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

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**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.

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**ORDER  
(Determining Constitutionality of the Proposed  
Redistricting/Reapportionment Scenarios)**

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**INTRODUCTION**

The Court must determine whether the two (2) Ho-Chunk Nation Redistricting Scenarios [hereinafter Scenario(s)] proposed by the Ho-Chunk Nation Legislature [hereinafter Legislature] on December 14, 2000 satisfy constitutional standards enunciated by the Court in its *Order (Granting Plaintiffs’ Motion for Summary Judgment)*, CV 00-104 (HCN Tr. Ct., Nov. 13, 2000), p. 13. *See* CONSTITUTION OF THE HO-CHUNK NATION [hereinafter CONSTITUTION], ART. V, Sec. 4. The Court deems that Scenario 1E reasonably adheres to the Court’s interpretation of the one-person/one-vote

1 principle incorporated in the CONSTITUTION, ART. V, Sec. 4, accepting the justification for the single  
2 large deviation from the ideal legislative apportionment of 552 constituents per legislative representative  
3 found in District 1. Revised Scenario 1A, however, strains the legitimacy of the proffered  
4 considerations when compared to Scenarios 30 and 1E, and offers no reasonable rationale to justify the  
5 extension of such considerations to more than (1) large deviation from the ideal legislative  
6 apportionment.  
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## 8 9 **PROCEDURAL HISTORY**

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11 The Court recounts the procedural history in significant detail in its *Order (Determining the*  
12 *Constitutionality of the Proposed Redistricting/Reapportionment Scenarios)* [hereinafter *Order*  
13 *(Determining Constitutionality)*], CV 00-104 (HCN Tr. Ct., Dec. 13, 2000); *Order (Granting Plaintiffs'*  
14 *Motion for Summary Judgment)*, CV 00-104 (HCN Tr. Ct., Nov. 13, 2000); *Order (Recognizing Right to*  
15 *Challenge)*, CV 00-104 (HCN Tr. Ct., Nov. 8, 2000); and *Order (Partial Dismissal of Claims)*, CV 00-  
16 104 (HCN Tr. Ct., Nov. 3, 2000). For purposes of this decision, the Court notes that it directed the  
17 Legislature to additionally devise a single redistricting and reapportionment proposal for judicial review  
18 on or before December 15, 2000. *Order (Determining Constitutionality)*, p. 17. Consequently, the  
19 Legislature collaboratively filed the *Defendants' Notice and Submission of Final Redistricting*  
20 *Proposals, Scenarios 1A, 30 and 1E* on December 14, 2000.  
21  
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23  
24 Due to a perceived inattentiveness to constitutional standards, the Court issued the December 15,  
25 2000 *Order (Hearing)*, establishing a hearing date for submission of evidence sufficient to justify the  
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1 larger deviations existing in Revised Scenario 1A and Scenario 1E. *Order (Hearing)*, pp. 1-2. The  
2 following parties appeared at the December 20, 2000 *Hearing*: District 1 Legislator Isaac Greyhair and  
3 Attorney John S. Swimmer, defendants' counsel. The plaintiffs and their counsel failed to appear, and  
4 did not provide the Court with prior notice explaining their non-attendance. The Court, therefore,  
5 continued the *Hearing* as permitted by the *Ho-Chunk Nation Rules of Civil Procedure* [hereinafter *HCN*  
6 *R. Civ. P.*], Rule 44 (C).  
7

## 8 9 **APPLICABLE LAW**

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

#### 12 **Article V – Legislature**

13  
14 Section 4. Redistricting or Reapportionment. The Legislature shall have the power to redistrict or  
15 reapportion including changing, establishing, or discontinuing Districts. The Legislature shall maintain  
16 an accurate census for the purposes of redistricting or reapportionment. The Legislature shall redistrict  
17 and reapportion at least once every five (5) years beginning in 1995, in pursuit of one-person/one-vote  
18 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.

#### 19 **Article VI – Judiciary**

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

#### 23 **Section 6. Powers of the Tribal Court**

24  
25 (a) The Trial Court shall have the power to make findings of fact and conclusions of law. The Trial  
26 Court shall have the power to issue all remedies in law and in equity including injunctive and  
declaratory relief and all writs including attachment and mandamus.  
27

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

3 Article VIII – Elections

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

7 HO-CHUNK NATION RULES OF CIVIL PROCEDURE

8 Rule 44. Presence of Parties and Witnesses.

9  
10 (C) Failure to Appear. If any party fails to appear at a hearing or trial for which they received proper  
11 notice, the case may be postponed or dismissed, a judgement may be entered against the absent party, or  
the Court may proceed to hold the hearing or trial.

12 Rule 57. Entry and Filing of Judgements.

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

17 Rule 61. Appeals.

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

23 INTERIM RULES OF CIVIL PROCEDURE FOR USE IN ELECTION CHALLENGES

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

26 Rule 9. The appellants (*sic*) brief shall be filed and served within ten days of the date of the notice of  
27

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

3 Rule 11. The Supreme Court shall hear and issue a written decision on the appeal within thirty (30)  
4 days of the notice of appeal.

5  
6 **FINDINGS OF FACT**  
7

8  
9 1. The Court incorporates by reference the *Findings of Fact* enumerated in the December 14, 2000  
10 *Order (Determining Constitutionality)*, pp. 6-9; December 6, 2000 *Order (Requiring Further*  
11 *Justification)*, pp. 4-8; November 13, 2000 *Order (Granting Plaintiffs' Motion for Summary Judgment)*,  
12 pp. 7-9; November 8, 2000 *Order (Recognizing Right to Challenge)*, p. 6; and the November 3, 2000  
13 *Order (Partial Dismissal of Claims)*, pp. 7-9.

14 2. The parties received proper notice of the December 20, 2000 *Hearing*.

15  
16 3. The defendants offered no constitutional history for purposes of interpreting the CONSTITUTION,  
17 ART. V, Sec. 4. Ada E. Deer, Assistant Secretary – Indian Affairs, approved the adoption of the  
18 CONSTITUTION on November 1, 1994. The defendants filed Reapportionment Committee minutes dated  
19  
20  
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22  
23 November 11, 1994 as an attachment to the November 8, 2000 *Defendants' Brief in Support of Notice*  
24 *and Motion for Summary Judgment*.<sup>1</sup>

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<sup>1</sup> Defendants' submission indicates that "during the early 1960's the United States Supreme Court established the principle  
27

1 4. Mathematical and/or typographical errors appear on the face of Revised Scenario 1A and  
2 Scenario 1E, and the Court incorporates the appropriate corrections into the below *Findings of Fact*.

3 5. Revised Scenario 1A divides the State of Wisconsin into four (4) Districts with a fifth District  
4 encompassing all areas beyond the geographical boundaries of Wisconsin. The population calculation  
5 for District 3 appears in error, and the Court shall reflect the corrected figure in its synopsis. The five  
6 (5) Districts contain the following proportion of enrolled tribal members to legislative representative(s),  
7 including the rounded percentage deviation from the ideal legislative apportionment of 552 constituents  
8 per legislative representative. See LEGISLATIVE PROPOSAL FOR REDISTRICTING AND REAPPORTIONMENT  
9 SPECIAL ELECTION, RESOLUTION 12/12/00-A [hereinafter LEG. RES. 12/12/00-A], p. 2  
10

11	District 1:	1,247 enrolled members
12		3 Legislators
13		Ratio: 1 Legislator for 416 enrolled members
14		Deviation: -25%
15	District 2:	551 enrolled members
16		1 Legislator
17		Ratio: 1 Legislator for 551 enrolled members
18		Deviation: 0%
19	District 3:	486 enrolled members
20		1 Legislator
21		Ratio: 1 Legislator for 486 enrolled members
22		Deviation: -12%

23  
24 that congressional and legislative districts are to be established using the principle of ‘one person, one vote’ and that the new  
25 Tribal Constitution supports this principle.” *Id.*, Ex. D, p. 1. The defendants did not offer Exhibit D into evidence, and the  
26 Court does not rely upon such document to establish the truth of the matter asserted therein. The Court rather notes the  
27 apparent agreement between this pronouncement in Exhibit D and the Court’s earlier legal analysis. See *Order (Granting  
Plaintiffs’ Motion for Summary Judgment)*, p.p. 7, 10-11; See also *Order (Partial Dismissal of Claims)*, pp. 9-11.

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District 4: 1,932 enrolled members  
3 Legislators  
Ratio: 1 Legislator for 644 enrolled members  
Deviation: +17%

District 5: 1,856 enrolled members  
3 Legislators  
Ratio: 1 Legislator for 619 enrolled members  
Deviation: +12%

6. Under Revised Scenario 1A, District 1 contains the largest percentage deviation from the ideal legislative apportionment. A negative twenty-five percent (-25%) deviation exists in District 1, yielding a maximum forty-two (42%) disparity between Districts 1 and 4. No deviation exists in District 2, yielding a minimum twelve percent (12%) disparity between Districts 2 and 3 or 5.

7. Scenario 1E divides the State of Wisconsin into four (4) Districts with a fifth District encompassing all areas beyond the geographical boundaries of Wisconsin. The population calculation for District 3 appears in error, and the Court shall reflect the corrected figure in its synopsis. Also, a typographical error appears in District 1. The five (5) Districts contain the following proportion of enrolled tribal members to legislative representative(s), including the rounded percentage deviation from the ideal legislative apportionment of 552 constituents per legislative representative.

District 1: 1,247 enrolled members  
3 Legislators  
Ratio: 1 Legislator for 416 enrolled members  
Deviation: -25%

District 2: 551 enrolled members

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1	<i>and Deviation from Ideal</i>	(-29%)	(-10%)	(-25%)
2	<i>District 2 Apportionment: Legislator to Eligible Voters and Deviation from Ideal</i>	1:538 (-3%)	1:594 (+8%)	1:551 (0)
3				
4	<i>District 3 Apportionment: Legislator to Eligible Voters and Deviation from Ideal</i>	1:202 (-63%)	1:426 (-23%)	1:543 (-2%)
5				
6	<i>District 4 Apportionment: Legislator to Eligible Voters and Deviation from Ideal</i>	1:382 (-31%)	1:569 (+3%)	1:625 (+13%)
7				
8	<i>District 5 Apportionment: Legislator to Eligible Voters and Deviation from Ideal</i>	1:1,001 (+81%)	1:619 (+12%)	1:619 (+12%)
9				
10	<i>Maximum Disparity between Legislative Districts</i>	Districts 5 & 3 (144%)	Districts 3 & 5 (35%)	Districts 1 & 4 (38%)
11	<i>Minimum Disparity between Legislative Districts</i>	Districts 2 & 1 (26%)	Districts 4 & 2 (5%)	Districts 2 & 3 (2%)
12				

13 10. The defendants reiterated the rational policy pronouncement of sustaining an association and  
14 bond with the aboriginal homeland of Wisconsin, and the inferentially related legitimate considerations,  
15 preserving tradition, language and culture, which flow therefrom. *See Order (Determining*  
16 *Constitutionality)*, pp. 9, 16-17; *See also Order (Requiring Further Justification)*, pp. 4-5.

18 11. The defendants reiterated several legitimate considerations as justification for the larger  
19 deviation(s) present in Revised Scenario 1A and Scenario 1E, including: preserving the historical  
20 affinity of communities, maintaining family affiliations, and recognizing the rural and suburban  
21 demographic characteristics. *See Order (Determining Constitutionality)*, pp 9, 16; *See also Affidavit of*  
22 *Isaac Greyhair*, Dec. 8, 2000; and *Order (Granting Plaintiffs' Motion for Summary Judgment)*, pp. 13-  
23 14.  
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## DECISION

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3 Revised Scenario 1A and Scenario 1E resemble the judicially sanctioned Scenario 30 in most  
4 respects. *See Order (Determining Constitutionality)*, pp. 8-9, 16-17; *See also Order (Requiring Further*  
5 *Justification)*, p. 8. Both scenarios rely upon the rational policy pronouncement and legitimate  
6 considerations present in Scenario 30. *See Order (Determining Constitutionality)*, pp. 9, 16-17. Both  
7 scenarios represent improvement over the *status quo*, yielding reductions in the percentage deviation  
8 from the ideal legislative apportionment in all districts. *See* CONSTITUTION, ART. V, Sec. 4. However,  
9 the legitimate considerations justifying the larger deviation of a negative twenty-three percent (-23%)  
10 present in District 3 in Scenario 30 and a negative twenty-five percent (-25%) present in District 1 in  
11 Scenario 1E become strained when attempting to validate two (2) larger deviations in Revised Scenario  
12 1A.  
13

14  
15 The governmental considerations of preserving the historical affinity of communities,  
16 maintaining family affiliations, and recognizing the rural and suburban demographic characteristics lose  
17 their legitimacy when utilized to justify a greater amount of deviations than present in Scenarios 30 and  
18 1E although such scenarios employ the same considerations. The Court shall not permit an  
19 unreasonably expansive application of the proffered legitimate considerations when examining the  
20 scenarios' respective constitutionality. In Revised Scenario 1A, the defendants attempt to justify the  
21 larger deviations of a negative twenty-five percent (-25%) present in District 1 and a positive seventeen  
22 percent (+17%) present in District 4 by relying upon the above legitimate considerations, but this  
23 reliance is misplaced based upon the foregoing discussion. Therefore, the Court deems that Revised  
24 Scenario 1A does not reasonably attempt to satisfy the constitutional objective of one-person/one-vote  
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1 as nearly as practicable. *Id.* The Court, however, does find Scenario 1E constitutional, and approves the  
2 inclusion of Scenario 1E on the second Special Redistricting Election ballot.

3 Redistricting, reapportionment and one-person/one-vote are not concepts derived from the  
4 tradition or culture of the Ho-Chunk Nation, and the defendants have not attempted to contradict this  
5 obvious premise. The CONSTITUTION, ART. V, Sec. 4 incorporates the legal principle of one-person/one-  
6 vote which the United States Supreme Court found implicit in the federal Equal Protection Clause.  
7 *Reynolds v. Sims*, 377 U.S. 533, 577 (1964) and *Baker v. Carr*, 369 U.S. 186, 237 (1962).<sup>2</sup> The Court,  
8 therefore, found it unnecessary to base any of the decisions in the instant case upon the tribal Equal  
9 Protection Clause, but recognizes that such an examination would produce the identical result.  
10

11 The Court is aware of the defendants' largely unarticulated reliance upon the "in pursuit of"  
12 language found in the CONSTITUTION, ART. V, Sec. 4. *See Defendants' Brief in Support of Redistricting*  
13 *Proposals*, Dec. 8, 2000, pp. 5-6. The defendants seem to contend that so long as the proposed  
14 scenarios "move the Nation toward the goal of one person, one vote" or "move the Nation closer to its  
15 ultimate goal of one person, one vote representation," such scenarios should satisfy constitutional  
16 muster. *Id.* However, what is the argument offered by the defendants in support of this constitutional  
17 interpretation, apart from attempted literal adherence to the inherently ambiguous language? The  
18 defendants have not offered any argument. Have the defendants ignored the origin of the constitutional  
19 principle, and the wealth of federal caselaw interpreting such principle? Yes. Does an attempted literal  
20 interpretation of the principle allow for any rational standards of implementation? No, except that the  
21 Legislature would presumably need to move one (1) vote closer to the ideal legislative apportionment in  
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26 <sup>2</sup> Likewise, the CONSTITUTION, ART. XII incorporates the jurisdictional doctrine recognized by the United States Supreme  
27 Court in *Ex Parte Young*, 209 U.S. 123 (1908).

1 each malapportioned district. Did the defendants effectively pursue this minimal, albeit absurd, manner  
2 of redistricting/reapportionment in the October 14, 2000 Special Redistricting Election? No, the  
3 election results had the effect of maintaining an unconstitutional scheme for five (5) more years. *See*  
4 *Order (Determining Constitutionality)*, p. 13, fn. 2. Have the defendants offered any constitutional  
5 history evidencing the intent of the framers, and the reason(s) why they incorporated the federal one-  
6 person/one-vote principle into the CONSTITUTION? No.  
7

8         The Court extended great deference to the Legislature through its interpretation of the  
9 CONSTITUTION, ART. V, Sec. 4. When confronting larger deviations from the ideal legislative  
10 apportionment, the Court permitted the Legislature to justify such deviations by referencing legitimate  
11 considerations supporting a rational policy pronouncement. *Id.*, pp. 16-17; *Order (Requiring Further*  
12 *Justification)*, pp. 9-11; and *Order (Granting Plaintiffs' Motion for Summary Judgment)*, p. 13. These  
13 components form the highly deferential rational basis analysis utilized in constitutional interpretation.  
14 The Court declined to require mathematical exactness as a test due to the presence of the “in pursuit of”  
15 language. CONSTITUTION, ART. V, Sec. 4; *See also Reynolds*, 377 U.S. at 577 and *Karcher v. Daggett*,  
16 462 U.S. 725, 732-33 (1983) (the United States Supreme Court has “required that absolute population  
17 equality be the paramount objective of apportionment only in the case of congressional districts.”).  
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21         Furthermore, the Court disavowed usage of the ten percent (10%) maximum deviation standard  
22 for determination of *prima facie* unconstitutionality used by the United States Supreme Court. *See*  
23 *Order (Requiring Further Justification)*, p. 9 and *Order (Granting Plaintiffs' Motion for Summary*  
24 *Judgment)*, p. 13, fn. 4. The only standard that the Court has adopted is one of reasonableness. The  
25 Court, however, deems the federal standard persuasive while not controlling, and must emphasize that  
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1 the federal courts find a state redistricting/reapportionment scheme, including a ten percent (10%)  
2 deviation, unconstitutional absent legitimate considerations capable of justifying the deviation. In the  
3 instant case, the Court does not find the positive thirteen percent (13%) deviation present in District 4 in  
4 Scenario 1E and the positive twelve percent (12%) deviation present in District 5 in Scenarios 30 and 1E  
5 *prima facie* unconstitutional. Conversely, the Court finds the positive seventeen percent (+17%)  
6 deviation present in District 4 in Revised Scenario 1A unreasonable, and consequently unconstitutional,  
7 when compared to the apportionment schemes present in Scenarios 30 and 1E, one of which the  
8 defendants have recognized as approaching the one-person/one-vote objective as nearly as practicable.  
9  
10 *Order (Determining Constitutionality)*, p. 16.

11 **THE COURT HEREBY ORDERS** the Ho-Chunk Nation Election Board [hereinafter Election  
12 Board] to post notice of the Second Special Redistricting Election on or before the last full working day  
13 of this month, December 28, 2000, and hold the election within the final week of January 2001. The  
14 Election Board shall only include Scenario 30 and Scenario 1E on the Special Redistricting Election  
15 ballot with no available option to choose neither scenario.  
16

17 **IN ADDITION**, the defendants shall inform the tribal membership of the consequences of the  
18 instant case within the next published issue of the *Hocok Worak*. The explanation shall include, at a  
19 minimum, proper citation to and the entire text of the CONSTITUTION, ART. V, Sec. 4, highlighting the  
20 sentence, “The Legislature shall redistrict and reapportion at least once every five (5) years beginning in  
21 1995, in pursuit of one-person/one-vote representation.” CONSTITUTION, ART. V, Sec. 4. Also, the  
22 defendants shall indicate that the holding of the Court centered upon the basic truism that “the  
23 Legislature cannot redistrict and reapportion by not redistricting and reapportioning.” *Order*  
24  
25 *(Determining Constitutionality)*, p. 11; *See also Order (Granting Plaintiffs’ Motion for Summary*  
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1 *Judgment*), pp. 1-2, 9-10. The defendants shall further notify the membership that the certified results of  
2 the Second Special Redistricting Election shall affect candidacy and voting in the upcoming General  
3 Primary Election and subsequent June 5, 2001 General Run-off Election. Finally, the defendants shall  
4 advise the membership that the decisions in the instant case may be viewed and/or obtained at the Ho-  
5 Chunk Nation Tribal Court or on the internet at [www.ho-chunk.com/dept\\_court\\_page.htm](http://www.ho-chunk.com/dept_court_page.htm).  
6

7 **FURTHERMORE**, the Election Board shall post the *Official Notice of the General Primary*  
8 *Election* immediately after the certification of the Second Special Redistricting Election results. The  
9 Court is keenly aware of the apparent conflict such an order causes with the CONSTITUTION, ART. V,  
10 Sec. 4.<sup>3</sup> The Court, however, maintains that it must “interpret the Constitution in a manner which  
11 preserves the internal consistency and cohesiveness of the document.” *Order (Granting Plaintiffs’*  
12 *Motion for Summary Judgment)*, p. 11. Accordingly, the Court interprets the six (6) month provision as  
13 an arbitrary timeline established with the intent of reasonably assuring settled voter expectations after a  
14 Redistricting Election in which redistricting/reapportionment actually occurs, and the defendants have  
15 offered no contrary interpretation or corroborating constitutional history relating to such intent.<sup>4</sup>  
16

17 The Legislature effectively insulated itself against the possibility of holding a second  
18 Redistricting Election outside the six (6) month timeframe in the instant case. The Election Board  
19 certified the results of the October 14, 2000 Special Redistricting Election on October 15, 2000. The  
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21 \_\_\_\_\_  
22 <sup>3</sup> Specifically, “the Court realizes the impossibility of holding and certifying the results of a second Special Redistricting  
23 Election ‘at least six (6) months prior to the next election,’ CONSTITUTION, ART. V, Sec. 4, but deems that so long as the  
24 process does not unduly interrupt the preparation for the General Election, the six (6) month provision must give way to allow  
25 a remedy for the unconstitutional action. Essentially, the Court has balanced the interests of fostering settled voter  
26 expectations within a sufficient timeframe prior to the General Election versus the future detrimental effect of utilizing an  
27 unconstitutional scheme to select representatives in the General Election.” *Order (Granting Plaintiffs’ Motion for Summary*  
*Judgment)*, p. 12; *See also Order (Determining Constitutionality)*, p. 11.

<sup>4</sup> The obvious intent of the six (6) month provision is rendered obsolete when the Legislature, as in the present case, sanctions

1 plaintiffs filed the challenge to the election results in accordance with the CONSTITUTION on October 25,  
2 2000, providing the Court twenty (20) days, or by November 14, 2000, to hear and decide the challenge.  
3 CONSTITUTION, ART. VIII, Sec. 7; *See also Order (Determining Constitutionality)*, pp. 10-11; and *See*  
4 *generally Order (Granting Plaintiffs' Motion for Summary Judgment)*. Following the November 13,  
5 2000 *Order (Granting Plaintiffs' Motion for Summary Judgment)*, the Election Board would have  
6 needed to post a notice of the Second Special Redistricting Election, hold the election, and certify the  
7 results of such election within twenty-one (21) days, or before December 4, 2000. This, of course, does  
8 not account for the fashioning of any remedy for the unconstitutional action of the defendants, a similar  
9 thirty-nine (39) day notice given in the October 14, 2000 Special Redistricting Election, or any time for  
10 appeal. *See Interim Rules of Civil Procedure for Use in Election Challenges* [hereinafter *Election R.*  
11 *Civ. P.*], Rules 8-11. For instance, a thirty (30) day timeframe for appeal would have resulted in an  
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15 automatic violation of the six (6) month provision since the resulting *Order* would have issued on or  
16 about December 13, 2000. *Id.*

17         Based upon the foregoing, the Court deems that it preserves the intent of the six (6) month  
18 provision and the entire constitutional structure by directing the Election Board to post the *Official*  
19 *Notice of the General Primary Election* immediately after certifying the results of the Second Special  
20 Redistricting Election. Such a posting would be in accord with the past practice of the Election Board,  
21 yet some flexibility does exist within the timeframe. The Election Board posted the *Official Notice of*  
22 *the General Primary Election* on January 25, 1999 for the April 3, 1999 General Primary Election.  
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no redistricting and reapportionment.

1 Any party may appeal a final judgment of the Court to the Supreme Court of the Ho-Chunk  
2 Nation. *Election R. Civ. P.*, Rule 8. A judgment becomes final once signed by the presiding judge and  
3 filed with the Clerk of Court. *Ho-Chunk Nation Rules of Civil Procedure*, Rule 57; *See also Id.*, Rule  
4 61. The parties must abide by the procedures set forth in the *Ho-Chunk Nation Rules of Appellate*  
5 *Procedure* to the extent such rules are in accordance with the *Election R. Civ. P.* 8 and 9.  
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8 **IT IS SO ORDERED** this 21<sup>st</sup> day of December, 2000 at the Ho-Chunk Nation Trial Court in  
9 Black River Falls, Wisconsin from within the sovereign lands of the Ho-Chunk Nation.  
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13 Hon. Todd R. Matha  
14 HCN Associate Trial Judge  
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