No. 18-7404

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

JOHN LAAKE a/k/a WINTER LAAKE — PETITIONER

vs.

TURNING STONE RESORT CASINO — RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR WRIT OF CERTIORARI

John Laake
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QUESTIONS PRESENTED FOR REVIEW

1) Whether the established clause of the First Amendment to the United States Constitution as it pertains to Free Speech and Freedom of Religion effectively stands for a United States citizen while upon Indian land?

2) Whether an Indian entity, such as the Turning Stone Resort Casino, can be held liable and be required to pay reparation for damages which they freely admit committing within their own pleadings against the Petitioner pertaining to his free speech rights and freedom of religion, which are violations of the Constitution?

3) Whether the Supreme Court decision of 1978 in the case of *Santa Clara Pueblo v. Martinez* (436 U.S. 49) — which was primarily relied upon by Respondent to purportedly prop up the so-called "tribal sovereign immunity from lawsuits" — was decided in error when it denied the equal rights of the female members of the tribe?

4) Whether United States law could be construed any other way than what it says when it clearly states that Federal District Courts have the original jurisdiction over any civil rights violation actions brought by a United States citizen against any party, as stated in 28 U.S.C. § 1343?

5) Whether United States law as stated in 42 U.S.C. § 1983 could be construed in any other way than a clear rendering which is that of required liability by any person to a wronged party, when having caused deprivation and loss of civil rights, as guaranteed under the Constitution of the United States?

6) Whether the United States Government shields from lawsuits an entity or group that blatantly and openly flouts its laws as pertaining to civil rights matters that are provided for under the United States Constitution?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to the judgment below.

OPINIONS BELOW

For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix A to the petition and is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is unpublished.

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals decided Petitioner's case was October 29, 2018.

Petitioner has timely submitted his Petition for Writ of Certiorari for filing within the ninety (90) days allotted, pursuant to Supreme Court Rule 13.1.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

First Amendment to the United States Constitution

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of people peaceably to assemble, and to petition the government for a redress of grievances.
(United States Constitution, Amendment I).

Indian Civil Rights Act of 1968

No Indian tribe in exercising powers of self-government shall—
1. make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances ...
(25 U.S.C. § 1302(a)(1)).

New York Constitution

The New York Constitution guarantees that there should be no deprivation of Civil Rights. As it states:

Equal Protection of Laws; Discrimination in Civil Rights Prohibited.
No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, color, creed or religion, be subjected to any discrimination in his or her civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state.
(New York Constitution, Article 1, Section 11).

Required liability to a wronged party under United States law, pursuant to 42 U.S.C. § 1983

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities Secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress ...

(42 U.S.C. § 1983).

Federal District Courts have the original jurisdiction over any civil rights violations actions brought by a United States citizen, as stated in 28 U.S.C. 1343.

The federal district courts have the original jurisdiction over "any civil action authorized by law to be commenced by any person [t]o recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights ..."
(28 U.S.C. 1343).

STATEMENT OF THE CASE

This case sets precedents. The Respondent Turning Stone Resort Casino (hereinafter "Respondent" or "TSRC") is an activity of the Oneida Indian Nation. Petitioner Laake's (hereinafter "Petitioner" or "Laake") suit against the Respondent TSRC is based upon 42 U.S.C. § 1983 for violation of his civil rights of free speech and freedom of religion while he was at his rented vendor booth at the Scare-A-Con Halloween event, which was upon TSRC property. This lawsuit was brought to stand and defend Petitioner Laake's Constitutional First Amendment free speech rights and freedom of religion rights, which he was so wrongfully and forcefully deprived of by TSRC in front of thousands of passersby. (U.S. Constitution, First Amendment). **TSRC has admitted this in their court filings, and they have made no attempt to deny this fact.** Furthermore, Petitioner has witnesses willing to testify on his behalf as to the facts of this matter.

Pursuant to Supreme Court Rules 10-14, 29, 33.2, 34 and 39 and also 42 U.S.C. § 1983, Petitioner, a non-Indian, U.S. citizen, filed his complaint in the district court, citing civil rights violations of free speech and freedom of religion and infliction of mental and emotional distress perpetrated against him by the Respondent Turning Stone Resort Casino while he was upon their premises at his rented vendor booth at the Scare-A-Con Halloween event at their conference center. The district court thereafter ruled in favor of TSRC and closed out the case. Petitioner then timely filed an Appeal with the United States Appeals Court, in the

Second District. The appeals court sided with the district court on October 29, 2018, and closed out that case.

Petitioner thereafter has brought his petition in this jurisdiction under 28 U.S.C. § 1254(1). Petitioner maintains that this matter ought to be reviewed by the highest court of the United States —the U.S. Supreme Court —particularly since "subject-matter jurisdiction" is well-defined as being the authority of a court to hear cases of a particular type or relating to a specific subject matter. Since Petitioner's case pertains to Constitutional matters which are clearly beyond the realm of the jurisdiction of the district court and the appeals court, it ought therefore rightly to be brought, heard and decided in the highest court, specifically, the Supreme Court of the United States.

SUMMARY OF THE FACTS

Pursuant to Supreme Court Rules 10-14, 29, 33.2, 34 and 39 and also 42 U.S.C. § 1983, Petitioner asserts that this case pertains to civil rights violations against him by TSRC while he was upon their property, involving the deprivation of his free speech and freedom of religious rights by the Respondent. Petitioner Laake is a Paganist practitioner. He has friends who are Indian shamans. Petitioner, while at his purchased vendor booth at the Scare-A-Con Halloween event at TSRC's conference center, was attempting to peacefully exercise his free speech rights, as well as his freedom of religion rights — which involves the tarot and the paranormal — with passersby at the conference center on the dates of September 30 through October 2, 2016. TSRC is owned by and is an activity of the Oneida Indian

Nation which is invested in by outside third-party entities. At the event, a great number of people were patiently waiting in a long line that extended all the way towards the casino, who were interested in what Petitioner Laake had to say.

Almost immediately at the start of the event, Petitioner's booth was effectively shut down by TSRC's security, as he was threatened with physical removal from the premises if he did not refrain from tarot readings and speaking to the general public and sharing his religious beliefs with them. This caused Petitioner to fear greatly for his safety. His sovereign rights were thereby violated by Respondent's extremely egregious and wrongful actions that they committed against him and in a very public manner, causing him great humiliation and distress in front of thousands of his peers and potential clients. Yet, in spite of this, he continued to maintain a physical presence at his booth throughout the remainder of the Scare-A-Con event.

Petitioner then filed suit against the Respondent in the United States District Court on March 2, 2017, seeking $10,000,000 in damages for infliction of extreme mental and emotional distress upon him caused by the wrongful actions of the Respondent in suppressing his free speech rights and freedom of religion rights while upon their premises at his designated booth.

TSRC responded on May 11, 2017 with a motion to dismiss, and a memorandum of law in support. In their memorandum of law in support, TSRC claimed lack of subject matter jurisdiction, due to tribal sovereign immunity as a federally-recognized Indian tribe. They further purported that Petitioner Laake

failed to state a claim upon which relief could be granted. The crux of Petitioner Laake's argument — which he so clearly stated in his lawsuit — is that no one has the right to suppress the Constitutional rights of others, even under the color of stating that they are before and somehow above the Constitution of the United States.

Petitioner Laake filed his response in opposition to TSRC's motion on May 26, 2017. In it, he pointed out that the Indian Civil Rights Act of 1968 states specifically that no Indian tribe in exercising powers of self-government shall make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances. TSRC filed their reply memorandum of law in further support of their motion to dismiss on June 1, 2017, again citing lack of subject matter jurisdiction, due to alleged tribal sovereign immunity from liability.

Thereafter, on October 25, 2017, the district court filed its decision & order granting TSRC's motion to dismiss. The order stated that TSRC is entitled to tribal sovereign immunity from lawsuits and, that consequently, the district court lacks subject matter jurisdiction. (Decision & Order, October 25, 2017). Furthermore, the judge entered a judgment dismissing and closing the case. (Judgment, October 26, 2017).

Notably, Petitioner Laake's case was not denied on the merits, as the judge so stated in his decision & order. The district court dismissed the case, citing lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1), yet the court

indicated that their dismissal had no bearing upon the merits of the case. Petitioner Laake timely filed his appeal of the ruling on November 2, 2017. In his motion for leave to appeal in forma pauperis, the Petitioner asserted that he believes that the ultimate reason for the district court's stated "lack of subject matter jurisdiction" is due to Constitutional law matters at issue in this case. The Petitioner then appealed to the appeals court for the second circuit. The judges in that case in their Summary Order dated October 29, 2018 stated, in part, "However, it is settled law that suits **like this** against a tribe under ICRA are also barred by sovereign immunity." (emphasis added). Then, the appeals court cited *Santa Clara Pueblo v. Martinez* as allegedly propping up Indian tribal sovereign rights. *Martinez* is a case from 1978, wherein the then presiding Supreme Court essentially deemed that the women of the tribe were second-rate citizens and didn't have the right to make decisions regarding matters of the tribe. **That was a huge error**, and it should be redressed. Furthermore, Martinez has got nothing to do with freedom of religion and freedom of speech rights — which are constitutional matters — as this present case does. (*See Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978)). Indians do not have the right to trample upon the sovereign rights of United States citizens, which Petitioner Laake is. Indians are not immune to lawsuits in regards to this issue.

SUMMARY OF THE ARGUMENT

Pursuant to Supreme Court Rules 10-14, 29, 33.2, 34 and 39 and also 42 U.S.C. § 1983, the Petitioner states that the district court in its decision & order cited numerous cases that point to the so-called landmark case of *Santa Clara Pueblo v. Martinez* which was decided by the U.S. Supreme Court in 1978, which they purport created the doctrine of tribal sovereign immunity from lawsuits. This came about from an apparent incorrect interpretation of the Indian Civil Rights Act of 1968 ("ICRA"). The Indian Civil Rights Act states as follows:

> No Indian tribe in exercising powers of self-government shall—
> 1. make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances ...

(25 U.S.C. § 1302(a)(1)).

Santa Clara Pueblo v. Martinez was a case involving Indians versus Indians. Petitioner Laake, as stated, is a non-Indian U.S. citizen. *Martinez* involved a request to stop denying tribal membership to children born to female (not male) tribal members who married outside of the tribe. *Martinez* is a case that was ruled upon by the Supreme Court of 40 years ago that, in fact, resulted in actually upholding sexual discrimination against the women of the tribe that was held forth in the name of preserving tribal tradition. That very case trampled upon the rights of the female members of the tribe, and it ought to be redressed. Somehow, though, TSRC, in their reply memorandum of law in further support of their motion to dismiss, and the district court in its decision & order supposed that *Martinez* was

good law to quote to uphold the doctrine of so-called tribal sovereign immunity. Where do the Constitutional rights of the Petitioner as a U.S. citizen come into play in this situation? Where is the recompense for Respondent's acknowledged wrongdoing and violation of Petitioner's civil rights?

Furthermore, common sense would indicate that Congress, when enacting ICRA, would not have then intended thereafter for the U.S. Supreme Court to enact a law (such as in *Martinez*) that would contradict the very basic tenets of the Constitution; namely, freedom of speech and freedom of religion and the ability to redress grievances in a United States court of law under 42 U.S.C. § 1983. Petitioner believes and asserts that the ruling handed down in 1978 in the *Martinez* case was error when it drew the conclusion — out of the clear-blue sky — that "*suits against the tribe under the ICRA are barred by the tribe's sovereign immunity from suit, **since nothing on the face of the ICRA purports to subject tribes to the jurisdiction of federal courts in civil actions for declaratory or injunctive relief.***" (emphasis added).

In establishing certain Indian rights as found within The Indian Civil Rights Act ("ICRA"), Congress did not arbitrarily sweep away with the rights of United States citizens while they are on Indian land. (*Id.*) **In fact, the ICRA sought to protect from overreach and abuse by tyrannical and dominant forces that tend to evolve in these situations, once the First Amendment rights of individuals are ignored.**

Therefore, Petitioner Laake is entitled to reparation and remuneration for the damages that he incurred by the wrongful illegal actions of the TSRC, in their violations of the law against him through the suppression of his free speech and freedom of religion by their security guards. And as a non-Indian, Petitioner Laake has now appealed his suit to the Supreme Court, as he is entitled to do.

Indeed, surely Congress did not intend to deny a cause of action to enforce the very rights which it simultaneously granted. Surely, Congress did not intend to deny a private cause of action to enforce the rights granted under ICRA (25 U.S.C. § 1302). And surely, Congress did not intend that the enforcement of those very Constitutional rights as provided under ICRA should be left up to the same tribal authorities who have violated them. It is the spirit and intent of the law which must prevail herein. The spirit and intent of the law as stated in the Indian Civil Rights Act ("ICRA") is to uphold the Constitution in Indian territory, not abrogate it.

The Petitioner then brought his case to the appeals court for the second circuit. The judges in that case in their Summary Order dated October 29, 2018 stated, in part, "However, it is settled law that suits **like this** against a tribe under ICRA are also barred by sovereign immunity." (emphasis added). **Petitioner asserts that this is an improper and incorrect conclusion by the appeals court.** Then, the appeals court cited *Santa Clara Pueblo v. Martinez* as allegedly propping up Indian tribal sovereign rights.. *Martinez* has got nothing to do with freedom of religion and freedom of speech rights — which are constitutional matters

— as this present case does. (*See Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978)). Indians do not have the right to trample upon the sovereign rights of U.S. citizens, namely, Petitioner Laake.

ARGUMENT

Petitioner Laake's suit against TSRC is based upon 42 U.S.C. § 1983 for violation of his civil rights by TSRC while he was upon their property.

Pursuant to Supreme Court Rules 10-14, 29, 33.2, 34 and 39, Petitioner states the following: This case sets precedents. Petitioner Laake is a non-Indian United States citizen. He is a practicing Paganist whose religion involves the tarot and includes the paranormal. Petitioner is also a philosopher and a public speaker on religious and scientific comprehension. It is one of many truths that he holds self-evident, and that being to freely express himself in a non-violent way with full and unimpeded freedom of religion and freedom of speech, as anyone else is entitled to within the confines of the United States of America. The Turning Stone Resort Casino (hereinafter "TSRC" or "Respondent") is a resort owned and operated by the Oneida Indian Nation within the State of New York.

The denial of Petitioner Laake's First Amendment rights by the Respondent Turning Stone Resort Casino while he was upon their property at his rented vendor booth is the one hinge and the one act, which would push and press Petitioner Laake into action in order to defend himself and uphold his Constitutional rights.

Petitioner purchased a booth at the Scare-A-Con Halloween event which was located at the venue of TSRC at their convention center, from the dates of

September 30 through October 2, 2016. Petitioner attempted to peacefully share his religion with passersby at his booth. In fact, a great number of people, who were patiently waiting in a line that extended all the way towards the casino, were interested in what Petitioner had to say.

Suddenly, and without provocation, TSRC security arrived at Petitioner's booth, and swiftly and effectively shut down his booth, unlawfully forbidding him to speak to members of the public under threat of bodily removal, thus humiliating Petitioner in front of numerous potential clients and thousands of people who were passing by, which caused Petitioner extreme mental and emotional distress, as well as caused him to greatly fear for his physical safety. Thereinafter, Petitioner continued to maintain a presence at his booth for the duration of the event, all the while being repeatedly harassed and threatened numerous times and on a daily basis with the threat of bodily removal by TSRC security, if he did not keep silent.

Petitioner, as a U.S. citizen and a practicing Paganist, had his free speech and freedom of religion rights taken away from him by the Respondent, Turning Stone Resort Casino ("Turning Stone"), in violation of 42 U.S.C. § 1983, at their property that is on Indian land at the Scare-A-Con event in the convention center. They violated his civil rights through suppression of his free speech and religious liberty. He, as a vendor at the Scare-A-Con event, was peacefully attempting to conduct tarot readings with the general public, thereby sharing his religion through the tarot, and attempting to exercise his free speech rights as a U.S. citizen in a public forum at the Scare-A-Con event being held at the casino. No sooner than he

started, he was then threatened numerous times with bodily removal from the premises if he did not immediately stop attempting to share his religion and exercise his free speech rights. This terrified and greatly humiliated the Petitioner, causing him extreme emotional and mental distress, and causing him to fear greatly for his safety. And this occurred in front of thousands of passersby at the event. In addition to this, a great number of people — who were patiently waiting in a line that extended all the way towards the casino — were interested in what Petitioner Laake had to say, but he was forbidden to speak with them by the Respondent. Nevertheless, he still maintained a presence at his vendor booth throughout the remainder of the event, while continuing to suffer constant, unabated harassment directed against himself on the part of the Turning Stone Resort staff. **This, the Respondent has not denied throughout the case brought against them by Petitioner.**

This was extreme and outrageous behavior on the part of TSRC and was against the laws of the United States and New York, which protect free speech and freedom of religion.

The United States Constitution states as follows:

> Religion and Expression. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

(U.S. Constitution, First Amendment).

The New York Constitution states as follows:

> Equal Protection of Laws; Discrimination in Civil Rights Prohibited. No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, color, creed or religion, be subjected to any discrimination in his or her civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state.

(New York Constitution, Article 1, Section 11).

President James Madison, in his opening speech at the House of Representatives on June 8, 1789, stated as follows:

> The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable.

(Annals of Congress 434 (1789).

The TSRC attempted to argue away the Petitioner's complaint in one fell swoop when they stated the following:

> In *Santa Clara Pueblo v. Martinez*, the Supreme Court held:
>
> It is settled that a waiver of sovereign immunity "cannot be implied but must be unequivocally expressed." Nothing on the face of Title I of the ICRA purports to subject tribes to the jurisdiction of the federal courts in civil actions for injunctive or declaratory relief...In the absence here of any unequivocal expression of contrary legislative intent, we conclude that suits against the tribe under the ICRA are barred by its sovereign immunity from suit. (*Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58–59, 98 S. Ct. 1670, 1677, 56 L. Ed. 2d 106 (1978) (internal citations omitted)).

(*John Laake v. Turning Stone Resort Casino*, Case No. 6:17-cv-00249, Defendant's reply memorandum of law in further support of their motion to dismiss, pg. 4).

The Indian Civil Rights Act of 1968 sought to protect from overreach and abuse by tyrannical and dominant forces that tend to evolve in these situations, once the First Amendment rights of individuals are ignored. Clearly, the

Constitution of the United States means nothing to the Turning Stone Resort Casino, which deprived the Petitioner's freedom of religion and freedom of speech by stating that they (TSRC) are supposedly before the United States Constitution and, therefore, exempt from any of its fundamental prescience as being the basis upon which the United States is founded. (*See* 25 U.S.C. § 1302(a)(1)).

POINT I

WHILE GIVING CERTAIN LAND RIGHTS TO THE ONEIDAS, THE FEDERAL GOVERNMENT DID NOT GIVE UP SUPERVISION OF INDIAN LAND.

Petitioner asserts that in establishing certain Indian rights as found within the Indian Civil Rights Act, **Congress did not arbitrarily sweep away the rights of United States citizens while they are on Indian land.**

However, as indicated in the case of *Oneida Indian Nation v. County of Oneida*, the United States government, when transferring certain land rights to the Indians, **did not give up *its* sovereign rights over Indian land**. In that referenced case, Justice Rehnquist — with whom Justice Powell concurred — unequivocally stated:

> "... **the Government, by transferring land rights to Indian tribes, has not placed the land beyond federal supervision**."

(*Oneida Indian Nation v. County of Oneida*, 414 U.S. 661 (1974) (emphasis added).

As that case clearly states, the Oneida Indian Nation as owner and operator of the Turning Stone Resort Casino must still be subject to the federal government of the United States of America. That fact did not change when they acquired their land.

The Respondent does not get the right to deny the First Amendment rights of others. The Respondent blatantly ignores the rights of U.S. citizens upon their land. The Turning Stone Resort Casino does not care for the First Amendment rights of Petitioner Laake, and other citizens of the United States, or even their fellow American Indians.

POINT II

THE RESPONDENT OPENLY ADMITTED IN THEIR PLEADINGS THAT THEY THEMSELVES ARE CULPABLE FOR PETITIONER'S DAMAGES, NOT JOHAW, THE PRODUCER OF THE SCARE-A-CON EVENT.

The Turning Stone Resort Casino shows how it believes itself to be above the law and above the Constitution of the United States, as they themselves stated within their responses and pleadings.

The Turning Stone Resort Casino discriminates through their business policies against anyone they do not agree with. **They do nothing to deny this fact.**

The Turning Stone Resort Casino violated the First Amendment rights of Petitioner Laake, and they have said or done nothing in their response to deny it.

In fact, in the United States District Court case of *John Laake v. Turning Stone Resort Casino*, TSRC **admitted violating Petitioner's civil and religious rights in their memorandum of law**, wherein they stated as follows:

> **During the event, on October 1, 2016, Turning Stone staff became aware that a Scare-a-Con vendor, later learned to be Plaintiff, was conducting tarot card readings and occult readings**, in violation of the contract's prohibition against actions or demonstrations of a paranormal nature **on Turning Stone property**. Turning Stone informed JoHaw that Plaintiff was engaging in conduct

> in violation of the contractual provision, **and that if Plaintiff continued such conduct, he would be asked to leave the property. When Plaintiff continued to engage in the tarot card and occult readings, he was approached by Turning Stone staff, who again informed Plaintiff that he would need to cease engaging in the prohibited conduct, or leave the property. ...**
>
> **On October 2, 2016, Plaintiff did return to the Scare-a-Con event, and was warned not to conduct any prohibited tarot card or occult readings, or he would be required to leave the property.**

(*John Laake v. Turning Stone Resort Casino*, Case No. 6:17-cv-00249, Defendant's memorandum of law in support of motion to dismiss, p. 4 (emphasis added)).

Furthermore, in the district court case of *John Laake v. Turning Stone Resort Casino*, the Respondent **boldly and audaciously** stated the following in their memorandum of law in support of motion to dismiss:

> Tribal nations predate the U.S. Constitution, and absent express Congressional authority, **federal courts do not have jurisdiction over tribal acts, even where such acts may have an impact to some extent on religion**.

(*Id.*, p. 2) (emphasis added).

That is **incorrect and wrong for Respondent to make such an erroneous statement** against the very established laws of the United States — **particularly against the very law that they broke** — **by having denied Petitioner his Constitutional rights of free speech and freedom of religion while upon Indian land, and while at his designated booth in a public space**.

This admission of theirs and their blatant disregard for the United States Constitution, which the Turning Stone Resort Casino states that they are ABOVE

and BEFORE is an absolute admission on their part to this fact that they did, indeed, violate the Petitioner's First Amendment rights afforded him under the Constitution of the United States.

Furthermore, the TSRC threatened and harassed the Petitioner more than the two times that they claim. In fact, the TSRC's harassment of Petitioner was constant and unabated throughout the entire time that he was there. Three witnesses are prepared to testify on behalf of Petitioner pertaining to the harassment and denial of the Petitioner's First Amendment rights that he faced at the hands of the Turning Stone Resort Casino staff. These witnesses are two booth vendors and one patron. One booth vendor was herself forcibly removed by the Turning Stone Resort Casino staff, for attempting to exercise her freedom of religion and freedom of speech rights.

TSRC states that their tribal sovereign rights are above everything and that they are all about upholding the sovereign rights of Indians. Yet, Petitioner Laake now hereby examines that claim. TSRC professes to be concerned about the sovereign rights of Indians. Yet, they quote case law that repeatedly points to the aforesaid *Santa Clara Pueblo v. Martinez* case — that so-called landmark case from 1978 — is, in fact, outdated, which served to destroy and trample upon the rights of the females of the tribe involved. *(Id.)* TSRC incredibly seems to think that this is good law to quote from. Where is their concern for the sovereign rights of the Indian women of that tribe?

TSRC, in their reply memorandum of law in further support of motion to dismiss, cited the following cases, many of which point to *Martinez* or reference other cases that pointed to *Martinez*, thereby making *Martinez* TSRC's primary reference to support their contentions against Petitioner Laake in this present case: *Chayoon v. Chao*, 355 F.3d 141, 143 (2d Cir. 2004); *Garcia v. Akwesasne Housing Auth.*, 268 F. 3d. 76, 84 (2d Cir. 2001); *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 126 S. Ct. 1854, 1861 n. 3 (2006); *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377, 114 S. Ct. 1673 (1994); *APWU v. Potter*, 343 F.3d 619, 623 (2d Cir. 2003); *Goonewardena v. New York*, 475 F. Supp.2d 310 (S.D.N.Y. 2007); *Shenandoah v. Halbritter*, 275 F. Supp.2d 279, 284-85 (N.D.N.Y. 2003), *Shenandoah v. Halbritter*, 366 F.3d 89 (2d Cir. 2004); *Husnay v. Environmaster Int'l Corp.*, 275 F. Supp.2d 265, 266 (N.D.N.Y. 2003); *Smith v. Oneida Employment Servs.*, No. 5:08-CV-151 (2009); *Sue/perior Concrete & Paving, Inc. v. Seneca Gaming Corporation*, WL 890614 (2009); *Frazier v. Turning Stone Casino*, 254 F. Supp.2d. 295, 305 (N.D.N.Y. 2003); and *Doe v. Oneida Indian Nation*, 717 N.Y.S.2d 417, 418 (3d Dept. 2000). Petitioner further asserts that these cases are **not** pertaining to free speech or religious rights violations, as this present case is, with the exception of *Goonewardena v. New York*, wherein the Plaintiff in that case cited discrimination based upon religion. (*Id.*) However, that case did **not** involve an Indian tribe. Therefore, Petitioner Laake asserts that these cases are not applicable in this present case.

Furthermore, notably, in *Martinez*, there was a dissenting justice in that so-called "landmark case" — which trampled upon the rights of the women in the tribe. The dissenting justice was the Honorable Justice Byron R. White, who was successfully nominated to the Supreme Court by President John F. Kennedy in 1962. Justice White was a World War II veteran who saw action in the Pacific Theatre. He was awarded two Bronze Star medals for bravery.

Justice White filed a rather lengthy dissenting Opinion in the *Martinez* case, and his comments are duly and justly noteworthy. His Opinion sheds light upon the full scope of the issues at hand in the present case.

The Honorable Justice Byron R. White, in his dissenting Opinion, stated in part as follows:

> ... The declared purpose of the Indian Civil Rights Act of 1968 (ICRA or Act), 25 U.S.C. 1301-1341, is "to insure that the American Indian is afforded the broad constitutional rights secured to other Americans." S. Rep. No. 841, 90th [436 U.S. 49, 73] Cong., 1st Sess., 6 (1967) (hereinafter Senate Report). The Court today, by denying a federal forum to Indians who allege that their rights under the ICRA have been denied by their tribes, substantially undermines the goal of the ICRA and in particular frustrates Title I's purpose of "protect[ing] individual Indians from arbitrary and unjust actions of tribal governments." ...
>
> **Under 28 U.S.C. 1343, federal district courts have jurisdiction over "any civil action authorized by law to be commenced by any person . . . [t]o recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights**, including the right to vote." ...
>
> The Court noted in *Bell v. Hood*, 327 U.S. 678, 684 (1946) ... that "where federally protected rights have been invaded, it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief." The fact that a statute is merely declarative and does not expressly provide for a cause of action to enforce its terms "does not, of course, prevent a federal court from

fashioning an effective equitable remedy," [436 U.S. 49, 74] Jones *v. Alfred H. Mayer Co.*, 392 U.S. 409, 414 n. 13 (1968), for "[t]he existence of a statutory right implies the existence of all necessary and appropriate remedies." *Sullivan v. Little Hunting Park, Inc.*, 396 U.S. 229, 239 (1969). We have previously identified the factors that are relevant in determining whether a private remedy is implicit in a statute not expressly providing one: whether the plaintiff is one of the class for whose especial benefit the statute was enacted; whether there is any indication of legislative intent either to create a remedy or to deny one; whether such a remedy is consistent with the underlying purposes of the statute; and whether the cause of action is one traditionally relegated to state law. *Cort v. Ash*, 422 U.S. 66, 78 (1975). Application of these factors in the present context indicates that **a private cause of action under Title I of the ICRA should be inferred**. ...

The ICRA itself gives no indication that the constitutional rights it extends to American Indians are to be enforced only by means of federal habeas corpus actions. On the contrary, since several of the specified rights are most frequently invoked in noncustodial situations, the natural assumption is that some remedy other than habeas corpus must be contemplated. ...

While I believe that the uniqueness of the Indian culture must be taken into consideration in applying the constitutional rights granted in 1302, **I do not think that it requires insulation of official tribal actions from federal-court scrutiny. Nor do I find any indication that Congress so intended.** ...

As the majority readily concedes, "respondents, American Indians living on the *Santa Clara* reservation, are among the class for whose especial benefit this legislation was enacted." ... In spite of this recognition of the congressional intent to provide these particular respondents with the guarantee of equal protection of the laws, the Court denies them access to the federal courts to enforce this right because **it concludes** that Congress intended habeas corpus to be the exclusive remedy under Title I. **My reading of the statute and the legislative history convinces me that Congress did not intend to deny a private cause of action to enforce the rights granted under 1302**. ...

Given Congress' concern about the deprivations of Indian rights by tribal authorities, **I cannot believe, as does the majority, that it desired the enforcement of these rights to be left up to the very**

tribal authorities alleged to have violated them. In the case of the *Santa Clara Pueblo*, for example, both legislative and judicial powers are vested in the same body, the Pueblo Council. ... **To suggest that this tribal body is the "appropriate" forum for the adjudication of alleged violations of the ICRA is to ignore both reality and Congress' desire to provide a means of redress to Indians aggrieved by their tribal leaders.** ...

As even the majority acknowledges, "**we have frequently recognized the propriety of inferring a federal cause of action for the enforcement of civil rights** . . ."

Because I believe that respondents stated a cause of action over which the federal courts have jurisdiction, I would proceed to the merits of their claim. Accordingly, I dissent from the opinion of the Court. ...

For example, habeas corpus relief is unlikely to be available to redress violations of freedom of speech, freedom of the press, free exercise of religion, or just compensation for the taking of property. ...

Testimony before the Subcommittee indicated that the mere provision of constitutional rights to the tribes did not necessarily guarantee that those rights would be observed. Mr. Lawrence Jaramillo, a former Governor of the Isleta Pueblo, testified that, despite the tribal constitution's guarantee of freedom of religion, the present tribal Governor had attempted to "alter certain religious procedures of the Catholic priest who resides on the reservation." (1965 Hearings 261, 264). Mr. Jaramillo stated that the [tribal] Governor "has been making his own laws and he has been making his own decisions and he has been making his own court rulings," and he implored the Subcommittee:

"Honorable Senator Ervin, we ask you to see if we can have any protection on these constitutional rights. We do not want to give jurisdiction to the State. We want to keep it in Federal jurisdiction. But we are asking this. We know if we are not given justice that we would like to appeal a case to the Federal court." *Id.*, at 264.

(*Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978) (emphasis added).

In the *American Indian Law Review* published by the University of Oklahoma College of Law, in an article entitled, Tribal Sovereignty: Santa Clara

Pueblo v. Martinez: Tribal Sovereignty 146 Years Later, it provides further clarification and sheds light on the full meaning and proper interpretation of the *Martinez* case, wherein it states, in part:

> ... The decision in *Martinez*, however, means that individual Indians with complaints against their tribal leaders or regulations have no recourse to a federal court for adjudication of their rights and must instead remain within the jurisdiction of the tribal courts. ...
>
> Justice White's dissent indicated his belief that federal jurisdiction was conferred by the Act [Indian Civil Rights Act] and that Congress did not intend to deny a cause of action to enforce the very rights which it simultaneously granted. He further felt that the very nature of the *Santa Clara* government — that is, the tribal council's embodiment of both legislative and judicial powers prevented the forum from being a realistic and practicable means of redress for its members. ...
>
> Congress has the constitutional authority to deal with the tribes, expanding or modifying their powers as Congress sees fit, *e.g.*, the Major Crimes Act and the Indian Reorganization Act. ...
>
> Justice White, in his solitary dissent, did not find such a restriction upon the courts, arguing that **a private cause of action against the tribe was not only consistent with legislative purpose but in fact "necessary for its achievement**." [436 U.S. 49, 62-63 (1978)]. Although White agreed that Congress was concerned with the encouragement of tribal self-determination, he did not feel it necessarily followed that federal courts were prohibited from enforcing the provisions of the Indian Civil Rights Act. [*Id.* at 81-82.]
>
> The fact that a statute is merely declarative and does not expressly provide for a cause of action to enforce its terms "does not, of course prevent a federal court from fashioning an effective equitable remedy," *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, 414 N.13, 88 S.Ct. 2186, 2190 20 L.Ed.2d 1189 (1968) ...
>
> Justice White's further dismay was with what he believed to be the unrealistic and ineffective reliance upon tribal forums as appropriate authorities for adjudicating tribal grievances. To suggest that the tribal council (judicial) is the realistic place to seek redress against the tribal council (legislative) for wrongs committed under the Indian Civil Rights Act is, for White, to ignore congressional intent. His analysis of the Act and its history led him to conclude "that Congress did not

intend to deny a private cause of action to enforce the rights granted ..." [*Id.* at 73-74] and therefore he was willing to proceed to the merits. ...

Those in disagreement with the Court's decision [in *Martinez*] are quite justified in their unhappiness about the denial of many rights by the tribal governments. **Sanctioning of sexual discrimination raises questions of whether any legal system should be allowed to run roughshod over the basic rights of its citizens in the name of cultural preservation.** Joseph de Raismes portrays the governing bodies as "disposed to crushing individuals in their collective lumbering toward collective goals," [quoting De Raismes, The Indian Civil Rights Act of 1968 and the Pursuit of Responsible Tribal Self-Government, 20 S.D. L REV. 59, 100 (1975)] while Andra Pearldaughter "wonders whether the Supreme Court would have reached a different result in resolving the tension between racial/ethnic cultures had some interest more center to white male institutions been in conflict with the sovereignty and cultural autonomy of Native Americans." [quoting Constitutional Law: Equal Protection: Martinez v. Santa Clara Pueblo—Sexual Equality Under the Civil Rights Act, 6 AM. IND. I. REV. 187, 203 (1978). ...

The most unfortunate result of the *Martinez* decision is that it does, in fact, allow for the continuance of sexual discrimination within the various tribes. This is particularly offensive to the majority of Americans, instilled as we are with such reverence for our Bill of Rights. ...

There is always the danger of a congressional enactment to remove such power from the tribal courts in the event that the power is poorly exercised ...

(American Indian Law Review, Vol. 8 No. 1, pp. 139, 142, 147-148, 156-158 (1980)). (emphasis added).

POINT III

THE PETITIONER NEVER HAD ANY CONTRACT WHATSOEVER WITH THE RESPONDENT PERTAINING TO THE RENTAL OF HIS VENDOR BOOTH NOR PERTAINING TO HIS FIRST AMENDMENT RIGHTS.

It is a point in fact that Petitioner never saw or even signed any alleged contract said to have existed between TSRC and JoHaw Productions. To

demonstrate this point, Respondent cannot produce a contract with Petitioner Laake's signature on it, because he never signed it, and never even saw it prior to bringing his lawsuit against TSRC. Furthermore, it is not unreasonable to presume that there might be things of a paranormal nature at a Scare-A-Thon Halloween event, Petitioner having seen nothing to the contrary at the time. So, no contract exists between the Petitioner and the TSRC or their invested third-party entities.

POINT IV

THE SPIRIT AND INTENT OF THE LAW AS STATED IN THE INDIAN CIVIL RIGHTS ACT OF 1968 IS TO UPHOLD THE CONSTITUTION IN INDIAN TERRITORY, NOT ABROGATE IT.

Respondent, in this present case, bases their main argument about their alleged sovereign immunity as Indians from lawsuits upon a case that originated in the 1970s, which actually went so far as to sanction the abuse of women. The women in the tribe were counted as second-class citizens in that faulty decision that was handed down. (*Santa Clara Pueblo v. Martinez*, 436 U.S. 49). Respondent in this case cites to *Martinez* and says that is what supposedly proves the so-called doctrine of what they apparently are claiming as "total tribal sovereign immunity" over any kind of laws of the State of New York or the United States wherein they reside — in other words, that they are a supposed law unto themselves, with which they, with a broad brush, trampled upon the Petitioner's sovereign free speech and freedom of religion rights. And so, supposedly, according to them, nobody can take them to task for their abusive and intolerant behavior.

What seems to be overlooked here are the Petitioner's sovereign free speech and sovereign freedom of religious rights in a public space as a United States

citizen. His sovereign rights were clearly and demonstrably violated under threat of forcible bodily removal and potential physical harm as a citizen of the United States of America, while upon Indian territory, and in a public space.

Indian women and all women have been making progress in many ways in the past 40 years since the *Martinez* case was decided upon in 1978. Certainly, one would hope that a more enlightened court today would now see things differently and in a more rational and open-minded light if a similar sexual-discrimination case was filed today. As seen in the proper perspective, *Martinez* does not support the rejection of Laake's claims. Nor does it, in fact, provide a prima facie case of obviousness in support of TSRC's rebuttal against Laake's arguments. (*Id.*)

As it so clearly states in the Indian Civil Rights Act:

> **No Indian tribe in exercising powers of self-government shall—**
> 1. **make or enforce any law prohibiting** the free exercise of religion, or abridging the freedom of speech, or of the press, or **the right of the people** peaceably to assemble and **to petition for a redress of grievances** ...

(25 U.S.C. § 1302(a)(1)). (emphasis added).

POINT V

DESPITE ANY PURPORTED SIGNED CONTRACT, TSRC, BY INVITING THE PUBLIC TO THEIR SCARE-A-CON EVENT, CREATED A PUBLIC FORUM AND, UNDER THE LAW, THEY CANNOT SUPPRESS THE FREE SPEECH RIGHTS AND FREEDOM OF RELIGION RIGHTS OF THE PETITIONER.

TSRC claimed to have had a signed contract with JoHaw Productions, the producer of the event, (hereinafter "JoHaw"), which TSRC attached as an exhibit to their motion to dismiss. The purported contract stated, in part, that "no actions of a paranormal nature will be performed at TSRC". Neither Laake nor the other booth

vendors at the event, whom Petitioner spoke with, were aware of any such signed contract between TSRC and JoHaw, until after Petitioner's lawsuit. The Petitioner himself did not sign the contract — not having seen it nor being aware of it previously. **Nevertheless, in spite of this, Petitioner Laake states that regardless of any purported signed contract that TSRC may have had with JoHaw, the TSRC created a public forum by allowing the general public to attend their venue and, as such, Petitioner Laake was entitled to his free speech and freedom of religion rights upon their premises, as permitted under the First Amendment of the United States Constitution.** TSRC's purported contract with JoHaw does not prevail over Petitioner Laake's free speech and freedom of religion. Indian rules do not prevail over the Constitution of the United States in regard to free speech and freedom of religious rights. (First Amendment, Constitution of the United States).

The TSRC, by inviting the general public to the Scare-a-Con event, created a public forum. And in such a forum, free speech and freedom of religion are permissible under the law, and supercede any purported contract, business policy or private agreement that TSRC may have had.

The New York Constitution guarantees that there should be no deprivation of Civil Rights. As it states:

> Equal Protection of Laws; **Discrimination in Civil Rights Prohibited**. No person shall be denied the equal protection of the laws of this state or any subdivision thereof. **No person shall, because of race, color, creed or religion, be subjected to any discrimination in his or her civil rights by any other person or**

> **by any firm, corporation, or institution**, or by the state or any agency or subdivision of the state.

(New York Constitution, Article 1, Section 11). (emphasis added).

The Respondent, by inviting the general public to the Scare-a-Con event, created a public forum — and in such a forum free speech and freedom of religion are permissible under the law. In the case of *Concerned Women for America, Inc. v. Lafayette County*, a County library had created a public forum by allowing various groups to use its auditorium. **Under the law, they could not deny access to groups whose meetings had political or religious content.** It was ruled that library officials could impose reasonable time, place or manner restrictions on access to the auditorium, provided that any regulations are justified, without reference to the content of the regulated speech. (*Concerned Women for America, Inc. v. Lafayette County*, 883 F.2d 32 (5th Cir. 1989)). *See also* (*Lamb's Chapel v. Center Moriches Union Free School Dist.*, 508 U.S. 384, 113 S.Ct. 2141, 124 L.Ed.2d. 352 (1993)).

In the case of *Heffron v. Int'l Soc. for Krishna Consciousness*, **the Supreme Court ruled that the Hari Krishnas were allowed to proselytize at designated booths** at the Minnesota Annual State Fair. (*Heffron v. Int'l Soc. for Krishna Consc.*, 452 U.S. 640, 645 (1981)); (*Healy v. James*, 408 U.S. 169, 180 (1972) quoting, *Tinker v. Des Moines Independent School District*, 393 U.S. 503, 506 (1969).

Likewise, herein in this case, Petitioner Laake does not shed his Constitutional rights at the door of the Turning Stone Resort Casino. Even though

the Turning Stone Resort Casino is dedicated for specific uses, under the law, the premises should not be seen as though it is simply private property. Petitioner Laake's free speech rights and freedom of religion rights must prevail herein. (*See Hammond v. South Carolina State College*, 272 F.Supp. 947 (D.C. S.C. 1967)).

POINT VI

THE TURNING STONE RESORT CASINO IS REQUIRED BY THE STATE OF NEW YORK TO OBTAIN LIQUOR LICENSES, OTHERWISE THEY CANNOT, UNDER THE LAW, SERVE ALCOHOL TO THE PUBLIC UPON ITS PREMISES.

In the Rome Sentinel newspaper, it recounts how that TSRC is required, under the law, to obtain a license from the State of New York's Liquor Authority, in order to be able to sell liquor upon its property to the public.

The article states, in part, as follows:

> Turning Stone Resort Casino has been approved for its own liquor license from the state, and will no longer need to use an arrangement with a private company to serve alcoholic drinks.
>
> With the approval of the license last week by the State Liquor Authority, "we're now able to serve alcohol at Turning Stone without having to go through a third party," Turning Stone Public Relations Manager Kelly Abdo said today by email. ...
>
> The Liquor Authority had previously denied attempts by the Oneidas to directly receive liquor licenses. But the new revenue agreement "settled all existing disputes between the Oneida Nation and New York State," said Abdo, and as a result the Liquor Authority "was able to review and ultimately approve our license application." ...

Gimburch, David. "Turning Stone Receives Own Liquor License From State." Rome Sentinel [New York], November 10, 2014.

This newspaper article clearly shows that the Oneida Indian Nation, which owns and runs TSRC, is not as autonomous and sovereign as they would have us to

believe. They clearly rely upon the State of New York to grant them liquor licenses, in order to be able to serve alcohol at their casino — this would not be possible without the permission of the State of New York. Therefore, TSRC and the Oneida Indian Nation still are subject to and must abide by the laws of the State of New York, and the laws of the United States.

In fact, according to the New York State Liquor Authority — Division of Alcoholic Beverage Control website — a public query search result shows that TSRC and the Oneida Indian Nation currently have been granted 77 liquor licenses by the State of New York that are currently active. If the Oneida Indian Nation was as sovereign as they claim to be, then they would not need to seek permission from the State of New York to obtain a license to sell alcohol on their premises. (https://www.sla.ny.gov/public-license-query).

The Respondent is required by the State of New York to obtain liquor licenses, otherwise they cannot, under the law, serve alcohol to the public upon its premises. Clearly, they are not completely "sovereign" in their supposed autonomy.

REASONS FOR GRANTING THE WRIT

I.

Review is warranted because the lower court siding with TSRC on this matter sends a message to the general public that Constitutional freedom of speech and freedom of religion rights of U.S. citizens do not matter while upon Indian land.

II.

Review is warranted because the lower court siding with TSRC on this matter sends a message to the general public that there are public safety issues involved for any U.S. citizen visiting Indian land who attempts to exercise their Constitutional freedom of speech and freedom of religion rights.

III.

Review is warranted because Congress surely did not intend to deny a private cause of action to enforce the rights granted under ICRA (25 U.S.C. § 1302).

IV.

Review is warranted because the enforcement of the law should not be left up to the very tribal authorities who violated them.

V.

Review is warranted because tribal sovereign immunity does not take into account larger matters of import, which cannot be redressed through habeas corpus.

VI.

Review is warranted because this case sets precedents pertaining to very important Constitutional matters.

CONCLUSION

Petitioner Laake was denied and stripped of his sovereign First Amendment rights by the Turning Stone Resort Casino while attending a convention in their building, under threats of violence and coercion, because the Turning Stone Resort Casino did not agree with the religious practices and the academic speaking that Petitioner Laake was undertaking. Does this mean that going forward any citizen of the United States or American Indian residing within its area no longer has his or her First Amendment Constitutional rights?

Petitioner has great respect for Indians. However, he seeks recompense for being so publicly humiliated and disrespected by the Respondent while in a public space, namely, the Turning Stone Resort Casino, wherein under the law he had the right to freely speak and practice his religion.

Petitioner Laake does not shed his Constitutional rights at the door of the Turning Stone Resort Casino. (*Hammond v. South Carolina State College*, 272 F.Supp. 947 (D.C. S.C. 1967)).

As the law so clearly states, any person who violates the civil rights of a United States citizen — as secured by the Constitution and United States laws — shall be liable to the injured party in an action at law or suit in equity, under 42 U.S.C. § 1983. It is improper to suppose that the same tribal authorities who violated Petitioner's civil rights can then be relied upon to properly police themselves, as demonstrated by the highly egregious and inflammatory behavior of the Respondent against the Petitioner while upon their premises. Furthermore,

"[T]he existence of a statutory right implies the existence of all necessary and appropriate remedies." (*Sullivan v. Little Hunting Park, Inc.*, 396 U.S. 229, 239 (1969)).

In *Bell v. Hood*, the court noted that "where federally protected rights have been invaded, it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief." *See Bell v. Hood*, 327 U.S. 678, 684 (1946).

The fact that a statute may be merely declarative and does not expressly provide for a cause of action to enforce its terms "does not, of course, prevent a federal court from fashioning an effective equitable remedy," *See* 436 U.S. 49, 74; and *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, 414 n. 13 (1968).

As it is stated in *Elrod v. Burns*, the loss of First Amendment rights, for even minimal periods of time, unquestionably constitutes irreparable injury. (*Elrod v. Burns*, 427 U.S. 347 (1976) quoting *New York Times Company v. United States*, 403 U.S. 713 (1971)).

The Turning Stone Resort Casino, licensed by the State of New York and existing in the State of New York, within the United States, somehow believes that it does not have to acknowledge the Constitution of the United States. This imperils the citizens of the United States, and even also the American Indians that reside within the confines of the Oneida Nation, by the Turning Stone Resort Casino's blatant and overt belief that it is **above** the Constitution of the United States and, therefore, the First Amendment rights of citizens do not matter in

Indian territory, and they do not apply once within the confines of its location. This is an absolute affront to everything that the United States was founded upon.

The case of *Santa Pueblo Clara v. Martinez* is **not relevant** to Laake's case because it does not have anything to do with freedom of religion or free speech rights violations. (*Id.*)

United States law requires that **anyone** who deprives any person of rights and privileges protected by the Constitution of the United States provided by state law **shall be held liable in action at law, suit in equity, or other appropriate measure**.

> **Every person who**, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or **causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities Secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity**, or other proper proceeding for redress ...

(42 U.S.C. §1983.)

Ray Halbritter is currently listed as the Nation Representative and CEO of Oneida Nation Enterprises. In the case of *Shenandoah v. U.S. Department of the Interior*, the Oneida tribal leaders alleged that Halbritter **denied the sovereign rights of his own tribal members**, according to the claims in that lawsuit. (*Shenandoah, et al. v. The U.S. Department of the Interior, et al.*, USDC case no. 96-cv-258) (1996). Furthermore, the enforcement of the civil rights of the Petitioner as a U.S. citizen -- as well as even other Indians -- should not to be left up to the very tribal authorities who have so flagrantly and belligerently violated them, since they

have little regard for them. **Accordingly, the tribal court is <u>not</u> the proper forum for hearing Petitioner Laake's lawsuit.**

In conclusion, *Santa Clara Pueblo v. Martinez* does not support the rejection of Petitioner Laake's claims. It does not provide a prima facie case of obviousness. (*Id.*) Indian law is ever changing, ever evolving. It is the spirit and intent of the law that must prevail here. Congress never intended to do away with the Constitutional rights of United States citizens while upon Indian land. The spirit and intent of the law as stated in the Indian Civil Rights Act is to uphold the Constitution in Indian territory, not abrogate it. (*Id.*)

The law clearly states that the federal district courts have the **original jurisdiction** over "any civil action authorized by law to be commenced by any person "[t]o recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of **civil rights** ..." (*See* 28 U.S.C. 1343).

Furthermore, the right to petition to address grievances is guaranteed by the First Amendment of the United States Constitution, which specifically prohibits Congress from abridging "the right of the people ... to petition the Government for a redress of grievances." (First Amendment to the Constitution of the United States).

The ICRA in essence states that the Indian Nation cannot make or enforce a law prohibiting anyone from petitioning for a redress of grievances. It says so right in the same section which addresses freedom of religion rights and free speech rights. (25 U.S. Code § 1302).

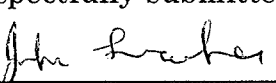
Extreme emotional distress damages, as Petitioner Laake has incurred through the highly egregious and wrongful actions taken against him by the Respondent while upon their premises, are not easily quantifiable. (*Young v. Bank of America*, 141 Cal.App.3d 108, 190 Cal.Rptr. 122 (1983)).

THEREFORE, the Petitioner respectfully requests that this Honorable Court reverse the judgment of the district court and of the appeals court with a finding of fact in his favor and award damages in the amount sought of $10,000,000. Furthermore, the Petitioner respectfully requests this Honorable Court to stop the overt and heinous practice on the part of Respondent Turning Stone Resort Casino pertaining to suppression of the Petitioner's free speech and freedom of religious rights.

The petition for a writ of certiorari should be granted.

Dated: January 7, 2019

Respectfully submitted,



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