

ONEIDA TRIBAL JUDICIAL SYSTEM
OnΛyote?a·ka Tsi? Shakotiya? Toléhte

APPELLATE COURT

Michael T. Debraska, Leah Sue Dodge, et.al,

Appellant,

v.

Docket No. 14-AC-012

Oneida Business Committee, Oneida Election Board,
et.al.

Date: August 29, 2014

Respondent.

RESPONDENT'S MOTION TO LIFT STAY ON SPECIAL ELECTION

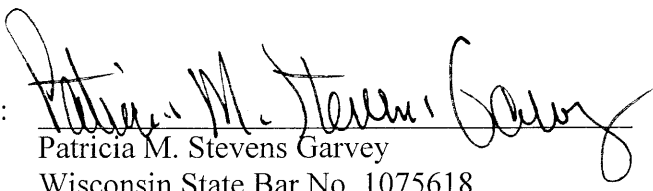
COMES NOW, Respondent, by and through their attorney, Patricia M. Stevens Garvey, and requests this Court, pursuant to Oneida Rules of Appellate Procedure, Rule 11, lift the stay on Judiciary Special Election to elect judges and states as follows:

1. A General Election for the election of Oneida Business Committee members and Tribal judges was scheduled for July 12, 2014.
2. A GTC action at the June 16, 2014 meeting withdrew the election of Tribal judges from the July 12, 2014 General Election and rescheduled the Tribal judges election to a Special Election.
3. The Special Election for Tribal judges was scheduled for August 23, 2014.
4. On August 20, 2014, the Appellant filed an "Application for a TRO & Preliminary Injunctive Relief re: the 8/23/2014 Special Election" with the Trial Court of the Oneida Tribal Judicial System.
5. On August 21, 2014, the Trial Division denied the request for an Injunction/Temporary Restraining Order.
6. On August 22, 2014, the Appellant filed a Notice of Appeal with the Appellate Court claiming the decision of the Trial Court was "arbitrary and capricious".

7. On August 22, 2014, the Appellate Court accepted the Appeal and ordered an Appellate Brief to be filed by September 22, 2014.
8. Although the Appellant failed to request relief, the Appellate Court, pursuant to Rule 17(B), issued a “stay on the August 23, 2014 Special Election of the Oneida Judiciary....”
9. On August 28, 2014, the Oneida Business Committee passed Resolution 08-28-14-A, “Authorizing an Exception to Conducting the Special Election to Elect Judges for New Judiciary to Include Polling Places in Both Oneida and Milwaukee.” **ATTACHMENT**
10. The Resolution provides in the second resolve, “the Oneida Business Committee finds that to maintain the transition timelines set forth in resolution #GTC-01-07-13-B, as amended by the two-thirds vote of the General Tribal Council on June 16, 2014, a Special Election is called for the Judiciary and a one-time exception to conduct the Special Election shall include polling sites in Oneida and Milwaukee.”

The Respondent requests the stay on the Special Election be lifted as the Milwaukee polling site will now be included pursuant to Resolution BC 08-28-14-A. In addition, pursuant to Rule 11(B)(1), the Respondent requests an exception to the 10 day requirement for a response as this request is a non-substantive or procedural motion which does not give either party additional substantive rights and is so minor in nature that the lead Judicial Officer can grant the motion as the granting of the motion will not bring any harm to the other parties in the case.

By:

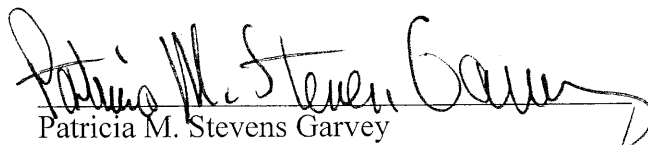

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Certificate of Service

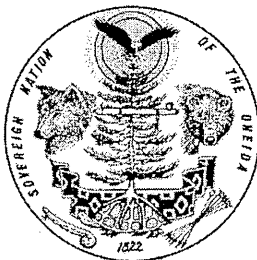
On August 29, 2014, the Respondent delivered, via certified mail, return receipt requested, to Leah S. Dodge, P.O. Box 95, Oneida, WI 54155 a copy of the Motion to lift stay of Special Election.


Patricia M. Stevens Garvey

Oneida Tribe of Indians of Wisconsin



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.



UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

BC Resolution 08-28-14-A

Authorizing an Exception to Conducting the Special Election to Elect Judges for new Judiciary To Include Polling Places in Both Oneida and Milwaukee

- WHEREAS,** the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian Government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the General Tribal Council as adopted an Election Ordinance which identifies General Elections to be held every three years and Special Elections that would be held in the intervening years; and
- WHEREAS,** Resolution # BC-03-13-02-O designated Milwaukee as a second polling site for Oneida Triennial (General Elections) only, not for Special Elections; and
- WHEREAS,** the General Tribal Council adopted Resolution # GTC-01-07-13-B which requires the new Judiciary to officially open as of November 1, 2014 and requires the newly elected Judges to have sixty (60) hours of training; and
- WHEREAS,** GTC action at the June 16, 2014 meeting, by two-thirds vote, amended the directives in Resolution # GTC-01-07-13-B by withdrawing the election of the Judges from the 2014 general election and rescheduled it to a Special Election; and
- WHEREAS,** a request for an Injunction to stop the election of judges on August 23, 2014 was filed on August 20, 2014, denied by the Trial Court of the Oneida Appeals Commission, but granted on appeal on August 22, 2014 by the Appellate Court of the Oneida Appeals Commission; and
- WHEREAS,** the Appellate Court is not expediting the appeal and has scheduled the appellants to submit a brief in support of their complaint by September 22, 2014 after which the Tribe will be scheduled to submit response briefs thus causing an undue delay to the implementation of the Judiciary as directed by the General Tribal Council; and
- WHEREAS,** further delay of elections for the new Judiciary until the Appellate Court of the Oneida Appeals Commission rules on the merits of the case would make it impossible to train new Judges and have them ready by the November 1, 2014 deadline; and
- WHEREAS,** it is the intent of the Oneida Business Committee to support the Judiciary and be proactive by approving an exception to the rule that Special Elections are held only in Oneida and that a Milwaukee polling site be included.

NOW THEREFORE BE IT RESOLVED, that the Oneida Business Committee finds that having the election take place in Milwaukee is not required by Resolution # BC-03-13-02-O nor the GTC action that took place on June 16, 2014;

NOW THEREFORE BE IT RESOLVED, the Oneida Business Committee finds that to maintain the transition timelines set forth in resolution # GTC-01-07-13-B, as amended by the two-thirds vote of the General Tribal Council on June 16, 2014, a Special Election is called for the Judiciary and a one-time exception to the conduct of the Special Election shall include polling sites in Oneida and Milwaukee.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 9 members were present at a meeting duly called, noticed and held on the 28th day of August, 2014; that the forgoing resolution was duly adopted at such meeting by a vote of 8 members for, 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.

A handwritten signature in black ink, appearing to read "Lisa Summers", written over a horizontal line.

Lisa Summers, Tribal Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."