

James E. Rogers College of Law



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May 11, 2009

The Supreme Court of the State of Arizona
The Supreme Court Rules Forum

Via email

Re: Support to Include Indian Law on State Bar Examination

Dear Supreme Court:

This letter constitutes the unanimous support of the faculty of the Indigenous Peoples Law & Policy Program at the James E. Rogers College of Law, the University of Arizona, to include the testing of Federal Indian Law on the Arizona Bar Examination. The six faculty involved in our Program have had considerable discussions on this matter. In summary, the Petition to Amend Rule 35(b) filed by the Chief Bar Counsel accurately reflects the state of affairs in Arizona on the need for inclusion. We are very mindful, as professors, of the significant inter-jurisdictional dimensions between state, tribal, and federal laws. There exists the need for all Arizona attorneys to be competent in these interactions. The days of a one-dimensional outlook and sequestration of tribal affairs are over. Native Nations are intrinsically a part of the economic fabric of development within cities and towns, a great part of the critical needs of municipalities to water, and are bound by jurisdictional constraints in the development of effective law enforcement policies and programs. Indeed, we routinely receive calls from practitioners seeking our advice on how to proceed on Native American cases, such as contractual relationships and large-scale lending, personal injury claims, bonding authority, debt collection, domestic relations (child support and enforcement), criminal jurisdiction, and ethical considerations, to name but a few.

We also recognize that it is incumbent upon us to assist in the education of our future lawyers. We are prepared to do so. Currently, and for over two decades, the Indigenous Peoples Law & Policy Program has offered Federal Indian Law every fall semester. Additionally, the Indigenous Peoples Law Clinic (in existence since 1991) reviews regularly the statutory basis and common law interpretations of jurisdiction, and we expect to add this academic year a tribal/state Conflicts of Law class that addresses most, if not all, of the anticipated issues to be written for the exam. We are also committed to promoting our attorneys' competence. This responsibility flows directly by virtue of ER 1.1.

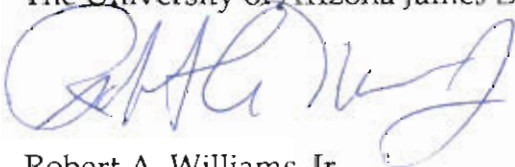
Notably, even a cursory review of state laws, executive orders, and administrative regulations will spotlight the many articulations of government-to-government relationships and memoranda of understandings between the State of Arizona and the 22 Native Nations that comprise over one-quarter of Arizona's land base. Attorneys must, therefore, analyze and prepare their cases with this attendant knowledge.

The geographical proximity of Arizona Indian Tribes and Arizona Municipalities would lead, in our opinion, to an intractable need to require a basic knowledge of Indian law by all of our licensed attorneys.

Thank you for your consideration.

Sincerely,

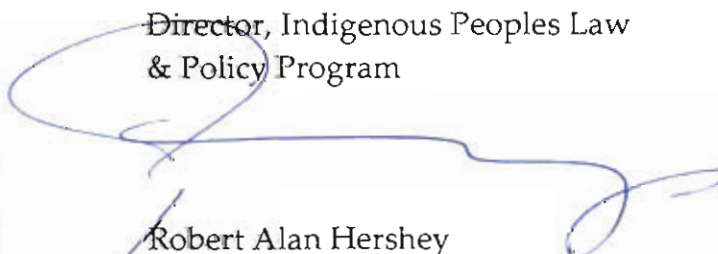
The Indigenous Peoples Law & Policy Program
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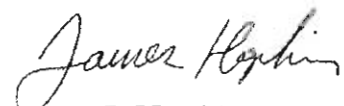
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Melissa Tatum
Research Professor of Law &
Associate Director, Indigenous Peoples Law
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