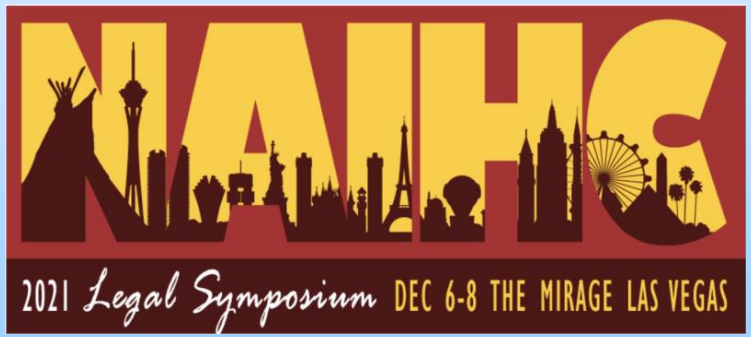
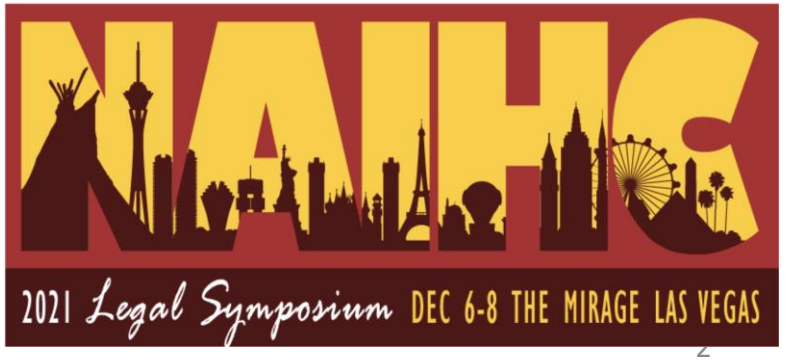
Lewis v. Clarke: Impact on Sovereign Immunity – Latest Developments

ED GOODMAN, KELLY RUDD, AND DAVE HEISTERKAMP

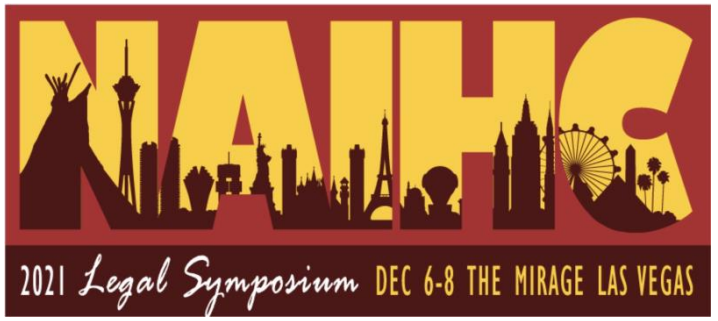


Lewis v. Clarke
(2017) 581 U.S. __, 137 S.Ct. 1285, 197 L.Ed.2d 631

- **HELD**: In a suit brought against a tribal employee in his individual capacity for a tort committed in the scope of employment, the employee, not the tribe, is the real party in interest and the tribe's sovereign immunity is not implicated.
- **HELD**: An indemnification provision codified under tribal law cannot, as a matter of law, extend the tribe's sovereign immunity to individual employees who would otherwise not fall under its protective cloak.

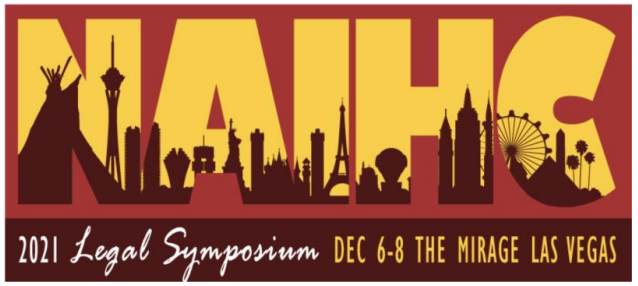


What the *L v. C* Majority Said



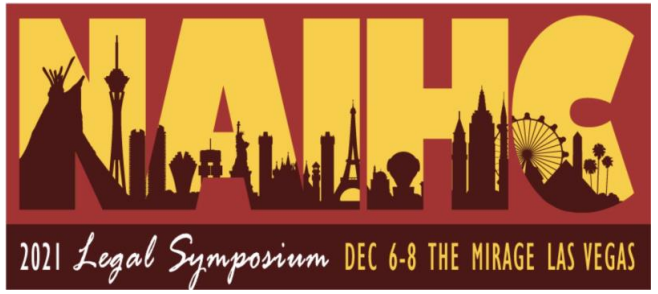
- Tribal employee was sued in his personal or individual capacity, as opposed to official, capacity.
- Suits against government officers for actions taken under the color of state law are not barred by the state's sovereign immunity. (*citing Hafer* and *Bivens)*
- "This is not a suit against [the]Tribal employee in his official capacity. It is simply a suit against employee to recover for his personal actions, which will not *require* action by the sovereign or disturb the sovereign's property."

What the *L v. C* Majority Said



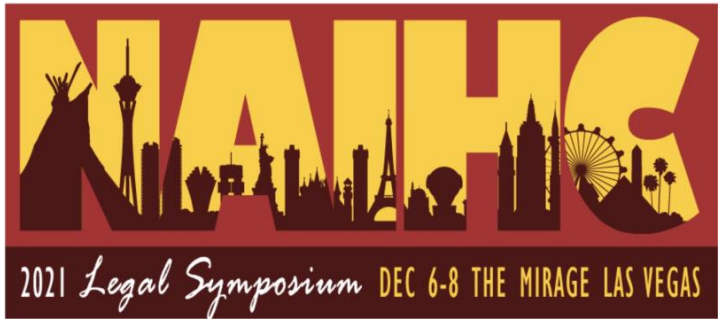
- **"The critical inquiry is who may be legally bound by the court's adverse judgment, not who will ultimately pick up the tab."**
- The "tribal employee was operating the vehicle within the scope of his employment, but on state lands, and the judgment will not operate against the tribe" (because the State courts have no jurisdiction over the Tribe per *Kiowa* and *Bay Mills*).
- "[I]ndemnification is not a certainty here. The [Tribal employee] will not be indemnified by the [Tribe] should it determine that he engaged in 'wanton, reckless, or malicious' activity.'" Indemnification provisions are a voluntary choice on the part of the state.

Lewis v. Clarke: Impact on Sovereign Immunity



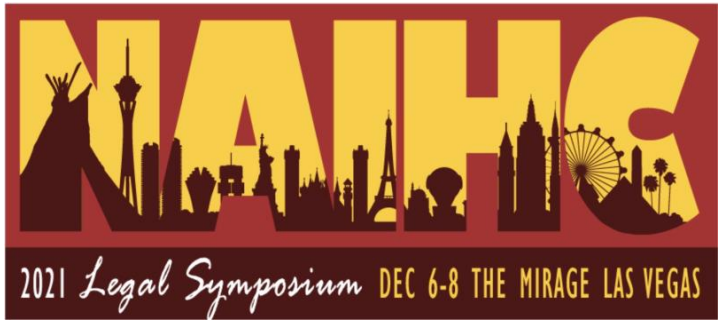
- In 2021, there were 4 state court cases 19 federal district court cases and 2 federal appellate court cases that discussed (not just cited) *Lewis v. Clarke*. About 15 of the cases involved officers or employees of Indian tribes.
- Some of these cases are grappling with the scope and meaning of *Lewis v. Clarke*. One of these cases discusses whether or not *L v. C* overruled the *Williams v. Lee* "infringement test."
- Other cases underscore our previous "use the force wisely" advice, particularly in payday lending and use of excessive force cases (e.g., law enforcement).

Acres Bonusing v. Marston (9th Cir. Nov. 5, 2021)



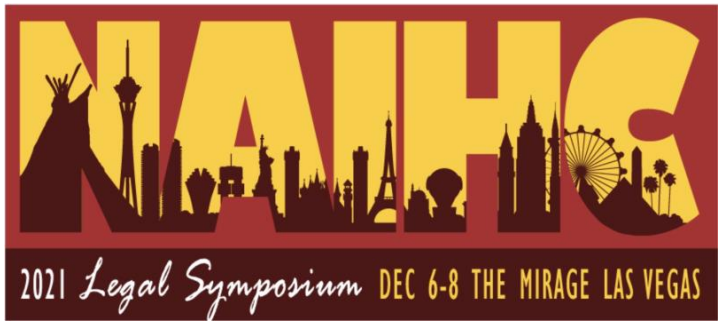
- Relationship to Tribal Governance not a factor in determining whether immunity applies to an individual acting on behalf of the Tribe.
- Contract dispute between Tribe and gaming vendor.
- Tribe filed contract action – and ultimately lost in Tribal Court.
- Vendor (Acres) then turned around and sued Tribal officials in a tort and RICO action, including the Tribal Court judge and other court officials, in-house attorneys and other Tribal employees assisting the Tribal Court.
- Also sued Tribe's outside counsel.
- All defendants named in their individual capacities.

Acres Bonusing v. Marston (9th Cir. Nov. 5, 2021) (con't)



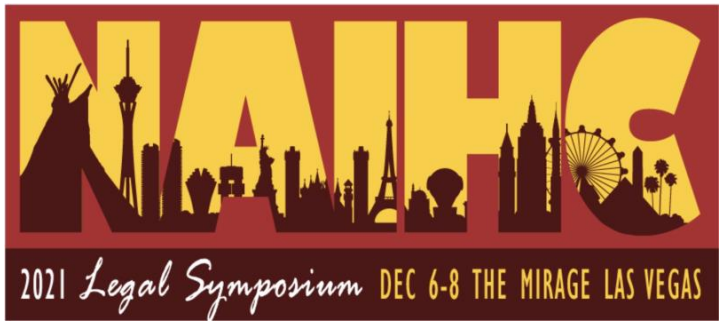
- The argument was that all these individuals were engaged in a conspiracy, utilizing the Tribal Court to harass and vex Acres.
- The Chief Judge, Lester Marston, was a lawyer in private practice associated, as a "sole practitioner," with David Rappaport, who in his capacity as a sole practitioner had represented the Tribe.
- Marston ultimately recused himself, and the Tribal Court ultimately found in Acres' favor.
- Nonetheless, Acres sued "everyone involved except the Tribe itself".

Acres Bonusing v. Marston (9th Cir. Nov. 5, 2021) (con't)



- Lower court dismissed the case against all defendants, relying on Tribal sovereign immunity.
- Since all actions complained of took place in the Tribal Court, lower court saw this as a case where the Tribe was real party in interest, and that sovereign authority was at stake because Court was carrying out governmental functions.
- Relied on language in earlier decisions that if a suit "interfered" with public administration, the Tribe was the real party at interest.
- Ninth Circuit disagreed, citing *L v. C* . <u>It is the remedy, and not the function, that counts</u>.

Acres Bonusing v. Marston (9th Cir. Nov. 5, 2021) (con't)



- Found that the nexus of Tribal Court did not make a difference in the analysis.
- Rejected distinction between "garden variety torts" and those involving a "relationship to tribal governance."
- Suit was against the officials and others in their individual capacity, seeking damages from them as individuals, and thus fell within *L v. C* – the individuals and not the Tribe were the real party in interest.
- Focus must stay on remedy-based analysis, rejecting language from previous decisions suggesting that government officials carrying out core governmental functions might be treated differently.

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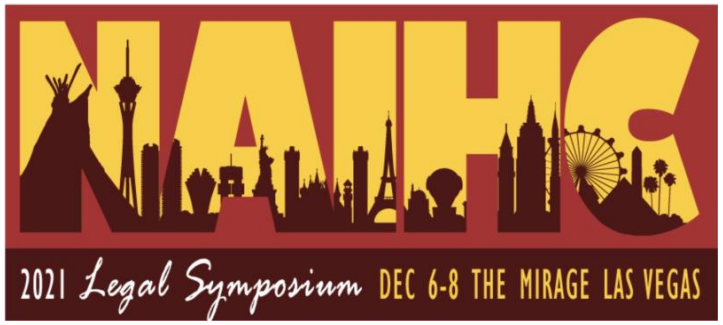
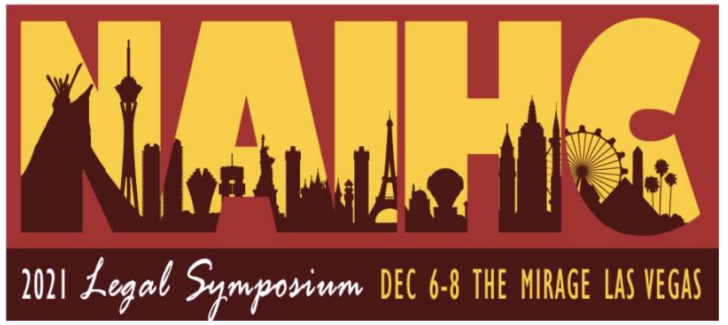


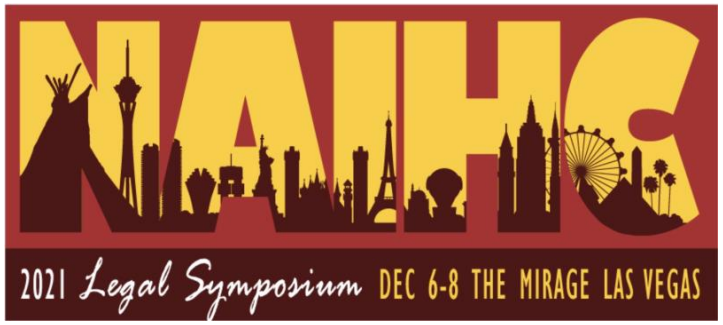
- Ultimately upheld dismissal of Tribal Court officials on grounds of absolute immunity.
- *L v. C* did not remove personal immunity defenses, such as absolute immunity for certain officials carrying out governmental functions – like Court staff and the judge – in carrying out judicial functions, even if allegations involved purported judicial misconduct.
- Absolute immunity for judicial officers is absolute.
- But remanded and ordered case to proceed against outside counsel. Not protected by absolute immunity.

Acres Bonusing v. Marston (9th Cir. Nov. 5, 2021) (con't)



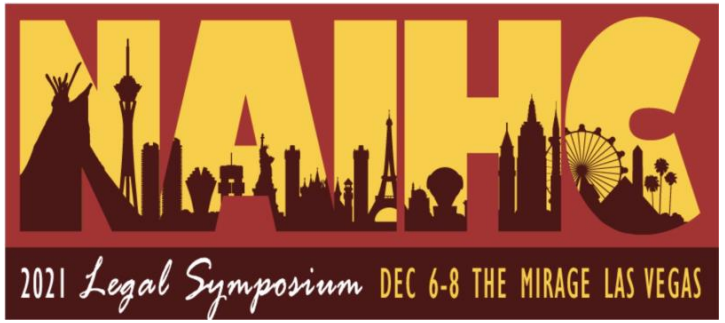
- Concurrence agreed with outcome, but disagreed with majority's analysis of the interfere with public administration prong.
- Concurrence felt that the Court's reasoning conflated that prong with the payment and injunction prongs.
- Felt that to maintain some meaning for that prong, there had to be something that distinguished it.

Hengle v. Asner (E.D. VA, January 9, 2020)



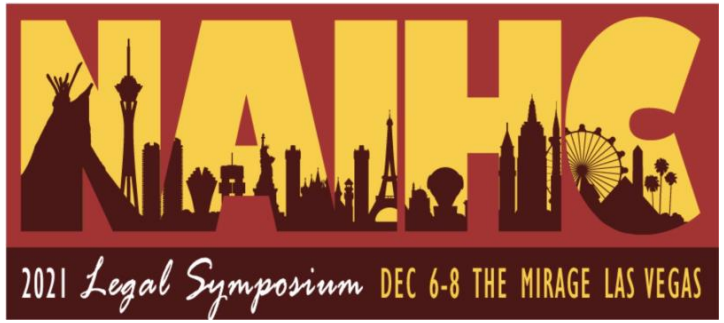
- Suit brought against payday lending entities and Tribal Officials. Tribal Officials are Tribal Council members of the Habematolel Pomo of Upper Lake.
- Tribe is located in California. The payday lending entities are located in Virginia, and made loans there.
- Suit filed in federal court in VA, alleging usurious loans under VA law and federal RICO violations.

Hengle v. Asner
(E.D. VA, January 9, 2020) (con't)



- Court recites history of the payday lending entities, showing that they were originally non-Indian entities that merged with Tribal payday entities.
- As Court lays out the history, the purpose was to shield what were essentially non-Indian entities with Tribal sovereign immunity.
- Loans made at rates that substantially exceed the State's cap of 12% (the interest rates were all over 500%, in one case over 900%). Use the force wisely.

Hengle v. Asner
(E.D. VA, January 9, 2020) (con't)



- Much of the very lengthy decision involves whether an arbitration clause in the contracts supports a motion to compel arbitration, and whether Tribal law and principles of Tribal Court exhaustion apply. Court ruled for plaintiffs on all these points.
- Defendants also sought to dismiss the case on indispensable party grounds – because Plaintiffs did not name Tribal payday lending entities, who could not be joined because of sovereign immunity.
- Court found it did not need to dismiss because suit made claim against Tribal Officials, and suit could proceed against them, so that Tribal entities were not indispensable parties.

Hengle v. Asner
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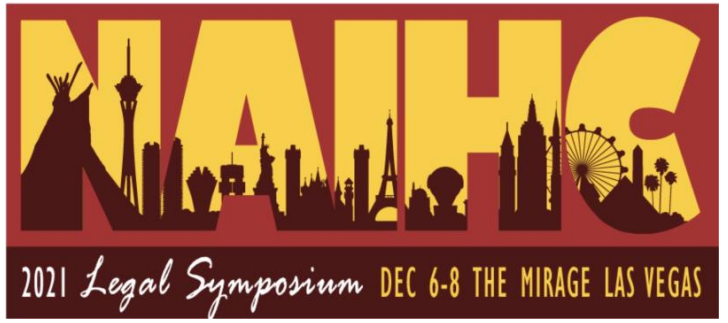
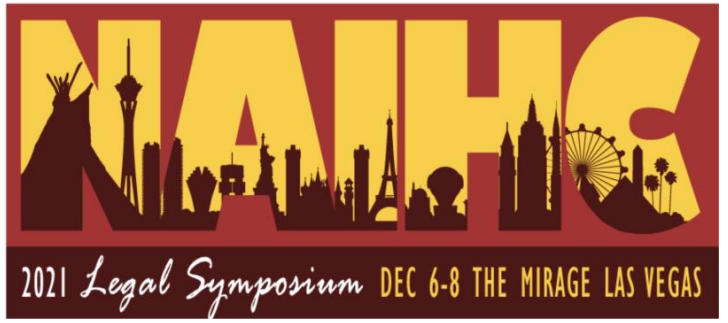


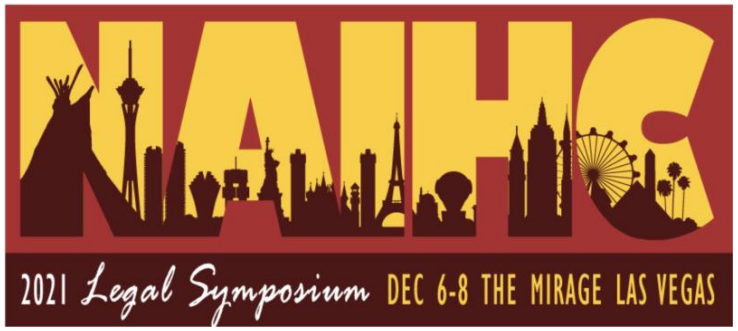
- Suit against Tribal Officials can proceed because it is for injunctive relief only – not seeking damages.
- Using *Ex parte Young* theory – to assert State law claims against Tribe (via its officials) for off-reservation conduct.
- Those officials thus can stand in for the Tribe.
- Court claims to be relying on language in *Bay Mills* Supreme Court decision – disputed as to whether or not it is dictum. Court finds it was not dictum.
- Because of limits in *Ex parte Young* doctrine (judge-made doctrine that cannot exceed statutory authority for bringing suit), Plaintiffs can only seek injunctions against Tribal Officials from collecting on the usurious loans.

Hengle v. Asner
(E.D. VA, January 9, 2020) (con't)



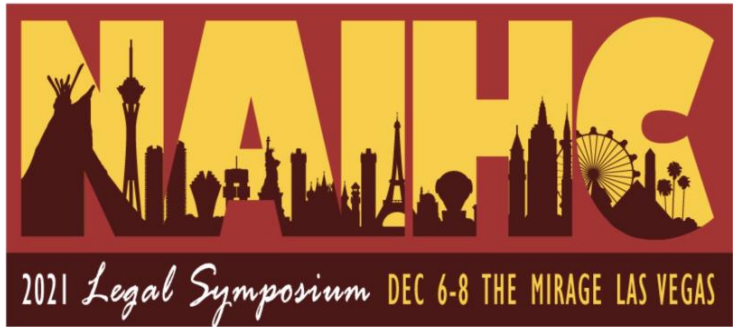
- Cannot get broad injunction against future usurious loans.
- On same reasoning, Court dismisses RICO claims.
- Tribal Officials then argue that the remaining relief is actually against the Tribal Entities, who are the real party in interest
- For this purpose, *Ex parte Young* analysis is same as *L v. C* analysis.
- Tribe is not real party in interest because of legal fiction that the officials of the Tribe cannot act beyond the authority of the Tribe
- Such action is testing whether they have gone beyond that authority.

Great Plains Lending v. Dept of Banking (Conn. Supreme Court, May 20, 2021)



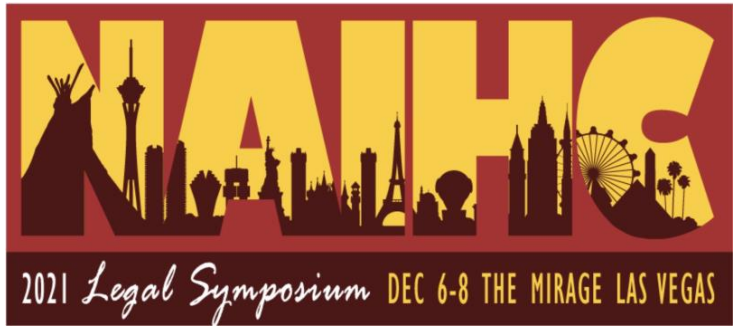
- Another payday lending case – "use the force wisely"
- State Department of Banking seeking enforcement of State usury laws.
- Tribal official named in individual capacity.
- But no allegation that the official acted beyond his scope of authority, and relief sought would impact the Tribal treasury.
- Cites *L v. C* , but dismisses claim against official because not sufficient allegation that suit was against official in individual capacity. All his actions were taken in official capacity, and suit is actually attempting to stop the Tribe from taking certain actions.

Tabb v Ocwen Loan Servicing LLC (U.S.D. Delaware, July 30, 2021)



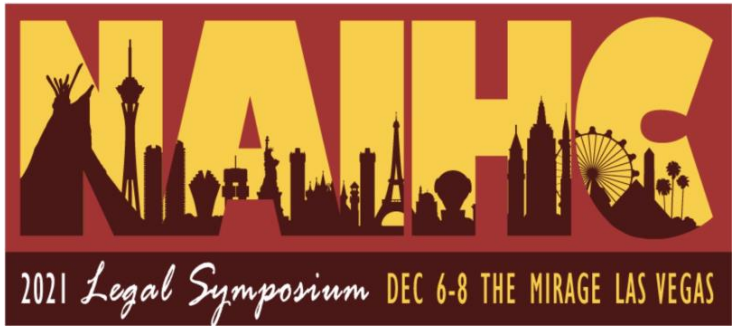
- Dispute over a mortgage loan and collection action.
- Ms. Tabb sued mortgage loan company, which counterclaimed, alleging false statements made by Dana Tabb.
- Ms. Tabb argued the Court lacked personal jurisdiction over her because she was a member of an Indian tribe.
- Court found that her membership in a tribe was not relevant to jurisdiction.
- Also held that even if it might be, suit was brought against her in her individual capacity, and could therefore proceed. Citing *L v. C*

Allegany Capital v. Cox (W.D. N.Y., Feb. 12, 2021)



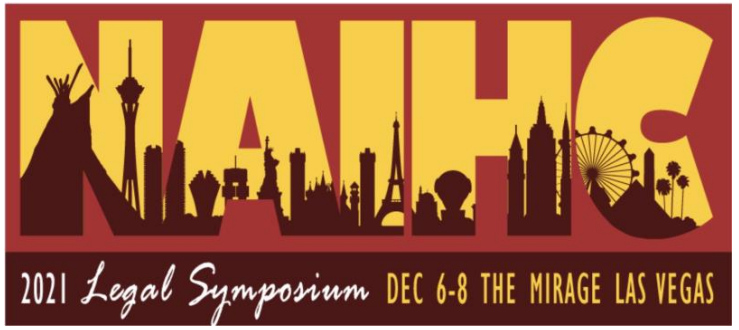
- Corporate entity affiliated with the Sac and Fox of Oklahoma Tribe (doing business in the Seneca Nation in New York) and a partnership filed suit against officers of affiliated corporations of the Susanville Indian Rancheria (California)
- Alleged that those officers made misrepresentations that led to Plaintiffs entering into the tobacco manufacturing and distribution contracts with one of the affiliated Susanville Tribal corporations.
- Alleged that Defendants represented that they had the authority to waive tribal sovereign immunity for the affiliate corporation and that the affiliate in fact waived that immunity.
- However, after an alleged breach of these contracts, Plaintiffs claims against one of the affiliate Susanville corporations was dismissed on the grounds that it did not waive its tribal sovereign immunity.

Allegany Capital v. Cox (W.D. N.Y., Feb. 12, 2021) (con't)



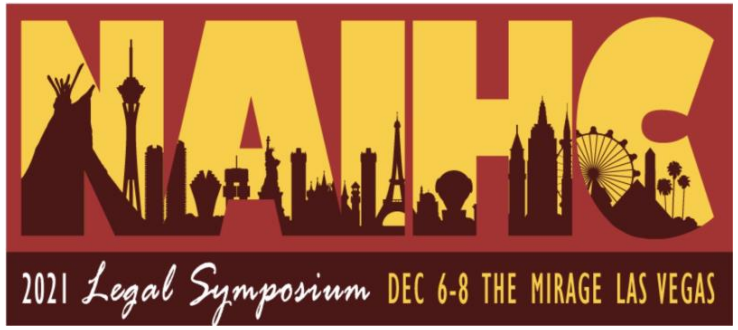
- Plaintiffs then brought suit against the officers; they did not name the Susanville corporation as a Defendant.
- Plaintiffs claimed that they relied on the misrepresentations of the Susanville corporation officers regarding the sovereign immunity waiver; that they made clear having such a waiver was an essential part of the deal.
- Claims are fraudulent misrepresentation, fraudulent inducement, breach of warranty of authority, and tortious misrepresentation.
- Brought against Defendants in their individual capacity.

Allegany Capital v. Cox (W.D. N.Y., Feb. 12, 2021)(con't)



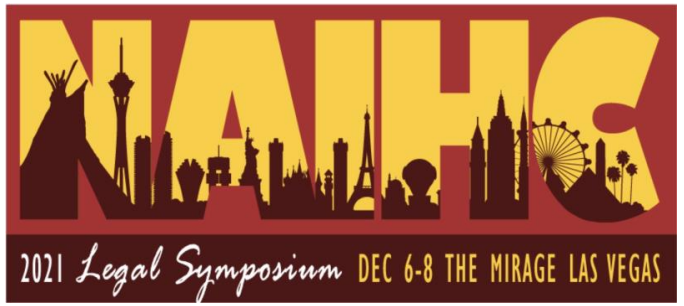
- Defendants moved to dismiss, asserting that the Susanville corporations were arms of the Tribe entitled to Tribal sovereign immunity, and that as officers of those entities they were acting and being sued in their official capacity.
- Court first finds that the corporations do not meet the "arm of the tribe" test for immunity and that the corporations are therefore not protected by sovereign immunity.
- Then go on to cite *L v. C* to state that the officers are being sued for tortious conduct in their individual capacity and not as tribal officials.

Allegany Capital v. Cox (W.D. N.Y., Feb. 12, 2021) (con't)



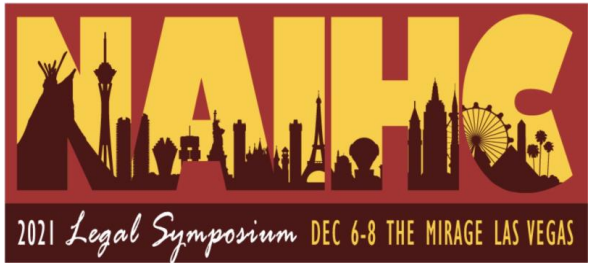
- Court then goes on to justify its reasoning and holding regarding sovereign immunity as necessary to avoid an "unjust result."
- Court points to the behavior of the Defendants, their inducement of Plaintiffs, and the harm to Plaintiffs from that inducement.
- The Court also discusses a concurrence in a prior case that questions the wisdom of Tribal sovereign immunity jurisprudence where it leads to unjust results.

Whalen v. Oglala Sioux Tribe Exec. Officers, et al. (U.S.D. SD Sept. 20, 2021)



- Plaintiff was candidate for tribal vice-president whose nomination was denied based on failure to provide proof of drug test as required by Tribal law
- Defendants are Tribal Executive Committee, Tribal Council, and Tribal Election Commission – all named in their official capacities
- Alleged that Defendants failed to conduct 2020 primary and general elections in accordance with Tribal Constitution
- Sought to invalidate elections, grant new election, and appoint BIA Superintendent to oversee Tribe until new election is held
- **HELD:** citing *L v. C* – "Claims against tribal defendants in their official capacities effectively function as suits against the Tribe. Accordingly, a tribe's sovereign immunity extends to official–capacity defendants in such cases." Therefore, federal court has no jurisdiction to hear the case absent waiver of Tribe's sovereign immunity.

North Dakota v. Cherokee Svcs. Group, et al. (N.D. Sup. Ct., Feb. 18, 2021)



- "Cherokee Entities" defendants included four LLCs created, controlled, and wholly owned by the Cherokee Nation
- Additional defendants were executive general manager of Cherokee Entities and Hudson Insurance Co., which provides workers compensation insurance to the Cherokee Nation and Cherokee Entities
- Finding: the Cherokee Nation has no sovereign land in North Dakota, and the Cherokee Entities were operating within the state, but not on any tribal lands

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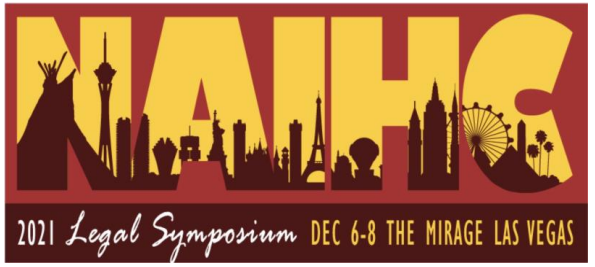
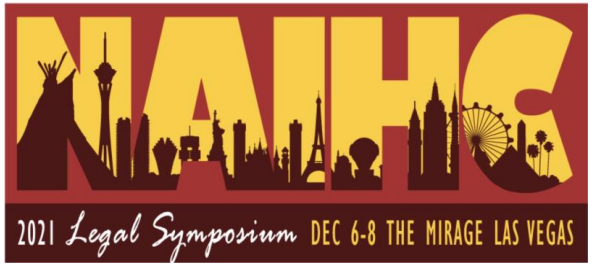


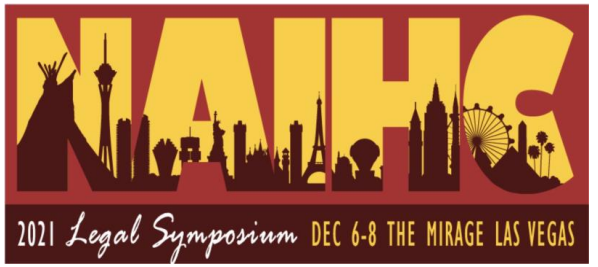
- ND Workforce Safety and Insurance (WSI) issued "cease and desist order" determining that Cherokee Entities were employers subject to ND workers' compensation laws and were liable for unpaid workers' compensation insurance premiums.
- WSI also determined that the Cherokee Entities' executive general manager was personally liable for unpaid premiums, penalties, interest, and costs. Citing ND state law N.D.C.C. 65-04-26.1 (which explicitly allows personal capacity lawsuits).
- **HELD:** For purposes of sovereign immunity, it is immaterial where the conduct by the tribe took place, unless an act of Congress or waiver says otherwise. The State has no means to enforce its laws against the Cherokee Nation absent a waiver of sovereign immunity. The analysis then turns to whether Cherokee Nation's tribal sovereign immunity extends to the Cherokee Entities.

North Dakota v. Cherokee Svcs. Group, et al.(N.D. Sup. Ct., Feb. 18, 2021)(con't)



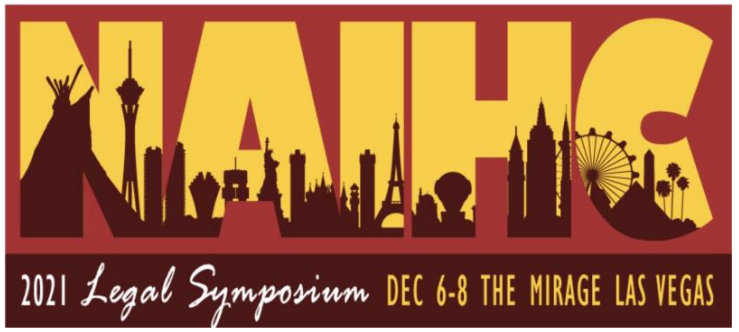
- Court adopts Tenth Circuit's non-exhaustive six-part test to determine whether a tribal entity qualifies as an arm of the the tribe:
- (1) the method of creation of the economic entities; (2) their purpose; (3) their structure, ownership, and management, including the amount of control the tribe has over the entities; (4) the tribe's intent with respect to the sharing of its sovereign immunity; (5) the financial relationship between the tribe and the entities; and (6) the policies underlying tribal sovereign immunity and its connection to tribal economic development, and whether these policies are served by granting immunity to the economic entities.

North Dakota v. Cherokee Svcs. Group, et al. (N.D. Sup. Ct., Feb. 18, 2021)(con't)



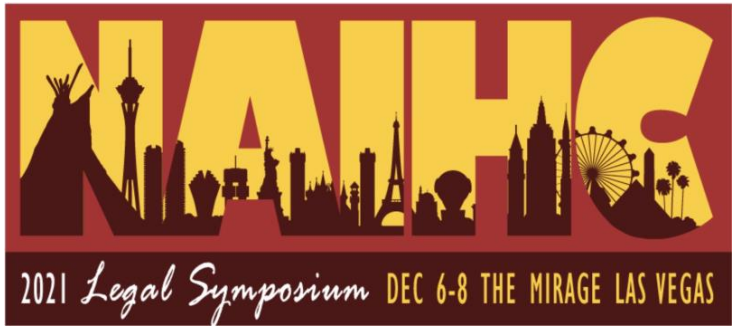
- Court determines there is insufficient information in the record to allow it to apply the 6-part test and remands to ALJ to "make further findings, consider the factors given in the test, and determine whether the Cherokee Entities qualify as an arm of the Cherokee Nation entitled to sovereign immunity."
- General manager asserts he is not personally liable for performing his official duties for the Cherokee Entities citing *L v. C* , but the Court ignores this argument.
- **HELD:** Language of the state law N.D.C.C. 65-04-26.1 requires the company or entity to be liable in the first instance before the liability can extend to the general manager personally. Therefore, determination of general manager's individual liability depends on whether on not Cherokee Entities are arms of the tribe with sovereign immunity from the State's claims. If the Cherokee Entities are not liable due to sovereign immunity, WSI cannot hold manager personally liable or the unpaid premiums. Reversed and remanded.

Weaver v. Gregory (U.S.D. Oregon, March 16, 2021)



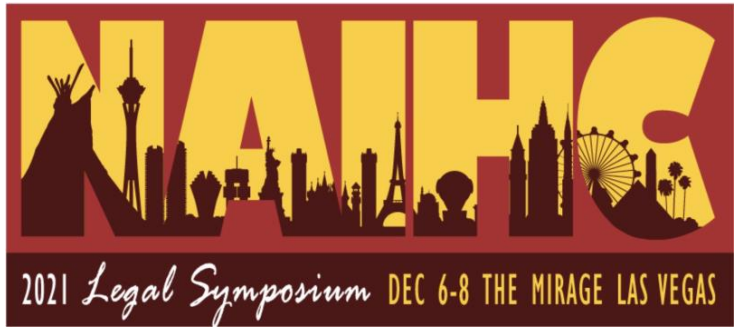
- Former Tribal police officer (male) brings sexual harassment and retaliation §1983 civil rights and tort action claims against three Tribal department officials
- Tribal law provides for limited waiver of SI for tort claims brought in Tribal Court or other court of competent jurisdiction against the Tribe, the Tribal police department, State Certified Tribal Officers, or other Tribal official "arising from the Tribe's state law enforcement authority (i.e., the enforcement of criminal and traffic laws of the State)" under cross-jurisdictional State statute. Limited waiver must be explicitly authorized under either federal law or by ordinance or resolution of the Tribal Council.
- Defendants argue that *L v. C* has implicitly limited application to claims where the conduct occurred outside reservation land. Court replies that location of conduct in *L v. C* "was merely a fact" and has no bearing on whether or not individual capacity claims are barred.

Weaver v. Gregory (U.S.D. Oregon, March 16, 2021) (con't)



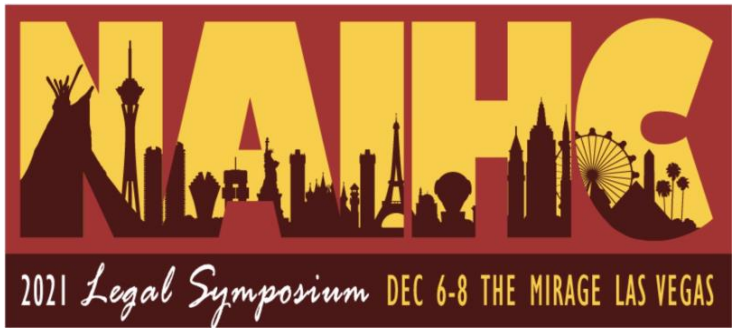
- **HELD:** citing *L v. C* , the Court lacks jurisdiction over the claims to the extent they are brought against Defendants in their "official" capacities. However, Plaintiff's claims against Defendants in their individual capacities for money damages are not entitled to Tribal sovereign immunity even though they are sued for actions taken in the course of their official duties, citing *Pistor (9th Cir. 2015)*.
- Case dismissed on other grounds – 1) Defendants do not qualify as state actors for purposes of §1983 claims (i.e. Tribal Defendants were not exercising their authority to enforce Oregon law when they allegedly violated Plaintiff's constitutional rights, *c.f Hartsell v. Schaff*), 2) Court declines to exercise supplemental jurisdiction over remaining claims that are more appropriately litigated in Tribal Court under Tribal employment laws.

Haynes v. Lujan
(NM Ct. App., July 22, 2021)



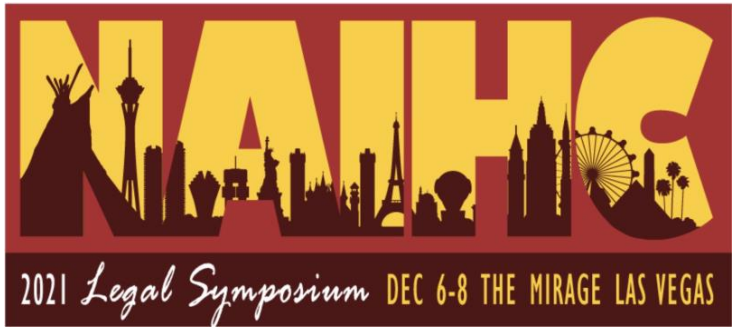
- Plaintiff alleges that Defendants Lujan and Paisano, the Pueblo's governor and lieutenant governor, sexually harassed and retaliated against her while she was employed with the Pueblo's Tribal Court. Third Defendant, Lovato, Is non-Indian.
- Alleged actions took place both on and off Reservation lands.
- Plaintiff argues that *L v. C* partially overruled *Williams v. Lee* ”infringement test.”
- In *Williams*, the Supreme Court stated that "absent governing [a]cts of Congress, the question has always been whether the state action infringed on the right of reservation Indians to make their own laws and be ruled by them."

Haynes v. Lujan
(NM Ct. App., July 22, 2021)(con't)



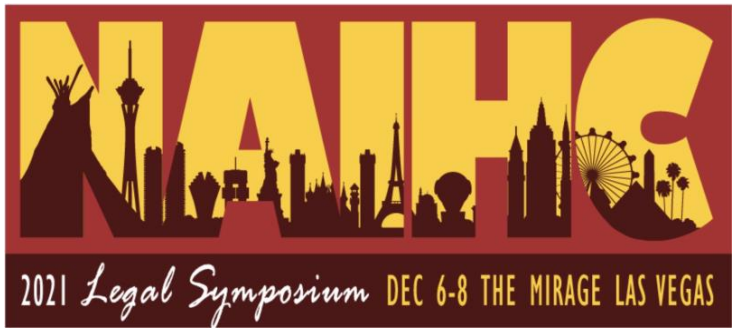
- *Williams* and *L v. C* address two separate doctrines – tribal sovereign authority and tribal sovereign immunity, respectively. "Tribal sovereign authority concerns the extent to which a tribe may exercise jurisdictional authority over lands the tribe owns to the exclusion of state jurisdiction. . . tribal sovereign immunity is the plenary right to be free from having to answer a suit." *See also, Cherokee Services, et. al.*
- Court considered Plaintiff's evidence and argument regarding off-Pueblo conduct, but ultimately concluded this conduct was insufficient to merit state court jurisdiction over Plaintiff's hostile work environment claims.
- Plaintiff maintains that, after *L v. C* , "when an individual capacity claim is brought against a tribal member employee, the Tribe's interests are no longer legally implicated." Put differently, Plaintiff's argument is that the tribal interest here is insufficient simply because Plaintiff chose to sue Defendants in their individual capacities.

Haynes v. Lujan
(NM Ct. App., July 22, 2021)(con't)



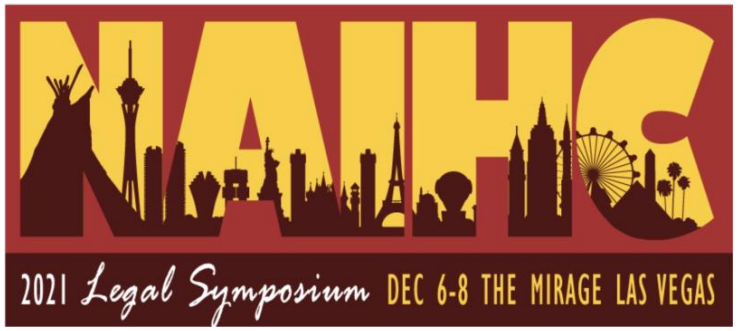
- **HELD:** *L v. C* did not alter *Williams* infringement test. Under longstanding New Mexico law, the nature of a tribe's interest is broader than, and does not turn on, its status as a party or a real party in interest. Rather, NM courts have examined the tribe's interest in exercising adjudicatory jurisdiction over the lawsuit itself, emphasizing "the right of an Indian defendant to be heard in Tribal Court and be ruled by his own laws." As the Supreme Court made clear in *Williams*, the overriding consideration is whether "the exercise of state jurisdiction . . . would undermine the authority of the tribal courts over reservation affairs and hence would infringe on the right of the Indians to govern themselves." Plaintiff's claims "implicate the operations of the Pueblo of Sandia Tribal Court, a fundamental component of the Pueblo's government, " and that "the State of New Mexico's regulation of the Pueblo's employment within the Pueblo's Tribal Court infringes on the Tribe's self-governance." Plaintiff never directly challenged these findings and conclusions. *See also EEOC v. Karuk Tribe Hsg. Auth*. (9th Cir. 2001)

Pilant v. Caesars Enterprise Svcs., et. (D. S.D. CA, Dec. 1, 2020)



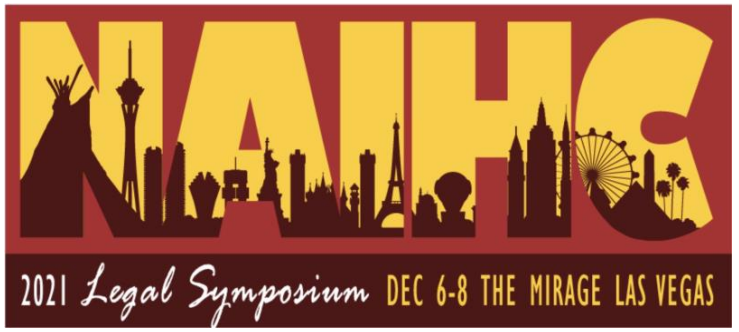
- Plaintiff alleges that Defendants constructively terminated him because he opposed the decision to reopen the Harrah's SoCal Resort hotel/casino as endangering the health and safety of employees and the public due to the COVID-19 pandemic. According to Plaintiff, he "was forced to resign because Defendants continued to insist that he reopen the Resort despite the health and safety risks."
- Plaintiff voluntarily resigned his employment as senior vice-president and general manager the day before Resort was reopened in May 2020.
- Claims alleged under CA state Labor Code, public policy, and breach of written employment agreement.
- Plaintiff seeks monetary damages, costs, and fees from Defendants.

Pilant v. Caesars Enterprise Svcs., et. al. (D. S.D. CA, Dec. 1, 2020)(con't)



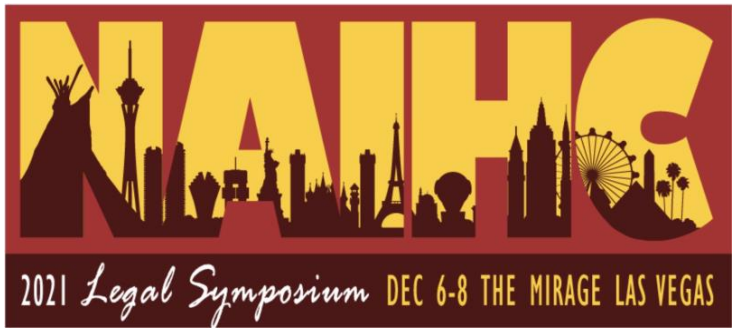
- **HELD:** Tribe (Rincon Band) is not an indispensable party and is not required to be joined under Rule 19 as a prerequisite for granting Plaintiff's requested relief. Tribe does not have a legally-protected interest in case because any judgment in favor of Plaintiff will not impact Tribe's sovereignty or its ability to operate the Resort – it will merely require Defendants to pay money to Plaintiff.
- **HELD:** to the extent the Rincon Band may ultimately be liable to indemnify Defendants for any judgment, or that as a result of a judgment against Defendants, neither Defendants nor any other entity is willing to operate the Resort for the Rincon Band, the resulting loss of income to the Rincon Band does not give rise to a legally protected interest making it a necessary party to this case. Citing *L v. C* "indemnification provision does not somehow convert the suit against the defendant into a suit against the sovereign."

Nguyen v. Foley,
U.S.D.C Minn., Oct. 27, 2021



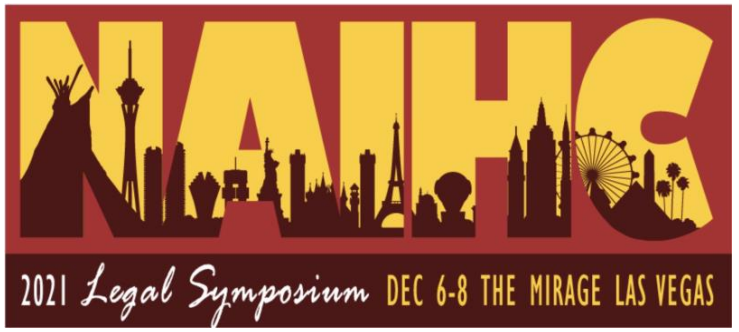
- Plaintiff sues tribal officials and G.A.L. Tribal defendants named in both "official and individual capacities"
- Case arises from difficult relationship/marriage/divorce/custody dispute (2014 – present).
- Mother and child enrolled tribal members. Nguyen (father) non- enrolled.
- Competing custody cases in state court and tribal court.
- Business Council issues no-trespass orders barring Nguyen from tribal lands.
- Nguyen brings federal court case against tribal officials seeking emotional distress damages, civil rights claims, abuse of process, habeas corpus, injunctive relief.

Nguyen v. Foley,
U.S.D.C Minn., Oct. 27, 2021(con't)



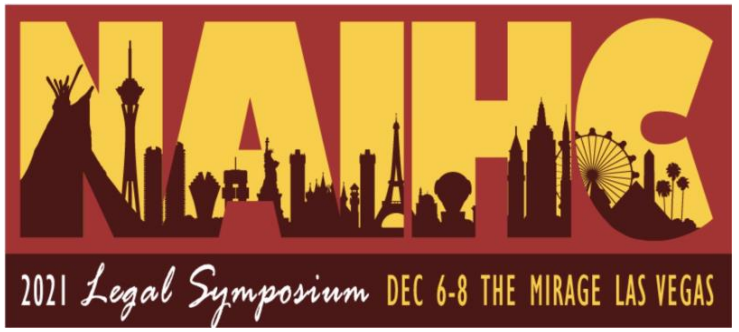
- Court generally acknowledges that "official capacity" claims for "injunctive relief" are not barred under *Ex Parte Young*.
- Court acknowledges that "individual capacity" claims for money damages are not barred under *LvC* where the tribe won't be required to pay a judgment.
- Court sees no § 1983 claim because tribal officials are not state actors. Finds § 1983 claim "frivolous."
- Court sees ICRA/habeas claim as improper "collateral attack."
- Court notes that Tribes have "exclusive jurisdiction" to determine custody of Indian Children.
- Court finds the GAL has "quasi-judicial immunity."
- Court finds no viable federal law claim, and no basis for "supplemental jurisdiction," and dismisses the case.

Hartsell v. Schaaf,
U.S.D.C. Indiana (August 16, 2021)



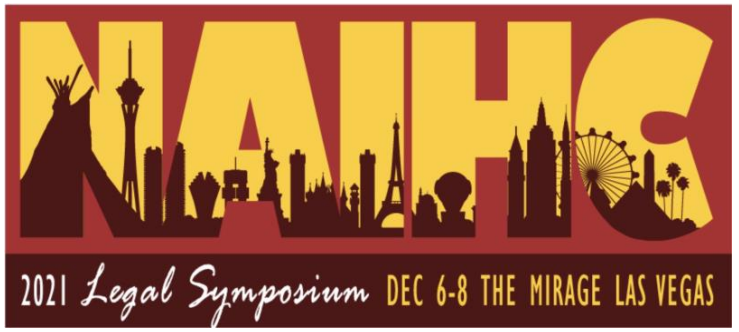
- Pro se prisoner (non-Indian) case against tribal police officers.
- Individual capacity case alleging illegal search and seizure at tribal casino.
- Police see activity involving counterfeit bills and guns in car. Hartsell searched and has drugs
- Tribal police cross-deputized as state police.
- Individual capacity claims and § 1983 claims allowed case to proceed, sovereign immunity doesn't bar the claim. *c.f. Weaver v. Gregory*

Roeman v. U.S., U.S.D.C. SD (May 28, 2020)



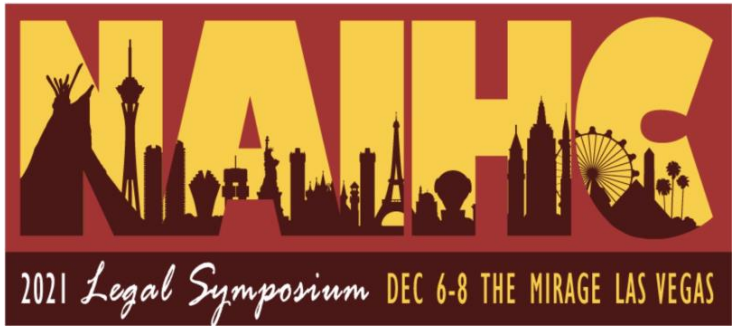
- Mirrors Eyck v. U.S, U.S.D.C South Dakota (May 28, 2020)
- Plaintiffs are non-enrolled passengers in a car driven by fleeing both state and tribal police on non-tribal land, “miles away” from reservation
- High speed chase, police laid out spike strip, car rolled, passengers have serious injuries.
- Passengers bring FTCA claims, *Bivens* civil rights claims, common law negligence and assault claims for damages against tribal police officer in individual capacity.
- Plaintiffs say tribal police are federal agents under 93-638 contract.
- Court explains *L v. C* “individual capacity” precedent, but is “hesitant” to apply it to displace tribal immunity.

Roeman v. U.S., U.S.D.C. SD (May 28, 2020)(con't)



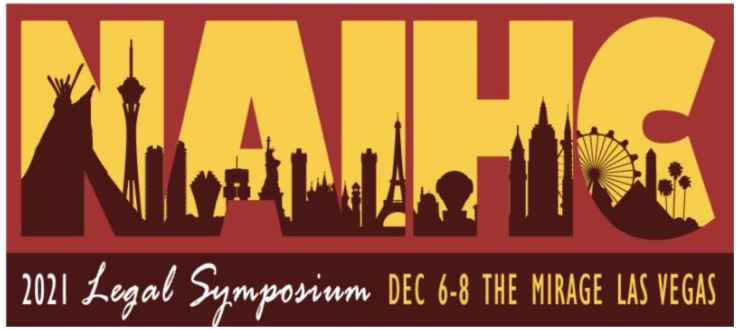
- Court concerned that *L v. C* rule would interfere with Tribe's powers of self-government.
- But, events were not on tribal land, and plaintiffs are non-Indians, so police not exercising "inherent sovereign powers."
- Individual capacity claims proceed. FTCA claims not pled properly, but allowed to be re-filed.
- *Bivens* claims may proceed because 93-638 contract makes tribal officer a "federal officer" and "no alternative remedies under state law to deter" violations of "constitutional rights."

Hypothetical cases -- 2020 Revisited



- Do tribal officials face future legal claims for how they addressed the COVID-19 pandemic in their jurisdiction?
- Failure to spend federal funds or incorrect/ineffective/untimely expenditure of federal or tribal funds?
- Failure to institute minimum levels of protection/safest practices for citizens/members?
- Failure to close public spaces during the height of the infections? Or to properly execute other recommended protocols?
- Personal injury or wrongful death claims?

Thank you. Questions?



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