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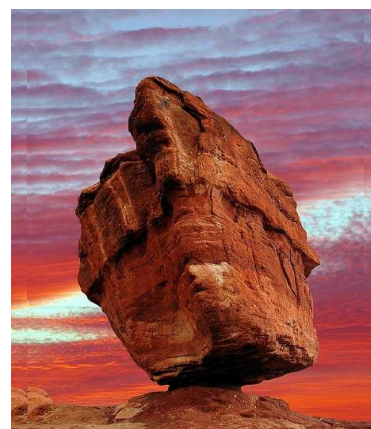
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## Striking the Balance: Realistically Meeting Clients' Wishes

By Kirbee Yost '12

Balancing a client's wishes with reality and what the law can actually provide became a theme running through several cases in the American Indian Law Clinic this year. For me, this balance was most often struck while working on a green building code for one of the Clinic's tribal clients. The tribe's goal was to create self-sustainable buildings, and to achieve that, it wished to implement exceptionally high standards that the building designers and builders would be held to. The original goals and methods for implementing them could only happen in a best-case scenario where neither time nor cost were an issue.

The most important element of the code would be flexibility. Without the ability to adjust to changes in technology or needs of the tribe, besides quickly becoming obsolete, the code would not live up to its full potential and provide the tribe the greatest benefit possible. The client wished to include all the substantive technical requirements of the code and update it multiple times a year, which would be a significant burden on the code's review committee. It would also mean an important body of law in the tribe would be up for constant revision. To remedy our concerns with the tribe's wishes, we suggested the implementation of a "Performance Standards List" that would be updated regularly with all the specific technological and reporting requirements. Wherever a technological requirement might be needed in the code,



*Balancing Rock, Colorado Springs, CO*

we referenced the Performance Standards List. All of the requirements were in one document and were up-to-date, but the code would be stable fixture that builders and designers could rely on.

The roles of idealist and realist were switched in another case I helped a tribe draft a foster care home licensing code along with three other student attorneys. This tribe was facing a shortage of foster care homes and families, so if it exercised its authority under the federal Indian Child Welfare Act to have children placed on the reservation, there was nowhere for them to go. The tribe enlisted our help to create a code so the tribal officials in charge of licensing the foster homes would have an objective set of requirements to follow to speed the process and to ensure that the homes were adequate.

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## A Note from the Director

By Jill E. Tompkins, Clinical Professor of Law

2011 was a bittersweet year in the life of the University of Colorado Law School's American Indian Law Clinic. On May 14<sup>th</sup> and 15<sup>th</sup>, 2011 we facilitated the American Indian Boarding School Healing Symposium which drew together survivors of the boarding schools, Indian law experts, tribal cultural and language protectors, historians, educators and mental health providers. The symposium developed a nationally unified multi-dimensional coalition and strategy to attain a national apology for the grievous federal policy and to effectuate healing for the survivors, their families and tribal communities. Student attorneys Beth Baldwin, '12 and Erica Rogers, '13 have drafted legislation to establish a federal Native American Boarding School Study Commission to effectuate the symposium strategy.

On September 12, 2011, the Colorado Supreme Court, without written briefs or oral argument, thus based only the Clinic's petition for certiorari, reversed the decision of the Colorado Court of Appeals in *In re: S.M.J.C.* The Supreme Court's decision affirmed the district court-level victory of clinic alum, Megan Bentley, '11, who had fought on behalf of a psychological grandmother to gain the legal rights and responsibilities to continue to care for a young Indian boy with special needs who had been abandoned to her five years ago. The out-of-state estranged parents have not supported or maintained contact with their son since they handed him over to our client. Their parental rights are not terminated, but the boy will have the stability he needs to continue to thrive in Colorado.

Surrounded by friends and family, Jay Nelson and I were married on July 3, 2011 in an outdoor ceremony at Aspen Lodge, Estes Park, Colorado. The wedding ceremony, a blend of Native American and Anglo culture, was presided over beautifully by former Clinic Director (1997-1999) and Turtle Mountain Chippewa Tribal Appellate Justice, Jerilyn DeCoteau. My son, Tate Shibles gave away the bride and Jay's son, Jake Nelson was best man. My cousin, Theresa Secord, award-winning Penobscot basketmaker and Executive Director of the Maine Indian Basketmakers Alliance was maid of honor. My daughter Grace served as bridesmaid and my son Elliott, an accomplished violist, performed the processional.

Tragically only two days later, on July 5, 2011, only three weeks after he was diagnosed with pancreatic cancer, Indian law and natural resources law pioneer and giant, Dean David Getches passed away. He has been honored posthumously with awards by the National Congress of American Indians and the Federal Bar Association. The National Tribal Judicial Conference held on October 26-28, 2011 adopted as its' theme, "Tribal Courts and the Future" derived from the historic survey and report on tribal court systems, "Indian Courts and the Future" overseen by David in 1978 when he was the Project Director while still at the Native American Rights Fund. I was given a few moments to speak to the assembled judges in David's memory during the conference. (*See article on page 3*) At Colorado Law, David implemented his belief that American Indians deserve the very best attorneys and we have an obligation to train them. As a way to honor David's commitment and legacy the Law School has undertaken a fundraising campaign to strengthen and expand our Indian law program and to provide more funds for scholarships and fellowships in Indian law.

Finally on a happier note, as we move into 2012, the Clinic will be celebrating its 20th Anniversary as the oldest clinic of its kind in the country. On April 26, 2012, we will hold a gathering at the Flatirons Room of the Center for Community on the Boulder campus from 2:30 to 4:30 p.m. We will reflect on all the good work of the clinic over the past decades and you will hear about the exciting learning and service the current student attorneys are engage in. We are accepting donations for a Silent Auction to raise funds for the Clinic's Client Assistance Fund. Our celebration will precede Professor Wilkinson's Keynote Address opening the Law Review symposium honoring David's vast body of work. (*See announcement on page 17*) If you are planning to attend the celebration and/or have an item for the auction, please notify Renee Garcia at [renee.garcia@colorado.edu](mailto:renee.garcia@colorado.edu) or at (303) 492-2635. I hope to see you on April 26th!



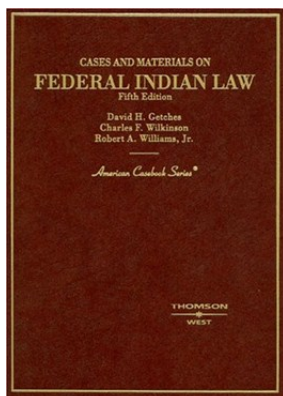
## In Memoriam: Dean David Getches — “Our Hero”

*The following are comments given by Jill E. Tompkins at the National Tribal Judicial Conference, “Tribal Courts and the Future” on October 27, 2011 at the Tunica-Biloxi Tribe Reservation.*

David H. Getches would not be enthusiastic about me standing up here to recount for you his many accomplishments and his legacy in American Indian Law and Natural Resources Law. He was an incredibly humble man. He was almost sheepish whenever he was honored with an award or any kind of recognition. But he was also very sensitive of the feelings of other people and of the communities that he worked with, so he would not deny us this chance to remember him and to mourn his untimely loss. I greatly appreciate the NAICJA Board allowing me this time to share a bit about David and to remember him.

David is possibly best known for two things: first, serving as the Founding Executive Director of the Native American Rights Fund (NARF). NARF is a public-interest law firm established in 1970 that has undertaken and won many of the most major Indian law victories in the past thirty years. NARF has helped numerous tribes to achieve federal recognition as well. One of David’s most famous victories involving American Indians was the 1974 U.S. Supreme Court case *U.S. v. Washington*, otherwise known as the *Boldt* decision. In this historic case, the Court affirmed the treaty rights of tribes in Washington to continue to harvest salmon off-reservation. It is a decision that still positively affects the lives of tribes and tribal members every day. Billy Frank Jr., of the Nisqually Tribe, Chairman of the Northwest Indian Fisheries Commission, who fought side by side with David, calls David Getches, his “hero” for his role in upholding the tribes’ fishing rights.

Second, David is known for being one of the authors of the leading (and what used to be the only) casebook on federal Indian law.



*David and Ann Getches*

David Getches was truly one of the pioneers of the field of Indian law. On numerous occasions, Congress would call on him for his advice and counsel. David is of significant importance to NAICJA because he was the Project Planner and Coordinator of the study of 23 tribal courts that resulted in the massive report, *Indian Courts and the Future*, in 1978. It is this seminal study and list of recommendations for strengthening tribal justice systems that has inspired the theme of this year’s conference.

Realizing that NARF should be in the hands of Indian leadership, in 1978, David handed the reins to a very young John Echohawk who remains at the helm. David then began his career as a law professor at the University of Colorado. He was the cornerstone of our American Indian Law Program and its greatest champion. David’s legacy, in addition to the numerous influential law review articles and books, including *Water Law in a Nutshell*, is the great number of Indian law and Natural Resources attorneys that he taught and inspired. He and his wonderful wife and partner, Ann Getches every year opened their home to the members of the Native American Law Students Association.

David had a sincere and deeply-held commitment to public service. Starting with his early work with California Indian Legal Services, including four years as the Executive Director of the Colorado Department of Natural Resources, and finally, to his appointment and eight years of phenomenally success as Dean of Colorado Law. Originally David did not want to serve as Dean, he was completely fulfilled with his teaching and writing. However, at the urging of our faculty

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# Growing Into My “Attorney” Shoes

By Lisa Shellenberger ‘11 (AILC Award Winner, 2009-10)

As I was creating my schedule for my second year of law school, I came across the course description for the American Indian Law Clinic. The description was informative, and it had a list of issues that the Clinic focuses on. The description, however, did not come close to preparing me for the experiences the next year would bring. Not only has my life and education been enriched through the practice of Indian law, but also through the relationships I developed with my clients, my student-colleagues, and through the guidance of a patient, thorough clinic director. Over the past year, I undoubtedly have seen myself grow into my “attorney” shoes.

Over the past school-year, I learned the nuts and bolts of how a legal office operates. I learned how to draft and file motions, how to bill my time worked, and how to properly keep clients’ files in order. I read hundreds of pages of material on Indian law in order to fully understand important legal issues and also to better develop a sense of Native history and culture. Most importantly, however, I learned what it was like to be a lawyer. I developed skills on how to approach clients under emotional circumstances – I learned how to show empathy and still maintain a professional relationship.

For an example, I worked with an Indian mother who dealt with substance abuse issues for the majority of her adulthood in her attempt to maintain and further develop a relationship with her two sons. After bravely accepting her issues and seeking help for them, it

was agreed that the two young boys would be raised under a guardianship by a family friend. During my time as mother’s student attorney, I helped her deal with the legal hurdles involved

with seeking parenting time. Together we created a framework for not only legal arguments in court, but also for her personal life as well. Being an attorney is much more than citing legal cases and analyzing issues properly, it is also about being a counselor. I grew into my role as counselor to individuals, like this mother, who needed a little push in life, a shoulder to cry on, or just some practical advice.

I also spent a large portion of my time developing training materials on the Indian Child Welfare Act (“ICWA”) for the Northern Cheyenne Tribe. In February, the Clinic traveled

up to the Northern Cheyenne Reservation in Lame Deer, Montana, to help educate the Tribe’s Human Services Department on the application of ICWA by Colorado district courts. This project was important to me because it will have a long lasting effect on many families and children that are in need of adoption. Through a group effort, we provided the Department with suggestions on how to enhance their existing child protection services and adoption processes and

how to generate more tribal foster homes through streamlined, simplified licensing standards.

The training workshop will continue to help Northern Cheyenne people similar to another young mother that I represented as a student attorney this past year. Through the ICWA process, we were able to successfully argue the case involving her infant child should be heard in tribal court. As a result, the mother and baby were able to go back home.

Representing tribes, mothers, grandmothers, and new adoptive parents allowed me to apply everything I learned over the past two years. For the first time in law school, I was given the ability to change someone’s life – to represent them, to counsel them, and ultimately, to resolve their legal issues – which, in turn, allowed me to grow into my “attorney” shoes.



# Helping in the Struggle to Discover Indian Identity

By Ariel DeFazio '11 (AILC Award Winner, 2010-11)

Sarah knows quite a bit about her birth parents and the circumstances around her adoption. Her childhood home had been overcrowded and the Department of Human Services removed her at age two. The Department placed her with a couple who adopted her after her birth parents' parental rights were terminated. Sarah's adopted mother shared this information with her, handing over a stack of paperwork concerning the adoption proceedings when Sarah was in her teens. These records clearly reflect that Sarah was an "Indian child" within the meaning of the Indian Child Welfare Act. Of her own volition, Sarah found her maternal grandmother and discovered that both of her biological parents had passed away and that at least one of them was a tribal member. This contact blossomed into meeting several aunts, an uncle, and even a half-sister. But Sarah wanted to know more about her identity.


I was lucky enough to be assigned to Sarah's case at the beginning of the school year. She is one of an increasingly common type of AILC client: an individual seeking to open her adoption record and access her original birth certificate. In order to enroll in many tribes, an original birth certificate is required to show that one's biological parent or parents were either members of a tribe or eligible for membership. Over the last few years, the AILC has fashioned itself a niche in this area by petitioning Colorado juvenile courts to order the Colorado State Registrar to release the original, usually sealed, birth certificates—and blazing a legal trail powered by federal and state law.

In Colorado, accessing one's adoption court records and original birth certificate via state statutes requires a showing of "good cause," which can prove challenging. The claims of individuals with a reasonable belief that they are of Indian ancestry, however, receive further assistance from the Indian Child Welfare Act (ICWA). ICWA recognizes that, even where the parental rights of an Indian child's parents are terminated, the Indian child retains the right to apply for or continue to be a member of his or her tribe and enjoy benefits from this membership. ICWA recognizes that, reciprocally, children remain tribes' greatest resource and that the



preservation of this resource assures the preservation of tribes' culture, customs, traditions, religions, and sovereignty.

Unfortunately for many adopted Indian children in Colorado, the ease of this process varies widely. Sarah, because she had so much information, experienced a delayed but positive response from the court. Although it took eight months to prepare and submit Sarah's petition and another few weeks to request an amended order that addressed the release of her original birth certificate, I was able to wrap up my representation knowing that her birth certificate would be released any day. Other clinic clients have not been so lucky. Long delays, the scheduling of contested hearings, and a lack of deference to ICWA frequently block petitioners' efforts to discover more about their own identities.

Colorado needs to craft a system to simplify fulfilling these requests and make rulings more consistent. Not surprisingly, drafting such regulations and/or legislation is one of AILC's current projects. In the meantime, AILC student attorneys will work tirelessly to help our clients, like Sarah, discover their identity using this phenomenal legal tool. 

"Colorado needs to craft a system to simplify fulfilling these requests and make rulings more consistent."

# Reuniting An American Indian Family

By Darren Jankord '11

I enrolled in the American Indian Law Clinic for various reasons, but mostly to gain litigation experience in a practical setting. I hoped to argue a few motions and gain experience doing client interviews and learn about the mechanics of the litigation process. When I was assigned to represent a grandmother and step-grandfather who wanted to obtain custody of their Navajo granddaughter, I learned much more about the law and the human side of litigation than I could have imagined.

The grandparents frantically called our clinic early in the fall semester worried that they were losing their beautiful and brilliant two-year-old granddaughter in the context of the dependency and neglect hearing of their daughter, the granddaughter's mother. The daughter was a teenager in a rocky relationship and under the influence of drugs when she had her baby. Fortunately, the baby was healthy, but after a domestic violence call years later, the state intervened and removed the child from her mother's home and placed her in foster care during the mother's dependency and neglect case, which would determine whether she would remain the legal parent of the child.

The grandparents called to the clinic because they wanted the child placed with them during the case and wanted to work toward adoption after their daughter's rights were terminated, which she eventually did tear-filled, but willingly. The grandparents had pleaded for months to the county caseworker, the county attorney, and the magistrate judge assigned to the case to have placement of their granddaughter, but their pleas were not granted and they were only allowed to visit their granddaughter once a week.

After the initial intake telephone interview, the grandparents came to the clinic and we went over their story and the barriers they had with obtaining placement of their granddaughter. As more information came out about their criminal and financial history, it was apparent that there were legitimate reasons to be concerned about placement of a young child with them. However, hearing their love of their granddaughter and the lengths they were willing to go to prove themselves

worthy parents convinced me that I would be representing a couple whose cause I believed in and who would make wonderful parents to their granddaughter.

A few weeks later I was in court for the first time in my life, shakily stating my name for the magistrate judge. I am sure the grandparents thought they would have been better off by themselves. At the end of the review hearing, however, the grandparents' visits were extended and the court said it would look into switching placement after the grandparents enrolled in parenting classes. Despite a shaky start, the case was off in a new positive direction.

After a few more months, several review hearings, and completion of parenting classes and a home study, we were in court in front of a new judge, to determine whether the grandchild would be placed full-time with my clients. This time I was not a timid and nervous law student. Cross-examining the county caseworker who vehemently opposed placement of child with the grandparents was the highlight of the experience from a litigation perspective. From the human perspective, the pinnacle was the judge awarding placement of the child with the grandparents.

Today the child is doing very well with the grandparents, a new caseworker has been assigned and all parties are working toward adoption, likely to occur in December 2011.\* I am so grateful for the experience and to everyone who made reuniting this family possible, it was not due to my efforts alone, but to a collaboration of concerned professionals, family and community members. I will never forget these grandparents, their love for their granddaughter, and the struggle they went through to bring her home.



*\*Editor's note:*

On December 5, 2011, the District Court granted the grandparents' petition to adopt their granddaughter.





# Marriage Potential: Drafting a Tribal Marriage Code

By Megan N. Bentley '11

Most law school courses focus on interpreting *existing* law. One of the most unique features of the American Indian Law Clinic is the opportunity for student attorneys to work closely with tribal leaders to develop *new* laws and tribal codes. After the Clinic assisted the Pokagon Band of Potawatomi Indians in creating trial court Rules of Evidence, the Band requested the Clinic's services in drafting a Tribal Marriage Code.

Relationships are the building-blocks of a society. Clearly the Marriage Code needed to reflect Pokagon society and traditional views on marriage, as well as incorporate relevant tribal customs. We needed to ask the community some serious questions: Who should be able to get married within Pokagon Territory? What kind of ceremony is required? What about same-sex marriage? But the Band is located in Michigan and Indiana, and the Clinic is in Boulder, Colorado. We couldn't exactly go door-to-door asking these questions.

This problem was solved before I inherited the project, but the solution was brilliant. We conducted a survey online, using Zoomerang. What an innovative way to have the Band express its traditional views on marriage!

The survey results were helpful, but did not resolve every issue. In the course of drafting the Code, I was confronted with issues that had previously seemed entirely theoretical, without practical application. Before this project, for example, when I thought of "separation of powers," I imagined the framers of the U.S. constitution huddled around a candle-lit table with quills and parchment. Suddenly I was responsible for maintaining the proper separation of the Band's governmental powers as well as instilling legitimacy into this new law. Law school may teach us that these concepts are indispensable to justice, but it certainly hadn't taught me how to implement them. Luckily for me, the Pokagon Band has a detailed website, giving me instant access to the Band's Constitution and other laws.



I was particularly struck by the difficult balance every tribe is constantly making. Tribal laws should reflect tribal values, but in order to be acknowledged and respected by other courts, these laws must appear legitimate to outsiders, who may not share those values. The Pokagon Band must now confront this issue. The survey results indicated that same-sex marriage is not a part of the Band's traditions. However, their Constitution declares that the Band will not discriminate against any person based on sexual orientation. Depending on tribal values, marriage may be a right or a mere privilege, and may or may not implicate discrimination. The survey results also indicated that at least one of the parties to be married should be an enrolled Pokagon member. This project initially grew out of a dispute with the State of Michigan over which sovereign had authority to perform marriages at the Band's Four Winds Casino Resort. So allowing marriage ceremonies and receptions between non-members may present a large economic opportunity. However, this may not be supported by the tribal community.

The Tribal Council and Pokagon Elders still have important policy decisions to make before enacting their marriage code. The Clinic has helped the Tribe to take the first steps, by providing a first draft and highlighting the unresolved issues. I was honored to be a part of creating something that will have such real-world, everyday implications. Soon the Pokagon Band will be able to issue its own tribal marriage licenses and certificates, in part because of my efforts. I am very grateful for the opportunity to further tribal sovereignty and self-determination in this small way.



## We Never Had a Lot, But We Always Had Each Other

By Johanna Blumenthal '12

During the first week of class, our Director, Jill Tompkins, asked us to select which cases we would like to work on. Having liked estates and future interest during property, I chose a case that involved updating a client's will and setting up gift deeds for her allotted trust land. Little did I know, the client, Genevieve, would touch my heart and make such a lasting impression.

The first few months of class, I worked diligently on the case, making sure that Genevieve's land was divided evenly among each beneficiary and ensuring that everything was exactly the way she wanted it. Through a twist of fate, in the time since the clinic had initially helped Genevieve, she had moved from Colorado to Kansas. This meant that we would have to journey to Kansas to get the final signatures on the will and gift deed applications; this meant I would have the opportunity to meet Genevieve and the two young grandsons she had adopted.

So, one Saturday, Jill and I flew to MCI where we rented a car and drove to a small town in Kansas. When we finally arrived at the address it was a mobile home; not much to look at from the outside. Genevieve and the boys greeted us with excitement, introduced us to the dog, Genevieve's sister, and welcomed us into their home. When we stepped in the door, I couldn't believe what they had managed to do with the place. Somehow it felt so much more spacious inside than I had expected. As we settled in to get to work, one of the boys showed us various toys. The boys were extremely handsome and not the slightest bit shy of these strangers who were visiting their home.


As we went over countless details with Genevieve, she shared little bits and pieces about her life with us. We couldn't help, but notice and comment on how well behaved and truly happy the boys seemed. It was around this time that Genevieve made a comment I will never forget. She said in a wistful voice, as she showed me some pictures of her late husband, "We never had a lot, but we always had each other." At that moment I understood why their home seemed so comfortable and so much more space than the outside



*Lorenzo, Genevieve and Lawrence Holt*

suggested it could possibly be, there was a world full of love in that home. When it came time for lunch, Genevieve made us some delicious Indian tacos. It was a perfect end to a wonderful day.

As we left, Jill and I commented on how relaxing a day it had been, despite all of the travel. I suspect this was because Genevieve's spirit had rubbed off on us and we were feeling a glimpse of the same simple joy that the boys manifested. Genevieve is one of the best sorts of people I have met in my life, but her generous nature is not the only I had the pleasure to encounter through clinic. Time after time, I found my Native clients to have this same spirit.

Another one of my clients had become the guardian of and raised not just one or two of her grandchildren, but at least five or six. She too, did not have a lot, but she gave them what she did have, her love. When visiting another client tribe on their reservation, we were greeted with overwhelming hospitality and open arms. We felt like VIP guests. They not only gave us their time, and shared their traditions with us, but they gave us unexpected gifts as well. Even those I spoke with during telephone intake seem to exhibit a spirit of generosity. Most who called were trying to help a close friend or relative. Even when the clinic could do little for them, they were truly thankful for just having had someone listen to them. It is easy to want to help people who are so willing to turn around and be giving of themselves to others. I am thankful that I was able to be a part of their community and will remember their spirit and those in need as I go forward. 



# Non-Legal Lawyering

By Joel Borgman '11

Many law students enroll in a clinical program excited with the possibility that they will get to throw on their new suits and head to the courthouse. Clinic can be a great opportunity to gain trial experience, or at least an opportunity to see the inside of the courtroom. I was fortunate enough to attend a couple of hearings for one of my AILC cases. However, one skill I had chance to improve, and which I didn't even realize existed before clinic, is what I'll call "non-legal lawyering." I was able to work on my "non-legal lawyering" primarily with two clinic clients: "Anne" and "Lynette."

A few years ago Anne voluntarily placed her sons with their paternal grandmother, Tracy, when she was struggling with substance abuse and addiction. When Tracy asked the court to appoint her as the boys' guardian, Anne did not object. For a period of time following the appointment, Anne continued to struggle with substance abuse and had difficulty staying employed. She also did not consistently telephone or visit her sons.

When I took over Anne's case, Anne and Tracy had recently reached an agreement involving the boys and the court had approved the agreement, making it a court order. Anne and Tracy agreed that Anne could call the boys three days per week and that Anne could visit with the boys, though the visits had to be supervised and Anne had to pay the costs.



The majority of the time I spent on Anne's case involved telephone conversations with Anne. Usually, we were not talking about the law or the courts. What we did talk about was Anne's desire to regain custody of her boys but awareness that she was not yet in the right position to do so.

As a student attorney, there was no legal answer for me to provide because there really wasn't a legal question. My role was to listen and to encourage Anne. I encouraged her to regularly make her phone calls. When Anne abruptly moved out of state, I talked through the positive and negative aspects of her move. Later, I checked in with Anne to see how her job search was going and to encourage her to save money for supervised visitations. Though none of these conversations were very legal in nature, I found that they were very important in building a productive attorney-client relationship.

Lynette approached the clinic because she wanted to become a placement for her three great-nieces. Her nieces had been removed from the home due to concerns of domestic violence and substance abuse. At the very beginning of Lynette's case, we did go to court so that she could intervene in the court case and become a placement for her great-nieces. However, after the initial court appearance, we saw very little of the courthouse.

Like Anne, I was regularly in touch with Lynette by telephone. Before her nieces were placed with her she would call me almost every day to update me on the transition. She called to tell me about the daycare centers she had looked at, the new vehicle she and her husband had purchased, and the larger apartment they were moving into. After the girls moved in, Lynette called to update me on the girls' behavior as they were struggling with the transition.

Most of the conversations I had with Lynette were not directly related to the clinic's representation of her. However, Lynette was clearly overwhelmed and wanted to talk. What I learned through clinic is that representing a client does not just involve drafting documents and appearing in court. It also involves supporting clients through life's challenges. To me, that will always be more rewarding than putting on a suit and going to court.



# Tribal Stewardship of the Environment

By Jamesy Owen '12

In modern times, with global warming and natural disasters dominating international discussion and fears, the environment is in desperate need of a steward. American Indian tribes have always been local environmental stewards; living off the land and maintaining local populations of plants and wildlife in a sustainable manner that other cultures seem unable to master. As a student attorney in the American Indian Law Clinic, I learned that tribes are on the forefront of the conservation effort in the United States, coming up with innovative and far-reaching environmental codes and projects that will make a real difference in curbing environmentally damaging behavior. Tribes are working toward this goal even when most of the damage that has occurred would likely not have happened if tribal management had been in place, rather than the environmentally destructive ways of the dominant culture.

As a newly minted student attorney with the clinic, I was not sure what kinds of cases and projects would come my way. My interests up to this point mainly centered on environmental law, and I was pleasantly surprised to find that there would be several projects involving natural resources that I would be able to work on. One of these projects involved helping a tribe to draft a green building code. Another involved doing research for a tribal organization working to set up renewable energy infrastructure on reservations.

In my research in these areas, I came across many examples of tribes at the forefront of the "green movement." From the Klamath Basin Restoration Agreement in the Pacific Northwest, involving leadership efforts by tribes to bring stakeholders together to restore the suffering Klamath River hydrological system and salmon runs, to the possible nation-wide model green building code of the Pinoleville Pomo Nation, tribes across the country continue to act as the environmental stewards they have been since time immemorial.

Plants and animals have an important role in the culture of American Indian tribes. Many tribes believe that the earth is a living entity that must be respected and cared for, and that the lives of people are interconnected with the lives of animals and plants. For example, the tribes of the Pacific



Northwest consider salmon "to be a people." Historically, these tribes sustainably fished the salmon that are such an important part of their culture and maintained healthy ecosystems until the fisheries were driven to collapse by non-Indian fishermen.

Today, tribes continue their role as stewards of the land by sustainably managing their land bases and working to teach non-Indians what it means to respect the earth. Playing a small role in the tribal efforts to do this has been an incredibly fulfilling experience. After a first year law curriculum of courses like torts and legal writing, I was not sure if I was cut out to be a lawyer. Seeing the human side of the law, especially in the environmental efforts of tribes, has changed my mind. The tribal efforts to create a model green-building code sensitive to tribal culture, and to implement renewable energy on reservations, are examples of what I think we will see a lot more of in the near future: tribes serving as leaders in the United States and around the world to help us move away from ecologically destructive behavior and toward the mutually beneficial relationship with the earth that American Indian tribes already practice. I am excited to see tribes continue to play this leadership role in the "green movement," as this type of co-management may be our best hope for the future.



# Mountains Out of Mole Hills

By Gregory Narvaez '11



Over the course of a year, a student attorney in the American Indian Law Clinic will see a wide variety of cases. Some of the cases are sure victories for the client, others are destined for litigation. When I conducted my initial interview with “Sue” regarding her case, I classified her case as a sure victory.

The Indian Child Welfare Act (“ICWA”) was enacted by Congress in 1978 to remedy the disproportionate number of Indian children who were forcefully removed from their families. Among other things, ICWA provides a special right to Indian adoptees. This special right allows an Indian adoptee to petition the court that issued the final decree of adoption for disclosure of certain adoption records. Upon petition, the provision requires that the court shall “provide such information as may be necessary to protect any rights flowing from the individual’s tribal relationship.”

Sue is an Indian adoptee. Sue knows the identities of her biological parents. Upon adoption, however, the State of Colorado issued her a new birth certificate. The new birth certificate only contains the names of her adoptive parents. In order to enroll in her mother’s tribe, Sue must present an original birth certificate with the names of her biological parents. Her original birth certificate is kept under seal by the State Registrar and the Colorado department of vital statistics.

Under Colorado law, an adoptee can access her records only by showing “good cause.” When good cause is shown, the law requires a third party, a “confidential intermediary” to examine the adoption file and to disclose any information required by the court order. The use of confidential intermediaries in cases involving Indian adoptees is problematic in two respects. First, confidential intermediaries are costly to utilize. For many Indian adoptees, the cost would preclude them from obtaining the necessary information to enroll in a tribe. Second, many Indian adoptees are not as fortunate as Sue, and they do not know their true tribal affiliation. Thus, the confidential intermediary would need to contact any number of the 565 federally recognized


tribes to determine the Indian adoptee’s eligibility for enrollment. Such a process would be incredibly cumbersome, as well as an administrative nightmare.

I filed Sue’s petition to open her adoption records in the court that issued her final decree of adoption. I received an answer to the petition from opposing counsel, an Assistant Attorney General. The answer stated that state law required the use of a confidential intermediary, and that Sue was not entitled to have access to her original birth certificate.

It is well settled that Congress has absolute authority over

Indian affairs and that federal law preempts state law when Congress so intends. Based on these premises, I was adamant in my reply brief to opposing counsel that ICWA requires the court to release Sue’s original birth certificate to her. After conferring with opposing counsel, we could not reach an agreement as to the applicable law in

this matter. After a short status conference with the judge, it was decided that the issues needed to be briefed and argued. Director Jill Tompkins filed a Motion for Determination of a Question of Law with the court, along with a supporting brief. The court has yet to rule on whether ICWA preempts state law, or if state law applies.\*

What should have been a simple case metamorphosed into one that will likely affect Indian adoptees throughout Colorado and possibly the United States. As I was pondering her case for the purposes of this article, a thought hit me. This is nothing new. Whether or not she is aware of it, Sue is following the paths of so many of our ancestors. From culverts in the Northwest, hunting licenses in the Southwest, to the salmon in Northern California, Native people have always paved the way for future generations by taking incremental steps. These incremental steps are what have led to the revival of Native self-determination that we are witnessing now across the country. Native Americans have always been resilient. I guess you could say we take mole hills and create beautiful mountains. 

\*Editor’s note: The juvenile court eventually ruled that ICWA governed and ordered the release of Sue’s original birth certificate to her.



# The Trip to Lame Deer - Improving Outcomes of ICWA Cases Involving Northern Cheyenne Children in Colorado

By Zach Wagner '11

The first semester of the American Indian Law Clinic seemed to be focused almost exclusively on the Indian Child Welfare Act (ICWA), and for good reason. Most of the Clinic cases at the time involved ICWA, and the big project for the year was going to be a trip to the Northern Cheyenne Reservation in Lame Deer, Montana, to work with the tribe on improving the outcomes of ICWA cases in Colorado. The Clinic in previous years had handled several ICWA cases for the tribe, but for a variety of reasons, found ourselves to be unable to stop the adoption of Indian children by non-Indian families. Throughout the early part of the first semester, we worked to prepare our presentations in anticipation for the October 21st trip to the reservation. Unfortunately, the night before we were about to leave, the trip had to be postponed as several tribal members had passed away earlier in the week. Disheartened, but somewhat thankful for the extra time, we continued to research in hope that in the spring we would get to finally make the trip. We were able to reschedule, and on February 3rd, we piled into a van and headed north on the eight hour drive to Lame Deer.


The drive was largely uneventful, mostly ranch land with the occasional antelope herd, but all in all nothing too spectacular. However, when we reached the stretch of road leading into Lame Deer, I was struck by the beauty of the scenery, the snow covered buttes, it was really a gorgeous place. Most people lived in run down tiny houses that were occupied by many more people than they were built for. The first night we ate dinner at the Tribe's casino in Lame Deer, before retreating to our hotel in Colstrip, about thirty miles away, to prepare for the presentations that we would be giving the next day. I remember wondering, as I went to sleep, whether or not the presentations would go over well. It's somewhat intimidating coming in and telling a tribe how they should handle and run their ICWA program.

The next morning we woke up early, and headed to Chief Dull Knife College to give our presentations. Each of us was going to speak on one or two topics



related to ICWA, and as I said, most of us were nervous about telling a tribe how to run their ICWA program, and we had no idea what to expect as far as the turn out of people that would be attending. We were all very pleasantly surprised to find that quite a large number of individuals showed up, including those involved in the ICWA offices, a member of the tribal council, and other members that were involved in tribal government and administration. As we gave our presentations, we found the tribal members to all be extremely interested, and genuinely concerned with the issues we were discussing. It was also fantastic to be able to discuss the issues, and get the tribe's perspective on the problems that had been occurring.

During these discussions, the main thing we discovered is that information is lacking. The issue wasn't that the tribe didn't care or didn't try, because they did, the issue was that they didn't have the necessary information. Perhaps the biggest success of our program was getting those involved with the situation the information necessary to be able to function more efficiently, and to be able to help recruit foster parents for these Northern Cheyenne children that are being adopted by non-Indian families. After the presentations were over, we headed back to the hotel, some went back to Lame Deer to eat in the casino, while others of us stayed and worked on homework, or putting together information to give to the tribe.

The next morning we packed up and began the long drive back to Boulder. The return trip gave us time to ponder and discuss some of the issues we encountered, and to think creatively about ways to address these issues. Even though our presentations are over, we hope to continue working cooperatively with the tribe to improve the outcomes of the ICWA cases involving Northern Cheyenne children in Colorado. 

# Harvesting the Wind: Supporting Tribal Wind Energy

By Julie Nania '11

Years ago, tribes were confined to reservations appraised as worthless, vast open areas with little agricultural potential and few natural resources. Or so the federal government thought. With renewable energy technologies, development possibilities are blossoming on reservations once written off as barren. Today, the wind-swept Northern Plains offer huge potential for wind energy development.

Robert "Bob" Gough, Secretary of the Intertribal Council on Utility Policy, contacted the American Indian Law Clinic to draft a legal memo investigating potential legislative action to facilitate tribal wind development. Bob was particularly interested in instituting a mandatory tribal wind power preference to be followed by the Western Area Power Administration ("WAPA") when purchasing supplemental grid energy. The U.S. Department of Energy has estimated that wind development on tribal lands could produce wind energy of 535 billion kilowatt hours of electricity per year. Although tribes alone have access to harvest this resource, tribal wind development is hindered by a lack of funding and institutional support.

Tribal wind development will benefit entire nation. Shifting national fuel reliance from coal towards renewable energy will help achieve green energy targets by reducing the U.S. green house gas emissions and contributing to national sustainability goals. U.S. energy security will benefit from less pressure to satisfy our fossil fuel addiction and address rising domestic fuel prices. Even power administrators stand to gain substantial long-term benefits; by instituting a tribal wind preference, WAPA would avoid expensive spot market purchases when traditional supply sources fall short of demand.


In terms of national policy, a tribal energy preference would further the goals of the federal government's Indian Tribal Energy Development and Self-Determination Act of 2005. Since Nixon's 1970 Special Message on Indian Affairs, the U.S. government has embraced a policy of tribal self-determination to empower the economic and

social development of Tribes. The Indian Tribal Energy Development and Self-Determination Act was enacted to implement this policy and facilitate development of American Indian natural resources. Although the Act explicitly urges power administrators to adopt a tribal generator preference, it doesn't require that they do so. Simply tweaking the statutory language of this Act, changing a "may" to a "shall," would create a compelling mandate for administrators to contract with tribal energy producers.

In addition to instituting a binding tribal wind preference, the federal government should support other legislation

promoting independent tribal wind energy. Such policies could include legislation establishing feed-in tariffs, the alternative distribution of production tax credits, and additional grants to tribes through the Tribal Energy Act. Feed-in tariffs would operate as a minimum pricing system and support renewable energy through guaranteed grid access and long-term energy contracting. Currently, federal government production tax credits ("PTC") used to subsidize wind energy are non-

transferrable. As extensions of sovereign governments, tribally owned entities have no federal income tax liability and cannot use non-transferable PTCs for the benefit of the project. Legislation allowing tribal partners to transfer these tax credits to their business partners would help support financing of such projects.

Reports on the progress of Tribal energy development have determined that there is a critical need for legislation and funding to support tribal energy development. A variety of innovative incentives could give tribes the financial and institutional support they need to develop abundant wind generation potential. As Jefferson Keel, the President of the National Congress of American Indians commented, "Through connections with the land and all living things, tribal nations know firsthand the effects of climate change on the environment. We hold the promise of alternative energy development that would benefit all Americans." The tribes have the wind and the will. Together, through legislation we can give them the power. 



## A Costa Rican Comes Home


By Chester Fernandez '12

My parents came to the United States over thirty years ago from Costa Rica. I was raised with much of the cultural teachings my parents were in their home country: strong family ties with particular respect for elders, appreciation for what the land provides us (my mother picked coffee from a very young age), and a strong push to keep the language of my people (Spanish). Looking back at my experience in the American Indian Law Clinic over the last year, it's funny how all these cultural values were omnipresent in all the legal work I was doing day in and day out. In fact a strong argument can be made that were it not for my cross cultural understanding, much of which I owe to my parents, I could not have done the best possible work for the clients I helped.



The Indian law cases and projects I had ran the gamut from helping a tribe draft a foster care code to helping a woman open up her adoption records. Some of the work I did involved going to a courthouse, other work involved going to people's houses, and for one, even to a tribal reservation. Along the way I got a glimpse of how a few people whose life my legal training intersected lived, and the struggles they face trying to fit their cultural beliefs into a legal system that in many ways sadly is foreign to them.

While helping draft the foster code, some classmates and I looked at foster care licensing code from a variety of states and tribes and it was interesting to see how differently the state codes on average were from the tribal codes. In fact if it wasn't for the ability the clinic afforded us to travel to the reservation of the tribe we were helping to see firsthand how a foster parent lives and hear the stories of what challenges she has faced working within the system to help children in need of stability and safety, the end product we produced for the tribe would not have been nearly as culturally sensitive or as aptly tailored for the specific challenges the tribe faces in dealing with foster care. Throughout the year another cultural theme stood out, that sadly I think as a Latino I can relate to, not all Indians are the same. In this day and age, where some people don't even know or care to know that Native people are a vibrant part of this society, those that do know quite often lump all of them into a few select stereotypes. As a Latino, I've often been called Mexican, Puerto Rican, or terms I'd rather not put on paper so as to not further perpetuate the use of them. I once had to explain for some time to someone that, "No, it is not an island and, yes, you can drive there from anywhere in the United States." I've also had to combat stereotypes of what it means to be a Latino: "No, we all don't clean for a living and, no, we aren't any less American because we speak another language." And now having a son of my own to raise, I've had to face the challenge my parents faced raising my siblings of maintaining cultural identity in a society that is big on talk of respect for diversity but small on actual action displaying such.


These are the types of experiences I saw the people I helped in the clinic facing daily. I learned how differently tribes were and saw many of the same challenges I or my family has faced echoed in the experiences of Native people. I've also had the opportunity to learn the intricacies of an area of law that could not be any more complicated if it was written by people that didn't understand anything about the people it pertains to – wait it was! I've worked with and met people that value the human side of law practice and make a conscious effort to try to keep that part of law alive, despite the impersonal nature of legal practice that is what is largely taught in law school classrooms. It's been a great experience to have been in the American Indian Law Clinic, one that I would never have imagined I would have at a law school. I only wish many others would have a similar experience, particularly those hoping to practice law, because of the value it provides them when they go out and practice their trade and come across clients of all backgrounds. I haven't been to Costa Rica in over a decade, but somehow think that I've gotten a little closer to there over the last year, while working in the American Indian Law Clinic. 



## Striking Balance (Cont'd)

Continued From Page 1

The student attorneys became the idealists, wanting to demand high standards for the homes and the families. The tribe was the realist in the relationship, recognizing that the realities of the community would render our goals unattainable, and no children would be able to be placed. After we visited the reservation and observed the community and people we were creating this code for, we were able to draft it in a way that was suitable for them but still set standards at a level that all of us working on it were satisfied would provide a safe environment for children.

Working with these two tribes demonstrated the way the roles of student attorneys at the Clinic vary. When needed, we are the voices of reason that lower idealistic goals into the constraints of what the law provides, and at other times, we are the ones pushing for those idealistic goals. 



## Upcoming Events

**March 23-25, 2012**

38TH DENVER MARCH POWWOW  
Denver Coliseum

**April 19-20, 2012**

37TH ANNUAL FEDERAL BAR  
INDIAN LAW CONFERENCE  
“Mapping Indian Law and Policy”  
Hilton Santa Fe at Buffalo Thunder

**April 26, 2012**

COLORADO LAW AMERICAN INDIAN LAW CLINIC  
20TH ANNIVERSARY CELEBRATION  
University of Colorado—Boulder  
Flatirons Room, Center for Community

**April 26 & 27, 2012**

A LIFE OF CONTRIBUTIONS FOR ALL TIME  
SYMPOSIUM IN HONOR OF DAVID H. GETCHES  
Wittemyer Courtroom, Wolf Law Building  
University of Colorado—Boulder



Miss Mikala Summer SunRhodes  
(Rides A Fast Horse)  
Northern Arapaho  
2012 Miss Denver March Powwow

## Where Are They Now?

### Update on American Indian Law Clinic Alums



*Alana Zehren-Thomas*

Her family is getting bigger as **Stephanie Zehren-Thomas, '04**, (a member of the AILC Advisory Committee) as she and husband, Rodney Thomas, welcomed baby Alana Vivian on October 21, 2011. She is the little sister of Maya, age 3.

**Kimberly Perdue, '10** and her husband, Josh Perdue, welcomed their first child Liam Michael Perdue January 24, 2012. He was 20 inches and 7 lbs., 5.5 oz. Kim was able to extend her clerkship at the Colorado Court of Appeals through her pregnancy.



*Liam Michael Perdue*

**Shanna Selsor Burgin '07** now works as an Assistant Attorney General for her tribe, the Muscogee (Creek) Nation in Okmulgee, OK.



Former Clinic Director **Jerilyn DeCoteau** was recently appointed as a Justice of the newly established Supreme Court of the San Ildefonso Pueblo in New Mexico.

**Stephanie Chen, '09** is now teaching as an adjunct professor for Ka Huli Ao Center for Excellence in Native Hawaiian Law at the University of Hawai'i at Mānoa's William S. Richardson School of Law. She co-taught the Environmental Law Clinic with Professor Kapua Sproat where she helped pro-se defendants in quiet title actions. This spring, she will co-teach the Native Hawaiian Rights Clinic with Professor Melody Kapilialoha MacKenzie. In November, she was married Dr. Arie Levine at Lyon Arboretum in the Manoa Valley on the island of Oahu.



The Colorado Court of Appeals welcomed two recent AILC alums as law clerks for 2011-2012. **Anna Dronzek, '11** is clerking for Judge John R. Webb and **Gabriella Stockmayer '11** is law clerk to Judge Daniel M. Taubman.

**Chester Fernandez, '12** and his wife, Johanna Rincon Fernandez welcomed their second child, Salma, to the world on December 13, 2011. Salma means peace in Arabic. Big brother Octavio (affectionately known as "O") has been great with her.



*Salma Fernandez*

## Dean David Getches — “Our Hero” (Cont’d)

Continued From Page 3

and pressure from the Chancellor, he re-thought his decision. Once when he was asked what caused him to change his mind, he said, “The Law School has been very good to me. It’s time for me to give something back.” It was his leadership through his own actions that inspired the law students to adopt their own pledge to do public service even while they strain under the demands of law school.

David was first my colleague, then my boss and finally my mentor and supporter. He was also my teammate on the law school’s annual Bolder Boulder 10K running team. I always had to chuckle when the first thing he would refer to when introducing me to the new class of first year law students was that I was the unofficial leader of that team. His focus on that little fact was however, a demonstration of his commitment to developing community wherever he went. David’s commitment to working with and for Indian people was expressed in very quiet and unknown ways as well. Often when he would offered an honorium for coming and speaking at an event, he would ask the sponsor to send the check to the American Indian Law Clinic—where we provide legal services poor and underserved individuals and tribes.

What David once told a new class of law students, I think can apply equally to tribal judges, “If you like a life of service, of leadership, and understand what it takes to earn the respect of other around you—by impeccable, unwavering ethical behavior—this can be the ideal career.” Though David is gone far too soon, his example and his inspirational leadership remains to guide us, and tribal courts, into the future.



L to R: David Getches, Carrie Covington Doyle, Kimberly Perdue and Jill Tompkins at certificate awarding in 2009.



### A Life of Contributions for All Time

#### *Symposium in Honor of David H. Getches*

University of Colorado Law School—Wittermyer Courtroom

April 26, 2012—5:30 p.m.

Keynote Address by Prof. Charles Wilkinson

April 27, 2012—8:15 a.m.

Symposium

This event, in the spirit of a Festschrift, will celebrate David’s life, especially his trailblazing scholarship in three legal fields: Water, Land, and American Indians.

Register by April 19, 2011 at:

<http://lawweb.colorado.edu/apps/eventRegistration/getchesSymposium/>



# Balancing the Interests of an Indian Child and an Indian Tribe

By Anna Dronzek '11

When I signed up to be a student attorney in the American Indian Law Clinic during my third year of law school, I expected that I would be working on behalf of Indian clients, individuals and tribes—that I would be fighting the good fight. What I did not expect was to grapple with a case that directly opposed the interests of an Indian child and an Indian tribe.

My client, C.C., had come to the clinic during the 2009-2010 school year looking for help. She was caring for an Indian boy, the son of a family friend, whose parents had left him in her care and had no subsequent contact with him. C.C. was providing everything for this boy, from food, shelter, and clothing, to medical care for significant dental problems. She wanted to know how to get legal custody of the boy, so that she could ensure that she could continue to take care of him. C.C. worked with my predecessor in the clinic on filing a petition for an allocation of parental responsibilities, which would grant C.C. the legal right to care for this child.

Because the boy is Indian, the petition for an allocation of parental responsibilities needed to satisfy the requirements of the federal Indian Child Welfare Act. Under this federal legislation, C.C. was required to no-



tify the child's tribe that this custody proceeding was going to take place. She did so, and the tribe filed a motion to have the case transferred to tribal court. This transfer would have made it very difficult for C.C. to gain custody, because the court was out of state, and because under tribal law, she had no legal right to petition for custody of the boy.



At an evidentiary hearing in March 2010, a Denver District Court judge had denied the tribe's motion, and the tribe subsequently filed an appeal in the Colorado Court of Appeals. This was where I came into the picture. My first job was to write and file a brief in response to the tribe's appeal, due in October. Later, in March 2011, I argued that brief before the Colorado Court of Appeals.

As a law student whose previous experience had only been with the artificial brief-writing and arguments in law school classes and moot court competitions, it was incredibly exciting to have the opportunity to write and argue a brief for real, in front of a real court. At the same time, however, the case was somewhat troubling. I was, and remain, convinced that the best interests of this specific Indian child lay with C.C., and that he should continue to live in the stable and loving home that she has been providing. C.C. has the best chance for getting the legal right for this care in Denver District Court, not tribal court. Arguing this position, however, meant opposing the interests of the Indian tribe. If the clinic's defense of the appeal was successful, we might establish precedent that would make it harder for tribes to enforce that part of the Indian Child Welfare Act that presumes child custody proceedings should, in most circumstances, take place in tribal courts. If our defense failed, however, we would have failed our client.

Our defense was initially unsuccessful. The Colorado Court of Appeals vacated the District Court's ruling and sent the case back to the District Court. The case has not yet been transferred to tribal court, because the Court of

*Continued on page 19*

## Clinic Celebrates 20th Anniversary

The University of Colorado American Indian Law Clinic was initiated and established by Clinical Professor and Director **Robert (“Bob”) Golton** in 1992. Professor Golton had earlier founded Colorado Law’s Natural Resource Litigation Clinic in 1978 and served as its Director until 1984. He continues to maintain contact with the Clinic through his role as a founder of the National Boarding School Healing Coalition. **Sarah Krakoff** was the second Director of the AILC and through her leadership, the Clinic, which had been funded solely through private sources, became a regular law school course funded by the University. Professor Krakoff is now a tenured faculty member and an Associate Dean at Colorado Law. Director **Jerilyn DeCoteau** followed next. Under her guidance, the Clinic developed unique expertise in the Indian Child Welfare Act and developed lasting collaborations with many Colorado-based organizations serving the needs of American Indians. In 2001, **Jill Tompkins** became the fourth Director and has taught the Clinic course for the past eleven years. During her time, the American Indian Law Certificate Program was formally established. The Clinic is a required course to earn the certificate. Over past two decades, more than 80 student attorneys have provided countless numbers of legal service hours to hundreds of individual clients and dozens of tribes. In addition to being a valuable experiential learning experience, the American Indian Law Clinic is an invaluable resource to the Colorado Indian community and to Indian Country nationwide.

### *Clinic Alumni !*

YOU ARE CORDIALLY INVITED TO A CELEBRATION OF THE  
20TH ANNIVERSARY OF THE  
UNIVERSITY OF COLORADO LAW SCHOOL’S

### **American Indian Law Clinic**

THURSDAY, APRIL 26TH - 2:30 P.M. TO 4:30 P.M.  
FLATIRONS ROOM, CENTER FOR COMMUNITY  
UNIVERSITY OF COLORADO-BOULDER

*Suggested Donation - \$25.00 per person*


*Silent Auction Proceeds to Benefit the AILC Client Support Fund*

R.S.V.P. BY **APRIL 5TH** TO (303) 492-2635 OR TO [RENEE.GARCIA@COLORADO.EDU](mailto:RENEE.GARCIA@COLORADO.EDU)



## Striking Balance (Cont’d)

Continued from page 18

Appeals found key facts necessary to decide which court should hear the case had not yet been determined. Our client’s case is not yet lost, and her story will continue next year with the assistance of another student attorney. I learned a great deal about appellate work from this experience, but more importantly, I learned in practice what I had formerly known best in theory: that any given case is filled with more shades of gray than of black and white, and that even working for the “right” side is not always straightforward. 

*\*Editor’s note:*

On September 12, 2011, the Colorado Supreme Court summarily reversed the decision of the Court of Appeals. The case was remanded to the District Court for findings of abandonment. After finding that the child had been abandoned, the judge granted sole allocation of parental responsibilities to C.C. on February 17, 2012. Contact has been reestablished between the boy, his father and his sister as a result of the case. He will spend time this summer on his reservation.



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Jill E. Tompkins, Clinical Professor of Law  
Renée Garcia, Paralegal & Program Manager

## **Tatanka Legal Times**

This newsletter is published by the American Indian Law Clinic, a clinical education program of the University of Colorado Law School. The Clinic provides law students the opportunity to represent clients in cases involving federal and tribal Indian law issues in various Colorado, federal and tribal courts. Students also work with select tribes on tribal governance enhancement projects.

Opinions, interpretations, suggestions or conclusions in this publication are solely those of the authors and should not be attributed to the University of Colorado or the State of Colorado. Tax deductible contributions to the Clinic are welcome and may be made through the University of Colorado Foundation.

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### ***Support the Work of the American Indian Law Clinic***

Many of the expenses of the student attorneys and poor clients of the University of Colorado American Indian Law Clinic are funded by private donations. If you wish to support the continuing excellence of the Clinic and the work it does for those in need, your contribution would be greatly appreciated.

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