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SEATTLE, WASHINGTON

LITIGATION UPDATE SUPPLEMENT

LIST AND BRIEF SUMMARY OF NOTABLE COURT DECISIONS AND OTHER
LEGAL DEVELOPMENTS REGARDING INDIAN GAMING ISSUED IN THE PAST
YEAR

[Please note that this November 30 Supplement list identifies key cases or legal developments after of November 18, 2012.]

II. WAIVERS OF TRIBAL IMMUNITY

Yavapai Apache v. Santa Ysabel

DK# D058674 (Cal. App, November 29, 2011)

Appeals Court reverses lower court that found no tribal immunity because Chairman lacks authority to waive. Appeals Court looked to a myriad of factors, including reaffirmation of prior agreements with effective waivers. Ultimately Court found waiver in prior agreements that were reaffirmed in subsequent amendments. The Court avoided opining on the Doctrine of Apparent Authority

VI. ELIGIBILITY OF "INDIAN LANDS": CASES RE 25 USC § 2719

MATCH-E-BE-NASH-SHE-WISH (GUN LAKE)

Patchek v. Salazar

United States Reply Brief in support of cert. petition filed November 21, 2011

Tribe's Reply Brief in support of cert. petition filed November 21, 2011

DK# 11-246

Cert. Petition is now fully briefed and has been distributed for SCOTUS Conference on December 9, 2011

IX. MUNICIPAL AGREEMENTS

City of Duluth v. Fond du Lac Band of Lake Superior Chippewa

DK# C09-2668(SRN/LIB) (D. Minn. November 21, 2011)

USDC grants Tribe's Rule 60(b) motion and vacates, in part, prior order regarding payments to City under amended agreement. Court reasoned that NIGC's NOV was substantial change that warranted alteration of prior order. This results in millions of dollars in savings to the Tribe.

XI. PER CAPITA PAYMENTS

Miccosukee Tribe v. Lehtinen

[only media reports at this time that case was filed November 28, 2011 in Miami Dade County Circuit Court]

Allegations that Long-time attorney to the Tribe gave bad advice regarding federal taxation of gaming proceeds distributed to Tribal members.

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