

**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-019**

**DATE: August 1, 2023**

**Stephanie L. Bustamante,  
Defendant.**

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**ORDER**

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

**BACKGROUND**

On July 16, 2024, 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 25, 2024. The Oneida Police Department issued Defendant a citation for the alleged violation of Oneida Code of Laws (O.C.L.) 304.10-1, Dangerous Animals possession, 1<sup>st</sup> offense, and a Dangerous Dog declaration on May 12, 2024. Plaintiff's attorney voluntarily dismisses the citation because Defendant complied with the dangerous dog declaration by euthanizing the dog on June 11, 2024. On July 16, 2024, Plaintiffs' attorney filed a letter with the Court stating that the attorney verified with the Fox Valley Humane Association that the dog was euthanized.

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 15, 2024. 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 15, 2024 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 1, 2023.

  
Patricia Ninham Hoeft, Trial Court Judge