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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12

13 CALIFORNIA VALLEY MIWOK TRIBE,)	
14)	No. 08-CV-00984-WBS-GGH
15 Plaintiff,)	
16)	[PROPOSED] ANSWER
17 v.)	OF MOVANT-INTERVENORS
18)	TO THE COMPLAINT FILED
19 CALIFORNIA GAMBLING CONTROL)	IN THE NAME OF THE
20 COMMISSION, <i>et al.</i> ,)	"CALIFORNIA VALLEY
21)	MIWOK TRIBE"
22 Defendants,)	
23)	
24 YAKIMA K. DIXIE and MELVIN DIXIE,)	
25)	
26 Movant-Intervenor-Defendants.)	
27 _____)	

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29
30 As required by Rule 24 (c) of the Federal Rules of Civil Procedure, Yakima K.
31 Dixie and Melvin Dixie, movant-intervenors, submit this [proposed] Answer in response
32 to the allegations of plaintiff Silvia Burley, in her Complaint which was filed in the name
33 of the "California Valley Miwok Tribe" in San Diego County Superior Court on or about
34 January 7, 2008.

1 ANSWER OF INTERVENORS

2 General Denial: To the extent that the allegations of the Complaint filed on or
3 about January 8, 2008, in Case No. 37-2008-00075326-CU-CO-CTL in San Diego
4 County Superior Court, are not expressly admitted by this Answer, they should be
5 considered denied.

6 1. Intervenor's admit the statement in Paragraph 1 of the Complaint that the
7 California Valley Miwok Tribe ("the Tribe") is a federally-recognized Indian tribe, but
8 deny that the Tribe is situated in Stockton, California, where Silvia Burley, who is
9 pursuing this suit in the name of the Tribe, apparently resides. The Tribe is also known
10 as the Sheep Ranch Mi-Wuk Indians of Sheep Ranch Rancheria, which is in Calaveras
11 County, California.

12 2. Paragraph 2 of the Complaint is admitted.

13 3. Intervenor's are without knowledge or information sufficient to form a
14 belief as to the truth or falsity of the allegations in Paragraph 3 of the Complaint, namely
15 that plaintiff Silvia Burley is "ignorant of the true names and capacities" of certain
16 unnamed persons, and therefore deny the same.

17 4. Paragraph 4 of the Complaint regarding venue is denied.

18 5. Paragraph 5 of the Complaint is admitted.

19 6. Paragraph 6 of the Complaint is a mix of legal conclusions and factual
20 allegations. The first sentence of the paragraph is admitted. The rest of the paragraph

1 contains sentences with legal conclusions which need not be admitted or denied. The
2 allegations of Paragraph 6 are otherwise denied.

3 7. Paragraph 7 of the Complaint consists of a series of legal conclusions
4 which need not be admitted or denied.

5 8. The statement in Paragraph 8 of the Complaint that the Tribe was placed on
6 the list of federally-recognized tribes in 1994 pursuant to Public Law 103-454 is
7 admitted. The allegations in Paragraph 8 are otherwise denied.

8 9. The allegations in Paragraph 9 of the Complaint are denied.

9 10. The allegations in Paragraph 10 of the Complaint are denied.

10 11. The allegations in Paragraph 11 of the Complaint are denied.

11 12. The BIA letter referred to in Paragraph 12 of the Complaint speaks for
12 itself. The allegations in Paragraph 12 are otherwise denied.

13 13. The allegations in Paragraph 13 of the Complaint are denied.

14 14. The allegations in Paragraph 14 of the Complaint are denied.

15 15. The California Gambling Control Commission's letter to Silvia Burley,
16 referred to in Paragraph 15 of the Complaint, speaks for itself. The allegations of
17 Paragraph 15 are otherwise denied.

18 16. The allegations in Paragraph 16 of the Complaint are denied.

19 17. The decisions of the United States District Court for the District of
20 Columbia in California Valley Miwok Tribe v. U.S. Department of the Interior, No.
21 1:05CV00739-JR, and the pleadings therein, speak for themselves. The allegations in

Paragraph 17 of the Complaint are otherwise denied. Intervenor aver that on February 15, 2008, the U.S Court of Appeals rendered its decision affirming the U.S. District Court's orders, 515 F.3d 1262 (D.C. Cir. 2008), and that after a petition for rehearing was denied, a mandate was issued to the U.S. District Court.

18. The first sentence of Paragraph 18 of the Complaint is a legal conclusion which need not be admitted or denied. Intervenor is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 18 of the Complaint, and therefore deny the same.

19. Intervenor respond to Paragraph 19 of the Complaint by realleging their responses to the allegations in Paragraphs 1-18 of the Complaint.

20. Paragraph 20 of the Complaint states legal conclusions which are neither admitted nor denied.

21. Paragraph 21 of the Complaint states legal conclusions, which are neither admitted nor denied.

22. Paragraph 22 of the Complaint states legal conclusions, which are neither admitted nor denied.

23. Paragraph 23 of the Complaint contains a mix of legal conclusions and factual allegations. At any rate the allegations of Paragraph 23 are denied.

24. The allegations in Paragraph 24 of the Complaint are denied.

25. Paragraph 25 of the Complaint contains a mix of legal conclusions and factual allegations. Because Intervenor regard the plaintiff in this action to be Silvia

1 Burley, not the California Valley Miowk Tribe, they deny the allegations of Paragraph
2 25. The legal conclusions are neither admitted nor denied.

3 26. Paragraph 26 states a legal conclusion which is neither admitted nor denied.

4 27. Intervenors are without knowledge or information sufficient to form a
5 belief as to the truth or falsity of the allegations in Paragraph 27 of the Complaint, and
6 therefore deny the same.

7 28. Paragraph 28 states a legal conclusion which is neither admitted nor denied.

8 29. Paragraph 29 states a legal conclusion which is neither admitted nor denied.

9 30. Paragraph 30 states a legal conclusion which is neither admitted nor denied.

10 31. Intervenors respond to Paragraph 31 of the Complaint by realleging their
11 responses to the allegations in Paragraphs 1-30 of the Complaint.

12 32. Paragraph 32 of the Complaint states a number of legal conclusion which
13 are neither admitted nor denied. To the extent that a response to Paragraph 32 is
14 required, the allegations therein are denied because plaintiff Silvia Burley has no
15 authority to speak on behalf of the Tribe.

16 33. Paragraph 33 of the Complaint states a legal conclusion which is neither
17 admitted nor denied. The Compact, which is partially quoted in Paragraph 33, speaks for
18 itself.

19 34. The Code provision quoted at the beginning of Paragraph 34 of the
20 Complaint speaks for itself. The rest of the paragraph is a mix of legal conclusions and
21 argument, which requires no response. To the extent that a response to Paragraph 34 is

1 required, the allegations therein are denied because plaintiff Silvia Burley has no
2 authority to speak on behalf of the California Valley Miwok Tribe.

3 35. The allegations in Paragraph 35 of the Complaint are denied.

4 36. Paragraph 36 of the Complaint states a legal conclusion which is neither
5 admitted nor denied. To the extent that a response to Paragraph 36 is required, the
6 allegations therein are denied.

7 37. Intervenor's respond to Paragraph 37 of the Complaint by realleging their
8 responses to the allegations in Paragraphs 1-36 of the Complaint.

9 38. The allegations in Paragraph 38 of the Complaint are denied, because
10 plaintiff Silvia Burley has no authority to speak on behalf of the California Valley Miwok
11 Tribe.

12 39. Paragraph 39 of the Complaint states a legal conclusion which need not be
13 admitted nor denied.

14 40. The allegation/conclusion in Paragraph 40 of the Complaint is denied,
15 because plaintiff Silvia Burley has no authority to speak on behalf of the California
16 Valley Miwok Tribe.

17 41. The allegations in Paragraph 41 of the Complaint are denied, because
18 plaintiff Silvia Burley has no authority to speak on behalf of the California Valley Miwok
19 Tribe.

20 42. Paragraph 42 of the Complaint states a legal conclusion which need not be
21 admitted nor denied.

1 43. Paragraph 43 of the Complaint states a legal conclusion which need not be
2 admitted nor denied. To the extent that a response to Paragraph 43 is required, the
3 allegations therein are denied because plaintiff Silvia Burley has no authority to speak on
4 behalf of the California Valley Miwok Tribe.

5 44. Paragraph 44 of the Complaint states a legal conclusion which need not be
6 admitted nor denied.

7 45. Paragraph 45 of the Complaint states a legal conclusion which need not be
8 admitted nor denied.

9 46. Intervenors respond to Paragraph 46 of the Complaint by realleging their
10 responses to the allegations in Paragraphs 1-45 of the Complaint.

11 47. Paragraph 47 of the Complaint states a legal conclusion which need not be
12 admitted nor denied.

13 48. Paragraph 48 of the Complaint states a legal conclusion which need not be
14 admitted nor denied. To the extent that a response to Paragraph 48 is required, the
15 allegations therein are denied because plaintiff Silvia Burley has no authority to speak on
16 behalf of the California Valley Miwok Tribe.

17 49. Intervenors respond to Paragraph 49 of the Complaint by realleging their
18 responses to the allegations in Paragraphs 1-48 of the Complaint.

19 50. The allegations in Paragraph 50 of the Complaint are denied.

20 51. The allegations in Paragraph 51 of the Complaint are denied.

21 52. The allegations in Paragraph 52 of the Complaint are denied.

53. Paragraph 53 of the Complaint states legal conclusions which need not be admitted nor denied. To the extent that a response to Paragraph 53 is required, the allegations therein are denied.

WHEREFORE, Intervenor prays this Court to dismiss plaintiff's Complaint in this case, and all claims therein, for want of jurisdiction, for failure to state a claim, and for such other reasons as may be correct and just.

AFFIRMATIVE DEFENSES

1. This Court lacks jurisdiction to adjudicate an internal tribal dispute, or to determine the proper spokesperson for the California Valley Miwok Tribe.

2. Plaintiff is not entitled to injunctive relief because she has unclean hands.

3. Plaintiff lacks standing.

4. Plaintiff has failed to state a claim for which this Court may grant relief.

5. Plaintiff has no basis under which it may name DOE defendants consistent with the Rules of this Court.

June 2, 2008

Respectfully submitted,

Tim Vollmann
Attorney for Defendants

CERTIFICATE OF SERVICE

I, Tim Vollmann, hereby certify that on June 2, 2008, I electronically filed the foregoing proposed Answer as an attachment to the Motion to Intervene, thereby providing automatically for electronic service of process on the following individual attorneys:

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/s/

Tim Vollmann