

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Oneida Nation / General Manager Mark W. Powless,
PETITIONERS,

CASE NO: 23-TC-011

v.

Hope A. Sullivan,
RESPONDENT.

DATE: August 2, 2023

DEFAULT JUDGMENT

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

Appearing In-person: Attorney Krystal L. John, representing the Petitioners.

Non-appearance: Defendant, Hope A. Sullivan.

Background

On June 21, 2023, Petitioner filed a complaint to the Trial Court seeking a money judgment against Respondent in favor of Petitioner in the amount of \$20,085.26, an order for reimbursement of filing fees, court costs and a certification that the Oneida Trial Court grants full faith and credit to the judicial records, orders, and judgments of the courts of the State of Wisconsin and to the acts of other governmental entities in this state pursuant to the Oneida Judiciary law section 801.5-5. On July 31, 2023, a pre-trial hearing was held. The Respondent did not appear.

Principles of Law

Oneida Code of Laws Title 8. Oneida Judiciary Rules of Civil Procedure - Chapter 803

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.

Oneida Code of Laws Title 8. Judiciary – Chapter 801

801.5. Trial Court

801.5-2. Subject Matter Jurisdiction. The Tribe is a sovereign nation and reserves all sovereign rights, authority and jurisdiction consistent with being a sovereign nation. The Trial Court shall have subject matter jurisdiction over cases and controversies arising under the following:

- (d) where a disagreement over the terms, interpretation or enforcement of a written contract, where at least one (1) of the parties is an agency or where both parties meet the personal jurisdiction requirements listed in 801.5-4.

801.5-5. Full Faith and Credit or Comity.

The Trial Court shall give full faith and credit to the orders and judgments of the courts of other tribes, states, and local governments unless:

- (a) The court in question does not recognize the orders and judgments of the Trial Court;
- (b) The court in question did not have jurisdiction over the case or a party or parties to it;
- (c) The order or judgment was based on fraud;
- (d) To do so would violate the public policy of the Tribe or would be likely to harm the culture, traditions, or sovereignty of the Tribe; or
- (e) The order or judgment is on appeal or is being contested in another jurisdiction.

Wisconsin Statutes and Annotations – Chapter 806: Civil Procedure & Judgment

806.245 Indian tribal documents: full faith and credit.

- (1) The judicial records, orders and judgments of an Indian tribal court in Wisconsin and acts of an Indian tribal legislative body shall have the same full faith and credit in the courts of this state as do the acts, records, orders and judgments of any other governmental entity, if all of the following conditions are met:
 - (e) The tribal court certifies that it grants full faith and credit to the judicial records, orders and judgments of the courts of this state and to the acts of other governmental entities in this state.

Analysis

The Oneida Judiciary Rules of Civil Procedure requires the Respondent to appear, plead or defend, otherwise, a default judgment may be granted. In this case, the Respondent failed to appear, plead or otherwise defend as required. Therefore, a default judgment may be granted against her, if the Petitioner presents evidence necessary to establish its claim. Here, the Petitioner presented a valid Home Improvement Loan Program Notice of Intent and Release of Liability Form and Consumer Universal Note. By Respondent signing the forms, Respondent agreed to the consequences of defaulting on the contract. Specifically, the under the Home Improvement Loan Program Notice of Intent and Release of Liability Form, the Homeowner's

Acknowledgment of Responsibility for Home Repairs; Release of Liability and Hold Harmless Agreement as to the Oneida Nation and Bay Bank states:

Homeowner(s) understands that any failure to pay the loan as it becomes due will amount to a debt owed to the Nation. Homeowner(s) consent to the jurisdiction of the Oneida Nation Judiciary for collection actions related to this loan.

Under Default and Enforcement in Additional Provisions in the Consumer Universal Note, it states:

I covenant not to take any action or permit any event to occur which materially impairs my ability to pay this Note when due. Such events may include, without limitations, the fact that I, my spouse or any surety of this Note dies, changes marital status or domicile or becomes insolvent or the subject of bankruptcy or other Insolvency proceedings. This note shall be in default if (a) the interval between scheduled payments is 2 months or less and there is outstanding an amount exceeding one full payment which has remained unpaid for 10 days after the due dates or there is a failure to pay the first or last payment within 40 days after its due date, (b) the interval between schedule payments is more than 2 months and there is outstanding all or any part of one scheduled payment which has remained unpaid for more than 60 days after its due date, (c) there is a failure to pay the only payment within 40 days after its due date or (d) I fail to observe any covenant set forth in this Note, if the failure materially impairs my ability to pay this Note when due. At any time after this Note is in default the unpaid balance will at the option of Lender and without notice or demand become immediately payable, unless notice to me and an opportunity to cure is required by §425.105 Wis. Stats., and, in that event, shall become payable if such default is not cured as provided in that statute within 15 calendar days after mailing of such notice to me. Unless to do so is prohibited by law or would render a nontaxable account taxable, Lender may, at any time after the occurrence of any event of default and notice and opportunity to cure, if required by §425.105 Wis. Stats., set-off any amount unpaid on this Note against any deposit balances or other money now or hereafter owed by me by Lender.

Here, Petitioner proved the Respondent defaulted on the contract by providing an updated accounting of the defaulted amount which came to \$20,085.26 plus \$200.00 for process service and court costs. The total amount Petitioner is seeking is \$20,285.26. Therefore, Petitioner has met the requirements for a default judgment.

Finding of Facts

1. The Court has subject matter and personal jurisdiction over this matter.
2. The Respondent received proper notice of this hearing.
3. Petitioners filed a complaint on June 21, 2023, seeking:

- a. A money judgment,
 - b. An order for reimbursement,
 - c. A certification that states the Oneida Judiciary Trial Court grants full faith and credit to the judicial records, orders and judgments of the courts of the State of Wisconsin and to the acts of other governmental entities in this state pursuant to the Oneida Judiciary law section 801.5-5.
4. A pre-trial hearing was held July 31, 2023.
 - a. The Defendant did not appear.
 5. The Defendant was found in default for failure to appear.
 6. The Petitioner presented evidence necessary to establish to its claim.

Order

A default judgment is entered in favor of the Petitioner against Respondent in the amount as follows:


1. The Petitioner is granted a default judgment in the amount of \$20,285.26.

It is further ordered, the Oneida Trial Court hereby certifies it grants full faith and credit to the judicial records, orders and judgments of the courts of the State of Wisconsin and to the acts of other governmental entities in this state pursuant to the Oneida Judiciary law section 801.5-5.

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 is signed on August 2, 2023.



John E. Powless III, Trial Court Judge