

JUN 20 2019

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By Marcela Tavakoli, Deputy

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5 for Plaintiff,  
6 GABRIELINO-TONGVA TRIBE

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

9 GABRIELINO/TONGVA TRIBE, a  
10 California State Recognized Indian Tribe,  
11 Plaintiff,

12 vs.

13 JONATHAN STEIN, an individual; LAW  
14 OFFICES OF JONATHAN STEIN; ST.  
15 MONICA DEVELOPMENT COMPANY,  
16 LLC, a California limited liability company  
17 and DOES 1 through 100, inclusive,  
18 Defendants.

19 AND RELATED ACTIONS AND CROSS-  
20 ACTIONS.

CASE NO. BC 361307  
(Consolidated with LASC Case Nos.  
SC 091644 and SC 092615)

Judge: Hon. Yvette Palazuelos  
Dept.: 9 – Spring Street Courthouse

**PLAINTIFF GABRIELINO-TONGVA  
TRIBE'S REPLY BRIEF IN SUPPORT  
OF PUNITIVE DAMAGES CLOSING  
ARGUMENT**

FSC: May 19, 2016  
Trial Date: June 20, 2016

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## I. INTRODUCTION

In its opening brief on punitive damages, the Plaintiff Gabrielino-Tongva Tribe (“Plaintiff” and/or “Tribe”) argued that in this final phase of the proceedings, the Court is charged with determining just three things: 1) the reprehensibility of Defendant Jonathan Stein’s (“Stein”) conduct; 2) the amount of the award which would suffice to deter future similar conduct by Stein given his financial condition; 3) the reasonableness of the amount given the harm Stein caused. Having already decided that Stein is liable for significant, and multiple incidences of fraud, and multiple episodes of business torts which cumulatively destroyed the Tribe and impeded them from moving forward, “the reprehensibility” of Stein’s conduct lies at the very heart of this case and has already been largely established. So, only the two other factors (the amount of punitive damages and the reasonableness of the same given the harm) were left to be determined.

In response, Stein and his alter-ego, St. Monica Development Company, LLC (“SMDC”) and his d.b.a. Law Offices of Jonathan Stein (“LOJS”) (collectively Stein, SMDC and LOJS are referred to as the “Stein Defendants”) agree that the Tribe correctly states the standard for determining punitive damages but focus their own argument almost entirely on the fact that there is little evidence regarding Stein’s and the other co-defendants “financial condition.” So, they argue that no punitive damages should be awarded. That’s not the correct application of the standard. Significantly, the Stein Defendants do not address, let alone rebut any of the case-law cited in the Tribe’s opening punitive damages brief, including the case-law which makes clear that when a defendant in a punitive damages proceeding substantially fails to comply with a Court Order to produce records and evidence of his, her (or its) financial condition, punitive damages may be awarded without any evidence of such condition because that argument is waived. “[B]y failing to bring in any records which would reflect his financial condition, despite being ordered to do so, ... defendant has waived any right to complain of the lack of such evidence.” *Mike Davidov Co. v. Issod*, 78 Cal. App. 4 th 601, 608 (2000). Thus, the Court should entirely disregard Stein’s argument regarding the adequacy or inadequacy of the record showing that Stein has substantial assets because he has now waived that argument.

1 **II. STEIN'S FOCUS ON THE "LACK OF EVIDENCE" REGARDING HIS**  
2 **FINANCIAL CONDITION IS LEGALLY UNSOUND**

3 A large part of Stein's argument against any award of punitive damages (whatsoever)  
4 focuses on the fact that during the punitive damages phase Stein produced a spread-sheet showing  
5 a negative net-worth (which he attaches as Exhibit A to his brief). Stein's argument is almost  
6 entirely reliant on that spread-sheet. While it is undisputed that Stein produced such a spreadsheet  
7 during the punitive damages phase, it is also undisputed that he did not produce any back-up  
8 documents to substantiate the numbers reflected in that spread-sheet. This is entirely consistent  
9 with the other evidence that he produced during trial. For example, Stein claimed to have done an  
10 outstanding amount of work for the Tribe, and during the trial, but as evidence of that work, he  
11 produced some highly redacted documents which only show the hours he spent doing some work  
12 for somebody, but, confusingly, and un-explicably, he redacted any substantive indication of the  
13 work that was done, and even who was involved in that work or for whom the work was done.  
14 See **Trial Exhibits** 1557, 1558, 1560, 1562, 1563. When weighing the veracity of Stein's claims  
15 about the "work" he allegedly did for the Tribe, it was entirely impossible to corroborate those  
16 claims with those spread-sheets because the documents were so redacted they said nothing  
17 whatsoever. It is impossible to know whether Stein was doing work for other clients or himself, or  
18 SMDC (as some of the Tribal witnesses claimed), and submitting that information as evidence of  
19 work done "for" the Tribe. And, given that the "confidentiality" and attorney-client privilege  
20 would not apply to any work done "for" the Tribe, Stein's claims that the work reflected in the  
21 spread-sheet was simultaneous done "for" the Tribe, and yet privileged from disclosure to the  
22 Tribe was entirely nonsensical and contradictory and thus lacked any credibility.

23 Moreover, abundant case-law holds that records such as the one that Stein produced during  
24 the punitive damages proceeding (showing his negative net-worth) should be freely disregarded by  
25 the Court. Importantly, Stein does not dispute or even attempt to distinguish the caselaw (which  
26 the Tribe cited in its opening punitive damages brief) which provides that "[n]et worth is too  
27 easily subject to manipulation to be the sole standard for measuring a defendant's ability to pay."  
28 *Zaxis Wireless Communications, Inc. v. Motor Sound Corp.*, 89 Cal. App. 4th 577, 582 (2001).

1 He also completely fails to rebut or distinguish the case-law that points out that finder of fact may  
2 disbelieve self-serving claims by the punitive damages defendant that exaggerate his or her  
3 liabilities and minimize his or her net worth. *Moore v. American United Life Ins. Co.*, 150 Cal.  
4 App. 3d 610, 641 (1984). Most importantly, he ignores and fails to rebut the case-law that states  
5 that “by failing to bring in any records which would reflect his financial condition, despite being  
6 ordered to do so, ... defendant has waived any right to complain of the lack of such evidence.”  
7 *Mike Davidov Co. v. Issod*, 78 Cal. App. 4th 601, 608 (2000). Accordingly, Stein’s **Exhibit A**,  
8 which purports to show his net-worth for the last twelve years should be entirely disregarded as  
9 unreliable (just like his highly redacted spreadsheets showing work he allegedly did for the Tribe  
10 were also disregarded). Moreover, without any back-up documents to substantiate the numbers  
11 stated in that Exhibit, they should also be treated as wholly invented by Stein.

12 **A. Stein Takes Umbrage that His Prior Representations to the Court Regarding His**  
13 **Wife’s Family’s Substantial Assets – Which Are Commingled With His – Are Being**  
14 **Used Against Him.**

15 Stein spends a lot of time arguing that the fact that he has represented high net-worth  
16 individuals, as a lawyer, does not mean that he is a high net-worth individual, himself. While the  
17 Tribe does not disagree with that general proposition, it is certainly different when that lawyer  
18 represents that his wife’s family is very high net-worth and that he “manages” that family’s  
19 business affairs and that he and that family share personal residences (homes), which leads to the  
20 assumption that they may commingle other assets as well.

21 In fact, Stein represented to the Court that: “I’m in charge of the American branch of my  
22 father-in-law, ...” (See Trial Transcript, July 22, 2016, P. 37, L. 25 - P. 38, L. 20). His  
23 representation to the Court made it seem that he was in charge of the Chinese family’s business in  
24 California or America, not that he was merely their lawyer. Certainly, whatever relationship Stein  
25 has with that wealthy family in China is more than just attorney-client relationship, where he  
26 receives a meager hourly wage. He is married into that family which he represents to the Court,  
27 and to the world, to be a very wealthy family.  
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1           Nonetheless, later in his punitive damages response brief, Stein states that his elderly father  
2 and mother in law actually live in Santa Barbara in a home that he jointly owns with his wife. One  
3 reasonable explanation for all of this is that Stein and his wife and his wife's family's assets, and  
4 homes are substantially commingled. These homes and perhaps other properties are owned under  
5 various names, but are occupied, and enjoyed by all of them together.

6           Significantly, Stein was specifically asked about any rents that *he paid* for living in any of  
7 the homes from 2006 to the present, and any rents *paid to him* from the same time period, and he  
8 reported *no* such rent paid *by him or to him*. So, regardless of whose name these properties are  
9 under, he is actually allowed to enjoy all of them at whim, as a spouse would ordinarily be  
10 expected to do. Whether he owns 0%, 1% or 100% of these three properties makes no difference,  
11 because he jointly and severally enjoys them with his wife and his wives' family. Whatever the  
12 deed says, they are his homes.

13           Perhaps most damning of all, is the fact that while this action and the punitive damages  
14 proceedings were pending, Mr. Stein and his wife Ms. Linda Hong Sun Stein acquired a *third*  
15 property in California and a second in Santa Barbara: that property is listed at 5222 Kirk Drive in  
16 Santa Barbara (where his in-laws allegedly now live). And, yet, Mr. Stein thought it was entirely  
17 appropriate and ethical to omit this information from the verified punitive damages discovery  
18 response that he provided to the Tribe, and the Court in this action. His discovery responses were  
19 provided to the Tribe two days early. If he had responded on February 22 (instead of February  
20 20), the day that his responses were due, he would have had to disclose the purchase of the Kirk  
21 Drive Property in Santa Barbara. By providing responses on February 20, he was technically not  
22 lying about not owning a third property, but he was well aware that that response was not candid  
23 and absolutely true.

24           It is implausible to believe that Stein and his wife formed an intent to purchase a home,  
25 and in fact, went through escrow in less than two days!!! That is just not believable, highly  
26 unlikely and perhaps also impossible. It is more likely that Mr. Stein was in escrow on the Kirk  
27 Drive property at the time of providing the punitive damages responses but instead of providing  
28 candid answers which would ordinarily indicate that although he did not own the property, yet, he

1 was in escrow for that property, he just omitted it entirely hoping that the penniless Tribe, and the  
2 Court would never discover that fib.

3 Given this stunning lack of candor (the purchase of the Kirk Drive property while punitive  
4 damage proceedings are pending) it is nearly impossible to know what else Stein and his wife may  
5 own, in whose names they have placed their assets, how they have hidden their assets, or in what  
6 jurisdictions these assets may be hidden. What is clear is that while California is suffering a  
7 punishing housing affordability crisis, Mr. Stein lives rent free, and has three homes in California,  
8 in Santa Monica and/or Santa Barbara that he can live in, that he can provide to others for their  
9 free enjoyment, that he can have his in-laws live in for free without that much distress. That may  
10 very well be the tip of the iceberg of what we can know about Stein's assets, but Stein is  
11 sophisticated enough to not leave much of a trail, except for the bragging he may have, very  
12 occasionally happened to have done on the trial record.

13 Dated: June 20, 2019

JAMIE E. WRIGHT, ESQ.

14 By:



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16 Jamie E. Wright, Esq.

17 Attorney for PLAINTIFF Gabrielino-Tongva Tribe  
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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and not a party to the within action. My business address is: 8839 S. Sepulveda Blvd, Ste 102, Los Angeles, CA 90045-3605.

On June 20, 2019, I served the foregoing documents on all interested parties in this action and described as:

**PLAINTIFF GABRIELINO-TONGVA TRIBE'S REPLY BRIEF IN SUPPORT OF PUNITIVE DAMAGES CLOSING ARGUMENT**

by placing a true copy thereof enclosed in sealed envelopes and addressed as follows:

John Rubiner, Esq.  
Barton, Klugman & Oetting, LLP  
350 S Grand Ave, Ste 2200,  
Los Angeles, CA 90071-3454  
Tel: (213) 621-4000  
[JRubiner@bkolaw.com](mailto:JRubiner@bkolaw.com)

**X (BY EMAIL OR ELECTRONIC TRANSMISSION):** Pursuant to an agreement of the parties or by order of the Court, I sent the above-named document to the person at the email address listed for the addressee who has agreed to receive electronic service in the instant action. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. [California Code of Civil Procedure §1010.6(2)(A)(i).]

**X (STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on June 20, 2019 at Los Angeles, California.



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Jamie E. Wright