



FREDERICKS PEEBLES & MORGAN LLP

ATTORNEYS AT LAW

MIAMI NATION AND SANTEE SIOUX WIN COLORADO SOVEREIGN IMMUNITY CASE

Fredericks Peebles & Morgan, LLP a national law firm serving American Indian Tribes has won an appeal before the Colorado Supreme Court on behalf of their clients, the Santee Sioux Nation and the Miami Nation of Oklahoma.

The matter originates from a state of Colorado investigative subpoena issued to Cash Advance and Preferred Cash Loans, entities owned by the Miami Nation of Oklahoma and the Santee Sioux Nation respectively. The tribal entities did not reply to the subpoena based on tribal sovereign immunity. The state maintained that immunity did not apply in regard to the state subpoena.

The trial court denied the tribes' motion to dismiss based on sovereign immunity. The court of appeals reversed the trial court's decision. The court of appeals also required the trial court to determine on remand whether the two entities Cash Advance and Preferred Cash Loans are arms of the tribe close enough to qualify for immunity. The court of appeals also determined that sovereign immunity does not extend to individual tribal officers in this case.

The Colorado Supreme Court agreed with part of the court of appeals ruling. The Supreme Court ruled that tribal sovereign immunity does apply to state investigatory enforcement actions. The Supreme Court also requires on remand that the state would have to prove with a preponderance of evidence that the trial court has jurisdiction over Cash Advance and Preferred Cash Loans because they do not qualify for sovereign immunity.

But the Court disagreed with the court of appeals on the sovereign immunity issue for tribal officers. The Supreme Court ruled that tribal officers acting within the scope of their lawful authority are entitled to sovereign immunity.

In summary, the attorneys were able to successfully argue that tribal sovereign immunity does apply to state investigative subpoenas; that entities owned by tribes when it can be proven that the entity is closely enough held, also have sovereign immunity; and that tribal officers acting within the laws of the tribe and federal law, also enjoy sovereign immunity in state proceedings.

Conly J. Schulte and Shilee T. Mullin, partners with Fredericks Peebles & Morgan LLP acted as counsel for the two tribes and their entities Cash Advance and Preferred Cash Loans.