

American Indian Law Committee
Minutes of April 25, 2008 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: W. Brooks, D. Duncan, S. Gaskell, W. Gregory, M. Petoskey, J. Wernet
2. Agenda Adoption
3. Approval of Minutes of Feb. 22, 2008 meeting
4. Reports

a. Child support, custody & guardianship issues – The subcommittee continues work on recommended revisions to the 2006 edition of the Michigan Family Law Benchbook and all interested members are encouraged to participate. The subcommittee formed to review and recommend incorporation of references to Indian law and procedures for presentation to ICLE.

b. Tribal/State/Federal Judges Forum: Justice Cavanagh will speak at the ICWA Forum scheduled for Oct. 6-7, 2008 and welcomes input from Committee members as he prepares for the program. W. Brooks commented that the Grand Traverse Band of Ottawa and Chippewa Indians and the Grand Traverse /Leelanau County Department of Human Services have a very good working relationship that may offer an example of two jurisdictions working together for the ICWA Forum. Follow-up efforts for the Forum continue after the March 6, 2008 meeting with the support of Carol Siemon, SCAO's Training & Development Manager for the Family Services – Child Welfare Division, and the SBM DV Committee. Interested AIL Committee members are encouraged to join in the planning and participate in the Forum.

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 focus would be on recommendations 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. Efforts to locate materials from an amendment proposed in 2002 are underway. No new reporting this month.

d. MCL 551.7 (Persons Authorized to Solemnize Marriage) – discussion of statute, which does not include within those authorized to solemnize marriage under state law tribal judges or other tribal officials; statute has been amended several times recently to add others to list of authorized persons. It was suggested that the topic be raised with the Michigan Indian Judicial Association as a possible agenda item for its upcoming May 16 meeting. S. Gaskell will contact the MIJA and share the Committee's willingness to advocate / support a proposed amendment if the MIJA or others tribal governments / officials wish to propose an amendment. The Committee will also follow-up with Chief Judge Dakota of the Keweenaw Bay Indian Community regarding this issue, which he raised with a Committee member earlier this year.

e. Tribal Title IV-D Program – members briefly discussed the Tribal IV-D Program and the potential for a negotiated agreement in Michigan involving the Keweenaw Bay Indian Community and its Office of Child Support Services. The Michigan IV-D Action Transmittal 2005-045 was also discussed, and copies were sent to interested members by S. Gaskell.

f. Members learned that Paul Cloutier, who has worked closely with the Committee in past years, has left his position as DHS Native American Affairs Specialist for a new position in Oregon, and his replacement has not yet been identified.

5. Other

a. Discussion of Committee's 2007-2008 Annual Report (copy distributed prior to meeting) with feedback / comments to be provided by S. Gaskell to C. Crowley.

b. Project Passport materials distributed to Committee for review courtesy of Associate Judge Jenny Lee Kronk, Little Traverse Bay Band of Odawa Indians.

c. W. Gregory provided overview of a grant he is working on, re: implementation of the Adam Walsh Child Protection and Safety Act. The Act was signed into law by President Bush on July 27, 2006, and includes a number of important provisions, including amendments to the Crime Control Act that authorize grants to jurisdictions to assist with developing or enhancing programs designed to implement the Sex Offender Registration and Notification Act provisions of the Adam Walsh Act. The grants are administered by the Justice Department's Office of Justice Programs' Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART).

<http://www.ojp.gov/newsroom/pressreleases/2008/smart08015.htm>

d. There was sufficient support to move forward with plan for the June 14, 2008 AIL Committee meeting to be held in conjunction with the SBM Bar Leadership Forum at the Grand Hotel, Mackinac Island. Also held during this weekend is the SBM Upper Michigan Legal Institute Conference. C. Crowley assisted with arrangements and the Gerald Ford room has been reserved to accommodate the meeting of the AIL Committee on June 14, 2008 at 1:30p.

6. Adjournment.