Indian Tribe Did Not Waive Sovereign Immunity By Removing Lawsuit To Federal Court

Tuesday, September 13, 2016

The Shingle Springs Band of Miwok Indians is a federally-recognized Indian tribe located on the Shingle Springs Rancheria in California. Beth A. Bodi, a member of the tribe, worked at the tribe's full-service health clinic. Bodi's employment was terminated after she attempted to take job-protected leave under the federal Family Medical Leave Act ("FMLA"). Although she was rehired, she was fired again after sending a communication to tribal officials complaining about her earlier termination and noting her willingness to seek redress in state court. Bodi subsequently filed suit under the FMLA and state law in California state court, and the tribe removed the action to federal court based upon the federal question presented by the FMLA claim. The tribe then filed a motion to dismiss based upon the tribe's sovereign immunity. The district court denied the motion on the ground that the tribe had waived its immunity by removing the action to federal court. The United States Court of Appeals for the Ninth Circuit reversed, holding that the tribe did not waive its immunity by removing the case to federal court.

Bodi v. Shingle Springs Band of Miwok Indians, 2016 WL 4183518 (9th Cir. 2016)

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