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**THE NATIONAL NATIVE AMERICAN BAR ASSOCIATION**

**RESOLUTION #2020-03**

**TITLE: Urging Representation of Native People in Studies of Diversity, Equity, and Inclusion Efforts at All Levels of the Legal Profession**

**WHEREAS,** the National Native American Bar Association (“NNABA”) was founded in 1973 and serves as the national association for Native American attorneys, judges, law professors and law students, and NNABA promotes and addresses social, cultural, political and legal issues affecting American Indians, Alaska Natives, and Native Hawaiians; and

**WHEREAS,** Native Americans have been the subject of exclusionary policies and language which sought to erase Native Americans from the body politic of the United States since its founding, including by the United States Supreme Court, which stated in *Johnson v. M’Intosh* that Native Americans are not “citizens” but instead “perpetual inhabitants” of the United States “with diminutive rights,” at the hands of the “discovery and conquest” by European colonizers; and

**WHEREAS,** but one example of the United States’ exclusion of Native Americans from the legal framework of the United States occurred during passage of the Fourteenth Amendment to the United States Constitution, during which Congress expressly excluded “Indians not taxed” from citizenship along with an ability to participate in the electoral process; and

**WHEREAS**, rampant exclusion and erasure of Native Americans continues in the United States, with a recent example being that, even though Native Americans are largely acknowledged to have played a pivotal role in the recent 2020 presidential election, including but not limited to the outcome of the election in Arizona, a major news network included Native Americans in the catchall category of “something else” when describing the breakdown of the electorate; and

**WHEREAS,** Native Americans have, among American minority groups, unique legal issues stemming from Native tribal sovereignty and the lack of recognition thereof by many levels of government in this country, the unique constitutional status of Native Americans, centuries of legal precedents addressing Native status and its implications; and

**WHEREAS,** a 2015 National Native American Bar Association study found that there were 2,640 Native American attorneys in the United States, comprising 0.2% of the more than 1.2 million lawyers in the United States; and

**WHEREAS,** the United States Census Bureau estimates that, in 2019, American Indian and Alaska Native people constituted 2.15% of the population of the United States; and

**WHEREAS,** the American Bar Association’s National Lawyer Population Survey results for 2020 indicated that the number of Native lawyers in the United States rounds down to zero percent and that Native American lawyers are declining as a share of the population of lawyers compared to other minority groups; and

**WHEREAS,** it is impossible to identify the number of Native Hawaiian attorneys because the United States Census Bureau does not count Native Hawaiians separately from other “Other Pacific Islanders”; and

**WHEREAS,** despite the significance of the law and legal profession to Native Americans, Native Americans remain underrepresented in the legal profession to a striking degree, and indeed, considering the American Bar Association’s National Lawyer Population Survey results for 2020, Native Americans are more underrepresented in the legal profession than any other minority group in the United States; and

**WHEREAS,** Native American lawyers and law students are regularly rendered invisible, even in studies purporting to present the struggles of people of color more broadly in the legal profession, and to highlight diversity, equity, and inclusion efforts and challenges; and

**WHEREAS,** one prominent example of this phenomenon involved a 2020 study by The Center for Women in Law and the National Association for Law Placement Foundation titled “Women of Color – A Study of Law Student Experiences,” and

**WHEREAS,** the introduction to this study specifically notes that “women of color are not a unitary block - the data shows their experiences often differ considerably, depending on their specific race/ethnicity,” and

**WHEREAS,** despite acknowledging the significant variance in experience for women law students of color based on race/ethnicity, the study fails to engage in any separate reporting for Native American law students, citing the “low number of responses” from Native law students; and

**WHEREAS,** the study authors rebuffed efforts, after publication, to obtain more data from Native students through contacts at Native American Law Student Association chapters nationwide; and

**WHEREAS,** this reaction is consistent with NNABA’s 2015 study “The Pursuit of Inclusion: An In-Depth Exploration of the Experiences and Perspectives of Native American Attorneys in the Legal Profession,” which concluded that “[t]raditional diversity and inclusion programs are not reaching Native American attorneys. ‘Inclusion’ in these programs does not seem to extend to Indian lawyers”; and

**WHEREAS,** the invisibility of Native American women in the legal profession is specifically detrimental in view of the Missing and Murdered Indigenous Women and Girls crisis in the United States, as a result of which murder is the third-leading cause of death among Native American women and more than four in five Native American women will experience violence in their lifetime; and

**WHEREAS**, improved efforts to obtain data for use in studies of Native American law students and legal professionals are needed to ensure the unique challenges and experiences of Native American law students and lawyers are reflected in studies addressing topics of diversity, equity, and inclusion, in order to improve representation of Native Americans in the legal profession more broadly.

**NOW THEREFORE BE IT RESOLVED**, that the National Native American Bar Association calls upon The Center for Women in Law and the National Association for Law Placement Foundation to supplement their “Women of Color – A Study of Law Student Experiences” study by engaging in specific efforts to target Native law students in order to obtain statistically meaningful data.

**BE IT FURTHER RESOLVED**, that the National Native American Bar Association calls upon all organizations studying the legal profession to engage in specific efforts to ensure Native Americans are not subject to the erasure which continues to plague the Native American legal community even as such studies ostensibly seek to remedy this erasure as to other minority groups.

**BE IT FURTHER RESOLVED**, that the National Native American Bar Association calls upon law schools, law firms, legal employers, and relevant educational institutions to make intentional efforts to reduce barriers to entry into the legal profession for Native Americans, in order to increase the representation of Native Americans in the legal profession, particularly in view of the importance of the law and legal profession to Native people.

**BE IT FURTHER RESOLVED**, that the National Native American Bar Association encourages Native Americans to explore a career in the legal profession, in order to address the social, cultural, political and legal issues affecting American Indians, Alaska Natives, and Native Hawaiians, and to protect the rights of Native Americans and Native communities in the United States.

**BE IT FINALLY RESOLVED**, that NNABA supports this resolution as policy until it is withdrawn or modified by subsequent resolution.

**Certification**

The foregoing Resolution was adopted by the Board of Directors of the National Native American Bar Association, on November 16, 2020, with a quorum present.



Thomasina Real Bird, President

Attest:



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Heather Torres, Secretary