

COA Opinion: Indian tribe's agent has authority to waive tribe's sovereign immunity

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In *Bates Associates, L.L.C. v. 132 Associates, L.L.C.*, No. 288826, a commercial contract dispute arose between plaintiff Bates and defendant 123, which is owned by the Sault Ste. Marie Tribe of Chippewa Indians. Bates sued in Wayne County Circuit Court and the Tribe asserted sovereign immunity. The parties' contract waived the Tribe's sovereign immunity for actions brought to enforce the agreement, but the Tribe claimed that its agent lacked authority to negotiate and execute the contract because a tribal resolution was required to waive immunity. The Michigan Court of Appeals disagreed, because the agent had negotiated a previous agreement with Bates that similarly waived sovereign immunity, and because Bates had no knowledge that a tribal resolution was necessary. In addition, the Tribe failed to challenge the agreement's validity until after Bates filed suit. In these circumstances, the agent had sufficient authority to waive immunity.