



## **REY-BEAR McLAUGHLIN, LLP**

### **Washington State Bar Association Indian Law Section Executive Committee Candidate Statement by Dan Rey-Bear**

I believe that I would be a good candidate for the position for which I am applying because I have substantial experience in the field of Indian law and in related professional activities.

I have worked in Indian law for over 29 years and continue to practice exclusively in advising and representing Indian Tribes and Indian enterprises. My Indian law experience began during law school with work at the Indian Law Resource Center, the U.S. Environmental Protection Agency, and the Texas Indian Bar Association. Following a judicial clerkship, I have been in private practice for 27 years. This has included work for numerous Indian Tribes in eleven states, variously as general counsel and on specific matters including litigation, transactions, governance, and regulatory and intergovernmental issues. I practiced in Albuquerque, New Mexico, for 16 years before moving in 2013 to Spokane, Washington, and my partner and I opened our own law firm in 2016, which now has three attorneys. My experience covers business, economic development, employment, environmental compliance, regulation, and remediation, financing, forfeiture, gaming, governance, jurisdiction, intergovernmental issues, land acquisitions, leasing, resource management, sovereign immunity, taxation, tribal codes, tribal courts, and trust enforcement.

In addition to private practice, I have a substantial history of active involvement and leadership in professional and institutional work regarding Indian law. In 2024, I am completing my second term as an at-large member of the Washington State Bar Association Indian Law Section Executive Committee, in which I have been active in the CLE planning committee. I also have served on the Executive Committee of the Spokane County Bar Association Indian Law Section for a decade, including three terms as Chairperson. I also am an elected member of the American Law Institute, through which I recently served for decade as an Advisor for drafting the Restatement of American Indian Law. I previously have been an Adjunct Professor at Gonzaga University School of Law, where I taught Federal Indian Law, and the University of New Mexico School of Law, where I taught a course on Indian Law Appellate Advocacy for four years and served as a coach for NALSA Moot Court Competition teams for nine years. I also have served variously as President, Vice-President, and Board Member for the California Indian Law Association for five years. I also have chaired, co-chaired, and otherwise organized and presented at numerous Indian law conferences, including the Federal Bar Association Indian Law Conference, and those in Spokane, California, and elsewhere. I also serve as a board member for Spokane Nordic Ski Association.



## **REY-BEAR McLAUGHLIN, LLP**

421 W RIVERSIDE AVE, SUITE 1004

SPOKANE, WA 99201-0410

WWW.RBMINDIANLAW.COM

**Daniel I.S.J. Rey-Bear**, co-founding Partner, since 2016

Dan has over 29 years of experience in advising and representing Indian tribes and Indian enterprises, both as general counsel and on specific matters including litigation, transactions, compliance, and regulatory and intergovernmental issues. Dan's experience covers business, economic development, employment, environmental compliance, regulation, and remediation, financing, forfeiture, gaming, governance, jurisdiction, land acquisitions and use, leasing, lobbying, resource management, sovereign immunity, taxation, tribal codes, treaties, tribal courts, and trust enforcement.

Bar and Court Admissions: Colorado (inactive); New Mexico; California; Washington; U.S. Supreme Court; U.S. Courts of Appeals for the Tenth, Eleventh, Federal, and District of Columbia Circuits; U.S. Court of Federal Claims; U.S. District Courts for New Mexico, Colorado, Northern District of Texas, Northern District of California, Eastern and Western Districts of Washington, and District of Columbia.

Professional Certifications and Recognitions: Accredited Professional in Leadership in Energy and Environmental Design for Building Design and Construction (LEED AP BD+C) by the U.S. Green Building Council (since 2012); Ranked Nationwide in Native American Law by Chambers & Partners; Listed in Best Lawyers in America in Native American Law.

Professional Activities: Washington State Bar Association, Indian Law Section, Executive Committee, 2018-present; Spokane County Bar Association, Indian Law Section, Chairperson, 2015-2016, 2017-2018, 2020-2021; Executive Committee, 2015-present; American Law Institute, Elected Member, 2012-present, and appointed Advisor for Restatement of the Law of American Indians, 2012-2022; Gonzaga University School of Law, Adjunct professor for Federal Indian Law, 2019; UNM Law School, Adjunct Professor for Indian Law Appellate Advocacy, 2008-2012, and NALSA Moot Court Competition, 2004-2013; California Indian Law Association, Board Member, 2005-2011, President, 2010-2011, & Vice-President, 2006-2007; Fifth Annual Conference on Tribal Energy in the Southwest, Co-Chair, 2010; Federal Bar Association Indian Law Conference, Conference Co-Chair, 1999-2002.

Education: Rice University, B.A. in Philosophy (1990), B.S. Mechanical Engineering (1992); University of Texas School of Law, J.D. (1995). During law school, Mr. Rey-Bear served as Managing Editor of Texas Forum on Civil Liberties and Civil Rights and was a Fellow, Board of Directors member and Treasurer of Texas Law Fellowships, Inc., which funds public-interest law student internships.

## REY-BEAR McLAUGHLIN, LLP

Dan Rey-Bear Bio  
March 2024; Page 2

Dan Rey-Bear and Tim McLaughlin established Rey-Bear McLaughlin, LLP in 2016. In 2023, Rick Eichstaedt joined their partnership. Previously, Dan worked at Nordhaus Law Firm, LLP since 1997, as a partner since 2002, and as managing partner in 2004 to 2007. Before joining Nordhaus, Mr. Rey-Bear served as a Staff Attorney for the U.S. Court of Appeals for the Eleventh Circuit, in Atlanta, Georgia, in 1995 to 1997. During law school, Dan worked for the Indian Law Resource Center, in Helena, Montana; the U.S. Environmental Protection Agency, Office of the General Counsel, and the U.S. Senate Indian Affairs Committee, both in Washington, D.C.; and the Texas Indian Bar Association and the Consumer Protection Division of the Texas Office of the Attorney General, both in Austin, Texas. Before law school, Dan was a machinery engineer with M.W. Kellogg Company in Houston, Texas.

Notable transactions include the following: casino, resort, and other financing, leasing, and land assignments; intergovernmental agreement negotiation and issuance of legal opinions on jurisdiction, sovereign immunity, Non-Intercourse Act, NEPA compliance, and title issues for a federal/state loan to purchase over 22,000 acres of land for sustainable forestry, watershed restoration, nonpoint source pollution management, and carbon sequestration; NEPA, CEQA, and CWA compliance, cooperative agreement negotiation, compensatory wetland establishment, and construction dispute mediation for hotel and commercial marina development; NEPA and CWA compliance for 1600-acre master planned community; federal trust-land acquisitions for over 60,000 acres of land; and preparation of tribal tax, environmental, and natural resource laws.

Cases litigated include the following: *Sipp v. Buffalo Thunder, Inc.*, \_\_ P.3d \_\_, 2024 WL 162281 (N.M. Jan. 16, 2024), *reh'g denied* (March 15, 2024) (ending tort-claim jurisdiction-shifting under the New Mexico standard form tribal-state class III gaming compact); *Navajo Nation v. United States*, No. 21-1745 (Fed. Cl. filed Aug. 23, 2021) (seeking damages for maladministration of grazing, leasing, rights of way, and revenue deposits, investments, and expenditures concerning 367,000 acres of lands acquired in trust for the Nation and identifiable group of relocation beneficiaries); *Navajo Nation v. Office of Navajo and Hopi Indian Relocation* (“ONHIR”), 2022 WL 17404793 (D. Ariz. Dec. 2, 2022) (allowing complaint amendment for breach-of-trust claim for unreasonable delay of assurance of community facilities for Navajo relocation with interagency assistance before agency closure); *Navajo Nation v. ONHIR*, 631 F. Supp 3d 776 (D. Ariz. 2022) (rejecting Administrative Procedure Act claims and private rights of action for unreasonable delay of completion of Navajo relocation with community facilities and interagency assistance before agency closure); *Kalispel Tribe of Indians v. U.S. Dep't of the Interior*, 999 F.3d 683 (9th Cir. 2021) (concerning two-part gaming trust-acquisition under IGRA); *United States v. Approximately \$10,128,847.42*, No. 18-CV-00279 (D.N.M. settled June 4, 2019) (forfeiture action for tribal gaming trust fund settled by release of over \$4 million to Pueblo); *San Luis & Delta-Mendota Water Authority v. Haugrud*, 848 F.3d 1216 (9th Cir. 2017) (affirming federal authority for water releases from Trinity River to protect salmon in the lower Klamath River); *California Indian Law Ass'n v. U.S. Dep't of Justice*, No. 15-00539 (D.D.C. filed April 10, 2015) (settled FOIA claim); *Navajo Nation v. United States*, No. 06-945 (Fed. Cl. 2014) (\$554 million trust asset mismanagement settlement) (2015 Public Justice Trial Lawyer of the Year Finalist); *Pueblo of Laguna v. United States*, No. 02-24L (Fed. Cl. 2013) (\$69 million trust asset mismanagement settlement); *Austin Land Dev't Co., Inc. Navajo Tribal Utility Authority*, No. D-

## REY-BEAR MCLAUGHLIN, LLP

Dan Rey-Bear Bio  
March 2024; Page 3

116-CV-2006-749-8 (N.M. 11th Dist. Ct. Nov. 1, 2012) (easement dispute dismissed based on sovereign immunity); *Jicarilla Apache Nation v. United States*, 100 Fed. Cl. 726 (2011) (trust asset mismanagement); *Jicarilla Apache Nation v. United States*, 88 Fed. Cl. 1 (2009), *mandamus denied sub nom. In re United States*, No. 908 (Aug. 3, 2011) (federal attorney-client privilege); *Armijo v. Pueblo of Laguna*, 2011-NMCA-006, 149 N.M. 234, 247 P.3d 1119 (2010), *cert. denied*, No. 32,687 (N.M. Dec. 6, 2010) (quiet title claim sovereign immunity); *Bales v. Chickasaw Nation Indus.*, 606 F. Supp. 1308 (D.N.M. 2009) (employment discrimination sovereign immunity); *Navajo Nation v. United States*, 46 Fed. Cl. 217 (2000) (breach of trust), *rev'd*, 263 F.3d 1325 (Fed. Cir. 2001), *rev'd*, 537 U.S. 488 (2003), *on remand*, 347 F.3d 1327 (Fed. Cir. 2003), *on remand*, 68 Fed. Cl. 805 (2005), *rev'd*, 501 F.3d 1327 (Fed. Cir. 2007), *rev'd*, 129 S.Ct. 1547 (2009); *Jicarilla Apache Nation v. Rio Arriba County*, 376 F.Supp.2d 1096 (D.N.M. 2004), *aff'd*, 440 F.3d 1202 (10th Cir. 2006) (property tax equal protection); *Big Valley Band of Pomo Indians v. Superior Court of Lake County*, 133 Cal. App. 4th 1185 (2005) (employment termination sovereign immunity); *Thompson v. Poncho*, No. C-04-089 (Coushatta Tribe of La. Ct. App. May 2, 2005) (employment termination sovereign immunity); *Jicarilla Apache Nation v. Rio Arriba County Assessor*, 92 P.3d 642 (N.M. Ct. App. 2003), *rev'd sub nom. Jicarilla Apache Nation v. Rodarte*, 103 P.3d 554 (N.M. 2004), *abrogated in part*, N.M. Laws 2005, ch. 231 (property taxes and elk hunting); *Jicarilla Apache Nation v. United States*, 60 Fed. Cl. 611 (2004) (confidentiality agreement and protective order); *Pueblo of Laguna v. United States*, 60 Fed. Cl. 133 (2004) (record retention order); *Rio Arriba County v. Acting Southwest Regional Director*, 38 IBIA 18, *recon. denied*, 38 IBIA 108 (2003) (trust acquisition); *National Labor Relations Board v. Pueblo of San Juan*, 305 F. Supp. 2d 1229 (D.N.M. 2003) (attorney fee award); *Rio Arriba County v. Acting Southwest Regional Director*, 36 IBIA 14, *recon. denied*, 36 IBIA 102 (2001) (trust acquisition); *HRI, Inc. v. U.S. E.P.A.*, 198 F.3d 1224 (10th Cir. 2000) (Safe Drinking Water Act permitting jurisdiction); *National Labor Relations Board v. Pueblo of San Juan*, 30 F. Supp. 2d 1348 (D.N.M. 1998), *aff'd*, 276 F.3d 1186 (10th Cir. 2002) (en banc) (tribal right-to-work jurisdiction).

Amici curiae briefs: *In re United States*, 590 F.3d. 1305 (Fed. Cir. 2009), *rev'd sub. nom United States v. Jicarilla Apache Nation*, 131 S.Ct. 2313 (2011) (attorney-client privilege); *Jicarilla Apache Nation v. United States*, 91 Fed. Cl. 489 (2010) (discovery stay); *Narragansett Indian Tribe v. Rhode Island*, 449 F.3d 16 (1st Cir. 2005) (trust acquisition); *Department of the Interior v. Klamath Water Users Protective Association*, 532 U.S. 1 (2001) (FOIA); *Alaska v. Native Village of Venetie Tribal Government*, 522 U.S. 520 (1998) (Indian country); *Kiowa Tribe of Okla. v. Manufacturing Technologies*, 523 U.S. 751 (1998) (sovereign immunity).

Publications and Presentations: *Arizona v. Navajo Nations and Water Rights Trust Duties*, Washington State Bar Association, 35th Annual Indian Law CLE (May 19, 2023); *Indian Laws and Property*, University of Washington/American Law Institute Symposium on the Restatement of the Law of American Indians (April 22, 2022); *Indian Gaming Competition in Off-Reservation Land Acquisitions*, Washington State Bar Ass'n, Indian Law Section CLE (June 11, 2021); *The Status of and Opportunities for Tribal Envtl. Sovereignty*, Keynote Address at U.S. E.P.A. Region 10 Tribal Envtl. Leaders Summit (March 6, 2019); "We Need Protection From our Protectors": *The Nature, Issues, and Future of the Federal Trust Responsibility to Indians*, 6 Mich. J. Envtl. & Admin. L. 397 (2017) (with Matthew L.M. Fletcher, also presented at October 2017 Tribal In-

## REY-BEAR MCLAUGHLIN, LLP

Dan Rey-Bear Bio  
March 2024; Page 4

House Counsel Ass'n annual conference); Workshop on Tribal Land Purchases, Fee-to-Trust Acquisitions, and Reservation-Proclamations (Sept. 2017); Parenting, the Pope, and Professionalism: *CILA v. DOJ* and the Ethics of Attorney Apologies, Keynote Address at California Indian Law Ass'n Fifteenth Annual Indian Law Conference (October 16, 2015); Why the Restatement of American Indian Law Matters to Everyday Practitioners, Sixth Annual Spokane County Bar Ass'n Indian Law Conference (March 6, 2015) (with Senior Judge William Canby and Professor Matthew L.M. Fletcher); Federal Trust Duties: the Year in Review and What to Expect Going Forward, Third Annual Tribal Water Law Conference (Oct. 16, 2014); Sovereignty, Jurisdiction, and Best Practices Under the NLRA, Tribal Employment Rights and Law Symposium (July 14, 2014); Yurok Forestry Carbon Sequestration, U.S. Dep't of Energy Biomass Tribal Leader Forum (July 9, 2014); Selected Case Update, Fifth Annual Spokane County Bar Ass'n Indian Law Conference (March 6, 2014); Federal-Tribal Trust Duties: Where We Stand Now and What the Law Is, Isn't, and May Be, Second Annual Tribal Water Law Conference (May 3, 2013); *United States v. Jicarilla Apache Nation*: The Executive Branch's Latest Effort to Repudiate Federal Trust Duties to Indians, *The Federal Lawyer*, April 2011, at 48 (with Tim McLaughlin); Best Practices and Current Issues in Indian Land Acquisitions and Trust Litigation, 36th Annual Federal Bar Ass'n Indian Law Conference (April 7, 2011); Interplay Between Tribal Sovereignty and Federal Env'tl. Laws, Tribal Energy in the Southwest (May 3, 2010); Prospects for Red and Green Justice and Development, Keynote Address at West-Northwest Journal of Env'tl. Law and Policy Symposium on Env'tl. Justice and Energy Dev't on Native American Lands (April 2, 2010); Application of Federal Laws to Tribal Businesses, Tribal Guide to Employment and Labor Laws (Oct. 14, 2009); Legal Issues and Challenges For Tribal Water Quality Standards, Pueblo Tribal Water Quality & Env'tl. Health Training (Aug. 28, 2008); Developing Tribal Sovereignty Through Tribal Courts, Law Enforcement, and Trust Acquisitions, United Southern & Eastern Tribes Semi-Annual Meeting (June 5, 2006); Developing Tribal Env'tl. Laws, 12th Annual Tribal-EPA Conference (Oct. 27, 2004); U.S. Supreme Court Indian Trust Decisions, Natural Resources and Env'tl. Law on the Reservation (Aug. 21, 2003); Tribal Claims for Federal Mismanagement of Trust Assets, 28th Annual FBA Indian Law Conference (April 10, 2003); Tribal Claims for Federal Mismanagement of Trust Resources, Natural Resources and Env'tl. Law on the Reservation (Sept. 12, 2002); Federal Acquisition of Land in Trust for Indians, California Indian Law Ass'n Conference (Feb. 9, 2002); Indian Tribes and the Freedom of Information Act, Natural Resources and Env'tl. Law on the Reservation (Aug. 16, 2001); Tribal-State Env'tl. Cooperative Agreements, California State Bar Env'tl. Law Conference (Oct. 15, 2000); Judicial Enforcement of the Federal Trust Responsibility Concerning Env'tl. Matters, U.S. E.P.A. Region IX Trust Responsibility Workshop (Aug. 29, 2000); Analysis and History of Tribal-State Env'tl. Regulatory Jurisdiction Disputes, California State Bar Env'tl. Law Conference (Oct. 15, 1999); When the Paths of Good People Meet: the Interaction of Federal Indian Law and the Env'tl. Justice Movement, Ninth Annual ABA/SONREEL Conference on Env't. and Development in Indian Country, Nov 21, 1997; The Flathead Water Quality Standards Dispute: Legal Bases for Tribal Regulatory Authority Over Non-Indian Reservation Lands, 20 *Am. Indian L. Rev.* 151 (1995-96) (First-prize winner, 1994-1995 American Indian Law Writing Competition); Native American Law: A Career Path to Consider, 58 *Tex. Bar. J.* 840 (1994); Judicial Enforcement of Charitable Care Requirements for Non-Profit Hospitals Tax Exempt Status, *Tex. F. on C.L. & C.R.*, Fall 1993, at 1.