

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

FOR THE COURT  
OFFICE OF THE CLERK  
OF COOK COUNTY, IL

ACF LEASING, LLC, ACF SERVICES, LLC, )  
GENERATION CLEAN FUELS, LLC, )  
Plaintiffs, )  
-v- ) No.  
GREEN BAY RENEWABLE ENERGY, LLC, )  
ONEIDA SEVEN GENERATIONS )  
CORPORATION and THE ONEIDA )  
TRIBE OF INDIANS OF WISCONSIN, )  
Defendants. )

**COMPLAINT AT LAW**

NOW COME Plaintiffs ACF LEASING, LLC, ACF SERVICES, LLC and  
GENERATION CLEAN FUELS, LLC, by and through their attorneys, SANCHEZ DANIELS &  
HOFFMAN, and for their Complaint at Law against Defendants GREEN BAY RENEWABLE  
ENERGY, LLC, ONEIDA SEVEN GENERATIONS CORPORATION and THE ONEIDA  
TRIBE OF INDIANS OF WISCONSIN, state as follows:

**PARTIES**

1. ACF Leasing, LLC ("ACF Leasing") is a limited liability company organized in the State of Delaware with offices in Cook County, Illinois.
2. ACF Services, LLC ("ACF Services") is a limited liability company organized in the State of Delaware with offices in Cook County, Illinois.

3. Generation Clean Fuels, LLC ("GCF") is a limited liability company organized in the State of Delaware and is the sole owner of ACF Leasing and ACF Services with offices in Cook County, Illinois and Door County, Wisconsin.
4. The members of GCF include four individuals and a limited liability company.
5. Two of the individual members are residents of Cook County, Illinois.
6. Two of the individual members are residents of Door County, Wisconsin.
7. The limited liability company member is a limited liability company organized in the State of Illinois with offices in Cook County, Illinois, all of whose members and managers are residents of Cook County, Illinois.
8. Green Bay Renewable Energy, LLC ("GBRE") is a limited liability company organized in the State of Delaware with its principle place of business in Brown County, Wisconsin.
9. GBRE is a wholly owned subsidiary of Oneida Energy Blocker Corporation, a Delaware corporation ("Blocker"). On information and belief, Blocker was created to protect the federal tax exemption of Oneida Seven Generations Corporation ("OSGC").
10. Blocker is a wholly owned subsidiary of Oneida Energy Inc., a Wisconsin corporation ("OEI"). On information and belief, OEI was created to pursue alternative energy opportunities for the Oneida Tribe of Indians of Wisconsin ("ONEIDA TRIBE").
11. OEI is a wholly owned subsidiary of OSGC. OSGC is a tribally chartered, tribally owned corporation under the ONEIDA TRIBE and has its principle place of business in Brown County, Wisconsin.
12. GBRE was created by OSGC as a special purpose entity to conduct energy related business for OSGC and the ONEIDA TRIBE.

13. The function and purpose of OSGC is to promote and enhance business and economic diversification directly or as a holding company for real estate assets, management of related assets, or as a holding company for other business ventures of the ONEIDA TRIBE.
14. The ONEIDA TRIBE is an Indian tribe with its offices and its principle place of business in Brown County, Wisconsin. The governing body of the ONEIDA TRIBE is the General Tribal Council ("GTC"), which is composed of all qualified voters of the ONEIDA TRIBE.
15. The Business Committee of the GTC is a body elected by the GTC to conduct business related duties authorized by the GTC.

#### **VENUE AND JURISDICTION**

16. GBRE and ACF Leasing entered into a Master Lease Agreement ("Master Lease") on or about May 24, 2013 regarding the leasing of specific facility elements. ACF Leasing was the lessor and GBRE was the lessee. (See attached Master Lease with attachment Schedule 1 incorporated herein as Exhibit A.)
17. GBRE and ACF Leasing agreed that the Master Lease was made in the State of Illinois and was to be governed and construed in accordance with Illinois law. (Exhibit A, ¶14(h).)
18. GBRE and ACF Leasing agreed that all legal actions in connection with the Master Lease would take place in the federal or state courts situated in Cook County, Illinois. (Exhibit A, ¶14(h).)
19. GBRE and ACF Services entered into an Operation and Maintenance Agreement ("Maintenance Agreement") on or about May 24, 2013. (See attached Maintenance Agreement, with attachments, incorporated herein as Exhibit B.)

20. The Maintenance Agreement stipulated that any disputes pertaining to the Maintenance Agreement shall be determined exclusively in a court of competent jurisdiction in Cook County, Illinois. (Exhibit B, ¶15.)

21. The Master Lease and the Maintenance Agreement were both negotiated and signed, in part, in Cook County, Illinois.

22. No diversity of citizenship pursuant to 28 U.S.C. §1332 exists between the parties in this matter.

23. There is no federal question in the disputes between the parties in this matter.

24. Cook County Circuit Court is the only proper venue and jurisdiction for this matter.

**ALLEGATIONS COMMON TO ALL COUNTS**

25. ACF Leasing entered into the Master Lease with GBRE on May 24, 2013 and entered into an amendment to the Master Lease (the "Amendment") on or about June 10, 2013. (Exhibit A.)

26. The Master Lease, as amended by the Amendment, constituted a valid and enforceable contract that involved the leasing of three liquefaction machines by GBRE from ACF Leasing for use in a plastics to oil energy project (the "Project"). The Project was to use a pyrolytic process that produced oil from waste plastics.

27. The pyrolytic process has been approved by the Wisconsin Department of Natural Resources and the U.S. Environmental Protection Agency.

28. The Master Lease, as amended by the Amendment, constituted a valid agreement between ACF Leasing and GBRE wherein ACF Leasing would lease the three liquefaction machines to GBRE for \$22.2 million for a twenty-one (21) year term. (Exhibit B.)

29. ACF Services entered into the Maintenance Agreement with GBRE on May 24, 2013 and entered into an amendment to the Maintenance Agreement (the "O&M Amendment") on or about June 10, 2013. (Exhibit B.)

30. The Maintenance Agreement, as amended by the O&M Amendment, constituted a valid and enforceable contract that provided for ACF Services to operate and maintain the three liquefaction machines to produce oil from plastics. (Exhibit B.)

31. As compensation for the services to be provided by ACF Services to GBRE pursuant to the Maintenance Agreement, as amended by the O&M Amendment, GBRE agreed to pay ACF Services for the direct costs, expenses and fees reasonably incurred by ACF Services in providing such services in an amount equal to 110% of all such direct costs, expenses and fees. (Exhibit B.)

32. GBRE further agreed to pay ACF Services 49% of GBRE's net income for the duration of the Project, as well as a portion of GBRE's depreciation and amortization expenses. (Exhibit B.)

33. Kevin Cornelius, at all relevant times the Chairman and Chief Executive Officer of GBRE, acted on behalf of GBRE in executing the Master Lease and the Maintenance Agreement. (Exhibits A and B.)

34. ACF Leasing, ACF Services and GCF relied on the valid, executed Master Lease and Maintenance Agreement (collectively, the "Agreements"), as well as the representations made to them by GBRE, OSGC and the ONEIDA TRIBE in preparing for and attempting to execute the Agreements.

35. Representatives of ACF Leasing, ACF Services and GCF presented facts regarding the Project and its economic viability to GBRE, OSGC and the ONEIDA TRIBE at numerous times in 2012 and 2013.

36. GBRE, OSGC and the ONEIDA TRIBE were informed of the Project, its economic viability and the consequences of any breach of the Agreements prior to December 15, 2013. GBRE, OSGC and the ONEIDA TRIBE agreed that the Project would be beneficial to all parties.

37. GBRE, OSGC and the ONEIDA TRIBE were informed prior to December 15, 2013 that the Project would constitute the launch of the businesses of GCF, ACF Leasing and ACF Services and the consequences to the businesses of GCF, ACF Leasing and ACF Services if the Project did not proceed in accordance with the Agreements.

38. Prior to December 15, 2013, the Wisconsin Bank & Trust committed to providing GBRE with the financing for the Project.

39. Prior to December 15, 2013, the Wisconsin Bank & Trust applied to the Bureau of Indian Affairs of the United States Department of the Interior (the "BIA") for a guarantee of the loan which Wisconsin Bank & Trust intended to make to GBRE to finance the Project.

40. On or about December 15, 2013, the GTC of the ONEIDA TRIBE voted to dissolve OSGC.

41. As a direct result of the December 15, 2013 vote to dissolve OSGC, the Wisconsin Bank & Trust withdrew the application for the guarantee it had submitted to the BIA and withdrew its commitment to finance the Project. The BIA, in turn, abandoned the Project.

42. As a result of the actions of GBRE, OSGC and the ONEIDA TRIBE, ACF Leasing, ACF Services and GCF were severely and irreparably harmed.

43. As a result of the actions of GBRE, OSGC and the ONEIDA TRIBE, ACF Leasing, ACF Services and GCF suffered the following damages:

- a. a loss to ACF Services of 49% of the profits from the Project, valued in excess of \$122.5 million;
- b. a loss of lease payments scheduled to be made to ACF Leasing by GBRE and its principals in excess of \$22.2 million;
- c. a loss of costs and fees expended on the Project by ACF Leasing, ACF Services and GCF in excess of \$3million; and
- d. a loss in the value of GCF in excess of \$250 million.

**COUNT I**  
**BREACH OF CONTRACT**  
**ACF LEASING AND ACF SERVICES v. GBRE**

44. The Master Lease and the Maintenance Agreement between ACF Leasing, ACF Services and GBRE constituted valid and binding contracts.

45. All conditions precedent to the Master Lease and Maintenance Agreement were met by ACF Leasing and ACF Services.

46. Despite the valid contracts between the parties, GBRE intentionally breached the contracts by abandoning and refusing to implement the Master Lease and Maintenance Agreement.

47. GBRE's actions were intentional, willful, without justification and constituted a violation of the covenants of good faith and fair dealings embodied within the Master Lease and Maintenance Agreement.

48. As a result of GBRE's breach of the Master Lease and Maintenance Agreement, ACF Leasing and ACF Services suffered and continue to suffer significant damages.

WHEREFORE, ACF Leasing and ACF Services ask that judgment be entered in favor of ACF Leasing and ACF Services and against GBRE for compensatory damages, punitive damages, attorneys' fees, costs and any other damages this Court or the trier of fact deems fair and just.

**COUNT II**  
**BREACH OF CONTRACT**  
**ACF LEASING AND ACF SERVICES v. OSGC AND THE ONEIDA TRIBE**  
**AGENCY**

49. At all relevant times, GBRE acted as an agent for OSGC and the ONEIDA TRIBE in entering into and agreeing to implement the Master Lease and Maintenance Agreement with ACF Leasing and ACF Services.

50. The Master Lease and the Maintenance Agreement constituted valid and binding contracts with OSGC and the ONEIDA TRIBE.

51. All conditions precedent to the Master Lease and Maintenance Agreement were met by ACF Leasing and ACF Services.

52. Despite the valid contracts between the parties, OSGC and the ONEIDA TRIBE intentionally breached the contracts by abandoning and refusing to implement the Master Lease and Maintenance Agreement.

53. OSGC's and the ONEIDA TRIBE's actions were intentional, willful, without justification and constituted a violation of good faith and fair dealings embodied within the Master Lease and Maintenance Agreement.

54. As a result of OSGC's and the ONEIDA TRIBE's breach of the Master Lease and Maintenance Agreement, ACF Leasing and ACF Services suffered and continue to suffer significant damages.



WHEREFORE, ACF Leasing and ACF Services ask that judgment be entered in favor of ACF Leasing and ACF Services and against OSGC and the ONEIDA TRIBE for compensatory damages, punitive damages, attorneys' fees, costs and any other damages this Court or the trier of fact deems fair and just.

**COUNT III**  
**PROMISSORY ESTOPPEL**  
**ACF LEASING AND ACF SERVICES v. GBRE**

55. GBRE made unequivocal and unambiguous promises to ACF Leasing and ACF Services in the form of the Master Lease and Maintenance Agreement.

56. ACF Leasing and ACF Services relied on GBRE's contractual promises and oral promises to proceed with the Project.

57. GBRE expected and foresaw that ACF Leasing and ACF Services would rely on the Agreements and promises made by GBRE and acted in accordance with these promises to implement the Project.

58. ACF Leasing and ACF Services reasonably and justifiably relied on the Agreements and the promises, both written and oral, of GBRE, to their detriment.

59. As a result of this reasonable and justifiable reliance on the written and oral promises of GBRE, ACF Leasing and ACF Services suffered and will suffer significant, irreparable damage.

WHEREFORE, ACF Leasing and ACF Services ask that judgment be entered in favor of ACF Leasing and ACF Services and against GBRE for compensatory damages, punitive damages, attorneys' fees, costs and any other damages this Court or the trier of fact deems fair and just.

**COUNT IV**  
**PROMISSORY ESTOPPEL**  
**ACF LEASING, ACF SERVICES v. OSGC AND THE ONEIDA TRIBE**  
**AGENCY**

60. At all relevant times, GBRE, acting as an agent and on behalf of OSGC and the ONEIDA TRIBE, made unequivocal and unambiguous promises to ACF Leasing and ACF Services in the form of the Master Lease and Maintenance Agreement.

61. ACF Leasing and ACF Services relied on GBRE's contractual promises and oral promises to proceed with the Project on behalf of OSGC and the ONEIDA TRIBE.

62. GBRE, on behalf of OSGC and the ONEIDA TRIBE, expected and foresaw that ACF Leasing and ACF Services would rely on the promises made by GBRE and acted in accordance with these promises to implement the Project.

63. ACF Leasing and ACF Services reasonably and justifiably relied on the Master Lease and Maintenance Agreement and the promises, both written and oral, of GBRE, on behalf of OSGC and the ONEIDA TRIBE, to their detriment.

64. As a result of this reasonable and justifiable reliance on the written and oral promises of GBRE, on behalf of OSGC and the ONEIDA TRIBE, ACF Leasing and ACF Services suffered and will suffer significant, irreparable damage.

WHEREFORE, ACF Leasing and ACF Services ask that judgment be entered in favor of ACF Leasing and ACF Services and against OSGC and the ONEIDA TRIBE for compensatory damages, punitive damages, attorneys' fees, costs and any other damages this Court or the trier of fact deems fair and just.

**COUNT V**  
**UNJUST ENRICHMENT**  
**ACF LEASING, ACF SERVICES AND GCF v. GBRE**

65. Pleading in the alternative, GBRE was enriched by learning of and acquiring the technology and specifics of the Project presented to them by ACF Leasing, ACF Services and GCF.

66. As a result of this enrichment, ACF Leasing, ACF Services and GCF were deprived of the propriety and exclusivity of their technology given their oral and written presentations regarding the Project to GBRE.

67. The disclosure of the technology to GBRE and the subsequent breach of contract and tortious interference with the Master Lease and Maintenance Agreement were without legal justification.

68. If the Plaintiffs are deprived of any remedy provided by law, ACF Leasing, ACF Services and GCF are entitled to significant damages as a result of the unjust enrichment of GBRE.

WHEREFORE, ACF Leasing, ACF Services and GCF ask that judgment be entered in favor of ACF Leasing, ACF Services and GCF and against GBRE for compensatory damages, punitive damages, attorneys' fees, costs and any other damages this Court or the trier of fact deems fair and just.

**COUNT VI**  
**UNJUST ENRICHMENT**  
**ACF LEASING, ACF SERVICES AND GCF v. OSGC AND THE ONEIDA TRIBE**

69. Pleading in the alternative, OSGC and the ONEIDA TRIBE were enriched by learning of and acquiring the technology and specifics of the Project presented to them by ACF Leasing, ACF Services and GCF.

70. As a result of this enrichment, ACF Leasing, ACF Services and GCF were deprived of the propriety and exclusivity of their technology given their oral and written presentations regarding the Project to OSGC and the ONEIDA TRIBE.

81. The disclosure of the technology to OSGC and the ONEIDA TRIBE and the subsequent breach of contract and tortious interference with the Master Lease and Maintenance Agreement were without legal justification.

82. If the Plaintiffs are deprived of any remedy provided by law, ACF Leasing, ACF Services and GCF are entitled to significant damages as a result of the unjust enrichment of OSGC and the ONEIDA TRIBE.

WHEREFORE, ACF Leasing, ACF Services and GCF ask that judgment be entered in favor of ACF Leasing, ACF Services and GCF and against OSGC and the ONEIDA TRIBE for compensatory damages, punitive damages, attorneys' fees, costs and any other damages this Court or the trier of fact deems fair and just.

**COUNT VII**  
**VICARIOUS LIABILITY**  
**ACF LEASING AND ACF SERVICES v. OSGC AND THE ONEIDA TRIBE**

71. At all relevant times, GBRE was inadequately capitalized compared to the amount of business to be conducted and obligations to be fulfilled by it; to wit the commitments that GBRE made to ACF Leasing and ACF Services in the Master Lease and the Maintenance Agreement.

72. At all relevant times, all of the officers and managers of GBRE were also officers of OSGC.

73. Prior to entering into the Master Lease and the Maintenance Agreement, GBRE sought the approval of the Board of Directors of OSGC to authorize GBRE to enter into the Master Lease and the Maintenance Agreement.

74. On information and belief, GBRE did not observe any of the requisite limited liability company formalities, such as acting through its managers or maintaining a separate bank account. Further, GBRE used the offices of OSGC and its officers used business cards, e-mail accounts and stationary identifying them as officers of OSGC when conducting business on behalf of GBRE.

75. On information and belief, GBRE failed to maintain arm's length relationships between itself, on the one hand, and OSGC and the ONEIDA TRIBE, on the other hand.

76. GBRE is a mere facade for the operations of OSGC and the ONEIDA TRIBE.

77. At all relevant times, GBRE, OSGC and the ONEIDA TRIBE had such a unity of interest and ownership that their separate personalities no longer exist.

78. Adherence to the fiction of a separate corporate or limited liability existence of GBRE would sanction a fraud, promote injustice and promote inequitable consequences.

79. OSGC and the ONEIDA TRIBE are liable for all of the debts and obligations of GBRE.

WHEREFORE, ACF Leasing and ACF Services ask that judgment be entered in favor of ACF Leasing and ACF Services and against OSGC and the ONEIDA TRIBE for compensatory damages, punitive damages, attorneys' fees, costs and any other damages this Court or the trier of fact deems fair and just.

**COUNT VIII**  
**TORTIOUS INTERFERENCE WITH CONTRACT**  
**ACF LEASING AND ACF SERVICES v. OSGC AND THE ONEIDA TRIBE**

80. ACF Leasing and ACF Services entered into valid and enforceable contracts, by and through the Master Lease and Maintenance Agreement, with GBRE. (Exhibits A and B.)

81. The contracts were mutually beneficial agreements between the parties and were valid prior to December 15, 2013.

82. OSGC and the ONEIDA TRIBE were aware of the contractual relationships among ACF Leasing, ACF Services and GBRE.

83. The ONEIDA TRIBE'S vote to dissolve OSGC caused GBRE to unjustifiably and wrongfully breach the Master Lease and Maintenance Agreement,

84. This intentional interference with the Master Lease and Maintenance Agreement caused significant, irreparable damage to ACF Leasing and ACF Services.

WHEREFORE, ACF Leasing and ACF Services ask that judgment be entered in favor of ACF Leasing and ACF Services and against OSGC and the ONEIDA TRIBE for compensatory damages, punitive damages, attorneys' fees, costs and any other damages this Court or the trier of fact deems fair and just.

**COUNT IX**  
**TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**  
**ACF LEASING, ACF SERVICES AND GCF v. OSGC AND THE ONEIDA TRIBE**

85. ACF Leasing, ACF Services and GCF had a reasonable expectation of entering into a valid business relationship with GBRE through the previously signed Master Lease and Maintenance Agreement with GBRE.

86. OSGC and the ONEIDA TRIBE had knowledge of this reasonable expectation of entering into a valid business relationship with GBRE as OSGC and the ONEIDA TRIBE were fully informed of the Master Lease, Maintenance Agreement and the Project in 2012 and 2013.

87. OSGC and the ONEIDA TRIBE intentionally and unjustifiably interfered with the valid business relationship created by the Master Lease and Maintenance Agreement by the ONEIDA TRIBE voting to dissolve OSGC, which in turn breached the Master Lease and Maintenance Agreement and caused significant, irreparable damage to ACF Leasing, ACF Services and GCF.

WHEREFORE, ACF Leasing, ACF Services and GCF ask that judgment be entered in favor of ACF Leasing, ACF Services and GCF and against OSGC and the ONEIDA TRIBE for compensatory damages, punitive damages, attorneys' fees, costs and any other damages this Court or the trier of fact deems fair and just.

**COUNT X**  
**TORTIOUS INTERFERENCE WITH BUSINESS EXPECTANCY**  
**ACF LEASING, ACF SERVICES AND GCF v. OSGC AND THE ONEIDA TRIBE**

88. ACF Leasing, ACF Services and GCF had a reasonable expectancy of entering into a valid business relationship with GBRE through the contractual agreements contained in the Master Lease and Maintenance Agreement among ACF Leasing, ACF Services and GBRE.

89. OSGC and the ONEIDA TRIBE had knowledge of ACF Leasing's, ACF Services' and GCF's expectancies of a business relationship with GBRE.

90. OSGC and the ONEIDA TRIBE intentionally and unjustifiably interfered with the realization of the business expectancy of ACF Leasing, ACF Services and GCF and the GTC of the ONEIDA TRIBE voted to dissolve OSGC. The vote to dissolve OSGC prevented the realization of the business relationship between ACF Leasing, ACF Services, GCF and GBRE.

91. OSGC's and the ONEIDA TRIBE's intentional interference with ACF Leasing's, ACF Services' and GCF's business expectancies caused and continues to cause significant, irreparable damage to ACF Leasing, ACF Services and GCF.

WHEREFORE, ACF Leasing, ACF Services and GCF ask that judgment be entered in favor of ACF Leasing, ACF Services and GCF and against GBRE for compensatory damages, punitive damages, attorneys' fees, costs and any other damages this Court or the trier of fact deems fair and just.

**PLAINTIFFS DEMAND TRIAL BY A JURY OF TWELVE.**

Respectfully submitted,

SANCHEZ DANIELS & HOFFMAN LLP

By: 

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