

## GTB Highlights

Shortly after Judge Fox's October 26, 1979 order allowing GTB to intervene in the *U.S. v. Michigan* ("treaty-fishing") litigation, Bill Rastetter was recruited as litigation director of Michigan Indian Legal Services (MILS) specifically to represent GTB in this historic case. [See 1836 Timeline, [http://www.envlaw.com/images/02\\_19\\_14\\_1836\\_Treaty\\_Time\\_Line.pdf1.pdf](http://www.envlaw.com/images/02_19_14_1836_Treaty_Time_Line.pdf1.pdf) ] Because of his federal court litigation experience, Bill assisted the Native American Rights Fund in the appellate court briefs resulting in Judge Fox's decision being upheld on appeal. [1981 Brief] For the past three decades Bill as a sole practitioner has represented GTB in many aspects of this litigation including the 15-year 1985 & 20-year 2000 consent decrees (allocation agreements) for the Great Lakes as well as the litigation involving "inland" fishing, gathering, and hunting rights confirmed in the 2007 consent decree.

GTB's second federal court lawsuit drafted and supervised by Bill as MILS litigation director resulted in the December 23, 1980, decision against the federal Housing and Urban Development agency reinstating a grant for construction on the Tribe's first headquarters (now used for the Tribal Court). *Leelanau Indians, Inc. v U.S. Dept. of Housing & Urban Dev.*, 502 F.Supp. 741 (W.D. Mich. 1980). In 1982 Bill resigned from MILS so that he could advise GTB's Tribal Council not to follow other legal advice; instead Council authorized Bill to file GTB's third federal court lawsuit asserting control over the "Indian community trust lands" in the Peshawbestown. On January 30, 1985, the federal court ruled in favor of GTB. [Jan. 30, 1985 Opinion]. In 1987 Leelanau County initiated another dispute with GTB, challenging the effort to gain federal trust status for the Peshawbestown lands where Indian housing was planned. The County lobbied in Washington and hired a Grand Rapids law firm to file a federal court lawsuit; once again Bill as a sole practitioner successfully defended GTB [1987 Memo in Support of Motion for Declaratory Judgment].

In 1984 Bill drafted the Gaming Code providing legal justification for GTB's first casino games which began in September of that year. Soon GTB became embroiled in a series of four federal court lawsuits in which the federal and state governments sought to enjoin GTB's casino gaming. In the first two lawsuits<sup>1</sup> Bill represented GTB by himself, and then assisted John Petoskey in the next two lawsuits after John moved back home in 1987 and became General Counsel. Bill drafted the 1996 complaint in the fourth lawsuit involving the legality of the Turtle Creek casino; in addition to assisting GTB's team of lawyers during the 8-years of this litigation, Bill's affidavit testimony was cited by the federal court in support of GTB's victory [*Grand Traverse Band of Ottawa & Chippewa Indians v U.S. Attorney for W. Dist. of Michigan*, 46 F.Supp.2d 689 (W.D. Mich. 1999); *Grand Traverse Band of Ottawa & Chippewa Indians v U.S. Attorney for W. Dist. of Michigan*, 198 F.Supp.2d 920 (W.D. Mich. 2002)].

Bill also successfully represented GTB by himself in litigation establishing the Tribe's right to use the public marinas at Leland and Northport for access to exercise 1836 Treaty-reserved fishing rights. The federal district court's 1995 ruling for GTB was upheld on appeal in 1998 [*Grand Traverse Band of Ottawa & Chippewa Indians v Director of Michigan Dept. of Nat. Res.*, 971 F.Supp 282 (W.D. Mich. 1995); *Grand Traverse Band of Ottawa & Chippewa Indians v Director of Michigan Dept. of Nat. Res.*, 141 F.3d 635 (6<sup>th</sup> Cir. 1998)]. GTB also received an attorney's fees award that later was used as the "war chest" to retain expert witnesses in preparation for possible litigation over allocation of the Great Lakes fisheries resources. Both

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<sup>1</sup> The federal court's ruling in the second lawsuit was prompted by GTB's argument supported by affidavits of the Tribal Chairman and Tribal Manager.

the district court and court of appeals recognized Bill's expertise in federal court civil litigation and federal Indian law<sup>2</sup> [*Grand Traverse Band of Ottawa & Chippewa Indians v Director of Michigan Dept. of Nat. Res.*, 149 F.3d 1183, 1998 WL 385891 (6<sup>th</sup> Cir. 1998)].

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<sup>2</sup> This award at the then(1995)-prevailing rate (\$175.00/hr.) for a lawyer of Bill's expertise was a \$100.00 *more* per hour than the rate Bill charged GTB, reflecting his public interest commitment; today Bill's rate for GTB remains \$100.00/hr. below his rate for other clients.