

Oneida Appeals Commission

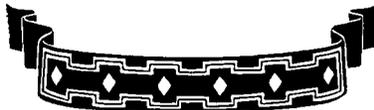
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Trial Court

Linda S. Dallas,
Petitioner

Docket No. 05-TC-043

v.

Oneida Gaming Commission,
Louise Cornelius (aka. King),
Gary Jordan, and
Oscar Schuyler, Jr.,
Respondent

Date: June 2, 2005

Motion to Dismiss

This case has come before the Oneida Tribal Judicial System, Appellate Court, Judicial Officers, Janice L. McLester, Anita F. Barber, Winnifred L. Thomas, presiding.

I Background

On May 10, 2005 Petitioner, Linda S. Dallas submitted a motion for a Temporary Restraining Order against Respondents, Oneida Gaming Commission, Louise Cornelius (aka. King), Gary Jordan, and Oscar Schuyler, Jr. to cease and desist acts of decisions and actions that obstruct the Petitioner's ability to execute and fulfill her regulatory role, responsibilities and duties as an elected Oneida Gaming Commissioner until a hearing can be held to afford the Petitioner an opportunity to present her case.

On May 13, 2005 the Temporary Restraining Order was denied, however an Injunction Hearing was scheduled for Thursday, May 26, 2005 by this hearing body.

On May 19, 2005, Respondents entered a Motion to Dismiss for Insufficiency of Service of Process. Respondents asserts that on May 13, 2005 they received a summons from the Oneida Appeals Commission compelling them to appear at a hearing on May 26, 2005. Through this communication from the Oneida Appeals Commission, the Respondents learned that the Petitioner filed a motion with the Appeals Commission. None of the Respondents were provided with notice of the motion or the contents of the Petitioner's allegations.

II Analysis

In accordance with Oneida Appeals Commission, Rules of Civil Procedure, Rule 5, Motions and Orders, section C(1)(2):

Procedure: All motions filed by a party for consideration by the trial court shall follow the following procedure.

- 1) The moving party shall submit the motion to the trial court, with certified notice that the opposing party has been served on the same day or prior to the motion being filed with the trial court.*
- 2) From the date that the motion is filed with the trial court, the opposing party will have fifteen (15) days to file a written response to the motion. Motions will not be considered filed unless it is certified that the opposing or non-moving party has received notice and a copy of the motion in accordance with Rule 3(F) above.*

The Petitioner had the responsibility to properly follow the Rules of Civil Procedure and serve notice to the Respondents.

IV Decision

Motion for Dismissal is granted.