

SAINT REGIS MOHAWK TRIBAL COURT

Rosalie A. Jacobs)

Plaintiff)

V.)

Austin Swamp)

Respondent)

DECISION AND ORDER

16-CIV-00008

Procedural History

On June 20th, 2016, the Plaintiff, Rosalie A. Jacobs, filed a complaint with the Saint Regis Mohawk Tribal Court (hereinafter Court). The complaint alleges that the Respondent, Austin Swamp, borrowed \$1,500.00 from the Plaintiff on March 21st, 2014, and has since failed to repay. The complaint is seeking monetary relief in the sum of \$1,500.00, plus the Court filing fee of \$50 for a total of \$1,550.00.

A 20 Day Civil Summons was issued on June 20th, 2016, to accompany the civil complaint filed with the Court the same day.

A Proof of Service was filed with the Court on June 20th, 2016, showing that the Complaint and Civil Summons were served upon the Respondent in accordance with the Saint Regis Mohawk Tribe's Rules of Civil Procedure (hereinafter SRMT Rules Civ. Pro.).¹

On July 18th, 2016, the Respondent failed to appear in Court at the Initial Appearance and the Plaintiff filed a Notice of Motion for Default following the Respondent's failure to show or file an answer with the Court within 20 days required by the SRMT Rules Civ. Pro.²

A hearing was scheduled for September 6th, 2016 in the SRMT Court to argue the Motion for Default Judgment that was before the Court in the matter at bar. Notices for the hearing were sent by the Court via certified mail/return receipt.³ The Plaintiff appeared for the scheduled hearing. The Respondent in this action failed to appear before the Court.

Default Judgment

In granting a motion for default judgment the Court is guided by the SRMT Rules Civ. Pro. which states that,

Failure of a defendant to file and serve an answer upon the plaintiff within twenty (20) days after the complaint was served shall be in default and shall provide grounds for judgment against the

¹ SRMT Rules Civ. Pro. IX [Rule 6] C.

² SRMT Rules Civ. Pro. XI [Rule 8] A.

³ Record Hearing Notices, August 18th, 2016.

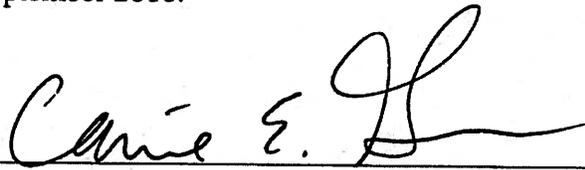
defendant as asked for in the complaint. No judgment of default shall be made, however, unless the plaintiff makes a written motion for a default judgment and serves a copy of the motion on each defendant. If defendant files an answer to the complaint at or before the time that the motion is to be argued to the Judge, no default judgment shall be granted, and the matter shall proceed as though answered on time. If defendant does not answer by that time, a default judgment shall be entered.⁴

In the case at bar we note that the Plaintiff filed and served their Complaint with the 20 Day Civil Summons in accordance with the SRMT Rules Civ. Pro.⁵ The Plaintiff also filed their Notice of Motion for Default Judgment following the Respondent's failure to answer the Complaint in accordance with the SRMT Rules Civ. Pro.⁶ The Respondent failed as well to appear before the Court at a scheduled hearing regarding the Motion for Default Judgment.⁷

Conclusion

Therefore, due to the Respondent's failure to file an answer to the complaint filed by the Plaintiff, failure to file an answer to the Motion for Default Judgment, and failure to appear for the scheduled hearing on the Motion for Default Judgment on September 6th, 2016, in SRMT Court, the Motion for Default Judgment is granted. The Respondent, Austin Swamp, is hereby **ORDERED** to pay monetary relief in the amount of **\$1,550.00** to the Plaintiff, Rosalie A. Jacobs in satisfaction of the relief requested in the complaint filed with this Court on June 20th, 2016.

Signed by my hand this 7th day of September 2016.



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

Pursuant to Rule 20 of the SRMT Rules Civ. Procedure – No later than ten days after a judgment is final, a party may ask the Court for a rehearing, reconsideration, correction, vacation, or modification of the Judgment.

Pursuant to Rules 7 and 8 of the SRMT Rules of Civil Appellate Procedure – A party may appeal a judgment, order, or administrative decision no later than thirty (30) days after the entry of the judgment.

⁴ SRMT Rules Civ. Pro. XIII [Rule 10] A.

⁵ SRMT Rules Civ. Pro. IX [Rule 6] C.

⁶ *Id.*

⁷ *Id.*

