

**ONEIDA JUDICIARY**  
**Tsi nu téshakotiya?tolétha?**

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**TRIAL COURT**

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**Oneida Nation / Oneida Police Department,**  
**PLAINTIFF,**

v.

**CASE NO: 19-CT-003**

**Willie D. Adams, III,**  
**DEFENDANT**

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**ORDER**

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This case has come before the Oneida Trial Court, Honorable John E. Powless III presiding.

**STATEMENT OF THE CASE**

The Defendant was cited for Nuisance Animal in accordance with the Nation's Domestic Animals Law, 304.6-4<sup>1</sup> on April 28, 2019. The Defendant was not at his residence at the time the citation was issued. The Plaintiff served the citation to the Defendant's 16-year-old daughter. The Defendant did not appear at the hearing on June 20, 2019 at 9:00 a.m.

**FINDING OF FACTS**

1. The Court has subject matter, personal and territorial jurisdiction over this matter.
2. On April 28, 2019, Oneida Police Department issued a citation for violation of O.C. 304.6-4 Nuisance Animal.
3. The Plaintiff did not comply with *Effective Service* requirements outlined in O.C. 803.5-6.
4. The Defendant did not appear at the hearing on June 20, 2019.
5. To proceed with the hearing on June 20, 2019 for case# 19-CT-003 would be an infraction of the Defendant's rights to be properly notified that a citation, which included a court date, was issued to him.
6. The court granted a continuance to August 15, 2019 to allow for proper service on Defendant.
7. On August 9, 2019, on behalf of the Plaintiff, Attorney Kelly M. McAndrews filed a Motion to Dismiss this citation.
8. The citation has been voided by Plaintiff.

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<sup>1</sup>The Oneida Nation Domestic Animals Law was recently amended by resolution BC-05-08-19-C. The previous version of the law addressed the violation of Nuisance Animal under Section 304.6-4. The current version of the law addresses this violation in Section 304.7-5.

## PRINCIPLE OF LAW

803.21-1. Voluntary Dismissal.

(a) By the Plaintiff.

(1) Without a Court Order. The plaintiff may dismiss an action without a Court order by filing:

(A) A notice of dismissal before the opposing party serves either an answer or a motion for summary judgement; or

(B) A stipulation of dismissal signed by all parties who have appeared.

(2) Effect. Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any action based on or including the same claim, a notice of dismissal operates as adjudication on the merits.

## ANALYSIS

The law allows the Plaintiff to voluntarily dismiss an action if the opposing party has not yet served an answer or a motion of summary judgment. Here, the Plaintiff voluntarily motioned to dismiss this matter. The Defendant did not yet serve an answer or a motion for summary judgment. Therefore, the Plaintiff has correctly filed a motion to dismiss this matter as a voluntary dismissal.

## ORDER

1. The court grants the Plaintiff's request to dismiss this citation. This citation is dismissed without prejudice.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council an Order was signed on August 12, 2019. Case #19-CT-003.