



Red Hawk Casino opened almost a year ago. The **Shingle Springs Band of Miwok**, which owns the casino, is fighting off a lawsuit from **Sharp Image**, a partner in a former casino.

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Gaming suit against tribe that owns Red Hawk moves to trial

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The \$107 million civil suit brought by Sharp Image Gaming Inc. against the Shingle Springs Band of Miwok in 2007 survived another attempt by the tribe's attorneys to have the case dismissed.

El Dorado County Superior Court Judge Patrick Riley has ruled that the Shingle Springs band waived its sovereign immunity when the tribe entered into contracts and a loan with Sharp Image to provide slot machines for the tribe's casino.

Red Hawk Casino is on the Shingle Springs Rancheria.

Sharp Image is a Chatsworth video gaming machine manufacturer. It bankrolled the Shingle Springs tribe's first brief — and failed — foray into casino operation in 1996 and 1997.

The judge's action this week allows Sharp Image to continue with its civil suit filed two years ago.

Sharp Image contends it still has a valid contract and partnership with the tribe. The company sued for the return of the \$7 million it spent almost 14 years ago, and also is seeking \$100 million in damages.

The tribe's attorneys first sought in December 2007 to dismiss the case on the grounds that the tribe has sovereignty and can't be sued under the contract. Another El Dorado County judge denied that motion, and the case survived.

For the past two years, the tribe's attorneys have been seeking to have the case dismissed on the grounds it should be heard in federal court and because of the tribe's sovereignty.

It took so long to get to this week's ruling because there were many continuances, said Matt Jacobs, partner in law firm Stevens, O'Connell & Jacobs LLP in Sacramento, representing Sharp Image.

"We are finally free to move forward with the case and schedule a trial," Jacobs said.

Lawsuits against tribes can be difficult because federally recognized Native American groups are considered sovereign domestic nations. Often state and local laws don't apply to them. But tribes can waive sovereign status to enter a contract.

In his ruling, Riley wrote: "As to the

language of the three documents, it is quite clear that there was a waiver of sovereignty."

"The judge found they (Sharp Image) have some good agreements and the state court has jurisdiction," said Howard Dickstein, a local attorney, Native American law expert and partner with Dickstein & Zerbi. He isn't involved in this case.

The ruling focuses on the existence of a valid contract and the appropriate court, and it doesn't look at the merit of the claims of the contract, Dickstein said.

"The judge leaves very important questions to the scope of a jury," he said.

The tribe believes the court's ruling is legally inaccurate and is considering its options, according to a statement. "The Tribe is confident it will prevail in the end."

The tribe also pointed out Sharp provided no funding involved with the development or construction of Red Hawk Casino.

Attorneys for the tribe with Sonnenschein, Nath & Rosenthal LLP in San Francisco didn't return calls seeking comment.

For more than a decade after the initial attempt to open a casino, not much happened at the Shingle Springs Rancheria, though the tribe did enter a new contract with another casino development company in the late 1990s.

The tribe and Minneapolis-based Lakes Entertainment Inc. (Nasdaq: LACO) now operate the \$200 million Red Hawk Casino, which opened in December. The tribe and Lakes also built a \$45 million freeway overpass off Highway 50 directly to the casino.

Even once Lakes stepped in as a developer and partner, the tribe battled the county and neighbors to get the right to build what was known then as Foothill Oaks Casino and later became Red Hawk. The tribe's land is authorized for a casino, but for years was landlocked to commercial traffic.

The tribe two years ago got support from the county for the casino when the tribe agreed to pay the county \$87 million over 20 years, pay for and build a highway off-ramp and agree to pay more than \$104 million for the construction of carpool lanes on Highway 50.

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