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Coyote Valley Band of Pomo Indians*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

COYOTE VALLEY BAND OF POMO  
INDIANS, a federally recognized Indian tribe,

Plaintiff,

v.

ROBERT FINDLETON, doing business as Terre  
Construction and On-Site Equipment; ANN C.  
MOORMAN, Judge of the Superior Court of  
Mendocino County, California, in her official  
capacity; SAVINGS BANK OF MENDOCINO  
COUNTY, a California corporation; JOHN AND  
JANE DOES 1-10; ABC CORPORATIONS 1-  
10; and XYZ LLCs 1-10,  
Defendants.

Case No. 4:22-cv-00607

**PLAINTIFF COYOTE BAND OF POMO  
INDIAN'S OBJECTION TO REQUEST  
FOR JUDICIAL NOTICE**

1 SAVINGS BAND OF MENDOCINO COUNTY, a  
2 California corporation,

3 Counterclaimant,

4 v.

5 COYOTE VALLEY BAND OF POMO INDIANS,  
6 a federally recognized Indian tribe,

7 Counter-defendant.

8 Plaintiff Coyote Valley Band of Pomo Indians (the “Tribe”) objects to Defendant Robert  
9 Findleton’s (“Findleton”) Request for Judicial Notice filed July 11, 2022. The Request for Judicial  
10 Notice should be denied for the following reasons.

11 **I. A REQUEST FOR JUDICIAL NOTICE IS NOT THE PROPER VEHICLE BY WHICH  
12 TO CITE A SUPREME COURT DECISION.**

13 Findleton requests that the Court take judicial notice of a recent unpublished slip opinion of the  
14 Supreme Court in *Oklahoma v. Castro-Huerta*, October Term, 2021 No. 21-429, June 29, 2022.  
15 However, a request for judicial notice is not the proper vehicle by which to bring this case to the  
16 Court’s attention. *See* Fed. R. Evid. 201(b) (“[T]he court may judicially notice a *fact* that is not subject  
17 to reasonable dispute”) (emphasis added). “[J]udicial notice is available only for adjudicative facts, or  
18 the facts of the particular case, as opposed to legislative facts, which are facts which have relevance to  
19 legal reasoning . . . whether in the formulation of a legal principle or ruling by a judge . . . or in the  
20 enactment of a legislative body.” *Toth v. Grand Trunk R.R.*, 306 F.3d 335, 349 (6th Cir. 2002) (citation  
21 and internal quotations omitted). It is “generally not the appropriate means to establish the legal  
22 principles governing the case.” *Id.* As such, Findleton’s request for judicial notice of *Castro-Huerta*  
23 should be disregarded.

24 **II. THE ACCURACY OF THE STATE COURT’S FINDING IS DISPUTED AND  
25 THEREFORE NOT APPROPRIATE FOR JUDICIAL NOTICE.**

26 Findleton also requests that the Court take judicial notice of an order in the underlying action,  
27 *Findleton v. Coyote Valley Band of Pomo Indians*, Mendocino County Superior Court Case No. SCUJ  
28 CV G 12-59929, ordering the Tribe to pay \$207,000 of the \$7,678,595 of sanctions sought by the  
Plaintiff (the “State Court Order”). However, the propriety of the State Court Order is in dispute.

1 Federal Rule of Evidence Rule 201(b) provides that the Court may “judicially notice a fact that  
 2 is not subject to reasonable dispute” because it is “generally known within the trial court’s territorial  
 3 jurisdiction” or “can be accurately and readily determined from sources whose accuracy cannot  
 4 reasonably be questioned.” Fed. R. Evid. 201(b). Judicial notice may only be taken of undisputed  
 5 matters. *Lee v. City of Los Angeles*, 250 F.3d 668, 689–90 (9th Cir. 2002) (district court erred by taking  
 6 judicial notice of disputed facts). When a court takes judicial notice of another court’s opinion, it may  
 7 do so “not for the truth of the facts recited therein, but for the existence of the opinion, which is not  
 8 subject to reasonable dispute over its authenticity.” *Id.* at 690 (quoting *Southern Cross Overseas*  
 9 *Agencies, Inc. v. Wah Kwong Shipping Grp. Ltd.*, 181 F.3d 410, 426–27 (3rd Cir. 1999)).

10 The accuracy of the holdings and conclusions of the State Court Order are heavily disputed and  
 11 therefore “do not remotely fit the requirements of Rule 201.” *United States v. Ritchie*, 342 F.3d 903,  
 12 909 (9th Cir. 2003). Although this Court may take judicial notice of the existence of the order itself,  
 13 judicial notice of the findings contained therein would not be appropriate.

14 For the foregoing reasons, the Tribe requests that the Court deny Findleton’s Request for  
 15 Judicial Notice.

16 DATED this 6th day of August, 2022.

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18  
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