

Lippes Mathias' Indian Law Practice Team Secures Victory for Prairie Band of Potawatomi Indians in Federal Court



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BUFFALO, N.Y. — On March 24, 2023, Lippes Mathias' Indian law practice team, led by partners Hon. Carol E. Heckman (Ret.) and James P. Blenk, brought home a historic victory on behalf of the Prairie Band of Potawatomi Indians in the Washington, D.C. Circuit Court of Appeals. The case involved disparities in funding of tribal governments under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The Court of Appeals rejected the United States Treasury Department's reasoning for distributing funds to tribal governments based on factors other than tribal enrollment, finding that "...the agency must treat similar cases in a similar manner unless it can provide a legitimate reason for failing to do so....It is clear . . . not only that more than enumeration of factual differences between cases is required, but also that the [Secretary] must explain their relevance to the purposes of the legislation it administers." (citations omitted).

This is the second time that the Court of Appeals has reversed Treasury's administration of funds earmarked for tribal governments under the CARES Act. In a prior challenge, the Court of Appeals nixed Treasury's distribution of funds that used HUD data as a proxy for a tribal government's population. See *Shawnee Tribe v. Mnuchin*, 984 F.3d 94, 97 (D.C. Cir. 2021). In an attempt to correct its original mistake, Treasury created a new formula, which still considered factors other than enrollment and resulted in some tribes receiving as much as 40% more funding under

the CARES Act for an enrolled population that was 33% lower. The court rejected Treasury's attempted to justify this his unequal treatment and found that it did not represent rational decision making under the Administrative Procedure Act.

With more than 40 years of experience as a trial lawyer and judge, Judge Heckman (Ret.) has an active practice as an arbitrator for the American Arbitration Association and conducts arbitrations in most major metropolitan areas with a particular concentration in New York City. In addition to arbitrations and mediations, Judge Heckman was selected as a fellow to the College of Commercial Arbitrators, an exclusive group of commercial arbitrators representing the best in the United States, where she serves as co-chair of the Education Committee. Judge Heckman also engages in litigation counseling and trial work for American Indian tribes and a group of business clients, providing representation in government investigations, complex commercial matters, taxation, and gaming. She has tried numerous cases as a lawyer, a judge, and an arbitrator in a broad range of disputes. Judge Heckman served as a magistrate judge in the Western District of New York for eight years where she was selected to sit on the Federal Judicial Conference's Education Committee for Magistrate Judges and served as an officer in the Federal Magistrate Judges Association. She has also served as a trial attorney with the U.S. Department of Justice in Washington, D.C. an assistant U.S. attorney in Buffalo, New York, and as a law clerk for Hon. John T. Curtin, former chief judge of the Western District of New York.

James P. Blenk concentrates his practice in commercial and governmental litigation. As part of Lippes Mathias' Indian law practice team Lippes Mathias, Mr. Blenk represents tribal governments, with a particular focus on land and regulatory disputes with the United States and state governments. Mr. Blenk received his J.D. from Boston College Law School.

About Lippes Mathias LLP

Lippes Mathias is a full-service law firm with nearly 170 attorneys serving clients regionally, nationally, and internationally. With offices in Buffalo, Albany, Rochester, Long Island, New York, and Saratoga Springs, N.Y.; Greater Toronto Area; Chicago, Ill.; Jacksonville, Fla.; Cleveland, Ohio; San Antonio, Texas; and Washington, D.C., the firm represents publicly and privately-owned companies, private equity and venture capital firms, real estate developers, financial institutions, municipalities, governmental entities, and individuals.

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Related Team



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