

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

| | | |
|--------------------------|---|-------------------------------|
| Constance Tarbell |) | |
| |) | |
| Plaintiff |) | Case No.: 19-CIV-00003 |
| |) | |
| v. |) | DECISION AND ORDER |
| |) | |
| Jordan Sockbeson |) | |
| |) | |
| Respondent |) | |

Procedural Background

On March 20, 2019, Constance Tarbell, Plaintiff, filed a civil complaint with the Court. In her civil complaint, Constance Tarbell, Plaintiff, alleges that the Respondent, Jordan Sockbeson, took her antique wooden rocking chair and a wicker chair. The Plaintiff requests to be awarded \$500.00.¹ The Plaintiff had the Respondent personally served at his place of employment on March 25, 2019 with a copy of the civil complaint and summons.

This matter was scheduled for an initial appearance on May 2, 2019. The Court did not have a mailing address for Jordan Sockbeson, Respondent on file. As a result, the Court provided Jordan Sockbeson, Respondent's, copy of the notice for the appearance to the Plaintiff, Constance Tarbell, to serve on Mr. Sockbeson. Constance Tarbell, Plaintiff, advised the Court that she could not locate Mr. Sockbeson and that his whereabouts are unknown. The initial appearance on this matter was postponed.

Constance Tarbell advised the Court throughout May 2019 that she was unable to locate the Respondent, Jordan Sockbeson. The record demonstrates that the Respondent was served a copy of the filed complaint and summons. Thus, he was aware of the case naming him as a Respondent. Mr. Sockbeson did not at any point of time contact the Court to inquire about his case or file an Answer in response to Ms. Tarbell's allegations. Based on the aforementioned, the Court allowed for public notice of the trial to suffice as notice of the trial date in this matter. The legal notice published in Indian Time on June 6, 2019 stated that a civil complaint has been filed at the Saint Regis Mohawk Tribal Court and advised that Jordan Sockbeson has been named as

¹ In her filed Complaint, Constance Tarbell, lists the antique wooden rocking chair and the wicker chair and she requests to be reimbursed the Court filing fee in the amount of \$50.00. The total amount in damages requested on the complaint is \$500.00. At the trial, Ms. Tarbell requested to be reimbursed for the wicker chair (\$200.00), antique wooden rocking chair (\$250.00), a black stand (\$5.00), and the Court filing fee (\$50.00). The total amount in restitution is \$505.00. Thus, there is a discrepancy in the amount being requested by the Plaintiff. The procedural history demonstrates that the Respondent was served a copy of the Complaint that stated the Plaintiff was asking for \$500.00. At no time, did the Plaintiff file an amended complaint and serve a copy of the amended complaint on Mr. Sockbeson requesting to be awarded the additional damages of \$5.00 for the black stand. Therefore, Mr. Sockbeson received no notice of the amended amount. Thus, the Court in this Decision and Order will not consider the \$5.00 request in damages for the black stand.

the Respondent. Furthermore, it provided the date and time of the trial date and advised Mr. Sockbeson that a default judgment may be granted in favor of the Plaintiff for failure to appear.

On June 18, 2019, the Court held a trial on this matter. The Plaintiff, Constance Tarbell, appeared and was self-represented. The Respondent, Jordan Sockbeson, was absent. The Court heard testimony from the Plaintiff, Constance Tarbell.

Jurisdiction

In order to address the instant case, the Court must first determine whether it possesses jurisdiction over the matter. The SRMT Civil Code states “[t]he Tribal Court shall have civil jurisdiction over . . . [d]isputes involving torts in which (i) a proximate cause (or the last component in a chain or sequence of proximate cause) occurred or was carried out in Mohawk Indian Country, or (ii) the effect or injury occurred or was inflicted in Mohawk Indian Country . . .”²

In the present matter, the alleged theft occurred at the Plaintiff, Constance Tarbell’s, apartment that she was renting to the Respondent, Jordan Sockbeson. The residence is located on 12 White Road. Thus, the tort occurred within the Mohawk Indian Reservation. Based on the foregoing, the Court possesses jurisdiction over this matter.

Applicable Law

In the instant case, the Respondent, Jordan Sockbeson, rented an apartment from the Plaintiff, Constance Tarbell. It is alleged that Jordan Sockbeson took furniture that was located on the front porch of the apartment he was renting from the Plaintiff when he moved out. This issue presents an issue of first impression for the Court.³ Principles of law demonstrate that there is civil and criminal theft. The present matter is a civil and not a criminal allegation. Generally, civil theft is addressed in tort law.

The Saint Regis Mohawk Tribe Civil Code (SRMT Civil Code) delineates the applicable law for civil disputes and the order in priority of which they should be applied.⁴ The SRMT Civil Code requires that the Court must look to first portions of the Constitution of the United States and applicable federal law.⁵ The Plaintiff’s Complaint is not based on a constitutional claim, nor is the Plaintiff, Constance Tarbell, alleging a claim based on a federal law. The second prong requires the Court to look to written Mohawk laws adopted by the recognized governmental system of the Mohawk Tribe.⁶ At this time, the Saint Regis Mohawk Tribe has not enacted a written law that addresses tort claims.

² SRMT Civil Code § II. C.

³ The Court’s case law is limited to assessing claims brought by parties regarding damages to one’s real property, animals, domestic pets, assault, and defamation. *See Burns v. Ward*, 9-SC-00003 (June 9, 2011), *see also*, *Costello v. Cree*, 10-CIV-0008 (Jan. 4, 2016), *see also*, *Cook v. Cree*, 16-CIV-00014 (Jan. 23, 2018); *see also* *Viki Curotte v. Loran Thompson*, 18-CIV-00019 (Oct. 5, 2018), *see also*, *Francine Gray, Daniel Jacobs v. Alicia M. Cook*, 18-CIV-00022 (Feb. 20, 2019).

⁴ SRMT Civil Code § V. A. 1. – 6.

⁵ SRMT Civil Code § V. A. 1.

⁶ SRMT Civil Code § V. A. 2.

The SRMT Civil Code allows for the application of “[g]enerally 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.”⁷ As previously noted, at this time, there is no written law that addresses the claim brought by the Plaintiff, Constance Tarbell, thus, the Court will apply the Restatement (Second) of Torts as necessary to the present matter.

Factual Findings

The Plaintiff, Constance Tarbell, bears the burden of proof by preponderance of evidence.⁸ Preponderance of the evidence is met “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.”⁹ The Court has reviewed the record and evidence admitted during the trial and finds the following facts were proven by a preponderance of the evidence.

1. Jordan Sockbeson, Respondent, rented an apartment located at 12 White Road from Constance Tarbell, Plaintiff in 2018.
2. The apartment rented by Jordan Sockbeson, Respondent, included a wicker chair and antique wooden rocking chair located on the front porch of the apartment.
3. The wicker chair and antique wooden rocking chair were missing from the premises after Jordan Sockbeson, Respondent, moved out.
4. Constance Tarbell, Plaintiff, asked Jordan Sockbeson, Respondent, to return the furniture prior to initiating this case. He denied having the property.
5. Constance Tarbell, Plaintiff, has not seen the wicker chair or antique wooden rocking chair since the Respondent has moved.
6. Constance Tarbell, Plaintiff, reported the theft to the Saint Regis Mohawk Tribal Police Department.
7. Constance Tarbell, Plaintiff, estimated that the antique wooden rocking chair has a value of \$250.00 and that the wicker chair has a value of \$200.00. Ms. Tarbell paid the \$50.00 Court filing fee to initiate this action.

⁷ SRMT Civil Code § V, A, 5.

⁸ SRMT Rules of Civil Procedure § XX, A, – B.

⁹ SRMT Rules of Civil Procedure § XX, B.

DISCUSSION

In regards to the case at bar, the Respondent, Jordan Sockbeson, rented an apartment from the Plaintiff, Constance Tarbell. The Plaintiff, Constance Tarbell, alleges that the Respondent, Jordan Sockbeson, took or in other words stole her property. In the instant case, the Court is charged with assessing whether the Plaintiff, Constance Tarbell, is entitled to monetary relief for the theft of her property sought from the Respondent, Jordan Sockbeson.¹⁰

As previously noted, the Plaintiff, Constance Tarbell's, complaint is alleging a theft of her personal property. Other jurisdictions' law demonstrates that theft is addressed in civil and criminal law contexts. In the civil law context, theft is a matter of tort law. However, in regards to civil theft, it appears that other jurisdictions, specifically states, address it by statute. In this matter, as noted the Court does not have tribal written law to address the matter nor case law. Furthermore, the most recent Restatement on Torts does not include a definition of theft. Thus, the Court will apply the legal definition of theft to resolve this matter.

Theft is defined as "[b]roadly, any act or instance of stealing, including larceny, burglary, embezzlement, and false pretenses."¹¹ In other words, it is the intentionally taking of another's property. In the instant case, the Court heard testimony from Constance Tarbell, Plaintiff, that Jordan Sockbeson, Respondent, rented an apartment from her. She further testified that the apartment that she rented to Mr. Sockbeson had a front porch that included her personal property, specifically the wicker chair and antique wooden rocking chair. She also testified that the wicker chair and antique wooden rocking chair were missing after the Respondent, Jordan Sockbeson, moved out of the apartment. The Court accepts this as fact as there is no contradicting testimony before it. The facts proven by Constance Tarbell, Plaintiff, demonstrate that the antique wooden rocking chair and wicker chair at issue are her property; that the Respondent had access to the furniture; and that the property was missing from the front porch after the Respondent moved out. Thus, the Court finds that the Respondent intentionally took the Plaintiff's personal property.

Constance Tarbell, Plaintiff, has testified that she estimates the antique wooden rocking chair has a value of \$250.00 and the wicker chair has a value of \$200.00. The Court accepts her estimations as there are no contradicting evidence before it. The Court finds that the estimations and the expenses incurred for initiating this action being requested by the Plaintiff are reasonable.

ORDER

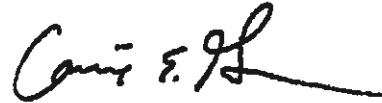
Based on the foregoing it is hereby **ORDERED** the Respondent, Jordan Sockbeson, pay the Plaintiff, Constance Tarbell, for the antique wooden rocking chair in the amount of \$250.00,

¹⁰ Pursuant to the SRMT Rules of Civil Procedure, in the case of torts, actions must meet the three (3) year statute of limitation. SRMT Rules of Civil Procedure § VIII A. 1. In the instant case, the alleged theft occurred in 2018. The action was filed by the Plaintiff, Constance Tarbell, in this Court on March 20, 2019. Thus, the Plaintiff met this requirement by timely filing her complaint.

¹¹ *Black's Law Dictionary* 1615 (9th ed. 2009).

wicker chair for the amount of \$200.00, and the court filing fee in the amount of \$50.00 in restitution and in damages incurred for initiating this action for a total amount of **\$500.00**.

Signed this 24 day of June, 2019.



Carrie E. Garrow, Chief Judge
Saint Regis Mohawk Tribal Court

No later than ten (10) days after a judgment is final, a party may ask the Judge for a rehearing, reconsideration, correction vacation, or modification of the judgment. The parties have thirty (30) days from the entry of this Order to file an appeal with the Saint Regis Mohawk Court of Appeals.