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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN DIEGO  
13 CENTRAL BRANCH  
14

15 **CALIFORNIA VALLEY MIWOK TRIBE,**

16 Plaintiff,

17 v.

18 **THE CALIFORNIA GAMBLING**  
19 **CONTROL COMMISSION; and DOES 1**  
**THROUGH 50, Inclusive,**

20 Defendants.

Case No. 37-2008-00075326-CU-CO-CTL

**DEFENDANT CALIFORNIA**  
**GAMBLING CONTROL**  
**COMMISSION'S OBJECTIONS TO**  
**PLAINTIFF'S REQUEST FOR**  
**JUDICIAL NOTICE AND TO THE**  
**ADMISSIBILITY OF EXHIBIT 32**

Date: April 26, 2013

Time: 2:00 p.m.

Dept: 62

Judge: The Honorable Ronald L. Styn

Trial Date: June 4, 2013

Action Filed: January 8, 2008

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24 Defendant California Gambling Control Commission (Commission) submits the following  
25 objections to the admission of Exhibit 32, which is included in Plaintiff's Request for Judicial  
26 Notice re: Plaintiff's Motion for Judgment on the Pleadings and Motion Lifting Stay re Order  
27  
28

1 Denying Intervention. For the following reasons, Exhibit 32 should be excluded and should not  
2 be considered by the Court with respect to the dispute between plaintiff and the Commission.

3 The Commission objects that Exhibit 32, which is a letter dated January 12, 2011, from  
4 Troy Burdick to Silvia Burley, is not relevant to the dispute between plaintiff and the  
5 Commission. Plaintiff offers it in support of the assertion that “Troy Burdick of the BIA,  
6 pursuant to the authority of the recent ASI decision, then wrote a letter . . . to Chairperson Burley  
7 acknowledging the election results and congratulating all elected officials.” (Memorandum of  
8 Points and Authorities in Support of Motion for Judgment on the Pleadings by Plaintiff as  
9 Against Defendant re: Answer to First Amended Complaint, at pp. 9-10.)

10 Whether Ms. Burley is appropriate leader of the tribe and whether her faction constitutes  
11 entirety of the tribe are issues to be resolved in federal court. Those issues are not relevant to the  
12 determination to be made by the Court here – i.e., whether, under the current circumstances, the  
13 Commission must disburse Revenue Sharing Trust Fund (RSTF) payments to the Burley faction.  
14 Exhibit 32 is not a proper subject of judicial notice as only relevant matter may be judicially  
15 noticed. (See *Mangini v. R.J. Reynolds Tobacco Co.* (1994) 7 Cal.4th 1057, 1063 [31 Cal.Rptr.2d  
16 358], cert. den. (1994) 513 U.S. 1016, overruled on another ground in *In re Tobacco Cases II*  
17 (2007) 41 Cal.4th 1257 [31 Cal.Rptr.3d 358]; *Arce v. Kaiser Foundation Health Plan, Inc.* (2010)  
18 181 Cal.App.4th 471, 482 [104 Cal.Rptr.3d 545].) As it is not relevant, it also is not admissible.  
19 (Evid. Code § 350.)

20 Moreover, to the extent that Exhibit 32 is being admitted for the truth of its contents, it is  
21 hearsay and not admissible. (See *Arce v. Kaiser Foundation Health Plan, Inc.*, *supra*, 181  
22 Cal.App.4th at 484; *North Beverly Park Homeowners Ass’n v. Bisno* (2007) 147 Cal.App.4th 762,  
23 779 [54 Cal.Rptr.3d 644].)

## 24 CONCLUSION

25 The Commission respectfully requests that the Court deny plaintiff’s requests for judicial  
26 notice as to the matters described above or exclude the matters from evidence in connection with  
27 the MJOP as appropriate.  
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1 Dated: March 27, 2013

Respectfully Submitted,

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