

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

**Constance Tarbell,
Claimant(s),**

Case No.: 18-CIV-00008

-V-

DECISION AND ORDER

**Joseph Mitchell,
Respondent(s)**

Procedural History

On February 21, 2018, the Claimant, Connie Tarbell, filed a complaint against the Respondent, Joe Mitchell. Ms. Tarbell alleged that Mr. Mitchell sold her an Amazon Fire Stick [REDACTED] Ms. Tarbell alleged the Fire Stick did not work. She alleged that she asked him for help and then finally gave it back to Mr. Mitchell. The complaint states that Mr. Mitchell stated he would return [REDACTED] but failed to do so. The complaint requested [REDACTED] plus filing and other court fees.

Mr. Mitchell was personally served on April 12, 2018. Mr. Mitchell failed to file an answer to the complaint.

A status conference was held on June 5, 2018. Ms. Tarbell and Mr. Mitchell appeared. A trial date was set for July 13, 2018 at 9:00 am. A Friday was specifically chosen to accommodate Mr. Mitchell's work schedule.

On July 13, 2018, Ms. Tarbell appeared. Mr. Mitchell was present in court on June 5, 2018 when the trial date was selected. The Court also sent notice to Mr. Mitchell via certified mail, which he received. The Court received the signed return notice and it was signed by Joseph Mitchell on June 12, 2018. The trial proceeded without him.

Jurisdiction

The Saint Regis Mohawk Tribal Court has jurisdiction over disputes involving contract that were "negotiated, executed, or performed in Mohawk Indian Country."¹ The claim by Petitioner, Ms. Tarbell, alleged a contract negotiated and performed within the exterior boundaries of the Saint Regis Mohawk Indian Reservation, thus the Court possesses jurisdiction.

¹ SRMT Civil Code § II.B. (2008).

Factual Findings

The Claimant bears the burden of proof by a preponderance of the evidence. Preponderance of evidence is satisfied when, “the necessary party met the burden of proof by providing superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.”² The Petitioner has proven the following by the preponderance of evidence.

1. Mr. Joe Mitchell, the Respondent, sold Ms. Tarbell, the Claimant, an Amazon Fire Stick in March 2017 [REDACTED]
2. The Amazon Fire Stick was nonconforming.
3. Ms. Tarbell requested Mr. Mitchell to return [REDACTED] and Mr. Mitchell promised to do so when he began working.
4. Ms. Tarbell went to Mr. Mitchell’s place of work and he did not return [REDACTED]
5. As of July 13, 2018, Mr. Mitchell had not returned [REDACTED]
6. Ms. Tarbell incurred court costs including [REDACTED] court filing fee and [REDACTED] fee to serve the Respondent.

Legal Conclusions

1. Mr. Mitchell received notice of the trial date and failed to appear.
2. An oral contract existed between Ms. Tarbell and Mr. Mitchell, where Ms. Tarbell purchased an Amazon Fire Stick [REDACTED] from Mr. Mitchell.
3. The oral contract was breached when Mr. Mitchell provided Ms. Tarbell with a faulty Amazon Fire Stick.
4. Ms. Tarbell incurred damages of [REDACTED] plus the court filing fee, [REDACTED] and service fee, [REDACTED]

² SRMT Rules of Civil Procedure § Section XX.B. (2008).

ORDER

It is hereby **ADJUDGED** and **DECREED** that the Claimant entered into an oral contract with Respondent, Mr. Mitchell, and the contract was breached by Mr. Mitchell. It is hereby **ORDERED** that Mr. Mitchell pay Ms. Tarbell [REDACTED]

Signed by my hand this 3rd day of July 20 16.



Carrie E. Garrow
Chief Judge
Saint Regis Mohawk Tribal Court

Pursuant to the Saint Regis Mohawk Tribe's Rules of Appellate Procedure this Order may be appealed within thirty (30) days after the entry of judgment.

