DrummondWoodsum

ATTORNEYS AT LAW

Kaighn Smith, Jr.

Attorney

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Bio

Kaighn "has an outstanding reputation. He is a nationally prominent practitioner in [the field of Native American law]."
Chambers USA

Kaighn Smith Jr. has been fighting for Tribal Nations and their enterprises in the tribal, federal, and state courts and before federal administrative agencies across the country for over 30 years. He has garnered a national reputation for his committed advocacy for tribal sovereignty, winning cases in a wide range of areas, including jurisdiction disputes, gaming matters, labor and employment relations, and land-in-trust and environmental matters. He regularly teaches federal Indian law as an adjunct professor, publishes articles in peer-reviewed law journals, and speaks at national conferences.

Kaighn's recent cases include representing the National Congress of American Indians and ten other inter-tribal organizations before the Supreme Court as *amici curiae* in *Yellin v. Confederated Tribes of the Chehalis Reservation,* to fight for the allocation of COVID-19 relief funds to tribal governments. He represented the Penobscot Nation for 12 years in protracted federal court litigation over the Nation's reservation hunting and fishing rights in the Penobscot River.

Kaighn is particularly well-known for his advocacy of tribal sovereignty in the area of labor and employment regulation. He is the author of the leading treatise, *Labor and Employment Law in Indian Country* (2022), jointly published with the Native American Rights Fund, the new edition of which has just been released.

Practice Areas

Employment & Labor
Environmental & Natural Resources
Litigation
Appellate
Business & Commercial Litigation
Tribal Nations Law

Admissions

Keweenaw Bay Indian Community Tribal Court
Little River Band of Ottawa Indians Tribal Court
Mohegan Tribe Gaming Disputes Court
Passamaquoddy Tribal Court
Penobscot Nation Tribal Court
Pokagon Band of Potawatomi Indians Tribal Court
Pueblo of Laguna Tribal Court
Pueblo of Zia Tribal Court
Shoshone and Arapahoe Tribal Court
Snoqualmie Tribal Court
Suquamish Tribal Court
U.S. Supreme Court
U.S. Court of Appeals for the District of Columbia Circuit

Kaighn is listed in national independent peer-based attorney guides, including *Best Lawyers in America* and *Super Lawyers. Chambers USA* has awarded Kaighn its highest national ranking for his Native American Law practice, listing him among the top practitioners (Band 1) in the United States.

Kaighn is an elected member of the American Law Institute, and from 2012 to 2021 served as Associate Reporter (with Professors Matthew Fletcher and Wenona Singel) in drafting the ALI's recently approved *Restatement of the Law of American Indians.*

In 2021, Cornell Law School awarded Kaighn its Distinguished Practitioner in Residence Fellowship. While at Cornell, he designed and taught *The Law and Colonization in Indian Country* and supervised students on research and conference programming on Indigenous nations and climate change.

Education

University of Maine School of Law, J.D., 1986

University of Sussex, M. Phil., *with honors*, 1983

University of California Berkeley, B.S., *phi beta kappa*, 1979

Judicial Clerkships

Hon. Frank M. Coffin, U.S. Court of Appeals for the First Circuit

Hon. Louis Scolnik, Maine Supreme Judicial Court

Representative Clients & Matters

- *Yellin v. Confederated Tribes of the Chehalis Reservation*, 141 S. Ct. 2434 (2021) (whether Alaska Native Corporations entitled to CARES Act Funds targeted for tribal governments; representing the National Congress of American Indians and ten other inter-tribal organizations)
- *Penobscot Nation and United States v. Maine Attorney General, et als*, 3 F.4th 484 (1st Cir. 2021) (hunting and fishing rights; reservation boundaries)
- *Moyant v. Petit*, 2021 ME 13, 247 A.3d 326 (securing exclusive tribal court jurisdiction over contract and tort claims)
- *Rassi v. Federal Program Integrators*, 69 F.Supp.3d 288 (D. Me. 2014) (securing tribal court exhaustion)
- *Francis v. Dana-Cummings*, 962 A.2d 944 (Me. 2008) (securing exclusive tribal court jurisdiction over tort claims)
- *Taxpayers of Michigan Against Casinos v. State of Michigan, 732 N.W.2d 487 (Mich. 2007)* (securing compact validity)

- *TOMAC v. Norton, 433 F.3d 852 (D.C. Cir. 2006) (securing land into trust)*
- *Inyo County, California, et al. v. Paiute-Shoshone Indians of the Bishop Community*, 538 U.S. 701 (2003) (amicus brief team)
- *Penobscot Nation v. Fellencer*, 164 F.3d 706 (1st Cir. 1999), cert. denied, 527 U.S. 1022 (1999) (securing exclusive tribal jurisdiction over civil rights dispute; freedom from application of state law)
- *Akins v. Penobscot Nation,* 130 F.3d 482 (1st Cir. 1997) (securing exclusive tribal jurisdiction over civil rights dispute; freedom from application of federal and state law)

Recognition

Best Lawyers USA, Native American Law 2008-2026

New England Super Lawyers, Native American Law, Employment & Labor 2011-2026

Chambers & Partners, USA Guide, *Nationwide, Native American Law, Senior Statespeople*

Martindale Hubbell, BV Distinguished

Publications

Books

Labor and Employment Law in Indian Country (Native American Rights Fund 2022)

Articles

When Congress Forgets: Breaking Through Congress's Failure to Mention Indian Tribes in Federal Employment Laws, The Federal Lawyer (2021)

Nuances and Challenges of Protecting Tribal Sovereignty, in Inside the Minds: Best Practices for Protecting Natural Resources on Tribal Lands, Aspatore Books, Thompson Reuters (2016)

The Next Century of Federal Indian Law: A Moderator's Perspective, The Federal Lawyer (April 2011)

Tribal Self-Determination and Judicial Restraint: The Problem of Labor and Employment Relations within the Reservation, Michigan State Law Review (2008)

Ethical Obligations and Affirmative Tribal Sovereignty: Some Considerations for Tribal Attorneys, in 31st Annual Federal Bar Association Indian Law Conference – Active Sovereignty in the 21st

Century Course Materials (2006)

Federal Courts, State Power, and Indian Tribes: Confronting the Well Pleaded Complaint Rule, New Mexico Law Review (2005)

Fighting for a Federal Forum in Indian Sovereignty Cases, The Federal Lawyer (2002)

Memberships

American Law Institute, *2007-present*

Maine Bar Foundation, *2005-present*

Maine Bar Journal
Editorial Advisory Committee, 1989-2001/ Chief Editor, 1999-2001

Edward T. Ginoux Inns of Court
Senior Attorney, 1999-2001

Maine State Bar Association

Community/Public Service

University of Michigan School of Law, Legal Issues in Tribal Economic Development
Adjunct Professor

Cornell School of Law, The Law and Colonization in Indian Country
Distinguished Practitioner in Residence Fellow

University of Maine School of Law, American Indian Law
Adjunct Professor

National Ski Patrol, Sugarloaf Mountain; Stub Taylor, Pat Murphy Award (2008)
Alpine Patroller (1998-2010)

Portland Public Library Board of Trustees
Member (2003-2010)

Portland Public Library Executive Director Search Committee
Chair (2005)