

# Oneida Appeals Commission

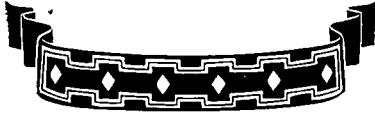
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## Trial Court

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Oneida Tribe of Indians

Division of Land Management

Petitioner,

Docket No. 04-TC-009

vs.

Date: October 21, 2004

Juanita Powless,

Respondent

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### Default Judgment

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This case has come before the Oneida Appeals Commission General Officers, Billie Wiggan, Ninham, Lois Powles, and Winnifred L. Thomas.

### Background

The Oneida Tribe of Indians of Wisconsin Division of Land Management, originally filed a money judgement complaint based on contractual obligations arising from a Tribal Non-Grant Agreement between Juanita Powless, the Respondent, on March 22, 2004. The Petitioner filed an amendment to the original complaint requesting for closure procedures. There was a Pre-Trial Hearing conducted on May 18, 2004, at the Oneida Appeals Commission. At the Pre-Trial Hearing the Petitioner and the Respondent agreed to settle the dispute. After recess the court re-convened. The Petitioner and the Respondent both agreed that they had reached settlement. The case was dismissed without prejudice. The court's decision read in part: *Should either party decide that the settlement agreement is no longer enforceable, or that one party can no longer fulfill their part of the agreement, either side may retain counsel and bring this matter back before the court.*

On August 20, 2004, the Petitioner filed a Motion to Reopen the contested case. A Pre-Trial

hearing was scheduled for September 21, 2004. The Petitioner appeared at the Pre-Trial Hearing and filed an amendment to the original complaint requesting foreclosure proceedings. The Motion to Reopen the Contested Case and the motion to proceed with foreclosure proceedings was granted.

A trial was scheduled for October 21, 2004. A diligent attempt was made to notify the Respondent. All Certified and First Class mail was returned to the Oneida Appeals Commission as "Unclaimed". Notice of Foreclosure Proceedings was posted in the October 18, 2004 edition of the Kalihwisaks. On October 21, 2004, the Petitioner appeared at the trial. The Respondent failed to appear. The court recessed for fifteen (15) minutes before they made their decision.

The Petitioner, the Oneida Tribe of Indians of Wisconsin Division of Land Management, through their attorney, Rebecca M. Webster, has filed for foreclosure proceedings against the Respondent, Juanita Powless in the amount of \$71,460.67, representing the delinquent balance for the TLC and THRIL loans.

#### **IV. Decision**

Under the Judicial Code of Rules of Civil Procedure; *Rule 16, (A.) Appearance Required: Parties to a case are required to appear before the Trial Court at any scheduled hearing, or proceeding, whether or not that party is represented by an attorney or other advocate. (B.) Respondent: When a party against whom a judgement for relief is sought has failed to appear, plead or otherwise defend as required in these rules or elsewhere, a Default Judgement may be granted by the Trial Court upon the receipt of whatever evidence is deemed necessary to establish the claim.* Default Judgement granted to the Petitioner, the Oneida Tribe of Indians of Wisconsin Division of Land Management.

It is so ordered.