

X07-HHD-CV16-6072009-S
SCHAGHTICOKE TRIBAL NATION : SUPERIOR COURT
PLAINTIFF, :
: COMPLEX LITIGATION DOCKET
v. : OF HARTFORD
: STATE OF CONNECTICUT, ET AL., :
DEFENDANTS. : SEPTEMBER 18, 2017

MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

I. BRIEF BACKGROUND

The Proposed Intervenor, the Schaghticoke Indian Tribe (“SIT”), is a state-recognized Indian tribe consisting of members from the historical Schaghticoke Indian tribe within the State of Connecticut who have occupied reservation land located along the Housatonic River in the Town of Kent since the 1730s. SIT is governed by a Tribal Constitution and By-laws which regulate its elections and political structure. SIT’s current chairperson, validly elected in accordance with SIT’s tribal constitution and by-laws, has provided leadership to the Schaghticoke people since 1983.

Members of the Schaghticoke Tribal Nation (“STN”), the plaintiff in this action, vacated membership from the historical Schaghticoke Indian tribe in or around 1981 by creating the Schaghticoke Indian Tribe of Kent, Inc., which later became STN. STN drafted its own constitution and pronounced Richard Velky “Chief-for-Life” of STN. Such election not only conflicted with the existing historical Schaghticoke constitution and by-laws but constituted an illegal attempt to gain control of the historical tribe.

Since that time, STN has unsuccessfully attempted to gain federal recognition,¹ claim disposition of land in violation of the Indian Nonintercourse Act,² and possess, control and/or maintain the reservation land in Kent.³ SIT exclusively possesses, controls and maintains title to the Schaghticoke reservation in Kent including the land and funds that are the subject matter of this lawsuit.

II. ARGUMENT

Under Practice Book § 9-18, “[i]f a person not a party has an interest or title which the judgment will affect, the judicial authority, on its motion, shall direct that person to be made a party.” (See General Statutes § 52-107 and annotations).

“The decision whether to grant a motion for the addition of a party to pending legal proceedings rests generally in the sound discretion of the trial court. It must be kept in mind, however, that the rules of intervention should be liberally construed, in order to avoid multiplicity of suits and settle all related controversies in one action. A proposed intervenor must allege sufficient facts, through the submitted motion and pleadings, if any, in order to make a showing of his or her right to intervene. The inquiry is whether the claims contained in the motion, if true, establish that the proposed intervenor has a direct and immediate interest that will be affected by the judgment.” (Citations omitted; internal quotation marks omitted.)

Washington Trust Co. v. Smith, 241 Conn. at 734, 747, 699 A.2d 73 (1997).

¹ Reconsidered Final Determination To Decline To Acknowledge the Schaghticoke Tribal Nation, 70 Fed. Reg. 60101 (Oct. 14, 2005).

² 25 U.S.C. § 177. See also *Schaghticoke Tribal Nation v. Kent School Corp. Inc.*, 2014 WL 7011937, *1, (2d Cir. Dec. 15, 2014).

³ Connecticut General Statutes § 47-63 defines “reservation” to mean the Schaghticoke reservation in the town of Kent, assigned to the Schaghticoke tribe.

SIT seeks to intervene in this action in order to protect its title and interest in its reservation and potential future claims. STN claims it is owed compensation for the State's unconstitutional taking of STN's land and the State's willful mismanagement of STN's land and funds. (See original Complaint, pg. 1, para. 1) (Emphasis added). STN seeks to usurp the rights and interest of the SIT by claiming the land and funds belong to the STN despite the fact that STN didn't even exist until the 1990's.

C.G.S. § 47-59a et seq. recognizes special rights afforded to qualified Connecticut tribes to tribal lands.⁴ The special rights afforded to these tribes are created by virtue of the tribal reservation. No member of STN resides on the reservation, therefore the STN has no authority to receive compensation for property it does not nor ever has controlled or maintained, and if allowed to do so, SIT's rights to any claim it may rightfully have would be affected.

Wherefore, SIT respectfully requests that the Court grant its motion and allow it to be named a party to this action.

Respectfully Submitted,
SCHAGHTICOKE INDIAN TRIBE

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⁴ Sec. 47-59a(b) states, "Such powers and duties include the power to: (1) Determine tribal membership and residency *on reservation land*; (2) determine the tribal form of government; (3) regulate trade and commerce *on the reservation*; (4) make contracts; and (5) determine tribal leadership in accordance with tribal practice and usage." (Emphasis added).

CERTIFICATION

I hereby certify that a copy of the above was mailed or electronically delivered on September 18, 2017 to all counsel and self-represented parties of record and that written consent for electronic delivery was received from all counsel and self-represented parties of record who were electronically served.

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