

**NOMINATION FORM
2014 ANNUAL NCWBA PUBLIC SERVICE AND
OUTSTANDING MEMBER PROGRAM AWARDS**

Name of your organization's project:

*MAZE OF INJUSTICE – ISSUES AND CONCERNS INVOLVING NATIVE AMERICAN WOMEN
AND CHILDREN IN THE COURTS*

Please indicate whether your submission is for the Public Service Award or
Outstanding Member Program Award: *OUTSTANDING MEMBER PROGRAM*

Name of sponsoring women's bar association: *BROWARD COUNTY WOMEN
LAWYERS ASSOCIATION*

Name of Sponsoring Organization's contact person: Julie Hough, President

E-mail address: jhough@polenbergcooper.com

Telephone number: (954)742-9995

Number of members: 100

Name of contact person for purposes of award notification: Julie Hough, Pres.

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Telephone number: (954)742-9995

**PLEASE MAKE SURE TO NOTIFY THE NCWBA OF ANY CHANGE IN YOUR CONTACT
INFORMATION AFTER SUBMISSION OF YOUR AWARD APPLICATION TO ENSURE
YOU RECEIVE TIMELY NOTIFICATION REGARDING WHETHER YOU HAVE BEEN
SELECTED TO RECEIVE AN AWARD.**

The nomination materials should be e-mailed to be received no later than

Friday, February 21, 2014: *Awards Chair Wendy Weigler, E-mail:*

awards@ncwba.org

**Broward County Women Lawyers Association
Nomination for
NCWBA 2014 Outstanding Member Program**

***MAZE OF INJUSTICE – ISSUES AND CONCERNS INVOLVING NATIVE AMERICAN WOMEN
AND CHILDREN IN THE COURTS***

Introduction and Background

Broward County Women Lawyers Association “BCWLA” was established in 1991 with the goal of creating a local voluntary bar association to encourage, promote, and assist Women Lawyers in all aspects of their lives. With an understanding that we are not simply attorneys but also mothers, sisters, daughters and friends of the community within which we serve, BCWLA has continued to provide financial scholarship, mentoring programs, judicial and diversity outreach as well as educational seminars to highlight not only legal issues but also the mental and physical well-being of those who practice law.

Within Broward County there are two federally recognized Tribes; the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida. In recent years, due to the economic success of its gaming operations, both Tribes have seen an increase in domestic violence, crime, child welfare and support, divorce, and general litigation issues. Although a huge presence in South Florida there has been little effort from any entity to educate and prepare the legal community to serve the unique cultural and legal needs of the members of these Tribes. In essence most legal issues are approached in the same manner as any non-Indian case and often the end result is not in the best interest of any party.

Historically Native American Women and Children have gone unrepresented and largely unnoticed in the social and legal community. The statistics regarding abuses and lack of attention given Native American women and children are alarming. One in three will be raped, abused, beaten or murdered in their lifetime; High School graduation rates for Native American children are only 49% compared to 76% of white students; Native American teens have the highest suicide rate of any group.

Native American students are three times more likely to be suspended in school and ten times more likely to be referred to law enforcement than their white counterparts. The school to prison pipeline, lack of funding, and extreme poverty levels of most reservations all contribute to the mistreatment and issues faced daily by Native American Women and Children. Over 40% of Native Americans live below the poverty level compared to the U.S. National average of 20%. Twenty Percent of those in poverty on reservations live on less than \$5,000 per year.

There are 562 federally recognized Tribes in the United States. Over 40 States have at least a State recognized Tribe as well as a federally recognized Tribe. Twelve states have over 100,000 Native Americans residing within their borders. Programs for Native American Tribes are federally funded with little if any assistance from State agencies. Often Native American programs are the last to be funded and the first to be cut as evidenced by the recent Affordable

Care Act which exempted Native Americans from coverage but failed to fund Indian Health Services to provide adequate coverage. As a result only 30% of Native Americans have health coverage.

Add to these alarming statistics the fact that States lack the authority and jurisdiction to intervene in criminal and civil matters occurring within Tribal lands, commonly referred to as Indian Country, along with the lack of federal authority and personnel to police reservations, the criminal and civil injustices pile on to the already overwhelming social failures. Rapes go unprosecuted and unreported. Sex offenders seek out and reside within reservation boundaries. Police officers and investigators refuse to work within Indian Country. In the end an entire group of women and children are lost and forgotten.

Few States offer any training or requirement for familiarity with Native American issues on bar exams or within law schools. Still a number of attorneys represent and work with Native American women and children absent any formal understanding, preparation or consideration for the unique culture and sensitive issues that exist in Indian Country. Many continue to work and operate under the same misperceptions and stereotypes perpetrated by Hollywood movies and sports team mascots.

In recent years there have been a number of changes in federal and state laws affecting Indian Country and providing assistance with domestic violence as well as other issues facing the Native American Community. Recent reauthorization of the Violence Against Women's Act "VAWA"; expansion of Tribal Court jurisdiction over non-Indian perpetrators of domestic violence; amendments to the Indian Major Crimes Act; recent Supreme Court decisions involving the Indian Child Welfare Act among others have created an entirely new body of law that impacts members of the community in which our organization serves.

Additionally, as part of BCWLA mentoring program and scholarship there is a push for continued diversity in not only the practice of law but also within the judiciary. As such we are aware of the need for more inclusion within the federal and state judiciary which currently has no Native Americans seated as Article III federal judges anywhere in the United States. As a group Native Americans appear more often than any other group in federal court and yet not one judge on the federal bench is of Native American heritage or descent.

In 2010 BCWLA welcomed to its Board of Directors the first male board member, Robert O. Saunooke, who is also Native American. In 2011 during Native American month, BCWLA began what has now become an annual program on Native American issues. The goal of this program is to dispel the misperceptions about Native Americans, create understanding of sensitive and complex issues in representing Native American women and children in divorce, school settings, criminal proceedings and other venues, and to begin a dialogue and annual presentation of topics of concern in diversity training and Native American culture where previously there has been none.

In 2011 the first program centered on "Myths and Rumors of Native American Legal Practice," and was one of the largest attended meetings held by BCWLA that year. In 2012 our program highlighted "Mediation from a Native American Perspective" highlighting additional

methods for mediating disputes using Native American culture and teachings. Again it was one of the highest attended seminars put on by BCWLA. In 2013 we provided the program attached to this Nominating Form to detail the “Maze of Injustice” and its impact on women and children in the Native American Community.

2013 Program

Violence against women and children is one of the most pervasive human rights abuses. It is also one of the most hidden. It takes place in intimate relationships, at the hands of strangers, within the family and it affects women in every country of the world. In the Native American Community the unique jurisdictional and legal arenas have done little to prevent the abuses, punish the perpetrators, and represent the women and children impacted by these acts. Recently reauthorization of VAWA along with expansion of Tribal Court jurisdiction over non-Indians along with developments in Indian Child Welfare have opened new doors and opportunities for protecting and assisting victims not only of domestic violence but women and children in Native American communities.

Additionally, the Seminole Tribe of Florida has created its first “Family Court” to deal with issues that typically were handled outside of the reservation by state and federal courts. The purpose of the program was to highlight the changes in Native American law and create a forum for discussion between local state judges, attorneys and the Seminole Tribe to assist in dealing with these new issues and new court.

Maze of Injustice was held in November 2013 and attended by local judges, attorneys and legal counsel from the Seminole Tribe of Florida. The panel for the presentation consisted of the Gigi Christopher of Holland and Knight Washington, D.C.’s Native American practice and an enrolled member of the; Stan Wolfe, Director of the Seminole Tribe of Florida’s Judicial Court; Kristie Richardson Director of the Seminole Tribe of Florida’s Family Services program and the moderator BCWLA Board member Robert O. Saunooke.

The event was a fundraiser as well as an educational presentation. Proceeds from the program were sent to the “Strong Hearted Native Women’s Coalition” project to house victims of domestic violence.

Format of Program

The program followed a brief introduction and opening statements from the panel and then background and general information on Native American law along the following outline:

Introduction into Indian Law.

A. Legal Analysis of Jurisdictional Issues

1. Sovereign Immunity of Tribes

Native American Tribes possess inherent sovereign authority and are classified as “dependent independent nations”. In essence they have the authority to enact, legislate

and enforce laws created by the Tribal government over those persons located within the boundary of the reservation. Suit against a Tribe or its officials is barred by sovereign immunity absent an explicit and absolute waiver and consent to suit.

- a. exceptions -
 - *No jurisdiction over non-Indians for any criminal matter
 - *Limited jurisdiction over non-Indians for civil matters
 - *Concurrent jurisdiction with both the federal government as well as some State governments for criminal matters involving Native American perpetrators of crime.
 - *Exclusive jurisdiction over civil matters involving tribe and its members
- b. Contract - * jurisdiction over civil matters between any parties by contract.

- b. State jurisdiction - discussion of PL 280 States and concurrent jurisdiction
- c. Federal jurisdiction – dependent independent nations subject to federal authority and laws
- d. Civil and Criminal Jurisdiction considerations – Whether Tribal, State or Federal court has jurisdiction depends largely on the race of the litigants. What is the race of the victim? What is the race of the perpetrator?

Unique issues in cases involving Native American parties.

- 1. Family law
 - a. Indian Child Welfare Act
 - b. Tribal Customs and Traditions
 - c. Venue and jurisdiction
 - d. enforcement and child support
- 2. Business relationships.
- 3. Criminal defense and prosecution
 - a. Indian Major Crimes Act
 - b. Assimilated Crimes Act
 - c. P.L. 280 concurrent Tribal and State jurisdiction issues
- 4. Domestic Violence
 - a. Violence against Women Act

Update on Baby Veronica case and the Supreme Court with Sensitivity to Tribal Culture

Conclusion and Questions and Answers

Following the panel presentation a lively discussion began led by many of the local judges who regularly dealt with issues involving Native American women and children. It was noted that this program, and the prior programs offered by BCWLA, were the only programs that presented Native American legal discussion and training. Of particular note was the ability for

BCWLA to obtain participation from the Seminole Tribe of Florida by way of its judicial and family services director.

After the program BCWLA received very positive feedback and more importantly requests from the local bar and judiciary for further programs and education of this nature. In addition the Seminole Tribe, based in large part on the post panel discussion, has begun a dialogue with the local judges for cross training and jurisdictional cooperation to assist in handling the complex issues involving the Tribe and jurisdictional limitations.

BCWLA continues to be the only voluntary bar in Broward County, and based on our information, the only voluntary bar in Florida, that focuses on this very unique cultural and legal issue involving Native Americans. The program will continue to be offered annually to commemorate Native American Heritage month in November and will be expanding to include other voluntary bars to highlight more developed topic specific issues to provide additional training in helping Native American women and children.

Thank you so much for considering our program for the 2014 NCWBA Outstanding Member Program Award.



NATIONAL NATIVE AMERICAN HERITAGE MONTH



MAZE OF INJUSTICE – ISSUES AND CONCERNS INVOLVING NATIVE AMERICAN WOMEN AND CHILDREN IN THE COURTS

Discussion and analysis of recent changes and cases involving the Indian Child Welfare Act and the Violence Against Women Act of concern to attorneys practicing in the areas of Family Law and Criminal Defense. Additional discussion and general background of the varied and complex nature of laws and cross jurisdictional practice of law in Indian Country

Presenter/Moderator: Robert O. Saunooke, Florida Attorney enrolled member of the Eastern Band of Cherokee Indians

Panel Members:

Stan Wolfe Director Seminole Tribe of Florida Family Court enrolled member Eastern Band of Cherokee Indians

Kristie Richardson Director Seminole Tribe of Florida Family Services

Gigi Christopher, Esq. Holland and Knight Indian Law Practice Washington, D.C. enrolled member

SPONSORED BY



Cocktail reception and Tapas immediately following CLE presentation proceeds benefitting Native American Women's Shelter



*Seminole Hard Rock Casino
Convention and Banquet Hall
Tuesday November 12, 2013
5:30pm - 8:30pm*



BCWLA member price: \$50.00

Non-member: \$60.00

Night of Reception \$70.00

Registration available online at www.blacktie-southflorida.com