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

**Mr. Chloris Lowe Jr.,
Enrollment #439A001593;
Mr. Stewart J. Miller
Enrollment #439A002566,**

Plaintiffs,

v.

**Ho-Chunk Nation Legislature Members
Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson,
Isaac Greyhair, Dallas White Wing, Kevin Greengrass,
and Clarence Pettibone in their official capacity and
individually; and Ho-Chunk Nation Election Board,**

Case No.: **CV 00-104**

Defendants.

**ORDER
(Granting Plaintiffs’ Motion for Summary Judgment)**

INTRODUCTION

The Court must determine whether the named representatives of the Ho-Chunk Nation Legislature [hereinafter Legislature] acted outside the scope of their authority, thereby effecting a violation of the Legislature’s constitutional mandate to redistrict and reapportion in accordance with the CONSTITUTION OF THE HO-CHUNK NATION [hereinafter CONSTITUTION], ART. V, Sec. 4. The Legislature has neither redistricted nor reapportioned through the implementation of the “No Action or No Change” scenario by the eligible voters at the October 14, 2000 Special Redistricting Election. Consequently, the

1 Legislature has not fulfilled its associated obligation to pursue one-person/one-vote representation under
2 the CONSTITUTION, ART. V, Sec. 4. Inclusion of the “No Action or No Change” scenario on the Special
3 Redistricting Election ballot was *per se* unconstitutional. Therefore, the Court directs the Legislature to
4 devise a final redistricting and reapportionment proposal for judicial review on or before Friday
5 December 1, 2000 in accordance with the principles set forth below.
6

7 8 **PROCEDURAL HISTORY**

9
10 The Court recounts the procedural history in significant detail in its *Order (Recognizing Right to*
11 *Challenge)*, CV 00-104 (HCN Tr. Ct., Nov. 8, 2000) and *Order (Partial Dismissal of Claims)*, CV 00-
12 104 (HCN Tr. Ct., Nov. 3, 2000). For purposes of this decision, the Court notes that the plaintiffs filed
13 their *Notice of Witnesses* on November 7, 2000. Likewise, the defendants filed a *Final Witness List* and
14 *Defendants’ Additional Disclosures* later that day.¹

15
16 The Court provided verbal notice of the *Hearing on Summary Judgment* at the November 6,
17 2000 *Hearing on Defenses*. The Assistant Clerk of Court, Selina D. Joshua, faxed and mailed written
18 *Notice(s) of Hearing* to the parties later that day, informing them of the date, time and location of the
19 *Hearing on Summary Judgment*.² Prior to convening the *Hearing*, the plaintiffs filed a *Cross Motion for*
20 *Summary Judgment* on November 8, 2000. The *Plaintiff(s) Memorandum in Support of Cross Motion*
21 *for Summary Judgment* followed on November 9, 2000. The defendants filed the *Defendants’ Notice*
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24 _____
25 ¹ At the November 6, 2000 *Hearing on Defenses*, the Court required the parties to file final witness lists on November 7,
2000, encouraging the litigants to limit the number of witnesses due to the mutually recognized absence of a factual dispute.

26 ² At the November 6, 2000 *Hearing on Defenses*, the parties agreed that the instant matter should proceed to summary
27 judgment.

1 *and Motion for Summary Judgment and Brief in Support of Notice and Motion for Summary Judgment*
2 [hereinafter *Defendants' Brief*] on November 8, 2000.³ The defendants also filed a *Supplemented Final*
3 *Witness List and Motion to Compel Discovery, for Sanctions and Costs, and/or to Preclude Testimony*
4 on November 9, 2000. The following parties appeared at the November 9, 2000 *Hearing on Summary*
5 *Judgment*: Stewart J. Miller, Attorney Gary J. Montana, plaintiffs' counsel, and Attorney John S.
6 Swimmer, defendants' counsel.
7

8 9 **APPLICABLE LAW**

10 11 **CONSTITUTION OF THE HO-CHUNK NATION**

12 **Preamble**

13
14 We the People, pursuant to our inherent sovereignty, in order to form a more perfect government,
15 secure our rights, advance the general welfare, safeguard our interests, sustain our culture, promote our
16 traditions and perpetuate our existence, and secure the natural and self-evident right to govern ourselves,
do ordain and establish this Constitution for the Ho-Chunk Nation.

17 **Article III – Organization of the Government**

18 Section 2. Branches of Government. The government of the Ho-Chunk Nation shall be composed
19 of four (4) branches: General Council, Legislature, Executive, and Judiciary.

20 Section 3. Separation of Functions. No branch of the government shall exercise the powers or
21 functions delegated to another branch.

22 **Article IV – General Council**

23 Section 1. Powers of the General Council. The People of the Ho-Chunk Nation hereby grant all
24 inherent sovereign powers to the General Council. All eligible voters of the Ho-Chunk Nation are
entitled to participate in General Council.

25 _____
26 ³ At the November 6, 2000 *Hearing on Defenses*, the Court permitted the parties to file memoranda in support of summary
judgment on or before November 9, 2000.

1 Section 2. Delegation of Authority. The General Council hereby authorizes the legislative branch to
2 make laws and appropriate funds in accordance with Article V. The General Council hereby authorizes
3 the executive branch to enforce the laws and administer funds in accordance with Article VI. The
4 General Council hereby authorizes the judicial branch to interpret and apply the laws and Constitution
of the Nation in accordance with Article VII.

5 Article V – Legislature

6 Section 1. Composition of the Legislature.

7 (b) The Legislature shall be composed of Representatives from the following Districts, subject to
8 Section 4 of this Article: the Black River Falls District, consisting of Clark, Eau Claire and Jackson
9 counties, which shall elect three (3) members; the Wisconsin Dells District, consisting of Wood, Juneau,
10 Adams, Columbia, and Sauk counties, which shall select three (3) members; and the La Crosse-Tomah
11 District, consisting of La Crosse, Monroe, Vernon, and Crawford counties, which shall elect one (1)
12 member; and the Wittenberg District, consisting of Marathon and Shawano counties, which shall elect
one (1) member; and three (3) members which shall be elected at-large from outside the Districts listed
above.

13 Section 4. Redistricting or Reapportionment. The Legislature shall have the power to redistrict or
14 reapportion including changing, establishing, or discontinuing Districts. The Legislature shall maintain
15 an accurate census for the purposes of redistricting or reapportionment. The Legislature shall redistrict
16 and reapportion at least once every five (5) years beginning in 1995, in pursuit of one-person/one-vote
17 representation. The Legislature shall exercise this power only by submitting a final proposal to the vote
of the people by Special Election which shall be binding and which shall not be reversible by the
General Council. Any redistricting or reapportionment shall be completed at least six (6) months prior
to the next election, and notice shall be provided to the voters.

18 Section 6. Terms of Office. Members of the Legislature shall serve four (4) year terms which shall
19 be staggered. Legislators shall represent their respective Districts until their successors have been sworn
20 into office except if the Legislator has been successfully removed or recalled in accordance with this
21 Constitution. Members of the Legislature shall be elected by a majority of the eligible voters from their
22 respective Districts.

23 Article VI – Judiciary

24 Section 4. Powers of the Judiciary. The judicial power of the Ho-Chunk Nation shall be vested in
the Judiciary. The Judiciary shall have the power to interpret and apply the Constitution and laws of the
Ho-Chunk Nation.

25 Section 5. Jurisdiction of the Judiciary.

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1 (a) The Trial Court shall have original jurisdiction over all cases and controversies, both criminal
2 and civil, in law or in equity, arising under the Constitution, laws, customs and traditions of the Ho-
3 Chunk Nation, including cases in which the Ho-Chunk Nation, or its officials and employees, shall be a
4 party. Any such case or controversy arising within the jurisdiction of the Ho-Chunk Nation shall be
filed in Trial Court before it is filed in any other court. This grant of jurisdiction by the General Council
shall not be construed to be a waiver of the Nation's sovereign immunity.

5 Section 6. Powers of the Tribal Court.

6 (a) The Trial Court shall have the power to make findings of fact and conclusions of law. The Trial
7 Court shall have the power to issue all remedies in law and in equity including injunctive and
8 declaratory relief and all writs including attachment and mandamus.

9 (b) The Trial Court shall have the power to declare the laws of the Ho-Chunk Nation void if such
laws are not in agreement with this Constitution.

10 Article VIII – Elections

11 Section 1. General Elections. General Elections shall be held on the first Tuesday in June of odd
12 numbered years. Offices of the Legislature, Executive, and Judiciary shall be filled at General
13 Elections.

14 Section 5. Eligible Voters. Any member of the Ho-Chunk Nation who is at least eighteen (18) years
15 old and who meets all other requirements established by the Ho-Chunk Nation shall be eligible to vote.

16 Section 7. Challenges of Election Results. Any member of the Ho-Chunk Nation may challenge the
17 results of any election by filing suit in Tribal Court within ten (10) days after the Election Board
certifies the election results. The Tribal Court shall hear and decide a challenge to any election within
18 twenty (20) days after the challenge is filed in Tribal Court.

19 AMENDED AND RESTATED HO-CHUNK NATION ELECTION ORDINANCE

20 Article VI – Notice of Election

21 Section 6.01. Notice of Election.

22 (a) The Election Board shall post an Official Notice of Election in the ten (10) polling
23 places and any other appropriate locations at least ninety (90) days before the election,
24 except that a Notice of Special Election shall be published as early as practical before a
Special Election but not less than 15 days before such Special Election.

25 HO-CHUNK NATION RULES OF CIVIL PROCEDURE

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1 Rule 53. Relief Available.

2 Except in a *Default Judgement*, the Court is not limited to the relief requested in the pleading and may
3 give any relief the evidence makes appropriate. The Court may only order such relief to the extent
4 allowed by Ho-Chunk Nation enactments. The Court may order any party to pay costs, including filing
5 fees, costs of service and discovery, jury and witness costs. Findings of fact and conclusions of law
6 shall be made by the Court in support of all final judgements.

7 Rule 57. Entry and Filing of Judgements.

8 All judgements must be signed by the presiding trial court judge. All signed judgements shall be
9 deemed complete and entered for all purposes after the signed judgement is filed with the Clerk. A copy
10 of the entered judgement shall be mailed to each party within two (2) calendar days of filing. The time
11 for taking an appeal shall begin running from the date the judgement is filed with the Clerk. Interest on
12 a money judgement shall accrue from the date the judgement is filed with the Clerk at a rate set by the
13 Legislature or at five (5) per cent per year if no rate is set.

14 Rule 61. Appeals.

15 Any *final Judgement* or *Order* of the Trial Court may be appealed to the Ho-Chunk Nation Supreme
16 Court.
17 The *Appeal* must comply with the Ho-Chunk Nation *Rules of Appellate Procedure*, specifically *Rules of*
18 *Appellate Procedure*, Rule 7, Right of Appeal. All subsequent actions of a *final Judgement* or Trial
19 Court *Order* must follow the HCN *Rules of Appellate Procedure*.

20 INTERIM RULES OF CIVIL PROCEDURE FOR USE IN ELECTION CHALLENGES

21 Rule 8. The final judgment of the Trial Court is appealable to the Ho-Chunk Supreme Court. The
22 notice of appeal shall be filed and served within five (5) days of entry of the judgement.

23 Rule 9. The appellants (*sic*) brief shall be filed and served within ten days of the date of the notice of
24 appeal. Any responding brief shall be filed within ten days of service of appellants (*sic*) brief. Further
25 briefs may be permitted in the discretion of the Chief Justice of the Supreme Court. The appellant at
26 their own cost must obtain a copy or (*sic*) the transcript and provide a copy to the respondent.

27

FINDINGS OF FACT

1 1. The Court incorporates by reference the *Findings of Fact* enumerated in the November 8, 2000
2 *Order (Recognizing Right to Challenge)*, p. 6 and the November 3, 2000 *Order (Partial Dismissal of*
3 *Claims)*, pp. 7-9.

4 2. The parties received proper notice of the November 9, 2000 *Hearing on Summary Judgment*.

5 3. At the November 1, 2000 *Pre-Trial Hearing*, the Court inquired whether the parties needed any
6 clarification of the October 30, 2000 *Order (Discovery Period)*. The parties responded in the negative.
7

8 4. At the November 6, 2000 *Hearing on Defenses*, the defendants did not alert the Court to any
9 discovery-related difficulties.

10 5. The defendants offered no constitutional history for purposes of interpreting the CONSTITUTION,
11 ART. V, Sec. 4. Ada E. Deer, Assistant Secretary – Indian Affairs, approved the CONSTITUTION on
12 November 1, 1994.
13

14 6. The defendants filed Reapportionment Committee minutes dated November 11, 1994 as an
15 attachment to the November 8, 2000 *Defendants' Brief*. The defendants did not enter such minutes into
16 evidence at the *Hearing on Summary Judgment*.

17 7. At the November 9, 2000 *Hearing on Summary Judgment*, the parties stipulated to the factual
18 accuracy of the demographic information contained in the defendants' November 3, 2000 *Required*
19 *Disclosures – Statistics for Proposed Re-Districting* and November 7, 2000 *Additional Disclosures*.

20 8. For purposes of discussing redistricting and reapportionment scenarios, the Legislature utilized
21 May 19, 2000 demographic figures as prepared by the Ho-Chunk Nation Office of Tribal Enrollment.
22 The Ho-Chunk Nation has a total population of 6,072 enrolled members. These members reside in five
23 (5) districts in the following proportions, and are represented by legislators in accordance with the
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25 CONSTITUTION, ART. V, Sec. 1 (b).
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- District 1: 1,176 enrolled members (19.37% of the total population)
3 Legislators
Ratio: 1 Legislator for 392 enrolled members

- District 2: 538 enrolled members (8.86% of the total population)
1 Legislator
Ratio: 1 Legislator for 538 enrolled members

- District 3: 202 enrolled members (3.33% of the total population)
1 Legislator
Ratio: 1 Legislator for 202 enrolled members

- District 4: 1,147 enrolled members (18.89% of the total population)
3 Legislators
Ratio: 1 Legislator for 382 enrolled members

- District 5: 3,004 enrolled members (49.47% of the total population)
3 Legislators
Ratio: 1 Legislator for 1,001 enrolled members

9. The Legislature did not redistrict or reapportion by means of the October 14, 2000 Special Redistricting Election.

10. The Ho-Chunk Nation Election Board [hereinafter Election Board] posted the Official Notice of the April 3, 1999 General Primary Election on January 25, 2000. The Election Board posted the Official Notice of the June 1, 1999 General Run-off Election on April 5, 1999.

DECISION

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The Court confronts only one (1) fundamental issue in the instant case: whether the Legislature complied with its constitutional mandate to redistrict and reapportion. The clear, uncontroverted answer to this question is no. The named legislative representatives voted in favor of placing a *per se* unconstitutional scenario on the October 14, 2000 Special Redistricting Election ballot since a “No Action or No Change” scenario cannot by definition effectuate redistricting or reapportionment. Consequently, the defendants cannot contend that they pursued one-person/one-vote representation by enabling retention of the *status quo*. One cannot pursue an objective through inaction. The defendants repeatedly argue that “[t]he Legislature undertook an extensive process in its efforts to discharge its task to reapportion ‘in pursuit of’ one person / one vote,” *Defendants’ Brief*, p. 3, but the pursuit of this principle cannot be discharged solely through the deliberative process. The defendants’ proposed construction of the CONSTITUTION, ART. V, Sec. 4 renders the constitutional obligation a nullity.

The CONSTITUTION states that “[t]he Legislature shall redistrict and reapportion at least once every five (5) years beginning in 1995, in pursuit of one-person/one-vote representation.” CONSTITUTION, ART. V, Sec. 4. The legislative requirement to redistrict and reapportion is absolute and unambiguous. The defendants have not offered constitutional history for interpretive assistance, but courts need not consult such history when facing unequivocal language. The defendants suggest no alternative meanings to the phrase, “shall redistrict and reapportion.” *Id.*

The defendants rather contend that since the CONSTITUTION requires electoral approval of a redistricting/reapportionment scenario that this somehow absolves the Legislature from their underlying obligation. *See Id.* and *Defendants’ Brief*, p. 5. The defendants do not attempt to expand upon this assertion for obvious reasons. As stated above, the CONSTITUTION does not permit the Legislature to

1 enable retention of the existing condition.

2 The defendants also continue to argue the existence of a nonjusticiable political question and the
3 impropriety of entertaining a challenge to a constitutional function specifically committed to the
4 Legislature. See CONSTITUTION, ART. III, Sec. 3; ART. IV, Sec. 2; and ART. VI, Sec. 5 (a). It is
5 important to note, the Court reluctantly enters this matter, but must not ignore its constitutional
6 obligation to interpret the CONSTITUTION and serve as an integral part in the system of checks and
7 balances established by the people through adoption of the CONSTITUTION. See *Id.*, ART. IV, Sec. 1 and
8 2 and ART. VI, Sec. 4. Furthermore, the Court has previously recognized the right of the plaintiffs to
9 challenge the results of the October 14, 2000 Special Redistricting Election. See *Order (Recognizing*
10 *Right to Challenge*), pp. 7-10. Not only does the CONSTITUTION permit such a challenge, it directs the
11 Court to “hear and decide [the] challenge.” *Id.*, ART. VIII, Sec. 7. The Court deems that this provision
12 requires the Court to reach the merits of a complaint, and not merely allow a filing. However, the Court
13 shall address the defenses raised by the defendants for sake of thoroughness.

16 The defendants dispute the Court’s use of *Baker v. Carr*, 369 U.S. 186 (1962) and its progeny as
17 persuasive authority. Yet, one of the defendants’ own exhibits noted that “during the early 1960’s the
18 United States Supreme Court established the principle that congressional and legislative districts are to
19 be established using the principle of ‘one person, one vote’ and that the new Tribal Constitution
20 supports this principle.” *Defendants’ Exhibit D*, p. 1. Prior to receipt of this information, the Court
21 recognized the obvious origin of the one-person/one-vote principle and its relation to the Ho-Chunk
22 form of representative democracy. See *Order (Partial Dismissal of Claims)*, pp. 9-11.

24 The defendants particularly emphasize the separation of powers doctrine, and the presumed fact
25 that “Article III, Section 3 of the Ho-Chunk Nation Constitution bars the Court from entertaining the
26

1 plaintiffs' claims." *Defendants' Brief*, p. 3. The constitutional provision actually cautions that "[n]o
2 branch of the government shall exercise the powers or functions delegated to another branch."
3 CONSTITUTION, ART. III, Sec. 3. The Court, however, is not usurping any constitutionally delegated
4 power of the Legislature by interpreting the CONSTITUTION.

5 In recognition of the Court's power, the defendants' make the following concession:

6
7 Unless the Court finds that the apportionment system proposed by the
8 Legislature and chosen by the people in the October 14, 2000 [Special
9 Redistricting Election] is clearly and indisputably in violation of the Nation's
10 Constitution, as interpreted consistent with Ho-Chunk political practice,
history and tradition, the Court must refrain from any further consideration of
this case.

11 *Defendants' Brief*, p. 3. As noted above, the Court finds the "No Action or No Change" scenario
12 "clearly and indisputably in violation of the Nation's Constitution." *Id.* The Court, however, deems
13 reference to the "political practice, history and tradition" of the Ho-Chunk Nation unnecessary due to
14 the preceding discussion regarding constitutional interpretation. *Id.* Also, the defendants presented no
15 specific evidence pertaining to the "political practice, history and tradition" of the Ho-Chunk Nation.
16
17 *Id.*

18 The Court must now set forth the basic guidelines which the Legislature shall utilize in devising
19 a final redistricting and reapportionment proposal for judicial review on or before Friday December 1,
20 2000. The Court recognizes the short timeframe involved, but deems compliance therewith as
21 absolutely essential and reasonable for several reasons. First, but for the unconstitutional action of the
22 named legislative representatives, these corrective measures would not be necessary. Second, the
23 parties have stipulated to the factual accuracy of the demographic information. Third, the defendants
24 have already completed "a six-month process involving extensive Area Meeting discussion and
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1 Legislative deliberation and debate.” *Defendants’ Brief*, p. 4. Fourth, the Court realizes the
2 impossibility of holding and certifying the results of a second Special Redistricting Election “at least six
3 (6) months prior to the next election,” CONSTITUTION, ART. V, Sec. 4, but deems that so long as the
4 process does not unduly interrupt the preparation for the General Election, the six (6) month provision
5 must give way to allow a remedy for the unconstitutional action. Essentially, the Court has balanced the
6 interests of fostering settled voter expectations within a sufficient timeframe prior to the General
7 Election versus the future detrimental effect of utilizing an unconstitutional scheme to select
8 representatives in the General Election.
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10 The CONSTITUTION permits the Legislature to change, establish or discontinue electoral districts.
11 *Id.* Therefore, the Legislature may decrease the number of current districts or increase the number of
12 districts up to eleven (11), equaling the number of legislative seats. *See Id.*, ART. V, Sec. 1 (b).
13 Consistent with basic principles of representative democracy, tribal members comprising a
14 geographically definable district must be capable of selecting a legislator residing amongst that portion
15 of the electorate. *See Id.*, ART. V, Sec. 6; *See also Order (Partial Dismissal of Claims)*, pp. 9-11.
16 “[R]epresentative government is in essence self-government through the medium of elected
17 representatives of the people, and each and every [member] has an inalienable right to full and effective
18 participation in the political process. Most [members] can achieve this participation only as qualified
19 voters through the election of legislators to represent them.” *Reynolds v. Sims*, 377 U.S. 533, 565
20 (1964); *See also* CONSTITUTION, ART. VIII, Sec. 5.
21

22 The Legislature must propose redistricting and apportionment scenarios which approach the one-
23 person/one-vote objective as nearly as practicable. *See Reynolds*, 377 U.S. at 577; *See also*
24 CONSTITUTION, ART. V, Sec. 4. Minor deviations may occur due to permissible reliance on pre-existing
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1 state subdivision boundaries, and the importance of maintaining contiguity.⁴ See CONSTITUTION, ART.
2 V, Sec. 1 (b). The Legislature must justify the existence of larger divergences “based on legitimate
3 considerations incident to the effectuation of . . . rational . . . polic[ies].” *Reynolds*, 377 U.S. at 579.

4 Rational policy pronouncements exist within the CONSTITUTION. For example, the *Preamble* of
5 the CONSTITUTION exalts the importance of sustaining culture, promoting traditions and other notable
6 goals held in common by the members of the Ho-Chunk Nation. Deviations premised on the
7 furtherance of such policies must find factual, rather than generalized, support through legitimate
8 considerations which the Legislature shall plainly set forth.

9
10 The Legislature shall submit a minimum of three (3) legislatively approved
11 redistricting/reapportionment scenarios to the Court for judicial review. The Court shall determine the
12 constitutionality of the scenarios in accordance with a reasonable application of the above principles,
13 and sanction two (2) scenarios for legislative inclusion on the second Special Redistricting Election
14 ballot. Therefore, the Legislature shall clearly note the desired order of preference. Finally, the Court
15 sincerely hopes that the review resembles a solely administrative function, and that a more proactive
16 approach is entirely unnecessary.
17

18 **BASED UPON THE FOREGOING**, the Court hereby declares the implementation of the “No
19 Action or No Change” scenario by the eligible voters in the October 14, 2000 Special Redistricting
20 Election as *per se* unconstitutional, and requires the Legislature to submit a final redistricting and
21 reapportionment proposal to the Court for judicial review on or before Friday December 1, 2000.

22 **FURTHERMORE**, the Court, in accordance with its authority under the CONSTITUTION, ART. VI, Sec.
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25 _____
26 ⁴ The Court shall not employ the ten percent (10%) maximum deviation standard for determination of *prima facie*
27 unconstitutionality used by the United States Supreme Court since this guideline derived from the particularized experience of

1 6 and the *Ho-Chunk Nation Rules of Civil Procedure* [hereinafter *HCN R. Civ. P.*], Rule 53, hereby
2 enjoins the Election Board from posting the Official Notice of the General Primary Election pursuant to
3 the AMENDED AND RESTATED HO-CHUNK NATION ELECTION ORDINANCE, ART. VI, Sec 6.01 (a) until
4 otherwise notified by the Court.⁵

5 Any party may appeal a final judgment of the Court to the Supreme Court of the Ho-Chunk
6 Nation. *Interim Rules of Civil Procedure for Use in Election Challenges* [hereinafter *Election R. Civ.*
7 *P.*], Rule 8. A judgment becomes final once signed by the presiding judge and filed with the Clerk of
8 Court. *HCN R. Civ. P.* 57; *See also Id.*, Rule 61. The parties must abide by the procedures set forth in
9 the *Ho-Chunk Nation Rules of Appellate Procedure* to the extent such rules are in accordance with the
10 *Election R. Civ. P.* 8 and 9.
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15 **IT IS SO ORDERED** this 13th day of November, 2000 at the Ho-Chunk Nation Trial Court in
16 Black River Falls, Wisconsin from within the sovereign lands of the Ho-Chunk Nation.
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19 _____
20 Hon. Todd R. Matha
21 HCN Associate Trial Judge
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24 _____
25 that court. *See Brown v. Thompson*, 462 U.S. 835, 842-43 (1983).
26 ⁵The Court did not reach the plaintiffs' territorial diminishment claim for purposes of this *Order*. Also, the Court denied the
27 defendants' November 9, 2000 *Motion to Compel Discovery, for Sanctions and Costs, and/or to Preclude Testimony* at the
Hearing on Summary Judgment due to the defendants' failure to request a timely extension of the discovery period.