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

**PETITION FOR ELDER PROTECTIVE
RESTRAINING 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)*

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

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

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

Full name: _____;

DOB: _____.

Enrollment number: 439A00 ____ _.

--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.

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3. The following information relates to the **RESPONDENT** alleged to have caused or threatened to cause abuse, neglect or exploitation of the Elder:

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: (_____) _____ (_____) _____
Home Work

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;

1 **Emotional Abuse:** Language or behavior that serves no legitimate purpose and is
2 intended to be intimidating, humiliating, threatening, frightening, or otherwise
3 harassing, and that does or reasonably could intimidate, humiliate, threaten
4 frighten, or otherwise harass the individual to whom the conduct or language is
5 directed;

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

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

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

19 **Interference with CFS Investigation/Services**

20 **Unreasonable Confinement**

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22 5. Please list all prior civil or criminal temporary restraining orders, injunctions, or no
23 contact orders in other jurisdictions involving the Elder and respondent, beginning with the most
24 recent:

25 (1) Court: _____ Case No.: _____ Date: ___/___/___

26 (2) Court: _____ Case No.: _____ Date: ___/___/___

27 (3) Court: _____ Case No.: _____ Date: ___/___/___

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Petitioner’s Signature: _____

Date: _____/_____/_____

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.

IV. NOTICE & HEARING

I understand that the Court may issue a written or oral *Ex Parte*¹ *Temporary Elder Protective Restraining Order* without notice to the respondent if the Court finds reasonable cause to believe, based upon credible evidence contained within the Petition, that (1) an Elder is in immediate danger, or that the respondent has or is likely to interfere with an Elder protection investigation or delivery of CFS services, and (2) prior notice is likely to increase danger to the Elder and/or other family or household members or will impede upon an Elder protection investigation or delivery of CFS services.

IV. REQUEST FOR RELIEF

The Court is permitted to grant the following limited forms of emergency relief without notice to the respondent and prior to convening a hearing.

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1. I request that the Court grant the following relief in the *Elder Protective Restraining Order*: (Check all that apply)

a. An order enjoining (stopping) the respondent from threatening to commit or committing further acts of abuse, neglect, or exploitation of the Elder as follows: _____

_____.

b. An order prohibiting the respondent from contacting, harassing, telephoning, or otherwise communicating with the Elder, either directly or indirectly.

c. An order requiring the respondent to stay away from the Elder’s residence or any other location temporarily occupied by the Elder.

d. An order prohibiting the respondent from interfering with the investigation of abuse, neglect, or exploitation of an Elder, the provision of services to the Elder, or otherwise harassing or intimidating CFS workers or other individuals employed to carry out its goals.

e. Any other relief the Court deems necessary to protect and provide for the Elder’s safety and the safety of the following family and household members:

_____.

¹ “*Ex Parte*” means “from the part” in Latin, and for purposes of legal usage denotes the absence of “notice to or argument from the adverse party.” BLACK’S LAW DICTIONARY, 597 (7th Ed. 1999).

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If the Court determines to grant the requested form(s) of emergency relief listed above, or if the petitioner requests any additional forms of relief below, the Court shall convene a hearing within fifteen (15) days to allow the parties an opportunity to present evidence of the alleged Elder abuse, neglect or exploitation. If the petitioner meets his/her burden of proof at the hearing, the Court shall issue a non-temporary *Elder Protective Restraining Order* for a period not to exceed five (5) years without further extension.

2. I further request that the Court grant the following relief within an *Elder Protective Restraining Order* after affording the respondent with notice and hearing (the Court **cannot** grant the below forms of relief within a *Temporary Elder Protective Restraining Order*):
(Check all that apply)

a. An order prohibiting the respondent from harassing or intimidating CFS workers or other individuals employed to carry out the goals of this subsection.

b. An order prohibiting the respondent from intentionally preventing a CFS Elder Protection Worker from meeting, communicating, or being in visual or audio contact with the Elder.

c. Any other relief the Court deems necessary and consistent with the purposes of the ELDER PROTECTION ACT or any Traditional Cultural Disposition that may be consistent with and will reinforce the customs and traditions of the community:

_____.

1 **RESPECTFULLY SUBMITTED BY PETITIONER,**

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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: _____

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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),² and/or I
15 have applied for membership in the Ho-Chunk Nation bar in accordance with the *Ho-Chunk
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

21 My commission expires: _____

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23 **PLEASE INCLUDE PETITIONER/ELDER'S CONTACT INFORMATION**
24 **ON ATTACHED CONFIDENTIAL SUPPLEMENT. FAILURE TO DO SO**
25 **WILL RESULT IN THE COURT'S INABILITY TO CONTACT THE**
26 **PETITIONER/ELDER OR PROVIDE SERVICE OF SUBSEQUENT**
27 **COURT ORDERS OR NOTICES OF HEARING.**

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28 ² 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.

1 *Petition for Elder Protective Restraining Order*
2 **Confidential Supplement**
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4 The following information relates to the **ELDER** alleged to have been subjected to abuse,
5 neglect, or exploitation:

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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: (_____) _____ (_____) _____
Home Work

16 If the *Petition for Elder Protective Restraining Order* is filed by someone other than the
17 affected Elder, please provide the following information for the **PETITIONER**:

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PETITIONER'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: (_____) _____ (_____) _____
Home Work