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Attorneys for Plaintiff
CALIFORNIA VALLEY MIWOK TRIBE

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO - CENTRAL DISTRICT**

CALIFORNIA VALLEY MIWOK TRIBE Case No.37-2008-00075326-CU-CO-CTL

Plaintiff,

vs.

**CALIFORNIA GAMBLING CONTROL
COMMISSION,**

Defendant.

**DECLARATION OF MANUEL
CORRALES, JR., IN SUPPORT OF
REPLY TO INTERVENORS'
OPPOSITION TO PLAINTIFF'S
MOTION FOR JUDGMENT ON THE
PLEADINGS AGAINST DEFENDANT
CALIFORNIA GAMBLING CONTROL
COMMISSION**

Date: April 26, 2013

Time: 2:00 p.m.

Dept: 62

Judge: Hon. Ronald Styn

Trial Date: June 4, 2013

1 I, Manuel Corrales, Jr., declare that if called as a
2 witness in this case I could and would competently testify
3 as follows:

4 1. I am an attorney at law duly licensed to practice
5 in the State of California, the State of New Mexico, and
6 the State of Utah, and I am one of the attorneys of record
7 for Plaintiff CALIFORNIA VALLEY MIWOK TRIBE herein. I have
8 personal knowledge of the facts set forth herein.

9 2. Attached herewith and marked as Exhibit "39" is a
10 true and correct copy of the relevant pages to the
11 transcript of the hearing on January 25, 2013 in this case.

12 3. Attached herewith and marked as Exhibit "40" is a
13 true and correct copy of §7:285 to the Rutter Group
14 Practice Guide on the subject of a non-statutory motion for
15 judgment on the pleadings.

16 I declare under penalty of perjury under the laws of
17 the State of California that the foregoing is true and
18 correct.

19 Executed this 8 day of April, 2013, at San Diego,
20 California.

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MANUEL CORRALES, JR.

EXHIBIT “39”

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO
CENTRAL DIVISION

DEPARTMENT 62

HON. RONALD L. STYN, JUDGE

CALIFORNIA VALLEY MIWOK TRIBE,

Plaintiff,

vs.

THE CALIFORNIA GAMBLING
CONTROL COMMISSION,

Defendant.

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

Reporter's Transcript

January 25, 2013

Pages 1 through 20

Appearances

For Plaintiff:

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-and-

LAW OFFICES OF MANUEL CORRALES JR.
MANUEL CORRALES JR.
17140 Bernardo Center Drive, Suite 370
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858.521.0634

For the Defendant:

STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
NEIL D. HOUSTON
1300 I Street, Suite 1101
P.O. Box 944255
Sacramento, CA 94244
916.322.5476

Appearances cont'd

1 THE COURT: Correct.

2 THE CLERK: Jury trial?

3 THE COURT: No.

4 THE CLERK: How many days?

5 THE COURT: No, nonjury, court trial.

6 THE CLERK: How many days for that?

7 THE COURT: Let's say two.

8 THE CLERK: And in regard to the dispositive
9 motions, do you just want me to place it on calendar
10 right now as dispositive motions on the remaining
11 counts, or are they going to clarify now as to which
12 type?

13 THE COURT: Put down "summary judgment" because
14 the state's going to be filing a summary judgment.
15 Okay. At least one of the motions will be a summary
16 judgment. And the plaintiffs are not sure what
17 they're going to call it.

18 MR. CORRALES: We will file a motion for
19 judgment on the pleadings, and we don't know yet if
20 we're also going to file a cross motion for summary
21 judgment. So we're going to have --

22 THE COURT: Why would you do both?

23 MR. CORRALES: Judgment on the pleadings.

24 THE COURT: And a summary judgment?

25 MR. CORRALES: Okay. We'll just --

26 THE COURT: Think about that.

27 MR. CORRALES: Motion for judgment.

28 THE COURT: Think about your audience here. I

1 think one motion will be enough.

2 MR. CORRALES: We will have one motion, motion
3 for judgment on the pleadings, and we'll respond to
4 their motion.

5 THE COURT: Of course.

6 THE CLERK: So just plaintiff's judgment on the
7 pleading and the state's summary judgment motion.

8 THE COURT: Cross --

9 MR. MCCONNELL: Intervenor's.

10 THE COURT: Just put they'll be -- everyone's
11 going to -- just put motion for summary judgment.
12 Don't worry about.

13 THE CLERK: But the computer needs to know a
14 party.

15 THE COURT: Okay. Everybody. Every party.

16 THE CLERK: I'm just going to do dispositive
17 motions and let Gary figure it out. Thank you.

18 THE COURT: All right. So we're all set.

19 MR. CORRALES: Yes, Your Honor.

20 MR. SINGLETON: Yes, Your Honor.

21 MR. HOUSTON: Yes, Your Honor.

22 THE COURT: Okay. would anyone object if I
23 talked to Mr. Singleton for just a moment about
24 something entirely unrelated?

25 MR. MCCONNELL: No.

26 (The proceedings were concluded.)
27
28

EXHIBIT “40”

Club of So. Calif. (2006) 142 CA4th 1394, 1396, 48 CR3d 770, 771 (sua sponte motion)]

3. [7:279] **Time for Motion:** A defendant's motion for judgment on the pleadings may be made after the time to demur has expired and an answer has been filed. A plaintiff's motion for judgment on the pleadings may be made after expiration of the time to demur to defendant's answer. [CCP §438(f)]

- a. [7:280] **Deadline:** Unless the court orders otherwise, the statutory motion for judgment on the pleadings cannot be "made" after entry of a pretrial conference order (see CRC 3.720-3.730) or 30 days before the initial trial date ("the date the action is initially set for trial"), whichever is later. [CCP §438(e)]

Comment: The statutory reference to a "pretrial conference order" should be interpreted to mean the "case management order" (CRC 3.278; see ¶12:84). Therefore, in most cases, 30 days before the initial trial date will be the operative deadline.

[7:281-284] *Reserved.*

- b. [7:285] **Compare—nonstatutory motion:** The non-statutory motion could be made *at any time* during the lawsuit, even during trial, since the grounds for general demurrer are never waived (see ¶7:33). [See *Sofias v. Bank of America* (1985) 172 CA3d 583, 586, 218 CR 388, 389—motion made shortly before trial]

- c. [7:286] **Compare—other challenges:** Although "irregular," failure to state a cause of action may also be raised by a *motion in limine* or *motion for nonsuit* during trial. Trial courts have inherent power to control litigation and conserve judicial resources through whatever procedural vehicle reaches that result. [*Lucas v. County of Los Angeles* (1996) 47 CA4th 277, 284-285, 54 CR2d 655, 661]

➡ [7:287] **PRACTICE POINTER:** Don't count on this! If there are grounds for a motion for judgment on the pleadings, make your motion *as early as possible*. Trial judges are often reluctant to grant "last minute" challenges to the pleadings, because they disrupt the court's trial calendar and may result in unnecessary trial preparation expenses for both sides.

[7:288-289] *Reserved.*

4. [7:290] **Grounds:** A motion by defendant (or cross-defendant) can be made on the ground that:
- the court "lacks jurisdiction of the subject of one or more of the causes of action alleged"; or