

POKAGON BAND OF POTAWATOMI INDIANS
TRIBAL COURT

58620 Sink Road, P.O. Box 355, Dowagiac, Michigan 49047

LOIS LUCILLE DYER,
Plaintiff

-vs-

Honorable David M. Peterson, Tribal Judge
Case No. 13-2504-CV

POKAGON GAMING AUTHORITY, an
unincorporated governmental instrumentality
of the Pokagon Band of Potawatomi Indians;
FOUR WINDS CASINO RESORT; and
JOHN DOE, an unknown individual,
Defendants

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OPINION AND ORDER

INTRODUCTION

This matter is before the Court on Plaintiff's Motion to Reconsider this Court's Order Granting Defendants' Motion for Summary Disposition pursuant to MCR 2.119(F). The Defendant, Pokagon Gaming Authority, d/b/a Four Winds Casino Resort ("Defendant-Authority")¹ has filed a reply pursuant to MCR 2.119(F)(2), as permitted by the Court.

Plaintiff argues that the Court committed palpable error for three reasons:

- I. Because summary disposition was improper prior to the completion of discovery;
- II. The statute of limitations was tolled;
- III. Defendant-Authority owed Plaintiff a duty to use due care in investigating Plaintiff's injury.

¹It was agreed by both Plaintiff and Defendant at the oral argument on the Motion for Summary Disposition that the proper party Defendant would be the Pokagon Gaming Authority, d/b/a Four Winds Casino Resort, which is an unincorporated governmental instrumentality of the Pokagon Band of Potawatomi Indians, a sovereign, federally recognized Indian Tribe, and John Doe, an unknown individual.

STANDARD OF REVIEW

Motions for reconsideration are governed by MCR 2.119(F)(3) which requires a palpable error committed by which the Court and parties have been misled would result in a different disposition of the motion.

REVIEW

This Court has carefully reviewed Plaintiff's Motion for Reconsideration and supporting Brief and Defendant-Authority's reply along with all attachments, exhibits and affidavits.

The facts remain the same. Plaintiff's alleged injuries occurred January 8, 2013, and on November 27, 2013, Plaintiff filed her Complaint in this Court after two other "filings". Even if Defendant's Motion for Summary Disposition had not been granted and the Court found a "tolling", the final result would have been the same. The Defendant-Authority still does not know the identity of the Plaintiff's alleged tort feisor based on the pleadings.

A "claim" for an "award" as required by Section 10 of the Pokagon Band of Potawatomi Indians Tort Claims Ordinance was not filed within 180 days of the incident.

CONCLUSION

For the above reasons, the Court finds no palpable error which would result in a different disposition of the Motion as required by MCR 2.119(F)(3). Therefore, the Court finds no reason to change its prior order.

In view of the Court's finding regarding the statute of limitations above, it is not necessary for the Court to rule on the other two claimed errors.

ORDER

The Order granting Defendant's Motion for Summary Disposition entered May 6, 2014, is affirmed.

Dated: July 29, 2014

David M. Peterson
David M. Peterson, Tribal Judge