

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF CAYUGA**

DUSTIN PARKER and PIPEKEEPERS,

Plaintiffs,

v.

CAYUGA NATION,

Defendant.

Index No.: 5:24-cv-856 (BKS/TWD)

COMPLAINT

Dustin Parker, in his individual capacity, and Pipekeepers (collectively, “Parker”), by and through their attorneys, as and for its Complaint against Defendant Cayuga Nation (the “Nation” or “Defendant”), alleges as follows:

INTRODUCTION

1. Dustin Parker is a member of the Cayuga Nation and the owner and operator of Pipekeepers, a smoke shop that sells tobacco and tobacco related products at a property located at 7153 State Route 90, Town of Montezuma, New York (the “Montezuma Property”).

2. This action concerns a campaign undertaken by Defendant, to harass, threaten and economically harm Parker into submission because Defendant asserts it has the alleged authority to regulate and license all businesses operating within the 64,015-reservation boundary as outlined by the Treaty of Canandaigua, including Pipekeepers.

3. Defendant’s campaign, as described below, has lasted for years, and has continued unabated even after the Fourth Department rejected the Nation’s attempts to domesticate three judgments of the Cayuga Nation Civil Court (the “Tribal Court”) against Parker that were based on fines assessed for contempt of the Tribal Court.

4. In attempts to circumvent the sovereignty of the United States and jurisdiction of New York Courts, on July 5, 2024, the Tribal Court signed a Writ of execution purporting to grant the Nation, among other things: *immediate* legal right of full ownership of the Montezuma Property, *immediate* right to remove any person who is present at the Property, and *immediate* legal right of full ownership of “any business or personal property, monies, goods, products, materials, or fixtures located at or within the Property at the time the Nation takes possession thereof.”

5. The Tribal Court’s attempts to unilaterally grant itself power to seize a New Yorker’s real property, evict and bar New Yorkers from said property, and grant ownership of personal property therein threatens the very concepts of sovereignty.

6. This action is brought pursuant to Civil Practice Law and Rules Section 3001 seeking a declaratory judgment that: 1) the Tribal Court’s Writ of Execution is invalid and unenforceable and 2) the Tribal Court’s judgment against Parker is invalid and unenforceable.

PARTIES, JURISDICTION, AND VENUE

7. Dustin Parker is a natural person and resident of Cayuga County, New York. His primary place of residence is 7153 State Route 90N, Montezuma, New York 13034 (the “Montezuma Property”).

8. Plaintiff Pipekeepers is a New York domestic business corporation with an address of 7153 State Route 90N, Montezuma, New York 13034.

9. Upon information and belief, Defendant is a federally recognized sovereign Indian nation. *See Indian Entities Recognized by and Eligible to Receive Services From The United States Bureau of Indian Affairs, 86 Fed. Reg. 7754, 755 (Jan. 29, 2001)*. It is alleged governed by the Cayuga Nation Council, under the leadership of Clint Halftown (“Halftown”), with a principal place of business at P.O Box 803 Seneca Falls NY, 13148.

10. Dustin Parker owns the Montezuma Property, located in the Town of Montezuma, Cayuga County, in fee simple.

11. The deed to that property has been properly filed with the Clerk in Cayuga County and Parker pays taxes to the County based on his ownership of the Montezuma Property.

12. Parker has likewise obtained all appropriate permits and licenses to use the Montezuma Property as a smoke shop from the Town.

13. This Court has *in rem* jurisdiction over the claims in this action as the situs of the property in question (7153 State Route 90N, Montezuma, New York 13034) is in the State of New York.

14. As the Montezuma Property is situated in New York, the New York courts have the authority to adjudicate matters concerning the title, ownership, or other interests in that property.

15. This Court has general jurisdiction over Parkers' claim for a declaratory judgment pursuant to Civil Practice Law and Rules Section 3001.

16. Venue is proper in Cayuga County pursuant to CPLR § 507, as the judgment demanded would affect real property located in Cayuga County.

FACTUAL BACKGROUND

17. Parker has always been a member of the Cayuga Nation and more recently the owner and operator of Pipekeepers, a smoke shop that sells tobacco and tobacco related products at the Montezuma Property.

18. Parker purchased the Montezuma Property in early 2022 in a private transaction and duly registered the transferred deed with the Cayuga County Clerk. Attached hereto as **Exhibit A** is a true and accurate copy of the Deed. ("Ex. A".)

19. Parker resides at the Montezuma Property with his wife, Nora Weber, and their five children, who are not members of the Cayuga Nation.

20. Parker has paid the property taxes, complied with the building permit requirements and other land use issues, and maintained and upgraded the property.

21. Defendant is a federally recognized Indian tribe that claims jurisdiction over certain lands within the State of New York, including the Montezuma Property.

22. The Nation is led by Halftown, who has been involved in a longstanding dispute with Parker and other members of the Nation who oppose his leadership and policies.

23. The Nation has enacted an Amended and Restated Business License and Regulation Ordinance (the "Business Ordinance"), which purports to regulate and license all businesses operating within the Nation's territory, including Pipekeepers.

24. The Nation has also established a Tribal Court, which purports to adjudicate disputes arising under the Nation's laws, including the Business Ordinance.

25. The Nation has repeatedly brought civil actions against Parker before the Tribal Court, alleging that he has violated the Business Ordinance by operating Pipekeepers without a license and imposing fines and penalties on him.

26. The Tribal Court has issued four judgments against Parker after it found him in contempt of the Tribal Court's order permanently enjoining him from operating Pipekeepers and in violation of the Business Ordinance and assessed fines based on those findings.

27. The Nation has sought to domesticate and enforce the Tribal Court judgments against Parker in the New York State Courts, including the Supreme Court of the State of New York, County of Cayuga.

28. Those domestication and enforcement proceedings were stayed or reversed by the New York courts on various grounds, including due process, jurisdiction, and comity concerns.

29. While the above litigation was pending, Defendant initiated a Banishment proceeding against Parker in further attempts to coerce him into submission.

30. After a sham hearing, on August 3, 2023, Defendant sent Parker a “Notice of Total Banishment of Dustin Parker from the Cayuga Nation Reservation.”

31. Among other things, the Notice informed Parker that he no longer had rights as a Member of the Cayuga Nation.

32. On March 1, 2024, one day after the Fourth Department heard oral argument in the appeals in the related domestication cases, the Nation sought a Writ of Execution from the Tribal Court, seeking an order for the turnover of the Montezuma Property to satisfy a \$283,000 Tribal Court judgment dated April 23, 2023 - the same judgment at issue in one of the domestication cases.

33. On May 5, 2024, the Tribal Court granted the Nation’s request for a Writ of Execution to satisfy the \$283,000 Tribal Court judgment.

34. Parker filed a Notice of Appeal with the Clerk of the Tribal Court on May 9, 2024, which was perfected and is pending.

35. In the meantime, Parker filed a Motion in the Tribal Court to Stay the enforcement of the Writ while the appeal is pending.

36. On May 30, 2024, Defendant filed its proposed Order for the Writ of Execution with its Tribal Court.

37. On July 2, 2024, the Tribal Court held a hearing regarding Parker’s request for a stay pending appeal.

38. The Tribal Court insisted that Parker post a bond for the entire \$283,000, despite the bonds already in place in the domestication proceedings.

39. On July 3, 2024, the Fourth Department confirmed that, regarding the Nation's attempts to domesticate the four Tribal Court judgments, the Nation had failed to meet its burdens of establishing that article 53 applied to the foreign country judgments, and the Tribal Court's judgments shall not be recognized by New York Courts.

40. After giving Parker only seventy-two (72) hours to try and post a bond, which Parker was unable to do on such little notice, on July 5, the Tribal Court signed the proposed Writ of Execution, purporting to grant the Nation *immediate* legal right of full ownership of the Montezuma property, *immediate* right to remove any person who is present at the Property, and *immediate* legal right of full ownership, and claim to possession to the exclusion of all other persons, of any business or personal property, monies, goods, products, materials, or fixtures located at or within the Property at the time the Nation takes possession thereof. Attached hereto as **Exhibit B** is a true and accurate copy of the Writ. ("Ex. B".)

41. On July 5, 2024, Parker filed an Order to Show Cause in the domestication action in Cayuga County Supreme Court seeking to temporarily restrain and preliminarily enjoin the Nation from effectuating the Writ of Execution.

42. Defendant voluntarily withdrew its pleading in the domestication action in attempts to deprive this Court of Jurisdiction to hear the emergency application.

43. Now, Parker bring this action pursuant to Civil Practice Law and Rules Section 3001 seeking a declaratory judgment that: 1) the Tribal Court's Writ of Execution is invalid and unenforceable and 2) the Tribal Court's judgment against Parker is invalid and unenforceable.

AS AND FOR A ITS FIRST CAUSE OF ACTION
(DECLARATORY JUDGMENT)

44. Parker repeat the allegations set forth in paragraphs “1” through “43.”

45. Parker is entitled to a declaratory judgment because there is an actual controversy between him and the Nation; the Nation seeks to enforce a Writ of Execution invalidly obtained by the Tribal Court which purports to grant the Nation , among other things: *immediate* legal right of full ownership of the Montezuma Property, *immediate* right to remove any person who is present at the Property, and *immediate* legal right of full ownership of “any business or personal property, monies, goods, products, materials, or fixtures located at or within the Property at the time the Nation takes possession thereof”

46. Parker has a legally protected interest in his business and his property that is affected by the Tribal Court’s Writ.

47. The Tribal Court judgment, upon which the Writ is based, violates the Nation's own law or the principles of due process and comity.

48. To wit, the Tribal Court judge, Joseph E. Fahey, lacked the requisite qualifications under the Nation's own Judiciary Law, which required that a judge be an enrolled member of the Nation, and thus he did not have the authority to issue the judgments against Parker.

49. The Tribal Court judge's engagement agreement with the Nation undermined the judicial independence and impartiality of the Nation Court, as it limited his scope of services to criminal matters, allowed the Nation to terminate him at will and control his compensation, and conflicted with the Nation's Judiciary Law.

50. The Tribal Court did not obtain personal jurisdiction over Parker and Pipekeepers, as it failed to serve them with proper notice of the underlying action and the contempt proceeding, in violation of the Nation's Rules of Civil Procedure and due process requirements.

51. The Tribal Court did not have subject matter jurisdiction to adjudicate the claims arising from the alleged violations of the Nation's Business Ordinance, as the Ordinance was not a valid exercise of the Nation's legislative authority and conflicted with federal and state laws regulating tobacco and gas sales.

52. By reason of the foregoing, the underlying Tribal Court judgment, upon which the Writ of Execution is based, is invalid and unenforceable.

53. Additionally, the Tribal Court's Writ, effectively attempting to create a new mechanism to transfer and obtain property by bypassing New York State rules and procedures, is invalid and unenforceable.

54. Above and beyond ordering turnover of property, each and every part of the Tribal Court's Writ of execution is invalid and unenforceable.

55. The Tribal Court lacks jurisdiction to order Parker to "immediately endorse and turn over the deed to the Property to the Nation."

56. The Tribal Court lacks jurisdiction to order that "*regardless of whether Defendant endorses and turns over the deed to the Property, the Nation shall have the immediate legal right of full ownership, possession, and occupation of the Property to the exclusion of all other persons claiming any right, title, or interest in the Property.*"

57. The Tribal Court lacks jurisdiction to order that Parker "and any and all persons currently occupying the Property shall immediately vacate the Property and are barred from returning to or entering the Property for any reason at any future time".

58. The Tribal Court lacks jurisdiction to order that "the Nation shall have the *immediate right to enter the Property and shall do so in a manner and at a time deemed appropriate by the Cayuga Nation Police.*"

59. The Tribal Court lacks jurisdiction to order that “the Nation shall have the immediate right to remove any person who is present at the Property.”

60. The Tribal Court lacks jurisdiction to order that “the Nation shall have the *immediate legal right of full ownership, and claim to possession to the exclusion of all other persons, of any business or personal property, monies, goods, products, materials, or fixtures located at or within the Property at the time the Nation takes possession thereof.*”

61. By reason of the foregoing, Parker is entitled to an immediate judgment finding that the Tribal Court’s Writ of Execution in its entirety is invalid and unenforceable.

AS AND FOR A ITS SECOND CAUSE OF ACTION
(DECLARATORY JUDGMENT)

62. Parker repeat the allegations set forth in paragraphs “1” through “61” as if stated fully herein.

63. Parker is entitled to a declaratory judgment because there is an actual controversy between him and the Nation; the Nation seeks to enforce a judgment that imposes a permanent injunction and a civil fine against him for operating Pipekeepers.

64. Parker has a legally protected interest in his business and property that is affected by the Tribal Court’s judgment.

65. The Tribal Court judgments violate the Nation's own law or the principles of due process and comity.

66. To wit, the Tribal Court judge, Joseph E. Fahey, lacked the requisite qualifications under the Nation's own Judiciary Law, which required that a judge be an enrolled member of the Nation, and thus he did not have the authority to issue the judgments against Parker.

67. The Tribal Court judge's engagement agreement with the Nation undermined the judicial independence and impartiality of the Nation Court, as it limited his scope of services to

criminal matters, allowed the Nation to terminate him at will and control his compensation, and conflicted with the Nation's Judiciary Law.

68. The Tribal Court did not obtain personal jurisdiction over Parker and Pipekeepers, as it failed to serve them with proper notice of the underlying action and the contempt proceeding, in violation of the Nation's Rules of Civil Procedure and due process requirements.

69. The Tribal Court did not have subject matter jurisdiction to adjudicate the claims arising from the alleged violations of the Nation's Business Ordinance, as the Ordinance was not a valid exercise of the Nation's legislative authority and conflicted with federal and state laws regulating tobacco and gas sales.

70. By reason of the foregoing, Parker is entitled to an immediate judgment finding that the Tribal Court judgment is invalid and unenforceable, and that he and Pipekeepers are not liable for any contempt or fines imposed by the Nation Court.

WHEREFORE, Parker demands judgment as against Defendants upon its Causes of Action awarding Parker a judgment:

- a) Declaring that the Tribal Court's Writ of Execution is invalid and unenforceable;
- b) Declaring the Tribal Court judgment is invalid and unenforceable, and that Parker and Pipekeepers are not liable for any contempt or fines imposed by the Nation Court;
- c) Awarding Parker damages attendant to the institution of this action, including but not limited to attorney's fees;
- d) Awarding Parker the costs and disbursements of this action; and

- e) Granting Parker such other and further relief as the Court deems just and proper.

Dated: July 8, 2024
Albany, New York

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