

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

**Oneida Nation/
Oneida Police Department
Petitioner**

v.

Case No: 19-CT-002

**Frances M. Nunies,
Defendant**

DEFAULT JUDGMENT

This case has come before the Oneida Trial Court, Honorable Denice Beans presiding.

Appearing in person: Attorney Kelly McAndrews for the Petitioner: Oneida Nation/Oneida Police Department.

Not appearing: Defendant, Frances M. Nunies.

STATEMENT OF THE CASE

A citation was issued to Defendant on January 30, 2019 alleging that the Defendant's dog was a Nuisance Dog under 304.6-4. There were eleven other complaints concerning the Defendant's dog verified with the Oneida Police Department. This is the third citation that was issued to the Defendant and it has a mandatory appearance requirement.

FINDING OF FACTS

1. The Court has subject matter, personal and territorial jurisdiction over this matter.
2. Notice was given to all those entitled to notice.
3. A hearing was held on May 16, 2019.
4. The citation violation required a mandatory appearance in Court by the Defendant.
5. The Defendant failed to appear, plead, or defend.
6. The Defendant was found to be in default.
7. The Petitioner sent the Defendant options for possible resolution to which no response was made.
8. The Petitioner requested the maximum fine for 3rd offense Nuisance Dog be ordered in the amount of \$750.00, which was granted.

9. The Court added court costs of \$25.00 for a total amount due of \$775.00 to be paid to the Oneida Judiciary within 90 (ninety) days.

PRINCIPLES OF LAW

Title 3. Health and Public Safety - Chapter 304

DOMESTIC ANIMALS

304.6-4. *Dogs and Cats Running at Large.* It is unlawful for any dog or cat owner to permit the animal to be at any place except upon the premises of the owner, unless it is crated, penned, or on a leash under the control of a person physically able to control the animal. In addition, a nuisance dog or cat may be picked up by Oneida Police Officers or Oneida Conservation Wardens. For the purposes of this law, a nuisance dog or cat is one whose actions result in two (2) or more verified disturbances due to excessive barking and/or running loose or one (1) or more verified disturbance due to threatening behavior by a loose dog or cat.

- (a) Stray dogs and cats shall be referred to the Oneida Police Department or Oneida Conservation Department.

Rule #1 – LICENSING FEES, FINES AND PENALTIES

1.5. Fines and Penalty Schedule. Violations of the Domestic Animals law may result in the issuance of a citation by a law enforcement or conservation officer. A citation may include any or all the fines/penalties authorized in the Domestic Animals law and/or set forth in this rule; The Fines and Penalty Schedule is incorporated in this rule as an attachment.

Oneida Nation Citation Notice:

If you do nothing, the Court may enter a default judgement which may include, but is not limited to, any fine amount that is due, restitution and/or suspension of any rights, privileges or licensures with the Oneida Nation.

Title 8. Judiciary - Chapter 803

ONEIDA JUDICIARY RULES OF CIVIL PROCEDURE

803.29-2. *Defendant.* When a party against whom a judgment for relief is sought has failed to appear, plead or otherwise defend as required in this Law or elsewhere, a default judgment may be granted by the Court upon the receipt of whatever evidence is deemed necessary to establish the claim.

ANALYSIS

The citation that was written was found to be appropriate. There were two prior verified disturbances resulting in Citations being issues. When considering the eleven prior disturbances, the Defendant's dog is a Nuisance Dog under 304.6-4.

This hearing was mandatory to attend and because the Defendant did not attend the hearing, the Court found the Defendant in Default for failure to appear, plead or otherwise defend as required under 803.29-2. The Defendant will be fined the maximum amount for a third time Nuisance Dog violation along with the court costs.

ORDER

A default judgment is entered in favor of the Petitioner and against the Defendant in the amount as follows:

Fine:	\$750.00
Court Costs:	<u>\$25.00</u>
Total owed by Defendant:	\$775.00

The Total amount due is payable to the Oneida Judiciary **within 90 (ninety) days** from the date this Order is signed. Failure to pay is subject to the Nation's laws and remedies.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council and Default Judgment signed on May 16, 2019. Case #19-CT-002.