

STATE OF MAINE

KENNEBEC, ss.

SUPERIOR COURT
CIVIL ACTION

DOCKET NO. AP-04-10

SKS - KEN - 5/24/2004

ANDREA M. LAPOINTE
and MICHAEL T. BARDEN,

Petitioners

v.

ORDER

KENNEBEC COUNTY
COMMISSIONERS,

Respondents

DOCKET NO. AP-04-10
LAP-04-10

JUN 4 2004

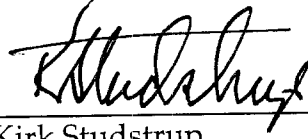
This matter came on for hearing on the appeal of the plaintiffs from a decision of the Kennebec County Commissioners (County Commissioners Court) denying the plaintiffs an abatement of the real estate tax valuation on their property as established by the City of Hallowell. The plaintiffs assert procedural irregularities, which they believe have deprived them of their Due Process rights. In this regard, the plaintiffs have requested a trial of the facts.

The response by the Kennebec County Commissioners was succinct in that it merely pointed out that the plaintiffs had the wrong party, citing *Shawmut Inn v. Town of Kennebunkport*, 428 A.2d 384, 388 (Me. 1981). The court concludes that the Commissioners are correct. Just as an appeal to the Law Court from a decision of the Superior Court does not make the Superior Court the appropriate appellee, so to an appeal from the County Commissioners Court to the Superior Court does not make the County Commissioners an appropriate appellee. The appellants were placed on notice of this deficiency and rather than amend their complaint to state the proper party opponent, they chose to argue the point. Since the appellants' argument does not prevail, the appeal must be dismissed.

Therefore, the entry will be:

The appeal against the Kennebec County Commissioners is
DISMISSED for stating the wrong party.

Dated: May 24, 2004



S. Kirk Studstrup
Justice, Superior Court

Action Petition for Review
80B

J. STUDSTRUP

Andrea M. Lapointe & Michael T. Barden vs. Kennebec County Commissioners

<p>Plaintiff's Attorney</p> <p>Andrea Lapointe & Michael Barden, Pro Se 10 Academy Street Hallowell, Maine 04347</p>	<p>Defendant's Attorney</p> <p>George M. Jabar, II, Esq. One Center Street Waterville, Maine 04901-5425</p> <p>-WARREN SHAY ESQ PO BOX 467 SKOWHEGAN MAINE 04976</p>
Date of Entry	

2/11/04	Complaint, filed. s/Lapointe s/Barden, Pro Se
2/17/04	Notice of briefing schedule sent to Pltf.
2/20/04	Acknowledgment of Receipt of Summons and Complaint or Post- Judgment Motion served on Kennebec County Commissioners on 2/11/04.
2/23/04	Hearing documents, filed. Letter entering appearance, filed. s/Jabar, II, Esq.
2/27/04	Brief of Plaintiffs, filed. s/Andrea Lapointe & Michael T. Barden, Pro Se Motion for Trial of the Facts, filed. s/Lapointe s/Barden, Pro Se Proposed Order, filed.
3/3/04	Letter Requesting any proceedings to be recorded, filed. s/A. Lapointe, Pro se Plaintiff.
3/9/04	Defendant's Objection to the Plaintiffs' Motion for a Trial of the Facts, filed. s/Jabar, II, Esq. Brief of Defendant, filed. s/Jabar, II, Esq.
3/11/05	Reply Brief of Plaintiffs, filed. s/Andrea M. Lapointe, Pro Se
3/24/04	Motion to Withdraw, filed. s/Jabar, II, Esq. Certificate of Service, filed. s/Jabar, II, Esq.
3/24/04	MOTION TO WITHDRAW, Studstrup, J. Motion granted. George Jabar, Esq. allowed to withdraw. Copies mailed to attys of record.
3/31/04	Reply Brief to Defendant's objection to the Plaintiff's Motion for a Trial of the Facts, filed. s/Lapointe, Pro Se
	Notice of setting for <u>5/5/04</u> sent to attorneys of record.