

STATE OF ARIZONA

JANET NAPOLITANO  
GOVERNOR

OFFICE OF THE GOVERNOR  
1700 WEST WASHINGTON STREET, PHOENIX, AZ 85007

MAIN PHONE: 602-542-4331  
FACSIMILE: 602-542-7601

January 8, 2009

James Stipe, President  
Indian Law Section  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 200  
Phoenix, AZ 85016-6288

Dear Mr. Stipe,

I write today in support of the Indian Law Section's efforts to have tribal government jurisdiction and immunity included as a potential test subject for the Arizona State Bar examination. As United States Attorney for the District of Arizona, Attorney General, and Governor, I have worked on legal issues with tribes in a variety of contexts including public safety, growth and development, the environment and contractual matters. These issues can be very complex and lawyers in Arizona should have a foundational awareness of tribal government jurisdiction and immunity in order to be able to advise their clients in a competent and responsible fashion.

Given the important role tribal governments play in Arizona's legal landscape, it is highly likely that a large portion of attorneys practicing in Arizona will at some point in their careers encounter a tribal government jurisdictional or immunity issue. Arizona is home to 22 tribal governments who collectively control roughly 28% of our state land base, meaning almost all roads lead through Indian Country. Because there is more Indian reservation land within Arizona than any other state, there are potentially more jurisdictional issues present here. Moreover, even within Indian Country there are distinctions: Arizona is home to the Navajo Nation with the largest reservation in the country, the San Juan Southern Paiute Tribe with no reservation land, and several tribes whose land is comprised of Indian and non Indian ownership rendering these reservations a checkerboard of state, tribal, and federal jurisdiction.

Tribal leaders frequently tell me of challenges they face from growth and development approaching their boundaries particularly when working with developers and residents who do not understand the unique legal status of tribal governments. Economic growth on Indian lands involving tribal governments, tribal members and non-tribal members and entities has increased and will undoubtedly continue to grow. In

Jim Stipe  
December 7, 2008  
Page Two

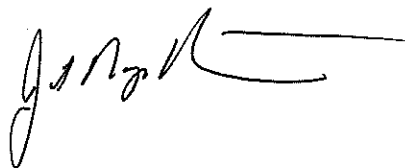
several regions of our state, tribal enterprises are the area's largest employers, offering jobs to tribal members and non-members alike. These dynamics mean that Arizona attorneys are increasingly called upon, more so than probably any other state, to deal with land, contractual, tort, and family matters that implicate Indian law or have Indian law as the foundational backdrop.

Arizona's legal landscape and the significant role tribal governments play renders it essential for the Bar to understand core federal Indian law principles to effectively represent individual, business and government clients. Failing to do so could lead, and in fact does lead, to lawyers filing claims in the wrong court or worse, having claims dismissed entirely for lack of jurisdiction. Certainly, Arizona businesses and citizens are deserving of protection from such disastrous results. In my view, the potential harm to clients and the unnecessary burden on state, tribal and federal courts far outweighs the natural disinclination to include more subject matters on the bar examination.

Several of our sister states including New Mexico, South Dakota, and Washington now include federal Indian law as a potential test subject for their bar examinations. Other states are considering such action. As a result, the major bar preparation courses have materials to help test takers adequately prepare for this potential subject. More importantly, Arizona is home to two of the finest Indian law programs in the country. Our law schools support the effort to include tribal government jurisdiction and immunity as a potential test subject and will ensure that future graduates are prepared for this portion of the exam, should the Supreme Court act favorably upon the Indian Law Section's petition.

Finally, Arizona's tribal leaders acting through the Inter Tribal Council of Arizona also support this effort. Adding tribal government jurisdiction and immunity as a potential test subject for the Arizona Bar examination is a natural step in the development of legal practice in our state and one I am happy to support.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano  
Governor