

**ONEIDA JUDICIARY
INSTRUCTIONS FOR FILING A PETITION/COMPLAINT
FOR TEMPORARY RESTRAINING ORDER
AND/OR PRELIMINARY INJUNCTION**

1. Complete and sign the Complaint for Temporary Restraining Order and/or Preliminary Injunction. A Complaint for Temporary Restraining Order and/or Preliminary Injunction may be filed when a party seeks stop further action until a decision can be rendered.
2. File the original Complaint for Temporary Restraining Order and/or Preliminary Injunction and pay the \$50.00 filing fee with the Clerk or ask for a Fee Waiver Request Form.
 - a. **Note:** If filling out a Fee Waiver Request Form you must provide documentation of income.
 - b. **Note:** The Court will determine if a Security Deposit will be required to be paid by the Petitioner if they wrongfully enjoin or restrain the Respondent. If a Security Deposit is required, it must be paid before a hearing will be scheduled.
3. The court may issue a Temporary Restraining Order. Service of the Temporary Restraining Order must be served on the Respondent(s).
 - a. The court may deny the Temporary Restraining Order. The Decision denying the Temporary Restraining Order may be appealed in accordance with the Rules of Appellate Procedure Title 8 O.C. Chapter 805 of the Oneida Code of Laws.
4. Serve the Complaint for a Temporary Restraining Order and/or Preliminary Injunction on the Respondent(s). **You may not deliver the court papers yourself.**
5. If the Respondent has an attorney, have the complaint served on the attorney instead of the Respondent. If an Oneida Nation Entity or Department is a party, you must also serve the Nation's Secretary's Office. Please reference below the types of service:
 - a. Personal Service: **(MUST be attempted first)** Personal service consists of delivering to each of the parties a copy of the paper being served. It can be served by:
 - i. A law enforcement officer or
 - ii. Any other person who is:
 1. not a party to the action and
 2. at least eighteen (18) years of age.
 - b. Mail Service (**IF personal service is not successful**): Service of any and all papers, when made by mail and from any party shall be by certified mail, with return receipt (green card).
 - c. Service of Publication: To Serve by publication you must make a request to the Court. Form is available at <https://oneida-nsn.gov/government/judiciary/>
6. Once Complaint for Temporary Restraining Order and/or Preliminary Injunction is served on Respondent(s) bring proof of service to Oneida Judiciary. **PLEASE NOTE: The Court cannot move forward without the proof of service.**

Any questions, call the Clerk of Court at 920-496-7200

**ONEIDA JUDICIARY-TRIAL COURT
COMPLAINT FOR TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY
INJUNCTION**

Case No. _____

Check all that apply.

I am seeking a:

Temporary Restraining Order (an injunction enjoining a party from taking action until the court can hear both sides of the issue)

Preliminary Injunction (an injunction enjoining a party from taking action pending the outcome of a case)

Petitioner: Check this box if more than one Petitioner, attach below information on a separate sheet.

Enter the name, address and daytime phone number of the person to be protected. (You are the Petitioner).

First name Middle name Last name (Maiden name)

Current Mailing Address

City State Zip Daytime Phone Number

Petitioner's Date of Birth IF represented, attorney or advocate name

Attorney or advocate mailing address City State Zip Phone Number

Is attorney or advocate approved to practice at the Oneida Judiciary? Yes or No Unknown

Respondent: Check this box if more than one Respondent, attach below information on a separate sheet.

Enter the name, address, and daytime phone number of the person you are seeking a Temporary Restraining Order against.

First name Middle name Last name (Maiden name)

Current Mailing Address

City State Zip Daytime Phone Number

TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION

1. Please check all that apply for personal jurisdiction:

PETITIONER

- | | |
|--|--|
| <input type="checkbox"/> Oneida Nation member
(Enrollment No. _____). | <input type="checkbox"/> Member of a federally recognized
Tribe and resides on the Oneida
Reservation. |
| <input type="checkbox"/> Married to Oneida Nation member. | <input type="checkbox"/> Non-Indian and consent to the
jurisdiction of the Oneida Judiciary. |
| <input type="checkbox"/> Married to a member of a federally
recognized Indian Tribe who resides
on the Oneida Reservation. | <input type="checkbox"/> Oneida Nation Entity or Department
(_____). |
| <input type="checkbox"/> Employee of the Oneida Nation
(Employee No. _____). | <input type="checkbox"/> Other:_____ |

RESPONDENT

- | | |
|--|--|
| <input type="checkbox"/> Oneida Tribal member
(Enrollment No. _____). | <input type="checkbox"/> Member of a federally recognized
Tribe and resides on the Oneida
Reservation. |
| <input type="checkbox"/> Married to Oneida Nation member. | <input type="checkbox"/> Non-Indian and consent to the
Jurisdiction of the Oneida Judiciary. |
| <input type="checkbox"/> Married to a member of a federally
recognized Indian Tribe who resides
on the Oneida Reservation. | <input type="checkbox"/> Oneida Nation Entity or Department
(_____). |
| <input type="checkbox"/> Employee of the Oneida Nation
(Employee No. _____). | <input type="checkbox"/> Other:_____ |

2. Did the Petitioner(s) give proper written notice of this action to the Respondent(s)?
 Yes No

3. Describe efforts, if any, to give notice to the Respondent(s):
(If none, write none)

Have you called,
emailed or mailed
the Respondent to
let them know you
would be filing for
a Temporary
Restraining Order
today.

4. Explain how the injury, loss or damage is immediate and irreparable to the Petitioner(s):

Explain how your
harm would be
unfixable and
would occur within
the next 14 days if
this Temporary
Restraining Order is
not issued.

SEE ATTACHED

I request the Court:

1. Issue a Temporary Restraining Order and/or Preliminary Injunction based upon specific facts set out in the Affidavit or this Verified Complaint filed with the Clerk of the Trial Court ordering the Respondent(s) to desist and refrain from:

Describe specifically what you want the Respondent to stop doing and any other requested relief.

SEE ATTACHED

I understand that this temporary restraining order automatically expires fourteen (14) days from the date and time it is granted, unless before that time the Court, for good cause entered in the record, extends it for a like period or the adverse party consents to a longer extension. The temporary restraining order may be renewed in the form of an injunction if the Petitioner(s) so requests after notice to the Respondent. Upon two (2) days' notice to the Petitioner(s), the Respondent(s) may apply to the Court to dissolve or modify the temporary restraining order.

Signature of Petitioner

Print or Type Name

Date

AFFIDAVIT OF SERVICE

Case No. _____

Petitioner

v.

Respondent

I, _____, swear that on _____, I personally served
Date

the Petition/Complaint for Temporary Restraining Order and/or Preliminary Injunction on
the following person: _____.

Date:

Time:

Location:

To the best of my knowledge, _____, is present in the
community and is not a member of the armed forces.

I swear the foregoing is true and correct.

Dated this _____ day of _____, 20____.

Signature of Person serving other party

PLEASE NOTE: Only use this form if you
are having the other person personally
served.

TRO Security deposit: This form is used as a guide for the Court in determining the security deposit amount.

\$499.99 or less security deposit will be that amount.

\$500.00-\$699.00 security deposit will be 75% of amount.

\$700.00-\$999.00 security deposit will be 60% of amount.

\$1000.00-\$1999.00 security deposit will be 50% of amount.

\$2000.00-\$2999.00 security deposit will be 20% of amount.

\$3000.00-\$4999.00 security deposit will be 15% of amount.

\$5000.00 on up security deposit will be 10% of amount.