

American Indian Law Committee
Minutes of January 19, 2007 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. Present: S. Gaskell (Chair), W. Gregory, S. Johnson, J. Kinney, M. Petoskey, M. Phelan, A. Voice, State Bar Liaison Candace Crowley. Members J. Davis, D. Duncan, C. Tierney, advised they were unable to attend.
2. Agenda Adoption
3. Approval of Minutes of Dec. 1, 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.

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's Dec. 1, 2006 teleconference and provided further details about the Center and the work completed by law students. The Committee sent a January 12, 2007 memo providing guidance on the project, including clarifying the ICLE deadline of March 15, 2007 for receipt of comments from contributors. The project will move forward with the hope that a first draft prepared by law students at both the University of Detroit School of Law and MSU's College of Law will be available for review by Committee members by February 19, 2007.
 - b. 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, the MJJ, and the Michigan Supreme Court about training events and judges conferences will be undertaken to explore the possibility of arranging such a meeting. A meeting with Justice Cavanagh and Committee members will be explored as a means for furthering this initiative as well as identifying areas of focus for the coming months and years as the Committee and the Supreme Court work on maintaining the state court/tribal court relationship. Justice Cavanagh has served as the Supreme Court Liaison, Michigan Indian Tribal Courts/Michigan State Courts since 1990.

c. 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. The goal is to present for a vote at an upcoming meeting a proposed amended rule.

d. The Committee sent letters dated December 14, 2006 to tribal leaders of the 12 federally recognized tribes in Michigan to further positive relationships and seek input on areas they would like addressed within the jurisdiction of the Committee. Special thanks to M. Phelan & M. Mansfield, who assisted on this initiative, as well as the State Bar of Michigan's Susan McMann and Anne Smith who graciously assisted with the mailing list and the 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: 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, and both the State Bar of Michigan and the Lansing office of Dykema Gossett where graciously offered as possible locations. The SBM Upper Michigan Legal Institute is planning its annual conference this year for June 8-9 at the Grand Hotel on Mackinac Island, and the Committee will also explore the possibility of holding its June meeting in conjunction with this conference, possibly on Saturday June 9 at 1:30p.

6. Adjournment.