

**ONEIDA JUDICIARY**  
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**TRIAL COURT**

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**Oneida Nation / Oneida Police Department,  
Petitioners**

v.

**Case No: 23-CT-057**  
**Date: August 11, 2023**

**Margaret R. Cornelius,  
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.

*Appearing In-person:* Petitioners' Attorney, Kelly McAndrews.

*Non-Appearance:* Defendant, Margaret R. Cornelius.

**Background**

Defendant was issued a Nuisance Animal citation, 1<sup>st</sup> Offense, for violating Oneida Code of Laws section 304.6-5, stemming from multiple contacts with Oneida Police Department (OPD) regarding Defendant's dog "Krusty Bones" within the last twelve (12) months. A pre-trial hearing was held July 20, 2023, Defendant did not appear. At the hearing, the Court emphasized the importance of addressing this matter with the Defendant, due to previous Running at Large violations. As a result, the Court granted a continuance of the pre-trial hearing. A pre-trial hearing was held August 10, 2023, the Defendant did not appear.

**Principles of Law**

Title 3. Health and Public Safety – Chapter 304 Domestic Animals:

**304.6-5. Nuisance.**

An Oneida Police Officer or Oneida Conservation Warden may pick up and impound a dog or cat that has been found to be a nuisance. A dog or cat shall be found to be a nuisance if the actions of the dog or cat:

- (a) resulted in two (2) or more verified disturbances due to excessive barking and/or other noise by the animal, or the animal running at large; and/or
- (b) resulted in one (1) or more verified disturbance due to threatening behavior by the animal running at large.

Title 8. Judiciary – Chapter 803 Oneida Rules of Civil Procedure:

**803.29. Default; Default Judgment**

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.

Title 8. Judiciary – Chapter 807 Citations:

**807.6 Hearing Procedure**

807.6-1. *Citation Pre-Hearing.*

(f) If a defendant does not appear at the pre-hearing or submit written notice that he or she is contesting the citation when there is a non-mandatory appearance, and the defendant has not entered into a stipulation or paid the fine and/or penalty as listed on the citation, the Court may proceed to enter a default judgment.

(1) A default judgment may include any fine amount due, restitution, suspension of any rights, privileges, or licensures, and/or any other penalty authorized by law.

**Analysis**

In accordance with 3 O.C. 304.6-5, Defendant was cited for violating Nuisance Animal, 1<sup>st</sup> Offense, for multiple contacts with OPD for Defendant's dog, "Krusty Bones." A pre-trial hearing was held August 10, 2023, at which time, Defendant still did not appear.

Default Judgment:

Pursuant to 8 O.C. 803.29-2 and 807.6-1(f), when a party against whom a judgment for relief has failed to appear, enter into a stipulation or paid the citation fine and court costs, a default judgment may be granted by the court upon the receipt of whatever evidence is deemed necessary to establish the claim. In this case, Defendant failed to appear after being properly noticed of the action. Petitioners put on evidence to establish their claim and the Court finds that the citation was property issued. Therefore, the Court found Defendant in default and entered an order which included sanctions.

Nuisance:

In accordance with 3 O.C. 304.6-5, an OPD Officer may pick up and impound a dog or cat that has been found to be a nuisance. A dog or cat shall be found to be a nuisance if the actions of the dog or cat (1) resulted in two or more verified disturbances due to excessive barking or other noise by the animal or the animal was running at large or (2) resulted in one or more verified disturbances due to threatening behavior by the animal running at large. In this case, due to the citations filed, the Court finds that “Krusty Bones” was a nuisance due to running at large. The Court will not order that the Oneida Police Department has carte blanche to go over to Defendant’s residence to check up on “Krusty Bones.” OPD must have probable cause or other legal authority in order to do so. However, if the circumstances outlined in 3 O.C. 3-4.6-5(a) or (b) exist, law enforcement may pick up and impound “Krusty Bones.” The Court notes that “verification” does not appear to require a court order or court finding under the law.

**Finding of Facts**

The Court finds as follows:

1. The Court has subject matter and personal jurisdiction over this matter.
2. All those entitled to notice received notice.
3. The Oneida Police Department cited Defendant Nuisance Animal, 1<sup>st</sup> Offense, for violating 3 O.C. 304.6-5 due to multiple OPD contacts regarding “Krusty Bones” or Animal Running at Large violations over the duration of twelve consecutive months.
4. A pre-trial hearing was held August 10, 2023.
  - a. The Defendant did not appear.
  - b. The Court found Defendant in default for failure to appear.

**Order**

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

**Nuisance Animal, 1<sup>st</sup> Offense, 304.6-5.**


Fine:	\$75.00
Court Costs:	<u>\$25.00</u>
<b>Total Amount owed by Defendant:</b>	<b>\$100.00</b>

The total amount due is payable to the Oneida Judiciary **within thirty (30) calendar days** from the date this Order is signed. Failure to pay is subject to the Nation’s laws and remedies.

**The parties have the right to appeal in accordance with the Nation's laws.**

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council this Order was signed on August 11, 2023.

  
John E. Powless III, Trial Court Judge