

Judge Orders Eastern Pequot To Testify - Trump Lawyer Charges Fraud In Casino Battle

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By Rick Green - Hartford Courant

NEW BRITAIN -- A superior court judge Friday ordered a gravely ill Eastern Pequot Indian tribal leader to give sworn testimony in a civil case that has grown bitter as gambling investors spar over the chance to open another Connecticut casino.

With powerful multimillionaires and their teams of top lawyers jostling for a gambling jackpot, and accusations of fraud and deception being tossed about the courtroom, Judge Susan Peck's decision to force Agnes Cunha to submit to potentially hostile questions was hardly a surprise.

The move illustrates what all know is at stake: control of what could become one of the world's most profitable casinos. But hanging over the courtroom is another equally compelling question: Have the Eastern Pequot Indians survived as a modern tribe?

The case features Donald Trump and a Connecticut venture capitalist, J.D. DeMatteo, who in separate lawsuits say rival investors backed by golf course developer David Rosow and Florida magnate William Koch engineered a coup, ousting them as the favored backers for the casino that the Eastern Pequots want to build. Both Trump and Koch are on the Forbes Magazine list of wealthiest Americans.

"Mr. Trump is out \$10 million," said Robert I. Reardon, lawyer for Trump, summing up his case for his client, who was not in court Friday. Together, Trump and DeMatteo invested \$14 million in the tribe as it sought formal federal recognition. Rosow and Koch have not said how much they have spent.

"We have a simple valid contract," Reardon said. "That contract is binding."

The case is hardly simple, however. The Eastern Pequots were divided into two factions - each seeking federal recognition as a tribe - until the Bureau of Indian Affairs recognized them as a single tribe in June 2002. Trump and DeMatteo backed the Paucatuck Eastern Pequot faction while Rosow and Koch backed the Eastern Pequot faction, a much larger band.

"Trump and [DeMatteo] contracted with a faction of the tribe with the hope that the faction would be recognized and they could engage in gaming," said lawyer Robert Tobin, representing Rosow and Koch.

"No one denies they have a contract. The problem with their argument is that while the contract says it is with the tribe, it's with the minority faction of the tribe," Tobin said. Trump failed, Tobin said, in his grand plan to open "the Trump Promised Land Casino" because the tribe chose Rosow and Koch.

But that's where Cunha comes in, Reardon and other lawyers for Trump and DeMatteo argued.

Cunha, who lives on the tribe's North Stonington reservation, was a member of the old Paucatuck Eastern Pequot tribal council and Reardon says it is essential to hear what she has to say.

In the year after the BIA recognized a single tribe, the two factions came together, uniting under a single constitution and government. Trump and DeMatteo - who still want a chance to develop a casino or their money back - say Rosow and Koch hijacked the tribe, fraudulently misleading tribal

members using "gifts, money, gratuities or benefits" to woo them. Reardon believes that Cunha, as a former Paucatuck leader, will reveal under oath information about what happened.

Cunha's lawyers have protected her from Trump's team for more than year, repeatedly saying she was not well enough to go through a rigorous deposition. Although Cunha is scheduled for surgery next week, Peck ordered the deposition to begin Monday. "This is one of these things that judges have to do that they really don't relish doing," she said.

Jeremiah Donovan, lawyer for Cunha, said she has been very ill and "just can't undergo a deposition" by a "troop of attorneys led by Reardon."

Friday's court hearing - held to consider motions to dismiss the case - foreshadowed the Trump team's plans to challenge whether the Eastern Pequots even deserve federal recognition. If the case goes to trial, Reardon plans to argue that the larger Eastern Pequot faction was organized merely to take control of the Paucatuck Eastern Pequots.

Members of the Sebastian family sought to "solicit people who would be willing to say they were in some way related to the Eastern Pequots so they could increase their numbers," Reardon said. He added that the tribe's decision to unify the two factions was merely a power play by a larger tribal faction with questionable Indian lineage.

"Evidence will reveal it was nothing more than a sham," Reardon said.

Donovan called Reardon's arguments fanciful and urged Peck to dismiss the lawsuits.