

**ONEIDA JUDICIARY**  
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**TRIAL COURT**

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**LINDA DALLAS,**  
**COMPLAINANT,**

**v.**

**CASE NO: 23-TC-005**

**ONEIDA BUSINESS COMMITTEE et al,**  
**RESPONDENTS**

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**ORDER**

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This matter has come before Judge Gwendolyn Topping, pro tempore.

**BACKGROUND**

On May 12, 2023, Petitioner filed a complaint seeking a temporary restraining order and preliminary injunction to stop the 2023 Oneida Nation of Wisconsin Tri-Annual Election until a special General Tribal Council (GTC) meeting could be conducted on two (2) petitions submitted by Petitioner. Petitioner filed her complaint on Friday, May 12, 2023, just ten (10) minutes before the Court's close of business and on the day prior to the 2023 Oneida Nation of Wisconsin Tri-Annual Election-Primary. Additionally, Petitioner seeks recusal of all Oneida judges and for the case to be heard by a panel of outside judges who are not enrolled in the Nation or closely affiliated with the Nation. On May 17, 2023, the assigned judge to this case withdrew from the case and initiated the process to obtain a pro tempore judge with assistance of the Wisconsin Tribal Judges Association (WTJA). The request was posted with the WTJA for seven (7) days, per extenuating circumstances protocol. At the end of the seventh (7<sup>th</sup>) day, a judge was selected at random. The judge and Oneida Judiciary were notified of the selection. On May 23, 2023 Petitioner filed a second (2<sup>nd</sup>) complaint that contained similar relief requests with the May 12, 2023 complaint. Through all of the exhibits filed the Petitioner demonstrates an excessive and capricious nature in her approach to rectification. One exhibit included a social media post which can hardly be

considered relevant in the determination of a legal matter. On May 24, 2023, per extenuating circumstances protocol, a pro tempore judge was appointed by the WTJA. Judge Topping received the complaint and exhibits on May 24, 2023. Judge Topping was also appointed to the second complaint filed on May 23, 2023. After reviewing, noting the complaints sought similar relief, Judge Topping consolidated the complaints.

### **ISSUE**

Whether or not there is a need to order an injunction regarding the Oneida Nation of Wisconsin Tri-Annual Election Processes.

Whether or not the Election Law was violated, or an unfair election was conducted, and that the outcome of the 2023 Oneida Nation of Wisconsin Tri-Annual Election-Primary would have been different but for the violation. And is there a need for a Special Election to be called.

### **FINDING OF FACTS**

The Court finds as follows:

1. The Court has subject matter and personal jurisdiction over this matter.
2. On May 12, 2023, Petitioner filed a complaint seeking a Temporary Restraining Order and Preliminary Injunction to stop the 2023 Oneida Nation of Wisconsin Tri-Annual Election-Primary until a special General Tribal Council (GTC) meeting could be conducted on two petitions filed by Petitioner.
  - a. The petitions were filed on March 2, 2023 and April 14, 2023. Each petition proposes amendments to the Election Law that the Petitioner seeks to be applied to the 2023 Oneida Nation of Wisconsin Tri-Annual Election. The Petitioner demonstrates that in this time frame twenty-six (26) other petitions filed.
  - b. Petitioner filed her complaint on Friday, May 12, 2023, just ten (10) minutes before the court's close of business and on the day prior to the 2023 Oneida Nation of Wisconsin Tri-Annual Election-Primary.

- c. As of May 19, 2023, the Court did not yet provide Petitioner with a summons for service on Respondents pending the Court's determination as to whether Petitioner's complaint presented grounds for short-term injunctive relief - a temporary restraining order or preliminary injunction.
3. Petitioner's complaint was originally assigned to Judge Patricia Ninham Hoeft. The other Trial Court judges recused themselves from hearing any 2023 Oneida Nation of Wisconsin Tri-Annual Election cases for the following:
  - a. One judge is a candidate seeking re-election to the Trial Court in the 2023 election; and
  - b. The other judge's immediate family member is a candidate seeking re-election to the Oneida Business Committee.
4. An immediate family member to Judge Patricia Ninham Hoeft is a candidate in the 2023 election seeking election to a board, committee, or commission.
  - a. The family member is not subject to a race that was part of the 2023 primary election;
  - b. The family member is not in electoral competition with Petitioner; and
  - c. The family member is not vying for a seat on the Oneida Business Committee.
  - d. The Court finds there is not an actual conflict of interest; however, the judge's impartiality could reasonably be questioned.
5. The Wisconsin Tribal Judges Association (WTJA) was contacted on May 17, 2023 to select a pro tempore judge.
  - a. The WTJA sent out a notice to the membership requesting interested judges respond by 4pm on May 24 at 4pm. A judge was selected at random.

- b. A judge was selected, the judge and Oneida Judiciary were notified by 4:30pm on May 24, 2023.
  - c. Judge Topping was provided with the complaint documents on May 25, 2023.
6. On May 23, 2023 the Petitioner filed a second complaint seeking a Temporary Restraining Order and Preliminary Injunction to stop the 2023 Oneida Nation of Wisconsin Tri-Annual Election until the conclusion of 23-TC-005.

### **ANALYSIS**

The Court thoroughly analyzed the facts and applicable standards in this filing.

The complaint consists of several allegations of misconduct by the Oneida General Business Council, the Oneida Election Board and the Oneida Judiciary.

First are the myriad of allegations against the General Business Committee including their involvement/influence in the outcome 2023 Oneida Nation of Wisconsin Tri-Annual Election processes by not considering petitions to change Election Law and not bringing this information to the attention of the Oneida General Tribal Council. Several exhibits were filed to demonstrate that the General Business Committee was not considering the filings of the Petitioner; that the current Election Law is not fair. There were twenty-eight petitions, filed as exhibits by the petitioner, to the Oneida General Business Committee for consideration by the Petitioner. Twenty-six of those petitions were filed on March 2, 2023. All of the petitions were scheduled to be submitted to the May 24, 2023 regular Oneida General Business Committee meeting. This is an overwhelming number of requests. This seems unreasonable and expecting an outcome based upon arbitrary requests. The 2023 Oneida Nation of Wisconsin Tri-Annual Election Primary was held on May 13, 2023. The Petitioner filed her request with the Oneida General Business Committee on March 2, 2023. That is not a feasible timeframe to enact the changes the Petitioner was requesting to be made for the current electoral season. The timeframe was impractical. In terms of the relief sought, the Judiciary cannot order the Oneida General Tribal Council to convene for the purpose of this complaint. Overall, the Petitioner appears displeased with the lack of attention to excessive petitions filed with the Oneida General Business Committee and outcome

of the election. There is no evidence that the Oneida General Business Committee has interfered with the Election process. There is no evidence that the Oneida General Business Committee has interfered with the outcome of the 2023 Oneida Nation of Wisconsin Tri-Annual Election-Primary.

Next, is the complaint from May 12 and again on May 23 that there is a need to place an injunction on the Election Board. There are several reasons stated why the Petitioner feels that these are valid complaints, filed separately but they all tie together with the concept of an unfair election. In the May 12 filing requesting the Election Board to cease and desist with the 2023 Oneida Nation of Wisconsin Tri-Annual Election. Again, noting that this filing was ten (10) minutes prior to the close of business on May 12, 2023. This was less than twenty-four (24) hours prior to the scheduled primary election. The complaint was forty-two pages, but the attached exhibits totaled two-hundred nineteen (219) pages. The second filing directed specifically at the Election Board was another cease and desist in the election process and to invalidate the primary election results from May 13, 2023 and order a Special Election be granted and scheduled as soon as Election Law allows. In the complaint was repeatedly an accusation that the police officer was not next to the ballot box at all times or was not visible from certain angles. The law indicates that law enforcement be present during the election processes, not next to the ballot box/machine every moment. Another accusation was that an election board member was feeding ballots into the machine that counts the ballots and looking at the votes. The law provides for two methods of tabulation. One is via the machine and the other is manual tabulation. In the case that a manual tabulation is required, two of the Election Board members would be tabulating but requiring a minimum of three. In both methods, indicating that Election Board members are going to see and handle the ballots. There are only allegations and no concrete proof of tampering with ballots or improper handling. The Court finds that no fraud occurred.

Finally, the Petitioner makes accusations that the Judiciary is stalling the proceedings. The process of selecting and appointing pro tempore judges has been outlined in the background section of this order. The WTJA standard posting time for a pro tempore is fourteen (14) days. Because of the extenuating circumstances, that timeframe was shortened but still providing ample time for a larger pool of volunteers. Notice on a matter of this nature is sent to ten of the eleven tribal courts in the State of Wisconsin. There was no finding of violation ethics by the Oneida Judiciary.

The exhibits in this complaint are simply documents, not notarized and cannot be considered affidavits or valid testimony. One of the statements was by an individual bearing the same surname as the petitioner, leading to the assumption that may be a biased opinion. There was no witness list contained in either of the filings. At most, one of the filings was several pages of social media complaints about the outcome of election. Social media postings carry the same validity of discussions at a coffee clutch or a sewing circle: gossip and hearsay. The Court was unable identify clear and convincing evidence that the pertinent relief could be granted. Much of the relief sought was beyond the scope of an injunction or the Court; capricious in nature, bordering on frivolous. The Court's role in the process is to interpret the law, not to order the nation to follow the whims of one individual.

## **PRINCIPLES OF LAW**

### **Chapter 102-Election:**

#### 102.9. Election Process Section A. Polling Places and Times

102.9-1. In accordance with Article III, Section 5 of the Oneida Nation Constitution, elections shall be held in the month of July on a date set by the General Tribal Council. The General Tribal Council shall set the election date at the January annual meeting, or at the first GTC meeting held during a given year. Special Elections shall be set in accordance with 102.12-6.

102.9-2. Elections shall be held in an Oneida Nation facility(s) as determined by the Election Board.

102.9-3. Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All voters in line to vote at 7:00 p.m. shall be allowed to vote. (a) If a ballot counting machine is used, the ballot counting machine shall be prepared prior to 7:00 a.m. on the day of the election. The Judges shall open the polls only after four (4) members of the Nation verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count.

102.9-4. At least one (1) Oneida Police Officer shall be present during the time the polls are open, and until the counting of ballots is completed, and tentative results posted.

102.9-5. The Election Board shall provide a voting area sufficiently isolated for each voter such that there is an area with at least two sides and a back enclosure.

102.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of the voting area, excluding private property.

102.9-7. No one causing a disturbance shall be allowed in the voting area.

102.9-8. Election Board members may restrict the voting area to qualified voters only. This restriction is in the interest of maintaining security of the ballots and voting process.

*Section B. Ballot Box*

102.9-9. All ballots being votes, shall be placed in a receptacle clearly marked "Ballot Box" and shall be locked until counting at the close of polls. Provided that, with electronic ballot counting, the ballots may be placed within the ballot counting machine as they are received.

*Section C. Spoiled Ballots*

102.9-10. If a voter spoils his/her ballot, he/she shall be given a new ballot.

102.9-11. The spoiled ballot shall be marked "VOID" and initialed by two (2) Election Officials and placed in an envelope marked as "Spoiled Ballots."

102.9-12. The Spoiled Ballot envelopes shall be retained and secured for no less than fifteen (15) calendar days following finalization of any challenge of the election, at the Records Management Department.

*Section D. Rejected Ballots*

102.9-13. Rejected Ballots are to be placed in a specially marked container and sealed. (a) Computer rejected ballots shall be reviewed by the Election Officials to verify the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final computer total, provided that, a new ballot was not received as set out in sections 102.9-10 through 102.9-12. (b) Ballots rejected, either during the computer process or during a manual counting, shall be reviewed by the Election Officials to verify that they are authentic. If the Election Officials determine that the ballot is not an official ballot, or that it is an illegal ballot, the ballot shall be designated 'void,' and placed in a sealed container marked "Void Ballots."

**102.10. Tabulating and Securing Ballots**

*Section A. Machine Counted Ballots*

102.10-1. When ballots are counted by machine, at the close of polls the Judges shall generate from the ballot counting machine copies of the election totals from the votes cast.

102.10-2. At least three (3) Election Board members shall sign the election totals, which shall include the tape signed by the members of the Nation before the polls were opened per section

102.9-3(a). Section B. Manually Counted Ballots

102.10-3. When ballots are manually counted, at the close of polls the Judges shall unlock the ballot box and remove the ballots.

102.10-4. If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. The sealed ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election Officials for counting/tallying of ballots.

102.10-5. The sealed ballots shall be opened at the time of counting by the Election Officials and witnessed/monitored by an Oneida Police Officer.

102.10-6. Ballots must be counted by two different Election Officials until two final tallies are equal in back to back counting. Final tallies shall be verified by the Election Judges.

### *Section C. Securing Ballots*

102.10-7. The Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Records Management Department for retaining.

102.12. Elections Section A. Primary Elections; Business Committee 102.12-1. When a primary is required under

102.12-2, it shall be held on a Saturday at least sixty (60) calendar days prior to the election.

102.12-2. There shall be a primary election for Business Committee positions whenever there are three (3) or more candidates for any officer positions or sixteen (16) or more candidates for the at large council member positions.

- (a) The two (2) candidates receiving the highest number of votes cast for each officer position shall be placed on the ballot.
- (b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large council member positions shall be placed on the ballot.
- (c) Any position where a tie exists to determine the candidates to be placed on the ballot shall include all candidates where the tie exists.

102.12-3. The Election Board shall cancel the primary election if the Business Committee positions did not draw the requisite number of candidates for a primary by the petitioning deadline set for the primary.

102.12-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary



vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 102.5-11 and 102.5-12 shall be followed, including the requirement to print a notice in the Nation's newspaper if time lines allow.

### *Section B. Special Elections*

102.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as defined in this law, may be placed on the same ballot as the subject matter of an election.

102.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business Committee as recommended by the Election Board or as ordered by the Judiciary in connection with an election challenge.

102.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent locations, and placed in the Nation's newspaper not less than ten (10) calendar days prior to the Special Election.

102.12-8. In the event of an emergency, the Election Board may reschedule the election, provided that no less than twenty-four (24) hours notice of the rescheduled election date is given to the voters, by posting notices in the prominent locations.

### **103.3. Government**

103.3-1. All government officials shall be subject to the Code of Ethics as set forth herein and to the intent of the code as set forth above.

103.3-2. The Code of Ethics shall be as set out below, recognizing that the concept of ethical conduct encompasses action as well as inaction, and represents an area of self regulation. Provided further, that it is the policy of government officials to demonstrate the highest standards of personal integrity, truthfulness, honesty, and fortitude in all public activities in order to inspire public confidence and trust in the governmental officials of the Oneida Tribe of Indians of Wisconsin.

103.3-3. The following shall govern the interaction between government officials and their constituents, co-officials, and employees:

- (a) A government official shall create and maintain an independent and honorable political system, and shall observe high standards of conduct toward achieving this goal, including, but not limited to
  - (1.) encouraging separation between departments or entities of tribal government, and should avoid contact or duty that violates such a separation.

- (2.) avoid participation in action or decision making (except where participation is in accordance with the traditions of the Tribe) that would present an appearance of conflict of interest or an actual conflict of interest.
- (b) A government official should respect and comply with the law and tradition of the Tribe and should at all times act in a manner that promotes public confidence in the honesty and impartiality of government officials, including but not limited to
  - (1.) influence of family, social or other personal relationships influencing conduct
  - (2.) using prestige of the office to advance private interests of others
  - (3.) conveying use of special influence or being specially influenced.
- (c) A government official should use the following standards in relation to the duties of office
  - (1.) adhere to the laws, customs, and traditions of the Tribe
  - (2.) be patient, dignified and courteous to constituents, co-officials, and others with whom the official deals in an official capacity, and should require similar conduct of others in official proceedings and those personnel subject to the official's discretion and control.
  - (3.) give to every person who is interested in an action time to be heard
  - (4.) not comment to non-tribal members on any proceeding, session, or action unless directed to do so by an official action of the Oneida General Tribal Council, Oneida Business Committee, or their delegates.
- (d) Government officials and their administrative staff shall protect the privileged information to which they have access in the course of official duties, and be prudent in the use of information acquired in the course of their duties. Further, they should not use confidential information for any personal gain, or in a manner which would be detrimental to the welfare of the employer.

103.3-4. Administrative responsibilities include, but are not limited to, work product and conduct of staff as set out herein

- (a) prohibiting staff from making statements on behalf of the Tribe or agency of the Tribe without permission
- (b) require staff to observe high standards of honesty and diligence
- (c) initiate appropriate disciplinary measures against professional staff for unprofessional conduct which the official may become aware of.

103.3-5. A government official should disqualify themselves when their action or inaction might reasonably be questioned, including, but not limited to

- (a) personal bias
- (b) knowledge that individually or any member of their family or spouse's immediate family, or anyone residing in their household has a financial interest in the subject matter of a proceeding or action, or has any other interest that could be substantially affected provided however, that an official disqualified by the above may, instead of withdrawing, disclose on the record the basis of their disqualification. Provided further

that the government agency, based on such disclosure, agree unanimously that the government official's participation is not prejudicial or that the financial interest is unsubstantial, the official is no longer disqualified and may participate in the proceeding or action. The agreement or disagreement shall be incorporated in the record of the proceeding or action.

103.3-6. A government official shall regulate their extra governmental activities to minimize the risk of conflict with duties of their office.

103.3-7. A government official should maintain a distance in financial dealings that would tend to reflect an influence for personal gain, including, but not limited to

- (a) dealings that tend to reflect on their impartiality, interference with performance of governmental duties, or exploit the governmental office
- (b) involvement in businesses that have financial impact or other influence on tribal businesses or actions.
- (c) exceptions are allowed for laws and policies that directly allow the participation of a
- (d) governmental official, or where the traditions of the Tribe allow participation.
- (e) granting, giving, or influencing the gift, bequest or loan of tribal services, property or
- (f) monies outside of normal and traditional procedures.

103.3-8. An official may participate in civic and charitable activities that do not detract from the dignity of the office or interfere with the performance of official duties.

## **Oneida Judiciary Rules of Civil Procedure:**

### **803.22. Consolidation; Separate Trials**

803.22-1. Consolidation. If actions before the Court involve a common question of law or fact, the Court may:

- (a) Join for hearing or trial any or all matters at issue in the actions;
- (b) Consolidate the actions; or
- (c) Issue any other orders to avoid unnecessary cost or delay.

803.22-2. Separate Trials. For convenience, to avoid prejudice, or to expedite and economize, the Court may order a separate trial of one (1) or more separate issues, claims, crossclaims, counterclaims, or third-party claims.

### **803.35-1. Preliminary Injunction.**

- (a) *Notice.* The Court may issue a preliminary injunction only on notice to the adverse party.
- (b) *Consolidating the Hearing with the Trial on the Merits.* Before or after beginning the hearing on a motion for a preliminary injunction, the Court may advance the trial on the merits and consolidate it with the hearing. Even when consolidation is not ordered,

evidence that is received on the motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial.

(c) *Expediting the Preliminary-Injunction Hearing.* If the order is issued without notice, the motion for a preliminary injunction shall be set for hearing at the earliest possible time, taking precedence over all other matters except hearings on older matters of the same character. At the hearing, the party who obtained the order shall proceed with the motion; if the party does not, the Court shall dissolve the order.

**803.35-2. *Temporary Restraining Order.***

(a) *Issuing Without Notice.* The Court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney or advocate only if:

(1) Specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(2) The movant's attorney or advocate certifies in writing any efforts made to give notice and the reasons why it should not be required to give notice.

(b) *Contents; Expiration.* Every temporary restraining order issued without notice shall state the date and hour it was issued; describe the injury and state why it is irreparable; state why the order was issued without notice; and be promptly filed in the clerk's office and entered in the record. The order expires at the time after entry—not to exceed fourteen (14) days—that the Court sets, unless before that time the Court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The reasons for an extension shall be entered in the record. (d) *Motion to Dissolve.* On two (2) days' notice to the party who obtained the order without notice—or on shorter notice set by the Court—the adverse party may appear and move to dissolve or modify the order. The Court shall then hear and decide the motion as promptly as justice requires.

**803.35-3. *Security.*** The Court may issue a preliminary injunction or a temporary restraining order only if the movant gives security, unless the movant is the Tribe, or an officer or agency of the Tribe. Security shall be in an amount that the Court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.

**803.35-4. *Contents and Scope of Every Injunction and Restraining Order.***

(a) *Contents.* Every order granting an injunction and every restraining order shall:

(1) State the reasons why it issued; (2) State its terms specifically; and (3) describe in reasonable detail—and not by referring to the complaint or other document—the act or acts restrained or required.

(b) Persons Bound. The order binds only the following who receive actual notice of it by personal service or otherwise:

- (1) The parties;
- (2) The parties' officers, agents, servants, employees, and attorneys or advocate; and
- (3) Other persons who are in active concert or participation with anyone described in Rule 803.35-4(b)(1) or (2).

Oneida Code of Laws Chapter 8 - Chapter 801, Oneida Tribal Judiciary Canons of Judicial Conduct

**801.11-11. Pro Tern Judges.**

(a) Pro Tern Judges shall be appointed as follows:

- (1) Where the necessary number of Judges is unable to hear a matter due to conflict of interest, extended absence, or for any other reason, the appropriate Chief Judge shall appoint Pro Tern Judges to hear the matter.
  - (A) Any person who has previously heard cases as a Commissioner with the Oneida Appeals Commission, Judicial Officer with the Oneida Tribal Judicial System or Tribal Judge who was not removed or retired for physical or mental disability from office may hear the case. If no such Commissioner, Judicial Officer or Judge is available, then
  - (B) Any sitting or former Judge from another tribal court of a federally recognized tribe or nation located in Wisconsin, or from another Haudenosaunee tribe or nation may hear the case.

**Cornelius v. Oneida Election Board, No. 03-AC-033 (Oneida Appeals 03/31/2004)**

March 31, 2004

[5] AMELIA CORNELIUS, SHIRLEY HILL, APPELLANTS

v.

ONEIDA ELECTION BOARD, RESPONDENT

[36] 3. Did the Trial Court Erroneously Order that a Special Election Take Place?

[37] The Appellants' case on appeal is in fact a collateral attack upon the decision entered by the Trial Court on August 7, 2003 under Docket Number 03-TC-326 (Election Appeal I). For that reason, this Appellate Court will not directly address the merits of whether a special election was appropriately ordered. The appeal at hand stems from the decision of the Trial Court under Docket Number 03-TC-337 (Election Appeal II). As stated above under the section regarding whether the decision was arbitrary, the Trial Court in Election Appeal II found that the Appellants could not appropriately challenge the ruling

of the Trial Court in Election Appeal I because their appeal was not timely. It is that finding from Election Appeal II that this court will review.

[38] The Trial Court in Election Appeal II found that notice of the original challenge to the July 26, 2003 election was depicted in the Oneida Tribal newspaper, the Kalihwisaks. The decision of the Trial Court in that challenge ordered that a special election take place for the open positions on the Gaming Commission. The Appellants were not certified as the winners in that original election, because Mr. Metoxen filed a timely challenge to the election and certification of the Gaming Commission election results was stayed pending a decision in his case. That decision on August 7, 2003 ordered the special election as a result of an agreed to remedy by the parties. The Appellants were aware of all of this. Notice of the special election was made and the special election held on September 27, 2003. The Appellants were once again candidates on the ballot for this election, and did not at any time challenge the legitimacy of the election or the names on the ballot for the election.

[39] The Appellants did not raise any challenge to the special election until after the special election took place and two candidates other than the Appellants received the highest vote totals. All of the arguments presented before the Trial Court in Election Appeal II were in fact arguments that would have been more appropriately presented in Election Appeal I. It was the decision of Election Appeal II that the Appellants' challenge was untimely.

### **CONCLUSION**

The Court finds that grounds do not exist for short-term injunctive relief - a temporary restraining order or preliminary injunction on the entire 2023 Oneida Nation of Wisconsin Tri-Annual Election Process(es) due to unfair election, fraud, misconduct or violation of oaths of office. The evidence presented does not rise to the level of clear and convincing that neither the Oneida Business Committee nor the Oneida Election Board had impact on the outcome of the 2023 Oneida Nation of Wisconsin Tri-Annual Election-Primary results. The Court does not find a violation that is grounds for an injunction, real or perceived, as all of the allegations are baseless. Thus negates the need for a Special Election.

### **DECISION or ORDER**

For the reasons stated above, this matter is DISMISSED.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council, this Order was signed on June 1, 2023.



Honorable G. Topping – Red Cliff Band of Lake Superior Ojibwe Tribal Court