

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

Oneida Nation,

Plaintiff,

v.

Case No. 16-CV-1217

Village of Hobart, Wisconsin,

Defendant.

**DECLARATION OF FRANK W. KOWALKOWSKI IN SUPPORT OF DEFENDANT’S
CIVIL L.R. 7(h) EXPEDITED, NON-DISPOSITIVE MOTION TO STRIKE
PLAINTIFF’S RESPONSIVE EXPERT REPORT**

Frank W. Kowalkowski, being duly sworn, hereby deposes and says:

1. I am an attorney for the Defendant, Village of Hobart (“Village”), in the above-captioned action and am fully familiar with the facts concerning this matter. I respectfully submit this Declaration in support of the Village’s Motion to Strike Plaintiff’s Responsive Expert Report.

2. In accordance with the schedule ordered by the Court, on November 15, 2017, the Village filed an initial expert report by Emily Greenwald, Ph.D. titled *History of the Oneida Land Base, 1889-1936*. Also on November 15, 2017, Plaintiff, Oneida Nation (“Nation”), filed two initial expert reports by Drs. Frederick E. Hoxie and R. David Edmunds, titled *A History of Relations Between the Oneida Nation and the United States of America 1776-1934* and *The Oneida Indian Reservation in Wisconsin – Its Land, Its People, and Its Governance, 1838-1938*, respectively.

3. Also in accordance with the schedule ordered by the Court, on December 15, 2017, the Village filed its responsive expert report by Dr. Greenwald titled *Response to Reports of R. David Edmunds and Frederick E. Hoxie*. On December 15, 2017, the Nation submitted responsive expert reports by Drs. Hoxie and Edmunds, as well as a responsive expert report by Douglas M. Kiel, Ph.D. Dr. Hoxie's response report is titled *Historical Perspectives on Emily Greenwald's "History of the Oneida Land Base, 1889-1936"*. Dr. Edmunds' responsive report is titled *Rebuttal of "History of the Oneida Land Base, 1889-1936" Written by Emily Greenwald*. Dr. Kiel's report is titled *A History of the Oneida Reservation Boundaries, 1934-1984*.

4. The only reference to Dr. Greenwald's initial expert report contained in Dr. Kiel's responsive report is on page two of his report which states: "I have read the report of Dr. Greenwald filed in this case, and disagree with her conclusion that allotment resulted in the diminishment of the Oneida Reservation."

5. Pages 20-34 of Dr. Kiel's report discuss *The Termination Era 1946-1960* (Kiel report pp 20-26) and *A Period of Revival, 1961-1984* (*Id.* at pp. 27-34).

6. In her initial expert report, Dr. Greenwald does not discuss a time period later than 1936.

7. I declare, under pains of perjury, that the above is true and correct to the best of my knowledge.

Dated January 11, 2018.

s/ Frank W. Kowalkowski
Frank W. Kowalkowski