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**FILED**  
Intertribal Court of  
Southern California  
Date: 4/5/2022  
Time: 4:30pm  
Clerk: AK

**INTERTRIBAL COURT OF SOUTHERN CALIFORNIA  
FOR THE RINCON BAND OF LUISEÑO INDIANS**

SANDRA TABAKO  
  
Petitioner,  
  
v.  
  
HARRAH'S RINCON RESORT AND CASINO,  
  
Respondent.

Case No.: CVR-2020-0013-TO  
**FINDINGS AND ORDER AFTER TRIAL**

This matter came regularly before the Intertribal Court of Southern California ("Tribal Court") on March 21, 2022, the Honorable Kathryn A. Ogas presiding. Jurisdiction had been properly established pursuant to the Rincon Patron Tort Claims Ordinance ("Tort Ordinance") as well as the Intertribal Court of Southern California's Code of Civil Procedure and Rules of Court ("CCP").

**I. PROCEDURAL BACKGROUND**

On April 25, 2019, Petitioner, Sandra Tabako filed a Notice of Injury with the Harrah's Rincon Casino ("Casino") and Resort Risk Manager, in accordance with Section 6.105 of the Tort Ordinance, alleging she suffered injuries to her left hand, right arm, left leg, right leg, head and back as a result of being thrown to the elevator floor at the Casino while she was there for a Bee Keepers' Convention ("Convention").

On November 13, 2020, Petitioner filed a Complaint with the Tribal Court seeking damages in an unspecified amount against Respondent, Rincon Band of Luiseno Indians ("Tribe" or

1 "Rincon"), alleging she was injured as a result of an unsafe and/or faulty elevator at the Tribe's  
2 casino.

3 Respondent filed its Answer on March 15, 2021.

4 At the trial, Petitioner appeared *in pro per* and Rincon was represented by legal counsel,  
5 Noel Meza of Green & Roberts.

## 6 II. STANDARD OF REVIEW

7 At any time after the delivery of a Notice of Claim a patron may commence suit against the  
8 Casino in Tribal Court. Tort Ordinance § 6.105(f). The burden of proof is on the patron to prove  
9 every element of their Claim by clear and convincing evidence.

## 10 III. DISCUSSION

### 11 A. The Tribe's Motion in Limine

12 The Tribal Court received a Notice of Motion and Motion in Limine to Exclude Evidence,  
13 Testimony, or Argument of Petitioner's Injuries and Damages for Lack of Foundation from the  
14 Tribe after court hours on March 18, 2022, as such the Motion was not filed until the day of the  
15 trial. After permitting Petitioner to review the Motion and hearing from both parties, the Court  
16 denied the Motion on the grounds that it was filed after the deadline set forth in the Tribal Court's  
17 scheduling order.

### 18 B. Testimony

19 Petitioner testified to the following:

20 1. That the power went out causing the elevator to go into "free fall" and when it came to a  
21 stop, she was thrown to the floor. When the lights in the elevator came on, she was in a very  
22 awkward position on the floor. She originally thought the elevator was in darkness for only a  
23 couple of seconds, but states that others who were in the elevator told her it had been longer and  
24 that she had been unconscious for 5 to 10 minutes. She didn't know the extent of her injuries until  
25 the next month. Casino personnel asked if she wanted to go to the hospital, but she declined  
26 because she didn't want to miss the Convention.

27 2. On cross-examination, Petitioner testified that the elevator fell for less than five seconds  
28 and the stop was sudden and abrupt. She further testified that it felt like less than ten seconds

1 before the power went off, but she was not sure if the elevator “went down” before the lights went  
2 off. Although she admits that she has pre-existing injuries, she stated that she believes some  
3 injuries were caused by the incident and she is disabled as a result of the incident. Petitioner also  
4 testified that she didn’t realize she had fallen to the floor and the first time she remembers anything  
5 was when the lights came on; she had originally thought she was on the floor for 5-8 seconds, but  
6 says it is possible that she was on the floor for five minutes and that her friends told her the lights  
7 were off for five minutes. Petitioner admitted she doesn’t remember falling.

8 Respondent presented the testimony of Stephanie Kastner, who is the Casino’s Risk and  
9 Safety Manager and Custodian of Records for the Casino’s surveillance recordings.

10 a. On direct examination by Respondent, Ms. Kastner testified that her job duties  
11 include investigating reports of alleged injuries. Ms. Kastner further testified that  
12 she preserved the November 13, 2018 surveillance footage from Elevator #5 (the  
13 elevator in which Petitioner was riding) on “stored video” and further that, in  
14 accordance with applicable regulations, the Casino’s surveillance system does not  
15 enable them to alter the video.

16 C. Documentary Evidence

- 17 1. Petitioner did not seek to introduce any evidence.
- 18 2. Respondent entered the surveillance footage from Elevator #5 (consisting of  
19 approximately 30 minutes of video) into evidence with no objection from Petitioner.
- 20 a. Both Petitioner and Respondent were permitted to use the surveillance footage  
21 during their testimony.
- 22 b. The surveillance footage shows Petitioner entering the elevator and the doors  
23 closing at 8:14:43 a.m. At 8:14.54 a.m., a complete blackout occurs; the lights come  
24 on at 8:15:03 a.m. When the lights come on, Petitioner and the other occupants in  
25 the elevator are in the same position as they were prior to the blackout. During the  
26 period between the lights resuming and personnel opening the elevator doors,  
27 Petitioner and the other occupants were viewed taking selfies on three occasions  
28 (8:21:45, 8:22:15, and 8:22.38 a.m., respectively). At no time, during this period did



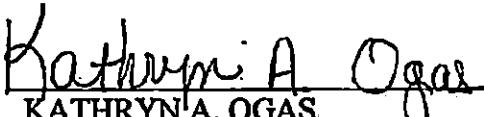
1 surveillance footage taking selfies and moving around the elevator car without any difficulty or  
2 apparent pain or distress. Petitioner offered no documentary evidence or expert witness testimony  
3 showing that she suffered any injury as a result of the incident. Thus, Petitioner has failed to prove  
4 by any evidence, let alone, clear and convincing, that she suffered injuries as a result of this  
5 incident.

6 4. Finally, even if Petitioner had presented evidence that she suffered injury as a result  
7 of the incident, Petitioner failed to submit any evidence to the Tribal Court relating to her alleged  
8 damages. This Court is prohibited by the Tort Ordinance (Section 6.106(i)) from awarding punitive  
9 damages and cannot award other damages (without any proof of the amount of damages or that such  
10 damages were a result of the incident).

11 For the foregoing reasons, the Court finds that Petitioner has failed to meet her burden of  
12 proof and renders judgment in favor of Respondent. Accordingly, it is ordered that Respondents are  
13 not liable for any damages as alleged by Petitioner in this matter.

14 **IT IS SO ORDERED.**

15 DATED: April 5, 2022

16   
17 KATHRYN A. OGAS  
18 Judge *Pro Tem*  
19 Intertribal Court of Southern  
20 California

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