

Arizona Indian Law

What You Should Know

Over the past decade, the 21 federally recognized Indian tribes in Arizona have become major players in local, state and national economies. Arizona tribes are aggressively creating and operating new businesses in the areas of real estate development, banking and finance, media, telecommunications, wholesale and retail trade, tourism, and gaming.¹ Consider these facts:

- Arizona tribes occupy nearly 22 million acres of reservation lands across the state.²
- Arizona gaming tribes employ nearly 15,000 Indian and non-Indian employees.³ By comparison, Honeywell International employs 15,000 people in Tempe.
- Arizona gaming tribes also contributed more than \$40 million in state and local taxes and \$28 million in federal and state payroll taxes.⁴
- Tribal gaming generates \$468 million per year for Arizona, in direct and indirect economic activity.⁵

Indian law issues intersect virtually every area of law. For that reason, every attorney should be cognizant of general Indian law principles and be prepared to answer common questions on the subject. Therefore, here are some legal principles that govern relations between Indian tribes and non-Indians.

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Q What is “tribal sovereignty”?

Answer: Indian tribes are “distinct, independent political communities, retaining their original natural rights” in matters of local self-government.⁶ Although no longer “possessed of the full attributes of sovereignty,” tribes remain a “separate people, with the power of regulating their internal and social relations.”⁷ In short, Indians possess “the right ... to make their own laws and be ruled by them.”⁸

Much like the Arizona state government, tribal governments are elaborate entities, consisting of executive, legislative and judicial branches. The office of the tribal chairman (like that of the state governor) and the tribal council (the state legislature) operate the tribe under a tribal constitution and code of laws.

Q Are tribal courts different from state and federal courts?

Answer: Yes. Although Arizona tribal courts are modeled after Anglo-American courts,⁹ Indian courts are significantly different.¹⁰ Tribal judges, who are often tribal members, are not necessarily lawyers.

Tribal courts operate under the tribes’ written and unwritten code of laws. Most tribal codes contain civil rules of procedure specific to tribal court, as well as tribal statutes and regulations. Such laws outline the powers of the tribal court and may set forth limitations on tribal court jurisdiction.¹¹

Each tribal court has its own rules for admission to its bar. For instance, whereas tribes like the Tohono O’odham Nation allow any state-licensed attorney to appear in tribal court, other tribes require counsel to pass a written tribal bar exam or pass an oral interview with members of the tribal judiciary. For example, the Navajo Nation Bar Association requires attorneys to pass the Navajo bar exam—offered twice a year—before advocating in the Nation’s court system.

A tribe's code also includes customary and traditional practices, which are based on oral history and may not be codified in tribal statutes and regulations.¹² Tribal judges consider testimony regarding tribal custom and tradition from tribal elders and historians, who need not base their opinions on documentary evidence, as may be required by state and federal evidentiary rules.

Tribal courts generally follow their own precedent and give significant deference to the decisions of other Indian courts. However, because there is no official tribal court reporter¹³ and because not all tribal courts keep previous decisions on file, finding such case law can be difficult.¹⁴ The opinions of federal and state courts are persuasive authority, but tribal judges are not bound by such precedents. Although Arizona's state courts do not extend full faith and credit to valid tribal court orders,¹⁵ both state and federal courts in Arizona grant comity to tribal court rulings.¹⁶

Before handling a matter in tribal court, an advocate must appreciate the character of tribal courts, pay careful attention to tribal laws and statutes—particularly rules for bar admission—and understand the fundamental differences between tribal courts and state and federal courts.

Can I sue the tribe for damages or equitable relief?



A: Probably not. Like other sovereign governmental entities, tribes enjoy common law sovereign immunity and cannot be sued.¹⁷ An Indian tribe is subject to suit only where Congress has “unequivocally” authorized the suit or the tribe has “clearly” waived its immunity.¹⁸ There is a strong presumption against waiver of tribal sovereign immunity.¹⁹

The doctrine of sovereign immunity shields tribes from suit for monetary damages and requests for declaratory or injunctive relief.²⁰ However, tribal government officials who act beyond the scope of their authority are not immune from claims for damages.²¹

Tribes are also immune from the enforcement of a subpoena, such as those to compel production of documents.²² Furthermore, a court cannot compel the Department of the Interior (DOI) or the Bureau of Indian Affairs (BIA)—the fiduciary for the benefit of tribes²³—to comply with the Freedom of Information Act (FOIA) and release documents passed between tribes and the agencies unless the communica-

tions involve “tribal interests subject to state and federal proceedings.”²⁴ Arguably, if a tribe is immune from state or federal suit, documents exchanged between tribes and the DOI or BIA regarding “tribal interests” or “matters internal to the tribe”²⁵ are exempt from disclosure under FOIA.

Tribal immunity generally extends to agencies of the tribe²⁶ such as tribal casinos and other business enterprises. As many Arizona citizens flock to tribal casinos, slip-and-falls and other tort claims arising on tribal reservations have increased. Nevertheless, courts routinely dismiss personal injury suits against tribes for lack of jurisdiction.²⁷

Therefore, in considering whether to sue a tribe on behalf of an injured party, you must closely evaluate issues of sovereign immunity and waiver. Unless you can show clear evidence of tribal waiver or unequivocal congressional abrogation, do not waste your time, your client's money or a court's resources by filing suit. A judge will simply dismiss the plaintiff's claims for damages for lack of subject matter jurisdiction.

Can I sue the tribe to enforce a contract?

A: Probably not. Tribes retain immunity from suit when conducting business transactions both on and off the reservation.²⁸ Generally, a tribe can only be sued in contract if the agreement explicitly waived tribal immunity²⁹; a waiver will not be implied.³⁰ Nonetheless, the U.S. Supreme Court has held that a contractual agreement to arbitrate disputes constitutes a clear waiver of immunity.³¹

Increasingly, tribes will agree to limited waivers of immunity. Some tribes set up subordinate entities whose assets, the tribes acknowledge, are not immune from suit, levy or execution (although assets not held by the entity remain protected by immunity).³²

So, if you are asked to sue a tribe for breach of contract, you should first consider the entity with which your client contracted—either a tribe, which is likely immune from suit, or a subordinate entity, for which the tribe may have waived its immunity. If you are asked to create a contract with a tribe, you must explain to your client that there may not be any remedy available in the event of a contractual breach. You should then negotiate with the tribe to reach a meeting of the minds with respect to the immunity issue. Again, some tribes will agree to a limited waiver.

Can I sue the tribe for employment discrimination?

A: Probably not. Both Title VII³³ and the Americans with Disabilities Act (ADA)³⁴ expressly exclude Indian tribes.³⁵ Similarly, the Ninth Circuit has held that tribes are immune from suit under the Age Discrimination in Employment Act (ADEA).³⁶ Tribes are also immune from suit under 42 U.S.C. § 1983.³⁷ Likewise, state discrimination laws do not apply to tribal employers.³⁸

Tribally owned entities are generally not subject to state and federal discrimination laws either.³⁹ Tribal officials are also immune from suit arising from alleged discriminatory behavior, so long as they acted within the scope of their authority.⁴⁰ In short, any employment suit against a tribe or its officials based on federal or state discrimination law will likely be dismissed for lack of subject matter jurisdiction.

Arizona tribes have become one of the state's largest employers. As a result, non-Indians' employment records and documents concerning tribal employment practices are increasingly becoming the focus of discovery, even in litigation against non-tribal entities. If the employee is a party, his or her employment records are discoverable if they are in the employee's custody or control. However, under the doctrine of sovereign immunity, a tribe cannot be forced to produce the employee's records.⁴¹ By the same token, a court cannot compel a tribe—or the BIA⁴²—to provide documents about the tribe's employment practices.

Can I sue the tribe for violation of labor and employment laws?

A: Maybe. The circuits are split regarding the application of federal regulatory employment laws to tribal employers. The Ninth Circuit has applied the Occupational Safety and Health Act (OSHA)⁴³ and the Employee Retirement Income Security Act (ERISA)⁴⁴ to tribes, reasoning that such statutes of general applicability govern tribal employment activity because Indian tribes are not explicitly exempted from the laws.⁴⁵ The Seventh and Second Circuits have adopted the Ninth Circuit's rationale and also applied OSHA and ERISA to tribes,⁴⁶ and



the Seventh Circuit leans toward application of the Fair Labor Standards Act (FLSA)⁴⁷ to tribal employers.⁴⁸

Conversely, the Tenth and Eight Circuits have refused to apply to tribes such laws as OSHA, ERISA, FLSA and the National Labor Relations Act,⁴⁹ because doing so would encroach upon well-established principles of tribal sovereignty and tribal self-governance.⁵⁰ Although the Ninth Circuit's rulings that apply federal employment statutes of general applicability to tribes are binding in Arizona, and the decisions of the Seventh and Second Circuits serve as persuasive precedent, state labor laws and workers' compensation statutes remain inapplicable to tribal businesses.⁵¹

Where should I file a claim that arises on the reservation?

A: It depends. Subject matter jurisdiction of tribal, state or federal courts depends largely on (1) whether the defendant is an Indian or non-Indian person or entity⁵² and (2) whether the act occurred on Indian fee or allotted lands, non-Indian-owned reservation lands, or even a state right-of-way on the reservation.⁵³ These two complex issues should be the first area of inquiry for any question regarding civil jurisdiction over a dispute arising on a reservation.

State courts have jurisdiction over lawsuits between non-Indians arising on the reservation.⁵⁴ However, jurisdiction over a suit by any party—Indian or non-Indian—against an Indian person, a tribe or tribal entity for a claim arising on the reservation lies in tribal court.⁵⁵ So, if your client is prepared to show clear or unequivocal waiver of immunity, you should file in tribal court any tort claims against the tribe that arose on Indian lands or in tribal casinos.

In particular, state courts have jurisdiction over any dispute arising from an auto accident occurring on a state right-of-way through the reservation, including a dispute between non-Indian citizens,⁵⁶ and a suit by an Indian against a non-Indian.⁵⁷ As such, common claims that arise on Arizona state highways running through reservations should be brought in state court.

Can a non-Indian challenge the assertion of tribal court jurisdiction?

conclusion

Arizona is witnessing firsthand both the tremendous rise in tribal economic development and an array of legal disputes between Indians and non-Indians. Indeed, Indian law principles affect litigation and transactional practices and intersect general tort, contract, employment and criminal law. Furthermore, Indian law issues implicate tribal, state and federal court practice and challenge attorneys' common understandings of procedural and jurisdictional principles. For these reasons, it is vital that lawyers recognize and understand the Indian law issues they will inevitably encounter in practice.

Can a non-Indian be sued in tribal court?

A: It depends. Generally, a tribal court can only assert jurisdiction over a claim against a non-Indian person or entity when “necessary to protect tribal self-government or to control internal relations.”⁵⁸ Essentially, a tribal court only has jurisdiction over the reservation activities of non-Indian parties “who enter consensual relationships with the tribe ... through commercial dealing, contract, leases, or other arrangements.”⁵⁹

State courts may exercise jurisdiction

over a non-Indian person or entity for a claim arising on the reservation.⁶⁰ Federal courts may assert jurisdiction over a claim against a non-Indian party based on reservation activities if there is federal question jurisdiction⁶¹ or diversity jurisdiction.⁶² Thus, absent a contractual relationship with the tribe, non-Indian parties can only be sued in state or federal court.

In the event a tribal court does have jurisdiction and issues a judgment against a non-Indian party, the doctrine of comi-

ty allows the complainant to seek enforcement of the judgment in state court through, for example, attachment or garnishment proceedings. Although an Arizona state court is not obligated to give effect to the tribal court judgment, as a matter of “deference and mutual respect” a state judge may enforce the judgment through state collection remedies.⁶³

A: Yes. If sued in tribal court, non-Indian persons or entities can challenge the tribal court's assertion of civil jurisdiction in federal court. However, federal courts typically stay their proceedings to allow the tribal court to determine its own jurisdiction.⁶⁴ Thus, before you challenge a tribal court's assertion of jurisdiction in federal court, you must first exhaust tribal remedies.⁶⁵

In any case, a tribal court first decides jurisdiction over non-Indian parties. If the tribal court rules that it has jurisdiction, it proceeds with the case. If the federal court later agrees that the tribal court had jurisdiction, it will not relitigate the case.⁶⁶ Therefore, you should thoroughly present the merits of your client's case to the tribal judge, because you and your client may not have a subsequent opportunity to do so in federal court. In doing so, you should be ever mindful of the unique aspects of tribal courts described above.

Can a non-Indian be prosecuted in tribal court?

A: It depends. Tribal courts do not have general criminal jurisdiction over non-Indian crimes occurring on the reservation.⁶⁷ However, tribal courts do retain the power to exclude any unwanted person from their reservations.⁶⁸

Jurisdiction for non-Indian criminal offenses on the reservation lies with state or federal courts: Crimes committed on the reservation by non-Indians against non-Indians are subject to state jurisdiction.⁶⁹ Federal courts have jurisdiction under the General Crimes Act⁷⁰ over reservation crimes committed by non-Indians against Indians or Indian "interests" (e.g., property).⁷¹

In 1990, the U.S. Supreme Court ruled in *Duro v. Reina*⁷² that state or federal courts also had jurisdiction over on-reservation crimes of Indians who are not members of the tribal community in which the crime occurred. However, Congress quickly overrode *Duro* and affirmed the "inherent power of Indian tribes ... to exercise criminal jurisdiction over all Indians."⁷³

The Ninth Circuit upheld the statute—commonly known as "the *Duro* fix"—in an opinion issued in 2001.⁷⁴ Thus, absent federal statutes that limit tribal jurisdiction,⁷⁵ Arizona tribal courts retain jurisdiction over crimes committed by any Indian (member or nonmember) on the reservation.

about the author

Gabriel S. Galanda is an associate with the Seattle-Portland law firm Williams, Kastner & Gibbs, PLLC. He is a descendant of the Nomlaki and Concow Tribes and an enrolled member of the Round Valley Indian Confederation in Northern California. He serves as President of the Northwest Indian Bar Association and chair-elect of the Washington State Bar Association Indian Law Section. He thanks his friends and mentors Professor Robert A. Williams, Jr., University of Arizona College of Law, and Randy J. Aliment, Esq., for their wisdom and support. Mr. Galanda can be reached at (206) 628-2780 or ggalanda@wkg.com.

endnotes

1. See American Indian Reservations and Trust Areas, Economic Development Administration, U.S. Department of Commerce, at www.doc.gov.eda/html/1g3_4_indianres.htm (Mar. 26, 2002) (reports on the economic infrastructure of the tribes in Arizona).
2. Stephen Cornell & Jonathan B. Taylor, *An Analysis of the Economic Impacts of Indian Gaming in the State of Arizona*, June 2001, at http://udallcenter.arizona.edu/programs/aip/indian_gaming.pdf (April 14, 2002).
3. *Id.*
4. *Id.*
5. *Id.*
6. *Worcester v. Georgia*, 31 U.S. 515, 559 (1832).
7. *United States v. Kagama*, 118 U.S. 375, 381-382 (1886).
8. *Williams v. Lee*, 358 U.S. 217, 220 (1959).
9. See Michael Taylor, *Modern Practice in the Indian Courts*, 10 U. PUGET SOUND L. REV. 231 (1989); see generally DAVID H. GETCHES ET AL., CASES AND MATERIALS ON FEDERAL INDIAN LAW (4th ed. 1998), at 390.
10. As the U.S. Supreme Court recently explained: Tribal courts ... differ from other American courts (and often from one another) in their structure, in the substantive law they apply, and in the independence of their judges. Although some modern tribal courts "mirror American courts" and "are guided by written codes, rules, procedures, and guidelines," tribal law is still frequently unwritten, being based instead "on the values, mores, and norms of a tribe and expressed in its customs, traditions, and practices," and is often "handed down orally or by example from one generation to another." The resulting law applicable in tribal courts is a complex "mix of tribal codes and federal, state, and traditional law," which would be unusually difficult for an outsider to sort out. *Nevada v. Hicks*, 533 U.S. 353 (2001) (citations omitted); see also Taylor, *supra* note 9; GETCHES, *supra* note 9, at 413-418 (discussing unique nature of tribal courts).
11. See Taylor, *supra* note 9, at 238-241.
12. *Id.*
13. THE INDIAN LAW REPORTER has published selected tribal court opinions since 1983.
14. *Id.*

15. *Brown v. Babbitt Ford*, 117 Ariz. 192 (Ct. App. 1977).
16. *See In Re Lynch's Estate*, 92 Ariz. 354 (1962); *Leon v. Numkena*, 142 Ariz. 307 (Ct. App. 1984); *Wilson v. Marchington*, 127 F.3d 805 (9th Cir. 1997). Comity "is the recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws." *Begay v. Miller*, 70 Ariz. 380 (1950), quoting *Hilton v. Guyot*, 159 U.S. 113 (1895), cited in GETCHES, *supra* note 9, at 656-658.
17. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58 (1978).
18. *Id.*; *Kiowa Tribe v. Manufacturing Technologies, Inc.*, 523 U.S. 757 (1998) ("As a matter of federal law, an Indian tribe is subject to suit only where Congress has authorized the suit or the tribe has waived its immunity."); *see also Oklahoma Tax Comm'n v. Citizen Band Potawatomi Tribe*, 498 U.S. 505 (1991) ("Suits against Indian tribes are barred by sovereign immunity absent a clear waiver by the tribe or congressional abrogation.").
19. *Demontiney v. United States*, 255 F.3d 801 (9th Cir. 2001), citing *Pan Am. Co. v. Sycuan Band of Mission Indians*, 884 F.2d 416 (9th Cir. 1989).
20. *Santa Clara Pueblo*, 436 U.S. at 49; *Imperial Granite Co. v. Pala Band of Mission Indians*, 940 F.2d 1269 (9th Cir. 1991); *Hardin v. White Mountain Apache Tribe*, 779 F.2d 476 (9th Cir. 1985).
21. *Imperial Granite*, 940 F.2d at 1269. Then again, tribal officials who do act within the scope of their authority are protected from suit under the tribe's immunity. *See Hardin*, 779 F.2d at 476.
22. *United States v. James*, 980 F.2d 1314, 1319-1320 (9th Cir. 1992).
23. *See United States v. Cherokee Nation of Oklahoma*, 480 U.S. 700 (1987); *United States v. Mitchell*, 463 U.S. 206 (1983); *Seminole Nation v. United States*, 316 U.S. 286 (1942).
24. *Dep't of the Interior v. Klamath Water Users Protective Ass'n*, 532 U.S. 1 (2001).
25. *See Great Northern Paper, Inc. v. Penobscott Nation*, 770 A.2d 574 (Me. 2001) (interpreting *Klamath Water Users Protective Ass'n*, 532 U.S. at 1).
26. *Weeks Construction, Inc. v. Oglala Sioux Housing Authority*, 797 F.2d 668 (8th Cir. 1986). Cf. *Wilson v. Turtle Mountain Band of Chippewa Indians*, 459 F. Supp. 366, 368-369 (D.N.D. 1978).
27. *See Barker-Hatch v. Viejas Group*, 83 F. Supp. 2d 1155 (S.D. Cal. 2000); *Gayle v. Little Six, Inc.*, 524 N.W.2d 280 (Minn. Ct. App. 1995).
28. *Kiowa Tribe*, 523 U.S. at 757; *In re Greene*, 980 F.2d 590 (9th Cir. 1992).
29. *Kiowa Tribe*, 523 U.S. at 757; *Weeks Construction*, 797 F.2d at 668.
30. *Maynard v. Narragansett Indian Tribe*, 984 F.2d 14 (1st Cir. 1994).
31. *C&L Enterprises, Inc. v. Citizen Band Potawatomi Tribe of Oklahoma*, 532 U.S. 411 (2001).
32. *See generally* GETCHES, *supra* note 9, at 383-388.
33. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e(b).
34. *Id.* §§ 12101-12213.
35. *Pink v. Modoc Indian Health Project*, 157 F.3d 1185 (9th Cir. 1998); *Dille v. Council of Energy Resource Tribes*, 801 F.2d 373 (10th Cir. 1986); *but see Florida Paraplegic Assoc., Inc. v. Miccosukee Tribe of Indians of Florida*, 166 F.3d 1126 (11th Cir. 1999) (held public accommodation portion of ADA applicable to tribes but held that tribe was immune from suit).
36. 29 U.S.C. § 621-34; *EEOC v. Karuk Tribe Housing Auth.*, 260 F.3d 1071 (9th Cir. 2001); *but see EEOC v. Cherokee Nation*, 871 F.2d 937 (10th Cir. 1989) ("ADEA is not applicable because its enforcement would directly interfere with the Cherokee Nation's treaty-protected right of self-government"); *EEOC v. Fond du Lac Heavy Equip. & Constr. Co.*, 986 F.2d 246 (8th Cir. 1993).
37. *See Corrigan v. Bargala*, 1999 U.S. App. Lexis 33671, 1999 WL 1217935 (9th Cir. 1999); *Dry v. City of Durant*, 242 F.3d 388 (10th Cir. 2000).
38. A.R.S. § 41-1464 (exempts Arizona's tribes from state employment discrimination laws); *see also New Mexico v. Mescalero Apache Tribe*, 463 U.S. 324 (1983) ("State jurisdiction is preempted by the operation of federal law if it interferes with or is incompatible with federal and tribal interests reflected in the federal law, unless the state interests at stake are sufficient to justify the assertion of state authority."); FELIX S. COHEN, COHEN'S HANDBOOK OF FEDERAL INDIAN LAW (Michie 1982), at 259 (state civil laws are "generally not applicable to Indian affairs within the territory of an Indian tribe, absent the consent of Congress").
39. *See Hagen v. Sisseton-Wahpeton Community College*, 205 F.3d 1040 (8th Cir. 2000).
40. *See Hardin*, 779 F.2d at 476.
41. *See James*, 980 F.2d at 1314.
42. *See Klamath Water Users Protective Ass'n*, 532 U.S. at 1.
43. 29 U.S.C. § 651 *et seq.*
44. *Id.* § 1001 *et seq.*
45. *Donovan v. Cocur d'Alene Tribal Farm*, 751 F.2d 1113 (9th Cir. 1985) (right of self-government is too broad to defeat applicability of OSHA); *DOL v. OSHA Review Comm'n*, 935 F.2d 182 (9th Cir. 1991) (applying OSHA); *Labor Industry Pension Fund v. Warm Springs Forest Prod. Indus.*, 939 F.2d 683 (9th Cir. 1991) (applying ERISA).
46. *Smart v. State Farm Ins.*, 868 F.2d 929 (7th Cir. 1989) (the "argument that ERISA will interfere with the tribe's right of self-government is overbroad"); *Reich v. Mashantucket Sand & Gravel*, 95 F.3d 174 (2d Cir. 1996) (following Ninth and Seventh Circuits to apply OSHA).
47. 29 U.S.C. § 201 *et seq.*
48. *Reich v. Great Lakes Indian Fish and Wildlife Comm'n*, 4 F.3d 490 (7th Cir. 1993).
49. 29 U.S.C. § 158(a)(3) *et seq.*
50. *Donovan v. Navajo Forest Prod. Indus.*, 692 F.2d 709 (10th Cir. 1982) (OSHA held inapplicable to tribe in part because enforcement "would dilute the principles of tribal sovereignty and self-government recognized in the treaty"); *see also Fond du Lac Heavy Equip. & Constr.*, 986 F.2d at 246.
51. *See Begay v. Kerr McGee Corp.*, 682 F.2d 1311 (9th Cir. 1982); *Tibbets v. Leech Lake Reservation Business Comm.*, 397 N.W.2d 883 (Minn. 1986) (held Minnesota worker's compensation law inapplicable to tribal employer).
52. To make the issue of jurisdiction even more complicated, courts consider whether the party is a tribal member and nonmember. In short, nonmembers are non-Indian persons or entities, or Indian persons who are not enrolled as a member of the tribe which is asserting jurisdiction. *See United States v. Wheeler*, 435 U.S. 313 (1978); *Washington v. Confederated Tribes of the Colville Indian Reservation*, 447 U.S. 134 (1980); *Strate v. A-1 Contractors*, 520 U.S. 438 (1997); *Wilson v. Marchington*, 127 F.3d 805 (9th Cir. 1997). Here, the terms "Indian" and "non-Indian" are used.
53. *See, e.g., Montana v. United States*, 450 U.S. 544 (1981); *Brendale v. Confederated Tribes and Bands of Yakima Nation*, 492 U.S. 408 (1989) *South Dakota v. Bourland*, 508 U.S. 679 (1993); *A-1 Contractors*, 520 U.S. at 438.
54. *See A-1 Contractors*, 520 U.S. at 438.
55. *Williams v. Lee*, 358 U.S. at 217.
56. *Id.*
57. *Wilson*, 127 F.3d at 805.
58. *Montana v. United States*, 450 U.S. at 544.
59. *Id.*; *FMC v. Shoshone-Bancock Tribes*, 905 F.2d 1311 (9th Cir. 1990).
60. *Three Affiliated Tribes of the Fort Berthold Reservation v. Wold Eng'g*, 467 U.S. 138 (1984).
61. 28 U.S.C. §§ 1331, 1343.
62. *Id.* § 1332.
63. *See In Re Lynch's Estate*, 92 Ariz. at 354; *Leon*, 142 Ariz. at 307.
64. *See Iowa Mutual Ins. Co. v. LaPlante*, 480 U.S. 9 (1987); *National Farmers Union Ins. Cos. v. Crow Tribe*, 471 U.S. 845 (1985).
65. *Stock West Corp. v. Taylor*, 964 F.2d 912 (9th Cir. 1992).
66. *Iowa Mutual Ins. Co.*, 480 U.S. at 9.
67. *Oliphant v. Suquamish Tribe*, 435 U.S. 191 (1978); *State v. Sorkhabi*, 202 Ariz. 450 (Ct. App. 2002) (upheld trial courts dismissal for lack of subject matter jurisdiction for resisting arrest charge against a non-Indian on an Indian reservation).
68. *White Mountain Apache Tribe*, 779 F.2d at 476.
69. *New York ex rel. Ray v. Martin*, 326 U.S. 496 (1946); *Solem v. Bartlett*, 465 U.S. 463 (1984).
70. 18 U.S.C. § 1152.
71. *Williams v. United States*, 327 U.S. 711 (1946).
72. 495 U.S. 676 (1990).
73. 25 U.S.C. § 1301(2).
74. *See United States v. Enas*, 255 F.3d 662 (9th Cir. 2001).
75. *See, e.g., the Major Crimes Act*, 18 U.S.C.A. §§ 1153, 3242.