

## Native American Group Of The Year: WilmerHale

By **Christine Powell**

*Law360, New York (January 30, 2018, 3:27 PM EST)* -- In the past year alone, WilmerHale's attorneys have struck favorable settlements for five bands of Mission Indians, the Tohono O'odham Nation and the Jicarilla Apache Nation in water, land and natural resources disputes, earning the firm a spot among Law360's Practice Groups of the Year.

WilmerHale does not have a formal Native American practice group — rather, its approach to the area is an interdisciplinary and highly collaborative one, according to partner Danielle Spinelli.

Roughly 50 lawyers from the firm's litigation, appellate, regulatory, securities and other departments represented Native American clients throughout 2017, she said, most of whom are based either in its Washington, D.C., or Denver offices.

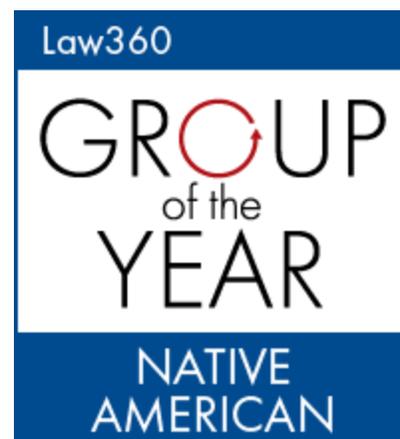
Spinelli — who, in addition to being vice chair of WilmerHale's appellate and U.S. Supreme Court litigation practice, is one of the core attorneys working on the firm's Native American practice — said that it is a top priority and growing area that now stretches far beyond the high-stakes litigation it tended to focus on in its early days.

"We've had a number of really important hires in recent years and we've been making very conscious efforts to broaden our capabilities and to deepen our bench so that we can handle as many as possible of the really complicated issues that tribes are faced with," she said.

Among those hires are former U.S. Department of the Interior Secretary Ken Salazar and former U.S. Solicitor General Seth Waxman, who head up the Native American practice, as well as former Interior Department officials Tom Strickland and Mike Connor.

"What that's done is given us a real critical mass of former high-level Interior Department officials that has been extremely important in expanding the breadth of the practice," Spinelli said. "We now do a lot of things in addition to litigation, including regulatory and legislative work, internal investigations and negotiating major settlements, which tend to require a combination of skills. At this point, we feel as though we're pretty well-positioned to handle almost any problem a tribal client might have."

Indeed, the firm recently obtained a historic settlement, which became effective in May, for five bands



of Mission Indians and two non-Native American Southern California entities in water rights litigation among themselves and the federal government.

The dispute itself stretched back a century, while the litigation stretched back to 1969 and involved parallel Federal Energy Regulatory Commission proceedings and a trip to the Supreme Court.

"We worked with the Department of the Interior and the [Department of Justice] to resolve the United States' objections to the settlement and then worked with Congress to get legislation passed effectuating the settlement," Spinelli said.

"That matter really highlights the interdisciplinary and cross-cutting feature of the practice, because in addition to substantive knowledge about federal Indian law and water law, it also required really high-level negotiation skills, creativity and the ability to navigate a complicated regulatory and legislative process," she added, noting how proud the firm is of the final result.

Also in May, WilmerHale helped the Tohono O'odham Nation ink a deal with the state of Arizona that put to rest the final dispute over its plan to open a Las Vegas-style casino near Phoenix. Under the settlement, the tribe can offer Class III gaming at the facility but nowhere else in the Phoenix metropolitan area.

The firm had been representing the tribe in challenges to its plans since 2010, and guided it to victory in five separate federal lawsuits that prompted three Ninth Circuit appeals.

Both the litigation with the state and the settlement negotiations were rather challenging and sometimes contentious, Spinelli said, in part because both the tribe and the state are sovereigns and, as a result, there were dueling sovereign immunity claims.

"We're really happy that we were able to help the client achieve its goal, and that now it should be able to generate revenues that will support some of the things its people really need very badly, such as housing and health care and education," she said.

Additionally, WilmerHale assisted the Jicarilla Apache Nation in scoring \$124 million to resolve its claims that the federal government had botched the investment of its assets and mismanaged its timber and other natural resources.

After the tribe prevailed in the first phase of trial, the firm worked tirelessly on negotiations with the DOI and DOJ to reach the settlement shortly before the second phase was set to begin.

The tribe received the funds in December 2016 and plans to put the money toward economic development opportunities.

According to Spinelli, a key factor in the practice's success is the way in which she and her colleagues work together.

"We have a very collaborative practice that I think is well suited to addressing the kinds of interdisciplinary legal problems that tribes face today," she said. "We also all share a strong interest and engagement in protecting tribal rights and tribal interests."

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