

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Small Claims  
Property Tax

DONALD NELSON and CHERYL NELSON,	)	
	)	
Plaintiffs,	)	No. 020097D
	)	
v.	)	
	)	
POLK COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION AND JUDGMENT OF DISMISSAL</b>

This matter is before the court on its own motion to dismiss this case for want of prosecution.

A case management conference was scheduled to begin at 11:00 a.m. on Wednesday, October 2, 2002, to consider Plaintiffs' appeal. The court sent notice of the scheduled case management conference to Plaintiffs in a notice dated August 22, 2002. Notices were sent to Plaintiffs at both their summer and winter addresses (982 Daniel Street, Independence, Oregon 97351 and 303 Recker Road So. #290, Mesa, Arizona 85260, respectively). The notices were not returned as undeliverable.

A case may be dismissed when the participant seeking relief fails to appear. For purposes of a telephone proceeding, a participant "appears" by being available at the telephone number provided to the court by that participant on the date and at the time prescribed.

This is the second time Plaintiffs have failed to appear. A case management conference was scheduled for Wednesday, August 7, 2002. Plaintiffs were unavailable. On that same day, the court wrote to Plaintiffs, requesting that they must submit a written explanation stating why they failed to appear. The court stated that the written explanation must be submitted by August 22, 2002, or their case would be

dismissed. On August 22, 2002, Mr. Nelson faxed a letter of explanation to the court. In response to Plaintiffs' letter of explanation, the court scheduled another case management conference for Wednesday, October 2, 2002.

Because Plaintiffs failed to appear for the two scheduled proceedings, the court finds the case should be dismissed. Now, therefore,

IT IS HEREBY ADJUDGED AND DECREED that the Complaint is dismissed.

Dated this \_\_\_\_\_ day of October, 2002.

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JILL A. TANNER  
PRESIDING MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE JILL A. TANNER ON OCTOBER 30, 2002. THE COURT FILED THIS DOCUMENT ON OCTOBER 30, 2002.**