

Redding Rancheria Sues Calif. For 'Bad Faith' Negotiations

By **Diamond Naga Siu**

Law360 (March 30, 2021, 8:42 PM EDT) -- Redding Rancheria, a federally recognized tribe in Northern California, sued the state in a California federal court over claims that it ghosted the tribe while negotiating a new gaming compact, violating the Indian Gaming Regulatory Act.

Redding Rancheria, which owns and operates the Win-River Resort and Casino, is one of **many tribes** suing the state for **bad faith negotiations** while trying to iron out a **new gaming agreement**. Redding Rancheria's current compact is from 1999 and expires in 2022.

Scott Crowell of his own law firm, counsel for Redding Rancheria and co-author of the Monday complaint, told Law360 in a phone interview Tuesday that the Indian Gaming Regulatory Act has been "morphed" into a way for states to encroach on areas of tribal self-governance, such as by unlawfully taking gaming revenue.

"I think the original authors of the Indian Gaming Regulatory Act are spinning in their graves, because it's not what Congress envisioned, but because states have gotten away for so long with overreaching, they just continue to overreach," Crowell said, citing how the act was originally created to regulate gaming operations.

"The state's negotiation strategy for sometime is to get those tribes that have reason to sign on to what's otherwise an unfair agreement and try to cram it down the throats of everyone else," Crowell added, highlighting that the 12 tribes currently suing the state are saying "enough is enough."

Redding Rancheria wrote in its complaint that California throughout the negotiations tried making the tribe agree to various unfavorable terms: taxing the tribe's gaming revenue, making it waive sovereign immunity and revamping the labor laws the tribe must follow.

"As no agreement was reached on those specific provisions, no agreement was or has been reached on all issues, and accordingly, no agreement was or has been reached on any issue," Redding Rancheria wrote in its filing, citing how the last negotiation session was in 2019.

"Separately, collectively, in isolation, and in the aggregate, these allegations establish a prima facie case that the State has failed to conclude compact negotiations in good faith," the tribe added, while saying California will unlikely be able to prove otherwise.

Redding Rancheria formally began negotiations for a new or renewed gaming compact with California in 2015, but the two parties could not agree on language for several key provisions, including mandatory agreements with local governments, an arbitration clause and organized labor regulations for the workforce.

The tribe said that after the last negotiating session, it directly corresponded with Gov. Gavin Newsom and his team and asked in 2019 for his team to change its position on certain aspects of the agreement. Redding Rancheria said the state acknowledged that it received the letter but did not respond otherwise.

So Redding Rancheria in mid-March tried concluding the negotiations by offering two solutions for a

new gaming compact but also requested the state to offer a short-term extension of the soon-expiring 1999 compact for the parties to continue negotiations.

Redding Rancheria also attached a similar complaint to the one filed in court, but the state last Tuesday rejected all aspects of the tribe's reach out, causing it to file suit, since the Indian Gaming Regulatory Act requires good faith negotiations.

"The Redding Rancheria is disappointed that we had to take this step and engage in litigation to secure our rights under the IGRA," the tribe's chairperson Jack E. Potter said in a written statement sent to Law360.

"We look forward to resolving this lawsuit and moving forward with a new gaming compact consistent with IGRA," he added.

The tribe requested the California federal judge to conclude that the state negotiated in bad faith, order the parties to re-enter negotiations, appoint a mediator if the negotiations fail again and extend the existing compact if a new one is not finalized by June 2022, the current compact's expiration date.

A representative for Newsom declined to comment for the story Tuesday.

Redding Rancheria is represented in-house by Michael Hollowell and Scott Crowell of his own offices.

Counsel information for California was not immediately available at time of publication.

The case is Redding Rancheria v. State of CA, et al., case number 2:21-cv-00579 in the U.S. District Court for the Eastern District of California.

--Editing by Amy Rowe.