Ninth Circuit Decides Important Tax Case in Tribes’ Favor

In Confederated Tribes of the Chehalis Reservation v. Thurston County Board of Equalization, 2013 WL 3888429 (9th Cir. 2013), the Confederated Tribes (Tribe) had formed CTGW, a limited liability company (LLC), with Great Wolf Resorts, Inc. (GW), a non-Indian company specializing in the development and operation of water parks and hotels, to build and operate Great Wolf Lodge (Lodge), a water park and lodge.

The Lodge was located on the “Grand Mound Property,” land, outside the Tribe’s reservation, that the Tribe had purchased in 2002. In 2007, the Department of the Interior took title to the land in trust pursuant to Section 5 of the Indian Reorganization Act, 25 U.S.C. § 465. The Tribe and GW owned 51% and 49% shares of the profits, respectively. GW, the managing member of the LLC, contracted with another non-tribal company to manage the facility. CTGW obtained a 25-year lease from the Tribe providing that CTGW would own the Lodge’s physical structures for 25 years, at which time the Tribe would become the owner.

The county sought to impose its property tax in the amount of $800,000 on the full value of the Lodge improvements, arguing that CTGW was not entitled to any tribal tax immunities and that Washington law classified the improvements as “personal property.” The Tribe sued for injunctive relief, but the district court granted summary judgment to the county, holding that, under the balancing test of White Mountain Apache Tribe v. Bracker, the state’s interest in collecting the tax outweighed the Tribe’s interests in developing the site without state interference.

In a decision that will likely influence courts across the country, the Ninth Circuit reversed the district court and held that the county was barred from assessing property taxes on the Grand Mound Property by the Supreme Court’s 1983 decision in Mescalero Apache Tribe v. Jones. According to the court, “Mescalero makes it clear that where the United States owns land covered by § 465, and holds it in trust for the use of a tribe (regardless of “the particular form in which the tribe chooses to conduct its business, § 465 exempts permanent improvements on that land from state and local taxation.” The Court rejected the county’s arguments that Mescalero was distinguishable based on GW’s status as an LLC and 49% minority ownership and that the improvements were “personal” rather than real property under Washington law. Interestingly, the court declined to engage in a balancing of interests under the rule of White Mountain Apache Tribe v. Bracker, a major focus of the parties’ briefs:

Unlike the cases requiring us to undertake a Bracker analysis, the case before us involves only property taxes on permanent improvements on non-reservation land owned by the United States and held in trust for Indians. In this context, we are bound by Mescalero’s holding that such taxes are preempted under § 465, and need not consider Bracker or any other theory of preemption.

Mescalero sets forth the simple rule that § 465 preempts state and local taxes on permanent improvements built on non-reservation land owned by the United
States and held in trust for an Indian tribe. This is true without regard to the ownership of the improvements. Because the Supreme Court has not revisited this holding, we are required to apply it.

The Court’s decision does not necessarily contradict the Second Circuit’s recent decision in Mashantucket Pequot Tribe v. Town of Ledyard, 2013 WL 3491285 (2d. Cir. 2013) (see summary below) because the subject of the local tax in that case, gaming machines, could not be characterized as permanent improvements to the land.

State and local taxing jurisdictions have become increasingly aggressive in recent years, attempting to reach into Indian country and extract value from joint ventures involving non-Indians. These efforts constitute a serious threat to Indian country economic development. The Ninth Circuit’s decision is a welcome event. A petition to the U.S. Supreme Court to review the decision is possible.

Mining Symposium To Feature Godfrey & Kahn Attorneys, Tribal Attorney

The Wisconsin State Bar will present a Mining Law Symposium at the Jefferson Street Inn, 201 Jefferson Street, Wausau, Wisconsin, on Wednesday, August 28, from 8:30 a.m. to 4:30 p.m. The planning committee for the event includes Art Harrington, emeritus leader of Godfrey & Kahn’s environmental law team.

The symposium will address recent changes in Wisconsin mining law generally and the proposed Penokee Hills taconite mine in particular. The Penokee Hills mine would be located at the headwaters of the Bad River, a sensitive water system that flows through the Bad River Chippewa reservation. The symposium will feature the tribal, governmental and industry perspectives on the proposed mine. Tribal Attorney Erick Arnold will explain the legal position of the Bad River Tribe. Godfrey & Kahn environmental law team leader John Clancy will address the process by which the U.S. Army Corps of Engineers and Environmental Protection Agency will consider the mining company’s permit applications.

The attorney CLE symposium will be followed by a plenary session, open to the general public, on the proposed Penokee Range mine. For more information, see:


Godfrey & Kahn Attorneys Pierson and Clancy to Present on Financing Renewable Energy, September 11 in Tulsa

Environment & Energy Strategies team leader John Clancy and Indian Nations Law team leader Brian Pierson will present “Green Energy for Tribal Housing” on Wednesday, September 11, from 1:30 - 3:30 p.m. at the Native Learning Center’s Indian Housing Training Conference in Tulsa, Oklahoma. The presentation will:

- describe strategies and financing sources to help tribes and Tribally Designated Housing Entities (TDHEs) achieve energy independence consistent with tribes’ Seven Generations tradition;
- discuss wind, biomass and other renewable energy technologies with a particular focus on solar energy projects due to their special suitability for housing;
- explain how reduced energy costs and state and federal grants can cover additional portions of development costs and how, after a period of 5 or 6 years, the system can potentially be fully paid for, leaving the TDHE with nearly cost-free energy in place of environmentally harmful carbon-based energy; and
- discuss development of generation facilities that can power tribal enterprises and tribal housing and the permissible uses of the Indian Housing Block Grant and other financing sources in connection with such projects. We will illustrate recommended clean energy strategies with case studies.

Registration is free for Native Americans and those working within Indian Country. For more information or to register, see:

http://nativelearningcenter.com/indianhousingtrainingconference/

Godfrey & Kahn works extensively with tribes, tribal subsidiaries and industry partners to take full advantage of tribal energy resources and to help tribes achieve long term, sovereignty-enhancing energy independence. For more information, contact Indian Nations Law Team Leader Brian Pierson at 414.287.9456 or bpierson@glaw.com.
Attorney Pierson to Present on Leasing, October 10 in Las Vegas

Godfrey & Kahn’s Indian Nations Law team leader Brian Pierson will present “The HEARTH Act and Its Impact on Leasing Tribal Lands for Economic Development” with Donald (“Del”) Laverdure at 10:15 a.m. on Thursday, October 10 as part of the Tribal Rights, Sovereignty and Economic Development Conference in Las Vegas. Del will address the HEARTH Act, leases covered by the Act, processes for tribes to develop and implement regulations and the approval process. Brian’s presentation will focus on practical tips for taking advantage of the Act, critical elements of a successful regulatory structure and tribal leasing programs.

For more information or to register, see: http://www.lawseminars.com/detail.php?SeminarCode=13TRIBLNV

Godfrey & Kahn Attorneys Publish Series on Internal Investigations

Godfrey & Kahn attorneys Sean Bosack and Dan Blinks have authored a six-part series “The Do’s and Don’t’s of Corporate Internal Investigations,” published by InsideCounsel, an online publication for in-house legal department leaders.

Sean and Dan are members of Godfrey & Kahn’s Litigation Practice Group and Sean is also a member of the firm’s White Collar Defense & Investigations Practice Group. Among other matters, the series addresses the key issues of (1) maintaining confidentiality throughout investigations while carefully working to uncover the details of potential fraud, regulatory violations or other corporate misconduct and (2) determining whether, and when, to report—to the media, audit committee, executives, or the government—the results of your investigations, and what details to divulge.

The series can be accessed by visiting: http://www.insidecounsel.com/2013/07/17/regulatory-the-dos-and-donts-of-corporate-internal

Selected Court Decisions

In Knight v. Thompson, 2013 WL 3843803 (11th Cir. 2013), Indians in the custody of the Alabama Department of Corrections (ADOC) sued ADOC officials, claiming that ADOC’s anti-long hair policy violated the plaintiffs’ rights to religious freedom under the U.S. Constitution and the Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000. The United States has intervened on Plaintiffs’ behalf. The district court granted judgment in favor of the ADOC and the Eleventh Circuit affirmed, while acknowledging that other courts had found the long hair rule illegal: “While the practices of other institutions are relevant to the RLUIPA analysis, they are not controlling—the RLUIPA does not pit institutions against one another in a race to the top of the risk-tolerance or cost-absorption ladder. … The ADOC has shown that Plaintiffs’ requested exemption poses actual security, discipline, hygiene, and safety risks.

That other jurisdictions choose to allow male inmates to wear long hair shows only that they have elected to absorb those risks. The RLUIPA does not force institutions to follow the practices of their less risk-averse neighbors, so long as they can prove that they have employed the least restrictive means of furthering the compelling interests that they have chosen to address.”

In Mashantucket Pequot Tribe v. Town of Ledyard, 2013 WL 3491285 (2d. Cir 2013), the Mashantucket Pequot Tribe (Tribe) sued the town of Ledyard in federal court seeking an injunction against the imposition of a state personal tax on gaming machines owned by a non-Indian entity but leased to the Tribe for use at its casino on tribal trust land. The parties stipulated the tax fell on the non-tribal owners of the machines. The district court granted the Tribe summary judgment, but the Second Circuit reversed, holding that (1) the federal court had jurisdiction pursuant to 28 USC § 1362 to hear the Tribe’s claim that the State’s assertion of authority over the Tribe “encroach[ed] upon aspects of tribal sovereignty protected by the Indian Trader Statutes and IGRA. Courts,” (2) the Tax Injunction Act did not deprive the court of jurisdiction, (3) the district court was not required to dismiss for reasons of comity, and (4) the Indian Trader Statutes and Indian Gaming Regulatory Act (IGRA) did not preempt the town’s imposition of tax. Applying the Supreme Court’s White Mountain Apache v. Bracker balancing test, the court concluded that the state interests outweighed the tribal and federal interests at stake: “The ability of a state to apply generally-applicable taxes to non-Indians performing otherwise-taxable functions on an Indian reservation is well established. …. Neither the Tribe’s interests in economic development and fair dealing nor the federal interests in protecting the Tribe by monitoring and
regulating its commercial partners are implicated by Connecticut’s generally-applicable personal property tax. … That is particularly true here, where the incidence of the generally applicable tax falls on the non-Indian’s ownership of property, rather than on the transaction between the Tribe and the non-Indian.”

In Mishewal Wappo Tribe of Alexander Valley v. Salazar, --- Fed.Appx. ----, 2013 WL 3871042 (9th Cir. 2013), the plaintiff sued Interior Department officials alleging they illegally terminated the plaintiff’s status as a federally recognized Indian tribe and demanding that it be restored to recognition and that the government turn over “all public lands held by the Department of the Interior which are not currently in use and are available for transfer that are within the Tribe’s historically aboriginal land.” The Counties of Napa and Sonoma sought to intervene but were denied. They appealed to the Ninth Circuit, which affirmed, holding that the suit in 2004, requiring dismissal the time it intervened in 1987 and not immune from suit as a tribal employee acting in an official capacity.

In U.S. v. Washington, 2013 WL 3421838 (W.D.Wash.), the Makah Indian Tribe filed a Request for Determination of the Usual and Accustomed Fishing Grounds (U & A) in the Pacific Ocean of the Quinault Indian Nation (Quinault) and the Quileute Indian Tribe (Quileute) tribes after those tribes asserted treaty fishing rights that might adversely impact the Makah treaty harvest. The Quinault and Quileute challenged the court’s jurisdiction and the Makah Tribe’s standing. The dispute rejected these challenges: “[T]he Court’s subject matter jurisdiction extends to all treaty-based fishing, whether within or outside the boundaries of the State of Washington. … Long-established rulings in this case mandate that any Tribe wishing to exercise a treaty right to take fish must do so within the confines of this case, by following the principles established by Judge Boldt and others … The Tribes came to Court in 1970 asking the Court to determine and enforce their treaty rights, and they subjected themselves to the Court’s jurisdiction for all purposes relating to the exercise of their treaty rights.”

In Larry Grant Const. v. Mills, 2013 WL 3816092 (D.D.C.), Larry Grant Construction (LGC), a construction company and sole proprietorship owned by Larry Grant, a member of the Ma–Chis Lower Creek Indian Tribe of Alabama (Tribe), sought “small business concern” from the Small Business Administration in order to take advantage of contracting advantages under the Small Business Act’s 8(a) Small Business Development Program. The SBA denied the application on the ground that LGC was dependent on LCITE, a company with multiple affiliates and divisions owned by the Tribe, and that the revenues of LCITE exceeded the limits for the applicable industry code. LGC and LCITE challenged the SBA’s decision in federal court pursuant to the Administrative Procedure Act, contending that the SBA’s decision was based on miscalculations. The court agreed, granted the plaintiffs summary judgment and ordered the SBA to reopen and “expeditiously process” LGC’s application for participation in the 8(a) Business Development Program.

In Stockbridge-Munsee Community v. New York, 2013 WL 3822093 (N.D.N.Y.), the Stockbridge Munsee Community (Tribe) had occupied a 36-square mile reservation within the Oneida Nation territory in the State of New York in 1788 pursuant to a conveyance from the Oneidas. The land was lost through a series of transactions that occurred during the period 1818 to 1842. In 1986, the Tribe sued the State of New York, State officials and municipalities within the claim area to recover possession, contending that the conveyances were made in violation of the Indian Nonintercourse Act, 25 U.S.C. § 177 and, consequently, void. The Oneida Nation of New York intervened the following year. On the defendants’ motion to dismiss, the district court held that (1) the Tribe’s claims against the New York defendants were barred by the State’s Eleventh Amendment sovereign immunity, (2) the Oneida tribe waived its sovereign immunity only for claims pending at the time it intervened in 1987 and not for claims that Stockbridge added to the suit in 2004, requiring dismissal of the claims against the Oneida tribe.
and (3) the Tribe’s land claim against the remaining defendants would be dismissed based on the laches doctrine established by the Supreme Court in City of Sherrill v. Oneida, which forecloses on equitable grounds ancient land claims based on “the disruptive nature of claims long delayed … and the degree to which these claims upset the justifiable expectations of individuals and entities far removed from the events giving rise to the plaintiffs’ injury.”

In Quapaw Tribe of Oklahoma v. United States, 2013 WL 3724944 (Fed.Cl.), the Quapaw Tribe sued the United States in the Court of Federal Claims for money damages pursuant to the Indian Tucker Act, alleging that the federal government breached its fiduciary duty when it (1) mismanaged tribal trust accounts, (2) failed to collect or deposit payments for Tribal lands, and (3) failed to properly manage natural resources and Tribal lands, resulting in lost income. On the government’s motion to dismiss, the court held that (1) the Tribe could pursue claims based on the government’s inability to document payments required under an 1833 treaty, (2) the Tribe’s challenge to the government’s transfer of 40 acres to the Catholic church in 1908, later reacquired in trust, was time barred, (3) the government was not required to account to the Tribe for mining revenues earned while the Catholic church owned the 40 acres in fee simple, (4) the Tribe’s claims that leases of a tribal industrial park were “suboptimal” or that the governments negligently failed to enter into leases, were time-barred, and (5) the Tribe’s claims that it sustained damages as a result of the government’s failure to prevent environmental damage to tribal lands from mining activities conducted under leases would be dismissed because “plaintiffs are not entitled to sue for consequential damages experienced by the Indian owners or the tribe as a consequence of federal mismanagement of their property” and because they are time barred: “Plaintiff has been aware of the degradation and the absence of leases on the land since at least 1983, when the land was designated as the Tar Creek Superfund Site. Because Plaintiff seeks damages for the cumulative effect of alleged breaches by the Government that were outside of the six-year statute of limitations period, Plaintiff’s suit does not represent a continuing claim.” See also, Goodeagle v. United States, 2013 WL 3724927 (Fed.Cl.) (decided the same day, granting federal government partial summary judgment on breach of trust claims brought by Quapaw members.)

In Miranda v. Salazar, Not reported in F.Supp.2d, 2013 WL 3367311 (C.D.Cal.), plaintiffs, descendants of a full-blood member of a person listed in a 1940 roll as a full-blood Santa Ynez Indian, sued Interior Department officials after the Tribe’s enrollment committee reduced the ancestor from full to one-half blood. The district court dismissed, requiring the plaintiffs to exhaust administrative remedies: “If these are truly novel questions, then surely the BIA should have an opportunity to resolve them first. This would develop a record, which is necessary in the event that the BIA’s final decision is appealed to a federal district court.”

In Mastro v. Seminole Tribe of Florida, 2013 WL 3350567 (M.D.Fla.), Mastro was employed by the Seminole Indian Casino, a gaming enterprise owned and managed by the Seminole Tribe of Florida (Tribe). Mastro sued the Tribe under Title VII of the Civil Rights Act of 1964, claiming sexual harassment and retaliation. The district court dismissed, holding that (1) the Tribe enjoyed sovereign immunity from suit, (2) Title VII defined “employer” to expressly exclude tribes, and (3) the Tribe did not waive its sovereign immunity by entering into a Gaming Compact that included the Tribe’s agreement to “comply with all federal and state labor laws.”

In New York v. Smith, 2013 WL 3305381 (E.D.N.Y.), Smith, a member of the Shinnecock Indian Tribe, was charged in state court with violating New York fishing laws. He attempted to remove the case to federal court, asserting aboriginal rights under the Free Trade Clause of the Fort Albany Treaty of 1664 and fishing rights in Peconic Bay in the “ceded territory” under deed of 1659, as well as violations of federal anti-discrimination laws. The court, rejecting the asserted aboriginal rights, remanded to state court: “Defendant, as a Shinnecock Indian, fails to state a federally protected right to have undersized scallops. Moreover, even if such right existed, it does not implicate racial equality concerns.”

In U.S. v. Loera, 2013 WL 3298169 (D.Ariz.). Loera was charged with misdemeanor assault and battery and other offenses against a female Indian on the Fort Mojave reservation under the General Crimes Act, 18 U.S.C. §1152, which gives the federal courts jurisdiction over crimes committed by non-Indians against Indians but not over crimes committed by one Indian against another, which are subject to tribal jurisdiction or, with respect to “major” crimes, federal jurisdiction pursuant to 18 U.S.C. § 1153. Loera moved to dismiss, claiming status as an Indian, notwithstanding his lack of membership in any tribe based on the Ninth Circuit’s previous holding that Indian status may be established based on (1) ancestry that includes members of a federally recognized tribe, and (2) tribal or federal government recognition as an Indian. The motion raised the specter of a jurisdictional gap since the Fort Mojave Tribe has already determined that Loera, a non-member, was beyond its jurisdiction. The court held that
(1) Loera was not an Indian, and (2) for purposes of Section 1152, “Indian” should be defined to apply only to tribal members.

In *Corporate Com’n of Mille Lacs Band of Ojibwe Indians v. Money Centers of America, Inc.*, 915 F.Supp.2d 1059 (D.Minn. 2013), the Mille Lacs Corporate Commission (Commission), which managed the Tribe’s casino, had contracted with Money Centers of America (MCA) to provide cash access services for customers at the casino. The Commission made cash advances to MCA. When MCA’s ability to repay the advances became questionable, the Commission sought a court order attaching MCA accounts held in Wisconsin and barring dispersal of MCA’s assets. The court denied the request on *jurisdictional* grounds, holding that the federal court’s authority to attach assets was commensurate with the authority of a state court and that “the Court cannot attach MCA’s assets because they are located outside of Minnesota, and therefore outside the Court’s reach.” Further, the court held that the Commission’s suit was essentially for money damages and that, pursuant to the Supreme Court’s holding in *Grupo Mexicano*, an order prohibiting the defendant disposing of their assets because they are located outside Wisconsin and barring dispersal of MCA’s assets. The court denied the motion to suppress the seized evidence, arguing that the Colville Tribal Court, not the OCDC, had *jurisdiction* over his home, rendering the warrant and search invalid. The trial court denied the motion and the Washington Supreme Court, en banc, affirmed, holding that (1) pursuant to Public Law 280, the State and the Tribes shared jurisdiction over crimes committed on fee land within the Reservation, (2) while the State lacked explicit statutory authorization to issue search warrants for tribal lands, federal law did not preempt such warrants, (3) the Supreme Court’s holding in *Nevada v. Hicks* was distinguishable because the crime under investigation in Hicks had occurred off-reservation and (4) because the Tribes had not “utilized their inherent sovereignty to regulate the manner in which state agents could execute state search warrants on the Colville Indian Reservation” neither tribal sovereignty nor federal preemption barred the issuance and execution of the state warrant under the rule of *White Mountain Apache v. Bracker.*

In *State v. Delorme*, 2013 WL 3821601 (N.D.), 2013 ND 123, state officials charged Delorme, a member of the Turtle Lake Chippewa Tribe, with violating North Dakota’s laws against guiding or outfitting without a state license. Delorme argued that the alleged crime took place on land reserved for the Pembina Band of Chippewa, where his *aboriginal rights to hunt, fish, and gather* are preserved by an 1863 treaty. The State of North Dakota affirmed the conviction, holding that the evidence showed the offense occurred off-reservation, and that Delorme’s alleged license from a tribe of which he was not a member, Spirit Lake Sioux, did not bar enforcement of North Dakota law for the off-reservation offense.

Adoptive Couple *v. Baby Girl*, 2013 WL 3752641 (S.C. 2013), relates to the multi-year legal battle between the birth father of Baby Girl and would-be adoptive parents of Baby Girl. In June, the U.S. Supreme Court held that (1) the provision of the *Indian Child Welfare Act* (ICWA) bars termination of parental rights to an Indian child unless the court finds that “the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child” did not apply because the birth father had, at the time of the lower court’s decision, never had custody, (2) ICWA Section 1912(d), which requires a showing that efforts have been made “to prevent the breakup of the Indian family,” did not apply in Father’s case, and (3) ICWA Section 1915(a), which mandates preference “in any adoptive placement” for a member of the child’s extended family, other members of the child’s tribe or other Indian families, in that order, did not apply in the case of Baby Girl “because there simply is no ‘preference’ to apply if no alternative party that is eligible to be preferred under § 1915(a) has come forward.” On remand to the South Carolina Supreme Court, Father moved that the case be sent back to the trial court for a determination of the Baby Girl’s bests interests or for transfer to the courts of Oklahoma, where he and Baby Girl now reside, but the South Carolina Court disagreed, instead ordering remand to the trial court “for the prompt entry of an order approving and finalizing Adoptive Couple’s adoption of Baby Girl, and thereby terminating Birth Father’s parental rights.” Meanwhile, that same day, the Cherokee Nation District Court granted temporary guardianship to Baby Girl’s stepmother and paternal grandparents pending...
Father’s completion of mandatory military training.

In State ex rel. Edmondson v. Grand River Enterprises Six Nations, Ltd., 2013 WL 3389079 (Okla.Civ.App. Div. 2), 2013 OK CIV APP 58, Oklahoma, along with 45 other states, entered into a master settlement agreement (MSA) with leading U.S. tobacco manufacturers pursuant to which the states agreed to waive claims to recover tobacco-related health costs and manufacturers agreed to pay substantial sums to the state to fund anti-smoking public health initiatives. Each settling state was required to enact legislation requiring “non-participating manufacturers” (NPMs) to make payments, linked to cigarette “units sold,” into an escrow fund for 25 years. Grand River Enterprises Six Nations, Ltd., a Canadian corporation (GRE), manufactured and sold cigarettes to Indian retailers within the state. Under Oklahoma’s law, such cigarettes were required to bear a “in lieu of tax” stamp evidencing payment of 75% of the taxes that were due on the sales of cigarettes off reservation. GRE challenged the State’s right to collect the escrow payments on the cigarettes sold to Indian retailers within the state. The trial court rejected the challenges and assessed over $5 million in deficiencies and penalties. The Oklahoma appellate court affirmed, holding that “A decision in favor of GRE on this issue would allow it, by distributing its cigarettes to be sold only on tribal lands, to reduce its ‘units sold’ to zero and thereby evade both its escrow obligation as an NPM, and ‘the public policy ... of shifting the burden of tobacco-related health care costs from the State to the entities who profit from the smoking enterprise’” “... we conclude the trial court did not err by finding that packs of cigarettes manufactured by GRE ‘which have a tax stamp issued by the State of Oklahoma affixed thereto and are sold in the State of Oklahoma by retailers owned, licensed, or operated by an Indian Tribe are ‘units sold’ upon which escrow is due.’”

In State v. Saros, Not reported in N.W.2d, 2013 WL 3368415 (Minn.App.), Saros, was an enrolled member of the White Earth Band of Chippewa Indians and, as such, also a member of the Minnesota Chippewa Tribe (MCT), a federally recognized Indian tribe consisting of the Ojibwe Indians of the White Earth, Leech Lake, Fond du Lac, Bois Forte, and Grand Portage Reservations and the Mille Lacs Band of Ojibwe Indians. Saros resided on the Leech Lake Reservation. Saros was cited within the Leech Lake reservation for driving with expired registration and no proof of insurance, traffic offenses under state law. He moved to dismiss the charges for lack of subject-matter jurisdiction and to transfer the case to the Leech Lake Tribal Court. The trial court denied the motion, and the court of appeals affirmed, holding that the matter was civil/regulatory for purposes of Public Law 280 but that exercise of jurisdiction by the state did not interfere with the Leech Lake Band’s right of self-government because Saros was not a member of that Band. The court acknowledged that “the restriction on inter-reservation prosecution makes little sense.”