

Michigan Indian Legal Services, Inc.

MILS REVIEW

Providing civil legal services to low-income Indian individuals and tribes to further self-sufficiency, overcome discrimination, assist tribal governments and preserve Indian families.

LETTER FROM THE PRESIDENT by John R. Runyan, Jr.

In this issue of MILS Review, I would like to introduce you to Elaine Barr and Douglass McIntyre, attorneys recently hired to one-year fellowships with MILS.

Elaine Barr



Elaine is a citizen of the Eastern Band of Cherokee Indians and grew up in Jackson, Michigan, an area of the state that has become fertile source for MILS employees. She completed a Bachelors degree in Political Science at the University of Michigan in two years, a remarkable accomplishment, graduating with honors in 2008. Elaine

then attended Michigan State University College of Law, where she served as Chapter President of National Native American Law Students Association (NALSA) and was an oralist in NALSA's Moot Court Competition.

While attending law school, Elaine served as a law clerk at MILS during the summer of 2011. Following graduation from law school and certification in Indigenous law, Elaine was the 2011-2012 Legal Fellow at the Indigenous Law and Policy Center, located at MSU.

During her spare time, Elaine is an avid runner. She completed the Ann Arbor Marathon this past summer and is preparing for the Mackinac Island half marathon to be held in October. She entered both races for the purpose of raising money for multiple sclerosis research.

Douglass Alexander McIntyre



Doug is a member of the Oneida Nation of Wisconsin and was born and raised in Garden City, Michigan, where he graduated from high school with honors. Both his undergraduate and law degrees were obtained from Wayne State University.

Doug graduated with dual bachelor's degrees in History and Psychology in 2009 and obtained his juris doctor degree from Wayne State Law School earlier this year.

While in law school, Doug founded the Native American Law Student Society and served as its President during 2011-2012. During the same time period, he also served as the student representative to the American Indian Law Section of the State Bar of Michigan. During law school, Doug also clerked for Washtenaw Circuit Court Judge Timothy P. Connors, an experience which he calls his "most career-shaping legal experience."

In his spare time, Doug enjoys writing short stories, and screenplays, one of which we hope will some day grace the pages of this newsletter. Prior to relocating to Traverse City, he also started and ran a "wallyball" league in Westland, Michigan.

We are lucky to be joined by two "fellows" with such distinguished resumes at such a formative stage of their careers. Welcome Elaine and Doug!

MILS EXECUTIVE DIRECTOR JIM KEEDY COMPLETES A QUARTER CENTURY OF SERVICE

In 1987, the average cost of a gallon of gas was 89 cents. “Dirty Dancing” was showing at movie theaters and the Simpsons was seen on television for the first time. Ronald Reagan was President of the United States and Margaret Thatcher was re-elected as Prime Minister of the United Kingdom.

That was the same year that a young man from Cement City, Michigan began working for MILS as a Staff Attorney. Although he didn’t actively seek the position, Jim Keedy was promoted to Executive Director the following year.

Jim’s tenure with MILS has been notable not only for its longevity but because he has done so much to stabilize its funding and to develop its technology. When Jim started with MILS, it had only been a LSC recipient for two years and had not yet begun to receive either IOLTA funds or state court filing fees. Through Jim’s efforts, MILS’ funding sources have also grown to include Community Service Block Grants, Bureau of Justice Assistance/Native American Rights Fund Grants, as well as funds from contractual work performed for tribes and the Family Independence Agency.

The staff of MILS has also grown – from an Executive Director and two attorneys when Jim was hired – to today’s complement of six employees, including the Executive Director, Deputy Director, two Attorney Fellows and two legal or administrative assistants.

Jim has also been largely responsible for assuring that technologically speaking, MILS does not take a back seat to any other legal services organization. At the same time, Jim has kept his hand in a variety of legal matters of critical importance to the Native American community – from federal recognition to the Indian Child Welfare Act.

For all of this and your quarter century of dedicated, self-less service, we say, thank you, Jim Keedy.



James A. Keedy

MICHIGAN INDIAN LEGAL SERVICES MAKES A DIFFERENCE

An MILS attorney drafted a motion for a client appearing pro se in a Tribal court to have her sentence reconsidered after pleading guilty to a criminal charge in tribal court. The client convinced the court to amend her sentencing order.

On behalf of a tribal member, an MILS attorney drafted a petition to amend the tribal constitution and provided the tribal member with information on the IRA election process.

An MILS attorney has been working with a group under the American Indian Law Section and the American Indian Law Committee of the State Bar to propose the adding of Federal Indian law to the Michigan state bar examination.

An MILS attorney successfully negotiated the return of a tribal member’s Michigan Indian Land Claims Settlement Act payment after the moneys had been confiscated by local police.

An MILS attorney drafted two Lady Bird deeds on behalf of a tribal elder.

An MILS attorney was able to obtain reinstatement of food assistance program moneys to a tribal member whose benefits had been incorrectly suspended because of his annual payments under the Michigan Indian Land Claims Settlement Act.

On behalf of a tribal elder, an MILS attorney successfully convinced a tribal court to set aside a default judgment and a negotiated settlement was reached.

An MILS attorney helped a tribal elder draft a durable power of attorney.

On behalf of a tribal elder, MILS helped the elder with a consumer law dispute and convinced the computer repair company to return and set up her computer and work with her on a payment plan for services.

MILS attorneys helped a tribal member recoup double her security deposit through a judgment in the small claims court after her former landlord had violated the Security Deposit Act.

MILS attorneys represented a young man in a tribal court juvenile probation matter for nearly four years. For most of that time, the youth was placed in various detention facilities and youth homes across the state. Recently however, MILS successfully advocated for his release. The youth has been returned to relatives in his community and the case has been ordered closed.

A young mother had her child removed from her care in a tribal court Child Welfare case. MILS attorneys represented her for more than two years, advocating for her rights as she confronted the obstacles to the reunification of the family. Happily, the court has determined that it is safe and appropriate to return the child to her care as the case nears completion.



MILS LEGAL CLINICS TRAVEL THE STATE

By James A. Keedy



Michigan Indian Legal Services (MILS) was on the road often over this past year totaling up a driving distance of over 5,900 miles. Michigan is a state known for its iconic scenery but the MILS staff was not on the road to see the sites (although the MILS mug enjoyed visiting Canyon Falls, see photo). Since 2012 began,

MILS has staffed twelve

legal clinics at various urban Indian centers and tribal offices, set up information booths at three pow wows, attended two focus group meetings discussing legal needs and attended two MILS Board meetings held in Mt. Pleasant and Grand Rapids.

The reasoning behind these road trips was to make it easier for clients to speak with an attorney face to face, to provide information about MILS' services, teach a bit of MILS and tribal history by means of trivia questions, for MILS to learn about the pressing legal needs in the communities across Michigan and to make it easier for MILS board members to have in person discussions and to be accessible to local communities. Although MILS makes its services available to clients throughout Michigan via a toll free telephone number, some prospective clients are hesitant to discuss personal legal problems to a voice on the other end of a telephone. Others may not be aware of services MILS provides. To broaden the reach of our services, MILS attorneys conducted twelve walk-in legal clinics at Tribal communities and urban Indian centers throughout the State. With only a laptop computer, portable printer, scanner and a wi-fi internet

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connection MILS can easily set up a working office on the road in just a matter of minutes. With these tools MILS attorneys can access the case management system, conflict check report, scan and save client documents and important papers, access legal research sites, and print retainer agreements along with other helpful information for clients.

MILS staff attended three pow wows to advertise the

availability of MILS' services. To make it fun MILS ran trivia contests asking questions about MILS and the local tribal history, e.g. which former MILS staff served as tribal court judges? MILS awards prizes for correct answers such as t-shirts and coffee mugs.

Periodically the MILS Board of Trustees reviews the services offered by MILS to determine if we are meeting the needs of clients.

LEGAL CLINICS

January 24, 2012 American Indian Services, Lincoln Park (540 miles—entire January trip)

January 24, 2012 North American Indian Association of Detroit

February 2, 2012 Bay Mills Indian Community (319 miles)

August 10, 2012 Little Traverse Bay Bands of Odawa Indians (147 miles)

August 28, 2012 Keweenaw Bay Indian Community (690 miles)

September 17, 2012 Hannahville Indian Community (745 miles—entire September trip)

September 18, 2012 Keweenaw Bay Indian Community

October 9, 2012 Lac Vieux Desert Band of Lake Superior Chippewa (796 miles—entire October trip)

October 10, 2012 Keweenaw Bay Indian Community

November 7, 2012 Lac Vieux Desert Band of Lake Superior Chippewa (1,209 miles—entire November trip)

November 8, 2012 Bay Mills Indian Community

November 9, 2012 Keweenaw Bay Indian Community

POW WOWS

March 24 and 25, 2012 Central Michigan University, Mt. Pleasant (230 miles)

July 7 and 8, 2012 Little River Band of Ottawa Indians (127 miles)

August 18 and 19, 2012 Grand Traverse Band of Ottawa and Chippewa Indians (44 miles)



LEGAL NEEDS ASSESSMENT GROUP MEETINGS

March 21, 2012 American Indian Services, Lincoln Park (540 miles)

September 17, 2012 Hannahville Indian Community

MILS BOARD OF TRUSTEES MEETINGS

June 2, 2012 Soaring Eagle Conference Center, Mt. Pleasant (230 miles)

September 20, 2012 Location of Indian Law Section meeting, Grand Rapids (284 miles)



KNOW YOUR RIGHTS UNDER THE JAY TREATY

By Douglass A. McIntyre

The Jay Treaty has been recognized as giving Canadian born Native Americans the right to freely pass between the boundaries of the United States and Canada. Signed in 1794, the Treaty was originally an agreement between Great Britain and the United States designed to resolve trade, land, and debt disputes. Additionally it allowed citizens and subjects of both nations, as well as Indians, the right to travel freely between the territories.

The United States has since reincorporated the spirit of the Jay Treaty into law providing an exemption for the “right of American Indians born in Canada to pass the borders of the United States,” as long as the person possesses at least 50 percent American Indian blood. 8 U.S.C. 1359. In *Akins v Saxbe*, a federal court reaffirmed this principle, stating the Jay Treaty coupled with 8 U.S.C. 1359 “recognized the right of American Indians to unfettered movement throughout the territories occupied by them which had been divided by the International Boundary between the United States and Canada.” 80 F. Supp. 1210, 1219 (D.Me. 1974).

Here are key provisions for understanding what benefits you might be eligible for if you are Canadian First Nation:

Who is eligible for benefits under the treaty?

- Native Americans born in Canada with at least 50% Native American blood.

What sort of Identification do I need?

- For entering the US – The form of identification you need depends on whether you’re entering by sea, land, or air.
 - o If you’re entering by air, you still need a passport.
 - o If you’re entering by sea or land, you simply need a tribal identification card. However, you may additionally be asked for a letter stating your percentage of Native American blood, long form birth certificate, and your Indian status card.
- For work – You have to obtain a Social Security card. In order to do this you have to prove your identity, and immigration status.
- For student aid – Any of the following should be sufficient according to the federal student aid website:
 - o A “band card,” issued by either the Band Council of a Canadian Reserve, or the Department of Indian Affairs in Ottawa.
 - o Birth or baptismal record.
 - o Affidavit from a tribal official, or someone knowledgeable of the student’s family background.

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o Any other form of identification from a recognized Native American territorial organization.

What benefits am I eligible for under the treaty?

- Right to reside in the United States – You may enter and live within the U.S. without fear of deportation. Additionally you may work in the U.S. after acquiring a social security card.
- Right to State Public Benefits – In the State of Michigan, you are eligible for all “bridge programs,” such as bridge card/food assistance, child care assistance, cash assistance, and medical assistance.
- Right to Federal Public Benefits – Depending on your circumstances, you may be eligible for Medicaid and Medicare. If you meet the required number

of years of work within the United States, you are eligible for programs such as Social Security Retirement or Social Security Disability.

- Right to Student Financial Aid – You are eligible for Title IV federal student aid. Visit Chapter 2, page I-27 of the 2011-2012 Federal Student Aid Handbook for more specific information. This can be found at <http://ifap.ed.gov/ifap/>

What about my family?

- In order to bring your spouse or child, if they do not have at least 50% Native American blood, into the US, you have to sponsor them by applying to the US Citizenship and Immigration Services.



UPCOMING LEGAL AID CLINICS



The MILS staff will be on the road traveling throughout the Upper Peninsula this February hosting several legal aid clinics. Legal counseling and advice on a variety of legal issues will be available to low-income persons. The clinics will be held:

Hannahville Indian Community on Wednesday, February 6, 2012 from 1 p.m. – 4 p.m.

Lac Vieux Desert Chippewa Tribe on Thursday, February 7, 2012 from 9 a.m. – 12 p.m.

Keweenaw Bay Indian Community on Thursday, February 7, 2012 from 10 a.m. – 4 p.m.

Bay Mills Chippewa Indian Community on Friday, February 8, 2012 from 10 a.m. – 2 p.m.

For more details or questions concerning these clinics please call MILS at 1-800-968-6877.

GO GREEN

MILS offers our newsletter by email. By saving material, labor and postage costs on our newsletter, we can devote more

space to news and useful information about Indian law. Not only that, but the electronic version permits us to include internet links, which are instantly accessible when you read the newsletter online.

Please email us at newsletter@mils3.org and tell us if you can receive our newsletter by email. While you're at it, please let us know the email addresses of anybody else that would like to receive our newsletter.

We are always looking for article ideas. Please tell us if you would like to see an article about a particular topic. “Letters to the Editor” are also welcome.

Michigan Indian Legal Services is a nonprofit organization that provides free legal services to those who qualify. Therefore, we do not collect any money for services provided to our income eligible clients. MILS relies solely on grants and various funding sources, including individual donations to continue to provide our legal services.

Your support of MILS is critical to our ability to provide legal services that would otherwise be unavailable to Michigan's Native American community. While some tribal governments have benefited from gaming, many native individuals still struggle in poverty. Native Americans remain some of the most disadvantaged citizens. This disadvantage is compounded by unique legal needs. Your continued support will assure MILS' ability to provide free legal services to those that need it most.

You can help! Please consider making a tax-deductible contribution this year by sending any amount to:

**Michigan Indian Legal Services
814 S. Garfield Ave. Suite A
Traverse City, MI 49686**

MILS is recognized by the Internal Revenue Service as a 501(c)(3) charitable organization, and your gift may qualify for tax deductible status on your federal income tax return. When making a contribution please use the form below or a regular piece of paper to provide us with your name and address. This information will be used to provide you with a letter of receipt for tax purposes.

I wish to assist MILS' important work and include a tax deductible contribution of: \$_____.

Name: _____

Address: _____

_____ Please indicate if you are an attorney. (optional)

Michigan Indian Legal Services, Inc.

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