

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

ACF LEASING, LLC; ACF SERVICES, )  
LLC; and GENERATION CLEAN )  
FUELS, LLC, )

Plaintiffs, )

v. )

Case No. 14 L 2768

GREEN BAY RENEWABLE ENERGY, )  
LLC; ONEIDA SEVEN GENERATIONS )  
CORPORATION; and THE ONEIDA )  
TRIBE OF INDIANS OF WISCONSIN, )

Defendants. )

# 15

FILED-14  
2014 OCT 16 AM 11:33  
CLERK OF COURT

NOTICE OF MOTION

TO: Gerald M. Dombrowski, Esq.  
Sanchez Daniels & Hoffman LLP  
333 West Wacker Drive, Suite 500  
Chicago, Illinois 60606

Guy R. Temple, Esq.  
Reinhart Boerner Van Deuren S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, Wisconsin 53202

PLEASE TAKE NOTICE that on Oct 27, 2014 at 10:00 A.m. or as soon thereafter as counsel may be heard, I shall appear before the Honorable Margaret Ann Brennan, or any judge sitting in her stead, in Room 2307, in the Richard J. Daley Center, Chicago, Illinois, and shall then and there present the attached **Defendants' Motion for Illinois Supreme Court Rule 304(a) Finding**, a copy of which is served upon you.

ONEIDA SEVEN GENERATIONS  
CORPORATION; and THE ONEIDA  
TRIBE OF INDIANS OF WISCONSIN

By: [Signature]  
One of its attorneys

James B. Vogts, Esq.  
Thomas J. Verticchio, Esq.  
Swanson, Martin & Bell, LLP  
330 North Wabash Avenue, Suite 3300  
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Firm No. 29558

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

**ACF LEASING, LLC; ACF SERVICES, )  
LLC; and GENERATION CLEAN )  
FUELS, LLC, )**

**Plaintiffs, )**

**v. )**

**Case No. 14 L 2768**

**GREEN BAY RENEWABLE ENERGY, )  
LLC; ONEIDA SEVEN GENERATIONS )  
CORPORATION; and THE ONEIDA )  
TRIBE OF INDIANS OF WISCONSIN, )**

**Defendants. )**

FILED-12  
2014 OCT 16 AM 11:33  
CLERK OF COURT  
JANICE L. HARRIS

**DEFENDANTS' MOTION FOR ILLINOIS  
SUPREME COURT RULE 304(a) FINDING**

Defendants, Oneida Seven Generations Corporation and The Oneida Tribe of Indians of Wisconsin, for their motion for Illinois Supreme Court Rule 304(a) finding, state as follows:

1. Plaintiffs, ACF Leasing, LLC, ACF Services, LLC, and Generation Clean Fuels, LLC, named three defendants in this action, Green Bay Renewable Energy, LLC, Oneida Seven Generations Corporation, and The Oneida Tribe of Indians of Wisconsin.

2. On October 8, 2014, the Court entered an order granting defendants Oneida Seven Generations Corporation and The Oneida Tribe of Indians of Wisconsin's motion to dismiss for lack of subject matter jurisdiction, dismissing those defendants from this action (the "Order"). A copy of the Order is attached as Exhibit 1. Also on October 8, 2014, the Court denied, in part, defendant Green Bay Renewable Energy, LLC's motion to dismiss. As a result, claims against defendant Green Bay Renewable Energy, LLC remain pending.

3. Illinois Supreme Court Rule 304(a) provides that "[i]f multiple parties or multiple claims for relief are involved in an action, an appeal may be taken from the final judgment as to


one or more but fewer than all of the parties or claims only if the trial court has made an express written finding that there is no just reason for delaying either enforcement or appeal or both.” Ill. Sup. Ct. Rule 304(a).

4. An order is “final” for Rule 304(a) purposes if it provides for the “ultimate disposition of an individual claim entered in the course of a multiple claims action.” Geier v. Hamer Enterprises, Inc., 226 Ill.App.3d 372, 379 (1<sup>st</sup> Dist. 1992) (citations and quotations omitted); see also Mar Cement, Inc. v. Diorio Builders, Inc., 153 Ill.App.3d 798, 801 (2d Dist. 1987) (Rule 304(a) “applies to orders that are final in character although entered in comprehensive proceedings that include other matters”) (citation and quotation omitted). Here, the Order is “final” for Rule 304(a) purposes because it dismisses Oneida Seven Generations Corporation and The Oneida Tribe of Indians of Wisconsin on subject matter jurisdiction grounds, dismissing them as defendants in this multiple claim and multiple party action.

5. The Order dismisses Oneida Seven Generations Corporation and The Oneida Tribe of Indians of Wisconsin based upon the Court’s determination that it lacked subject matter jurisdiction over those defendants, an issue unique to Oneida Seven Generations Corporation and The Oneida Tribe of Indians of Wisconsin. There is no just reason for delaying appeal from the Order because it is desirable to require the plaintiffs to immediately appeal from the Court’s subject matter jurisdiction decision if they intend to do so given that the legal basis for dismissal is unique to the dismissed defendants. Thus, certifying the Order for immediate appeal pursuant to Rule 304(a) is an appropriate exercise of the Court’s discretion. Puleo v. McGladrey & Pullen, 315 Ill.App.3d 1041, 1046 (1<sup>st</sup> Dist. 2000) (trial court’s Rule 304(a) finding is “a discretionary determination that permitting an immediate appeal, under the circumstances, would be desirable”) (citation and quotation omitted).

WHEREFORE, for the reasons set forth above, defendants, Oneida Seven Generations Corporation and The Oneida Tribe of Indians of Wisconsin, respectfully request the Court enter an order certifying its October 8, 2014 dismissal order for immediate appeal pursuant to Illinois Supreme Court Rule 304(a), and that the Court enter such other and further relief as it deems just and appropriate.

ONEIDA SEVEN GENERATIONS  
CORPORATION; and THE ONEIDA  
TRIBE OF INDIANS OF WISCONSIN

By:  \_\_\_\_\_  
One of their attorneys

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**CERTIFICATE OF SERVICE**


The undersigned hereby certifies that a copy of the foregoing **Defendants' Motion for Illinois Supreme Court Rule 304(a) Finding** was served upon:

Gerald M. Dombrowski, Esq.  
Sanchez Daniels & Hoffman LLP  
333 West Wacker Drive, Suite 500  
Chicago, Illinois 60606  
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Guy R. Temple, Esq.  
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gtemple@reinhartlaw.com

**via Electronic Mail and U.S. Mail, proper postage prepaid, before the hour of 5:00 p.m., this 16<sup>th</sup> day of October, 2014**, from the law offices of Swanson, Martin & Bell, LLP, 330 North Wabash Avenue, Suite 3300, Chicago, Illinois 60611.

[✓] Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Certificate of Service are true and accurate.

  
\_\_\_\_\_

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

ACF Leasing, LLC et al  
Plaintiff(s)

No. 2014 L. 2768

v.

Green Bay Resource et al  
Defendant(s)

ORDER

The Cause comes before the Court for hearing on ~~the~~ defendants  
The Ojibwa Tribe of Indians of WI and Oneida Sewer Generation Corp's  
motions to (a) dismiss for lack of subject matter jurisdiction and  
(b) dismiss for lack of personal jurisdiction, the Court being informed  
Orders as follows:

1. The defendants' motion to dismiss for lack of subject matter jurisdiction is granted;
2. The defendants' motion to dismiss for lack of personal jurisdiction is denied as moot; and
3. The defendants ~~and~~ The Ojibwa Tribe of Indians of WI and Oneida Sewer Generation Corp. ~~are~~ are dismissed as defendants in this action.

Atty. No.: 29558

Name: T. Vertich

Atty. for: Def. OSGC and Oneida Tribe

Address: 330 N. Wacker St 330

City/State/Zip: Chicago, IL 60611

Telephone: 312 973 8771

ENTERED:

Judge Margaret Ann Brennan

OCT 08 2014

Judge

Circuit Court Case No. 1848

EXHIBIT

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