

**GENERAL CONTINUING LEGAL EDUCATION CREDIT APPLICATION DETAILS**  
*This conference has been approved by the Minnesota Board of Continuing Legal Education for 9 CLE credits*

**CLE total: 9**

**CLE Standard: 7.5**

**CLE Elimination of Bias: 1.5**

November 10, 2020

**1-2:30pm ET (1.5 CLE)**

**COVID-19 Related Litigation**

The COVID-19 pandemic has had devastating impact, particularly in Indian country. As Tribes continue to work throughout Indian country to mitigate impacts—both to human health, Tribal programs and services, and Tribal economies—several lawsuits have emerged in relation to Tribal access to the financial resources needed during the pandemic. Our speakers, each respected litigators and advocates, will provide overviews and updates regarding several key COVID-19 Tribal lawsuits: Suits relating to the availability of Federal dollars allocated to Tribal governments in Congress's COVID relief legislation, i.e., [Chehalis, et al., v. Mnuchin \(D.D.C.\)](#) and [Agua Caliente, et al., v. Mnuchin \(D.D.C.\)](#), and the Tribal claims brought against insurers for COVID-related business interruption coverage, i.e., [Chickasaw Nation Department of Commerce v. Lexington Ins. Co., et al. \(Okla., Pontotoc County\)](#), and [Choctaw Nation v. Lexington Ins. Co., et al. \(Okla., Bryan County\)](#).

- **Catherine Munson**, to provide overview and update of Agua Caliente litigation;
- **Judge Michael Burrage** (Choctaw), to provide overview and update on the Chickasaw and Choctaw Tribal business interruption suits.

**3-4:30pm ET (1.5 CLE)**

**Child Welfare and Social Services**

COVID-19 has upended standard child welfare and social service practices. Guidance from the states and federal government are often conflicting. Tribal courts are doing the best they can to maintain their caseload remotely. Tribal attorneys and social service directors share their own challenges and some of the best practices currently working for them.

- **Whitney Gravelle**, In-House Counsel and Attorney, Bay Mills Indian Community
- **Shayne Machen**, Tribal Prosecutor, Little River Band of Ottawa Indians
- **Delia Sharpe**, Founding Executive Director, California Tribal Families Coalition

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**1-2:30pm ET (1.5 CLE)**

**Quarantine Issues and Their Enforcement**

How are Tribes enforcing quarantine and isolation requirements? Even those governments with public health emergency laws and court procedures have exposed the need for pandemic response reinforcement. Tribes and States work together to address such jurisdictional challenges and protect citizens.

- **Jennifer Henry**, Acting Chief Prosecutor, Navajo Nation
- **Nikki Ducheneaux**, Partner, Big Fire Law and Policy Group, LLP
- **Laura Berglan**, Attorney General, Pascua Yaqui Tribe

**3-4:30pm ET (1.5 CLE)**

**Oral Arguments Remotely, What Could Go Wrong?!**

The presentation will discuss the move by courts from in-person oral arguments to video and telephonic arguments. The panel will discuss the adjustments attorneys have had to make, and the technological and other issues that have occurred in the transition. Featuring Indian law attorneys who have participated recently in such arguments.

- **Riyaz Kanji**, Partner, Katzen & Kanji P.L.L.C.
- **Nikki Ducheneaux**, Partner, Big Fire Law and Policy Group, LLP
- **Paul Spruhan**, Assistant Attorney General, Litigation Unit, Navajo Department of Justice

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**1-2:30pm ET (1.5 CLE) Elimination of Bias  
Voting Rights and The 2020 Election**

In light of the election, the panelists will discuss the current state of native voting rights in federal and state elections. Panelists will discuss the law governing voting rights, both statutory and constitutional, the challenges both legal and practical to protect the rights of Natives to vote in those elections, and the needs for attorneys to work on these matters to eliminate bias in the area of voting rights. The panelists will analyze how Natives were, or were not, able to implement their voting rights, what areas might require further reform, and how in-house counsel can assist in those reforms by working with their tribal government clients.

- **Katherine Belzowski**, Navajo Nation Department of Justice
- **Patty Gerguson-Bohnee**, ASU Law School & Sacks Tierney
- **Natalie Landreth**, Native American Rights Fund

**3-4:30pm ET (1.5 CLE)  
The McGirt Decision**

The Supreme Court's ruling in *McGirt v. Oklahoma*, 591 U.S. \_\_\_, 140 S. Ct. 2452 (2020), marks a tremendous affirmation of Muscogee Creek treaty rights as well as a shift in the Court's approach to key legal texts affecting Tribal sovereignty. The ruling presents Muscogee Creek and the other of the Five Tribes with new opportunities and challenges, both immediate and long-term, and Tribes across the country continue to study *McGirt* for insight as to how post-Rehnquist Indian law jurisprudence may develop. This panel offers perspectives from Muscogee Creek's lead advocate before the Supreme Court, a scholar and professor of Federal Indian law, and the chief in-house counsel from another of one of the Five Tribes. Each will speak to the case and its significance from the perspective afforded by their relationship to the development and implementation of Tribal sovereign rights, powers, and responsibilities.

- **Riyaz Kanji** to speak to the Court's ruling from the perspective of the guy who argued it on behalf of Muscogee Creek;
- **Dylan Hedden-Nicely**, (Cherokee) to speak to the Court's ruling from the perspective of a Native academic, with particular focus on how the Court approached analysis of the question presented (as opposed to what it held based on that analysis) and what it may signal viz. the Court's post-Rehnquist Indian law jurisprudence;
- **Sara Hill** (Cherokee) to speak to the Court's ruling from the perspective of the chief in-house counsel for one of the Five Tribes, with particular focus on practical implications and preparations for implementation.

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## **Speaker Biographies**

### **Cory J. Albright, Attorney, Kanji & Katzen, P.L.L.C.**

Cory J. Albright graduated summa cum laude from Macalester College in 1994 and received his J.D. with high honors, Order of the Coif, from the University of Washington School of Law in 2001, where he was Executive Notes & Comments Editor of the Washington Law Review. From 2001-2003, he served as a clerk for the Honorable John C. Coughenour, Chief United States District Judge for the Western District of Washington. Cory joined the Seattle office of Kanji & Katzen, P.L.L.C. in 2003 as an associate and became a member of the firm in 2012. Cory advises and represents Indian Tribal and Nation governments on a variety of issues critical to their sovereignty, including attempts by state and local governments to tax or regulate persons and activities in Indian country, or to otherwise interfere with Tribal economic development; alleged waivers of sovereign immunity; Tribal governments' exercise of regulatory and adjudicatory jurisdiction over non-Indians and on-reservation activities, and proper respect for that jurisdiction by federal and state courts; reservation boundary and other jurisdictional disputes; implementation and enforcement of treaty fishing, shellfishing, hunting, and gathering rights; and natural resources protection. Cory has successfully litigated many of these issues in federal court and has represented Indian Tribes and Nations in the Courts of Appeals for the Ninth, Second, and Seventh Circuits. Cory is ranked nationally by Chambers U.S.A. as a Band 3 Indian law practitioner.

### **Katherine Belzowski, Acting Assistant Attorney General, Economic/Community Development Unit, Navajo Nation Department of Justice**

Ms. Katherine Belzowski is the Acting Assistant Attorney General for the Economic Community Development Unit (ECDU) at the Navajo Nation Department of Justice. She oversees all of the Department's census and voting rights work. During the course of this work Ms. Belzowski has led government-to-government meetings between the States and the Nation on voting related issues. She has also worked on voting and census related litigation. Ms. Belzowski has worked for the Navajo Department of Justice for seven years. In her current position she advises the Department of Economic Development, Division of Community Development, and Gaming Regulatory Office. Ms. Belzowski received her L.L.M. in Indigenous Peoples Law & Policy from the University of Arizona and her J.D. from the University of Minnesota.

### **Laura Berglan, Attorney General, Pascua Yaqui Tribe**

Laura Berglan is the Attorney General for the Pascua Yaqui Tribe. Laura has practiced Indian law for nearly twenty years, with much of that as an in-house attorney for a tribe. Prior to her current position, she was with the Tohono O'odham Nation's Office of Attorney General for over eight years.

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**Judge Michael Burrage, Co-Founder, Whitten Burrage**

• Michael earned his Juris Doctorate from the University of Oklahoma, with honors 1974 • Editor, Oklahoma Law Review and was inducted to the Order of the Coif 1974 • Member of the Choctaw Nation of Oklahoma • Board of Governors – Oklahoma Bar Association • Past President of the Oklahoma Bar Association • United States District Judge for Oklahoma - 1994 to 2001, first Native American to be appointed to the federal bench • Chief; United States District Judge, Eastern District of Oklahoma 1996-2001, first Native American to be appointed to the federal bench • Sat by designation of the Chief on approximately 40 cases for the United States Court of Appeals for the 10th Circuit • American College of Trial Lawyers – State Chair • Selected one of the Top 10 Attorneys in Oklahoma • Member of the Oklahoma Supreme Court Committee for Civil Jury Instructions • Inducted into the University of Oklahoma College of Law, Order of the Owl Hall of Fame (2013) • Inducted into the Oklahoma Hall of Fame (2016) • Michael has lectured at a variety of Continuing Legal Education seminar programs • Michael Burrage is lead counsel along with Attorney General Mike Hunter; State of Oklahoma v. Purdue Pharmaceutical, et. al. This litigation is filed against the major drug manufacturers to recover costs to the State of Oklahoma caused by the opioid epidemic • General Counsel, Choctaw Nation and Counsel for Chickasaw Nation • Co-Counsel with his partner Reggie Whitten, largest jury verdict in the State of Oklahoma, Burgess case, \$130,000,000.00

**Nikki Ducheneaux, Partner, Big Fire Law and Policy Group, LLP**

Ms. Ducheneaux practices primarily in the area of litigation. She represents tribes and tribal entities in state, tribal, and federal courts, including state, tribal, and federal appellate courts and the U.S. Supreme Court. Ms. Ducheneaux's experience includes complex commercial litigation, federal regulatory litigation, and suits proceeding under the Administrative Procedures Act. Substantive areas include Indian Country e-commerce, tribal sovereign immunity, tribal civil jurisdiction, administrative law, environmental law, religious freedom, matters involving tribal sovereign immunity from suit, tribal treaty rights, constitutional law, election law, land-into-trust, taxation, tobacco, and cases arising under the Indian Child Welfare Act. Ms. Ducheneaux has experience coordinating concurrent federal civil regulatory litigation and federal criminal investigations on behalf of tribal entities. Ms. Ducheneaux also has experience managing large e-discovery collections and productions in both civil and criminal matters. Recently, Ms. Ducheneaux was the lead litigation counsel for the Cheyenne River Sioux Tribe (co-lead plaintiffs with the Standing Rock Sioux Tribe) in the ongoing Dakota Access Pipeline litigation, which resulted in a significant victory on summary judgment on the issue of treaty rights in June 2017. Ms. Ducheneaux was also on the team that represented the Match-E-Be-Nash-SheWish Tribe of Potawatomi Indians (Gun Lake Tribe) in their 2017 victory in the U.S. Supreme Court in *Patchak v. Zinke*, 138 S.Ct. 897 (2017).

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**Patty Ferguson-Bohnee, Director of the Indian Legal Clinic, Sandra Day O'Connor College of Law at Arizona State University**

Patty Ferguson-Bohnee is the Director of the Indian Legal Clinic, Faculty Director of the Indian Legal Program, and Clinical Professor of Law, at the Sandra Day O'Connor College of Law at Arizona State University. Professor Ferguson-Bohnee has substantial experience in Indian law, election law and voting rights, and status clarification for tribes. She has assisted in complex voting rights litigation on behalf of tribes, and has drafted amicus briefs to the United States Supreme Court for tribal clients with respect to voting rights issues. She serves as the Native Vote Election Protection Coordinator for the State of Arizona and has testified before Congress regarding Indian voting issues. Professor Ferguson-Bohnee has also testified before the United States Senate Committee on Indian Affairs and the Louisiana State Legislature regarding tribal recognition. She successfully assisted four bayou tribes in obtaining recognition from the State of Louisiana. Her legal work includes representing Tribes in issues involving climate, environment, and religious freedom.

Professor Ferguson-Bohnee is a founding member of the Native American Bar Association of Arizona, the past president of the National Native American Bar Association, and the Co-Chair of the Native American Concerns Committee of the Civil Rights and Social Justice Section of the American Bar Association.

Professor Ferguson-Bohnee is a member of the Pointe-au-Chien Indian Tribe.

**Whitney Gravelle, In-House Counsel and Attorney, Bay Mills Indian Community**

Whitney Gravelle is a citizen of the Bay Mills Indian Community “Gnoozhekaaning” (*Place of the Pike*) in the Upper Peninsula of Michigan. After graduating from Michigan State University College of Law in 2016 with a certificate from the Indigenous Law Program, Whitney worked for the Department of Justice with the Environment and Natural Resource Division in the Indian Resource Section, where she worked on cases related to the scope of tribal lands and jurisdiction, treaty rights, and the protection of lands held in trust for tribes and individual Indian lands.

Whitney has also served as Chief Judge of Bay Mills Tribal Court where she worked on transforming restorative justice within her community by providing truth and healing to her Tribe through modern cultural Court practices. Currently, Whitney serves as in-house counsel and attorney for Bay Mills Indian Community where she works on a variety of legal issues that impact Indian Country, including the Indian Child Welfare Act.

**Dylan Hedden-Nicely, University of Idaho College of Law Associate Professor**

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Dylan R. Hedden-Nicely, a citizen of the Cherokee Nation of Oklahoma, is associate professor of law and head of the College of Law's Native American Law Program.

Professor Hedden-Nicely teaches a variety of courses, including Native American law, Native American natural resources law, tribal nation economics & law, and civil procedure. His research interests include Native American natural resources and water law, tribal treaty rights, tribal civil and regulatory jurisdiction, water rights law, the interrelationship of law and science with applications to natural resources law, tribal economic development and tribal governance, as well as the under-representation of Native people in the legal profession.

Professor Hedden-Nicely graduated from the University of Idaho College of Law, magna cum laude, with an emphasis in Native American law, as well as in natural resources & environmental law. Concurrently, Professor Hedden-Nicely earned a master's degree in water resources (science & engineering). His thesis focused on the development of a systems dynamics based water balance model to assess the impact of the physical and anthropogenic constraints placed upon Coeur d'Alene Lake in North Idaho.

After law school, Hedden-Nicely joined Howard Funke & Associates, a Native American-owned law firm that focuses exclusively on the representation of American Indian tribes. While in private practice, Hedden-Nicely focused on litigation and negotiation of issues related to Native American natural resources and water rights. Professor Hedden-Nicely represented the Coeur d'Alene Tribe in the Coeur d'Alene-Spokane River Basin Adjudication, a general stream adjudication to determine the nature, extent, and priority of all water rights in the Coeur d'Alene-Spokane River Basin. He is currently chairman of the Idaho State Bar Indian Law Section and sits on the Governing Council of the Northwest Indian Bar Association. He continues to consult with tribes on issues related to Native American natural resources and water rights.

**Jennifer Henry, Acting Chief Prosecutor, Navajo Nation**

Jennifer Henry is currently the Acting Chief Prosecutor for the Navajo Nation. She's juggling that position along with her role as the prosecuting attorney in the Ramah Judicial District. Ms. Henry never thought she'd be a prosecutor, and her former journeys include private law practice in Colorado, staff attorney for the Navajo Nation Judicial Branch, staff attorney for the Navajo Nation Human Rights Commission, starting and folding a private civil and family law practice in the Navajo Nation, and then as a partner at Rosebrough Law in Gallup focusing on civil transactional law in AZ and NM for 6 years before returning to serve the Navajo Nation as a prosecutor.

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**Sara Hill, Cherokee Nation Attorney General**

Sara Hill was appointed as Secretary of Natural Resources for the Cherokee Nation in 2015 after many years of service to the Nation in the Office of the Attorney General. Since 2004, Sara has represented the Nation in tribal, state and federal courts. Her legal career predominantly focuses on Environmental and Natural Resources issues for the tribe, including serving as counsel for the Nation in *State of Oklahoma v. Tyson* and *Cherokee Nation vs. Sequoyah Fuels*.

Secretary Hill serves on several Working Groups advising the Department of Energy, the Environmental Protection Agency, and the Natural Resources Conservation Service.

**Riyaz Kanji, Partner, Katzen & Kanji P.L.L.C.**

Riyaz Kanji is a founding member of Kanji & Katzen and he is the Directing Attorney for the firm's Ann Arbor office. Riyaz graduated from Harvard College with an A.B. in Social Studies in 1986 and received his J.D. in 1991 from Yale Law School, where he served on the Law Journal and won the Potter Stewart Prize in the Moot Court competition. Riyaz is widely viewed as a leading trial and appellate litigator on behalf of Indian nations and tribes across the country. Riyaz served as a law clerk to the late Honorable Betty Fletcher of the United States Court of Appeals for the Ninth Circuit and Justice David Souter of the United States Supreme Court. Riyaz then spent two years as a Skadden Fellow at Evergreen Legal Services in Seattle, where he principally worked on the shellfish proceedings in *United States v. Washington*, and three years as an associate at Williams & Connolly in Washington, D.C., where, in addition to significant tribal representation, he litigated complex matters for clients including President Clinton, ABC News and Georgetown University. Riyaz's practice encompasses a wide variety of issues vital to the preservation and enhancement of tribal sovereignty, including vindication of tribal jurisdictional and taxation authority, environmental protection, Indian gaming and other economic development matters, treaty hunting and fishing rights, reservation boundaries, and land claims.

**Natalie Landreth, Senior Staff Attorney, Native American Rights Fund**

Natalie Landreth is a Senior Staff Attorney based in the Anchorage office and member of the Litigation Management Committee. Her practice covers a wide variety of federal Indian law and election law issues, including Voting Rights Act, Constitutional voter protections, tribal jurisdiction, the Indian Child Welfare Act, subsistence hunting and fishing and cultural resource protection. She has been instrumental in establishing key voter protections in Alaska through two significant cases (*Nick v. Bethelin* 2008 and *Toyukak v. Treadwell* in 2015) and she testified in Congress in support of the renewal of the Voting Rights Act in 2006. She has also been at the forefront of the development of tribal jurisdiction in Alaska through her involvement in a series



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of cases beginning with Kaltag Tribal Council v. Hogan, a case that established Alaska tribes have original jurisdiction to adjudicate children's cases. Ms. Landreth also represents the Bering Sea Elders, a consortium of 40 coastal tribes who rely on the Bering Sea for their subsistence hunting and fishing, as they try to protect their way of life which is currently under threat from commercial fishing and expanding shipping lanes. Ms. Landreth also serves on the Alaska Bar Association Ethics Committee, the Child-InNeed-of-Aid Court Rules Committee, and the Alaska Court Improvement Committee (ICWA Subcommittee). Ms. Landreth is a graduate of Harvard University (magna cum laude) and Harvard Law School. She served as a law clerk to the Honorable Dana Fabe, Chief Justice of the Alaska Supreme Court. She is an enrolled member of the Chickasaw Nation of Oklahoma (Imatobby and Colbert families).

**Shayne Machen, Tribal Prosecutor, Little River Band of Ottawa Indians**

Shayne Machen has worked at the Little River Band of Ottawa Indians since 2015. During that time, she has served as in-house counsel and tribal prosecutor. As the tribal prosecutor, Shayne is responsible for representing the tribe in state court ICWA proceedings. Prior to working for Little River, she worked for the Sacramento County District Attorney's Office in Sacramento, California. She is a Syracuse University College of Law graduate and former TICA board member.

**Catherine Munson, Partner, Kilpatrick Townsend**

Catherine Munson is co-leader of Kilpatrick Townsend's Native American Affairs practice. She has extensive litigation experience, representing tribal clients in a wide variety of complex cases before the Court of Federal Claims, federal district courts, federal appellate courts, the United States Supreme Court and administrative agencies. Ms. Munson specializes in water-related litigation and in advising clients on water matters, including water marketing, leasing, storage, protection of water quality, water regulation, and code drafting. Ms. Munson also regularly advises clients on dealings with the Department of Interior and enforcement of the United States' trust responsibility.

**Delia Sharpe, Founding Executive Director, California Tribal Families Coalition**

Delia Sharpe is the founding executive director of the California Tribal Families Coalition, a non-profit organization dedicated to protecting the health, safety and welfare of tribal children and families, with a focus on increasing compliance with the Indian Child Welfare Act. Prior to being hired as the founding executive director of the California Tribal Families Coalition, Ms. Sharpe was the program director for the Resource Center for Family-Focused Practice at UC

*Indigenous Law and Policy Center & Tribal In-House Counsel Association  
17<sup>th</sup> Annual Indigenous Law Conference (hosted on Zoom)  
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Davis Extension's Center for Human Services. She previously served as directing attorney for the Eureka Office of California Indian Legal Services.

**Paul Spruhan, Assistant Attorney General, Litigation Unit, Navajo Department of Justice**

Paul Spruhan is Assistant Attorney General of the Litigation Unit at the Navajo Nation Department of Justice in Window Rock, Arizona. He received his A.B. in 1995 and his A.M. in 1996 from the University of Chicago. He received his J.D. in 2000 from the University of New Mexico. He and his wife, Bidtah Becker, have two children and live in Fort Defiance on the Navajo Nation.