

STATE OF MAINE

KENNEBEC, ss.

MICHAEL ST. JEAN,

Plaintiff

v.

TOWN OF LITCHFIELD,

Defendant

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. RE-03-18
DHM - KEN - 12/23/2004

DECISION AND ORDER
ON MOTIONS

DONALD L. ...
JAN 4 2005

This matter is before the court on defendant's motion for summary judgment, defendant's motion for sanctions under M.R. Civ. P. 11, and plaintiff's motion to dismiss without prejudice.

Plaintiff Michael St. Jean maintains that he owns two lots of land in Litchfield, Maine. These parcels are allegedly described in deeds recorded at the Kennebec County Registry at Book 2349, page 242 and Book 3167, page 250. No copies of the deeds are attached to this file.

Plaintiff alleges that after purchasing these parcels he became aware that the tax maps were not correct. Plaintiff avers that a large section of his land was listed on the map as belonging to the Kennebec Valley Beagle Club and that a forester conveyed this information to David Byras the Litchfield Town Manager. Plaintiff further alleges that an agreement was reached between plaintiff and various other parties in open court in front of Justice Atwood on September 14, 1995.¹

The Complaint, filed on July 9, 2003, goes on in an anecdotal manner relating various mishaps (a surveyor allegedly surveying the wrong land) and meetings with

¹ The complaint refers to an attached transcript of a hearing of some kind (not described by plaintiff and not obvious from reading the portions of the transcript provided) for evidence of this "agreement." It does not cite a particular

Mr. St. Jean's dispute with the town apparently centers on what he maintains is an incorrect tax map that shows land he asserts he owns as being owned by someone named Doran and a breach of an alleged oral agreement from 1995 concluded in the court in front of Justice Atwood.

Defendant town beside denying any taking, points out that tax maps do not establish ownership. Defendant notes that tax maps are assessing tools that towns are not even required to maintain. *See* 36 M.R.S.A. § 328(9).

Regarding Mr. St. Jean's complaint regarding lots 63 and 63A on Town of Litchfield tax map R-9, defendant points to this court's decision, asserting that the ownership of land was determined adversely to Mr. St. Jean and that decision having not been appealed is res judicata. *Town of Litchfield v. Michael St. Jean*, CV-95-307 (Me. Super. Ct. Kenn., September 27, 1995 (Atwood, J.)).

Plaintiff in his opposition concedes he has never had a survey done (but asserts he is prepared to have one done soon) but that a previous survey, conducted by David Giroux in 1995 "strengthened [his] claims."

Defendant supports his claim of taking by the town by pointing out that the property tax assessment has been reduced from \$27,172 to \$14,100. Defendant then launches into another anecdotal survey of various conversations that non-parties allegedly had with each other over the years regarding these properties.

In his own Statement of Material facts plaintiff admits that the same claims he is making with regard to lot 63A has been the subject of three previous proceedings in court. None of those have been appealed.

Unable or unwilling to offer support for his contention that he owns various pieces of land in Litchfield and that the Town of Litchfield has somehow taken that

from him in violation of an alleged oral agreement³ plaintiff resists this motion by asserting that “an actual controversy between the parties” exists.

Defendant points out that this is the third attempt by plaintiff to undo a decision of this court entered in 1995. Plaintiff himself in his own SMF admits that the same claims he is attempting to litigate here in regard to lots 63A on map R-9 of the Town of Litchfield tax map has been the subject of three prior proceedings in this court. Defendant also recites the various flaws in plaintiff’s takings theory noted above.

If there are good grounds to support plaintiff’s claims in this case they have not been made obvious to this court. A lack of coherent argument, combined with an almost impenetrable statement of facts composed in the main of hearsay and unsupported assertions is put before this court with an almost total disregard of the relevant rules of procedure and pertinent deadlines by both parties.

The plaintiff has moved to dismiss this action without prejudice alleging that he is awaiting the results of the pending survey of the disputed property. He further admits that the results of the survey could end the case permanently. This matter has been consolidated with *St. Jean v. Kimball & Doran*, KEN-RE-04-05. Plaintiff asserts that the survey is stayed pending action upon a motion in the related case.

This action must be dismissed but not without prejudice because the plaintiff has made no showing of merit on the substantive issues. If he wants to change a tax map, it is his responsibility to see that appropriate evidence is submitted to the Tax Assessor to establish the actual line on the ground, most effectively by survey.

³ Neither party addresses the State of Frauds requirements of a writing for the contract for transfer of any interest in land. *See*, 33 M.R.S.A. § 51 (2003).

The entry will be:

Defendant's motion for summary judgment is GRANTED; judgment for defendant on plaintiff's complaint; defendant's motion for sanctions pursuant to M.R. Civ. P. 11 is GRANTED; plaintiff is ORDERED to pay defendant \$500 as sanction for this frivolous proceeding; plaintiff's motion to dismiss without prejudice is DENIED.

Dated: December 23, 2004



Donald H. Marden
Justice, Superior Court

MICHAEL ST JEAN - PLAINTIFF
959 WEST ALNA RD
ALNA ME 04578
Attorney for: MICHAEL ST JEAN
ANDREWS B CAMPBELL - RETAINED 06/14/2004
CAMPBELL LAW OFFICE
45 KALERS CORNER ROAD
WALDOBORO ME 04572

SUPERIOR COURT
KENNEBEC, ss.
Docket No AUGSC-RE-2003-00018

DOCKET RECORD

vs
TOWN OF LITCHFIELD - DEFENDANT

Attorney for: TOWN OF LITCHFIELD
MARK SUSI - RETAINED
LAW OFFICE OF MARK SUSI
193 WATER STREET
HALLOWELL ME 04347

Filing Document: COMPLAINT
Filing Date: 07/09/2003

Minor Case Type: OTHER REAL ESTATE

Docket Events:

07/09/2003 FILING DOCUMENT - COMPLAINT FILED ON 07/09/2003
Plaintiff's Attorney: RANDY ROBINSON
WITH ATTACHMENTS, FILED.

07/09/2003 CERTIFY/NOTIFICATION - CASE FILE NOTICE SENT ON 07/09/2003
ISSUED TO R. ROBINSON, ESQ.

07/09/2003 Party(s): MICHAEL ST JEAN
ATTORNEY - RETAINED ENTERED ON 07/09/2003

09/10/2003 Party(s): TOWN OF LITCHFIELD
RESPONSIVE PLEADING - ANSWER FILED ON 09/10/2003
Defendant's Attorney: MARK SUSI
ANSWER TO COMPLAINT, FILED.

09/10/2003 Party(s): TOWN OF LITCHFIELD
ATTORNEY - RETAINED ENTERED ON 09/10/2003
Defendant's Attorney: MARK SUSI

09/15/2003 ORDER - SCHEDULING ORDER ENTERED ON 09/15/2003
DONALD H MARDEN , JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL

09/15/2003 DISCOVERY FILING - DISCOVERY DEADLINE ENTERED ON 05/15/2004

09/15/2003 ASSIGNMENT - SINGLE JUDGE/JUSTICE ASSIGNED TO JUSTICE ON 09/15/2003
DONALD H MARDEN , JUSTICE

11/14/2003 ADR - NOTICE OF ADR PROCESS/NEUTRAL FILED ON 11/14/2003
ADR MEDIATION SET FOR 11/25/03 AT 11:00AM BEFORE LESTER WILKINSON.

12/02/2003 ORDER - REPORT OF ADR CONF/ORDER FILED ON 12/02/2003

12/02/2003 ORDER - REPORT OF ADR CONF/ORDER UNRESOLVED ON 12/02/2003

12/03/2003 ORDER - REPORT OF ADR CONF/ORDER ENTERED ON 12/02/2003
DONALD H MARDEN , JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL

12/22/2003 Party(s): MICHAEL ST JEAN
LETTER - FROM PARTY FILED ON 12/19/2003
Plaintiff's Attorney: RANDY ROBINSON
LETTER INFORMING THE COURT WILL NOT BE FILING AN EXPERT WITNESS DESIGNATION

01/06/2004 Party(s): TOWN OF LITCHFIELD
DISCOVERY FILING - NOTICE OF DEPOSITION FILED ON 01/06/2004
Defendant's Attorney: MARK SUSI
NOTICE OF DEPOSITION DUCES TECUM SERVED ON RANDY L. ROBINSON, ESQ. ON 1/5/04.

03/01/2004 Party(s): MICHAEL ST JEAN
MOTION - MOTION FOR CONSOLIDATION FILED ON 03/01/2004
Plaintiff's Attorney: RANDY ROBINSON
PLAINTIFF'S MOTION TO CONSOLIDATE, FILED. (WITH RE04-05)

03/04/2004 Party(s): TOWN OF LITCHFIELD
MOTION - MOTION SUMMARY JUDGMENT FILED ON 03/04/2004
Defendant's Attorney: MARK SUSI
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT WITH INCORPORATED MEMORANDUM OF LAW; AFFIDAVIT OF
STEVEN MUSICA; AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION FOR ATTORNEY'S FEES AND
DISBURSEMENTS; MOTION FOR SANCTIONS; STATEMENT OF MATERIAL FACTS NOT IN DISPUTE WITH
ATTACHMENTS AND PROPOSED ORDER, FILED.

03/04/2004 Party(s): TOWN OF LITCHFIELD
MOTION - MOTION FOR SANCTIONS FILED ON 03/04/2004
Defendant's Attorney: MARK SUSI
MOTION FOR SUMMARY JUDGMENT WITH INCORPORATED MEMORANDUM OF LAW; AFFIAVIT OF STEVEN
MUSICA; AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION FOR ATTORNEY'S FEES AND DISBURSEMENTS;
MOTION FOR SANCTIONS; STATEMENT OF MATERIAL FACTS NOT IN DISPUTE WITH ATTACHMENTS AND
PROPOSED ORDER, FILED.

03/22/2004 Party(s): MICHAEL ST JEAN
LETTER - FROM PARTY FILED ON 03/22/2004
Plaintiff's Attorney: RANDY ROBINSON
LETTER INDICATING NO RULE 7B NOTICE WAS FILED WITH MOTION FOR SANCTIONS, FILED.

03/26/2004 Party(s): TOWN OF LITCHFIELD
OTHER FILING - OPPOSING MEMORANDUM FILED ON 03/26/2004
Defendant's Attorney: MARK SUSI
OBJECTION TO PLAINTIFF'S MOTION FOR CONSOLIDATION, FILED.

03/29/2004 Party(s): MICHAEL ST JEAN
OTHER FILING - OPPOSING MEMORANDUM FILED ON 03/26/2004

Plaintiff's Attorney: RANDY ROBINSON
PLAINTIFF'S AFFIDAVIT AND PLAINTIFF'S STATEMENT OF MATERIAL FACTS IN RESPONSE TO
DEFENDANT'S STATEMENT OF MATERIAL FACTS IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT.

03/29/2004 Party(s): MICHAEL ST JEAN
OTHER FILING - OPPOSING MEMORANDUM FILED ON 03/26/2004
Plaintiff's Attorney: RANDY ROBINSON
PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR SANCTIONS PURSUANT TO M.R.CIV.P. 11

04/21/2004 Party(s): MICHAEL ST JEAN
MOTION - MOTION FOR CONSOLIDATION UNDER ADVISEMENT ON 04/21/2004
DONALD H MARDEN , JUSTICE
HEARING HAD ON MOTION FOR CONSOLIDATION. AFTER HEARING, MOTION TAKEN UNDER ADVISEMENT.
ELECTRONIC RECORDING TAPE 656 INDEX 2390-2926

04/22/2004 Party(s): TOWN OF LITCHFIELD
MOTION - MOTION TO AMEND PLEADING FILED ON 04/22/2004
Defendant's Attorney: MARK SUSI
DEFENDANT'S MOTION TO AMEND STATEMENT OF MATERIAL FACTS NOT IN DISPUTE AND AMENDED
STATEMENT OF MATERIAL FACTS NOT IN DISPUTE, FILED.

05/18/2004 NOTE - OTHER CASE NOTE ENTERED ON 05/18/2004
PER TELEPHONE CALL FROM ATTORNEY ROBINSON, CASE WILL BE DISMISSED.

05/19/2004 Party(s): MICHAEL ST JEAN
LETTER - FROM PARTY FILED ON 05/19/2004
Plaintiff's Attorney: RANDY ROBINSON
LETTER INDICATING CASE IS DISMISSED, FILED. ORDER TO FILE DOCKET ENTRIES ISSUED.

05/19/2004 Party(s): MICHAEL ST JEAN
MOTION - MOTION FOR CONSOLIDATION DENIED ON 04/23/2004
DONALD H MARDEN , JUSTICE
COPIES ISSUED TO COUNSEL OF RECORD.

05/26/2004 Party(s): TOWN OF LITCHFIELD
LETTER - FROM PARTY FILED ON 05/24/2004
Defendant's Attorney: MARK SUSI
LETTER IN REFERENCE TO PLAINTIFF'S DISMISSAL, FILED.

06/02/2004 Party(s): MICHAEL ST JEAN
OTHER FILING - WITNESS & EXHIBIT LIST FILED ON 06/02/2004
Plaintiff's Attorney: RANDY ROBINSON

06/02/2004 OTHER FILING - STATEMENT OF TIME FOR TRIAL FILED ON 06/02/2004
Plaintiff's Attorney: RANDY ROBINSON
ESTIMATED TIME FOR TRIAL IS 1-1.5 DAYS

06/08/2004 Party(s): TOWN OF LITCHFIELD
OTHER FILING - WITNESS & EXHIBIT LIST FILED ON 06/07/2004
Defendant's Attorney: MARK SUSI

06/14/2004 Party(s): MICHAEL ST JEAN

MOTION - MOTION TO DISMISS FILED ON 06/14/2004
Plaintiff's Attorney: ANDREWS B CAMPBELL
REQUEST FOR A HEARING AND PROPOSED ORDER

06/14/2004 Party(s): MICHAEL ST JEAN
OTHER FILING - ENTRY OF APPEARANCE FILED ON 06/14/2004
Plaintiff's Attorney: ANDREWS B CAMPBELL

06/14/2004 Party(s): MICHAEL ST JEAN
ATTORNEY - RETAINED ENTERED ON 06/14/2004
Plaintiff's Attorney: ANDREWS B CAMPBELL

06/16/2004 Party(s): TOWN OF LITCHFIELD
OTHER FILING - OPPOSING MEMORANDUM FILED ON 06/16/2004
Defendant's Attorney: MARK SUSI
OBJECTION TO PLAINTIFF'S MOTION TO DISMISS WITHOUT PREJUDICE WITH ATTACHED COPY OF MOTIONS
FOR SUMMARY JUDGMENT AND SANCTIONS, FILED.

07/01/2004 Party(s): MICHAEL ST JEAN
MOTION - OTHER MOTION FILED ON 07/01/2004
Plaintiff's Attorney: ANDREWS B CAMPBELL
MOTION TO AMEND OPPOSING STATEMENT OF MATERIAL FACT AND INCORPORATED MEMORANDUM, FILED.

07/01/2004 Party(s): MICHAEL ST JEAN
OTHER FILING - OTHER DOCUMENT FILED ON 07/01/2004
Plaintiff's Attorney: ANDREWS B CAMPBELL
AMENDED OPPOSING STATEMENT OF MATERIAL FACTS, FILED.T

07/01/2004 Party(s): MICHAEL ST JEAN
OTHER FILING - REPLY MEMORANDUM FILED ON 07/01/2004
Plaintiff's Attorney: ANDREWS B CAMPBELL
REPLY TO OBJECTION TO MOTION TO DISMISS, FILED.

07/01/2004 Party(s): MICHAEL ST JEAN
OTHER FILING - OPPOSING MEMORANDUM FILED ON 07/01/2004
Plaintiff's Attorney: ANDREWS B CAMPBELL
AFFIDAVIT OF MICHAEL ST. JEAN IN OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGEMENT
AND IN SUPPORT OF MOTION TO DISMISS, FILED.

07/09/2004 Party(s): TOWN OF LITCHFIELD
OTHER FILING - REPLY MEMORANDUM FILED ON 07/09/2004
Defendant's Attorney: MARK SUSI
RESPONSE TO MOTION TO AMEND OPPOSING STATEMENT OF MATERIAL FACTS AND INCORPORATED
AFFIDAVIT OF MICHAEL ST. JEAN IN OPPOSITION TO DEFENDANTS MOTION FOR SUMMARY JUDGMENT,
FILED.

08/11/2004 Party(s): MICHAEL ST JEAN
LETTER - FROM PARTY FILED ON 08/11/2004
Plaintiff's Attorney: ANDREWS B CAMPBELL
LETTER INDICATING IN HIS VIEW THE MOTIONS COULD BE HEARD ON PLEADINGS, FILED.

10/07/2004 HEARING - MOTION TO DISMISS SCHEDULED FOR 11/02/2004 @ 10:00

10/07/2004 HEARING - MOTION SUMMARY JUDGMENT SCHEDULED FOR 11/02/2004 @ 10:00

10/15/2004 Party(s): TOWN OF LITCHFIELD
MOTION - MOTION TO CONTINUE FILED ON 10/15/2004
Defendant's Attorney: MARK SUSI
MOTION TO CONTINUE, CERTIFICATE OF SERVICE, FILED.

10/19/2004 Party(s): TOWN OF LITCHFIELD
MOTION - MOTION TO CONTINUE GRANTED ON 10/18/2004
DONALD H MARDEN , JUSTICE
WITHOUT OBJECTION MOTION GRANTED.
TO ATTYS.

COPIES MAILED

10/22/2004 Party(s): MICHAEL ST JEAN
LETTER - FROM PARTY FILED ON 10/22/2004
Plaintiff's Attorney: ANDREWS B CAMPBELL
CONSENTING TO MOTION TO CONTINUE OCTOBER 22, 2004 HEARING

12/22/2004 HEARING - MOTION SUMMARY JUDGMENT HELD ON 12/21/2004
DONALD H MARDEN , JUSTICE
Defendant's Attorney: MARK SUSI
Plaintiff's Attorney: ANDREWS B CAMPBELL
HEARING HELD COURT TO ISSUE ORDER
Reporter: PEGGY STOCKFORD

12/22/2004 Party(s): TOWN OF LITCHFIELD
MOTION - MOTION SUMMARY JUDGMENT UNDER ADVISEMENT ON 12/21/2004
DONALD H MARDEN , JUSTICE

12/22/2004 HEARING - MOTION TO DISMISS HELD ON 12/21/2004
DONALD H MARDEN , JUSTICE
Defendant's Attorney: MARK SUSI
Plaintiff's Attorney: ANDREWS B CAMPBELL
HEARING HELD. COURT TO ISSUE ORDER
Reporter: PEGGY STOCKFORD

12/22/2004 Party(s): MICHAEL ST JEAN
MOTION - MOTION TO DISMISS UNDER ADVISEMENT ON 12/21/2004
DONALD H MARDEN , JUSTICE

12/22/2004 Party(s): TOWN OF LITCHFIELD
MOTION - MOTION FOR SANCTIONS UNDER ADVISEMENT ON 12/21/2004
DONALD H MARDEN , JUSTICE

12/22/2004 Party(s): TOWN OF LITCHFIELD
MOTION - MOTION TO AMEND PLEADING UNDER ADVISEMENT ON 12/21/2004
DONALD H MARDEN , JUSTICE

12/27/2004 Party(s): MICHAEL ST JEAN
MOTION - MOTION TO DISMISS DENIED ON 12/23/2004
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL
PREJUDICE

WITHOUT

12/27/2004 Party(s): TOWN OF LITCHFIELD

MOTION - MOTION SUMMARY JUDGMENT GRANTED ON 12/23/2004
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL
DEFENDANT ON PLAINTIFF'S COMPLAINT

JUDGMENT FOR

12/27/2004 Party(s): TOWN OF LITCHFIELD

MOTION - MOTION FOR SANCTIONS GRANTED ON 12/23/2004
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL
ORDERED TO PAY DEFENDANT \$500 AS SANCTION FOR THIS FRIVOLOUS PROCEEDINGS

PLAINTIFF IS

12/30/2004 FINDING - JUDGMENT DETERMINATION ENTERED ON 12/23/2004

DONALD H MARDEN , JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT IS GRANTED; JUDGMENT FOR DEFENDANT ON PLAINTIFF'S COMPLIANT; DEFENDANT'S
MOTION FOR SANCTIONS PURSUANT TO M.R.CIV.P.11 IS GRANTED; PLAINTIFF IS ORDERED TO PAY
DEFENDANT \$500.00 AS SANCTION FOR THIS FRIVOLOUS PROCEEDING; PLAINTIFF'S MOTION TO DISMISS
WITHOUT PREJUDICE IS DENIED.

12/30/2004 ORDER - SUMMARY JUDGMENT ENTERED ON 12/23/2004

DONALD H MARDEN , JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT IS GRANTED; JUDGMENT FOR DEFENDANT ON PLAINTIFF'S COMPLIANT; DEFENDANT'S
MOTION FOR SANCTIONS PURSUANT TO M.R.CIV.P.11 IS GRANTED; PLAINTIFF IS ORDERED TO PAY
DEFENDANT \$500.00 AS SANCTION FOR THIS FRIVOLOUS PROCEEDING; PLAINTIFF'S MOTION TO DISMISS
WITHOUT PREJUDICE IS DENIED.
Judgment entered on COUNT 1 for TOWN OF LITCHFIELD and against MICHAEL ST JEAN in the amount of
\$4.00, Cost of \$500.00.

12/30/2004 FINDING - FINAL JUDGMENT CASE CLOSED ON 12/30/2004

A TRUE COPY

ATTEST: _____
Clerk