

# Oneida Appeals Commission

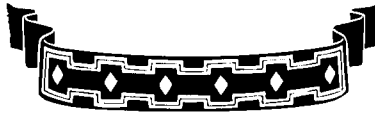
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## Trial Court

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Michael J. Metoxen,  
Petitioner

Docket No. 04-TC-097

v.

Oneida Health Center  
Lesley Metoxen  
Respondent

Date: January 11, 2005

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## Decision

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This case has come before the Oneida Appeals Commission Trial Court. Judicial Officer, Janice L. McLester, Lois J. Powless and Winnifred L. Thomas presiding.

### I Background

On November 19, 2004 the Petitioner, Michael J. Metoxen was terminated from the Oneida Health Center for violations of the *Personnel Policies and Procedures, V.D.2.IV. Personal Actions and Appearance: a. Threatening, attempting, or doing bodily harm to another person. (Termination)*. On December 10, 2004 Petitioner, Michael J. Metoxen, filed a motion for a temporary restraining order to prevent the Respondent, Lesley Metoxen of the Oneida Health Center, from enforcing the termination received on November 19, 2004 until such time as an Injunction Hearing before the Oneida Appeals Commission Trial Court could be heard.

In a December 16, 2004 response to the motion the Trial Court indicated that the Petitioner, Michael J. Metoxen had not provided sufficient evidence to grant an injunction, however to

weigh the consequences of issuing a Restraining Order, the Trial Court scheduled an Injunction Hearing to be held on February 3, 2005 in which both parties were to present their arguments in support of their positions.

On January 4, 2005 the Respondent, Oneida Health Center, Lesley Metoxen, by way of the advocate, Donna Smith, filed a response to the Petitioner's Motion for Injunction requesting the Trial Court to deny the Petitioner's request for injunction. Respondent asserts the Petitioner's Motion for Injunctive relief does not meet the criteria for acceptance in accordance with the Oneida Appeals Commission Rules of Civil Procedure, *Rule 31.E Grounds for an Injunction*:

- (1) *When it appears by the pleadings on the file that a party is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of some act complained of, either for a limited period of time or perpetually;*
- (2) *When it appears from the pleadings or by affidavit that the commission or continuance of some act during the litigation would produce great or irreparable injury to the party seeking injunction relief;*
- (3) *When it appears during the litigation that either party is doing or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party respecting the subject matter of the action, and tending to render the judgement ineffectual;*
- (4) *When in any case where an injunction would be proper in equity.*

## **II Issue**

Does the Petitioner, Michael J. Metoxen, have grounds for injunctive relief?

## **III Analysis**

The Petitioner, Michael J. Metoxen, was terminated from employment on November 19, 2004 and requested an injunction on December 10, 2004. The Petitioner requested injunctive relief on

an action that had already occurred. The correct action would be for the Petitioner to follow the Oneida Personnel Policies and Procedures appeal process to appeal his termination.

### **III Decision**

The Injunction Hearing for Thursday, February 3, 2005 has been cancelled. This Court finds that the issues addressed in this request are not ripe for adjudication at this time. This case is dismissed.