Hamline University School of Law

Native American Law
Spring 2011

This class will explore the development of a unique body of law that governs the rights of Native American tribes and tribal members and tribal relationships with the United States and the various States. The objective of this course is examine the governmental policies, treaties, statutes, administrative actions, and court decisions that constitute the foundation of what is commonly known as federal Indian law. We will focus on gaining an understanding of tribal sovereignty and tribal jurisdiction, with an emphasis on current applications of the doctrine.

Professor: Wilda Wahpepah. You may reach me at: wahpepah.wilda@dorsey.com, and (612) 492-6522 during regular business hours. Office hours are by appointment.

Class meetings: We will meet on Sundays from 1:15 p.m. to 3:15 p.m.

Grading: This is a two-credit course. Grades will be based on a five-page paper on a topic of your selection due at the mid-term and an open-outline final essay examination to be scheduled by the Registrar. In addition, I reserve the right to raise any student's grade to reflect the quality and quantity of the student's class participation.

Course Materials: The case book for this course is American Indian Law, Robert T. Anderson et al. (2d ed. 2010).

Laptop policy: You may use your laptop in class only to take notes or view course-related material.

Attendance: The Law School's Attendance Policy will apply to our class and roll will be taken. Absences in excess of 3 class meetings will be reported to the Associate Dean for possible withdrawal of the student from this course.

Assignments: The following table outlines our scheduled assignments. The entries are subject to adjustment and change.

Class/Date	**Topic**	**Assignment**
Jan. 16	Origins of Federal Indian Law Key cases: **Johnson v. McIntosh; The Marshall Trilogy; U.S. v. Winans**	Read pages 32-41; 44-72; 79-80; 122-125
Jan. 23	A Century of Shifting Policy Key cases: **Ex Parte Crow Dog; United States v. Kagama; Lone Wolf v. Hitchcock**	Read pages 90-101; 105-110; 118-121; 130-137; 142-144; 152-158

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Jan. 30	The Scope of Federal Power over Indian Affairs Key cases: **Menominee Tribe v. United States; United States v Dion; Reich v. GLIFWC; Morton v. Mancari**	Read pages 167-173; 175-200
Feb. 6	The Scope of Federal Power over Indian Affairs Key cases: **Tee-Hit-Ton v. United States, United States v. Sioux Nation, Mitchell I; Mitchell II**	Read pages 210-230; 232-244 Handout: Cobell
Feb. 13	Tribes, Indian Country and Federal Criminal Jurisdiction Key cases: **United States v. Sandoval; Solem v. Bartlett; Alaska v. Village of Venetie Tribal Gov't; County of Oneida v. Oneida Indian Nation; City of Sherrill v. Oneida Indian Nation of New York**	Read pages 253-259; 271-272; 274-284; 290-307; 308-309, 310-317. Handout: Table, U.S. Dept. of Justice Attorneys Manual
	MIDTERM PAPER DUE FEB. 20	
Feb. 20	Tribal Sovereignty Key cases: **Talton v. Mayes; United States v. Wheeler; Santa Clara Pueblo v. Martinez; Kiowa Tribe v. Mfg. Technologies; C&L Enterprises v. Citizen Band Potawatomi**	Read pages 323-346; 356-360; 361-367; 369-371 In class exercise: waiver of sovereign immunity
Feb. 27	State-Tribal Struggles Over Jurisdiction	Read pages 393-396; 398 - 407; 411-421; 424 (starting at

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	Key cases: **Williams v. Lee, Warren Trading Post Co. v. Arizona State Tax Comm'n; McClanahan v. State Tax Comm'n of Arizona; Bryan v. Itasca; California v. Cabazon Band of Mission Indians; Washington v. Confederated Tribes of the Colville Reservation**	n.7) – 438; 440-446
	SPRING BREAK	
Mar. 13	Tribal Jurisdiction over Non-members – Regulatory and Adjudicatory Key cases: **Montana v. United States; Brendale v. Confederated Tribes and Bands of Yakima; National Farmers Union v. Crow Tribe; Iowa Mut. Ins. Co. v. LaPlante; Strate v. A-1 Contractors**	Read pages 536-541; 553-563; 565-571
Mar. 20	Tribal Jurisdiction over Non-Members – Regulatory & Criminal Key regulatory cases: **Atkinson Trading Co. v. Shirley; Nevada v. Hicks; Plains Commerce Bank v. Long Land & Cattle Co.** Key criminal cases: **Oliphant v. Suquamish Indian Tribe; Duro v. Reina; United States v. Lara**	Read pages 574-579; 580-588; 591 (start with *Plains*) - 593 Read pages 522-31; 593-600; 603-619
Mar. 27	Natural Resource and	Read pages 629-636; 639-653;

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	Environmental Issues Key cases: **United States v. Shoshone Tribe; City of Albuquerque v. Browner; Arizona Pub. Svc. Co. v. Browner; Washington v. Washington State Commercial Passenger Fishing Vessel Ass'n; United States v. Washington; Minnesota v. Mille Lacs Band of Chippewa Indians; Winters v. United States**	668-680; 686-688; 690-700; 709-713
April 3	Native Religion and Culture Key cases: **Lyng v. N.W. Indian Cemetery Protective Ass'n; Employment Division v. Smith; Navajo Nation v. U.S. Forest Service**	Read pages 779-791; 793-798; 800-810; 811-816; 828-838
April 10	Gaming and Economic Development Issues Key cases: **California v. Cabazon Band of Mission Indians; Rumsey Indian Rancheria of Wintun Indians v. Wilson; In re Gaming Related Cases; Colorado River Tribes v. Nat'l Indian Gaming Comm'n**	Read pages 468-493 Guest Speaker
April 17	Indian Child Welfare Act / Alaska and Hawaii Key cases: **Mississippi Band of Choctaw Indians v. Holyfield; John v. Baker**	Read pages 494-515; 839-855; 872-73; 878-882; 883-884