



Phone (360) 466-3163

Fax (360) 466-5309

# Swinomish Indian Tribal Community

A Federally Recognized Indian Tribe Organized Pursuant to 25 U.S.C. § 476

11404 Moorage Way

LaConner, Washington 98257-0817

September 13, 2010

President Salvador A. Mungia  
Bar Admissions Task Force  
WSBA Board of Governors  
c/o Paula C. Littlewood, Executive Director  
1325 4<sup>th</sup> Avenue, Suite 600  
Seattle, WA 98101-2539

Dean Kellye Y. Testy  
University of Washington School of Law  
William H. Gates Hall  
Box 353020  
Seattle, WA 98195-3020

Dean Earl F. Martin  
Gonzaga University School of Law  
P.O. Box 3528  
Spokane, WA 99220-3528

Dean Annette Clark  
Seattle University School of Law  
P.O. Box 222000  
Seattle, WA 98122-1090

Re: Support for Maintaining Indian Law on Washington State Bar Exam

Dear President Mungia, Bar Admissions Task Force Members and Deans Testy, Martin & Clark:

I am the Chairman of the Swinomish Indian Tribal Community, located in the north Puget Sound and President of the Association of Washington Tribes, a consortium of the 29 federally recognized tribal government in Washington, and the President of the Affiliated Tribes of Northwest Indians (ATNI), an organization of 57 tribes from Oregon, Idaho, Washington, southeast Alaska, Northern California and Western Montana. As a Tribal Senator for 25 years, and Chairman for 14 years and as the President of the largest regional tribal government organization in the United States, I write to encourage you to maintain federal Indian law as a topic tested on Washington's bar examination, and to refrain from relegating the topic to any alternative form of testing.

In 2004, I was very pleased to be an active part of the movement that resulted in the inclusion of federal Indian law on our state's bar exam. My tribe engaged the State Bar – for the first time ever – through our local Governor, Eron Berg, to answer questions he had about Indian law and tribal-state relations and to convey our support for the proposal to include Indian law on the exam.

Also in 2004, ATNI's 57 member tribes formally resolved to support the State Bar's Indian Law Section and Northwest Indian Bar Association in "their endeavor to have the topic of Indian law tested by state bar associations, so the American public can better understand the inherent sovereign rights of our Indian nations."

The enclosed resolution went on to state that "if attorneys for the American public, particularly federal, state and local government, better understood the legal concepts of Tribal self-governance and Tribal jurisdiction, there would be fewer disputes and government- to-government dialogue would be greatly enhanced." I and my tribal leader colleagues are very pleased that since the State Bar Governors resolved to test federal Indian law on our state's exam, we have begun to see a noticeable change in understanding and attitude among the public and private legal practitioners we interact with on a routine basis. We tribal leaders and our lawyers now spend less time in discussions with other governmental leaders and lawyers having to lay the foundation of tribal sovereignty and jurisdiction. The role of tribes in the governmental structure of our nation seems to be both better understood and accepted. This often allows us to get on with discussing the substance of our differences, so we can work towards agreement and consensus with the state and local governments as well as private entities. That benefits the all of our Tribes' and our State's citizens.

In the Spring of 2005, I vividly recall attending a celebration of the Board of Governors' decision to include Indian law on our State's bar exam, at Seattle University Law School. I remember visiting with the late Prosecutor Norm Maleng, U.S. Attorney John McKay, Indian legend Billy Frank, Jr., and many of my fellow Tribal Chairman. I remember that Governor Christine Gregoire and Attorney General Rob McKenna each supported the addition of Indian law on the exam. Having fished all my life and recalling the "fish wars" from when I was a young man, I remember reflecting on how far tribal-state relations had come in my lifetime. The inclusion of Indian law on the bar exam has an impact that goes far beyond the obvious practical implications. It speaks to the role that Tribal governments play in the family of governments in our state and in the Nation.

I remember how overjoyed Washington Indian Country was in 2004-05 as news of the State Bar's new bar exam policy spread. To this day, our tribal communities are so very proud of the fact that the laws impacting them and the people they deal and interact with on a day to day basis, are now a part of the fabric of Washington State's legal profession and the education of new lawyers.

Because Native Americans have been facing legal struggles since the 1850s – struggles for United States citizenship, for voting rights, for religious freedoms, for our Treaty fishing rights, for our land, for our very sovereignty – the bar exam is perceived by Indians as one of the highest professional barriers that can be vaulted. Our members frequently attend law school for the specific purpose of practicing Indian law. When a tribal member passes the bar exam, the entire tribe celebrates because it is a momentous achievement for that individual, his or her family, and the entire tribal community. The inclusion of Indian law on our State's bar exam only made the bar exam more iconic in the eyes of Indian Country. It made tribal members feel like the Anglo-American and State justice system was finally relevant to their way of life.

Returning to the topic of today, I understand you are considering streamlining the bar exam to make it more cost-effective to administer and to that end, considering adopting a uniform bar exam that does not include federal Indian law and/or moving Indian law to an orientation or practicum for new lawyers.

While our tribal governments can certainly appreciate the need for a more cost-effective mode of service delivery during this global recession, Indian law is too important a topic to be eliminated or relegated to something other than the State bar exam. Federal Indian law is right where it belongs: on the Washington State bar exam and at the forefront of the minds of our State's lawyers and the hearts of Washington's tribal citizens. I am pleased to have learned that Washington State's Attorney General Rob McKenna agrees and has indicated as much to President Mungia.

Thank you kindly for taking the time to consider my thoughts and opinions. Should any of you wish to speak with me, please do not hesitate to call me about this important issue.

With Respect,

A handwritten signature in cursive script that reads "Brian Cladoosby".

Brian Cladoosby  
Chairman, Swinomish Indian Tribal Community  
Chairman, Association of Washington Tribes  
President, Affiliated Tribes of Northwest Indians

cc: Professor Ron Whitener, Chair, WSBA Indian Law Section  
Michael Douglas, President, Northwest Indian Bar Association  
Gabriel Galanda, Chair, Indian Law on State Bar Exam Project,  
National Native American Bar Association