

# ***Oneida Tribal Judicial System***

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## **APPELLATE COURT**

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**Leah S. Dodge, Michael T. Debraska  
and Cathy L. Metoxen,  
Appellants**

**Docket No. 13-AC-019**

**vs.**

**Oneida Business Committee,  
Respondent**

**Date: August 4, 2014**

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## **DECISION**

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This case has come before the Oneida Tribal Judicial System, Appellate Court. Judicial Officers Janice L. McLester, Pro Tem Carole Liggins, Jennifer Webster, Stanley R. Webster and Pro Tem James Van Stippen presiding.

### **I. Background**

On June 2, 2014, Appellants filed a Motion for Recusal of Hearing Officer and Motion to Vacate the Oneida Tribal System Appellate Court decision of May 10, 2014. Appellants are requesting the decision to be vacated and reassigned to Judicial Officers “who do not have conflicts of interest within their own composition, such as that between Janice McLester and her niece by marriage, Jennifer Webster.” We, the Appellate body, dismiss the motions as there is no rule of law that authorizes a review of a final decision of the Appellate Court other than Rule 24 Reconsideration.

*A. Jurisdiction*

This case comes to us as a reconsideration appeal of an Appellate Court decision. Any person aggrieved by a final decision in a contested case can seek Oneida Tribal Judicial System review under Sec. 1.8-1(a) of the Oneida Administrative Procedures Act.

*B. Factual Background*

The Oneida Tribal Judicial System Appellate Court entered their final decision on Docket No. 13-AC-019, Leah Sue Dodge, Michael T. Debraska, Cathy L. Metoxen vs. Oneida Business Committee on May 19, 2014. On June 2, 2014, Appellants filed a Motion for Recusal and a Motion to Vacate the Oneida Tribal Judicial System, Appellate Court decision of May 19, 2014.

*Procedural Background*

Under Oneida Tribal Judicial System, Rules of Appellate Procedure, Rule 24 Reconsideration outlines criteria necessary to meet a reconsideration review of a final Appellate Court decision.

*(B) Criteria: Reconsideration will only be granted under the circumstances where the moving party proves by a substantial weight of the evidence presented in the motion that there is new evidence in existence which was not considered by the appellate court and which is likely to have altered the final decision if this evidence had been introduced.*

On June 24, 2014 the Appellate body deliberated on the Motions for Recusal and Motion to Vacate and found the motions to meet the required criteria for review.

We deny the motions.

**II. Issues**

**Did the Appellants Motion to Recuse and Motion to Vacate meet the standard of review required in Oneida Tribal Judicial System, Rules of Appellate Procedure, Rule 24 Reconsideration?**

### III. Analysis

#### **Did the Appellants Motion to Recuse and Motion to Vacate meet the standard of review required in the Oneida Tribal Judicial System, Rules of Appellate Procedure, Rule 24 Reconsideration?**

No it did not. Rule 24 Reconsideration requires certain criteria necessary for the Appellate Court for reconsideration review of a final Appellate Court decision. Reconsideration:

- (A) Time: Either party may file a motion for reconsideration of a final appellate court decision within fifteen (15) days of receipt of the final decision or twenty (2) days from publication, whichever time is lesser.*
- (B) Criteria: Reconsideration will only be granted under the circumstances where the moving party proves by a substantial weight of the evidence presented in the motion that there is new evidence in existence which was not considered by the appellate court and which is likely to have altered the final decision if this evidence had been introduced.*
- (C) Definition: New evidence is defined as evidence of any sort which existed at the time of the final appellate court decision but which was unavailable to the parties despite a diligent search for it.*
- (D) Process: Upon filing of a motion for reconsideration, the opposing party will receive notice of the motion and will be granted fifteen (15) days to file a response brief, after which a deliberation of the appellate court will occur and a decision issued.*

The Appellants had the burden to show that “there is new evidence which existed at the time of the decision, but which was unavailable despite a diligent search for it, and that this new evidence is likely to alter the decision of the appellate court.” Appellants failed to meet this requirement.

The Appellants simply presented to this body their “Arguments Regarding Respondents’ Wrongful Hiring Decision.” The Appellate Court is limited to evidence in the record to support or overrule the Trial Court. It does not hear factual issues or make an original record. The Petitioners essentially refused to make a record before the Oneida Tribal Judicial System, Trial

Court when presented with the opportunity. Therefore, there was no support for their arguments and no legal basis for the relief requested.

#### **IV. Decision**

Motion for Recusal and Motion to Vacate Decision denied for failure of Appellants to meet the Oneida Trial Judicial System, Rules of Reconsider, Rule 23 Reconsideration criteria for review of a final Appellate Court decision.

It is so ordered.