

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

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<b>Saint Regis Mohawk Tribe</b>	)	
	)	<b>Case No.: 21-CIV-00013</b>
	)	
<b>Plaintiff</b>	)	
	)	
<b>v.</b>	)	<b>DECISION AND ORDER</b>
	)	
<b>Gage Bigtree,</b>	)	
	)	
<b>Bud Ease Dispensary</b>	)	
	)	
<b>Respondent(s)</b>	)	

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**Procedural Background**

On July 1, 2021, the Saint Regis Mohawk Tribe, Plaintiff, filed an application for a temporary restraining order and preliminary and permanent injunction naming Gage Bigtree and the Bud Ease Dispensary as the Respondents.<sup>1</sup>

On July 7, 2021, the Court issued a Temporary Restraining Order against Gage Bigtree and Bud Ease Dispensary, Respondents. The documents filed by the Saint Regis Mohawk Tribe, Plaintiff, and a copy of the Temporary Restraining Order issued by the Tribal Court were served on Respondents on July 8, 2021.

On July 14, 2021, the Court held a hearing on the Saint Regis Mohawk Tribe’s request for a permanent injunction. Marsha Schmidt, Esq., appeared on behalf of the Saint Regis Mohawk Tribe. Gage Bigtree appeared and was self-represented.<sup>2</sup>

**Jurisdiction**

In order to address the instant case, the Court must first determine whether it possesses jurisdiction over the matter. In regards to the case at bar, the matter involves a request for a permanent injunction against an individual and business alleged to be selling marijuana without obtaining a license pursuant to the recently enacted Tribal Adult Use Cannabis Ordinance and not adhering to the cease and desists issued by the Tribe’s Compliance Department. The Saint Regis Mohawk Tribe Civil Code (“SRMT Civil Code”) states that the Tribal Court “shall have civil jurisdiction over civil disputes over disputes arising in, connected with, or substantially

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<sup>1</sup> The Court notes that the filing was date stamped at a later date by Court staff.  
<sup>2</sup> The Court notes that it had to dismiss Gage Bigtree from the virtual hearing because an individual on his end was recording the hearing and was told to stop recording repeatedly. These hearings are public and individuals are able to request the audio files pursuant to Court procedures. No other recording of a Court hearing is allowed. *See* SRMT Court Rule: Use of Recording Devices (September 6, 2019).

affecting Mohawk Indian Country.”<sup>3</sup> In this case, the matter involves alleged conduct that is occurring within the borders of the Saint Regis Mohawk Indian Reservation that is argued to substantially affect the Saint Regis Mohawk Tribe. Furthermore, TCR 2021-25 allows for the Court to assure compliance with the cease and desist orders issued by the Tribe’s Compliance Department.<sup>4</sup> Attorney Schmidt argued that Respondents were not complying with the cease and desist orders. Thus, the Court possesses jurisdiction over this matter.

### Discussion

In this case, the Saint Regis Mohawk Tribe, Plaintiff, moves for a permanent injunction against Gage Bigtree and Bud Ease Dispensary, Respondents. Plaintiff seeks an order from this Court to: (1) declare that Respondents are in violation of tribal law; (2) enforce the cease and desist orders issued by the Tribe; (3) issue a permanent injunction against Respondents to vacate and close the dispensary; and (4) issue an order requiring each Respondents to pay the fine with the amount to accumulate on a daily basis until the unlicensed operation is closed. For the following reasons, this Court denies Plaintiff’s motion for a permanent injunction.

In regards to this case, the Saint Regis Mohawk Tribe, Plaintiff, alleges that Gage Bigtree, Respondent, is operating Bud Ease Dispensary, an unlicensed marijuana business, and disregarded cease and desists issued by the Tribe’s Compliance Department. Thus, Plaintiff’s contend that Respondents are violating tribal law. Plaintiff points to the recently enacted SRMT Tribal Adult Use Cannabis Ordinance and DOJ guidance and policies on the enforcement of the Controlled Substance Act on tribal lands and the actions of the Respondents to demonstrate that Plaintiff has a good chance to win the suit in their writings. Based on the aforementioned, Plaintiff requests a permanent injunction ordering Respondents to close and vacate the dispensary and be ordered to pay fines.

The Saint Regis Mohawk Tribe Rules of Civil Procedure (“SRMT Rules of Civil Procedure”) state that injunctive relief shall be granted “if the person requesting it shows there is a good chance that he or she will win the suit and that he or she will suffer irreparable loss or injury if the injunction is not issued.”<sup>5</sup> In its case, the Saint Regis Mohawk Tribe, Plaintiff, submitted arguments by written motion and its legal counsel submitted oral argument. The Court notes that Plaintiff offered no evidence. When asked if any of the product of the dispensary had undergone testing, Plaintiff’s legal counsel responded that it had not.

In its relevant case law, this Court has demonstrated that the moving party carries the burden and must provide evidence proving that the moving party will suffer irreparable harm. In *William Clute v. Lorne Clute*, the parties both requested injunctive relief.<sup>6</sup> In *Clute*, Respondent was granted the injunctive relief requested because he demonstrated through the evidence that he owned the land and testified of the actions by the Plaintiff.<sup>7</sup> In that case, Respondent had

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<sup>3</sup> SRMT Civil Code § II. A.

<sup>4</sup> TCR 2021-25 To Delegate Authority to the Tribe’s Compliance Department and Approve the Imposition of Fines and Penalties For the Unauthorized Sale of Adult-Use Marijuana (signed May 18, 2021).

<sup>5</sup> SRMT Rules of Civil Procedure § XII. A.

<sup>6</sup> *William Clute v. Lorne Clute*, 21-LND-00001 (May 6, 2021).

<sup>7</sup> *Id.* at 2.

witnessed the actions by the Plaintiff.<sup>8</sup> In another case, a party petitioned the Court to halt the actions taking place on property he alleged to belong to an Estate.<sup>9</sup> In that case, Plaintiff failed to name a Respondent and offered no evidence to demonstrate that there would be irreparable harm.<sup>10</sup> As a result, the Court denied the request for injunctive relief. Moreover, in *Corleen Jackson v. Nancy Oakes*, the Court further demonstrated the need for the moving party to prove the alleged irreparable harm. In *Jackson*, Plaintiff argued that Respondent had personal property on her land and requested injunctive relief.<sup>11</sup> In evaluating the Plaintiff's argument in *Jackson*, the Court noted that the Plaintiff failed to provide any evidence that the Respondent caused the gravel or backhoe at issue to be placed on the property and that injunctive relief could not be issued without some evidence that Respondent is responsible.<sup>12</sup>

In reviewing the arguments submitted in this case, the Court finds that the Saint Regis Mohawk Tribe, Plaintiff, has not offered evidence demonstrating that it is likely to succeed on the merits because it has not shown that the Respondent in fact is selling marijuana and/or other marijuana products or even that Gage Bigtree, Respondent, is the owner of Bud Ease Dispensary. The written submissions by Plaintiff demonstrate that the Tribe's Compliance Department identified Gage Bigtree, Respondent, as the owner of Bud Ease Dispensary. However, Plaintiff, offered no evidence to demonstrate how the Compliance Department came to that conclusion or how that the Compliance Department determined that the Respondent is selling marijuana and/or marijuana products on the premises. When asked about the testing of the substance, Attorney Schmidt stated that it did not have to be tested and asked the Court to review the cease and desists issued by the Compliance Department. The Court reminds the Plaintiff that it has brought an action arguing that Respondents are violating tribal law by selling marijuana and/or marijuana products. The Court is unable to make the finding of the irreparable harm without some sort of proof that it is in fact marijuana and/or marijuana products being sold at this premises. Furthermore, Plaintiff has failed to demonstrate that Gage Bigtree is the owner of this business.<sup>13</sup> Rather, Plaintiff requests that the Court accept the written and oral submissions of its legal counsel as fact and issue a permanent injunction and order Respondents to pay a substantial civil fine. There was no evidence submitted indicating that Attorney Schmidt was involved with the Compliance Department's processes. As this Court's case law demonstrates, injunctive relief is an extraordinary remedy and that requires that the moving party meet the standard set forth in the SRMT Rules of Civil Procedure. As set forth above, the Court holds that Plaintiff failed to demonstrate that it is entitled to such relief.

In this case, the Temporary Restraining Order is set to expire on July 17, 2021. The SRMT Rules of Civil Procedure state that "[a] temporary restraining order may be renewed once

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<sup>8</sup> *Id.*

<sup>9</sup> Andrew Glenn Lazore, 17-CIV-00015 (August 31, 2017).

<sup>10</sup> *Id.* at 2.

<sup>11</sup> *Corleen Jackson v. Nancy Oakes*, 19-LND-00008, 2 (Oct. 16, 2019).

<sup>12</sup> *Id.*


<sup>13</sup> The Court also notes that Plaintiff contended that Respondent was in default. The Court notes that the SRMT Rules of Civil Procedure require that a written motion for a default must be served on the Respondent. SRMT Rules of Civil Procedure § XIII.

and only for good cause.”<sup>14</sup> In this Decision and Order, the Court has determined that Plaintiff has failed to demonstrate that Gage Bigtree is in fact the owner of the dispensary or that marijuana and/or marijuana products are being sold at the dispensary. Moreover, Plaintiff has failed to provide good cause. Thus, the Temporary Restraining Order is extinguished.

**ORDER**

Based on the foregoing, it is **ORDERED, ADJUDGED AND DECREED** that the Saint Regis Mohawk Tribe, Plaintiff, request for a permanent injunction is **DENIED** and the Temporary Restraining Order dated July 7, 2021 is extinguished.

Signed this 16<sup>th</sup> day of July, 2021.



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. Due to the coronavirus pandemic, please consult the Administrative Orders found on the Court’s webpage for information on how to submit a motion for reconsideration or appeal at this time.*

<sup>14</sup> SRMT Rules of Civil Procedure § XII. E.



# Saint Regis Mohawk Tribal Court

Physical Address:  
Tribal Justice Building  
882 State Route 37  
Akwasasne, NY 13655  
Phone: (518) 358-6300

Chief Judge Carrie E. Garrow  
Associate Judge Barbara R. Potter  
Associate Judge Patrick Solomon  
Associate Judge Lisa Garabedian

Website: [https://www.srmt-nsn.gov/tribal\\_court](https://www.srmt-nsn.gov/tribal_court)

## SENT VIA CERTIFIED MAIL

Gage Bigtree  
340 Cook Road  
Akwasasne N.Y. 13655

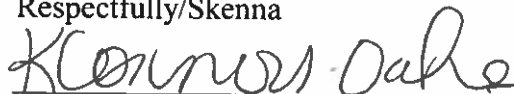
BUD EASE DISPENSARY  
16 Mc Gee Road  
Akwasasne, N.Y. 13655

July 16, 2021

Greetings/Sekon,

Please be advised that the attached decision in the matter of 21-CIV-00013 Saint Regis Mohawk Tribe v Gage Bigtree & Bud Ease Dispensary was entered into the docket book on July 16, 2021 in accordance with the Saint Regis Mohawk Tribe Rules of Civil Procedure.

Respectfully/Skenna



Ms. Karen Connors-Oakes Court Clerk  
Saint Regis Mohawk Tribal Court