

No. D080288

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT, DIVISION ONE

MANUEL CORRALES, JR.,
Plaintiff and Appellant,

v.

THE CALIFORNIA GAMBLING CONTROL COMMISSION;
CALIFORNIA VALLEY MIWOK TRIBE, AS A WHOLE; CALIFORNIA
VALLEY MIWOK TRIBE (CONSISTING OF THE “LENA SHELTON
FACTION” AND THE “BURLEY FACTION”); CALIFORNIA VALLEY
MIWOK TRIBE, BURLEY ADMINISTRATION (“THE BURLEY
FACTION”),
Defendants and Respondents.

San Diego County Superior Court
Case No. 37-2019-00019079-CU-MC-CTL
The Honorable Ronald F. Frazier, Judge

**RESPONDENT CALIFORNIA GAMBLING CONTROL
COMMISSION’S BRIEF**

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COURT OF APPEAL FOURTH APPELLATE DISTRICT, DIVISION ONE	COURT OF APPEAL CASE NUMBER: D080288
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER: 152084 NAME: James G. Waian FIRM NAME: California Department of Justice, Office of the Attorney General STREET ADDRESS: 600 West Broadway, Suite 1800 CITY: San Diego STATE: CA ZIP CODE: 92101 TELEPHONE NO.: (619) 738-9335 FAX NO.: (619) 645-2271 E-MAIL ADDRESS: James.Waian@doj.ca.gov ATTORNEY FOR (name): The California Gambling Control Commission	SUPERIOR COURT CASE NUMBER: 37-2019-00019079-CU-MC-CTL
APPELLANT/ Manuel Corrales, Jr. PETITIONER: RESPONDENT/ The California Gambling Control Commission, et al. REAL PARTY IN INTEREST:	
CERTIFICATE OF INTERESTED ENTITIES OR PERSONS	
(Check one): <input checked="" type="checkbox"/> INITIAL CERTIFICATE <input type="checkbox"/> SUPPLEMENTAL CERTIFICATE	
Notice: Please read rules 8.208 and 8.488 before completing this form. You may use this form for the initial certificate in an appeal when you file your brief or a prebriefing motion, application, or opposition to such a motion or application in the Court of Appeal, and when you file a petition for an extraordinary writ. You may also use this form as a supplemental certificate when you learn of changed or additional information that must be disclosed.	

1. This form is being submitted on behalf of the following party (name): The California Gambling Control Commission
2. a. There are no interested entities or persons that must be listed in this certificate under rule 8.208.
- b. Interested entities or persons required to be listed under rule 8.208 are as follows:

Full name of interested entity or person	Nature of interest (Explain):
(1)	
(2)	
(3)	
(4)	
(5)	

Continued on attachment 2.

The undersigned certifies that the above-listed persons or entities (corporations, partnerships, firms, or any other association, but not including government entities or their agencies) have either (1) an ownership interest of 10 percent or more in the party if it is an entity; or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).

Date: October 28, 2022

James G. Waian

 (TYPE OR PRINT NAME)

 (SIGNATURE OF APPELLANT OR ATTORNEY)

This case involves Appellant's attempt to release funds being withheld by the California Gambling Control Commission (Commission) because of an ongoing membership and leadership dispute within the California Valley Miwok Tribe (CVMT or Tribe). Appellant seeks to enforce a purported attorney's fee lien on Revenue Sharing Trust Fund (RSTF) payments that the Commission has allocated and withheld for the benefit of the Tribe pursuant to tribal-state class III gaming compacts (Compacts) California has entered into with a number of California Indian tribes. (Clerk's Transcript (CT) 000938-000939, 000993-000994, 002307, 002311, 002329.) The CVMT is a federally recognized non-gaming Indian tribe and qualifies under the Compacts, and sections 12012.75 and 12012.90 of the Government Code, to receive RSTF payments. (CT 002329.)

The Commission administers the RSTF, in a limited-trustee capacity, for the purpose of depositing and disbursing the funds on a quarterly basis to eligible tribes. (*Cal. Valley Miwok Tribe v. Cal. Gambling Control Com.* (2014) 231 Cal.App.4th 885, 889.) Aside from its duty to administer the RSTF, the Commission has no discretion with respect to the use or disbursement of RSTF monies. (*Ibid.*) The Commission has no authority to make independent determinations on the merits of intra-tribal leadership disputes. (See Gov. Code, § 12012.90, subd. (b).) When uncertainty exists as to an eligible tribe's authorized leadership, the Commission, as administrator of the RSTF, defers to the determinations of the federal Bureau of Indian Affairs. (CT 000938-000939.) In August 2005, the Commission suspended

disbursement of quarterly RSTF payments to the Tribe because of an ongoing membership and leadership dispute. (CT 002329; see also *Cal. Valley Miwok Tribe v. Cal. Gambling Control Com.*, *supra*, 231 Cal.App.4th at p. 889.) Appellant claims that his purported lien results from attorney fee agreements he signed with Silvia Burley in 2007 and 2009 during, and in connection with, this ongoing tribal membership and leadership dispute. (CT 002307-002308.) The primary relief sought by Appellant is declaratory and injunctive relief for his alleged lien against the withheld RSTF payments. (CT 002333-002334.)

One of the intervenor-defendant tribal factions, the California Valley Miwok Tribe, Burley administration, moved to dismiss Appellant's First Amended Complaint. (CT 002342.) In granting the Burley administration's motion to dismiss, the San Diego County Superior Court held that it does not have subject matter jurisdiction to grant Appellant's requested relief because to do so would require it to "reach threshold questions as to the membership and leadership of the California Valley Miwok Tribe." (CT 002798-002799.) This appeal is limited to Appellant's appeal of that superior court order.

The Commission respectfully provides this respondent's brief without taking a position in the appeal because the superior court order that is at issue on appeal is an order addressing

another party's motion regarding jurisdiction relating to intra-tribal matters, and not a motion filed by the Commission.¹

October 28, 2022

Respectfully submitted,

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/s/ James G. Waian

JAMES G. WAIAN

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Control Commission

¹ Although titled a respondent's brief, this pleading is the Commission's statement of no position in this appeal for the reasons stated.

CERTIFICATE OF COMPLIANCE

I certify that the attached respondent's brief uses a 13 point Century Schoolbook font and contains 762 words.

October 28, 2022

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**DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY
OVERNIGHT COURIER**

Case Name: **Corrales v. The California Gambling Control
Commission, et al.**
No.: **D080288**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On October 28, 2022, I electronically served the attached **RESPONDENT CALIFORNIA GAMBLING CONTROL COMMISSION'S BRIEF** by transmitting a true copy via this Court's TrueFiling system. Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on October 28, 2022, I placed a true copy thereof enclosed in a sealed Federal Express envelope in the internal mail collection system at the Office of the Attorney General at 600 West Broadway, Suite 1800, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

PLEASE SEE SERVICE LIST ON PAGE 3

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct and that this declaration was executed on October 28, 2022, at San Diego, California.

A. Shorter



Declarant

Signature

SERVICE LIST

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