

American Indian Law Committee
Minutes of October 26, 2007 9:30a Teleconference Call

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), C. Crowley, S. Johnson, J. Kinney, M. Mullins (unable to attend: C. Koop, P. Shannon, K. Tierney, A. Voice, J. Wernet).
2. Agenda Adoption
3. Approval of Minutes of Aug. 24, 2007 meeting
4. Reports

a. Child support, custody & guardianship issues – As part of ongoing initiative 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), and 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 a subcommittee 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 obtained assistance from MSU's College of Law Indigenous Law & Policy Center and UDM's Indian Law Center. Handouts of draft comments have been provided to Committee members, and all were encouraged to review the Benchbook and the suggested revisions and coordinate comments with S. Gaskell. Nothing new to report during Oct. 2007 meeting; efforts to coordinate with Committee members will continue so that project can move forward.

b. Tribal/State/Federal Judges Forum: The Committee seeks to assist in the planning of a meeting involving Tribal, State, and Federal Judges that will 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 is planned to explore the possibility of arranging such a meeting. Nothing new to report during October meeting.

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 Committee members. A subcommittee formed to gather information and make recommendations to the Committee that may include endorsing a proposed amendment to MCR 3.980. 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 and A. Voice will attempt to locate

materials from an amendment proposed in 2002. Nothing new to report during October 2007 meeting.

d. HB 4650, Uniform Foreign-Country Money Judgment Recognition Act - discussion of this pending bill and the implications for tribal court orders in light of MCR 2.615. Legislative analysis and text of the bill is available online at <http://legislative.mi.gov/doc.aspx?2007-HB-4650> . The Committee will work to bring the issue to the attention of Michigan tribes, the SBM American Indian Law Section, the Michigan Indian Judicial Association, and other interested organizations. The Committee seeks to endorse through the appropriate channels a proposed amendment that will avoid possible conflict with MCR 2.615 by including in the "foreign country" definitional section of the uniform law language that excludes those tribes that have enacted a reciprocal rule and transmitted it to the state, while allowing those tribes that have not adopted a reciprocal rule to receive the benefits the uniform act seeks to create. Kieran Marion of the Uniform Law Commission has been contacted by Committee members and encouraged those interested persons / groups to work with his office on presenting a proposed amendment in this regard. The MIJA will be meeting on October 29. S. Gaskell will attend on Committee's behalf. HB 4650 will be on the agenda. This issue was also an agenda item at the annual meeting of the American Indian Law Section and W. Brooks and D. Budnick agreed to form a working group to look into the issue on the Section's behalf. C. Crowley offered assistance to the Committee and Section on behalf of the SBM if endorsement of a proposed amendment to the bill moves forward.

5. Other

- a. C. Crowley will assist with posting of Committee minutes on State Bar website.
- b. S. Gaskell noted that due to a glitch in the email notice of today's meeting, several members did not receive timely notice and were unable to attend.

6. Adjournment.