

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

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|-------------------------|---|--|-------------------------------|
| Dwayne Lazore |) | | |
| |) | | |
| Plaintiff |) | | |
| |) | | Case No.: 19-CIV-00017 |
| v. |) | | |
| |) | | DECISION AND ORDER |
| Orestes Rios III |) | | |
| |) | | |
| Respondent |) | | |
| |) | | |

Procedural Background

On October 22, 2019, Dwayne Lazore, Plaintiff, filed a civil complaint naming Orestes Rios III as a Respondent.

On January 28, 2020, Orestes Rios III, Respondent filed a motion to dismiss with the Court contending that this Court lacks jurisdiction and that Dwayne Lazore, Plaintiff, has failed to state a legitimate basis for relief. Respondent also contended that the complaint and summons was not served in the sixty (60) day time frame as required under the Saint Regis Mohawk Tribe Rules of Civil Procedure. For proof of service, Respondent filed a UPS tracking document on February 4, 2020 that states an item was delivered to Hogansburg, New York.

On February 11, 2020, Respondent emailed a picture of a completed Proof of Service Form to the Court.

On February 14, 2020, Dwayne Lazore, Plaintiff filed a request for a cease and desist and submitted other documents.

On February 18, 2020, Orestes Rios III, Respondent, submitted a copy of a completed Proof of Service Form to the Court. On the same day, Respondent submitted a response to Dwayne Lazore, Plaintiff, request for a cease and desist. The Court issued a scheduling order providing submission dates to the parties.

On February 24, 2020, the Court held an initial appearance on the matter. The parties appeared and were self-represented. On the same day, Dwayne Lazore, Plaintiff, submitted a response brief, a police report, and several other documents.

On February 25, 2020, Orestes Rios III, Respondent submitted a response to Dwayne Lazore, Plaintiff's, request for a cease and desist.

On March 2, 2020, Orestes Rios III, Respondent, filed a reply in support of his motion to dismiss Dwayne Lazore, Plaintiff's, complaint.

On March 4, 2020, Dwayne Lazore, Plaintiff, filed a response to Orestes Rios III, Respondent's submissions.

On March 5, 2020, Orestes Rios III, Respondent, resubmitted a motion to dismiss Plaintiff's complaint.

On March 9, 2020, Dwayne Lazore, Plaintiff, filed a response to Orestes Rios III, Respondent's, motion to dismiss.

On March 11, 2020, Dwayne Lazore, Plaintiff, filed additional documentation.

On March 16, 2020, Orestes Rios III, Respondent, submitted a motion to strike Plaintiff's unauthorized second response in opposition to Respondent's motion to dismiss.

On April 17, 2020, the Court issued a Decision and Order dismissing Dwayne Lazore, Plaintiff's, slander claim and his request for a cease and desist. The Court scheduled an evidentiary hearing on the jurisdictional issue.

On May 11, 2020, the Court held a hearing on the matter. The Court received evidence and heard testimony from Dwayne Lazore, Plaintiff; Orestes Rios III, Respondent; Wayne Stehlin; Mary Nicholas; and Theresa Cole.

On June 16, 2020, the Court issued a Decision and Order dismissing Dwayne Lazore, Plaintiff's, civil complaint with prejudice.

On June 25, 2020, the Court received a written motion to reconsider from Dwayne Lazore, Plaintiff. Plaintiff included copies of evidence and pictures of a FedEx envelope and receipt and a picture of a civil process Florida document.

On July 1, 2020, the Court received Orestes Rios III, Respondent's, response in opposition to Dwayne Lazore, Plaintiff's, motion for reconsideration.

Discussion

In the instant case, Dwayne Lazore, Plaintiff, has filed a motion asking this Court to reconsider its decision dated June 16, 2020. Plaintiff contends that he represented himself and "did not understand that we were trying to establish within jurisdiction" and that he believes that there is information that can show a breach of contract through multiple signature frauds and paperwork alterations. Orestes Rios III, Respondent, argues that the evidence that Plaintiff submits is not newly discovered. Specifically he contends ". . . there is nothing "new" about the evidence Plaintiff wishes to submit in this case. Indeed, Plaintiff has been making the same tired arguments of "breached litter agreements" and "signature frauds and paperwork alterations" to AKC [American Kennel Club] since October 2018."

The Saint Regis Mohawk Tribe Rules of Civil Procedure ("SRMT Rules of Civil Procedure") states that "[n]o 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 Judge may grant a new hearing or reconsider any change in the judgment if he or she finds at least one of the following to be true: the original judgment was based on or reached as a result of

fraud or mistake of law; there is newly discovered evidence which probably would have affected the outcome of the case and which could not, with reasonable effort, have been discovered in time for a hearing of the case; [or] the court did not have jurisdiction over a party or over the subject matter.”

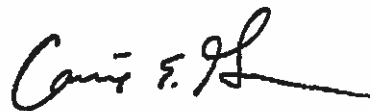
In regards to the case at bar, Dwayne Lazore, Plaintiff does not contend that the original judgment was based or reached as a result of fraud or mistake of law or that the Court did not have jurisdiction over a party or the subject matter. Rather, Plaintiff argues that there is evidence that was not considered that he believes will demonstrate that there was a breach of a contract through signature frauds and paperwork alterations. As previously noted, the SRMT Rules of Civil Procedure allows the Court to set a new hearing or reconsider a judgment if it is demonstrated that the “newly discovered evidence which probably would have affected the outcome of the case and which could not, with reasonable effort, have been discovered in time for a hearing of this case.”

In his motion, Dwayne Lazore, Plaintiff, does not demonstrate that the attached evidence could not have been discovered in time for the hearing in this case. His argument focuses on how it allegedly could affect the outcome of the case. Plaintiff does not include an argument demonstrating that the evidence could not have been discovered in time for the hearing that took place on May 11, 2020. The Court notes that during the course of the evidentiary hearing, Plaintiff had the opportunity to submit any evidence that supports his claims including evidence that he previously has submitted to the American Kennel Club. The Court is aware that Plaintiff is not an attorney; however, he still bears the burden of proving his case. Furthermore, the Court notes that Plaintiff states in his motion that “[i]t is to my understanding that the courts understands that there was a meeting of the minds, however the courts do not understand how there was a breach of contract or where the breach occurred.” In its Decision and Order dated June 16, 2020, the Court determined that there was no meeting of the minds. There can be no breach of a contract if there is not a meeting of the minds, because a meeting of the minds is required for the formation of a contract. Plaintiff mentions fraud and document alterations, but this does not have any relevance because it is submitted to prove a breach of a contract or where the breach occurred. The Court found there was no meeting of the minds and thus there was no contract, so a breach of a contract could not exist. Therefore, the Court holds that it need not set a hearing or reconsider its decision and order dated June 16, 2020.

ORDER

Based on the foregoing, it is **ORDERED, ADJUDGED AND DECREED** that Dwayne Lazore, Plaintiff’s, motion to reconsider is **DISMISSED WITH PREJUDICE**.

Signed this 8th day of July, 2020.



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. Due to the coronavirus pandemic, please consult the Administrative Orders found on the Court's webpage for information on how to submit a motion for reconsideration or appeal at this time.

A handwritten signature in black ink, appearing to be "C. E. Jones", written in a cursive style.