

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE ) THURSDAY, THE 18th  
JUSTICE BROAD ) DAY OF JULY, 2019

B E T W E E N:

*(Court Seal)*

SIX NATIONS ELECTED COUNCIL ON ITS OWN BEHALF AND ON  
BEHALF OF THE SIX NATIONS OF THE GRAND RIVER

Plaintiff

- and -

LAUREL CURLEY, COLLEEN DAVIS, MICHAEL AARON STEVEN  
DAVIS, ROBERT PAUL DAVIS, GARY JOHNSON, JOLEEN JOHNSON,  
COLIN MARTIN, RHONDA MARTIN, BRUCE SMITH, DAWN SMITH,  
JANE DOE, JOHN DOE and OTHER PERSONS UNKNOWN

Defendants

**ORDER**

THIS MOTION, brought by the plaintiff for an interim and interlocutory injunction against the defendants, was heard this day at the court house, 70 Wellington Street, Brantford, Ontario, N3T 2L9.

ON READING the motion record of the plaintiff, including the affidavit of Dayle Bomberry and exhibits thereto, dated July 12, 2019, the supplementary motion record of the plaintiff, including the supplementary affidavit of Dayle Bomberry and exhibits thereto,

dated July 18, 2019, and the factum filed by the plaintiff, and on hearing submissions of counsel for the plaintiff and of the defendant Gary Johnson:

1. **THIS COURT ORDERS** that the defendants shall vacate forthwith certain property belonging to the plaintiff located at Lot 19-25-1, Concession 5, Township of Tuscarora, Six Nations Indian Reserve No. 40, Plan 59917, C.L.S.R., with the municipal address 1695 Chiefswood Road, Ohsweken, Ontario, NOA 1M0 (the "**Council Property**").

2. **THIS COURT ORDERS** that the defendants, their agents, or representatives or their substitutes or anyone acting under their instructions or anyone aiding or assisting the defendants, or any one of them, and any person to whom notice of this Order shall come shall not

- (i) Trespass on, occupy, block access to, physically prevent, impede, restrict or in any way physically interfere with, or counsel others to trespass on, occupy, block access to, physically prevent, impede, restrict or in any way physically interfere with, the Council Property;
- (ii) Cause damage, destruction or defacement of the Council Property or counsel others to cause damage, destruction or defacement of the Council Property;
- (iii) Camp, build fires or sell wares on the Council Property;
- (iv) Threaten, intimidate, molest, block, physically obstruct or by any means whatsoever prevent the use and enjoyment of the Council Property by councillors, employees, agents, customers, suppliers,

contractors or invitees of the Six Nations Elected Council ("**Six Nations Council**") or any other person seeking access to the Council Property for a lawful and legitimate governmental purpose or with permission of the Six Nations Council;

- (v) Interfere with, hinder, interrupt, or attempt to interfere with, hinder or interrupt, including by counselling others to interfere with, the Six Nations Council's lawful use and enjoyment of the Council Property including its carrying on of Six Nations governmental business.

3. **THIS COURT ORDERS** that all materials and chattels brought onto the Council Property without permission of the Six Nations Council, including but not limited to flags, signs, fires and fire fuel, tents and any other structures, blockading material, chairs, and drums and any other instruments, be permanently removed by the defendants forthwith and that no further materials be brought onto the Council Property without permission of the Six Nations Council.

4. **THIS COURT ORDERS** that if all materials and chattels described in paragraph 3 are not removed in accordance with paragraph 3, Six Nations Council may remove and dispose of them and seek damages for any costs incurred in so doing.

5. **THIS COURT ORDERS** that locks placed on the entrances to the Six Nations Council administration building located on the Council Property (the "**Central Administration Building**") on or after May 27, 2019 be permanently removed by the defendants forthwith.

6. **THIS COURT ORDERS** that if the locks described in paragraph 5 are not removed in accordance with paragraph 5, Six Nations Council may remove and dispose of them and seek damages for any costs incurred in so doing.

7. **THIS COURT ORDERS** that this Order be directed to the Sheriff of the County of Brant for enforcement and directs the Six Nations Police Service and police officers of that service, and if requested by the Six Nations Police Service, the OPP and police officers of that service, to assist the Sheriff in the enforcement of the order by removing from the Council Property any person contravening the provisions of this Order, subject to the discretion of the police acting reasonably with respect to the timing and means of removing such person.

8. **THIS COURT ORDERS** that any police service or peace officer is hereby authorized to arrest, or arrest and remove, any person who has knowledge of this Order and who the police service or peace officer has reasonable and probable grounds to believe is contravening or has contravened the provisions of this Order.

9. **THIS COURT ORDERS** that any police service or peace officer who arrests or arrests and removes any person pursuant to this Order be authorized to:

- (a) Release that person from arrest upon that person agreeing in writing to abide by this Order and to appear before this Court at such time and place as may be fixed for the purposes of being proceeded against for contempt of Court or fixing a date for such proceeding;

- (b) Where such person has refused to give a written undertaking to abide by this Order or to appear before this Court, or where in the circumstances the peace officer considers it appropriate, to bring forthwith such person before this Court, or such other place as the Court may direct, for the purpose of being proceeded against for contempt of Court or for fixing a date for such proceeding; or
- (c) Detain such person in custody until such time as it is possible to bring that person before this Court.

10. **THIS COURT ORDERS** that service of the Notice of Motion, the Affidavit of Dayle Bomberry sworn July 11, 2019 and exhibits thereto, the factum of the Plaintiff, the issued Statement of Claim, the Supplementary Motion Record including the Supplementary Affidavit of Dayle Bomberry sworn July 18, 2019 and exhibits thereto and this Order (collectively, the '**Materials**') is deemed to be valid and effective on the following defendants by delivery to the following addresses, respectively.

- (a) Colleen Davis: 2340 4<sup>th</sup> Line, Ohsweken, Ontario
- (b) Colin Martin: 1789 First Line, Hagersville, Ontario
- (c) Laurel Curley: 1204 Cayuga Road, Ohsweken, Ontario
- (d) Joleen Johnson: 3721 4<sup>th</sup> Line, Ohsweken, Ontario
- (e) Gary Johnson: 3120 5<sup>th</sup> Line, Ohsweken, Ontario
- (f) Michael Aaron Steven Davis: 2146 5<sup>th</sup> Line, Ohsweken

(g) Robert Paul Davis: 3120 5<sup>th</sup> Line, Ohsweken, Ontario

11. **THIS COURT ORDERS** that if delivery of materials in this injunction and this action, including for clarity the Materials listed at paragraph 10, is made by courier or by registered mail, service is deemed to be valid and effective on the second day after the materials are couriered or sent by registered mail, as the case may be.

12. **THIS COURT ORDERS** that the plaintiff shall deliver a letter to the Council Property, to the attention of the defendants Rhonda Martin, Bruce Smith and Dawn Smith, requesting that these defendants provide counsel for the plaintiff with an address for service. If an address for service is provided, service will be deemed to be valid and effective upon delivery to that address. The provision at paragraph 11 of this Order applies in this respect. If no address for service is provided in writing within 7 days from the day the letter is delivered, service of the Materials, and any further materials for this injunction and this action shall be deemed to be valid and effective on Rhonda Martin and Bruce Smith, as the case may be, immediately upon service to the defendants listed at paragraph 10 of this Order. DB

13. **THIS COURT ORDERS** that any further materials for this injunction and this action may be served on the defendants and each of them in accordance with paragraphs 10-12 of this Order.

14. **THIS COURT ORDERS** that service of this Order upon any person affected by such order may be validly effected by posting a copy of this Order on the website and Facebook page of Six Nations Council.

15. **THIS COURT ORDERS** that enforcement steps may be taken upon posting a copy of this Order on the website and Facebook page of Six Nations Council.

16. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion, the Affidavit of Dayle Bomberry sworn July 11, 2019 and exhibits thereto, the factum of the Plaintiff, the Supplementary Affidavit of Dayle Bomberry sworn July 18, 2019 and exhibits thereto and the Statement of Claim is, as necessary, hereby abridged.

17. **THIS COURT ORDERS** that the terms of this interim Order shall continue in full force and effect until further order of this Court is made.

18. **THIS COURT ORDERS** that nothing in this Order shall prevent counsel from seeking instructions, advising clients of their legal rights and obligations and the consequences of breaching a court order.

19. **THIS COURT ORDERS** that costs are reserved for future disposition on notice to the parties.

20. **THIS COURT ORDERS** that the Plaintiffs' motion for an interlocutory injunction is adjourned to September 27, 2019 at 10:00 a.m.



(Signature of Judge)

ENTERED AT BRANTFORD  
Book No. \_\_\_\_\_ 306  
Document No. \_\_\_\_\_ 81  
on July 18/19 by mlb

SIX NATIONS ELECTED -and- LAUREL CURLEY, et al.  
COUNCIL, et al.  
Plaintiff

Defendants

Court File No. CV-19-00000164-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Brantford

**ORDER**

**BLAKE, CASSELS & GRAYDON LLP**

Barristers & Solicitors

199 Bay Street

Suite 4000, Commerce Court West

Toronto ON M5L 1A9

**Brittany Rabinovitch** LSO #67895L

Tel: 416-863-4258

[brittany.rabinovitch@blakes.com](mailto:brittany.rabinovitch@blakes.com)

**Grace Smith** LSO #73355C

Tel: 416-863-3879

Fax: 416-863-2653

[grace.smith@blakes.com](mailto:grace.smith@blakes.com)

Lawyers for the Plaintiff