



Resolution of the NATIONAL NATIVE AMERICAN BAR ASSOCIATION

RESOLUTION # 2016 - 4

TITLE: To Support the Inclusion of Indian Law on Bar Exams

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 has long supported the strength and well-being of tribal nations, including the vibrancy and success of Native law students and young Native attorneys;

WHEREAS, in 2004, the National Congress of American Indians passed Resolution MOH-04-001, resolving to “have the topic of Indian law tested by state bar associations, so the American public can better understand the inherent sovereign rights of our Indian nations,” and further, sought “the assistance and collaboration of the American Bar Association, and the bar associations, boards of bar examiners and Supreme Courts in states such as Washington, Oregon, California, Idaho, Montana, Colorado, Arizona, New Mexico, Nevada, Utah, North and South Dakota, Oklahoma, Minnesota, Wisconsin, Michigan, New York, Connecticut, Maine, Louisiana and Florida” to include Indian law on the bar examinations of such states;

WHEREAS, NNABA has, in resolution #2015-07, resolved to urge “all states to include or maintain Indian law on their respective bar examinations, especially those states with large Indian populations such as Alaska, Washington, Oregon, California, Idaho, Montana, Colorado, Arizona, New Mexico, Nevada, Utah, North and South Dakota, Oklahoma, Minnesota, Wisconsin, Michigan, New York, Connecticut, Maine, North Carolina, South Carolina, Virginia, Georgia, Louisiana, and Florida.”

WHEREAS, the NNABA study entitled “*The Pursuit of Inclusion: An In-Depth Exploration of the Experiences and Perspectives of Native American Attorneys in the Legal Profession*” surveyed Native American attorneys and shows that the overwhelming



majority of Native American attorneys are primarily entering the legal professions for reasons such as; serving their tribes/communities, fighting injustices against Indian people, fighting unfairness in Indian law, etc. which played a direct role in the selection process of where to work and in what legal area to practice;

WHEREAS, as borne out by the data from NNABA’s survey, this direct connection between motivation to attend law school and selection of legal practice results in the majority of Native American attorneys practicing Indian/Federal Indian/Tribal law;

WHEREAS, the Uniform Bar Examination (“UBE”) is rising in importance across many jurisdictions, it is essential that jurisdictions fully consider the effect of the UBE on minority and historically underserved candidates, as well as the effect on typically underserved and locally relevant legal topics;

WHEREAS, the UBE does not prohibit state bar examiners from testing or otherwise ensuring competency with respect to local law, which can take the form of online courses, webinars, CLE programs, or addendums to the exam itself;

WHEREAS, bar exams are not intended to require specialized knowledge, but intended to ensure basic competency of its licensed attorneys, including the ability to at least recognize issues of law that are likely to arise within that jurisdiction;

WHEREAS, there are 567 federally recognized tribes, 426 tribal court systems, a \$30 billion-a-year gaming industry, and a booming tribal natural resource extraction enterprises generating billions, Indian law is a burgeoning area in at over twenty states;

WHEREAS, adopting the UBE has led some of the few jurisdictions that test Indian Law to eliminate, or decrease the importance of, that subject for purposes of becoming barred in their jurisdictions;

WHEREAS, 76.68% of Native American attorneys surveyed for “*The Pursuit of Inclusion: An In-Depth Exploration of the Experiences and Perspectives of Native American Attorneys in the Legal Profession*” reported that more awareness and understanding of issues faced by Native Americans would have a positive impact on their career;

WHEREAS, the lack of inclusion of Indian Law on bar exams and the UBE disadvantages Native American law students and attorneys whose practice is overwhelmingly within the realm of Indian/Federal Indian/Tribal Law;



NOW THEREFORE BE IT RESOLVED, that the National Native American Bar Association calls upon the National Conference of Bar Examiners, tribal, state, and local governments, and bar associations to support the inclusion of Indian Law (federal and tribal) as a subject for purposes of state and uniform bar examinations.

CERTIFICATION

The foregoing resolution was adopted by the Board of the National Native American Bar Association, on January 22, 2016 with a quorum present.

Linda Benally, President

ATTEST:

Makalika Naholowa'a, Recording Secretary