

778 Fed.Appx. 545 (Mem)

This case was not selected for publication in West's Federal Reporter. See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also U.S.Ct. of App. 9th Cir. Rule 36-3. United States Court of Appeals, Ninth Circuit.

JW GAMING DEVELOPMENT, LLC, a California limited liability company, Plaintiff-Appellee,
v.

Angela JAMES; Leona L. Williams; Lenora Steele; Kathy Stallworth; Michelle Campbell; Julian J. Maldonado; Donald Williams; Veronica Timberlake; Cassandra Steele; Jason E. Running Bear Steele; Andrew Stevenson; [Pinoleville Pomo Nation](#), a federally-recognized Indian tribe, Defendants-Appellants.

No. 18-17008

Argued and Submitted August 7,
2019 San Francisco, California

FILED October 2, 2019

Attorneys and Law Firms

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Appeal from the United States District Court for the Northern District of California, [William Horsley Orrick](#), District Judge, Presiding, D.C. No. 3:18-cv-02669-WHO

Footnotes

* The Honorable Eugene E. Siler, United States Circuit Judge for the U.S. Court of Appeals for the Sixth Circuit, sitting by designation.

** This disposition is not appropriate for publication and is not precedent except as provided by [Ninth Circuit Rule 36-3](#).

Before: [O'SCANNLAIN](#), [SILER](#), * and [NGUYEN](#), Circuit Judges.

MEMORANDUM **

Several individual defendants (collectively the “tribal defendants”) appeal the district court’s order denying their motion to dismiss the claims against them on the basis of sovereign immunity. Because the facts are known to the parties, we repeat them only as necessary to explain our decision.

The district court did not err in denying the tribal defendants’ motion to dismiss the fraud and RICO claims that JW Gaming Development, LLC (“JW Gaming”) filed against them. Under our “remedy-focused analysis,” the Tribe is not the real party in interest with respect to such claims. [Maxwell v. County of San Diego](#), 708 F.3d 1075, 1088 (9th Cir. 2013). The claims are explicitly alleged against the tribal defendants in their individual capacities, and JW Gaming seeks to recover only monetary damages on such claims. If JW Gaming prevails on its claims against the tribal defendants, only they personally—and not the Tribe—will be bound by the judgment. Any relief ordered on the claims alleged against the tribal defendants will not, as a matter of law, “expend itself on the public treasury or domain,” will not “interfere with the [Tribe’s] public administration,” and will not “restrain the [Tribe] from acting, or ... compel it to act.” *Id.* (internal quotation marks omitted). Accordingly, such claims are not shielded by the Tribe’s sovereign immunity. See [Lewis v. Clarke](#), — U.S. —, 137 S. Ct. 1285, 1290–92, 197 L.Ed.2d 631 (2017); [Pistor v. Garcia](#), 791 F.3d 1104, 1112–14 (9th Cir. 2015); *546 [Maxwell](#), 708 F.3d at 1088–90.¹

AFFIRMED.

All Citations

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- 1 This is true even though the tribal defendants have been sued for actions they allegedly took in the course of their official duties and even if the Tribe chooses to indemnify the tribal defendants for any adverse judgment against them. See [Lewis](#), 137 S. Ct. at 1288, 1292–94; [Pistor](#), 791 F.3d at 1112; [Maxwell](#), 708 F.3d at 1088–90.