

Ho-Chunk Nation Court Bulletin

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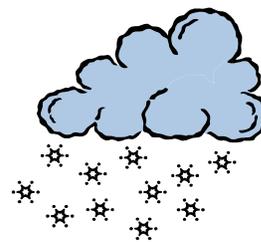
Redistricting Challenge Update

This past month saw additional action in the redistricting case in both the Trial Court and the Supreme Court. In the Trial Court, Judge Matha had required the Legislature to submit additional redistricting scenarios on or before December 1, 2000. After their initial filing, a *Hearing* was held on December 8, 2000, to allow the Legislature to argue legitimate considerations to justify the deviations in the proposed scenario. At the close of the *Hearing*, in a verbal decision later memorialized in the December 14, 2000 *Order (Determining Constitutionality of the Proposed Redistricting/Reapportionment Scenarios)*, Judge Matha sanctioned the inclusion of proposed Scenario 30 on the Second Special Redistricting Election ballot as the Legislature had provided legitimate considerations for the one large deviation. The Legislature was then required to submit additional scenarios on or before December 15, 2000.

A second *Hearing* was held on
(continued page 2, column 1)

Lonetree Removal Update

On December 14, 2000, the plaintiffs (now appellants) in the Trial Court action filed an appeal with the Supreme Court. The Supreme Court has accepted this appeal and set the briefing schedule. The Supreme Court denied the appellants request for a *Stay* of the December 7, 2000 *Declaratory Judgment*.



Court News

- The Supreme Court will meet on Saturday, January 6, 2001 at the courthouse in Black River Falls, WI. No oral arguments are scheduled at this time.
- In the 2000 calendar year, the Court has had this many new cases opened:
Civil cases: 116
Child Support cases: 54
Supreme Court appeals: 17

The number of civil cases filed each year is on the rise, with 109 cases filed in 1999, and only 67 cases filed in 1998. The number of child support cases is actually declining, with 83 cases filed in 1999, and 78 cases filed in 1998. The number of appeals filed each year is also increasing, with 12 appeals filed in 1999, and only 8 appeals filed in 1998. Additionally, the Trial Court hears numerous confidential juvenile cases each year.

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December 20, 2000 to allow the Legislature the opportunity to provide legitimate considerations for the deviations found in the newly proposed scenarios. At the close of the *Hearing*, in a verbal decision later memorialized in the December 21, 2000 *Order (Determining Constitutionality of the Proposed Redistricting/Reapportionment Scenarios)*, the Court sanctioned the inclusion of Scenarios 1E and 30 on the Second Special Redistricting Election ballot. The Court directed that the notice of the election be posted on or before December 28, 2000, with the election to be held at the end of January 2001. The Court emphasized that the only reason this second election had to occur was due to the Legislature's failure to redistrict and reapportion as mandated by the CONSTITUTION.

In the Supreme Court, an *Order Denying Appeal* was issued on December 7, 2000. The Supreme Court concluded that the Trial Court's November 13, 2000 *Order (Granting Plaintiffs' Motion for Summary Judgment)* did not meet the standard of a final judgment. The Supreme Court later issued an *Amended Order Denying Appeal* on December 18, 2000, adding a footnote to explain the procedural process utilized by the Supreme Court.

On December 28, 2000, the Supreme Court heard argument on the Legislature's *Motion for Reconsideration* filed on December 18, 2000. The Legislature requested that the Supreme Court reconsider its *Order Denying Appeal*.

Also, on December 28, 2000, the Legislature filed an appeal in the Supreme Court based upon the Trial Court's December 21, 2000 *Order (Determining Constitutionality of the Proposed Redistricting/Reapportionment Scenarios)*. The Supreme Court has accepted this appeal and set the briefing schedule. The Supreme Court stayed the Trial Court's December 21, 2000 *Order*.



Recent Decisions

Ho-Chunk Nation Trial Court:

In the Interest of Minor Children: J.L.W., DOB 10/12/89, and J.A.C., DOB 08/01/92, JV 99-23 and JV 99-24 Order (Amended Dispositional Requirements) (HCN Tr. Ct., Dec. 1, 2000).

In the Matter of the Children: T.T.G., DOB: 07/24/90, and E.A.G., DOB: 11/12/86, CV 00-97 Order (Granting Release for Vehicle) (HCN Tr. Ct., Dec. 4, 2000). The Court granted the release of CTF funds for a vehicle that will allow the parents of these two critically ill children to comfortably and reliably transport them to and from numerous medical appointments in Madison, Wisconsin.

State of Wisconsin/Sauk County v. Benjamin J. Bearskin, CS 99-50 Order (Suspending Withholding) (HCN Tr. Ct., Dec. 4, 2000). The Court suspended withholding from the defendant's per capita distributions as the arrearages subject to withholding have been paid in full.

State of Wisconsin, Wood County, on behalf of Evangeline Two Crow v. Gregory Harrison, CV 97-153 Order (Awarding Arrears) (HCN Tr. Ct., Dec. 5, 2000). The Court withheld per capita for arrearages as the plaintiff has proven that arrears are owed.

Ho-Chunk Nation Housing Authority v. John Wabshoggin and James Wabshoggin, CV 00-98 Eviction Order (Restitution and Relief) (HCN Tr. Ct., Dec. 5, 2000). The Court evicted the defendants for failure to pay rent and returned the dwelling to the plaintiff.

In the Matter of the Children: M.E.O., DOB 01/27/94, L.R.O., DOB 09/05/95, F.P., DOB

10/02/97, A.N.P., DOB 10/02/97, and R.B.O., DOB 07/13/99, JV 00-28, JV 00-29, JV 00-30, JV 00-31, and JV 00-32 Order (Extending Time Limit) (HCN Tr. Ct., Dec. 5, 2000).

Maureen Arnett v. Ho-Chunk Nation Department of Administration, CV 00-60 Order (Motion Hearing) (HCN Tr. Ct., Dec. 6, 2000). The Court convened a hearing to allow the defendant an opportunity to argue its Motion to Dismiss.

Chloris Lowe Jr., and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, CV 00-104 Order (Requiring Further Justification) (HCN Tr. Ct., Dec. 6, 2000). The Court required the defendants to submit additional justifications for the large deviations found in the proposed scenarios.

Jacob Lonetree, Forrest Whiterabbit, Elliot Littlejohn, Libby Fairchild, Spencer Lonetree, and Parmenton Decorah v. Robert Funmaker, Darcy Funmaker-Rave, Gloria Visintin, and Ho-Chunk Nation Election Board, CV 00-105 Declaratory Judgement (HCN Tr. Ct., Dec. 7, 2000). The Court determined that Gloria Visintin, as a member of the Ho-Chunk Nation, had a right to draw up and serve the Notice of Intent to Remove upon plaintiff Jacob Lonetree. The Court found that as plaintiff Jacob Lonetree was properly served, a quorum was present, and the list of charges of malfeasance met the minimum of a "bad act," he had been removed properly.

State of Wisconsin v. Hilton Vasquez, CS 99-49 Notice of Child Turning 18 (HCN Tr. Ct., Dec. 8, 2000). The Court required the plaintiff to file proof that the minor child was still enrolled in high school in order to continue receiving child support.

State of Wisconsin/Ashland Co., and Shefflan L. Simon v. Jerry W. Cloud, Jr., CS 00-49 Order (Enforcing Child Support) (HCN Tr. Ct., Dec. 11, 2000). The Court enforced the underlying state child support order against the respondent's per capita distributions.

State of Wisconsin, Wood Co. v. Patrick Funmaker, CV 97-55 Order (Suspending Current Child Support and Releasing Returned Child Support) (HCN Tr. Ct., Dec. 13, 2000). The Court suspended the respondent's current child support obligation as Wood County had informed the Court that the respondent no longer owed current child support.

In the Interest of Adult Incompetent: Oliver S. Rockman, CV 97-117 Order (Granting Release of Per Capita) (HCN Tr. Ct., Dec. 13, 2000). The Court granted the release of ITF funds for the welfare of the adult incompetent.

Ho-Chunk Nation Department of Housing, Home Ownership Program v. Mick Boardman d/b/a T & Son's General Contractors, CV 99-107 Order (Granting Extension) (HCN Tr. Ct., Dec. 13, 2000). The Court granted the Home Ownership Program an extension on the brief required by the Court as the attorney had a family emergency.



Chloris Lowe Jr., and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election

HCN Court Fees

Filing Fees	\$35.00
Service of Summons	!In
Person	\$15.00 (or cost if out of state) !By
Mail	\$4.00 (or cost, whichever is greater) !By
the Court	\$0.325 (per mile)
Copying	\$0.10/per page
Faxing	\$0.25/per page (sending and receiving)
Tapes of Hearings	\$10.00/per tape
Deposition Videotape	\$10.00/per tape
Certified Copies	\$0.50/per page
Equipment Rental	\$5.00/per hour
Register a Foreign Order	\$15.00
Appellate filing fees	\$35.00
Admission to Practice	\$50.00
Pro Hac Vice Appearance	\$35.00

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 ə) 7.

HCN Const., Art. II, Sec. (or ə) 1(a).

Ho-Chunk Nation Court System

P.O. Box 70

Black River Falls, WI 54615

HCN Ordinances

Ordinance Name, Chapter number, Section/Part/Clause, page.
PERSONNEL POLICIES AND PROCEDURE MANUAL, Ch. 12, Part B, p. 82.
CLAIMS AGAINST PER CAPITA, Sec. (or ə) 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).



Board, CV 00-104 Order (Determining Constitutionality of the Proposed Redistricting/Reapportionment Scenarios) (HCN Tr. Ct., Dec. 14, 2000). Of the four scenarios proposed by the Legislature, the Court determined that Scenario 30 was constitutional as the Legislature had put forth legitimate considerations for the one large deviation from ideal apportionment.

Chloris Lowe Jr., and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, CV 00-104 Order (Hearing) (HCN Tr. Ct., Dec. 15, 2000). The Court scheduled a hearing to allow the Legislature to put forth legitimate considerations for the deviations found in the newly proposed scenarios.

In the Interest of the Minor Child: D.A.S., DOB 10/14/87, by Larry Swan v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-96 Order (Petition Granted) (HCN Tr. Ct., Dec. 18, 2000). The Court granted the release of CTF funds to pay for some things the child needs but the parent cannot afford.

In the Interest of Adult Incompetent: Lucinda Tudahl, DOB 07/21/17 by Bluffland Guardians and Conservators, Inc. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-80 Order (Petition Denied) (HCN Tr. Ct., Dec. 18, 2000). The Court denied the release of ITF funds as the guardian failed to prove exhaustion of other federal, state, and tribal programs.



In the Interest of the Minor Child: S.A.B., DOB 01/22/86, by Lorinda Funmaker v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-110 Order (Petition Granted) (HCN Tr. Ct., Dec. 18, 2000). The Court granted the release of CTF funds for orthodontics.

Ho-Chunk Nation Department of Education v. Joanne LaMere, Nellie McKee, and Pearl Lightstorming, CV 99-30 Order (Requiring Notice of Satisfaction of Judgment) (HCN Tr. Ct., Dec. 19, 2000). The Court required the plaintiff to file a *Notice of Satisfaction of Judgment* as required by the Court's September 22, 1999 *Order for Entry of Default Judgment*.

Debra Linehan v. Majestic Pines Casino, CV 00-42 Order (Granting Dismissal). The Court granted the defendant's *Motion to Dismiss* at the close of the plaintiff's case as the plaintiff failed to rebut the defendant's reasonable belief that she had stolen another waitress's tip.

Chloris Lowe Jr., and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, CV 00-104 Order (Determining Constitutionality of the Proposed Redistricting/Reapportionment Scenarios) (HCN Tr. Ct., Dec. 21, 2000). Of the two additional scenarios proposed by the Legislature, the Court determined that Scenario 1E was constitutional as the Legislature had put forth legitimate considerations for the one large deviation from ideal apportionment. The Court required that the notice of the Second Special Redistricting Election be posted on or before December 28, 2000.

In the Interest of Minor Children: P.L.H., DOB 10/24/84, and E.J.H., DOB 08/28/85, JV 00-02 and JV 00-03 Order (Amending Child Support) (HCN Tr. Ct., Dec. 21, 2000).

Dawn Burket v. Lawrence J. Hengel and Washington County Community Services on behalf of Michelle L. Kelly v. Lawrence J. Hengel, CS 99-41 and CS 00-47 Order (Enforcing Child Support) (HCN Tr. Ct., Dec. 21, 2000). After performing an equitable adjustment as the two foreign court child support orders exceeded tribal law limitations, the Court enforced the orders to the extent possible against the defendant's future per capita distributions.

In the Matter of the Children: T.A.C., DOB 10/31/87, T.A.C., DOB 02/19/90, R.C., DOB 07/27/92, and O.R.W.E., DOB 04/07/83, JV 00-24, JV 00-25, JV 00-26, and JV 00-27 Order (Child Support) (HCN Tr. Ct., Dec. 21, 2000).

In the Interest of Minor Child: B.T., DOB 08/10/91, JV 98-10 Order (Granting Visitation) (HCN Tr. Ct., Dec. 26, 2000).

State of Wisconsin, Jackson Co., v. Stuart A. Taylor, Jr., CS 00-23 Order (Amending Child Support Enforcement) (HCN Tr. Ct., Dec. 26, 2000). As the respondent had fallen into arrears, the Court enforced those arrears against his future per capita distributions.

State of Wisconsin v. Dean Hopinka and Loretta Hopinka v. Dean Hopinka, CV 97-46 and CS 99-14 Order (Amending Child Support Enforcement) (HCN Tr. Ct., Dec. 26, 2000). The Court modified its prior order to withhold per capita distributions for arrearages on both cases.

Ho-Chunk Nation Department of Housing, and Scholze Ace Home Center, Inc. v. Edward Perry, d/b/a Perry Construction, CV 00-92 Default Judgment (HCN Tr. Ct., Dec. 26, 2000). The Court entered a Default Judgment in the amount of \$30,924.19, to be collected from the defendant's per capita distributions as a debt to the Nation, as he had contracted with the Nation to build a home, and did not follow through on his end of the contract by failing to complete the work

as scheduled and by failing to pay for materials and subcontractors.

In the Interest of Minor Child: C.B.B., DOB 06/01/87, by Shawn Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-25 Order (Accepting Accounting) (HCN Tr. Ct., Dec. 27, 2000). The plaintiff accounted for the CTF funds disbursed by filing a copy of the orthodontist's receipt with the Court.

State of Wisconsin/Monroe County v. Nola A. Smith, CS 00-52 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Dec. 27, 2000). The Court enforced arrearages against the defendant's future per capita distributions.



In the Interest of Minor Children: P.L.H., DOB 10/24/84, and E.J.H., DOB 08/28/85, JV 00-02 and JV 00-03 Order (Status Hearing) (HCN Tr. Ct., Dec. 27, 2000).

Ho-Chunk Nation Housing Authority v. William Goodbear, CV 00-63 Order (Motion Hearing) (HCN Tr. Ct., Dec. 28, 2000). The Court scheduled a hearing so as to allow the plaintiff an opportunity to argue its Motion for Summary Judgment.

In the Interest of Stuart A. Taylor Jr. by Stuart Taylor Sr. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-95 Order Denying CTF Funds (HCN Tr. Ct., Dec. 28, 2000). The Court denied the present request for CTF funds as the Court cannot ascertain what items the plaintiff actually intends to purchase. The plaintiff is encouraged to

submit another request and offer explanation as to what the requested items are.

Molli A. White v. Ho-Chunk Nation Education Department, Jeremy Rockman, Sheryl Cook, and Fran Kernes, CV 00-78 and CV 00-79 Order Permitting Delayed Scheduling Hearing (HCN Tr. Ct., Dec. 28, 2000). The Court will permit Ms. White to find a new attorney. As there has been considerable delay in this case, the scheduling hearing shall take place as scheduled.

Ho-Chunk Nation Department of Housing, Home Ownership Program v. Mick Boardman d/b/a T & Son's General Contractors, CV 99-107 Order (Granting Extension) (HCN Tr. Ct., Dec. 28, 2000). As requested by the attorney for the Home Ownership Program, the required brief is now due on January 8, 2001.



In re: Shamus Daniel Layman, by Paul Layman, v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-41 Order (Demanding Accounting) (HCN Tr. Ct., Dec. 28, 2000). The Court requires the petitioner to account for CTF funds released over two years ago. Failure to do so shall result in the Court calling a *Show Cause Hearing* to determine if the petitioner should be held in contempt of court.

In the Interest of Casey J. Tripp v. Ho-Chunk Nation Enrollment Department, CV 98-10 Order (Demanding Accounting) (HCN Tr. Ct., Dec. 28, 2000). The Court requires the petitioner to account for CTF funds released over two years ago. Failure to do so shall result in the Court calling a *Show Cause Hearing* to determine if the petitioner should be held in contempt of court.

Janet Funmaker v. Ho-Chunk Nation Youth Program, Russell Girard, CV 00-88 Order (Dismissal With Prejudice) (HCN Tr. Ct., Dec. 28, 2000). The Court dismisses the case with prejudice as the plaintiff failed to appear at a hearing for which she had been given proper notice.

Michelle Wood v. Vickie Hindsley, CV 00-86 Order (Default Judgment) (HCN Tr. Ct., Dec. 28, 2000). The Court entered a *Default Judgment* in the amount of \$4,114.15. The parties had made an agreement, and the defendant failed to live up to her end of the agreement by failing to pay the cell phone bill.

Tamara Scoles v. Michael Thompson, CV 00-100 Default Judgment (HCN Tr. Ct., Dec. 28, 2000). The Court entered a *Default Judgment* in the amount of \$14,373.81. The parties had made an agreement, and the defendant failed to live up to his end of the agreement by failing to pay all wages and mileage owed to the plaintiff, and did not repay a personal loan.

Ho-Chunk Nation Supreme Court:

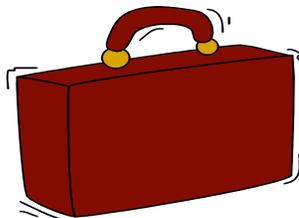
Chloris Lowe Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, SU 00-15 Order Denying Appeal (HCN S. Ct., Dec. 7, 2000). The Supreme Court denied the appeal as the November 13, 2000 *Order (Granting Plaintiffs' Motion for Summary Judgment)* is not a final judgment.

Chloris Lowe Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, SU 00-15 Amended Order Denying

Appeal (HCN S. Ct., Dec. 18, 2000). The Supreme Court re-issued their *Order of December 7, 2000* with an additional footnote as to procedure.

Chloris Lowe Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, SU 00-15 Scheduling Order (HCN S. Ct., Dec. 21, 2000). The Court set the briefing schedule and set a time for argument on the appellants' *Motion for Reconsideration*.

Joelene Smith v. Scott Beard, Department of Education, and the Ho-Chunk Nation, SU 00-14 Notice of Extension (HCN S. Ct., Dec. 29, 2000). The Supreme Court extended the deadline for the issuance of its decision until February 2, 2001 as a copy of the transcript was only recently provided.



Recent Filings

Ho-Chunk Nation Trial Court:

State of Wisconsin v. Sherry L. Smith, CS 00-51, filed December 1, 2000.

State of Wisconsin v. Nola A. Smith, CS 00-52, filed December 1, 2000.

Cindy Gilbertson v. Workman's Comp, CV 00-112, filed December 8, 2000.

Penny Brunette v. Merlin Crow, CS 00-53, filed December 11, 2000.

State of WI/Jackson Co. v. Heather McKee, CS 00-54, filed December 11, 2000.

Emily Blackdeer, Dallas WhiteWing, and Robert Mudd v. Wade Blackdeer, Gerald Cleveland, Sr., Elliot Garvin, Kevin Greengrass, Isaac Greyhair, Karen Martin, Kathleen Lonetree-Whiterabbit, and Sharon Whiterabbit, CV 00-113, filed December 19, 2000.

In the Interest of: Lucinda Tudahl by Frank Tudahl v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-114, filed December 21, 2000.

In the Interest of N.J.O., DOB 02/19/84, by CFS v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-115, filed December 26, 2000.

In the Interest of D.D.P., DOB 02/26/84, by Jonette Pettibone v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-116, filed December 27, 2000.

Ho-Chunk Nation Supreme Court:

Jacob Lonetree, Forrest Whiterabbit, Elliot Littlejohn, Libby Fairchild, Spencer Lonetree, and Parmenton Decorah v. Robert Funmaker, Darcy Funmaker-Rave, Gloria Visintin, SU 00-16, filed December 14, 2000.

Chloris Lowe Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, SU 00-17, filed December 28, 2000.

In Other News

Wisconsin Bar Considers the Problem of Rude Lawyers

The Wisconsin State bar is debating whether tougher discipline ought to be imposed in order to force civility upon lawyers. In 1996, the Supreme Court enacted voluntary rules regarding civility.

Under debate at present is whether those voluntary rules ought to become mandatory.

A large segment of the bar membership considers rudeness to detract from the professional nature of the field. Some members believe that such mandatory rules would infringe upon their right to free speech, and otherwise hamper their ability to strongly defend their client's position. It appears as if the number of lawyers that suffer from civility problems on a regular basis is rather small.

(Source: "Uncivil action: Bar weighs problem of rude lawyers," *Saint Paul Pioneer Press*, Monday, November 27, 2000).

Editorial Comment: Though the Ho-Chunk Nation bar is small, its members should be commended for the manner in which they conduct themselves. From what I have seen, members always appear to be civil and professional with one another, both in and out of court.



Wisconsin Court of Appeals Sends Wake-Up Call to Tribes

In an unpublished decision dated August 22, 2000, the Wisconsin Court of Appeals has affirmed a circuit court's determination that good cause precluded the transfer of a chapter 48 proceeding to tribal court pursuant to the Indian Child Welfare Act. See *State of Wisconsin v. Mille Lacs Band of Chippewa Indians*, No. 99-2936, 27 ILR 5122.

The child in question had been removed from his home in 1992 when he was

seven years old. The Mille Lacs Band of Chippewa Indians received notice from the county beginning in 1995. In late 1996, when a termination of parental rights petition was filed, the Band had that matter transferred to its court. In mid 1999, the Band discovered that the chapter 48 CHIPS (child in need of protection and services) case had not been transferred back in 1996, and petitioned the circuit court for the transfer of that case. A representative from the Band had attended all but perhaps one of the state court proceedings.

The circuit court denied the transfer, finding that good cause existed not to transfer the case. The judge took very seriously the now 15-year-old's request to live in the area that the county had found a foster care placement in as opposed to the area where the tribe proposed to place him. The circuit court judge also expressed hesitancy that the tribe could not provide the very structured environment that the child needs to turn his life around from its delinquent state. Essentially, unless and until the Band demonstrated that it had taken the boy's needs and desires into account, it was not in the best interests of the child to transfer jurisdiction at this late stage in the proceedings. The Band appealed the circuit court's ruling.

The Court of Appeals determined that the appropriate standard of review was "whether the circuit court's denial of the transfer motion constituted a proper exercise of discretion." The Court of Appeals determined that the circuit court had properly looked to the child's wishes, and had appropriately questioned the boy about jurisdiction using where the Band and the county intended to place the child as the child would not understand the concept of jurisdiction.

The Band also argued that the circuit court had erred in its conclusion that a transfer at this late stage would be disruptive.

The Court of Appeals noted that the Band, despite having received notice for four years, had not attempted to transfer jurisdiction of the CHIPS case earlier. The Court of Appeals concluded that it was rational to conclude that transferring jurisdiction when the child was 15 and placed in accordance with his preference would be disruptive.



Practice Tips

Naming parties:

A common question asked by *pro se* litigants, and an occasional pitfall encountered by the practitioner is how to name parties in a lawsuit. The *Ho-Chunk Nation Rules of Civil Procedure* [hereinafter *HCN R. Civ. P.*], Rule 23, requires that a case be brought in the name of the “real party in interest.” The difficulty is usually encountered in lawsuits against the Ho-Chunk Nation, because the Nation, as an independent sovereign, has sovereign immunity. One exception to the barrier of sovereign immunity is through a waiver of sovereign immunity. One example of a limited waiver of sovereign immunity is found in HO-CHUNK NATION LEGISLATIVE RESOLUTION 6-9-98A.

Another method to circumvent sovereign immunity began with the United States Supreme Court case, *Ex parte Young*. The doctrine of *Ex parte Young* has been embodied in the HO-CHUNK NATION CONSTITUTION, ARTICLE XII. Article XII, Section 2, allows people to sue officials or employees of the Nation “who act beyond the scope of their duties or authority” for declaratory and other non-monetary relief.

Also, it is important to remember that *HCN R. Civ. P.* Rule 24 allows a litigant to

join or substitute parties “as justice requires.” A standard *Scheduling Order* from the Ho-Chunk Nation Trial Court typically includes a date by which a party can amend their pleadings.

For additional information: see *Chloris Lowe Jr. v. Ho-Chunk Nation Legislature and Ho-Chunk Nation Election Board*, CV 00-99 (HCN Tr. Ct., Oct. 19, 2000) and *Stewart Miller v. Ho-Chunk Nation Legislature*, CV 99-18 (HCN Tr. Ct., Mar. 25, 1999).

The Interplay Between Motions for Reconsideration Filed in the Trial Court and the Appeal Deadline:

A reading of the *Ho-Chunk Nation Rules of Civil Procedure*, Rule 58 (B), would suggest that the filing of a *Motion for Reconsideration* in the Trial Court would toll (stay) the deadline to file a *Notice of Appeal* with the Ho-Chunk Nation Supreme Court. The Rule states: “If the Court amends the judgement, the time for initiating an appeal commences upon the entry of an amended judgement. If the Court denies a motion filed under this rule, the time for initiating an appeal from the judgement commences when the Court denies the motion on the record or when an order denying the motion is entered, whichever occurs first.”

A decision from the Ho-Chunk Nation Supreme Court seems to suggest otherwise. See *Cheryl Smith v. Ho-Chunk Nation, Rainbow Casino SU 00-07 Order (Denying Appeal)* (HCN S. Ct., May 26, 2000). In that case, the Nation had filed a *Motion for Reconsideration* in the Trial Court, which was denied. The Nation then filed a *Notice of Appeal* with the Supreme Court. The Supreme Court treated the Nation’s appeal as only appealing the Trial Court’s denial of the *Motion for Reconsideration*. A footnote suggests that the Nation would have had to file their *Notice of Appeal* within 30 days of the actual Trial Court decision to appeal that decision.

Ho-Chunk Nation Court Bulletin

Volume 7, Number 2

February 2001

Civil Rules Revisions

The Ho-Chunk Nation Supreme Court continues to work on revising the *Ho-Chunk Nation Rules of Civil Procedure*. The Court Bulletin will keep you posted about the progress of those revisions and when the revised rules become available.

New Legislation

In January, the Ho-Chunk Nation Legislature passed two new pieces of legislation. On January 9, 2001, the ELDER PROTECTION ACT OF 2001 [cite as 4 HCC § 1(2000)] was passed. This act allows people to report suspected abuse, neglect, and exploitation of elders within the territory of the Ho-Chunk Nation to the Department of Social Services. The Department is then to make an investigation and file a written report, which remains on file with the Department for five years. If legal action is necessary to protect the elder, the Department of Justice is authorized to file a petition on behalf of the (continued page 2, column 1)

Court News

- The Ho-Chunk Nation Supreme Court will meet on Saturday, February 17, and Saturday, March 10 at the courthouse. The Supreme Court is scheduled to hear oral arguments on *Jacob LoneTree et al. v. Robert Funmaker Jr., et. al*, SU 00-16 at 9:00 a.m. on February 17, 2001. The Supreme Court is scheduled to hear oral arguments on *Chloris Lowe Jr. et. al. v. Elliot Garvin, et. al.*, SU 00-17 at 2:00 p.m. on February 17, 2001. Additional inquiries into the agenda for those meetings may be directed to Ms. Tari Pettibone, Supreme Court Clerk of Court.
- The Court had its first closing due to inclement weather for this year on Monday, January 29, 2001, when the Court closed at 2:30 p.m. to ensure the safe travel of employees in light of the impending ice storm. No court hearings were affected by the closure. If a closure is required or anticipated and it will affect a court hearing, the Court will make every effort to inform the affected parties as soon as possible. Therefore, it is important that the Court have a current phone number (or a current phone number to leave a message) for all parties, including *pro se* litigants.



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petitioner or the Nation in the Trial Court.

On January 9, 2001, (amended and restated on January 16, 2001) the Legislature passed the JUVENILE CURFEW ORDINANCE [cite as 4 HCC § 4]. This act sets a curfew for minor children within any Ho-Chunk Nation community under the jurisdiction of the Nation. The act requires that the Ho-Chunk Security Patrol return minors that have violated curfew to their custodial parent or guardian's home. The Security Patrol issues citations for such violations. The minor child, the custodial parent, or the person enabling the minor face potential penalties before the Trial Court.



Recent Decisions

Ho-Chunk Nation Trial Court:

State of Wisconsin v. Stuart A. Taylor, CV 97-83 Order (*Suspending Current Child Support Enforcement*) (HCN Tr. Ct., Jan. 4, 2001).

The Court suspended the defendant's current child support obligation as he had voluntarily terminated his parental rights and therefore no longer owed current child support.

State of WI/Brown Co., and Penny Brunette v. Merlin Crow, CS 00-53 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 4, 2001). The Court enforced the defendant's child support obligation against his per capita distributions.

In the Interest of Minor Child: J.K.W., DOB 01/18/82, by Joy A. Buck v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-77 Order (*Demanding Accounting*) (HCN Tr. Ct., Jan. 4, 2001). The Court required the plaintiff to account for CTF funds released on Dec. 23,

1999.

Estate of Dennis S. Migala v. Rainbow Casino and Ho-Chunk Nation, CV 00-06 *Stipulation & Order for Dismissal (Settlement Agreement)* (HCN Tr. Ct., Jan. 5, 2001). The Court entered an Order pursuant to the parties' agreement.

In re: Bruce Patrick O'Brien by Elethe Nichols, Guardian v Ho-Chunk Nation Office of Tribal Enrollment, CV 96-46 Order (*Accepting Accounting*) (HCN Tr. Ct., Jan. 5, 2001). The Court accepted the accounting from the Sept. 20, 2000 release of funds.

In the Interest of the Minor Child: D.P.D., DOB 02/26/84, by Jonette Pettibone v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-116 Order (*Petition Granted*) (HCN Tr. Ct., Jan. 5, 2001). The Court granted the release of CTF funds for orthodontics.

Ho-Chunk Nation Department of Housing, Home Ownership Program v. Mick Boardman d/b/a T & Son's General Contractors, CV 99-107 Order (*Granting Extension*) (HCN Tr. Ct., Jan. 8, 2001). The Court granted the plaintiff an extension of time to file its brief.

Maureen Arnett v. Ho-Chunk Nation Department of Administration and Lisa S. Wathen v. Ho-Chunk Nation Gaming Commission, CV 00-60 and CV 00-65 Order (*Determination of Subject Matter Jurisdiction*) (HCN Tr. Ct., Jan. 8, 2001). The Court determined that the HO-CHUNK NATION PERSONNEL POLICIES AND PROCEDURE MANUAL's definition of "discharge" includes an employee's allegation of constructive discharge, *i.e.*, that the employer made the working conditions so intolerable as to force the employee to quit. To establish a constructive discharge, the grievant must prove: 1) the actions and conditions that caused the employee to resign were violative of fundamental public policy, 2) these actions and conditions were so intolerable or aggravated at the time of the employee's

resignation that a reasonable person in the employee's position would have resigned, and 3) facts and circumstances showing that the employer had actual knowledge of the intolerable actions and conditions and of their impact on the employee and could have remedied the situation. In *Arnett*, the Court concluded that promissory estoppel is not a cause of action that arises under the "Constitution, laws, customs [or] traditions of the Ho-Chunk Nation" and therefore the Court lacked subject matter jurisdiction. The only issue remaining at the trial in each of the cases is whether the plaintiffs can prove that they were constructively discharged.

In the Interest of Minor Child: C.J.W., DOB 01/03/84, by Anne Johnson v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-68 Order (Reimbursing CTF in Part) (HCN Tr. Ct., Jan. 9, 2001). The Court had previously released CTF monies that had resulted in an overpayment. The plaintiff returned the excess money for partial reimbursement of the minor's CTF.

Daniel Green v. Steven S. Davis, Real Estate Manager, Home Ownership Program, in his official capacity, CV 00-108 Order (Granting Motion to Appear Telephonically) (HCN Tr. Ct., Jan. 9, 2001).

In the Interest of Michael Anthony Adam, DOB 11/16/81, by Audrey Deer Adam v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-27 Order (Releasing CTF Funds to Estate) (HCN Tr. Ct., Jan. 9, 2001). The Court released the balance of the CTF fund to the deceased tribal member's estate.

In the Interest of Minor Child: S.S., DOB 07/30/82, by Sharon A. Porter v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-76 Order (Show Cause) (HCN Tr. Ct., Jan. 9, 2001). The plaintiff failed to account for released CTF funds as required in two prior Court orders. Thus, the Court scheduled a

Show Cause Hearing to allow the plaintiff an opportunity to explain why she should not be held in contempt of court.

In the Interest of Minor Child: A.N., DOB 06/19/82, by Lucinda Naquayouma v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-20 Order (Show Cause) (HCN Tr. Ct., Jan. 9, 2001). The plaintiff failed to account for released CTF funds as required in two prior Court orders. Thus, the Court scheduled a *Show Cause Hearing* to allow the plaintiff an opportunity to explain why she should not be held in contempt of court.

In the Interest of Minor Child: D.T.S., DOB 11/20/91, JV 01-01 Order (Appointment of Interim Temporary Legal Guardian) (HCN Tr. Ct., Jan. 10, 2001).



In the Interest of Mercedes L. Blackcoon: by Dale G. Hazard v. Ho-Chunk Nation Office of Tribal Enrollment, CV 96-78 Order (Petition Granted) (HCN Tr. Ct., Jan. 10, 2001). The Court granted the release of ITF funds to pay real estate taxes and to reimburse federal SSI.

Ho-Chunk Nation Department of Housing, Property Management Division v. Sarah Dobbs, CV 00-16 Judgment (On Remand) (HCN Tr. Ct., Jan. 11, 2001). The Court set a payment schedule to satisfy the judgment given the defendant's present financial situation.

Rachel Winneshiek v. John Houghton, CS 99-29 Order (Impounding Child Support) (HCN Tr. Ct., Jan. 12, 2001). The Court impounded the previously ordered child support, until such time as a hearing can be held, as the plaintiff and defendant currently

HCN Court Fees

Filing Fees	\$35.00
Service of Summons	!In
Person	\$15.00 (or cost if out of state) !By
Mail	\$4.00 (or cost, whichever is greater) !By
the Court	\$0.325 (per mile)
Copying	\$0.10/per page
Faxing	\$0.25/per page (sending and receiving)
Tapes of Hearings	\$10.00/per tape
Deposition Videotape	\$10.00/per tape
Certified Copies	\$0.50/per page
Equipment Rental	\$5.00/per hour
Register a Foreign Order	\$15.00
Appellate filing fees	\$35.00
Admission to Practice	\$50.00
Pro Hac Vice Appearance	\$35.00

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 ə) 7.

HCN Const., Art. II, Sec. (or ə) 1(a).

Ho-Chunk Nation Court System
P.O. Box 70
Black River Falls, WI 54615

HCN Ordinances

Ordinance Name, Chapter number, Section/Part/Clause, page.
PERSONNEL POLICIES AND PROCEDURE MANUAL, Ch. 12, Part B, p. 82.
CLAIMS AGAINST PER CAPITA, Sec. (or ə) 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).

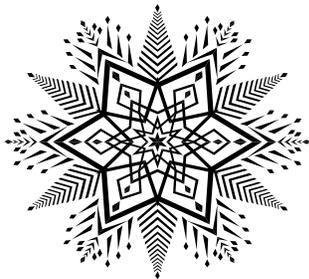


reside together and continued enforcement of the underlying state court order may violate state or tribal law.

State of WI/Jackson County v. Heather A. McKee, CS 00-54 *Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 12, 2001). The Court enforced the underlying state court child support order against the respondent's per capita distributions.

State of WI/Jackson County v. Casey A. Fitzpatrick, CS 00-50 *Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 12, 2001). The Court enforced the underlying state court child support order against the respondent's per capita distributions.

Mollie White v. Ho-Chunk Nation Education Department, Jeremy Rockman, Sheryl Cook, and Fran Kernes; Mollie White v. Ho-Chunk Nation Education Department, Jeremy Rockman, Sheryl Cook, and Fran Kernes; and Mollie White v. Ho-Chunk Nation Education Department and Scott Beard, CV 00-78, CV 00-79, and CV 00-70 *Order (Scheduling and Consolidating Cases)* (HCN Tr. Ct., Jan. 12, 2001). The Court consolidated these three cases which all arose from the plaintiff's employment within the Department of Education. The parties were informed that a *Scheduling Conference* on all three cases would occur on Jan. 26, 2001 at 10:30 a.m.



In the Interest of: Lucinda V. Littlesoldier, DOB 02/16/49, by *Isabelle Mallory v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 00-106 *Order (Granting ITF Release)* (HCN Tr. Ct., Jan. 12, 2001). The Court granted the release of ITF funds to cover the cost of

transportation of the ward to a facility for disabled adults. Additional funds were released to reimburse SSI, pay the lawyer the plaintiff utilized to access the funds, and set up an entertainment fund for the ward.

In the Interest of Minor Children: P.L.H., DOB 10/24/84, and E.J.H., DOB 08/08/85, JV 00-02 and JV 00-03 *Order (Amending Child Support)* (HCN Tr. Ct., Jan. 12, 2001).

Ho-Chunk Nation Department of Housing, Home Ownership Program v. Mick Boardman d/b/a T & Son's General Contractors, CV 99-107 *Order (Motion Granted)* (HCN Tr. Ct., Jan. 12, 2001). The Court granted the plaintiff's *Motion for Leave to File Amended Complaint Adding Party*.

State of Wisconsin, on behalf of Nellie McKee v. Bryan D. Powless and State of Wisconsin on behalf of Victoria Blackcoon v. Bryan D. Powless, CS 98-28 and CS 98-39 *Amended Judgment (Enforcing Child Support)*. The Court continued to enforce the respondent's one current child support obligation against his per capita distributions. The respondent will retire his arrearage in Case No. CS 98-28 with the February 2001 per capita distribution withholding. After that per capita distribution, money shall continue to be withheld towards the arrearage in Case No. CS 98-39.

In the Matter of the Children: P.A.S., DOB 01/14/91, and P.M.S., DOB 01/14/91, JV 98-06 and JV 98-07 *Order (Redirecting Child Support)* (Jan. 12, 2001).

HocOk Federal Credit Union v. Stewart Miller, CV 97-119 *Order (Requiring Satisfaction of Judgment)* (HCN Tr. Ct., Jan. 15, 2001). The Court required one of the parties to file a *Satisfaction of Judgment* in accordance with *Ho-Chunk Nation Rules of Civil Procedure*, Rule 59.

State of Wisconsin and Johnny W. Whitecloud a/k/a Johnny Whitecloud v. Patricia A. Whitecloud n/k/a Patricia A. Hindsley, CS 00-46 *Default Judgment (Enforcing Child Support)*. The Court

enforced the underlying state court child support order against the defendant's per capita distributions.

Heather Hartwig v. Steve Lincoln, CS 99-21 Order (Amending Child Support Enforcement) (Jan. 15, 2001). The Court amended enforcement of the respondent's child support obligation consistent with the amended underlying state court order.

In the Interest of Minor Children: P.L.H., DOB 10/24/84, and E.J.H., DOB 08/28/85, JV 00-02 and JV 00-03 Order (Visitation) (HCN Tr. Ct., Jan. 15, 2001).

In the Interest of Minor Children: P.L.H., DOB 10/24/84, and E.J.H., DOB 08/28/85, JV 00-02 and JV 00-03 Order (Requiring Action by CFS and the GAL) (HCN Tr. Ct., Jan. 15, 2001).

In the Interest of Minor Children: P.L.H., DOB 10/24/84, and E.J.H., DOB 08/28/85, JV 00-02 and JV 00-03 Order (Conference) (HCN Tr. Ct., Jan. 15, 2001).

In the Interest of Minor Child: S.L.S., DOB 01/03/86, JV 00-19 Order (Child Support) (HCN Tr. Ct., Jan. 15, 2001).

Ho-Chunk Nation Housing Authority v. Keith Dick, CV 99-105 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 15, 2001). The Court recognized that the defendant's debt had been paid in full.

In the Interest of Minor Children: A.B., DOB 06/28/87, J.B., DOB 04/23/88, and R.B., DOB 04/23/91, JV 00-07, JV 00-08, and JV 00-09 Order (Amending Child Support) (HCN Tr. Ct., Jan. 16, 2001).

Ho-Chunk Nation Housing Authority v. Lisa Banuelas, CV 00-01 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 16, 2001). The Court recognized that the defendant's debt had been paid in full.

Gale S. White v. Larry V. Garvin, CS 99-20 Order (Proof of Enrollment in High School Filed) (HCN Tr. Ct., Jan. 17, 2001). The

respondent's current child support remained the same as proof of enrollment in high school had been filed for the 18 year old child.

Anthony Salerno v. Estelle R. Whitewing, CV 97-103 Order (Proof of Enrollment in High School Filed) (HCN Tr. Ct., Jan. 17, 2001). The defendant's current child support obligation remained the same as proof of enrollment in high school had been filed for the 18 year old child.

Jackson County Foster Care, Eunice Greengrass, and Carmella Root v. Karla Greengrass, CV 96-81 Order (Amending Child Support Enforcement) (HCN Tr. Ct., Jan. 17, 2001). The Court amended the defendant's current child support obligation as no proof of enrollment in high school was filed for the 18 year old child.



In the Interest of Minor Children: P.L.H., DOB 10/24/84, and E.J.H., DOB 08/28/85, JV 00-02 and JV 00-03 Order (Denying Request for Hearing Until Completion of Investigation) (HCN Tr. Ct., Jan. 17, 2001).

Colleen D. Hansen v. Jerry L. Lewis Park, CS 98-73 Order (Amending Child Support) (HCN Tr. Ct., Jan. 18, 2001). The Court amended the respondent's current child support obligation in light of the fact that one of the minor children was no longer eligible to receive current child support.

Faith Taken Alive v. Brady Eagleman, CS 00-21 Order (Suspending Child Support Enforcement) (HCN Tr. Ct., Jan. 19, 2001).

The Court suspended enforcement of current child support as no proof of enrollment in high school had been filed for the minor child.

Denise Ryan v. Freeman Decorah, CS 00-05 Order (*Impounding Child Support*) (HCN Tr. Ct., Jan. 19, 2001). The Court impounded the defendant's current child support obligation from his February 2001 per capita distribution as he alleged that he had custody of the minor children and was seeking resolution of the matter with the state court.

State of Wisconsin v. Hilton Vasquez, CS 99-49 Order (*Suspending Current Child Support Enforcement*) (HCN Tr. Ct., Jan. 19, 2001). The Court suspended the defendant's current child support obligation as no proof of enrollment in high school had been filed.

Ho-Chunk Nation Housing Authority v. John Wabshoggin and James Wabshoggin, CV 00-98 Order (*Satisfaction of Judgment*) (HCN Tr. Ct., Jan. 19, 2001). The Court recognized that the defendants had paid their debt in full.

Michelle Decorah v. Irene Keenan, Child Care Assistance Program, Department of Social Services, CV 00-51 Order (HCN Tr. Ct., Jan. 19, 2001). The Court required the Ho-Chunk Nation Department of Treasury to withhold the filing fee and service fee owed by the plaintiff to the Court from the plaintiff's per capita distribution.



In the Interest of Casey J. Tripp, by Bonnie Hanson v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-10 Order (*Accepting Accounting*) (HCN Tr. Ct., Jan. 19, 2001). The Court accepted the accounting provided

by the plaintiff from the release of CTF funds for orthodontics.

Margaret G. Garvin v. Donald Greengrass and Margaret G. Garvin v. Ho-Chunk Nation, Donald Greengrass, in his official and individual capacity, and Evans Littlegeorge in his individual capacity, CV 00-10 and CV 00-38 Order (*Postponing Trial*) (HCN Tr. Ct., Jan. 22, 2001). The Court postponed the trial in these cases until such time as an order on the pending motions was issued.

Liana Bush v. Clarence Pettibone in his official capacity as Vice-president of the Ho-Chunk Nation, and Shirley Lonetree in her official capacity as Director of the Ho-Chunk Nation Department of Personnel and Darcy Funmaker-Rave v. Clarence Pettibone in his official capacity as Vice-president of the Ho-Chunk Nation, and Shirley Lonetree in her official capacity as Director of the Ho-Chunk Nation Department of Personnel, CV 00-93 and CV 00-101 Order (*Remand*) (HCN Tr. Ct., Jan. 23, 2001). The Court remanded these disputes back to the full Ho-Chunk Nation Legislature as it lacked conclusive evidence that the Legislature had vested final administrative authority in the Vice-President.

Bernard Mountain, Jr. and Iris Lyons v. Ho-Chunk Nation Housing Authority, CV 00-85 Order (*Motion Hearing*) (HCN Tr. Ct., Jan. 23, 2001). The Court scheduled a hearing to allow the defendant the ability to argue its *Motion for Summary Judgment*.

Ho-Chunk Nation Home Ownership Program v. Jerome Cloud, CV 98-29 Order (*Requiring Proof of Satisfaction of Judgment*) (HCN Tr. Ct., Jan. 23, 2001). The Court required the plaintiff to file a *Satisfaction of Judgment* upon the belief that the judgment should have been satisfied in full.

State of Wisconsin v. Fredrick K. Greendeer, State of Wisconsin, on behalf of Mary Tribble v. Fredrick K. Greendeer, Roberta Greendeer v. Fredrick K. Greendeer, and State of Wisconsin, for Carol L. Miller v. Fredrick K.

Greendeer, CS 98-32, CV 97-44, CV 97-02, and CS 99-75 *Proof of Enrollment Filed* (HCN Tr. Ct., Jan. 23, 2001). The respondent's current child support obligation remained the same as proof of enrollment in high school had been filed for the 18 year old.

Ho-Chunk Nation Department of Housing, Home Ownership Program v. Jerome Marshall Cloud, CV 00-46 *Order (Impounding Per Capita)* (HCN Tr. Ct., Jan. 23, 2001). The Court issued an order to impound a portion of the defendant's February 2001 per capita distribution until such time as a hearing could be convened as to how much the defendant still owed the plaintiff.

Ho-Chunk Nation Department of Housing, Property Management Division v. Cherylene Long, CV 99-98 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Jan. 24, 2001). The Court recognized that the defendant's debt had been paid in full.

Victoria V. Cloud v. Tribal Aging Unit (Marian Donaldson), CV 00-61 *Motion for Summary Judgment Granted* (HCN Tr. Ct., Jan. 24, 2001). The Court had previously granted the defendant's *Motion for Summary Judgment*. The Court directed the defendant to file proper *Findings of Fact and Conclusions of Law and Judgment* as previously instructed in open court.

In the Interest of Minor Child: N.J.O., DOB 02/19/84, by Ho-Chunk Nation Children and Family Services v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-115 *Order (Petition Granted)* (HCN Tr. Ct., Jan. 24, 2001). The Court granted the release of CTF funds for a computer and computer desk for this exceptional high school student for which a computer will prove an asset in their preparation for, and attendance of, college.

In the Interest of the Adult Incompetent: Lucinda Tudahl, DOB 07/21/17, by Frank Tudahl v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-114 *Order (Releasing Decedent's Per Capita Distribution)* (HCN Tr.

Ct., Jan. 24, 2001). The Court released the balance of the ITF account to the decedent's estate.

In the Interest of Minor Children: K.M., DOB 04/09/93, and L.M., DOB 01/08/92, JV 98-15 and JV 98-14 Order (Requiring Report) (HCN Tr. Ct., Jan. 25, 2001).

In the Matter of the Children: D.L.D., DOB 04/04/92, and N.L.D., DOB 10/03/93, JV 97-11 and JV 97-12 Order (Withdrawal of GAL) (HCN Tr. Ct., Jan. 25, 2001).



In the Interest of Kathy Brandenburg (Miller) v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-18 *Order (Accepting Accounting and Reimbursing Protective Payee)* (HCN Tr. Ct., Jan. 25, 2001). The Court accepted the accounting from the last release of funds and reimbursed the protective payee for her out of pocket expenses, mileage, and hourly wage.

State of Wisconsin, on behalf of Victoria Blackcoon v. Bryan D. Powless, CS 98-39 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Jan. 25, 2001).

Ho-Chunk Nation Department of Education v. Joanne LaMere, Nellie McKee, and Pearl Lightstorming, CV 99-30 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Jan. 25, 2001). The Court recognized that defendant LaMere had satisfied her debt.

In the Interest of the Minor Child: M.C.D., DOB 03/29/99, JV 99-11 Emergency Order (HCN Tr. Ct., Jan. 26, 2001).

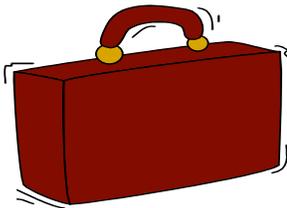
In the Matter of the Child: S.R.G., DOB 09/20/83, JV 99-14 Extension of Dispositional Order (HCN Tr. Ct., Jan. 26, 2001).

Rachel Winneshiek v. John C. Houghton, Jr., CS 99-29 *Order (Releasing Impound)* (HCN

Tr. Ct., Jan. 29, 2001). The Court released the previously impounded child support as the defendant apparently has no issue with paying current child support, and the child support agency had had no meaningful opportunity to weigh in on the issue of whether the parent who has resumed residency with the child continues to owe current child support.

Gary Lonetree, Sr. v. John Holst, as Slot Director, and Ho-Chunk Casino Slot Department, CV 97-127 Order (Requiring Satisfaction of Judgment) (HCN Tr. Ct., Jan. 30, 2001). The Court required the defendant to file a *Satisfaction of Judgment* in accordance with *Ho-Chunk Nation Rules of Civil Procedure, Rule 59*.

In the Interest of Minor Children: D.J.H., DOB 11/04/88, and E.T.H., DOB 12/19/91, JV 00-12 and JV 00-13 Termination of Order (HCN Tr. Ct., Jan. 30, 2001).



Ho-Chunk Nation Department of Housing, Property Management Division v. Sara White Eagle, CV 00-19 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 31, 2001). The Court recognized that the defendant had satisfied her debt.

Louella Kelty v. Steve Garvin and Louella Kelty v. Jonette Pettibone, CV 99-26 and CV 99-27 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 31, 2001). The Court recognized that the claims had been satisfied.

Ho-Chunk Nation Housing Authority v. Jackie Henneha, CV 01-03 Dismissal (Without Prejudice) (HCN Tr. Ct., Jan. 31, 2001). The Court dismissed the case as the plaintiff no longer wished to pursue the action.

Victoria V. Cloud v. Tribal Aging Unit (Marian Donaldson), CV 00-61 Judgment (HCN Tr. Ct., Jan. 31, 2001). The Court found that the plaintiff had been properly terminated due to the plaintiff's extended absence from employment without notice to her supervisor.

Ho-Chunk Nation Department of Housing, Property Management Division v. Phyllis McCloud, CV 00-02 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 31, 2001). The Court recognized that the defendant had satisfied her debt.

Rickie James Roenneburg v. Table Games Department at Ho-Chunk Casino, CV 00-32 Order (Satisfaction of Settlement) (HCN Tr. Ct., Jan. 31, 2001). The Court recognized that the terms of the settlement were satisfied.

In the Interest of Minor Child: S.S., DOB 07/30/82, by Sharon A. Porter v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-76 Order (Memorializing Hearing). The Court allowed the plaintiff an opportunity to provide photographic evidence in lieu of receipts for the accounting of a CTF release.

In the Interest of Minor Children: T.H.S., DOB 12/04/87, S.H.S., DOB 01/12/90, and B.A.S., DOB 01/21/86, JV 99-05, JV 99-06, and JV 99-19 Order (Telephonic Appearance) (HCN Tr. Ct., Jan. 31, 2001).

Ho-Chunk Nation Supreme Court:

Jacob Lonetree, Forrest Whiterabbit, Elliot Littlejohn, Libby Fairchild, Spencer Lonetree, and Parmenton Decorah v. Robert Funmaker, Darcy Funmaker-Rave, Gloria Visintin, and Ho-Chunk Nation Election Board, SU 00-16 Scheduling Order (HCN S. Ct., Jan. 2, 2001).

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and

individually; and Ho-Chunk Nation Election Board, SU 00-17 Scheduling Order (HCN S. Ct., Jan. 4, 2001).

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, SU 00-15 Order Denying Motion for Reconsideration (HCN S. Ct., Jan. 4, 2001). The Supreme Court maintains the position that the Trial Court's November 13, 2000 Order (*Granting Plaintiffs' Motion for Summary Judgment*) does not meet the standard of a final judgment as other issues were still pending.

Jacob Lonetree, Forrest Whiterabbit, Elliot Littlejohn, Libby Fairchild, Spencer Lonetree, and Parmenton Decorah v. Robert Funmaker, Darcy Funmaker-Rave, Gloria Visintin, and Ho-Chunk Nation Election Board, SU 00-16 Order Granting Motion for Recusal (HCN S. Ct., Jan. 12, 2001). To avoid the appearance of impropriety, Associate Justice Greengrass was recused. She had previously won an appeal that allowed her to take her seat on the Ho-Chunk Nation Supreme Court heard by Justices *Pro Tempore* Alysia LaCounte, Carol BrownBiermeier, and Richard Monette. Attorney LaCounte represents the appellants in this action.

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, SU 00-17 Amended Scheduling Order (HCN S. Ct., Jan. 12, 2001). Associate Justice Debra Greengrass was recused from this case as her brother, Kevin Greengrass, is a named appellant.



Recent Filings

Ho-Chunk Nation Trial Court:

Roxanne E. Doxtator a/k/a Roxanne Looker v. Nathan R. Cloud, CS 01-01, filed on January 2, 2001.

Susan Bosgraaf v. Ho-Chunk Casino Security Department, CV 01-01, filed on January 4, 2001.

In the Interest of : C.H., DOB 04/02/81, by Cyril Delarosa v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-02, filed on January 8, 2001.

Rena Lynn LeMieux v. Kenneth Allen LeMieux, CS 01-02, filed on January 8, 2001.

Jill Pettibone v. Brent Pettibone, DV 01-01, filed on January 10, 2001.

Rickie Roenneburg v. Ho-Chunk Casino Table Games, CV 01-04, filed on January 11, 2001.

John Kagigebi v. Amory Decorah, CV 01-06, filed on January 11, 2001.

Department of Labor v. Chris Littlewolf, et. al., CV 01-07, filed on January 12, 2001.

David Abangan v. Ho-Chunk Nation Department of Business, CV 01-08, filed on January 16, 2001.

Leslie J. Schmolke v. Ho-Chunk Casino, Ho-Chunk Nation Department of Business, CV 01-05, filed on January 17, 2001.

In the Interest of: T.L.J., DOB 06/07/90, T.M.J., DOB 10/10/91, and D.T.J., DOB 11/23/96, by Toby L. Jones, Sr. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-09, filed on January 17, 2001.

In the Interest of: Maxine Phyllis Johnson, by Frank Johnson v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-10, filed on January 18, 2001.

Ho-Chunk Nation Legislature v. Ho-Chunk Nation General Council, Robert Funmaker, Jr., and Darcy Funmaker-Rave, CV 01-11, filed on January 19, 2001.

Anne Lonetree v. Sam Lonetree, DV 01-02, filed on January 22, 2001.

Bonnie Smith v. Ho-Chunk Nation Gaming Commission, CV 01-12, filed on January 23, 2001.

Kathy A. Stacy v. Clarence Pettibone as former Vice-President and Wade Blackdeer as current Vice-President, CV 01-13, filed on January 26, 2001.

Kathryn L. Newsom v. Dennis Lewis, CS 01-03, filed on January 29, 2001.

Bernard Mountain, Jr. v. Matt Estabo, Joe Estabo, and Wayne Decorah, CV 01-14, filed on January 30, 2001.

Ho-Chunk Nation Supreme Court:

Maureen Arnett v. Ho-Chunk Nation Department of Administration and Lisa S. Wathen v. Ho-Chunk Nation Gaming Commission, SU-01-01, filed on January 15, 2001.



Practice Tips

Naming Parties

This practice tip is meant to serve as an extension to January's practice tip concerning the naming of parties. Having read January's practice tip, you know that Ho-

Chunk Nation officials can be sued in either their official or individual capacity, and the HO-CHUNK NATION CONSTITUTION [hereinafter CONSTITUTION], ARTICLE XII, Sections 1 and 2, provides guidance in making that determination. Suing an official in his/her individual capacity means that the plaintiff believes that he/she has acted beyond the scope of his/her authority, *i.e.*, contrary to law.

This tip draws attention to the *Ho-Chunk Nation Rules of Civil Procedure* [hereinafter *HCN R. Civ. P.*] and the interplay with those provisions in the CONSTITUTION. *HCN R. Civ. P.* Rule 27(B) requires that a plaintiff indicate whether an official has been sued in his/her official or individual capacity. One method to do so is to place that information in the caption. For instance, if John Doe was the Director of Personnel, and Jane Smith wished to sue him in his individual capacity, she would write the caption as follows: "Jane Smith v. John Doe, in his individual capacity as Director of Personnel."

Another method for indicating whether an official has been sued in his/her official or individual capacity is to state that information within the body of the *Complaint*. Given the example above, Ms. Smith could state in her complaint: "4. John Doe is sued in his individual capacity as Director of Personnel." Either of these alternatives fulfills the requirement that the plaintiff indicate in what capacity the official is being sued.

On a somewhat related note, *HCN R. Civ. P.* Rule 3(A) requires that the plaintiff, or the plaintiff's counsel, provide the addresses and telephone numbers of all parties. Not only does the plaintiff have to provide his/her own address and phone number, but he/she must also provide, at a minimum, the address of the defendant(s). The Court serves the *Summons* and *Complaint* upon the defendant, and therefore must be provided with a place to find him/her (in the case of

personal service) or his/her mailing address (in the case of service by mail).

Probate

At this time, the Ho-Chunk Nation lacks a probate code. A probate code explains how, and by what procedures, a person's assets will be distributed after he/she dies. Because the Nation lacks a probate code, the Court has devised a process to use in instances when a person with either a CTF account or an ITF account dies.

The purpose of the practice tip is to explain that process so that bar members, lay advocates, and *pro se* persons will understand what the Court expects of them. Until such time as the Nation would enact a probate code, the Court will continue to use these procedures until they prove unworkable and in need of revision. This process is needed because this Court is the only Court with jurisdiction over the CTF or ITF account.

The Court has a form entitled *Petition for Release of Decedent's Per Capita* available. This form may be obtained by calling the Court and requesting a copy, or stopping at the courthouse and requesting a copy.

The Court prefers that the named personal representative (in Wisconsin; in most, if not all, other states this is called the executor of the estate) of the estate files this *Petition* along with a certified copy of the letter naming him/her to be the personal representative and a certified copy of the death certificate. The Court affords the Ho-Chunk Nation Department of Tribal Enrollment an opportunity to file an *Answer* after such a *Petition* is filed. The Court anticipates that in cases where the personal representative files the appropriate documentation, there will be no issues with releasing the balance of the CTF or ITF to the

personal representative for inclusion in the estate.

In the past, cases have been filed where no personal representative has been determined by the state court. In those instances, a more extensive process has taken place in part because a comprehensive list of heirs must be compiled. The heirs must be notified, and it has been helpful when the heirs themselves have been able to reach an agreement as to the distribution of the CTF or ITF. As the balance of these accounts tends to be substantial, it is less unlikely that this informal procedure will continue to be used as state law will require that an estate be opened.

Frequently Asked Questions

Q: Can I file for divorce in the Ho-Chunk Nation Trial Court?

A: No. At this time, the Nation does not have a divorce code. Until a divorce code is passed by the Legislature, this Court lacks subject matter jurisdiction to hear a divorce case. See HO-CHUNK NATION CONSTITUTION, ARTICLE VII, Section 5(a) (subject matter jurisdiction of court).

Q: Can I enforce a small claims judgment/broken agreement against a member's per capita distributions?

A: No. At this time, the Legislature permits four (4) types of claims against per capita distributions. Such claims are permitted to satisfy debts against the Nation, to pay child support, to pay federal taxes, and to satisfy debts to the Hocok Federal Credit Union. No other types of claims are permitted at this time. See CLAIMS AGAINST PER CAPITA ORDINANCE, Sections 103 and 104.



Ho-Chunk Nation Court Bulletin

Volume 7, Number 3

March 2001

Policy Statement – Submissions to the Ho-Chunk Nation Court Bulletin for Publication

Despite the fact that the readership of this Bulletin lead very busy lives, one of you may at some point wish to submit an article to the Bulletin, and would like to know how to do so. The how is easy. Submissions may be mailed to the Court at P.O. Box 70 in Black River Falls, WI. An electronic copy could also be e-mailed to the Staff Attorney. At this time, the applicable e-mail address would be KKruger@ho-chunk.com.

Given the scope of the Court Bulletin, there needs to be some limitations on submissions. First, the submission cannot advocate for or against a political position. Second, the usual rules regarding proper citation of sources must be followed (in other words, plagiarism will not be tolerated). Third, there may be space constraints which would require that a submission be edited or published in a later edition of the Bulletin. (continued page 2, column 1)

Policy Statement - OPA Computer

On February 12, 2001, the Board of Directors for the Office of Public Advocacy met at the courthouse. One of the issues discussed was the availability of the OPA computer to lay advocates who are prevented from taking cases due to their lack of a computer. The Board determined that the OPA computer should be made available to lay advocates so they can represent clients. Any lay advocate wishing to use the computer may contact the Staff Attorney, Katherine Kruger, regarding availability. After an administrator for the OPA office is hired, the administrator may be contacted, or in the administrator's absence, the Staff Attorney.

Court News

- The Ho-Chunk Nation Supreme Court will meet on Saturday, March 10, 2001, at the court house in Black River Falls, WI. On the agenda at that meeting is a discussion about the revisions to the *Rules of Civil Procedure*. Additional inquiries as to the agenda for that meeting may be directed to Ms. Tari Pettibone, Supreme Court Clerk of Court. They will meet again on April 14, 2001 in Black River Falls at the courthouse.
- For those of you that may have bookmarked the Ho-Chunk Nation Tribal Court's webpage, that page has moved. The website may be accessed at http://www.ho-chunk.com/Government/dept_court_page.htm. It has been brought to my attention that some of the links are faulty, and I hope to have those links fixed soon. If (continued page 2, column 1)

INSIDE THIS ISSUE

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Policy Statement (Bulletin Submissions) (continued)

The author would be contacted regarding any concerns about his/her submission. Of course, if the submission was published, proper credit would be given to the author.



Court News (continued)

you ever have difficulty accessing this site, or find a faulty link, feel free to call me at the Court (Staff Attorney Katherine Kruger, 284-2722 or 1-800-434-4070) or e-mail me at KKruger@ho-chunk .com. In addition, in the near future, I hope to have standard Court forms available at the website.

- The Ho-Chunk Nation Legislature has approved the new job description for the administrator for the Office of Public Advocacy as approved by the OPA Board of Directors on February 12, 2001. Keep your eye on the job postings as this position will soon be posted.
- **Court Obtains New Recording Device.** In January of this year, the Court obtained a new recording device. This device records court proceedings onto both the hard drive of a new computer, and onto a CD-RW disk. This digital recording system utilizes four microphones and produces a recording of higher quality than the previous cassette tape recorder used by the Court.

Copies of proceedings may still be obtained from the Court. A copy may be requested by speaking to the Clerk of Court or the Assistant Clerk of Court. The new computer allows a copy to be burned onto a second CD-RW disk. Copies furnished by the Court will be on a special disk that also includes the software for the program required to play back the proceedings. These disks may be played

on any computer with a CD ROM (or a DVD) drive.

A much appreciated aspect of this new recording system is that it allows the clerk to type the log minutes, as opposed to the prior system of writing notes by hand during the proceedings. The clerks also have the option of listening to the proceeding at a later time to create a verbatim transcript of the proceeding, or just to add other key aspects of the proceeding to the log. The typed log time stamps each new speaker, making it far easier for the clerks to find a particular statement at a later time.

Recent Decisions

Ho-Chunk Nation Trial Court:

In the Interest of Minor Child: S.J.R., DOB 03/31/99, JV 00-01 Order (Telephonic Appearance) (HCN Tr. Ct., Feb. 2, 2001).

In the Interest of the Minor Child: M.I.S., DOB 04/18/00, JV 00-34 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Feb. 2, 2001).

In the Interest of Minor Child(ren): J.S.C., DOB 05/19/85, JV 01-02 Order (Granting Continuance) (HCN Tr. Ct., Feb. 6, 2001).

Emily Blackdeer, Dallas WhiteWing, and Robert A. Mudd v. Wade Blackdeer, Gerald Cleveland, Sr., Elliot Garvin, Kevin Greengrass, Isaac Greyhair, Karen Martin, Myrna Thompson, Kathleen Lonetree-Whiterabbit, and Sharyn Whiterabbit, as individual Legislators, CV 00-113 Dismissal (Without Prejudice) (HCN Tr. Ct., Feb. 6, 2001). The Court dismissed the case as the plaintiffs voluntarily withdrew the suit.

In the Interest of Adult Incompetent: Oliver S. Rockman, CV 97-117 Order (Accepting Accounting and Granting Release of Per

Capita) (HCN Tr. Ct., Feb. 6, 2001). The Court accepted the accounting provided by the protective payee and released additional funds for the benefit of the ward.

In the Interest of Minor Child(ren): N.J.O., DOB 02/19/84, JV 00-16 Order (Withdrawal of GAL) (HCN Tr. Ct., Feb. 6, 2001).

In the Interest of Minor Children: J.L.W., DOB 10/12/89, and J.A.C., DOB 08/01/92, JV 99-23 and JV 99-24 Order (Withdrawal of GAL) (HCN Tr. Ct., Feb. 6, 2001).

In the Interest of Minor Child(ren): J.D.J., DOB 12/18/86, JV 98-19 Order (Requiring Homestudy) (HCN Tr. Ct., Feb. 6, 2001).

In the Interest of Minor Child: T.F., DOB 12/25/91, JV 97-01 Order (Granting Temporary Legal Guardianship) (HCN Tr. Ct., Feb. 6, 2001).

Susan F. Bosgraaf v. Ho-Chunk Casino Security Department, CV 01-01 Order (Granting Request to Reschedule) (HCN Tr. Ct., Feb. 7, 2001). The Court granted the plaintiff's request to reschedule the *Scheduling Conference* as she had a conflicting doctor's appointment.

In the Interest of Susan Redfearn by William Turner v. Ho-Chunk Nation Office of Tribal Enrollment, CV 97-101 Order (Requiring Status Report) (HCN Tr. Ct., Feb. 7, 2001). Due to the length of inactivity in the file, the Court requested a *Status Report* as to whether William Turner remained the guardian of Susan Redfearn.



Mollie White v. Ho-Chunk Nation Education Dept., Jeremy Rockman, Sheryl Cook & Fran

Kernes; Mollie White v. Ho-Chunk Nation Education Dept., Jeremy Rockman, Sheryl Cook & Fran Kernes; and Mollie White v. Ho-Chunk Nation Education Dept. and Scott Beard, CV 00-78, CV 00-79 and CV 00-70 Order to Show Cause for Failure to Appear or Be Dismissed (HCN Tr. Ct., Feb. 9, 2001). The Court afforded the plaintiff an opportunity to put forth good cause for her failure to attend the *Scheduling Conference*. If the plaintiff failed to do so, the Court advised her that the case would be dismissed.

State of Wisconsin, on behalf of Nellie McKee v. Bryan D. Powless; and State of Wisconsin, on behalf of Victoria Blackcoon v. Bryan D. Powless, CS 98-28 and CS 98-39 Amended Judgment (Enforcing Child Support) (HCN Tr. Ct., Feb. 9, 2001). The Court amended its previous *Judgment* to allow the respondent to make progress on the arrearages owed in both cases.

In the Interest of the Minor Children: S.M., DOB 11/18/92, K.M., DOB 10/19/93, and S.M., DOB 12/13/95, JV 00-04, JV 00-05, and JV 00-06 Order (Permitting Withdrawal) (HCN Tr. Ct., Feb. 9, 2001). The GAL was permitted to withdraw due to a conflict of interest.

Berna Big Thunder v. Ho-Chunk Nation, CV 99-71 Order (Requiring Status Report) (HCN Tr. Ct., Feb. 12, 2001). The Court required the parties to file a *Status Report* due to the length of inactivity in this employment case.

In the Interest of the Minor Child: S.D.B., DOB 07/30/92, by Carol Barnes v. Ho-Chunk Office of Tribal Enrollment, CV 00-90 Order (Demanding Accounting) (HCN Tr. Ct., Feb. 12, 2001). The Court ordered the plaintiff to file the previously required accounting.

In the Interest of the Minor Child: T.F., DOB 07/08/89, and J.F., DOB 09/30/90, by Jill Pettibone v. Ho-Chunk Nation Office of Tribal

HCN Court Fees

Filing Fees	\$35.00
Service of Summons	!In
Person	\$15.00 (or cost if out of state) !By
Mail	\$4.00 (or cost, whichever is greater) !By
the Court	\$0.325 (per mile)
Copying	\$0.10/per page
Faxing	\$0.25/per page (sending and receiving)
Tapes of Hearings	\$10.00/per tape
Deposition Videotape	\$10.00/per tape
Certified Copies	\$0.50/per page
Equipment Rental	\$5.00/per hour
Register a Foreign Order	\$15.00
Appellate filing fees	\$35.00
Admission to Practice	\$50.00
Pro Hac Vice Appearance	\$35.00

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 ə) 7.

HCN Const., Art. II, Sec. (or ə) 1(a).

Ho-Chunk Nation Court System

P.O. Box 70

Black River Falls, WI 54615

HCN Ordinances

Ordinance Name, Chapter number, Section/Part/Clause, page.
PERSONNEL POLICIES AND PROCEDURE MANUAL, Ch. 12, Part B, p. 82.
CLAIMS AGAINST PER CAPITA, Sec. (or ə) 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).



Enrollment, CV 00-89 Order (Demanding Accounting) (HCN Tr. Ct., Feb. 12, 2001). The Court ordered the plaintiff to file the previously required accounting.

In the Interest of the Minor Child: K.D., DOB 02/06/87, by Karena Day v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-82 Order (Demanding Accounting) (HCN Tr. Ct., Feb. 12, 2001). The Court ordered the plaintiff to file the previously required accounting.

In the Interest of the Minor Child: T.L.S., DOB 07/01/86, by Lucy K. Snake v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-76 Order (Demanding Accounting) (HCN Tr. Ct., Feb. 12, 2001). The Court ordered the plaintiff to file the previously required accounting.

In the Interest of the Minor Child: E.M., DOB 07/29/92, by Angela Mike v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-71 Order (Demanding Accounting) (HCN Tr. Ct., Feb. 12, 2001). The Court ordered the plaintiff to file the previously required accounting.

In the Interest of Minor Child: A.O.W., DOB 02/23/88, by Algie A. Wolters v. Ho-Chunk Nation Office of Tribal Enrollment; and In the Interest of Minor Child: M.F.W., DOB 02/23/88, by Algie A. Wolters v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-40 and CV 99-41 Order (Demanding Accounting) (HCN Tr. Ct., Feb. 12, 2001). The Court ordered the plaintiff to file the previously required accounting.

In the Matter of the Children: T.T.G., DOB 07/24/90, and E.A.G., DOB 11/12/86 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-97 Order (Demanding Accounting) (HCN Tr. Ct., Feb. 13, 2001). The Court ordered the plaintiff to file the previously required accounting.

In the Matter of Minor Children: J.D.J., DOB 12/18/86, H.D.J., DOB 11/25/88, and S.M.J., DOB 11/25/88, JV 98-19, JV 98-20, and JV

98-21 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Feb. 13, 2001).

In the Interest of the Minor Children: J.L.G., DOB 05/02/82, S.C.G., DOB 12/23/86, A.A.G., DOB 05/09/91, D.A.G., DOB 08/29/84, and J.W.G., DOB 12/28/88 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-59 Order (Demanding Documentation) (HCN Tr. Ct., Feb. 13, 2001). The Court required the plaintiff to file specific documentation in accordance with the previous Orders of the Court in this case.

Michelle Ferguson v. Ho-Chunk Nation Insurance Review Commission, CV 99-20 Order (HCN Tr. Ct., Feb. 14, 2001). In accordance with this stipulation entered into by the parties, the Court adjourns the case so as to allow the parties an opportunity to reach a settlement.



In the Matter of Minor Children: J.D.J., DOB 12/18/86, H.D.J., DOB 11/25/88, and S.M.J., DOB 11/25/88, JV 98-19, JV 98-20, and JV 98-21 Plea Hearing Minute Order (HCN Tr. Ct., Feb. 14, 2001).

Tammy L. Blackdeer v. Clifford T. Blackdeer, CS 99-67 Erratum Order (HCN Tr. Ct., Feb. 14, 2001). The Court corrected a date of birth of one of the minor children.

Bonnie Zwickie v. Ho-Chunk Nation, CV 00-62 Order to Dismiss (HCN Tr. Ct., Feb. 14, 2001). The Court accepted the *Settlement Agreement and Voluntary Dismissal* entered into by the parties.

Bonnie Smith v. Ho-Chunk Nation Gaming Commission, CV 01-12 Order (Determination of Prevailing Procedures) (HCN Tr. Ct., Feb. 14, 2001). The Court determined that as the CONSTITUTION OF THE HO-CHUNK NATION

specifically empowers the Judiciary with the sole authority to promulgate Court procedures, the Court must abide with the procedures set forth in the *Ho-Chunk Nation Rules of Civil Procedure* in this appeal from a decision of the Ho-Chunk Nation Gaming Commission.

Ho-Chunk Nation Home Ownership Program v. Jerome Marshall Cloud, CV 00-64 Order (Granting Damages and Returning Home to Nation) (HCN Tr. Ct., Feb. 14, 2001). The Court required the defendant to pay the remaining damages to the plaintiff. In accordance with the parties' Agreement, the home was then returned to the Nation.

Ho-Chunk Nation Home Ownership Program v. Jerome Cloud, CV 98-29 Order (Satisfaction of Judgment) (HCN Tr. Ct., Feb. 14, 2001). The Court recognized that the defendant had fully satisfied his debt to the plaintiff in this case.

In the Interest of Susan Redfearn by William Turner v. Ho-Chunk Nation Office of Tribal Enrollment, CV 97-101 Notice (Intent to Close) (HCN Tr. Ct., Feb. 15, 2001). The Court notified the parties of its intent to close the file if no objection is received by March 31, 2001.



In the Interest of Minor Child: S.J.R., DOB 03/31/99, JV 00-01 Order (Granting Continuance) (HCN Tr. Ct., Feb. 15, 2001).

In the Interest of Minor Child: C.H., DOB 04/02/81, by Cyril Delarosa v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-02 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Feb. 19, 2001). In accordance with the *Ho-Chunk Nation Rules of Civil Procedure*, the Court dismissed the case as the plaintiff failed to appear at the *Fact-Finding Hearing*.

Reba S. Contreras v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-88 Notice (Intent to Close) (HCN Tr. Ct., Feb. 19, 2001). Due to the length of inactivity in this case, the Court notified the parties of its intent to close the file if no objection is received within thirty days.

In the Interest of the Minor Child: D.A.S., DOB 10/14/87, by Larry Swan v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-96 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 19, 2001). The Court accepted the plaintiff's accounting from the previous release of CTF funds.

In the Interest of Minor Child: A.O.W., DOB 02/23/88, by Algje A. Wolters v. Ho-Chunk Nation Office of Tribal Enrollment; and *In the Interest of Minor Child: M.F.W.*, DOB 02/23/88, by Algje A. Wolters v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-40 and CV 99-41 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 19, 2001). The Court accepted the plaintiff's accounting from the previous release of CTF funds.

In the Interest of Minor Children: T.L.J., DOB 06/07/90, *T.M.J.*, DOB 10/10/91, and *D.T.J.*, DOB 11/23/96, by Toby L. Jones v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-09 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Feb. 19, 2001). In accordance with the *Ho-Chunk Nation Rules of Civil Procedure*, the Court dismissed the case as the plaintiff failed to appear at the *Fact-Finding Hearing*.

In the Interest of Paul E. Smith, by Ho-Chunk Nation Social Services v. Johnny V. Reyes, CV 99-60 Notice (Intent to Close) (HCN Tr. Ct., Feb. 19, 2001). Due to the length of inactivity in this case, the Court notified the parties of its intent to close the file if no objection is received within thirty days.

In the Interest of the Minor Child: E.M., DOB 07/29/92, by Angela Mike v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-71 Order (HCN Tr. Ct., Feb. 19, 2001). As the plaintiff

informed the Court that the business had not cashed the check from Old Kent Bank yet, the Court required the plaintiff to file the accounting after the check had been cashed.

In the Interest of Readonna Lei Wilson by Violet Vilbaum v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-44 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 19, 2001). The Court accepted the plaintiff's accounting from the previous release of ITF funds.

Annabelle Lowe v. Serena Yellow Thunder, CV 96-35 Order (Feb. 19, 2001). The Court informed the plaintiff that it could not satisfy the *Judgment* through withholding the defendant's per capita distributions due to the limitation in the CLAIMS AGAINST PER CAPITA ORDINANCE.

Mary Jo Buttolph v. Charles H. Davis, CV 97-123 Order (Suspending Withholding) (HCN Tr. Ct., Feb. 19, 2001). The Court suspended the withholding of current and back child support from the respondent's per capita distributions in accordance with the underlying state court order.

Ho-Chunk Nation Department of Labor v. Chris Littlewolf, Kenneth Mitch, Jr., Harry Funmaker, Murton Greengrass, Lori Pettibone, Melody Greengrass, Paul Sallaway, Gayland Rave, Jr., Jason Youngthunder, Chandra Decora, Roxanne Mudd, Karen WhiteEagle, Mike Greengrass, Justin Littlewolf, and Barb Littlewolf, CV 01-07 Order (Denial of Motion) (HCN Tr. Ct., Feb. 19, 2001). The Court denied the plaintiff's *Motion to Dismiss Defendant Kenneth Mitch, Jr.* due to a failure to articulate any reason(s) supporting such motion.

Susan F. Bosgraaf v. Ho-Chunk Casino Security Department, CV 01-01 Order (Motion Hearing) (HCN Tr. Ct., Feb. 19, 2001). The Court shall convene a hearing so as to allow the defendant the opportunity to argue its *Motion for Summary Judgment*.

Ho-Chunk Nation Department of Housing, Property Management Division v. Benjamin C. Decorah, CV 00-48 Order (Damages) (HCN Tr. Ct., Feb. 20, 2001). The Court assessed the total back rent owed by the defendant to the plaintiff and ordered that it be withheld from the defendant's next four per capita distributions.

Rena Lynn LeMieux v. Kenneth Allan LeMieux, CS 01-02 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Feb. 20, 2001). The Court enforced the underlying state court child support order against the defendant's per capita distributions.

In the Interest of the Minor Children: T.F., DOB 07/08/89, and J.F., DOB 09/30/90, by Jill Pettibone v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-89 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 20, 2001). The Court accepted the plaintiff's accounting from the previous release of CTF funds.

Kathryn L. Newsom v. Dennis G. Lewis, CS 01-03 Order (Granting Child Support) (HCN Tr. Ct., Feb. 20, 2001). The Court enforced the underlying state court child support order against the respondent's per capita distributions.



State of Wisconsin v. Sherry L. Smith, CS 00-51 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Feb. 22, 2001). The Court enforced the underlying state court child support order for arrearages against the defendant's per capita distributions.

State of Wisconsin and Kathaleen Funmaker v. John Funmaker, CS 00-42 Order (Enforcing Child Support and Releasing Impounded Child Support) (HCN Tr. Ct., Feb. 22, 2001). The Court enforced the underlying

state court child support order against the respondent's per capita distributions.

In the Matter of the Children: P.M.S., DOB 11/14/91, and P.A.S., DOB 11/14/91, JV 98-06 and JV 98-07 Order from Status Hearing (HCN Tr. Ct., Feb. 23, 2001).

State of Wisconsin – Juneau County and Joyce St. Cyr v. Robert M. Mobley, CS 00-04 Erratum (HCN Tr. Ct., Feb. 26, 2001). The Court corrected the case numbers from the county court.

Ho-Chunk Nation Department of Housing, Home Ownership Program v. Tarilyn Boardman d/b/a T & Son's General Contractors, individually, and Tarilyn Boardman and Mick Boardman, husband and wife, CV 99-107 Notice (Intent to Issue Default Judgment) (HCN Tr. Ct., Feb. 26, 2001). The Court informed the defendants that if they failed to file an *Answer* by March 15, 2001, the Court would issue a *Default Judgment*.



Mollie White v. Ho-Chunk Nation Education Dept., Jeremy Rockman, Sheryl Cook & Fran Kernes; Mollie White v. Ho-Chunk Nation Education Dept., Jeremy Rockman, Sheryl Cook & Fran Kernes; and Mollie White v. Ho-Chunk Nation Education Dept. and Scott Beard, CV 00-78, CV 00-79 and CV 00-70 Dismissal With Prejudice (HCN Tr. Ct., Feb. 26, 2001). As the plaintiff failed to provide good cause for her non-attendance at the *Scheduling Hearing*, the Court dismissed the cases.

Bonnie Smith v. Ho-Chunk Nation Gaming Commission, CV 01-12 Order (Denial of Motion for Reconsideration) (HCN Tr. Ct., Feb. 27, 2001). The Court denied the

defendant's *Motion for Reconsideration*. The applicable procedures within this case remain the *Ho-Chunk Nation Rules of Civil Procedure*.

Ho-Chunk Nation Supreme Court:

Maureen Arnett v. Ho-Chunk Nation Department of Administration and Lisa S. Wathen v. Ho-Chunk Nation Gaming Commission, SU 01-01 Order (Denying Appeal) (HCN S. Ct., Feb. 1, 2001). The Court denied the appellant's *Petition for Permission to Appeal*. The Court was reluctant to address the appellant's appeal until the Trial Court had made its findings of fact and conclusions of law.

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, SU 00-17 Order Scheduling Oral Argument (HCN S. Ct., Feb. 6, 2001).

Jacob LoneTree, Forrest Whiterabbit, Elliot Littlejohn, Libby Fairchild, Spencer LoneTree, and Parmenton Decorah v. Robert Funmaker, Jr., Darcy Funmaker-Rave, Gloria Visintin; and Ho-Chunk Nation Election Board, SU 00-16 Order Scheduling Oral Argument (HCN S. Ct., Feb. 6, 2001).

Joelene Smith v. Scott Beard, Department of Education, and the Ho-Chunk Nation, SU 00-14 Decision (HCN S. Ct., Feb. 6, 2001). The Court found that the Trial Court had not erred in its *Motion for Reconsideration (Denied)*. The Trial Court did not err when it declined to issue an *Order* adverse to this Court's June 7, 1999 *Decision* ((SU 98-03 and SU 98-04). The Trial Court did not err in applying the previously adopted test for a *Motion for Reconsideration*.

Recent Filings

Ho-Chunk Nation Trial Court:

F. William Johnson v. Ho-Chunk Nation, CV 01-15, filed on February 2, 2001.

Regina Baldwin v. Ho-Chunk Nation, CV 01-16, filed on February 2, 2001.

President Pro Tempore Clarence Pettibone v. Legislature in Official Capacity and Individually, CV 01-17, filed on February 5, 2001.

Ho-Chunk Nation Housing Authority v. Carol Pidgeon, CV 01-18, filed on February 8, 2001.

State of Wisconsin v. Myron D. Cloud, CS 01-04, filed on February 9, 2001.

Andrea L. Estebo v. Ho-Chunk Nation, Ho-Chunk Nation Home Ownership Program, Steve Davis in his Official Capacity, and Alvin Cloud in his Official Capacity, CV 01-19, filed on February 15, 2001.

In the Interest of L.P., DOB 08/03/84, by Lionel Pettibone, Sr. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-20, filed on February 19, 2001.

Carolyn J. Humphrey v. Ho-Chunk Nation, Alvin Cloud, and Bob Pulley, CV 01-21, filed on February 19, 2001.

Darlene Joyce Denny v. Ruth Ann Denny, CV 01-22, filed on February 20, 2001.

Lisa A. Banuelos v. Anthony M. Smith, Jr., CS 01-05, filed on February 20, 2001.

Sadie Wesho v. Clifford Wesho, DV 01-03, filed on February 20, 2001.

In the Interest of: Minnie D. Youngthunder, by John Ward, Sr. and Elaina Lopez, CV 01-23, filed on February 23, 2001.

Shelly Fleming v. Michael D. Fleming, DV 01-04, filed on February 21, 2001.

Amanda Orozco v. Sandra Orozco, CV 01-24, filed on February 23, 2001.

Aleksandra Cichowski v. Ho-Chunk Hotel and Convention Center, CV 01-25, filed on February 23, 2001.

Ho-Chunk Nation Supreme Court:

Bonnie Smith v. Ho-Chunk Nation Gaming Commission, SU 01-02, filed on February 26, 2001.

Bonnie Smith v. Ho-Chunk Nation Gaming Commission, SU 01-03, filed on February 26, 2001.



Other News

Indian Trust Beneficiaries Win Before D.C. Court of Appeals

On December 21, 1999, U.S. District Court Judge Royce C. Lambert determined that the plaintiffs in the class action lawsuit *Cobell v. Babbitt* (now *Cobell v. Norton*) were to be given a complete and accurate accounting for their trust monies. This decision was later appealed to the D.C. Court of Appeals. On February 27, 2001, the D.C. Court of Appeals upheld this decision. The case now returns to Judge Lambert for a trial to determine accurate trust funds account balances.

U.S. Supreme Court Agrees to Hear Many Indian Law Cases

The United States Supreme Court has accepted several Indian law cases for review this term. The Supreme Court has previously heard oral argument on *Klamath Water Users Protective Association v. Department of Interior*, 189 F. 3d 1034 (9th Cir. 1999). At issue in that case is whether documents submitted by an Indian tribe to the Department of Interior during a water rights allocation proceeding are subject to disclosure pursuant to a Freedom of Information Act request. The Ninth Circuit

Court of Appeals had ordered the disclosure of the documents.

Several cases are scheduled for oral argument in March. On March 19, 2001, the Supreme Court will hear oral argument in *C&L Enterprises, Inc. v. Citizen Potawatomi Nation*, an unpublished Oklahoma appellate court decision. At issue in that case is whether an arbitration clause in a contract, which provides for enforcement “in any court having jurisdiction thereof” waives the Tribe’s sovereign immunity.

On March 21, 2001, the Supreme Court will hear oral arguments in *Nevada v. Hicks*, 196 F.3d 1020 (9th Cir. 1999). At issue in that case is whether the tribal court has civil jurisdiction over a tort claim. The tort claim arose when the Nevada state police seized a sheephead trophy from a tribal member on allotted reservation land. The Ninth Circuit Court of Appeals had held that the tribal court does have such jurisdiction.

On March 27, 2001, the Supreme Court will hear oral argument in *Atkinson Trading Co., Inc. v. Shirley*, 210 F.3d 1247 (10th Cir. 2000). This case concerns whether the Navajo Nation can impose and collect a hotel occupancy tax from non-member guests in a hotel located on fee land.

The Supreme Court has also agreed to hear two additional cases for which oral argument has not been set. The first, *Chickasaw Nation v. United States*, 210 F.3d 389 (10th Cir. 2000), and its companion case, *Choctaw Nation v. United States*, 208 F.3d 871 (10th Cir. 2000), concern whether “pull tabs” sold at tribal gaming centers and convenience stores require that the Tribe(s) pay federal wagering excise taxes. The Tenth Circuit Court of Appeals had affirmed the district court decision that determined that the sales involve taxable wagers and require that the tax be paid.

The second, *State of Idaho v. United States of America*, 210 F.3d 1067 (9th Cir.

2000) concerns title to the submerged lands within the Coeur d’Alene Indian reservation. The District Court, later affirmed by the Ninth Circuit Court of Appeals, determined that Congress had intended that Idaho, upon its admission to the union, not have title to those submerged lands within the reservation.



Frequently Asked Questions

Q: How can I enforce an existing child support order against a tribal member’s per capita distribution?

A: The Court has a form available, the *Motion to Register and Enforce a Foreign Judgment or Order*. The form may be obtained by calling the Court at 284-2722 or 1-800-434-4070. You must attach a certified copy of the existing child support order. If you are asking for back child support (or arrearages) you must attach a certified account history statement. The filing fee and service fee for the *Motion* is \$19.00, and a check may be made payable to the Ho-Chunk Nation Trial Court.

Q: In such a child support case, may the Ho-Chunk Nation Trial Court order that the obligor parent pay money in excess of that ordered in the existing order?

A: No, the Court may not. The Court is enforcing the existing order. The Court only has jurisdiction to establish a child support obligation in Child Protection and Guardianship cases. You may ask that the court that issued the existing order amend that order, and then bring the amended order for enforcement in the Court.

Ho-Chunk Nation Court Bulletin

Volume 7, Number 4

April 2001

Lonetree Removal Update

On March 16, 2001, the Ho-Chunk Nation Supreme Court issued a *Decision* affirming the Trial Court's decision. The Supreme Court determined that the Trial Court did not err in determining that the prior statements as to service of a *Notice of Intent to Remove* in *Coalition for Fair Government II v. Chloris Lowe, Jr. et al.* and *Ho-Chunk Legislature v. Chloris Lowe, Jr. et al.* (CV 96-22 and CV 96-24) were dicta. The Supreme Court determined that the Trial Court had not erred when it determined that a member of the Ho-Chunk Nation could serve the *Notice of Intent to Remove*. It also determined that a quorum had been present for the vote on removal. The Supreme Court agreed with the Trial Court that the CONSTITUTION does not require that other persons be allowed to speak on Jacob Lonetree's behalf. The Supreme Court also agreed that the General Council is the proper body to define "malfeasance" in removal situations. The Supreme Court stated that Appellant's (continued, page 2, column 1)

Redistricting Update

On March 13, 2001, the Ho-Chunk Nation Supreme Court issued a *Decision* reversing in part and affirming in part the Trial Court's decision. The Supreme Court determined that the Trial Court did not violate the Separation of Powers doctrine when it decided whether the proposed scenarios were in agreement with the CONSTITUTION. The Supreme Court also determined that this case did not present a nonjusticiable issue as it was presented in the context of an election case, and the Trial Court has the authority to hear and decide such challenges. The Supreme Court stated that the Trial Court exceeded the scope of its authority when it stated that the plan must pursue the one-person/one-vote standard as nearly as practicable. The plain language of the CONSTITUTION means that "the pursuit of the one-person/one-vote representation requires a diligent, serious and continuous effort." The Supreme Court determined that only a final proposal may be submitted to a vote of the People. The Supreme Court also stated that the CONSTITUTION permits a single district, so long as it pursues one-person/one-vote representation. Additionally, the Supreme Court determined that the Trial Court should apply the plain language of the CONSTITUTION in determining whether the Ho-Chunk Nation Legislature's proposal passes constitutional muster. The case was remanded to the Trial Court for proceedings consistent with the *Decision*.



INSIDE THIS ISSUE

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Counsel cannot allege that the Trial Court judge should have recused himself without having filed a *Motion to Recuse* in the Trial Court. Additionally, the Supreme Court found no error in the Trial Court's granting summary judgment. Chief Justice Hunter dissented in part, stating that an individual may not serve the *Notice of Intent to Remove* absent authorization from the General Council.



Court News

- The Ho-Chunk Nation Supreme Court will meet on Saturday, April 14, 2001 at 9:30 a.m. at the courthouse in Black River Falls, WI. The Supreme Court plans to discuss revisions to the *Ho-Chunk Nation Rules of Civil Procedure*. Additional inquiries as to the agenda should be directed to Ms. Tari Pettibone, Supreme Court Clerk of Court, at (715) 284-2722 or 1-800-434-4070.
- The Court has new technology that litigants will be able to use in presenting their cases. First, the Court has a Visualizer that allows you to place an exhibit on a TV screen. The Visualizer also allows you to zoom in on specific words in a document or picture. Also, a video tape recording can be made of the exhibits.

The Court also has an Ovation screen. A computer or laptop may be linked to the Ovation screen, which is then placed on top of a projector and projected onto a large screen. This allows a litigant to bring in a Power Point presentation as an aid.

The Court plans to hold a technology day to demonstrate this new technology for the Ho-Chunk Nation bar members and other interested persons. It is scheduled for Friday, May 4, at 1:00 p.m.

Notice of Intent to Raise Fees

The Court's budget has been reduced by nearly 12% in the coming fiscal year. This means that the Court must seek to reduce its subsidy of Court services. In addition, the Court offers new services for which a new fee schedule must be proposed. Therefore, the Trial Court proposes to raise select fees to defray the Court's expenses. The Court proposes to add new fees for the following items: Digital recordings of Court hearings and Videotapes of Court presentations. In addition, the Trial Court seeks to raise fees for mileage charged by the process server, and for the cost of copying transcripts.

Digital CD's. Recently the Court purchased a new digital sound system for recording hearings and trials from FTR Gold. It has greatly enhanced the quality and integrity of the record in proceedings before the HCN Trial Court and Supreme Court. Because it is digital, the record is now recorded on Compact Discs [CDs]. At present the Court charges \$10.00 per tape of a proceeding. This charge will remain for all proceedings recorded on tape. However, the Court now proposes to charge \$12.50 for CDs of proceedings to any member of the public or bar who wishes to receive a copy of a proceeding recorded on the FTR Gold digital recording system. The CDs available to the public come with the preloaded FTR program on them, which makes them playable on any Personal Computer with a CD drive and speakers.

Videotapes of Court Presentations. Recently the Court purchased a Visualizer that has the capability of taping all exhibits displayed using the Visualizer. Should a party desire a copy of the videotape, the Court proposes to charge the requester \$10.00 per videotape. Prior to the purchase of this equipment there was no need for this charge.

Copying Transcripts. The Court is also proposing to increase the cost of copying transcripts from 10 cents a page (\$.10 per (continued on page 3, column 1)

page) to 25 cents a page (\$.25 per page). Although this is an increase, the cost is less than half what is charged the Court System for acquiring the transcripts. This proposal is intended to partially offset the high cost of getting a transcript. The new rate will reduce the overall cost of transcripts to the Court System.

Process Server Mileage. The other area where the Court is proposing to raise fees is for mileage incurred by the Court's process server. Currently the charge is 30 cents per mile (\$.30 per mile). However, this is less than the current federal reimbursement rate for mileage and less than HCN employees are reimbursed for travel mileage.

These are proposed changes only. There has been no change in basic fees by the HCN Court System in three years. See *In the Matter of Fees and Costs in Civil Cases*, ORDER ALLOWING FEES, enacted March 17, 1998 by the HCN Supreme Court. As in the past, these proposed fee increases are subject to public comment before adoption. All comments regarding these proposed fees by the Trial Court should be directed to the HCN Supreme Court Clerk, Tari Pettibone, prior to June 1, 2001, so that the HCN Supreme Court may hold a hearing on any comments received after that time. This *Notice* shall be published in the *Court Bulletin* in its April and May issues to give all affected persons the opportunity to comment.

Recent Decisions

Ho-Chunk Nation Trial Court:

Denise Ryan v. Freeman Decorah, CS 00-05 Order (*Releasing Impound*) (HCN Tr. Ct., Mar. 1, 2001). The Court released the previously impounded child support as the underlying state court has ended his responsibility to pay current child support as he has custody of the children.

In the Interest of Minor Child: S.V.P., DOB 11/06/96, JV 00-10 Order (Continuation of Temporary Guardianship) (HCN Tr. Ct., Mar. 2, 2001).

In re: Berdine Littlejohn: by Shari Marg, Guardian v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-14 Order (*Petition Granted*) (HCN Tr. Ct., Mar. 2, 2001). The Court released ITF funds to pay legal expenses incurred on behalf of the ward.

In the Interest of the Minor Child: T.L.S., DOB 07/01/86, by Lucy K. Snake v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-76 Order (*Accepting Accounting*) (HCN Tr. Ct., Mar. 2, 2001). The Court accepted the accounting documenting the use of the released CTF funds for orthodontics.



In the Interest of Minnie D. Youngthunder, by John Ward and Elaina Lopez v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-23 Order (*Releasing Decedent's Per Capita Distribution*) (HCN Tr. Ct., Mar. 2, 2001). The Court released the balance of the decedent's ITF funds to the heirs as determined by the Department of Interior.

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in the official capacity and individually; and Ho-Chunk Nation Election Board, CV 00-104 Order (*Regarding Injunction*) (HCN Tr. Ct., Mar. 5, 2001). The Court issued this notice to address the posting schedule for the upcoming General Election as set forth in the HO-CHUNK NATION ELECTION ORDINANCE.

HCN Court Fees

Filing Fees	\$35.00
Service of Summons	!In
Person	\$15.00 (or cost if out of state) !By
Mail	\$4.00 (or cost, whichever is greater) !By
the Court	\$0.30 (per mile)
Copying	\$0.10/per page
Faxing	\$.25/per page (sending and receiving)
Tapes of Hearings	\$10.00/per tape
Deposition Videotape	\$10.00/per tape
Certified Copies	\$0.50/per page
Equipment Rental	\$5.00/per hour
Register a Foreign Order	\$15.00
Appellate filing fees	\$35.00
Admission to Practice	\$50.00
Pro Hac Vice Appearance	\$35.00

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 ə) 7.

HCN Const., Art. II, Sec. (or ə) 1(a).

Ho-Chunk Nation Court System

P.O. Box 70

Black River Falls, WI 54615

HCN Ordinances

Ordinance Name, Chapter number, Section/Part/Clause, page.
PERSONNEL POLICIES AND PROCEDURE MANUAL, Ch. 12, Part B, p. 82.
CLAIMS AGAINST PER CAPITA, Sec. (or ə) 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

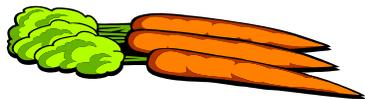
HCN. R. Civ. P. 19(B).



In the Interest of Adult Incompetent: Kathy Brandenburg-Miller, CV 98-18 Appointment of Protective Payee (HCN Tr. Ct., Mar. 5, 2001). The Court appointed a protective payee through which the adult incompetent can request the release of ITF funds.

State of Wisconsin, Jackson County (April M. Evans) v. Myron D. Cloud, CS 01-04 Order (Enforcing Child Support) (HCN Tr. Ct., Mar. 5, 2001). The Court enforced the underlying state court child support order against the respondent's per capita distributions.

HocOk Federal Credit Union v. Stewart Miller, CV 97-119 Order (Satisfaction of Judgment) (HCN Tr. Ct., Mar. 6, 2001). The Court recognized that the debtor had paid his obligation in full.



Ho-Chunk Nation Home Ownership Program v. Zachary Thundercloud, CV 98-25 Order (Requiring Status Report) (HCN Tr. Ct., Mar. 7, 2001). The Court required the plaintiff to file a *Status Report* as to the defendant's present arrearage.

Ho-Chunk Nation Department of Housing, Property Management Division v. Kerry M. Funmaker, Sr., CV 00-74 Order (Requiring Progress Report) (HCN Tr. Ct., Mar. 7, 2001). The Court required that the plaintiff file the *Progress Report* as previously required.

Ho-Chunk Nation Housing Authority v. Carol Pidgeon, CV 01-18 Eviction Order (Restitution and Relief) (HCN Tr. Ct., Mar. 8, 2001). The Court evicted the defendant for failure to pay rent and failure to abide by the terms of the lease.

In the Interest of the Minor Children: M.C., DOB 04/09/89, J.C., DOB 08/26/93, D.C., DOB 12/16/91, J.C., DOB 06/06/96, by Myra Cunneen v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-83 Order (Accepting Documentation) (HCN Tr. Ct., Mar. 8, 2001).

The Court accepted the documentation provided by the plaintiff as previously required.

Emily June Boswell v. Francis Peter Rave, Sr., CS 98-57 Order (Amending Enforcement) (HCN Tr. Ct., Mar. 8, 2001). The Court amended the enforcement of current child support against the respondent's per capita distributions as amended by underlying state court.

In the Matter of the Children: S.M., DOB 11/18/92, K.M., DOB 10/18/93, and S.M., DOB 12/13/95, JV 00-04, JV00-05, and JV 00-06 Order (Extending Disposition) (HCN Tr. Ct., Mar. 8, 2001).

In the Matter of the Children: M.E.O., DOB 01/27/94, L.R.O., DOB 09/05/95, F.M.P., DOB 10/02/97, A.N.P., DOB 10/02/97, and R.B.P., DOB 07/13/99, JV 00-28, JV 00-29, JV 00-30, JV 00-31, JV 00-32 Order (Permitting Withdrawal of GAL) (HCN Tr. Ct., Mar. 9, 2001). The Court allowed the GAL to withdraw due to a potential conflict of interest.

Margaret G. Garvin v. Donald Greengrass and Margaret G. Garvin v. Ho-Chunk Nation, and Donald Greengrass in his official and individual capacity, and Evans Littlegeorge in his individual capacity, CV 00-10 and CV 00-38 Order (Ruling on Dispositive Motions) (HCN Tr. Ct., Mar. 9, 2001). The Court determined that the plaintiff had been terminated upon the presentation of the termination papers as the PERSONNEL MANUAL does not require the Department of Personnel to approve of a termination. The Court found that, consistent with the PERSONNEL MANUAL, an employee that completes the initial 90 day probationary period is a permanent employee, regardless of whether they are promoted, transferred, or demoted. The Court determined that a permanent employee's right to procedural due process, at a minimum, requires notice and a pre-termination hearing in which the employee can tell his/her side of the story. The Court dismissed the actions against Donald

Greengrass and Evans Littlegeorge in their individual capacities as the Court cannot, consistent with the CONSTITUTION, award monetary damages in such a circumstance.

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, CV 00-104 Order (Lifting Injunction) (HCN Tr. Ct., Mar. 12, 2001). The Court lifted the injunction, allowing the Ho-Chunk Nation Election Board to post the *Official Notice of the General Primary Election*.

HocOk Federal Credit Union v. Debra Crowe and Forest Blackdeer, CV 97-142 Order (Requiring Status Report) (HCN Tr. Ct., Mar. 16, 2001). The Court required the plaintiff to file a *Status Report* as to the defendants progress in satisfying the August 26, 1998 *Judgement*.

In the Interest of Minor Child: S.S., DOB 07/30/82, by Sharon A. Porter v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-76 Order (Accepting Accounting) (HCN Tr. Ct., Mar. 16, 2001). The Court accepted the plaintiff's photographic evidence as an indication of compliance with the terms of the release of CTF funds.

HocOk Federal Credit Union v. Rachel Hernandez and James Ritland, CV 97-147 Order (Requiring Proof of Satisfaction of Judgment) (HCN Tr. Ct., Mar. 16, 2001). The Court required the plaintiff to file a *Satisfaction of Judgment* as the debt should be paid in full.

State of Wisconsin v. Barbara A. Gromoff, CV 97-38 Order (Suspending Child Support Enforcement) (HCN Tr. Ct., Mar. 16, 2001). The Court ceased withholding for back child support as the obligation had been paid in full.

U.W. Stevens Point v. Orbert S. Goodbear, CV 96-32 Order (Requiring Proof of Satisfaction of Judgment) (HCN Tr. Ct., Mar. 16, 2001). The Court required the plaintiff to file a *Satisfaction of Judgment*.

In the Interest of Minor Child: N.J.O., DOB 02/19/84, JV 00-16 Order (Granting Continuance) (HCN Tr. Ct., Mar. 16, 2001).



In the Interest of Minor Child: O.R.M., DOB 10/27/00, JV 01-03 Order (HCN Tr. Ct., Mar. 16, 2001).

In the Interest of Minor Children: J.D.J., Jr., DOB 12/18/86, H.D.J., DOB 11/25/88, and S.M.J., DOB 11/25/88, JV 98-19, JV 98-20, and JV 98-21 Order (Continuance) (HCN Tr. Ct., Mar. 20, 2001).

Karen N. WhiteEagle v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-30 Order (Relief Granted) (HCN Tr. Ct., Mar. 21, 2001). The Court ordered DNA testing so as to allow the plaintiff to enroll her minor child.

In the Interest of the Minor Children: J.L.G., DOB 05/02/82, S.C.G., DOB 12/23/86, A.A.G., DOB 05/09/91, D.A.G., DOB 08/29/84, and J.W.G., DOB 12/28/88 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-59 Order (Accepting Documentation) (HCN Tr. Ct., Mar. 21, 2001). The Court accepted the plaintiff's documentation as previously required.

Roxanne E. Doxtator n/k/a Roxanne Looker v. Nathan R. Cloud, CS 01-01 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Mar. 26, 2001). The Court enforced the defendant's child support obligation against his per capita distributions.

Ho-Chunk Nation Legislature v. Ho-Chunk Nation General Council, Robert-Funmaker, Jr., and Darcy Funmaker-Rave, CV 01-11

Stipulation and Order for Extension (HCN Tr. Ct., Mar. 27, 2001). The Court entered an *Order* to allow for the extension as stipulated to by the parties.

In the Interest of Minor Child: L.P., DOB 08/03/84, by Lionel Pettibone, Sr. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-20 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Mar. 28, 2001). The Court dismissed the case as the plaintiff no longer wished to pursue the action.



Anita Bolander v. Darrell L. Sena, Jr., CS 01-06 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Mar. 28, 2001).

In the Interest of the Minor Child: M.I.S., DOB 04/18/00, JV 00-34 Appointment of Counsel (HCN Tr. Ct., Mar. 28, 2001).

In the Interest of Minor Children: P.L.H., DOB 10/24/84 and E.J.H., DOB 08/28/85, JV 00-02 and JV 00-03 Order (Memorializing Hearing) (HCN Tr. Ct., Mar. 29, 2001).

In the Interest of Minor Child(ren): S.L.S., DOB 01/03/86, JV 00-19 Order (Dispositional Requirements) (HCN Tr. Ct., Mar. 29, 2001).

John Goodbear v. Ho-Chunk Housing Authority, CV 00-102 Stipulation and Order for Dismissal (HCN Tr. Ct., Mar. 29, 2001). The Court entered an *Order* dismissing the case consistent with the parties' *Stipulation*.

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, CV 00-104

Order (Implementation of Appellate Standard) (HCN Tr. Ct., Mar. 30, 2001). The Court memorialized the March 23, 2001 *Hearing on Remand* as to the application of the plain language of the CONSTITUTION as determined by the Ho-Chunk Nation Supreme Court.

Ho-Chunk Nation Supreme Court:

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, SU 00-17 Order Denying Motion for Clarification (HCN S. Ct., Mar. 10, 2001). The Court denied the *Motion for Clarification* as the underlying November 13, 2000 *Order* was not before the Court on appeal.

Bonnie Smith v. Ho-Chunk Nation Gaming Commission, SU 01-02 Scheduling Order (HCN S. Ct., Mar. 12, 2001).

Joelene Smith v. Scott Beard, Department of Education and the Ho-Chunk Nation, SU 00-14 Order (Denying Motion for Reconsideration) (HCN S. Ct., Mar. 12, 2001). The appellant did not prove by clear and convincing evidence that this Court had committed an error.

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, SU 00-17 Decision (HCN S. Ct., Mar. 13, 2001). The Court reversed in part and affirmed in part the Trial Court decision. The matter was remanded for proceedings not inconsistent with the *Decision*. (A thorough discussion of the *Decision* is found on page 1 of this *Court Bulletin*.)

Jacob LoneTree, Forrest Whiterabbit, Elliot Littlejohn, Libby Fairchild, Spencer LoneTree,

and Parmenton Decorah v. Robert Funmaker, Jr., Darvy Funmaker-Rave, Gloria Visintin; and Ho-Chunk Nation Election Board, SU 00-16 Decision (HCN S. Ct., Mar. 16, 2001). The Court affirmed the Trial Court decision. (A thorough discussion of the *Decision* is found on page 1 of this *Court Bulletin*.)

Bonnie Smith v. Ho-Chunk Nation Gaming Commission, SU 01-03 Order Denying Appeal (HCN S. Ct., Mar. 16, 2001). The Court denied the appeal as the appellant failed to file a written brief in support of the appeal. Moreover, the Court accepted Case No. SU 01-02 for appeal, rendering this case moot.

Recent Filings

Ho-Chunk Nation Trial Court:

Julie Nakai v. Ho-Chunk Nation and Bonnie Smith in her official and individual capacity, CV 01-26, filed on March 5, 2001.

Anita L. Bolander v. Darrel L. Sena, Jr., CS 01-06, filed on March 5, 2001.

State of Wisconsin v. Daniel V. WhiteEagle, CS 01-07, filed on March 6, 2001.

Carol Jo Garvin v. George Garvin, CV 01-27, filed on March 8, 2001.

In the Interest of: C.H., DOB 04/02/81, by Stephanie Pate v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-28, filed on March 13, 2001.

Andrea Ayala v. Shannon Knox, CS 01-08, filed on March 13, 2001.

Daniel M. Brown v. Silas Cleveland, CV 01-29, filed on March 15, 2001.

Elijah M. White by Rachel G. Sheppo v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-31, filed on March 19, 2001.

Dallas Whitewing v. Ho-Chunk Nation Ethics Review Board and Clarence Pettibone, Interim President, and official of the Ho-Chunk Nation in his individual capacity, CV 01-32, filed on March 19, 2001.

Tom R. Erdman v. Andrea G. Storm, CV 01-33, filed on March 19, 2001.

In the Interest of: M.J.C., DOB 12/12/82 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-34, filed on March 22, 2001.

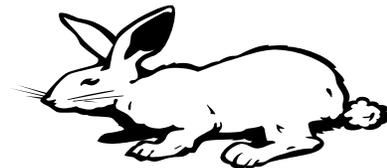
In the Interest of: L.C., DOB 10/11/80 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-35, filed on March 22, 2001.

In the Interest of: K.B., DOB 06/06/89, by Shawn Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-36, filed on March 28, 2001.

In the Interest of: T.K., DOB 08/22/85, T.K., DOB 05/09/87, T.K., DOB 06/06/90, and T.W.E., DOB 04/09/90, by Sara WhiteEagle, v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-37, filed on March 29, 2001.

Ho-Chunk Nation Supreme Court:

Margaret Garvin v. Donald Greengrass, in his official capacity and Margaret Garvin v. Ho-Chunk Nation and Donald Greengrass in his official capacity, SU 01-04, filed on March 19, 2001.



Notice to All HCN Bar Members

The Ho-Chunk Nation *Rules of Rules Appellate Procedure*, Rule 7(b)(2) requires that the name of the case should remain the same on appeal. The HCN Supreme Court will be discussing whether to allow pleadings to be filed which violate that rule. The Court is concerned with the flagrant disregard of the rule by those filing appeals. Therefore, the Court will discuss having the Clerk consider such pleadings deficient and refuse to file the pleadings such as the Notice of Appeal.

Ho-Chunk Nation Court Bulletin

Volume 7, Number 5

May 2001

Redistricting Update

On Monday, April 23, 2001, the Court held a hearing on the redistricting scenario submitted by the Ho-Chunk Nation Legislature, a revised 1A. This scenario breaks up the State of Wisconsin into four districts, and Area V consists of lands outside the State of Wisconsin.

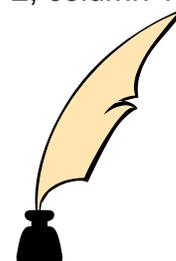
The Court heard testimony as to the effort by the Legislature as required by the Supreme Court's definition of "in pursuit of one-person/one-vote representation." See *Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and the Ho-Chunk Nation Election Board*, SU 00-17 (HCN S. Ct., Mar. 13, 2001) at 6; see also *Order (Implementation of Appellate Standard)*, CV 00-104 (HCN Tr. Ct., Mar. 30, 2001) at 15. At (continued page 2, column 1)

Notice of Intent to Raise Fees

The Court's budget has been reduced by nearly 12% in the coming fiscal year. This means that the Court must seek to reduce its subsidy of Court services. In addition, the Court offers new services for which a new fee schedule must be proposed. Therefore, the Trial Court proposes to raise select fees to defray the Court's expenses. The Court proposes to add new fees for the following items: Digital recordings of Court hearings and Videotapes of Court presentations. In addition, the Trial Court seeks to raise fees for mileage charged by the process server, and for the cost of copying transcripts.

Digital CD's. Recently the Court purchased a new digital sound system for recording hearings and trials from FTR Gold. It has greatly enhanced the quality and integrity of the record in proceedings before the HCN Trial Court and Supreme Court. Because it is digital, the record is now recorded on Compact Discs [CDs]. At present the Court charges \$10.00 per tape of a proceeding. This charge will remain for all proceedings recorded on tape. However, the Court now proposes to charge \$12.50 for CDs of proceedings to any member of the public or bar who wishes to receive a copy of a proceeding recorded on the FTR Gold digital recording system. The CDs available to the public come with the preloaded FTR program on them, which makes them playable on any Personal Computer with a CD drive and speakers.

(continued page 2, column 1)



INSIDE THIS ISSUE

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- 1 Notice of Intent to Raise Fees
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the close of the hearing, the Court ruled from the bench that revised scenario 1A is constitutional and may be placed on the redistricting/reapportionment ballot. A written order memorializing that ruling was issued on Friday, May 4, 2001. The defendants have the option of exercising their appellate rights.

Fees (continued from page 1, column 2)

Videotapes of Court Presentations.

Recently the Court purchased a Visualizer that has the capability of taping all exhibits displayed using the Visualizer. Should a party desire a copy of the videotape, the Court proposes to charge the requester \$10.00 per videotape. Prior to the purchase of this equipment there was no need for this charge.

Copying Transcripts. The Court is also proposing to increase the cost of copying transcripts from 10 cents a page (\$.10 per page) to 25 cents a page (\$.25 per page). Although this is an increase, the cost is less than half what is charged the Court System for acquiring the transcripts. This proposal is intended to partially offset the high cost of getting a transcript. The new rate will reduce the overall cost of transcripts to the Court System.

Process Server Mileage. The other area where the Court is proposing to raise fees is for mileage incurred by the Court's process server. Currently the charge is 30 cents per mile (\$.30 per mile). However, this is less than the current federal reimbursement rate for mileage and less than HCN employees are reimbursed for travel mileage.

These are proposed changes only. There has been no change in basic fees by the HCN Court System in three years. See *In the Matter of Fees and Costs in Civil Cases*, ORDER ALLOWING FEES, enacted March 17, 1998 by the HCN Supreme Court. As in the past, these proposed fee increases are subject to public comment before adoption. All comments regarding these proposed fees

by the Trial Court should be directed to the HCN Supreme Court Clerk, Tari Pettibone, prior to June 1, 2001, so that the HCN Supreme Court may hold a hearing on any comments received after that time. This *Notice* shall be published in the *Court Bulletin* in its April and May issues to give all affected persons the opportunity to comment.



Court News

- The Ho-Chunk Nation Supreme Court will meet on Saturday June 2, and Sunday, June 3, 2001 at the courthouse in Black River Falls, WI. One of the items on the agenda is the revision of the *Ho-Chunk Nation Rules of Civil Procedure*. Additional inquiries into the agenda may be directed to Ms. Tari Pettibone, Supreme Court Clerk of Court at 1-800-434-4070 or 284-2722.
- The Board of Directors for the Office of Public Advocacy will be conducting interviews for the Administrator of the Office of Public Advocacy position during the afternoon of May 9, 2001. The Board hopes to have the selected candidate in the office as soon as possible after those interviews have been conducted.

Recent Decisions

Ho-Chunk Nation Trial Court:

Daniel W. Green v. Steven S. Davis, Real Estate Manager, Home Ownership Program, in his official capacity, CV 00-108 Order (Motion Hearing) (HCN Tr. Ct., Apr.2, 2001). The Court determined that a *Motion Hearing*

shall be convened so as to allow the parties an opportunity to argue their respective *Motions*.

Bernice G. Barnes v. Clifford W. Wilson, CS 98-41 *Notice of Child Turning 18* (HCN Tr. Ct., Apr. 3, 2001). The Court required the custodial parent to submit proof of enrollment in high school to continue receiving current child support for the child who is 18 years old.

Verdie Kivimaki v. Virgil Clausen, CV 97-125 *Notice of Child Turning 18* (HCN Tr. Ct., Apr. 3, 2001). The Court required the custodial parent to submit proof of enrollment in high school to continue receiving current child support for the child who is about to turn 18 years old.

William Murphy v. Cheryl Murphy, CS 98-58 *Notice of Child Turning 18* (HCN Tr. Ct., Apr. 3, 2001). The Court required the custodial parent to submit proof of enrollment in high school to continue receiving current child support for the child who is about to turn 18 years old.

State of Wisconsin, Jackson County v. Christie J. Ryan, CS 99-34 *Order (Resuming Withholding)* (HCN Tr. Ct., Apr. 3, 2001). The Court resumed withholding for current child support from the defendant's per capita distributions as she is no longer residing with the minor children.

State of Wisconsin/Jackson County v. Lohman E. Cloud, CS 00-19 *Order (Establishing Arrearage)* (HCN Tr. Ct., Apr. 3, 2001). The Court established the arrearage owed by the defendant as indicated by the Kids Account History statement.



Joan Marie Whitewater, Dean Allen Whitewater, Kathleen Lynn Whitewater, Kenneth Lee Whitewater, Barbara Ann Engen, Vicki Lee Johnson, Tina Marie Danielski, Gerald Ray Whitewater, and Larry Edward Whitewater v. Ho-Chunk Nation Office of Tribal Enrollment and Ho-Chunk Nation Legislature, CV 99-62 *Judgment* (HCN Tr. Ct., Apr. 3, 2001). The Court held that the defendants impermissibly placed the plaintiffs enrollment applications in a "pending" status until such time as a new enrollment code could be passed. The CONSTITUTION OF THE HO-CHUNK NATION, through the Savings Clause, required that Enrollment continue to process applications using the new criteria in the CONSTITUTION along with the WWBC ENROLLMENT ORDINANCE until such time as a new enrollment code could be passed. Also, the Court held that Enrollment violated the plaintiffs equal protection rights when they approved 58 other membership applications during the time in which the plaintiffs' application were in a "pending status" waiting for a new membership code. The Court also declared Section 6(f) of the TRIBAL ENROLLMENT AND MEMBERSHIP ACT OF 1995 unconstitutional, as it impermissibly required persons with applications pending on the date of the passage of the MEMBERSHIP ACT to resubmit applications.

State of Wisconsin, Wood County, on behalf of Evangeline Two Crow v. Gregory Harrison, CV 97-153 *Order (Establishing Arrears)* (HCN Tr. Ct., Apr. 3, 2001). The Court established the arrearage owed by the defendant as indicated by the Kids Account History statement.

State of Wisconsin and Steven Good v. Melissa Blackcoon, CS 98-35 and JV 99-14 *Notice of Child Turning 18* (HCN Tr. Ct., Apr. 3, 2001).

HCN Court Fees

Filing Fees	\$35.00
Service of Summons	!In
Person	\$15.00 (or cost if out of state) !By
Mail	\$4.00 (or cost, whichever is greater) !By
the Court	\$0.30 (per mile)
Copying	\$0.10/per page
Faxing	\$.25/per page (sending and receiving)
Tapes of Hearings	\$10.00/per tape
Deposition Videotape	\$10.00/per tape
Certified Copies	\$0.50/per page
Equipment Rental	\$5.00/per hour
Register a Foreign Order	\$15.00
Appellate filing fees	\$35.00
Admission to Practice	\$50.00
Pro Hac Vice Appearance	\$35.00

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 ə) 7.

HCN Const., Art. II, Sec. (or ə) 1(a).

Ho-Chunk Nation Court System
P.O. Box 70
Black River Falls, WI 54615

HCN Ordinances

Ordinance Name, Chapter number, Section/Part/Clause, page.
PERSONNEL POLICIES AND PROCEDURE MANUAL, Ch. 12, Part B, p. 82.
CLAIMS AGAINST PER CAPITA, Sec. (or ə) 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).



State of Wisconsin/Juneau County on behalf of Jeanette Decorah v. Maynard Funmaker, Sr., CS 98-77 Notice (Child Turning 18) (HCN Tr. Ct., Apr. 4, 2001). The Court required the custodial parent to submit proof of enrollment in high school to continue receiving current child support for the child who is about to turn 18 years old.

State of Wisconsin v. Arnold Cloud, CS 99-55 Notice of Child Turning 18 (HCN Tr. Ct., Apr. 4, 2001). The Court required the custodial parent to submit proof of enrollment in high school to continue receiving current child support for the child who is about to turn 18 years old.

Michelle R. Decora v. John D. Steindorf, CV 97-42 Notice (Child Turning 18) (HCN Tr. Ct., Apr. 4, 2001). The Court required the custodial parent to submit proof of enrollment in high school to continue receiving current child support for the child who is about to turn 18 years old.

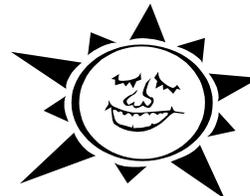
Jessica L. Bearskin v. Roger Dean Thundercloud, CS 98-31 Notice of Child Turing 18 (HCN Tr. Ct., Apr. 4, 2001). The Court required the custodial parent to submit proof of enrollment in high school to continue receiving current child support for the child who is about to turn 18 years old.

Carolyn J. Humphrey v. Ho-Chunk Nation, Alvin Cloud and Bob Pulley, CV 01-21 Order (Motion Hearing) (HCN Tr. Ct., Apr. 4, 2001). The Court determined that a *Motion Hearing* shall be convened so as to allow the defendants to argue its *Motion to Consolidate*.

Andrea L. Estebro v. Ho-Chunk Nation, Ho-Chunk Nation Home Ownership Program, Steve Davis in the capacity of Real Estate Manager, and Alvin Cloud in the capacity of Executive Director of Housing, CV 01-19 Order (Motion Hearing) (HCN Tr. Ct., Apr. 4, 2001). The Court determined that a *Motion Hearing* shall be convened so as to allow the

defendants to argue its *Motion to Consolidate*.

Regina K. Baldwin v. Ho-Chunk Nation, CV 01-16 Order (Motion Hearing) (HCN Tr. Ct., Apr. 4, 2001). The Court determined that a *Motion Hearing* shall be convened so as to allow the defendant to argue its *Motion to Consolidate*.



In the Interest of Minor Child(ren): V.D.C., DOB 10/03/84; D.J.C., DOB 09/02/86; M.J.B., DOB 09/01/88; E.S.B., DOB 06/21/91; and W.W.B., DOB 09/20/94 by Debra Crowe v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-25 Order (Denial on Remand) (HCN Tr. Ct., Apr. 6, 2001). The Court denied the petitioner's request to release CTF monies for a family car. Additionally, the Court clarified the four prong test utilized in CTF cases.

Gary Lonetree, Sr. v. John Holst, as Slot Director, and Ho-Chunk Casino Slot Department, CV 97-127 Order (Satisfaction of Judgment) (HCN Tr. Ct., Apr. 10, 2001). The Court recognized that the *Judgment* has been satisfied by the defendant.

Rich Sanders v. Ho-Chunk Nation Business Department, CV 99-84 Notice (Intent to Close) (HCN Tr. Ct., Apr. 10, 2001). In accordance with *Ho-Chunk Nation Rules of Civil Procedure*, Rule 56(C), the Court announced its intention to close the file if no objection is received within 30 days as the file has been inactive for 6 months.

Ho-Chunk Nation v. B & K Builders, Inc. and Ruka & Associates, CV 00-91 Order (Insufficient Evidence) (HCN Tr. Ct., Apr. 10, 2001). The Court required the plaintiff to file specific evidence that had been promised at the December 13, 2000 *Motion Hearing/Scheduling Conference*.

Lori Koster v. Majestic Pines Hotel, Kari Heinz and Victoria Williamson, CV 00-103 Order to Dismiss (HCN Tr. Ct., Apr. 10, 2001). The Court dismissed the plaintiff's Complaint in accordance with the parties' Stipulation and Motion to Dismiss.

President Pro Tem Clarence Pettibone v. Robert Mudd, Elliot Garvin, Isaac Greyhair, Wade Blackdeer, Dallas Whitewing, Gerald Cleveland, Kevin Greengrass, Myrna Thompson, Kathyleen Lonetree-Whiterabbit, Sharyn Whiterabbit, and Karen Martin, individually in their official capacity as Legislators of the Ho-Chunk Nation, CV 01-17 Order(s) (HCN Tr. Ct., Apr. 10, 2001). The Court granted the defendants' request to extend the time to file a Reply Brief as stipulated by the parties. The Court granted the parties' request to reschedule Oral Arguments as stipulated by the parties.

Vicki Houghton n/k/a Vickie Greendeer v. John Houghton, CV 96-58 Notice (HCN Tr. Ct., Apr. 10, 2001). The Court recognized that one of the minor children would soon turn 18, but that the Court had heard sworn testimony that she was still working towards her high school diploma.

In the Interest of Minor Children: P.L.H., DOB 10/24/84, and E.J.H., DOB 08/28/85, JV 00-02 and JV 00-03 Order (Child Protection Review Hearing) (HCN Tr. Ct., Apr. 10, 2001).

In the Interest of Minor Children: P.L.H., DOB 10/24/84, and E.J.H., DOB 08/28/85, JV 00-02 and JV 00-03 Order (Amending Child Support) (HCN Tr. Ct., Apr. 10, 2001).

State of Wisconsin on behalf of Erin L. Emerson v. Rueben A. Rave, Jr., CV 97-171 Order (Reinstating Enforcement) (HCN Tr. Ct., Apr. 11, 2001). The Court reinstated withholding for child support from the respondent's per capita distributions as the respondent was no longer fulfilling this obligation through wage withholding.

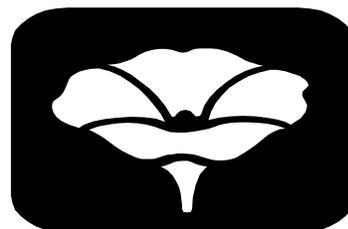
Andrea Ayala v. Shannon Knox, CS 01-08 Order (Enforcing Child Support) (HCN Tr. Ct., Apr. 11, 2001). The Court enforced the respondent's child support obligation through withholding a portion of his per capita distributions.

Anita Bolander v. Darrell L. Sena, Jr., CS 01-06 Order (Granting Child Support) (HCN Tr. Ct., Apr. 12, 2001). The Court enforced the respondent's child support obligation through withholding a portion of his per capita distributions.

State of Wisconsin – Jackson County v. Daniel V. WhiteEagle; Karla L. Wilcox v. Daniel V. WhiteEagle; and State of Wisconsin – Jackson County v. Daniel V. WhiteEagle, CS 98-66, CS 99-09, and CS 01-07 Order (Enforcing Child Support) (HCN Tr. Ct., Apr. 12, 2001). The Court equitably enforced the defendant's three child support obligations against his per capita distributions.

State of Wisconsin (Eileen J. Link) v. Mahlon Funmaker, a/k/a Deforrest Funmaker, and State of Wisconsin/Jackson Co. v. Eileen Funmaker, CV 97-151, and CS 00-41 Order (Amending Enforcement) (HCN Tr. Ct., Apr. 12, 2001). The Court amended the enforcement of child support as the child now lived with the other parent.

HocOk Federal Credit Union v. Rachel Hernandez and James Ritland, CV 97-147 Order (Satisfaction of Judgment) (HCN Tr. Ct., Apr. 12, 2001). The Court recognized that the defendants have paid the Judgment in full.



Cynthia Tack v. Matthew L. Thundercloud, CV 97-74 Order (Arrears) (HCN Tr. Ct., Apr. 12, 2001). The Court withheld the

respondent's arrearage from his per capita distribution.

State of Wisconsin/Shawano Co. v. Jeffrey Jay Rockman, CS 99-59 *Order (Amending Enforcement)* (HCN Tr. Ct., Apr. 12, 2001). The Court amended the enforcement of the respondent's child support obligation against his per capita distributions in accordance with the amended state court order.

Carmelita Ray Varela v. George Myron Plamann, CS 99-52 *Order (Impound)* (HCN Tr. Ct., Apr. 12, 2001). The Court impounded a portion of the respondent's per capita distribution so as to minimize the harm to the petitioner.

Lisa Baneulos v. Anthony M. Smith, Jr., CS 01-05 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Apr. 12, 2001). The Court enforced the defendant's child support obligation against his per capita distributions.

Melissa McGill v. Jones Decorah; Barbara J. Decorah v. Jones Decorah; and Karen Goulee v. Jones Decorah, CV 96-66, CV 97-19, and CV 97-100 *Notice* (HCN Tr. Ct., Apr. 13, 2001). The Court notified the defendant that absent an objection from him, the Court shall enter an order to withhold the remaining portion of his per capita distributions subject to withholding for arrears so he can pay off his arrears in the other cases more quickly.



State of Wisconsin, on behalf of Simone Greyhair v. Gene J. Cloud; State of Wisconsin, on behalf of Simone Cloud v. Gene J. Cloud; and State of Wisconsin, on behalf of Rosalie Decorah v. Gene J. Cloud, CS 98-36, CS 98-37, and CS 98-39 *Notice* (HCN Tr. Ct., Apr. 13, 2001). The Court notified the defendant that absent an

objection from him, the Court shall enter an order to withhold the remaining portion of his per capita distributions subject to withholding for arrears so he can pay off his arrears in the other cases more quickly.

Ho-Chunk Nation Housing Authority v. Robin LaMere and Rueben Rave, CV 00-17 *Order (Damages)* (HCN Tr. Ct., Apr. 13, 2001). The Court assessed damages to the Nation's rental unit against the defendants' per capita distributions.

Rachel Winneshiek v. John C. Houghton, Jr., CS 99-29 *Order* (Apr. 13, 2001). The Court continued to withhold current child support from the defendant's per capita distributions as he no longer resided with the minor child.

Michelle R. Decorah v. John D. Steindorf, CV 97-42 *Order (Proof of Enrollment Filed)* (HCN Tr. Ct., Apr. 13, 2001). The Court continued the defendant's current child support obligation until the child graduated from high school.

In the Interest of the Minor Child: M.C.D., DOB 03/29/99, JV 99-11 Order (Contempt) (HCN Tr. Ct., Apr. 17, 2001).

In the Interest of Minor Child: J.K.W., DOB 01/18/82, by Joy A. Buck v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-77 *Order (Contempt)* (HCN Tr. Ct., Apr. 17, 2001). The Court held the plaintiff in contempt for her failure to account for the monies released from the CTF account.

In the Interest of Minor Child: C.J.W., DOB 01/03/84, by Anne Johnson v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-68 *Order (Reimbursing CTF in Part)* (HCN Tr. Ct., Apr. 17, 2001). The Court reimbursed the CTF for an overpayment made from the CTF.

In the Interest of Minor Children: J.L.W., DOB 10/12/89, and J.A.C., DOB 08/01/92, JV 99-23 and JV 99-24 Order (Continuing Testing) (HCN Tr. Ct., Apr. 17, 2001).

State of Oklahoma v. Faron J. Bear, CS 01/10 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Apr. 17, 2001). The Court enforced the defendant's child support obligation against his per capita distributions.

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, CV 00-104 *Order (Granting Extension)* (HCN Tr. Ct., Apr. 18, 2001). The Court granted the defendants' request for additional time to submit redistricting/reapportionment scenario(s).

In the Interest of Minor Child: C.H., DOB 04/02/81, by Cyril Delarosa v. Ho-Chunk Nation Office of Tribal Enrollment, and *In the Interest of Decedent: Cyril Hudson, by Stephanie Pate v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 01-02 and CV 01-28 *Order (Memorializing Hearing)* (HCN Tr. Ct., Apr. 18, 2001). The Court requires documentation that one of the plaintiffs has been named the personal representative of the decedent's estate as the Legislature has not passed a probate code.

Ho-Chunk Nation Department of Housing, Home Ownership Program v. Tarilyn Boardman d/b/a T & Son's General Contractors, individually, and Tarilyn Boardman and Mick Boardman, husband and wife, CV 99-107 *Default Judgment* (HCN Tr. Ct., Apr. 18, 2001). The Court entered a *Default Judgment* against the defendants as they failed to file an *Answer* within the prescribed time.

In the Interest of Minor Child: N.J.O., DOB: 02/19/84, by Ho-Chunk Nation Children and Family Services v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-115 *Order (Accepting Accounting and Releasing Additional Funds)* (HCN Tr. Ct., Apr. 19, 2001). The Court accepted the accounting

for monies released from the CTF. The Court released additional money to reimburse the minor for the additional funds she had provided for the purchase.

Carol Jo Garvin v. George W. Garvin, CV 01-27 *Order (Granting Recognition and Enforcement of Foreign Judgments)* (HCN Tr. Ct., Apr. 19, 2001). The Court recognized and enforced the Cook County Illinois judgments.

Patrick O'Leary v. Ho-Chunk Casino (Slots Floor Department), CV 00-28 *Order (Granting Defendant's Motion for Summary Judgment)* (HCN Tr. Ct., Apr. 20, 2001). The Court granted the defendant's *Motion for Summary Judgment* as the plaintiff had an absenteeism problem, even if he was given the benefit of the doubt for some of his absences.

William Goodbear v. Ho-Chunk Nation Housing Authority, CV 98-11 *Order* (HCN Tr. Ct., Apr. 23, 2001). The Court dismissed the case in accordance with the parties' *Stipulation*.

Berna Big Thunder v. Ho-Chunk Nation, CV 99-71 *Order for Withdrawal of Counsel* (HCN Tr. Ct., Apr. 23, 2001). The Court allowed the plaintiff's counsel to withdraw as the plaintiff did not object to his *Motion to Withdraw*.



Joelene Smith v. Scott Beard, Department of Education, and the Ho-Chunk Nation, CV 96-94 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Apr. 23, 2001). The Court recognized that the defendants had satisfied the *Judgment* in full.

In the Interest of Adult Incompetent: Roberta Goodbear, by Shirley Sahr, Guardian, CV 96-49 *Order (Granting Release of Per Capita)* (HCN Tr. Ct., Apr. 24, 2001). The Court

released ITF funds to repay an overpayment from the Wisconsin Department of Revenue received by the ward.

Jessica L. Bearskin v. Roger Dean Thundercloud, CS 98-31 *Order (Amending Enforcement)* (HCN Tr. Ct., Apr. 24, 2001). The Court amended the withholding for child support as no proof of enrollment in high school was received.

William Murphy v. Cheryl Murphy, CS 98-58 *Order (Amending Enforcement)* (HCN Tr. Ct., Apr. 24, 2001). The Court amended the withholding for child support as no proof of enrollment in high school was received.

Laurie Dorwin v. Glen Decorah, CV 97-80 *Order (Amending Enforcement)* (HCN Tr. Ct., Apr. 24, 2001). The Court withheld a portion of the respondent's per capita distributions for back child support.

Tom R. Erdman v. Andrea G. Storm, CV 01-33 *Judgment* (HCN Tr. Ct., Apr. 24, 2001). The Court entered a *Judgment* in favor of the plaintiff after the defendant failed to attend a hearing for which she had received proper notice.



Bernice G. Barnes v. Clifford W. Wilson, CS 98-41 *Proof of Enrollment Filed* (HCN Tr. Ct., Apr. 24, 2001). The respondent's child support continued as previously ordered as the child is still enrolled in high school.

State of Wisconsin v. Arnold Cloud, CS 99-55 *Proof of Enrollment Filed* (HCN Tr. Ct., Apr. 24, 2001). The respondent's child support continued as previously ordered as the child is still enrolled in high school.

Verdie Kivimaki v. Virgil Clause, CV 97-125 *Proof of Enrollment Filed* (HCN Tr. Ct., Apr.

24, 2001). The respondent's child support continued as previously ordered as the child is still enrolled in high school.

Ronald K. Genske v. Ruth M. Genske, CS 01-09 *Order (Enforcing Child Support)* (HCN Tr. Ct., Apr. 25, 2001). The Court enforced the respondent's child support obligation against his per capita distributions.

Joan Marie Whitewater, Dean Allen Whitewater, Kathleen Lynn Whitewater, Kenneth Lee Whitewater, Barbara Ann Engen, Vicki Lee Johnson, Tina Marie Danielski, Gerald Ray Whitewater, and Larry Edward Whitewater v. Ho-Chunk Nation Office of Tribal Enrollment and Ho-Chunk Nation Legislature, CV 99-62 *Order (Awarding Costs)* (HCN Tr. Ct., Apr. 25, 2001). In accordance with *Ho-Chunk Nation Rules of Civil Procedure*, Rule 53, the Court awarded the costs to the plaintiffs.

David Abangan v. Ho-Chunk Nation Department of Business, CV 01-08 *Order (Motion Hearing)* (HCN Tr. Ct., Apr. 26, 2001). The Court scheduled a *Motion Hearing* so as to allow the defendant to argue its *Motion to Dismiss*.

Leslie J. Schmolke v. Ho-Chunk Casino, Ho-Chunk Nation, Business Department, CV 01-05 *Order (Denying Defendants' Motion for Summary Judgment)* (HCN Tr. Ct., Apr. 26, 2001). The Court denied the defendants' *Motion for Summary Judgment* as a material fact, whether or not the plaintiff had notice of a Status Change form, was in issue.

Additionally, the Court noted the defendants had the difficult task of explaining why an employee hired to work up to 90 days can be labeled a Limited Term Employee when the HO-CHUNK NATION PERSONNEL POLICIES AND PROCEDURES MANUAL explicitly limits such status to 30 days (with the possibility of a one month extension).

Amanda J. Orozco v. Sandra J. Orozco, CV 01-24 *Default Judgment* (HCN Tr. Ct., Apr. 26, 2001). The Court entered a *Default*

Judgment in favor of the plaintiff as the defendant failed to file an *Answer* within the proscribed time.

In the Interest of the Minor Child: K.D., DOB 02/06/87, by Karena Day v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-82 Order (Accepting Accounting) (HCN Tr. Ct., Apr. 26, 2001). The Court accepted the accounting provided by the plaintiff from the release of CTF monies for orthodontics.

Stewart J. Miller v. Ho-Chunk Nation Election Board, CV 01-52 Order (Denying Preliminary Injunction) (HCN Tr. Ct., Apr. 30, 2001). The Court denied the plaintiff's request for a preliminary injunction as the harm to the plaintiff (holding the General Primary Election prior to the constitutionally mandated redistricting/reapportionment) did not outweigh the harm to the Nation as three positions on the ballot are not affected by the redistricting or reapportionment. Furthermore, the plaintiff had no likelihood of success on the merits as there was no applicable waiver of sovereign immunity. In addition, the granting of a preliminary injunction did not serve the public interest as the voters had an expected interest that the election would take place and there was insufficient time to notify them to the contrary. The Court noted that many of these issues would best be addressed during the remedy phase of the ongoing redistricting case.

Ho-Chunk Nation Supreme Court:

Bonnie Smith v. Ho-Chunk Nation Gaming Commission, SU 01-02 Order (HCN S. Ct., Apr. 3, 2001). The Court denied the appellant's *Motion to Reschedule Oral Arguments*.

Margaret G. Garvin v. Donald Greengrass, and Margaret G. Garvin v. Ho-Chunk Nation, and Donald Greengrass in his official and individual capacity, and Evans Littlegeorge in his individual capacity, SU 01-04 Order Denying Appeal (HCN S. Ct., Apr. 5, 2001). The Court denied the *Appellant's Petition for*

Permission to Appeal (Interlocutory Appeal of the HCN Trial Court Order of March 9, 2001) as the Trial Court has not rendered a final decision in the case.

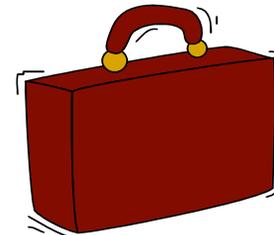
Recent Filings

Ho-Chunk Nation Trial Court:

In the Interest of: M.S.C., DOB 01/25/89, M.S.C., DOB 04/08/90, M.S.C., DOB 04/17/92, and M.C.C., DOB 07/07/98, by Vanessa Carriaga v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-38, filed on April 6, 2001.

Drs. Delebo, Overman, Hegna & Reich v. Erwin Begay, CV 01-39, filed on April 9, 2001.

Colleen Noel Forde v. Rainbow Casino, CV 01-40, filed on April 9, 2001.



In the Interest of: P.W.H., DOB 03/13/84, by Vera Blackdeer Hodges v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-41, filed on April 12, 2001.

Ho-Chunk Nation Housing Authority v. Elliot Walker, CV 01-42, filed on April 12, 2001.

Ho-Chunk Nation Housing Authority v. Martha Martinez, CV 01-43, filed on April 12, 2001.

Ho-Chunk Nation Housing Authority v. Tyrone Walker, CV 01-44, filed on April 12, 2001.

In the Interest of D.K. McA, DOB 06/07/89, by Neil T. McAndrew v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-45, filed on April 17, 2001.

In the Interest of D.J.T., DOB 07/17/91, by Kristyl Simonson v. Ho-Chunk Nation Office

of Tribal Enrollment, CV 01-46, filed on April 18, 2001.

Erica J. Riffle v. DeJope Bingo and Bonnie Smith, CV 01-47, filed on April 19, 2001.

In the Interest of R.M.R., DOB 12/06/86, by Kim Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-48, filed on April 23, 2001.

Patricia Wenger v. Leslie Boisen, CS 01-11, filed on April 23, 2001.

Marlene Littlewolf v. Ho-Chunk Nation Department of Education, CV 01-49, filed on April 24, 2001.

David J. Smith v. Majestic Pine Casino and Ho-Chunk Nation, CV 01-50, filed on April 25, 2001.

Marie WhiteEagle v. Wisconsin Dells Head Start and Ho-Chunk Nation, CV 01-52, filed on April 30, 2001.

Ho-Chunk Nation Supreme Court:

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, SU 01-05, filed on April 4, 2001.



In the United States Supreme Court

On March 5, 2001, the United States Supreme Court issued a decision in *Department of the Interior, et al. v. Klamath Water Users Protective Association*, No. 99-1871 [28 Ind. L. Rev. 1007]. At issue in that case was whether certain documents were properly subject to a Freedom of Information

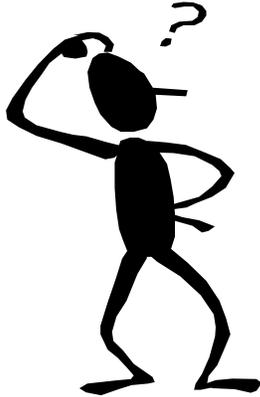
Act [hereinafter FOIA] request. The documents at issue consisted of communications between various Tribes and the Bureau of Indian Affairs [hereinafter BIA] for two separate water proceedings. The BIA did not turn over the disputed documents pursuant to the FOIA request, believing them to be exempt as non-discoverable inter-agency or intra-agency memorandums or letters.

The Klamath Water Users Protective Association then sought a court order to require the disclosure of the documents. The District Court held that the disputed documents were exempt. The Court of Appeals for the Ninth Circuit reversed as the Tribes with whom the BIA had been communicating had an interest in the outcome of the water proceedings.

The United States Supreme Court affirmed this holding, despite the recognition that it may hamper the frank communication between tribes and its trustee, the BIA. The Supreme Court found that the documents at issue could not properly be defined as intra-agency or inter-agency communications. Although some communications with consultants have been deemed to fall within this category, those consultants were hired by the government for a particular task and were not communicating on behalf of themselves or a group that has an interest in the outcome. The tribes, on the other hand, were advocating for their own interests, to the detriment of others with an interest in the scarce water. The Supreme Court declined to read an "Indian trust" exception into the FOIA exemptions.

This ruling puts tribes and their trustee, the BIA, in an awkward position. Tribes would likely prefer to communicate with the BIA about trust resources such as land and water. The BIA would likely prefer to receive such communications so that they are aware of the tribes' needs, and so that they can take informed actions to assist tribes in these

areas. The problem with such communications is that they are now subject to a FOIA request, and neither side may desire to have an outside party be able to obtain those documents. This will undoubtedly lead to some creative lawyering efforts to find ways to protect such communications from a FOIA request.



Frequently Asked Questions

Q: Can I bring my custody dispute to the Ho-Chunk Nation Trial Court? Does the INDIAN CHILD WELFARE ACT apply to custody disputes?

A: No. At this time, the Nation does not have a code that the Court can apply to a custody dispute between two fit parents. Until such a code is passed by the Legislature, this Court lacks subject matter jurisdiction to hear a custody dispute. See HO-CHUNK NATION CONSTITUTION, ARTICLE VII, Section 5(a) (subject matter jurisdiction of court). The Ho-Chunk Nation's CHILDREN'S CODE does not apply to a custody dispute between two fit parents. It applies to Child Protection proceedings and Guardianship proceedings. It contains a placement hierarchy if a child must be removed from the parents' home.

The INDIAN CHILD WELFARE ACT does not apply to custody disputes between two fit parents. It applies in two situations: 1) if the child is removed from the home within the context of a Child in Need of Protection or Services (as they are referred to in

Wisconsin) case; and 2) if the Termination of Parental Rights is sought. Under these situations, a state must notify the child's tribe of the proceeding. The tribe may seek to transfer the case to their tribal court. If the tribe does not seek to transfer the case, or such a transfer is declined, the INDIAN CHILD WELFARE ACT contains a placement preference hierarchy that the state court must apply.

Q: Why can the Ho-Chunk Nation Trial Court set child support in some instances, but not in others?

A: The Ho-Chunk Nation Children's Code contains a provision that allows the Court to determine child support in Child Protection proceedings and in Guardianship proceedings. See HOCOK NATION CHILDREN AND FAMILY CODE, ARTICLE XXVII. In these situations, the Court has typically followed Wisconsin's percentage standards (17% for one child, 25% for two children, 29% for three children, 31% for four children, and 34% for five or more children).

Outside of this narrow exception of Child Protection cases and Guardianship cases, the Legislature has not passed a code that allows the Court to establish child support in other situations. Pursuant to the RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE and the CLAIMS AGAINST PER CAPITA ORDINANCE, the Court can enforce a child support obligation against a member's per capita distributions. This enforcement is subject to a 34% limitation for current child support and a 26% limitation for back child support.

The Court has previously determined that this 34% limitation and 26% limitation only applies to the enforcement of foreign child support orders. The limitations do not apply to child support established by the Court pursuant to the CHILDREN'S CODE.

Ho-Chunk Nation Court Bulletin

Volume 7, Number 6

June 2001

Trial Court Issues Decision in Suit Between President Pro Tempore Pettibone and the Ho-Chunk Nation Legislature

President pro tempore Clarence Pettibone and the Ho-Chunk Nation Legislature opted to come to the Trial Court to seek the resolution of a separation of powers issue. The Ho-Chunk Nation Legislature argued that in accordance with the CONFIRMATION PROCESS OF EXECUTIVE DIRECTORS FOR THE HO-CHUNK NATION ACT OF 1996, President pro tempore Pettibone was a "subsequent" administration, and must therefore renominate Executive Directors. President pro tempore Pettibone argued that he was not a "subsequent" administration, he was a "caretaker" administration, and that to require him to renominate Executive Directors would allow the Legislature the opportunity to remove Executive Directors, a power specifically granted to the President by the CONSTITUTION OF THE HO-CHUNK NATION.

(continued, page 2, column 1)

Court News

- The Court would like to extend a warm welcome to two new employees. Ms. Rhonda Houle has been hired by the Board of Directors for the Office of Public Advocacy as the administrator of that office. She has recently relocated to this area from northern Wisconsin. In addition, Mr. Raymond Zakari has joined the Court's staff as the summer law clerk. He is a third year law student from the University of Oregon.
- The Ho-Chunk Nation Supreme Court will meet next on Monday, August 13, 2001 at 8:30 a.m. at the courthouse in Black River Falls. If you have any questions as to the agenda for that meeting, please contact Ms. Tari Pettibone, Supreme Court Clerk of Court. Ms. Pettibone may be contacted at 284-2722 or 1-800-434-4070.
- A reminder to Ho-Chunk Nation Bar members - bar dues are due on or before July 1, 2001. Also, please make sure to update your information if anything has changed.

Notice

PLEASE BE AWARE OF CHANGES IN THE TIMELINE FOR FILING APPEALS FOR THE JUNE 5, 2001 GENERAL ELECTION.

Rule 7. The Notice of Appeal shall be filed within three **(3) days** of entry of the final judgment or order.

Rule 8. The Appellant's Brief shall be filed and served within five **(5) days** of the date of the Notice of Appeal. The Appellee's Brief shall be filed within five **(5) days** of service of the Appellant's Brief.

See Order (HCN S. Ct., June 2, 2001) at 3.

INSIDE THIS ISSUE

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On May 16, 2001, the Court, the Honorable Mark Butterfield presiding, issued its *Judgment*. The Court held that a President *pro tempore* is not a “subsequent” administration within the context of the CONFIRMATION PROCESS OF EXECUTIVE DIRECTORS FOR THE HO-CHUNK NATION ACT OF 1996, as a “subsequent” administration only occurs after an election has occurred and a successor has been sworn into office. President *pro tempore* Pettibone was elevated to the office of President through operation of the CONSTITUTION, not an election. Moreover, only the President has the authority to remove an Executive Director. To require that President *pro tempore* Pettibone renominate Executive Directors would grant the Legislature the power to remove an Executive Director, a power it does not have. If the Legislature is displeased with an Executive Director, the Legislature has the power to review those actions taken by that Executive Director.

The Legislature could choose to appeal the Trial Court’s *Judgment* to the Ho-Chunk Nation Supreme Court.



Recent Decisions

Ho-Chunk Nation Trial Court:

In the Interest of Minor Children: P.L.H., DOB 10/24/84, and E.J.H., DOB 08/28/85, JV 00-02 and JV 00-03 Order (Amending Child Support) (HCN Tr. Ct., May 1, 2001).

Marie WhiteEagle v. Wisconsin Dells Head Start and Ho-Chunk Nation, CV 01-52 Order Requiring Oath (HCN Tr. Ct., May 1, 2001). The Court required a non-Ho-Chunk Bar member, who had complied with all other requirements for a Special Appearance, to

submit the attorney’s oath as required by *Ho-Chunk Nation Rules of Civil Procedure*, Rule 16(B).

John Kagigebi v. Amory Decorah as Table Games Manager of the Ho-Chunk Casino, CV 01-06 Order (Denying Motion to Allow Evidence on Groupwise) (HCN Tr. Ct., May 1, 2001). The Court determined that it would not consider certain Groupwise® attachments as they lacked relevance.

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, CV 00-104 Order (Determining Constitutionality of the Proposed Redistricting/Reapportionment Scenario) (HCN Tr. Ct., May 4, 2001). The Court held that Revised Scenario 1A, as the culmination of the Ho-Chunk Nation Legislature’s efforts to redistrict/reapportion, meets the standard announced by the Ho-Chunk Nation Supreme Court, and may therefore be put before the electorate by way of an election.

In the Interest of the Minor Child: D.J.T., DOB 07/17/91, by Kristyl Simonson v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-46 Order (Petition Granted) (HCN Tr. Ct., May 7, 2001). The Court granted the release of CTF funds for orthodontics.

In the Interest of Minor Child(ren): J.B., Jr., DOB 11/27/95, and A.B., DOB 07/25/94, JV 01-06 and JV 01-07 Initial Hearing Order (HCN Tr. Ct., May 7, 2001).

In the Interest of Minor Child: R.W.H., DOB 04/13/01, JV 01-09 Order (Acceptance of Transfer) (HCN Tr. Ct., May 7, 2001).

Ho-Chunk Nation Department of Housing, Property Management Division v. Anna M. Reichenbach, CV 99-97 Order (Satisfaction

of Settlement) (HCN Tr. Ct., May 7, 2001). The Court recognized that the defendant had satisfied her debt to the plaintiff.

Ho-Chunk Nation Department of Housing, Property Management Division v. Muriel Swan, CV 99-106 Order (Satisfaction of Settlement) (HCN Tr. Ct., May 7, 2001). The Court recognized that the defendant had satisfied her debt to the plaintiff.

In the Interest of Adult Incompetent: M.B.J., DOB 12/01/65, by Dolli Big John v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-83 Order (Demanding Accounting) (HCN Tr. Ct., May 7, 2001). The Court required the plaintiff to file the past due accounting from the release of ITF funds.

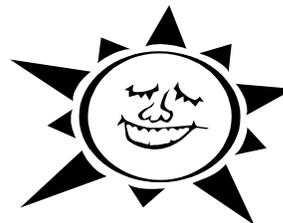
Ho-Chunk Nation Department of Labor v. Chris Littlewolf, Kenneth Mitch, Jr., Harry Funmaker, Murton Greengrass, Lori Pettibone, Melody Greengrass, Paul Sallaway, Gayland Rave, Jr., Jason Youngthunder, Chandra Decora, Roxanne Mudd, Karen WhiteEagle, Mike Greengrass, Justin Littlewolf, and Barb Littlewolf, CV 01-07 Order (Granting Motion to Dismiss) (HCN Tr. Ct., May 8, 2001). The Court granted the plaintiff's *Motion to Dismiss*. The case was dismissed with prejudice as to all but one defendant as he had not filed an *Answer* and the plaintiff indicated that it wished to abandon its suit against all of the defendants but him.

In the Interest of the Minor Child: P.W.H., DOB 03/13/84, by Vera Blackdeer Hodges v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-41 Order (Granting CTF Monies for Football Camp) (HCN Tr. Ct., May 9, 2001). The Court granted the release of CTF monies for football camp as the minor child has an aptitude for the sport and attending camp will maximize his ability to receive an athletic scholarship for college.

In re: Bruce Patrick O'Brien, by Elethe Nichols, Guardian v. Ho-Chunk Nation Office of Tribal Enrollment, CV 96-46 Order (Release of Funds) (HCN Tr. Ct., May 9, 2001). The Court released ITF funds for clothing and homeowner's insurance.

In the Interest of Minor Children: P.L.H., DOB 10/24/84, and E.J.H., DOB 08/28/85, JV00-02 and JV 00-03 Order (Study Center) (HCN Tr. Ct., May 10, 2001).

In the Interest of: Choice Alan Decorah, DOB 03/18/80, by Wanda Decorah v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-38 Order (Denying CTF Monies for Graduation and Prom) (HCN Tr. Ct., May 10, 2001). The Court denied the plaintiff's request to release CTF monies as she failed to prove that she had exhausted other tribal resources, nor did she appear at the *Hearing* to present evidence that the money was necessary.



In the Interest of the Minor Child: S.D.B., DOB 07/30/91, by Carol Barnes v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-90 Order (Imposing Fine until Receipts Filed) (HCN Tr. Ct., May 10, 2001). The Court imposed a daily fine, beginning on May 24, 2001, until such time as the plaintiff filed the required receipt from the release of CTF monies for orthodontics. The fine would be expunged if the plaintiff filed the receipt.

In the Interest of Kathy Brandenburg (Miller) v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-18 Order (Releasing ITF Monies) (HCN Tr. Ct., May 11, 2001). The Court released ITF funds to improve the quality of life of the ward.

HCN Court Fees

Filing Fees	\$35.00
Service of Summons	!In
Person	\$15.00 (or cost if out of state) !By
Mail	\$4.00 (or cost, whichever is greater) !By
the Court	\$0.30 (per mile)
Copying	\$0.10/per page
Faxing	\$.25/per page (sending and receiving)
Tapes of Hearings	\$10.00/per tape
Deposition Videotape	\$10.00/per tape
Certified Copies	\$0.50/per page
Equipment Rental	\$5.00/per hour
Register a Foreign Order	\$15.00
Appellate filing fees	\$35.00
Admission to Practice	\$50.00
Pro Hac Vice Appearance	\$35.00

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 ə) 7.

HCN Const., Art. II, Sec. (or ə) 1(a).

Ho-Chunk Nation Court System

P.O. Box 70

Black River Falls, WI 54615

HCN Ordinances

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

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

CLAIMS AGAINST PER CAPITA, Sec. (or ə) 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

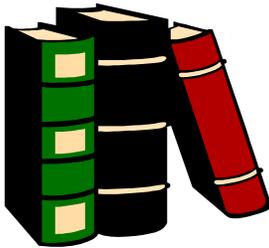
HCN. R. Civ. P. 19(B).



Tris Y. Yellowcloud v. Jeffrey A. Link, CV 97-07 Order (Amending Enforcement) (HCN Tr. Ct., May 14, 2001). The Court amended the respondent's current child support obligation in accordance with an amendment made by the underlying state court.

U.W. Stevens Point v. Orbert S. Goodbear, CV 96-32 Order (Renewing Enforcement of Foreign Judgment) (HCN Tr. Ct., May 14, 2001). The Court renewed the enforcement of the foreign judgment against the defendant's wages as the judgment had not been satisfied.

Carmelita Ray Varela v. George Myron Plamann, CS 99-52 Order (Amending Enforcement and Releasing Impound) (HCN Tr. Ct., May 14, 2001). The Court amended the respondent's current child support obligation in accordance with an amendment made by the underlying state court.



In the Interest of Mercedes L. Blackcoon, by Dale G. Hazard v. Ho-Chunk Nation Office of Tribal Enrollment, CV 96-78 Order (Accepting Accounting) (HCN Tr. Ct., May 15, 2001). The Court accepted the accounting from the previous release of ITF monies.

In the Interest of Minor Child: J.K.W., DOB 01/18/82, by Joy A. Buck v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-77 Order (Accepting Accounting) (HCN Tr. Ct., May 15, 2001). The Court accepted the accounting from the previous release of CTF monies.

Liana Bush v. Clarence Pettibone in his official capacity as Vice-President of the Ho-Chunk Nation, and Shirley Lonetree in her

official capacity as Director of the Ho-Chunk Nation Department of Personnel; and Darcy Funmaker-Rave v. Clarence Pettibone in his official capacity as Vice-President of the Ho-Chunk Nation, and Shirley Lonetree in her official capacity as Director of the Ho-Chunk Nation Department of Personnel, CV 00-93 and CV 00-101 Order (Dismissal With Prejudice) (HCN Tr. Ct., May 15, 2001). The Court dismissed the case in accordance with the plaintiffs' *Motion to Dismiss*.

Lena Cleveland v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-35 Order (Dismissal With Prejudice) (HCN Tr. Ct., May 15, 2001). The Court dismissed the case in accordance with *Ho-Chunk Nation Rules of Civil Procedure*, Rules 44(C) and 56(B).

Donna Kowalkowski v. Ho-Chunk Nation, et al., CV 01-56 Order Allowing Special Appearance of Counsel for Defendant Diana Goree (HCN Tr. Ct., May 15, 2001). Defendant Goree's counsel may make a *Special Appearance* in accordance with *Ho-Chunk Nation Rules of Civil Procedure*, 16(B).

Patricia Wenger v. Leslie Boisen, CS 01-11 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., May 15, 2001). The Court enforced the defendant's current child support obligation against his per capita distributions.

Rickie James Roenneburg v. Table Games Department, CV 01-04 Stipulation and Order for Voluntary Dismissal (HCN Tr. Ct., May 16, 2001). The Court dismissed the case in accordance with the parties' *Stipulation*.

Ho-Chunk Nation Housing Authority v. William Goodbear, CV 00-63 Order (Requiring Status Report) (HCN Tr. Ct., May 16, 2001). The Court required the plaintiff to file a *Status Report*, indicating whether the arrears had been paid off and whether a *Trial* is still necessary.

Ho-Chunk Nation Department of Housing, Property Management Division v. Jennifer A. Jones, CV 00-68 Order (Damages) (HCN Tr. Ct., May 16, 2001). The Court assessed the defendant's unpaid rent and fees, and an unpaid utility bill, against her future per capita distributions.

Clarence Pettibone v. Robert Mudd, Elliot Garvin, Isaac Greyhair, Wade Blackdeer, Dallas Whitewing, Gerald Cleveland, Kevin Greengrass, Myrna Thompson, Kathyleen Lonetree-Whiterabbit, Sharyn Whiterabbit, and Karen Martin, CV 01-17 Judgment (HCN Tr. Ct., May 16, 2001). The Court held that for purposes of the CONFIRMATION PROCESS OF EXECUTIVE DIRECTORS FOR THE HO-CHUNK NATION ACT OF 1996, a president *pro tempore* is not a subsequent administration and need not renominate Executive Directors.

In the Interest of Minor Child: I.J.W., DOB 08/02/95, JV 01-04 Order (Granting Temporary Legal Guardianship) (HCN Tr. Ct., May 17, 2001).

In the Interest of Minor Children: E.F., DOB 12/20/88, and C.F., DOB 12/15/89, by Jones R. Funmaker, Sr. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-109 Order (Show Cause) (HCN Tr. Ct., May 18, 2001). The Court informed the plaintiff that it would convene a Show Cause Hearing so as to allow him the opportunity to explain why he should not be held in contempt of court for his failure to account for released CTF monies.

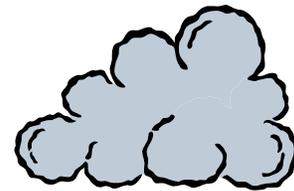
State of Wisconsin – Jackson County v. Jacque L. Ledebuhr, CS 99-43 Order (Suspending Enforcement) (HCN Tr. Ct., May 18, 2001). The Court suspended the defendant's current child support obligation in accordance with the underlying state court's actions.

In the Interest of Adult Incompetent: Elijah Matthew White, by Rachel G. Sheppo v. Ho-Chunk Nation Office of Tribal Enrollment, CV

01-31 Order (Releasing ITF Funds to Estate) (HCN Tr. Ct., May 18, 2001). The Court released the balance of the decedent's ITF account to the personal representative for his estate.

In the Interest of the Minor Child: D.P.P., DOB 02/26/84, by Jonette Pettibone v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-116 Order (Demanding Accounting) (HCN Tr. Ct., May 18, 2001). The Court required the plaintiff to file the past due accounting from the release of CTF monies.

In the Interest of the Minor Child: S.A.B., DOB 01/22/86, by Lorinda Funmaker v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-110 Order (Accepting Accounting) (HCN Tr. Ct., May 18, 2001). The Court accepted the plaintiff's accounting from the release of CTF monies.



In the Interest of Adult Incompetent: Oliver S. Rockman, CV 97-117 Order (Accepting Accounting and Granting Release of Per Capita) (HCN Tr. Ct., May 18, 2001). The Court accepted the accounting provided by the protective payee, and released additional funds to improve the quality of life of the ward.

In the Interest of the Minor Child: R.M.R., DOB 12/06/86, by Kim Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-48 Order (Petition Granted) (HCN Tr. Ct., May 21, 2001). The Court granted the release of CTF monies for orthodontics.

In the Interest of Minor Children: M.S.C., DOB 01/25/89, M.S.C., DOB 04/08/90, M.S.C., DOB 04/17/92, and M.C.C., DOB 07/07/94, by Vanessa Carriaga v. Ho-Chunk

Nation Office of Tribal Enrollment, CV 01-38 Order (Granting Request to Reschedule) (HCN Tr. Ct., May 21, 2001). The Court granted the plaintiff's request to reschedule the *Fact-Finding Hearing*.

Erica J. Riffle v. DeJope Bingo/Bonnie Smith, CV 01-47 Notice (HCN Tr. Ct., May 21, 2001). The Court informed the plaintiff that the Court intended to close the case if she did not contact the defendants' counsel and the Court to reschedule the *Scheduling Conference* for which she had failed to appear.

In the Interest of the Minor Children: E.F., DOB 12/20/88, and C.F., DOB 12/15/89, by Jones R. Funmaker, Sr. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-109 Order (Accepting Accounting) (HCN Tr. Ct., May 22, 2001). The Court accepted the accounting from the release of CTF monies.



Ho-Chunk Nation Department of Housing, and Scholze Ace Home Center, Inc. v. Edward Perry, d/b/a Perry Construction, CV 00-92 Order (Requiring Briefs) (HCN Tr. Ct., May 22, 2001). The Court required the parties to file briefs on the implication of the defendant's bankruptcy case within this case.

State of Wisconsin, Jackson County v. Kim Whitegull, CV 97-162 Order (Amending Enforcement) (HCN Tr. Ct., May 22, 2001). The Court amended the respondent's child support obligation to include withholding for back child support as an arrearage had been accrued.

Laurie Dorwin v. Glen Decorah, CV 97-80 Order (Amending Enforcement) (HCN Tr. Ct., May 22, 2001). The Court ceased

withholding for current child support as the petitioner preferred to utilize wage withholding to satisfy that obligation.

State of Wisconsin, and Debra A. Streeter v. Marcel R. Decorah, CV 96-89 Order (Terminating Enforcement) (HCN Tr. Ct., May 22, 2001). The Court ceased withholding for back child support as the arrearage had been paid off.

Joyce Marie St. Cyr v. Robert Michael Mobley, DV 01-06 Order (Memorializing Hearing) (HCN Tr. Ct., May 22, 2001). The Court issued the *Order* to memorialize the discovery period that had been agreed to by the parties.

Stewart J. Miller v. Ho-Chunk Nation Election Board, CV 01-57 Order (Election Challenge: Granting in Part and Denying in Part) (HCN Tr. Ct., May 24, 2001). The Court required the Election Board to specify what date the election results had been certified on future election results posters. The Court held that a candidate seeking one (1) of two (2) seats of identical term length within a district need not specify which seat he/she sought. In addition, the Court held that the Ho-Chunk Nation Legislature's failure to redistrict and reapportion as required by the CONSTITUTION did not merit setting aside the results of the General Primary Election. To set aside the results would lead to the violation of the CONSTITUTION as the date of the General Run-Off Election is mandated by the CONSTITUTION. Furthermore, the failure to redistrict and reapportion, except in the most egregious of circumstances, does not allow the Court to disturb election machinery that was already in progress.

Aleksandra Cichowski v. Ho-Chunk Nation Hotel and Convention Center, CV 01-25 Order (HCN Tr. Ct., May 24, 2001). The Court informed the defendant that it was treating a correspondence from the plaintiff as a *Motion to Compel*. In addition, it

required the defendant to provide additional argument as to why the plaintiff could not be informed of her own records.

Drs. Delebo, Overman, Hegna & Reich v. Erwin Begay, CV 01-39 *Default Judgment* (HCN Tr. Ct., May 25, 2001). The Court enforced a Jackson County *Judgment* against the defendant's wages.

In the Interest of Minor Child(ren): J.B., Jr., DOB 11/27/95, and A.B., DOB 07/25/94, JV 01-06 and JV 01-07 Minute Order (May 23, 2001) (HCN Tr. Ct., May 25, 2001).

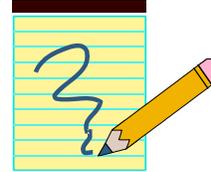
Dawn Burket v. Lawrence J. Hengel; and Washington County Community Services on behalf of Michelle L. Kelly v. Lawrence J. Hengel, CS 99-41 and CS 00-47 *Order* (HCN Tr. Ct., May 29, 2001). The Court recognized that the defendant's current child support obligation had been increased in Case No.: CS 00-47. The Court also established the amount of arrears presently owed by the defendant in that case.

Debra Crowe v. Foster D. Cloud; and State of Wisconsin/Sauk Co. and Dawn E. Potter v. Foster D. Cloud, CV 96-84 and CS 01-12 *Order (Enforcing Child Support)* (HCN Tr. Ct., May 29, 2001). The Court equitably enforced the defendant's two (2) child support obligations through withholding per capita distributions.

Michelle Wood v. Vicki Hindsley, CV 00-86 *Order (Garnishing Wages)* (HCN Tr. Ct., May 29, 2001). The Court garnished the defendant's wages to satisfy the *Order (Default Judgment issued on December 28, 2000)*.

In the Interest of the Minor Child: S.D.B., DOB 07/30/91, by Carol Barnes v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-90 *Order (Accepting Accounting)* (HCN Tr. Ct., May 29, 2001). The Court accepted the accounting from the release of CTF monies.

Colleen Noel Forde v. Rainbow Casino, CV 01-40 *Order (Voluntary Dismissal with Prejudice)* (HCN Tr. Ct., May 30, 2001). The Court dismissed the case in accordance with the parties' *Settlement Agreement and Voluntary Dismissal*.



In the Interest of the Minor Child: D.P.P., DOB 02/26/84, by Jonette Pettibone v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-116 *Order (Accepting Accounting)* (HCN Tr. Ct., May 31, 2001). The Court accepted the accounting from the release of CTF monies.

Joyce St. Cyr v. Robert M. Mobley, DV 01-06 *Order (Granting Petitioner's Request)* (HCN Tr. Ct., May 31, 2001). The Court granted the petitioner's request to postpone the *Hearing* and extend the discovery period so as to allow Dr. Rebecca Ramirez to interview the minor children.

In the Interest of the Minor Child: D.K.M., DOB 06/07/89, by Neil McAndrew v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-45 *Order (Granting CTF Monies for Orthodontics for the Child's Teeth)* (HCN Tr. Ct., May 31, 2001). The Court granted the release of CTF monies for orthodontics.

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislature Member Elliot Garvin, Gerald Cleveland, Myrna Thompson, Isaac Greyhair, Dallas White Wing, Kevin Greengrass, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Board, CV 00-104 *Order (Show Cause)* (HCN Tr. Ct., May 31, 2001). The Court required Attorney John Swimmer to appear and show cause why he should not be held in contempt for his willful

or negligent conduct with regards to the posting of a notice within the *HocOk Worak*.

Recent Filings

Ho-Chunk Nation Supreme Court:

Chloris Lowe, Jr. and Stewart J. Miller v. Ho-Chunk Nation Legislative Members, et al; and the Ho-Chunk Nation Election Board, SU 01-05 *Order Acknowledging Preservation of Appeal Rights* (HCN S. Ct., May 4, 2001). The Court acknowledged and preserved the appellant's right to appeal the Trial Court's March 30, 2001 *Order* at the time that a final appeal was sought.

Bonnie Smith v. Ho-Chunk Nation Gaming Commission, SU 01-02 *Decision* (HCN S. Ct., May 11, 2001). On February 14, 2001, the Trial Court ruled that the case would proceed in accordance with the *Ho-Chunk Nation Rules of Civil Procedure*, instead of the procedures found within the AMENDED AND RESTATED GAMING ORDINANCE. The Court affirmed the February 14, 2001 *Order* as to form, and noted that the CONSTITUTION gave the Supreme Court the power to establish written rules for the Judiciary.

Joan Marie Whitewater, et. al v. Ho-Chunk Nation Enrollment Office and Ho-Chunk Nation Legislature, SU 01-06 *Scheduling Order* (HCN S. Ct., May 15, 2001).

Joan Marie Whitewater, et al v. Ho-Chunk Nation Enrollment Office and Ho-Chunk Nation Legislature, SU 01-06 *Order Granting Recusal* (HCN S. Ct., May 26, 2001). The Court granted the Appellant's *Motion for Recusal* to recuse Associate Justice Greengrass based upon her letter of disclosure.



Ho-Chunk Nation Trial Court:

Ho-Chunk Nation Housing Authority v. Thomas Tourtillout, CV 01-53, filed on May 2, 2001.

HocOk Federal Credit Union v. Virginia Littlegeorge, CV 01-54, filed on May 4, 2001.

HocOk Federal Credit Union v. Michelle R. Decora, CV 01-55, filed on May 4, 2001.

Donna Kowalkowski v. Ho-Chunk Nation, Ho-Chunk Nation Education Department, Ho-Chunk Nation Headstart Program, Diana Goree, Maria WhiteEagle, and Sybil Winneshiek, CV 01-56, filed on May 4, 2001.

Liana Desire'e Bush v. Ho-Chunk Nation Office of Tribal Enrollment and Ho-Chunk Nation Legislature, CV 01-58, filed on May 10, 2001.

Jessie Ann Rugg, Lori Ann Parker, Sheryl Ann Cook, Betty Jean Gerke, Davie Allen Hanson, Elmer Leroy, Timothy Wayne Hanson, and Debra K. Bundy v. Ho-Chunk Nation Office of Tribal Enrollment and Ho-Chunk Nation Legislature, CV 01-59, filed on May 11, 2001.

John Smith v. Ho-Chunk Nation Housing Authority, CV 01-60, filed on May 14, 2001.

Laura LaMere v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-61, filed on May 15, 2001.

Nancy L. Johnston v. Ho-Chunk Nation Office of Tribal Enrollment and Ho-Chunk Nation Legislature, CV 01-62, filed on May 17, 2001.

Kenda Tarr v. Anthony Mullen, CS 01-14, filed on May 18, 2001.

Leah Cornelius v. Randal Cloud, CS 01-13, filed on May 21, 2001.

The Baraboo National Bank & Trust Co. v. Charles & Janelle Hopinkah, CV 01-63, filed on May 23, 2001.

Pine County, MN v. Sherry D. Carlson, CS 01-15, filed on May 31, 2001.

Ho-Chunk Nation Supreme Court:

Joan Marie Whitewater, Dean Allen Whitewater, Kathleen Lynn Whitewater, Kenneth Lee Whitewater, Barbara Ann Engen, Vicki Lee Johnson, Tina Marie Danielski, Gerald Ray Whitewater, and Larry Edward Whitewater v. Ho-Chunk Nation Office of Tribal Enrollment and Ho-Chunk Nation Legislature, SU 01-06, filed on May 3, 2001.



Notice

*Guardian ad litem*s and attorneys appointed by the Ho-Chunk Nation Trial Court are reminded to turn in their requests for payment as soon as possible so that they can be paid out of this fiscal year.

In the United States Supreme Court

The United States Supreme Court recently issued two decisions of interest to Indian law practitioners. The first, *C & L Enterprises, Inc. v. Citizen Band Potawatomi Indian Tribe of Oklahoma*, No. 00-292, was decided on April 30, 2001. In this case the Tribe had entered into a contract with C & L Enterprises. Within the contract, the parties agreed to arbitrate disputes arising from the contract, to the governance of Oklahoma law,

and to the enforcement of arbitral awards “in any courts having jurisdiction thereof.” The Tribe argued that this did not waive its sovereign immunity. The Court of Civil Appeals of Oklahoma had concluded that the Tribe had not waived its sovereign immunity.

The Supreme Court reversed and remanded to the appellate court. It held that the arbitration clause clearly made the Tribe susceptible to suit in Oklahoma state court to enforce an arbitral award. Not only had the Tribe consented to binding arbitration, but it had agreed that Oklahoma law would govern any disputes arising from the contract. In addition, Oklahoma had adopted the Uniform Arbitration Act which conferred jurisdiction on the Oklahoma District Court to enforce an arbitral award.

The second, *Atkinson Trading Co., Inc. v. Shirley et al.*, No. 00-454, was decided on May 29, 2001. The case concerned whether the Navajo Nation could impose a hotel occupancy tax upon a nonmember’s hotel located on non-Indian fee land within the Navajo reservation. The Tenth Circuit Court of Appeals had concluded that the tax fell within the first *Montana* exception.

The Supreme Court reversed the Tenth Circuit Court of Appeals. It held that the Navajo Nation lacked the authority to impose a tax upon non-Indian owned fee land. Moreover, as the hotel and its guests had not entered into a consensual agreement with the Navajo Nation, *Montana*’s first exception did not apply. The Court determined that *Montana*’s second exception did not apply as the Navajo Nation’s political integrity, economic security, or health or welfare were in no way implicated by a non-member’s operation of a hotel on non-Indian owned fee land.