Northern Arapaho Tribe v. Baldwin, Crocker & Rudd, P.C., --- P.3d ---, 2023 WL 6985839 (Wyo., Oct. 24, 2023).

- **Holding**: In dispute with former attorneys regarding return of funds in trust account, Tribe was not entitled to accounting under Wyoming Rules of Professional Conduct or under equitable principles, and the jury's verdict was affirmed after finding the Tribe failed to show the verdict would have been more favorable to the Tribe if certain racially charged evidence and argument had not been admitted.
- **Summary**: The Northern Arapaho Tribe and the Wind River Hotel & Casino (collectively the Tribe) filed suit against their former attorneys, Baldwin, Crocker & Rudd, P.C., (BCR), seeking injunctions for the return of tribal funds and documents, an accounting, and damages for conversion and civil theft.

  BCR acted as counsel for the Tribe on numerous matters from 1988-2019. While BCR initially provided detailed billing to the Tribe, it later, at the Tribe's request, modified its billing to show lump sum fees for various categories of work to avoid the possibility of information, including the names of families receiving legal services, from leaking into the public domain. Internally, BCR kept detailed billing records that were available for review by members of the Northern Arapaho Business Council (NABC), which served as the Tribe's executive branch.

  In 2019, a rift occurred between BCR and the Tribe after the Tribe employed Kilpatrick, Townsend and Stockton, LLP (KTS), a D.C. law firm, to perform an evaluation of the CEO of the Wind River Hotel & Casino. Several members of the NABC felt BCR was siding with the CEO instead of carrying out the wishes or express instructions of the Council, and they started to question whether BCR was acting in the best interests of the Tribe, and the NABC voted to terminate BCR's contract, and ordered BCR to return all tribal funds and documents. The Tribe hired an independent contractor to facilitate the transfer of funds to the Tribe, and the contractor confirmed that all funds in the trust account were returned to the Tribe. Nonetheless, the Tribe filed suit seeking return of all tribal funds and documents, and in a public meeting a KTS lawyer accused BCR of stealing funds from the Tribe. Ultimately, a jury determined that BCR did not convert any tribal funds.

  On appeal, the Wyoming Supreme Court reversed the award of Rule 11 sanctions to BCR, holding that BCR failed to serve the Tribe with the Rule 11 motion 21 days before filing and at hearing complained about different allegations than those it claimed were sanctionable in its motion.

  The Court affirmed the district court's grant of summary judgment to BCR on the Tribe's claim for an accounting under the Wyoming Rules of Professional Conduct, concluding that the Rules did not provide an independent cause of action for an accounting, but applied only if the Tribe had filed a legal malpractice claim, which the Tribe had not done.

  The Court also concluded that the Tribe was not entitled to an equitable accounting, because the Tribe had already received an adequate accounting because it "authorized each withdrawal from the trust account that it now challenges," and could not fulfill its

burden of showing that its conversion and civil theft claim was not an adequate remedy at law.

Finally, the Court rejected the Tribe's claim that BCR attempted to prejudice the jury against the Tribe by "presenting the dispute in starkly racial terms" and by presenting themselves as the "white lawyers" positioned against the "Native lawyers" of KTS and by extension the Tribe. While noting that the Court had historically expressed a "desire to remove illegitimate references to race from judicial proceedings to the fullest extent possible[,]" the Tribe failed to demonstrate a reasonable probability that the outcome of the trial would have been more favorable to the Tribe if the evidence and argument had not been admitted because the Tribe ultimately "failed to present any evidence BCR received payment for legal work it did not perform."

- **Relevant (2023) Deskbook Section**: None
- **Comment**: While the case involved a Tribe as plaintiff, it does not address any issues addressed in the Deskbook.