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5 **THE INTERTRIBAL COURT OF SOUTHERN CALIFORNIA**
6 **RINCON BAND OF LUISENO INDIANS**

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8 RINCON BAND OF LUISENO INDIANS,)

9 Plaintiff,)

10 v.)

11 MARVIN DONIUS, and MUSHROOM)
12 EXPRESS, INC., a California Corporation,)
13 and RINCON MUSHROOM)
14 CORPORATION OF AMERICA, INC., a)
15 California Corporation,)

16 Defendants.)

Case No. RINCON-02972009

PRELIMINARY INJUNCTION

17 THIS MATTER came before the Court on the Plaintiff's Application for a Temporary
18 Restraining Order and Motion for Issuance of an Order to Show Cause why Defendants Should
19 not be Held in Civil Contempt, filed on Friday August 27, 2010. A hearing on the Application
20 and Motion was conducted on Thursday, September 2, 2010. Present at the hearing were Scott
21 Crowell and Scott Wheat, attorneys for Plaintiff and, George McGill, attorney for Defendants.

22 At the conclusion of the September 2, 2010 hearing, the Court ordered Defendants not to
23 move any additional physical property onto the Subject Property, and to present the Court with
24 an agreed order consistent with those terms by Friday, September 8, 2010. The Court did receive
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PRELIMINARY INJUNCTION

1 a proposed order from Plaintiffs on Friday, September 8, 2010, but that proposed order was not
2 agreed to by Defendants.

3 Plaintiffs then re-noted their Motion for hearing on Tuesday, September 21, 2010 at
4 which the following were present: Scott Crowell and Scott Wheat, attorneys for Plaintiff and,
5 George McGill, attorney for Defendants. At the September 21, 2010 hearing, the Court
6 entertained extensive additional argument from the parties on the Plaintiff's Motion. The Court
7 has also received voluminous exhibits in support of the Plaintiff's Motion which included the
8 record of proceedings in the following state and federal court causes of action: *Rincon*
9 *Mushroom Corporation of America v. Mazzetti et. al*, D.C. S.C. Cause No. 09 CV 2330 WQH
10 POR; *Donius v. Mazzetti et. al*, US D.C. S.C. Cause No. 10-CV-0591-WQH-POR; *Rincon*
11 *Mushroom Corporation of America v. SDG&E*, 37-2008-00101838 CU BT-NC.
12

13 Upon review of the record and upon consideration of the arguments of counsel, the Court
14 finds and concludes that the Plaintiff has met its burden for issuance of injunctive relief *pendent*
15 *lite* in this cause and the Court hereby issues the following PRELIMINARY INJUNCTION,
16 pursuant to ICSC Code of Civil Procedure Title III § 2.1.2.01
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18 1. Defendants are hereby enjoined from bringing any additional physical property
19 onto the subject property, specifically including automobiles;

20 2. Defendants may bring equipment onto the Subject Property only for the sole
21 purpose of removing physical property present on the Subject Property as of September 21,
22 2010;

23 3. If there are any persons residing on the Subject Property, they are doing so in
24 violation of prior orders of this Court. Defendants, who hold themselves out as having dominion
25 and control over the Subject Property, shall effectuate the removal of such persons and their
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PRELIMINARY INJUNCTION

1 physical property from the Subject Property by October 25, 2010. Ingress and egress shall be
2 allowed for persons representing that they reside on the property until October 25, 2010,
3 provided ingress is limited to food, water and small personal items. No ingress for such persons
4 shall be allowed after October 25, 2010.

5 4. Emergency, Security and other governmental and essential public service
6 providers may access the Subject Property if necessary to perform their duties, consistent with
7 this ORDER.

8 5. The Rincon Tribal Law Enforcement Department is hereby ORDERED to enter
9 and remain upon the Subject Property to effectuate restrictions on ingress and egress thereto
10 consistent with the terms of this Order, and shall do so in a manner that minimizes traffic
11 disruptions along Valley Center Road. Specifically, Rincon Tribal Law Enforcement Department
12 is authorized to establish a roadblock within the boundaries of the subject property that allows
13 sufficient room for vehicles to enter from Valley Center Road and exit on to Valley Center Road.
14 A log shall be maintained of all vehicles and equipment entering on to the subject property.
15 Access beyond the roadblock shall be limited subject to the terms of this Order. Copies of this
16 Order shall be provided to all persons attempting ingress on to the subject property. Questions
17 should be directed to the Office of the Rincon Attorney General at 760-638-1982.
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19 6. This ORDER shall remain in effect until lifted amended or modified by this
20 Court.
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7. Finally, the Court notes that Defendants have been served with the Complaint in this cause. The Court encourages Defendants to answer the complaint or to otherwise file a dispositive motion in lieu of a Complaint so this matter may proceed to disposition in accordance with the ITSC Code of Civil Procedure.

DATED this ____ Day of September, 2010

Anthony J. Brandenburg
Chief Tribal Judge of the
Intertribal Court of Southern California