

1 GEORGE MCGILL (SB #031973)
1328 Sun Valley Road
2 Solana Beach, CA 92075-1647
3 Telephone: (858) 481-8446
4 Facsimile: (858) 481-1246
5 Attorney for Plaintiff

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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 MARVIN DONIUS,) Case Number: 10 CV 0591 WQH POR
12)
13 Plaintiff,) DECLARATION OF KEVIN CRAWFORD
14 vs.) IN OPPOSITION TO MOTION OF
15) SPECIALLY APPEARING DEFENDANTS
16) TO DISMISS COMPLAINT FOR LACK
17) OF JURISDICTION AND FAILURE
18) TO EXHAUST TRIBAL REMEDIES
19)
20 BO MAZZETTI; STEPHANIE)
SPENCER; CHARLIE KOLB;) Judge: William Q. Hayes
21 DICK WATENPAUGH; STEVE) Date: June 21, 2010
STALLINGS; KENNY KOLB;) Time: 11:00 a.m.
DOE I AND DOE II,) Courtroom: 4, Fourth Floor
22)
23) ORAL ARGUMENT REQUESTED
24)
25 Defendants.)
26)
27)
28)

23 I, KEVIN CRAWFORD, declare:

24
25 1. I am now, and since 2002 have been, Fire Chief, Carlsbad Fire
26 Department, Carlsbad, CA. I have personal knowledge of the facts set
27 forth in this declaration, and if called as a witness I could and would
28 testify competently thereto.

1 2. I have been asked to provide testimony in support of Marvin
2 Donius, plaintiff in this action and owner of the real property site
3 that is the subject of the action, located at 33777 Valley Center Road,
4 Valley Center, CA. I make this declaration in opposition to the pend-
5 ing motion to dismiss filed herein in behalf of defendants herein.

6 **BACKGROUND AND QUALIFICATIONS**

7 3. In addition to my education and training in fire prevention and
8 related topics, I have served as paramedic/firefighter (1986-1989), fire
9 captain (1989-2000), battalion chief (2000-2002), and as above stated,
10 fire chief (2002-present), all with the Carlsbad Fire Department. I
11 have also been Flight Medic with the UCSD Medical Center (1987-1989) and
12 Paramedic, Medic Ambulance, Inc. (1983-1989). I also have a law degree,
13 and am a member of the San Diego County Bar Association.

14 4. I have taken numerous courses in fire protection administra-
15 tion, fire officer certification, paramedic training, and conflict
16 resolution. I have published numerous articles related to fire preven-
17 tion and treatment (e.g., "Hypothermia - The Big Chill", in Advance
18 Nursing Material, February 1998), and have received several awards in
19 the field of fire science including fire prevention ("Who's Who Among
20 American Fire Service"), and from 2004-2006 I served as president of the
21 San Diego County Fire Chiefs Association. I am now an adjunct instructor
22 at National Uni-versity in San Diego, an instructor in the Office of
23 Extended Studies, at California State University San Marcos, and an
24 instructor at the Palomar College Fire Academy.

25 5. I am qualified to provide expert witness testimony in state and
26 federal courts in California.

27 **SITE REVIEW AND INSPECTION**

28 6. Preparatory to rendering the opinions and conclusions set forth

1 below, I have carefully reviewed (1) EPA "Letter Report, Mushroom Ex-
2 press Assessment" (83 pages), and (2) Declaration of Douglas H. Allen
3 dated May 12, 2010. I also personally visited the property site at
4 33777 Valley Center Road in Valley Center on May 29, 2010, and again on
5 June 5, 2010.

6 7. During my site visit of May 29, 2010, I observed that power to
7 the wood pallet work area was being supplied via an electrical cord from
8 a residence adjacent to the property. The electrical cord passed from
9 the residence to the work area over a roadway. During this visit, I
10 requested of the property owner, Mr. Donius, that this extension cord be
11 removed, a request that was complied with immediately.

12 8. During my second visit to the site on June 5, 2010, I more
13 carefully determined (1) Mr. Donius had been compliant with all sugges-
14 tions I had previously made concerning mitigation and fire prevention
15 measures, although these had been relatively minor in nature, and (2)
16 activities in the wood pallet work area -- both from observation and as
17 described by workers in the area -- were limited to the refurbishing and
18 construction of wood pallets.

19 9. In his declaration, Douglas H. Allen states "the area encloses
20 an improved cooking area comprised of a half-drum serving as a fire pit
21 and related and charred wood". On neither of my visits did I or my
22 associate find that the area had been in the past or now is being used
23 as a cooking area. No cooking appliances, food, or food debris of any
24 nature were to be found in this work area (or any other area) on the
25 occasion of my two visits.

26 10. In his declaration, Mr. Allen goes on to describe the "Santa
27 Ana" wind patterns that prevail in the Valley Center micro region. I
28 agree with his statements as to wind direction and other characteristics

1 of these "Santa Ana" wind events. I do not agree, however, with his
2 characterization that this property presents a unique and unusual fire
3 threat to the Rincon Casino and Resort during "Santa Ana" wind condi-
4 tions, anymore than would any other lawful use of the property. The
5 relevant question is rather whether any activities on, and/or usage of,
6 this property poses any threat of ignition and prorogation of fire. It
7 must be noted that virtually any structures or improvements on the prop-
8 erty will almost certainly be consumed by a "Santa Ana" wind fire in
9 this particular valley. Indeed, as a matter of fact, should the prop-
10 erty be cleared of all combustibles, leaving only bare earth, the Rincon
11 Casino and Resort would still be threatened because of the intensity of
12 any fire in this valley, as a result of the local geography, vegetation
13 and neighboring structures in the valley.

14 11. I have recommended to Mr. Donius that the measures set forth
15 below be taken or continued, and as my personal observation during my
16 two above-described visits confirms that Mr. Donius has been compliant
17 with these fire prevention and mitigation measures that should be con-
18 tinued in order to maintain the property in a hazard-free condition:

19 (a) Continued adherence to the maintaining of wood pallet stacking
20 under 20 feet;

21 (b) Enhancement of the existing break in the wood pallet storage
22 configuration to 20 feet, with wood pallets not to exceed 150,000 cubic
23 feet in volume;

24 (c) Placement of one of the two 5,000 gallon water tanks on each
25 side of the wood pallet storage area, equipped with "national standard
26 thread";

27 (d) Placement of No Smoking signs on each entrance to the wood
28 pallet storage area;

1 (e) Continuation of all current weed abatement efforts;

2 (f) Augmentation of the existing fire extinguisher configuration,
3 with pressurized water extinguishers, and their placement near existing
4 extinguishers; and

5 (g) Maintenance of a 20-foot separation from generator and com-
6 bustibles in wood pellet work area, as well as 20 foot separation from
7 flammable liquids.

8 **OPINIONS AND CONCLUSIONS**

9 12. As of the date of my last site visit (June 5, 2010), there is
10 on this property no clear and present fire hazards of any nature that
11 could threaten or imperil neighboring properties, including the Rincon
12 Casino and Resort and/or the Rincon Reservation and/or its members.

13 13. I specifically disagree with Mr. Allen's penultimate opinion
14 this property poses "serious potential fire and safety hazards". More-
15 over, as above stated, implementation of the fire safety and mitigation
16 measures I and my associate have recommended to the property owner will
17 serve to further enhance fire safety on this property.

18 I declare under penalty of perjury that the foregoing is true and
19 correct.

20 Executed at Carlsbad, California this 7th day of June, 2010.

21
22 _____
KEVIN CRAWFORD