

Quinnehtukqut Legal News



Volume 8 Issue 1

www.ptla.org/quinnehtukqut/qlegal.htm
A Newsletter for Native Americans in Connecticut

Summer 2004



Federal Recognition Update:

Bureau of Indian Affairs Denies Recognition to Golden Hill Paugussetts

In June of 1995, the Bureau of Indian Affairs refused to Acknowledge the Golden Hill Paugussetts, finding that the Tribe had provided little or no evidence that it met one of the seven required criterion—that its members be descended from an historical Indian Tribe. The Bureau, therefore, refused to even consider the Tribe's petition. In May of 1999, the Bureau agreed to review the petition but, in January of 2003, the Bureau issued a proposed finding declining to acknowledge the Tribe.

On June 15, 2004, the Bureau issued its final determination rejecting the Tribe's request for recognition. The Bureau found that the Paugussetts did not satisfy four of the seven criteria needed for recognition – failing to prove that the Tribe had been identified as an American Indian entity on a continuous basis since 1900; that most of the Tribe is a community that has existed from historical times until the present; that the tribe has had political influence or authority over its members since historical times; and that the tribe's membership must be made up of descendants from a historical Indian Tribe. The Bureau found that the Tribe had not shown that the Golden Hill group and the Turkey Hill group were in fact one Tribe. It also found problems with the Tribe's attempt to show that its members were of Indian descent. The Tribe has stated that it will appeal the decision.



Native American Legal Briefs

--Jurisdiction of the National Labor Relations Board-- --Federal Recognition--

National Labor Relations Board Asserts Jurisdiction Over California Indian Casino Owned and Operated by Tribe

On May 28, 2004, the National Labor Relations Board established a new standard for determining the circumstances under which the Board will assert jurisdiction over Indian-owned and operated enterprises. In stating this new standard, the Board overruled a number of prior cases, finding that its prior reading of the National Labor Relations Act had been both under and over-inclusive. In this case, the Board found that it had jurisdiction over a casino operated by the San Manuel Band of Serrano Mission Indians on Tribal land. Both the Mashantucket Pequot Tribal Nation and the Mohegan Tribe of Connecticut had filed briefs in this case in support of the California Tribe.

The Board first looked at prior cases dealing with Indian commercial enterprises located on Tribal land. Those cases had found that the enterprises were, in fact, a "governmental entity" excluded from coverage under the Act. The Board next looked at a series of cases that held that Indian-operated enterprises were subject to the Board's jurisdiction if they were operated off Tribal lands. The Board concluded that both sets of cases had been wrongly decided because the Act did not, in fact, exclude Indian Tribes from coverage and because the location of the enterprises was a statutorily irrelevant factor. The Board concluded that the terms of the Act applied to the Tribe in this case.

Next, the Board looked at whether federal Indian policy might require the Board not to assert jurisdiction. The Board found no such requirement. After looking at the language of a number of Supreme Court cases, the Board concluded that:

the activities at issue are commercial in nature—not governmental. Moreover, the operation of a casino—which employs significant numbers of non-Indians and caters to a non-Indian clientele—can hardly be described as "vital" to the tribes' ability to govern themselves or as an "essential attribute" of their sovereignty.

Finally, the Board discussed whether there were policy considerations that should determine whether the Board should assert jurisdiction. The Board stated that:

Tribal enterprises are playing an increasingly important role in the Nation's economy. As tribal businesses prosper, they become significant employers of non-Indians and serious competitors with non-Indian owned businesses. When Indian tribes participate in the national economy in commercial enterprises, when they employ substantial numbers of non-Indians, and when their businesses cater to non-Indian clients and customers, the tribes affect interstate commerce in a significant way. When the Indian tribes act in this manner, the special attributes of their sovereignty are not implicated. Running a commercial business is not an expression of sovereignty in the same way that running a tribal court system is. The Board's mandate is to "protect and foster interstate commerce," and assertion of discretionary jurisdiction over Indian tribes acting in these circumstances would effectuate the policies of the Act while doing little harm to the Indian tribes' special attributes of sovereignty or the statutory schemes designed to protect them.

Neither, however, is a blanket assertion of jurisdiction appropriate. At times, the tribes continue to act in a manner consistent with that mantle of uniqueness. They do so primarily when they are fulfilling traditionally tribal or governmental functions that are unique to their status as Indian tribes. These functions are often performed on the tribes' reservations. Such traditionally tribal or governmental functions, so located, are less likely than commercial enterprises to involve non-Indians and to substantially affect interstate commerce. Accordingly, in those circumstances, the Board's interest in effectuating the policies of the Act is likely to be lower. Thus, when the Indian tribes are acting with regard to this particularized sphere of traditional tribal or governmental functions, the Board should take cognizance of its lessened interest in regulation and the tribe's increased interest in its autonomy. In such circumstances, the Board should afford the tribes more leeway in determining how they conduct their affairs by declining to assert its discretionary jurisdiction.



Federal Court Will Not Intervene in State's Challenge to Federal Recognition Process While that Process is Still in Progress

The State of Connecticut and the Towns of North Stonington, Ledyard and Preston filed a complaint in Federal Court alleging several problems with a Final Determination issued by the Bureau of Indian Affairs. The Determinations had granted federal recognition to the Paucatuck Eastern Pequot Tribe and the Eastern Pequot Indians of Connecticut.

The complaint was dismissed by the Federal District Court and the State and the Towns appealed. The Circuit Court stated that:

Although Connecticut and the three towns...raise substantial questions about the fairness of the acknowledgment process in this case,...we conclude that the plaintiffs' challenges are not ripe for judicial review. Although the BIA has issued a Final Determination with respect to the petitions, the plaintiffs have filed a request for reconsideration by the Interior Board of Indian Appeals.... This administrative appeal is still pending. We conclude that until the Board's review is complete, the plaintiffs neither have suffered nor will suffer harm sufficiently concrete to warrant judicial intervention in the BIA acknowledgment proceedings.

Legal Briefs

The following information appeared in the May 2004 edition of *CABN Fever* (www.larcc.org)

Health Care Coverage for Some Working Parents Continued Through April, 2005

In February 2003, the legislature passed budget adjustments which eliminated HUSKY A health care coverage for parents in families with income above 100% of the federal poverty level (FPL). In March, 2003, working parents who were facing elimination of their health care coverage, represented by lawyers from Connecticut Legal Services, Greater Hartford Legal Aid and New Haven Legal Assistance Association, sued to maintain coverage for two years under the Transitional Medical Assistance (TMA) program. Health care coverage for these 15,000 families was continued under a court order while the court worked on a decision.

In March, 2004, the federal appeals court issued a decision in favor of the working parents. As a result of this ruling, HUSKY A parents who had earnings and income above 100% of the FPL when eligibility levels were reduced in April of 2003, will remain eligible for TMA until April 1, 2005. The ruling does not increase the income limit for coverage of parents; this limit remains at 100% of the federal poverty level.

Protecting the Rights of DSS Clients with Disabilities

In January 2003, the Department of Social Services closed six offices and reduced staff by 150 people. Case workers have seen their caseload increase from 600 to over 1,000 cases, and voicemail systems are consistently filled to the limit. Both the office closures and subsequent DSS staff layoffs have led to numerous delays and incorrect decisions regarding benefits for people with disabilities.



www.ptla.org

Pine Tree Legal Assistance is a non-profit organization that gives free legal help to poor people with civil (non-criminal) legal problems in Maine.

Pine Tree operates a special Native American Unit in its Bangor, Maine office. The unit is staffed by attorneys Judith Plano and Mike Guare, Paralegal Danny Mills, and is headed by Eric Nelson. Judith, Mike and Danny have worked with the Unit for several years. Judith works for the Unit full-time. Eric has worked at Pine Tree for many years on behalf of migrant farmworkers and Native Americans.

Pine Tree attorneys are not licensed to practice law in Connecticut. However, the Native American Unit may be able to give information and help to low-income Native Americans in Connecticut with federal legal problems, such as questions about the Indian Child Welfare Act and the Jay Treaty. Pine Tree can also refer cases to lawyers in Connecticut. The telephone number is 1-800-879-7463.

You can find a list of Indian Legal Services Programs in your state on the web at www.judicare.org/nails.html.

In January 2003, eight people affected by the DSS office closings challenged the office closings. The lawsuit, named *Raymond vs. Rowland*, alleges that DSS has failed to screen clients for disabilities and is in violation of the Americans with Disabilities Act (ADA) and the U.S. Constitution. In addition, the suit claims that DSS has failed to provide an adequate appeal process for clients who have been denied benefits, a violation of constitutional due process rights.

On March 12, 2004, a U.S. District judge, granted class certification and authorized two legal services attorneys to represent the class of people affected. The number affected is in the tens of thousands, given the number of individuals receiving SAGA cash, Aid to the Aged, Blind & Disabled (AABD) and Medicaid benefits based on disability, as well as those receiving TFA exemptions or extensions due to disabling conditions or impairments.

If you are a person with disabilities, or are working with someone with disabilities, who is experiencing problems accessing benefits through DSS, please contact the legal services lawyers representing the class members in this case: Lucy Potter, Maria Morelli-Wolfe or Greg Bass at Greater Hartford Legal Aid (860-541-5000); Joanne Gibau at New Haven Legal Assistance Association (203-946-4811); or, at Connecticut Legal Services, Shirley Bergert (Willimantic, 860-456-1761), Priya Cloutier (New London, 860-447-0323), or Cheryl Kohler (Waterbury, 203-756-8074).

We Want To Hear From You!

If you have comments, articles or ideas on how this Newsletter can be helpful to you, please let us know.

Please send articles or letters to:

Quinnehtukqut Legal News, Pine Tree Legal Assistance, Coe Building, 61 Main Street, Room 41, Bangor, ME 04401.

Or you can send e-mail to csamp@ptla.org.



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Statewide Legal Services of Connecticut, Inc.

Statewide Legal Services

Call Statewide Legal Services of Connecticut, Inc. (SLS) if you are low income and you need free legal help in the following areas:

- ★ Housing
- ★ Family Matters
- ★ Welfare
- ★ Medicare
- ★ Medicaid
- ★ Other Government Benefits

Telephone Numbers To Call:

In the Middletown calling area: 1-860-344-0380
From other places in Connecticut: 1-800-453-3320

9 a.m.- 3 p.m., Monday through Friday.

Call for free advice and information on Thursday nights from 5:30pm-7:30pm, as well as Monday-Friday from 9am-3pm.

The articles in this paper are meant to give information, *NOT to give legal advice*. No one should interpret any law without the help of an attorney who has been told all the facts.



INDEX of COMMUNITY RESOURCES

This is a list of some key resources, which will offer you service or direct you to the best local resource.



CRISIS SERVICES (available 24 hours a day)



INFOLINE

www.infoline.org

INFOLINE is an integrated system of help via the telephone – a single source for information about community services, referrals to human services, and crisis intervention. It is toll-free and operates 24 hours a day, 365 days a year. Multilingual caseworkers and TDD access is available.



Child Abuse and Neglect:

Child Abuse & Neglect Hotline
www.state.ct.us/dcf/HOTLINE.htm

1-800-842-2288
TDD 1-800-624-5518



Domestic Violence:

www.larcc.org/pamphlets/children_family/get_restraining_order.htm

Statewide Hotline: This toll-free number will connect you to the nearest domestic violence agency. 888-774-2900



Ansonia: The Umbrella Project	203-736-9944
Avon: Interval House www.intervalhousect.org	860-409-2583
Bridgeport: Center for Women and Families of Eastern Fairfield County, Inc.	203-384-9559
Columbia/Danielson/Dayville: Domestic Violence Program/United Services	860-774-8648
Danbury: Women's Center of Greater Danbury www.danbury.org/womenctr	203-731-5206
Enfield: Network Against Domestic Abuse	860-763-4542
Falls Village: Women's Support Services	860-364-1900
Greenwich: Domestic Abuse Service Greenwich YWCA www.ywcagreenwich.org/domesticabuse.htm	203-622-0003
Hartford: Interval House www.intervalhousect.org	860-527-0550
Manchester: Interval House www.intervalhousect.org	860-645-4033
Meriden: Meriden-Wallingford Chrysalis	203-238-1501
Middletown: New Horizons	888-774-2900
New Britain: Prudence Crandall Center for Women www.prudencecrandall.org/	860-225-6357
New Haven: Domestic Violence Services of Greater New Haven www.dvsgnh.org	203-789-8104
New London/Norwich: Women's Center of Southeastern Connecticut	888-774-2900
Norwalk: Domestic Violence Crisis Center www.dvccct.org	888-774-2900
Stamford: Domestic Violence Services	203-357-8162
Torrington: Susan B. Anthony Project www.sbaproject.org/	860-482-7133
Waterbury: Safe Haven of Greater Waterbury	203-575-0036
Willimantic/Wauregan: Domestic Violence Program/United Services	860-456-9476



Elder Abuse and Neglect:

☎ INFOLINE (for after hours emergencies).....211

Connecticut Department of Social Services. (Statewide toll-free number):.....1-888-385-4225
www.dss.state.ct.us/svcs/socialwork/pg3.htm



Poison Control:

Connecticut Poison Control Center 1-800-222-1222
poisoncontrol.uchc.edu/ TDD 866-218-5372



Sexual Assault Crisis Programs: (Hotline Numbers)

Call 888-999-5545 to get the name of the sexual assault crisis service nearest you or go to their website at www.connasacs.org/.

❖ Center for Women and Families of Eastern Fairfield Co. www.cwfefc.org/sexual_assault.html	203-333-2233
❖ Women's Center of Greater Danbury Sexual Assault Crisis Service www.danbury.org/womenctr/	203-731-5204
❖ Hartford Region YWCA Sexual Assault Crisis Services www.ywcahartford.org	860-522-6666



- ❖ Women and Families Center Sexual Assault Crisis Services 860-635-4424
- ❖ Rape Crisis Center of Milford 203-878-1212
- ❖ New Britain YWCA Sexual Assault Crisis Service 860-223-1787
- ❖ Greater New Haven Sexual Assault Crisis Service 203-624-2273
- ❖ Women's Center of Northeastern Connecticut 860-456-2789
Bronzefrogs.com/center/index.html
- ❖ Susan B. Anthony Project for Women (Serving Northwestern Connecticut) *www.sbanproject.org* 860-482-7133
- ❖ Safe Haven of Greater Waterbury Crisis Services 203-575-0036
- ❖ Sexual Assault Crisis Services 203-329-2929

Youth Crisis:

Contact the nearest Youth Service Bureau through your town hall



LEGAL RESOURCES



- Lawyer Referral Service:** *www.ctbar.org/article/articleview/291*
This service can recommend a private lawyer who, for a small fee, will assess a case and give an estimate of charges.
- | | |
|---|--------------|
| Fairfield County | 203-335-4116 |
| Hartford | 860-525-6052 |
| New Haven Area/Waterbury/Middlesex County | 203-562-5750 |
| New London/Norwich | 860-889-9384 |

Legal Assistance Programs:

These organizations give free civil legal help to income eligible people. This help includes telephone advice, referrals, direct representation, and giving out self-help material, depending on the priorities and resources of the organization.

STATEWIDE Statewide Legal Services 1-800-453-3320
in Middletown 860-344-0380

Statewide Legal Services (*slsct.org/*) screens cases for all legal assistance programs in the state, giving brief service and advice, community education materials, and referrals to local legal services offices for non-criminal cases. **Please call Statewide Legal Services first**, unless you have an emergency that needs to be settled that day or you are over age 60.

- | | | |
|----------------------|---|--------------|
| ◆ Bridgeport | Connecticut Legal Services
<i>www.connlegalservices.org/index.htm</i> | 203-336-3851 |
| ◆ New Britain | Connecticut Legal Services | 860-225-8678 |
| ◆ New London | Connecticut Legal Services | 860-443-0109 |
| ◆ Stamford | Connecticut Legal Services | 203-348-9216 |
| ◆ Waterbury | Connecticut Legal Service | 203-756-8074 |
| ◆ Willimantic | Connecticut Legal Services | 860-456-1761 |
| ◆ New Haven | New Haven Legal Assistance
<i>www.nhlegal.org/index.htm</i> | 203-946-4811 |
| ◆ Hartford | Greater Hartford Legal Aid, Inc (serving Greater Hartford)
<i>www.ghla.org/index.htm</i> | 860-541-5000 |

Center for Medicare Advocacy *www.medicareadvocacy.org/*

This organization gives legal advice, written materials and representation to elderly and disabled people denied Medicare coverage for home health care, skilled nursing facility care, rehabilitation and other health services. Services are free to residents of Connecticut.

Telephone: 860-456-7790

Connecticut Legal Rights Project *www.mindlink.org/clrp.html*

This organization helps low-income adults who have or are perceived to have psychiatric disabilities. Its staff may also help clients to protect their civil rights in conservatorship and commitment proceedings or in discrimination in housing.

Telephone: 1-877-402-2299

Connecticut Lawyer's Legal Aid to The Elderly

This organization offers legal help to low-income elderly in the Hartford area.

Telephone: 860-273-4303

Children's Law Center *www.clcct.org/*

This organization gives legal representation to children in northeastern Connecticut using a lawyer/mental health team approach. The Center also provides legal information about situations involving children through the Children's Lawline (1-888-LAWDOOR) Telephone: 860-232-9993

Connecticut Women's Education and Legal Fund

www.cwealf.org/

This organization provides a free telephone counseling, information and legal referral line for help on discrimination, harassment and family matters. The group also offers community education and training, mainly in employment and family law. For information on workshops, call 860-247-6090. Telephone: 1-800-479-2949

Legal Assistance to Medicare Patients *ctelderlaw.org/*

LAMP is part of Connecticut Legal Services, Inc, a non-profit law firm. Telephone: 1-800-413-7796

Disabilities:

Connecticut Office Of Protection and Advocacy For Persons With Disabilities *www.state.ct.us/OPAPD/*

60B Weston Street
Hartford CT 06120-1551
Toll Free Telephone: 1-800-842-7303
Hartford area: 860-297-4300
TDD: 860-297-4380
Fax: 860-566-8714
E-Mail: OPA-Information@po.state.ct.us.



Discrimination:

Connecticut Commission on Human Rights and Opportunities

www.state.ct.us/chro/index.html

Capitol Region:
1229 Albany Avenue
Hartford, CT 06112-2193
Tel.: 860-566-7710

Southwest Region:
1057 Broad Street
Bridgeport CT 06604
Tel.: 203-579-6246

West Central Region:
Rowland State Government Center
55 West Maine St.
Suite 210
Waterbury CT 06702-2004
Tel.: 203-805-6530
TDD: 203-805-6579

Eastern Region:
100 Broadway
Norwich CT 06360
Tel.: 860-886-5703
TDD: 860-886-5707

Central Office
21 Grand Street
Hartford CT 06106
Tel.: 860-541-3400
1-800-477-5737



Social Security: *www.ssa.gov/*

Statewide *s3abaca.ssa.gov/pro/foi/foi-home.html* 1-800-772-1213



Some Helpful Native American Web Sites

- Native Web: *www.nativeweb.org/NativeTech/Nipmuc/*
- Pine Tree Legal Assistance: *www.ptla.org*
- Index of Native American Resources on the Internet: *www.hanksville.org/NAresources*
- Native Links: *www.johnco.com/native/*
- Aboriginal Links: *www.bloorstreet.com/300block/aborcan.htm*
- Wabanaki Confederacy: *communities.msn.com/WabanakiConfederacy*
- Legal Assistance Resource Center of Connecticut *www.larcc.org*
- Statewide Legal Services: *slsct.org/*