

ENTITY WITH JURISDICTION	INDIVIDUALS/GROUPS OVER WHOM JURISDICTION IS EXERCISED	FEDERAL LAW	MAINE (MICA/MIA)	TASK FORCE RECOMMENDATIONS
Tribe	<i>Tribes and tribal citizens</i>	<p><u>Legislative jurisdiction</u></p> <p>Tribes have exclusive legislative jurisdiction over matters concerning conduct by tribal citizens on tribal land.<sup>1</sup></p>	<p><u>Legislative jurisdiction</u></p> <p>The <b>Passamaquoddy Tribe and Penobscot Nation</b> have the power to enact ordinances and collect taxes “subject to all the duties, obligations, liabilities and limitations of a municipality of and subject to the laws of the State, provided, however, that internal tribal matters, including membership in the respective tribe or nation, the right to reside within the respective Indian territories, tribal organization, tribal government, tribal elections and the use or disposition of settlement fund income shall not be subject to regulation by the State.”<sup>6</sup></p> <p>The <b>Houlton Band of Maliseet Indians</b> may not “exercise nor enjoy the powers, privileges and immunities of a municipality nor exercise civil or criminal jurisdiction within their lands prior to the enactment of additional legislation specifically authorizing the exercise of those governmental powers.”<sup>7</sup></p>	

<sup>1</sup> *Cohen’s Handbook of Federal Indian Law*, §7.02[1][a] at pg. 599 (Neil Jessup Newton ed., 2012) (“There is no general federal statute limiting tribal jurisdiction over tribal members, and federal law acknowledges this jurisdiction”); *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 332 (1983). (“A tribe’s power to prescribe the conduct of tribal members has never been doubted”).

<sup>6</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6206(1).

<sup>7</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6206-A.

		<p><u>Adjudicatory jurisdiction</u></p> <p>Tribes have adjudicatory jurisdiction over matters concerning conduct by tribal citizens on tribal land.<sup>2</sup></p> <p>Tribal courts have jurisdiction over disputes involving internal tribal affairs.<sup>3</sup></p> <p>Congress has given tribes jurisdiction over certain matters (for example, tribes have exclusive jurisdiction over Indian children in custody proceedings when the child resides on a reservation.)<sup>4</sup></p> <p>Tribes may not have the same authority over citizens of tribal nations other than their own.<sup>5</sup></p>	<p><u>Adjudicatory jurisdiction</u></p> <p>The <b>Passamaquoddy Tribal Court</b> has exclusive jurisdiction over:</p> <ul style="list-style-type: none"> <li>• “Civil actions between members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation arising on the Indian reservation of the Passamaquoddy Tribe and cognizable as small claims under the laws of the State, and civil actions against a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation under Title 22, section 2383 involving conduct on the Indian reservation of the Passamaquoddy Tribe by a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation.”<sup>8</sup></li> <li>• “Indian child custody proceedings to the extent authorized by applicable federal law,”<sup>9</sup> and</li> <li>• “Other domestic relations matters, including marriage, divorce and support, between members of the</li> </ul>	
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<sup>2</sup> *Cohen’s Handbook of Federal Indian Law*, §7.02[1][a] at pg. 599 (Neil Jessup Newton ed., 2012) (“There is no general federal statute limiting tribal jurisdiction over tribal members, and federal law acknowledges this jurisdiction”); *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 332 (1983). (“A tribe’s power to prescribe the conduct of tribal members has never been doubted”).

<sup>3</sup> Canby, William. *American Indian Law in a Nutshell*, 6th ed. at pg. 226 (St. Paul, MN: Thomson/West, 2015), referencing *Smith v. Babbitt*, 100 F.3d 556 (8<sup>th</sup> Cir. 1996).

<sup>4</sup> *Cohen’s Handbook of Federal Indian Law*, §11.03 at pg. 840 (Neil Jessup Newton ed., 2012).

<sup>5</sup> Canby, William. *American Indian Law in a Nutshell*, 6th ed. at pg. 210 (St. Paul, MN: Thomson/West, 2015) (“...it is no longer safe to assume that a tribe’s civil authority over nonmember Indians is the same as its authority over its members.”)

<sup>8</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRS.A §6209-A(1)(C).

<sup>9</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRS.A §6209-A(1)(D).

			<p>Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation, both of whom reside within the Indian reservation of the Passamaquoddy Tribe.”<sup>10</sup></p> <p>In the event the Tribe chooses not to exercise its jurisdiction, the state has jurisdiction.<sup>11</sup></p> <p>The Penobscot Nation Tribal Court has exclusive jurisdiction over</p> <ul style="list-style-type: none"> <li>• “Civil actions between members of either the Passamaquoddy Tribe or the Penobscot Nation arising on the Indian reservation of the Penobscot Nation and cognizable as small claims under the laws of the State, and civil actions against a member of either the Passamaquoddy Tribe or the Penobscot Nation under Title 22, section 2383 involving conduct on the Indian reservation of the Penobscot Nation by a member of either the Passamaquoddy Tribe or the Penobscot Nation,”<sup>12</sup></li> <li>• Indian child custody proceedings to the extent authorized by applicable federal law,<sup>13</sup> and</li> <li>• “Other domestic relations matters, including marriage, divorce and support, between members of either the Passamaquoddy Tribe or the Penobscot Nation, both of</li> </ul>	
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<sup>10</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-A(1)(E).

<sup>11</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-A(1).

<sup>12</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-B(1)(C).

<sup>13</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-B(1)(D).

			<p>whom reside on the Indian reservation of the Penobscot Nation.”<sup>14</sup></p> <p>In the event the Tribe chooses not to exercise its jurisdiction, the state has jurisdiction.<sup>15</sup></p> <p><b>The Houlton Band of Maliseet Indians Tribal Court</b> has exclusive jurisdiction over:</p> <ul style="list-style-type: none"> <li>• “Civil actions between members of the Houlton Band of Maliseet Indians arising on the Houlton Band Jurisdiction Land and cognizable as small claims under the laws of the State and civil actions against a member of the Houlton Band of Maliseet Indians under Title 22, section 2383 involving conduct on the Houlton Band Jurisdiction Land by a member of the Houlton Band of Maliseet Indians,”<sup>16</sup></li> <li>• Indian child custody proceedings to the extent authorized by applicable federal law,”<sup>17</sup> and</li> <li>• “Other domestic relations matters, including marriage, divorce and support, between members of the Houlton Band of Maliseet Indians, both of whom reside within the Houlton Band Jurisdiction Land”<sup>18</sup>.</li> </ul>	
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<sup>14</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-B(1)(E).

<sup>15</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-A(1).

<sup>16</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-C(1)(C).

<sup>17</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-C(1)(D).

<sup>18</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-C(1-A)(C).

			<ul style="list-style-type: none"> <li>• “Civil actions between a member of those federally recognized tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under [Section 6209-C(1-A)] and members of the Penobscot Nation arising on the Houlton Band Jurisdiction Land and cognizable as small claims under the laws of the State and civil actions against a member of the Houlton Band of Maliseet Indians under Title 22, section 2383 involving conduct on the Houlton Band Jurisdiction Land by a member of the Penobscot Nation,”<sup>19</sup></li> <li>• “Other domestic relations matters, including marriage, divorce and support, between members of either those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under [Section 6209-C(1-A)] or the Penobscot Nation, both of whom reside within the Houlton Band Jurisdiction Land”<sup>20</sup>.</li> <li>• “Civil actions between a member of those federally recognized tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under [Section 6209-C(1-B)] and members of the Passamaquoddy Tribe arising on the Houlton Band Jurisdiction Land and cognizable</li> </ul>	
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<sup>19</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-C(1-A)(E).

<sup>20</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-C(1-A)(E).

			<p>as small claims under the laws of the State and civil actions against a member of the Houlton Band of Maliseet Indians under Title 22, section 2383 involving conduct on the Houlton Band Jurisdiction Land by a member of the Passamaquoddy Tribe.”<sup>21</sup></p> <ul style="list-style-type: none"> <li>• “Other domestic relations matters, including marriage, divorce and support, between members of either those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under [Section 6209-C(1-B)] or the Passamaquoddy Tribe, both of whom reside within the Houlton Band Jurisdiction Land”<sup>22</sup>.</li> </ul> <p>The state has jurisdiction until the Tribe chooses to exercise its jurisdiction.<sup>23</sup></p> <p>*The Micmac Settlement Act<sup>24</sup> does not address civil jurisdiction.</p>	
	<i>Non-tribal citizens</i>	<p><u>Legislative jurisdiction</u></p> <p>The law regarding matters involving non-citizens is complex.<sup>25</sup> According to the U.S. Supreme Court in <i>Montana v. United States</i>,</p>	<p><u>Legislative jurisdiction</u></p> <p>Within their respective territories, the Passamaquoddy Tribe and the Penobscot Nation have the same power to enact ordinances as do municipalities.<sup>33</sup></p>	

<sup>21</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-C(1-B)(C).  
<sup>22</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-C(1-B)(E).  
<sup>23</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6209-C(1).  
<sup>24</sup> *Micmac Settlement Act*, 30 MRSA §7201 et. seq.  
<sup>25</sup> *Cohen’s Handbook of Federal Indian Law*, §7.02[1][a] at pg. 600 (Neil Jessup Newton ed., 2012).  
<sup>33</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6206(1).

		<p>tribes have legislative authority over non-tribal citizens in two circumstances: (1) where nonmembers enter consensual relationships with the tribe or its members, through commercial dealing, contracts, leases, or other arrangements, or (2) where conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.”<sup>26</sup></p> <p>Courts in subsequent decisions have relied on the two-part <i>Montana</i> test in examining the bounds of legislative jurisdiction of tribes. The ownership status of the lands (that is, whether the land is tribally owned, held in fee by a tribal citizen, or held in fee by a non-citizen) is only one factor in determining the legitimacy of a regulation.<sup>27</sup> The Ninth Circuit has held that the <i>Montana</i> test is limited to cases involving non-Indian held tribal land.<sup>28</sup></p>	<p>The Passamaquoddy Tribe and the Penobscot Nation have authority to enact ordinances in some areas involving hunting and fishing (see chart), that apply to non-citizens.<sup>34</sup></p>	
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<sup>26</sup> *Montana v. United States*, 450 U.S. 544, 565-566 (1981).

<sup>27</sup> Smith, Jane. *Tribal Jurisdiction over Nonmembers: A Legal Overview*. Congressional Research Service, 7-5700, pgs. 5-6 (November 26, 2013), citing *Nevada v. Hicks*, 533 U.S. 353, 360 (2001). (“The ownership status of land, in other words, is only one factor to consider in determining whether the regulation of the activities of nonmember is “necessary to protect tribal self-government or to control internal relations.” It may sometimes be a dispositive factor.”). The ability of tribes to regulate activities of nonmembers on tribal citizen owned fee land is not entirely clear.

<sup>28</sup> *Water Wheel Camp Recreational Area, Inc. v. LaRance*, 642 F. 3d 802 (9<sup>th</sup> Cir. 2011).

<sup>34</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6207(1).

		<p>-----</p> <p><u>Adjudicatory jurisdiction</u></p> <p>Tribal courts must have both subject matter and personal jurisdiction to have adjudicatory jurisdiction.<sup>29</sup> A tribal court must have legislative or regulatory jurisdiction over non-citizens in matters in question in order to have subject matter jurisdiction in a case involving those non-citizens.<sup>30</sup></p> <p>Tribal courts will have personal jurisdiction over a non-tribal member if the conduct occurs on tribal land and on tribal citizen owned fee land or if the conduct involves at least “minimum contacts” with the tribe.<sup>31</sup></p> <p>-----</p> <p><u>Sovereign immunity</u></p> <p>Tribes enjoy sovereign immunity unless sovereign immunity is waived by the tribe or federal law abrogates immunity. Unless immunity</p>	<p>-----</p> <p><u>Adjudicatory jurisdiction</u></p> <p>The state, rather than the tribes, holds exclusive jurisdiction over violations of tribal ordinances by noncitizens.<sup>35</sup></p> <p>-----</p> <p><u>Sovereign immunity</u></p> <p><b>The Passamaquoddy Tribe, Penobscot Nation</b> and their members “may sue and be sued in the courts of the State to the same extent as any other entity or person in the state</p>	
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<sup>29</sup> *Cohen’s Handbook of Federal Indian Law*, §7.01 at pg. 597 (Neil Jessup Newton ed., 2012).

<sup>30</sup> *Cohen’s Handbook of Federal Indian Law*, §7.01 at pg. 598 (Neil Jessup Newton ed., 2012), citing *Strate v. A-1 Contractors*, 520 U.S. 438, 453 (1997) (“[as] to nonmembers, a tribe’s adjudicative jurisdiction does not exceed its legislative jurisdiction.”).

<sup>31</sup> *Cohen’s Handbook of Federal Indian Law*, §7.02[2] at pg. 604 (Neil Jessup Newton ed., 2012), citing *Int’l Shoe Co v. Washington*, 326 U.S. 310, 316 (1945); See also *Williams v. Lee*, 358 U.S. 217 (1959).

<sup>35</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6206(3).



		has been waived or abrogated, a State cannot sue a tribe, even for cases involving off-reservation conduct. <sup>32</sup>	provided, however, that the respective tribe or nation and its officers and employees shall be immune from suit when the respective tribe or nation is acting in its governmental capacity to the same extent as any municipality or like officers or employees thereof within the State.” <sup>36</sup>	
State	<i>Tribes and tribal citizens.</i>	<p><u>Legislative jurisdiction</u></p> <p>The states generally lack authority to regulate the conduct of tribal citizens on tribal land.<sup>37</sup></p> <p>-----</p> <p><u>Adjudicatory jurisdiction</u></p> <p>The states generally lack authority over tribal citizens on</p>	<p><u>Legislative jurisdiction</u></p> <p>Generally, the State may regulate tribal citizens, including on tribal land.<sup>40</sup></p> <p>-----</p> <p><u>Adjudicatory jurisdiction</u></p> <p>Generally, State laws apply to tribal citizens, including on tribal land.<sup>41</sup></p>	

<sup>32</sup> *Oklahoma Tax Com'n v. Citizen Band Potawatomi Indian Tribe of Oklahoma*, 498 U.S. 505, 509 (“Suits against Indian tribes are thus barred by sovereign immunity absent a clear waiver by the tribe or congressional abrogation”); see also *Kiowa Tribe of Oklahoma v. Mfg. Techs., Inc.*, 523 U.S. 751 (1998); *Cohen’s Handbook of Federal Indian Law*, §7.03[1][a][i] at pg. 607 (Neil Jessup Newton ed., 2012).

<sup>36</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6206(2); the degree to which this clause abrogates sovereign immunity is unclear. Similar language regarding the Houlton Band of Maliseet Indians is not present in the Act. The Micmac Settlement Act also lacks language regarding sovereign immunity. See *Aroostook Band of Micmacs v. Ryan*, 404 F.3d 48, 63 (1<sup>st</sup> Cir. 2005), in which the First Circuit stated that “inherent tribal sovereignty is a federal common law right that preempts contrary state law”. See also *Narragansett Indian Tribe v. Rhode Island*, 449 F.3d 16, 24 (1<sup>st</sup> Cir. 2006) overruling *Aroostook Band of Micmacs v. Ryan*, in which the First Circuit stated that “In our view, both the *Aroostook* panel’s sculpting of the distinction and its ensuing discussion of the scope of tribal sovereign immunity misread the applicable Supreme Court precedents and, thus, are incorrect.”

<sup>37</sup> *Cohen’s Handbook of Federal Indian Law*, §6.03[1][a] at pg. 511 (Neil Jessup Newton ed., 2012).

<sup>40</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6204; See *Great Northern Paper, Inc. v. Penobscot Nation*, 770 A2d 574, 587 (Me. 2001). (“The settlement acts, taken together, memorialized the Tribes’ agreement to that result and gave Congress’s imprimatur to a future in which the Tribes gained clarity of their official status in the eyes of the federal government, while at the same time, the state obtained clarity of its jurisdiction over the Tribes, thus significantly limiting the Tribes’ sovereignty in their interactions with the State of Maine”). See also *Aroostook Band of Micmacs v. Ryan*, 484 F. 3d 41 (1<sup>st</sup> Cir. 2007), in which the court found that the related Aroostook Band of Micmacs Settlement Act did not alter the terms of the MICSA and that as such the Micmacs were not immune to suit based on Maine’s employment discrimination laws.

<sup>41</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 MRSA §6204; See *Great Northern Paper, Inc. v. Penobscot Nation*, 770 A2d 574, 587 (Me. 2001). (“The settlement acts, taken together, memorialized the Tribes’ agreement to that result and gave Congress’s imprimatur to a future in which the Tribes gained clarity of their official status in the eyes of the federal government, while at the same time, the state obtained clarity of its jurisdiction over the Tribes, thus significantly limiting the Tribes’ sovereignty in

		reservations and on tribal-citizen owned fee land. <sup>38</sup>  State courts do not have jurisdiction over claims related to internal tribal self-government. <sup>39</sup>	Tribal courts have exclusive jurisdiction over certain civil actions, child custody proceedings, and other domestic relations matters. <sup>42</sup>	
	<i>Non-tribal citizens</i>	<u>Legislative jurisdiction</u>  Whether the states have regulatory authority over non tribal citizens on tribal land and on tribal-citizen-owned fee land depends on a balancing test, weighing tribal, state and federal interests. <sup>43</sup> ( <i>Bracker</i> test).  ----- <u>Adjudicatory jurisdiction</u>  State assertion of jurisdiction over non-tribal citizens for actions taking place on tribal	<u>Legislative jurisdiction</u>  While the tribes have authority to enact ordinances in some areas, involving hunting and fishing (see chart), that apply to non-citizens, <sup>45</sup> the State has authority to regulate other activities by non-members on tribal land.  ----- <u>Adjudicatory jurisdiction</u>  The State holds exclusive jurisdiction over violations of tribal ordinances by noncitizens. <sup>46</sup>	

their interactions with the State of Maine”). See also *Aroostook Band of Micmacs v. Ryan*, 484 F. 3d 41 (1<sup>st</sup> Cir. 2007), in which the court found that the related Aroostook Band of Micmacs Settlement Act did not alter the terms of the MICSA and that as such the Micmacs were not immune to suit based on Maine’s employment discrimination laws.

<sup>38</sup> *Cohen’s Handbook of Federal Indian Law*, §7.03[1][a][i] at pg. 608 (Neil Jessup Newton ed., 2012); *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 144. (“When on-reservation conduct involving only Indians is at issue, state law is generally inapplicable, for the State’s regulatory interest is likely to be minimal.”)

<sup>39</sup> Canby, William. *American Indian Law in a Nutshell*, 6<sup>th</sup> ed. at pg. 215. (St. Paul, MN: Thomson/West, 2015), citing *Healy Lake Village v. Mt. McKinley Bank*, 322 P.3d 366 (Alaska 2014) and *Cayuga Nation v. Jacobs*, 986 N.Y.S.2d 791 (Sup. Ct. 2014).

<sup>42</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 M.R.S.A. §§ 6209-A, 6209-B, and 6209-C.

<sup>43</sup> *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 144-145 (“More difficult questions arise where, as here, a State asserts authority over the conduct of non-Indians engaging in activity on the reservation. In such cases we have examined the language of the relevant federal treaties and statutes in terms of both the broad policies that underlie them and the notions of sovereignty that have developed from historical traditions of tribal independence. This inquiry is not dependent on mechanical or absolute conceptions of state or tribal sovereignty, but has called for a particularized inquiry into the nature of the state, federal and tribal interests at stake, an inquiry designed to determine whether, in the specific context, the exercise of state authority would violate federal law.”).

<sup>45</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 M.R.S.A. §6207(1).

<sup>46</sup> *An Act to Implement the Maine Indian Claims Settlement*, 30 M.R.S.A. §6206(3).

		land may be preempted by federal law or may infringe on the rights of Indians to make their own laws. <sup>44</sup>		
Federal Government	<i>Tribes and tribal citizens</i>	<p><u>Legislative jurisdiction</u></p> <p>The Indian Commerce Clause gives Congress broad regulatory authority over tribal affairs.<sup>47</sup></p> <p>Federal laws of general applicability are presumed to apply to Indian tribes; however, that presumption may be overcome using the balancing test described in <i>Donovan v. Coeur d'Alene Tribal Farm</i>.<sup>48</sup></p>	<p><u>Legislative jurisdiction</u></p> <p>Laws and regulations of the United States “which are generally applicable to Indians, Indian nations, or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations, or tribes or bands of Indians shall be applicable in the State of Maine, except that no law or regulation of the United States (1) which accords or relates to a special status or right of or to any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, and also (2) which affects or preempts the civil, criminal, or regulatory jurisdiction of the State of Maine, including, without limitation, laws of the State relating to land use or environmental matters, shall apply within the State.”<sup>56</sup></p> <p>“The provisions of any Federal law enacted after the date of enactment of this Act for the benefit of Indians,</p>	

<sup>44</sup> *Cohen’s Handbook of Federal Indian Law*, §7.03[2] at pg. 610 (Neil Jessup Newton ed., 2012), citing *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 142-143.

<sup>47</sup> U.S. Const. art. 1, § 8, cl. 3.

<sup>48</sup> Canby, William. *American Indian Law in a Nutshell*, 6th ed. at pg. 319. (St. Paul, MN: Thomson/West, 2015), citing *Donovan v. Coeur d’Alene Tribal Farm*, 751 F.2d 1113, 1116 (9th Cir.1985). (“A federal statute of generally applicability that is silent on the issue of applicability to Indian tribes will not apply to them if: (1) the law touches “exclusive rights of self-governance in purely intramural matters”; (2) the application of the law to the tribe would “abrogate rights guaranteed by Indian treaties”; or (3) there is proof “by legislative history or some other means that Congress intended [the law] not to apply to Indians on their reservation...””).

<sup>56</sup> 25 U.S.C. § 1725(h).

		<p>Indian nations, or tribes or bands of Indians, which would affect or preempt the application of the laws of the State of Maine, including application of the laws of the State to lands owned by or held in trust for Indians, or Indian nations, tribes or bands of Indians, as provided in this Act and the Maine Implementing Act, shall not apply within the State of Maine, unless such provision of such subsequently enacted Federal law is specifically made applicable within the state of Maine.<sup>57</sup></p> <hr/> <p><u>Adjudicatory jurisdiction</u></p> <p>The role of federal courts in civil cases is limited to matters involving federal questions and to questions involving diversity of citizenship.<sup>49</sup></p> <ul style="list-style-type: none"> <li>• If the matter at hand involves a federal question, that is, a question derived from the Constitution, laws, or treaties of the United States, the federal district courts have jurisdiction.<sup>50</sup></li> </ul>	<p>Indian nations, or tribes or bands of Indians, which would affect or preempt the application of the laws of the State of Maine, including application of the laws of the State to lands owned by or held in trust for Indians, or Indian nations, tribes or bands of Indians, as provided in this Act and the Maine Implementing Act, shall not apply within the State of Maine, unless such provision of such subsequently enacted Federal law is specifically made applicable within the state of Maine.<sup>57</sup></p> <hr/> <p><u>Adjudicatory jurisdiction</u></p> <p>Nothing in the Maine Implementing Act limits federal court jurisdiction.</p>	
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<sup>49</sup> Canby, William. *American Indian Law in a Nutshell*, 6th ed. at pg. 247. (St. Paul, MN: Thomson/West, 2015).

<sup>50</sup> 28 U.S.C. § 1331.

<sup>57</sup> 15 U.S.C § 1735(b)

		<ul style="list-style-type: none"> <li>• It should be noted that diversity of citizenship is not established in cases when one party to a case is an Indian residing on tribal land and the other party is a non-Indian living in the same state because Indians are also citizens of the states in which they live.<sup>51</sup></li> </ul> <p>Civil actions may be brought by tribes regarding matters arising under the Constitution, laws, or treaties of the United States, though the extent of this authority remains in question.<sup>52</sup></p> <p>Federal courts also have jurisdiction over matters involving review of actions by federal agencies.<sup>53</sup></p> <p>Tribal citizens have brought civil rights actions under 28 U.S.C. § 1983 in federal court; a number of other federal laws, including the Federal Tort Claims Act<sup>54</sup>, also allow individual tribal citizens to bring claims in federal court.<sup>55</sup></p>		
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<sup>51</sup> Canby, William. *American Indian Law in a Nutshell*, 6th ed. at pg. 255. (St. Paul, MN: Thomson/West, 2015).

<sup>52</sup> 28 U.S.C. § 1362; *Cohen's Handbook of Federal Indian Law*, §7.04[1][a] at pg. 614 (Neil Jessup Newton ed., 2012), citing *Moe v. Confederated Salish and Kootenai Tribes*, 425 U.S. 463 (1976).

<sup>53</sup> 5 U.S.C §§ 702, 704.

<sup>54</sup> 28 U.S.C. § 1346(b)

<sup>55</sup> *Cohen's Handbook of Federal Indian Law*, §7.04[1][a] at pg. 624 (Neil Jessup Newton ed., 2012).

