

**ST. REGIS MOHAWK TRIBAL COURT
IN AND FOR THE ST. REGIS MOHAWK TRIBE**

Johanne Jackson
Plaintiff,

vs.

Arlene Baker & Louis Roundpoint,
Defendants.

Case No.: **11-LND-00006/11-CIV-**
00006

TRIBAL COURT DECISION

Ms. Johanne Jackson, on August 2, 2012, filed suit against Ms. Arlene Baker and Mr. Louis Roundpoint concerning the house located at Lot #681, also known as the homestead located at 1520 State Route 37 in Akwesasne, on behalf of the Howard Porter estate. (*See, Plfs. Complaint/Appeal*). The Saint Regis Mohawk Tribe (SRMT) issued a Use and Occupancy Deed to Ms. Arlene Baker on behalf of the Estate of the late Margaret Porter to Ms. Arlene Baker for Lot # 681 located at 1520 State Route 37 Akwesasne. (*See, Right to Use and Occupancy deed dated 7-27-11*).

Attached to that deed is a notarized statement by Mr. Louis Roundpoint relinquishing all rights, title and interest of the estate (including the house) of his late mother Margaret (Chubb) Porter also known as Lot# 681 (1.636 acres +/-) located at 1520 State Route 37 Akwesasne. (*See Roundpoint dated July 23, 2011*).

Mr. Louis Roundpoint, on October 3, 2011, filed a notarized statement with the Court requesting to be released from the lawsuit at bar, and he alleges that Ms. Arlene Baker promised to buy him out for his half of the house and property and that this promise had not yet taken place on November 9, 2011. Subsequent to this Mr. Louis Roundpoint, via conference call at a pre-trial conference on this matter, in Court on November 9, 2011, alleged that his sister Ms. Arlene Baker has not paid him for his share of the property, that he filed papers with the Tribal Clerk's office to that effect, alleges that he still has an interest in the property, and that signing the paper

was a mistake. (*See*, Court recording 11/9/2011). Ms. Lorraine White, Attorney for Ms. Arlene Baker, denies this allegation.

The Court on January 23, 2012 sent the parties an order that required Mr. Roundpoint to contact the Court within 30 days to initiate a counter claim proceeding against Ms. Baker to resolve the alleged agreement between himself and Ms. Baker with respect to his share of Lot #681. Mr. Roundpoint did not initiate said proceeding and as a result the Court, as stated in the previous order, will proceed to decide the existing Motion made by Defendant Ms. Arlene Baker to have Mr. Louis Roundpoint removed as a co-defendant in the pending litigation of Jackson v. Baker.

Pursuant to the SRMT TCR 2008-18, Civil Code, there exists a choice of law provision identifying which law, with precedence, can be applied to a case before the Court:

1. Such portions of the Constitution of the United States and federal law are clearly applicable in Mohawk Indian Country 2. Written Mohawk laws adopted by the recognized governmental system of the Mohawk Tribe; 3. Unwritten Mohawk laws, and written and unwritten Mohawk customs, traditions and practices; 4. Generally recognized principles of the law of contracts as reflected by the most recent Restatement of Contracts or in such expert treatises as the Court may choose to recognize or as the Court may otherwise determine; 5. Generally recognized principles of the law of torts, as reflected by the most recent Restatement of Torts or in such expert treatises as the Court may choose to recognize or as the Court may otherwise determine; 6. New York State law (but only if) consistent with principles of Tribal sovereignty, self-government, and self-determination and it is consistent with the aforementioned. (*See*, § V (A) (1)-(6)).

In addition, “the Court may modify, set or direct any specific rule or procedure for individual cases as the Court deems appropriate,” including using the Federal Rules of Civil Procedure. (*See*, SRMT Civ. Code §VI (A)). Although the Federal Rules of Civil Procedure provide guidance in the issue at hand, it should also be noted that the Court has authority to control its docket and discretion to determine who is or is not a ‘necessary’ party in the present litigation. (*See*, SRMT Civ. Code §VI (D)). Likewise, in the interest of saving time and avoiding unnecessary litigation, the Court may have pre-trial conferences to narrow issues; and, it is through such a conference that the present matter has arisen. (*See*, SRMT Civ. Pro. §XV). This is even more so with pro se litigants, such as Mr. Roundpoint.

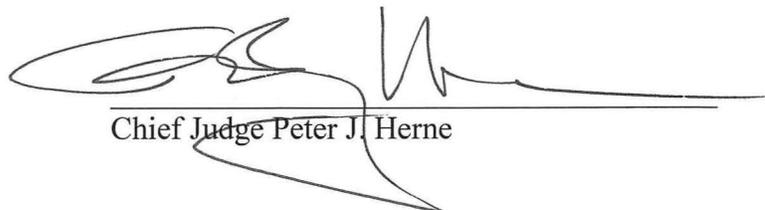
As such, the Court examined the issue of whether Mr. Louis Roundpoint is a 'necessary party' in the case before the Court and what steps should be taken to avoid duplicitous litigation over the same property in 'dispute.' The issue is whether Mr. Louis Roundpoint is a 'necessary party' with respect to the suit filed by Ms. Johanne Jackson; and, in light of, Mr. Roundpoint's stated desire to revoke the agreement he has with Ms. Arlene Baker. Obviously linking these issues together is the parcel of property, known as Lot #681, located on the St. Regis Mohawk Indian Reservation.

Mr. Roundpoint was made fully aware by the Court that for the Court to find that he was a 'necessary party' in the case at bar, it required him to take specific actions within a specific time frame. These actions were defined in the January 23, 2012 order which required him to initiate a proceeding against Ms. Baker, if he so desired, and to do so within 30 days. However, Mr. Roundpoint, although clearly aware of and having been advised of what he needed to do to preserve his standing in the case at bar, has failed to take the action required of him. It is not acceptable for any one party to delay the proceedings to the detriment of another party or parties. This is further exacerbated when one considers that this is due to the indecisiveness and failure of Mr., Roundpoint to adhere to the Court's orders. Further proof is evidenced by Mr. Roundpoint having personally received a correspondence from this Court on January 28, 2012 as evidenced by a postal receipt. Mr. Roundpoint furthermore is well aware of knowing how to file a case within the Court as he is a Plaintiff in another case before the Court.

THEREFORE, it is ORDERED

Pursuant to the aforementioned, the Court finds that Mr. Louis Roundpoint has failed to prove to the Court that he is a 'necessary party' to the pending suit. As such, Mr. Roundpoint does not have standing in the case at bar and is removed as a Co-defendant in the case at bar.

Entered by my hand on this the 17th day of July 2012



Chief Judge Peter J. Herne