



Minnesota State Bar Association  
Continuing Legal Education

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2014  
**INDIAN**  
LAW CONFERENCE

Friday, May 2, 2014  
Mystic Lake Casino Hotel  
2400 Mystic Lake Boulevard  
Prior Lake, Minnesota

*Accommodation details inside.*

Conference luncheon  
included for all attendees.  
Plus, you won't want to miss the  
complimentary reception  
sponsored by the Minnesota  
American Indian Bar Association  
in honor of  
**TADD M. JOHNSON**  
and  
**STACEY THUNDER**

2014

**INDIAN**  
LAW CONFERENCE

*Learn Indian Law from national and local experts and  
treat yourself to some fun at Mystic Lake Casino Hotel!*

**Guest Speakers**

**Chief Judge Robert A. Blaeser** – White Earth Band of Ojibwe; White Earth

**Chief Judge Paul W. Day** – Leech Lake Band of Ojibwe; Cass Lake

**Dr. Jill Doerfler** – University of Minnesota Duluth; Duluth

**Eric F. Facer** – Attorney at Law; Washington D.C.

**Tadd M. Johnson** – University of Minnesota Duluth; Duluth

**Bryan Newland** – Bay Mills Indian Community; Brimley, Michigan

**G. William Rice** – University of Tulsa College of Law; Tulsa, Oklahoma

**Donald J. Simon** – Sonosky, Chambers, Sachse, Endreson & Perry, LLP; Washington D.C.

**AND A SPECIAL LUNCHEON PRESENTATION BY**

**Kevin K. Washburn**  
Assistant Secretary – Indian Affairs  
U.S. Department of the Interior  
Washington, D.C.

Friday, May 2, 2014  
Mystic Lake Casino Hotel ♦ 2400 Mystic Lake Boulevard ♦ Prior Lake, Minnesota

*Accommodation details inside.*

# SCHEDULE

7:30 – 8:30 a.m.

CHECK-IN & CONTINENTAL BREAKFAST

8:30 – 9:00 a.m.

## Prayers and Welcome

9:00 – 9:45 a.m.

## Case Law Update

This session will address pending cases and recent decisions from the U.S. Supreme Court, 7th & 8th Circuits, and Minnesota State Courts.

– *Colette Routel*

9:45 – 10:45 a.m.

## Michigan v. Bay Mills Indian Community and the Future of Tribal Sovereign Immunity

Tribal sovereign immunity is the legal principle that prevents tribes from being sued without their express consent. Michigan wants the tribe's sovereign immunity to be waived so that the state can prevent the tribe from re-opening a casino on off-reservation lands. This panel will explore issues presented and the potential implications of the Supreme Court's forthcoming decision.

– *Jessica Intermill, Bryan Newland & G. William Rice*  
– *Andrew Adams III, moderator*

10:45 – 11:00 a.m.

BREAK

11:00 a.m. – 12:00 p.m.

## Breakout Session A

### 101) Practicing in Tribal Court

Leading Tribal Court judges will explain what they expect when you come before them, what is required to be admitted to the Bar and where you can find the Rules of Court and case law for the various courts. Hear how a Tribal Court's jurisdiction may impact your practice and what types of cases are heard regularly by the judges.

– *Chief Judge Robert A. Blaeser, Chief Judge Paul W. Day & Judge Vanya Hogen Moline*  
– *Veronica Newcomer, moderator*

### 102) *Salazar v. Ramah Navajo Chapter: Litigating Contract Support Costs Against the United States*

In June 2012, the U.S. Supreme Court held the federal government liable for the BIA's past failure to pay full contract support costs to Indian Tribes and tribal organizations under Indian self-determination "638" contracts and compacts in *Salazar v. Ramah Navajo Chapter*, 132 S. Ct. 2181. This ruling was then expanded to IHS shortfalls in contract support cost payments by the Federal Circuit. *Arctic Slope v. Sebelius*. This panel will discuss recent developments and provide tribal attorneys with the information necessary to build their case.

– *Tadd M. Johnson, James Nichols & Donald J. Simon*

12:00 – 1:30 p.m.

CONFERENCE LUNCHEON (provided to all attendees)

12:30 – 1:15 p.m.

## Luncheon Address & Prayer

– *Kevin K. Washburn*  
*Assistant Secretary – Indian Affairs*  
*U.S. Department of the Interior*

1:30 – 2:30 p.m.

## Breakout Session B

### 201) The Future of Tribal Citizenship

Topics this panel will cover include: (1) the evolution of tribal citizenship from IRA Constitutions to 21st century citizenship reform efforts; (2) a comparison of current tribal citizenship requirements; (3) best practices for tribal enrollment departments; and (4) disenrollment case studies.

– *Sarah Deer, Dr. Jill Doerfler & Sara K. Van Norman*

### 202) *United States v. Dennis Banks and Russell Means – The Wounded Knee Siege Leadership Trial After 40 Years*

Minneapolis attorney Larry B. Leventhal, co-counsel for Dennis Banks, will provide an insider's perspective on this historic trial. Banks and Means, American Indian Movement leaders of the 1973 Wounded Knee Siege, were charged with conspiracy and other crimes. Federal District Court Judge Fred Nichols, presiding at the Federal Courthouse in St. Paul, Minnesota, dismissed all charges after nine months of trial citing government misconduct. The trial showcased the cause of the Native civil rights movement which featured a defense based upon the 1868 Fort Laramie Treaty.

– *Larry Leventhal*

### 203) Historical Trauma

#### 1.0 elimination of bias credit applied for

Historical trauma refers to the emotional and psychological effects that occur in the aftermath of a traumatic event(s), which are passed onto the following generation, although that particular generation has not experienced the triggering traumatic event for itself. This is an ongoing problem for Native peoples, who continue to confront trauma related colonization in general, and more specifically, U.S. practices of removing children from Indian families through boarding schools and non-Indian foster care/adoption. This panel will discuss how an understanding of historical trauma can help attorneys interact with their clients, and when such issues should be raised in litigation.

– *Judge David DeGroat & Sandy White Hawk*

2:30 – 2:45 p.m.

BREAK

2:45 – 3:45 p.m.

## Breakout Session C

### 301) Real and Personal Property Transfers in Indian Country

This presentation will cover the basic property rights of individuals and tribes for personal property and trust and fee property. The Tribal Fee to Trust process will be outlined with suggestions for completing a successful application. The panelists will discuss the implications of the American Indian Probate Reform Act on individual and tribal trust lands and how to plan for successful property transfers. Tips on how to navigate mixed trust and personal property transfers in Indian Country will also be discussed.

– *Heidi A. Drobnick & Lisa Johnson*  
– *Shauna L. Coons, moderator*

### 302) Spotting and Dealing with Ethical Conflicts in Indian Country

#### 1.0 ethics credit applied for

Representation of Tribal governments can be fraught with conflicts. Conflicts include things such as leadership disputes, disagreements between the executive, legislative and judicial branches, and representing parties in tribal court. This panel will give practical advice on how to approach such situations and will include a discussion of what professional responsibility rules govern attorney conduct.

– *Craig Klausing, Aaron Loomis & Christopher Sailors*  
– *Philomena Kebec, moderator*

3:45 – 4:00 p.m.

BREAK

4:00 – 5:00 p.m.

## Breakout Session D

### 401) Indian Law Gaming and Related Business Basics

Hear experts explain the everyday practice of how the Indian Gaming Regulatory Act is applied as well as provide you with an overview of the direction the industry is headed. Business practice pointers for representing Tribes and working with Tribes will round out the session.

– *Greg S. Paulson & G. William Rice*  
– *William Hardacker, moderator*

### 402) Stopping State Taxation on Indian Reservations: The Bracker Balancing Test

The U.S. Supreme Court has held that if the legal incidence of a state tax falls on non-members in Indian country, the state is permitted to impose such a tax unless, the federal and tribal interests in having the tax not apply outweigh the state interests. Caselaw has now firmly established that controlling factors in this test are often the location of the legal incidence of the tax, and whether the tribe can claim that it has "added value" on the reservation to the product or resource the state wishes to tax. This panel will provide an overview of the case-law in this area and provide practical examples of how tribes are attempting to ensure federal preemption of state taxation in Indian country.

– *Eric F. Facer & Mary J. Streitz*  
– *Forrest K. Tahdoohnippah, moderator*

5:00 p.m.

## Complimentary Reception

Please join us immediately following the seminar for a reception honoring **Stacey Thunder** and **Tadd Johnson**, Hosts and Producers of "Native Report," the PBS program that opens a window so the world can see the lives of contemporary Native Americans. The Minnesota American Indian Bar Association (MAIBA) will recognize Stacey and Tadd for the vibrant creative efforts they have made for 10 years airing 139 episodes in nine consecutive seasons. Stacey Thunder is Ojibwe from the Red Lake Band in Minnesota and the Lac Courte Oreilles Band in Wisconsin. She currently serves as the Legal Counsel for the Red Lake Nation and is also a film and television actress. Tadd Johnson is a member of the Bois Forte Band of Chippewa. After serving for many years in leadership positions as a lawyer working on behalf of Native people, he is now a Professor and the Head of the American Indian Studies Department at the University of Minnesota, Duluth.

*Sponsored by the Minnesota American Indian Bar Association*

# FACULTY AND PLANNERS

◆ Member of  
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◆ **Andrew Adams III**  
Conference Co-Chairperson  
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Saint Paul

**Chief Judge Robert A. Blaeser**  
White Earth Band of Ojibwe  
White Earth

◆ **Barbara Cole**  
Mille Lacs Band of Ojibwe  
Onamia

◆ **Shauna L. Coons**  
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**Chief Judge Paul W. Day**  
Leech Lake Band of Ojibwe  
Cass Lake

◆ **Gary A. Debele**  
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Minneapolis

**Sarah Deer**  
William Mitchell College of Law  
Saint Paul

**Judge David DeGroat**  
White Earth Band of Ojibwe  
White Earth

**Dr. Jill Doerfler**  
University of Minnesota Duluth  
Duluth

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**Eric F. Facer**  
Attorney at Law  
Washington D.C.

**William Hardacker**  
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**Jessica Intermill**  
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**Lisa Johnson**  
Mille Lacs Band of Ojibwe  
Onamia

**Tadd M. Johnson**  
University of Minnesota Duluth  
Duluth

**Philomena Kebec**  
Bad River Band of the Lake Superior Tribe of  
the Chippewa Indians  
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**Aaron Loomis**  
St. Croix Chippewa Indians of Wisconsin  
Spooner, Wisconsin

**Vanya Hogen Moline**  
Judge, Shakopee Mdewakanton Sioux (Dakota)  
Community Tribal Court  
Hogen Adams PLLC  
Saint Paul

◆ **Veronica Newcomer**  
White Earth Band of Ojibwe  
White Earth

**Bryan Newland**  
Bay Mills Indian Community  
Brimley, Michigan

**James Nichols**  
Dorsey & Whitney LLP  
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BlueDog, Paulson & Small P.L.L.P.  
Minneapolis

**G. William Rice**  
University of Tulsa College of Law  
Tulsa, Oklahoma

◆ **Colette Routel**  
William Mitchell College of Law  
Saint Paul

**Christopher Sailors**  
Mille Lacs Band of Ojibwe Legal Aid  
Onamia

**Donald J. Simon**  
Sonosky, Chambers, Sachse, Endreson & Perry, LLP  
Washington D.C.

**Mary J. Streitz**  
Dorsey & Whitney LLP  
Minneapolis

◆ **Forrest K. Tahdoohnippah**  
Dorsey & Whitney LLP  
Minneapolis

**Sara K. Van Norman**  
Jacobson, Magnuson, Anderson & Halloran, P.C.  
Saint Paul

**Kevin K. Washburn**  
Assistant Secretary – Indian Affairs  
U.S. Department of the Interior  
Washington, D.C.

**Sandy White Hawk**  
First Nations Repatriation Institute  
South Saint Paul

## COURSE INFORMATION

### Date & Location

Friday, May 2, 2014  
Mystic Lake Casino Hotel  
2400 Mystic Lake Boulevard  
Prior Lake, Minnesota  
952-445-9000 • 800-262-7799

For directions visit: <http://www.mysticlake.com/hotelfactsheet>

### Hotel Accommodations

Minnesota CLE has reserved a block of rooms at the Mystic Lake Casino Hotel at the special rate of \$99 for May 1 and \$129 for May 2 (exclusive of state and local taxes.) **Please call 800-262-7799 by April 1, 2014** to make your reservation. Identify yourself as being part of the Minnesota Continuing Legal Education Indian Law Conference group. Reservations will be held on an individual basis. Check-in time is 3:00 p.m. and check-out time is 11:00 a.m.

### Credits

Minnesota CLE is applying to the Minnesota State Board of Continuing Legal Education for **6.5 standard CLE credits**. We anticipate that breakout session #203 will qualify for **1.0 elimination of bias credit** and that breakout session #302 will qualify for **1.0 ethics credit**. If you claim ethics or elimination of bias credits, you must deduct those special credits from the 6.5 hours of "standard" credit. (For example, if you attend session #302, you may claim a maximum of 5.5 standard credits and 1.0 ethics credit for a total of 6.5 credits.) In no case may you claim more than 6.5 credits for this seminar.

### Cancellation / No-Show Policy

Paid registrants who cancel their registration at least 3 business days before the program will receive a full credit on their account; if fewer than 3 business days, a \$25 administrative fee will be deducted. Paid registrants who fail to attend will receive the written materials. Passholders may purchase the materials at 50% of the full retail price.

### Accommodation

If you have a disability and need an accommodation in order to attend, contact Minnesota CLE as soon as possible at 2550 University Avenue West, Suite 160-S, Saint Paul, MN 55114 or call 651-227-8266 or 800-759-8840.

### Questions?


Call Minnesota CLE at **651-227-8266** or **800-759-8840**. Or, visit us online at [www.minncle.org](http://www.minncle.org).

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 **Online:** [www.minncle.org](http://www.minncle.org)

 **Call:** 651-227-8266 or 800-759-8840

## REGISTRATION FORM

# 2014 INDIAN LAW CONFERENCE

Friday, May 2, 2014 ♦ Mystic Lake Casino Hotel

### PLEASE "✓" APPROPRIATE BOX:

- \$245 MSBA member     \$245 paralegal / legal asst.  
 \$245 MAIBA member     \$295 standard rate  
 \$122.50 Legal Aid attorneys (with approved form)  
 I have a Minnesota CLE Season Pass<sup>SM</sup>.  
 Pass # \_\_\_\_\_

### NEW LAWYER DISCOUNT!

- I was first admitted to the bar after May 2, 2011, and have deducted \$60 from the fee marked at left.

### TUITION ASSISTANCE

Minnesota CLE is pleased to offer **free attendance for students** and **discounted pricing for government attorneys**. In addition, you may apply for a reduced rate by completing a **scholarship** application.

### NEW LAWYER SCHOLARSHIP PROGRAM

In recognition of the challenges facing lawyers entering the profession, Minnesota CLE has established a scholarship program for unemployed and underemployed lawyers admitted fewer than three years. Contact Grant at 651-254-2111 or [gdavies@minncle.org](mailto:gdavies@minncle.org) for details.

- Check here if address below is new.

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Profession, if non-attorney \_\_\_\_\_

### COURSE MATERIALS

**Can't attend?** You can purchase the materials for \$75 (plus tax and handling) by calling Minnesota CLE at 800-759-8840 or 651-227-8266. *Available in hardcopy only. Available after May 9.*

ENCLOSED IS \$ \_\_\_\_\_ BY:

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