

**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.

DEFENDANT’S OPPOSITION TO PLAINTIFF’S PROPOSED JUDGMENT

On April 18, 2019, the Court held a telephonic hearing relative to the form of the judgment. The parties were not in agreement as to the exact wording of the judgment. The Court recommended each party submit their proposed judgment with the Court and the Court would thereafter decide on the final wording of the judgment.

Each side has now submitted a proposed judgment to the Court. In addition to the Village’s implied objection to the Nation’s proposed judgment, as evidenced by its submission of competing language, the Village deems it necessary to object more specifically to that portion of the Nation’s proposed judgment which states:

The effect and enforcement of this judgment are stayed pending exhaustion of all appeals on the same terms stipulated between the parties regarding the 2017 and 2018 Big Apple Fests, except that no roads of Defendant Village of Hobart shall be closed for the conduct of a special event by Plaintiff Oneida Nation in accordance with terms of a permit from State of Wisconsin or otherwise without the consent of the Defendant Village of Hobart.

(ECF No. 135.)

The Federal Rules of Civil and Appellate Procedure provide the applicable mechanism for seeking a stay via a motion to the court, if the parties are unable to reach a stipulation. Simply inserting a sentence into the judgment itself is not contemplated by those rules. If that were allowed, the opposing party would have no ability to object to the scope and nature of the stay.

Additionally, such a stay would not address all of the Village's concerns relative to certain aspects of the 2019 Big Apple Fest and raises questions relative to how the stay applies to other matters, if at all. Moreover, the Village, has for many years, well before the March 29, 2019 Decision and Order, taken the position the reservation was diminished or disestablished and has always asserted its jurisdiction accordingly. A stay of both the effect and the enforcement of the Decision and Order, to the extent the stay has any effect on matters other than the Nation's Apple Fest, would alter the status quo in terms of how the Village has treated the land in question for years.

In conclusion, the Village requests that the Court sign the proposed judgment submitted by the Village. To the extent the Village's judgment is not adopted, the Village separately objects to any judgment which creates an automatic stay by the wording of the judgment itself. If the parties cannot reach an agreement, the Nation should be required to file a motion for a stay. Either way the stay should be addressed separate from the judgment.

Dated this 24th day of April 2019.

Respectfully submitted,

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