



NEW AND NOTEWORTHY FOR Insurance Defense

FOURTH DEPARTMENT LAW HOLDS THAT NEW YORK STATE LAW, NOT TRIBAL LAW, APPLIES TO NON-INDIAN CONTRACTOR ON INDIAN LAND

Plaintiff was employed by a subcontractor on a project on property owned by the defendant, the Seneca Nation of Indians. The general contractor was a New York State corporation. Plaintiff, a member of the Seneca Nation of Indians, was injured when a trench in which he was working collapsed.

Defendant, the general contractor, contended that tribal law, not New York law, applied because the accident occurred on the Seneca Nation's sovereign land. Tribal law, unlike the New York State Labor Law, does not provide for vicarious liability for property owners and general contractors. Thus, Plaintiff sought the application of the New York State Labor Law, contending that the defendant, a non-Indian entity, could not avoid its obligations under New York Law by hiding behind tribal sovereignty.

The Appellate Division, Fourth Department, agreed with the plaintiff, citing previous case law holding that the regardless of the fact that the incident occurred was on tribal property, application of New York State Law did not violate the Nation's right to self government by exercising jurisdiction over the dispute. In

addition, the court held that the plaintiff's status as a Native American was not dispositive on this issue.

Hill v. Seneca Nation of Indians and Seneca Concrete and Paving Company, - AD3d- (4th Dept. June 15, 2012)

Please contact Wendy A. Scott, Esq., at (716) 853-3801, should you wish to discuss this case or if you have other matters for which you are seeking legal counsel.