

Native American Law MVP: Akin Gump's Donald Pongrace

By **Andrew Westney**

Law360, New York (December 21, 2016, 8:33 PM EST) -- Donald R. Pongrace of Akin Gump Strauss Hauer & Feld LLP has represented tribes in high-profile litigation and policy battles throughout the year, including wrapping up one of the largest-ever Indian water rights settlements, winning him a place on Law360's 2016 list of MVPs for Native American law.

Pongrace, who heads the firm's American Indian law and policy group as well as its overall public law and policy practice out of Washington, D.C., draws on Akin Gump's powerhouse status as a lobbying firm in the capital to help serve tribal clients nationwide.

"The overlay of law and policy has led to the aphorism that 'All roads in Indian Country lead to Washington,'" Pongrace said. "As a result, it's a natural place for law firms with a policy practice to undertake work around the country."

In June, the settlement of the Crow Nation's water rights, which provides \$460 million in direct benefits to the tribe, became fully enforceable, marking the culmination of a decade of work by a Pongrace-led team on behalf of the tribe both in Washington and in Montana, where the tribe's reservation is located.

That process featured local-level work, including negotiating infrastructure agreements for an irrigation project on the Crow Reservation and establishing a local water rights office, to pressing in D.C. for the passage of the Crow Tribe Water Rights Settlement Act of 2010 to address the tribe's longstanding claims against the federal government.

For many tribes, "water is life," Pongrace said, noting that tribes "put an enormous importance on water supply that goes beyond what a city or state planner may do."

Pongrace has been with Akin Gump for decades, including a stint from 1989 to 1993 as the managing partner of the firm's Brussels office before returning to Washington.



Donald R. Pongrace
Akin Gump

Over that time, he has built longstanding relationships with many tribal clients, which he says have been important in establishing the firm's reputation in Indian Country.

"It's part of the investment in the equation. You have to prove loyalty in relationships where you choose a side," Pongrace said. "That's been one of our hallmarks since the beginning of the practice."

One of Pongrace's oldest clients is the Gila River Indian Community, for which he's gone to bat at the federal and state levels on numerous issues. One matter that came up this year was an effort to revise Arizona's tribal gaming compacts to limit gambling in the Phoenix area.

Akin Gump recently worked with the office of Arizona Gov. Doug Ducey to amend the state gaming compacts to allow tribes who have signed on to pursue Las Vegas-style gaming on their reservations in exchange for agreeing not to build any casino in the Phoenix metro area in the future.

That effort, which could resolve the long-running litigation around the Tohono O'odham Nation's casino in the Phoenix suburb of Glendale by leaving it as the only tribal casino in the area, is a bid "to create a win-win out of negative situation" and try to move past what the Gila River tribe sees as the breaking of the Tohono O'odham tribe's promise not to build an off-reservation casino near Phoenix.

Elsewhere, Pongrace's work paid off for another long-term tribal client in November 2015, when Akin Gump closed out a years-long audit by the Internal Revenue Service — which could have cost the tribe almost \$70 million per year — with no liability.

As Indian Country faces a transition to a new Republican presidential administration, Pongrace said that he doesn't expect a dramatic shift in administration policy and anticipates that tribal leaders will continue to be pragmatic in dealing with the federal government.

"Tribes won't be simply sitting on the sidelines wishing there were a different outcome to the election," Pongrace said. "They'll do what they've always done, which is adjust and work with those who help them serve their people."

--Editing by Jill Coffey.