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I was the lead counsel in *United States v. Michigan*, which was the first major treaty rights litigation in the upper Great Lakes, followed by *Voigt*, of course, and followed by *Mille Lacs*. The benefit that you have here is that you have essentially lead counsel in all three of those incredibly important cases.

But before I speak for a few minutes about the case, I just wanted to tell you how privileged I feel to be here celebrating this great milestone in GLIFWC's history. GLIFWC is a very special organization and it's a pleasure to be here to honor it, but when you honor GLIFWC you also, of course, honor the tribes that have been participating in GLIFWC over the years and the tribal leaders that have participated in supporting GLIFWC. This is an amazing institution which now gets to be referred to as a venerable institution. So it's a critically important event here today and everyone in this room should be proud because everyone in this room in some way or another has been a part of that amazing institution.

U.S. v. Michigan was the first case and it was an important case. It came at a rather fortunate time in the early to mid to late 1970s, a time when the judicial system seemed to be more sensitive and favorable to these kinds of cases. That doesn't appear to be the situation any longer. And as I will explain, I think that makes in many ways the *Mille Lacs* litigation, which was handled in large part by Marc Slonim, an even more remarkable decision because it came in a climate when the judicial system was quite hostile to these cases and, indeed, if you were to do a win/loss count in the Supreme Court over the last, 20 years, the *Mille Lacs* case is one of the few that was able to survive.

We had it a little easier in *U.S. v. Michigan* for a number of reasons. The first of which is that in this case, unlike *Mille Lacs* and *Voigt*, you'll notice the lead client was the United States of America. We were co-counsel with the United States, but it came at a time when the system for bringing this kind of litigation was very different. *U.S. v. Michigan* was launched by the U.S. Attorney in the Western District of Michigan. For those not familiar with the Justice Department, there's a certain autonomy associated with being a US Attorney even though they're part of the Department of Justice and take orders from D.C. But these days, in order to file a lawsuit like *U.S. v. Michigan* you would have spent a great deal of time in Washington D.C. on your hands and knees wearing out your kneepads trying to beg the United States to bring the lawsuit.

U.S. v. Michigan was filed in 1973 by a U.S. Attorney named John Milanowski who had a special interest in tribes and Indian people and indeed spent some time at the Bay Mills Indian Community. He was a kind of a notorious figure because he was described by many as coming to Bay Mills and walking around the reservation, meeting with the elders and tribal leaders and passing out shiny new pennies to Indian children. He was concerned. He understood what was happening to treaty fishermen who were fishing and exercising their rights and were being arrested by the Department of Natural Resources. He brought *United States v. Michigan* in 1973.

After having brought the lawsuit, however, I must confess, with all due respect to John Milanowski, I'm not sure that he really knew what to do with the lawsuit at that point. He kind of filed it and then he sort of kind of crossed his fingers and hoped things would go okay. And a few years later when the case had been sitting fairly quietly for two years, I got involved in the case, along with some incredibly wonderful attorneys. We had a great team

effort. One of them is a man named Dan Green, who's just walking in now. Kathryn Tierney was also co-counsel and Jim Jannetta was co-counsel. We had a terrific attorney from the Field Solicitors office in Minneapolis named Eleanor Nitchke, who represented the Interior Department and was very instrumental in the success of the litigation. And then we were fortunate enough to have some amazing expert witnesses; probably the most prominent of which was Charles Cleland, but also Helen Hornbeck Tanner, a very fine historian and anthropologist.

So here we were in 1973. There really was one other major precedent going on about the same time that preceded us slightly and that was *U.S. v. Washington*. We had a U.S. Attorney who was obviously interested enough in the case to file it, but then turned it over to us. And one of the things that I find interesting, that you don't see any more today, that if you review the briefs in *U.S. v. Michigan* you will see a list of the attorneys and the Tribes they represent and of course the United States of America is also listed on all of the pleadings, but if you look at all these pleading you will see that almost everyone is signed by me. This may not seem like much, but these days the United States is all over these cases, and wouldn't dream of letting anybody sign a brief in the name of the United States, and so as a result we had a great deal of influence over the course of the litigation.

We were also fortunate to have an amazing Judge, Judge Noel P. Fox. And Judge Fox has passed away probably 20 or 25 years ago. He was very sympathetic to the case, to the decision. I was rereading it a little bit; I must say it's a bit daunting. It's in the Federal Supplement and it's about 75 pages long, double column. It reads like a history lesson and I think Judge Fox had a sympathetic eye and ear towards what we were trying to do. He wrote a very impassioned decision. He was a very religious man. He would leave every day at noon and go to mass near the courthouse in Grand Rapids. If you read the opinion you'll see the fervor that he had and the concern about the prior indignities, to say the least that had been committed upon Native American people. So, we were very fortunate in that regard.

We managed not only to establish the existence of the right throughout the Michigan waters of the Great Lakes generally including three-quarters of Lake Michigan, about half of Lake Superior, and about a quarter to a third of Lake Huron. We also were able to convince the court that the only entity that really ought to be regulating the exercise of the right were the Tribes themselves. And that was an astonishing result, especially in Michigan, which was very oppressive towards the treaty right and towards the regulation of resource.

We have obviously built up biological and law enforcement capacities since the decision; it's still not as magnificent as GLIFWC or as extensive as GLIFWC, but it does exist and it does assist the tribes in regulating the resource. *U.S. v. Michigan* was a kind of a huge source of pride to the tribes. And at the time, in the early '70s, most of these tribes had very little of anything. Bay Mills had a reservation going back a long ways. The Sault Ste. Marie tribe really didn't have much of any kind of a reservation. Grand Traverse came along later in the litigation. But the success of *U.S. v. Michigan* was really kind of a poster that attracted a lot of the attention that created a great deal of infrastructure for the tribes.

And one of the stories I was telling, I've told it before, so probably the people on the panel have heard it, but I'll tell you. My first client was the Bay Mill Indian Community, but I was also lead counsel for the Sault Ste. Marie Tribe. When I met for the first time with the Sault Ste. Marie tribe in 1975 in March, we were in a little double-wide garage. That was the only property that the Sault Ste. Marie Tribe had. It had a concrete floor, a light bulb at the end of a cord hanging down, a folding table against the wall and a couple of folding chairs and

we sat down with the tribal chairman, who I believe was the only employee of the tribe at the time. We sat down with Kathryn Tierney and Jim Jannetta, there may have been one or two other people there, I'm not sure, but it was just a handful of us. They unfolded the table and set it up in the middle of this garage. We were sitting with our down jackets on because it was March and we were freezing to death and there was no heat in the facility. And that was the sum total of the Sault Ste. Marie Tribe's infrastructure and employees. They had a two-car garage and one employee, the Tribal Chairman. Now today, of course, they have a significant amount of land in trust. They also have a number of economic enterprises including all of the facilities that you've come to know and expect them to have. At the time, a mere 35 years ago, none of that was there.

I truly believe that *United States v. Michigan*, which focused everyone's attention on the tribes and gave all the tribes a great sense of accomplishment that they could do something that their rights were to be recognized now by the federal courts. It spawned many, many other activities on the reservation, more grants, health clinics and schools. So the case was very important in that respect.

There are still battles to be fought and I think that everyone that's been involved in treaty rights can appreciate. But the battles are different now. In the '70s and '80s and through *Mille Lacs* litigation we were fighting to establish the existence of the right. A lot of hard work, a lot of people were involved, but we were very fortunate to do that. Now we don't have to worry about that so much, but what we do have to worry about is the resource and I think that's where GLIFWC, of course, comes in. First and foremost, the resource has to be protected and that's the way you fend off your adversaries, that's the way you beat back your critics who say the tribes can't do these things or they can't do them effectively or they spread whatever propaganda they can about the nature of the exercise of the right. So first and foremost, whatever is said, whatever negative things are said about the tribes with respect to the treaty resource, if you look at the resource and see that the resource is protected, that's the best insurance policy to keeping those rights really in perpetuity into the future.

But I just want to say, as I relinquish the microphone, congratulations to GLIFWC, to its longevity. Hopefully, next time we're together we'll be celebrating the next 25th anniversary, for those of us who are still around, and you have so much to be proud of. Tribal leaders, tribal biologists, conservation officers, this has always been a great team effort and I applaud you and congratulate you. Thank you.