My understanding is that we were basically
18 approving whether the [PHERPLTS] were there that day.

19 Q. BY MR. STEIN: Can you read Section 7 please?

20 A. The tribal council, on behalf of tribe, has
21 reviewed the agreement as [PH*EBD]-d and hereby approve and
22 ratify the agreement as amended. The tribal council on
23 behalf six [TRAO*EURB] tribe agrees that the developer has
24 performed all of the items and conditions of the agreement
25 through the date of the 2003 amendment.

26 Q. In light of that provision, do you still feel that
27 you were only approving the amendment and not the entire
28 agreement as amended?

1 A. There was no way that I could approve the entire
2 agreement since I had never seen it, but the amendments
3 seemed as they represented, seems that we could approve
4 them.

5 Q. And isn't that your problem not, not Mr. Stein's?
6 Why didn't you go to your lawyer and say hey Rae, am I
7 approving an amendment or am I approving the whole
8 agreement?

9 A. Well as I said most of the explanation as of
10 whatever was going to be done, whatever work, signatures or
11 whatever would be at the beginning, the explanations were
12 there and then it was just presented to sign so I don't
13 remember asking a lot of questions it was just --.

14 Q. Why didn't you is the question, why didn't you?

15 A. Because the explanation [H-Z] you gave us didn't
16 seem to suffice at the time.

17 Q. So isn't it your problem if you didn't ask your
18 own attorney if those explanations are right when Mr. Stein
19 is explaining on behalf of SMDC what the amendment of the
20 SMDC agreement is.

21 THE COURT: That's argumentative counsel.

22 MR. STEIN: Forgive me left me break that out
23 isn't it your your problem.

24 THE COURT: No it's argumentative to say that
25 isn't it your problem.

26 MR. STEIN: Okay very good I get it. Did you ask
27 Rae Lamothe to confirm anything Mr. Stein said in the
28 adoption of this amendment and the SMDC agreement?

1 A. You know, I don't recall ever doing that.

2 THE COURT: You have don't recall ever asking Rae
3 Lamothe?

4 A. Oh specific to this agreement. I remember asking
5 her other questions.

6 THE COURT: Well related to this agreement or --?

7 A. No not related to this agreement, not related to
8 any of the amendments, I had no information on the
9 agreement so there was no need to ask questions, when the
10 amendments came up, I just remember them being explained by
11 Mr. Stein and I don't remember asking specifically Rae
12 Lamothe.

13 Q. BY MR. STEIN: Well why didn't you?

14 A. I don't know.

15 Q. Did you feel you could have, you asked her advice
16 on other occasions. Could you have asked her advice on
17 this occasion?

18 A. I think I didn't ask questions because my trust
19 was that in your explanation was sufficient.

20 Q. So why do you say that Mr. Stein is your attorney
21 if he's only explaining on behalf of SMDC but you're
22 satisfied with that explanation?

23 A. Well that's the thing I didn't feel you were only
24 explaining on behalf of SMDC since we had an agreement with
25 you, I felt that you were also explaining on behalf of the
26 tribes -- what's the tribes benefit would be.

27 Q. Let's go back to recital D in that agreement, I
28 thought that we established that Mr. Stein was not your

1 attorney according to recital D and let me find the page
2 number for the record, recital D is on Page 2 15. Recital
3 D, not an attorney-client relationship. Why did you feel
4 that if you approved an agreement that said he's not your
5 attorney?

6 A. I think the way the relationship was is that -- my
7 understanding is that you were always an attorney, 24/7 so
8 if you gave us whatever opinion I always -- my
9 understanding was that -- that we'd be using your lawyering
10 abilities.

11 Q. So your first answer is he's always an attorney,
12 is that correct?

13 A. Yes.

14 Q. Okay. So let me point you out to what I'm doing
15 here, I don't want to do anything behind your back so to
16 speak?

17 A. Yes.

18 THE COURT: Well that's -- I mean that's not
19 evidence but.

20 MR. STEIN: Yes I know but I just want to make
21 sure she's focused on the question and obviously the record
22 will show what she's saying.

23 Q. Why did you think Stein was your attorney if you
24 signed an agreement saying he was not? And your first
25 explaining nation is because he's always an attorney.

26 MS. IBARRA: Objection misstates her testimony.

27 THE COURT: Overruled.

28 Q. BY MR. STEIN: Is that correct?

1 A. That's my understanding that you're always an
2 attorney so --.

3 Q. Is there any another reason that you thought Stein
4 was your attorney even though you signed an agreement
5 saying he was not?

6 A. Oh I think there's many reasons. Initially going
7 forward we knew that there would be many legalities
8 involved on all different levels including you know the
9 business and dealings with state and federal governments
10 and it felt somewhat secure at least have a lawyer on board
11 dealing with those -- whatever information came by.

12 Q. So then you felt secure having a lawyer on board?

13 A. Yeah it seemed like a good deal.

14 Q. And then was that because the economic development
15 tasks included work that was legal in nature?

16 A. Everything you know had some sort of legality to
17 it, the business aspect [SKPAOT] formal aspects of dealing
18 with the governments.

19 Q. So economic development task had legalities.

20 THE COURT: She said all of them had legalities.

21 MR. STEIN: All.

22 THE COURT: That was her testimony.

23 Q. BY MR. STEIN: Is that correct?

24 A. Yes.

25 Q. Let's move from recital D which says -- by the way
26 before we leave recital D, it says the task would would be
27 legal in nature?

28 A. To accomplish tasks which may be legal in

1 nature.

2 Q. Is that correct?

3 A. Uh-huh.

4 Q. And at the same time you had tribal general
5 counsel to explain to you what SMDC was saying to you; is
6 that correct?

7 A. Tribal general counsel was available.

8 Q. And this is at almost all times is that correct?

9 A. Yes.

10 Q. So I want to make sure I'm not misquoting here, I
11 have tribal general counsel available at almost all times
12 to explain Stein's statements on behalf of SMDC, is that
13 accurate?

14 A. That wasn't my statement, that was your question
15 and I said yes, she was available.

16 Q. And that includes available to explain Stein's
17 statements made on behalf of SMDC?

18 A. Yes.

19 Q. Let's move on from recital D to Section 2 E and
20 let me give you the page for that please. So this is on
21 Page 2 19, Section 2 E.

22 THE COURT: What page is that again.

23 MR. STEIN: Niall.

24 MR. FORDYCE: 219 I believe Your Honor.

25 THE COURT: 219.

26 MR. STEIN: Let met double check that for the
27 Court. 219, yes Your Honor.

28 THE COURT: Two E, okay.

1 Q. BY MR. STEIN: Can you please read that?

2 A. E.

3 Q. Please.

4 A. Not an attorney-client relationship. The parties
5 acknowledge that [TPHR*] no attorney-client relationship
6 has ever existed between the Tongva and either Stein or the
7 law firm of art and hat LLP and that this agreement shall
8 not form such an attorney-client relationship [-FPL] the
9 Tongva acknowledge that [SHERB] enjoy none of the
10 advantages of such relationship, including the
11 attorney-client privilege in litigation. The Tongva agree
12 to hire one or more law firms to do all legal work
13 required, necessary or visible to complete the economic
14 development tasks or scope of work.

15 Q. Now you didn't read that until 2006 is that
16 correct?

17 A. Yes, I believe so.

18 Q. Now that you've read it, does this change your
19 mind as to whether Mr. Stein was working as an attorney for
20 GT Tribe?

21 A. No.

22 Q. Why not?

23 A. Because of the nature of the relationship that the
24 tribal council had with Mr. Stein and the nature of
25 explanations that were given to us over certain things at
26 the tribal council meetings, just the realities of
27 conversation that's took place from a lawyer to a none
28 lawyer.

1 Q. Do you feel it was reasonable of you to -- on the
2 one hand sign and approving this agreement and on the other
3 hand think that an attorney-client relationship was formed
4 on the same subject matter as this agreement?

5 A. You know I wasn't in control of the actions,
6 whether it was reasonable or not, I'm not sure.

7 Q. So it's accurate to say not sure if it's
8 reasonable?

9 A. No. In light of the actual realities of what took
10 place in conversations, which I was not directing those
11 conversations, they just took place.

12 Q. And in this it says the Tongva agree to hire one
13 or more law firms, would that clue the law firm of Rae
14 Lamothe?

15 A. Yes.

16 Q. So in hiring Rae Lamothe you're act [TPH-G]
17 accordance with Section 2 E?

18 A. Well I didn't know at the time it was in
19 accordance with that but I was heap [AOE] to hear that the
20 tribal council would have their own counsel.

21 Q. And as you sit here today having read that
22 section, were you in fact acting in accordance with two E
23 by hiring Rae Lamothe as tribal general counsel for five
24 years, from 2001 to 2005?

25 A. It looks that way.

26 Q. And did you acrylic in accordance with that by
27 hiring Marilyn Barrett to help with the Libra transaction?

28 A. The tribal council did higher Marilyn Barrett and

1 at the time I did not know that it was in accordance with
2 that.

3 Q. As you sit here today was it in accordance with
4 Section 2 E?

5 A. It looks that way.

6 Q. And did the tribe act in accordance with Section 2
7 E when hiring Liz Aronson as an assistant tribal council?

8 A. That would seem to follow.

9 Q. And did the tribe act in accordance with Section 2
10 E when hiring Jim McShane from Sheppard Mullin as its
11 counsel, first [TOR] produce the fiduciary duty report and
12 second to sue Jonathan Stein?

13 A. We never hired Jim McShane to produce the
14 fiduciary report.

15 Q. We'll get to that?

16 A. okay.

17 Q. But you did hire Jim McShane to sue Jonathan
18 Stein?

19 A. We hired Jim McShane to help us retrieve our
20 membership documents.

21 Q. And did you hire Jim McShane of Sheppard Mullin in
22 accordance with Section 2 E?

23 A. Well I had never seen that yet but it does look
24 that way, yes, it was in accordance.

25 Q. I'd like to move to Paragraph 3 D and this is on
26 Page 2 20. Could you read it please?

27 A. D, no fiduciary relationship. The relationship
28 between the parties shall be solely contractual and neither

1 party, or its officers, directors or managers, including
2 Stein shall be deemed the fiduciary of the other.

3 Q. By agreeing to this agreement as amended were you
4 seek that Stein even if he was nominally a CEO still owed
5 no fiduciary duty?

6 A. I don't understand that question, it's confusing.

7 Q. Was -- did Stein serve beginning in May 2006 as
8 CEO of the Gabrielino-Tongva gaming authority?

9 A. Yes.

10 Q. And in that relationship was he an officer, see an
11 officer, of GT Tribe?

12 A. Was he an officer of GT Tribe, yes.

13 Q. And was he nominally a an officer, but still by
14 agreement he was not a fiduciary of GT Tribe.

15 MS. IBARRA: Objection calls for a legal
16 conclusion.

17 THE COURT: Yeah sustained.

18 Q. BY MR. STEIN: Let me go to a different page on
19 paragraph 46, on resolution 46?

20 A. No I just -- I can't look at him when he's moving
21 it because --.

22 THE COURT: Pause because it makes your head spin?

23 A. Yeah it does.

24 THE COURT: When he's moving it that fast?

25 A. Yeah it does so I just need to turn away.

26 MR. STEIN: And my apologies I'll give you warning
27 in the future when I'm go to take off on a fast moving
28 exhibition. I'm trying to find an example of the

1 stationery. Niall could you give me the fiduciary duty
2 exhibit number.

3 MR. FORDYCE: The one plaintiffs used yesterday.

4 MR. STEIN: Yes.

5 MR. FORDYCE: Just one second. Yeah Plaintiffs
6 '67.

7 Q. BY MR. STEIN: Can you look on the screen?

8 A. Uh-huh.

9 Q. Is that plaintiff '67? And on the bottom, we're
10 going to look on the bottom, is this the stationery used
11 for almost all purposes for the Gabrielino-Tongva Tribe?

12 A. Yes.

13 Q. Does it list tribal general counsel, law offices
14 of Rae Lamothe?

15 A. Yes.

16 Q. Does it list the tribal development officer,
17 Jonathan Stein of SMDC?

18 A. Yes.

19 Q. Does that indicate that Mr. Stein's holding that
20 nominal position only because he's working for SMDC?

21 A. Yes.

22 Q. And is it your understanding that under the SMDC
23 agreement Mr. Stein was supposed to have no fiduciary
24 relationship with the tribe.

25 THE COURT: Do you know what a fiduciary is?

26 A. Yes, I do now but at the time I would not have
27 because I didn't understand the SMDC agreement so I didn't
28 know any of those details. If you're talking about a later

1 date, I think --.

2 Q. BY MR. STEIN: But you sued Mr. Stein in November
3 of 2006 for breach of fiduciary duty is that correct?

4 A. Yes.

5 Q. And that was for -- one reason for that is because
6 he was a nominal officer is that correct?

7 A. No it had nothing to do with that, it had to do
8 with the fact that he was holding our records.

9 Q. So you were not suing -- oh you're suing because
10 he's holding your records?

11 A. Yes and that was the lack of your -- that was the
12 lack of your fiduciary duties.

13 Q. So it doesn't matter Stein was an officer
14 nominally for GT Tribe.

15 THE COURT: Well do you know what it means to be a
16 nominal officer?

17 A. No I really never heard of that before.

18 MS. IBARRA: So calls for a legal conclusion
19 objection.

20 THE COURT: I'm not sure she has a foundation to
21 answer that.

22 MR. STEIN: Let me give a foundation then.

23 MR. FORDYCE: It's not a term of art Your Honor.

24 MR. STEIN: No actually forgive me, [TPHOPL]

25 [TPAL] officer is a term of art, I'm using it in the
26 vernacular since though, in ma'am; in ma'am.

27 THE COURT: Well maybe you should explain it.

28 MR. STEIN: I thought we it.

1 Q. In the stationery Mr. Stein had the name of an
2 officer of GT Tribe is that correct.

3 THE COURT: Why don't you just read what it says,
4 is this in evidence I have think it is.

5 MR. STEIN: Yes tribal [SR*EPL].

6 THE COURT: Well it says tribal development
7 officer, Jonathan Stein, St. Monica development company
8 LLC. That's what it says. So your question is to her --?

9 MR. STEIN: She has already testified that Stein
10 held a nominal position as an officer only through SMDC
11 should we repeat that testimony.

12 THE COURT: Yes. You need to find out if she
13 understands what nominal officer is, that's the problem,
14 because I'm not sure if you've established that. You're
15 asking her a legal question so --

16 MR. STEIN: It's in the record. Maybe we can have
17 the court reporter read the --

18 THE COURT: I don't doubt she said that, but
19 whether you're nominal or not, you need to establish that
20 she understands what that means.

21 Q. BY MR. STEIN: Do you see that Mr. Stein held the
22 name as an officer of GT Tribe?

23 A. Yes.

24 Q. But do you understand that he was really working
25 for SMDC at the time?

26 A. No.

27 Q. Why not?

28 A. Well I'm sure he was working for SMDC but he was

1 also working for the tribe and Stein was also the CEO of
2 the tribal gaming authority.

3 Q. But at the time he was working for SMDC?

4 A. Yes, I would think so.

5 Q. And that -- and he was working under the SMDC
6 agreement by contract to the tribe?

7 A. Yes.

8 Q. And --?

9 A. At that time actually though he wasn't. Because
10 that's dated September 19th and Mr. Stein had already quit
11 on September 9th so at that particular date, no.

12 Q. But before September 19th he was?

13 A. Yes.

14 Q. And going back to the agreement, Section 3 D, Page
15 2 20, is it your understanding that Mr. Stein when he
16 worked as an officer of GT Tribe in name by agreement of GT
17 Tribe would not have fiduciary duties.

18 THE COURT: Was it her lay understanding because
19 this is.

20 MS. IBARRA: This is --.

21 MR. STEIN: Was it her lay understanding of
22 exactly that point.

23 THE COURT: All right what was your understanding
24 of that provision?

25 A. Well my understanding is that because Jonathan
26 Stein had these many different hats so when he was just for
27 SMDC, that's between him and SMDC but it was never
28 separated out for us because our relationship with him was

1 also always for the tribe.

2 MS. IBARRA: Can I object also that she testified
3 that she didn't see this until after so it's your --.

4 MR. STEIN: Coaching the witness Your Honor.

5 THE COURT: Well.

6 MR. STEIN: .

7 MS. IBARRA: Was the question her lay
8 understanding at the time even though she hadn't seen it or
9 after.

10 THE COURT: Okay why don't you clarify that.
11 Because she's not -- the problem with words like fiduciary
12 is they're legal words and you know she may have a lay
13 understanding but -- and you're free to ask her because --.

14 Q. BY MR. STEIN: What is your understanding of the
15 word fiduciary.

16 MS. IBARRA: Objection temporal, as of when.

17 THE COURT: Okay as of when, sustained.

18 Q. BY MR. STEIN: As of today, sitting here today
19 while you're testifying what is your understanding of the
20 word fiduciary which you've used several times in your
21 testimony?

22 A. My understanding is that it indicates that the
23 representative has a responsibilities that need to be
24 upheld.

25 Q. And did it state here that those responsibilities
26 would be waived by the tribe or simply that the tribe was
27 agreeing that Mr. Stein did not have those responsibilities
28 to your lay understanding?

1 A. That particular section indicates that.

2 Q. He did not have responsibilities?

3 A. Section D indicates Mr. Stein didn't have
4 responsibilities. That was not my understanding though at
5 the time.

6 Q. But that's because you hadn't read this until 2006
7 is that correct?

8 A. Well I'm talking about -- at this point I'm
9 talking about the date that the report, the fiduciary
10 report was given to us.

11 Q. So you're not answering my question?

12 A. Sorry.

13 Q. Let me try and -- ask the court reporter to ask
14 that question again.

15 THE COURT: All right, see if she understands
16 it.

17 (Record read.).

18 THE COURT: You're going to have to read the prior
19 one h sorry Madam Court Reporter.

20 (Record read.)?

21 A. Yeah that's correct.

22 Q. BY MR. STEIN: And that applies before September
23 9th resignation, that applies before September 9th, 2006?

24 A. Apparently.

25 Q. So you're agreeing here that Mr. Stein did not
26 have fiduciary responsibilities to GT Tribe while an
27 officer of the Gabrielino-Tongva Al gaming authority.

28 MS. IBARRA: Objection calls legal.

1 THE COURT: It does, it does call legal
2 conclusion, sustained.

3 Q. BY MR. STEIN: What do you think -- you said
4 earlier that the breach of fiduciary duty was what?

5 A. In 2006 in the month of September our concern and
6 the breach was Mr. Stein who was no longer employed by the
7 tribe continued to maintain our membership records which is
8 what our concern was and that was the breach of fiduciary
9 duty.

10 Q. And it says here that there was no fiduciary duty
11 is that correct.

12 MS. IBARRA: Objection that it calls for a legal
13 conclusion but.

14 THE COURT: Well he's just asking that it states
15 that.

16 MS. IBARRA: Yeah if it says that.

17 THE COURT: I think we stipulate that's what it
18 states?

19 A. That's the statement.

20 Q. BY MR. STEIN: And is it your understanding as the
21 layman having used the word fiduciary that because the
22 tribe agreed to this agreement, Mr. Stein did not have a
23 fiduciary duty?

24 A. My understanding as a lay person is that Mr. Stein
25 quit the duties he should have had the responsibility to
26 turn over all of the documents belonging to the tribe.

27 Q. And that's your answer?

28 A. Uh-huh, yes.

1 Q. And that responsibility was based on -- I've
2 deposit that. Can I turn to Exhibit 5 58 and 721.

3 THE COURT: Exhibit 5 58? .

4 MR. STEIN: And Exhibit 72 one, I'm going to talk
5 about both of them, you've already identified both.

6 THE COURT: 721 is the exhibit number or is
7 this --.

8 MR. STEIN: It's the [TKA*BGT]-d version.

9 MR. FORDYCE: Make sure.

10 MR. STEIN: Let me make sure I pull up the right
11 one.

12 MS. IBARRA: This isn't [TKA*BGT]-d.

13 MR. STEIN: 721 is the [TKA*BGT]-d version we had
14 for the jury but.

15 THE COURT: Left me be clear, let's see 558 is
16 something different that what you're showing.

17 MR. STEIN: Yeah these are the invoices that I
18 believe the witness previously identified that was left
19 unpaid while the entirety of the casino funds were spent on
20 other things.

21 THE COURT: I don't know, the testimony is what it
22 is. Well it's in evidence evidence I believe so.

23 MS. IBARRA: It is in evidence.

24 THE COURT: I guess you can ask her about if she
25 knows.

26 Q. BY MR. STEIN: Ms. Carmelo had you testified
27 earlier --.

28 THE COURT: Well no did you testify earlier is the

1 question because it's unclear.

2 MR. STEIN: Okay let's start with 721 which is
3 also in evidence.

4 THE COURT: Wait a second, can you get me 721
5 Nelli.

6 THE CLERK: 721.

7 THE COURT: Right.

8 MR. STEIN: I'll just at the time this up and wait
9 for the Court.

10 THE COURT: Okay we're going to start with 721
11 which is redacted, have you consulted on each other on the
12 redactions.

13 MR. FORDYCE: Yes Your Honor there was.

14 MR. STEIN: Yes this was the redaction made as a
15 result of the meet and confer with opposing counsel.

16 MR. FORDYCE: Yes.

17 MS. IBARRA: This is the Carmelo declaration.

18 MR. FORDYCE: Yes identified on 6/28 and admitted
19 with the redactions on six, 30.

20 MS. IBARRA: Can I see further up to see where
21 it's blocked.

22 MR. STEIN: Sure.

23 MS. IBARRA: Okay that's fine, yeah that seems to
24 be the redactions.

25 MR. STEIN:

26 Q. And did you previously testify that the \$898,000
27 was spent on the expenses listed in your declaration, none
28 of which were for the casino project?

1 A. What are you asking me if I said that.

2 THE COURT: Here hold onto this. So this is
3 Exhibit 72 one, Carmelo declaration which you now have in
4 front of you?

5 A. What's the question please.

6 MR. STEIN: May the court reporter please repeat
7 the question.

8 THE COURT: Yes.

9 (Record read.)?

10 A. .

11 MS. IBARRA: I'm going to object that this line of
12 questioning is repetitive of what we've [HRAR] heard.

13 THE COURT: It is repetitive why are we going
14 through this again.

15 MR. STEIN: Just to establish a foundation for the
16 investigation into the Crane exhibits.

17 THE COURT: Into the Crane exhibits.

18 MS. IBARRA: Crane exhibits? Crane [KPAOEUBTS].

19 MR. STEIN: Yes the exhibits that we identified
20 yesterday included tribal council [R*ELSZ] that I'd like
21 Ms. Carmelo to identify and then we.

22 THE COURT: Then make you can Taylor something to
23 the Crane exhibits and then ask about the Crane exhibits
24 and then if this helps refresh recollection then we can do
25 that.

26 MR. STEIN: Well again Your Honor, the court
27 grilled Dan Crane over investment monies that were amply
28 available --.

1 THE COURT: John what you mean by grilled, I asked
2 him questions, I asked him questions so I'm asking her
3 questions as well.

4 MS. IBARRA: I don't recall any questions about
5 the investment money from Mr. Crane.

6 THE COURT: I think it was already established
7 that this money was spent, I think she [PHEUT]-d it.

8 MS. IBARRA: We have way declaration.

9 THE COURT: She has a declaration I'm not sure why
10 we're going over it but if you have something connected to
11 Crane.

12 MR. STEIN: Yes I'm getting there in just a
13 moment.

14 THE COURT: Okay we will strike the last question
15 and re-ask the question.

16 MR. STEIN: Let me try to be for direct and
17 respond to the [courts|court's] concerns.

18 THE COURT: Base [AOE] I've accepted the money was
19 spent, it was spent on all these items.

20 MR. STEIN: And that these items were not --

21 Q. Did you have \$898,000 in investment funds budgeted
22 for casino project and in fact spend them on things other
23 than the casino project?

24 A. Those funds were spent to allow the tribe to
25 continue to operate and reestablish new offices which is
26 something that was necessary in order to continue the
27 project.

28 Q. And these funds were not at all budget for in the

1 Libra budget?

2 A. No this is the new budget, the budget changed.

3 Q. Now in light of that, I'd like to go to exhibit
4 599.

5 THE COURT: Nelli 599, I'm going to make I get
6 it.

7 THE CLERK: That's okay.

8 THE COURT: Because I've good got way too many
9 [PWAO*EURPBDZ] up here.

10 MR. STEIN: It's in voluntary two of the
11 Defendants white binders.

12 THE CLERK: 721 redacted version.

13 THE COURT: Do you need her to keep that
14 declaration.

15 MR. STEIN: I might I'm not sure.

16 THE COURT: Go ahead and hold on to it. You have
17 need to return that back to me when we're done?

18 A. Okay, uh-huh.

19 THE COURT: Which exhibit again counsel.

20 MR. FORDYCE: 599 Your Honor.

21 MR. STEIN: 599. We identified it yesterday.

22 THE COURT: 599 is not in evidence.

23 MR. STEIN: It is in evidence.

24 MS. IBARRA: We discussed it yesterday.

25 MR. FORDYCE: Yes, it was actually yet.

26 THE CLERK: Okay. Yes.

27 THE COURT: Discussed with.

28 MR. FORDYCE: Mr. Crane Your Honor.

1 MR. STEIN: This the the resolution.

2 THE COURT: Ah yes, it has his signature.

3 MR. STEIN: To approve the Crane Group.

4 THE COURT: I remember that now, okay.

5 Q. BY MR. STEIN: I would like to go to Page 32 32 of
6 the exhibit 599, is that your signature?

7 A. Yes.

8 Q. Did you in fact approve --.

9 THE COURT: Wait a minute which -- wait a second.

10 MR. FORDYCE: Your Honor this is definitely a
11 Bates number-g issue, Mr. Stein is referring to the PO L
12 numbers.

13 THE COURT: Oh yes.

14 MR. FORDYCE: Yeah there's --.

15 THE COURT: We're going back and forth between
16 these numbers but I'm there now.

17 MR. STEIN: So let me start over.

18 THE COURT: Wait a minute, 32 --.

19 MR. STEIN: 32 32 at the bottom.

20 THE COURT: I'm there now.

21 Q. BY MR. STEIN: Is that your signature Ms. Carmelo?

22 A. Yes.

23 Q. Okay. Going back to the top of the resolution and
24 feel free to take some time to read it, did you approve the
25 Crane Group on behalf of GT Tribe in March of 2005?

26 A. Yes.

27 Q. And pursuant to the Crane Group was he supposed to
28 work on behalf of the tribe with the United States Congress

1 and executive agencies including the BIA for federal
2 recognition of the tribe?

3 A. Yes.

4 Q. And to your knowledge, did Mr. Crane in fact do
5 that work?

6 A. No, to my knowledge no.

7 Q. Why not?

8 A. Well I remember that there were plans being made
9 but I just don't remember him ever reporting.

10 THE COURT: When you say had he didn't report, are
11 you saying had he didn't report to you at council meetings
12 or he didn't something in writing?

13 A. He never did anything in writing to us as a
14 council, I don't even remember a verbal report of any kind
15 of meeting or progress or --.

16 THE COURT: So he didn't do anything in writing,
17 but you're saying he didn't go to my meetings either?

18 A. No I never went to any meetings.

19 THE COURT: Okay.

20 Q. BY MR. STEIN: So to your knowledge, he never met
21 with my officials at the BIA?

22 A. To my knowledge, no.

23 Q. And he never went to meetings with Senator
24 Feinstein's office?

25 A. I don't know.

26 Q. And he never went to any meetings with Senator
27 Boxer's office?

28 A. I don't know. I remember a letter to -- is it

1 Senator Boxer, yeah, I remember a letter to her. I think
2 that -- if I recall it was something that you prepared, Mr.
3 Stein, and that may have been on her letterhead.

4 Q. Could that letter have been prepared by Dan Crane
5 and then transferred to the letterhead of GT Tribe?

6 A. Yeah it could have I guess, I don't recall that.

7 Q. Okay. So there must have been some meeting with
8 Senator Boxer as well as the letter or only the letter?

9 A. I don't recall any meeting, I just -- I have some
10 recollection of a letter.

11 Q. And you don't recall any meeting with the dozen
12 college men from L.A. County?

13 A. Where would that have been?

14 Q. In Washington, D.C.?

15 A. Oh no I never have been to Washington, D.C..

16 Q. And you never heard about that?

17 A. No.

18 Q. And you never heard the name Congressman Becerra
19 who was so anxious to help?

20 A. No. I met with Congressman Becerra in Los Angeles
21 County after 2006.

22 Q. After 2006?

23 A. After.

24 Q. But you never heard about a meeting with
25 Congressman Becerra before 2006?

26 A. No.

27 Q. He never said oh we've met you guys before, we
28 know who GT Tribe is?

1 A. No.

2 Q. And mill en [TKER] Mac [TKOPLD], no meet [W-GZ]
3 mill Mac?

4 A. That [TK-Z] hadn't sound familiar at all.

5 Q. And no meetings with max even waters?

6 A. There was a meeting with max waters in Los
7 Angeles.

8 Q. And was that [A*RPBLGD] arranged through her
9 office in Washington, D.C. by Dan Crane?

10 A. I don't know.

11 Q. But it could have been?

12 A. It's possible.

13 Q. How about Henry Paxman?

14 A. Doesn't sound familiar.

15 Q. How did Congressman Berman, Howard Berman?

16 A. Not familiar.

17 Q. How about Congressman Brad Sherman?

18 A. No, not familiar.

19 Q. Now do you know these meetings didn't occur or you
20 just didn't hear anything about them?

21 A. I never heard anything about it.

22 Q. Could you have heard about it but have forgotten
23 in the last 10 years?

24 A. That's possible but I doubt it.

25 Q. And you're saying that Crane didn't do his job
26 because there were no meetings with house committees on --
27 subcommittee on Indian affairs?

28 A. What I'm saying is that I knew that --.

1 Q. Please answer the question.

2 THE COURT: Well is she trying to or?

3 A. Oh I was trying to okay can you read [PAET] the
4 question.

5 THE COURT: Go ahead.

6 (Record read.)

7 A. Okay well I didn't say that Crane didn't do his
8 job but I would say that.

9 Q. BY MR. STEIN: You didn't say Crane did his job?

10 A. I didn't say he didn't do had his job, you're
11 asking me you're saying Crane didn't do his job and I'm
12 saying that I didn't say that, but now I'm saying I would
13 say that.

14 THE COURT: I'm confused?

15 A. So am I.

16 THE COURT: Okay so it's a confusing question.

17 MS. IBARRA: Well I understand but.

18 THE COURT: Maybe you do counsel but I don't
19 understand it at all there's too many double negatives and.

20 Q. BY MR. STEIN: Well which is it, did he do in your
21 opinion or did he not do his job in your opinion?

22 A. In my opinion he did not.

23 Q. And that because he had no meetings with the house
24 subcommittee on Indian affairs?

25 A. No that opinion is based on fact that I heard no
26 reports of such activities.

27 Q. Okay. To your knowledge, did he have any meetings
28 with the house sub committee on Indian affairs?

1 A. Not to my knowledge.

2 Q. With the democratic staff and the republican
3 staff.

4 THE COURT: Well, if she doesn't know whether
5 there's meetings, I don't know I don't think she'd now
6 whether they were Democrat or republican, right.

7 MR. STEIN: Correct, I stand correct.

8 Q. BY MR. STEIN: And is your opinion that Crane did
9 not do his job because he had no meeting with the senate
10 Indian affairs committee?

11 A. My opinion is that he didn't do his job because I
12 didn't hear of any reports of any -- any activities.

13 Q. So are you saying that he didn't -- you don't know
14 if he did his job because you didn't hear reports?

15 A. Say that again.

16 Q. I'll ask the court reporter to say that again.

17 THE COURT: Counsel I believe -- how much longer
18 do you have with her because it is getting a little long.

19 MR. STEIN: I believe she was up here for quite a
20 long time.

21 THE COURT: I'm not asking you that, I do.

22 THE COURT: I'm asking how long do you have is
23 what I'm asking.

24 MR. STEIN: I would have another hour after this
25 line of questioning is finished, we can finish this line of
26 questioning in time for lunch, in time of noon lunch.

27 THE COURT: Well let's find out how many hours we
28 had on direct.

1 THE CLERK: On direct.

2 THE COURT: Let's finish --.

3 MR. STEIN: I'm going to go through the same
4 documents that she identified before.

5 A. I need a bathroom break.

6 THE COURT: Well it's almost lunch, why don't we
7 break pour lunch and we'll [TPAO*EUPBD] find out how much
8 time.

9 MR. STEIN: May I finish with one or two
10 questions.

11 THE COURT: No.

12 MR. STEIN: Very good.

13 THE COURT: She needs to go to the bathroom.

14 MR. STEIN: I didn't hear that part thank you.
15 I'm sorry?

16 A. Do you want this back right now.

17 THE COURT: Yes thank you. Nelli here is your
18 exhibit.

19 (Noon break.) 11:55 AM to 01:33 PM.

20 THE COURT: Gabrielino-Tongva Tribe versus Stein
21 BC361307, good afternoon.

22 ALL COUNSEL: Good afternoon Your Honor.

23 THE COURT: Okay. You may be seated. It looks
24 like Plaintiffs counsel had roughly two hours, an hour and
25 54 minutes and Defendant has had two hours so you're
26 roughly about equal right now so how much more do you have.

27 MR. STEIN: Well, Your Honor first of all we are
28 roughly equal, but I believe there's an extra 15 minutes

1 that we haven't had we started at 10 17 and ended at noon
2 so that would be one hour and something.

3 THE COURT: This is what Nelli reports to me but
4 this is from Nelli the clerk.

5 THE CLERK: He have has my numbers.

6 MR. STEIN: From Nelli.

7 THE COURT: So you have 15 manometer minutes then.

8 MR. STEIN: And Wade like to do and please tell me
9 what the core -- I'd like to walk through the exact same
10 [KPEUBGTS] that she identified as saying this is the reason
11 that we think there's an attorney-client relationship, this
12 was legal advice and again we're going to have an expert on
13 each side testify so I wanted to get her best testimony on
14 that. That would take about 10 minutes time, there's about
15 Five or six of them.

16 THE COURT: [THO] that's too long, you've already
17 had two hours counsel, you've spent a lot of time going
18 through legal advice and fiduciary duties so I'll give you
19 15 more minutes.

20 MR. STEIN: Yes Your Honor.

21 THE COURT: Or how about this, I'll give you 15
22 minutes so he [KWAUL] what she had and an extra 15 after
23 that.

24 MR. STEIN: That's very kind.

25 THE COURT: How about that you get a- a half an
26 hour.

27 MR. STEIN: Yes 15 minutes would be equal to hers
28 and 10 minutes would be a great bonus. May we begin.

1 THE COURT: Yes.

2 Q. BY MR. STEIN: I wanted to ask you was there any
3 other agreement between the SMDC agreement that was a
4 contract between GT Tribe and Mr. Stein for attorney
5 services?

6 A. Not that I remember.

7 Q. So would it be accurate to say that other than
8 SMDC agreement, there was no agreement for attorney-client
9 services; is that accurate.

10 THE COURT: Are you saying written agreement or
11 oral agreement or.

12 MR. STEIN: Any agreement.

13 THE COURT: Any oral, written agreement?

14 A. With you Mr. Stein, no.

15 MR. STEIN: Okay. .

16 Q. BY MR. STEIN: So there was no written agreement?

17 A. No.

18 Q. And no oral agreement.

19 MS. IBARRA: Calls for a legal conclusion.

20 THE COURT: Yeah it does, sustained.

21 Q. BY MR. STEIN: There was no written agreement to
22 your knowledge?

23 A. To my knowledge, no.

24 Q. And there was no agreement where I said I will be
25 your attorney and you said will you be our attorney and
26 people agreed orally.

27 THE COURT: Well no no -- okay. Did he ever say
28 to you I will be your attorney?

1 A. No he never said that.

2 THE COURT: He never used those words, okay. Did
3 he ever use the words and say I will be the tribes
4 attorney, did he ever say that to you?

5 A. I don't remember that.

6 THE COURT: Okay.

7 Q. BY MR. STEIN: Was there -- the tribal council
8 took actions as a body is that correct?

9 A. Yes.

10 Q. And these were formalized in over 100 signed
11 resolutions by GT Tribe?

12 A. Yes.

13 Q. And that was in a five-year period from 2001 to
14 2006?

15 A. Yes.

16 Q. So then the tribal council took official action by
17 adopting a written resolution over 100 times?

18 A. Yes but some of those resolutions were in place
19 before I came on.

20 Q. Right. Was there any written resolution adopted
21 by the tribal council saying Stein will be our attorney?

22 A. No not that I remember.

23 Q. Was there any resolution by show of hands or other
24 than written resolution where the tribal council as a body
25 said Stein will be our attorney?

26 A. No.

27 Q. So is it accurate to say that there was no
28 official action by GT Tribe to have an attorney-client

1 contract with Stein?

2 A. I think that's accurate.

3 Q. Let's turn to Exhibit 19, the Morales litigation,
4 actually do you remember the Morales litigation?

5 A. Yes.

6 Q. And you were represented by Rae Lamothe is that
7 correct?

8 A. Yes.

9 Q. And GT Tribe was not a party in the Morales
10 litigation?

11 A. No.

12 Q. So if we look at the Morales litigation, Rae
13 represented you and GT Tribe was not a party. Now you said
14 that Mr. Stein participated in the mediation, you remember
15 him there?

16 A. Yes.

17 Q. And was that a -- what used to be known as a
18 voluntary [SEPLT] [con|could not] early in the [HR*EUT]
19 litigation.

20 MS. IBARRA: Objection might call for a legal
21 conclusion.

22 THE COURT: Sustained, mediation and voluntary
23 [SEPLT] [con|could not].

24 MR. STEIN: Are you --.

25 THE COURT: Hold on, are two different things, Mr.
26 Stein please don't talk over me.

27 Q. BY MR. STEIN: And Mr. Stein you you said you saw
28 Mr. Stein substituted out of the litigation is that

1 correct?

2 A. What do you mean by that, what do you mean.

3 Q. He stopped being Sam Dunlap's lawyer?

4 A. Oh yes.

5 Q. This mediation was before he stopped being Mr.
6 Dunlap's lawyer?

7 A. Oh, I don't remember.

8 Q. And then when the judgment was paid and negotiated
9 with investor funds Mr. Stein became involved again.

10 THE COURT: Involved with.

11 MR. STEIN: With the payment of investor funds to
12 pay off the judgment is that correct.

13 THE COURT: The Morales judgment.

14 MR. STEIN: Yes the Morales judgment?

15 A. Yes.

16 Q. BY MR. STEIN: And would Mr. Stein have done that
17 as part of spending the casino project money?

18 A. Yes.

19 Q. So is there anything about the Morales litigation
20 that made you think that Mr. Stein was the attorney for GT
21 Tribe?

22 A. Yes.

23 Q. What is that?

24 A. The fact that Mr. Stein came up with the idea to
25 do that as a strategy.

26 Q. Didn't Mr. Stein think it was a stupid idea, that
27 the lawsuit was a stupid idea?

28 A. I don't think so, no.

1 Q. Wasn't Mr. Dunlap the originator of the idea, he
2 wanted to sue somebody, he want today sue the Morales?

3 A. No.

4 Q. And then were there any -- for Mr. Stein as
5 attorney of GT Tribe, was there any term for that services,
6 in other words how long Mr. Stein would be attorney for GT
7 Tribe?

8 A. No.

9 Q. And was there any money paid to Mr. Stein for
10 being the attorney for GT Tribe for up to five years?

11 A. There was an intention to pay money for different
12 services to Mr. Stein.

13 Q. That's under the SMDC agreement?

14 A. Yes, at the time that funding would come in either
15 through investors or casino.

16 Q. For the SMDC agreement fees of 25,000 a month?

17 A. Yes.

18 Q. And was there any separate agreement for Mr. Stein
19 to get compensated as an attorney for GT Tribe separate
20 from the SMDC agreement, separate from the FPPC contract?

21 A. I believe I saw something relating to Sam Dunlap.

22 Q. And what was that?

23 A. Some kind of an estimation of fees.

24 Q. Is that -- is that before GT Tribe was formed when
25 Mr. Dunlap was mistakenly billed in 2000?

26 A. I don't think it was in 2000, I don't have any
27 documents before 2000 -- or 2000.

28 Q. I see. So as far as you can remember, there was

1 no arrangement for Mr. Stein to be paid as the attorney --

2 A. I'm sorry.

3 Q. -- for GT Tribe?

4 A. As far as what I'm very sorry Your Honor. I've
5 got to turn that off.

6 MR. STEIN: Maybe the court reporter can repeat
7 the question.

8 THE COURT: Sure.

9 MR. STEIN: Madam Court Reporter just wait for
10 just a second, she?

11 A. Okay sorry.

12 MR. STEIN: Very good.

13 (Record read.)?

14 A. As far as I recall.

15 Q. BY MR. STEIN: And did Mr. -- what made you think
16 that Mr. Stein agreed to be an attorney for GT Tribe?

17 A. The first time when I was spoken to him -- spoken
18 about -- when I was spoken to about Mr. Stein, it was
19 impressed upon me that he was a lawyer and -- meaning, you
20 Mr. Stein, that's where my first impression came, that that
21 would be part of our businesses together.

22 Q. So you're saying that Stein agreed to be attorney
23 because he was a lawyer?

24 A. No.

25 Q. Why did you think that Stein agreed to be attorney
26 for GT Tribe?

27 A. I think that there was never a lobbyist agreement
28 but I think that in various situations that legalities were

1 spoken -- were explained to us, the tribal council by Mr.
2 Stein.

3 Q. And could those legalities have been explained to
4 Mr. Stein as -- under the SMDC agreement in trying to keep
5 you informed of the work that was -- SMDC was doing that
6 had legalities involved.

7 MS. IBARRA: Objection unintelligible, I don't --.

8 THE COURT: Sustained.

9 MS. IBARRA: Understand the question.

10 MR. STEIN: Let me move on actually, the court has
11 been kind to give -- can we move to Exhibit 3 two, which is
12 on the screen, it's been previously identified.

13 THE COURT: This is plaintiffs, right.

14 MR. STEIN: Plaintiffs 32, it's the meeting with
15 Attorney General bill Locklear that you testified about
16 yesterday?

17 A. Okay.

18 Q. And you had said yesterday in your testimony that
19 you thought that this -- the target for this document was
20 GT Tribe not attorney gent Bill Lockyer is that correct?

21 A. I don't understand the question, what you're --.

22 Q. You testified yesterday, this is your testimony,
23 tell me if I'm correct in saying this, it's your testimony
24 that the target for this document was GT Tribe not Attorney
25 General Bill Lockyer?

26 A. Well I'm unclear what the document is about so I'm
27 unclear to what he testified yesterday, can you show me the
28 document?

1 Q. Please. . It says the Attorney General is asked
2 to interpret federal law and the California constitution.

3 THE COURT: What exhibit is this please.

4 MR. STEIN: 32 madam -- I mean judge.

5 THE COURT: You're going to have to wait because
6 this book is falling apart. Okay go ahead.

7 Q. BY MR. STEIN: Do you recall your testimony that
8 this document that says the Attorney General is asked to
9 interpret was aimed at the tribal council, not at Attorney
10 General Lockyer?

11 A. I think this document speaks towards the
12 intentions of Gabrielino-Tongva Tribe.

13 Q. But was it meant to go to him or was it meant to
14 go at tribal council.

15 THE COURT: You mean was it addressed to the
16 tribal council?

17 MR. STEIN: Yes that's exactly right.

18 THE COURT: Okay. Was it addressed to the tribal
19 council or was it addressed to Bill Lockyer?

20 A. Well I'm not clear on that because I can't see the
21 entire document.

22 MR. STEIN: Well please take up Exhibit 32.

23 THE COURT: I've got it?

24 A. I think this was prepared for presentation with
25 Attorney General Bill Lockyer.

26 Q. Then why did you testify yesterday that it was
27 prepared for presentation to GT Tribe as giving legal
28 advice to GT Tribe's counsel?

1 A. Well that was the initial -- initial presentation
2 for us to review it until it was presented to someone else.

3 Q. Didn't you first see this document when at a
4 meeting on April 6, 2004 in Sacramento with 20 people?

5 A. Did I first see it there?

6 Q. Yes.

7 A. In this final -- in in final presentation Al case
8 perhaps.

9 Q. So you first saw it in this meeting, why did you
10 say that it was legal advice to G --.

11 MS. IBARRA: Objection misstates her testimony.

12 THE COURT: Yes she said perhaps she doesn't know
13 maybe.

14 MS. IBARRA: In final form, she said perhaps in
15 final form.

16 Q. BY MR. STEIN: Was this document, Exhibit 32,
17 legal advice to GT Tribe?

18 A. What I remember is that the document took time to
19 prepare and there were different points that were going to
20 be presented and some of those points were discussed by the
21 tribal council with you, Mr. Stein, and I perceived it to
22 be legal advice.

23 Q. And did you say to your lawyer Rae Lamothe is he
24 right.

25 THE COURT: Was Lamothe present at that meeting.

26 Q. Wasn't Lamothe present at almost all tribal
27 meeting?

28 A. Just about all of them, yes.

1 Q. And especially in 2004?

2 A. She was at pretty much usually present.

3 Q. So did you say -- why did -- did you say to Rae
4 Lamothe is he right about that, to your tribal general
5 counsel?

6 A. I don't recall ever saying that to her.

7 Q. And why not?

8 A. Because of the trust that I had in your
9 explanations, Mr. Stein.

10 Q. Wasn't this letter part and parcel of the economic
11 investment tasks that SMDC had signed onto perform?

12 A. It was one of the, yes, tasks.

13 Q. And therefore, wasn't Mr. Stein's explanation of
14 this document part of performing his economic investment
15 tasks by reporting to the counsel and keeping you informed
16 of what he was doing?

17 A. It was part of that task, yes.

18 Q. Let's move did not -- and by the way before we
19 move on to the next item, if we can go to the last page --
20 I'm sorry not the last page of the exhibit, the
21 signature page of the exhibit. Wasn't this letter sent to
22 Attorney General Bill Lockyer on behalf of the tribal
23 council by the president of SMDC?

24 A. I believe so.

25 Q. And so it was SMDC doing an economic development
26 task on behalf of the Gabrielino-Tongva council sent to the
27 Attorney General?

28 A. Can I take a look at this again.

1 THE COURT: Sure?

2 A. I don't know that it was a letter sent to him, I
3 think it was something that was prepared and presented.

4 Q. At the Sacramento meeting?

5 A. At the meeting, uh-huh.

6 Q. In light of the points that we've gone over, do
7 you still feel Exhibit 32 is evidence that Mr. Stein gave
8 you legal advice as attorney for the GT Tribe?

9 A. Yes.

10 Q. Why?

11 A. Because the document that we're looking at
12 includes references, things of a legal nature and you Mr.
13 Stein were the one that gave us the information, the
14 explanation.

15 Q. Uh-huh and that's things of a legal nature, that's
16 language right out of the SMDC agreement; is that correct?

17 A. At this time I have never seen the SMDC agreement.

18 Q. But as you sit here today, it's language right out
19 of the SMDC agreement that we reviewed together this
20 morning?

21 A. It was what I saw today in review.

22 Q. Very good. You said that you testify -- did you
23 testify earlier that JAS wrote tribal council resolutions
24 and that's why you thought he was attorney for GT Tribe?

25 A. Yes.

26 Q. And did you ever see him write a tribal council
27 resolution?

28 A. No.

1 Q. And to your knowledge Rae Lamothe wrote tribal
2 council resolutions?

3 A. I believe that she did write some.

4 Q. So I can put some here, right?

5 A. Yes.

6 Q. Do you know if she wrote resolutions, September
7 them to Mr. Stein, he might have revised them to -- because
8 she forgot a point, and then sent them on to you for ease
9 rather than send them back to Rae Lamothe to send them to
10 you?

11 A. That's possible.

12 Q. So it's possible that the e-mails from Mr. Stein
13 that had resolutions, the resolutions were actually written
14 by Rae Lamothe and Mr. Stein was just checking that nothing
15 was forgotten?

16 A. I don't know that but it's possible.

17 Q. Okay. But you never saw him write it so you don't
18 know it's not correct; is that correct?

19 A. I never saw him write them.

20 Q. And is there any single resolution that you can
21 point to that you know Mr. Stein wrote?

22 A. When I came on to the tribal council, I realized
23 at some point that there were resolutions that were in
24 place before I came on and I knew that there was no other
25 general counsel because Rae Lamothe had just come on so I
26 believed that you being the lawyer had drawn up those
27 resolutions at least and they were of the same -- of the
28 ones that follow since they were in the same style and

1 form, it seemed to me that you were also developing those
2 resolutions.

3 Q. Could they have been written by Ed Hamburger?

4 A. I never met Ed Hamburger, I don't know -- I don't
5 know what he did, I don't know -- as far as I know --.

6 Q. He was tribal counsel before Rae Lamothe.

7 THE COURT: Was he the tribal counsel before Rae
8 Lamothe?

9 A. That's a question, I don't think so, I never
10 experienced any work by him or for him or with him.

11 MR. STEIN: And I'm not going to take time because
12 we're short of time, but the original resolutions were
13 written by say [TPARGT] Shaw, would that surprise you.

14 THE COURT: Well there's no -- were they written
15 by because there's no.

16 MS. IBARRA: Objection assumes facts not in
17 evidence.

18 THE COURT: There's no evidence that they were.

19 MR. STEIN: Forgive me.

20 Q. Would it surprise you if you found out that
21 Seyfarth Shaw that had written development agreement also
22 wrote the first resolutions approving the development
23 agreement?

24 THE COURT: Is there evidence in the record that
25 Seyfarth Shaw wrote this development agreement.

26 MS. IBARRA: Thus far, no.

27 MR. STEIN: Very good, very good.

28 THE COURT: If we're going to ask questions, we're

1 assuming facts, so.

2 Q. BY MR. STEIN: So you're saying the ones before
3 Rae Lamothe; is that correct, those are the only
4 resolutions that you have think Mr. Stein wrote for sure?

5 A. No. I think that even after Rae Lamothe came on
6 because the resolutions looked exactly the same, they were
7 written in the same form so my thinking was that you were
8 writing the ones that were also presented to us after I
9 came on the council.

10 Q. And you don't think that Rae Lamothe could have
11 copied that form, that it was only Mr. Stein that knew how
12 to write like that not Ms. Lamothe?

13 A. I think she could have copied the form.

14 Q. So Rae could have done that, right?

15 A. Yes.

16 Q. Exhibit 67, fiduciary duty reports, do you recall
17 that from yesterday?

18 A. Yes.

19 Q. Would it surprise you that Jim McShane wrote this.

20 MS. IBARRA: Facts -- objection facts not in
21 evidence.

22 THE COURT: Sustained.

23 MR. STEIN: Would like to identify to you, I won't
24 put it on the projector and I won't talk about it, an
25 e-mail from Jim McShane to Virginia Carmelo at Tongva
26 tribe, can you identify that e-mail please. And by the way
27 that's Exhibit 15 10 that we're identifying.

28 THE COURT: Is this a new one or is this --.

1 MR. STEIN: It's a new one that talked about this
2 morning Your Honor.

3 THE COURT: I have 508, 503, 15 10.

4 Q. BY MR. STEIN: Can you identify that e-mail?

5 A. Yes.

6 Q. Was it sent to you?

7 A. Yes.

8 Q. May we discuss 15 10 Your Honor.

9 THE COURT: Yes you may.

10 Q. BY MR. STEIN: In the e-mail it says -- let me
11 give this to you and pull up 15 10 very quickly, we're
12 trying to move as quickly as possible. In the e-mail right
13 around the middle doesn't Mr. McShane mention that he is
14 interviewing to talk to you about some of the next steps
15 tort gaming authority and council to consider in moving
16 forward in its plan to develop a casino, is that [PHA] the
17 e-mail say?

18 A. It [TUSZ] [-PBT] say interview, it says to talk
19 to.

20 Q. Right.

21 THE COURT: Jonathan invited me to attend your
22 meeting tonight to talk to you about some of the next steps
23 for the gaming authority and council.

24 MR. STEIN: Uh-huh.

25 THE COURT: Is that what it says?

26 A. Yes.

27 Q. BY MR. STEIN: And with your recollection thus
28 refreshed do you now recall that Exhibit 67 was written by

1 Jim McShane and presented as part of that meeting?

2 A. I never indicated to me that he wrote it and I
3 never assumed that he wrote it.

4 THE COURT: Counsel are you suggesting there's
5 something in here that says he wrote a document, counsel.

6 MR. STEIN: Yes.

7 THE COURT: Where in the document does it say
8 that.

9 MR. STEIN: It doesn't say it in the document.

10 THE COURT: Oh okay.

11 Q. BY MR. STEIN: Going through what the document
12 says though, the ultra [SREUR] he is acts.

13 THE COURT: We're looking at a different document
14 though aren't we.

15 MR. STEIN: No the fiduciary duty, I'm sorry yes
16 we want to go back to exhibit '67, the court is quite
17 right.

18 THE COURT: Okay exhibit.

19 THE CLERK: You may have it.

20 THE COURT: '67.

21 MR. STEIN: May I continue questioning.

22 THE COURT: No no no. We'll stop your time.

23 MR. STEIN: Very good.

24 THE COURT: Do you have an extra copy of that
25 somebody.

26 MS. IBARRA: The fiduciary duties report.

27 THE COURT: Yes.

28 MS. IBARRA: Yes.

1 THE COURT: Oh wait a minute, I have it.

2 MS. IBARRA: Yes it's here.

3 THE COURT: Okay continue. '67, fiduciary report.

4 MR. STEIN: Yes by the way Your Honor are these
5 witnesses that we're going to have.

6 AUDIENCE MEMBER: We're not witnesses.

7 MR. STEIN: Thanks very much.

8 Q. BY MR. STEIN: And Exhibit 67 let me put it back
9 on the screen now that you have it in front of you, do you
10 recall Mr. McShane in his meeting with you on September
11 19th discussing ultra vires?

12 A. Yes.

13 Q. Do you recall Mr. McShane in his meeting on the
14 19th discussing how you should avoid self dealing?

15 A. It's than he really discussed it, he kind of just
16 read it off.

17 Q. So -- and he read off the full outline?

18 A. Pretty much.

19 Q. And did he discuss some points or --?

20 A. Yes ultra vires, I remember a discussion about
21 that.

22 Q. So he discussed some points but not all?

23 A. Uh-huh. Yes.

24 Q. In light of your recollection and testimony h did
25 Mr. McShane write this I am [TPH*] preparation for his
26 meeting with you on September 19th?

27 A. I don't know that he wrote it, I was never
28 informed of that but I never thought that he wrote it.

1 Q. Then why did you think Mr. Stein wrote it, if he
2 discussed t if he used -- by the way Mr. Stein was not at
3 that meeting is that correct?

4 A. I think you were present, you may not have been in
5 the actual room.

6 Q. Right you were behind a closed door in the
7 conference room while Mr. Stein was in the out her office
8 is that correct?

9 A. I think that's correct.

10 Q. Okay. So you're alone with Mr. McShane behind a
11 closed door, he's discussing this, each part, why do you
12 think Mr. Stein wrote it?

13 A. Because it was at your request to prompt this
14 meeting and most of the time the [SKWR*EPBDZ] were
15 developed by you and it was not a meeting that I wanted to
16 attend and so -- but per the e-mail it seemed to me that
17 you were also promoting this meeting and in that case
18 following through with previous behavior of forming the
19 [SKWR*EPBDZ] you would have formed this report also.

20 Q. And you --.

21 THE COURT: When you say e-mail what usurp [H*]
22 are you referring to?

23 A. This e-mail that we're [HAOB] agent right near.

24 THE COURT: 19 you're hold [TPH-G] your hand that
25 says 15 10, Exhibit 15 10?

26 A. Yes.

27 THE COURT: All right.

28 Q. BY MR. STEIN: And didn't you higher the same Jim

1 McShane of Sheppard Mullin to sue Mr. Stein 10 days after
2 this meeting?

3 A. We did higher Mr. McShane later --.

4 Q. 10 days later, September 29th?

5 A. Around that time. At that point we were not in
6 the -- we were not thinking too sue on September 29th.

7 Q. But you hired him 10 days later based on this
8 meeting where he went through all of these topics?

9 A. We did not hire him based on this meeting. We
10 went to confer with -- at that office and --.

11 Q. And so you --.

12 THE COURT: Wait I want to -- you went to confer
13 as who's office?

14 A. At Mr. [SHA*EUPBZ] office about what her process
15 respects were looking like.

16 THE COURT: What do you mean our process respects
17 were looking like.

18 A. Our prospects because we basically were in limbo,
19 we had no office, we had no -- there was a lot of things
20 that were thrown up in the air, Liz Aronson our general
21 counsel was on board, off board, fired, you know you it was
22 just a crazy time so we decided to go confer with Mr. Jim
23 McShane which we did and we didn't hire him we needed to
24 see what we were doing with our funding exam one of the
25 things he advised us to do was to officially send a letter
26 of -- cease and desist.

27 THE COURT: To?

28 A. To Mr. Stein, to do that officially and that's

1 what --.

2 THE COURT: Cease and desist what?

3 A. Any -- anything on behalf of the tribe based on --
4 based on his quitting on September 9th.

5 Q. BY MR. STEIN: I would like to show you
6 Plaintiff's Exhibit 6 zero, if you can look in the book or
7 have a copy here.

8 THE COURT: There's one here.

9 MR. FORDYCE: That's not been previously
10 identified.

11 MS. IBARRA: Yeah this is new.

12 THE COURT: Okay well let's see what it is first.
13 Is there an objection to it, if not --.

14 MS. IBARRA: No, no objection.

15 THE COURT: Okay.

16 MR. STEIN: And if there's no objection can I put
17 it up on the screen, I don't want to presume.

18 THE COURT: Well there's no objection.

19 MS. IBARRA: There's no objection.

20 MR. STEIN: Okay.

21 THE COURT: This is 60 is that what you said.

22 MR. STEIN: Yes.

23 MS. IBARRA: Yes.

24 Q. BY MR. STEIN: Do you recall Exhibit 60?

25 A. Can I look at this?

26 Q. Yes please. And please note it's unsigned.

27 THE COURT: This is your last area of inquiry
28 here.

1 MR. STEIN: I had one more after this if the court
2 had time.

3 THE COURT: What is it that you had time.

4 MR. STEIN: It was a Libra agreement and budget
5 showing there was an Indian expert.

6 THE COURT: All right Five minute more.

7 MR. STEIN: Very good.

8 Q. Do you recognize this?

9 A. Okay he is yes.

10 Q. And was this Mr. Stein's proposal on September
11 13th to have you fire Elizabeth Aronson?

12 A. I recall that you proposed that Mr. Stein even
13 before the 13th, I think before the ninth because that's --
14 that was part of the dispute.

15 Q. I see. And can you go to the last page?

16 A. Okay.

17 Q. Does it show a place to be signed and approved by
18 you and the other tribal council people?

19 A. Yes it shows a place.

20 Q. So was it your understanding that Mr. Stein did
21 not feel that he could fire Liz Aronson, on the tribal
22 council could?

23 A. Well I don't know what Mr. Stein felt but what I
24 do know is that he did tell her that she was fired and that
25 the tribal council did not agree.

26 Q. And Mr. Stein then sought your approval for her to
27 be fired is that correct?

28 A. That's correct.

1 Q. Let's go.

2 THE COURT: So the firing occurred first and then
3 the letter or did the letter come first and then the
4 firing?

5 A. This letter, this came after.

6 THE COURT: After she was fired?

7 A. After she was fired.

8 THE COURT: By you --?

9 A. By Mr. Stein, we never fired her. The tribal
10 council never fired Liz Aronson.

11 THE COURT: So this letter, was it ever signed or
12 was it just presented for signature?

13 A. It was never signed, we never fired her.

14 THE COURT: Oh okay?

15 A. Yeah.

16 Q. BY MR. STEIN: Okay. Turning to the Libra
17 agreement, I'd like to talk to you about Exhibit 4 which is
18 on page, it doesn't have a page number, it's the 83rd
19 page.

20 THE CLERK: Exhibit 4?

21 MR. STEIN: Exhibit 4 of the Libra agreement.

22 MS. IBARRA: It has no Bates number on it.

23 MR. STEIN: The Libra agreement is 644 and this is
24 Exhibit 4 of the agreement, it's 83rd out of 93 pages, so
25 it's all the way in the back.

26 THE COURT: Ms. Ibarra, please don't interrupt.

27 MS. IBARRA: I didn't --.

28 THE COURT: I didn't get to hear what's being

1 said. Counsel, it's exhibit?

2 MR. STEIN: It's 644.

3 THE COURT: Yes.

4 MR. STEIN: And it's Page 84 actually is the best
5 page out of 93. So out of 93 it's 10 pages from the back.

6 THE COURT: Including the exhibits.

7 MR. STEIN: Yep.

8 THE COURT: Which one is it, '96. Let me see if I
9 can find it and then I'll show it to you. Oh here it is.

10 MR. STEIN: You're very kind Your Honor.

11 THE COURT: All right. Ma'am why don't you just
12 take a look at this?

13 A. Okay.

14 THE COURT: Move that over here?

15 A. Like this.

16 THE COURT: Yes?

17 A. Okay.

18 THE COURT: And look at this right here. I think
19 we talked about this one already but -- resolution '96.

20 MR. STEIN: We have not Your Honor.

21 THE COURT: Or maybe not with this witness, sound
22 familiar. Of course we've talked about so many
23 resolutions.

24 MR. STEIN: Yeah there was another one but not
25 '96.

26 THE COURT: Okay.

27 Q. BY MR. STEIN: Is that your signature on
28 resolution '96?

1 A. Yes.

2 Q. And is this the resolution that approved the Libra
3 agreement?

4 A. Yes.

5 Q. Okay. Can we go to the very bottom of the first
6 page and read the last whereas clause on it (Indicating.)?

7 A. The very last one, whereas, on May 6, May 10th and
8 May 13th and May 20th, 2006, in lengthy meetings, the
9 tribal council has had the opportunity to review, discuss
10 and consider Exhibit A with outside counsel Marilyn
11 Barrett, tribal general counsel Rae Lamothe and assistant
12 tribal general counsel Elizabeth Aronson and obtained their
13 advice.

14 Q. And was it your understanding that the tribe had
15 three attorneys, Marilyn Barrett, Rae Lamothe and Liz
16 Aronson to discuss the Libra agreement with?

17 A. The discussion for myself was mainly with Marilyn
18 Barrett and the tribal council.

19 Q. Could you have --?

20 A. Ms. Aronson wasn't there yet. I don't think she
21 was there yet, it says she was but I don't remember her
22 being there.

23 Q. Did you obtain advice from one or more of Marilyn
24 Barrett, Rae Lamothe or Elizabeth Aronson?

25 A. Definitely we did get advice from Marilyn Barrett
26 regarding the Libra agreement.

27 THE COURT: Counsel you're out of time now.

28 MR. STEIN: And then one other whereas [KHRAUD].

1 THE COURT: No. No no no, no more we're going
2 onto redirect.

3 MR. STEIN: Very good.

4 THE COURT: If you have any.

5 MS. IBARRA: Yes, I do [STAOUL] [HAOE].

6 THE COURT: All right.

7 MS. IBARRA: I'll do it from here.

8 THE COURT: By the way Mr. Stein that was actually
9 a little over time.

10 MR. STEIN: Oh the [courts|court's] been quite
11 generous (Ditto).

12 MS. IBARRA: I'll do it from here because I can
13 read my notes. Sorry.

14 Q. BY MS. IBARRA: Ms. Carmelo, when -- did Mr. Stein
15 ever tell you to not rely on his vice and to rely solely on
16 Ms. Rae Lamothe for legal advice?

17 A. No.

18 Q. Did he ever tell you I am only providing you
19 advice on behalf of SMDC, I'm not providing you advice as a
20 lawyer even though I'm -- you know I went to Harvard and I
21 went to pen.

22 MR. STEIN: Objection leading.

23 MS. IBARRA: And I have all this qualification.

24 THE COURT: Overruled.

25 MS. IBARRA: Did he ever say that?

26 A. No I never said that.

27 Q. Did you have any reason to believe that Mr. Stein
28 knew that you relied on his legal advice.

1 THE COURT: Could you repeat your question.

2 MS. IBARRA: Ms. [REDACTED]-er can you read the
3 question back please.

4 THE COURT: Yes.

5 (Record read.)?

6 A. Yes. The reason -- I do have reasons I believe at
7 the time that we were relying on his advice.

8 Q. That he knew that you were relying on his advice?

9 A. Well-being that he was the only lawyer initially,
10 yes he would -- why would we rely on anyone else's legal
11 advice, he was the only lawyer at issue when I came on.

12 Q. So you came on before Ms. Rae Lamothe came on?

13 A. Yes.

14 Q. So you referred to her -- you referred to Ms. Rae
15 Lamothe as being secondary to Mr. Stein?

16 A. Yes.

17 Q. Can you give me a reason as to why you referred to
18 her as secondary?

19 A. Well because all the directives were from Mr.
20 Stein and that's just the way it played out.

21 Q. Did you ever see Ms. Rae Lamothe -- did you ever
22 see Mr. Stein defer to Mrs. Lamothe's opinion on
23 anything?

24 A. I don't recall ever seeing that, no.

25 Q. Did she ever give you any advice that contradicted
26 Mr. Stein?

27 A. No.

28 Q. So you also testified about Mr. Crane?

1 A. Yes.

2 Q. And you said you didn't get any reports from Mr.
3 Crane?

4 A. Right.

5 Q. So you got in written reports and he never came to
6 a tribal council is that correct?

7 A. Correct.

8 Q. Did Mr. Stein ever report to you on behalf of Mr.
9 Crane?

10 A. We did get reports but it was more of a plan, you
11 know we're going to do this, we're going to do that but not
12 a report of actions actually taken.

13 Q. .

14 THE COURT: Can I ask you a question, did you ever
15 get any bills from Crane, in other words did he ever send
16 you every month this is my bill for what we've done or?

17 A. No. No. To my -- at my -- at that time I always
18 thought that well this is the plan so at some point
19 something will start to happen so you know there was, no,
20 no bill, no reports.

21 Q. BY MS. IBARRA: Did Mr. Stein ever tell you that
22 he received bills or invoices from Mr. Crane?

23 A. No.

24 Q. So you've testified a lot about various instances
25 where you felt Mr. Stein was offering you legal advice.
26 Did you feel like he was volunteering it?

27 A. Yes.

28 Q. Did you ever he volunteered legal advice did you

1 ever see Mr. Stein, we have our own lawyer we don't need
2 lice?

3 A. No.

4 Q. Did you ever see something like that?

5 A. No.

6 Q. Did you ever say we're not going to take your
7 advice, we're only going to accept advice from Rae?

8 A. No.

9 Q. Nothing like that?

10 A. No.

11 Q. So one of the questions that he asked of you if I
12 understand it correctly was that he asked if it was
13 easier -- since Mr. Stein was forwarding or forwarding or
14 spending money on the tribe if it was cheaper for him to
15 provide legal services instead of hiring a lawyer, is
16 that -- was that an accurate -- was that accurate of your
17 understanding of the situation?

18 A. Yes.

19 MR. STEIN: Objection.

20 MR. FORDYCE: Calls for speculation.

21 MR. STEIN: That's -- that's not what was said.

22 MR. FORDYCE: And misstates testimony.

23 MR. STEIN: His legal services for SMDC instead of
24 hiring a lawyer for SMDC. She's twisting it around to
25 get --

26 THE COURT: Maybe, to maybe we should clarify
27 that.

28 MS. IBARRA: Okay so when Mr. Stein was providing

1 legal advice on behalf of SMDC did he ever say I'm giving
2 you legal advice only for SMDC, the legal advice I'm giving
3 you have is not for you, is not for the tribe?

4 A. No.

5 Q. So when he offered legal advice you assumed it was
6 for you.

7 MR. STEIN: Objection leading.

8 THE COURT: Sustained.

9 Q. BY MS. IBARRA: Did he ever offer legal advice
10 that was intended for SMDC.

11 MR. FORDYCE: Calls for speculation.

12 MR. STEIN: Calls.

13 THE COURT: Overruled.

14 MR. STEIN: Speculation [HRAT], forgive me my
15 apologize.

16 MS. IBARRA: Get me lay a foundation who's SMDC?

17 A. Jonathan Stein's company.

18 Q. So would Stein ever offer you legal advice that
19 was intended for his own company?

20 A. That would seem rare, no I don't think he would.

21 Q. It wasn't your understanding that that's what was
22 going on?

23 A. No, and it wasn't -- and SMDC was like that arm
24 but it wasn't the tribe and that was our arm. So anything
25 pertaining to SMDC at times was just not that important to
26 me as a councilmember.

27 Q. All right. So the tribe wasn't paying Ms. Rae
28 Lamothe, right, to your knowledge?

1 A. No.

2 Q. Was Mr. Stein?

3 MR. STEIN: Objection facts not in evidence.

4 THE COURT: Overruled.

5 MR. STEIN: She was paid.

6 THE COURT: Overruled your statement is not
7 evidence.

8 MS. IBARRA: Was she.

9 THE COURT: Now when had you testify if you have
10 personal knowledge of that you can testify to it.

11 Q. BY MS. IBARRA: Do you have -- do you recall what
12 her arrangements was if she wasn't being paid?

13 A. Yeah it was pretty similar to all the other
14 arrangements when and if either investor funds or a casino
15 being up and running, then payment would be made.

16 Q. So it was pretty speculative whether she would
17 ever get paid?

18 A. Yes.

19 Q. So it was basically whatever time she had
20 available but you -- did you feel like you could make
21 demands on her time if it was --?

22 A. No.

23 Q. No?

24 A. Huh-uh.

25 Q. And to your knowledge, did she ever get paid?

26 A. She did get paid from the investor funds when they
27 came in.

28 Q. So we referred to resolutions that were drafted by

1 Mr. Stein H do you recall the resolution --.

2 MR. STEIN: Objection facts not in evidence.

3 MS. IBARRA: Okay.

4 THE COURT: Sustained. I mean there were some
5 that she said were, there were some that weren't so --.

6 MS. IBARRA: Okay so strike that.

7 Q. Do you recall who drafted the resolution to
8 terminate Mrs. Liz Aronson?

9 A. Mr. Stein.

10 Q. Would anybody else have drafted that resolution?

11 A. No.

12 Q. And did you ever sign --.

13 MR. STEIN: Objection it's not a resolution, the
14 exhibit is being mischaracterized.

15 THE COURT: Maybe but it looked like it was a
16 letter or something.

17 MS. IBARRA: Well let's look at the letter which
18 is Exhibit 61 -- oh Exhibit 60 is the letter. So Exhibit
19 60 which is the document that you were looking at before?

20 A. Okay.

21 Q. This was drafted by whom?

22 A. By Mr. Stein.

23 THE COURT: Are you keeping time Nelli.

24 THE CLERK: Yes Your Honor.

25 MR. STEIN: Objection speculation.

26 THE COURT: Overruled.

27 Q. BY MS. IBARRA: Can you look at the heading in the
28 middle of the page, there's no number before it?

1 A. Incompetent legal work.

2 Q. Yes.

3 A. And can you read the following paragraph?

4 A. The following paragraph?

5 Q. Yeah the paragraph right after that heading?

6 A. Your work has been characterized by a large
7 number -- by a large number of mistakes, you have failed to
8 do assignments that were given to you and the ones which
9 you executed were completely improperly -- were completed
10 improperly in most cases.

11 Q. Okay. Do you think he's calling Ms. Aronson
12 incompetent?

13 A. Yes.

14 Q. Do you think he's calling her a bad lawyer?

15 A. Yes.

16 Q. Okay. Let's look at some of the specific items in
17 here. Number one Dunlap versus Morales settlement. Is
18 that what we've been calling the Morales litigation?

19 A. No.

20 Q. It's not?

21 A. No. Although it is the same, it is the same. I
22 think at some point Sam Dunlap was separate in that
23 litigation and then I think later it was -- we were all
24 represented by Rae Lamothe.

25 MS. IBARRA: Okay and at this point which would
26 have been 2006?

27 A. Uh-huh.

28 Q. When Ms. Rae Lamothe isn't here, it's just Ms. Liz

1 Aronson who would have represented you?

2 A. Oh. Liz Aronson.

3 Q. Okay. So Item No. 1 tells her -- what is Mr.
4 Stein claiming that Ms. Aronson failed to do?

5 A. That she failed to draft a release of claims
6 against Sam Dunlap's bankruptcy or ask for it as part of
7 the settlement papers, I had to do so. You failed to
8 originate or properly complete forms necessary to release
9 judgment liens, I had to do so. You failed to properly
10 serve and file documents in a timely manner, no
11 instructions were left for Barbara and I had to get
12 involved again.

13 Q. So does this indicate to you that Mr. Stein was
14 doing some legal work on behalf of -- well Dunlap and
15 Morales were all of you guys, right?

16 A. Yes.

17 Q. The title of it was Dunlap because he was the
18 first named plaintiff?

19 A. That could be. That could be. I think -- like I
20 said I think I recall Dunlap was separate initially and
21 came on together.

22 Q. So look at Item No. 2 is tribal notebooks?

23 A. Okay.

24 Q. Do you know what that refers to, are the tribal
25 council tribal notebooks **[-FRPL]** the tribal notebooks --.

26 Q. Skip that?

27 A. Yeah.

28 Q. Did to Number 4?

1 A. Okay.

2 Q. The Lamothe resignation?

3 A. Okay.

4 Q. Can you read that out loud please?

5 A. The failed to complete the settlement and
6 termination great for dormer tribal council Rae Lamothe
7 your draft was completed op after two months and was
8 inappropriate to the deal, it also gratuitously awarded
9 Ms. Lamothe an amount of \$10,000 more of payments
10 instructed to the prejudice of the tribes investors and the
11 tribe.

12 Q. Okay. Does that indicate to you that it's legal
13 work, that Mr. Stein was supervising legal work?

14 A. Yeah.

15 MR. STEIN: Objection there's no facts in evidence
16 of this.

17 THE COURT: Well no, overruled this is her belief
18 I guess.

19 MS. IBARRA: Number 5 is the Marilyn Barrett
20 mediation.

21 A. Okay.

22 Q. Can you read it out loud please?

23 A. You pushed for a result and scheduled a mediation
24 with Ms. Barrett at Maguire Woods when the settlement will
25 be less if we wait. You were informed that as Mr. Stein
26 has surmised with Ms. Barrett initially demanded \$210,000
27 and Ms. Barrett was leaving Maguire Woods. Mr. Stein had
28 specifically strategized that should this prove to be the

1 case, our settlement amount would drop as much as -- by as
2 much as \$75,000 if we delayed and allowed the claim to get
3 stale. This is exactly what has occurred as Ms. Barrett
4 was now with Jeffer, Mangels, Butler, and Marmaro and she
5 has obviously settled her finances with Maguire Woods.

6 Q. Go on.

7 A. Nonetheless you sought an early mediation date,
8 you failed to inform Mr. Stein that Ms. Barrett switched to
9 a new firm and he only found out by accident over a week
10 ago after you were informed.

11 Q. So does it seemed to you that he's complaining
12 that he wasn't -- that his direction wasn't taken about
13 settlement and mediation in the dispute with Ms. Marilyn
14 Barrett, is that how you --?

15 A. Yes.

16 Q. Number 6, what is this?

17 A. Number 6?

18 Q. Yeah.

19 A. Hollywood park litigation, beginning unauthorized
20 settlement discussions with the State of California.

21 Q. Can you read that?

22 A. The Hollywood park litigation cannot be settled
23 without allowing to stand exclusive -- allowing to stand
24 exclusivity clauses that may be a large financial penalty
25 on the State of California for entering into a compact with
26 the Gabrielino tribe. No settlement is possible after a
27 vote in November on new bonds that would offer the same
28 transportation projects as our authorized by the bonds

1 begin -- begin contested in the litigation. Nonetheless
2 you embarked upon settlement discussions with the State of
3 California in a manner that highly embarrassed the tribe in
4 front of other litigants who are doing the majority of the
5 work to protect the tribe's interest at no expense to the
6 tribe or its investors.

7 THE COURT: Counsel, 15 minutes have gone by. How
8 much more do you have on redirect?

9 MS. IBARRA: Just Five more questions, just
10 another question I just want to finish, there's just a lot
11 of stuff here. So there's more stuff here, Ms. Carmelo?

12 A. Yes.

13 Q. Do you think that he's complaining that she's
14 usurping some of his authority as a lawyer?

15 A. Yes.

16 MR. STEIN: Objection facts not in evidence.

17 THE COURT: Well but it's leading.

18 MR. STEIN: And it's also leading, objection
19 leading.

20 MS. IBARRA: Okay how about -- can you go to --
21 it's going to be Page 6 of this document if you look at the
22 top?

23 A. Okay.

24 Q. And does he accuse her of conflicts of interest?

25 A. At the top, oh yes.

26 Q. Number 15, 16, 17?

27 A. Yes, conflict of interest.

28 Q. Down if Mr. Stein ever did that, advise you about

1 his own employment or his own -- his own relationship,
2 professional relationship with the tribe, contractual
3 relationship with the tribe?

4 A. Yes he did.

5 Q. Oh 17, can you read that?

6 A. Uh-huh. Advice on CEO Jonathan Stein, you failed
7 to advise the tribal council or Mr. Stein of your conflict
8 of interest in advising Mr. Stein's continued relationship
9 with the tribe or the adverse effects if he left. Because
10 of your fiduciary duty to the CEO as you do to the tribal
11 council this conflict was he especially made more acute by
12 your advice that Mr. Stein should be terminated instead of
13 yourself.

14 Q. So he's complaining that she's giving advice
15 adverse to him and that's a reason for terminating her?

16 A. Yes.

17 Q. Okay. I'm finished with this document. So we
18 looked at '67 which is the fiduciary duties report?

19 A. Yes.

20 Q. And this you said was -- you think was pre [PAERD]
21 by Mr. Stein?

22 A. I think so.

23 Q. Exam there as [coy|could I] contention that it
24 might have been prepared by Mr. McShane?

25 A. Yes.

26 Q. After you engaged Mr. McShane did he ever put
27 anything in the Gabrielino-Tongva Tribe letterhead?

28 A. No.

1 Q. Would he have access to the Gabrielino-Tongva
2 Tribe letterhead before his honor his engagement?

3 A. No.

4 THE COURT: Remind me McShane.

5 MR. STEIN: Sheppard Mullin fiduciary report,
6 September 19.

7 THE COURT: Is he going to testify or on behalf of
8 either side.

9 MS. IBARRA: Up until this time we hadn't planned
10 on having him, he was on the -- yeah no we hadn't.

11 THE COURT: Are you calling him.

12 MR. STEIN: There's no reason for me to call him,
13 Your Honor.

14 THE COURT: And what about.

15 MS. IBARRA: Say [TPARGT] Shaw.

16 THE COURT: Say [TPARGT] Shaw, McShane, this other
17 gallon, Rae Lamothe.

18 MR. STEIN: Rae Lamothe will be testifying for our
19 side Your Honor at length.

20 THE COURT: All right.

21 MS. IBARRA: And we're hoping to have Ms. Liz
22 Aronson tomorrow.

23 THE COURT: Yeah I know you told me that, I was
24 just wondering where some of these other people were.

25 MR. STEIN: And we'll also be producing Ken Sulzer
26 if it turns out to be necessary.

27 MS. IBARRA: Okay I'm finish with the redirect.

28 MR. STEIN: Recross Your Honor.

1 THE COURT: No she's been on the stand all day h
2 yet and today, thank you ma'am you may step down, call your
3 next witness.

4 MS. IBARRA: Mr. Richard Polanco [STHAOEUFPLT]
5 what is your time estimate.

6 MS. IBARRA: Nor for Mr. Polanco, probably less
7 than an hour.

8 THE COURT: Okay Mr. Polanco come forward, I think
9 you've already testified so you don't need to be re sworn.
10 [TKOUPDZ] you're still under oath?

11 A. Yes I do.

12 THE COURT: All right thank you. Plaintiff you
13 may begin.

14 MS. IBARRA: Thank you.

15 MR. STEIN: Your Honor will it disturb anybody if
16 I run the printer.

17 THE COURT: No.

18 MR. STEIN: Very little.

19 Q. BY MS. IBARRA: Mr. Polanco you testified before
20 that you were engaged with the Gabrielino-Tongva Tribe on
21 what date?

22 A. That's correct.

23 Q. On what date, approximately?

24 A. I believe 2004 and -- I believe 2004.

25 Q. 2004. I'm going to ask you to look in the binders
26 behind you at exhibit 25, you know the blue binders or the
27 colored binders.

28 THE COURT: Could you repeat your exhibit again

1 counsel.

2 MS. IBARRA: Oh so exhibit 25 in the colored
3 binders, in the Plaintiffs binders.

4 THE COURT: Let's see if I can find it.

5 MS. IBARRA: And we're going to stay with this
6 binder a little bit.

7 THE COURT: Okay thank you.

8 MS. IBARRA: This has not been introduced before
9 so I'll ask the witness if he can recall what this is.

10 (Pause in proceedings.).

11 THE COURT: So you were asking about exhibit 25.

12 MS. IBARRA: Exhibit 25, Mr. Polanco do you know
13 what this is.

14 A. Yes this is a consulting agreement.

15 Q. Can you tell me more about it?

16 A. Oh yes it's a consulting agreement between SS
17 consultant and Gabrielino-Tongva Tribe.

18 Q. Who's press he is?

19 A. Tres Es is an LLC that my wife and I are partners
20 in.

21 Q. So was this consulting agreement for your
22 services?

23 A. Yes, strictly for my services.

24 Q. Even though the company is jointly owned, the
25 services would be for you?

26 A. The company is 100 percent on the other hand by
27 Olivia Pena Polanco, who is my wife, and I perform
28 consulting and lobbying services for that entity.

1 Q. And this is the agreement between your -- for your
2 services with the tribe?

3 A. That is correct.

4 Q. And how did you -- to so this initiates your
5 relationship with the tribe?

6 A. My relationship began with telephone conversation
7 with Mr. Stein followed up with a meeting at the Pacific
8 Dining Car with Mr. Stein. The conversation led to an
9 agreement, the agreement came from Mr. Stein to me, we
10 negotiated some terms and I no other contact with any other
11 lawyer and/or tribal council member pertaining to this
12 particular agreement.

13 Q. When did he present you with a contract or the
14 agreements?

15 A. It would be I believe in March of 2004, if I'm not
16 mistaken.

17 Q. Okay. So did you give him -- did you say that you
18 gave him notes about the agreement after you reviewed it?

19 A. It was -- you know it's been sometime, I believe
20 we went back and forth through telephone conversations, I
21 requested that the percentage be increased, the incentive
22 and I believe it was accommodated and the agreement was
23 executed.

24 Q. Okay. And did you have a belief that Mr. Stein
25 had drafted this?

26 A. I have the belief that he did draft it, I had no
27 conversation or contact.

28 MR. STEIN: Objection as no -- forgive me?

1 A. I had no conversation or contact with share man of
2 the council or any member of the council, I had no contact
3 with Rae Lamothe who I understand may have been legal
4 general counsel for the tribe and/or any other lawyer
5 pertaining to the negotiations that Jonathan Stein and I
6 had.

7 Q. And there was never a representation made to you
8 that some other lawyer needed to review it or to draft it
9 or to circulate a draft or something like that?

10 A. No.

11 Q. Okay. So let's look at Exhibit 32 which has
12 been -- is in evidence. Are you familiar with this
13 exhibit?

14 A. I'm familiar with the exhibit, yes.

15 Q. When you were engaged during the time this memo or
16 letter was drafted, did you already have an affiliation
17 with the tribe?

18 A. I believe when -- prior to the Tres Es agreement,
19 Jonathan, the very first conversations we had was with
20 Richard -- or excuse me, RGP Polanco and associates that
21 was terminated as a result of activity that both myself and
22 two other lobbyists felt were inappropriately being
23 conducted by Mr. Stein in his contacting elected officials
24 in Sacramento and having conversation regarding political
25 contributions and public policy and so --.

26 Q. And why is that -- why was that bad?

27 A. It was bad because one, it is clear in statute
28 that you condition have discussion about advancing public

1 policy in exchange for political contributions.

2 Q. Oh so that's statute Lee prohibited?

3 A. I believe it was statute Lee prohibited, there
4 have been individuals and most recent pay to play as they
5 refer to it in some of the recent cases, the Calderon case
6 being one of them that very widely covered.

7 MR. STEIN: Objection not in evidence.

8 THE COURT: No overruled I think you're try to
9 explain the pay zero play concept?

10 A. That is correct Your Honor.

11 MS. IBARRA: But that is.

12 THE COURT: So --.

13 MS. IBARRA: Go ahead.

14 THE COURT: Go ahead, finish explain?

15 A. So it was a conversation where you go into a
16 members office, you either have conversation with the
17 member and/or staff, you talk about policy, I'm interested
18 in advancing this, oh and then in the same instance and
19 moment, you talk about political contributions to that
20 individual.

21 Q. But you're referencing the Calderon matter which
22 is there are more serious allegations in that than that in
23 that matter?

24 A. That's correct the Calderon matter was very --

25 Q. So let's keep that separate because you're not
26 ago-g that that occurred here?

27 A. No nowhere near the Calderon matter.

28 Q. So let's not reference that just not to confuse

1 things. But you make reference to those rules because you
2 had a prior engagement with the tribe?

3 A. That's correct.

4 Q. And so what were the dates of that prior
5 engagement?

6 A. I think it was 2004, the year 2004, I can't
7 pinpoint exactly when.

8 Q. Because I'm asking you for purposes of this memo
9 or this letter, correspondence, it appears to be a
10 correspondence, so were you engaged with the tribe at this
11 point?

12 A. I was engaged with the tribe at this point. I see
13 that the letter is regarding a meeting with Mr. Lockyer. I
14 don't recall participating in a meeting. It would not be
15 unusual for Mr. Stein to conduct meetings independent of my
16 presence and/or other lobbyists that were hired.

17 Q. So you weren't invited to that meeting?

18 A. I don't recall being invited or attending the meet
19 [STKPWHR-G] when did you -- oh 2004. So we just went
20 through your consulting agreement with Tres Es?

21 A. That's correct.

22 Q. And that's March 1, 2004, right? You just
23 testified about it, you recognize that? It's exhibit 25?

24 A. Uh-huh I believe the date is --.

25 Q. It says in the front first page?

26 A. Yes 2004, that is correct.

27 Q. So that would comport with your recollection?

28 A. Yes then it would coincide with my recollection.

1 Q. And the exhibit 32 is dated --.

2 THE COURT: Wait a minute has that been referred
3 to yet.

4 MS. IBARRA: Yeah we were just talking about it.

5 THE COURT: Okay thank you.

6 MS. IBARRA: And he just specifically talked about
7 how you recalled it.

8 Q. So that's April 6, 2004, so this is during the
9 second -- your second engagement?

10 A. That's correct.

11 Q. And you weren't invite today this.

12 THE COURT: When you say this be clear though.

13 MS. IBARRA: Sorry.

14 Q. BY MS. IBARRA: So what is your understanding of
15 what Exhibit 32 is because there's been contentions about
16 that?

17 A. My understanding it's a meeting with Mr. Lockyer
18 April 6, 2004.

19 Q. Oh well is it a document though.

20 MR. STEIN: Objection speculation.

21 MS. IBARRA: With.

22 THE COURT: Hold on.

23 MS. IBARRA: Sorry.

24 THE COURT: What is your.

25 MR. STEIN: Objection speculation eyes just spent
26 five minutes telling them that he had nothing to do with
27 the meeting and now she's asking him questions about the
28 meeting and he spent the last 10 minutes saying had he had

1 nothing to do with this.

2 THE COURT: Let's go back, has he seen this letter
3 before.

4 MS. IBARRA: Yes.

5 THE COURT: Or what were you doing at the time,
6 before we jump to a meeting.

7 MS. IBARRA: Yes.

8 THE COURT: Okay.

9 MS. IBARRA: Well I think we covered that before.

10 Q. BY MS. IBARRA: But Mr. Polanco are you familiar
11 with this document?

12 A. Yes, I am.

13 Q. And I want to ask you when you became familiar
14 with it?

15 A. During the proceedings in these litigations.

16 Q. So before the litigation you didn't have --

17 A. No knowledge that this existed.

18 Q. Did you have a- any knowledge that there was a
19 meeting with Bill Lockyer.

20 MR. STEIN: Objection speculation.

21 THE COURT: Overruled.

22 MR. STEIN: He -- forgive me Your Honor, he said
23 specifically he had nothing to do with the meeting but he's
24 been in litigation and learned about the meeting through
25 litigation.

26 MS. IBARRA: Learned about the document?

27 A. About the documents through the litigation
28 process.

1 Q. But you were engaged as a construction [TAOPBT] in
2 Sacramento -- consultant and lobbyist in Sacramento?

3 A. Yes.

4 Q. So were you in that capacity kept appraised of
5 activities that the tribe was [TKPWA*EPBLG]-g in in
6 Sacramento?

7 A. I was -- I was a lobbyist for the tribe, Jonathan
8 Stein was having meetings independent of myself and the
9 other lobbyists. We became very concerned and so this
10 could be a meeting that did in fact happen without my
11 presence and participation or knowledge that it took place
12 until after this document surfaced so there were meetings
13 taking place without my -- my knowledge or being part of.

14 MR. FORDYCE: Move to strike Your Honor he's just
15 testified that he's got no idea whether this took place or
16 not and he wasn't there and he just did.

17 THE COURT: Sustained had he says he doesn't know
18 whether the meeting took place so I will accept that as I
19 don't know whether the meeting took place.

20 MS. IBARRA: Oh that's not the testimony that I
21 heard?

22 A. Your Honor.

23 Q. BY MS. IBARRA: Is that the testimony -- what is
24 your testimony h did you know about this meeting or not?

25 A. I ended up knowing about the meeting, when it was
26 scheduled and by whom, that I don't know. Did a meeting
27 take place, yes. When did I know about the meeting was
28 after they had met.

1 Q. Did you learn about it before this litigation?

2 A. Did I learn about that meeting before the
3 litigation? I don't recall if I did.

4 Q. Okay. Let me ask you about Exhibit 64 four which
5 is the Libra investor agreement?

6 A. Which binder.

7 Q. It's the white binder it's going to be -- I
8 believe it's voluntary one of the white binders or
9 voluntary two, the Libra investment agreement?

10 A. 644.

11 Q. 644 is going to be the Libra investor agreement?

12 A. Yes.

13 Q. And I'm going to -- do you have it? I'm going to
14 ask you to look at Exhibit 2 in the Libra investor --
15 Exhibit B in the Libra investment agreement.

16 MR. STEIN: What page would that be.

17 MS. IBARRA: It starts at '09 00 is the Bates
18 number at the bottom.

19 MR. STEIN: I don't see any Bates number at the
20 bottom.

21 THE COURT: Let's go -- which exhibit are you
22 referring to.

23 MS. IBARRA: 644.

24 THE COURT: I'll still in your binder, plaintiff.

25 MS. IBARRA: Oh the copy that you gave us has
26 Bates numbers.

27 THE COURT: I can't manage it. So what --?

28 A. It's the white binder Your Honor.

1 THE COURT: It's 644?

2 A. Yes.

3 THE COURT: Okay 644 what page are you looking at.

4 MS. IBARRA: We're looking fifth Bates number zero
5 '90 zero at the bottom which is Exhibit B.

6 THE COURT: Okay yes I see. Mine has those
7 numbers on it so?

8 A. Zero '90 zero.

9 MS. IBARRA: At the bottom.

10 THE COURT: Why don't you come up and show him.

11 MS. IBARRA: Yeah.

12 THE COURT: Senate bill 145 is where it starts, it
13 at the very bottom corner zero 901.

14 MS. IBARRA: There you go?

15 A. I got it.

16 Q. BY MS. IBARRA: What does the cover page say?

17 A. Exhibit B California senate bill 17 Five in
18 parenthesis to be attached.

19 Q. Okay so look at the documents attached?

20 A. I beg your pardon.

21 Q. Look at the documents attached?

22 A. I see the document.

23 Q. So does that look to you like senate bill 17 Five?

24 A. This is a cut and paste, the [TPOPBTS] are
25 different, the answer is no, this is not in me way shape
26 or -- nor shape or form of how a bill would come look
27 coming from ledge council.

28 Q. So let's establish with what your familiarity is

1 with the state legislation so you serve as a state
2 legislate-er for how long I served previously?

3 A. A total of 16 years.

4 Q. 16 years. And did you start [STE] state assembly?

5 A. I served eight years at the assembly and then
6 eight years at the state senate.

7 Q. So you're very familiar with law making in
8 Sacramento?

9 A. Yes.

10 Q. And do bills ever look like this?

11 A. Not from ledge council no.

12 Q. What do you mean from ledge council, who is ledge
13 council?

14 A. Legislative council is a group of maybe 100
15 attorneys who represent the legislature, they are the legal
16 arm if you will to each and every member, they rep the
17 members in legal capacity, there is an attorney-client
18 relationship as a result.

19 Q. Do they pre petitioner the bills?

20 A. They prepare all the bills.

21 Q. Do legislators, either assembly people or
22 senators, ever prepared their own bills?

23 A. No you would send it over to legislative council,
24 it would be -- and it will come back to you um bank account
25 if you will.

26 Q. It will come back to you if you will?

27 A. They call it bat, it's unbacked, for you to
28 review.

1 Q. And what does it mean for you to be unbacked?

2 A. It's just a term, it's a -- you can ask
3 legislative council to prepare for you an unbacked bill,
4 that could be a pre print bill, that can be a bill that
5 you're not ready to introduce so -- but ultimately and even
6 though are in legal form. Nowhere near this format, it's
7 all very professionally done.

8 THE COURT: A question when you're saying
9 unbacked, are you saying unbacked by -- in other words it
10 doesn't have political support or it it's unbacked like it
11 doesn't have a cover on it, I'm not sure what you're
12 saying.

13 MS. IBARRA: Yes.

14 THE COURT: Because you're touching the document
15 but then unbacked means it doesn't have the backing the
16 legislators I'm not really sure?

17 A. It's basically a term that's used, it's not about
18 it not having support, and it's not about it not having
19 been introduced, it's about a bill that is not yet ready to
20 be officially amended to have the language that you're
21 looking to.

22 THE COURT: So a draft maybe?

23 A. You could consider it a draft.

24 THE COURT: Okay.

25 Q. BY MS. IBARRA: So it's unbacked means it's a
26 draft?

27 A. Unbacked that it is a draft.

28 Q. So does this mean that it's not public?

1 A. The minute the legislative council prepares a bill
2 and it has the authors name and it is put over the desk, it
3 is public, so that is the process. If the bill is not put
4 -- not given back to legislative council, then -- and -- or
5 if the bill returns to legislative council that means that
6 it has not been introduced.

7 Q. Okay. So my question is if that is public
8 information?

9 A. Legislative council opinions can and are
10 considered private communication --.

11 Q. I'm not asking about legislative council opinions
12 which I think are different I'm asking about bills?

13 A. Oh okay.

14 THE COURT: Draft bills.

15 MS. IBARRA: Draft bills like this one.

16 A. This is had not a draft bill by the legislature,
17 this is a cut and paste idea that took S B 17 Five, it has
18 question marks, it has -- this is not a bill, this is not
19 even an amendment to the bill, this is a cut and paste
20 fabrication of what somebody wants somebody to believe that
21 it is. Turn to '09 15 you will never find, include other
22 provisions for inclusion of state park, question mark
23 **[KPWE]** question mark.

24 MR. FORDYCE: Lacks foundation speculation move to
25 strike.

26 THE COURT: What it says on '09 15.

27 MR. FORDYCE: No what he just said about
28 fabrication.

1 THE COURT: Okay whether it's fabrication -- okay
2 fabrication, the word fabrication is stricken.

3 MS. IBARRA: That's an opinion. I can ask, Mr.
4 Polanco -- objection speculation as well.

5 THE COURT: Overruled.

6 Q. BY MS. IBARRA: Well do you think this is -- and I
7 think you've already testified to this, do you think this
8 is an authentic piece of legislation?

9 A. No.

10 Q. So would a state senator ever draft something on
11 their own without legislative council and circulate it and
12 represent it as legislation?

13 A. No.

14 Q. Never?

15 A. I don't think a member of the legislature will
16 have a document like this and circulate it within the body
17 as if it were a piece of legitimate legislation, no that
18 would not happen.

19 Q. Well would they ever say well this is what I'm
20 proposing and then give it to legislative council?

21 A. Not in this form.

22 Q. And what form would they propose it and then give
23 it to legislative council?

24 A. Normally the way it works you sit down with
25 legislative council you have your staff who is the lead
26 person on the subject Matt [SKPER] they discuss that with
27 legislative council, legislative council will then go and
28 look at which section of the law it applies to and then

1 very appropriately begin to lock in bringing forth how that
2 piece of legislation will look.

3 Q. So let me point you to -- Unfortunately it's a
4 different book but it's 733 in the white books but this is
5 what's represented in Defendants exhibit book [A*T] as S B
6 17 Five?

7 A. What was the number.

8 Q. 733.

9 THE COURT: Actually that's not so bad it's when
10 the binder -- I can't move the exhibit apart.

11 MS. IBARRA: Sorry about that.

12 THE COURT: 733. I think -- has this one been
13 identified.

14 MS. IBARRA: Has not been identified.

15 THE COURT: So it's new. Okay 733.

16 MR. STEIN: What number are we on.

17 MS. IBARRA: Defendants' 733.

18 Q. Now I just want to know that in Defendants exhibit
19 list it is described as SB 175. Does this look -- so have
20 you ever seen this before, I'm sorry Exhibit 733 is the
21 opinion of legislative counsel.

22 MR. FORDYCE: No SB 175.

23 MR. STEIN: On SB 1.

24 THE COURT: That's seven 34.

25 MR. STEIN: Forgive me what are you looking at.

26 THE COURT: 733 SB 175, Senator Vincent bill.

27 MR. STEIN: Forgive me for not getting there
28 faster, I have the overview.

1 MR. FORDYCE: Yes that's it.

2 MR. STEIN: Thank you.

3 MS. IBARRA: On Defendant's Exhibit it's called SB
4 175, so have you ever seen this before?

5 A. I have not.

6 Q. Does this look like SB 175?

7 A. No this is not SB 175, this is a presentation or
8 an outline of items listed.

9 Q. Can I ask you to scroll to the back where Bates
10 number 1579 begins. It does this look like senate bill 17
11 Five?

12 A. Yes.

13 Q. So this looks like SB 175 would look like?

14 A. Correct.

15 Q. And if --.

16 THE COURT: Can I gist ask, this is the format
17 that it would look in?

18 A. Yes this format is how all the legislation would
19 look like.

20 THE COURT: Okay I'm just -- forgive me I don't
21 see this in this exhibit, is this a separate exhibit.

22 THE COURT: 1579, it's part of 733.

23 MS. IBARRA: It's at the end.

24 THE COURT: Page 1579.

25 MS. IBARRA: Yeah it looks like yours is missing.

26 MR. STEIN: I see what happened very good thank
27 you.

28 Q. BY MS. IBARRA: So this is -- how long is this

1 bill?

2 A. Two pages.

3 Q. And this looks to you to be in the correct format?

4 A. This is in the correct format.

5 Q. Does this look like Exhibit B that is represented
6 as Senate bill [#15*7] [THO*] attached to the Libra
7 agreement?

8 A. No, it does not.

9 Q. And how many times has this Senate bill been
10 amended at the top?

11 A. It was first amended May 27th, 2005, amended again
12 June 28th, 2005, June 26, of 2006 and again June 29th in
13 2006.

14 THE COURT: June 29th, I don't see a say -- oh yes
15 thank you it's at the top.

16 Q. BY MS. IBARRA: Is there any possibility that
17 there was other language in here that was taken out and is
18 not reflected here any more during all these amendments?

19 A. No.

20 Q. Why is that?

21 A. Because if you're -- let me answer it this way:
22 If the question is could what Mr. Stein has in the Libra
23 agreement as SB 175, could that have been in here and then
24 amended out? This would not have been a two pager, every
25 amendment -- the bill is introduced and then it is amended
26 and there would be lines for --.

27 THE COURT: You're saying strike outs?

28 A. Strike out.

1 THE COURT: You're saying there would be lines,
2 strike outs is what you're saying?

3 A. Strike outs, yes.

4 Q. BY MS. IBARRA: Can I show you an example of what
5 appears to be that in this bill?

6 A. Yes.

7 Q. So after the first paragraph what does it say,
8 there's a heading, can you read that.

9 THE COURT: There is a strike out, the word
10 establishment is stricken.

11 MS. IBARRA: Right that's what I mean, I was going
12 to show him there but then I wanted him to read the
13 heading?

14 A. Okay the heading is SB 175 is amended Vincent,
15 gambling control act, licenses.

16 Q. No on top of that?

17 A. Legislative counsel's digest.

18 Q. So does every bill have that?

19 A. Yes.

20 Q. And then in the second paragraph it shows a couple
21 of strikeouts, right?

22 A. Correct.

23 Q. So it's very short, can you review it and see --
24 and give us your opinion about what this bill is about?

25 A. It looks like it's a bill that deals with
26 Applicant's who are interested in owning gaming
27 establishments even if the Applicant has financial interest
28 in another business outside of California.

1 Q. Does it have anything to do with the
2 Gabrielino-Tongva Tribe?

3 A. No.

4 Q. Does it have anything to do with Indian gaming?

5 A. Know.

6 Q. Does it have anything to do with Indian tribes?

7 A. No.

8 Q. Okay. Let's look at -- sorry to take you back to
9 the big blue -- to Exhibit 5 three which is in Plaintiffs
10 big binder.

11 THE COURT: I think we should take a break.

12 MS. IBARRA: Okay sorry.

13 THE COURT: That's all right let's take a is a
14 minute break and I'll try to [TPEUBGTS] the binder.

15 MS. IBARRA: Do you need help, I mean we did that
16 so.

17 THE COURT: You have know I don't know what I'm
18 going to do about this particular binder we'll see if we
19 can figure it out. All right we'll see everybody in 15
20 minutes.

21 MR. STEIN: And we'll be objecting to exhibit 35
22 three for the same reason we have seven times before.

23 (Break taken.) 03:09 PM to 03:27 PM.

24 THE COURT: Okay come back up.

25 MR. STEIN: And Your Honor we have want to object
26 to Exhibit 5 three which has been discussed at least
27 several times so far.

28 MS. IBARRA: Your Honor before we discuss.

1 THE COURT: 53, well before we discuss that, let
2 me take a look and see what it is.

3 MS. IBARRA: Before we take up exhibits can we
4 just deal with witnesses because Ms. Carmelo is outside and
5 she want to leave.

6 THE CLERK: She's inside.

7 MS. IBARRA: She's inside there you go so before
8 she dismissed does somebody need to request.

9 MR. STEIN: Yeah we would like to see her again.

10 THE COURT: Again we're not going to have -- is
11 this for your case.

12 MR. STEIN: On call Your Honor.

13 THE COURT: She can be on call, but she's
14 testified at length for both of you.

15 MS. IBARRA: Yes, I agree.

16 MR. STEIN: And it may very well be that we won't
17 need her, I just want to make sure she's instructed the way
18 Mr. Dunlap was instructed.

19 THE COURT: Okay. Ms. Carmelo?

20 MS. CARMELO: Yes.

21 THE COURT: You need to be on call to your
22 counsel, Ms. Ibarra. Does she have your phone number?

23 MS. CARMELO: Yes.

24 THE COURT: On call means you may need to be
25 called back for testimony. I know you've testified a lot,
26 you may be needed again. So on call means that -- we'll
27 try to let you know 24 hours in advance so you can get here
28 in time, but it may be on shorter notice, so just be by

1 your phone so if we need to bring you to court you'll be
2 available and that will be next week. If you have any
3 questions or any concerns about your availability or
4 anything about what's going on in court, contact Ms.
5 Ibarra.

6 MS. CARMELO: Very good.

7 THE COURT: Okay thank you. Now the next thing is
8 the exhibit.

9 MR. STEIN: Exhibit 35 three.

10 MS. IBARRA: Your Honor that's also Plaintiff's 7
11 35 I mean Defendants' 7 Five.

12 THE COURT: This says May 22nd, 2006 legislative
13 counsel opinion addressed to Senator Vincent.

14 MS. IBARRA: Yes and Exhibit 735, is the same
15 thing h Defendants submitted the same exhibit.

16 MR. STEIN: And that was a mistake we meant to put
17 in the legislative counsel opinion for SB 1 and it's in the
18 bill so this shouldn't have been in the Defendants but it
19 didn't appear on our exhibit list.

20 THE COURT: So what are you going to ask.

21 MR. STEIN: Yeah our objection to this is the same
22 objection we've raised seven times before, this has being
23 offered for truth of a Indian law legal opinion issued
24 privately to Ed Vincent, senator Polanco mentioned these
25 opinions are confidential to the legislators to which they
26 are issues and this court has seven times before considered
27 and and each time said this is hearsay and should not be
28 admitted.

1 THE COURT: What are you trying to admit it for.

2 MS. IBARRA: I'm going to ask him about
3 legislative counsel pins and then when the tribe first
4 found out about this legislative counsel opinion.

5 THE COURT: Well, was it sent to the tribe?

6 MS. IBARRA: No.

7 THE COURT: It looks like it was a sent by Sheila
8 Monohan by Senator Vincent.

9 MS. IBARRA: Right it was introduced into this
10 litigation by Mr. Stein through a declaration and this is
11 the first time that the tribe ever found out that this
12 opinion existed.

13 THE COURT: So there's a declaration signed by Mr.
14 Stein that.

15 MS. IBARRA: Right.

16 MR. STEIN: No, there's not Your Honor no, there's
17 not.

18 THE COURT: Hold on.

19 MS. IBARRA: The reap there's a declaration in
20 here actually, it was from 2007, the first year of this
21 litigation.

22 MR. STEIN: Nine years ago.

23 THE COURT: Okay that attached to this, is that
24 what happened.

25 MR. STEIN: It didn't attach it, that's the whole
26 key.

27 MS. IBARRA: One 17, it's Exhibit 117 in our
28 books.

1 THE COURT: Well I don't have the book, can you
2 show me one 17.

3 THE CLERK: One 17.

4 THE COURT: It may be. To we need to have the
5 discussion outside the presence of the witness.

6 MR. STEIN: I think so Your Honor.

7 THE COURT: All right would you please step down.

8 MS. IBARRA: Yes.

9 THE COURT: Thank you.

10 THE CLERK: One 17.

11 MS. IBARRA: So the last page of that exhibit.

12 THE COURT: Did you find it.

13 MR. STEIN: Yes.

14 THE COURT: Is it attached to your declaration.

15 MR. STEIN: No.

16 MS. IBARRA: It's referenced in this declaration.

17 MR. STEIN: It is referenced it is definitely
18 reference.

19 THE COURT: But not attached.

20 MS. IBARRA: It's a true and correct copy of the
21 leg counsel opinion number zero seven '09 49 Five, I was
22 present -- so Exhibit 7 is a true and correct copy of this
23 legislative opinion I was present at a meeting.

24 THE COURT: Wait, wait, give me a minute.

25 MS. IBARRA: It's the last page of that.

26 THE COURT: 117. Okay.

27 MR. STEIN: Paragraph 10.

28 THE COURT: Paragraph 10. Attached is Exhibit 7

1 is a true and correct of legislative counsel opinion number
2 0609195. I was present at a meeting in Senator Ed
3 Vincent's office when we requested this opinion and have
4 discussed its contents with its author since the opinion
5 was issued. Signed by Mr. Stein.

6 MR. STEIN: And it's not offering it for the
7 truthfulness of the opinion, it's offering it for the fact
8 that it was in fact issued and the opinion is not attached
9 to the exhibit.

10 THE COURT: Well okay we can look it up in the
11 docket and see if it's attached, Veronica.

12 COURT ATTENDANT: When was it.

13 MR. STEIN: And the court has instructed
14 Plaintiffs counsel to do exactly that.

15 THE COURT: BC361307 I'm assuming that's our case
16 number.

17 MS. IBARRA: Yes, it is.

18 THE COURT: If you can look that autopsy while I'm
19 reading the declaration.

20 THE CLERK: When was the fill date.

21 MS. IBARRA: The hearing was April 30, 2007 and
22 the declaration is signed April 16th so sometime after
23 April 16th, probably April 17th.

24 THE COURT: I think it was filed April 17th but.

25 MS. IBARRA: The file stamp says April 17th.

26 THE CLERK: April 17th.

27 THE CLERK: April 17th, 2000 -- what year.

28 MS. IBARRA: Oh I'm sorry 2007.

1 THE CLERK: The response toe motion to amend or
2 appendix and support.

3 MS. IBARRA: It is the appendix and support of.

4 THE CLERK: Okay.

5 MS. IBARRA: And then we would be looking for
6 Exhibit 7.

7 THE CLERK: Okay.

8 THE COURT: Well where in the declaration is it
9 referring to Exhibit 7.

10 MR. STEIN: On Page 3, Paragraph 10, it just --.

11 THE COURT: Right but why was it attached h does
12 it say shall it's appendix in a motion to amend a
13 complaint, this was. It was so what was the point of that,
14 I'm going to have to look at the motion and see what was
15 the point of it -- you said it was attached to a
16 declaration but --.

17 MS. IBARRA: Yeah the declaration, there's a lot
18 of pair narrative.

19 THE COURT: What was the motion.

20 MS. IBARRA: The motion --.

21 THE COURT: You don't know, Mr. Stein?

22 MR. STEIN: Your Honor, it says -- this is now my
23 eighth time -- this was hearsay, it was never introduced
24 into the litigation.

25 THE COURT: I understand your objection. My
26 question is you don't know what opposition this was
27 attached to.

28 MR. STEIN: No.

1 THE COURT: No idea?

2 MR. STEIN: No idea. It was nine years ago and
3 it's not my idea of a good time.

4 THE COURT: Let's have the response printed out
5 and let's see what's reference and why Exhibit 7 was
6 referenced.

7 THE CLERK: It's 114 pages.

8 THE COURT: Let's do a search for the word Exhibit
9 7 and see if it's there can we do that.

10 COURT ATTENDANT: I don't think we can do that on
11 scanning Your Honor.

12 THE CLERK: On scanning, I don't think. .

13 THE COURT: Well let me ask you, what is your
14 intention with it, why don't we get to that.

15 MS. IBARRA: So it's not to --.

16 THE COURT: While they're trying to see if they
17 can do that.

18 MS. IBARRA: Right. It's not it to show it's
19 accurate, correct or the veracity of the statements
20 contained therein but merely Mr. Stein had knowledge of it
21 and actually his Exhibit 7 35 which is different than our
22 exhibit actually has a fax sent by and a date number do it
23 which is actually better than the copy that we have because
24 it establishes a date when it was [PRA*PLT]-d.

25 THE COURT: Transmitted from.

26 MS. IBARRA: From senator [SREUPBZ] office.

27 THE COURT: To my Stein.

28 MS. IBARRA: To Mr. Stein.

1 THE COURT: But [PH*] my point is you wanted to
2 show that he had knowledge of it.

3 MS. IBARRA: He had knowledge of it at a time when
4 there was a duty to give knowledge of that to the tribe
5 because there is all of these efforts in Sacramento to sort
6 of proceed with a casino at the time that they believed
7 they were a state recognized tribe and this has
8 statements -- this has a footnote saying that even though
9 the State of California has a process for recognizing
10 tribes that are state recognized and not federally
11 recognized that it has not done so. So --.

12 MR. STEIN: What they're saying is that the
13 Gabrielino-Tongva Tribe is not state recognized. Every
14 single person here has said they're a state recognized,
15 tribe she's trying to show app opinion that says she's not
16 state recognized state recognized [-RBGTS] that's what's
17 going on here even though everybody has testified to the
18 opposite she wants to show that somehow Mr. Stein was Ah
19 liar because this one opinion says in a footnote you're not
20 state recognized.

21 THE COURT: Yeah well you're trying to show that
22 he had knowledge of that or he was informed of that whether
23 it's true or not he never report [T-TD].

24 MS. IBARRA: Exactly.

25 THE COURT: You knew at the time and he never
26 reported it.

27 MS. IBARRA: Yeah so --.

28 THE COURT: So whether it's true or not isn't the

1 issue it's just the reporting to --.

2 MS. IBARRA: Reporting it, it also has a sex to SB
3 175 that's attached to the investor bill which is saying
4 that -- what is represented in that and what is attached to
5 the investor agreement is different than what is actually
6 in SB 175 and so what we're trying to show is that there
7 was a series of [PHEUTS] representations about the efforts
8 going forward in Sacramento as to whether a state -- you
9 know a state recognized tribe, quarry whether GT Tribe was
10 state recognized or not but whether a tribe that's not
11 federally recognized could engage in gaming. So all of
12 these sort of build up to that that there was no -- that
13 there was misrepresentations being made to the investors
14 and to the tribe about whether that effort was really had
15 any likelihood of success.

16 MR. STEIN: So she's trying to show that the
17 entire casino project that everybody and his brother wanted
18 and that got financed with 21 million was just a great big
19 fraud because of one document.

20 MS. IBARRA: Not just --.

21 MR. STEIN: She's trying to show it's a fraud when
22 in fact everybody has acquiesce-d in the casino project
23 everybody was happy to take the money and Libra which might
24 have been defrauded is not even here.

25 THE COURT: The guess the question is does it
26 matter what the contents of the document, does it matter
27 whether it says that they are or are not a state recognized
28 tribe, is that what you're trying to get at because if if

1 that's the case, yes that would be hearsay if you're using
2 the document to show proof of that. However you're
3 showing, I just want to [STHOE] show that Mr. Stein
4 received this document and should have apprised the tribe
5 whatever was in there true or not because of his obligation
6 as an attorney or CEO that's a different situation and it
7 wouldn't be for the truth of the contents but did show that
8 he had a communication and had he to report [T-R] so you
9 tell me because if you're going to try too use it for the
10 truth, it's not going to work.

11 MS. IBARRA: I don't -- I don't know whether it's
12 true or not, what's contained in here. What's important is
13 that for purposes of this litigation is that the tribes
14 contention that Mr. Stein had an obligation to keep the
15 tribal council apprised of these efforts and this is --
16 something like that should have been communicated to the
17 tribal council and maybe in the end the trier of fact is
18 going to seed this isn't material and it didn't amount to
19 anything, our contention is that it did so for that reason
20 I think it needs to be introduced.

21 MR. STEIN: Your Honor she just said she wants the
22 truth of it, in other words it's a material fact only if it
23 shows that this whole project is a fraud and she's trying
24 to show that he should have informed them because it says
25 it's a fraud, well that's using it for the truth that
26 somehow in here it betrays a fraud going on.

27 MR. FORDYCE: The relevance is the content, is the
28 actual what's contained in the document, I don't see how

1 this is not the truth.

2 THE COURT: Well if you had a communication with
3 Vincent and you didn't communicate whatever was in here to
4 the tribe, then maybe that's a problem.

5 MR. STEIN: That would be -- she could --.

6 THE COURT: Regardless of what it says, right.

7 MR. STEIN: She could try to get me on the stand
8 which comes in a day or so or tomorrow and she could say
9 what about this.

10 THE COURT: That's right.

11 MR. STEIN: And she wouldn't need to show the
12 truth, she could say didn't you inform him of that and I
13 could say yes, I did no, I didn't in fact it's actually in
14 the e-mail to -- in July as we had a problem.

15 THE COURT: So are you saying you're not
16 [TKAO*PBG] that this was sent to you and that at the
17 time -- let's see -- [WH-FTS] it.

18 MR. STEIN: I don't recall whether it was sent to
19 me I will take a look tonight because again I don't know
20 about the fact that you're looking at, I haven't seen that.

21 THE COURT: Well we'll show it to you now.

22 MR. STEIN: I'll be happy to see it and once again
23 Niall put together the book so it's not surprising.

24 THE COURT: You can take a look at t there's a
25 fax, fax date up there. So you have want to ask Mr.
26 Polanco about this is that what you want to do.

27 MS. IBARRA: I've want to ask Mr. [PO*] [OEL] the
28 relationship the ledgetive he's already testified about the

1 relationship of leg counsel with legislators in terms of
2 putting together [PWEULDZ].

3 THE COURT: Right.

4 MS. IBARRA: And I want to ask in terms of their
5 capacity as their official counsel lawyer and that you know
6 their attorney-client relationship and when that
7 attorney-client relationship, the confidentiality of it and
8 the confidentiality is waived when it's shared with other
9 people such as here when it's shared, it is transmitted to
10 a party that's not in the ledge legislature and continue a
11 direct employer.

12 THE COURT: You're going to ask him if [AFS]
13 waived I'm not sure why you want to ask him I can look at
14 it see if [S-FS] sent to Mr. Stein you can ask him.

15 MR. STEIN: It wasn't [SAOEPBT] so from I've and
16 the third is completely Your Honor relate Ed page from the
17 legislature intent service which I hired and which would
18 not be able to get this exhibit.

19 THE COURT: Well there's a phone number associated
20 with that fax.

21 MR. STEIN: Yes it's a nine 16 number in
22 Sacramento.

23 MS. IBARRA: Which is the transmission number and
24 I don't have that last page [EURBG] and the transmission
25 is.

26 THE COURT: Well I guess the question would be it
27 shows up in your declaration so somehow you got a hold of
28 it.

1 MR. STEIN: Right.

2 THE COURT: So I guess it really doesn't matter if
3 it was faxed to you you got a hold of it somehow it was
4 disclosed to you.

5 MR. STEIN: That is very true, this [TPHURB]
6 matches the number of my declaration so obviously I got
7 hold of it and I don't want to deny that.

8 MS. IBARRA: And there's also testimony in the
9 declaration that there was extensive communications between
10 Mr. Stein and the author of this opinion. So that also
11 goes to motive.

12 THE COURT: Okay. So I Think It Was 2000 comes
13 in. So my question is.

14 MR. STEIN: The truth which is really what she's
15 aiming at.

16 THE COURT: The truth of the content of the
17 documents.

18 MR. STEIN: Right which is what she's really
19 aiming at.

20 THE COURT: So what [TKUPZ] the declaration say,
21 you said he had conversations with [SR*EUPB].

22 MS. IBARRA: So in full, Paragraph 10 [TPR-FT]
23 deck chase of the Jonathan Stein April 16th, 2007 reads as
24 follows, attached as Exhibit 7 is a true and correct copy
25 of leg counsel opinion number '06 '09 49 Five. I was
26 present at a meeting in senator [SR*EUPBZ] office when he
27 requested this opinion and have discussed its contents with
28 its augers since the opinion was issued. And this is in

1 April of 2007.

2 THE COURT: And it's this document.

3 MR. STEIN: And so if I'm discussing the [KOEPTBS]
4 tents with the author it's hearsay.

5 THE COURT: Well your statements are not hearsay
6 in that context.

7 MR. STEIN: I don't know what my statements were
8 because I haven't seen the motion and again this is not my
9 idea of a good time. What she's trying to do is just get
10 it in for the truth of it. She wants to get it in that
11 this opinion says that the tribe is not state recognized as
12 if that's important here and it's for the truth of what
13 this opinion says, that's what she's trying to do,
14 everything else is just a disguise to did I tract you.

15 THE COURT: Let's put this this way I'll accept it
16 for all matters except for the truth so I'll accept it for
17 automatic Matt [ERBZ] except for truthfulness.

18 MS. IBARRA: Right because it may not be true.

19 THE COURT: It may be false but at least the point
20 is I'm understanding perhaps it should have been
21 communicated to the tribe shall whatever is in there
22 whether it's true or not really isn't the easy but should
23 have been communicated to the tribe. And if you know she
24 wants to examine you Mr. Stein about your conversations
25 with [SR*EUPB], that's not hearsay.

26 MR. STEIN: Sure. I wish she would examine me
27 about my conversations with senate VIN it will clear up a
28 lot of wasted time here, obviously not any fault of the

1 court then.

2 THE COURT: All right.

3 MS. IBARRA: I can I have Mr. --.

4 THE COURT: I guess me question is why do you need
5 to examine him approximate that.

6 MS. IBARRA: So for him because he's the best --
7 instead of having this be you know all the tribal council
8 people say we didn't know about it until the litigation
9 started.

10 THE COURT: Well they've already said that they
11 didn't know about this so.

12 MS. IBARRA: So for him is so different us back
13 [TKPWRUPBD] on the [HRO*UBGZ] relationship with the
14 legislators and what import something like this would have
15 and would you communicate it to -- would you -- piss
16 [KHRAOE] going to the fact of whether he should have
17 communicated it because there was all this activity with
18 the tribe and also he was the lobbyist so it wasn't
19 [SHRAEURD] by Mr. Stein.

20 MR. STEIN: I thought senator Polanco said he was
21 the lobbyist.

22 MS. IBARRA: That's exactly right.

23 THE COURT: Hold on Mr. Stein please don't [TRUP],
24 so it wasn't share were [PHRO*EL] [STPAO] Polanco who was
25 the [HREUB] [KWREUFT] who had responsibility for
26 communication with legislators as well.

27 MR. FORDYCE: But then Your Honor if I'm
28 understanding counsel correct egg Mr. Polanco is now

1 testifying to the fiduciary duties owed by Mr. Stein to the
2 tribe? He's going to testify that Mr. Stein should have --
3 maybe I'm missing something, I don't know.

4 MS. IBARRA: No, he's not going to testify whether
5 he should have but he's going to testify about the fact
6 that the tribe didn't know until this litigation started
7 and he was responsible for at this point in April dealing
8 with you know whoever was representing the tribe at that
9 time, I don't know if it was Jeffer, John if it was
10 somebody else, but Mr. Polanco was responsible for that and
11 so he knew that the tribe didn't know about it because he
12 also didn't know when he was the lobbyist, he didn't have
13 knowledge of this as well.

14 MR. FORDYCE: There are so many he preposition
15 [-Z] there that I simply did not understand that.

16 MS. IBARRA: Mr. Polanco, so Mr. Polanco didn't
17 have knowledge.

18 MR. STEIN: He's not on the tribal council how
19 does had he know what the tribal council -- how does he
20 know what I said to the tribal council.

21 THE COURT: Okay.

22 MR. STEIN: You can ask me what I said to the
23 tribal council, you can ask Virginia Carmelo she heard.

24 MS. IBARRA: The tribal council has already
25 testified about that.

26 MR. STEIN: No they have had not tend about leg
27 counsel opinion it's not in evidence, they have not said we
28 knew about this or we did not, this is not in evidence it

1 has not been identified.

2 MS. IBARRA: They have [-P] been shown this
3 because there's been had this dispute but they have
4 testified whether they knew that an opinion had been
5 issued, that question has been asked, you know of Sam
6 Dunlap and of of Ms. Carmelo.

7 THE COURT: You have ask the questions and I'll
8 rule on whatever objections come up but okay if an
9 objection comes up I'll rule on it as you make them.

10 MS. IBARRA: So okay he's going to talk about the
11 first time he saw this and he's going to talk about the
12 fact that he didn't see it when he was a lobbyist.

13 THE COURT: Okay.

14 MS. IBARRA: And he's going to talk about just
15 generally the relationship between leg counsel and the
16 legislators.

17 THE COURT: So basically it sounds like what
18 you're saying is you want to establish he didn't see this
19 document because he was unaware that these conversations
20 were going on between Senator Vincent and Mr. Stein,
21 although I suppose that testimony is it coming later. The
22 evidence in form of the declaration and testimony from Mr.
23 Stein will come later.

24 MS. IBARRA: Yes.

25 THE COURT: All right.

26 MR. STEIN: Your Honor as long as it's limited to
27 that I don't think it's limited to that so allow us time to
28 get our objections registered.

1 THE COURT: Okay go ahead, have a seat. All right
2 you may begin -- or continue.

3 MS. IBARRA: Mr. Polanco I'd asked you to review
4 Exhibit 53. So when was the first time that you saw this
5 document?

6 A. During these proceedings.

7 Q. Okay. And ordinarily is this with other clients
8 that you have, would they have shared something like this
9 with you?

10 A. With other clients, it would depend really on the
11 author whether he wanted to keep the confidentiality and/or
12 to share it.

13 Q. Okay. But I'm asking about your clients, are your
14 clients legislators or are they --?

15 A. Oh my --

16 Q. Other interests?

17 A. Yeah my clients have included government entities,
18 corporate entities, south coast air quality disclosure for
19 example, metropolitan water district on the private sector
20 side.

21 Q. My question is with your clients, if they have --
22 if there's a legislative counsel opinion that is issued on
23 a topic that you're lobbying on, would they ordinarily have
24 shared it with you, the legislative counsel opinion?

25 A. If I understand the question, if the client was to
26 receive a legislative opinion, would the client share it
27 with me?

28 Q. Yes.

1 A. I would hope so.

2 Q. Does it impact your lobbying activities if they
3 don't share it with you?

4 A. Yes because the leg council opinion is very
5 valuable and highly regarded and it's almost impossible to
6 move a piece of legislation that has an adverse opinion
7 from leg council.

8 Q. So ordinarily you would expect to have it be
9 shared with you?

10 A. From a client, yes.

11 Q. Is there any way of getting a copy of a
12 legislative council opinion other than through the
13 legislator?

14 A. No they're really the gate keeper. If I may.

15 Q. Yes.

16 A. Unless the legislator ends up giving the okay to a
17 staff member to release it.

18 Q. But a staff member has the same status in regards
19 to the confidentiality of the communication as the
20 legislator?

21 MR. STEIN: Objection; leading.

22 THE COURT: Sustained.

23 Q. BY MS. IBARRA: So let me ask you about, because
24 you've testified before about legislative council's
25 function in drafting bills for legislative bodies?

26 A. Yes.

27 Q. Do they also -- what other capacity do they serve
28 as?

1 A. They serve as -- they do -- we have a legislative
2 analyst office that does the legislative analyst but the
3 legislative council is really the lawyer for the
4 legislature and members of the legislature so a lot of
5 legal work, a lot of opinions such as these are issued. A
6 member may have a bill and just wants a leg counsel opinion
7 on it and a member may have an [KPWHR-D] ask wants to
8 develop a bill and goes to leg counsel.

9 Q. And in your experience do members [OERPD] Lee
10 follow advice of legislative council?

11 A. Yeah absolutely it would be like -- yeah it would
12 be very out of the ordinary. I do not know as I sit here
13 of a member who has gone against the legislative council
14 opinion.

15 Q. But in theory just like you have a lawyer and you
16 don't need to -- you don't have an obligation to follow
17 their advice, in theory you could disregard it?

18 A. In theory you may but that would be -- that would
19 be out of the ordinary I would say, I have not seen that,
20 it would also make the bill very difficult to pass muster,
21 that is to say to move it out of a committee and to
22 ultimately have a governor sign a bill that has a
23 legislative council opinion that is adverse.

24 Q. Okay. So I'll just leave that there. We were
25 previously looking at Exhibit 733 which is just two down
26 from here which appears in Defendant's Exhibit list as SB
27 175 and we actually looked at SB 175 at the end?

28 A. 733.

1 Q. And you testified that you've never seen this
2 before?

3 A. I have never seep this before.

4 Q. But it contain your name so I just want you to
5 look at the part that contains your name, which is in Bates
6 number at the bottom is 1577, Page 10?

7 A. Yeah it lists Senator Richard Polanco retired,
8 Sacramento's -- part of the professionals partners under
9 the Section F of the tribes strategic partners.

10 MR. STEIN: Where are we?

11 MS. IBARRA: This is Exhibit 733 of your exhibits
12 and this is Bates 1577.

13 Q. So does this indicate to you that you were
14 expected to be part of the lobbying effort on this bill?

15 A. This is the first time see this, SB 175, we did
16 not lobby an S B -- I did not lobby an SB 175 in the
17 fashion that it appears from the leg counsel opinion nor do
18 I lobby SB 175 as it appears in the cut and paste that was,
19 you know, put together as part of the Libra agreement.

20 Q. What about the bill --

21 MR. STEIN: Forgive me. Your Honor, this whole
22 line of questioning is irrelevant. He's already testified
23 he wasn't employed during this time.

24 THE COURT: Overruled. He's just saying I never
25 lobbied for them in this form or in the Libra agreement so.

26 MR. STEIN: He said he quit as part of RJP
27 Partners and then he was rehired and he further testified
28 that at this time he was not a lobbyist for the tribe so I

1 don't understand the relevance -- I don't understand of the
2 of whether he knows this or not.

3 THE COURT: Well the relevance is his name on
4 here. So if he wasn't lobbying but somebody put his name
5 on here, he should be testifying whether he has conducted
6 any lobbying efforts his name is on there so overruled.

7 MR. STEIN: But.

8 Q. BY MS. IBARRA: So you testified that you didn't
9 lobby as to the bill that appears, 17 Five appears in the
10 Libra investor agreement, so what about the bill that's
11 attached to this document, Exhibit 73 three, you've already
12 reviewed it, and you've already provided testimony?

13 A. It's pretty much the same -- no, I have not
14 lobbied on behalf of this bill.

15 Q. All right. That's all I have thank you?

16 A. Oh excuse me.

17 THE COURT: What do you mean by bill?

18 A. I have not lobbied on behalf of what -- it's not
19 even a bill, so I stand corrected, I have not lobbied as it
20 relates to exhibit whatever the number is here.

21 THE COURT: 733?

22 A. 733.

23 Q. BY MS. IBARRA: But Mr. Polanco there is a bill
24 attached at the end?

25 A. Yes.

26 Q. So -- and we did discuss that earlier?

27 A. Yes.

28 Q. So just for clarification, I understand you are

1 testimony to be about the documents that in front?

2 A. Correct.

3 Q. So what about the document in the back of 733
4 beginning with Bates number 1579?

5 A. No, I did not lobby on behalf SB 175, February 1,
6 on behalf of Senator Vincent.

7 Q. You have no recollection?

8 A. I did not lobby.

9 Q. Thank you that's all I have.

10 THE COURT: Well it's 4:00 o'clock so you can
11 think about your cross all night.

12 MR. STEIN: Thank you.

13 THE COURT: Just what you wanted to do, spend your
14 night thinking about your cross. So you'll have to come
15 back tomorrow.

16 A. Thank you Your Honor.

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