

ST. REGIS MOHAWK TRIBAL COURT ST. REGIS MOHAWK INDIAN RESERVATION

Paul Lazare,)	
)	
Plaintiff)	Decision and Order
)	
V)	Case No.: 11-CIV-00009
)	
Wade & Sonia Mitchell,)	
)	
Respondent(s))	
)	

PROCEDURAL HISTORY

Mr. Paul Lazare filed a complaint in St. Regis Mohawk Tribal Court on November 29th, 2011 seeking monetary relief in the amount of \$1,125.90 for waste management services provided to the respondents named in the complaint, Mr. Wade Mitchell and Ms. Sonia Mitchell. There is no indication in the record that the Plaintiff, Mr. Paul Lazare, ever served the complaint and summons upon Mr. Wade Mitchell and Ms. Sonia Mitchell. Also the Plaintiff did not file a proof of service with the Court that those documents were served upon the Respondents, Mr. Wade Mitchell and Ms. Sonia Mitchell.

JURISDICTION

The Tribal Court has original jurisdiction over cases, matters or controversies arising under the laws, ordinances, regulations, customs and judicial decisions of the Tribe.¹ The Court possesses civil jurisdiction over disputes arising in, connected with, or substantially affecting Mohawk Indian Country.² Given that this is the resolution of the civil matter, the Court assumes jurisdiction over this case.

APPLICABLE LAW

The St. Regis Mohawk Rules of Civil Procedure (hereinafter SRMT Rules of Civ. Pro.) require a complaint, once filed with the Court, must be served on a defendant. The SRMT Rules of Civ. Pro., state, “Within sixty (60) days after plaintiff files a civil complaint, plaintiff shall cause a copy of the complaint, together with the summons, to be served upon (delivered to) each defendant named in the complaint. The complaint and summons must be served by a person eighteen (18) or more years old who has no stake in the outcome of the lawsuit. It may be served either by giving it to the defendant directly or by leaving it at a defendant’s residence or place of employment with a person at least fourteen (14) years old who lives or works there.”³ Mr. Paul Lazare filed the complaint with the St. Regis Mohawk Tribal Court on November 29th, 2011. The deadline for the Plaintiff to

¹ The Saint Regis Mohawk Tribal Court and Judiciary Code § V.1. (2012).

² SRMT Civil Code § II.A. (2008).

³ SRMT Rules of Civ. Pro IX [Rule 6] (C).

serve the complaint and summons upon the defendants was January 30th, 2012. There is nothing in the record before the Court indicating that the complaint and summons were served upon the Respondent's Mr. Wade Mitchell and Ms. Sonia Mitchell.

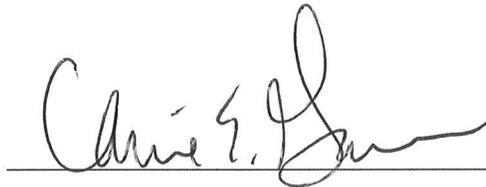
The Rules also require that the plaintiff file proof of service with the Court once the complaint has been served. The Rules state, "The person who delivers the complaint shall sign and file a proof of service with the Clerk. The proof of service shall indicate the type of document served, the date and place of service, and the name of the person served, and shall be on the form provided for that purpose by the Rules of the Court. This shall be done within thirty (30) days from the date of service."⁴ There is nothing in the record indicating that a proof of service was ever filed with the St. Regis Mohawk Tribal Court by the Plaintiff, Mr. Paul Lazare.

ANALYSIS

Mr. Paul Lazare failed to serve his complaint filed with the St. Regis Mohawk Tribal Court on November 29th, 2011 as required by the SRMT Rules of Civ. Pro. He also failed to file a proof of service in compliance with the Rules Civ. Pro.

Given that the complaint was not served in a timely manner and that proof of service was not filed with the Court, Mr. Paul Lazare's complaint in the matter of Lazare v. Wade & Sonia Mitchell 11-CIV-00009 is hereby ORDERED dismissed without prejudice. Mr. Lazare may file the complaint when he is ready to proceed.

Signed by my hand this 13th day of July, 2015.



Carrie Garrow, St. Regis Mohawk Tribal Court Associate Judge

⁴ SRMT Rules of Civ. Pro IX [Rule 6] (D).