

## Indian Law Bar Exam Question – Sample #1

John Blue Elk is a member of the Rosebud Sioux Tribe and a lifelong resident of the Rosebud Sioux Reservation in south central South Dakota. He resides on his 1,500 acre ranch, all of which is Indian trust land and is located completely within the exterior boundaries of the Reservation. One of his neighbors is Daniel Johnson, who is a non-Indian and resides on his adjoining 1,500 acre ranch, all of which is fee land and which is located completely within the exterior boundaries of the Rosebud Sioux Reservation.

Mr. Blue Elk is embroiled in a long-standing dispute with Mr. Johnson over the proper boundaries separating their two ranch properties. Mr. Blue Elk asserts that Mr. Johnson has often trespassed on parts of his ranch (all land held in trust by the United States for Mr. Blue Elk) and destroyed fences and farm machinery in the process.

Both the Blue Elk and Johnson parcels abut State Highway 27, which is a state highway running through the Rosebud Sioux Reservation. Highway 27 is located on Rosebud Sioux Tribal trust land, but the Tribe granted the State of South Dakota a 100-year right-of-way back in 1970.

A large 18-wheel cattle truck owned by the Long Rider Cattle Company collided with a pickup truck owned and operated by John Blue Elk. The collision took place on State Highway 27 located wholly within the exterior boundaries of the Rosebud Sioux Reservation. The Long Rider Cattle Company is incorporated under the state laws of South Dakota. The company is owned solely by Mr. Vince Forbert, who is a non-Indian resident of Rapid City, South Dakota, which is located outside the boundaries of the Rosebud Sioux Reservation. Mr. Forbert was not transacting any business on the Reservation. He was simply driving back to Rapid City after attending a stock show in Sioux Falls, South Dakota.

Mr. Blue Elk has filed a civil lawsuit in the Rosebud Sioux Tribal Court against Mr. Johnson and a second civil lawsuit against Mr. Forbert and Long Rider Cattle Company. Both lawsuits sound in tort and seek money damages. Counsel for both defendants have filed motions to dismiss for lack of subject matter jurisdiction. How should the Tribal Court Judge rule on each of the motions, and why?