

LITTLE RIVER BAND OF OTTAWA INDIANS
TRIBAL COURT
3031 Domres Road
Manistee, Michigan 49660
(231) 398-3406
Fax: (231) 398-3404

JOSEPH MARTIN,

Plaintiff,

v.

Case No. 09248GC

Hon. Wilson D. Brott

LITTLE RIVER BAND OF OTTAWA INDIANS,
LITTLE RIVER BAND OF OTTAWA INDIANS
TRIBAL COUNCIL, LITTLE RIVER BAND OF
OTTAWA INDIANS OGEMA LARRY ROMANELLI,
and HON. ANGELA SHERIGAN,

Defendants.

Joseph H. Martin
Plaintiff – *Pro se*
362 1st Street
Manistee, MI 49660

David A. Giampetroni (P69066)
Attorney for Defendants LRBOI,
Tribal Council & Ogema
Kanji & Katzen PLLC
101 N Main St Ste 555
Ann Arbor, MI 48104
(734) 769-5400

William Rastetter (P26170)
Attorney for Defendant Hon.
Angela Sherigan
Olson Bzdok & Howard PC
420 E Front St
Traverse City, MI 49686
(231) 946-0044

**ORDER REGARDING MOTIONS TO DISMISS AND/OR FOR SUMMARY DISPOSITION
AND MOTION FOR AWARD OF COSTS INCLUDING ATTORNEYS' FEES**

Defendants Little River Band of Ottawa Indians, its Tribal Council and Ogema (hereinafter collectively "the Tribe") filed a Motion to Dismiss and/or For Summary Disposition as to the claims filed by Plaintiff Joseph Martin in the above matter. Defendant Hon. Angela Sherigan (hereinafter "Judge Sherigan") also filed a Motion for Summary Disposition (and renewed Motion for Summary Disposition) in the above matter, as well as a Motion for Award of Costs, Including Attorneys' Fees. All parties were given the opportunity to file briefs in response, and were given the opportunity to make oral arguments to the Court. It is noted that Plaintiff did not file a written response to the Defendant's motion, but did present oral arguments

to the Court. With some exceptions related to cases or ordinances cited during oral argument, Plaintiff has for the most part failed to cite authority in opposition to those cited by Defendant, thereby putting himself at a serious disadvantage in this case. The Court does not have a duty to search for law to sustain or reject a party's position, and can be considered by the Court to be deemed an admission of the arguments made by the opposing party. Although the Court has discretion to summarily grant the Defendants' motion based upon Plaintiff's failure to file a response brief, as Plaintiff made oral arguments in opposition to Defendants' motion, the Court has considered both parties arguments.

FACTS

Plaintiff filed a complaint on November 6, 2009, alleging that the Little River Band of Ottawa Indians, the Little River Band of Ottawa Indians Tribal Council, and Little River Band of Ottawa Indians Ogema Larry Romanelli (hereinafter collectively referred to as "the Tribe"), as well as Hon. Angela Sherigan (hereinafter "Judge Sherigan") took concerted actions to substantially change the outcome of a previously decided lawsuit and thereby violated Plaintiff's rights under the Indian Civil Rights Act, 25 U.S.C. §§ 1301, et seq. (hereinafter "ICRA"), the Tribal Constitution, and the Tribal Court Ordinance, Ordinance #97-300-01 (hereinafter "TCO"). Plaintiff seeks declaratory and injunctive relief.

Plaintiff's claims are based meeting occurred on or about July 16, 2009 between Judge Sherigan, Ogema Larry Romanelli and Tribal Council Speaker Steve Parsons regarding the January 22, 2009 Order issued by Judge Sherigan in the matter of *Tribal Council v. Tribal Ogema*, Case No. 08093GC. The only parties to that action were the Tribal Council and the Tribal Ogema; Plaintiff was not a party to that civil action. The January 22, 2009 order (hereinafter "Original Order") indicated that the Ogema had authority to terminate Plaintiff's contract, but did not address the authority of the Tribal Council. At the meeting, it is alleged that the Ogema and Tribal Council Speaker requested clarification of the Court's ruling, and that as

a result of that meeting, Judge Sherigan issued an order on July 16, 2009 (hereinafter "Subsequent Order") in the same case (Case No. 08093GC), which clarified the Court's prior order dated January 22, 2009, holding that the Tribal Council also had the authority to terminate Plaintiff's contract, and that both the Ogema and the Tribal Council have the authority to terminate the contract, independent of each other. It is undisputed that the above-referenced meeting was not attended by the Plaintiff, nor was he invited or his input sought as to the subject of the meeting. It is also undisputed that no appeal was filed in that case by either party. Plaintiff has however filed the instant action against the above-named Defendants.

CIVIL RIGHTS CLAIMS

Plaintiff claims that the issuance of the Subsequent Order violates the Plaintiff's civil rights under ICRA, including the provision that "No Indian Tribe in exercising the powers of self-government shall: ...deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law." That provision is mirrored in Article III, Section 1 of the Little River Band of Ottawa Indians Constitution. Plaintiff claims he was denied equal protection and due process because no hearing was held on the record with all parties present. Plaintiff also alleges that the Subsequent Order was issued in violation of the TCO, Section 7.03, which requires that "The Tribal Courts shall be courts of record and a record of all official proceedings in the Tribal Courts shall be made and maintained by and filed in the Office of the Tribal Court Clerk."

The Tribe argues that the Defendant's claims are barred by the doctrine of sovereign immunity, and that this Court therefore has no jurisdiction to hear such claims. The Tribe further argues that the Plaintiff has not sufficiently stated facts or law which would support his claims of denial of his Constitutional and ICRA rights to equal protection and/or due process of law. The Tribe further argues that the Tribal Court Ordinance creates no private right of action for a violation of the ordinance.

A. Sovereign Immunity

Article XI of the Tribal Constitution sets out provisions concerning the Tribe's sovereign immunity. Section 2(a) of Article XI states the circumstances in which the Tribe allows itself to be sued, which states:

Section 2 - Suits against the Little River Band in Tribal Courts Authorized.

(a) The Little River Band, its Tribal Council members, Tribal Ogema, and other Tribal officials, acting in their official capacities, shall be subject to suit for declaratory or injunctive relief in the Tribal Court system for the purpose of enforcing rights and duties established by this Constitution and by the ordinances and resolutions of the Tribe.

Because Plaintiff has made claims that are based not only on alleged violations of ICRA, but are also based on violations of the nearly identical provisions contained in the Little River Band of Ottawa Indians Constitution, the Plaintiff's suit falls squarely within the exception of Article XI, Section 2(a), and therefore the Tribe cannot utilize sovereign immunity as a defense to Plaintiff's civil rights claims which are based upon the Constitutional violations alleged. However, as to violations of the Tribal Court Ordinance, sovereign immunity **does** prevent the Plaintiff from making such a claim, to the extent the claim is not based upon a Constitutional violation.

B. Equal Protection

Plaintiff alleges in part that his right to equal protection under ICRA and the Little River Band of Ottawa Indians Constitution has been violated based upon the facts alleged above. The Court would note that the provisions of Tribal Constitution here are substantially identical to the provisions in the United States Constitution, as well as ICRA. Therefore, in the absence of Tribal Authority from this Court on the issue, the Court may look to federal law. See Tribal Court Ordinance No. 97-300-01, §8 (courts of the Little River Band shall apply Tribal and applicable federal substantive law.). The Equal Protection Clause of the Fourteenth Amendment provides that a state may not "deny to any person within its jurisdiction the equal protection of the laws," which is essentially a direction that all persons similarly situated should be treated alike. U.S.

Constitution, Amendment XIV; *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439, 105 S.Ct. 3249, 87 L.Ed.2d 313 (1985). A state practice generally will not require strict scrutiny unless it interferes with a fundamental right or discriminates against a suspect class of individuals. *Mass. Bd. of Ret. v. Murgia*, 427 U.S. 307, 312, 96 S.Ct. 2562, 49 L.Ed.2d 520 (1976). Plaintiff has not alleged violation of a fundamental right. Because neither a fundamental right nor a suspect class is at issue, the rational basis review standard applies. *Club Italia Soccer & Sports Org., Inc. v. Charter Twp. of Shelby*, 470 F.3d 286, 298 (6th Cir. 2006). "Under rational basis scrutiny, government action amounts to a constitutional violation only if it 'is so unrelated to the achievement of any combination of legitimate purposes that the court can only conclude that the government's actions were irrational.'" *Id.* (quoting *Warren v. City of Athens*, 411 F.3d 697, 710 (6th Cir. 2005)). To prove his equal protection claim, Plaintiff must demonstrate "intentional and arbitrary discrimination" by the state; that is, he must demonstrate that he "has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment." *Vill. of Willowbrook v. Olech*, 528 U.S. 562, 564, 120 S.Ct. 1073, 145 L.Ed.2d 1060 (2000). Stated another way, to state an equal protection claim, a plaintiff must factually allege the existence of other persons who were treated more favorable than the plaintiff and who are similarly situated to the plaintiff in every material respect. *Ross v. Duggan*, 402 F.3d 575, 588 (6th Cir. 2004).

In the instant case, Plaintiff has not made allegations in his complaint or in his subsequent arguments to support a claim for violation of his rights to equal protection under the Tribal Constitution (or ICRA, or the U.S. Constitution). Plaintiff does not make any allegations that he was treated differently than any other person, or that other persons who are similarly situated to him were treated more favorably. Therefore, Plaintiff's equal protection claims are without merit as there are not sufficient facts even alleged by Plaintiff to support them.

C. Due Process

Plaintiff also claims that the Tribe violated his Constitutional right to due process. The basis for Plaintiff's claim is in essence that the meeting which took place between Judge Sherigan, the Ogema and the Tribal Council Speaker took place off the record, without Plaintiff being present or notified, and that it resulted in the Subsequent Order being issued without input being provided by both parties. Plaintiff claims that the Subsequent Order deprived him of a property right as it modified the terms of his contract by allowing either the Ogema or the Tribal Council to terminate his contract, when the Original Order only specified that the Ogema had that right.

As noted above, the provisions of Tribal Constitution as to due process are substantially identical to the provisions in the United States Constitution, as well as ICRA. Therefore, in the absence of Tribal Authority from this Court on the issue, the Court may look to federal law. Tribal Court Ordinance No. 97-300-01, §8. The Due Process Clause of the Fourteenth Amendment provides that no state "shall deprive any person of life, liberty, or property without due process of law." United States Constitution, Amendment XIV. Thus, the Constitution is implicated only if a person is deprived of an interest protected by the Due Process Clause. Without a protected liberty interest, plaintiff cannot successfully claim that his due process rights were violated because, "[p]rocess is not an end in itself." *Olim v. Wakinekona*, 461 U.S. 238, 250, 103 S.Ct. 1741, 75 L.Ed.2d 813 (1983). To establish a procedural due process violation the Plaintiff is required to demonstrate three elements: (1) that it had a life, liberty, or property interest protected by the Due Process Clause of the Fourteenth Amendment; (2) that it was deprived of that protected interest within the meaning of the due process clause; and (3) that the state did not afford it adequate procedural rights before depriving it of its protected interest. See *Med. Corp., Inc. v. City of Lima*, 296 F.3d 404, 409 (6th Cir.2002).

The Court finds that Plaintiff has not established that he had a property interest that was affected by the ruling of the Subsequent Order on which his claim is based. The ruling of the Subsequent Order, as well as the Original Order in the case of *Tribal Council v. Tribal Ogema*, Case No. 08093GC, dealt with the respective governmental powers of the Tribal Ogema and the Tribal Council. As such, it dealt with the rights and authority of the *Tribal government*, not of the Defendant, regardless of the fact that the subject of the dispute was over who had authority to terminate Defendant's employment contract. Neither the Original Order, nor the Subsequent Order, purported to alter or modify the terms of the Plaintiff's employment contract. Plaintiff was not even a party to that civil action. Therefore as the Subsequent Order did not affect any property interest of the Plaintiff, Plaintiff's due process claims must also fall.

JUDICIAL IMMUNITY

Judge Sherigan requests that this Court grant summary disposition in her favor under the doctrine of judicial immunity, which has developed in English common law as a method to protect judges from suit and instead encourage aggrieved parties to file appeals rather than civil suits against the presiding judge. Plaintiff responds that Judge Sherigan's actions, based on ex parte communications off the record and without notice to all parties, deprived Plaintiff of his Constitutional rights and violated the Tribal Court Ordinance, and that therefore Judge Sherigan should not be immune from suit for her actions.

A. Judicial Immunity Doctrine

The doctrine of judicial immunity has its roots in English common law centuries ago. The doctrine was created as a means to encourage those who disagreed with the judge's decision to file an appeal rather than challenging the decision by suing the judge who issued the decision. Judicial immunity was created "as a device for discouraging collateral attacks and thereby helping to establish appellate procedures as the standard for correcting judicial error." *Forrester v. White*, 484 U.S. 219, 225, 108 S.Ct. 538, 98 L.Ed.2d 555 (1988). Although

unfairness and injustice to a litigant may result on occasion, "it is a general principle of the highest importance to the proper administration of justice that a judicial officer, in exercising the authority vested in him, shall be free to act upon his own convictions, without apprehension of personal consequences to himself." *Bradley v. Fisher*, 80 U.S. 335, 13 Wall. 335, 347, 20 L.Ed. 646 (1872). The doctrine has been summarized by the United States Supreme Court as follows:

Like other forms of official immunity, judicial immunity is an immunity from suit, not just from ultimate assessment of damages. *Mitchell v. Forsyth*, 472 U.S. 511, 526, 105 S.Ct. 2806, 2815, 86 L.Ed.2d 411 (1985). Accordingly, judicial immunity is not overcome by allegations of bad faith or malice, the existence of which ordinarily cannot be resolved without engaging in discovery and eventual trial. *Pierson v. Ray*, 386 U.S., at 554, 87 S.Ct., at 1218 ("[I]mmunity applies even when the judge is accused of acting maliciously and corruptly"). See also *Harlow v. Fitzgerald*, 457 U.S. 800, 815-819, 102 S.Ct. 2727, 2736-2739, 73 L.Ed.2d 396 (1982) (allegations of malice are insufficient to overcome qualified immunity).

Rather, our cases make clear that the immunity is overcome in only two sets of circumstances. First, a judge is not immune from liability for nonjudicial actions, *i.e.*, actions not taken in the judge's judicial capacity. *Forrester v. White*, 484 U.S., at 227-229, 108 S.Ct., at 544-545; *Stump v. Sparkman*, 435 U.S., at 360, 98 S.Ct., at 1106. Second, a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction. *Id.*, at 356-357, 98 S.Ct., at 1104-1105; *Bradley v. Fisher*, 13 Wall., at 351.

Mireles v. Waco, 502 U.S. 9, 11-12, 112 S.Ct. 286, 116 L.Ed.2d 9 (1991). In *Bradley*, the Court illustrated the distinction between lack of jurisdiction and excess of jurisdiction with the following examples: if a probate judge, with jurisdiction over only wills and estates, should try a criminal case, he would be acting in the clear absence of jurisdiction and would not be immune from liability for his action; on the other hand, if a judge of a criminal court should convict a defendant of a nonexistent crime, he would merely be acting in excess of his jurisdiction and would be immune. *Id.*, at 352.

Judicial immunity has also been applied with regard to Tribal Court Judges, including those in Michigan. In *Sandman v. Dakota*, 816 F.Supp 448, (W.D. Mich. 1992), the United States District Court for the Western District of Michigan dismissed two claims naming Chief Judge Bradley Dakota of the Keweenaw Bay Tribal Court as a defendant. In the first case, the

States District Court for the Western District of Michigan dismissed two claims naming Chief Judge Bradley Dakota of the Keweenaw Bay Tribal Court as a defendant. In the first case, the Plaintiffs argued that Judge Dakota had violated Plaintiff's due process rights sending their children to foster care in Minnesota and by continuing to make decisions about the children's placement and treatment without affording plaintiffs notice or an opportunity to be heard. In the second case, the Plaintiff claimed that she was wrongfully incarcerated without due process by the Keweenaw Bay Tribal Court, and sought money damages. Plaintiffs in those cases claimed that they had a right to sue Judge Dakota pursuant to the Indian Civil Rights Act, 25 U.S.C. §§ 1301-1303. The *Sandman* Court held that the Plaintiffs' claims were barred under the doctrine of judicial immunity stating:

Under common law, officials who are acting in a judicial capacity are protected by judicial immunity. A claim for damages cannot be maintained against a judicial officer exercising the authority vested in the position. *Stump v. Sparkman*, 435 U.S. 349, 355-56, 98 S.Ct. 1099, 1104, 55 L.Ed.2d 331 (1978); *Bradley v. Fisher*, 80 U.S. (13 Wall) 335, 351, 20 L.Ed. 646 (1872). In fact, judges cannot be held liable even where their actions are "in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly." *Stump*, 435 U.S. at 356-57, 98 S.Ct. at 1104 (quoting *Bradley*, 80 U.S. (13 Wall) at 351).

[Plaintiff] argues that the doctrine of judicial immunity should not be applied to a tribal judge when the violation of a right is egregious. There is, however, no support for plaintiff's position in the law. The Supreme Court has held that the doctrine of judicial immunity is applicable in civil rights suits. *Id.* at 356, 98 S.Ct. at 1104. It is thus appropriate to apply it to suits under the Indian Civil Rights Act. It is also appropriate to afford the common law protection of judicial immunity to tribal judges, in light of the rule that Indian tribes generally possess a common law immunity from suit. *Santa Clara Pueblo v. Martinez*, 436 U.S. at 58, 98 S.Ct. at 1677. Tribal immunity extends to individual tribal officials acting in their representative capacity within the scope of their authority. *Hardin v. White Mountain Apache Tribe*, 779 F.2d 476, 479 (9th Cir.1985).

Sandman, *supra*, 816 F.Supp at 452. See also *Penn v. United States*, 335 F.2d 786, 789-790 (8th Cir. 2003) ("A tribal court judge is entitled to the same absolute judicial immunity that shields state and federal court judges.").

B. Application of Judicial Immunity Doctrine

The above cases make it crystal clear that the doctrine of absolute judicial immunity as stated above applies to Tribal Court Judges, including the judges of the Little River Band of

against Judge Sherigan under the Indian Civil Rights Act, he cites no authority for this proposition.

As noted above, judicial immunity is an immunity from suit. Judicial immunity is not overcome by allegations of bad faith or malice or even corruption. Rather, judicial immunity is overcome only under two circumstances. First, a judge is not immune from liability for nonjudicial actions, in other words, actions not taken in the judge's judicial capacity. Second, a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction.

Applying these principals to the case at bar, the Court finds that Judge Sherigan was acting in a judicial capacity when she met with the Ogema and Tribal Council Speaker on July 16, 2009, and when she subsequently issued the Subsequent Order on that same date. Whether her actions were proper from a legal standpoint is a matter which could have been addressed by either party filing an appeal in that case. This Court makes no ruling in regard to whether Judge Sherigan should or should not have issued the Subsequent Order as it is not properly before this Court at this time. Regardless, the issuance of that Subsequent Order which modified a previously issued opinion, even if done due in response to ex parte communications not on the court record, are not actions which were taken by Judge Sherigan outside of her judicial capacity.

Further, despite Plaintiff's argument to the contrary, Judge Sherigan's actions were not taken in the complete absence of all jurisdiction. It is clear that the Tribal Court had jurisdiction over the case in which the clarifying opinion was issued, and that the Court had jurisdiction over the subject matter, and thus, Judge Sherigan had jurisdiction to issue the clarifying opinion. Again, whether or not the clarifying opinion *should* have been issued or not is a collateral issue which is properly taken via the appellate process, not by a collateral attack on the judge that issued the opinion.

Little River Band Civil Procedure Rule 4.3.2 states in part that "if there is no basis for action in laws or claim, a defendant may move for dismissal of an action against that defendant." For the reasons stated above, this Court finds that Judge Sherigan has demonstrated that the doctrine of judicial immunity should be applied in this case, and that Plaintiff's claims against Judge Sherigan should be dismissed.

MOTION FOR COSTS AND ATTORNEY FEES

In her initial responsive Pleading and again in her renewed motion for summary disposition, Judge Sherigan requested that costs including attorney fees be levied against Plaintiff. As noted by Judge Sherigan in her filing submitted to the Court, the doctrine of judicial immunity has been in existence for over 1,000 years in the English/Western system of justice. It clearly has been a part of the United States justice system since its inception, and has been applied to modern Tribal Justice systems as well.

While Plaintiff is representing himself as a *pro se* litigant, and *pro se* litigants are normally given more leeway in the claims they file, Plaintiff is also a well-educated, licensed attorney who is bound by the Tribal Court rules governing attorney conduct. LRB Tribal Court Rule 2.306(A) states in part that:

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous. A lawyer may offer a good-faith argument for an extension, modification, or reversal of existing law.

See also MCR 2.114(D) (which has a similar requirement, but also requires that an attorney certify that a filing "is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.")

As a lawyer practicing before this Court, Plaintiff is subject to this rule and must be held to that higher standard. Plaintiff should be and is fully expected to know the law in regard to any claims he files and should have a basis in law or in fact for the claims he files, or at the very

least a good-faith argument for the extension, modification or reversal of existing law. There is no precedent in federal, state or tribal law which establishes a claim against a sitting judge under the circumstances which were pled by the Plaintiff. Plaintiff did not file a brief in response to the motion for summary disposition filed by Judge Sherigan, nor did he cite any legal authority in his oral argument for the proposition that a sitting judge should be held personally liable. Plaintiff did not argue or provide any authority for a good-faith extension, modification or reversal of the doctrine of judicial immunity, except for very vague general notions that "this is a Tribal Court that is not bound by the doctrine of judicial immunity and can do what it wants." While there may not be existing precedent in the Little River Band Tribal Court regarding judicial immunity, the cases above demonstrate that the judicial immunity doctrine is very well established, and there are many reasons why a Court, Tribal or otherwise, should follow the doctrine of judicial immunity so that litigants with issues regarding how a Tribal judge has ruled are encouraged to utilize the appellate court system, and discouraged from subjecting a Tribal judge to the cost and expense required to defend a personal action involving his or her judicial rulings. Plaintiff has made no significant effort to justify his position or to argue for the modification or reversal of this well-known and well thought out doctrine. Even giving Plaintiff the benefit of taking all of his factual allegations as true, there is still no basis in law to grant Plaintiff's relief, and Plaintiff's claims against Judge Sherigan are devoid of merit, for the reasons stated above.

Furthermore, it is this Court's belief that Plaintiff filed the instant action against Judge Sherigan (and a separate action against Chief Judge Daniel Bailey, *Martin v. Bailey*, Case No. 10016GC) specifically to harass each respective Judge, and to force them to have to recuse or remove themselves from hearing the other pending cases involving Plaintiff to which they had been assigned. The filing of these lawsuits has also cost the judges time and money, as well as the Tribal Court which was then required to locate and hire a judge pro tem to hear Plaintiff's case. The record before the Court, and the lack of effort made by Plaintiff to defend against the

motions for summary disposition, lead this Court to believe that Plaintiff intentionally filed his claim against Judge Sherigan for this purpose. This sort of intentional manipulation of the court system cannot be allowed to stand unchecked, and is contemptuous of the Tribal Court system. Plaintiff, as a practicing attorney before this Court, knew or should have known that his claims of error involving orders issued by the judge in the prior underlying action on which his claim is based should have been brought by filing appeals in those actions, rather than by filing new collateral claims against the judges who issued the orders. These actions also support the finding that Plaintiff's claims against Judge Sherigan are frivolous and subject Plaintiff to sanctions being issued against him.

For the reasons stated above, the Court finds that Plaintiff's claims against Judge Sherigan are frivolous and without arguable merit. Therefore, pursuant to Little River Band Civil Procedure Rule 5.3 and MCR 2.114, the Court orders that Plaintiff shall pay Judge Sherigan's costs in this matter, including reasonable attorney's fees. Judge Sherigan shall submit a Bill of Costs complying with Little River Band Civil Procedure Rule 5.3 within 21 days of the date of this Order.

CONCLUSION

The Court finds that the Plaintiff's Civil rights claims against the Tribe, as well as Plaintiff's claims against Judge Sherigan, have no merit and shall be dismissed pursuant to Little River Band Civil Procedure Rule 4.3.2. Said dismissal shall be with prejudice and shall be a final adjudication pursuant to Rule 4.3.2(b).

Further, the Court finds the Plaintiff's claims against Judge Sherigan were frivolous and without arguable merit, and this Plaintiff shall be required to pay Judge Sherigan's costs, including reasonable attorney fees, pursuant to Little River Band Civil Procedure Rule 5.3. Judge Sherigan shall submit a Bill of Costs pursuant to Rule 5.3 within 21 days.

The Tribe's motion for dismissal and/or summary disposition is therefore GRANTED.

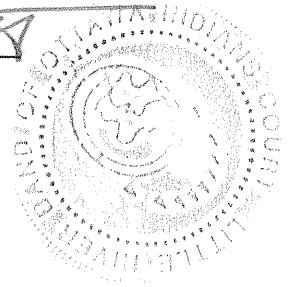
Judge Sherigan's motion for summary disposition and for costs including attorney fees is also GRANTED.

IT IS SO ORDERED.

Dated: July 7, 2010

Wilson D. Brott

Hon. Wilson D. Brott
Judge Pro Tem



CERTIFICATION OF SERVICE

I certify that a copy of this order was placed in the Tribal mail system for sufficient postage to be attached. It will then be taken to the Manistee Branch of the United States Post Office and mailed to the plaintiff/petitioner and the defendant/respondent (or their attorneys) at the addresses on file with the court.

Court Clerk/Administrator

Date