

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

William Clute)	
)	Case No.: 21-LND-00001
Claimant)	
)	
v.)	
)	DECISION AND ORDER
Lorne Clute)	
)	
Respondent)	

Procedural Background

On April 7, 2021, William Clute, Claimant, filed a land dispute complaint naming Lorne Clute as the Respondent.

On April 13, 2021, William Clute, Claimant, filed a request for a cease and desist alleging that Lorne Clute, Respondent, is driving his tractor and vehicles over the yard and causing damage to the disputed property.

On April 15, 2021, Lorne Clute, Respondent, filed a request for a cease and desist alleging that William Clute, Respondent was trespassing on his property by mowing and dumping debris.

On May 5, 2021, the Court held a hearing on the parties' motion for a cease and desist. The parties appeared and were self-represented.

On May 6, 2021, the Court issued a cease and desist in this matter directing that William Clute, Claimant, refrain from entering the real property identified as [REDACTED]

On May 26, 2021, the Court held a hearing on this matter. The parties appeared and were self-represented. The Court heard testimony from the parties and accepted evidence.

Applicable Law

The Saint Regis Mohawk Tribe Land Laws and Land Dispute Ordinance governs this matter.¹

Jurisdiction

In order to address the instant case, the Court must first determine whether it possesses jurisdiction over the matter. In regards to the case at bar, the filings and testimony submitted by the parties demonstrate that the matter involves property within the Saint Regis Mohawk Indian

¹ SRMT LL&LDO (enacted Dec. 21, 2016).

Reservation. Pursuant to the Saint Regis Mohawk Tribe Land Laws and Land Dispute Ordinance (SRMT LL&LDO), the Court has jurisdiction over land disputes.² Thus, the Court assumes jurisdiction over the allegations raised in this case.

Discussion

In this case, William Clute, Claimant, alleges that in 2009 he asked his brother, Lorne Clute, Respondent, for his permission to fill in a swamp on his property. Claimant argues that he was given the permission and incurred costs and requests to be reimbursed or a lien be placed on Respondent's property. In response, Respondent disputes the location of the swamp and contended that he did not possess a deed to the property at the time.

Prior to addressing William Clute, Claimant's, claims, the Court will first start with addressing whether this case is timely or in other words satisfies the applicable statute of limitations. The parties did not provide the Court with arguments as to this issue. The Court notes that the instant matter comes to the Court as a land dispute. Moreover, Claimant does not dispute Respondent's ownership of the property or boundaries of the property. Rather, the remedies the Claimant is requesting is linked to a contract claim and as such are not related to typical claims brought in a land dispute such as a boundary dispute. The Saint Regis Mohawk Tribe Land Laws and Land Dispute Ordinance and Saint Regis Mohawk Tribe Rules of Civil Procedure ("SRMT Rules of Civil Procedure") both have statute of limitations provisions. However, these provisions are not identical. Similarly, in *Brenda Hathaway et al. v. Allan Jones*, the Claimants put forth a claim that was contract related and the case was before the Court as a land dispute.³ In *Hathaway*, this Court applied the statute of limitations provision found in the Saint Regis Mohawk Tribe Rules of Civil Procedure to assess the Claimant's claim.⁴ As previously noted, William Clute, Claimant, is seeking remedies that are linked to a contract claim. Thus, this Court will apply the statute of limitations provision found in the SRMT Rules of Civil Procedure.

The SRMT Rules of Civil Procedure state that "[t]he time within which a civil lawsuit must be filed shall be counted from the date on which the injury or breach was first known to the injured party or should have been known to a reasonably aware person in the position of the injured party."⁵ Moreover, the SRMT Rules of Civil Procedure notes that in the case of torts and oral contracts actions must be commenced within three (3) years.⁶ In this case, William Clute, Claimant, is requesting to be reimbursed for his costs that he incurred when he filled in a swamp on Lorne Clute, Respondent's, property or that a lien be placed on the property. The remedy that Claimant is requesting requires him to prove that Respondent is legally obligated to pay him for those costs incurred or in other words that a contract was entered into between the parties. Therefore, it must be demonstrated that this claim was brought within three (3) years from when the injury or breach was first known to the injured party.

² SRMT LL&LDO § VI. A. 1.

³ *Brenda Hathaway et al. v. Allan Jones*, 19-LND-00003, 5 (May 26, 2021).

⁴ *Id.*

⁵ SRMT Rules of Civil Procedure § VIII. B.

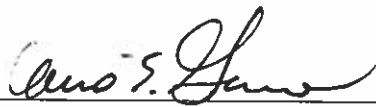
⁶ SRMT Rules of Civil Procedure § VIII. A. 1.

In this case, the record demonstrates William Clute, Claimant, discussed with Lorne Clute, Respondent, the work at issue in 2009. Claimant submitted a receipt into evidence demonstrating that the topsoil that was used to fill in the swamp was purchased and delivered to Claimant in June 2009. The testimony indicates that the work was completed shortly after by Claimant and that Claimant never received compensation for work he completed. Therefore, Claimant knew in 2009 of the injury after he received no compensation from Respondent. Thus, the Court holds that the clock started on June 2009. As a result, the statute of limitations ended in June 2012 and the record clearly demonstrates that this action was filed on April 7, 2021. Based on the aforementioned, Claimant's claim for compensation is barred by the statute of limitations.

ORDER

Based on the foregoing, it is **ORDERED, ADJUDGED AND DECREED** that William Clute, Claimant's, claim against Lorne Clute, Respondent, to be reimbursed for costs incurred for filling in a swamp is **DISMISSED WITH PREJUDICE**; that the **CEASE AND DESIST** dated May 6, 2021 is no longer in effect; and that this case is hereby closed.

Signed this 1st day of June, 2021.



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.

