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California Court of Appeals Rules in Favor of Sovereign Tribal Online Lenders

LOUISVILLE, CO - Fredericks Peebles & Morgan LLP announced this week a victory for the firm. The California Court of Appeals has affirmed the dismissal of a suit by the State of California against online lenders owned by two federally recognized Indian tribes: the Miami Tribe of Oklahoma and Santee Sioux Nation of Nebraska. The suit was an attempt by the State to shut down the sovereign Tribes' online lending businesses and impose penalties for alleged failure to comply with the California laws governing short-term loans.

The State claimed that loans made by the Tribes are not enforceable under California law because the Tribes are not licensed in California and the loan fees exceed California's enforceable rates. In a ruling issued on January 21, 2014 the Court of Appeals rebuffed the State's claims, finding that the Tribes' lending activities "are subject to tribal laws governing interest rates, loans and cash advance services," and that California's lending laws are not enforceable against the Tribal lenders. The Court went on to find that "there can be little question" that the Tribally-owned lenders "function as arms of their respective tribes" and therefore are not subject to the jurisdiction of the State of California. The Court observed that due to the relocation of these Tribes to remote and severely depressed regions, revenues from these loans are "essential to maintaining a functioning tribal government able to provide necessary services to the tribe's members".

The decision marks the second appellate court ruling in favor of these sovereign Tribal lenders in less than a month. In December 2013, the Colorado Court of Appeals dismissed the State of Colorado's appeal of the lower court's nearly-identical finding that these sovereign Tribal lenders were arms of their respective Tribes and are not subject to that State's jurisdiction. In both the California and Colorado proceedings, the Courts affirmed the imposition of monetary sanctions against the respective states for their litigation misconduct committed during the course of the litigation.



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The California Court of Appeals decision, *California v MNE*, Case No. B242644, may be found here: <http://www.courts.ca.gov/opinions/documents/B242644.PDF>.

The Miami Tribe of Oklahoma operates its sovereign lending business through MNE Services, Inc., a 100% tribally-owned subdivision and arm of the Miami Tribe. MNE Services, Inc., which is licensed and regulated by the Miami Tribe of Oklahoma, does business under the trade names Ameriloan; USFastCash; United Cash Loans; Advantage Cash Services; and Star Cash Processing.

The Santee Sioux Nation operates its sovereign lending business through SFS, Inc., a 100% tribally-owned subdivision and arm of the Santee Sioux Nation. SFS, Inc., which is licensed and regulated by the Santee Sioux Nation, does business using the trade name OneClickCash.

The Tribal lenders were represented in both appeals by Fredericks Peebles & Morgan LLP.

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.