

SAINT REGIS MOHAWK TRIBAL COURT

IN THE MATTER OF THE ESTATE OF)
██████████ OAKES) DISQUALIFICATION ORDER
Deceased.) 17-CIV-00005
)

DISCLOSURE OF CONFLICT AND DISQUALIFICATION

On June 27, 2017 the Court, from the bench and on the record, determined ██████████ Oakes' will to be valid as none of the heirs, the children of ██████████ Oakes, raised a challenge to the validity of the will. ██████████ Oakes' ex-██████████, and one heir, ██████████, raised a challenge to the contents of the Estate, claiming Lot ██████████ and the home located upon it are not part of the Estate.

On September 20, 2017, a hearing was set to determine whether the real estate and home located on Lot ██████████ was part of ██████████ Oakes' Estate. Mr. Oakes presented as a witness ██████████ Cook. Mr. Cook is my uncle. I immediately made ██████████ King, the Executrix, and Mr. Oakes aware of the conflict. I asked if they were willing to waive any conflict and they both stated they were willing to waive a conflict. We took a short recess so I could review the Saint Regis Mohawk Tribe's Code of Judicial Conduct.

Pursuant to the Code of Judicial Conduct, this is not a conflict that can be waived. The Code defines a "close relationship" as including a familial person, including uncles, which "could be perceived as causing bias or prejudice against a party in a proceeding before the judge."¹ Further, a judge "shall not allow family, social political or other relationships to influence judicial conduct or judgment."² The Code also requires a judge to disqualify him or herself "in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where the judge has a personal bias or prejudice concerning a party."³

Although the Code does not use the phrase "close relationship" in the section outlining when disqualification is required, reading the sections together, this is not a conflict that can be waived by the parties. Judicial officers are required to avoid even the appearance of impropriety, which includes when a

¹ The Saint Regis Mohawk Tribe Code of Judicial Conduct § 2. B.

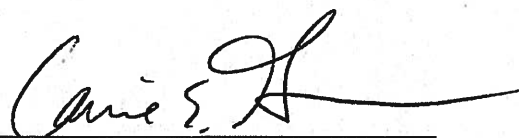
² *Id.* at § 4.B.

³ *Id.* at § 5.D.

family member appears as a witness in a case. Given that Mr. Cook is a family member and as a witness I would need to assess his credibility which could cause the reasonable questioning of my impartiality, I am hereby disqualifying myself from this case.

The Court will assign the case to another judge and the hearing will be reset.

Signed by my hand this 21st day of September, 2017.

A handwritten signature in black ink, appearing to read "Carrie E. Garrow", written over a horizontal line.

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