

FREDERICKS PEEBLES & MORGAN LLP SECURES LANDMARK COURT RULING ON TRIBAL SOVEREIGNTY

Fredericks Peebles & Morgan LLP has successfully garnered a landmark ruling in suits brought by the State of Colorado against two tribally-owned online businesses. Those suits threatened tribal sovereignty and the ability of the tribes to operate businesses for the purpose of economic development. The two businesses are separately owned and operated by the Miami Tribe of Oklahoma and by the Santee Sioux Nation, both federally-recognized Indian tribes. The Denver District Court ruling, captioned *State of Colorado v. Cash Advance*, is expected to have a major impact on the ability of other tribes and their economic development entities to do business both in Indian Country and over the internet.

The ruling also outlawed state-issued subpoenas that would have required the two tribal companies to provide documents and other proprietary information, which the Tribes claimed that the State had no right to demand. Contempt citations and bench warrants aimed at the tribal entities and their officers for failing to comply with the subpoenas were also discharged under the ruling.

Lead attorneys for Fredericks Peebles & Morgan were Conly Schulte and Shilee Mullin. Firm attorneys argued that the suits brought by the State of Colorado had no merit because the companies are wholly-owned arms of federally-recog-

nized Indian tribes, and they are therefore immune from the subpoenas and enforcement orders under the doctrine of tribal sovereign immunity. The Colorado Attorney General had argued that the tribally-owned businesses were not immune from suit on the ground that they engaged non-tribal members in some of their operations. The Denver District Court disagreed, holding, "The Miami and Santee people are the ones we must trust . . . to know what kinds of business relationships are in their best interests. They do not need the guidance of the State of Colorado, through either its law enforcement officials or its courts."

"The Court's decision is groundbreaking for its application of the principles of tribal sovereignty to modern day tribal economic development activities," said Conly Schulte, an attorney with Fredericks Peebles & Morgan, who argued the cases before the Colorado courts. "It stands for the proposition that State officials have no right to impose their paternalistic values upon Tribes' business decisions."

The original suit brought by the State suggested that the two businesses were in violation of Colorado law for doing business over the internet without having a license from the State. After several years of wrangling over whether the tribal entities could be forced to comply with the State's subpoenas, the Colorado Supreme Court ruled that tribal immunity applies to businesses

that are arms of their respective Indian tribes, regardless of whether the activities are commercial or governmental in nature, or whether the activities take place on or off tribal lands. The Supreme Court sent the case back to the District Court for a determination of whether the tribal businesses were arms of their respective Tribes, and the District Court ruled in favor of the Tribes.

"This decision will have a monumental positive effect in Indian Country and on tribes who are trying to build their economies and improve the lives of their people through many diverse business opportunities," said Shilee Mullin, an attorney with Fredericks Peebles and Morgan. "The firm is pleased to have had an important role in securing this ruling that helps protect and preserve tribal sovereign immunity which has been threatened by a variety of organizations."

Fredericks Peebles & Morgan LLP is dedicated to the representation of American Indian tribes and Native American organizations throughout the United States. Legal services provided by Fredericks Peebles & Morgan LLP include a wide spectrum of services related to Indian concerns in the areas of business transactions, litigation, and governmental affairs. Visit our website at www.ndnlaw.com

For more information, contact: Alan Hansen, Blue Earth Marketing, 503 Ho-Chunk Plaza, Winnebago, NE 68071, 402-878-2407 ahansen@blueearthmarketing.com



Master Chef Mason cooks it up for the employee appreciation dinner



Jay VanZant new Controller for the Sac and Fox Nation enjoys the dinner while getting to know fellow employees (staff photos)

Electronic Health Record Implemented At Black Hawk Health Center

On June 7, 2010, the Black Hawk Health Center implemented the first phase of the Electronic Health Record (EHR). The EHR is designed to improve the quality of care as well as patient safety in Indian Health Service facilities. This was the beginning of our conversion to EHR throughout the clinic. The Black Hawk Health Center is now in the final phase of implementation. The goal is to have all Providers utilizing EHR and fully implemented by March 1, 2012. The Tribal Administrator and Acting Health Director have provided much support to the EHR Team as the process requires much support from upper management of the Sac and Fox Nation

EHR has several advantages: A paper chart allows only one person at a time to work with it; it may be difficult to know which Provider or department is using the chart on any given day; it takes more time to retrieve the paper chart when someone needs it; handwriting is sometimes difficult to read; the information

in the chart may be difficult to find; when a paper report is mailed, it must be opened, sorted and directed to the proper department which may take a significant amount of time; there is an insufficient number of tabs in the chart for the many different types of information necessary; paper charts can become very heavy and sometimes back injuries occur from lifting several heavy charts; the metal tabs can break and the paper deteriorates over time from frequent handling and use; and paper charts take up a considerable amount of space in the clinic.

Funds were made available to the Indian Health Service to support the implementation of the EHR through the American Recovery and Reinvestment Act (ARRA) of 2009, in particular through the HITECH Act. The federal government has authorized financial incentives for healthcare facilities achieving "meaningful use" of EHR. One of the benchmarks for receiving these incentives is that at least 80% of all Provider Orders must be entered electronically and at least 80% of all claims must be filed electronically. If this benchmark is not met there will be financial disincentives in future years to encourage compliance.

Initially, seeing patients will take a bit longer—before, during and after the actual appointment—as information is uploaded from the paper chart to the electronic chart, but the extra work will decrease over time. The process will be implemented one Provider at a time until all Providers are using the electronic health record. You may see your Providers carrying a laptop computer when they enter the room. They will use it to document the visit rather than using pen and paper. We hope you will be patient with us as we strive to improve both access to health care and the way we deliver it.

ATTENTION RODEO FANS

The Sac and Fox Nation Rodeo Committee is actively seeking members for the upcoming rodeo season. Membership is open to everyone who is interested and we invite and welcome non-tribal members. If interested, please call 405-227-5306 for notification of the next monthly meeting.

MARCH 2012

SAC AND FOX NATION

FOOD DISTRIBUTION PROGRAM

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Sun	Mon	Tue	Wed	Thu	Fri	Sat
 4	5 SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	National Nutrition Month 6 ELDERS ONLY SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	7 SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	1 ELDERS ONLY SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	2 ELDERS ONLY SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	3
11	12 SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	13 SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	14 SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	15 SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	16 SHAWNEE 8:30-2:30 LITTLEAXE 10:00-12:00 WAREHOUSE 8:30-2:30	
18	19 SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	20 LATE NIGHT SHAWNEE 12:00-6:00 WAREHOUSE 8:30-2:30	21 SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	22 SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	23 SHAWNEE 8:30-2:30 PERKINS 10:00-2:00 WAREHOUSE 8:30-2:30	24
 25	26 LATE NIGHT WAREHOUSE 8:30-6:00 SHAWNEE 8:30-2:30	27 SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	28 SHAWNEE 8:30-2:30 WAREHOUSE 8:30-2:30	29 CLOSED FOR INVENTORY	30 CLOSED FOR INVENTORY	31

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Sac and Fox Nation

Veterans

Organization

Meeting

March 13, 2012

5:00 pm

Elders Bldg

Stroud

Always on the 2nd

Tuesday of each month

unless otherwise posted

