

# Visiting Indian casinos in Florida could be a gamble

The rules are different for those who get injured at any of Florida's Indian casinos, though the Seminole Tribe is now allowing some claims to go to state court.

At least tens of millions of people visit the Seminole Tribe's seven Florida casinos in a given year, and once in a while one of those patrons might slip and fall, or in rare cases, suffer an injury that leads to death. Those are the moments when the tribe's unique „sovereign nation“ status – easy for some visitors to forget – becomes all too clear.

Tribal police, for example, don't have to respond to Sunshine Law requests for documents. Those who try to take the tribe to court have often found their lawsuits quickly dismissed – tribal nations are immune from such suits.

The Seminole Tribe is quick to note that the much-debated gaming compact it reached with Gov. Charlie Crist – which brought blackjack to Florida – includes a provision to make legal challenges easier for casino patrons. For the first time, the Seminoles would allow lawsuits against their casinos to be heard in state circuit court, provided both sides try to find an out-of-court remedy first.

The casino boom on Indian land across the country has brought to a head the issues of legal justice and access to information, according to Helen Padilla, director of New Mexico's American Indian Law Center. In the days before casinos, the general public had little interest or concern in how tribes handled such matters. Nowadays, she said, tribes are generally moving in the direction of „more openness,“ but the question of how open still falls to each tribe.

By agreeing to defend itself in state court, the Seminole

tribe has done something some other tribes won't, Padilla said.

South Florida's parimutuel industry, which competes with the tribe for poker and slots players, has been raising the sovereignty issue in its latest lobbying of state lawmakers. It's part of a larger argument the parimutuels make: The Seminoles enjoy unfair advantages, such as their exclusive offering of blackjack and their immunity from lawsuits. The parimutuels hope to convince lawmakers to lower the 50 percent tax rate they pay on slots revenues, citing the need for a „level playing field.“

And despite the Seminoles now allowing patrons to sue in court, the tribe has not negotiated away all its legal advantages – the new process is largely limited to smaller, minor claims.

In more-serious lawsuits, the Seminoles still retain the right to claim “tribal immunity” for any individual payout above USD 100,000.

### **,No answer‘**

Seminole attorney Jerry Straus said the liability limits in the compact are identical to the limits when someone sues the state of Florida.

„The feeling on the tribe's part is why should they be responsible for more than what the state is willing to pay?“ Straus said, noting that the tribe, too, provides government services to its members. „And the governor really had no answer to that.“

The go-to-court option for patrons is in effect now, Straus said, but court battles over the compact and the possibility that state lawmakers will amend it has added some uncertainty.

Miami-Dade's Miccosukee tribe has not signed a compact with

the governor, and so still reserves the right to claim tribal immunity for all lawsuits.

The issue of tribal law, meanwhile, has taken center stage in South Florida recently, prompted by the Miccosukees' feud with Miami-Dade State Attorney Katherine Fernández Rundle. The disagreement was sparked by the Miccosukee police department's handling of a fatal traffic crash that involved a tribe member and happened near, but not on, Indian land.

### **,Business philosophy'**

Unlike the Miccosukees, the Seminole tribe makes no effort to prosecute its members in a tribal court – arrestees are handled by Broward prosecutors at all times – and the Seminoles' relationship with local prosecutors and police is generally smooth.

The Seminoles' gambling empire, however, far exceeds the Miccosukees' lone casino. More visitors means more opportunities for serious accidents.

Seminole spokesman Gary Bitner said „the tribe works very hard to satisfy legitimate claims so that its customers feel good about being there at all times.“

„That's a business philosophy as much as anything,“ Bitner added. As evidence that the tribe typically reaches fair settlements with injured patrons, Bitner said complaints about such cases rarely hit the media.

If there were loads of unsatisfied claims, „they would go to the press,“ Bitner said.

### **Tragic case**

Not everyone who settles with the Seminoles walks away happy, however. Fort Lauderdale attorney Thomas Cubit has an example of that.

Cubit negotiated an undisclosed settlement with the tribe on behalf of a man in his twenties, Brian Osorio, who died at the tribe's Hard Rock casino location near Hollywood in 2007. Osorio suffered from lupus, and walked around with a shunt in his arm for dialysis. Osorio fell and ruptured that shunt, causing massive, fatal bleeding. Cubit says poor maintenance of the facility – in the form of exposed wires and pipes – caused Osorio's fall, but he had a hard time proving it.

„It's just impossible to get information from the police there,“ Cubit said. „You're taking that gamble that nothing happens to you on their their land. Because if something happens to you on their land, good luck to you.“

Cubit said Osorio's family likely would have obtained a larger settlement had the death happened off of Indian land at a private business.

### **Other deaths**

A few others – most famously, model Anna Nicole Smith of an accidental drug overdose – have died while on the Seminole's casino properties, though Bitner, the tribe spokesman, could not provide an exact death total.

Bitner said the tribe views the regular release of documents as something that could potentially weaken its sovereignty. But Bitner said the Seminoles try to accommodate the public in other ways, such as sharing information through face-to-face meetings.

„They try to be sensitive to what people might be going through,“ Bitner said. „Short of just handing them documents that they want.“