

*Agua Caliente Band of Cahuilla Indians v. Superior Court of Sacramento County
(Fair Political Practices Commission Real Party in Interest) (S123832)*

This case addresses the question whether the Fair Political Practices Commission (FPPC) may file a lawsuit in superior court against the Agua Caliente Band of Cahuilla Indians, a federally recognized Indian Tribe, based on the Tribe's alleged failure to comply with the reporting requirements for campaign contributions under California's Political Reform Act (PRA).

The PRA is an initiative measure that regulates numerous aspects of the election process on the state and local level. In addressing this novel issue the court must determine whether the Indian Tribe is immune from lawsuit under the long standing principle of Indian Sovereign Immunity.

Generally, as a matter of federal law, a tribe is subject to lawsuit in the United States when Congress has authorized the suit or the tribe has waived its immunity. The state, however, has the power to regulate its political campaign contributions under the PRA and to protect its election process. May the state sue the Tribe to enforce those regulations without a waiver of the Tribe's sovereign immunity? Although the Tribe agrees that the state does have the power to regulate political campaigns or create campaign contribution disclosure rules within its borders, the Tribe asserts that the state has been divested of the power to sue a federally recognized Indian tribe because the United States Supreme Court has declared sovereign tribal immunity a matter of federal law. (*Kiowa Tribe of Oklahoma v. Manufacturing Tech.* (1988) 523 U.S. 751, 754-755.) The Tribe contends that although Congress has, in limited circumstances, authorized classes of suits against Indian tribes, when Congress has not done so, the tribes' historical immunity from suit remains.

By contrast, the FPPC asserts that the doctrine of tribal sovereign immunity is a federal doctrine that does not give the Tribe the power to interfere with state sovereign power over state elections. The FPPC relies on the Tenth Amendment and article IV, section 4 of the United States Constitution (the Guarantee Clause), to give the FPPC the authority to enforce the PRA against the Tribe, including bringing suit against it.