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8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF LAKE**

10  
11 GARY SABALONE, ) Case No. 409878  
12 )  
Person asking for protection, )  
13 vs. )  
14 DAVID MENDOZA, )  
Person to be restrained. )  
15 )  
16 )  
17 )

DECLARATION OF DAVID MENDOZA  
IN SUPPORT OF OPPOSITION TO  
REQUEST FOR RESTRAINING ORDER  
AND IN SUPPORT OF MOTION TO  
QUASH, DEMURRER, AND MOTION  
TO DISMISS

DATE: March 24, 2011  
TIME: 8:15 a.m.  
DEPT.: 1

18 I, DAVID MENDOZA, declare:

19 1. I am the Chief of Police of the Robinson Rancheria Police Department and a  
20 Bureau of Indian Affairs, Office of Justice Services federally commissioned law enforcement  
21 officer (Commission #4641). I am submitting this declaration in support of the opposition to  
22 the request for a restraining order and in support of the motion to quash, demurrer, and motion  
23 to dismiss filed in the above-entitled matter. The information contained in this declaration is  
24 based upon my own personal knowledge and, if called as a witness in these proceedings, I could  
25 competently testify thereto.

26 2. On November 2, 2010, I, as the Chief of Police for the Robinson Rancheria, was  
27 asked to provide a civil standby for the employees of the Robinson Rancheria's Environmental  
28 Center and consultants hired by the Robinson Rancheria of Pomo Indians, including Dietrick

1 McGinnis of McGinnis and Associates. The tribal employees and the consultants made the  
2 request based on previous encounters with Gary Sabalone. McGinnis informed me that, in one  
3 encounter, Sabalone had confronted him while in possession of a firearm when McGinnis was  
4 testing a water well located on the Robinson Rancheria of Pomo Indian's Reservation.

5 3. Sabalone's owns a parcel of property within the exterior boundaries of the  
6 Reservation, which is surrounded on all sides by tribal land. The parcel is adjacent to the well  
7 that the tribal employees and consultants intended to test. His access to his property is by an  
8 easement through the Reservation.

9 4. Based on the potential public safety issue, I granted the request and assigned Sgt.  
10 John Irwin to perform the civil standby on November 3, 2011. In the afternoon of that day, I  
11 went to the well site to coordinate with Sgt. Irwin, who was going off-duty. I drove on the  
12 easement road to the gate area of Sabalone's property. There I saw the work crew and  
13 equipment set up in an open field less than 50 yards from Sabalone's gate. Sgt. Irwin's patrol  
14 car was also parked on the grass area on the shoulder of the easement. I noticed Sabalone's  
15 gate was unlocked and the lock was hanging by the chain. It appeared to me, based on the  
16 location of the equipment and crew, that they had accessed the water well by traveling through  
17 Sabalone's gate and into the open field area. I opened the gate and walked toward the open  
18 field where the work crew and equipment were located. There is no fence dividing Sabalone's  
19 property and the open field area of the Robinson Reservation where the work crew and  
20 equipment were located.

21 5. While walking to the open field area, a man, who was later identified as  
22 Sabalone, drove a pickup truck down from the house and aggressively confronted me about  
23 why I was trespassing on his property. The man remained in his truck and spoke to me through  
24 the open driver's side window.

25 6. I initially introduced myself to Sabalone and offered to shake hands. Sabalone  
26 refused to shake my extended hand. I then explained why I was there and explained that I  
27 thought that the course I was walking was the course used by the water testing crew to access  
28 the water well. Sabalone disregarded my explanation and continued to engage me. He stated

DECLARATION OF CHIEF OF POLICE DAVID MENDOZA  
IN SUPPORT OF OPPOSITION TO REQUEST FOR  
RESTRAINING ORDER

1 that the crew had not accessed his property and that I was trespassing. I apologized to him for  
2 my mistake and explained my actions were not intended to violate his property rights. Sabalone  
3 and I then engaged in conversation regarding his past experiences with the Tribe and of people  
4 trespassing on his property.

5 7. I continued to talk with Sabalone for the purpose of trying to resolve his  
6 concerns about my presence. I did not do so in defiance or disrespect, but to simply explain the  
7 reason for my presence. We concluded our conversation after talking about his concerns over a  
8 person who was recently paroled whom Sabalone believed was living on the Reservation. I  
9 explained that the person was not living on the Reservation. At the end of our conversation, we  
10 shook hands. I then left Sabalone's property without incident.

11 8. I had never met Sabalone before our encounter on November 3, 2010. I have had  
12 no further contact with Sabalone since that encounter. I made no statement to Sabalone during  
13 the November 3, 2010, conversation that would make him fear for his safety. If there was an  
14 adversarial tone to our conversation, it was adopted by Sabalone in confronting me.

15 9. It is my understanding that Sabalone alleges that, during the course of our  
16 conversation, I placed my hand on my sidearm. I do not recall doing so. If I did place my hand  
17 on my sidearm, it was in response to an officer safety concern of an unknown person  
18 approaching me from a vehicle.

19 I declare under penalty of perjury under the laws of the State of California that the  
20 foregoing is true and correct. Executed this 21 day of March, 2011, in Nice, California.

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22   
23 DAVID MENDOZA

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DECLARATION OF CHIEF OF POLICE DAVID MENDOZA  
IN SUPPORT OF OPPOSITION TO REQUEST FOR  
RESTRAINING ORDER