

# HO-CHUNK NATION COURT BULLETIN

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Legal Citation Form

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## 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*

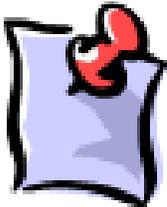
## Congratulations in order ...

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 3<sup>rd</sup> 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](http://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](http://www.jsonline.com/news/Metro/dec01/4379.asp) and  
[www.jsonline.com/news/Metro/dec01/4033.asp](http://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
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. 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  
 W9598 HWY 54 EAST  
 PO BOX 70  
 BLACK RIVER FALLS, WI 54615

# HO-CHUNK NATION COURT BULLETIN

## Inside this Issue

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- Legal Citation Form

Ho-Chunk Nation Court System  
W9598 Hwy 54 East  
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(800) 434-4070  
<http://www.ho-chunknation.com/government/courts.htm>

## An Introduction to Trust Fund Accounts and Why We Have Them

By Associate Trial Court Judge Todd R. Matha

*Editor's Note: The Court constantly receives questions from Court users on how they can access money that is held either in a minor's or an incompetent's trust fund. This article is the first in a series of five, which will enlighten the reader on why we have trust funds to begin with, what laws apply, and what part the Court plays in the management of those funds.*

*The author of this article, Judge Matha, is a Ho-Chunk Nation tribal member and a graduate of the University of Minnesota Law School. He has served on the Ho-Chunk Nation Trial Court bench as an Associate Judge since April 12, 1999. Prior to that time, Judge Matha was an attorney with the Ho-Chunk Nation Department of Justice.*

In April 1993, the Ho-Chunk Nation issued its first per capita payments to enrolled tribal members. Under federal law, an Indian tribe may allocate surplus monies derived from Indian gaming to its membership in the form of per capita distributions.<sup>1</sup> The Indian tribe, however, must first utilize gaming revenues to adequately fund tribal government and promote tribal economic development.<sup>2</sup> The Indian tribe must also present a revenue allocation plan to the Chairman of the National Indian Gaming Commission for approval.<sup>3</sup> A

specific part of the plan must extend protection to and preserve the interests of minor and legally incompetent tribal members.<sup>4</sup>

The Ho-Chunk Nation Legislature enacted the PER CAPITA DISTRIBUTION ORDINANCE to serve as the mandatory revenue allocation plan. The PER CAPITA DISTRIBUTION ORDINANCE protects and preserves the interests of minor and legally incompetent members by placing their per capita monies in irrevocable interest bearing accounts maintained by Fifth Third Bank of Grand Rapids, MI.<sup>5</sup> The funds of a legally incompetent member remain in these accounts for an indeterminate period of time. Fifth Third Bank continues to hold a minor's funds until such member either fulfills a graduation requirement or attains the age of twenty-five (25) years.<sup>6</sup>

In both contexts, a parent or legal guardian may gain a release of sufficient funds to provide for a minor or legally incompetent member's unmet health, education or welfare needs. The parent or legal guardian begins this process

*Continued on next page*

# An Introduction to Trust Fund Monies

*Continued from page 1*

by filing a *Petition for Release of Per Capita Distribution* with the Court.<sup>7</sup> Consequently, the Ho-Chunk Nation Office of Tribal Enrollment receives the opportunity to respond to the *Petition*, and oftentimes requests further information from the petitioner. The Office of Tribal Enrollment has recently begun requiring the petitioner to complete and submit a *Financial Disclosure Form: Request for Trust Fund Assistance*.<sup>8</sup> Following this exchange, the Court typically convenes a *Fact-Finding Hearing* to consider the petitioner's request.

The Court will focus its attention on a single subsection of the PER CAPITA DISTRIBUTION ORDINANCE for purposes of four future articles pertaining to the manner in which an individual may access the Children's Trust Fund ("CTF") or Incompetent Trust Fund ("ITF") accounts.<sup>9</sup> The upcoming installments will deal with the following related topics: a) release of CTF monies on behalf of young children residing in the household; b) release of CTF monies for high school age minors and young adults who have not yet obtained a high school diploma;<sup>10</sup> c) release of ITF monies for use by incompetent members; and d) release of a deceased member's CTF/ITF account balance.

*Continued on page 16*

## Frequently Asked Questions about petitioning the Court to access trust fund monies

### 1. How do I initiate the process of trying to access money held in a trust fund account?

By filing a *Petition for Release of Per Capita Distribution* with the Court. A \$39.00 fee must be submitted to the Court at the same time (\$35.00 filing fee + \$4.00 *Summons* fee). You can obtain a *Petition* at our website [www.ho-chunknation.com/government/courts.htm](http://www.ho-chunknation.com/government/courts.htm) or by calling the Court at 1-800-434-4070 or (715) 284-2722. If you cannot afford to pay the filing fee, you can fill out an *Affidavit to Waive Fees and Costs*. The *Petition* will not be considered filed until either the fee is paid or the Judge approves the *Affidavit* to waive the filing fee.

### 2. What happens next?

Under the *Ho-Chunk Nation Rules of Civil Procedure*, the respondent has twenty (20) days from the filing date in which to respond. The HCN Department of Justice (DOJ) attorneys represent the respondent, the HCN Office of Tribal Enrollment. The DOJ attorneys will file what's called an *Answer* to your *Petition*. They may request additional information, recommend that the Court either grant or deny the *Petition*, and/or request a *Hearing* on the matter.

### 3. How long does the process take?

From the date that you file your *Petition* with the \$39.00 fee, the DOJ has twenty (20) days to respond. There is nothing in the Ho-Chunk Nation laws that say they have to rush a *Petition* or answer in less than twenty (20) days. So, at the very least, the process will take at least 21 days (the day of filing does not count towards the twenty (20) days). After that, how long it will take depends on other factors such as the Court's caseload, whether a hearing is scheduled or if additional information is required. The Court has no control over what kinds of cases are filed, and juvenile cases and domestic violence/elder abuse cases will **always** come first before any other type of case. Incomplete *Petitions* and failure to pay the filing fee will also hold up the process. Count on the entire process taking anywhere from one to three months.

### 4. What are the basics that I need to know?

The Court is restricted by Ho-Chunk Nation law on what types of requests it may grant. As Judge Matha's article explains, the Court uniformly applies a 4-part test. The request must be: (1) for the benefit of a beneficiary's health, education or welfare; (2) a necessity, not merely a want or desire; (3) the parent(s) or guardian(s) must demonstrate special financial need; and (4) the petitioner must provide evidence of exhaustion of tribal funds and public entitlement programs. When you file your *Petition*, include evidence and statements that indicate you satisfy this test. 

# ISSUES ABOUT CHILD SUPPORT

By Chief Trial Court Judge Mark Butterfield

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*The author of this article, Judge Butterfield, is a member of the Winnebago Tribe of Nebraska and a graduate of the University of Wisconsin-Madison Law School. He has served on the Ho-Chunk Nation Trial Court bench as Chief Judge since June 1995. Prior to that time, Judge Butterfield was an attorney with the Ho-Chunk Nation Department of Justice and previously with Alaska Legal Services.*

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Recently, the Court went through its quarterly frenzy of activity to make sure all child support orders were timely issued prior to the release of per capita. Why is this an issue you may ask? The reason is simple. The Ho-Chunk Nation Legislature passed a law over four years ago that allows custodial parents and caretakers to file a claim directly against an obligor member's per capita to collect child support. That same law imposes a deadline for the Court to process all orders to the HCN Dept. of Treasury 15 days before per cap checks go out. The importance of meeting the deadline is that should the Court miss the deadline, the children for whom support is sought will suffer by not getting child support for an additional three months, which is when the next per capita payment will be made. To the children and the custodial parties seeking child support this is a very important issue.

According to the RECOGNITION OF FOREIGN (meaning any non-Ho-Chunk) CHILD SUPPORT ORDERS ORDINANCE, or RFCSCO, the Ho-Chunk Nation Courts must give full faith and credit to any proper child support orders issued by any State, Territory or Tribal Court. There are limited grounds to attack such an *Order* and few are ever challenged.

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Don't wait until the last minute to get your paperwork in to the Court. The Court must process new *Petitions* to register and enforce foreign child support orders and any *Motions* to amend child support enforcement fifteen (15) days before the per cap checks go out. Allow for an additional twenty (20) days for new orders and (10) days for motions.

---

Although few are challenged, some challenges have successfully shown the State order was no longer in effect, expired or was rescinded. However, in the absence of a proper legal challenge most State child support orders will be enforced as the Ho-Chunk Nation Legislature intended. The Court will typically enter a default judgment against an individual failing to respond. A default is enforced at the closest amount to the rendering judgment that the HCN Courts can get. The HCN Legislature also imposed limits on how much the Tribal Court can

attach out of any one per capita payment. The Court is limited to attaching a maximum of 34% of per capita for ongoing support and a maximum of 26% for child support arrears.

To date the Court has been enforcing child support orders for four years. The first child support enforcement actions go back to early 1997 or late 1996. The key to this is enforcement. The Ho-Chunk Nation Trial Court has a limited ability to enter child support judgments on its own because the Ho-Chunk Legislature has not given it that authority. Generally, as presently limited by the HCN Legislature, the HCN Courts may only entertain enforcement actions and has little power to enter orders requiring one tribal member to pay another for child support. Presently, the sole exception is the ability to set child support for parents involved in child/family protection or guardianship cases. In those limited types of cases, the Court can require the parent to pay the Nation and/or well-meaning placement families for the cost of services provided for their own children being taken care of by or through the Nation.

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The Court can order the Ho-Chunk Nation Department of Treasury to withhold a maximum of 34% of a member's per capita for current child support and an additional 26% for back child support.

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The Court's jurisdiction is limited to cases and controversies interpreting the Constitution, laws, and customs and traditions of the Ho-Chunk Nation. No existing law gives the Courts the authority to hear such cases. While this means the Nation is not utilizing its sovereignty to the fullest, that is a choice made by the HCN Legislature.

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*“Our children  
are our future.”*



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An oft-repeated phrase in Indian Country is that our children are our future. Given the truth of that statement, child support collection is merely one small and important step the Nation has made to protect our future by helping the children of the Nation garner the financial support they need. The Court also hears a fair amount of grumbling and griping about how the State sets child support. This comes from both non-custodial mothers as well as fathers. However, the Court feels that much of that grumbling is misplaced. Per capita interception often is the only way children get any support because the non-custodial parent is not paying on their own from wage earnings. Indeed, in the other

three instances where money may be seized from a tribal member's per capita—debts owed to the Nation, back taxes and repayment of loans to the Hocok Federal Credit Union—the entire per capita check may be seized.

Through the years the Courts have helped many non-custodial parents not only pay the current child support their children are legally entitled to, but have also helped them avoid serious jail time. The newer more aggressive state and federal approach toward collecting child support is less sympathetic than in the past and can mean that parents seriously behind in child support are more likely to spend time in jail. Through RFSCO, the HCN Courts have reduced the overall incidence of Ho-Chunk parents owing child support arrears and have greatly improved the amount of money available to those raising and caring for Ho-Chunk children.

### **Glossary of Child Support Terms.**

#### **Arrears**

Child support owed by Court Order but not collected. When an Obligor owes child support on a monthly basis but does not pay, for whatever reason, the unpaid portion is still owed as arrears. Sometimes referred to as an arrearage or back child support

#### **Obligor**

The person who owes child support. Usually but not always the non-custodial party.

#### **Obligee**

The person to whom child support is owed. Usually but not always the custodial party.

#### **Custodial party**

The person who is raising the child or one who physically has the child and is taking care of them. Usually one of the parents but in the Ho-Chunk system can easily be a *cuwi*, *tega*, *coka* or *gaga*.

#### **Non-custodial party**

The parent who does not have majority physical placement of the child.

#### **Serial payor**

An obligor (see above) who has obligations to support more than one family.

#### **Percentage Order**

A child support order, which sets the amount of child support as a percentage of an obligor's gross income. In Wisconsin this is set by Administrative Code at 17% for one child, 25% for two children, 29% for three children, 31% for four children.

#### **Set Dollar Amount Order**

A child support order, which sets the amount of child support as a set amount of support each month. These amounts vary widely depending on a number of factors including the earning

capacity of the obligor, number of children, location etc.

**Next month:** The special problems of the serial payor.



# 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

#### **DECEMBER 18, 2001**

*State of Wis. on behalf of Juanita Climer v. Richard Dale Snake; and State of Wis. 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). (Matha, T.)

As the respondent has fully satisfied the child support arrears and does not have an obligation for current child support, the Court ordered the Department of Treasury to cease withholding and closed the case.

#### **DECEMBER 28, 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 (Releasing Impounded Funds and Performing Equitable Adjustment)* (HCN Tr. Ct., Dec. 28, 2001). (Matha, T.)

*State of Wis. on behalf of Juanita Climer v. Richard Dale Snake; and State of Wis. on behalf of Karla Greengrass v. Richard Dale Snake*, CV 97-107, CV 97-108 *Erratum Order* (HCN Tr. Ct., Dec. 28, 2001). (Matha, T.)

Pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 58(C), the Court corrected a clerical error made in its December 18, 2001 *Order (Suspending Withholding and Closing Case)*.

#### **DECEMBER 31, 2001**

*Kelly M. Shelifoe v. David Decora*, CS 01-35 *Order (Enforcing Child Support)* (HCN Tr. Ct., Dec. 31, 2001). (Butterfield, M.)

The Court enforced the underlying state child support against the respondent's per capita for current child support.

#### **JANUARY 2, 2002**

*Bernice G. Barnes v. Clifford W. Wilson*, CS 98-41 *Notice of Child Turning 19* (HCN Tr. Ct., Jan. 2, 2002). (Butterfield, M.)

As the child turns nineteen (19) years old on March 6, 2002, the Court shall cease withholding for current child support on that date.

*Michelle L. Lewis v. Dennis C. Lewis*, CS 01-36 *Order (Enforcing Child Support)* (HCN Tr. Ct., Jan. 2, 2002). (Butterfield, M.)

The Court enforced the underlying state child support against the respondent's per capita for current child support.

*In re Marriage of Lee Stacy, State of Wis. v. Waldo Stacy*, CV 96-71 *Notice of Child Turning 18* (HCN Tr. Ct., Jan. 2, 2002). (Butterfield, M.)

As the child will turn eighteen (18) on January 30, 2002, the Court required the parties to file proof of high school enrollment; otherwise, the Court will cease withholding for current child support.

*State of Wis., Columbia County v. Mari L. Hence*, CS 00-18 *Order (Ceasing Withholding for Current Child Support)* (HCN Tr. Ct., Jan. 2, 2002). (Butterfield, M.)

The Court ceased withholding for current child support pursuant to the December 19, 2001 Columbia County *Motion and Order to Suspend*

*Support and Quash Warrant.* The Department of Treasury shall continue the withholding for child support arrears.

**JANUARY 3, 2002**

*Peggy Deere v. David Deere*, CS 98-23 *Notice (Child Turning 18)* (HCN Tr. Ct., Jan. 3, 2002). (Matha, T.)

As the child will turn eighteen (18) on February 26, 2002, the Court required the parties to file proof of high school enrollment; otherwise, the Court will cease withholding for current child support.

*Anne E. W. Johnson v. Timothy G. Whiteagle*, CV 97-165 *Notice (Child Turning 18)* (HCN Tr. Ct., Jan. 3, 2002). (Matha, T.)

As the child will turn eighteen (18) on January 3, 2002, the Court required the parties to file proof of high school enrollment; otherwise, the Court will cease withholding for current child support.

*Kathleen Waukau by the State of Wis., Shawano County v. Eldon Powless; and Patricia C. Martinez v. Eldon D. Powless; and Eldon D. Powless v. Margaret A. King; and Eldon D. Powless v. Rebecca Nunway*, CV 96-23, CV 99-17, CV 99-22, CV 99-23 *Notice (Child Turning 18)* (HCN Tr. Ct., Jan. 3, 2002). (Matha, T.)

As the child, Kenton I. Powless, will turn eighteen (18) on February 1, 2002, the Court required the parties to file proof of high school enrollment; otherwise, the Court will cease withholding for current child support.

*State of Wis. and Kathaleen Funmaker v. John Funmaker*, CS 00-42 *Order Granting Motion to Modify in Accordance with State Order* (HCN Tr. Ct., Jan. 3, 2002). (Butterfield, M.)

As the underlying state order amended the respondent's child support obligation from a percentage of income to a fixed amount, the Court so amended the enforcement of the order against the respondent's future per capita distributions.

*State of Wis.-Jackson Co. and Suzette Greengrass v. David A. WhiteEagle; and State of Wis.-Jackson Co. and Nancy Smith v. David A. WhiteEagle*, CS

98-26, 98-27 *Notice (Child Turning 18)* (HCN Tr. Ct., Jan. 3, 2002). (Matha, T.)

As the child will turn eighteen (18) on January 21, 2002, the Court required the parties to file proof of high school enrollment; otherwise, the Court will cease withholding for current child support.

*State of Wis.-Jackson Co. v. Chris Thundercloud*, CS 00-15 *Notice (Child Turning 18)* (HCN Tr. Ct., Jan. 3, 2002). (Matha, T.)

As the child will turn eighteen (18) on March 6, 2002, the Court required the parties to file proof of high school enrollment; otherwise, the Court will cease withholding for current child support.

*State of Wis., Sauk Co. and Vincent Hernandez v. Mary Hernandez n/k/a Thompson*, CS 01-28 *Order (Enforcing Child Support)* (HCN Tr. Ct., Jan. 3, 2002). (Butterfield, M.)

The Court enforced an underlying state child support order against the respondent's per capita for current child support and arrears.

**JANUARY 4, 2002**

*Marilyn E. Conto*, CV 97-144 *Order (Enforcing Change in Child Support)* (HCN Tr. Ct., Jan. 4, 2002). (Butterfield, M.)

As the underlying state order amended the respondent's child support obligation from a percentage of income to a fixed amount, the Court so amended the enforcement of the order against the respondent's future per capita distributions.

**JANUARY 8, 2002**

*Gale S. White v. Larry V. Garvin*, CS 99-20 *Order (Amending Child Support)* (HCN Tr. Ct., Jan. 8, 2002). (Matha, T.)

The Court enforced an amended order which lowered the respondent's child support obligation to seventeen (17%) of per capita.

*State of Wis./Buffalo Co. ex rel. Lynn M. Schultz v. Willis Crowder; and Teresa LaBarge v. Willis Crowder*, CS 00-01, CS 98-46 *Order (Amending Child Support)* (HCN Tr. Ct., Jan. 8, 2002). (Matha, T.)

Per stipulation of the parties, the respondent now has physical placement of the minor child in Case No. CS 00-01 and, therefore, child support shall cease in that case.

**JANUARY 11, 2002**

*Julie M. Schlies v. Timothy E. Tebo*, CV 99-24 *Order (Redirecting Child Support)* (HCN Tr. Ct., Jan. 11, 2002). (Matha, T.)

The Court ordered the Department of Treasury to redirect the checks for current child support directly to the petitioner pursuant to a stipulation between the parties.

*State of Wis./Sauk Co. and Gale J. Darnell v. Lawrence Edward LaMere*, CS 01-40 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 11, 2002). (Matha, T.)

The Court enforced an underlying state child support order against the respondent's per capita for current child support and arrears.

*State of Wis., ex rel. Vivian Sue Wolfe v. Isaac Wayne Greyhair*, CV 97-11 *Order (Denying Request to Continue Withholding for Child Support and Closing Case)* (HCN Tr. Ct., Jan. 11, 2002). (Butterfield, M.)

The Court denied the petitioner's request to continue withholding from the respondent's per capita for interest and administrative fees associated with child support. As these fees are not subject to interception of per capita under the CLAIMS AGAINST PER CAPITA ORDINANCE, the Court denied the request and closed the case.

**JANUARY 15, 2002**

*Anne E. W. Johnson v. Timothy G. Whiteagle*, CV 97-165 *Notice (Proof of High School Enrollment Filed)* (HCN Tr. Ct., Jan. 15, 2002). (Matha, T.)

As the petitioner filed proof of the minor child's high school enrollment, the Court shall continue withholding for current child support until the child graduates from high school on June 11, 2002.

*State of Wis.-Jackson Co. and Suzette Greengrass v. David A. WhiteEagle; and State of Wis.-Jackson Co. and Nancy Smith v. David A. WhiteEagle*, CS

98-26, 98-27 *Notice (Proof of High School Enrollment Not Filed)* (HCN Tr. Ct., Jan. 15, 2002). (Matha, T.)

Although the parties did not file proof of high school enrollment for the child who recently turned eighteen (18) years of age, the Court did not amend the amount withheld from the respondent's per capita. As the Court was not fully enforcing the serial payor's obligations, and the respondent already pays less than what the State requires through his per capita withholding, the Court did not change the enforcement of the remaining child support orders at this time.

**JANUARY 17, 2002**

*State of Wis./Juneau County on behalf of Jeanette Decorah v. Maynard Funmaker, Sr.*, CV 98-77 *Notice (Suspending Withholding and Intent to Close)* (HCN Tr. Ct., Jan. 17, 2002). (Matha, T.)

As the child in this case turned eighteen (18) years old and the parties did not submit proof the child remains in high school, the Court ordered the HCN Department of Treasury to cease withholding for current child support. Absent an objection from the parties, the Court shall close this case in ten (10) days.

**JANUARY 21, 2002**

*State of Wis./Jackson County on behalf of Sadie Winneshiek v. Gregory S. Harrison; and State of Wis., Wood County on behalf of Evangeline Two Crow v. Gregory S. Harrison*, CV 01-39, CV 97-153 *Order (Amending Child Support Arrears)* (HCN Tr. Ct., Jan. 21, 2002). (Butterfield, M.)

The Court enforced child support arrears against the respondent's per capita.

**Children's Trust Fund (CTF)**

**DECEMBER 27, 2001**

*In the Matter of the Child: M.S.M., DOB April 21, 1989, by Tina McArthur v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 01-149 *Order (Granting CTF Monies for orthodontic work on the child's teeth)* (HCN Tr. Ct., Dec. 27, 2001). (Butterfield, M.)

**JANUARY 8, 2002**

*In the Interest of Karen Hammer, DOB 06/07/80 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-135 Order (Accepting Accounting)* (HCN Tr. Ct., Jan. 8, 2002). (Matha, T.)

The petitioner submitted a timely accounting of the CTF monies the Court released in its November 30, 2001 Order.

**JANUARY 9, 2002**

*In the Interest of Minor Child: A.F., DOB 06/19/84, By Michelle Funmaker v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-139 Order (Dismissal With Prejudice)* (HCN Tr. Ct., Jan. 9, 2002). (Matha, T.)

As the petitioner failed to appear for the December 27, 2001 *Fact-Finding Hearing* of which she had proper notice, and did not attempt to communicate with the Court a reason for her nonattendance, the Court dismissed this case with prejudice pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 44(C).

**JANUARY 21, 2002**

*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 (Accepting Accounting)* (HCN Tr. Ct., Jan. 21, 2002). (Matha, T.)

As the petitioner submitted a receipt confirming the use of the released CTF monies, the Court accepted the accounting and gave its *Notice* of intent to close the case within ten (10) days absent an objection from the parties.

**Civil Cases (All Categories)****DECEMBER 7, 2001**

*Ho-Chunk Nation Dep't of Treasury v. Serena Yellow Thunder, CV 01-119 Scheduling Order* (HCN Tr. Ct., Dec. 7, 2001). (Matha, T.)

The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

*Anna M. Salinas v. Ho-Chunk Hotel & Convention Center, Sherri Carlson and Tara Reese, CV 01-121*

*Scheduling Order* (HCN Tr. Ct., Dec. 7, 2001). (Matha, T.)

The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

**DECEMBER 26, 2001**

*Barbara Coyhis v. Mary Webster and Rainbow Casino, CV 98-32 Stipulation & Order for Settlement, Release of Claims, and Dismissal* (HCN Tr. Ct., Dec. 26, 2001). (Matha, T.)

The Court approved the parties' settlement agreement, which they voluntarily and knowingly executed with the express intention of resolving the matters in dispute.

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Marlene Littlewolf, CV 01-133 Order (Granting Default Judgment)* (HCN Tr. Ct., Dec. 26, 2001). (Butterfield, M.)

The Court entered a judgment in favor of the plaintiff for the defendant's non-payment of the rent.

**DECEMBER 27, 2001**

*In the Matter of the Child: M.S.M., DOB April 21, 1989, by Tina McArthur v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-149 Order (Granting CTF Monies for orthodontic work on the child's teeth)* (HCN Tr. Ct., Dec. 27, 2001). (Butterfield, M.)

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

**JANUARY 2, 2002**

*Ho-Chunk Nation Dep't of Treasury v. Mercedes Sprain, CV 01-123 Order (Granting Default Judgment)* (HCN Tr. Ct., Jan. 2, 2002). (Butterfield, M.)

The Court granted a default judgment in favor of the plaintiff, reimbursing the Nation for the defendant's unreconciled travel expenses.

*In the Interest of Kathy Brandenburg-Miller, by Phyllis Smoke v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-18 Order (Accepting*

*Accounting*) (HCN Tr. Ct., Jan. 2, 2002). (Butterfield, M.)

[For summary, see [Incompetent's Trust Fund \(ITF\)](#) within this index.]

#### **JANUARY 3, 2002**

*Bonny L. Harrison v. Hotel Mgmt. Staff*, CV 01-138 *Scheduling Order* (HCN Tr. Ct., Jan. 3, 2002). (Matha, T.)

The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

*Ho-Chunk Nation Dep't of Housing, Home Ownership Program v. Janet Funmaker*, CV 01-99 *Order (Granting Default Judgment)* (HCN Tr. Ct., Jan. 3, 2002). (Butterfield, M.)

The Court entered a judgment in favor of the plaintiff for the defendant's non-payment of the mortgage note.

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Serena Gail Yellow Thunder*, CV 01-103 *Scheduling Order* (HCN Tr. Ct., Jan. 3, 2002). (Butterfield, M.)

The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

#### **JANUARY 7, 2002**

*Ho-Chunk Nation Dep't of Housing, Prop. Mgmt. Div. v. Donald Decorah and Cassandra Littlebear*, CV 01-151 *Order (Granting Default Judgment)* (HCN Tr. Ct., Jan. 7, 2002). (Butterfield, M.)

The Court entered a judgment in favor of the plaintiff for the defendants' lease violations and non-payment of rent.

*Leslie J. Schmolke v. Ho-Chunk Casino, Ho-Chunk Nation Dep't of Bus.*, CV 01-105 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Jan. 7, 2002). (Butterfield, M.)

#### **JANUARY 8, 2002**

*In the Interest of Karen Hammer, DOB 06/07/80 v. Ho-Chunk Nation Office of Tribal Enrollment*, CV

01-135 *Order (Accepting Accounting)* (HCN Tr. Ct., Jan. 8, 2002). (Matha, T.)

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

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Brandon Cloud, Sr.*, CV 01-104 *Notice (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Jan. 8, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Jamie L. Funmaker*, CV 99-92 *Notice (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Jan. 8, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Kerry Funmaker, Sr.*, CV 000-74 *Notice (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Jan. 8, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Lionel Pettibone, Sr. and Sharon Pettibone*, CV 00-49 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Jan. 8, 2002). (Matha, T.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Home Ownership Program v. Janet Funmaker*, CV 01-99 Notice (*Satisfaction of Judgment and Intent to Close*) (HCN Tr. Ct., Jan. 8, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Leslie J. Schmolke v. Ho-Chunk Nation, Ho-Chunk Nation Dep't of Bus.*, CV 01-05 Order (*Release of Bond*) (HCN Tr. Ct., Jan. 8, 2002). (Butterfield, M.)

In compliance with the Supreme Court's December 8, 2001 Decision, the Court released the \$10,100.00 bond to the defendants/appellants so that they may make appropriate payment and distribution to the plaintiff/appellee.

#### **JANUARY 9, 2002**

*Regina K. Baldwin v. Ho-Chunk Nation; and Andrea Esteban v. Ho-Chunk Nation Home Ownership Program, Steve Davis, as Real Estate Mgr., and Alvin Cloud, as Hous. Dir.; and Carolyn J. Humphrey v. Ho-Chunk Nation, Alvin Cloud, as Hous. Dir., and Bob Pulley, as Prop. Mgr.*, CV 01-16, CV 01-19, CV 01-21 Order (*Determination of Judicial Deference*) (HCN Tr. Ct., Jan. 9, 2002). (Matha, T.)

[For summary, see [Ho-Chunk Preference Policy](#) within this index. Other topics covered: [Agency Interpretation](#); [Judicial Deference](#)]

*In the Interest of Minor Child: A.F., DOB 06/19/84, By Michelle Funmaker v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 01-139 Order (*Dismissal With Prejudice*) (HCN Tr. Ct., Jan. 9, 2002). (Matha, T.)

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

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Barbara Littlewolf*, CV 01-111 Notice (*Satisfaction of Judgment and Intent to Close*) (HCN Tr. Ct., Jan. 9, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court

recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Pamela Schauls*, CV 01-110 Notice (*Satisfaction of Judgment and Intent to Close*) (HCN Tr. Ct., Jan. 9, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Hous. Auth. v. Cindy Funmaker*, CV 00-57 Notice (*Satisfaction of Judgment and Intent to Close*) (HCN Tr. Ct., Jan. 9, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Jodi L. Whitehead v. Ho-Chunk Nation Dep't of Bus., Exec. Dir. Christine Brown, Ho-Chunk Nation Dep't of Pers., Exec. Dir. Jim Lambert*, CV 01-94 Order (*Dismissal With Prejudice*) (HCN Tr. Ct., Jan. 9, 2002). (Matha, T.)

As the plaintiff failed to appear at the January 7, 2002 *Pre-Trial Conference* of which she had proper notice, and did not attempt to communicate with the Court a reason for her nonattendance, the Court dismissed this case with prejudice pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 44(C).

#### **JANUARY 14, 2002**

*Ralph H. Babcock v. Ho-Chunk Nation Gaming Comm'n; and John Holst v. Ho-Chunk Nation Gaming Comm'n*, CV 01-87, 01-96 Order (*Remand to Ho-Chunk Nation Gaming Commission*) (HCN Tr. Ct., Jan. 14, 2002). (Matha, T.)

[For summary, see [Gaming Commission](#) within this index.]

**JANUARY 15, 2002**

*Ho-Chunk Nation Home Ownership Program v. Gale Downey and Roger Downey*, CV 01-115 *Order (Default Judgment)* (HCN Tr. Ct., Jan. 15, 2002). (Matha, T.)

The Court entered a judgment in favor of the plaintiff for the defendants' non-payment of the mortgage note and failure to maintain homeowner's insurance.

*Ho-Chunk Nation Home Ownership Program v. Robert Michael Mobley*, CV 01-116 *Order (Default Judgment)* (HCN Tr. Ct., Jan. 15, 2002). (Matha, T.)

The Court entered a judgment in favor of the plaintiff for defendant's non-payment of his mortgage note and failure to maintain homeowner's insurance.

*Ho-Chunk Nation Home Ownership Program v. Diane Cloud Pederson and Kim W. Pederson*, CV 01-102 *Order (Default Judgment)* (HCN Tr. Ct., Jan. 15, 2002). (Matha, T.)

The Court entered a judgment in favor of the plaintiff for the defendants' non-payment of the mortgage note and failure to maintain homeowner's insurance.

**JANUARY 16, 2002**

*Ho-Chunk Nation Dep't of Treasury v. Marlys Whiteagle*, CV 01-145 *Order (Default Judgment)* (HCN Tr. Ct., Jan. 16, 2002). (Matha, T.)

The Court entered a judgment in favor of the plaintiff for the defendant's unreconciled business travel expenses.

*Ho-Chunk Nation Hous. Auth. v. Collin Cloud*, CV 01-120 *Order (Default Judgment)* (HCN Tr. Ct., Jan. 16, 2002). (Matha, T.)

The Court entered a judgment in favor of the plaintiff for the defendant's non-payment of the rent and other miscellaneous offenses constituting ongoing lease violations.

*Ho-Chunk Nation Hous. Auth. v. Bernard Mountain, Jr. and Iris Lyons*, CV 00-64 *Order*

*(Amending Judgment)* (HCN Tr. Ct., Jan. 16, 2002). (Matha, T.)

The Court previously enforced a *Stipulation and Order* drafted by the plaintiff's counsel, wherein the Court required the defendant to pay a certain amount out of her next three (3) per capita distributions. In that *Order*, the terms of the judgment contained a clerical error, transposing numbers which resulted in an incorrect and lower amount deducted than what was agreed upon. Therefore, the Court corrected the clerical error and ordered the HCN Department of Treasury to withhold additional monies from the defendant's February 2002 per capita to satisfy the debt owed to the plaintiff.

*Ho-Chunk Nation Hous. Auth. v. Carrie Youngthunder*, CV 01-112 *Order (Default Judgment)* (HCN Tr. Ct., Jan. 16, 2002). (Matha, T.)

The Court entered a judgment in favor of the plaintiff for the defendant's non-payment of the rent and utility costs.

**JANUARY 18, 2002**

*Ho-Chunk Nation Home Ownership Program v. Dennis L. Hopinka and Cynthia Hopinka*, CV 98-06 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Jan. 18, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

**JANUARY 21, 2002**

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Martha Martinez*, CV 01-43 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Jan. 21, 2002). (Matha, T.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Roy Littlegeorge v. Ho-Chunk Nation Bus. Dep't, Majestic Pines Hotel and Christine Brown*, CV 00-111 Order (Granting Defendants' Motion for Summary Judgment) (HCN Tr. Ct., Jan. 21, 2002). (Matha, T.)

[For summaries see [Employment Disputes](#) and [Progressive Discipline](#) within this index.]

*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 (Accepting Accounting) (HCN Tr. Ct., Jan. 21, 2002). (Matha, T.)

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

*Anna M. Salinas v. Ho-Chunk Hotel & Convention Center, Sherri Carlson and Tara Reese*, CV 01-121 Order (Compelling Discovery Response) (HCN Tr. Ct., Jan. 21, 2002). (Matha, T.)

The Court ordered the plaintiff to respond to the defendants' discovery request and cautioned the plaintiff that failure to do so could result in the imposition of fines or other sanctions.

*Gary A. Ziehr v. Ho-Chunk Nation Gaming Comm'n*, CV 01-69 Order (Dismissal With Prejudice) (HCN Tr. Ct., Jan. 21, 2002). (Matha, T.)

As the plaintiff failed to appear or correspond with the Court a reason for his absence to a third rescheduled hearing, the Court dismissed the action with prejudice pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rules 44(C) and 56(B)(1).

## [Employment Disputes](#)

### [--Standard of Review \(Arbitrary and Capricious\)](#)

#### **JANUARY 21, 2002**

*Roy Littlegeorge v. Ho-Chunk Nation Bus. Dep't, Majestic Pines Hotel and Christine Brown*, CV 00-111 Order (Granting Defendants' Motion for Summary Judgment) (HCN Tr. Ct., Jan. 21, 2002). (Matha, T.)

Both the plaintiff and the defendants moved for summary judgment under *Ho-Chunk Nation Rules of Civil Procedure*, Rule 55. Only issues of law remain for the Court to decide: (1) by failing to administer progressive discipline, did the Nation wrongfully terminate the plaintiff; and (2) did the defendant employer make an arbitrary and capricious decision by terminating the plaintiff.

On the second issue, the Court applied the two-prong test to determine if the defendants' decision to terminate the plaintiff was arbitrary and capricious. The Court found that the defendants' decision was both reasonable and supported by substantial evidence and, therefore, not arbitrary and capricious.

[See also, [Progressive Discipline](#) within this index.]

## [Gaming Commission](#)

#### **JANUARY 14, 2002**

*Ralph H. Babcock v. Ho-Chunk Nation Gaming Comm'n; and John Holst v. Ho-Chunk Nation Gaming Comm'n*, CV 01-87, 01-96 Order (Remand to Ho-Chunk Nation Gaming Commission) (HCN Tr. Ct., Jan. 14, 2002). (Matha, T.)

The Court vacated the May 17, 2001 and May 30, 2001 *Decision and Orders* of the Gaming Commission, finding that it had acted contrary to law by failing to require the establishment of an initial *prima facie* case in accordance with the GAMING ORDINANCE. The Court remanded the cases to the Gaming Commission to grant relief consistent with this opinion.

## [Ho-Chunk Preference Policy](#)

#### **JANUARY 9, 2002**

*Regina K. Baldwin v. Ho-Chunk Nation; and Andrea Estebo v. Ho-Chunk Nation Home Ownership Program, Steve Davis, as Real Estate Mgr., and Alvin Cloud, as Hous. Dir.; and Carolyn J. Humphrey v. Ho-Chunk Nation, Alvin Cloud, as Hous. Dir., and Bob Pulley, as Prop. Mgr.*, CV 01-16, CV 01-19, CV 01-21 Order (Determination of Judicial Deference) (HCN Tr. Ct., Jan. 9, 2002). (Matha, T.)

In determining whether to defer to an interpretation of the Ho-Chunk Preference Policy offered by the Ho-Chunk Nation Dep't of Personnel, the Court found that the interpretation warranted no deference due to its apparent departure from an earlier recognized interpretation.

In an earlier decision, the Court upheld an interpretation of the Ho-Chunk Preference Policy offered by the Nation in the context of layoffs. In the instant matter, the Nation failed to adhere to the prior interpretation. Absent any justification for the deviation, the second interpretation is not entitled to judicial deference.

[Other topics covered: [Agency Interpretation](#); [Judicial Deference](#)]

## [Incompetent's Trust Fund](#)

**JANUARY 2, 2002**

*In the Interest of Kathy Brandenburg-Miller, by Phyllis Smoke v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-18 Order (Accepting Accounting)* (HCN Tr. Ct., Jan. 2, 2002). (Butterfield, M.)

The Court accepted the accounting provided by the protective-payee for monies that the Court previously released. In addition, the Court granted the release of monies to reimburse the protective-payee for mileage expenses.

## [Juvenile](#)

**JANUARY 21, 2002**

*In the Matter of the Child: B.T., DOB: 08/10/91, JV 98-10 Minute Order 6 Month Review* (HCN Tr. Ct., Jan. 21, 2002). (Butterfield, M.)

The Court approves of the continued placement with the minor child with one of his traditional relatives as at this location he has regular contact with his heritage, culture and traditions. The Court ordered the mother to comply with the dispositional requirements, which will help her work towards reunification.

*In the Interest of Minor Child: S.M.D., DOB 11/01/86, JV 01-21 Order (Entrance of Plea)* (HCN Tr. Ct., Jan. 21, 2002). (Matha, T.)

The Court exercised original jurisdiction over this children's case and determined that legal custody of the minor child will remain with CFS; determined the child's physical placement; and provided for the parents' visitation.

**JANUARY 22, 2002**

*In the Interest of Minor Child: R.W.H., DOB: 04/13/01, JV 01-09 Order (Dispositional Requirements)* (HCN Tr. Ct., Jan. 22, 2002). (Matha, T.)

The Court previously granted a continuance of the *Dispositional Hearing*, in light of assertions by the mother that she wished to obtain legal counsel. The Court scheduled a *Status Hearing* to address those concerns, to which the mother failed to attend. The Court then rescheduled a *Dispositional Hearing*, thereby confirming its retention of the September 26, 2001 *Default Judgment*.

## [Progressive Discipline](#)

**JANUARY 21, 2002**

*Roy Littlegeorge v. Ho-Chunk Nation Bus. Dep't, Majestic Pines Hotel and Christine Brown, CV 00-111 Order (Granting Defendants' Motion for Summary Judgment)* (HCN Tr. Ct., Jan. 21, 2002). (Matha, T.)

Both the plaintiff and the defendants moved for summary judgment under *Ho-Chunk Nation Rules of Civil Procedure*, Rule 55. Only issues of law remain for the Court to decide: (1) by failing to administer progressive discipline, did the Nation wrongfully terminate the plaintiff; and (2) did the defendant employer make an arbitrary and capricious decision by terminating the plaintiff.

On the issue of progressive discipline, the Court held that nothing in the PERSONNEL POLICIES AND PROCEDURES MANUAL mandates the use of progressive discipline. The plaintiff's conduct was serious enough to warrant termination and the defendants' failure to follow the "normal path" of progressive discipline did not constitute wrongful termination.

[See also, [Employment Disputes](#) within this index.]

## Supreme Court

### DECEMBER 8, 2001

*Steve Camden v. Game Fin. Corp. and Lisa Maulson, Vice Pres. Indian Gaming Div. Game Fin. Corp.*, SU 01-13 *Order Granting Motion to Dismiss Appeal* (HCN S. Ct., Dec. 8, 2001). (Hunter, M., Cleveland, R., and Greengrass, D.)

As the appellant failed to file his brief by the deadline, the Supreme Court granted the appellees' *Motion to Dismiss Appeal for Failure to file Brief pursuant to Rule 11 of the Ho-Chunk Nation Rules of Appellate Procedure*.

### JANUARY 8, 2002

*Kathy A. Stacy v. Ho-Chunk Nation; and Clarence Pettibone, in his individual capacity; and Wade Blackdeer, in his individual capacity*, SU 01-12 *Extension Order* (HCN S. Ct., Jan. 8, 2002). (Greengrass, D., *Per Curiam*)

Due to the Justices' workload, they granted this *Extension Order*, extending their deadline to issue an opinion.

### JANUARY 19, 2002

*In the Matter of Election Challenge Rules for the Special Elections Held on Saturday, January 12, 2002 and to be held on March 9, 2002 and April 13, 2002, Order* (HCN S. Ct., Jan. 19, 2002). (Hunter, M., Cleveland, R., and Greengrass, D.)

[For summary, see [Election Challenges](#) within this index.]

### JANUARY 24, 2002

*Kathy A. Stacy v. Ho-Chunk Nation, and Clarence Pettibone, former Vice Pres. Of the Ho-Chunk Nation, and Wade Blackdeer, present Vice Pres. Of the Ho-Chunk Nation in their individual and official capacities*, SU 01-12 *Decision* (HCN S. Ct., Jan. 24, 2002). (Hunter, M., Wabaunsee, J. (*pro tem*), and Greengrass, D.)

In this case involving an employment dispute, the Supreme Court reversed and remanded the matter to the Trial Court for further court proceedings consistent with this opinion. The Supreme Court

held that as several genuine issues of material fact still exist and, therefore, *Summary Judgment* at the Trial Court level was inappropriate.

## **Election Challenges**

### JANUARY 19, 2002

*In the Matter of Election Challenge Rules for the Special Elections Held on Saturday, January 12, 2002 and to be held on March 9, 2002 and April 13, 2002, Order* (HCN S. Ct., Jan. 19, 2002). (Hunter, M., Cleveland, R., and Greengrass, D.)

The Supreme Court issued an *Order* establishing procedural rules for election challenges. These rules only apply to the January 12, 2002, March 9, 2002 and April 13, 2002 Special Elections.

## **Recent Filings**

### Trial Court

#### **Child Support**

### DECEMBER 31, 2001

*Angel Buker v. Ken Buker*, CS 01-42. (Assigned to Butterfield, M.)

### JANUARY 4, 2002

*State of Wis./Agnes Shocto v. Joseph Hackey*, CS 02-01.

### JANUARY 8, 2002

*Jessica Stacy v. Joshua D. Cloud, Sr.*, CS 02-02.

### JANUARY 18, 2002

*Misty Marie Long v. Nathiel Long, Jr.*, CS 02-03.

### JANUARY 21, 2002

*Eau Claire Co., State of Wis. v. Augustus G. Downey*, CS 02-04.

### JANUARY 25, 2002

*State of Wis./Eddie Fernanadez v. Shannon N. Fernandez*, CS 02-05.

### FEBRUARY 5, 2002

*County of Eau Claire, Anna Ivkovich v. Gene J. Cloud*, CS 02-06.

## Civil Cases

### DECEMBER 21, 2001

*Ho-Chunk Nation Hous. Auth. v. Elliot Walker*, CV 01-155. (Assigned to Butterfield, M.)

### JANUARY 4, 2002

*Ho-Chunk Nation Hous., Prop. Mgmt. Div. v. Jamie Funmaker*, CV 02-01. (Assigned to Butterfield, M.)

### JANUARY 7, 2002

*Gloria Visintin v. Ho-Chunk Nation General Council, Doug Long and Karen Martin*, CV 02-02. (Assigned to Butterfield, M.)

### JANUARY 11, 2002

*In the Interest of Decedent Mercedes Blackcoon v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 02-02. (Assigned to Butterfield, M.)

*Ho-Chunk Nation Hous. Auth. v. Martha Martinez*, CV 02-04. (Assigned to Butterfield, M.)

### JANUARY 17, 2002

*Nena L. Price v. Ho-Chunk Casino/Slot Dep't*, CV 02-05. (Assigned to Butterfield, M.)

### JANUARY 22, 2002

*Orvilla R. WhiteEagle v. Todd A. Cloud*, CV 02-06. (Assigned to Butterfield, M.)

*Dion W. Funmaker v. Ho-Chunk Nation, Ho-Chunk Nation Legislature et al.*, CV 02-07. (Assigned to Matha, T.)

### JANUARY 23, 2002

*Demetrio D. Abangan v. Ho-Chunk Nation Election Bd.*, CV 02-08. (Assigned to Matha, T.)

*In the Interest of Decedent Louella Jean Blackdeer by Lani Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 02-09. (Assigned to Matha, T.)

*Stuart Miller and Brenda Neff v. Ho-Chunk Nation Legislature and Ho-Chunk Nation Election Bd.*, CV 02-10. (Assigned to Matha, T.)

### JANUARY 30, 2002

*In the Interest of S.J.P., DOB 12/12/90 by Annette L. Pidgeon v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 02-11. (Assigned to Butterfield, M.)

### FEBRUARY 1, 2002

*In the Interest of Calvin Whiteagle, DOB 01/03/84 v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 02-12.

### FEBRUARY 5, 2002

*Ho-Chunk Nation WTC-Tomah, Ho-Chunk Nation Dep't of Bus. And Ho-Chunk Nation v. Patricia Letourneau*, CV 02-13.

## Juvenile

### JANUARY 15, 2002

*S.G.D., DOB 12/19/00*, JV 02-01. (Assigned to Butterfield, M.)

## Supreme Court

### JANUARY 21, 2002

*Regina Baldwin v. Ho-Chunk Nation; Andrea Estebo v. Ho-Chunk Nation, HOP, Steve Davis and Alvin Cloud; and Carolyn J. Humphrey v. Ho-Chunk Nation, Alvin Cloud and Bob Pulley*, SU 02-01.



# Trust Fund Accounts

Continued from page 2

The Court shall reference specific cases within each installment, and consequently must reveal the names of the petitioner(s) to facilitate proper research. Like all cases, the Court does not rule upon the passions of a case, but upon an objective assessment of the facts as presented and the application of law to those set of facts. And, while the Court empathizes with nearly all of the petitioners, it only grants those *Petitions for Release of Per Capita Distribution* which clearly satisfy the standards enunciated in the PER CAPITA DISTRIBUTION ORDINANCE.<sup>11</sup>

The Court has established a four-prong test as an interpretive tool when assessing the sufficiency of a *Petition for the Release of Per Capita Distribution*.

First, the Court may only grant a release for the benefit of a beneficiary's health, education or welfare. Second, any such benefit must represent a necessity, not a want or desire. Third, the parent(s) or guardian(s) must demonstrate special financial need. Finally, the plaintiff must provide evidence of exhaustion of tribal funds and public entitlement programs.<sup>12</sup>

The test derives from the PER CAPITA DISTRIBUTION ORDINANCE, and sets forth the factors which a petitioner must prove in order to present a successful CTF/ITF request. In subsequent articles, the Court will provide an overview of the case law, separated by category, revealing the breadth of requests encountered by the Court. One important note: each case rests upon its unique facts, and, therefore, the Court bars no request from consideration.

<sup>1</sup> INDIAN GAMING REGULATORY ACT, 25 U.S.C. § 2710 *et seq.*

<sup>2</sup> *Id.* § 2710(b)(3)(B).

<sup>3</sup> *Id.* § 2710(b)(2).

<sup>4</sup> The legislation requires that "the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare, of the minor or other legally incompetent person under a plan approved by the Secretary [of the Interior] . . ."  
" *Id.* § 2710(b)(3)(C).

<sup>5</sup> PER CAPITA DISTRIBUTION ORDINANCE, § 6.01(a).

<sup>6</sup> *Id.*

<sup>7</sup> A parent or legal guardian may obtain a *Petition for Release of Per Capita Distribution* from the Court or on-line at [ho-chunknation.com/government/courts.htm](http://ho-chunknation.com/government/courts.htm).

<sup>8</sup> The *Financial Disclosure Form: Request for Trust Fund Assistance* assists the Office of Tribal Enrollment in ascertaining the parent or legal guardian's financial capacity to accommodate the alleged health, education or welfare need through personal resources. In one of the first filed CTF cases, the Court announced the following guiding principle: a release of CTF monies cannot "discharge a parental obligation of support for which parental resources are reasonably available." *In the Interest of Gary Alan Funmaker, Sr. v. Ho-Chunk Nation*, CV 96-39 (HCN Tr. Ct., Oct. 18, 1996) at 5.

<sup>9</sup> PER CAPITA DISTRIBUTION ORDINANCE, § 6.01(b).

<sup>10</sup> A parental request on behalf of a minor of at least sixteen (16) years of age is ostensibly a personal request, and the Court accordingly views these requests differently from the preceding category.

<sup>11</sup> The Court may release monies from a CTF/ITF "for the benefit of a beneficiary's health, education and welfare when the needs of such person are not being met from other Tribal funds or state or other public entitlement program, and upon a finding of special need . . ." *Id.*

<sup>12</sup> *In the Interest of Minor Child: S.D.S., DOB 04/25/83, by Michele DeCora v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 00-35 (HCN Tr. Ct., May 4, 2000) at 7; *see also In the Interest of Minor Children: V.D.C., DOB 10/03/84, et al., by Debra Crowe v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 00-25 (HCN Tr. Ct., Apr. 6, 2001) at 7-15.

**Next month: A survey of the cases dealing with the release of CTF monies on behalf of young children residing in the household.**



## OPA Board Seeks HCN Bar Member

The Office of Public Advocacy is currently seeking a member of the Ho-Chunk Nation Bar Association to serve as a member of the OPA Board for a two (2) year term. The purposes of the Board are to oversee the operations of the Office of Public Advocacy and to ensure that the OPA fulfills its mission of assisting Ho-Chunk Nation members, employees and other persons in using the Ho-Chunk Nation Courts to obtain legal assistance and in educating the Ho-Chunk community on their legal rights and opportunities. The Board meets at least twice a year, and may call special meetings as needed. For a copy of the OPA by-laws contact the OPA Supervisor, Anetra Parks at (800) 434-4070 or (715) 284-2722. Please submit your letter of interest by March 1, 2002, to the following address: Ho-Chunk Nation Court System, PO Box 70, Black River Falls, WI 54615.

### **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
CD of Hearing. . . . .	\$12.50/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 BULLETIN

## Inside this Issue

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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>

## Understanding the Process of Judicial Reappointment

By Chief Trial Court Judge Mark Butterfield

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*About the Author: Judge Butterfield, is a member of the Winnebago Tribe of Nebraska and a graduate of the University of Wisconsin-Madison Law School. He has served on the Ho-Chunk Nation Trial Court bench as Chief Judge since June 1995. Prior to that time, Judge Butterfield was an attorney with the Ho-Chunk Nation Department of Justice and previously with Alaska Legal Services.*

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*Editor's Note: The Ho-Chunk Nation Judiciary Act of 1994 sets forth the process by which the Legislature shall appoint a new Trial Court judge. The process begins with a nomination vote. The Act mandates a mandatory minimum two week interval between the nomination vote and confirmation vote. This waiting period allows for investigation of the candidate and an opportunity for the Legislature to receive public comment. On March 6, 2002, the Legislature will vote on whether or not to confirm William Bossman to the position of Chief Judge of the Trial Court.*

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**Disclaimer:** *The following article is a critique of the judicial appointment process and constitutes an opinion of the author. The article does not necessarily reflect the opinion of the Court Bulletin editor, the Court staff and other members of the Ho-Chunk Nation Judiciary.*

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The appointment process to the HCN Trial Court bench is broken. Once again, the HCN Legislature has failed to act within a reasonable time in either appointing a Chief Trial Judge or reappointing the incumbent. In 1998, the HCN Legislature failed to act for three months after the expiration of the incumbent's term. In 2001, the HCN Legislature failed to act for over six months. Such inaction and inattention to the HCN Judiciary undermines its importance and integrity.

First, it indicates that the Courts are not important enough to receive the HCN Legislature's full attention. Second, it leaves the

*Continued on page 20*

# PART I: A SURVEY OF CHILDREN'S TRUST FUND (CTF) CASES

By Associate Trial Judge Todd R. Matha

*Editor's Note: In last month's Court Bulletin, the author wrote an Introduction to Trust Fund Accounts and Why we Have Them. In that introduction, the author gave a background on trust funds; the relevant law; how to petition the Court; and what test the Court would apply. This month's article should be read in conjunction with that introduction and constitutes part one in a series of four. In this article, the author surveys all the Children's Trust Fund (CTF) cases involving requests for children under the age of sixteen (16) years. These cases are distinct from CTF requests involving children sixteen (16) years old and over and/or young adults whose money remains in trust because they have yet to fulfill the graduation requirement set out in the Per Capita Distribution Ordinance. Next month, the author shall survey these remaining CTF cases*

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*The author of this article, Judge Matha, is a Ho-Chunk Nation tribal member and a graduate of the University of Minnesota Law School. He has served on the Ho-Chunk Nation Trial Court bench as an Associate Judge since April 12, 1999. Prior to that time, Judge Matha was an attorney with the Ho-Chunk Nation Department of Justice.*

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In this installment, the Court will provide an overview of the cases in which it considered a release of Children's Trust Fund ("CTF") monies on behalf of young children (under sixteen (16) years of age) residing in the household. The Court examined each decision contained in the case indexes to produce this summary.<sup>1</sup> The order of the below categories corresponds with the volume of requests received in each such category.

## Orthodontics:

On March 27, 1998, the Court granted its first release of monies from a CTF: a request to pay orthodontic expenses.<sup>2</sup> The Court has routinely granted orthodontia requests ever since, constituting over twenty (20) successful *Petitions for Release of Per Capita Distribution*.<sup>3</sup> The Court recognizes that this dental procedure provides a necessary health and welfare benefit to the child(ren).

Normally, a parent or guardian must contribute to the cost of the procedure through either dental insurance or personal financial resources.<sup>4</sup> The Court no longer requires proof of exhaustion of tribal funding since the Legislature has erected a barrier toward granting dental expenses.<sup>5</sup> This policy did not exist previously, and the Legislature sometimes awarded such funding. In light of that fact, the Court earlier required petitioners to acquire a legislative denial prior to hearing the case.<sup>6</sup>



## Automobiles:

The Court, Chief Judge Mark D. Butterfield presiding, has granted three (3) vehicle requests.<sup>7</sup> The Court has agonized over each such case particularly because the petitioner "is asking that the Court do something very unusual and extraordinary, i.e., take money from children and give it to the parents."<sup>8</sup> In *Cunneen* and *Garcia*, the Court placed particular emphasis upon the number of children residing in the household (four (4) and five (5) respectively); the hazardous condition of the present household vehicle; the lack of parental financial resources; and the uncommon travel needs of the family.<sup>9</sup> Despite acknowledging that "no matter what the financial plight of the parents, the ordinary and usual expenses for raising children belong to the parents and should not be shifted to the children[.]" the Court found that the foregoing factors collectively outweighed this tenet.<sup>10</sup> The

Court, however, did require a parental contribution, and declined to release CTF monies for payment of sales tax, insurance and vehicle maintenance.<sup>11</sup>



In the third case, the Court focused its attention upon the medical needs of the minor children and away from the financial plight of the parents. The Court explained that the *Goodbear* children “suffer from a possible genetic defect, which is leading to the steady deterioration in their renal (kidney) functions.”<sup>12</sup> The parents needed a safe and reliable vehicle to transport the children to regular kidney dialysis and renal treatments.<sup>13</sup> The parents insisted on a factory order van, but the Court declined that request, requiring instead that Ho-Chunk Nation Property & Procurement locate a substitute vehicle for a set amount of money.<sup>14</sup> The Court concluded that it would not “approve a vehicle purchase, which is more desirable for the parents than required for the essential function of transporting the children . . . .”<sup>15</sup> And, regardless of the different nature of the case, the Court mandated a parental contribution.<sup>16</sup>



The Court has denied every other request for an automobile.<sup>17</sup> Most notably, the Court, Associate Judge Todd R. Matha presiding, refused to perpetuate the prior holdings of the Court when it logically concluded that a parent could not abdicate parental responsibility absent exigent circumstances.<sup>18</sup> The petitioner in *Crowe* appealed the automobile denial, resulting in the Supreme Court of the Ho-Chunk Nation requiring the Trial Court to “formulate a test that can be applied equally, based on the facts of each case.”<sup>19</sup> The Court responded by articulating the following:

The Court shall only grant a release of CTF monies for the purchase of an automobile if the petitioner cannot supply such a necessity, provided necessity is shown, because of unforeseeable and/or unusual circumstances, i.e., factors that prove beyond the control of an otherwise reasonably responsible parent or individual.<sup>20</sup>

This test satisfies the Supreme Court’s call for a “strict and narrow interpretation” of the PER CAPITA DISTRIBUTION ORDINANCE.<sup>21</sup> As a consequence, only *Goodbear* would have survived the appropriately heightened level of judicial scrutiny.<sup>22</sup>



### Housing:

The Court announced its guiding principle in CTF cases in the first judgment delivered in such a case, namely: “When a person becomes a parent, that parent inherently accepts the responsibility to provide for the health, education and welfare for that child or children. . . . As a parent, the petitioner has inherently accepted these financial obligations by bringing these children into this world.”<sup>23</sup> Accordingly, the Court denied the parent’s request to utilize CTF monies for the purpose of retiring personal debts and tax liabilities so that the family might receive home financing.<sup>24</sup> The Court has never retreated from its principled objection to requiring a child to pay, directly or indirectly, for his or her housing, whether in the form of a home purchase or mortgage or rental payments.<sup>25</sup>

### Clothing:

The Court applies the identical reasoning when viewing clothing requests. Simply, a parent cannot relinquish his or her responsibility to provide

the basic necessities of life.<sup>26</sup> However, the Court must carve some limited exceptions to any general rule. For example, in *Swan*, the Court granted a modest clothing allocation on the basis of the following facts: the child's enrolled mother recently passed away, the child's father was terminally ill and could not work, and the family relied entirely upon Social Security Income.<sup>27</sup>

## Miscellaneous:

The Court also infrequently encounters various other requests. Like all CTF cases, the Court only grants those *Petitions* which satisfy the standard set forth in the PER CAPITA DISTRIBUTION ORDINANCE. In this regard, parents have successfully petitioned the Court for the following expenditures: travel expenses,<sup>28</sup> an air purifier,<sup>29</sup> and a washer/dryer.<sup>30</sup> Alternatively, the Court has denied requests for childcare<sup>31</sup> and apprenticeship training.<sup>32</sup>

<sup>1</sup> Any individual may view the Court's public compilation of judicial decisions maintained in the library located in the Tribal Court Building in Black River Falls, WI. The public may also access case files and courtroom minutes. The only blanket exception to this open records policy concerns confidential juvenile proceedings.

<sup>2</sup> *In the Interest of Casey J. Tripp v. HCN Enrollment Dep't*, CV 98-10 (HCN Tr. Ct., Mar. 27, 1998).

<sup>3</sup> See e.g., *In the Interest of the Minor Child: S.J.P. by Annette Pidgeon v. HCN Office of Tribal Enrollment*, CV 02-11 (HCN Tr. Ct., Feb. 15, 2002); *In the Matter of the Child: M.S.M., DOB 04/21/89, by Tina McArthur v. HCN Office of Tribal Enrollment*, CV 01-149 (HCN Tr. Ct., Dec. 27, 2001); *In the Matter of the Children: L.G.B., DOB 3/30/89, et al. by Tari Lynn Pettibone v. HCN Office of Tribal Enrollment*, CV 01-136 (HCN Tr. Ct., Dec. 24, 2001); *In the Matter of the Child: A.N.S., DOB 08/03/88, by Lisa Kay Nichols v. HCN Office of Tribal Enrollment*, CV 01-140 (HCN Tr. Ct., Dec. 18, 2001); *In the Interest of the Minor Child: R.A.M., DOB 01/28/86, by Winona L. Funmaker v. HCN Office of Tribal Enrollment*, CV 01-142 (HCN Tr. Ct., Dec. 18, 2001).

<sup>4</sup> See *In the Interest of the Minor Child: D.K.M., DOB 06/07/89, by Neil McAndrew v. HCN Office of Tribal Enrollment*, CV 01-45 (HCN Tr. Ct., May 31, 2001) at 3.

<sup>5</sup> CHARITABLE REQUEST POLICY, 4 HCC § 8(5)(e)(2).

<sup>6</sup> *In the Interest of C.B.B., DOB 06/01/87, by Shawn Blackdeer v. HCN Office of Tribal Enrollment*, CV 99-25 (HCN Tr. Ct., May 21, 1999) at 4, n.2.

<sup>7</sup> *In the Matter of the Children: T.T.G., DOB 07/24/90, et al. by Michael A. Goodbear v. HCN Office of Tribal Enrollment*, CV 00-97 (HCN Tr. Ct., Dec. 4, 2000); *In the Interest of the Minor Children: M.C., DOB 04/09/89, et al. by Myra Cunneen v. HCN Dep't of Enrollment*, CV 99-83; *In the Interest of the Minor Children: J.L.G., DOB 05/02/82, et al. by Rae Anna Garcia v. HCN Enrollment Dep't*, CV 99-59 (HCN Tr. Ct., Nov. 10, 1999).

<sup>8</sup> Cunneen at 3.

<sup>9</sup> *Id.* at 2-5; Garcia at 2-7.

<sup>10</sup> Cunneen at 7; Garcia at 6.

<sup>11</sup> Cunneen at 6; Garcia at 6.

<sup>12</sup> Goodbear, CV 00-97 (HCN Tr. Ct., Nov. 3, 2000) at 1.

<sup>13</sup> Goodbear, CV 00-97 (HCN Tr. Ct., Dec. 4, 2000) at 1.

<sup>14</sup> Goodbear, CV 00-97 (HCN Tr. Ct., Nov. 3, 2000) at 5.

<sup>15</sup> *Id.* at 4.

<sup>16</sup> *Id.* at 5.

<sup>17</sup> *In the Interest of the Minor Child: M.C., DOB 08/21/92, by Ellen Lewis v. HCN Office of Tribal Enrollment*, CV 01-83 (HCN Tr. Ct., Aug. 17, 2001); *In the Interest of the Minor Children: T.M.K., DOB 06/06/90, et al. by Sara J. WhiteEagle v. HCN Office of Tribal Enrollment*, CV 01-37 (HCN Tr. Ct., July 13, 2001); *In the Interest of Minor Children: V.D.C., DOB 10/03/84, et al. by Debra Crowe v. HCN Office of Tribal Enrollment*, CV 00-25 (HCN Tr. Ct., Apr. 6, 2001); *In the Interest of Zachary Mitchell by Celena Mitchell v. HCN Enrollment*, CV 97-60 (HCN Tr. Ct., July 15, 1998).

<sup>18</sup> Crowe at 13-15.

<sup>19</sup> *In the Interest of Minor Children: V.D.C., DOB 10/03/84, et al. by Debra Crowe v. HCN Office of Tribal Enrollment*, SU 00-09 (HCN S. Ct., Oct. 12, 2000) at 6.

<sup>20</sup> Crowe, CV 00-25 (HCN Tr. Ct., Apr. 6, 2001) at 14.

<sup>21</sup> Crowe, SU 00-09 (HCN S. Ct., Oct. 12, 2000) at 5.

<sup>22</sup> Crowe, CV 00-25 (HCN Tr. Ct., Apr. 6, 2001) at 14-15, n.10.

<sup>23</sup> *In the Interest of Gary Alan Funmaker, Sr. v. Ho-Chunk Nation*, CV 96-39 (HCN Tr. Ct., Oct. 18, 1996).

<sup>24</sup> *Id.* at 8; see also Garcia at 6 (denying release for parental tax obligation).

<sup>25</sup> See e.g., *In the Interest of Minor Child: K.A.O., DOB 04/10/89, by Robert Orozco v. HCN Office of Tribal Enrollment*, CV 00-40 (HCN Tr. Ct., July 11, 2000); *In the Matter of Child: G.O.L.F., DOB 03/13/93, by Mary Fletcher v. HCN Dep't of Enrollment*, CV 99-80 (HCN Tr. Ct., Dec. 14, 1999); *In the Interest of Minor Child: M.L.D., DOB 11/10/86, by Lori Spinn v. HCN Office of Tribal Enrollment*, CV 99-39 (HCN Tr. Ct., Aug. 3, 1999); *In the Interest of Minor Child: M.J.N., DOB 08/19/87, by Mary Bird v. HCN Office of Tribal Enrollment*, CV 99-43 (HCN Tr. Ct., July 29, 1999); *In the Interest of V.S. et al. by Lori Luxon v. HCN Enrollment Dep't*, CV 98-39 (HCN Tr. Ct., Feb. 4, 1999).

<sup>26</sup> See Bird at 6-7.

<sup>27</sup> *In the Interest of the Minor Child: D.A.S., DOB 10/14/87, by Larry Swan v. HCN Office of Tribal Enrollment*, CV 00-96

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(HCN Tr. Ct., Dec. 18, 2000) (also granting release for automobile repairs); *accord Luxon* at 5 (granting \$610.00 release for vehicle repairs to enable mother to transport children to day care approximately fifty (50) miles from residence); *but see Spinn* at 6 (conditionally denying \$1,000.00 release for automobile repairs to enable the mother to shop for groceries and transport child to physician).

<sup>28</sup> *In the Interest of Minor Child: P.C., DOB 04/25/85, by Victoria Cloud v. HCN Office of Tribal Enrollment*, CV 00-69 (HCN Tr. Ct., July 28, 2000) (granting release for return travel expenses from California so child could begin fall semester; mother had recently received termination from employment).

<sup>29</sup> *In the Interest of the Minor Child: E.M., DOB 07/29/92, by Angela Mike v. HCN Office of Tribal Enrollment*, CV 00-71

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(HCN Tr. Ct., Oct. 19, 2000) (child suffered from severe asthma and allergies).

<sup>30</sup> *Luxon* at 5; *but see Mitchell* at 3 (no demonstration of necessity made by petitioner).

<sup>31</sup> *Luxon* at 4 (failure to exhaust tribal funding resources).

<sup>32</sup> *In the Interest of Sterling Cloud by Lionel Cloud v. HCN Enrollment*, CV 97-43 (HCN Tr. Ct., Oct. 30, 1997) (represented a violation of federal child labor laws).

**Next month: A survey of the cases dealing with the release of CTF monies on behalf of tribal members over the age of sixteen (16) whose money remains in trust.**



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CV 99-23 *Notice (Proof of High School Enrollment Filed)* (HCN Tr. Ct., Jan. 15, 2002). (Matha, T.)

The petitioner in Case No. CS 99-22 filed proof of high school enrollment, indicating that the minor child who recently turned eighteen (18) years of age in that case is still entitled to child support as he is still attending high school. The child will graduate on May 28, 2002, and at that time, the Court will reexamine the issue of current child support for that case and, as the respondent is a serial payor, the Court may perform an equitable adjustment of the respondent's remaining child support obligation in the other cases.

*State of Wis., Jackson County on behalf of Robin LaMere v. Rueben Rave, Jr.; and State of Wis., Jackson County on behalf of Erin L. Emerson v. Rueben Rave, Jr.*, CS 01-38, CV 97-171 *Order (Enforcing Child Support) and Order (Adjusting Child Support)* (HCN Tr. Ct., Jan. 15, 2002). (Butterfield, M.)

As the respondent is a serial payor, the Court enforced two child support orders against the respondent's per capita. The Court could not fully enforce both orders because of the limitations on garnishment for child support within the RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE. Therefore, the Court performed an equitable adjustment and divided the available thirty-four percent (34%) of per capita between the two petitioners.

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## 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

**JANUARY 15, 2002**

*Kathleen Waukau by the State of Wis., Shawano County v. Eldon Powless; and Patricia C. Martinez v. Eldon D. Powless; and Eldon D. Powless v. Margaret A. King; and Eldon D. Powless v. Rebecca Nunway*, CV 96-93, CV 99-17, CV 99-22,

**JANUARY 16, 2002**

*Julia Goodbear v. Ted L. Brown; and State of Wis., Jackson County v. Ted L. Brown*, CS 98-20, CS 00-37 Order (Amending Enforcement of Child Support) (HCN Tr. Ct., Jan. 16, 2002). (Butterfield, M.)

*Vicki J. Greendeer v. John C. Houghton, Jr.; Leslie Soulier v. John C. Houghton, Jr.; and Rachel Winneshiek v. John C. Houghton, Jr.*, CV 96-58, CS 99-58, CS 99-29 Order (Amending Child Support Enforcement) (HCN Tr. Ct., Jan. 16, 2002). (Matha, T.)

The Court, utilizing equity and fairness, enforced two foreign child support orders against a serial payor's per capita distribution. In addition, as there is no obligation for current child support in Case No. CS 99-58, and the respondent has paid the arrears owing in that case in full, the Court gave its notice that it shall close that file in ten (10) days absent an objection from the parties.

**JANUARY 17, 2002**

*Kathleen Waukau Bourdon v. Timothy Bourdon*, CS 99-69 Order (Impounding Arrears) (HCN Tr. Ct., Jan. 17, 2002). (Butterfield, M.)

As the petitioner has met the standards required for an injunction, the Court impounded a portion of the respondent's per capita until it can determine whether or not to grant the petitioner's motion for arrears.

*In re the Marriage of Lee Stacy, State of Wis. v. Waldo Stacy*, CV 96-71 Order (Suspending Child Support Interception) (HCN Tr. Ct., Jan. 17, 2002). (Butterfield, M.)

As the child turned eighteen (18) years old and the parties failed to file proof of high school enrollment, the Court ceased withholding for current child support.

*State of Wis., ex rel Kristy M. LaBarge v. Marcus L. Bigjohn*, CV 97-10 Order (Modifying Child Support Enforcement) (HCN Tr. Ct., Jan. 17, 2002). (Butterfield, M.)

The Court amended enforcement of current child support, but denied the request for arrears because

the fees/arrears requested were not within the scope of the CLAIMS AGAINST PER CAPITA ORDINANCE.

*State of Wis., Sauk County and Joyce St. Cyr v. Robert M. Mobley; State of Wis., Sauk County and Jennifer Stanley v. Robert M. Mobley; State of Wis., Sauk County and Jennifer Stanley v. Robert M. Mobley; Joyce M. St. Cyr v. Robert M. Mobley*, CS 99-37, 38, 39, 00-04 Order (Amending Enforcement of Child Support) (HCN Tr. Ct., Jan. 17, 2002). (Matha, T.)

The Court, utilizing equity and fairness, enforced two foreign child support orders against a serial payor's per capita distribution. In addition, the Court updated the arrearage amount in Case No. CS 00-04 as the petitioner filed an updated certified copy of arrears.

*State of Wis., Shawano County on behalf of Jamie Funmaker v. Edward W. Cloud*, CV 97-94 Order (Enforcing Child Support Arrears) (HCN Tr. Ct., Jan. 17, 2002). (Butterfield, M.)

The Court enforced a claim for child support arrears against the respondent's per capita.

**JANUARY 22, 2002**

*State of Wis., Sauk County and Joyce St. Cyr v. Robert M. Mobley; State of Wis., Sauk County and Jennifer Stanley v. Robert M. Mobley; State of Wis., Sauk County and Jennifer Stanley v. Robert M. Mobley; Joyce M. St. Cyr v. Robert M. Mobley*, CS 99-37, 38, 39, 00-04 Order (Amending Enforcement of Child Support) (HCN Tr. Ct., Jan. 22, 2002). (Matha, T.)

The Court entered this *Reissuance of Judgment* pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 58(C), amending the previous order.

**JANUARY 23, 2002**

*Colleen D. Hansen v. Jerry L. Lewis Park*, CS 98-73 Order (Requiring Proof of Enrollment and Impounding Child Support) (HCN Tr. Ct., Jan. 23, 2002). (Matha, T.)

As the child turned eighteen years of age, the Court required the parties to file proof of high school enrollment by February 4, 2002 and impounded

child support from the February 2002 per capita. If the parties fail to file the proof of high school enrollment by February 11, 2002, the Department of Treasury shall release the impounded monies to the respondent and amend withholding for current child support pursuant to the Court's order.

*State of Wis., Jackson County on behalf of Sadie Winneshiek v. Gregory S. Harrison; State of Wis., Wood County on behalf of Evangeline Two Crow v. Gregory S. Harrison*, CS 01-39, CV 97-153 *Erratum Order* (HCN Tr. Ct., Jan. 23, 2002). (Butterfield, M.)

#### **JANUARY 24, 2002**

*Angel Buker v. Ken Buker*, CS 01-42 *Order (Enforcing Child Support)* (HCN Tr. Ct., Jan. 24, 2002). (Butterfield, M.)

As the respondent failed to respond or exercise his right to request a hearing, the Court entered a default judgment and enforced a foreign child support order against the respondent's per capita.

#### **JANUARY 28, 2002**

*Verdie Kivimaki v. Virgil Clausen*, CV 97-125 *Notice of Cessation of Child Support Due to Child Turning 19* (HCN Tr. Ct., Jan. 28, 2002). (Butterfield, M.)

As the child turned nineteen (19) years of age and is no longer entitled to current child support, the Court ceased withholding from the respondent's per capita for this purpose.

#### **JANUARY 30, 2002**

*Heather Hartwig v. Steve Lincoln*, CS 99-21 *Order (Enforcing Child Support Arrears)* (HCN Tr. Ct., Jan. 30, 2002). (Butterfield, M.)

The respondent filed a certified copy of arrears and submitted to a voluntary increase in his withholding so that he could pay off the arrears at a faster rate.

#### **FEBRUARY 1, 2002**

*Susan C. Oyama v. Alexander D. Gourd; Catherine M. Gourd v. Alexander D. Gourd*, CS 00-27, CS 99-13 *Notice (History of Per Capita Withholding)* (HCN Tr. Ct., Feb. 1, 2002). (Matha, T.)

#### **FEBRUARY 5, 2002**

*Roberta Greendeer v. Frederick K. Greendeer; State of Wis., on behalf of Mary Tribble v. Frederick K. Greendeer; State of Wis. v. Frederick K. Greendeer; and State of Wis. for Carol L. Miller v. Frederick K. Greendeer*, CV 97-02, 44, 98-32, 99-75 *Order (Requesting KIDS Account Statement)* (HCN Tr. Ct., Feb. 5, 2002). (Butterfield, M.)

*State of Wis., Sauk County and Joyce St. Cyr v. Robert M. Mobley; State of Wis., Sauk County and Jennifer Stanley v. Robert M. Mobley; State of Wis., Sauk County and Jennifer Stanley v. Robert M. Mobley; Joyce M. St. Cyr v. Robert M. Mobley*, CS 99-37, 38, 39, 00-04 *Order (Updating Arrearage Amount)* (HCN Tr. Ct., Feb. 5, 2002). (Matha, T.)

#### **FEBRUARY 8, 2002**

*Courtney C. White v. Gregory L. Whitegull*, CS 01-30 *Order (Erratum)* (HCN Tr. Ct., Feb. 8, 2002). (Matha, T.)

#### **FEBRUARY 21, 2002**

*Michelle L. Mountain v. Curtis W. Cloud*, CS 01-34 *Order (Default Judgment Enforcing Child Support)* (HCN Tr. Ct., Feb. 21, 2002). (Butterfield, M.)

As the respondent failed to respond or exercise his right to request a hearing, the Court entered a default judgment and enforced a foreign child support order against the respondent's per capita.

*Kathleen Waukau Bourdon v. Timothy W. Bourdon; Carol Barnes v. Timothy W. Bourdon*, CS 99-69, 98-59 *Order (Releasing Impound and Redirecting Child Support)* (HCN Tr. Ct., Feb. 21, 2002). (Butterfield, M.)

*State of Wis. v. Michael A. Hernandez*, CS 01-37 *Order (Default Judgment Enforcing Child Support)* (HCN Tr. Ct., Feb. 21, 2002). (Butterfield, M.)

As the respondent failed to respond or exercise his right to request a hearing, the Court entered a default judgment and enforced a foreign child support order against the respondent's per capita.

*State of Wis., Sauk County and Crystal L. Monteen-Martin v. Ronald David Martin*, CS 00-35 *Order*

*(Modifying Child Support Enforcement)* (HCN Tr. Ct., Feb. 21, 2002). (Butterfield, M.)

**FEBRUARY 22, 2002**

*Misty Marie Long v. Nathaniel Long, Jr.; and Anna Webb v. Nathaniel H. Long III*, CS 02-03, 98-49 *Order (Default Judgment Enforcing Child Support) and Order (Equitable Adjustment)* (HCN Tr. Ct., Feb. 22, 2002). (Butterfield, M.)

As the respondent failed to respond or exercise his right to request a hearing, in a default judgment the Court enforced a foreign child support order against the respondent's per capita and performed an equitable adjustment as the respondent is a serial payor.

*William Murphy v. Cheryl Murphy*, CS 98-58 *Notice of Child Turning 18* (HCN Tr. Ct., Feb. 22, 2002). (Butterfield, M.)

As the child will soon turn eighteen (18) years old, the Court requested that the parties file proof of high school enrollment. Otherwise, it shall cease withholding for current child support.

*Naomi A. Rich v. Wayne Whitman*, CS 97-156 *Notice (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Feb. 22, 2002). (Matha, T.)

As the child will soon turn eighteen (18) years old, the Court requested that the parties file proof of high school enrollment. Otherwise, it shall cease withholding for current child support.

*State of Wis. on behalf of Karena Day v. Howard Pettibone*, CV 97-109 *Notice of Child Turning 18* (HCN Tr. Ct., Feb. 22, 2002). (Butterfield, M.)

As the child will soon turn eighteen (18) years old, the Court requested that the parties file proof of high school enrollment. Otherwise, it shall cease withholding for current child support.

*State of Wis., Eau Claire County v. Arnold Cloud; Shelly Thundercloud v. Arnold Cloud; and Kathy Stacy v. Arnold Cloud*, CS 99-55, CV 96-91, JV 97-14 *Order (Closing Case); Order (Amending Enforcement of Child Support); and Order*

*(Amending Enforcement of Child Support)* (HCN Tr. Ct., Feb. 22, 2002). (Butterfield, M.)

As one of the children turned nineteen (19) years of age and is no longer entitled to current child support, the Court performed an equitable adjustment amending the enforcement of the remaining orders as the respondent is a serial payor.

*State of Wis. and Johnny W. Whitecloud a/k/a Johnny Whitecloud v. Patricia A. Hindsley*, CS 00-46 *Notice (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Feb. 22, 2002). (Matha, T.)

As the child will soon turn eighteen (18) years old, the Court requested that the parties file proof of high school enrollment otherwise it shall cease withholding for current child support.

**Children's Trust Fund (CTF)**

**JANUARY 17, 2002**

*In the Interest of Minor Child: M.W.E., DOB 07/09/95, by Melody Whiteagle-Fintak v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 01-154 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Jan. 17, 2002). (Matha, T.)

The Court granted the petitioner's motion to appear by telephone for the January 18, 2002 *Fact-Finding Hearing*.

**JANUARY 29, 2002**

*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 (Accepting Accounting)* (HCN Tr. Ct., Jan. 29, 2002). (Matha, T.)

The Court accepted the petitioner's accounting for CTF monies previously released to cover costs associated with obtaining a public defender.

**JANUARY 30, 2002**

*In the Interest of the Minor Child: A.N.S., DOB 08/03/88, By Lisa Kay Nichols v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 01-140 *Order (Accepting Accounting)* (HCN Tr. Ct., Jan. 30, 2002). (Butterfield, M.)

The Court accepted the petitioner's timely accounting for CTF monies previously released for orthodontics.

**FEBRUARY 1, 2002**

*In the Interest of Decedent: Louella Jean Blackdeer, DOB 07/01/84, by Lani Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 02-09 Order (Releasing CTF Monies to Estate)* (HCN Tr. Ct., Feb. 1, 2002). (Matha, T.)

The Court released the remaining monies in the decedent tribal member's CTF to her estate. The personal representative for the estate is responsible for the proper distribution of those monies as administrator of the estate.

**FEBRUARY 4, 2002**

*In the Interest of: D.L.R., DOB 02/05/85, by Kim Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-86 Order (Dismissing Case with Prejudice)* (HCN Tr. Ct., Feb. 4, 2002). (Butterfield, M.)

The Court issued its thirty (30) day notice that it shall dismiss this case with prejudice for lack of activity for six (6) months or more. Absent a showing of good cause in writing by either party within that time period, the Court shall close this file on March 6, 2002.

**FEBRUARY 12, 2002**

*In the Interest of C.A.D., DOB 03/18/80, by Wanda Decorah v. Ho-Chunk Nation Office of Tribal Enrollment, CV 02-11 Order (Denying Request for Funds and Closing Case)* (HCN Tr. Ct., Feb. 12, 2002). (Butterfield, M.)

The Court denied the petitioner's request for prom pictures, prom dinner, tuxedo and shoes, cap and gown, etc. as the petitioner failed to show an exhaustion of tribal resources; and failure to show that the parents could not afford the items, which are normally and customarily paid for by the child and the parent.

**FEBRUARY 15, 2002**

*In the Interest of the Minor Child: S.J.P., DOB 12/12/90, by Annette Pidgeon v. Ho-Chunk Nation Office of Tribal Enrollment, CV 02-11 Order*

*(Granting CTF Monies for Orthodontics for the Child's Teeth)* (HCN Tr. Ct., Feb. 15, 2002). (Butterfield, M.)

The Court granted the release of CTF monies to pay for orthodontics for the minor child.

**FEBRUARY 21, 2002**

*In the Interest of: T.T.G. and E.A.G. by Michael A. Goodbear v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-97 Order (Accepting Accounting)* (HCN Tr. Ct., Feb. 21, 2002). (Butterfield, M.)

The petitioner fulfilled the Court's annual requirement of submitting current proof of insurance and registration for vehicles purchased with CTF monies.

**FEBRUARY 22, 2002**

*In the Interest of the Minor Children: J.L.G., DOB 05/02/82, S.C.G., DOB 12/23/86, A.A.G., DOB 05/09/91, D.A.G., DOB 08/29/84, J.W.G., DOB 12/28/88, CV 99-59 Order (Accepting Accounting)* (HCN Tr. Ct., Feb. 22, 2002). (Butterfield, M.)

The petitioner fulfilled the Court's annual requirement of submitting current proof of insurance and registration for vehicles purchased with CTF monies.

**FEBRUARY 28, 2002**

*In the Interest of the Minor Children: M.C., DOB 04/09/89, J.C., DOB 08/26/93, D.C., DOB 12/16/91, J.C., DOB 06/06/96, by Myra Cunneen v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-83 Order (Accepting Accounting)* (HCN Tr. Ct., Feb. 28, 2002). (Butterfield, M.)

The petitioner fulfilled the Court's annual requirement of submitting current proof of insurance and registration for vehicles purchased with CTF monies.

**Civil Cases (All Categories)**

**JANUARY 15, 2002**

*Ho-Chunk Nation Hous. Auth. v. Gayland Rave, CV 01-141 Eviction Order (Restitution and Relief)* (HCN Tr. Ct., Jan. 15, 2002). (Butterfield, M.)

The Court determined that the extent of non-payment of rent by the defendant merited ordering an eviction of the defendant from the property.

*Ho-Chunk Nation Hous. Auth. v. Gayland Rave*, CV 01-141 *Writ of Restitution* (HCN Tr. Ct., Jan. 15, 2002). (Butterfield, M.)

The Court determined that the plaintiff was entitled to a superior right of possession to the property at 7145 Low Cloud Rd., Sandpillow Village, Black River Falls, WI and issued this writ to remove the defendant from the property.

**JANUARY 16, 2002**

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Jeanine F. Heffner*, CV 01-118 *Order (Default Judgment)* (HCN Tr. Ct., Jan. 16, 2002). (Matha, T.)

The Court granted a default judgment in favor of the plaintiff for the defendant's failure to pay rent and other miscellaneous offenses which constituted violations of the lease.

**JANUARY 17, 2002**

*In the Interest of Minor Child: M.W.E., DOB 07/09/95, by Melody Whiteagle-Fintak v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 01-154 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Jan. 17, 2002). (Matha, T.)

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

**JANUARY 18, 2002**

*Ho-Chunk Nation Hous. Auth. v. Elliott Walker*, CV 01-42 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Jan. 18, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

**JANUARY 23, 2002**

*Wayne H. Boyles v. Ho-Chunk Casino*, CV 01-108 *Order (Dismissal without Prejudice)* (HCN Tr. Ct., Jan. 23, 2002). (Matha, T.)

The Court granted the plaintiff's *Motion to Dismiss*, in which he stated that he wished to withdraw his petition for a hearing within the Tribal Court.

*Louise M. Skroch v. Ho-Chunk Nation and Majestic Pines Casino*, CV 01-100 *Order (Dismissal without Prejudice)* (HCN Tr. Ct., Jan. 23, 2002). (Matha, T.)

The Court granted the plaintiff's *Motion to Dismiss*, in which she stated that she no longer wished to pursue this action.

*Sandra S. Winneshiek v. William B. Collins*, CV 01-129 *Order (Dismissal without Prejudice)* (HCN Tr. Ct., Jan. 23, 2002). (Matha, T.)

The Court dismissed the plaintiff's *Complaint* without prejudice, as she failed to allege a jurisdictional basis for her claim.

**JANUARY 29, 2002**

*In the Interest of Decedent: Mercedes Blackcoon, DOB 01/29/31, v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 02-03 *Order for Special Appearance* (HCN Tr. Ct., Jan. 29, 2002). (Matha, T.)

*Foster D. Decorah v. Ho-Chunk Nation Dep't of Bus.*, CV 01-131 *Order (Dismissal without Prejudice)* (HCN Tr. Ct., Jan. 29, 2002). (Matha, T.)

The Court granted the plaintiff's *Motion to Dismiss*, in which he stated that he no longer wished to pursue this action as the defendant had since reinstated him to his job.

*In the Interest of: Alice H. Funmaker, by Kenneth Freitag v. Ho-Chunk Nation Office of Tribal Enrollment.*, CV 01-148 *Order (Releasing ITF Funds to Estate)* (HCN Tr. Ct., Jan. 29, 2002). (Butterfield, M.)

[For summary, see [Incompetent's Trust Fund \(ITF\)](#) within this index.]

*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 (Accepting Accounting)* (HCN Tr. Ct., Jan. 29, 2002). (Matha, T.)

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

*Gloria Jean Visintin v. Ho-Chunk Nation General Council, Douglas Long, as Presiding Officer of the October 27, 2001 General Council and Karen Martin, as Secretary of the October 27, 2001 General Council*, CV 02-02 *Order (Granting Defendants' Motion to Extend Time to File Answer)* (HCN Tr. Ct., Jan. 29, 2002). (Butterfield, M.)

#### **JANUARY 30, 2002**

*Ho-Chunk Nation Dep't of Treasury v. Serena Yellow Thunder*, CV 01-119 *Order (Dismissal)* (HCN Tr. Ct., Jan. 30, 2002). (Matha, T.)

The Court granted the plaintiff's *Motion to Dismiss* as the defendant had since resolved the matter to the satisfaction of the plaintiff, having reconciled her travel expenses through a voluntary per capita withholding.

*In the Interest of the Minor Child: A.N.S., DOB 08/03/88, by Lisa Kay Nichols v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 01-140 *Order (Accepting Accounting)* (HCN Tr. Ct., Jan. 30, 2002). (Butterfield, M.)

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

#### **JANUARY 31, 2002**

*In the Interest of: Norma Whitebear, by Cecilia Rave v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 01-125 *Order (Accepting Accounting and Granting Release of ITF Monies)* (HCN Tr. Ct., Jan. 31, 2002). (Butterfield, M.)

[For summary, see [Incompetent's Trust Fund \(ITF\)](#) within this index.]

#### **FEBRUARY 1, 2002**

*In the Interest of Decedent: Louella Jean Blackdeer, DOB 07/01/84, by Lani Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 02-09 *Order (Releasing CTF Monies to Estate)* (HCN Tr. Ct., Feb. 1, 2002). (Matha, T.)

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

*Chong Graves v. Ho-Chunk Casino*, CV 01-150 *Scheduling Order* (HCN Tr. Ct., Feb. 1, 2002). (Matha, T.)

The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

#### **FEBRUARY 4, 2002**

*Dion W. Funmaker et al. v. Ho-Chunk Nation et al.; and Demetrio D. Abangan et al. v. Ho-Chunk Nation Election Bd. in their official capacity; and Stewart J. Miller et al. v. Ho-Chunk Nation Legislature Members et al.*, CV 02-07, 08, 10 *Order (Preliminary Determination)* (HCN Tr. Ct., Feb. 4, 2002). (Matha, T.)

[For summary, see [Election Challenges](#) within this index.]

*In the Interest of: D.L.R., DOB 02/05/85, by Kim Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 01-86 *Order (Dismissing Case with Prejudice)* (HCN Tr. Ct., Feb. 4, 2002). (Butterfield, M.)

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

*Janette Smoke v. Steve Garvin in Capacity of Table Games Mgr., Majestic Pines Casino and Ho-Chunk Nation*, CV 01-97 *Order (Granting Request to Reschedule)* (HCN Tr. Ct., Feb. 4, 2002). (Matha, T.)

The Court granted the plaintiff's *Motion to reschedule the Trial*. The burden is upon the plaintiff to reschedule within two (2) weeks. If she fails to do so, the defendant has leave to file a *Motion to Dismiss* pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 56(B).

*Anna M. Salinas v. Ho-Chunk Hotel and Convention Center*, CV 01-121 *Amended Scheduling Order* (HCN Tr. Ct., Feb. 4, 2002). (Matha, T.)

The Court issued an amended scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

**FEBRUARY 5, 2002**

*Melody White Eagle-Fintak v. Russell Girard; Judy Whitehorse and Ho-Chunk Nation Dep't of Soc. Servs.-Youth Servs. Div.*, CV 01-153 *Scheduling Order* (HCN Tr. Ct., Feb. 5, 2002). (Matha, T.)

The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

**FEBRUARY 12, 2002**

*Demetrio D. Abangan et al. v. Ho-Chunk Nation Election Bd. in their official capacity; and Stewart J. Miller et al. v. Ho-Chunk Nation Legislature Members et al.*, CV 02-08, 10 *Order (Denial of Election Challenge)* (HCN Tr. Ct., Feb. 12, 2002). (Matha, T.)

[For summary, see [Election Challenges](#) within this index.]

*In the Interest of C.A.D., DOB 03/18/80, by Wanda Decorah v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 02-11 *Order (Denying Request for Funds and Closing Case)* (HCN Tr. Ct., Feb. 12, 2002). (Butterfield, M.)

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

**FEBRUARY 13, 2002**

*In the Interest of the Decedent: Mercedes Blackcoon, DOB 01/29/31 v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 02-03 *Order (Releasing ITF Monies to Estate)* (HCN Tr. Ct., Feb. 13, 2002). (Matha, T.)

[For summary, see [Incompetent's Trust Fund \(ITF\)](#) within this index.]

*In the Interest of Kathy Brandenburg-Miller, by Phyllis Smoke v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 98-18 *Order (Granting Release of ITF Monies)* (HCN Tr. Ct., Feb. 13, 2002). (Butterfield, M.)

[For summary, see [Incompetent's Trust Fund \(ITF\)](#) within this index.]

**FEBRUARY 14, 2002**

*Ho-Chunk Nation Dep't of Treasury v. Melodie Cleveland*, CV 01-126 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Feb. 14, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

**FEBRUARY 15, 2002**

*In the Interest of the Minor Child: S.J.P., DOB 12/12/90, by Annette Pidgeon v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 02-11 *Order (Granting CTF Monies for Orthodontics for the Child's Teeth)* (HCN Tr. Ct., Feb. 15, 2002). (Butterfield, M.)

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

**FEBRUARY 18, 2002**

*Ho-Chunk Nation Dep't of Treasury v. Lawrence Littlegeorge*, CV 01-127 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Feb. 18, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

**FEBRUARY 19, 2002**

*Janeta Doede v. Ho-Chunk Hotel*, CV 01-143 *Order (Granting Request to Reschedule)* (HCN Tr. Ct., Feb. 19, 2002). (Matha, T.)

As the plaintiff failed to appear at the initial *Scheduling Conference*, in its discretion, the Court granted the plaintiff an additional two (2) weeks to reschedule. The burden is upon the plaintiff to reschedule and if she fails to do so, the defendant has leave to file a *Motion to Dismiss* under *Ho-Chunk Nation Rules of Civil Procedure*, Rule 56(B).

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Kenneth J. Basswood*, CV 01-107 *Order*

*(Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Feb. 19, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Donald Decorah and Cassandra Littlebear*, CV 01-151 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Feb. 19, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendants had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Marlene Littlewolf*, CV 01-133 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Feb. 19, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Dep't of Treasury v. Jeanine Heffner-McEvens*, CV 01-124 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Feb. 19, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Dep't of Treasury v. Mercedes Sprain*, CV 01-123 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Feb. 19, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and

informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Hous. Auth. v. Continental Flooring Co.*, CV 01-76 *Order (Granting Defendant's Motion to Dismiss)* (HCN Tr. Ct., Feb. 19, 2002). (Matha, T.)

The Court allowed the parties to proceed to arbitration as agreed upon through the mutual acceptance of certain contractual provisions. The defendant did not allege a defect in the delegation of signature authority, and therefore, the Court must examine the terms of the contract documents in arriving at its decision. The Court agrees that the parties must proceed to arbitration, but in no way rules as to the extent the plaintiff retains its sovereign immunity from suit.

*Ho-Chunk Nation Hous. Auth. v. John Dumpprope and Julia Dumpprope*, CV 01-147 *Notice of Hearing* (HCN Tr. Ct., Feb. 19, 2002). (Matha, T.)

The Court shall convene a hearing in this case on March 4, 2002, to ascertain damages, the extent to which the defendants have offset their damages, as well as determine the manner of repayment, if necessary.

*Ho-Chunk Nation Hous. Auth. v. Prudence Funmaker*, CV 01-134 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Feb. 19, 2002). (Butterfield, M.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

#### **FEBRUARY 20, 2002**

*Ho-Chunk Nation Dep't of Hous., Prop. Mgmt. Div. v. Benjamin C. Decorah*, CV 00-48 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Feb. 20, 2002). (Matha, T.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Dep't of Treasury v. Marlys Whiteagle*, CV 01-145 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Feb. 20, 2002). (Matha, T.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Hous. Auth. v. Collin Cloud*, CV 01-120 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Feb. 20, 2002). (Matha, T.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Ho-Chunk Nation Hous. Auth. v. Robin LaMere and Rueben Rave*, CV 00-17 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Feb. 20, 2002). (Matha, T.)

The plaintiff acknowledged that the defendants had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

#### **FEBRUARY 21, 2002**

*In the Interest of: T.T.G. and E.A.G. by Michael A. Goodbear v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 00-97 *Order (Accepting Accounting)* (HCN Tr. Ct., Feb. 21, 2002). (Butterfield, M.)

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

*Julie Nakai v. Ho-Chunk Nation*, CV 01-26 *Supplemental Order (Requiring Further Briefing)* (HCN Tr. Ct., Feb. 21, 2002). (Butterfield, M.)

[For summary, see [Pregnancy Discrimination](#) within this index.]

*Valerie Smith v. Jonette Pettibone, Table Game Mgr.*, CV 01-91 *Order (Requiring the Plaintiff to*

*Reschedule)* (HCN Tr. Ct., Feb. 21, 2002). (Butterfield, M.)

As the plaintiff failed to appear at the initial *Scheduling Conference*, in its discretion, the Court granted the plaintiff an additional two (2) weeks to reschedule. The burden is upon the plaintiff to reschedule and if she fails to do so, the defendant has leave to file a *Motion to Dismiss* under *Ho-Chunk Nation Rules of Civil Procedure*, Rule 56(B).

*In the Interest of: Norma Whitebear, by Cecilia Rave v. Ho-Chunk Nation Office of Tribal Enrollment.*, CV 01-125 *Order (Accepting Accounting)* (HCN Tr. Ct., Feb. 21, 2002). (Butterfield, M.)

[For summary, see [Incompetent's Trust Fund \(ITF\)](#) within this index.]

#### **FEBRUARY 22, 2002**

*Aleksandra Cichowski v. Hotel and Convention Center*, CV 01-25 *Order (Awarding Costs)* (HCN Tr. Ct., Feb. 22, 2002). (Butterfield, M.)

The Court previously granted the defendant reasonable costs associated with complying with the plaintiff's discovery requests. The defendant submitted an invoice in the amount of \$49.59, of which the Court approved. The plaintiff had deposited a portion of this money with the Court to pay the defendant; the Court issued this order requiring the plaintiff to pay the defendant the remaining balance within twenty (20) days.

*In the Interest of the Minor Children: J.L.G., DOB 05/02/82, S.C.G., DOB 12/23/86, A.A.G., DOB 05/09/91, D.A.G., DOB 08/29/84, J.W.G., DOB 12/28/88*, CV 99-59 *Order (Accepting Accounting)* (HCN Tr. Ct., Feb. 22, 2002). (Butterfield, M.)

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

*U.W. Stevens Point v. Orbert S. Goodbear*, CV 96-32 *Order (Requesting Proof of Satisfaction of Judgment)* (HCN Tr. Ct., Feb. 22, 2002). (Butterfield, M.)

As a review of the file indicates that the defendant may have satisfied the judgment in full, the Court

requests that the plaintiff file proof of satisfaction of judgment.

**FEBRUARY 25, 2002**

*Ho-Chunk Nation Dep't of Treasury v. Ruth Payor*, CV 01-144 Order (Dismissing Case without Prejudice) (HCN Tr. Ct., Feb. 25, 2002). (Butterfield, M.)

The Court granted the plaintiff's motion to dismiss as the defendant had since provided the plaintiff with documentation she completed travel and thus, there was no need for the defendant to reimburse the advanced travel monies.

*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 ITF Monies) (HCN Tr. Ct., Feb. 25, 2002). (Butterfield, M.)

[For summary, see [Incompetent's Trust Fund \(ITF\)](#) within this index.]

*Gloria Jean Visintin v. Ho-Chunk Nation General Council, Douglas Long, as Presiding Officer of the October 27, 2001 General Council and Karen Martin, as Secretary of the October 27, 2001 General Council*, CV 02-02 Order (Dismissing Karen Martin as Defendant) (HCN Tr. Ct., Feb. 25, 2002). (Butterfield, M.)

The Court granted the plaintiff's motion to dismiss Karen Martin as a defendant.

**FEBRUARY 26, 2002**

*In the Interest of Berdine Littlejohn, by Shari Marg v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 98-14 Order (Partial Release of ITF Monies) (HCN Tr. Ct., Feb. 26, 2002). (Matha, T.)

[For summary, see [Incompetent's Trust Fund \(ITF\)](#) within this index.]

**FEBRUARY 28, 2002**

*In the Interest of the Minor Children: M.C., DOB 04/09/89, J.C., DOB 08/26/93, D.C., DOB 12/16/91, J.C., DOB 06/06/96*, by Myra Cunneen v. Ho-Chunk Nation Office of Tribal Enrollment, CV 99-83 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 28, 2002). (Butterfield, M.)

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

*In the Interest of Maxine P. Johnson, by Frank Johnson, Jr. v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 01-10 Order (Dismissing Case without Prejudice) (HCN Tr. Ct., Feb. 28, 2002). (Butterfield, M.)

The Court issued its thirty (30) day notice that it shall dismiss this case without prejudice for lack of activity for six (6) months or more. Absent a showing of good cause in writing by either party within that time period, the Court shall close this file on March 27, 2002.

*In the Interest of Stella J. Stacy, by Adam Hall, Enrollment Officer*, CV 99-06 Order (Dismissing Case without Prejudice) (HCN Tr. Ct., Feb. 28, 2002). (Butterfield, M.)

The Court issued its thirty (30) day notice that it shall dismiss this case without prejudice for lack of activity for six (6) months or more. Absent a showing of good cause in writing by any party within that time period, the Court shall close this file on April 1, 2002.

*In the Interest of Readonna Lei Wilson, by Violet Vilbaum v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 00-44 Order (Partial Release of ITF Monies) (HCN Tr. Ct., Feb. 28, 2002). (Matha, T.)

[For summary, see [Incompetent's Trust Fund \(ITF\)](#) within this index.]

## Election Challenges

**FEBRUARY 4, 2002**

*Dion W. Funmaker, Tribal Enrollment No. 439A000850 v. Ho-Chunk Nation; Ho-Chunk Nation Pres. Troy Swallow; Ho-Chunk Nation Legislators: Wade Blackdeer, Elliot Garvin, Clarence Pettibone, Tracy Thundercloud, Dallas Whitewing, Gerald Cleveland, Sr., Christine Funmaker-Romano, Myrna Thompson, George Lewis, Kathyleen Lonetree-Whiterabbit, and Sharyn Whiterabbit in their official capacity and as*

*individuals of the Legislature; and Ho-Chunk Nation Election Bd.: Vaughn Pettibone, James Seymore, Wilma Thompson, Brandee Alderman, Ruth Decorah, Jo Ann Baker, Tayra Blackdeer, Ermon Dick, Michele DeCora, Winona Funmaker and Mary Ellen Dumas in their official capacity and as individuals of the Election Bd.; and Demetrio D. Abangan, Tribal Enrollment No. 439A000001 v. Ho-Chunk Nation Election Bd. in their official capacity; and Stewart J. Miller, Tribal Enrollment No. 439A002566 and Brenda Neff, Tribal Enrollment No. 439A002134 v. Ho-Chunk Nation Legislature Members: Elliot Garvin, Clarence Pettibone, Tracy Thundercloud, Wade Blackdeer, Dallas Whitewing, Gerald Cleveland, Sr., Christine Funmaker-Romano, Myrna Thompson, George Lewis, Kathyleen Lonetree-Whiterabbit and Sharyn Whiterabbit in this official capacity and individually; and Ho-Chunk Nation Election Bd., CV 02-07, 08, & 10 Order (Preliminary Determination) (HCN Tr. Ct., Feb. 4, 2002). (Matha, T.)*

First, the plaintiff Dion Funmaker failed to appear or provide an explanation for his nonattendance at the hearing. The burden is upon the plaintiff to prove his case, and the Court is already on an expedited time line, thus, the Court dismissed Case No. CV 02-07.

Second, the Court struck the cause of action raised by plaintiff Miller in which he challenged the constitutionality of the redistricting plan on the ballot. This issue was decided previously and cannot be relitigated.

Third, the Court struck Exhibit E as it falls outside the Court's definition of relevant evidence.

Fourth, the Court dismisses the named Legislators as defendants as the allegations and the relief requested within the *Complaint* do not necessitate the retention of individually named Legislators as parties.

Finally, the Court required the parties to exchange *Exhibit Lists* by January 30, 2002, and stated the deadline for submission of subpoenas.

#### **FEBRUARY 12, 2002**

*Demetrio D. Abangan, Tribal Enrollment No. 439A000001 v. Ho-Chunk Nation Election Bd. in*

*their official capacity; and Stewart J. Miller, Tribal Enrollment No. 439A002566 and Brenda Neff, Tribal Enrollment No. 439A002134 v. Ho-Chunk Nation Election Bd., CV 02-08, 10 Order (Denial of Election Challenge) (HCN Tr. Ct., Feb. 12, 2002). (Matha, T.)*

The Court considered whether or not the defendants provided sufficient notice of the January 12, 2002 Special Election. The Court applied the "but-for" test enunciated in the ELECTION ORDINANCE, which mandates a clear and convincing showing of an ELECTION ORDINANCE violation or an unfairly conducted election, and that the outcome of the election would have been different but for the violation.

As to the first prong of the test, the Court held that the plaintiffs satisfied the requirement of a "clear and convincing showing of an ELECTION ORDINANCE violation." The Election Board did not provide meaningful notice to the voters. The defendants did not allow for the delayed mailing of the *HocOk Worak* because of the holiday season. In addition, there was a significant period of time in between the time when the Court approved the redistricting plan and when the Election Board actually published the notice, therefore, notice could have been given sooner or the defendants could have guaranteed notice in other ways.

The Court held that although notice was insufficient, the plaintiff did not prove that but for that deficiency the results would have been different. This would have required that the plaintiffs produce at least 93 voters that would have voted against Scenario E. The plaintiffs were unable to produce testimony by a sufficient number of voters. The Court cannot infer that simply because notice was deficient, that the voters would have voted another way had they had the opportunity.

#### **Incompetent's Trust Fund**

#### **JANUARY 29, 2002**

*In the Interest of: Alice H. Funmaker, by Kenneth Freitag v. Ho-Chunk Nation Office of Tribal Enrollment., CV 01-148 Order (Releasing ITF*

*Funds to Estate*) (HCN Tr. Ct., Jan. 29, 2002). (Butterfield, M.)

The Court released the remaining monies in the decedent tribal member's ITF to her estate. The personal representative and the attorney for the estate are responsible for the proper distribution of those monies as administrators of the estate.

**JANUARY 31, 2002**

*In the Interest of: Norma Whitebear, by Cecilia Rave v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-125 Order (Accepting Accounting and Granting Release of ITF Monies)* (HCN Tr. Ct., Jan. 31, 2002). (Butterfield, M.)

The Court accepted the petitioner's accounting in part and requested a *Hearing on Accounting* on the remaining monies. In addition, the Court allowed the petitioner to use remaining funds to pay for the property taxes owed for a parcel owned by the ward.

**FEBRUARY 13, 2002**

*In the Interest of the Decedent: Mercedes Blackcoon, DOB 01/29/31 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 02-03 Order (Releasing ITF Monies to Estate)* (HCN Tr. Ct., Feb. 13, 2002). (Matha, T.)

The Court released the remaining monies in the decedent tribal member's ITF to her estate. The personal representative for the estate is responsible for the proper distribution of those monies as administrator of the estate.

*In the Interest of Kathy Brandenburg-Miller, by Phyllis Smoke v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-18 Order (Granting Release of ITF Monies)* (HCN Tr. Ct., Feb. 13, 2002). (Butterfield, M.)

La Crosse County Human Services Department submitted a detailed report apprising the Court of the ward's current status. In addition, the Court granted the release of ITF monies to help pay for medication and medical co-pays to which there was no tribal, state or federal entitlement; personal hygiene products; clothing, haircuts, etc.; money to pay the ward's former landlord for damages to the

apartment; and money to pay court costs and fines owed to the Department of Corrections.

**FEBRUARY 21, 2002**

*In the Interest of: Norma Whitebear, by Cecilia Rave v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-125 Order (Accepting Accounting)* (HCN Tr. Ct., Feb. 21, 2002). (Butterfield, M.)

As the petitioner adequately explained the expenditures made with the released ITF monies at the *Hearing on Accounting*, the Court accepted this accounting.

**FEBRUARY 25, 2002**

*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 ITF Monies)* (HCN Tr. Ct., Feb. 25, 2002). (Butterfield, M.)

The Court accepted the petitioner's timely accounting for ITF monies previously released by the Court; and grants a partial release of ITF monies for the petitioner's most recent requests.

**FEBRUARY 26, 2002**

*In the Interest of Berdine Littlejohn, by Shari Marg v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-14 Order (Partial Release of ITF Monies)* (HCN Tr. Ct., Feb. 26, 2002). (Matha, T.)

The Court granted the release of ITF funds in part. As the Court routinely grants such requests, it granted the release of monies for furniture for the ward. As the petitioner had not yet shown there is not a reliable family vehicle available, the Court requires additional information as to the release of monies for a car. In addition, should the Court grant the release of monies for a car, it shall require Property and Procurement to find a suitable car using the minimum three bid process.

**FEBRUARY 28, 2002**

*In the Interest of Readonna Lei Wilson, by Violet Vilbaum v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-44 Order (Partial Release of ITF Monies)* (HCN Tr. Ct., Feb. 28, 2002). (Matha, T.)

The Court granted a partial release of ITF monies to satisfy the petitioner's request for a washer/dryer, computer/software, travel allowance, clothing, television, microwave, toaster, and SSI reimbursement, as these are all expenditures routinely granted by the Court. The Court conditionally denied the remaining requests for collector dolls, telephone/answering machine and Housing Authority reimbursement. The Court requested additional information on these remaining requests as follows: collector dolls: the request must be necessary for the health, education and welfare of the ward; telephone/answering machine: the Court had previously released monies for one of the requests; and housing authority reimbursement: the Court cannot grant a request for which there may be a state of federal entitlement and thus, requires additional information.

## Juvenile

### JANUARY 17, 2002

*In the Interest of the Minor Child: S.M.D., DOB 11/01/86, JV 01-21 Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Jan. 17, 2002). (Matha, T.)

### JANUARY 18, 2002

*In the Interest of Minor Child: J.R., DOB 12/15/92; In the Interest of Minor Child: J.R., DOB 01/09/95; In the Interest of Minor Child: J.H., DOB 01/20/96; and In the Interest of Minor Child: R.W.H., DOB 04/13/01, CU 93-03, CU 95-18, JV 97-10, JV 01-09 Order (Establishment and Modification of Child Support-Redacted Version)* (HCN Tr. Ct., Jan. 18, 2002). (Matha, T.)

### JANUARY 23, 2002

*In the Matter of the 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.K.B., DOB 03/29/96, JV 98-05, 06, 07, 08, 09 Minute Order Six Month Review* (HCN Tr. Ct., Jan. 23, 2002). (Butterfield, M.)

### JANUARY 24, 2002

*In the Interest of Minor Child: J.J.C., DOB 09/09/86, JV 01-12 Order (Child Protection Review Hearing)* (HCN Tr. Ct., Jan. 24, 2002). (Matha, T.)

### JANUARY 29, 2002

*In the Interest of Minor Child: L.E.C., DOB 10/12/90, JV 01-22 Order (Appointment of Guardian ad Litem)* (HCN Tr. Ct., Jan. 29, 2002). (Butterfield, M.)

### FEBRUARY 4, 2002

*In the Interest of Minor Child: L.E.C., DOB 10/12/90, JV 01-22 Order (Denying Motion to Dismiss)* (HCN Tr. Ct., Feb. 4, 2002). (Butterfield, M.)

One of the interested parties moved for a dismissal as she had already initiated a Petition for Adoption in a state court. The Court denied the *Motion* because under the ICWA and the Hoc<sup>o</sup>k CHILDREN'S CODE, the Court has concurrent jurisdiction. Also, the petition for guardianship in this Court was "first in time." The important issues raised in this case involving the welfare of an Indian child are issues, which this Court has jurisdiction to address.

*In the Interest of Minor Child: T.F., DOB 12/25/91, JV 97-01 Order (Granting Temporary Legal Guardianship)* (HCN Tr. Ct., Feb. 4, 2002). (Butterfield, M.)

The Court granted temporary legal guardianship to the non-Indian maternal grandparents. Although the placement does not follow the Indian preference requirements set out in the ICWA, the mother of the child only recently learned of her Hoc<sup>o</sup>k heritage; the maternal grandparents have made great efforts to keep the child in full contact with the mother and to acquaint the child with his Hoc<sup>o</sup>k heritage, including enrolling him in language classes. Therefore, the Court found this to be a suitable temporary placement at this time.

## **FEBRUARY 5, 2002**

*In the Matter of the 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.K.B., DOB 03/20/96, JV 98-05, 06, 07, 08, 09 Notice (Change of Hearing Date) (HCN Tr. Ct., Feb. 5, 2002). (Butterfield, M.)*

## **FEBRUARY 19, 2002**

*In the Matter of the Children: D.J.D., DOB 04/04/92, N.L.D., DOB 10/03/93, JV 97-11, 12 Order (Requiring Compliance with January 9, 2002 Dispositional Order) (HCN Tr. Ct., Feb. 19, 2002). (Butterfield, M.)*

## **Pregnancy Discrimination**

*Julie Nakai v. Ho-Chunk Nation, CV 01-26 Supplemental Order (Requiring Further Briefing) (HCN Tr. Ct., Feb. 21, 2002). (Butterfield, M.)*

As this case raised important questions of first impression, the Court required further briefing on several issues such as whether or not the Nation waived its sovereign immunity by requiring itself to “abide by and carry out” the Federal Equal Employment Opportunity Act in its Personnel Manual; and what test the Court should apply in pregnancy discrimination claims.

## **Supreme Court**

### **FEBRUARY 15, 2002**

*Regina K. Baldwin v. Ho-Chunk Nation; Andrea L. Estebo v. Ho-Chunk Nation, Home Ownership Prog., Steve Davis as Real Estate Mgr., and Alvin Cloud as Hous. Dir.; Carolyn J. Humphrey v. Ho-Chunk Nation, Alvin Cloud, as Hous. Dir. And Bob Pulley, as Prop. Mgr., SU 02-01 Order Denying Appeal (HCN S. Ct., Feb. 15, 2001). (Hunter, M., Cleveland, R., and Greengrass, D.)*

The Supreme Court ruled that the Trial Court was within its scope of authority to extend the discovery period to bring forth further facts in order to render a final judgment in this case.

# **Recent Filings**

## **Trial Court**

### **Child Support**

#### **FEBRUARY 11, 2002**

*Denise Thury v. Ira Laes, CS 02-07. (Assigned to Matha, T.)*

### **Civil Cases**

#### **FEBRUARY 11, 2002**

*Ho-Chunk North, Div. of Ho-Chunk Nation Dep’t of Bus. and Ho-Chunk Nation v. Wayne’s Transport, Inc., Wayne’s Trucking, CV 02-14. (Assigned to Matha, T.)*

*In the Interest of Roger Houghton, Jr., DOB 12/19/81 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 02-15. (Assigned to Matha, T.)*

#### **FEBRUARY 18, 2002**

*In the Interest of R.T., DOB 01/09/85, by Roger Thundercloud v. Ho-Chunk Nation Office of Tribal Enrollment, CV 02-16. (Assigned to Matha, T.)*

*Dorothy Decorah v. Kim Whitegull, CV 02-17. (Assigned to Matha, T.)*

#### **FEBRUARY 22, 2002**

*Ho-Chunk Nation Dep’t of Hous., Prop. Mgmt. Div. v. Ashley John Decorah, CV 02-18. (Assigned to Matha, T.)*

*Ho-Chunk Nation Dep’t of Hous., Prop. Mgmt. Div. v. Sandy Scott and Denise Saul, CV 02-19. (Assigned to Matha, T.)*

*Ho-Chunk Nation Hous. Auth. v. Lori Koster, CV 02-20. (Assigned to Matha, T.)*

*Ho-Chunk Nation Prop. Mgmt. v. Judy Whitehorse Hillmer, CV 02-21. (Assigned to Matha, T.)*

# The Reappointment Process

Continued from page 1

**MARCH 4, 2002**

*In the Interest of A.L., DOB 04/06/85, by Tammy Littlebear v. Ho-Chunk Nation Office of Tribal Enrollment, CV 02-22. (Not yet assigned)*

*Kay Kelbis v. Majestic Pines Casino, CV 02-23. (Assigned to Matha, T.)*

## Juvenile

**FEBRUARY 15, 2002**

*S.V.P., DOB 11/06/96, JV 02-02. (Assigned to Matha, T.)*

## Supreme Court

**JANUARY 21, 2002**

*Demetrio D. Abangan v. Ho-Chunk Nation Election Bd.; and Steve Miller v. Ho-Chunk Nation Election Bd., SU 02-02.*



### OPA Board Position Remains Open

In the February 2002 Court Bulletin, the Office of Public Advocacy (OPA) Board sought letters of interest from Ho-Chunk Nation Bar Association Members who wished to serve on the OPA Board. The position remains open at this time, and the Board would, again, like to request interested Bar members to submit letters of interest by U.S. Mail or e-mail.

The position is for a two (2) year term. The purposes of the Board are to oversee the operations of the Office of Public Advocacy and to ensure that the OPA fulfills its mission of assisting Ho-Chunk Nation members, employees and other persons in using the Ho-Chunk Nation Courts to obtain legal assistance and in educating the Ho-Chunk community on their legal rights and opportunities. The Board meets at least twice a year, and may call special meetings as needed.

For a copy of the OPA by-laws contact the OPA Supervisor, Anetra Parks at (800) 434-4070 or (715) 284-2722. Please submit your letter of interest by April 1, 2002, to the following address: Ho-Chunk Nation Court System, PO Box 70, Black River Falls, WI 54615, or by e-mail to: [Aparks@ho-chunk.com](mailto:Aparks@ho-chunk.com).

incumbent unaware of what arrangements to make in his or her own personal life. This is fundamentally unfair. A Judge is left dangling because unlike a Legislator or other official, he or she may serve until replaced. If the Legislature anticipates retaining a judge, then he or she should know that *prior to the end* of his or her term. If the judge is not retained, then he or she deserves the opportunity to seek employment elsewhere. In the current situation, the incumbent judge is left in a quandary of: "Do I look for a job elsewhere when I would really rather stay here and risk the impression of dissatisfaction or disloyalty? Or do I continue business as usual and risk the adverse and harmful impact associated with termination of employment?" It is a no-win situation.

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*"The appointment process to the HCN Trial Court bench is broken."*

---

Judges are in a peculiar ethical position because they are ethically prohibited from looking for work among law firms whose attorneys appear before the Court, but it is precisely those firms that recognize whether the judge/attorney is a highly qualified individual or potential employee. To seek employment in such a firm would mean that the judge/applicant would have to exclude him or herself from ever hearing a case handled by that law firm, which could cripple their ability to do the work on the bench while waiting to hear from the Legislature. Judges are likewise ethically barred from lobbying individual Legislators for reappointment, while candidates seeking appointment outside the system are unaware of such a limitation.

### This writer suggests two cures:

First, considering the importance of the position, the need for continuity in the judicial process and the importance of connections to the wider legal community, the HCN Legislature should first publicize that it will be sending surveys to all

members of the HCN Bar, a select group of litigants whom have appeared before the incumbent and a random selection of the Ho-Chunk public. The surveys should ask for specific ratings on a 1-5 scale from excellent to poor on all important component parts of how the judge performed: knowledge of the law; knowledge of Ho-Chunk culture, history, custom and tradition; empathy, fairness, impartiality, demeanor etc., including providing all respondents the opportunity to make extended comments. If the overall rating is three and above, the incumbent should be retained. If not, the judge should be informed that the rating was unfavorable and the Legislature will seek applicants from all qualified candidates.

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*A judge for the Ho-Chunk Nation Court System should have knowledge of the law, as well as a knowledge of Ho-Chunk culture, history, custom and tradition. . . A judge should be aware of the community and reflect its values.*

---

Moreover after an initial panel rates the top candidates they too should be rated by those that know their work and feel the candidate is considered a good prospect to be a judge. Under this scheme the incumbent would know whether they are likely to be retained before the term expires and the decision to nominate a particular candidate is made in a less political manner. This of course would improve the perception that the Legislature is not nakedly attempting to manipulate the process to pick a friend, relative or crony.

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*Reform may involve an amendment to the Constitution.*

---

The second suggestion involves removing Legislative selection by amending the HCN Constitution to provide for direct election of Trial

Judges. The State functions in this manner. It insures that Judges are known to the public and, therefore, more likely to be aware of the community and reflect its values. The downside is this option would require a Secretarial Election and yet more elections by the public who may feel that there are already too many elections. If there was a change to an election system, the terms of Judges would have to be changed to coincide with already existing Legislative elections to reduce the cost and improve stability in the position, which is only for three years. The current three-year term is the shortest among all elected and appointed officials in the Ho-Chunk Nation. Even Gaming Commissioners are appointed for four-year terms. Increasing the length of the judicial term will also help insulate judicial selection from the more overt political attempts to undermine the independence and integrity of the Courts.

These are suggestions designed to open debate among the bar, Legislature and HCN public to improve the process. No matter what happens, the Court is here to stay, and it is time for the Legislature to recognize this fact and endeavor to improve the system to better serve the Ho-Chunk people instead of undermining its effectiveness by failing to fill terms in a timely manner.



**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 . . . . . \$0.25/per page (sending and receiving)
- Tapes of Hearings . . . . . \$10.00/per tape
- CD of Hearing . . . . . \$12.50/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  
W9598 HWY 54 EAST  
PO BOX 70  
BLACK RIVER FALLS, WI 54615

# HO-CHUNK NATION COURT BULLETIN

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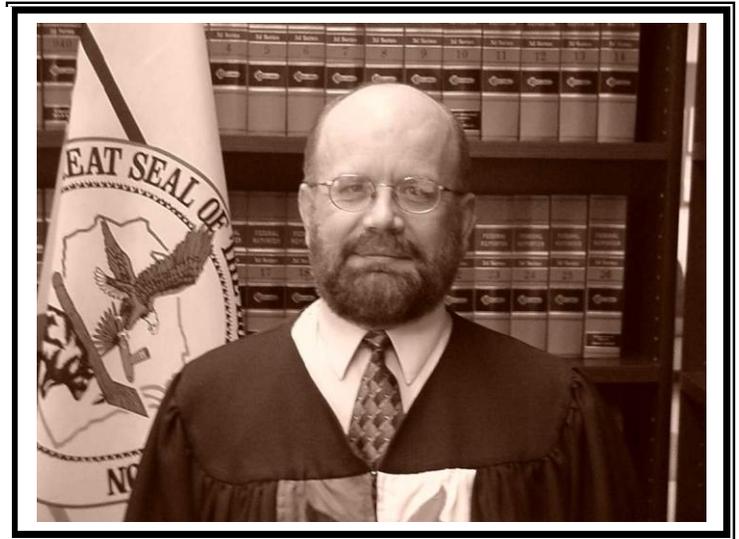
Ho-Chunk Nation Court System  
W9598 Hwy 54 East  
P.O. Box 70  
Black River Falls, WI 54615  
(715) 284-2722  
(800) 434-4070  
[http://www.ho-chunknation.com/  
government/courts.htm](http://www.ho-chunknation.com/government/courts.htm)

## Legislature Appoints New Chief Judge

See Story "Recent Changes in HCN Court System" on Page 17

Chief Trial Court  
Judge **William  
Bossman**. Picture  
taken on Friday,  
April 26, 2002, in  
the law library of  
the Ho-Chunk  
Nation Court  
House located in  
Black River Falls,  
WI. The Ho-  
Chunk Nation flag  
hangs in the  
background.

*Full Story on page 17*



## Todd Matha Reappointed as Associate Trial Court Judge

See Story "Recent Changes in HCN Court System" on Page 17



Chief Justice of the HCN  
Supreme Court **Mary Jo  
Hunter** administers the  
oath of office for newly  
reappointed Trial Court  
Judge **Todd R. Matha** at  
the Swearing-In Ceremo-  
ny on Thursday, May  
2, 2002. The Ceremony  
took place in the Execu-  
tive Building of the Ho-  
Chunk Nation. The eagle  
staff and the flag of the  
United States are posted in  
the background.

*Full Story on page 17*

# PART II: A SURVEY OF CHILDREN'S TRUST FUND (CTF) CASES

By Associate Trial Judge Todd R. Matha

*Editor's Note: In the last two Court Bulletins, the author wrote an "Introduction to Trust Fund Accounts and Why we Have Them" and "Part I: A Survey of Children's Trust Fund (CTF) Cases." In the Introduction, the author gave a background on trust funds; the relevant law; how to petition the Court; and what test the Court would apply. In Part I, the author conducted a survey of the CTF cases which involved the trust fund accounts of children fifteen years old and under. The previous two articles should be read in conjunction with this article, which shall constitute part two in a series of four.*

*In this article, the author surveys all the Children's Trust Fund (CTF) cases involving requests for children over the age of sixteen (16) years up through the age of twenty-five (25) years. These cases are distinct from CTF requests involving children under the age of sixteen (16) years in that the former are young adults whose money remains in trust because they have yet to fulfill the graduation requirement set out in the PER CAPITA DISTRIBUTION ORDINANCE. Next month, the author shall survey the Incompetent's Trust Fund (ITF) cases*

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*The author of this article, Judge Matha, is a Ho-Chunk Nation tribal member and a graduate of the University of Minnesota Law School. He has served on the Ho-Chunk Nation Trial Court bench as an Associate Judge since April 12, 1999. Prior to that time, Judge Matha was an attorney with the Ho-Chunk Nation Department of Justice. Judge Matha was recently reappointed for a second three-year term (see article on page 17 and photographs on pages 1 and 22 through 24 of this BULLETIN).*

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In this installment, the Court will provide an overview of the cases in which it considered a release of Children's Trust Fund ("CTF") monies on behalf of children sixteen (16) years of age to young adults twenty-five (25) years of age. The Court examined each decision contained in the case

indexes to produce this summary.<sup>1</sup> The ordering of the below categories corresponds with the volume of requests received in each such category.

The Court included sixteen (16) and seventeen (17) year age children in this class since a parental request on behalf these high school age minors is ostensibly a personal request. The parent assumes the role of petitioner in order to fulfill the formal statutory requirement,<sup>2</sup> but otherwise presents the request of the minor and not the parent. Other reasons also exist for distinguishing these cases, such as: 1) the justifiable expectation that the minor hold part-time academic year and/or full-time summer employment, 2) the minor's possession of a driver's license, and 3) the relatively short period of time before the minor will receive the balance of the CTF.



Unfortunately, not every minor timely receives the balance of his or her CTF due to a failure to earn a high school diploma.<sup>3</sup> The Legislature erected this additional requirement in response to an actual and/or perceived drop in the graduation rate of Ho-Chunk youth.<sup>4</sup> "Therefore, the Court must not undermine such intent by unduly approving releases from the CTF of adult members who have failed to attain a high school diploma. Otherwise, the Court would strip the legislation of its only inducement, *i.e.*, no high school diploma, no CTF."<sup>5</sup> Readers should remain cognizant of the heightened scrutiny applied in the adult cases contained within the following overview.

## Automobiles:

In 2001, the Supreme Court of the Ho-Chunk Nation directed the Court to "formulate a test [for automobile requests] that can be applied equally, based on the facts of each case."<sup>6</sup> In response, the Court articulated the following:

The Court shall only grant a release of CTF monies for the purchase of an automobile if the petitioner cannot supply such a necessity, provided necessity is shown, because of unforeseeable and/or unusual circumstances, i.e., factors that prove beyond the control of an otherwise reasonably responsible parent or individual.<sup>7</sup>

This standard now guides the Court's inquiry in every CTF case, and consequently the Court has not granted any automobile requests in this age category since its pronouncement.<sup>8</sup> Concerning adult requests in particular, the Court also must uphold the aforementioned legitimate policy decision of the Legislature. "If the Court were to grant early CTF releases for vehicles to individuals aged eighteen (18) to twenty-five (25) that have not attained a high school education, the Court would render this policy practically meaningless."<sup>9</sup>



Prior to the Court's adoption of the above standard, the Court had only twice granted releases of CTF monies for the purpose of purchasing either a new or used vehicle.<sup>10</sup> In the most recent case, the petitioner would have satisfied the standard based on the following factors: 1) the age of the minor child, seventeen; 2) the absence of the father during the life of the minor child, and the lack of any child support despite efforts to collect by the State of Wisconsin; 3) the minor child's support of the family, D.J.P. and the mother, during the mother's prolonged incapacity; 4) the decision of the minor child to pursue a high school education through computer correspondence in order to provide for the family; 5) the minor child's anticipated receipt of a high school diploma in Spring 2001; 6) the lack of reliable transportation; and 7) the necessity of a vehicle for transportation of the minor child *and the mother* to and from work for purposes of sustaining the household.<sup>11</sup> The Court commended the minor child's voluntary

assumption of such a tremendous amount of responsibility for the preservation of the family unit.<sup>12</sup> Furthermore, the Court disallowed the initial automobile request, requiring the petitioner to locate a modest, reliable used vehicle.<sup>13</sup>



In the other case, the Court granted a release in the modest amount of \$2,575.00 for the purchase of a vehicle and payment of insurance, registration and title fees.<sup>14</sup> The minor member had married and had a child.<sup>15</sup> The family received public assistance, and the mother intended to return to high school.<sup>16</sup> Despite the minor's financial condition, the Court would most likely decline the request if adjudged under the new standard and the petitioner alleged no additional facts pertaining to concrete educational necessity (*i.e.*, proof of enrollment and lack of public transportation).<sup>17</sup>

The Court has denied every other automobile purchase request,<sup>18</sup> but did grant loan repayment assistance on one occasion.<sup>19</sup> The Court released an amount of \$5,000.00 to satisfy the outstanding balance on a 1994 Chevy Lumina.<sup>20</sup> The adult petitioner needed the automobile to attend his senior year in high school in an adjacent school district. The petitioner voluntarily left the Wisconsin Dells School District because of actual and/or perceived discrimination, and, therefore, could not utilize the school bus service.<sup>21</sup> Also, the petitioner's parents each lacked a valid Driver's License.<sup>22</sup> While these facts present a close case, the decision would likely be sustainable when considered in conjunction with the present educational policy, since the petitioner chose to remain in school.

## Attorney's Fees and Legal Fines:

On one occasion, the Court permitted a release of funds in the amount of \$1,500.00 for the purpose of retaining counsel in a state criminal proceeding.<sup>23</sup> The minor child faced adult criminal charges in the State of Florida, and had received representation through the Public Defender's Office. However, as trial quickly approached, the assigned attorney failed to appear at scheduled hearings.<sup>24</sup> Two essential facts ultimately swayed the Court's opinion: 1) the occurrence of the trial within four days of the Court's hearing, and 2) the anticipated receipt of the CTF balance by the minor within approximately two months.<sup>25</sup>

The Court did not have the opportunity to fully familiarize itself with the appointment of counsel process in the preceding case. Regardless, the *Layman* decision proves troublesome in that the Court did not focus upon an indigent individual's constitutional right to counsel.<sup>26</sup> In the State of Wisconsin, the State Public Defender's Office will appoint criminal counsel after a determination of indigency, but may require the payment of a nominal sum to receive the entitlement.<sup>27</sup> The accused may request a second public defender, but not a third. After exhausting the resources provided by the Public Defender's Office, the District Judge will appoint counsel utilizing county funds.<sup>28</sup> Therefore, the state entitlement to criminal counsel will serve as a bar against accessing CTF monies because a petitioner would not be able to satisfy the exhaustion requirement.<sup>29</sup>

One parent successfully petitioned the Court for a CTF release for the purpose of paying restitution resulting from the delinquent acts of the minor child.<sup>30</sup> Pursuant to Wis. Stat. § 938.34(5)(a-c), the State District Court imposed sole financial responsibility on the juvenile offender, and a failure to pay the restitution would have resulted in a juvenile detention placement.<sup>31</sup> Consequently, the Ho-Chunk Nation Social Services Department interceded on behalf of the minor, arguing that the

minor's education and welfare would be detrimentally impacted if sent to such a facility.<sup>32</sup> The Court, however, declined to grant the release without attaching conditions. "The Court deem[ed] it a disservice . . . to merely provide restitution from a CTF with which the child . . . h[eld] no tangible connection. Therefore, the Court . . . require[d] . . . community service and . . . counseling from the Ho-Chunk Nation Traditional Court."<sup>33</sup>

The Court denied a later request to release CTF monies to pay for damages arising from a minor's negligent operation of a motor vehicle.<sup>34</sup> As distinguished from the above case, the State District Court determined the mother and child jointly and severally liable under Wis. Stat. § 343.15(2)(b).<sup>35</sup> The Court accordingly declined to satisfy a personal debt shared equally by the parent.



## Housing and Related Expenses:

As noted in the earlier installment, the Court has never granted a release of a minor's CTF monies for either a home purchase or mortgage or rental payments, and this statement proves equally true in the context of this category of cases.<sup>36</sup> The Court has granted limited assistance to a minor married member in the form of a CTF release for household repairs.<sup>37</sup> However, the Court would unlikely grant such a request in the future because of the principled stance that has subsequently developed against these types of expenditures. A child who essentially chooses to emancipate from his or her parents must do so while fully assuming the responsibilities associated with that choice.

## Childcare Expenses:

The Court confronts an interesting situation when the possessor of a CTF has a child. The Court always has stressed the inherent responsibility of a parent to provide for the basic needs of his or her

child(ren).<sup>38</sup> And, this responsibility is not diminished by the fact that the parent is a minor and/or remains dependent upon his or her parent(s). In such cases, the Court has demonstrated a willingness to release CTF monies for the purchase of childcare necessities provided that the petitioner can prove exhaustion of other available resources.<sup>39</sup> The Court also has granted burial expenses connected with the unfortunate death of a newborn.<sup>40</sup>



## Miscellaneous:

The Court also infrequently encounters various other requests. Like all CTF cases, the Court only grants those *Petitions* which satisfy the standard set forth in the PER CAPITA DISTRIBUTION ORDINANCE. In this regard, the Court has granted releases for the following expenditures: a computer,<sup>41</sup> an outstanding telephone bill<sup>42</sup> and eyeglasses.<sup>43</sup> Alternatively, the Court has denied requests for high school graduation expenses,<sup>44</sup> a high school class ring<sup>45</sup> and immigration costs for a minor's husband.<sup>46</sup>



<sup>1</sup> Any individual may view the Court's public compilation of judicial decisions maintained in the library located in the Tribal Court Building in Black River Falls, WI. The public may also access case files and courtroom minutes. The only blanket exception to this open records policy concerns confidential juvenile proceedings.

<sup>2</sup> "[A] written request must be submitted to the Nation's Tribal Court by the beneficiary's parent or legal guardian . . ." PER CAPITA DISTRIBUTION ORDINANCE, § 6.01(b).

<sup>3</sup> "The trust assets of each such account maintained for a minor shall be disbursed to the Member-beneficiary thereof upon the earlier of (i) said Member-beneficiary meeting the dual criteria of (a) reaching the age of eighteen (18) and (b) producing evidence of personal acquisition of a high school diploma to the Enrollment Department (HSED, GED or any similar substitute shall not be acceptable), or (ii) the Member reaches the age of twenty-five (25) . . ." *Id.*, § 6.01(a).

<sup>4</sup> See *Marvel J. Cloud v. HCN Office of Tribal Enrollment*, CV 01-34 (HCN Tr. Ct., July 10, 2001) at 9; *In the Interest of*

*Minor Children: V.D.C., DOB 10/03/84 et al.*, by *Debra Crowe v. HCN Office of Tribal Enrollment*, CV 00-25 (HCN Tr. Ct., Apr. 6, 2001) at 9 n.1.

<sup>5</sup> *In the Interest of Adult CTF Beneficiary: Renata White, DOB 02/27/81 v. HCN Office of Tribal Enrollment*, CV 01-75 (HCN Tr. Ct., Oct. 16, 2001) at 10; see also *Chauncy P. Wilson v. HCN Office of Tribal Enrollment*, CV 99-47 (HCN Tr. Ct., Sept. 10, 1999) at 6-8.

<sup>6</sup> *In the Interest of Minor Children: V.D.C., DOB 10/03/84, et al. by Debra Crowe v. HCN Office of Tribal Enrollment*, SU 00-09 (HCN S. Ct., Oct. 12, 2000) at 6.

<sup>7</sup> *Crowe*, CV 00-25 at 14.

<sup>8</sup> *Cloud*, CV 01-34.

<sup>9</sup> *Id.* at 9.

<sup>10</sup> *In the Interest of Minor Child: D.J.P., DOB 07/26/83, by Loretta Patterson v. HCN Office of Tribal Enrollment*, CV 00-47 (HCN Tr. Ct., July 28, 2000).

<sup>11</sup> *Id.* at 5-8.

<sup>12</sup> *Id.* at 8.

<sup>13</sup> See *Fact-Finding Hearing*, CV 00-47 (Courtroom Log/Minutes, June 27, 2000) at 11-12.

<sup>14</sup> *In the Interest of Jessica Loreda by Mary Decorah v. HCN Enrollment Dep't*, CV 96-76 (HCN Tr. Ct., Jan. 30, 1997) at 4.

<sup>15</sup> *Id.* at 2.

<sup>16</sup> *Id.* at 2-3.

<sup>17</sup> Likewise, the Court would have denied a similarly situated petitioner's request for automobile repairs and insurance if weighed under the prevailing standards. See *In re: Julia Hare York by Walter I. Hare v. HCN Enrollment Dep't*, CV 96-38 (HCN Tr. Ct., Oct. 9, 1996). The minor married while still attending high school. *Id.* at 2. She received transportation to and from school, and qualified for free lunches. *Id.* at 3, 5. The husband primarily "utilize[d] the pickup to go to work in the Oklahoma oil fields sometimes over a hundred miles away." *Id.* at 2. Otherwise, the minor used the vehicle to run miscellaneous errands. *Id.* at 5. These facts simply do not establish either an educational or welfare necessity. A minor's voluntary decision to wed cannot guarantee easier access to a CTF account.

<sup>18</sup> *In the Interest of S.A.T., DOB 02/10/82, by Stuart Taylor, Sr. v. HCN Office of Tribal Enrollment*, CV 00-95 (HCN Tr. Ct., Dec. 28, 2002) (finding an absence of necessity since the adult petitioner could either use public transportation or walk to get to work); *In the Interest of Minor Child: Z.A.M., DOB 01/22/84, by Celena Mitchell v. HCN Office of Tribal Enrollment*, CV 00-18 (HCN Tr. Ct., May 22, 2000) (failing to prove necessity by alleging that a vehicle would diminish the burden of transporting child to and from extracurricular activities and part-time employment); *In the Interest of Minor Child: A.N., DOB 06/19/82, by Lucinda Naquayouma v. HCN Office of Tribal Enrollment*, CV 00-20 (HCN Tr. Ct., Apr. 3, 2000) (denying automobile request of expectant mother since a personal vehicle would serve only to address potential inconveniences or speculative necessities); *In the Interest of*

*Minor Child: R.E.C., DOB 09/15/82, by Excilda Bird v. HCN Office of Tribal Enrollment*, CV 99-67 (HCN Tr. Ct., Dec. 13, 1999) at 11 (conditionally denying request due to petitioner's failure to provide the minimum initial documentation required to justify a vehicle purchase: 1) evidence of either unreliable or inadequate transportation; 2) copy of valid Driver's License; 3) model, make and year of vehicle; 4) odometer reading; 5) sales quotation, including registration, fees and taxes; 6) Vehicle Identification Number (VIN); 7) photographs of the vehicle; 8) Kelley Blue Book value; and 9) insurance quotation – minimum state liability standards).

<sup>19</sup> *John S. Cloud, III v. HCN Enrollment*, CV 99-23 (HCN Tr. Ct., May 14, 1999); *but see Samantha Dyan Beale v. HCN Office of Tribal Enrollment*, CV 99-61 (HCN Tr. Ct., Aug. 23, 1999) (declining to pay-off the majority balance of a \$19,568.00 1998 Isuzu Rodeo allegedly purchased for transportation to and from GED classes in Denver, CO, although no evidence of enrollment presented to the Court).

<sup>20</sup> *Cloud*, CV 99-23 at 4.

<sup>21</sup> *Id.* at 2.

<sup>22</sup> *Id.*

<sup>23</sup> *In re: S.D.L., DOB 09/21/81, by Paul Layman v. HCN Enrollment Dep't*, CV 98-41 (HCN Tr. Ct., July 16, 1998).

<sup>24</sup> *Id.* at 2-3.

<sup>25</sup> *Id.* at 3-4.

<sup>26</sup> "In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence." U.S. CONST. amend. VI.

<sup>27</sup> The Court had approved payment of a \$500.00 fee in a first degree intentional homicide case as required by Chapter PD6 of the Wisconsin Administrative Code, but would likely refrain from such practice in the future since the fee is based on the accused's ability to pay. *See In the Interest of Minor Child: C.T.L., DOB 01/16/84, by Katherine R. Littlejohn v. HCN Office of Tribal Enrollment*, CV 01-81 (HCN Tr. Ct., July 23, 2001).

<sup>28</sup> Atty. Kim Heller-Marotta, Speech at the 2001 Annual Meeting of the Wisconsin Judicial Conference (Oct. 24-26, 2001).

<sup>29</sup> *See In the Interest of Minor Child: C.J.W., DOB 01/03/84, by Anne Johnson v. HCN Office of Tribal Enrollment*, CV 99-68 (HCN Tr. Ct., Oct. 8, 1999) at 7-8.

<sup>30</sup> *In the Interest of Minor Child: C.J.W., DOB 01/03/84, by Anne Johnson v. HCN Office of Tribal Enrollment*, CV 99-68 (HCN Tr. Ct., Oct. 8, 1999).

<sup>31</sup> *Id.* at 8.

<sup>32</sup> *Id.* at 6.

<sup>33</sup> *Id.* at 8.

<sup>34</sup> *In the Interest of Minor Child: S.D.S., DOB 04/25/83, by Michelle R. DeCora v. HCN Office of Tribal Enrollment*, CV 00-35 (HCN Tr. Ct., May 4, 2000).

<sup>35</sup> *Id.* at 6-7.

<sup>36</sup> *White*, CV 01-75; *Taylor, Sr.*, CV 00-95; *In the Interest of Z.W.F., DOB 02/27/82, by Wayne Falcon v. HCN Office of Tribal Enrollment*, CV 00-31 (HCN Tr. Ct., May 3, 2000).

<sup>37</sup> *York*, CV 96-38.

<sup>38</sup> *See e.g., In the Interest of Gary Alan Funmaker, Sr. v. Ho-Chunk Nation*, CV 96-39 (HCN Tr. Ct., Oct. 18, 1996).

<sup>39</sup> *Naquayouma*, CV 00-20; *Taylor Sr.*, CV 00-95; *In the Interest of Minor Child: S.S., DOB 07/30/82, by Sharon A. Porter v. HCN Office of Tribal Enrollment*, CV 99-76 (HCN Tr. Ct., Dec. 27, 1999); *but see In the Interest of M.L.T., DOB 03/14/81, by Anita Schneider v. HCN Enrollment Dep't*, CV 99-17 (HCN Tr. Ct., Apr. 20, 1999) (denying release prior to establishing paternity).

<sup>40</sup> *Hare*, CV 96-38.

<sup>41</sup> *Bird*, CV 99-67 (child graduated from high school at the age of sixteen and attended California State University - San Bernadino, majoring in Computer Science; Court also granted living expenses for a trimester due to problems experienced with financial aid); *In the Interest of Minor Child: N.J.O., DOB 02/19/84, by HCN CFS v. HCN Office of Tribal Enrollment*, CV 00-115 (HCN Tr. Ct., Jan. 24, 2001) (child participated in the Talented and Gifted Program as a senior in high school and anticipated attending college with the aspiration of becoming a doctor).

<sup>42</sup> *In the Interest of A.J.H., DOB 09/13/81, by Tara Snowball v. HCN Office of Tribal Enrollment*, CV 00-11 (HCN Tr. Ct., Mar. 20, 2000) (adult child had irresponsibly amassed excessive phone charges on parent's telephone, leaving family without a telephone when minor siblings oftentimes remained at home without adult supervision); *see also Hare*, CV 96-38.

<sup>43</sup> *In the Interest of Minor Child: J.K.W., DOB 01/18/82, by Joy A. Buck v. HCN Office of Tribal Enrollment*, CV 99-77 (HCN Tr. Ct., Dec. 23, 1999).

<sup>44</sup> *Schneider*, CV 99-17 (parental responsibility).

<sup>45</sup> *In the Interest of Minor Child: S.A.T., DOB 02/10/82, by Stuart Taylor, Sr. v. HCN Enrollment Dep't*, CV 97-131 (HCN Tr. Ct., Nov. 3, 1997) (lack of necessity).

<sup>46</sup> *Decorah*, CV 96-76.

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## Mark Your Calendars!

**HCN Court System Law Day:  
Friday, August 30, 2002**

**HCN Court System Fun Run:  
Saturday, August 31, 2002**

# 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

#### **MARCH 1, 2002**

*In re Support of: R.T.P., State of Wis./Adams Co. and Patricia Lynn Prado v. Marilyn R. White Rabbit-Prado*, CS 00-45 *Order (Suspending Support)* (HCN Tr. Ct., Mar. 1, 2002). (Butterfield, M.)

The petitioner filed an authenticated copy of an Adams County Circuit Court order terminating a previous court order which required the respondent to pay kinship care. Although the Court usually waits ten (10) days after the filing of a *Motion* to give the respondent an opportunity to respond, in the instant matter, an immediate grant of the *Motion* will not cause the respondent undo harm. Therefore, the Court ordered the suspension of withholding from the respondent's per capita distribution, as she no longer has a current child support/kinship care obligation.

#### **MARCH 5, 2002**

*Danae LaBarge v. Joseph Hackey; and State of Wis. and Agnes Shockto v. Joseph Hackey*, CS 99-35, 02-01 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Mar. 5, 2002). (Matha, T.)

The Court had to determine how to enforce two foreign child support orders against a serial payor's per capita distributions. The Court utilized equity and fairness, and the parties will share the maximum withholding of the respondent's per capita distribution allowed under Ho-Chunk Nation law. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*State of Wis., Sauk Co. and Eddie Fernandez v. Shannon Nicole Fernandez*, CS 02-05 *Order (Enforcing Child Support)* (HCN Tr. Ct., Mar. 5, 2002). (Butterfield, M.)

The petitioners sought enforcement of an underlying foreign child support order against the respondent's per capita distribution for current child support. The respondent exercised her right to a hearing. The Court entered a judgment in favor of the petitioner under the RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE and the CLAIMS AGAINST PER CAPITA ORDINANCE.

#### **MARCH 14, 2002**

*State of Wis. and Johnny W. Whitecloud a/k/a Johnny Whitecloud v. Patricia A. Hindsley*, CS 00-46 *Order (Proof of High School Enrollment Filed)* (HCN Tr. Ct., Mar. 14, 2002). (Matha, T.)

The petitioner timely filed proof of high school enrollment, indicating that one of the minor children who recently turned eighteen (18) years of age in that case is still entitled to child support as she is still attending a high school alternative education program. The child will graduate in June 2002 and, therefore, the Court continued the withholding until after the May 2002 per capita distribution. Beginning with the August 2002 per capita distribution, the Court ordered an amendment to the withholding for current child support to reflect an existing obligation for only two children instead of three.

**MARCH 18, 2002**

*Peggy Deere v. David Deere*, CS 98-23 Notice (Suspending Withholding for Current Child Support) (HCN Tr. Ct., Mar. 18, 2002). (Matha, T.) As the child turned eighteen (18) years old and the parties failed to file proof of high school enrollment, the Court ceased withholding for current child support. The petitioner had attempted to file a document with the Court, but it was not the original, it did not appear on school letterhead, and it did not comply with the FEDERAL RULES OF EVIDENCE, Rules 901 (b)(4) and 1002, regarding authentication and original documents. The Court staff alerted the petitioner as to what she needed to do to cure this deficiency. As the petitioner failed to file the required proof, the Court suspended withholding for current child support.

*Anthony Friday v. Andrea Friday*, CS 98-24 Notice (Case Closed) (HCN Tr. Ct., Mar. 18, 2002). (Bossman, W.)

As the respondent passed away on November 6, 2001, the Court closed this case and extended its sincere condolences to the friends and family of the respondent.

*William Murphy v. Cheryl Murphy*, CS 98-58 Order (Amending Enforcement) (HCN Tr. Ct., Mar. 18, 2002). (Bossman, W.)

As one of the minor children will turn eighteen (18) years old in May and the parties failed to file proof of high school enrollment, the Court shall amend the withholding for current child support after the May 2002 per capita distribution to reflect an existing obligation for only one child instead of two.

*Naomi A. Rich v. Wayne Whitman*, CV 97-156 Notice (Suspending Withholding for Current Child Support) (HCN Tr. Ct., Mar. 18, 2002). (Matha, T.) As the child will turn eighteen (18) years old in May and the parties failed to file proof of high school enrollment, the Court shall cease withholding for current child support after the May 2002 per capita distribution.

**MARCH 27, 2002**

*Dona Marinello v. Howard F. Pettibone*, CS 01-32 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Mar. 27, 2002). (Bossman, W.) The Court granted the respondent's counsel's Motion to appear by telephone at the March 27, 2002 Hearing.

**MARCH 28, 2002**

*Robert Greendeer v. Frederick K. Greendeer; State of Wis. on behalf of Mary Tribble v. Frederick K. Greendeer; State of Wis. v. Frederick K. Greendeer; and State of Wis. for Carol L. Miller v. Frederick K. Greendeer*, CV 97-02, 44, CS 98-32, 99-75 Order (Updating Arrearage Amount) and Orders (Requesting KIDS Account Statements) (HCN Tr. Ct., Mar. 28, 2002). (Bossman, W.)

The Court previously requested the petitioners to submit updated KIDS Account Statements so the Court could accurately assess and enforce respondent's child support arrears in the various cases. The petitioner in Case No. CV 97-02 filed a certified copy of the arrears account statement with a properly filed Motion. Therefore, the Court recognized and enforced that claim for arrears. The Court, once again, requested from the remaining petitioners a certified account statement of arrears. As the Court's records indicate that the respondent has satisfied all other arrears, it only enforced the arrears owing in Case No. CV 97-02 at this time.



*Jessica Stacy v. Joshua D. Cloud, Sr.*, CS 02-02 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Mar. 28, 2002). (Matha, T.)

The Court enforced an underlying state child support order against the respondent's per capita for current child support and arrears. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*In re the Marriage of Lee Stacy, State of Wis. v. Waldo Stacy*, CV 96-71 Order (Reinstating Child

*Support Withholding*) (HCN Tr. Ct., Mar. 28, 2002). (Bossman, W.)

The Court granted the petitioner's *Motion* to reinstate the withholding for child support for the May 2002 per capita distribution only. The petitioner filed the *Motion* subsequent to the Court issuing an *Order* to suspend support because the child turned eighteen (18) years old and the parties failed to file proof of high school enrollment or its equivalent within the prescribed time period. The Court treated this *Motion* as an objection to closing the file, making it timely filed, and reinstated the support for the May 2002 per capita distribution only, as the child will graduate that month.

#### **APRIL 3, 2002**

*State of Wis. on behalf of Simone Greyhair v. Gene Cloud; State of Wis. on behalf of Simone Greyhair v. Gene Cloud; State of Wis. on behalf of Rosalie Decorah v. Gene Cloud; and State of Wis. on behalf of Anna M. Ivkovich v. Gene Cloud*, CS 98-36, 37, 38, 02-06 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Apr. 3, 2002). (Matha, T.)

The Court had to determine how to enforce four foreign child support orders against a serial payor's per capita distributions. The Court utilized equity and fairness, and while no single party will receive the full amount requested for current child support, they will share the maximum withholding of the respondent's per capita distribution allowed under Ho-Chunk Nation law. In addition, the Court previously issued an order in which it stated that, as the respondent had paid off all arrears except for substantial arrears owing in one case, the Court would increase the withholding for arrears. This would allow the respondent to pay off the arrears in that case in a more expeditious manner. The Court afforded the respondent an opportunity to object. As the respondent did not object, the Court increased the withholding for child support arrears from \$39.00 per quarter to twenty percent (20%) of per capita.

#### **APRIL 5, 2002**

*Jennifer Wolford v. David J. Rose*, CS 02-08 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Apr. 5, 2002). (Bossman, W.)

The Court enforced an underlying state child support order against the respondent's per capita for current child support and arrears. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

### **Children's Trust Fund (CTF)**

#### **MARCH 13, 2002**

*In the Matter of the Child: M.S.M., DOB 04/21/89, by Tina McArthur v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 01-149 *Order (Requesting Accounting)* (HCN Tr. Ct., Mar. 13, 2002). (Bossman, W.)

On December 27, 2001, the Court released money from the CTF account of M.S.M. for orthodontics. The Court required the petitioner to submit an accounting within two (2) months of the release of funds in order to comply with Ho-Chunk Nation law. As the accounting is now overdue, the Court requested the petitioner to submit the accounting as soon as possible.



*In the Interest of Minor Child: M.W., DOB 07/09/95, by Melody Whiteagle-Fintak v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 01-154 *Order (Partial Release of CTF Monies)* (HCN Tr. Ct., Mar. 13, 2002). (Matha, T.)

The petitioner petitioned the Court to access monies from her child's trust fund account for the following purposes: costs associated with automobile repairs; orthodontic procedures; household and bedroom furniture; telephone service; school meals; clothing; a washer/dryer; an air purifier; and a vacuum. The Court employed the standard enunciated in the PER CAPITA ORDINANCE to assess the merit of the petitioner's request. The Court granted a partial release of CTF monies to pay for the following requests, which it found to be for the benefit of the child: orthodontics; school meal expenses (only a one time disbursement as it is the parents' responsibility to provide for the basic needs of the child); and the vacuum and air purifier (because the

child has a special medical condition which necessitates these purchases).

The Court conditionally granted the request for automobile repairs, a leather couch and washer/dryer. The Court enunciated a rule of proportionality for requests which reflect a household, rather than an individual concern. As these requests will benefit the child (e.g., the automobile must be kept in good repair so that the parents can transport the child to regularly scheduled doctor's appointments; the child's medical condition necessitates a leather couch and the need for a washer/dryer in the home), but are not solely for the child's benefit, the Court required the petitioner to provide documentation she could pay two-thirds (2/3) of the expense. Once the petitioner submits this documentation, the Court will grant the release of the remaining one-third (1/3) from the child's trust fund account.

Finally, the Court denied the remaining requests for the following reasons: the child should not have to bear the financial responsibility of providing a bed upon which to sleep. This falls into the category of shelter, and the parents must provide basic food, shelter and protection for their child. In addition, the Court denied the request for money to pay the family's telephone bill. The bill does not reflect the calling practices of the minor, and the Court holds a long-standing objection toward releasing money from the children's trust fund to satisfy parental debts.

#### **MARCH 14, 2002**

*In the Matter of the Child: L.G.B., DOB 03/30/89, C.A.B., DOB 08/26/90, R.R.G., DOB 08/14/87, by Tari Lynn Pettibone v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-136 Order (Requesting Accounting)* (HCN Tr. Ct., Mar. 14, 2002). (Bossman, W.)

On December 21 and 24, 2001, the Court released money from the CTF accounts of L.G.B., C.A.B. and R.R.G. for orthodontics. The Court required the petitioner to submit an accounting within two (2) months of the release of funds in order to comply with Ho-Chunk Nation law. As the accounting is now overdue, the Court requested the

petitioner to submit the accounting as soon as possible.

#### **MARCH 26, 2002**

*In the Interest of the Minor Child: R.A.M., DOB 01/28/86, by Winona L. Funmaker v. HCN Office of Tribal Enrollment, CV 01-142 Order (Requesting Accounting)* (HCN Tr. Ct., Mar. 26, 2002). (Bossman, W.)

On December 18, 2001, the Court released money from the CTF account of R.A.M. for orthodontics. The Court required the petitioner to submit an accounting within two (2) months of the release of funds in order to comply with Ho-Chunk Nation law. As the accounting is now overdue, the Court requested the petitioner to submit the accounting as soon as possible.



### **Civil Cases (All Categories)**

#### **FEBRUARY 25, 2002**

*Ona Garvin v. Ho-Chunk Nation, Silas Cleveland, in his Individual Capacity, and Dennis Gager, in his Individual Capacity, CV 01-78 Order (Motion Hearing)* (HCN Tr. Ct., Feb. 25, 2002). (Butterfield, M.)

The Court granted the defendants' request to convene a hearing in order for the defendants to argue their *Motion to Dismiss* and to provide the plaintiff with an opportunity to respond.

#### **FEBRUARY 28, 2002**

*Dorothy Decorah v. Kim Whitegull, CV 02-17 Order (Permanent Injunction)* (HCN Tr. Ct., Mar. 1, 2002). (Matha, T.)

[For summary, see [Tradition and Custom](#) within this index. Other topic covered: [Injunctive Relief](#)]

#### **MARCH 1, 2002**

*Gerald F. Conley v. Christopher Cloud and Becky and Diane Cloud Peterson, CV 00-37 Order (Notice of Show Cause Hearing)* (HCN Tr. Ct., Mar. 1, 2002). (Matha, T.)

The Court granted the plaintiff's request to convene a *Show Cause Hearing* pursuant to the HCN

CONTEMPT ORDINANCE. On August 2, 2000, the Court entered a *Default Judgment* against the defendants, which they have failed to satisfy. Therefore, the plaintiff seeks to prove a *prima facie* case of contempt under the ORDINANCE.

*In the Interest of Mary Lou Blackdeer, DOB 11/18/30, by Shari Marg v. HCN Office of Tribal Enrollment, CV 01-85 Order (Establishing Allowance)* (HCN Tr. Ct., Mar. 1, 2002). (Matha, T.)

[For summary, see [Incompetent's Trust Fund](#) within this index.]

#### **MARCH 4, 2002**

*Janeta Doede v. Ho-Chunk Hotel, CV 01-143 Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Mar. 4, 2002). (Matha, T.)

The Court granted the plaintiff's *Motion* to appear by telephone at the March 25, 2002 *Scheduling Conference*.

#### **MARCH 5, 2002**

*Ho-Chunk Nation Dep't of Treasury v. Martha Martinez, CV 01-128 Default Judgment* (HCN Tr. Ct., Mar. 5, 2002). (Matha, T.)

The Court granted the plaintiff's request for repayment of advanced business travel monies given to the defendant for which the defendant failed to reconcile as required by the WISCONSIN WINNEBAGO NATION FINANCIAL PROCEDURES MANUAL. The defendant failed to answer the *Complaint* despite proper service of process, thus, the Court entered judgment in default to the plaintiff, awarding the plaintiff specific relief plead with particularity in its *Complaint*. In addition, the Court placed a restriction upon the defendant's ability to take out loans against her per capita which might impact the satisfaction of this judgment.

#### **MARCH 6, 2002**

*Ho-Chunk Hous. Auth. v. Gayland Rave, CV 01-141 Order (Dismissing Case and Vacating Writ of Restitution)* (HCN Tr. Ct., Mar. 6, 2002). (Butterfield, M.)

The Court granted the plaintiff's request to dismiss the case and vacate the *Writ of Restitution* entered

against the defendant. The plaintiff has settled the claim with the defendant and has received partial payment and expects payment in full for the remaining balance owed. The Court dismissed the action and vacated the *Writ* after fully explaining to the plaintiff that it has waived its right to evict based upon the nonpayment of rent previously documented and for which the Court entered judgment.

*Nena L. Price v. Ho-Chunk Casino/Slot Dep't, CV 02-05 Scheduling Order* (HCN Tr. Ct., Mar. 6, 2002). (Matha, T.)

The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

#### **MARCH 11, 2002**

*Regina K. Baldwin v. Ho-Chunk Nation; and Andrea Estebo v. Ho-Chunk Nation Home Ownership Prog., Steve Davis, as Real Estate Mgr., and Alvin Cloud, as Hous. Dir.; and Carolyn J. Humphrey v. Ho-Chunk Nation, Alvin Cloud, as Hous. Dir., and Bob Pulley, as Prop. Mgr., CV 01-16, 19, 21 Notice (Deadline for Briefs)* (HCN Tr. Ct., Mar. 11, 2002). (Matha, T.)

[For summary, see [Ho-Chunk Preference](#) within this index.]

#### **MARCH 13, 2002**

*In the Matter of the Child: M.S.M., DOB 04/21/89, by Tina McArthur v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-149 Order (Requesting Accounting)* (HCN Tr. Ct., Mar. 13, 2002). (Bossman, W.)

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

*In the Interest of Minor Child: M.W., DOB 07/09/95, by Melody Whiteagle-Fintak v. Ho-Chunk Nation Office of Tribal Enrollment, CV 01-154 Order (Partial Release of CTF Monies)* (HCN Tr. Ct., Mar. 13, 2002). (Matha, T.)

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

**MARCH 14, 2002**

*In the Matter of the Child: L.G.B., DOB 03/30/89, C.A.B., DOB 08/26/90, R.R.G., DOB 08/14/87, by Tari Lynn Pettibone v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 01-136 Order (Requesting Accounting) (HCN Tr. Ct., Mar. 14, 2002). (Bossman, W.)  
[For summary, see [Children's Trust Fund](#) within this index.]

**MARCH 15, 2002**

*Kathy Stacy v. Ho-Chunk Nation, Clarence Pettibone, as former Vice Pres. of the Ho-Chunk Nation, and Wade Blackdeer, as current Vice Pres. of the Ho-Chunk Nation*, CV 01-13 Order (Granting Request to Reschedule) (HCN Tr. Ct., Mar. 15, 2002). (Bossman, W.)  
The Court granted the defendants' Motion to reschedule the Trial pursuant to HCN R. Civ. P. 45. The Court instructed the parties to communicate with each other a suitable date for the Pre-Trial Conference. The defendants must then schedule the Pre-Trial Conference within four (4) weeks of the issuance of this Order.

**MARCH 18, 2002**

*Bonny L. Harrison v. Hotel Mgmt. Staff*, CV 01-138 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Mar. 18, 2002). (Matha, T.)  
The Court granted the defendant's Motion to Dismiss, in which it stated that the plaintiff no longer wished to pursue this action. The defendant attached a letter from the plaintiff which substantiated this request.

*Gerald F. Conley v. Christopher Cloud and Becky and Diane Peterson Cloud*, CV 00-37 Order (Contempt) (HCN Tr. Ct., Mar. 18, 2002). (Matha, T.)  
[For summary, see [Contempt](#) within this index.]

**MARCH 21, 2002**

*Janette Smoke v. Steve Garvin, in Capacity of Table Games Mgr., Majestic Pines Casino, and Ho-Chunk Nation*, CV 01-97 Amended Scheduling Order (HCN Tr. Ct., Mar. 21, 2002). (Matha, T.)

The Court issued an amended scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

**MARCH 25, 2002**

*Janeta Doede v. Ho-Chunk Hotel*, CV 01-143 Scheduling Order (HCN Tr. Ct., Mar. 25, 2002). (Matha, T.)  
The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

**MARCH 26, 2002**

*In the Interest of the Minor Child: R.A.M., DOB 01/28/86, by Winona L. Funmaker v. HCN Office of Tribal Enrollment*, CV 01-142 Order (Requesting Accounting) (HCN Tr. Ct., Mar. 26, 2002). (Bossman, W.)  
[For summary, see [Children's Trust Fund](#) within this index.]

*In the Interest of Adult Incompetent: Oliver S. Rockman v. HCN Office of Tribal Enrollment*, CV 01-142 Order (Requesting Accounting) (HCN Tr. Ct., Mar. 26, 2002). (Bossman, W.)  
[For summary, see [Incompetent's Trust Fund](#) within this index.]

## **Contempt**

**MARCH 18, 2002**

*Gerald F. Conley v. Christopher Cloud and Becky and Diane Peterson Cloud*, CV 00-37 Order (Contempt) (HCN Tr. Ct., Mar. 18, 2002). (Matha, T.)  
The plaintiff proved a *prima facie* case of contempt against the defendants. The defendants, through their nonattendance, did not offer a rebuttal. Therefore, the Court found the defendants in contempt of Court and imposed a reasonable remedial sanction. The Court, in its discretion, granted the defendants an additional thirty (30) days to comply with the underlying Judgment, of which failure to satisfy caused the plaintiff to bring the contempt action. If at the end of the thirty (30) days the defendants make no effort to comply with the Court's order, the Court shall impose a fine of

\$10.00 each day the defendants remain in contempt of Court.

## Ho-Chunk Preference

**MARCH 11, 2002**

*Regina K. Baldwin v. Ho-Chunk Nation; and Andrea Estebo v. Ho-Chunk Nation Home Ownership Prog., Steve Davis, as Real Estate Mgr., and Alvin Cloud, as Hous. Dir.; and Carolyn J. Humphrey v. Ho-Chunk Nation, Alvin Cloud, as Hous. Dir., and Bob Pulley, as Prop. Mgr., CV 01-16, 19, 21 Notice (Deadline for Briefs)* (HCN Tr. Ct., Mar. 11, 2002). (Matha, T.)

The Court granted the defendants' request to extend discovery for an additional forty-five (45) days. The Court had previously requested additional briefing on the legislative history of the Ho-Chunk Preference and Layoff Policies, which were due within one (1) month of the end of discovery. Since the Court extended the discovery deadline, it issued this notice that the parties shall submit their briefs no later than Monday, March 25, 2002.

## Incompetent's Trust Fund

**FEBRUARY 25, 2002**

*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 ITF Monies)* (HCN Tr. Ct., Feb. 25, 2002). (Butterfield, M.)

The Court accepted the petitioner's timely accounting for ITF monies previously released by the Court; and grants a partial release of ITF monies for the petitioner's most recent requests.

**FEBRUARY 28, 2002**

*In the Interest of Readonna Lei Wilson, by Violet Vilbaum v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-44 Order (Partial Release of ITF Monies)* (HCN Tr. Ct., Feb. 28, 2002). (Matha, T.)

The Court granted a partial release of ITF monies to satisfy the petitioner's request for a washer/dryer, computer/software, travel allowance, clothing, television, microwave, toaster, and SSI

reimbursement, as these are all expenditures routinely granted by the Court. The Court conditionally denied the remaining requests for collector dolls, telephone/answering machine and Housing Authority reimbursement. The Court requested additional information on these remaining requests as follows: collector dolls: the request must be necessary for the health, education and welfare of the ward; telephone/answering machine: the Court had previously released monies for one of the requests; and housing authority reimbursement: the Court cannot grant a request for which there may be a state of federal entitlement and thus, requires additional information.

**MARCH 1, 2002**

*In the Interest of Mary Lou Blackdeer, DOB 11/18/30, by Shari Marg v. HCN Office of Tribal Enrollment, CV 01-85 Order (Establishing Allowance)* (HCN Tr. Ct., Mar. 1, 2002). (Matha, T.)

The Court granted an ongoing release of funds from the ITF of the incompetent tribal member for her benefit. The Court applied the four-part test previously enunciated in HCN case law, which the Court derived from the language of the PER CAPITA ORDINANCE. In accordance with precedent, the Court required the guardian to distribute the monies to the ward at appropriate intervals based upon the expressed needs of the member. The Court further required the guardian to account for the monies with a financial report and relevant documentation on or before the 15<sup>th</sup> of the month following the next and future quarterly per capita distributions.

**MARCH 26, 2002**

*In the Interest of Adult Incompetent: Oliver S. Rockman v. HCN Office of Tribal Enrollment, CV 01-142 Order (Requesting Accounting)* (HCN Tr. Ct., Mar. 26, 2002). (Bossman, W.)

The Court granted a release of funds from the ITF of the incompetent tribal member for his benefit in this ongoing case. The Court accepted the accounting for previously released monies. The Court granted monies to pay the protective payee and to deposit into the ward's checking and savings accounts for unforeseen requests as they arise. The

Court further required the protective payee to account for the monies within three (3) months of the release.

## Juvenile

### MARCH 6, 2002

*In the Interest of Minor Child: T.F., DOB 12/25/91, JV 97-01 Order (Granting Permanent Legal Guardianship)* (HCN Tr. Ct., Mar. 6, 2002). (Butterfield, M.)

The Court granted permanent legal guardianship to the non-Indian maternal grandparents. Although the placement is not in strict conformance with the ICWA, the maternal grandparents have made great efforts to keep the child in full contact with the mother and to acquaint the child with his Hocok heritage, including enrolling him in language classes. In addition, the order for permanent guardianship requires the permanent guardians to have the child maintain cultural ties with the Nation, keeping him informed as to the traditional ways of the Tribe and requiring the child to participate in Hocok language classes. Balancing all these factors and looking for the best interests of the child, including a placement with permanency, the Court granted the maternal grandparents permanent legal guardianship of the child.

### MARCH 15, 2002

*In the Interest of Minor Child: S.G.D., DOB 12/19/00, JV 02-01 Order (Appointment of Guardian ad Litem)* (HCN Tr. Ct., Mar. 15, 2002). (Bossman, W.)

The Court appointed Attorney JoAnn Jones to serve as *guardian ad litem* in this matter involving a *Child/Family Protection Petition*.

### MARCH 18, 2002

*In the Interest of Minor Children: D.J.D., DOB 04/04/92, N.L.D., DOB 10/03/93, JV 97-11, 12 Order from Status Hearing* (HCN Tr. Ct., Mar. 18, 2002). (Bossman, W.)

The Court scheduled a *Status Hearing* to address concerns regarding an apparent lack of compliance with its earlier *Dispositional Order*. The children had been removed from the court appointed

physical custodian. CFS made recommendations and conducted a home study of the proposed physical custodian. The Court granted the change of physical custody, with legal custody remaining with CFS.

*In the Interest of Minor Child: S.M.D., DOB 11/01/86, JV 01-21 Order (Dispositional Requirements)* (HCN Tr. Ct., Mar. 18, 2002). (Matha, T.)

The Court conducted a *Dispositional Hearing* on January 25, 2002, in accordance with the Hocok CHILDREN'S CODE. At the hearing, the Court assessed the extent and scope of the dispositional recommendations proposed by CFS. The dispositions contained within this *Order* hopefully will serve to successfully reunify the family.

### MARCH 26, 2002

*In the Matter of the Child: S.G.D., DOB 12/19/00, JV 02-01 Plea Hearing* (HCN Tr. Ct., Mar. 26, 2002). (Bossman, W.)

The Court held a *Plea Hearing* on March 22, 2002 in this *Child/Family Protection Petition* case. The defendant entered a plea of Not Guilty and the Court scheduled a *Formal Hearing* on the allegations within the *Petition* for April 19, 2002. At this time, legal and physical custody shall remain as previously ordered by the Court.

### MARCH 27, 2002

*In the Interest of Child: Z.L.D., DOB 03/10/02, JV 02-04 Order (Appointment of Guardian ad Litem)* (HCN Tr. Ct., Mar. 27, 2002). (Bossman, W.)

The Court appointed Attorney JoAnn Jones to serve as *guardian ad litem* in this matter involving a *Petition for Permanent Guardianship*.

*In the Interest of Minor Children: J.H.D., DOB 12/08/87, T.L.B., DOB 03/18/91, J.W.P., DOB 12/06/93, JV 02-03, 05, 06 Order (Appointment of Guardian ad Litem)* (HCN Tr. Ct., Mar. 27, 2002). (Bossman, W.)

The Court appointed Attorney JoAnn Jones to serve as *guardian ad litem* in this matter involving a *Petition for Permanent Guardianship*.

## Tradition and Custom

**FEBRUARY 28, 2002**

*Dorothy Decorah v. Kim Whitegull*, CV 02-17 Order (Permanent Injunction) (HCN Tr. Ct., Mar. 1, 2002). (Matha, T.)

The Court granted the plaintiff's request for a permanent injunction against the defendant. On February 18, 2002, the Traditional Court recognized that in tradition and custom of the Ho-Chunk Nation, "the matriarch of a family has the final say on who can come onto her property (her house and her land)." Traditional Court Resolution, 02-18-02 A. The Traditional Court delivered this pronouncement after receiving a formal inquiry from the plaintiff. The defendant voluntarily agreed to abide by the restriction imposed by the plaintiff. After the Court explained the legal consequences, the defendant further agreed to the entrance of a permanent injunction against him from entering onto the property of the plaintiff.

[Other topic covered: [Injunctive Relief](#).]

## Supreme Court

**MARCH 5, 2002**

*Demetrio D. Abangan, Tribal Enrollment No. 439A000001 v. HCN Election Bd.; and Stewart J. Miller, Tribal Enrollment No. 439A002566 and Brenda Neff, Tribal Enrollment No. 439A002134 v. HCN Election Bd.*, SU 02-02 Scheduling Order (HCN S. Ct., Mar. 5, 2002). (Greengrass, D., *Per Curiam*)

The Supreme Court accepted this matter for appeal and scheduled oral arguments for Friday, March 15, 2002 at 4:00 p.m.

**MARCH 25, 2002**

*Demetrio D. Abangan et al v. HCN Election Bd. et al*, SU 02-02 Decision (HCN S. Ct., Mar. 25, 2002). (Cleveland, R., Greengrass, D., B. Hunter, M.J.)

The Supreme Court considered whether or not the Trial Court erred in holding that the appellants had to produce ninety-three (93) individuals who would have voted against Scenario E if they had received proper notice of the Special Redistricting Election. The issue of defective notice was

resolved at the Trial Court level and, therefore, not an issue on appeal.

The Supreme Court concluded that the Trial Court had abused its discretion by imposing a higher standard of proof than the "clear and convincing" standard enunciated in the HCN Election Ordinance, § 14.01(b). The Supreme Court reversed and remanded to the Trial Court for a rehearing.

## Traditional Court

**TRADITIONAL COURT RESOLUTION 02-18-02 A**

"Under Ho-Chunk Nation (Wisconsin Winnebago Tribe) tradition and custom, the patriarch or matriarch of a family has the final say on who can come onto his or her property (his/her house and/or his/her land)."

**TRADITIONAL COURT RESOLUTION 02-18-02 B**

"Under Ho-Chunk Nation (Wisconsin Winnebago Tribe) tradition and custom, it is wrong for a person to show disrespect to an elder and to cause that elder physical or emotional abuse."

**TRADITIONAL COURT RESOLUTION 02-18-02 C**

"Under Ho-Chunk Nation (Wisconsin Winnebago Tribe) tradition and custom, it is wrong for one person to lay hands on another (in a violent way or causing physical violence)."

## Recent Filings

### Trial Court

#### Child Support

**MARCH 12, 2002**

*Jennifer Wolford v. David J. Rose*, CS 02-08. (Assigned to Bossman, W.)

**MARCH 20, 2002**

*Tari Pettibone v. Gregory Bird*, CS 02-09. (Assigned to Bossman, W.)

**MARCH 22, 2002**

*Rebecca J. Akers v. Dario Aleman*, CS 02-10.  
(Assigned to Bossman, W.)

**APRIL 5, 2002**

*State of Wis./Alisa Marie Cantwell v. Patrick Rainer Patterson*, CS 02-11. (Assigned to Bossman, W.)

**APRIL 8, 2002**

*Kelli O'Connor v. Domonic Bell*, CS 02-12.  
(Assigned to Matha, T.)

*Shannon B. Peterson v. Jason S. Lonetree*, CS 02-13. (Assigned to Matha, T.)

*Mary Jane Mayek v. Estaban Blackhawk*, CS 02-14.  
(Assigned to Matha, T.)

*Thelma Sarita Garcia v. Estaban Blackhawk*, CS 02-15. (Assigned to Matha, T.)

**APRIL 9, 2002**

*Anna Brown v. Ted Brown*, CS 02-16. (Assigned to Matha, T.)

**APRIL 10, 2002**

*State of Wis./Jasi Trepanus v. Tyrone Walker*, CS 02-17. (Assigned to Matha, T.)

**APRIL 19, 2002**

*State of Wis. v. Robert Orozco*, CS 02-18.  
(Assigned to Matha, T.)

**APRIL 24, 2002**

*Joy Rave v. Francis Rave*, CS 02-19. (Assigned to Bossman, W.)

**APRIL 30, 2002**

*State of Wis./Sawyer County v. Carlos D. Smith*, CS 02-20. (Assigned to Bossman, W.)

**MAY 6, 2002**

*Melissa Rogers v. Darrell L. Sena, Jr.*, CS 02-21.  
(Not yet assigned.)

**Civil Cases**

**MARCH 7, 2002**

*Jason Cvengros v. Sheryl Neulrich and Ho-Chunk Hotel and Convention Center*, CV 02-24.  
(Assigned to Bossman, W.)

**MARCH 8, 2002**

*In the Interest of Elijah M. White, by Gwendolyn A. White v. HCN Office of Tribal Enrollment*, CV 02-25. (Assigned to Bossman, W.)

**MARCH 11, 2002**

*Blaine R. Twinn v. Mike Smith*, CV 02-26.  
(Assigned to Bossman, W.)

**MARCH 13, 2002**

*HCN Dep't of Admin. v. Lot L. Smith II*, CV 02-27.  
(Assigned to Bossman, W.)

*HCN Dep't of Treas. v. Ardith Snowball*, CV 02-28.  
(Assigned to Bossman, W.)

**MARCH 14, 2002**

*HCN Dep't of Treas. v. Ronald Wilber*, CV 02-29.  
(Assigned to Bossman, W.)

**MARCH 20, 2002**

*Chuefue Yang/Milico Express Tours v. HCN Gaming Auth. and Rainbow Casino*, CV 02-30.  
(Assigned to Bossman, W.)

*Claude Payer, DOB 12/19/61, by Dorothy Will v. HCN Office of Tribal Enrollment*, CV 02-31.  
(Assigned to Bossman, W.)

**MARCH 27, 2002**

*HCN Dep't of Treas. v. Diane Lonetree*, CV 02-32.  
(Assigned to Bossman, W.)

*HCN Dep't of Labor v. Ted Leland Brown*, CV 02-33. (Assigned to Bossman, W.)

**MARCH 29, 2002**

*Todd R. Matha v. HCN Elec. Bd. Chairperson Vaughn Pettibone and HCN Board Members et al*, CV 02-34. (Assigned to Bossman, W.)

**APRIL 2, 2002**

*Tara L. Staples, DOB 08/04/84, by Terrie L. Staples v. HCN Office of Tribal Enrollment, CV 02-35.* (Assigned to Bossman, W.)

**APRIL 5, 2002**

*D.A.S., DOB 10/14/87, by Larry Swan v. HCN Office of Tribal Enrollment, CV 02-36.* (Assigned to Matha, T.)

**APRIL 8, 2002**

*Michelle Mary Knowles v. Ho-Chunk Casino, CV 02-37.* (Assigned to Matha, T.)

**APRIL 17, 2002**

*HCN Hous. Auth. v. Karen Smith, CV 02-39.* (Assigned to Bossman, W.)

**APRIL 19, 2002**

*In the Interest of A.L., DOB 09/30/90, by James W. Ferguson v. HCN Office of Tribal Enrollment, CV 02-38* (Assigned to Bossman, W.)

**APRIL 30, 2002**

*Kathy Stacy v. HCN Legis., CV 02-40.* (Assigned to Bossman, W.)

**MAY 6, 2002**

*Debra Hall v. Ho-Chunk Nation, CV 02-41.* (Not yet assigned.)

**Criminal****APRIL 11, 2002**

*Gerald Cleveland, Sr., HCN Legislator v. Anthony Myron Smith, Jr., CR 02-01.* (Assigned to Matha, T.)

**Juvenile****MARCH 25, 2002**

*J.H.D., DOB 12/08/87, JV 02-03.* (Assigned to Bossman, W.)

*T.L.B., DOB 03/18/91, JV 02-05.* (Assigned to Bossman, W.)

*J.L.P., DOB 12/06/93, JV 02-06.* (Assigned to Bossman, W.)

**MARCH 26, 2002**

*Z.L.D., DOB 03/10/02, JV 02-04.* (Assigned to Bossman, W.)

**APRIL 23, 2002**

*R.A.R., DOB 07/30/95, JV 02-07.* (Not yet assigned.)

*J.L.W., DOB 10/12/89, JV 02-08.* (Not yet assigned.)

*R.G.R., DOB 02/10/99, JV 02-09.* (Not yet assigned.)

*N.A.R., DOB 11/25/96, JV 02-10.* (Not yet assigned.)

*J.A.C., DOB 08/01/92, JV 02-11.* (Not yet assigned.)

**Supreme Court**

No new filings since the last COURT BULLETIN.

**Recent Changes in the HCN Court System****New Chief Trial Court Judge**

On February 20, 2002, the Legislature voted to nominate **William Bossman** for the position of Chief Judge of the Ho-Chunk Nation Trial Court. As explained in the March 2002 issue of the HCN COURT BULLETIN, the *HCN Judiciary Act* requires a minimum two-week interval between the nomination vote and the confirmation vote. Thus, on March 6, 2002, exactly two weeks later, the Legislature voted 7-3-0 to confirm Bossman as the new judge. The swearing-in ceremony was held at the Executive Building located in Black River Falls, WI on the very next day, Thursday, March 7, 2002.

Judge Bossman has over twelve years experience working for tribal courts. He worked for the Omaha Tribal Court, first as a public defender and later as the Associate Judge and then finally, as the Chief Judge. He spent a year as the chief prosecutor at the Standing Rock Sioux Tribal Court and one year as the Chief Judge at the Cheyenne River Sioux Tribal Court. He also presently serves as an Associate Justice on the Northern Plains Intertribal Court of Appeals.

Judge Bossman has been married twenty-nine years to his wife Daria and has three sons, ranging from ages 17 to 24. Bossman has a BA in history from Midland Lutheran College in Fremont, NE and earned an MBA at the University of South Dakota. He received his *juris doctorate* from Oklahoma City University in 1975. Judge Bossman, at a recent swearing-in ceremony, stated that the Ho-Chunk Nation Tribal Court is the “best organized, best operated and most respected Tribal Court” for which he has ever worked.

## Supreme Court Election

As many of you will remember, in the December 2001/January 2002 issue of the HCN COURT BULLETIN we reported that both Associate Justices of the HCN Supreme Court resigned for personal reasons. On February 7, 2002, the Election Board posted its *Notice and Rules of Special Primary Election to fill two (2) Supreme Court Associate Justice Seats March 23, 2002*. As two seats were open, potential candidates were required to indicate which seat he or she would run for on election day.

On February 27, 2002, the Election Board posted its *Notice of Candidates*: Seat No. 1: **Todd R. Matha** and **Roger Thundercloud**; Seat No. 2: **Mark Butterfield**, **William Gardner**, **Stuart Taylor** and **Forrest Whiterabbit**.

On March 24, 2002, the Election Board certified the results of the March 23, 2002 Election, indicating that the voters gave a majority of their votes to Todd Matha for Seat No. 1 with 72.63% of

the votes and Mark Butterfield for Seat No. 2 with 56.81% of the votes.

## Election Challenge

IN response to the Election Board posting its March 27, 2002 *Notice and Rules of Special Run-Off Election to fill two (2) Supreme Court Associate Justice Seats April 27, 2002*, Todd Matha filed a lawsuit against individual Election Board members seeking declaratory and injunctive relief. Plaintiff Matha alleged that the Election Board’s call for a Special Run-Off Election when a candidate received a majority vote in the Special Primary Election, was an “illegal action [which] has the effect of violating the constitutionally established timeline for swearing-in an Associate Justice-elect.”

As the source of law, the plaintiff cited numerous provisions of the HCN CONSTITUTION and the HCN ELECTION ORDINANCE, particularly:

“Supreme Court Justices shall be elected by a majority vote of the eligible voters of the Ho-Chunk Nation, in accordance with the General Election provisions in Article VIII, Sec. 1, *unless otherwise provided*.” HCN CONST., ART VII, § 10 (emphasis added).

“The Election Board shall administer the oath of offices of . . . Judiciary on the 4<sup>th</sup> Wednesday following the election after the Election Board certifies the results.” *Id.*, ART. VIII, § 8.

“Primary Elections shall be held prior to any Election with three or more candidates in order to ensure compliance with the majority vote requirement in . . . Article VII, Section 10 of the Constitution.” ELECTION ORDINANCE, § 2.01(d)(1).

“If no candidate in any Primary Election receives more than 50% of the votes cast in such Election, the two candidates with the highest vote totals from the Primary Election . . . shall appear on the ballot in the Runoff Election.” *Id.*, § 2.01(d)(2).

The plaintiff requested both declaratory and injunctive relief, most importantly the following “declaratory relief[:] affirming that a candidate for the Ho-Chunk Nation Supreme Court who receives over fifty percent (50%) of the vote in a Special Primary Election is not required to appear in a Special Runoff Election.”

To provide a little background for those not thoroughly familiar with Ho-Chunk Nation law, the Election Board had valid reason to think they might have to hold a Special Runoff Election. Previously, in 1999, plaintiff **Debra Greengrass** successfully argued an election challenge before the HCN Trial Court, which held even when a candidate wins the majority of votes in a Primary Election, the Election Board must still hold the General Election on the date provided for in the CONSTITUTION: “General Elections shall be held on the first Tuesday in June of odd numbered years. Offices of the Legislature, Executive, and the Judiciary shall be filled at General Elections.” HCN CONST., ART VIII, § 1. In *Greengrass*, the Trial Court judge stated that the Election Board held the Primary Election in preparation for the General Election and that the Primary contemplated votes for the two candidates listed as well as write-in candidates. The top two candidates would then proceed onto the constitutionally mandated General Election. On June 30, 1999, the Supreme Court affirmed the Trial Court’s ruling.

In *Matha v. Election Board Chairperson Pettibone et al*, the defendants argued that the *Greengrass* precedent controlled in this situation, therefore justifying the Election Board’s call for a runoff election. The defendants further argued that the plaintiff failed to provide a showing that the Election Board members “acted outside the scope of their authority” when the Election Board looked to not only the CONSTITUTION and the ELECTION ORDINANCE, but to previous case precedent, *i.e.*, the *Greengrass* decision, when it debated whether or not to hold the runoff election.

The plaintiff argued that the distinguishing factor between the *Greengrass* decision and the present action is that the present election involved a Special Election to fill a vacancy, and not a General Election held at the natural end of a Justice’s term. The constitution did not require that the Election Board hold the Special Election on a date certain, which may necessitate both a primary and a general election. On April 12, 2002, Chief Judge Bossman of the HCN Trial Court agreed with the plaintiff and held that when “a candidate for the Ho-Chunk Nation Supreme Court . . . receives over fifty percent (50%) of the vote in a Special Primary Election [he or she] is not required to appear in a Special Runoff Election.” The Trial Court granted the plaintiff’s remaining declaratory and injunctive relief, specifically requiring the Election Board “to administer the oath of office of Associate Justice of the Supreme Court” to the plaintiff, as he had received over fifty percent (50%) of the vote.

Mark Butterfield, the candidate with the majority of the votes for Seat No. 2 moved to intervene on April 11, 2002. The Trial Court denied the motion as the Court was on the eve of rendering its decision and wished to do so in a most expeditious manner. The Court further stated that the movant would not be harmed by the denial as the grant of the plaintiff’s relief was broad enough to encompass any candidate who took the majority of votes in a Special Primary Election. Both decisions were not appealed to the Supreme Court.

## Swearing-In Ceremony for Associate Justice(s) of the Supreme Court

On Wednesday, April 17, 2002, the Election Board prepared to swear-in the two candidates who received the majority vote in the March 23, 2002 Special Election. On that same date, Todd Matha, the winner for Seat No. 1 and the current Associate Judge of the HCN Trial Court wrote a letter to Election Board Chairperson **Vaughn Pettibone**, in which he declined to be sworn in for the Associate Justice seat. From an excerpt of that letter, Judge Matha states:

*I appreciate the support received from the voters in the recent March 27, 2002 Special Primary Election, but believe that I can better serve the Judicial Branch by attempting to remain in my current position as Associate Judge of the Trial Court.*

Judge Matha, a Ho-Chunk tribal member, had initially decided to run for the Supreme Court in that his term of office for the Associate Judge position of the Trial Court would end on April 12, 2002. (As you will remember from the last COURT BULLETIN, judges for the Trial Court are appointed by the Legislature with a nomination and confirmation process; while justices to the Supreme Court are elected by the people.) The prevailing climate at the time (*i.e.*, a motion for removal, which was defeated; the controversial decisions he entered in the redistricting case; and the like) caused Matha to legitimately question whether or not he would be reappointed for a second term.

Matha's uncertainty was not misplaced. The Legislature had not yet indicated whether or not they would reappoint him for a second three-year term. On March 6, 2002, when **Rep. White Wing** moved to nominate Matha to the position, the motion died for lack of a second. And later, if one were to read through the legislative meeting minutes for March 19, 2002, it would remain equally uncertain whether the Legislature would retain Judge Matha in his current position. The minutes indicate that **Rep. Cleveland** moved to nominate one **Keith Bohren** to the position. This was seconded by **Rep. Thompson**. The Motion was defeated 4-5(**Rep. K. Whiterabbit, S. Whiterabbit, White Wing, Pettibone, V.P. Blackdeer**)-1(**Rep. Romano**). Next, Rep. White Wing moved to nominate Todd Matha to the position. This was seconded by Rep. Pettibone. The motion resulted in a tie vote 5-5(**Rep. K. Whiterabbit, Thompson, Cleveland, Romano, Lewis**)-0. The Legislature did not seek action on the tie vote. Instead, Rep. White Wing moved to nominate one **Percy Julian** to the position with Rep. Lewis seconding. The motion was defeated 4-

5(**Rep. K. Whiterabbit, Thompson, Cleveland, Pettibone, V.P. Blackdeer**)-1(**Rep. Romano**). Finally, Rep. Cleveland moved to nominate one **Ralph Overholt** to the position with a second by Rep. K. Whiterabbit. The motion carried 5-4(**Rep. Lewis, Pettibone, White Wing, V.P. Blackdeer**)-1(**Rep. Romano**).

On April 2, 2002, the Legislature voted by secret ballot on whether or not to confirm Ralph Overholt to the position of Associate Judge of the HCN Trial Court. The confirmation of Mr. Overholt was defeated 4-yes, 5-no, and 0 abstaining. Rep. White Wing then made a motion to nominate Todd Matha to the position with a second by Rep. Pettibone. The vote resulted in a tie 4-4(**Rep. Lewis, S. Whiterabbit, Romano, Thompson**) with V.P. Blackdeer abstaining. President **Troy Swallow** cast the tie-breaking vote of aye to break the tie. Yet, under the *HCN Judiciary Act*, the Legislature still had from two to four weeks in which to cast the confirmation vote. As Judge Matha later remarked, it was his "intention upon entering law school . . . to come and work for [his] Tribe," thus, even before the Legislature began voting on whether or not to nominate or confirm, Matha had already decided not to leave the decision concerning his opportunity to work for his Tribe to chance. Thus, he threw his hat into the ring for one of the vacant Supreme Court positions.

Yet, on the day of the Supreme Court swearing-in ceremony, a decision had to be made. While probably under no contractual duty to do so, one might argue that once Matha took the oath of office for the Supreme Court, he was bound to stay in that position, as all other justices before him, "until a successor [was] sworn in." Judge Matha took the leap of faith, and although the Legislature had not yet scheduled the confirmation vote, Matha declined to be sworn in as Associate Justice of the Supreme Court in hopes that the Legislature would vote to confirm him for a second term of office as the Associate Trial Court Judge, especially in hopes of "maintain[ing] continuity" within the Trial Court.

Thus, on April 17, 2002, Election Board Chairperson administered the oath of office to Mark Butterfield, former Chief Judge of the HCN Trial Court, to the position of Associate Justice of the Supreme Court. Justice Butterfield will serve for the remainder of Debra Greengrass' term until June 2003, at which time the Election Board will conduct a General Election as called for by the HCN CONSTITUTION.

Although it is now uncertain who will fill the position of Seat No. 1 (Rita Cleveland's seat) of the HCN Supreme Court, this long story has a happy ending for at least one person. On April 26, 2002, the Legislature called a Special Meeting at which they voted by secret ballot to confirm Todd Matha as the Associate Judge for the HCN Trial Court (8-yes, 3-no, 0-abstaining).

Thus, on Thursday, May 2, 2002, once again tribal members and employees, family and friends gathered for a second swearing-in ceremony. Chief Justice of the Supreme Court Mary Jo B. Hunter, prior to administering the oath of office, remarked that she was "[v]ery happy that [Judge Matha] ha[d] been reappointed and thankful for the Ho-Chunk Nation Legislature for seeing the need to continue [the Ho-Chunk Nation] Court system with one of our own talented people." Judge Matha, now serving his second three-year term in the Trial Court, remarked after taking the oath of office that he was "immensely proud that the Legislature . . . deemed [him] worthy to be reappointed to this post." 

**HCN President Troy Swallow at the May 2, 2002 Swearing-In Ceremony for Associate Trial Court Judge Todd R. Matha said the following:**

"Today marks a very special occasion. I really enjoy the solemnity in which we approach these types of occasions where our Court is concerned because the relevance of our Tribal Court in the growth of our Nation and in the long term effect that it will have and the benefits for our children in

our generations to come – all of that is hinged very closely and tied very closely to how effective and how well recognized our Court system is. So in that regard, I am standing here before you telling you this is a very strong tie for our sovereignty. It needs to be kept well within the framework of our Nation and that things that happen through our Court system – through our Judicial Branch will allow us all manner of growth in the future with the way that the U.S. government has a relationship with us – a lot of it depends on how well our Court system runs." –**Pres. Troy Swallow giving the welcome and opening remarks at Judge Matha's Swearing-In** (see photos on subsequent pages.) 

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**Editor's Note:**



Many of you may have wondered what happened to your April COURT BULLETIN. I envision that you stayed up nights and called the post office daily, "Did it come today? Not yet? (heavy sigh)" Well, pine no longer . . . your BULLETIN is here. It has actually morphed into what



I like to call a "Double Issue." Double Issues are rare, usually caused by unforeseeable major work overload and result in an issue that is all that more worthwhile. I apologize for the delay, but, change, the need to get all the facts in, a trip to Albuquerque, two swearing-in ceremonies, one election, one would-be election, one lawsuit and the like . . . all these contributed to your better-late-than-never COURT BULLETIN. I hope you will find this issue worth the wait, as it is chock full of the latest Court news, many photographs plus all the regular monthly Court information.



Sincerely,  
Anetra D. Parks, COURT BULLETIN Editor



Clockwise starting with the photo above: (1) Ho-Chunk Nation President **Troy Swallow** welcomes everyone to the Swearing-In Ceremony for Associate Trial Judge Todd R. Matha. President Swallow states that tribal courts are an important part of tribal sovereignty. (2) Traditional Court elder, **Donald Blackhawk**, a member of the Warrior Clan, gives the opening prayer. (3) After the Chief Justice of the Supreme Court **Mary Jo Hunter** administers the oath of office to Judge **Todd R. Matha**, the former teacher and student give a heartfelt hug. Chief Justice Hunter said that she was very happy that the Legislature decided to reappoint one of the Nation's own very, talented individuals to the bench. (4) The drum group sings the "Thank You" song indicating the close of the meal and festivities.



## Photos from the Swearing-In Ceremony

Photo Left: Traditional Court elder **Owen Mike**, a member of the Buffalo Clan, traditionally the speakers of the Tribe, served as the Master of Ceremonies for the Swearing-In Ceremony for Associate Trial Court Judge Todd R. Matha on Wednesday, May 2, 2002, at the Executive Building in Black River Falls, WI. Owen stated that he was very proud to be able to serve in this role for his people.



Photo Right: Newly reappointed Associate Judge **Todd R. Matha** gives his sincere words of appreciation following his Swearing-In. The reappointment will mark three more years for Judge Matha with the Ho-Chunk Nation Trial Court. Judge Matha stands alongside the eagle staff, the U.S. flag and the flag for Legion Post No. 129. The monument of the Forgotten Warrior stands in the background. Judge Matha said that this was the reason he went to law school, "to be able to work for [his] Tribe."



Photo Left: Four of the Nation's Judiciary come together for a photo following the Swearing-In Ceremony. From left-to-right: Associate Justice of the Supreme Court **Mark Butterfield**, Associate Judge of the Trial Court **Todd R. Matha**, Chief Justice of the Supreme Court **Mary Jo Hunter**, and Chief Judge of the Trial Court **William Bossman**. Photo taken on May 2, 2002, at the Executive Building of the Ho-Chunk Nation located in Black River Falls, WI. The judges and justices stand in front of the monument to the Forgotten Warrior.



Clockwise from top left: (1) Chief Justice Hunter administers the oath of office to Judge Matha. (2) Elder Owen Mike opens the ceremonies by calling on the drum group to play the grand entry song. (3) Chief Judge Bossman says how proud he is to be a part of such a well-respected Tribal Court. He gave a special thank you to his predecessor Justice Butterfield, who laid the groundwork for the Court and gave his respect and thanks for his colleague Judge Matha. (4) Elder Owen Mike as M.C. (5) Tribal members and employees enjoy the Swearing-In Ceremony.



### HCN Court Fees

- Filing Fees . . . . . \$50.00\*  
\*With the exception of petitions to register child support orders – this fee remains at \$19.00 as previously ordered by the Supreme Court.  
Note: Filing Fee now includes *Summons* fee.
- Filing Fees for *Petitions to Register and Enforce Foreign Child Support Orders*. . . . . \$19.00

Copying . . . . .	\$0.10/per page
Faxing . . . . .	\$.25/per page (sending and receiving)
Tapes of Hearings . . . . .	\$10.00/per tape
CD of Hearing. . . . .	\$12.50/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).



## The Rules Have Changed

On April 12, 2002, the HCN Supreme Court issued the *Revised Ho-Chunk Nation Rules of Civil Procedure*, which became effective on **Monday, April 15, 2002**. There are several significant changes, so if you do not yet have an updated copy of the *Rules*, you may request one by either writing, calling or e-mailing the Court at the following contact numbers and addresses:

Ho-Chunk Nation Court System, PO Box 70, Black River Falls, WI 54615  
Phone: (800) 434-4070 or (715) 284-2722  
Staff Attorney E-Mail Address: [Aparks@ho-chunk.com](mailto:Aparks@ho-chunk.com).

The most noticeable change is that the filing fee has increased to \$50.00. The filing fee now includes the *summons* fee, so there is no longer the extra hassle of figuring out how much service will cost you. The filing fee to file a *Petition to Register and Enforce a Foreign Child Support Order* remains at \$19.00, as previously ordered by the Supreme Court. Also, so that all parties are now on an equal playing field, the fee is no longer waived when the Ho-Chunk Nation brings an action in the Trial Court. The Supreme Court had already required the Nation to pay filing fees on an appeal. There are too many other changes to go through here and now, so please, if you have not already done so, request your copy of the *Revised Rules* as soon as possible. 

# HO-CHUNK NATION COURT BULLETIN

## Inside this Issue

- 1** The Nation's New Faces: Summer Interns  
Legislature Calls for Special Election
- 2** Part III: A Survey of Incompetent Trust Fund (ITF) Cases
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- 18** HCN Court System Judiciary and Staff
- 21** HCN Legislature Resolution 6-05-02 A (scanned copy)
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- 23** 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 Ph.  
(800) 434-4070 Ph. (Toll-free)  
(715) 284-3136 Fax  
<http://www.ho-chunknation.com/government/courts.htm>

Hours of Operation: Monday through Friday  
(except holidays) 8 A.M. – 4:30 P.M.

## The Nation's New Faces: Summer Interns

Meet the following Ho-Chunk Nation summer interns: **Gyasi Ross** (Legislative), **James Okwaho A. Washinawatok II** (Legislative) and **Nizhoni Smith** (Tribal Court). All the summer interns are funded through the Great Lakes Indian Law Center Summer Intern Program and the Ho-Chunk Nation.



Photo: Legislative summer interns **Gyasi Ross** and **James Okwaho A. Washinawatok II** take a break for an interview. Photo taken June 6, 2002, in the Legislative Office in the Executive Building located in Black River Falls, WI.

*Story continued on page 19*

Gyasi (pronounced Joss-ee) Ross is a third-year law student ("3L") at Columbia University in New York, NY. He is from the Blackfeet Tribe in Browning,

## Legislature Calls for Special Election

On June 5, 2002, the Legislature passed a resolution calling for a Special Election to fill one of the Supreme Court Associate Justice seats. *See* HCN LEG. RES. 6-05-02 A. Pursuant to that resolution, the Election Board posted its *Notice and Rules of Special Primary Election to Fill one (1) Supreme Court Associate Justice Seat* on June 10, 2002. The Special Primary Election will take place on July 27, 2002, from 8:00 A.M. – 7:00 P.M. (see *Notice* for polling locations and instructions to request an absentee ballot). The *Official Nomination*

*Petition* deadline is June 26, 2002, and the Election Board will post the list of candidates on July 1, 2002.

### Background

On December 7, 2001, Associate Justice **Rita A. Cleveland** announced her resignation from her position on the Ho-Chunk Nation Supreme Court (*See* HO-CHUNK NATION COURT BULLETIN, Dec. 2001/Jan. 2002 Double Issue,

*Continued on page 20*

# PART III: A SURVEY OF INCOMPETENT'S TRUST FUND (ITF) CASES

By Associate Trial Judge Todd R. Matha

*Editor's Note: In the last three Court Bulletins, the author wrote an "Introduction to Trust Fund Accounts and Why we Have Them"; "Part I: A Survey of Children's Trust Fund (CTF) Cases"; and "Part II: A Survey of Children's Trust Fund (CTF) Cases." In the Introduction, the author gave a background on trust funds; the relevant law; how to petition the Court; and enunciated the test the Court applies in trust fund cases. In Part I, the author conducted a survey of the CTF cases which involved the trust fund accounts of children fifteen years old and under. Part II surveyed the cases for those individuals sixteen years old and over whose per capita monies remain in trust. The preceding three articles should be read in conjunction with this article, which shall constitute part three in a series of four.*

*In this article, the author provides an overview of all the Incompetent Trust Fund (ITF) cases. As the Court routinely grants most ITF requests, the author will focus mainly on the exceptions to the rule. Next month, the author will complete the last part of the series with an article on the release of decedent CTF and ITF monies.*

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*The author of this article, Judge Todd R. Matha, is a Ho-Chunk Nation tribal member and a graduate of the University of Minnesota Law School. He has served on the Ho-Chunk Nation Trial Court bench as an Associate Judge since April 12, 1999. Prior to that time, Judge Matha was an attorney with the Ho-Chunk Nation Department of Justice. Judge Matha was recently reappointed for a second three-year term as the Associate Trial Court Judge. Judge Matha resides in Black River Falls with his spouse, Katie Funmaker-Matha.*

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In this installment, the Court will provide an overview of the cases in which it considered a release of Incompetent Trust Fund ("ITF") monies for use by incompetent members. The Court examined each decision contained in the case indexes to produce this summary.<sup>1</sup> However, the

Court will refrain from discussing each and every category of request since the Court rarely denies ITF petitions. The below discussion instead will focus more so upon the exceptions, and explain the reasons justifying the relaxation of the four-prong test in this area.

The Court distinguishes ITF from Children's Trust Fund ("CTF") cases on several grounds. First, a parent or guardian automatically confronts "unforeseeable and/or unusual circumstances . . ." when caring and providing for an incompetent member.<sup>2</sup> Consequently, the petitioner may more readily "demonstrate special financial need."<sup>3</sup> Second, unlike CTF cases, the incompetent member will most likely never receive the corpus of his or her trust fund. Third, incompetent members cannot access the same or similar resources and opportunities available to other members, children or adults.<sup>4</sup> Fourth, while the Court must guard the ITF against unnecessary depletion, the Court must not irrationally deny incompetent members equal treatment afforded to adult members in general.<sup>5</sup>

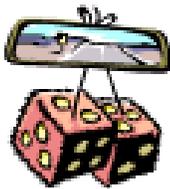


Based upon the foregoing, the Court has concluded that "as long as the [ITF] request bears a reasonable relationship to a legitimate quality of life concern, a welfare necessity most likely exists."<sup>6</sup> This rule of thumb focuses only on welfare necessities because public entitlement programs routinely cover an incompetent's health needs<sup>7</sup> and educational concerns seldom arise. Consequently, the Court has accordingly granted a broad range of welfare-related requests.<sup>8</sup> In doing so, the Court has attempted to meet, but not exceed, the expressed welfare need of the incompetent member.<sup>9</sup> Of course, this presumes that the petitioner has established a necessity in the first instance.<sup>10</sup> For example, if an incompetent member possesses adequate bedroom furniture, the Court will not grant a release of funds for the purchase of an unnecessary duplicate set.<sup>11</sup>

As apparent from the preceding discussion, the Court does not encounter many requests that fail to qualify as necessary welfare expenditures. The Court denied only one ITF request on the basis that the proposed purchase did not constitute a welfare necessity.<sup>12</sup> In that case, the petitioner requested a release of funds for decorative baskets.



The Court conditionally denied two other requests, requiring the submission of further proof.<sup>13</sup> First, the Court required a petitioner to substantiate the tangible health or welfare benefit the incompetent member would receive from having a set of collector dolls.<sup>14</sup> Second, the Court directed a petitioner to document the absence of inadequate and/or unreliable transportation in order to justify the purchase of an automobile.<sup>15</sup> In neither instance have the petitioners offered additional justification.



The Court also has denied a few other requests for failure to satisfy the remaining prongs of the prevailing test. In two cases, the Court found an absence of special financial need.<sup>16</sup> The facts in those cases presented anomalous situations because incompetent members usually must rely primarily on public entitlement programs as an income source. Sometimes petitioners fail to prove exhaustion of other federal, state or tribal funding, but only in limited circumstances.<sup>17</sup> Still, in spite of the relative ease associated with obtaining ITF monies, petitioners need to exercise caution in framing requests.

For instance, receipt of unearned income (e.g., tribal per capita payments) will reduce an incompetent member's monthly Supplemental Security Income ("SSI") dollar for dollar after an automatic \$20.00 exemption.<sup>18</sup> If an incompetent member receives income in the form of goods or services, as opposed to cash, these resources may also impact SSI in varying degrees dependent upon several factors, including the excludability of the resource.<sup>19</sup> And, while an incompetent member may not suffer a financial loss if per capita monies merely replace SSI,<sup>20</sup> other entitlement programs may base eligibility upon continued receipt of SSI.<sup>21</sup> Therefore, the Court strongly advises petitioners to remain aware of the potential ramifications connected with receiving an ITF release and make informed decisions based upon such knowledge.



<sup>1</sup> Any individual may view the Court's public compilation of judicial decisions maintained in the library located in the Tribal Court Building in Black River Falls, WI. The public may also access case files and courtroom minutes. The only blanket exception to this open records policy concerns confidential juvenile proceedings.

<sup>2</sup> *In the Interest of Minor Children: V.D.C., DOB 10/03/84, et al. by Debra Crowe v. HCN Office of Tribal Enrollment*, SU 00-09 (HCN S. Ct., Oct. 12, 2000) at 14.

<sup>3</sup> *In the Interest of Minor Child: S.D.S., DOB 04/25/83, by Michele DeCora v. HCN Office of Tribal Enrollment*, CV 00-35 (HCN Tr. Ct., May 4, 2000) at 7 (representing the third element of the four-prong test).

<sup>4</sup> *See In the Interest of Adult Incompetent: M.B.J., DOB 12/01/65, by Dollie Big John v. HCN Office of Tribal Enrollment*, CV 00-83 (HCN Tr. Ct., Sept. 26, 2000) at 6 (citing *In the Interest of R.D.B. by Marian Blackdeer v. HCN Enrollment Dep't*, CV 96-27 (HCN Tr. Ct., June 15, 1998) at 5).

<sup>5</sup> The Court draws the comparison between incompetent members and other adult members because none of the incompetent cases involve children. A parent naturally exercises the rights associated with legal guardianship over his or her children, but once a mentally handicapped child turns the age of majority, such parent or other interested individual must seek a judicial declaration of incompetency and accompanying designation as legal guardian. *See e.g.*, Wis. Stat. §§ 880.01, *et seq.* In most ITF cases, the Court has extended comity to the incompetency determinations of foreign jurisdictions. *See Ho-Chunk Nation Rules of Civil*

Procedure, Rule 73(A). The Court, however, does possess the ability to determine incompetency by reference to Hocok tradition and custom. See e.g., *In the Interest of C.A.D., DOB 03/18/80*, CV 98-38 (HCN Tr. Ct., Apr. 15, 2002) at 1-2; see also CONSTITUTION OF THE HO-CHUNK NATION, ART. VII, § 5(a). Regardless, the Court maintains a principled justification for treating these cases differently from parental petitions for CTF releases. See generally *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432 (1985).

<sup>6</sup> *In the Interest of M.L.B., DOB 11/18/30, by Shari Marg v. HCN Office of Tribal Enrollment*, CV 01-85 (HCN Tr. Ct., Mar. 1, 2002) at 6 (quoting *Big John*, CV 00-83 (HCN Tr. Ct., Sept. 26, 2000) at 6).

<sup>7</sup> The Court has considered tangential health concerns when considering either non-elder automobile requests (medical transportation) or handicap accessible vehicle requests. See *In the Interest of B.L. by Shari Marg v. HCN Office of Tribal Enrollment*, CV 98-14 (HCN Tr. Ct., Feb. 26, 2002) at 11. The Ho-Chunk Nation Tribal Aging Unit will bear the costs associated with medical transportation for elder incompetent members. *Id.* at 6, 11.

<sup>8</sup> See e.g., *Marg*, CV 01-85 (HCN Tr. Ct., Mar. 1, 2002) (granting release for quarterly allowance); *Marg*, CV 98-14 (HCN Tr. Ct., Feb. 26, 2002) (granting release for bedroom furniture); *In the Interest of Adult Incompetent: O.S.R. v. HCN Office of Tribal Enrollment*, CV 97-117 (HCN Tr. Ct., Feb. 25, 2002) (granting release for pre-paid phone cards); *In the Interest of N.W. by Cecelia Rave v. HCN Office of Tribal Enrollment*, CV 01-125 (HCN Tr. Ct., Jan. 31, 2002) (granting release for property taxes); *Marg*, CV 01-85 (HCN Tr. Ct., Dec. 13, 2001) (granting release for housing utilities); *Big John*, CV 00-83 (HCN Tr. Ct., Sept. 26, 2000) (granting release for household furniture and appliances); *In re: B.P.O. by Elethe Nichols v. HCN Office of Tribal Enrollment*, CV 96-46 (HCN Tr. Ct., Sept. 20, 2000) (granting release for clothing); *R.L.W. by Violet Vilbaum v. HCN Office of Tribal Enrollment*, CV 00-44 (HCN Tr. Ct., July 26, 2000) (granting release for vacation expenses); *O.S.R.*, CV 97-117 (HCN Tr. Ct., Aug. 30, 1999) (granting release for computer and compact disc player); *Nichols*, CV 96-46 (HCN Tr. Ct., July 14, 1999) (granting release for property upkeep); *In the Interest of M.A.F. by Judith Ann Thundercloud v. HCN*, CV 96-87 (HCN Tr. Ct., Mar. 22, 1999) (granting release for automobile insurance); *In the Interest of M.B. by Dale Hazard v. HCN Enrollment Dep't*, CV 96-78 (HCN Tr. Ct., Mar. 9, 1998) (granting release for deck construction); *In the Interest of A.F. by Doris Wateski et al. v. HCN Enrollment Dep't*, CV 97-79 (HCN Tr. Ct., Dec. 5, 1997) (granting release for sun porch construction); *Thundercloud*, CV 96-87 (HCN Tr. Ct., Oct. 31, 1997) (granting release for automobile repairs); *In re: L.L.L. by Helen Littlesoldier*, CV 97-03 (HCN Tr. Ct., Feb. 19, 1997) (granting release for travel and entertainment expenses); *Hazard*, CV 96-78 (HCN Tr. Ct., Jan. 30, 1997) (granting release for mortgage payments); *In the Interest of M.P.J. by*

*Frank Johnson v. HCN Enrollment Dep't*, CV 96-70 (HCN Tr. Ct., Jan. 30, 1997) (granting release for rent); *In re: R.G. by Shirley Sahr v. HCN Enrollment Dep't*, CV 96-49 (HCN Tr. Ct., Nov. 14, 1996) (granting release for kitchenware).

<sup>9</sup> *Marg*, CV 98-14 (HCN Tr. Ct., Feb. 26, 2002) at 10.

<sup>10</sup> Both federal and tribal law require the presence of a health, education or welfare necessity as a precondition to a release of ITF monies. See INDIAN GAMING REGULATORY ACT, 25 U.S.C. § 2710(b)(3)(C); PER CAPITA DISTRIBUTION ORDINANCE, § 6.01(b).

<sup>11</sup> See *Marg*, CV 98-14 (HCN Tr. Ct., Feb. 26, 2002) at 12 (requiring a showing of inadequate and/or unreliable transportation as a precondition to releasing funds for an automobile).

<sup>12</sup> *Sahr*, CV 96-49 (HCN Tr. Ct., Nov. 14, 1996) at 4.

<sup>13</sup> *In the Interest of R.L.W. by Violet Vilbaum v. HCN Office of Tribal Enrollment*, CV 00-44 (HCN Tr. Ct., Feb. 28, 2002) at 9; *Marg*, CV 98-14 (HCN Tr. Ct., Feb. 26, 2002) at 12.

<sup>14</sup> *Vilbaum* at 9.

<sup>15</sup> The Court has released ITF monies for vehicle purchases on four prior occasions, but in each case the petitioner provided adequate documentation of an unreliable household vehicle. See *Nichols*, CV 96-46 (HCN Tr. Ct., Aug. 22, 2000) at 2; *Blackdeer*, CV 96-27 (HCN Tr. Ct., July 15, 1998) at 4-5; *Thundercloud*, CV 96-87 (HCN Tr. Ct., Feb. 28, 1997) at 1; *Littlesoldier*, CV 97-03 (HCN Tr. Ct., Feb. 19, 1997) at 3. The Court will continually require petitioners to establish the presence of a necessity. See *Marg* at 12.

<sup>16</sup> *Decorah*, CV 98-38 (HCN Tr. Ct., Feb. 12, 2002) (requiring parental contribution for graduation and senior prom expenses of adult incompetent member); *Thundercloud*, CV 96-87 (HCN Tr. Ct., Feb. 28, 1997) at 3 (requiring petitioner to demonstrate lack of personal funding for modest clothing request).

<sup>17</sup> *Vilbaum*, CV 00-44 (HCN Tr. Ct., Feb. 28, 2002) at 9 (requiring proof that Wood County Housing Authority would not otherwise meet incompetent member's rental obligation through state funding); *Marg*, CV 98-14 (HCN Tr. Ct., Apr. 24, 1998) at 4 (declining to establish a burial trust account since tribal funding existed to pay for a member's burial expenses).

<sup>18</sup> 20 C.F.R. §§ 416.1121(c), 416.1124.

<sup>19</sup> 20 C.F.R. §§ 416.1201, 416.1205, 416.1210.

<sup>20</sup> The Court has granted ITF releases for the purpose of SSI reimbursement or replenishment depending upon the circumstances. See e.g., *Rave*, CV 01-125 (HCN Tr. Ct., Nov. 30, 2001) at 3-4; *Hazard*, CV 96-78 (HCN Tr. Ct., Jan. 10, 2001); *Sahr*, CV 96-49 (HCN Tr. Ct., Oct. 10, 2000); *Nichols*, CV 96-46 (HCN Tr. Ct., July 14, 1999) at 3; *Thundercloud*, CV 96-87 (HCN Tr. Ct., Mar. 22, 1999) at 3.

<sup>21</sup> For example, the State of Wisconsin relies on the federal SSI eligibility determination in awarding Medical Assistance. See Wis. Stat. § 49.46(1)(a)(4).

# 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

#### APRIL 9, 2002

*Levi Aaron Lincoln, Sr. v. Louise Marlene Lincoln, CV 97-32 Order (Reinstating Withholding for Current Child Support)* (HCN Tr. Ct., April 9, 2002). (Matha, T.)

The Court granted the petitioner's *Motion* to reinstate withholding from the respondent's per capita as the respondent no longer satisfies her child support obligation through wage withholding. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*Angela Maria Regalia v. Roger Lee Houghton, Jr., CS 01-19 Order (Enforcing Arrears)* (HCN Tr. Ct., April 9, 2002). (Matha, T.)

The Court granted the petitioner's *Motion* for child support arrears and enforced the judgment against the respondent's per capita distributions. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*Denise Thiry v. Ira Laes, CS 02-07 Judgment (Enforcing Child Support)* (HCN Tr. Ct., April 9, 2002). (Matha, T.)

The Court enforced an underlying state child support order against the respondent's per capita for current child support and arrears. The respondent filed a timely response in which he agreed to the Court withholding a certain amount from his per capita distribution to satisfy the county court judgment.



#### APRIL 11, 2002

*Tammy L. Blackdeer v. Clifford T. Blackdeer, CS 99-67 Order (Modifying Child Support Enforcement)* (HCN Tr. Ct., April 11, 2002). (Matha, T.)

The Court granted the petitioner's *Motion* to modify the Court's previous judgment to reflect a change made by the county court. The county court modified the underlying child support order from a percentage of per capita to a fixed dollar amount. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*Tari Pettibone v. Gregory Bird, CS 02-09 Order (Default Judgment Enforcing Child Support)* (HCN Tr. Ct., April 11, 2002). (Bossman, W.)

The Court enforced an underlying state child support order against the respondent's per capita for current child support. The Court entered the judgment in default, as the respondent failed to respond or request a hearing. In addition, the Court denied the petitioner's request for arrears as she failed to file a certified account statement of arrears. The Court may reconsider the issue of arrears with a properly filed *Motion* by the petitioner.

#### APRIL 12, 2002

*Rebecca J. Akers v. Dario Aleman, CS 02-10 Order (Default Judgment Enforcing Child Support)* (HCN Tr. Ct., April 12, 2002). (Bossman, W.)

The Court enforced an underlying state child support order against the respondent's per capita for current child support and arrears. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

**APRIL 15, 2002**

*Eau Claire County, State of Wis. on behalf of Eau Claire County Child Support Agency v. Augustus G. Downey*, CS 02-04 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., April 15, 2002). (Matha, T.)

The Court enforced an underlying state child support order against the respondent's per capita for current child support and arrears. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*Denise Thiry v. Ira Laes*, CS 02-07 *Reissuance of Judgment (Enforcing Child Support)* (HCN Tr. Ct., April 15, 2002). (Matha, T.)

The Court entered this *Reissuance of Judgment* pursuant to *HCN R. Civ. P. 58(C)* to correct a clerical mistake made in the previous order. The clerical mistake within the findings of fact effected the enforcement of the order. Therefore, this order supercedes the one entered by the Court previously on April 9, 2002.

*State of Wis. ex rel. Alicia A. Debrot v. Joseph S. Grover*, CS 01-41 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., April 15, 2002). (Matha, T.)

The Court enforced an underlying state child support order against the respondent's per capita for current child support. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*State of Wis./Jackson County v. Chris Thundercloud*, CS 00-15 *Order (Amending Child Support Enforcement)* (HCN Tr. Ct., April 15, 2002). (Matha, T.)

As the child turned eighteen (18) years old and the parties failed to file proof of high school enrollment, the Court ceased withholding for current child support.

**APRIL 16, 2002**

*Kathleen Waukau Bourdon v. Timothy W. Bourdon; Carol Barnes v. Timothy W. Bourdon*, CS 99-69, 98-59 *Order (Granting Motion for Arrears)* (HCN Tr. Ct., April 16, 2002). (Bossman, W.)

The Court granted the petitioner's *Motion* to order withholding for child support arrears against the respondent's per capita distributions. The petitioner included a certified account statement of child support arrears and affected proper service of process upon the respondent. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*Alisa Cantwell v. Sterling Funmaker*, CS 99-79 *Order (Amending Child Support Enforcement)* (HCN Tr. Ct., April 16, 2002). (Bossman, W.)

The Court granted the petitioner's *Motion* to modify the Court's previous judgment to reflect a change made by the county court. The county court modified the underlying child support order from a percentage of per capita to a fixed dollar amount. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*Tanya L. Ludke v. Earl E. Smith*, CS 01-31 *Order (Suspending Child Support Withholding)* (HCN Tr. Ct., April 16, 2002). (Bossman, W.)

The Court granted the petitioner's *Motion* to suspend withholding from the respondent's per capita as the petitioner and the respondent are now living together. The petitioner attached a Stipulation and Order entered by the county court suspending the respondent's child support obligation. The respondent acknowledged service of process and the Court entered judgment in favor of the petitioner.

*Dona Marinello v. Howard F. Pettibone; State of Wis./Jackson County on behalf of Karena Day v. Howard Pettibone; and State of Wis./Jackson County on behalf of Inez Littlegeorge v. Howard Pettibone*, CS 01-32, CV 97-109, 110 *Order (Enforcing Child Support), Order (Ceasing Withholding for Current Child Support After the May 2002 Per Capita), Order (Continuing*

*Withholding for Arrears until Paid in Full*) (HCN Tr. Ct., April 16, 2002). (Bossman, W.)

The Court enforced an underlying state child support order against the respondent's per capita for current child support and arrears. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*Melissa McGill v. Jones Decorah; Barbara J. Decorah v. Jones Decorah; and Karen Goulee v. Jones Decorah*, CV 96-66, 97-19, 100 Order (Amending Enforcement of Child Support Arrears), Order (Suspending Withholding for Current Child Support Arrears) (HCN Tr. Ct., April 16, 2002). (Bossman, W.)

In this serial payor case, the respondent paid off all child support arrears in one case. The Court, therefore, *sua sponte* ordered an increase of withholding for a second payee to allow the respondent to pay off all arrears in a more timely manner.

*June Miller v. Larry Fanning*, CS 98-71 Order (Granting Motion for Arrears in Part) (HCN Tr. Ct., April 16, 2002). (Bossman, W.)

The Court granted the petitioner's *Motion* for arrears in part. The county court made a finding of arrears and ordered the respondent to pay \$1,000.00 out of his per capita distributions. As Ho-Chunk Nation law limits the amount the Court may garnish for child support arrears, the Court could only grant the petitioner's request for relief in part. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*Melanie Stacy v. Harrison J. Funmaker*, CV 96-48 Order (Modifying Child Support Enforcement) (HCN Tr. Ct., April 16, 2002). (Matha, T.)

The Court granted the petitioner's *Motion* to modify the Court's previous judgment to reflect a change made by the county court. The county court modified the underlying child support order from a percentage of per capita to a fixed dollar amount. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*Nicole Ward v. Daryl Decora*, CV 97-06 Order (Amending Child Support Enforcement) (HCN Tr. Ct., April 16, 2002). (Bossman, W.)

The Court granted the petitioner's *Motion* to modify the Court's previous judgment to reflect a change made by the county court. The county court modified the underlying child support order from a percentage of per capita to a fixed dollar amount. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.



*State of Wis. v. Eileen Funmaker; State of Wis., on behalf of Eileen J. Link v. Mahlon Funmaker*, CS 00-41, CV 97-151 Order (Reinstating Withholding for Current Child Support) (HCN Tr. Ct., April 16, 2002). (Matha, T.)

The Court granted the petitioner's *Motion* to reinstate withholding from the respondent's per capita to reflect a change in the child support obligation arising from a change in physical placement. The Court had previously granted the petitioner's *Motion* to suspend withholding as the minor child resided with the respondent at that time. As the minor child no longer resides with the respondent, the county court entered an order reinstating the child support obligation. The Court enforced the underlying order against the respondent's per capita distributions. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*State of Wis.-Jackson County on behalf of Janet Funmaker v. Max Funmaker, Sr.; Joyce Funmaker v. Max Funmaker, Sr.; and State of Wis. v. Max Funmaker, Sr.*, CS 98-09, CV 97-122, CS 98-18 Order (Suspending Withholding for Child Support Arrears), Order (Updating Child Support Arrears Balance) (HCN Tr. Ct., April 16, 2002). (Bossman, W.)

The Court granted the petitioner's *Motion* to suspend withholding for child support arrears in Case No. CS 98-09 as the petitioner has properly alleged that the respondent has paid off all arrears at

this time. In addition, the Court granted the petitioner's *Motion* to update the arrearage amount in Case No. CV 97-122. The Court entered both judgments in default, as the respondent failed to respond or request a hearing.

*State of Wis. on behalf of Shelley E. Thundercloud v. William J. Greendeer*, CV 97-67 Order (Reinstating Child Support Withholding) (HCN Tr. Ct., April 16, 2002). (Bossman, W.)

The Court granted the petitioner's *Motion* to reinstate withholding from the respondent's per capita as the respondent no longer satisfies his child support obligation through wage withholding. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

*State of Wis.-Sauk County on behalf of Janet C. Day v. Christopher J. Sweet*, CS 99-53 Order (Suspending Withholding for Child Support Arrears) (HCN Tr. Ct., April 16, 2002). (Bossman, W.)

The Court granted the petitioner's *Motion* to suspend withholding for child support arrears as the petitioner has properly alleged that the respondent has paid off all arrears at this time. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

#### **APRIL 26, 2002**

*Catherine M. Gourd v. Alexander D. Gourd; Susan C. Oyama v. Alexander D. Gourd*, CS 99-13, 00-27 Order (Impound and Notice of Hearing) (HCN Tr. Ct., April 26, 2002). (Matha, T.)

The respondent filed a correspondence with the Court alleging that he now satisfied one of his child support obligations through wage withholding. The Court ordered an impound of that percentage of per capita which it would normally send to that payee and scheduled a hearing on the matter.

#### **MAY 23, 2002**

*Catherine M. Gourd v. Alexander D. Gourd; Susan C. Oyama v. Alexander D. Gourd*, CS 99-13, 00-27 Order (Releasing Impound and Suspending Enforcement) (HCN Tr. Ct., May 23, 2002). (Matha, T.)

As the respondent provided the necessary documentation that he now satisfies his current child support obligation for Case No. CS 99-13 through wage withholding, the Court suspended withholding for that case only from his per capita distributions.



*Melissa Smith v. Paul C. Smith*, CV 96-79 Order (Requiring Proof of Enrollment and Amending Child Support Enforcement) (HCN Tr. Ct., May 23, 2002). (Matha, T.)

The Court previously ordered the parties to file proof of high school enrollment for one of the minor children who would soon turn eighteen (18) years of age. As the parties failed to do so, the Court ceased withholding current child support for that child. In addition, as another child will soon turn eighteen (18) years of age, the Court required the parties to file proof of high school enrollment by June 24, 2002. If the parties fail to file the proof of high school enrollment, the Court shall cease withholding for current child support for that child, as well.

*State of Wis. ex rel. Josi E. Trepanier v. Tyrone Walker*, CS 02-17 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., May 23, 2002). (Matha, T.)

The Court enforced an underlying state child support order against the respondent's per capita for current child support and arrears. The Court entered the judgment in default, as the respondent failed to respond or request a hearing.

### **Children's Trust Fund (CTF)**

#### **APRIL 25, 2002**

*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. HCN Office of Tribal Enrollment*, CV 01-136 Order (Accepting Accounting) (HCN Tr. Ct., April 25, 2002). (Bossman, W.)

The Court accepted the petitioner's accounting for CTF monies previously released for orthodontics.

**MAY 6, 2002**

*In the Interest of the Minor Child: S.J.P., DOB 12/12/90, by Annette Pidgeon v. HCN Office of Tribal Enrollment, CV 02-11 Order (Accepting Accounting) (HCN Tr. Ct., May 6, 2002). (Bossman, W.)*

The Court accepted the petitioner's timely accounting for CTF monies previously released for orthodontics.

**MAY 13, 2002**

*In the Interest of the Minor Child: A.L.F., DOB 09/30/90, by James W. Ferguson v. HCN Office of Tribal Enrollment, CV 02-38 Order (Granting CTF Monies for Orthodontics for the Child's Teeth) (HCN Tr. Ct., May 13, 2002). (Bossman, W.)*

The Court granted the release of CTF monies to pay for orthodontics for the minor child.



**MAY 14, 2002**

*In the Interest of Minor Child: A.L., DOB 04/06/85, by Tammey Littlebear v. HCN Office of Tribal Enrollment, CV 02-22 Order (Dismissal without Prejudice) (HCN Tr. Ct., May 14, 2002). (Bossman, W.)*

As the petitioner failed to appear at the *Fact-Finding Hearing* of which he received proper notice, the Court dismissed the *Petition* without prejudice pursuant to *HCN R. Civ. P. 44(C)*.

*In the Interest of Minor Child: T.L.S., DOB 08/04/84, by Terrie Lynn Staples v. HCN Office of Tribal Enrollment, CV 02-35 Order (Continuance) (HCN Tr. Ct., May 14, 2002). (Bossman, W.)*

As the petitioner's notice of the *Fact-Finding Hearing* was returned undeliverable, the Court ordered a continuance until such time it could properly give notice to the petitioner. The Court requested the respondent to furnish an address for

the petitioner if the respondent had this information available to it.

**Civil Cases (All Categories)**

**MARCH 7, 2002**

*HCN Dep't of Hous., Prop. Mgmt. Div. v. Jamie Funmaker, CV 02-01 Eviction Order (Restitution and Relief) (HCN Tr. Ct., March 7, 2002). (Butterfield, M.)*

The Court determined that the defendant's non-payment of rent constituted a gross violation of the lease and merited ordering an eviction of the defendant from the property.

*HCN Dep't of Hous., Prop. Mgmt. Div. v. Jamie Funmaker, CV 02-01 Writ of Restitution (HCN Tr. Ct., March 7, 2002).*

The Court determined that the plaintiff was entitled to a superior right of possession to the property at W17890 Witt-Birn Town Line Road, Lot 5, Wittenberg, WI 54499 and issued this writ to remove the defendant from the property.

**APRIL 12, 2002**

*Todd R. Matha v. HCN Election Bd. Chairperson Pettibone, et al., CV 02-34 Order Granting Summary Judgment (HCN Tr. Ct., April 12, 2002). (Bossman, W.)*

[For summary, see [Special Elections](#) within this index.]

*Todd R. Matha, Plaintiff, Mark D. Butterfield, Intervenor v. HCN Election Bd. Chairperson Pettibone, et al., CV 02-34 Order Denying Motion to Intervene (HCN Tr. Ct., April 12, 2002). (Bossman, W.)*

[For summary, see [Special Elections](#) within this index.]

**APRIL 15, 2002**

*In the Interest of Choice A. Decorah, CV 98-38 Order (Appointing Successor Guardian) (HCN Tr. Ct., April 15, 2002). (Bossman, W.)*

As the guardian recently passed away and the Court retains continuing jurisdiction over the ward, the Court appointed a successor guardian.

*HCN Dep't of Hous., Prop. Mgmt. Div. v. Myra Pemberton*, CV 01-152 *Order (Default Judgment)* (HCN Tr. Ct., April 15, 2002). (Matha, T.)

The Court granted a default judgment in favor of the plaintiff for the defendant's failure to pay rent which constituted an ongoing violation of the lease.

*Kathy A. Stacy v. HCN and Clarence Pettibone, former Vice Pres. of the HCN, and Wade Blackdeer, present Vice Pres. of the HCN in their individual and official capacities*, CV 01-13 *Pre-Trial Order* (HCN Tr. Ct., April 15, 2002). (Bossman, W.)

The Court issued a pre-trial order, setting out the various deadlines and setting the *Motion Hearing* and *Trial* dates.

**APRIL 16, 2002**

*HCN Hous. Auth. v. John Dumpprope and Julia Dumpprope*, CV 01-147 *Order (Final Judgment)* (HCN Tr. Ct., April 16, 2002). (Matha, T.)

The Court granted a default judgment in favor of the plaintiff for the defendants' non-payment of rent, late fees, delinquent utility payments and clean-up costs. The defendants had since abandoned the unit and had left certain items of property in hopes that the plaintiff would sell these items to offset the defendants' debt. The Court agreed with the plaintiff that people often abandon property after they leave a housing unit, and the Nation does not have the resources to sell off these items to help offset any debts or damages a former lessor might owe. The plaintiff is not bound by state law (*i.e.*, Wis. Stat. § 704.05(5)) on this subject due to its civil/regulatory nature.

*Ho-Chunk Hous. Auth. v. Lori Koster*, CV 02-20 *Order (Default Judgment)* (HCN Tr. Ct., April 16, 2002). (Matha, T.)

The Court granted a default judgment in favor of the plaintiff for the defendant's non-payment of rent.

**APRIL 25, 2002**

*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. HCN Office of Tribal Enrollment*, CV

01-136 *Order (Accepting Accounting)* (HCN Tr. Ct., April 25, 2002). (Bossman, W.)

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



*HCN, Div. of Children and Family Servs. v. Orvilla Rae White Eagle*, CV 01-68 *Notice (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., April 25, 2002). (Bossman, W.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*Orvilla R. White Eagle v. Todd A. Cloud*, CV 02-06 *Default Judgment* (HCN Tr. Ct., April 25, 2002). (Bossman, W.)

The Court granted a default judgment in favor of the plaintiff for half the amount of a hospital bill paid on behalf of the minor child of the parties.

**APRIL 26, 2002**

*Melody Whiteagle-Fintak v. Russell Girard, Judy Whitehorse, and HCN Dep't of Soc. Servs. – Youth Servs. Div.*, CV 01-153 *Order (Amending Scheduling Order to Change Pre-Trial Conference to May 3, 2002 at 9:00 a.m.)* (HCN Tr. Ct., April 26, 2002). (Matha, T.)

The Court issued an amended scheduling order, setting the pretrial conference for a new date.

**MAY 1, 2002**

*HCN Hous. Auth. v. Elliott Walker*, CV 01-155 *Eviction Order (Restitution and Relief)* (HCN Tr. Ct., May 1, 2002). (Bossman, W.)

The Court determined that the gross violations of the *Dwelling Lease* by the defendant merited ordering an eviction of the defendant from the property.

*HCN Hous. Auth. v. Elliott Walker*, CV 01-155 *Writ of Restitution* (HCN Tr. Ct., May 1, 2002).

The Court determined that the plaintiff was entitled to a superior right of possession to the property at 967 Chakh-Hah-Chee, Nekoosa, WI and issued this writ to remove the defendant from the property.

**MAY 3, 2002**

*HCN Dep't of Treasury v. Ardith Snowball*, CV 02-08 *Order (Granting Motion to Dismiss)* (HCN Tr. Ct., May 3, 2002). (Bossman, W.)

The Court granted the plaintiff's *Motion to Dismiss* pursuant to *HCN R. Civ. P. 54(A)*.



**MAY 6, 2002**

*In the Interest of the Minor Child: S.J.P., DOB 12/12/90, by Annette Pidgeon v. HCN Office of Tribal Enrollment*, CV 02-11 *Order (Accepting Accounting)* (HCN Tr. Ct., May 6, 2002). (Bossman, W.)

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

*Judith McLendon v. HCN and Majestic Pines Casino Security*, CV 01-146 *Order (Denying Defendants' Motion for Summary Judgment)* (HCN Tr. Ct., May 6, 2002). (Bossman, W.)

As an issue of material fact exists, and the defendants may not be entitled to judgment as a matter of law, the Court denied the *Defendants' Motion for Summary Judgment*.

**MAY 7, 2002**

*HCN Prop. Mgmt. v. Judy Whitehorse Hillmer*, CV 02-21 *Order (Dismissal)* (HCN Tr. Ct., May 7, 2002). (Matha, T.)

The Court granted the plaintiff's *Motion to Dismiss* as the defendant entered into a voluntary wage assignment to pay off the debt owed to the plaintiff.

**MAY 9, 2002**

*Jason Cvengros v. Sheryl Neulreich and Ho-Chunk Hotel & Convention Center*, CV 02-24 *Scheduling Order* (HCN Tr. Ct., May 9, 2002). (Bossman, W.)

The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

**MAY 13, 2002**

*In the Interest of the Minor Child: A.L.F., DOB 09/30/90, by James W. Ferguson v. HCN Office of Tribal Enrollment*, CV 02-38 *Order (Granting CTF Monies for Orthodontics for the Child's Teeth)* (HCN Tr. Ct., May 13, 2002). (Bossman, W.)

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

**MAY 14, 2002**

*Chong Graves v. Ho-Chunk Casino*, CV 01-150 *Order (Dismissal with Prejudice)* (HCN Tr. Ct., May 14, 2002). (Matha, T.)

As the plaintiff failed to appear at the scheduled *Trial* of which she received proper notice, the Court dismissed the plaintiff's *Complaint* with prejudice pursuant to *HCN R. Civ. P. 44(C)*.

*In the Interest of Minor Child: A.L., DOB 04/06/85, by Tammy Littlebear v. HCN Office of Tribal Enrollment*, CV 02-22 *Order (Dismissal without Prejudice)* (HCN Tr. Ct., May 14, 2002). (Bossman, W.)

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

*In the Interest of Minor Child: T.L.S., DOB 08/04/84, by Terrie Lynn Staples v. HCN Office of Tribal Enrollment*, CV 02-35 *Order (Continuance)* (HCN Tr. Ct., May 14, 2002). (Bossman, W.)

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

**MAY 15, 2002**

*HCN Dep't of Hous., Prop. Mgmt. Div. v. Ashley John Decorah*, CV 02-18 *Order (Default Judgment)* (HCN Tr. Ct., May 15, 2002). (Matha, T.)

The Court entered a judgment in favor of the plaintiff to withhold monies owed to the plaintiff

from the defendant's per capita distribution for non-payment of rent. The Court entered the judgment in default as the defendant failed to respond or to request a hearing.

*HCN Dep't of Labor v. Ted Leland Brown*, CV 02-33 *Order (Default Judgment)* (HCN Tr. Ct., May 15, 2002). (Bossman, W.)

The Court granted a default judgment in favor of the plaintiff for advanced relocation expenses given to the defendant which he failed to properly use and reconcile.



*In the Interest of Kathy Brandenburg-Miller v. HCN Office of Tribal Enrollment*, CV 98-18 *Order (Accepting Accounting)* (HCN Tr. Ct., May 15, 2002). (Bossman, W.)

[For summary, see [Incompetent's Trust Fund](#) within this index.]

*Clarence Pettibone v. HCN Legislature, et al.*, CV 01-84 *Order (Granting Plaintiff's Motion for Summary Judgment)* (HCN Tr. Ct., May 15, 2002). (Matha, T.)

[For summary, see [Standing](#) within this index. Other topics covered: [Petition for Redress of Grievances](#); [Prudential Considerations](#)]

#### **MAY 16, 2002**

*HCN Dep't of Treas. v. Diane Lonetree*, CV 02-32 *Order (Default Judgment)* (HCN Tr. Ct., May 16, 2002). (Bossman, W.)

The Court granted the plaintiff's request for repayment of advanced business travel monies given to the defendant for which the defendant failed to reconcile. The Court entered the judgment in default as the defendant failed to answer or request a hearing.

*HCN Dep't of Treas. v. Ronald Wilbur*, CV 02-29 *Order (Default Judgment)* (HCN Tr. Ct., May 16, 2002). (Bossman, W.)

The Court granted the plaintiff's request for repayment of advanced business travel monies given to the defendant for which the defendant failed to reconcile. The Court entered the judgment in default as the defendant failed to answer or request a hearing.

*Kay Kubis v. MPC Security Supervisors: Dave Plummer, Cora Samples, Lee Whitegull; MPC Security Directors: Charles Hizer and Tammie Modica; HCN Compliance Div.; HCN Bus. Office; and Four Winds Ins.*, CV 02-23 *Scheduling Order* (HCN Tr. Ct., May 16, 2002). (Bossman, W.)

The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

*Chuefue Yang v. Ho-Chunk Gaming Auth., Rainbow Casino*, CV 02-30 *Scheduling Order* (HCN Tr. Ct., May 16, 2002). (Bossman, W.)

The Court issued a scheduling order, setting out the various deadlines and setting the pretrial conference and trial dates.

#### **MAY 20, 2002**

*HCN Hous. Auth. v. Karen Smith, a/k/a Karen Smith Combs*, CV 02-39 *Order (Motion Hearing)* (HCN Tr. Ct., May 20, 2002). (Bossman, W.)

The Court granted the defendant's request to convene a hearing in order for Mr. Combs to argue his *Motion to Become a Party Defendant* and to provide the plaintiff with an opportunity to respond.

*In the Interest of Adult Incompetent: Bruce O'Brien v. HCN Office of Tribal Enrollment*, CV 96-46 *Order (Accepting Accounting and Granting Release of ITF Monies)* (HCN Tr. Ct., May 20, 2002). (Bossman, W.)

[For summary, see [Incompetent's Trust Fund](#) within this index.]

*Nena L. Price v. Ho-Chunk Casino/Slot Dep't*, CV 02-05 *Order (Dismissal)* (HCN Tr. Ct., May 20, 2002). (Matha, T.)

The Court granted the defendant's *Motion to Dismiss* pursuant to *HCN R. Civ. P. 56*. The defendant attached a letter from the plaintiff in

which she stated she no longer wished to pursue the action.

**MAY 21, 2002**

*HCN Dep't of Hous., Prop. Mgmt. Div. v. Sarah C. Littlegeorge*, CV 01-77 *Notice (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., May 21, 2002). (Bossman, W.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*In the Interest of Adult Incompetent: Elijah Matthew White, by Gwendolyn A. White v. HCN Office of Tribal Enrollment*, CV 02-25 *Order (Releasing Adult Liability Account Funds to Estate)* (HCN Tr. Ct., May 21, 2002). (Bossman, W.)

[For summary, see [Incompetent's Trust Fund](#) within this index.]

**MAY 22, 2002**

*HCN Hous. Auth. v. Bernard Mountain, Jr. and Iris Lyons*, CV 00-64 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., May 22, 2002). (Matha, T.)

The plaintiff acknowledged that the defendant had satisfied the judgment and, therefore, the Court recognized that the debt had been paid in full and informed the parties of its intent to close the file in ten (10) days absent an objection of the parties.

*HCN Whitetail Crossing – Tomah, HCN Dep't of Bus., and HCN v. Patricia Letourneau*, CV 02-13 *Order (Default Judgment)* (HCN Tr. Ct., May 22, 2002). (Matha, T.)

The Court entered a default judgment in favor of the plaintiff for the defendant's embezzlement of funds from Whitetail Crossing in the amount of \$35,884.00.

*In the Interest of Claude Payer, DOB 12/19/61, by Dorothy Will v. HCN Office of Tribal Enrollment*, CV 02-31 *Order (Releasing ITF Funds)* (HCN Tr. Ct., May 22, 2002). (Bossman, W.)

[For summary, see [Incompetent's Trust Fund](#) within this index.]

**MAY 23, 2002**

*Michelle Mary Krowiorz v. Ho-Chunk Casino Personnel Dep't*, CV 02-37 *Order (Granting Plaintiff Leave to Reschedule)* (HCN Tr. Ct., May 23, 2002). (Matha, T.)

The plaintiff failed to appear at the May 22, 2002 *Scheduling Conference* of which she received proper notice. Therefore, the Court grants the plaintiff leave to reschedule within two (2) weeks. If the plaintiff fails to reschedule, the Court shall dismiss this case with prejudice pursuant to *HCN R. Civ. P. 56(C)*.

*Tamara Scoles v. Michael Thompson*, CV 00-100 *Order (Requesting Satisfaction of Judgment)* (HCN Tr. Ct., May 23, 2002). (Bossman, W.)

The Court previously entered a default judgment in favor of the plaintiff in the amount of \$14,373.81, in which it required the defendant to satisfy the judgment within one (1) year. Failure to do so could subject the defendant to contempt of court and an accrual of interest on the money judgment. The Court, therefore, requested the plaintiff to file a *Satisfaction of Judgment* (either Partial or Full) in accordance with *HCN R. Civ. P. 59*.

**Incompetent's Trust Fund**

**MAY 15, 2002**

*In the Interest of Kathy Brandenburg-Miller v. HCN Office of Tribal Enrollment*, CV 98-18 *Order (Accepting Accounting)* (HCN Tr. Ct., May 15, 2002). (Bossman, W.)

The Court accepted the petitioner's timely accounting for ITF monies previously released by the Court.

**MAY 20, 2002**

*In the Interest of Adult Incompetent: Bruce O'Brien v. HCN Office of Tribal Enrollment*, CV 96-46 *Order (Accepting Accounting and Granting Release of ITF Monies)* (HCN Tr. Ct., May 20, 2002). (Bossman, W.)

The Court accepted the petitioner's timely accounting for ITF monies previously released by the Court; and granted a release of ITF monies for the petitioner's most recent requests (namely, taxes, respite camp, insurance and SSI reimbursement).

**MAY 21, 2002**

*In the Interest of Adult Incompetent: Elijah Matthew White, by Gwendolyn A. White v. HCN Office of Tribal Enrollment, CV 02-25 Order (Releasing Adult Liability Account Funds to Estate)* (HCN Tr. Ct., May 21, 2002). (Bossman, W.)

The Court granted the release of monies from the decedent's Adult Liability Account to the named personal representative of the decedent's estate.

**MAY 22, 2002**

*In the Interest of Claude Payer, DOB 12/19/61, by Dorothy Will v. HCN Office of Tribal Enrollment, CV 02-31 Order (Releasing ITF Funds)* (HCN Tr. Ct., May 22, 2002). (Bossman, W.)

The Court granted the guardian's request for a release of ITF funds in order to purchase a house for the ward.

**Juvenile**

**APRIL 12, 2002**

*In the Interest of the Minor Children: J.H.D., DOB 12/08/87, T.L.B., DOB 03/18/91, and J.W.P., DOB 12/06/93, JV 02-03, 05, 06 Order (Appointing Temporary Interim Legal Guardian)* (HCN Tr. Ct., April 12, 2002). (Bossman, W.)

Until such time the Court can convene a *Guardianship Hearing* in this matter, the Court appointed an interim temporary legal guardian for the minor children.

**APRIL 15, 2002**

*In the Interest of Minor Child: S.M.D., DOB 11/06/86, JV 01-21 Order (Establishment of Child Support)* (HCN Tr. Ct., April 15, 2002). (Matha, T.)

The Court determined the proper withholding for current child support and arrears from the parent's per capita distribution. The Court applied generally

accepted withholding guidelines in the absence of parental participation at the *Child Support Hearing*.



*In the Interest of Minor Child: S.M.D., DOB 11/06/86, JV 01-21 Order (Establishment of Child Support-Redacted Version)* (HCN Tr. Ct., April 15, 2002). (Matha, T.)

The Court entered a redacted version of its April 15, 2002 child support order in which it edited out the confidential, non-public information.

*In the Matter of the Children: D.D.W., DOB 12/16/94, D.R.W., DOB 09/22/92, D.G.W., DOB 11/09/95, D.S.W., DOB 02/19/98, JV 01-17, 18, 19, 20 Plea Hearing* (HCN Tr. Ct., April 15, 2002). (Bossman, W.)

The Court held a *Plea Hearing* on April 2, 2002 in this *Child/Family Protection Petition* case. The defendant entered a plea of Not Guilty and the Court scheduled a *Formal Hearing* on the allegations within the *Petition* for April 30, 2002. At this time, legal and physical custody shall remain as previously ordered by the Court.

*In the Matter of the Children: D.D.W., DOB 12/16/94, D.R.W., DOB 09/22/92, D.G.W., DOB 11/09/95, D.S.W., DOB 02/19/98, JV 01-17, 18, 19, 20 Re-Scheduling of Plea Hearing* (HCN Tr. Ct., April 15, 2002). (Bossman, W.)

The Court held a *Plea Hearing* on April 2, 2002 in this *Child/Family Protection Petition* case. The defendant requested additional time to seek legal counsel before entering a plea. The Court granted the request and rescheduled the hearing for a later date. At this time, legal and physical custody shall remain as previously ordered by the Court.

**APRIL 18, 2002**

*In the Interest of Minor Child: S.G.D., DOB 12/19/00, JV 02-01 Order (Granting Request to Reschedule)* (HCN Tr. Ct., April 18, 2002). (Bossman, W.)

The Court granted a *Motion* to reschedule the *Trial*. The Court instructed the moving party to reschedule the *Trial* within two (2) weeks by contacting the DOJ Attorney and the Clerk of Courts.



**APRIL 24, 2002**

*In the Interest of Minor Children: R.A.R., DOB 07/30/95, J.L.W., DOB 10/12/89, R.G.R., DOB 02/10/99, N.A.R., DOB 11/25/96, J.A.C., DOB 08/11/92, JV 02-07, 08, 09, 10, 11 Order (Acceptance of Transfer) (HCN Tr. Ct., April 24, 2002). (Matha, T.)*

The Court accepted a transfer of a children's case from the State of Wisconsin. The case will now proceed under the HO-CHUNK NATION CHILDREN AND FAMILY CODE.

**APRIL 29, 2002**

*In the Interest of the Minor Child: S.G.D., DOB 12/19/00, JV 02-01 Order for Admission Pro Hac Vice (HCN Tr. Ct., April 29, 2002). (Bossman, W.)*  
The Court granted Attorney Lisa Aldinger's *Motion* to appear *pro hac vice*.

**APRIL 30, 2002**

*In the Interest of Minor Child: L.E.C., DOB 10/12/90, JV 01-22 Order (Appointment of Permanent Guardian of the Person) (HCN Tr. Ct., April 30, 2002). (Bossman, W.)*

The Court appointed a permanent guardian for the minor child.

**MAY 2, 2002**

*In the Matter of the Child: S.G.D., DOB 12/19/00, JV 02-01 Order (Granting Telephonic Appearance) (HCN Tr. Ct., May 2, 2002). (Bossman, W.)*

The Court granted a request by one of the parents to appear at the May 2, 2002 *Formal Hearing* by telephone.

*In the Matter of the Child: S.G.D., DOB 12/19/00, JV 02-01 Order (Rescheduling Formal Hearing) (HCN Tr. Ct., May 2, 2002). (Bossman, W.)*

The parent of the minor child experienced transportation problems in attending the hearing. The Court, therefore, granted the requests of both the *guardian ad litem* and the attorney for the parent to reschedule the hearing for a later date.

**MAY 3, 2002**

*In the Interest of Minor Children: D.D.W., DOB 12/16/94, D.R.W., DOB 09/22/92, D.G.W., DOB 11/09/95, D.S.W., DOB 02/19/98, JV 01-17, 18, 19, 20 Order (HCN Tr. Ct., May 3, 2002). (Bossman, W.)*

The parent failed to appear at the Formal Hearing despite having received proper notice. The Court, in its discretion, proceeded in her absence. The Court ordered legal and physical placement of the children with certain named parties and scheduled a *Dispositional Hearing* to be held within sixty (60) days.

**MAY 8, 2002**

*In the Matter of the Child: S.G.D., DOB 12/19/00, JV 02-01 Order (Granting Order for Appearance, or for Telephonic Appearance) (HCN Tr. Ct., May 8, 2002). (Bossman, W.)*

The Court granted a request by one of the parents to appear at the May 10, 2002 *Formal Hearing* by telephone.

**MAY 14, 2002**

*In the Interest of Minor Child: S.V.P., DOB 11/06/96, JV 02-02 Order (Appointment of Guardian ad Litem) (HCN Tr. Ct., May 14, 2002). (Matha, T.)*

The Court appointed Jean Ann Day to serve as *guardian ad litem* in this matter involving a *Child/Family Protection Petition*.

*In the Interest of Minor Child: S.J.R., DOB 03/31/99, JV 00-01 Order (Guardianship Notification) (HCN Tr. Ct., May 14, 2002). (Matha, T.)*

The Court issued an *Order* to provide notice to the father of the minor child of the matters pending before the Court and an upcoming *Guardianship Hearing*. The Court had the order translated into

the native tongue of the father as English is not his first language.

*In the Interest of the Minor Child: J.H.D., DOB 12/08/87, T.L.B., DOB 03/18/91, and J.W.P., DOB 12/06/93, JV 02-03, 05, 06 Order (Appointing Temporary Interim Legal Guardian) (HCN Tr. Ct., May 14, 2002).* (Bossman, W.)



## Special Elections

### APRIL 12, 2002

*Todd R. Matha v. HCN Election Bd. Chairperson Vaughn Pettibone; and HCN Election Bd. Members: Brandee Alderman, JoAnn Baker, Tara Blackdeer, Michelle Decorah, Ruth Decorah, Ermon Dick, Mary Ellen Dumas, Winona Funmaker, James Seymore, and Wilma Thompson, CV 02-34 Order Granting Summary Judgment (HCN Tr. Ct., April 12, 2002).* (Bossman, W.)

The plaintiff was a candidate for Seat No. 1 in a Special Primary Election held on March 23, 2002, to fill a seat on the Ho-Chunk Nation Supreme Court. On March 24, 2002, the Election Board certified the results, declaring that the plaintiff had received a majority of the votes in the Special Primary. The Election Board then proceeded to post a notice for a Special Run-Off Election to be held on April 27, 2002. The plaintiff initiated this action requesting declaratory and injunctive relief, asking the Court to affirm that a candidate who received over fifty percent (50%) of the vote in a Special Primary Election is not required to appear in a Special Run-Off; an injunction requiring the Election Board to withdraw its notice; requiring the Election Board to remove any reference of a vacant seat from its *Notice and Rules of Special Run-Off Election*; and an injunction requiring the Election Board to swear in the plaintiff in accordance with the CONSTITUTION OF THE HO-CHUNK NATION, ART. VIII, § 8; and any other relief the Court deemed appropriate. The Court distinguished an earlier

case, *Greengrass v. HCN Election Bd.*, and held that any candidate who received a majority of the votes in a Special Primary Election need not appear in a Special Run-Off Election.

*Todd R. Matha, Plaintiff, Mark D. Butterfield, Intervenor v. HCN Election Bd. Chairperson Vaughn Pettibone; and HCN Election Bd. Members: Brandee Alderman, JoAnn Baker, Tara Blackdeer, Michelle Decorah, Ruth Decorah, Ermon Dick, Mary Ellen Dumas, Winona Funmaker, James Seymore, and Wilma Thompson, CV 02-34 Order Denying Motion to Intervene (HCN Tr. Ct., April 12, 2002).* (Bossman, W.)

The Court denied movant Mark Butterfield's request to intervene. The Court was on the eve of rendering a decision and found that its holding was broad enough to encompass any person who took the majority of the vote in the Special Primary Election, thus, the movant would not suffer harm from the Court's denial of his *Motion*.

## Standing

### MAY 15, 2002

*Clarence Pettibone v. HCN Legislature and HCN Legislators Kathyleen Whiterabbit, Sharyn Whiterabbit, George Lewis, Myrna Thompson, Gerald Cleveland, Christing Funmaker-Romano, Dallas Whitewing, Wade Blackdeer, Tracy Thundercloud and Elliott Garvin, in their official capacity, CV 01-84 Order (Granting Plaintiff's Motion for Summary Judgment) (HCN Tr. Ct., May 15, 2002).* (Matha, T.)

The Court performed an exhaustive review of its case law concerning justiciability, particularly in relation to the issue of standing. The Court began with a review of U.S. Supreme Court jurisprudence on standing, articulating the standard test and how the U.S. Supreme Court has narrowed its standing doctrine through prudential considerations. The Court then moves on to the Court's own standing jurisprudence, which began with an incorporation of the *Valley Forge* test. The Court determined not to incorporate prudential considerations enunciated by the U.S. Supreme Court due to the vast divergence between the federal and tribal framework. The

Court also discussed petitions for redress of grievances.

In the case at bar, the plaintiff alleged a constitutional injury resulting from the defendants' passage of HCN LEG. RES. 07/03/01 G. The defendants argued that the plaintiff must show an injury to either a liberty or property interest to properly allege standing, which the Court declined to require.

As to the merits of the case, the Court held that a plain interpretation of the CONSTITUTION OF THE HO-CHUNK NATION reveals that a legislator's designation as Vice President remains fully intact throughout his or her service as President *pro tempore*. Therefore, the Court declared HCN LEG. RES. 07/03/01 G unconstitutional and directed the defendants to return the plaintiff to the position of Vice President effective immediately.

## Supreme Court

No new cases since the last COURT BULLETIN.

## Recent Filings



## Trial Court

### Child Support

**APRIL 10, 2002**

*State of Wis./Josi Trepanier v. Tyrone Walker*, CS 02-17. (Assigned to Matha, T.)

**APRIL 19, 2002**

*State of Wis. v. Robert Orozco*, CS 02-18. (Assigned to Matha, T.)

**APRIL 24, 2002**

*Joy Rave v. Francis Rave, Sr.*, CS 02-19. (Assigned to Bossman, W.)

**APRIL 30, 2002**

*State of Wis./Sawyer County v. Carlos D. Smith*, CS 02-20. (Assigned to Bossman, W.)

**MAY 6, 2002**

*Melissa Rogers v. Darrell L. Sena, Jr.*, CS 02-21. (Assigned to Bossman, W.)

**MAY 14, 2002**

*Eau Claire County Child Support Agency v. Harry I. Funmaker*, CS 02-22. (Assigned to Matha, T.)

**MAY 24, 2002**

*Fernando Ruiz v. Adrienne Vargas*, CS 02-23. (Assigned to Matha, T.)

**MAY 28, 2002**

*State of Wis. v. Jeriah Rave*, CS 02-24. (Not yet assigned.)

**JUNE 5, 2002**

*Pauline M. Littlesoldier v. Henry J. Littlesoldier*, CS 02-25. (Assigned to Bossman, W.)

**JUNE 6, 2002**

*State of Wis./Sheila Decorah v. David A. Decorah*, CS 02-26. (Assigned to Bossman, W.)

### Civil Cases

**MAY 8, 2002**

*Hope B. Smith v. Ho-Chunk Nation*, CV 02-42. (Assigned to Matha, T.)

**MAY 9, 2002**

*I.M.L., DOB 11/06/84, by Caroline Decorah v. HCN Office of Tribal Enrollment*, CV 02-43. (Assigned to Matha, T.)

**MAY 17, 2002**

*P.S., DOB 04/10/87, by Pearl Lightstorming v. HCN Office of Tribal Enrollment*, CV 02-44. (Assigned to Bossman, W.)

*Morningstar Leonard v. Julie Nakai and Ho-Chunk Nation*, CV 02-45. (Assigned to Bossman, W.)

**MAY 23, 2002**

*T.W.F., DOB 10/11/85, by Anthony Friday v. HCN Office of Tribal Enrollment, CV 02-46.* (Assigned to Bossman, W.)

**MAY 24, 2002**

*Joseph E. Decorah v. HCN Office of Tribal Enrollment, CV 02-47.* (Assigned to Bossman, W.)

*Sharon L. Williams v. Four Winds and HCN Ins. Rev. Comm'n, CV 02-48.* (Assigned to Matha, T.)

**MAY 28, 2002**

*Anna Kauffman v. Rainbow Casino, CV 02-49.* (Assigned to Matha, T.)

**MAY 30, 2002**

*Michael R. Stanley v. Ho-Chunk Nation and Ho-Chunk Casino, CV 02-50.* (Assigned to Matha, T.)

**MAY 31, 2002**

*Natallia Tyshchanka v. Ho-Chunk Casino, CV 02-51.* (Assigned to Matha, T.)

*Rae Anna Garcia v. Joan Greendeer et al., CV 02-52.* (Assigned to Bossman, W.)

**JUNE 3, 2002**

*Nancy A. Pedersen v. HCN Dep't of Treasury and Casper Hans, CV 02-53.* (Assigned to Bossman, W.)

**JUNE 6, 2002**

*G.M.S., DOB 05/13/88, by Marsha Smith v. HCN Office of Tribal Enrollment, CV 02-54.* (Not yet assigned.)

*Susan Redfearn v. HCN Office of Tribal Enrollment, CV 02-55.* (Not yet assigned.)

**Domestic Violence**

**JUNE 3, 2002**

*Eileen R. Snowball v. Martin Falcon, DV 02-02.* (Assigned to Bossman, W.)

**Supreme Court**

No new filings since the last COURT BULLETIN.



**HO-CHUNK NATION COURT SYSTEM  
JUDICIARY AND STAFF**



Chief Justice, Supreme Court – Mary Jo B. Hunter

Associate Justice, Supreme Court – Mark D. Butterfield

Associate Justice, Supreme Court – Rita A. Cleveland

Chief Judge, Trial Court – William H. Bossman

Associate Judge, Trial Court – Todd R. Matha

Clerk of Court, Supreme Court – Gladys Morgan

Clerk of Court, Trial Court – Marcella Cloud

Assistant Clerk of Court, Trial Court – Selina Joshua

Bailiff/Process Server – Willa RedCloud

Administrative Assistant – Jeanne Colwell

Staff Attorney – Anetra D. Parks

Administrator, Office of Public Advocacy – Dennis Funmaker

Custodian/Groundskeeper – Virgil Pettibone



# Summer Interns

*(continued from page 1)*

Montana, and considers Suquamish, Washington to be his home. He started working as a Legislative summer intern this past Monday, June 3, 2002, and reports to Legislative Attorney **William Boulware**. This summer, Gyasi will work on various projects for the Legislative office, including statutory drafting, rule comment on federal rules and drafting memos on constitutional issues.

James Okwaho A. Washinawatok II is a 3L at University of Wisconsin-Madison School of Law ("UW"). He also began working this past Monday as a Legislative summer intern, and reports to Legislative Attorney **Michelle Greendeer**. James is Menominee and Mohawk, and is from the Menominee Reservation in Keshena, Wisconsin. James was hired specially through the Land Tenure Center at UW. He will work primarily on fee-to-trust land issues, learning the process of land tenure under the federal regulations for placing fee lands into trust. James will also work on statutory re-writes and internal opinion memos for the Legislature. Both Legislative interns will work on land development issues and re-writes of the Nation's employment laws. James said that after law



Photo: **Nizhoni Smith**, the Court's summer intern, will be working with us from now until early August 2002. Photo taken June 7, 2002, in the HCN Court Law Library.

school he hopes to work with Tribes and Indigenous peoples. When asked what he hopes to take from this summer's experience, James replied, "I want to learn as much as I can and use whatever I learn in what I do [here at the Ho-Chunk Nation] in the future."

Nizhoni Smith is a 2L at the University of North Dakota School of Law. She is Navajo and White Earth Band of Chippewa. When not attending school, Nizhoni lives part of the year in Phoenix, Arizona and part of the year on the Leech Lake Reservation in Minnesota. She started working as the summer intern for the Ho-Chunk Nation Court

System on Tuesday, May 28, 2002, and is working primarily with both Trial Court judges, Chief Judge **William Bossman** and Associate Judge **Todd R. Matha**, and the Court staff attorney, **Anetra Parks**. This summer, Nizhoni has already begun a major undertaking of creating an official reporter for the

*Story continued on page 23*

Photo (from left to right): Legislative Attorney **William Boulware**, Legislative summer interns **James Okwaho A. Washinawatok II** and **Gyasi Ross**. Photo taken in the HCN Executive Building, June 6, 2002.



## Legislature calls Special Election

*Continued from page 1*

Vol. 7, No. 12 and Vol. 8, No. 1). The Legislature accepted Justice Cleveland's resignation by motion on December 19, 2001, and, thereafter, called for a Special Election by HCN RES. 1/9/02B to fill the position. As explained fully in last month's COURT BULLETIN, **Todd R. Matha** ran for the Associate Justice seat and won, but then declined to be sworn in on April 17, 2002. Since that time, Associate Justice Cleveland has remained in office until the seat can be filled.

### The Debate

In its regular session held this past week, with the advice of Legislative Attorneys **William Boulware** and **Michelle Greendeer**, the Attorney General **Sheila Corbine** and various Attorneys from the Department of Justice, the Legislature debated what course of action it should take regarding the Associate Justice seat. They discussed two options: (1) have the Legislature appoint the Supreme Court Associate Justice or (2) call for a Special Election to fill the seat.

#### -- Relevant Law

In its debate, the Legislature would have to take into account the various provisions of the CONSTITUTION:

### Constitution of the Ho-Chunk Nation

#### Article VII – Judiciary

Section 10. Election of Supreme Court Justices. Supreme Court Justices shall be elected by a majority of the eligible voters of the Ho-Chunk Nation, in accordance with the General Election provisions of Article VIII, Section 1, unless otherwise provided.

#### Article VIII – Elections

Section 1. General Elections. General Elections shall be held on the first Tuesday in June of odd numbered years. Offices of the Legislature, Executive, and Judiciary

shall be filled at General Elections.

Section 2. Special Elections. Special Elections shall be held when called for by the General Council, the Legislature, or by this Constitution or appropriate ordinances. In all Special Elections, notice shall be provided to the voters.

#### Article IX – Removal, Recall and Vacancies

Section 8. Vacancies in the Judiciary. If a vacancy occurs in an office of the Supreme Court because of death, mental or physical incapacity, removal or recall vote, or any other reason, such vacancy shall be filled in the following manner:

- (a) If twelve (12) months or more remain before the next General Election, the Election Board shall call a Special Election in accordance with Article VIII.
- (b) If less than twelve (12) months remains before the next General Election, the Legislature shall fill the office by appointment.

Section 11. Terms for Vacancies. Persons elected or appointed to fill a vacancy in the Judiciary, the Office of the President, or the Legislature shall serve out the term of the person whom they are replacing.

In its debate, according to Legislative Attorney Boulware, the Legislature took into account numerous variables, such as: Is Justice Cleveland's seat considered "vacant" under the CONSTITUTION?; Since the next General Election is now less than twelve (12) months away, should the Legislature appoint the Supreme Court Associate Justice as permitted by the CONSTITUTION?; Would doing so appear improper, as Justice Cleveland actually delivered her resignation more than twelve (12) months before the next General Election? The Legislature may also have taken into account the

*Continued on page 23*



**HO-CHUNK NATION LEGISLATURE**  
*Governing Body of the Ho-Chunk Nation*

**HO-CHUNK NATION LEGISLATURE**  
**REQUEST SPECIAL ELECTION TO FILL ASSOCIATE JUSTICE POSITION**  
**RESOLUTION 6-05-02 A**

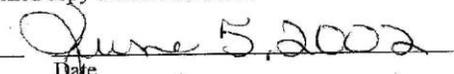
- WHEREAS,** on November 1, 1994, the Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Nation; and
- WHEREAS,** the Ho-Chunk Nation ("Nation") is a federally recognized Indian Tribe, organized pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS,** the Legislature of the Ho-Chunk Nation is the duly constituted governing body of the Ho-Chunk Nation ("Legislature") pursuant to the Constitution ("Constitution") of the Ho-Chunk Nation; and
- WHEREAS,** Article V, Section 2(a) of the Constitution grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes; and
- WHEREAS,** the Legislature, by motion on December 19, 2001, accepted the resignation of Rita Cleveland, Associate Justice of the Ho-Chunk Nation Supreme Court; and
- WHEREAS,** the Legislature, by Resolution 1/9/02B, called for a Special Election to fill the Associate Justice position; and
- WHEREAS,** Todd Matha was elected to fill the Associate Justice position vacated by Rita Cleveland and declined to accept the position; and
- WHEREAS,** the Associate Justice position remains vacant; and
- WHEREAS,** Article VIII, Section 2 of the Constitution authorizes the Legislature to call for Special Elections.

**NOW THEREFORE, BE IT RESOLVED** that the Ho-Chunk Nation Legislature hereby calls for a Special Election to be conducted by the Election Board in accordance with the Nation's *Election Ordinance* to fill the Associate Justice position vacated by the resignation of Rita Cleveland.

**CERTIFICATION**

I, the undersigned, as Secretary for the Ho Chunk Nation Legislature, hereby certify that the Legislature of the Ho Chunk Nation, composed of 11 members, of whom 10 constituting a quorum were present at a meeting duly called and convened and held on the 4<sup>th</sup> day of June, 2002, that the foregoing resolution was adopted at said meeting by an affirmative vote of 8 members, 1 opposed, and 1 abstaining, pursuant to the authority of Article V, Section 2 (a) and (x) of the Constitution of the Ho Chunk Nation approved by the Secretary of the Interior on November 1, 1994; and that said resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

  
Marlene Gamroth, Legislative Secretary

  
Date

**Executive Offices**  
W9814 Airport Road P.O. Box 667 Black River Falls, WI 54615  
(715) 284-9343 Fax (715) 284-3172 (800) 294-9343

# Notice and Rules of Special Primary Election to Fill one (1) Supreme Court Associate Justice Seat

Notice is hereby served to all eligible voters of the Ho-Chunk Nation that a Special Primary Election to fill one (1) Supreme Court Associate Justice Seat due to the resignation of Rita Cleveland. The election will be conducted by the Ho-Chunk Nation Election Board in accordance with the Constitution of the Ho-Chunk Nation, ARTICLE VIII – ELECTIONS, and the Amended and Restated Ho-Chunk Nation Election Ordinance, HCC-98-002 – which states in relevant part:

## II. ELECTION – Section 2.01 Elections. (c) Special Elections.

Special Elections shall refer to all elections other than the General Election including, but not limited to, Redistricting/Reapportionment Elections, Recall Elections and Elections to fill vacancies in the Legislature, Judiciary and the Office of the President. Special Elections shall be held in accordance with Article VIII, Section 2 of the Constitution, which states: *Section 2. Special Elections. Special Elections shall be held when called for by the General Council, the Legislature, or by the Constitution or appropriate ordinances. In all Special Elections, notice shall be provided to the voters.*

(1) Primary Elections shall be held prior to any Election with three or more candidates in order to ensure compliance with the majority vote requirement in Article V, Section 6; Article VI, Section 5, and Article VII, Section 10 of the Constitution. (2) If no candidate in any Primary Election receives more than 50% of the votes cast in such Election, the two candidates with the highest vote totals from the Primary Election (and any candidate(s) tied with the lower of such totals) shall appear on the ballot in the Runoff election. When there are two seats vacant in a district, the four candidates with the highest number of votes shall appear on the ballot in the General Election with the first and third candidate with the highest votes appearing on the ballot for one seat and the second and fourth candidate with the highest votes appearing on the ballot for the other seat. (3) Primary Elections shall be conducted in the manner prescribed by this Ordinance and in accordance with the timetable adopted by the Election Board.

THE FOLLOWING TERM WILL BE VACANT:  
**SUPREME COURT:**  
**SUPREME COURT ASSOCIATE JUSTICE**  
 Rita Cleveland  
 June 2001 to June 2005

**NOMINATION OF CANDIDATES:**  
 The official candidacy forms may be obtained from the Election Board Members or the Election Board Office.  
 A candidate for elective office shall submit an Official Nomination Petition, Declaration of Candidacy and a \$5.00 filing fee by hand delivery or U.S. Mail to the Election Board Office before the close of the nomination period on June 26, 2002 at 4:30 P.M. **ORIGINAL FORMS MUST BE SUBMITTED – FILING BY FAX OR COPIES WILL NOT BE ACCEPTABLE.**

**ELIGIBLE VOTERS:**  
 Any enrolled member of the Ho-Chunk Nation who is at least eighteen (18) years old and who has resided in their respective District for at least three (3) months prior to the date of the Special Primary Election shall be eligible to vote in the Special Primary Election.

**REGISTRATION:**  
 Each person seeking to vote must register at the polling place by showing identification and signing the eligible voters list before receiving an Official Ballot. If a person cannot write, that person must sign his/her name with a mark

before two (2) witnesses. A Ho-Chunk translator will be available to assist any tribal member who requests assistance.

**ELIGIBLE VOTERS LIST:**  
 The voters' names shall be in alphabetical order and shall be posted June 11, 2002 for inspection at the affected polling places and at the Ho-Chunk Nation Election Board Office, Tribal Executive Office Building, Black River Falls, Wisconsin.

**ELIGIBILITY DISPUTES:**  
 Any individual whose name does not appear on the eligible voters list can claim the right to vote by presenting a written challenge to the Election Board. Any eligible voter may challenge the eligibility of an individual's name appearing on the eligible voters' list by presenting a written challenge to the Election Board. Challenges must be received at the Election Office prior to 4:30 p.m. on July 03, 2002. Such claims or challenges may be hand-delivered, faxed or mailed to.

**HO-CHUNK NATION ELECTION BOARD**  
 4 East Main Street  
 P.O. BOX 756  
 BLACK RIVER FALLS, WI 54615  
 TELEPHONE: (715) 284-8900  
 TOLL FREE: (800) 890-0583  
 FAX NUMBER: (715) 284-8600

The Election Board shall rule on all written challenges to the eligible voters' list immediately after the close of the challenge period. The Election Board decision shall be final.

**ABSENTEE VOTING:**  
 A voter may vote by absentee ballot provided the Election Board receives the absentee ballot no later than the close of polls on July 27, 2002 at 7:00 P.M. on the Election Day. If the voter is unable to vote at the polling places because of temporary absence from the district, illness or physical disability, an Absentee Ballot may be obtained by submitting a written request for the ballot by mail, fax or in person to the Election Board Office. Requests MUST INCLUDE the eligible voter's name printed or typed (with signature), physical address where the ballot will be delivered (we use UPS Next Day Air – UPS Next Day Air will not deliver to a P.O. Box), daytime telephone number and enrollment number. Requests for Absentee Ballots must be received by the Election Board Office prior to July 24, 2002 at 4:00 p.m.

**ABSENTEE BALLOTS MAY BE RETURNED BY OVERNIGHT MAIL** so they may be received at the Election Board Office or the polling places prior to the close of the polls on Election Day. **FEDEX and UPS NEXT DAY AIR DO NOT DELIVER IN BLACK RIVER FALLS ON SATURDAY!**

**POSTING ELECTION RESULTS:**  
 The Election Board shall certify and post the official election results within three (3) days after the date of election.

**CONTESTING OF ELECTION RESULTS:**  
 Any member of the Ho-Chunk Nation may challenge the results of any election by filing a law suit in the Trial Court within ten (10) days after the Election Board certifies the election results. The Trial Court shall hear and decide a challenge to any election within twenty (20) days after the challenge is filed in the Trial Court.

**ELECTIONEERING:**  
 There shall be no electioneering during the voting hours within 50 feet of any polling place.

## Special Primary Election July 27, 2002

POST NOTICE OF ELECTION  
 June 10, 2002  
 POST ELIGIBLE VOTERS LIST  
 June 11, 2002  
 OFFICIAL NOMINATION PETITION  
 DEADLINE: 4:30 P.M.  
 June 26, 2002  
 POST LIST OF CANDIDATES:  
 July 01, 2002  
 CHALLENGES TO THE ELIGIBLE  
 VOTERS LIST DEADLINE  
 PRIOR TO: 4:30 P.M.  
 July 03, 2002  
 APPEALS BY CANDIDATES TO THE  
 ELECTION BOARD DEADLINE:  
 4:30 P.M.  
 July 12, 2002  
 LAST DAY TO REQUEST  
 ABSENTEE BALLOTS: 4:00 P.M.  
 July 24, 2002

**SPECIAL PRIMARY  
 ELECTION July 27, 2002**  
**SPECIAL PRIMARY  
 ELECTION DAY 8:00 A.M.  
 TO 7:00 P.M.**

**ELECTION DATE:**  
 July 27, 2002  
**TIME OF ELECTION:**  
 8:00 a.m. - 7:00 p.m.  
**POLLING PLACES:**  
 8:00 a.m. - 7:00 p.m.  
 • BLACK RIVER FALLS, WI  
 Tribal Aging Unit, Indian Mission  
 • TOMAH, WI  
 Blue Wing Culture Center  
 • LA CROSSE, WI  
 La Crosse Branch Office  
 724 Main Street  
 • WITKENBERG, WI  
 Wittenberg Branch Office  
 Hwy 45  
 • WISCONSIN BELLS, WI  
 Wellness Center  
 F11245 Ho-Chunk Vill. Rd.  
 • WISCONSIN RAPIDS, WI  
 Chak-Hah-Chees Comm. Bldg.  
 916 Chak-Hah-Chees Lane  
 • CHICAGO, IL  
 Chicago Branch Office  
 4941 North Milwaukee Ave  
 • MILWAUKEE, WI  
 Milwaukee Branch Office  
 3501 S. Howell Ave  
 • MINNEAPOLIS/ST. PAUL, MN  
 Munn/St. Paul Branch Office  
 1001 Lake Street  
 • MADISON, WI  
 Madison Branch Office  
 2514 Runrock Road

## ADDENDUM TO THE SPECIAL PRIMARY ELECTION ON JULY 27, 2002

On January 09, 2002, the Ho-Chunk Nation Legislature passed Resolution 01-09-02B to present a non-binding referendum to eligible Tribal Members on the matter of redistricting. The question presented below will advise the Legislature concerning actions to amend Section 4 of Article V of the Constitution of the Ho-Chunk Nation.

Language of the Non-Binding Advisory Referendum:  
**Section 4, Article V of the Ho-Chunk Nation Constitution**  
**Redistricting or Reapportionment.** The Legislature shall have the power to redistrict or reapportion including changing, establishing, or discontinuing Districts. The Legislature shall maintain an accurate census for the purposes of redistricting or reapportionment. The Legislature shall redistrict and reapportion at least once every five (5) years beginning in 1995, in pursuit of one-power only by submitting a final proposal to the vote of the People by Special Election which shall be binding and which shall not be reversible by the General Council, any redistricting or reapportionment shall be completed at least six (6) months prior to the next election, and notice shall be provided to the voters.

- \_\_\_ NO CHANGE to the language as written.  
 \_\_\_ AMEND the current language to change the period of time from five (5) to at least every ten (10) years.  
 \_\_\_ REPEAL the entire section (Section 4, Article V) of the Constitution on Redistricting or Reapportionment.

**THE REFERENDUM WILL BE ON THE JULY 27, 2002 SPECIAL PRIMARY ELECTION BALLOT.**

# Special Election Debate

Continued from page 20

expense involved with holding another election, when the Election Board had already fulfilled its constitutional mandate to hold a Special Election on March 23, 2002. Furthermore, the Legislature may have considered the ability to place a non-binding referendum on the *Ballot*, which will allow the Legislature to receive input from the people regarding the CONSTITUTION's redistricting provision. Approved minutes for this meeting will be available to the public after June 18, 2002.

After a day and a half of discussion, the Legislature adopted HCN LEG. RES. 6-05-02 A, calling for a Special Election to fill Justice Cleveland's seat. **Wendi Huling**, DOJ Tribal Attorney and Attorney for the Election Board, commented that the "consensus from the meeting was to let the voting public decide" who should become the next Supreme Court Justice. The Special Primary Election will be held on July 27, 2002.



# Summer Interns (continued from page 19)

Court. The reporter, *Ho-Chunk Nation Reporter*, will consist of a reformatted and fully edited version of both the Trial and Supreme Court decisions, complete with a searchable index. The Court hopes to make its case law even more accessible and research an easier task for all Court users. While not working on the *Reporter*, Nizhoni will assist in fielding questions from Court users, conducting legal research for the judges, sitting in on various hearings, and, basically, just learning how the Ho-Chunk Nation Court System functions. Commenting on her experience thus far, Nizhoni remarked, "I learn something new every day, and as someone who wants to eventually work for a Tribe, I am grateful for the opportunity to participate in this summer internship program."



## Legal Citation Form (cont.)

### 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.

### 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).



## HCN Court Fees

- Filing Fees . . . . . \$50.00\*  
\*With the exception of petitions to register child support orders – this fee remains at \$19.00 as previously ordered by the Supreme Court.  
Note: Filing Fee now includes *Summons* fee.
- Filing Fees for *Petitions to Register and Enforce Foreign Child Support Orders*. . . . . \$19.00
- Copying . . . . . \$0.10/per page
- Faxing . . . . . \$0.25/per page (sending and receiving)
- Tapes of Hearings . . . . . \$10.00/per tape
- CD of Hearing. . . . . \$12.50/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

The following are example citation forms by legal reference and citation description.