

# Annual Report

2011-2012



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## California Indian Legal Services

Dear Friends of CILS:

The year 2012 marked a milestone for CILS. The organization celebrated its 45th anniversary in October among long-time supporters, including current and past staff and board and dozens of tribal leaders and advocates for Indian Country. The evening provided an overview of the instrumental role of CILS over the decades and wrapped up with a look at what CILS is doing now and into the future for the California Indian community.

As we reflect back on the last four and one-half decades, we realize the broad impact CILS has had in California. In the 1970's, CILS fought diminishment of reservations by states in *Mattz v. Arnett* and upheld the right of California tribes to exercise self-governance in the midst of local government opposition in *Santa Rosa Band v. Kings County*. In the 1980's, CILS secured equal access to health services for California Indians in *Rincon Band of Mission Indians v. Harris* and restored a number of "terminated" tribes to their status as recognized tribal governments in *Tillie Hardwick v. U.S.* In the 1990's, CILS guarded against the arbitrary removal of Indian children from their families in *In re Kahlen W.* and preserved the rights of California Indians whose tribes were not federally recognized in *Malone v. Bureau of Indian Affairs*. In the 2000's, CILS continued Indian child welfare advocacy in leading the passage of SB 678 to ensure ICWA compliance in California courts and ensured that state courts favor tribal sovereignty by reinforcing respect for tribal courts in California in *In re M.M. v. Michael T.*



From 2010 to the present, CILS has:

- protected the taxation rights of individual Indians living and working on their reservations in FTB Case No. 568967388;
- clarified that the BIA cannot deny a 638 contract for law enforcement based on a tribe being located in a PL-280 state in *Los Coyotes v. DOI and BIA*;
- organized an amicus brief effort including over 50 California tribes in support of reconsideration of a 9th Circuit case, *Mushroom Farm Inc. v. Rincon Band of Mission Indians*, that sought tribal enforcement of environmental laws on fee land within the boundaries of the Rincon Reservation;
- won a motion to dismiss a suit against the Kumeyaay Cultural Repatriation Committee on grounds of tribal sovereign immunity in *Tim White et. al v. University of California et. al and Kumeyaay Cultural Repatriation Committee (KCRC)*, a case involving the application of the Native American Graves Protection and Repatriation Act (NAGPRA); and
- developed valuable needs assessment tools to assess our clients' needs for a future re-examination of our priorities and services.

CILS also engages in numerous community based trainings, roundtables, and self-help development on a wide variety of Indian law topics, such as ICWA, the American Indian Probate Reform Act, tribal justice, and Indian education issues to ensure a broader understanding of the many complexities of laws and regulations that apply to tribal peoples. CILS expresses our deep appreciation for the continued support of our vital services to California tribes and native individuals across the state. No matter how large or small, your financial support ensures CILS will be here to fill the gap in services for those that most need it and will be on the forefront of core issues that affect the day-to-day lives of California tribal communities. Please enjoy this year's "green" Annual Report.

Sincerely,



Devon Lee Lomayesva,  
Executive Director

Dear Friends and CILS Supporters:

In our last Annual Report it was stated that we were looking forward to celebrating our 45th Anniversary. At our October 24, 2012 Gala in Sacramento, we reflected on 45 years of service to California Indians and many of our successes were highlighted. We thank the sponsors of the Gala and the many Tribal officials who support CILS. We also express appreciation to former Board Trustees, Staff and Friends of CILS for your continuing interest and support. There were individuals in attendance at the Gala who were with CILS in 1967 and some of Indian Country's outstanding attorneys who have been associated with CILS. CILS is the first non-profit law group focusing on Indian specific legal issues and we look forward to our next 45 years of protecting and advancing Indian rights. We remain committed to Indian self-determination and will do what we can to support tribal "nation building".

CILS benefits the California Indian community in ways that go far beyond the cases we win so we can never "relax" our vigilance. We rely on the financial support from many to ensure we continue to provide high quality services to those who rely on our assistance. Thank you for all that you do!



Respectfully yours,



Rachel A. Joseph, Chairwoman  
CILS Board of Trustees

# A Brief Look into CILS

## Mission

The mission of CILS is to protect and advance Indian rights, foster Indian self-determination, and facilitate tribal nation-building. Our priorities serve Indian communities by reflecting those issues most important to advancing our mission. Land-base preservation, self-determination through Indian control of services and benefits, improvement of weakened agency services, family preservation, and bureaucratic accountability top our priorities. Much of our work is driven by the requests for assistance from Indian communities within California.

## History

Our advocacy was born in 1967 at a time of great civil change when a roundtable of lawyers came together to create CILS. As Indians in California emerged from struggles with termination, relocation and diminished services, they voiced their need for specialized lawyers to support their legal causes. As the first non-profit law firm focusing specifically on Indian legal issues, CILS became a blueprint for other groups like the Native American Rights Fund. Over time the need for such specialized legal advocacy has grown, and today, most of the 109 federally-recognized California tribes have at some point received CILS assistance.

## Funding Sources

CILS gets its primary funding from Congress in the form of Legal Services Corporation funds, as well as the State Bar of California, and other government funds such as, BJA grants from the Department of Justice. However, those funds are not enough to keep up with the mission of CILS. Other sources of funding include: foundations, endowments, Cy Pres funds from law firms, tribal and organizational contracts, and various tribal, organizational, and individual donors.

## Noteworthy Facts about CILS

- CILS works with law schools to provide training for law students interested in Indian law through fellowship and internships.
- CILS trains non-attorneys to advocate in tribal courts and on the intricacies of Public Law 280.
- CILS is actively working on ways to make the probate process easier for Indian individuals with trust assets.
- CILS organizes a Tribal Courts Conference each year to bring together tribal leaders and members, law enforcement, court and other community representatives to talk about the issues they face every day in Indian Country.
- CILS participates in ICWA roundtables statewide to ensure compliance with the Act at every opportunity.
- CILS has a website full of self-help materials and news updates. Check it out at [www.calindian.org](http://www.calindian.org)

# Good Stories

## Tribal Rights Victory in NAGPRA Case

In the ongoing struggle for repatriation of human remains uncovered in 1975 in the aboriginal lands of the Kumeyaay Nation, in April of 2012, three University of California professors sued the University of California barring its transfer of the remains to the La Posta Band of Mission Indians, a tribe that is a member of the Kumeyaay Cultural Repatriation Committee ("KCRC".) The University of California answered the complaint by arguing it must be dismissed because KCRC, a consortium of 12 Kumeyaay Tribes, is an indispensable party that cannot be joined because of tribal sovereign immunity. The professors amended their complaint and added KCRC as a defendant in the case. CILS, on behalf of KCRC, filed a motion to dismiss arguing that KCRC is a tribal entity and cannot be sued because it has tribal sovereign immunity. The University of California filed a similar motion to dismiss. Oral argument was held on August 23, 2012 in the Federal

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 Forward to a Friend

## CILS Celebrates 45 Years of Service



District Court of Northern California and on October 9, 2012 the court granted both motions to dismiss the professors' case. On November 6, 2012, the professors filed a notice of appeal to the 9th Circuit Court of Appeals. While this case represents a victory for tribal sovereignty, the ultimate goal for return of their Kumeyaay ancestors remains ahead for KCRC and the Kumeyaay Tribes.

## CILS Successful in Protecting Home on Tribal Lands

Tribal member client contacted the Bishop office in August 2011. The tribal member lived in her mobile home on the reservation. The client was being sued in the local Superior Court for approximately \$30,000 by an attorney in Washington State. The attorney had assisted a family member in a Washington case in 2007. At that time the attorney had asked repeatedly if our client's family could help pay him for the family member's legal fees. Finally the attorney had convinced our client over the phone to purchase and execute a Deed of Trust form and promissory note. The attorney did not explain to our client in any way what these two forms meant, or that her home could be taken if she did not pay. This act by the attorney was in addition to other potential violations of the Rules of Professional Conduct. By the time the client contacted CILS, the Washington attorney had already sued our client in Washington over a period of almost four years trying to collect on the promissory note and Deed of Trust. The Washington case eventually made its way to the Washington Supreme Court which held the state did not have jurisdiction over our client, and the attorney was ordered to pay our client's Washington attorney's fees. Fortunately, another Washington attorney, referred to client by CILS, had assisted our client free of charge over the four year litigation period in Washington. The attorney then filed a writ of cert in the United States Supreme Court which was denied June 2011. After intense research, discovery, and after CILS served articulated Interrogatories and Requests for Production of Documents, and Requests for Admission on the Washington attorney in March of 2012, the attorney decided to drop his lawsuit against our client in the same month. Our client is now living contently, without the threat of her home being taken away.

## CILS & Procopio Celebrate Settlement Against Museum



A Native family loaned a California museum several valuable regalia & sentimental cultural items for display for a Native American exhibit. When the family returned to collect their items, the museum had damaged or lost the majority of them, including a very old and important structure entrusted and passed down to the family by generations of tribal members. CILS and Procopio favorably negotiated both a cash settlement and an apology for the

family, as well as a change in the museum's future exhibit policies, that is expected to create a more awareness and sensitivity of the handling of tribal cultural items in the future.

## CILS on the Road

**7/27/11-** PL280 Presentation, Hopland Band of Pomo Indians  
**9/27/11-** ICWA Presentation, AOC San Francisco  
**9/30/11-** Indian Law Day, Santa Rosa Rancheria  
**9/30/11-** PL 280 Presentation, Southern Indian Health Council  
**11/29/11-** TLOA Presentation, San Diego City Attorney's Office  
**12/5/11-** Washoe Lay Advocate Training, Washoe Tribe



### 19th Annual Statewide ICWA Conference-

CILS was proud to co-host the 19th Annual Statewide ICWA Conference with the Yurok Tribe from June 19-21st at the Blue Lake Casino - Sapphire Palace in beautiful Northern California. With an average of 245 attendees per day, the conference provided panels, interactive workshops and discussions on ICWA requirements, active efforts and permanency, collaboration, and service provision. Other topics covered included: cultural competency, Tribal Customary Adoption, expert witness requirements, tribal jurisdiction and funding; application of ICWA to delinquency cases; and trial advocacy skills for ICWA advocates.

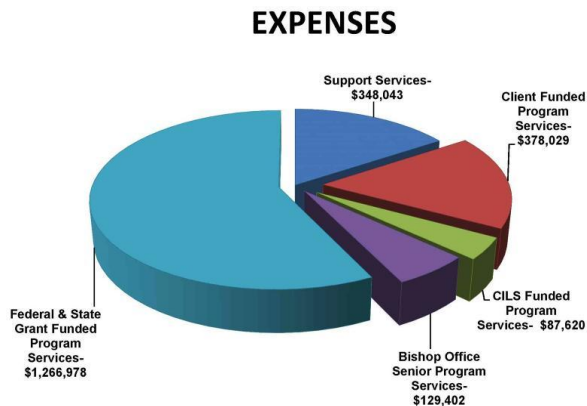
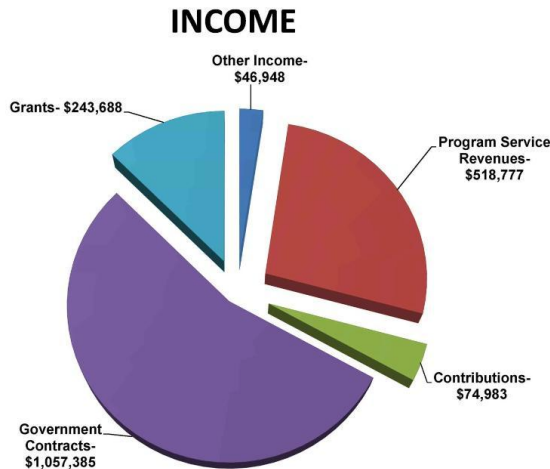
- 12/8/11- PL280 Presentation, Shingle Springs Band of Miwok Indians
- 12/13/11- Community Presentation, Bay Area Consortium of American Indian Resources
- 2/7/12- AIPRA Presentation, Yurok Tribe
- 2/15/12- ICWA Presentation, Mendocino County
- 3/14/12- CIMC Legal Basics of Starting a Business, Pala Casino & Resort
- 3/14/12- Presentation to San Pasqual Elders Committee, San Pasqual
- 3/27/12- AIPRA Presentation, Hoopa Valley Tribe
- 4/6/12- Policing in a PL280 State, Hopland
- 4/11/12- Presentation on Consumer Protection, Tecopa Community Center
- 4/25/11- CEQA/NAGPRA Presentation, Palomar College
- 4/27/12- PL280 Presentation/ ICWA Advanced Issues, Two Feathers NAFS
- 4/30/12- AIPRA Presentation & Will Clinic, Big Sandy Rancheria
- 5/9/12- Consumer Rights Presentation, Walker Senior Center
- 5/18/12- AIPRA Presentation, Intertribal Court of Southern CA
- 5/18/12- BJA Tribal Probate Codes Presentation, Intertribal Court of Southern CA
- 6/15/12- Education Presentation, American Indian Recruitment Programs
- 6/22/12- Presentation on Consumer Protections, Bishop Senior Center



### Board of Trustees

- Rachel Joseph**, Chair  
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- Patricia Dixon**, Vice-Chair  
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Mohawk  
Professor of Law, Western State University College of Law

## Financials



## Donations & Acknowledgements

CILS receives major funding through grants from the Legal Services Corporation (LSC) and the State Bar of California. CILS also receives grants such as the Bureau of Justice Assistance Grant designed to assist tribes with developing tribal justice systems. Smaller grants subsidize overall legal aid services and allow our Bishop Office to service that area's senior population. Also important to CILS is contract work in the fields of economic development, fee-to-trust applications and child dependency cases, all which help CILS fulfill its mission.

### Invest in CA Indian Communities & CILS

- Visit our website and click on "Donate Now"
- Designate CILS as a beneficiary of life insurance policies, gift annuities or charitable remainder trusts
- make a cash gift in your name or in memory of a loved one by mailing a check or money order or to CILS

### Tribal Support

Morongo Band of Mission Indians  
Pechanga Band of Luiseno Indians  
Redding Rancheria  
Rincon Band of Luiseno Indians  
San Manuel Band of Mission Indians  
San Pasqual Band of Diegueno Mission Indians  
Sycuan Band of the Kumeyaay Nation  
Utu Utu Gwaitu Pauite Tribe

### Institutional Support

City of Bishop  
Department of Justice-BJA  
Grants in Support- Inyo County  
Harrington Group  
Inyo-Mono Area Agency of Aging  
Legal Services Corporation  
Leisure Capital Management  
Monguia & Monguia  
Pansky, Markle & Ham  
San Luis Rey Mission Indian Foundation  
Strike Entertainment  
State Bar of California  
Sunset Foundation

### Individual Support

Jasmine Andreas  
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Steve Marshall  
Angela Medrano  
Sonia Montero  
Charlotte Paris  
Delia & Jedd Parr  
Hillary Renick  
Tom & Arline Rogers  
John Scruggs  
Lawrence Stidham  
Laura Svoboda  
Donald Warner  
Barbara Webster  
Kelly Wilson

## Special Thanks to our Pro Bono Partners

Morgan Lewis  
Procopio Cory Hardgreaves & Savitch

## 25 Reasons to Support CILS

1. CILS **won** motion to dismiss plaintiff's suit against KCRC on grounds of tribal sovereign immunity in NAGPRA case. *Tim White et. al v. University of California et. al and Kumeyaay Cultural Repatriation Committee (KCRC)*. (2012).
2. CILS **organized and submit** amicus brief on behalf of over 50 California tribes in support of reconsideration of the 9th Circuit Court of Appeals ruling that plaintiff did not have to exhaust tribal court remedies. Case involved the Tribe's enforcement of tribal environmental laws on owner of non-Indian fee lands within the boundaries of the Rincon Reservation. 9th Circuit reserved itself and remanded to trial court to order exhaustion of tribal court remedies. *Mushroom Farm Inc. v. Rincon Band of Mission Indians*. (2012).
3. CILS **clarified** that the BIA cannot deny a 638 contract for tribal law enforcement on the grounds the tribe is located in a Public Law 280 state. *Los Coyotes v. DOI and BIA* (2012).
4. CILS **argued** for the application of the Indian Child Welfare Act in juvenile delinquency cases. *In re W.B.* (2012).
5. CILS **protected** tribes from BIA intervention into internal political matters. *Coyote Valley Band of Pomo Indians v. U.S. 54 IBIA 320* (2012).
6. CILS **opposed** the Franchise Tax Board's attempts to create a "tribal source" rule and to tax the income of a tribal member living and working on her own reservation. *FTB Case No. 568967388* (2010).
7. CILS **ensured** courts decide in favor of tribal sovereignty by reinforcing respect for tribal courts under the Indian Child Welfare Act. *In re M.M. v. Michael T.* (2007).
8. CILS **led** the charge to ensure the Indian Child Welfare Act is complied with in California courts. *Senate Bill 678* (2006).
9. CILS **won** a victory for juvenile Indians by forcing state agencies to use better discretion when reviewing Indian Child Welfare Act matters. *In re Julian B.* (2000).
10. CILS **preserved** the rights of California Indians whose tribes lack federal acknowledgment. *Malone v. Bureau of Indian Affairs* (1994).
11. CILS **guarded** Indian families and children against arbitrary removal of children from their family. *In re Kahlen W.* (1991).
12. CILS **guided** the courts to better understand the purpose and intentions

- behind the Indian Child Welfare Act. *In re Crystal K.* (1990).
13. CILS **fostered** awareness of the desecration of Indian sacred sites and the importance of religious freedom. *Lyng v. Northwest Indian Cemetery Protective Assoc.* (1988).
  14. CILS **worked** with tribes to protect the natural environment within their reservations and strengthened tribal sovereignty. *Pinoleville Indian Community v. Mendocino County* (1988).
  15. CILS **extended** civil rights protections to Indians against state trespass onto their lands. *Harold Hammond v. Madera County* (1988).
  16. CILS **promoted** freedom of worship in accordance with traditional Native religious practices. *Sample v. Borg* (1987).
  17. CILS **defended** the rights of California Tribes to regulate hunting and fishing within their reservations. *People v. McCovey* (1984).
  18. CILS **restored** "terminated" California Tribes to their full recognized status as tribal governments. *Tillie Hardwick v. U.S.* (1983).
  19. CILS **accomplished** the goal of securing California Indians equal health services. *Rincon Band of Mission Indians v. Harris* (1980).
  20. CILS **asserted** the right of the Quechan Tribe to preserve their land base against state opposition. *Quechan Tribe v. Southern Pacific Transportation Co.* (1979).
  21. CILS **championed** the right of California Tribes to govern themselves despite local government opposition. *Santa Rosa Band v. Kings County* (1975).
  22. CILS **prevailed** against discrimination by local government contractors in providing services. *Scott v. Eversole* (1975).
  23. CILS **challenged** the ability of county ordinances to restrict certain types of gambling of preservation land. *Rincon Band of Mission Indians v. County of San Diego* (1974).
  24. CILS **held** the United States liable for its failure to responsibly invest Indian money entrusted to them. *Manchester Band of Pomo Indians, Inc. v. U.S.* (1973).
  25. CILS **fought** against arbitrary diminishment of reservation boundaries by states. *Mattz v. Arnett* (1973).

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