



# Rodney Lewis '62

## Tribal Counsel

The Gila River winds along a sunny Arizona stretch of the Sonoran Desert south of Phoenix, bringing water and lending its name to two tribes of native Americans living along its banks—the Pimas and the Maricopas—which together form the Gila River Indian Community, a reservation of nearly 600 square miles with 20,000 members, which has been heralded by many to become the breadbasket of Arizona, thanks in large part to attorney Rodney Lewis '62.

Lewis not only helped to engineer the Arizona Water Settlements Act of 2004 that reestablished water access lost there to settlers, starting more than a century ago, but he also defended the community's freedom at the highest judicial level in the land from a state tax levy and thus became the first American Indian to present oral arguments before the U.S. Supreme Court.

Much has changed since Lewis, himself a Pima, was a young boy living on the reservation, watching families arrive at community events in wagons and on horseback, throwing their reigns on hitching posts, "like in a cowboy movie," he recalls. But in today's Gila River—birthplace of the late Ira Hayes, a Pima who was among the five US Marines and a Navy corpsman who raised the flag on Iwo Jima—"you would find many of the same attributes that people in Phoenix have: similar houses, similar clothing, similar cars of course, and buildings. It would just be like another town here in Arizona, except that all the citizens were Indian."

As a result of the Water Settlements Act, the community is enjoying a steady stream of water, as well as federal funds to help develop its water delivery systems, making it possible for members to put in more acreage and grow more crops in order to feed not only themselves but a growing

metropolitan Phoenix population, says Lewis, who retired as general counsel of the community in 2005 after 33 years of service, and is now associated with Akin, Gump, Strauss, Hauer and Feld, Washington, D.C.

Many years before the water negotiations were completed, Lewis was barely out of law school at UCLA and serving as a Gila River staff attorney, when he found himself faced with a legal issue dealing with tribal



sovereignty—an attempt by the state of Arizona to charge a tax on a sale of tractors to the community's farm division.

It was a classic case, he says; the relationship of states and Indian tribes, and who has jurisdiction over what. But for Lewis, the stakes were even higher. "As you go into these things you are very, very conscious of the downside if the case goes against you—because one thing about Indian cases is their pervasive effect: All tribes in the country are affected. If you did lose a case, it would have a detrimental effect on tribes throughout the country."

On its way to Washington, the case that would be called *Central Machinery Co. v. Arizona State Tax Commission* had even passed in front of the bench of then-Arizona Superior Court Justice Sandra Day O'Connor, who ruled in the community's

favor, before the state appealed. And so on a warmer-than-average January morning in 1980, Lewis took a very historic step, straight into the Warren Burger court.

"There was a weight of responsibility—representing tribes from across the country—but I was put at ease almost immediately by Justice Burger, who was warm and open, and inviting argument, and very placating," remembers Lewis, who says the Supreme Court in general "is not a friendly court: Everything is very formal and dignified. Everyone is on their best behavior. And as soon as you start your introduction, they start asking questions, and you've got to understand quickly what they're really asking."

"Walking in there was the most intense, emotionally involved moment of my career. Many of the Justices were very intense. I'm not sure they were even that concerned about my responses. They just wanted to get their questions out in the open. I was really sort of a funnel of information between the justices through which they were making their points and arguments to each other."

Lewis, who is married to Willardene M. Lewis, whom he met on the reservation and with whom he has three adult children, says of the case, that as much as anything "We were there at the right time, when the court wanted to make some decisions about the taxing authority of the states in general and of the authority of tribes."

And it was close, but in the end, a 5/4 decision gave the victory to Lewis and the Gila River Indian Community, as well as tribes across the United States. The first member of an Arizona Indian tribe to become a member of the State Bar of Arizona also became the first native American to win a case before the U.S. Supreme Court.

*Mark Mattox*