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**IN THE
HO-CHUNK NATION TRIAL COURT**

**PETITION FOR ELDER PROTECTION
ORDER**

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_____,
Petitioner,
v.
_____,
Respondent.

Case No.: EP _____
[assigned by the Court]

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I. CAUSE OF ACTION

1. Pursuant to the ELDER PROTECTION ACT, 4 HCC § 1, the petitioner, a/the: *(Check only one)*

- HCN Tribal Elder
 HCN Children and Family Services, on behalf of a HCN Tribal Elder

files this action requesting an *Elder Protection Order* against the
respondent, _____.

2. The Elder allegedly subject to abuse, neglect or exploitation is:

Full name: _____;

Enrollment number: 439A00 _____.

DOB: _____.

--IMPORTANT--

For the protection of the parties, please do not include within this *Petition* the mailing or physical address, telephone number, e-mail address, or other contact information of the affected Elder. Such information must be included within the attached *Confidential Supplement*, which will not be disclosed to the respondent or general public.

3. The following information relates to the **RESPONDENT** alleged to have caused or

1 threatened to cause abuse, neglect or exploitation of the Elder:

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RESPONDENT'S INFORMATION

1. Name: _____

2. Maiden name (if applicable): _____

3. Date of Birth: _____

4. Physical Address (last known): _____

City State Zip Code

5. Mailing Address (last known): _____

City State Zip Code

5. Phone: (_____) _____ (_____) _____
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6. The respondent is a member of the Ho-Chunk Nation: Yes or No.

Respondent's enrollment number (if known) is: 439A00 _____.
(four numbers)

7. Respondent's relationship to Elder: _____.

4. The respondent has subjected or threatened to subject a Ho-Chunk Nation Elder to the following: (check all that apply)

Physical Abuse: Intentional or reckless infliction of bodily harm, or attempting to cause physical harm, bodily injury, or assault on an Elder or the Elder's family or caretaker;

Sexual Abuse: Any non-consensual sexual contact, including unwanted touching, sexual assault, and battery. This also includes unreasonable behavior toward an Elder of a sexual nature that causes physical, emotional, or mental injury to an Elder;

Emotional Abuse: Language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening, or otherwise harassing, and that does or reasonably could intimidate, humiliate, threaten

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frighten, or otherwise harass the individual to whom the conduct or language is directed;

Verbal Abuse: Deliberate oral statements made toward an Elder which are meant to insult, frighten, humiliate, threaten, and/or to demean an Elder;

Exploitation: Taking unjust advantage of an elder, financially or otherwise, for one's own benefit;

Neglect: (1) Failure of a caregiver, as evidence by an act, omission, or course of conduct, to endeavor to secure or maintain adequate care, services, or supervision for an individual including food, clothing, shelter, or physical or mental health care, and creating significant risk or danger to the individual physical or mental health; or (2) The interference with the delivery of necessary services or resources; or (3) The failure to report abuse, neglect, self-neglect or exploitation of an Elder; or (4) The failure to provide services or resources essential to the Elder's practice of his or her customs, traditions, or religion; or (5) The abandonment of an Elder by his or her family, guardian, or caretaker.

5. The Elder is self-neglecting himself or herself and intervention is necessary to protect the Elder. *(check if applicable)*

6. Please describe in your own words the specific facts or circumstances of alleged Elder abuse, neglect or exploitation. *(Include dates of incidents, places where incidents occurred and injuries suffered, if any. List the most recent incident first and specify whether weapons or children were involved. Attach additional sheets if necessary.)*

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II. LIST OF WITNESSES THAT MAY BE CALLED IN THIS CASE:

I may call the following witnesses to testify about the alleged Elder abuse, neglect or exploitation: *(list as many as you would like)*

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

III. JURISDICTION

This Court has original jurisdiction over this case pursuant to the “cases and controversy” clause of the Ho-Chunk Nation Constitution, Art. VII, § 5(a), providing that the Trial Court shall have “original jurisdiction over all cases and controversies,” in law and equity arising under the Constitution, laws, customs, and traditions of the Ho-Chunk Nation. This Court is authorized under the ELDER PROTECTION ACT, 4 HCC § 1, and CLAIMS AGAINST PER CAPITA ORDINANCE, 2 HCC § 8, to protect the Nation’s Elders through injunctive relief and to require the respondent to pay restitution for damages resulting from his or her wrongdoing.

1 **IV. NOTICE & HEARING**

2 A hearing on the Petition shall be conducted with the purpose of protecting the Elder only
3 when necessary and only to the extent shown by the facts and using the least restrictive
4 alternatives. ELDER PROTECTION ACT, 4 HCC § 1.21(a). A hearing on the Petition shall be held
5 within forty-five (45) days of filing of the Petition. If emergency protection is necessary, an
6 *Elder Protective Restraining Order* may be sought.

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8 **IV. REQUEST FOR RELIEF**

9 I request that the Court grant the following relief in the *Elder Protection Order*: (Check all
10 that apply)

- 11 An order removing the individual(s) who abused, neglected, or exploited an Elder
12 from the Elder's home immediately;
- 13 An order having CFS facilitate a move for the Elder from the place where the abuse,
14 neglect, self-neglect, or exploitation has taken or is taking place;
- 15 An order restraining the individual(s) who abused, neglected, or exploited the Elder
16 from having any form of contact with the Elder;
- 17 An order restraining the individual(s) who has abused, neglected, or exploited the
18 Elder from continuing such acts;
- 19 An order requiring an Elder's family or caretaker or any other person with a fiduciary
20 duty to the Elder to account for the Elder's funds and property;
- 21 An order requiring any individual(s) who has abused, neglected, or exploited an Elder
22 to pay restitution to the Elder for damages resulting from that individual(s)'s wrongdoing;
- 23 An order appointing a representative or a guardian ad litem for the Elder;
- 24 An order recommending that a representative payee be named;
- 25 An order ordering compensation to be paid to the Elder. Said debt shall be garnished
26 from the individual(s)'s per capita pursuant to the Nation's Claims Against Per Capita
27 Ordinance, 2 HCC § 8, or through a general garnishment Order.
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1 **RESPECTFULLY SUBMITTED BY PETITIONER,**

2

3 Signature: _____

4 Date: _____, 20 _____

5 Signature of counsel (if any): _____

6 Mailing address of counsel: _____

7 _____

8 E-mail address of counsel: _____

9 Telephone number of counsel: _____

10 Facsimile number of counsel: _____

11 Ho-Chunk Bar number of counsel: _____

12

13 If not a member of the Ho-Chunk bar, a *Motion to Appear Pro Hac Vice* has been
14 attached in accordance with *Ho-Chunk Nation Rules of Civil Procedure*, Rule 16(B),¹ and/or I
15 have applied for membership in the Ho-Chunk Nation bar in accordance with the *Ho-Chunk
16 Nation Rules for Admission to Practice*.

16 **SUBSCRIBED AND SWORN TO** before me this _____ day of _____, 20 _____

17

18 at _____
City State

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20 _____
Notary Public for _____
State

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22 My commission expires: _____

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**PLEASE INCLUDE ELDER'S CONTACT INFORMATION ON
ATTACHED CONFIDENTIAL SUPPLEMENT. FAILURE TO DO SO
WILL RESULT IN THE COURT'S INABLITY TO CONTACT THE
ELDER OR PROVIDE SERVICE OF SUBSEQUENT COURT ORDERS OR
NOTICES OF HEARING.**

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28 ¹ Parties can obtain a copy of the *Ho-Chunk Nation Rules of Civil Procedure* by contacting the Ho-Chunk Nation
Judiciary at (715) 284-2722 or (800) 434-4070 or visiting the judicial website at [http://www.ho-
chunknation.com/media/35078/rules_of_civil_procedure.pdf](http://www.ho-chunknation.com/media/35078/rules_of_civil_procedure.pdf).

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Petition for Elder Protection Order

Confidential Supplement

The following information relates to the **ELDER** alleged to have been subjected to abuse, neglect, or exploitation:

ELDER'S INFORMATION

1. Name: _____
2. Maiden name (if applicable): _____
3. Physical Address (last known): _____

City State Zip Code
4. Mailing Address (last known): _____

City State Zip Code
5. Phone: (_____) _____ (_____) _____
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