

Section Programs, Events, and Publications

by Roger Kobert



Roger Kobert is vice chairman of the FBA's International Law Section. He is a partner in the litigation department of the Miami office of Weiss Serota Helfman Cole & Bierman, P.L., and chairman of its international practice group. A veteran federal court trial and appellate counselor, Kobert litigates complex commercial, banking, business tort, fraud, insurance, and foreign sovereign immunities cases, among others, with an emphasis on jurisdictional and cross-border disputes. He earned his J.D. from the University of Miami School of Law (1988) and his B.A. from the University of Pennsylvania (1985).

On Dec. 18, 2017, section leadership attended a celebration of International Migrants Day organized by the International Organization for Migration (IOM), UNICEF, the United Nations TOGETHER campaign, and the Office of the U.N. High Commissioner for Refugees (UNHCR).

The program started with a panel discussion marking the launch of the Joint General Comment on the Human Rights of Children in the context of international migration by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Committee on the Rights of the Child. Following the program, participants screened the directorial debut of UNICEF Goodwill Ambassador Vanessa Redgrave's "Sea Sorrow," a 2017 British documentary film about child refugees in the European migrant crisis screened at the 2017 Cannes Film Festival. After the International Migrants Day screening, the director conducted a Q&A.

There was also a presentation of the multimedia art installation "Unpacked: Refugee Baggage," including a series of diorama-type installations taking participants "inside" prior homes of the displaced. The program concluded with a reception attended by the U.N. General Assembly president, U.N. secretary-general, IOM director general, and UNICEF executive director, as well as a panel discussion with the IOM director general, the U.N. special representative of the secretary-general for international migration, the UNICEF director of programs, and others.

The FBA International Law Section (ILS) has held and is currently developing a number of programs and activities, including:

- On Feb. 23, the FBA ILS, the FBA Immigration Law Section, the FBA SDNY Chapter, Human Rights First, and the New York Law School Safe Passage Project held the Third Annual Asylum and Immigration Law Conference. This full-day, three-track CLE program directly incorporated diverse legal communities into the FBA and built our external partnerships in the New York City legal community supporting diversity and

inclusion. The speaker roster included representatives from UNHCR, UNICEF, academia, the NGO community, and the private bar.

- We organized a roundtable discussion to commemorate International Women's Day on March 8 at Fordham Law School on "Women's Human Rights Issues." Professor Deborah Anker, clinical professor of law and founder and director of the Harvard Law School Immigration and Refugee Clinical Program (HIRC), spoke at the event.
- On March 14, at Fordham Law School, we hosted a historical reenactment of "22 Lewd Chinese Women: *Chy Lung v. Freeman*," an immigration case that reached the Supreme Court in the 1870s. Second Circuit Court of Appeals Judge Denny Chin (co-author of the reenactment script) presided over the reenactment, which had 28 participating actors and was filmed.
- This coming April 12-13, we will co-sponsor with the FBA D.C. Chapter the annual International Conference on Legislation and Law Reform at American University.
- We are organizing two co-sponsored programs with the FBA Intellectual Property Section and the FBA Securities Law Section.

The FBA ILS was proud to edit the March 2018 *TFL* issue on International Law. We published a series of articles covering a broad range of topics, including "Lessons From Picasso's Copyrights: Pleading, Proving, and Arguing Foreign Law in U.S. Courts" and "International Human Rights Law and Discrepancies

Editorial Policy

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The views expressed in *The Federal Lawyer* are those of the authors and do not necessarily reflect the views of the association or of the Editorial Board. Articles and letters to the editor in response are welcome.

With Recent Jurisprudence and U.S. Asylum Law”, plus student member articles like “The Right to Education in the United States and Abroad: A Comparative Analysis of Constitutional Language and Academic Achievement” and “Labor Rights in Cambodia and Female Construction Workers”. We were pleased to include a number of law student members in the publishing process.

The FBA ILS actively supports the FBA’s Special Task Force on Diversity and Inclusion and wants to call particular attention to a Nov. 7, 2017, report issued by the New York State Bar Association

House of Delegates that said that “women attorneys remain considerably underrepresented in courtrooms across the state as well as in alternative dispute resolution ... [and] comprise about 25 percent of attorneys in lead counsel roles in courtrooms statewide.”¹¹ ◉

Endnote

¹¹N.Y. STATE BAR ASS’N, IF NOT NOW, WHEN? ACHIEVING EQUALITY FOR WOMEN ATTORNEYS IN THE COURTROOM AND IN ADR (Nov. 2017), <http://www.nysba.org/WomensTaskForceReport>.

At Sidebar *continued from page 5*

In Sum

These cases are but a few examples of the far reach of Indian law. Attorneys must be aware of the potential for Indian law to affect their own practices, through a specific case itself or in companion litigation. Thankfully, the Federal Bar Association has a robust Indian Law Section that offers members an opportunity to learn about various aspects of the topic, interact with experts in the field, and engage in dialogue that could actually impact the development of the field. Key resources include *Cohen’s Handbook of Federal Indian Law*, the *Indian Law Reporter*, William Canby’s *American Indian Law in a Nutshell*, and the “Turtle Talk” blog from the Michigan State University College of Law.¹³ But with that said, Indian law is an incredibly complex topic, making it quite difficult to be sufficiently educated through self-study. It is essential for the practitioner to recognize when to turn to specialists or obtain additional training.¹⁴ ◉

Endnotes

¹Lindsay G. Robertson, *Teaching Indian Law*, 54 ST. LOUIS U. L.J. 891, 891 (2010). Professor Robertson is director of the American Indian Law and Policy Center and Chickasaw Nation endowed chair in Native American law at the University of Oklahoma College of Law.
²*Murphy v. State*, 54 P.3d 556, 560 (Okla. Crim. App. 2002); *Murphy v. State*, 66 P.3d 456, 458 (Okla. Crim. App. 2003).
³*Murphy v. Royal*, 866 F.3d 1164, 1169 (10th Cir. 2017) (opinion amended and superseded on denial of rehearing en banc by *Murphy v. Warden*, No. 07-7068, 2017 WL 5181761, at *4 (10th Cir. Nov. 9, 2017)).
⁴*Murphy v. Warden* 2017 WL 5181761. at *4.
⁵Petition, *Comanche Nation of Okla. v. Zinke et al.*, CIV-17-887-HE (W.D. Okla. Aug. 17, 2017), <https://www.indianz.com/IndianGaming/2017/08/21/14914080121.pdf>. See also Jacob McClelland & Molly Fleming, *How a Recent Court Decision Could Affect Casinos on Tribal Lands*, KGOU (Oct. 5, 2017), <http://kgou.org/post/how-recent-court-decision-could-affect-casinos-tribal-lands>.
⁶See e.g., *Adams v. Eagle Road Oil*, CJ-2016-78 (Pawnee Cnty., May 17, 2016); *Reid v. White Star Petroleum*, CJ-2016-543 (Payne Cnty.,

Dec. 5, 2016); *Sierra Club v. Chesapeake Operating*, CIV-16-134-F (W.D. Okla. Feb. 16, 2016).

⁷Petition, *Pawnee Nation of Oklahoma v. Eagle Road Oil LLC*, CIV-2017-003 (Pawnee Nation Dist. Ct. Mar. 3, 2017), <http://www.pawneenation.org/files/2017/Tribal-Court-Case.pdf>.

⁸Brandi Ball, *Pawnee Earthquake Suit Given Go-Ahead in Tribal Court*, CLEVELAND AM. (Nov. 1, 2017), http://www.thelevelandamerican.com/news/pawnee-earthquake-suit-given-go-ahead-in-tribal-court/article_e5597990-bf2c-11e7-bf15-e35008182e81.html.

⁹*Adoptive Couple v. Baby Girl*, 570 U.S. ___, 133 S. Ct. 2552, 186 L.Ed.2d 729 (2013).

¹⁰*R.P. & S.P. v. Los Angeles Cnty. Dep’t of Children & Family Servs., et al.*, No. 16-500 (Cal. Ct. App. 2016).

¹¹*In re Alexandria P.*, 228 Cal. App. 4th 1322, 176 Cal. Rptr. 3d 468 (2014); *In re Alexandria P.*, 1 Cal. App. 5th 331, 204 Cal. Rptr. 3d 617 (Ct. App. 2016), *review denied* (Sept. 14, 2016), *cert. denied sub nom. R. P. v. Los Angeles Cnty. Dep’t of Children & Family Servs.*, 137 S. Ct. 713, 196 L. Ed. 2d 580 (2017).

¹²See generally Forrest Hanson, *Supreme Court WON’T Hear Case of Girl With 1/64 Indian Heritage Who Was Forcibly Relocated From the Foster Family That Tried to Adopt Her*, UK DAILY MAIL (Jan. 9, 2017, 2:37 PM), <http://www.dailymail.co.uk/news/article-4103136/Supreme-Court-wont-hear-American-Indian-girls-custody-case.html>.

¹³Additionally, the University of Washington School of Law provides a concise research guide on Indian Law. *Indian & Tribal Law Research*, UNIV. OF WASH. SCH. OF L. (updated July 22, 2015), <http://lib.law.washington.edu/ref/indian16.html#uw>.

¹⁴Of particular interest is my alma mater’s offering of an M.L.S. in indigenous peoples law, which can be completed entirely online, allowing a participant to gain a thorough understanding of both the fundamentals and current issues in Indian law in 15 months. See *M.L.S. in Indigenous Peoples Law*, UNIV. OF OKLA. COLL. OF L., <http://www.law.ou.edu/academics/programs/mls-program/mls-indigenous-peoples-law> (last visited Jan. 17, 2018).

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