

# TRIBAL JUDICIAL ETHICS

WHAT IN-HOUSE COUNCIL NEEDS TO KNOW



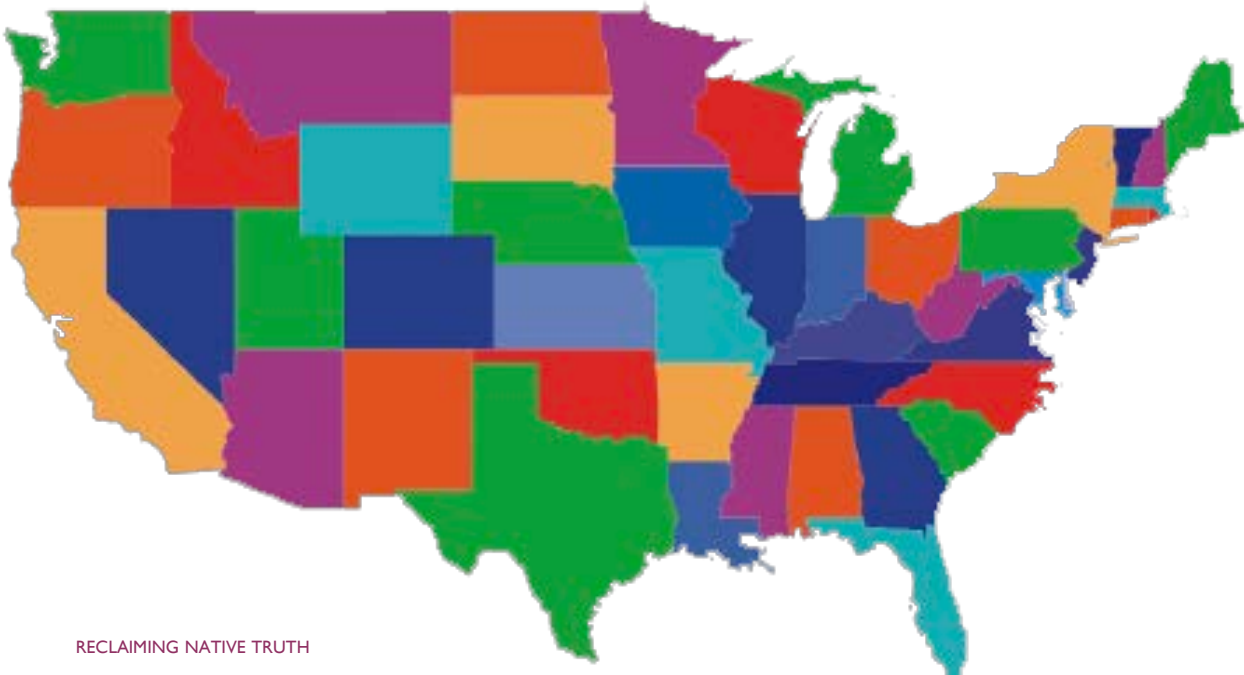
# JUDGES, AM I RIGHT?



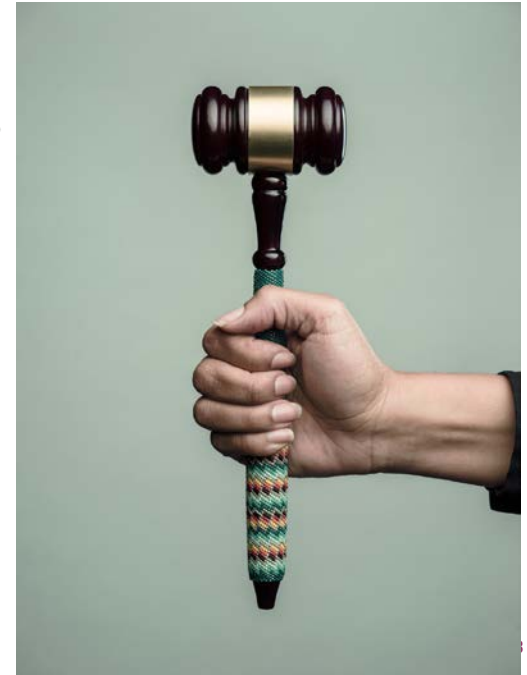
*"And having an old, dear friend appear before this court makes it necessary to recuse myself, gentlemen."*

# JUDICIAL ETHICS AND YOUR ROLE...

OR WHY I AM MAKING YOU SIT HERE LONGER TO LISTEN ABOUT JUDICIAL ETHICS



RECLAIMING NATIVE TRUTH



# (INNOVATIVE) TRADITIONAL TRIBAL COURT PRACTICES

- Healing to Wellness Courts
- Joint Jurisdictional Courts
- Alternatives to Detention
- Traditional Justice Practices and Peacemaking





# MODEL JUDICIAL ETHICS CODES AND JUDICIAL ETHICS CANONS

# JUDICIAL ETHICS



*An independent, fair and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.*

# NAICJA CODE OF ETHICS

The Tribal Court Judge is the number one representative of the court. The court's integrity and fairness defines a communities' faith and health in utilizing a tribal court.

Tribal court judges should not practice law in their own courts, or, in any court subject to the appellate process in which he or she serves.

A judge should encourage a separation between the judicial branch and other branches of tribal government.

A judge should not participate in legislative or executive decision making except where it is permitted by the tribe.

Special care needs to be taken when a judge sits on a tribal council. The appearance or possibility of conflict of interest needs to be avoided.

A judge should not participate in cases involving immediate family members, in cases involving someone with whom the judge has a strong personal relationship, or in cases where the judge has a significant, direct, financial, political, or other personal interest.

A judge should discuss cases and court business only in the presence of all parties.

A judge has a responsibility to uphold confidentiality and should never discuss a case with outside parties or use confidential information acquired in the course of their official duties to further their personal interests.

A judge should be aware that their conduct has a direct bearing on public attitude toward their court and as such, should conduct themselves appropriately.

# ABA MODEL RULES OF JUDICIAL ETHICS

- Canon 1: Uphold and Promote Independence, Integrity and Impartiality of Judiciary and Avoid Impropriety and Appearance of Impropriety.
- Canon 2: Perform Duties of Judicial Office Impartially, Competently, and Diligently.
- Canon 3: Conduct Personal and Extrajudicial Activities to Minimize Risk of Conflict.
- Canon 4: Not Engage in Political or Campaign Activity Inconsistent with Independence, Integrity or Impartiality of Judiciary.



# HYPO I

Dear Judge: My name is Chairman Tony Stark, and I am the guardian of Peter Parker. He was put in jail, because he supposedly destroyed a car, the side of a house, a fence, and the siding along the tribal administrative building. I was told that you would not release him unless he paid \$1,000 to the court. I could pay this money, but I won't out of principle. Peter is a good boy, a great boy, and he will help save many people in his neighborhood.

Release him to me, and I promise that he will stay out of trouble until his trial. Let me know, and I'll send Happy down to get him.

Chairman Stark

Cc:Tribal Council

Avengers

## HYPO 2

Judge T'Challa of the Black Panther Bands of Confederated Indians oversees the criminal docket of the tribe. Killmonger has been arrested and accused of several violent crimes and has tried to overthrow the tribal government. Zuri, a tribal elder, informs Judge T'Challa that he and Killmonger are “related real close on his dad’s side.” Killmonger is apparently T'Challa’s first cousin, but he has never met him— Killmonger was placed with a family outside the Rez when he was a child. Does Judge T'Challa need to recuse himself?

## HYPO 3

Judge Thor from the Asgard Band of Indians writes his own rules of court, court clerk manual, and a draft resolution for a alternative dispute resolution forum that reflects Asgardian culture. All rules, manual, and resolutions are presented to the tribal council for ratification and passage. He also writes creates the yearly budget for the court that he presents to the Tribal Council for approval annually. Asgard has little resources to hire outside counsel, so Judge Thor is happy to write the necessary documents needed to keep the judiciary strong and running smoothly.

# NAICJA TRAINING FOR YOUR COURTS AND JUDICIAL SYSTEM

- Psychopharmacology: Medically Assisted Treatments
- Trauma-informed Court Practices
- Addiction and Science of the Brain
- Understanding Opioid Addition and Recovery
- Substance Abuse, Adolescent Development, and Native Youth
- Collaborative approaches for multi-disciplinary teams
- Code drafting, court rules, court clerk manuals and implementation
- Court Clerk 1 and 2 Training





# ASK ME ABOUT NO-COST TRIBAL COURT TRAINING.

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