

bring an action to enforce his or her judgment instead of proceeding under this Rule remains unimpaired.

35. COMITY

Rule 35. COMITY

Comity may be given in the Oneida Nation Court to the judicial proceedings of any court of competent jurisdiction in which final judgments, orders or stays have been obtained, provided, however, that comity shall not be given to final judgments, orders and stays rendered by any court which declines or refuses to similarly recognize the final judgments, orders or stays of the Oneida Nation Court. Comity shall not be extended in any case which involves treaty rights of Nation members, including matters related to taxation and hunting and fishing, nor may comity be extended to any final judgment, order, stay, subpoena or compulsory process the enforcement of which would infringe upon the sovereignty of the Nation.

Upon the granting of comity by the Oneida Nation Court to the final judgment, order or stay of a foreign court, the Nation shall honor and fulfill such final judgment, order or stay. The Nation shall be given notice and an opportunity to be heard on any motion for the extension of comity, and due regard shall be had by the Oneida Nation Court for the sovereign prerogatives of the Nation.

**CHAPTER TWO
SMALL CLAIMS**

36. DEFINITIONS.

Rule 36. DEFINITIONS.

The small claims process may be used for claims for money or the delivery of tangible property where the matter in dispute has a value of three thousand dollars (\$3,000.00) or less, exclusive of interest and costs.

37. JURISDICTION; LIMITATIONS.

Rule 37. JURISDICTION; LIMITATIONS.

Jurisdiction and limitations of actions in the small claims process proceedings shall be the same as in Rule 1 and Rule 32 of Chapter 1 of these Rules.

38. INITIATION OF SMALL CLAIMS PROCESS

Rule 38. INITIATION OF SMALL CLAIMS PROCESS

The small claims process is initiated by the claimant completing a form to be provided by the court clerk and paying the filing fee of five (\$5.00) dollars.

39. HEARING DATE.

Rule 39. HEARING DATE.

When the claim is filed, the court clerk shall write upon the original of the small claims form the date and time of hearing and give the claimant a stamped copy of the form. The hearing shall take place no later than forty-five (45) days from the date the claim is filed. Continuance may be granted for good cause.

40. SERVICE OF PROCESS

Rule 40. SERVICE OF PROCESS

The court clerk shall send a copy of the small claims form to the defendant by certified mail, return receipt requested. This copy shall contain the notice of hearing as entered on the original. In the event that service of process cannot be obtained by mail, personal service may be made by any person over the age of eighteen (18) and not a party to the proceeding.

41. WRITTEN ANSWER NOT REQUIRED; DEFENSE AT HEARING.

Rule 41. WRITTEN ANSWER NOT REQUIRED; DEFENSE AT HEARING.

A written answer by the defendant shall not be required and the defendant may present any defense at the hearing.

42. FILING OF COUNTERCLAIM.

Rule 42. FILING OF COUNTERCLAIM.

The defendant may file a counterclaim by completing a counterclaim form and paying the filing fee which shall be the same as for a small claims complaint. The value of the counterclaim shall not exceed two thousand dollars (\$2,000), exclusive of interest and costs. The counterclaim must be filed at least fifteen (15) days prior to the hearings. The court clerk shall, immediately after filing, send a stamped copy of the counterclaim to the claimant by certified mail, return receipt requested. If the counterclaim is in excess of two thousand (\$2,000) dollars then the procedures set forth in Chapter 1 of these Rules shall be followed.

43. EVIDENCE; TESTIMONY OF WITNESSES.

Rule 43. EVIDENCE; TESTIMONY OF WITNESSES.

All parties may present evidence and the testimony of witnesses.

44. SUBPOENAS; SUBPOENAS DUCES TECUM

Rule 44. SUBPOENAS; SUBPOENAS DUCES TECUM

Subpoenas for witnesses and documents may be issued by the court upon request. The subpoenas may be served by any person eighteen (18) years of age or older who is not a party to the action. The person making service shall complete the return of service and file the subpoena with the court clerk.

45. JUDGMENT.

Rule 45. JUDGMENT.

A judge shall enter judgment for a party after a hearing. Judgment shall be entered against a claimant if he/she who fails to appear for the hearing. Judgment shall be entered against a defendant who does not appear if the claimant proves his/her case. A judgment may be executed in any manner provided by Chapter 1 of these Rules.

46. REPEALED

Rule 46. REPEALED

47. DISCOVERY.

Rule 47. DISCOVERY.

Discovery shall not be allowed.

CHAPTER THREE

APPEALS

48. APPEALS FROM THE TRIAL COURT

Rule 48. APPEALS FROM THE TRIAL COURT

- a. Appeals. Appeals shall be heard by the Oneida Indian Nation Appellate Court.
- b. Right to Appeal. Any party who is aggrieved by a decision or order of the Oneida Nation Trial Court may appeal in the manner prescribed by this Rule.
- c. Time; Notice of Appeal. Except as otherwise provided, within thirty (30) days from receipt of the decision or order the party wishing to appeal must file with the Appellate Court a written notice of appeal specifying the parties to the appeal, a short statement of the reason or grounds for the appeal and a filing fee of \$50.00. The clerk shall file the notice and mail copies, to be provided by the appealing party, to all other parties to the appeal at their last known address.
- d. Parties. The party taking the appeal shall be referred to as the appellant; the other party shall be referred to as the respondent. The name of the case shall be the same as that used by the Trial Court.
- e. Briefs and Memoranda. Within thirty (30) days of the filing of the Notice of Appeal or within such longer time as the Appellate Court shall allow, the appellant shall file a written brief, memorandum or statement in support of his appeal. An original shall be filed with the clerk and one additional copy shall be served upon or mailed to each other party or his attorney. The respondent shall have twenty (20) days after receipt of the appellant's brief, memorandum or statement within which to file a reply brief, memorandum or statement and shall file and serve such in the same manner as the appellant's brief, memorandum or statement. No other response shall be allowed either party without leave of