

# Native American Law Report

March 2015 • Volume 1, Issue #1

## High Court Denies Certiorari In Case Involving Sale Of Interest In Casino

WASHINGTON, D.C. — The U.S. Supreme Court on Feb. 23 denied a petition for writ of *certiorari* in case for breach of contract after the buyers and guarantors breached their payment obligations for the purchase of membership interest in a casino, leaving stand lower court decisions finding that the plaintiffs could not unilaterally modify the guaranty agreement and that the Indian tribe and its authority had not waived its defenses to the claims. **SEE PAGE 4.**

## California Federal Judge: Water Right Reserved, But Land Act Extinguished Claim

RIVERSIDE, Calif. — A federal judge in California on March 20 granted partial summary judgment in favor of the Agua Caliente Band of Cahuilla Indians and the United States' claim that the government implicitly reserved appurtenant water sources, including underlying groundwater, when it created the tribe's reservation, but granted the defendants partial summary judgment on the tribe's aboriginal title claims, saying a land act effectively extinguished any such right. **SEE PAGE 10.**

## Government Asks Judge To Dismiss Indian Tribe's ACA Employer Mandate Challenge

CHEYENNE, Wyo. — An Indian tribe waived its objections to the Patient Protection and Affordable Care Act (ACA)'s large employer mandate by not raising them during the rulemaking process, and its action runs afoul of the Anti-Injunction Act's (AIA) bar on tax challenges taxes, the government told a federal judge on March 19. **SEE PAGE 15.**

## Tribe Members' Class Claims For Compensation Filed Too Late, Judge Finds

SIOUX FALLS, S.D. — Class claims filed by four members of the Cheyenne River Sioux Tribe alleging that the United States violated its trust and fiduciary duties by taking their land without just compensation are barred by the statute of limitations and because there is no waiver of sovereign immunity, a South Dakota federal judge ruled Feb. 26 in granting the government's motion to dismiss the claims. **SEE PAGE 21.**

## Chippewa Indian Tribe Opposes High Court Review Of Hunting Decision

WASHINGTON, D.C. — The Lac Courte Oreilles Band of Lake Superior Chippewa Indians on March 9 asked the U.S. Supreme Court to deny a petition for writ of *certiorari* filed by the State of Wisconsin and leave intact a Seventh Circuit U.S. Court of Appeals decision finding that the tribe had met its burden to show that a total ban on the nighttime hunting of deer was no longer necessary to ensure public safety. **SEE PAGE 22.**

## Wyoming Federal Judge: Eagle Permit Violates Exercise Of Religion

CHEYENNE, Wyo. — Calling the issue one of first impression, a Wyoming federal judge on March 12 held that the First Amendment to the U.S. Constitution forbids the federal government from imposing the burden of law on one federally recognized Indian tribe's free exercise of religion for the benefit of another Indian tribe. **SEE PAGE 23.**

## Parties File Summary Judgment Motions In 'Redskins' Trademarks Suit

ALEXANDRIA, Va. — The owners of the Washington Redskins professional football team on Feb. 23 filed a motion for summary judgment in a Virginia federal court in its challenge to the cancellation of six federal trademark registrations relating to the team, while the defendants on Feb. 26 filed a motion for partial summary judgment, saying that there was no error committed in the cancellation of the marks because the evidence shows the marks "may disparage" Native Americans. **SEE PAGE 27.**

## Supreme Court Denies Review Of Ruling On Washington Escrow Statute

WASHINGTON, D.C. — The U.S. Supreme Court March 9 denied a petition for review of a ruling requiring a tobacco distributor owned by the Yakama Indian Nation to escrow funds to reimburse the State of Washington for health care costs related to tobacco use. **SEE PAGE 29.**

# Native American Law Report

**Brendan G. Carr**



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*The Beginning and End of Rape* Sarah Deer,2015-11-01 Winner of the Labriola Center American Indian National Book Award Despite what major media sources say violence against Native women is not an epidemic An epidemic is biological and blameless Violence against Native women is historical and political bounded by oppression and colonial violence This book like all of Sarah Deer s work is aimed at engaging the problem head on and ending it The Beginning and End of Rape collects and expands the powerful writings in which Deer who played a crucial role in the reauthorization of the Violence Against Women Act in 2013 has advocated for cultural and legal reforms to protect Native women from endemic sexual violence and abuse Deer provides a clear historical overview of rape and sex trafficking in North America paying particular attention to the gendered legacy of colonialism in tribal nations a truth largely overlooked or minimized by Native and non Native observers She faces this legacy directly articulating strategies for Native communities and tribal nations seeking redress In a damning critique of federal law that has accommodated rape by destroying tribal legal systems she describes how tribal self determination efforts of the twenty first century can be leveraged to eradicate violence against women Her work bridges the gap between Indian law and feminist thinking by explaining how intersectional approaches are vital to addressing the rape of Native women Grounded in historical cultural and legal realities both Native and non Native these essays point to the

possibility of actual and positive change in a world where Native women are systematically undervalued left unprotected and hurt Deer draws on her extensive experiences in advocacy and activism to present specific practical recommendations and plans of action for making the world safer for all      Index of Cases Reported in the Indian Law Reports Dharm Das Suri,1899      **Indian Law Reports** ,1967 Includes reports of the High Court Patna Privy Council and the Federal Court

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