

Navajo Nation Law CLE Conference Friday, October 21, 2022

Indian Legal Program / Sandra Day O'Connor College of Law / Arizona State University
Beus Center for Law and Society, Room 240
111 E. Taylor Street, Phoenix, AZ 85004

- Navajo Nation Bar Association has approved this conference for 6 Navajo Law credits and 2 Navajo Ethics credits.
- New Mexico MCLE has approved this conference for 6 general credits and 2 Ethics credits.
- State Bar of Arizona does not approve CLE activities; however, this activity may qualify for up to 8 credit hours, including 2 credit hours for Professional Responsibility.

AGENDA

7:30 – 8:20 am **Check-In & Breakfast** for attendees

8:20 – 8:30 am **Welcome from the Indian Legal Program**

Kate Rosier, Executive Director, Indian Legal Program

8:30 – 9:30 am **Employment Law Considerations on the Navajo Nation's
Reservation** (1 hour)

Colin Bradley ('14), Attorney, Bradley Law, PLLC

Katya Lancero, Attorney, Sacks Tierney

This presentation will cover the application of various employment laws at the tribal, state, and federal levels to tribally owned employers operating on the Navajo Nation's Reservation. Specifically, on the applicability of federal employment laws to tribally owned employers operating on the Navajo Nation's Reservation when those laws are silent as to their applicability based on Ninth and Tenth Circuit case law. In addition, presenters will discuss Navajo Employment laws, including the Navajo Preference in Employment Act—and Navajo case law regarding the applicability of certain state employment laws.

- 9:30 – 10:30 am **Torts in Tribal Country** (1 hour)
- Ted Barudin, Barudin Law Firm, PC
- This session focuses on the Navajo law on torts and the Federal Tort Claims Act, which impacts any and all claims for medical malpractice, BIA torts, etc. in federal court.
- 10:30 – 10:45 am **Break: 15-minutes.**
- 10:45 – 12:15 pm **Brackeen – Indian Child Welfare Act Goes to the Supreme Court** (1.5 hours)
- Sage Metoxen, Senior Attorney, Litigation Unit, Navajo Nation Department of Justice
- April Olson ('06), Partner, Rothstein Donatelli LLP
- Kate Fort, Director of Clinics, Director of Indian Law Clinic, Academic Specialist, Michigan State University College of Law
- Indian Child Welfare Act (ICWA) practitioners discuss legal challenges to the federal Act including *Haaland et. al v. Brackeen*, which is set for oral argument before the Supreme Court on November 9, 2022.
- 12:15 – 12:30 pm **Break:** Box lunches provided for attendees.
- 12:30 – 2:00 pm **Castro-Huerta and Navajo Nation Crime and Jurisdiction** (1.5 hours)
- Derrick Beetso ('10), Director, Indian Gaming and Tribal Self-Governance programs, Sandra Day O'Connor College of Law, Arizona State University
- Paul Spruhan, Assistant Attorney General, Litigation Unit, Navajo Nation Department of Justice
- Kathleen Bowman ('86), Director/Attorney, Office of Navajo Public Defender
- Troy Eid, Shareholder, Greenberg Traurig, LLP
- This panel will explore the Supreme Court's recent decision in *Oklahoma v. Castro-Huerta* (which held that state governments share concurrent jurisdiction with the federal government in Indian country over crimes committed by non-Indians against Indians) and discuss its application on the Navajo Nation--a reservation that spans across three state lines: Arizona, Utah, and New Mexico.
- 2:00 – 2:15 pm **Break: 15-minutes.**
- 2:15 – 3:15 pm **The Practical Aspects of the Local Governance Act** (1 hour)
- Rodgerick Begay, Assistant Attorney General, Navajo Nation Department of Justice

This session will discuss what practitioners need to know about how the Local Governance Act and various policies have an impact on the authorities of chapter governments and also why practitioners should not assume that all chapters are the same.

3:15 – 5:15 pm

Some Fundamental Law dilemmas of the practicing Agha'diit'aahnii under Diné Bibeehaz'áanii (2 hours Navajo Ethics)

Shawn Attakai ('00), Staff Attorney, Navajo Nation Judicial Branch

Legal practice on the Navajo Nation raises many fundamental issues concerning legality, humanity, morality, and ethics. At a fundamental level, Navajo is very different than American society. For instance, in 1823 the American Founding Fathers set the path to erase Native American identity in the case Johnson vs. M'Intosh. But on November 8, 2002, the Navajo Nation Council passed the Fundamental Law statute and Council Resolution CN-69-02, which states that Diné leaders will uphold the Diné Bibeehaz'áanii principles because the Navajo knowledge is “fading.” Despite this Navajo crisis, Navajo leaders and NNBA members (who are considered Naat'aaniis) continue to struggle with the Navajo Council mandate. How does the Navajo legal practitioner navigate through these trying issues? This presentation will provide a review of some fundamental law principles to help guide practice on Diné Bikeya.

5:15 pm

Adjourn