

ONEIDA JUDICIARY
INSTRUCTIONS FOR FILING A PETITION/COMPLAINT
FOR TEMPORARY RESTRAINING ORDER
AND/OR PRELIMINARY INJUNCTION

1. Complete and sign the Petition/Complaint for Temporary Restraining Order and/or Preliminary Injunction. A Petition/Complaint for Temporary Restraining Order and/or Preliminary Injunction may be filed when a party disputes a matter.
2. File the original Petition/Complaint for Temporary Restraining Order and/or Preliminary Injunction and pay the \$50.00 filing fee with the Clerk (or request a fee waiver).
 - a. **Note:** If filling out a Fee Waiver Request you must provide documentation of income.
 - b. **Note:** Security may be required.
3. The court may issue a Temporary Restraining Order. Service of the Temporary Restraining Order must be served on the other party (Respondent). Follow step 4.
 - a. The court may deny the Temporary Restraining Order in which a party may follow the Court of Appeals' Rules of Procedure, Chapter 154 of the Oneida Code of Laws.
4. Serve the Petition/Complaint for Temporary Restraining Order and/or Preliminary Injunction on the other party (Respondent). The Complaint and Summons must be served on the other party (Respondent). **You may not deliver the court papers yourself!**
5. If the respondent has an attorney, have the petition/complaint served on the attorney instead of the respondent. If the Tribe or any Tribal Entity or Department is a party, you must also serve the Tribe's Secretary's Office. Please reference below the types of service:
 - a. Personal Service: Personal service shall consist of delivering to the party a copy of the paper being served by a law enforcement officer or other person, who is not a party to the action and who is at least eighteen (18) years of age.
 - b. Mail Service (if personal service is not possible): Service of any and all papers, when made by mail and from any party shall be by certified mail, with return receipt (green card).
 - c. Service of Publication: (Service by publication is a last resort and can only be used if you fail to have the other party served by personal or mail service).
6. Once Petition/Complaint for Temporary Restraining Order and/or Preliminary Injunction is served on other party (respondent) Bring proof of service to Oneida Judiciary. **PLEASE NOTE: The Court cannot move forward without the proof of service.**

Any questions, call the Clerk of Court at 920-496-7200.

**ONEIDA JUDICIARY-TRIAL COURT
PETITION/COMPLAINT FOR TEMPORARY RESTRAINING ORDER AND/OR
PRELIMINARY INJUNCTION**

Case No. _____

Check all that apply.

I am seeking a:

Temporary Restraining Order (an injunction enjoining a party from taking action until the court can hear both sides of the issue)

Preliminary Injunction (an injunction enjoining a party from taking action pending the outcome of a case)

Petitioner: (If more than one Petitioner, attach below information on a separate sheet)

Enter the name, address and daytime phone number of the person to be protected. (You are the Petitioner).

First name Middle name Last name (Maiden name)

Current Mailing Address

City State Zip Daytime Phone Number

Name of person completing Petition (If different from Petitioner) Relationship to Petitioner

Enter the name, address, and daytime phone number of the person you are seeking a Temporary Restraining Order against.

Respondent: (If more than one Respondent, attach below information on a separate sheet)

First name Middle name Last name (Maiden name)

Current Mailing Address

City State Zip Daytime Phone Number

TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION

1. Please identify the following:

Check all that apply to Petitioner.

PETITIONER

- Oneida Tribal member
(Enrollment No. _____).
 Married to Oneida Tribal member.

Check all that apply to Respondent.

RESPONDENT

- Oneida Tribal member
(Enrollment No. _____).

- Married to Oneida Tribal member.
- Married to a member of a federally recognized Indian tribe who resides on the Oneida reservation.
- Employee of the Oneida Tribe (Employee No. _____).
- Member of a federally recognized tribe and resides on the Oneida reservation.
- Non-Indian and consent to the jurisdiction of the Oneida Judiciary.

- Oneida Tribal Entity.
- Married to a member of a federally recognized Indian tribe who resides on the Oneida reservation.
- Employee of the Oneida Tribe (Employee No. _____).
- Member of a federally recognized tribe and resides on the Oneida reservation.
- Non-Indian and consent to the jurisdiction of the Oneida Judiciary.
- Tribal Entity or Department. (If the Tribe or any Tribal Entity or Department is a party, you must also serve the Tribe's Secretary's Office).

2. Did the Petitioner(s) give proper written notice of this action to the Respondent(s)?
 Yes No

3. Describe efforts, if any, to give notice to the Respondent(s):
 (If none, write none)

Describe what you have done to let the Respondent know that you would be filing for a Temporary Restraining Order today.

4. If notice was not given, explain how immediate and irreparable injury, loss or damage would result to the Petitioner(s):

Explain how your harm would be unfixable and would occur within the next 14 days if this Temporary Restraining Order is not issued.

SEE ATTACHED

I request the Court:

1. Issue a Temporary Restraining Order and/or Preliminary Injunction based upon specific facts set out in the Affidavit or this Verified Complaint filed with the Clerk of the Trial Court ordering the Respondent(s) to desist and refrain from:

Describe specifically what you want the Respondent to stop doing and any other requested relief.

SEE ATTACHED

2. Waive the requirement of Rule 153.35-3 of the Oneida Judiciary Rules of Civil Procedure that I provide security for the issuance of the above Order(s) for the reason(s) that:

Explain why you should not have to provide security (money) to cover the costs/damages sustained by the Respondent if wrongly enjoined or restrained.

SEE ATTACHED

I understand that this temporary restraining order automatically expires fourteen (14) days from the date and time it is granted, unless before that time the Court, for good cause entered in the record, extends it for a like period or the adverse party consents to a longer extension. The temporary restraining order may be renewed in the form of an injunction if the Petitioner(s) so requests after notice to the Respondent. Upon two (2) days' notice to the Petitioner(s), the Respondent(s) may apply to the Court to dissolve or modify the temporary restraining order.

Signature of Petitioner

Print or Type Name

Date

AFFIDAVIT OF SERVICE

Case No. _____

Petitioner

v.

Respondent

I, _____, swear that on _____, I personally served
Date

the Petition/Complaint for Temporary Restraining Order and/or Preliminary Injunction on
the following person: _____.

Date:

Time:

Location:

To the best of my knowledge, _____, is present in the
community and is not a member of the armed forces.

I swear the foregoing is true and correct.

Dated this _____ day of _____, 20_____.

Signature of Person serving other party

PLEASE NOTE: Only use this form if you are having the other person personally served. If you are serving the other person by certified mail, simply give the return receipt (green card) to the Clerk of Court.