

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
SOUTH BUILDING
TENTATIVE RULINGS - July 16, 2009**

EVENT DATE: 07/17/2009 EVENT TIME: 01:30:00 PM DEPT.: N-28

JUDICIAL OFFICER: Michael B. Orfield

CASE NO.: 37-2008-00101838-CU-BT-NC

CASE TITLE: RINCON MUSHROOM CORPORATION OF AMERICA VS. SAN DIEGO GAS &
ELECTRIC COMPANY

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Business Tort

EVENT TYPE: Motion Hearing (Civil)

CAUSAL DOCUMENT/DATE FILED:

Specially-Appearing Cross-Defendant Rincon Band of Luiseno Mission Indians of the Rincon Reservation's (hereinafter "the Tribe's") motion to quash service of summons is granted. This Court cannot exercise jurisdiction over the Tribe.

The Tribe's motion to dismiss this action without prejudice because it is an indispensable party is granted. The Tribe meets the requirements of a "necessary party" under CCP § 389(a)(1) and a(2)(ii). Under CCP § 389(a)(1), complete relief cannot be accorded among those already parties to this action in the Tribe's absence, because absent the participation of the Tribe, SDG&E cannot receive a definitive determination as to its rights and duties with respect to the subject property. Therefore, it cannot obtain complete relief. Further, the Tribe has several "interests" in this action which meet the standards of CCP § 389(a)(2), including interests related to sovereign immunity, the Tribe's authority to govern the reservation, and the Tribe's ability to ensure fire protection and safety on the reservation. If this action proceeds in the Tribe's absence, the Tribe would be unable to protect those interests, and SDG&E would be exposed to the risk of additional liability or inconsistent obligations. As such, the requirements of CCP § 389(a)(2)(ii) are satisfied.

The Court finds that the Tribe is also an indispensable party, pursuant to CCP § 389(b). The determination on the first three factors of CCP § 389(b) rests on many of the same facts discussed above: (1) a judgment rendered in the Tribe's absence would be extremely prejudicial to SDG&E and potentially prejudicial to the Tribe; (2) the Court sees no way in which the judgment could be shaped to help SDG&E avoid inconsistent obligations or multiple liabilities; (3) a judgment rendered in the absence of the Tribe will not be adequate. As to the fourth factor, Plaintiff may submit to the jurisdiction of the tribal court for resolution of this matter. Therefore, an alternative forum is available to Plaintiff if it wishes to avail itself of that forum. Because the Tribe is an indispensable party that cannot be joined, its motion to dismiss this action is granted.

The parties' unopposed requests for judicial notice of numerous court documents and of SDG&E Rule 11 are granted.