Certiorari and Indian Law

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What are Indian tribes?
Indian Law Players in the Supreme Court

- Indian Tribes (565 federally recognized tribes)
- Individual Indians and Indian entities
- States and state subdivisions (counties, etc.)
- United States
- Private parties
Indian Law Outcomes

- 1958-1985 Terms: “Tribal Interests” Prevailed in 55 percent of Supreme Court decisions

- 1986-2010 Terms: “Tribal Interests” Prevailed in 24 percent of Supreme Court decisions
Indian Law
Cert Petitions
1986-2010 Terms (so far)

• 635 Petitions

• 67 Grants

• 11 Percent
State Interest Cert Petitions

- 117 State Interest petitions
- 33 Grants
- 28 Percent
State Interest
Cert Opps

- 4 Percent
- 7 Grants
- 157 Petitions
• 347 Petitions

• 7 Grants

• 2 Percent
- 217 Petitions
- 45 Grants
- 21 Percent
A few comparisons

- **US Cert Petitions**
  - 21 Petitions/14 Grants
  - 70 Percent

- **Private Parties (opposing tribal interests)**
  - 151 Petitions/13 Grants
  - 9 Percent
Federal Influence?

- Federal Petitions Supporting Tribal Interests
  - 4 Petitions
  - 3 Grants

- Federal Petitions Opposing Tribal Interests
  - 15 Petitions
  - 2 Pending
  - 10 Grants
State Interests?

- States are parties to the Constitution
- State governments represent millions of people
- State governments are huge landowners
- State governments enforce criminal laws
- State governments rely upon taxation
Tribal Interests?

- Tribes (usually) are Treaty Signatories
- Tribes are “federally recognized”
- Tribes are constitutional entities (Indian Commerce Clause)
- Tribes represent hundreds/thousands
- Tribes are large landowners (60 million acres)
- Tribes are major economic engines
## States and Tribes Compete

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<th>States</th>
<th>Tribes</th>
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<td>• Tax Revenue from Indian Country</td>
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**States and Tribes Compete**

- **States**: Tax Revenue from Indian Country
- **Tribes**: Tax Revenue from Indian Country
States Compete with Indian Tribes

- Tax Base
- Regulation