

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Tina M. Webster,
Petitioner;

v.

CASE NO: 24-TC-013
DATE: September 4, 2024

Ronald C. Antholt, Jr.,
Respondent.

DEFAULT JUDGMENT

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

Not appearing: Tina M. Webster, Petitioner; Ronald C. Antholt, Jr. Respondent.

BACKGROUND

On July 25, 2024, Petitioner filed a complaint seeking a temporary restraining order (TRO) and/or preliminary injunction against Respondent. After reviewing the documents provided by Petitioner, the Court was unable to find specific and verified facts to clearly show a temporary restraining order could be granted. As a result, the Court denied Petitioner's request for a TRO and scheduled a pre-trial hearing to determine the issues and, if necessary, set a trial date and discovery schedule. On August 27, 2024, a pre-trial hearing was held and neither party appeared. The Court, on its own motion, found Petitioner in default for failing to appear and enters a default judgment against Petitioner to dismiss this case.

FINDINGS OF FACT

1. The Court has subject matter and personal jurisdiction over this matter.
2. Petitioner received proper notice.
3. On July 30, 2024, Petitioner received the Court's order to deny her claim for a temporary restraining order (TRO) and scheduled a pre-trial hearing on August 27, 2024.

4. Petitioner was required to serve Respondent with a summons, the complaint, and the July 30, 2024 order.
5. On August 27, 2024, both Petitioner and Respondent did not appear.
6. On the Court's own motion, Petitioner was found in default for failing to appear and a default judgment was entered dismissing this case.

PRINCIPLES OF LAW

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.

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

803.29. Default; Default Judgment

803.29-3. *Plaintiff.* When a party who has filed a claim fails to appear, plead, or prosecute said claim as provided in this Law or elsewhere, a dismissal may be granted by the Court, on its own or on a party's motion, dismissing the claim. For purposes of this section, dismissal shall be treated as default.

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.

803.21. Dismissal of Action

803.21-2. *Involuntary Dismissal; Effect.* If the plaintiff fails to prosecute or to comply with this Law or a Court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision 803.21-2 and any dismissal not under this Rule—except one for lack of jurisdiction, improper venue, or failure to join a party—operates as an adjudication on the merits.

ANALYSIS

Petitioner did not appear at the pre-trial hearing. Under the Oneida Judiciary Rules of Procedure, section 803.29-3, when a party who has filed a claim fails to appear, plead, or

prosecute their claim, a dismissal may be granted by the Court on its own motion. Thus, the Court finds Petitioner in default for failing to appear. Therefore, the Court, on its own motion, enters a default judgment against Petitioner and dismisses Petitioner's claim with prejudice.

ORDER

A default judgment is entered against Petitioner as follows:

1. The Court finds Petitioner in default for failure to appear at the pre-trial hearing.
2. The Court dismisses Petitioner's claim with prejudice.

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 September 4, 2024.

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Patricia Ninham Hoeft, Trial Court Judge