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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN DIEGO
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13 CALIFORNIA VALLEY MIWOK TRIBE,

14 Plaintiff,
v.

15 CALIFORNIA GAMBLING CONTROL
COMMISSION, et al.,

16 Defendants.
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No: 37-2008-00075326-CU-CO-CTL

INTERVENORS' OBJECTIONS TO
PLAINTIFF'S REQUEST FOR JUDICIAL
NOTICE RE PLAINTIFF'S MOTION FOR
JUDGMENT ON THE PLEADINGS

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19 CALIFORNIA VALLEY MIWOK TRIBE,
CALIFORNIA (a.k.a. SHEEP RANCH
20 RANCHERIA OF ME-WUK INDIANS,
CALIFORNIA), YAKIMA K. DIXIE,
21 VELMA WHITEBEAR, ANTONIA LOPEZ,
ANTONE AZEVEDO, MICHAEL
22 MENDIBLES, AND EVELYN WILSON,

23 Intervenorors.
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Date: April 26, 2013
Time: 2:00 p.m.
Dept.: C-62
Judge: The Hon. Ronald L. Styn

Intervenors hereby object to Plaintiff's request to take judicial notice of the following Exhibits for the reasons set forth below:

Exhibit 2 (AS-IA letter dated December 22, 2010)

Exhibit 3 (AS-IA letter dated August 31, 2011)

Exhibit 4 (Letter from Dean Shelton to Karla Bell dated June 26, 2007)

Exhibit 6 (Letter from Dean Shelton to Manuel Corrales dated January 3, 2008)

Exhibit 7 (Letter from Neil Houston to Manuel Corrales dated March 2, 2012)

Exhibit 8 (Declaration of Manuel Corrales)

Exhibit 9 (Memorandum of Points and Authorities filed by the Commission in Sacramento Superior Court)

Exhibit 10 (Declaration of Gary Qualset filed in Sacramento Superior Court)

Exhibit 11 (Report by the Commission dated January 24, 2013)

Exhibit 12 (List of eligible non-compact tribes on Commission's website)

Exhibit 13 (Letter from BIA to Yakima Dixie dated September 24, 1998)

Exhibit 14 (General Resolution #GC-98-01)

Exhibit 15 (Letter from BIA to Silvia Burley dated March 7, 2000)

Exhibit 16 (Tribal Resolution No. R-1-5-07-2001)

Exhibit 17 (Letter from BIA to Silvia Burley dated June 7, 2001)

Exhibit 18 (Letter from Silvia Burley to the Commission dated June 22, 2001)

Exhibit 19 (Declaration of Yakima Dixie)

Exhibit 21 (Declaration of Manuel Corrales)

Exhibit 22 (Deposition of Yakima Dixie)

Exhibit 28 (Federal Register dated August 10, 2012)

Exhibit 31 (Letter from Troy Burdick to Silvia Burley dated January 12, 2011)

Exhibit 32 (Letter from Troy Burdick to Silvia Burley dated January 12, 2011)

Intervenors object to Exhibits 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 28, 31, and 32 on the ground that Plaintiff improperly seeks to use judicial notice to

1 introduce extrinsic evidence into a motion for judgment on the pleadings. While the existence of
2 documents may be judicially noticed, the truth of the matters asserted therein may not be judicially
3 noticed. See, e.g., Steed v. Department of Consumer Affairs, 204 Cal.App.4th 112, 121 (2012) (“a
4 court may take judicial notice that a prior order was entered, but it may not take judicial notice of
5 the truth of the factual findings made therein”); Fremont Indem. Co. v. Fremont Gen. Corp., 148
6 Cal.App.4th 97, 113 (2007) (“Taking judicial notice of a document is not the same as accepting
7 the truth of its contents or accepting a particular interpretation of its meaning.”) (internal quotes
8 omitted); Sosinsky v. Grant, 6 Cal.App.4th 1548, 1564-1569 (1992) (not all matters contained in
9 court records are indisputably true, and, thus, while the existence of any document in a court file
10 may be judicially noticed, the truth of matters asserted in such documents is not necessarily subject
11 to judicial notice); Garcia v. Sterling, 176 Cal.App.3d 17, 22 (1985) (“[a]lthough the existence of
12 statements contained in a deposition transcript filed as part of the court record can be judicially
13 noticed, their truth is not subject to judicial notice.”); Bach v. McNelis, 207 Cal.App.3d 852, 864-
14 865 (1989) (courts addressing demurrers will not take judicial notice of the truth of statements
15 contained in deposition transcripts or declarations included in court records); Day v. Sharp, 50
16 Cal.App.3d 904, 914 (1975) (the court cannot accept as true the contents of pleadings or exhibits
17 in another action just because they are part of the court record or file as such documents are
18 inadmissible hearsay in the present case); Lockley v. Law Office of Cantrell, Green, Pekich, Cruz
19 & McCort, 91 Cal.App.4th 875, 882 (2001) (it is error for the court in ruling on a demurrer to
20 take judicial notice of the contents of a sworn affidavit filed in a companion case); Velazquez v.
21 GMAC Mortg. Corp., 605 F.Supp.2d 1049, 1057 (C.D. Cal. 2008) (“a court may take judicial
22 notice of the undisputed matters of public record, e.g., the fact that a hearing took place, but it may
23 not take judicial notice of disputed facts stated in public records”); Bryant v. Carleson, 444 F.2d
24 353, 357-58 (9th Cir. 1971) (the court properly took judicial notice of the fact that the defendant
25 had filed an affidavit on November 24, 1970 but refused to take judicial notice of the contents of
26 the Defendant's November 24, 1970 affidavit as being true).

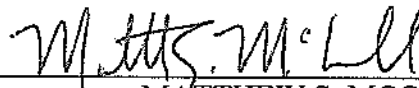
27 Plaintiff's attempt to use judicial notice to argue the truth of facts asserted in
28 Exhibits 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 28, 31, and 32 is improper,

1 and the Court should limit judicial solely to the existence of these documents. See Silguero v.
2 Creteguard, Inc., 187 Cal.App.4th 60, (2010) ("The hearing on demurrer may not be turned into a
3 contested evidentiary hearing through the guise of having the court take judicial notice of
4 documents whose truthfulness or proper interpretation are disputable. We thus ignore
5 Creteguard's arguments premised on facts allegedly obtained through discovery but not reflected
6 in the complaint.").

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8 Dated: March 27, 2013

9 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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11 By



12 MATTHEW S. MCCONNELL

13 Attorneys for INTERVENORS
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