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APPELLATE COURT, INITIAL REVIEW**

**Docket/Parties:** # 14-AC-007 Frank L. Cornelius vs Edward Delgado

**Date Filed:** May 16, 2014, May 27, 2014

**Date of Initial Review:** May 28, 2014

The purpose of Initial Review (IR) is to answer threshold questions regarding the jurisdiction of a case and the procedural and material sufficiency of the **Notice of Appeal**. **IR will determine if a case is ripe for appellate review and if not ripe, will determine which Original Hearing Body (OHB) has jurisdiction.** IR may affirm or overturn a single issue decision of an OHB where that similar issue has been settled as a matter of law by previous appellate court decisions. In accordance with the Oneida Nation Administrative Procedures Act, §XI, F and the Oneida Tribal Judicial System, Appellate Court, Rules of Appellate Procedure, the IR body shall accept an appeal when an Appellant **alleges with sufficient clarity** that the **OHB decision** contains one or more of the following elements:

1. \_\_\_ A violation of constitutional provisions.
2. \_\_\_ The decision is outside the scope of the authority or otherwise unlawful.
3. \_\_\_ The decision is clearly erroneous and is against the weight of the evidence presented at the hearing level.
4. \_\_\_ The decision is arbitrary and/or capricious
5. \_\_\_ There is exhibited a procedural irregularity which would be considered a harmful error that may have contributed to the final decision, which if the error had not occurred, would have altered the final decision.
6. \_\_\_ There is presentation or introduction of new evidence that was not available at the hearing level, which, if available, may have altered the final decision.

**INITIAL REVIEW DECISION**

Judicial Officers Janice L. McLester, Stanley R. Webster, Winnifred L. Thomas presiding.

**Not Accepted:** In accordance with the Oneida Tribal Judicial System, Appellate Rules of Procedure, Rule 5(A) Appeal – How Granted: *As a Matter of Right: A final judgment or final order of any original hearing body or the trial court of the OTJS may be appealed to the OTJS appellate court in accordance with the APA, unless otherwise expressly provided by Oneida law. The Oneida Tribal Judicial System retains the discretion to deny acceptance of an appeal where it fails to comply with these Rules of Appellate Procedure.*

In this case the merits of this complaint have not been heard and decided before an original hearing body, which would allow for Appellate review.

**Lead Judicial Officer Signature and Date:** Janice R. McLester 5-28-14