



2018 Federal Courts Cases

Last updated: October 24, 2018

Next Update Should be Ready by: October 31, 2018

RECENTLY ADDED CASES:

Inter-Tribal Council of Arizona Inc. v. United States

2018 WL 5069161

No. 15-342L

United States Court of Federal Claims.

October 17, 2018

Legal Topics: Federal Fiduciary Duty

Northern Natural Gas Company v. 80 Acres of Land in Thurston County

2018 WL 5264275

8:17-CV-328

United States District Court, D. Nebraska

October 23, 2018

Legal Topics: Rights-of-Way

Wilhite v. Awe Kualawaache Care Center

2018 WL 5255181

CV 18-80-BLG-SPW

United States District Court, D. Montana.

October 22, 2018

Legal Topics: Tribal Sovereign Immunity

Guardado v. State of Nevada

2018 WL 5019377

No.: 2:18-cv-00198-GMN-VCF

United States District Court, D. Nevada.

October 16, 2018

Legal Topics: Religious Land Use and Institutionalized Persons Act

OLDER CASES:

DECEMBER

NOVEMBER

OCTOBER

Wilson v. Horton's Towing

2018 WL 4868025

No. 16-35320

United States Court of Appeals, Ninth Circuit.

October 9, 2018

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***Synopsis:** Truck owner brought action against tribal police officer and towing company alleging that towing company converted his truck by impounding it on reservation at state patrol's direction, towing it off of reservation, and releasing it to tribal police officer pursuant to tribal court order of forfeiture. United States substituted for officer. The United States District Court for the Western District of Washington, No. 2:15-cv-00629-JCC, John C. Coughenour, Senior Judge, 2016 WL 1221655, entered summary judgment in defendants' favor, and owner appealed.

* Synopsis and holding provided under an agreement with Westlaw.

***Holdings:** The Court of Appeals, Pregerson, District Judge, sitting by designation, held that:
1) The Court of Appeals, Pregerson, District Judge, sitting by designation, held that:
2) officer was entitled under Westfall Act to immunity from truck owner's conversion claim.
Affirmed.

The Tulalip Tribes and the Consolidated Borough of Quil Ceda Village v. The State of Washington

2018 WL 4811893

NO. 15-CV-940 BJR

United States District Court, W.D. Washington.

October 4, 2018

Legal Topics: Taxation

Brackeen v. Zinke

2018 WL 4927908

No. 4:17-cv-00868-O

United States District Court, N.D. Texas, Fort Worth Division.

October 4, 2018

Legal Topics: Indian Child Welfare Act

Related News: ICWA decision brings push back from Tribe ([Cherokee One Feather](#)) 10/19/18, Federal judge strikes down ICWA ([Rapid City Journal](#)) 10/9/18

Shingobee Builders, Inc. v. North Segment Alliance

2018 WL 4702151

No. 1:18-cv-57

United States District Court, D. North Dakota.

October 1, 2018

Legal Topics: Tribal Sovereign Immunity

Winnemucca Indian Colony v. Department of the Interior

Briefs via Turtle Talk

No. 3:11-cv-00622-RCJ-VPC

United States District Court, District of Nevada.

October 1, 2018

Legal Topics: Comity; Enrollment; Elections

SEPTEMBER

Brakebill v. Jaeger

2018 WL 4559487

Briefs via Turtle Talk

No. 18-1725

United States Court of Appeals, Eighth Circuit.

September 24, 2018

***Synopsis:** Native Americans who were residents of North Dakota brought action against North Dakota Secretary of State alleging that North Dakota statute requiring that qualified elector must provide a valid form of identification to proper election official before receiving a ballot violated Equal Protection Clause of Fourteenth Amendment and Section 2 of the Voting Rights Acts. The United States District Court for the District of North Dakota granted residents' motion for preliminary injunction enjoining Secretary from enforcing statutory requirement that a voter produce identification or a supplemental document with a current residential street address, ordering the Secretary to accept another form of identification that included a current residential street address or a current mailing address in North Dakota, and ordering the Secretary to accept any form of tribal identification that set forth a name, date of birth, and current residential street address or mailing address. Secretary appealed, seeking to stay the district court's order that voters must be deemed qualified if they present identification or a supplemental document with a current mailing address rather than a current residential street address.

***Holdings:** The Court of Appeals, Colloton, Circuit Judge, held that:

- 1) Native American resident of North Dakota had standing to raise facial challenge to North Dakota statute setting forth voter identification requirements;
- 2) North Dakota Secretary of State was likely to succeed on appeal from district court's order granting preliminary injunction;

- 3) State would be irreparably harmed without stay of preliminary injunction;
 - 4) proximity to general election did not preclude entry of stay of preliminary injunction; and
 - 5) stay of preliminary injunction was warranted.
- Motion granted.

Pakootas v. Teck Cominco Metals, LTD.
2018 WL 4372973
Briefs via Turtle Talk
No. 16-35742
United States Court of Appeals, Ninth Circuit.
September 14, 2018

***Synopsis:** Confederated tribes of Colville Reservation brought CERCLA action against State of Washington and Canadian company, seeking to hold them liable for dumping several million tons of industrial waste into Columbia River. After phase one of trifurcated bench trial, the United States District Court for the Eastern District of Washington, No. 2:04-cv-00256-LRS, Lonny R. Suko, J., found company was a liable party under CERCLA and, in phase two of trial, found company liable for more than \$8.25 million of plaintiffs' response costs. After partial judgment was entered, company appealed.

***Holdings:** The Court of Appeals, Gould, Circuit Judge, held that:

- 1) District Court did not abuse its discretion by directing entry of judgment on company's liability under CERCLA for response costs;
 - 2) company "expressly aimed" waste it dumped into River at State of Washington, thereby establishing requisite effects in Washington for exercise of specific personal jurisdiction;
 - 3) tribes were entitled to recover investigation costs, as recoverable costs of "removal";
 - 4) tribes were entitled to recover reasonable attorney fees for prevailing in their action;
 - 5) company was not entitled to divisibility defense.
- Affirmed.

Related News: Colville Tribes win big in effort to keep homelands safe ([Indianz](#)) 9/17/18

Oglala Sioux Tribe v. Fleming
2018 WL 4374640
No. 17-1135, No. 17-1136, No. 17-1137
United States Court of Appeals, Eighth Circuit.
September 14, 2018
Legal Topics: Indian Child Welfare Act

Related News: ACLU will ask Eighth Circuit to reconsider opinion on ICWA, due process ([SDPB Radio](#)) 9/18/18, ICWA: 8th Circuit overturns federal ruling ([SDPB Radio](#)) 9/17/18

Navajo Nation v. Wells Fargo & Company
2018 WL 4608245
Briefs via Turtle Talk
No. 17-CV-1219-JAP-SCY
United States District Court, D. New Mexico
September 25, 2018
Legal Topics: Fraudulent Banking Practices

Related News: Federal judge dismisses Navajo's lawsuit against Wells Fargo ([U.S. News](#)) 9/27/18

Aguilar v. Kewa Pueblo
2018 WL 4466025
No. 17-cv-1264 JCH/SMV
United States District Court, D. New Mexico.
September 18, 2018
Legal Topics: Endangered Species Act - Grizzly Bears

Crow Indian Tribe v. United States
2018 WL 4568418
CV 17-89-M-DLC
United States District Court, D. Montana, Missoula Division.
September 24, 2018
Legal Topics: Endangered Species Act - Grizzly Bears

Forest County Potawatomi Community v. United States
2018 WL 4308570
No. 15-105 (CKK)
United States District Court, District of Columbia.
September 10, 2018
Legal Topics: Gaming Compact - Approval

Kialegee Tribal Town v. Zinke
2018 WL 4286406
No. 17-cv-1670 (CKK)
United States District Court, District of Columbia.
September 7, 2018

***Synopsis:** Federally recognized Indian tribe brought action against Secretary of the Interior and other federal officials, seeking declaratory and injunctive relief in its favor in connection with its claims that it was successor to Creek Nation, and as such, had treaty-protected rights of shared jurisdiction over land within the boundaries of the historic Creek Nation reservation. Defendants moved to dismiss for failure to state claim.

***Holdings:** The District Court, Colleen Kollar-Kotelly, J., held that:

- 1) it court had subject-matter jurisdiction, but
- 2) tribe failed to adequately allege specific conduct by Secretary of Interior and other officials that violated Indian Reorganization Act (IRA), as required to state claim for declaratory and injunctive relief.

Motion granted.

United States of America v. Uintah Valley Shoshone Tribe
2018 WL 4222398
No. 2:17-cv-1140-BSJ
United States District Court, D. Utah, Central Division.
September 5, 2018
Legal Topics: Huning and Fishing Rights

AUGUST

Narragansett Indian Tribe v. Rhode Island Department of Transportation
2018 WL 4140270
Briefs via Turtle Talk
No. 17-1951
United States Court of Appeals, First Circuit.
August 30, 2018

***Synopsis:** Indian tribe brought action against federal and Rhode Island agencies, alleging breach of contract and seeking declaratory and injunctive relief regarding highway bridge reconstruction over historic tribal land. The United States District Court for the District of Rhode Island, William E. Smith, Chief District Judge, 2017 WL 401149, granted defendants' motion to dismiss for lack of subject matter jurisdiction. Tribe appealed.

***Holdings:** The Court of Appeals, Kayatta, Circuit Judge, held that:

- 1) National Historic Preservation Act (NHPA) did not expressly or implicitly waive federal government's sovereign immunity, and
- 2) tribe's breach of contract claim did not have any substantive basis in NHPA, and thus federal court lacked federal question jurisdiction over breach of contract claim against state agencies.

Affirmed.

Chippewa Cree Tribe of Rocky Boy's Reservation, Montana v. U.S. Department of Interior
2018 WL 3978542
Briefs via Turtle Talk
No. 15-71772
United States Court of Appeals, Ninth Circuit.
August 21, 2018

***Synopsis:** Tribe petitioned for review of order of Department of the Interior (DOI) requiring Tribe to provide back pay and other relief to former chairman of Tribe's governing committee after finding that chairman was removed from committee in retaliation for whistleblowing.

***Holdings:** The Court of Appeals, Friedland, Circuit Judge, held that:

- 1) chairman performed services on behalf of Tribe, as required for whistleblower protections of American Recovery and Reinvestment Act (ARRA) to apply to chairman;
- 2) DOI's order did not infringe Tribe's sovereignty and powers of self-governance;
- 3) Congress acted within its spending power in conditioning the receipt by Tribe of ARRA funds on the waiver of the right to a hearing with cross-examination before the Tribe could be found to have violated ARRA's whistleblower protections;
- 4) six months between chairman's disclosure of misuse of federal funds and his removal from board was within time frame that could have led reasonable person to conclude that chairman's whistleblowing was a contributing factor in his removal; and
- 5) DOI's finding that Tribe's removal of chairman was retaliatory was not arbitrary or capricious.

Petition denied.

Related News Stories: Chippewa Cree Tribe loses bid to silence whistleblower ([Indianz](#)) 8/21/18

Crow Creek Sioux Tribe v. United States

2018 WL 3945585

Briefs via Turtle Talk

2017-2340

United States Court of Appeals, Federal Circuit.

August 17, 2018

***Synopsis:** Federally recognized Indian tribe brought action against United States, through Department of Interior (DOI), claiming Fifth Amendment taking of tribe's reserved water rights and alleged mismanagement of water rights, arising from federal government's diversion of water from river running along reservation's western boundary. The United States Court of Federal Claims, Robert H. Hodges, Jr., Senior Judge, 132 Fed.Cl. 408, granted United States' motion to dismiss. Tribe appealed.

***Holdings:** The Court of Appeals, Dyk, Circuit Judge, held that tribe lacked Article III standing. Affirmed.

Gila River Indian Community v. United States Department of Veterans Affairs

2018 WL 3863856

No. 17-15629

United States Court of Appeals, Ninth Circuit.

August 15, 2018

***Synopsis:** Indian tribe and tribal health program brought action against Department of Veterans Affairs (VA) for failing to reimburse program for care it provided to veterans at tribal facilities. The United States District Court for the District of Arizona, No. 2:16-cv-00772-ROS, Roslyn O. Silver, Senior Judge, 2017 WL 2424721, dismissed complaint, and tribe appealed.

***Holdings:** The Court of Appeals, W. Fletcher, Circuit Judge, held that district court lacked subject matter jurisdiction over action under Veterans' Judicial Review Act (VJRA). Affirmed.

Related News Stories: Gila River Indian Community denied funds for tribal veterans ([Indianz](#)) 8/17/18

United States v. King Mountain Tobacco Company, Inc.

2018 WL 3826230

Nos. 14-36055, 16-35607

United States Court of Appeals, Ninth Circuit.

August 13, 2018

***Synopsis:** United States brought action against tribal manufacturer of tobacco products located on land held in trust by United States, seeking to recover for unpaid federal excise taxes, associated penalties and interest. The United States District Court for the Eastern District of Washington, No. 2:12-cv-03089-RMP, Rosanna Malouf Peterson, J., 2014 WL 4264803, entered summary judgment for government. Manufacturer appealed.

***Holdings:** In matters of first impression, the Court of Appeals, McKeown, Circuit Judge, held that: 1) the General Allotment Act did not provide manufacturer an exemption from imposition of the federal excise tax, and 2) provisions of 1855 Yakama Treaty did not contain express exemptive language sufficient to relieve corporation of its liability for federal excise tax. Affirmed.

Alabama-Quassarte Tribal Town v. United States

2018 WL 3829245

No. 17-7003

United States Court of Appeals, Tenth Circuit.

August 13, 2018

***Synopsis:** Indian tribe brought action against United States, Secretary and Associate Deputy Secretary of Interior Department, Treasury Secretary, and another tribe seeking declaratory judgment that property acquired pursuant to Oklahoma Indian Welfare Act (OIWA) was purchased for its benefit, and order compelling government to assign property to it and provide it with accounting of related trust funds and assets. The United States District Court for the Eastern District of Oklahoma, No. 6:06-CV-00558-RAW, Ronald A. White, J., granted government's motion for partial judgment on pleadings, 2008 WL 11389448, granted other tribe's motion to dismiss, 2016 WL 93848, and entered summary judgment in government's favor, 2016 WL 7495806. Tribe appealed.

***Holdings:** The Court of Appeals, Lucero, Circuit Judge, held that: 1) other tribe was necessary party; 2) other tribe did not waive its tribal immunity; and 3) Interior Board of Indian Appeals' (IBIA) determination that other tribe was legal beneficiary of

funds was supported by substantial evidence and was not arbitrary or capricious.
Affirmed.

Carter v. Tahsuda
2018 WL 3720025
No. 17-15839

United States Court of Appeals, Ninth Circuit.
August 6, 2018

Legal Topics: Indian Child Welfare Act - Constitutionality

Related News Stories: Judge upholds Indian Child Welfare Act ([Arizona Daily Sun](#)) 8/7/18.

State of California v. Iipay Nation of Santa Ysabel
2018 WL 3650825
No. 17-155150

United States Court of Appeals, Ninth Circuit.
August 2, 2018

***Synopsis:** State of California and United States brought action against federally recognized Indian tribe, seeking injunctive relief prohibiting tribe from continuing to operate a server-based bingo game that allowed patrons to play computerized bingo over the internet. The United States District Court for the Southern District of California, Anthony J. Battaglia, J., 2016 WL 10650810, granted plaintiffs' motion for summary judgment. Tribe appealed.

***Holdings:** The Court of Appeals, Carlos T. Bea, Circuit Judge, held that:

1) patrons' act of placing a bet or wager on game constituted gaming activity that was not located on Indian lands, and
2) as a matter of first impression, tribe's operation of game violated the Unlawful Internet Gambling Enforcement Act.
Affirmed.

Related News: Ninth Circuit affirms illegality of tribe's online gambling site ([JD Supra](#)) 9/17/18

Coriz v. Rodriguez, Acting Warden
2018 WL 4179460

No. CIV 17-1258 JB/KBM

United States District Court, D. New Mexico.
August 31, 2018

Legal Topics: Habeas Corpus; Indian Civil Rights Act

Oneida Indian Nation v. United States Department of the Interior
2018 WL 4054097

5:17-cv-913

United States District Court, N.D., New York.
August 24, 2018

Legal Topics: Trademarks - Official Tribal Names

Upper Lake Pomo Association v. Morton
2018 WL 3956468

No. 75-cv-00181-PJH

United States District Court, N.D. California.
August 17, 2018

Legal Topics: Lands - Federal Trust Status

McCoy v. Salish Kootenai College, Inc.
2018 WL 3824147

CV 17-88-M-DLC

United States District Court, D. Montana.
August 6, 2018

Legal Topics: Tribal Colleges - Tribal Sovereign Immunity

JULY

Navajo Nation v. Dalley
2018 WL 3543643

No. 16-2205

United States Court of Appeals, Tenth Circuit.
July 24, 2018

***Synopsis:** Indian tribe and its wholly-owned government enterprise brought declaratory judgment action seeking determination that state court lacked jurisdiction over personal injury action brought by visitors to on-reservation gaming facility, on the basis that the Indian Gaming Regulatory Act

(IGRA) did not permit shifting of jurisdiction to state court. The United States District Court for the District of New Mexico, Martha Vázquez, J., 2016 WL 9819590, granted visitors' and state court judge's motion for summary judgment. Tribe and enterprise appealed.

***Holdings:** The Court of Appeals, Holmes, Circuit Judge, held that:

- 1) Court had subject matter jurisdiction;
 - 2) IGRA provisions did not authorize tribe to allocate jurisdiction to state courts for visitors' tort claim;
 - 3) "catch-all" provision in IGRA did not authorize tribe to allocate jurisdiction to state courts for visitors' tort claim; and
 - 4) statutory-construction canon against surplusage construction of statutes was an independent and distinct ground for rejecting expansive reading of "catch-all" provision in IGRA.
- Reversed and Remanded.

Related News Stories: Navajo Nation scores victory in dispute over slip and fall at casino ([Indianz](#)) 7/24/18

Northern Natural Gas Company v. 80 Acres of Land in Thurston County

2018 WL 3586527

No. 16-2205

United States District Court, D. Nebraska.

July 26, 2018

Legal Topics: Utilities; Rights-of-Way - Condemnation

Wilhite v. Awe Kualawaache Care Center

2018 WL 3586539

CV 18-80-BLG-SPW

United States District Court, D. Montana

July 26, 2018

Legal Topics: Jurisdiction; Racketeer Influenced and Corrupt Organizations Act

Related News Stories: Judge allows lawsuit against Crow nursing home to proceed ([Great Falls Tribune](#)) 7/28/18

Oglala Sioux Tribe v. U.S. Nuclear Regulatory Commission

2018 WL 3490073

No. 17-1059

United States Court of Appeals, District of Columbia Circuit.

July 20, 2018

***Synopsis:** Tribe filed petition for review of decision of the United States Nuclear Regulatory Commission (NRC) leaving in effect license to construct a uranium mining project in the Black Hills of South Dakota, notwithstanding its determination that there was a significant deficiency in its compliance with the National Environmental Policy Act (NEPA).

***Holdings:** The Court of Appeals, Garland, Chief Judge, held that:

- 1) NRC's order was not final, for purposes of jurisdiction under Hobbs Act;
- 2) NRC ruling was reviewable pursuant to collateral order doctrine;
- 3) NRC's ruling was contrary to NEPA;
- 4) harmless error doctrine did not justify NRC's ruling; and
- 5) remand to NRC was required.

Remanded.

Saint Regis Mohawk Tribe v. Mylan Pharmaceuticals Inc.

2018 WL 3484448

2018-1638, 2018-1639, 2018-1640, 2018-1641, 2018-1642, 2018-1643

United States Court of Appeals, Federal Circuit.

July 20, 2018

***Synopsis:** Challenger filed petition for inter partes review of patents related to treatment for alleviating symptoms of chronic dry eye. Following transfer of title of patents to tribe, tribe moved to terminate based on sovereign immunity and former owner of patents moved to withdraw. The United States Patent and Trademark Office, Patent Trial and Appeal Board, Nos. IPR2016-01127, IPR2016-01128, IPR2016-01129, IPR2016-01130, IPR2016-01131, IPR2016-01132, IPR2017-00599, IPR2017-00576, IPR2017-00578, IPR2017-00579, IPR2017-00583, IPR2017-00585, IPR2017-00586, IPR2017-00594, IPR2017-00596, IPR2017-00598, IPR2017-00600, IPR2017-00601, 2018 WL 1100950, and 2018 WL 1055669, denied motions, and tribe and former owner appealed.

***Holdings:** The Court of Appeals, Moore, Circuit Judge, held that tribal sovereign immunity could not be asserted in inter partes review proceedings.

Affirmed

Related News Stories: Next stop for Tribe's PTAB sovereign immunity case could be Supreme Court (BioCentury) 10/23/18, U.S. Court rejects Allergan bid to shield patents through tribe deal (New York Times) 7/20/18

Ho-Chunk, Inc. v. Sessions

894 F.3d 365

No. 17-5140

United States Court of Appeals, District of Columbia Circuit.

July 3, 2018

***Synopsis:** Tribal corporations brought action against United States Attorney General seeking declaration judgment that they were not subject to Contraband Cigarettes Trafficking Act's (CCTA) recordkeeping requirements. The United States District Court for the District of Columbia, No. 1:16-cv-01652, Christopher R. Cooper, J., 253 F.Supp.3d 303, entered summary judgment in government's favor, and corporations appealed.

***Holdings:** The Court of Appeals, Randolph, Senior Circuit Judge, held that:

- 1) CCTA's recordkeeping requirements applied to tribal corporations, and
- 2) tribal corporations were "persons" subject to CCTA's recordkeeping requirements.

Affirmed

Stand up for California! v. United States Department of the Interior

2018 WL 3473975

NO. 2:16-CV-02681-AWI-EPG

United States District Court, E.D. California

July 18, 2018

Legal Topics: Gaming; Administrative Procedures Act

Flandreau Santee Sioux Tribe v. Sattgast

2018 WL 3432047

4:17-CV-04055-KES

United States South Dakota, Southern Division.

July 16, 2018

Legal Topics: State Taxation

Caddo Nation of Oklahoma v. Wichita and Affiliated Tribes

2018 WL 3354882

NO. CIV-16-0559-HE

United States District Court, W.D. Oklahoma.

July 9, 2018

Legal Topics: Tribal Sovereign Immunity

JUNE

California v. Picayune Rancheria of Chukchansi Indians of California

725 Fed.Appx. 591

No. 16-15096

United States Court of Appeals, Ninth Circuit.

June 5, 2018

Legal Topics: Official Tribal Government

United States v. Jim

891 F.3d 1242

No. 16-17109

United States Court of Appeals, Eleventh Circuit.

June 4, 2018

***Synopsis:** Government brought action against Indian tribe member seeking to reduce income tax assessments on gaming revenue distributions to judgment. Tribe intervened as a defendant. The United States District Court for the Southern District of Florida, No. 1:14-cv-22441-CMA, Cecilia M. Altonaga, J., 2016 WL 7539132, granted in part government's motion for summary judgment on affirmative defense that distributions were exempt from taxation under Tribal General Welfare Exclusion Act, following bench trial, 2016 WL 6995455, issued findings of fact and conclusions of law and entered judgment against defendants, and denied tribe's motion to alter or amend judgment. Defendants appealed.

***Holdings:** The Court of Appeals, Tjoflat, Circuit Judge, held that:

- 1) Indian general welfare benefits exemption did not apply to distributions;
- 2) distributions did not derive from tribal land, and, thus, were not exempt from federal taxation on such basis;
- 3) District Court did not abuse its discretion in denying tribe's motion to amend judgment entered

against it.
Affirmed

Related News Stories: Florida Tribal casino revenues subject to Federal taxes, 11th Circuit says ([Daily Report](#)) 6/4/18

Navajo Arts & Crafts Enterprise v. McGough
2018 WL 4575012
No. CV-17-08239-PCT-DLR
United States District Court, D. Arizona.
June 26, 2018
Legal Topics: Tribal Sovereign Immunity

Chinook Indian Nation v. Zinke
2018 WL 3046430
NO. C17-5668 RBL
United States District Court, W.D. Washington, at Tacoma.
June 20, 2018
Legal Topics: Federal Recognition

Related News Stories: Chinook tribe a step closer to recognition as Judge advances claims ([Herald and News](#)) 6/21/18

MAY

Mono County v. Walker River Irrigation District
890 F.3d 1174
No. 15-16342
United States Court of Appeals, Ninth Circuit.
May 22, 2018

***Synopsis:** Walker River Paiute Tribe and United States brought action against River Irrigation District, seeking recognition of Tribe's right to a certain additional amount of water from river under decree adjudicating water rights in river basin. County intervened as plaintiff, requesting that decree court reopen and modify the final decree to recognize rights of county and public to have minimum levels of water to maintain viability of lake in the county. The United States District Court for the District of Nevada, Robert C. Jones, J., 2015 WL 3439122, dismissed action. County appealed.

***Holdings:** The Court of Appeals, Jay S. Bybee, Circuit Judge, held that certification of question of whether, and to what extent, public trust doctrine applied to water rights already adjudicated and settled under the doctrine of prior appropriation and, if so, to what extent, was appropriate. Question certified, proceedings stayed.

United States v. Walker River Irrigation District
890 F.3d 1161
No. 15-16478, No. 15-16479
United States Court of Appeals, Ninth Circuit.
May 22, 2018

***Synopsis:** Federal government brought action to establish water rights in river basin on behalf of tribe. The United States District Court for the District of Nevada, St. Sure, J., issued decision, 11 F.Supp. 158, and entered decree awarding water rights to various claimants. Federal government appealed. The United States Court of Appeals for the Ninth Circuit, 104 F.2d 334, reversed in part. On remand, the District Court amended and retained jurisdiction to modify decree. Later in same action, river irrigation district filed petition to enjoin state water resources control board from implementing restrictions on its water licenses. Tribe and federal government filed counterclaims asserting new water rights. The District Court, Robert Clive Jones, J., 2015 WL 3439106, granted irrigation district's motion to dismiss counterclaims for lack of subject matter jurisdiction, concluding that while continuing jurisdiction existed, counterclaims were new action barred by res judicata. Tribe and federal government appealed.

***Holdings:** The Court of Appeals, A. Wallace Tashima, Circuit Judge, held that:
1) continuing jurisdiction existed;
2) counterclaims were not new action;
3) dismissal based on res judicata was improper; and
4) Court of Appeals would reassign case.
Reversed, remanded, and reassigned.

Oviatt v. Reynolds
2018 WL 2094505
No. 17-4124

United States Court of Appeals, Tenth Circuit.

May 7, 2018

***Synopsis:** Arrestees, who were lay advocates in tribe, brought action against tribal officials, alleging that officials had violated Fourth Amendment and Indian Civil Rights Act by incarcerating and searching them. The United States District Court for the District of Utah granted officials' motion to dismiss for lack of subject matter jurisdiction. Arrestees appealed.

***Holdings:** The Court of Appeals, Robert E. Bacharach, Circuit Judge, held that:

- 1) Court of Appeals would exercise its discretion to deny appointment of United States Attorney as counsel for arrestees;
 - 2) arrestees were not detained within meaning of Indian civil Rights Act when they brought action against tribal officials; and
 - 3) arrestees' Fourth Amendment claims were frivolous.
- Affirmed.

Cachil Dehe Band of Wintun Indians of Colusa Indian Community v. Zinke

889 F.3d 584

No. 17-15245, No. 17-15533

United States Court of Appeals, Ninth Circuit.

May 2, 2018

***Synopsis:** Indian tribe with casino, citizens' groups, and individuals brought action to enjoin the Bureau of Indian Affairs (BIA) from taking parcel of land into trust for other Indian tribe so that it could build casino and hotel complex. The United States District Court for the Eastern District of California, Troy L. Nunley, J., No. 2:12-cv-03021-TLN-AC, 2015 WL 5648925, granted summary judgment to defendants and, 2017 WL 345220, denied reconsideration. Plaintiffs appealed.

***Holdings:** The Court of Appeals, Bea, Circuit Judge, held that:

- 1) BIA had authority under Indian Reorganization Act (IRA) to take parcel of land into trust for tribe seeking to build casino;
 - 2) BIA's decision under IRA, that Indian tribe seeking to build casino needed BIA to take parcel of land in trust for it for economic development, was not arbitrary and capricious;
 - 3) BIA's misdescription of parcel of land in notice of final agency determination did not render its decision arbitrary and capricious;
 - 4) BIA satisfied Indian Gaming Regulatory Act's (IGRA) requirement for consultation with tribe that owned casino;
 - 5) regulatory definition of "nearby" Indian tribe, with which BIA was required to consult under IGRA, was not arbitrary and capricious;
 - 6) district court did not abuse its discretion when it struck, as outside administrative record, expert declaration;
 - 7) BIA's decision under IGRA, that mitigation measures would prevent detrimental harm to surrounding community from new Indian casino, was not arbitrary and capricious; and
 - 8) BIA's final environmental impact statement (FEIS) satisfied National Environmental Policy Act (NEPA) requirements.
- Affirmed.

Fawn Cain, Tanya Archer and Sandi Ovitt v. Salish Kootenai College, Inc.

2018 WL 2272792

CV-12-181-M-BMM

United States District Court, D. Montana.

May 17, 2018

Legal Topics: Tribal Colleges; Tribal Sovereign Immunity

FSS Development CO., LLC v. Apache Tribe of Oklahoma

2018 WL 2248457

No. CIV-17-661-R

United States District Court, W.D. Oklahoma.

May 16, 2018

Legal Topics: Indian Gaming; Diversity Jurisdiction

APRIL

Pauma v. National Labor Relations Board

888 F.3d 1066

No. 16-70397, No. 16-70756

United States Court of Appeals, Ninth Circuit.

April 26, 2018

***Synopsis:** Tribal employer that operated casino on Indian reservation filed petition for review of order of the National Labor Relations Board (NLRB), No. 21-CA-125450, 363 NLRB No. 60, 205 L.R.R.M. 1591, 2015 WL 7873631, which affirmed as modified administrative law judge's (ALJ)

decision, 2015 WL 3526140, that employer committed unfair labor practices in violation of the National Labor Relations Act (NLRA) by trying to stop union literature distribution in guest areas at casino's front entrance and in non-working areas near its employees' time clock. NLRB filed petition for enforcement of its order, and union intervened in opposition to employer.

***Holdings:** The Court of Appeals, Berzon, Circuit Judge, held that:

- 1) union could not raise collateral estoppel defense affirmatively waived by NLRB;
- 2) NLRB's determination that tribal employer was "employer" within meaning of the NLRA was entitled to *Chevron* deference;
- 3) federal Indian law did not preclude NLRB's determination that tribal employer was "employer" within meaning of the NLRA;
- 4) employer sufficiently exhausted its claim that it did not violate the NLRA;
- 5) substantial evidence supported NLRB's determination that tribal employer committed unfair labor practice by trying to stop employees' union literature distribution to customers outside casino's front entrance; and
- 6) substantial evidence supported NLRB's determination that tribal employer committed unfair labor practice by disciplining employee for distributing union literature near casino's time clock. NLRB's petition granted and employer's petition denied.

Related News Stories: Tribes and sovereignty still don't mix when it comes to labor laws ([Indianz](#)) 5/4/18, Court says NLRA applies to tribes ([Gaming Today](#)) 5/1/18

Sisseton-Wahpeton Oyate of the Lake Traverse Reservation v. United States Corps of Engineers

888 F.3d 906

No. 16-4283

United States Court of Appeals, Eighth Circuit.

April 25, 2018

***Synopsis:** Indian tribe and its chairman brought action alleging that Corps of Engineers violated Administrative Procedure Act (APA), Clean Water Act (CWA), and National Historic Preservation Act (NHPA) in issuing permit and exemption determinations allowing adjacent landowner's construction of farm road across wetland adjacent to lake. The United States District Court for the District of South Dakota, Roberto A. Lange, J., ruled that Corps's determination letters constituted final agency actions, 918 F.Supp.2d 962, dismissed some claims as untimely, 2014 WL 4678052, denied tribe's request for equitable tolling, 124 F.Supp.3d 958, and denied plaintiffs' request for injunctive relief and remanded NHPA claims to Corps, 2016 WL 5478428. Plaintiffs appealed.

***Holdings:** The Court of Appeals, Tunheim, District Judge, sitting by designation, held that:

- 1) Corps' letter to tribe indicating that roadways met requirements for CWA's farm-road exemption and each constituted single and complete project did not constitute "final agency action";
 - 2) tribe's claim that Corps' determination that roadway had not been recaptured was nonjusticiable challenge to enforcement decision;
 - 3) tribe was not entitled to equitable toll statute of limitations;
 - 4) Corps did not unlawfully stack permit and exemption verifications; and
 - 5) district court's determination that Corps did not unlawfully stack permit and exemption verifications was final appealable decision.
- Affirmed.

Butte County, California v. Chaudhuri

887 F.3d 501

No. 16-5240

United States Court of Appeals, District of Columbia Circuit.

April 13, 2018

***Synopsis:** County in which parcel of land was located that Indian tribe sought to have taken into trust to operate a casino on brought action against National Indian Gaming Commission (NIGC) challenging Secretary of Interior's decision to take land into trust. The United States District Court for the District of Columbia, Scullin, Senior Judge, 197 F.Supp.3d 82, granted summary judgment to NIGC. County appealed.

***Holdings:** The Court of Appeals, Srinivasan, Circuit Judge, held that:

- 1) Secretary did not abuse her discretion in reopening administrative record on remand;
 - 2) Secretary's grant of 15-day extension to tribe to submit its response to county's submission of new evidence was not improper;
 - 3) Secretary acted within her authority in setting a 20-day deadline for county to respond to tribe's expert's rebuttal report; and
 - 4) Secretary's determination that members of modern-day tribe were biological descendants of members of pre-1850 tribe was not arbitrary and capricious.
- Affirmed.

Ute Indian Tribe of Uintah v. Lawrence

2018 WL 2002477

No. 2:16-cv-00579
United States District Court, D. Utah, Central Division.
April 30, 2018

***Synopsis:** Non-Indian brought action against Indian tribe seeking declaratory judgment regarding tribal court's subject matter jurisdiction over breach of contract claims. Non-Indian moved for preliminary injunction to enjoin Indian tribe from proceeding in tribal court, and tribe moved for preliminary injunction to enjoin parties from proceeding in non-Indian's state court breach of contract action.

***Holdings:** The District Court, Clark Waddoups, J., held that:

- 1) it was substantially likely that Utah state court had subject matter jurisdiction over breach of contract claims, and thus non-Indian had likelihood of success on merits of position that tribal court did not have subject matter jurisdiction over claims, such that grant of a preliminary injunction in favor of non-Indian was warranted;
 - 2) tribal parties did not have likelihood of success on merits of position that tribal court had subject matter jurisdiction over claims, and thus grant of a preliminary injunction in favor of tribe was unwarranted; and
 - 3) tribal court's determination that tribal court had subject matter jurisdiction over breach of contract action was not entitled to preclusive effect or comity.
- Non-Indian's motion granted, and tribe's motion denied.

Alvin Van Pelt III v. Todd Giesen

2018 WL 2187658

No. 1:17-CV-647-RB-KRS

United States District Court, D. New Mexico.

April 24, 2018

Legal Topics: Indian Civil Rights Act - Due Process

United States of America v. State of Washington

2018 WL 1933718

No. C70-9213

United States District Court, W.D. Washington.

April 24, 2018

Legal Topics: Usual and Accustomed Fishing Areas

Brakebill v. Jaeger

2018 WL 1612190

No. 1:16-cv-008

United States District Court, D. North Dakota.

April 3, 2018

Legal Topics: Voting Rights

MARCH

Nipmuc Nation v. Zinke

2018 WL 1570164

No. 14-40013-TSH

United States District Court, D. Massachusetts.

March 30, 2018

***Synopsis:** Native American group brought action against, inter alia, Department of the Interior (DOI) challenging decision declining to grant federal recognition to group as Native American tribe. Parties cross-moved for summary judgment.

***Holdings:** The District Court, Hillman, J., held that:

- 1) final determination by DOI that Native American group did not fulfill criteria for federal recognition as Native American tribe was not arbitrary and capricious, and
- 2) final determination by DOI did not violate group's procedural due process rights by refusing to publish original positive proposed finding in favor of federal acknowledgment in the Federal Register.

Defendants' motion granted.

Related News Stories: Tribes denied federal recognition see mixed decisions in court system
([Indianz](#)) 4/3/18

Burt Lake Band of Ottawa and Chippewa Indians v. Zinke

2018 WL 1542418

No. 17-0038

United States District Court, District of Columbia.

March 29, 2018

***Synopsis:** Band of Ottawa and Chippewa American Indians brought action against Secretary of the Interior, the Acting Assistant Secretary for Indian Affairs for the Department of the Interior (DOI), and the DOI itself, asserting violations of the due process and equal protection clauses of the Fifth Amendment, the Administrative Procedure Act (APA), and the Federally Recognized Indian Tribe List Act in connection with the DOI's failure to issue a decision on band's petition for recognition that was filed over 80 years prior and DOI's promulgation of regulations precluding band from re-petitioning for recognition. Defendants moved to dismiss.

***Holdings:** The District Court, Amy Berman Jackson, J., held that band had Article III standing to pursue claims challenging the DOI's new regulations under the APA and Fifth Amendment. Motion granted in part and denied in part.

Related News Stories: Tribes denied federal recognition see mixed decisions in court system (Indianz) 4/3/18

United States v. 99,337 Pieces of Counterfeit Native American Jewelry
2018 WL 1568725
No. 16-1304

United States District Court, D. New Mexico.
March 27, 2018

Legal Topics: Indian Arts and Crafts Act; Conterfeit Jewlery

Related News Stories: Fake turquoise jewelry is hurting Native Americans economically (Vox) 10/24/18

Texas v. Ysleta Del Sur Pueblo
2018 WL 1474679
EP-17-CV-179-PRM

United States District Court, W.D. Texas, El Paso Division.
March 26, 2018

Legal Topics: Gaming - Authorization

Battle Mountain Band of Te-Moak Tribe of Western Shoshone Indians v. United States Bureau of Land Management
2018 WL 1477628

No. 3:16-cv-0268-LRH-WGC
United States District Court, D. Nevada.
March 23, 2018

***Synopsis:** Indian band brought action alleging that Bureau of Land Management (BLM) and its district manager violated the National Historic Preservation Act (NHPA) by failing to reconsider their decision to allow mining project to proceed on land identified by band as traditional cultural property (TCP) and deemed eligible for inclusion on National Register of Historic Places by BLM. Project's operator intervened and filed cross-claims alleging that BLM's determination that land was eligible for inclusion on National Register violated National Historic Preservation Act (NHPA) and Administrative Procedure Act (APA). BLM and manager moved to dismiss operator's cross-claims.

***Holdings:** The District Court, Larry R. Hicks, J., held that:
1) programmatic agreement gave operator ongoing consultation right with respect to National Register eligibility determinations for project land;
2) operator adequately alleged an injury in fact; and
3) operator had prudential standing to bring NHPA claims.
Motion denied.

Gibbs v. Rees
2018 WL 1460705
No. 3:17cv386

United States District Court, E.D. Virginia.
March 23, 2018

Legal Topics: Tribal Sovereign Immunity

Kodiak Oil & Gas (USA) Inc. v. Burr
2018 WL 1440602

No. 4:14-cv-085, No. 4:14-cv-087
United States District Court, D. North Dakota.
March 22, 2018

***Synopsis:** Oil and gas company brought declaratory judgment action against four members of an Indian tribe and the Chief Judge of a tribal court, seeking a declaration that the tribal court lacked jurisdiction over a breach of contract action filed by the four individual defendants which sought to recover royalties pursuant to an oil and gas mining lease. Similarly, a resources company which was a defendant in the same tribal court lawsuit also filed a declaratory judgment action against the same defendants, as well as against the Court Clerk/Consultant of the tribal court. Both federal

court actions were stayed pending resolution of the tribal court action, but after tribal supreme court ruled that the tribal district court had jurisdiction over the matter, the federal plaintiffs filed motions for preliminary injunction preventing defendants from proceeding further with the underlying tribal court action. Tribal court judge and clerk moved to dismiss. A third energy company that was also a defendant in the underlying tribal court action moved to intervene, and after the motion was granted, it filed its own complaint against the same tribal defendants and moved for preliminary injunctive relief. Thereafter the District Court consolidated the first two federal lawsuits.

***Holdings:** The District Court, Daniel L. Hovland, J., held that:

- 1) Chief Judge and Court Clerk of tribal court were not entitled to sovereign immunity in federal court lawsuit;
 - 2) plaintiffs were not required to exhaust their tribal remedies; and
 - 3) factors weighed in favor of issuance of a preliminary injunction against any tribal court exercise of jurisdiction in the case.
- Motions granted in part and denied in part.

Nguyen v. Gustafson

2018 WL 1413463

No. 18-522

United States District Court, D. Minnesota.

March 21, 2018

Legal Topics: Divorce and Custody

Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers

301 F.Supp.3d 50

No. 16-1534

United States District Court, istrict of Columbia.

March 19, 2018

***Synopsis:** Indian tribe brought action under Administrative Procedure Act (APA) alleging that Army Corps of Engineers' authorization of crude oil pipeline under federally regulated waterway bordering tribes' reservations violated National Historic Preservation Act (NHPA), National Environmental Policy Act (NEPA), Treaty of Fort Laramie, federal government's trust responsibilities, and United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). After case was consolidated with similar cases, parties filed cross-motions for summary judgment.

***Holdings:** The District Court, James E. Boasberg, J., held that:

- 1) tribe had standing to bring action;
 - 2) tribe's claim that Corps' authorization of pipeline violated NHPA was moot;
 - 3) agencies' decision to issue three environmental assessments (EA), three findings of no significant impact (FONSI), and one categorical exclusion classification did not violate NEPA's anti-segmentation principle;
 - 4) tribe forfeited argument that authorizations were "similar actions" for purposes of NEPA's anti-segmentation principle;
 - 5) EAs and FONSI were not "similar actions"; and
 - 6) any violation of anti-segmentation principle was harmless error.
- United States' motion granted.

Swinomish Indian Tribal Community v. BNSF Railway Company

2018 WL 1336256

No. C15-0543RSL

United States District Court, W.D. Washington, at Seattle.

March 15, 2018

Legal Topics: Rights-of-Way; Trespass

Perkins v. Commissioner of Internal Revenue

150 T.C. No. 6

No. 28215-14

United States Tax Court.

March 1, 2018

***Synopsis:** Married taxpayers petitioned for redetermination of income-tax deficiency arising from disallowance of exemption for income earned from selling gravel mined from land of Seneca Nation of Indians, of which wife was enrolled member. IRS moved for summary judgment.

***Holdings:** The Tax Court, Holmes, J., held that:

- 1) General Allotment Act of 1887 did not exempt married taxpayers' income from gravel sales;
- 2) Canandaigua Treaty between federal government and Seneca Nation did not create income-tax exemption for individual member of Seneca Nation, at least insofar as income was not derived from land allotted to such member;
- 3) taxpayers were liable for additions to tax for failure to timely file returns;
- 4) IRS failed to meet its burden of production with respect to taxpayers' liability for accuracy-related

penalties; and

5) in opinion by Lauber and Pugh, JJ., federal government's Treaty with the Seneca conferred rights on Seneca Nation of Indians, not its constituent members, and it covered only taxes imposed by State of New York.

Motion granted in part and denied in part.

Related News Stories: Gravel mining income not exempt under Native American treaties ([Journal of Accountancy](#)) 6/1/18, Indian tribes and income taxes ([Norton Rose Fulbright](#)) 4/10/15

FEBRUARY

Chisoe v. Zinke

2018 WL 919917

No. 16-5172

United States Court of Appeals, Tenth Circuit.

February 16, 2018

***Synopsis:** Personal representative of estate of owner of restricted Indian land appealed decision of the Interior Board of Indian Appeals (IBIA) upholding denial of application to complete transfer of land to Bureau of Indian Affairs (BIA). The United States District Court for the Northern District of Oklahoma, No. 4:15-CV-00166-CVE-TLW, Claire V. Eagan, 2016 WL 5390890, affirmed. Personal representative appealed.

***Holdings:** The Court of Appeals, Scott M. Matheson, Jr., Circuit Judge, held that:

- 1) BIA had not made final decision to acquire property;
- 2) Secretary of the Interior acted reasonably in interpreting applicable statute and regulation to require that applicant be living at time of agency's decision regarding whether to take restricted Indian land into trust; and
- 3) remand was warranted for district court to determine whether personal representative was entitled to exception to exhaustion requirement.

Affirmed in part, reversed in part, and remanded.

Citizen Potawatomi Nation v. State of Oklahoma

881 F.3d 1226

No. 16-6224

United States Court of Appeals, Tenth Circuit

February 6, 2018

This Case has been appealed to the U.S. Supreme Court. See the [Supreme Court Bulletin](#) for more information.

***Synopsis:** Native American nation brought action against state of Oklahoma, seeking to enforce arbitration award obtained in connection with dispute under tribal-state gaming compact. The United States District Court for the Western District of Oklahoma, Robin J. Cauthron, J., 2016 WL 3461538, entered order enforcing award. State appealed.

***Holdings:** The Court of Appeals, Murphy, Circuit Judge, held that:

- 1) de novo review provision of binding arbitration clause in tribal-state gaming compact was legally invalid, and
 - 2) district court erred in failing to sever binding arbitration clause from tribal-state gaming compact.
- Remanded with instructions to vacate arbitration award.

Stand Up for California! v. United States Department of Interior

298 F.Supp.3d 136

No. 1:17-cv-00058

United States District Court, District of Columbia.

February 28, 2018

***Synopsis:** Nonprofit organization and individuals brought action challenging decision of the United States Department of the Interior, its Secretary of the Interior and Acting Assistant Secretary-Indian Affairs in their official capacities, and the Bureau of Indian Affairs (BIA) to acquire land in trust for tribe, alleging that actions taken by Department employees in lieu of Assistant Secretary-Indian Affairs, a vacant office at the time, violated department regulations and the Federal Vacancies Reform Act (FVRA). Parties cross-moved for summary judgment.

***Holdings:** The District Court, Trevor N. McFadden, J., held that:

- 1) Secretary of Interior and Assistant Secretary-Indian Affairs could delegate non-exclusive authority to make final decision to acquire land in trust for Indian tribe, and
- 2) non-exclusive authority of the Assistant Secretary-Indian Affairs to make final decision to acquire land in trust for Indian tribe was properly delegated to Principal Deputy Assistant Secretary and did not violate FVRA.

Ordered accordingly.

Cayuga Nation v. Zinke
324 F.R.D. 277
No. 17-cv-1923
United States District Court, District of Columbia.
February 23, 2018

***Synopsis:** Faction within federally recognized Indian nation brought action challenging decisions by Bureau of Indian Affairs (BIA) and Interior Department's Assistant Secretary for Indian Affairs that recognized rival faction as nation's governing body for purposes of certain contractual relationships between nation and United States. Rival faction moved to intervene.

***Holdings:** The District Court, Colleen Kollar-Kotelly, J., held that:

- 1) rival faction had standing to intervene, and
 - 2) rival faction was entitled to intervene as of right.
- Motion granted.

State of Texas v. Alabama Coushatta Tribe of Texas
298 F.Supp.3d 909
NO. 9:01-CV-299
United States District Court, E.D. Texas, Lufkin Division.
February 6, 2018

***Synopsis:** Indian Tribe brought action against State of Texas and state officials, seeking injunctive and declaratory relief under Ysleta del Sur Pueblo and Alabama-Coushatta Indian Tribes of Texas Restoration Act and the Indian Gaming Regulatory Act (IGRA) to allow Tribe to govern gaming activities on Tribal lands. Texas filed competing motion for injunctive relief. The United States District Court for the Eastern District of Texas, John Hannah, Jr., 208 F.Supp.2d 670, granted Texas a permanent injunction enjoining Tribe from operating casino. After Tribe notified Texas of its intent to open Class II gaming facility, State moved to hold Tribe in contempt and moved for declaration finding that IGRA did not apply to Tribe, Tribe moved for relief from judgment ordering permanent injunction, and both parties moved for summary judgment.

***Holdings:** The District Court, Keith F. Giblin, United States Magistrate Judge, held that:

- 1) National Indian Gaming Commission's (NIGC) letter to Indian Tribe advising that Tribe's lands were eligible for gaming was not entitled to *Chevron* deference, and
 - 2) Restoration Act, which applied State of Texas's gaming laws to Indian Tribe in Texas, applied to Tribe's action, rather than IGRA.
- Ordered accordingly.

JANUARY

Pro-Football, Inc. v. Blackhorse
709 Fed.Appx. 182
No. 15-1874
United States Court of Appeals, Fourth Circuit.
January 18, 2018
Legal Topics: Trademarks

Stand Up For California! v. United States Department of the Interior
879 F.3d 1177
No. 16-5327
United States Court of Appeals, District of Columbia Circuit.
January 12, 2018

***Synopsis:** Community groups and Indian tribe with competing casino brought action challenging Department of Interior's decision to take a tract of land into trust for Indian tribe and authorize it to operate a casino there. The United States District Court for the District of Columbia, Beryl A. Howell, Chief Judge, 204 F.Supp.3d 212, granted partial summary judgment to Department and dismissed remaining claims. Plaintiffs appealed.

***Holdings:** The Court of Appeals, Tatel, Circuit Judge, held that:

- 1) Indian tribe constituted a "recognized Indian tribe" at time that Indian Reorganization Act (IRA) was passed;
- 2) substantial evidence supported Department's conclusion that Indian tribe, as it currently existed, could trace its roots to Indians who lived on tribe's reservation at time that IRA was passed;
- 3) court would defer to Department's reasonable interpretation of provision of Indian Gaming Regulatory Act (IGRA) that required an Indian casino to not be a detriment to the surrounding community;
- 4) substantial evidence supported Department's determination that permitting Indian tribe to operate a casino on its newly acquired lands would not be detrimental to the surrounding community; and
- 5) relevant date for Department's analysis of whether proposed casino would comply with Clean Air

Act (CAA) requirements was when the Department initially made its determination, rather than when it reissued its determination on remand.

Affirmed.

Ute Indian Tribe of the Uintah and Ouray Reservation v. Lawrence

289 F.Supp.3d 1242

No. 2:16-cv-00579

United States District Court, D. Utah, Central Division.

January 31, 2018

***Synopsis:** Indian tribe brought action against state judge and non-Indian independent contractor, seeking temporary restraining order and preliminary injunction preventing state court from trying breach-of-contract claims.

***Holdings:** The District Court, Clark Waddoups, J., held that:

- 1) District Court would decline to exercise supplemental jurisdiction over state law contract dispute;
- 2) doctrine of *Younger* abstention supported District Court's decision to decline to exercise supplemental jurisdiction; and
- 3) Anti-Injunction Act supported District Court's decision to decline to exercise supplemental jurisdiction.

Matter stayed pending resolution in state court.

Yurok Tribe v. Resighnini Rancheria

2018 WL 550233

No. 16-cv-02471 RMI

United States District Court, N.D. California, Eureka Division.

January 25, 2018

Legal Topics: Fishing Rights; Tribal Sovereign Immunity

Buchwald Capital Advisors v. Sault Ste. Marie Tribe of Chippewa Indians

584 B.R. 706

No. 16-cv-13643

United States District Court, E.D. Michigan, Southern Division.

January 23, 2018

***Synopsis:** Litigation trustee brought strong-arm proceeding to avoid allegedly fraudulent transfers, and Indian tribe named as defendant moved to dismiss on sovereign immunity grounds. The United States Bankruptcy Court for the Eastern District of Michigan, Walter Shapero, J., 516 B.R. 462, denied the motion, and Indian tribe appealed. The District Court, Paul D. Borman, J., 532 B.R. 680, reversed and remanded. On remand, the Bankruptcy Court, Shapero, J., 559 B.R. 842, granted motion to dismiss, and litigation trustee appealed.

***Holdings:** The District Court, Borman, J., held that:

- 1) allegedly unauthorized acts of tribal officials could not result in waiver of Indian tribe's immunity from suit on state law fraudulent transfer claims asserted, in strong-arm capacity, by litigation trustee of trust established under debtor's confirmed Chapter 11 plan;
- 2) any waiver of tribe's immunity by its acts in filing proofs of claim and participating in bankruptcy case would be limited to adjudication of matters raised by tribe's proofs of claim;
- 3) trustee could not rely on equitable alter ego or veil-piercing doctrine in order to make required showing of express, unequivocal, unmistakable and unambiguous waiver of Indian tribe's sovereign immunity.

Affirmed.

Ak-Chin Indian Community v. Central Arizona Water Conservation District

2018 WL 397233

No. CV-17-00918-PHX-DGC

United States District Court, D. Arizona.

January 12, 2018

Legal Topics: Tribal Water Rights; Sovereign Immunity

Cobb v. Morris

2018 WL 842406

NO. 2:14-CV-22

United States District Court, S.D. Texas, Corpus Christi Division.

January 11, 2018

Legal Topics: Civil Rights of Prisoners

Bishop Paiute Tribe v. Inyo County

2018 WL 347797

No. 1:15-cv-00367-DAD-JLT

United States District Court, E.D. California.

January 10, 2018

Legal Topics: Tribal Jurisdiction

McKesson Corporation v. Hembree
2018 WL 340042
No. 17-CV-323-TCK-FHM
United States District Court, N.D. Oklahoma.
January 9, 2018
Legal Topics: Tribal Jurisdiction; Opioids

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