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## State Supreme Court: Tribes must comply with campaign rules

**By DAVID KRAVETS, - AP Legal Affairs Writer**

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A fractured California Supreme Court ruled 4-3 on Thursday that Indian tribes, some of the state's biggest political donors, are bound by campaign-finance disclosure rules.

The justices upheld a lower court decision that said tribes were subject to campaign-finance enforcement lawsuits from the Fair Political Practices Commission, the state agency that oversees elections.

The case is significant for California's political culture. The Golden State's more than 100 tribes, some flush with casino revenue, are major campaign donors, having given at least \$200 million to candidate and ballot measure campaigns during the past decade, according to the tribes.

Most tribes already disclose donations of at least \$10,000 a year, in compliance with state regulations.

The tribes that were sued by the California Fair Political Practices Commission for failing to comply with disclosure rules maintained they are sovereign governments immune from most state intervention, including lawsuits to enforce state laws.

Justice Ming Chin said the majority reached its decision based on the "significant importance of the state's ability to provide a transparent election process with rules that apply equally to all parties who enter the electoral fray."

The three-justice minority said it was up to Congress or the tribes themselves to authorize such enforcement actions against an Indian tribe. Justice Carlos Moreno noted the U.S. Supreme Court has said Oklahoma could not sue tribes in that state over the collection of cigarette taxes, and said the California Legislature should petition Congress to allow campaign disclosure enforcement actions.

Moreno said the idea behind Indian tribes being deemed independent nations having so-called sovereign immunity "has existed side by side with the reality of Indians massacred and dispossessed from their land by state and private interests."

The case the justices decided Thursday was brought by the Agua Caliente Band of Cahuilla Indians, which challenged an enforcement action from the commission. The tribe asserted it could not be sued to comply with disclosure rules.

Two years ago, the 3rd District Court of Appeal in Sacramento disagreed, ruling 2-1 that "the constitutional right of the state to sue to preserve its republican form of government trumps the common law doctrine of tribal immunity."

The tribes maintained only Congress or the tribes themselves can waive their sovereign immunity and subject the tribes to state lawsuits or laws. The case will likely be appealed to the U.S. Supreme Court.

"The Agua Caliente Band of Cahuilla Indians is disappointed that the 4-3 decision by the court fails to follow established federal law," tribal Chairman Richard M. Milanovich said. "The Tribal Council will decide what further actions it may take."

Commission Chairwoman Liane Randolph said the agency will move forward with its case against the tribe. The commission has not determined how much in damages it is seeking.

"The voters want to know where the money is coming from and where it is going," Randolph said. "They can make their decisions accordingly."

The commission, in its lawsuit, alleges the Agua Caliente tribe was late in disclosing more than \$8 million in donations to candidates and causes between 1998 and 2002 in violation of the 1974 Political Reform Act. The tribe posts campaign finance reports on its Web site and contends it discloses its political activity - just not according to the state's rules.

Agua Caliente, which has two casinos in the Palm Springs area, says it has given more than \$17 million to political campaigns during the past three years.

The lawsuit claims that by filing required campaign reports late, the tribe deprived voters details to make informed decisions about candidates and propositions.

The commission can fine an organization for the amount improperly reported.

Voting with Chin were Justices Marvin Baxter, Carol Corrigan and Chief Justice Ronald George. Siding with Moreno were Justices Kathryn Mickle Werdegar and Joyce Kennard.

The case is Agua Caliente Band of Cahuilla Indians v. Superior Court, S123832.

Editors: David Kravets has been covering state and federal courts for more than a decade.

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