

Indian Will and Estate Planning on the Agenda for Tribal Attorneys



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Many Natives never prepare an Indian will due to a lack of trust and misunderstanding. Sharing the knowledge on the complicated issue of American Indian estate planning will be on the agenda of the second annual Indian Will Drafting CLE (continuing legal education) June 20 in Toppenish, Washington.

The Stewards of Indigenous Resources Endowment is hosting the event for attorneys, tribal attorneys, para legals and others at the Yakama Nation's Legends Casino.

Attorney Roberta Armstrong, founder of the nonprofit SIRE, is the keynote speaker. The CLE will address the topics of personal and real property in Indian country, identify applicable tribal, state and federal laws, determine who is an Indian landowner client, and draft an Indian will.

SIRE was founded in 2007, after an influential law was passed in 2006 called AIPRA (American Indian Probate Reform Act). SIRE aims to educate Indian landowners and attorneys on the law and on estate planning.

AIPRA took probate jurisdiction away from the states and put it into the hands of the federal government. It replaces state laws concerning what happens when an Indian landowner dies intestate (without a will).

Armstrong pointed to "historical trauma" Indians have faced over land as one of the reasons many Natives are reluctant to make wills. Many do not want to risk having their land taken from them, or feel unsafe that others may see who they are leaving land to.

But she said "The will is the only mechanism that you can use to try to take care of those you love."

A will gives Indian people control, she said. “You decide who gets your land.”

SIRE maintains a website (www.NativeWill.org) where an Indian will can be done, outlined and then reviewed by an attorney who will write a legal will.

The website points out “Writing an Indian will and developing an estate plan allows you to decide who will receive your trust and non-trust property and how assets will be used when you are gone.

“An estate plan also allows parents to name guardians for minor children. In addition to providing for loved ones, an estate plan can make your wishes known regarding health-care decisions and charitable intentions.”

After establishing a relationship with a particular Indian tribe, “SIRE offers free Indian wills for federally recognized Native American Indians. Free consultation is also available to determine the client’s estate planning needs and an opportunity to make sure our attorney is a good match for you and your family.”

Armstrong is a licensed attorney in the state of Washington and in some 20 tribal courts. She created SIRE to preserve and maintain tribal sovereignty and to help Indian people leave a legacy and memorial for future generations.

According to Armstrong’s website “SIRE provided direct services to Gila River Indian Community in Arizona and Squaxin Island Tribe in Washington at no cost to individual community members. Additionally, SIRE successfully founded a tax outreach program that supported Native American law school students from the University of Washington to travel to rural Alaska to prepare Alaskan Natives’ tax returns at no cost.”

She has also worked with tribes in Oregon, Idaho, Nevada, California and New Mexico. And she volunteers to help Indian veterans do estate planning through the JAG (Judge Advocate General) legal offices of the military.

In an online interview with law student Kiara Hill, Armstrong stressed the essential use of technology to do her work with tribes.

“Laptop allows me to provide mobile legal services within Native American communities on reservations. Cellphone and Google Voice are also used to help manage inquiries from clients. I have developed an Indian will writing program using Microsoft Access. I seek to obtain financial support to develop the program to be marketed to tribes to use with helping their citizens do Indian wills,” she said.