



**National Institute  
for Trial Advocacy**

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To: Tribal Court Advocates  
From: Mark S. Caldwell, Director of Specialty Programs  
Re: Witness Examination Skills for Tribal Advocates  
July 15 - 17, 2009  
University of North Dakota School of Law

The National Institute for Trial Advocacy returns to Indian Country to present its acclaimed skills training in a special program for tribal advocates. Those who would most benefit from our training would be tribal prosecutors, public defenders, and legal service advocates. I write to give you special notice of the upcoming skills course NITA is offering with the assistance of the University of North Dakota School of Law and the Tribal Judicial Institute.

This basic skills training is being held Wednesday, July 15 through Friday, July 17, 2009, at the University of North Dakota School of Law in Grand Forks, North Dakota. This three day program focuses on those basic skills needed to effectively question witnesses in the adversarial system used in your nation's tribal court.

NITA programs are unique learning opportunities. Our programs are not your typical lecture-style courses. We employ a format that puts participants in a realistic courtroom situation and asks them to perform as if they were at trial. This experiential learning process is the fastest and most effective way of teaching trial skills. NITA pioneered in the development of these teaching techniques. Our format is now employed in almost every law school and is copied by many continuing education providers. We are considered the best and most innovative provider of trial skills training. From 1998 through 2005 we conducted a number of successful programs for tribal advocates. The programs we ran under a Tribal Courts Assistance Program grant from the U.S. Department of Justice were very successful. NITA is now self-funding tuition for these programs.

A typical program day begins around 9:00 a.m. Over the course of the day there will be several experiential workshops, one or two lecture/demonstrations, and discussion time. We end around 5:30 p.m., but ask participants to spend time in the evening preparing for the next day's exercises. For most of the day participants work in performance groups of eight participants and two instructors. Every participant has one or two opportunities to perform during each workshop. At the end of a four-minute performance the participant receives detailed comments from instructors on how to become more effective. Usually there are two or three performance workshops during each day. The end result is that each participant gains the equivalent of two or three actual trials. Not only does this help the participant improve their technical skills, it gives them increased confidence in their ability to effectively present their case.

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NITA uses hypothetical cases to teach trial skills. For this program we will use a file that deals with an eviction from a public housing development. There is an allegation of drug use that triggers the eviction for a breach of the lease. The defense is there was no conviction for any criminal activity and the eviction is retaliation for participation in a tenant action committee. The problem is balanced so that those representing the tribe and the tenant have good and bad facts they must deal with as they present evidence. This problem has received positive reviews at past non-tribal programs and we believe it will be an effective teaching tool for tribal advocates as well.

Over the course of the two and a half days the program will cover the following skills areas: case analysis; direct examination of fact witnesses; cross examination of fact witnesses examination; and dealing with difficult witnesses (refreshing memory, impeachment by prior, inconsistent statement, and witness control).

Teaching at this program will be a team of top trial lawyers and advocates. These people are some of the best and the brightest of the trial bar from throughout the United States. A number of the instructors are Native American. In addition to their abilities in the courtroom, each is a highly skilled teacher. All of the instructors will have taught at previous tribal court programs.

I encourage you to complete the registration form and return it immediately. Registrations are accepted on a first-received basis. For this reason, please do not register for the program unless you will be authorized and able to attend. **There is no registration fee for this course**, as it is part of NITA's commitment to improving justice in Indian Country. However, NITA expends approximately \$2,000 for each seat in the class, even if someone cancels and the seat remains vacant. Therefore, I urge you to register early for this unique learning opportunity; but to do so only if you will attend. The dollars a vacant seat wastes may be a pittance compared to the opportunity costs lost by another tribe. Please consider the benefits this program brings in strengthening communities. If you cannot attend, let another advocate fill your vacant seat.

While there is no registration fee for this program, **participants must pay for their travel, meals, and lodging.** With the assistance of the University of North Dakota School of Law dormitory rooms are available at a very reduced rate of between \$28 and \$30 per night. A university meal plan will be available for those staying in the dormitory. We have also reserved a block of rooms at the Hilton Garden Inn at the rate of \$55 per night plus tax. Through the generosity of the Tribal Judicial Institute there are a limited number of scholarships to help defray the costs of housing and meals during the program. Information on housing and these scholarships is available through The Tribal Judicial Institute at their web site at <http://www.law.und.nodak.edu/tji/>.

NITA programs simulate trial. We expect participants to be fully prepared to perform from the beginning of the program. It is anticipated that participants must read approximately 100 pages of material before the start of the program. These materials will be sent to each enrollee in advance of the start of the program. By enrolling in the program participants agree to prepare for and participate in all sessions.

I encourage you to consider sending participants to this very special training. Should you have questions about the program, please feel free to contact me at either 303-953-6804 or 303-755-7504 or via e-mail at [mcaldwell@nita.org](mailto:mcaldwell@nita.org).