EXHIBIT T

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SENECA

CAYUGA NATION, Index No. 20210297

Petitioner,

vs.

LEANNA KETTLE,

Respondent.

RESPONDENT'S MEMORANDUM OF LAW IN SUPPORT OF ORDER TO SHOW CAUSE REQUESTING A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

JOSEPH J. HEATH, ESQ.
MICHAEL D. SLIGER, ESQ.
MICHAEL BENSON, ESQ.
Attorneys for Respondent
512 Jamesville Avenue
Syracuse, New York 13210
(315) 447-4851
jjheath1946@gmail.com

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES.....3

PRELIMINARY STATEMENT.....5

STATEMENT OF FACTS.....6

ARGUMENT.....10

I. KETTLE SHOULD BE GRANTED A TEMPORARY RESTRAINING ORDER PENDING A HEARING ON HIS REQUEST FOR A PRELIMINARY INJUNCTION.....10

II. KETTLE SHOULD BE GRANTED A PRELIMINARY INJUNCTION.....12

1. Kettle will be irreparably harmed unless injunctive relief is granted.....13

2. The balance of equities favors Kettle.....14

3. Kettle has a high likelihood of success on the merits..... 15

CONCLUSION.....16

TABLE OF AUTHORITIES

New York Cases **Page**

AJMRT, LLC v. Kern,
154 A.D.3d 1288 (4th Dept. 2017)....12

Bass v. WV Preserv. Partners, LLC,
209 A.D.3d 480 (1st Dept. 2022)....10, 13, 14, 15

Cangemi v. Yeager,
185 A.D.3d 1397 (4th Dept. 2020)....13, 14, 15

Chana v. Machon Chana Women's Inst., Inc.,
162 A.D.3d 635 (2d Dept. 2018)....12

Credit Agricole Indosuez v. Rossiyskiy Kredit Bank,
94 N.Y.2d 541 (N.Y. 2000)....12

Destiny USA Holdings, LLC v. Citigroup Global Mkts. Realty Corp.,
69 A.D.3d 212 (4th Dept. 2009)....10

Doe v. Axelrod,
73 N.Y.2d 748 (N.Y. 1988)....12

Felix v. Brand Serv. Grp. LLC,
101 A.D.3d 1724 (4th Dept. 2012)....14

Gramercy Co. v. Benenson,
223 A.D.2d 497 (1st Dept. 1996)....15

Gundermann & Gundermann Ins. v. Brassill,
46 A.D.3d 615 (2d Dept. 2007)....13

Invar Int'l, Inc. v. Zorlu Enerji Elektrik Uretim Anonim Sirketi,
86 A.D.3d 404 (1st Dept. 2011)....15

Jones v. Park Front Apts., LLC,
73 A.D.3d 612 (1st Dept. 2010)....13

Landco H & L, Inc. v. 377 Main Realty, Inc.,
203 A.D.3d 1601 (4th Dept. 2022)....13

Matter of Cayuga Nation v. Parker,
2024 N.Y. App. Div. LEXIS 3726 (4th Dept. 2024)..5

Matter of Cayuga Nation v. Seneca-John,
2024 N.Y. App. Div. LEXIS 3716 (4th Dept. 2024)..5

Merling v. Ash Dev., LLC,
198 A.D.3d 743 (2d Dept. 2021)..13, 15

Network Fin. Planning v. Prudential-Bache Sec.,
194 A.D.2d 651 (2d Dept. 1993) 10

Terrell v. Terrell,
279 A.D.2d 301 (1st Dept. 2001)..15

New York Statutes

CPLR 6301..10

CPLR 6313..10

Respondent respectfully submits this Memorandum of Law, along with the Affirmations of Michael Benson, Esq. ("Benson Aff.") and Joseph J. Heath, Esq. ("Heath Aff.") and the exhibits attached thereto, in support of his Order to Show Cause seeking a temporary restraining order and preliminary injunction enjoining Petitioner Nation from removing the occupants from the premises at issue in this matter, pursuant to a newly-issued decision of Petitioner Nation's court.

PRELIMINARY STATEMENT

For the past several years, Petitioner Nation has been engaged in an ongoing campaign to remove certain citizens of the Cayuga Nation (the "traditional citizens") from their homes on the territory. Specifically, Petitioner Nation has targeted traditional citizens who continue to support, and recognize the leadership of, the Cayuga Nation's Chiefs and Clan Mothers. Indeed, the underlying matter in this case revolves around the domestication of an eviction judgment issued by Petitioner Nation's court against "Leanna Kettle and John Doe and Mary Doe (said names being Fictitious, it being the intention of Petitioner to designate any and all occupants, tenants, persons or corporations, if any, residing in the premises), 22 Seneca Rd., Seneca Falls, NY 13148". *See* NYSCEF No. 2; Benson Aff. ¶¶ 7-10; Heath Aff. ¶¶ 2-3.

Petitioner Nation, though, has had little success in its efforts to domesticate the judgments issued by its court. *See Matter of Cayuga Nation v. Parker*, 2024 N.Y. App. Div. LEXIS 3726 (4th Dept. 2024); *Matter of Cayuga Nation v. Seneca-John*, 2024 N.Y. App. Div. LEXIS 3716 (4th Dept. 2024). New York State courts, including this Court, have determined that Petitioner Nation's court system is deficient, and that the judgments issued by the Petitioner Nation's court are un-domesticable.

Ostensibly in an effort to avoid its loss in the underlying matter, and do an end-run around the appeal that it filed to the Fourth Department, in February 2024, Petitioner Nation initiated another eviction suit in its court against Julius Kettle, for the exact same premises at issue in this matter. Unsurprisingly, Petitioner Nation's court once again ruled against Mr. Kettle, and on August 13, 2024, issued a Warrant of Eviction (the "Warrant") to remove Mr. Kettle from the premises on August 27, 2024. Petitioner Nation, in effect, seeks to bypass all New York state rules and procedures and avoid its ongoing litigation so that it can expeditiously remove its traditional citizens, including Mr. Kettle, from the territory, exclusive of any involvement of the State of New York or any other entity that could protect the rights of the traditional citizens. It should not be allowed to do so.

In an effort to remain in his home while this litigation is pending, Mr. Kettle respectfully requests that this Court issue a Temporary Restraining Order and a Preliminary Injunction against Petitioner Nation, to prevent his eviction during the pendency of this case.

STATEMENT OF FACTS

Petitioner Nation initiated the underlying matter against Mr. Kettle[1] on June 9, 2021, which essentially involves Petitioner Nation's request to domesticate a default eviction judgment of its tribal court based on Mr. Kettle's alleged unpaid rent at 22 Seneca Rd., Seneca Falls, NY (the "Seneca premises"). *See* Heath Aff. ¶¶ 2-3. A default judgment was entered against Mr. Kettle on October 14, 2021, which was subsequently vacated by this Court, and is now on appeal to the Fourth Department. *See* Heath Aff. ¶ 4.

[1] The "John Doe" referred to in the tribal court judgment that Petitioner Nation sought to have domesticated in this case no. 20210297 is Julius Kettle, who is Leanna's adult son that lives at 22 Seneca Rd., Seneca Falls, NY, both at the time of that initial tribal court order continuing through the present day

Perhaps unhappy with its loss in these proceedings, on February 10, 2024, Petitioner Nation served Mr. Kettle with copies of a Notice of Petition and a Verified Petition for a "new" suit filed in its court, which, identical to this suit and the 2021 tribal court order that Petitioner Nation did not receive domestication for and is on appeal, alleges unpaid rent and seeks an order of eviction against Mr. Kettle for the Seneca premises. *See* Benson Aff. ⁋⁋ 6-9; Exh. 1; Heath Aff. ⁋⁋ 6-8. At the same time this suit against Julius Kettle was initiated in Petitioner Nation's court, Petitioner Nation filed a companion suit against Daren Kettle, seeking his eviction from a separate property. *See* Benson Aff. ⁋ 14. Based on the method of service—colloquially, "nail and mail"—and pursuant to Petitioner Nation's Rules of Civil Procedure, Daren Kettle had twenty-three (23) days to Answer, meaning that his Answer was not due until March 4, 2024. *See* Benson Aff. ⁋ 14; Exh. 4.

Regardless, on February 21, 2024, Petitioner Nation held a hearing and issued a default judgment against Daren Kettle. *See* Benson Aff. ⁋ 13; Exh. 3. On February 25, 2024, both Julius and Daren Kettle filed Answers, which presented counterclaims in recoupment for the alleged unpaid rent along with affirmative defenses to the underlying allegations. *See* Benson Aff. ⁋ 12; Exh. 2. Upon receipt of the default judgment, Daren Kettle filed a motion to vacate. *See* Benson Aff. ⁋⁋ 15-16; Exhs. 4, 5.

Petitioner Nation's court held a hearing on the motion to vacate the default judgment on March 8, 2024. At this hearing, counsel for Petitioner Nation made an oral motion to dismiss Daren Kettle's counterclaims and affirmative defenses, which were identical to the counterclaims and affirmative defenses presented by Julius Kettle. *See* Benson Aff. ⁋ 17; Exh. 6; Heath Aff. ⁋ 12. Subsequently, counsel for both parties submitted memoranda addressing the propriety of said motion to dismiss. *See* Benson Aff. ⁋ 18-19; Exhs. 7-8; Heath Aff. ⁋⁋ 12-14. On April 3,

2024, Petitioner Nation's court granted the motion to vacate, but dismissed Daren Kettle's counterclaims in recoupment and his affirmative defenses, and indicated that it would not honor or abide by the stay issued by this Court in case no. 20210286, or otherwise extend comity to decisions of New York State courts:

> In urging this [c]ourt to honor the stay imposed by Judge Porsch, the Respondent cites to a portion of Rule 37 of [Petitioner Nation's] Civil Procedure Law which provides for comity recognition of final judgments or stays of another court of competent jurisdiction. Section 5.5 of [Petitioner Nation's] Judiciary Law titled full faith and credit or comity also provides [ ] "the trial [c]ourt shall give full faith and credit to the orders and judgments of the Courts of other Nations, states and local governments…"
>
> Both of these sections, however, forbid comity being extended to orders, judgments or stays rendered by a court which declines, refuses, or does not recognize the orders and judgments of [Petitioner Nation's] court. Even without this prohibition being enshrined in both sections, this [c]ourt, as a matter of discretion, would not have granted comity to the stay entered in New York Supreme Court, Seneca County, by Justice Porsch…

See Benson Aff. ⁋ 20; Exh. 9; Heath Aff. ⁋⁋ 17-19.

Two (2) days after this decision, in a letter dated April 5, 2024, Petitioner Nation's counsel made clear its plan to attack and "nullify" both Julius and Daren Kettle's Answers, because of its contention that the Answers were not properly verified. Indeed, Petitioner Nation's counsel threatened that it would "take appropriate measures" with its Court, should either Kettle attempt to verify his Answer at all—an unsubtle assertion that Petitioner Nation considered the contents of the Answers to be largely or totally false, and therefore un-verifiable. *See* Benson Aff. ⁋ 21; Exh. 10. Subsequently, Petitioner Nation's court scheduled a hearing on Julius and Daren's eviction petitions for May 3, 2024. *See* Benson Aff. ⁋ 22.

On May 2, 2024—less than 24 hours before the hearing—Petitioner Nation entered a Prehearing Submission in its court, where it requested that its court rule on its Petition to evict Mr. Kettle as a matter of law and thereby award Petitioner Nation the relief it requested in full,

without a trial or hearing of any sort, because "no issue of fact" remained to be resolved in the matter. *See* Benson Aff. ⁋ 23; Exh. 11. In other words, Petitioner Nation contended that, because Petitioner Nation's court dismissed Daren Kettle's affirmative defenses and counterclaims in its April 3, 2024 decision, Julius Kettle's affirmative defenses and counterclaims were similarly not viable as a matter of law. At the hearing on May 3, Petitioner Nation's court did not allow any substantive arguments to be fully presented by Mr. Kettle, and instead directed Mr. Kettle to file any opposition to Petitioner Nation's Prehearing Submission by May 8. *See* Benson Aff. ⁋⁋ 27-33. Ultimately, Petitioner Nation's court entered judgment against Mr. Kettle on May 14, granting yet another eviction judgment against Mr. Kettle for the very same Seneca premises. *See* Benson Aff. ⁋ 34; Exh. 12. On August 15, 2024, Mr. Kettle was served with a Warrant of Eviction (the "Warrant") by Petitioner Nation, which was dated August 13, 2024. Said Warrant indicated that Mr. Kettle, pursuant to the court's May 14, 2024 order, would be removed from the Seneca premises fourteen (14) days after the date of the letter, *i.e.* on August 27, 2024. *See* Benson Aff. ⁋ 34; Exh. 13.

Stated differently, Petitioner Nation first issued a premature default judgment against Mr. Kettle, then dismissed his affirmative defenses and counterclaims, and finally, denied him the opportunity of a full and fair hearing on the actual merits of the case. All of this, of course, occurred during the pendency of this suit, the subject matter of which is identical to the lawsuit against Mr. Kettle that just fast-tracked through Petitioner Nation's court.

ARGUMENT

I. KETTLE SHOULD BE GRANTED A TEMPORARY RESTRAINING ORDER PENDING A HEARING ON HIS REQUEST FOR A PRELIMINARY INJUNCTION

A temporary restraining order may be granted, pending a hearing on preliminary injunction, when "it appears that immediate and irreparable injury, loss or damage will result unless the defendant is restrained before the hearing can be had." CPLR 6301; *see also* CPLR 6313(a) ("If, on a motion for a preliminary injunction, the plaintiff shall show that immediate and irreparable injury, loss or damages will result unless the defendant is restrained before a hearing can be had, a temporary restraining order may be granted without notice."); *Destiny USA Holdings, LLC v. Citigroup Global Mkts. Realty Corp.*, 69 A.D.3d 212, 216 (4th Dept. 2009); *Network Fin. Planning v. Prudential-Bache Sec.*, 194 A.D.2d 651, 652 (2d Dept. 1993); *Bass v. WV Preserv. Partners, LLC,* 209 A.D.3d 480, 482 (1st Dept. 2022) (plaintiff's eviction from her home constituted serious and irreparable harm).

In the instant matter, Mr. Kettle is entitled to a preliminary injunction, as detailed *infra*, because he has established a *prima facie* likelihood of success on the merits, demonstrated the immediate and irreparable harm of losing his home, and the balance of equities favors Mr. Kettle.

Petitioner Nation has suffered a series of losses in the New York State court system, which has correctly identified the serious deficiencies in Petitioner Nation's court system and, accordingly, has generally refused to domesticate decisions issued by that court. *See* Heath Aff. ¶¶ 19-20, 30-32. In fact, Petitioner Nation has already lost on its attempt to domesticate an eviction judgment against Julius Kettle in this underlying matter, which is now on appeal to the Fourth Department. Rather than allow its traditional citizens to receive a full and fair hearing for the cases that it has initiated against them in New York State courts, Petitioner Nation has apparently decided to re-initiate litigation against the same citizens, for the same issues, once

again in its own court system. Since Petitioner Nation does not ever lose in the court that it created, these suits are comparatively accelerated to the result that Petitioner Nation desires. With the newly-issued judgment against Mr. Kettle in hand, Petitioner Nation plans to avoid the jurisdiction of this court and evict Mr. Kettle during the pendency of its appeal.

This is but the latest in a string of pernicious litigation tactics that Petitioner Nation employs against its own traditional citizens, including Mr. Kettle. It is extremely likely that, absent a temporary restraining order, Petitioner Nation will attempt to forcibly remove Mr. Kettle from his home before the Order to Show Cause can be fully briefed, which would deny Mr. Kettle due process of this Court.

Petitioner Nation has a well-documented history of violent, destructive behavior when it does not get its way, or when legal matters move too slowly for its liking. *See* Hayley Jones, *Cayuga Nation Demolishes Three Structures, Claims They Were Hotbeds of 'Illegal Activity'*, FingerLakes1.com (Aug. 4, 2022), https://www.fingerlakes1.com/2022/08/04/cayuga-nation-demolishes-three-seneca-county-structures-says-they-were-hotbeds-of-illegal-activity/; Press Pool, *Statement of the Traditional Gayogohó:nq' (Cayuga) Council of Chiefs and Clan Mothers Regarding Halftown Council's Destruction of Gayogohó:nq' Citizens' Homes*, ICT News (Aug. 5, 2022), https://ictnews.org/the-press-pool/statement-of-the-traditional-gayogo-hó-nǫ-cayuga-council-of-chiefs-and-clan-mothers-regarding-halftown-councils-destruction-of-gayogo-hó-nǫ-citizens-homes; Megan Zerez, *More Violence, Surprise Demolitions on Cayuga Tribal Lands as Leadership Dispute Continues*, WXXI News (Aug. 8, 2022), https://www.wxxinews.org/local-news/2022-08-08/violence-demolitions-cayuga-tribal-lands-leadership-dispute; Jesse McKinley, *Bulldozing. Kidnapping Claims. Inside a Battle Over a Tribe's Future*, N.Y. Times (Mar. 13, 2023), https://www.nytimes.com/2023/03/13/nyregion/cayuga-nation-tribe-new-york.html;

Andrew Naughtie, *Leadership Struggle in New York Tribe Descends into 'Domestic Terrorism' as Buildings Bulldozed*, The Independent (Feb. 26, 2020), https://www.the-independent.com/news/world/americas/us-politics/new-york-cayuga-indian-nation-tribe-building-bulldozed-clint-halftown-a9360001.html. Without a temporary restraining order, Petitioner Nation will likely use its mercenary squad to evict Mr. Kettle—and perhaps even demolish his home, or render it uninhabitable—on or around August 27, 2024. For this reason, and the reasons detailed *infra*, this Court must grant a temporary restraining order enjoining Petitioner Nation from carrying out its Warrant of Eviction against Mr. Kettle.

II. KETTLE SHOULD BE GRANTED A PRELIMINARY INJUNCTION

A preliminary injunction may be granted when the party seeking relief demonstrates: (1) a likelihood of success on the merits; (2) the prospect of irreparable injury if the injunctive relief is withheld; and (3) a balance of equities tipping in its favor. *Doe v. Axelrod*, 73 N.Y.2d 748, 750 (N.Y. 1988); *AJMRT, LLC v. Kern*, 154 A.D.3d 1288, 1289 (4th Dept. 2017) (affirming motion for a temporary restraining order and preliminary injunction enjoining defendant-lessors from altering or transferring property during the pendency of the action). Generally, it is appropriate to grant provisional injunctive relief in instances where the rights of the moving party "respecting the subject of the action" would be so affected as "to render the judgment ineffectual." *See Credit Agricole Indosuez v. Rossiyskiy Kredit Bank*, 94 N.Y.2d 541, 544-45 (N.Y. 2000); *see also Chana v. Machon Chana Women's Inst., Inc.*, 162 A.D.3d 635, 637 (2d Dept. 2018) ("the purpose of a preliminary injunction is to maintain the status quo and not to determine the ultimate rights of the parties."). In the instant matter, Mr. Kettle establishes each of these three factors, and so should be awarded injunctive relief to maintain the status quo.

1. Kettle will be irreparably harmed unless injunctive relief is granted.

Irreparable harm for purposes of a preliminary injunction is established when, absent injunctive relief, legal damages would provide inadequate compensation, or in instances where damages are incapable of measurement or difficult to quantify. *Gundermann & Gundermann Ins. v. Brassill*, 46 A.D.3d 615, 616 (2d Dept. 2007).

In actions involving real property, like this one, irreparable harm occurs when, absent injunctive relief, the property will be permanently altered or disposed in such a way that the movant will be denied lawful use of the property at the conclusion of litigation. *See Landco H & L, Inc. v. 377 Main Realty, Inc.*, 203 A.D.3d 1601, 1601 (4th Dept. 2022) (affirming preliminary injunction enjoining encumbrance or conveyance of subject property, pending resolution of claim for fraudulent conveyance); *Cangemi v. Yeager,* 185 A.D.3d 1397, 1400 (4th Dept. 2020) (encroachment on movant's property, blocking access to a shared drive, and the threat of destruction of property all constitute irreparable harm); *see also Merling v. Ash Dev., LLC*, 198 A.D.3d 743, 745-46 (2d Dept. 2021) (destruction of movant's window well and modifications to a shared wall, both affecting easements, constitutes irreparable harm). Specifically, the *Bass* court has established that the loss of one's long-term home, the exact situation Mr. Kettle is facing here, constitutes irreparable harm. *Bass*, 209 A.D.3d at 482; *see Jones v. Park Front Apts., LLC*, 73 A.D.3d 612, 612-13 (1st Dept. 2010).

Absent this preliminary injunction, Mr. Kettle will suffer irreparable harm, as the Warrant permits Petitioner Nation to remove him from his home. It is also exceedingly likely that Petitioner Nation will use similar or identical tactics to remove Mr. Kettle, to those it has used in the past, to remove other traditional citizens from their residences—namely, the deployment of dozens of armed mercenaries, combined with physical violence and illegal detainment for those residing at the premises, as well as for any other person present on the property. If Petitioner

Nation effectuates this eviction, Mr. Kettle will be rendered homeless, and any potential relief available to him in this matter will be rendered moot, particularly given Petitioner Nation's propensity for destroying properties formerly inhabited by traditional citizens.

2. The balance of equities favors Kettle.

If "the irreparable injury to be sustained is more burdensome to the [movant] than the harm caused to defendant through imposition of the injunction," the balance of equities should favor the party seeking the preliminary injunction. *See Felix v. Brand Serv. Grp. LLC*, 101 A.D.3d 1724, 1726 (4th Dept. 2012). When a preliminary injunction seeks to enjoin interference with the movant's property rights, courts have determined that the balance of equities favors the movant. *See Bass*, 209 A.D.3d at 482-483 (balance of equities favored movant, a senior citizen who lived in the subject apartment for decades, where defendant's injury on injunction would be limited to a delay of sale). Indeed, the "irreparable injury" of being removed from one's home is sufficient to place the balance of equities in the movant's favor. *See id.* When an injunction can provide "some security to the [movant], while merely restraining defendant from continuing any unlawful or wrongful activities," the balance of equities should favor the movant. *See Cangemi,* 185 A.D.3d at 713 (quoting *Park S. Assoc. v. Blackmer*, 171 A.D.2d 468, 470 (1st Dept. 1991)).

The balance of equities here clearly favors Mr. Kettle. If this Court were to grant the preliminary injunction, Mr. Kettle would be provided "some security" to remain in his home and thereby avoid the irreparable harm that would follow his eviction. *Id.* Conversely, Petitioner Nation would be only slightly inconvenienced if the injunction were granted; after all, it would still be able to seize Mr. Kettle's property and evict him, should it prevail on its appeal to the Fourth Department, making its sole expense the additional time and resources required to conclude this suit.

Denial of the preliminary injunction puts Mr. Kettle at immediate risk of being removed from his home, which will otherwise occur on or around August 27, 2024. Mr. Kettle's right to live in his home far outweighs Petitioner Nation's right to avoid the frustrations of this continued litigation—which, it must be noted, Petitioner Nation initiated by submitting to the jurisdiction of New York to domesticate the judgment of its court on this very same matter.

3. Kettle has a high likelihood of success on the merits.

The likelihood of success on the merits is established by a *prima facie* showing of the movant's right to relief. *Cangemi*, 185 A.D.3d at 1398; *see Invar Int'l, Inc. v. Zorlu Enerji Elektrik Uretim Anonim Sirketi,* 86 A.D.3d 404, 405 (1st Dept. 2011). The movant for a preliminary injunction need not establish conclusive proof of ultimate success or the absence of any questions of fact for trial. *See Terrell v. Terrell*, 279 A.D.2d 301, 303 (1st Dept. 2001) (a *prima facie* showing of a right to relief is sufficient for a likelihood of success on the merits). The movant need only demonstrate a "reasonable probability of success" to satisfy this factor. *See Bass*, 209 A.D.3d at 481. Indeed, the purpose of a preliminary injunction is to preserve the status quo of the parties pending the resolution of trial, not to establish ultimate liability. *Merling,* 198 A.D.3d at 745.

In cases such as this one, where the "[d]enial of injunctive relief would render the final judgment ineffectual . . . the degree of proof required to establish the element of likelihood of success on the merits should be accordingly reduced." *Gramercy Co. v. Benenson*, 223 A.D.2d 497, 498 (1st Dept. 1996) (affirming preliminary injunction enjoining defendants from cutting down trees in a park where the "[d]enial of injunctive relief would render the final judgment ineffectual, since the trees, once cut down, cannot be replaced").

Mr. Kettle has sufficiently demonstrated a likelihood of success on the merits, because he has already "won" on this underlying matter, which Petitioner Nation is now appealing to the

Fourth Department. In other words, Mr. Kettle successfully established a *prima facie* showing that the judgment issued by Petitioner Nation's court in this case is invalid, since that court is unable to follow its own rules and laws and offers no modicum of due process.

Though the Court need not fully litigate the issues to determine whether Mr. Kettle will ultimately prevail, in this instance, it already has—and Mr. Kettle emerged victorious. If this preliminary injunction is not granted, Mr. Kettle will be removed from his home within the next several days, thereby "rendering ineffectual" the favorable judgment issued by this Court. Accordingly, and just as in *Benenson*, the degree of proof Mr. Kettle needs to establish to show success on the merits is reduced; simply put, Mr. Kettle clears that lowered bar with ease, because he already won.

As the purpose of this motion is to preserve the *status quo* while this dispute is litigated, Petitioner Nation must be enjoined from evicting Mr. Kettle and seizing his property until this matter is completed.

CONCLUSION

Petitioner Nation must be bound by the path that it has chosen, and it has submitted to the jurisdiction of the State of New York for purposes of resolving its issues with Mr. Kettle with respect to the use and occupancy of the property located at 22 Seneca Rd., Seneca Falls, NY. It must not be allowed to circumvent this jurisdiction by initiating a new, identical proceeding in its own court to effectuate the same outcome it sought in this litigation. Accordingly, Respondent respectfully requests that this Court grant his Order to Show Cause requesting a temporary restraining order and preliminary injunction enjoining Petitioner Nation from removing Mr.

Kettle from the Seneca premises during the pendency of this proceeding, and for such other relief as the Court deems just and proper.

Dated: Syracuse, New York
August 26, 2024

MICHAEL D. SLIGER, ESQ.
Attorney for Respondent
Cornell Law School
Law Offices of Michael D. Sliger, Esq.
1177 Avenue of the Americas, 5th Floor
New York, NY 10036
(810) 394-0072
msliger@mdsligerlaw.com

JOSEPH J. HEATH, ESQ.
Attorney for Respondent
Cornell Law School
512 Jamesville Avenue
Syracuse, New York 13210
(315) 447-4851
jjheath1946@gmail.com

MICHAEL A. BENSON, ESQ.
Attorney for Respondent
77 North Buffalo Street
Springville, NY 14141
(716) 592-2900
bensonlaw1@verizon.net

TO: Lee Alcott, Esq,
Attorney for Petitioner
125 East Jefferson Street
Syracuse, New York 13202