

# Tribal Courts Conference: Exploring Emerging Issues in Tribal Courts

March 19 - 20, 2015  
Denver, CO

## DRAFT AGENDA

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### Day One: EMERGING ISSUES RELATING TO TRIBAL COURT JURISDICTION

- 8:30-9:00 Welcome and Overview of Conference
- 9:00-10:30 Latest Developments on Tribal Court Civil and Criminal Jurisdiction Including Tribal Court Exhaustion Rule  
Melody McCoy NARF
- 10:30-10:45 Break
- 10:45-Noon The Relationship Between Tribal Courts and Tribal Government- Understanding Separation of Powers and Cultivating a Positive Relationship between elected leaders and the Tribal Court  
Marvin Youpee- Former Judge and Former Tribal Councilmember- Fort Peck Tribe of Montana
- Noon-1:30 Lunch
- 1:30-2:45 Tribal Courts and Custody Jurisdiction- Are Tribal Courts Bound by the UCCJEA?
- Can Tribal Courts exercise custody jurisdiction over their member children wherever located?
  - Do Grandparents have rights, independent of parents, to custody of Native Children/Impact of DV on child custody cases
  - Tribal Jurisdiction Disputes between Tribes
- Kelly Stoner
- 3:00-4:30 The Contempt Power of Tribal Courts and Imposing Ethical Rules on Advocates in Tribal Courts
- Discussion of the disciplining of parties
  - Disciplining lay advocates in tribal courts
  - Use of Contempt Power[Direct vs. Indirect Contempt]
- Judge Anthony Brandenburg

## **Day 2: EMERGING ISSUES RELATING TO CHILDREN, FAMILIES AND ESTATES**

- 8:30-10:00 Tribal Court Authority over “Political” Issues and the Sovereign Immunity Defense-
- When can the Tribal Court overturn an act of the tribal government or resolve disputes involving Tribal governments?
  - Does the ICRA waive the immunity of Tribal Governments from Suits in Tribal Courts-
- Steve Pevar- ACLU
- 10:15-11:30 Tribal Courts, FTCA and Personal Injury Lawsuits-
- What law should be applied to Personal Injury Lawsuits in Tribal Courts when Tribal Code is Silent-
  - Comparative v. Contributory Negligence-
  - Jurisdiction of Tribal Courts over Federal Agencies and Employees, Right of Jury Trials in Civil Cases-
  - Instructions to Jury and Interrogatories-
- BJ Jones- Director- Tribal Judicial Institute
- 1:00-2:30 Tribal Courts and Harassment Restraining Orders
- Can Tribal Courts grant restraining orders for “speech” such as FaceBook and other on-line comments
  - Prior Restraint of Speech
  - Penalties for Violations of Tribal Restraining Orders
  - Jurisdiction over off-reservation conduct
- Judge Anthony Brandenburg
- 2:45-4:00 Facilitated Group Discussion on Issues Facing Tribal Courts
- Facilitator BJ JONES, Director, Tribal Judicial Institute, UND School of Law
- Scribe: Lynnette Morin, Administrative Associate, Tribal Judicial Institute, UND School of Law