

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

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**In re Application of Subpoena by  
Dwayne Lazore, Plaintiff**

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) **Case No.: 19-CIV-00017**  
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) **SUBPOENA REQUEST**  
) **DECISION AND ORDER**  
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**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. 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 4, 2020, the Court issued a Decision and Order determining that the Motion to Dismiss dated January 28, 2020 was not adequately served upon Dwayne Lazore.

On February 11, 2020, Orestes Rios III, Respondent emailed a picture of a completed Proof of Service Form to the Court. On February 18, 2020, Respondent, submitted a copy of a completed Proof of Service Form to the Court.

On February 14, 2020, Dwayne Lazore, Plaintiff, filed a motion for a cease and desist.

On February 18, 2020, the Court issued a Scheduling Order directing Dwayne Lazore, Plaintiff, to file a response brief to Orestes Rios III, Respondent's, motion to dismiss by March 9, 2020. On the same day, Plaintiff completed an application for a subpoena.

**DISCUSSION**

In his request for a subpoena, Dwayne Lazore, Plaintiff, requests the Court to compel the Florida Department of Motor Vehicles ("Florida DMV"), a nonparty, to testify at trial and to submit records for this case. Plaintiff alleges that someone without his knowledge or consent accessed his files at the Florida DMV.

The Saint Regis Mohawk Tribe Rules of Civil Procedure ("SRMT Rules of Civil Procedure") states "[a]ny party to a lawsuit or other proceeding in Tribal Court shall have the right to compel witnesses to appear in Court and testify concerning the *matter*."<sup>1</sup> It is clear that a party has a right to obtain a subpoena in order to have a witness testify and/or produce

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<sup>1</sup> SRMT Rules of Civil Procedure § XVII. A. (emphasis added).

documentation. However, the Rules demonstrate that the subpoena has to be related to the matter or in other words, the case.


In the instant case, Dwayne Lazore, Plaintiff, alleges that Orestes Rios III, Respondent, breached their contract. Furthermore, Plaintiff accuses Respondent of slander. Plaintiff is asking for [REDACTED] in damages. Based on the facts alleged in the filings, it is not obvious to the Court how the Florida DMV or the access of the Plaintiff's records is related or relevant to this case. Therefore, it is unclear whether a subpoena compelling a representative from the Florida DMV to testify or produce documentation is necessary for this action.

The SRMT Rules of Civil Procedure do not provide the Court with a standard of assessing whether a request is related to the case at hand. However, the Saint Regis Mohawk Tribe Rules of Evidence ("SRMT Rules of Evidence") state that relevant evidence is admissible. "Relevant evidence" means evidence having a tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.<sup>2</sup> With that in mind, the Court is still unable to discern how evidence and testimony from the Florida DMV is relevant to this matter.

**ORDER**

Based on the foregoing, it is **ORDERED, ADJUDGED AND DECREED** that Dwayne Lazore, Plaintiff, must submit a brief and any supporting documentation demonstrating how evidence and testimony from the Florida DMV is relevant to the claims he has alleged by and through his October 22, 2019 civil complaint by **March 23, 2020** to the Court. Failure to submit a brief will result in a denial for a request for a subpoena.

Signed this 20<sup>th</sup> day of February, 2020.

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

<sup>2</sup> SRMT Rules of Evidence § VIII. A.