

DEC 23 2013

M. [Signature]
Clerk of Court/Assistant

IN THE
HO-CHUNK NATION TRIAL COURT

Mary Ellen Blackdeer Anwash,
Petitioner,

v.

Case No.: CV 12-73

HCN Enrollment Committee,
Respondent.

**ORDER
(Motion Hearing)**

INTRODUCTION

The Court must determine whether to grant the petitioner's *Motion to Amend for Relief from Judgment* requesting that the Court amend its September 12, 2013 *Reissued Order (Final Judgment)*. The Court hereby reconsiders its *Reissued Order*. The analysis of the Court follows below.

PROCEDURAL HISTORY

The Court recounted the procedural history of this case in detail in its *Reissued Order (Final Judgment)*, CV 12-73 (HCN Tr. Ct., September 12, 2013) at 1-2. This reissued order denied the Petitioner's appeal from the Enrollment Committee's Decision. The reissued order followed and corrected the *Order (Final Judgment)* of September 4, 2013. This Order concerns the *Motion to Amend for Relief from Judgment* submitted by the petitioner on September 20, 2013.

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APPLICABLE LAW

HO-CHUNK NATION RULES OF CIVIL PROCEDURE

Rule 58. Amendment to or Relief from Judgment or Order

(A) Relief from Judgment. A *Motion to Amend* or for relief from judgment, including a request for a new trial shall be made within ten (10) calendar days of the filing of judgment. The *Motion* must be based on an error or irregularity which prevented a party from receiving a fair trial or a substantial legal error which affected the outcome of the action.

(B) Motion for Reconsideration. Upon motion of the Court or by motion of a party made not later than ten (10) calendar days after entry of judgment, the Court may amend its findings or conclusions or make additional findings or conclusions, amending the judgment accordingly. The motion may be made with a motion for a new trial. If the Court amends the judgment, the time for initiating an appeal commences upon entry of the amended judgment. If the Court denies a motion filed under this rule, the time for initiating an appeal from the judgment commences when the Court denies the motion on the record or when an order denying the motion is entered, whichever occurs first. If within thirty (30) days after the entry of judgment, the Court does not decide a motion under this Rule or the judge does not sign an order denying the motion, the motion is considered denied. The time for initiating an appeal from judgment commences in accordance with the Rules of Appellate Procedure.

(C) Erratum Order or Reissuance of Judgment. Clerical errors in a court record, including the *Judgment or Order*, may be corrected by the Court at any time.

(D) Grounds for Relief. The Court may grant relief from judgments or orders on motion of a party made within a reasonable time for the following reasons: (1) newly discovered evidence which could not reasonably have been discovered in time to request a new trial; or (2) fraud, misrepresentation or serious misconduct of another party to the action; or (3) good cause if the requesting party was not personally served in accordance with Rule 5(c)(1)(a) or (b); did not have proper service and did not appear in the action; or (4) the judgment has been satisfied, released, discharged or is without effect due to a judgment earlier in time.

Rule 61. Appeals

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

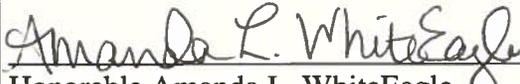
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DECISION

On September 20, 2013, the petitioner requested that the Court amend its September 12, 2013 *Reissued Order (Final Judgment)*. The petitioner pleaded that this Court reconsider its *Reissued Order* due to the fact that she was unaware of the hearing scheduled for June 4, 2013, and was thus unable to orally present her arguments. The petitioner was unaware of the scheduled proceeding because her attorney at that time neglected to notify her of the hearing. The Court agrees that to proceed without allowing the petitioner to engage in oral argument would unduly penalize her for not attending a hearing through no fault of her own. The Court discussed giving the parties another opportunity to orally present arguments at the *Motion Hearing* on October 31, 2013 and there was no objection. (LPER, Oct. 31, 2013, 09:07:05 CDT). Accordingly, the Court will set aside its September 12, 2013 *Reissued Order (Final Judgment)* at this time to allow both petitioner and respondent to orally present their arguments.

The Court shall convene a *Motion Hearing* on **Tuesday, January 14, 2014 at 9:00 a.m. CST**. Parties must provide written notice to the Court regarding an inability to attend the *Hearing*. Parties that wish to appear by telephone at the *Motion Hearing* must submit a formal written request to the Court on or before January 6, 2014.

IT IS SO ORDERED this 23rd day of December, 2013 by the Ho-Chunk Nation Trial Court located in Black River Falls, Wisconsin from within the sovereign lands of the Ho-Chunk Nation.



Honorable Amanda L. WhiteEagle
Associate Trial Court Judge



DEC 23 2013

CERTIFICATE OF SERVICE


Clerk of Court/Assistant

I, Martin Roundstone, Records Clerk II of the Ho-Chunk Nation Trial Court, do hereby certify that on the date set forth below, I served a true and correct copy of the **ORDER (Motion Hearing)** in **Case No. CV 12-73** upon all persons listed below:

By United States Postal Service:

By inter-office mail:

Rebecca Maki-Wallander
HCN Department of Justice

Wendi Huling
HCN Department of Justice

Stuart Taylor
HCN Children and Family Services

Dated: December 23rd, 2013



Martin Roundstone, Records Clerk II
Ho-Chunk Nation Trial Court

Cc: Staff Attorney