

**ONEIDA JUDICIARY**  
Tsi nu téshakotiya?tolétha?

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**TRIAL COURT**

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**Dale P. Wheelock**  
**Petitioner,**

v.

**CASE NO: 22-TC-008**

**Oneida Business Committee**  
**Respondents,**

**DATE: November 10, 2022**

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**ORDER**

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This case has come before the Oneida Trial Court, the Honorable John E. Powless, III presiding.

*Appearing In-person:* Petitioner, Dale P. Wheelock; Petitioner's Advocate, Michael Debraska; and Respondents' Attorneys Kelly M. McAndrews and Krystal L. John.

**STATEMENT OF THE CASE**

On October 28, 2022, Petitioner filed a petition seeking a preliminary injunction to stop the November 15, 2022 virtual General Tribal Council (GTC) meeting, claiming the convening of this meeting was unconstitutional. On November 1, 2022, an additional petition seeking a similar outcome was filed and, as a result, the Court joined 22-TC-008 and 22-TC-009 for hearing all matters at issue in both actions. On November 4, 2022, the Respondents filed a motion to dismiss. A hearing on the motion was held on November 7, 2022.

**ANALYSIS**

*Subject Matter Jurisdiction:*

Pursuant to 8 O.C. 801.5-2(b), the Trial Court shall have subject matter jurisdiction over cases and controversies arising under the Constitution. In this case, Petitioner is seeking a preliminary injunction related to GTC meetings and Article III – Section 6 of the Oneida Nation's Constitution. Therefore, the Court has subject matter jurisdiction.

*Motion to Dismiss:*

In accordance with 8 O.C. 803.9-2(a)(6), a party may assert a defense for failure to state a claim upon which relief can be granted. In this case, Petitioner alleges that a virtual GTC meeting will disenfranchise or discriminate Petitioner and the Nation's membership from participating. The Petitioner also alleges on-going travel by the Nation's employees while GTC meetings are being

convened virtually is unlawful but doesn't specify how so. After reviewing the Oneida Code of Laws and the Oneida Nation's Constitution, the Court does not find that Petitioner stated a claim upon which relief could be granted. Specifically, the information presented does not lead the Court to find that immediate and irreparable injury, loss, or damage would result to the movant. Additionally, nothing in the Constitution prohibits a virtual meeting. There are in-person appearance requirements; however, those apply to elections. That same in-person requirement could have been applied to GTC meetings and it was not. Therefore, Petitioner's claim fails.

As the Court found that there was a failure to state a claim upon which relief may be granted, the Court did not find it necessary to further analyze the argument regarding standing and whether Petitioners' "fairness" questions are nonjusticiable political questions.

### **FINDINGS OF FACT**

The Court finds as follows:

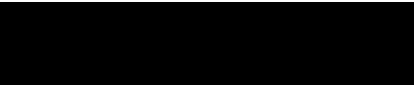
1. The Court has subject matter, personal and territorial jurisdiction over this matter.
2. Petitioner filed a complaint on October 28, 2022.
3. Respondents filed a motion to dismiss on November 4, 2022.
4. A hearing on the motion was held on November 7, 2022.
5. Peacemaking was offered to the parties.
  - a. A party declined to participate.

### **ORDER**

1. Respondents' motion to dismiss is GRANTED with prejudice.

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 was signed on November 10, 2022.

  
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John E. Powless III, Trial Court Judge