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# Oneida Tribal Law Office

P. O. BOX 129 • ONEIDA, WISCONSIN 54155

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SEP 19 1983

ONEIDA TRIBE OF  
INDIANS OF WISCONSIN  
MEMORANDUM

TO: Oneida Business Committee

FROM: Francis R. Skenandore *F.R.*  
Attorney

DATE: September 15, 1983

RE: Appeal - Disqualification of Counsel for Oneida of the  
Thames Band -- Oneida Indian Nation of Wisconsin,  
vs. State of New York Case No. 79-CV-798

Attached you will find the Notice of Appeal filed by Attorney Robert T. Coulter from the Federal District Court order disqualifying Attorney Coulter from representing the Oneida of the Thames Band because of a conflict of interest. The appeal is to the United States Court of Appeals for the Second Circuit with a request for oral argument.

It appears Attorney Coulter will continue his attempt to obtain the Wisconsin Oneidas historical and legal documents through the Oneida of the Thames Band. We will, of course, oppose this appeal and proceed accordingly as directed by the Tribe.

If you have any further questions, please feel free to call this office. Thank you for your time and attention in this matter.

UNITED STATES COURT OF APPEALS  
SECOND CIRCUIT - CIVIL APPEAL PRE-ARGUMENT STATEMENT

2. Please type or print.  
3. Attach additional pages if necessary.

TITLE IN FULL:

Oneida Indian Nation of Wisconsin and  
Oneida of the Thames Band v. State  
of New York, et al.

District <b>N D N Y</b>	Judge <b>Neal McCurn</b>	District Court Docket Number <b>79-CV-798</b>
Date Filed in District Court <b>December 5, 1979</b>		Date Notice of Appeal Filed <b>August 30, 1978</b>
Approx. Number of Pages in Transcript <b>50</b>	Number of Exhibits <b>5</b>	Has Transcript been made? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is this a Cross Appeal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Has this matter been before this court previously? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, state Case Name: <b>Oneida Indian Nation of Wisc. v. N.</b>		
Docket Number: <b>81-7626</b>		Citation: <b>691 F.2d 1070</b>

ATTORNEY(S) FOR:	NAME	ADDRESS	TELEPHONE
Appellant: (Specify Name) <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	See attached sheet		
Appellee: (Specify Name) <input checked="" type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant	See attached sheet		

A. JURISDICTION		B. DISTRICT COURT DISPOSITION (Check as many as apply)	
1. Federal	2. Appellate	1. Stage of Proceedings	2. Type of Judgment/Order Appealed
<input type="checkbox"/> U.S. a party <input checked="" type="checkbox"/> Federal question (U.S. not a party) <input type="checkbox"/> Diversity <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Final decision below <input checked="" type="checkbox"/> Interlocutory decision appealable as of right <input type="checkbox"/> Order certified by District Judge (specify): <input type="checkbox"/> Other (specify):	<input checked="" type="checkbox"/> Pre-trial <input type="checkbox"/> During trial <input type="checkbox"/> After trial	<input type="checkbox"/> Default judgment <input type="checkbox"/> Dismissal/judgment <input type="checkbox"/> Jury verdict <input type="checkbox"/> Summary judgment <input type="checkbox"/> Declaratory judgment <input type="checkbox"/> Judgment/court decision <input type="checkbox"/> Judgment NOV <input type="checkbox"/> Directed verdict <input checked="" type="checkbox"/> Other (specify): <b>Order disqualifying counsel and denying motion to compel transfer of f</b>
C. NATURE OF SUIT (Check as many as apply)		3. Relief	
1. Federal Statutes		4. Prisoner Petitions	
<input type="checkbox"/> Antitrust <input type="checkbox"/> Bankruptcy <input type="checkbox"/> Banks/Banking <input type="checkbox"/> Civil Rights <input type="checkbox"/> Commerce, routes, and tariffs <input type="checkbox"/> Commodities <input checked="" type="checkbox"/> Other (specify):	<input type="checkbox"/> Communications <input type="checkbox"/> Consumer protection <input type="checkbox"/> Copyright <input type="checkbox"/> Election <input type="checkbox"/> Energy <input type="checkbox"/> Environmental	<input type="checkbox"/> Freedom of Information <input type="checkbox"/> Immigration <input type="checkbox"/> Labor <input type="checkbox"/> OSHA <input type="checkbox"/> Securities <input type="checkbox"/> Soc. Security <input type="checkbox"/> Tax	<input type="checkbox"/> Admiralty/Maritime <input type="checkbox"/> Assault/Defamation <input type="checkbox"/> FELA <input type="checkbox"/> Product Liability/Warranty <input type="checkbox"/> Other
Federal treaties and laws under Articles of Confederation		5. Other <input type="checkbox"/> Forfeiture/Penalty <input checked="" type="checkbox"/> Real Property <input checked="" type="checkbox"/> Treaty (specify): <b>Indian land claim</b>	
6. General		7. Will appeal raise a constitutional issue? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/> Arbitration <input checked="" type="checkbox"/> Attorney Disqualification <input type="checkbox"/> Class action <input type="checkbox"/> Counsel fee <input type="checkbox"/> Shareholder derivative <input type="checkbox"/> Transfer		8. Will appeal raise a matter of first impression? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW:

The action is an Indian land claim based on federal laws and treaties of the Article of Confederation period. The action alleges invalidity of two land transactions concluded between the State of New York and certain Oneida Indian individuals. The District Court granted a motion to disqualify new counsel for the Oneida of the Thames Band on the ground of a conflict of interest and denied a motion by new counsel to compel former counsel to turn over historical and legal files to the band.

ISSUES PROPOSED TO BE RAISED ON APPEAL:

Whether the District Court properly disqualified counsel for the Oneida of the Thames Band and properly denied the motion to compel transfer of files belonging to the Band.

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SEP 14 1983

ONEIDA LAW OFFICE

Is any matter relative to this case pending below?  Yes  No (specify): see attached sheet

To your knowledge, is there any case now pending or about to be brought before this court or any other court or administrative agency which:

(A) Arises from substantially the same case or controversy as this appeal?  Yes  No

(B) Involves an issue that is substantially the same, similar, or related to an issue in this appeal?  Yes  No

If yes, state whether  "A"  "B"  or both, and provide:

Case Name:	Docket Number:	Citation:	Court or Agency:
Name of Appellant			
Date	Signature of Counsel for Record		
9-1-83			

Appellee-Defendant Georgia-Pacific individually:

Arnold Bauman  
Shearman & Sterling  
53 Wall Street  
New York, New York 10005  
(212) 483-1000

Appellee-Defendants St. Regis Paper Company individually  
and as Class Representative and Georgia-Pacific as Class  
Representative:

Jan Farr  
Hiscock, Lee, Rogers, Henley & Barclay  
Financial Plaza, Box 4878  
Syracuse, New York 13221  
(315) 422-2131

Appellee-Defendant New York State Electric and Gas Company:

Howard M. Schmertz  
Huber, Magill, Lawrence & Farrell  
99 Park Avenue  
New York, New York 10016  
(212) 682-6200


IS ANY MATTER RELATIVE TO THIS CASE PENDING BELOW? Yes.

The decision of the Court of Appeals on October 4, 1982 reversed the decision of the District Court dismissing this action and remanded for further proceedings. The District Court has not issued a pretrial order, but it is expected that an evidentiary hearing will be held on certain legal and factual questions remanded by the Court of Appeals.

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

TRANSCRIPT INFORMATION  
CIVIL APPEAL

To be completed by counsel for appellant in civil appeal from district court within ten days after filing notice of appeal.

THIS SECTION TO BE COMPLETED BY COUNSEL FOR APPELLANT		
CASE TITLE Oneida Indian Nation of Wisconsin et al. v. State of New York, et. al.	DISTRICT Northern Dist. of N.Y.	DOCKET NUMBER 79-CV-798
	JUDGE Neal P. McCurn	APPELLANT Oneida of the Thames Bank
	COURT REPORTER David Mayo	COUNSEL FOR APPELLANT Robert T. Coulter
TRANSCRIPT ORDER - Must be completed		
DESCRIPTION OF PROCEEDINGS FOR WHICH TRANSCRIPT IS REQUIRED (INCLUDE DATES) Oral argument on motion to disqualify counsel and motion to compel transfer of files I am ordering a transcript. X I am not ordering a transcript. Reason: <input type="checkbox"/> Daily copy is available. <input type="checkbox"/> Other. Attach explanation.	METHOD OF PAYMENT <input checked="" type="checkbox"/> Funds <input type="checkbox"/> CJA Voucher (CJA 21)	
<input checked="" type="checkbox"/> PREPARE TRANSCRIPT OF PRE-TRIAL PROCEEDINGS <input type="checkbox"/> PREPARE TRANSCRIPT OF TRIAL <input type="checkbox"/> PREPARE TRANSCRIPT OF OTHER POST-TRIAL PROCEEDINGS <input type="checkbox"/> PREPARE (Other: Specify)	DELIVER TRANSCRIPT TO: (NAME, ADDRESS, TELEPHONE) Robert T. Coulter Indian Law Resource Center 601 E. Street, S.E. Washington, D.C. 20003 (202) 547-2800	
I certify that I have made satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)). I understand that unless I have already ordered the transcript, I shall order its preparation at the time required by the Civil Appeals Management Plan, F.R.A.P. and the local rules.		
COUNSEL'S SIGNATURE 	DATE September 1, 1983	
To be completed by court reporter. Return one copy to clerk, U.S. Court of Appeals.		
COURT REPORTER ACKNOWLEDGEMENT		
DATE ORDER RECEIVED	ESTIMATED COMPLETION DATE	ESTIMATED NUMBER OF PAGES
SIGNATURE OF COURT REPORTER	DATE	

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

ONEIDA INDIAN NATION OF  
WISCONSIN, et al.,

Plaintiffs

v.

STATE OF NEW YORK, et al.,

Defendants

Civ. No. 79-CV-798

CERTIFICATE OF SERVICE

I hereby certify that I mailed this day, postage prepaid, a copy of the Civil Appeal Pre-argument Statement, Form C, and the Transcript Information Form, Form D, to the following:

Arlinda Locklear  
Native American Rights  
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Washington, D. C. 20036

David Roberts  
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Albany, New York 12201

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Gary Kelder  
Syracuse University School of  
Law  
E.I. White Hall  
Syracuse, New York 13210

Dated: September 2, 1983

*Curtis G. Berkey*

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Curtis G. Berkey

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Appellee-Defendants State of New York and Its Agencies:

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