

Casino bias suit scores a victory

Ex-workers claiming harassment at Thunder Valley win a tentative ruling letting the case proceed.

By Dorothy Korber

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Former employees of Thunder Valley Casino stood smiling outside the old Auburn courthouse Friday morning, savoring a moment of victory in their legal battle over working conditions at the Placer County gambling facility.

If finalized, a tentative ruling by Superior Court Judge Charles D. Wachob will allow the seven women to pursue their case, despite the Indian casino's contention that tribal sovereignty makes it -- and its contractors -- immune from civil rights lawsuits.

The women claim they were victims of sexual harassment and job discrimination at the casino, which their class-action lawsuit characterizes as a hostile and highly sexualized workplace. All seven say they were fired when they complained.

After Friday's 30-minute hearing, three of the plaintiffs gathered on the courthouse steps to congratulate their attorney, Debra Smith.

"I'm very grateful," said Sundi Lyons, a former customer ambassador at Thunder Valley. "At least we now have an opportunity to get our day in court." The lawsuit alleges that Lyons was stalked and sexually abused by a casino manager.

"It gives us hope to continue the fight," said Elizabeth Ward, who supervised bar waitresses at the casino. The suit states that Ward witnessed women being given assignments "based on the size of their breasts and the shape of their legs and buttocks."

"We're pleased and we just hope the ruling sticks," said Smith, a lawyer with Equal Rights Advocates, a nonprofit law firm based in San Francisco.

But attorneys for the casino said Wachob's tentative ruling is in error -- that the tribe's status as a sovereign nation makes the casino unassailable in state court.

That point was raised forcefully and repeatedly at the hearing by Matthew Jacobs, representing Station Casinos Inc., the Nevada-based corporation that manages Thunder Valley for the United Auburn Indian Community.

"The facility is on tribal land," Jacobs told the judge. "The plaintiffs are trying to apply California law to these lands. It's similar to trying to apply California law to Mexico."

Wachob, who is new to the case, took the matter under submission and said he will issue a final ruling as soon as possible.

Both sides acknowledged that Friday's hearing was just one step in an intricate legal dance that began over a year ago -- and might extend years ahead. Whatever Wachob's final ruling may be, it will certainly be appealed by the losing party.

One key issue is that the Auburn tribe is no longer even a party to the workers' lawsuit. In November, a Placer County court commissioner ruled that neither the tribe nor the casino could be sued because of the sovereignty issue. That ruling is currently under appeal.

In February, the workers' legal team countered by amending their complaint and changing their target. Now Station Casinos -- a non-Indian corporation -- is the primary defendant.

In Station's motion for the suit's dismissal, attorney Jacobs argued that the tribe is Thunder Valley's owner and the actual employer at the casino, so sovereign immunity still applies.

The motion raised another point: The seven women declined an offer in April to seek redress under the Auburn tribe's new anti-discrimination ordinance.

The ordinance, the first of its kind for any California tribe, sets up a process for handling employee discrimination and family leave claims through an independent arbitrator.

Casino lawyers brought this matter up, they say, to demonstrate the tribe's good intentions -- and to show the former workers' rejection of them.

But that gambit may have backfired.

In his tentative ruling, Judge Wachob notes that the tribe's ordinance reflects key provisions of state and federal civil rights laws. Therefore, he says, the tribe's sovereignty will not be impaired if the court applies those same laws in this case.

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