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Judge Tells Attys To Cool Off In Fla. Tribe's Malpractice Suit

By **Nathan Hale**

Law360, Miami (February 26, 2013, 11:13 PM ET) -- Lawyers for the Miccosukee Tribe of Indians of Florida and Lewis Tein PL were told by a judge to tone down their arguments at a hearing Tuesday in Florida state court over privilege logs the firm says are essential to defending itself from a malpractice suit brought by the tribe, which alleges millions of dollars in improper legal charges.

Judge John W. Thornton in Miami referred the motion for the logs brought by Lewis Tein to Magistrate Judge Ellen Leesfield, but not before he admonished the parties for the nastiness and bickering that has pervaded the case.

The Miccosukee Tribe laid claims of malpractice, breach of fiduciary duty and fraud against Lewis Tein and its principals, former interim U.S. Attorney Guy Lewis and former federal prosecutor Michael Tein, and included detailed personal information about them in its original complaint. The defendants have suggested that the case is an attempt to divert attention from an Internal Revenue Service investigation into the tribe's gambling profits and have accused the tribe's lawyer of trying to coerce witnesses.

A clearly frustrated Judge Thornton said that he was wiping the slate clean Tuesday, but he also reminded the parties that he had previously warned them the next time anyone spoke over another in court he would issue fines starting at \$1,000. And he said he didn't want to see any nasty, ad hominem personal attacks in their pleadings either.

"Please govern yourselves accordingly," Judge Thornton said, adding, "Everyone is now on notice."

But after a lengthy meeting before Judge Leesfield, where some privilege logs had been made available for review, it did not sound as though the case had turned a corner.

"Some of them haven't even prepared them. Others are incomplete," Lewis Tein counsel Paul Calli of Carlton Fields told Law360, saying he was not sure how the case would proceed next. "This is just, this issue — by design by them — is complicated."

Representatives for the Miccosukee Tribe did not respond to requests for comment Tuesday.

In its original complaint, the Miccosukee Tribe claimed that Lewis Tein represented clients with adverse interests to the tribe, disclosed the tribe's confidential and legally protected client information and financial records to third parties, and improperly procured affidavits of former

tribe employees.

Former Miccosukee Tribe in-house counsel Jeanine Bennett also appeared before Judge Thornton on Tuesday, expressing her concern over the Tribe's request to depose her, which she said is unnecessary.

Lewis Tein PL is represented Paul Calli of Carlton Fields.

The Miccosukee Tribe of Indians of Florida are represented by in-house counsel Bernardo Roman.

The case is Miccosukee Tribe of Indians of Florida v. Lewis et al., case number 12-12816CA27, in the Eleventh Circuit Court of Florida.

--Editing by Jeremy Barker.

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