

# Chronology of the Onondaga Nation's Land Rights Action and the court decisions affecting its fate



**1974**  
U.S. Supreme Court decides that the Oneida Nation's claim for lands which were lost through a violation of the Trade and Intercourse Act should be heard in federal court.

**1980 – 1994**  
Cayuga Nation files a claim for the return of 64,000 acres of land (1980). The Federal government intervenes in the Cayuga case (1992). U.S. District Court Judge Neal McCurn rules that the Cayugas had a valid claim to their ancestral land. (1994)

**1982**  
The Ancient Indian Land Claims Settlement Act seeks to resolve land claims by validating all prior land transfers and allowing Indian nations to sue only for monetary damages. The bill dies in Congress.

**2000-2001**  
After negotiations break down, the Cayuga claim becomes first to go to trial in federal court. In February, a jury awarded the Cayugas \$36.9 million dollars for their land and loss of use of that land. On October 2, 2001, Judge Neal McCurn announced his decision to add \$211 million in interest to the jury award, for a total of \$247 million.

**March 11 2005**  
Onondaga Nation files historic Land Rights Action in federal court seeking recognition of its aboriginal title over some 4,000 square miles of land and calling for environmental cleanup in the territory.

**March 29 2005**  
US Supreme Court (Sherrill v. Oneida) rules that the Oneida Nation cannot reassert sovereignty over land bought within its Canandaigua Treaty recognized reservation. The decision cited the "longstanding, distinctly non-Indian character of central New York and its inhabitants, the regulatory authority over the area constantly exercised by the State and its counties and towns for 200 years, and the Oneidas' long delay in seeking judicial relief," as it invoked the legal concept of laches, that the Oneidas had waited too long, and any remedy would not be fair to locals. But laches, as traditionally used in law, has requirements that must be met for it to be invoked, none of which were met. This case set dangerous precedent.

**June 28 2005**  
Second Circuit US Appeals Court reverses the Cayuga decision, nullifying the award of some \$247 million to the Cayugas for loss of all of their lands, and completely dismisses their entire land claim, thereby leaving them with no currently recognized legal remedy and no land.

**August 1 2005**  
Onondaga Nation files amended Land Rights Action responding to court decisions in Sherrill v. Oneida and an appeal of the Cayuga Land Claim.

**Fall 2005**  
New York files a motion to dismiss the entire Land Rights Action, based upon Sherrill and Cayuga. The State does not even to attempt to deny that it knowingly violated federal law, treaties and the Constitution when it took

Onondaga lands; it merely claims that none of these historic harms matter and that the Onondagas "waited too long," so "it would not be fair" for them to bring the case now.

**August 2006**  
The Nation files 1000 pages in response to NY's motion to dismiss, which included Affidavits from 4 renowned historians and hundreds of pages of primary historic documents. This response documented that the Land Rights Action has NOT been "disruptive," and that the Onondagas immediately and repeatedly complained of NY's takings of their land, with multiple trips to Washington, DC to meet with Washington, Jefferson and others.

**October 11 2007**  
Oral argument is heard in the federal court in Albany on the State's motion to dismiss, and Judge Kahn reserves decision. The courtroom is packed with the Onondagas and their supporters.

**August 9 2010**  
2nd Circuit Court of Appeals dismisses the historic Oneida Nation land claim, based on the Sherrill and Cayuga rulings. As the Supreme Court later (2011) refused to hear this case, this was the end of the Oneida land claim. It further formalized in law the new use of laches, despite the fact that it does not follow the normal legal rules of equity, and only applies to Indian Nations who attempt to enforce their treaty rights via land claims.

**September 23 2010**  
Judge Kahn rules that after the Oneida dismissal he has no alternative but to

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dismiss the Onondaga Land Rights Action, though the state had not even denied having illegally taken the Onondaga lands. This dismissal essentially says that because so much time has passed since NY took the land and because so many Onondagas have been removed from the land, it would “not be fair” to rule that NY knowingly violated federal law, the Constitution and Treaties when it took the land.

**October 16** 2010

Nation files the Notice of Appeal in the 2nd Circuit, to begin the appeal process.

**October 25** 2010

The Tadodaho and the Nation General Counsel Joe Heath address the Central New York community at Syracuse Stage on the topic: “Onondaga Land Rights: Progress for Mother Earth,” They proclaim that the struggle to heal the theft of the Nation’s lands will continue and that the Nation looks forward to continuing to work with its neighbors to heal the land, waters, air and the historic injustices inflicted on the Onondaga people.

**February 28** 2012

The Onondaga Nation brings the wampum belt commemorating the Treaty of Canandaigua and George Washington’s promises to protect their land to Washington, D.C. to announce the appeal of the Land Rights Action.

**October 12** 2012

The Nation’s attorneys offer oral arguments before a 3-judge panel of the US Court of Appeals for the 2nd Circuit.

**October 19** 2012

The 3-judge panel of the US Court of Appeals for the 2nd Circuit rejects the Nation’s appeal, thereby affirming the September 2010 dismissal of the Land Rights Action by the US District Court for the Northern District of New York.

**November 2** 2012

The Nation’s attorneys file a request for a re-hearing of the Oct 19, 2012 Circuit’s Summary Order.

**November 5** 2012

The Nation’s attorneys file a certiorari Petition asking the US Supreme Court to review the ruling by the US Court of Appeals for the 2nd Circuit.

**December 19** 2012

The full 13-judge US Court of Appeals for the 2nd Circuit denies the Onondaga Nation’s request to re-hear the October 19th denial by a 3-judge panel of the same court.

**October 15** 2013

The US Supreme Court denied the Onondaga Nation’s Petition for Certiorari review of the dismissal of the Nation’s Land Rights Action.

**April 15** 2014

Onondaga Nation files a petition with the Inter-American Commission on Human Rights. The Commission is part of the Organization of American States (OAS), a political, juridical, and social governmental forum comprised of all the states of the Americas, including the United States.



# The Post-Standard

P.O. BOX 4915, SYRACUSE, NEW YORK 13221-4915

Our opinion

## Elements of the Claim

Onondagas' carefully targeted strategy avoids panic

**T**he wind. Like a gentle but persistent breeze, the Onondagas have carefully laid out their case for legal ownership of land in New York. They say the state illegally purchased land from the Onondagas between 1788 and 1822, in violation of federal law. The momentum for their arguably justifiable claim (they are the last of the five-member Iroquois Confederacy to file one) came when the Supreme Court recognized in 1985 that New York had no

right to sign treaties with Native Americans without federal approval.

**The land.** The Onondagas are suing for 4,000 acres of land. Yet, what is fortunate for the current occupants of that land – some 875,000 residents from Binghamton to Watertown – is that the nation has not talked about evicting anybody, seizing property or negotiating for the right to inhabited acreage.

The Onondagas' announcement caused little stir in the area, a testament to the nation's handling of the claim. The Onondagas have been true to their culture – which does not recognize that anyone has the right to truly "own" land that belongs to the Creator.

**The water.** The Onondagas say they are stewards of the land and



John Berry / Staff photographer

**JUST MINUTES** after filing a land claim in federal court March 11, Chief Sid Hill (*left*) reached out to embrace the nation's general counsel, attorney Joseph Heath.

water, and as such have included environmental cleanup of Onondaga Lake and other sites as integral parts of their lawsuits. They have named five alleged polluters, including Honeywell, in the claim. Whether their legal actions could delay a proposed \$451 million lake cleanup plan is unclear. Perhaps the lawsuit could pressure the state, the company and other defendants to make the best effort in cleaning up the lake and other areas.

**The air.** The Onondagas are considered the most traditional of the members of the Iroquois Confederacy. As such, they would like Onondaga Lake and surrounding areas returned to their original state – with fishable waters, hunt-able lands and pollution-free air. It is not clear whether this will hap-

pen in this generation, but it definitely will not ever happen unless high goals are set.

**The fire.** The 1985 Supreme Court ruling, specifically addressing the Oneidas' claim, created a heated intensity in land-claim actions. The Onondagas certainly have precedent to support their case against New York state. Historians say that former Gov. George Clinton tricked the Onondagas into selling about 2 million acres by telling them

that whites would take their land and they would not get any compensation. In addition, the state signed treaties to obtain more land without the legally required approval from Congress.

**The people.** It is not clear what will happen next in court or how long it will take to settle the claim. Thankfully, the Onondagas are opposed to gambling casinos, which is Gov. George Pataki's solution for righting historical wrongs. What is encouraging and perhaps even humbling is how Sid Hill, taddodaho or spiritual leader of the Onondagas, views the Onondagas' action:

"We're trying to do a different land-rights action here. Our concern is the environment and how we as two peoples can live in the area that was our ancestors."