

Oneida Tribal Judicial System

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TRIAL COURT

**Linda S. Dallas,
Petitioner**

Docket No: 14-TC-191

v.

**Oneida Election Board
Respondent**

DECISION Motion to Dismiss

This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officers: Jean M. Webster, Kathy Hughes, and Sandra Skenadore, presiding.

Background

On November 7, 2014, Petitioner, Linda S. Dallas, filed a petition requesting a Declaratory Ruling regarding the applicability of the Oneida Election Law relating to the Special Election scheduled for November 22, 2014, to fill the vacant seat on the Oneida Business Committee.

On November 10, 2014, the Trial Court held a deliberation. The Court's decision was to follow the procedure in accordance with the Rules of Civil Procedure, Rule 33(B) allowing the Respondent fifteen (15) days to submit a brief in response to the petition and then schedule a hearing.

On November 25, 2014, a hearing notice was sent to all the parties notifying the hearing was set for December 4, 2014 at 9:00 a.m.

On December 3, 2014, Petitioner, Linda S. Dallas, called the Court stating she would not be able to attend the hearing, as she was in Madison all week attending a hearing and would send a written notice by fax.

On December 4, 2014, a hearing was held. Petitioner did not appear, but sent a fax on the morning of December 4, 2014 requesting the Court to reschedule the hearing. Respondent requested the Court to dismiss the case. The Court Ruled in favor of the Petitioner and rescheduled the hearing to December 19, 2014.

On December 16, 2014, Respondent filed a Motion to Dismiss.

On December 19, 2014, the rescheduled hearing was held. Petitioner, Linda S. Dallas failed to appear. Respondent requests the Court to dismiss as Petitioner failed to appear and prosecute her claim. The Court finds in favor of the Respondent and case is dismissed.

Analysis & Conclusion of Law

According to the Rules of Civil Procedure, Rule 16 Default states in part:

- *Rule 16 (A): "Appearance Required. Parties to a case are required to appear before the trial court at any scheduled hearing or proceeding."*
- *Rule 16 (C): "Petitioner: When a party who has filed a claim fails to appear, plead, or prosecute said claim as provided in these rules or elsewhere, a dismissal may be granted by the trial court, dismissing the claim."*

The Court finds in favor of the Respondent as the Petitioner failed to appear; therefore unable to plead or prosecute said claim.

Decision

The Court finds in favor of the Respondent and Petitioner's claim is dismissed with prejudice.