
**ONEIDA JUDICIARY
TRIAL COURT**

**Titletown Flooring LLC and
Kenneth A. Schreiber,
Petitioners**

v.

Case No: 16-TC-050

**Oneida Indian Preference Department
Respondent**

ORDER

This case has come before the Oneida Trial Court, Honorable Layatalati Hill presiding.

Background

On January 25, 2016 the Petitioner's Case 15-TC-046 was dismissed without prejudice for failure to serve the Tribal Secretary. On July 1, 2016 the Petitioner refiled. On July 13, 2016 Respondent filed a motion to dismiss. On July 26, 2016 Petitioner filed a brief in opposition to Respondent's motion to dismiss. On July 27, 2016, a hearing was held and the Court dismissed the motion to dismiss. Both parties were given an opportunity to be heard. A scheduling order was completed and a hearing date set for September 29, 2016 at 9:00 a.m. On August 12, the Respondent filed with the Appellate Court a Petition for Permission to Appeal the Trial Court's order dismissing Respondent's motion to dismiss. On August 19, 2016 Petitioner filed an affidavit of service for subpoenas that were personally served on Larry Barton and Travis Wallenfang to produce documents and for attendance at depositions on August 31, 2016 at 10:00 a.m. On August 23, 2016 Petitioner filed a notice of motion for an order to show cause why Respondent's attorney should not be held in contempt for failure to follow the scheduling order. On August 23, 2016 Respondent filed a response to Petitioner's motion to show cause. On August 31, 2016 the Appellate Court denied and dismissed Respondent's Petition for Permission to Appeal. On August 31, 2016 the Petitioner filed a request to move its depositions from August 31, 2016 to September 14, 2016 and requested the trial date of September 29, 2016 be adjourned to a later date.

Analysis

The Petitioner requests the Court to hold a contempt hearing, adjust the deposition date and adjourn the hearing to a later date.

1. Contempt Hearing:

The Respondent refused to allow Petitioner's depositions to be completed while Respondent's appeal was pending. This Court nor did the Appellate Court grant a stay on these proceedings while Respondent's appeal was pending. Petitioner was following the Court's scheduling order and motioned the court for a show cause hearing as to why the Respondent should not be held in contempt for violating the scheduling order. While the Respondent refused to allow the depositions, the time and date for the depositions to be completed had not yet come about.

The Court believes both attorneys are professionals and can resolve any disagreements as to when and where the requested depositions will be held and any other discovery sought. If the parties are unable to resolve this issue by the end of discovery the Court shall address the issue at that time.

2. Scheduling Order:

The Petitioner requests the depositions be rescheduled for a later date due to unforeseen medical reasons of Attorney Nell. The scheduling order states discovery shall be completed by September 19, 2016. The depositions were originally scheduled for August 31, 2016. The Petitioner requests the depositions be rescheduled to September 14, 2016, five days before the close of discovery. Under the circumstances, the court finds a need to adjust the scheduling order.

The scheduling order shall be amended as attached below.

3. Hearing Date:

The Petitioner request the hearing date be adjourned to a later date due to the pending motions and discovery issues.

The request is reasonable and therefore the Court will reschedule the hearing.

Order

The court enters the following order:

1. The hearing shall be rescheduled to: **Monday, October 24, 2016 at 9:00 a.m.**

The court further orders:

DISCOVERY:

1. The name, address and telephone number of each individual likely to have discoverable information along with the subjects of that information that the disclosing party may use to support its claims or defenses shall be furnished in writing to opposing attorney, advocate or party on or before **September 16, 2016.**
2. A copy or a description by category and location—of all documents, exhibits, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses shall be furnished in writing to opposing attorney, advocate or party on or before **September 16, 2016.**
3. The names, telephone numbers and addresses of Petitioner's witnesses, including, if any, expert witnesses shall be furnished in writing to opposing attorney, advocate or party on or before **September 16, 2016.**
4. The names, telephone numbers and addresses of Respondent's witnesses, including, if any, expert witnesses shall be furnished in writing to opposing attorney, advocate or party on or before **September 16, 2016.**
5. Any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment shall be furnished in writing to opposing attorney, advocate or party on or before **September 16, 2016.**
6. Discovery by all parties shall be completed and submitted to the Court on or before **October 10, 2016.**

MOTIONS:

1. Motions, along with proof of service on the other party or their attorney or advocate, shall be filed with the Court at least fourteen (14) days prior to the hearing. The moving party shall then contact the Court to secure a date for a hearing on the motion. The Clerk of Court will send the hearing notices.
2. Summary judgment motions shall be filed at least fifteen (15) days prior to the scheduled trial.
3. All motions shall be accompanied by an affidavit setting forth with particularity the basis of the motion, legal authority relied upon and relief sought.

Failure to comply with the terms of this Order will be considered cause for imposing sanctions which may include dismissal, default judgment, contempt, money terms, orders limiting or barring the presentation of testimony or introduction of evidence at trial, or any combination thereof, or such added and further sanctions as the Court may deem appropriate under the circumstances.

IT IS SO ORDERED.

By the authority vested in the Oneida Trial Court pursuant to Resolution 01-07-13-B of the General Tribal Council an order signed on September 2, 2016 in the matter of *Titletown Flooring LLC and Kenneth A. Schreiber v. Oneida Indian Preference Department*. Case #16-TC-050.

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ORDER

This case has come before the Oneida Trial Court, Honorable Layatalati Hill presiding.

Background

A hearing was scheduled for October 24, 2016. On September 14, 2016 the Nell & Associates, S.C. law firm informed the court that Petitioner's attorney, Richard E. Nell, had passed away on September 12, 2016. On behalf of the Petitioner, the law firm requested the hearing date of October 24, 2016 be removed from the calendar until the Petitioner's new counsel can coordinate a new hearing date.

Order

The court enters the following order:

The request is reasonable and the Court removes the October 24, 2016 hearing date from the calendar. The Case shall be stayed until new counsel has been chosen and a new hearing date scheduled. The Petitioner shall contact the Court for a new hearing date.

IT IS SO ORDERED.

By the authority vested in the Oneida Trial Court pursuant to Resolution 01-07-13-B of the General Tribal Council an order signed on September 15, 2016 in the matter of Titletown Flooring LLC and Kenneth A. Schreiber v. Oneida Indian Preference Department. Case #16-TC-050.