

American Indian Law Committee
Minutes of May 18, 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. Brooks, J. Keedy, W. Gregory, C. Tierney; members J. Davis, D. Duncan, M. Petoskey, J. Wernet advised that due to scheduling conflicts, they are unable to attend.
2. Agenda Adoption
3. Approval of Minutes of March 23, 2007 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 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 is collaborating with state agencies, 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. 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, and a subcommittee has formed 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. The Committee has also obtained assistance from MSU's College of Law Indigenous Law & Policy Center and UDM's Indian Law Center on this ongoing project. The subcommittee will continue efforts to prepare recommendations and members are encouraged to forward suggested revisions to S. Gaskell.

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 MJI, and the Michigan Supreme Court about training events and judges conferences will be undertaken to explore the possibility of arranging such a meeting. When new federal judges are appointed in the W.D. of Michigan, there may be an opportunity to further this initiative in coordination with the MIJA, the MJI and the Michigan Supreme Court.

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. J. Keedy will attempt to locate materials from the an amendment proposed in 2002, and A. Voice will also attempt to gather background information.

d. The Committee's annual report to the State Bar of Michigan was filed April 27, 2007, and copies were distributed to committee members for review/comment.

e. SBM Directors & Officers Liability Insurance Coverage – the annual inquiry from the SBM was distributed to committee members along with the committee's response.

f. Members were reminded that the June meeting of the Committee will occur in conjunction with the Upper Michigan Legal Institute's annual conference at the Grand Hotel on Mackinac Island. The Committee will meet in the Kelly Room of the Grand Hotel at 1:30p on June 9, 2007. Members should RSVP to Susan McMann at the SBM.

5. Other

a. S. Gaskell will distribute a list of State Executive Department Tribal Coordinators to members (thanks to J. Wernet for providing the list).

b. W. Gregory has observed that some state courts are using BIA recommended guidelines for state courts as if the guidelines were the law and that this should be discouraged. This issue will be clarified/researched and considered at a future meeting.

c. On May 19, 2007, W. Gregory has been invited to participate in a planning meeting with DHS and the State Court Administrator's Office regarding a central depository for all order of abuse and neglect to include state and tribal court orders.

d. Discussion of upcoming appointments for the Committee and desire to bring more balance to the committee through participation by members affiliated with the state government such as county prosecutors.

e. Monthly teleconferences to be held on Fridays at 9:30a in 2007 are: 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.

6. Adjournment.