

COURT OF APPEALS

Elizabeth Somers,
Appellant,

Case No. 17-AC-012

v.

Date: September 15, 2017

Oneida Personnel Commission, and
Oneida Police Commission,
Respondents.

INITIAL REVIEW DECISION AND CASE CONSOLIDATION ORDER

This matter has come before Appellate Judges Diane House, Chad Hendricks, Sharon House, and Chief Judge Gerald L. Hill.

BACKGROUND

On August 24, 2017, Appellant Elizabeth Somers (hereinafter "Somers") filed a Notice of Appeal of Oneida Trial Court Case No. 17-TC-041 with the Oneida Court of Appeals. Somers, in part, is appealing the July 25, 2017 Trial Court's dismissal of her employee protection request. This case has been designated as 17-AC-012.

In Case No. 17-AC-006, which the Court of Appeals accepted for review on May 8, 2017, Somers is also appealing the same July 25, 2017 Oneida Trial Court's dismissal of her employee protection request. Case No. 17-AC-006 is still pending. On August 24, 2017, Somers filed a Motion to Compel Disclosure and Discovery with the Court of Appeals. The OPC has not responded to Somers' Motion to Compel Discovery and Disclosure within the ten (10) days as provided under §805.10-3 of the Oneida Rules of Appellate Procedure.

ORDER

This Court hereby Orders the following:

- A) After review of the information contained in the Notice of Appeal, the July 25, 2017 Order from the Trial Court, and the May 17, 2017 recusal decision of the Oneida

Personnel Commission, it is determined that per the Oneida Rules of Appellate Procedure §805.5-2(c)(3), Somers has sufficiently alleged these decisions:

1. Violate applicable provisions of the Oneida Constitution;
2. Violate provisions, substantive or procedural, of applicable Tribal law or applicable federal law; and/or
3. Is an administrative decision that is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with applicable law;

Based on the above, this case is hereby **ACCEPTED** for appellate review.

B) Takes judicial notice that both 17-AC-006 and 17-AC-012 are appealing a common question of law or fact. Even if there are some questions that are not common, consolidation offers efficiency and convenience in this matter before the Court. The Court, on its own motion pursuant §805.4-2 of the Oneida Rules of Appellate Procedure and §803.22-1 of the Oneida Rules of Civil Procedure, hereby orders that Case No. 17-AC-006, presently pending before the Court of Appeals, is hereby **CONSOLIDATED** with Case No. 17-AC-012. The consolidated cases will now be designated as Case No. 17-AC-012; and

C) **EXTENDS** the time for the Court to respond to Somers' Motion to Compel Disclosure and Discovery, filed on August 24, 2017, pursuant to §805.10-3, §805.9-2, and §805.9-1 of the Oneida Rules of Appellate Procedure, not to exceed thirty (30) days.

TO THE ONEIDA PERSONNEL COMMISSION AND ONEIDA TRIAL COURT: As an original hearing body of the above-captioned case, Notice is hereby given that the Oneida Judiciary, Court of Appeals has taken jurisdiction of this case and requires the hearing record as set forth in §805.8-4(a), "The record of the case shall consist of all papers filed with the Trial Court or original hearing body, exhibits, a transcript or audio recording of the proceedings, and the final decision of the Trial Court or original hearing body." The record shall be filed with the Court of Appeals within thirty (30) calendar days upon receipt of this notice.

By the authority vested in the Oneida Judiciary, Court of Appeals, in Oneida General Tribal Council Resolutions 01-07-13-B and 03-19-17-A, dated this 15th day of September 2017, in the matter of Case No. 17-AC-012, *Elizabeth Somers v. Oneida Personnel Commission, and the Oneida Police Commission.*

It is so ordered.