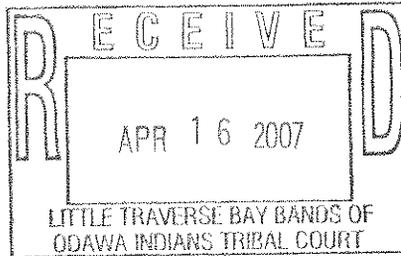


LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
TRIBAL COURT

Albert Carey,
Plaintiff

V

Victories Casino,
John Espinosa & Harlan Eckholm,
Defendants



Case No: C-062-1005
Hon. Jenny Lee Kronk

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ORDER DISMISSING CASE

Findings of Fact

On October 5, 2005, Plaintiff Albert Carey filed a complaint with Little Traverse Bay Bands (LTBB) of Odawa Indians Tribal Court against Defendant Victories Casino, alleging wrongful termination.

On February 28, 2006, the Court allowed the Plaintiff to amend his complaint to include a whistleblower claim against the Casino and two additional defendants, John Espinosa and Harlan Eckholm. However, Plaintiff failed to subsequently file with the court an amended complaint with proof of service to all named defendants.

In a written opinion dated April 20, 2006, the Court granted Defendant Casino's motion for summary judgment and dismissed the case, based upon sovereign immunity for Defendant Casino and failure to state a claim as to the individually-named Defendants.

On May 18, 2006, the Plaintiff filed an appeal in this matter with the LTBB Appellate Court, although Plaintiff did not file a fee waiver request at that time and did not pay the filing fee to the Appellate Clerk until June 9, 2006, as required by Appellate Procedures 7.402(A). Further, the Plaintiff did not identify a legal basis for the appeal as articulated in Appellate Procedures 7.101, and did not file proof of service to the other parties as required by Appellate Procedures 7.602(A).

In its decision released on March 27, 2007, the LTBB Appellate Court upheld the dismissal of the appeal against the Casino but remanded the case against Defendants Eckholm and Espinosa to Tribal Court with the instructions that "On remand, Appellant Carey shall have fourteen days from entry of this Decision to file a complaint." See, Appellate Decision, p. 11.

The Appellate Court further directed that "In this case, the Appellate Court is persuaded that the stringent Michigan Court rules for service of process should be applied to this case and all other civil court cases until the Tribal Court adopts its own civil court rules." Appellant Decision, p. 10.

The LTBB Tribal Judiciary approved Civil Court Rules at its September 17, 2006 meeting. The Civil Court Rules have been subsequently posted and promulgated.

On April 9, 2007, Plaintiff filed an amended complaint with Tribal Court that did not include an original certificate of service.

Conclusions of Law

In its remand order, the Appellate Court found "that the appeal should be remanded to Tribal Court rather than dismissed, with instructions that Appellant Carey shall have a second chance to properly initiate his suit by effecting appropriate service of process on Eckholm and Espinosa." See, Appellate Decision, p. 11.

Although the Plaintiff attempted to file an amended complaint in this matter on April 9, 2007, thirteen days after the Appellate Court entered its decision, the complaint failed to include "an original certificate of service which demonstrates that the defendant or respondent has been served on that same date" (See, LTBB Civil Court Rule V, Section 1. Commencement of Action), even though the Court Clerk provided Plaintiff's Attorney with a copy of the LTBB Civil Court Rules.

Both the Tribal Court and Appellate Court have liberally construed the court rules in favor of the *pro se* Plaintiff in the past. However, the Court agrees with the conclusions of the Appellate Court in its remand order that the Plaintiff must follow the strict filing requirements of the court.

Because Plaintiff failed to properly file an amended complaint with a certificate of service within the fourteen days allowed by the Tribal Appellate Court in its remand order, this case is DISMISSED.

April 16, 2007 Honorable Jenny Lee Kronk
Associate Judge