

**SAINT REGIS MOHAWK TRIBAL COURT  
IN AND FOR THE SAINT REGIS MOHAWK TRIBE**

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<b>Francine Gray, Daniel Jacobs,</b>	)	<b>Case No.: 18-CIV-00022</b>
<b>Plaintiff(s),</b>	)	
<b>v.</b>	)	<b>DECISION AND ORDER</b>
<b>Alicia Cook,</b>	)	
<b>Respondent.</b>	)	

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**Procedural Background**

On August 9, 2018, Francine Gray, Claimant, filed a written Complaint with the Court. The Respondent, Alicia Cook, filed an Answer denying allegations raised by the Claimant and a counterclaim on August 29, 2018.

On September 13, 2018, Francine Gray, Claimant, filed a Motion requesting a cease and desist order.

On September 18, 2018, Daniel F. Jacobs filed a Motion to Join the Plaintiff in this matter.

On September 20, 2018, Joseph Thompson filed a Motion to Join the Plaintiff in this matter.

On September 25, 2018, a status conference was held. Francine Gray, Claimant, and Alicia Cook, Respondent, were both in attendance and self-represented. Daniel Jacobs and Joseph Thompson were also in attendance. The Court requested that Daniel Jacobs and Joseph Thompson submit further information regarding their Motions to Join.

On October 15, 2018, the Court received a written request for an emergency injunction by Alicia Cook, Respondent. On October 17, 2018, the Court denied the Respondent's request for an Injunction through a written Decision and Order.

On November 1, 2018, the Court issued a Decision and Order granting Daniel Jacobs' Motion to Join the Plaintiff in this and made no ruling on Joseph Thompson's Motion to Join.

On November 16, 2018, a status conference was held. Claimants, Francine Gray and Daniel Jacobs, and Respondent, Alicia Cook were in attendance and self-represented.

On November 28, 2018, Claimant, Francine Gray, filed a clarification of her Complaint as requested by the Court and a Motion for a Judgment as a Matter of Law. On December 17, 2018, Alicia Cook, Respondent, filed with the Court an opposing Motion to the Claimant's request for a Judgment as a Matter of Law.

On February 20, 2019, the Court issued a Decision and Order granting Claimants' Motion for Summary Judgment with respect to Gray Bear Road and dismissed the Claimant, Francine Gray's, defamation claim. Furthermore, the Court determined that it can continue on Respondent, Alicia Cook's, counterclaims and ordered her to submit an amended counterclaim.

On March 8, 2019, Respondent, Alicia Cook, submitted an amended counterclaim to the Court.

On March 15, 2019, Claimant, Francine Gray, submitted a response to the Respondent's amended counterclaim.

On March 20, 2019, Alicia Cook, Respondent, filed an appeal with the Saint Regis Mohawk Court of Appeals appealing this Court's Decision and Order dated February 20, 2019.

On March 25, 2019, Alicia Cook, Respondent filed a Motion for a Stay of Execution.

On April 2, 2019, the Court held a hearing on Respondent's amended counterclaims. Francine Gray, Claimant, appeared and self-represented. Daniel Jacobs, Claimant, and Francine Gray, Respondent, were absent. Francine Gray, Claimant, filed a motion to dismiss. The Court issued a Decision and Order denying Respondent's Motion for a Stay of Execution of the Decision and Order dated February 20, 2019.

On May 1, 2019, the Court issued a Decision and Order denying Claimants' request for dismissal.

On May 23, 2019, Claimant, Francine Gray, filed a motion to dismiss with the Court.

On May 24, 2019, the Court held a trial on the matter of the Respondent's counterclaims. On the record, the Court denied the Claimant's motion to dismiss dated May 23, 2019. The Court heard and accepted testimony from Alicia Cook, Respondent, Francine Gray, Claimant, and Daniel Jacobs, Claimant.

On July 1, 2019, the Court issued a Decision and Order dismissing Alicia Cook, Respondent, counterclaims.

On July 30, 2020, the Saint Regis Mohawk Tribe Court of Appeals issued a decision reversing the Appellee's Motion for Summary Judgment and remanded the case back for a factual determination of two factual material issues.

On August 24, 2020, the Court held an appearance on this matter. Alicia Cook, Respondent, and Francine Gray, Plaintiff, were present and self-represented.

On September 11, 2020, Francine Gray, Plaintiff, submitted written requests for "a Discovery for any information received on my case currently reappealed and reopened in the St Regis Mohawk Tribal Court under Judge Carrie Garrow" and requested an extension of the date of submittal of information. Her request for an extension of time was granted.

On September 14, 2020, the Court held a pre-trial hearing on this matter. Francine Gray, Plaintiff, Daniel Jacobs, Plaintiff, and Alicia Cook, Respondent, were present and self-

represented. Johanne Sullivan, Esq., Colleen Thomas, Brent Herne, and Robert Henhawk were present to represent the Saint Regis Mohawk Tribe Planning and Infrastructure Department in regards to the waterline. On the records, the Court reviewed Francine Gray, Plaintiff's, requests dated September 11, 2020 and granted the request for an extension of time. During the pre-trial hearing, Alicia Cook, Respondent, verbally requested that the presiding Judge recuse herself because she "is against longhouse people" and has a bias against her. As a result, the Court set a submission schedule.

On September 14, 2020, Alicia Cook, Respondent, submitted her motion for a new Judge.

On September 25, 2020, Francine Gray, Plaintiff, submitted her response to Respondent's motion for a new Judge.

### **Discussion**

In regards to the issue at bar, Alicia Cook, Respondent, argues in her motion that Judge Garrow deprived her of due process of law, failed to analyze, interpret an official survey map, and that Judge Garrow has a bias perception against Longhouse people. To support her argument she points to the Court of Appeals decision and she states that she is "aware of complaints alleging bias against people of the Longhouse." The Court will first start with analyzing Respondent's claim that due process was not afforded to her. Lastly, the Court will address the issue raised alleging that Judge Garrow has a bias against individuals that participate in the Longhouse.

In her motion, Alicia Cook, Respondent, argues that she was not afforded due process and that Judge Garrow failed to interpret and analyze an official survey map. To support her argument she has attached a copy of the Court of Appeal's Decision and Order and underlined what she believes the pertinent information to support her argument. The Court notes that in the conclusion paragraph, it was noted that the Tribal Court Decision/Order granting Appellee's procedurally defective motion for a summary judgment was erroneous, deprived Appellant of due process of law.<sup>1</sup> That finding does not mean that Judge Garrow is unfit to preside over the matter. This assertion was a finding by the Court of Appeals. As a result, the case was remanded to the trial level to make factual determinations on two specific issues. Moreover, in her motion, Alicia Cook, Respondent, argues that the Court failed to interpret and analyze an official survey map. The Court notes that the survey map was not submitted during the trial on this matter and reminds the Respondent that it her responsibility to enter documents that she wishes to be considered. Based on the aforementioned, the Court finds that Judge Garrow is not required to recuse herself based on the due process claims put forth by Respondent. Next, the Court will analyze the bias claim.

Alicia Cook, Respondent, alleges that she is aware of complaints alleging bias against people of the Longhouse and that her participation in the Longhouse was raised by Francine Gray, Plaintiff. The Saint Regis Mohawk Tribe Code of Judicial Conduct (SRMT Code of

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<sup>1</sup> Alicia Cook v. Francine Gray, 19-CIV-00002, 12 (July 30, 2020).

Judicial Conduct) requires that a judge disqualify herself if her impartiality “might reasonably be questioned . . . where the judge has a personal bias or prejudice concerning a party. . .”<sup>2</sup>

Based on her Alicia Cook, Respondent’s, motion it is unclear of whether Respondent is contending that the complaints that she is aware of are part of cases currently pending before the Court of Appeals or are filed with the Judicial Oversight Commission. Rather, Respondent argues that Alicia Cook, Plaintiff, raised her participation in the Longhouse. In her civil complaint, Francine Gray, Plaintiff, stated that her father has had problems with this family in the past they have threatened him with “Bad Medicine” against him as they are part of a medicine society of the Longhouse. However, the issue raised regarding Respondent’s participation in the Longhouse was not litigated nor part of the decisions entered by Judge Garrow in this case. Moreover, the issue was never raised by Respondent during the course of proceedings. The Court notes that the Court of Appeals addressed a similar argument raised in the matter of *Loran Thompson v. Michelle Cole*.<sup>3</sup> As part of the appeal in *Thompson*, Mr. Thompson argued that Judge Garrow *may* be biased against community members who are members of the Longhouse known as the Kanienkehaka Kaianerehkowa Kanonhsesne and Warriors Society<sup>4</sup> and that she knew or should have reasonably known that Mr. Thompson’s participation in this longhouse and warrior society.<sup>5</sup> In *Thompson*, the Court of Appeals found no evidence to grant the appeal on the basis of the bias claim and in fact found the claims *baseless*.<sup>6</sup> The Court notes that it is aware that there is a complaint pending before the Judicial Oversight Commission; however, at this time no finding has been made by the Commission determining that Judge Garrow possesses a bias against members or those that participate in the Longhouse after more than two years of review.

In this case, Alicia Cook, Respondent, argues that a new Judge must be assigned to this case because Francine Gray, Plaintiff, raised her participation in the Longhouse and that there are alleged complaints filed against Judge Garrow arguing a bias against Longhouse people. As previously articulated, the record for this case demonstrates that Respondent’s participation in the Longhouse may have been included in the civil complaint, but this was not made an issue during the proceedings or included in a decision issued by the Court. Furthermore, a complaint being reviewed by the Judicial Oversight Commission does not mean that Judge Garrow has a bias. Thus, Judge Garrow is not required by the provisions of the SRMT Code of Judicial Conduct to recuse herself from presiding over this matter.

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<sup>2</sup> SRMT Code of Judicial Conduct § 5, D. 1.

<sup>3</sup> The Court notes that this is the only decision it could locate where a party alleged a bias claim regarding an individual’s participation in the Longhouse.

<sup>4</sup> The Court is aware that there is more than one Longhouse located within the borders of the territory. The Court is not asserting nor should it be taken to mean that the Court is stating that Alicia Cook, Respondent, belongs or participates in ceremonies at the Longhouse known as Kanienkehaka Kaianerehkowa Kanonhsesne or is a member of the Warriors Society by referencing this case. The matter of *Loran Thompson v. Michelle Cole* is the only case that has been issued that is relevant to the issue at hand. Thus, the Court uses it as part of its analysis.

<sup>5</sup> *Loran Thompson v. Michelle Cole*, 19-APP-0002, 4 (April 13, 2020) (emphasis added).

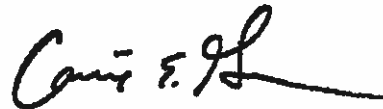
<sup>6</sup> *Id.* at 5.

**ORDER**

Based on the foregoing, it is **ORDERED, ADJUDGED AND DECREED** that Alicia Cook, Respondent's, motion for a new judge is **DENIED**; it is further **ORDERED, ADJUDGED AND DECREED** that the matter shall proceed with the following deadlines and dates:

1. The parties must complete discovery by **October 23, 2020**; and
2. The parties and their witnesses must appear for a trial on this matter on **October 27, 2020 at 10:00 a.m.**

Signed this 7<sup>th</sup> day of October, 2020.



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Carrie E. Garrow, Chief Judge  
Saint Regis Mohawk Tribal Court

*No later than ten (10) days after a judgment is final, a party may ask the Judge for a rehearing, reconsideration, correction vacation, or modification of the judgment. The parties have thirty (30) days from the entry of this Order to file an appeal with the Saint Regis Mohawk Court of Appeals.*