Tribal Lawyer Ethics: Gaming Per Capita Disputes

Gabriel S. Galanda*
Galanda Broadman, PLLC

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Under former National Indian Gaming Commission ("NIGC") Chairman Philip Hogen, the "standard underlying the NIGC's approach to (per capita) expenditures [was] that where gaming revenues are spent in a manner that does not benefit the tribal government or tribal membership as a whole, the NIGC will investigate."[1]

The NIGC, under Chairman Hogen, used to investigate allegations that "per capita paybacks, or the lack thereof, were inextricably tied up with tribal membership disputes" or that such payments were made "for the benefit of certain tribal officials or tribal factions rather than the benefit of the whole."[2]

A June 2015 report by the United States Government Accountability Office ("GAO"), however, documents that the NIGC has not taken a single enforcement action for gaming per capita abuses since 2010.[3] That despite plainly obvious per capita-related IGRA violations by the likes of Picayune Rancheria of Chukchansi Indians, Paskenta Band of Nomlaki Indians and Nooksack Tribe—or factions thereof—over that span of time.

The result of the NIGC's *de facto* deregulation of Indian gaming per capitas is a belief among some tribal "leaders"—aided and abetted by certain tribal lawyers—that they have cart blanche to decide "who's in" and "who's out" for purposes of those per caps; or, even worse, to convert tribal memberships into profits for those who remain in the tribe.

This paper evaluates the Indian lawyer ethics, or lack thereof, associated with Indian gaming per capita disputes.

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* *Gabriel S. Galanda (Round Valley) is the Managing Partner of Galanda Broadman, PLLC, an American Indian-owned law firm dedicated to advancing and defending Indian rights. Gabe can be reached in Seattle at (206) 300-7801 or gabe@galandabroadman.com.*

[1] *Oversight Hearing Regarding the Status and Treatment of Indian Tribes under the Federal Election Campaign Act: Hearing before the Senate Com. on Indian Affairs*, 109th Cong. 6 (2006) (statement of Philip Hogen, Chairman, Nat'l Indian Gaming Comm'n).

[2] *Id.* at 7.

[3] *See generally* U.S. Gov't Accounting Office, *GAO-15-355, Indian Gaming: Regulation and Oversight by the Federal Government, States, and Tribes* (2015) [hereinafter *GAO Indian Gaming Report*].

As a starting point, because state ethics laws are arguably inapplicable in Indian Country—or at least, state bar associations are averse to get involved in "internal" Tribal ethical controversies[4]—there is an acute need for Tribal ethics rules and regulations.

Tribal lawyers who counsel tribal leaders to violate IGRA or Tribal law vis-à-vis per capita abuses take full advantage of this regulatory vacuum. Thus, as I wrote for this conference last year:

> In addition to promulgating Tribal RPCs, Tribes—even those that have not yet established Tribal Courts—should conduct Tribal bar licensing activities. Some of the few Tribes that have adopted an ethical code have adopted rules similar to the Federal Model RPCs, which was also used as a basis for the Washington RPCs. However, many Tribal ethical codes contain only selected ethical provisions and are not as robust as needed to deter unethical lawyer conduct . . . .[5]

I repeat: Tribes should promulgate their own Tribal Rules of Professional Conduct ("RPCs") and conduct their own Tribal bar licensing activities. Until then, this paper evaluates a few increasingly common ethical lapses associated with per capita disputes.

IGRA: Per Capita Distributions & Revenue Allocation Plans

When Congress adopted IGRA in 1988, it did so in order "to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments."[6]

In so doing, Congress set limits, for example, on: the type of gaming that tribal governments might provide; where Indian gaming may occur; and the uses of gaming revenues. As to the latter, IGRA mandates that revenues from Indian gaming be used only for: (1) funding tribal government services; (2) providing for the tribe's general welfare; (3) promoting economic and community development; (4) donating to charitable organizations; and, (5) aiding local governments.[7]

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[4] *Compare* State Bar of Arizona, Ethics Op. 90-19 (1990) (attorney who was a member of both the Arizona and Navajo Nation Bars was not subject to disciplinary action by the Arizona Bar as the tribal ethical rules governed the conduct); State Bar of Arizona, Ethics Op. 99-13 (1999) (Arizona Bar member may supervise his non-lawyer paralegal in her representation of clients in tribal court without violating state ethical rules, as the tribal ethical rules governed the conduct); Massachusetts Bar Association, Ethics Op. 12-02 (2012) (where a suit to recover damages for personal injuries incurred on tribal lands in another state, the applicable ethical rules are either the other state's ethical rules or the tribal ethical rules and not the Massachusetts Rules of Professional Conduct); *with Gillette v. Edison*, 593 F. Supp. 2d 1063, 1068 (D.N.D. 2009) (U.S. District Court found that the North Dakota Supreme Court had jurisdiction to discipline an attorney for professional misconduct on an Indian reservation); State Bar of Michigan, Ethics Op. R-13 (1991) (applying the Michigan Rules of Professional Conduct to forbid a lawyer from prosecuting matters in tribal court in which the lawyer personally and substantially participated as defense counsel).

[5] Gabriel S. Galanda, *Exposing Abramoff's Playbook: Exploiting or Filling, the Ethical Void for Tribal Lawyers*, 12th Annual Gaming Law Summit (Dec. 12, 2014) [hereinafter *Exposing Abramoff's Playbook*].

[6] 25 U.SC. § 2702(1).

[7] *Id.* § 2710(b)(2)(B).

IGRA also permits tribes to request that they be allowed to use net gaming revenues to make per-capita payments to tribal members.[8] Although tribes are not required to make per-capita payments from gaming revenue,[9] those that do must have an approved Revenue Distribution Plan—or what is more commonly known as a Revenue Allocation Plan, or "RAP."[10] IGRA "requires that a distribution plan be approved by the Secretary of the Interior before the Tribe can make per-capita payments to any members."[11]

As Professor Robert Clinton explains, IGRA included checks and balances on per capita distributions "to prevent political favoritism or corruption."[12]

The C.F.R. allows tribes to develop their own criteria for distributing gaming per capita payments,[13] provided tribes include protections in their RAPs for minors and legally incompetent persons who are entitled to per-capita payments,[14] While tribes may otherwise develop their own criteria for distributing per capita payments,[15] if a tribe chooses to distribute per capita payments to some members but not others, it must justify the distinction between members in its RAP.[16] Specifically, the distinction must (1) be "reasonable" and "not arbitrary,"[17] (2) not discriminate or otherwise violate the federal Indian Civil Rights Act,[18] and, (3) comply with tribal law.[19]

Although the Interior Department is responsible for approving RAPs, it is the Department of Justice ("DOJ") or the NIGC that may prosecute RAP violations or gaming per capita abuses.[20] But the GAO reported in June, neither federal law enforcement agency has taken *any* such enforcement action during the Obama Administration.

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[8] *Id*. § 2710(b)(3).
[9] 25 C.F.R. § 290.7.
[10] *Id.* § 290.6.
[11] 25 U.S.C. § 2710(b)(3)(A)-(C); Ross v. Flandreau Santee Sioux Tribe, 809 F. Supp. 738, 746 (D.S.D. 1992) (the IGRA "requires that a distribution plan be approved by the Secretary of the Interior before the Tribe can make per capita payments to any members.").
[12] Robert N. Clinton, *Enactment of the Indian Gaming Regulatory Act of 1988: The Return of the Buffalo to Indian Country or Another Federal Usurpation of Tribal Sovereignty?*, 42 ARIZ. ST. L.J. 17, 95 (2011).
[13] 25 C.F.R. §§ 290.12(5), 290.14.
[14] *Id.* § 290.12(3)(i)-(ii).
[15] *Id.* §§ 290.12(5), §290.14.
[16] *Id.* § 290.14(b).
[17] *Id.* § 290.14(b)(1).
[18] *Id.* § 290.14(b)(2).
[19] *Id.* § 290.14(b)(3); *see also* 47 Indian Affairs Manual 3, Office of Indian Gaming: Internal Affairs Manual, Indian Gaming Tribal Revenue Allocation Plan §1.7(B)(2)(h)(ii) (March 11, 2011) *available at* http://www.indianaffairs.gov/cs/groups/xraca/documents/text/idc013360.pdf.
[20] 25 C.F.R. § 290.10 ("[Y]ou are in violation of IGRA if you make per capita payments to your tribal members from net gaming revenues without an approved tribal revenue allocation plan. If you refuse to comply, the DOJ or NIGC may enforce the per capita requirements of IGRA.").

The NIGC's Shirked Gaming Per Capita Enforcement Mandate

The NIGC is an independent agency within the Interior Department created by IGRA to "help ensure the integrity of the Indian gaming industry . . . ."[21] One of the NIGC's principal mandates is shielding Indian gaming from organized crime and **"other corrupting influences."**[22] It seems natural that Indian gaming per capita abuses would fall into the category of "other corrupting influence." Unfortunately, when it comes to the corrupting influences of Indian gaming per capita distributions, recent incarnations of the NIGC have come up short, or ignored the mandate altogether.

The IGRA arms the NIGC with powerful tools to deter deviations from RAPs and other per capita violations.[23] As the GAO succinctly explained, "IGRA authorizes the Commission Chair to take enforcement actions for violations of IGRA and applicable Commission regulations for both class II and class III gaming."[24] Specifically, the NIGC Chairman may issue a notice of violation or a civil fine assessment for violations of IGRA, Commission regulations, or tribal ordinances like RAPs.[25]

However, since at least 2010, the NIGC has curtailed its IGRA enforcement efforts and, in the instance of gaming per capita distributions, it has essentially deregulated that activity. Indeed, in observing as much, the GAO took occasion to specifically note: "Improper per capita payments can be payments made without an approved revenue allocation plan or payments that are not authorized by the approved plan."[26]

To give an example of the first scenario of per capita abuse that the GAO is keen on: Since 2013, a Nooksack Tribal Council faction has denied gaming revenue-funded "school supplies stipends" and "Christmas support" monies to 306 tribal members, because they are proposed for disenrollment. The Nooksack Tribe has no RAP. The "Nooksack 306" grieved the Tribe's per se violation of 25 U.S.C. § 2710(b)(3) to the NIGC in 2013. But the NIGC has thus far refused to act.

As to the second scenario of per capita abuse identified by the GAO: In 2014, a Paskenta Band of Nomlaki Indians Tribal Council faction denied gaming per capitas to more than 80 members—before disenrolling them. Paskenta does have an approved RAP. In response to complaints that the faction violated that RAP and the anti-discrimination provisions in 25 C.F.R. § 290.14, the NIGC shrugged its shoulders, explaining that "under the Tribe's RAP, the Tribal Council is the forum to raise your per capita dispute." In other words, "Go tell it to the people who are breaking federal and tribal law."

The GAO's specific attention to the types of situations at Nooksack and Paskenta should be troubling enough to people who care about the health and longevity of Indian gaming.

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[21] *GAO Indian Gaming Report*, *supra* note 3, at 52.
[22] National Indian Gaming Commission (NIGC), 74 Fed. Reg. 64,372 (Dec. 7, 2009).
[23] *GAO Indian Gaming Report*, *supra* note 3, at 51.
[24] *Id.*
[25] *Id.*
[26] *GAO Indian Gaming Report*, *supra* note 3, at 53.

The Consequences: Mass Disenrollment Tied to Gaming Per Capita Abuses

As the Nooksack and Paskenta examples illustrate, disenrollment and gaming per capita are "inextricably linked."[27] Indeed, as the Ninth Circuit Court of Appeals recently observed, disenrollment "disputes have been proliferating in recent years, largely driven by the advent of Indian gaming, the revenues from which are distributed among tribal members."[28] There can be no doubt that growing gaming per capita abuses are fueling the firestorm of tribal disenrollment sweeping Indian Country; scholars and researchers and even federal court judges have documented the trend conclusively.[29]

Per-capita greed-fueled disenrollment has also "brought out the worst in human nature resulting in clan and family feuds even violence."[30]

With that backdrop in mind, recent ethical guidance from the National Native American Bar Association ("NNABA") proves especially helpful as to gaming per capita-related ethical issues. In April of 2015, NNABA issued Resolution #2015-06, "declar[ing] that it is immoral and unethical for any lawyer to advocate for or contribute to the divestment or restriction of the American indigenous right of tribal citizenship, without equal protection at law or due process of law or an effective remedy for the violation of such rights."[31]

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[27] Eric Reitman, *An Argument for the Partial Abrogation of Federally Recognized Indian Tribes' Sovereign Power Over Membership*, 92 VA. L. REV. 793, 825 (2006) ("Because only tribe members may receive per capita distributions, questions of citizenship are **inextricably linked** to disputes over the per capital allocation regime.") (emphasis added).

[28] Alto v. Black, 738 F.3d 1111, 1116 n.2 (9th Cir. 2013) ("Such membership disputes have been proliferating in recent years, largely driven by the advent of Indian gaming, the revenues from which are distributed among tribal members.").

[29] *Id*.; *Reitman*, *supra* note 27; Randall K.Q. Akee, Katherine A. Spilde, Jonathan B. Taylor, *The Indian Gaming Regulatory Act and Its Effects on American Indian Economic Development*, 29 JOURNAL OF ECONOMIC PERSPECTIVES 158, 99 (2015) (citing Angela A. Gonzales, *Gaming and Displacement: Winners and Losers in American Indian Casino Development*, 55 INTERNATIONAL SOCIAL SCIENCE JOURNAL 123–33 (2003) ("Indian casinos have been associated with controversial and even deleterious effects in some communities . . . . One controversial outcome has been the disenrollment of tribal citizens, which has resulted in significant conflicts in a number of American Indian communities); Elliot Green, *Urbanization and Identity Change Among Native Americans* 24 (2014). ("There are numerous cases of groups of people being disenrolled or suspended as members of tribes in relation to revenues from casinos or other windfalls . . ."); Suzianne D. Painter-Thorne, *If You Build It, They Will Come: Preserving Tribal Sovereignty in the Face of Indian Casinos and the New Premium on Tribal Membership*, 14 LEWIS & CLARK L. REV. 311, 319 (2010) ("[P]er capita payments . . . , many critics allege, . . . are the root of tribal enrollment disputes.").

[30] Phillip Parker, *Reconciling Tribal History with the Future: The Impact of John Marshall and John Collier* 25 (Aug. 15, 2014) (unpublished manuscript).

[31] National Native American Bar Association, *Supporting Equal Protection and Due Process For Any Divestment of the American Indigenous Right of Tribal Citizenship*, Res. No. 2015-06 (Apr. 8, 2015), *available at* http://www.nativeamericanbar.org/wp-content/uploads/2014/01/2015-04-09-2015-06-NNABA-Resolution-Due-Process.pdf.

Two months later, NNABA issued Formal Ethics Opinion No. 1, supporting and explaining NNABA's Resolution #2015-06.[32] NNABA determined it "necessary and appropriate **to . . . remind [Indian] lawyers and any bar associations to which they belong that lawyers' ethical obligations to their licensing jurisdictions do not stop at reservation boundaries**." NNABA opined:

> [M]uch like the duty of a public prosecutor is to "seek justice," so too do tribal advocates carry a duty to "seek justice." American Bar Association Standards for Criminal Justice, 2d Ed. Vol. I, 3-1.1(c). The Preamble of the Model Rules of Professional Conduct likewise states: "A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system, and a public citizen having special responsibility for the quality of justice." **The responsibility of a tribal advocate differs from that of the usual advocate; his or her duty is to further justice in the greater Native American community, not merely to win his or her case**. . . .
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> In the United States, the federal Indian Civil Rights Act of 1968, as adopted by various tribal constitutions and other laws, provides that: "No Indian tribe in exercising powers of self-government shall . . . deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law." This federal law has been incorporated into many tribal constitutions, statutes, and common law.[33]

NNABA's federal Indian Civil Rights Act analog is helpful in the gaming per capita deprivation context. Gaming per capitas are a tribal public benefit, granted to tribal members as a matter of statutory entitlement, specifically through RAPs. Accordingly, a property interest is created such that "[r]elevant constitutional restraints apply" to any determination that one does not qualify for a distribution.[34]

NNABA further opines that:

> In representing a client, a tribal advocate shall exercise independent professional judgment and render candid advice. In rendering advice, a tribal advocate may refer not only to law but to other considerations such as moral, economic, social and political factors that may be relevant to the client's situation. . . . Legal advice often involves unpleasant facts and

[32] National Native American Bar Association, *Duties of Tribal Court Advocates to Ensure Due Process Afforded to All Individuals Targeted for Disenrollment*, Formal Ethics Opinion No. 1 (June 26, 2015) [hereinafter *NNABA Ethics Op. No. 1*], *available at* http://www.nativeamericanbar.org/wp-content/uploads/2014/01/Formal-Opinion-No.-1.pdf.

[33] *Id*. at 2-3.

[34] Goldberg v. Kelly, 397 U.S. 254, 262-63 (1970); *see also* Westberry v. Fisher, 297 F.Supp. 1109, 1116 (D. Me. 1969) ("Unquestionably, there has historically been no vested right to public welfare. However, once a state elects to establish a program of public assistance, it must meet constitutional standards; it cannot arbitrarily deny to a portion of its citizens the benefits of such a program.").

> alternatives that a client may be disinclined to confront. **A tribal advocate should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client. Advice couched in narrow legal terms may be of little value to a client, especially where practical considerations, such as cost or effects on other people, are predominant. Purely technical legal advice, therefore, can sometimes be inadequate. It is proper for a tribal advocate to refer to relevant moral and ethical considerations in giving advice.** Although a lawyer or tribal advocate is not a moral advisor as such, moral and ethical considerations impinge upon most legal questions and may decisively influence how the law will be applied.[35]

NNABA's advice should be heeded by any tribal lawyer who finds him- or herself in a budding gaming per capita dispute. The lawyer's duty is not to "win" the matter of denying tribal members per capita distributions. The lawyer's duty is to further justice in the Indian community in which he or she serves, considering the morals, economics and social factors at bar. *See* Washington State RPCs, Fundamental Principles of Professional Conduct ("Lawyers, as guardians of the law, play a vital role in the preservation of our society."). In fact, many tribal members' survival depends on gaming per capita income. More specifically, the lawyer's duty is to give candid, even uncomfortable, advice about overarching equal protection and due process norms. To do otherwise is to shirk the tribal lawyer's own ethics, morals and social norms.

The Lawyers: Gaming Per Capita-Related Ethical Lapses

In the paper I published here last year, I explained per capita abuses in the most extreme context of ever-increasing Indian Hatfield v. McCoy family feuds:

> The bad guys . . . deny gaming per capita payments to their opponents to prevent them from accumulating any war chest of their own, while increasing those payments to other Tribal members to attract them as allies. Per capita monies are especially leveraged to buy votes in Tribal Council elections, or recall or initiative drives. All of this is done in disregard of any Tribal revenue allocation plan and the Indian Gaming Regulatory Act.[36]

These are precisely the types of activities that former NIGC Chairman Hogen to which referred, and which he in fact deterred through enforcement action—specifically per capita payments "for the benefit of certain tribal officials or tribal factions rather than the benefit of the whole" and other forms of "per capita paybacks."

I continued in my prior paper:

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[35] *NNABA Ethics Op. No. 1*, *supra* note 32, at 4.
[36] *Exposing Abramoff's Playbook*, *supra* note 5, at 4.

> [W]hat the bad guys really know is that the National Indian Gaming Commission Chairman will largely sit on the sidelines . . . and that in the meantime the NIGC will not take any meaningful steps to shut down an illegal gaming operation or otherwise stem illegality. Recall that in *Bay Mills* the states argued that the "Commission only rarely invokes its authority to enforce the law against Indian tribes." The states appear to be right. As we also saw in *Bay Mills*, the entire U.S. Department of Justice—from local U.S. Attorneys and FBI Special Agents, to everyone at Main Justice—sits idle too, despite its clear statutory criminal and civil authority to intervene.[37]

In such a scenario, a tribe or tribal faction will, again, "make payments made without an approved revenue allocation plan, in *per se* violation of 25 U.S.C. § 2710(b)(3), as at Nooksack; or make "payments that are not authorized by the approved plan," i.e., arbitrarily, discriminatorily, or otherwise illegally vis-à-vis that RAP, other tribal law or the federal Indian Civil Rights Act, in violation of 25 C.F.R. §290.14, as at Paskenta.[38]

But the tribal lawyer will lobby the federal family, including the NIGC and DOJ, or possibly even a U.S. District Court or Tribal Court, to stay out of it; likely citing *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978). As I said in my prior paper, that lawyer "know that under banner of *Santa Clara* . . . federal, state and local officials will simply say: 'Sorry, the matter is internal to the Tribe. Tribes are sovereign and self-governing.'"[39] That lawyer will otherwise deter the Feds and other authorities from investigating or intervening in any way regarding gaming per capita abuses.

In doing so, the tribal lawyer may find him- or herself violating various RPCs. Consider pertinent Washington State RPCs, for example:

- WA RPC 1.2(d) – "A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent . . . "
- WA RPC 3.3(1) – "A lawyer may not knowingly . . . make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer."
- WA RPC 4.1(a) – "A lawyer shall not knowingly . . . make a false statement of material fact or law to a third person."
- WA RPC 8.4(c) – "It is professional misconduct for a lawyer to . . . engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

In addition, it is a **federal crime** to "knowingly and willfully," make any "materially false, fictitious, or fraudulent statement or representation" "in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States." 18 U.S.C. § 1001. Essentially, the statute makes it a federal crime to lie to the federal government. The lawyer's statement does not have to be made directly to

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[37] *Id*.
[38] *GAO Indian Gaming Report*, *supra* note 3, at 53.
[39] *Exposing Abramoff's Playbook*, *supra* note 5, at 6.

an employee of federal government, as long as the matter is "within the jurisdiction" of the federal government. The lie must be "material," however, this requirement is satisfied if the statement "has the "natural tendency to influence or [is] capable of influencing, the decision of the decisionmaking body to which it is addressed."[40]

Therefore, if an attorney knowingly makes false statements to the NIGC or DOJ regarding their client's gaming per capita abuses, and those false statements influenced the agency's determination, the attorneys could be prosecuted for federal crimes. However, for the same reasons that current NIGC and DOJ leadership turn a blind eye to gaming per capita abuses, such prosecution is theoretical at best.

To the extent a gaming per capita dispute turns to litigation, many RPCs, like Rule 11 to the federal and various state civil procedure rules, require an attorney to bring meritorious claims or defenses and forbids an attorney from asserting a claim or defense that does not have a good faith basis in law and fact. Consider:

- WA RPC 3.1 – "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law."
- WA RPC 3.1, Comment[1] – "The advocate has a duty . . . not to abuse legal procedure."

Any "defense" to a gaming per capita-related IGRA or RAP violation will likely lack a good faith basis in law and fact.

Further, once litigation has commenced, many RPCs prohibit an attorney from improperly delaying proceedings in an attempt to prevent a party from obtaining relief. That extends to taking action to delay the adjudication of a gaming per capita dispute, for sake of weakening one's opponent in a war of attrition—especially when, again, gaming per capitas are denied "to their opponents to prevent them from accumulating any war chest of their own," or hiring legal counsel. Consider:

- WA RPC 3.2 – "A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client."
- WA RPC 3.2, Comment[1] – "[I]t is not proper for a lawyer to routinely fail to expedite litigation solely for the convenience of the advocates. **Nor will a failure to expedite be reasonable if done for the purpose of frustrating an opposing party's attempt to obtain rightful redress or repose.** It is not a justification that similar conduct is often tolerated by the bench and bar. The question is whether a competent lawyer acting in good faith would regard the course of action as having some substantial purpose other than delay. **Realizing financial or other benefit from otherwise improper delay in litigation is not legitimate [sic] interest of the client**."

[40] United States v. Gaudin, 515 U.S. 506, 510 (1995).

Conclusion

The legal and ethical violations discussed above threaten Indian gaming at large. Recall that in 2006, Senator John McCain proposed an amendment to IGRA that would have required federal oversight of a "reasonable method of providing for the general welfare of the Indian tribe and the members of the Indian tribes."[41] While tribes were rightly outraged by Senator McCain's proposed encroachment upon Indian sovereignty, tribes were also put on notice that federal decision-makers will act upon the improper use of tribal per capita dollars.[42] It is time for the NIGC to once again regulate gaming per capita distributions and enforce related IGRA and RAP violations. Indian Country must also do its part to curtail per capita abuses by, *inter alia*, regulating lawyer behavior.

[41] Indian Gaming Regulatory Act Amendments of 2006, S. 2078, 109th Cong. §7 (2006).
[42] *See Id.*