

**2016 ASU CLE**  
**PAUL SPRUHAN**  
**NAVAJO NATION DEPARTMENT OF JUSTICE**

**FEDERAL CASE UPDATE**

**FEDERAL APPELLATE CASES**

***Board of Education of the Gallup-McKinley County Schools v. Henderson* (10<sup>th</sup> Circuit)**

Jurisdictional challenge to NPEA by state-organized school district; trial court dismissed for lack of standing

**(In briefing stage)**

***Hopi Tribe v. U.S. EPA* (9<sup>th</sup> Circuit)**

Four consolidated challenges to EPA regional haze rule issued under Clean Air Act concerning Navajo Generating Station. US EPA used Tribal Authority Rule to adopt Technical Working Group Agreement as BART alternative

**(Oral Argument Scheduled 11/18/16)**

***Navajo Nation v. Department of Interior* (9<sup>th</sup> Circuit)**

Suit by Navajo Nation alleging breach of trust for failing to consider Navajo water rights to Colorado River in the operation and management of the various programs the Secretary of Interior operates on the Colorado River

**(Pending)**

***Navajo Nation v. Department of Interior* (D.C. Circuit)**

Suit by Navajo Nation against BIA for failure to fully fund Judicial Branch 638 contract. D.C. District Court dismissed claims based on failure of Nation to inform BIA that it considered date of submittal to be different than BIA's date

**(In Briefing stage)**

***Navajo Nation v. Daley (10<sup>th</sup> Circuit)***

Action by Nation and Northern Edge Casino to enjoin New Mexico court from hearing personal injury claim by casino patron. District Court ruled Nation validly waived immunity in state court for such claims in gaming compact.

**(In briefing stage)**

***Public Service Co. of New Mexico v. Barboan (10<sup>th</sup> Circuit)***

Condemnation action by PNM concerning two allotments the Nation has fractional interest in. Trial court ruled Nation is indispensable party who cannot be joined and that tribal interest means land is not “allotment” under condemnation statute.

**(In briefing stage)**

***Window Rock Unified School Dist. v. Nez (9<sup>th</sup> Circuit)***

Suit by Arizona school districts to enjoin NPEA jurisdiction. District Court ruled Nation has no jurisdiction over employment decisions at school districts.

**(Awaiting decision)**

**PENDING DISTRICT COURT CASES**

***Carter v. Washburn, (D. Az.)***

Constitutional challenge to Indian Child Welfare Act by Goldwater Institute.

**(Court granted permissive intervention for Navajo Nation; briefing in motion to dismiss continuing)**

***Corporation of the President of the Church of Jesus Christ of Latter Day Saints v. RJ (D. Utah)***

Jurisdictional challenge concerning tort claim filed in Window Rock District Court for sexual abuse of Navajos in Indian Student Placement Program.

**(Awaiting ruling on Motion to Dismiss for lack of exhaustion)**

***Navajo Nation v. Department of Interior (D. Az.)***

Suit by Nation for return of human remains removed by National Park Service from Canyon de Chelly.

**(On remand from Ninth Circuit on whether Hopi is indispensable party; Hopi to file motion to intervene by mid-November)**

***Navajo Nation v. Rael (D.N.M.)***

Suit by Nation on behalf of allottee to enjoin Cibola County Court from hearing civil suit concerning use of acequia on allotted land.

**(In briefing stage)**

***Navajo Nation v. San Juan County, (D. Utah)***

Suit by Nation alleging apportionment of county commission districts violates federal Voting Rights Act and U.S. Constitution for packing Navajo voters in one district.

**(Court ruled County Commissioner districts violated Equal Protection Clause; Court considering remedial measures)**

***Navajo Nation v. United States (D.N.M.)***

Suit by Nation against US EPA and mining companies under CERCLA and NM state laws concerning spill at Gold King Mine.

**(Motion to dismiss pending)**

***Navajo Nation v. Urban Outfitters, (D.N.M.)***

Suit by the Nation alleging federal and state trademark and Indian Arts and Crafts Act violations for use of “Navajo” on clothing and other items.

**(Case settled)**

***Navajo Nation Human Rights Commission v. San Juan County, (D. Utah)***

Suit by Human Rights Commission and individual Navajos against County alleging mail-in ballot election violates federal Voting Rights Act

**(Court denied preliminary injunction; voting to go forward)**

**AMICUS CASES**

***Lee v. Tam (U.S. Supreme Court)***

Suit challenging denial of trademark based on disparagement provision of Lanham Act

**(In briefing stage)**

***Lewis v. Clarke* (U.S. Supreme Court)**

Suit for personal injury against tribal employee in personal capacity. Connecticut Supreme Court ruled tribal sovereign immunity barred suit.

**(In briefing stage)**

***National Mining Association v. Jewell* (9<sup>th</sup> Cir.)**

Suit challenging withdrawal of land under Federal Land Policy and Management Act around Grand Canyon to bar uranium mining.

**(Oral argument scheduled 12/15/16)**

***Pro Football, Inc. v. Blackhorse* (4<sup>th</sup> Cir.)**

Suit challenging cancellation of Washington football team trademark. District Court upheld cancellation under disparagement provision of Lanham Act.

**(Pending)**

***Standing Rock Sioux Tribe v. Army Corps of Engineers* (D.C. Cir.)**

Appeal from denial of preliminary injunction under National Historic Preservation Act against Dakota Pipeline.

**(In Briefing stage)**