

Tribal Loans to State Residents – The Next Test of Sovereign Immunity
Blake Sims and Justin Hosie

Throughout American history, the relationship between Native American tribes, states, and the federal government has been contentious to say the least, resulting in violence and litigation, most of which is far beyond the scope of this article. This article provides a glimpse into this struggle, by briefly outlining some recent actions involving tribal lending to consumers.

In short, federal and state agencies have recently taken action to try and curtail tribal loans to off-reservation consumers, presenting numerous legal issues to state and federal courts. Many of the issues in those cases resemble the issues in older cases involving tribal gambling. In other ways, the legal issues in these cases resemble the issues presented in cases involving cross-border loans from consumer lenders, federally chartered financial institutions, and state chartered financial institutions.

Ultimately, the outcome of these cases will impact tribal sovereignty, and whether non-tribal service providers will be subject to civil and criminal penalties. If the history of tribal gambling is any indication, legal issues surrounding tribal lending may ultimately be resolved by federal legislation negotiated between the tribes, states, and the federal government.

Tribal Sovereignty.

The concept of true sovereignty is somewhat elusive in the American federal system, which constitutionally delegates certain powers and reserves other powers "to the States respectively, or to the people."¹

While tribes and states at times lay claim to serve as sovereign entities, they are better understood as "subordinate sovereigns." Pure "sovereignty" claims supreme dominion, subject to no overriding power. But, states and tribes are subordinated political powers. States and tribes are "subject to control"² by a "constitutional power," which allows the federal government to "prevent, restrict, direct, or annul" their respective operations.³

The Commerce Clause of the U.S. Constitution provides Congress the power to "regulate Commerce with foreign Nations, and among the several States, and with the tribes."⁴ This constitutional provision provides the basis for a great deal of the legislation and litigation involving tribes, states, and the federal government.

Through various treaties, and also via legislation (primarily codified as Title 25 of the U.S. Code, called "Indians"), Congress has exercised a great deal of authority over tribes, creating the Bureau of Indian Affairs, creating the Indian Claims Commission, and legislating requirements for treaties and contracts.⁵ In addition, the United States Supreme Court has decided numerous cases addressing Native Americans and tribes.

¹ U.S. Const. amend. X.

² POLITICAL POWER, Black's Law Dictionary (9th ed. 2009), political power.

³ *Id.*

⁴ U.S. Const. art. I, § 8, cl. 3.

⁵ Title 25 exercises authority over property, marriage, records, conveyances, traffic in intoxicating liquors, education, promotion of social and economic welfare, rights-of-way through tribal land, allotment of tribal land, intestacy, irrigation, constitutional rights, judgments, economic development, health care, college scholarships, child welfare, minerals, law enforcement, language preservation, grave protection, heritage, forest management, energy, legal assistance, dams, housing, gaming, and other areas.

As subordinate sovereigns, tribal governments maintain a type of sovereign immunity, somewhat like state governments. But, "[t]ribal sovereign immunity is not absolute."⁶ The "doctrine of tribal sovereign immunity precludes a suit against" a tribe except when Congress has abrogated that immunity or the tribe has foregone it.⁷ This doctrine serves to "exempt tribes from state laws that would otherwise infringe upon this sovereignty."⁸ States are generally prevented from enforcing state laws against tribes, except in limited circumstances where Congress explicitly delegated such ability. So, states can rarely sue tribes. Questions concerning federal agencies and their authority to regulate tribes also remain unresolved. Issues concerning whether and how Congress must express "clear and plain congressional intent" for a federal law and its regulations to apply to tribes, remain unresolved.⁹

Tribal Law History.

The complete history of tribal law will not be addressed in this article. However, a few aspects are helpful to understand tribal lending issues.

Three early United States Supreme Court Cases¹⁰ set the basic principles of tribal sovereign immunity that still apply today.¹¹ Based on these cases, unless otherwise provided by Congress, states have no authority over tribes. State courts lack jurisdiction over lawsuits brought against tribes, tribal entities, and tribal members with respect to transactions arising on reservations. Whether a tribe, state or the federal government has jurisdiction largely depends on whether Congress expressly granted authority to sovereigns.

In 1953 Congress passed PL 280. As a result of PL 280, six states,¹² known as the "Mandatory States," received Congressional authority to assume state criminal and civil jurisdiction over tribal members.¹³ Under PL 280 Congress also authorized all other states, at their option, to assume civil jurisdiction. Ten states, known as "Optional States" elected to assume civil jurisdiction.¹⁴ Several tribes were excluded.

While PL 280 authorized certain state courts to assert civil and criminal jurisdiction over certain tribes, it did not authorize the application of state "regulatory" law. If a state law permits conduct, subject to regulation (for example, the sale of tobacco), then the law must be classified as "regulatory" and PL 280 does not authorize state regulatory enforcement on a reservation. So if a state law permits sale of a substance when regulated, such as tobacco, then the state cannot enforce such laws against the tribe, barring a federal law to the contrary. This "regulatory" law distinction is important in the context of the tribal lending issue.

⁶ 2 Domke on Com. Arb. § 53:6.

⁷ 42 C.J.S. Indians § 19, citing *Walton v. Tesuque Pueblo*, 443 F.3d 1274 (10th Cir. 2006), cert. denied, 127 S. Ct. 587, 166 L. Ed. 2d 430 (U.S. 2006).

⁸ *Id.* citing *U.S. Aroostook Band of Micmacs v. Ryan*, 404 F.3d 48 (1st Cir. 2005) (overruled on other grounds by *Narragansett Indian Tribe v. Rhode Island*, 449 F.3d 16 (1st Cir. 2006)).

⁹ See for example: *Donovan v. Coeur d'Alene Tribal Farm*, 751 F.2d 1113, 1115 (9th Cir. 1985); *E.E.O.C. v. Fond du Lac Heavy Equip. & Const. Co., Inc.*, 986 F.2d 246, 249 (8th Cir. 1993); *N.L.R.B. v. Fortune Bay Resort Casino*, 688 F. Supp. 2d 858, 866 (D. Minn. 2010).

¹⁰ *Johnson v. McIntosh*, 21 U.S. 543 (U.S. 1823); *Cherokee Nation v. Georgia*, 30 U.S. 1 (U.S. 1831); and *Worcester v. Georgia*, 31 U.S. 515 (U.S. 1832).

¹¹ The basic principles enunciated include: (1) Tribes have virtually unlimited authority over internal tribal affairs; (2) Congress will have full power over the Indian tribes. Indian policy is generally in the federal jurisdiction; (3) Tribes are presumptively immune from enforcement by the state of state law; (4) Tribes will retain all sovereignty that is not expressly taken away by the Congress, unless the tribe expressly consents or waives such immunity; and (5) such immunity does not extend to individual tribe members except to the extent tribal officials act within the scope of their official capacities.

¹² Minnesota, Wisconsin, Oregon, California, Nebraska, and Alaska.

¹³ In 1968, Congress amended PL280 to restrict further states from assuming civil jurisdiction without tribal approval.

¹⁴ Arizona; Florida; Idaho; Iowa; Montana; Nevada; North Dakota; South Dakota; Utah and Washington.

Cases emerged under PL 280, many involving tribes pursuing bingo and other gaming operations. California first litigated tribal bingo issues in a case called *Cabazon*.¹⁵ The tribes won, with the U.S. Supreme Court deciding that since California did not totally prohibit gaming, the tribes could offer gaming, without a license or permission from the state. The court noted that "California permits a substantial amount of gambling activity, including bingo, and actually promotes gambling through its state lottery."¹⁶ The California statute at issue "allowed the underlying activity" and was civil in nature, although it had a criminal penalty for failure to comply. Therefore, California "regulated" the activity rather than totally prohibiting such activity as a criminal matter. While this case provided a general rule, the distinction between "prohibitory" and "regulatory" laws is not always a bright line distinction.¹⁷

Given the legal uncertainty regarding state gambling laws and tribal gambling, in 1988 Congress passed PL 100-497, called the Indian Gaming Regulatory Act or "IGRA," recognizing that state gaming laws and federal tribal policy were unclear.¹⁸

Tribes retained authority over traditional tribal games, and games largely unregulated by the states. The federal government obtained authority over smaller games, and states obtained some involvement, as negotiated, in other gaming. Due to this federal law, states and tribes now regularly negotiate to define tribal gaming parameters. However, disputes persist.¹⁹

One case relevant to tribal Internet loans to state residents, called *Coeur D'Alene* involved gaming made available off-reservation through telephone and Internet services.²⁰ The courts indicated that states could pursue actions when significant aspects of the transaction, such as the ticket purchase and gambling activities, occurred off reservation. The Eighth Circuit Court of Appeals remanded and instructed the trial court to "determine whether the Tribe's internet lottery is a gaming activity on Indian lands of the Tribe."²¹ The court decided that if the lottery was being conducted on the tribe's lands, then IGRA completely preempted state law, but if it was conducted off-reservation, then IGRA would not preempt state law claims.

Ultimately, the Internet tribal gambling cases determined that the IGRA did not give tribes the authority to operate gambling activities off of the reservation, and highlight the significant differences that arise when an activity is undertaken by a tribe "on-reservation" as opposed to "off-reservation."

Tribal Lending – State Court Decisions.

Two cases *Ameriloan*²² and *Suthers*,²³ replay some of the tribal gambling litigation history. States brought suits against two tribes lending money over the Internet to consumers residing in California and Colorado. The Attorneys General in California and Colorado sued the tribes for failing to comply with state laws regulating consumer lending.

¹⁵ *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987).

¹⁶ *Id.*

¹⁷ The primary case that discusses what is regulatory and what is criminal prohibitory is *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987).

¹⁸ Congress compromised by dividing tribal gaming into three different classes: (1) Class I, which is of nominal amounts or games of tribal tradition, which remains the exclusive province of tribes; (2) Class II, which is mainly bingo, some card games, and other smaller games, which is regulated by the National Indian Gaming Commission ("NIGC"); and (3) Class III, everything else, which is now regulated by a compact that must be agreed upon by both the tribes and the applicable state.

¹⁹ See *Seminole Tribe of Florida v. State of Florida*, 517 U.S. 44 (U.S. 1996) and *Florida v. Seminole Tribe*, 181 F.3d 1237, (11th Cir. Fla. 1999).

²⁰ *State ex rel. Nixon v. Coeur D'Alene Tribe*, 164 F.3d 1102 (8th Cir. 1999).

²¹ *Id.*

²² *Ameriloan v. Superior Court of Los Angeles County*, 86 Cal.Rptr.3d 572 (Cal. Ct. App. 2008).

²³ *State of Colorado, ex rel. John W. Suthers, Attorney General, and Laura E. Udis, Administrator, Uniform Consumer Credit Code v. Cash Advance and Preferred Cash Loans*, 205 P.3d 389 (Colo. Ct. App. 2008).

In *Ameriloan*, the tribes claimed immunity from suit. The appeals court held that tribal sovereignty "is not limited to government-related activity occurring on tribal lands, but also protects the tribe's off-reservation, for-profit commercial conduct." The appeals court also directed the trial court to determine whether certain third party service providers were acting on behalf of tribes.

In *Suthers*, the tribes moved to dismiss, and two tribally formed corporations claiming to own the lending businesses asserted tribal sovereign immunity. The trial court denied the motion and the tribes appealed. The appeals court held that the tribal lending constituted off-reservation conduct and immunity did not prevent enforcing the Attorney General's subpoenas.

The appeals court in *Suthers* also listed factors to determine whether an activity was conducted off reservation. As noted in the *Coeur D'Alene* case, while on-reservation activity is typically the sole domain of tribal law, off-reservation activity may instead fall under state law regardless of any claim of sovereign immunity.²⁴ Ultimately, the Internet gambling cases determined that the IGRA did not give tribes the authority to operate gambling activities off the reservation, and highlight the significant differences that arise when an activity is undertaken by a tribe "on-reservation" as opposed to "off-reservation." In *Suthers* the appeals court interestingly indicated the loans were made "off reservation,"²⁵ but such assessment did not change the sovereign immunity analysis. Rather, the *Suthers* appeals court noted that the doctrine of sovereign immunity prevented the tribes from being sued in state court and noted that this was true whether the commercial contracts "were made on or off a reservation."

For the *Suthers* case, ultimately, the Colorado Supreme Court reviewed the matter and held that "tribal sovereign immunity applies to state investigatory enforcement actions."²⁶ The Supreme Court directed the trial court, on remand, to determine whether certain entities were acting "as arms" of the tribes, "such that their activities are properly deemed to be those of the tribes."²⁷ The Colorado Supreme Court specifically directed the trial court to consider: "(1) whether the tribes created the entities pursuant to tribal law; (2) whether the tribes own and operate the entities; and (3) whether the entities' immunity protects the tribes' sovereignty."²⁸

When a tribe uses a corporation formed under tribal law, compared to a tribe owned corporation formed under state law, the analysis varies.²⁹ Likewise, if the tribe uses a third-party to perform many of the functions, the law may not provide any immunity to such third-party. The *Ameriloan* court noted that tribal "sovereign immunity extends not only to the tribes, but also to those for-profit commercial entities that function as "arms of the tribes." Immunity "does not 'cover tribally chartered corporations that are completely independent of the tribe.'" The court recognized "[i]t is possible to imagine situations in which a tribal entity may engage in activities which are so far removed from tribal interests that it no longer can legitimately be seen as an extension of the tribe itself. Such an entity arguably should not be immune; notwithstanding the fact it is organized and owned by the tribe."

²⁴ See e.g. *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987); *Missouri v. Coeur D'Alene Tribe*, 164 F.3d 1102 (8th Cir. 1999) cert. denied, 119 S.Ct. 2400 (1999); *AT&T Corp. v. Coeur D'Alene Tribe*, 45 F.Supp.2d 995 (D. Idaho 1998). See also Dempsey, Jeffrey A., *Surfing for Wampum: Federal Regulation of Internet Gambling and Native American Sovereignty*, 25 Am. Indian L. Rev. (2000/20001).

²⁵ The court looked to where (1) the contract was entered into; (2) the contract was negotiated; (3) performance is to occur; (4) the subject matter of the contract is located; and (5) the parties reside.

²⁶ *Cash Advance & Preferred Cash Loans v. State*, 242 P.3d 1099, 1102-03 (Colo. 2010).

²⁷ *Cash Advance & Preferred Cash Loans v. State*, 242 P.3d 1099, 1102-03 (Colo. 2010).

²⁸ *Id.*

²⁹ In 2006, the Washington Supreme Court had previously ruled in *Wright v. Colville Tribal Enter. Corp.* that tribal corporations owned by tribal governments, and created under tribal law are immune from suit, absent express waiver of that immunity by the tribe or U.S. Congress. The Court held that tribal corporations have tribal immunity, and thus, the Court does not have jurisdiction over such entities.

Likewise, the sovereign immunity rights of an entity that is not 100% owned by the tribe may be different. Thus, if a non-tribal entity and the tribe engaged in a joint venture by forming a corporation, such corporation may not be able to successfully assert the sovereign immunity.

In addition, the extending of tribal immunity to the leaders--officers and directors of the tribe or tribal entity—must be carefully considered. As the appeals court in *Suthers* noted, while tribal sovereign immunity generally bars claims against tribal officers, "the tribe's immunity did not protect tribal officials from suit when acting outside of their authority," while also pointing out that "[i]ndividual members of tribes who are not tribal officials are not covered by sovereign tribal immunity for conduct beyond the reservation's borders."

The decisions in *Ameriloan* and *Suthers* have reaffirmed general tribal "sovereign immunity law."³⁰ In both cases, the courts ordered state agencies to engage in additional discovery to determine whether the corporations were tribal entities. In *Ameriloan*, the court remanded the case, and instructed the trial court to "conduct a new evidentiary hearing to determine whether" the entities involved were "sufficiently related to federally recognized Indian tribes to be entitled to the benefit of the doctrine of tribal sovereign immunity."³¹

These cases don't "authorize" tribal loans to non-tribal consumers. Rather, these cases note that some states can't successfully enforce certain state laws against tribes. Both decisions support the concept specifically expressed in *Suthers* that "[t]here is a difference between the right to demand compliance with state laws and the means available to enforce them."

Tribal Immunity and Third Parties.

In the *Ameriloan* and *Suthers* cases, the tribes may have benefitted from non-tribal assistance. In both decisions, the appellate courts noted the need for more discovery to determine whether another entity was involved. As noted above, a tribe's immunity merely prevents certain actions against the tribes. Unlike bank preemption, tribal immunity may not necessarily operate as Congressional authorization to legalize any activity by an immune party. Rather, such activity may in fact be deemed unlawful by a state, but the immune tribal actors are simply beyond the reach of state prosecution.

The scope of immunity for third parties, who are not members of a tribe and not otherwise immune, remains unclear. The Model Penal Code Section 5.04 notes that "it is immaterial to the liability of a person who conspires with another to commit a crime" that "the person with whom he or she conspires" has "immunity to prosecution or conviction."³² The Model Penal Code also indicates that an "accomplice may be convicted though "the person claimed to have committed the offense" has "an immunity to prosecution or conviction."³³ Thus, non-tribal service providers should be cautious.

However, in limited circumstances, courts have sometimes found that a "tribe's sovereign immunity extends to its agencies."³⁴ While those cited cases suggest tribal sovereign immunity can be extended to certain entities, it is not always clear when courts will extend the immunity, and when they will not. In short,

³⁰ Various issues have been remanded to the lower court in both cases.

³¹ *Ameriloan v. Superior Court*, 169 Cal. App. 4th 81, 100, 86 Cal. Rptr. 3d 572, 588 (2008).

³² 15A C.J.S. Conspiracy § 137.

³³ See § 2.06. Liability for Conduct of Another; Complicity., Model Penal Code § 2.06.

³⁴ See *Alltel Commun., LLC v. DeJordy*, 2011 WL 673766 (D.S.D. 2011); *Coleman v. Duluth Police Dept.*, 2009 WL 921145 (D. Minn. 2009) aff'd, 371 Fed. Appx. 712 (8th Cir. 2010) (unpublished); *Ferguson v. SMSC Gaming Enter.*, 475 F. Supp. 2d 929, 930-31 (D. Minn. 2007); *Hagen v. Sisseton-Wahpeton Community College*, 205 F.3d 1040, 1043 (8th Cir. 2000); *Dillon v. Yankton Sioux Tribe Hous. Auth.*, 144 F.3d 581, 583 (8th Cir. 1998); *Duke v. Absentee Shawnee Tribe of Oklahoma Housing Auth.*, 199 F.3d 1123, 1125 (10th Cir.1999); *Pink v. Modoc Indian Health Project*, 157 F.3d 1185 (9th Cir.1998), cert. denied, 528 U.S. 877 (1999); *Weeks Constr., Inc. v. Oglala Sioux Housing Auth.*, 797 F.2d 668, 670 (8th Cir.1986).

various factors are used to determine whether "the relationship between the tribe and the entity is sufficiently close to properly permit the entity to share in the tribe's immunity."³⁵

Tribal Lending – FTC Action.

On September 6, 2011 the FTC filed a complaint alleging that an entity named Lakota Cash and other defendants violated various federal laws in connection with consumer loans.³⁶ According to the complaint, the defendant entities are South Dakota LLCs, with principal places of business located within South Dakota.³⁷ The complaint indicates that one individual, named as registered agent, controlled the operations, and resides within the District in which the case was filed. The FTC alleged that the defendants, in conducting their lending operation, violated the FTC Act, the FTC Credit Practices Rule, the Electronic Funds Transfer Act, and Regulation E.³⁸

Six days after filing the complaint, the FTC announced that the defendants had "agreed to stop the challenged conduct pending trial." The FTC's complaint does not reference tribal sovereignty or immunity. It remains to be seen whether the entities are chartered tribal businesses, arms of tribal governments, or have somehow preserved tribal "immunity, sovereignty and assets," as businesses organized under Section 17 of the Indian Reform Act.³⁹

If the defendants successfully assert sovereign immunity, the courts may ultimately decide whether federal consumer credit protection laws can be applied to tribes. As noted above, issues concerning whether, and how Congress must express "clear and plain congressional intent" for a law and its regulations to apply to tribes, remain unresolved.⁴⁰ However, it is worth noting that Congress did not explicitly reference Indians, Native Americans, or tribes within the body of the FTC Act or the Electronic Funds Transfer Act.

Tribal Lending – The CFPB.

Another issue concerns whether Congress granted the Consumer Financial Protection Bureau (CFPB) the authority to regulate tribal lending. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank"),⁴¹ tribes are mentioned in one provision. Specifically, within the definition of the word "state," various entities, not typically considered states, are listed as within the definition of the word "state," including federally recognized Indian tribes, as defined by the Secretary of the Interior under section 479a-1(a) of Title 25.⁴² Thus, the use of the word "state" in Dodd-Frank should be understood to include tribes. Under Dodd-Frank, the "primary functions" of the CFPB do not include regulating such "states."

Rather, the primary purposes include supervising "covered persons" for "compliance with Federal consumer financial law, and taking appropriate enforcement action to address violations of Federal

³⁵ See *Breakthrough Mgt. Group, Inc. v. Chukchansi Gold Casino and Resort*, 629 F.3d 1173, 1183 (10th Cir. 2010) citing *Native Am. Distrib.*, 546 F.3d at 1292; see also, e.g., *Allen v. Gold Country Casino*, 464 F.3d 1044, 1046-47 (9th Cir.2006); *Ninigret Dev. Corp. v. Narragansett Indian Wetuomuck Hous. Auth.*, 207 F.3d 21, 29 (1st Cir.2000); *Hagen v. Sisseton-Wahpeton Cmty. Coll.*, 205 F.3d 1040, 1043 (8th Cir.2000).

³⁶ <http://www.ftc.gov/opa/2011/09/payday.shtm>.

³⁷ <http://www.ftc.gov/os/caselist/1123023/110912paydaycmpt.pdf>.

³⁸ <http://www.ftc.gov/opa/2011/09/payday.shtm>.

³⁹ The Bureau of Indian Affairs notes varying options for corporate entity formation, and different opportunities provided by differing structures. See for example: <http://www.bia.gov/WhoWeAre/AS-IA/IEED/DED/TBCB/index.htm>.

⁴⁰ See for example: *Donovan v. Coeur d'Alene Tribal Farm*, 751 F.2d 1113, 1115 (9th Cir. 1985); *E.E.O.C. v. Fond du Lac Heavy Equip. & Const. Co., Inc.*, 986 F.2d 246, 249 (8th Cir. 1993); *N.L.R.B. v. Fortune Bay Resort Casino*, 688 F. Supp. 2d 858, 866 (D. Minn. 2010).

⁴¹ DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT, PL 111-203, July 21, 2010, 124 Stat 1376.

⁴² 12 USCA § 5481.

consumer financial law."⁴³ Another "primary function" is to issue "rules, orders, and guidance implementing Federal consumer financial law."⁴⁴ No governing function suggests the CFPB regulates states (and therefore tribes). The CFPB regulates the activity of such "covered persons." According to the statute, the term "covered persons" means "any person that engages in offering or providing a consumer financial product or service" and "any affiliate of a person" if "such affiliate acts as a service provider to such person."⁴⁵

"States" are not explicitly listed as "covered persons," who would be regulated by the CFPB. Rather references to states (which includes tribes in this case), seem to focus on cooperation with state agencies, preservation of state (and therefore tribal) law, state enforcement authority, etc. Thus, it remains unclear whether the CFPB will attempt to regulate tribal lending and if so whether Congress expressed "clear and plain congressional intent" for the law and CFPB authority to regulate tribes.⁴⁶

What's Next?

While it is not entirely clear what is next, it appears that the federal courts in South Dakota will review the applicability of federal consumer credit laws, to entities that may have tribal connections. Likewise, cases involving Western Sky Financial, an Internet lender claiming tribal affiliations, are underway in Colorado, Maryland, Missouri, and West Virginia. Most recently, a court in Kanawha County, West Virginia, ruled in favor of the state Attorney General, deciding that the Internet lender must comply with a state subpoena, despite claiming affiliation with the Lakota tribe. Western Sky Financial was formed as a South Dakota organization, not under tribal law.⁴⁷

Ultimately, this tension between state lending regulations and tribal lending operations mirror the gambling issues present before Congress passed IGRA. As a result, tribes may continue to make loans to non-tribal residents, following only tribal law, until Congress passes federal legislation clarifying the respective rights of the sovereigns involved. What is clear is that tribal lending is yet another test of tribal sovereign immunity.

⁴³ 12 USCA § 5511.

⁴⁴ *Id.*

⁴⁵ 12 USCA § 5481.

⁴⁶ See for example: *Donovan v. Coeur d'Alene Tribal Farm*, 751 F.2d 1113, 1115 (9th Cir. 1985); *E.E.O.C. v. Fond du Lac Heavy Equip. & Const. Co., Inc.*, 986 F.2d 246, 249 (8th Cir. 1993); *N.L.R.B. v. Fortune Bay Resort Casino*, 688 F. Supp. 2d 858, 866 (D. Minn. 2010).

⁴⁷ See: <http://www.wvrecord.com/news/239734-kanawha-co.-court-says-lender-must-comply-with-subpoena>.