
**ONEIDA JUDICIARY
TRIAL COURT**

**Bradley W. Graham,
Petitioner**

v.

Case No: 17-TC-050

**Oneida Business Committee,
Oneida Election Board,
Oneida Records Management Dept.,
Respondents**

ORDER

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

Background

The Petitioner requested a temporary restraining order, preliminary injunction, and permanent injunction order enjoining the Respondents: Oneida Election Board, Oneida Business Committee, and Oneida Records Management Department, to cease and desist from the following matters:

1. The Oneida Election Board from handling any matters concerning the 2017 Tri Annual Oneida General Elections held on Saturday, July 8, 2017; and
2. The Oneida Election Board from forwarding a Final Report to the Nation's Secretary regarding the 2017 Tri Annual Oneida General Elections held on Saturday, July 8, 2017; and
3. The Oneida Business Committee from declaring any results, official or otherwise, regarding the 2017 Tri Annual Oneida General Elections held on Saturday, July 8, 2017; and
4. The Oneida Business Committee from sending notices regarding when the swearing in of newly elected officials shall take place regarding the 2017 Tri Annual Oneida General Elections; and

5. The Oneida Business Committee from swearing in any newly elected officials based upon the 2017 Tri Annual Oneida General Elections results; and
6. The Oneida Records Management Department from destroying the ballots from the 2017 Tri Annual Oneida General Elections held on Saturday, July 8, 2017.

ISSUES

1. Is this case the same or substantially the same as the Petitioner's case no. 17-TC-045, which has already been decided?
2. Has the Petitioner met the timeline for challenging the 2017 Oneida General Election that was held on Saturday, July 8, 2017?

FINDING OF FACTS

1. The facts alleged in cases 17-TC-045 and 17-TC-050 are the same or substantially the same.
2. The parties in cases 17-TC-045 and 17-TC-050 are the same or are in privity with the original parties.
3. The filings of cases 17-TC-045 and 17-TC-050 are the same or substantially the same.
4. The 2017 Oneida General Election was held on Saturday, July 8, 2017.
5. Any qualified voter can challenge the results of an election by filing a complaint with the Judiciary within 10 calendar days after the election.
6. The Petitioner filed on August 10, 2017, which is 33 days after the election.
7. The Petitioner did not file a complaint to challenge the election results with the Judiciary within 10 calendar days after the election.

PRINCIPLES OF LAW

1. **Doctrine of Res Judicata:** 1. An issue that has been definitively settled by judicial decision. 2. An affirmative defense barring the same parties from litigating a second lawsuit on the same claim, or any other claim arising from the same transaction or series of transactions and that could have been, but was not raised in the first suit. The three essential elements are (1) An earlier decision on the issue, (2) A final judgment on the merits, and (3) The involvement of the same parties, or parties in privity with the original parties. (see Black's Law Dictionary, ninth edition, 2009).

2. **803.4-6.** This Law shall be followed by the Court, except where other Court rules are more specific, then those laws shall supersede.
3. **102.11-11.** Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election.

ANALYSIS

The facts alleged in cases 17-TC-045 and 17-TC-050 are the same or substantially the same. The major differences between the filings are the inclusion of requests for recusals. However, the request for recusals could have and should have been made in the first case, 17-TC-045, and is not grounds to have the entire case re-litigated. Case 17-TC-045 already decided the issues alleged in this case and a final judgment on the merits was decided and affirmed by the Appellate Court Case no. 17-AC-010. Furthermore, the parties in cases 17-TC-045 and 17-TC-050 are the same or are in privity with the original parties. Privity means the connection or relationship between two parties, each having a legally recognized interest in the same subject matter. (see Black's Law Dictionary, ninth edition, 2009). The Oneida Business Committee, Oneida Election Board and Oneida Records Management Department are all under the umbrella of the Oneida Nation and all have a legal interest in the 2017 Oneida General Election. Therefore, the filings of cases 17-TC-045 and 17-TC-050 are the same or substantially the same and the issues alleged in this case have been definitively settled by a judicial decision. Thus, this action is barred by Res Judicata.

The Petitioner believes this Court must grant his temporary restraining order, preliminary injunction, and permanent injunction based on the fact that he has filed a petition with the Oneida Nation's Tribal Secretary's Office which calls for the Oneida General Tribal Council (GTC) to hear, review and render a decision on whether or not grounds exist for GTC to take formal action to void/nullify the 2017 Oneida General Election. However, The Oneida Election Law provides the only avenue for challenging an election and must be followed by anyone wishing to challenge an election. The Petitioner had 10 calendar days to file with the Judiciary which would have been up to and including July 18, 2017. Instead of following the Election Law for Challenges the Petitioner chose to file a petition with the Oneida General Tribal Council seeking to challenge the election, however filing a petition with the Oneida General Tribal

Council is not the appropriate way to challenge as provided by Law. The Law provides any qualified voter challenging the results of an election to file a complaint with the Judiciary within 10 calendar days after the election.

CONCLUSIONS OF LAW

1. This case is the same or substantially the same as the Petitioner's case no. 17-TC-045, which has already been decided and is barred by Res Judicata.
2. The Petitioner missed the 10 calendar day window for filing a challenge to the July 8, 2017 Oneida General Election.

ORDER

The request for: temporary restraining order, preliminary injunction, and permanent injunction are denied.

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 August 10, 2017 in the matter of Bradley W. Graham v. Oneida Business Committee, Oneida Election Board, Oneida Records Management Dept. Case #17-TC-050.

Layatalati Hill, Trial Court Judge