

## 33RD ANNUAL FEDERAL BAR ASSOCIATION INDIAN LAW CONFERENCE

### IDENTITY IN FLUX: CHALLENGING OUTSIDER DEFINITIONS OF TRIBALISM

Federal institutions actively shape many aspects of modern Indian identity in a variety of ways, such as defining tribal actions as “governmental” or “commercial” in nature or by connecting tribal jurisdiction with the extent to which tribal institutions mirror the practices of non-Indian institutions. The 2008 Federal Bar Association Indian Law Conference will examine these issues through discussions on tribal finance, labor concerns in Indian Country, tribal courts, Indian energy policy, and the future of plenary power in the legislative arena, for example, recognition of Native Hawaiians. On the other hand, federal inaction also shapes Indian identity and impacts how tribal people define themselves. In that vein, the 2008 Conference will offer discussions on the loss of traditional homelands due to rapid climate change impacts on Alaskan Native lands and on tribal fisheries, as well as international efforts on behalf of indigenous peoples, including analysis of the adoption of the Declaration on the Rights of Indigenous Peoples. The Conference also will feature a historical review of major Indian law decisions and legislation, “The Federal Government Giveth and It Taketh Away,” marking the 30th, 40th, and 100th anniversaries (*Oliphant*, *Santa Clara Pueblo*, *Wheeler*, ICWA, IGRA, ICRA, *Winters*), as well as forecasts for the continuing future impact of the doctrines they espouse. A Conference ethics panel will address ethical issues surrounding lobbying and federal legislative efforts impacting Indian tribes.

#### Wednesday April 9

1-6 p.m. NNABA Meeting  
4-6 p.m. Registration  
6-8p.m. Reception sponsored by NNABA  
7 p.m. NNALSA Dinner

#### Thursday, April 10

7 a.m. Registration

#### 8-8:30 a.m. Welcoming Remarks/Conference Opening

- D. Michael McBride III, President, Federal Bar Association Indian Law Section
- Jack Lockridge, Executive Director, Federal Bar Association
- James S. Richardson, Sr., Federal Bar Association President
- Jennifer Weddle, Chair, 2008 Federal Bar Association Indian Law Conference

8:30 -10 a.m. **Plenary 1 “Use What Your Ancestors Gave You: Tribal Court Judges’ Reflections on Modern Indian Identity”** (Natalie Landreth, Moderator)

Presenters:

- Judge Joseph Flies-Away, Hualapai Tribal Court, Peach Springs, Arizona

- Mike Jackson, Keeper of the Circle, Organized Village of Kake, Kake, Alaska
- Chief Judge Eugene White-Fish, Forest County Potawatomi Tribal Court; President, National American Indian Court Judges Association, Crandon, Wisconsin
- Chief Justice Herb Yazzie, Navajo Nation Supreme Court, Window Rock, Arizona

10-10:15 Break

10:15-11:45 a.m. **Plenary 2: “Governmental, Commercial, or Political: What’s the Right Label for Tribal Labor & Employment Issues?”** (D. Michael McBride III, Moderator)

Presenters:

- Dawn Baum, Native American Rights Fund, Washington, D.C.
- Peter Schaumber, Member, National Labor Relations Board, Washington, D.C.
- Phillip B. Wilson, Labor Relations Institute, Inc., Tulsa, Oklahoma

12:15-1:30 - **Lunch Plenary: “The Federal Government Giveth and It Taketh Away: The Indian Law Super Heroes Hall of Justice Take on the Anniversaries of Significant Indian Law Cases and Legislation”** (Jennifer Weddle, Moderator)

Presenters:

- Lawrence Baca, Howard Law School, retired Deputy Director, Office of Tribal Justice, United States Department of Justice, Washington, D.C.
- Prof. Robert Clinton, Arizona State University Sandra Day O’Connor School of Law, Phoenix, Arizona
- Sam Deloria, Director, American Indian Graduate Center, Inc., Albuquerque, New Mexico
- Judge Anita Fineday, White Earth Tribal Court, White Earth, Minnesota
- Prof. Gloria Valencia-Weber, University of New Mexico School of Law, Albuquerque, New Mexico
- Prof. Kevin Washburn, University of Minnesota School of Law/Visiting Professor, Harvard Law School, Cambridge, Massachusetts
- Susan Williams, Williams & Works, Corrales, New Mexico

1:30 - 2 Break

2 - 3:30 p.m. **Plenary 3: “Innovations in Tribal Commercial Law”** (Matthew Fletcher, Moderator)

Presenters:

- Terry L. Anderson, Executive Director, Property & Environment Research Center, Bozeman, Montana
- Prof. Robert Odawi Porter, Syracuse University School of Law, Attorney General for the Seneca Nation, Syracuse, New York

- Prof. Wenona Singel, Michigan State University College of Law, East Lansing, Michigan

3:30-3:45 Break

3:45 - 5:15 p.m. **Plenary 4: “Sovereignty as an Asset: Re-defining Tribal Identity through Economic Development”** (Patrice Kunesh, Moderator)

Presenters:

- Robert Gips, Drummond, Woodsum & MacMahon, Portland, Maine
- Mark Jarboe, Dorsey & Whitney LLP, Minneapolis, Minnesota
- Steve McSloy, Hughes Hubbard & Reed LLP, New York, New York

6:15 Depart for Dinner at Indian Pueblo Cultural Center

### **Friday, April 11**

7 a.m. Registration

8:30-10 a.m. **Plenary 5: “Facing the Consequences of Climate Change in the Absence of Governmental Action”** (Natalie Landreth, Moderator).

Presenters:

- Billy Frank, Chairman, Northwest Indian Fisheries Commission, Nisqually Tribe, Olympia, Washington
- Heather Kendall Miller, Native American Rights Fund, Anchorage, Alaska
- Stanley Tom, Tribal Administrator, Newtok Village, Alaska
- Dr. Daniel Wildcat, Director, American Indian and Alaskan Native Climate Change Working Group

10-10:15 Break

10:15 - 11:45 **Plenary 6 : “The Importance of What Lies Beneath: The Push for Tribal Energy”** (Jennifer Weddle, Moderator).

Presenters:

- Scot Anderson, Davis Graham & Stubbs LLP, Denver, Colorado
- Curtis Cesspooch, Chairman, Ute Indian Tribe of the Uintah and Ouray Reservation, Ft. Duchesne, Utah
- Catherine Freels, Program Analyst, Office of Indian Energy and Economic Development, United States Department of the Interior, Albuquerque, New Mexico
- Steven Morello, Director of Office of Indian Energy Policy and Programs, United States Department of Energy, Washington, D.C.

10:15 - 11:45 ---> Concurrent Focus Group Sessions

**Focus Group A: “Indian Probate Resources in a World of Ever-Changing Regulations: What Does AIPRA Mean This Month?” (Doug Nash, Moderator -- Director of the Institute for Indian Estate Planning and Probate at the Seattle University School of Law, Seattle, Washington)**

Presenters:

- Cecilia Burke, Deputy Director of the Institute for Indian Estate Planning and Probate at the Seattle University School of Law, Seattle, Washington
- Patricia McDonald-Dan, Administrative Law Judge, Office of Hearings and Appeals, United States Department of the Interior, Albuquerque, New Mexico
- Michelle Singer, Director, Office of Regulatory Management, Indian Affairs, United States Department of the Interior, Washington, D.C.
- Earl Waits, Chief Judge, Office of Hearings and Appeals, United States Department of the Interior, Arlington, Virginia

**Focus Group B: “What Tribes Need To Do Now On Labor To Protect Their Jurisdiction” (Round Table)**

Presenters:

- Dawn Baum, Native American Rights Fund, Washington, D.C.
- Kaighn Smith, Drummond, Woodsum & MacMahon, Attorneys at Law, Portland, Maine

**Focus Group C: “Indian Child Welfare Act: 30 Year Update” (Matthew Fletcher, Moderator)**

Presenters:

- B.J. Jones, Chief Justice of the Turtle Mountain Tribal Court of Appeals and Judge, various tribal courts, University of North Dakota School of Law, Grand Forks, North Dakota
- Judge Michael Petoskey, Retired Chief Judge for the Little Traverse Bay Bands of Odawa Indians and retired Chief Judge for the Grand Traverse Band of Ottawa and Chippewa Indians, Peshawbestown, Michigan
- Jill Tompkins, Director, American Indian Law Clinic, University of Colorado School of Law, Boulder, Colorado
- Mark Tilden, Native American Rights Fund, Boulder, Colorado

**Focus Group D: “Fundamentals of Tribal Finance: Lawyers’ Edition” (Round Table)**

Presenters:

- Prof. Gavin Clarkson, University of Michigan School of Information/School of Law, Ann Arbor, Michigan
- Townsend Hyatt, Orrick, Herrington & Sutcliffe LLP, San Francisco, California
- Derrick Watchman, Native American Finance Officers Association/J.P. Morgan Chase, Phoenix, Arizona

11:45 - 12:15 Break

**12:15-1:30 Lunch Program**

(A) “*The Outlook for the Use of International Norms to Advance Native Rights*,” Prof. S. James Anaya, University of Arizona James E. Rogers College of Law, Tucson, Arizona

(B) **Presentation of Awards**, D. Michael McBride III

1:30-2 Break

**2-3:30 Plenary 7: “Ethical Considerations of Using Plenary Power in the Legislative Arena”** (Patrice Kunesch, Moderator)

Presenters:

- Shenan Atcitty, Holland & Knight LLP, Washington, D.C.
- Mona Bernardino, Deputy Administrator for Beneficiary, Advocacy, and Empowerment, Office of Hawaiian Affairs, Honolulu, Hawaii
- Allison Binney, Staff Director and Chief Counsel for the Senate Committee on Indian Affairs, Washington, D.C.
- Wilson Pipestem, Ietan Consulting, LLC, Washington, D.C.
- Patricia Zell, Zell and Cox Law, P.C., Washington, D.C.

3:30-3:45 Break

**3:45 - 5:15 Plenary 8: “Revisiting Civil Rights in Indian Country Four Decades after the Indian Civil Rights Act”** (Matthew Fletcher, Moderator)

Presenters:

- Dennis Chappabitty, Attorney at Law, Sacramento, California
- Richard Hughes, Rothstein, Donatelli, Hughes, Dahlstrom, Schoenburg & Bienvenu LLP, Santa Fe, New Mexico
- Tova Indritz, Tova Indritz Law Firm, Albuquerque, New Mexico
- Prof. Angela Riley, Southwestern Law School, Los Angeles, California
- Chadwick Cornthassel Smith, Principal Chief, Cherokee Nation