KILPATRICK TOWNSEND

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Services

Litigation; Native American Affairs; Native American Litigation; Green Economy

Industries

Government & Municipalities; Native American

Keith Harper focuses his practice on litigation and Native American affairs. Throughout his career, Mr. Harper has represented tribes and individual Indians. Among other matters, Mr. Harper has, since inception of the case, represented the plaintiff class of 500,000 individual Indians and continues to serve as class counsel in the landmark Indian trust funds lawsuit, *Cobell v. Kempthorne*. Recently, the parties in the *Cobell* suit settled the case for $3.4 billion in aggregate.

Mr. Harper served as a Principal Advisor and Chair of the Native American Domestic Policy Committee for the Obama campaign and then as a member of the Obama-Biden Presidential Transition Team in the Energy & Environment Cluster.

Prior to joining the firm, Mr. Harper was a litigator at the Native American Rights Fund (NARF) in the Washington, D.C. office. During his tenure at NARF, he also taught "Federal Indian Law" as Adjunct Professor at Catholic University Columbus School of Law and at American University Washington College of Law. In 2001, Mr. Harper was appointed Appellate Justice on the highest court of the Mashantucket Pequot Tribal Nation, where he served until October 2007. More recently, he served on the Supreme Court of the Poarch Band of Creek Indians.

Mr. Harper is a member of the Cherokee Nation of Oklahoma. While attending New York University School of Law, he served as Articles & Note Editor for the *Journal of International Law & Politics*. He is the recipient of numerous awards, including The Rockefeller Foundation NGL Fellowship, Skadden Fellowship, The University of Arizona Indigenous Peoples Law Program Senior Fellowship, The American Bar Association Business Law Division Ambassadorship, The Fowler Fellowship for Public Policy, The Root-Tilden-Snow Scholarship and The Center for International Studies Fellowship.

The *National Law Journal* selected Mr. Harper as one of 50 "Most Influential Minority Lawyers in America" in May 2008. He is listed in the 2012 and the three years immediately preceding editions of *Chambers USA: America's Leading Lawyers for Business.* Mr. Harper was recognized in *The Best Lawyers in America*® for Native American Law in 2013 and the five years immediately preceding. He is listed as a 2010, 2012 and 2013 Washington D.C. "Super Lawyer" in Native American Law by *Super Lawyers* magazine. *Diversity & The Bar* magazine selected Mr. Harper as one of 14 minority "Rainmakers." In 2001, he was selected as a Leadership Conference on Civil Rights delegate to the World Conference Against Racism in Durban, South Africa.

Experience Highlights

Lands and assets class action suit for Native Americans

Served as co-counsel for plaintiff class of 500,000 Native Americans against the Department of Interior and Treasury Department arising out of the government management of their trust lands and assets in a prolonged lawsuit culminating in a $3.4 billion settlement agreement.

Nisqually Indian Tribe v. Christine Gregoire, et al.

Successfully represented Frank's Landing Indian Community (Frank's Landing) in contract litigation dispute. The Ninth Circuit Court of Appeals affirmed a lower court's decision that had foreclosed the Nisqually Indian Tribe's (Nisqually) challenge to an agreement between Frank's Landing, the state of Washington, and another tribe, the Squaxin Island Tribe. In the suit, Nisqually contended that it had exclusive jurisdiction to sell tobacco products at Frank's Landing despite federal statutes

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from 1987 and 1994 that confirmed that Frank's Landing is a "self-governing dependent Indian Community" and not subject to any other tribe's jurisdiction. The district court granted summary judgment in favor of Frank's Landing and the Ninth Circuit affirmed, holding that the federal statutes at issue were passed for the benefit of Frank's Landing and did not expressly or impliedly create a private right of action for Nisqually. That is a major win for our client, which otherwise may have been forced to defend against similar challenges to any future endeavors.

Nisqually Indian Tribe v. Christine Gregoire, et al., *appeal docketed*, No. 09-35725 (9th Cir. Oct. 4, 2010).

Sovereign authority defense in National Labor Relations Board case for gaming tribe
Represents one of the most successful gaming Tribes in the country in a case before the National Labor Relations Board, defending the Tribe's sovereign authority to apply its own Tribal employment laws in place of federal law. Also represent Tribe on campaign strategies prior to and during elections.

*Experience gained by attorney prior to joining Kilpatrick Townsend

Publications, Articles and Speaking Engagements

Fifth Annual Strategic Conference on Tribal Energy Development at the Federal Level
Law Seminars International, July 14, 2011

Native American Rights Issues and the Cobell Litigation
Native American Heritage Month Celebration at the Georgetown Day School, November 01, 2009

The New Political Environment for Tribal Energy
Law Seminars International, Third Annual Strategic Conference on Tribal Energy Development, July 09, 2009

This conference brings together tribal, political and governmental agencies, together with the leading energy developers on tribal lands, to explore new sources of funds, programs and legislation for making tribal energy projects a success.

Construction Issues for Federal Projects
6th Annual Construction in Indian Country International Conference, May 19, 2009

Renewable Energy Projects in Indian Country Conference
Renewable Energy Projects in Indian Country Conference, March 19, 2009

Tribal Governments and the New Administration
Tribal Sovereignty and Self-Governance in a New Era: Forging Fair and Equitable Governance in a Time of Change, January 23, 2009

Speaker, Second Annual Native American Economic Development & Diversification Conference
Second Annual Native American Economic Development & Diversification Conference, October 06, 2008

Cobell Case and Enforcing Rights for Indian Tribes
Annual Meeting of the National Association of Division Order Analysts, October 01, 2008

Native Nations for Change
Democratic National Convention, August 01, 2008

Campaign of Senator Barrack Obama for President of the United States
Midwest Alliance of Sovereign Tribes, March 09, 2008

Obama For America
National Congress of American Indians, February 26, 2008

Importance of Providing Legal Services to Tribal Communities
DNA Legal Services 25th Anniversary Celebration, February 03, 2008

Leading and Serving an Invisible Community
Helen Bader Leadership Speaker Series at Cardinal Stritch University, February 01, 2008

Addressing Native American Legislative and Legal Issues
Meeting of the Friends Committee on National Legislation, January 18, 2008

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Indian Trust Funds
National Congress of American Indians 64th Annual Conference, November 10, 2007

Cobell Litigation
University of Vermont School of Law, November 16, 2006

Cobell v. Norton
16th Annual Indian Land Consolidation Symposium, October 23, 2006

Indian Trust Funds
National Congress of American Indians 63rd Annual Conference, October 01, 2006

Status Report on Cobell Litigation
Great Plains Tribal Water Alliance, September 21, 2006

Addressing Over a Century of Shame, The Cobell v. Norton Case
Center for American Progress, April 11, 2006

Violence Against Native Women
sponsored by the National Center on Full Faith and Credit, in furtherance of publication "Violence Against Native Women: A Guide for Practitioner Action", April 01, 2006

Cobell v. Norton: Redressing a Century of Malfeasance
Human Rights Magazine, April 01, 2006

The Indian Trust Fund Case: Cobell v. Norton
Denver University Sturm College of Law, February 24, 2006

More Than The Money: Restoring Government Accountability Through Cobell v. Norton
Unversity of Colorado Law School, February 23, 2006

Race, Racism and American Indians
George Washington University School of Law, November 01, 2005

Indian Trust Funds
National Congress of American Indians 62nd Annual Conference, October 30, 2005

Cobell Case
Meeting of the General Membership of the Iowa Tribe of Oklahoma, August 10, 2005

Trust Related Issues
Sovereignty Symposium 2005, June 01, 2005

Modern American Indian Political Movement
National Museum on the American Indian, May 11, 2005

The United States' Responsibility to Indian Trust Beneficiaries: An Examination of the Historic Cobell v. Norton Case
American Bar Association Conference, February 12, 2005

Protection for Cultural Intellectual Property for Indigenous Communities
Smithsonian Institute Center for Folklife and Cultural Heritage, January 11, 2005

Cobell v. Norton
University of Michigan, Native American Heritage Month, November 09, 2004

Indian Trust Funds
National Congress of American Indians 61st Annual Conference, October 10, 2004

Cobell v. Norton
Administrative Law Review's Program on Law and Government, September 21, 2004

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Globalization and Diversity, UNESCO and Cultural Policy-Making: Imperatives for U.S. Arts and Culture Practitioners and Organizations
UNESCO Conference, January 10, 2004

Indian Trust Funds
National Congress of American Indians 60th Annual Conference, November 17, 2003

Indian Trust Fund Management and the Cobell Case
National Congress of American Indians 60th Annual Conference, November 17, 2003

Reflections on Cobell v. Norton
Indigenous Peoples Law & Policy Program, The University of Arizona College of Law, October 01, 2003

On the Docket 2003: Race and Rights in the Supreme Court
American Bar Association, August 09, 2003

Public Service and Leadership
Everett Public Service Internship Program, July 01, 2003

Indian Trust Funds and International Legal Instruments
National Congress of American Indians 59th Annual Conference, November 10, 2002

Cobell Litigation
Indian Law Conference at Catholic University Columbus School of Law, November 01, 2002

The Trust Responsibility
Columbia University School of Law, November 01, 2002

Enforcement of the Trust Responsibility and Representing Tribes and Tribal Communities
Cornell Unversity School of Law, November 01, 2002

Trust Management Issues
15th Annual Indian Law Symposium, September 19, 2002

Representation of Tribes and Tribal Members
National Legal Aid and Defender's Association, July 27, 2002

Leadership and Importance of Public Service
Everett Public Service Internship Program, June 01, 2002

Rights of Indigenous People
Indigenous Peoples: Challenges of the 21st Century at American University Washington School of Law's 2002 Founders' Celebration Events, April 11, 2002

Enforcement of the Trust Responsibility
Federal Bar Association Annual Indian Law Conference, April 01, 2002

Diversity Among Environmental Advocates
National Parks Conservation Association, March 19, 2002

Public Interest Service
Legal Education Opportunities Program Gala Dinner at the University of Wisconsin School of Law, March 01, 2002

Native Americans and the Constitution
Fifth Annual Symposium at the University of Pennsylvania Law School, February 01, 2002

Indian Trust Funds
National Congress of American Indians 58th Annual Conference, November 25, 2001

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Speaker, 11th Annual Indian Land Consolidation Symposium, Fond du Lac Band of Lake Superior Chippewa Reservation
11th Annual Indian Land Consolidation Symposium, Fond du Lac Band of Lake Superior Chippewa Reservation, October 08, 2001

Indigenous Land Rights
World Conference Against Racism, August 31, 2001

Representation of Tribal Communities Through the Courts
American Indian Alumni Reunion at the University of California, Berkeley, April 29, 2001

Making the Invisible Visible: Contemporary Issues in Representing Indian Tribal Interests
New York University School of Law Root-Tilden-Snow Program, February 21, 2001

United States v. Kagama Case Reconsideration Appellants' Brief
10 Kansas J. L. & Pub. Pol. 419 , January 01, 2001

Speaker, Regional Meeting for the Americas (preparatory conference for The World Conference against Racism, Xenophobia, Racial Discrimination and Related Intolerance)
Regional Meeting for the Americas (preparatory conference for The World Conference against Racism, Xenophobia, Racial Discrimination and Related Intolerance), December 03, 2000

Tribal Sovereignty and the Race v. National Distinction
Professor Paul Butler's Race and the Law Class at George Washington University Law School, November 25, 2000

Indian Trust Funds and International Legal Issues
National Congress of American Indians 57th Annual Conference, November 12, 2000

Litigating the Federal Trust Responsibility
13th Annual Western Regional Indian Law Symposium at the University of Washington, September 14, 2000

Cobell Litigation
25th Annual Federal Bar Association Indian Law Conference, April 01, 2000

Understanding the Trust Responsibility
Federal Bar Association and Native American Bar Association, November 19, 1999

Native Americans and the Law
The Role of Virtue in Public Life Conference at Roanoke College, November 11, 1999

Indian Trust Funds
InterTribal Monitoring Association, 9th Annual Conference, October 28, 1999

Tribal Justice Systems as an Expression of Indigenous Sovereignty: The Experience of the USA
Conference by Maori Legal Services, July 16, 1998

Una Resena de los derechos religiosos indigenas en E.U.A.
Derechos Religiosos Y Pueblos Indigenas, January 01, 1998

Indian Rights and Tribal Sovereignty
1997 ACLU National Biennial Conference, October 01, 1997

Religious Freedom for American Indians in the United States
Conference in Quintana Roo, Mexico, September 26, 1997

Does the United Nation Security Council Have the Competence to Act as Court and Legislature?
27 N.Y.U. J. Int'l & Pol 103, January 01, 1994

Professional & Community Activities

Americans for Democratic Action, Board Member

American Law Institute, Executive Committee, Member

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American Progressive Caucus Policy Foundation, Board Member

American Red Cross, National Diversity Council, Chair

Cherokee Nation of Oklahoma, Member

Federal Bar Association, Member

Indian Country Renewable Energy Consortium, General Counsel

President's Commission on White House Fellowships, Member

World Organization for Human Rights, Board Member

Native American Bar Association of Washington, D.C., Past President

Education

New York University School of Law, J.D. (1994)

University of California, Berkeley, B.A., Sociology and Psychology (1990)

Bar Admissions

District of Columbia (1997)

New York (1995)

Admissions

New York Supreme Court (1995)

U.S. Court of Federal Claims (1996)

U.S. District Court for the District of Columbia (1997)

U.S. Court of Appeals for the D.C. Circuit (2000)

U.S. Supreme Court (2000)

Clerkships

U.S. Court of Appeals for the Second Circuit — Honorable Lawrence W. Pierce

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