



Mashantucket Pequot
Tribal Nation

MASHANTUCKET EMPLOYMENT RIGHTS OFFICE

Default Dismissal

**For Claims under Title 33,
the Mashantucket Pequot Tribal and Native American Preference Law**

Case Name: Kie'Andra Britto-Sebastian v. Foxwoods Resort Casino	Case Number: 2019-33056
Date of Claim Filing: December 17, 2019	Date of Determination: July 8, 2020

Kie'Andra Britto-Sebastian ("Claimant") alleges in her Claim that she is a member of the Mashantucket Pequot Tribal Nation who was denied hire, training and a meeting with the Office of Native American Preference within the first 90 days of hire, and was suspended, in violation of the Tribal and Native American Preference Law ("Preference Law"), 33 M.P.T.L. ch. 1 § 5(a).

I. Relevant Facts

Prior to the Claimant filing the Claim, by emails dated December 10 and 11, 2019, the MERO forwarded to the Claimant the publication *Information for Claimants*, MERO Form 33-1110 (07-08-19), which addresses, in part, the importance of communication and cooperation with the MERO during claim processing.

After the Claim was filed, by Notice of Hearing dated January 8, 2020, an informal hearing was scheduled to be held before the MERO Director on January 23, 2020.¹ At the request of the parties, on January 17, the MERO issued a stay of the processing of the Claimant's case to allow the parties to explore the possibility of settlement, including through a MERO-conducted conciliation. Thereafter, the Claimant's communications with the MERO declined. Notwithstanding the MERO's efforts to emphasize the importance of the Claimant communicating with the MERO, the Claimant did not return the MERO's phone calls or emails consistently and did not appear for two scheduled appointments with the MERO.

By email and telephone message on February 28, the Claimant was advised that due to the Claimant's lack of cooperation, the MERO intended to lift the stay and dismiss the case. The Claimant did not respond. On March 2, the MERO lifted the stay and issued a Notice of Default, advising the Claimant that the case would be dismissed if the MERO did not receive from the Claimant a written request to set aside the default with an explanation for the Claimant's failure or refusal to communicate or maintain appointments with the MERO. The Claimant was afforded five (5) days, excluding weekends and Tribal holidays, through the close of business on March 9, to contact the MERO as provided in the Notice of Default. See *Preference Law Procedures Manual*, §3.4.3.b.ii (Rev. 02-24-16).

¹ All dates hereinafter are in Calendar Year 2020 unless otherwise indicated.

The Claimant did not contact the MERO on or before March 9. The MERO again attempted unsuccessfully to reach the Claimant, by email dated March 9, and voice mail on March 10.

On July 7, the MERO Director contacted the Claimant by telephone.² The Claimant confirmed that no attempt was made to contact the MERO in response to receipt of the Notice of Default, because the Claimant believed continuing in the claim process would not be worthwhile.

II. Disposition

The MERO afforded the Claimant notice of the default and ample opportunity to cure the default, and received no communications from the Claimant. The Claimant ultimately confirmed that the lack of contact with the MERO was due to the Claimant's view that the process did not have value. Accordingly, Case No. 2019-33056 in its entirety is hereby dismissed due to the Claimant's default in having declined to communicate with the MERO or cooperate with the MERO's processes.³

III. Appeal Rights

The parties are directed to the enclosed Notice of Appeal Rights. If no timely appeal is filed with the Tribal Court, this Default Dismissal, a Final Determination of the MERO, is final and binding upon the parties.

IV. Notice of Publication

This Default Dismissal is available to the public through the MERO and subject to formal revision and publication by the MERO. Readers are encouraged to advise the MERO of any typographical or other formal errors so that corrections can be included in the published opinion.

Dated this 8th day of July, 2020.



Ursula L. Haerter
MERO Director

² Between March 10 and July 6, the physical office of the MERO was closed in response to the COVID-19 pandemic.

³ Pursuant to the authority vested in the MERO by Tribal Council Resolutions, *Temporary Modification to 33 M.P.T.L., Preference Law Time Limitations in Response to COVID-19*, TCR041620-02 of 05 and *30 Day Extension of Temporary Modification to 33 M.P.T.L., Preference Law Time Limitations in Response to COVID-19*, TCR060420-03 of 03, the MERO suspended all applicable time deadlines, including for MERO case processing, for a period of 120 days beginning March 10, 2020 and ending July 8, 2020. See *MERO Order Regarding Preference Law Deadlines* (July 8, 2020).



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MASHANTUCKET EMPLOYMENT RIGHTS OFFICE

Notice of Parties' Appeal Rights

For Claims under Title 33,
the Mashantucket Pequot Tribal and Native American Preference Law

Case Name:

Kie'Andra Britto Sebastian v. Foxwoods Resort Casino

Case Number:

2019-33056

Date of Mailing of MERO Final Decision:

July 8, 2020.

Pursuant to Title 33, the Mashantucket Pequot Tribal and Native American Preference Law, as amended, the Preference Law Procedures Manual, and Title 40, the Administrative Procedure Act, the MERO has issued a Final Decision in the above-referenced case. A party dissatisfied with a Final Decision may appeal the MERO's final determination to the Mashantucket Pequot Tribal Court in accordance with 40 M.P.T.L. ch. 3.

Form of Appeal: An appeal must be in writing on a form available from the Tribal Court clerk. A copy of the MERO Final Decision from which an appeal is being taken must be submitted to the Tribal Court with the completed appeal form. The Preference Law provides for a \$50.00 filing fee. See 33 M.P.T.L. ch. 1 § 10.

Deadline for Filing Appeal: To be timely filed, an appeal must be filed with the Tribal Court within thirty (30) days of the above Date of Mailing of MERO Final Decision.

Appeal Hearings: Appeal hearings in Tribal Court are conducted in accordance with 40 M.P.T.L. ch. 3 and the rules of the court.

Representation in Court: If a party wishes to be represented in Tribal Court by an attorney, it is that party's responsibility to find and retain an attorney at that party's cost. The MERO represents the MERO's decision in court and does not represent any employer or claimant.

Contacting the Tribal Court Clerk: Telephone Number: (860) 396-6115. Location: 101 Pequot Trail (Public Safety Building) Mailing Address: Mashantucket Pequot Tribal Court, Office of the Tribal Court Clerk, P.O. Box 3126 Mashantucket, CT 06338-3126.

If no timely appeal is filed, the MERO Final Decision is binding on the parties and may be enforced by the MERO in Tribal Court.

**Contact the clerk of the Mashantucket Pequot Tribal Court for an appeal form.
Direct any questions about Tribal Court appeal processes to the court.**

CERTIFICATION:

The foregoing Default Dismissal and Notice of Parties' Appeal Rights in Case No. 2019-33056 has been served via electronic and U.S. mail to the following parties or party representatives of record, this 8th day of July, 2020:

Tawnii Cooper-Smith
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Mashantucket, CT 06338
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Kie' Andra Britto-Sebastian
42 Fanning Road
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MERO Director