ABSTRACT

Historical narratives about Native Americans are often used in law and litigation. Although there is a substantial literature on the historiography of Native American/Euro American contact, it is not widely relied on by lawyers in their presentation of historical issues for trial. This research investigates the ways in which Native American historical subjects and stories have been presented, in history, for the purpose of resolving legal disputes. It is specifically concerned with (1) the ways in which historical accounts about Native Americans rely on stereotype, whether consciously or unconsciously, as a rhetorical explanatory framework, and (2) the ways in which the selection of data contribute to the fashioning of rhetorical frameworks in the writing of historical narratives. Finally, this research investigates an aboriginal land title problem involving the Mashpee Wampanoag Tribe of Mashpee, Massachusetts. The purpose of examining the Mashpee land dispute is to offer an example of how explanatory frameworks and
methodologies in the field of federal Indian law need not be dependent on the rhetoric of tragedy or stereotype. This research adds to previous legal studies about Native American historical narratives in that it does not assume that Native American cultures are irreconcilably different from the broader American' culture in which they exist.