

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

JOSEPH CUPO,

Appellant,

v.

SEMINOLE TRIBE OF FLORIDA,
a federally recognized Indian tribe,

Appellee.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D02-3048

Opinion filed December 11, 2003.

An appeal from an order of the Judge of Compensation Claims.
Judith A. Brechner, Judge.

Joseph Hackney, Jr., of Joseph Hackney, Jr., P.A., Miami, for Appellant.

Donald A. Orlovsky of Kamen & Orlovsky, P.A., West Palm Beach, and
Leopoldo Garcia, Jr., of Angones, Hunter, McClure, Lynch & Williams, P.A.,
Miami, for Appellee.

PER CURIAM.

In this workers' compensation appeal, claimant, James Cupo, filed a petition for
benefits asserting that he was injured during the course and scope of his employment

with the employer, the Seminole Tribe of Florida. The judge of compensation claims dismissed the petition based upon lack of subject-matter jurisdiction over the Tribe. Cupo contends that the ruling violated his right to contract under Article I, Section 10, of the United States Constitution. We affirm, because Cupo failed to show a clear, express and unmistakable waiver of sovereign immunity by the Tribe, or any Act of Congress abrogating the Tribe's sovereign immunity. See Houghtaling v. Seminole Tribe of Fla., 611 So. 2d 1235 (Fla. 1993). See also Middletown Rancheria of Pomo Indians v. Workers' Comp. App. Bd., 71 Cal. Rptr. 2d 105 (Cal. Ct. App. 1998).

AFFIRMED.

WOLF, C.J., ERVIN and PADOVANO, JJ., CONCUR.