



## **RESOLUTION # 2014-1**

**TITLE: To Support the First-Ever Comprehensive Study of Native American Attorneys**

**WHEREAS**, the National Native American Bar Association (“NNABA”) works to promote issues important to the Native American community and to improve professional opportunities for Native American lawyers, we do hereby establish and submit the following resolution; and

**WHEREAS**, NNABA was founded in 1973 and serves as the national association for Native American attorneys, judges, law professors and law students, and NNABA strives to be a leader on social, cultural, political and legal issues affecting American Indians, Alaska Natives, and Native Hawaiians; and

**WHEREAS**, NNABA represents over 2,500 American Indian, Alaska Native and Hawaiian Native attorneys throughout the United States; and

**WHEREAS**, there is no sound demographic information regarding American Indian, Alaska Native and Hawaiian Native attorneys, which is needed for any number of Indian Country's legal or political purposes; and

**WHEREAS**, because of this problem, the actual number of actual Native American law students and lawyers is dramatically less than that as self-reported by ABA accredited law schools. The 1990 Census report shows 1,502 American Indian lawyers. In 2000, that number increases to 1,730.<sup>1</sup> An increase in American Indian lawyers of only 228 in ten years. That is an overall growth of 15%. Nonetheless, during the same time period between 1990 and 2000, ABA-accredited law schools claimed to have graduated approximately 2,610 Native American lawyers.<sup>2</sup> Even controlling for a variety of factors, there is a vast disparity between 2,610 and 228; and

**WHEREAS**, current statistics do not accurately reflect the number of Native Americans who attend or graduate law school. To highlight this issue, one only need compare Native American graduation rates with census data. From 1990-2000, ABA-accredited law schools

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<sup>1</sup> U.S. Census Bureau, Census 2000 special tabulation, *previously available at* <http://www.abanet.org/minorities/links/2000census.html>.

<sup>2</sup> Previously available at Minority Degrees Awarded 1990-2004, at <http://www.abanet.org/legaled/statistics/mindegrees.html>.



reported graduating over 2,600 Native Americans.<sup>3</sup> During the same time period, the U.S. Census only reported an increase of just over 200 Native American attorneys (from 1,502 to 1,730);<sup>4</sup> In 2013, the ABA reports that, according to the 2010 Census, there are over 2500 Native American attorneys<sup>5</sup>; and

**WHEREAS**, the fraudulent self-identification as Native American on applications for higher education is particularly pervasive among law school applicants. Anecdotally, it is well-documented within the Native American legal community that a large percentage of individuals in law school who identified themselves on their law school application as “Native American”, were not of Native American heritage and have had no affiliation either politically, racially, or culturally with the Native American community. This phenomenon is so pervasive it is commonly understood and referred to within the Native American community as “box-checking;” and

**WHEREAS**, box checking “Native American” on law school and legal admission applications is a problem; and

**WHEREAS**, throughout the history of the federal courts, only two Native Americans have been appointed to the federal judiciary: Judge Frank Howell Seay, nominated in 1979 by President Carter, who assumed senior status in 2003; and Judge Billy Michael Burrage, nominated by President Clinton in 1994, who resigned his appointment in 2001; and

**WHEREAS**, there are 874 Article III federal judgeships in the United States—nine on the Supreme Court, 179 on the Courts of Appeals, 677 on the District Courts and nine on the Court of International Trade—and currently not one of these judgeships is held by an American Indian or Alaska Native; and

**WHEREAS**, unlike for other “minority” lawyers, the legal profession has never formally studied the perceptions, experiences and career trajectories of Native American attorneys; and

**WHEREAS**, NNABA seeks to change this lack of data and seeks support for the first-of-its-kind study of Native American attorneys across the legal profession; and

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<sup>3</sup> Previously available at Minority Degrees Awarded 1990-2004, at <http://www.abanet.org/legaled/statistics/mindegrees.html>.

<sup>4</sup> U.S. Census Bureau, Census 2000 special tabulation, *previously available at* <http://www.abanet.org/minorities/links/2000census.html>.

<sup>5</sup> See

[http://www.americanbar.org/content/dam/aba/administrative/market\\_research/lawyer\\_demographics\\_2013.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/market_research/lawyer_demographics_2013.authcheckdam.pdf).



**WHEREAS**, NNABA applauds the legal community's commitment to both a diverse workforce and the eradication of barriers for everyone in the legal profession. NNABA's mission of ensuring the full inclusion of Native American attorneys as well as their Tribal nations in the legal profession has added much to the profession's diversity and inclusion efforts, but there is a long way yet to travel; and

**WHEREAS**, to enhance the full understanding and inclusion of Native American attorneys, in 2013, NNABA announced the launch of a first-of-its-kind research study on Native American attorneys. This research will enhance the full understanding and inclusion of Native American attorneys; and

**WHEREAS**, NNABA will focus its research on providing a picture of the issues confronting Native American attorneys across all settings including private practice; government practice in state, federal and tribal arenas; the judiciary; corporate legal departments; and academia.

**WHEREAS**, ultimately, the findings from this study will be used to develop educational materials and programs that will help improve the recruitment, hiring, retention and advancement of Native American attorneys in the legal profession; and

**NOW THEREFORE BE IT RESOLVED**, that the National Native American Bar Association calls upon the legal community in the United States to support this groundbreaking research of Native American attorneys. NNABA plans to energize the business and legal communities to further improve the status of Native Americans in the legal profession because it is in the best interest of the profession to do so.

#### **CERTIFICATION**

The foregoing resolution was adopted by the membership at the Annual Meeting of the National Native American Bar Association, on Wednesday, April 9, 2014, with a quorum present.

*Mary Smith*

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Mary Smith, President