

1 Mark J. Kallenbach, Esq., *pro hac vice*
2 Minnesota Attorney Reg. No. 146468
3 2260 Ridge Drive, Suite 13
4 Minneapolis, MN 55416
5 Telephone: 952-593-3858
6 Facsimile: 952-738-0467
7 markkallenbach@comcast.net

8 *Attorney for Interveners-Defendants Nicolas*
9 *Villa, Jr. and the Historic Ione Band of*
10 *Miwok Indians, a Federally Recognized Tribe*

11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA

13 NO CASINO IN PLYMOUTH and
14 CITIZENS EQUAL RIGHTS ALLIANCE,

15 Plaintiff,

16 v.

17 SALLY JEWELL, in her official capacity as
18 Secretary of the U.S. Department of the
19 Interior, *et al.*

20 Defendants,

21 and

22 IONE BAND OF MIWOK INDIANS,

23 Intervener-Defendant,

24 and

25 NICOLAS VILLA, JR. and HISTORIC
26 IONE BAND OF MIWOK INDIANS, a
27 Federally Recognized Tribe,

28 Interveners-Defendants.

Case No. 2:12-cv-01748-TLN-CMK

**INTERVENERS-DEFENDANTS
NICOLAS VILLA, JR. AND THE
HISTORIC IONE BAND OF MIWOK
INDIANS' JOINT MEMORANDUM
OPPOSING SALLY JEWELL'S AND
THE IONE BAND OF MIWOK
INDIANS' MOTIONS TO STRIKE
THE *PRO HAC VICE* APPLICATION
OF ATTORNEY MARK J.
KALLENBACH**

Date: December 11, 2014

Time: 2 p.m.

Judge: Hon. Troy L. Nunley
(Courtroom No. 2)

1 **I. SUMMARY OF THE CASE**

2 The Historic Ione Band of Miwok Indians (“Historic Ione Band of Miwok
3 Indians” or “Tribe” or “Band”) is a federally recognized Indian Tribe. Mark J.
4 Kallenbach, Esq. (“Kallenbach”) sought and obtained, by way of a *pro hac vice*
5 admission, the Court’s permission to represent the Tribe in the above captioned matter
6 [Docket 76].

7 The Bureau of Indian Affairs (“BIA”) and an *ad hoc* group of Indians, pretending
8 to be the Historic Ione Band of Miwok Indians (“Unrecognized Association of Indians”),
9 filed the pending Motions to Strike Kallenbach's *Pro Hac Vice* Admission for the
10 purpose of disqualifying him from representing the Tribe [Dockets 77, 78].

11 The BIA’s and Unrecognized Association of Indians’ argument for disqualifying
12 Kallenbach from representing the Tribe is that the federal government does not recognize
13 the Historic Ione Band of Miwok Indians. Instead, the BIA and Unrecognized
14 Association of Indians claim that the Unrecognized Association of Indians is an [the]
15 Indian Tribe that the federal government has acknowledged. [Dockets 77, 78].

16 The BIA and Unrecognized Association of Indians intentionally deceive the Court
17 by their failure to disclose documents created by the Department of the Interior (“DOI”)
18 and the BIA which reveal that the Historic Ione Band of Miwok Indians, and not the
19 Unrecognized Association of Indians, is the Indian Tribe that has garnered federal
20 recognition.

21 Once the Court has the opportunity to consider the DOI and BIA created
22 documents, together with other Court decisions concerning the Historic Ione Band of
23 Miwok Indians; it is Nicolas Villa, Jr.'s ("Chief Villa") and the Historic Ione Band of
24 Miwok Indians' belief and hope that the Court will deny the BIA’s and Unrecognized
25 Association of Indians’ Motions to Strike Kallenbach’s *Pro Hac Vice* Admission.
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1 **A. Summary of Historical Events and Facts Constituting the Subject**
2 **Matter for the Instant Motion "Introduction to the Historic Ione Band**
3 **of Miwok Indians"**

4 The Historic Ione Band of Miwok Indians is led by Chief Villa. The Tribe's
5 federal recognition was clarified and affirmed by Assistant Secretary Ada Deer on March
6 22, 1994 to remedy what amounted to an oversight of clerical error by the United States.
7 *See*, Chief Villa Decl. at Ex. A: Assistant Secretary Ada Deer's March 22, 1994 letter
8 addressed to Chief Nicholas Villa, Jr.

9 The BIA posts the following information on its website about the Historic Ione
10 Band of Miwok Indians:

11 **LIST OF PETITIONERS**

12 **BY STATE**

13 **(as of November 12, 2013)**

14 **CALIFORNIA – 81**

15 **2**

Ione Band of Miwok Indians
 c/o Mr. Nicolas Villa, Jr.
 (209) 274-2915
 2919 Jackson Valley Road
 Ione, CA 95640
 Letter of Intent to Petition 1916
 Status Clarified Administratively
 by Assistant Secretary 3/22/1994

20 The information contained in the BIA's website is consistent with Assistant
21 Secretary Ada Deer's March 22, 1994 letter [Chief Villa Decl. at Ex. A] and other of her
22 correspondence which is discussed in detail, *supra*.

23 DOI Solicitor, David L. Bernhardt's January 16, 2009 letter addressed to George
24 T. Skibine, who was then the Acting Deputy Assistant Secretary of Policy and Economic
25 Development, advised in relevant part that: "The opinion of the Solicitors' Office is that
26 the Band [Unrecognized Group of Indians] is **not** a restored tribe within the meaning of
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1 IGRA." (Emphasis added.) *See*, Chief Villa Decl. at Ex. B: David L. Bernhardt's January
2 16, 2009 letter addressed to George T. Skibine.

3 President Obama has confirmed receipt of Chief Villa's "RSVP" for the 2014
4 White House Tribal Nations Conference. *See*, Chief Villa Decl. at Ex. C: RSVP
5 Confirmation for the 2014 Tribal Nations Conference.

6 On November 16, 2014 Chief Villa was invited to participate in a "Tribal Leader
7 Call" with Secretary of HHS Sylvia Burwell on the Affordable Care Act -- Wednesday
8 November 19, 2014 @ 3:30 PM EST. *See*, Chief Villa Decl. at Ex. D: from "Theiele,
9 Raina D."

10 In short:

- 11 (1) Assistant Secretary Ada Deer affirmed and clarified the federal recognition
12 of the Historic Ione Band of Miwok Indians on March 22, 1994.
- 13 (2) The BIA's own website depicts that the Historic Ione Band of Miwok
14 Indians status was administratively clarified on March 22, 1994 and reveals
15 an address which is that of the 40 acres that the Tribe claims to be its lands
16 or is "Indian country."
- 17 (3) The January 16, 2009 opinion of the DOI'S Solicitors' Office is that the
18 Unrecognized Association of Indians is not a restored tribe within the
19 meaning of IGRA.
- 20 (4) The White House (President Obama) recognizes Chief Villa to be the
21 Historic Ione Band of Miwok Indians' tribal leader.

22 **B. Amy Dutschke, Director of the BIA's Sacramento, California Office,**
23 **Embarks on a Failed Mission to Dilute the Historic Ione Band of**
24 **Miwok Indians' Tribal Membership so that Her Family and Friends**
25 **can Benefit from an Indian Casino**

26 The BIA claims that that the Historic Ione Band of Miwok Indians has been a
27 "Tribe divided," essentially between the "Burris" and "Villa" families. *See*, Bearquiver
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1 Decl. Docket [78-1] at Ex. C, Assistant Secretary Ada E. Deer's July 27, 1994
2 Memorandum addressed to the Area Director, Sacramento Area Office. Sadly, that
3 division is the product of the BIA's meddling in tribal matters. In truth and in fact, the
4 BIA created the name tags of "Burriss" and "Villa" in order to establish false standing for
5 the "Burriss" family, including Amy Dutschke ("Dutschke")¹ and her family, within the
6 Historic Ione Band of Miwok Indians. Dutschke's grandfather and Harold Burriss' father
7 were twin brothers from Oleta. The Dutschke's and the Burriss' were not on the approved
8 tribal rolls in 1990 and 1994, but the BIA did place them on the "potential members list"
9 in 1996, without the consent of the Historic Ione Band of Miwok Indians. *See*,
10 discussion, *infra*.

11 What follows is a tragic and disturbing account of Dutschke's abuse of trust and
12 power vested in her as the Director of the BIA's Sacramento, California office; and later
13 on, in her position as the BIA's Pacific Regional Director, to take advantage of the BIA
14 created and sanctioned separation or extinction of Glen Villa, Sr., his family, and 5 other
15 members of the individuals appearing on the 1990 and 1994 approved tribal rolls from
16 the Historic Ione Band of Miwok Indians.

17 Chief Villa anticipated and had concerns about conflicts of interest that Dutschke
18 might have and informed the DOI of those very concerns.

19 On September 15, 1994 Assistant Secretary Ada E. Deer addressed a letter to Mr.
20 Nicolas Villa stating in part:

21 You requested that Ms. Amy Dutschke be required to withdraw from
22 participation in any discussion relating to the Ione Band of Indians. The
23 Sacramento Area Office recognizes that there is a potential for a conflict of
24 interest and Ms. Dutschke has restricted involvement in Ione matters.

25 _____
26 ¹ Dutschke was appointed to the position of the BIA's Pacific Regional Director in
27 October, 2010. Previously, she was the director of the BIA's Sacramento, California
28 office. *See*, Chief Villa Decl. Ex. E: Department of the Interior November 23, 2010 Press
Release.

1 See, Bearquiver Decl. Docket [78-1] at Ex. C, Assistant Secretary Ada E. Deer's
2 September 15, 1994 letter to Mr. Nicolas Villa.

3 What did Dutschke do?

4 Dutschke's proxies went on a membership binge actively recruiting anyone who
5 was willing to join the Historic Ione Band of Miwok Indians to expand its membership
6 rolls. By increasing the Tribe's membership rolls, Dutschke hoped to wrest political
7 control of the Historical Ione Band of Miwok Indians' government away from its rightful
8 constituents for delivery into the hands of those controlled by Dutschke's family
9 members and friends. See, Chief Villa Decl. at ¶ 1.

10 Dutschke and the Unrecognized Association of Indians covet control of the body
11 politic of the Historic Ione Tribe of Miwok Indians because they mistakenly believe that
12 if they can overtake the Tribe that they will have a tribal vehicle to drive the build out of
13 an Indian casino, which they expect will enrich themselves, friends, and immediate
14 family members. See, Chief Villa Decl. at ¶ 2.

15 Private investors who are interested in building out a casino project in Plymouth,
16 California have funded the Unrecognized Association of Indians' efforts to gain control
17 of the Ione Tribe of Miwok Indians' government. By way of example, upon information
18 and belief, the aforesaid private investors have given money to the Unrecognized
19 Association of Indians' Tribal Counsel for stipends or gifts to "buy" members which has
20 reached as high as \$2,000 for each adult. For the past two years, they had not provided
21 gifts, but in 2014, the gift was \$400. Chief Villa Decl. at ¶ 3 and Ex. F, 2014 distribution.

22 Except for a small splinter group of the Historic Ione Band of Miwok Indians'
23 members, which includes Chief Villa's brother, Glen Villa and his family members; few,
24 if any, of the remaining Unrecognized Association of Indians whose membership swelled
25 from a virtual non-existence to in excess of 750 members, based on the promise of riches
26 from an Indian Casino, are members of the Historic Ione Band of Miwok Indians. The
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1 Historic Ione Band of Miwok Indians has less than 100 members. *See*, Chief Villa Decl.
2 at ¶ 4; and discussion, *infra*.

3 **C. The BIA's (Dutschke's) Claim that Chief Villa was Voted Out of Office**
4 **Lacks Any Factual Basis and is Inconsistent with the Historic Ione**
5 **Band of Miwok Indians' Customs and Constitution**

6 Contrary to the BIA's and Unrecognized Association of Indians' allegations,
7 Chief Villa has never been ousted from or voted out of his position as Chief and Tribal
8 Chair.

9 In 1989, Chief Villa was voted in as the Tribal Chairman. *See*, Chief Villa Decl. at
10 ¶ 5.

11 In 1990, as is traditional practice, Nicolas Villa, Sr. passed on his role as the
12 traditional Tribal Chief to his son, Nicolas Villa, Jr. The tribal membership agreed with
13 Nicolas Villa, Sr.'s choice of his son. Pursuant to the Historic Ione Band of Miwok
14 Indian's custom and constitution, the position of traditional chief is a lifetime position
15 and only can change should the chief determine that he can no longer fulfill his
16 responsibility. *See*, Chief Villa Decl. at ¶ 6.

17 Any election that the Unrecognized Association of Indians claims resulted in
18 Chief [Chairman] Villa's ouster was not called consistent with the Historic Ione Band of
19 Miwok Indians' customs or Constitution or otherwise has any semblance of legitimacy.
20 *See*, Chief Villa Decl. at ¶ 7.

21 Chief [Chairman] Villa made a Freedom of Information Act ("FOIA") demand of
22 the BIA requesting documentation of the particulars of the election that purportedly
23 resulted in his legal removal from office. No such documents have ever been produced.
24 *See*, Chief Villa Decl. at ¶ 8; and, Ex. G, BIA response to Chief Villa's FOIA demands
25 and in depth discussion, *infra*.

1 The DOI's and BIA's inability to produce records documenting a legal election is
2 *prima facie* evidence that Chief Villa was never legally removed from office. This issue
3 will be addressed in significant detail, *infra*.

4 **D. The Historic Ione Band of Miwok Indians Has a Land Base**

5 The Historic Ione Band of Miwok Indians resides on approximately 40 acres of
6 land located at 2919 Jackson Valley Road, Ione, California. The monuments
7 memorializing the properties boundaries are still intact. *See*, Chief Villa Decl. at ¶ 9.

8 The present community of the Historic Ione Band of Miwok Indians considers the
9 aforementioned 40 acre parcel to be their reservation. One water supply services all of its
10 residents' dwellings. No one pays real estate taxes on the reservation land to Amador
11 County or to the State of California.² *See*, Chief Villa Decl. at ¶ 10.

12 On the other hand, the Unrecognized Association of Indians claims to be a
13 landless tribe. *See*, Court's file.

14 **E. The Historic Ione Band of Miwok Indians Has Continuous Federal**
15 **Recognition**

16 The Historic Ione Band of Miwok Indians did not and was not required to vote in
17 the Indian Reorganization Act of 1934-37. The Tribe has continuously received services
18 from the United States. *See*, Chief Villa Decl. at ¶ 11.

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20 ² *Villa v. Moffat*, No. 8160 (Cal. Super. Ct. Amador Co.) October 31, 1972, concerned a
21 quiet title action with respect to the 40 acre site situated in Amador County that the
22 Historic Ione Band of Miwok Indians claims is its reservation. The Court determined that
23 the 40 acre was owned by "Nicolas Villa, Sr., Effie Burris, Esther Burris, Harold E.
24 Burris, Barbara E. Hill, Fred Mike, Muriel Mike, Frank Pinion, Bernice Villa, Donald
25 Villa, Glen Villa, William Villa, and other members of the Ione Band of Indians." The 40
26 acre site qualifies as aboriginal lands and meets the requirements of the Indian Non-
27 Intercourse Act.

28 In the interest of candor and complete disclosure, there is an argument that title to the
reservation lands is not marketable. Such a title defect could easily be cured by the BIA
making the ministerial step of taking title to the property in trust as it has promised to do
for over 50 years. *See*, discussion beginning at p. 11 for an in depth discussion regarding
this matter.

1 The DOI argued in *Muwekma Ohlone Tribe v. Gale A. Norton, Secretary of the*
2 *Interior, et al*, that the Historic Ione Band of Miwok Indians was never terminated; and,
3 therefore never restored. *See*, DOI’s Reply Memorandum in Support of Defendants’
4 Cross-Motion for Summary Judgment in *Muwekma Ohlone Tribe v. Gale a. Norton,*
5 *Secretary of the Interior, et al*, No. 1:03 CV 1231 (RBW) filed 10/27/2005 [Docket 43]
6 at pp. 24-25 (DOI acknowledges that the Ione Band [Historic Ione Band of Miwok
7 Indians] is a federally recognized tribe.)

8 The *Muwekma* Court opined: [M]oreover, the Department [DOI] does not dispute
9 the *Muwekma*’s allegation that the Ione and Lower Lake, like the *Muwekma*, “were . . .
10 Central California tribes previously recognized at least as late as 1927” who did not
11 appear on the 1979 list of federally recognized tribes despite “never [having] been
12 terminated by Congress [or] by any official action of [the Department].” Pl.’s First SJ
13 Opp. at 5; see also Pl.’s First SJ Mem. at 23-27; Answer at 22-23. *See, Muwekma Dec.*
14 [Docket 74] at p.17.

15 On the other hand, the Unrecognized Association of Indians claims to be a
16 “restored tribe.”

17 Absent being a restored tribe, the Unrecognized Association of Indians have no
18 basis or reason for the federal government to take land in trust for them [upon which a
19 casino can be built].

20 **F. The Historic Ione Band of Miwok Indians' Motion to Intervene is**
21 **Made Solely for the Purpose of Insuring that It is Not Confused with**
22 **the Unrecognized Association of Indians**

23 The Historic Ione Band of Miwok Indians has only one purpose in bringing its
24 Motion to Intervene. That the Court recognize that the Historic Ione Tribe of Miwok
25 Indians, and not the Unrecognized Association of Indians, is the true, original, and
26 genuine Tribe that the federal government recognizes. *See*, Chief Villa Decl. at ¶ 12.

1 The true Historic Ione Band of Miwok Indians cannot idly stand and risk the
2 waiver of any legal rights that It may have to a group of imposters who are completely
3 ignorant of and have no appreciation for Its history and culture and whose only interest is
4 to steal Its identity so that it can build a casino. *See*, Chief Villa Decl. at ¶ 13.

5 The Historic Ione Band of Miwok Indians prays that the BIA's and Unrecognized
6 Association of Indians' pending Motions to Strike Kallenbach's *Pro Hac Vice* Admission
7 are denied.

8 **II. FACTS**

9 **A. Introduction to Professor Al Logan Slagle**

10 The Historic Ione Band of Miwok Indians is eternally grateful to Law Professor
11 Al Logan Slagle ("Slagle" or "Prof. Slagle") (1952-2002) who dedicated his life to
12 promoting and protecting the legal rights of all Native Americans, their children and
13 indigenous peoples around the world.

14 Given that the Historic Ione Band of Miwok Indians relies so heavily on the
15 works, research and opinions of Prof. Slagle, it is important for the Court to be fully
16 informed of his scholarship and expertise upon which Congress and at least one President
17 relied.

18 Prof. Slagle was a member of the Oklahoma based United Keetoowah Band of
19 Cherokee. *See*, Slagle Decl. at ¶ 8.

20 He received his under graduate and master degrees from the University of
21 California, Los Angeles. He completed his Doctorate at Loyola University. He was
22 admitted to the California State Bar in 1979. *See*, Slagle Decl. at ¶ 2.

23 From 1981 to 1985, Prof. Slagle was a visiting professor at Boalt Hall, University
24 of California, Berkeley; an assistant professor in the Department of Ethnic Studies at the
25 University of California, Berkeley from 1979 to 1986; and a visiting lecturer at Crown
26 Quad, Stanford University, in 1987. At the university level, Prof. Slagle taught courses
27 in tribal governance; Federal Indian policy; community development and planning;
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1 Native American ethnology, genealogy and history; and, history of Federal Indian
2 relations; and health policy. Prof. Slagle was an expert in tribal genealogy. *See*, Slagle
3 Decl. at ¶¶ 3, 5.

4 Prof. Slagle was an attorney for the Association on American Indian Affairs
5 (AAIA) in Washington, D.C. *See*, NatNews@yahoo.com; Subject: In memory of
6 Al Logan Slagle.

7 Prof. Slagle authored over sixty articles published in scholarly journals and
8 authored, edited, or co-authored numerous legal and historical texts and encyclopedia
9 articles. Prof. Slagle collaborated with others in writing the book entitled, "The Good
10 Red Road." *See*, Slagle Decl. at ¶ 4; and, NatNews@yahoo.com; Subject: In
11 memory of Al Logan Slagle.

12 Prof. Slagle was responsible for the development of the Privileges and Immunities
13 Technical Amendment Act of 1994. Senator John McCain stated that the passage of that
14 Act to be one of the most significant statutes for the protection of Native American tribal
15 governments. *See*, NatNews@yahoo.com; Subject: In memory of Al Logan
16 Slagle.

17 Prof. Slagle was appointed to the Task Force for Intergovernmental Affairs for the
18 purpose of reviewing the administrative process for Federal acknowledgment. *See*, Slagle
19 Decl. at ¶ 10.

20 When Members of Congress would request information from Prof. Slagle, they
21 soon learned that they needed to be specific or expect numerous boxes of materials to
22 arrive indexed and cataloged. For this, members of Congress respected him as an honest
23 and creditable scholar relentlessly carrying the torch for Native American issues. *See*,
24 NatNews@yahoo.com; Subject: In memory of Al Logan Slagle.

25 Prof. Slagle spent hundreds of hours reviewing "innumerable" documents
26 pertaining to the Historic Ione Band of Miwok Indians, its membership and its history.
27 The documents that Prof. Slagle reviewed included both those within the Tribe's
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1 possession and those located at various national archive offices, including archive
2 facilities in Oregon, California and Washington D.C. He conducted personal interviews
3 of Tribal members and leaders regarding the history and status of the Tribe. *See*, Slagle
4 Decl. ¶ 11. Many of those documents that Prof. Slagle reviewed are archived at the
5 University of California-Davis Special Collections-Al Logan Slagle Collection. *See*,
6 Kallenbach Decl. at Ex. A.

7 It is likely that all of the facts necessary to resolve the issue of concerning the
8 whether the federal government's recognition lies with the Historic Ione Band of Miwok
9 Indians or the Dutschke led Unrecognized Association of Indians are referenced in Prof.
10 Slagle's Declaration and supported by the documents archived at the University of
11 California-Davis.

12 **B. The Geneses of the Historic Ione Band of Miwok Indians and the**
13 **Unrecognized Association of Indians, is Different**

14 Thousands of years of history reveal that the Historic Ione Tribe of Miwok Indians
15 and Unrecognized Association of Indians are not of the same factions.

16 The "true, original and genuine" Historic Ione Tribe of Miwok Indians is a patra-
17 lineal Tribe composed of the Locolumne and Mokelumne bands, which united during the
18 late prehistory era. *See*, Al Logan Slagle Decl. ¶ 12.

19 The Unrecognized Association of Indians finds its geneses in the Northern Sierra
20 Miwok and Maidu Indians Tribes. *See*, Chief Villa Decl. at ¶ 14.

21 The Historic Ione Tribe of Miwok Indians' language is believed to be 2000 years
22 older than that of the Northern Sierra - Central Sierra group of Indians. *See*, Chief Villa
23 Decl. at ¶ 15.

24 The Historic Ione Band of Miwok Indians village, known as Yung-bu-tee, was
25 overrun by the soldiers from Sutter's Fort in Sacramento where they captured more than
26 200 of the Tribe's people during the gold rush period. "Fox" holes used to hide the
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1 women and children from the soldiers still can be found. Chief Villa's grandmother,
2 Sally John, lost her baby sister in one of the Sutter raids. *See*, Chief Villa Decl. at ¶ 16.

3 **C. The Historic Ione Band of Miwok Indians Has Ties to a Land Base**

4 The Historic Ione Tribe of Miwok Indians' connection to its 40 acre Ione,
5 California (the "Ione Rancheria") land base is well memorialized in history.

6 Prof. Slagle found the following documents particularly noteworthy:

7 (a) A letter dated August 16, 1923, from T. G. Negrich to Superintendent
8 Miller:

9 "Concerning the length of time the Indians have lived on the
10 disputed tract, the information I can gather is that they have been
11 there for as far back as the white settlers can remember. Most people
12 put it over 100 years. Whether this is so or not I cannot say and do
13 not care to be quoted, except as basing this information upon what
14 has been told me. In view of the fact that in the tract there is an
Indian cemetery, that fact alone would justify the conclusion that
they have lived here for a great many years."

15 (b) John J. Terrell, *Census of Ione and Vicinity [sic] Indians* (May 17, 1915).
16 This report considered the settlements of Ione Band of Miwok Indian
17 located at Ione, Jackson and Richey to be a single unit. In Terrell's report
18 to the Commissioner, which accompanies the Census, Terrell discusses
19 political organization, and even a highly divisive 1915 election dispute.
20 Terrell's interview notes include the response of Chief Charley Maximo
21 regarding the Band's tenure at the Ione Rancheria site:

22 "My wife's people have been here since before the sun first
23 come up over that hill." [File # 54777, in Record Group 75,
24 Records of the Bureau of Indian Affairs, Central Classified
Files, 1907-1939, Roseburg, 310, file 108.465-14.]

25 In Terrell's own written words:

26 "Of all the Indians I have visited these have stronger claims
27 to their ancient Village than any others. They have better and
28 more extensive improvements, especially in the erection of
their large "Sweat House". ... As I see it, a crime would be

1 committed in forcing these Indians from this ancient village."
2 (ATP. 3; Rump Tab 2.)

3 *See*, Slagle Decl. ¶ 14.

4 **D. The United States Tries to Acquire a Land Base for the Historic Ione**
5 **Band of Miwok Indians**

6 From 1904 to 1931, the United States repeatedly attempted (but failed) to establish
7 a trust land base in Amador County to accommodate the Historic Ione Band of Miwok
8 Indians.

9 1. In 1970-1972, the Tribe took their efforts to court. They filed an adverse
10 possession action in an effort to clear title and (finally) get the Ione
11 Rancheria put into trust. Though the adverse possession action was
12 successful, the Tribe was unable to get title insurance.

13 2. The BIA eventually decided to clarify the Tribe's status as a currently
14 recognized tribe. (Both their Federal trust land bases at Buena Vista and
15 Jackson remained terminated at that time.) By letter of agreement dated
16 October 18, 1972, addressed to the Ione Band's Chief, Nicolas Villa, Sr.,
17 Commissioner of Indian Affairs Louis Bruce:

- 18 (a) Agreed that the Tribe had been recognized previously and had not
19 voted against organizing under IRA (1934);
20 (b) Directed the Acting Area Director in Sacramento to aid the Tribe in
21 organizing its constitution and roll for approval under 25 U. S. C.
22 Sec. 476; and
23 (c) Agreed to take the Ione Rancheria in trust upon clearing title.

24 Pursuant to Commissioner Bruce's letter, the deed was sent to
25 Washington, D. C. - but was never returned to the Tribe.

26 3. Thereafter, a letter from Commissioner Bruce to the Sacramento Area
27 Director dismissed the issue of clearing title of the land base for
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1 transference into trust as being unimportant to their entitlement to
2 recognition. The letter states:

3 "It does appear from a review of the documents
4 accompanying a recent request for the formal recognition of
5 these Indians, however, that the questions raised by the
6 Assistant Secretary in his memorandum of January 26, 1973,
7 have been satisfactorily answered, and that these Indians
8 merit the extension to them of Federal recognition.

9 Under authority delegated to me by 230 DM 1.1, I hereby
10 extend Federal recognition to the Ione Band of Indians, and
11 ask that assistance be extended to the band in its preparing to
12 tender a clear title to a 40-acre tract in Amador County to be
13 held in trust for it by the Secretary and that it also be assisted
14 in drafting appropriate documents for its organization under
15 the Indian Reorganization Act of 1934."

16 As of Dec. 4, 1974, this letter was held in the Solicitor's Office, coded
17 "Holdup/540:ZBarrow:md...11-26-74/Cass. B., Ref. 16."

18 4. In a memorandum dated February 24, 1975, from Assistant Solicitor Scott
19 Keep to the Associate Solicitor of Indian Affairs, Asst. Solicitor Keep
20 states:

21 "The Ione Band of Indians is a small California group
22 residing on a 40 acre tract of land in the central part of the
23 State generally east of Sacramento. The Department has been
24 trying to acquire land for this group for almost 60 years."

25 "The Bureau's memorandum which is in for review is framed
26 in terms of extending Federal recognition to the Ione Band....
27 [M]y review of the available materials convinces me that the
28 Ione Band has previously been recognized by the Federal
29 Government...**From the materials that I have it is not clear
30 why the Area Director did not complete the action
31 directed by the Commissioner.**" (emphasis added.)

32 *See*, Slagle Decl. ¶¶ 15-19.

33 Although the 40 acre land base has yet to be "officially" placed into trust; taking
34 the property into trust is an administrative ministerial task as all that the BIA needs to do

1 is to acquire legal title from the owners identified in *Villa v. Moffat*, No. 8160 (Cal.
2 Super. Ct. Amador Co.).

3 On the other hand, the Unrecognized Association of Indians disclaims ownership
4 in any land. *See*, Court's file.

5 **E. The Unrecognized Association of Indians Has No Ancestral Nexus to**
6 **the Historic Ione Band of Miwok Indians**

7 Since historical times, the Historic Ione Band of Miwok Indians' membership has
8 consisted of several major families or kinship groups. The tribal leaders participated in
9 and were signatory to the Treaty of 1851-52 at Camp Consumes. Their families can be
10 traced to the May 17, 1915 special census conducted by Special Indian Agent for
11 California, John J. Terrell, discussed, *supra*, of the 102 members of the Ione Band of
12 Miwok Indians then residing at the Ione Rancheria, the Digger Reservation (also called
13 Jackson Rancheria), and the Richey Rancheria/Buena Vista. *See*, Slagle Decl. ¶ 39.

14 According to custom, the north and west portions of the Ione Rancheria were
15 traditionally and historically assigned to a succession of various families. The south and
16 east portions were originally assigned to members of what is now where the many of
17 Villa family continue to reside. Bernice Burris and Nicolas Villa, Sr. were married and
18 had had four children. Bernice had a daughter from a previous relationship who was
19 adopted by Nicolas Villa, Sr. Of the five descendants, four live on the 40 acre land base
20 with the fifth being deceased. The population is geographically segregated from even the
21 nearest non-Indian neighbors by a boundary marked by U. S. government-paid barbed
22 wire fencing dating to at least the turn of the 20th century. *See*, Slagle Decl. ¶ 40.

23 Most of the Historic Ione Band of Miwok Indians' members belong to what are
24 the BIA inartfully refers to as the Villa/Burris lines. Other family lines are now extinct,
25 or nearly so. Notable examples include the Maximo name, which is extinct among the
26 Ione with no lineal descendants residing on the forty-acre Rancheria; and the Oliver line,
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1 having one sole survivor, Lucille Lucero, who resided at Buena Vista Rancheria until her
2 death in 1995. *See*, Slagle Decl. ¶ 41 and ¶ 43.

3 The Burris family abandoned the Historic Ione Band of Miwok Indians' prior
4 January 28, 1990. Although the Historic Ione Band of Miwok Indians has repeated
5 invited the Burris family members to participate in Its affairs, the Burris family has
6 spurned Its offers. *See*, Chief Villa Decl. at ¶ 17 and Ex. H, Harold Burris' 1-28-90 letter
7 addressed to Mike Lawson.

8 **F. The "Ranking" Members of the Unrecognized Association of Indians**
9 **Are Not Descendants of the Historic Ione Band of Miwok Indians**

10 Yvonne Miller is the Unrecognized Association of Indian's chairperson. Ms.
11 Miller's mother joined the Historic Ione Band of Miwok Indians in 1991 as a Class II
12 Member. A Class II member is only entitled to federal services, housing, education,
13 health without land base rights, no voting privileges are extended. She only enrolled
14 herself as all of her children were adults at that time. None of her children, including
15 Yvonne Ybright Miller, ever applied for membership.

16 Ms. Miller does not appear on the tribal rolls of 1990 and has never voted in any
17 of the Tribe's elections. She claims to be Northern Sierra Miwok and Maidu. She did not
18 appear on the rolls of the Unrecognized Association until a few years ago as money was
19 handed out to those who would claim membership on nothing less than an annual basis
20 totaling between \$400 - \$2000 per year.

21 Vice Chairman, Glen Villa Sr., is part of the splinter group that misled the BIA
22 into believing that he had removed Chief Villa from office. First, it should be noted that
23 Glen Villa, Sr. did not have the authority to perform such an action and such an action is
24 in violation of the Tribe's Constitution and traditional practice. Glen Villa, Sr. now
25 resides on the tribal land base referring to it as his private property and he makes no
26 claim to his father's side of the bloodline.

1 Secretary, Glen Villa Jr., follows his father's lead. He was too young to
2 participate in the 1996 takeover action by Glen Villa, Sr., Amy Dutschke and her family.
3 He has not lived on the tribal land base since 1990 and has never voted in any Tribal
4 elections.

5 Treasurer, Sandra Waters, has never applied for membership in the Tribe. She has
6 never lived on the tribal land base nor have any of her alleged relations. It is unknown
7 what, if any, tribal affiliation she might have. She has never voted in any of the Tribal
8 elections.

9 Member at Large, Frank Cardenas, was forced out of the council and replaced by
10 David Andrew Ramey. It is unclear if Mr. Ramey is a member of Toulumne Rancheria.
11 He has never resided on the Tribal land base nor voted in any tribal elections. He is the
12 son of Kathryn N. Ramey.

13 **G. Election Issues**

14 From the onset, Ms. Dutschke and her family, Yvonne Miller, the Unrecognized
15 Association of Indians' chairperson and her family, and the remaining 750 members of
16 the Unrecognized Association of Indians, save and except for Chief Villa's brother and
17 his family members: (a) never voted in the Historic Ione Tribe of Miwok Indians'
18 elections; (b) never lived on the 40 acre Ione, California reservation; or, (c) have any
19 historical connection to the Historic Ione Tribe of Miwok Indians. *See*, Chief Villa Decl.
20 at ¶ 18.

21 Yet, based on the following convoluted BIA [Dutschke] sponsored sequence of
22 events, the Unrecognized Association of Indians and the BIA claim that Chief Villa was
23 voted out of office resulting in the Unrecognized Association of Indians overtaking the
24 federally recognized Historic Ione Tribe of Miwok Indians. The so-called election,
25 assuming that it ever occurred, was so corrupt and laden with fraud with over one half of
26 its members being disenfranchised that it could hardly be called an election, let alone an
27 election that had any legal effect.
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1 **H. The 1996 Election**

2 The Unrecognized Association of Indians claims its governance in a 1996
3 election, wherein Nicholas Villa, Jr., the Chief and Chairman of the Historic Ione Tribe
4 of Miwok Indians, is "voted out."

5 **I. Pre 1996 Election Events**

6 Subsequent to Assistant Secretary Deer's March 22, 1994 clarification and
7 reaffirmation of the Historic Ione Band of Miwok Indians, the Villa Government and
8 Burris family agreed to pursue mediation in which the BIA would have only a limited
9 role in facilitating the process of establishing a functional government. In December of
10 1995, the mediation process fell apart. Thereafter, various splinter groups formed within
11 the Tribe and small groups of disgruntled tribal members claimed to have created a new
12 tribal entity under the original or modified names of the Tribe. *See*, Slagle Decl. ¶ 53.

13 The BIA met with the Burris and Ramey factions, declining to notify or include
14 the Villa Government. The Burris and Ramey factions proceeded to reject all prior tribal
15 membership rolls and governments, and unilaterally went forward to create a "new" tribe,
16 excluding the Villa Government. *See*, Slagle Decl. ¶ 54.

17 The Burris and Ramey factions failed to include the majority of the 53 true Tribal
18 members in the Tribe's membership rolls. *See*, Slagle Decl. ¶ 55.

19 Historically Tribal membership had been a matter of bilateral exchange of rights
20 and entitlements for responsibilities and loyalty. The Tribe requires **current residency**
21 for voting rights and full membership. A voluntary absence from and non-participation
22 in the Tribe for twenty continuous years constitutes a voluntary relinquishment of
23 membership rights in the Tribe. *See*, Slagle Decl. ¶ 56.

24 Despite these longstanding requirements, no member of the Ramey faction meets
25 the criteria to run for, or hold office in, the Ione Band of Miwok Indians, with the
26 possible exception of Lisa Pulskamp. Notably the only potential members participating in
27 the Ramey faction and living on the Tribe's land base are Ms. Pulskamp and her children,
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1 Bernice Villa and Noma Jean Hendricks, all of whom the land base shortly after the
2 election. *See*, Slagle Decl. ¶ 57.

3 Furthermore, the BIA established Enrollment and Election Committees and the
4 Ramey and Burris groups never addressed the authority of the 1994 Tribal constitution,
5 enrollment ordinance, or base roll, and never attempted to replace these by any
6 democratic process involving the "general council" or other claimed authority in lieu of
7 the original Tribal government. *See*, Slagle Decl. ¶ 58.

8 **J. The 1996 Election is a Sham Election that is Invalid *Ab Initio***

9 Prof. Slagle observed and kept a record of the election procedures that were
10 initiated by the BIA in 1994 and concluded in September of 1996. Based upon his
11 knowledge of the traditional practices of the Ione Band of Miwok Indians, its history, its
12 recent governments, and a thorough examination of and participation in the 1996
13 organizational process, Prof Slagle concluded that: **the September 28, 1996, election of**
14 **the Interim Tribal Council cannot be considered a valid election of the Ione Band of**
15 **Miwok Indians as reaffirmed by Ada Deer in 1994.**

16 Prof. Slagle's reasoning for reaching the conclusion that the September 28, 1996
17 election was invalid is based on the following predicates:

- 18 (1) The potential voter roll enfranchised a group of Indian descendants of various
19 tribes, along with persons of no known Indian descent or affiliation that had never
20 had bilateral relations with the Tribe and could not legitimately be considered
21 "potential tribal members" by any generally accepted criteria.
- 22 (2) The historical Tribal membership composed of various families, including the
23 Villa family, that had resided on the land base and maintained bi-lateral relations,
24 did not authorize, consent to, or ratify the election.
- 25 (a) The Enrollment Committee and Election Board were composed
26 entirely of representatives designated by the BIA leadership of the
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1 Hill/Ramey and Burris Groups, but were not chosen in noticed
2 meetings in which Tribal members were invited to attend.

3 (b) Members of Chief Villa's Group, which represent a majority of the
4 Villa family, were given no representation on either the Enrollment
5 Committee or the Election Board. Instead, they were explicitly,
6 deliberately and systematically excluded.

7 (c) Eventually, even the Burris group lost its representation on the
8 Election Board, when its designated members defected during the
9 process and the BIA permitted no replacement, leaving the Burris
10 group without representation.

11 (3) Neither the Chief Villa Group or the other families, which represent more than
12 two-thirds of the members of the land base Tribe, have recognized the validity of
13 the election.

14 (4) The only remaining resident from the land base on the Election Committee at the
15 time of the "selection", Carol Mae Boring, did not certify the election. Even then,
16 Carol Boring had no standing to participate in the election as she never
17 participated in any Tribal elections or other Tribal functions. She is the daughter
18 of guest Harold Burris. Harold Burris purported to be separate from the Tribe and
19 the government to which Chief Villa represented. *See*, Chief Villa Decl. at ¶ 19
20 and Ex. H, Harold Burris 1-28-90 letter addressed to Mike Lawson.

21 (5) A careful examination of the Enrollment Committee's record shows that virtually
22 all persons the Enrollment Committee listed as their "members" never had any
23 degree of social or political affiliation with the Tribe prior to April 1996 when
24 their names suddenly began appearing on "potential members lists" before they
25 even had applied for membership.

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1 The claimed genealogical association between these individuals and the
2 Tribe are deeply suspect and often lack any documentation - particularly lacking
3 any previous record of bilateral relationships with the Tribe.

4 The potential members' list created by the BIA and the Hill/Ramey and
5 Burris groups was composed of individuals of heterogeneous origins who
6 previously had enjoyed no bilateral affiliation with the Tribe. While many of
7 these individuals may have descended from California Indians of various tribes,
8 most had been affiliated with a variety of unacknowledged Indian groups that had
9 separately sought Federal recognition between 1989 and 1995 under such names
10 as: the Sierra Miwok; Amador Tribal Council; Consumnes River Tribe; and Ione
11 Band of Indians (primarily consisting of Harold Burris, Sr.'s immediate family and
12 in-laws, descendants of the Oleta/Aukum community of 1915, by their own
13 account.)

14 Careful scrutiny of the last posted "potential voters" list revealed names of
15 scores of individuals whose names appear in no other "potential members" list
16 dated earlier than April 16, 1996; and many names that were added in September
17 1996, for whom there is no earlier record.

18 There is no doubt that the membership and mailing lists of the Amador
19 Tribal Council, the Sierra Miwok Council, the Consumnes River Tribal Council,
20 and the Miwok Nation Council were used as important sources for the Enrollment
21 Committee's "potential membership" list of names.

- 22 (6) There is no evidence of how the Enrollment and Election Committees determined
23 descendancy from the 1915 census of "Ione Indians". The 1915 census included
24 persons who must be entitled to participate in the Jackson and Buena Vista
25 Rancherias, as well as Tuolumne, Oleta/Aukum, Auburn, Wilton, and possibly
26 other regional rancherias, without requiring people to choose unitary affiliation
27 with the Ione Band. Similarly, there is no evidence indicating how the
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1 Committees ascertained the identities of the indeterminate class of persons named
2 in a prior judgment *Villa v. Moffat*, No. 8160 (Cal. Super. Ct. Amador Co.)
3 concerning the land base.

- 4 (7) There is little evidence in the documentation of the Enrollment and Election
5 Committees to indicate that this coalition of Ramey and Burris factions ever
6 adopted and enforced objective criteria for determining membership, voting rights
7 or administration of the voting process.

8 The Election Committee had no clear criteria for determining eligibility to
9 vote, though historically the Tribe's eligibility criteria included documented
10 identification and records of descent from a person of actual and exclusive
11 bilateral relation with the Ione Band.

- 12 (8) With the 1996 election, however, it is impossible to tell whether most of the listed
13 "potential voters" met any of the traditional requirements, nor even whether they
14 could have met criteria relating to age, in-person voting, residency, or the like.
15 The absence of records even includes such basic matters as addresses, phone
16 numbers, etc., relating to most of the listed "potential voters".

- 17 (9) There is no record indicating the due process steps taken (if any) to ensure
18 enforcement of the election rules - whatever the "rules" may have been. Persons
19 who should have been included on the voters' list were arbitrarily removed and
20 similarly situated persons received inconsistent treatment.

21 For example, Barbara Espinoza, a longtime resident of the Rancheria and
22 secretary/treasurer of the Tribe, was not allowed to vote by her own daughter, Lisa
23 Pulskamp. Ms. Pulskamp also unilaterally left both herself and her brother, Loren
24 Hill, (chair of the previous Hill group), off the potential voters' list. However,
25 when the BIA and Election Committee announced that only persons whose names
26 appeared on the approved voters' list would be allowed on the premises at the date
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1 of the election, Mrs. Pulskamp not only gained admission, she voted and won a
2 seat on the council.

3 (10) There is no record of registered letters of announcement or notices regarding the
4 election process having been sent to eligible voters with verified mailing
5 addresses.

6 (11) **Fewer than half of those persons qualified as adult voting members of the**
7 **Tribe at the time of Its recognition were on the list of potential voters in the**
8 **1996 election, or permitted to participate in the election.** Their numerous
9 individual and class appeals and protests to the BIA and to the Committees have
10 been unavailing.

11 (12) At the same time, 92% of the names on the "potential voters" lists in September
12 1996 never participated in the Tribe, never lived on the land base, nor had ancestry
13 residency or age information available to the Tribe confirming their qualification
14 to vote in that election. Likewise, neither the Ramey faction nor the Burriss family
15 appears to have this data.

16 *See*, Slagle Decl. ¶ 60.

17 Prof. Slagle concludes that the entire process is more akin to a "selection" rather
18 than "election" process. *See*, Slagle Decl. ¶ 61.

19 **K. Further Post-Election Analysis**

20 The BIA and Ramey faction have failed to respond to demands to produce records
21 relating to the meeting that resulted in the September, 1996 "election." At least one
22 person (Ms. Pulskamp) ran for office, even though her name did not appear on the initial
23 posted "potential voters" list before that date (only appearing later upon republication of
24 the list); even though she helped prepare those lists; and even though the Election
25 Committee had advised the audience at a September 6, 1996 public meeting that only
26 individuals whose names were on the posted voters lists would be allowed to attend or
27 vote in any election. *See*, Slagle Decl. ¶ 62.

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1 Likewise, there is no available record of how many ballots were returned as a
2 result of the election. *See*, Slagle Decl. ¶ 63.

3 **L. Qualifications of "Potential Voters" and Potential Members"**

4 If the Ramey council had used a residency requirement, only four (4) voters - or
5 1.7% - of the purported 236-persons listed on the "potential voters" list (handed out
6 September 6, 1996) would have been eligible to vote in a secretariially-supervised
7 election under 25 U.S.C. Section 465 and 25 C.F.R. Section 81. *See*, Slagle Decl. ¶ 64.

8 Of the 214 named individuals on the subsequent September 15, 1996 version of
9 the "potential voters" list, at most 36 (17%) would have qualified as participants based
10 upon their proven affiliation with the Burriss family or Ramey faction. *See*, Slagle Decl. ¶
11 65.

12 The remainder of these "potential voters" either lacked Tribe qualified ancestry or
13 Tribe Reservation residency; had not reached the age of majority; had dual/multiple tribal
14 affiliations; had not applied for and received membership rights in the Tribe; or were
15 either certainly or very probably deceased. *See*, Slagle Decl. ¶ 66.

16 The physical addresses of individual "potential members" of the Ramey faction, to
17 the extent they are available, reveal that the 1996 enrollment project was nothing but a
18 recruitment drive - a procedure to which the Secretary objects in all cases where it may
19 arise. Of the persons whose names appeared on the last published "potential voters" list:

20 (a) 34% (about 72 persons) claimed to be related by blood or marriage to persons
21 enrolled with the Tribe at the time of the 1994 Reaffirmation - 61 of which are
22 members of the Burriss or Villa families related by blood.

23 (b) 21% (45 persons) represent family groups that are new to the Ione Band of Miwok
24 Indians; appear on no records of the Ione Band of Miwok Indians or the Burriss
25 faction earlier than 1995; and all with undocumented claims to Native American
26 ancestry.

1 Of these 45 individuals, 21 names appear to belong to current or former in-
2 laws of Harold Burris and his immediate family, including individuals of no
3 claimed California Indian or other Native American ancestry. According to the
4 annotated lists that the Burris and Hill/Ramey groups exchanged on the
5 Enrollment Committee before May 21, 1996, some of these include recent
6 emigrants from Arkansas and elsewhere with no known direct genealogical ties to
7 any Indians at all, except those claimed by current or former marriage.

8 (c) The remaining 100 or so names on the last "potential voters" list cannot be
9 considered as having any known relation to anyone else in that list because their
10 family histories are unknown. These 100 names never appeared on any list of
11 members (or "potential members") of the Ione Band of Miwok Indians, nor the
12 AHill/Ramey or Burris factions, earlier than 1996. Some of these 100 share the
13 surnames of earlier members and possibly represent new family groups, based
14 upon undocumented claims of Ione Miwok ancestry.

15 *See*, Slagle Decl. ¶ 67.

16 **M. Federal Law Prohibits Dual Memberships in More than One Federally**
17 **Recognized Tribe**

18 Federal regulations generally prohibit membership in more than one federally
19 recognized tribe. The traditional Tribe [Historic Ione Tribe of Miwok Indians] has always
20 forbidden dual affiliations and disqualified those who retained or enjoyed rights in any
21 other Tribe. *See*, Slagle Decl. ¶ 68.

22 There is no record even suggesting that the Election Committee made any effort to
23 determine whether potential voters, or more importantly, elected officers, were enrolled
24 members of other tribes. *See*, Slagle Decl. ¶ 68.

25 Not only did the Committees fail to verify or investigate this issue, many key
26 players in the 1996 election were themselves dual membership individuals. For example:
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- 1 (a) Katherine Ramey and her brother, Dennis Hendricks, Jr., are the children of
2 Dennis Hendricks, Sr. It is general knowledge that Dennis Sr. is the former
3 chairman and that their uncle is another former chairman of the Tuolumne
4 Rancheria. All four, including Katherine Ramey, were currently enrolled
5 members of the Tuolumne Rancheria at the time of the election, having never
6 relinquished their membership there.
- 7 (b) Violet Ray was chairman of the Auburn Rancheria when it was terminated and a
8 member of the restored Auburn Rancheria (affiliated with a party that lost its
9 election) some months before her name showed up on the "potential members"
10 and "potential voters" lists. Also on the list are names of her family members and
11 members of her party.
- 12 (c) Johnny ("Gil") Jamerson was an elected or appointed leader of at least one other
13 federally-unacknowledged Indian group, the Consumnes River Tribe. This tribe
14 considered itself a candidate for Federal acknowledgment in 1994-1995, after the
15 clarification of the status of the Ione Band of Miwok Indians. Neither Johnny
16 "Gil" Jamerson, nor any of the Jamersons listed on the "potential members" list,
17 ever had bilateral relations with the Ione Band of Miwok Indians and all have
18 made only undocumented claims of association with a family of similar name that
19 lived at the Rickey/Buena Vista site in 1915. Furthermore, Jamerson is listed as a
20 "member at large" of the Ramey Interim Council, but neither he nor any of his
21 family appeared on the September 28, 1996 "potential voters" list.
- 22 (d) William Franklin, Sr., and his family always have claimed to be Maidu, not
23 Miwok. Scholarly articles and interviews refer to him as a Maidu elder or
24 community leader. He is currently listed as an "elder" of the Interim Council, and
25 his descendant, Matthew Franklin, is listed as a member of the Interim Council.
26 Until 1996, neither had bilateral relations with the Ione Band of Miwok Indians as
27 members.
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1 *See*, Slagle Decl. ¶ 70.

2 **N. Residency**

3 Prof. Slagle prepared maps comparing the residency of the "members" of the
4 Historic Ione Tribe of Miwok Indians as of the 1994 Reaffirmation and, conversely, as of
5 the 1996 election. For the 1996 map, since available addresses of recruits are almost
6 entirely in Sacramento, California, those without known addresses are included in
7 Sacramento pending availability of other addresses. Prof. Slagle's maps reveal that the
8 great majority of the Ramey Tribe lives far from the land base. *See*, Slagle Decl. ¶ 71.

9 If the Ramey council had used a residency requirement for voting, only four (4)
10 voters they listed as eligible and voting in person - less than 2% of the purported
11 "electorate" - would have been eligible to vote in a secretarially-supervised election
12 under 25 U.S.C. Section 465 and 25 C.F.R. Section 81. *See*, Slagle Decl. ¶ 71.

13 During meetings held the week of September 25, 1994, at the offices of the
14 Advisory Council on California Indian Policy, Prof. Slagle personally observed Harold
15 Burris with other members of his family looking through a printout of the "1972 Indians
16 of California Judgment Roll" for names and addresses of potential recruits for their
17 faction residing in the Sacramento area. Records of testimony before the Advisory
18 Council on California Indian Policy in 1994 also include presentations by Gil Jamerson
19 (representing the so-called "Consumnes River Tribe") and members of the Burris family,
20 seeking their own separate recognitions until the BIA's Central California Agency invited
21 them to take over the Ione Band of Miwok Indians. *See*, Slagle Decl. ¶ 73.

22 The "potential voters" list itself reflects an even further removal from, and
23 abandonment of, the continuous Tribal character. Careful scrutiny of the last posted
24 "potential voters" list, containing 214 names, reveals 165 individuals (77% of the total)
25 whose names appear suddenly in the "potential members" list after February 1996
26 (including 44 individuals whose names were added in September, 1996, and for whom
27 there is no earlier record.) At least one of these, Katherine Hendricks Ramey, along with
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1 her brother and children, was found to be enrolled at Tuolumne Rancheria before she
2 participated in the creation of the "Hill/Ramey" faction and positioned herself as its
3 leader. *See*, Slagle Decl. ¶ 74.

4 **O. Summary of the BIA Approved Election Fraud**

5 In 1994, the BIA "reaffirmed" the previously-recognized Historic Ione Band of
6 Miwok Indians.

7 Comparing with the 1994 membership list submitted and accepted during the
8 reaffirmation process to the 1996 list, the 1996 list excludes over half the adult voting
9 members residing on the Rancheria and many of their children.

10 The 1996 Election and Enrollment Committees replaced an established and
11 recognized list of Indian Tribal members with an indeterminate list of persons whom to
12 this date remain in the uncertain status of "potential members".

13 The 1996 Election and Enrollment Committees have disenfranchised over half the
14 originally recognized Historic Ione Band of Miwok Indians.

15 The BIA's ineptitude, politely stated, or worse active participation in the 1996
16 Election and Enrollment Committees' approval of the arbitrary disenfranchisement of the
17 majority of the Historic Ione Band of Miwok Indians reflects its intention to abandon
18 continuity of Tribal character.

19 Neither the Enrollment Committee nor the Election Committee required residency
20 on or even near the Ione Rancheria, nor any other nexus with the aboriginal territory of
21 the Ione Band of Miwok Indians, as a criteria for membership, voting, or any other
22 participatory rights in their process. After much controversy, the Committees first refused
23 to use inclusion in the *Villa v. Moffat* named class as a test for membership and voting.
24 Thereafter, they refused inclusion of any requirement of continuous contacts, over the
25 last generation, between "potential members" and the resident or non-resident
26 populations whose names already appeared on a preliminary draft list of potential
27 members issued from the former Hill/Ramey and Burris factions. The Committees next
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1 abandoned any requirement of nexus with the Tribe at the time of reaffirmation (1994) or
2 over the past twenty years.

3 As a result, no substantial connection exists between the Ramey Council and its
4 "potential members" and the Ione Rancheria. In short, the "Interim Council" consisted in
5 large part of persons who had nothing to do with the Historic Ione Band of Miwok
6 Indians' reaffirmation nor with the Tribe itself until after March 1996. The "potential
7 members" list does not qualify as a list defining descendancy from the Historical Band of
8 Miwok Indians, nor the rights of certain members to participation by virtue of the *Villa v.*
9 *Moffat* class.

10 The 1996 BIA sanctioned election was plain and simply a sham akin to that of
11 what goes on in third world countries. The BIA should be ashamed of its behavior and
12 failure to oversee the "fixed" 1996 election. Rather than acknowledging its error or admit
13 to actively participating in the administrative hijacking of the election; the Dutschke run
14 or supervised BIA Sacramento, California office continues to perpetuate a fraud on the
15 Historic Ione Band of Miwok Indians and the citizens of the United States. The BIA's
16 participation in a fraud and identity theft needs to end.

17 In 2003, the BIA claimed to be conducting a Secretarial Supervised Election to
18 adopt a constitution for the Unrecognized Association of Indians. However, under FOIA
19 from the BIA in 2009, the BIA admitted against its own interest that no records exist for
20 such an election or process. Prior to the election, the Historic Ione Band of Miwok
21 Indians attempted to challenge the intention of the bogus election. Under the
22 Administrative Procedures Act, the BIA was required to publish the list of voting
23 members and the proposed constitution for review and challenge. The BIA did not
24 publish any part of the alleged Secretarial Supervised Election. *See*, Chief Villa Decl. at
25 Ex. G, February 11, 2009, BIA FOIA Response.

1 **III. CONCLUSION**

2 The BIA's position that the Unrecognized Group of Indians is somehow "federally
3 recognized" and that the Historic Ione Band of Miwok Indians is not federally recognized
4 is contrary to volumes of documentary evidence or conspicuous lack thereof, as the case
5 may be.

6 First and for most, the Historic Ione Band of Miwok Indians have always been
7 federally recognized.

8 Second, the January 16, 2009 opinion of the DOI's Solicitors' Office is that the
9 Unrecognized Association of Indians is not a restored tribe within the meaning of IGRA.

10 Third, the Historic Ione Band of Miwok Indians has a land base. The
11 Unrecognized Association of Indians does not claim a land base.

12 Fourth, BIA publically announces on its website that the Historic Ione Band of
13 Miwok Indians is a federally recognized tribe and that Chief Villa is the Tribe's Chief or
14 Chairman.

15 Fifth, the election upon which the Unrecognized Association of Indians claim to
16 have over taken the Historic Ione Band of Miwok Indians body politic is materially
17 flawed and is the product of nepotism and fraud. The BIA sanctioned the admission of
18 interloping of non-tribal Indians into the Historic Ione Band of Miwok Indians who were
19 permitted and disenfranchisement of the vast majority of voters who eligible to vote but
20 were denied that opportunity is the poster child for a "rigged" election. The results of a
21 rigged election do not carry out the people's will. A rigged election has no force an effect
22 in law. As such, nothing has happened subsequent to March 22, 1994 that has changed
23 the Historic Ione Band of Miwok Indians' governance.

24 Sixth, since the election, administration on the land base has not changed hands.
25 Meanwhile, the Unrecognized Association of Indians and its council do not live on the
26 land base; do not go there; and exercise no authority over it. Simply put, there is no
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1 continuity between the Historic Ione Band of Miwok Indians and the BIA's
2 Unrecognized Association of Indians "tribe."

3 The BIA's and Unrecognized Association of Indians' Motions to Strike Mark J.
4 Kallenbach, Esq.'s *Pro Hac Vice* Admission should be denied as the Historic Ione Band
5 of Miwok Indians, and not the Unrecognized Association of Indians, is in truth and in
6 fact the Tribe Assistant Secretary Deer acknowledged on March 22, 1994.

7 Respectfully submitted by,

8
9 Dated: November 26, 2014

10 Mark J. Kallenbach, Esq.

11 Mark J. Kallenbach, Esq., *pro hac vice*
12 Minnesota Attorney Reg. No. 146468
13 2260 Ridge Drive, Suite 13
14 Minneapolis, MN 55416
15 Telephone: 952-593-3858
16 Facsimile: 952-738-0467
17 markkallenbach@comcast.net

18 *Attorney for Chief Nicolas Villa, Jr. and*
19 *the Historic Ione Band of Miwok Indians*
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