

## Supreme Court Agrees To Review Sovereign Immunity Decision: Indian Nations Law Update - October 2016

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The U.S. Supreme Court has picked its first Indian law case for review during the new 2016-17 Court term. The Court will review the Connecticut Supreme Court's decision in *Lewis v. Clarke*, 320 Conn. 706, 135 A.3d 677 (Conn. 2016). Clarke, an employee of the Mohegan Tribal Gaming Authority (Tribe), was engaged in his professional duties for the Tribe when he allegedly caused a motor vehicle accident that injured the Lewises. The Lewises did not sue the Tribe but instead sued Clarke personally for damages. The trial court denied Clarke's motion to dismiss on sovereign immunity grounds, but the Connecticut Supreme Court reversed, holding that Clarke shared the Tribe's immunity: "the plaintiffs cannot circumvent tribal immunity by merely naming the defendant, an employee of the tribe, when the complaint concerns actions taken within the scope of his duties and the complaint does not allege, nor have the plaintiffs offered any other evidence, that he acted outside the scope of his authority." The court expressly declined to follow the Ninth Circuit Court of Appeals decision in *Maxwell v. San Diego*, 708 F.3d 1075 (9th Cir. 2013). The petition for review asked the Court to decide "Whether the sovereign immunity of an Indian tribe bars individual-capacity damages actions against tribal employees for torts committed within the scope of their employment."

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