

# INDIAN LEGAL PROGRAM

May 2003

Arizona State University College of Law FORUM is published for alumni, students, faculty and friends.

Patricia D. White  
*Dean, Professor of Law, and Affiliate Professor of Philosophy*

Rebecca Tsosie  
*Executive Director, Indian Legal Program Lincoln Professor of Native American Law & Ethics*

Robert Clinton  
*Barry Goldwater Chair of American Institutions and Professor of Law*

Paul Bender  
*Professor of Law*

Kevin Gover  
*Professor of Law*

Kathlene Rosier  
*Director, Indian Legal Program*

Peterson Zah,  
*Special Advisor to the Indian Legal Program*

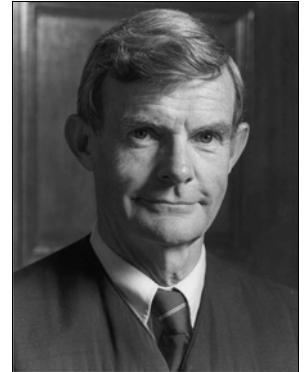
Sunny Larson  
*Administrative Associate, Indian Legal Program*

Franklyn Jeans  
*Director of Communications*

Alexandra Parker  
*Director of Alumni Relations and FORUM Editor*

## The Beginnings of Indian Law at The College of Law

Two events occurred even before the opening of the College of Law in 1967 that helped to launch its commitment to Indian Law. First, Dean Pedrick agreed that I should visit the summer pre-law program at the University of New Mexico Law School and make other efforts to try to interest Indian students in applying to ASU. We succeeded in getting two Indian students in the first class (Bob Melvin and Kent Ware), a few more in the second, and for years after that the number wavered between two and six.



Second, the head of the Law and Order Division of the Phoenix Area B.I.A. office came to me and asked if we could begin a one-day-per-month program of instruction for tribal judges. I agreed to be the teacher of everything but was able to share the duties two years later when Professor Warren Cohen joined the faculty. It had early become clear that we would offer a third-year course in Indian Law, and when the time came I taught it along with Warren Cohen. By then, the B.I.A. had expressed an interest in having us travel regularly to tribal courts to give them on-the-spot technical assistance. The B.I.A. provided a small grant and Warren and I opened the "Office of Indian Law" in the College of Law to institutionalize the program.

Thus, even in its modest beginnings, the Indian Law endeavor at ASU had a dual focus: teaching Indian Law (with emphasis on recruiting Indian students) and serving tribal courts. It was natural, then, for those two strains of the program to become intertwined when in the late 1980's Dean Paul Bender proposed and the faculty adopted the greatly expanded Indian Law Program that we know today. Now the enhanced academic components and the vigorous tribal service activities draw strength from each other, and the whole Program has prospered to a point beyond our fondest dreams of 1967.

*William C. Condy, Jr.*

<sup>1</sup> Senior Circuit Judge, United States Court of Appeals for the Ninth Circuit. Views expressed here are those of the author personally and not his court.

# An Indian Legal Program Emerges

by Paul Bender



**Paul Bender**

Strong support for Indian law and Indian law students goes back to the beginning of the College of Law. Bill Canby, one of the College's founding faculty, was (and is) a leading Indian law scholar and some of our early Indian graduates, like Claudeen Arthur, the first Navajo Attorney General of the Navajo Nation, have had outstanding careers.

When I came to the College as Dean in 1984, however, Professor Canby had become a 9<sup>th</sup> Circuit Judge and the College had only a handful of Indian students. Given the College's history and location, the importance of Indian legal issues, and the very small number of Indian lawyers in Arizona and nationwide, recruitment of Indian law students, development of a broad Indian law curriculum, and development of productive relationships with Arizona tribal governments were high on my list of priorities for the College's future.

Frank Gordon, then Chief Justice of the Arizona Supreme Court, was extremely helpful in introducing me to tribal courts and judges. Cheri Emm (then a 3<sup>rd</sup> year law student whose father, Warren, had been one of our earliest Indian graduates) and I did a study of the Hopi tribal court for the Hopi Tribal Council, and I became a member of the Hopi Court of Appeals. We had the great fortune of having Leigh Price, a lawyer at the federal Environmental Protection Agency, who was that agency's liaison with Indian tribes, ask if he could spend a sabbatical year at the College. Leigh volunteered to help the program by teaching Indian law and, even more importantly, by using his vast good contacts with Indian communities to help us begin to recruit a critical mass of Indian students. The University Administration and private donors provided financial support for scholarships.

Two remarkable students in the first group that Leigh Price helped bring to the College, Gloria Kindig and LynDee Wells, had an enormous impact. They impressed the faculty with their ability, offered advice on substantive issues, and worked with Leigh to recruit more outstanding students. They both served as law clerks for the Navajo Supreme Court during the summer after their first year and, in doing so, helped us develop a close relationship with Chief Justice Tso and that Court. Gloria and LynDee served on a College committee, chaired by Professor (and Librarian) Richard Brown, that prepared the outlines of a formal Indian Law Program, a program that the faculty adopted with only a little dissent. We hired Siera Russell as a full-time recruiter and administrator for the program, and formed an ILP Advisory Council composed of some of our graduates, other Indian lawyers, Judge Canby, a representative of the Inter-Tribal Council, etc. With Siera's help, our talented Indian student body continued to increase in size. Our curricular offerings expanded through the efforts of outstanding Indian lawyer adjuncts like Doug Endreson, Navajo Supreme Court Justice Ray Austin and Robert Lyttle. Justice Stanley Feldman of the Arizona Supreme Court told us about a law clerk of his named Rebecca Tsosie, and the ILP was on its way. Sometimes fortune smiles and good things happen.

## FACULTY UPDATES

**Robert Clinton** recently participated in a strategic think tank conference sponsored by the Staff of the Office of Hawaiian Affairs. Professor Clinton also participated in preparation of an Amicus Brief for the Michigan Indian Tribes in the University of Michigan Affirmative Action cases before the United States Supreme Court. He was elected Conference Chair and President-Elect, Federal Courts Section, American Association of Law Schools. Professor Clinton serves as Chief Justice of the Winnebago Tribe of Nebraska, Associate Justice of the Cheyenne River Sioux Tribal Court of Appeals, and as Associate Justice for the Colorado River Indian Tribes Court of Appeals.

**Rebecca Tsosie** was selected by the December 2002 law school graduating class to give the graduation address at the first December graduation ceremony held at ASU College of Law's Great Hall. Professor Tsosie's article "Tribalism, Constitutionalism, and Cultural Pluralism: Where do Indigenous Peoples Fit Within Civil Society," was published in the *Pennsylvania Journal of Constitutional Law* (vol 5, p. 357, 2003). Professor Tsosie spoke in Hawaii on "Justice and Reconciliation" at a conference sponsored by the Native Hawaiian Advisory Council. She served on a panel dealing with current environmental issues in Indian Country and spoke at the University of Michigan's annual American Indian Law Day in March, 2003. Professor Tsosie organized and moderated a panel on Indigenous Peoples and Environmental Conflict for the February 2003 conference "Ethics When Cultures Clash," sponsored by the Lincoln Ethics Center at ASU.

An article on **Professor Kevin Gover** recently appeared in the January 21st issue of *Chronicle of Higher Education*. The text of the article follows:

### *Law of the Tribes:*

Arizona State University, which is seeking to develop the nation's leading program in American Indian law, has made a big hire: Kevin Gover, a former assistant secretary for Indian affairs in the U.S. Department of the Interior. Mr. Gover, 47, who will join the faculty in July, served as assistant secretary from 1997 to 2000. Since then, he has worked as a partner in the Washington law firm of Steptoe & Johnson, where he heads the American Indian practice.

A member of the Pawnee Tribe, Mr. Gover grew up in Lawton, Okla., then attended Princeton University and the University of New Mexico School of Law. He specializes in environmental, natural-resource, and federal Indian law. Mr. Gover says he plans  
*(continued on page 3)*

## Native American Law Students Association

NALSA has been working hard to increase its Community Service efforts. Since January, NALSA has made two Junior Law presentations and a Teen Court presentation to local and reservation schools. The efforts have been lead by two 1L students, Duane Jones, Fort McDowell Yavapai Nation and Chris Clark, Navajo/Apache/Ute.

NALSA recently sent four teams to New York City to participate in the National NALSA Moot Court Competition hosted by Columbia University Law School. The ASU team of George Patton (1L), Oglala Sioux and Chris Clark (1L) advanced to the semi-finals.

## ILP Advisory Council

**Thomas LeClaire and Jonodev Chaudhuri (ILP Visitor), both attorneys at Snell & Wilmer, recently published an article titled "Fixing a Hole: Commercial Courts as a Tool for Tribal Economic Development." The article appeared in the Fall 2002 issue of the Arizona Indian Law Section's *Arrow*.**

**Steve Heeley has joined the Phoenix office of the national firm Quarles & Brady Streich Lang as a partner and will lead the firm's Indian Law practice group.**

## Gover continued from page 2

to devote some of his research at Arizona State to examining ways that federal Indian law can be customized to meet the diverse needs of different tribes. He also says he looks forward to sharing with students his experiences working with tribes and members of Congress.

"Sometimes, war stories are the best teaching tools," he says. "My education as a young lawyer began in the midst of an intertribal dispute that was tearing apart one of my client's tribes. I'd like to help students look at their ethical responsibilities to address the needs of the entire tribe, particularly when the leaders' actions aren't serving the needs of the tribe."

He also plans to emphasize communication. "Much of the tribal leadership are lay people," he says. "As lawyers, we tend to speak a highfalutin language that is very obscure to folks who haven't had a college education." Arizona State's president, Michael M. Crow, says Mr. Gover is "enormously well respected in Washington by leaders of both parties and by tribal leaders throughout the country."

## Goldberg Paper Weighs Individual Rights & Revitalization

Carole Goldberg, Professor of Law at UCLA, presented a paper and lecture entitled *Individual Rights and Tribal Revitalization* on February 20, 2003 at the Barry Goldwater Chair Symposium on American Institutions. College of Law Professor and Barry Goldwater Chair of American Institutions Robert Clinton introduced Professor Goldberg as one of the "truly luminary scholars in the field of Indian Law." Ms. Goldberg teaches Indian Law and directs the UCLA Tribal Development Clinic. The adoption of her legal theories helped lay the intellectual foundations for the modern Indian gaming industry. Professor Goldberg's paper and oral presentation argued that individual rights as understood in the Anglo-American legal system are sometimes in conflict with Native American concepts of community, and may be harmful to tribal revitalization if incorporated into tribal governmental structures.

Following the lecture, several distinguished guests provided comments. The speakers included including incoming College of Law Professor Kevin Gover, Kevin Washburn, University of Minnesota Professor, Peterson Zah, ASU President's advisor on Indian Affairs, Rebecca Tsosie, College of Law Lincoln Professor of Native American Law & Ethics, and Professor Clinton.

## Indian Law 101 CLE

The Indian Law 101 CLE held on February 21, 2003 was a huge success with over 250 attendees. The six hour CLE covered topics including: History of Federal Indian Law, Criminal Jurisdiction, Civil Adjudicatory & Regulation Jurisdiction, Taxing Jurisdiction, Special Problems of Casinos and other Contracting in Indian Country, Indian Child Welfare Act, and Practicing in Tribal Court. CLE Instructors included: Robert Clinton, Barry Goldwater Chair of American Institutions; Diane Humetewa, Senior Litigation Attorney for the US Attorney's Office District of Arizona; Rebecca Tsosie, Lincoln Professor of Law and Ethics and Executive Director of the Indian Legal Program; Mark Horvath, Indian Law Attorney; Jo Lynn Gentry-Lewis, Assistant Attorney General for the State of Arizona; Steve Heeley, Partner, Quarles & Brady Streich Lang; and Jonodev Chaudhuri, Associate for Snell & Wilmer. Net proceeds went towards ILP scholarships. Thank you to everyone who participated and/or donated to the scholarships.

## ILP Scholarship Benefit

The ILP Scholarship Benefit, held at the Heard Museum on February 21, 2003, attracted nearly one hundred benefactors who bid on items such as oil paintings, sculpture, Phoenix Suns memorabilia, and expert beadwork. Dean Patricia White said that the event, which attracted Indian Law luminaries from around the country, "Shows that the Indian Legal Program has become the national focal point for serious Indian Law Scholarship."

Dean White also announced the establishment of a scholarship fund, made possible by a generous donation from Patrick J. McGroder of Gallagher & Kennedy, and his wife, Susan. The new scholarship will be named for ASU Presidential Advisor on Indian Affairs former Navajo President, Peterson Zah, and given in honor of the Hanks, Sloan and Redhouse families. Mr. McGroder said, "It's an honor to call Peterson Zah my friend. He has been a stalwart in advancing the cause of education of Native Americans throughout the Southwest. It is a privilege to have him share this honor. I hope the scholarship will perpetuate the memory of three families who died so tragically."

# Alumni News

## 1970

**Louis Denetsosie** was recently appointed the Attorney General for the Navajo Nation.

## 1971

**Benjamin Hanley** is the Navajo Tribal Utility Authority's Government Liaison. Prior to taking the NTUA position Mr. Hanley served ten terms as a representative in the Arizona State Legislature.

## 1986

**Kathleen Bowman** is the Director of the Navajo Nation Public Defender Office in Window Rock, Arizona. Ms. Bowman was recently a speaker at the 15th Annual Indian Law Symposium at the University of Washington School of Law in Seattle, Washington. Ms. Bowman's panel was titled Criminal Law Issues in Tribal Courts.

**Theresa Dawn Farrison** is an attorney with Myers & Jenkins in Phoenix, Arizona.

## 1991

**Jerry Derrick** has joined the Ak-Chin Indian Community as an Associate Judge.

**Sam Semon** is the Vice President of Business Affairs for CBS Entertainment in Los Angeles, California

## 1992

**Mary Shirley** is the Attorney/Advisor for the Southwest Office of Native American Programs under the United States Department of Housing and Urban Development.

## 1993

**Diane Humetewa** was recently appointed to the Hopi Court of Appeals. Ms. Humetewa is currently the Senior Litigation Counsel, for the U. S. Attorney's Office, District of Arizona. In this capacity she serves as the Tribal Liaison for U.S. Attorney Paul K. Charlton and Supervisor of the Victim Witness Program. She is also a member of the ILP Advisory Council.

**Anita Jackson** is living in central Oregon and working for the Confederated Tribes of Warm Springs Gaming Commission.

**Dorma Nevayaktewa** is the Chief Prosecutor for the Hopi Tribe.

## 1994

**Maia Bellon** is an Assistant Attorney General for the Washington Attorney General's Office. She works on issues ranging from air and water quality, to hazardous waste cleanup, and shore lands issues. She is currently a trustee for the Indian Law Section of the Washington State Bar Association, a member of the Environmental Law and Land Use Section, and a member of the Northwest Indian Bar Association.

**Edward Roybal** will soon join the law firm of Dorsey & Whitney in its Costa Mesa, California office. Mr. Roybal is currently the Tribal Attorney for the Fort McDowell Yavapai Nation in Fountain Hills, Arizona. He will be joining two other ILP alumni at Dorsey & Whitney. **Lyndee Wells ('89)** is a partner in the Seattle office and **Bradley Bledsoe Downes ('94)** is an associate in the Costa Mesa office.

## 1995

**Roric Massey** is the Assistant City Attorney for the City of Goodyear.

**Ronald Rosier** was promoted to General Counsel for the Fort McDowell Yavapai Nation.

## 2000

**Meredith Drent** has joined the new firm, Alexander & Karshmer, formed by Paul Alexander and associates. Ms. Drent's new contact information is: Meredith D. Drent Alexander, Berkey, Williams & Weathers, LLP 2000 Center St., Suite 308 Berkeley, CA 94704

**Pam Ellis** has her own law practice in Barnstable, Massachusetts which is on Cape Cod. She is also admitted to practice before the Mohegan Tribal Court.

## 2001

**Rodina Cave** is an associate with Brown & Bain in Phoenix. Ms. Cave joined Brown & Bain after concluding her clerkship with Judge William Canby of the United States Court of Appeals for the Ninth Circuit.

**Kerry (Jimerson) Patterson** and **Marnie Hodahkwen ('02)** were featured in the November 27th issue of Indian Country Today. The article titled "Partnership Links Reservation Law and Urban Law Firm - Indian Law Students Participate in Unique Program" discusses the joint clerkship program that Quarles & Brady Streich Lang has started with the Gila River Indian Community. Summer law clerks can split their time between a national law firm and Gila River Indian Community's Law Office. Ms. Patterson and Ms. Hodahkwen were the first two students to participate in the program and are now associates with Quarles & Brady Streich Lang.

## 2002

**Temet Aguilar** is the Tribal Court Administrator for the Southern California Tribal Chairman's Association. Mr. Aguilar is working with 17 southern California Tribes to help implement an intertribal judiciary.

**Roxann Strozzi** is an associate with Kutak Rock LLP in Scottsdale. Ms. Strozzi works in the Public Finance Department and specializes in Native American economic development. In her first three months with the firm, she has already been involved with the closings of a \$10,000,000 bond issuance and a \$59,000,000 bond issuance for two Tribes.

## *Congratulations to our students!*

**3L Denise Hobson, Navajo,** and **Doreen Hobson ('01), Navajo,** received 1st and 2nd place in the Highland Games at Mesa Community College. This is Denise's second year winning the competition.

**3L Victoria Lee, Navajo,** is the Special Assistant to the Navajo Area Indian Health Service Director.

**2L Jessica Lee-Domebo, Colville,** will clerk for Johnson, Thompson & Williams in Phoenix, Arizona this summer.

**2L Pearl Kirk, Navajo,** just accepted an offer to clerk for the Indian law firm of Nordhaus Haltom Taylor Taradash & Bladh, LLP in the law firm's Albuquerque Office.

**1L Elizabeth Cheney, Tlingit/Haida,** will be published in the American Bar Association's revised Family Legal Guide. The Family Legal Guide is a 700-page guide to the law for laypeople. The revised book will be published in 2004, and will be in book stores across the country. Elizabeth's portion will be an excerpt from a story she wrote about motherhood, entitled "On Becoming A Mother." ([www.healingofnations.org](http://www.healingofnations.org))

**1L Chris Clark, Navajo,** was selected to intern at Senator Jon Kyl's office in Washington, D.C. in August.

## *Thank You!*

**Patrick and Susan McGroder** for their generous donation for the establishment of a scholarship fund.

The **Fort McDowell Yavapai Nation** donated \$1,000 to help sponsor the ILP Scholarship Night. The gift is greatly appreciated by ILP faculty, staff and students.

The **Coca Cola Foundation** donated \$15,000 to the ILP for a student scholarship. This funding will sponsor one out-of-state law student's tuition for a year.

The **Heard Museum Board of Directors** donated Heard memberships to interested Indian Legal Program students. The memberships are valued over \$100 each and will give the students free access to the museum.

# Notes From the Beginnings of the ILP

by LynDee Wells, '89



**LynDee Wells**

It's been almost seventeen years since I received the phone call in my office on the Quinault Reservation from Paul Bender asking me if I'd thought about attending ASU College of Law. I'd never been to the desert and had some serious concerns about moving that far from my family but decided to take Dean Bender up on his offer to come down for a visit. All these years later, I look back on that phone call as one of the "cross-roads" moments of my life.

Dean Bender explained that his dream was to build an Indian Legal Program at the College of Law that would attract talented Indian people from all over the United States. He said that there was a core group of faculty who had committed their time to work on developing the program and that he wanted to build a core group of students to help push this idea forward. I met the only Indian student who was attending ASU at the time (Cheri Emm) and faculty members such as Dean Alan Matheson and Leigh Price and decided that these were individuals and a program I would be proud to be associated with.

Law school was a much different life than I'd ever imagined. Although before arriving I was so worried that I wouldn't fit in, I found a comfortable temporary home and made friends that I will always treasure. The process of negotiating the design of the initial Indian Legal Program with the Committee and then securing approval of the program from the faculty was an education in itself. Gloria Kindig and I spent many hours talking with faculty and students, grinding out drafts of program concepts and learning how educational institution politics worked. Participating on the Admissions Committees and recruiting other Indian students were just some of the many fun and exciting activities we were involved in. In our first year, there were only 3 native students but by the time we graduated, there were over 12 native students admitted to the incoming class. We saw how much positive change can happen with hard work and commitment to a purpose in our three short years at ASU.

After graduating in 1989 I clerked for then Chief Justice Frank Gordon and subsequently moved to Washington, DC, where I joined Winthrop and Stimson (now Winthrop Pillsbury). I joined Dorsey & Whitney LLP in 1994 and opened its Seattle office in 1995. I'm now a partner in the Indian Law Practice Group and Department Chair in the Seattle office. I didn't set out to be a partner in a large corporate law firm but that's where I am today.

My 3 children who struggled alongside me while I was in law school are all in college themselves now and doing very well. I'm also raising 2 of my 4 grandsons so life hasn't slowed down at all. Looking back over the past seventeen years I can honestly say that, in addition to my children, one of the things I am most proud of is having participated in the formation of the ASU Indian Legal Program. Your dream really did come true Dean Bender.

by Gloria Kindig\*, '89



**Gloria Kindig**

When I entered Law School there was only one Native American student, a 3<sup>rd</sup> year. There were two other Native Americans in my class. Sometimes we felt out of place with just the four of us there. For my part, I was also concerned about some comments made by fellow students as well as faculty. I remember how in one particular class the discussion as to how a particular issue related to Native Americans was so far from reality as to be funny. But given that this was the information being shared with students as fact it, was not really funny. After taking time to think about it, I decided that something should be done. But what? Two of us decided that given ASU's location in Southwest and the lack of Native American students and classes that addressed Native American issues, something should be done.

As sometimes happens the two of us had the right combination of skills and complimentary personalities. Having decided that something should be done, we decided that we should try to do something. Ms LynDee Wells was a very good writer and we began to put a proposal together. We found support from a number of the professors and Dean Bender. With their help we were able to get a student-faculty committee established to address our concerns. After a bit of work the Indian Legal Program was established.

I declined an opportunity to be a member of the Advisory Board during the ILP's early years. I wanted the ILP to grow and evolve. I feared that if I continued to be involved in the early years that I would try to push it in the direction which would allow it to become the program I wanted and that I might oppose changes just because it was "my" program. If it was a good program, it would grow and evolve as others added their visions. Success! Thirteen years later it is a program that offers much to all law students, the professions, tribal governments and most importantly Native American communities.

\*ILP Co-founder and Advisory Council Member Judge Gloria Kindig is the only Native American currently serving as a judge in Arizona's Superior Court.

## Attention ASU Indian Legal Program Alumni

Are you interested in forming an alumni association for graduates of the ASU Indian Legal Program? Please contact Kerry Patterson at (602) 229-5710. Your participation is greatly appreciated. If you are not local you can call in to give your support!

# Calendar of Events

To contact the Indian Legal Program, please call 480-965-6204 or visit [www.law.asu.edu/Programs/Indian](http://www.law.asu.edu/Programs/Indian). Visit [www.law.asu.edu](http://www.law.asu.edu) for information about the College of Law.

## State of Indian Nations Address

In case you missed it, the "State of Indian Nations Address" is located on the NCAI web site at: [www.ncai.org/form/docs/SOIN\\_ADDRESS.pdf](http://www.ncai.org/form/docs/SOIN_ADDRESS.pdf)

## Arizona House Bill

HB 2424, introduced by Rep. Jackson, would make it illegal to use the word "squaw" on any geographic feature, highway, etc. [www.indianaffairs.state.az.us/billslegist/billtrk](http://www.indianaffairs.state.az.us/billslegist/billtrk)

## United States Supreme Court (Courtesy of NILL)

Two Petitions were Denied – Petition for certiorari was denied in the following two Indian law cases.

Lobo Gaming, Inc.v. Pit River Tribe of California – Docket No. 02-865 [www.supremecourtus.gov/docket/02-865.htm](http://www.supremecourtus.gov/docket/02-865.htm)

Sun Prairie v. McCaleb – Docket No. 02-751 – [www.supremecourtus.gov/docket/02-751.htm](http://www.supremecourtus.gov/docket/02-751.htm)

**Friday, May 16, 2003**

## NALSA Ceremony

Time: 9:30 am – noon

Location: The College of Law Great Hall  
The Native American Law Student Association will honor its graduating members.

**Friday, May 16, 2003**

## The College of Law Graduation

Time: 2:30 p.m.

Location: Grady Gammage  
Memorial Auditorium  
Commencement Speaker:  
Governor Janet Napolitano

A reception will be held in the rotunda following the ceremony.

[www.law.asu.edu](http://www.law.asu.edu)

Arizona State  
University  
College of Law

Please send  
correspondence to:  
Arizona State  
University  
College of Law  
PO Box 877906  
Tempe, AZ  
85287-7906

Tel: 480.965.5290  
Fax: 480.727.7930

Every effort has been made to ensure that information in the FORUM is correct. If you see an error, please accept our apologies and let us know so that we can correct our records.

© 2003  
Arizona State  
University  
College of Law  
All rights reserved.



The College of Law  
PO Box 877906  
Tempe, AZ  
85287-7906

NONPROFIT ORG  
US POSTAGE  
PAID  
ARIZONA STATE  
UNIVERSITY