

practiced law for more than 15 years in Albuquerque and Washington. He was awarded an honorary doctor of laws degree from Princeton in 2001.

Mary Kathryn Nagle

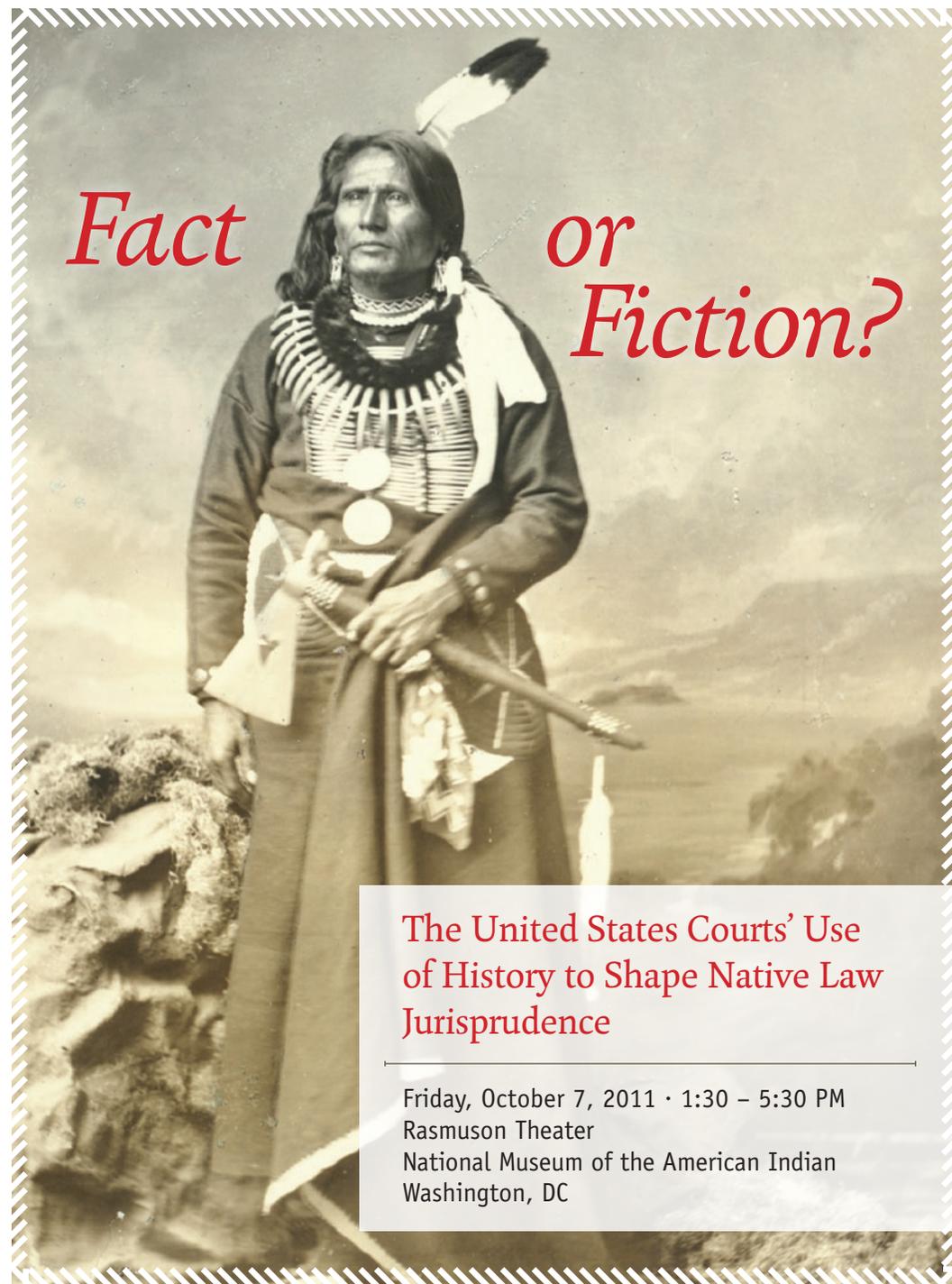


Mary Kathryn Nagle (Cherokee) is an actress, playwright, and lawyer. Currently an associate at Quinn Emanuel Urquhart & Sullivan in New York City, she studied theater at Georgetown University and went on to Tulane Law School, where she graduated *summa cum laude* and was the recipient of the Judge John Minor Wisdom award. As a descendant of John Ridge of the Cherokee Nation, one of the first Native attorneys in the history of the United States, Nagle has a passion for Native law and Native issues. Her article, “*Standing Bear v. Crook: The Case for Equality Under Waaxe’s Law*,” will be published in the November edition of the *Creighton Law Review*, and she has also written *Waaxe’s Law*, a play that was performed at the U.S. District Court for the District of Nebraska on May 12, 2009, in celebration of the 130th anniversary of the trial of Chief Standing Bear.

Lindsay Robertson



Lindsay G. Robertson is the Judge Haskell A. Holloman Professor of Law and Sam K. Viersen, Jr. Presidential Professor at the University of Oklahoma College of Law, and serves as the Faculty Director of the Center for the Study of American Indian Law and Policy. Previously, Robertson taught Federal Indian Law at the University of Virginia School of Law and the George Washington University National Law Center. He was a Research and Visiting Fellow at the Philadelphia Center for Early American Studies from 1992 to 1994. He worked in private practice in Washington, DC, and Charlottesville, Virginia, and as a judicial clerk at the United States District Court for the District of Delaware. He currently serves as Special Justice on the Supreme Court of the Cheyenne-Arapaho Tribes. Robertson is the author of *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands* (Oxford University Press, 2005).



The symposium is cosponsored by the National Native American Bar Association and the Federal Bar Association Indian Law Section.

PHOTO CAPTION/CREDIT: Ponca Chief Standing Bear. On May 12, 1879, in U.S. District Court in Omaha, Nebraska, in the case of *Chief Standing Bear v. Crook*, Judge Elmer S. Dundy declared Indians to be “persons” under federal law. It was the first time a federal court found that an Indian’s race did not justify the government’s denying him the same rights under the law as whites. Photo courtesy of the Nebraska State Historical Society.



Smithsonian
National Museum of the American Indian

Fact or Fiction?:

The United States Courts' Use of History to Shape Native Law Jurisprudence

Since the first court decision to articulate Native American law back in 1823, the nation's courts have repeatedly invoked historical "facts" as a basis for fashioning judicial doctrines that have been prejudicial and harmful to Native Americans. This symposium will investigate and uncover factual inaccuracies that still permeate law today, such as the idea that Native Americans did not farm or cultivate any land before the arrival of Europeans, the idea that Native Americans have no systems of self-government comparable to the one found in the U.S. Constitution, or the idea that during the 19th century all Native nations were engaged in warfare against the United States. A thorough review reveals that many of our modern Native law doctrines are based in fiction, not fact. Join us as we explore the historical foundations of key court decisions impacting Native Americans.

Symposium Schedule

1:30 p.m. Welcome and Opening Remarks

Kevin Gover, Director, National Museum of the American Indian

1:40 p.m. Sympathetic History, Harsh Law: The Paradox of Land Claims

Stuart Banner, UCLA School of Law

2:20 p.m. Johnson v. M'Intosh (1823): The Judicial Conquest of Native America

Lindsay Robertson, University of Oklahoma School of Law

3:00 – 3:30 p.m. Break

3:30 p.m. Legal Fictions in Federal Indian Law

Walter Echo-Hawk, Crowe & Dunlevy

4:10 p.m. Standing Bear v. Crook: The Brown v. Board of Education of Native American Law

Mary Kathryn Nagle, Quinn Emanuel Urquhart & Sullivan

4:45 p.m. Question and Answer Session

Kevin Gover, moderator

Book signing in the Rasmuson Theater Lobby and Reception in the Potomac Atrium to follow.

Speaker Biographies

Stuart Banner



Stuart Banner, the Norman Abrams Professor of Law at UCLA, is a legal historian who has written about a wide range of topics in American and British legal history. He is the author of seven books, including *How the Indians Lost Their Land: Law and Power on the Frontier* (Harvard University Press, 2005), and *Possessing the Pacific: Land, Settlers, and Indigenous People from Australia to Alaska* (Harvard University Press, 2007). Banner graduated from Stanford Law School, where he was articles editor of the *Stanford Law Review*. He clerked for Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit and Justice Sandra Day O'Connor of the U.S. Supreme Court. He practiced law at Davis Polk & Wardwell and at the Office of the Appellate Defender, both in New York. Before coming to UCLA, he taught at Washington University in St. Louis.

Walter Echo-Hawk



Walter Echo-Hawk (Pawnee), wears four hats: Justice, Supreme Court of the Pawnee Nation; Vice-Chairman, Board of Directors of the Native Arts and Cultures Foundation, a new national and permanently endowed foundation to support Native art and culture; Of Counsel, Crowe & Dunlevy, Oklahoma's oldest and largest law firm; and Adjunct Professor, Tulsa University School of Law (2010). From 1973–2008, he was a staff attorney of the Native American Rights Fund (NARF), where he represented Indian Tribes, Alaska Natives, and Native Hawaiians on significant legal issues during the modern era of federal Indian law. Echo-Hawk's legal experience includes cases involving Native American religious freedom, prisoner rights, water rights, treaty rights, and reburial/repatriation rights. His most recent book is *In the Courts of the Conqueror: The Ten Worst Indian Law Cases Ever Decided* (Fulcrum Publishing, 2010).

Kevin Gover



Kevin Gover (Pawnee) is director of the Smithsonian's National Museum of the American Indian. A former professor of law at the Sandra Day O'Connor College of Law at Arizona State University in Tempe, affiliate professor in the university's American Indian Studies Program, and co-executive director of its American Indian Policy Institute, Gover received his bachelor's degree in public and international affairs from Princeton University and his law degree from the University of New Mexico. Before joining the university faculty, Gover served as assistant secretary for Indian Affairs in the U.S. Department of the Interior from 1997 to 2000. A presidential appointee, he was responsible for policy and operational oversight of the Bureau of Indian Affairs, where he oversaw programs in Indian education, law enforcement, social services, treaty rights, and trust asset management. Gover also