

Tribe that operates Red Hawk Casino still fighting \$107 million lawsuit

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Long before it opened Red Hawk Casino, the Shingle Springs Band of Miwok Indians ran a small gambling hall in a tent-like structure off Highway 50.

The tribe's Crystal Mountain Casino operated just briefly and intermittently – but generated a \$107 million lawsuit that continues to hound the Miwoks. Last week the California Supreme Court refused the tribe's appeal to dismiss the suit, and the case could go to trial this fall.

The suit was filed by Sharp Image Gaming, a Southern California supplier of gambling devices and the Miwoks' partner in the tent casino. The company argues that the tribe broke its contract with Sharp Image by teaming up with Lakes Entertainment Inc., the Minnesota casino-management firm that opened Red Hawk in late 2008.

Sharp Image says it is owed at least \$107 million. The sum includes \$100 million in potential profits the company says it lost when the Miwoks broke the contract after the tent closed.

The contract gave Sharp Image the right to supply the Miwoks with gambling machines at "any future casino," said Matt Jacobs, the firm's attorney.

Sharp Image filed the suit three years ago in El Dorado Superior Court. The tribe fought it on grounds of sovereign immunity, the legal doctrine that says Indian tribes generally can't be sued.

But Jacobs said the Miwoks, in the contract with Sharp Image, waived the right to invoke sovereign immunity.

Three courts have now rejected the Miwoks' argument, setting up a trial on the facts of the case. Yet the Miwoks said they will continue to press the immunity defense at trial. They will also fight Sharp Image on other grounds.

The Miwoks "will vigorously defend against Sharp's overreaching claims on the merits as well," said tribal Chairman Nicholas Fonseca in a statement. The tribe said the company is improperly seeking revenue from Red Hawk, "a facility in which Sharp had no involvement."

The relationship between the Miwoks and Sharp Gaming began in the mid-1990s, when the company financed construction on the 20,000-square-foot tent structure, Jacobs said.

At the time, Indian gambling in California was in its infancy, and the rules were still being hashed out by the tribes and state and federal officials. That uncertainty, plus fierce opposition from neighbors, caused Crystal Mountain to open and close three times in 10

months.

During the down times, Sharp Image helped cover payroll expenses, Jacobs said. After Crystal Mountain closed for good in August 1997 – when a judge ruled customers couldn't use the only street leading to the tent – the company spent several million dollars buying land nearby to make way for a new road.

Nonetheless, the tribe "turned its back on Sharp Image," the lawsuit says. Before long it made a deal with Lakes Entertainment, the company that built Red Hawk.

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