

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

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**TRIAL COURT**

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

**v.**

**CASE NO: 25-CT-019**

**DATE: June 26, 2025**

**Marcella M. John,  
Defendant.**

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**DEFAULT JUDGMENT**

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

*Appearing in-person:* Plaintiffs' attorney, Krystal John.

*Not appearing:* Defendant, Marcella M. John.

**BACKGROUND**

On May 29, 2025, Defendant did not appear at a citation pre-hearing to enter a plea to the alleged violation of Oneida Code of Laws (O.C.L.) 309.6-6, Nuisance. Defendant was issued a citation stemming from an incident on February 28, 2025.

**FINDINGS OF FACT**

1. The Court has subject matter and personal jurisdiction over this matter.
2. All entitled to notice received notice.
3. The Oneida Police Department (OPD) personally issued Defendant with a citation for allegedly violating O.C.L. 309.6-6, Nuisance, first offense, \$100.00 fine plus \$25.00 court costs, stemming from an incident on February 28, 2025.
4. On May 6, 2025, the Court mailed the Defendant a notice of the hearing and an Acknowledgment of Rights form via U.S. Postal Service first class mail.
5. On May 29, 2025, Defendant did not appear at the citation pre-hearing. Prior to the May 29,

2025 citation pre-hearing, the Court did not receive any communication from Defendant requesting permission to not appear or to reschedule the hearing to a later date. Also, Defendant did not pay the fine prior to the hearing.

6. At the citation pre-hearing, the Court found Defendant in default for failing to appear; Plaintiffs' Attorney motioned the Court to grant a default judgment.

## **PRINCIPLES OF LAW**

### **Oncida Code of Laws Title 3. Health & Public Safety - Chapter 309 Public Peace**

**309.6-6. Nuisance.** A person commits the civil infraction of nuisance whenever he or she engages in a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (a) substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (b) in any way render the public insecure in life or in the use of property; or
- (c) greatly offend the public morals or decency.

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

#### **803.29. Default; Default Judgment**

**803.29-1. Appearance Required.** Parties to a case are required to appear before the Court at any scheduled hearing or proceeding.

**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.

**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.

**803.33-2. Grounds for Relief from a Final Judgment, Order, or Proceeding.** On motion and just terms, the Court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (a) – (f).

### ANALYSIS

In this case, Defendant failed to appear at a citation pre-hearing on May 29, 2025 to enter a plea to an alleged violation of O.C.L. 309.6-6, Nuisance. Prior to the hearing, Defendant did not pay the fine or obtain permission from the Court to appear at a later date. Parties to a case are required to appear at any scheduled hearing. When a party fails to appear, a default judgment may be granted by the Court. Here, the Court found Defendant in default for failing to appear. Plaintiffs' attorney motioned the Court to grant a default judgment finding Defendant guilty and ordering Defendant to pay the full fine plus court costs. Because the Defendant was properly notified that she was required to appear at the hearing and did nothing prior to the hearing to request permission to appear at a later date, the Court grants the motion. Thus, the Court finds Defendant guilty of violating O.C.L. 309.6-6 Nuisance. Therefore, Defendant is ordered to pay the fine plus court costs.

### ORDER

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

1. The Court finds Defendant **GUILTY**.
2. **Case #25-CT-019: O.C.L. 309.6-6, Nuisance - 1<sup>st</sup> Offense.**

|                                  |                         |
|----------------------------------|-------------------------|
| Fine:                            | \$ 100.00               |
| Court Costs:                     | <u>+ \$ 25.00</u>       |
| <b>Amount owed by Defendant:</b> | <b><u>\$ 125.00</u></b> |
3. Defendant shall pay the \$100.00 fine plus \$25.00 for court costs to the Oneida Judiciary within sixty (60) days after this order is signed or **on or before August 25, 2025**.
4. The total amount due is payable to the Oneida Judiciary. Failure to pay is subject to the Nation's laws and remedies.

### 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 June 26, 2025.

  
Patricia Ninham Hoefft, Trial Court Judge