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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 TESTIMONY OF J. STEIN, 3/16/17

10:19 AM.

THE COURT: Gabrielino-Tongva Tribe versus Jonathan Stein, BC361307. Good morning counsel.

MS. IBARRA: Good morning.

MR. FORDYCE: Good morning Your Honor.

THE COURT: Will you make your appearances.

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

MR. FORDYCE: Good morning Your Honor Niall Fordyce on behalf of Mr. Stein and law offices of Jonathan Stein.

MR. STEIN: Good morning Your Honor Jonathan Stein on behalf of.

THE COURT: Good morning.

MR. STEIN: SMDC and the Crane Group.

THE COURT: Thank you. I'm sure you noticed I have a lot of people in the courtroom. They are students from Santa Susanna high school so they have been observing my courtroom this morning and they're going to observe the trial until I think they said about 11. All right Mr. Stein were you on the witness stand.

MR. STEIN: Yes Your Honor.

THE COURT: Okay why don't you come up and we'll continue?

A. I'm not very happy about this Your Honor.

THE COURT: I'm sorry.

1 MR. FORDYCE: Mr. Stein we were.

2 THE COURT: Hold on a second shall. All right Mr.  
3 Stein do you understand that you're still under oath?

4 A. I do Your Honor.

5 THE COURT: All right thank you.

6 Q. BY MR. FORDYCE: Mr. Stein we're in the middle of  
7 your rebuttal testimony just for the record do you recall  
8 that?

9 A. Yes.

10 Q. Mr. Stein, Ms. Aronson, do you recall testimony  
11 that she did not type?

12 A. I do.

13 Q. Is that correct?

14 A. No, it wasn't. I observed her typing on the  
15 tribes computer many times, especially typing resolutions,  
16 she would come up from San Diego which was a long drive and  
17 she would get on the tribes computers and she would type  
18 the resolutions that needed to be done based on the  
19 resolutions that were already on the computer.

20 Q. And was anyone else involved with the resolutions?

21 A. Barbara Garcia sometimes making copies for the  
22 council, e-mailing it out to council to show them what was  
23 going to be there, that sort of thing.

24 Q. And I don't think there's any debate that there  
25 was friction between you and Ms. Aronson?

26 A. No.

27 Q. What was the source of the friction?

28 A. Well the main source of the friction was that she

1 failed to pay \$100,000 to SMDC, she purposely stopped  
2 payment on a check in August and in September refused to  
3 sign a check and the source of the friction was money more  
4 than personality.

5 Q. But was it --?

6 A. There was a secondary source of the friction in  
7 that she basically refused to do anything timely that I  
8 asked to be done and some other sources of friction were  
9 set forth in the letter stating the 26 causes for her  
10 termination.

11 Q. And just as you recall, any examples of her  
12 refusing to get work timely done?

13 A. Yeah resolutions in part needed for -- so that  
14 contracts could be made, she failed to make payments in  
15 time for vendors or for political contributions and there  
16 were a number of other failures to do with timeliness.

17 Q. Primarily did this harm SMDC her failure to do the  
18 resolutions timely?

19 A. Well it made it much [HART]-er to get acquiescence  
20 to the casino project. I mean we were always trying to  
21 make vendors do stuff for less because there was only so  
22 much money in the budget and so too often I would say don't  
23 worry we'll be very prompt about our payment and then she  
24 would not be prompt with the payment.

25 Q. Let's go back to the \$100,000 check. Did Ms.  
26 Aronson offer you any justification for stopping payment on  
27 the \$100,000 check?

28 A. No there were two different checks, one for

1 50,000, and the other one for 50,000 and her -- she  
2 basically told me that this was leverage against SMDC  
3 because the individual tribal councilmen wanted to take  
4 money out of the organizations account, put it in their own  
5 [POBG] [SKPETS] I had [PHRE] [SREPT]-d that with Sam Dunlap  
6 and so my penalty for preventing that was to -- was for  
7 SMDC not to get paid and she made very clear if you object  
8 to Sam Dunlap getting paid then you're not going to get  
9 paid.

10 Q. Was that true at the -- or did you believe that to  
11 be true at the time so in 2006 when the check was  
12 stopped?

13 A. Yes. I actually [TPUPD] out that the check was  
14 stopped later because she actually signed the August check  
15 then when I didn't get paid in September I went back and  
16 checked and it [OURPBD] out that the August check had  
17 not -- had already been stopped payment on.

18 Q. And do you believe it's true as you sit here  
19 today?

20 A. Yes.

21 Q. Let's move to the Morales litigation that we've  
22 talked about. To your knowledge d Ms. Aronson negotiate  
23 the settlement with the Morales faction of the tribe?

24 A. There was some negotiations with Ms. Aronson and  
25 the Morales group, it was -- they already had a judgment  
26 recorded so there really was very little to negotiate.  
27 They wanted to be paid the amount of the judgment. I think  
28 she managed to shave a couple thousand off it.

1 Q. What was your involvement if any?

2 A. Only to make sure that matters were in the budget  
3 for Libra to pay the judgment and to make sure that they  
4 got paid by the [TK\*UBT]-d amount, not a higher amount. So  
5 my involvement was purely financial.

6 Q. And did you achieve those goals?

7 A. Yes. They got paid the budgeted amount.

8 Q. Let's move to Hollywood Park. Did you have any  
9 involvement in the Hollywood Park litigation?

10 A. No.

11 Q. Who was counsel of record for Hollywood Park?

12 A. The attorney of record was Elizabeth Aronson and  
13 then she was to turn it over to Sheppard Mullin when they  
14 became counsel to the tribe.

15 Q. And to be clear that was attorney of record for  
16 the tribe, correct?

17 A. Yes Sheppard Mullin was attorney of record in this  
18 litigation and had been hired for the tribe for the  
19 Hollywood Park litigation as well. I don't know if they  
20 ever became attorney of record in the Hollywood Park  
21 litigation.

22 Q. Now you explained in some detail for the Court  
23 [KWREUD] the issue with the Hollywood Park litigation, -d  
24 bond issue, the state role, et cetera et cetera, do you  
25 recall that testimony yesterday?

26 A. Yes.

27 Q. Did you speak to Ms. Aronson about her attempts to  
28 settle the Hollywood Park matter?

1 A. Yes.

2 Q. What was the nature of those conversations?

3 A. I have told her that if you settled the Hollywood  
4 Park matter it would kill the casino project because there  
5 were exclusivity clauses in the bonds, the purpose of the  
6 litigation was to prevent the bonds from being issued, you  
7 can't issue eye bond when there's outstanding [HR\*EUPBL]  
8 because there's clauses that say no litigation outstanding  
9 in most bond issues so just the presence of the lawsuit was  
10 what was the -- was the purpose of the litigation and she  
11 could not [STAPT] lie tried to settle the lawsuit on terms  
12 favorable to the other gaming tribes, in other words just  
13 settle the litigation and then the bonds would be issued  
14 and then that would be the end of the Gabrielino tribe  
15 casino project.

16 Q. To be clear just so the testimony is very clear,  
17 you're saying that you told her not to settle the matter,  
18 correct?

19 A. I told her the -- it would be the tribal council  
20 that told her not to settle the mat every, I explained to  
21 her what the problem with the settlement was and the tribal  
22 council decided not to settle the matter but it was not my  
23 decision.

24 Q. Would it have been -- in your belief or your  
25 opinion would it have been improper for you to do otherwise  
26 in explaining this to Ms. Aronson.

27 MS. IBARRA: Objection vague.

28 MR. FORDYCE: In other words would it have been

1 impermissible to just leave it alone and not explain it to  
2 her.

3 THE COURT: Let's here the question again.

4 MS. IBARRA: Okay vague.

5 THE COURT: Do you want the question.

6 MR. FORDYCE: Do you re-read the question.

7 THE COURT: If you're withdrawing it we don't need  
8 to re-read it.

9 MR. FORDYCE: Okay then I'll withdraw and restate  
10 is it.

11 Q. So Mr. Stein, you just talked about your  
12 explanation to Ms. Aronson about why the Hollywood Park  
13 matter should not have been settled; correct?

14 A. Correct.

15 Q. Would it have been improper for you not to advise  
16 Ms. Aronson as you did?

17 A. I don't know if improper is the right word. I  
18 think that you have know my job was to get the casino  
19 project moving and something that would destroy the casino  
20 project would be something I should speak up on but I don't  
21 know if it was being proper or not to speak up, I just felt  
22 it was the right thing to do.

23 Q. Well, that actually moves very clearly into my  
24 next question. Was this practicing law on behalf of the  
25 tribe by your law office?

26 A. No. No this was a very simple understanding of  
27 the political game being played where a bond issue would go  
28 out, it had a rider on it that said hey this will grant



1 exclusivity to Los Angeles County to tribes in Riverside  
2 County and San Diego county and that would -- that  
3 effectively prevent the Gabrielino tribe from having a  
4 casino in L.A. County because of the loss of revenues and  
5 the violation of the exclusivity provision involved. So  
6 what I was trying to do is make that clear that this would  
7 be the end of the casino project if that litigation was not  
8 first started by the tribal council and they agreed to  
9 start it and Elizabeth Aronson filed the papers and then if  
10 Elizabeth Aronson settled it, it would destroy the casino  
11 project.

12 Q. So safe to say was this part of your services  
13 under the SMDC agreement to develop the casino?

14 A. It was within the four corners of the SMDC  
15 agreement that is exactly correct.

16 Q. All right let's talk about the tribes books and  
17 records in San Diego, we've seen Exhibit 71 which is your  
18 letter and Exhibit 67 Five which is the Aronson resignation  
19 letter, do you have want to look at those?

20 A. Sure.

21 Q. I I think '71 is in Plaintiffs second book yeah it  
22 is, if you just have those out, [TAEUFBG] a quick look at  
23 them. We've gone through -- we've gone through both in  
24 some detail but just so we have them there.

25 THE COURT: '71, what was your other exhibit.

26 MR. FORDYCE: Pardon me Your Honor.

27 THE COURT: What was your second exhibit.

28 MR. FORDYCE: Oh second [KPEUBLGT] is Defendants

1 675 which is also in the second volume.

2 THE COURT: Okay thank you?

3 A. Okay well.

4 Q. BY MR. FORDYCE: So Mr. Stein have you got the two  
5 exhibits?

6 A. Just another moment.

7 Q. Okay.

8 A. So exhibit '71 in the blue notebook is Aronson's  
9 termination for cause.

10 Q. Right and then 675?

11 A. Is her resignation the next day.

12 Q. That's correct. So just a few questions about  
13 that. Let me ask you, did Ms. Aronson at any point tell  
14 you anything about the tribes records and where they're  
15 being kept?

16 A. Yes. I written the -- a lot of the language that  
17 ended up in 675 to tell her what I wanted to --.

18 MS. IBARRA: We're missing '67 one [ #\* ] Five.

19 MR. FORDYCE: You can hook on with me. .

20 Q. So sorry Mr. Stein go ahead?

21 A. So in the resignation letter signed by Elizabeth  
22 Aronson I had given a rough draft of the language to her  
23 saying this is what I would want to see and we negotiated  
24 the various terms. And in negotiating Paragraph 2 which  
25 states all documents and records in my possession, meaning  
26 Aronson's possession, from the tribe, the tribal council  
27 and the tribal gaming authority and any electronic or paper  
28 copies thereof will be returned to the tribal

1 administration office by close of business Wednesday  
2 September 9th at the tribal gaming authority's expense.

3 Q. September 19th?

4 A. Yes.

5 Q. Okay.

6 A. And that -- in negotiating that I said what do you  
7 have in your possession and she told me she -- all the  
8 books and records that have been.

9 MS. IBARRA: Objection hearsay.

10 MR. FORDYCE: Your Honor it's Plaintiffs counsel.

11 THE COURT: So?

12 A. Admission.

13 MR. FORDYCE: It's an admission.

14 THE COURT: All right overruled?

15 A. So she explained what she had, she explained she  
16 had the check books that had been taken from the -- all the  
17 white notebooks that had been taken which included the  
18 tribal contracts, included the SMDC notebooks that were not  
19 property of the tribe and then she said that she had a  
20 thumb drive that she had downloaded all the documents from  
21 the tribal administration office compute [SKPER] that would  
22 be all the documents in the office program, Microsoft  
23 office and all the documents in the Quickbooks program.

24 MS. IBARRA: And objection also that none of this  
25 was elicited from Ms. Aronson when she was here.

26 MR. FORDYCE: One yes, it was Your Honor and  
27 that's a speaking objection, what's the grounds for the  
28 objection.

1 MS. IBARRA: Misstates her testimony.

2 MR. FORDYCE: Well that's what rebuttal testimony  
3 is.

4 THE COURT: Okay. Overruled I'll remember her  
5 testimony, this is Mr. Stein's testimony.

6 Q. BY MR. FORDYCE: And Mr. Stein to be clear what  
7 you just read from and this is just to make sure our record  
8 is clear, that was Exhibit 67 Five correct?

9 A. Yes.

10 MS. IBARRA: Well he just testified [H\*E] didn't  
11 read from the document.

12 MR. FORDYCE: [KWRE] he did he read verbatim  
13 paragraph from it.

14 MS. IBARRA: Okay but the rest of his testimony  
15 was not contained in that document.

16 Q. BY MR. FORDYCE: So Mr. Stein as far as the dates  
17 around the thumb drive and the notebooks, do you recall  
18 when this took place?

19 A. Actually I wasn't finished answer.

20 Q. Sorry go ahead H?

21 A. The last question.

22 Q. Go ahead.

23 A. So she stated what she had which were lots of  
24 notebooks, the check books and the thumb drive and then she  
25 said that she didn't want to pay for that to be sent up and  
26 she didn't want to come back up to Los Angeles. So the  
27 reason that this would be done at the tribal gaming  
28 authority's expense was because we would have to send down

1 a messenger because the stuff was so bulky to bring it up,  
2 it was too bulky to ship overnight. So that's how we got  
3 to the second paragraph and that's what she stated in  
4 getting there.

5 Q. And again, can you clarify the dates, when  
6 approximately was this?

7 A. This was right before the September 14th date.  
8 This was actually dated September 14th, I see that the  
9 September 19th is above but this was originally dated --  
10 negotiated on the 14th and signed on the 14th to my  
11 understanding.

12 Q. And we talked quite a lot about the writ of  
13 attachment, do you recall when the writ was served?

14 A. Yeah. The writ was served -- this is September.  
15 The writ was served in April so it would be.

16 Q. Seven months?

17 A. Seven months -- seven months -- over seven months  
18 later.

19 Q. And to your knowledge was the writ ever served in  
20 San Diego?

21 A. No. It was served in downtown Los Angeles where  
22 the Gabrielino tribal council had moved their offices  
23 too.

24 Q. Just another question about the books and records.  
25 To your recollection was the SMDC quantum meruit notebook  
26 part of the documents that Aronson and the tribe took?

27 A. Yes it was and I made a big point to her that she  
28 had taken property of the tribe and she had also taken

1 property that didn't belong to the tribe and I didn't get  
2 an I'm sorry or we made a mistake she thought that that was  
3 just fine.

4 Q. And that was actually you anticipated my next  
5 question, that was who who did the quantum meruit notebook  
6 belong to?

7 A. That was an SMDC notebook.

8 Q. Let's talk a little bit about the September 9th  
9 2006 meetings. Do you recall that meeting?

10 A. Yes.

11 Q. We've had a lot of testimony about this. To your  
12 recollection in the evening of September 9th, 2006, were  
13 you still in your law offices which also of course included  
14 the tribal office?

15 A. Yeah there was a tribal council meeting that  
16 night.

17 Q. Do you recall Aronson's testimony that she thought  
18 had you wasn't to get a security guard at [SPH-T] point?

19 A. Yes.

20 Q. Was there a security guard in the building?

21 A. No the building had no security they merely locked  
22 the doors at about 5:00 o'clock and you have needed a key  
23 to get to the building it's just a small [PW-L] a couple  
24 [PHROZ] from the Santa Monica promenade.

25 Q. So obviously you had not gone to have get a  
26 security guard. What huh actually [do not|done]?

27 A. I left -- I was completely exhausted I have had  
28 been going back and forth to Sacramento every day or every

1 other day on the other one and on the other hand dealing  
2 with this, you know tribal council who hated my guts and  
3 their general counsel who had said that she's going to  
4 bring the casino project down. So it was very full plate  
5 and I was disgusted by the idea that they were going --  
6 that they had removed -- with Ms. Aronson's help they had  
7 removed cash from the account that was owned by the  
8 organization and put it in their own pockets and I thought  
9 that they were going to do a lot more of that once she was  
10 the sole signatory so I had offered to resign, they said  
11 put it in writing, I did from being an officer of the  
12 tribe, I still had the SMDC agreement of course, and  
13 from -- an officer from the gaming authority when they  
14 removed me as signatory and I couldn't really take any  
15 more, I just was at a point of physical and he motion Alex  
16 [AUGS], I said listen I'm leaving you can stay as long as  
17 you want but I've got to get some sleep and so I left  
18 the -- left them all in the office and went home and went  
19 to bed.

20 Q. So --?

21 A. I think I fell asleep within 30 seconds of my head  
22 lit-g the pillow.

23 Q. So to you a- absolutely clear you unambiguously  
24 told Aronson and the tribal council members that you were  
25 leaving, going to [PWETD], knock yourself out basically, do  
26 what you need to do?

27 A. Yeah and I said that and there's no way they could  
28 have thought there was a security officer because our

1 tribal council meetings was almost all the at night or on  
2 the weekends and the doors were almost always locked and it  
3 was part of the tradition of the meeting to go downstairs  
4 and get out the tribal councilmen, one would come from  
5 Riverside, another one would come from West L.A., another  
6 would come from the Glendale area and they would come in  
7 and we would let them in through the locked door. So they  
8 knew there was no security guard just a locked door.  
9 Pretty low rent office.

10 Q. Just to wrap that up, September 9th, 2006, do you  
11 remember -- do you recall how many years you'd been in that  
12 particular office suite by September 6 -- September 9,  
13 2006?

14 A. Yeah, yeah I took the office when my father had  
15 his second stroke and was in a convalescent hospital and  
16 that's why I took the office was to be near his hospital.

17 Q. About when was that?

18 A. That would be 2003.

19 Q. So would it be fair so that I there were three  
20 years of tribal council meetings in that office?

21 A. At least, it may have been a little bit earlier  
22 but I think it was at least 2003.

23 Q. Okay. All right let's talk about Exhibit 64 four  
24 quickly, that's the Libra budget, we've talked about  
25 that -- well I'm going to talk about Exhibit E which we've  
26 talked about a great deal and this is again just to clear  
27 up Ms. Aronson's testimony. To your knowledge did the  
28 Libra budget include allowances for past monies owed?



1 A. So this is on Page 9 27.

2 Q. Yeah.

3 A. Of 644.

4 Q. Correct?

5 A. I'm sorry repeat that.

6 Q. Did the Libra budget have provisions for past  
7 monies owed?

8 A. A lot of them, yeah.

9 Q. Okay. Is this counter to Ms. Aronson's testimony?

10 A. As I recall her testimony it is.

11 Q. Okay. Can you show me examples of past and  
12 present amounts owed on nine 27?

13 A. So starting on the left under the tribal council  
14 judgment plus costs that was from a judgment several years  
15 earlier, Sam Dunlap, \$50,000 reimbursable, that's for his  
16 reimbursables from 2001 forward to 2006 so that's five  
17 years of reimbursables, Lamothe payment, Rae Lamothe left  
18 the tribe right after the closing of the Libra agreement  
19 and so the \$60,000 was for payment for her work since 2001.  
20 SMDC fees, 10 months at 50,000, SMDC's new fees were 25,000  
21 so half of that was for the Old stuff. Talley and company  
22 past, it says Talley and company past comma transaction in  
23 10 months, that was for three different items, meaning the  
24 past amounts that why spent, Talley and company had been  
25 the tribes tribal accountant since 2001, transaction, the  
26 Talley and company had worked on the Libra transaction and  
27 then 10 months going forward [-RBGTS] that was all bundled  
28 in the 25,000.

1 Q. So Mr. Stein, I mean safe to say then that there  
2 was clearly allowances in this budget for past and present  
3 amounts; is that fair to say?

4 A. Yeah?

5 A. Member meetings, April and October, the April  
6 meeting had occurred two months earlier, the October  
7 meeting had not occurred. And then the reimbursables for  
8 SMDC was locked into a number of these other tribal  
9 professionals and federal state and local funds, the  
10 understanding was that SMDC could take its reimbursables  
11 out of there, out of those [PWUBT] items as well.

12 Q. As you sit here today is that counter to the  
13 testimony you recall from Ms. Aronson?

14 A. Yes.

15 Q. Let's just talk very briefly about Exhibit 71, I  
16 hope everyone still has that, point 26, I just want to  
17 draw your attention to that, 26 is the explicit threats  
18 against Mr. Stein's relationship-and position as CEO. What  
19 was your understanding with Ms. Aronson's testimony or --  
20 let me ask you, did Ms. Aronson ever tell you she was going  
21 to take particular action in relation to the threats you're  
22 referring to in point 26?

23 A. Well her threats are actually were in Number 24  
24 and 26.

25 Q. Oh all right, that's fine.

26 A. So in 26 her threats were basically that she was  
27 going to see that SMDC left the tribe and that actually did  
28 happen and she also referred to CEO here but I voluntarily

1 resigned that position three days before this was written.

2 Q. And 24, you see where you quote her as saying  
3 forget it, I'm shutting it down, do you see that?

4 A. Yeah. Okay.

5 Q. Second paragraph of 24?

6 A. Yeah the paragraph reads when faced with some of  
7 the quote causes listed here, you agreed to review  
8 voluntarily in the Sunday conversation of September 3 Mr.  
9 Stein stated he would not support your candidacy as tribal  
10 general counsel she had been assistant general counsel and  
11 wanted to be general counsel and it said that I wouldn't  
12 support that but Mr. Stein did wish for Elizabeth Aronson  
13 to continue work on an interim basis without advancement.  
14 In answer, Ms. Aronson stated six times forget it, I'm shut  
15 [T-G] down.

16 Q. What is your understanding as to what she wasn't  
17 by I'm shut [T-G] down?

18 A. The casino project, she was basically going to  
19 shut down the casino project because of my opposition to  
20 her becoming tribal general counsel.

21 Q. Is this what happened?

22 A. That's actually what did happen, yeah, SMDC was  
23 let go October 3 and then Polanco did nothing -- all the  
24 money for the casino project was spent for non casino  
25 purposes by November 7 and then Polanco never did anything  
26 more to get the casino project going to my knowledge  
27 thereafter.

28 Q. Ms. Aronson also testified that you as either you

1 or SMDC attempted to pay Ms. Marilyn Barrett nothing for  
2 her services. As you sit here is this accurate testimony?

3 A. No.

4 Q. What actually happened?

5 A. The arrangement was to set up an escrow -- the  
6 budgeted amount for Marilyn Barrett was 130,000, the amount  
7 that Ms. Barrett's insisted on was 300,000, we set up an  
8 escrow account for 175,000 for her that Libra held on to  
9 and then began negotiating her 300,000 versus the 175 in  
10 escrow.

11 Q. To your knowledge was Ms. Barrett's actually  
12 paid?

13 A. Yes she was paid, my understanding is after the  
14 lawsuit broke out she was paid 175,000 and then her new  
15 firm, her third firm in six months, her new firm became  
16 counsel, attorney of record for the tribe in this  
17 litigation.

18 Q. To your understanding where were the funds, where  
19 did funds come from that were use today pay Ms. Barrett's?

20 A. From the 2,000,000 150,000 that Libra had given  
21 the tribe.

22 Q. If she hadn't been paid for those funds, to your  
23 understanding who would have had to actually pay Ms.  
24 Barrett's?

25 A. Well if Ms. Barrett's was not paid then SMDC would  
26 have to pay her.

27 Q. And we'll talk about that with Ms. Barrett's  
28 testimony in a couple of minutes. So Exhibit 65 Five, this

1 is the final demand from Seyfarth Shaw to the tribe. Do  
2 you recall Exhibit 65 Five?

3 A. Final demand letter and account stated.

4 Q. Yeah. Do you recall Ms. Aronson's --.

5 THE COURT: Neli can you give me Exhibit 65  
6 Five.

7 THE CLERK: 875.

8 MR. FORDYCE: 655.

9 THE COURT: 655 but you can continue to question  
10 while she's looking for it.

11 MR. FORDYCE: Thank you Your Honor I'll do that.

12 Q. So Mr. Stein do you recall Ms. Aronson's testimony  
13 that she never saw this?

14 A. Yes.

15 Q. Does that seem reasonable to you?

16 A. It seems almost impossible to me.

17 Q. And do you see that the documents addressed both  
18 to the tribe through counsel.

19 MS. IBARRA: I'm going to object because I don't  
20 think that's what she said she said she didn't recall it so  
21 it misstates her testimony.

22 THE COURT: Okay I'll remember the testimony.

23 Q. BY MR. FORDYCE: So Mr. Stein you see this is  
24 addressed to the tribe through counsel for -- counsel  
25 Sheppard Mullin, but is it also addressed to any other  
26 person or entity?

27 A. Yeah. It's addressed to the Gabrielino-Tongva  
28 Tribe at their new address at Terminal Street. This is the

1 address that we actually served the writ of attachment at  
2 to the tribe and all its officers, as well.

3 Q. So Mr. Stein, look at the second page of the  
4 document, please, and that's Bates -- in fact there are  
5 four Bates number but we're going to go with 02822 in the  
6 second page do you see that?

7 A. Yeah.

8 Q. In the middle of the page we have an A, a B, and a  
9 C outlining monies, we talked about them in depth yesterday  
10 flu exhibit 1560 and 1563 do you see those numbers?

11 A. Yes.

12 Q. And that's the 1.595 million in monthlies, the 232  
13 472 for reimbursables and then interest of 56 5,000 plus  
14 51,000 and change, do you see those numbers?

15 A. Yeah well there are more numbers than that but I  
16 see those.

17 Q. Yeah and there's also -- oh there's another 33,000  
18 in reimbursables. Have I covered them all? Yes?

19 A. And 25,000 for November of 2006.

20 Q. Oh fair enough. You're quite right. But my  
21 question about those is did anyone ever question the  
22 numbers in this final demand?

23 A. No.

24 Q. At any time?

25 A. No we never received any correspondence from  
26 Sheppard Mullin, we never received any correspondence from  
27 Ms. Aronson, we never received an e-mail, I never received  
28 any communications from the tribal council saying that any

1 of these numbers were wrong.

2 MS. IBARRA: Objection I mean that's what this  
3 litigation is about, I don't understand quite --.

4 THE COURT: Overruled.

5 MR. FORDYCE: I'm asking a very simple question,  
6 she sent a letter, received by counsel for the tribe  
7 through Sheppard Mullin, also received by the tribe, did  
8 anyone say these numbers are [PWOEPG] us?

9 A. No.

10 MS. IBARRA: Except file litigation against them.

11 THE COURT: Other than the ledge apparently, other  
12 than the litigation there wasn't anything?

13 A. That's correct.

14 Q. BY MR. FORDYCE: And the source -- Mr. Stein  
15 what's your understanding for the source for the  
16 litigation, is it the numbers in the Page 2 on Exhibit 655  
17 are wrong?

18 A. No they simply say they don't say that the work  
19 wasn't done and they don't say they oh that amount they're  
20 just saying that the contract can't be enforced because of  
21 various means.

22 MS. IBARRA: And --.

23 Q. BY MR. FORDYCE: So now Mr. Stein moving on to the  
24 Quickbooks matter, you heard Ms. Aronson testify that she  
25 found double entries. Do you have a recollection as to the  
26 estimate of the dollar amount?

27 A. It was less than \$10,000.

28 Q. Does this comport with the testimony you heard

1 from Ms. Aronson?

2 A. Somewhat. She -- as I recall her testimony she  
3 estimated that it was -- that it was 10,000, she estimate  
4 [THAD] it might be as high as 20,000 and she estimated that  
5 it would be speculative to say that it was 30,000. So her  
6 remembrance seems to be 10 to 20 [THOUF] but my remembrance  
7 was very certain it was less than \$10,000.

8 Q. And do you recall testimony -- sorry do you.

9 MS. IBARRA: Yeah I'm just going to object that it  
10 misstates her testimony I'm not sure why he's testifying as  
11 to what she testified to.

12 MR. FORDYCE: Your Honor this is what rebuttal is,  
13 if there's going to be an objection every time that Mr.  
14 Stein says something that misstates the previous testimony,  
15 he's not misstating her testimony he's disagreeing with it  
16 that is had not misstating her testimony.

17 MS. IBARRA: I think it's fine he can state his  
18 own recollection [PWRU] I'm not sure why he needs to  
19 characterize somebody else's testimony.

20 THE COURT: Well Ms. Ibarra he can characterize it  
21 however he wants but the record is what the record is, the  
22 court will ultimately make the decision as to what the  
23 testimony is so it is what it is, if he's accurate the  
24 court will accept his rendition of what the testimony is,  
25 if not the transcript will speak for the correct testimony.

26 MS. IBARRA: Okay.

27 Q. BY MR. FORDYCE: So Mr. Stein, it's your  
28 understanding that Ms. Aronson wanted these Quickbooks



1 entries, the corrections, she wanted the corrections made  
2 is that --?

3 A. That's correct. And they were made by her.

4 Q. Okay.

5 A. I have actually signed off on them one by one,  
6 that's why I remember it's less than 10,000, she had a  
7 handful of -- out of five years worth of expenditures, she  
8 found a handful that were double entries and she -- she  
9 objected to a handful more than she thought was not  
10 appropriate to charge the tribe.

11 Q. Do you recall testimony about Mr. DeKorte?

12 A. Yes.

13 Q. Did he reverse any of the entries that Ms. Aronson  
14 objected to?

15 A. Yes he d he reversed one entry when he was trying  
16 to figure out how to use Quickbooks and she got very upset  
17 so he and I both agreed he didn't want to be subjected to  
18 her being upset either so we both agreed that he wouldn't  
19 do any more work. And by the way he did about 15 minutes  
20 worth of work.

21 Q. So just to your knowledge, were all of the  
22 corrections that Ms. Aronson wanted, were they made by the  
23 time of the Talley report which we've seen again and again  
24 if exhibit 577?

25 A. Yes.

26 Q. And who was responsible if you know for the  
27 Quickbooks entries used by Talley?

28 A. Rae Lamothe, Elizabeth Aronson and then Carol

1 Markin for a short period before she left.

2 Q. Were you responsible for the Quickbooks entries?

3 A. No.

4 Q. Let's move on to Ms. Barrett's. We brought Ms.  
5 Barrett's back for -- well I'm not editorialize. Mr. Stein  
6 do you recall Ms. Barrett's firing?

7 A. Yes.

8 Q. How did --?

9 A. I recall both her firings.

10 Q. Okay. How did it occur?

11 A. I was in Virginia and I was at a shooting range  
12 with a college friend and we were shooting hand guns and I  
13 got on the phone with her, I was -- this is Virginia so it  
14 was earlier in L.A. and she -- and I wanted to get an  
15 update on how things were going with Morrison & Foerster  
16 because I knew while identify [PW-B] been in [SREURPL]  
17 [SREURPBL] discussions had gone on between MoFo and Ms.  
18 Barrett representing GT Tribe, and Ms. Barrett in the Libra  
19 agreement and Ms. Barrett immediately changed the topic to  
20 money and talked about how her bills were about 100,000 and  
21 with the three times multiplier that would be 300,000 and I  
22 said well there's only 130,000 in the budget and at that  
23 point she got very, very upset and she -- she -- I was  
24 surprised at how upset she got and she just said matter of  
25 factly then I'll kill the deal and I don't know if she  
26 truly intended to kill the deal or not, but I told her that  
27 that's a little extreme and I also told her because I had a  
28 gun in any hand I didn't really want to talk about anything

1 that was controversial, a couple back and forth is fine but  
2 why don't we save this for later tonight. So I called her  
3 back about 10:00 o'clock Virginia time and we went over the  
4 ground again and she was quite firm about her need to  
5 collect 300,000 and I was quite clear that with only  
6 130,000 in the budget we could pull together money out of  
7 the contingency account, we could maybe pull some out of  
8 other accounts if there's a way to do that but it wasn't  
9 going to come anywhere close to 300,000.

10 Q. So Mr. Stein I want to focus you on something  
11 because Ms. Barrett really made a big point of it in her  
12 testimony, she absolutely categorically denies saying she  
13 would kill the deal in fact I think she said that would be  
14 preposterous, that would be ridiculous why would I do  
15 something that would take money out of my own pocket et  
16 cetera et cetera, what is your response to Ms. Barrett's  
17 testimony that she would kill the deal?

18 A. She apparently doesn't remember saying she would  
19 kill the deal, she was very matter of fact about it and  
20 whether she intended to or not, it sure was a threat that I  
21 took seriously because my goodness, I had everything riding  
22 on the deal for SMDC. I expected the deal to go through,  
23 so I spent a lot of money supporting GT Tribe's operations  
24 in light of that. I believe Ms. Barrett knew that and so I  
25 took it very seriously.

26 Q. Now let's move forward, you've had your  
27 conversations with Ms. Barrett, one with a gun in your hand  
28 and the other maybe not with a gun. What happened next,

1 again just moving forward, did you take any further steps?

2 A. Yeah.

3 Q. What did you do?

4 A. I called her secretary and told her that I was  
5 terminating her on behalf of SMDC. First I asked to speak  
6 to her, she wasn't available and then said well she's being  
7 terminated on behalf of SMDC and I will be recommending to  
8 the tribal council that they terminate her so they may want  
9 to call the tribal council to you know state their case to  
10 them.

11 Q. Continuing on Mr. Stein you just mentioned the  
12 tribal council, did you take any steps vis-a-vis Ms.  
13 Barrett's firing and the tribal council?

14 A. Yeah I called them one by one, I couldn't get a  
15 hold of all of them, I directed that they get together and  
16 you know decide whether they want today terminate her, I  
17 stated my arguments as to why she should be terminated and  
18 I understood -- I understand that they -- I understood that  
19 they agreed to terminate her. And then informed her of  
20 that.

21 Q. And so we're meticulous, there are two termination  
22 **[-Z]** here, is that what you're testifying?

23 A. Yeah SMDC terminated her directly and then the  
24 tribal council terminated her and then Sam Dunlap -- I  
25 assume Sam Dunlap informed them, he informed me of the  
26 case.

27 Q. Was it possible to finish this deal, the Libra  
28 deal, without Ms. Barrett?

1           A.    Yeah, that was one of the arguments I raised. I  
2    said listen, this is a real problem. She wants the 300,000  
3    and we've got, you know, 130- in the budget, the most we  
4    can scrape together is maybe 50 grand more. We're going to  
5    have a real problem. And if we kind of ask her to leave  
6    now, you have know the document was 95 percent, 98 percent  
7    you know 93 percent, whatever percentage you wanted to  
8    accept it was negotiated, Elizabeth Aronson was still there  
9    and I think Rae Lamothe may well have been there and we  
10   were days from close [-GS], I said let's just finish this  
11   up and deal, you know put money in escrow for her, and  
12   that's what you should decide if you want to risk the deal  
13   in case she does in fact want to kill it and there are 100  
14   ways an attorney can kill the deal and you know you can be  
15   super loyal to her and maybe none of us gets paid including  
16   her. And my understanding is she didn't want to rock the  
17   boat.

18           Q.    So you mentioned the escrow, did money go to  
19    escrow?

20           A.    Yes. Actually it went right from -- the closing  
21    was done in the manner where we got a net check?

22           A.    So they took out their transaction -- Libra took  
23    out its transaction costs, it took out its own investment  
24    banking fee and they also took out the money from the -- to  
25    set up the escrow so we got a net check that was 175,000  
26    less than we would have gotten otherwise.

27           Q.    And so now as far as the escrow and the tribe --  
28    the tribal council's -- your interplay with them, just

1 generally about Ms. Barrett was the tribal council happy  
2 about what had happened with Ms. Barrett and the escrow?

3 A. They were unhappy that this matter had come about,  
4 but they really wanted the transaction to close because the  
5 tribal councilmen themselves were going to get 3,000 a  
6 month from the clothing amounts and Sam Dunlap was going to  
7 get another 50,000 on top of that plus the judgment that  
8 was against them individually was going to get paid. So  
9 they were -- [UFP] know they expressed unhappiness but you  
10 know they also expressed they didn't want to risk any of  
11 that and not getting paid.

12 Q. What about your take at the time on the whole  
13 Barrett firing, were you -- I have hate to use the word  
14 happy but were you happy about the way things went  
15 [TKOUPBT]?

16 A. No I was shocked and amaze [THAD] Marilyn Barrett  
17 would pull a move like that and I thought she was a very  
18 good corporate attorney, very competent but she -- you know  
19 she was under pressure, her law firm sold out to Maguire  
20 Woods right when this was occurring and then she got  
21 bounced out of Maguire Woods and ended up at Jeffer Mangels  
22 just a few months later so I can imagine she was under a  
23 lot of financial pressure, I just thought it was terrible  
24 what she did.

25 Q. And one or two more questions about Ms. Barrett.  
26 Did you understand -- well what was your understanding of  
27 Ms. Barrett's testimony as far as an attorney-client  
28 relationship with SMDC, you heard that testimony, right?

1 A. Yeah.

2 Q. What was your understanding as to her testimony?

3 A. My understanding about what she said.

4 Q. About her testimony first?

5 A. Okay. That she -- she basically said that it  
6 probably occurred but she didn't remember it occurring.

7 Q. Now what's your.

8 MS. IBARRA: Misstates her testimony.

9 THE COURT: The court will remember the testimony,  
10 it may misstate it.

11 Q. BY MR. FORDYCE: What is your -- what is your take  
12 on what actually happened? Was there an attorney-client  
13 relationship with SMDC and Barrett?

14 A. Yes [WAPD] was the original Libra investment was  
15 going to be both with SMDC and the tribe, they were going  
16 to take some of SMDC's 10 percent incentive which was 10  
17 percent of slot revenues and they were going to take some  
18 of the tribes slot revenues and that would be cheaper for  
19 the tribe, in other words SMDC would be giving up its 10  
20 percent and that was the original form and then because  
21 Libra's counsel would be covered by the transaction costs  
22 out of the 2.15 million, then the 2.15 million would  
23 further be reduced by counsel for SMDC and the tribe. So  
24 the tribal council thought it would be best if there was  
25 one counsel for both and SMDC also thought it would be best  
26 if there was one counsel for both because basically the  
27 interests were very much aligned. Later in the transaction  
28 for reasons I never understood Libra said no no no we're

1 going to take all of our points just from the tribe not  
2 from SMDC and since that saved SMDC money in the  
3 hypothetical sense that a casino might one day come out of  
4 the contract, I was pleased. But I didn't ask for that.

5 Q. Okay. I think we're done with rebutting Ms.  
6 Aronson and Ms. Barrett shall we move straight on to the  
7 IGRA.

8 THE COURT: Sure.

9 MR. FORDYCE: Okay great Mr. Stein are you okay  
10 with that?

11 A. Sure.

12 Q. Well I think if the court is okay with it I think  
13 we're all okay with it. So let's just take a minute to  
14 kind of re focus. Mr. Stein do you recall the testimony by  
15 just generally by Mr. Hogan?

16 A. Yes, I did.

17 Q. Now finally both Mr. Hogan and Mr. Margolis took a  
18 similar tact, both made the point that SMDC agreement is  
19 fatally flawed [UPBT] federal law do you recall that  
20 testimony?

21 A. Yes.

22 MS. IBARRA: How that Mr. Margolis' testimony.

23 MR. FORDYCE: He testified Eiffe that the record  
24 will speak for.

25 MS. IBARRA: Not just federal law Mr. Margolis.

26 MR. FORDYCE: Did I say just fed law.

27 MS. IBARRA: With re talking about Mr. Hogan.

28 MR. FORDYCE: We're talking about in this



1 situation Mr. Margolis said it but [HOERGD] definitely did  
2 so if I can finish my question.

3 Q. So we've got fatally flawed under federal law and  
4 as a result SMDC committed the tribe to the wrong course of  
5 the arbitration under state law, do you recall that  
6 testimony?

7 A. Yes. Mr. Hogan said that the SMDC agreement could  
8 be challenged through an administrative process once  
9 federal recognition occurred and Mr. Margolis said because  
10 SMDC might not be able to get its slot revenues under  
11 federal law it -- both SMDC and Rae Lamothe, independent  
12 counsel to the tribe, were pushing the tribe to an I will  
13 considered state recognition effort.

14 Q. Did Mr. Hogan testify that this was because SMDC  
15 was basically afraid that the SMDC agreement was not  
16 enforceable under federal law?

17 A. No. [HO\*EGDZ] [TEFPL] was SMDC's great might not  
18 be enforceable under federal law if the typical mechanisms  
19 that you use to resolve these types of issues failed to  
20 resolve them.

21 Q. As an expert on federal Indian law, is this  
22 correct in your opinion.

23 MS. IBARRA: I'm going to challenge Mr. Stein's  
24 start us as a federal Indian law expert, we don't have any  
25 evidence that he has any academic credentials, that he has  
26 you know undertaken any study on this or even that he's you  
27 know done any significant work in front of National [\*EUGD]  
28 commission.

1 THE COURT: Are you going to try and qualify him  
2 as an expert if you are you need to lay some foundation for  
3 that.

4 MR. FORDYCE: Well Mr. Stein what's your  
5 background in Indian law. Well hang on we properly  
6 designated Mr. Stein as an expert?

7 A. Right.

8 MR. STEIN: Timely there was no objection at that  
9 point they had every opportunity to depose Mr. Stein they  
10 chose not to do so and now we have this bush league tactic  
11 while he's sitting on the stand to say oh he's not an  
12 expert f they wanted to challenge him as an expert they  
13 should have done it in a timely manner so I would object  
14 that [THEUF] waived any objection. And another statement h  
15 the other position I have would take that is that Your  
16 Honor as the trier of fact can weigh Mr. Stein's testimony,  
17 the value of it as an expert but whether the court actually  
18 needs to qualify him as an expert one bay or the other,  
19 under 802, '80 one, 803 federal rules -- sorry of  
20 California Evidence Code, Your Honor doesn't have to  
21 qualify him as an expert, he can testify and Your Honor can  
22 weigh that testimony as Her Honor sees fit but they waived  
23 the objection by waiting until he's sitting on the stand in  
24 what's likely our penultimate day of testimony, that's bush  
25 league.

26 MS. IBARRA: Mr. Stein was designated as an expert  
27 just generally on Indian law and just based on his  
28 expertise having worked with the Gabrielinos, but now

1 you're asking him to speak on behalf of, you know, what the  
2 national Indian gaming commissions policies would be with  
3 regards to disagreement and several -- just agreements in  
4 general with third parties. I think that's beyond the  
5 scope of what you designated him as.

6 MR. FORDYCE: That is incorrect and we can pull up  
7 the designation it's as simple as that.

8 THE COURT: Why don't we see what the designation  
9 says, and show it to Ms. Ibarra.

10 MR. FORDYCE: Uh-huh. It always takes a moment to  
11 find this stuff?

12 A. Her Honor can we take a break so we can find it.

13 MR. FORDYCE: Oh we can find it I've found it  
14 before it's just sometimes a nuisance to find.

15 MS. IBARRA: Should we take a bathroom break  
16 while.

17 MR. FORDYCE: That's fine and I'll pull it up.

18 THE COURT: All right let's take 15 minutes  
19 then.

20 (Break taken.) 11:10 AM to 11:22 AM.

21 THE COURT: Gabrielino versus Stein, BC361307.  
22 All right you may continue, you were --.

23 MR. FORDYCE: Your Honor we have the expert  
24 designation and I if could I'd like to read that with  
25 counsel looking over my shoulder for the record.

26 MS. IBARRA: Yes and I conferred with counsel  
27 during the break, so I'm not going to challenge his  
28 designation, I do -- I will challenge the weight of his

1 testimony given his credentials.

2 MR. FORDYCE: Would Your Honor still like me to  
3 read the designation into the record.

4 THE COURT: Sure.

5 MR. FORDYCE: This is Paragraph 6 of the expert  
6 designation submitted by Defendants April 11th, 2016 and it  
7 reads as follows: Jonathan Stein is an expert in the field  
8 of federal and California Indian law and state and federal  
9 recognition of Indian tribes, his qualifications in this  
10 field are amply set forth in his C.V. attached as Exhibit  
11 D. Mr. Stein has not prepared any expert report. Mr.  
12 Stein will testify on matters including one, the legal  
13 status and rights of the historic Gabrielino Indian tribe,  
14 two, the legal status and rights of any membership group of  
15 individual descendents of the historic Gabrielino Indian  
16 tribe, 3, any claims of tribal sovereignty or legal right  
17 to sovereign immunity or other attributes of sovereignty by  
18 either of the above, and a missprint, it should be four but  
19 it says two, any related topics. Mr. Stein's fee for  
20 providing deposition testimony and for consulting with  
21 retaining attorney are \$660 an hour. And I appreciate  
22 counsel taking the position she did.

23 Q. So Mr. Stein getting back to that initial question  
24 regarding the SMDC agreement being fatally flawed under  
25 federal law and SMDC committing the tribe to the wrong  
26 course of action is it your opinion that Mr. Hogan and  
27 actually Mr. Margolis are right on this point?

28 A. No I believe they're both wrong.

1 Q. Why?

2 A. The point that Mr. Hogan made was the sole  
3 proprietor rule which says that an Indian tribes can't  
4 joint venture tour a casino with another company, so a  
5 construction company, a management company, nobody can own  
6 the casino and that is in part because you can't own real  
7 property. You can lease real property but you can't own  
8 real property on an Indian reservation own an Indian tribes  
9 can. The sole proprietor didn't exist in 2006, the  
10 doctrine that you can't joint venture an Indian casino  
11 existed because that's based on you can't own real property  
12 in an Indian reservation. And obviously a casino is a big  
13 piece of real property. As I understand Mr. Hogan's  
14 testimony he said well if you're a state recognized tribe  
15 then your contracts are subject to review when you become  
16 federally recognized and that is true. What he was wrong  
17 about is that federal Indian law does not apply to state  
18 recognized tribes. No federal law applied to state  
19 recognized tribes unless they're federally recognized. In  
20 this case there was an application for federal recognition  
21 that was put in by Rae Lamothe but there was no federal  
22 recognition and by all -- everybody said that was spoke on  
23 topic said 20 years minimum, 25 maybe as well you could get  
24 it done legislative Lee or less [PW\*U] but there were no  
25 serious pieces of legislation put into the U.S. Congress  
26 about that. So the yesterday that federal law would a- law  
27 at all is just plain wrong and that is based on federal  
28 case law

1 Q. Well Mr. Stein with a I'd like to do is this this  
2 is in fact Plaintiffs 255 and I think this has already been  
3 admitted but we made extra copies just in case, this is  
4 Plaintiffs 255, I'm going to bring -- Your Honor may  
5 approach.

6 THE COURT: Yes.

7 MR. FORDYCE: And give the witness a copy? Thank  
8 you. Neli here's a copy for her Honor, I think she might  
9 have one already.

10 THE CLERK: (Indicating.).

11 THE COURT: Thank you Neli.

12 Q. BY MR. FORDYCE: And I'd like to direct everyone  
13 to page -- it's actually -- they are numbered pages and  
14 it's Page Number 14 and Mr. Stein let me know when you're  
15 there?

16 A. Page 14.

17 Q. Yes the actual Page Numbered 14?

18 A. Sure.

19 Q. And if everyone is -- and just for the record this  
20 is Plaintiffs 255 which is the Saint Monica development  
21 companies reply brief in support of the application for  
22 right to attach order and I shall [AUPBS] of wrist. And  
23 Mr. Stein see do you see where it says nonetheless  
24 professor wash burn?

25 A. Yes.

26 Q. Can you read through and stop where it says SMDC  
27 agreement is not unconscionable?

28 A. Nonetheless, professor wash declares that the

1 NIGC, that's national Indian gaming commission requirements  
2 for casino management contracts might apply to the SMDC  
3 agreement. In fact, a specific federal case says the  
4 opposite. First American Corp. V Eastern Pequot Nation,  
5 district of the connecticut, 2000, 175 F supp second 20  
6 Five at 208 to 210. This is the exact subject of Mr.  
7 Stein's first law review article cited with approval in the  
8 response. Further, and this is quoting from the law review  
9 article, further, just as IGRA.

10 THE COURT: This is your article?

11 A. Yes.

12 THE COURT: So is this the case citing your  
13 article or --?

14 A. No no the article cites the case and has -- that's  
15 why there's a double intent below.

16 THE COURT: So I have it backwards?

17 A. I don't know if you have it backwards or not, I'm  
18 sorry.

19 THE COURT: Okay. So first American casino, are  
20 they citing your law review article or are --?

21 A. No they are being cited in the law review article  
22 and that's why there's a quote within the quote.

23 THE COURT: Oh all right?

24 A. So the part that is from the federal case law part  
25 is in bold.

26 THE COURT: I see. All right.

27 A. But the quote starts with the law review article,  
28 further, just as IGRA does not reach beyond federal, quote,

1 Indian lands to lands unders state jurisdiction IGRA does  
2 not reach beyond federally recognized tribes to state  
3 recognized tribes. By its own terms IGRA only regulates  
4 gaming by a, quote, Indian tribe, a term defined within  
5 IGRA as federally recognized tribes. Case law confirms  
6 that IGRA only applies to federal tribes as explained in  
7 First American Casino Corp. vs. Eastern Pequot Nation, IGRA  
8 does not apply to the parties' agreemtn because Defendant  
9 has not attained formal federal recognition and therefore  
10 is not a quote Indian tribes within the meaning of IGRA.  
11 Unless and until Defendant obtains federal acknowledgment,  
12 its activities are not regulated by IGRA because IGRA's  
13 text unambiguously limits its scope to gaming by tribes  
14 that have attained federal recognition, IGRA does not apply  
15 to Defendants gaming activities.

16 So the idea from Mr. Hogan that you could go to a  
17 state recognized tribe before it reached federal  
18 recognition and apply federal rules is just plain wrong and  
19 that's my understanding. He then -- I believe his  
20 testimony admitted that that would be wrong but upon  
21 getting to federal recognition that's whether the  
22 management contract question would kick in. Towards that  
23 end the SMDC agreement he cited a very lengthy process  
24 where you basically renegotiate your contracts if need be,  
25 if the -- if the regulations at the time might capture your  
26 contract. The SMDC agreement was specifically written with  
27 that in mind and has all sorts of clauses that allows the  
28 SMDC agreement to be renegotiated on purpose, it has



1 alternate mechanisms to avoid this doctrine which did not  
2 exist in 2001, did not exist in 2006 but the underlying  
3 concerns did exist.

4 Q. So Mr. Stein with that in mind let's look at 569  
5 and let's identify some of those provisions. And this is  
6 our renumbered 569 which is just the SMDC agreement alone?

7 A. Let me get there.

8 Q. And Mr. Stein while you're look if you can do so  
9 and if you're not comfortable don't worry about it, in your  
10 opinion do federal regulations sufficient as IGRA does this  
11 apply to an [SO\*ERBS]?

12 A. No IGRA wouldn't apply to an unincorporated  
13 association.

14 Q. How about the NIGC or BIA do they approve of  
15 contracts for unincorporated associations?

16 A. No, they don't they only approve of contracts with  
17 federal Indian tribes. That's their jurisdiction.

18 Q. And let's just talk briefly about the SMDC  
19 agreement kind of generally. Under the SMDC agreement was  
20 there an intensive to pursue a state recognized as opposed  
21 to a federally recognized casino?

22 A. No there was none. It applied either way you  
23 went.

24 Q. I was going to ask you what was the difference?

25 A. The difference was that the -- nobody was  
26 interested in helping -- in funding a federal recognition  
27 effort but after 27 attempts Libra was very interested in  
28 funding the state effort and so they simply keyed on SB 175

1 or substantially similar legislation which would have been  
2 you know the Tom Umberg bill.

3 Q. Mr. Stein is the SMDC agreement a management  
4 agreement?

5 A. No.

6 Q. What is a management agreement?

7 A. A management agreement is to manage a casino, you  
8 actually manage the casino and there are limits on what you  
9 can get paid. Informal limits -- in 2001 and 2006 the  
10 limits were informal, now the limits are more formal, but  
11 that's for managing a casino, the Gabrielino tribe did not  
12 have a casino.

13 Q. Mr. Stein, does the SMDC agreement contemplate  
14 ownership of a casino?

15 A. Yes by the tribe.

16 Q. Thank you, okay. So are you opining that I an  
17 interest in net win or gaming revenues is the same as  
18 ownership?

19 A. No an interest in net win or gaming revenues is  
20 not the same as ownership it's not even a violation of the  
21 sole proprietary interest rule except in the formulation  
22 that occurred after 2006. Sol Kirschner, a south African  
23 got an interest through a development agreement in the  
24 Mohigan sun casino and made so much money that they changed  
25 the rule. He had a 15 percent interest in slot revenues.

26 Q. And I do not --?

27 A. But it was legal at the time. To -- by comparison  
28 just so you understand, Judith Shapiro, who did the federal

1 Indian law for the Gabrielino tribal gaming authority  
2 represented the Mohigan tribe on the opposite side of the  
3 table for Kirschner.

4 Q. And again, I just want to get these broad  
5 questions about the SMDC agreement out of the way and we're  
6 going to look at some specific provisions. And you've  
7 talked about the sole proprietary rule, is there anything  
8 else you have want to say about that, I mean what is it?

9 A. The sole proprietary rule it's all about ownership  
10 of the casino, you can't joint venture a casino.

11 Q. And does the SMDC agreement address this  
12 situation?

13 A. No, it doesn't, it does have a percentage -- it  
14 does measure amounts based on slot revenues as one of three  
15 separate ways to calculate the incentives but it never  
16 provide for any ownership in the slot revenues, in other  
17 words the slot revenues are owned by the tribe they're  
18 available to the tribe for whatever its purpose and then  
19 the amount that they have to pay SMDC is measured by slot  
20 revenues.

21 Q. And to your knowledge when did the sole pry tree  
22 [RAOEUL] that had you just spoke of did Mr. Hogan spoke of  
23 when did it take effect?

24 A. After 2010.

25 Q. And was there something similar in place at the  
26 time of the SMDC agreement?

27 A. There was -- of the only thing in place was the  
28 general doctrine that you can't joint venture a casino with

1 a tribe.

2 Q. Now we'll talk about how the SMDC agreement  
3 addresses it. Provision -- and this is on Bates 216 which  
4 is the second page of -- I'm sorry, it should be 217, third  
5 page of the agreement and I'm looking at one C little two  
6 and that's at the bottom of Bates 217, not in scope of  
7 work, what is the purpose of one C2?

8 A. So to understand the purpose, let me back up. So  
9 the scope of work of the agreement, what SMDC was supposed  
10 to do as contractor for the tribe was set forth in Section  
11 1, scope of work, and one A was what's the scope of work,  
12 1-B was the economic development tasks. Then there was a  
13 one C saying not in scope of work, in other words after  
14 defining what was in the scope of work, one C says well  
15 these matters are not within SMDC's scope of work and one C  
16 says not in scope of work, scope of work does not include:  
17 One work after the beginning date defined herein, the  
18 beginning date was when you had a, so SMDC was prohibited  
19 from doing any work once the casino opened, so the opening  
20 date was the opening date of the casino, the SMDC could not  
21 do any work after that date to make sure it wasn't a  
22 management agreement. Little two is any management role as  
23 stated in Section 3 D below, 3-D dealt with fiduciary  
24 relationship. So two was any management role that might  
25 create a fiduciary relationship. And three, any work on  
26 economic development tasks or otherwise after the  
27 termination of services. So basically it said you can't --  
28 you can't be a manager J, you can't be a management

1 contract because you're prohibited to work for the tribe  
2 once there's a casino to manage.

3 Q. Okay. Move to Section 2 A and that's an  
4 independent contractor relationship. It's concerns of best  
5 efforts to preserve the independent contractor status.  
6 What does this have to do with the IGRA?

7 A. The quote here, the Indian gaming regulatory act,  
8 what this says is that SMDC was going to be contractor is  
9 the first sentence h the second sentence is both parties  
10 individually and severally covenant to use their best  
11 efforts to preserve the independent contractor status of  
12 developer including but not limited to amending this  
13 agreement or seeking the approval of secretary of the  
14 interior if necessary to conform to the requirements of  
15 IGRA. So what this says was that the tribe and SMDC would  
16 use their best efforts to avoid it being a management  
17 contractor if the BIA had any questions to conform this  
18 contract through amendment to anything that the BIA  
19 required?

20 A. So when fill Hoag said well first had you get  
21 flagged by the general counsel and then you go into the  
22 negotiation and then if the negotiation fails you go do  
23 this and he stated six different steps that happen before  
24 they ever void a contract, this requires the tribe to  
25 cooperate with SMDC in gaining that approval or  
26 alternatively requires both those parties to amend the  
27 agreement to get that approval should federal recognition  
28 ever occur. In this case federal recognition -- we never

1 came close to federal recognition so this clause was never  
2 triggered.

3 Q. And this to your knowledge has there been any  
4 further application by the tribe for federal recognition in  
5 the 10 years since 2006?

6 A. Based on the testimony of Elizabeth Aronson and  
7 Richard Polanco, nothing in the last 11 years has been done  
8 towards federal recognition and Ms. Aronson indicated she  
9 didn't even know that the federal recognition application  
10 had been put in by her predecessor Ms. Lamothe.

11 Q. You talked about 3-D no fiduciary relationship,  
12 what about three E and this is no management rule for  
13 developer, what was the purpose of this clause in relation  
14 to IGRA?

15 A. Three E.

16 Q. Uh-huh.

17 A. No management role for developer, notwithstanding  
18 any possible construction of any provision herein, this  
19 agreement shall not be construed to be a management  
20 contract for the operation or management for any class two  
21 or class three gaming activity nor to give developer any  
22 role in or right to participate in the management of any  
23 Tongva related facilities. That's a defined term meaning  
24 the casino. Developer agrees that it shall not assert such  
25 a role or right whether under this agreement or otherwise.  
26 The 10 percent incentive provided for herein, that's 10  
27 percent of slot revenues Mr. Hogan focused on, the 10  
28 percent en sensitive provided for herein gives developer no

1 right or role to term how Tongva economic facilities are  
2 operated or by whom and gives rise to no enforceable beyond  
3 those necessary to collect amounts due hereunder.  
4 Specifically developer has no legal or equitable right to  
5 claim that the 10 percent incentive shall be calculated  
6 based on any amount other than the actual net win of Tongva  
7 entertainment facilities. Notwithstanding any other  
8 provision herein, developer does not have and shall not  
9 assert any lien against any real property held in trust for  
10 the Tongva by the United States nor against any improvement  
11 here on.

12 Q. So what's the purpose?

13 A. The purpose of this, this is a standard clause in  
14 anything that might be construed as a management contract  
15 and it was a clause that originated way very prominent  
16 Indian lawyer in Albuquerque who ran the BIA for a short  
17 time. This shows that it's the intent of the party not to  
18 be a management contract and that there is no right to  
19 operate the facility and gives no enforceable rights that  
20 might be used by the developer to leverage the tribe by  
21 operating the facility to its benefit. And that's how far  
22 had you make sure that your agreements not a management  
23 agreement.

24 Q. Okay.

25 A. Because remember these are real rights that are  
26 being given up by SMDC for a reason and that prevents the  
27 exact wrong that the BIA is concerned about which is that  
28 somebody basically be joint venture touring the casino with

1 an Indian tribes instead of the tribe having the right to  
2 operate the casino as the trial brief tribe saw fit.

3 Q. Three F is pretty self explain [TRAO\*E] tree but  
4 please explain it?

5 A. Well three F is the partner provision that goes  
6 with three E, tribe retains all ultimate decision-making  
7 authority notwithstanding anything to the contrary in this  
8 agreement, developer shall have no right or authority to  
9 legally bind the tribe. So that confirms that the tribe  
10 has all the decision-making authority. Of the idea that --  
11 federal Indian law did not allow to this agreement, if it  
12 applies in the future, the agreement provided that there  
13 was no problem under Indian law by containing those normal  
14 provisions in it, number one, and on top of that, strictly  
15 prohibiting SMDC from doing any work for the tribe after  
16 the casino opened, that prophylactic of you can't be  
17 working for the tribe when the casino opens makes clear  
18 that not only do you have the regular [KHRAUFZ] [-Z] that  
19 there's no management role for the developer but the  
20 developers actually prohibited from any role at all.

21 Q. So is this something similar to the kind of belt  
22 and spend [ERZ] approach that the SMDC agreement took with  
23 the no attorney-client relationship, it's just various ways  
24 of protecting SMDC and the tribe as far as IGRA is  
25 concerned?

26 A. Yeah and it is belt and spend [ERZ] I've talked  
27 about before the difference between a handgun and a tank  
28 and I've had agreements that have had this sort of stuff in



1 them but they were very lightly [do not|done], this is the  
2 tank version, it's done over and over again with an  
3 explicit [TPHES] and thoroughness [STHAS] extraordinary for  
4 agreements of this [STKPWHRAOEUP] what about -- let me just  
5 make sure I'm sure, four h Section 4 I?

6 A. Section 4 is compensation.

7 Q. And this is the 10 percent.

8 A. I is on page --

9 Q. That's on two 23. And do you recall [HO\*EGDZ]  
10 testimony about the 10 percent number?

11 A. Yes. Are you sure it's four I because.

12 Q. Monthly amounts?

13 A. Yeah four I, there are two I [-Z], HI J and  
14 there's another I so that should be K on Page 2 24.

15 Q. No I think that's J little one, I think it's  
16 actually correct?

17 A. Oh J little one and little two.

18 Q. Yeah it's confusing so I and J are the ones I'm  
19 concerned about, so you've [PWO\*] got [PHAO] Lee amounts  
20 and incentive and developer entitled to appreciated amount,  
21 and calculated appreciated amount.

22 THE COURT: What page is this.

23 MR. FORDYCE: This is two 23 and two 24 Your Honor  
24 which is nine and 10 of the agreement.

25 THE COURT: Yes.

26 Q. BY MR. FORDYCE: So Mr. Stein do you see I and  
27 J?

28 A. Yes.

1 Q. And do you recall [HO\*EGDZ] [TEFPL] about the 10  
2 percent incentive?

3 A. No. Mr. Hogan apparently did not read the  
4 agreement because he said that the 10 percent incentive was  
5 available if SMDC and SMDC could insist on. It what J  
6 provides for is if there's any question about the legality  
7 of the 10 percent incentive then an alternative appreciated  
8 amount would be used and this is we have again federal law  
9 doesn't apply, number one, Number 2 if it were to apply  
10 you've got your standard clauses, Number 3 you have the  
11 prophylactic measure of SMDC can't manage, Number 4 was  
12 this J, this was the fourth level of protection and what  
13 this provided for was saying hey if you don't get the 10  
14 percent incentive you don't even have to renegotiate the  
15 agreement already in here is an alternative calculation of  
16 what SMDC is owed called the appreciated amount so if  
17 there's any concern at the BIA about percentage of slot  
18 revenues then the parties simply shift into four J and go  
19 to an appreciated amount which is not based on the tribes  
20 earnings it's based on average earnings of other tribes  
21 that are publicly published so it's a Five step  
22 calculation.

23 Q. So I think you've adequately explained why J is in  
24 there, who came up with the approach?

25 A. Seyfarth Shaw and this is because the Indian  
26 expert from Al [PWAOU] concerning [AOER] New Mexico said  
27 this is absolutely not necessary but belt and spend [ERZ],  
28 tank instead of a handgun this was put in there any way.

1 Q. Okay let's move forward to Bates two 26 and this  
2 is Page 12 of the agreement, Section 8, continuation of  
3 obligations and I draw your attention to eight B  
4 obligations to protect enforceability, what does this mean?

5 A. Well eight B , obligation to protect  
6 enforceability states the Tongva acknowledge represent  
7 warrant and agree to do all things required necessary or  
8 visible to ensure that, and then little two, any related or  
9 unrelated entities that claim to represent the tribe or the  
10 Gabrielino [peoples|People's|people's] and are found by  
11 federal or state authority to represent the tribe shall  
12 abide by and do all things necessary to further the purpose  
13 terms and conditions and enforceability of this agreement  
14 with developer.

15 Q. And you're on two 27 now right?

16 A. Yes [SKP-FPLT] what that meant is that the tribe  
17 or anybody else had to -- that might be party to this  
18 agreement had to help get this agreement to be enforced and  
19 that would include cooperating with whatever it required to  
20 get it approved by the BIA should that day ever come. So  
21 this was a fifth level of protection where the tribe itself  
22 would cooperate in the effort to get BIA approval.

23 Q. Okay. And just moving -- staying on Page 2 27,  
24 we've got eight C and in particular little two through  
25 little Five, how does this speak to IGRA?

26 A. This was cooperation, the parties shall cooperate  
27 on all matter [RA] reasonably required to have effect  
28 [TAOEUF] item purpose this agreement to [KHRAOUFTD] willing

1 without limb [TAOEUFT] two obtain the approval of the  
2 agreement by the United States of America including without  
3 limited the bureau of Indian affairs and the national  
4 Indian gaming commission, State of California including  
5 without [HREUFPLT] [TAEUGS] the state [TKPWAOEUGPLG] [APGS]  
6 and counsel successors as well as any other third party  
7 approvals. And what this was meant to do is make sure that  
8 the tribe cooperated in getting the approvals. So not only  
9 did it have -- this was a sixth level, not only did it have  
10 the obligation to protect the enforceability of the  
11 agreement which this lawsuit is exactly the [O\*PS] of that  
12 obligation but they also had to cooperate in getting  
13 approval by other parties including the BIA and the NIGC,  
14 that is exactly what Mr. Hogan was stating, he's saying  
15 well what happens if the tribe refuses to amend, maybe then  
16 the BIA would have to disapprove this agreement. Here is  
17 the requirement that the tribe cannot take that approach,  
18 cannot purposely submarine the agreement with the BIA,  
19 instead it is required to cooperate. And once again this  
20 provision was approved not once by Five separate times.

21 Q. Well let's be accurate, all of the provisions  
22 we've just reviewed were approved?

23 A. That's correct.

24 Q. Five times? Okay and let's just move to the last  
25 clause in which I'm interested and that's in the next Page  
26 2 28, Page 14 of the agreement and of course this is the  
27 conflicts Section 11 disclosure of potential adverse  
28 interests. Please explain this?

1           A.    This agreement -- this discloses the adverse  
2 interests that SMDC or Mr. Stein might have adverse to the  
3 tribe. It was talked inform -- I believe Mr. Margolis  
4 talked about this not Mr. Hogan.

5           Q.    Okay we'll get to that?

6           A.    And the last sentence [SAEUTZ] the Tongva agree  
7 that potential and/or actual conflicts have been adequately  
8 explained to them and that tong have have had a reasonable  
9 opportunity to investigate such conflicts and consult with  
10 counsel.

11          Q.    Did you do that?

12          A.    That's exactly what I did. Not once but I did it  
13 at least a dozen times, SMDC is a contractor, Stein is not  
14 your attorney you guys have Steve Otto or whoever you want  
15 to have or at a later date you've got Ed Hamburger or a  
16 later date you've got Rae Lamothe but I played it clear as  
17 a bell that SMDC and Stein why adverse, we were looking to  
18 get paid and paid from GT Tribe and from the investment  
19 Monday [STKPWHRAO\*EZ] do you remember Ms. Aronson's  
20 testimony that she said this guy's not your lawyer, do you  
21 remember that testimony?

22          A.    That's correct.

23          Q.    Do you remember Mr. Margolis' testimony about the  
24 conflict?

25          A.    Mr. Margolis said that the problem with it was  
26 that Stein did not do exactly what Section 11 says is here,  
27 he said Mr. Stein did not explain conflicts he never said  
28 how he knew that. In fact I can tell you through personal

1 testimony I did and right here in 11 they agreed Five  
2 separate times, the Tongva agree that potential and/or  
3 actual conflicts have been adequately explained to them and  
4 then the tong have have had a reasonable opportunity to  
5 investigate such conflicts and consult with counsel. They  
6 signed this and believed it was true.

7 Q. You believed it was true at the time?

8 A. Yes.

9 Q. Did you believe it was true each of the five times  
10 that it was affirmed and approved?

11 A. Yes.

12 Q. Do you believe it's true as you sit here today?

13 A. Yes.

14 Q. Just a couple more questions, I've got a little  
15 bit -- kind of cross over. Let me just ask you finally  
16 with IGRA, why did SMDC take the state approach?

17 A. The state approach was what got fund-d, we were  
18 happen to too take the federal approach, we sought federal  
19 legislation, we sought federal administrative approval, we  
20 even -- there was even a case law saying -- which a state  
21 recognized tribe in Long Island, the Shinnecock, the  
22 Shinnecock tribe in Long Island even got judicial  
23 recognition, federal recognition judicially, although that  
24 was reversed by the second circuit later. We were prepared  
25 to go to the federal recognition route. What we got funded  
26 for was not a go-slow approach, what we got funded for was  
27 here is some gambling money, go and get your state  
28 recognition real fast if you can.

1 Q. A few more questions, both Mr. Hogan and Mr.  
2 Margolis said this in fact, did you mislead the tribe?

3 A. No.

4 Q. Regarding state versus federal gaming in an effort  
5 to shelter SMDC?

6 A. Absolutely not.

7 Q. Please explain?

8 A. The tribal council knew what was going on and they  
9 were very well informed, there was meeting after meeting  
10 set forth nor what was going on, not just for approvals of  
11 documents but to keep them apprised of how the state  
12 recognition effort was going and how the federal  
13 recognition effort was going. Rae Lamothe bent over  
14 backwards, Elizabeth Aronson was quite eloquent in saying  
15 what she had to say and I made very clear the business  
16 points that SMDC was trying to get a casino any weigh it  
17 could. Legislation, fine, lawsuits sure, you know  
18 Hollywood Park litigation, fine. The federal recognition  
19 application, fine. SMDC was willing to do whatever it took  
20 to try to get a casino as best it could and that would be  
21 the only way SMDC would get paid.

22 Q. Well and -- it was Margolis I think that said that  
23 Ms. Lamothe had a conflict so there was no independent  
24 counsel relationship favoring state over federal  
25 recognition. In your mind was there any difference between  
26 state and federal recognition regarding potential casino  
27 profits to the tribe or to Lamothe or --?

28 A. There was no difference and that's why Mr.

1 Margolis' testimony was so out of bounds, he was assuming a  
2 situation that didn't exist, he was assuming that Rae  
3 Lamothe agreed that state recognition was better and would  
4 get paid more money than under federal recognition when  
5 that in fact was had not the case, there was no fundamental  
6 flaw with the SMDC agreement that made federal recognition  
7 Medicaid bad, all you'd have to do was cooperate, you might  
8 have to amend, you might have to switch from the slot -- 10  
9 percent incentive to the appreciated amount instead but  
10 you -- there was no way you could knock the SMDC agreement  
11 out as a management agreement, Ms. Lamothe Ms. Lamothe knew  
12 this as well as I did.

13 Q. And this is Mr. Margolis saying even being across  
14 the table was had not enough to show the adverse  
15 relationship between the parties is that correct?

16 A. Yes Mr. Margolis testified as I understood his  
17 testimony that simply being across the table from GT Tribe  
18 and saying I advise you to sign this agreement made you the  
19 tribes lawyer even though you're across the table. Section  
20 11 makes it clear that that is not the case, it makes it  
21 clear that when you're across the table you are adverse to  
22 the tribe, so you would have to be a child to think that  
23 Mr. Margolis was right -- forgive me that came out -- you'd  
24 have to be a child for Mr. Margolis to be right in that you  
25 couldn't understand the plain written language in front of  
26 you.

27 Q. Mr. Stein did you visit tribe to sign Resolution  
28 10?



1           A.    I told them -- yes, I did say I wanted them to  
2 sign it but I wanted them to sign it as part of SMDC and I  
3 made clear that that -- that SMDC was adverse to them and  
4 the reason that Dianna Simental didn't sign it is she  
5 didn't want SMDC she didn't want any casino project and she  
6 didn't want any financial obligations for tribe.

7           Q.    Did you visit tribe to get their own counsel for  
8 Resolution 10?

9           A.    Yes I did and they actually did get their own down  
10 they used that long time counsel for that wing of the  
11 tribal council was this guy Steve Otto he just left in the  
12 middle of it and they had every opportunity to have get one  
13 and they did get one they just failed to get one after he  
14 left.

15          Q.    And advising the opposing faction to get counsel  
16 by Mr. Margolis' standards is you being their lawyer  
17 somehow, is that their understanding of his testimony?

18           MS. IBARRA:  It misstates his testimony.

19           THE COURT:  What states his testimony, Mr.  
20 Margolis'.

21           MS. IBARRA:  Yeah.

22           THE COURT:  Is that.

23           MS. IBARRA:  The way that counsel phrased Mr.  
24 Margolis' is inaccurate, I just want to state that forward.

25           THE COURT:  Can you re-read the question Madam  
26 Court Reporter.

27                    (Record read.).

28           THE COURT:  Well it's unintelligible.

1 MR. FORDYCE: Can I try again. Yeah Your Honor my  
2 point was Mr. Stein -- Mr. Stein did you visit tribe to get  
3 their own counsel for relating to Resolution 10.

4 A. Yes.

5 Q. Is it your understanding of Mr. Margolis'  
6 testimony that that act somehow made you the tribes  
7 attorney?

8 A. Yes. That his testimony was circular, he said on  
9 the one hand if you're an attorney you have to advise  
10 people to get their own attorney but once you advise them  
11 to get their own attorney you're giving them legal advice  
12 which makes you their attorney.

13 Q. Okay.

14 MS. IBARRA: It's not accurate, but fine.

15 THE COURT: I don't think Stein is saying that's  
16 what Mr. Margolis said that's his interpretation of what --  
17 the impact of what Mr. Margolis says?

18 A. Right.

19 THE COURT: Or his interpretation that that's not  
20 what Mr. Margolis said.

21 MS. IBARRA: I don't think that's what Margolis  
22 said.

23 Q. BY MR. FORDYCE: And Mr. Stein you were a nominal  
24 officer for the tribe from when to when?

25 A. I was a nominal officer for the tribe it from a  
26 very short time, from 2005 I believe until the Libra  
27 agreement and I resigned when the Libra agreement came  
28 through and became a nominal officer of the tribal gaming

1 authority.

2 Q. And Mr. Stein were you ever a statutory officer of  
3 the tribe?

4 A. No I was never a statutory officer as in the  
5 Corporations Code.

6 MR. FORDYCE: Your Honor I think I'm done with Mr.  
7 Stein.

8 THE COURT: Well good it's 12:00 o'clock.

9 MR. FORDYCE: Oh not bad.

10 THE COURT: Mr. Stein, you'll be back tomorrow.

11 A. Yes if I can leave the witness stand and talk to  
12 the court.

13 THE COURT: Yes. Well you have cross but.

14 MS. IBARRA: I have cross so this adds a little  
15 bit to what I have before I think I probably have an hour  
16 and a half with him but there's also Mr. Steven Johnson.

17 MR. STEIN: Mr. Johnson will be in at 10 but I can  
18 see if he can come in later in the day.

19 THE COURT: All right.

20 MS. IBARRA: Or we can do Mr. Johnson and says --  
21 because you said he's a short witness.

22 MR. STEIN: I don't want to prejudice the  
23 cross-examination but I really was hoping that we would  
24 finish on Friday, I don't know what the Court's schedule is  
25 like, I had volunteered earlier to stay into the afternoon  
26 if it was necessary to provide a fair forum for  
27 cross-examination.

28 THE COURT: Well we may have to do that because I

1 don't know, I don't know how long Johnson will go, it  
2 doesn't sound lying he's going to go that long but.

3 MR. STEIN: But Your Honor if I can [SKPHEPBG]S  
4 sort of as a proffer, eves only going to confirm what has  
5 already been said by Barbara Garcia and Mr. Stein and that  
6 is he's going to tuck [PWA] the creation of the [SPRAET]  
7 and how he reviewed the invoice version of the bills and  
8 what the purpose of that spreadsheet was, it was part of  
9 his due diligence for the estoppel certificate, so to the  
10 extent that we can get through that.

11 MS. IBARRA: If that's all it is, then we should  
12 be able to get through that in 15, 15 minutes.

13 MR. STEIN: Well first of all, I don't know if the  
14 court is available before 10 a.m.

15 THE COURT: Tomorrow, I don't know. You have know  
16 how that goes, sometimes you say yes and I'm not available  
17 until 10 or even after 10.

18 (Discussion held off the record.)

19 That's 10:00 o'clock. So you might want to plan  
20 for the afternoon, if you're available and you're able to  
21 do it, if not you can go into the next week, I'd rather had  
22 not because it's kind of night nice to --.

23 MR. FORDYCE: There's no possibility for this  
24 afternoon.

25 THE COURT: Well I have a trial that's coming in.

26 MR. STEIN: So if I can summarize then, is Mr.  
27 Johnson will be waiting in the hallway and we'll all come  
28 in at 10:00 o'clock right on the dot, we finish with Mr.

1 Johnson in 15 minutes assuming cross-examination is as  
2 quick as that and then that would leave one hour and 45  
3 minutes for the cross here, is that sufficient for your  
4 purposes.

5 MS. IBARRA: I think so.

6 THE COURT: Well the thing is you have cross but  
7 then you have an opportunity to redirect.

8 MR. FORDYCE: I'm not anticipating a lot of  
9 redirect Your Honor, typically with Mr. Stein so far I've  
10 done little or none. So I don't know, I'd just have to  
11 play it by hear I guess.

12 MS. IBARRA: Or we could come back in the  
13 afternoon tomorrow.

14 MR. STEIN: I would be and available to [KAOPL]  
15 back in the afternoon it is the last day of this.

16 THE COURT: Well even if you did come back in the  
17 afternoon, I could have them trail for half an hour.

18 MS. IBARRA: And then the Court's going to ask us  
19 to do briefing.

20 THE COURT: Well that's a good suggestion, Neli  
21 said why don't we just have them come back on Monday the  
22 other trial f we finish it by 12 that's great but if not we  
23 have the afternoon to deal with it.

24 MR. STEIN: So it's the other trial we would be  
25 trailing Monday.

26 THE COURT: So judge don't we do that h they'll be  
27 here today we can talk to them association we don't do  
28 anything this afternoon in this case, I'll talk to them

1 [SKP-RBGS] they'll be happy anyway.

2 MR. FORDYCE: Hey Friday afternoon off. So 10:00  
3 a.m. tomorrow Your Honor.

4 THE COURT: Yes 10 tomorrow because I do have  
5 lengthy matters, all right thank you.

6 MR. FORDYCE: Thank you.

7 MS. IBARRA: Thank you. 12:06 PM.

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