

Ho-Chunk Nation Court Bulletin

Vol. 4, No. 1

January 1999

New State Child Support Payment System Impacts Tribal Support Orders

The State of Wisconsin has a new child support payment plan which will be phased in over the next few months. This new system of payment will have an uncertain impact on the way payments withheld from per capita are distributed to custodial parents.

The system devised by the state envisions that all payments owed by a parent (the payor or obligor) for child support will go to a central state office. These payments will then be distributed evenly among all parents who are owed child support by the payor (the payees or obligees).

Unfortunately, the law as written does not specifically address the situation of Ho-Chunk tribal members who pay child support out of their per capita.

Ho-Chunk law requires that a valid state court order for child support be registered in the HCN Tribal Court before the Nation will withhold per capita funds for child support. Under the state's new system, once child support payments are received, the payments from a particular payor are pooled and evenly distributed. It is possible under this system for child

support from the Nation to be given to payees who have not registered their court orders in the Ho-Chunk Courts.

For instance, father A has three children by mother's B, C, D. All three mothers have obtained valid state court orders for child support, but only A has registered her order through the HCN Courts to get per capita. Suppose A's monthly obligation for each child is \$200.00 but in one month A fails to pay C.



Under the state system, the remaining \$400.00, half of which came from per capita, would be divided equally among the three mothers. The result is that two mothers who have not registered their orders with the HCN Courts receive child support from per capita. This is contrary to current HCN law.

State and tribal officials Judge Butterfield promptly appointed Howard Erickson as the independent investigator. Mr. Erickson is retired and formerly served as Green Bay Police Chief and interim Tomah Police Chief.

are currently working on the issue and should have an answer in time for the February 1, 1999 per capita distribution. The state has suggested that it might be able to designate the payments made from per capita so that those funds end up exclusively in the hands of the proper payee.

Investigator To Look Into Ramada Incident

An investigator has been appointed at the request of the HCN Legislature to look into the incident that occurred at the Ramada Inn on December 8, 1998.

On December 15, 1998, the HCN Legislature took formal action requesting Chief Trial Judge Mark Butterfield to appoint an independent investigator and independent attorney. The incident left one tribal member unconscious and with a broken nose. The incident took place late one night during a week when the compact negotiations were going on at the same hotel.

Mr. Erickson has worked with the Ho-Chunk Nation previously as an outside investigator for the Gaming Commission. He has been instructed to conduct the investigation promptly and issue his report back to the Legislature

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as soon as it is completed.

In deciding how to pursue this matter, the Court took guidance from the federal law outlining how independent counselors are to be appointed. Under that law, judges only appoint the counsel and do not take part in the investigation.

Mr. Erickson expects to complete his report early this month.

Court News

COURT WELCOMES NEW STAFF - The HCN Tribal Court welcomes Salina Joshua to its staff. Ms. Joshua assumes the position of Assistant Clerk of Courts formerly held by Lois Peters. Ms. Joshua is an enrolled member of the Ho-Chunk Nation and lives in Black River Falls. Ms. Peters left in September 1998 and now works with the HCN Department of Labor.

LAY ADVOCATE TRAINING - Any tribal members interested in enrolling in a new class of Lay Advocates should contact Michael D. Oeser at the Trial Court, (715) 284-2722.

WISCONSIN TRIBAL JUDGES ASSOCIATION MEETING - Meeting in Bowler, WI on January 7, 1998. For more information, call Judge Joan Greendeer-Lee, President, at 715-284-2722.

WISCONSIN STATE BAR CONFERENCE - To be held January 28, 1998 in Milwaukee, WI. For more information, call the Wisconsin State Bar at 800-362-8096.

UW-MADISON
Colleen d. Hansen v.

INDIAN LAW STUDENTS ASSOCIATION 1999 INDIAN LAW CONFERENCE - To be held February 19 & 20, 1999 in the Tripp Commons of the Memorial Union. For more information, call the ILSA at the UW-Madison Law School, 608-262-2240.



Legal Definitions

Power of Attorney: An instrument in writing whereby one person, as principal, appoints another as his agent and confers authority to perform certain specified acts or kinds of acts on behalf of the principal. Powers of attorney can be for legal, financial, child care or health care purposes. A *durable* power of attorney is one which takes effect on the occurrence of a certain event, usually the incapacity of the principal.

Recent Decisions

Trial Court Cases:

Judy Fahrner v. Bernice Cloud, Darren Brinegar, and Rainbow Casino & Bingo, CV 98-52 (HCN Tr. Ct. Dec. 10, 1998). Order granting motion to dismiss for failing to timely file the complaint.

Jerry L. Park, CS 98-73 (HCN

State of Wisconsin on behalf of Theresa Youngthunder v. Daniel V. Whiteeagle, CS 98-66 (HCN Tr. Ct. Dec. 14, 1998). Order enforcing child support against per capita.

Cynthia Tack v. Matthew Thundercloud, CV 97-74 (HCN Tr. Ct. Dec. 14, 1998). Order modifying child support enforcement against per capita.

Rose Delgado v. Edward Mendez, CS 98-69 (HCN Tr. Ct. Dec. 14, 1998). Order enforcing child support against per capita.

State of Wisconsin on behalf of Sherry L. Tollefson v. Clinton F. Thunderchief, CS 98-65 (HCN Tr. Ct. Dec. 14, 1998). Order enforcing child support against per capita.

Anna Webb v. Nathaniel H. Long III, CS 98-49 (HCN Tr. Ct. Dec. 10, 1998). Order enforcing child support against per capita.

State of Wisconsin on behalf of Columbia County v. Mari L. Hence, CS 98-61 (HCN Tr. Ct. Dec. 17, 1998). Order enforcing child support against per capita.

In the Interest of Choice A. Decorah by Adam Hall, HCN Enrollment Department, CV 98-38 (HCN Tr. Ct. Dec. 23, 1998). Order granting the release of trust fund monies.

Barbara Coyhis v. Mary Webster and Rainbow Casino, CV 98-32 (HCN Tr. Ct. Dec. 29, 1998). Order granting motion for reconsideration.

Ho-Cak Credit Union v. Charlene Tebo, CV 98-45 (HCN Tr. Ct. Dec. 19, 1998). Order dismissing case for failure to pursue.

Tr. Ct. Dec. 29, 1998). Order

enforcing child support against per capita.

State of Wisconsin Pamela Rusch v. Tamara Garvin, CV 98-30 (HCN Tr. Ct. Dec. 29, 1998). Order modifying enforcement of child support against per capita.

Supreme Court Cases:

Ho-Chunk Nation, Ho-Chunk Nation Election Board v. Aurelia Lera Hopinkah, SU 98-08 (HCN S. Ct. Dec. 18, 1998). Order By Justice Debra C. Greengrass denying appellee’s *Motion for Reconsideration* and granting *Motion to Intervene* by the Ho-Chunk Nation through the Department of Justice.

Ho-Chunk Nation, Ho-Chunk Nation Election Board v. Aurelia Lera Hopinkah, SU 98-08 (HCN S. Ct. Dec. 18, 1998). Opinion by Justice Rita Cleveland dissenting with the Court’s decision to deny the appellee’s *Motion for Reconsideration*.

Ho-Chunk Nation, Ho-Chunk Nation Election Board v. Aurelia Lera Hopinkah, SU 98-08 (HCN S. Ct. Dec. 18, 1998). Opinion by Chief Justice mary Jo Brooks Hunter concurring with the Court’s decision to deny the appellee’s *Motion for Reconsideration*.

Recent Filings

Trial Court Cases:

State of Wisconsin, Jackson County v. Mary Ann Hendricks, CS 98-74, filed Dec. 14, 1998. Action to enforce child support against per capita.

State of Wisconsin,

Jackson County v. Eileen Link, CS 98-75, filed Dec. 14, 1998. Action to enforce child support against per capita.

State of Wisconsin, Jackson County v. Michael Gromoff, CS 98-76, filed Dec. 14, 1998. Action to enforce child support against per capita.

Supreme Court Cases:

No cases filed.

HCN Supreme Court News

The Supreme Court has scheduled a joint meeting with the Trial Court for the morning of January 22, 1999, to discuss possible modification of the Rules of Civil Procedure. The Supreme Court’s regular monthly meeting will be held following the joint meeting. For more information call HCN Supreme Court Clerk Willa RedCloud at the HCN Courthouse, 284-2722.

HCN Court Fees

Filing Fee \$35
 Service of Summons
 • In Person \$15 (or cost if out of state)
 • By Mail \$4 (or cost, whichever is greater)
 • By the Court \$0.30/per mile
 Copying \$0.10/per page
 Faxing \$0.25/per page (sending & receiving)
 Tapes of Hearings \$10 / tape
 Deposition Videotape \$10 / tape

Certified Copies \$0.50/page
 Equipment Rental \$5.00/hour
 Register a Foreign Orders \$15
 Appellate filing fees \$35
 Admission to Practice \$50

HCN Cite Form

Ho-Chunk Nation Constitution
 Constitution, Article Number, Section, and Subsection.

HCN CONST., ART. XI, Sec. (or §) 7.

Ho-Chunk Nation Ordinances
 Ordinance Name, Chapter number, Section/Part/Clause, page.

PERSONNEL POLICIES AND PROCEDURES MANUAL, Ch. 12, Part B, p.82.

CLAIMS AGAINST PER CAPITA, §6.01(b).

HCN Supreme Court Case Law
 Case Name, Case No (HCN S. Ct., month, day, year).

Johnson v. HCN Department, SU 89-04 (HCN S. Ct., Aug. 14, 1995).

Smith v. Casino, SU 94-11 *Order* (HCN S. Ct., Dec. 1, 1993).

HCN Trial Court Case Law
 Case Name, Case No. (HCN Tr. Ct., month, day, year).

Jane Doe v. Bob Smith, CV99-01 (HCN Tr. Ct., Nov. 1, 1999)

In the Interest of Minor Child X, JV95-047 (HCN Tr. Ct., May 23, 1994).

Rules of Civil Procedure

HCN R. Civ. P. 19(B)

Rules of Appellate Procedure

HCN R. App. P. 5

Ho-Chunk Nation Court Bulletin

Vol. 4, No. 2

February 1999

Ho-Chunk Nation Adopts New Code of Ethics

The Ho-Chunk Nation Legislature officially adopted the Code of Ethics Act on January 13, 1999. The new Code is intended to “foster a free and good government to the Ho-Chunk Nation by assisting the elected or appointed officials or unclassified employees of the Nation to avoid conflicts between personal interests and public responsibilities.”

The Code applies to elected and appointed officials of the Ho-Chunk Nation, and to unclassified employees of the Nation. This includes the President, Vice-President, Legislators, Court Justices, Judges, Executive Directors, Board Members, Gaming Commissioners, persons employed in a position requiring a professional license and other unclassified employees (*See POLICY AND PROCEDURES MANUAL for definition of “unclassified employee”*).

The Code sets boundaries for appropriate and inappropriate behavior. Some of the rules are:

- Officials and unclassified employees must adhere to the laws, customs and traditions of the Nation and be patient, dignified and courteous

to constituents, co-officials and others with whom they deal with in an official capacity.

- Officials and unclassified employees must put forth an honest effort in the performance of their duties.

- Officials and unclassified employees must not use their position to obtain financial gain or anything of substantial value for benefit of themselves, their immediate



family or an organization with which they are affiliated.

- Officials and unclassified employees must not use the Nation’s resources or property for unauthorized activities.

- Officials and unclassified employees must not threaten or intimidate any employee of the Nation in reprisal for the employee doing his or her job.

- Officials and

The section prescribing the penalties authorized by the Code is broad. “If a violation is proven, the Ethics Review Board shall recommend an adequate penalty for the violation to the President of the Ho-Chunk

unclassified employees must not give or receive preferential treatment.

- Officials and unclassified employees must not solicit or accept anything of value, directly or indirectly, if it could reasonably be expected to influence their vote, official actions or judgment.

The Code also covers nepotism, conflicts of interest and gifts. The Code makes exceptions for gifts conveyed during traditional ceremonies, official Nation ceremonies, and pow-wows. Gifts of nominal value from co-workers and gifts of less than \$50 are also allowed.

The Code allows covered individuals to request preliminary opinions from the Attorney General’s Office if they have questions about a particular situation or gift.

Violations of the Code will be investigated by the Ethics Review Board. If someone suspects that a violation of the Code has occurred, they should report their suspicions to the board. The names of reporting persons will be kept confidential on request. Reports should include the name of the person alleged to have violated the Code, the Code provision violated and the facts constituting the alleged violation.

Nation and the Legislature.”

For a more detailed explanation of the Code’s provisions, contact the HCN Legislature for a copy of the Code. The Code will also soon be published on the Nation’s web

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site.

Office of Public Advocacy Opening Soon

In January, the Ho-Chunk Legislature gave final approval to the Tribal Courts to establish the Office of Public Advocacy (OPA). The OPA will perform a variety of functions but its primary mission will be to help Ho-Chunk Nation members find legal assistance.

The OPA Office Administrator will help members looking for legal assistance, fill out Judicare applications, refer members to attorneys who perform pro bono legal services,



refer members to lay advocates and refer members to private, state-licensed attorneys.

The Office will also provide copies of standard court forms for those members needing to file cases and motions in the Tribal Courts. Space will also be provided for lay advocates to work.

The Office will not provide legal advice directly, but

Barbara J. Wilson v. Vance E. Fontelle Jr., CS 98-72

will help members find someone who can.

The OPA Office Administrator position will be posted for applicants in the near future.

Court News

LAY ADVOCATE TRAINING - Any tribal members interested in enrolling in a new class of Lay Advocates should contact Michael D. Oeser at the Trial Court, (715) 284-2722.

UW-MADISON INDIAN LAW STUDENTS ASSOCIATION 1999 INDIAN LAW CONFERENCE - To be held February 19 & 20, 1999 in the Tripp Commons of the Memorial Union. For more information, call the ILSA at the UW-Madison Law School, 608-262-2240.

STATE/ FEDERAL/ TRIBAL JUDICIAL FORUM - To be held March 9-12, 1999 in Green Bay. The meeting is an effort to increase State, Federal and Tribal Court cooperation.

1999 NATIONAL TRIBAL JUDICIAL CONFERENCE - To be held March 21-24, 1999 in Washington, D.C.

Legal Definitions

Ethics: Of or relating to moral action, conduct, motive, or character; as ethical emotion; also, treating of moral feelings duty of conduct; containing precepts of morality; moral. Professionally right or benefitting; conforming to (HCN Tr. Ct. Jan. 11, 1999). Order enforcing child support

professional standards of conduct.

Recent Decisions

Trial Court Cases:

Denise J. Kearnes v. Victor E. Kearnes Sr., CS 98-11 (HCN Tr. Ct. Jan. 15, 1999). Order modifying child support obligation withheld from per capita.

State of Wisconsin v. Morgan Decorah, CS 97-68 (HCN Tr. Ct. Jan. 15, 1999). Order suspending enforcement of child support obligation against per capita.

In the Interest of Oliver Rockman by Jeremy Rockman v. HCN Enrollment, CV 97-117 (HCN Tr. Ct. Jan. 28, 1999). Order impounding release of funds from adult incompetent trust fund.

In the Interest of Susan Redfearn by William Turner v. Ho-Chunk Nation Enrollment Department, CV 97-101 (HCN Tr. Ct. Jan. 21, 1999). Order releasing suspended per capita funds from adult incompetent trust account.

In re the Marriage of Lee Stacy, State of Wisconsin v. Waldo Stacy, CV 96-71 (HCN Tr. Ct. Jan. 15, 1999). Order impounding child support funds withheld from per capita.

Jackson County Foster Care, Eunice Greengrass and Carmella Root v. Karla Greengrass, CV 96-81 (HCN Tr. Ct. Jan. 15, 1999). Order impounding child support funds withheld from per capita.

obligation against per capita.

State of Wisconsin -

Jackson County v. Eileen Funmaker, CS 98-75 (HCN Tr. Ct. Jan. 8, 1999). Order enforcing child support obligation against per capita.

State of Wisconsin - Jackson County v. Mary Ann Hendricks, CS 98-74 (HCN Tr. Ct. Jan. 8, 1999). Order modifying enforcement of child support obligation against per capita.

Emily June Boswell v. Francis Peter Rave, CS 98-57 (HCN Tr. Ct. Jan. 5, 1999). Order continuing enforcement of child support obligation against per capita for one more per capita (February).

Patricia Houghton v. Dixon Funmaker, CS 98-68 (HCN Tr. Ct. Jan. 4, 1999). Order enforcing child support obligation against per capita.

State of Wisconsin - Vilas County v. Mary B. Bigjohn, CS 98-64 (HCN Tr. Ct. Jan. 4, 1999). Order enforcing child support obligation against per capita.

In the Interest of Reuben A. Hall v. Ho-Chunk Nation Enrollment Dept., CV 98-64 (HCN Tr. Ct. Dec. 30, 1998). Order releasing funds from trust fund of adult incompetent.

State of Wisconsin and Pamela Rusch v. Tamara Garvin, CS 98-30 (HCN Tr. Ct. Dec. 29, 1998). Order modifying enforcement of child support obligation against per capita.

Vicki J. Houghton v. John C. Houghton Jr., CV 96-58 (HCN Tr. Ct. Jan. 15, 1999). Order impounding funds withheld from per capita for child support.

Leigh Stephen, et al. V.

Ho-Chunk Nation, CV 97-141 (HCN Tr. Ct. Jan. 28, 1999). Order denying motion for reconsideration.

Estate of Berglin, et al. v. Ho-Chunk Nation, CV 97-172 (HCN Tr. Ct. Dec. 24, 1998). Judgment for plaintiff in action to recover on life insurance policy.

Supreme Court Cases:

No decisions filed.



Recent Filings

Trial Court Cases:

Cynthia Fowler v. Ronald W. Mallory, CS 99-01, filed Jan. 11, 1999. Action to enforce child support against per capita.

Lori Liddell v. Douglas RedEagle Sr., CS 99-02, filed Jan. 7, 1999. Action to enforce child support against per capita.

Jennifer Decora v. Michael Wayne Decora, CS 99-03, filed Jan. 11, 1999. Action to enforce child support against per capita.

Joyce Long v. Phillip J. Long Jr., CS 99-04, filed Jan. 11, 1999. Action to enforce child support against per capita.

Matthew Thundercloud v. Leah L. Fiske, CS 99-05, filed Jan. 13, 1999. Action to enforce

child support against per capita.

State of Wisconsin on Behalf of Eileen Snowball v. Martin Falcon, CS 99-06, filed Jan. 19, 1999. Action to enforce child support against per capita.

State of Wisconsin on Behalf of Susan C. Walczak v. Ferguson Funmaker, CS 99-07, filed Jan. 21, 1999. Action to enforce child support against per capita.

State of Wisconsin on Behalf of Stephanie Passon v. Rodney Cloud, CS 99-08, filed Jan. 25, 1999. Action to enforce child support against per capita.

David Granger Sr. v. Ho-Chunk Casino, Slot Department, CV 99-01, filed Jan. 6, 1999. Action to review employee grievance.

Sandra L. Thalacker v. Ho-Chunk Casino, Slot Department, CV 99-02, filed Jan. 13, 1999. Action to review employee grievance.

Roxanne Potter v. Ralph Bacock and John Holst, CV 99-03, filed Jan. 14, 1999. Action to review employee grievance.

Cheryl K. Smith v. Ho-Chunk Nation and Rainbow Casino, CV 99-04, filed Jan. 18, 1999. Action to review employee grievance.

Kevin S. Walker v. Rainbow Casino, Table games Management, CV 99-05, filed Jan. 21, 1999. Action to review employee grievance.

In the Interest of Stella J. Stacy, by Adam Hall, *Enrollment Dept.*, CV 99-06, filed Jan. 21, 1999. Petition to establish adult incompetent trust fund and to appoint guardian.

Elaine Pattridge v. Ho-Chunk Casino, Slot Department, CV 99-07, filed Jan. 28, 1999. Action to review employee grievance.

Parmenton Decorah v. Ho-Chunk Nation Legislature and Department of Personnel, CV 99-08, filed Jan. 26, 1999. Action challenging constitutionality of legislative act affecting employment.

Supreme Court Cases:

No cases filed.

Federal Courts

U.S. Court of Appeals Cases:

United States v. Weaselhead, Jr., No. 97-4397, 25 Indian L. Rep. 2195 (8th Cir., Sept. 9, 1998). The Eighth Circuit holds that Public Law 102-137, amending the Indian Civil Rights Act to recognize and affirm the inherent sovereign authority of Indian tribal governments to exercise criminal jurisdiction over non-member Indians, constitutes a delegation of federal authority and thus the authority of the Winnebago Tribal Court and the federal district court to prosecute the appellant derives from the same source and the Double Jeopardy Clause of the Fifth Amendment to the U.S. Constitution bars federal prosecution of the appellant for the same conduct that provided the factual basis for his earlier conviction in tribal court.

Buchea v. United States, No. 96-36066, 25 Indian L. Rep. 2198 (9th Cir., Sept. 11, 1998). The Ninth Circuit holds that a tribal custom adoption,

recognized by Alaska State authorities, precludes an adopted child from recovery under Alaska's Wrongful Death statutes for the loss of a biological parent on the grounds that the adoption terminated the child's legal relationship with her biological father.

Dawavendewa v. Salt River Project Agricultural Improvement and Power District, No. 97-15803, 25 Indian L. Rep. 2200 (9th Cir., Sept. 14, 1998). In an action by a member of the Hopi Tribe challenging a Navajo preference in employment provision of a lease agreement between the Salt River Project Agricultural Improvement and Power District and the Navajo Nation following his unsuccessful application for an operator trainee position at the Salt River generating station, the Ninth Circuit rules that the district court erred in dismissing



the action and holds that Salt River's conduct constitutes "national origin" discrimination under Title VII and does not fall within the scope of the Indian Preferences exemption.

U.S. District Court Cases:

Idrogo, et al. v. U.S. Army, et al., No. 97-2430 (CKK), 25 Indian L. Rep. 3196 (D.D.C., Aug. 6, 1998). In an

action seeking the return of the remains of Geronimo under the Native American Graves Protection and Repatriation Act, the district court finds that the plaintiffs lack standing and that the United States is immune from suit on grounds of sovereign immunity.

Austin's Express, Inc., et al. v. Arneson, et al., No. CV 97-133-BLG-JDS, 25 Indian L. Rep. 3187 (D. Mont., Mar. 12, 1998). In an challenge to the exercise of jurisdiction by the Crow Tribal Court over a tort action arising out of the death of a member of the Crow Tribe when he was struck by the truck while standing on a portion of the interstate highway right-of-way that traverses the Crow Indian Reservation, the district court holds that: (1) the right-of-way is equivalent to land alienated in fee to non-Indians and is thus governed by the U.S. Supreme Court's holdings in *Montana v. United States*, 450 U.S. 544 (1981) and *Strate v. A-1 Contractors*, 520 U.S. 438 (1997); and (2) the Crow Tribal Court lacks authority to adjudicate the case; and enjoins the defendants from proceeding further against the plaintiffs in Crow Tribal Court.

ILR Cases

The following Ho-Chunk cases were published in the Indian Law Reporter, Volume 25:

Ho-Chunk Gaming Commission v. Johnson, SU 98-05, 25 Indian L. Rep. 6238 (HCN S. Ct., Oct. 21, 1998).

Decorah, et al. v. Whitewater, SU 98-02, 25 Indian L. Rep. 6248 (HCN S. Ct., Oct.

26, 1998).

if out of state)

• By Mail \$4 (or

cost,

whichever is greater)

• By the Court

\$0.325/per mile

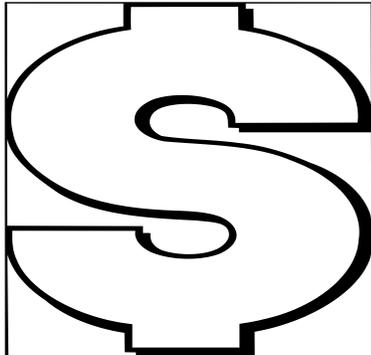
Copying \$0.10/per

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Faxing

\$0.25/per page

(sending & receiving)



Tapes of Hearings \$10 / tape

Deposition Videotape \$10 / tape

Certified Copies \$0.50/ page

Equipment Rental \$5.00/ hour

Register a Foreign Orders \$15

Appellate filing fees \$35

Admission to Practice \$50

Pro Hac Vice Appearance \$35

HCN Cite Form

Ho-Chunk Nation Constitution

Constitution, Article Number, Section, and Subsection.

HCN CONST., ART. XI, Sec. (or §) 7.

Ho-Chunk Nation Ordinances

Ordinance Name, Chapter

HCN Court Fees

Filing Fee \$35

Service of Summons

number, Section/Part/Clause, page.

PERSONNEL POLICIES AND PROCEDURES MANUAL, Ch. 12, Part B, p.82.

CLAIMS AGAINST PER CAPITA, §6.01(b).

HCN Supreme Court Case Law

Case Name, Case No (HCN S. Ct., month, day, year).

Johnson v. HCN Department, SU 89-04 (HCN S. Ct., Aug. 14, 1995).

Smith v. Casino, SU 94-11 Order (HCN S. Ct., Dec. 1, 1993).

HCN Trial Court Case Law

Case Name, Case No. (HCN Tr. Ct., month, day, year).

Jane Doe v. Bob Smith, CV99-01 (HCN Tr. Ct., Nov. 1, 1999)

In the Interest of Minor Child X, JV95-047 (HCN Tr. Ct., May 23, 1994).

Rules of Civil Procedure

HCN R. Civ. P. 19(B)

Rules of Appellate Procedure

HCN R. App. P. 5

• In Person \$15 (or cost

Ho-Chunk Nation Court Bulletin

Vol. 4, No. 3

March 1999

Ho-Chunk legal referral service takes first steps; OPA Board looking to fill job opening

The Board of Directors of the Ho-Chunk Nation Office of Public Advocacy (OPA) met for the first time February 26, taking important steps toward opening the Ho-Chunk Nation's own legal referral office.

The OPA will perform a variety of functions but its primary mission will be to help Ho-Chunk Nation members access the legal system and find legal assistance.

The OPA will not provide legal advice directly, but will help members find someone who can. The OPA Office Administrator will help members looking for legal assistance by providing Judicare applications; referring members to attorneys who perform pro bono legal services; referring members to lay advocates; and referring members to private, state-licensed attorneys.

The Office will also provide copies of standard court forms for those members needing to file cases and motions in the Tribal Courts. Space will also be provided for lay advocates to work.

The Board's first meeting had three primary goals: discussion of proposed by-laws for the Board, discussion of nomination of additional Board members and

hiring of the OPA's Office Administrator.

The Board's first meeting was composed of three members: a representative of the Ho-Chunk Nation Courts (Chief Judge Mark Butterfield), a representative of



Wisconsin Judicare (Attorney James Botsford) and a representative of the HCN Legislature (Legislator Robert Mudd). Judicare has a contract with the tribe to provide legal services to low-income tribal members who qualify.

High on the Board's priority list is hiring the OPA's Office Administrator. The Administrator will be responsible for providing the OPA's services to people seeking help. Applicants need not have prior legal training.

The Ho-Chunk Traditional Court is looking for input on whether the Tribal Courts should issue marriage certificates whenever a traditional marriage is performed by an elder. The Court is

The Office Administrator is a permanent part-time position.

The Board is also looking for volunteers or nominations for the remaining two Board positions.

Volunteers or nominees do not need to be legally trained.

Courts considering revision of Civil and Appellate Rules

The Ho-Chunk Nation Court is considering making revisions to the Rules of Civil and Appellate Procedure.

Staff Attorney Michael D. Oeser is responsible for drafting the proposed revisions and encourages suggestions from everyone who has had to use the Rules, practitioners and private parties.

Please direct any suggestions to Attorney Oeser at: Ho-Chunk Nation Trial Court, P.O. Box 70, Black River Falls, WI 54615.

Traditional Court looking for input on Marriage Certificates for Traditional Marriages

particularly interested in anyone who has experienced problems with regard to recognition of their traditional marriage by other governmental or private institutions due to the lack of a marriage

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certificate. If you wish give your comments orally, the Traditional Court meets every Monday from 9 a.m. to 12 p.m.. Send your written

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1999 NATIONAL TRIBAL JUDICIAL CONFERENCE - To be held March 21-24, 1999 in Washington, D.C.

FEDERAL BAR ASSOCIATION INDIAN LAW CONFERENCE - April 8-9, 1999 in Albuquerque, NM.

Legal Definitions

Pro bono: Latin, meaning "for the good. Used to describe services, particularly legal services, provided free of charge.

Recent Decisions

Trial Court Cases:

Cynthia Fowler v. Ronald W. Mallory, CS 99-01 (HCN Tr. Ct. Feb. 15, 1999). Order enforcing child support obligation against per capita.

Matthew Thundercloud v. Leah L. Fiske, f/k/a Leah L. Topping, CS 99-05 (HCN Tr. Ct. Feb. 15, 1999). Order enforcing child support against per capita.

Vicki Houghton v. John C. Houghton Jr., CV 96-58 (HCN Tr. Ct. Feb. 19, 1999). Order releasing impounded check for child support arrears. Court impounded check until it could rule on defendant's claim that Federal Consumer Credit Protection Act prevented tribe from withholding certain funds from per capita.

comments to: Willard LoneTree, P.O. Box 70, Black River Falls, WI 54615.

Court determined that per capita did not fall within the meaning of "earnings" as set out in the FCCPA and that, therefore, the FCCPA did not apply.

Erin L. Emerson v. Rueben A. Rave Jr., CS 97-171 (HCN Tr. Ct. Feb. 19, 1999). Order directing HCN Dept. of Treasury to void check withheld from per capita for child support arrears and make out a new check for same amount to defendant. The County Child Support Agency returned the check with a letter stating that the defendant's arrears were paid up



and a wage assignment is covering his obligation for current support.

State of Wisconsin, Jackson Co. On behalf of Eileen Snowball v. Martin A. Falcon, CS 99-06 (HCN Tr. Ct. Feb. 19, 1999).

Order enforcing child support obligation against per capita.

In the Interest of Kathy Brandenburg Miller, CS 98-18 (HCN Tr. Ct. Feb. 22, 1999). Order rescinding appointment of current guardian and releasing funds from the trust account of the ward to pay for social, health care and legal services.

Court News

Erin L. Emerson v. Rueben A. Rave Jr., CS 97-171 (HCN Tr. Ct. Feb. 23, 1999). Order suspending enforcement of child support obligation against per capita.

Anne E. Whiteeagle n/k/a Anne E. W. Johnson v. Timothy G. Whiteeagle, CV 97-165 (HCN Tr. Ct. Feb. 19, 1999). Order reducing the amount withheld for enforcement of current child support obligation against per capita.

State of Wisconsin on behalf of Lori Liddell v. Douglas Red Eagle Sr., CS 99-02 (HCN Tr. Ct. Feb. 8, 1999). Order enforcing child support obligation against per capita.

State of Wisconsin v. Morgan K. Decorah, CS 98-78 (HCN Tr. Ct. Feb. 15, 1999). Order enforcing child support obligation against per capita.

June Miller v. Larry Fanning, CS 98-71 (HCN Tr. Ct. Feb. 8, 1999). Order enforcing child support obligation against per capita.

In re Roberta Goodbear, Shirley Sahr, Guardian, CV 96-49 (HCN Tr. Ct. Feb. 8, 1999). Order provisionally accepting accounting and requiring further explanation of expenses.

In re Roberta Goodbear, Shirley Sahr, Guardian, CV 96-49 (HCN Tr. Ct. Feb. 12, 1999). Order accepting further explanation of expenses.

In re the Children of Joni Munnell, CV 96-64 (HCN Tr. Ct. Feb. 26, 1999). Order accepting accounting of expenses.

State of Wisconsin, ex rel. v. Wayne Robert Blackdeer, CV In the Interest of V.S. & S.S. by Lori Luxon, CS 98-39 (HCN Tr. Ct. Feb. 4, 1999). Order granting in part and denying in part request for release of trust funds.

Nina Garvin v. Carol Laustrup and Ho-Chunk Casino, CV 98-54 (HCN Tr. Ct. Feb. 9, 1999). Order approving schedule change.

Nina Garvin v. Ho-Chunk Casino, CV 98-54 (HCN Tr. Ct. Feb. 24, 1999). Order reassigning case to Chief Judge.

State of Wisconsin on behalf of Jennifer Decora v. Michael Wayne Decora, CS 99-03 (HCN Tr. Ct. Feb. 8, 1999). Order enforcing child support obligation against per capita.

Stephanie Littlegeorge v. Roy Littlegeorge, Majestic Pines Hotel, CV 98-67 (HCN Tr. Ct. Feb. 15, 1999). Denying Motion to Dismiss.

David Granger Sr. v. Ho-Chunk Casino, CV 99-01 (HCN Tr. Ct. Feb. 26, 1999). Order granting voluntary dismissal with prejudice.

Supreme Court Cases:

David M. Ujke v. Ho-Chunk Nation, SU 98-06 (HCN S. Ct., Feb. 22, 1999). HCN Supreme Court affirmed the Trial Court decision awarding the plaintiff damages for hours worked but unpaid and denying plaintiff's breach of contract claim.

Recent Filings

Trial Court Cases:

State of Wisconsin on behalf of K. W. Wilcox v. Daniel Whiteagle, CS 99-09, filed Feb.

97-47 (HCN Tr. Ct. Feb. 15, 1999). Order modifying enforcement of 12, 1999. Action to enforce child support against per capita.

Shelley Thundercloud v. Christopher Cloud, CS 99-10, filed Feb. 16, 1999. Action to enforce child support against per capita.

Carla Raejean Lee Cornish v. Luther Aaron Dixon II, CS 99-11, filed Feb. 16, 1999. Action to enforce child support against per capita.

Nicolette Smith v. Luther Aaron Dixon II, CS 99-12, filed Feb. 16, 1999. Action to enforce child support against per capita.

Catherine Mary Gourd v. Alexander Durance Gourd, CS 99-13, filed Feb. 18, 1999. Action to enforce child support against per capita.

Loretta Hopinka v. Dean Hopinka, CS 99-14, filed Feb. 22, 1999. Action to enforce child support against per capita.

State of Wisconsin on behalf of Christy Miller v. Arnold R. Cloud, CS 99-15, filed Feb. 25, 1999. Action to enforce child support against per capita.

Marriage of Lyra M. Thorpe and Stephen P. Thorpe, CV 99-09, filed Feb. 1, 1999. Certificate of Marriage.

In re the Enrollment Status of Theresa L. Hendrickson, CV 99-10, filed Feb. 9, 1999. Appeal of enrollment decision.

Callen Pidgeon v. Steven Littlegeorge, CV 99-11, filed Feb. 10, 1999. Suit alleging personal injury in auto-pedestrian accident.

HCN Dept. of Treasury v. Janis M. Burdick, CV 99-12, filed Feb. 23, 1999.

Supreme Court Cases:

No cases filed.

child support obligation against per capita.

HCN Court Fees

Filing Fee	\$35
Service of Summons	
• In Person	\$15 (or cost if out of state)
• By Mail	\$4 (or cost, whichever is greater)
• By the Court	\$0.325/per mile
Copying	\$0.10/per page
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Tapes of Hearings	\$10 / tape
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Admission to Practice	\$50
Pro Hac Vice Appearance	\$35

Ho-Chunk Nation Court Bulletin

Vol. 4, No. 4

April 1999

Associate Judge Matha Starts Work at Courthouse; Results of Supreme Court Primary Challenged

Associate Judge Todd R. Matha was officially sworn in on Monday, April 12, 1999, beginning his three-year term with the Ho-Chunk Nation Courts.

Before his appointment as Associate Judge, Judge Matha served in the Ho-Chunk Nation Department of Justice advising the Election Board, Enrollment Office, Enrollment Committee and Home Ownership Program. He also worked on Indian Child Welfare issues, employment litigation, and contract review.

Judge Matha, an enrolled Ho-Chunk, graduated from the University of Minnesota Law School 1996. He was awarded the Josephine White Eagle Scholarship and began working for the Nation immediately after law school. He received his undergraduate education from Dickinson College in Carlisle, PA, graduating in 1991 with a BA in History and Religion.

As Judge Matha took the Associate Judge position, former Associate Judge Joan Greendeer-Lee was declared the winner of the April primary election for the Associate Supreme Court Justice race by the HCN Election Board. However, incumbent Justice Debra

Greengrass has challenged the declaration of Greendeer-Lee as the winner.

Justice Greengrass asserts that the results of the primary have no meaning according to the HCN Constitution and Election Code, and that the next Justice can only be elected at the election in June.

If the challenge is successful, it could prove significant because of the 1034 votes cast, only 19 votes separated Greendeer-Lee from Greengrass.

(Miller), CS 98-18 (HCN Tr. Ct. March 5, 1999). Order releasing funds from per capita trust account.

Karla L. Wilcox v. Daniel V. White Eagle, CS 99-09 (HCN Tr. Ct. March 9, 1999). Order enforcing child support obligation against per capita.

In re the Marriage of Lee Stacy, State of Wisconsin v. Waldo Stacy, CV 96-71 (HCN Tr. Ct. March 9, 1999). Order releasing child support check impounded by previous order.

In the Interest of Myron A. Funmaker by Judith Ann Thundercloud, Guardian, v. Ho-Chunk Nation, CV 96-87 (HCN Tr. Ct. March 22, 1999). Order releasing funds from adult incompetent trust fund account.

Stewart Miller v. HCN Legislature, CV 99-18, filed March 18, 1999. Dismissing on sovereign immunity grounds a suit challenging Constitutionality of Legislature's action suspending Legislator.

State of Wisconsin, Jackson County, v. Rosemarie Powless, CV 97-82 (HCN Tr. Ct. March 26, 1999). Order suspending enforcement of child support obligation against per capita.

June Miller v. Larry Fanning, CS 98-71 (HCN Tr. Ct. March 26, 1999). Order denying defendant's motion for reconsideration. CV 98-38 (HCN Tr. Ct. March 31, 1999). Order refusing to release



Legal Definitions

Pro bono: Latin, meaning "for the good". Used to describe services, particularly legal services, provided free of charge.

Recent Decisions

Trial Court Cases:

In the Interest of Adult Incompetent Kathy Brandenburg

In the Interest of Adult Incompetent Choice A. Decorah,

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further funds from the trust fund account of Choice Decorah until receipts are provided outlining how the previously released funds were spent.

Ho-Chunk Nation v. Tammy Lang, CV 98-46 (HCN Tr. Ct. April 1, 1999). Judgment for plaintiff based on civil conversion of Tribal property to defendant's private use.

Lorna Mae Hach v. Ho Chunk Casino and Ho-Chunk Nation, CV 98-63 (HCN Tr. Ct., April 07, 1999). Order granting summary judgment to defendant in review of employee grievance.

State of Wisconsin, Brown Co. and Stephanie Passon v. Rodney Cloud, CS 99-08 (HCN Tr. Ct. April 13, 1999). Order enforcing child support obligation against per capita.

State of Wisconsin v. Christopher Cloud, CV 96-73 (HCN Tr. Ct., April 14, 1999). Order enforcing child support obligation against per capita.

State of Wisconsin, Jackson Co. on behalf of Clarissa Pettibone v. Warrington Greengrass, CS 99-18 (HCN Tr. Ct., April 14, 1999). Order enforcing child support obligation against per capita.

Jackson County Foster Care, Eunice Greengrass and Carmella Root v. Karla Greengrass, CV 96-81 (HCN Tr. Ct., April 14, 1999). Order impounding child support check withheld from per capita.

Jackson Co. Child Support Agency on behalf of Irene Malleck v. Michael Gromoff, CS 98-76 (HCN Tr. Ct., April 14, 1999). Order enforcing child support obligation against per capita.

State of Iowa ex rel. Meshia Smith, DOB 11-7-97 v.

Luther Aaron Dixon II, CS 99-12 (HCN Tr. Ct., April 14, 1999). Order enforcing child support obligation against per capita.

State of Iowa ex rel. Alexia Triana Lee Dixon, DOB 10-12-91 by Carla Raejean Lee Cornish v. Luther Aaron Dixon II, CS 99-11 (HCN Tr. Ct., April 14, 1999). Order enforcing child support obligation against per capita.

Robin L. Ashley v. Michael K. Blackcoon, CS 99-16 (HCN Tr. Ct., April 14, 1999). Order enforcing child support obligation against per capita.

Kristine H. Blackcoon v. Michael K. Blackcoon, CS 98-25



(HCN Tr. Ct., April 14, 1999). Order modifying enforcement of child support obligation against per capita.

State of Wisconsin, Juneau Co. on behalf of Chastity Miller v. Arnold R. Decorah, CS 99-15 (HCN Tr. Ct. April 14, 1999). Order enforcing child support obligation against per capita.

State of Wisconsin, Juneau Co. on behalf of Jeanette Decorah v. Maynard Funmaker Sr., CS 98-77 (HCN Tr. Ct. April 14, 1999). Order enforcing child support obligation against per capita.

State of Wisconsin and Susan Walczak v. Ferguson Funmaker, CS 99-07 (HCN Tr. Ct. April 15, 1999). Order enforcing child support obligation against per capita.

State of Wisconsin, Marathon Co. on behalf of Joyce Long, CS 99-04 (HCN Tr. Ct. April 15, 1999). Order enforcing child support obligation against per capita.

Supreme Court Cases:

Ho-Chunk Nation Election Board, Ho-Chunk Nation v. Aurelia Hopinka, SU 98-08 (HCN S. Ct., April 7, 1999). Decision reversing the judgment of the Trial Court. Court held that Art VIII, Sec. 3 does not apply to amendments to the Election Code.

Millie Decorah and Sandy Martin, as officials and employees of the HCN v. Joan Whitewater, SU 98-02 (HCN S. Ct., April 10, 1999). Order returning \$13,000 check to the HCN Tribal Operation Account.

Louella A. Kelty v. Jonette Pettibone and Ann Winneshiek, in their official capacities, SU 99-02 (HCN S. Ct., April 12, 1999). Scheduling order.

Recent Filings

Trial Court Cases:

Robin Lynn Ashley v. Michael Blackcoon, CS 99-16, filed March 3, 1999. Action to enforce child support against per capita.

Patricia Martinez v. Eldon D. Powless, CS 99-17, filed March 15, 1999. Action to enforce child support against per capita.

State of Wisconsin, Clarissa Pettibone v. Warrington Greengrass, CS 99-18, filed March

24, 1999. Action to enforce child support against per capita.
State of Wisconsin, Shelley Thundercloud v. Kevin Vazquez, CS 99-19, filed March 24, 1999.

Action to enforce child support against per capita.
Gale S. White v. Larry Garvin, CS 99-20, filed March 24, 1999.

Action to enforce child support against per capita.
Heather Hartwig v. Steve Lincoln, CS 99-21, filed March 31, 1999.

Action to enforce child support against per capita.
Margaret A. King v. Eldon Powless, CS 99-22, filed April 13, 1999.

Action to enforce child support against per capita.
Rebecca Nunaway v. Eldon Powless, CS 99-23, filed April 13, 1999.

Appeal of administrative review of employee grievance.
John Snake v. HCN Admin. Director, CV 99-13, filed March 9, 1999.

Suit appealing decision of the Enrollment Committee.
Melissa Decorah v. HCN Enrollment Committee, CV 99-14, filed March 4, 1999.

Appeal of administrative review of employee grievance.
Jeanette M. Lieb v. Annette R. Littlegeorge, St. Paul Branch Coordinator, CV 99-15, filed March 15, 1999.

Suit alleging libel and defamation.
Stuart Miller v. Gloria Visintin, CV 99-16, filed March 17, 1999.

Suit challenging Constitutionality of Legislature's action suspending Legislator.
Stewart Miller v. HCN Legislature, CV 99-18, filed March 18, 1999.

Suit to collect unpaid wages.
Rosalie S. Kakkak for Alana Greengrass v. Melody A. Hale, CV 99-19, filed March 18, 1999.

Appeal of denial of workers compensation.
Michelle M. Ferguson v. HCN Insurance Review Committee, Division of Risk Management, CV 99-20, filed March 22, 1999.

Appeal of administrative review of employee grievance.
Dennis Migala v. Rainbow Casino, Maintenance Department, CV 99-21, filed March 23, 1999.

Suit challenging Constitutionality of Legislature's action suspending Legislator.
Stewart Miller v. [All HCN Legislators Named Individually], CV 99-22, filed March 25, 1999.

Petition for release of per capita funds held in trust.
John S. Cloud III v. HCN Enrollment, CV 99-23, filed March 31, 1999.

Petition for release of per capita funds from minor's trust fund.
Shawn Blackdeer for C.B.B. v. Ho-Chunk Nation Enrollment, CV 99-25, filed April 8, 1999.

Appeal of administrative review of employee grievance.
Louella Kelty v. Steven Garvin, CV 99-26, filed April 8, 1999.

Appeal of administrative review of employee grievance.
Louella Kelty v. Jonette Pettibone, CV 99-27, filed April 8, 1999.

Challenge of election results.
Debra Greengrass v. HCN Election Board, CV 99-28, filed April 12, 1999.

Supreme Court Cases:

No cases filed.

HCN Court Fees

Filing Fee \$35
 Service of Summons
 • In Person \$15 (or cost

if out of state)
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 Appellate filing fees \$35
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 Pro Hac Vice Appearance \$35

Ho-Chunk Nation Court Bulletin

Vol. 4, No. 5

May 1999

The *Mille Lacs* Case: Good News and Bad News

The Indian Law Reporter recently published the opinion of the United States Supreme Court in *Minnesota, et al. v. Mille Lacs Band of Chippewa Indians, et al.* ___ U.S. ____, No. 97-1337 (Mar. 24, 1999). The High Court came down in favor of the Tribe in *Mille Lacs*, a welcome and rare event, but the opinion was still not an overwhelming win for Indian interests.

Mille Lacs concerned whether the Mille Lacs Band of Chippewa retained hunting, fishing and gathering rights off-reservation. In a 5-4 decision, the Court said yes (Majority - O'Connor, Stevens, Souter, Ginsberg, and Breyer; Dissent - Rehnquist, Scalia, Kennedy, and Thomas). On the upside, the Majority decided in favor of Indian interests and comprized most of the younger Justices. On the downside, one vote would have changed the result and the Majority's reasoning fact specific, and viewpoints remain sharply divided.

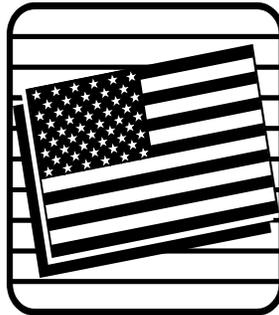
The case focused on whether the off-reservation hunting, fishing and gathering rights (also called usufructuary rights) guaranteed the Mille Lacs Band in the Treaty of 1837 had been abrogated by any one of three things: 1) an Executive Order issued by President Taylor in 1850, 2) the Treaty of 1855, or 3) the

United States Constitution. The Court concluded that the Order was not authorized by Congress through the Removal Act because the Act only authorized the removal of tribes that had *consented* to removal. The Court also found no other source granting the president the authority to remove the Mille Lacs Band.

Furthermore, the Court found that the portion of the Executive Order terminating the hunting and fishing rights could not be severed from the Removal Order. As a result, those portions also fell as lacking authority. However, the Court did state, "We do not mean to suggest that a President, now or in the future, cannot revoke the Chippewa usufructuary rights in accordance with the terms of the 1837 Treaty," thus leaving those rights open to attack.

The Court next turned to consider whether the Mille Lacs Band relinquish their hunting and fishing rights by the Treaty of 1855. The 1855 Treaty read, "[A]nd the said Indians do fully and entirely relinquish and convey to the United States, any and all right, title, and interest, of whatsoever nature the same may be, which they may now have in, and to any other lands in the Territory of Minnesota or elsewhere."

While the quoted language is broad, the Court seemed to hold that it was too broad. The Court noted that, while broad, the language never mentions the 1837 Treaty or usufructuary rights.



Remember Our Country's Heroes on MEMORIAL DAY

admission of Minnesota as a state.

By the Treaty of 1837 the Chippewa explicitly retained the right to hunt, fish, and gather on the lands relinquished by the treaty, "during the pleasure of the President of the United States."

The Court first addressed the President Taylor's 1850 Executive Order, which read, "The privileges granted temporarily to the Chippewa Indians . . . are revoked; and all of the said Indians remaining on the lands ceded as aforesaid, are required to remove to their unceded lands."

In reviewing the validity of the Order, the Court stated that the President's power, if any, to issue the Order must have come from either Congress or directly from the

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The Court construed the language in light of the rules that treaties must be interpreted as the Indians understood them at the time and that treaties are to be liberally construed in favor of the Indians. The Court then turned to a detailed consideration of the historical record.

The Court ultimately decided that the Indians did not think they were relinquishing their hunting and fishing rights because hunting and fishing rights were never discussed during the negotiations of the 1855 Treaty. The Court wrote, "It is difficult to believe that in 1855, the Chippewa would have agreed to relinquish the usufructuary rights they had fought to preserve in 1837 without at least a passing word about relinquishment."

Finally the Court addressed the argument that the Mille Lacs Band's usufructuary rights were terminated by Minnesota's admission into the Union as a state. Minnesota argued that a Tribe's usufructuary rights are incompatible with the Equal Footing Doctrine. The Equal Footing Doctrine stands for the rule that states admitted after the original 13 states have the same attributes of sovereignty as the original 13 states. The state contended that the ability to regulate hunting and fishing constitutes a fundamental attribute of a state's sovereignty.

However, the Supreme Court in *Mille Lacs* stated that Treaty hunting and fishing rights are not irreconcilable with Minnesota's ability to regulate hunting and fishing. The Court said that Minnesota could "impose reasonable and necessary non-discriminatory regulations on

Indian hunting, fishing, and gathering rights in the interest of conservation. This 'conservation necessity' standard accommodates both the State's interest in management of its natural resources and the Chippewa's federally guaranteed treaty rights."

In a strongly worded dissent, Chief Justice Rehnquist, joined by three other Justices, questioned the Majority's reasoning.

First, Rehnquist states President Taylor's Executive Order should have been sufficient to terminate the Mille Lacs Band treaty rights because a treaty endorsed by the Senate is also a source of law by which Congress can delegate its authority. The Chief Justice contends that by ratifying the 1837 Treaty, the Senate gave the President the authority to terminate the Mille Lacs Band rights. Rehnquist next



questions the Majority's interpretation of the Executive Order as a "removal" order, noting that only the last clause deals with removal.

The Dissent next questions the Majority's determination that the broad language of the 1855 Treaty did not terminate the Mille Lacs Band's rights. The Chief Justice wrote, "the Court holds that 'all' does not in fact mean 'all.'"

While joining the main dissent, Justice Thomas also filed a short separate dissent.

To read the full text of the

decision, visit the Ho-Chunk Nation's law library located in the Ho-Chunk Nation Courthouse.

Court News

GAL PAY INCREASED

The Ho-Chunk Nation Courts have increased the amount of fees that can be paid per year to Guardian Ad Litem. Chief Judge Mark Butterfield signed an *Order* April 27, 1999 which increased the annual allowable compensation per case to \$250 from \$200.

Legal Definitions

Usufructuary: In the civil law, one who has the usufruct or right of enjoying anything which he does not own.

Recent Decisions

Trial Court Cases:

Debra C. Greengrass v. Ho-Chunk Nation Election Board, CV 99-28 (HCN Tr. Ct. April 29, 1999). Decision and Order interpreting Art. VIII, Sec. 1 to mean that only the candidate who wins the general election in June can take office, and ordering the Board to place both the plaintiff and Joan Greendeer-Lee on the ballot for the general election in June.

Heather Hartwig v. Steve Lincoln, CS 99-21 (HCN Tr. Ct. May 3, 1999). Order enforcing child support obligation against per capita.

State of Wisconsin v. Dallas White, CV 96-70 (HCN Tr. Ct. May 3, 1999). Order modifying enforcement of child support obligation against per capita.

Tameria Funmaker v. Harrison Funmaker, CS 96-61 (HCN Tr. Ct. May 3, 1999). Order

suspending enforcement of child support obligation against per capita.

Jill Pettibone v. Brent Funmaker, CV 97-138 (HCN Tr. Ct. April 28, 1999). Order suspending enforcement of child support obligation against per capita.

In the Matter of Brent Funmaker, CV 97-18 (HCN Tr. Ct. April 28, 1999). Order compelling Jackson County to file an account statement showing arrearages.

Carol Johnson v. HCN Business Department, CV 98-43 (HCN Tr. Ct. April 27, 1999). Judgment upholding suspension but finding it excessive of 3-day rule.

Supreme Court Cases:

Gary LoneTree, Sr. v. John Holst and Ho-Chunk Casino Slot Department, SU 98-07 (HCN S. Ct. April 29, 1999). Decision affirming Trial Court's finding that the Mr. LoneTree committed sexual harassment. The Court specifically held that the admission of exhibits on which little reliance is placed does not constitute an abuse of discretion, that the termination did not violate the progressive discipline policy given Mr. LoneTree's actions and prior discipline, that the lack of a transcript or audible tapes does not warrant retrial, that an individual's sexual behavior or misconduct does not imply that sexual harassment is welcome, that parties are responsible for their own decisions on whether to retain a lawyer or lay

Minnesota, et al. v. Mille Lacs Band of Chippewa Indians, et al., No. 97-1337, 26 Indian L. Rep. 1009 (U.S. Sup. Ct., Mar. 24, 1999). The United States Supreme Court held that the Chippewa retain the usufructuary rights guaranteed to them by the 1837 Treaty

support obligation against per advocate, and that individuals dissatisfied with their representation must take the matter up with the lay advocate or file a professional responsibility complaint or an action for malpractice.

Joelene Smith v. Ho-Chunk



Nation and Tammy Lang, SU 98-03 and SU 98-04 (HCN S. Ct. April 19, 1999). Notice of extension of time for decision.

Recent Filings

Trial Court Cases:

Julie M. Shiles v. Timothy E. Tebo, CS 99-24, filed April 21, 1999. Action to enforce child support against per capita.

Carol S. Wesenberg v. Leslie A. Boisen, CS 99-25, filed April 26, 1999. Action to enforce child support against per capita.

Juneau Co., on behalf of Keith Miller v. Chasity Miller, CS 99-26, filed April 27, 1999. Action to enforce child support against per capita.

State of Wisconsin, Vilas Co. v. Bette White, CS 99-27, filed April 29, 1999. Action to enforce child support against per capita.

concluding: (1) the 1850 Executive Order was ineffective to terminate Chippewa usufructuary rights under the 1837 Treaty because it was not severable from the invalid removal order; (2) the Mille Lacs Band did not relinquish its 1837 Treaty rights in the 1855 Treaty

capita.

State of Wisconsin, Sauk Co. on behalf of Audrey Goodbear v. Max P. Funmaker Jr., CS 99-28, filed April 29, 1999. Action to enforce child support against per capita.

Rachel Winneshiek v. John C. Houghton, Jr., CS 99-29, filed May 5, 1999. Action to enforce child support against per capita.

Anita Schneider for Marco L. Torres, CV 99-17, filed March 22, 1999. Action seeking release of funds from minor's per capita trust.

Lydia Twins v. Rainbow Casino, CV 99-29, filed April 26, 1999. Review of employee grievance.

HCN Department of Education v. Joanne Lamere and Nellie McKee, CV 99-30, filed April 28, 1999. Action for breach of contract seeking to recover cost of damages to automobile.

Supreme Court Cases:

Debra C. Greengrass v. HCN Election Board, SU 99-03, filed May 3, 1999. Appeal challenging decision of Trial Court finding for plaintiff. Trial Court held that officials can only be elected at General Elections held in June.

Federal Courts

U.S. Supreme Court Cases:

and the historical record, purpose and context of the negotiations all support the conclusion that the 1855 Treaty was designed to transfer Chippewa land to the United States, not to terminate usufructuary rights; (3) the Chippewa's usufructuary rights

were not extinguished when Minnesota was admitted to the Union -- Congress must clearly express an intent to abrogate Indian treaty rights, there is no suggestion in the 1837 Treaty that the Senate intended the right to terminate when a state was established in the area, and there is nothing inherent in the nature of reserved treaty rights to suggest that they can be extinguished by implication at statehood.

Arizona Department of Revenue v. Blaze Construction Co., Inc., No. 97-1536, 26 Indian L. Rep. 1007 (U.S. Sup. Ct., Mar. 2, 1999). The United States Supreme Court holds that its ruling in *United States v. New Mexico*, 455 U.S. 720 (1982), that a state may impose a nondiscriminatory tax on private company's proceeds from contracts with the federal government, applies when a federal contractor provides services to the federal government on an Indian reservation.

U.S. Court of Appeals Cases:

Menominee Indian Tribe of Wisconsin v. Thompson, et al., Nos. 96-3596 & 96-398597-8079, 26 Indian L. Rep. 2011 (7th Cir., Dec. 1, 1998). The Seventh Circuit affirms the district court's ruling, finding that the Menominee Tribe's cession of all of its Wisconsin land to the United States in the Treaty of 1848 forecloses the Tribe's claim of off-reservation usufructuary (hunting and fishing) rights.

Ordinance 59 Association v. U.S. Department of the Interior, et al., No. 97-8079, 26 Indian L. Rep. 2001 (10th Cir., Dec. 1, 1998). Affirming the district court's ruling, the Tenth Circuit holds that: (1) tribal sovereign

immunity bars an action against tribal defendants for failure to enroll the petitioners; (2) the Indian Civil Rights Act does not provide for injunctive or declaratory relief against the Eastern Shoshone Tribe or its officers; and (3) the petitioners have failed to state a claim for which relief may be granted against the federal defendants.

State Cases:

Wisconsin v. Elmer J.K., III, No. 98-2067, unpublished, 26 Indian L. Rep. 5044 (Wis. Ct. App., Jan. 12, 1998). The



Wisconsin Court of Appeals concludes that Wisconsin has jurisdiction over delinquent acts committed by an Indian juvenile off his reservation and that the circuit court did not erroneously exercise its discretion by waiving the juvenile to the adult criminal court.

Shakopee Mdewakanton Sioux (Dakota) Community, et al. v. Minnesota Campaign Finance and Public Disclosure Board, et al., No. C3-98-1727, 26 Indian L. Rep. 5003 (Minn. Ct. App., Nov. 24, 1998). In an action brought by the Shakopee Mdewakanton Sioux Community and the Tribe's political action committee to enjoin the Minnesota Campaign Finance

and Public Disclosure Board from enforcing an advisory opinion and order requiring the Tribe to make disclosures concerning funds supplied by the Tribe to its political action committee for donation to a political party, the Minnesota Court of Appeals affirms the district court's denial of the injunction.

ILR Cases

The following Ho-Chunk cases were published in the Indian Law Reporter, Volume 25:

Knudson v. Ho-Chunk Nation Treasury Dept., SU 98-01, 26 Indian L. Rep. 6011 (HCN S. Ct., Dec. 1, 1998).

Ujke v. Ho-Chunk Nation, SU 98-06, 26 Indian L. Rep. 6042 (HCN S. Ct., Feb. 22, 1999).

HCN Court Fees

Filing Fee	\$35
Service of Summons	
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Register a Foreign Orders	\$15
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Admission to Practice \$50
Pro Hac Vice Appearance \$35

Section, and Subsection.

Section/Part/Clause, page.

HCN Cite Form

Ho-Chunk Nation Constitution

Constitution, Article Number,
PERSONNEL POLICIES AND
PROCEDURES MANUAL, Ch. 12,
Part B, p.82.

CLAIMS AGAINST PER CAPITA,

Smith v. Casino, SU 94-11 *Order*
(HCN S. Ct., Dec. 1, 1993).

HCN Trial Court Case Law

Case Name, Case No. (HCN Tr.
Ct., month, day, year).

Jane Doe v. Bob Smith, CV99-01
(HCN Tr. Ct., Nov. 1, 1999)

In the Interest of Minor Child X,
JV95-047 (HCN Tr. Ct., May 23,
1994).

Rules of Civil Procedure

HCN R. Civ. P. 19(B)

Rules of Appellate Procedure

HCN R. App. P. 5

HCN CONST., ART. XI, Sec. (or §)
7.

Ho-Chunk Nation Ordinances

Ordinance Name, Chapter number,
§6.01(b).

HCN Supreme Court Case Law

Case Name, Case No (HCN S. Ct.,
month, day, year).

Johnson v. HCN Department, SU
89-04 (HCN S. Ct., Aug. 14,
1995).

Ho-Chunk Nation Court Bulletin

An informational bulletin published for the benefit of attorneys and tribal members.

Vol. 4, No. 6

June 1999

Greengrass victorious in Supreme Court race;

Pro Tem Supreme Court holds Justices can only be elected at June General Election

Associate Justice Debra Greengrass edged out former Trial Court Judge Joan Greendeer-Lee in the June 1 General Election to retain her seat on the HCN Supreme Court. The vote was 625 to 584.

However, the June General Election was not the only hurdle Justice Greengrass had to clear to retain her seat. The HCN Election Board declared Greendeer-Lee the winner and the next Associate Justice after she received more votes in the May primary election. The Board believed that if a candidate received more than 50% of the primary vote, that candidate won the race and there was no need to have members vote again in June.

Greengrass took the Board to court over that conclusion. The Trial Court, Judge Pro Tem John Wabaunsee presiding, held that HCN CONST. ART. VII, Sec. 10 requires that Associate Justice elections can only be decided at the June General Election.

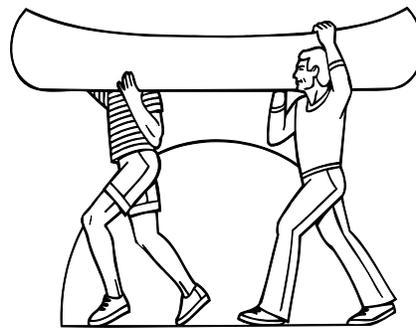
The Election Board then appealed the Trial Court decision. On appeal, all three sitting Ho-Chunk Justices were recused and a pro tem panel appointed by the HCN Legislature. Ironically, none of the pro tem Justices were Ho-Chunk (UW Law Professor

Richard Monette, Attorney Carol Brown and Attorney Alysia LaCounte).

The pro tem panel issued its decision on the day of the General Election, ultimately upholding the Trial Court's decision.

Ho-Chunk Courts Temporarily Adopt Federal Rules of Evidence

The Ho-Chunk Nation



Supreme Court voted June 5th to adopt the Federal Rules of Evidence. The Court adopted the Federal Rules as a temporary measure until the Court has an opportunity to draft its own official rules. All evidence submitted to the Court must now comply with the Federal Rules.

Until the temporary adoption of the Federal rules, the Courts operated under basic common law principles of evidence.

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Court News

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NEW STAFF ATTORNEY - Mr. David Neubeck, a 1999 University of Minnesota Law School graduate, will assume his duties as the new Ho-Chunk Nation Court Staff Attorney on July 1. He replaces Mr. Michael D. Oeser, a 1998 University of Wisconsin Law School graduate. Mr. Oeser will move to Madison later this month to assume a new position as an Assistant Attorney General with the Wisconsin Department of Justice's Civil Litigation Unit.

Evidence: Any species of proof, or probative matter, legally presented

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Ho-Chunk Bar Dues for 1999-2000 due by June 30 Legal Definition

at the trial of an issue, by the act of the parties and through the medium of witnesses, records, documents, exhibits, objects, etc. Rules of Evidence, such as those just adopted by the Ho-Chunk Court, generally determine what evidence a Court will allow to be presented. These rules generally seek to ensure that evidence presented to the Court is both relevant and non-prejudicial. Relevancy, a fairly self explanatory term, relates to whether the evidence offered has anything at all to do with the matter the Court is considering. Non-prejudicial evidence is evidence whose relevancy is not outweighed by its inflammatory nature, such as the sexual history of a rape victim at the trial of the accused rapist.

Recent Decisions

Trial Court Cases:

Karen Smith v. Lot L. Smith II, CV 97-33 (HCN Tr. Ct. May 6, 1999). Order suspending enforcement of child support obligation against per capita and releasing per capita to respondent.

U.W. Stevens Point v. Orbert S. Goodbear, CV 96-32 (HCN Tr. Ct. May 12, 1999). Order renewing withholding from per capita.

Gale S. White v. Larry V. Garvin, CS 99-21 (HCN Tr. Ct. May 12, 1999). Order granting a continuance to the respondent and postponing trial.

John S. Cloud v. HCN Enrollment, CS 99-23 (HCN Tr. Ct. May 14, 1999). Order releasing funds from children's trust fund account.

HCN Dept. Of Treasury v. Janis Burdick, CS 99-12 (HCN Tr. State of Wisconsin,

Ct. May 17, 1999). Order dismissing case at the request of the petitioner and releasing the per capita check of the defendant.

Rosalie J. Kakkak for Alana Greengrass v. Melody A. Hale, CV 99-19 (HCN Tr. Ct. May 17, 1999). Default judgment granting relief to petitioner on a debt owed.

In the Interest of the Minor Child J.M.P., DOB 10/31/84, by Lucinda Naquayouma v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-24 (HCN Tr. Ct. May 17, 1999). Order dismissing case for failure by the plaintiff to appear at a hearing after proper notice.



Stephanie Littlegeorge v. Roy Littlegeorge, Majestic Pines Hotel, CV 98-67 (HCN Tr. Ct. May 19, 1999). Order dismissing case because probationary employees have no right to grieve.

In the Interest of the Minor Child C.B.B., DOB 6/1/87, by Shawn Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-25 (HCN Tr. Ct. May 21, 1999). Order authorizing the release of money from the child's minor trust fund for orthodontic surgery.

Rachel Winneshiek v. James Beverly, CV 97-168 (HCN Tr. Ct. May 24, 1999). Order *Jackson Co. v. Thomas Redbird*

modifying enforcement of child support obligation against per capita.

Carol S. Wesenberg v. Leslie A. Boisen, CS 99-25 (HCN Tr. Ct. June 3, 1999). Order enforcing child support obligation against per capita.

Supreme Court Cases:

Ho-Chunk Nation Election Board v. Debra Greengrass, SU 99-03 (HCN S. Ct. June 1, 1999). Decision affirming Trial Court decision that HCN CONST. ART. VII, Sec. 10 states that Supreme Court Justices can only be elected from the June General Election.

Joelene Smith v. Ho-Chunk Nation and Tammy Lang, as Headstart Director, SU 98-03 & 98-04 (HCN S. Ct. June 7, 1999). Decision reversing and remanding Trial Court's decision in a wrongful termination case. Supreme Court held that Trial Court made erroneous findings of fact, failed to enforce the stipulated settlement of the parties and failed to sufficiently define "comparable employment" so that the defendant could return the plaintiff to such employment.

Recent Filings

Trial Court Cases:

Sauk Co. on behalf of Chris Crain v. Cheri Crain, CS 99-30, filed May 24, 1999. Action to enforce child support against per capita.

Angela Decorah v. Christopher Decorah, CS 99-31, filed May 24, 1999. Action to enforce child support against per capita.

Jr., CS 99-32, filed May 24, 1999.

Action to enforce child support against per capita.

State of Wisconsin, Jackson Co. v. Robin E. McKee, CS 99-33, filed May 24, 1999.

Action to enforce child support against per capita.

State of Wisconsin, Jackson Co. v. Christie J. Ryan, CS 99-34, filed May 24, 1999. Action to enforce child support against per capita.

Danae LaBarge v. Joseph Hackey, CS 99-35, filed May 24, 1999. Action to enforce child support against per capita.

Kyle M. Funmaker v. Richard K. Decorah, CS 99-36, filed May 24, 1999. Action to enforce child support against per capita.

State of Wisconsin on behalf of Joyce M. St. Cyr v. Robert Mobley, CS 99-37, filed June 2, 1999. Action to enforce child support against per capita.

State of Wisconsin on behalf of Jennifer Stanley v. Robert Mobley, CS 99-38, filed June 2, 1999. Action to enforce child support against per capita.

State of Wisconsin on behalf of Jennifer Stanley v. Robert Mobley, CS 99-39, filed June 2, 1999. Action to enforce child support against per capita.

State of Wisconsin, Shawano Co. v. Diane L. Matchopatow, CS 99-40, filed June 6, 1999. Action to enforce child support against per capita.

Dawn Burket v. Lawrence J. Hengel, CS 99-41, filed June 8, 1999. Action to enforce child support against per capita.

State of Wisconsin, Jackson Co. v. Jesse A. White, CS 99-42, filed June 8, 1999. Action to enforce child support against per capita.

State of Wisconsin, Jackson Co. v. Jacque L. Ledebahr, CS 99-43, filed May 24, 1999. Action to enforce child support against per capita.

Casey Fitzpatrick v. Ho-Chunk Nation, CV 99-31, filed May 14, 1999. Action appealing adverse employment decision.



Karen Raines v. Ho-Chunk Nation, CV 99-32, filed May 24, 1999. Action appealing adverse employment decision.

In the Interest of Randy K. Baneulos by Emily Boswell, CV 99-33, filed June 1, 1999. Action seeking release of money from child's per capita trust fund.

Laura Haas v. Ho-Chunk Casino-Tablesgames Dept., CV 99-34, filed June 9, 1999. Action appealing adverse employment decision.

Supreme Court Cases:

Nina Garvin v. Carol Laustrup, Ho-Chunk Casino, SU 99-04, filed June 1, 1999. Appeal of Trial Court decision on adverse employment action.

whichever is greater)

• By the Court

\$0.31/per mile

Copying \$0.10/per page

Faxing \$0.25/per page

(sending & receiving)

Tapes of Hearings \$10 / tape

Deposition Videotape \$10 / tape

Certified Copies \$0.50/ page

Equipment Rental \$5.00/ hour

Register a Foreign Orders \$15

Appellate filing fees \$35

Admission to Practice \$50

Pro Hac Vice Appearance \$35

HCN Court Fees

Filing Fee \$35

Service of Summons

• In Person \$15 (or cost if out of state)

• By Mail \$4 (or cost,

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Vol. 4, No. 7

July 1999

Trust Funds Suit Progressing Quickly

The class action lawsuit seeking redress for the federal government's mismanagement of Indian trust funds is progressing more quickly than expected. The suit, which went to trial earlier this spring, alleges that the Interior and Treasury Departments have mismanaged Indian trust accounts created to provide compensation for use of Indian owned land and natural resources.

The plaintiffs and their attorneys at the Native American Rights Fund began presenting their case in early June, intending to call more than 30 witnesses who would testify as to the particulars of the federal government's mismanagement. Only five of these witnesses presented their testimony, however, before the plaintiff's decided to rest their case.

This turn of events was due to a shift in position by the Department of Interior. Although the defendants conceded from the outset that the trust fund system was a shambles and a logistical nightmare, it refused to admit a breach of its trust responsibilities to the account holders.

Less than a sixth of the way through the plaintiff's case, however, Assistant Secretary for

Indian Affairs Kevin Gover, and Interior secretary Bruce Babbitt agreed to six stipulations that basically duplicated the remaining portion of the plaintiff's case. The stipulations included admissions that the DOI does not adequately control receipts and disbursements in all Indian trust accounts, does not provide all account holders with periodic statements for their accounts' performance, does not have written policies and procedures for all trust fund

appointment of a special master. They plan on doing this by demonstrating that current plans are sufficient to create an effective overhaul of the trust management system. The defense's case will be highlighted by testimony from both Assistant Secretary Gover and Interior Secretary Babbitt.



Congratulations

to

Election Winners!!

The recent elections brought the Ho-Chunk Nation a mix of new officials and returning incumbents.

The new officials are: Myrna J. Thompson, District 4 Legislator; and Kathyeleen Vidette, District 5 Legislator. The returning incumbents are: Jacob H. Lone Tree, President; Clarence Pettibone, District 1 Legislator; Dallas R. White Wing, District 3 Legislator; and Debra C. Greengrass, Associate Supreme Court Justice. All officials were sworn in at the Majestic Pines Bingo Hall on June 30th.



management and accounting functions, and does not provide adequate staffing, supervision and training for all aspects of trust fund management. The plaintiffs' case was also bolstered by the introduction into evidence of 10 General Accounting Office Reports detailing the DOI's mismanagement of the trust accounts.

With these admissions, the main goal of the defense now becomes to avoid judicial oversight through the

On September 8th and 9th, the Ho-Chunk Nation Courts will host the 4th Annual Law Day Celebration. As in the past, this

Plan Ahead for Law Day 1999

years' festivities will include a 5k Fun Run, as well as a number of Continuing Legal Education sessions. The details of this years

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events are not yet available, but keeps your ears to the ground and your eyes on this publication for further updates. For now, just make sure your dockets are clear for the Xth and Xth of September.



Court News

Fran Kearns, the Office of Public Advocacy (OPA) administrator has resigned her position to take a job as a paralegal with the Ho-Chunk Nation Department of Justice. Fran will be sorely missed but we at the courts wish her great success in her new position. With Fran moving on, the Office of Public Advocacy will be looking for a new administrator; anyone interested should keep an eye on the Department of Personel job postings.



Practice Tips

One of the actions most commonly brought in the Ho-Chunk Nation Trial Court is a petition to enforce state child support orders against tribal members' per capita distributions. When attempting to register a state court child support order, there are a number of things that should be taken into account.

First, the applicable laws are the RECOGNITION OF FOREIGN CHILD

SUPPORT ORDERS ORDINANCE and the CLAIMS AGAINST PER CAPITA ORDINANCE. Copies of this legislation can be obtained by contacting the Ho-Chunk



legislature at 715-284-9343.

A second important consideration is that per capita distributions are made four times per year, in February, May, August, and November. If a petitioner wishes to enforce an order against an upcoming distribution the Court Order must be filed by the 15th day of the month preceding the distribution. This being the case, the action must be initiated enough in advance of that 15th day, so as to allow sufficient time for a Response and other motions that may be brought under the HO-CHUNK NATION RULES OF CIVIL PROCEDURE.

Legal Definition

ex post facto law: a law passed after an act has been done, yet is used to punish a person for having done that act in the past. For example, if a legislature were to pass a law today that made wearing a hat while driving a crime, it would be an ex post facto law if that law were used in an attempt to convict a person for having worn a hat while driving yesterday.

Recent Decisions

Ho-Chunk Nation Trial Court:

State of Wisconsin v. Barbara A. Gromoff, CV 97-38 (HCN Tr. Ct. June 18, 1999). Order modifying the enforcement of child support obligation against per capita.

State of Wisconsin v. Zachery D. Thundercloud, CV 97-39 (HCN Tr. Ct. June 18, 1999). Order modifying the enforcement of child support obligation against per capita.

Juneau County/Keith Miller v. Chasity A. Miller, CS 99-26 (HCN Tr. Ct. June 22, 1999). Order enforcing child support obligation against per capita.

State of Wisconsin v. Roberta L. Crowe, CV 97-76 (HCN Tr. Ct. June 22, 1999). Order modifying the enforcement of child support obligation against per capita.

State of Wisconsin and Eunice G. Wamego v. Edward Troy Decorah, CV 96-83 (HCN Tr. Ct. June 25, 1999). Order modifying the enforcement of child support obligation against per capita.

Casey A. Fitzpatrick v. Ho-Chunk Nation, CV 99-31 (HCN Tr. Ct. June 28, 1999). Order denying the motion for more definite statement.

Julia Goodbear v. Ted L. Brown, CS 98-20 (HCN Tr. Ct. June 29, 1999). Order modifying the enforcement of child support obligation against per capita.

Catherine M. Gourd v. Alexander D. Gourd, CS 99-13 (HCN Tr. Ct.

June 29, 1999). Order amending the address to send child support *Stewart Miller v. Ho-Chunk Nation Election Board, and Ho-Chunk Nation Legislative Representatives, et al., and Kathy Lonetree Whiterabbit*, CV 99-37 (HCN Tr. Ct. June 29, 1999). Order dismissing this challenge to the primary election for failure to timely file within the ten day period as required by the *Ho-Chunk Nation Election Ordinance* and the HO-CHUNK NATION CONSTITUTION.

Joan Greendeer-Lee v. Ho-Chunk Nation Election Board, CV 99-35 (HCN Tr. Ct. June 29, 1999). Order dismissing the action. The *Election Ordinance* was properly followed, and it does not require that the Election Board give notice to candidates whose election is being challenged.

State of WI-Jackson County v. Thomas (Frank) Redbird, Jr., CS 99-32 (HCN Tr. Ct. June 30, 1999). Order enforcing child support obligation against per capita distribution

State of Wisconsin-Sauk Co./Joyce Marie St. Cyr v. Robert Mobley, CS 99-37; *Jennifer Stanley v. Robert Mobley*, CS 99-38; *Jennifer Stanley v. Robert Mobley*, CS 99-39 (HCN Tr. Ct. July 13, 1999) Order consolidating cases and impounding per capita distribution for satisfaction of child support obligation.

April Bourdon v. Max Funmaker, Jr. CS 98-12; *State of Wisconsin and Audrey Lynn Coodbear v. Max Funmaker Jr.*, CS 99-28 (July 13, 1999). Order consolidating cases

payments to, in order to ensure the proper enforcement of the Court's and impounding per capita distribution for satisfaction of child support obligation.

State of Wisconsin-Jackson County v. Jacque L Ledebuhr, CS 99-43 (July 13, 1994). Order enforcing child support obligation against per capita distribution.

Angela Decorah v. Christopher Decorah, CS 99-31 (July 13, 1999). Order enforcing child support against per capita distribution..

Julie M. Schlies v. Timothy E. Tebo, CS 99-24 (July 13, 1999). Order enforcing child support obligation against per capita distribution.

Melanie Stacyv. Roger B. Littlegeorge CS 99-44 (July 13, 1999). Order enforcing child support obligation against per capita distribution.

In re: Bruce Patrick O'Brien, by Elethe Nichols, Guardian v. HCN Enrollment Dept., CV 96-46 (July 14 1999). Order granting release of per capita funds.

Loretta Hopinka v. Dean Hipinka CS 99-14 (July 14, 1999). Order modifying child support order.

Vicki Houghton and Rachel Winneshiek v. John C. Houghton Jr., CS 99-29 (July 14, 1999). Order enforcing child support obligation against per capita distribution.

State of Wisconsin-Jackson Co., v. Jesse A. White CS 99-42 (July 14, 1999). Order enforcing child

previous decision.

support obligation against per capita distribution.

Dawn Burket v. Lawrence J. Hengel CS 99-41 (July 14, 1999) Order enforcing child support obligation against per capita distribution.

State of Wisconsin, Sauk Co., and Chris W. Crain v. Cheri L Crain CS 99-30 (July 14, 1999. Order enforcing child support obligation against per capita distribution.

State of Wisconsin, Jackson County v. Christie J. Ryan CS 99-34 (July 14, 1999). Order enforcing child support obligation against per capita distribution.

Barbara J. Wilson v. Robin E McKee CV 97-124; *State of Wisconsin-Jackson County v. Mobin E. Mckee* CS 99-33. (July 14, 1999). Order consolidating payments, suspending a previously issued order, and impounding child support.

Parmentom Decorah v. HCN Legislature and HCN Dept. Of Personnel, CV 99-08 (HCN Tr. Ct. July 1, 1999). Order granting preliminary injunction. HCN Leg. Res. 12-29-98C, as applied to Parmenton Decorah, held to be an unconstitutional ex post facto law. The HCN Department of Personnel was ordered to reinstate Mr. Decorah within thirty (30) days.

Ho-Chunk Nation Supreme Court:

Debra C. Greengrass v. Ho-Chunk Nation Election Board, SU 99-03 (HCN Sup. Ct. June 30, 1999). Decision affirming Trial Court decision that HCN CONST. ART. VII, Sec. 10 states that Supreme Court Justices can only be elected from the June General Election. The Court declined to reconsider their June 1, 1999 decision. Ms. Greendeer-Lee was not a party to the action below, and therefore cannot file for reconsideration of the decision. The Court declined to revisit the Trial Court's decision not to join Ms. Greendeer-Lee as a necessary party.

United States Courts of Appeals

United States v. Timothy S. Raskiewicz (U.S. Court of Appeals, 7th Cir., Feb. 18, 1999, 26 Indian L. Rep. 2079). The jury venire selection process utilized by the Eastern District of Wisconsin acts to exclude the Indians from the six reservations in that district from the jury pool. Though it questioned this jury selection policy, the Court held that this did not violate a defendant's Sixth Amendment right to a fair and impartial jury, as "reservation Indians" were not a distinctive group.

Washington, et al. v. William M. Daley, et al. (U.S. Court of Appeals, 9th Cir., Apr. 2, 1999, 26 Indian L. Rep. 2083). These combined cases challenge the fishing regulations promulgated in 1996 to address the whiting and groundfish treaty fishing rights of the Makah, Hoh and Quilete Tribes and the Quinault Indian Nation. The Court held that as the regulations were still in effect, the

cases were not moot merely because the 1996-1997 fishing season had ended. The Court also reversed the lower court's decision to dismiss the cases for lack to join the tribes as indispensable parties. The Court noted that here, especially, where there was no potential conflict of interest between the United States and the tribes, the United States could adequately represent the tribes' interests.

United States District Courts

Cabazon Band of Mission Indians, et al. v. Larry D. Smith, et al. (U.S. District Court for the Central District of California, Apr. 29, 1998, 26 Indian L. Rep. 3059, and companion case *Cabazon Band of Mission Indians, et al. v. Larry D. Smith, et al.* (U.S. District Court for the Central District of California, Dec. 2, 1998, 26 Indian L. Rep. 3062). The Cabazon Band of Mission Indians, consistent with P.L. 280, have concurrent criminal jurisdiction. P.L.280 itself does not prohibit their having a police force to enforce tribal laws against Indians, or using their police force to detain non-Indian lawbreakers until such time as the appropriate authorities can transport them to other jails. The California Vehicle Code does apply to tribal police vehicles, and when tribal police vehicles must travel on public highways to reach other parts of the reservation, the emergency light vehicle light bars must be covered and they must otherwise obey the vehicle code.

Sandy Buchanan et al. v. Sokaogon Chippewa Tribe, et al. (U.S. District Court for the Eastern

District of Wisconsin, Mar. 30, 1999, 26 Indian L. Rev. 3079). The Court dismissed this case for lack of subject matter jurisdiction. The parties must return to the tribal court to exhaust their tribal remedies prior to coming to federal court.

State Court Decisions

Minnesota v. Julius Ambrose Couture (MN Ct. of App., Jan. 12, 1999, 26 Indian L. Rev. 5055). The Minnesota statute prohibiting driving while under the influence of alcohol is criminal/prohibitory for purposes of the application of P.L. 280. Therefore, the State has jurisdiction over a charge of driving under the influence of alcohol against a tribal member involved in an accident on the Fond du lac Reservation.



Recent Filings

Ho-Chunk Nation Trial Court

Denise J. Eddy v. Jacob Lonetree & HCN, CV 99-36, filed June 11, 1999. Action to challenge an advers employment action.

HCN Housing Authority v. Karen Lipski, CV 99-38, filed June 15, 1999. Eviction action.

Lori Spinn for M.L.D. v. HCN Enrollment Department, CV 99-39, filed June 22, 1999. Action seeking release of money from child's per capita trust fund.

Algie A. Wolters for A.O.W. v. HCN Enrollment Department, CV Algie A. Wolters for M.F.W. v. HCN Enrollment Department, CV 99-41, filed June 22, 1999. Action seeking release of money from child's per capita trust fund.

99-40, filed June 22, 1999. Action seeking release of money from child's per capita trust fund. .\$.35

capita trust fund.

1994).

Rules of Civil Procedure HCN R.. Civ. P. 19(B)

Legal Citation Form

Below are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution Constitution, Article Number, Section, and Subsection.

HCN CONST., ART. XI, Sec. (or §) 7.

HCN CONST., ART. II, Sec. (or §) 1(a).

HCN Ordinances

Ordinance Name, Chapter number, Section/Part/Clause, page.

PERSONNEL POLICIES AND PROCEDURES MANUAL, Ch. 12, Part B, p.82.

CLAIMS AGAINST PER CAPITA, §6.01(b).

HCN Supreme Court Case Law



Case Name, Case No (HCN S. Ct., month, day, year).

Johnson v. Department Inc., SU89-04 (HCN S. Ct., Aug. 14, 1995).

Smith v. Casino, SU94-11 Order (HCN S. Ct., Dec. 1, 1993).

HCN Trial Court Case Law

Case Name, Case No. (HCN Tr. Ct., month, day, year).

Jane Doe v. Bob Smith, CV99-01 (HCN Tr. Ct., Nov. 1, 1999)

In the Interest of Minor Child X, JV95-047 (HCN Tr. Ct., May 23,

Ho-Chunk Nation Supreme Court:

No recent filings.

HCN Court Fees

Filing Fees. \$35

Service of Summons

- In Person. \$15 (or cost, if out of state)
- By Mail. \$4 (or cost, whichever is greater)
- By the Court. \$0.31 (per mile)
- Copying. \$10.10/per page
- Faxing \$1. 0.25/per page (sending & receiving)
- Tapes of Hearings. \$10 / tape
- Deposition Videotape. . . . \$10 / tape
- Certified Copies. \$0.50/ page
- Equipment Rental. \$5.00/ hour
- Register a Foreign Orders. \$15
- Appellate filing fees. \$35
- Admission to Practice. \$50
- Pro Hac Vice Appearance.



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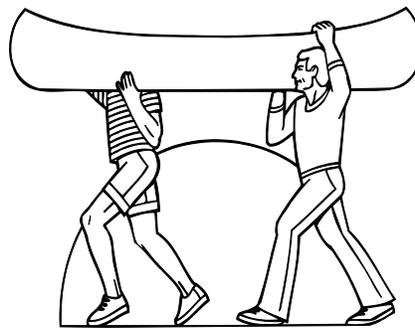
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Civil Litigation Unit.



Legal Definition

Sovereign Immunity: According to BLACK'S LAW DICTIONARY, Sixth Ed., sovereign immunity is "A judicial doctrine which precludes bringing suit against the government without its consent. Founded on the ancient principle that "the King can do no wrong," it bars holding the government or its political subdivisions liable for the torts of its officers or agents unless such immunity is expressly waived by statute or by necessary inference from legislative enactment." For example, the Ho-Chunk Nation Legislature has expressly waived the sovereign immunity of the Nation to a limited extent in employment grievance cases.

Recent Decisions

Trial Court Cases:

➤ *State of Wisconsin-Jackson County, v. Thomas (Frank) Redbird, Jr.*, CS 99-32, HCN Tr. Ct. Jun 30, 1999. Default judgment enforcing a standing child support order from the state of Wisconsin.

➤ *Julia Goodbear v. Ted L. Brown*, CS98-20, HCN Tr. Ct. Jun 29, 1999. Judgment amending child support order.

➤ *State of Wisconsin, and Eunice G. Wamego v. Edward Troy Decorah*, CV 96-83 HCN Tr. Ct. Jun 25, 1999. Judgment enforcing modification of an underlying

Jackson County, WI child support order.

➤ *State of Wisconsin v. Roberta L. Crowe*, CV 97-76, HCN Tr. Ct. Jun 22, 1999. Judgment modifying child support.

➤ *Juneau County/Keith Miller v. Chasity A. Miller*, CV 99-26, HCN Tr. Ct. June 22, 1999. Judgment enforcing child support order.

➤ *State of Wisconsin v. Zachery D Thundercloud*, CV 97-39, HCN Tr. Ct. June 18, 1999.

➤

Supreme Court Cases:

1.

Joelene Smith v. Ho-Chunk Nation and Tammy Lang, as Headstart Director, SU 98-03 & 98-04 (HCN S. Ct. June 7, 1999). Decision reversing and remanding Trial Court's decision in a wrongful termination case. Supreme Court held that Trial Court made erroneous findings of fact, failed to enforce the stipulated settlement of the parties and failed to sufficiently define "comparable employment" so that the defendant could return the plaintiff to such employment.

Recent Filings

Trial Court Cases:

Sauk Co. on behalf of Chris Crain v. Cheri Crain, CS 99-30, filed May 24, 1999. Action to enforce child support against per capita.

Angela Decorah v. Christopher Decorah, CS 99-31, filed May 24, 1999. Action to enforce child support against per capita.

State of Wisconsin, Jackson Co. v. Thomas Redbird Jr., CS 99-32, filed May 24, 1999. Action to enforce child support

against per capita.

State of Wisconsin, Jackson Co. v. Robin E. McKee, CS 99-33, filed May 24, 1999. Action to enforce child support against per capita.

State of Wisconsin, Jackson Co. v. Christie J. Ryan, CS 99-34, filed May 24, 1999. Action to enforce child support against per capita.

Danae LaBarge v. Joseph Hackey, CS 99-35, filed May 24, 1999. Action to enforce child support against per capita.

Kyle M. Funmaker v. Richard K. Decorah, CS 99-36, filed May 24, 1999. Action to enforce child support against per capita.

State of Wisconsin on behalf of Joyce M. St. Cyr v. Robert Mobley, CS 99-37, filed June 2, 1999. Action to enforce child support against per capita.

State of Wisconsin on behalf of Jennifer Stanley v. Robert Mobley, CS 99-38, filed June 2, 1999. Action to enforce child support against per capita.

State of Wisconsin on behalf of Jennifer Stanley v. Robert Mobley, CS 99-39, filed June 2, 1999. Action to enforce child support against per capita.

State of Wisconsin, Shawano Co. v. Diane L. Matchopatow, CS 99-40, filed June 6, 1999. Action to enforce child support against per capita.

Dawn Burket v. Lawrence J. Hengel, CS 99-41, filed June 8, 1999. Action to enforce child support against per capita.

State of Wisconsin, Jackson Co. v. Jesse A. White, CS 99-42, filed June 8, 1999. Action to enforce child support against per capita.

State of Wisconsin, Jackson Co. v. Jacque L. Ledebahr, CS 99-43, filed May 24, 1999. Action to enforce child support against per capita.

Casey Fitzpatrick v. Ho-Chunk Nation, CV 99-31, filed May 14, 1999. Action appealing adverse employment decision.

Karen Raines v. Ho-Chunk Nation, CV 99-32, filed May 24, 1999. Action appealing adverse employment decision.

In the Interest of Randy K. Baneulos by Emily Boswell, CV 99-33, filed June 1, 1999. Action seeking release of money from child's per capita trust fund.

Laura Haas v. Ho-Chunk Casino-Tablesgames Dept., CV 99-34, filed June 9, 1999. Action appealing adverse employment decision.

page
 Equipment Rental \$5.00/
 hour
 Register a Foreign Orders \$15
 Appellate filing fees \$35
 Admission to Practice \$50
 Pro Hac Vice Appearance \$35

Supreme Court Cases:

Nina Garvin v. Carol Laustrup, Ho-Chunk Casino, SU 99-04, filed June 1, 1999. Appeal of Trial Court decision on adverse employment action.

HCN Court Fees

Filing Fee \$35
 Service of Summons
 • In Person \$15 (or cost if out of state)
 • By Mail \$4 (or cost, whichever is greater)
 • By the Court \$0.31/per mile
 Copying \$0.10/per page
 Faxing \$0.25/per page (sending & receiving)
 Tapes of Hearings \$10 / tape
 Deposition Videotape \$10 / tape
 Certified Copies \$0.50/

Ho-Chunk Nation Court Bulletin

An informational bulletin published for the benefit of attorneys and tribal members.

Vol. 4, No. 8

September 1999

Becoming Acquainted with Associate Judge Todd Matha

This interview with Associate Judge Todd Matha is the first in what will be a five part series. Each month the *Court Bulletin* will give some insight into the professional and personal lives of the Judges and Justices who work for the Ho-Chunk Nation. The interviews will be conducted and edited by David Neubeck, the editor of the *Court Bulletin*.



DN: So, how long have you been a Trial Court Judge?

TM: About five months. . . I was sworn in on April 12, 1999. This was just a few weeks after I was appointed by the Legislature.

DN: What drew you to the law? Why did you become a lawyer?

TM: I always had an inclination toward the law, but I'm still kind of uncertain as to how it formed. When I was trying to decide what to do after I got my undergraduate degree, I seriously debated between law school and the Seminary. In the end, however, I was leaning toward law school and I attended the Pre-Law Summer Institute in Albuquerque, New

Mexico [an introductory program for prospective American Indian law students], and my experiences there persuaded me that law should

become my chosen path. Also, I wished to make a contribution to the Nation in light of its generous financial contribution to my



education

DN: What did you experience at the Summer Law Institute that was such a big influence on your decision?

TM: Actually, Supreme Court Justice Mary Jo Hunter taught a course on American Indian Law, and her obvious conviction and dedication to Indian issues and the Nation inspired me to choose law as my way to make a contribution.

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Law Day is on the Horizon

On October 1st and 2nd, the Ho-Chunk Nation Courts will host the 4th Annual Law Day Celebration. This year's event will begin on Friday, October 1st with CLE sessions updating important developments in the Ho-Chunk Nation Trial and Supreme Courts, as well as the Ho-Chunk Nation Legislature. The Ho-Chunk Nation Supreme Court will also hold a panel presentation and discussion regarding the soon to be promulgated Ho-Chunk Nation Code of Ethics. As an added bonus, this year's festivities will coincide with a meeting of the Wisconsin Bar Association's Young Lawyers Division, Indian Law Section at Majestic Pines Casino. The Young Lawyers's activities will take place in the afternoon so that you can attend both functions. After Friday's non-stop informative sessions, attendees should be sure to get a good night's sleep in preparation for Saturday's 5k Fun Run. Your attendance is encouraged as Pendleton blankets will be awarded to the fastest male and female finishers.

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DN: You previously represented the Nation through your work at the Department of Justice, why did you want to become a judge?

TM: I was just intrigued by the challenge . . . especially since I'm still in the formative years of my legal career. I also sought the job because I thought I could have a positive impact on the administration of justice within the Nation. I thought this (and still think this) because my parents, relatives, and teachers instilled in me a much appreciated sense of fairness. I also looked forward to interacting with the Traditional Court--an institution I view as an integral part of the Nation's justice system.

DN: What do you enjoy the most about your job?

TM: I take a lot of satisfaction in attempting to resolve lingering, and sometimes volatile individual and familial problems. Courts, however, cannot alone mold and shape behavior, but merely provide direction and support.

DN: What do you find most difficult about being a judge?

TM: The things I find most difficult are also the things I find most rewarding. The types of cases I mentioned earlier--lingering disputes--are often the most difficult to successfully address. In the difficulty, however, lies the challenge and duty which I enjoy and take very seriously.

DN: Can you tell me a little bit about your life away from work--what do you think people should know about the "non-judge" you?

TM: Well, I guess the most noteworthy thing in my life right now is my engagement to Katie Funmaker. As for hobbies and stuff, I enjoy a lot of different sports--volleyball, racquetball, softball, biking. I also enjoy traveling (when I get the chance) and attending concerts.

DN: What kind of music do you listen to?

TM: I like a lot of different stuff but mostly Trip Hop, Big Beat and Industrial. Anything which remains relevant and sonically captivating.

DN: What do you think the Ho-Chunk court system will look like in ten years.

TM: I think and hope that we will be exercising greater jurisdiction, thereby more fully asserting our authority as a sovereign nation. The extent of our powers, however, depends somewhat on the will of the Legislature. So, ultimately, I guess I hope to see a meeting of the minds among the leadership of the Nation as to the role of the Courts.

DN: I guess that's about it for now. I, and the *Bulletin's* readership thanks you for your time.--Do you have any last comments you'd like to add?

TM: Yes, I am grateful for and humbled by the responsibility bestowed upon me, and I will do my best to fulfill the expectations of my position.



Court News

◆ The Ho-Chunk Nation

Supreme Court will be in session at the Ho-Chunk Nation Courts building on October 2nd, 1999. The public is invited to attend.

◆ On August 12, 1999 the

Court promulgated an *Administrative Order* creating new designations for criminal, divorce, and dissolution cases. Criminal cases will be designated with the prefix "CR," divorce cases with the prefix "FM," dissolution cases with the prefix "DS," and domestic violence cases with the prefix "DV." Attorneys or litigants with questions should contact the Court at 715-284-2722.

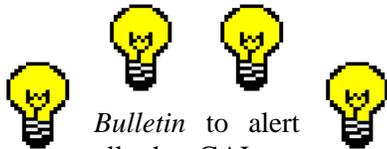
◆ On September 20th and 21st the Indian Tribal Justice Center will hold training sessions for those interested in becoming Guardian Ad Litem's. Guardian Ad Litem's (often referred to as GAL's) have serious responsibilities, in that they represent the independent interests of children involved in cases before the Court. Duties include, but are not limited to, appearing at all Court proceedings involving the child and filing reports and other documents required by the Court. The training is free and will take place at the courthouse. Interested parties should contact Marcella Cloud at 715-284-2722.

◆ The Wisconsin Dells branch office wishes to inform all readers that its address has changed. The new address is : Wisconsin Dells Branch Office S2845 WhiteEagle Rd. Baraboo, WI 53913

Notice

Pursuant to an *Order* dated July 29, 1999 in JV 96-12, the following is

published in the *Court Bulletin*. The Court removed Gale White *continued from page 2* duties as a Guardian Ad Litem (GAL) in this case and all other cases in which she is presently assigned to act as a GAL before this Court. The Court took this action after Ms. White failed to file a report in JV 96-12, and failed to attend a Show Cause Hearing to explain why she had not done so. Ms. White was held in Contempt of Court and fined. The Honorable Mark Butterfield ordered that this action be published in the *Court*



Bulletin to alert all other GALs to take their responsibilities seriously.

Practice Tips

As many of you may already know, the Ho-Chunk Nation Legislature recently enacted a new Children and Family Code. This legislation differs significantly from Wisconsin Statute Chapter 48, the legislation previously adopted by the Ho-Chunk Legislature to deal with children's and family matters. In addition to substantive differences, the new Children and Family Code contains many new procedures of which litigants should be aware. For instance, Article XXIV §2 requires that "[a]ll petitions must be signed and dated by the petitioner, and must be notarized or witnessed by a clerk of the court." This effectively means that litigants must file their petitions in person. The Code additionally permits the Court (in both CHIPS and guardianship cases) to provide traditional relatives notice of the action and allow them to inform the Court of their opinion on the

from her

matter. The above mentioned requirements are just a sample of the new and unique provisions of the Ho-Chunk Nation Children and Family Code. Those wishing to examine the legislation in more



detail may receive a copy by calling the Ho-Chunk Nation Legislature at 715- 284-9343.

Legal Definition

Severable: Admitting of severance or separation; capable of being divided; separable; capable of being severed from other things to which it was joined, and yet maintaining a complete and independent existence. *Severable Statute*: A statute if after an invalid portion of it has been stricken out, that which remains is self sustaining and capable of separate enforcement without regard to the stricken portion, in which case that which remains should be sustained. Blacks Law Dictionary 1374-75 (6th ed. 1990).

Recent Decisions

Ho-Chunk Nation Trial Court:

State of Wisconsin/Vilas County v. Betty J. White, CS 99-27 (HCN Tr. Ct., July 15, 1999). The Court impounded monies from the defendant's Aug. 1, 1999 per capita distribution to preserve the rights of the plaintiff.

In re: Bruce Patrick O'Brien by Elethe Nichols, Guardian v. HCN Enrollment Dept., CV 96-46 (HCN

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Tr. Ct., July 16, 1999). Order modifying the release of per capita funds.

Anthony Salerno v. Estelle R. Whitewing, CV 97-103 (HCN Tr. Ct., July 16, 1999). Order denying the motion to modify child support withholding

State of Wisconsin v. Dallas White, CV 96-70 (HCN Tr. Ct., July 16, 1999). Order suspending withholding for child support.

Molli A. White, f/k/a Molli Huling v. Dallas G. White, CS 98-45 (HCN Tr. Ct., July 16, 1999). Order suspending withholding for current child support.

Karen J. Smith v. Lot L. Smith, CV 97-33 (HCN Tr. Ct., July 16, 1999). Order modifying withholding for current child support.

Kathleen Waukau by the State of Wisconsin, Shawano County v. Eldon Powless, CV 96-93; *Patricia C. Martinez v. Eldon D. Powless*, CS 99-17; *Eldon D. Powless v. Margaret a King*, CS 99-22; *Eldon D. Powless v. Rebecca Nunway*, CS 99-23; (HCN Tr. Ct., July 16, 1999). Order modifying and enforcing child support obligations against per capita distribution.

Pauline B. Mike v. Loylee B. Mike and J.T.M. (Minor Child), CV 99-42 (HCN Tr. Ct., July 23, 1999). Preliminary Injunction (involving alleged elder abuse).

State of Wisconsin, Jackson Co., v. Brent M. Funmaker, CV 97-18 (HCN Tr. Ct., July 26, 1999). Order enforcing child support obligation against per capita distribution.

Nicole L. Cook v. Harry J. Cholka,

CV 97-75 (HCN Tr. Ct., July 26, 1999). Order suspending withholding for back child support.

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28, 1999). Order expressly incorporating the dollar amount of the monthly child support obligation.

Ho-Chunk Nation Housing Authority v. Karen Lipski, CV 99-38 (HCN Tr. Ct., Aug. 4, 1999). Ex- Parte Emergency Order granting petitioner the authority to enter the respondent's home for purposes of cleaning and rendering it habitable.

Paul Smith v. John Doe a.k.a. John Ramirez, CV 99-60 (HCN Tr. Ct. Aug 5, 1999). Erratum Order adding notice of expiration to an Ex Parte Emergency Temporary Restraining Order issued on August 4, 1999.

Jessica L. Church v. William Browne Jr., CS 99-47 (HCN Tr. Ct. Aug. 6, 1999). Order dismissing case as the respondent's child support obligation is satisfied through wage withholding.

Melissa Sue Decorah v. Ho-Chunk Nation Enrollment Committee & Nancy Smith, CV 99-14 (HCN Tr. Ct. Aug. 9, 1999). Order dismissing the case for failure to substantially comply with the HCN Rules of Civil Procedure.

In the Interest of Adult Incompetent Kathy Brandenburg-Miller, CV 98-18. (HCN Tr. Ct. Aug. 11, 1999) Order appointing Anna Rae Funmaker as protective payee.

Michele Ferguson v. HCN Insurance Review Commission/Division of Risk Management, CV 99-20 (HCN Tr. Ct. Aug. 12, 1999). Order striking down the Ho-Chunk Insurance Review Commission Ordinance as

Colleen D. Hansen v. Jerry L. Lewis Park, CS 98-73 (HCN Tr. Ct., July

unconstitutional and void. The Legislature impermissibly delegated the powers of the judiciary to the Ho-Chunk Insurance Review Commission.

In the Interest of V.S. & S.S. by Lori Luxon v. HCN Enrollment Dept., CV 98-39 (HCN Tr. Ct. Aug. 12, 1999). Order permanently barring Lori Luxon from utilizing her children's CTF accounts, as she ignored two Court orders, by failing to provide an accounting of the last release.

Lonnie Simplot, Linda Severson, and Carol Ravet v. Ho-Chunk Nation Department of Health, CV 95-26, CV 95-27, CV 96-05 (HCN Tr. Ct. Aug. 13, 1999). Order determining that the Nation did not waive its sovereign immunity when its employees allegedly engaged in racial discrimination when terminating the plaintiffs. The Nation also did not waive its sovereign immunity by entering into the IHS contract, as the incorporated clauses fell short of the "clear and explicit" requirement for waivers. The Nation did waive its sovereign immunity as provided in HCN Leg. Res. 3/26/96-A, and the Court had previously awarded the plaintiffs all the relief to which they were entitled under that resolution.

State of Wisconsin, Sauk Co., and Chris w. Crain v. Cheri L. Crain. CS 99-30 (HCN Tr. Ct. Aug 13, 1999). Granting Motion for Reconsideration.

Jolene Smith v. Scott Beard, as Director of HCN Dept. Of Education and the Ho-Chunk Nation, CV 96-94. (HCN Tr. Ct. Aug. 16, 1999). Declaratory Judgment defining "comparable

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position" in relation to employment reinstatement.

Kyle Marie Funmaker v. Richard Keith Decorah. CS 99-36, (HCN Tr. Ct., Aug. 24, 1999). Default Judgment (Enforcing Child Support).

State of Wisconsin/Sauk Co., and Chris W. Crain v. Cheri L. Crain. CS 99-30 (HCN Tr. Ct. Aug. 25, 1999). Erratum Order

Barbara J. Wilson v. Robin E. McKee; State of Wisconsin/Jackson Co. v. Robin E. McKee CS 97-124; CS 99-33 (HCN Tr. Ct. Aug. 25, 1999). Order (Enforcing Child Support).

State of Wisconsin/Sauk Co. and Joyce St. Cyr v. Robert Mobely; State of Wisconsin/Sauk Co. and Jennifer Stanely v. Robert Mobely; State of Wisconsin/Sauk Co. and Jennifer Stanley v. Robert Mobely. CS 99-37, CS 99-38, and CS 99-39. (HCN Tr.Ct. Aug. 27, 1999). Order (Enforcing child Support).

State of Wisconsin/Sauk Co v. Christopher J. Sweet. CS 99-53 (HCN Tr.Ct. Aug 27, 1999). Judgment (Enforcing Child Support).

State of Wisconsin/Jackson Co. v. Lucinda L. Naquayouma. CS 99-51 (HCN Tr. Ct. Aug 27, 1999). Judgment (Enforcing Child Support).

In the Interest of Adult Incompetent Oliver S. Rockman v. Ho-Chunk Nation. CV 97-117 (HCN Tr. Ct. Aug 30, 1999). Order (Approving Request for Money).

April Bourdon v. Max Funmaker Jr.; State of Wisconsin; Sauk

Co./Audrey L. Goodbear v. Max Funmaker Jr., CS 99-28, CS 99-33 (HCN Tr. Ct. Sept. 1, 1999). Order (Enforcing Child Support).

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Melanie Stacy and Michelle Gulbranson v. Roger Littlegeorge. CS 99-44, CS 97-91 (HCN Tr. Ct. Sept 1, 1999). Judgment (Releasing Impounded Arrears).

Ho-Chunk Nation Supreme Court:

Louella A. Kelty v. Jonette Pettibone and Ann Winneshiek, in their official capacities, SU 99-02 (HCN Su. Ct. July 27, 1999). Opinion reversing and remanding the Mar. 4, 1999 Trial Court decision. On remand, the Trial Court is to consider whether the plaintiff received proper notice when she was terminated. Proper notice is required to satisfy the due process requirement of the Constitution of the Ho-Chunk Nation.

Recent Filings

Ho-Chunk Nation Trial Court:

Nancy Roskos v. HCN Gaming Commission. CV 99-54, filed July 23, 1999.

Cynthia B. Vanderwall v. HCN Gaming Commission. CV 99-55, filed July 23, 1999.

HCN Housing Authority v. Audry Goodbear. CV 99-56, filed July 27, 1999.

David Snowball, Occupancy Specialist, HCN Housing Authority v. Janice Harrison and Cheryl Decorah-Snake., CV 99-57, filed August 2, 1999.

David Snowball, Occupancy Specialist, HCN Housing Authority v. Janice Harrison and Cheryl

Barbara J. Wilson v. Robin E. McKee; *State of Wisconsin/Jackson Co. v. Robin E. McKee* CS 97-124; CS 99-33

Decorah-Snake. CR 99-01, filed August 2, 1999.

Rae Anna Garcia v. HCN Enrollment Committee. CV 99-59, filed August 3, 1999.

Paul Smith v. John Doe, a.k.a. John Ramirez. CV 99-60, filed August 4, 1999

In the Interest of Samantha Dyan Beal. CV 99-61, filed August 5, 1999.

State of Wisconsin / Eau Claire Co. v. Arnold Cloud. CS 99-55, filed August 8, 1999.

State of Wisconsin / Shawano Co. v. Roger M. Thundercloud. CS 99-56, filed August 8, 1999.

Joan Whitewater v. HCN Office of Tribal Enrollment Office. CV 99-62, filed August 10, 1999.

State of Wisconsin / Eau Claire Co. v. Candace Kaiser N/K/A Cloud. CS 99-54, filed August 11, 1999.

Roxanna Metoxen v. HCN Office of Tribal Enrollment. CV 99-63, filed August 18, 1999.

Patricia K. Mikesell v. Majestic Pines Casino. CV 99-64, filed August 18, 1999.

Ho-Chunk Nation Supreme Court:

Vicki Houghton and Rachel Winneshke v. John C. Houghton Jr. SU 99-06, filed August 12, 1999.

Lonnie Simplot, Linda Severson, and Carol Ravet v. HCN Health Department. SU 99-07, filed August 23, 1999.

Clarence Pettibone, et al. vs.

(HCN Tr. Ct. Sept. 1, 1999). Erratum Order.

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Stewart Miller. SU 99-06, filed August 26, 1999.

HCN Court Fees

Filing Fees.	\$35
Service of Summons	
• In Person.	\$15 (or cost, if out of state)
• By Mail.	\$4 (or cost, whichever is greater)
• By the Court.	\$0.31 (per mile)
Copying.	\$.10/per page
Faxing	\$.025/per page (sending & receiving)
Tapes of Hearings.	\$.10 / tape
Deposition Videotape. . . .	\$10 / tape
Certified Copies.	\$.050/ page
Equipment Rental.	\$.500/ hour
Register a Foreign Orders.	\$.15
Appellate filing fees.	\$35
Admission to Practice.	\$.50
Pro Hac Vice Appearance.	\$.35

Legal Citation Form

Below are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution

Constitution, Article Number, Section, and Subsection.

HCN CONST., ART. XI, Sec. (or §) 7.

HCN CONST., ART. II, Sec. (or §) 1(a).

HCN Ordinances

Ordinance Name, Chapter number,
Section/Part/Clause, page.

PERSONNEL POLICIES AND
PROCEDURES MANUAL, Ch. 12,
Part

B, p.82.

CLAIMS AGAINST PER CAPITA,
§6.01(b).

HCN Supreme Court Case Law

Case Name, Case No (HCN S. Ct.,
month, day, year).

Johnson v. Department Inc., SU89-
04 (HCN S. Ct., Aug. 14, 1995).

Smith v. Casino, SU94-11 *Order*
(HCN S. Ct., Dec. 1, 1993).

HCN Trial Court Case Law

Case Name, Case No. (HCN Tr.
Ct.,
month, day, year).

Jane Doe v. Bob Smith, CV99-01
(HCN Tr. Ct., Nov. 1, 1999)

In the Interest of Minor Child X,
JV95-047 (HCN Tr. Ct., May 23,
1994).

Rules of Civil Procedure

HCN R.. Civ. P. 19(B)

Ho-Chunk Nation Court Bulletin

An informational bulletin published for the benefit of attorneys and tribal members.

Vol. 4, No. 9

October 1999

Debra Greengrass - A Busy Supreme Court Justice . . .and Bailiff . . .and Mother . . .and . . .

This interview with Supreme Court Justice Debra Greengrass is the second installment in what will be a five part series. Each month the *Court Bulletin* will give insights into the professional and personal lives of the Judges and Justices who work for the Ho-Chunk Nation. The interviews will be conducted by David Neubeck, editor of the *Court Bulletin* and staff attorney for the Ho-Chunk Nation Trial Court.



DN: So, Justice Greengrass--how long have you been a Supreme Court Justice?

DG: I've been a Justice for over four years. I was one of two Supreme Court Justices elected in June 1995 under the then newly adopted HCN [Ho-Chunk Nation] Constitution. I was re-elected to a second term in June, 1999.

DN: What drew you to the law? Why did you want to be a Supreme Court Justice?

DG: I was drawn into the area of law in July of 1984. I was employed by Milwaukee County as

a Clinical Technician and the position was abolished. I was offered several other jobs that weren't as comparable. Eventually, I applied for the Milwaukee County Sheriff's Department and was sworn in as a deputy sheriff in July of 1984. After five years of service I was assigned to the Courts Bureau as a bailiff in the Milwaukee County Court system. Every day of my ten years as a bailiff has been challenging and interesting.

My experience and knowledge of the court system is what prompted me to seek election as a Supreme Court Justice. I felt my knowledge of the system would be beneficial to the development of a court system for the Ho-Chunk Nation.

DN: What do you enjoy most about your work as a Supreme Court Justice?

DG: I enjoy the most important and challenging aspects of my job. I enjoy doing the research, the deliberations with the other justices, and the decision writing.

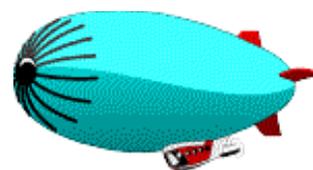
DN: Being a Supreme Court Justice is only a part time occupation, what do you do in your "other life?"

Continued on page 3

Law Day is a

HUGE Success

On October 1st and 2nd, the Ho-Chunk Nation Court System hosted its 4th annual law day CLE



...many conference attendees were enthralled in the intricacies of law the Blimp covered the event for network television.
(ok, so maybe not... perhaps next year)

and 5k fun run. Both days were a great success. On the 1st, over 60 participants heard about a wide variety of legal issues facing Indian tribes and the Ho-Chunk Nation Courts. Topics presented ranged from a discussion of recent developments in the Ho-Chunk Nation Courts to the treatment of airwaves as a natural resource and treaty right. This year's CLE was made especially informative by the collaboration of the Ho-Chunk Nation Courts with the Wisconsin

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Bar Association's Young Lawyers Division, Indian Law Section. The *continued from page 1*

to take this opportunity to thank William Boulware, co-chair of the Young Lawyers Indian Law Section, whose organizational skills, speed, and efficiency is truly remarkable. (He's a pretty nice guy too.) The Court System would also like to extend a sincere thank you to all the presenters, who took time out of their busy schedules. Courts also needs to thank all those who attended the event. Your participation and education is what makes staging this event worthwhile.

Lastly, let us not forget to congratulate all those who participated in Saturday's 5k chilly Fun Run. Although the temperature was a very Wisconsin like 40 degrees at the start gun, the small but hearty runners were soon warmed by their pumping legs and arms. The cold certainly didn't have an effect on Jordan Vidana who won the men's overall division with a time of 24:58, or Katie Funmaker who won the overall women's race with a time of 25:22.

The Ho-Chunk Nation Courts would like to extend a big thank you to everybody who participated and assisted with logistics. We look forward to seeing y'all next year at the 5th Annual Ho-Chunk Nation Law Day and Fun Run.

!!!Court News!!!

◆ The Ho-Chunk Nation Supreme Court will be in session at the Ho-Chunk Nation Courthouse at 1:30 pm on November 6th to hear oral arguments in *Jolene Smith vs Scott Beard, Department of Education and the Ho-Chunk*

Ho-Chunk Nation Courts would like

Nation, SU 99-09 The Supreme Court's usual meeting is also tentatively scheduled for November 6th, time TBA. As always, all meetings are open to the public.

◆ The Ho-Chunk Nation Supreme Court has recently proposed the tentative Ho-Chunk Nation Rules of Judicial Conduct. The Court welcomes comments until November 6, 1999.

◆ The Ho-Chunk Nation Courts are happy to announce that Stephanie Littlegeorge has been hired as the new administrator for the Office of Public Advocacy.

For those of you who don't know, the Office of Public Advocacy ("OPA" for those of you wishing to sound in the know) is a relatively new program whose primary mission is to assist members of the Ho-Chunk Nation with questions about the Court System and legal process.

Although the OPA cannot give legal advice they can help obtain forms and give detailed advice on how to find a lawyer or lay advocate. The OPA is also licensed to process applications for Wisconsin Judicare, a private legal-aid organization which can assist tribal members in obtaining low cost or free legal representation. Those interested in more detailed information can call Stephanie Littlegeorge at 715-284-8514 or 1-877-284-8514 (toll free). They can also visit her in person at the Ho-Chunk Nation Courthouse between the hours of 10:00 am and 2:00 pm Monday through Friday.

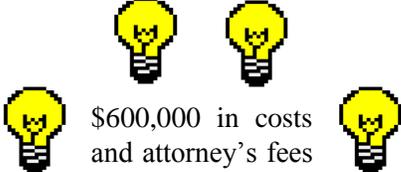
Continued on page 2

Trust Fund Update

A few issues back, the *Bulletin* reported on the progress of a class action lawsuit against the United States Departments of Interior and Treasury. The lawsuit seeks redress for over 500,000 plaintiffs who have lost monies as a result of the defendant's admitted gross mismanagement of trust fund accounts.

In addition to monetary compensation, the plaintiffs are also seeking the appointment of a Special Master to oversee reform of the trust fund accounting system. The defendants counter that the plaintiffs did not meet the burden of proof required for the imposition of damages, and that a Special Master is not needed as the Department of Interior has already proposed a viable plan for reform.

The trial phase of the lawsuit has recently ended and although a final decision has yet to be rendered, the presiding Judge did recently award the plaintiffs over

 \$600,000 in costs and attorney's fees incurred as a result

of governmental delay and misconduct in not providing records that detailed trust fund mismanagement. The *Bulletin* will continue to keep you updated and provide a full report when a final decision is rendered.

Practice Tips

Although the Ho-Chunk Nation Judiciary is often thought of as being comprised of the Ho-Chunk Nation Trial and Supreme Courts, there is a third, equally important and active component of the judiciary, the Ho-Chunk Nation Traditional Court. Traditional Court is comprised of 12 members who hear cases voluntarily submitted to them by all parties to a dispute. Once a dispute is taken under consideration by the Traditional Court, their decision is non-appealable. Traditional Court decisions are only rendered orally, although the Trial Court does publish an official notice of resolution. Parties wishing to submit a dispute to the Traditional Court are encouraged to set up an



appointment by contacting the Court System at 715-284-2722 or 1-800-434-4070. Matters needing expedited consideration may also be heard without an appointment when the Court is in session, each Monday from 9:00 am to 12:00 am.

Legal Definition

Alternative Dispute Resolution: Term referring to procedures for settling disputes by means other than litigation; e.g. by arbitration, mediation, mini-trials. Such procedures, which are usually less costly and more expeditious, are increasingly being used in disputes more effectively addressed outside of the traditional Anglo adversarial system.

Greengrass. . .

Continued from page 1

DG: As I mentioned before, I've been employed with the Milwaukee County Sheriff's Department. I'm currently assigned as a bailiff in misdemeanor court. After a day in court I'm a single parent. I have two sons, ages 11 and 12 . . .going on fifteen! [laughter]. I call them "my little men."☺

DN: Can you tell me a little more about your life away from work--what do you think people should know about you?

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greatest difficulties of the job is not having enough time in a day. I've had to time-manage my home-life with school and maintaining my caseload.

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DG: The HCN constitution has created Associate Justice positions which do not necessarily need to be held by someone with a law degree--I don't think that being a lay person has any major effect on my views as a Supreme Court Justice. I still have to research my cases and base my decisions on the HCN customs, laws, and the Constitution.

DN: How do you think the Ho-Chunk Court System will be different in ten years.

DG: First of all, I think that in ten years the HCN Court System will be much more developed. The legislative body has the power to enact laws governing our nation, and these laws will enhance the jurisdictional power of the judiciary. It will be interesting to see how far the HCN has



developed in ten years.

DN: Before we end this interview, I'd just like to take this opportunity to thank you for talking with me and giving the *Bulletin's* readers some insights into your life.

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They Lose, They Win . . . Sort of.

They Win,

continued from page 3

Proposition 5, a ballot initiative allowing Indian tribes to operate unrestricted Las Vegas style casinos. This boost to California tribes came despite record amounts of advertising money spent by the anti-initiative Las Vegas Casinos.

Next, in late August, the California Supreme Court quashed the will of the voters by ruling that the state Constitution prohibited this “unrestricted” gambling. Tribes all over the state faced dire situations as the U.S. attorney stated that gaming operations not in compliance with the Court’s opinion would need to cease operation by October 13th.

Then , on September 10, California Governor Gray Davis brought a temporary solution to the troubles by signing new compacts with 59 of the California tribes. While these compacts cannot supersede the Supreme Court’s opinion, they do allow for significant expansion of currently permitted gaming.

Compacts, however, may not be the end of the story. Many people are saying that the battle will be renewed in the next legislative session as proponents of Proposition 5 attempt to override the state supreme court through a constitutional amendment. The beat goes on, and the *Bulletin* will be sure to keep you updated.

Recent Decisions

Ho-Chunk Nation Trial

Court:

State of Wisconsin/Sauk County and Chris W. Crain v. Cheri L. Crain, CS 99-30 (HCN Tr. Ct., Sept. 7, 1999). Judgment Modifying and Enforcing Child Support.

State of Wisconsin/Eau Claire County v. Candace Kaiser n/k/a Cloud, CS 99-54 (HCN Tr. Ct., Sept. 21, 1999). Default Judgment (Enforcing Child Support).

Ho-Chunk Nation Department of Education v . Joanne LaMere, Nellie McKee, and Pearl LightStorming, CV 99-30 (HCN Tr. Ct., Sept. 22, 1999). Order for Entry of Default Judgment.

Mary A. Kemp v. William J. Kemp, CS 99-48 (HCN Tr. Ct., Sept. 22, 1999). Judgment (Enforcing Child Support).

State of Wisconsin/Sauk Co. v. Benjamin J. Bearskin, CS 99-27 (HCN Tr. Ct., Sept 23, 1999). Judgment (Enforcing Child Support).

Benjamin J. Bearskin, CS 99-27 (HCN Tr. Ct., Sept 24, 1999). Erratum Order.

Ho-Chunk Nation Supreme

Court:

Rachel Winneshiek and Vicky Houghton v. John C. Houghton, Jr., SU 99-06 (HCN S. Ct. Sept. 10, 1999). Order of Deficiency.

First, an overwhelming 63 percent of Californians voted “Yes” on

continued on page 4

Louella A. Kelty v. Jonette Pettibone and Ann Winneshiek in their official capacities., SU 99-02 (HCN S. Ct. Sept. 10, 1999). Order for Extension.

Lonnie SmpLOT, Linda Severson and Carol Ravet v. Ho-Chunk Nation Department of Health, SU 99-07 (HCN S. Ct. Sept. 14, 1999). Order Granting Appeal, Extension of Time and Scheduling of Oral Argument.

Stewart Miller v. Ho-Chunk Nation and HCN Legislature and Clarence Pettibone, Robert Mudd, Elliot Garvin, Wade Blackdeer, Dallas Whitewing, Kevin Greengrass, Gerald Cleveland, Sr., Robert Funmaker, Karen Martin, Sharyn Whiterabbit, SU 99-08 (HCN S. Ct. Sept. 15, 1999). Order Denying Appeal.

Louella A. Kelty v. Jonette Pettibone and Ann Winneshiek in the official capacities, SU 99-02 (HCN S. Ct. Sept 24, 1999) Order Denying Motion for Reconsideration. Court also noted that although Ann Winneshiek’s name remains in the caption, she is no longer a party to the suit.

Lonnie Simplot, Linda Severson, and Carol Ravet v. Ho-Chunk Department Health, SU 99-07. (HCN S. Ct. Oct 4, 1999). Granting dismissal without prejudice, but assessing the appellants \$900.00 in court costs as reimbursement for

costs incurred in preparing the record.

United States Courts of Appeals

Seneca Nation of Indians, et al v. New York, et al., 26 Indian L. Rep. continued from page 4 claims.

Johnson v. Gila River Indian Community, et al., 26 Indian L. Rep 2108. (9th Cir., Apr. 22, 1999). The Ninth Circuit reverses the district court's dismissal of the appellant's claims and remands to the district court to determine whether a sufficient tribal appellate remedy exists for the purposes of exhaustion of tribal court remedies and affirms the dismissal of the appellant's claims against the Gila River Indian Community.

Muckleshoot Indian Tribe, et al v. U.S. Forest Service, et al. 26 Indian L. Rep. 2110 (9th Cir., May 19, 1999). The Ninth Circuit holds that the U.S. Forest Service failed to meet the requirements of the National Historic Preservation Act and the National Environmental Policy Act associated with proposed land exchanges, reverses and remands to the district court with instructions to remand to the U.S. Forest Service for further proceedings related to the claims of the Muckleshoot Indian Tribe.

Yakama Indian Nation v. State of Washington Department of Revenue 26 Indian L. Rep. 2117 (9th Cir., June 1, 1999). The Ninth Circuit affirms the district court's dismissal of an action by the Yakama Indian Nation against

2107. (2d Cir., May 17, 1999). The Second Circuit affirms the orders of the district court denying the State of New York's Eleventh Amendment defenses on the grounds that because the United States has been granted permission to intervene and the claims of the the State of Washington on Eleventh Amendment grounds challenging the seizure of unstamped cigarettes; affirms the district court's denial of leave to amend the Nation's complaint to include *ultra vires* claims against state officers; and holds that lacks appellate jurisdiction to review the district court's remand of a removed state administrative proceeding, but finds that the Nation would not have been a defendant for purposes of removing the proceeding to federal court.

Recent Filings
Ho-Chunk Nation Trial Court:

Leslie J. Soulier/Ashland Co. v. John C. Houghton, Jr. CS 99-58, filed September 1, 1999.

State of Wisconsin/Shawano Co. v. Jeffrey Jay Rockman. CS 99-59, filed September 8, 1999.

State of Wisconsin/Sauk Co. and Rosalind K. Falcon v. Kevin M. Smith, CS 99-60, filed September 9, 1999.

Jodi Gotz v. Vince Cadotte, CS 99-61, filed September 23, 1999.

Pine Co. Child Support Agency and Lana Lincoln v. Jon Eric Miner, CS 99-62, filed September 27, 1999.

Dawn Makes Strong Move v. Roger Littlegeorge, CS 99-63, filed

Seneca Nation of Indians and the Tonawanda Band of Seneca Indians seek the same relief as the United States' complaint, the Eleventh Amendment does not bar the tribes'

continued on page 5

October 4, 1999.

Ho-Chunk Nation Supreme Court:

Jolene Smith v. Scott Beard as Director of the Ho-Chunk Nation Department of Education and and the Ho-Chunk Nation. SU 99-09, filed September 9, 1999.

HCN Court Fees

Filing Fees.	\$35
Service of Summons	
• In Person.	\$15 (or cost, if out of state)
• By Mail.	\$4 (or cost, whichever is greater)
• By the Court.	\$0.31 (per mile)
Copying.	\$.010/per page
Faxing	\$.025/per page (sending & receiving)
Tapes of Hearings.	\$.10 / tape
Deposition Videotape. . . .	\$10 / tape
Certified Copies.	\$.050/ page
Equipment Rental.	\$.500/ hour
Register a Foreign Orders.	\$.15
Appellate filing fees.	\$35
Admission to Practice.	\$.50
Pro Hac Vice Appearance.	\$.35

Legal Citation Form

Below are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution

Constitution, Article Number, Section, and Subsection.

HCN CONST., ART. XI, Sec. (or §) 7.

HCN CONST., ART. II, Sec. (or §) 1(a).

HCN Ordinances

Ordinance Name, Chapter number,

Section/Part/Clause, page.

PERSONNEL POLICIES AND PROCEDURES MANUAL, Ch. 12, Part

B, p. 82.

CLAIMS AGAINST PER CAPITA, §6.01(b).

HCN Supreme Court Case Law

Case Name, Case No (HCN S. Ct., month, day, year).

Johnson v. Department Inc., SU 89-

04 (HCN S. Ct., Aug. 14, 1995).

Smith v. Casino, SU 94-11 *Order*

(HCN S. Ct., Dec. 1, 1993).

HCN Trial Court Case Law

Case Name, Case No. (HCN Tr. Ct.,

month, day, year).

Jane Doe v. Bob Smith, CV 99-01 (HCN Tr. Ct., Nov. 1, 1999)

In the Interest of Minor Child X, JV 95-047 (HCN Tr. Ct., May 23, 1994).

Rules of Civil Procedure

HCN R.. Civ. P. 19(B).

Ho-Chunk Nation Court Bulletin

An informational bulletin published for the benefit of attorneys and tribal members.

Vol. 4, No. 10

November 1999

Debra Greengrass - A Busy Supreme Court Justice . . .and Bailiff . . .and Mother . . .and . . .

This interview with Supreme Court Justice Debra Greengrass is the second installment in what will be a five part series. Each month the *Court Bulletin* will give insights into the professional and personal lives of the Judges and Justices who work for the Ho-Chunk Nation. The interviews will be conducted by David Neubeck, editor of the *Court Bulletin* and staff attorney for the Ho-Chunk Nation Trial Court.



DN: So, Justice Greengrass--how long have you been a Supreme Court Justice?

DG: I've been a Justice for over four years. I was one of two Supreme Court Justices elected in June 1995 under the then newly adopted HCN [Ho-Chunk Nation] Constitution. I was re-elected to a second term in June, 1999.

DN: What drew you to the law? Why did you want to be a Supreme Court Justice?

DG: I was drawn into the area of law in July of 1984. I was employed by Milwaukee County as

a Clinical Technician and the position was abolished. I was offered several other jobs that weren't as comparable. Eventually, I applied for the Milwaukee County Sheriff's Department and was sworn in as a deputy sheriff in July of 1984. After five years of service I was assigned to the Courts Bureau as a bailiff in the Milwaukee County Court system. Every day of my ten years as a bailiff has been challenging and interesting.

My experience and knowledge of the court system is what prompted me to seek election as a Supreme Court Justice. I felt my knowledge of the system would be beneficial to the development of a court system for the Ho-Chunk Nation.

DN: What do you enjoy most about your work as a Supreme Court Justice?

DG: I enjoy the most important and challenging aspects of my job. I enjoy doing the research, the deliberations with the other justices, and the decision writing.

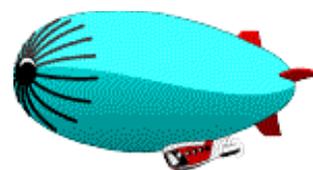
DN: Being a Supreme Court Justice is only a part time occupation, what do you do in your "other life?"

Continued on page 3

Law Day is a

HUGE Success

On October 1st and 2nd, the Ho-Chunk Nation Court System hosted its 4th annual law day CLE



...the convenience attendees were encouraged in the intricacies of law the Blimp covered the event for network television.
(ok, so maybe not... perhaps next year)

and 5k fun run. Both days were a great success. On the 1st, over 60 participants heard about a wide variety of legal issues facing Indian tribes and the Ho-Chunk Nation Courts. Topics presented ranged from a discussion of recent developments in the Ho-Chunk Nation Courts to the treatment of airwaves as a natural resource and treaty right. This year's CLE was made especially informative by the collaboration of the Ho-Chunk Nation Courts with the Wisconsin

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They Win, They Lose	3
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Legal Citation Form	5

Bar Association's Young Lawyers Division, Indian Law Section. The *continued from page 1*

to take this opportunity to thank William Boulware, co-chair of the Young Lawyers Indian Law Section, whose organizational skills, speed, and efficiency is truly remarkable. (He's a pretty nice guy too.) The Court System would also like to extend a sincere thank you to all the presenters, who took time out of their busy schedules. Courts also needs to thank all those who attended the event. Your participation and education is what makes staging this event worthwhile.

Lastly, let us not forget to congratulate all those who participated in Saturday's 5k chilly Fun Run. Although the temperature was a very Wisconsin like 40 degrees at the start gun, the small but hearty runners were soon warmed by their pumping legs and arms. The cold certainly didn't have an effect on Jordan Vidana who won the men's overall division with a time of 24:58, or Katie Funmaker who won the overall women's race with a time of 25:22.

The Ho-Chunk Nation Courts would like to extend a big thank you to everybody who participated and assisted with logistics. We look forward to seein y'all next year at the 5th Annual Ho-Chunk Nation Law Day and Fun Run.

!!!Court News!!!

◆ The Ho-Chunk Nation Supreme Court will be in session at the Ho-Chunk Nation Courthouse at 1:30 pm on November 6th to hear oral arguments in *Jolene Smith vs Scott Beard, Department Motions*: Motions may be filed

Ho-Chunk Nation Courts would like *of Education and the Ho-Chunk Nation*, SU 99-09 The Supreme Court's usual meeting is also tentatively scheduled for November 6th, time TBA. As always, all meetings are open to the public.

◆ The Ho-Chunk Nation Supreme Court has recently proposed the tentative Ho-Chunk Nation Rules of Judicial Conduct. The Court welcomes comments until November 6, 1999.

◆ The Ho-Chunk Nation Courts are happy to announce that Stephanie Littlegeorge has been hired as the new administrator for the Office of Public Advocacy.

For those of you who don't know, the Office of Public Advocacy ("OPA" for those of you wishing to sound in the know) is a relatively new program whose primary mission is to assist members of the Ho-Chunk Nation with questions about the Court System and legal process.

Although the OPA cannot give legal advice they can help obtain forms and give detailed advice on how to find a lawyer or lay advocate. The OPA is also licensed to process applications for Wisconsin Judicare, a private legal-aid organization which can assist tribal members in obtaining low cost or free legal representation. Those interested in more detailed information can call Stephanie Littlegeorge at 715-284-8514 or 1-877-284-8514 (toll free). They can also visit her in person at the Ho-Chunk Nation Courthouse between the hours of 10:00 am and 2:00 pm with a pleading, or as separate

Continued on page 2

Monday through Friday.

Off The Hook

from the Native American Report: Interior Secretary Bruce Babbitt did not illegally interfere in an Indian casino licensing dispute in Wisconsin. Independent Counsel Carol Elder Bruce said Oct13 that there was insufficient evidence to indict Babbitt for illegal political interference orlying to Congress about his role in the denial of an application by three Chippewa tribes to open a casino facility. The investigation was launched after charges that Babbitt had denied the license as a result of more than \$300,000 in campaign contributions to the Deemocratic Party made by rival tribes who opposed the Chippewa casino project. Babitt said he was "not surprised by the counsel's decision."

Practice Tips

Answer and Motion Timelines:

Answers: Under Rule 6 of the HO-CHUNK NATION RULES OF CIVIL PROCEDURE "A party against whom a

 *Complaint* has  been made shall have twenty (20) calander days from

the date of service to file an *Answer* with the Clerk of Court." Thus, if a *Complaint* is filed on the first day of a month and the Answer is due in twenty (20) calander days, then the *Answer* will be due by the close of business on the twenty-first (21st) day of the month. *See HCN R.. Civ. P. 17.*

documents any time after the first

pleading has been filed. If either the motioning or responding party desires a hearing they bear the onus of making the arrangements with the opposing party and the Court. The Court may also schedule a hearing *su sponte* (of its own accord). If a hearing is scheduled, “[a] *Response* to a written *Motion* must be filed at least one day before the time specified for a hearing on the *Motion*.” If no hearing is scheduled, a *Response* to the *Motion* must be filed within ten (10) calendar days of the date the *Motion* was filed. The party filing the *Motion* may provide the Court with a *Reply* to a *Response* within three (3) days of the days of the day the *Response* is filed. See *HCN R. Civ. P. 19* and *20*.

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DG: You’re very welcome. I’m glad you gave me the opportunity to share some of my thoughts.

Held: HCN Court Have Jurisdiction Over Cases Involving Domestic Violence

In an important case of first impression the Ho-chunk Nation Trial Court recently found that under the the traditional laws and customs of the Ho-Chunk Nation which require respect between a husband and wife, it has jurisdiction over cases of domestic violence between spouses.

They Win, They Lose, They Win
... Sort of.

Proposition 5, a ballot initiative allowing Indian tribes to operate unrestricted Las Vegas style casinos. This boost to California tribes came despite record amounts of advertising money spent by the anti-initiative Las Vegas Casinos.

Next, in late August, the California Supreme Court quashed the will of the voters by ruling that the state Constitution prohibited this “unrestricted” gambling. Tribes all over the state faced dire situations as the U.S. attorney stated that gaming operations not in compliance with the Court’s opinion would need to cease operation by October 13th.

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Recent Decisions

Ho-Chunk Nation Trial

Court:

Barbara J. Wilson v. Robin E. McKee, CV 97-124 HCN Tr. Ct.,

First, an overwhelming 63 percent of Californians voted “Yes” on

Oct. 6, 1999); *State of Wisconsin/Jackson Co. v. Robin E. McKee* CV 99-33 (HCN Tr. Ct., Oct 6, 1999). Erratum Order.

State of Wisconsin/Shawno Co. v. Jeffrey Jay Rockman CS 99-59 (HCN Tr. Ct., Oct 12, 1999). Judgment (Enforcing Child Support).

State of Wisconsin, on Behalf of Elethe Nichols v. Hilton Vasquez CV 97-114 (HCN Tr. Ct. Oct. 13, 1999) *State of Wisconsin v. Hilton Vasquez* CS 99-49 (HCN Tr. Ct., Oct 13, 1999). Judgment (Enforcing Child Support).

Millie Smith v. Kevin M. Smith CV 97-51 (HCN Tr. Ct., Oct. 13, 1999); *State of Wisconsin for Rosalind K. Falcon v. Kevin M. Smith* SC 99-60 (HCN Tr. Ct., Oct. 13, 1999). Equitable Adjustment (Child Support).

Carmelita Ray Varela v. George Myron Plamann CS 99-52 (HCN Tr. Ct., Oct. 14, 1999.) Judgment Enforcing Child Support.

In re the Marriage of Lee Stacy *State of Wisconsin v. Waldo Stacy* CV 96-71 (HCN Tr. Ct., Oct 15, 1999). Modified Order.

State of Wisconsin/Eau Claire County v. Arnold Cloud CS 99-55 (HCN Tr. Ct., Oct. 15, 1999); *Shelly Thundercloud v. Arnold Cloud* CV 96-91 (HCN Tr. Ct., Oct. 15, 1999); *Kathy Stacy v. Arnold Cloud* JV 97-14 (HCN Tr. Ct., Oct. 15, 1999). Judgment (Enforcing Child Support).

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State of Wisconsin/Jackson County v. RoseMarie Powless CV 97-82 (HCN Tr. Ct., Oct. 15 1999); Judgment (Reinstating Child Support Enforcement).

Michelle Gulbranson v. Roger Littlegeorge, CV 97-91 (HCN Tr. Ct., Oct. 15, 1999); *Melanie Stacy v. Roger Littlegeorge* CS 99-44 (HCN Tr. Ct., Oct 15, 1999); *Felicia Helgeson v. Roger Littlegeorge*, CS 99-57 (HCN Tr. Ct., Oct. 15, 1999). Judgment Enforcing Child Support.

Leslie J. Soulier v. John C. Houghton, Jr. CS 99-58 (HCN Tr. Ct., Oct., 15, 1999). Judgment (Enforcing Child Support).

Ho-Chunk Nation Supreme Court:

Ho-Chunk Nation Department of Education v. Joanne LaMere Appellant, and Nellie McKee and Pearl LightStorming SU 99-11 (HCN S. Ct., Oct 19, 1999). Order Denying Appeal.

United States Courts of Appeals

From the Indian Law Reporter

Primeaux v. United States 26 Indian L. Rep 2121 (8th Cir., June 17, 1999). A divided panel of the Eighth Circuit affirms the district court’s ruling for the government in an action under the Federal Tort Claims Act (FTCA) finding that apparent authority is not a basis for FTCA liability in South Dakota, and that a rape committed by a tribal police officer was not within the scope of his government

employment.

Blunk v. Arizona Department of Transportation, et al 26 Indian L. Rep. 2126 (9th Cir., May 21, 1999). In an action by a lessee of fee land owned by the Navajo Nation challenging Arizona's exercise of regulatory jurisdiction over the land, the Ninth Circuit holds that the land is not Indian Country and is subject to the State's jurisdiction.

United States District Court

Webster v. Wisconsin Power & Light Co, 26 Indian L. Rep. 3159 (E.D. Wis., June 22, 1999). The district court denies the defendant's motion for summary judgment in an employment discrimination action.

Winnebago Supreme Court

Winnebago tribe of Nebraska v. Green, 26 Indian L. Rep 6132 (Winnebago Sup. Ct., May 4, 1999).

The Winnebago Supreme Court holds that the tribal court lacked authority to increase the appellant's sentence on the basis of a probation violation.

Winnebago Tribe of Nebraska v. Pennah 26 Indian L. Rep 6134 (Winnebago Sup. Ct., May 12, 1999). The Winnebago Supreme Court holds that section 3-738 of the Winnebago Tribal code is sufficiently clear to afford the appellant due process notice of the crime with which she is charged and finds that the tribal court properly denied the appellant's motion to dismiss, and affirms the appellant's conviction.

Mashantucket Pequot Tribal Nation

Jones v. Mashantucket Pequot

Gaming Enterprise 26 Indian L. Rep 6129 (Mashantucket Pequot Tr. Ct., Aug. 4, 1998). The Mashantucket Pequot Tribal Court holds that it lacks jurisdiction over an appeal of an employment termination action and grants the defendant's motion to dismiss on the grounds that tribal law provides that a Board of Review first must hear the case and a final decision by the President/CEO of the Gaming Enterprise is required before the Court can exercise jurisdiction.

Recent Filings

Ho-Chunk Nation Trial Court:

State of Wisconsin/Jackson County and Alissa Funmaker v. Stacy Yellowcloud, CS 99-65, filed XXXXX

State of Wisconsin/Jackson Co. and Karen Snow vs Greg Henry, CS 99-64, filed Oct. 5, 1999.

State of Wisconsin/Sauk Co. and Rosalind K. Falcon v. Kevin M. Smith, CS 99-60, filed September 9, 1999.

Michelle Raye Haukaas v. Calvin Lee Nakai, CS 99-66, filed Oct. 7, 1999.

Kathleen Kay Waukau-Bourdon v. Timothy Wayne Bourdon Sr., CS 99-69, filed Oct. 7, 1999.

Tammy Blackdeer v. Clifford T. Blackdeer, CS 99-67, filed Oct. 11, 1999.

Abigail Julius v. John Smith, CS 99-68, filed October 11, 1999.

Montgomery Green v. Eliza M.

Green CS 99-70, filed Oct. 15, 1999.

Lona A. Decorah v. George S. Miner CS 99-71, filed Oct. 18, 1999.

Ho-Chunk Nation Supreme Court:

Jolene Smith v. Scott Beard as Director of the Ho-Chunk Nation Department of Education and the Ho-Chunk Nation. SU 99-09, filed September 9, 1999.

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- Appellate filing fees. \$35
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In the Interest of Minor Child X, JV 95-047 (HCN Tr. Ct., May 23, 1994).

Rules of Civil Procedure

HCN R.. Civ. P. 19(B).

1(a).

HCN Ordinances

Ordinance Name, Chapter number, Section/Part/Clause, page.

PERSONNEL POLICIES AND PROCEDURES MANUAL, Ch. 12, Part

B, p. 82.

CLAIMS AGAINST PER CAPITA,

§6.01(b).

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Johnson v. Department Inc., SU 89-

04 (HCN S. Ct., Aug. 14, 1995).

Smith v. Casino, SU 94-11 Order

Ho-Chunk Nation Court Bulletin

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The Long and Winding Road of Chief Judge Mark Butterfield

This interview with the Ho-Chunk Nation Trial Court Chief Judge, Mark Butterfield is the fourth installment in what will be a five part series. Each month the *Court Bulletin* will give insights into the professional and personal lives of the Judges and Justices who work for the Ho-Chunk Nation. The interviews will be conducted by David Neubeck, editor of the *Court Bulletin* and staff attorney for the Ho-Chunk Nation Trial Court.



DN: So to begin with, let me thank you for taking time to do this interview. I can see by the piles on your desk and your somewhat frazzled mien that you have quite a bit of work on your plate.-- I guess I'll start as I usually do, with some groundwork questions for our uninitiated readers . . . How long have you been a judge?

MB: Since June 1st, 1995.

DN: And that is when the Ho-Chunk Court System began?

MB: That's correct, I was the first judge in the Court System.

DN: So how did you end up in this role? How were you selected to be Chief Judge?

MB: Well, when the Court began, it started with a subcommittee of the legislature called the Judiciary



Subcommittee. They advertised the position after they had passed the Judiciary Act of 1995, creating the groundwork and framework for the courts. Then, of course, they had to staff it [the Court], and the first person in their structure was the Chief Judge--who would be the chief administrator. So, they advertised for the position and it just so happened that I had recently settled a very large case [for the Ho-Chunk Nation] against the Golden Nickel Corporation and the

Gaming Corporation of America and I wanted to do something else. So, I applied for the position, I was interviewed by the Judiciary Subcommittee, and I was lucky enough to be selected.

I had also previously applied to be a Magistrate in Alaska, and had been a finalist for the third judicial district seat in Palmer [apx. 45 miles NE of Anchorage]. The local judge, however, selected a local practitioner--I was the second person in line. In addition to the position in Palmer, I had also applied for a position as a Magistrate in Anchorage. I withdrew my name from consideration, however, after I learned how much time the position required.

DN: You mentioned that the Chief Judge has a number of administrative duties--what kind of duties are these?

MB: Well, I oversee a number of things. I coordinate and administer all the things that the Traditional Court needs and requires. I am the supervisor of the Clerk of Court, who is supervisor of all the non-judicial staff, and I am also the supervisor for the judicial staff, including the Associate Judge and
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Tribes Seek Control over Federal Child Welfare Funds, Adoptions.

From the Native American Report

The National Congress of American Indians (NCAI) will push Congress to allow tribal families engaged in foster care to receive money directly from the federal government, and to assure that Indian children don't lose touch with their heritage when adopted by non-Indian families.

In one of two key child welfare resolutions passed by the NCAI at its annual conference, the group will lobby for S. 1478. The bill would amend Part E of Title IV of the Social Security Act to provide access to foster care and adoption services for Native American children in tribal areas.

The initiative would give a tribe authority to receive federal funds for Title IV-E eligible services and for foster care and adoption assistance without going through state agencies.

S. 1478 would also allow a tribe that does not run its own foster care services program to receive funds for a child in tribal custody. And in cases where an Indian child is placed into foster care, the law would provide that tribal agencies would still be eligible for foster

care maintenance payments, provided the tribe has an agreement with the state.

Because most tribes have depended on states to manage many social programs, some tribal leaders have appealed for additional funding to train tribes how to manage the funds and operate their own foster care and adoption programs.

The measure is key for tribes to manage their own social programs and destiny, by maintaining tribal bonds with children that would have otherwise been displaced through customary adoption procedures said Eloise King, vice president of the National Indian Child Welfare Association (NICWA).

"Since states have been engaged in removing children from tribal families and placing them in non-tribal families, they cannot grasp the importance of that tribal link. But this would empower the tribe to assure that link is not broken."

NCAI is also asking each tribe to contact congressional leaders to bolster sponsorship of the bill. Currently, the bill has only six co-sponsors, including Sens. Tom Daschle (D-S.D.), John McCain (R-Ariz.) And Daniel Inouye (D-Hawaii).

Another key Indian Child welfare initiative, S.1213, is seen as targeting a paternalistic state welfare system that has prevented tribal access to adoption decisions.

NCAI has agreed to examine the Indian Child Welfare Act (ICWA) amendments that would provide criminal penalties for adoptions that do not include notification of tribal leaders, or those that omit clear alternatives for parents giving up a child for adoption.

Under the current system, "an

Indian child grows up seeing that he is different, but the state now does not recognize his heritage. The white parents deny his heritage, and the child grows up confused, depressed, and without the pride of knowing his ancestry," King said.

The NCAI stopped short of a full-court press on S.1213, and resolved to establish a task force of tribal leaders to evaluate ICWA. Rose Hill, a NICWA development manager, had hoped a task force would not be necessary. "I think it is going to delay the process," she said.

Some California tribes think the bill does not go far enough to preserve the rights of children who do not live on reservations and pushed for the task force study to find ways to improve the bill.

S. 1213 would revise requirements involving Indian children to reconsider voluntary termination of parental rights, and the withdrawal of consent to such voluntary termination of parental rights or adoption of Indian children.

The child's Indian status is certified prior to release to another family, and non-tribal adoptive parents may be required to allow visitation or other activities maintaining a connection to tribes.

Since ICWA currently does not require notice to the tribe in cases of voluntary adoption, the proposed bill would require written notice to the Indian child's tribe. It would permit the tribe to intervene and object to an adoptive placement. It includes criminal sanctions for anyone other than a birth parent who tries to avoid application of the ICWA by covering up the fact that a child may be Indian.

!!!Court News!!!

◆ The Ho-Chunk Nation Supreme Court will be in session at *continued from page 2* am on Dec. 18, 1999. As always, the Supreme Court's meeting is open to the public.

◆ The Ho-Chunk Nation Trial Court welcomes applications for the Staff Attorney/Law Clerk appointment that runs for one year, beginning on July 1, 2000. Applicants should send a cover letter, resume, writing sample and law school transcript to the Ho-Chunk Nation Trial Court, Attn: Chief Judge Mark Butterfield, P.O. Box 70 Black River Falls, WI 54615.

Butterfield,

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pro tem judges that come along--I am also technically their supervisor.

DN: You mentioned before that you had applied for some positions in Alaska--were you working up there?

MB: I worked in Alaska for 7 ½ years as a Staff Attorney for Alaska Legal Services Corporation.

DN: That's located in Anchorage?

MB: Yes, the job was located in Anchorage, but I was the rural services attorney responsible for outreach to all of the Aleutian Chain and South Central Alaska--essentially three native regions which were called the Aleut Region, the Chugach Alaska Region, the Ciri Region, and the Ahtna Region--actually, I guess that's four rather than three

DN: A lot of travel by small plane I guess . . . How did you end up in

the St. Paul Branch Office at 9:00

Alaska? Did you want to move up there, or was that where the jobs were?

MB: I happened to be born there, and I lived there until I was about six or seven. Then our house burned down and our family was forced to move out of state. I had always wanted to go back. So, one of the two jobs I was in line for when I graduated from Law School was a position in Alaska and I really wanted to try it out.

DN: So when did you graduate from law school? . . . and what did you do before that?

MB: I graduated in 1986, and before that I was a high school teacher for four years.

DN: Why did you stop teaching and go to law school?

MB: Well, there were a number of reasons. One of which was that I knew that the more I delayed going back to school, the harder the return would become. I wanted to get a doctoral degree. I applied for a doctorate program in Public Policy at Arizona State and to law school at the University of Wisconsin. I was accepted to both programs but Arizona made their offer too late, and I had already made the decision to attend Wisconsin--they had offered me admission as well as a generous financial aid package.

DN: So, now that you're a Judge, what do you enjoy most about your job?

MB: Well, I have always enjoyed judging the most. That is hearing

continued on page 3

cases, deciding legal issues, resolving conflicts. However, these things make up less than 25 percent of my time. Most of my time is taken up with things involving administration and personnel.

DN: Moving away from job and career topics . . . What do you do when you're not at work?--Got any noteworthy hobbies like spelunking or chainsaw sculpting. Perhaps you stick more to the tame stuff . . . macramé perhaps?

MB: Basically, when I'm not at work I'm a full time dad. My seven year old son is a hockey and soccer player--and as you might know, being a hockey parent is pretty demanding.

DN: Yeah, soccer moms get all the press, but being a hockey parent up here in the North Country is practically like having a second job. Anyway . . . next question--what is the last book you read?

MB: The last book I completed was *Lincoln* by Gore Vidal.

DN: Why did you choose that book?

MB: Actually, I chose the book close to 20 years ago, but I didn't get around to reading it until just now. I bought it from a book of the month club and never got around to reading it. Eventually, I was going through all the books in my house and I decided that I would "conquer" *Lincoln* . . . turns out it was an enjoyable read.

DN: Well, moving on to the conclusion of the interview, I'd like

to finish with a few “personality” questions” that I began asking in last issue’s interview with Chief Justice Hunter. As I stated last *continued from page 3*

to taking the questions from some French interview program.--So I guess I’m just continuing a tradition. --Anyway, without further ado . . . What is your favorite word?

MB: Well, my favorite word varies from time to time.

DN: Your current favorite will suffice.

MB: . . . I have to say that I don’t really have a favorite word.

DN: Do you have a least favorite word?

MB: I guess that depends on context.

DN: What about noises--do you have a favorite noise?

MB: . . . I guess I’d have to say the sound of the wind through the trees.

DN : What is your least favorite noise?

MB: The popping of knuckles.

DN: . . . ok, that’s an original response--next up: Who or what inspires you?

MB: A number of things inspire me--I think that my grandfather (Henry Roe Cloud) has always inspired me. He went from living in a *ciporoke* [a lodge] to getting a Doctorate of Divinity from Union Seminary in upstate New York. He did that at the turn of the

issue, however, I must admit that I have appropriated these questions from an interview show on the *Bravo* cable channel. The host of century when it was very unusual for any Indian to get any higher education. Somehow he was able to blend his “Indianess” with white society at the highest level.--Having gone to High School at a boarding/prep school in Massachusetts, and then going on to Yale, he went to school with some very upperclass people. Generally, only the wealthy could afford college then. He was somehow able to live in both worlds which I think is extremely difficult.

A lot of other elders have also inspired me. When I lived in Alaska, I was lucky enough to be the attorney for a number of elders who, unfortunately, are not with us anymore--Shem Pete who was one of the last Dena’ina speakers; Peter Kalifornsky was another one; Jack Justin who was an Ahtna; Lena Charlie--who still mushed dogs at age 64. These people had so much . . . they lived through so much and were so conditioned by their environment that they were just very hardy inspiring people. They had lived through so much adversity--through flu epidemics, through the total transformation of their society--yet they were still going, still loving life.

DN: If you could attempt any profession other than your own, what would it be?

MB: Well I’m kind of past my prime, but if I were young again I’d like to be a professional tennis player.

DN: Finally, the last question--If you could witness any event in

that show, however, always admits *continued*
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history, from the day our evolutionary antecedents wriggled their way out of the primordial ooze to current times, what would that event be?

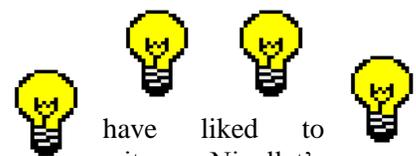
MB: . . . being a history major, that’s a difficult question--can I get back to you on that one?

DN: Sure, It’ll be a few days before I put this issue to bed so I guess you’ve got a little time. Anyhow, thanks again for taking time out of your schedule to inform and entertain our readers.

MB: You’re welcome.

Post Script (two days following the interview):

MB: If I was limited to Wisconsin history, I’d have to say that I’d



landing on the shores of Green Bay.

As for the history of humanity, however, I don’t think I can pick just one event. There are just too many things that I would like to have seen.

DN: Well, normally my journalistic integrity wouldn’t let you off the hook so easily, but seeing as how you’re my boss, and directly responsible for my paycheck, I guess I’ll let you get away with it.

Practice Tips

Litigants using the Ho-Chunk Nation Court System are often confused about the difference between Ho-Chunk Nation Rule of Civil Procedure 19 (B), *continued from page 4* allowable *Motion* in case already under consideration by the Court. If a litigant wishes the Court to accelerate its consideration of a newly filed action, it must request an *Emergency Order* under Rule 60.

Recent Decisions

Ho-Chunk Nation Trial Court:

State of Wisconsin/Jackson County v. Eileen Funmaker, CS 98-75 (HCN Tr. Ct., Oct. 27, 1999). Order (Release of Impound/Revoking Child Support Obligation).

Regina K. Baldwin v. Hunter D. Littlejohn, CS 99-46 (HCN Tr. Ct., Nov. 5, 1999). Default Judgment (Enforcing child Support).

William L. Goodbear v. Ho-Chunk Housing Authority, CV 98-11 (HCN Tr. Ct., Nov 12, 1999). Judgment (Denying Motion to Dismiss).

Lona A. Decorah v. George S. Miner, CS 99-71 (HCN Tr. Ct. Nov. 23, 1999). Default Judgment (Enforcing Child Support).

In re the Marriage of: Lana Alane Lincoln v. Jon Eric Miner, CS 99-51 (HCN Tr. Ct., Nov. 23, 1999). Judgment (Enforcing Child Support).

Ho-Chunk Nation Supreme Court:

Ho-Chunk Nation Department of

addressing *Motions for Expedited Consideration*, and Ho-Chunk Rule of Civil Procedure 60 addressing *Emergency Orders*.

A *Motion for Expedited Education v. Joanne LaMere, Appellant, and Nellie McKee and Pearl Lightstorming*, SU 99-11 (HCN S. Ct., Oct. 19, 1999). Order Denying Appeal

Michelle M. Ferguson v. Ho-Chunk Nation Insurance Review Commission/Division of Risk Management, SU 99-10 (HCN S. Ct., Nov. 15, 1999). Decision.

Jolene Smith v. Scott Beard, Department of Education and the Ho-Chunk Nation, SU 99-09 (HCN S. Ct., Nov. 22, 1999). Order for Extension.

Recent Filings

Ho-Chunk Nation Trial Court:
Crystal Lonetree v. Vincent R. Palasz, CS 99-74, filed Nov. 15, 1999.

State of Wisconsin/Sawyer Co. and Carol Miller v. Fredrick Greendeer, CS 99-75, filed Nov. 16, 1999.

Monica Jo Petoskey v. Robert L. Funmaker, CS 99-76, filed Nov. 19, 1999.

Shawano Co./Diane J. Hopinka v. Morgan K. Decorah, CS 99-77, filed Nov. 11, 1999.

Ho-Chunk Nation Supreme Court:

Ho-Chunk Nation Department of Education v. JoAnne La Mere, Nellie McKee and Pearl Lightstorming, SU 99-11, filed Oct. 8, 1999.

Consideration may only be used in conjunction with an otherwise *continued on page 5*

James and Mildred Smith v. Ron Wilbur, SU 99-12, filed Nov. 8, 1999.

HCN Court Fees

Filing Fees. \$35
 Service of Summons
 • In Person. \$15 (or cost, if out of state)
 • By Mail. \$4 (or cost, whichever is greater)
 • By the Court. \$0.31 (per mile)
 Copying. \$0.10/per page
 Faxing \$0.25/per page (sending & receiving)
 Tapes of Hearings. \$10 / tape
 Deposition Videotape. . . . \$10 / tape
 Certified Copies. \$0.50/page
 Equipment Rental. \$5.00/hour
 Register a Foreign Orders. \$15
 Appellate filing fees. \$35
 Admission to Practice. \$50
 Pro Hac Vice Appearance. \$35

Legal Citation Form

Below are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution
 Constitution, Article Number, Section, and Subsection.

HCN CONST., ART. XI, Sec. (or §)

7.
HCN CONST., ART. II, Sec. (or §)
1(a).

HCN Ordinances

Ordinance Name, Chapter number,
Section/Part/Clause, page.
PERSONNEL POLICIES AND
PROCEDURES MANUAL, Ch. 12,
Part
B, p. 82.
CLAIMS AGAINST PER CAPITA,
§6.01(b).

HCN Supreme Court Case Law

Case Name, Case No (HCN S. Ct.,
month, day, year).
Johnson v. Department Inc., SU
89-
04 (HCN S. Ct., Aug. 14, 1995).
Smith v. Casino, SU 94-11 *Order*
(HCN S. Ct., Dec. 1, 1993).

HCN Trial Court Case Law

Case Name, Case No. (HCN Tr.
Ct.,
month, day, year).
Jane Doe v. Bob Smith, CV 99-01
(HCN Tr. Ct., Nov. 1, 1999)
In the Interest of Minor Child X,
JV 95-047 (HCN Tr. Ct., May 23,
1994).

Rules of Civil Procedure

HCN R.. Civ. P. 19(B).