

**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.

**UNITED STATES' RESPONSE TO DEFENDANT'S MOTION FOR
RECONSIDERATION OF ORDER GRANTING THE UNITED STATES UNTIL
OCTOBER 12, 2018 TO FILE AN *AMICUS CURIAE* BRIEF**

On October 26, the Court granted the United States' Motion to File Any *Amicus Curiae* Brief regarding the parties' motions for summary judgment by October 12 [Doc. No. 110]. That same day, Defendant Village of Hobart ("Village") moved for reconsideration of the Court's order [Doc. No. 112], and the Court directed the United States to file a response on or before October 5 [Doc. No. 115].

The United States' Motion addressed the majority of the concerns raised by the Village. The United States, however, asserts the following in response to the Village's motion for reconsideration:

The United States frequently participates as *amicus curiae* when a case involves the interests of the United States. *See* 28 U.S.C. § 517. As set forth in its Motion, the United States has a substantial interest in cases involving the interpretation of federal treaties, statutes, or agency determinations regarding Indian interests, or that involve the integrity of reservation boundaries and the ability of federally recognized Indian tribes to engage in self-government. With respect to the Oneida Nation, the United States has a specific interest in this case based on its status as a party to the 1838 Treaty with the Oneida Nation, its government-to-government relationship with the Nation, and its trusteeship over lands within the reservation [Doc. No. 109]. Courts have granted the United States broad discretion to attend to

any interest in litigation where it is not a party, even after briefing has concluded. *See, e.g., Gil v. Winn Dixie Stores, Inc.*, 242 F. Supp. 3d 1315, 1317 (S.D. Fla. 2017). The United States respectfully requests that the Court exercise such discretion here.

In response to the Village's concern regarding the introduction of new evidence, the United States has no present intention to utilize documents that are not already included in the record, or that are not otherwise publicly available. If the United States does utilize a non-record or non-publicly available document, it will be attached it to the brief. And, to the extent that the United States references additional materials, the Village will have an opportunity to respond and attach any relevant evidence to the contrary.

Dated: October 3, 2018

Respectfully submitted,

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