

**Navajo Nation Case Law Update**  
**2016 Navajo Nation Law CLE Conference**  
 Derrick Burbank  
 Staff Attorney, Shiprock Judicial District  
 Navajo Nation Judicial Branch

---

---

---

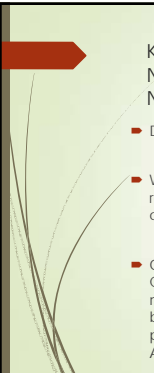
---

---

---

---

---



**Karen Daddis v.**  
**Navajo Arts and Crafts Enterprise and TEME, Inc.,**  
**No. SC-CV-22-12**

- Decided by the Navajo Supreme Court on June 2, 2016.
- What the case is about: It deals with a procedural question regarding what kind of hearing is required for the dismissal of a complaint before the Labor Commission.
- On appeal, the issue before the Court is whether or not the Labor Commission erred in dismissing Daddis's complaint upon NACE's motion to dismiss claiming that a jurisdictional condition had not been satisfied because an evidentiary hearing was not held pursuant to Section 611 of the Navajo Preference in Employment Act (NPEA).

---

---

---

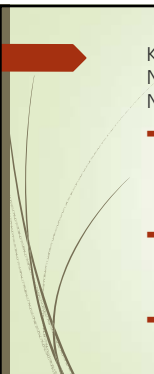
---

---

---

---

---



**Karen Daddis v.**  
**Navajo Arts and Crafts Enterprise and TEME, Inc.,**  
**No. SC-CV-22-12**

- Holding: The Supreme Court reversed the Labor Commission's dismissal of Daddis's Complaint on the grounds that an evidentiary hearing was required before dismissal of her Complaint could be granted.
- The Court remanded the case and ordered the Labor Commission to reinstate Daddis's Complaint and schedule an evidentiary hearing on NACE's motion to dismiss.
- However, there was a Dissenting Opinion issued by Associate Justice Rudy Bedonie.

---

---

---

---

---

---

---

---

Karen Daddis v.  
Navajo Arts and Crafts Enterprise and TEME, Inc.,  
No. SC-CV-22-12

- Takeaway: Be aware of timelines that apply to your client's claims.

---

---

---

---

---

---

---

Barton v.  
Lee,  
No. SC-CV-68-15

- Decided by the Navajo Supreme Court on March 31, 2016.
- What the case is about: This is a case of first impression regarding the filing of an uncertified transcript with the Supreme Court to be included in the record on appeal.
- Issue on Appeal: Whether an appellant can file a transcript that lacks certification that it is an accurate transcription of the recorded proceeding to be included in the record on appeal.

---

---

---

---

---

---

---

Barton v.  
Lee,  
No. SC-CV-68-15

- Holding: The Court held that an uncertified transcript cannot be included as part of the official record.
- The Court held that its ruling applies to this case. The Court used its discretion to apply the rule to this case because the Court found the inclusion of a certified transcript was essential to its appellate review and the Court's duty to provide a just decision.
- Appellant Lee was given additional time (30 days) to file a certified transcript with the Court.

---

---

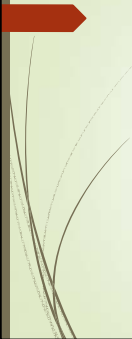
---

---

---

---

---



**Barton v. Lee,**  
No. SC-CV-68-15

- Takeaways: This case provides a few important reminders regarding appellate procedure, specifically:
  - The Appellant's duties to prepare a certified transcript of the record.
  - Deadlines under the Appellate rules for the transmittal of the record.
  - Duties and responsibilities of both Appellant and the district court regarding appeals.

---

---

---


---

---

---

---

---



**Hadley v. Navajo Nation Department of Public Safety,**  
No. SC-CV-20-15

- Decided by the Navajo Supreme Court on February 10, 2016.
- What the case is about: This case concerns the Navajo Labor Commission's dismissal of a Complaint brought under the Navajo Preference in Employment Act.
- Issue on Appeal: Whether the Labor Commission correctly viewed Appellant Hadley's Complaint as one for harassment and intimidation and not one for an appeal of a disciplinary action and whether the Labor Commission abused its discretion in dismissing Hadley's complaint upon its conclusion that Hadley was not harassed.

---

---

---

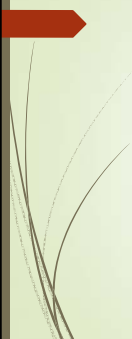
---

---

---

---

---



**Hadley v. Navajo Nation Department of Public Safety,**  
No. SC-CV-20-15

- Holding: "Despite its authority to compel disclosure of evidence relevant to the Complaint to ensure the burden of proof shall be upon the employer [pursuant to the NPEA] the Commission gathered evidence immaterial to this mandate. Instead, the Commission focused its attention and solicited evidence as to the employee's conduct rather than focusing on the employer's conduct and its compliance with the NPEA. With the Commission's accumulation of evidence as to [Appellant] Hadley's conduct, this Court is unable to determine on appeal whether the [Navajo Nation Police Dept.] complied with [the NPEA]."
- For these reasons the Court held that it must reverse the Labor Commission's dismissal, reinstate Appellant Hadley's Complaint, and remand the case back to the Labor Commission for a proper determination as to the [Navajo Nation Police Dept.'s] compliance with the NPEA.

---

---

---

---

---

---

---

---

Hadley v.  
Navajo Nation Department of Public Safety,  
No. SC-CV-20-15

- Takeaways: The Court reminds us that in a direct conflict between a statute passed by the Navajo Nation Council and an approved rule, the statute must prevail. In this case the Court confirms that the Labor Commission may set its own rules, but it may not set any rule that contradicts a direct mandate of the Navajo Nation Council.
- This case confirms that in employment cases before the Labor Commission it is the employer bears the burden of proof that it has complied with the requirements of the NPEA and that its place of employment is maintained in harmony. *Nizhónigo hahodít'ée*.

---

---

---

---

---

---

---

---

liná Bá, Inc. v.  
Navajo Business Regulatory,  
No. SC-CV-60-10

- Decided by the Navajo Supreme Court on September 3, 2015.
- What the case is about: This matter regards a Petition for Reconsideration of the Court's Opinion issued in this case on May 15, 2014, filed on behalf of the Appellee Office of Navajo Business Regulatory on the grounds of sovereign immunity.

---

---

---

---

---

---

---

---

liná Bá, Inc. v.  
Navajo Business Regulatory,  
No. SC-CV-60-10

Issues on Appeal:

- Whether or not the Court erred in reviewing the appeal in this case *de novo* despite a purported prohibition against such a review in Section 211(c) of the Navajo Business Opportunity Act.
- Whether the award by the Court of attorney's fees under 5 N.N.C. §554(F)(5) was error due to misapplication and non-adherence of the Navajo Sovereign Immunity Act.

---

---

---

---

---

---

---

---

liná Bá, Inc. v.  
Navajo Business Regulatory,  
No. SC-CV-60-10

- Holding: The Court granted reconsideration in part as to Appellee's claim regarding the Court's award of attorney's fees and costs, but affirmed the award of fees on alternative grounds.
- Despite granting reconsideration on this issue, the Court found that it can nevertheless award attorney's fees upon a finding of "special circumstances" wherein liná Bá waived all personal benefit from this litigation, which is what the Court found in this matter. The Court affirmed the award of attorney's fees based on the totality of the circumstances.

---

---

---

---

---

---

---

---

liná Bá, Inc. v.  
Navajo Business Regulatory,  
No. SC-CV-60-10

Takeaways:

- Section 211(c) of the Navajo Business Opportunity Act does not remove the Supreme Court's jurisdiction to substitute its judgment on questions of law, especially on issues where basic freedoms are raised.
- The Supreme Court has the authority to award attorney's fees and costs based on a finding of "special circumstances".

---

---

---

---

---

---

---

---

Navajo Housing Authority v.  
Navajo Nation Labor Commission;  
Nos. SC-CV-31/32/33/34/35-14

- Decided by the Navajo Supreme Court on May 22, 2015.
- What the case is about: It's a consolidated action regarding five petitions for a writ of prohibition against the Labor Commission on the grounds that the Commission lacks subject matter jurisdiction on the basis of sovereign immunity.
- Issue on Appeal: Whether the five applications for writs of prohibition should be granted as to the complaints filed against the Navajo Housing Authority seeking monetary and non-monetary relief before the Labor Commission.

---

---

---

---

---

---

---

---

Navajo Housing Authority v.  
Navajo Nation Labor Commission;  
Nos. SC-CV-31/32/33/34/35-14

- Holding: All five of the Writs of Prohibition were denied because the Court found the Labor Commission has jurisdiction to hear the subject complaints brought against the Navajo Housing Authority pursuant to the NPEA.
- The Court held that the Labor Commission has the authority to impose remedies and sanctions regarding the complaints under the NPEA.
- The Court held that enforcement of the Labor Commission's remedial orders against NHA may be pursued in the Navajo courts.

---

---

---

---

---

---

---

---

Navajo Housing Authority v.  
Navajo Nation Labor Commission;  
Nos. SC-CV-31/32/33/34/35-14

- Takeaways: 6 N.N.C. § 623 does not grant NHA general immunity from suit. Rather, it is a "conditional limitation" on NHA's qualified consent to sue and be sued and exempts all NHA property and funds from judicial process, with four exceptions.
- NHA's immunity from suit is no less and no greater than that of the Navajo Nation.
- NHA is an employer under the NPEA, therefore the NPEA applies fully in NHA's employer-employee relationships.

---

---

---

---

---

---

---

---

A.P. v.  
Crownpoint Family Court,  
No. SC-CV-45-14

- Decided by the Navajo Supreme Court on May 14, 2015.
- What the case is about: This case involves an application for a writ of superintending control seeking the disqualification of a Family Court Judge.
- Issue on Appeal: Whether or not the Court should disqualify the Family Court Judge in the underlying matter from presiding over any further delinquency proceedings in which A.P. is a named child-respondent.

---

---

---

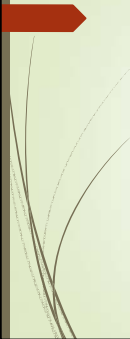
---

---

---

---

---



A.P. v.  
Crownpoint Family Court,  
No. SC-CV-45-14

- Holding: The Court granted a Permanent Writ of Prohibition ordering the disqualification of the presiding Family Court Judge in this matter.
- The Court found good cause to grant A.P.'s petition and disqualify the Family Court Judge pursuant to Canon 11 of the Code of Judicial Conduct which establishes the standards for the disqualification of a judge.
- In the future the Navajo Supreme Court will only permit parties in habeas corpus actions the ability to file a petition for reconsideration, not the trial court. However the trial court may be ordered or invited to file a brief.

---

---

---

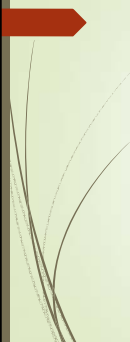
---

---

---

---

---



A.P. v.  
Crownpoint Family Court,  
No. SC-CV-45-14

- Takeaways: A trial judge may be disqualified by the Supreme Court by extraordinary writ upon a finding that the trial court has deviated from proper judicial activity; has become dictatorial; or oppressive in conduct, thereby denying a party an impartial tribunal.
- Remember that Pick-Up Orders can only be issued after a written petition for delinquency or revocation of probation has been filed.
- Courts cannot file petitions for reconsideration as "respondents" in habeas corpus actions because they are not considered a party to the case. Any judge that does so arguably sets themselves up for disqualification.

---

---

---

---

---

---

---

---



[www.navajocourts.org](http://www.navajocourts.org)

---

---

---

---

---

---

---

---