

**FOR IMMEDIATE RELEASE**

Contact: Rebecca Kidder  
(605) 791-1515  
[rkidder@ndnlaw.com](mailto:rkidder@ndnlaw.com)

### **Fredericks Peebles & Patterson LLP Secures Victory for Tribes in Landmark Tax Case**

**Dec. 17, 2019** — This fall, Fredericks Peebles & Patterson LLP secured a significant victory for tribes in the U.S. Eighth Circuit Court of Appeals. In the landmark case *Flandreau Santee Sioux Tribe v. Noem*, the federal court ruled that the State of South Dakota cannot impose use taxes on nonmember purchases of goods and services at the tribe's Royal River Casino.

Under the balancing test established by the U.S. Supreme Court in *White Mountain Apache Tribe v. Bracker* in 1980, FPP argued, the Indian Gaming Regulatory Act preempts such taxes. The court agreed on Sept. 6, with U.S. Circuit Judge James B. Loken writing the majority opinion.

“The state’s taxation of the casino amenities would raise their cost to nonmember patrons or reduce tribal revenues from these sales,” Loken wrote. “Even if gaming was not thereby reduced, the impact would be contrary to IGRA’s broad policies of increasing tribal revenues through gaming and ensuring that tribes are the primary beneficiary of their gaming operations to promote economic development, self-sufficiency, and strong tribal governments.”

The court determined that the state’s general interest in raising revenues to provide governmental services throughout South Dakota does not outweigh the federal and tribal interests in Class III gaming, reflected in IGRA and the history of tribal independence in gaming. As in the *Bracker* case, the court noted, “This is not a case in which the state seeks to assess taxes in return for governmental functions it performs for those on whom the taxes fall.”

“This is a major victory for all tribes under the Indian Gaming Regulatory Act,” said Rapid City-based FPP attorney and managing partner Rebecca Kidder, who argued the case. “It’s also a victory for tribal governments and economies, because it has eliminated state dual taxation of purchases made by nonmember consumers on an on-reservation, tribally owned business.”

According to Kidder, this decision ensures that the *Flandreau Santee Sioux Tribe*, which paid for the infrastructure and governmental services to support the Royal River Casino, and which provides the services to its patrons, remains the beneficiary of its own tribal sales taxes on those goods and services.

FPP’s legal team—comprising Tim Hennessy, John Nyhan, John Peebles and former partner Steve Bloxham—participated in the briefs, along with local counsel Shannon Falon and Steve Johnson. Kidder also noted that the firm was honored to work with tribal in-house legal counsel Seth Pearman on this case.

One of the country's only majority native-owned law firms, Fredericks Peebles & Patterson has offices in Sacramento, California; Louisville, Colorado; Rapid City, South Dakota; and Washington, DC. To learn more, visit [www.ndnlaw.com](http://www.ndnlaw.com).

*Fredericks Peebles & Patterson LLP is dedicated to the representation of American Indian tribes and Native American organizations throughout the United States. Legal services include a wide spectrum of services related to Indian concerns in the areas of business transactions, litigation and governmental affairs.*

###