

**ONEIDA JUDICIARY**  
Tsi nu téshakotiya?tolétha?

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**TRIAL COURT**

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

**v.**

**CASE NO: 24-CT-013  
24-CT-014**

**DATE: July 19, 2024**

**Kalisa H. Lyons,  
Defendant.**

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**DEFAULT JUDGMENT**

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

*Not appearing:* Kalisa H. Lyons, Defendant.

*Appearance excused:* Attorney Kelly McAndrews, representing Plaintiffs.

**BACKGROUND**

Defendant was issued two citations for violating the Oneida Nation's Public Peace law, Oneida Code of Laws (O.C.L.) Chapter 309, stemming from an incident on March 8, 2024. The alleged violation of O.C.L. 309. 5-7, Fraud – 1<sup>st</sup> offense carries a \$250.00 fine plus \$25.00 court costs. The alleged violation of O.C.L. 309.8-3, Abuse of Individuals at Risk, financial exploitation – 1<sup>st</sup> offense carries a \$500.00 fine plus \$25.00 court costs. On May 16, 2024, a citation pre-trial hearing was held. During the hearing, the parties presented a written stipulation for the Court's consideration. The Court presented additional conditions and the parties agreed. As a result, the Court found the stipulation reasonable and approved it. On July 9, 2024, a status hearing was held. The Court granted Plaintiffs' attorney's motion to be excused from appearing. Defendant did not appear.

## FINDINGS OF FACT

1. The Court has subject matter and personal jurisdiction over this matter.
2. Defendant received proper notice.
3. On May 16, 2024, Defendant appeared at the citation pre-trial hearing; she did not have legal representation.
4. Defendant was issued the following citations for allegedly violating the Oneida Nation's Public Peace law, O.C.L. 309:
  - a. O.C.L. 309.5-7, Fraud – 1<sup>st</sup> offense, \$250.00 fine plus \$25.00 court costs, and
  - b. O.C.L. 309.8-3, Abuse of Individuals at Risk – 1<sup>st</sup> offense, \$500.00 fine plus \$25.00 court costs.
5. Defendant was issued the two citations for an incident occurring on March 8, 2024.
6. At the citation pre-trial hearing, the Court approved the following written stipulation:
  - a. Defendant agreed to enter a no contest plea to both citations: O.C.L. 309.5-7, Fraud, and O.C.L. 309.8-03, Abuse of Individuals at Risk.
  - b. Plaintiffs' attorney agreed to dismiss the \$250.00 fine for the citation, O.C.L. 309.5-7, Fraud.
  - c. Both parties agreed that the \$500.00 fine and \$50.00 in court costs, which represents \$25.00 court costs for each citation, will be waived if Defendant completes the following:
    - i. Defendant immediately enrolls in an alcohol and substance abuse addiction treatment program and participates in the program for at least 120 days.
      1. At the hearing, the Court provided Defendant with information about Oneida Behavioral Health Services for the Same Day Substance Abuse Care program.
    - ii. Defendant will give the Court regular updates of her participation in treatment and proof of treatment at a status hearing to be held every thirty (30) days after this order is signed.
7. On July 8, 2024, Plaintiffs' attorney filed a written letter with the following requests:
  - a. To seek the Court's permission to be excused from attending the July 9, 2024 status hearing; Plaintiffs' attorney was scheduled to appear telephonically, but requested

permission to not appear.

- b. In the event Defendant fails to appear at the status hearing, Plaintiffs' attorney will motion that their agreement will be vacated and Defendant required to pay the \$500.00 fine plus \$50.00 for court costs. Payment must be paid to the Oneida Judiciary within 90 days.
8. At a July 9, 2024 status hearing,
- a. Defendant did not appear.
  - b. The Court did not receive notice from Defendant prior to the hearing that she was unable to appear; the Court granted Plaintiffs' attorney's motion seeking permission to not appear.
  - c. The Court found Defendant in default for failing to appear.
  - d. The Court granted Plaintiff's motion for a default judgment.

## PRINCIPLES OF LAW

### **Oneida Code of Laws Title 3. Health and Public Safety - Chapter 309 Public Peace**

**309.5-7. *Fraud.*** A person commits the civil infraction of fraud if, to obtain property, money, gain, advantage, interest, asset, or services for himself or herself or another he or she:

- (a) makes a materially false or misleading statement which he or she knows to be untrue or makes a remark with reckless disregard to the accuracy of the statement;
- (b) withholds information by misrepresentation or deceit; or
- (c) with intent to defraud or harm another, he or she destroys, removes, conceals, alters, substitutes or otherwise impairs the verity, legibility, or availability of a writing.

**309.8-3. *Abuse of Individuals at Risk.*** A person commits the civil infraction of abuse of individuals at risk if he or she subjects an adult at risk or elder at risk to any of the following:

- (a) physical abuse;
- (b) emotional abuse;
- (c) sexual abuse;
- (d) unreasonable confinement or restraint;
- (e) financial exploitation; or
- (f) deprivation of a basic need for food, shelter, clothing, or personal or health care, including deprivation resulting from the failure to provide or arrange for a basic need by

a person who has assumed responsibility for meeting the need voluntarily or by contract, agreement, or court order.

**309.11-2. Penalties.** Upon a finding by the Trial Court that a violation of this law has occurred, the individual may be subject to the following penalties:

(a) *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law. The Oneida Business Committee shall adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this law.

(1) All fines shall be paid to the Judiciary.

(2) Fines shall be paid within ninety (90) days after the order is issued or upheld on final appeal, whichever is later.

(A) The ninety (90) day deadline for payment of fines may be extended if an alternative payment plan is negotiated by the Oneida Law Office and approved by the Trial Court.

(3) If an individual does not pay his or her fine the Trial Court may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process or any other collection process available to the Trial Court.

(4) Community service may be substituted for part or all of any fine at the minimum wage rate of the Nation for each hour of community service.

(c) *Counseling or other Programs.* An individual may be ordered to participate in counseling or any other program relevant and available to the Nation.

**O.C.L. Title 8. Judiciary – Chapter 801 Judiciary, Rule #1 – Oneida Trial Court Rules**

**1.5 Default Judgment**

1.5-1. If a party fails to appear at any Trial Court matter, the Court shall confirm and be satisfied that proper notice was provided.

1.5-3. If the Trial Court finds that proper notice was provided, the Trial Court may enter judgment against the party that failed to appear. The Trial Court, in its discretion, may require a party to produce sufficient evidence to support a judgment against the other party.

**O.C.L. Title 8. Judiciary – Chapter 803 Oneida Judiciary Rules of Civil Procedure**

**803.29-6. *Setting Aside a Default or a Default Judgment.*** The Court may set aside an entry of default for good cause, and it may set aside a default judgment under Rule 803.33-2 within one (1) year of entry of default or default judgment.

**Title 8. Judicial System – Chapter 801, Judiciary Rule #1 – Oneida Trial Court Rules**

**1.9 Ex Parte Communication**

1.9-1. Ex parte communication is communication, either verbally or in writing, between a judge and a party about a pending case, without the other party present. Communication includes, but is not limited to, the following: pleadings, letters, email, phone calls, or in-person conversations whether in or out of court.

1.9-2. Ex parte communication is forbidden, subject to the following exceptions:

- (a) When a party fails to appear at a court hearing where both parties have been properly noticed, the Trial Court may speak on the record with the party who appears.
- (b) When a party believes that sharing the communication with the other party would place the party or children in danger of physical harm.

**ANALYSIS**

Defendant did not appear at a status hearing on July 9, 2024. As a condition in a stipulation and agreement that Defendant agreed with and was approved by the Court on June 4, 2024, Defendant agreed to appear at four (4) status hearings to demonstrate her participation in substance use treatment. Plaintiffs' attorney agreed to dismiss a fine and the Court agreed to waive court costs if Defendant enrolled in substance use treatment and remained enrolled for 120 days. Because Defendant failed to appear at a status hearing on July 9, 2024 and did not provide the Court with notice prior to the hearing that she was unable to appear, the Court found Defendant in default and issued a default judgment in favor of Plaintiffs and against Defendant.

Finally, the Court discloses to the parties that the Judge in this case inadvertently took a phone call from Defendant's treatment provider prior to the first status hearing. The Judge took the call after presuming the call was regarding a case in the Healing to Wellness Court. Because communication between a judge and a party, without the other party present is forbidden, the Court makes this disclosure to ensure the parties are notified. Even though the provider said Defendant signed a form that authorized the provider to share information with the Court, this

information must be shared during a hearing. Because the information did not impact the outcome of Defendant's case, the Court finds the error harmless.

**ORDER**

A default judgment is entered in favor of Plaintiffs and against Defendant as follows:

1. The written June 4, 2024 Stipulation and Agreement is **VACATED**.
2. Defendant shall pay the \$500.00 fine plus \$50.00 in court costs within ninety (90) days after this order is signed or on or before **October 8, 2024**.
  - a. The total amount due is payable to the Oneida Judiciary. Failure to pay is subject to the Nation's laws and remedies.
  - b. 24-CT-013: O.C.L. 309.5-7, Fraud – 1<sup>st</sup> offense

|                                  |                 |
|----------------------------------|-----------------|
| Fine:                            | \$500.00        |
| Court costs:                     | <u>25.00</u>    |
| <b>Amount owed by Defendant:</b> | <b>\$525.00</b> |
  - c. 24-CT-014: O.C.L. 309.8-3, Abuse of Individuals at Risk – 1<sup>st</sup> offense

|                                  |                 |
|----------------------------------|-----------------|
| Fine:                            | \$ 0            |
| Court costs:                     | <u>\$ 25.00</u> |
| <b>Amount owed by Defendant:</b> | <b>\$25.00</b>  |

**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 July 19, 2024.

  
Patricia Ninham Hoeft, Trial Court Judge