



Indian Country THIS WEEK FROM

TODAY THE PREMIER E-NEWSLETTER SERVING THE NATIONS, CELEBRATING THE PEOPLE

A Letter from the Publisher



Shekóli. In hallways and private gatherings, one topic dominated conversations at the recent annual meetings of both the National Congress of American Indians and the United South and Eastern Tribes. According to our correspondents, tribal leaders and activists were intensely concerned about the decision by the Supreme Court in June to hear the case known as *Dollar General v. Mississippi Band of Choctaw Indians*.

Eight *amicus* briefs from prominent Indian organizations and the American Civil Liberties Union have been filed on the side of the Indians. Native nations are rallying around the Mississippi Choctaw—and with good reason. As Suzette Brewer relates in this week's major feature, what began years ago as a

sexual assault lawsuit will go before the Supreme Court on December 7 as a question of sovereignty.

The giant retailer Dollar General is, in Brewer's words, challenging "whether the courts of tribal nations have jurisdiction to rule on civil claims against non-members." Brewer explains how, in 2000, Dollar General entered into a leasing arrangement to open a store on Choctaw land, and signed a standard agreement familiar to anyone who has done business in Indian country. The legal docu-

ment explicitly states, "Exclusive venue and jurisdiction shall be in the Tribal Court of the Mississippi Band of Choctaw Indians. This agreement and any related documents are subject to the Choctaw Tort Claims Act."

In its court filings, Dollar General argued that it is unfamiliar with the courts of tribal nations and won't get a fair hearing. (As legal observers point out, outside firms have had no issue in filing civil cases in tribal court when they feel the nation is at fault.)

The case, to many, was a simple one. Appellate courts ruled in favor of the Choctaw. However, the Supreme Court decided to hear the case over the objections of the Solicitor General after petitioning by the retail chain. The Supreme Court's intervention is seen as ominous. Many lawyers and nations fear not only the upending of many common business agreements but a critical erosion of sovereignty.

At a time when the federal government has been moving in the opposite direction—and taking measures to provide justice in Indian country through agreements for more tribal nation jurisdiction—a poor ruling by the high court has the potential to wreak havoc and uncertainty. Naturally, ICTMN reporters will be following closely.

NA Ki wa,

Ray Halbritter

Table of *Contents*



2	COMMENTARY	12	WEB, EVENTS, LETTERS
3	NEWS PAGE A	13	CARTOON, ALERTS
5	MELTING THE BENNETT FREEZE	14	HOW DID I MISS THAT
7	A MATTER OF SOVEREIGNTY	15	POW WOWS
11	WEEK IN PHOTOS	16	BIG PICTURE

Making Genocide Real For Students

Toni Tsatoke (Kiowa), a lecturer at the University of Oklahoma, urges that teachers of Native American history not flinch when it comes to discussing an often terrible past:

Some days I leave my classroom unsure that what I have taught has any real effect on my students. Then there are days like today. We revisited the era of the Indian Removal Act.

I shared a dramatic segment of a documentary that gave a powerful representation of what the Trail of Tears really

was—genocide. Historical accounts estimate that over 5,000 people perished during that single initiative. Even conservative estimates acknowledge that at least 4,000 Native Americans died.

The visual that my students was left with was described from an actual written account by a New Englander who observed a woman carrying her dying baby in her arms. It's a painful part of our collective history, even after 170 or 180 years. But I always remind my students that learning a more whole American history is the only way to educate and result in an informed people.

Today, I could tell from the faces on

all types of students, regardless of race, socioeconomic status, or gender, that it was the first time they actually reflected and took a moment to acknowledge the human experiences that occurred during the Indian Removal Era. It's not just a story. It happened . . . and in our not so distant past.

We, as educators, can't "protect" our students from our history. Nor should we gloss over complicated and difficult subject matter. I believe that students can "handle" more than we give them credit for. More inclusive histories now can only bring about more informed citizens later.

<http://bit.ly/1Obbrjx> 🌐

Coal, Congress And Trampled Treaties

Tim Ballew II, chairman of the Lummi Indian Business Council, decries an understanding between industry and Congress that could devastate his tribe's fishing area at Cherry Point, Washington:

SSA Marine wants to build North America's largest coal terminal, Gateway Pacific, within Lummi fishing waters. Years of research have shown there is no way to mitigate the impact of this terminal. SSA Marine admits that the terminal would result in 3.7 billion gallons of polluted water being discharged from ships in the

area. Pollution and a big increase in vessel traffic would devastate our ability to fish—and violate our treaty.

When the Army Corps of Engineers evaluates permit requests for projects like Gateway Pacific, it must conduct an Environmental Impact Statement to ensure there is no significant damage to the environment. The Corps must also conduct an independent analysis to protect tribal treaty rights. It can then deny a permit if a project violates treaty rights.

Now some members of Congress want to change the game. If the terminal is built, Montana coal can be shipped to China. So, under pressure from SSA Marine,

Sen. Steve Daines (R-Montana) and Rep. Ryan Zinke (R-Montana) want to prohibit the Corps from making a determination about the project. Daines and Zinke, along with 31 of their colleagues, are urging the Corps to degrade treaty protections. In a letter to the head of the Corps, they complained about the treaty rights review of the project and suggested that treaty rights didn't deserve review or respect from the agency. Daines is a member of the Senate Indian Affairs committee.

Tribes across the United States should be on high alert as Congress tries to chip away at our treaty protections. <http://bit.ly/1NC1r1b> 🌐

Facing Suicide Head-On

Native suicide is a disease that is treatable, says Gyasi Ross (Blackfeet Nation/Suquamish Territories), but treatment requires honesty first of all:

According to a recent Centers for Disease Control study, 40 percent of Native people who commit suicide are between the ages of 15 and 24. Our children are losing hope during some of the most amazing times of their lives. They're killing themselves three times as much as anybody else in this country.

Suicide, especially by our young folks, speaks to something incredibly

wrong within our communities. These kids are slipping through the cracks in the very worst way possible. It feels like we're watching a genocide, a lost generation, and not acknowledging that it's happening.

From what I've read, this is almost entirely preventable. If we are able to identify who is at risk, then there is the possibility for intervention. Bringing up the conversation never hurts. But we have to be talking to start to identify who is at risk.

The conditions are often treatable. However, within our communities, mental health diagnosis and treatment rarely happen, because the Indian

Health Service (IHS) is chronically underfunded. The IHS spends only about \$3,000 per Native person per year compared to the roughly \$8,000 spent on healthcare by everyone else.

Suicide is treatable. But that will only happen if we realize that, yes, this is in fact a disease, a condition, that is wreaking havoc on and killing our communities. Once we do that, like our ancestors, we can formulate a plan of how best to attack and survive this epidemic.

There is no cavalry coming to save our kids; we're the only ones who can. But first we have to acknowledge the problem. <http://bit.ly/1GHFGff> 🌐

'Final Rule' To Secretarial Elections Will Ease Off-Reservation Voting

It will now be easier for federally recognized Natives living off their reservations to participate in certain elections, following a new Interior Department ruling that effectively states that voting may generally be conducted by mail-out ballots.

The ruling covers "Secretarial elections," which are federal elections conducted by the Secretary of the Interior for federally recognized tribes under a federal statute or tribal governing document. Assistant Secretary-Indian Affairs Kevin Washburn announced the so-called "Final Rule" governing such elections on October 19.

Among many other issues, the Final Rule accounts for the fact that tribal members often live in cities, far from their reservations or communities. Today, almost three-quarters of Natives live in urban areas because of the Bureau of Indian Affairs' past policy of relocating them in the hope of assimilating them and terminating the federal relationship with their tribes.

"The United States has a moral obligation to preserve connections between Indian people and their tribes that it once sought to destroy," Washburn said. "For that reason, our Secretarial election amendments seek to prevent tribal members living in urban areas from being inadvertently disenfranchised in Secretarial elections."

The Final Rule further states that tribes that currently have Secretarial election requirements are encouraged to remove them, as a step towards tribal sovereignty and self-determination.

The Final Rule, which has been in development for years, was the subject of three consultation sessions with tribal leaders, as well as an extended public comment period that ended on January 16. <http://bit.ly/1GqpGP4>

Australia Declares A New Protected Area For Aboriginal Persons

BY RICK KEARNS

The Australian government has declared 12.25 million acres of Aboriginal freehold land an Indigenous Protected Area (IPA), thereby giving the Anangu people additional resources to protect sacred sites, native plants and animals. The new IPA, the fourth largest protected area on the Australian mainland, comprises an area larger than Switzerland.

The site, known formally as Katiti Peterman IPA, adds to the network of 71 IPAs that cover more than 159 million acres throughout the country. Aboriginal elders in these areas work with indigenous rangers to preserve natural and cultural resources.

Central Land Council Director Davis Ross noted that this newest IPA has value for its potential as a cultural tourism site. "There's an airport where large numbers of national and international visitors arrive every week," he said. "The Outback Way goes right through it and the landscapes are very dramatic, with spectacular mountain ranges, vast salt lakes and large sand dunes. It all adds up to huge scope for tourism development."

The new status will also help Aboriginal people teach their children more about traditional culture, foods and places, said Indigenous Ranger Ruby James.

"We really hope we can extend the program so we can do more trips on country and learn more about the bush tucker and all the traditional foods and important places," James said. "By taking them out on country, they see and learn about places. It will allow them to protect their country themselves in time. This is their schooling, this is the education." <http://bit.ly/1OOP54b>

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Yakama Nation Achieves A Step Toward Sovereignty

The Yakama Nation made a major move toward sovereignty last month when the Interior Department accepted the partial civil and criminal jurisdiction that Washington State had held over the federally recognized tribe. Assistant Secretary-Indian Affairs Kevin Washburn made the announcement on October 19.

Washington's authority over the Yakama derived from federal Public Law 280, which was enacted in 1953. This law gives states the authority "to assume criminal jurisdiction over American Indians on federal Indian reservations and to allow civil litigation that had come under tribal or federal court jurisdiction to be handled by state courts."

But tribes and states have long complained that the law has done more harm than good. So, with legislative shifts that began in 1968, states have been relinquishing their jurisdiction to the federal government. So far, 31 tribes have seen the shift in authority, the most recent being the Santee Sioux Nation in 2006.

In Washington, the process began when state lawmakers enacted preliminary legislation in 2012. That July, the Yakama Nation filed a petition that led to government-to-government consultations and a Memorandum of Understanding in 2013.

Gov. Christine Gregoire submitted a retrocession proclamation to the Interior Department in January 2014. The Bureau of Indian Affairs' Office of Justice Services (OJS) then worked with Yakama authorities to determine the Nation's law enforcement capabilities. The OJS ultimately determined that the police force could handle increased responsibilities.

"It is truly a great day for the Yakama people," said Tribal Council Chairman JoDe Goudy. "For decades, our nation has been denied basic rights of self-governance within our own lands. Today makes an important step toward righting that wrong." <http://bit.ly/1WlnYW7>

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Melting The Bennett Freeze

After years of inaction, Navajo impatience is mounting BY ALYSA LANDRY



Raymond Maxx (left), executive director of the Navajo-Hopi Land Commission Office, consulting with then-Navajo Nation President Ben Shelly in a house on the Bennett Freeze site in 2011.

Bottom Line: *Despite federal legislation, thousands still live in squalor across 1.6 million acres in the Southwest. But calls to change those conditions are growing.*

They have lived for decades without electricity or plumbing. One-third of them drive as far as 24 miles every few days to haul water. Many have little or no access to emergency medical treatment, fire response, or shopping and social services.

They are the casualties of the so-called Bennett Freeze—the federal policy that for decades halted infrastructure and living conditions on a 1.6 million-acre swath of Navajo land to the west of the Hopi Reservation in Arizona.

Now, Navajo President Russell Begaye is determined to melt the freeze by stepping up efforts to help its victims by calling attention to conditions—and, just as important, calling for and proposing solutions.

“People are suffering from substan-

dard homes,” Begaye told ICTMN. “People are living with roof leaks, with sheetrock hanging down, with dirt floors. I just can’t imagine how cold it would get out there in the wintertime.”

The trouble began in 1966, when then-Commissioner of Indian Affairs Robert Bennett ordered a halt to all development in the affected area. He did so in response to longstanding land disputes between the Navajo and Hopi.

This “freeze” was lifted when the two tribes reached a formal agreement in 2006. In May of 2009, President Obama signed a bill repealing the freeze.

In theory, this meant that for the first time in 40 years, residents could build homes, schools and roads. Power and water lines could go in, and people could conduct routine maintenance, without fear of repercussions.

But since then, little progress has been made. The estimated 6,700 victims of the former Bennett Freeze still live in conditions that have not changed in nearly half a century.

The aftermath has affected nine Navajo chapters in an area the size of Delaware. Here, even relatively simple construction or repairs have been halted.

“I think, over the course of the freeze, there were some projects implemented, funds appropriated for specific projects, but not on a scale that normal community growth could occur,” said Navajo Council Delegate Walter Phelps, who represents the Cameron, Coalmine Canyon, Birdsprings, Leupp and Tolani Lake chapters. (Two of Phelps’s chapters are inside the freeze area; two more are partially inside.)

“Because of the freeze, there was a lack of focus to improve quality of life,” Phelps said. “It’s one of the more severe areas on the reservation because of the restrictions. No one knew it was going to last four decades.”

In response to the prolonged hardships, many of the young people have

left the area to seek out job opportunities and better living conditions elsewhere. That means that many of the current residents are elders who are isolated from family and close neighbors and who live in conditions that are at times life threatening. Some of them live in tents near their sheep corrals; other families live in homes with roofs that have caved in.

“We’re losing lives,” said Phelps. “This comes down to life and death when emergencies occur. We’re talking about a lack of road maintenance, 911 services, rural addressing, telecommunications. We’ve already lost elders because of it.”

On October 16, Begaye and a small caravan of division directors journeyed to the area to visit residents and see first-hand the devastating conditions. Three days later, during his quarterly State of the Nation address to the Navajo Nation Council, Begaye proposed solutions.

One is to ask the Department of Agriculture to designate the area as a Promise Zone. This designation, awarded to high-poverty communities, means that the federal government partners with local leaders to increase economic activity and improve educational and social services.

If awarded, the designation would follow a long list of other remedies that have come with high price tags.

More than a decade ago, the Bureau of Indian Affairs released \$5 million from an escrow account and earmarked it for Bennett Freeze rehabilitation, with \$3.9 million going to provide homes for residents. So far, the Navajo Nation has spent about \$1 million to purchase 17 manufactured homes for families identified as critically in need or homeless. Fifteen of those homes have been delivered.

The Nation also qualifies for funding under the U.S. Department of Housing and Urban Development, the Indian Community Development Block Grant program, and the Native American Housing Assistance and Self-Determination Act of 1996.

But, like most federal funding sources, projects have to be “shovel-ready” first.

“That requires home-site leases and all

other clearances before they can even apply for funding,” Phelps said. “What we can do and how much is limited.”

A 2008 recovery plan prepared by the engineering and consulting firm WHPacific estimates the total cost for rehabilitation at \$4.8 billion. That includes \$3 billion for housing alone, and hundreds of millions for infrastructure, utilities, transportation, education, agriculture, community facilities, health and public safety.

But Begaye has another idea—borrowing from non-profit organizations like Habitat for Humanity that build affordable homes for people in need. He is asking for everyone with a hammer to chip in.

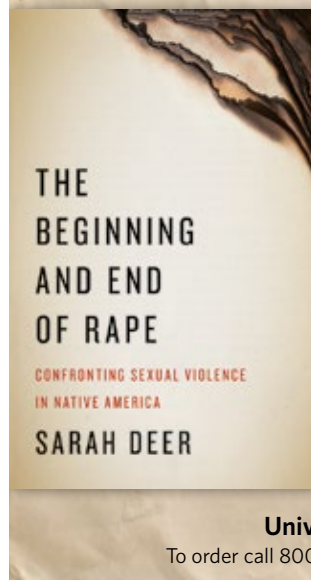
“If they need a home, let’s build a home,” he said. “Before each fair or community gathering, we’ll find several houses that need to be worked on, and then we’ll get volunteers to do the construction. We’ll do the painting or the roofs. When people come to the fair, they can just stop by and pitch in.”

The point, Begaye said, is to do something, however small: “Over the years there have been numerous studies done. Departments and programs have talked about what to do, but nothing has really taken place. Up until this point, it’s all been talk and no action.”

Don Yellowman, president of the grassroots group Forgotten People, is optimistic about community involvement. Forgotten People was founded in the late 1990s with the intent of rehabilitating the Bennett Freeze.

“I think every little bit will help,” said

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Yellowman, who grew up in the Bennett Freeze area. “In the meantime, because projects are not ready and we’re not in the position to ask for large amounts of funding, we have to organize work parties to bring their hammers and tool belts.”

But for some residents, improvements could be a case of too little, too late. The landscape is littered with abandoned homes and ceremonial hogans. Since 1966, the area has lost six generations of Navajo residents.

“People were leaving the area, leaving their elders behind,” Yellowman said. “Once the elders died, no one was around to pick up from there.”

And though restrictions have thawed, residents still wait for the 21st century to arrive.

“You’d think that since the freeze has been lifted that there would be an army of assistance to come in and help, but that hasn’t been the case,” Yellowman said. “It’s mind-boggling to think that nothing has happened.” <http://bit.ly/IRATubL>

[ly/IRATubL](http://bit.ly/IRATubL)

A Matter Of Sovereignty

For tribes, a 'potentially devastating case' is in the making BY SUZETTE BREWER



The Dollar General Store on the Choctaw Indian Reservation has become a flashpoint of tribal governance.

Bottom Line: What began as a sexual assault lawsuit will go before the Supreme Court in December—and tribal jurisdiction could be dealt an unprecedented blow.

It was supposed to be a quintessential rite of passage.

In the summer of 2003, 13-year-old “John Doe” did what many teenagers do: He got a job. As a participant in the Youth Opportunity Program (YOP), he would be paid by his tribe, the Mississippi Band of Choctaw Indians, while he got work experience at the Dollar General store on the tribe’s reservation.

In exchange, the retail giant would get free labor while training local tribal members and teaching them job skills.

But what began as a win-win situation for everyone went horribly wrong.

During his brief internship, the boy (whose real name has been changed to protect his identity) alleged that the

store’s manager, Dale Townsend, sexually assaulted him several times during work hours, according to court documents.

The U.S. Attorney’s office, which has jurisdiction over crimes on Mississippi tribal lands, declined to press criminal charges. So John Doe and his parents sued Townsend and Dollar General in tribal court for civil damages.

In turn, Townsend and Dollar General sued the tribe in federal court, disputing the tribal court’s jurisdiction.

The federal district court for the Southern District of Mississippi and the Fifth Circuit Court of Appeals in New Orleans both ruled that the tribe did have jurisdiction. “[T]he ability to regulate the working conditions (particularly as pertains to health and safety) of tribe members employed on reservation land is plainly central to the tribe’s power of self-government,” the Fifth Circuit declared.

But last June, the United States Supreme Court agreed to hear *Dollar General v. Mississippi Band of Choctaw Indians*. Legal experts are calling it the “most potentially devastating case for Indian tribes in half a century.”

The Lines Are Drawn

At issue is whether tribes have the jurisdiction to rule on civil tort claims against non-members. Dollar General argues that they do not. The Mississippi Choctaw, however, insist that the ability to protect their children falls squarely within the tribe’s sovereign regulatory authority on their land.

“Dollar General is seeking a ruling that tribal courts can never exercise civil jurisdiction over a non-Indian unless Congress has given its express consent,” said Stephen Pevar, senior counsel for the American Civil Liberties Union, which filed its *amicus* brief

in support of the Mississippi Choctaw on October 21.

“The Solicitor General urged the Court not to take the case,” Pevar noted, “essentially saying that this is a run-of-the-mill case that presents no new or difficult or conflicting issues and that surely the tribe has jurisdiction. Therefore, the fact that [the Supreme Court] took this case is troubling.”

The Doe family, the Mississippi Choctaw, Dollar General and Townsend were all contacted for this story. None have responded.

The Absence of Justice

In Mississippi, the federal government retains criminal jurisdiction over crimes committed on Indian reservations. Therefore, if the U.S. Attorney declines to prosecute a case, it cannot be tried in tribal or state court.

This jurisdictional “black hole” has led to thousands of untried cases and legal dead-ends for victims. It has also led to grim crime statistics for Indian people, who are more than twice as likely as other racial groups to experience violent crime and sexual assault, according to the Justice Department.

“The U.S. Attorney typically will not prosecute crimes of a sexual nature because they take the position that unless it’s a capital murder offense or white-collar crime that they have a fairly good chance of winning, it’s not worth the time,” said one former U.S. Attorney who declined to be identified because of the sensitivity of the case.

In January 2005, angered that their son’s case had slipped beneath the waves of justice, Doe’s parents took Townsend and Dollar General to court for damages in Mississippi Choctaw tribal court, whose system and legal code are nearly identical to those of the state of Mississippi.

The parents alleged that Dollar General was liable for Townsend’s criminal conduct and that the company was negligent in his hiring, training and supervision. They asked for \$2.5 million in actual and punitive damages.

Townsend and Dollar General both immediately moved to dismiss, contending

that the tribal court “lacked jurisdiction.” In 2008, the District Court for the Southern District of Mississippi held that the tribal courts had no jurisdiction over the alleged perpetrator Townsend.

At the same time, the judges wrote that Dollar General had knowingly consented to the jurisdiction of the tribe when it became a lessee on Choctaw land. Therefore, the judges said, the company itself should be subject to tribal court jurisdiction.

*The U.S.
Solicitor General
urged the high
court not to
take the case.
That it did so is
troubling.*

“No Stranger to Indian Country”

In 2000, Dollar General entered into an agreement with the Mississippi Choctaw to open a store on the tribe’s reservation land, about 90 miles northeast of the Mississippi state capital in Jackson. The language in the leasing agreement was unambiguous in regard to tribal jurisdiction and governing law.

“This agreement and any related documents,” the document stated, “shall be construed according to the laws of the Mississippi Band of Choctaw Indians and the state of Mississippi . . . Exclusive venue and jurisdiction shall be in the Tribal Court of the Mississippi Band of Choctaw Indians. [Emphasis added.] This agreement and any related documents is subject to the Choctaw Tort Claims Act.”

But when the case against Townsend and the retail giant began going through the Mississippi Choctaw legal system and into federal court, Dollar General began

bristling at the notion of tribal jurisdiction.

Among its various claims, the company has stated in court documents that it is a “stranger” to tribal court jurisdiction; that permitting tribal courts to exercise tort (or non-criminal) jurisdiction could “impose ruinous punitive damages . . . [with] the same purpose and effect” as criminal punishment; and that Dollar General should not be bound to rules in an “unfamiliar court.”

Indian law experts across the country, however, have decried that Dollar General’s position as a disingenuous double standard. Many companies do business with Indian tribes every day, they argue, with no qualms about suing tribal members in tribal courts for a variety of tort claims—as long as they are the plaintiff.

Being a defendant, however, is a different story, even though the companies knowingly consent to such a relationship with the full knowledge of their legal departments.

“Dollar General is no stranger to Indian country, they’re in nearly every Native community,” said Richard Guest, director of the Tribal Supreme Court Project for the Native American Rights Fund. “When these non-Indian companies come on to the reservation to do business with the tribe or a tribal member, they have fair notice that they will be subject to the civil jurisdiction of tribal courts for any harm they cause to the tribe or its members on tribal lands. That should not be a ‘surprise.’”

As a matter of course, tribes and their courts do not have authority over non-Indians. However, two exceptions were laid out in *Montana v. United States* (1981). These are “consensual relationships” and “activities that threaten the political integrity, economic security or the health and welfare of the tribe.”

In June 2014, the Fifth Circuit Court of Appeals ruled that the “consensual relationship” exception applied in the Doe case: “[Townsend’s conduct] has an obvious nexus” in relationship to Dollar General and the tribe’s Youth Opportunity Program.

“A tribe that has agreed to place a minor tribe member as an unpaid intern



On December 7, the Supreme Court is expected to hear the “most potentially devastating case for Indian tribes in half a century.”

in a business located on tribal land on a reservation is attempting to regulate the safety of the child’s workplace,” the court ruled. “Simply put, the tribe is protecting its own children on its own land.”

What is Dollar General?

Dollar General calls itself “one of the fastest-growing retailers in America,” with 12,198 stores in 43 states and over 105,000 employees. The Tennessee-based, publicly traded discount retailer reported nearly \$19 billion in sales last year, with a market capitalization of just over \$20 billion, according to the New York Stock Exchange.

Over the years, too, the company has been embroiled in numerous legal disputes and altercations with federal agencies. These include making false statements or failing to disclose adverse facts in its financial statements with the Securities and Exchange Commission, resulting in a \$162 million settlement in 2001; numerous violations with the Occupational Safety and Health Administration, which have yielded nearly 40 citations since 2009; a class action suit

for unpaid overtime, resulting in an \$8.3 million settlement in 2014; and numerous lawsuits for racial and disability and gender discrimination.

In 2006, Dollar General was also the subject of a class action lawsuit by over 2,100 female employees who said the company’s pay system discriminates against female store managers. The company settled out of court for \$18.75 million in 2012.

Last year, the company was forced to pay nearly \$4 million to settle another class action suit for violations of the Fair Credit Reporting Act (FCRA), in which the company “willfully failed to comply with the disclosure and authorization requirements in [the FCRA],” including failing to inform applicants that a background check would be done, as well as failure to obtain their consent.

No Justice for John Doe

In June, over the objections of the Solicitor General, and despite the fact that there was no circuit split on this matter, the Supreme Court granted Dollar General’s petition for certiorari. The case has rattled

Indian tribes and their legal teams across the country, who view the high court’s intervention as an ominous indicator.

With a showdown looming, Indian country is preparing for what legal experts are calling “the most important Indian law case in decades.”

“[Dollar General] wants to wipe out all civil adjudicatory jurisdiction of tribes over non-Indians,” said Stephen Pevar of the ACLU. “Until now, the question had only been whether the non-Indian had sufficient causal connections with the tribe or had done something (or threatened to do something) particularly serious to the tribe to allow the tribe to subject that person to the tribe’s judicial authority.

“But Dollar General wants to have a blanket prohibition of such authority unless Congress has consented or the person being sued has consented. The implications are enormous because it would strip tribes of the rights that land-owners typically have.”

Oral arguments for *Dollar General v. The Mississippi Band of Choctaw Indians* have been set for December 7, 2015. <http://bit.ly/1KCLtj> 📍

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For a complete description of this RFP interested parties may call the UITDHE at 435-722-4656. Proposals will be accepted until 5:00 p.m. on November 30, 2015. Proposals received after this time will be considered non-responsive.



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"Native Kids Ride Bikes" by Dylan Miner (Wisaakodewinnini Métis) was featured at ArtPrize Seven in Grand Rapids, Michigan.



Tantoo Cardinal received the first August Schellenberg Award at the imagineNATIVE Film + Media Arts Festival.



After 30 years and \$15 million, the Seneca Art and Culture Center has opened in Ganondagan, New York.



Master Sgt. Joshua L. Wheeler, a Cherokee Nation citizen, was killed in Iraq on October 22.

Headlines from the Web

PANEL UPHOLDS ORDER THAT STATE REFUND TRIBE \$36 MILLION

<http://bit.ly/1O7zX5i>

ONEIDAS LAUNCH CAMPAIGN AGAINST LAGO CASINO

<http://bit.ly/1LV1vbA>

TRIBE'S PLANS UNCLEAR FOR GREYHOUND PARK SITE

<http://bit.ly/1O0Ncok>

ABORIGINAL WOMEN'S CLAIMS OF POLICE SEX ABUSE UNDER INVESTIGATION

<http://bit.ly/1PNVyQu>

TRIBE TO DO FEASIBILITY STUDY ON CANNABIS

<http://bit.ly/1MwRMKR>

CULTURAL SHARING TRUMPS SPORTS AT WORLD INDIGENOUS GAMES

<http://wapo.st/20ewwK2>

UPCOMING EVENTS

NATIVE AMERICAN RIGHTS FUND 45TH ANNIVERSARY

NOVEMBER 5

The Native American Rights Fund (NARF) will celebrate 45 years of legal victories and achievements with a variety of events including "Respecting Our Past, Building the Future," a continuing legal education gathering. Panel discussions will be "Protecting Tribal Existence and Tribal Sovereignty," "Protecting the Tribal Relationship to Native Lands and Waters," "Human and Political Rights of Indigenous Peoples," and "Indigenous Environmental Stewardship."

Location: University of Colorado School of Law, Boulder, Colorado

ELEVENTH NATIVE AMERICAN SYMPOSIUM

NOVEMBER 5-6

"Native Leadership: Past, Present and Future—History, Culture and Customs" will focus on Native leadership in its various manifestations. The keynote speaker will be Richard Green, tribal historian of the Chickasaw Nation.

Location: Southeastern Oklahoma State University, Durant, Oklahoma

NATIVE WATERS ON TRIBAL LANDS SUMMIT

NOVEMBER 5-6

The Native Waters on Arid Lands project seeks to build capacity among tribal communities in the Great Basin and American Southwest to enhance climate resiliency of water resources and agriculture. "Climactic Change in the Southwest Through Time," "Indian Land Tenure and Water Rights," "Agricultural Production Economics," "Tribal Water Policy and Winters' Doctrine" and "Indian Land tenure and Water Rights" will be among the topics for discussion.

Location: South Point Hotel & Casino, Las Vegas, Nevada

CANAR ANNUAL CONFERENCE

NOVEMBER 9-12

The Consortia of Administrators for Native American Rehabilitation will offer contact and communication among representatives of tribal rehabilitation programs, state vocational rehabilitation agencies, client assistance programs and associated vocational rehabilitation services, all with the goal of providing better services to clients.

Location: Radisson Hotel Salt Lake City Downtown, Salt Lake City, Utah

ANNUAL DC INDIAN LAW CONFERENCE

NOVEMBER 10

This 17th annual conference of the Federal Bar Association will bring together some 150 colleagues for such agenda items as "Strengthening the Indian Child Welfare Act," "Positioning a Case for the Supreme Court," "Ethical Considerations in Economic Development" and "Washington Football Team, Jim Thorpe and Ownership of Indians." Sponsors include the law firms of Akin Gump and Hobbs Straus, and the Air Force Judge Advocate General's Corps.

Location: FHI 360 Conference Center, Washington, D.C.

REDW TRIBAL FINANCE AND LEADERSHIP CONFERENCE

NOVEMBER 12-13

Conference topics include trends in tribal economic development; changes in tribal labor law and employment rules; the latest developments in governmental accounting; attracting and retaining top talent; choosing the right investment advisor; and fraud prevention and detection. Finance and leadership tracks will be offered, and continuing professional education credit is available. The keynote speaker will be PGA champion and philanthropist Notah Begay.

Location: Talking Stick Resort, Scottsdale, Arizona

LETTERS TO THE EDITOR

Re Marlana Thompson Baker's decision to cast her ballot for the New Democratic Party ("Why I Voted in Canada's National Election," October 19):

My hat is off to the author. I voted for the very first time when George W. Bush ran for re-election in 2004. Despite his

re-election, I have been voting in national elections ever since. The policies of conservatives have been too detrimental to people, animals and the environment for too long for me to ignore.

I only wish more Native people would take the time to vote. For the longest time, votes were used against us. Now we can

use this tool to aid us in those things we know are right. Just because rich men want to get richer and are willing to sell their mother to do so doesn't mean we have to go along with it.

—Michael Madrid
Las Cruces, New Mexico



TOP NEWS ALERTS

From IndianCountry Today Media Network.com

CHEROKEE SOLDIER KILLED IN IRAQ

Cherokee Nation citizen Master Sgt. Joshua L. Wheeler was killed in a fire-fight in Iraq on October 22. Wheeler, 39, a native of Sequoyah County, Oklahoma, died while on a mission to rescue dozens of hostages being held by ISIS. He was the first U.S. combat death in Iraq since troops returned last year to train and assist Iraqis in defeating the terrorist group, ABC News reported. Wheeler, who received 11 Bronze Stars, served 14 deployments to Iraq and Afghanistan; he is survived by his wife and four sons.

CLATSOP-NEHALEM AGAIN SEEK RECOGNITION

The Clatsop Nehalem Confederated Tribes have applied for renewed federal recognition from Congress. The Western Oregon Indian Termination Act of 1954 ended the tribes' status, but on October 9 Rep. Suzanne Bonamici (D-Oregon) introduced a bill to restore it. "We have never left our homeland in spite of over a century of efforts to erase us from the

map and deny our very existence," said Chairman Diane Collier. The tribe currently numbers 182 members.

ANOTHER TERM FOR CLADOOSBY

Swinomish Indian Tribal Community Chairman Brian Cladoosby was unanimously re-elected president of the National Congress of American Indians on October 22 during the 72nd annual NCAI convention in San Diego. Cladoosby said he will remain focused on future generations by strengthening tribal education, health care, mental health and family support systems; by protecting treaty rights, tribal lands and natural resources; and by ensuring that elected officials at all levels understand the challenges facing Indian youth.

BIDEN RECEIVES NATIVE ARTISTS

Vice President Joe Biden and his wife, Jill, honored five Native American and Alaskan Native artists last week at their Washington, D.C. home. The honorees—Tony Abeyta (Navajo), Crystal Worl (Tlingit

Athabaskan), Jeff Kahm (Plains Cree), Courtney Leonard (Shinnecock Nation) and Dan Namingha (Tewa-Hopi)—had been commissioned by the State Department and the Institute of American Indian Arts to create artwork to be exhibited at U.S. diplomatic facilities. "There is an old adage that says art outlives politics," Jill Biden told the laughing crowd of 100 guests.

CHANGE LOOMS FOR COLLEGE MASCOT

The University of North Dakota's Fighting Sioux mascot is one step closer to being replaced. Following a five-day public vote among members of the university community, the three top alternatives were the Fighting Hawks, the Roughriders and the Nodaks (a slang term for North Dakota); they respectively scored 31 percent, 21 percent and 20 percent in the balloting. Among the other contenders were the Sundogs and the North Stars. A final runoff will conclude on November 6.

How Did I Miss That?

Ben Carson's death threats, The Donald's Secret Service protection and shades of the OK Corral BY STEVE RUSSELL

The Chesapeake Energy Corporation has been assessed a civil penalty of \$2.1 million for underreporting the amount of natural gas produced on Oklahoma Indian leases. The royalties due the Indians are tied to the amount of production. The Interior Department had ordered Chesapeake in 2011 to audit reports for more than 100 Indian leases. Chesapeake claimed compliance in 2012, but additional underreporting was found in 2013.

My cousin Ray Sixkiller seemed distracted. "I was just wondering," he asked, "what white folks who leased to Chesapeake must be thinking?"

Republican presidential candidate Ben Carson has been getting death threats in numbers not seen since the Obama campaign, which he attributes to the asinine things he's said about Muslims. More likely, it's the same reason as that behind the Obama threats and why Herman Cain was the first candidate to get Secret Service protection last election: White supremacy is alive in the U.S. and as well as it's ever been.

"There is no truth to the rumor," Cousin Ray chuckled, "that Carson refuses to release his birth certificate."

The Secret Service has extended protection to Donald Trump and Carson and beefed up the security detail assigned to Hillary Clinton. The Donald cited the size of the crowds he draws as a security threat. But something a bit more concrete was threatened in the Twitter account attributed to the Mexican drug lord Joaquin "El Chapo" Guzman after Trump commented on his prison escape. TeleSUR, the Venezuelan TV network, reported a rumor that El Chapo has put a bounty on Trump.

Cousin Ray wondered whether El Chapo could outbid the GOP establishment.

Salon.com reported that Carson is "suspending" his presidential campaign to hawk his book *A More Perfect Union*—just in case anybody wants to get instructions on constitutional law from a guy who had to be informed that that document guarantees no religious test for political office. "Suspending" is normally what candidates say when they quit. If they say "ending," then they cannot continue to raise money and pay bills.

"So what?" Cousin Ray snorted. "Every time the debt ceiling comes up, the Tea Party proves they think it's okay not to pay bills. Not to mention all the people Carly Fiorina stiffed from her senate campaign."

Canada's election of Liberal Justin Trudeau to replace Conservative Stephen Harper, said the CBC, means less spending on military hardware. Trudeau promised to scuttle the plan to purchase 65 F-35 Strike Fighters at a cost of \$44 billion and to scale back the purchase of Arctic patrol ships from eight to five or six.

Cousin Ray was scandalized. "How will Canada prosecute the war with Iran when the U.S. starts it?" he asked.

Tea Party Rep. Mo Brooks (R-Alabama) proposes to impeach Hillary Clinton as soon as she takes office and before she has a chance to do anything, *The Hill* stated.

"You gotta admit," Cousin Ray snarked, "it would save time and money to go directly from the swearing-in to the impeachment."

Forbes reported on the wealth of all the presidential candidates. Carly Fiorina comes in at \$58 million, second only to The Donald. *The Washington Post* noted that Fiorina neglected to pay about \$500,000 in bills from her unsuccessful California senate race, including \$30,000 owed to the widow of a campaign staffer for her late husband's work. At the same time, she managed to pay back \$1.3 million she had lent her campaign. She settled up the bills before announcing her candidacy.


The only candidate with negative net worth is Martin O'Malley, who took on debt to put his kids through college. He's one of three at the bottom worth less than a million, the other two being Marco Rubio and Bernie Sanders. The Donald is the only one worth billions.

Raw Story reported that Tom Carter, an actor in a reenactment of the "shootout at the OK Corral" in Tombstone, Arizona, shot a fellow actor and a bystander with live bullets. The actor was in good condition after surgery; the bystander refused treatment.

The real-life incident happened in 1881 and took 30 seconds. It took the lives of Billy Clanton and the McLaury brothers, Tom and Frank. On the law enforcement side, Virgil and Morgan Earp were wounded; Doc Holliday was grazed by a bullet that hit his holster. Wyatt Earp was unscathed, as were Ike Clanton and Billy Claiborne.

According to the *Rapid City Journal*, the same kind of accident in 2011 sent three tourists to the hospital with gunshot wounds from Hill City, South Dakota.

Cousin Ray was glum.

"I suppose," he asked, "this means my Greasy Grass reenactment is cancelled?" <http://bit.ly/1OYXqUS> 

UPCOMING POW WOWS

**5TH ANNUAL INDIANA UNIVERSITY
TRADITIONAL POW WOW**

11/7/15—11/8/15
Indiana University, Alumni Hall
900 East 7th Street
Bloomington, IN
812-855-4814
fnecc@indiana.edu
Indiana.edu/~fnecc/

**16TH ANNUAL CLEARFIELD
VETERANS DAY POW WOW**

11/7/15—11/8/15
Clearfield County Fairground Expo II Building
5615 Park Street
Clearfield, PA
724-693-0549
thomas.taylor@bayer.com
clearfieldvdpw.Homestead.com/clearfield.html

RED MOUNTAIN EAGLE POW WOW

11/7/15—11/8/15
Salt River Pima-Maricopa Indian Community
1839 North Longmore Road
Scottsdale, AZ
208-241-2175
redmountainpowwow@gmail.com

**AWI AKTA CHEROKEE
VETERANS POW WOW**

11/7/15
Gage Park Zoological Shelter House
635 South West Gage Boulevard
Topeka, KS
785-272-5489
cballard@aol.com
AwiAkta.org

**AUSTIN POW WOW AND AMERICAN
INDIAN HERITAGE FESTIVAL**

11/7/15
Tony Burger Center
3200 Jones Road
Sunset Valley, TX
512-371-0628
austinpowwow@grandecom.net
AustinPowWow.net/austin-powwow/

**NATIVE AMERICAN RIGHTS FUND
45TH ANNIVERSARY COMMUNITY
APPRECIATION POW WOW**

11/7/15
Colorado Convention Center
Exhibit Hall B1
700 14th Street
Denver, CO
303-447-8760
powwow@narf.org

**CHEORENHAKA (NOTTOWAY) CORN
HARVEST POW WOW AND SCHOOL DAY**

11/13/15—11/15/15
Tribal Land, Cattashowrock Town
27345 Aquia Path
Courtland, VA
575-562-7760
wdbrowniii@aol.com
Cheroenhaka-Nottoway.org

**26TH ANNUAL TEXAS CHAMPIONSHIP
NATIVE AMERICAN POW WOW**

11/14/15—11/15/15
Traders Village Houston
7979 North Eldridge Road
Houston, TX
281-890-5500
TradersVillage.com/houston/events/26th-annual-native-american-championship-pow-wow

**OKLAHOMA STATE UNIVERSITY
NATIVE AMERICAN STUDENT
ASSOCIATION POW WOW**

11/14/15
Payne County Expo Center
4518 Expo Circle East
Stillwater, OK
405-744-0401
ahunnic@okstate.edu



Choctaw Fancy Dancer Demetrius Williams closed out the Native American Festival at Moundville Archaeological Park.

AMY MORRIS/CRAPHOTOGRAPHY.COM

THE BIG PICTURE