

Oneida Tribal Judicial System

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ONEIDA TRIBAL JUDICIAL SYSTEM TRIAL COURT

**Michael T. Debraska,
Leah S. Dodge, and
Franklin Cornelius
Petitioners**

Docket No: 14-TC-190

v.

**Oneida Business Committee,
Oneida Law Office, and
Oneida Election Board
Respondents**

DECISION Temporary Restraining Order & Preliminary Injunctive Relief

This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officers, Jean M. Webster, Kathy Hughes, and Sandra Skenadore, presiding.

I Background

On October 6, 2014, Petitioners: Michael T. Debraska, Leah S. Dodge, and Franklin Cornelius filed a Temporary Restraining Order and a Preliminary Injunctive Relief against the Respondents: Oneida Business Committee, Oneida Law Office, and Oneida Election Board for a "Stay" on the November 22, 2014 Special Election.

II Issue

1. Does Petitioners have cause to file for a Temporary Restraining Order?
2. Does Petitioners have cause to file a Preliminary Injunctive Relief?

III Analysis

1. Does the Petitioners have cause to file for a Temporary Restraining Order?

On November 7 & 10, 2014, the Court held a deliberation. Petitioners allege due to the illegal actions taken by the Respondents at the October 26, 2014 General Tribal Council Meeting (GTC), an illegal election was scheduled. Petitioners claim in accordance with the Oneida Election Law, as amended by GTC in 2008, if there are 16 or more candidates for the OBC at-large member position a primary is to be held 60 days prior to the election. Petitioners are also seeking a Preliminary Injunctive Relief and asking for a “Stay” of the November 22, 2014 Special Elections until such a time as a duly and lawfully scheduled, notice of a GTC meeting can occur to address the OBC vacancy and consider the options, including the option to leave the position vacant. Finally, the Petitioners are requesting the Parliamentarian for future GTC meetings be an enrolled Oneida Tribe of Indians of Wisconsin member who is trained in the Robert’s Rules of Order and is not an employee of the Tribe nor has familial nor financial connections to OBC, Oneida Law Office or Oneida Election Board.

On the face of the pleadings, the Petitioners appear to have a valid claim. According to the Rules of Civil Procedure, Rule 31(B) in part states: “.....*Temporary Restraining order.... are generally reserved for use when imminent action, if allowed to go forward, will create irreparable harm that will seriously impair the ability of the Court to order full and fair relief....*” The Court is granting the Petitioners request for a Temporary Restraining Order and a hearing is scheduled for November 13, 2014.

1. Does the Petitioners have cause to file a Preliminary Injunctive Relief?

On the face of the pleadings, the Petitioners appear to have a valid claim. According to the Rules of Civil Procedure, Rule 31(E) states:

- “*Issuance of a Preliminary Injunction: A Preliminary Injunction is an injunction issued by the Court enjoining a party from taking action pending the outcome of a case and meeting the requirements of this subpart (E).*”

Rule 31(E)(1) states:

- *“A party seeking a Preliminary Injunction must establish and the Court must find: a) A likelihood of success on the merits; b) That it has no adequate remedy at law; and c) That it will suffer irreparable harm if the injunction is not issued.”*

Rule 31(F)(1)(a) states in part:

- *“.....If immediate and irreparable harm is not apparent, but grounds for an injunction are established, a hearing shall be scheduled.”*


The Court grants the Petitioners request for a Preliminary Injunctive relief to place a “Stay” on the November 22, 2014, Special Election, pending the outcome of this case. A hearing is scheduled for November 13, 2014.

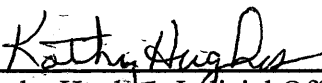
IV Decision

The Court hereby grants the Petitioners request for a Temporary Restraining Order and request for a Preliminary Injunctive Relief. A hearing is scheduled for: **Thursday, November 13, 2014 at 9:00 a.m.**

IT IS SO ORDERED.

By the authority vested in the Oneida Tribal Judicial System pursuant to Resolution 8-19-91A of the General Tribal Council a deliberation was held on November 7 & 10, 2014 and an decision signed on the 10th day of November, 2014 in the matter of Michael Debraska, Leah S. Dodge, and Franklin Cornelius v Oneida Business Committee, Oneida Law Office and Oneida Election Board, Docket Number 14-TC-190.


Jean M. Webster, Lead Judicial Officer


Kathy Hughes, Judicial Officer


Sandra Skenadore, Judicial Officer