



that the Petitioners' seek an advisory opinion of this Court. Assuming, *arguendo*, that the Election Commission is the intended respondent and actual party of interest, the Petitioner's have failed to serve notice and a summons on them. The most basic levels of fairness and due process demand nothing less than a party being afforded notice and an opportunity to be heard. This means actual notice calculated to give notice to the party/parties and a reasonable opportunity for the parties to respond to and defended against the allegations at issue. Absent notice to a named Respondent and an opportunity to be heard there can be no semblance of fairness in these proceedings, much less anything resembling due process. This Court cannot and will not fashion any relief absent a response from all parties and basis upon which to reach the merits of the Petitioners' Complaint. The Petitioners' Complaint, as presently styled, and procedurally postured, does not come close to affording this Court the opportunity to fashion relief on the merits.

The Court is mindful of the time constraints placed upon the Petitioners and the gravity of the potential outcome of this matter. And to be clear, in light of these circumstances, the Court is not requiring strict compliance with the rules of procedure in this instance. However, the most basic tenets of fairness and adherence to the rule of law mandate that the Petitioners identify and serve a proper Respondent. The Respondent must then be afforded a reasonable time in which to respond and assert any procedural or legal defenses available to them. The parties are then to be afforded the right to argue the merits of the case to the Court. This Court simply cannot and will not fashion relief in favor of any party unless and until the basic requirements of notice and an opportunity to be heard are afforded to the necessary parties.

II. The Petitioners seek relief in contradiction with the *Delaware Tribe of Indians Constitution and Bylaws*.

The Petitioners' Complaint, as currently styled, seeks unconstitutional relief from this Court. *The Delaware Tribe of Indians Constitution and Bylaws* at Article XI Section 1 establishes an annual General Council meeting of the adult membership of the Delaware Tribe during the month of November. Notice of this General Council is mandated by the Constitution shall be given by the Chief, not less than thirty (30) nor more than forty-five (45) days preceding the meeting. Section 2 mandates that members elected to the council shall take office at a meeting that should take place the first Saturday after an election. As simple reading of these provision reveal no means whatsoever by which this Court, or any other branch of government, may suspend, delay, or cancel the General Council. Put simply, the General Council is mandated by the Constitution, no branch of government can seek to prevent its occurrence. Such power rests exclusively with the Delaware people and cannot be created by any lesser body. Assuming the Petitioners have presented a complaint upon which relief can be granted, which the clearly have not; this Court is without the ability to fashion the relief requested in contradiction to the Delaware Constitution.

IT IS HEREBY ORDERED BY THIS COURT THAT THE PETITIONERS' COMPLAINT IS DISMISSED WITH PREJUDICE.

IT IS SO ORDERED,

Charles Randall

THE HONORABLE CHARLES RANDALL

ON BEHALF OF THE DELAWARE TRIBAL COURT

