

Petitioner Leah Sue Dodge - Supplemental Materials



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December 6, 2017

***Via Email Only***

Leah Sue Dodge  
P. O. Box 95  
Oneida, WI 54155

***Re: Appointment as Special Counsel to the General Tribal Council***

Dear Ms. Dodge,

Thank you for the opportunity to submit this letter concerning the potential appointment of Gross & Klein LLP (the "Firm"), as special counsel to the General Tribal Council (the "GTC") of the Oneida Nation of Wisconsin (the "Tribe").

**I. The Firm's Background**

The Firm's partners have three decades of collective experience investigating, pursuing, and defending claims of financial fraud and corruption. We further have a deep experience and expertise in the area of environmental and natural resource litigation.

My partner and I began our legal careers with clerkships with federal district court judges and as litigation associates at top international law firms in New York City, Shearman & Sterling LLP, Paul, Weiss, Rifkind Wharton and Garrison LLP, and Davis Polk and Wardwell LLP. At those law firms, we cut our teeth on multi-billion dollar financial fraud cases and the representation of executives in bribery investigations by U.S. Department of Justice. During this period, I also represented Indonesian communities in a fight to defend national environmental laws against international mining companies, a fight which culminated in my invitation to testify as an expert witness by Indonesia's highest court. Other highlights of my achievements during this period included the successful defense of Morgan Stanley in a multi-billion securities fraud trial and appeal, as well as the successful defense of four former telecom executives in a Department of Justice investigation of a bribery scheme in the country of Benin.

Subsequently, I joined the national plaintiff's side law firm Cotchett, Pitre & McCarthy, LLP, as a principal. At Cotchett, I continued to focus on complex financial fraud and environmental litigation, shifting to prosecution of such claims.

My tenure at Cotchett coincided with the 2008/09 financial meltdown, and I was called on by dozens of California cities, counties, and public agencies to unwind a broad range of complex financial transactions worth billions of dollars and to pursue claims against those who had illegally profited from those transaction. Highlights of this work included: preventing the enforcement of claims by various banks arising from tax sheltering schemes against several public transportation agencies, thus saving the agencies from bankruptcy; and the successful prosecution, on behalf of the City of Los

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Angeles and twenty other California and New York public entities, of a bid-rigging scheme involving specialized investment vehicles for municipal bond proceeds.

At Cotchett, I also successfully pursued a variety of environmental claims on behalf of commercial fishermen, homeowners and others. Among these were the claims of commercial fishermen affected by the Cosco Busan Oil Spill, the pursuit of which required the navigation of complex issues of maritime law, federal and state environmental laws, both general and those specific to marine oil spills. In the end, we were able millions of dollars for our clients.

Since starting my own firm in 2011, I have continued to successfully pursue financial fraud and environmental litigation on behalf of both plaintiffs and defendants. These matters include:

- *Paskenta Band of Nomlaki Indians v. Crosby*, a multimillion dollar RICO action arising out of a twelve-year embezzlement scheme in which we represent an Indian tribe against former tribal employees/officials, as well as numerous co-conspirators and abettors. The representation has included working closely with federal law enforcement, resulting in criminal prosecutions of three individuals. The civil action is currently stayed pending resolution of those prosecutions.
- *Marina/Fisherman's Wharf Manufactured Gas Plant Lit.*, a collection of environmental tort actions in which we have represented numerous homeowners and a commercial fisherman's association. Actions have so far resulted in settlements for homeowners worth tens of millions of dollars and an interim settlement that requires the contaminator to broadly investigate the subject contamination, with my clients' participation and at the contaminator's expense.
- *Fund.com Inc. v. Advisorshares*, a financial industry freeze-out matter in which we secured a settlement worth approximately \$5 million on behalf of a seed investor.
- *In re: Gerova Financial Group, Ltd. Securities Lit.*, a multimillion dollar securities fraud action in which we successfully defended an individual director.

### **II. Potential Service to the GTC**

We understand that members of the GTC are concerned regarding events that have occurred in connection with certain Tribe-owned businesses and, more generally, potential malfeasance by Tribal officials, Tribal agents, and others. We are not in a position to render an opinion on the substance of these concerns, at this stage. However, the experience of other tribes strongly supports the conclusion that it is in the interest of the Tribe and its members that such concerns be independently and expeditiously addressed. Unaddressed, such concerns can, at best, lead to deep fissures within a tribe and, at worst, lead to criminal corruption and even violence among members.

As special outside counsel to the GTC, the firm is prepared to conduct an independent, thorough, and impartial investigation into the substance of such concerns, and, if appropriate and requested by the GTC, pursue claims on behalf of the Tribe against any individual or entity determined to have committed violations of federal or state law against the Tribe. The Firm is further prepared to provide the GTC with assistance, as needed, in developing the appropriate internal oversight mechanisms and

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regulations to ensure that any problems uncovered in the investigation are not repeated in the future.

Under Article IV, Section 1(c) of the Tribe's constitution, we understand that the GTC is empowered to engage legal counsel on behalf of the Tribe. Accordingly, the GTC would define the scope of the Firm's representation and would have control over that representation. This includes the decision whether to pursue claims on behalf of the Tribe in federal or state court and against whom such claims would be pursued.

The Tribe is entitled to pursue claims under federal and state law to the same extent as any other entity; Congress has, in fact, specifically provided federal courts with the jurisdiction to hear claims by federally-recognized Indian tribes for violations of federal law. Such claims could, as appropriate, include claims for damages under federal racketeering laws, as well as claims under state law for fraud, professional negligence, and breach of fiduciary duties.

In short, the Firm, as special counsel, would get to the bottom of matters that have eroded the trust of Tribe members in those acting on the Tribe's behalf and those with whom the Tribe does business. The Firm can further, if instructed by the GTC, pursue appropriate recovery from any individual or entity who is found to have illegally harmed the Tribe, regardless of any position held by the person within the Tribe or at any third party organization.

The specific terms of any contract with the Firm to act as special counsel would be subject to negotiation but, in broad strokes, would provide for the Tribe to be billed, on an hourly basis, for the time spent by the firm on the engagement, as well as any out-of-pocket non-overhead costs incurred by the Firm. The arrangement would further be secured by an "evergreen" retainer of an amount to be negotiated, which would be returned to the Tribe at the end of the engagement.

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Thank you very much for the opportunity to be considered for this engagement. Should you wish further information in regards to any portion of the above, please do not hesitate to ask.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Gross', with a long, sweeping horizontal stroke extending to the right.

Stuart G. Gross