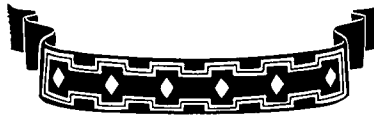


Oneida Appeals Commission

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Trial Court

Maurisa Coran,
Petitioner

Docket No. 06-TC-038

v.

Dr. William Stempski,
Henrietta Cornelius,
Oneida Community Health Center-Dental Clinic,
Respondents

Date: August 28, 2006

Final Decision

This petition has come before the Oneida Tribal Judicial System. Judicial Officers: Mary Adams, Anita Barber and Robert Christjohn, presiding.

I Background

On May 11, 2006, Petitioner, Maurisa Coran, filed her original complaint alleging numerous complaints and several claims of damages against Respondents, Dr. Stempski and Ms. Cornelius. On May 12, 2006, Petitioner, represented by Attorney David A. Justmann, submitted an amended complaint to include additional allegations against Respondents.

On June 5, 2006, Respondent, represented by Attorney Peggy A. Schneider, submitted a Motion to Dismiss and a Brief in support of Motion to Dismiss. A pre-trial hearing was scheduled for June 13, 2006.

At the June 13, 2006, hearing Petitioner was provided with fifteen (15) days to submit his brief addressing Respondent's Motion to Dismiss and Brief in Support of Motion to Dismiss. A motions hearing was scheduled for August 8, 2006.

On June 19, 2006, Petitioner filed his response to the Motion to Dismiss. On July 24, 2006, Petitioner filed: (1) Motion for Judgment by Default; (2) Brief in Support of Motion for Judgment by Default; (3) Motion for Protective Order; (4) Motion for Issuance of Subpoenas and Motion for Order to Compel; (5) Motion for Order to Compel Discovery, and; (6) Motion for Estoppel.

On July 24, 2006, Respondent filed their Witness List. On August 1, 2006, Respondent filed: (1) Response to Motion for Judgment by Default; (2) Motion for Estoppel, (3) Motion for Protective Order, (4) Motion for Issuance of Subpoenas and Motion for Order to Compel, and (5) Motion for Order to Compel Discovery.

Judge Barber presided in the case Maurisa Coran v. Oneida Health Center-Dental Department, Docket Number 04-AC-015, 3/22/05. At the August 8, 2006 motions hearing, the court requested if either party had an objection to Judge Barber remaining on this case, there were no objections.

In addition, the court made an oral decision. The court decided that the two (2) Settlement Agreements signed by Petitioner on February 11, 2005 and December 21, 2005 are valid and shall stand as written. The hearing was continued until August 25, 2006.

On August 16, 2006 Petitioner filed Response to Motion for Ruling, Motion for Partial Dismissal Without Prejudice and Motion to Stay.

On August 21, 2006, Respondent filed Response to Plaintiff's Claim for Damages, Motion for Ruling, Motion for Partial Dismissal without Prejudice and Motion to Stay.

At the August 25, 2006, hearing the court made an oral decision. The court decided to dismiss Petitioner's claim with prejudice.

II Issue

Is Petitioner's case filed at the appropriate court?

III Analysis

No, once this court announced its ruling "the two (2) Settlement Agreements signed by Petitioner on February 11, 2005 and December 21, 2005 are valid and shall stand as written", Petitioner failed to submit any new claims, causing this case to be dismissed. Petitioner claims she has a complaint filed with the Oneida Personnel Commission concerning her administrative leave/grievance. Petitioner can not have two hearings concerning the same issue in two courts.

Petitioner's brief submitted August 16, 2006

1. Claims for Damages from Acts Committed After December 21, 2005. Petitioner alleges a substantial portion of the matter relating to her administrative leave is currently before the Oneida Personnel Commission.
2. In the alternative, Motion for Partial Dismissal Without Prejudice. Petitioner claims she cannot predict what she will consider just until the Oneida Personnel Commission renders a decision.
3. Motion for Stay. Petitioner requests a sixty (60) day stay to allow parties to work out a settlement.
4. Plaintiff's Analysis on how the Tribe's Sovereign Immunity Ordinance may or may not apply to the present action. Petitioner requests the court to accept their previous brief to fulfill this requirement.

Respondent brief submitted August 21, 2006

1. No Claims Remain to be Decided in this Case. Respondent claims Petitioner has no remaining claims and Petitioner's Amended Complaint should be dismissed in accordance with Rules of Civil Procedure, Rule 14(B). Respondent argues it would be inappropriate for this court to rule whether a party has a right to bring any subsequent claims in a case that has not yet been filed. Respondent requests the court to cancel this hearing.

2. Dismissal Without Prejudice is Inappropriate in this Matter. Respondent asserts since Petitioner has not identified any new claims (claims that happened after she signed the waiver) this case should be dismissed with prejudice.
3. A Stay is Unnecessary. Respondent alleges there are no claims after the December 21, 2005 waiver. Therefore there are no settlement discussions. Respondent requests a stay would be an unnecessary delay and requests that this motion for a stay be denied.
4. The Present Action is Barred by Tribal Sovereign Immunity. Respondent asserts if the hearing proceeds they will orally present their arguments based on their brief filed on June 5, 2006. Respondents request due to the above arguments the hearing scheduled for August 25, 2006 be cancelled.

IV Decision

According to the briefs filed by Petitioner there are no claims stemming after the signing of the December 2005 waiver. Petitioner signed both waivers containing the same statement:

EMPLOYEE HEREBY EXPRESSLY WAIVES ANY RIGHT EMPLOYEE MAY HAVE TO FILE AN EMPLOYMENT RELATED GRIEVANCE RELATING TO THIS MATTER. Employee, on behalf of Employee and anyone, hereby release and agrees not to sue Oneida or any of its employees, representatives, or agents (collectively the "Released Parties"), with respect to any and all known claims which Employee has ever had while employed with the Oneida Tribe of Indians of Wisconsin regarding this matter, including all claims that could have been asserted under any fair employment, contract, or tort law, or any other Tribal, federal, state, or local law, regulation or ordinance, such as the Oneida Personnel Policies and Procedures, the Oneida Administrative Procedures Act, the Indian Civil Rights Act, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Employee Retirement Income security Act, the Americans with Disabilities Act, or under any compensation, bonus, vacation, retirement or other benefit plan. Employee expressly warrants that Employee has not transferred or assigned any rights or causes of action that Employee might have against any of the Released Parties.

Furthermore, Petitioner agreed to the following:

In signing below, Employee expressly acknowledges that Employee has read this Agreement carefully, that Employee fully understand its terms and conditions, and that Employee intends to be legally bound by it.

The settlement was signed by both parties. Both parties agreed to its stipulations by signing their name. There's been several agreements signed by employees over the course of the Tribe's history. Petitioner does not argue Respondent breached its responsibility it's treated as a contract. Petitioner did not refute the Tribe's responsibility after the last agreement date. Petitioner's complaint addressed alleged incidents that occurred prior to December 21, 2005.

Furthermore, Petitioner asserts she was under duress when she signed the waiver, but failed to offer any evidence to support her claim. This court ruled the two waivers to be valid and shall stand as written. Petitioner's August 16, 2006 brief did not contain any alleged violations after December 21, 2005, other than her being placed on administrative leave, which is currently before the Oneida Personnel Commission.

Petitioner's administrative leave grievance is appropriately filed at the Oneida Personnel Commission because they have original jurisdiction over the Tribe's employment disputes. If either party is not satisfied with the Oneida Personnel Commission's decision they may file their appeal with the Appellate Court. In that event, since this is a trial court, this court would not have jurisdiction to review that case. In accordance with Rules of Civil Procedure, Rule 14 (C) (2)(b), this court has no other alternative but to dismiss this claim.

Petitioner's case is dismissed with prejudice.

It is so ordered.