

**Saint Regis Mohawk Tribal Court**

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<b>Isaac Terrance, Michael Cook</b>	)	<b>Case No.: 14-LND-00005</b>
<b>Caleb Bradley, Phillip Terrance,</b>	)	
<b>Appellant(s),</b>	)	
	)	
<b>-V-</b>	)	<b>DECISION AND ORDER</b>
	)	<b>ON MOTION FOR</b>
	)	<b>RECONSIDERATION</b>
<b>Basil Cook, Guilford White,</b>	)	
<b>Appellee(s)</b>	)	

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**Procedural History**

On July 27, 2016 the Saint Regis Mohawk Tribal Court issued a decision and order in the land dispute matter before the Court.

The Apellees in the matter at bar requested clarification on the timing requirements for a motion for reconsideration in accordance with the Saint Regis Mohawk Tribe Rules of Civil Procedure Rule XXIII [Rule 20], Section XXV [Rule 22], and rules 60(b)(1 )(6) of the FRCP (Federal Rules of Civil Procedure).

On August 5, 2016 the Court issued an Administrative Order defining the timing requirements for a motion to reconsider a judgment issued by the Saint Regis Mohawk Tribal Court.

The Apellees filed a motion for reconsideration on August 10, 2016 in accordance with the Administrative Order issued on August 5, 2016 and the SRMT Rules of Civil Procedure.

A scheduling order was issued by the Court on August 11, 2016 in which the Appellants were notified of the filing deadline for a response to the motion for reconsideration.

On August 22, 2016 an Answering Affirmation to the motion for reconsideration was filed with the Court by the Appellants.

**Application of Law**

In the Apellees motion for reconsideration the Court was asked to not only apply certified SRMT Tribal Law when making this decision, but to also apply a portion of the Federal Rules of Civil Procedure.<sup>1</sup>

When considering a parties' request to apply a body of law outside of the certified laws of the Saint Regis Mohawk Tribe, we must look to the Saint Regis Mohawk Tribe Civil Code for

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<sup>1</sup> Appellee Memo in Support of Motion to Reconsider August 10, 2016.

guidance on applying laws which are outside the scope of the officially certified and adopted laws of the Saint Regis Mohawk Tribe.

In the request by the Apellees in the matter at bar we note that the SRMT Civil Code lays out in a hierarchal fashion the order in which the Court is to apply bodies of law. At the top of the list is the application of the Constitution of the United States and federal law.<sup>2</sup> The next precedential bodies of law to adjudicate cases for the Court are the written laws of the Saint Regis Mohawk Tribe.<sup>3</sup>

While utilizing federal law is allowable under the SRMT Civil Code, it is noted that at the time of the adoption of the SRMT Civil Code, application of the FRCP was given first priority because as it appears the SRMT Rules of Civil Procedure had not yet been adopted.<sup>4</sup>

It is clear that upon adoption of the SRMT Civil Code the Court must FIRST utilize the SRMT Rules of Civil Procedure in adjudicating this matter. A request for the Federal Rules of Civil Procedure to be applied in any case before this Court may be allowed, however, when our own Tribal Law provides guidance on an issue before the Court, that law MUST take precedence and be applied.

The Court finds that although application of federal law is allowable in this Court, SRMT Law provides instruction on a parties request for reconsideration of judgment, and there is no reason to apply federal law in place of Tribal Law in this instance.

### **Proceedings After Judgment**

The SRMT Rules of Civil Procedure clearly identify the tests that must be done by the Court to determine whether or not a judgment rendered should be reconsidered and modified or vacated entirely.<sup>5</sup>

The first test the Court must consider is,

"The original judgment was based on or reached as a result of fraud or mistake of law."<sup>6</sup>

There is no allegation made by the Apellees or the Appellants in this matter that the Court reached its conclusion in the original judgment as a result of fraud. The Court also cannot find that a mistake of law was made in the judgment rendered on July 27, 2016.

The second test required to be considered is,

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<sup>2</sup> SRMT Civil Code V (A)(1).

<sup>3</sup> SRMT Civil Code V (A)(2).

<sup>4</sup> SRMT Civil Code VI (A).

<sup>5</sup> SRMT Rules of Civil Procedure XXIII [Rule 20] (B)(1)(2)(3).

<sup>6</sup> SRMT Rules of Civil Procedure XXIII [Rule 20] (B)(1).

"There is newly discovered evidence which probably would have affected the outcome of the case and which could not, with reasonable effort, have been discovered in time for a hearing of the case."<sup>7</sup>

The Apellees in this matter have brought forth no new evidence in this motion for reconsideration. If there had been any newly discovered evidence brought forward by the Apellees, the Court would have considered that in the request for reconsideration.

Finally, the third test required when considering reconsideration is,

"The court did not have jurisdiction over a party or over the subject matter."<sup>8</sup>

At no point in the entirety of the original proceeding, nor at any point subsequent to the issuance of the judgment by the Court on July 27, 2016 has the issue of jurisdiction been raised by the parties.

Upon close examination of the tests the Court is required to conduct when appraising the value of a motion to reconsideration judgment, there is no basis to modify or vacate the judgment rendered on July 27, 2016 in this matter.

### Conclusion

Based upon the foregoing, there is no basis to apply federal law in this matter as SRMT Law discusses in detail what the Court must consider when reviewing a motion to reconsider a previously rendered judgment. Further, based upon the tests required to be conducted in accordance with the SRMT Rules of Civil Procedure, there is no basis to modify or vacate the judgment issued by this Court on July 27, 2016

Therefore, the Court **DENIES** the motion for reconsideration in this matter and finds that the judgment rendered by this Court on July 27, 2016 is valid and upheld in its entirety. This constitutes the final decision of the Court in this matter. No further requests for reconsideration on this matter will be allowed.

Signed by my hand this 24<sup>th</sup> day of August, 2016.



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

<sup>7</sup> SRMT Rules of Civil Procedure XXIII [Rule 20] (B)(2).

<sup>8</sup> SRMT Rules of Civil Procedure XXIII [Rule 20] (B)(3).