

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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GABRIELINO-TONGVA TRIBE VS. STEIN

ROUGH TRIAL TESTIMONY OF BARBARA GARCIA

THE COURT: Come forward just have a seat. Ms. Garcia you still under oath, do you understand that.

A. Yes.

THE COURT: Thank you.

Q. BY MR. STEIN: Ms. Garcia you look a little tired out?

A. I had a very early morning.

Q. Getting work done be yes?

Q. We would like to go over some points that were refuted by testimony of others. The first exhibit I'd like to show you is Exhibit 51 one and we've seen this exhibit before, this is the -- we previously identified this as a list of terminated members?

A. Correct.

Q. And what I'd like to do is just go through it, we heard from several witnesses that they never got any records so first before we get to look at who got records, how did you generate this list of terminated members?

A. Based on the blue cards that we had received.

Q. And did you generate this list before or after you sent back the membership records?

A. After.

Q. After. Did you generate this list before or after any efforts to double check that you had properly set out the proper membership records for each person?

1 A. This was generated after.

2 Q. About how long did that process of sending things
3 out and then double check that long it had been done
4 correctly take you?

5 A. At least a month.

6 Q. A month. And about how much time would you spend
7 with each record?

8 A. Depending on how easy it was to find, I mean it
9 could be two, three hours, if I had to go into a different
10 area it would take more depending. It was depending.

11 Q. What might be an average estimate that you could
12 give?

13 A. About three hours.

14 Q. Times 230 records, that would be about a thousand
15 hours?

16 A. Right.

17 Q. Did that include the double check or is that just
18 the original check?

19 A. Just the original.

20 Q. And then the double check I assume would go
21 faster?

22 A. Right.

23 Q. And then after those things were done, that's when
24 you made this list?

25 A. Correct.

26 Q. And can we look on this list, it's alphabetical by
27 first name so instead of going in the order I'd like let's
28 just go in the fastest order, is the tribal council person

1 that left GT Tribe and established the Dunlap faction Adam
2 Loya listed here?

3 A. Yes.

4 Q. And that ad [HROEU]?

5 A. Correct.

6 Q. Martin Alcala was another tribal council person
7 that left GT Tribe and formed the Dunlap faction is that
8 correct?

9 A. Correct.

10 Q. And is Martin Alcala, it looks like he may be a
11 little bit out of order. Is Martin Alcala listed here?

12 A. Yes.

13 Q. Is Sam Dunlap another tribal council men that left
14 GT Tribe and formed the Dunlap faction, is Sam Dunlap
15 listed here?

16 A. Correct.

17 Q. Here is Sandonne Goad the current tribal
18 chairperson for the Dunlap faction is Sandonne Goad listed
19 here?

20 A. Yes.

21 Q. Shirley Machado is another tribal council that
22 left the GT Tribe and formed the Dunlap faction, is she
23 listed here?

24 A. Yes.

25 Q. Virginia Carmelo is another person that left and
26 formed the Dunlap faction, is she listed here?

27 A. Yes.

28 Q. And is her daughter, Virginia listed here?

1 A. Correct.

2 Q. This list was only prepared after you checked and
3 double checked that you'd sent the membership records to
4 all of those people that you just named?

5 A. Right.

6 Q. Thank you very much. Exhibit 5 13 is the
7 affirmation of membership?

8 A. Can I clarify something.

9 Q. Please.

10 A. So if there was something in their file, that's
11 what was [SEPTD] whatever was in the file, if there wasn't
12 anything it would just be the letter but everyone I
13 received a card for or indicated they want today leave got
14 their membership whatever we had, I send them.

15 Q. And that's why there were three choice [TPH-Z]
16 your certification of what you you had done?

17 A. Correct.

18 Q. So that if there were [TPHOEU] record but you
19 looked for them you could certified that we're enclosing no
20 records but we looked for them?

21 A. Correct.

22 Q. Very good. The affirmation of membership H
23 actually -- let me turn instead to exhibit 507 which we've
24 seen before. You identified this as the Class B and C
25 members; is that correct?

26 A. Uh-huh yes.

27 Q. Did you thoroughly check all the membership
28 records against this list?

1 A. Yes.

2 Q. And were lists like this used not just this 2007
3 when this was done but were lists like this used since you
4 first began using Club Assistant?

5 A. Correct.

6 Q. And when was that?

7 A. In 2005, 2006.

8 Q. So around 2005, 2006 you have started generating
9 lists and they were [TK*UBLG] [*F] double checked against
10 the actual membership records that we previously had?

11 A. We had a previous database and we would generate a
12 similar lists but not as accurate as this.

13 Q. And were you very careful when this split occurred
14 in November of 2006 to make sure that members records were
15 safe and secure and kept private?

16 A. Yes because there was a lot of confusion.

17 Q. And was your concern to see how many members left
18 with the new fax so that they could get their records?

19 A. Yes.

20 Q. And did that concern increase when the number of
21 blue cards increased and kept coming in?

22 A. Yes of course.

23 Q. Until it -- until it hit about 230?

24 A. That's what we counted.

25 Q. And in the meanwhile you were also double checking
26 all of the existing members to see who was staying in the
27 tribe is that correct?

28 A. Yes.

1 Q. And about how many people -- and is this the list
2 of all the people that stayed in the tribe?

3 A. Yes, at the time yes.

4 Q. And about how many people wanted to stay in the
5 tribe and not follow the tribal council people that formed
6 the Dunlap faction?

7 A. About 1500.

8 Q. About 1500. And this is the list of those 1500?

9 A. Right.

10 Q. And a similar list made before this split
11 occurred?

12 A. Right.

13 THE COURT: You have two minutes.

14 MR. STEIN: No further questions.

15 THE COURT: All right thank you cross-examination.

16 MS. IBARRA: Yes.

17 Q. BY MS. IBARRA: Ms. Garcia, do you have any
18 explanation why some people who are on this list have
19 testified that they never received their records?

20 A. I don't which is interesting those because people
21 would call me for little things and if they had requested
22 the records and they didn't receive it, I'm sure I would
23 have heard from them constantly and I'm sure they would
24 have showed up at the office which no one ever did.

25 Q. We already heard from people on this list who said
26 they never sent a blue card?

27 A. I'm sure they did because there were a lot of
28 people that family members sent the cards on behalf of

1 everyone so if they were listed on there, I mean we could
2 only assume that they were requesting it as well. I got a
3 lot of calls after stating that they hadn't sent in the
4 blue card, that it was a [TPA*PL] so we did he reinstate
5 those if they wished to be reinstated.

6 Q. So did you get a lot of phone calls that said I
7 don't wish to be terminated?

8 A. Yes. Not a lot but some.

9 Q. So it was confusing because your letter said
10 you're being terminated and the sender said I don't want to
11 be terminated, I don't --?

12 A. Well I would always explain what that meant, it
13 was from faction not -- you know that they were requesting
14 from this one and if there was clarification [HA] they
15 wanted to give that they wished not to be termed and stay,
16 obviously I would process their paperwork so we would
17 retain them as members.

18 Q. How did you explain the different between
19 factions?

20 A. I let them know that there was a group that had
21 left and then the tribe that was still provided, I left
22 them know about the oversight committee and depending on
23 what point they were calling.

24 Q. So you left them know about the oversight
25 committee?

26 A. If it was in in effect at that time like I said it
27 depend on when I was receiving the calls because every
28 period -- I mean we were getting information from various

1 times, things were happening so whenever the calls were
2 coming in, whatever information I would have, that's what I
3 would give so.

4 Q. And so --?

5 A. It's hard manometer me to answer the your because
6 it depend on when I received the calm, so you're giving me
7 a general and again I can't really say, pinpoint because if
8 someone was calling me me it depend [-PBD] on what day and
9 what time you know that's things were happening, there was
10 different information so.

11 Q. So did you tell people that Virginia Carmelo had
12 left the tribe?

13 A. Yes and the majority of the time they already
14 knew.

15 Q. That was their understanding?

16 A. Right.

17 Q. Were there some people who called you that were
18 surprised to learn that?

19 A. [-FPBL] really because the people that were
20 calling me had already received letters from both sides so
21 they knew about the split.

22 Q. Did they know you personally?

23 A. A lot of them did, uh-huh.

24 Q. Did they know you were employed by Mr. Stein?

25 A. Yes because that was always something that was
26 stated up front during meetings at all times.

27 Q. Did they know you as per your title tribal
28 administrator?

1 A. Uh-huh everyone knew that I did both.

2 Q. Okay so that's?

3 A. Tasks.

4 Q. That's contested, different people have testified
5 about different things but do you think there was any
6 possibility that people were just calling -- did most --
7 did any members -- none tribal council people ever go to
8 Mr. Stein's law offices?

9 A. I'm sorry can you --.

10 Q. So the tribal council, they were regular [SREULZ]
11 [TERZ] to Mr. Stein's law offices?

12 A. Uh-huh.

13 Q. Were any of the members regular visitors to Mr.
14 Stein's law offices?

15 A. There were some that would.

16 Q. Like who?

17 A. I can't remember his name but there was one that
18 would come down in Oregon whenever he was in counsel.
19 There was another -- I can't remember the names exactly but
20 you know there was some that would bring me their forms in
21 person as well.

22 Q. So is it possible that even though they knew that
23 Mr. Stein had left his employment with the tribe that they
24 didn't know that the law offices have changed or that your
25 position had changed?

26 A. That the law offices?

27 Q. Yeah well, that the offices for the tribal council
28 had changed?

1 A. I don't know, that's something you need to ask
2 them.

3 Q. You couldn't discern that there was confusement?

4 A. I mean there was always a tribal office there, so
5 I don't understand the question.

6 Q. So you contend that the tribal offices remained
7 there?

8 A. Uh-huh.

9 Q. Even after Mr. Stein made it clear he was no
10 longer working with the tribal council?

11 A. Well I think that's up to interpretation, no?
12 Because the tribe was there.

13 Q. I'm asking for your interpret fashion?

14 A. My interpret [AEUGS] was GT Tribe had never moved
15 from Santa Monica until they moved to accept tree city.

16 Q. And you contend that had you never lost authority
17 even though Mr. Stein lost authority?

18 A. Well the oversight committee was still with Mr.
19 Stein I don't know at what point you're talking about that
20 he lost authority.

21 Q. There was never a time when Mr. Stein left the
22 tribal council and the -- let's assume that the financial
23 oversight committee had some authority which is in dispute?

24 A. Uh-huh.

25 Q. But let's assume they had some -- I'm asking you a
26 hypothetical. Let's assume the financial oversight
27 committee had authority. There was never a gap in time
28 period between the day that Mr. Stein was terminated and

1 the financial oversight committee comes into being?

2 A. I believe there was.

3 Q. So what authority did you have during that time
4 period?

5 A. The ones the members would call and give me to
6 tell me not to move forward until they knew exactly what
7 was going on.

8 Q. Before Mr. Stein was terminated was it ever the
9 practice that you took guidance from the members?

10 A. Sometimes, obviously regarding their membership.

11 Q. Did you not have to get authority from the tribal
12 council or from Mr. Stein if a member made a request of
13 you?

14 A. Sure.

15 Q. So you always -- you didn't have discretion to do
16 things on your own, correct?

17 A. No I would never take that.

18 Q. So your authority was derived from Mr. Stein or
19 the tribal council if they chose to give it to you?

20 A. Right [STKPH] so you lost it when you were no
21 longer affiliated with the tribal council if you claim they
22 abandoned and Mr. Stein was no longer affiliated with
23 anybody?

24 A. Well during [-RT] time that the tribal council had
25 left, I mean all you have is the membership and since the
26 tribe was still there, they were telling me not to move so
27 they were my source of authority in my opinion.

28 Q. So you created this -- so you think that there was

1 a new authority that was created during this time period?

2 A. Until I -- I mean until I knew more, I wasn't
3 going with one way or another and they were the ones that
4 were telling me to -- giving me I guess instruction to hold
5 off until they figured out what was going on. So if that's
6 them giving me authority, then yeah.

7 Q. So that's your best testimony?

8 A. Uh-huh.

9 Q. Thank you?

10 A. You're welcome.

11 THE COURT: All right thank you you may step down
12 and you can go to lunch come back at 130. Counsel stay in
13 the courtroom?

14 A. Am I done then?

15 THE COURT: You're finished?

16 A. Thank you * * jury out * *.

17 *****.

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