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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

2 ROUGH TRIAL TESTIMONY OF J. STEIN

3 10:17 AM.

4 THE COURT: Gabrielino versus Stein, BC361307 good
5 morning counsel.

6 MS. IBARRA: Good morning Your Honor.

7 MR. FORDYCE: Good morning Your Honor.

8 THE COURT: Please make your appearances.

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

11 MR. FORDYCE: Good morning, your Honor. Niall
12 Fordyce on behalf of Jonathan Stein and the law offices of
13 Jonathan Stein.

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

16 THE COURT: Okay. Thank you. Ms. Ibarra, give us
17 a call so we're not wondering where you are and when you're
18 going to arrive.

19 MS. IBARRA: Yes my apologies Your Honor thank
20 you.

21 THE COURT: All right I think we were on direct
22 examination.

23 MR. FORDYCE: Yes Your Honor.

24 THE COURT: And Mr. Stein you understand you're
25 still under oath.

26 A. Yes Your Honor.

27 THE COURT: Okay you can continue.

28 Q. BY MR. FORDYCE: Mr. Stein to recap the testimony

1 you gave yesterday concerning quantum meriut, during your
2 tenure on the project with SMDC did Ms. Carmelo ever
3 critique negatively SMDC's work?

4 A. No.

5 Q. Did Mr. Dunlap critique negatively SMDC's work?

6 A. No.

7 Q. Did Mr. Loya critique SMDC's work?

8 A. No.

9 Q. Did Ms. Neminski critique SMDC's work?

10 A. No.

11 Q. Did Ms. Symptom critique SMDC's work?

12 A. Yes she didn't think that SMDC should be doing
13 anything -- she didn't think the casino project was
14 appropriate for Gabrielino-Tongva Tribe.

15 Q. Did Mr. Alcala critique SMDC's work?

16 A. No.

17 Q. Did anyone to your knowledge on the tribal council
18 critique SMDC's work?

19 A. No. They did express impatience at not raising
20 money to go forward faster but they didn't critique the
21 amount of effort spent trying to have get that money.

22 Q. Did anyone at the tribe critique to you or to
23 anyone else to your knowledge critique SMDC's work?

24 A. No what happened at tribal meetings there were --
25 we had tribal meetings twice a year, the members were very,
26 very supportive and most of them were -- went out of their
27 way to tell me how much they supported me and the casino
28 project.

1 Q. Mr. Stein yesterday the tail end of our testimony
2 was attempts that SMDC made to get investor money including
3 from and I'm not going to read the whole list but Mr. Katz,
4 Mr. Friedman, SMDC agreement, various investors, MGM, Wells
5 Fargo, do you recall that testimony?

6 A. Yes.

7 Q. So Mr. Stein I'll put it to you and counsel and/or
8 the court can count but I assure you this is correct,
9 including Libra there were 27 persons or entities that we
10 went through from whom SMDC attempted to get investor money
11 and I don't think that there's any debate that the only one
12 that was successful was Libra so that makes you one for 27.
13 So if you were an NFL quarterback or if you were a
14 basketball player or you were a baseball player, that's a
15 pretty rotten average you'd be on the bench. What about
16 one for 27 in this context, is this good?

17 A. Well, first of all, it was really one for about
18 300 so it's even worse than you think because we had about
19 250 institution and about 50th individuals in total. The
20 27 were just the serious ones that took hey -- took a
21 serious amount of time with each other. One for 27 is
22 actually far above the norm for respective investments for
23 this, I mean this is an investment that returned 100 times
24 on your money and the reason it did is because it had about
25 you know a very low probability of success, maybe one
26 percent success, that's how you calculate these things, you
27 know what's your percent of success, how many times your
28 money should you get, can you find any money out there

1 that's willing to take that type of gamble. So with a one
2 percent project like this, people, my mentors and I
3 mentioned yesterday I had a lot of them, Sam Katz, David
4 Friedman, Mickey Brown, Mike Gaughan, these were legends in
5 the casino industry, other than Sam Katz who was a legend
6 in the investment community in Philadelphia, but they all
7 said basically had you got to go through 100 good solid
8 shots before you're going to find the one guy that wants to
9 do this. So I was prepared to do it 100 times and it turns
10 out -- it turned out I only had to do it 27.

11 Q. That segues as well as into the Libra agreement as
12 it speaks to quantum meriut. I know we've talked at length
13 about Libra and that's our 644. I don't think we really
14 need to pull it out right now and go through it again, but
15 I do want to talk to you a little bit about the Libra
16 agreement and quantum meriut. What was the overall purpose
17 of Libra agreement?

18 A. Well the Libra agreement was to get the investment
19 that we were trying so hard to get so that we could do
20 either a federal or a state effort seriously, you have need
21 a lot of money. Federal government you need a lot of money
22 for lawyers, historians, ethnographic experts, genetic
23 testing of the members, for the state level you needed to
24 deal with you know the intricacies of Sacramento, the
25 assembly, the senate and the governer's office. And both
26 required money. As it turned out we got funding for the
27 state, not the federal and so we went hard on the state.

28 Q. What about the Libra money and fundraisers?

1 A. I'm sorry?

2 Q. What about -- well were there donations associated
3 with the Libra agreement?

4 A. Yeah. One of the very time consuming tasks was to
5 did he ply the Libra money efficiently in Sacramento, in
6 other words we had the six figure budgets for the state
7 level politicians, we had six figure budgets for the county
8 and city level politicians but had you to did he ply it
9 efficient efficiently and I found the most efficient way
10 would be to go to fundraisers that would be a thousand,
11 1500, you know maybe -- maybe 3,000 for an extraordinary
12 guy, I went to govern Schwarzenegger fundraiser that was
13 10,000. But I found it the most efficient was to actually
14 go in person and meet not just the politician but more
15 importantly meet the people around him and the people that
16 were close to him and to basically talk up what the casino
17 was about without asking for anything, you couldn't ask for
18 anything at a fundraiser but you were allowed to say why
19 you were there, what you were -- what you did for a living
20 or what you did with your time and I would publicize
21 amongst all the guests the Gabrielino tribe, what the
22 casino project was about and how we had entitlement
23 understate law or federal law. And that meant going to
24 where the fundraiser was, so if it was in you know Malibu
25 for the governor or it was in Sacramento foremost of these
26 legislators, if it was up in some corner of L.A. County, I
27 went up into the Bask foreign country to talk to Garamendi
28 when he was the governor, he had an annual function that I

1 attend regularly and that's how you built relationships.
2 They felt they could rely on you because you were there at
3 their functions when they knew there was a lots of other
4 functions to choose from and when they got to know your
5 face they were of more accepting of phone calls that could
6 be made after the event to talk business.

7 Q. And Mr. Stein to be very clear, these actions that
8 you're talking about, deploying the money at fundraisers
9 and the like, the hours you have spent doing this, these
10 are part of the hours of which SMDC is seeking recovery in
11 quantum meruit is that correct?

12 A. Yeah two things to do with Libra, one is the
13 incredible amount of time it took to negotiate the Libra
14 agreement because it was an absolutely unique style of
15 investment and it was a hard negotiation, it was not an
16 easy negotiation.

17 Q. And we'll get to those hours?

18 A. And then simultaneously while I was doing that, I
19 was also spending my own money knowing that the Libra money
20 was there to reimburse me, to make as much headway as we
21 could and that meant going to a lot of these fundraisers.

22 Q. And talking just generally about the difficulty
23 with Libra, was there any sort of ongoing fight with the
24 casino legislation that would be taking place in Sacramento
25 ongoing?

26 A. Yeah, there was -- what had happened, it was a
27 very [KHRER], very devious move by the other casino tribes
28 because our profile had been raised so much like putting

1 your heaved up above the level of the trench in World War
2 II, anybody who put his head up, you know the snipers would
3 shoot at them, well we had put our heads up and the other
4 casino tribes did not want to have see us succeed so they
5 attached to a funding bill what was called an exclusivity
6 provision, and the exclusivity provision was that if the
7 bonds were issued, the provision would go into effect and
8 it would give exclusive rights to L.A. County to the casino
9 tribes and it didn't have anything to do with the bond. So
10 we had to keep the bond from going into effect and that was
11 done when Elizabeth Aronson was attorney of record for the
12 Hollywood Park litigation.

13 THE COURT: Would you explain that again, let's
14 see, there was a bill, some other bill that had nothing to
15 do with tribes and there was --?

16 A. Right, the actual bill to say we're going to float
17 a bond issue had a rider attached to it that said that if
18 the bonds are passed to better secure the bonds they were
19 going to give exclusive rights to L.A. County to the casino
20 tribes that were paying revenues and the bonds were in part
21 going to be secured by the revenues from the casino tribes.

22 THE COURT: Existing or up and coming?

23 A. No no no existing.

24 THE COURT: So that's how they were cutting out
25 Gabrielino?

26 A. And instead of giving them exclusive rights in the
27 compacts which they had already but only for Riverside
28 county or San Diego County wherever the tribe was, they

1 gave away a long list of counties including Los Angeles
2 County and that was slipped in there to get at the
3 Gabrielinos. And this is what led to -- if you don't mind
4 me adding a topic, this is what led to my conflict with Ms.
5 Aronson, she wanted to settle out out the litigation and
6 that would allow the bonds to be issued, once the bonds
7 were issued it would kill the casino project, the casino
8 project would be dead in the water. So we -- the tribe
9 filed the litigation because you can't have a bond issue so
10 long as there's a litigation outstanding and that bought us
11 time to see what we could do to get rid of the exclusivity
12 problem. As it turned out it was sufficient because they
13 ended up not issuing the bonds. Because of the delay they
14 issued a different type of bond and the -- and I might --
15 because of the he delay they issued a different type of
16 bond and that different type of bond had nothing to do with
17 the casino revenues and therefore, the whole Machiavellian
18 scheme dissolved but it was only able to dissolve because
19 that litigation was out there blocking the bond issue while
20 the State of California needed the money.

21 Q. BY MR. FORDYCE: Mr. Stein I do not want to get
22 off the quantum meriut topic but with the way.

23 THE COURT: Well I asked him the question, I
24 didn't quite understand how that worked, that rider and
25 what its effects were so --?

26 A. And by the way Your Honor, just to let me know, to
27 get to the point of make that long summary, I'm talking
28 about maybe that might be 200 hours of work I just

1 summarized in five minutes.

2 Q. BY MR. FORDYCE: Well I was just going to ask you
3 about that in a second actually, but I do unfortunately
4 have to go back to the same issue so Mr. Stein you just
5 talked about the Hollywood Park litigation aspect of the
6 [PWO*RPBDZ], this that and the next, and was that had you
7 practicing law for the tribe?

8 A. No Elizabeth Aronson handled all of the litigation
9 papers, I was working [O*BTS] on the politics and the
10 impact on the -- on the casino project and SMDC's job as a
11 contractor was to get the casino project so if there was a
12 bill that was going to kill the casino project and make Tim
13 possible, that was part of SMDC's work to deal with that.

14 Q. Okay let's move back to quantum meruit. So
15 this -- everything you've talked about there, you're
16 accruing -- SMDC is accruing hour after hour after hour is
17 that correct?

18 A. Right and I think the spreadsheet shows that.

19 Q. Yeah let's look at 1560 just very quickly.

20 THE COURT: Neli can you get me the exhibits now,
21 thank you.

22 Q. BY MR. FORDYCE: And I'm just going to have you
23 focusing on -- well no I'm going to ask you?

24 A. Give me just a second to get it.

25 Q. Oh is it -- and this is just for everyone, this is
26 a one-page-er, 1560. Tell me when you're there?

27 A. Okay.

28 Q. So Mr. Stein exhibit 1560, what months do you

1 believe represent the lion's share of Libra work?

2 A. Libra started in October by really they're very
3 fast so November all of a sudden it jumped to life and
4 November was when Marilyn Barrett was hired by SMDC and GT
5 Tribe, it was also when Libra gave their initial non
6 binding letter of intent which led to her hiring.

7 THE COURT: Which year are we talking, you said
8 October I just want to be sure?

9 A. Oh I'm sorry. 2005, November -- you'll see that
10 October is '94, and then November is 103.

11 THE COURT: Yes uh-huh?

12 A. And then that level of activity because the
13 politics were going on at the same time, November December
14 January February, March April and May which was a 200 hour
15 month, that was the closing was May 20th.

16 Q. BY MR. FORDYCE: So Mr. Stein a loose calculation
17 of that is just a little short of a thousand hours, was the
18 majority -- or was the majority of those [thou|thousand]
19 hours was that spent on Libra?

20 A. Yeah I'd say -- well maybe two-thirds it on the
21 Libra transaction and one-third of it on the -- you know
22 beginning the effort to deploy money on the faith that the
23 transaction would come through.

24 Q. And you were still practicing law absolutely un
25 relate [TPH-D] anyway shape or form to the tribe or to the
26 casino project during this time, correct?

27 A. I to eat, yeah, I had to eat but --.

28 Q. All right let's -- sorry go heaved?

1 A. But obviously there's only so many hours you can
2 work and so what I did is I incurred a huge credit card
3 date to support my own -- you know to pay rent and that
4 sort of stuff.

5 Q. Okay. Just going back to the Libra agreement just
6 as a quick kind of recap, the terms and conditions, who
7 dealt with where the Libra dollars actually went?

8 A. The -- I'm sorry I don't understand.

9 Q. Well who was responsible for distribution of the
10 funding under the Libra agreement?

11 A. That was Elizabeth Aronson and myself and there
12 were three different accounts, the main account which was a
13 Wells Fargo and then that funneled into two Union Bank
14 accounts, one for the tribe and one for the casino project.

15 Q. And was --?

16 A. But Elizabeth Aronson was signatory on all the
17 accounts.

18 Q. What was the overall amounts as secured under the
19 Libra agreement?

20 A. 2,000,000 150,000 and then there was a slight
21 amount of interest that came above that to create a budget
22 of 2,000,000 19 7,000.

23 Q. And the to not of hours that we talked about that
24 you pit in as SMDC for the Libra agreement, is the 2.15
25 million, is this for lack of a better term, fruition of
26 your efforts?

27 A. Well it's a fruition of all the efforts from 2001
28 forward because one out of 27, it had -- there were 27

1 [SHOLTS] I didn't know which one would have worked, I would
2 have loved in Sam Katz had worked and it would have been a
3 lot simpler but that was -- so from 2001 forward, Libra was
4 a fruition of that and nothing like this had ever happened
5 in the history of the GT Tribe to my knowledge.

6 Q. And under -- and again just for the record it is
7 Exhibit 64 four and we've looked at it in great depth.
8 Beyond in 2.15 million was there any further -- or what was
9 the further financial obligation for Libra if any?

10 A. Zero.

11 Q. Can you explain please?

12 A. Well we've been through this at great length.

13 Q. Quickly?

14 A. The Libra agreement provided for a emergency
15 [TAOE] of interests of 12 different investors would have to
16 vote for another tronch. It's basically Libra agreement
17 was a gamble, they said we'll get 2.15 million on SB 175 h
18 but if SB 175 didn't become law or a substantially similar
19 legislation or if there was a material adverse change, or
20 if there was any breach of the agreement such as not paying
21 bills by the tribe or beginning the litigation by the
22 tribe, then they would not even consider another
23 investment. If none of that happened, then they had the
24 option whether to invest or not once you put in what's
25 called a condition certificate.

26 Q. And we heard testimony on that. And just to be
27 absolutely clear, the tribe had the option to get other
28 investors beyond Libra, correct?

1 A. Yes there was an alternative funding mechanism so
2 that if they decided not to exercise their option not to
3 put in more money, the tribe could go to other investors
4 and not be held back by the Libra agreement.

5 THE COURT: So if Libra -- let's assume everything
6 was successful, Libra -- the money was spent the way they
7 want today spend it h the casino project was moving
8 forward, then the tribe can say you have know we don't want
9 any more money from you Libra because we have this other
10 investor that's really interested and we're going to go
11 with this other investor.

12 A. Yes that's exactly right there was actually a very
13 complicated notices going back and forth the tribe -- do
14 you know what options and puts on.

15 THE COURT: A little bit?

16 A. I'll say it and then explain at this just wanted
17 to.

18 THE COURT: I know a little bit of that, I'm not
19 a --

20 A. So Libra said we have it [SR*] invest 2.15 because
21 we have the option to keep going because if you have
22 success probably because we put in the money right.

23 THE COURT: Right?

24 A. However we may take a dim view of what you think
25 is success, so we hold the option. The tribe separately
26 could find another investor and say hey, they only half the
27 slot revenues that you want because Libra had the same
28 interest in slot revenues that SMDC had, hey they only want

1 half, so we're going to use them instead of you however
2 because you put in money, we have a put. We can force you
3 to put in new money and if you don't, then we go to other
4 investor. So there was both an option and a put. In Wall
5 Street terms that's walled a collar, when you have both
6 presents it forms a collar because it creates a center of
7 value that is supposed to push you towards more funding
8 push you towards more partnership because either party can
9 have leverage on the other. In this case none of the
10 mechanisms this took so long to negotiate were used, they
11 were Ah sitting there but they required a condition
12 precedence certificate from the tribe, they required a
13 second budget from the tribe in the future and apparently
14 Mr. Polanco never engaged those mechanics.

15 Q. BY MR. FORDYCE: So, Mr. Stein, also as part of
16 the hours SMDC put in for Libra, you did provide Libra with
17 progress reports, correct?

18 A. Yes, there was one on August 9th, we wrote the --
19 as I said in e-mails that I've testified about, we had to
20 them them that SB 175 that Senator Vincent never put it
21 across the table and I began lining up Tom Umberg and when
22 Senator Vincent refused to put it across the table, Tom
23 Umberg agreed to put it across the table so it game an
24 assembly bill and not a senate bill.

25 Q. And that's defendants' 1520; is that correct?

26 A. Yeah.

27 Q. Let's look at that, I don't remember if that's
28 actually been offered or not.

1 THE COURT: You might want to look at it.

2 MR. FORDYCE: Yeah, 1520, neli?

3 A. That wouldn't be in the exhibit books.

4 THE COURT: An Umberg bill or.

5 MR. FORDYCE: No this is a progress report for
6 Libra. And I just honestly don't remember if this came in
7 or not.

8 MS. IBARRA: I don't recall discussing a progress
9 report for Libra.

10 MR. FORDYCE: I have a copy if needed.

11 THE CLERK: What number is it 1520.

12 MR. FORDYCE: Yeah.

13 MS. IBARRA: I don't think we discussed it.

14 MR. FORDYCE: I have copies if Your Honor would
15 like to take a look, Neli?

16 A. Niall.

17 Q. Yeah.

18 A. Do we -- and I don't want to create controversy
19 it's a minor point.

20 Q. You know what let's not bother. So Mr. Stein
21 let's put it this way, did you provide progress reports to
22 Libra?

23 A. Yes, I did. Including disclosing Senator Vincent
24 refused to put it across the table but I simultaneously
25 lined up Tom Umberg to put it across the table in the
26 assembly bill.

27 Q. And all of this is part of the hours that SMDC put
28 in of which SMDC claims quantum meriut, correct?

1 A. Yes.

2 Q. However let's look quickly at exhibit 577 and the
3 vendor balance summary. That I do want to look at.

4 THE COURT: Is that a new one or shall.

5 MR. FORDYCE: No Your Honor this is Talley, this
6 has been -- this has been.

7 THE CLERK: 577.

8 MR. FORDYCE: 577 and page -- the Bates number is
9 3119 which is like the seventh page of the exhibit?

10 A. 3119?

11 Q. Yeah 3119 and the leading at the top is vendor
12 balance summary.

13 THE COURT: All right I have the documents.

14 MR. FORDYCE: Great thank you Your Honor. I think
15 it's the seventh page in the Bates number at the bottom, oh
16 that's very confusing, the Bates at the bottom is 3119,
17 bottom left.

18 A. Yes.

19 THE COURT: Yes I'm there.

20 Q. BY MR. FORDYCE: Okay great. Mr. Stein what's
21 this 3119 in exhibit 577?

22 A. As part of Talley's work on -- this was GT Tribe's
23 accountant, so GT Tribe's accountant independently wanted
24 to -- when I alerted them to the difficulties of the
25 situation, they independently wanted to take a snapshot of
26 what the financial situation was because they like me were
27 professionals and were worried that they were going to get
28 sued by the investors if there were -- individual

1 councilmen were putting in money in their pocket from the
2 organization.

3 Q. Right so that's the Talley report itself, what
4 about 3119 specifically, the vendor balance summary?

5 A. This summarized the outstanding obligations of the
6 tribe, to anybody, including tribal council people that
7 were owed money and SMDC which was owed money and vendors
8 that were owed money but what it also does is it provides a
9 list of all the people that SMDC was working were and was
10 communicating with in 2006 once the Libra money was
11 deployed.

12 Q. So by way of example Mr. Stein, I see council
13 member, I see Adam Loya I have a Cindy Alvitri, I have sigh
14 Virginia Carmelo and the like, but I also see -- are you
15 talking about like for example the analysis group?

16 A. Yes so --

17 Q. Apria?

18 A. Yeah so --

19 Q. So explain how did these vendors come to be in the
20 project?

21 A. Well to give an idea of what the quantum meriut
22 time walls spent on, analysis group, that was Alan might-er
23 and they were the people who prepared a ma'am her report on
24 what -- how many jobs would be created by the casino in
25 L.A. County, how many -- how much tax revenues would go to
26 city government, county government and state government,
27 how their -- they did a nationwide survey of all -- urban
28 gaming was a big deal. Everyone said oh, we don't want

1 urban gaming in California and they debunked that notion by
2 showing all the cities that had -- around the country
3 already from Indian casinos that were located within the
4 city or right next it to and how much money toes casinos
5 put off so that was \$78,000 that was owed, that was never
6 paid. These were casino project bills that should have
7 been paid, the money was there to pay but it was never
8 paid. Apria company, Mark Apria was the leading lobbyist
9 for what was called the sin committee, the alcohol and
10 gaging committee, alcohol horse racing and card clubs were
11 all under a committee and they informally calls them the
12 sin committee, Mark Apria was pretty much the key lobbyist
13 for that, he was stiffed for \$5,000 but we spent a lot of
14 time together. You'll see consumers for Tom Umberg and
15 then later down at the bottom, you'll see Tom Umberg for
16 state senate those were campaign contributions for Mr.
17 Umberg, he verbal actually -- separately from the
18 contributions of course but he agreed to take over the SB
19 175 and it instead became SB 1561.

20 Q. Community to save Inglewood?

21 A. Community to save Inglewood, and that was because
22 the mayor was very much for development of the Hollywood
23 Park casino, Hollywood Park race track, saving the race
24 track and using the casino to save it and we gave him a
25 very ample set of donations for \$50,000.

26 Q. And SMDC to be clear, who's driver all of these
27 relationships as it were?

28 A. All the relationships were driven by me, these

1 were all non legal efforts, these were trying to get the
2 casino through, this was trying to work on the city h
3 county and state levels to deploy -- to deploy my money and
4 then the Libra money and these were a list of the
5 obligation that's once the tribe took over the 898,000,
6 none of these were paper paid, they --.

7 Q. And just -- go ahead?

8 A. Other than Virginia Carmelo paid herself, Polanco
9 paid himself, Adam Loya paid himself but none of these
10 others were paid.

11 Q. And to be clear, all of this is under the aegis of
12 the SMDC agreement?

13 A. Right and like for example field research
14 corporate -- group, that's a famous field [poll|pole] and
15 they did a lot of work for us and they're \$9100 bill was
16 never paid, [K*EUFPB] Kevin did he Lee own you probably
17 heard of him he was never paid.

18 Q. Against letter?

19 A. Yeah. And law offices ever David hell [TPAPBT],
20 David was retained because he was going to put us in front
21 of a number of celebrity personalities that were his
22 clients and they were going to endorse the idea of a casino
23 tore L.A. County and talk about how it would have
24 entertainment venues that would provide jobs in the
25 entertainment industry. Mark Ridley Thomas was very
26 helpful, we had a quantum government relations was another
27 Sacramento lobbyist, but that one was somebody that had
28 very close connection to the republican governors office,

1 so they were Republicans. Ron Calderon legal defense
2 funds, that was a contribution that was supposed to be
3 made, that was one of the three people that is now in jail
4 that Mr. Polanco introduced me to, Sheppard Mullin the
5 15,000 actually was paid, that was the initial retainer for
6 the fiduciary duty report. Talley and company, that was
7 the tribes accountants, that was five years of accounting
8 work that was supposed to be paid, they made a little bit
9 when we got funded but then they stiffed the accountant I
10 assume to give them -- their displeasure with the Talley
11 report actually being produced. So those were people who's
12 relationships had been created and maintained and utilized
13 by SMDC as part of its work.

14 Q. And Mr. Stein I just very quickly want to be
15 extremely clear about Talley because in a way I feel this
16 might not be clear. For whom was Talley working?

17 A. The tribe, they had been working for the tribe
18 from 2001 through 2006.

19 Q. Was Talley SMDC's accountant?

20 A. No.

21 Q. I just want to be very clear about that. All
22 right I'd like to move on to a new exhibit and counsel has
23 been provided this, here's a copy for the Court. Mr. Stein
24 do you have a copy of what I believe would be 1563 up
25 there?

26 A. Yes.

27 MS. IBARRA: Your Honor I want to object because
28 in addition to information that is in evidence it also has

1 at least the last version they've saw also had testimony
2 from Ms. Aronson.

3 MR. FORDYCE: Where are you looking at.

4 MS. IBARRA: The last version has testimony of Ms.
5 Aronson as to -- it's not here anyway.

6 MR. FORDYCE: If you see it, do you see it, I see
7 the final exhibit that we've provided for you and it is
8 what it is, September payment as used by Aronson, is that
9 what you're referring to.

10 MS. IBARRA: No there was -- the last version had
11 Ms. Aronson calculations but she didn't have a specific
12 calculation as to how much of his invoices were properly
13 submitted for his law offices.

14 MR. FORDYCE: Well.

15 MS. IBARRA: Okay it's not in here.

16 MR. FORDYCE: Oh yes, it is.

17 MS. IBARRA: Where.

18 MR. FORDYCE: It's right here (Indicating.)
19 Aronson testimony.

20 MS. IBARRA: Exactly.

21 MR. FORDYCE: So it's here.

22 MS. IBARRA: She didn't have a specific
23 calculation, it's not -- I understand that you can make a
24 summary of evidence that's properly before the court but
25 that was testimony and it want -- and this isn't an
26 accurate description of her testimony.

27 MR. FORDYCE: Well if the court will allow, we
28 will -- SMDC will explain exactly how that particular line

1 item was met and why the number is what the number is.

2 THE COURT: Well when was this produced?

3 A. Yesterday.

4 MS. IBARRA: The final was produced this morning?

5 A. We told the court yesterday and we produced a
6 draft, we gave a draft to Ms. Ibarra, that's probably what
7 she's talking about.

8 MS. IBARRA: Yesterday. And then this morning
9 like six or seven.

10 MR. STEIN: This, the final.

11 Q. I got the final of this. So I did state that I
12 though there was something objectionable and I would wait
13 to see what the final looks like, the final still has some
14 objectionable information in here.

15 MR. FORDYCE: Well Your Honor [H-Z] admitted 1560
16 and just by the way for everyone's benefit I'm going to go
17 to the second page first, I'm looking at that, 1560 is
18 admitted, 15 58 is admitted and those are the, those are
19 where the numbers come from, 577 has been admitted, 655 has
20 been admitted and to the extent will anything would come
21 out of 1562, the quantum meruit worksheets that's been
22 admitted as well so I'm not quite clear what counsel is
23 objecting to.

24 MS. IBARRA: 1563 the characterization of the
25 Aronson testimony that it was only between 10,000 and
26 20,000.

27 A. That was her testimony.

28 MR. FORDYCE: That's exactly what she testified

1 to?

2 A. She said she --.

3 THE COURT: Well I think what I remember her
4 testimony is that she objected to certain entries that she
5 ran across, Mr. Stein said fine I'll delete it, then at
6 some point she found Mr. -- the law clerk re entering the
7 information but she didn't say there was all the improper
8 entries, that was all that she knew of?

9 A. Your Honor, I asked her to estimate was it more
10 than 1,000, she said yes, I said was it more than 10,000
11 she said yes but I'm not sure. I said would you estimate
12 it was more than 20,000? Yes I could estimate I might be
13 20,000. Was is more than 30,000? No I would be
14 speculating. So what we did here --

15 MS. IBARRA: She said at that point I'm
16 speculating, so this is speculative, she didn't say that?

17 A. Well once again having done this not near as many
18 as as you've seep it done but having done it dozens of
19 times, if you say estimate estimate estimate, no it would
20 be speculation, then you take the last two estimates and
21 you say her testimony was between 10 and 20 thousand was
22 improper entries and we're taking the higher amount of
23 20,000.

24 MS. IBARRA: Also her testimony wasn't that she
25 reviewed everything from SMDC's relationship with the
26 tribe?

27 A. My testimony has been that she reviewed everything
28 in the beginning of the tribe and I thought she did also.

1 MS. IBARRA: Well your testimony is it going to
2 be -- there was conflicting testimony from Stein but as Ms.
3 Aronson it [TWHAEFPBT] she reviewed everything from the
4 beginning.

5 MR. STEIN: And Your Honor we will be rebuttal
6 [H-G] Ms. Aronson's testimony very likely later today.

7 A. Yeah.

8 THE COURT: Well I can accept this but with the
9 understanding that she didn't review all of the receipts,
10 although apparently there may be some testimony that they
11 rebut her claim. In other words if there's some basis for
12 the numbers, then the court can allow it. Do you see
13 anything else that you're object to go.

14 MS. IBARRA: No that was my key complaint.

15 THE COURT: This is what I'll going to do, I'm
16 going to conditionally accept t you'll have the opportunity
17 to look through it, if you think there's something in there
18 that's -- because they site today the various exhibits that
19 support their calculations, now you may disagree with their
20 calculations the court is ultimate belief going to make
21 calculation ifs any, right.

22 MS. IBARRA: Uh-huh.

23 THE COURT: But they are site to go exhibits so
24 your charge would be to double check them and if you have a
25 complaint about them then let me know f it's completely
26 without foundation, there's no support in that exhibit, you
27 have let know foe, if there's some foundation for it, then
28 the court will allow it.

1 MS. IBARRA: Got get it.

2 THE COURT: You have may have disagree with the
3 number or you may disagree that the exhibit said that but
4 if there's some basis for it I'll allow it but ultimately
5 the court is going to have did he side what the numbers
6 are. So ultimately.

7 MS. IBARRA: Got it, thank you.

8 THE COURT: All right.

9 MR. FORDYCE: Thank you Your Honor.

10 THE COURT: All right.

11 MR. FORDYCE: Okay Mr. Stein let's just look at
12 the second page, let's just go line by line?

13 A. If I can just address the Court's comments for
14 just a moment.

15 THE COURT: Uh-huh.

16 A. I just want to make a point, we actually deducted,
17 if Aronson's testimony is not used, then the numbers are
18 actually higher than they are. Our effort was to simply
19 put a place holder, if you will, so you didn't forget about
20 it. So it makes all the numbers lower.

21 Q. BY MR. FORDYCE: So Mr. Stein the very first line
22 on that second page there, and by the way, you've seen the
23 document before?

24 A. Yes I prepared this document after review of the
25 exhibits listed.

26 Q. Okay. So the first line is quantum meriut amounts
27 claimed and that's a number of 5,000,000 23 3,400 one
28 dollar 31 cents.

1 THE COURT: Where -- oh okay all the way at the
2 top right.

3 MR. FORDYCE: Yes correct Your Honor.

4 Q. BY MR. FORDYCE: Mr. Stein what did you get to
5 five-point 23 million?

6 A. I added up three types of numbers that were
7 independently calculate [SKP-D] they're each highlighted
8 here, one is it the quantum meruit fee portion under the
9 SMDC agreement section 15, that was the quantum meruit
10 clause.

11 Q. And Mr. Stein --?

12 A. And then the second one was the out-of-pocket
13 expenses because they were simply out-of-pocket [SP*EBS]
14 and they were amounts that would be repaid under quantum
15 meruit or under contract and Mr. Mills indicated that
16 [AOEP] if there was an attorney-client relationship from
17 day one you would still get your out of work evident
18 expenses.

19 Q. And what's --?

20 A. And then the third is the interest amounts which
21 is the third set is that these were long -- were amounts
22 that accrued in 2001 and by six [KWRAEURBZ] late or they
23 have accrued interest.

24 Q. Who [TK-FT] interest Cal [KHRAEUFGS] [-Z]?

25 A. That's pretty much of a place holder.

26 THE COURT: What was the rate of interest you
27 didn't note it there?

28 A. 10 percent it's in the -- on the first page, we're

1 starting with the second bull the first page explains that
2 the interest is under 4D of 569 so I'll put up 569.

3 THE COURT: That's okay I can double check it,
4 you've reference [T-D] here but I just have a question as
5 to what the rate was so that's fine?

6 A. The contract rate was 10 percent.

7 Q. BY MR. FORDYCE: And Mr. Stein just a quick
8 question on the interest rate. Looking at the first page
9 which we'll get to after addressing quantum meriut. That
10 address is six 16,000 '98 zero and [#23*] [#23S] which is
11 the same number on the second payment for the quantum
12 meriut. Do you have -- why is that?

13 A. It's actually too low. It -- which just [STHAOED]
14 interest was due, the Talley report has a table full of
15 figures for calculating the on a monthly amount and we used
16 the Talley numbers to get the six 16. I didn't have time
17 to do quantum meriut calculations so I just plugged in the
18 same numbers but the funny thing about this case is the
19 quantum meriut amount is actually far above the fees due
20 under the contract, in other words rationally you have
21 would say well let's just leave the contract in place,
22 let's not check it's un enforce ability because the
23 contractually paid far less than the work that was done to
24 get the rests. So the quantum meriut is actually.

25 THE COURT: Well you had a percentage of casino
26 revenues?

27 A. That's right.

28 THE COURT: So if the casino had been successful,

1 certainly that would have [RAEUFTZ] joinder amount recover
2 [ARBL] to significantly higher than the 5,000,000, right?

3 A. Oh my goodness, yes.

4 THE COURT: Right?

5 A. And that's exactly why of the contract amount of
6 monthly because 25,000 instead of the higher amount, it
7 should have been \$50,000 given the time but the idea was to
8 do exactly what the court had talked about.

9 THE COURT: I just want to clarify that the
10 contract amount ultimately would have been higher if in
11 fact certain conditions had been met such as the casino
12 project went forward, it was all funded and?

13 A. That's exactly correct.

14 THE COURT: All right.

15 Q. BY MR. FORDYCE: So Mr. Stein focus [TPH-G] on the
16 fees under [STAO*EG], that's 5018 [#12K] hours and [THABZ]
17 taken from exhibit 1560 and 15 58 is that correct?

18 A. Yeah is that taken is that what your question is?

19 Q. Yes.

20 A. So if you go to 1560, the total hours is 5018 1.9
21 nine and if you go to 15 58, that's worksheet form, if you
22 go to the invoice form in 15 58 [THARBGS] shows the 5018
23 two point 29 so there's three-tenths of an hour
24 difference.

25 Q. And we talked about that yesterday correct?

26 A. Right so that's the 5018 two, I then subtracted
27 January and February hours based on earlier testimony to
28 the court.

1 Q. A- what year?

2 A. 2001.

3 Q. Thank you. ?

4 A. And that was because it was before the contract
5 was signed but Mr. Johnson had made this spreadsheet
6 starting with 2001, so we subtracted out 39 hours out of
7 the 589 and that leaves the 5,000 14 three hours as the
8 [TPRERD] when the contract was signed through the
9 termination in October, October 3.

10 Q. And that's back to which amount?

11 A. 5,000 14 three.

12 Q. And times 875 an hour?

13 A. And then the next calculation is taking those
14 5,000 14 three hours times 875 an hour and assuming that
15 100 percent of the time actually benefited the tribe and
16 that would get you to four approximately million 500,000.

17 Q. And what is the parens number, less payment
18 received?

19 A. Right that would be the amount of quantum meriut
20 due, however under the SMDC agreement 130,000 was actually
21 paid by the [TRAOEUEFB] [SOUF] would subtract that amount
22 out and that gives you the 4,000,000 370,000 in the right
23 hand [KORP] [STKPHRER] now I sigh you've created for
24 comparison only in the next two lights, quantum meriut
25 claim for 375 per [TPOUR] tore comparison only please
26 explain?

27 A. Right the part of the spreadsheet that has compare
28 [TPOPB] at 375 an hour f you have used the sale number of

1 hours, Five 14 three hours but you multiply it by 375
2 instead of 875, then that comes out to 1,000,000 nine 28
3 and the reason for that is again we briefed the court on
4 this matter and the court is allowed to estimate, so one
5 way to estimate you say well I don't like that number, I
6 want to estimate a different number worksheet would be
7 taking 375 an hour instead 875 an hour, so it makes a good
8 comparison.

9 Q. Now, it doesn't mean that's necessarily what SMDC
10 is seeking?

11 A. Well, what we're seeking is in bold and you'll
12 notice this is not in bold. I was going to make it even
13 smaller than it is but I didn't.

14 THE COURT: The 375, the reason you chose the 375
15 is because that's what you charged your legal rate at the
16 time right?

17 A. Right.

18 THE COURT: Legal work. I understand that, but
19 this is just at the time your hourly rate that you were
20 charging for legal work; is that correct?

21 A. Right.

22 THE COURT: So that's where the 375 came in?

23 A. Right.

24 MR. FORDYCE:

25 Q. And Mr. Stein the next line, I believe you just
26 made reference to this above and that says Q M claim using
27 50 percent of the time benefitting GT Tribe?

28 A. Right so the reason for that line is instead of

1 using 375 hourly rate another way to estimate it is saying
2 hey I don't think 100 percent of what I heard really
3 benefited the tribe in what the law looks for as a benefit
4 so if we cut it in half, that would go 2,250,000. And so
5 this is just a little place holder to say a second way to
6 estimate would be to say hey not 100 percent of the time
7 benefited the tribe only 50 percent of the time benefited
8 the tribe.

9 Q. For that calculation which hourly rate were you
10 using?

11 A. 875. And both of those calculations [do not|done]
12 deduct the 130,000. So if one [WAUPLTZ] interested in a
13 calculation like that, you'd still have to deduct 130,000
14 that was actually paved on the SMDC agreement.

15 Q. So approximately 1.8 million and 2.12 million?

16 A. Uh-huh.

17 Q. .

18 Q. [HR*TS] let's move to quantum meruit married under
19 all circumstances the first happens [A*E] reimbursable from
20 exhibit 577 Page 31 two A and 3131.

21 THE COURT: I'm sorry are you directing to another
22 exhibit or?

23 A. It's the Talley company exhibit.

24 THE COURT: Oh.

25 MR. FORDYCE: It's just the [SOES] for the
26 numbers.

27 THE COURT: For the numbers?

28 A. If we go to [#R57] seven identify actually like to

1 take a look at it myself and it appears in two places
2 but -- so 31 28, it says is where you see the Saint Monica
3 development loan and that has the [TKPE] [TAEULDZ] on the
4 expenditures and then goes to the next page and it goes to
5 232,000 472.

6 Q. BY MR. FORDYCE: Where else is that in the Talley
7 report, 577?

8 A. 3131.

9 Q. And that under Santa Monica loan development
10 summary?

11 A. Yes. And the reason for discrepancy if you look
12 at the left-hand side 263,539.

13 Q. And we're on 3131?

14 A. 3131 so that's the second page.

15 Q. All the way to the left per report?

16 A. Right. So that was 263,539 of which 31,067 was
17 paid, so rather than using the 232 number I decide today
18 use both of those numbers which both together go to 232 to
19 show -- to demonstrate to the court there was actually
20 31,000 paid. So if you look at the total amount of
21 expenses that Talley found was 263,539 and then you
22 subtract the 31,067 which is below that in parenthesis,
23 that gets you to the net of the 232,000 number.

24 Q. What about the -- I'm going back to 1563 what
25 about the next \$33,823?

26 A. So Talley did the report based on federal
27 recognition information available on September 29th and the
28 report is dated October 3. 655, that is the --.

1 THE COURT: Aren't these additional expenses
2 incurred in those two months after the report is done?

3 A. That's exactly correct.

4 THE COURT: Is that what you're suggesting?

5 A. And that's captured in Exhibit 65 Five which is
6 the Seyfarth final accounting and account stated letter.

7 MS. IBARRA: So this is -- I'm going to object
8 that these are expenses that were incurred after there was
9 a dispute between the parties, I'm not sure why.

10 MR. FORDYCE: There's a month determination under
11 the SMDC contract agreement.

12 MS. IBARRA: I photograph but.

13 THE COURT: I'm sorry Mr. Fordyce what us.

14 MR. FORDYCE: There's a month for termination
15 under the SMDC agreement.

16 THE COURT: You mean a month notice.

17 MR. FORDYCE: Yeah.

18 A. Yes.

19 MR. FORDYCE: I'm not sure what counsel is
20 referring to.

21 MS. IBARRA: There's also a letter from Sheppard
22 Mullin asking that you cease all ago tits, so these are
23 expenses that were incurred clear leaf after you were asked
24 to cease activities, Mr. Stein is still incurring [SP*ERPS]
25 [-Z] after the tribe.

26 THE COURT: Okay you can cross him on that he says
27 these are expenses that he incurred on behalf of tribe, you
28 can put that out on cross-examination?

1 A. So 655 is the November 2 letter from Seyfarth
2 Shaw, on the second page of the letter is is the figure for
3 reimbursable [SPERPBS] [-Z] for 23 it 472 which is the net
4 amount after payment plus from September 1, 2006 so October
5 30 of 33,000 eight 23. So that period, the Sheppard Mullin
6 letter referred to saying stop doing anything was September
7 29th, these are expenses in September and October of
8 33,000.

9 Q. BY MR. FORDYCE: And Mr. Stein finally there's one
10 more entry and we've had a little bit of discussion about
11 this already so this is another in paren and it's
12 subtraction and it's 20,000 subtraction h Aronson
13 testimony, can you please explain that?

14 A. Yes. This 20,000 in my opinion this 20,000
15 shouldn't be here but I'm trying toe show where it would go
16 if the court disagrees with me. Aronson made all the
17 correction [TPR-Z] -- to all six years of expenses that she
18 wanted to and then when she found Mr. [TKAO*ED] making a
19 single entry, single entry because he was so bad as
20 software.

21 MS. IBARRA: Objection as to the testimony?

22 A. Forgive me this is my testimony not hers.

23 THE COURT: Let him finish?

24 A. (Ditto).

25 THE COURT: Mr. Stein I'm going to let you
26 testify, don't interrupt. You're going to hold his
27 objection until he's finished with his statement.

28 MS. IBARRA: Okay?

1 A. My apologies.

2 THE COURT: Go ahead?

3 A. So what happened was Aronson made all the
4 corrections from 2001 through 2006, she sat down with me, I
5 have actually okayed them by [PHAEUFBG]-g a little J S and
6 she then input [TPH-D] Quickbooks the changes which reduce
7 [-PD] the amount due. Mr. [TKAO*ED] DeKorte was going to
8 take over Quickbooks balls he was much more affordable toe
9 tribe however he was so bad that she found his first
10 mistake and I said don't bother so that was 16 single entry
11 and she had the chance to correct that, all of those
12 correction [WR-Z] made before Talley did the report, the
13 Talley report is only based on Quickbooks but it's based on
14 Quickbooks that Elizabeth Aronson kept, not me, that
15 Elizabeth Aronson kept. And so what Elizabeth Aronson is
16 saying that she found all these mistakes, they were
17 corrected by the time of the Talley report, however should
18 testimony [-BG] different or if the court disagrees, you
19 would simply subtract the 20,000 that she stated in her
20 testimony h and the figure there you 246 thousand dollar
21 figure includes that subtract, it's lowered by \$20,000 to
22 take account for Ms. Aronson's testimony.

23 MR. FORDYCE: Okay and we talked about.

24 THE COURT: Hold on.

25 MR. FORDYCE: Sorry.

26 THE COURT: Did you have want to say something Ms.
27 Ibarra hold on.

28 MS. IBARRA: Yes so my objection is he's

1 misstating Ms. Aronson's testimony that it wasn't her
2 testimony that she reviewed all of the records from the
3 beginning and it wasn't just one entry that she testified
4 to. And she also testified that she didn't keep the
5 Quickbooks.

6 MR. FORDYCE: And Your Honor there is not Ms.
7 Aronson's testimony we're talking about, Mr. Stein just
8 testified.

9 THE COURT: Okay I'll take that into
10 consideration, she may have testified to one thing he's
11 [TOEFG] to another. But let's take a 15-minute break at
12 this point.

13 MR. FORDYCE: Can I just wrap up this.

14 THE COURT: Okay.

15 Q. BY MR. FORDYCE: And Mr. Stein you've already
16 spoken about the interest in the last line item?

17 A. Right, the interest is low because it was the
18 interest that was on 2.3 million in fees and
19 reimbursements, this is -- this would be 4.3 million so
20 it's lower.

21 Q. So fees -- sorry?

22 A. So the top right-hand corner, the top right-hand
23 corner adds together the quantum meruit fees, the quantum
24 meruit reimbursements and the interest amounts to gets to
25 the 5,000,000 23 3,000.

26 Q. Okay thank you break.

27 THE COURT: Now we can take a break.

28 MR. FORDYCE: Thank you Your Honor.

1 (Break taken.) 11:12 AM to 11:25 AM.

2 THE COURT: Gabrielino versus Stein, BC361307.

3 Q. BY MR. FORDYCE: Mr. Stein let's go to the first
4 page of exhibit 1563. Are you there?

5 A. Yes.

6 Q. Okay. Got a similar format as to the second page.
7 Can you distinguish this first page from the second page
8 that we just reviewed in detail please?

9 A. Well the second page is only relevant for if the
10 SMDC agreement is found to be voidable, void or voidable in
11 which case quantum meruit becomes important. The first
12 page is the actual contract amounts and the if the contract
13 is enforceable then you would simply go to the contract
14 amounts and ignore the second page.

15 Q. Okay. So let's look at that very first line item.
16 Well actually let's -- we've got -- no no no no let's go to
17 the first line item is SMDC agreement contract amounts
18 owed, 11 206. [K*EUBGS] can you please explain that?

19 A. The amount owed under the SMDC contract was
20 2,353,000 and that had three components, one were monthly
21 fees which are highlighted at 1,490,000, the second was
22 reimbursable expenses which are highlighted at 246,000, and
23 the third is interest amounts and the advantage of this
24 summary is that it shows all the payments that were made
25 and the net amount that comes out after all the amounts due
26 and all the amounts paid is \$2,353,276.

27 Q. Now the next item as we move down says monthly
28 fees and the reference is to exhibit 569 Section 4 A,

1 please explain that?

2 A. Right. The highlighted amount is 1,490,000 and
3 that's from three numbers, each of which are highlighted,
4 so that's the total of the amounts that were due minus the
5 amounts that were paid is 1,490,000.

6 Q. And again you've written through October 1, 2006
7 and the reference is to exhibit 577?

8 A. Right, 577 is the Talley report and it shows that
9 1,595,000 in fees were due. Then Exhibit 65 Five is the
10 Seyfarth Shaw amount which shows the same amount on Page 2,
11 monthly amounts through October 2006 in the amount of
12 1,595,000 so it's the same as the Talley report plus 25,000
13 for November so the extra 25,000 is from the Seyfarth Shaw
14 final letter and account stated -- find demand and account
15 stated.

16 Q. We just looked at that letter, correct, that's
17 655?

18 A. Right.

19 Q. And that's --

20 A. And I'll come back to the [SRAEUR] your things
21 that are not in bold, these are points that are made if the
22 court does something differently but rather to complete the
23 thought of where does the 1,490,000 come from, you have
24 1,595,000 through October 1, then the final month, there
25 was a 30-day notice for the termination given by the tribe
26 of 25,000 and then you would subtract from that the
27 payments that are actually made and that's the 130,000.
28 And the date of each payment is mentioned based on Exhibit

1 677 the Talley report.

2 Q. That's actually that's a misprint that should be
3 577?

4 A. 577.

5 THE COURT: Where are we looking where it says
6 677.

7 MR. FORDYCE: You're correct Your Honor?

8 A. Yeah the exhibit that is referenced is 577.

9 MR. FORDYCE: Sorry Mr. Stein I didn't mean to
10 interrupt you but I didn't want that on the record so?

11 A. Yeah. And the Talley report mentions that the
12 August payment was not made and the September payment was
13 not made. What I filled in here was my testimony that Ms.
14 Aronson stopped -- gave me the check, I deposited the check
15 but she then stopped payment on the August payment and then
16 the September payment she agreed in her testimony with my
17 testimony that they never made the September payment.

18 MS. IBARRA: Misstates her testimony.

19 Q. BY MR. FORDYCE: As you sit here today Mr. Stein.

20 THE COURT: I'll remember the testimony you can
21 point it out later I remember.

22 Q. BY MR. FORDYCE: Concerning Ms. Aronson in August
23 and September as you sit here today is that true and
24 correct?

25 A. Yes.

26 Q. So let's go back to your for comparison only -- or
27 actually let's just be clear, for the monthly fees, the
28 \$25,000 a month, where is that established?

1 A. That's at Section 4 A of exhibit 569.

2 Q. And that's actually four A little I 25,000 per
3 month?

4 A. Yes.

5 Q. Okay. So it says the first non **[bowled|bold]** it
6 says through November 1, 2002, statute of limitations 569
7 Section 4 G for comparison h can you please explain what
8 you're doing here?

9 A. Yeah, exhibit 569 Section 4 G is a very standard
10 point that you put into any long term contract and that is
11 you have -- the parties **[TKPWRAE]** that the compensation
12 when due is a liquidated debt and it says compensation
13 payable here under shall when accrued be deemed a fully
14 liquidated debt of the tribe and shall not be contingent
15 upon one the success of the economic development tasks and
16 then two, any failure by developer to do some but not all
17 the development tasks. The reason for that phrase is that
18 triggers the statute of limitations is once you have a
19 fully liquidated debt, you've got four years to sue on that
20 particular debt, you don't have to wait four years for the
21 statute to run from a breach of contract. Rather what this
22 does is it creates each monthly payment, you had four years
23 to challenge that monthly payment. Turning to exhibit
24 1563.

25 THE COURT: Is it four years to challenge or four
26 years to collect on it?

27 A. No four years to file a lawsuit about it.

28 THE COURT: What section is that now, Section 4 G?

1 A. Right.

2 MS. IBARRA: Well Section 4 G is just the
3 liquidated debts clause, it doesn't ex play the lawsuit on
4 that right?

5 A. Right. And what this does though is they filed
6 their lawsuit in November of -- November 2 of 2006 which
7 meant that payments through November 1 2002 they never
8 challenged and so we are able to collect those in our
9 lawsuit for 550,000.

10 MS. IBARRA: I'm going to object as to misstates
11 the law and it might actually be like installments
12 contracts rather than liquidated damages clause **[-DZ]**.

13 MR. FORDYCE: What law is being misstated.

14 THE COURT: Well I'll have to look -- I don't have
15 that clause in front of me, that's Mr. Stein's
16 interpretation of what he understood that meant when he was
17 signing that agreement. It may actually mean something
18 else so I understand his testimony I'll take that for what
19 it's worth and then I'll look at the clause myself and of
20 course you can argue what the **[KHRA*UDZ]** clause means and
21 its effect later but.

22 Q. BY MR. FORDYCE: So Mr. Stein that \$550,000, what
23 does that represent simply put?

24 A. To be in accord with the Court's point of view,
25 that's why it says for **[KPHRAEUR]** son only, this is not
26 what **[WAOUR]** claiming because we're claiming the 1,000,000
27 49 zero thousand dollars amount but if you wanted to parse
28 out, if you said well no this contract is not worth that,

1 if you're trying to parse it out, one way to parse it out
2 would be to say okay 550,000 was due more than four years
3 before the lawsuit started and there's a liquidated debt
4 provision in there. The second way to do it would be to go
5 to September 28th of 2003, that's Exhibit 15 27 reso 46 and
6 Exhibit 15 48 which is a modification agreement,
7 modification agreement is both Exhibit A and separate. So
8 at that time the tribe signed the resolution and signed the
9 agreement both of which provided that 75 [redacted] \$25,000 was
10 due and payable on that date.

11 THE COURT: I'm trying to remember if the
12 resolution themselves actually stated the amount or that
13 was simply your calculation?

14 A. No.

15 THE COURT: But my recollection is the resolution
16 actually didn't state an amount?

17 A. It did state it, yeah. So if we can go to.

18 MR. FORDYCE: Yeah take a look --?

19 A. Resolution d Exhibit 15 48 [redacted] 47.

20 MR. FORDYCE: 1547.

21 THE COURT: You can show it to me if you want, if
22 you find it?

23 A. Well it's actually mentioned twice, that's why it
24 says 249 and 253 so.

25 THE COURT: Go ahead and read it into the record?

26 A. Okay so this is Resolution 46, 249 at the bottom
27 of the page, whereas under the agreement developer is due
28 to be paid 25,000 per month from February 1, 2001 through

1 the present for a total of approximately 725,000 to date
2 from the investment money and this would take up a large
3 portion of the investment money that each investment group
4 has discussed invested in the tribe. Whereas the tribe has
5 requested the developer defer payment of most of the
6 monthly amounts which accrued in the past 28 months to
7 allow the investment money to be used.

8 MS. IBARRA: Can you give us the Bates number
9 please, sorry?

10 A. I did. It's 249.

11 MS. IBARRA: 249, thank you?

12 A. And that goes onto 250. And it mentions it again
13 in the actual amendment and modification itself which is
14 Exhibit A.

15 MR. FORDYCE: And that's at 25 two?

16 A. And at 25 two and it has the same language.

17 THE COURT: Okay.

18 Q. BY MR. FORDYCE: So Mr. Stein that's the source
19 for --?

20 A. It's actually 253 and it says whereas the tribe is
21 satisfied with the agreement and by this resolution seems
22 to approve and ratify once again and to recognize over 28
23 months of satisfactory performance of economic development
24 tasks by developer.

25 Q. And that's the source for 725 comparison number?

26 A. That and then it says below where is under the
27 agreement developer is Tuo to be paid 25,000 per month from
28 February 1, 2001 through the present for a total of 725,000

1 to date and that is the same 24 months so I forgot to read
2 the first paragraph but the same language appears [TPH*T]
3 agreement and appears [TPH*T] resolution.

4 Q. And moving on to the next for comparison leading
5 due to the [PHRO*BG] meeting date, how did you come up with
6 this number?

7 A. According to Mr. Margolis he at first said the
8 Lockyer meeting [-P] meeting was not evidence of an
9 attorney-client agreement he then changed his testimony and
10 said it was.

11 MS. IBARRA: Objection misstates his testimony
12 originally.

13 THE COURT: Or the the court will remember the
14 testimony or you can just point it out later?

15 A. And if you take the date of April 5, 2004, at that
16 time \$925,000 was due and you can make that calculation by
17 referring again to the fact that \$725,000 was due in
18 September of -- September 28th and then count the months
19 between [#25*] September 28th and April 5th of the
20 following year, that adds eight months adds \$200,000.

21 Q. BY MR. FORDYCE: So relatively simple math?

22 A. Right so you have -- now you have three examples
23 of very simple math, one the liquid dated damage -- the
24 liquidated debt [PROEFGTS], the second Resolution 46 where
25 the tribe actually signs documents saying the 725,000 is
26 owed and that performance was satisfactory, and third, if
27 Mr. Margolis was right about the Lockyer meeting document,
28 then last was there was an Escutia letter was made 2005.

1 Q. That would be March 2005?

2 A. March 2005.

3 THE COURT: That says May there?

4 A. Yeah, so March would be two months earlier, so
5 instead of 1,300,000, it would be 1,250,000. And that
6 would be this -- my testimony was it was a stupid mistake.
7 Mr. Margolis said that even if it was a stupid mistake it
8 was enough to create an attorney-client relationship.

9 Q. And to be clear Mr. Stein let's just make the
10 record clear this is Plaintiff's Exhibit 30 and this is the
11 document that was signed law offices of Jonathan Stein is
12 that to what you're referring?

13 A. That's correct.

14 MS. IBARRA: That is a legal brief.

15 MR. FORDYCE: That's fine?

16 A. No it's --.

17 MR. FORDYCE: Yeah but I just want to make sure
18 that we're talking about the same exhibit, it's exhibit --.

19 THE COURT: I recognize which exhibit we're
20 talking about.

21 MR. FORDYCE: Okay thank you Your Honor.

22 Q. BY MR. FORDYCE: So Mr. Stein the story behind
23 each of these -- well let's just see the last three number,
24 the 725, 925 and now the 1.25 million because we had an
25 date wrong is if there's an attorney-client relationship
26 many formed after each one of those proposed days the funds
27 for comparison are those that occurred before the alleged
28 attorney-client relationship is that correct?

1 A. That's correct.

2 Q. And then afterwards you would you use quantum
3 meriut, you can call for some or all of the second page of
4 the quantum meriut or if you took Mr. Margolis' advice you
5 would not even award quantum meriut because this was such a
6 serious breach of ethical conduct.

7 Q. And I believe you've explained less the payments
8 made by GT Tribe, that's the 130,000?

9 A. That's right but if the court opted for one of
10 these other , you would have to subtract the 130,000 from
11 those numbers, that's were it's below.

12 Q. Let's move to the next section, reimbursable
13 amounts and again it's Section 4 B of 569?

14 A. Right, that's the provision in the [SAO*BG] SMDC
15 agreement providing for reimbursable amounts, then the
16 Talley report showed 26 \$3,000 in reimburseable amounts of
17 which 31,000 \$67 was paid here we detail the dates of
18 [PA*EUPLTS] payments and the amounts of payments made and
19 those were all checks written by Elizabeth Aronson and
20 that's the 31,000 paid, we then subtract out an additional
21 \$21,000 if Ms. Aronson's testimony is take then one
22 respect, you wouldn't [S-B] tract it out if you took it in
23 the respect I remember it, and then of course in the
24 Seyfarth Shaw letter they note that in September and
25 October, even though while the casino -- the relationship
26 with GT Tribe was falling apart, even though the
27 relationship was falling apart, Mr. Stein still spent out
28 of his own pocket, \$33,000 additional money.

1 Q. So it's just a slightly more detailed breakdown on
2 the second page?

3 A. Right. And the \$246,000 number is the same as on
4 the second page.

5 Q. And then the interest amount we've talked about,
6 this \$616,980.23, that's based on the contract amount up
7 above?

8 A. Yeah, I'd actually like to go to the Talley for a
9 second only because Ms. Dertadian did such an impressive
10 job as the tribes accountant on interest calculations,
11 which are on Page 3131 in 577.

12 Q. 3131 and 3132 I believe. Mr. Stein just a quick
13 question about interest. Does this sheet in 1563 include
14 interest on the FPPC contract?

15 A. No. That's -- there's a slight difference between
16 what Talley calculated and what's here because Talley also
17 calculated the interest on the FPPC amounts that were not
18 paid and because we're not claiming them they would be
19 inappropriate to claim the interest.

20 Q. And Mr. Stein what did you want to draw the
21 Court's attention to in 3131?

22 A. 3131 -- 3131 is the -- shows the interest amounts
23 over in the top right-hand corner, it has 51,000 105 is
24 interest on the reimbursables, 58 5,000 as interest on the
25 monthly fee.

26 THE COURT: Hold on I'm at 3131?

27 A. Yeah.

28 THE COURT: And I don't see 51, I see 50,000

1 [#10*] \$105.

2 MR. FORDYCE: I think Mr. Stein might have meant
3 the bottom right?

4 A. Yeah the bottom, bottom lower right since you're
5 holding it that way.

6 THE COURT: Am I looking at the right one?

7 A. Right over here matches the [AOUS] and that plus
8 that plus that is a total of six 17 however the last one is
9 the FPPC contract, that's not we're not claim that so you
10 add these two amounts and you'll see those in the exhibit
11 1563.

12 THE COURT: All right I see the 51,000 105 and 23.

13 Q. BY MR. FORDYCE: [SKWRA*F] so Mr. Stein --?

14 A. And there were no payments for interest made,
15 that's why none is on the exhibit.

16 Q. So just to -- if you would just summarize this
17 page briefly please?

18 A. Okay. So the summary of all the SMDC claims for
19 its contract cause of action is 1,490,000 for monthly fees,
20 that's after -- so that's net of the payments made, 246,000
21 29 six for reimbursable amounts again these net of the
22 payments that were made and net of Aronson's 20,000 and
23 then six 16,000 '98 zero for interest through November of
24 20 off and those three amounts come up to 2,353,000

25 [SKP-FPLT] if I could just point out to the court in the
26 Talley report that this is how she calculated she actually
27 did a month by [PHOEU] analysis of how much was due each
28 month.

1 THE COURT: Which payment are you looking at?

2 A. 3132.

3 MR. FORDYCE: Yeah the very hard to read one.

4 THE COURT: 3132?

5 A. And what that spreadsheet is she took the various
6 amounts owed under the contract and then brought the
7 interest forward on that amount for every single separate
8 month and that's how she got to the \$565,875 plus the
9 \$51,105, that's where -- she's showing how she got to those
10 numbers.

11 THE COURT: She's not including -- you're not
12 looking at the top portion that says loan, you're just
13 looking at the development fees or am I wrong about that.

14 A. Loans, reimburseables she counted as loan, in
15 other words, they were loans to the tribe of -- you know,
16 airfare to Sacramento would be a loan to the tribe. And so
17 interest of 10 percent on that loan is all separately
18 calculated here.

19 THE COURT: So the part that's not being
20 considered is the FPPC contract at the bottom?

21 A. That right. And you can see exactly why it's such
22 a small amount it makes it ease your to streamline the
23 case.

24 Q. So Mr. Stein you did a great deal of work on the
25 project correct?

26 A. Yes for all the time.

27 Q. And GT Tribe benefited?

28 A. Yes I think that all the efforts were intended to

1 benefit the tribe and they in fact did benefit the tribe.
2 Nobody knew the story of why the tribe should get a casino,
3 nobody [TPH*] in the investment community was even aware
4 that he there was a tribe in Los Angeles County that might
5 quantify for a gaming license and the idea of a lube tiff
6 casino in L.A. County was widely publicized throughout the
7 entire investment community for people who are interested
8 in the gaming industry.

9 MR. FORDYCE: Okay Your Honor that pretty much
10 concludes that part of Mr. Stein's testimony. What we have
11 left now is rebuttal. Would you have like us just to forge
12 ahead.

13 THE COURT: Well we have -- yeah we have 15
14 minutes. Let's do at least 10 and then we can talk about
15 where we're going from here last five minutes so you can
16 start your -- this is the [AO*EG] testimony and Aronson
17 rebuttal.

18 MR. FORDYCE: Yeah Aronson Barrett and [AO*EG].

19 THE COURT: All right.

20 MR. FORDYCE: And we thought we'd do Aronson first
21 just because she's come up today.

22 THE COURT: Okay that's fine.

23 MR. FORDYCE: Okay.

24 Q. BY MR. FORDYCE: So Mr. Stein again for the record
25 this is rebuttal testimony to the recent testimony of
26 Elizabeth Aronson. Mr. Stein what's your recollection of
27 the chronology of the Aronson and Ms. Lamothe's tenure on
28 the project?

1 A. Well Rae Lamothe started in April or May of 2001,
2 just a month or two after the SMDC contract and then she
3 continued on through the [HRAO*B] funding which was in May
4 of 2006. Elizabeth Aronson started in April of 2006 and
5 was trained by myself and Ms. Lamothe and therein she
6 continued on through the events of September, October,
7 November when the lawsuit was filed and then to my
8 knowledge she was also tribal general counsel for a period
9 after this to have the Dunlap group.

10 Q. And actually let's just touch on Ms. Lamothe just
11 a little bit because she actually did give testimony since
12 we've been back in January, resolutions, do you recall
13 which resolutions Ms. Lamothe was drafting?

14 A. Well the first 10 resolutions were drafted by
15 Seyfarth Shaw, main [RAOE] by Tom Watt the corporate
16 partner, much like Ken Sulzer, I of course had input into
17 it, then we had -- when Steve Otto ducked out, Ed Hamburger
18 came on for a short period --.

19 THE COURT: On behalf of whom?

20 A. On behalf of GT Tribe. And he did through about
21 Number 11, 12/13, 14 and then Rae Lamothe came on and did
22 15 through -- through '96 I guess it would be. '96 was the
23 Libra agreement.

24 Q. BY MR. FORDYCE: Actually Mr. Stein do you recall
25 Ms. Lamothe's recent testimony about her control as counsel
26 for the tribe as [APBLG] aside?

27 A. Yes.

28 Q. What do you recall that testimony as?

1 A. I'm sorry I don't know with a you're referring to.

2 Q. Did Ms. Lamothe was she independent counsel for
3 the tribe?

4 A. Yes.

5 MS. IBARRA: Objection leading?

6 A. She --.

7 THE COURT: Overruled I think that testimony, Mr.
8 Stein has said that over and over so it's just rehashing
9 what he already said so overrule.

10 Q. BY MR. FORDYCE: Mr. Stein is that testimony from
11 Ms. Lamothe directly oppose to the basis for Mr. Margolis'
12 opinions in this matter?

13 A. Well my knowledge of her role -- I'm going to --
14 if you have don't mind me saying about any knowledge
15 instead of her testimony was yeah completely different than
16 what Mr. Margolis said, she [TKP] everything the way a
17 lawyer should do thing [TPOERTSDZ] their client.

18 Q. And it's that [STKPWR-RB] [TKP] and she was
19 independent of my [TPHRAOUPGS] and she did the work for GT
20 Tribe and she did it -- the only supervision I gave her was
21 hey we need this done and that done and that done and we
22 would talk her from the GT Tribe point of view, me from the
23 SMDC point of view, we would talk through the right [ARD]
24 of what her work product should be [SKP-RBGS] she would say
25 okay I'll do this first and this second.

26 Q. And this was your firsthand experience [SW]
27 Ms. Lath during her tenure with the tribe?

28 A. Yes we worked very well together, she was a good

1 professional, she was a smart lady and she definitely
2 wanted to receive the tribe [PROS] [SPER].

3 Q. So just getting back on course here, resolutions
4 15, do you recall when Ms. Lamothe [STO*PD] stopped
5 drafting the resolutions, approximately?

6 A. I believe she -- she and Marilyn Barrett did most
7 of the work for the Libra resolution which was Resolution
8 96, they were all in order, so 15 through '96.

9 Q. So did you have a role in drafting resolutions 15
10 through '96?

11 A. Yeah I have would provide a lot of factual content
12 saying we need a resolution to approve this contract, where
13 is the contract, here's that contract.

14 Q. Were these issues addressed to your novel at
15 tribal council meetings?

16 A. Yes.

17 Q. Were you present for any of these meetings
18 [-FRBGS] I was present photographer most of them, not all
19 of them.

20 Q. Did you handle any discussions about the
21 resolutions at the meetings?

22 A. If RAMP was there, then they would act observe a
23 resolution, if Rae Lamothe wasn't there, then they would
24 very seldom act on a resolution unless it was entirely
25 necessary but then they would have gotten her consultation
26 from before the meeting and we would simply get the
27 documents signed.

28 Q. So what about the later resolutions and Ms.

1 Aronson's role, do you recall when she became involved,
2 what resolution?

3 A. Number 97, she took over from Rae, Rae taught her
4 how to do resolutions.

5 THE COURT: Are you saying Barrett or Aronson?

6 A. Aronson. So she did resolutions 97 through -- 106
7 was the last resolution that I participated in andd that
8 was -- I didn't participate in 106, I protested against it.

9 Q. BY MR. FORDYCE: I was going to ask you what role
10 if any did you have in resolutions 97 through 106?

11 A. The exact same thing as with Rae Lamothe.

12 Q. And could you just describe briefly for the
13 record?

14 A. I would say we need to do that this and then we
15 need to do that and then we need to do the other, we need a
16 resolution on this, we need a resolution [ORPB] that,
17 here's a contract h we need the resolution approving the
18 contract. The difference between if I say Ms. Aronson we
19 need an resolution approving the contract, that would be --
20 she would purposely not do that to irritate it she would
21 put anything in front of what I asked her that she thought
22 the tribal council had asked for so as a result we started
23 butting heads because I was not getting the resolutions
24 need today higher the people need today deploy the Libra
25 funds. And show seemed to enjoy not getting things
26 [do not|done] on the schedule that I set for them to get
27 done [-FPL] the was that schedule was needed so that these
28 vendors could begin their [PWORBG].

1 Q. Similar question with Ms. Lamothe for resolutions
2 '96 to 106 why these raise today your knowledge at tribal
3 council meeting?

4 A. Yes.

5 Q. Were you present --?

6 A. The difference between Elizabeth Aronson re ledge
7 us Leah tended the tribal council meetings. To my
8 knowledge she was there for every one and she was certainly
9 there for every one that I attended.

10 Q. [TKP] handle -- or were there questions from the
11 from the tribal council members about resolutions 97
12 through 106 at meetings you attended?

13 A. Sure the tribal council was [TP*UPL] of very smart
14 people and some people that weren't so smart were still
15 very shrewd, there was the cream of the crop of 1700 tribal
16 members.

17 Q. Who fielded -- or did anyone field questions about
18 the resolution?

19 A. Yes.

20 Q. Who would that be?

21 A. Elizabeth Aronson handled her -- she gave legal
22 advice to the tribe, [EUFR] answered questions as SMDC
23 filling them in on how the casino project was going and why
24 we would need a vendor for this contractor why we would
25 need to give money to a political campaign of a certain
26 guy, who he was, what portion had he.

27 Q. Mr. Stein do you recall Aronson's testimony that
28 every time you gave legal advice she told the tribal

1 council I'm your lawyer not him, do you recall that
2 testimony?

3 A. Yes I do.

4 Q. Do you recall that happening during Aronson's
5 tenure on the project?

6 A. Not very much but yes, I did recall that
7 happening.

8 Q. Well did it happen often [-FPLTS] it happened far
9 more than than I thought it need today, she had a very what
10 I would call weird view of what I was doing there, I was
11 there for SMDC saying this is how we're going to get a
12 casino, and she was standing back and instead of saying hey
13 let's get the job done, she was saying oh Mr. Stein you
14 can't say that or oh I've got to say that or council don't
15 listen to that, he's not your lawyer, I'm your lawyer so
16 well we were supposed to get a team, we were supposed to
17 get things done and she started handling it as if it was
18 adversarial when infact everybody already knew I was
19 adversarial, but the idea was I was on one side of the
20 table trying to get a casino for the tribe and trying to
21 get SMDC paid and they were on the other side of the table
22 trying to get a casino, they were willing to pay SMDC but
23 they hoped that they could get the casino more than
24 anything else?

25 Q. Just more clarifying questions before we I guess
26 before we start for right now. When Ms. Aronson told the
27 council members I'm your lawyer not him, what was -- what
28 was your response, what did you say?

1 A. I'd say she's right, identify safe she's right but
2 that's not the point, the point is we need to give this
3 political contribution to this guy because he's head of
4 this committee or I'd say she's right but I'm just here as
5 SMDC I'm just telling you what's going on with the casino
6 project, why are we wasting time.

7 Q. Your Honor is this a --.

8 THE COURT: Yes we should stop now so we can just
9 **[TAUFRBG]** a little **[PWREUT]** about what you remember **[A*]**
10 we're going to do. Mr. Stein you may step down?

11 A. Thank you Your Honor.

12 THE COURT: Until **[W*EBG]** we continue tomorrow. I
13 think 10:00 o'clock tomorrow Neli from what I can tell from
14 the calendar but can you check.

15 (Discussion held off the record.).

16 THE COURT: 10:00 o'clock would be the earliest I
17 have any we're going to get to you so. 10:00 o'clock
18 tomorrow. We're Garden Grove to finish with Mr. Stein
19 maybe 10 **[S*]** tomorrow.

20 MR. FORDYCE: Owe yes Your Honor.

21 THE COURT: Okay because he has the I guess
22 finishing this little area and he's got the **[AO*EG]**.

23 MR. FORDYCE: Yes Your Honor.

24 MS. IBARRA: So that's all tomorrow.

25 THE COURT: You'll do your examination Ms. Ibarra.

26 MS. IBARRA: That's tomorrow.

27 MR. FORDYCE: I think that we should be finished
28 easily in an hour.

1 MR. FORDYCE: Easily.

2 MS. IBARRA: Okay so [SEU] start my examination
3 tomorrow.

4 MR. FORDYCE: Correct. I'm sorry Your Honor.

5 THE COURT: Yes well yeah I just said yes she'll
6 start when you're doing.

7 MR. STEIN: And so what I had mentioned earlier is
8 if we take less than an hour and she begins our
9 cross-examination I assume that --.

10 MS. IBARRA: Probably an hour I would imagine.

11 MR. STEIN: And then Friday Steven Johnson will be
12 less than an hour and any redirect I assume would be.

13 MR. FORDYCE: Sure.

14 MR. STEIN: Minimal.

15 MS. IBARRA: Very short he's a short writ.

16 THE COURT: We should be able to finish.

17 MR. STEIN: And I'm sorry Steven Johnson would
18 be -- with cross-examination might be an hour.

19 MS. IBARRA: Yeah I don't have that much cross for
20 Mr. Johnson.

21 MR. STEIN: And once again you've already heard
22 all the facts, he'll just be saving the facts from the
23 point of view of the creator of the documents and the
24 quantum meriut explanation.

25 THE COURT: You mean the -- the summary sheet that
26 we have.

27 MR. STEIN: Yes.

28 THE COURT: Okay. And then is there any [AOE]

1 thing after that, I'm assuming everybody has had the
2 opportunity to present their witnesses.

3 MR. STEIN: Well Your Honor I'll just remind only
4 for the sake of creating a record.

5 THE COURT: Yeah.

6 MR. STEIN: There is a cross-complaint for
7 indemnity that was -- we don't know what damages claims
8 that were made, we now have found out what damages claims
9 were made so we would ask to bring back a large number of
10 witnesses, the court has refused that but we believe the
11 cross-complaint foreign did he mean knee is still is there,
12 those people are still parties for the sake of that
13 cross-complaint.

14 MS. IBARRA: I don't think --.

15 MR. STEIN: And I just wanted to make any record
16 on that.

17 MS. IBARRA: So for the record they've never been
18 served since the appeal, I don't represent them, they're
19 individuals, I represent the entity, that's been actually
20 [KHRAEUR] and if Mr. Stein was serious about pursuing those
21 contribution claims, he should have served them, they've
22 been there.

23 THE COURT: Are you saying there's no proof of
24 service in the [STPAOEUL].

25 MS. IBARRA: There's in proof of service to them
26 for three years four years however long it's been.

27 MR. STEIN: Your Honor there's no, we're in the
28 statement lawsuit, they've appeared in this same lawsuit

1 they were never dismissed in this lawsuit so there's no
2 need to serve them then.

3 MS. IBARRA: They were never served nip of the
4 pleadings so any of the motions, anything so there was -- I
5 don't know that they had notice that they were still
6 parties because they've never been served with anything
7 after the appeal. I don't -- I didn't realize that they
8 were still parties to this contribution claim, it wasn't
9 my -- I represent the entity, I appeared on behalf of the
10 entity and then at the end of trial, there's this mention
11 that Mr. Stein has this contribution claim against certain
12 individuals he should have served [THEPLTD].

13 THE COURT: Well if he thinks they're still
14 parties he needs to show me that they are, do you have your
15 proof of service [-Z].

16 MR. STEIN: Once again they appeared in this case
17 from 2006.

18 THE COURT: Yeah but there was a resolution
19 against them as individuals so I had assumed it took care
20 of them.

21 MR. STEIN: No the resolution -- their.

22 MS. IBARRA: The judgment in the trial.

23 MR. STEIN: Forgive me. GT Tribe side SMDC, SMDC
24 cross complained foreign dim [TAOE] against the
25 individuals. The trial was SMDC's lawsuit against the
26 individuals from the west district, it did not consider the
27 GT Tribe lawsuit. In the week.

28 MS. IBARRA: So it was on appeal.

1 MR. STEIN: In the last weeks we have heard the
2 damage testimony which I don't think there has been any
3 damage testimony but we have found out what the damage
4 claims are from GT Tribe, it's only now the indemnity
5 claims are relevant now that we know what the damage claims
6 are, I don't think there are any damages, I haven't heard
7 any testimony that indicates any damages there have been no
8 experts saying these damages occurred so.

9 THE COURT: Let's put it this way, if in fact they
10 are still? Play, there would be no reason to [PWAOEUFR]
11 Kate, there was no motion to [PWAOEUFR] Kate or sever or
12 anything like that association all the evidence that came
13 in in the trial is the evidence that's going to be
14 considered for everything that's in play for every party so
15 there would be no rape to quote reopen it so the indemnity
16 portion can be tried, it's going to get tried all together
17 assuming that there's -- assuming that you're right, it's
18 still in place, so whatever evidence has been presented is
19 the evidence.

20 MR. STEIN: Well Your Honor we had asked for them
21 to be brought back, what we would show is that they took
22 the investor money and spent is on non casino purposes and
23 they threw a big party in February to publicize their vote,
24 they hired all sorts of public relations people, but they
25 spent all the money they way they wanted to.

26 MS. IBARRA: It's --

27 THE COURT: That may be true, but they were here
28 and if you wanted to bring that out, you should have

1 brought that out in the testimony. I mean every single
2 member of the tribal council I believe except maybe a few.

3 MS. IBARRA: And if that's his --.

4 THE COURT: Wait a minute. Were here and so if
5 you have wanted to bring it out you should have done it at
6 that time.

7 MS. IBARRA: And that particular basis is
8 duplicative.

9 MR. STEIN: And just again, to take a record and
10 that's all I'm doing here, we requested permission to bring
11 them back and the court denied that permission.

12 THE COURT: Right. I'm not going to allow you to
13 bring them back when you had the opportunity to examine
14 them while they were here.

15 MR. STEIN: Thank you, Your Honor.

16 MS. IBARRA: There's no notices to appear for
17 parties, none of that was done so how were they supposed to
18 do know that they were still parties in this action, I
19 don't know.

20 THE COURT: Okay. And if they weren't served then
21 no reason for them to appear. All right well I don't know
22 we'll have to look at that, you'll have -- if that's an
23 issue then that will be part of your briefing. Okay.

24 MR. STEIN: Thank you Your Honor.

25 MR. FORDYCE: Thank you, Your Honor.

26 THE COURT: Okay thank you. 12:05 PM.

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