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

Sandra E. Decorah,
Plaintiff,

v.

Case No.: **CV 11-13**

**Ho-Chunk Nation Election Board and Judy
Whitehorse, Chairwoman,**
Defendants.

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**ORDER
(Dismissal)**

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On February 17, 2011, the plaintiff, Sandra E. Decorah, proceeding *pro se*, filed her initial pleading, consisting of the judicially devised boilerplate form and eleven (11) pages of additional text. *Compl.*, CV 11-13 (Feb. 17, 2011). The defendants, by and through Ho-Chunk Nation Department of Justice Attorney Michelle M. Greendeer, filed a timely responsive pleading. *Def.'s Answer*, CV 11-13 (Mar. 7, 2011). A dispositive motion permissibly accompanied the answer. *Def.'s Mot. to Dismiss*, CV 11-13 (Mar. 7, 2011); *see also Ho-Chunk Nation Rules of Civil Procedure* (hereinafter *HCN R. Civ. P.*), Rule 19(A).¹

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The latter filing prompted the Court's entry of its previous order, which it directed to the parties at their addresses of record. *Order (Mot. Hr'g)*, CV 11-13 (HCN Tr. Ct., Mar. 11, 2011); *see also HCN R. Civ. P. 5(C)(3)*. The Court simultaneously mailed *Notice(s) of Hearing* to the parties, informing them of the date, time and location of the *Motion Hearing*. However, the plaintiff failed to appear at the *Hearing*, despite receipt of proper notice. The Court accordingly dismissed the suit on the basis of her non-appearance. *HCN R. Civ. P. 44(C)*.

1 At the *Motion Hearing*, the defendants also requested that the Court deem the plaintiff's
2 filing a frivolous law suit,² and thereby award them costs, including attorney's fees. *Id.*, Rule
3 16(A), 53. "The Court *may* impose sanctions if it finds statements in a pleading are not made in
4 good faith, contain intentional misstatements, or are not based upon adequate research or
5 investigation." *Id.*, Rule 16(A) (emphasis added). The Court denies the motion for several
6 reasons. First, the initial pleading is admittedly a rather sprawling document, but the defendants
7 chose not to file a motion for a more definite statement. *Id.*, Rule 19(A). Second, apart from a
8 generalized assertion, the defendants did not attempt to demonstrate the above-stated
9 deficiencies. *Id.*, Rule 16(A). Third, the initial pleading does contain some genuine questions of
10 law that have not previously been litigated, *e.g.*, the retroactive/prospective application of a
11 constitutional amendment. *Compl.*, Attach. 2 at 6 (citing HCN CONST., amend. V). Finally, the
12 Court maintains discretion whether to grant the motion,³ and it declines to impose sanctions
13 against a *pro se* litigant whom it perceives honestly attempted to present several matters for
14 judicial review.⁴
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20 ¹ Parties may obtain a copy of the *HCN R. Civ. P.* by phoning the Court at (800) 434-4070 or (715) 284-2722 or by
visiting the Judiciary's website at www.ho-chunknation.com/?PageID=123.

21 ² A party may present an oral motion in open court. *HCN R. Civ. P.* 18.

22 ³ As expressed by the Ninth Circuit Court of Appeals:

23 "Discretion" is defined as: "The power exercised by courts to determine questions to
24 which no strict rule of law is applicable but which, from their nature, and the
25 circumstances of the case, are controlled by the personal judgment of the court." BOUVIER'S LAW DICTIONARY 884 (8th ed. 1914). Judicial action - discretionary in that
sense - is said to be final and cannot be set aside on appeal except when there is an abuse
of discretion.

26 *Delno v. Market St. Ry. Co.*, 124 F. 2d 965, 967 (9th Cir. 1942). In this regard, the Ho-Chunk Nation Supreme
27 Court has adopted the following definition of abuse of discretion: "any unreasonable, unconscionable and arbitrary
action taken without proper consideration of facts and law pertaining to the matter submitted." *Daniel
Youngthunder, Sr. v. Jonette Pettibone et al.*, SU 00-05 (HCN S. Ct., July 28, 2000) at 2 (quoting BLACK'S LAW
DICTIONARY 11 (6th ed. 1990)).

28 ⁴ The Court has remarked on several occasions that it has adopted "a general policy of encouraging and
accommodating *pro se* representation." *Melinda A. Lee v. Majestic Pines Casino, Mktg. Dep't*, CV 99-91 (HCN Tr.
Ct., Apr. 3, 2000) at 1 (citing *Helen Harden v. ICW/CFS*, CV 99-69 (HCN Tr. Ct., Jan. 4, 2000) at 6).

Ho-Chunk Nation Court System
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IT IS SO ORDERED this 29th day of April 2011, by the Ho-Chunk Nation Trial Court located in Black River Falls, WI within the sovereign lands of the Ho-Chunk Nation.

Honorable Todd R. Matha
Chief Trial Court Judge