

NELL JESSUP NEWTON
The Joseph A. Matson Dean and
Professor of Law
Notre Dame Law School

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Notre Dame, IN 46563
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Academic Appointments

Notre Dame Law School
The Joseph A. Matson Dean and Professor of Law, 2009-

University of California, Hastings College of the Law
Chancellor and Dean
William B. Lockhart Professor of Law, 2006-2009

University of Connecticut School of Law
Dean & Professor of Law, 2000-2006

University of Denver, College of Law, Denver, Colorado
Dean & Professor of Law, 1998-2000

American University, Washington College of Law, Washington, D.C.
Professor of Law, 1992-1998

Catholic University School of Law (1976-1992)
Assistant Professor, 1977; Associate Professor, 1982; Ordinary Professor, 1988

Other Teaching Experience

Boston College Law School, Newton, Massachusetts: Visiting Professor, Spring 1997

University of California, Hastings College of the Law, San Francisco, California: Visiting Professor,
1994-1995

Pre-Law Summer Institute for Native American Students, University of New Mexico Law
School, Albuquerque, New Mexico: various summer sessions, 1989-1997

Lecturer, International Law Institute, Washington, D.C., Orientation Program in the United States
Legal System, 1984-1989 (conducted classes on presidential powers in summer program
for foreign attorneys and judges)

Lecturer on Executive Powers, Domestic Affairs, International Law Institute/American Bar
Association, Orientation for Soviet Attorneys, Fall 1989

Education

University of California, Hastings College of the Law, J.D. 1976
Hastings Law Journal: Managing editor, 1975-76
Order of the Coif, 1976; Thurston Society, 1976

University of California at Berkeley, B.A. 1973 (Interdisciplinary humanities major with emphasis on ancient Greek)

Judicial Appointment

Associate Justice, Yurok Supreme Court, 2007-2009

Judicial Training

Connecticut Center for Judicial Education, Indian Law: History & Principles, Tribal Judicial Systems, and Jurisdictional Issues for Connecticut Courts, Nov. 21, 2003 (“Indian Law — policy and basic principles”)

Eastern Tribal Court Judges’ Association Conference, Uncasville, Connecticut, Oct. 30, 2002 (“Judging in the Shadow of Federal and State Law”)

Southwestern Indian Tribal Court Judges Association Workshop, June 28, 1996, Albuquerque, New Mexico (tribal civil cases involving non-Indians)

“Law & Literature: *Billy Budd* and Gloria Naylor’s *The Two*,” D.C. Superior Court Judicial Training Conference, Washington, D.C., May 14, 1993

Tribal Judges’ Training Institute, Southwestern Indian Polytechnic Institute, Albuquerque, New Mexico, July 27, 1992 (Training program for new tribal court judges; presentation on federal court review of tribal court cases)

Southwest Intertribal Court of Appeals, Standing Administrative Committee Conference, Albuquerque, New Mexico, July 1990 (Implications of *Duro v. Reina*)

ABA/Claims Court Bar Association Program for United States Claims Court Judges, Feb. 25, 1988 (Impact of *Mitchell* on Indian Claims Litigation Before the Claims Court)

Professional & Civic Organizations

American Bar Association
Legal Education & Admission to the Bar, Clinical & Skills Committee, 2005-2009

American Bar Foundation, Fellow

Association of American Law Schools
Chair, Committee on Sections and the Annual Meeting, 2009-2010; Law Dean’s Section, Executive Committee, 2008-2009; Chair, 2008; Diversity Task Force, 1999-2001; Planning Committee for Professional Development Workshop, 1997-1999; Committee on Hiring and Retention of Minorities, 1998-2001; Plenary Planning Committee, 1994; Native American Rights Section, Executive Committee 1987-1992; Chair, 1997-88; *Oral Argument Newsletter* editor, 1987-1994; Property Section, Executive Committee, 1997-1998; Women in Legal Education Section, Executive Committee; Chair, 1996.

Bushnell Performing Arts Center, Board of Overseers, 2003-2006

Colorado Bar Foundation, 1999-2000

Connecticut Bar Foundation, Board of Directors; James W. Cooper Fellow, 2000-

Connecticut Opera, Board of Directors, 2004-2006

DC/Maryland/Virginia/West Virginia Women Law Professors' Group
 Founding member; Coordinator, 1992-1998

Law School Admissions Council
 Minority Affairs Committee, 1999-2002
 Test Development & Research Committee, 2003-2005
 Grants Subcommittee, 2005-2009

NALP Foundation
 Board of Directors, 2006-
 Chair Elect, 2013-2014
 Chair, 2014-

UND-England Charity
 Board of Directors, 2013-

Scholarship

Books

COHEN'S HANDBOOK OF FEDERAL INDIAN LAW (Nell Jessup Newton, editor-in-chief) (2005, 2012 eds. & Supp. 2015)

R. CLINTON, N. NEWTON, & M. PRICE, AMERICAN INDIAN LAW (3d ed. the Michie Company 1991 & Supp. 1994, 1996)

Articles & Book Chapters

"Indian Claims for Reparations, Compensation, & Restitution in the United States Legal System," in WHEN SORRY ISN'T ENOUGH (Roy Brooks ed., 1999)

Tribal Court Praxis: One Year in the Life of Twenty Tribal Courts, 22 AM. IND. L. REV. 285 (1998)

Memory & Misrepresentation: Representing Crazy Horse in Tribal Court, 27 CONN. L. REV. 1003 (1995), reprinted in BORROWED POWER: CULTURAL APPROPRIATION (Zinn ed., Rutgers Press 1997)

Compensation, Reparations & Restitution: Indian Property Claims in the United States, 28 GA. L. REV. 453 (1994), reprinted in LEGAL PHILOSOPHY: MULTIPLE PERSPECTIVES (May, Snow, & Bolte eds., 2000)

Let a Thousand Policy-Flowers Bloom, 46 ARK. L. REV. 25 (1993)

Recognizing and Enforcing State and Tribal Judgments: A Roundtable Discussion of Law, Policy and Practice, 18 AM. IND. L. REV. 239 (1993) (with Clinton, Deloria, Laurence, Occhialino, Ransom, & Zuni)

"Settlement Claims in the United States Legal System," in Proceedings of the 1993 Conference of the Canadian Council on International Law, Aboriginal Rights and International Law (Ottawa: Canadian Council on International Law, 1992) 137

Indian Claims in the Courts of the Conqueror, 41 AM. U. L. REV. 753 (1992), reprinted in

READINGS IN AMERICAN INDIAN LAW (Carrillo ed., 1998)

Permanent Legislation to Correct Duro v. Reina, 17 AM. IND. L. REV. 109 (1992)

The Criminal Jurisdiction of Tribal Courts Over Nonmember Indians, FED. BAR NEWS & J., vol. 38, no. 2, at 70 (1991) (with Philip S. Deloria)

Introduction, Symposium on Indian Law, 31 ARIZ. L. REV. 193 (1989)

Status of Native American Tribal Indians Under United States Law, 1 YEARBOOK ON LAW & ANTHROPOLOGY 40 (Vienna 1986)

Federal Power over Indians: Its Sources, Scope, and Limitations, 132 U. PA. L. REV. 195 (1984), reprinted in Derrick Bell, RACE, RACISM & AMERICAN LAW (4th ed. 2000); Kevin Johnson, RACE, CIVIL RIGHTS AND THE LAW: A MULTIRACIAL APPROACH (2001)

Enforcing the Federal-Indian Trust Relationship After Mitchell, 31 CATH. U.L. REV. 635 (1982)

The Judicial Role in Fifth Amendment Takings of Indian Lands: An Analysis of the Sioux Nation Rule, 61 ORE. L. REV. 245 (1982)

At the Whim of the Sovereign: Aboriginal Title Reconsidered, 31 HASTINGS L.J. 1215 (1980).

Indian Tribal Trust Funds, 27 HASTINGS L.J. 519 (1975)

Short Publications

"Introduction," *Symposium on the Indian Trust Doctrine*, 39 Tulsa L. Rev. 237 (2003)

"Can the United States Be Held Liable for Its Failure to Maintain Fort Apache?" 2002 *Preview of United States Supreme Court Cases* 165 (Dec. 2002)

"Can the United States Be Held Liable For Mismanaging a Tribal Mineral Lease?" 2002 *Preview of United States Supreme Court Cases* 169 (Dec. 2002)

"Context, Please," Letter to the Editor, *Washington Post*, Aug. 23, 1999 (removal of tribal government officers by Assistant Secretary of the Interior for Indian Affairs)

"Tribal Court Jurisdiction over Injuries Caused by Uranium Mining: Who Decides the Reach of the Price-Anderson Act," 1999 *Preview of United States Supreme Court Cases* 267 (Feb. 1999)

Op/Ed, "There's Justice in Tribal Courts," *Washington Post*, Sept. 30, 1997, at A20

"Tribal Court Jurisdiction Over Personal Injury Actions Between Non-Indians," *West Legal News*, 12/30/96 WLN 13812

"Two Sheriffs Argue that Federal Brady Act Impermissibly Invades States Sovereignty," *West Legal News*, 1996 WL 683124 (Nov. 29, 1996)

"State of Idaho Seeks a Real Property Exception to the *Ex Parte Young* doctrine," *West Legal News*, 1996 WL 590118 (Oct. 16, 1996)

"Will the Supreme Court Uphold New York's Attempt to 'Smoke Out' Cigarette Tax

Evaders on Indian Reservations?" *Preview of United States Supreme Court Cases, 1993-1994 Term* (with Christopher A. Karns)

"Indian Gaming" in *NATIVE AMERICA IN THE TWENTIETH CENTURY* (Garland Publishing Co., 1994) (with Shawn Frank)

"The American Indian Law Center," in *NATIVE AMERICA IN THE TWENTIETH CENTURY* (Garland Publishing Co., 1994)

"Redrawing the Boundaries of Tribal Tax Immunities," *Preview of United States Supreme Court Cases, 1992-1993 Term*, at 297 (with Michael Willian)

"State-Tribal Conflict Over Regulating Hunting and Fishing on Lands Acquired by the Federal Government for the Construction of a Reservoir," *Preview of United States Supreme Court Cases, 1992-1993 Term*, at 253 (with Christopher A. Karns)

"Do States Have Criminal Jurisdiction over Indians Accused of Committing Major Crimes on Reservations in the States?" *Preview of United States Supreme Court Cases, 1992-1993 Term*, at 173

"*Duro Legislation Update*," American Indian Law Students Association Newsletter, Winter 1991

"Counties Seek to Tax Land Owned by Indians on Indian Reservations," *Preview of United States Supreme Court Cases, 1991-1992 Term*, at 138

Letter to the Editor, *New York Times*, Aug. 1991 (Impact of Federal Death Penalty on Indian Reservations) (with Alexander Skibine)

The Impact of Duro v. Reina on Law Enforcement on New Mexico's Indian Reservations," *The New Mexico Lawyer*, vol. 29, no. 3, at 49 (1991)

"Responses to *Duro v. Reina*," *Am. Ind. L. Newsletter*, vol. 23, no. 1, at 1 (Aug. 1990)

"The Native American Church in the 'drug war' era," *Preview of United States Supreme Court Cases, 1989-1990 Term*, at 20

"Should Tribes be Treated as States Under the Commerce Clause?" *Preview of United States Supreme Court Cases, 1988-1989 Term*, at 128

"Who Controls Development on the Reservation?" *Preview of United States Supreme Court Cases, 1988-1989 Term*, at 215

"Who Decides an Indian Child's Welfare?" *Preview of United States Supreme Court Cases, 1988-1989 Term*, at 219 (with Catherine J. Drissel)

"Does the First Amendment Accommodate the Religious Use of Peyote?" *Preview of United States Supreme Court Cases, 1987-1988 Term*, at 120

"The Road Less Traveled: Protecting Indian Religious Sites on Public Lands," *Preview of United States Supreme Court Cases, 1987-1988 Term*, at 150

"Too Little Land -- Too Many Heirs: Is the Indian Lands Consolidation Act a Constitutional Solution?" *Preview of United States Supreme Court Cases, 1986-1987 Term*, at 1

- “Regulating Bingo on Reservations: Will Indian Tribes Hit the Jackpot?” *Preview of United States Supreme Court Cases*, 1986-1987 Term, at 152
- “Federal Court Jurisdiction Over Indians,” *Preview of United States Supreme Court Cases*, 1986-1987 Term, at 200
- “When is a Taking Not a Taking?” *Preview of United States Supreme Court Cases*, 1986-1987 Term, at 278
- “Does Time or Treaty Control the Catawba Tribe’s Land Claim?” *Preview of United States Supreme Court Cases*, 1985-1986 Term, at 143
- “Do Conservation Laws Abrogate Indian Treaty Rights?” *Preview of United States Supreme Court Cases*, 1985-1986 Term, at 331
- “Does Time or Trust Control Transfer of Indian Allotments?” *Preview of United States Supreme Court Cases*, 1985-1986 Term, at 461
- “United States v. Mitchell,” *Preview of United States Supreme Court Cases*, 1979 Term, at 2
- “White Mountain Apache Tribe v. Bracker and Central Machinery Co. v. Arizona State Tax Commission,” *Preview of United States Supreme Court Cases*, 1979 Term, no. 27, at 2.

Legislative Testimony

- Briefing, “The Trade & Intercourse Acts: Roots of the Eastern Land Claims,” Connecticut Senate Judiciary and Public Safety Committees informational forum, May 1, 2001
- Testimony and Statement, *Hearing on S. 962 and S. 963, Before the Select Committee on Indian Affairs*, United States Senate, 102d Cong., 1st sess., May 9, 1991, at 61 & 214 (tribal courts and criminal jurisdiction)
- Testimony and Statement, *Hearing on H.R. 972, Before the House Committee on Interior and Insular Affairs*, Apr. 11, 1991 (tribal criminal jurisdiction)
- Statement in Opposition to Proposed Legislative Plans to Resolve Disputes on the Hoopa Valley Reservation, in *Oversight Hearing on Hoopa-Yurok Indian Reservation Before the Senate Select Committee on Indian Affairs*, June 30, 1988, at 62

Selected Speeches, Papers, & Presentations

- Moderator, Tomorrow’s Law Practice: A Forum on the Market, Demand & Opportunities for Lawyers, Washington, D.C., Oct. 2, 2013 (sponsored by NALP Foundation & West LegalEdcenter)
- Bruce C. Hafen Distinguished Lecture, The Indian Trust, J. Reuben Clark Law School, Brigham Young University, Jan. 31, 2013
- Panelist, Deciding to Become a Dean, Workshop on Promoting Diversity in Law School Leadership, Seattle, Washington, Sept. 23, 2011
- Hastings’ Unique Role in San Francisco and California, St. Thomas More Society, San Francisco, Sept. 20, 2007
- Numerous presentations to clubs and civic associations in Connecticut, e.g., the University Club

of Litchfield, the Old Guard of W. Hartford, Hartford Area Women's Bar, Connecticut Bar, the Connecticut Historical Society, etc., on legal education or American Indian law

Panelist, Federal Bar Association Indian Law Conference, Albuquerque, NM, Apr. 14, 2005 (panel on application of general federal laws to Indian reservations)

Panelist, Connecticut Bar Foundation Professionalism Symposium, Oct. 22, 2004 (the "three deans" on the importance of teaching professionalism)

Presentation, Law Faculty of the Free University of Berlin, Feb. 2004 (Karl May's Indians and American Indians today)

Panelist, Federal Bar Association Indian Law Conference, Albuquerque, NM, Apr. 5, 2002 (constitutionality of the *Duro-fix*)

Presentation, Symposium on Tribal Sovereignty in the 21st Century, Mashantucket Pequot Museum, Feb. 9, 2001 (Writing a Treatise in a Post-Modern Age)

Panelist, Conference on Multiple Sovereignties, Yale Law School, Apr. 1, 2001 (Legal Sovereignty: Historical Perspectives)

Moderator, ABA Deans' Workshop, Dallas, TX, Feb. 2000 (The Decline & Fall of the Monolithic Bar and What it Means for the Law Schools)

Presentation, U.S. Department of Justice, Environment & Natural Resources Division retreat, Winter Park, CO, Sept. 1999 (Indian Cases in the Supreme Court and Progress on the Handbook of Federal Indian Law)

Moderator, panel at Colorado Bar Association Annual Convention, Vail, CO, Sept. 1999 (Twentieth-Century Legal Divas)

Moderator, Plenary Panel at AALS Women in Legal Education Section Professional Development Conference, Chicago, Sept. 1999 (Where Do We Go From Here?)

Presentation, Joint Program of the Minoru Yasui & Rhone-Bracket Inns of Court, Denver, CO, Mar. 1999 (Native American Graves Protection & Repatriation Act & Art Lost in the Holocaust)

Panelist, Native American Rights Section, AALS Annual Conference, New Orleans, La., Jan. 1999 (Adjudicating Indigenous Peoples' Cultural Claims)

Panelist, Property Section, AALS Annual Conference, New Orleans, LA, Jan. 1999 ("Property, Culture, and Social Change," on appropriation of native cultures and designs)

Facilitator, Robert Cover Study Group, AALS Annual Conference, Jan. 1999 ("The Plenary Power Doctrine in Indian & Territorial Law," on the Solomon Amendment)

Facilitator, Conference on the Status of Puerto Rico, Yale Law School, Apr. 1998

Bar Memberships

California, Washington, D.C., the Ninth Circuit Court of Appeals, and the Supreme Court