

**PRECEDENTIAL**

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 04-4593

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THE DELAWARE NATION, A FEDERALLY  
RECOGNIZED INDIAN TRIBE,  
IN ITS OWN NAME AND AS THE SUCCESSOR IN INTEREST TO "MOSES"  
TUNDY TETAMY, A FORMER CHIEF OF  
THE DELAWARE NATION, AND OF HIS DESCENDANTS

v.

COMMONWEALTH OF PENNSYLVANIA; EDWARD G. RENDELL; COUNTY OF  
NORTHAMPTON, PENNSYLVANIA; J. MICHAEL DOWD; RON ANGLE;  
MICHAEL F. CORRIERE; MARY ENSSLIN; MARGARET FERRARO; WAYNE A.  
GRUBE; ANN MCHALE;  
TIMOTHY B. MERWARTH; NICK R. SABATINE;  
COUNTY OF BUCKS, PENNSYLVANIA; MICHAEL G.  
FITZPATRICK; CHARLES H. MARTIN; SANDRA A. MILLER;  
TOWNSHIP OF FORKS, PENNSYLVANIA;  
JOHN ACKERMAN; DAVID KOLB;  
DONALD H. MILLER; DAVID W. HOFF;  
HENNING HOLMGAARD; BINNEY & SMITH, INC.; FOLLETT CORPORATION;  
ROBERT AERNI;  
MARY ANN AERNI; AUDREY BAUMAN;  
DANIEL O. LICHTENWALNER;  
JOAN B. LICHTENWALNER; CAROL A. MIGLIACCIO; JOSEPH M. PADULA;  
MARY L. PADULA; JACK REESE; JEAN REESE; ELMORE H. REISS;  
DOROTHY H. REISS; GAIL N. ROBERTS;  
CARL W. ROBERTS; WARREN F. WERKHEISER;  
ADA A. WERKHEISER; WARREN NEILL WERKHEISER;  
NICK ZAWARSKI AND SONS DEVELOPERS INC.; JOHN DOES 1-250; JOHN DOE  
COMPANY; MARK SAMPSON; CATHY SAMPSON

The Delaware Nation,

Appellant

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On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
(D.C. No. 04-cv-00166)  
District Judge: Honorable James McGirr Kelly

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Argued November 8, 2005

Before: FUENTES, GARTH and ROTH\*, Circuit Judges.

Stephen A. Cozen (**Argued**)  
Thomas B. Fiddler, Esquire  
Thomas G. Wilkinson, Jr., Esquire  
Cozen & O'Connor  
1900 Market Street, 4<sup>th</sup> Floor  
Philadelphia, PA 19103

Counsel for Appellant

Benjamin S. Sharp, Esquire (**Argued**)  
Donald C. Baur, Esquire  
Perkins Coie  
607 14<sup>th</sup> Street, N.W., Suite 800  
Washington, DC 20005

David F. B. Smith, Esquire (**Argued**)  
Ryberg & Smith  
1054 31<sup>st</sup> Street, N.W.  
Washington, D.C. 20007

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\*Judge Roth assumed senior status on May 31, 2006.

Mark A. Kearney, Esquire (**Argued**)  
Elliott, Reihner & Siedzikowski  
925 Harvest Drive, Suite 300  
P.O. Box 3010  
Blue Bell, PA 19422

Andrew J. Bellwoar, Esquire (**Argued**)  
Siana, Bellwoar & McAndrew  
941 Pottstown Pike, Suite 200  
Chester Springs, PA 19425

Raymond J. DeRaymond, Esquire  
DeRaymond & Smith  
717 Washington Street  
Easton, PA 18042

Darryl J. May, Esquire  
Ballard, Spahr, Andrews & Ingersoll  
1735 Market Street, 51<sup>st</sup> Floor  
Philadelphia, PA 19103

William P. Leeson, Esquire  
Leeson, Leeson & Leeson  
70 East Broad Street  
P.O. Box 1426  
Bethlehem, PA 18016

Blair H. Granger, Esquire  
Blair H. Granger & Associates  
1800 East Lancaster Avenue  
Paoli, PA 19301

Thomas L. Walters, Esquire  
Lewis and Walters  
46 South Fourth Street  
Easton, PA 18042

Counsel for Appellees

**ORDER AMENDING OPINION**

**IT IS ORDERED** that the published Opinion in the above case, filed on May 4, 2006, be amended as follows:

**On page 13**, delete the following paragraph:

No purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the constitution.

and **replace it with:**

No purchase, grant, lease or other conveyance of lands, or of any title or claim thereto, from any Indian, or nation or tribe of Indians, within the bounds of the United States, shall be of any validity, in law or equity, unless the same by made by treaty or convention, entered into, pursuant to the constitution

By the Court,

/s/ Jane R. Roth

Circuit Judge

Dated: June 14, 2006