

1 CAUTIONS IN USING A REALTIME PARTIALLY EDITED TRANSCRIPT

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3 IN A REALTIME PARTIALLY EDITED TRANSCRIPT, YOU MAY
4 SEE THE REPORTER'S RAW SHORTHAND NOTES. CONSEQUENTLY, YOU
5 MAY SEE ERRORS IN CAPITALIZATION AND PUNCTUATION,
6 MISSPELLINGS, SMALL WORDS MISSING (SUCH AS "THE," "IT,"
7 "A"), TRANSPOSED WORDS, DOUBLE WORDS, CONTEXTUAL HEARING
8 MISTAKES, HEARING MISTAKES OF SOUND-ALIKE WORDS, POSSIBLE
9 INCORRECT SPEAKER IDENTIFICATION, AND AT TIMES STENO
10 OUTLINES THAT HAVE NOT BEEN TRANSLATED.

11 BE ASSURED THAT IN THE FINAL EDITED VERSION OF THE
12 TRANSCRIPT, ALL ERRORS ARE CORRECTED. AN UNEDITED OR
13 PARTIALLY EDITED TRANSCRIPT REPRESENTS A FIRST DRAFT AND
14 SHOULD BE USED ACCORDINGLY.

15 THEREFORE, IT IS NOT RECOMMENDED YOU RELY ON THE
16 UNEDITED VERSION AS YOU WOULD A FINAL EVIDENTIARY CERTIFIED
17 TRANSCRIPT. ALTHOUGH AN UNEDITED OR PARTIALLY EDITED
18 TRANSCRIPT WILL BE VERY READABLE AND MOSTLY ACCURATE, IT
19 SHOULD BE USED WITH GREAT CARE.

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GABRIELINO-TONGVA TRIBE VS. STEIN

ROUGH TRIAL TESTIMONY OF J. STEIN, 3/17/17

10:07 AM.

THE COURT: Gabrielino versus Stein, BC361307,
good morning counsel, please make your appearance.

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 SMDC and the Crane Group.

THE COURT: Thank you. And we have who do we have
again.

MR. STEIN: Steven Johnson son.

THE COURT: That's right Mr. Johnson who's been
here before. And you're being called on behalf of the
Defendant, do you remember that you were under oath the
last time.

A. Yes ma'am.

THE COURT: Well you're still under oath do you
understand that.

A. Yes I do.

THE COURT: Okay very good. All right you may
begin.

MR. STEIN: Thank you Your Honor.

Q. BY MR. STEIN: Mr. Johnson when did you work with
Gabrielino-Tongva Tribe?

1 A. Approximately fall of 2006 until fall of 2007.

2 Q. And when tribal council were you working with?

3 A. The Candalaria group.

4 Q. Okay. And what was your position with GT Tribe at
5 the time?

6 A. Controller.

7 Q. By the way, would the court prefer to use
8 Candalaria group than GT Tribe would that be less
9 confusion.

10 THE COURT: Yes I think that would be.

11 Q. BY MR. STEIN: So you were the treasurer?

12 A. Yes.

13 MS. IBARRA: Objection he said controller.

14 MR. STEIN: Forgive me controller.

15 Q. BY MR. STEIN: Can you go to exhibit 1560 please?

16 A. Okay.

17 Q. And can you identify -- we've already admitted
18 into evidence but can you tell us about your involvement
19 with the quantum meriut spreadsheet?

20 A. Basically a lot of this work predated my
21 involvement with the tribe. What I did was I wasn't back
22 and verified that the work was done that's calculated here
23 and reviewed all the associated invoices and made sure all
24 the math was correct.

25 Q. And can I refer you to exhibit -- why did you do
26 that?

27 A. Well there was quite a bit of work done by Saint
28 Monica development and Jonathan Stein prior to my

1 involvement and I I wanted to verify that the work had been
2 done to the satisfaction of the tribal council.

3 Q. I can H* refer you --.

4 THE COURT: By tribal council you're referring to
5 Candalaria.

6 A. Yes.

7 Q. BY MR. STEIN: Can I refer you to exhibit 583
8 please it's open in front of you?

9 A. Okay.

10 Q. You previously discussed it, it's called the
11 estoppel certificate.

12 THE COURT: What number exhibit is it again.

13 MR. STEIN: 583.

14 THE COURT: Which volume is it in.

15 MR. FORDYCE: Second.

16 MR. STEIN: Second.

17 THE COURT: It's in the second volume.

18 MR. FORDYCE: Yes Your Honor.

19 MR. STEIN: At the front.

20 THE COURT: 583, let's see. Okay as luck would
21 have it it's not in here, it's probably in stack H do you
22 want to grab that for me, 583, it should be in numerical
23 order. Go ahead and start and she'll look for it.

24 Q. BY MR. STEIN: Turning to the last page of exhibit
25 583, is that your exhibit?

26 A. The second to the last page.

27 Q. Second to last page I'm sorry?

28 A. Yes.

1 Q. And what is 583?

2 A. It's an estoppel certificate that memorialize [-Z]
3 the work that was done prior to my -- up and to the time of
4 my involvement with the tribe.

5 Q. And what was the purpose of the estoppel
6 certificate?

7 A. For the tribal council to basically affirm the
8 debt that was incurred by the group up until that time.

9 Q. Was that a part of any settlement?

10 A. No.

11 Q. Was it -- did it keep the Candalaria group out of
12 this litigation?

13 A. That was my understanding.

14 Q. Okay so it was part of the settlement by the
15 Candalaria group to leave this litigation?

16 A. Correct.

17 Q. And what was -- what debt was affirmed by the
18 estoppel certificate? If we can go to Page 66 Five, the
19 Bates stamp at the bottom?

20 A. Right. It's basically various amounts --

21 THE CLERK: Counsel was looking for 583 in the
22 stack earlier.

23 MR. FORDYCE: No I was looking for 1548.

24 THE COURT: This shouldn't be given to the parties
25 if it's in evidence.

26 MR. STEIN: I believe it was 1548 he was lacking
27 for.

28 THE CLERK: Did you want 583.

1 THE COURT: 583 is what I need.

2 THE CLERK: That I don't have.

3 THE COURT: Who.

4 THE CLERK: The gentleman with the long hair.

5 MR. FORDYCE: Yes Your Honor we were just look to
6 go see if the court had 1548.

7 MR. STEIN: Could you like me.

8 THE COURT: We're not giving the parties any more.
9 I'm still looking for the same one.

10 THE CLERK: I don't have it.

11 THE COURT: Did you take out of the stack.

12 MR. FORDYCE: No Your Honor absolutely not, I was
13 only looking for a confirmation on it.

14 THE COURT: Do you have an extra copy.

15 MR. STEIN: Yes, I can look at my electronic copy,
16 Niall can you pull up 583.

17 THE COURT: Go ahead and take his copy. Thank
18 you. Okay I have a copy, have you pulled up your
19 electronic copy yet.

20 MR. FORDYCE: I'm just getting to it right now.

21 MR. STEIN: I'll pull it up Your Honor. Okay.

22 Q. BY MR. STEIN: So going to -- let's just start
23 with the Page 26 '87 we'll just go a little bit more
24 slowly. So this was the -- this affirm the SMDC debt by
25 the Candalaria group and so the first signature is whose
26 signature?

27 A. Linda Candalaria.

28 Q. And the second signature is?

1 A. Jeff Tisdale counsel for the tribe.

2 Q. So he was independent counsel for the tribal
3 council tribe?

4 A. Correct.

5 THE COURT: You have mean for the Candalaria
6 group.

7 MR. STEIN: For the Candalaria group?

8 A. Correct.

9 Q. BY MR. STEIN: And he was there to make sure that
10 they had their own representation in this settlement out of
11 the lawsuit?

12 A. Exactly.

13 Q. And the next it says approved as to form and
14 contents, Steve Johnson controller, that's your
15 signature?

16 A. Yes.

17 Q. And then moving to the last page, Saint Monica
18 development by Mr. Stein?

19 A. Correct.

20 Q. And the purpose of this was just to confirm the
21 debt and that was in 1.2? If you can tell us what 1.2 does
22 on Page 26 '85?

23 A. 26 '85, 1.2. Basically that sets forth the
24 monthly accruals, interest, expense and the reimbursable
25 expenses that they agreed to assume.

26 Q. So in doing the due diligence for this agreement
27 what did you do?

28 A. Went back and looked at a month by month

1 calculation at all the invoices supporting it to ensure
2 that the work was done that was incurred and basically
3 show -- tolled the tribe I looked at each and every month,
4 all the invoices supporting it, that the work was done and
5 certified that to them.

6 Q. And is that why you created 1560?

7 A. Yes.

8 Q. Now, can I turn you to Exhibit 15 58?

9 A. Okay.

10 Q. And have you seen invoices like this before?

11 A. Yes.

12 THE COURT: What was the exhibit number.

13 MR. STEIN: 1558.

14 MS. IBARRA: 1558, what does it look like.

15 THE COURT: Is that the invoice excerpt.

16 MR. STEIN: Correct.

17 Q. BY MR. STEIN: Have you seen invoices like that
18 before?

19 A. Yes.

20 Q. And tell me, how did you make the -- how did you
21 make the spreadsheet?

22 A. Basically went through and verified each of these
23 invoices, totaled them up and put them into the
24 spreadsheet.

25 MS. IBARRA: Objection these aren't invoices,
26 these are entries.

27 Q. BY MR. STEIN: Were there monthly invoices for
28 each month?

1 A. Yes.

2 Q. And did they total -- how many pages did they
3 total.

4 THE COURT: So is 1558, is that what you're -- is
5 that an invoice that you reviewed or is that something
6 else? Because it's also only a partial right?

7 A. These are entries.

8 THE COURT: Entries, okay. All right so did you
9 review the entries I guess?

10 A. Yes.

11 Q. BY MR. STEIN: And this indicates Page 16 three is
12 the end?

13 A. Yes.

14 Q. Did the same entries run from Page 1 through 16
15 three?

16 A. Yes.

17 Q. And were they the basis -- did you then add up the
18 entries to get the numbers for each month?

19 A. Yes.

20 Q. And who double checked you?

21 A. Barbara Garcia.

22 Q. And did Mr. Stein have any involvement in 1560?

23 A. Not really. Just kind of guided me on what the
24 tribe needed to have done.

25 Q. Very good. And did Mr. Stein add the two columns
26 quantum meruit calculation and comparison of 375?

27 A. Yes.

28 Q. But that was not your concern?

1 A. Correct.

2 MR. STEIN: No further questions.

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

4 Q. BY MS. IBARRA: Mr. Johnson, so pursuant to that
5 estoppel certificate, the Candalaria group has already
6 promised to pay Mr. Stein for all of these entries,
7 correct?

8 A. Correct.

9 Q. Okay. So somebody's already agreed to make Mr.
10 Stein whole right.

11 MR. FORDYCE: Calls for a legal conclusion.

12 MR. STEIN: Vague.

13 THE COURT: Overruled?

14 A. If it's -- oh. You know it's hard for me to
15 answer but they agreed to make them -- they agreed to pay
16 him for what was listed here, I don't know if that's whole
17 or not.

18 MS. IBARRA: Okay.

19 Q. BY MS. IBARRA: Do you have up there exhibit 1562
20 and that's the redacted document, it's very bulky.

21 MS. GOAD: It looks dish?

22 A. 1562.

23 MS. IBARRA: 1562, is it up --.

24 MR. FORDYCE: Oh I don't know honestly I don't
25 know if that's up here.

26 THE COURT: Yeah that's that thick stack right.

27 MS. IBARRA: It should be behind you, it should be
28 in a stack behind you.

1 THE COURT: (Indicating.) that's my copy?

2 A. Oh yes I recall this.

3 Q. BY MS. IBARRA: So did you ever see an unredacted
4 copy of this?

5 A. Yes.

6 Q. Okay. And so your job was to verify the entries
7 or?

8 A. I didn't verify each and every one of them because
9 I couldn't go back -- remember this was 11 years ago first
10 of all and some of it was three or four years give I was
11 engaged, I went back and made sure all the math was
12 correct, I have went through and reviewed all the entries
13 and made sure they made sense, I didn't call people up and
14 say was this expense incurred, I didn't go to that level of
15 detail but I did a considerable due diligence on them.

16 Q. Okay but these are just entries of time mostly
17 right, this he was spending on this matter? It's hard to
18 tell because it was redacted but if you recall what it was?

19 A. There was more than time. I mean there was
20 expenses that were involved that were considerable.

21 Q. Okay. But looking at the -- looking at the top,
22 what it says, it's dates, time, posting status and the
23 second column says user activity, client reference and then
24 the third column; is that correct is that what it says?

25 A. Yes.

26 Q. The third column says unit, D and B time,
27 estimated time variance?

28 A. Right.

1 Q. So that's basically a Cal occasion of time that
2 was spent on certain matters?

3 A. Correct.

4 Q. So if I can point you to the worksheet page nun,
5 why don't we go to the last Bates stamp which is PO L dash
6 10 dash '02 Five 18. Might take you a little bit to find
7 it, so the last numbers are '02 Five 18.

8 MR. STEIN: What page is this.

9 MS. IBARRA: Zero -- [POL] 10 '02 Five 18 is the
10 last Bates stamp at the bottom and let me know when you get
11 there?

12 A. '02 Five 18, okay.

13 Q. So let's look at some of the specific entries in
14 there, including the one for one, six, 2003, it's redacted,
15 it says Mr. Stein spent 12 hours?

16 A. I don't see it.

17 Q. I'm sorry. So on one, six, 2003?

18 A. Okay.

19 Q. Do you see he spent 12 hours?

20 A. Yes.

21 Q. On something? Okay so go two down from there it's
22 one, 10, 2003?

23 A. Yes.

24 Q. Do you see how he spent '74 hours?

25 A. Right.

26 Q. In one day?

27 A. Well it's probably Anna accumulation of work done
28 over a couple of days but he [REPBD] entered it on that one

1 day.

2 Q. Okay but he has the entries for the day before
3 that and a few days before then, how does somebody bill '74
4 hours in one day?

5 A. You know you're asking a rhetorical question.

6 Q. No I'm asking [PW*] you about that entry right
7 there?

8 A. You know I can read three books at one time, put
9 one down and start reading another one over a several day
10 period and, I assumed that's what he did, was working on
11 this one thing over multiple days and took a break and was
12 working on other things.

13 Q. So you thought that was a reasonable entry is what
14 you're saying?

15 A. Yes.

16 Q. So there's others as well. If we go to [-RT] next
17 day, we have two, Five, '71 and --.

18 MR. STEIN: What page.

19 MS. IBARRA: It's PO L 10, zero 257 one and this
20 is nor eight, one, 2004. Let me know when you get here?

21 A. Okay.

22 Q. And so the very first entry is for August 12th,
23 2004?

24 A. Sure.

25 Q. So how many hours is that?

26 A. '72.

27 Q. So same thing?

28 A. Don't recall what this was for but probably a

1 similar situation where he [WOFRBLGD] on something over an
2 extended period of time, entered the billing on that day,
3 obviously 72 hours is more than 24 so it had to -- his work
4 had to have predated that day.

5 Q. [PRAOEUT] but he has entries for other days before
6 that, I mean why didn't -- I don't know it just -- it makes
7 sense to you though when you saw it?

8 A. You know 11 years ago I'm sure I asked him about
9 that and I think that it was something he worked on over
10 multiple days and was concurrently working on other things.

11 Q. Okay. Well it's hard to tell now right because
12 [TPHROZ] --?

13 A. Correct.

14 Q. So how about --.

15 THE COURT: You mean because it's redacted.

16 MS. IBARRA: Yeah.

17 Q. So eight, 24, 2004, and that's the Bates stamp on
18 that is 10 zero 257 two and again I mean we can --
19 that's -- can you look at the entry for eight, 24, 2004?

20 A. Yes.

21 Q. How many hours is that?

22 A. 26 .74.

23 Q. So just a couple more?

24 A. So if you can look at 12/12, 2005 and that's PO L
25 10 '02 '62 one.

26 MR. STEIN: What was the page number.

27 MS. IBARRA: Zero 2621 is the bottom one.

28 MR. STEIN: 2610.

1 MS. IBARRA: 2621?

2 A. Okay.

3 Q. BY MS. IBARRA: And can you look at 12/12, 2005?

4 A. Okay.

5 Q. And so how many hours is that?

6 A. 40.

7 Q. 40 hours. And how about PO L 10 zero 2655, eight,
8 16, 2006?

9 A. Okay.

10 Q. So do you know how many hours is indicated for 10,
11 16, 2006?

12 A. 23.

13 Q. And the day before?

14 A. Seven and a half.

15 Q. So somehow he's not -- he's billing daily but he's
16 billing really enormous amount of times.

17 MR. FORDYCE: Is counsel testifying or is counsel
18 asking a question.

19 MS. IBARRA: Zero.

20 Q. So it indicates that he was billing -- he was
21 inputting his time daily right?

22 A. Yes.

23 Q. But sometimes they exceeded 24 hours?

24 A. If it was something that had gone on successive
25 periods he'd been known to sometimes work 24 hours
26 straight.

27 Q. Okay. And then just one last one for '05 24 PO L
28 10 '02 Five 24.

1 MR. STEIN: 25.

2 MR. FORDYCE: Zero 2524.

3 MS. IBARRA: 2524.

4 MR. STEIN: So this is back at the beginning.

5 MS. IBARRA: Yes?

6 A. I'm keeping them in order.

7 THE COURT: [KRES] thank you?

8 A. So you won't get it back a mess.

9 THE COURT: Actually I think the copy is somewhere
10 next to you. Madam Court Reporter you were pointing toe
11 something and indicating the copy is there.

12 THE REPORTER: Yes, Your Honor.

13 THE COURT: Yeah if you can step down so oh there
14 it is and you can?

15 A. It's the same thing.

16 THE COURT: And thank you for keeping it in order?

17 A. Yeah if it's helpful.

18 THE COURT: That's helpful, thank you?

19 A. 25 --.

20 MS. IBARRA: 24, [POL] 10 2524?

21 A. Okay.

22 Q. So do you see how there's -- first one is 4/25,
23 2003?

24 A. Yes.

25 Q. And the next one is for four, 28, 2003?

26 A. Right.

27 Q. And that's for 11.6 hours?

28 A. Correct.

1 Q. And then the next one, the next entry is
2 identical, same date, same amount of time; is that correct?

3 A. The numbers are identical.

4 Q. The numbers are identical, right?

5 A. Correct.

6 Q. The dates are identical too?

7 A. Appears to be but the redacted information is
8 substantially different, I mean I don't remember what it
9 says obviously.

10 Q. Of course.

11 A. But you can see the column is much larger on the
12 first one than for the second so they're for [#2KEU6]
13 things.

14 Q. For the same day though?

15 A. Correct.

16 Q. So he billed -- okay. And the next one is, the
17 date is the same and the time is the same?

18 A. Correct.

19 Q. Oh so that looks to me like it's a triple entry
20 but it doesn't look like that to you?

21 A. What are you asking me?

22 Q. There's -- so he billed 11 hours three times for
23 the same date?

24 A. Correct.

25 THE COURT: Well 11.6 zero to be exact?

26 A. It's hard for me to address that without seeing
27 the redacted information.

28 MS. IBARRA: Sure.

1 Q. BY MS. IBARRA: So do you recall if this was a
2 mistake or if this was just triple billing?

3 A. I really have no recollection of it.

4 Q. But all of these were indicated in your summary
5 right?

6 A. Correct.

7 Q. So you didn't deduct for any of these?

8 A. I don't think so.

9 MR. STEIN: Objection.

10 A. But it's been quite a long time.

11 Q. But your task was to double check these?

12 A. Yes.

13 Q. Do you still think that it was accurate?

14 A. Yes.

15 Q. Do you know what happened to all the -- you said
16 you reviewed some invoices?

17 A. Quite a few of them.

18 Q. Do you know what happened to those invoices?

19 A. No, I don't.

20 Q. When was the last time you recall seeing those
21 invoices?

22 A. 2007.

23 Q. Okay. Has Mr. Stein ever told you what happened
24 to those invoices?

25 A. I think there was some computer glitches that
26 caused him to lose some data but I don't recall the exact
27 details.

28 Q. But that's your best recollection?

1 A. Correct.

2 Q. Okay. And you don't -- did he ever tell you
3 anything about hard copies?

4 A. I don't recall.

5 Q. Okay. That's all I have for this witness.

6 THE COURT: Any redirect.

7 MR. STEIN: Sure.

8 Q. BY MR. STEIN: Steve let's go right back to the
9 points that counsel made but I'd like to kind of keep track
10 of them. I have counsel's objections were over an entry
11 that was 74 hours, an entry that's 26 hours, an entry that
12 was 40 hours, an entry that was 23 hours and then an entry
13 that was 15 hours conscious no no, 11 hours, 11.6 hours
14 and 11.6 and 11.6?

15 A. Correct.

16 Q. Can you add those up to a total.

17 THE COURT: Probably not in his head.

18 MR. STEIN: He's been a banker for 30 years I
19 wouldn't be surprised.

20 THE COURT: You can use your phone if you have a
21 calculator on your phone?

22 A. I turned it off. Look likes 190 point two hours.

23 Q. 190 point two hours?

24 A. 19 1.1. That's a quick and dirty, could be off a
25 little bit.

26 Q. 30, 50, '90 and '90 would be 180 but 19 one let's
27 work with that?

28 A. So I added an extra -- I carried an extra one.

1 Q. Sure. Okay, now can we -- you said you have
2 didn't use this, right, up used the 1558 in your -- was
3 your testimony. Let's see, 1558?

4 A. Correct.

5 Q. And this was the worksheet format?

6 A. Correct.

7 Q. And the other was the invoice format?

8 A. Correct.

9 Q. Do you know why it was called the worksheet
10 format?

11 A. I think it was because it had more detail in it.

12 Q. Could it be that it was a rough draft before the
13 invoices are produced?

14 A. I don't remember.

15 Q. Fair enough. Let's go to the total from -- shown
16 on Page 16 three of the invoice format, that's 1558?

17 A. Okay.

18 Q. And what is that total?

19 A. In terms of hours or dollars.

20 Q. In terms of hours?

21 A. 51 '82 point 29.

22 Q. Two point 29, and the total used on your
23 spreadsheet?

24 A. 51 '81 .99.

25 Q. And that is what difference?

26 A. It's like three-tenths of a percent.

27 Q. Three-tenths of an hour?

28 A. Something like that.

1 Q. And in percentage terms would be what?

2 A. Just hardly anything.

3 Q. One out of 10,000, something like that?

4 A. Yeah.

5 Q. Less than one out of 10,000? Okay?

6 A. One in 10,000.

7 Q. Now let's going to the worksheet total, , let's go
8 to the worksheet total.

9 Q. Okay.

10 A. The last payment, the very last page is 26 '65,
11 what are the hours there?

12 A. 52 '71.

13 Q. Five 271. And what is the difference between 51
14 '81 and Five 271?

15 A. Looks like about '90 [STKPWHROURZ] '90 hours
16 difference?

17 A. Right.

18 Q. Now we know part of that was because the worksheet
19 started earlier. Can you look at the two -- the front page
20 on the worksheets?

21 A. Okay.

22 Q. That's about 5.5 and 1.8 hours in 2000 -- December
23 of 2000?

24 A. Correct.

25 Q. So we know that six hours was because it started
26 earlier. Was the rest of this at least in part an
27 adjustment for these odd entries?

28 THE COURT: Is what an adjustment? .

1 MR. STEIN: This '90 hour difference. Her entries
2 show 19 one, there's a '90 hour difference. Do you recall
3 correcting any entries with Mr. Stein?

4 A. It could be but I cannot remember. I remember
5 there was some paralegal time included in one set versus
6 not another which could be a difference as well.

7 Q. Were there duplicate entries included in one and
8 not the other?

9 A. Not that I recall. I mean she pointed out some
10 but without seeing the detail I can't -- I can't really
11 address it.

12 Q. But you didn't use the worksheets did you?

13 A. No.

14 Q. You used the invoices?

15 A. Correct.

16 Q. Very good. No further questions.

17 THE COURT: Anything further.

18 MS. IBARRA: No I don't have any further questions
19 for this witness.

20 THE COURT: All right thank you you may step down.

21 MS. IBARRA: Oh are you going to ask questions.

22 THE COURT: Oh sure.

23 MR. FORDYCE: Could I just and one very, very
24 quick question.

25 THE COURT: Absolutely.

26 Q. BY MR. FORDYCE: John if you look at 15 60, if you
27 look at the total number of hours let's just called it 51
28 '82, and the tote am number of months which I'll give you

1 have is '70, approximately how many hours per month does
2 that show Mr. Stein working?

3 A. I have mean Five 182 divided by '70.

4 Q. Correct?

5 A. You know I'll have to get a calculator for that.

6 Q. Well I'll put it to you it's about '70 and change
7 does that sound about right?

8 A. Okay.

9 Q. Thank you that's all I have [-RBLGS] I'm done.

10 MR. FORDYCE: Yes.

11 THE COURT: Thank you you may step down?

12 A. Okay.

13 THE COURT: Soy think we were going to resume with
14 Mr. Stein we were going to resume cross -- or begin cross.

15 MS. IBARRA: Yes Mr. Stein, yes.

16 THE COURT: With Mr. Stein. Okay thank you you
17 may approach. Actually it's -- yeah you're right. Okay.

18 MS. IBARRA: Yeah. Cross of his counter
19 complaint. Okay.

20 THE COURT: And you're under oath you
21 understand.

22 A. Yes Your Honor.

23 Q. BY MS. IBARRA: So just to go back to the issue
24 with the quantum meriut, the Time Slips was a program,
25 right?

26 A. Yes.

27 Q. And so is your testimony that as I understand it
28 and you can correct it, was that the tribal council took

1 the hard copies of the Time Slips notebooks, right?

2 A. No they took a single notebook that had hard
3 copies in it. There were two copies each invoice given,
4 one was given to the general counsel who was Rae Lamothe
5 and then Elizabeth Aronson, one was put in the notebook for
6 SMDC's purposes and the tribal council took that notebook.

7 Q. And so is your testimony that it never came back
8 after the writ, correct?

9 A. That's correct.

10 Q. But you still had custody of the Time Slips
11 program?

12 A. Yes, I did.

13 Q. And the Time Slips program still had the data in
14 it?

15 A. Yes, it did.

16 Q. So you could have run a copy of it and kept
17 another copy of it?

18 A. That's what we did.

19 Q. And you had it until -- you had the Time Slips
20 program until what time again?

21 A. Around 2009.

22 Q. So that was during the litigation?

23 A. Yes.

24 Q. So you didn't keep a copy for purposes of the
25 litigation?

26 A. We did. We just can't find t we just cannot
27 locate it and so what we've been able to locate, this is
28 the product of about 30 hours of searching through all my

1 electronic records and all the paper works records that he
2 had at the time but 11 years is a long time and I truly
3 wish we had the unredacted copy of the worksheet, I truly
4 wish we had the invoices from the notebook but we don't.

5 Q. So I mean you're a lawyer so if you had a client
6 who was trying to get paid in litigation for work that they
7 did, wouldn't you ask them to be meticulous about keeping
8 track of the records?

9 A. Oh sure, yes, I do. But you have to understand,
10 I've been -- I've been representing SMDC because there's no
11 money -- there's no money for this litigation and every
12 hour I spend on this litigation is pulled away from hours
13 that I need to work to pay the mortgage on my house and my
14 living expenses.

15 Q. Strike that as nonresponsive.

16 THE COURT: Motion granted the answer is stricken.

17 Q. BY MR. IBARRA: And what about the invoices, same
18 thing, you have can't find them?

19 A. The invoices we printed out a 16 three-page
20 document all at once and we cannot find the total of that
21 document, all we've been able to turn up is portion that's
22 were used for different purposes in litigations -- in this
23 litigation.

24 Q. And what about invoices that you got from third
25 parties and that you seek reimbursement from?

26 A. We had that copied as well.

27 Q. And what happened to those?

28 A. We had them right here in the courtroom, we

1 just -- you've now opened the door, I'd love to introduce
2 it as evidence, the wouldn't allow me before but we have it
3 right here.

4 Q. Your testimony was that it was lost though right,
5 that's why we did the whole quantum meriut motion?

6 A. We have recovered what we could recover, we
7 recovered this these items and we recovered one item to do
8 with cost, cost reimbursements, the court would not let us
9 put it into evidence but now that you question [UFS] about
10 it now maybe we'll be able to put it into evidence.

11 Q. Now I'm going to move on to another topic.

12 THE COURT: I have mean [TH*FS] the evidence you
13 were trying to have introduce earlier?

14 A. Yes that's exactly right [SHAOEPTZ] now trying to
15 ask questions about it.

16 THE COURT: I understand but the question is why
17 wasn't it turned over years ago in discovery why is it
18 being turned over now?

19 A. It was turned over years ago in discovery.

20 THE COURT: Where's the proof of that?

21 A. There's Bates [STAPG] at the bottom.

22 THE COURT: Well that doesn't proof anything.

23 A. [SOR] [HAOE].

24 MS. IBARRA: And we brief the issue of [KWA*UPBTS]
25 and there was representation [THRAZ] that was the only
26 thing that they could find.

27 Q. Can we move on to the issue of Mr. David DeKorte?

28 A. Sure.

1 Q. Who was he?

2 A. David DeKorte was a summer clerk from University
3 of Michigan law school.

4 Q. Okay.

5 A. And a part Native American that was in their
6 Native American program.

7 Q. And how did you meet him?

8 A. I advertised for a summer clerk and I was -- he
9 answered the advertisement.

10 MR. FORDYCE: Urine I'm going to object to this,
11 I'm looking at my outline which is meticulously detailed
12 and I did not question Mr. Stein on Mr. DeKorte this is
13 outside the scope.

14 Q. He actually provided quite a bit of testimony of
15 Mr. DeKorte having to do inputting into the Quickbooks.

16 MR. FORDYCE: Not as it speaks to the quantum
17 meriut that SMDC is trying to recover. So I'll make my
18 objection outside the scope of direct.

19 THE COURT: Overruled. If you want to address
20 anything that's new, you can do that when she's finished.

21 Q. BY MS. IBARRA: So when when did he come to work
22 for you?

23 A. He was working the summer of 2006, he may have
24 worked the earlier summer, I'm not sure whether he worked
25 the summer of 2005.

26 Q. Do you remember what year he graduated from law
27 school?

28 A. No.

1 Q. But so -- but your testimony was about his
2 Quickbooks entries?

3 A. Yes. He made one entry to Quickbooks he was so
4 bad in picking up the program that we just decided to not
5 have him work on it, Ms. Aronson in particular was
6 especially hard on the kid.

7 Q. So this would have been the summer of 2006?

8 A. That would have been the summer of 2006, yes.

9 Q. And that was -- do you recall what year he was?

10 A. No.

11 Q. If he was first year or second year?

12 A. No.

13 Q. And you said he went to Michigan?

14 A. Michigan or Michigan State, pretty sure.

15 Q. And how many summers did he work for you?

16 A. He worked at least 2006, he may have worked in
17 2005 I don't recall.

18 Q. Okay. So can we look at Exhibit 32, which is the
19 Lockyer letter. Do you recall that you had previously
20 stated that Mr. DeKorte drafted the 120-page legal brief
21 that's referenced.

22 MR. FORDYCE: Misstates his testimony.

23 MS. IBARRA: Well he's nodding his head yes. Is
24 that your testimony?

25 A. He drafted a big legal brief, yeah he drafted at
26 least one version of it.

27 Q. So if you look at Exhibit 32, the Lockyer letter,
28 do you recall the date of the Lockyer letter.

1 MR. FORDYCE: It's on the document.

2 MS. IBARRA: Yes, it is.

3 THE COURT: So if you want to stipulate what the
4 date is then counsel.

5 MR. FORDYCE: The date on the document is April
6 5th, 2004.

7 MS. IBARRA: 2004 so was Mr. -- so Mr. Stein was
8 Mr. DeKorte working with you before April 2004?

9 A. No he certainly wasn't but I don't think this
10 mentions a 120 page brief does it.

11 Q. It does mention a legal brief and you --?

12 A. Where would that be.

13 Q. You just said that shall?

14 A. Where would that be I don't think it mentions any
15 legal brief in here.

16 THE COURT: Well let her finish her question?

17 A. Forgive me.

18 Q. BY MS. IBARRA: But you just agreed that you
19 remember stating that this referred to a legal brief,
20 right?

21 A. Sure.

22 Q. Why don't we look at --?

23 A. I don't know if it refers to a legal brief but it
24 may.

25 Q. Yes can you look at the first paragraph?

26 A. Uh-huh. Sure.

27 Q. Just read it?

28 A. The Attorney General has asked to interpret

1 federal law in California constitute article four, Section
2 19 F to allow Governor Schwarzenegger maximum flexibility
3 to raise revenue from state recognized non-IGRA tribes
4 during a fiscal emergency. Specifically the conclusions
5 are mentioned below and are based upon a 120-page legal
6 brief in part six of this notebook.

7 Q. So do you still think Mr. DeKorte drafted that
8 legal brief?

9 A. He certainly drafted one version of it, yes, he
10 did.

11 Q. In 2004?

12 A. No, he didn't draft the version used in 2004.

13 Q. Okay. Do you know who ?
14 the one referenced here?

15 A. No, I don't but I would assume that would be Rae
16 Lamothe. I don't know if the -- I know that the scope of
17 work of the Supreme Court guys was not to do the legal
18 research behind their reading of the constitution so I
19 don't think they did it. So probably would be Rae Lamothe.

20 Q. Okay. And not you?

21 A. No she did the federal application for the
22 recognition, I assume she did [R*] did this too.

23 THE COURT: Is this in connection with the federal
24 recognition?

25 A. No.

26 THE COURT: It's in connection with state isn't
27 it?

28 A. Yeah this is state, yeah. But what I'm saying is

1 she did that which is several hundred pages long, I assume
2 she did this as well.

3 Q. BY MS. IBARRA: Where is the BIA application?

4 A. I don't know.

5 Q. So you didn't keep a copy of that?

6 A. I don't know. I haven't been asked to produce it
7 at court. It would be part of your case I believe. We're
8 just trying to collect the fees under the SMDC agreement.

9 Q. Well you were asked to brief deuce everything that
10 was relevant?

11 A. Which we did, we produced 32 boxes and I think you
12 went through four of them before quit [STKPWHR-G] that's
13 not true?

14 A. It was true, they were sit [TPH-G] my office, I
15 remember I have put out 32 boxes and you came in and you
16 spent several afternoons you didn't get through more than
17 four you didn't even look at the other 28.

18 Q. Right. As you know there was a copy service that
19 was there for like three days and then I came in one day
20 with my client and we went through, we looked at everything
21 including your harbored honors thesis which you have put
22 out in those boxes I have a copy of your Harvard honor
23 [THAOES] [OES] because a- [PARP] lee you thought this was
24 relevant.

25 MR. FORDYCE: Your Honor what's going on here.

26 MS. IBARRA: Well this is --.

27 THE COURT: Do you have a question.

28 MS. IBARRA: Mr. Stein [TK*FRPB] --.

1 THE COURT: By the way did you put [OURT] Harvard
2 thesis as relevant or discoverable?

3 A. I assume it must have made its way -- I have
4 assume one of the 32 boxes must not have been with the
5 trying.

6 Q. I have a copy?

7 A. Well good for you.

8 THE COURT: Mr. Stein let me deal with this.

9 A. Yes Your Honor.

10 THE COURT: Ask questions, no comments.

11 MS. IBARRA: Okay.

12 A. Sounds like another dumb mistake of mine.

13 Q. BY MS. IBARRA: Let's go back for the reasons for
14 redactions. What was your reason for redaction again?

15 A. The reason for the redactions were that the Dunlap
16 group was following the Candalaria group around while SMDC
17 was working with the Candalaria group after -- after the
18 Candalaria group signed the estoppel certificate, SMDC
19 began working with them again and they settled out of
20 the -- they eventually settled out of the litigation based
21 on simply recognizing [-RT] debt to SMDC. The Dunlap group
22 rather than doing anything to further a casino or to
23 further federal recognition simply followed the Candalaria
24 group around and undermined any progress they would make up
25 in Sacramento or with any city or with any Congress man's
26 or with the BIA and so during the same period as part of
27 the litigation, this Time Slips was put in and Barbara
28 Garcia did these redactions, she actually had to do them

1 twice and she described how she did it to the court.

2 Q. So let me ask you, did you think it was
3 unreasonable for them at that time since you were telling
4 people that they had [A*] abandoned, that the tribal
5 council leadership had abandoned the tribe, did you think
6 it was unreasonable for them to tell people that you were
7 approached that they hadn't abandoned the tribe that they
8 were in fact still the tribe.

9 MR. FORDYCE: Compound and unintelligible.

10 THE COURT: [OFRLTD]?

11 A. Nobody was interested in tribal politics they
12 wanted to either help the Gabrielino individual Gabrielino
13 Indians, the descendents of the historic Gabrielino trying.

14 THE COURT: So Mr. Stein yes or no was reasonable
15 or unreasonable?

16 A. It was unreasonable.

17 MR. FORDYCE: Sorry go ahead.

18 Q. BY MS. IBARRA: So it was unreasonable to try to
19 correct the record as to who the actual tribe was?

20 A. Nobody cared and that's not what they were doing.

21 Q. Well what about unreasonable as to your
22 affiliation with the tribe?

23 A. Nobody was interested in anything except helping
24 the descendents of the Gabrielinos to get some equity and
25 what they were doing was trying to keep anybody from
26 succeeding in capitalize-g on that to get progress on the
27 casino project which was overwhelmingly supported by the
28 members of the Candalaria group and the members of the

1 Dunlap group, that's why out of 237 members of the Dunlap
2 group approximately 200 of them came back to the Candalaria
3 group over the years after 2006.

4 Q. That's unresponsive. My question was about your
5 affiliation with the tribe.

6 MR. FORDYCE: What was the question.

7 Q. BY MS. IBARRA: Was it unreasonable for them to
8 try to correct the record as to Mr. Stein's affiliation
9 with the tribe at that time?

10 A. Yes, it was because that's not what they were
11 doing. They were just trying to keep anybody from giving a
12 casino project to the Candalaria group even though the
13 Candalaria group made it clear to everybody that it would
14 benefit all the different factions there would be a big
15 election and everybody would be allowed to share in the
16 casino.

17 Q. Okay so you thought -- you also said the purpose
18 of the redaction was you didn't want them to know who you
19 were approaching?

20 A. That's right.

21 Q. But didn't you just spend like an hour two days
22 ago telling us all the people you approached?

23 A. It is 11 years later, that's correct I did.

24 Q. Did you consider that work that you had done
25 previously, because this is prior work, right, this is work
26 that you had done for the group that you believed to be
27 Carmelo and Dunlap, right? The redactions?

28 A. This was work that I did for the Gabrielino-Tongva

1 Tribe and the jury has decided that that was the Dunlap
2 Carmelo group.

3 Q. And you were redacting it because you considered
4 it Santa Monica work product?

5 A. No we redacted it because at the time this was
6 done, the Candalaria group, myself and judge sin [AEUPB]
7 [KWRAPB] all thought that the Candalaria group were part
8 of -- were the real party in interest under the SMDC
9 agreement.

10 Q. Let's not --?

11 A. My agreement had been breached.

12 THE COURT: Let's just be clear, what judge sin
13 thought was inspection on your part?

14 A. No it's his opinion he granted a summary judgment
15 on the issue.

16 THE COURT: Well.

17 A. He granted a summary judgment and dismissed this
18 case that is now part of the court.

19 THE COURT: Well your testimony as to what he
20 thought is inspection?

21 A. Forgive me, forgive me.

22 THE COURT: So I'm going to strike that portion.

23 Q. BY MS. IBARRA: So back to the purpose of
24 redactions, did you think that that work product
25 [PWHROPBGDZ] to Santa Monica development company?

26 A. This work product did belong to Santa Monica
27 development company, it was in a notebook that belong to
28 Santa Monica development company but was taken by Elizabeth

1 Aronson.

2 Q. So it was work you were doing on behalf of Santa
3 Monica development company?

4 A. That's right.

5 Q. And you could take it to another tribe if you want
6 right?

7 A. The Dunlap Carmelo group had breached their
8 agreement, they held back \$100,000 and then they failed to
9 pay any money upon termination when all of -- when 2.7
10 million was due and after the breach I consulted with
11 Seyfarth Shaw they said I'm free to do whatever had he want
12 and so I later, once the Candalaria group did the estoppel
13 certificate went to work for them. But at the same time I
14 thought that they really were the real party in interest
15 because the overwhelming majority of members stayed with
16 the Candalaria group, they did not follow the Carmelo group
17 and they viewed those people as renegades who had taken the
18 money and run away and abandoned it, abandoned the members
19 to whatever fate the members had.

20 Q. Okay. Strike that as nonresponsive that wean --.

21 THE COURT: Motion granted the answer is stricken.

22 Q. BY MS. IBARRA: You've also testified that some of
23 the [HRAOELG] -- if you did any legal work and if you
24 provided any legal advice was on behalf of Saint Monica
25 development company, correct?

26 A. That's correct. I thought we were talking about
27 quantum meriut.

28 Q. Well yeah I am because some of that was also

1 within the scope of the Saint Monica development contract,
2 right?

3 A. 100 percent of my work with GT Tribe, the Carmelo
4 and Dunlap group, 100 percent of my work was under the SMDC
5 agreement and within its four corners, it was all within
6 the scope of work and the economic development tasks, all
7 of it.

8 Q. But there was --?

9 A. Other than the work under the FPPC agreement for
10 one year in 2005 and -- late 2005 and early 2006 to comply
11 with the federal -- with the California political reform
12 act. That work was carved out pursuant to a written
13 amendment pursuant to the terms for written amendment to
14 the SMDC agreement.

15 Q. Getting back to the issue of you providing legal
16 advice to Saint Monica development was still within the
17 scope of the SMDC agreement?

18 A. I didn't provide any legal advice to the GT Tribe,
19 zero.

20 THE COURT: Huh asked SMDC, I don't think she was
21 asking the tribe although.

22 MR. FORDYCE: Well it's actually asked and
23 answered it's the exact same question she just asked.

24 THE COURT: Okay what was your -- did you want to
25 ask him whether he did work for SMDC.

26 MS. IBARRA: Yes it if he did -- as I understand
27 it his testimony is that if he did any legal work and
28 provided any legal advice it was on behalf of SMDC and not

1 the tribe.

2 THE COURT: Is that your testimony?

3 A. My testimony is I didn't provide any legal advice
4 to the tribe.

5 THE COURT: I understand that but the question is
6 if any legal advice -- was your testimony if any legal
7 advice was provided it was to SMDC and not the tribe.

8 A. Yes.

9 Q. BY MS. IBARRA: Any question is following up on
10 that is that was within the scope of the SMDC agreement?

11 A. No. That would have been my advice to SMDC having
12 nothing to do with SMDC's work for the GT Tribe, GT Tribe
13 waivers an organization they had a contract with SMDC. I
14 was a manager of SMDC, I could -- that's a separate
15 organization, organization of one person but a legal entity
16 nonetheless, and if I provided legal advice to that entity
17 out of some crazy reading of what I was doing, then the
18 legal advice was provided to that entity not to GT Tribe.

19 Q. Was any of that work reflected on the time sheets,
20 on the redacted worksheets that you provided? Because you
21 were --?

22 A. Any of what work?

23 Q. You were obviously doing some work that -- on
24 behalf of SMDC right, I mean you admit that?

25 A. The work here is my activities on behalf of SMDC
26 as its managers, pursuant to the SMDC agreement, that was
27 what all these entries were about. People I called,
28 particularly investors, particularly cities but also state

1 people, federal people.

2 Q. How did you assure that the work you were doing
3 was just for the benefit of the tribe and not for your
4 benefit as SMDC.

5 MR. STEIN: Assumes facts, lacks foundation.

6 THE COURT: Overruled?

7 A. I can't imagine out of 5,000 hours is that there
8 is not some work in here that benefited SMDC but at the
9 same time it would have benefited the tribe because it was
10 pushing forward the casino project.

11 Q. That's assuming there weren't any conflicts right?

12 A. There was no legal relationship so there was no
13 conflicts in one sense but they -- but SMDC was always
14 adverse to the tribe so if you're talking about conflicts,
15 SMDC was at all times adverse to the tribe.

16 Q. Oh it was?

17 A. Absolutely, yes, it was seeking money from the
18 tribe. By definition, if you're seeking money from
19 somebody you are adverse. However most people get paid to
20 do something of benefit to the first person so while you're
21 adverse for purposes of legal analysis, you are benefitting
22 them for quantum meruit analysis if in fact the work
23 benefits them.

24 Q. Okay. Can we look at your -- the actual invoice,
25 the one that's unredacted.

26 MR. FORDYCE: Is that 1558.

27 MS. IBARRA: Yes 1558.

28 Q. BY MS. IBARRA: Was now was your testimony that

1 all of your entries why contemporaneous?

2 A. The same day, pretty much. Sometimes it was
3 during the day made with sentences added at different
4 points in the day as different things occurred, other times
5 it was at the very end of the day, on occasion I might miss
6 a day if I was feeling ill or I was just too exhausted I
7 would try to do it the next day.

8 Q. And it was very important for you to be accurate,
9 correct?

10 A. No this was a diary this was completely just
11 stream of consciousness, get it down on paper.

12 Q. So is your answer yes or no? I said was it
13 important for you that it would be accurate and you said it
14 was stream of consciousness?

15 A. I don't know what you mean by accurate.

16 THE COURT: Well she's asking yes or no.

17 MR. FORDYCE: But Her Honor it's vague and
18 ambiguous was what accurate was the hours accurate?

19 A. I don't understand what you mean by accurate.

20 MS. IBARRA: You're calling this a diary so let's
21 call it a diary?

22 A. It was basically a diary, it was a stream of
23 consciousness. It was whatever I could get down in
24 writing.

25 THE COURT: Isn't that what the worksheets are for
26 right, or am I mistaken, 1558 this is the worksheet?

27 A. No this is the invoice.

28 THE COURT: The invoice?

1 A. So what you had the raw entries were in the
2 worksheet worksheet when, invoice came out I would have a
3 chance to do a light edit if I bothered to do, sometimes I
4 bothered to do, sometimes I didn't bother to do, more often
5 than not what I was looking for is spelling mistakes.

6 Q. BY MS. IBARRA: So sometimes it was identical to
7 the worksheet and sometimes it wasn't, is that somewhat
8 you're saying?

9 A. That's correct as demonstrated by the '90 hour
10 difference and some of the inaccuracies that you pointed
11 out before.

12 Q. So 1558, but you called it a diary?

13 A. I -- you called it a diary. I said --

14 Q. No, I did not.

15 A. -- it functioned as a diary. And you said -- you
16 just told me let's just call it a diary, so once again --

17 Q. Are you --

18 A. -- these were my -- my invoice, the entries were
19 made in the form of a diary, I was not accurate as to every
20 detail, I have only wanted to get it down on paper as
21 compared to doing nothing which is what the Carmelo and
22 Dunlap group, they did nothing, they got nothing on paper
23 other than their resolution that's were presented by Rae
24 Lamothe or Elizabeth Aronson or Ed Hamburger, this was my
25 effort to get something on paper to record this amazing
26 flow of events.

27 Q. So back to my question which I think you still
28 haven't quite answered is is this accurate or not.

1 MR. FORDYCE: Vague and ambiguous, is what
2 accurate.

3 THE COURT: Overruled?

4 A. It is accurate in the sense that it is a daily
5 entry, it is not accurate in the sense that it is a sort of
6 a stream of consciousness jotting down of notes.

7 THE COURT: So the descriptions not accurate?

8 A. The descriptions are --.

9 THE COURT: The number of hours are accurate but
10 the descriptions not accurate? So tell me --?

11 A. The descriptions are accurate in one sense and not
12 accurate in the other in exactly the manner I just said,
13 it's a stream of consciousness, capturing of events, were
14 there phone calls that might not -- that didn't make it on
15 here, were there --.

16 THE COURT: Well do you consider a stream of
17 consciousness recordation to be accurate?

18 A. I -- you're asking me personally.

19 THE COURT: Yeah.

20 A. Yes.

21 THE COURT: Okay?

22 A. I consider it to be accurate as long as it's
23 understood that you're had not looking for 100 percent
24 accuracy but compared to having no record whatsoever, it is
25 accurate because every day I tried to record the events and
26 it is accurate in the sense that a first draft might be
27 accurate but that's all it is is a first draft.

28 THE COURT: So that bill was never sent out, that

1 isn't ream Eiffe the final, accurate recordation?

2 A. No no.

3 THE COURT: Of your hours therein?

4 A. The bill was sent, remember the bills -- remember
5 that the contract called for 25,000 a month flat fee.

6 THE COURT: I understand that but I'm asking?

7 A. And the bill was sent out yes.

8 THE COURT: Is this the accurate bill that you
9 sent out? You're telling me that it's really not the final
10 and it's a stream of consciousness, was this the final bill
11 with what you described as a stream of consciousness
12 description of the services, was this what you sent out?

13 A. We gave a copy --.

14 THE COURT: Yes or no?

15 A. We didn't send it.

16 THE COURT: Yes or no? Yes or no, did you
17 accepted this out.

18 A. Yes we gave a copy.

19 THE COURT: Okay thank you?

20 A. To Rae Lamothe. Forgive me and it wasn't a bill
21 either because once again.

22 THE COURT: Well they're invoices sew I'm assuming
23 you were seeking payment?

24 A. They were quantum --.

25 THE COURT: Yes or no were you seeking payment
26 when you have sent out these invoices to whomever in the
27 tribe?

28 A. Your Honor, the contract called for a flat monthly

1 amount.

2 THE COURT: If you're not going to answer your
3 statement is going to be stricken?

4 A. Was I seeking payment no.

5 THE COURT: You weren't seeking payment?

6 A. This was for quantum --.

7 THE COURT: So this was not what was sent out to
8 the tribe?

9 A. I just said the opposite Your Honor.

10 MR. FORDYCE: Yeah I think that misstates what he
11 said.

12 THE COURT: Well Mr. Stein your testimony is
13 confusing and conflicting so all I'm trying to figure out
14 is?

15 A. And Your Honor I'm trying to clarify.

16 THE COURT: Is this what you have sent out to the
17 tribe because you're describing it?

18 A. I gave a copy.

19 THE COURT: As a stream of consciousness that
20 isn't final offer fully descriptive, I have just want to
21 know is that what you sent out to the tribe?

22 A. We gave a copy to Rae Lamothe and Elizabeth
23 Aronson.

24 THE COURT: That's a yes, I'll take that as a
25 yes.

26 A. Yes we did.

27 THE COURT: Okay?

28 A. However the SMDC contract did not call for any of

1 these hours, this was only in case of quantum meruit and
2 the SMDC contract --.

3 THE COURT: Well no the SMDC agreement did address
4 the quantum meruit they had a provision of quantum meruit?

5 A. In cases of being 11 years later yes, it did.

6 THE COURT: Well it didn't say that, did it?

7 A. Yes, it did, it said that.

8 THE COURT: The SMDC agreement said that?

9 A. Your Honor why are you making fun of me and
10 belittling me.

11 THE COURT: I'm not belittling you.

12 A. Why are you making me feel about one inch tall?

13 THE CLERK: Counsel, counsel.

14 THE COURT: Mr. Stein, I'm trying to get your
15 testimony and get an accurate testimony because it isn't
16 consistent is the problem and I'm trying to get some
17 consistency and understand because you are seeking a lot of
18 money in this litigation for your work?

19 A. Can we go back to the SMDC agreement and so I can
20 show you the quantum meruit clause Your Honor.

21 THE COURT: Yes. Show me.

22 A. Thanks because --.

23 MR. FORDYCE: 569 Section 11, that's exhibit 569?

24 A. Section 14.

25 MR. FORDYCE: No I'm wrong, section 14, yeah?

26 A. Thank you.

27 MR. FORDYCE: No I'm -- 15, I'm sorry, 15?

28 A. Okay 15.

1 MR. FORDYCE: It's 49 two to 493?

2 A. S 15 states? Case any one or mother of the
3 provisions contained in this agreement shall shore any
4 reason be held to be valid illegal or unenforceable in any
5 respect then you do the quantum meriut so there was no
6 billing to the tribe under section 15, the quantum meriut
7 was in case of a litigation just like this one with
8 allegations that the SMDC agreement is unenforceable just
9 like are being made by Plaintiff's, that's when quantum
10 meriut is important, therefore, it is not under the SMDC
11 agreement this was not a bill to the tribe, it was not an
12 invoice to be sent to the tribe. However out of simple
13 courtesy and descency to show what I was doing each day
14 while Rae Lamothe was not in the office with me and the
15 tribal council was not in the office with me, out of that
16 sense of descency, I gave them a copy of this stream of
17 consciousness diary that I did to try to keep an
18 approximation of the hours spent over the course of six
19 years while I waited to be paid, while I spent five years
20 laboring 10 and 11 hours a day often seven days a week
21 waiting to get paid.

22 THE COURT: You may have a seat now?

23 A. Thank you.

24 THE COURT: You don't need to stand while you're
25 on the witness stand?

26 A. Forgive me.

27 Q. BY MS. IBARRA: And how was this transmitted?

28 A. It was not a bill, it was not transmitted, however

1 a courtesy copy was provided to Rae Lamothe and later
2 Elizabeth Aronson.

3 Q. How was the courtesy copy transmitted?

4 A. Barbara Garcia spoke at length on how she did it.
5 I don't know how she did it but my best recollection was
6 usually they would give -- the bill was produced and would
7 wait for them in the tribal administration office and when
8 they next showed up it would be handed to them if they
9 didn't see it. Usually they saw it.

10 Q. And you don't have evidence of the transmission
11 now do you other than --?

12 A. It wasn't a bill, it wasn't supposed to be
13 transmitted.

14 MR. FORDYCE: Well it also lacks foundation
15 because it wasn't transmitted, he just said that.

16 THE COURT: No I think he said he gave it to
17 Aronson and Lamothe and everybody saw it, including people
18 in the tribal council apparently. That was the testimony?

19 A. No No, I don't know if the tribal council saw it
20 or not, I gave it to Rae Lamothe.

21 THE COURT: Okay?

22 A. Barbara -- I shouldn't say I, to my knowledge
23 Barbara Garcia gave to to Rae Lamothe when she next came
24 into the office and while she -- until she came into the
25 office, it sat on her desk. The same thing for the
26 Elizabeth Aronson when Elizabeth Aronson came to the
27 office, it would be sitting on her desk, their copy of it,
28 the other copy was in the notebook that was taken by

1 Elizabeth Aronson.

2 Q. BY MS. IBARRA: So back to my question, do you
3 have any evidence of the transmission, ?

4 Q. It's -- was there a cover memo, was there an
5 e-mail, anything like that?

6 A. It was not -- no, I don't. And again there
7 wouldn't be, it wasn't a bill.

8 Q. Okay. So back to 1558, can we look at your
9 entries because this is the only unredacted part of the
10 quantum meriut that we have?

11 A. Sure.

12 Q. The first page of 1558 which is the bottom says
13 Exhibit C dash one, do you see the first full paragraph,
14 first -- you know first -- not full paragraph, the first
15 partial paragraph, the first full -- the last sentence in
16 that first paragraph?

17 A. Are you talking about on page C1?

18 Q. C1, yes.

19 A. The first partial paragraph or full paragraph.

20 Q. Partial paragraph begin with revisions?

21 A. Informational hearing panels, unpack Sacramento
22 papers and begin to organize, follow-up from the feeding
23 Agua compacts, organize FPPC notebooks with Barbara,
24 revisions to spreadsheet and request for funds for
25 tomorrow's meeting with Jess.

26 Q. Who's Jess?

27 A. Jess Ravitch.

28 Q. So the following day what is the last sentence on

1 9/6, 2006?

2 A. I'm sorry?

3 Q. The last sentence on your entry for 9/6, 2006?

4 A. Well the last sentence says meet with Jess Ravitch
5 regarding 6,000,000 ask, 3,000,000 offered.

6 Q. So does that refer to your meeting with Jess
7 Ravitch?

8 A. The -- that refers to the same meeting I was
9 preparing for the the day before.

10 Q. Okay. So did he offer \$3,000,000 then?

11 A. We were talking about monies in February of 2007,
12 assuming that we fulfilled all the requirements for the
13 2.15 million. And so we were beginning to make a budget
14 for what would be done in February, February of 2007.

15 Q. So the following entry -- actually skip to 9,
16 eight, 2006, beginning with review Sam he's revised
17 investor spreadsheet, can you read that?

18 A. During the day phone calls with counsel regarding
19 need Sam to resign or come to understanding or disclose to
20 investor, need Aronson to resign or be terminated, review
21 Sam he's revised investor spreadsheet for 2.3 million
22 advance, prepare papers all day for Saturday council
23 meeting since [AO*EURPB] [TPHRA*EUBGD] flakes out.

24 Q. So this is another reference to Sammy, who's
25 Sammy?

26 A. Sammy would be Sammy Lai, would be the financial
27 analyst that handled the closing and handled all the
28 signatures and documents for Libra.

1 Q. So here's there's a reference to 2.3 million, is
2 this different than the 3,000,000?

3 A. No again it would be a budget beginning February
4 of 2007, the budget for May of 2006 was for 10 months so
5 you had May June July August September October November
6 December January February so it would actually be starting
7 March 1, 2007, after the 10 month budget was expended
8 assuming it was expended according to budget.

9 Q. And what account difference were between the
10 3,000,000 on 9/6 and the 2.3?

11 A. Well I had asked for 6,000,000 and they said well
12 maybe half of that would be [OG] and then they came back
13 further and 2.3 was what they were talking about but they
14 had not talked to any of the investors yet, this was just
15 Libra's suggestion.

16 Q. 9/15, 2006, so that's in C3 is the only Bates we
17 have here?

18 A. 9/15, 2006?

19 Q. Yes.

20 A. Phone calls -- phone calls with tribal council
21 regarding Aronson has resigned. Several drafts of Aronson
22 final resignation letter reviewed with Elizabeth and
23 finalized. Phone with Sammy Lai disclosing problem and
24 possible attempt to take 712,000. Meet Patty, K and X
25 regarding Gav casino promotion next year. Phone calls with
26 George Stein and mark Apria regarding Dan Wall meeting set.

27 Q. And that reference to Sammy is still Mr. Sammy
28 Lai?

1 A. Yes. And that was -- that was one of the
2 disclosures I made that money -- that the assistant general
3 counsel had helped one of the trying man lift \$20,000 out
4 of the tribe and the seven 12,000 that referred to the
5 Wells Fargo account that she was [TPHOEU] the sole
6 signatory of. So I was disclosing to the disclosures that
7 up to 700 [THOEU] might be tolled en by individual tribal
8 councilmen with the sole signatory assistant general
9 counsel Elizabeth Aronson and apparently we had finalized
10 her resignation so hopefully it was a problem that we could
11 contain.

12 Q. So C4 wills the next page, 9/21, 2006?

13 A. Tribal back from -- I have form, tribal back from
14 Sacramento, phone call with Sammy regarding council
15 problems, go to office prepare for council meeting. Phone
16 call with Jim McShane and Lewis Guterrez regarding JAS put
17 50,000 personal to cover tribe expenses while work out
18 problems. Work with Lorna to finish Quickbooks auditing of
19 accounts to present to council, start at 5:00 a.m. with
20 e-mails from Sacramento regarding Bauma meeting, et cetera.
21 Meet with Sam and Martin who say that council met with
22 Ravitch without information JAS. Prepare follow-up
23 documents and other chores.

24 Q. JAS is Jonathan Stein?

25 A. Yes.

26 Q. So they met Libra without you?

27 A. Yes.

28 MR. FORDYCE: Vague and ambiguous who is they.

1 MS. IBARRA: Tribal council. 9/22, 2006, can you
2 read that entry?

3 A. Which day.

4 Q. 9/22, it's the next date?

5 A. Work with Mark Apria on political contributions.
6 phone calls with Sammy Lai regarding meeting with Jess
7 yesterday, went okay. Details. Pull together folder of
8 Aronson controversy, work with Barbara on organizing
9 notebooks that Liz left undone. Phone call regarding D&O
10 insurance, not available. Update informational hearing
11 requirements, tasks for future and phone calls required.

12 Q. So can you explain what you mean by Sammy Lai
13 regarding phone call with Sammy Lai regarding meeting with
14 generally speaking yesterday when okay?

15 A. The tribal council met with Libra would you tell
16 me, I said Sammy how did the [TPHAOET]-g go and he said it
17 went okay and he gave me some of the details in the
18 meeting.

19 Q. So Libra was satisfied with whatever it is that
20 happened at the meeting with the tribal council.

21 MR. FORDYCE: [KWAULZ] speculation.

22 MS. IBARRA: Well I'm asking based on.

23 MR. FORDYCE: And it lacks foundation [-Z].

24 MS. IBARRA: Conversations.

25 THE COURT: Overruled?

26 A. No this was not -- it did not mean that Libra was
27 satisfied with the tribal council, it just meant that the
28 meeting had gone okay, nobody had been yelling at each

1 other obviously and that they had a good communication.

2 Q. Okay.

3 A. But once again whatever was happening, 9/22, this
4 was right at the very peak, right before the September 29
5 letter saying stop working for the tribe and the October 3,
6 [TP*ERPBLGS] letter.

7 Q. So let's go to October 3?

8 A. And if you'll recall, SMDC had already been
9 stiffed for \$100,000 by this point.

10 Q. Nonresponsive. 10, three, 2006.

11 THE COURT: Sustained, the answer is stricken.

12 MS. IBARRA: 10, three, 2006 can you read that
13 entry?

14 A. 10, three, 2006.

15 Q. It's C7 is what it says at the bottom?

16 A. This 10, three, the date of the termination, spend
17 day with Barbara organizing tribal find for eventual
18 turnover, organize SMDC contracts, start early with e-mails
19 to council and Polanco regarding another compromise
20 offered, mention Steve Johnson as final piece to be
21 controller of funds. Phone calls with council especially
22 Adam Loya. JAS suspicious that no one available and Adam
23 isn't at meeting. JAS finds out from Jess' secretary that
24 meeting going on and JAS goes to confront tribal council.
25 Finds Marilyn Barrett, Polanco, Sheppard Mullin, Jess and
26 Sammy meeting with three councilmen. Fourth on phone for
27 forum, question mark. Shepp Mullin gives oral description
28 of written notice JAS will receive, JAS visits own lawyers,

1 time not counted. Return to office and begin
2 cancellization of obligations.

3 Q. So focusing on the JAS finds out from Jess's
4 secretary that meeting going on and JAS goes to confront
5 tribal council, finds Marilyn Barrett, Polanco, Shepp
6 Mullin, Jess and Sammy meeting with three councilmen,
7 that's Jess and Sammy from Libra?

8 A. Yes.

9 Q. So you went and confronted Libra at that meeting?

10 A. No.

11 Q. What happened at that meeting?

12 A. I was not allowed in. I was not told about the
13 meeting, I found out about it by -- because nobody was
14 available, none of the tribal council people were available
15 by phone so I deduced from hints that Adam Loya gave me
16 that they were meeting with Jess Ravitch so I went over to
17 the office to see what was going on, such was -- since it
18 was a very tense situation and their offices have glass
19 walls. So I was in the reception area sitting there,
20 everybody could see me, I could see them, but they -- but
21 they refused to let me in, I don't know -- the refusals
22 obviously came from Jess Ravitch conveyed by the council.
23 I sat there for several hours [KWR*] while they met. At
24 one point Jim McShane finally came out and said listen John
25 you've been terminated and [WAOEPL] send you notice in
26 writing tonight so you might as well leave. And I said
27 well if I've been terminated I should leave at which point
28 I left.

1 Q. So is your testimony that Libra hadn't agreed to
2 give the tribe a second tronch?

3 A. Libra absolutely did not agree but it wasn't
4 Libra's decision it was the investors decision, the tribe
5 had to put in a conditional certificate, the tribe had to
6 put in a new budget, the drafts of the budget are discussed
7 earlier and then Libra would -- then the -- Libra would
8 then transmit those to 12 investors, the 12 investors then
9 would take a vote and a majority in interest had to agree
10 to investor again at which point they would do that,
11 alternative Lee they would say that a material adverse
12 change -- alternatively they could decide not to invest and
13 before any of that occurred, they could also find that a
14 material adverse change had occurred but that's all
15 supposed attorney [do not|done] within the mechanism of the
16 certificate of conditions which says that there is no
17 material adverse change. To my understanding Polanco never
18 bothered giving one. And all of that would occur March 1
19 of 2007 not October 2006.

20 MR. FORDYCE: Your Honor I don't believe my direct
21 asked a single question about a second tronch?

22 A. Yeah I don't see what we've got here.

23 THE COURT: So what's your objection.

24 MR. FORDYCE: It's outside the scope of direct.

25 THE COURT: [OFRLDZ] you give eye sigh if you if I
26 [TH-G] new has come in [TPHOUPLT] examination I'll give
27 [*FR] given you an opportunity to ask questions in that
28 area.

1 MR. FORDYCE: Thank you Your Honor

2 .

3 MS. IBARRA: And I would say that this is -- it's
4 come up because this is the unredacted portion of this
5 evidence that we didn't have before.

6 MR. FORDYCE: I don't understand what that means
7 so Your Honor's given me a chance to ask the questions when
8 I went when it's my turn so I will do that.

9 MS. IBARRA: Your Honor can we tack a bathroom
10 break, five minutes.

11 THE COURT: Let's take 10.

12 MR. FORDYCE: Thank you Your Honor.

13 (Break taken.) 11:27 AM to 11:35 AM.

14 THE COURT: Gabrielino versus Stein h BC361307.

15 Q. BY MS. IBARRA: So continuing on with the Libra
16 investor information. So I have handed out exhibit 256
17 which is the declaration from Mr. Jonathan Stein in this
18 action and Paragraph 2 indicates that it was made. Can you
19 read that Mr. Stein.

20 MR. FORDYCE: Well I object to this, this is not
21 in this action I don't believe.

22 MS. IBARRA: Yes, it is.

23 MR. FORDYCE: Mr. Stein can identify it but I
24 object that this is not part of this action so it
25 mischaracterize.

26 MS. IBARRA: It is part of this action, Mr. Stein?

27 A. Is this an exhibit from the exhibit folders.

28 Q. This is a new exhibit to impeach your testimony

1 about Libra?

2 A. It's not been in the exhibit folders though.

3 Q. No. This is a declaration that you submitted in
4 this action, it says I make this declaration in response to
5 Defendant [SPHEP] [PHULZ] anti-SLAPP motion in this action.

6 MR. FORDYCE: So this is not this action.

7 MS. IBARRA: This is this action. Mr. Stein sued
8 Sheppard Mullin and all the tribal council members and the
9 tribe and Sheppard Mullin tried to get out by filing an
10 anti-SLAPP motion which was appealed, which was one of four
11 [PAELZ] in this case is that correct Mr. Stein? Mr. Stein
12 did you sue Sheppard Mullin?

13 A. I had sued Sheppard Mullin.

14 Q. Did you sue them in this action?

15 A. It depends on whether it was consolidated or not.

16 THE COURT: Well we can just check the record, I
17 can have the clerk look for it.

18 MS. IBARRA: I think it's in the caption, I think
19 it's B C .

20 THE COURT: 36 one 307. All right keep going
21 and --.

22 Q. BY MS. IBARRA: So Mr. Stein can you look at
23 Paragraph 7 of your declaration, first of all, do you
24 recall this declaration?

25 A. No, I don't.

26 Q. Okay. Page 2 Paragraph 7, can you read that?

27 A. In September 2006 SMDC was the senior investor
28 with Defendant Dunlap and Carmelo group from 2001 and 2006

1 and was owed over \$2,000,000. In May, SMDC has helped
2 Dunlap and Carmelo group raise \$21,000,000 financing from
3 state law casino entitled project of which SMDC was the
4 head. Of the \$21,000,000 investor commitment, investors
5 wired 2.15 million into a Wells Fargo brokerage account
6 under my signatory authority. Another 2.5 million was
7 ready to be distributed by investors in October.

8 Q. Do you still think that your prior testimony was
9 correct?

10 A. Yes.

11 Q. How so?

12 A. Because the investors had the option to invest or
13 not and that decision would be made after the budget for 10
14 months had run. That would put it from 10 months from May
15 of 2006 until the end of February 2007. So on March 1,
16 they would make their decision and the -- there was never
17 any budget for that, the budget discussions were between
18 six [PH*LZ] million which I requested, 3,000,000 which was
19 cutting it in half, a first draft of a budget of 2.3
20 million but that budget was 2.3 not 2.5 and that budget
21 never went any further to my understanding because Mr.
22 Polanco never took it any further from October 3 through
23 March 1. He had October -- he had all of October,
24 November, December, January, February, he had Five months
25 to put in a certificate -- conditional certificate and he
26 had Five months to put in a budget and according to
27 Elizabeth Aronson's testimony he never did either one of
28 those.

1 Q. So you knew that if you filed litigation against
2 Libra they wouldn't want to be involved with the tribe any
3 more, right?

4 A. No, I didn't.

5 Q. And you knew that if this litigation went on for
6 many years that nobody would want to invest in the tribe,
7 right?

8 A. No, I didn't, as a matter of fact Candalaria was
9 part of this litigation and they settled out to avoid
10 exactly that situation. This litigation went on because
11 the tribe sued me and the counter sued the tribe for monies
12 owed under the SMDC agreement.

13 Q. Okay. Back to your declaration, Page 3, Paragraph
14 11, can you read that please?

15 A. I knew in September 2006 that the 900,000
16 misappropriation would have severe ramifications man of
17 which have already been realized and that's
18 misappropriating funds from the state lay casino [EP] tight
19 [-LTD] [PROPBLGTS] violated investor agreement covenants,
20 destroyed the investor relationships and cut off a second
21 tronch of 2.5 million that I had been informed by Sammy Lai
22 of [HRAO*EPB] securities that the verses were ready to
23 distribute. I base my action on this knowledge I was
24 further of the opinion that without the 900,000 or any new
25 investor funds, SMDC and it's 10 firm professional team
26 would be unpaid, would stop work on the casino entitlement
27 project would [PW-RBG] dead in the water attached as
28 Exhibit U is a true and correct [coy|could I] of an e-mail

1 I wrote on September 29, 2006 explaining that is what in
2 fact was happening.

3 Q. So was your prior testimony incorrect?

4 A. No my prior testimony was correct, this is an over
5 statement and inaccurate.

6 Q. So you signed a declaration under penalty of
7 perjury that was not accurate?

8 A. That's correct.

9 Q. Have you done that before?

10 A. Have I done that before? I always try to make
11 sure that it is as accurate as can be at the time it
12 signed.

13 Q. But sometime [TK-PBLGZ]?

14 A. However 10 years later you may find inaccuracies
15 because this is very inaccurate because it's an over
16 statement to say that there was a second [TRAFP] that they
17 were ready to distribute, that would not happen until March
18 1 and there was no -- there was no polling or anything in
19 writing from any of the investors that had to agree by
20 majority of interest to exercise their option for up to and
21 for an amount and that amount was not 2.5 million, Sammy
22 Lai had [SUGTD] 2.3 as the first draft of a budget.
23 Thereafter for Five months Mr. Polanco was in control of
24 the process and he never put forward a certificate of
25 condition -- a cannot conditional certificate and he never
26 put forward a budget accord -- is my understanding.

27 Q. Mr. Stein, so if your testimony under penalty of
28 perjury is contradictory to itself, what are we supposed to

1 believe? What's the truth? Is it something that happened
2 contemporaneously or your memory 11 years later?

3 A. What's the question?

4 Q. That is my question? What are we supposed to
5 believe?

6 A. I would -- my testimony today is as accurate as I
7 can, so I would say my testimony today would be believable
8 over a declaration put in that I don't [AOEP] recall in
9 March of 2007.

10 Q. That's only a few months after the events at issue
11 right?

12 A. No March of 2007 would be -- we said it was Five
13 months, that would be Five months after the events and I
14 don't recall this declaration and it was for -- against
15 Sheppard Mullin.

16 Q. In this action. Is that your signature?

17 A. As best I can tell.

18 Q. Do you recall what your testimony was at the trial
19 against the individual Defendants about this issue.

20 MR. FORDYCE: Which issue and how much of his
21 testimony.

22 MS. IBARRA: About Libra's -- whether Libra had
23 promised to pay the second tronch of 2.5 million dollars?

24 A. It was not at all at issue, we were talking about
25 the fraudulent conveyance that had occurred, the only facts
26 that were in evidence were based on SMDC's tracing of the
27 funds and whether the funds expended in one week after
28 litigation began was a fraudulent conveyance. So you don't

1 recall any testimony about that during the trial.

2 A. No. There may have been some, but I don't recall
3 any.

4 Q. I have a copy of that testimony, do you want to
5 look at it to the refresh your recollection?

6 A. What does this have to did.

7 Q. This goes to damages and it is to impeach.

8 MR. FORDYCE: Your Honor this is cross-examination
9 in [STAO*EUPBSZ] -- SMDC's quantum meruit case, this should
10 have been visited an part of Plaintiffs liability case,
11 it's not being brought now it has nothing to do with my
12 cross, I understand Your Honor will let me question on it
13 but it doesn't change the fact that this is outside -- far
14 outside the scope of anything I asked Mr. Stein for his
15 quantum meruit case on behalf of SMDC. Objection outside
16 the scope.

17 THE COURT: Overruled. I'll give you have an
18 opportunity, if you think new issues have [PW*PB] been
19 raised. The question is do you want to review the
20 transcript to refresh your recollection since you can't
21 remember what you testified to in the prior trial do you
22 want to review it?

23 A. No.

24 THE COURT: Then you may read it.

25 MS. IBARRA: Okay?

26 A. Has a copy been shown in my counsel.

27 MR. FORDYCE: No what's --.

28 MS. IBARRA: And do you want to see the official.

1 MR. FORDYCE: Oh I don't care.

2 THE COURT: You can share a copy.

3 MS. IBARRA: I'll let you look at the initial one
4 as well. Okay so the question is --.

5 THE COURT: First of all describe what you're
6 reading from, you have a transcript right, so transcript
7 it's transcript from a trial state the [KAEUTS] name.

8 MS. IBARRA: Yeah so it's from the same case,
9 BC361307 and it's day three of the court trial testimony
10 and the date is August 6, 2012 -- I'm sorry August 9th,
11 2012 and that was a Thursday apparently.

12 MR. FORDYCE: What are the consolidated actions
13 those did he.

14 MS. IBARRA: Connie SC zero '96 one 44 and six 15.

15 MR. FORDYCE: Which one of those have to do with
16 Mr. Stein suing Sheppard Mullin.

17 MS. IBARRA: It's the same action as this one 36
18 one 307.

19 THE COURT: You may read t just read it.

20 MS. IBARRA: Question and let's talk about the
21 fall of 2006 okay, you've testified that if these had just
22 done it right and 2,000,000 was coming in right, answer,
23 under the \$21,000,000 Libra agreement if we submitted we
24 had already been approved for that because we did so well
25 in Sacramento --.

26 MR. FORDYCE: No that's incorrect, it says we had
27 already been approved for the [HAOEUFP] hyphen because we
28 did so, it does not say approved for that.

1 THE COURT: Okay approved for the is that what it
2 says.

3 MS. IBARRA: Okay let me read it again then.
4 Under the \$21,000,000 Libra agreement, misspelled, if we
5 submitted we had already been submitted for dash dash
6 because we did so well in Sacramento in the end of session
7 battle with the unions versus the gaming tribes which we
8 won they had already approved the man money for calendar
9 year 2007 in the amount of 2.5 million.

10 Q. BY MS. IBARRA: Mr. Stein does that refresh your
11 recollection?

12 A. Yes it does.

13 Q. So was your testimony then also incorrect?

14 A. No it was correct. We had -- the informal
15 approval had nothing Then In 2000 do with an actual
16 approval by investors. Libra's approval of a budget and it
17 was 2.3 million not 2.5 million, Libra's approval of a
18 budget had nothing to do with the final approval of the 12
19 investors afterwards but Libra was very happy. What
20 happened thereafter was what that testimony refers to is it
21 all got destroyed when the tribe fired me and started a
22 litigation. If the tribe had terminated me Libra might or
23 might not have gone forward, that would be a material
24 adverse change but when the tribe started a litigation,
25 according to Elizabeth Aronson that changed everything
26 including that testimony and that's what that testimony was
27 setting up, is if you keep reading, I believe you'll see
28 that the tribe then didn't get the money because it decided

1 it wanted to litigate instead of settle this out and the
2 investors got scared.

3 Q. So the litigation was really the adverse event
4 that happened that cut off the --?

5 A. The failure to pay SMDC was one adverse event, SB
6 175 not being met other cross the table was another
7 adverse event and the instigation of litigation by the
8 tribe was a third adverse event all of which superseded the
9 informal approval of a [PW*UBLT] for the 2.5 million.

10 Q. So when you're referring to the wins in Sacramento
11 in your testimony what are you referring to?

12 A. There was an effort to get a compact by ago with a
13 Cal yen [TAEU] approved by the govern [ERZ] office and that
14 compact would have had an exclusivity clause and we worked
15 with the unions to defeat it and we were successful in
16 defeat-g it and that was a big deal. We had taken on the
17 much better funded people and had held our own.

18 Q. And at this point SB 175 had not been introduced
19 right?

20 A. It -- at what point?

21 Q. At the point of --.

22 THE COURT: Well it never got introduced.

23 MS. IBARRA: It never got introduced.

24 THE COURT: Isn't that correct?

25 A. That's correct, yes and that became apparent in
26 August.

27 Q. BY MS. IBARRA: That became a- [PAEUFRPBLT] in
28 August?

1 A. (Ditto).

2 Q. And Libra was aware of that?

3 A. Libra became aware of that by department.

4 Q. And Libra had -- was willing to still go forward
5 and give you more money?

6 A. Libra never made a commitment to give more money,
7 they had an informal approval of a budget for 2.3 million
8 dollars from a subordinate guy, Sammy Lai.

9 Q. So despite your testimony under oath and despite
10 your declaration --?

11 A. No it's consistent with that testimony, there was
12 an informal approval by Libra but the Libra agreement was
13 not the subject of litigation so we didn't go into how the
14 12 investors made their decision by vote of a majority
15 interest to exercise their option which comes only after a
16 conditional certificate is put in, only after a budget is
17 approved first by the tribe, then by Libra and then
18 submitted to investors, none of that happened and none of
19 that was the subject of that litigation which had to do
20 with whether the \$898,000 spent in one week by GT Tribe was
21 a fraudulent conveyance.

22 THE COURT: All right we're continuing this this
23 [A*FRP] afternoon or are we continuing on Monday what do
24 you want to do because obviously we're not finishing today
25 and I have to go somewhere.

26 MR. FORDYCE: This afternoon.

27 MR. STEIN: Monday would be better for me.

28 MR. FORDYCE: Okay.

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THE COURT: Monday, all right.

MS. IBARRA: Let's do Monday then same time?

A. I apologize I said this afternoon, I'm not particularly -- don't at this think it's a good idea.

MR. FORDYCE: That's fine.

THE COURT: So Monday morning then.

MS. IBARRA: Monday morning then.

THE COURT: Let's do 10.

MR. FORDYCE: Thank you Your Honor.

THE COURT: Thank you. 11:53 AM.