

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

**Oneida Nation / Oneida Police Department,
Plaintiffs;**

v.

CASE NO: 23-CT-061

DATE: August 7, 2023

**Dwight C. Hill,
Defendant.**

ORDER

This case came before the Oneida Trial Court, Honorable Patricia Ninham Hoeft presiding.

BACKGROUND

On August 3, 2023, Plaintiffs' attorney, Kelly McAndrews, filed a motion with the Trial Court to voluntarily dismiss a citation issued to Defendant for an incident that occurred on May 31, 2023 at the Oneida One Stop at W180 Highway 54, Oneida, WI 54155. The Oneida Police Department issued Defendant a citation for the alleged violation of Oneida Code of Laws (O.C.L.) 309.5-5, Retail Theft. Plaintiff's attorney voluntarily dismisses the citation because Defendant did not intentionally take a candy bar from the store.

Under the Oneida Judiciary Rules of Civil Procedure, O.C.L. 803.21-1(a), the plaintiff may dismiss an action without a Court order by filing a notice of dismissal before the opposing party services either an answer or a motion for summary judgment. Here, Defendant was scheduled to appear for a pre-trial citation hearing on August 17, 2023. Because Plaintiffs filed their notice of dismissal before Defendant took any action, the Court grants Plaintiffs' motion and removes the hearing from the Court's calendar.

PRINCIPLES OF LAW

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

803.21. Dismissal of Action

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 judgment; 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.

ORDER

1. Plaintiffs' motion to voluntarily dismiss the citation issued against Defendant is GRANTED, without prejudice.
2. This matter is removed from the Court's August 17, 2023 hearing schedule.

The parties have the right to appeal within 30 calendar days 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 7, 2023.



Patricia Ninham Hoeft, Trial Court Judge