

KIRSTEN MATOY CARLSON

Wayne State University Law School

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SSRN: http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=389338

ACADEMIC APPOINTMENTS

Wayne State University Law School: Full Professor (August 2021-present); Associate Professor (August 2016-July 2021); Assistant Professor (August 2011-July 2016, tenure awarded June 2016)

Courses Taught: Civil Procedure A, Civil Procedure B, American Indian Law, Legislation, Legal Change

Service: Law School—Faculty Appointments Committee (2017-2018, 2022-2023); Levin Center Committee (Chair 2015-2016); Damon J. Keith Center Committee (2011-2015, 2016-2017, 2019-2020); Admissions Committee (2016-2019); Scholarship Committee (2013-2015, 2020-2022); Readmissions Committee (Chair 2018-2019, 2022-2023); Student Affairs Committee (2015-2016); Graduate Studies Committee (2011-2014); Legal Research and Writing Committee (2011-2014); Native American Law Students Organization Advisor (2011-2015). *Wayne State University*—University Tenure and Promotion Committee (2022-2023); Career Development Award Committee (2021-2022); Search Committee for Coleman A. Young Chair (2020-2021); University Research Grant Committee (2014-2016)

University of Michigan Law School: Visiting Professor (Fall 2023), teaching Federal Indian Law

Wayne State University College of Liberal Arts and Sciences: Adjunct Professor (August 2021-present); Adjunct Associate Professor (August 2016-July 2021)

University of Minnesota School of Law: Visiting Associate Professor (June 2004-July 2005), teaching Civil Procedure I, Civil Procedure II, and Race and the Law

GRANTS & AWARDS

- ABF/JPB Access to Justice Scholars Program, “Indigenizing Outcomes: Improving Impact Measurement for Indian Legal Services,” (2023-2024)
- Marilyn Williamson Endowed Distinguished Faculty Fellow, Wayne State University Humanities Center, “Indigenizing Outcomes: Improving Impact Measurement for Indian Legal Services” (\$20,000) (2023-2024)
- Law Professor of the Year, First Year, Wayne Law (2023) (selected by students)
- Summer Research Stipend, Wayne Law (\$10,000) (2011-2023)
- Career Development Chair Award, Wayne State University (\$16,500) (2019-2020)
- National Science Foundation Law and Social Science Program, Grant #SES 1353255 (\$249,952), “Legal Mobilization, Rights Claims, and Federal Indian Policy Reform” (2014-2019)
- Inaugural Research Scholar, Carl Levin Center for Oversight and Democracy (\$15,000) (2018-2019)

- Law Professor of the Year, First Year, Wayne Law (2017) (selected by students)
- Outstanding Junior Faculty Award, Academy of Scholars, Wayne State University (2016-2017)
- University Research Grant, Wayne State University (\$9,961) (2014-2015)
- Donald H. Gordon Award for Excellence in Teaching, Wayne Law (2014)
- Early Career Workshop, Law and Society Association (2013)

ARTICLES

Dividing Authority Three Ways: Federal-Tribal-State Relations after Oklahoma v. Castro-Huerta, 53 PUBLIUS: THE JOURNAL OF FEDERALISM 405 (2023) (peer-reviewed) (invited)

Representation, Participation, and Influence: Comparing Native Advocacy with Organized Interests at the Federal Level, THE SOCIAL SCIENCE JOURNAL (2023), DOI: 10.1080/03623319.2023.2215119 (peer-reviewed)

The Democratic Difficulties of Oklahoma v. Castro-Huerta, 45 NEW POLITICAL SCIENCE 239 (2023) (peer-reviewed)

Bringing Congress and Indians Back into Federal Indian Law: The Restatement of the Law of American Indians, 97 WASH. L. REV. 725 (2022)

Beyond Descriptive Representation: American Indian Opposition to Federal Legislation, 7 J. RACE & ETHNIC POLITICS 65 (2022), DOI:10.1017/rep.2021.38 (peer-reviewed)

- *selected for* Politics, Race, Immigration, and Ethnicity Consortium (2018)

Introduction to the Special Issue on Indigenous Politics, 7 J. RACE & ETHNIC POLITICS 1 (2022) (with Richard Witmer and Laura Evans), DOI:10.1017/rep.2022.10

Rethinking Legislative Advocacy, 80 MARYLAND L. REV. 960 (2021)

White Opposition to Native American Sovereignty: Association with “the Casino Indian Stereotype” and Perceived Conflict of Interest, 17 DU BOIS REV. SOCIAL SCIENCE RESEARCH ON RACE 55 (2020) (with Laurel Davis-Delano, Renee Galliher, Arianne Eason, and Stephanie Fryberg) (peer-reviewed)

Lobbying Against the Odds, 56 HARV. J. ON LEGIS. 23 (2019)

- *selected for* the 2018 Harvard/Stanford/Yale Junior Scholar Forum

Lobbying as a Strategy for Tribal Resilience, 2018 BYU L. REV. 1159

Tribute: Judge Murphy’s Indian Law Legacy, 102 MINN. L. REV. 37 (2018)

Making Strategic Choices: How and Why Indian Groups Advocated for Federal Recognition from 1977 to 2012, 51 LAW & SOC’Y REV. 930 (2017) (peer-reviewed)

- *selected for* New Voices in Legislation Program, AALS Section on Legislation and Law of the Political Process (2016)

Congress, Tribal Recognition, and Legislative-Administrative Multiplicity, 91 IND. L.J. 955 (2016)

- *cited in* *Agua Caliente of Cupeno Indians v. Sweeney*, 932 F.3d 1207 (9th Cir. 2019)
- *cited in* Amicus Brief of Indian Law Professors, *Haaland v. Brackeen*, Nos. 21-376, 21-377, 21-378, 21-380 (2022)
- *cited in* Brief for Respondent, *Ysleta Del Sur Pueblo v. Texas*, 142 S. Ct. 1929 (2022) (No. 20-492)
- *cited in* Amicus Brief of Professors and Historians, *Yellen v. Confederated Tribes of the Chehalis Reservation*, 141 S. Ct. 2434 (2021) (Nos. 20-543, 20-544)
- *cited in* Amicus Brief of Federal Courts and Indian Law Professors, *Patchak v. Zinke*, 138 S. Ct. 897 (2018) (No. 16-498)
- *cited in* Amicus Brief for Historical and Legal Scholars, *Nebraska v. Parker*, 577 U.S. 481 (2016) (No. 14-1406)
- *selected for* the 10th Annual Conference on Empirical Legal Studies (out of 340 submissions) (2015)

Congress and Indians, 86 U. COLO. L. REV. 77 (2015)

- *cited in* Amicus Brief of Federal Courts and Indian Law Professors, *Patchak v. Zinke*, 138 S. Ct. 897 (2018) (No. 16-498)
- *cited in* Brief in Opposition, *Massachusetts v. Wampanoag Tribe of Gay Head*, 138 S. Ct. 639 (2018) (Nos. 17-215, 17-216)
- *cited in* Amicus Brief for Historical and Legal Scholars, *Nebraska v. Parker*, 577 U.S. 481 (2016) (No. 14-1406)
- *selected for* Mentoring Indian Law Scholars Workshop at UCLA Law School (2013)
- *selected for* Junior Scholar Forum, University of Toronto Law School (2013)

Political Failure, Judicial Opportunity: The Supreme Court of Canada and Aboriginal and Treaty Rights, 44 AM. REV. CAN. STUD. 334 (2014) (peer-reviewed)

- *reprinted in* F.L. MORTON & D. SNOW (eds.), *LAW, POLITICS AND THE JUDICIAL PROCESS IN CANADA* (4th ed. 2018)
- *selected for* Fulbright-CONNECT Canada Colloquium (2013)

Jurisdiction and Human Rights Accountability in Indian Country, 2013 MICH. ST. L. REV. 355

Priceless Property, 29 GA. ST. UNIV. L. REV. 685 (2013)

Natural Allies: Conservationists, Indian Tribes, and Protecting Native North America, in SARAH KRAKOFF & EZRA ROSSER, EDS., *TRIBES, LAND, AND THE ENVIRONMENT* (2012) (with Robert T. Coulter)

Is Hindsight 20-20? Reconsidering the Importance of Pre-Constitutional Documents, 30 AM. INDIAN L. REV. 1 (2005-2006)

Does Constitutional Change Matter? Canada's Recognition of Aboriginal Title, 22 ARIZ. J. INT'L COMP. L. 449 (2005)

- *distributed to* over 1000 practitioners and scholars at the 2010 Federal Bar Association Indian Law Conference

Note, *Towards Tribal Sovereignty and Judicial Efficiency: Ordering the Defenses of Tribal Sovereign Immunity and Exhaustion of Tribal Remedies*, 101 MICH. L. REV. 569 (2002)

- *cited in* World Fuel Servs. v. Nambe Pueblo Dev. Corp., 362 F. Supp. 3d 1021 (D.N.M. 2019)
- *Second Place*, National Native American Law Students Association Annual Writing Competition

SHORTER SCHOLARLY WORKS

Historic Appointment of Tribal Citizens in Biden Administration May Increase Tribal Participation in Federal Policymaking, FEDERAL LAWYER (March/April 2022)

Federal Lawmaking and Policymaking, in TRIBAL ADMINISTRATION HANDBOOK (Joseph Bauerkemper and Rebecca Webster ed., 2022) (with Tadd Johnson, Wendy Helgamo, and Laura Painter)

Participation in Federal and State Politics, in TRIBAL ADMINISTRATION HANDBOOK (Joseph Bauerkemper and Rebecca Webster, eds. 2022) (with Michael D.O. Rusco and Patrice Kunesch)

Epilogue, in DECOLONIZING PREHISTORY: DEEP TIME AND TOPOLOGICAL KNOWLEDGE IN NORTH AMERICA (Gesa Mackenthun and Christen Mucher, eds. 2021)

Hon. Diana Murphy, U.S. Court of Appeals for the Eighth Circuit, FEDERAL LAWYER (March/April 2020)

Protecting Victims of Domestic Violence in Indian Country: A Look at the Tools Afforded under the Federal Violence Against Women Act and the Current Landscape in Michigan, MICHIGAN FAMILY LAW JOURNAL (February 2020) (with Cameron Fraser and Norika Kida Betti)

Book Review, *American Indian Constitutional Reform and the Rebuilding of Native Nations* (edited by Eric D. Lemont), 27(1) J. AM. ETHNIC HIST. 89 (Fall 2007)

Notice, *Premature Predictions of Multiculturalism?*, 100 MICH. L. REV. 1470 (2002)

MEDIA INTERVIEWS & COMMENTARY

Supreme Court Affirms Congress's Power over Indian Affairs, Upholds Law Protecting Native American Children, THE CONVERSATION (June 15, 2023)

Trump is Facing Various Criminal Charges—Here's What We Can Learn from Legal Cases Against Nixon and Clinton, THE CONVERSATION (January 12, 2023)

Native American Children's Protection Against Adoption by Non-Indian Families is Before the Supreme Court, THE CONVERSATION (November 10, 2022)

Supreme Court Reversed Almost 200 Years of US Law and Tradition Upholding Tribal Sovereignty in its Latest Term, THE CONVERSATION (July 21, 2022) (over 175,000 reads)

Interviewed by April Bauer, *How a U.S. Supreme Court case out of Oklahoma Could Impact Michigan's Tribal Communities*, Stateside Podcast, Michigan Public Radio (July 19, 2022)

Oklahoma State Officials Resist Supreme Court Ruling Affirming Tribal Authority over American Indian Country, THE CONVERSATION (April 8, 2022) (30,884 reads)

Supreme Court Rejects Trump's Blocking of Jan. 6 Ruling: Three Takeaways, THE CONVERSATION (January 20, 2022) (reprinted in DETROIT LEGAL NEWS, January 26, 2022) (31,921 reads)

Steve Bannon Faces Criminal Charges over Jan. 6 Panel Snub, Setting Up a Showdown over Executive Privilege, THE CONVERSATION (October 14, 2021) (15,872 reads)

Bay Mills President's Indian Affairs Appointment Will Transform Relationships, DETROIT FREE PRESS (Sept. 18, 2021)

House Committee Investigating Capitol Insurrection has a Lot of Power But It's Unclear It Can Force Trump to Testify, THE CONVERSATION (August 3, 2021) (7,482 reads)

Supreme Court Affirms Tribal Police Authority over Non-Indians, THE CONVERSATION (June 3, 2021) (21,686 reads)

Interviewed by Jeff Inglis, *Impeaching a Former President – 4 Essential Reads*, THE CONVERSATION (February 5, 2021) (7,698 reads)

Federal Leaders Have Two Options if They Want to Rein In Trump, THE CONVERSATION (January 8, 2021) (13,378 reads)

Supreme Court Upholds American Indian Treaty Promises, Orders Oklahoma to Follow Federal Law, THE CONVERSATION (July 10, 2020) (60,874 reads)

Interviewed by Brian Standing, *8 O'Clock Buzz: U.S. Supreme Court Upholds Treaty Rights*, Wort FM Community Radio, Madison, WI (July 29, 2020)

Tribal Leaders Face Great Need and Don't Have Enough Resources to Respond to the Coronavirus Pandemic, THE CONVERSATION (March 25, 2020) (7,752 reads)

Reports of the Death of Congressional Oversight Are Greatly Exaggerated, THE CONVERSATION (March 17, 2020) (5,643 reads)

Indian Country Leaders Urge Native People to be Counted in 2020 Census, THE CONVERSATION (March 11, 2020) (22,954 reads)

Well, Impeachment Didn't Work—How Else Can Congress Keep President Trump in Check?, THE CONVERSATION (Feb. 14, 2020) (52,606 reads)

Interviewed by Chuck Stokes, Spotlight on the News: A scholarly look at the Trump Impeachment Trial, WXYZ ABC Detroit (Jan. 26, 2020)

Precedent? Nah, the Senate Gets to Invent its Rules in Every Impeachment, THE CONVERSATION (Jan. 23, 2020) (17,105 reads)

Interviewed by Scott Simon, Weekend Edition: The Power of a Subpoena, National Public Radio (Dec. 14, 2019)

Donald Trump's Refusal to Comply with Congress Means Supreme Court May Have to Referee, NEWSWEEK (Dec. 8, 2019)

Courts Have Avoided Refereeing between Congress and the President, But Trump May Force Them to Wade In, THE CONVERSATION (Dec. 6, 2019) (52,927 reads) (republished by THE FULCRUM)

Impeachment: Two Quotes that Defined the First Day of Public Hearings, THE CONVERSATION (Nov. 13, 2019) (29,189 reads)

Protect American Indians, THE DETROIT NEWS (Dec. 7, 2017) (republished by SCOTUSblog)

SELECTED PRESENTATIONS AND CONFERENCES

Panel Presentation, "The Devil is in the Details: How Advocates Influence Legislative Lawmaking," Law and Society Annual Conference, San Juan, Puerto Rico, June 2023

Invited Presentation, "Indigenizing Outcomes: Improving Impact Measurement for Indian Legal Services," Global Indigenous Access to Justice Conference, Arizona State University, February 2023

Invited Presentation, "Federal Legislation and American Indian Advocacy," University of Washington's 34th Annual Indian Law Symposium, April 2022

Invited Presentation, "A Discussion of *Firekeeper's Daughter* and Domestic Violence and Criminal Jurisdiction on Tribal Land," Michigan Indian Legal Services, October 2021

Panel Presentation, "Diplomacy as Representation: Congress, Indian Nations, and Legislative Success," American Political Science Association Annual Meeting, September 2021

Invited Presentation, "Who is Indigenous in BIPOC?," American Bar Association Civil Rights and Social Justice Section, April 2021

Invited Presentation, "Emerging Research from the Field of Indigenous Politics," American Political Science Association Annual Meeting, September 2020

Invited Presentation, "The Mueller Grand Jury Case," Emerging Case Law on Congressional Oversight, The Levin Center at Wayne Law, Washington, D.C., January 2020

Invited Presentation, “Opportunities for Established and Emerging Scholars,” Indigenous Political Science Short Course, American Political Science Association Annual Meeting, Washington, D.C., August 2019

Panel Presentation, “Opposition as Influence: American Indian Opposition to Federal Legislation,” Law and Society Annual Meeting, Washington, D.C., May 2019

Invited Presentation, “Judge Murphy’s Indian Law Legacy,” Memorial Court Session, U.S. Court of Appeals for the Eighth Circuit, St. Paul, MN, October 2018

Invited Presentation, “Lobbying Against the Odds,” Yale/Stanford/Harvard Junior Faculty Forum, Harvard Law School, Cambridge, MA, June 2018

Invited Presentation, “Opposition as Influence: Indian Advocacy Against Federal Legislation,” Politics, Race, Immigration, and Ethnicity Consortium, University of New Mexico, Albuquerque, NM, May 2018

Invited Presentation, “Congress and Tribal Institution Building,” J. Reuben Clark Law School, Brigham Young University, March 2018

Invited Presentation, “American Indian Legislative Advocacy,” Academy of Scholars, Wayne State University, Detroit, MI, April 2017

Panel Presentation, “Mobilizing the Law Legislatively,” Midwest Law and Society Retreat, University of Wisconsin Law School, Madison, WI, November 2016

Panel Presentation, “Tribes Lobbying Congress: Who Wins and Why,” 13th Annual Indigenous Law Conference and Tribal In-House Counsel Association Conference, Michigan State University Law School, East Lansing, MI, November 2016

Invited Presentation, “Gambling on Congress: Indian Nations’ Federal Recognition Strategies,” American Association of Law Schools Annual Meeting, Section on Legislation and Law of the Political Process New Voices in Legislation Program, New York, NY, January 2016

Invited Presentation, “Congress, Tribal Recognition, and Legislative-Administrative Multiplicity,” 10th Annual Conference on Empirical Legal Studies, St. Louis, MO, October 2015

TESTIMONY

Invited Written Testimony on H.R. 3744, a Bill to Provide that an Indian Group May Receive Federal Acknowledgment as an Indian Tribe Only by Act of Congress, before the Subcommittee on Indian, Insular, and Alaska Native Affairs, Natural Resources Committee, United States House of Representatives, 115th Congress, Sept. 26, 2017

SERVICE

American Association of Law Schools—Law and Anthropology Section: Board Member (2013-2017); Chair (2015-2016)

American Association of Law Schools—Law and Social Science Section: Executive Board Member (2016-2017)

American Indian Health and Family Services: Board Member (2014-2017)

American Indian Quarterly: External Reviewer (2008-present)

Journal of Race, Ethnicity, and Politics—Co-Editor, Special Issue on Indigenous Politics: 2020-2022 (with Rick Witmer & Laura Evans)

Law & Society Association—Law and Social Movement Collaborative Research Network: Member (2018-present)

Law & Society Review: External Reviewer (2009-present)

Law & Social Inquiry: External Reviewer (2009-present)

Michigan Indian Legal Services: Board Member (2021-present)

National Science Foundation Law and Social Science: External Reviewer (2016-present)

Publius: External Reviewer (2020-present)

State Bar of Michigan—American Indian Law Committee: Member (2013 to present)

State Bar of Michigan—American Indian Law Section: Council Member (2010-2014); Secretary (2010-2012)

EDUCATION

University of Michigan, Department of Political Science—Ph.D (2007)

- *Recipient*—National Science Foundation Law and Social Science Program, Doctoral dissertation grant # SES 0416409 (PI Donald Herzog) (\$15,000), “Doctoral Dissertation Research: Do Constitutions Matter? Assessing the Impacts of the Constitutional Recognition of Aboriginal Rights in Canada” (2004-2007)
- *Participant*—Graduate Student Workshop, Law and Society Association (2006)
- *Participant*—Institute for Qualitative and Multi-Method Research (2006)
- *Recipient*—Rackham Merit Fellowship (2000-2007)
- *Recipient*—Lowenstein Dissertation Grant (2005-2006)

University of Michigan Law School—J.D. *cum laude* (2003)

- *Recipient*—Henry J. Ramsey Diversity Award, American Bar Association (2003)
- *Recipient*—Jane L. Mixer Memorial Award for promoting social justice in the law (2003)
- *Recipient*—S. Anthony Benton Memorial Award for outstanding constitutional law scholarship (2003)
- *Recipient*—2L of the Year, National Native American Law Students Association (2002)

- *Recipient*—Ogichidaa Award for NALSA leadership (2002)
- *Recipient*—Bates Overseas Travel Fellowship (2002)
- *Recipient*—Foreign Language Area Studies Fellowship (2001-2002)
- *Recipient*—Professor and Mrs. Burke Shartel Scholarship (1999-2000)
- *Contributing Editor*—MICHIGAN LAW REVIEW (2000-2002)

Victoria University of Wellington, Te Kawa a Maui—M.A. *with Distinction* (Maaori Studies) (1999); B.A. Honours, *First Class* (Maaori Studies) (1998)

- *Fulbright Scholar*—New Zealand-United States Educational Foundation (1998-1999)

The Johns Hopkins University—B.A. *with Honors* (International Studies) (1997)

- *Phi Beta Kappa*

OTHER LEGAL EXPERIENCE

Indian Law Resource Center, Helena, MT—Staff Attorney (2007-2011)

U.S. Court of Appeals for the Eighth Circuit, Minneapolis, MN—Law Clerk to the Honorable Diana E. Murphy (2003-2004)

Sonosky, Chambers, Sachse, Endreson and Perry, Washington, D.C.—Summer Associate (2001, 2002)

BAR MEMBERSHIPS

Michigan State Bar Association, 2003-present

U.S. Court of Appeals for the Eighth Circuit, 2004-present