

Ho-Chunk Nation Court Bulletin

Volume 7, Number 7

July 2001

Trial Court Issues Decision in Per Capita Distribution Case

On June 22, 2001, the Trial Court, the Honorable Mark Butterfield presiding, issued a *Judgment in Ho-Chunk Nation Legislature v. Ho-Chunk Nation General Council, Robert Funmaker, Jr., as Presiding Officer of the October 21, 2000 General Council, and Darcy Funmaker-Rave, as Secretary of the October 21, 2000 General Council*. At issue in this case was the constitutionality of GENERAL COUNCIL RESOLUTION 10-21-00D, which was intended to raise per capita payments to \$1,000.00 per member per month. The Legislature alleged that this action by the General Council usurped the Legislature's appropriation power. The General Council alleged that there was no applicable waiver of sovereign immunity. In addition, the General Council argued that there was no case or controversy as required by the CONSTITUTION as the Legislature had not determined whether to increase per capita pursuant to the General Council resolution.

(continued page 2, column 1)

Court News

- The Ho-Chunk Nation Supreme Court will meet 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 were due on or before July 1, 2001.
- Due to budget cuts, Dennis Funmaker has transferred from his position at the Executive Complex into the Administrator of the Office of Public Advocacy position, displacing the recently hired Rhonda Houle. Ms. Houle did a wonderful job of getting the office back into running order. The Court wishes her well in her future endeavors.



Notice to GALs

As some of you may be aware, the Court's budget took a major hit and was cut in real terms nearly \$100,000 for the upcoming fiscal year. This will greatly affect the flexibility of the Court to fulfill its mission. In an attempt to reduce overall expenditures the Court will now require that all GALs file time billing reports. The Court is doing this to potentially reduce its payments which are paid out in Children's cases. In prior years (continued page 2, column 2)

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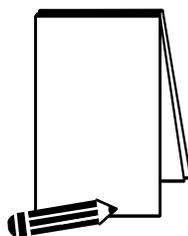
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Per Capita Case Decided (continued)

The Court determined that as to the General Council itself, there is no applicable waiver of sovereign immunity. As to the presiding officials, no waiver of sovereign immunity was required as the suit sought non-monetary relief and named the presiding officials. The Court noted that not only had the rationale of *Ex Parte Young*, 209 U.S. 123 (1908), been explicitly adopted by the Court in previous cases, the CONSTITUTION itself, in ARTICLE XII, adopted that same rationale. Prior precedent had allowed individuals to test the constitutionality of actions of the General Council through naming the presiding officers as defendants, and the Court declined to overrule that precedent.

The Court then turned to GENERAL COUNCIL RESOLUTION 10-21-00D. The Court held that at present, there was no case or controversy, as the case was not ripe. The case was not ripe for review because the Legislature had not taken any action. For the case to be ripe for review, the Legislature must first determine whether or not to implement GENERAL COUNCIL RESOLUTION 10-21-00D. In addition, the Court can offer no remedy with the present defendants. They have completed their tasks from the General Council of October 21, 2000. They themselves will take no action in the implementation (or not) of GENERAL COUNCIL RESOLUTION 10-21-00D. Once the Legislature makes a decision, then a member adversely affected by that decision could potentially file suit.

The parties have thirty (30) days from the date of the decision to file an *Appeal* with the Ho-Chunk Nation Supreme Court.



Notice to GALs (continued)

the Court often allowed GALs to apply for the full fee (\$250) without requiring time records. From now on, the Court shall require that the GAL list the actual hours they spend on each case, for example,

- Reading and familiarize self with file . . . 1 hour
- Interviewing children 2 hours
- Travel to Court for hearing ½ hour
- Court hearing on renewal of
 - Disposition 1 hour
 - Return home ½ hour
 - Writing Report for Court hearing . . . 1 ½ hours
 - Telephone call with CFS case worker . ¼ hour
 - Telephone call with DOJ prosecutor . ¼ hour
 - Reviewing school records and
 - speaking with teacher 1 hour
 - Reviewing medical and dental
 - records 1 ½ hours
 - Interviewing counselor ½ hour
 - Telephone call with AODA counselor . ½ hour
 - Total 10 ½ hours

10 ½ hours @ 20 per hour \$210

For attorney GALs the Court expects billing to be at a rate of \$40 per hour up to the cap with any excess hours credited towards the Ho-Chunk Nation Bar members' pro bono requirement of 10 hours per year. The Court realizes that the few attorney GALs will still bill at well under their normal rate and will likely still be shorted based on the actual amount of time they spend on a case. The Court shall require that all attorney GALs bill in increments of 1/10th of hours and non-attorney GALs to bill in increments of ¼ hour. In cases involving multiple children the Court will still permit stacking of fees per case but only up to the limit. Thus, if the non-attorney works only 40 actual hours on a complicated case, but there are 5 children, they will be entitled to a payment of \$800 *not* \$1250.

(continued on page 3, column 1)

Notice to GALs (continued)

All Guardian ad litem are also entitled to reimbursement of actual costs incurred in attending to their duties over and above their fee, which is capped at \$250. For example:

Long Distance telephone calls	\$8.50
Fax charges 10 pages @ \$.50	\$5.00
Mileage 100 miles @ \$.325	\$32.50
Rental Computer @ copy center \$5 per hour x 2 hours	\$10.00
Total Expenses	\$56.00
Total Fee (from page 2)	\$210.00
Total Bill	\$266.00

The Court is aware that this requirement is burdensome but it will also potentially allow the Court to continue to engage GALs over the long run. For the first year since its inception the Court exceeded the line item which it uses to pay GALs. Many GALs filed their request for reimbursement very late and without itemization. The Court reminds GALs to promptly submit bills in the fiscal year they are incurred, i.e., July 1 to June 30, so that payments can be credited properly. *Failure to request payment over one month into the new fiscal year for services rendered in prior fiscal years will result in a denial of the payment.*

These new requirements are effective July 1, 2001. Please call the Clerk of Court if you have any further questions on this matter.



Recent Decisions

Ho-Chunk Nation Trial Court:

HocOk Federal Credit Union v. Debra Crowe and Forest Blackdeer, CV 97-142 Order

Requiring Status Hearing) (HCN Tr. Ct., June 1, 2001). As the plaintiff failed to file the previously ordered *Status Report* on the status of the debt, the Court decided to hold a *Status Hearing* so as to obtain the necessary information.

Karen Raines v. Ho-Chunk Nation, CV 99-32 Order (Final Judgment) (HCN Tr. Ct., June 1, 2001). The Court held that at the time of the plaintiff's compensable injury, her employer was Four Winds, not the Ho-Chunk Nation. The plaintiff's injury was caused by the Interim Director of Four Winds, after Four Winds was in existence. The plaintiff therefore cannot sue the Nation for an injury that occurred at Four Winds, a LLC that may "sue and be sued" in its own name.

In re: Shamus Daniel Layman, by Paul Layman v. Ho-Chunk Nation Enrollment Department, CV 98-41 Order (Show Cause) (HCN Tr. Ct., June 1, 2001). The Court notified the parties that it intended to convene a *Show Cause Hearing* to determine whether the petitioner ought to be held in contempt of court for the failure to provide an accounting from a CTF release.

Cindy Gilbertson v. Ho-Chunk Nation Insurance Review Commission, Ho-Chunk Nation, and Four Winds Insurance Agency, LLC, CV 00-112 Order to Amend Scheduling Order (HCN Tr. Ct., June 1, 2001). The Court amended the *Scheduling Order* in accordance with the parties' agreement.

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 (Demanding Accounting) (HCN Tr. Ct., June 1, 2001). The Court required the plaintiff to file the previously required accounting from the release of ITF monies.

In the Interest of the Minor Child: K.B., DOB 06/06/98, by Shawn Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-36

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).



Order (Granting CTF Monies for Orthodontics for the Child's Teeth) (HCN Tr. Ct., June 1, 2001). The Court granted the release of CTF monies for orthodontics upon the submission of an explanation of the need for such orthodontic work by the dentist.

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 *Order (Granting Stay)* (HCN Tr. Ct., June 1, 2001). The Court stayed the case until the Supreme Court issues a decision in *Joan Marie Whitewater, et al. v. Ho-Chunk Nation Office of Tribal Enrollment and Ho-Chunk Nation Legislature*. The decision in the *Whitewater* case would likely control the outcome in this case.

Liana Desire'e Bush v. Ho-Chunk Nation Office of Tribal Enrollment and Ho-Chunk Nation Legislature, CV 01-58 *Order (Granting Stay)* (HCN Tr. Ct., June 1, 2001). The Court stayed the case until the Supreme Court issues a decision in *Joan Marie Whitewater, et al. v. Ho-Chunk Nation Office of Tribal Enrollment and Ho-Chunk Nation Legislature*. The decision in the *Whitewater* case would likely control the outcome in this case.

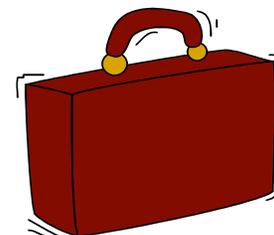
Nancy Lynn (Whitewater) Johnston v. Ho-Chunk Nation Office of Tribal Enrollment and Ho-Chunk Nation Legislature, CV 01-62 *Order (Granting Stay)* (HCN Tr. Ct., June 1, 2001). The Court stayed the case until the Supreme Court issues a decision in *Joan Marie Whitewater, et al. v. Ho-Chunk Nation Office of Tribal Enrollment and Ho-Chunk Nation Legislature*. The decision in the *Whitewater* case would likely control the outcome in this case.

Donna Kowalkowski v. Ho-Chunk Nation Education Department, HCN Headstart Program, Diana Goree, Maria WhiteEagle

and Sybil Winneshiek, CV 01-56 *Order (Motion Hearing)* (HCN Tr. Ct., June 1, 2001). The Court decided to convene a *Motion Hearing* so as to allow one of the defendants to argue her *Motion to Dismiss*.

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, JV 00-05, and JV 00-06 *Order (Six-Month Review Hearing)* (HCN Tr. Ct., June 1, 2001).

Chloris A Lowe, Jr. and Stewart Miller v. Ho-Chunk Nation Legislative Members, Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson, Isaac Greyhair, Dallas WhiteWing, Kevin Greengrass, and Clarence Pettibone, in their official capacity and individually, and the Ho-Chunk Nation Election Board, CV 00-104 *Order (Granting Postponement)* (HCN Tr. Ct., June 5, 2001). The Court granted the requested postponement as the alleged contemnor had pre-approved leave.



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 (Discontinuing Supervision)* (HCN Tr. Ct., June 5, 2001).

In the Interest of Minor Child: L.J.R., DOB 02/17/90, JV 01-05 *Order (Appointment of Temporary Guardian of the Person)* (HCN Tr. Ct., June 7, 2001).

Ho-Chunk Nation Housing Authority v. Junetta Hazel Beighley, CV 00-13 *Order (Dismissal)* (HCN Tr. Ct., June 8, 2001). The Court dismissed the case as the defendant had passed away.

Hoc-Chunk Federal Credit Union v. Virginia Littlegeorge, CV 01-54 Order (HCN Tr. Ct., June 8, 2001). The Court declined to repossess a vehicle absent a hearing. The Court noted that this debt was collectable through the presentation of the signed agreement to the Ho-Chunk Nation Department of Treasury, not through a Court action.

In the Interest of Adult Incompetent: Roberta Goodbear, by Shirley Sahr, Guardian, CV 96-49 Order (Accepting Accounting). The Court accepted the accounting filed by the guardian from the previous ITF release.

In the Matter of the Minor Children: D.J.D., DOB 04/04/92, and N.L.D., DOB 10/03/93, JV 97-11 and JV 97-12 Order (Granting Telephonic Appearance) (HCN Tr. Ct., June 8, 2001).



Ho-Chunk Nation Housing Authority v. Theodore Yellowcloud, CV 99-94 Order (Satisfaction of Judgment) (HCN Tr. Ct., June 11, 2001). The Court recognized that the defendant had paid the judgment in full.

Regina K. Baldwin v. Ho-Chunk Nation; Andrea Estebo v. Ho-Chunk Nation Home Ownership Program, Steve Davis, as Real Estate Manager, and Alvin Cloud, as Housing Director, and Carol J. Humphrey v. Ho-Chunk Nation, Alvin Cloud as Housing Director, and Bob Pulley, as Property Manager, CV 01-16, CV 01-19, and CV 01-21 Order for Release of Accumulated Annual Leave Monies (HCN Tr. Ct., June 12, 2001). In accordance with the

parties' Stipulation, the Court ordered the defendants to pay the plaintiffs for their annual leave accumulated prior to their termination.

Leah Kasanaha Cornelius v. Randal Cloud, CS 01-13 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., June 12, 2001). The Court enforced the defendant's current child support obligation against his per capita distributions.

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 (Child Protection Review Hearing) (HCN Tr. Ct., June 12, 2001).

Ho-Chunk Nation Housing Authority v. Robin LaMere and Rueben Rave, CV 00-17 Order (Partial Satisfaction of Judgment) (HCN Tr. Ct., June 12, 2001). The Court recognized that defendant Robin LaMere had paid her judgment in full.

In the Interest of Minor Child(ren): N.J.O., DOB 02/19/84, JV 00-16 Order (Child Protection Review Hearing) (HCN Tr. Ct., June 12, 2001).

Barbara Coyhis v. Mary Webster and Rainbow Casino, CV 98-32 Notice (Intent to Close) (HCN Tr. Ct., June 12, 2001). The Court notified the parties that, absent an objection, the Court will close the file in thirty (30) days due to inactivity.

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 Termination of Order (HCN Tr. Ct., June 12, 2001).

Regina K. Baldwin v. Ho-Chunk Nation; Andrea Estebo v. Ho-Chunk Nation Home Ownership Program, Steve Davis, as Real Estate Manager, and Alvin Cloud, as Housing Director, and Carol J. Humphrey v. Ho-Chunk Nation, Alvin Cloud as Housing Director, and

Bob Pulley, as Property Manager, CV 01-16, CV 01-19, and CV 01-21 Order (Granting Motion to Amend the Scheduling Order) (HCN Tr. Ct., June 12, 2001). The Court amended the *Scheduling Order* in accordance with the parties' agreement.

The Baraboo National Bank and Trust Co. v. Charles and Janelle Hopinkah, CV 01-63 Order (Denial of Relief Requested) (HCN Tr. Ct., June 13, 2001). The Court held that it could not withhold the defendants' per capita distributions to repay the loan with the bank as the debt does not fall within Section 103 of the CLAIMS AGAINST PER CAPITA ORDINANCE.

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 (HCN Tr. Ct., June 14, 2001). The Court required the plaintiff to reschedule the postponed *Fact-Finding Hearing* by a certain date or the case would be dismissed with prejudice.

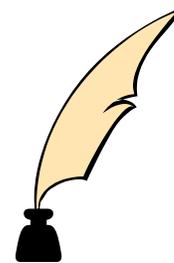
F. William Johnson v. Ho-Chunk Nation, CV 01-15 Order (Granting Motion to Amend Scheduling Order) (HCN Tr. Ct., June 14, 2001). The Court amended the *Scheduling Order* for good cause shown.

Kathy A. Stacy v. Clarence Pettibone and Wade Blackdeer, CV 01-13 Order (Granting Motion to Amend Scheduling Order) (HCN Tr. Ct., June 18, 2001). The Court amended the *Scheduling Order* for good cause shown.

In the Interest of Adult Incompetent: M.B.J., DOB 12/01/65, by Dollie Big John v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-83 Order (Accepting Accounting) (HCN Tr. Ct., June 19, 2001). The Court accepted the accounting filed by the plaintiff from the previous release of ITF monies.

In the Matter of the Minor Child: S.R.G., DOB 09/20/83, JV 99-14 Order (Requiring Report) (HCN Tr. Ct., June 20, 2001).

Ho-Chunk Nation v. B & K Builders, Inc. and Ruka & Associates, CV 00-91 Order (Lack of Subject Matter Jurisdiction) (HCN Tr. Ct., June 20, 2001). The Court held that the plaintiff failed to establish that either contract had been properly signed. The contract with Ruka & Associates had been signed by Chairperson JoAnn Jones and Treasurer Pamela M. Matter without a proper delegation of signature authority, either by ordinance or resolution, from the Wisconsin Winnebago Business Committee as required by the WISCONSIN WINNEBAGO CONSTITUTION. The contract with B & K Builders was signed by Vice President Wilfred Cleveland without a proper delegation of signature authority by the Ho-Chunk Nation Legislature in accordance with the HO-CHUNK NATION CONSTITUTION. As neither contract was properly entered into, the contracts were not binding, leaving the Court without substantive law to apply to the case. Therefore, the Court lacked subject matter jurisdiction over the case.



Ho-Chunk Nation Housing Authority v. Thomas Tourtillout, CV 01-53 Judgment (HCN Tr. Ct., June 22, 2001). The Court issued a *Judgment* against the defendant for damages done to the rental unit.

In re: Contempt of the Ho-Chunk Nation Department of Justice, CV 00-104A Order (Re: Contempt) (HCN Tr. Ct., June 22, 2001). The Court, the Hon. Mark Butterfield presiding, found the Ho-Chunk Nation Department of Justice in contempt of court for

the failure to include the consequences of the redistricting and reapportionment case within the legal notice that appeared in the May 23, 2001 edition of the *HocOk Worak*, in violation of the May 4, 2001 *Order* issued by the Hon. Todd R. Matha.

Ho-Chunk Nation Legislature v. Ho-Chunk Nation General Council, Robert Funmaker, Jr., as Presiding Officer of the October 21, 2000 General Council, and Darcy Funmaker-Rave, as Secretary of the October 21, 2000 General Council, CV 01-11 *Judgment* (HCN Tr. Ct., June 22, 2001). The Court dismissed the case for lack of jurisdiction as the case is not ripe until the Legislature makes a determination of whether or not it will implement GENERAL COUNCIL RESOLUTION 10-21-00D. For additional information, see the article on pages 1 and 2.

In the Interest of the Minor Child: K.B., DOB 06/06/89, by Shawn Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-36 *Order (Releasing Per Capita)* (HCN Tr. Ct., June 25, 2001). The Court released the CTF monies for orthodontics as the dentist explained the need for the orthodontic work.

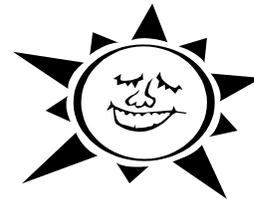
In the Interest of Minor Children: J.E.D., DOB 04/15/93, and S.J.D., DOB 01/03/95, by Rochelle Decorah v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-66 *Order (Dismissal With Prejudice)* (HCN Tr. Ct., June 25, 2001). The Court dismissed the case as the plaintiff failed to appear for a *Fact-Finding Hearing* for which she had proper notice.

HocOk Federal Credit Union v. Michelle R. Decorah, CV 01-55 *Order* (HCN Tr. Ct., June 25, 2001). The Court noted that this debt was collectable through the presentation of the signed agreement to the Ho-Chunk Nation Department of Treasury, not through a Court action.

In the Interest of: Harold Jones Funmaker, by Carol Naquayouma v. Ho-Chunk Nation,

CV 96-41 *Notice (Intent to Close)* (HCN Tr. Ct., June 27, 2001). The Court notified the parties that, absent an objection, the Court will close the file in thirty (30) days due to inactivity.

Aleksandra Cichowski v. Ho-Chunk Nation Hotel and Convention Center, CV 01-25 *Order (Hearing)* (HCN Tr. Ct., June 27, 2001). The Court informed the parties that it would convene a *Hearing* so as to deal with the numerous discovery issues in the case.



In the Interest of Minor Child: N.J.O., DOB 02/19/84, by Ho-Chunk Nation Child and Family Services v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-115 *Order (Accepting Accounting)* (HCN Tr. Ct., June 28, 2001). The Court accepted the accounting filed by the plaintiff from the previous release of CTF monies.

Erica J. Riffle v. DeJope Bingo/Bonnie Smith, CV 01-47 *Order (Dismissal With Prejudice)* (HCN Tr. Ct., June 28, 2001). The Court dismissed the case as the plaintiff failed to reschedule the *Scheduling Conference* as previously instructed.

Ho-Chunk Nation Housing Authority v. William Kemp, Sr., CV 00-30 *Order* (HCN Tr. Ct., June 28, 2001). The Court entered an order to prohibit the Ho-Chunk Nation Department of Treasury from giving the defendant a loan that would interfere with his ability to have money withheld pursuant to the parties' *Stipulation* in this case.

Vicki Houghton n/k/a Vickie Greendeer v. John Houghton; Rachel Winneshiek v. John Houghton; and Leslie Soulier v. John

Houghton, CV 96-58, CS 99-29, and CS 99-58 *Order (Amending Child Support Enforcement)* (HCN Tr. Ct., June 28, 2001). The Court equitably adjusted the enforcement of current child support obligations against the defendant's per capita distributions pursuant to the current formula utilized by the Court.

Vickie Houghton n/k/a Vickie Greendeer v. John Houghton, CV 96-58 *Order (Requiring Proof of Continued Enrollment)* (HCN Tr. Ct., June 28, 2001). The Court required the parties to file continuing proof of enrollment in high school or its equivalent.

Anita Bolander v. Darrell L. Sena, Jr., CS 01-06 *Order (Establishing Arrearage and Releasing Impound)* (HCN Tr. Ct., June 29, 2001). The Court established the child support arrearage owed by the respondent.

Kenda Tarr v. Anthony Mullen, CS 01-14 *Order (Extension)* (HCN Tr. Ct., June 29, 2001). The Court granted the respondent's request for an extension to file an *Answer*.

In the Interest of Minor Child: J.J.C., DOB 09/09/86, JV 01-12 *Order for Emergency Temporary Custody* (HCN Tr. Ct., June 29, 2001).

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 (Show Cause)* (HCN Tr. Ct., June 29, 2001).



Ho-Chunk Nation Supreme Court:

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., June 2, 2001). The Court granted the Appellant's *Motion* to recuse Chief Justice Mary Jo B. Hunter.

Bonnie Smith v. Ho-Chunk Nation Gaming Commission, SU 01-02 *Order Denying Motion to Reconsider* (HCN S. Ct., June 15, 2001). The Court stressed that the May 11, 2001 *Decision* was an affirmation of the Trial Court's February 14, 2001 *Order* in CV 01-12, not a denial of the interlocutory appeal. The Court denied the appellant's *Motion for Reconsideration*.

Recent Filings

Ho-Chunk Nation Trial Court:

Ho-Chunk Nation Housing Authority v. Betty Jo White, CV 01-65, filed on June 1, 2001.

Michelle M. McDermott v. Chester A. Mallory, CS 01-16, filed on June 4, 2001.

Ho-Chunk Nation Department of Labor v. Pearl Lou Lightstorming, CV 01-67, filed on June 5, 2001.

State of Wisconsin/Karen Lipski v. Casey Fitzpatrick, CS 01-17, filed on June 5, 2001.

Ho-Chunk Nation, Division of Child and Family Services v. Orvilla Rae WhiteEagle, CV 01-68, filed on June 8, 2001.

Gary A. Ziehr v. Ho-Chunk Nation Gaming Commission, CV 01-69, filed on June 11, 2001.

Charles Youngthunder v. Majestic Pines Casino Security Department, CV 01-70, filed on June 18, 2001.

In the Interest of Renee D. Blackdeer by Marian E. Blackdeer v. Ho-Chunk Nation

Office of Tribal Enrollment, CV 01-71, filed on June 20, 2001.

Sandra S. Winneshiek v. William B. Collins, CV 01-72, filed on June 25, 2001.

Marissa L. Youngthunder v. Michael B. Youngthunder, CS 01-18, filed on June 25, 2001.

Angelina Regalia v. Roger Lee Houghton, Jr., CS 01-19, filed on June 26, 2001.

In the Interest of the Minor Child: N.K.M., DOB 08/13/90 by Angela Cox v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-73, filed on June 28, 2001.

Susan Weber v. Jesse L. Johnson, CS 01-20, filed on June 28, 2001.

Ho-Chunk Nation Supreme Court:

No recent filings were completed in June.



In the United States Supreme Court

Idaho v. United States et al.

On June 18, 2001, the United States Supreme Court issued a decision in *Idaho v. United States et al*, No. 00189. At issue in this case was the ownership of the submerged lands under Lake Coeur d'Alene and the St. Joe River that lie within the boundaries of the Coeur d'Alene reservation. The United States, as trustee, had filed suit on behalf of the Coeur d'Alene, alleging that the submerged lands were held in trust by the

United States for the Coeur d'Alene. The State of Idaho argued that upon its admission to the United States, the submerged lands became part of Idaho, as those lands had been held in trust by the United States for future states. In its 5-4 decision, the Supreme Court held that the submerged lands were held in trust by the United States for the Coeur d'Alene.

At issue here was the alleged transfer of ownership to submerged lands prior to Idaho's statehood. Therefore, the Court applied the two-part test found in *United States v. Alaska*, 521 U.S. 1 (1997), first looking to the intent when the reservation was created, and then looking to whether that intent was sufficient to defeat the strong presumption of state ownership to the lands under navigable waters. The Court found that when the reservation was created by the Executive Branch, or at a minimum, by 1888, it was understood by that branch to include the submerged lands. In addition, each time Congress wished to alter the boundaries of that 1873 reservation, Congress required the tribes' consent to each new cession in an effort to avoid hostilities with the tribe that had earlier indicated its willingness to fight. At no time did the Coeur d'Alene, who requested that their reservation allow them to continue to hunt and fish as they were not yet ready to farm, consent to the cession of the submerged lands. The Court found this understanding of the Executive Branch, as ratified by the acts of Congress, established a clear intent to include the submerged lands at issue within the Coeur d'Alene reservation as well as the intent to defeat Idaho's title to those submerged lands.

Chief Justice Rehnquist, joined by Justices Scalia, Kennedy, and Thomas, penned a strong dissent in this case. The dissent argued that the existence of the intent on the part of the Executive Branch is not enough to defeat an incoming State's title to submerged lands, and that to decide

otherwise is contrary to the past 150 years of Supreme Court decisions.

Nevada et al. v. Floyd Hicks et al.

On June 25, 2001, the United States Supreme Court issued a decision in *Nevada et al. v. Floyd Hicks et al.*, No. 991994. The underlying issue in this case was the claim made by Hicks, a Fallon Paiute-Shoshone tribal member, for damages to personal property seized by Nevada game wardens, allegedly in violation of the search warrant. The search warrant had been issued by the Nevada state court, and approved by the Fallon Paiute-Shoshone Tribal Court, to investigate an alleged off-reservation crime.

Hicks filed this action pursuant to 42 U.S.C. § 1983 in the Fallon Paiute-Shoshone Tribal Court. The tribal court, later affirmed by the tribal appeals court, held that it had jurisdiction over the case. Nevada argued that the Fallon Paiute-Shoshone Tribal Court lacked jurisdiction over this federal cause of action, and filed a declaratory action in the District Court. The District Court, later affirmed by the Ninth Circuit Court of Appeals, ruled against Nevada on the issue of jurisdiction, and held that the state officials would have to exhaust their claims of qualified immunity in the tribal court. The Ninth Circuit Court of Appeals found the fact that Hicks's home is within the reservation to support tribal court jurisdiction. It is this jurisdictional issue that was on appeal to the



Supreme Court.

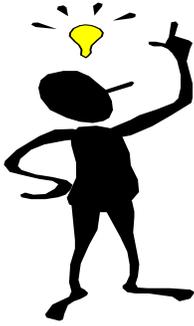
The Court first examined whether the tribe had regulatory jurisdiction over state game wardens executing a warrant for an off-reservation crime. The Court disagreed with the Ninth Circuit Court of Appeals, finding that while the ownership of the land is a factor to consider in making this decision, it is not conclusive. The Court held that the tribe's sovereignty and interests were not implicated in this state action to investigate an off-reservation crime, and that therefore the tribe lacked regulatory jurisdiction over the state game wardens.

The Court then turned to whether the Fallon Paiute-Shoshone Tribal Court had jurisdiction over a cause of action filed pursuant to 42 U.S.C. § 1983. The Court acknowledged that state courts of general jurisdiction have jurisdiction over such claims. The Court found that the contention that tribal courts are also courts of general jurisdiction to be quite wrong. The Court determined that tribal court jurisdiction over non-members is, at a maximum, that jurisdiction that Congress has allowed it to exercise.

In addition, the Court held that Nevada was not required to exhaust their jurisdictional claims in tribal court pursuant to *National Farmers Union Insurance Company v. Crow Tribe*, 471 U.S. 845 (1985). *National Farmers Union* had recognized that there are limitations to this exhaustion requirement, and this case clearly falls within those exceptions. As the tribal court lacks jurisdiction to entertain a cause of action pursuant to 42 U.S.C. § 1983, requiring exhaustion would only delay the proceeding, so exhaustion is not necessary.

There were no dissents in this case. Many concurrences were issued, including the concurrence (concurring in part and concurring in the judgment) issued by Justice O'Connor, with whom Justices Stevens and Breyer joined. Justice O'Connor disagreed with the majority's assertion that the

regulation of state game wardens investigating off-reservation crimes does not implicate tribal self-government or internal relations. The Court's prior decisions understood that authority over tribal lands is shared by the tribal, federal, and state governments. The requirement that tribes accommodate other sovereigns does not amount to a lack of tribal interest altogether.



Practice Tips

Subject-Matter Jurisdiction

The CONSTITUTION grants the Ho-Chunk Nation Judiciary the authority to hear "all cases and controversies, both criminal and civil, in law or in equity, arising under the Constitution, laws, [or] customs and traditions of the Ho-Chunk Nation." See CONSTITUTION, ART. VII, Sec. 5(a). Both the Trial Court and the Supreme Court have had the opportunity to interpret this clause of the CONSTITUTION.

In *Ho-Chunk Nation v. Harry Steindorf and Jess Steindorf*, Case No.: CV 99-82, the Trial Court faced a subject-matter jurisdiction issue. In that case, the Nation sought reimbursement for funds allegedly embezzled from Ho-Chunk Nation-owned DJ Hosts, Inc. DJ Hosts, Inc., had been chartered under Wisconsin law. The defendants questioned the authority of the Ho-Chunk Nation Trial Court to hear the dispute. The Nation had based jurisdiction on the fact that DJ Hosts, Inc. was located on trust land (territory of the Nation) and the fact that the defendants were

members of the Nation (personal jurisdiction). In its February 11, 2000 *Order (Granting Motion to Dismiss)*, the Court determined that it lacked subject-matter jurisdiction over the case. The Nation did not argue that the case arose under the CONSTITUTION. It necessarily did not arise under the laws of the Nation as DJ Hosts, Inc. was chartered under Wisconsin law. The Nation did not argue that the case arose under customs and traditions.

On September 29, 2000, the Ho-Chunk Nation Supreme Court issued a *Decision* in this case (Case No.: SU 00-04) affirming the Trial Court's ruling. The Supreme Court agreed that a territorial component coupled with personal jurisdiction does not grant the Court subject-matter jurisdiction over a case. Each case before the Ho-Chunk Nation Trial Court must "arise under the Constitution, laws, [or] customs and traditions of the Ho-Chunk Nation."

In practicing before the Ho-Chunk Nation Trial Court, particularly when initiating an action, it is important that subject-matter jurisdiction be researched prior to filing. An attorney or lay advocate should be able to point to a provision in the Constitution, a law enacted by the Legislature, or a particular custom and tradition of the Nation when bringing an action. As the Court must determine, even without an objection from the defendant, whether it has subject-matter jurisdiction over a case, stating this jurisdictional basis within the *Complaint* would allow both the lawyer and the lay advocate to better serve their clients.

Law Day

As you know, Law Day is typically held on the Friday before Labor Day. Mark your calendars - this year, Law Day will be held on Friday, August 31, 2001. Watch the August *Court Bulletin* for more information on Law Day, an excellent opportunity to learn more about the Ho-Chunk Nation Court System.

HO-CHUNK NATION COURT BULLETIN

Inside this Issue

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Minnesota Supreme Court upholds state income tax on per capita money
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Looking for Volunteers
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- 13 HCN Court Fees
Legal Citation Form

Ho-Chunk Nation Court System
W9598 Hwy 54 East
P.O. Box 70
Black River Falls, WI 54615
(715) 284-2722
http://www.ho-chunk.com-Government/dept_court_page.htm

Saying "so long" to old friends

The Ho-Chunk Nation Court System lost two great employees this month. **Katherine Kruger** and **Ray Zakari** will soon be moving on to new places and new faces.

Katherine Kruger has spent the last two years of her life serving the Ho-Chunk Nation Court System as both a summer law clerk while she attended law school at the University of Wisconsin and as the Court's staff attorney and judicial clerk this past year.

Katherine is currently interviewing in the area for a new attorney position. The Court

appreciates her hard work and dedication over these last two years.

Ray Zakari, our Summer Legal Intern has finished his 10 week term with the Court. As there is always the need for an extra legal mind assisting the Court with its busy docket, we are sad to see him go. He offered us this brief letter before he left:

Continued on page 2



Trial Court welcomes new staff attorney

The Ho-Chunk Nation Trial Court welcomes its new staff attorney and judicial clerk, **Anetra Parks**.

Anetra is a recent graduate of the University of Colorado at Boulder. For the past two years, she

has worked for the Native American Rights Fund (NARF) in its Boulder office as a school-year law clerk and in its Anchorage office as a summer intern.

Anetra was the President of the

Native American Law Students Association in Boulder, CO. She is well versed in Indian law and has a strong commitment to Indian law issues. *er*



Saying so long...

Continued from page 1.

Dear Judges and Staff,

Thank you for making me feel so welcome. The past 10 weeks have offered me an insight to this Court and its functions and its efforts to preserve and exercise tribal sovereignty. My experience with the Court exceeded my expectations both socially and intellectually. I feel fortunate to have had the opportunity to work for the Ho-Chunk Nation Court System. Furthermore, this experience has reinforced my desire to practice Indian law after graduation. Thank you for your guidance.

Truly,
Ray Zakari

Ray will spend the next two weeks working as the law clerk for the staff attorneys in the Legislature. He will then return home to Eugene, Oregon, where he will spend his final year of law school as President of NALSA for the Eugene chapter of which he was instrumental in forming.

The Ho-Chunk Nation Trial Court wishes Katherine and Ray all the best in their future endeavors! We were happy to have them both!

Visit our website at

http://www.ho-chunk.com/Government/dept_court_page.htm
to view the Ho-Chunk Nation constitution, rules, & statutes, as well as, this Court's opinions and court bulletins.

Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and broken down by subject matter and date (from oldest to newest).

Trial Court

Accounting Orders

JULY 6, 2001

In the Interest of the Minor Child: P.W.H. DOB: 03/13/84, CV 01-41 Order (Accepting Accounting) (HCN Tr. Ct., July 6, 2001).

JULY 10, 2001

In the Interest of Kathy Brandenburg v. HCN Office of Tribal Enrollment, CV 98-18 Order (Requesting Accounting) (HCN Tr. Ct., July 10, 2001).

Administrative Action – Scope of Authority

JULY 3, 2001

Leslie J. Schmolke v. Ho-Chunk Nation; Ho-Chunk Nation Dept. of Business, CV 01-05 Judgment (HCN Tr. Ct., July 3, 2001). *Held:* An official of the Nation cannot exceed the limits of the law which is the official policy of the Nation in hiring employees. Mistakes in implementing those personnel rules give rise to liability and

damages.

Agency Deference

JULY 2, 2001

Delores Greendeer v. Randall Mann, CV 00-50 Order (Final Judgment) (HCN Tr. Ct., July 2, 2001). While the Court will usually defer to the expertise of the agency in its decision-making capacity, in this instance the Court found that defendant's actions towards plaintiff were arbitrary and capricious and therefore, granted equitable relief.

Bankruptcy

JULY 31, 2001

Ho-Chunk Nation Dept. of Housing and Scholze Ace Home Center, Inc. v. Edward Perry d/b/a Perry Construction, CV 00-92 Order (Retention of Judgment) (HCN Tr. Ct., July 31, 2001).

The Court formally entered a default judgment against defendant. The defendant subsequently filed for Bankruptcy. The Court addressed issues of waiver of sovereign immunity and held that Congress did not unequivocally express waiver of Tribes' sovereign immunity in enacting the Bankruptcy Code. Additionally, the Nation did not expressly waive its sovereign immunity. Therefore, the Court retained the *Default*

Judgment against defendant. [see also **Sovereign Immunity** within this index]

Child Support

JULY 9, 2001

Patricia A. Houghton v. Gabriel D. Funmaker, CS 98-06 *Order (Amending Enforcement)* (HCN Tr. Ct., July 9, 2001).

JULY 10, 2001

Kenda Tarr v. Anthony Mullen, CS 01-14 *Order (Enforcing Child Support)* (HCN Tr. Ct., July 10, 2001). The Court enforced the underlying State child support order against respondent's future per capita distributions to satisfy current child support payments.

JULY 13, 2001

Wendy Rowell Goften v. Tony Ray Evans, CS 00-17 *Order (Suspending Enforcement)* (HCN Tr. Ct., July 13, 2001). As respondent's entire child support obligation is currently being fulfilled through wage withholding, the Court suspends any further withholding from respondent's per capita distributions.

State of Wisconsin/Jackson County v. Casey A. Fitzpatrick, CS 00-50 and *State of Wisconsin/Sauk County & Karen M. Lipski v. Casey A. Fitzpatrick*, CS 01-17 *Order (Enforcing Child Support)* (HCN Tr. Ct., July 13, 2001). The Court enforced two State Court Orders against the respondent's per capita distributions to satisfy both current child support payments and arrearages.

JULY 16, 2001

Roberta Greendeer v. Frederick K. Greendeer, CV 97-02, CV 97-44, CS 98-32, CS 99-75 *Order (Amending Enforcement)* (HCN Tr. Ct., July 16, 2001).

Anthony Salerno v. Estelle R. WhiteWing, CV 97-103 *Order (Suspending Enforcement)* (HCN Tr. Ct., July 16, 2001).

JULY 23, 2001

Marrissa L. Youngthunder v. Michael B. Youngthunder, CS 01-08 *Order (Enforcing Child Support)* (HCN Tr. Ct., July 23, 2001). The Court

enforced an underlying State Order against respondent's per capita distributions to satisfy current child support payments.

JULY 27, 2001

Rena LeMieux v. Kenneth LeMieux, CS 01-02 *Order (Amending Enforcement)* (HCN Tr. Ct., July 27, 2001). The Court enforced an underlying State Order against respondent's future per capita distributions to pay for child support arrears.

Child Trust Fund (CTF) monies

JULY 10, 2001

Marvel J. Cloud v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-34 *Order (Denial of Petition)* (HCN Tr. Ct., July 10, 2001). The Court applies its four-part test to determine if CTF monies should be released: (1) for beneficiary's health, education, or welfare; (2) the benefit must represent a necessity; (3) the parent(s) or guardian(s) must demonstrate financial need; and (4) plaintiff must provide evidence of exhaustion of tribal funds and public entitlement programs. Applying this test, the Court found that plaintiff failed to satisfy wholly any one prong of the four-part test and denied the release of CTF monies for purchase of an automobile.

Civil Cases (All Categories)

JULY 2, 2001

Anthony Salerno v. Estelle R. Whitewing, CV 97-103 *Order (Requiring Proof of Continued Enrollment)* (HCN Tr. Ct., July 2, 2001).

JULY 3, 2001

Ho-Chunk Nation Housing Authority v. Robin LaMere and Rueben Rave, CV 00-17 *Order Vacating Order (Partial Satisfaction of Judgment) and Entering Judgment in Favor of Plaintiff* (HCN Tr. Ct., July 3, 2001).

F. William Johnson v. Ho-Chunk Nation, CV 01-15 *Notice* (HCN Tr. Ct., July 3, 2001).

JULY 5, 2001

Darlene Joyce Denny v. Ruth Ann Denny, CV 01-22 *Judgment* (HCN Tr. Ct., July 5, 2001). [see

also **Contracts – Statute of Frauds, *infra***]

JULY 9, 2001

Cheryl Smith v. Ho-Chunk Nation and Rainbow Casino, CV 98-66, CV 99-04 *Order* (HCN Tr. Ct., July 9, 2001). The Court issued this *Order* to expedite payment of back wages/fees owed to plaintiff by defendants in accordance with the parties' agreement.

JULY 10, 2001

Marvel J. Cloud v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-34 *Order (Denial of Petition)* (HCN Tr. Ct., July 10, 2001). [see also **Agency Deference** within this index]

HCN Dept. of Housing, Property Mgmt. Div. v. Charles C. Brown and Simone I. Brown, CV 99-100 *Order (Requiring Proof of Satisfaction of Judgment)* (HCN Tr. Ct., July 10, 2001).

HCN Dept. of Housing, Property Mgmt. Div. v. Dawn M. Smith DeVerney, CV 00-03 *Order (Requiring Proof of Satisfaction of Judgment)* (HCN Tr. Ct., July 10, 2001).

Ho-Chunk Nation Housing Authority v. Betty Jo White, CV 01-65 *Order (Notice of Trial)* (HCN Tr. Ct., July 10, 2001). The Court shall convene a *Trial* on Thursday, Aug. 23, 2001, at 9 A.M. CST.

Jolene Smith v. Scott Beard as Director of the Dept. of Educ. and Ho-Chunk Nation, CV 96-94 *Order (Awarding and Denying Costs)* (HCN Tr. Ct., July 10, 2001).

JULY 13, 2001

HCN Dept. of Housing, Property Mgmt. Div. v. Charles C. Brown and Simone I. Brown, CV 99-100 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., July 13, 2001).

HCN Dept. of Labor v. Pearl Lou Lightstorming, CV 01-67 *Default Judgment* (HCN Tr. Ct., July 13, 2001).

Ho-Chunk Nation Housing Authority v. Carol Pidgeon, CV 01-18 *Order (Damages)* (HCN Tr. Ct., July 13, 2001).

In the Interest of the Minor Children: T.M.K., DOB 06/06/90; T.M.K. DOB 05/09/87; T.M.K. DOB 08/22/85; T.W.E. DOB 04/09/93, CV 01-37 *Order (Partial Denial of Petition)* (HCN Tr. Ct., July 13, 2001).

Berna Bigthunder v. Ho-Chunk Nation, CV 99-71 *Stipulation and Order (To Continue Deadlines, Postpone Trial and to Appear for Supplemental Hearing)* (HCN Tr. Ct., July 13 2001).

Berna Bigthunder v. Ho-Chunk Nation, CV 99-71 *Supplemental Scheduling Order* (HCN Tr. Ct., July 13 2001).

Bernard Mountain, Jr. and Iris Lyons v. Ho-Chunk Nation Housing Authority, and Bernard Mountain v. Matt Estabo, Joe Estabo, and Wayne Decorah, CV 00-85, CV 01-14 *Order (Dismissal With Prejudice)* (HCN Tr. Ct., July 13 2001).

JULY 16, 2001

Dolores Greendeer v. Randall Mann, CV 00-50 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., July 18, 2001).

David J. Smith v. Majestic Pines Casino and Ho-Chunk Nation, CV 01-50 *Order (Satisfaction of Settlement)* (HCN Tr. Ct., July 16, 2001).

JULY 17, 2001

Laura LaMere v. HCN Office of Tribal Enrollment, CV 01-61 *Order (Petition Denied)* (HCN Tr. Ct., July 17, 2001).

JULY 18, 2001

Libby Fairchild v. Ho-Chunk Nation Legislature, CV 00-55 *Order (Granting Defendant's Motion for Summary Judgment)* (HCN Tr. Ct., July 18, 2001).

Ho-Chunk Nation Housing Authority v. Bernard Mountain, Jr. and Iris Lyons, CV 00-64 *Stipulation and Order* (HCN Tr. Ct., July 18, 2001).

Sandra S. Winneshiek v. William B. Collins, CV 01-72 *Default Judgment* (HCN Tr. Ct., July 18,

2001).

JULY 23, 2001

In the Interest of Minor Child: C.T.L. DOB 01/16/84 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-81 Order (Petition Granted) (HCN Tr. Ct., July 23, 2001).

Marie WhiteEagle v. Ho-Chunk Nation and Ho-Chunk Nation Wisconsin Dells Head Start Program, CV 01-52 Order (Motion Hearing) (HCN Tr. Ct., July 23, 2001).

Sandra S. Winneshiek v. William B. Collins, CV 01-72 Order (Setting Aside Default Judgment) (HCN Tr. Ct., July 23, 2001).

JULY 24, 2001

In the Interest of Decedent: Renee D. Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-71 Order (Memorializing Hearing) (HCN Tr. Ct., July 24, 2001).

Ho-Chunk Nation Home Ownership Program v. Jerome Marshall Cloud., CV 00-46 Order (Satisfaction of Judgment) (HCN Tr. Ct., July 24, 2001).

Ho-Chunk Nation Legislature v. Ho-Chunk Nation General Council, et al., CV 01-11 Motion for Reconsideration (Denied) (HCN Tr. Ct., July 24, 2001).

Leslie J. Schmolke v. Ho-Chunk Casino, Ho-Chunk Nation Business Dept., CV 01-05 Order (Granting Costs) (HCN Tr. Ct., July 24, 2001).

JULY 25, 2001

John Smith v. Ho-Chunk Nation Housing Authority, CV 01-60 Order (Dismissal With Prejudice) (HCN Tr. Ct., July 25, 2001).

JULY 27, 2001

Bonnie Smith v. Ho-Chunk Nation Gaming Comm'n, CV 01-12 Order (Motion Hearing) (HCN Tr. Ct., July 27, 2001).

Charles I. Youngthunder v. Majestic Pines Casino Security Dept., CV 01-70 Notice (HCN Tr. Ct.,

July 27, 2001).

JULY 30, 2001

In the Interest of the Minor Children: J.B., Jr. DOB 11/27/95, A.B. DOB 07/25/94, JV 01-06, JV 01-07 Dispositional Order (HCN Tr. Ct., July 30, 2001).

Vicki J. Greendeer v. John C. Houghton, Jr., CV 96-58 Emergency Order (HCN Tr. Ct., July 30, 2001).

In the Interest of Minor Child: R.W.H. DOB 04/13/01, JV 01-81 Order (Granting Request to Reschedule) (HCN Tr. Ct., July 30, 2001).

JULY 31, 2001

Diana Hellerud, et al. v. Ho-Chunk Nation Office of Tribal Enrollment & the Ho-Chunk Nation Legislature, CV 01-79 Order (Granting Stay) (HCN Tr. Ct., July 31, 2001).

*Ho-Chunk Nation Dept. of Housing and Scholze Ace Home Center, Inc. v. Edward Perry d/b/a Perry Construction, CV 00-92 Order (Retention of Judgment) (HCN Tr. Ct., July 31, 2001). [see also **Bankruptcy** or **Sovereign Immunity** within this index]*

AUGUST 1, 2001

David Abangan v. Ho-Chunk Nation Dept. of Business, CV 01-08 Order (Requesting Attorney General Opinions) (HCN Tr. Ct., Aug. 1, 2001).

Contracts – Statute of Frauds

JULY 5, 2001

Darlene Joyce Denny v. Ruth Ann Denny, CV 01-22 Judgment (HCN Tr. Ct., July 5, 2001).

In a dispute between family members over money, the Court finds for the plaintiff. The Court also respectfully requests that the Legislature adopt a Statute of Frauds in order to lessen the likelihood of similar suits, having little objective proof, being brought before the Court in the future.

Damages (Orders)

JULY 13, 2001

Ho-Chunk Nation Housing Authority v. Carol Pidgeon, CV 01-18 *Order (Damages)* (HCN Tr. Ct., July 13, 2001).

Default Judgments

JULY 13, 2001

HCN Dept. of Labor v. Pearl Lou Lightstorming, CV 01-67 *Default Judgment* (HCN Tr. Ct., July 13, 2001).

JULY 18, 2001

Sandra S. Winneshiek v. William B. Collins, CV 01-72 *Default Judgment* (HCN Tr. Ct., July 18, 2001).

Default Judgments, Setting aside

JULY 23, 2001

Sandra S. Winneshiek v. William B. Collins, CV 01-72 *Order (Setting Aside Default Judgment)* (HCN Tr. Ct., July 23, 2001).

Dismissals

JULY 13, 2001

Bernard Mountain, Jr. and Iris Lyons v. Ho-Chunk Nation Housing Authority, and Bernard Mountain v. Matt Estabo, Joe Estabo, and Wayne Decorah, CV 00-85, CV 01-14 *Order (Dismissal With Prejudice)* (HCN Tr. Ct., July 13 2001).

JULY 25, 2001

John Smith v. Ho-Chunk Nation Housing Authority, CV 01-60 *Order (Dismissal With Prejudice)* (HCN Tr. Ct., July 25, 2001).

Guardian ad litem (GAL) appointments

[see also **Juvenile Cases**, *infra*]

JULY 3, 2001

In the Interest of Minor Child: M.I.S. DOB: 04/18/00, JV 00-34 *Order (Appointment of Guardian ad litem)* (HCN Tr. Ct., July 3, 2001). Ms. Jean Ann Day was appointed GAL of the minor child's mother (who is also a minor).

JULY 19, 2001

In the Interest of Minor Child: J.J.C. DOB: 09/09/86, JV 01-12 *Order (Appointment of Guardian ad litem)* (HCN Tr. Ct., July 19, 2001).

Attorney William F. Gardner was appointed guardian ad litem. The next hearing in this case is scheduled for Jan. 9, 2002, at 10 A.M. CST.

In the Interest of Minor Child: M.I.S. DOB: 04/18/00, JV 00-34 *Order (Appointment of Guardian ad litem)* (HCN Tr. Ct., July 19, 2001). Attorney William F. Gardner was appointed guardian ad litem of the minor child.

Juvenile Cases

JULY 3, 2001

In the Interest of Minor Child: M.I.S. DOB: 04/18/00, JV 00-34 *Order (Appointment of Guardian ad litem)* (HCN Tr. Ct., July 3, 2001). [see also **GAL appointments**, *supra*]

JULY 6, 2001

In the Interest of Minor Children: A.C.G. DOB: 04/04/89, P.M.S. DOB 01/14/91, P.A.S. DOB 01/14/91, M.J.B. DOB 07/09/94, B.L.B. DOB 03/20/96, JV 98-05, JV 98-06, & JV 98-07, JV 98-08, JV 98-09 *Order (Extension of Dispositional Order)* (HCN Tr. Ct., July 6, 2001). This *Dispositional Order* shall be extended with status hearings held every six (6) months. A six (6) month status hearing is scheduled for December 13, 2001, at 2:30 P.M. CST. DOJ and CFS are ordered to attend a Traditional Court meeting to ascertain the boundaries within Ho-Chunk culture and tradition of corporal punishment of minor children by parents.

In the Interest of Minor Children: J.L. DOB: 12/14/89, R.L. DOB 04/27/91, C.L. DOB 01/28/93, JV 97-06, JV 97-07, & JV 97-08 *Order from Dispositional Extension Hearing* (HCN Tr. Ct., July 6, 2001). Legal custody of the children is with the CFS and physical custody shall remain with the current foster families. The Court will entertain *Petition(s) for Permanent Guardianship* for the minor child(ren) if or when they are filed with the Court.

JULY 9, 2001

In the Interest of Minor Child: J.J.C. DOB: 09/09/86, JV 01-12 *Order (Entrance of Plea)* (HCN Tr. Ct., July 9, 2001). Legal custody of the minor child is with the CFS. The Court shall

appoint a GAL. A *Child Protection Review Hearing* is scheduled for Wednesday, January 9, 2002, at 10 A.M. CST. CFS shall complete and submit a Home Study at least three (3) days prior to the *Child Protection Review Hearing*.

JULY 11, 2001

In the Matter of the Children: J.D.J. DOB: 12/18/86, H.D.J. DOB 11/25/88, S.M.J. DOB 11/25/88, JV 98-19, JV 98-20, & JV 98-21 Judgment (HCN Tr. Ct., July 11, 2001). In this Children in Need of Protection and Services (CHIPS) action, the Court binds this case over to the CFS for further disposition and recommendations for immediate and long term placement.

JULY 18, 2001

In the Interest of Minor Child: S.V.P. DOB: 11/06/96, JV 00-10 Termination of Temporary Guardianship (HCN Tr. Ct., July 18, 2001). As the mother has offered proof of her availability & suitability, in keeping with the best interests of the child and preserving family unity, the Court determined that legal and physical custody of the minor child shall revert to the mother.

JULY 19, 2001

In the Interest of Minor Child: M.I.S. DOB: 04/18/00, JV 00-34 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., July 19, 2001). [see also **GAL appointments**, *supra*]

In the Interest of Minor Child: J.J.C. DOB: 09/09/86, JV 01-12 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., July 19, 2001). [see also **GAL appointments**, *supra*]

Notices

JULY 3, 2001

F. William Johnson v. Ho-Chunk Nation, CV 01-15 *Notice* (HCN Tr. Ct., July 3, 2001).

JULY 10, 2001

Ho-Chunk Nation Housing Authority v. Betty Jo White, CV 01-65 *Order (Notice of Trial)* (HCN Tr. Ct., July 10, 2001). The Court shall convene a *Trial* on Thursday, Aug. 23, 2001, at 9 A.M. CST.

Satisfaction of Judgment (full & partial)

JULY 3, 2001

Ho-Chunk Nation Housing Authority v. Robin LaMere and Rueben Rave, CV 00-17 *Order Vacating Order (Partial Satisfaction of Judgment) and Entering Judgment in Favor of Plaintiff* (HCN Tr. Ct., July 3, 2001). The Court rescinds its prior order because plaintiff has not satisfied her debt to the Nation.

JULY 10, 2001

HCN Dept. of Housing, Property Mgmt. Div. v. Charles C. Brown and Simone I. Brown, CV 99-100 *Order (Requiring Proof of Satisfaction of Judgment)* (HCN Tr. Ct., July 10, 2001).

HCN Dept. of Housing, Property Mgmt. Div. v. Dawn M. Smith DeVerney, CV 00-03 *Order (Requiring Proof of Satisfaction of Judgment)* (HCN Tr. Ct., July 10, 2001).

JULY 13, 2001

HCN Dept. of Housing, Property Mgmt. Div. v. Charles C. Brown and Simone I. Brown, CV 99-100 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., July 13, 2001).

JULY 16, 2001

Dolores Greendeer v. Randall Mann, CV 00-50 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., July 18, 2001).

JULY 24, 2001

Ho-Chunk Nation Home Ownership Program v. Jerome Marshall Cloud., CV 00-46 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., July 24, 2001).

Satisfaction of Settlement

JULY 16, 2001

David J. Smith v. Majestic Pines Casino and Ho-Chunk Nation, CV 01-50 *Order (Satisfaction of Settlement)* (HCN Tr. Ct., July 16, 2001).

Sovereign Immunity

JULY 31, 2001

Ho-Chunk Nation Dept. of Housing and Scholze

Ace Home Center, Inc. v. Edward Perry d/b/a Perry Construction, CV 00-92 Order (*Retention of Judgment*) (HCN Tr. Ct., July 31, 2001).

The Court formally entered a default judgment against defendant. The defendant subsequently filed for Bankruptcy. The Court addressed issues of waiver of sovereign immunity and held that Congress did not unequivocally express waiver of Tribes' sovereign immunity in enacting the Bankruptcy Code. Additionally, the Nation did not expressly waive its sovereign immunity. Therefore, the Court retained the *Default Judgment* against defendant. [see also **Bankruptcy** within this index]

Summary Judgment

JULY 18, 2001

Libby Fairchild v. Ho-Chunk Nation Legislature, CV 00-55 Order (*Granting Defendant's Motion for Summary Judgment*) (HCN Tr. Ct., July 18, 2001).

Supreme Court

Review Denied

JULY 25, 2001

Karen Raines v. Ho-Chunk Nation, SU 01-07 Order *Denying Appeal Request* (HCN Sup. Ct., July 25, 2001). Appellant failed to make allegations raising her issues to the constitutional level, therefore, the request for appeal was denied.

Recent Filings

Trial Court

Child Support

JULY 16, 2001

Erica Hawpetoss/State of Wisconsin v. Brandan Cloud, Sr., CS 01-21.

AUGUST 7, 2001

State of Wisconsin/Rhonda Funmaker v. Dixon H.

Funmaker, CS 01-22.

Civil Cases (All Categories)

JULY 2, 2001

In the Interest of: Hunter McCullough, CV 01-74.

In the Interest of: Renata White, CV 01-75.

HCN Housing Authority v. Continental Flooring Co., CV 01-76.

JULY 6, 2001

HCN Housing Authority v. Sarah C. Littlegeorge, CV 01-77.

JULY 9, 2001

Ona Garvin v. HCN, Silas Cleveland, Dennis Gager, CV 01-78.

JULY 10, 2001

Diana Hellerud, et al. v. HCN Enrollment, CV 01-79.

HCN Dept. of Housing v. Melody WhiteEagle, CV 01-80.

JULY 13, 2001

In the Interest of: C.T.L. DOB 01/16/84, By Katherine Littlejohn, CV 01-81.

JULY 16, 2001

HCN Housing/PMD v. Ellen Lewis, CV 01-82.

In the Interest of: M.C. DOB 08/21/92, By Ellen Lewis, CV 01-83.

Clarence Pettibone v. HCN Legislature, CV 01-84.

JULY 19, 2001

In the Interest of: D.L.R. DOB 02/05/85, By Kim Blackdeer, CV

JULY 20, 2001

In the Interest of Mary Lou Blackdeer, By Lisa Blackdeer, CV 01-85

Ralph Babcock v. HCN Gaming Comm'n, CV 01-87.

Joseph D. Ermenc v. HCN White Tail Crossing,
CV 01-88.

JULY 31, 2001

Aleksandra Cichowski v. Four Winds Ins. Agency,
LLC, CV 01-90.

AUGUST 2, 2001

HCN Dept. of Housing Property Mgmt. V. Brian K
Decorah, CV 01-89.

AUGUST 3, 2001

Valerie Smith v. Jonette Pettibone, Table Game
Mgr., CV 01-91.

AUGUST 7, 2001

Autumn White v. HCN/Majestic Pines, CV 01-92.

Housing Auth. Of the Village of Winnebago v.
Denise Kearns, CV 01-93.

Jodi Whitehead v. HCN Dept. of Business, et al.,
CV 01-94.

Steve Clarke v. HCN Gaming Comm 'n, CV 01-95.

Supreme Court

JULY 13, 2001

Leslie J. Schmolke v. HCN Casino, HCN & Bus.

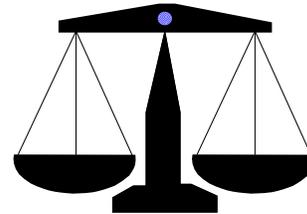
Dept., SU 01-08.

JULY 24, 2001

HCN Legislature v. HCN General Council, Robert
Funmaker, Jr., & Darcy Funmaker-Rave., SU 01-
09.

AUGUST 6, 2001

Daniel Brown v. Silas Cleveland., SU 01-10. *et*



Letter from the Editor

Hello! My name is Anetra Parks and I am the new staff attorney and judicial clerk for the Trial Court (see Article on page 1). Since I will be living here in Black River Falls and serving this community and the Nation, I would like to begin by telling you who I am and where I came from.

Continued on page 10

SCHOLARSHIPS AVAILABLE FOR GAL TRAINING

Up to \$1,000 in scholarship money is available for *guardian ad litem* (GAL) training. The Ho-Chunk Nation Court System is currently accepting applications for GAL training in La Crosse on November 20th & 21st. To apply, contact Anetra Parks (715) 284-2722 or email AParks@ho-chunk.com. Both current GALs and those interested in becoming GALs are eligible to apply.

The November GAL training will cover the basics and advanced issues in family law. On November 20th, the basic program will provide information on how to work effectively as a GAL in family court. The November 21st advanced course is designed for those attorneys with experiences as a GAL and will take an in depth look at several important issues in this area of practice.

We are currently in the process of developing a GAL email database. If you are a GAL, please email Staff Attorney Anetra Parks with your email address at Aparks@ho-chunk.com, *et*

Wisconsin state courts recognize jurisdiction of Tribal Courts in ICWA cases

The Wisconsin court of appeals accurately construed the Indian Child Welfare Act (ICWA) to grant transfers of jurisdiction of ICWA cases to Tribal Courts in the recent case, *In re TPR to Shawnda G.*, Nos. 01-0956 to 01-0950 (July 10, 2001, recommended for publication).

Interpreting the ICWA, the Wisconsin court of appeals held that either parent in a termination proceeding regarding Indian children has the right to request transfer of the case to Tribal Court. Once the request is made, the circuit court is obligated to ascertain whether the Tribal Court declines jurisdiction. If the Tribal Court accepts jurisdiction, the circuit court must then transfer jurisdiction unless it determines, under the ICWA, that good cause exists for denying the transfer. *er*

Minnesota Supreme Court upholds state income tax on per capita money on tribal members living outside Indian Country

The Minnesota Supreme Court held that the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2701-2721, does not prevent the State of Minnesota from imposing its income tax on a member of an Indian Tribe who resides within the state but off-reservation, or more precisely outside of "Indian country" in the recent case, *Edward W. Jefferson, et al. Relators v. Commissioner of Revenue Tax Court* (Minn. Sup. Ct. C6-01-308, Aug. 2, 2001). The court used the definition of "Indian country" enunciated in *Oklahoma Tax Comm'n v. Chickasaw Nation*, 515 U.S. 450, 453 (1995): Indian country includes "formal and informal reservations, dependent Indian communities, and Indian allotments, whether restricted or held in trust by the United States."

The court also held that neither the federal equal protection clause or the state constitution are violated when the state imposes its income tax on

Continued on page 11

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Both of my parents are Native, having met at Chilocco Indian School during the 1960s. My mother is Cherokee from Stillwell, Oklahoma and my father is Nez Perce from Kamiah, Idaho. I was born in Tahlequah, Oklahoma, but when I was five years old my mom joined the U.S. Army and I spent the next 15 years or so moving from place to place. I've lived in ten different states and even lived in Germany for three years.

I have two brothers, both younger than I, ages 20 and 29. They currently both live in Tahlequah with my mom. I have a spoiled cat (named Kiara) and I enjoy reading, writing, watching movies, and spending time with friends. I enjoy going to pow-wows and other community events (especially if food is involved!)

I am honored and happy to be here and look forward to serving this community and doing a good job at the Trial Court.

Finally, I'd like to end this letter by sharing with you a comment that my mentor, Walter Echo-Hawk said to me before I came out here. He said, "If you are good in this life, you will come back as a Ho-Chunk. The next best thing is to come back as an attorney for the Ho-Chunk."

Respectfully,

Anetra Parks

Recently Published...

When the Family is Native American: Understanding the Indian Child Welfare Act.

Ho-Chunk Nation Department of Justice (DOJ) Interim Attorney General **Sheila D. Corbine** and DOJ Attorney **Wendy Helgemo** recently published an article in the Spring issue of Family Advocate entitled “When the Family is Native American: Understanding the Indian Child Welfare Act.”

The article begins by setting the framework in which the Indian Child Welfare Act (ICWA) was enacted:

Congress responded to the alarmingly high number of Indian children being placed in non-Indian homes and the high number of Indian children being adopted by non-Indian families. To preserve Indian tribes, families and culture, Congress placed procedural safeguards on certain proceedings involving Indian children.

The article goes on to summarize and explain key provisions of the ICWA. Kudos to the Department of Justice for its continuing efforts to educate the public on this very important topic.

The Family Advocate is a publication of the American Bar Association. It is a practical journal by the ABA Family Law section. To view the spring issue and back issues of the Family Advocate on line go to <http://www.abanet.org/family/advocate/>. er

Looking for Volunteers!

We are currently looking for volunteers to help with the annual Fun Run, to be held on **September 1** this year. Needed: people to help set up, mark the course, man the refreshment booth, etc. Don't worry if you've never participated in a Run before – neither have I! Please contact Anetra Parks at 284-2722 or email AParks@ho-chunk.com, as soon as possible. er

Minnesota upholds income tax on per capita

members of an Indian Tribe who reside off-reservation, but not on members who reside on-reservation. Further, the state does not infringe on tribal self-governance by imposing its income tax on tribal members who reside within the state, but off the Tribe's reservation. To view the full opinion, go to <http://www.courts.state.mn.us/opinions/-sc/current/c601308.html>. er

Public Comment Sought on BIA's Land-to-Trust Regulations

Assistant Secretary – Indian Affairs Neal McCaleb announced on Friday, August 10, 2001, two separate actions concerning the final rule entitled “Acquisition of Title to Land in Trust.”

One action further extends the effective date of the Bureau of Indian Affairs (BIA) final rule on placing lands into trust that were published on January 16, 2001.

The second action is to issue a Notice of Proposed Withdrawal of the final rule in order to seek comments on whether the rule should be withdrawn and a new proposed rule promulgated which better addresses the public's continued concern with the trust land acquisition procedures set out in 25 CFR Part 151. The final rule revises and clarifies the procedures used by federally recognized Indian tribes and individuals to request the Secretary of Interior to acquire title to land into trust on their behalf. These two actions will be published in the Federal Register on August 13, 2001.

“Secretary Norton and I recognize that the land-into-trust process is critically important to helping tribes regain lost lands,” McCaleb said. “Through this action, all tribes, as well as state and local governments and communities and individuals affected by land-into-trust requests, will have an opportunity to improve the

Continued on page 13

The
Ho-Chunk Nation Court System
Presents Its Annual
Law Day
and
5 K Fun Run/Walk

Attorneys, Lay Advocates and the general public are invited to attend.

Everyone Welcome!

Law Day – August 31st, 2001

9 am – 12 pm

Free and open to the public.

Open House & Discussion on current issues before the Ho-Chunk Nation Court System.

PLACE: Ho-Chunk Nation Courthouse

Located on Highway 54 approximately 2 miles west of Majestic Pines Casino and 3 miles east of Black River Falls, WI.

CLE Credits available for attorneys. Refreshments will be served.

5 K Fun Run/Walk – Saturday, Sept. 1st, 2001

PLACE: Meet at the Ho-Chunk Nation Courthouse

(\$10 registration fee pays for your entry and gets you a t-shirt.)

REGISTRATION: 8 a.m. to 8:45 a.m.

WELCOME: 8:45 a.m. to 9 a.m.

RUN STARTS: 9 a.m.

AWARDS PRESENTATION: 10 a.m.

(Winners also announced at the Labor Day Pow-wow.)

Juice/water/coffee/fruit will be served before and after the race.

Water will be available at the halfway point of the race.

For more information contact Anetra Parks at (715) 284-2722.

Dept. of Interior soliciting public comment

Continued from page 10

regulations in a way that makes the trust acquisition application process more efficient, open and fair to everyone.”

The two separate actions delay by 90 days the final rule’s effective date to November 10, 2001, and give notice of the Department’s

proposal to withdraw the final rule under a 30-day public comment period, during which time the rule in effect prior to January 16 will remain in effect. The Department is now seeking comments on withdrawing and replacing the final rule.*er*



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	\$.025/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).

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).

HO-CHUNK NATION COURT BULLETIN

Inside this Issue

- 1 Law Day 2001 and 6th Annual Fun Run/Walk a Success
World Trade Center and Pentagon attacks shock the Nation
- 2 New Forms Coming Soon
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- 13 All Runners/Walkers Race Results – Sorted Alphabetically
- 14 A Special Thank You
- 15 More Pics from the Fun Run
Notice: T-Shirt Exchange

Ho-Chunk Nation Court System
W9598 Hwy 54 East
P.O. Box 70
Black River Falls, WI 54615
(715) 284-2722
(800) 434-4070
http://www.ho-chunk.com-Government/dept_court_page.htm

Law Day 2001 and 6th Annual Fun Run/Walk a Success

The Ho-Chunk Nation Court System's Law Day 2001 and 6th Annual Fun Run/Walk were a great success.

The Ho-Chunk Nation Court System's Law Day 2001 was an informative event. This year's speakers included Supreme Court Chief Justice **Mary Jo Brooks-Hunter**, Trial Court Chief Judge **Mark Butterfield**, Trial Court Associate Judge **Todd R. Matha**, and Department of Justice Attorney **Michael Murphy**. This year's topics

included "Pursuing Debt Obligations in the Trial Court," "Current Issues in Tribal Sovereign Immunity," "The Development of Substantive Law in the HCN Court System," "Professional Responsibility in the Tribal Court System," as well as Supreme Court and Trial Court updates. *et*



World Trade Center and Pentagon attacks shock the Nation

The coordinated attacks of Tuesday morning, **September 11, 2001**, on the World Trade Center (WTC) in New York City, the Pentagon in the Nation's capitol, and in Pennsylvania, shocked the world. Over 6,400 people are still missing from the WTC and at least 565 are confirmed dead, which include those killed on the hijacked airplanes. Memorial services have been held across the Nation with a special memorial service held in NYC

this past Sunday evening.

News coverage on this event has been extensive, but the **Ho-Chunk Nation Court System** would like to take this opportunity to express our sincere condolences to the families of the victims and to everyone touched by this tragic event. This unimaginable event, while it has taken its emotional toll on many, has also brought out the best in us as a Nation.

Continued on page 2

WTC disaster (continued from page 1)

People have flocked to local blood banks to donate blood, money has poured into the Red Cross and other relief efforts, and people across the Nation have pulled together to help during this trying and difficult time.

Sovereign Indian Tribes have done their part as well, by making large monetary donations totaling well over one million dollars to aid in the relief efforts (see www.pechanga.net for full coverage). For more information on how you can help, contact the Red Cross at 1-800-GIVE-LIFE or visit their website at www.redcross.org. *er*

New Forms Coming Soon!

The Ho-Chunk Nation Court System will soon release its revised forms. You will receive notice by publication in the Hocak Worak when the new forms are ready. Once the new forms are distributed, you should destroy all older versions. For questions, please contact the Court at (715) 284-2722 or (800) 434-4070. *er*



SCHOLARSHIPS AVAILABLE FOR GAL TRAINING

Up to \$1,000 in scholarship money is available for *guardian ad litem* (GAL) training. The Ho-Chunk Nation Court System is currently accepting applications for GAL

training in La Crosse on November 20th & 21st. To apply, contact Anetra Parks (715) 284-2722 or email AParks@ho-chunk.com. Both current GALs and those interested in becoming GALs are eligible to apply.

The November GAL training will cover basic and advanced issues in family law. On November 20th, the basic program will provide information on how to work effectively as a GAL in family court. The November 21st advanced course is designed for those attorneys with experience as a GAL and will take an in depth look at several important issues in this area of practice.

We are currently in the process of developing a GAL email database. If you are a GAL, please email Staff Attorney Anetra Parks with your email address at Aparks@ho-chunk.com. *er*

A Couple of Pictures from the HCN Court System's 6th Annual 5K Fun Run/Walk

(For race results, see pages 12 to 14)



Runners take off from the starting line on Race Day



Runners & walkers in front of the HCN Courthouse

Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and broken down by subject matter and date (from oldest to most recent).

Trial Court

Administrative Review

AUGUST 6, 2001

Susan Bosgraaf v. Ho-Chunk Nation Security Dep't, CV 01-01 Order (Granting Motion for Summary Judgment) (HCN Tr. Ct., Aug. 6, 2001).

This case deals with issues of timeliness and alleged violations of due process. [For full summary, see **Due Process**, in this index, *infra*.]

AUGUST 17, 2001

Kathy A. Stacy v. Clarence Pettibone, former Vice President of the Ho-Chunk Nation and, Wade Blackdeer, present Vice President of the Ho-Chunk Nation in their individual and official capacities, CV 01-13 Judgment (for Defendants) (HCN Tr. Ct., Aug. 17, 2001).

[Other topics covered: **Failure to State a Claim; Laches**.]

Agency Theory of Liability

AUGUST 15, 2001

Julie Nakai v. Ho-Chunk Nation, and Bonnie Smith in her official and individual capacities., CV 01-26 Dismissal of Bonnie Smith in her individual capacity (HCN Tr. Ct., Aug. 15, 2001).

[For full summary, see **Title VII** within this index.]



Child Custody

AUGUST 23, 2001

In the Matter of the Child: J.R., DOB 01/09/95, 95-CU-18 Order (Legal Custody) (HCN Tr. Ct., Aug. 23, 2001).

Child Support

AUGUST 17, 2001

State of Wisconsin, on behalf of Wayne Falcon v. Cynthia Radtke, CV 97-111 Order (To Cease Withholding for Current Child Support) (HCN Tr. Ct., Aug. 17, 2001).

As all children are now emancipated, respondent no longer has a current child support obligation.

AUGUST 21, 2001

Angela Marie Regalia v. Roger Lee Houghton, CS 01-19 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Aug. 21, 2001).

C. Janelle St. Cyr v. Brent St. Cyr; and Lisa Rave v. Brent St. Cyr, CS 97-136, CV-97-97 Order (Motion Denied) (HCN Tr. Ct., Aug. 21, 2001).

Court denied plaintiff's request to enforce arrears against defendant's per capita as plaintiff failed to provide sufficient documentation of the alleged arrears.

In the Interest of Minor Children: J.L.W., DOB 10/12/89, J.A.C., DOB 08/01/92, JV 99-23, JV 99-24 Order (Vacating Order Impounding Per Capita) (HCN Tr. Ct., Aug. 21, 2001).

State of Wisconsin, on behalf of Laurie Greengrass Zimmerman, CV 97-115 Notice (Intent to Close) (HCN Tr. Ct., Aug. 21, 2001).

As all child support arrearages have been paid in full, if the Court receives no objection by Aug. 31, 2001, the Court shall close this case.

AUGUST 27, 2001

In re the Support of S.K.K., State of Wisconsin (Adams Co.) and Janette Marie Beeman v. William Kemp, CS 00-48 Amended Order (Enforcing Child Support) (HCN Tr. Ct., Aug. 27, 2001).

Mary A. Kemp v. William J. Kemp, CS 99-48 Intent to Close Case (HCN Tr. Ct., Aug. 27, 2001).

As records with the HCN Dep't of Treasury indicate that respondent has paid his arrears in full and he owes no current child support, the Court gives notice that it will close this case in ten (10) days.

AUGUST 28, 2001

C. Janelle St. Cyr v. Brent R. St. Cyr; and Lisa Rave v. Brent R. St. Cyr, CS 97-136. CV 97-97 *Erratum Order and Default Judgment* (HCN Tr. Ct., Aug. 30, 2001).

The Court previously denied plaintiff's request to enforce a state child support order, as the Court was already enforcing a child support order on her behalf against defendant. The Court subsequently learned that the prior order had expired and issued this judgment to enforce the current, valid underlying state child support order against defendant.

SEPTEMBER 11, 2001

Vicki J. Greendeer v. John C. Houghton, Jr., CS 96-58 *Order (Regarding Impound)* (HCN Tr. Ct., Sept. 11, 2001).

The Court seeks clarification on the process involved when the Supreme Court accepts a non-final judgment for purposes of appeal and does not enter a stay against further actions in the Trial Court.

SEPTEMBER 4, 2001

Vicki J. Greendeer v. John C. Houghton, Jr., CS 98-58 *Order (Requiring Submission of Foreign Judgment or Order)* (HCN Tr. Ct., Sept. 4, 2001).

Court determined whether or not to lift an impound placed upon monies in the instant child support case. While the Court is limited to what it may do in enforcing a foreign order (e.g., It may "not review the merits of the [foreign] child support order"), it will also "not stand idle, serving as an unwitting instrumentality in the furtherance of potential fraud, collusion or a clear mistake of law or fact, and will seek to impound funds in order to insure just and fair results."

SEPTEMBER 13, 2001

Susan Weber v. Jesse L. Johnson, CS 01-20 *Notice (Case Closed)* (HCN Tr. Ct., Sept. 13, 2001).



Children's Trust Fund (CTF)

AUGUST 17, 2001

In the Interest of the Minor Child: M.C., DOB 08/21/92, CV 01-83 Order (Denying CTF monies for automobile for family use) (HCN Tr. Ct., Aug. 17, 2001).

The Court strongly scrutinizes requests for CTF monies to purchase automobiles because this is not a purchase which "primarily advances the health, welfare or education of a child" required by Ho-Chunk Nation law.



Civil Cases (All Categories)

AUGUST 2, 2001

F. William Johnson v. Ho-Chunk Nation, CV 01-15 *Amended Scheduling Order* (HCN Tr. Ct., Aug. 2, 2001).

AUGUST 6, 2001

Ralph H. Babcock v. Ho-Chunk Nation Gaming Comm'n., CV 01-87 *Order (Absence of Bond Requirement)* (HCN Tr. Ct., Aug. 6, 2001).

Plaintiff filed a *Motion Requesting Waiver of Bond*. The Court previously addressed the continuing validity of the bond requirement and found that the Legislature "expressed its clear intent to delete the bond requirement and associated payment of investigative costs" by its action. Therefore, the *Motion* is not necessary in the present case.

Susan Bosgraaf v. Ho-Chunk Nation Security Dep't, CV 01-01 *Order (Granting Motion for Summary Judgment)* (HCN Tr. Ct., Aug. 6, 2001).

[See **Administrative Review Process** and **Due Process** within this index.]

Ho-Chunk Nation Housing Authority v. Continental Flooring Co., CV 01-76 *Order (Granting Motion to Appear by Telephone)* (HCN Tr. Ct., Aug. 6, 2001).

Clarence Pettibone v. Ho-Chunk Nation Legislators Kathyleen Whiterabbit, Sharon Whiterabbit, George Lewis, Myrna Thompson, Gerald Cleveland, Christine Funmaker-Romano, Dallas Whitewing,

Wade Blackdeer, Tracy Thundercloud and Elliot Garvin, CV 01-84 *Order (Granting Extension of Time)* (HCN Tr. Ct., Aug. 6, 2001).

Sandra S. Winneshiek v. William B. Collins, CV 01-72 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., Aug. 6, 2001).

[For summary, see **Mootness** within this index.]

State of Wisconsin, on behalf of Wayne Falcon v. Cynthia Radtke, CV 97-111 *Erratum Order* (HCN Tr. Ct., Aug. 6, 2001).

AUGUST 8, 2001

In the Interest of: Lucinda V. Littlesoldier, DOB 02/16/49, CV 00-106 *Order (Show Cause)* (HCN Tr. Ct., Aug. 8, 2001).

[For summary, see **ITF** within this index.]

AUGUST 10, 2001

HCN Division of Child and Family Services v. Orvilla Rae WhiteEagle, CV 01-68 *Default Judgment* (HCN Tr. Ct., Aug. 10, 2001).

This case concerns a claim against per capita to satisfy a debt by defendant owed to the Ho-Chunk Nation, which is enforceable under HCN law. As defendant failed to file an Answer, the Court granted a default judgment in favor of plaintiff.

HCN Home Ownership Program v. Faith M. Morris, CV 98-19 *Order (Requiring Status Report)* (HCN Tr. Ct., Aug. 10, 2001).

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 (Accepting Accounting)* (HCN Tr. Ct., Aug. 10, 2001).

AUGUST 7, 2001

Sabrina Powers Magwood v. Wesley George Powers, CS 98-51 *Order (Redirecting Child Support Payments to New Address)* (HCN Tr. Ct., Aug. 10, 2001).



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., Aug. 10, 2001).

AUGUST 15, 2001

Daniel M. Brown v. Silas Cleveland., CV 01-29 *Dismissal* (HCN Tr. Ct., Aug. 15, 2001).

As plaintiff failed to appear for both the July 31, 2001 *Pretrial Conference* as well as the August 15, 2001 *Rescheduled Hearing*, the Court granted defendant's motion to dismiss the case.

Julie Nakai v. Ho-Chunk Nation, and Bonnie Smith in her official and individual capacities., CV 01-26 *Dismissal of Bonnie Smith in her individual capacity* (HCN Tr. Ct., Aug. 15, 2001).

[For full summary, see **Title VII** within this index; other topic covered: **Agency Theory of Liability**]

Elizabeth Thi Nguyen v. Robert Olivia and Ho-Chunk Casino Transportation Dep't., CV 00-84 *Order for Dismissal* (HCN Tr. Ct., Aug. 15, 2001).
Court grants order for dismissal without prejudice.

AUGUST 17, 2001

In the Interest of the Minor Child: M.C., DOB 08/21/92, CV 01-83 *Order (Denying CTF monies for automobile for family use)* (HCN Tr. Ct., Aug. 17, 2001).

[For summary, see **CTF** within this index.]

Julie Nakai v. Ho-Chunk Nation and Bonnie Smith, in her official capacity, CV 01-26 *Order (Postponing Trial)* (HCN Tr. Ct., Aug. 17, 2001).

Kathy A. Stacy v. Clarence Pettibone, former Vice President of the Ho-Chunk Nation and, Wade Blackdeer, present Vice President of the Ho-Chunk Nation in their individual and official capacities, CV 01-13 *Judgment (for Defendants)* (HCN Tr. Ct., Aug. 17, 2001).

[Topics covered: **Administrative Review Process; Failure to State a Claim; Laches.**]

AUGUST 20, 2001

Autumn White v. Ho-Chunk Nation and Majestic Pines Casino, CV 01-92 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., Aug. 20, 2001).

Court grants plaintiff's voluntary dismissal of her *Complaint* without prejudice.

AUGUST 21, 2001

Ho-Chunk Nation Housing Authority v. Robin LaMere and Rueben Rave, CV 00-17 *Order (Modifying Judgment)* (HCN Tr. Ct., Aug. 21, 2001).

Court grants defendant LaMere's request to lift the restraint upon loans against her per capita, as long as such loans do not disrupt any current withholdings from her per capita distributions.

David Abangan v. Ho-Chunk Nation Dep't of Business, CV 01-08 *Order (Granting Extension)* (HCN Tr. Ct., Aug. 21, 2001).

AUGUST 24, 2001

Steven Camden v. Game Financial Corp. and Lisa Maulson, CV 98-02 *Order (Determination of Personal and Subject Matter Jurisdiction)* (HCN Tr. Ct., Aug. 24, 2001).

[For full summary, see **Jurisdiction** within this index; other topic covered: **Defamation**]

Roy J. Rhode v. Ona M. Garvin, as General Mgr. of Rainbow Casino, CV 00-39 *Order (Final Judgment)* (HCN Tr. Ct., Aug. 24, 2001).

The Court does not uphold the termination of a gaming employee because that employee did not receive a pre-termination hearing required by the Ho-Chunk Nation Constitution. The Due Process Clause of the Ho-Chunk Nation provides the minimal procedural due process protections of notice and hearing.

[Other topics: **Administrative Review Process** and **Due Process**]

AUGUST 27, 2001

Ho-Chunk Nation Housing Auth. v. Betty Jo White, CV 01-65 *Stipulation and Order* (HCN Tr. Ct., Aug. 27, 2001).

Defendant and HCN Housing Authority agreed to various terms as defendant had previously admitted to delinquency of rent and some lease violations.

AUGUST 28, 2001

In the Interest of Kathy Brandenburg, CV 98-18 *Order(Accepting Accounting)* (HCN Tr. Ct., Aug. 28, 2001).

In the Interest of Harold Jones Funmaker, by Carol Naquayouma v. Ho-Chunk Nation, CV 96-14 *Order(Closing Case)* (HCN Tr. Ct., Aug. 28, 2001).

Ona Garvin v. Ho-Chunk Nation, and Silas Cleveland, in his individual capacity, and Dennis Gager, in his individual capacity, CV 01-78 *Scheduling Order* (HCN Tr. Ct., Aug. 28, 2001).

Mr. Chloris Lowe, Jr., Enrollment #439A001593, Mr. Stewart J. Miller, Enrollment #439A002566 v. Ho-Chunk Nation Legislature Members, et al., CV 00-104 *Order(Granting Extension of Time)* (HCN Tr. Ct., Aug. 28, 2001).

[For full summary, see **Redistricting** within this index]

AUGUST 30, 2001

In the Interest of Mary Lou Blackdeer, by Lisa Blackdeer v. HCN Office of Tribal Enrollment, CV 01-85 *Order(Releasing ITF Monies)* (HCN Tr. Ct., Aug. 30, 2001).

Chauncy P. Wilson v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-47 *Notice (Intent to Close)* (HCN Tr. Ct., Aug. 30, 2001).

As the last activity in this case occurred over one (1) year ago, the Court informed the parties of its intent to close this case within thirty (30) days if it does not receive an objection.

SEPTEMBER 7, 2001

Aleksandra Cichowski v. Four Winds Ins. Agency, LLC, CV 01-90 *Scheduling Order* (HCN Tr. Ct., Sept. 7, 2001).

Joseph D. Ermenc v. Ho-Chunk Nation Whitetail Crossing, CV 01-88 *Scheduling Order* (HCN Tr. Ct., Sept. 7, 2001).

SEPTEMBER 10, 2001

In the Interest of the Minor Child: H.S.B.M., DOB 06/16/87, by Teddi McCullough, CV 01-74 *Order (Granting CTF Funds for Orthodontics)* (HCN Tr. Ct., Sept. 10, 2001). CTF

SEPTEMBER 11, 2001

Julie Nakai v. Ho-Chunk Nation and Bonnie Smith, in her Official Capacity, CV 01-26 *Order*

(Postponing Trial and Requesting Further Briefing)
(HCN Tr. Ct., Sept. 11, 2001).

The Court postponed the *Trial* due to the unique and difficult issues (pregnancy discrimination; sovereign immunity) presented in this case. The Court requested supplemental briefs on specific issues from both parties.

In the Interest of Adult Incompetent: Oliver S. Rockman, CV 97-117 Order (Accepting Accounting and Granting Release of Per Capita) (HCN Tr. Ct., Sept. 11, 2001).

Defamation

AUGUST 24, 2001

Steven Camden v. Game Financial Corp. and Lisa Maulson, CV 98-02 Order (Determination of Personal and Subject Matter Jurisdiction) (HCN Tr. Ct., Aug. 24, 2001).

[For full summary, see **Jurisdiction** within this index.]

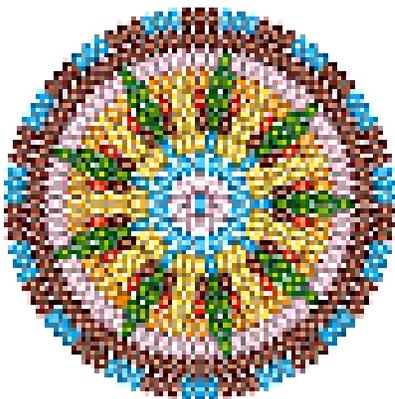
Due Process

AUGUST 6, 2001

Susan Bosgraaf v. Ho-Chunk Nation Security Dep't, CV 01-01 Order (Granting Motion for Summary Judgment) (HCN Tr. Ct., Aug. 6, 2001).

In determining whether or not plaintiff filed a timely Level 3 grievance, the Court finds no violation of due process which would justify plaintiff's failure to file a timely complaint. The Court relies upon its previous determinations of what constitutes minimal procedural due process in this jurisdiction. [Other topic covered:

Administrative Review Process.]



Failure to State a Claim

AUGUST 17, 2001

Kathy A. Stacy v. Clarence Pettibone, former Vice President of the Ho-Chunk Nation and, Wade Blackdeer, present Vice President of the Ho-Chunk Nation in their individual and official capacities, CV 01-13 Judgment (for Defendants) (HCN Tr. Ct., Aug. 17, 2001).

[Other topics covered: **Administrative Review Process; Laches.**]

Incompetent's Trust Fund (ITF)

AUGUST 8, 2001

In the Interest of: Lucinda V. Littlesoldier, DOB 02/16/49, CV 00-106 Order (Show Cause) (HCN Tr. Ct., Aug. 8, 2001).

The Court shall convene a *Show Cause Hearing* to determine if the Member's guardian shall be held in contempt of court for failure to provide the necessary accounting following the release of ITF funds, which is required by Ho-Chunk Nation law. In the meantime, the Court froze all further access by the guardian to the Member's ITF funds..

AUGUST 30, 2001

In the Interest of Mary Lou Blackdeer, by Lisa Blackdeer v. HCN Office of Tribal Enrollment, CV 01-85 Order(Releasing ITF Monies) (HCN Tr. Ct., Aug. 30, 2001).

The Court grants the release of funds to pay outstanding bills accumulated prior to the ward's declaration of incompetency.

SEPTEMBER 11, 2001

In the Interest of Adult Incompetent: Oliver S. Rockman, CV 97-117 Order (Accepting Accounting and Granting Release of Per Capita) (HCN Tr. Ct., Sept. 11, 2001).

Court grants *guardian ad litem's* request for release of ITF monies to pay for ward's usual spending allowance plus money for phone cards.

Jurisdiction

AUGUST 24, 2001

Steven Camden v. Game Financial Corp. and Lisa Maulson, CV 98-02 Order (Determination of

Personal and Subject Matter Jurisdiction) (HCN Tr. Ct., Aug. 24, 2001).

In this defamation action, the Court finds that it has personal jurisdiction over the non-Indian enterprise because of minimum contacts with the Nation, as well as a consensual commercial relationship between the parties. The Court finds it lacks subject-matter jurisdiction because the action does not arise “under the Constitution, laws [or] customs and traditions of the Ho-Chunk Nation.”

[Other topic covered: **Defamation.**]

Juvenile

JULY 19, 2001

In the Interest of Minor Child M.I.S., DOB 04/18/00, JV 00-34 Order (Appointment of Guardian ad Litem) (HCN Tr. Ct., July 19, 2001).

The Court appoints Attorney William F. Gardner as *Guardian ad Litem* (GAL) in this *Child in Need of Protection and Services* (CHIPS) case.

AUGUST 3, 2001

In the Interest of Minor Child: V.J.F., DOB 09/26/98, JV 01-10 Order (Granting Postponement) (HCN Tr. Ct., Aug. 3, 2001).

S.J.R., DOB 03/31/99, In the Interest of Minor Child, JV 00-01 Order (Reversion of Temporary Guardianship) (HCN Tr. Ct., Aug. 6, 2001).

The Court grants reversion of temporary legal guardianship to the maternal grandmother.

AUGUST 7, 2001

In the Interest of the Minor Child: S.G.D., DOB 12/19/00, JV 01-11 Judgment (for Defendants) (HCN Tr. Ct., Aug. 7, 2001).

In the Interest of the Minor Child: M.I.S., DOB 04/08/00, JV 00-34 Minute Order July 30, 2001 (HCN Tr. Ct., Aug. 7, 2001).

AUGUST 17, 2001

In the Matter of the Minor Child: S.R.G., DOB 09/20/83, JV 99-14 Order (Requiring Supplemental Status Report) (HCN Tr. Ct., Aug. 17, 2001).

AUGUST 21, 2001

In the Interest of Minor Children: J.L.W., DOB 10/12/89, J.A.C., DOB 08/01/92, JV 99-23, JV 99-

24 Order (Vacating Order Impounding Per Capita) (HCN Tr. Ct., Aug. 21, 2001).

AUGUST 22, 2001

In the Matter of the Child: S.M.J., DOB 11/25/88, JV 98-21 Order (Requiring Immediate Status Report) (HCN Tr. Ct., Aug. 22, 2001).

AUGUST 27, 2001

In the Interest of Minor Child: J.H., DOB 01/20/96, JV 97-10 Order (Granting Temporary Legal Guardianship) (HCN Tr. Ct., Aug. 27, 2001).

AUGUST 28, 2001

In the Interest of Minor Child: M.I.S., DOB 04/18/00, JV 00-34 Order (Granting Continuance) (HCN Tr. Ct., Aug. 28, 2001).

AUGUST 30, 2001

In the Interest of Minor Child: S.A.C., DOB 03/31/89, T.R.C., DOB 03/22/91, K.J.C., DOB 03/02/92, JV 01-13, JV 01-14, JV 01-15 Order (Appointment of Guardian Ad Litem) (HCN Tr. Ct., Aug. 30, 2001).

The Court appointed Mr. Kevin Keith to serve as GAL in this case.

SEPTEMBER 5, 2001

In the Interest of Minor Children: S.A.C., DOB 03/31/89, T.R.C., DOB 03/22/91, K.J.C., DOB 03/02/92, JV 01-13, JV 01-14, JV 01-15 Order (Appointment of Interim Temporary Legal Guardian) (HCN Tr. Ct., Sept. 5, 2001).

SEPTEMBER 6, 2001

In the Interest of Minor Children: J.D.J., DOB 12/18/86, H.D.J., DOB 11/25/88, S.M.J., DOB 11/25/88, JV 98-19, JV 01-20, JV 01-21 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Sept. 6, 2001).

SEPTEMBER 10, 2001

In the Interest of Minor Children: K.M., DOB 04/09/93, L.M., DOB 01/08/92., JV 98-15, JV 98-14 Dispositional Order Extension (HCN Tr. Ct., Sept. 10, 2001).



Laches

AUGUST 17, 2001

Kathy A. Stacy v. Clarence Pettibone, former Vice President of the Ho-Chunk Nation and, Wade Blackdeer, present Vice President of the Ho-Chunk Nation in their individual and official capacities, CV 01-13 Judgment (for Defendants) (HCN Tr. Ct., Aug. 17, 2001).

[Other topics covered: **Administrative Review Process; Failure to State a Claim.**]

Mootness

AUGUST 6, 2001

Sandra S. Winneshiek v. William B. Collins, CV 01-72 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Aug. 6, 2001).

The Court, considering new information brought forth by the parties, dismisses this case without prejudice as moot for lack of case or controversy.

Redistricting

AUGUST 28, 2001

Mr. Chloris Lowe, Jr., Enrollment #439A001593, Mr. Stewart J. Miller, Enrollment #439A002566 v. Ho-Chunk Nation Legislature Members, et al., CV 00-104 Order (Granting Extension of Time) (HCN Tr. Ct., Aug. 28, 2001).

Court grants defendant an extension of time to file an approved redistricting/reapportionment proposal in light of the Court's continued commitment to fostering voter participation and awareness. The Legislature shall file the proposal on or before September 28, 2001.

Title VII

AUGUST 15, 2001

Julie Nakai v. Ho-Chunk Nation, and Bonnie Smith in her official and individual capacities., CV 01-26 Dismissal of Bonnie Smith in her individual capacity (HCN Tr. Ct., Aug. 15, 2001).

[Other topic covered: **Agency Theory of Liability.**] The Court dismisses Ms. Smith in her individual capacity, following federal precedent which interprets the Federal Equal Employment Opportunity Act, 42 U.S.C. 2000e, as not subjecting individual supervisors, officials and employees

personally liable for actions which subject the employer to Title VII liability.



Supreme Court

AUGUST 22, 2001

Ho-Chunk Nation Legislature v. Ho-Chunk Nation General Council, Robert Funmaker, Jr., as Presiding Officer of the October 21, 2000 General Council, and Darcy Funmaker-Rave, as Secretary of the October 21, 2000 General Council , SU 01-09 Order Denying Appeal (HCN Sup. Ct., Aug. 22, 2001).

As the appeal was untimely filed, the Court denied appeal.

AUGUST 24, 2001

Daniel M. Brown v. Silas Cleveland, Exec. Dir. Of Business for the Ho-Chunk Nation, SU 01-10 Order Denying Appeal (HCN Sup. Ct., Aug. 24, 2001).

The Court denied appeal, concluding that "the merits of the case are intertwined within the (interlocutory) appeal and may have been filed prematurely."

Leslie J. Schmolke v. Ho-Chunk Casino, Ho-Chunk Nation Business Dep't, SU 01-08 Scheduling Order (HCN Sup. Ct., Aug. 24, 2001).

AUGUST 30, 2001

Vicki J. Greendeer v. John C. Houghton, Jr., SU 01-11 Scheduling Order (HCN Sup. Ct., Aug. 30, 2001).

SEPTEMBER 10, 2001

Vicki J. Greendeer v. John C. Houghton, Jr., SU 01-11 Order (HCN Sup. Ct., Sept. 10, 2001).

Oral argument schedule for Sept. 15, 2001, at 9:00 AM CST.



Recent Filings

Trial Court

Child Support

AUGUST 22, 2001

State of Wisconsin v. Kenneth N. Littlegeorge, CS 01-23

SEPTEMBER 6, 2001

Michelle Stacy v. Zachary Thundercloud, CS 01-24

SEPTEMBER 7, 2001

State of Wisconsin v. Henry Whitethunder, CS 01-25

State of South Dakota v. Gary S. Funmaker, Jr., CS 01-26

SEPTEMBER 13, 2001

Victoria E. Hill v. Kelly L. Logan, CS 01-27

Civil Cases (All Categories)

AUGUST 8, 2001

Steve Clarke v. HCN Gaming Comm'n, CV 01-95

AUGUST 13, 2001

John Holst v. HCN Gaming Comm'n, CV 01-96

AUGUST 21, 2001

Janette Smoke v. Steve Garvin, MPC, and Ho-Chunk Nation, CV 01-97

AUGUST 27, 2001

Lorna M. Hach v. HCN C-Store, Baraboo, Deb Hinder, Mgr., CV 01-98

AUGUST 31, 2001

HCN Home Ownership v. Janet Funmaker, CV 01-99

Louise M. Skroch v. HCN, MPC, CV 01-100

SEPTEMBER 17, 2001

HCN Housing Authority v. Tyrone & Lori Swallow, CV 01-101

SEPTEMBER 18, 2001

HCN Dep't of Housing, Home Ownership v. Diane Cloud Peterson & Kim Peterson, CV 01-102

SEPTEMBER 19, 2001

HCN Dep't of Housing, Property Mgmt. Div. v. Serena Gail YellowThunder, CV 01-103

HCN Dep't of Housing, Property Mgmt. Div. v. Brandon Cloud, CV 01-104

HCN Dep't of Housing, Property Mgmt. Div. v. Myron Dale Cloud II, CV 01-105

SEPTEMBER 20, 2001

In the Interest of W.S.M., DOB 04/19/92, S.G.M., DOB 12/24/89, A.I.M., DOB 09/23/88, by Sheila Waube, CV 01-106

Domestic Violence

SEPTEMBER 19, 2001

In the Interest of Sadell Wilson, by HCN Div. of Soc. Services v. Tyrone & Lori Swallow & Danelle Baker, DV 01-07



Juvenile

AUGUST 13, 2001

In the Interest of Minor Child: D.D.W., DOB 12/16/94, JV 01-17

In the Interest of Minor Child: D.R.W., DOB 09/22/92, JV 01-18



In the Interest of Minor Child: D.G.W., Jr., DOB 11/09/95, JV 01-19

In the Interest of Minor Child: D.S.W., DOB 02/19/98, JV 01-20

Supreme Court

AUGUST 15, 2001

Vicki Greendeer v. John Houghton, SU 01-11

SEPTEMBER 17, 2001

Kathy Stacy v. HCN, Clarence Pettibone, & Wade Blackdeer, SU 01-12



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	\$.025/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

Visit our website at

http://www.ho-chunk.com/Government/dept_court_page.htm

to view the Ho-Chunk Nation Constitution, rules & statutes, as well as this Court's opinions and Court Bulletins.

Legal Citation Form

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

Ho-Chunk Nation Constitution

Constitution, Article Number, Section, and Subsection.

HCN CONST., ART. XI, Sec. (or §) 7.

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

HCN Ordinances

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

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

CLAIMS AGAINST PER CAPITA, Sec. (or §) 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).

Office of Public Advocacy Staff Person Dennis Funmaker out for medical reasons

Dennis Funmaker is currently out on Family Medical Leave due to recent heart surgery. The Court staff asks that you join us in sending out warm wishes to Dennis and hopes for a full and speedy recovery. OPA duties are currently covered by Staff Attorney Anetra Parks. Please contact the Court if you need assistance. *et*



Race Results

Ho-Chunk Nation 6th Annual 5 K Fun Run/Walk



Best Overall - Individuals

Male	Time	Female	Time
Larry Garvin II	19:16	Jodie Webster	24:48



Best Overall - Team

First Place with a Total Time of 1 hour 22 minutes 48 seconds

Donavan Cloud	25:28
Duncan Rave	26:00
Marisa McAndrew	31:20



Under 10

	Male	Time		Female	Time
1 st	Christopher Laylan	33:14	1 st	Heleyna Brinegar	58:28
2 nd	Grant Butterfield (tie)	47:26	2 nd		
2 nd	Kyle Laylan (tie)	47:26	3 rd		

10 to 19

	Male	Time		Female	Time
1 st	Larry Garvin II	19:16	1 st	Amber Dowling	27:19
2 nd	Randy Blackdeer II	22:13	2 nd	Verna Blackdeer	28:46
3 rd	Jordan Vidana	22:31	3 rd	Marissa McAndrew	31:20

20 to 29

	Male	Time		Female	Time
1 st	Joshua Smith	27:15	1 st	Jodie Webster	24:48
2 nd	Rayce Pettibone	27:31	2 nd	Katie Matha	25:23
3 rd	Andrew Rave	28:07	3 rd	Heidi Bird	50:47

30 to 39

	Male	Time		Female	Time
1 st	Todd Matha	27:33	1 st	Brenda Kay Wilson	26:04
2 nd	Paul Funmaker Salloway	37:12	2 nd	Paula Brancroft	26:09
3 rd			3 rd	Angie Dowling	48:05

40 to 49

	Male	Time		Female	Time
1 st	Mark Wilson	26:02	1 st	Kathy Stacy	57:50
2 nd	Mark Butterfield	26:05	2 nd	Mary Jo Hunter	58:30
3 rd	Louis Bird	28:15	3 rd		

50 and over

	Male	Time		Female	Time
1 st	Willy Cleveland	29:04	1 st	Margie Parks	44:12
2 nd	Walter Lewis	57:16	2 nd	Marie Lewis	57:14
3 rd			3 rd	Myrna Thompson	58:27



All Runners and Walkers – Sorted Alphabetically

Name	Age Category	Time	Team	Total Team Time
Bancroft, Paula	30 to 39	26:09:00		
Bind, Bobby	40 to 45	34:22:00		
Bird, Heidi	20 to 29	50:47:00		
Bird, Louis	40 to 45	28:13:00		
Bird, Patricia	10 to 19	33:18:00		
Blackcoon, Ashley	10 to 19	42:16:00		
Blackdeer, Myrna	10 to 19	42:39:00		
Blackdeer, Randy II	10 to 19	22:13		
Blackdeer, Verna	10 to 19	28:44:00	T2	1 hr., 23 min., 53 sec.
Brinegar, Heleyna	under 10	58:28:00	T7	2 hr., 55 min., 23 sec.
Butterfield, Grant	under 10	47:26:00	T4	2 hr., 8 min., 6 sec.
Butterfield, Mark	40 to 49	26:05:00	T3	1 hr., 27 min., 53 sec.
Cleveland, Willy	50 and over	29:04:00		
Cloud, Donavon	10 to 19	25:28:00	T1	1 hr., 22 min., 48 sec.
Dowling, Amber	10 to 19	27:18:00	T2	1 hr., 23 min., 53 sec.
Dowling, Angie	30 to 39	48:02:00		
Garvin, Larry II	10 to 19	19:16		
Hopinka, Keith	10 to 19	28:46:00		
Hopinka, Leonard	10 to 19	24:38:00		
Hunter, Gary	40 to 49	58:30:00	T6	2 hr., 55 min., 30 sec.
Hunter, Mary Jo Brooks-	40 to 49	58:30:00	T6	2 hr., 55 min., 30 sec.

Laylan, Christopher	under 10	33:14:00	T4	2 hr., 8 min., 6 sec.
Laylan, Kyle	under 10	47:26:00	T4	2 hr., 8 min., 6 sec.
Lewis, Marie A.	50 and over	57:14:00		
Lewis, Walter R.	50 and over	57:16:00		
Littlegeorge, Brianna	10 to 19	37:10:00		
Mann, Randall	40 to 49	57:48:00	T5	2 hr., 53 min., 27 sec.
Matha, Katie	20 to 29	25:23:00		
Matha, Todd	30 to 39	27:33:00	T3	1 hr., 27 min., 53 sec.
McAndrew, Marisa	10 to 19	31:20:00	T1	1 hr., 22 min., 48 sec.
Murphy, Cody	10 to 19	22:32		
Owen, Brandon	10 to 19	58:30:00	T6	2 hr., 55 min., 30 sec.
Parks, Margie	50 and over	44:12:00		
Pettibone, Rayce	20 to 29	27:31:00		
Rave, Andrew	20 to 29	28:07:00		
Rave, Duncan	10 to 19	26:00:00	T1	1 hr., 22 min., 48 sec.
Rave, Troy	10 to 19	30:02:00		
Salloway, Paul Funmaker	30 to 39	37:12:00		
Shisler, Vicky	30 to 39	57:49:00	T5	2 hr., 53 min., 27 sec.
Smith, Janelle	10 to 19	31:20:00		
Smith, Jeremy	10 to 19	33:15:00		
Smith, Jesse	10 to 19	27:02:00		
Smith, Joshua	10 to 19	27:12:00		
Stacy, Kathy A.	40 to 49	57:50:00	T5	2 hr., 53 min., 27 sec.
Swallow, Vance	10 to 19	27:51:00	T2	1 hr., 23 min., 53 sec.
Thompson, Myrna		58:27:00	T7	2 hr., 55 min., 30 sec.
Topping, Dodie Jean	20 to 29	58:28:00	T7	2 hr., 55 min., 30 sec.
Traverzo, Daniel	under 10	unknown		
Traverzo, Sandra	30 to 39	51:49:00		
Vidana, Jordan	10 to 19	22:31		
Webster, Jodi	20 to 29	24:48:00		
Wilson, Brenda Kay	30 to 39	26:04:00		
Wilson, Mark	40 to 49	26:02:00		
Yellowbank, Veronica	10 to 19	34:15:00	T3	1 hr., 27 min., 53 sec.

A Special Thank You...

to everyone who helped make Law Day 2001 and the 6th Annual 5K Fun Run/Walk successful and fun events. A very special thanks to Lani Blackdeer, Bennett Blackdeer, Calvinita Kills In Water, Debra Crowe, Winter Smith, Craig Cleveland, Kyron Cleveland, Erwin Begay, and the Ho-Chunk Nation Youth Runners. Thank you to the HCN Court System staff (Jeanne, Ray, Marcella, Selina & Willa) for coming in on their day off!), And last, but not least, a very special thank you to our sponsors: HCN Business Dep't, Runners World & Ripp Distributing – Chippewa Springs Water. It was a huge success thanks to all of you! *er*



A Few More Pics from the Fun Run...



And they're off!



Bennett Blackdeer helping out at the finishing line



The runners start off through the most difficult obstacle of the course ... trees!



Some of the first few runners make their way to the finish line.



Notice: T-Shirt Exchange

For those of you who participated in this year's Fun Run/Walk, if you have not already noticed, there was a typographical error made on the T-Shirts. The t-shirt printing company has been more than happy to make amends for the mistake and is reprinting the shirts at no cost. They are also adding this year's date to the sleeve and printing them on one hundred percent (100%) cotton t-shirts. The shirts should be available in the next week or two. Please contact the Court or come by to get your new shirt. (Only available to those who registered for this year's Fun Run/Walk and received a shirt, including volunteers who received a shirt.)

HO-CHUNK NATION COURT BULLETIN

Inside this Issue

- 1 Legislature confirms new Attorney General
- 2 Number of Cases in the Trial Court increases by 20% from this time last year

In Memoriam:
Traditional Elder
Herbert Goodbear
- 3 Recent Cases
- 6 Recent Filings
- 7 United States Supreme Court Update
- 8 A Tribute to Chief Trial Judge Mark Butterfield
- 10 Official Notice
- 11 HCN Court Fees
Legal Citation Form

Ho-Chunk Nation Court System
W9598 Hwy 54 East
P.O. Box 70
Black River Falls, WI 54615
(715) 284-2722
[http://www.ho-chunk.com-
/Government/dept_court_page.htm](http://www.ho-chunk.com-Government/dept_court_page.htm)

Legislature confirms new Attorney General



Ho-Chunk Nation Department of Justice Attorney General **Sheila Corbine**. Photo taken Oct. 9, 2001.

On September 4, 2001, the Legislature voted to confirm then Acting Attorney General and Department of Justice (DOJ) Tribal Attorney **Sheila D. Corbine** as the new Attorney General (AG) for the Nation.

Sheila, a member of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians,

has been with the Department of Justice going on six years as a DOJ Attorney and acting as “second in command” under the former Attorney General **Gary Brownell**.

When Mr. Brownell left the AG’s office in mid-July of this year, President **Troy Swallow** nominated Sheila as the Attorney General and appointed her Acting Attorney General until the necessary background checks were completed. The

Legislature confirmed the nomination last month.

In her former position as DOJ Attorney, Sheila worked as the Codes Development Coordinator, Indian Child Welfare Prosecutor, as well as conducting training on the Indian Child Welfare Act.

Prior to working with the Nation, Sheila worked with

Continued on page 2

New Attorney General in the DOJ

Continued from page 1

Wisconsin Judicare in its Indian Law Office. It was there that she authored the Indian Child Welfare Act: A Manual for Wisconsin Practitioners. More recently, she co-authored with DOJ Attorney **Wendy Helgemo** an article published in the Spring issue of the Wisconsin Bar Association's *Family Advocate* entitled "When the Family is Native American: Understanding the Indian Child Welfare Act." [See HCN COURT BULLETIN, August 2001 ed., page 11.]

The Department of Justice attorneys represent the interests of the Nation in the Nation's courts, state and federal courts, as well as before administrative bodies. Sheila would like to see the Department become tougher on collecting debts owed to the Nation as well as work on enforcing the Nation's codes that are already in place.

Sheila has already authored two Attorney General Opinions since her

Continued on page 7

Number of Cases in the Trial Court increases by 20% from this time last year

The Trial Court has seen an increased number of cases in the year 2001. At this time last year, ninety-six (96) civil cases were filed in the Trial Court. The total number of civil cases filed in the year 2000 was one hundred and sixteen (116). As of October 15, 2001, there were already one hundred and nineteen (120) civil cases filed in the Trial Court.

The number of civil cases filed in the Trial Court has steadily risen each year. Likewise, the written product has dramatically increased each year (our law library now has four binders of opinions from this year alone, whereas in past years the written product only consumed one or two volumes). The year 1997 saw a boom in civil cases filed, with one hundred and seventy-two (172) case filings. Most of those were child support cases. It was not until 1998 that the Court established a separate case filing code for child support cases ("CS" rather than "CV"). The following is a breakdown of the case filings by year:

TRIAL COURT

<u>Civil Cases</u>	<u>Juvenile Cases</u>	<u>Child Support</u>	<u>Domestic Violence</u>
2001 = 120 (Oct. 15, 2001)	2001 = 20	2001 = 29	2001 = 7
2000 = 116	2000 = 36	2000 = 54	
1999 = 109	1999 = 26	1999 = 83	1999 = 2
1998 = 67	1998 = 26	1998 = 78	
1997 = 172*	1997 = 21		
1996 = 94	1996 = 20		
1995 = 30	1994 = 19		
	1995 = 27		

SUPREME COURT

2001 = 13	1994 = 19
2000 = 17	1993 = 14
1999 = 12	1992 = 13
1998 = 8	

*This is a combination of civil and child support cases.

Furthermore, one statistic not reflected in these numbers is the fact that most older child support cases remain ongoing until the minor children reach the age of 18.

Continued on page 7

In Memoriam: Traditional Elder Herbert Goodbear

The Court staff wish to express their sincere and heartfelt condolences to the friends and family of **Herbert Sanford Goodbear**, who passed away on October 8, 2001.

Mr. Goodbear was a well-respected elder and a distinguished member of the community. He served on the Traditional Court and was a World War II veteran who served in the Pacific Theater battles.

Mr. Goodbear retired from Janesville Auto Transport Company after 23 years of service. He was a member of the Medicine Lodge and head of the Decorah Group.

Mr. Goodbear was predeceased by his wife Exhilda and his youngest daughter, Georgia. He is survived by six sons: Greg, Jeff, John, Mike, Robert (grandson) and William, all of Black River Falls, and Dan of Tennessee; two daughters: Dorothy of Black River Falls and Roberta of Eau Claire; nine grand-children and six great-grandchildren. He will be missed. ❀

Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and broken down by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader's benefit. They should in no way be used as substitution for citations to the actual court opinions.

Trial Court

Administrative Review

-Ambiguous Phrases in the Policies & Procedures Manual, Interpretation of

SEPTEMBER 21, 2001

Marie WhiteEagle v. Ho-Chunk Nation and Ho-Chunk Nation Wisconsin Dells Head Start Program, CV 01-52 Order (Granting Defendants' Motion to Dismiss) (HCN Tr. Ct., Sept. 21, 2001).

The Court has repeatedly identified ambiguous phrases in the Administrative Review Process section of the HCN PERSONNEL POLICIES AND PROCEDURES MANUAL. Until these provisions are amended to provide clarity for both employees and employers, the Court will continue to liberally interpret the sections in favor of plaintiffs who have been denied a property right and have reasonably attempted to follow the grievance steps.

[See also **Sovereign Immunity**, *infra*, within this index. Other topic: **Constructive knowledge**]

Child Support

SEPTEMBER 14, 2001

State of Wisconsin v. Kenneth N. Littlegeorge, CS 01-23 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Sept. 14, 2001).

The Court had to determine whether to enforce a foreign child support order against the defendant's per capita distribution. As defendant failed to respond within the prescribed time period, the Court granted a *Default Judgment* in favor of the plaintiff in accordance with section 107 of the HCN RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE.

SEPTEMBER 17, 2001

Melissa Smith v. Paul C. Smith, CS 96-79 Order (Requiring Proof of Enrollment) (HCN Tr. Ct., Sept. 17, 2001).

Upon review of the file, the Court notes that the minor child L.R.S. turned eighteen (18) years of age on Aug. 22, 2001. The Court orders the parties, if applicable, to submit proof of the child's high school enrollment or its equivalent by Oct. 8, 2001. If no such proof is filed, the Court will presume the child graduated from high school and will *sua sponte* cease withholding for child support for L.R.S.

SEPTEMBER 20, 2001

Heather Hartwig v. Steve Lincoln, CS 99-21 Order (Demanding Accounting) (HCN Tr. Ct., Sept. 20, 2001).

The Court previously granted defendant's request to suspend his current child support obligation, but required defendant to submit a certified KIDS Account History by March 15, 2001, so that the Court could set the arrearage amount with the HCN Dept. of Treasury. As this accounting is now over six (6) months late, the Court orders defendant to submit the required accounting or the Court shall convene a *Show Cause Hearing* to determine if the Court shall hold defendant in contempt of court.

Children's Trust Fund (CTF)

SEPTEMBER 14, 2001

In the Interest of Minor Children: T.M.K., DOB 06/06/90; T.M.K., DOB 05/09/87; T.M.K., DOB 08/22/85; T.W.E., DOB 04/09/93, by Sara J. WhiteEagle v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-37 Order (Petition Denied) (HCN Tr. Ct., Sept. 14, 2001).

In order to assess the merit of plaintiff's request for release of monies from the CTF for the purchase of a computer, the Court employed the standard enunciated in the HCN AMENDED AND RESTATED PER CAPITA DISTRIBUTION ORDINANCE, § 6.01(b). The Court had previously requested additional information from plaintiff in order to make its determination. As the plaintiff failed to provide the

requested information, the Court denied the release of funds.

SEPTEMBER 17, 2001

In the Interest of the Minor Child: K.B., DOB 06/06/89, by Shawn Blackdeer, CV 01-36 Order (Requesting Accounting) (HCN Tr. Ct., Sept. 17, 2001).

The Court requests an accounting for CTF funds which it released to plaintiff for the minor child's orthodontic treatment. The accounting is now almost one (1) month overdue.

In the Interest of the Minor Child: R.M.R., DOB 12/06/86, by Kim Blackdeer, CV 01-48 Order (Requesting Accounting) (HCN Tr. Ct., Sept. 17, 2001).

The Court previously released funds from the minor child's CTF account in order to pay for the child's orthodontic treatment. Ho-Chunk Nation law requires the plaintiff to submit an accounting of those funds within a Court-determined amount of time. The Court previously ordered plaintiff to submit an accounting within two (2) months of the release of funds. As the prescribed time period has now lapsed, the Court orders plaintiff to submit the accounting as soon as possible.

Civil Cases (All Categories)

SEPTEMBER 14, 2001

Aleksandra Chichowski v. Ho-Chunk Hotel Convention Center, CV 01-25 Order (Motion to Prevent Harassment) (HCN Tr. Ct., Sept. 14, 2001). [For summary, see **Discovery** within this index.]

In the Interest of Minor Children: T.M.K., DOB 06/06/90; T.M.K., DOB 05/09/87; T.M.K., DOB 08/22/85; T.W.E., DOB 04/09/93, by Sara J. WhiteEagle v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-37 Order (Petition Denied) (HCN Tr. Ct., Sept. 14, 2001). [For summary, see **Children's Trust Fund**, *supra*, within this index.]

SEPTEMBER 17, 2001

In the Interest of the Minor Child: K.B., DOB 06/06/89, by Shawn Blackdeer, CV 01-36 Order (Requesting Accounting) (HCN Tr. Ct., Sept. 17, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

In the Interest of Reuben A. Hall, by Gerald Parr v. Ho-Chunk Nation Enrollment Dep't, CV 98-64 Order (Accepting Accounting) (HCN Tr. Ct., Sept. 17, 2001). [See **Incompetent's Trust Fund (ITF)** within this index.]

In the Interest of the Minor Child: R.M.R., DOB 12/06/86, by Kim Blackdeer, CV 01-48 Order (Requesting Accounting) (HCN Tr. Ct., Sept. 17, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

Ho-Chunk Nation Home Ownership Program v. Robert Mobley, CV 98-07 Notice (Satisfaction of Judgment and Intent to Close) (HCN Tr. Ct., Sept. 17, 2001).

As the plaintiff acknowledged full payment and satisfaction of judgment, thereby releasing and discharging defendant's judgment in the sum of \$7,200.14, the Court recognized this debt as having been paid in full and informs the parties of its intent to close the file if the Court hears no objection in ten (10) days.

SEPTEMBER 20, 2001

Ralph Babcock v. HCN Gaming Comm'n, CV 01-87 Scheduling Order (HCN Tr. Ct., Sept. 20, 2001).

Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Melody Whiteagle a/k/a Melody Whiteagle Fintak, CV 01-80 Order (For Damages) (HCN Tr. Ct., Sept. 20, 2001).

The Court finding that defendant owes \$1,300.00 in damages, orders the Dept. of Treasury to withhold from her next four per capita distributions and to not allow defendant to take out any loans against her per capita in excess of the *Judgment*.

Ho-Chunk Nation Home Ownership Program v. Janet Muir, CV 98-24 Order (Satisfaction of Judgment and Intent to Close) (HCN Tr. Ct., Sept. 20, 2001).

The plaintiff acknowledged full payment and satisfaction of its judgment of \$10,640.28. The Court recognized the satisfaction of judgment and informed the parties of its intent to close the file if no objection is filed in ten (10) days.

SEPTEMBER 21, 2001

Berna Big Thunder v. Ho-Chunk Nation, CV 99-71 Order (Extending Discovery Period and Cancelling Remaining Deadlines) (HCN Tr. Ct., Sept. 21, 2001).

Having found good cause, the Court extends the discovery period for thirty (30) days from the date of entry of the Order; and cancels all remaining scheduled deadlines pending conclusion of discovery and further scheduling with the Court.

Marie WhiteEagle v. Ho-Chunk Nation and Ho-Chunk Nation Wisconsin Dells Head Start Program, CV 01-52 Order (Granting Defendants' Motion to Dismiss) (HCN Tr. Ct., Sept. 21, 2001).

[For summaries, see **Administrative Review** and **Sovereign Immunity**, within this index. Other topic: **Constructive knowledge**]

SEPTEMBER 26, 2001

John Holst v. HCN Gaming Comm'n, CV 01-96 Scheduling Order (HCN Tr. Ct., Sept. 26, 2001).

SEPTEMBER 27, 2001

Lorna M. Hach v. Ho-Chunk Nation C-Store, Baraboo, and Deb Hindes, Mgr., CV 01-98 Order (Motion Hearing) (HCN Tr. Ct., Sept. 27, 2001).

The Court shall hold a hearing to allow the parties an opportunity to argue defendants' Motion for Summary Judgment. The Order sets out an explanation of the motion process.

Constructive Knowledge

SEPTEMBER 21, 2001

Marie WhiteEagle v. Ho-Chunk Nation and Ho-Chunk Nation Wisconsin Dells Head Start

Program, CV 01-52 Order (Granting Defendants' Motion to Dismiss) (HCN Tr. Ct., Sept. 21, 2001).

A plaintiff is charged with constructive knowledge of the Nation's laws.

[See also **Administrative Review** and **Sovereign Immunity**, within this index.]

Discovery

SEPTEMBER 14, 2001

Aleksandra Chichowski v. Ho-Chunk Hotel Convention Center, CV 01-25 Order (Motion to Prevent Harassment) (HCN Tr. Ct., Sept. 14, 2001).

As the plaintiff failed to present any factual documentation substantiating the need for a protective order, using the "reasonable person" standard, the Court denies plaintiff's Motion for a Protective Order. The Court shall uphold reasonable restrictions on time, place, and manner of contact for exchange of information between parties during the discovery process.

Incompetent's Trust Fund (ITF)

SEPTEMBER 17, 2001

In the Interest of Reuben A. Hall, by Gerald Parr v. Ho-Chunk Nation Enrollment Dep't, CV 98-64 Order (Accepting Accounting) (HCN Tr. Ct., Sept. 17, 2001).

The Court accepted plaintiff's required accounting for the release of ITF funds.

Juvenile

SEPTEMBER 26, 2001

In the Interest of Minor Child: R.W.H., DOB 04/13/01, JV 01-09 Order (Default Judgment) (HCN Tr. Ct., Sept. 26, 2001).

The Court entered a Default Judgment in this Child/Family Protection Petition action pursuant to the CHILDREN'S CODE, Art. XX.

Sovereign Immunity

SEPTEMBER 21, 2001

Marie WhiteEagle v. Ho-Chunk Nation and Ho-Chunk Nation Wisconsin Dells Head Start

Program, CV 01-52 *Order (Granting Defendants' Motion to Dismiss)* (HCN Tr. Ct., Sept. 21, 2001).

The limited waiver of sovereign immunity set forth in the Ho-Chunk Nation Resolution 6-9-98A requires a non-gaming grievant to file within thirty (30) days of the final Administrative Review Process decision. The Court determined that the Nation's sovereign immunity barred plaintiff's suit since she filed her *Complaint* in an untimely manner. [See also **Administrative Review**, *supra*, within this index. Other topic: **Constructive knowledge**]

Supreme Court

SEPTEMBER 27, 2001

Leslie J. Schmolke v. Ho-Chunk Nation Casino, Ho-Chunk Nation Bus. Dep't, SU 01-08 *Amended Scheduling Order (Motion Hearing)* (HCN Tr. Ct., Sept. 27, 2001).

Recent Filings

Trial Court

Child Support

SEPTEMBER 24, 2001

State of Wisconsin/Vincent Hernandez v. Mary Hernandez/Thompson, CS 01-28.

OCTOBER 5, 2001

Dasa Marie Pappas v. Wilfred H. Cloud, CS 01-29.

Civil Cases

SEPTEMBER 24, 2001

HCN Dep't of Housing/Prop. Mgmt. Div. v. Kenneth J. Basswood, CV 01-107.

SEPTEMBER 25, 2001

Wayne H. Boyles v. Ho-Chunk Casino, CV 01-108.

HCN Home Ownership Program v. Michelle Mountain, CV 01-109.

HCN Dep't of Housing/Prop. Mgmt. Div. v. Pamela Schauls, CV 01-110.

HCN Dep't of Housing/Prop. Mgmt. Div. v. Barbara Littlewolf, CV 01-111.

SEPTEMBER 26, 2001

HCN Housing Authority v. Carrie Youngthunder, CV 01-112.

OCTOBER 3, 2001

HCN Home Ownership Program v. Janet Muir and Gary Muir, CV 01-113.

HCN Home Ownership Program v. Arnold Darnell, CV 01-114.

HCN Home Ownership Program v. Gale Downey and Roger Downey, CV 01-115.

OCTOBER 8, 2001

HCN Home Ownership Program v. Robert Mobley, CV 01-116.

HCN Home Ownership Program v. Georgette Garvin, CV 01-117.

OCTOBER 11, 2001

HCN Dep't of Housing/Prop. Mgmt. Div. v. Jeanine Heffner, CV 01-118.

HCN Dep't of Treasury v. Serena YellowThunder, CV 01-119.

Supreme Court

OCTOBER 3, 2001

Steve Camden v. Game Financial Corp. and Lisa Maulson, SU 01-13.



Trial Court sees increase in case filings

continued from page 2

SUPREME COURT (continued from page 2)

1997 = 10
1996 = 16
1995 = 3

TOTAL NUMBER OF CASES FILED IN THE TRIAL COURT IN THE YEAR

2001 = 175 (as of October 15, 2001)	1998 = 171	1995 = 57
2000 = 206	1997 = 193	
1999 = 220	1996 = 109	

Juvenile cases and child support cases are ongoing. The Court manages this increased caseload with the same amount of staff as in past years, and with a significant budget cut this past year. ❁

New Attorney General

Continued from page 2

appointment to the office. She is also currently working on compiling a collection of past AG Opinions for use by future AGs and staff, promoting consistency within the office. In between that and overseeing a staff of twelve (four attorneys, three paralegals, and five support staff), attending meetings, traveling for work, and the many other duties associated with the office, Sheila has made a seamless transition from DOJ attorney to Attorney General. ❁

United States Supreme Court Update

October 2001 - 2002 Term

Last updated 10/09/01

There were three (3) Indian law cases held over from 2000-2001 term

(1) *Chickasaw Nation v. United States*, Docket No. 00-507

*Issue: Under applicable Indian law canons of statutory construction, does IGRA, by an express incorporation of Chapter 35 of Internal Revenue Code (*see* 25 U.S.C §2719(d)(1)), confer on Indian tribes conducting gaming operations the same exemption from wagering taxes afforded to states by Chapter 35 of IRC?

Subject: Gaming - IGRA
Federal Taxation

History: Petition for certiorari filed 10/03/00.
Certiorari granted 1/22/01.
Motion for petitioner to dispense with printing the joint appendix granted 3/19/01.

Holding Below: *Chickasaw Nation v. United States*, 208 F.3d 871 10th Cir., 4/5/00.

Court of Appeals held that pull-tab games are considered "lottery" and so are a taxable "wager;" the Chickasaw Nation was considered a "person" and so subject to taxes; the IGRA did not preclude the imposition of federal wagering excise taxes; and finally, the self-government guarantee of the 1855 treaty between the U.S. and Chickasaw Nation did not preclude the imposition of taxes in question.

Second Holding Below: *Choctaw Nation of Oklahoma v. United States*, 210 F.3d 389

Using same reasoning as companion appeal of Chickasaw Nation, the appeals court determined that the IGRA does not preclude imposition of federal wagering excise taxes on wagers placed on Indian pull-tab games operated by tribe under IGRA on trust lands.

(2) *Alaska v. United States*, Docket No. 128 Original

Subjects: Submerged Lands and Wetlands

History: Motion for leave to file complaint granted 6/12/00.
Proposed supplemental decree of 6/19/00 approved and entered 10/10/00.
Special Master appointed 10/16/00.
Motion for Alaska to file amended complaint granted 01/08/01.
Amended complaint and answer are referred to the Special Master 3/5/01. Motion of Franklin H. James, et al., for leave to intervene is referred to the Special Master 4/30/01.
Motion of the Special Master for fees and reimbursement of expenses is granted, and the Special Master is awarded a total of

Continued on page 9

A TRIBUTE to Chief Trial Judge Mark Butterfield



Chief Trial Judge Mark Butterfield in front of the Great Seal of the Ho-Chunk Nation in the HCN Courthouse.

and four half-marathons in the past year. Most recently he ran a marathon in Chicago, Illinois, finishing with a time of 4 hours and 31 minutes.

He started running marathons after he lost a brother and his father to diabetes. He said, "it really affected me ... it was scary. I was

"Diabetes really affects the community ... when you are genetically predisposed like me, running is a good way to help combat it."

--Judge Butterfield, on why he began running marathons.

very overweight and after their deaths I felt a sense of urgency to lose the weight." He goes on to say that "diabetes really affects the tribal community ... when you are genetically predisposed like me, running is a good way to help combat it."

Prior to his appointment as Chief Trial Judge, Mark Butterfield worked for two years in the Ho-Chunk Nation Department of Justice, where he settled a large case for the Ho-Chunk Nation against the Golden

Mark Butterfield, a member of the Winnebago Tribe of Nebraska, has dedicated the past six years of his life in service as Chief Trial Judge of the Ho-Chunk Nation Trial Court. Judge Butterfield was appointed by the Legislature on June 1, 1995, and has since spent that time presiding over hundreds of cases – making tough decisions; acting as chief administrator of the Court, which includes meeting the needs of the Traditional Court; as well as supervising the judicial staff and Clerk of Court.

Judge Butterfield lives in Tomah with his wife of fifteen years and his nine-year old son. He recently began running in marathons, having completed two marathons

Nickel Corporation and the Gaming Corporation of America. Prior to that he worked for 7 years as a staff attorney for Alaska Legal Services Corporation in Anchorage, which is a private, non-profit corporation that provides free civil legal assistance to low-income Alaskans.

During his tenure at the Court, Judge Butterfield has presided over many tough cases – the toughest of which, he says, are the children's cases.

Even before he came to work for the Ho-Chunk Nation, Judge Butterfield was a part of the community. He had his naming ceremony here and he also participates as a



Judge Butterfield sports his medal he earned from completing a recent marathon in Chicago.

member of the Feast Lodge. He enjoys being a part of the community and working for his people. ❁

Visit our website at

http://www.ho-chunk.com/Government/dept_court_page.htm

to view the Ho-Chunk Nation Constitution, rules & statutes, as well as this Court's opinions and Court Bulletins.

U.S. Supreme Court Update

Continued from page 7

\$12,963.14 for the period October 16, 2000 - April 16, 2001, to be paid equally by the parties 5/14/01.

(3) *United States v. Little Six Inc.*, Docket No. 00-1115

*Issue: Does Section 20(d) of IGRA, 25 U.S.C. § 2719(d), exempt Native American tribes from wagering excise and occupational taxes imposed by Sections 4401 and 4411 of IRC?

Subjects: Gaming
Taxation

History: Petition for certiorari filed 1/10/01.

*Holding Below: *Little Six, Inc. and Shakopee Mdewakanton Sioux (Dakota) Community v. United States* 210 F.3d 1361 Fed. Cir. Court held that although tribal revenues from wagers placed on "pull-tab" games operated on Indian reservations are subject to federal excise tax and related occupational tax under Sections 4401 and 4411 of Internal Revenue Code, tribes are nevertheless exempt from such taxes under provision of Indian Gaming Regulatory Act, 25 U.S.C. § 2719(d)(1), ambiguous language of which can reasonably be construed to exempt Indian pull-tab games from federal wagering taxes and therefore must, under Indian canon of construction, be construed in tribe's favor.

Petition for certiorari was filed in three (3) Indian law cases this term

(1) *Muckleshoot Indian Tribe v. Puyallup Indian Tribe*, Docket No. 01-14

*Issue: Did Ninth Circuit violate principles of res judicata when it radically narrowed geographic area of Muckleshoot Indian Tribe's treaty-based right to fish, as that right was determined in 1974 final judgment, which was affirmed on appeal and on which tribe has relied for 27 years?

Subjects: Subsistence Rights - Fishing
Treaties with the United States

History: Petition for certiorari filed 7/3/01.

Holding Below: *United States v. Muckleshoot Indian Tribe*, 9th Cir., 235 F.2d 429. Court of Appeals affirmed the District Court's decision in favor of the Puyallup, Suquamish,

and Swinomish Tribes, holding that the Muckleshoot Tribe's saltwater usual and accustomed fishing area, as determined by the 1974 decision in *United States v. Washington*, did not include any areas outside Elliott Bay.

(2) *Wyandotte Nation v. Sac and Fox Nation of Missouri*, Docket No. 01-445

*Issues: (1) Should federal court of appeals make determination of what lands constitute "reservation" for purposes of IGRA? (2) Does Tenth Circuit determination that tract of land in Kansas City, Kansas, is not reservation of Wyandotte Nation conflict with 150 years of established law, and is it inconsistent with prior decisions of this court?

Subjects: Indian Gaming Regulatory Act

History: Petition for certiorari filed 9/13/01.

Holding Below: *Sac and Fox Nation of Missouri v. Norton*, 10th Cir., 240 F.3d 1250. Secretary of interior lacks authority to interpret term the term "reservation" in Indian Gaming Regulatory Act.

(3) *Penobscot Nation v. Greater Northern Paper Inc.*, Docket No. 01-381

*Issues: (1) Are terms and conditions under which non-Indian public, including corporations that have long been hostile to petitioner tribes, can gain and enforce entry into tribes' reservations to demand, inspect, and copy tribal records "internal tribal matters" reserved, under federal law, to tribes' exclusive control and therefore immune from state jurisdiction? (2) Did Maine Supreme Judicial Court err in deciding, in conflict with decisions of First Circuit, not to measure petitioner tribes' right to be free from state control over non-Indian public's intrusion into reservations to demand, inspect, and copy tribal records in accordance with federal common law principles of inherent tribal sovereignty?

Subjects: Freedom of Information Act - Maine

History: Petition for certiorari filed 8/29/01.

*Holding Below: *Penobscot Nation v. Great Northern Paper Inc.*, 770 A.2d 574 (Maine). The Supreme Judicial Court of Maine ruled that the Maine Freedom of Access Act, 1 M.R.S.A. Sec. 401-410, which is ordinarily applicable to municipalities and other components of state

Continued on next page



government, is not applicable to the Tribes when they act in their municipal capacities with respect to intertribal matters or when they interact with other governments or agencies in their municipal capacities.

Suquamish, and Swinomish Tribes, holding that the Muckleshoot Tribe's saltwater usual and accustomed fishing area, as determined by the 1974 decision in *United States v. Washington*, did not include any areas outside Elliott Bay.

Petition for certiorari was denied in the following (1) Indian law case

(1) *Muckleshoot Indian Tribe v. Puyallup Indian Tribe*, Docket No. 01-14

*Issue: Did Ninth Circuit violate principles of res judicata when it radically narrowed geographic area of Muckleshoot Indian Tribe's treaty-based right to fish, as that right was determined in 1974 final judgment, which was affirmed on appeal and on which tribe has relied for 27 years?

Subjects: Subsistence Rights - Fishing
Treaties with the United States

History: Petition for certiorari filed 7/3/01.

Holding Below: *United States v. Muckleshoot Indian Tribe*, 9th Cir., 235 F.2d 429. Court of Appeals affirmed the District Court's decision in favor of the Puyallup,

* "Issues" reproduced with permission from *The United States Law Week*:

Vol. 69, No. 16, p. 3305 (October 31, 2000).

Vol. 69, No. 29, p. 3524 (February 6, 2001).

Vol. 69, No. 29, p. 3524 (February 6, 2001).

Vol. 70, No. 6, p. 3117 (August 14, 2001).

Vol. 70, No. 11 p. 3199 (September 25, 2001)

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<http://www.narf.org/nill/Nillindex.html>. ❁



OFFICIAL NOTICE

TO: EVERYONE
FROM: CHIEF TRIAL JUDGE MARK BUTTERFIELD,
ASSOCIATE TRIAL JUDGE TODD R. MATHA
DATE: OCTOBER 16, 2001
RE: NEW FORMS AVAILABLE

The Court recently updated all its forms. Please destroy all old copies. You may request copies of the new forms by calling the Court at (715) 284-2722 or (800) 434-4070. New forms will have a "Revised 9/2001" date in the footer. ❁



Have a fun and safe Halloween from the Ho-Chunk Nation Court Judges and Staff.

As usual, the Head Start kids are welcome to come by our office on Halloween morning to trick-or-treat.

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 §) 7.

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

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 §) 6.01(b).

HCN Supreme Court Case Law

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

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

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

HCN Trial Court Case Law

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

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

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

Rules of Civil Procedure

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



HO-CHUNK NATION COURT BULLETIN

Inside this Issue

- 1** Ho-Chunk Nation Court System hosts annual WITJA meeting
- 2** Notice: Court System has change-of-web address
- Judge issues
Administrative Order on Faxed Documents
- HCN Court Fees & Legal Citation Form
- 3** Recent Decisions
- 11** Recent Filings
- 12** Head Start Tots visit the Court for Halloween
- 14** Other News of Interest
- 15** U.S. Supreme Court Update

Ho-Chunk Nation Court System
W9598 Hwy 54 East
P.O. Box 70
Black River Falls, WI 54615
(715) 284-2722
(800) 434-4070
<http://www.ho-chunknation.com/government/courts.htm>

Ho-Chunk Nation Court System hosts annual WTJA meeting

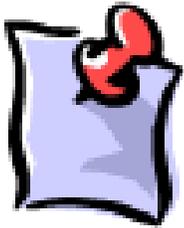


The newly elected Wisconsin Tribal Judges Association officers. From left to right: President: **David Raasch**, Chief Judge, Stockbridge-Munsee; Director: **Sheila Corbine**, Chief Judge, Lac Courte Oreilles; Secretary/Treasurer: **Alice K. Elm**, Chief Judge, Lac Du Flambeau; Vice President: **Mark Butterfield**, Chief Judge, Ho-Chunk Nation. Photo taken Oct. 12, 2001.

On October 11th and 12th, 2001, the Ho-Chunk Nation Court System hosted the annual Wisconsin Tribal Judges Association (WTJA) meeting at the Ho-Chunk Casino Hotel and

Convention Center in Wisconsin Dells. October 11th consisted of a training on the problems associated with

Continued on page 2

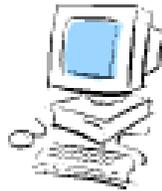


Notice: Court System has change of web-address

If you have not checked it out recently, the Ho-Chunk Nation recently changed its website design and layout. This also means that to access the Court System's opinions, bulletins, and copies of Ho-Chunk Nation law you must now go to the following address:

www.ho-chunknation.com/government/courts.htm

Please let us know if you have any trouble accessing the Court's website or if you have any suggestions or comments related to material on the website.



Court hosts meeting

Continued from page 1

Sexual Abuse. On October 12th, the WTJA established a quorum and approved the new bylaws and elected officers for a two-year term. The new officers are David Raasch, President (Stockbridge-Munsee, Chief Judge); Mark Butterfield, Vice President (Ho-Chunk Nation, Chief Judge); Alice K. Elm, Secretary/-Treasurer (Lac Du Flambeau, Chief Judge); and Sheila Corbine, Director (Lac Courte Oreilles, Chief Judge).



JUDGE ISSUES ADMINISTRATIVE ORDER ON FAXED DOCUMENTS

On November 1, 2001, Hon. Mark Butterfield issued *Administrative Order 01-03* to clarify the Court's policy on accepting telephonically transmitted (faxed) documents. Practitioners should note the following:

- Faxed documents are acceptable in certain circumstances, but this method of submitting documents to the Court should be used sparingly
- The person faxing in the document should begin transmitting the document before 4:00 PM CST
- Accepting the faxed document should not be overly burdensome on the Court (*i.e.*, please do not submit your 50 page brief by fax!)
- The Court will time and date stamp the document once the fax transmission ends.
- The person faxing in the document bears the risk of missing pages, transmission failures and the like.
- The original must be received in our office by the next business day or the document will not be filed until the original is submitted.
- The Court will charge twenty-five cents (\$0.25) per page for both incoming and outgoing faxes beyond six (6) pages (notwithstanding *HCN R. Civ. P. 4*).

If you have any questions, contact the Court at (715) 284-2722 or (800) 434-4070. 

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	\$.025/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 §) 7.

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

Continued on page 11

Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and broken down by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader's benefit. They should in no way be used as substitution for citations to the actual court opinion.

Within the Trial Court, cases are categorized and docketed as one of the following: Child Support (CS or if filed prior to 1998, CV), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Within this index, case citations will appear in one of these categories and, in the event it may be helpful to the reader as a research tool, the cases may also be summarized in a separate topic area. In some instances a decision may touch upon other topics which may not warrant a summary in this index, but the editor will use the indicator "other topic(s) covered," as a research aid for the reader.

Recent Decisions and **Recent Filings** both begin with the date where the previous Court Bulletin left off.

Trial Court

Administrative Review

- Standard of Review

OCTOBER 3, 2001

Marlene Littlewolf v. HCN Education Dep't, CV 01-49 *Order (Granting Summary Judgment)* (HCN Tr. Ct., Oct. 3, 2001).

The Court will give deference to employment decisions as long as they are reasonable (*i.e.*, not "arbitrary and capricious") and supported by substantial evidence. Applying this standard of review, the Court held that the Education Department satisfied both prongs of this test.

The Court will give greater leeway when reviewing discretionary decisions of the executive branch than non-discretionary decisions. [For additional summaries, see **Drug Policy** and **Summary Judgment**, within this index.]

Amendment to or Relief from Judgement or Order (HCN R. Civ. P. 58)

OCTOBER 17, 2001

Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Melody Whiteagle a/k/a Melody Whiteagle-Fintak, CV 01-80 *Order (Denial of Motion)* (HCN Tr. Ct., Oct. 17, 2001).

As the defendant filed untimely, the Court denied her *Motion* to reconsider the Court's September 20, 2001 *Order (For Damages)*. A *Motion for Relief from Judgment* under HCN R. Civ. P. 58(D) represents the only post-judgment motion without a ten (10) day filing deadline. The defendant failed to allege the presence of any of the grounds for granting a *Motion for Relief from Judgment*.

Child Support

OCTOBER 3, 2001

State of Wisconsin, Eau Claire Co. v. Henry WhiteThunder, CS 01-25 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Oct. 3, 2001).

OCTOBER 4, 2001

Michelle Marie McDermott v. Chester Anthony Mallory, CS 01-16 *Order (Enforcing Child Support)* (HCN Tr. Ct., Oct. 4, 2001).

The Court enforced the current, valid underlying state child support order for current support and arrearages against the respondent's per capita distribution.

State of South Dakota v. Gary S. Funmaker, Jr., CS 01-26 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Oct. 4, 2001).

The Court enforced the current, valid underlying state child support order for current support and arrearages against the respondent's per capita distribution.

OCTOBER 5, 2001

Victoria Hill v. Kelly L. Logan, CS 01-27 *Order (Enforcing Child Support)* (HCN Tr. Ct., Oct. 5, 2001).

The Court enforced the current, valid underlying state child support order for current support and arrearages against the respondent's per capita distribution.

Susan C. Oyama v. Alexander D. Gourd; and Catherine M. Gourd v. Alexander D. Gourd, CS 00-27, CS 99-13 *Order (Updating Arrearage Amount)* (HCN Tr. Ct., Oct. 5, 2001).

The Court issued an *Order* updating the arrearage amount owed by the respondent in Case No. CS 99-13, based upon a certified accounting of arrearages.

OCTOBER 9, 2001

State of Wisconsin-Jackson County v. Mary Ann Hendricks, CS 98-74 *Notice (Intent to Close)* (HCN Tr. Ct., Oct. 9, 2001).

The Court ceased withholding for child support arrearages because the respondent satisfied the amount in its entirety.



OCTOBER 10, 2001

Pine County, State of Minnesota v. Sherry D. Carlson, CS 01-15 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Oct. 10, 2001).

The Court enforced the current, valid underlying state child support order for back child support against the respondent's wages earned as an employee of the Ho-Chunk Nation.

State of Wisconsin, Jackson Co. v. Robert Cleveland, CS 00-33 *Order (Adjusting Child Support Withholding)* (HCN Tr. Ct., Oct. 10, 2001).

The Court adjusted the withholding amount for back child support against the respondent's per capita distributions, allowing him to pay off the arrearages as soon as possible.

OCTOBER 15, 2001

State of Wisconsin v. Sherry L. Smith, CS 00-51 *Notice (Intent to Close)* (HCN Tr. Ct., Oct. 15, 2001).

The Court ceased withholding for child support arrearages because the respondent satisfied the amount in its entirety.

State of Wisconsin on behalf of Debra Hall v. Robert Cleveland, CV 97-116 *Order (Noting Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Oct. 15, 2001).

The Court ceased withholding for child support arrearages because the respondent satisfied the amount in its entirety and notifies the parties of its intent to close the case.

OCTOBER 16, 2001

Vicki J. Greendeer v. John C. Houghton, Jr.; and Rachel Winneshiek v. John C. Houghton, Jr.; and Leslie Soulier v. John C. Houghton, Jr., CV 96-58, CS 99-29, CS 99-58 *Order (Regarding Impound)* (HCN Tr. Ct., Oct. 16, 2001).

The Court orders the Department of Treasury to continue its impound of that percentage of the August 1 per capita and to further impound an identical amount from the November 1 per capita until the Supreme Court issues its opinion on the respondent's appeal. In addition, the Court impounded the percentage of respondent's per capita distribution currently withheld for arrears for Case No. CS 99-58 until the petitioner in that case has a chance to respond to the respondent's *Motion to Dismiss*.

Patricia Houghton v. Dixon Funmaker; and State of Wisconsin on behalf of Rhonda Funmaker v. Dixon H. Funmaker, CS 98-68, CS 01-22 *Order (Enforcing Child Support)* (HCN Tr. Ct., Oct. 16, 2001).

The Court enforced two mutually valid state child support orders for current child support against the respondent's per capita distribution. In addition, the Court enforced arrearages owed for Case No. CS 98-68 against the respondent's per capita distribution.

State of Wisconsin, Columbia County v. Mari L. Hence, CS 00-18 *Order Impounding Funds (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Oct. 16, 2001).

The Court orders the Department of Treasury to impound the amount presently withheld for current child support until such time either party files a proof of high school enrollment for the child.

State of Wisconsin, Eau Claire County v. Henry WhiteThunder; and State of Wisconsin, Jackson Co. v. Henry WhiteThunder, CS 01-25, CV 97-86 *Order (Enforcing Child Support and Equitably Adjusting Payments)* (HCN Tr. Ct., Oct. 16, 2001).

The Court enforced two mutually valid state child support orders for current and back child support against the respondent's per capita distribution.

Julia Goodbear v. Ted L. Brown; and State of Wisconsin, Jackson Co. v. Ted L. Brown, CS 98-20, CS 00-37 *Order (Impounding Per Capita)* (HCN Tr. Ct., Oct. 16, 2001).

The Court ordered the Department of Treasury to impound forty-six percent (46%) of the respondent's November 1 per capita distribution for current and back child support until such time it can issue an opinion on the petitioner's *Motion to Amend* in Case No. CS 98-20.

OCTOBER 17, 2001

Melissa McGill v. Jones Decorah; and Barbara J. Decorah v. Jones Decorah; and Karen Goulee v. Jones Decorah, CV 96-66, CV 97-19, CV 97-100 *Order (Amending Child Support)* (HCN Tr. Ct., Oct. 17, 2001).

As the respondent fully paid off the arrearages owed in Case No. CV 96-66, the Court ordered the Department of Treasury to cease withholding for back child support in that case and *sua sponte* performed an equitable adjustment on the remaining cases. It then ordered the Department of Treasury to withhold thirteen percent (13%) each for a total maximum withholding of twenty-six percent (26%) for Case Nos. CV 97-19 and CV 97-100.

OCTOBER 18, 2001

Michelle Stacy v. Zachary Thundercloud, CS 01-24 *Order (Enforcing Child Support)* (HCN Tr. Ct., Oct. 18, 2001).

The Court enforced two mutually valid state child support orders for current and back child support against the respondent's per capita distribution.



State of Wisconsin and Kathleen Funmaker v. John Funmaker, CS 00-42 *Order (Impounding Per Capita)* (HCN Tr. Ct., Oct. 18, 2001).

The Court ordered the Department of Treasury to impound the twenty-five percent (25%) that is currently withheld for child support from the respondent's per capita distribution until such time the Court issues an opinion on petitioner's *Motion to Modify Per Capita Distribution*.

OCTOBER 22, 2001

State of Wis., Eau Claire Co. v. Henry WhiteThunder; and State of Wis., Jackson Co. v. Henry WhiteThunder, CS 01-25, CV 97-86 *Erratum Order* (HCN Tr. Ct., Oct. 22, 2001).

The Court issued an *Erratum Order* to correct a clerical error in the October 16, 2001 *Order (Enforcing Child Support and Equitably Adjusting Payments)*.

Children's Trust Fund (CTF)

OCTOBER 16, 2001

In the Interest of Adult CTF Beneficiary: Renata White, DOB 02/27/81 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-75 *Order (Denial of Petition)* (HCN Tr. Ct., Oct. 16, 2001).

The Court employed the standard set forth in the AMENDED AND RESTATED PER CAPITA DISTRIBUTION ORDINANCE to assess the merit of petitioner's request to access her Children's Trust Fund account to purchase a mobile home. The Court denied the petitioner's request because she failed to show "special financial need" or exhaustion of tribal resources, as required under Ho-Chunk Nation law.

OCTOBER 19, 2001

In re: Shamus Daniel Layman v. Ho-Chunk Nation Enrollment Dep't, CV 98-41 Order (Contempt) (HCN Tr. Ct., Oct. 19, 2001).

The Court found Mr. Layman in contempt of court for failing to provide an accounting for the release of monies from his Children's Trust Fund from December 28, 2000. The Court imposed a fine payable out of Mr. Layman's per capita distribution.



Civil Cases (All Categories)

OCTOBER 3, 2001

Marlene Littlewolf v. HCN Education Dep't, CV 01-49 Order (Granting Summary Judgment) (HCN Tr. Ct., Oct. 3, 2001). [For summaries, see **Administrative Review, Drug Policy, and Summary Judgment** within this index.]

Michelle Ferguson v. Ho-Chunk Nation Ins. Review Comm'n/Div. of Risk Mgmt., CV 99-20 Settlement Agreement Release of Claims and Order for Dismissal (HCN Tr. Ct., Oct. 3, 2001).

The Court reviewed, agreed to, and approved the settlement terms and release of claims put forth by the parties and thereby dismissed the case.

Ho-Chunk Nation Div. of Child and Family Servs. v. Orvilla Rae White Eagle, CV 01-68 Order (Payment Plan) (HCN Tr. Ct., Oct. 3, 2001).

The Court grants the defendant's *Motion to Reduce* the number of payments on her *Judgment* in this case into two equal installments to be taken out of her per capita distributions by the Department of Treasury.

Louise M. Skroch v. Ho-Chunk Nation and Majestic Pines Casino, CV 01-100 Order (Motion Hearing) (HCN Tr. Ct., Oct. 3, 2001).

The Court, in its discretion, will convene a *Hearing* on defendants' September 24, 2001 *Motion to Dismiss*.

Jodi L. Whitehead v. HCN Dep't of Bus., Exec. Dir. Christine Brown, HCN Dep't of Personnel, Exec. Dir. Jim Lambert, CV 01-94 Scheduling Order (HCN Tr. Ct., Oct. 3, 2001).

In the Interest of Readonna Lei Wilson, by Violet Vilbaum v. HCN Office of Tribal Enrollment, CV 00-44 Order (Allowing Plaintiff to Reschedule) (HCN Tr. Ct., Oct. 3, 2001).

The Court allows the plaintiff to reschedule and alerts her that she may request to appear by telephone if she is unable to appear in Court physically.

OCTOBER 4, 2001

Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Brian Decorah, CV 01-89 Order (Granting Motion to Dismiss) (HCN Tr. Ct., Oct. 4, 2001). Because the plaintiff moved to dismiss the case and has adequately protected its interest in receiving repayment of the loan, the Court grants the plaintiff's *Motion to Dismiss*.

OCTOBER 15, 2001

Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Jennifer A. Jones, CV 00-68 Notice (Satisfaction of Judgment and Intent to Close) (HCN Tr. Ct., Oct. 15, 2001).

The Court recognizes the defendant's debt as having been paid in full and informs the parties of its intent to close the case in ten (10) days.

Ho-Chunk Nation Home Ownership Program v. Faith M. Morris, CV 98-19 Notice (Satisfaction of Judgment and Intent to Close) (HCN Tr. Ct., Oct. 15, 2001).

The Court recognizes the defendant's debt as having been paid in full and informs the parties of its intent to close the case in ten (10) days.

Ho-Chunk Nation Home Ownership Program v. Arnold Darnell, CV 98-03 Notice (Satisfaction of Judgment and Intent to Close) (HCN Tr. Ct., Oct. 15, 2001).

The Court recognizes the defendant's debt as having been paid in full and informs the parties of its intent to close the case in ten (10) days.

Ho-Chunk Nation Home Ownership Program v. Janet Funmaker, CV 98-04 Notice (Satisfaction of Judgment and Intent to Close) (HCN Tr. Ct., Oct. 15, 2001).

The Court recognizes the defendant's debt as having been paid in full and informs the parties of its intent to close the case in ten (10) days.

Ho-Chunk Nation Home Ownership Program v. Georgette Garvin, CV 98-05 Notice (Satisfaction of Judgment and Intent to Close) (HCN Tr. Ct., Oct. 15, 2001).

The Court recognizes the defendant's debt as having been paid in full and informs the parties of its intent to close the case in ten (10) days.

Ho-Chunk Nation Home Ownership Program v. Katherine Littlejohn, CV 98-56 Notice (Satisfaction of Judgment and Intent to Close) (HCN Tr. Ct., Oct. 15, 2001).

The Court recognizes the defendant's debt as having been paid in full and informs the parties of its intent to close the case in ten (10) days.

OCTOBER 16, 2001

In the Interest of Adult CTF Beneficiary: Renata White, DOB 02/27/81 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-75 Order (Denial of Petition) (HCN Tr. Ct., Oct. 16, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

OCTOBER 17, 2001

Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Brandon Cloud, Sr., CV 01-104 Order (Default Judgment) (HCN Tr. Ct., Oct. 17, 2001).

[For summary, see **Relief Available** within this index.]

Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Barbara Littlewolf, CV 01-111 Order (Granting Default Judgment) (HCN Tr. Ct., Oct. 17, 2001).

[For summary, see **Relief Available** within this index.]

Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Pamela Schauls, CV 01-110 Order (Granting Default Judgment) (HCN Tr. Ct., Oct. 17, 2001).

[For summary, see **Relief Available** within this index.]



Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Melody Whiteagle a/k/a Melody Whiteagle-Fintak, CV 01-80 Order (Denial of Motion) (HCN Tr. Ct., Oct. 17, 2001).

[For summary, see **Amendment to or Relief from Judgement or Order** within this index.]

Ho-Chunk Nation Home Ownership Program v. Janet Funmaker, CV 01-99 Order (Impounding Funds) (HCN Tr. Ct., Oct. 17, 2001).

Until such time the Court can issue a *Default Judgment* in this case, the Court orders the Department of Treasury to impound no more than \$2,165.02 of the defendant's November 2001 per capita distribution.

Mr. Chloris Lowe, Jr., Enrollment #439A001593; Mr. Stewart J. Miller, Enrollment #439A002566 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 Bd., CV 00-104 Order (Regarding Hearing) (HCN Tr. Ct., Oct. 17, 2001).

In response to the defendant's inquiry regarding the purpose of the October 19, 2001 *Hearing*: the purpose remains the same as the prior proceeding in this matter. Upon the Legislature's submission of "a redistricting/reapportionment proposals for Court review, the Court shall convene a *Hearing* allowing

the defendants an “opportunity to advocate on behalf of the proposal(s).”

OCTOBER 18, 2001

Ho-Chunk Nation Dep’t of Housing, Prop. Mgmt. Div. v. Ellen Lewis, CV 01-82 Order (HCN Tr. Ct., Oct. 18, 2001).

The plaintiff submitted a *Stipulation and Order* in lieu of a *Response* to the defendant’s timely filed *Answer*. As the defendant had not agreed to the terms of the *Stipulation*, the Court set aside the *Stipulation and Order* and will schedule a *Hearing* in this matter.



Ho-Chunk Nation Home Ownership Program v. Michelle Mountain, CV 01-109 Order (HCN Tr. Ct., Oct. 18, 2001).

The Court entered a *Default Judgment*, allowing the defendant to voluntarily repay out of her November 1 per capita distribution the debt owed to the Nation. If she fails to do so, the Court will reconsider the matter and may award the plaintiff permissible relief sought in the *Complaint*.

OCTOBER 19, 2001

Ho-Chunk Nation Dep’t of Housing, Prop. Mgmt. Div. v. Dawn M. Smith Deverney, CV 00-03 Notice (*Satisfaction of Judgment and Intent to Close*) (HCN Tr. Ct., Oct. 19, 2001).

The Court recognizes the defendant’s debt as having been paid in full and informs the parties of its intent to close the case in ten (10) days.

Housing Authority of the Village of Winnebago v. Denise J. Kearnes, CV 01-93 Judgment (*Denying Enforcement of Foreign Judgment/Order*) (HCN Tr. Ct., Oct. 19, 2001).

[For summary, see **Claims Against Per Capita**, within this index.]

In re: Shamus Daniel Layman v. Ho-Chunk Nation Enrollment Dep’t, CV 98-41 Order (*Contempt*) (HCN Tr. Ct., Oct. 19, 2001).

[For summary, see **Children’s Trust Fund (CTF)** within this index. Other topics covered: **Contempt, Notice**]

OCTOBER 22, 2001

Ho-Chunk Nation Dep’t of Housing, Prop. Mgmt. Div. v. Myron Dale Cloud III, CV 01-105 Order (*Granting Default Judgment*) (HCN Tr. Ct., Oct. 22, 2001).

As the defendant failed to respond, the Court entered a *Default Judgment* in favor of the plaintiff for the defendant’s rent and lease violations. The Court entered a judgment against the defendant’s future per capita distribution and also restricted the defendant’s ability to take out loans against his per capita until the debt is paid in full.

OCTOBER 25, 2001

Ho-Chunk Nation Dep’t of Housing, Prop. Mgmt. Div. v. Kenneth J. Basswood, CV 01-107 Order (*Granting Default Judgment*) (HCN Tr. Ct., Oct. 25, 2001).

As the defendant failed to respond, the Court entered a *Default Judgment* in favor of the plaintiff for the defendant’s ongoing violations of a month-to-month tenancy. The Court entered a judgment against the defendant’s future per capita distribution and also restricted the defendant’s ability to take out loans against his per capita until the debt is paid in full.

Ho-Chunk Nation Dep’t of Labor v. Pearl Lou Lightstorming, CV 01-67 Order (*Satisfaction of Judgment and Intent to Close*) (HCN Tr. Ct., Oct. 25, 2001).

The Court recognizes the defendant’s debt as having been paid in full and informs the parties of its intent to close the case in ten (10) days.

Janette Smoke v. Steve Garvin in capacity of Table Games Mgr., Majestic Pines Casino and Ho-Chunk Nation, CV 01-97 Scheduling Order (HCN Tr. Ct., Oct. 25, 2001).



Claims Against Per Capita

SEPTEMBER 17, 2001

Housing Authority of the Village of Winnebago v. Denise J. Kearnes, CV 01-93 *Judgment (Denying Enforcement of Foreign Judgment/Order)* (HCN Tr. Ct., Oct. 19, 2001).

The Court denied enforcement of the foreign order where the defendant had agreed to make payments out of her per capita distribution. The HO-CHUNK NATION CLAIMS AGAINST PER CAPITA ORDINANCE only permits garnishment of a tribal member's per capita distribution in four narrow circumstances: (1) debts owed to the Ho-Chunk Nation; (2) child support; (3) federal income tax levies; and (4) debts owed to the Hocok Credit Union. While the defendant has the ability to authorize voluntary deductions through the Ho-Chunk Nation Department of Treasury, the Court cannot force her to do so without violating Ho-Chunk Nation law.

Drug Policy

OCTOBER 3, 2001

Marlene Littlewolf v. HCN Education Dep't, CV 01-49 *Order (Granting Summary Judgment)* (HCN Tr. Ct., Oct. 3, 2001).

The Ho-Chunk Nation's policy on drugs is quite clear. The Nation's Drug Policy is even more explicit than the PERSONNEL POLICIES AND PROCEDURES MANUAL [PPM], giving the Nation the right to terminate an employee for off-duty drug usage, especially "when the off duty behavior constitutes criminal behavior." Under both the PPM and the Drug Policy, the Nation has discretion to dismiss employees for off duty conduct which adversely affects the reputation of the Nation and is illegal. Ho-Chunk Nation law permits the Education Department to terminate the plaintiff-employee upon her felony drug conviction.

[For additional summaries, see **Administrative Review** and **Summary Judgment** within this index.]

Incompetent's Trust Fund (ITF)

SEPTEMBER 17, 2001

In the Interest of Reuben A. Hall, by Gerald Parr v. Ho-Chunk Nation Enrollment Dep't, CV 98-64 *Order (Accepting Accounting)* (HCN Tr. Ct., Sept. 17, 2001).

The Court accepted plaintiff's required accounting for the release of ITF funds.

Juvenile

OCTOBER 3, 2001

In the Interest of Minor Children: A.B., DOB 06/28/87, J.B., DOB 09/01/88, R.B., DOB 04/23/91, JV 00-07, JV 00-08, JV 00-09 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Oct. 3, 2001).

In the Interest of Minor Children: T.A.C., DOB 10/31/87, T.A.C., DOB 02/19/90, R.C., DOB 07/27/92, JV 00-24, JV 00-25, JV 00-26 Order (Adjusting Child Support) (HCN Tr. Ct., Oct. 3, 2001).

As one of the minor children turned eighteen (18) years old, the Court reduced the percentage withheld from the per capita distribution of the non-custodial mother for child support.

In the Matter of the Child: O.R.W.E., DOB 04/07/83, JV 00-27 Order (Ceasing Child Support) (HCN Tr. Ct., Oct. 3, 2001).

As the child turned eighteen (18) years old, the Court ceased withholding from the per capita distribution of the non-custodial mother for current child support. The mother owes no arrearages in this case.



In the Interest of Minor Child: J.H., DOB 01/20/96, JV 97-10 Order (Granting Temporary Legal Guardianship) (HCN Tr. Ct., Oct. 3, 2001).

The Court granted temporary legal guardianship for one (1) year in accordance with Ho-Chunk Nation law and the Indian Child Welfare Act.

OCTOBER 16, 2001

In the Matter of the Minor Child: S.R.G., DOB 09/20/83, JV 99-14 Payment of GAL Fees (HCN Tr. Ct., Oct. 16, 2001).

In the Interest of Minor Child: J.H., DOB 01/20/96, JV 97-10 Order (Granting Permanent Legal Guardianship) (HCN Tr. Ct., Oct. 16, 2001).

The Court granted the *Petition for Permanent Guardianship*. This appointment conforms with the Indian Child Welfare Act.

OCTOBER 18, 2001

In the Interest of Minor Children: T.A.C., DOB 10/31/87, T.A.C., DOB 02/19/90, R.C., DOB 07/27/92, JV 00-24, JV 00-25, JV 00-26 Order (Appointment of Guardian ad Litem) (HCN Tr. Ct., Oct. 18, 2001).

The Court appointed Attorney William Gardner as *guardian ad litem* in this children's case.

OCTOBER 22, 2001

In the Matter of the Child: M.I.S., DOB 04/18/00, JV 00-34 Minute (HCN Tr. Ct., Oct. 22, 2001).

The Court's continuing supervision of this case will end when it no longer has jurisdiction over the matter. The Court will keep the case open for thirty (30) more days to facilitate the transition to state jurisdiction.

Relief Available (HCN R. Civ. P. 53)

OCTOBER 17, 2001

Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Brandon Cloud, Sr., CV 01-104 Order (Default Judgment) (HCN Tr. Ct., Oct. 17, 2001).

As the defendant failed to respond, the Court enters a *Default Judgment* in favor of the plaintiff. In so doing, the Court is limited to the request for relief pled with particularity in the *Complaint*.

Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Barbara Littlewolf, CV 01-111 Order

(Granting Default Judgment) (HCN Tr. Ct., Oct. 17, 2001).

As the defendant failed to respond, the Court enters a *Default Judgment* in favor of the plaintiff. In so doing, the Court is limited to the request for relief pled with particularity in the *Complaint*. Where plaintiff requests "reasonable costs and fees," the Court may grant costs and filing fees pursuant to *HCN R. Civ. P. 53*, but cannot grant an award for an undetermined and/or speculative amount in a default judgment.

Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Pamela Schauls, CV 01-110 Order (Granting Default Judgment) (HCN Tr. Ct., Oct. 17, 2001).

As the defendant failed to respond, the Court enters a *Default Judgment* in favor of the plaintiff. In so doing, the Court is limited to the request for relief pled with particularity in the *Complaint*. Where plaintiff requests "reasonable costs and fees," the Court may grant costs and filing fees pursuant to *HCN R. Civ. P. 53*, but cannot grant an award for an undetermined and/or speculative amount in a default judgment.

Summary Judgment

OCTOBER 3, 2001

Marlene Littlewolf v. HCN Education Dep't, CV 01-49 Order (Granting Summary Judgment) (HCN Tr. Ct., Oct. 3, 2001).

The Court utilizes the standard set forth in *Ho-Chunk Nation Rules of Civil Procedure*, Rule 55, and determines that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law.

[For additional summaries, see **Administrative Review** and **Drug Policy** within this index.]

Supreme Court

OCTOBER 4, 2001

Kathy A. Stacy v. Clarence Pettibone, former Vice President of the Ho-Chunk Nation, and Wade Blackdeer, present Vice President of the Ho-Chunk

Nation in their Individual and official capacities, SU 01-12 Scheduling Order (HCN Tr. Ct., Oct. 4, 2001).

Recent Filings

Trial Court

Civil Cases

OCTOBER 15, 2001

HCN Housing Auth. v. Collin Cloud, CV 01-120.

OCTOBER 16, 2001

Anna M. Salinas v. Ho-Chunk Motel & Convention Center, CV 01-121.

OCTOBER 22, 2001

Richard Walker v. Jonette Pettibone, CV 01-122.

Ho-Chunk Nation Dep't of Treasury v. Jeanine Heffner-Evens, CV 01-124.

OCTOBER 23, 2001

Ho-Chunk Nation Dep't of Treasury v. Mercedes Sprain, CV 01-123.

In the Interest of: Norma Whitebear by Cecilia Rave, CV 01-125.

Ho-Chunk Nation Dep't of Treasury v. Melodie Cleveland, CV 01-126.

Ho-Chunk Nation Dep't of Treasury v. Lawrence Littlegeorge, CV 01-127.

Ho-Chunk Nation Dep't of Treasury v. Martha Martinez, CV 01-128.

OCTOBER 25, 2001

Sandra Winneshiek v. William Collins, CV 01-129.

In the Interest of J.L.P., DOB 10/08/84 by Shirley White, CV 01-130.

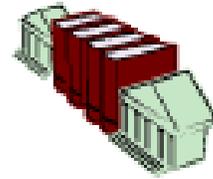
Foster Decorah v. Ho-Chunk Nation Dep't of Bus., CV 01-131.

OCTOBER 31, 2001

Rory L. Deer, Jr. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-132.

Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Marlene Littlewolf, CV 01-133.

Ho-Chunk Nation Housing Auth. v. Prudence Funmaker, CV 01-134.



Supreme Court

OCTOBER 22, 2001

Marie WhiteEagle v. Wisconsin Dells Head Start and Ho-Chunk Nation, SU 01-14.



Legal Citation Form (continued from page 2)

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 §) 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).

Rules of Civil Procedure

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



Head Start tots visit the Court on Halloween



Above: kids from the Ho-Chunkgra Head Start Center.



Above: Judge Butterfield hands out candy to kids from the Puzaki-Pei-Cinak Head Start Center. Below: Desiree and Noah Rave in costume.



Directly above: Roger Littlegeorge II (vampire), Brent Funmaker II (ninja), Debreana Pettibone (angel).

The photo above this one: Cyrus Ortiz (green horned monster); Destiny Muir (Tigger); Isaac Ortiz (blue monster); and Divana YellowCloud (pumpkin).

Happy Halloween

from the Ho-Chunk Nation Court judges and staff!

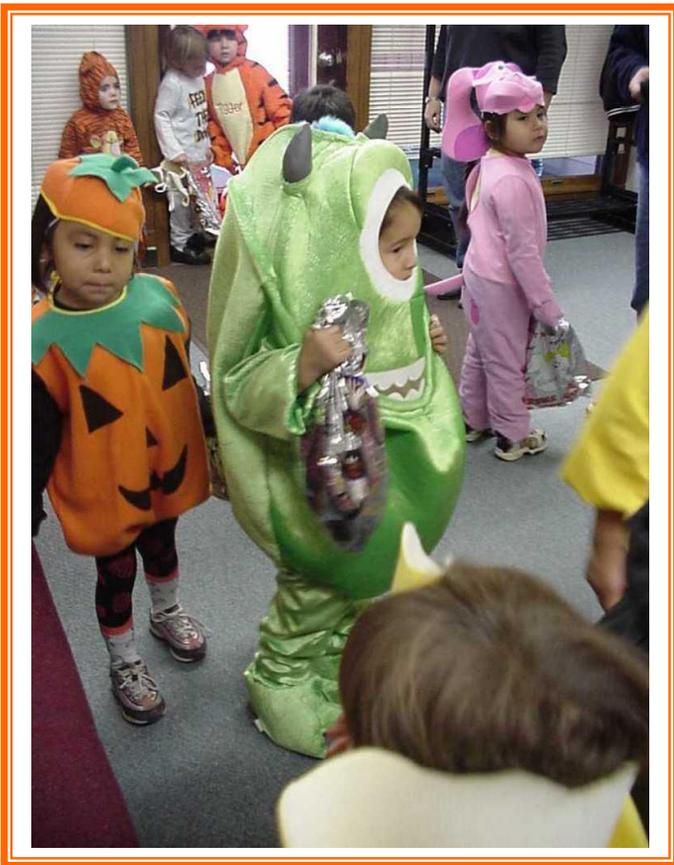


On October 31, 2001, the Head Start kiddies continued their annual *(continued from page 12)*

Story continued on page 13.



More pictures on the next page...



Above: A pumpkin (Divana YellowCloud) and monster (Cyrus Ortiz) wait patiently for their treats.

Below: Judge Butterfield (pictured next to Bailiff Willa RedCloud) asks, "Did you get a treat? How about you?" All kids (with treats tucked away in their bags): "No, I didn't get one...me next!"



Above: Frogs (Kyla Rave) and pumpkins (Lorraine Hopinkah) abound! Is that a skeleton (Ethan Pettibone) and a ninja I see? Below: Snow White (Graciana Rave), a witch (Desiree Rave), a ninja (Noah Rave), and a skeleton (Ethan Pettibone) trick-or-treat.



tradition of trekking around the different offices and departments of the Nation, visiting the elderly, the Court, and the Executive Building. They started around 10:30 a.m., but were tuckered out by noon. The Court was happy to have the little ones stop by the Court for trick-or-treating. The original and fun – and of course *very cute* – outfits brought a smile to everyone's face! This year, twenty (20) kids from the **Ho-Chunkgra Center (Mission)** and nineteen (19) kids from the **Puzaki-Pei-Cinak Center (Sandpillow)** stopped by for trick-or-treats.



MCCALEB APPOINTS DEPUTY ASSISTANT SECRETARY OF INDIAN AFFAIRS

On October 23, 2001, Department of Interior Assistant Secretary - Indian Affairs, **Neal A. McCaleb** announced the appointment of **Wayne R. Smith** as the Deputy Assistant Secretary – Indian Affairs. Mr. Smith is of Sisseton-Wahpeton Sioux heritage. Prior to his appointment, Mr. Smith served as Chief Counsel to the California Assembly Republican Caucus and from 1991-1999 worked as the Chief of Staff for the California Attorney General, supervising the day-to-day operations of the California Department of Justice. “I welcome Wayne to my team,” McCaleb said. “His extensive Indian gaming, administrative, legal and policy experience will be invaluable as we work to shape Indian Affairs in the 21st century.” Mr. Smith will be the Chief of Staff and responsible for the operation of the office, as well as in charge of gaming, acknowledgment and land-into-trust. 

INDIAN LAW CASES – FEDERAL COURTS

Ninth Circuit – *Moore v. Nelson*, No. 00-15754 (9th Cir. Oct. 26, 2001). Under 25 U.S.C. § 1303 of the Indian Civil Rights Act, a fine for cutting timber on an Indian reservation is not a “determination” allowing a petitioner to challenge by writ of habeas corpus.

D.C. Circuit – *State of Michigan v. Environmental Protection Agency*, No. 99-1151 (D.C. Cir. Oct. 30, 2001). The Environmental Protection Agency’s revisions to 40 CFR 71 are invalid under the Clean Air Act in proposing to create and administer a federal operating permits program for areas where it believes the Indian country status is in question, and in proposing to make jurisdictional determinations on an ad hoc basis rather than by notice and comment.

FEDS TAKE CONTROL OF TRIBAL COURT

ASSOCIATED PRESS, October 31st, 2001

The Bureau of Indian Affairs is taking control of the Fallon Paiute-Shoshone Tribe’s criminal court system and will install its own judge to hear cases because of ongoing local political feuds.

The tribe historically has hired its own judges but the BIA’s Western Regional Office in Phoenix said it is assuming “emergency” judicial powers to “protect the lives, people and property” of reservation residents and visitors for up to one year.

Assistant BIA Western Regional Director **Barry Welch** said the tribe can still operate its tribal court for civil cases and some law and order codes. But the BIA will hear all criminal cases on the reservation east of Fallon.

“If there is a some civil matter that has to be taken care of they can still go to tribal court,” Welch told the Lahontan Valley News and Fallon Eagle Standard.

The action follows the BIA decision in June to take over all law enforcement duties on the reservation after some tribal members claimed abuse at the hands of the previous tribal police force, which has since been fired.

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JUDGE THREATENS TO HOLD U.S. DEPARTMENT OF JUSTICE AND DEPARTMENT OF INTERIOR IN CONTEMPT IN THE COBELL CASE

On October 30, 2001, a federal judge leveled sharp criticism at Interior Secretary **Gale Norton** and Justice and Interior officials for their conduct in the *Cobell* individual Indian trust litigation. U.S. District Judge **Royce C. Lamberth** ordered the government attorneys to be ready by November 30 to start defending against likely contempt findings for Norton and a roster of other officials for ignoring court orders on trust reform. “I hope when the government files [on November 15] they will tell me who’s in charge of trust reform,” Lamberth said. “Allegedly it’s the Secretary, but she sure doesn’t act like it.”

Dennis Gingold, the lead attorney for the plaintiffs said that trust reform has been an “abject failure.” The *Cobell* case, filed in June 1999, seeks to force the Interior and Treasury departments to fix the accounting system that determines what the government owes approximately 300,000 American Indians for handling oil drilling, grazing and other economic activities on their property. The *Cobell* case is a class action lawsuit being fought on behalf of all past and present Individual Indian Monies (IIM) Trust beneficiaries.

For additional coverage on the internet, see www.indiantrust.com (plaintiffs’ website); www.doi.gov/bureau-indian-affairs.html (Bureau of Indian Affairs website); and www.ost.doi.gov (Office of the Special Trustee). 

United States Supreme Court Update

October 2001 - 2002 Term

Update from 10/09/01 through October 22, 2001.

Petition for certiorari was filed in two (2) additional Indian law cases this term since the last U.S. Supreme Court Update (See HCN Court Bulletin, Oct 2001 Ed., at 7, 9-10.

(1) Michael L. Enas v. United States, Docket No. 01-6553

History: Petition for certiorari filed 9/25/01.

Holding Below: *United States v. Enas*, 9th Cir., 255 F. 3d 662. The Court of Appeals held: (1) when an Indian tribe exercises inherent power, the dual sovereignty exception to double jeopardy permits federal and tribal prosecutions for the same crime; (2) under the 1990 amendments to the Indian Civil Rights Act (ICRA), Indian tribe had inherent power to prosecute a non-member Indian for crime committed on tribe's reservation, so that a federal prosecution for the same crime did not violate the Double Jeopardy Clause; and (3) despite decision of the Supreme Court in *Duro* that Indian tribes did not have inherent power to prosecute non-member Indians, Congress had the power to determine that tribes did have such inherent power; overruling *Means v. Northern Cheyenne Tribal Court*.

(2) New York Association of Convenience Stores v. Roth

*Issue: Must laws or policies that single out Native Americans for special treatment be rationally related to "Congress' unique obligation toward the Indians" to satisfy requirements of 14th Amendment's equal protection clause?

Subjects: Taxation - Cigarettes, Taxation – Sales

History: Petition for certiorari filed 10/01/01

Holding Below: *New York Association of Convenience Stores v. Urbach*, N.Y. App. Div., 712 N.Y.S.2d 220, 275 A.D.2d 520. Judgment dismissing convenience store association's application to compel state tax department to enforce sales and excise taxes pertaining to on-reservation sales of tobacco products and motor fuel by Indian retailers to non-Indian customers is affirmed, court having concluded that record indicates rational basis for state's differential treatment of tribes through indefinite forbearance in enforcing such tax collection, in view of facts that applicable tax statutes cannot effectively be enforced without cooperation of Indian tribes, state auditors cannot go on reservations to examine retailers' records, tribal immunity precludes suits against retailers for failing to collect taxes, and prior efforts to enforce statutes by intercepting tobacco and motor fuel shipments and seizing them not only produced civil unrest and personal injuries, but also were found to violate state tax law.

* "Issues" reproduced with permission from *The United States Law Week*:

Vol. 69, No. 16, p. 3305 (October 31, 2000).

Vol. 69, No. 29, p. 3524 (February 6, 2001).

Vol. 69, No. 29, p. 3524 (February 6, 2001).

Vol. 70, No. 6, p. 3117 (August 14, 2001).

Vol. 70, No. 11 p. 3199 (September 25, 2001)

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<http://www.narf.org/nill/Nillindex.html>.



HO-CHUNK NATION COURT BULLETIN

Inside this Issue

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Congratulations in order
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Notice: Supreme Court meeting scheduled
- 3** Recent Decisions
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- 20** Ho-Chunk Nation Court System Fee Schedule
Legal Citation Form

Ho-Chunk Nation Court System
W9598 Hwy 54 East
P.O. Box 70
Black River Falls, WI 54615
(715) 284-2722
(800) 434-4070
<http://www.ho-chunknation.com/government/courts.htm>

Two HCN Supreme Court Associate Justices resign

Editor's Note: On January 4, 2002, Supreme Court Associate Justice Debra Greengrass announced her resignation (See Letter on page 2). Associate Justice Rita Cleveland had previously announced her resignation on December 7, 2001. This article was written prior to Associate Justice Greengrass' official announcement. The editor hopes to interview Justice Greengrass for the next Court Bulletin.

On December 7, 2001, **Rita A. Cleveland**, resigned her position as an Associate Justice of the Ho-Chunk Nation Supreme Court.

Associate Justice Cleveland's position is an elected position and in 1997 she ran against the incumbent and won. Once again running in 2001 as an incumbent, Associate Justice Cleveland was reelected for a second term.

Associate Justice Cleveland received several reassurances from interested tribal members following the announcement of her candidacy in 1997.

Justice Cleveland feels that the position provided her with many experiences and learning opportunities far beyond her expectations, "lessons learned that will never be forgotten."

Although she only possessed a



Supreme Court Associate Justice **Rita Cleveland** at the Ho-Chunk Nation Court House in Black River Falls, WI. Photo taken January 4, 2002.

working knowledge of the Supreme Court and the Tribal Court system, she felt confident that she would be able to fulfill the expectations of the office.

Rita grew up in the Black River Falls area, leaving to attend school, first in Lacrosse, Ladysmith and finally in Eau Claire, WI. She previously worked for the St. Croix Ojibwa Tribe in the area of youth services.

Continued on page 19

Congratulations in order ...

The Court staff would like to extend their sincere congratulations to Attorney **Mike Oeser** in his recent move to the Indian Law Section of the law firm of von Briesen, Purtell & Roper in Milwaukee, WI. Attorney Oeser was a former staff attorney/judicial clerk for the HCN Court System. Prior to his move to von Briesen, Purtell & Roper, Mike worked at the Wisconsin Department of Justice in the Civil Litigation Unit, doing both trial and appellate work. Mike is an enrolled member of the Cherokee Nation of Oklahoma and is a graduate of the University of Wisconsin-Madison Law School. 

Chief Trial Judge Mark Butterfield completes marathon in Hawaii

On December 9, 2001, Chief Trial Judge **Mark Butterfield** crossed the finish line in Honolulu, Hawaii, completing his 3rd marathon this year with a time of 4 hours, 46 minutes, and 4 seconds. Judge Butterfield traveled to Hawaii with the Ho-Chunk Nation Youth Runners Against Drunk Driving. Eleven Ho-Chunk youths traveled to Hawaii and completed the marathon. For additional coverage, check out the Journal Sentinel on-line at jsonline.com. Two articles on the Ho-Chunk Nation Youth Runners can be found at the following web addresses:

www.jsonline.com/news/Metro/dec01/4379.asp and
www.jsonline.com/news/Metro/dec01/4033.asp. 



NOTICE: SUPREME COURT MEETING SCHEDULED

The Ho-Chunk Nation Supreme Court will meet on January 19, 2002, at the Ho-Chunk Nation Courthouse at W9598 Hwy 54 East, Black River Falls, WI. To obtain more information regarding meeting times and agenda items, please contact the Clerk of the Supreme Court, Tari Pettibone, at (715) 284-2722. 

January 3, 2002

To the Ho-Chunk Nation Tribal Members,
Ho-Chunk Nation Supreme Court,
Ho-Chunk Nation Trial Court,
Ho-Chunk Nation Office of the President,
Ho-Chunk Nation Legislature,
Ho-Chunk Nation Department of Justice, and
the Ho-Chunk Nation Election Board.

I, Debra C. Greengrass, Associate Justice of the Ho-Chunk Nation Supreme Court submit this letter of resignation. After careful consideration, I too, have decided to resign mid-term from the Associate Justice position on the Ho-Chunk Nation Supreme Court. It would be more beneficial for the Nation to conduct one Special Election, to fill two vacancies on the Court, pursuant to the Constitution of the Ho-Chunk Nation, Article IX, Section 8(a).

During my regular employment I have been transferred twice within the past year. Most recently to Airport Security at General Mitchell International Airport. These reassignments have interfered with the limited time that I had to fulfill my obligations as Associate Justice while being a single parent of two sons, and pursuing my academic studies. My resignation from the Associate Justice position will provide the needed time to devote to my family and studies.

When I was first elected in 1995, I brought to the Ho-Chunk Nation Supreme Court my experience and knowledge of working within the State judiciary system. I am honored to have been elected to serve within our Nation's tribal court system. The knowledge and experience gained during the past several years on the bench will be beneficial in my future endeavors. I thank you for your words of encouragement and support.

Sincerely,

Debra C. Greengrass

Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and broken down by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader's benefit. They should in no way be used as substitution for citations to the actual court opinion.

Within the Trial Court, cases are categorized and docketed as one of the following: Child Support (CS or if filed prior to 1998, CV), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Within this index, case citations will appear in one of these categories and, in the event it may be helpful to the reader as a research tool, the cases may also be summarized in a separate topic area. In some instances a decision may touch upon other topics which may not warrant a summary in this index, but the editor will use the indicator "other topic(s) covered," as a research aid for the reader.

Recent Decisions and **Recent Filings** both begin with the date where the previous Court Bulletin left off.

Trial Court

Child Support

OCTOBER 22, 2001

State of Wisconsin, Eau Claire Co. v. Henry WhiteThunder; and State of Wisconsin, Jackson Co. v. Henry WhiteThunder, CS 01-25, CV 97-86 *Erratum Order* (HCN Tr. Ct., Oct. 22, 2001).

Pursuant to the *Ho-Chunk Nation Rules of Civil Procedure*, Rule 58(C), the Court issued this *Order* to correct a clerical mistake made in the October 16, 2001 *Order (Enforcing Child Support and Equitably Adjusting Payments)* for this case.

OCTOBER 23, 2001

Vicki J. Greendeer v. John C. Houghton, Jr., CS 96-58 *Order (Releasing Impound)* (HCN Tr. Ct., Oct. 23, 2001).

The Court directs the HCN Department of Treasury to release the impounded monies to the respondent in compliance with an appellate decision of the Supreme Court of the Ho-Chunk Nation.

OCTOBER 26, 2001

Melissa McGill v. Jones Decorah; and Barbara J. Decorah v. Jones Decorah; and Karen Goulee v. Jones Decorah, CV 96-66, CV 97-19, CV 97-100 *Order Impounding Funds (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Oct. 26, 2001).

As the child in Case No. CV 97-19 turned eighteen (18) on October 1, 2001, the Court ordered the parties to file a proof of high school enrollment or its equivalent by November 9, 2001. The Court ordered the HCN Dep't of Treasury to impound the portion of the respondent's per capita which would have been withheld for current child support in Case No. CV 96-66 until November 9, 2001. If the parties fail to file the proof of enrollment, the Court will presume the child graduated from high school and will order the monies released to the respondent.

Nancy Texidor v. Silas Cleveland, CS 99-80 *Order (Impounding Per Capita for Child Support)* (HCN Tr. Ct., Oct. 26, 2001).

The respondent filed a *Motion to Amend*. In order to preserve the Court's ability to either continue to disburse an appropriate amount of the respondent's per capita distributions for current or back child support, or to cease withholding altogether, the Court impounded the respondent's per capita which would have been released to the petitioner for current and back child support.

OCTOBER 30, 2001

Vicki J. Greendeer v. John C. Houghton, Jr., CS 96-58 *Order (Denying Impound)* (HCN Tr. Ct., Oct. 30, 2001).

The Court has the power to impound as the HCN CONSTITUTION expressly vests the Court with the authority to issue all remedies in law and in equity including injunctive and declaratory relief. The Court may grant a request to impound per capita for child support in limited circumstances (such as a form of preliminary injunctive relief to avoid potential ongoing or impending violations of federal, state or tribal law; to avoid detrimental affects on payors pending a just resolution of the matter through amendments to orders; or when the

Court has insufficient time in which to draft an order prior to the deadline for processing per capita withholdings). As the petitioner's request to impound significantly differs from past precedent, the Court denied the request.

OCTOBER 31, 2001

Patricia A. Houghton v. Gabriel D. Funmaker, CS 98-06 *Motion to Reconsider and for Oral Argument (Granted)* (HCN Tr. Ct., Oct. 31, 2001).

The Court granted the respondent's *Motion to Reconsider* as to the issue of child support arrears. The burden is on the respondent to show that the Court committed an error in granting the petitioner's *Motion Requesting Arrears*.

Leslie Soulier v. John C. Houghton, CS 99-58 *Order (Releasing Impound)* (HCN Tr. Ct., Oct. 31, 2001).

The Court previously impounded the portion of the respondent's per capita that would have gone to the payment of arrears. The respondent alleged that he paid off the arrears in full, attaching a certified copy of the account history statement. The petitioner failed to respond within ten (10) days and therefore, the Court released the impound to the respondent.

NOVEMBER 6, 2001

State of Wisconsin, Columbia Co. v. Marie L. Hence, CS 00-18 *Order (Releasing Impound)* (HCN Tr. Ct., Nov. 6, 2001).

As the petitioner filed a proof of enrollment in a high school alternative program for the child, the Court continues collection of current child support from the respondent until such time the child reaches the age of nineteen (19).

NOVEMBER 7, 2001

State of Wisconsin v. Joseph L. White, CV 97-16 *Order (Requiring KIDS Account Statement)* (HCN Tr. Ct., Nov. 7, 2001).

In an attempt to reconcile the Court's and the Nation's account statements and to prevent over-withholding from the respondent, the Court ordered that the petitioner file a KIDS Account Statement detailing the arrears.

NOVEMBER 19, 2001

Patricia A. Houghton v. Gabriel D. Funmaker, CS 98-06 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Nov. 19, 2001).

The Court granted the petitioner's request to appear by telephone.

NOVEMBER 20, 2001

State of South Dakota v. Gary S. Funmaker, Jr., CS 01-26 *Erratum Order* (HCN Tr. Ct., Nov. 20, 2001).

Pursuant to the *Ho-Chunk Nation Rules of Civil Procedure*, Rule 58(C), the Court corrected a clerical mistake made in the October 4, 2001 *Default Judgment (Enforcing Child Support)* in this case.

NOVEMBER 21, 2001

Ronald K. Genske v. Ruth M. Genske, CS 01-09 *Erratum Order* (HCN Tr. Ct., Nov. 21, 2001).

Pursuant to the *Ho-Chunk Nation Rules of Civil Procedure*, Rule 58(C), the Court issued this *Order* to correct a clerical mistake made in the April 25, 2001 *Order (Enforcing Child Support)* for this case, which listed an incorrect birth date.

NOVEMBER 28, 2001

Nancy Texidor v. Silas Cleveland, CS 99-80 *Order (Releasing Impound)* (HCN Tr. Ct., Nov. 28, 2001).

Having found that the respondent substantially overpaid both his current and back child support, the Court released the impound to the respondent and suspended all per capita withholdings for child support until further notice of the Court.

NOVEMBER 30, 2001

Levi Aaron Lincoln, Sr. v. Louise Marlene Lincoln, CV 97-32 *Order (Granting Motion to Amend Withholding)* (HCN Tr. Ct., Nov. 30, 2001).

As the petitioner, by and through the Sauk County Child Support Specialist, has proved that the respondent owes additional child support arrears, the Court ordered the Ho-Chunk Nation Department of Treasury to withhold twenty-six percent (26%) from the respondent's future per capita distribution until such time the arrears are paid in full.

DECEMBER 3, 2001

Tanya L. Ludke v. Earl E. Smith, Jr., CS 01-31 *Order (Enforcing Child Support)* (HCN Tr. Ct., Dec. 3, 2001).

The Court enforced a state child support order against the respondent's per capita for current and back child support.

State of Wisconsin and Steven Good v. Melinda Blackcoon; and In the Interest of the Minor Child S.R.G., DOB 09/20/83, CS 98-35, JV 99-14 *Order (Satisfaction of Judgment and Case Closure)* (HCN Tr. Ct., Dec. 3, 2001).

As the parties did not file a proof of high school enrollment for the minor child, the Court ordered the HCN Dep't of Treasury to cease withholding for current child support. In addition, a review of the file indicates that the respondent has paid off all child support arrearages, therefore, the Court closed both files.

State of Wisconsin, ex rel. Vivian Sue Wolfe v. Isaac Wayne Greyhair, CV 97-11 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Dec. 3, 2001).

As the respondent fully paid off the all child support arrearages, the Court issued an *Order* recognizing the arrearage as paid in full and closing the case.

DECEMBER 14, 2001

Courtney C. White v. Gregory L. Whitegull, CS 01-30 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Dec. 14, 2001).

The Court enforced an underlying state child support order against the respondent's per capita distribution for current child support.

DECEMBER 18, 2001

State of Wisconsin on behalf of Juanita Climer v. Richard Dale Snake; and State of Wisconsin on behalf of Karla Greengrass v. Richard Dale Snake, CV 97-107, CV 97-108 *Order (Suspending Withholding and Closing Case)* (HCN Tr. Ct., Dec. 18, 2001).

As the respondent has fully satisfied all arrears and no longer has an obligation to pay current child support, the Court ordered the Ho-Chunk Nation Department of Treasury to cease withholding and closed the case.

DECEMBER 19, 2001

Dona Marinello v. Howard F. Pettibone, CS 01-32 *Order (Authorizing Special Appearance)* (HCN Tr. Ct., Dec. 19, 2001).

After recognizing full compliance with the *pro hac vice* rules, the Court authorized Attorney Glen B. Kulkoski of Carr, Kulkoski, & Stuller, S.C., to appear specially on behalf of the respondent in this matter.

Children's Trust Fund (CTF)

OCTOBER 29, 2001

In the Interest of Minor Child: C.T.L., DOB 01/16/84, by Katherine R. Littlejohn v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-81 *Order (Requesting Accounting)* (HCN Tr. Ct., Oct. 29, 2001).

On July 23, 2001, the Court released money from the CTF account of C.T.L. and required the petitioner to submit an accounting within two (2) months in order to comply with Ho-Chunk Nation law. The accounting is now one (1) month late and therefore, the Court requests the accounting by November 26, 2001.

NOVEMBER 21, 2001

In the Interest of the Minor Child: H.S.B.M., DOB 06/16/87, by Teddi McCullough v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-74 *Order (Accepting Accounting)* (HCN Tr. Ct., Nov. 21, 2001).

The plaintiff filed a timely accounting of the CTF funds, confirming the proper use of the funds. Therefore, the Court issued an *Order* accepting the accounting.

NOVEMBER 30, 2001

Karen A. Hammer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-135 *Order (Granting*

Release of CTF Monies for Funeral Expenses) (HCN Tr. Ct., Nov. 30, 2001).

The Court granted the petitioner's request for the release of her CTF monies for her funeral expenses, having determined that the petitioner fully satisfied the four-part test enunciated in the HO-CHUNK NATION PER CAPITA DISTRIBUTION ORDINANCE.

DECEMBER 3, 2001

In the Interest of the Minor Children: R.R.G., DOB 08/14/87, L.G.B., DOB 08/26/90, C.A.B., DOB 08/26/90, CV 01-136 Order (HCN Tr. Ct., Dec. 3, 2001).

Having found good cause, the Court granted the respondent's *Motion to Amend its Answer*, for which the respondent cited a need to correct a clerical error.

DECEMBER 13, 2001

In the Interest of the Minor Child, J.L.P., DOB 10/08/84, by Shirley White v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-130 Order (Dismissing Case without Prejudice) (HCN Tr. Ct., Dec. 13, 2001).

Pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 56(A), the Court dismissed this case without prejudice based upon the petitioner's November 15, 2001 *Notice of Dismissal*.

DECEMBER 18, 2001

In the Interest of the Minor Child: K.B., DOB 06/06/89, by Shawn Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-36 Order (Demanding Accounting) (HCN Tr. Ct., Dec. 18, 2001).

On June 25, 2001, the Court granted the release of CTF monies and ordered the petitioner to account for the monies within two (2) months. The Court then issued its September 17, 2001 Order, granting the petitioner additional time to account for the monies. The petitioner has failed to submit the required accounting and therefore the Court issues this *Order*, demanding the accounting by January 18, 2002, or the Court shall convene a *Show Cause Hearing* to determine if the petitioner shall be held in contempt of Court.

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., Dec. 18, 2001).

On October 19, 2000, the Court granted the release of CTF monies and ordered the petitioner to account for the monies within three (3) months. Pursuant to a correspondence from the petitioner, the Court granted the petitioner an additional two (2) months in which to account for the monies. The petitioner has failed to submit the required accounting and therefore the Court issues this *Order*, demanding the accounting by January 18, 2002, or the Court shall convene a *Show Cause Hearing* to determine if the petitioner shall be held in contempt of Court.

In the Interest of Minor Child: N.K.M., by Angela Cox v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-73 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Dec. 18, 2001).

As the petitioner failed to reschedule the previously scheduled *Fact-Finding Hearing*, the Court construed her written request to cancel that hearing as a *Motion to Dismiss*. Therefore, the Court gives notice that it shall dismiss this case without prejudice and close the case if the parties do not file an objection within ten (10) days.

In the Matter of the Minor Child: R.A.M., DOB 01/28/86, by Winona L. Funmaker v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-142 Order (Granting CTF Monies for Orthodontics for the Child's teeth) (HCN Tr. Ct., Dec. 18, 2001).

The Court granted the release of monies from the minor child's CTF account to pay for orthodontic work for that child.

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 (Demanding Accounting) (HCN Tr. Ct., Dec. 18, 2001).

On May 21, 2001, the Court granted the release of CTF monies for the minor child's orthodontic work.

The Court required the petitioner to account for the monies as required by Ho-Chunk Nation law. The required accounting is now over six (6) months late, therefore, the Court demands that petitioner submit the accounting by January 18, 2002, or the Court shall convene a *Show Cause Hearing*.

In the Matter of the Child: A.N.S., DOB 08/03/88, by Lisa Kay Nichols v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-140 Order (Granting CTF Monies for orthodontic work on the child's teeth) (HCN Tr. Ct., Dec. 18, 2001).

The Court granted the release of monies from the minor child's CTF account to pay for orthodontic work for that child.

DECEMBER 19, 2001

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, CV 01-28 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Dec. 19, 2001).

As the petitioners have failed to submit the required documentation and there has been no activity on this case for over six (6) months, pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 56(C), the Court issued its notice that it shall dismiss the case without prejudice in thirty (30) days unless the parties can show good cause otherwise.

DECEMBER 21, 2001

In the Matter of the Child: R.R.G., DOB 08/14/87, by Tari Lynn Pettibone v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-136 Order (Granting CTF Monies for orthodontic work on the child's teeth) (HCN Tr. Ct., Dec. 21, 2001).

The Court granted the release of monies from the minor child's CTF account to pay for orthodontic work for that child.

DECEMBER 24, 2001

In the Matter of the Children: L.G.B., DOB 03/30/89, and C.A.B., DOB 08/26/90, by Tari Lynn Pettibone v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-136 Order (Granting CTF

Monies for orthodontic work on the child's teeth) (HCN Tr. Ct., Dec. 24, 2001).

The Court granted the release of monies from the minor children's CTF accounts to pay for orthodontic work for those children.

Civil Cases (All Categories)

OCTOBER 25, 2001

Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Kenneth J. Basswood, CV 01-107 Order (Granting Default Judgment) (HCN Tr. Ct., Oct. 25, 2001).

The Court granted a default judgment in favor of the plaintiff for the defendant's non-payment of rent.

Janette Smoke v. Steve Garvin in capacity of Table Games Mgr., Majestic Pines Casino, and Ho-Chunk Nation, CV 01-97 Scheduling Order (HCN Tr. Ct., Oct. 25, 2001).

The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

OCTOBER 29, 2001

Wayne H. Boyles v. Ho-Chunk Casino, CV 01-108 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Oct. 29, 2001).

The Court granted the plaintiff's written request to appear by telephone at the October 29, 2001 *Scheduling Hearing*.

In the Interest of Minor Child: C.T.L., DOB 01/16/84, by Katherine R. Littlejohn v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-81 Order (Requesting Accounting) (HCN Tr. Ct., Oct. 29, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

Louise M. Skroch v. Ho-Chunk Nation and Majestic Pines Casino, CV 01-100 Order to Change Schedule (HCN Tr. Ct., Oct. 29, 2001).

Upon the agreement of the parties, the Court ordered a change in the date and time of the *Motion Hearing/Scheduling Conference*.

OCTOBER 30, 2001

Wayne H. Boyles v. Ho-Chunk Casino, CV 01-108 *Scheduling Order* (HCN Tr. Ct., Oct. 30, 2001).

The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

OCTOBER 31, 2001

Ho-Chunk Nation Dep't of Housing, Home Ownership Program v. Janet and Gary Muir, CV 01-113 *Order (Granting Default Judgment)* (HCN Tr. Ct., Oct. 31, 2001).

The Court granted a default judgment in favor of the plaintiff for the defendants' non-payment of the mortgage note.

NOVEMBER 1, 2001

Mr. Chloris Lowe, Jr., Enrollment #439A001593; Mr. Stewart J. Miller, Enrollment #439A002566 v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Myrna Thompson, Dallas White Wing, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Bd., CV 00-104 *Order (Determining Constitutionality of Proposed Redistricting/Reapportionment Scenario)* (HCN Tr. Ct., Nov. 1, 2001).

[For summary, see **Redistricting/Reapportionment** within this index.]

Ho-Chunk Nation Housing Auth. v. Carol Pidgeon, CV 00-18 *Order (Requiring Status Report)* (HCN Tr. Ct., Nov. 1, 2001).

The Court requested a status report on this case to determine if the defendant has fully satisfied the judgment.

NOVEMBER 2, 2001

Lorna M. Hach v. Ho-Chunk Nation C-Store, Baraboo and Deb Hindes, Mgr., CV 01-98 *Scheduling Order* (HCN Tr. Ct., Nov. 2, 2001).

The Court issued a scheduling order, setting out the various deadlines and setting the trial date.

NOVEMBER 5, 2001

Clarence Pettibone v. Ho-Chunk Nation Legislature and Ho-Chunk Nation Legislature Members Kathleen Whiterabbit, Sharon Whiterabbit, George

Lewis, Myrna Thompson, Gerald Cleveland, Christine Funmaker-Romano, Dallas Whitewing, Wade Blackdeer, Tracy Thundercloud and Elliot Garvin, in their official capacity, CV 01-84 *Order (Granting Motion to Strike)* (HCN Tr. Ct., Nov. 5, 2001).

As the plaintiff failed to demonstrate good cause to modify the September 24, 2001 *Scheduling Order*, the Court accordingly struck the plaintiff's amended pleadings from the record.

Ho-Chunk Nation Home Ownership Program v. Michelle Mountain, CV 01-109 *Order (Denying Dismissal)* (HCN Tr. Ct., Nov. 5, 2001).

The Court denied the *Motion to Dismiss* and ordered the Department of Justice to resubmit a properly calculated *Voluntary Consent to Claim Against Per Capita*. In addition, the Court denied the DOJ's request for reimbursement of the \$35.00 filing fee. Under *Ho-Chunk Nation Rules of Civil Procedure*, Rule 4(A), the filing fee is waived for the Nation and thus, the Court cannot reimburse the plaintiff for costs it did not actually incur.

NOVEMBER 6, 2001

Ho-Chunk Nation, Dep't of Housing, Prop. Mgmt. Div. v. Serena Gail Yellowthunder, CV 01-103 *Order (Granting Extension of Time to File Answer)* (HCN Tr. Ct., Nov. 6, 2001).

Having found good cause and determining that it would not prejudice the plaintiff, the Court granted the defendant additional time to obtain legal representation and gave her until November 15, 2001, to file a formal *Answer*.

NOVEMBER 14, 2001

Ho-Chunk Nation Home Ownership Program v. Arnold Darnell, CV 01-114 *Default Judgment* (HCN Tr. Ct., Nov. 14, 2001).

The Court granted a default judgment in favor of the plaintiff, for the defendant's non-payment of his mortgage note.

Ho-Chunk Nation Home Ownership Program v. Georgette Garvin, CV 01-117 *Default Judgment* (HCN Tr. Ct., Nov. 14, 2001).

The Court granted a default judgment in favor of the plaintiff, for the defendant's non-payment of her mortgage note.

NOVEMBER 16, 2001

Margaret G. Garvin v. Donald Greengrass; and Margaret G. Garvin v. Ho-Chunk Nation and Donald Greengrass in his official capacity, CV 00-10, CV 00-38 *Order (Final Judgment)* (HCN Tr. Ct., Nov. 16, 2001).

The Court addressed issues of procedural due process, equitable relief and standing.

[For summaries, see **Damages, Due Process** and **Standing** within this index.]

NOVEMBER 19, 2001

Mr. Chloris Lowe, Jr., Enrollment #439A001593; Mr. Stewart J. Miller, Enrollment #439A002566 v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Myrna Thompson, Dallas White Wing, 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., Nov. 19, 2001).

[For summary, see **Redistricting/Reapportionment** within this index.]

Louise M. Skroch v. Ho-Chunk Nation and Majestic Pines Casino, CV 01-100 *Scheduling Order* (HCN Tr. Ct., Nov. 19, 2001).

The Court issued a scheduling order, setting out the various deadlines and setting the trial date.

NOVEMBER 21, 2001

Alexsandra Cichowski v. Four Winds Ins. Agency, LLC, CV 01-90 *Order (Rescheduling and Redesignating Status Hearing)* (HCN Tr. Ct., Nov. 21, 2001).

The Court shall allow the defendant an opportunity to argue *its Motion for Summary Judgment* and the plaintiff an opportunity in which to offer a *Response*. The Court stated the deadlines by which the *Response* should be filed and the standards by which it would assess a *Motion for Summary Judgment*.

Alexsandra Cichowski v. Ho-Chunk Hotel and Convention Center, CV 01-25 *Order (Costs)* (HCN Tr. Ct., Nov. 21, 2001).

As the plaintiff's discovery requests have bordered on the unreasonable, the Court shall award the defendant reasonable costs.

In the Interest of the Minor Child: H.S.B.M., DOB 06/16/87, by Teddi McCullough v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-74 *Order (Accepting Accounting)* (HCN Tr. Ct., Nov. 21, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

NOVEMBER 27, 2001

Alexsandra Cichowski v. Ho-Chunk Hotel and Convention Center, CV 01-25 *Motion for Summary Judgment on Workman's Comp on February 14, 2001 (Denied)* (HCN Tr. Ct., Nov. 27, 2001).

[For summary, see **Summary Judgment** within this index.]

NOVEMBER 30, 2001

Karen A. Hammer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-135 *Order (Granting Release of CTF Monies for Funeral Expenses)* (HCN Tr. Ct., Nov. 30, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

Ho-Chunk Nation Housing Auth. v. Tyrone Swallow and Lori Swallow, CV 01-101 *Findings of Fact, Conclusions of Law and Judgment* (HCN Tr. Ct., Nov. 30, 2001).

The Court issued an *Order* evicting the defendants from the plaintiff's rental property for the defendants' nonpayment of rent and for numerous lease violations, which caused a disturbance in the community. In addition, the Court issued a judgment in favor of the plaintiff for the defendants' nonpayment of rent and a restriction of the defendant tribal member from taking out any loans against his per capita.

In the Interest of the Adult Incompetent: Norma WhiteBear, DOB 02/21/25, by Cecilia Rave v. Ho-Chunk Nation Office of Tribal Enrollment CV 01-125 Order (Granting ITF Monies for Clothes, Air Purifier, Groceries and Cleaning Supplies) (HCN Tr. Ct., Nov. 30, 2001).

[For summary, see **Incompetent's Trust Fund (ITF)** within this index.]

DECEMBER 3, 2001

In the Interest of the Minor Children: R.R.G., DOB 08/14/87, L.G.B., DOB 08/26/90, C.A.B., DOB 08/26/90, CV 01-136 Order (HCN Tr. Ct., Dec. 3, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

Ho-Chunk Nation Housing Auth. v. Carol Pidgeon, CV 01-18 Order (Satisfaction of Judgment and Intent to Close) (HCN Tr. Ct., Dec. 3, 2001).

As the defendant fully paid off the judgment for damages, the Court issued an *Order* recognizing the satisfaction to the judgment and closing the case.

Roger Littlegeorge v. Jacob Lonetree as Pres. of the Ho-Chunk Nation, CV 95-20 Notice (Intent to Close) (HCN Tr. Ct., Dec. 3, 2001).

Pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 56(C), the Court issued this notice that it shall close this case on December 30, 2001, for inactivity if it hears no objection from the parties within that time period.

Daniel Youngthunder, Sr. v. Jonette Pettibone, Ann Winneshiek, Ona Garvin, Rainbow Casino Mgmt., CV 98-48 Order (Satisfaction of Judgment and Intent to Close) (HCN Tr. Ct., Dec. 3, 2001).

As the defendants fully satisfied the February 9, 2000 *Judgment*, the Court issued an *Order* recognizing the satisfaction to the judgment and closing the case.

DECEMBER 4, 2001

In the Interest of Decedent: Renee Debra Blackdeer, DOB 11/11/72, by Marian E. Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment,

CV 01-71 Order (Designation of Personal Representative) (HCN Tr. Ct., Dec. 4, 2001).

[For summary, see **Probate** within this index.]

Jodi L. Whitehead v. Ho-Chunk Nation Dep't of Bus., Exec. Dir. Christine Brown, Ho-Chunk Nation Dep't of Personnel, Exec. Dir. Jim Lambert, CV 01-94 Order (Motion Hearing) (HCN Tr. Ct., Dec. 4, 2001).

The Court granted the defendants' request to convene a hearing in order for the defendants to argue their *Motion to Dismiss* and providing the plaintiffs with an opportunity to respond.

DECEMBER 5, 2001

Mr. Chloris Lowe, Jr., Enrollment #439A001593; Mr. Stewart J. Miller, Enrollment #439A002566 v. Ho-Chunk Nation Legislature Members Elliot Garvin, Gerald Cleveland, Myrna Thompson, Dallas White Wing, and Clarence Pettibone in their official capacity and individually; and Ho-Chunk Nation Election Bd., CV 00-104 Order (Denying Motion to Amend Order) (HCN Tr. Ct., Dec. 5, 2001).

[For summary, see **Redistricting/Reapportionment** within this index.]

DECEMBER 6, 2001

Ho-Chunk Nation Dep't of Treasury v. Melodie Cleveland, CV 01-126 Order (Impounding Funds) (HCN Tr. Ct., Dec. 6, 2001).

The Court impounded the amount of unreconciled travel expenses from the defendant's February 2002 per capita distribution, giving the defendant an additional opportunity to reconcile the travel expenses. If the defendant fails to do this within thirty days of the impound, the Court shall release the monies to the plaintiff.

DECEMBER 7, 2001

Ona Garvin v. Ho-Chunk Nation, Silas Cleveland, and Dennis Gager, CV 01-78 Order (HCN Tr. Ct., Dec. 7, 2001).

Pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 42, the Court finds good cause to grant the defendants' *Motion* requesting the

extension of deadlines for filing dispositive motions and to adjourn all remaining deadlines.

DECEMBER 11, 2001

Richard Walker v. Jonette Pettibone, CV 01-122 *Scheduling Order* (HCN Tr. Ct., Dec. 11, 2001).

The Court issued a scheduling order, setting out the various deadlines and setting the trial date.

DECEMBER 13, 2001

In the Interest of Mary Lou Blackdeer, by Lisa Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-85 *Order (Releasing ITF Monies)* (HCN Tr. Ct., Dec. 13, 2001).

[For summary, see **Incompetent's Trust Fund (ITF)** within this index.]

In the Interest of the Minor Child, J.L.P., DOB 10/08/84, by Shirley White v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-130 *Order (Dismissing Case without Prejudice)* (HCN Tr. Ct., Dec. 13, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

In the Interest of Adult Incompetent: Oliver S. Rockman v. Ho-Chunk Nation Office of Tribal Enrollment, CV 97-117 *Order (Accepting Accounting and Granting Release of Per Capita)* (HCN Tr. Ct., Dec. 13, 2001).

[For summary, see **Incompetent's Trust Fund (ITF)** within this index.]

Charles I. Youngthunder v. MPC Security Dep't, CV 01-70 *Order (Dismissing Case with Prejudice)* (HCN Tr. Ct., Dec. 13, 2001).

Pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 44(C), the Court dismissed this case with prejudice for the plaintiff's failure to appear.

DECEMBER 17, 2001

Ho-Chunk Nation Dep't of Treasury v. Lawrence Littlegeorge, CV 01-127 *Order (Granting Default Judgment)* (HCN Tr. Ct., Dec. 17, 2001).

The Court issued a judgment in favor of the plaintiff, for the defendant's failure to reconcile his advanced travel or to repay the advanced travel. The Court found the non-reconciled advanced travel monies to be a debt owed to the Ho-Chunk Nation and issued an *Order* garnishing the defendant's per capita for the amount of the judgment and restricting the defendant's ability to take out loans against the per capita until such time the judgment is satisfied.

Ho-Chunk Nation Dep't of Treasury v. Jeanine Heffner-McEvens, CV 01-124 *Order (Granting Default Judgment)* (HCN Tr. Ct., Dec. 17, 2001).

The Court issued a judgment in favor of the plaintiff, for the defendant's failure to reconcile her advanced travel or to repay the advanced travel. The Court found the non-reconciled advanced travel monies to be a debt owed to the Ho-Chunk Nation and issued an *Order* garnishing the defendant's per capita for the amount of the judgment and restricting the defendant's ability to take out loans against the per capita until such time the judgment is satisfied.

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., Dec. 17, 2001).

[For summary, see **Incompetent's Trust Fund (ITF)** within this index.]

In the Interest of: Sadell Wilson, by Ho-Chunk Nation Div. of Soc. Servs. v. Tyrone and Lori Swallow and Danelle Baker, CV 01-101 *Findings of Fact, Conclusions of Law and Judgment* (HCN Tr. Ct., Dec. 17, 2001).

[For summary, see **Elder Abuse** within this index.]

DECEMBER 18, 2001

In the Interest of the Minor Child: K.B., DOB 06/06/89, by Shawn Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-36 *Order (Demanding Accounting)* (HCN Tr. Ct., Dec. 18, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

HocOk Federal Credit Union v. Daniel WhiteEagle, CV 00-66 Order (Closing Case) (HCN Tr. Ct., Dec. 18, 2001).

Subsequent to the Court's June 14, 2001 Notice (Intent to Close), the parties did not file an objection, thus the Court closed this case.

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., Dec. 18, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

In the Interest of Minor Child: N.K.M., by Angela Cox v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-73 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Dec. 18, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

In the Matter of the Minor Child: R.A.M., DOB 01/28/86, by Winona L. Funmaker v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-142 Order (Granting CTF Monies for Orthodontics for the Child's teeth) (HCN Tr. Ct., Dec. 18, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

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 (Demanding Accounting) (HCN Tr. Ct., Dec. 18, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

In the Matter of the Child: A.N.S., DOB 08/03/88, by Lisa Kay Nichols v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-140 Order (Granting CTF Monies for orthodontic work on the child's teeth) (HCN Tr. Ct., Dec. 18, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

DECEMBER 19, 2001

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, CV 01-28 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Dec. 19, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

Ho-Chunk Nation Housing Auth. v. William Kemp, Sr., CV 00-30 Order (Satisfaction of Judgment) (HCN Tr. Ct., Dec. 19, 2001).

As the defendant fully paid off the judgment for nonpayment of rent, the Court issued an Order recognizing the satisfaction of the judgment and closing the case.

Karen N. WhiteEagle v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-30 Notice (Intent to Close) (HCN Tr. Ct., Dec. 19, 2001).

As the defendant fully complied with the Court's March 21, 2001 Order granting relief to the plaintiff, the Court issued this notice recognizing the satisfaction of the judgment and intent to close the case.

DECEMBER 21, 2001

Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Ellen Lewis, CV 01-82 Order (HCN Tr. Ct., Dec. 21, 2001).

Upon stipulation of the parties, the Court ordered the Ho-Chunk Nation Department of Treasury to withhold monies from the defendant's next two (2) per capita payments for unpaid rent.

In the Matter of the Child: R.R.G., DOB 08/14/87, by Tari Lynn Pettibone v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-136 Order (Granting CTF Monies for orthodontic work on the child's teeth) (HCN Tr. Ct., Dec. 21, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

DECEMBER 24, 2001

In the Matter of the Children: L.G.B., DOB 03/30/89, and C.A.B., DOB 08/26/90, by Tari Lynn Pettibone v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-136 Order (Granting CTF Monies for orthodontic work on the child's teeth) (HCN Tr. Ct., Dec. 24, 2001).

[For summary, see **Children's Trust Fund (CTF)** within this index.]

Damages

NOVEMBER 16, 2001

Margaret G. Garvin v. Donald Greengrass; and Margaret G. Garvin v. Ho-Chunk Nation et al., CV 00-10, CV 00-38 Order (Final Judgment) (HCN Tr. Ct., Nov. 16, 2001).

In the calculation of backpay, the Court will not presume the accumulation of merit increases during the time period away from work. The limited waiver of sovereign immunity allows the Court to award only "actual lost wages," rather than speculate on whether an employee would have received merit increases but for the improper termination.

[See also **Due Process** and **Standing** within this index.]

Domestic Violence

OCTOBER 29, 2001

In the Interest of Sadell Wilson v. Tyrone and Lori Swallow, Danelle Baker, DV 01-07 Scheduling Order (HCN Tr. Ct., Oct. 29, 2001).

The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

NOVEMBER 14, 2001

Joyce St. Cyr v. Robert M. Mobley, DV 01-06 Order (Dissolving Ex Parte Order for Protection) (HCN Tr. Ct., Nov. 14, 2001).

The petitioner sought to dissolve the Court's May 2, 2001 *Ex Parte Order for Protection*. In order to protect the petitioner and to ensure that she made

her request knowingly, willingly and without coercion, the Court convened a *Hearing* to determine if it should dissolve the *Ex Parte Order*. Based upon sworn testimony at that hearing, the Court dissolved the *Ex Parte Order for Protection* and dismissed the case without prejudice.

Elder Abuse

DECEMBER 17, 2001

In the Interest of: Sadell Wilson, by Ho-Chunk Nation Div. of Soc. Servs. V. Tyrone and Lori Swallow and Danelle Baker, CV 01-101 Findings of Fact, Conclusions of Law and Judgment (HCN Tr. Ct., Dec. 17, 2001).

Citing violations of the Elder Abuse Act of 2001, the Court entered an *Order* prohibiting the respondents from entering the home of the petitioner.

Due Process

NOVEMBER 16, 2001

Margaret G. Garvin v. Donald Greengrass; and Margaret G. Garvin v. Ho-Chunk Nation et al., CV 00-10, CV 00-38 Order (Final Judgment) (HCN Tr. Ct., Nov. 16, 2001).

This opinion summarizes previous court analyses in the area of procedural due process. In regards to the hearing component of procedural due process, the Court held that an employee must receive a meaningful opportunity to be heard before her property can be taken away. In the instant matter, the plaintiff did not receive anything resembling a meaningful opportunity to be heard.

[See also **Damages** and **Standing** within this index.]

Incompetent's Trust Fund (ITF)

NOVEMBER 30, 2001

In the Interest of the Adult Incompetent: Norma WhiteBear, DOB 02/21/25, by Cecilia Rave v. Ho-Chunk Nation Office of Tribal Enrollment CV 01-125 Order (Granting ITF Monies for Clothes, Air Purifier, Groceries and Cleaning Supplies) (HCN Tr. Ct., Nov. 30, 2001).

The Court approved the release of ITF monies for miscellaneous expenses not covered by the ward's social security income.

DECEMBER 13, 2001

In the Interest of Mary Lou Blackdeer, by Lisa Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-85 Order (Releasing ITF Monies) (HCN Tr. Ct., Dec. 13, 2001).

Applying the standard enunciated in the AMENDED AND RESTATED PER CAPITA DISTRIBUTION ORDINANCE, the Court granted the release of the ward's ITF monies to pay for accumulated utility and health bills and miscellaneous expenses of the ward.

In the Interest of Adult Incompetent: Oliver S. Rockman v. Ho-Chunk Nation Office of Tribal Enrollment, CV 97-117 Order (Accepting Accounting and Granting Release of Per Capita) (HCN Tr. Ct., Dec. 13, 2001).

The protective payee submitted an accounting for the September 11, 2001 release of the ward's ITF monies. In addition, the Court granted the release of ITF monies for the ward's usual spending allowance; money for coat, gloves, and a watch; and money for the payment of the protective-payee's expenses.

DECEMBER 17, 2001

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., Dec. 17, 2001).

The Court granted the release of monies from the incompetent tribal member's Incompetent's Trust Fund (ITF) account for the purchase of tires, mounting and balance; plow and tire chains; and money for Christmas presents.

Juvenile

NOVEMBER 1, 2001

In the Matter of the Children: A.C.G., DOB 04/04/89, P.A.S., DOB 01/14/91, P.M.S., DOB 01/14/91, JV 98-05 Order (Setting Objection Date

to Request for Reassignment of Case Worker) (HCN Tr. Ct., Nov. 1, 2001).

The Court granted CFS's request to assign a new caseworker, but reminded CFS of its duty to make sure that such a change was in the best interest of the children, not in the best interests of CFS.

NOVEMBER 6, 2001

In the Matter of Minor Children: A.B., DOB 06/28/87, J.B., DOB 09/01/88, R.B., DOB 04/23/91, JV 00-07, JV 00-08, JV 00-09 Order (Child Protection Review Hearing) (HCN Tr. Ct., Nov. 6, 2001).

The Court assessed the extent of compliance with the May 9, 2000 *Order (Dispositional Requirements)* and performed a review in accordance with the Children's Code and determined to maintain the status quo with the exception of physical placement.

In the Interest of the Minor Child: M.I.S., DOB 04/18/00, JV 00-34 Order (Discontinuing Supervision) (HCN Tr. Ct., Nov. 6, 2001).

As CFS and another party have entered into a service agreement for the in-home services for the minor, the Court discontinues its supervision of this case.

NOVEMBER 7, 2001

In the Matter of the Children: T.A.C., DOB 02/19/90, R.C., DOB 07/27/92, JV 00-25, JV 00-26 Order (Granting Temporary Legal Guardianship) (HCN Tr. Ct., Nov. 7, 2001).

The Court granted the *Petition for Temporary Legal Guardianship*, which shall expire on November 30, 2001, and ordered the parents to pay child support.

In the Interest of Minor Child: N.J.O., DOB 02/19/84, JV 00-16 Order (Child Protection Review Hearing) (HCN Tr. Ct., Nov. 7, 2001).

Upon recommendation by the parties that the Court allow this case to naturally expire upon the minor child reaching the age of eighteen (18), the Court did not make any additional amendments to the dispositional requirements. The Court directed CFS to maintain regular contact with the minor child until expiration of its legal custody.

NOVEMBER 20, 2001

In the Matter of the Child: M.I.S., DOB 04/18/00, JV 00-34 Order Releasing GAL Fees (HCN Tr. Ct., Nov. 20, 2001).

After reviewing the GAL billing, the Court finds that the request for reimbursement is within the Court's guidelines and is modest in consideration of the time and effort spent on this case. Therefore, the court approved the payment of the GAL fees.

NOVEMBER 21, 2001

In the Matter of the Children: D.J.D., DOB 04/04/92, N.L.D., DOB 10/03/93, JV 97-11, JV 97-12 Order (Requiring Status Report and Home Study) (HCN Tr. Ct., Nov. 21, 2001).

The Court required the Ho-Chunk Nation Dep't of Soc. Services, Div. of Children and Family Servs. (CFS) to file an *Emergency Status Report*, justifying its decision to change the placement of the minor children.

NOVEMBER 30, 2001

In the Matter of the Children: T.A.C., DOB 02/19/90, R.C., DOB 07/27/92, JV 00-25, JV 00-26 Order (Granting Temporary Legal Guardianship) (HCN Tr. Ct., Nov. 30, 2001).

The Court issued an *Order* approving the placement of the minor children and ordering the parents to pay child support.

DECEMBER 13, 2001

In the Interest of Minor Child, J.J.C., DOB 09/09/86, JV 01-12 Order (Approving Modification) (HCN Tr. Ct., Dec. 13, 2001).

The Court issued an *Order* approving the placement of the minor child and ordering the parents to pay child support.

DECEMBER 17, 2001

In the Matter of the Child: S.M.D., DOB 11/06/86, JV 01-21 Plea Hearing (HCN Tr. Ct., Dec. 17, 2001).

The parties entered their pleas in this *Child in Need of Protection and Services* case and the Court scheduled a trial date.

DECEMBER 19, 2001

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

The Court issued an *Order* approving the placement of S.L.S.

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

The Court issued an *Order* redirecting the child support for S.L.S. to the Ho-Chunk Nation Child and Family Services.

Probate**DECEMBER 4, 2001**

In the Interest of Decedent: Renee Debra Blackdeer, DOB 11/11/72, by Marian E. Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-71 Order (Designation of Personal Representative) (HCN Tr. Ct., Dec. 4, 2001).

The Court appointed the petitioner the personal representative of the decedent tribal member's estate in accordance with the LEGALLY INCOMPETENT MEMBER PROTECTIVE FUND ADMINISTRATION INTERIM ORDINANCE.

Redistricting/Reapportionment**NOVEMBER 1, 2001**

Chloris Lowe, Jr., et al. v. Ho-Chunk Nation Legislature Members et al., CV 00-104 Order (Determining Constitutionality of Proposed Redistricting/Reapportionment Scenario) (HCN Tr. Ct., Nov. 1, 2001).

Scenario A, submitted by the defendants, was the same proposal as Reintroduced Revised Scenario 1A, but with different demographic figures. The fluctuations in population do not qualify Scenario A as a "different" proposal, and thus, it does not satisfy judicial review. Therefore, the Court required the defendants to submit a different, final redistricting/reapportionment proposal to the Court by November 9, 2001.

NOVEMBER 19, 2001

Chloris Lowe, Jr., et al. v. Ho-Chunk Nation Legislature Members et al., CV 00-104 *Order (Determining Constitutionality of the Proposed Redistricting/Reapportionment Scenario)* (HCN Tr. Ct., Nov. 19, 2001).

The Court held that the legislatively approved redistricting/reapportionment proposal, Scenario E, satisfied the appellate standard of review. The Court further ordered that the Ho-Chunk Nation Election Board hold a special redistricting election on or before January 12, 2002, providing sufficient public notice prior to the election.

DECEMBER 5, 2001

Chloris Lowe, Jr., et al. v. Ho-Chunk Nation Legislature Members et al., CV 00-104 *Order (Denying Motion to Amend Order)* (HCN Tr. Ct., Dec. 5, 2001).

The Court denied the defendants' December 3, 2001 *Motion to Amend Order*, where the defendants argued that the Trial Court lacked the authority to order the Election Board to hold a Special Redistricting Election. The Court held that it possesses such power by virtue of its broad constitutional power to grant injunctive relief and in light of established precedential authority.

Standing

NOVEMBER 16, 2001

Margaret G. Garvin v. Donald Greengrass; and Margaret G. Garvin v. Ho-Chunk Nation et al., CV 00-10, CV 00-38 *Order (Final Judgment)* (HCN Tr. Ct., Nov. 16, 2001).

The Court requires that the plaintiff show that she suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant. The plaintiff cannot access the broad equitable powers of the Court without first satisfying this element of standing. The determination of whether the plaintiff satisfies this first element of standing differs from the determination of whether the plaintiff received minimal procedural due process.

[See also **Damages** and **Due Process** within this index.]

Summary Judgment

NOVEMBER 27, 2001

Alexsandra Cichowski v. Ho-Chunk Hotel and Convention Center, CV 01-25 *Motion for Summary Judgment on Workman's Comp on February 14, 2001 (Denied)* (HCN Tr. Ct., Nov. 27, 2001).

As many of the facts are in dispute and the plaintiff has not asserted any law by which she would be entitled to a "judgment as a matter of law," the Court denied the plaintiff's *Motion for Summary Judgment*.

Supreme Court

OCTOBER 19, 2001

Vicki J. Greendeer v. John C. Houghton, Jr., SU 01-11 *Decision* (HCN S. Ct., Oct. 19, 2001).

The appellant appealed the July 30, 2001 *Emergency Order* entered by the Trial Court, which had impounded a portion of the respondent's per capita until such time the respondent submitted additional information. The Supreme Court held that the underlying state child support order had suspended the appellant's child support obligation; and thus, enforcement of current child support at this time by the Trial Court was improper.

OCTOBER 31, 2001

Joan Marie Whitewater, Dean Allen Whitewater, Kathleen Lynn Whitewater, Kenneth Lee Whitewater, Barbara Ann Enger, 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 *Decision* (HCN S. Ct., Oct. 31, 2001).

The Supreme Court reversed the decision of the Trial Court, holding that (1) the appellees' claims are not barred by failure to exhaust administrative remedies as there were no administrative remedies to exhaust; (2) because the 1994 Constitution was not self-executing, the appellees right to per capita payments did not vest upon the adoption of the

1994 Constitution; and (3) the appellees were not denied equal protection under the laws as they were in a different class of people than those that were enrolled in January 1995.

NOVEMBER 27, 2001

Steve Camden v. Game Financial Corp. and Lisa Maulson, Vice Pres., SU 01-13 *Scheduling Order* (HCN S. Ct., Nov. 27, 2001).

The Supreme Court accepted this matter for appeal, but requires the submission of the appellate brief and/or a *Motion to Dismiss* by the appellee based upon appellant's failure to submit the appropriate appellate brief.

Marie WhiteEagle v. Wisconsin Dells Head Start and Ho-Chunk Nation, SU 01-14 *Order Denying Appeal* (HCN S. Ct., Nov. 27, 2001).

As the appellant filed an untimely *Notice of Appeal*, the Supreme Court denied the appeal.

DECEMBER 19, 2001

Ho-Chunk Nation Housing Auth. v. Tyrone and Lori Swallow, SU 01-16 *Order Denying Appeal* (HCN S. Ct., Dec. 19, 2001).

As the appellants' *Notice of Appeal* was untimely filed, the Court denied their request to appeal.

Recent Filings

Trial Court

Child Support

NOVEMBER 7, 2001

Tanya L. Ludke v. Earl E. Smith, Jr., CS 01-31.

NOVEMBER 9, 2001

Dona Marinello v. Howard Pettibone, CS 01-32.

NOVEMBER 19, 2001

Michelle Mountain v. Curtis W. Cloud, CS 01-34.

NOVEMBER 26, 2001

Laura Geshick v. Clayton Pemberton, CS 01-33.

DECEMBER 3, 2001

Kelley Shelifoe v. David Decora, CS 01-35.

DECEMBER 12, 2001

Michelle Lewis v. Dennis C. Lewis, CS 01-36.

DECEMBER 13, 2001

State of Wisconsin v. Michael Hernandez, CS 01-37.

State of Wisconsin v. Rueben Rave, Jr., CS 01-38.

State of Wisconsin v. Gregory S. Harrison, CS 01-39.

Gale J. Darnell v. Lawrence E. LaMere, CS 01-40.

DECEMBER 21, 2001

State of Wisconsin/Alicia A. Debrot v. Joseph Grover, CS 01-41.

Civil Cases

NOVEMBER 1, 2001

In the Interest of Karen Hammer, DOB 06/07/80, CV 01-135.

NOVEMBER 2, 2001

Bonny L. Harrison v. Hotel Mgmt., CV 01-138.

In the Interest of R.R.G., DOB 08/14/87, L.G.B., DOB 03/30/89, C.A.B., DOB 08/26/90, by Tari Pettibone v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-136.

NOVEMBER 5, 2001

Rachel Puzon v. Robert Mudd, et al. Greg Garvin, EAO, Troy Swallow, Pres., CV 01-137.

NOVEMBER 7, 2001

In the Interest of A.F., DOB 06/19/84, by Michelle Funmaker v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-139.

NOVEMBER 15, 2001

Janeta Doede v. Ho-Chunk Hotel, CV 01-143.

In the Interest of A.M.S., DOB 08/03/88, by Lisa Nichols v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-140.

NOVEMBER 16, 2001

Chong Graves v. Ho-Chunk Casino, CV 01-150.

NOVEMBER 27, 2001

Ho-Chunk Nation Housing Auth. v. Gayland Rave, CV 01-141.

NOVEMBER 29, 2001

In the Interest of R.A.M., DOB 01/28/86, by Winona L. Funmaker v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-142.

DECEMBER 6, 2001

Ho-Chunk Nation Dep't of Treasury v. Ruth Payer, CV 01-144.

Ho-Chunk Nation Dep't of Treasury v. Marlys Whiteagle, CV 01-145.

DECEMBER 10, 2001

Judith A. McLandon v. Ho-Chunk Nation Majestic Pines Casino, Security, CV 01-146.

DECEMBER 14, 2001

In the Interest of Alice Funmaker, by Kenneth Freitag v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-148

Ho-Chunk Nation Housing Auth. v. John Dumpprope and Julia Dumpprope, CV 01-147.

In the Interest of M.S.M., DOB 04/21/89, by Tina McArthur v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-149.

DECEMBER 18, 2001

Ho-Chunk Nation Dep't of Housing/Prop. Mgmt. Div. v. Donald Decora and Cassandra Littlebear, CV 01-151.

Ho-Chunk Nation Dep't of Housing/Prop. Mgmt. Div. v. Myra Peberton, CV 01-152.

DECEMBER 19, 2001

Melody Whiteagle-Fintak v. Russell Girard, Judy Whitehorse and Dep't of Youth-SS, CV 01-153.

In the Interest of M.W.E., DOB 07/19/95, by Melody Whiteagle-Fintak v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-154.

Juvenile

NOVEMBER 30, 2001

S.M.D., DOB 11/01/86, JV 01-21.

DECEMBER 18, 2001

L.E.C., DOB 10/12/90, JV 01-22.



Supreme Court

NOVEMBER 19, 2001

Eau Claire Co. CSA v. Henry WhiteThunder, SU 01-15.

DECEMBER 5, 2001

Ho-Chunk Nation Housing Auth. v. Tyrone and Lori Swallow, SU 01-16.



**A Happy
New
Year!**



**from your friends at the Ho-Chunk
Nation Court System!**



Justice Cleveland Resigns

Continued from page 1

Living in the At-large area for most of her adult life, Rita returned to Black River Falls in 1994 and began working in the Nation's Finance Department and quickly received a promotion to the position of Finance Director in 1995, where she served until 1996.

In 1996, she was transferred to Majestic Pines Casino as the Chief Financial Officer. She continued to work in that position, also performing her duties as Associate Justice, until she was promoted to the position of General Manager in July of 2001.

Justice Cleveland on her experience working in the Court:

"All of my experiences while sitting on the bench will be memorable for me. Everything that I did, I enjoyed, from attending Judicial College to hearing the Chief Justice say 'I hate to say this, but you're right.'"

Justice Cleveland found that her increased duties in her new position, balanced against her firm commitment to care for her family and provide judicial services to the Nation needed to be reevaluated.

She decided that the quality of the Ho-Chunk Nation Judicial Branch would best be served if she submitted her resignation and made room for a newly elected Justice who might not be balancing so many important responsibilities.

When asked about her experience as Associate Justice of the Supreme Court, Justice Cleveland replied, "All of my experiences while sitting on the bench will be memorable for me. Everything that I did, I enjoyed, from attending Judicial College to hearing the Chief Justice say 'I hate to say this, but you're right.'"



Justice Cleveland: "I plan to serve the Ho-Chunk people as long as I am able, whether it is in my current position or in another way." Photo taken Jan. 4, 2002.

Justice Cleveland feels that the position provided her with many experiences and learning opportunities far beyond her expectations, "lessons learned that will never be forgotten."

The experience affected her life. It made her aware of how the decisions one makes in his or her every day life may impact the people around them and how far reaching those decisions can be.

When asked if she would consider a judicial appointment again in the future, she replied, "If I run for judicial office again, I will only run for the Chief Justice seat, which means I must get a law degree."

Asked about her plans for the future, Rita stated that she plans to continue her service to the Ho-Chunk Nation as General Manager of the Majestic Pines Casino.

Rita closed the interview by saying that she is proud to be a member of the Ho-Chunk Nation and said, "I plan to serve the Ho-Chunk people as long as I am able, whether it is in my current position or in another way." ⚖️



HCN Court Fees

Filing Fees	\$35.00
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▪ In Person	\$15.00 (or cost if out of state)
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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. II, Sec. (or §) 1(a).
 HCN Const., Art. XI, Sec. (or §) 7.

Legal Citation Form (cont.)

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 §) 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).

Rules of Civil Procedure

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



HO-CHUNK NATION COURT SYSTEM
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