



National  
Congress of  
American  
Indians

# TRIBAL SUPREME COURT PROJECT UPDATE

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October 10, 2016



# Lewis v. Clarke

- Limo driver from Mohegan Sun
- Car accident 70 miles from reservation
- Claim process in Tribal Court
- Injured party filed in Connecticut state court
- Connecticut Supreme Court upheld tribal immunity
- Supreme Court granted certiorari
- Conflict with 9<sup>th</sup> Circuit Maxwell decision involving a Viejas ambulance team



## Lee v. Tam

- Trademark Board denied trademark to rock band
- Name “disparaging” to Asian Americans
- 4<sup>th</sup> Circuit reversed: Free Speech
- Supreme Court granted certiorari
- Denied cert in *Blackhorse v. Pro Football*
  
- Native culture has important role in trademark law



# De Facto Parents v. LA Child and Family Services, Choctaw Nation, etc.

- ICWA case out of California
- Foster parents want to adopt child
- Child placed with relatives in Utah
- Raising existing Indian family doctrine
- Only a petition, and likely to be denied
- Case to watch



## KELSEY v. POPE – 6<sup>TH</sup> CIRCUIT

- Assault committed by tribal member in tribal headquarters on tribal fee land adjacent to trust land
- Defendant challenges tribal “extraterritorial” jurisdiction outside Indian country
- NCAI filed amicus brief in support
- Tribal jurisdiction over members is not limited by territorial boundaries



# SUPREME COURT VACANCY: DIVERSITY OF EXPERIENCE

- All Harvard or Yale Law School
- Then judicial clerkship
- Then a short career, usually academic or government attorney or corporate law firm
- East Coast or California cities
- Nobody from the West, no Indian law, no water law, no public lands, or natural resources



## CONCLUSION

- Increasing number of cases
- More requests for litigation assistance
- Financial resources will become an issue for Tribal Supreme Court Project
- We greatly appreciate your support and the cooperative work with so many tribes
- Many decisions keep pointing back to Congress:

**Educate Congress. Native  
Vote.**