

American Indian Law Committee  
Minutes of December 1, 2006 9:30a Teleconference

Jurisdiction: Shall review issues of American Indian law, focusing on the relationship between tribal courts, state courts, and federal courts, and on the promotion of positive relationships between the lawyers of Michigan and the American Indian Community.

1. Call to Order & Welcome/Introduction of new and past members. Present: S. Gaskell (Chair), D. Duncan, W. Gregory, W. Brooks, M. Phelan, J. Kinney, S. Johnson, A. Voice, State Bar Liaison Candace Crowley, Guest Kate Fort of MSU Indigenous Law and Policy Center. Members J. Wernet, P. Shannon, C. Tierney, J. Davis, M. Petoskey advised they were unable to attend. Commissioner Liaison R. Cunningham sends his regrets; he is unable to attend today due to court proceedings, however, he plans to participate in future teleconferences as his schedule permits and offered the Committee his support in any initiatives that could be furthered with participation from the Commission.
2. Agenda Adoption
3. Approval of Minutes of Oct. 27, 2006 meeting.
4. Reports

a. Child support, custody & guardianship issues -- As part of its ongoing efforts to review issues of American Indian law, focusing on the relationship between tribal courts, state courts, and federal courts, the Committee continues its efforts to achieve a better understanding within the bench and bar on the distinction between rules of comity versus the federal full faith and credit laws as it relates to child support, custody and guardianship issues. *See* MCR 2.615 and the Federal Full Faith and Credit for Child Support Act, 25 U.S.C. § 1738B. The Committee will seek to collaborate with state agencies as well as the Michigan State University College of Law Indigenous Law & Policy Center, the University of Detroit Mercy School of Law Indian Law Center, the Michigan Indian Judicial Association (MIJA) on this initiative.

b. MIJA Nov. 5-6 Meeting – At the November 5-6, 2006 MIJA meeting hosted by the Little Traverse Bay Bands Tribal Court, W. Singel presented the comity/full faith and credit issue for discussion on behalf of the Committee as a possible agenda item in a future MIJA meeting. C. Crowley attended the meeting and provided highlights to the Committee. The comity/FFC discussion was informative and included a summary of the Committee’s recent work with Michigan’s Department of Human Services related to DHS efforts to develop procedures for entering income withholding notices for child support in tribal courts. The meeting also included presentations on the history of the MIJA as well as the formation of the SBM Indian Law Section, and changes in the MIJA board – Hon. Ronald Douglas (Associate Judge, Little River Band of Ottawa Indians) stepped down as President of the MIJA, as he is retiring later this year; newly elected MIJA board members are President – Hon. JoAnne Cook (Chief Judge, Little Traverse Bay Bands of Odawa Indians), Vice President – Hon. Michele Hank, Secretary – Hon. Wenona Singel (Appellate Justice, Little Traverse Bay Bands of Odawa Indians), Treasurer – Hon. Bruce Plackowski (Associate Judge, Saginaw Chippewa Indian Tribe). The next MIJA

meeting is planned for February 2007 in Sault Ste. Marie.

In a related initiative, the Committee has undertaken a project involving review of the 2006 edition of the Michigan Family Law Benchbook. The Benchbook was provided by ICLE staff (Legal Editor Ann Sanderson) and distributed to Committee members who have agreed to review the benchbook and prepare recommendations on the incorporation of references to Indian law and procedures. These recommendations will be passed on to ICLE. Committee members S. Gaskell, J. Kinney, K. Tierney, M. Petoskey, D. Duncan and W. Brooks are assisting in this endeavor. The Committee also requested the assistance of MSU's College of Law Indigenous Law & Policy Center. The Center provided a Nov. 30, 2006 memo to the Committee summarizing their initial overview of the Benchbook. The Center's Staff Attorney K. Fort joined the Committee teleconference and provided further details about the Center and the work completed by law students. The Committee expressed its appreciation to the Center for its work on this project. Input from members who were unable to attend today's meeting will be obtained and the Committee will respond with further direction after the exam period ends so that additional work on this project can commence in January 2007. S. Gaskell will also attempt to identify any ICLE deadlines that the Committee should be aware of as it moves forward with this project.

c. Tribal/State/Federal Judges Forum: The Committee has identified as one of its goals to assist in the planning of a meeting involving Tribal, State, and Federal Judges to provide an opportunity to explore cross-jurisdictional issues, further positive relations, and provide state and federal judges with information about tribal courts. Follow-up efforts with the MIJA and the MJI about training events and judges conferences will be undertaken to explore the possibility of arranging such a meeting.

d. Michigan Court Rule 3.980 involves transfers of Indian children to tribal court in protective proceedings. See 4/28/06 memo sent by J. Keedy of Michigan Indian Legal Services to all members for review. The subcommittee working on this issue will gather information and make recommendations to the Committee that may include proposing an amendment to MCR 3.980 along with draft language of the rule change proposed. The amendment will focus on the suggestions contained in the 4/28/06 memo, re: standard for emergency removal of an Indian child not living on a reservation, to make it consistent with removal standards contained in the ICWA. Clear guidance on the meaning of "emergency" will be included. Any interested persons are encouraged to work with this subcommittee. S. Johnson will send subcommittee members via email .pdf attachment research materials on the laws of other jurisdictions in this area. The goal is to present for a vote at an upcoming meeting a proposed amended rule.

e. The Committee will send a letter to tribal leaders to further positive relationships and seek input on areas they would like addressed within the jurisdiction of the Committee. M. Phelan & M. Mansfield will work with S. Gaskell on drafting with a target date of December 2006 for mailing.

## 5. Other

a. During the November 2006 teleconference W. Gregory advised of two grant projects he is working on related to the LEIN and cross-indexing of tribal and state numbering systems,

seeking support for the initiatives. Further details of the grant work will be provided so the Committee can determine what type of support it can provide to the initiatives.

b. Monthly teleconferences to be held on Fridays at 9:30a in 2007 are: January 19, February 23, March 23, April 20, May 18, June 22 and August 17. To participate, dial 1.800.270.1153 & when prompted enter 134891#. If you were unable to participate & would like your opinions heard, please contact Sheila at gaskellk@msn.com or 248.421.4691. The Committee is exploring potential locations for a future meeting during the 2006-2007 term.

6. Adjournment.