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Judiciary and Staff  
  
Ho-Chunk Nation Court  
System Fee Schedule  
  
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# HO-CHUNK NATION COURT BULLETIN

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## THE VIEWPOINT OF AMERICA: A RESPONSE TO THE TIME MAGAZINE ARTICLE.

**O**n Sunday, December 8, 2002, at 10:31 a.m. E.S.T., TIME magazine posted a Special Report online concerning Indian Gaming and Casinos. The article bore the title, “Wheel of Misfortune” written by Donald L. Barlett and James B. Steele. The overall article purported to display the inequities and faults of the entire Indian Gaming System through a handful of examples. This article has disturbed many in Indian Country as it opens negative discourse on the nexus between tribes and gaming. This Court would like to respond to a number of assertions contained within the article. As the Ho-Chunk Nation Judiciary, this body cannot comment or respond to the article in its entirety. Such action by this Court would appear outside the judicial scope of competence. However, the Judiciary can respond to certain comments provided that those chosen phrases relate to judicial functions. Readers must note that the article does not mention tribal courts at any point. The Judiciary shall do so and now begins what it hopes will become a positive discourse on the nexus between tribes, gaming, and the judiciary.

**A**ccording to the article, tribes seeking to build prosperous casinos are creating the habit of buying land in new states where they have never lived. See *Wheel of Misfortune*, <http://www.time.com>, (Dec. 8, 2002). The Ho-Chunk Nation has never used such a procedure. *Continued on page 10.*

## A FAMILIAR FACE IN THE STREETS OF BLACK RIVER FALLS: ATTORNEY MARK RADCLIFFE.



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*The author of this article, Rebecca Tavares, is the Law Clerk for the Ho-Chunk Trial Court and graduated from the University of Minnesota. Of Wyandot and Portuguese descent, Ms. Tavares held a previous clerkship with Judge Thorwald Anderson of the State of Minnesota's Fourth Judicial District. Before coming to Black River Falls, she lived in Minneapolis as a student and member of the University of Minnesota chapter of the American Indian Law Students' Association. Ms. Tavares shall spend one year with the Trial Court and the people of Black River Falls.*

*NOTE: The subject chosen for this personal interview feature was selected at random from a pool of active members of the Ho-Chunk Nation Bar. Future feature articles regarding bar members shall use the same selection process. This feature is not meant as an advertisement for Ho-Chunk Nation Bar members, nor should it be construed as an endorsement of any legal counsel.*

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**R**adcliffe Law Office has a Ho-Chunk Nation Bar member on its staff. Mark Radcliffe became a

member of the Ho-Chunk Nation Bar in 1999. Outside of law, Mr. Radcliffe plays golf with his son at the Skyline golf club. Surprisingly enough, Mark Radcliffe had not decided to become a lawyer until after he finished college. He had obtained his degree from the University of Wisconsin at Stevens Point before turning his eyes to law school. Initially, Mr. Radcliffe attended Oklahoma City University for law school, but later transferred to Hamline University in St. Paul, Minnesota to finish his degree.

**A**t Hamline University, Mark Radcliffe met a very influential person that had a tremendous impact on his legal career: Chief Justice Mary Jo B. Hunter. Mr. Radcliffe refers to her as an impressive lady and asserts that members of the Ho-Chunk Nation are lucky to have her as the Chief Justice for the Ho-Chunk Nation Supreme Court. Chief Justice Hunter helped Mr. Radcliffe obtain his first job outside of law school. He worked for S.M.U.R.L.S., a legal services organization, and was stationed in Winona, MN. Something that shocked him as a young associate was the need for low-income citizens to have affordable, decent access to the legal system. Even some citizens seeking legal assistance at his office did not qualify financially for services. "A lot of people had to be turned away and you knew they wouldn't find another attorney."

**M**ark Radcliffe's first experience with the Ho-Chunk Nation Court System was a positive one. Mr. Radcliffe also mentioned that coming into this Court was no surprise, as Chief Justice Hunter had already assured him of the respectability of this Court. He did note that the rules and the deadlines are big differences between the state courts and the Nation's Court. He also stated that the case law is more limited in the Nation's Court, making it possible for attorneys to argue more novel issues and be a part of the creation of new laws.

**A**s a solo practitioner, his cases before the Court are sporadic. Mr. Radcliffe notes that the use of the federal rules and the different deadlines sometimes make him hesitant to take cases before this Court. However, he has taken what he considers truly egregious cases that require immediate attention. As for advice to young attorneys starting out in various legal fields, Mr. Radcliffe had this to say, "Always go in overprepared, because when you don't is the time you get caught."

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# Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and categorized 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.

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## Trial Court

### **Child Support**

**DECEMBER 5, 2002**

*State of Wisconsin and Debra K. Crowe v. Forest C. Blackdeer*, CS 02-41 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Dec. 5, 2002). (Matha, T).

The Court had to determine whether or not to enforce a standing foreign child support order against the respondent. The respondent failed to respond within the specified time period. The Court granted the petitioner's uncontested request for child support.

*State of Wisconsin and Levi Aaron Lincoln Sr. v. Louise Marlene Lincoln*, CV 97-32 *Order (Renewing Arrearage Withholding)* (HCN Tr. Ct., Dec. 5, 2002). (Matha, T).

On November 30, 2001, the Court suspended withholding for child support arrears in the instant case. On December 4, 2002, the Sauk County Child Support Agency requested a reinstatement of per capita disbursement toward arrears. The respondent failed to respond within the specified time period, and the Court granted the request.

*Rachel Winneshiek v. James Beverly*, CV 97-168 *Order (Modifying Child Support Enforcement)* (HCN Tr. Ct., Dec. 5, 2002). (Matha, T).

The petitioner requested that the Court recognize an amendment to the original child support order made by Jackson County Circuit Court. The respondent failed to respond within the specified time period. This Court recognized this change to the original order and directed the Ho-Chunk Nation Department of Treasury to comply.

**DECEMBER 6, 2002**

*Sharon M. Mueller v. Mark S. Hellerud*, CS 99-81 *Order (Ceasing Withholding and Intent to Close)* (HCN Tr. Ct., Dec. 6, 2002). (Matha, T).

The Court received a motion to cease per capita withholding in the instant case. The motion indicated that the respondent had paid all child support and arrears in full. The petitioner substantiated the allegation by attaching copies of county forms and a payment history indicating complete payments. This Court granted the request and ceased withholding for child support.

**DECEMBER 9, 2002**

*Kathleen M. Peters v. Kevin B. Funmaker, Candice D. Solesby v. Kevin B. Funmaker*, CS 02-51, 98-07 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Dec. 9, 2002). (Matha, T).

The Court had to determine whether or not to enforce another standing foreign child support order against the respondent. The respondent failed to respond within the specified time frame. The Court granted a default judgment in favor of the plaintiff.

*Kathleen Waukau by the State of Wis., Shawano County v. Eldon Powless, Patricia C. Martinez v.*

*Eldon Powless, Eldon Powless v. Rebecca Nunway, Margaret A. King v. Eldon Powless*, CV 96-93, CS 99-17, 23, 22 *Order (Renewing Arrearage Withholding)* (HCN Tr. Ct., Dec. 9, 2002). (Matha, T).

The Court had suspended withholding for Case No.: **CS 99-22**. The petitioner in that case requested that the Court reinstate arrears and continue withholding. The respondent failed to respond to the motion in the specified time frame, thereby allowing the Court to grant the uncontested motion.

**DECEMBER 10, 2002**

*Beltrami County by Assignment of: Theresa L. Hindsley, Tanya L. Hindsley and Darren D. Dafoe v. Charles Dennis Hindsley*, CS 02-49 *Default Judgment (Enforcing Arrears)* (HCN Tr. Ct., Dec. 10, 2002). (Matha, T).

The Court had to determine whether or not to enforce a standing foreign child support order against the respondent. The respondent failed to respond within the specified time frame. The Court granted the request and withheld for arrears.

*Jackson County Foster Care, Eunice Greengrass and Carmella Root v. Karla Greengrass*, CV 96-81 (*Ceasing Withholding and Intent to Close*) (HCN Tr. Ct., Dec. 10, 2002). (Matha, T).

The petitioner requested that the Court cease withholding from the respondent's per capita. The petitioner asserted that the child support was paid in full and presented evidence of this fact. The Court directed the Treasury Department to cease withholding.

**DECEMBER 11, 2002**

*Kathleen Waukau by the State of Wis., Shawano County v. Eldon Powless, Patricia C. Martinez v. Eldon Powless, Eldon Powless v. Rebecca Nunway, Margaret A. King*, CV 96-93, CS 99-17, 23, 22 *Erratum Order* (HCN Tr. Ct., Dec. 11, 2002). (Matha, T).

The Court issued this *Erratum Order* to correct a clerical error.

**DECEMBER 12, 2002**

*Roberta A. Greendeer v. Frederick K. Greendeer, State of Wis., on behalf of Mary Tribble v. Frederick K. Greendeer, State of Wis., v. Frederick K. Greendeer, State of Wis., for Carol L. Miller v.*

*Frederick K. Greendeer*, CV 97-02, 44, CS 98-32, 99-75 *Notice (Child Turning 18)* (HCN Tr. Ct., Dec. 12, 2002). (Bossman, W).

The Court informed the parties of Case No. **CV 97-02** that the minor child, Cody Jo Greendeer, would turn eighteen (18) years of age on January 31, 2003. The parties of that case must bring forth evidence of the child's enrollment in high school. Failure to comply with this Court's decision could result in a cessation of withholding for child support.

*Jessica L. Bearskin v. Roger Dean Thundercloud*, CS 98-31 *Notice (Child Turning 18)* (HCN Tr. Ct., Dec. 12, 2002). (Bossman, W).

The Court informed the parties that the minor child, Rory E. Thundercloud, would turn eighteen (18) years of age on January 9, 2003. The parties must bring forth evidence of the child's enrollment in high school. Failure to comply with the Court's decision could result in a cessation of withholding for child support.

*State of Wisconsin v. Eileen Funmaker, State of Wisconsin, on behalf of Eileen J. Link v. Mahlon Funmaker*, CS 00-41, CV 97-151 *Notice (Child Turning 18)* (HCN Tr. Ct., Dec. 12, 2002). (Matha, T).

The Court informed the parties that the minor child, Alison Kay Funmaker, would turn eighteen (18) years of age on December 11, 2002. The parties must bring forth evidence of the child's enrollment in high school. Failure to comply with the Court's decision could result in a cessation of withholding for child support.

*State of Wisconsin v. Kenneth N. Littlegeorge*, CS 01-23 *Notice (Child Turning 18)* (HCN Tr. Ct., Dec. 12, 2002). (Matha, T).

The Court informed the parties that the minor child, K.N.L., would turn eighteen (18) years of age on November 4, 2002. The parties must bring forth evidence of the child's enrollment in high school. Failure to comply with the Court's decision could result in a cessation of withholding for child support.

**JANUARY 3, 2003**

*Vicki J. Greendeer v. John C. Houghton, Jr., Rachel Winneshiek v. John C. Houghton, Jr.*, CV 96-58, CS

99-29 *Order (Final Request for Documentation)* (HCN Tr. Ct., Jan. 3, 2003). (Matha, T).

The respondent previously requested a cessation of child support concerning one child that allegedly did not live at home. The Court requested further documentation to support the respondent's claim. As the Court has not received such documentation, the Court now directs the respondent to file by January 13, 2003 or risk the denial of such *Motion*.



## Children's Trust Fund (CTF)

### DECEMBER 10, 2002

*Cassandra Little Bear, DOB 09/06/80 v. HCN Office of Tribal Enrollment, CV 02-79 Order (Denying Petition in Part and Granting Petition in Part with Conditions)* (HCN Tr. Ct., Dec. 10, 2002). (Bossman, W).

The petitioner requested funds from her CTF account for past due bills and the purchase of a motor vehicle. The Court used its four-prong test in order to determine her eligibility to obtain the funds. The Court felt that the requests for bills met the second prong of the test, but the request for a motor vehicle did not. In addition, the petitioner did not satisfy the last prong of the test, requiring her to exhaust all other forms of financial assistance, in her request for a vehicle. Also, the petitioner did not provide proper addresses for each payee that must receive the funds as payment of past bills. Within thirty (30) days, the petitioner must bring forth documentation and invoices showing the bills paid in full to this Court.

### DECEMBER 11, 2002

*In the Interest of Minor Child: V.B., DOB 03/04/92, by April Daniels v. HCN Office of Tribal Enrollment, CV 02-113 Order (Petition Granted)* (HCN Tr. Ct., Dec. 11, 2002). (Matha, T).

The petitioner requested funds from the minor's CTF account for orthodontic procedures. The Court used its four-prong test to determine that the petitioner did qualify for a release of funds. The Court granted the release of funds with the reminder that the petitioner must provide receipts at a later date.

*In the Interest of Minor Child: W.S.S., DOB 01/26/94, by Tina S. Smith-Kelly v. HCN Office of Tribal Enrollment, CV 02-94 Order (Petition Granted)* (HCN Tr. Ct., Dec. 11, 2002). (Matha, T).

The petitioner requested funds from the minor's trust fund for a professional tutoring program. The Court used its four-prong test to determine the petitioner's eligibility to access the funds. The Court found the petitioner's claim meritorious and granted the request.

*In the Interest of Minor Child: W.E.T., DOB 06/30/88, by Bonnie Tech v. HCN Office of Tribal Enrollment, CV 02-114 Order (Petition Granted)* (HCN Tr. Ct., Dec. 11, 2002). (Matha, T).

The petitioner requested funds from the minor's trust account for costs associated with orthodontic procedures. The Court used its four-prong test to determine the petitioner's eligibility to access the funds. The Court found the petitioner's claim meritorious and granted the request.

### DECEMBER 12, 2002

*In the Interest of Adult CTF Beneficiary, Roger L. Houghton, Jr., DOB 12/19/81 v. HCN Office of Tribal Enrollment, CV 02-15 Order (Requesting Accounting)* (HCN Tr. Ct., Dec. 12, 2002). (Matha, T).

The Court released funds from the CTF account of the petitioner for orthodontic work. In its previous decision, the Court released funds with the admonishment that the petitioner must come forward with an accounting of how he disbursed the funds. As the accounting is four (4) weeks late, the Court now requests such accounting by January 1, 2003.

## Incompetent's Trust Fund (ITF)

### DECEMBER 9, 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 (Partial Release of ITF Monies)* (HCN Tr. Ct. Dec. 12, 2002). (Matha, T).

The petitioner/guardian requested funds on behalf of the tribal member. The Court used its four-prong

test to determine the eligibility of the petitioner to access funds. However, the Court also noted that the tribal member had retained excess funds leftover from a previous release and had not returned such to the court. The Court granted the current request minus the leftover funds that were not returned to the trust account.

#### **JANUARY 2, 2003**

*In the Interest of Berdine Littlejohn, by Shari Marg v. HCN Office of Tribal Enrollment, CV 98-14 Order (Release of ITF Monies)* (HCN Tr. Ct., Jan. 2, 2003). (Matha, T).

The petitioner requested ITF funds for expenses associated with cancer treatment. The defendant requested an inquiry into the exhaustion of assistance prong. The Court made the requisite inquiries and found that funding was available for cancer treatment assistance, but not within the time frame needed by the petitioner. Therefore, the Court granted the release of funds.



### **CIVIL CASES (ALL CATEGORIES)**

#### **NOVEMBER 27, 2002**

*Dennis Alt v. Ho-Chunk Table Games Department, CV 02-92 Scheduling Order* (HCN Tr. Ct., Nov. 27, 2002). (Bossman, W).

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case up to and including trial.

#### **DECEMBER 2, 2002**

*Ho-Chunk Housing Authority v. Adriane Walker, CV 02-83 Scheduling Order* (HCN Tr. Ct., Dec. 2, 2002). (Bossman, W).

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case up to and including trial.

#### **DECEMBER 3, 2002**

*Debra Hall-Shoemaker v. Ho-Chunk Nation and Sandy Plawman, in her official and individual capacities, CV 02-41; 02-77 Stipulation and Order*

*to Change Status/Motion Hearing to December 6, 2002* (HCN Tr. Ct., Dec. 3, 2002). (Matha, T).

The Court granted the request of the parties in the instant case to reschedule the *Status Hearing* for a later date.

#### **DECEMBER 9, 2002**

*Majestic Pines Hotel, Division of the Ho-Chunk Nation v. Troy Whiteagle, CV 02-103 Order (Granting Leave to Amend)* (HCN Tr. Ct., Dec. 9, 2002). (Bossman, W).

The plaintiff requested leave to amend the *Complaint*. The defendant had not yet responded to the pleading. Given the set of circumstances, the Court granted the plaintiff's request.

*Dale M. Shegonee-Elwort v. Four Winds Insurance, CV 02-74 Order (Motion Hearing)* (HCN Tr. Ct., Dec. 9, 2002). (Bossman, W).

The defendant requested a *Motion Hearing* to argue its *Motion to Dismiss* in the instant case. The plaintiff must file a *Response* to the *Motion* at least one (1) day before the hearing. The Court shall hear arguments concerning the *Motion* at the December 18, 2002 *Pre-Trial Conference*.

*Francis L. Williams v. Alex B. Crown, Marketing Director of Majestic Pines Casino, and the Ho-Chunk Nation, CV 02-78 Order (Motion Hearing)* (HCN Tr. Ct., Dec. 9, 2002). (Bossman, W).

The defendant requested a *Motion Hearing* to argue its *Motion to Dismiss* in the instant case. The plaintiff must file a *Response* to the *Motion* at least one (1) day before the hearing. The Court shall hear arguments concerning the *Motion* at the December 19, 2002 *Pre-Trial Conference*.

*In the Interest of Mary Lou Blackdeer, DOB 11/18/30, by Shari Marg v. HCN Office of Tribal Enrollment, CV 01-85 Order (Partial Release of ITF Monies)* (HCN Tr. Ct. Dec. 12, 2002). (Matha, T).

For summary, see **Incompetent's Trust Fund (ITF) cases** within this index.

#### **DECEMBER 10, 2002**

*Rae Anna Garcia v. Joan Greendeer-Lee, Loa Porter, Hattie Walker and Greg Garvin, as Officials of the Ho-Chunk Nation; Ho-Chunk Nation*

*Personnel Department and Ho-Chunk Nation Health and Human Services Department*, CV 02-52 *Order (Motion Hearing)* (HCN Tr. Ct., Dec. 10, 2002). (Bossman, W).

The defendants have requested an opportunity to argue their *Motion for Summary Judgment*. The plaintiff must file a *Response* to the *Motion* at least one (1) day before the hearing. The Court shall hear arguments concerning the *Motion* at the December 18, 2002 *Pre-Trial Conference*.

*Ho-Chunk Nation Department of Housing, Property Management Division v. Lacy BigJohn*, CV 02-89 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Dec. 10, 2002). (Matha, T).

The Court issued a *Judgment* in favor of the plaintiff for \$2,095.00. The plaintiff filed a *Satisfaction of Judgment* acknowledging full payment. The Court recognizes that the debt was paid in full and informs the parties of its intent to close the file.

*Shane Steele v. Dion Thompson and Terri Thompson*, CV 02-87 *Order (Granting Recognition of Foreign Judgment)* (HCN Tr. Ct., Dec. 10, 2002). (Bossman, W).

The plaintiff initiated the current action by filing a *Petition to Register and Enforce a Foreign Judgment*. The plaintiff attached a certified copy of the foreign order. The Court recognized the order and insisted that the defendants pay the assessed fees within three (3) months or risk an accrual of interest. The plaintiff may also request an execution of judgment and the imposition of fines or garnishment.

*Troy S. Westphal v. Ho-Chunk Nation and Ho-Chunk Casino*, CV 02-75 *Scheduling Order* (HCN Tr. Ct., Dec. 10, 2002). (Matha, T).

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case up to and including trial.

*Cassandra Little Bear, DOB 09/06/80 v. HCN Office of Tribal Enrollment*, CV 02-79 *Order (Denying Petition in Part and Granting Petition in Part with Conditions)* (HCN Tr. Ct., Dec. 10, 2002). (Bossman, W).

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

#### **DECEMBER 11, 2002**

*Ho-Chunk Nation v. Bank of America Corporation*, CV 02-93 *Order (Setting Motion Hearing and Related Deadlines)* (HCN Tr. Ct., Dec. 11, 2002). (Bossman, W).

The Court set specific dates and deadlines for the defendant's *Motion to Dismiss* and any response brief that the plaintiff may wish to file. The actual brief in support of the *Motion* is due on January 10, 2003, necessitating a response deadline of January 20, 2003. The actual *Motion Hearing* shall commence on February 17, 2003, 1:30 P.M.

*In the Interest of Minor Child: V.B., DOB 03/04/92, by April Daniels v. HCN Office of Tribal Enrollment*, CV 02-113 *Order (Petition Granted)* (HCN Tr. Ct., Dec. 11, 2002). (Matha, T).

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

*In the Interest of Minor Child: W.S.S., DOB 01/26/94, by Tina S. Smith-Kelly v. HCN Office of Tribal Enrollment*, CV 02-94 *Order (Petition Granted)* (HCN Tr. Ct., Dec. 11, 2002). (Matha, T).

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

*In the Interest of Minor Child: W.E.T., DOB 06/30/88, by Bonnie Tech v. HCN Office of Tribal Enrollment*, CV 02-114 *Order (Petition Granted)* (HCN Tr. Ct., Dec. 11, 2002). (Matha, T).

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

#### **DECEMBER 12, 2002**

*Ho-Chunk Nation Home Ownership Program v. Gale Downey and Roger Downey*, CV 01-115 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Dec. 12, 2002). (Matha, T).

The Court issued an *Order (Default Judgment)* in favor of the plaintiff. The plaintiff filed a *Satisfaction of Judgment* and attached a copy of the final payment. The Court recognizes that the debt was paid in full and closes the case.

*Kathy A. Stacy v. HCN Legislature*, CV 02-40 *Pre-Trial Order* (HCN Tr. Ct., Dec. 12, 2002). (Bossman, W).

The Court sequestered the witnesses for the instant case, excluding HCN Legislators George Lewis and Christine Funmaker Romano. Motions are due on January 3, 2003, while exhibits must be exchanged by January 9, 2003. The Court set the deadline for trial briefs upon January 13, 2003. The trial is set for January 16-17, 2003.

*In the Interest of Adult CTF Beneficiary, Roger L. Houghton, Jr., DOB 12/19/81 v. HCN Office of Tribal Enrollment*, CV 02-15 *Order (Requesting Accounting)* (HCN Tr. Ct., Dec. 12, 2002). (Matha, T).

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

#### **DECEMBER 17, 2003**

*Ho-Chunk Housing Authority v. Karen Lipski*, CV 02-102 *Order (Writ of Restitution)* (HCN Tr. Ct., Dec. 17, 2002). (Cloud, M).

This writ restores the property known as E11205 Littlegeorge Rd., Baraboo, WI 53913 to the plaintiff, Ho-Chunk Housing Authority. Sheriffs are to assist in the removal of persons in unlawful possession of the premises. This writ is effective as of January 2, 2003.

*Ho-Chunk Housing Authority v. Karen Lipski*, CV 02-102 *Eviction Order (Restitution and Relief)* (HCN Tr. Ct., Dec. 17, 2002). (Matha, T).

The plaintiff requested a *Writ of Restitution* against the defendant and a claim against the defendant's future per capita distributions for past due rent. The plaintiff filed a proper *Complaint* with the Court, detailing its arguments, which were not responded to by the defendant. The Court granted the request of the plaintiff.

#### **DECEMBER 20, 2002**

*Rae Anna Garcia v. Joan Greendeer-Lee, Loa Porter, Hattie Walker, and Greg Garvin, as Officials of the Ho-Chunk Nation; Ho-Chunk Nation Personnel Department and Ho-Chunk Nation Health and Human Services Department*, CV 02-52 *Order (Granting Motion for Summary Judgment)* (HCN Tr. Ct., Dec. 20, 2002).

The plaintiff asserted that she was wrongfully denied Waksik Wosga Leave. The defendants requested summary judgment and asserted that no material fact was in dispute. The Personnel Manual clearly indicates the religious events that qualify for religious leave. The plaintiff's asserted holiday did not qualify, and the Court granted summary judgment.

#### **JANUARY 2, 2003**

*Helen M. Willson v. Ho-Chunk Nation and Any Peterson in her official capacity*, CV 02-88 *Motion to Amend Scheduling Order, Stipulation, and Order to Amend Scheduling Order* (HCN Tr. Ct., Jan. 2, 2003). (Matha, T).

Plaintiff's counsel requested leave to amend the dates of the *Scheduling Order*. The defendant had no objection. The Court then agreed to amend the *Scheduling Order*.

*In the Interest of Berdine Littlejohn, by Shari Marg v. HCN Office of Tribal Enrollment*, CV 98-14 *Order (Release of ITF Monies)* (HCN Tr. Ct., Jan. 2, 2003). (Matha, T).

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



### **Juvenile**

#### **DECEMBER 23, 2002**

*In the Interest of J.G.G., DOB 01/12/89, and T.P.G., DOB 03/09/90*, JV 02-22-23 *Dispositional Order* (HCN Tr. Ct., Dec. 23, 2002).

The Court entered this order for compliance in connection with above-named case.



## **Supreme Court**

#### **DECEMBER 12, 2002**

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

*Nation and Wade Blackdeer, present Vice President of the Ho-Chunk Nation, in their individual and official capacities, SU 02-05 Decision (HCN S. Ct., Dec. 12, 2002).*

The Supreme Court decided the issues of whether an appointed position on a regulatory Commission is a *promotion* and whether the Trial Court abused its discretion in ruling that the respondent acted within the scope of his authority. The Supreme Court decided that the issues involved were issues of law, not fact, thereby altering the review process used. Upon review of the record below, the Supreme Court upheld the decision of the Trial Court. Under the laws of the Nation, and the job description for the contested position, the Supreme Court could not determine that the position was superior to others, constituting a promotion. Furthermore, each party acted under reasonable assumptions and could not be said to have attempted to abuse their authority.

**DECEMBER 20, 2002**

*In the Interest of Minor Child: P.S., DOB 04/10/87, by Pearl Lightstorming v. HCN Office of Tribal Enrollment, SU 02-07 Order (Denying Appeal) (HCN S. Ct., Dec. 20, 2002).*

The Supreme Court based its decision to deny the appeal on the Court's review process. Any appeal made before the Supreme Court must follow the *HCN Rules of Appellate Procedure*. In addition the laws and Constitution of the Ho-Chunk Nation, direct the appellate statement to make a legal determination and not a factual one. The Supreme Court did not find a legal basis for the appeal in this instant case. The concurrence attached to the opinion asserted a *de novo* review for the instant case, possibly signaling a departure from previous review standards.



## Recent Filings

### Trial Court

#### Child Support

**DECEMBER 3, 2002**

*State of Wisconsin/Josie Trepanier v. Tyrone L. Walker, CS 02-60. (Matha, T).*

**DECEMBER 5, 2002**

*State of Wisconsin v. Margaret A. Oliver, CS 02-61. (Matha, T).*

**DECEMBER 20, 2002**

*State of Wisconsin v. Ida Decorah Ermene, CS 02-62. (Matha, T).*

#### Civil Cases

**DECEMBER 5, 2002**

*In the Interest of Minor Child: T., W.E., DOB 06/30/88, by Bonnie Tech v. HCN Office of Tribal Enrollment, CV 02-114. (Matha, T).*

**DECEMBER 13, 2002**

*In the Interest of Adult CTF Beneficiary, Justina Littlegeorge, DOB 12/23/83 v. HCN Office of Tribal Enrollment, CV 02-115. (Bossman, W).*

*Harry Cholka v. Ho-Chunk Casino, CV 02-116. (Bossman, W).*

*In the Interest of the Minor Child: Y., T., DOB 09/27/85, by Dawn E. Venus v. HCN Office of Tribal Enrollment, CV 02-117. (Bossman, W).*

*H.C. Housing Authority v. Brenda Anhalt, CV 02-118. (Bossman, W).*

#### Juvenile

**DECEMBER 23, 2002**

*In the Matter of J.J.F., DOB 11/07/00, JV 02-27. (Matha, T).*

#### Domestic Cases

**DECEMBER 30, 2002**

*Deana DeMarrias v. Allen Willis, DV 02-04.*



## Supreme Court

DECEMBER 12, 2002

*Kathy A. Stacy v. Ho-Chunk Nation and Clarence Pettibone, former Vice President of the Ho-Chunk Nation and Wade Blackdeer, present Vice President of the Ho-Chunk Nation, in their individual and official capacities*, SU 02-05 (HCN S. Ct., Dec. 12, 2002).

DECEMBER 20, 2002

*In the Interest of Minor Child: P.S., DOB 04/10/87, by Pearl Lightstorming v. HCN Office of Tribal Enrollment*, SU 02-07 (HCN S. Ct., Dec. 20, 2002).



## TIME ARTICLE

With a complete disregard for tribal institutions and tribal judiciaries, the article pronounces the following claim:

Some long-dispersed tribes, aided by new, non-Indian funded financial godfathers, are regrouping to benefit from the gaming windfall. Others are seeking new reservations—some in areas where they never lived, occasionally, even in other states—solely to build a casino. And leaders of small, newly wealthy tribes now have so much unregulated cash and political clout that they can ride roughshod over neighboring communities, poorer tribes, and even their own members. See <http://www.time.com> (Dec. 8, 2002).

The Ho-Chunk Nation has always resided in the State of Wisconsin. A period of approximately fifty (50) years from 1828-1875 consisted of forced removal for the Ho-Chunk Nation. However, the Nation's members defied the United States' plan for removal and continually returned to their homeland.

Finally, the United States government acquiesced and returned scattered portions of the Nation's tribal homeland to the members. See 1 HCN Rep. i (Tr. Ct., 1995). The Ho-Chunk Nation built its Casinos on traditional tribal land and never considered otherwise. This Nation is not alone in its decision, and therefore the article in TIME cannot be considered a correct statement of general applicability.

Another assertion within the article suggested that key leaders within each tribe have become so powerful that they have attained a status that enables them to abuse their power and tribal members. See <http://www.time.com> (Dec. 8, 2002). The judiciary of the Ho-Chunk Nation has not allowed such an occurrence, nor will it ever allow such an occurrence. The Nation's judiciary allows for redress of grievance and judicial recourse.

In general, the Ho-Chunk Nation Constitution established a Judiciary consisting of a Supreme Court, a Trial Court, and a Traditional Court. The Trial Court is imbued with the power to make findings of fact and conclusions of law, while issuing all remedies in law and equity. The Supreme Court has the power to interpret the Constitution, issues conclusions of law, and prescribe written rules for the Judiciary as a whole. The Constitution gives all members of the Nation a right of redress for grievances and the ability to appeal to the Courts. See HCN CONST. ART. VIII. Furthermore, the Constitution gives all members a set Bill of Rights that protects their interests and fundamental liberties from abuse at the hands of any other member or governmental body. See HCN CONST. ART. X. The Ho-Chunk Nation Bill of Rights protects the rights of all its members by enjoining the government from infringing on freedoms such as free speech, freedom of assembly, and free exercise of religion. *Id.* The Bill of Rights prevents the government from illegally seizing the person or property of a tribal member. *Id.* That same provision protects citizens from double jeopardy and self-incrimination. *Id.* All persons are protected through an equal protection clause and a provision against ex post facto laws. *Id.* Many other provisions and laws protect the rights of

citizens and non-citizens within the Nation, but the examples listed above illustrate the point more fully. The Judiciary of the Ho-Chunk Nation would not enable a government body or person within government to “ride roughshod” over the members as described by the TIME article.

**F**urther proof of the assertion that the TIME article statement is invalid when compared against this Nation can be found within the actual cases and precedent set by this Judiciary. A prime example can be found in any cases involving employee grievances before this Court. Under the laws of the Ho-Chunk Nation, a Nation’s member must be heard when property, including money or a job, could be taken. *See Margaret G. Garvin v. HCN and Donald Greengrass in his official capacity*, CV 00-10, 38 Order (Final Judgment) (HCN Tr. Ct., Nov. 16, 2001) at 10. In *Garvin*, the Court considered issues of due process and standing in order to more fully ascertain the protection of citizens’ rights. *Id.* at 1. While an employee must have an opportunity to be heard for potential termination, the Court found that such safeguards of citizens’ rights did not manifest in that case. *Id.* at 10. Furthermore, the retention of counsel for proceedings in which an employee may be heard does not legally impede the discussion. *Id.* at 11. In other words, retention of counsel at such hearings is not an act of hostility that bars further communication. In fact, the Court insisted that supervisors have an affirmative duty to attempt resolution under the PERSONNEL MANUAL. *Id.* at 12. The Court has also considered the issue of what constitutes progressive discipline in order to ascertain the property rights of tribal employees. *See Cheryl K. Smith v. Ho-Chunk Nation, Rainbow Casino*, CV 98-66, 99-04 Judgment (HCN Tr. Ct., Dec. 19, 2002). The Nation has a policy of progressive discipline in certain instances of employee misconduct under the PERSONNEL MANUAL. *Id.* However, in *Smith*, the Court found a lack of such progression. *Id.* at 11. In fact, the Court protected the employee’s rights by stating that suspension without allowance for a previously agreed upon explanation or documentation was an arbitrary decision. *Id.* at 12. Yet, the Judiciary has

not only protected the rights of employees, but the Constitutional rights of all members.

**I**n another fit of pique and generalization, the TIME magazine article asserted broad based concerns of corruption in Tribal governments. In a subsection titled, “Fraud, Corruption, Intimidation,” the writers asserted the following:

Tribal leaders sometimes rule with an iron fist. Dissent is crushed. Cronyism flourishes. Those who question how much the casinos really make, where the money goes, or even tribal operations in general may be banished. Indians who challenge the system are often intimidated, harassed and threatened with reprisals or physical harm. They risk the loss of their jobs, homes and income. *See* <http://www.time.com> (Dec. 8, 2002).

This assertion does not ring true for the Ho-Chunk Nation. The Judiciary has never allowed a few persons to disregard the Constitution or disenfranchise the voting population. In fact, the Judiciary has protected the Constitution and the rights contained within in a number of cases. For example, the Court has upheld the right of redress for citizens that grieve against the government. *See Jacob Lonetree et al. v. Robert Funmaker et al.*, CV 00-105 Denial of Preliminary Injunction (HCN Tr. Ct., Nov. 16, 2000). In the aforementioned case, the President of the Ho-Chunk Nation challenged his removal by a vote of the General Council. *Id.* at 1. The president received notice of the quest for his removal and an opportunity to explain his actions at the next General Council meeting. *Id.* at 3. The President then brought an action challenging his removal. *Id.* at 8. A member of the Nation may indeed call for the removal of a government official at General Council and without the approval of a formal body. *Id.* at 10. Furthermore, the plaintiffs did not have established residency in the disputed areas and thus could not establish legal standing. *Id.* at 11. This very case runs contrary to the proposition of corruption and fraud that TIME asserts as a rampant problem in Indian Country.

Another example is seen in this Court's decision that a Vice President assuming the office of President *pro tempore* may later assume his usual post and title and has standing to sue if a dispute arises. See *Clarence Pettibone v. HCN Legislators Kathyleen Whiterabbit, et al.*, CV 01-84 Order (Granting Plaintiff's Motion for Summary Judgment) (HCN Tr. Ct., May 15, 2002). Initially, any potential plaintiff wishing to bring a grievance before the Court must have an actual case or controversy. HCN CONST. ART. VII. In other words, without an actual fact or issue to contest, there is nothing for the Court to decide or mediate. *Id.* at 8. In order for the Court to determine whether or not the plaintiff has an actual case before the bench, the Court must consider first whether the plaintiff has standing to sue. *Id.* at 9. The plaintiff must be able to exhibit three points in order to prove standing. In a nutshell, the plaintiff must be able to show that s/he was actually injured, that there is a definite nexus between the injury and the actions of the government, and redress is available through the court system. *Id.* at 10. In *Pettibone*, the Court had to consider the added wrinkle of whether or not to apply prudential considerations to the first issue of injury when determining standing. *Id.* In the United States Supreme Court, parties claiming injury under the first prong of standing must assert their own interests as protected or regulated by law. *Warth v. Seldin*, 422 U.S. 490, 499 (1975). Since not all cases can prove the requisite prudential consideration, the insistence on a concrete injury stemming from an expansive category of interests has stemmed the flow of cases to the Supreme Court. *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992). However, this Court does not entertain the added notion of prudential considerations. *Pettibone*, CV 01-84 at 24. The benefit of a lighter caseload from the use of prudential considerations is not one that this Court feels the need to follow. The association between a tribal member and his/her government is close enough to warrant the hearing of any grievance that satisfies the three prongs of standing without prudential considerations. *Id.* at 26. Any member of the Nation with a grievance that satisfies the basic elements of standing, and no waiver is involved, may proceed with their grievance against the

government. This Court does not protect persons in a position of power beyond the confines of our Nation's laws. Any assertion to the contrary, from TIME magazine or elsewhere, would be false.

In addition, this Court has protected the interests of the Nation's citizens in the area of voting rights. *Chloris Lowe, Jr., Stewart J. Miller v. HCN Legislature Members Elliot Garvin, et al.*, CV 00-104 Order (Determining the Constitutionality of the Proposed Redistricting/Reapportionment Scenario) (HCN Tr. Ct., Nov. 19, 2001). In *Lowe*, voters faced several proposals for redistricting in voting. In that case, the Court reviewed the final proposal for redistricting in order to determine its constitutionality and fairness to voters. *Id.* The Court reviewed the proposal in light of the Supreme Court's insistence on one person/one vote. *Decision*, SU 00-17 (HCN S. Ct., Mar. 13, 2001). The HCN Judiciary protects the interests of all tribal members and does not tolerate abuse of the system or of members. Once again, the assertions of the TIME magazine article, when compared with the unmentioned and unnoticed Ho-Chunk Nation Judiciary, stand false.

Finally, the article in TIME made one last general assertion indicating that tribal governments, eager to exclude others from having a potential stake in casino earnings, would set arbitrary rules of exclusion for membership. According to the article:

Tribal leaders are free to set their own whimsical rules for admission, without regard to Indian heritage. They may exclude rivals, potential whistle-blowers and other legitimate claimants. See <http://www.time.com> (Dec. 8, 2002).

The Judiciary has an affirmative duty to uphold the laws of the Nation, and the Constitution would not permit arbitrary and unfair rules for membership in order to further the goals of a few key persons. In fact, the Court has already dealt with concerns over blood quantum and membership. In *Theresa Lynn Hendrickson v. HCN Office of Tribal Enrollment*, CV 99-10 Judgment (HCN Tr. Ct., Aug. 5, 2002), the Court heard argument on the removal of a tribal

member. The plaintiff was enrolled for many years before the error was noticed and her name could be removed from the roll. *Id.* at 1. The Court insisted on a review of the entire record of removal proceedings and used the standard of substantial evidence leading to a decision that is not arbitrary or capricious. *Id.* at 2. According to the laws of the Nation, removals must be conducted with the proper procedures and an opportunity to be heard and to appeal. *Id.* at 11. In order to begin the removal process, members must present three (3) signed affidavits attesting to their reasons for the removal. The Enrollment Committee then conducts a formal investigation where the person selected for removal may provide an explanation and be represented by counsel. At this stage, the Committee may utilize DNA testing. If the person selected for removal is displeased with the Committee's decision, they can appeal and bring suit in Trial Court. If the decision of the Trial Court is unsatisfactory, a party may appeal to the Supreme Court. Finally, the General Counsel has the power to affirm or overturn decisions of the court through a majority vote at a quorum meeting. Furthermore, the Tribal Enrollment Office may remove any member that has obtained such membership through fraud, deceit or misrepresentation. *Id.* The Court read other conflicting laws in connection with the case, but determined that no fraud or misrepresentation occurred within this case. *Id.* at 14. However, as previously mentioned, the Trial Court is not the last word on this matter. The decision is currently on appeal before the Supreme Court. In addition, if the defense does obtain a reversal in the Supreme Court, the case could be remanded back to the Trial Court or overturned by the General Council. However, the trial court opinion stands for the proposition that a claimant may bring their case against the Nation when due process was not given to their case. This Court defends the general right to be heard when property interests are at stake and does not permit arbitrary or capricious decision-making in its administration. Furthermore, this Nation's standard for enrollment has always relied on twenty-five percent blood quantum. The Court has dismissed cases involving removal where DNA results revealed that the plaintiff did not have the requisite blood quantum. *See Melissa Sue Decorah v. HCN Enrollment Committee, et. al, CV 99-14a*

*Order (Granting Dismissal)* (HCN Tr. Ct., Aug. 9, 1999). However, this lack of blood quantum does not constitute a lack of standing and still permits a claimant to come forward and request retesting. *Id.* at 5. Therefore the interests of members and non-members alike are protected through the laws upheld by this Judiciary.

**T**hus, in regards to the TIME magazine article, none of the assertions quoted above hold true for this Nation. Painting all tribes with such a broad brush is dangerous indeed and invites error. As for the Ho-Chunk Nation, the Judiciary provides all members with protection from the assertions of abuse as recounted by TIME. Members of the Nation need not fear the nightmarish depictions from that article, nor pay such inferences any heed. With such disregard of a nation's laws and judiciary, generalizations and fabrications such as those seen in the TIME article are possible. Yet, once the true legal history of a nation is revealed, such fabrications are dissolved in a solution of truth and justice.\*

\* All trial court opinions cited within the text are available online at the Ho-Chunk Nation's website: [www.ho-chunknation.com/government/judicial/case\\_index2.htm](http://www.ho-chunknation.com/government/judicial/case_index2.htm)

*Article written by Rebecca Tavares, HCN Law Clerk/Staff Attorney*



## CONGRATULATIONS!

On December 8, 2002, the Honolulu Marathon took place. Over thirty thousand people participated in the event and twenty-four thousand finished. The Judiciary takes this opportunity to congratulate all Ho-Chunk Nation members who participated in this grand event. The Judiciary would also like to congratulate Dr. Tom Walker, a Ho-Chunk Nation member, for finishing with a record of six hours, two minutes and two seconds. Dr. Walker finished 1,326 in his division and 15,725 overall. The Judiciary is very proud and again thanks all those who represented the Nation at this event.

# SAY HELLO TO OUR NEW SUPREME COURT CLERK!



Here is Bryan Dietzler hard at work, crafting and honing the Supreme Court opinions. Photo taken: Jan. 3, 2003.

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*The author of this article, Rebecca Tavares, is the Law Clerk for the Ho-Chunk Trial Court and graduated from the University of Minnesota. Of Wyandot and Portuguese descent, Ms. Tavares held a previous clerkship with Judge Thorwald Anderson of the State of Minnesota's Fourth Judicial District. Before coming to Black River Falls, she lived in Minneapolis as a student and member of the University of Minnesota chapter of the American Indian Law Students' Association. Ms. Tavares shall spend one year with the Trial Court and the people of Black River Falls.*

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**T**he Ho-Chunk Nation Supreme Court welcomed a new person to the staff this month with the addition of Bryan Dietzler, the new Supreme Court Law Clerk. Originally from North Dakota, Brian refers to Iowa as his home. "I lived there almost twelve years." He graduated from Central Community High School in Elkader, IA and went on to the military. According to Bryan, he did not "buckle down" to his studies until his sophomore year of high school, but his excellent scores on exams earned him the recommendation to enter Army Intelligence.

**H**e entered the Army in August 25, 1991 and went active April 5, 1995. Bryan focused on foreign law, studying the American government and legal system and comparing such to Middle Eastern countries. His comparative studies began in the 121<sup>st</sup> division Judge Advocate General's office at Fort Knox. At this point, Bryan spent part of his time in the 3<sup>rd</sup> Federal District in Louisville, KY working in a paralegal capacity and doing investigations. He later obtained a graduate degree in foreign government from Kansas State University. Bryan received a medical discharge on June 16, 1999, from the military after he was attacked in the Middle East.

**B**ryan and his fiancé, Stephanie Littlegeorge plan to wed on April 12<sup>th</sup> or 19<sup>th</sup> of this coming year. Stephanie has a son from a previous relationship, named Ryan. Bryan has an adopted daughter from a previous relationship. The happy couple are expecting a baby on Monday, January 13, 2003.

**A**s for his new place of residence, Bryan is enjoying his new community. As he previously conducted business all over the Midwest, Bryan feels comfortable with the area. He asserted that he really enjoyed talking with the elders of the community and felt that he had found a place where, "you could really count on people." Bryan is very excited about his work in the Supreme Court and his new home in Black River Falls. As for his spare time, Bryan and Stephanie go shopping, play at the casino, and take in movies. When alone, Bryan keeps abreast of the latest Supreme Court and Appellate Court opinions or interacts with computers. Once again, the Court bids welcome to our newest member and wishes him all the best.



**HO-CHUNK NATION COURT SYSTEM  
JUDICIARY AND STAFF**

Supreme Court—Mary Jo B. Hunter, Chief Justice  
Mark D. Butterfield, Associate Justice  
Jo Deen B. Lowe, Associate Justice  
Traditional Court—Wallace Blackdeer  
Donald Blackhawk  
Dennis Funmaker  
Orville Greendeer  
Douglas Greengrass  
Owen Mike  
Gavin Pettibone  
Douglas Red Eagle  
Preston Thompson, Jr.  
Eugene Thundercloud  
Morgan White Eagle  
Clayton Winneshiek  
Trial Court – William H. Bossman, Chief Judge  
Todd R. Matha, Associate Judge  
Clerk of Court, Supreme Court – Bryan Dietzler  
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 – Rebecca Tavares

Office of Public Advocacy – Dennis Funmaker, Administrator

\* The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

WISCONSIN TRIBAL JUDGES ASSOCIATION  
(Eleven federally recognized tribes within the State of Wisconsin)

NATIVE AMERICAN INDIAN COURT JUDGES ASSOCIATION  
(Region 5—Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, South Dakota, North Dakota, and Wisconsin)

**HCN Court System Fee Schedule**

- Filing Fees . . . . . \$50.00\*

\*With the exception of petitions to register child support orders – this fee remains at \$20.00 as previously ordered by the Supreme Court.

Note: Filing Fee now includes *Summons* fee.

- Filing Fees for *Petitions to Register and Enforce Foreign Judgment/ Order*. . . . . \$20.00

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  
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.

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).



## Inside this Issue

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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](http://www.ho-chunknation.com/government/courts.htm)

Hours of Operation: Monday through Friday  
(except holidays) 8 A.M. – 4:30 P.M.

# HO-CHUNK NATION COURT BULLETIN

## FEBRUARY EDITION: GARNISHMENTS EXPLAINED.



**R**ecent events have raised some questions regarding garnishments and how the Nation handles these matters. This article shall attempt to clarify the discussion on garnishments overall and the Court's judicial procedures. The Judiciary has dealt with a limited number of instances where garnishment of per capita stands at issue. The HCN Legislature allows for garnishment in the following instances: child support, federal income tax levies, debts owed to the Nation and to the Hocak Credit Union. In the matter of civil garnishments, the claims that fall outside the allowed exceptions contained within the CLAIMS AGAINST PER CAPITA ORDINANCE are not payable through per capita, but may be satisfied through wage withholding. The Judiciary shall now explain each of the aforementioned garnishment topics in greater detail, focusing on the legal reasons for garnishment. Please note that as the judicial branch of the Ho-Chunk Nation, this body cannot render advisory opinions and will refrain from such in this article. Such action by this Court would prove improper due to the absence of a justiciable case or controversy.

**T**he Court has established a history of garnishing per capita for current and back child support. *Continued on page 14.*

## ANOTHER LOOK AT HCN BAR MEMBERS: PHILLIP BRADBURY



*The author of this article, Rebecca Tavares, is the Law Clerk for the Ho-Chunk Trial Court and graduated from the University of Minnesota. Of Wyandot and Portuguese descent, Ms. Tavares held a previous clerkship with Judge Thorwald Anderson of the State of Minnesota's Fourth Judicial District. Before coming to Black River Falls, she lived in Minneapolis as a student and member of the University of Minnesota chapter of the American Indian Law Students' Association. Ms. Tavares shall spend one year with the Trial Court and the people of Black River Falls.*

*NOTE: The subject chosen for this personal interview feature was selected at random from a pool of active members of the Ho-Chunk Nation Bar. Future feature articles regarding bar members shall use the same selection process. This feature is not meant as an advertisement for Ho-Chunk Nation Bar members, nor should it be construed as an endorsement of any legal counsel.*

**M**elli, Walker, Pease & Ruhly, S.C. has a Ho-Chunk Nation Bar member on its staff. Phillip Bradbury became a member of the Ho-Chunk Nation Bar shortly after its inception. In his spare time, Mr. Bradbury is the father of two teenagers. He plays golf, enjoys

gardening, and sits as the President of the Village of Maple Bluff. Mr. Bradbury chose the legal profession for the hope of variety. "The legal practice is one where you could get a variety of experiences working with different peoples and issues, in an attempt to accomplish multiple goals." He obtained his degree from the University of Wisconsin Law School in 1984.

**A**fter graduation, Mr. Bradbury followed his inclination and practiced law dealing with business transactions and litigation. Phillip Bradbury became a member of different firms over the course of his career, including a period where he worked out of his own practice for business litigation. When asked about the beginning of his career, Mr. Bradbury stated that he was shocked by the lack of respect and congeniality among some lawyers in the field.

**M**r. Bradbury came before this Court in connection with the case, *HCN v. B & K Builders et al.*, CV 00-91 (HCN Tr. Ct., June 21, 2001). His cases before this Court consist primarily of construction matters and working with tribal contracts. His initial impression of the Ho-Chunk Nation Court System was one of good organization and professionalism. Mr. Bradbury cited his first experience with the Court as a positive one, noting that he found nothing wholly unusual or out of the ordinary with the operation of the Ho-Chunk Nation Trial Court. In fact, he noted that smaller court systems are often more personable. Finally, Mr. Bradbury had this advice for attorneys beginning practice in any area of law, "listen well and seek advice from a variety of people."



JANUARY 8, 2003

*Mary J. Mayek v. Esteban M. Blackhawk, Sr., Thelma S. Garcia v. Esteban M. Blackhawk, Sr., Rhonda Oas v. Esteban M. Blackhawk, Sr.*, CS 02-14-15, 45 *Order (Default Judgment—Enforcing Child Support)* (HCN Tr. Ct., Jan. 8, 2003). (Matha, T).

The Court had to determine whether to enforce another standing foreign order against the respondent's per capita distribution. The respondent failed to respond within the necessary time frame. The Court granted a default judgment and subsequent equitable distribution.

*Kelli O'Connor v. Domonic Bell, Nicky L. Woolhouse v. Domonic Bell*, CS 02-12, 00-28 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Jan. 8, 2003). (Matha, T).

This action stems from an admonition the Court made to the parties in a previous action. *See Order (Releasing Impound and Enforcing Child Support)* (HCN Tr. Ct., Oct. 11, 2002) at 25 n.5. The petitioners brought forth updated arrears statements in order for the Court to perform a proper equitable adjustment. The subsequent action reflects the proper equitable distribution of the respondent's per capita for the payment of arrears.

*State of Wisconsin and Christie-Ann Flick v. Orin White Eagle*, CS 96-56 *Order (Modifying Child Support Enforcement)* (HCN Tr. Ct., Jan 8, 2003). (Bossman, W).

The petitioner brought a motion requesting that the Court amend the current *Order* to reflect a change made by Jackson County. The respondent failed to respond within the necessary time frame. The Court granted the motion to amend the decision.

*State of Wisconsin and Michael R. Hale v. Melody A. Hale*, CS 98-52 *Order (Modifying Child Support Enforcement)* (HCN Tr. Ct., Jan. 8, 2003). (Bossman, W).

The petitioner brought a motion requesting that the Court amend the current *Order* to reflect a change made by Jackson County. The respondent failed to respond within the necessary time frame. The Court granted the motion to amend the decision.

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# Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and categorized 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 7, 2003

*State of Wisconsin and Julia F. Goodbear v. Chebon Bear*, CS 02-55 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 7, 2003). (Bossman, W).

The Court had to determine whether or not to enforce a standing foreign child support order against the respondent's future per capita distributions. The respondent failed to respond to the *Petition* with the specified time frame. The Court issued a default judgment against the respondent.

**JANUARY 9, 2003**

*Robin Lynn Ashley v. Michael K. Blackcoon, Kristine H. Blackcoon v. Michael K. Blackcoon*, CS 99-16, 98-25 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Jan. 9, 2003). (Matha, T).

The petitioner brought a *Motion to Modify*, requesting that the Court amend the child support and update the existing arrearage amount. The respondent failed to respond within the necessary time frame. The Court granted the uncontested motion.

*Rhonda Funmaker v. John Holst*, CV 96-80 *Order (Ceasing Withholding and Intent to Close)* (HCN Tr. Ct., Jan. 9, 2003). (Matha, T).

The petitioner filed a *Motion to Suspend Per Capita Withholding* in the instant case. The petitioner alleged that the respondent had custody of the children. The Court granted the request.

*June Miller v. Larry Fanning*, CS 98-71 *Order (Amending Arrears)* (HCN Tr. Ct., Jan. 9, 2003). (Bossman, W).

The petitioner brought a motion to modify, requesting that the Court recognize a *Statement of Arrears* in connection with the case. The respondent failed to respond within the necessary time frame. The Court granted this request.

*Lottie A. Tucker v. Ira R. Harrison*, CS 02-58 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 9, 2003). (Bossman, W).

The Court had to determine whether or not to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the necessary time frame. The Court granted a *Default Judgment* against the respondent.

**JANUARY 10, 2003**

*Laurie Dorwin v. Glen Decorah*, CV 97-80 *Order (Amending Arrears)* (HCN Tr. Ct., Jan. 10, 2003). (Bossman, W).

The petitioner brought a motion to modify, requesting that the Court recognize a *Statement of Arrears* in connection with the case. The respondent failed to respond within the necessary time frame. The Court granted this request.

*Sheila Doucette v. Scott Hindes*, CS 97-132 *Order (Amending Child Support Enforcement)* (HCN Tr. Ct., Jan. 10, 2003). (Bossman, W).

The petitioner brought a *Motion to Modify*, requesting that the Court amend the current *Order* to reflect a change made by Monroe County. The respondent failed to respond within the necessary time frame. The Court granted the uncontested motion.

*State of Wisconsin/Jackson County v. Ida Decorah Ermenc*, CS 02-62 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 10, 2003). (Matha, T).

The Court had to determine whether or not to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the necessary time frame. The Court granted the uncontested motion.

*State of Wisconsin v. Terrance M. Henry*, CS 02-34 *Order (Modifying Child Support Enforcement)* (HCN Tr. Ct., Jan. 10, 2003). (Matha, T).

The petitioner brought a *Motion to Amend Order* to reflect a change made by Jackson County. The respondent failed to respond within the necessary time frame. The Court granted the uncontested motion.

*State of Wisconsin/Sauk County and Vincent Hernandez v. Mary Hernandez, N/K/A Mary Thompson*, CS 01-28 *Order (Amending Arrears)* (HCN Tr. Ct., Jan. 10, 2003). (Bossman, W).

The petitioner brought a *Motion to Modify* the current per capita distribution to reflect a change made by Sauk County. The respondent failed to respond within the necessary time frame. The Court granted the uncontested motion.

*State of Wisconsin/Sauk Co., and Sauk Co. Dep't of Health and Human Services v. Margaret A. Oliver*, CS 02-61 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 10, 2003). (Matha, T).

The Court had to determine whether or not to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the

necessary time frame. The Court granted a Default *Judgment* against the respondent.

*State of Wisconsin/Jackson County v. Robert Orozco*, CS 02-18 Order (*Modifying Child Support Enforcement*) (HCN Tr. Ct., Jan. 10, 2003). (Matha, T).

The petitioner brought a *Motion to Amend Order* to reflect a change made by Jackson County. The respondent failed to respond within the necessary time frame. The Court granted the uncontested motion.

*Marrissa L. Youngthunder v. Michael B. Youngthunder*, CS 01-18 Order (*Suspending Child Support Withholding*) (HCN Tr. Ct., Jan. 10, 2003). (Bossman, W).

The petitioner filed a *Motion to Suspend Current Child Support*. The petitioner and the respondent currently reside together with the child. The Court granted the uncontested motion.

#### **JANUARY 13, 2003**

*Sherri Mann v. Marlin RedCloud*, CV 96-36 Order (*Suspending Arrearage Withholding and Closing Case*) (HCN Tr. Ct., Jan. 13, 2003). (Matha, T).

The Court convened a *Fact-Finding Hearing* to determine the nature and origin of the numbers appearing in a recent KIDS Account Statement. Neither party could explain the existence of the numbers, which appeared contradictory to the Court's own payment history. Without further justification concerning the mismatched amounts, the Court suspended the withholding for arrearages and closed the case.

*Kelly L. Skenandore v. Kevin A. Decorah*, CS 02-54 Order (*Enforcing Child Support*) (HCN Tr. Ct., Jan. 13, 2003). (Bossman, W).

The Court had to determine whether or not to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the necessary time frame. The Court granted the uncontested motion.

*State of Wisconsin/Jackson County v. Brent M. Funmaker*, CV 97-18 Order (*Suspending*

*Withholding for Current Child Support*) (HCN Tr. Ct., Jan. 13, 2003). (Bossman, W).

Jackson County filed a *Motion to Amend* asking the Court to cease withholding for child support in the instant case. The county stated that the parties now reside together with their child. The Court granted the uncontested motion.

*Woodrow G. White v. Gail J. Rave*, CS 02-56 *Judgment (Enforcing Child Support)* (Tr. Ct., Jan. 13, 2003). (Matha, T).

The Court had to determine whether or not to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the necessary time frame. The Court granted the uncontested motion.

*Vicki J. Greendeer v. John C. Houghton, Jr., Rachel Winneshiek v. John C. Houghton, Jr.*, CV 96-58, CS 99-29 Order (*Modification of Child Support and Release of Impound*) (HCN Tr. Ct., Jan. 13, 2003). (Matha, T).

The respondent asserted that a change in circumstances ended his child support obligation for the first case. Initially, the Court impounded these contested funds and awaited further documentation to either negate or confirm the allegations. In addition, she brought a motion to modify, requesting the Court to amend the figure of the second case to a dollar figure. Neither petitioner responded to the respondent's motions. The Court granted the motions and released all impounded funds.

*State of Iowa v. Aaron Blackhawk*, CS 02-48 Order (*Impound Child Support*) (HCN Tr. Ct., Jan. 13, 2003). (Matha, T).

The petitioner filed a *Petition to Recognize Foreign Child Support Orders* on October 1, 2002. The respondent filed a response with the Court indicating that paternity was still in question. The respondent's attorney filed a copy of a court order indicating that both sides were required to undergo DNA testing on January 8, 2003. Given the circumstances, the Court impounds the contested portion of the respondent's per capita distributions until further notice.

*State of Wisconsin/Jackson County v. Casey A. Fitzpatrick, State of Wisconsin/Sauk County and Karen Lipski v. Casey A. Fitzpatrick*, CS 00-50, 01-17 Order (*Suspending Withholding for Current Child Support*) (HCN Tr. Ct., Jan. 13, 2003). (Bossman, W).

The petitioner filed a motion requesting that the Court suspend current child support in the instant case. The petitioner asserted that the respondent had custody of the child in the latter case. The Court ceased withholding for the latter case and continued support in the former case as per a previous Court order.

**JANUARY 15, 2003**

*State of Wisconsin v. Fredrick K. Greendeer, State of Wisconsin on behalf of Mary Tribble v. Fredrick K. Greendeer, Roberta Greendeer v. Fredrick K. Greendeer, State of Wisconsin for Carol L. Miller v. Fredrick K. Greendeer*, CS 98-32, CV 97-02, 74, CS 99-75 Proof of Enrollment Filed (HCN Tr. Ct., Jan. 15, 2003). (Bossman, W).

In Case No. CV 97-02, the Court received a correspondence from the Flandreau Indian School. This letter indicated that Cody Greendeer is currently enrolled at that school. Therefore, the May 2003 per capita distribution will be the last time child support is withheld for this child.

*Ericka Lynn Cloud v. Fletcher Andrew Collins*, CS 02-59 Default Judgment (*Enforcing Child Support*) (HCN Tr. Ct., Jan. 15, 2003). (Bossman, W).

The Court had to determine whether or not to enforce a standing foreign child support order against the respondent's future per capita distributions. The respondent failed to respond within the necessary time frame. The Court granted a default judgment in favor of the petitioner.

**JANUARY 16, 2003**

*Jessica L. Bearskin v. Roger Dean Thundercloud*, CS 98-31 Order (*Cease Withholding*) (HCN Tr. Ct., Jan. 16, 2003). (Bossman, W).

The parties received a *Notice (Child Turning 18)* from the Court on December 12, 2002. The parties were informed that, in accordance with Wisconsin law, and without proof of high school enrollment, the respondent's child support obligation would end. As the parties failed to produce proof of high

school enrollment by the deadline, and there are no arrears in this case, the Court ordered the Treasury Department to cease withholding.

*State of Wisconsin v. Eileen Funmaker, State of Wisconsin, on behalf of Eileen J. Link v. Mahlon Funmaker*, CS 00-41, CV 97-151 Order (*Ceasing Withholding and Intent to Close*) (HCN Tr. Ct., Jan. 16, 2003). (Matha, T).

The parties received a *Notice (Child Turning 18)* from the Court on December 12, 2002. The parties were informed that, in accordance with Wisconsin law, and without proof of high school enrollment, the respondent's child support obligation would end. As the parties failed to produce proof of high school enrollment by the deadline, and there are no arrears in this case, the Court ordered the Treasury Department to cease withholding.

*State of Wisconsin v. Kenneth N. Littlegeorge*, CS 01-23 Order (*Cease Withholding*) (HCN Tr. Ct., Jan. 16, 2003). (Matha, T).

On December 12, 2002, the Court issued a *Notice (Child Turning 18)* to the parties. The parties were informed that, in accordance with Wisconsin law, and without proof of high school enrollment, the respondent's support obligation for the minor child in question would end. The parties failed to provide proof of enrollment by the deadline. The respondent maintains arrears and a support obligation for another minor child. Thus, the Court ordered the Treasury Department to cease withholding for one child and maintain withholding for another and for arrears.

**JANUARY 17, 2003**

*Calvinita H. Kills In Water v. Moses L. Cleveland*, CS 02-52 Order (*Suspending Withholding*) (HCN Tr. Ct., Jan. 17, 2003). (Bossman, W).

On January 9, 2003, the plaintiff filed a *Termination* request with the Court. While the ten (10) day response period had not lapsed, the decision would not prejudice the respondent. Therefore, the Court suspended the withholding for current child support in the instant case.



## Children's Trust Fund (CTF)

**NOVEMBER 26, 2002**

*In the Interest of Minor Child: B.L., DOB 11/22/96, by Michelle Lewis v. HCN Office of Tribal Enrollment, CV 02-86 Order (Petition Granted)* (HCN Tr. Ct., Nov. 26, 2002). (Bossman, W).

The petitioner requested funds from the minor child's CTF account for private school tuition. The petitioner provided evidence of a learning disability which required more care than a public school facility could provide. Because of the extraordinary circumstances of the case, and the fact that the petitioner satisfied all four (4) prongs of the Court's test, the Court released the funds.

**JANUARY 6, 2003**

*In the Interest of Minor Child: D.N.H., DOB 06.27/85, by Monica Hernandez v. HCN Office of Tribal Enrollment, CV 02-112 Order (Dismissal without Prejudice)* (HCN Tr. Ct., Jan. 6, 2003). (Matha, T).

The Court convened a Fact-Finding Hearing in the instant case. The plaintiff failed to appear or explain her absence. The Court then dismissed the action without prejudice.

**JANUARY 7, 2003**

*In the Interest of Minor Child: Z.G.D., DOB 04/20/86, by Sheila M. Pagel v. HCN Office of Tribal Enrollment, CV 02-101 Order (Petition Granted)* (HCN Tr. Ct., Jan. 7, 2003). (Matha, T).

The petitioner requested funds for orthodontic procedures. The Court uses a four-prong test to determine a petitioner's eligibility to receive CTF funds. The Court granted this request.

**JANUARY 28, 2003**

*Justina L. Littlegeorge, DOB 12/23/83 v. HCN Office of Tribal Enrollment, CV 02-115 Order (Requiring Submission of Documents)* (HCN Tr. Ct., Jan. 28, 2003). (Bossman, W).

The petitioner filed a request for CTF funds with the Court on December 13, 2002. The defendant raised several issues in its *Answer* and requested

documentation of claims in the *Petition*. The Court directs the petitioner to present such documentation to the Court on or before March 7, 2003.

**JANUARY 29, 2003**

*In the Interest of Minor Child: T.A.Y., DOB 09/27/85, by Dawn Venus v. HCN Office of Tribal Enrollment, CV 02-117 Order (Requiring Submission of Documents)* (HCN Tr. Ct., Jan. 29, 2003). (Bossman, W).

The petitioner filed a request for CTF funds with the Court on December 13, 2002. The defendant raised several issues in its *Answer* and requested documentation of claims in the *Petition*. The Court directs the petitioner to present such documentation to the Court on or before March 7, 2003.

**JANUARY 30, 2003**

*In the Interest of the Minor Child: B.L., DOB 11/22/96, by Michelle Lewis v. HCN Office of Tribal Enrollment, CV 02-86 Order (Accepting Accounting)* (HCN Tr. Ct., Jan. 30, 2003). (Bossman, W).

The Court released CTF funds for educational needs of the child on November 26, 2002. The Court demanded an accounting at that time. The Court now accepts an accounting of the expenditures.

## Incompetent's Trust Fund (ITF)

**JANUARY 27, 2003**

*In re: Bruce Patrick O'Brien, by Elethe Nichols, Guardian v. HCN Office of Tribal Enrollment, CV 96-46 Order (Release of Funds)* (HCN Tr. Ct., Jan. 27, 2002). (Bossman, W).

The guardian for Mr. O'Brien requested ITF funds for his use. The petitioner demonstrated all four prongs of the Court's test for the release of funds. Therefore, the Court released the requested funds.

**JANUARY 30, 2003**

*In the Interest of Annette Funmaker, DOB 05/10/79, by Doreen Thompson v. HCN Office of Tribal Enrollment, CV 97-79 Order (Accepting Accounting)* (HCN Tr. Ct., Jan. 30, 2003). (Bossman, W).

The Court released funds from the ITF account on October 29, 2002. The Court requested an

accounting at that time. The Court now accepts an accounting of the expenditures.

*In the Interest of Claude Payer, DOB 12/19/61, by Dorothy Will v. HCN Office of Tribal Enrollment, CV 02-31 Order (Accepting Accounting)* (HCN Tr. Ct., Jan. 30, 2003). (Bossman, W).

The Court released funds from the ITF account on May 22, 2002. The Court requested an accounting at that time. The Court now accepts an accounting of the expenditures.



### Civil Cases (all categories)

#### NOVEMBER 22, 2002

*Ho-Chunk Housing Authority v. Cheri Crain, CV 00-87 Order (Dismissal with Prejudice)* (HCN Tr. Ct., Nov. 22, 2002). (Bossman, W).

The plaintiff filed a *Complaint* on September 11, 2002. On October 21, 2002, the plaintiff filed a *Motion to Dismiss*, explaining that they no longer wished to pursue the case. The Court granted the *Motion* and dismissed the case with prejudice.

#### NOVEMBER 26, 2002

*In the Interest of Minor Child: B.L., DOB 11/22/96, by Michelle Lewis v. HCN Office of Tribal Enrollment, CV 02-86 Order (Petition Granted)* (HCN Tr. Ct., Nov. 26, 2002). (Bossman, W).

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

*Morning Star Leonard v. Julie Nakai, as Floor Manager of Ho-Chunk Bingo and the Ho-Chunk Nation, CV 02-45 Pre-Trial Order* (HCN Tr. Ct., Nov. 26, 2002). (Bossman, W).

The Court held a *Pre-Trial Conference* on November 26, 2002. In this conference, the Court amended the *Scheduling Order*. Neither side objected to the changes in the *Scheduling Order*.

#### NOVEMBER 27, 2002

*In the Matter of Case Numbering, Administrative Order 02-03 Civil Garnishment* (HCN Tr. Ct., Nov. 27, 2002). (Bossman, W).

From now on, the civil garnishment cases before this Court that do not pertain to per capita distributions for child support will be designated CG.

#### DECEMBER 6, 2002

*Ho-Chunk Nation v. Bank of America Corp., CV 02-93 Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Dec. 6, 2002). (Bossman, W).

On December 5, 2002, both parties filed a *Motion to Appear Telephonically* for the December 11, 2002 *Scheduling Conference*. The Court granted the joint request. The telephonic appearances must be timely and by way of the Court's main number.

#### DECEMBER 17, 2002

*Ho-Chunk Housing Authority v. Karen Lipski, CV 02-102 Eviction Order (Restitution and Relief)* (HCN Tr. Ct., Dec. 17, 2002). (Matha, T).

The Court had to determine whether or not to evict the defendant for housing violations contained in her lease. The defendant did not respond to the *Complaint*, thereby allowing the Court to grant a default judgment against her. Thus, the Court restored the rental property to the plaintiff along with a money judgment awarding back rent payable to the plaintiff.

*Ho-Chunk Housing Authority v. Karen Lipski, CV 02-102 Order (Writ of Restitution)* (HCN Tr. Ct., Dec. 17, 2002). (Matha, T).

The Court restored the rental property to the plaintiff. The Court then directed law enforcement to assist in the removal of the defendant and the restoration of the property to the plaintiff. The Court gave a general description of the property in order to assist law enforcement.

#### DECEMBER 31, 2002

*Daniel W. Green v. Real Estate Manager, Home Ownership Program, in his official capacity, CV 00-108 Order (Granting Defendant's Motion for Summary Judgment)* (HCN Tr. Ct., Dec. 31, 2002). (Matha, T).

The Court ruled in favor of the defendant due to a lack of any case or controversy on the part of the

plaintiff. The parties argued various legal positions ranging from equal protection to ex post facto laws and the doctrine of laches. Before the Court can consider arguments under any of these legal headings, it must determine whether it has personal and subject matter jurisdiction. Once such a determination is made, the Court then moves on to consider whether the matter is justiciable. One component of justiciability is whether the plaintiff has standing. The Court found that the plaintiff had no standing for this action, and therefore the Court did not need to reach an answer to the legal claims raised. In order to show standing, the plaintiff must show concrete injury, ability to redress, and a nexus between the injury and the body being sued. At this time, the plaintiff could not prove concrete injury to maintain standing in this action.

#### **JANUARY 6, 2003**

*In the Interest of Minor Child: D.N.H., DOB 06/27/85, by Monica Hernandez v. HCN Office of Tribal Enrollment, CV 02-112 Order (Dismissal without Prejudice)* (HCN Tr. Ct., Jan. 6, 2003). (Matha, T).

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

*Dale M. Shegonee-Elwort v. Four Winds Insurance, CV 02-74 Order (Dismissal with Prejudice)* (HCN Tr. Ct., Jan. 6, 2003). (Matha, T).

The Court convened a *Hearing* to consider the defendant's *Motion to Dismiss*. The plaintiff filed no response contesting the defendant's *Motion to Dismiss*. In addition, the plaintiff failed to appear for the *Hearing*, causing the Court to grant the defendant's *Motion*.

#### **JANUARY 7, 2003**

*In the Interest of Minor Child: Z.G.D., DOB 04/20/86, by Sheila M. Pagel v. HCN Office of Tribal Enrollment, CV 02-101 Order (Petition Granted)* (HCN Tr. Ct., Jan. 7, 2003). (Matha, T).

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

*Ho-Chunk Housing Authority v. Bette Jo White, CV 01-65 Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Jan. 7, 2003). (Matha, T).

On August 27, 2001, the Court issued a judgment in favor of the plaintiff. On September 17, 2002, the plaintiff filed a *Satisfaction of Judgment*. The Court recognizes this debt as paid in full and closes the case.

*Francis L. Williams v. Alex B. Chown, Marketing Director of Majestic Pines Casino, and the Ho-Chunk Nation, CV 02-78 Order (Granting Motion to Dismiss)* (HCN Tr. Ct., Jan. 7, 2003). (Bossman, W).

The defendants moved to dismiss the case for failure to state a claim on which relief can be granted. The plaintiff claimed insufficient notice of a layoff, citing provisions that gave no notice requirement for layoffs. The Court granted the motion.

#### **JANUARY 9, 2003**

*Tara L. Blackdeer v. Vaughn Pettibone, CV 02-76 Order (Denying Motion to Dismiss, Granting Attorney Fees and Costs and Setting Deadlines)* (HCN Tr. Ct., Jan. 9, 2003). (Bossman, W).

The defendant filed a *Motion to Dismiss* for failure to prosecute. The plaintiff did not appear for the *Hearing*. The Court denied the motion but permitted the imposition of attorney fees and costs against the plaintiff for her failure to take action and to appear.

#### **JANUARY 13, 2003**

*Jason Cvenegros v. Sheryl Neulreich and Ho-Chunk Nation Hotel and Convention Center, CV 02-24 Judgment (for Defendants)* (HCN Tr. Ct., Jan. 13, 2003). (Bossman, W).

The petitioner brought an action for reinstatement to his former position and lost wages. The plaintiff was terminated for violations of the POLICY AND PROCEDURES MANUAL. The Court found that the evidence as a whole supported the plaintiff's termination as reasonable. Because the plaintiff could not show that he was *wrongfully terminated*, the Court granted *Judgment* to the defendants.

#### **JANUARY 14, 2003**

*Ho-Chunk Housing Authority v. Henrietta Funmaker, CV 02-105 Order (Default Judgment)* (HCN Tr. Ct., Jan. 14, 2003). (Bossman, W).

The plaintiff filed this action for the back rent owed by the defendant. The defendant failed to respond

within the necessary time frame. The Court granted a *Default Judgment* against the defendant.

*Ho-Chunk Housing Authority v. Elliot Walker*, CV 01-155 *Order (Damages)* (HCN Tr. Ct., Jan. 14, 2003). (Bossman, W).

The Court previously issued an *Eviction Order* in the instant case on May 1, 2002. The plaintiff requested that back rent and damages be withheld from the defendant's per capita. Without objection from the defendant, the Court granted the request.

#### **JANUARY 15, 2003**

*Ho-Chunk Housing Authority v. Tyrone Walker*, CV 01-44 *Order (Damages)* (HCN Tr. Ct., Jan. 15, 2003). (Bossman, W).

The Court previously issued an *Eviction Order* in the instant case on May 1, 2002. The plaintiff requested that back rent and damages be withheld from the defendant's per capita. Without objection from the defendant, the Court granted the request.

#### **JANUARY 16, 2003**

*Richard Walker v. Jonette Pettibone*, CV 01-122 *Order (Dismissal with Prejudice and Assessment of Costs and Fees)* (HCN Tr. Ct., Jan. 16, 2003). (Matha, T).

The Court assessed costs and fees against the plaintiff for failure to appear at the *Pre-Trial Conference* and the *Trial*. The plaintiff failed to inform the Court or the defendant of his intention to abandon the case. The defendant filed a formal motion requesting costs, to which the plaintiff never responded. Thus, the Court granted the motion in favor of the defendant.

#### **JANUARY 17, 2003**

*Majestic Pines Hotel, Division of the Ho-Chunk Nation v. Troy Whiteagle*, CV 02-70 *Order (Default Judgment)* (HCN Tr. Ct., Jan. 17, 2003). (Bossman, W).

The plaintiff filed a *Complaint* on October 23, 2002. The plaintiff subsequently filed an *Amended Complaint* on November 26, 2002. The defendant did not file a response to either pleading in the necessary time frame. Thus, the Court granted a default judgment in favor of the plaintiff.

*Robert A. Mudd v. HCN Legislature: Elliot Garvin, Clarence Pettibone, Tracy Thundercloud, Wade*

*Blackdeer, Dallas Whitewing, Gerald Cleveland, Sr., Christine Romano, Myrna Thompson, George Lewis, Kathyleen Whiterabbit, Sharyn Whiterabbit; and the Ho-Chunk Nation*, CV 03-01 *Order (Preliminary Injunction Hearing)* (HCN Tr. Ct., Jan. 17, 2003). (Matha, T).

The plaintiff in the instant case properly requested a preliminary injunction after filing an *Amended Complaint* on January 15, 2003. The defendants must answer the pleading on or before January 27, 2003. The Court shall schedule a *Preliminary Injunction Hearing* to determine whether to grant the plaintiff's request.

*Helen M. Willson v. Ho-Chunk Nation and Amy Peterson, in her official capacity*, CV 02-88 *Order (Motion Hearing)* (HCN Tr. Ct., Jan. 17, 2003). (Matha, T).

The Court decided to convene a hearing in order to allow the defendants to argue their *Motion to Dismiss for Failure to State a Claim upon which Relief Can Be Granted*. The plaintiff may respond in writing at least one (1) day prior to the hearing. The Court shall hear arguments at the *Pre-Trial Conference*.

#### **JANUARY 20, 2003**

*Cassandra Littlebear v. HCN Office of Tribal Enrollment*, CV 02-79 *Order (Notice of Intent to Dismiss)* (HCN Tr. Ct., Jan. 20, 2003). (Bossman, W).

The Court issued its *Order (Denying in Part and Granting in Part With Conditions)* on December 10, 2002. In this opinion, the Court requested documents of the plaintiff to establish her case. The plaintiff failed to file these documents with the Court, and the Court intends to dismiss the case.

*Majestic Pines Hotel, Division of the Ho-Chunk Nation v. Troy Whiteagle*, CV 02-103 *Erratum Order* (HCN Tr. Ct., Jan. 20, 2003). (Bossman, W). The Court entered this *Erratum Order* to correct a clerical error.

#### **JANUARY 22, 2003**

*Mary J. Mayek v. Esteban M. Blackhawk, Sr., Thelma S. Garcia v. Esteban M. Blackhawk, Sr., Rhonda Oas v. Esteban M. Blackhawk, Sr.*, CS 02-

14-15, 45 *Erratum Order* (HCN Tr. Ct., Jan. 22, 2003). (Matha, T).

The Court entered this *Erratum Order* to correct a clerical error.

#### **JANUARY 23, 2003**

*Steve Clarke v. HCN Gaming Commission*, CV 01-95 *Order (Dismissal with Prejudice)* (HCN Tr. Ct., Jan. 23, 2003). (Matha, T).

The plaintiff moved to continue a *Scheduling Conference* set on October 9, 2002 to November 1, 2002. The appointed day came, the plaintiff failed to appear. The plaintiff did not inform the Court of his inability to appear, and the Court dismisses the case.

*Ho-Chunk North (Wittenberg, Wisconsin), a Division of the HCN Department of Business; and Ho-Chunk Nation v. Wayne's Transport, Inc., a/k/a Wayne's Trucking, Inc.; Wayne L. Hirt and Lisa Hirt*, CV 02-14 *Order (Dismissal without Prejudice)* (HCN Tr. Ct., Jan. 23, 2003). (Matha, T).

The plaintiffs requested that the Court dismiss the current action without prejudice. The Court granted this request. The plaintiffs may re-file this action in the event of a change in circumstances.

#### **JANUARY 27, 2003**

*In re: Bruce Patrick O'Brien, by Elethe Nichols, Guardian v. HCN Office of Tribal Enrollment*, CV 96-46 *Order (Release of Funds)* (HCN Tr. Ct., Jan. 27, 2002). (Bossman, W).

For summary, see **Incompetent's Trust Fund (ITF) cases** within this index.

*Don Brady v. Maria Blackhawk*, CV 02-84 *Judgment* (HCN Tr. Ct., Jan. 27, 2003). (Bossman, W).

The plaintiff brought an action to recover money for unpaid rent and rental damages. The defendant admitted some claims at trial. The Court awarded judgment to the plaintiff.

*George R. Davis, Jr. v. Ho-Chunk Casino Slot Department*, CV 02-72 *Order (Motion Hearing)* (HCN Tr. Ct., Jan. 27, 2003). (Bossman, W).

The Court convened a *Motion Hearing* to allow the defendant a chance to argue its *Motion to Dismiss*. The plaintiff must file any response to the motion at

least one (1) day before the hearing. Arguments shall be heard at the *Pre-Trial Conference* on February 6, 2003.

*Ho-Chunk Housing Authority v. Jackie Henneha*, CV 02- 106 *Scheduling Order* (HCN Tr. Ct., Jan. 27, 2003). (Matha, T).

The Court issues this *Scheduling Order* to establish dates and deadlines for the instant case up to and including trial.

*David Snowball, Occupancy Specialist, Ho-Chunk Housing Authority v. Janice Harrison*, CV 99-79 *Notice (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Jan. 27, 2003). (Bossman, W).

The plaintiff filed a *Satisfaction of Judgment* with this Court. The Court accepts the filing with proof of satisfaction. The Court now closes the case absent objections from the parties.

#### **JANUARY 28, 2003**

*Ho-Chunk Housing Authority v. Lisa Walker, Lawrence Eagleman, Sr. and Lawrence Eagleman, Jr.*, CV 02-107 *Scheduling Order* (HCN Tr. Ct., Jan. 28, 2003). (Bossman, W).

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case up to and including trial.

*Justina L. Littlegeorge, DOB 12/23/83 v. HCN Office of Tribal Enrollment*, CV 02-115 *Order (Requiring Submission of Documents)* (HCN Tr. Ct., Jan. 28, 2003). (Bossman, W).

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

#### **JANUARY 29, 2003**

*In the Interest of Minor Child: T.A.Y., DOB 09/27/85, by Dawn Venus v. HCN Office of Tribal Enrollment*, CV 02-117 *Order (Requiring Submission of Documents)* (HCN Tr. Ct., Jan. 29, 2003). (Bossman, W).

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

*Ho-Chunk Housing Authority v. Brenda Anhalt*, CV 02-118 *Scheduling Order* (HCN Tr. Ct., Jan. 29, 2003). (Bossman, W).

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case up to and including trial.



**JANUARY 30, 2003**

*In the Interest of the Minor Child: B.L., DOB 11/22/96, by Michelle Lewis v. HCN Office of Tribal Enrollment, CV 02-86 Order (Accepting Accounting)* (HCN Tr. Ct., Jan. 30, 2003). (Bossman, W).

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

*In the Interest of Annette Funmaker, DOB 05/10/79, by Doreen Thompson v. HCN Office of Tribal Enrollment, CV 97-79 Order (Accepting Accounting)* (HCN Tr. Ct., Jan. 30, 2003). (Bossman, W).

For summary, see **Incompetent's Trust Fund (ITF) cases** within this index.

*In the Interest of Claude Payer, DOB 12/19/61, by Dorothy Will v. HCN Office of Tribal Enrollment, CV 02-31 Order (Accepting Accounting)* (HCN Tr. Ct., Jan. 30, 2003). (Bossman, W).

For summary, see **Incompetent's Trust Fund (ITF) cases** within this index.

*Robert A. Mudd v. HCN Legislature: Elliot Garvin, Clarence Pettibone, Tracy Thundercloud, Wade Blackdeer, Dallas Whitewing, Gerald Cleveland, Sr., Christine Romano, Myrna Thompson, George Lewis, Kathyleen Whiterabbit, Sharyn Whiterabbit; and the Ho-Chunk Nation, CV 03-01 Order (Requiring Traditional Court Consultation)* (HCN Tr. Ct., Jan. 30, 2003). (Matha, T).

The defendants argued a lack of standing in their January 27, 2003 *Answer*. The plaintiff responded with a cultural argument suggesting that the eldest male of a family may speak for all the members. In addition, the plaintiff asserted that a combat veteran may also assert standing as an elevated member of the community speaking on community issues. The Court insisted that the parties seek the advice of the Traditional Court before proceeding with the case in the Trial Court.

**Juvenile**

**DECEMBER 6, 2002**

*In the Interest of Minor Child: I.J.W., DOB 08/02/95, JV 01-04 Order (Terminating Guardianship)* (HCN Tr. Ct., Dec. 6, 2002). (Bossman, W).

This Order *terminated guardianship* in the instant case.

**DECEMBER 17, 2002**

*In the Matter of the Child: C.M.S., DOB 06/07/85, JV 02-24 Order (Formal Hearing)* (HCN Tr. Ct., Dec. 17, 2002). (Bossman, W).

The Court conducted a *Formal Trial* in the instant case in order to discuss the details of the case.

**JANUARY 7, 2003**

*In the Interest of Minor Child: J.J.C., DOB 09/09/86, JV 01-12 Order (Termination of Jurisdiction)* (HCN Tr. Ct., Jan. 7, 2003). (Matha, T).

The Court terminated its jurisdiction in the instant case.

**JANUARY 14, 2003**

*In the Interest of the Minor Children: J.B., Jr., DOB 11/27/95, A.B., DOB 07/25/94, JV 01-06-07 Order to Compel DNA Testing* (HCN Tr. Ct., Jan. 14, 2003). (Bossman, W).

This Court *Order* compels the parties to undergo DNA testing.

**JANUARY 20, 2003**

*In the Interest of Minor Child: S.L.S., DOB 01/03/86, JV 00-19 Order (Appointment of Permanent Guardian)* (HCN Tr. Ct., Jan. 20, 2003). (Matha, T).

The Court appointed a permanent guardian for the minor child in question.

**JANUARY 24, 2003**

*In the Interest of Minor Child: J.J.F., DOB 11/01/00, JV 02-27 Order (Entrance of Plea)* (HCN Tr. Ct., Jan. 24, 2002). (Bossman, W).

The Court convened a *Plea Hearing* in the instant case.

**JANUARY 28, 2003**

*In the Matter of the Child: S.V.P., DOB 11/06/96, JV 02-02 Order (Granting Rescheduling of Hearing and Granting Telephonic Appearance)* (HCN Tr. Ct., Jan. 28, 2003). (Bossman, W).

The Court permitted a rescheduling of the next *Hearing* and a telephonic appearance.

**JANUARY 29, 2003**

*In the Interest of Minor Child: J.J.F., DOB 11/01/00, JV 02-27 Order (Granting Request to Reschedule)* (HCN Tr. Ct., Jan. 29, 2003). (Bossman, W).

The Court granted the party's request to reschedule the next *Hearing*.

*In the Interest of Minor Child: J.J.F., DOB 11/01/00, JV 02-27 Order (Appointment of Guardian ad Litem)* (HCN Tr. Ct., Jan. 29, 2003). (Bossman, W).

The Court appointed Attorney William Gardner as *Guardian ad Litem* for the minor child.



## Supreme Court

**JANUARY 7, 2003**

*Theresa Lynn Hendrickson v. HCN Office of Tribal Enrollment, SU 02-06 Amended Scheduling Order* (HCN S. Ct., Jan. 7, 2003). (B. Hunter, M.J.)

The Court issued this *Amended Scheduling Order* to inform the parties that oral arguments would commence on January 22, 2003, at 9:00 a.m.

**JANUARY 24, 2003**

*Rae Anna Garcia v. Joan Greendeer-Lee et al., SU 03-01 Scheduling Order* (HCN S. Ct., Jan. 24, 2003). (Lowe, J.D.).

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case.

## Recent Filings

### Trial Court

**Child Support**

**JANUARY 7, 2003**

*Rita Stewart v. Robert Stewart, CS 03-01.* (Bossman, W).

**JANUARY 14, 2003**

*State of Wisconsin v. Brian LaMere, CS 03-02.* (Matha, T).

*State of Wisconsin v. Christopher Littlewolf, CS 03-03.* (Matha, T).

**Civil Garnishment**

**JANUARY 13, 2003**

*Gerry Geishart v. Norah Shortell, CG 03-01.* (Matha, T).

**Civil Cases**

**JANUARY 2, 2003**

*Robert A. Mudd v. HCN Legislature and HCN, CV 03-01.* (Matha, T).

**JANUARY 6, 2003**

*HCN Department of Education v. Gail Leigh Funmaker, CV 03-02.* (Matha, T).

**JANUARY 7, 2003**

*Charles L. Stands v. Stefanie Lewis, CV 03-03.* (Bossman, W).

**JANUARY 13, 2003**

*In the Matter of the Minor Child: F., T., DOB 03/18/93, by Toni Funmaker v. HCN Office of Tribal Enrollment, CV 03-04.* (Matha, T).

**Juvenile**

*Nothing to report at this time.*

**Domestic Cases**

*Nothing to report at this time.*

### Supreme Court

*Nothing to report at this time.*

## GARNISHMENTS Cont'd

The origin of this decision is found within the CLAIMS AGAINST PER CAPITA ORDINANCE and the RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE. If and when the Nation chooses to distribute per capita income to its members, any and all members have the right to such income. When the checks are distributed into the mail, that money then belongs to the designated tribal member. However, before this point in time, the money still belongs to the Nation. In that instance, a creditor may request garnishment where the legislature has waived sovereign immunity. As to laws of general applicability, the question remains unresolved and could affect future claims against per capita from new creditors. A law of general applicability is one that is meant to apply to the United States as a Nation. However, many of these laws do not specifically mention tribes and thus, an issue of sovereign immunity arises. Once a law is considered to be a law of general applicability, the United States Supreme Court, or in our case the United States federal Court of Appeals for the 7<sup>th</sup> Circuit, would have to determine whether this law would apply to the Ho-Chunk Nation. The only specific instances where the legislature has waived such immunity are found in the aforementioned ordinances. Thus, garnishment of per capita may take place for child support, back federal taxes, and debts owed to the Nation.

Garnishment of wages for child support and other areas of civil garnishment have recently become a more pressing issue for the Trial Court. While the Court did not handle these matters to a great extent previously, the full faith and credit clause within the *Ho-Chunk Nation Rules of Civil Procedure* allows for such determinations. As the subject matter of such orders deals with wages and not per capita distributions, the Court has not faced issues of sovereign immunity. The Nation does not have the same interest in wage garnishment as it does in the garnishment of per capita. The reason these new civil garnishment cases have come to the Court has its origins in the General Council meeting

of November 12, 2002, and a preceding legislative motion.

At the General Council meeting, Mr. Sheridan Pollack, #2869, described his mother's condition and her beleaguered state as she was beset with medical bills and payments. This led to a motion by Monica Cloud, #1635 and Nyree Kedrowski, #2265, that creditors should leave per capita alone. The final written resolution stated the following: "The General Council hereby directs the HCN Legislature to establish restrictions on garnishment of employee wages and Tribal Member per capita distributions that are not a result of Tribal Court orders. Be it further resolved, that the HCN Department of Treasury shall only garnish employee wages and Tribal Member per capita distributions allowable by law." GEN. COUNCIL RES. 11-16-02-0007. Essentially, this resolution does not change the end result of certain creditors, through legal exceptions, being able to garnish wages and per capita. Again, the reader must note that creditors cannot garnish per capita distributions of any member unless such garnishment falls under the exceptions discussed in this article. The laws concerning bankruptcy are laws of general applicability, which could mean that the Nation cannot refuse to let creditors consider per capita payments without violating federal law. Still, this assertion is not yet established. Bankruptcy is an unusual topic in and of itself. This topic warrants further discussion, and this article shall address that at a later point.

As stated earlier, per capita may also be garnished for back taxes that a tribal member owes to the federal government. This allowance is not only found in the laws of the Ho-Chunk Nation, but was allowed by the pre-emptive actions of the Legislature. However, some readers may note at this point that revenue decisions involving a tribal member's per capita do not go through the Court. The reason for this is that revenue decisions are done administratively and do not utilize a formal adjudicative process. The Court has not decided at this juncture to provide full faith and credit to these decisions. Until the Court modifies the *Ho-Chunk Nation Rules of Civil Procedure*, revenue decisions

may be handled administratively by the Treasury Department without any Court processing.

**T**he last per capita garnishment that this article shall discuss is the subject of bankruptcy. Bankruptcy can be broken down into two different categories: requests for wages and requests for per capita. Requests for garnishment of wages in a bankruptcy case have gone to the Treasury Department without passing through the Court. Bankruptcy garnishments that deal with per capita distributions would have to come through the Court before passing onto another agency. Now some would question whether the Nation even needs to consider the issue of paying per capita for bankruptcy cases. The following is a very general discussion of bankruptcy and how the current law affects the Nation.

**T**he current case law on per capita and its relation to bankruptcy exists in *In re Nicholas Joseph Kedrowski et al.*, 284 B.R. 439 (W. Dis. Wis. Aug. 28, 2002). When considering the issues presented, the bankruptcy court dealt with per capita in the following way. The case dealt with a Ho-Chunk tribal member that wanted to declare bankruptcy, while reserving her per capita for income and excluding it from potential payment to investors. The Court had to determine whether per capita was a viable property right that could attach to the bankruptcy estate of a person in the process of declaring bankruptcy. *Kedrowski*, 284 B.R. at 441. In its analysis of per capita and its uses among tribal members, the Court indicated that per capita is considered income for tax purposes and as such is subject to income tax. *Id.* at 450. In addition to this analysis, the Court concluded that per capita is legal property in the general sense, because it is a future interest. *Id.* at 441. The reason that per capita is considered a future interest is that the right to per capita for tribal members is contingent on the legislature's grant of per capita. *Id.* at 16. When the legislature grants per capita distributions to the members, the rights of all those members then vests and becomes a general intangible interest in property. *Id.* at 10. The Court can attach a future interest to a bankruptcy estate even though the future interest is not a tangible piece of property such as an actual check. *Id.* at 15.

The reason for this assertion is that "property of the estate" is defined as "all legal or equitable interests of the debtor in property." *Id.* at 15. Therefore, current bankruptcy law indicates that per capita may be used to determine assets and property for a bankruptcy estate before the final declaration is made. In short, a tribal member's per capita could be attached to pay creditors in a bankruptcy judgment. *Id.* at 26-7.

**O**ur own Supreme Court case law makes similar assertions. In *Debra Knudson v. HCN Treasury Department*, SU 98-01 (HCN S. Ct., Dec. 1, 1998), the appellant protested her termination for mishandling per capita checks. *Knudson*, SU 98-01 at 7. In dicta for its decision, the Court discussed the serious results of any mishandling of per capita checks. *Id.* The Court insisted that per capita money is technically still the property of the Nation until it is mailed, but members have a vested right and expectation of receiving those funds.

**I**n another case, the Ho-Chunk Nation Supreme Court agreed with the aforementioned bankruptcy case in its determination that per capita is income. See *In the Interest of Minor Children: V.D.C., DOB 10/03/83 et al.*, by *Debra Crowe v. HCN Office of Tribal Enrollment*, SU 00-09 (HCN S. Ct., Oct. 12, 2000). In *Crowe*, the Court mentioned that per capita distributions entered in trust funds are protected from creditors, but creditors that fall under the exceptions in our CLAIMS AGAINST PER CAPITA ORDINANCE cannot be turned away by stating that per capita is not income. *Id.* at 5. While this decision settles the matter on whether per capita is income, other Supreme Court decisions can lead to disagreement over the nature of per capita. In one particular case, the Court discussed altering a payment plan for a defendant that owed back rent in order to make equitable payments for someone that lived entirely on per capita. See *HCN Department of Housing, Property Management Division v. Sarah Dobbs*, SU 00-10 (HCN S. Ct., Oct. 24, 2000). In that case, the defendant made assertions that could be construed to suggest that per capita could be similar to welfare. Such an assertion, if found to be true by our Supreme Court, could create the claim that per capita is an exempt form of income, like welfare,

for the purposes of bankruptcy. This decision suggests an ambiguity in the current law. In a later decision, the Court identified and discussed the nature of per capita at length. See *Joan Marie Whitewater et al. v. HCN Office of Tribal Enrollment et al.*, SU 01-06 Decision (HCN St. Ct., Oct. 31, 2001). In *Whitewater*, the plaintiffs became eligible for per capita when their applications were approved for membership. *Whitewater*, SU 01-06 at 3. The plaintiffs asserted that their applications should have been approved at an earlier date, thereby entitling them to retroactive per capita. *Id.* However, the Court felt that the plaintiffs' rights only vested when they became fully enrolled members. *Id.* at 5. Until the right vests and the person becomes a full member of the Nation, they have only an expectation of a property right and not an actual property right itself. *Id.* at 5. The Court definitively announced that:

Based on the conclusion that the plaintiff's rights to tribal membership and per capita payments vested on the date of the adoption of the HCN Constitution, the Trial Court found Section 6(f) of the Membership Act to be unconstitutional because it denied the plaintiffs certain property rights. However, no property rights to per capita payments vested in 1994 through 1995, and until June, 1996 (the date of their approval for membership) the plaintiffs rights were anticipatory at best. The plaintiffs has an expectation of a property right, but the expectation does not give right to a due process claim for the six per capita payments after November 1, 1994.

*Id.* Therefore, this opinion strongly rebuts the preceding opinion that the nature of per capita is one of income and property, not welfare or any source of income that can be considered exempt from bankruptcy claims.

**T**he final question here is what all of this analysis means for Ho-Chunk Nation members considering their options in bankruptcy. According to a decision rendered in the Ho-Chunk Nation Trial Court:

A per capita payment does not vest to the tribal member until "checks for some or all Per Capita Shares, other than those which may be affected by claims hereunder, are placed in the U.S. Mail or delivered to another independent delivery service" HO-CHUNK NATION CLAIMS AGAINST PER CAPITA ORDINANCE, § 101(d). Otherwise, the monies "retain their character as property of the Nation..., provided that nothing...preclude[s] an action in the Trial Court of the Nation seeking to require any official or body of the Nation to perform any administrative or ministerial duty required of him, her or them under the then effective Per Capita Distribution Ordinance." *Id.* § 102.

See *Nicky L. Woolhouse et al. v. Domic D. Bell*, CS 00-28, 02-12 (HCN Tr. Ct., Oct. 11, 2002). The Legislature explicitly states that the property right vests when the check is in the mail, but until such point it is the property of the Ho-Chunk Nation. In this way, the laws of the Ho-Chunk Nation agree with the ruling in *Kedrowski*, and how per capita relates to bankruptcy.

**N**ow the question remains whether the Bankruptcy Court can request garnishment of a per capita check before it is received by tribal members. Unfortunately, there are two potential avenues of discussion concerning this issue and each one is unclear as to its conclusion. However, this Court cannot give an advisory opinion on such matters and will have to content itself with the following explanations.

**B**ankruptcy garnishments involving wages do not necessarily include the problem of whether sovereign immunity is at issue, because the property interest at stake for the Nation is not the same as that for per capita. Therefore, bankruptcy decisions that deal only with wages may be handled solely by HCN Administration. The reason that the administration may choose to deal with bankruptcy claims at all is because bankruptcy laws are laws of general applicability and are potentially binding on Indian tribes. While such assertions have not been resolved in the 7<sup>th</sup> Circuit Court of Appeals, or the

U.S. Supreme Court, at least one other circuit presumed that the Bankruptcy Act was applicable to tribes. Bankruptcy claims dealing with per capita, however, are another matter unto themselves. See *HCN Department of Housing et al. v. Edward Perry, d/b/a Perry Construction*, CV 00-92 (HCN Tr. Ct., July 31, 2001) at 13-15 (discussing *In re Greene*, 980 F.2d 590 (9<sup>th</sup> Cir. 1992), cert. denied, 510 U.S. 1039 (1994)).

**W**hen bankruptcy claims involve per capita distributions, there is an issue of sovereign immunity and waiver. Issues of sovereign immunity and waiver exist where the money initially belongs to the Nation and only becomes the property of tribal members once the right to such property vests. Given the fact that sovereignty issues arise in connection to per capita and bankruptcy, any bankruptcy claims involving per capita would have to come through the Court for processing. Yet, there exists a school of thought which insists that the Court need not grant early garnishment to bankruptcy claims involving per capita. This theory involves the idea that the CLAIMS AGAINST PER CAPITA ORDINANCE provides the only exceptions allowed by our legislators in law whereby a creditor may seek per capita. Therefore, without explicit mention within the ordinance, creditors could not seek garnishment of per capita prior to a tribal member's receipt of property. Under this interpretation, a tribal member seeking to declare bankruptcy would still find any per capita checks sent to him or her available for the bankruptcy estate. However, such checks would not be garnished before the member received them. The member would have to deal with the bankruptcy court decision on their own.

**A**nother view of the connection between bankruptcy and per capita is the idea that bankruptcy creditors could ask for early garnishment of per capita. However, this assertion then begs the question as to how the Nation should handle such garnishments. Another suggestion is to enable the legislature to provide express permission for the earmarking of funds for bankruptcy garnishments. However, once again the issue of sovereignty arises when handling funds that are still the property of the Nation. Therefore, this avenue

of reasoning and how to handle bankruptcy garnishments for per capita remains unclear. The only case this Court has considered in connection to bankruptcy was the aforementioned *Perry* decision. *Id.* In this case, the Nation acted as a creditor seeking money from a tribal member. The Nation did not file a proof of claim in Bankruptcy Court. Therefore, the Nation did not avail itself to the bankruptcy court's jurisdiction or waive its sovereign immunity. *Perry*, CV 00-92 at 14. Federal precedent requires that Congress explicitly mention Indian Tribes when claiming to waive sovereign immunity. *Id.* at 21. Congress manifested no such intent in relation to the bankruptcy code. *Id.* at 25. Thus, when the Nation acts as a creditor seeking money, and it files no proof of claim to avail itself of a bankruptcy court's jurisdiction, the Nation may still collect its money. The tribal member seeking relief from debt cannot consider themselves exempt from debts owed to the Nation even after bankruptcy.

**T**his information may be summed up in the following ways. First, the Court only handles adjudicated claims. The Court lacks a procedural mechanism to accord full faith and credit to claims that are not formally adjudicated. Thus, claims of an administrative nature must be handled through administration, if at all, or somehow reduced to a judgment. Adjudicated claims fall into two categories: claims involving wages and claims involving per capita. If a question of sovereign immunity exists, the Court must ask whether this claim is one that the legislature has permitted under the CLAIMS AGAINST PER CAPITA ORDINANCE. If the claim cannot be found under this ordinance, then the next step is to discover whether the applicable law is considered a law of general applicability and whether an explicit Congressional waiver of sovereign immunity appears on the face of such law. If the claim arises under none of these, then the Court need not honor the claim against per capita. While the issue of bankruptcy is a matter still debated, the Court is secure in the knowledge that a plan of action is forthcoming.



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**HO-CHUNK NATION COURT SYSTEM  
JUDICIARY AND STAFF**

Supreme Court—Mary Jo B. Hunter, Chief Justice  
Mark D. Butterfield, Associate Justice  
Jo Deen B. Lowe, Associate Justice  
Clerk of Court, Supreme Court – Bryan Dietzler

Traditional Court –Wallace Blackdeer

Donald Blackhawk  
Dennis Funmaker  
Orville Greendeer  
Douglas Greengrass  
Owen Mike  
Gavin Pettibone  
Douglas Red Eagle  
Preston Thompson, Jr.  
Eugene Thundercloud  
Morgan White Eagle  
Clayton Winneshiek

Trial Court – William H. Bossman, Chief Judge  
Todd R. Matha, Associate Judge

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 – Rebecca Tavares

Office of Public Advocacy – Dennis Funmaker, Administrator

\* The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

WISCONSIN TRIBAL JUDGES ASSOCIATION  
(Eleven federally recognized tribes within the State of Wisconsin)

NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION  
(Region 5—Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, South Dakota, North Dakota, and Wisconsin)

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**HCN Court System Fee Schedule**

- Filing Fees . . . . . \$50.00\*

\*With the exception of petitions to register child support orders – this fee remains at \$20.00 as previously ordered by the Supreme Court.

Note: Filing Fee now includes *Summons* fee.

- Filing Fees for *Petitions to Register and Enforce Foreign Judgment/ Order*. . . . . \$20.00

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

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.

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).





March 2003  
Vol. 9, No. 3

## Inside this Issue

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Ho-Chunk Nation Court System Fee Schedule  
  
Legal Citation Form

Ho-Chunk Nation Court System  
W9598 Hwy 54 East  
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# HO-CHUNK NATION COURT BULLETIN

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## THE NUTS AND BOLTS OF FILING AN APPEAL

**T**he question of when to file an appeal and how one goes about the process, has become a popular question in recent times. To ease the minds of inquisitive individuals, and for the general edification of the public, the Judiciary presents this discussion on the mechanism for appeal. The first question an individual faces when considering an appeal is whether or not the Court has jurisdiction to hear the case. Under the *Ho-Chunk Nation Rules of Appellate Procedure* (hereinafter *HCN R. App. P.*), Rule 6 states that the Ho-Chunk Nation Supreme Court has jurisdiction over cases involving the Constitution and discussions involving conclusions of law. In other words, if any party considers these matters unresolved by the Trial Court, or not resolved to the satisfaction of that party, that person may file an appeal with the Supreme Court. The Court may review any factual or legal findings of the lower court in order to make their determination. However, parties seeking to appeal to the Supreme Court may only appeal final decisions of the lower court. The special exception to this idea comes in the form of interlocutory appeals, which is a subject that this article shall discuss later in greater detail. If the Supreme Court renders a decision on appeal that is still not satisfactory to the parties, they may seek the review of the General Council. However, the General Council may not review Court opinions that interpret the Constitution.

**O**nce a party determines that they can and wish to proceed with an appeal, they must ensure that their appeal conforms to the appellate rules for structure and timing. *Continued on page 10.*

## FRIEND OF THE COURT: ROBERT OLSHER



Chief Judge William Bossman greets a friend of the Court, Robert Olsher at the HCN Trial Court Building on March 5, 2003.

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*The author of this article, Rebecca Tavares, is the Law Clerk for the Ho-Chunk Trial Court and graduated from the University of Minnesota. Of Wyandot and Portuguese descent, Ms. Tavares held a previous clerkship with Judge Thorwald Anderson of the State of Minnesota's Fourth Judicial District. Ms. Tavares spends her free time reading and exercising. Ms. Tavares has spent one year with the Trial Court and her contract shall end in June 2003.*

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**S**herman, Olsher & Sherman has a Ho-Chunk Nation Bar member on its staff. Robert Olsher is not just a well-known attorney in Black River Falls, but almost a household name associated with everything positive in the legal field. The Staff Attorney caught up with Robert at the Court Building to talk about work, family and life. Robert Olsher was born in Chicago, but raised in Waupaca, WI. He graduated from University of Wisconsin Law

School, Madison in 1976. Prior to his obtaining a law degree, Mr. Olsher graduated with an undergraduate degree in political science and served in the United States Navy as part of their Naval Intelligence from 1969-1973.

**A**fter reaching Black River Falls, Mr. Olsher worked in various areas of the law and gained valuable experience with a number of legal pursuits. At one point, Robert Olsher was an Assistant District Attorney for Jackson County and organized the Jackson County Child Support Agency under Title IV-D. Mr. Olsher was a City Attorney for Black River Falls and still maintains his position as City Attorney for Merrillan. He currently practices general law with a focus on municipal law. Among his most memorable cases, Robert Olsher recounts the prosecution of an attempted murder and the defense of a client later convicted of second degree murder. In the latter case, the victim had a BAC of .42. Another memorable case involved issues of sexual assault and battered women's syndrome. When asked about the Ho-Chunk Nation Court System, Mr. Olsher had this to say:

"I am extremely impressed with the Ho-Chunk Nation Court System. I am impressed with the thoroughness and thoughtfulness of the decisions. I find it so interesting to be involved in a judicial system as it is being created."

**M**r. Olsher has a wife, three daughters and four grandchildren. He met his wife in New York. According to him, she and her friend were "chasing sailors." Mr. Olsher's best friend met, and fell in love with, her friend. Robert Olsher met the soon-to-be Mrs. Olsher at the wedding reception. Mr. Olsher insists that his family comes before his work. He enjoys playing golf and various sorts of community involvement. Robert Olsher was an Eagle Scout and became the Top Boy Scout in Wisconsin in 1962. The tradition of community service has continued throughout the years with his involvement with the Amvets and other service organizations. His time spent with his family are among Robert Olsher's greatest memories. In the realm of advice for young attorneys, Mr. Olsher had this to say:

"Like many attorneys, when I came out of law school, I didn't have much confidence, because I felt I didn't have enough knowledge. Later, I read an article by an elderly country lawyer who said, 'what a wonderful profession we have, because we learn so much about other people's business.' After I read that, I realized that I'm not expected to know everything when a client comes in. It gave me confidence and made me a better lawyer."

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# Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and categorized 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 that 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.

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## Trial Court

### **Child Support**

**FEBRUARY 3, 2003**

*State of Wisconsin/Janet Funmaker v. Mahlon Funmaker, State of Wisconsin/Brenda Fisher v. Mahlon Funmaker, State of Wisconsin/Eileen Link v. Mahlon Funmaker, CV 97-149-151 Order (Establishing Arrearage Withholding)* (HCN Tr. Ct., Feb. 3, 2003). (Matha, T).

Jackson County filed a request to establish arrears for one of the aforementioned cases. The respondent failed to respond within the specified

time frame. The Court granted the request to recognize arrears.

**FEBRUARY 20, 2003**

*State of Iowa v. Aaron Blackhawk, CS 02-48 Order (Releasing Impound and Enforcing Child Support)* (HCN Tr. Ct., Feb. 20, 2003). (Matha, T).

The Court had to determine whether to release impounded funds and enforce a standing foreign child support order against the respondent. The Court received a *Petition to Recognize a Foreign Child Support Order* on October 1, 2002. The Court received a written statement from the respondent on October 18, 2002, indicating a question of paternity. The Court impounded the funds until further notice. On January 31, 2003, the Court received documents resolving the question of paternity. The Court then released the funds for current child support and arrears in the instant case.

**FEBRUARY 24, 2003**

*Beltrami County by Assignment of Cynthia Lynn Lussier v. John Gilbert Morris, Sr., CS 03-04 Order (Default Judgment)* (HCN Tr. Ct., Feb. 24, 2003). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to provide the Court with a response within the specified time frame. The Court granted a default judgment in favor of the petitioner.

*State of Wisconsin v. Jeriah Rave, CS 02-24 Order (Ceasing Withholding and Intent to Close)* (HCN Tr. Ct., Feb. 24, 2003). (Matha, T).

On February 5, 2003, the Court received a *Motion to Suspend Withholding* in the instant case. All current support and arrears were paid in full. The Court ordered the Treasury Department to cease withholding and informed the parties of its intent to close the case.

*State of Wisconsin v. Stacy Yellowcloud, CS 99-65 Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Feb. 24, 2003). (Matha, T).

The Court had to determine whether to grant the petitioner's *Motion to Modify*, requesting an amendment of child support and arrearage. The respondent failed to respond within the specified

time frame. The Court granted the petitioner's request.

**MARCH 5, 2003**

*State of Wisconsin, Eau Claire County Child Support Agency v. Cecil E. Head*, CS 03-08 Order (Default Judgment) (HCN Tr. Ct., Mar. 5, 2003). (Matha, T).

Eau Claire County Child Support Agency requested that this Court grant full faith and credit to its foreign judgment. The respondent failed to respond within the appropriate amount of time. The Court granted Eau Claire's request.



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

**FEBRUARY 17, 2003**

*In the Interest of Ward/Minor Child: Travis W. Greengrass*, DOB 12/08/84, by *Judy Schmidt v. HCN Office of Tribal Enrollment*, CV 03-05 Order (Denial of Petition) (HCN Tr. Ct., Feb. 17, 2003). (Matha, T).

The Court denied the *Petition* in the instant case due to insufficient pleading. The declared minor had already reached the age of majority, thereby divesting the alleged guardian of any power over the other. In the case of an adult CTF beneficiary, the adult CTF beneficiary must bring the *Petition*, unless other documents show a continuation of legal guardianship.

**FEBRUARY 20, 2003**

*In the Interest of Minor Child: H.G.E.G*, DOB 10/23/90, by *Montgomery J. Green, Sr. v. HCN Office of Tribal Enrollment*, CV 02-57 Order (Requesting Accounting) (HCN Tr. Ct., Feb. 20, 2003). (Matha, T).

On June 28, 2003, the Court released funds from the CTF account of the aforementioned minor. The Court directed Montgomery Green to maintain and produce an accounting for the expenditures. The timeline for the requested documents has passed,

and the Court now reminds Mr. Green of his obligation.

*In the Interest of Minor Children: J.A.L., DOB 11/20/91, and K.A.L., DOB 08/14/89, by Gary L. Lonetree, Jr. v. HCN Office of Tribal Enrollment*, CV 02-85 Order (Requesting Accounting) (HCN Tr. Ct., Feb. 20, 2003). (Matha, T).

On October 21, 2002, the Court released funds from the CTF accounts of the aforementioned minors. The Court directed Gary Lonetree to maintain and produce an accounting for the expenditures. The timeline for the requested documents has passed, and the Court now reminds Mr. Lonetree of his obligation.

*In the Interest of Minor Child: M.L.*, DOB 07/23/85, by *Michelle R. Gulbranson v. HCN Office of Tribal Enrollment*, CV 02-73 Order (Requesting Accounting) (HCN Tr. Ct., Feb. 20, 2003). (Matha, T).

On August 29, 2002, the Court released funds from the CTF account of the aforementioned minor. The Court directed Michelle Gulbranson to maintain and produce an accounting for the expenditures. The timeline for the requested documents has passed, and the Court now reminds Ms. Gulbranson of her obligation.

*In the Interest of Minor Child: M.W.*, DOB 07/09/95, by *Melody Whiteeagle-Fintak v. HCN Office of Tribal Enrollment*, CV 01-154 Order (Requesting Accounting) (HCN Tr. Ct., Feb. 20, 2003). (Matha, T).

On March 13, 2002, the Court released funds from the CTF account of the aforementioned minor. The Court directed Melody Whiteeagle-Fintak to maintain and produce an accounting for the expenditures. The timeline for the requested documents has passed, and the Court now reminds Ms. Whiteeagle-Fintak of her obligation.

*In the Interest of Minor Child: T.F.*, DOB 03/18/93, by *Toni Funmaker v. HCN Office of Tribal Enrollment*, CV 03-04 Order (Petition Granted) (HCN Tr. Ct., Feb. 20, 2003). (Matha, T).

The petitioner requested funds from the minor's trust account for orthodontic procedures. The respondent gave its assent to the release of funds.

The Court granted the request for the use of such funds for orthodontics.

**MARCH 5, 2003**

*In the Interest of Minor Children: H.G.E.G., DOB 02/02/87, M.J.G., DOB 10/23/90, by Montgomery J. Green, Sr. v. HCN Office of Tribal Enrollment, CV 02-57 Order (Accepting Accounting)* (HCN Tr. Ct., Mar. 5, 2003). (Matha, T).

On June 28, 2002, the Court released funds from the CTF accounts of the aforementioned minors for orthodontics. The Court insisted that the petitioner submit a required accounting of the expenditures. The Court now accepts such an accounting and closes the case.

**Civil Garnishments**

**FEBRUARY 18, 2003**

*Jeane Smith for Cash Data v. Christine Brown and Dean Brown, CG 03-02 Order (Default Judgment)* (HCN Tr. Ct., Feb. 18, 2003). (Matha, T).

The Court had to determine whether to grant full faith and credit to the foreign judgment. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**FEBRUARY 19, 2003**

*Gerry Gieshart v. Norah Shortell, CG 03-01 Order (Default Judgment)* (HCN Tr. Ct., Feb. 19, 2003). (Matha, T).

The Court had to determine whether to grant full faith and credit to the foreign judgment. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**MARCH 5, 2003**

*Creditor Recovery Service LLC, Agent for Doctors' Clinic SC v. Wendy Hanneman, CG 03-08 Order (Default Judgment)* (HCN Tr. Ct., Mar. 5, 2003). (Matha, T).

The Court had to determine whether to grant full faith and credit to the foreign judgment. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*Creditor Recovery Service LLC, Agent for Jerry Schenk Properties v. Gary B. Arendt, CG 03-07*

*Order (Default Judgment)* (HCN Tr. Ct., Mar. 5, 2003). (Matha, T).

The Court had to determine whether to grant full faith and credit to the foreign judgment. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.



**Civil Cases (all categories)**

**JANUARY 31, 2003**

*Casimir T. Ostrowski v. Ho-Chunk Nation, HCN Personnel Department, HCN Casino, CV 02-82 Order (Postponing Trial)* (HCN Tr. Ct., Jan. 31, 2003). (Bossman, W).

The *Trial* was scheduled for February 4-5, 2003. The parties requested that the Court reschedule the *Trial*. The Court granted the request, and the *Trial* is now set for March 14 and 17, 2003.

*Tara L. Blackdeer v. Vaughn Pettibone, CV 02-76 Scheduling Order* (HCN Tr. Ct., Jan. 31, 2003). (Bossman, W).

The Court issued this *Scheduling Order* for the instant case to establish dates and deadlines up to and including trial.

**FEBRUARY 3, 2003**

*Dennis Alt v. HCN Table Games Department, CV 02-92 Order (Motion Hearing)* (HCN Tr. Ct., Feb. 3, 2003). (Bossman, W).

The Court convened a *Hearing* to allow the defendant an opportunity to argue its *Motion to Dismiss*. The Court insisted that the *Motion to Dismiss* should be argued at the February 13, 2003 *Pre-trial Conference*. The plaintiff may offer any written response to the *Motion* at least one (1) day prior to the *Hearing*.

*Stewart Miller v. Clarence Pettibone et al., CV 99-22 Order (Allowing Parties Time to Request New*

*Pro tem Judge and New Trial*) (HCN Tr. Ct., Feb. 3, 2003). (Bossman, W).

On August 19, 1999, Pro tem Judge Rebecca Weise presided over the trial for the instant case. Despite numerous attempts at contact, the Pro tem Judge has not provided the Court with a decision in this matter. On January 28, 2003, the case was reassigned to Judge William Bossman. The Court shall permit the parties thirty (30) days to formally request a new trial and a new Pro tem Judge.

#### **FEBRUARY 4, 2003**

*Ho-Chunk Nation v. Bank of America Corporation, CV 02-93 Order (Requiring Submission of Legible Copy of Exhibit)* (HCN Tr. Ct., Feb. 4, 2003). (Bossman, W).

The plaintiff filed exhibits on December 13, 2002. One (1) exhibit appears to be a letter or memo between the parties, yet cannot be read or deciphered. In order for the Court to be adequately informed and prepared, the Court ordered the plaintiff to file a legible copy of the aforementioned exhibit.

*Berna Big Thunder v. Ho-Chunk Nation, CV 99-71 Judgment (for Defendants)* (HCN Tr. Ct., Feb. 4, 2003). (Bossman, W).

The plaintiff brought an action for unlawful demotion, requesting reinstatement and back pay as damages. The plaintiff's primary assertion rested on a late employee evaluation. However, the Court found that the employee evaluation was a required task and the completion of such tasks, irrespective of deadlines, is not unlawful. Without evidence of more, the plaintiff could not prove the allegations of her case, and the Court found in favor of the defendants.

#### **FEBRUARY 7, 2003**

*George R. Davis, Jr. v. HCN Slot Department, CV 02-02 Order (Granting Motion to Dismiss)* (HCN Tr. Ct., Feb. 7, 2003). (Bossman, W).

The plaintiff claimed that the Slot Department gave him an improper demotion. However, the defendant filed a *Motion to Dismiss* and asserted that the plaintiff did not file in a timely fashion. The general Statute of Limitations is thirty (30) days, and the plaintiff filed well after such a deadline. The Court granted the request to dismiss.

#### **FEBRUARY 11, 2003**

*Harry J. Cholka v. Ho-Chunk Nation, CV 02-116 Scheduling Order* (HCN Tr. Ct., Feb. 11, 2003). (Bossman, W).

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case up to and including trial.

*Pamela K. Snowball v. Ho-Chunk Nation, HCN Department Head Start Program, Laurel Sackett-Meek, Ann Dehmer, CV 02-119 Scheduling Order* (HCN Tr. Ct., Feb. 11, 2003). (Bossman, W).

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case up to and including trial.

#### **FEBRUARY 13, 2003**

*Robert A. Mudd v. HCN Legislature: Elliot Garvin, Clarence Pettibone, Tracy Thundercloud, Wade Blackdeer, Dallas Whitewing, Gerald Cleveland, Sr., Christine Romano, Myrna Thompson, George Lewis, Kathyleen Whiterabbit, Sharyn Whiterabbit, CV 03-01 Order (Final Judgment)* (HCN Tr. Ct., Feb. 13, 2003). (Matha, T).

The question before the Court contained issues of redistricting/reapportionment, standing, and sovereign immunity. The Court had to consider whether the Constitution permits a gradual phase-in of redistricting. In its final decision, the Court decreed that the Constitution does not allow for a gradual phase-in of redistricting.

The plaintiff satisfied the long-standing three (3) part test for standing in a cause of action. The plaintiff also introduced tradition and customs into the standing inquiry, giving the plaintiff another separate set of grounds for standing. Therefore, the Court found standing under both a three-part test and under traditions and customs. The next issue preceding the Court's decision was whether the defendants had sovereign immunity from suit. The Court had previously stated that suits asserting the misdeeds of an individual working in their official capacity must name that individual over the Nation. *Chloris A. Lowe, Jr. v. Ho-Chunk Nation et al.*, SU 97-01 (HCN St. Ct., June 13, 1997) at 4. However, a plaintiff may also seek declaratory or injunctive relief if that plaintiff specifically asserts that the defendants, in their official capacities, exceeded the scope of their

constitutional powers. *Roy J. Rhode v. Ona M. Garvin, as Gen. Manager of Rainbow Casino*, CV 00-39 (HCN Tr. Ct., Aug. 24, 2001) at 14-15.

Finally, the Court entertained arguments for and against the idea of phasing-in redistricting over time. The Court determined that the argument for phasing-in redistricting was unreasonable and contrary to the language of the Constitution. The phasing-in of redistricting would serve to diminish and dilute the power of the right to vote. In addition to the arguments above, the Court noted that the voting public received improper notice of the gradual phase-in before they voted. Given the unconstitutional implications of the gradual phase-in, the Court directed the Election Board to decline further applications for legislative seats. The current legislators shall assume their seats according to the redistricting and vacant seats shall be up for election under the new redistricting.

#### **FEBRUARY 17, 2003**

*Sharon Williams v. Four Winds Insurance Agency and HCN Health Insurance Review Commission*, CV 02-48 *Stipulation and Order to Remand* (HCN Tr. Ct., Feb. 17, 2003). (Matha, T).

The parties agreed through stipulation that the instant case be remanded back to the Health Insurance Review Commission. This agreement between the parties does not suggest admission by any party or waiver of any defenses. The case is remanded, and the parties retain all rights and claims.

#### **FEBRUARY 19, 2003**

*Dennis Alt v. HCN Table Games Department*, CV 02-92 *Order (Granting Motion to Dismiss)* (HCN Tr. Ct., Feb. 19, 2003). (Bossman, W).

The plaintiff claimed that he was improperly demoted from his position in the Table Games Department. The defendant asserted that the plaintiff had failed to file in a timely fashion. Given that the general Statute of Limitations is thirty (30) days, the plaintiff filed far beyond this deadline. The Court granted the defendant's *Motion to Dismiss*.

#### **FEBRUARY 20, 2003**

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

*Order (Dismissal with Prejudice)* (HCN Tr. Ct., Feb. 20, 2003). (Matha, T).

On June 4, 2002, the plaintiff requested that the Court dismiss the matter with prejudice. The Court granted this request under *HCN R. Civ. P. 56(B)*. The plaintiff may not re-file this action despite a future change in circumstances.

*Ho-Chunk Housing Authority v. Carrie Youngthunder*, CV 01-112 *Notice (Case Closed)* (HCN Tr. Ct., Feb. 20, 2003). (Matha, T).

Due to the death of the defendant, the Court closes this case. The Court extends its sympathies to the defendant's family at this time.

*HCN Department of Education v. Gail Leigh Funmaker*, CV 03-02 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., Feb. 20, 2003). (Matha, T).

On January 31, 2003, the plaintiff requested that the Court dismiss the instant case. The Court grants this request and dismisses the case without prejudice. The plaintiff may re-file this action in the event of a future change in circumstances.

*Robert and Alice Yellowbank v. Robert Ulysses Yellowbank, Jr.*, CV 03-07 *Order (Petition Granted)* (HCN Tr. Ct., Feb. 20, 2003). (Matha, T). The plaintiffs requested a court *Order* to compel DNA testing on their son. The plaintiffs requested this action for the sake of an enrollment application for their grandson. Their son is currently incarcerated at a correctional facility, and the facility required a court *Order* before they would extend permission for the testing. The respondent gave his written assent to the procedure, and the Court granted the *Petition*.

#### **MARCH 5, 2003**

*Jenna C. Littlegeorge v. HCN Office of Tribal Enrollment*, CV 03-06 *Scheduling Order* (HCN Tr. Ct., Mar. 5, 2003). (Bossman, W).

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case up to and including trial.



## Juvenile

### FEBRUARY 20, 2003

*In the Interest of Minor Child: J.J.F., DOB 11/07/00, JV 02-27 Order (Granting Motion for Appointment of Psychologist)* (HCN Tr. Ct., Feb. 20, 2003). (Bossman, W).

The Court granted the parties' request for the appointment of a psychologist in the instant case.

*In the Interest of Minor Child: J.J.F., DOB 11/07/00, JV 02-27 Order (Motion Hearing)* (HCN Tr. Ct., Feb. 20, 2003). (Bossman, W).

The Court granted the request to schedule a *Hearing* in order to allow the parties to argue filed *Motions*.

*In the Interest of Minor Child: J.J.F., DOB 11/07/00, JV 02-27 Order (Formal Hearing)* (HCN Tr. Ct., Feb. 20, 2003). (Bossman, W).

The opinion in the instant case memorializes decisions made at the February 12, 2003 *Hearing*.

### FEBRUARY 28, 2003

*In the Interest of Minor Children: T.L.H., DOB 08/07/88, W.T.H., DOB 10/26/89, T.N.H., DOB 11/28/91, JV 03-04-06 Order (Initial Emergency Hearing)* (HCN Tr. Ct., Feb. 28, 2003). (Matha, T).

The Court convened this *Emergency Hearing* to inform the parties of the legal and procedural status of this action involving the aforementioned minors.

*In the Interest of Minor Children: J.R.P., DOB 02/27/92, L.M.P., DOB 05/12/90, L.K.K., DOB 12/12/87, JV 03-01-03 Order (Initial Emergency Hearing)* (HCN Tr. Ct., Feb. 28, 2003). (Matha, T).

The Court convened this *Emergency Hearing* to inform the parties of the legal and procedural status of this action involving the aforementioned minors.

### MARCH 4, 2003

*In the Interest of Minor Child: S.M.D., DOB 11/01/86, JV 01-21 Order (Appointment of*

*Permanent Guardian)* (HCN Tr. Ct., Mar. 4, 2003). (Matha, T).

The Court appointed a permanent guardian for the aforementioned minor, finding this decision to be within the minor's best interests.

*In the Interest of Minor Children: J.R.P., DOB 02/27/92, L.M.P., DOB 05/12/90, L.K.K., DOB 12/12/87, JV 03-01-03 Order (Appointment of Guardian ad Litem)* (HCN Tr. Ct., Mar. 4, 2003). (Matha, T).

The Court appointed Attorney JoAnn Jones as Guardian ad Litem for the aforementioned minors in the instant case.

*In the Interest of Minor Children: T.L.H., DOB 08/07/88, W.T.H., DOB 10/26/89, T.N.H., DOB 11/28/91, JV 03-04-06 Order (Appointment of Guardian ad Litem)* (HCN Tr. Ct., Mar. 4, 2003). (Matha, T).

The Court appointed Attorney JoAnn Jones as Guardian ad Litem for the aforementioned minors in the instant case.



## Supreme Court

### FEBRUARY 7, 2003

*Rae Ann Garcia v. Joan Greendeer-Lee et al., SU 03-01 Order Granting Appellant's Motion for Extension of Time and Revision of Schedule* (HCN S. Ct., Feb. 7, 2003).

The appellant filed a *Motion for Extension of Time* with the Supreme Court. There was no objection to the appellant's motion. The Court then granted appellant's motion.

### FEBRUARY 19, 2003

*Theresa Lynn Hendrickson v. HCN Office of Tribal Enrollment, SU 02-06 Notice of Extension* (HCN S. Ct., Feb. 19, 2003).

The Court heard oral arguments in the instant case on January 22, 2003. The Court considered the issues involved of such paramount importance that

the Court shall give an additional thirty (30) days to write an opinion. This decree comes under the *Ho-Chunk Nation Rules of Appellate Procedure*, Rule 15(c).



## Recent Filings

### Trial Court

#### Child Support

**JANUARY 30, 2003**

*State of Wisconsin v. Frederick Greendeer*, CS 03-05. (Matha, T).

**FEBRUARY 11, 2003**

*Denise Amundson v. Robert White*, CS 03-07. (Matha, T).

**FEBRUARY 12, 2003**

*Eau Claire County Child Support Agency v. Cecil E. Head*, CS 03-08. (Matha, T).

**FEBRUARY 14, 2003**

*Ken Loose v. Jennifer Jones*, CS 03-09. (Matha, T).

**FEBRUARY 21, 2003**

*State of Wisconsin/Robert J. Jack v. Carleen Rose Smith Jack*, CS 03-10. (Bossman, W).

**FEBRUARY 24, 2003**

*Jan C. LaCount v. Curtis J. Pidgeon*, CS 03-11. (Matha, T).

#### Civil Garnishment

**JANUARY 27, 2003**

*Cash Data v. Christine Brown and Dean Brown*, CG 03-02. (Matha, T).

**FEBRUARY 5, 2003**

*Value Automart, Inc. v. Lionel Pettibone*, CG 03-03. (Bossman, W).

**FEBRUARY 6, 2003**

*Easton Motors v. Linda M. Frommare*, CG 03-04. (Bossman, W).

**FEBRUARY 12, 2003**

*Creditors Recovery Services/Steve's Plumbing, Inc. v. Donna Pabst*, CG 03-05. (Matha, T).

*Creditors Recovery Services/Water Works and Lighting v. Terri Thompson*, CG 03-06. (Matha, T).

*Creditors Recovery Services/Jeny Schenk Prop. v. Gary Arendt*, CG 03-07. (Matha, T).

*Creditors Recovery Services/Doetin Clinic v. Wendy Hanneman*, CG 03-08. (Matha, T).

**FEBRUARY 17, 2003**

*St. Clair Hospital v. Thomas L. Raymond*, CG 03-09. (Bossman, W).

#### Civil Cases

**JANUARY 16, 2003**

*In the Matter of G., T.W., DOB 12/08/84, by Judy Schmidt v. HCN Office of Tribal Enrollment*, CV 03-05. (Matha, T).

**JANUARY 23, 2003**

*Jenna C. Littlegeorge v. HCN Office of Tribal Enrollment*, CV 03-06. (Bossman, W).

**JANUARY 27, 2003**

*Robert Yellowbank, Sr. v. Robert Yellowbank, Jr.*, CV 03-07. (Matha, T).

**JANUARY 30, 2003**

*Joshua F. Smith, Jr. v. Adam Estes and Jonette Pettibone*, CV 03-08. (Matha, T).

**FEBRUARY 4, 2003**

*Faye Begay v. Jean Day, the HCN Department of Education, Greg Garvin, and the Office of the President*, CV 03-09. (Bossman, W).

**FEBRUARY 5, 2003**

*Ho-Chunk Housing Authority v. Marilyn and Randall WhiteEagle*, CV 03-10. (Bossman, W).

**FEBRUARY 6, 2003**

*Kristin WhiteEagle v. Amory Decorah and Ho-Chunk Casino*, CV 03-11. (Bossman, W).

**FEBRUARY 11, 2003**

*In the Matter of P., M.D., DOB 03/18/85, by Betty Phillips v. HCN Office of Tribal Enrollment*, CV 03-12. (Matha, T).

**FEBRUARY 17, 2003**

*HCN Housing, PMD v. Douglas and Allison RedEagle*, CV 03-13. (Bossman, W).

*HCN Housing, PMD v. Kerry Funmaker*, CV 03-14. (Bossman, W).

**FEBRUARY 19, 2003**

*In the Matter of Jason Hopinka, DOB 12/17/83 v. HCN Office of Tribal Enrollment*, CV 03-15. (Bossman, W).

*HCN Housing, PMD v. Gregory and Barbara Gromoff*, CV 03-16. (Bossman, W).

**FEBRUARY 26, 2003**

*Vaughn Pettibone v. HCN Election Board et al.*, CV 03-17. (Matha, T).

*In the Matter of T.M.K., DOB 06/06/90, T.M.K., DOB 05/09/87, T.M.K., DOB 08/22/85, T.W.E., DOB 04/09/93, by Sara WhiteEagle*, CV 03-18. (Matha, T).

*Karen WhiteEagle v. Chris Straight et al.*, CV 03-19. (Matha, T).

## **Domestic Cases**

*Nothing to report at this time.*

## **Juvenile**

**FEBRUARY 28, 2003**

*In the Interest of Minor Children: T.L.H., DOB 08/07/88, W.T.H., DOB 10/26/89, T.N.H., DOB 11/28/91, JV 03-04-06.* (Matha, T).

*In the Interest of Minor Children: J.R.P., DOB 02/27/92, L.M.P., DOB 05/12/90, L.K.K., DOB 12/12/87, JV 03-01-03.* (Matha, T).

## **Supreme Court**

**FEBRUARY 27, 2003**

*Robert A. Mudd v. HCN Legislature: Elliot Garvin, Clarence Pettibone, Tracy Thundercloud, Wade Blackdeer, Dallas Whitewing, Gerald Cleveland, Sr., Christine Romano, Myrna Thompson, George Lewis, Kathyleen Whiterabbit, Sharyn Whiterabbit*, SU 03-02.

## **APPEALS** cont'd

An attorney or party wishing to appeal a case must do so within thirty (30) days of the Trial Court's final decision in order to conform to *HCN R. App. P. 7(a)*. The appellant must also submit a thirty-five dollar check to the Clerk of the Supreme Court with his written notice of appeal. The filing fee may be waived by filling out the Court designated *Affidavit of Waiver*, a standard form supplied by the Court. A tribal enterprise or board with delegated powers cannot waive the filing fee. If the waiver is denied, the appellant has ten (10) days to pay the filing fee.

Currently, the Court does not have a standard form for the notice of appeal. Within the notice of appeal, an appellant may choose to request a stay of execution. This request would be made if the appellant determines that the lower court's ruling would be executed before the higher court's ruling or in other cases where time is of the essence. A stay of execution is permissible where that party also executes a bond guaranteeing performance of the Trial Court's judgment in the event that execution of such judgment becomes necessary. In other words, Rule 7 (c) permits a stay of execution with the understanding that the decision of the lower court shall go into effect in the event that the appellant loses their appeal. Appellants may also request an expedited hearing or an extension of time to file briefs and motions, but must do so in a timely manner, providing proof to all parties. Any requests for an extension of time shall require a demonstration of emergency circumstances under Rule 9.

Appellants that are denied an appeal by the Supreme Court shall be notified at the latest within

thirty (30) days of the filing for an appeal. Research of the last two (2) years worth of Supreme Court's *Scheduling Orders* indicates that the aforementioned discussion conforms to the appellate rules. In practice, as it is further explained below, this does mean that attorneys and appellants must file briefs according to the ten (10) day structured deadline without knowing for certain whether the Supreme Court will accept the matter on appeal. One of the few cases that appears to diverge from this practice is *Kathy Stacy v. Ho-Chunk Nation et al.*, SU 02-05 (HCN S. Ct., Aug. 16, 2002). In that case, the Court accepted the case on appeal and permitted the briefing schedule to begin almost one (1) month after the filing date. Appellant's attorney for the case mentioned that this schedule appeared fair. While the actual reason for this change is unknown, the attorney hypothesized that perhaps briefing schedules become more flexible when an issue arises under which a Justice of the Court must recuse himself or herself. Barring that unusual circumstance, the history of the briefing schedules appears uniform in its adherence to the ten (10) day structure mandated under the rules.

**A**ny appeal shall contain the case number of the Trial Court's decision and the name of the final judgment. In addition, the appellant shall list the case name and all the parties for the Court's convenience. Next the party appealing to the Court must give a short, plain statement of facts asserting their reason for the appeal and their legal arguments for why the Court must hear their case. While, the rules do not explicitly attest to the this requirement, the Court insists that any appellant assert the procedural posture of their case in full within their *Notice of Appeal* or their brief. See *Chloris Lowe, Jr., Stewart J. Miller v. HCN Legislative Members et al.*, SU 01-05 (HCN S. Ct., May 4, 2001). Without the procedural posture of the case, the Supreme Court cannot be certain of extenuating circumstances that might alter the timeline for filing. The appellant must serve summons on all the parties, under their own power, and provide the Court with proof of service for each individual.

**S**ometimes the Court shall permit an interlocutory appeal under Rule 7.5. An

interlocutory appeal occurs when a party is currently involved in a case that is still pending before the Trial Court. If certain issues within the case are decided before the Court entertains its final judgment, the unsatisfied party may file an interlocutory appeal with the Supreme Court. The appeal must be filed within ten (10) calendar days of the Trial Court's interlocutory order. This appeal is called an *Appeal by Permission*. When drafting an interlocutory appeal for the Supreme Court, please include a short statement of facts and the controlling question of law that currently stands before the lower court. Next, an appellant must include the question they wish the Supreme Court to answer and a persuasive statement. This statement should explain why opinions differ on the question presented to the Supreme Court and why the resolution of this question on appeal would "materially advance the termination of litigation." *HCN R. App. P. 7.5*. In other words, the appellant must persuade the Court of their viewpoint and be able to show that such a viewpoint would resolve the lower court case in their favor. However, a party seeking to appeal to the Supreme Court must keep in mind that interlocutory appeals arise on questions of law alone and not when a question of law is somehow intertwined with the facts to be decided within the lower court. See *Maureen Arnett v. HCN Department of Administration*, SU 01-01 (HCN S. Ct., Feb. 1, 2001). In addition, the Court can hear a matter brought forth on an interlocutory appeal, if the failure to do so would render the matter moot. See *HCN Legislature v. Chloris A. Lowe, Jr., President of the Ho-Chunk Nation*, SU 96-01 (HCN S. Ct., Feb. 28, 1996). An appellant in an interlocutory appeal must attach a copy of the trial court's interlocutory order and permit opposing counsel ten (10) days to respond. While interlocutory appeals are not common, the subsequent scheduling for any appeal accepted by the Supreme Court is the same.

**R**ule 11 indicates that an appellant has ten (10) calendar days, after filing their *Notice of Appeal*, to file a memorandum of law in support of their appeal. This mandatory brief should exist as a persuasive piece that presents an appellant's legal arguments to the Court. The filing must include three copies, as well as the original brief, presented

to the Clerk of the Supreme Court. An additional copy of the brief must be sent to the opposing counsel, which has ten (10) days to file a responsive brief. If the appellant receives permission of the Court, they may file a brief in reply to the responsive brief within ten (10) days of that filing. Rule 12 controls the format of memorandums of law. Under Rule 12, a memorandum of law requires a cover page containing the names of the parties, both case numbers, and the addresses and telephone numbers of the appellant and their attorney. Within the brief, the appellant must state their case before the Court. Thus, an appellant must explain the decision of the lower court and each legal issue that the appellant now presents to the Supreme Court. The brief can be no longer than twenty (20) pages and must include as attachments all cited laws and rules. Any responsive brief must include the same, but may only number six (6) pages or less. All briefs must be presented to the Court on 8 ½" by 11" size paper, double spaced with page numbers.

Once the Court chooses to take a case on appeal, the Court shall reiterate the deadlines for the memorandums of law and designate a time and place for oral arguments. *See HCN R. App. P. 14.* Unless the parties receive notice of an extension of time, the Court shall render a decision on the merits within thirty (30) days of the oral arguments. In addition to the points made above, any party considering an appeal before the Supreme Court must remember that the Court may fine any appellant for costs and fees if an appeal is deemed frivolous. *See HCN R. App. P. 18.* Furthermore, any representative of appellant parties must consider whether to move to appear *Pro Hac Vice* or become a bar member. If attorneys choose to appear *Pro Hac Vice*, they must choose this option in a written memo to the Court and present a \$35 fee. This option is only available once for any attorney wishing to appear before the Court. Bar membership requires \$50 and contact with the Supreme Court Clerk, Bryan Dietzler. Mr. Dietzler will provide any attorney seeking bar admission with a packet of information detailing the requirements for bar membership and maintenance. Mr. Dietzler may be reached at the Court's number

(715) 284-2722 for further questions on this matter and the preceding article.

This concludes the focus on appeals and the dynamics of filing before the Supreme Court. Briefs or memorandums of law are required and must conform to the structure and the schedule listed within the *HCN Rules of Appellate Procedure*. Requests for the Court to accept a matter on appeal must be stated in a coherent and cogent fashion with notice given to all respective parties. Anyone wishing to appeal to the Supreme Court must also consider whether the Statute of Limitations has run on the claim. Interested parties wishing to research Supreme Court opinions should go to [www.ho-chunknation.com](http://www.ho-chunknation.com) and turn to the Court System page. Otherwise, Supreme Court opinions are available in hard copy at the Court Building. Any other questions regarding appeals should be forwarded to the Supreme Court Clerk, Bryan Dietzler.

## GROUND BREAKING NEWS!



The Court is pleased to announce that the groundbreaking for the new HCN Court Building is tentatively set for the afternoon of Friday, March 21, 2003. The contract for construction is ready, and the initial materials required for the project are forthcoming. The Court asserts that the construction shall commence on the aforementioned date and end in approximately February 2004. The construction could take longer if the frost in the ground is too deep for the foundation's construction. For further details regarding the construction of the new Court Building, see the article written by Staff Attorney Anetra Parks in the HCN Trial Court Bulletin published in July 2002.

**CANDIDATES FOR PRESIDENT**

**Robert A. Mudd**

**Joyce Warner**

**Alvin Cloud**

**Cecelia Kraus**

**Troy Swallow**

**Write In Candidate** \_\_\_\_\_

**George Lewis**

**Ona Garvin**

**Robert Funmaker**

**John Blackdeer**

**Marguerite Whiteeagle**

**CANDIDATES FOR DISTRICT I LEGISLATOR—SEAT 2  
CLOSED AND REASSIGNED BY REDISTRICTING**

**CANDIDATES FOR DISTRICT II LEGISLATOR**

**Wade Blackdeer  
Elmer Hanson, Jr.**

**Timothy Hanson  
Write In Candidate** \_\_\_\_\_

**CANDIDATES FOR DISTRICT III LEGISLATOR**

**Dallas WhiteWing  
Barbara E. Long**

**Leslie Decorah, Jr.  
Write In Candidate** \_\_\_\_\_

**CANDIDATES FOR DISTRICT IV LEGISLATOR—SEAT 2  
CLOSED AND REASSIGNED BY REDISTRICTING**

**CANDIDATES FOR DISTRICT V LEGISLATOR—SEATS 1, 2, 3**

**Gregory Littlejohn – SEAT 1  
Write In Candidate** \_\_\_\_\_

**Dwight Steele – SEAT 3  
Write In Candidate** \_\_\_\_\_

**Kathleen LoneTree-Whiterabbit – SEAT 2  
Write In Candidate** \_\_\_\_\_

**CANDIDATES FOR ASSOCIATE SUPREME COURT JUSTICE**

**Mark Butterfield  
Write In Candidate** \_\_\_\_\_

# Notice and Rules of GENERAL PRIMARY ELECTION APRIL 29, 2003

AMENDED

AMENDED

Notice is hereby served to all eligible voters of the Ho-Chunk Nation that the Ho-Chunk Nation Election Board in accordance with the Constitution of the Ho-Chunk Nation has called a General Primary Election, ARTICLE VIII - ELECTIONS, and the Election Ordinance, 2 ICC Sec. 6, states in relevant part:

Elections, c. Primary Elections and Runoff Elections.

Primary Elections shall be held prior to any Election with three or more candidates in order to ensure compliance with the majority vote requirement as provided for in paragraphs 1 c through 1 e, above. 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 (2) seats vacant in a District, the top two (2) vote getters for any vacant seats, if no candidate has received 50% + 1 vote, shall be on the ballot for the General Election or Runoff Election. 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 TERMS  
OF FOUR (4) YEARS  
WILL BE VACANT:

**PRESIDENT:**  
July 2003 to July 2007

**LEGISLATURE:**  
District I:  
**BLACK RIVER FALLS**  
Seat #2  
(Closed and reassigned by redistricting)

District II:  
**TOMAH/LACROSSE**  
July 2003 to July 2007

District III:  
**WITTENBERG**  
July 2003 to July 2007

District IV:  
**WI DELLS/WI RAPIDS**  
Seat #2  
(Closed and reassigned by redistricting)

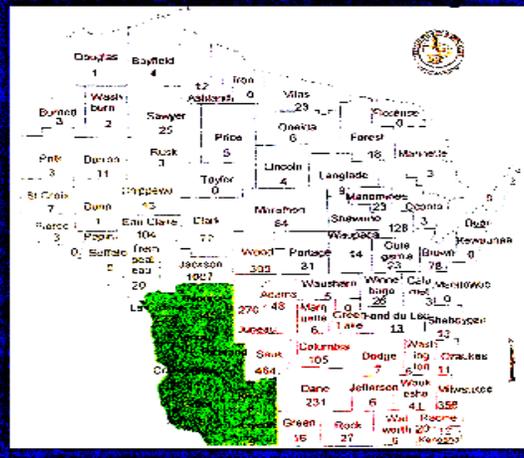
District V:  
**AT-LARGE**  
Seat #2  
July 2003 to July 2007  
(Open Seat #1 & #3 by redistricting)

**SUPREME COURT:**  
Associate Justice -  
Four (4) Year Term  
July 2003 to July 2007

NOMINATION OF  
CANDIDATES:

The official candidates forms may be obtained from the Election Board Members or Office. A candidate for elective office shall submit an Official

REFLECTS REDISTRICTING CHANGES EFFECTIVE  
FOR PRIMARY & GENERAL ELECTION.  
Please check eligible voters lists for your District.  
**NEW REDISTRICTING**



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 February 27, 2003 at 4:30 P.M. ORIGINAL FORMS MUST BE SUBMITTED - FILING BY FAX OR COPIES WILL NOT BE ACCEPTABLE.

ELIGIBLE VOTERS:

A voter shall be eligible to vote in the District in which the voter has resided at least three (3) months. "Residency" is defined as the physical address of the voter stated on the periodic address verification forms solicited by the Nation's Office of Tribal Enrollment with respect to per capita distributions except in the case of voters in military service or full time registered students. Residency shall be the last physical address of such person before he or she entered the military service or school.

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 March 28, 2003 for inspection at the affected polling places and at the Ho-Chunk Nation Election Board Office and Tribal Executive Office Building both located in 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 Office. Challenges must be received at the Election Office prior to 4:30 P.M. on April 9, 2003. 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 rate 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 that the Election Board receives the absentee ballot no later than the close of polls on APRIL 29, 2003 AT 7:00 P.M. on Election Day. If the voter is unable to vote or one of 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 APRIL 25, 2003 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. **FED EX and UPS DO NOT DELIVER IN BLACK RIVER FALLS ON SATURDAYS!**

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 complaint 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 (fifty) feet of any polling place.

- **ELECTION DATE:**  
**APRIL 29, 2003**
- **TIME OF ELECTION:**  
**8:00 a.m.-7:00 p.m.**
- **POLLING PLACES:**  
**BLACK RIVER FALLS, WI**  
Tribal Agency Unit, Indian Mission  
**TOMAH, WI**  
Blue Wing Culture Center  
**LA CROSSE, WI**  
La Crosse Branch Office  
724 Main Street  
**WITTENBERG, WI**  
Wittenberg Branch Office  
 Hwy 45  
**WISCONSIN DELLS, WI**  
Wellness Center  
52815 White Eagle Rd.  
**WISCONSIN RAPIDS, WI**  
Chuk-I-Iah-Chee Comm. Bldg.  
976 Chuk-I-Iah-Chee Lane  
**CHICAGO, IL**  
Chicago Branch Office  
4941 North Milwaukee Ave  
**MILWAUKEE, WI**  
Milwaukee Branch Office  
3501 S. Howell Ave  
**MINNEAPOLIS/ST. PAUL, MN**  
Mpls. St. Paul Branch Office  
1433 E. Franklin Ave  
**MADISON, WI**  
Madison Branch Office  
2520 Rimrock Road

GENERAL PRIMARY  
ELECTION-APRIL 29, 2003

- *Post Notice of Election*  
**JANUARY 13, 2003**
- *Post Eligible Voters List*  
**MARCH 28, 2003**
- *Official Nomination Petition Deadline*  
**4:30 pm - February 27, 2003**
- *Post List of Candidates*  
March 5, 2003
- *Appeals by Candidates to the Election Board Deadline* 4:30 pm - Mar 10, 2003
- *Challenges to the Eligible Voter List*  
Deadline 4:30 pm - April 9, 2003
- *Last Day to Request Absentee Ballots*  
4:00 pm - April 25, 2003
- *General Primary Election April 29, 2003*  
from 8:00 am to 7:00 pm
- *Certification of Primary Election Results*  
April 30, 2003
- *Posting of Primary Election Results*  
May 1, 2003

## Office of Public Advocacy

- Assistance with finding free legal counsel for qualified applicants
- Assistance with legal concerns or questions
- Located conveniently within the HCN Court Building
- For further questions regarding the O.P.A., please call Dennis Funmaker at (715) 284-8514

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### HO-CHUNK NATION COURT SYSTEM JUDICIARY AND STAFF

Supreme Court—Mary Jo B. Hunter, Chief Justice  
Mark D. Butterfield, Associate Justice  
Jo Deen B. Lowe, Associate Justice

Traditional Court—Wallace Blackdeer

Donald Blackhawk  
Dennis Funmaker  
Orville Greendeer  
Douglas Greengrass  
Owen Mike  
Gavin Pettibone  
Douglas Red Eagle  
Preston Thompson, Jr.  
Eugene Thundercloud  
Morgan White Eagle  
Clayton Winneshiek

Trial Court—William H. Bossman, Chief Judge  
Todd R. Matha, Associate Judge

Clerk of Court, Supreme Court—Bryan Dietzler  
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—Rebecca Tavares

Office of Public Advocacy—Dennis Funmaker, Administrator

\* The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

WISCONSIN TRIBAL JUDGES ASSOCIATION  
(Eleven federally recognized tribes within the State of Wisconsin)

NATIVE AMERICAN INDIAN COURT JUDGES ASSOCIATION  
(Region 5—Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, South Dakota, North Dakota, and Wisconsin)

### HCN Court System Fee Schedule

- Filing Fees . . . . . \$50.00\*

\*With the exception of petitions to register child support orders – this fee remains at \$20.00 as previously ordered by the Supreme Court.

Note: Filing Fee now includes *Summons* fee.

- Filing Fees for *Petitions to Register and Enforce Foreign Judgment/ Order*. . . . . \$20.00

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  
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.

#### 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).





April 2003  
Vol. 9, No. 4

## Inside this Issue

- 1** Groundbreaking  
**2** Staff Attorney  
**3** Recent Decisions  
**9** Recent Filings

- 11** Groundbreaking  
continued  
OPA information

- 14** HCN Court System  
Judiciary and Staff  
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](http://www.ho-chunknation.com/government/courts.htm)

Hours of Operation: Monday through Friday  
(except holidays) 8 A.M. – 4:30 P.M.

## GROUNDBREAKING NEWS.



The HCN Judiciary celebrates the beginning of construction on the new court building. In a ceremonial beginning, Chief Judge William Bossman (shown in the center) takes the first steps toward building. On his immediate right is Clarence Pettibone, HCN Legislative Representative, HCN President Tro Swallow, and Traditional Court Representative Dennis M. Funmaker. To Judge Bossman's left are: Gregory Cashman, architect; William Yahnke, Owner of Olympic Builders Construction Co.; and Mary Jo B. Hunter, Chief Justice of the HCN Supreme Court. This photo was taken on March 21, 2003.

*For details regarding the groundbreaking, please see pages 11-13.*

**MEET THE NEWEST  
MEMBER OF THE TRIAL  
COURT; STAFF  
ATTORNEY ROSE  
WECKENMANN.**



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*The author of this article, Rebecca Tavares, is the Staff Attorney for the Ho-Chunk Nation Trial Court and graduated from the University of Minnesota. Of Wyandot and Portuguese descent, Ms. Tavares held a previous clerkship with Judge Thorwald Anderson of the State of Minnesota's Fourth Judicial District. Before coming to Black River Falls, she lived in Minneapolis as a student and member of the University of Minnesota chapter of the American Indian Law Students' Association. Ms. Tavares shall spend one year with the Trial Court and the people of Black River Falls.*

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**R**ecently, the Court appointed a new Staff Attorney beginning July 1, 2003 and ending June 30, 2004. The Staff Attorney position is a one-year post assigned to former law students seeking to begin their careers in Indian Law. The Court takes this opportunity to say welcome to the new Staff Attorney, Rose Weckenmann.

**R**aised in Harrah, Oklahoma, Rose was drawn to issues of civil rights and Indian Law. While attending college, Rose

became passionate about issues involving race, Colonialism, and civil rights. Among her strong stances, Rose insists on tribal self-governance, reparations, and land repatriation. Her background as a scholar of history, and her passion for the aforementioned issues, drew Rose to law school. She attended Widener University School of Law for her first year of study. Rose transferred to the University of Oklahoma College of Law for the rest of her tenure as a law student. While attending school, Rose excelled in coursework in Indian Law and all issues of tribal government. In addition to her studies, Rose worked as a title examiner for the American First Abstract Company. She later became an intern for the Office of Tribal Justice in Washington, D.C. Her last position before joining the Ho-Chunk Nation's Judiciary was that of a law clerk for the Busey Law Office.

**R**ose still likes to read and watch movies. In her spare time, she makes jewelry, swims and attends aerobics classes. Currently, Rose considers the position as Staff Attorney for the Ho-Chunk Nation her greatest accomplishment to date. Due to her desire to work in the field of Indian Law, Rose sought to work for the Ho-Chunk Nation. In her time as the Staff Attorney, Rose expects to gain invaluable experience in the field. Rose plans to practice her skills in analyzing the legal issues within various cases, as well as develop her research and writing. Finally, she looks forward to working with the staff of the Ho-Chunk Nation Trial Court and getting acquainted with members of the community. The Court welcomes Rose for the new fiscal year.



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# Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and categorized 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.

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## Trial Court

### **Child Support**

**FEBRUARY 26, 2003**

*State of Wisconsin/Jackson Co. v. Daniel V. Whiteeagle, Karla Wilcox v. Daniel Whiteeagle, State of Wisconsin/Jackson Co. v. Daniel Whiteeagle, CS 98-66, 99-09, 01-07 Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Feb. 26, 2003). (Matha, T).

The petitioner requested that the Court modify the current decision to reflect a new arrearage

stemming from misdirected support payments. The respondent failed to respond within the specified time frame. The Court granted the request and modified the decision accordingly.

### **MARCH 11, 2003**

*Mary J. Mayek v. Esteban M. Blackhawk, Sr., Thelma S. Garcia v. Esteban M. Blackhawk, Sr., Rhonda Oas v. Esteban M. Blackhawk, Sr., CS 02-14-15, 45 Order (Renewing Arrearage Withholding)* (HCN Tr. Ct., Mar. 11, 2003). (Matha, T).

On January 22, 2003, the Court suspended withholding for arrears in Case Nos. CS 02-14-15. *See Erratum Order CS 02-14-15* (HCN Tr. Ct., Jan. 22, 2003). On February 21, 2003, the petitioner filed a motion to reinstate per capita garnishment toward arrears. The respondent failed to respond within the specified time frame, thereby allowing the Court to grant the uncontested motion.

*State of Wisconsin/Brown Co. and Penny Brunette v. Merlin Crow, CS 00-23 Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Mar. 11, 2003). (Matha, T).

The petitioner requested that the Court modify the current decision to reflect a change in the current support and arrearage amounts. The respondent failed to respond within the specified time frame. The Court granted the uncontested motion.

### **MARCH 12, 2003**

*Deena M. Basina v. William P. Smith, CS 98-53 Order (Granting Motion)* (HCN Tr. Ct., Mar. 12, 2003). (Bossman, W).

The respondent filed several *Motions* with the Court concerning a *Hearing*, telephonic appearance, and extended time to seek counsel. The petitioner objected to these *Motions*, stating that the initial request from the petitioner was an ongoing one that needed no further court hearings. The Court disagreed with this assertion and granted the respondent's *Motions*.

### **MARCH 19, 2003**

*Rachel Winneshiek v. James Beverly, CV 97-168 Notice (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Mar. 19, 2003). (Matha, T).

A review of the file indicates that Stuart G. Beverly, DOB 04/22/85, is about to turn eighteen years of

age. The Court now requires the parties to furnish proof of high school enrollment. If no such proof is filed on or before April 11, 2003, the Court shall cease withholding for current child support.

*State of Wisconsin/Sawyer County on behalf of Shelly Woller v. Robert Wayne Blackdeer, State of Wisconsin/Sawyer County on behalf of Kathryn Isham Gordon v. Robert Wayne Blackdeer*, CS 97-40-1 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Mar. 19, 2003). (Matha, T).

A review of the file indicates that Cara Jean Rose Isham, DOB 03/02/85, is about to turn eighteen years of age. The Court now requires the parties to furnish proof of high school enrollment. If no such proof is filed on or before April 11, 2003, the Court shall cease withholding for current child support.

*State of Wisconsin/Sauk Co. and Chris W. Crain v. Cheri L. Crain*, CS 99-30 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Mar. 19, 2003). (Matha, T).

A review of the file indicates that Ryan J. Crain, DOB 03/06/85, is about to turn eighteen years of age. The Court now requires the parties to furnish proof of high school enrollment. If no such proof is filed on or before April 11, 2003, the Court shall cease withholding for current child support.

*State of Wisconsin v. Roberta L. Crowe*, CV 97-76 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Mar. 19, 2003). (Matha, T).

A review of the file indicates that Curtis W. Decorah, DOB 02/26/85, is about to turn eighteen years of age. The Court now requires the parties to furnish proof of high school enrollment. If no such proof is filed on or before April 11, 2003, the Court shall cease withholding for current child support.

*State of Wisconsin/Jackson County v. Ida Decorah Ermenc*, CS 02-62 Order (Request for Clarification) (HCN Tr. Ct., Mar. 19, 2003). (Matha, T).

The Court granted an arrearage request in the instant case on January 10, 2003. However, the Court now requests that the petitioner substantiate the arrearage amount using certified documentation.

Failure to comply with this request shall force the Court to modify the current amount to reflect its own evidence.

*State of Wisconsin/Jackson Co. v. Brian S. LaMere*, CS 03-02 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Mar. 19, 2003). (Matha, T). The Court had to determine whether or not to enforce a standing foreign child support order against the respondent. The respondent failed to respond within the necessary time frame. The Court granted the petitioner's request.

*Jan C. LaCount v. Curtis J. Pidgeon*, CS 03-11 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Mar. 19, 2003). (Matha, T).

The Court had to determine whether or not to enforce a standing foreign child support order against the respondent. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*State of Wisconsin/Sauk Co. v. Curtis Pidgeon*, CS 00-43 Order (Ceasing Withholding and Intent to Close) (HCN Tr. Ct., Mar. 19, 2003). (Matha, T).

The Court received indication that arrears for the instant case were paid in full. The respondent no longer has a child support obligation in the instant case. The Court shall close the current case absent an objection from either party.

#### **MARCH 20, 2003**

*State of Wisconsin/Columbia Co. and Susie B. Shesky, a/k/a Susie B. Decorah v. Howard Ryan*, CS 00-02 Order (Ceasing Withholding and Intent to Close) (HCN Tr. Ct., Mar. 20, 2003). (Matha, T).

The Court received an inquiry that indicated that the respondent had overpaid in arrears. The respondent's current child support obligation would have ended after the next per capita cycle. Therefore, the Court considers the last per capita cycle as advance payment and now closes the case absent objections from either party.

#### **MARCH 21, 2003**

*State of Wisconsin/Jackson Co. v. Christopher Littlewolf*, CS 03-03 Order (Default Judgment) (HCN Tr. Ct., Mar. 21, 2003). (Matha, T).

The petitioner requested that the Court enforce a foreign judgment against the respondent for a wage

garnishment of child support. The respondent failed to respond within the necessary time frame. The Court granted the petitioner's request.

*State of Wisconsin on behalf of Gwyn Greengrass v. Christopher Littlewolf, State of Wisconsin/Jackson Co. v. Christopher Littlewolf*, CV 97-122, CS 03-03 Order (Default Judgment) (HCN Tr. Ct., Mar. 21, 2003). (Matha, T).

The petitioner requested that the Court enforce a foreign judgment against the respondent for per capita child support. The respondent failed to respond within the necessary time frame. The Court granted the petitioner's request.

### Civil Garnishment

#### MARCH 20, 2003

*Value Auto Mart, Inc. v. Lionel Pettibone*, CG 03-03 Order (Default Judgment) (HCN Tr. Ct., Mar. 20, 2003). (Bossman, W).

The petitioner requested that the Court recognize and enforce the foreign judgment against the respondent. The respondent failed to respond within the specified time frame. The Court granted the request of the petitioner.



### Children's Trust Fund (CTF)

#### FEBRUARY 25, 2003

*In the Interest of Minor Child: A.L.F., DOB 09/30/90, by James W. Ferguson v. HCN Office of Tribal Enrollment*, CV 02-38 Order (Demanding Accounting) (HCN Tr. Ct., Feb. 25, 2003). (Bossman, W).

On May 13, 2002, the Court released CTF funds from the aforementioned minor for orthodontics. See Order (Petition Granted) (HCN Tr. Ct., May 13, 2002). Within the decision, the Court reminded the petitioner of his duty to provide the Court with an accounting of the expenditures. On February 25, 2003, the Court reminded the petitioner of his duty again and demanded the accounting by a specific date.

*In the Interest of Minor Child: B.L.W., DOB 03/14/90, by Lanette R. Walker v. HCN Office of Tribal Enrollment*, CV 02-109 Order (Requesting Accounting) (HCN Tr. Ct., Feb. 25, 2003). (Bossman, W).

On November 21, 2002, the Court released CTF funds from the aforementioned minor for orthodontics. See Order (Granting Release of CTF Monies) (HCN Tr. Ct., Nov. 21, 2002). Within the decision, the Court reminded the petitioner of her duty to provide the Court with an accounting of the expenditures. On February 25, 2003, the Court reminded the petitioner of her duty again and demanded the accounting by a specific date.

*In the Interest of Minor Child: R.T., DOB 01/09/85, by Roger Thundercloud v. HCN Office of Enrollment*, CV 02-16 Order (Demanding Accounting) (HCN Tr. Ct., Feb. 25, 2003). (Bossman, W).

On May 31, 2002, the Court released CTF funds from the aforementioned minor for orthodontics. See Order (Granting Release of CTF in Part and Denying in Part) (HCN Tr. Ct., May 31, 2002). Within the decision, the Court reminded the petitioner of his duty to provide the Court with an accounting of the expenditures. On February 25, 2003, the Court reminded the petitioner of his duty again and demanded the accounting by a specific date.

#### MARCH 10, 2003

*In the Interest of Ward/Minor Child: Justina L. Littlegeorge, DOB 12/23/83 v. HCN Office of Tribal Enrollment*, CV 02-115 Order (Granting Motion for Time Extension) (HCN Tr. Ct., Mar. 10, 2003). (Bossman, W).

The petitioner filed a motion to request more time to seek legal counsel. The defendant responded with no objection to the request. The Court granted the request and gave the petitioner ten (10) days from the issuance of this decision.

#### MARCH 12, 2003

*In the Interest of Minor Child: M.L., DOB 07/23/85, by Michelle Gulbranson v. HCN Office of Tribal Enrollment*, CV 02-73 Order (Accepting

*Accounting*) (HCN Tr. Ct., Mar. 12, 2003). (Matha, T).

On August 29, 2002, the Court released funds from the aforementioned minor's account for a computer. *See Order (Petition Granted in Part and Denied in Part)* (HCN Tr. Ct., Aug. 29, 2002). On February 20, 2003, the Court reminded the petitioner of her duty to provide the Court with an accounting of the expenditure. On March 11, 2003, the petitioner provided the Court with an acceptable accounting. The Court hereby closes the case.

*In the Interest of Minor Children: J.A.L., DOB 11/20/91, K.A.L., DOB 08/14/89, by Gary L. Lonetree, Jr. v. HCN Office of Tribal Enrollment, CV 02-85 Order (Accepting Accounting)* (HCN Tr. Ct., Mar. 12, 2003). (Matha, T).

On October 21, 2002, the Court released funds from the aforementioned minors' accounts for orthodontics procedures. *See Order (Petition Granted)* (HCN Tr. Ct., Oct. 21, 2002). On February 20, 2003, the Court reminded the petitioner of his duty to provide the Court with an accounting of the expenditure. On March 11, 2003, the petitioner provided the Court with an acceptable accounting. The Court hereby closes the case.

#### **MARCH 26, 2003**

*In the Interest of Minor Child(ren): M.D.P., DOB 03/18/85, by Betty Phillips v. HCN Office of Tribal Enrollment, CV 03-12 Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Mar. 26, 2003). (Matha, T).

The plaintiff requested to appear by telephone for the scheduled *Hearing*. No objection was heard from the defendant. The Court granted the request.

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

##### **MARCH 26, 2003**

*In the Interest of Adult Incompetent: Oliver S. Rockman, CV 97-117 Order (Granting Release of Per Capita Funds)* (HCN Tr. Ct., Mar. 26, 2003). (Bossman, W).

The petitioner requested the use of funds for daily living expenses. The Court heard no objection to this request. The Court released the funds to the petitioner.



#### **CIVIL CASES (ALL CATEGORIES)**

##### **FEBRUARY 26, 2003**

*Robert and Alice Yellowbank v. Robert Ulysses Yellowbank, Jr., CV 03-07 Amended Order (Petition Granted)* (HCN Tr. Ct., Feb. 26, 2003). (Matha, T).

The petitioners requested a court order to enable their son, the defendant, to undergo DNA testing at his correctional facility. The defendant responded in a timely fashion with no objection to the request. The Court granted the request, thereby allowing the petitioners to continue their application with the HCN Office of Tribal Enrollment for their grandson's status.

##### **MARCH 10, 2003**

*In the Interest of Minor Child: C.L., DOB 10/16/85, by Brad Littlegeorge v. HCN Office of Tribal Enrollment, CV 02-110 Order (Dismissal without Prejudice)* (HCN Tr. Ct., Mar. 10, 2003). (Matha, T).

The petitioner initiated the current action on November 15, 2002. The petitioner failed to appear at the scheduled *Fact-Finding Hearing*, but indicated in a telephone conversation with the Staff Attorney that he wished to discontinue the action. The Court awaited the petitioner at the *Hearing* or some written indication of his intent to withdraw. Neither expectation came to fruition, and the Court now dismisses the case without prejudice under *HCN R. Civ. P. 44(C)*.

*Ho-Chunk Housing Authority v. John and Julia Dumphrope, CV 01-147 Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Mar. 10, 2003). (Matha, T).

On April 16, 2002, the Court issued a decision in favor of the plaintiff awarding monetary damages. *See Order (Final Judgment)* (HCN Tr. Ct., Apr. 16, 2002). On March 7, 2003, the plaintiff filed a *Satisfaction of Judgment* with the Court. The Court

accepts this as satisfaction of the debt in full and closes the case.

*Ho-Chunk Nation Department of Housing, Property Management Division v. Tyrone C. Decorah and Buffy M. Decorah*, CV 02-58 *Satisfaction of Judgment and Intent to Close* (HCN Tr. Ct., Mar. 10, 2003). (Matha, T).

On October 16, 2002, the Court issued a decision in favor of the plaintiff awarding monetary damages. See *Order (Awarding Plaintiff's Request for Relief)* (HCN Tr. Ct., Oct. 16, 2002). On March 7, 2003, the plaintiff filed a *Satisfaction of Judgment* with the Court. The Court accepts this as satisfaction of the debt in full and closes the case.

#### **MARCH 25, 2003**

*David Abangan v. HCN Department of Business*, CV 01-08 *Order (Granting Defendant's Motion for Summary Judgment)* (HCN Tr. Ct., Mar. 25, 2003). (Matha, T).

While the Court analyzed the arguments of both parties, it ruled in favor of the defendant for a lack of subject matter jurisdiction. The reason for this decision is that the controversial executive decision was not deemed a source of law upon which a plaintiff could bring court action. In prior rulings, the Court stated that *pro tempore* administrations are not subsequent administrations, but extensions of the former administration. Thus, the Court had to consider whether executive decisions created by the first administration were annulled by a *pro tempore* administration's presence. The Court was not persuaded by such reasoning and held that executive decisions of former administrations continue whilst the *pro tempore* administration stands absent explicit revocation. Because the Court can only hear cases and controversies arising out of the laws of the Ho-Chunk Nation, the instant case lacks jurisdiction. In other words, executive decisions are determinations made without legislation and are not considered law in the strictest sense of the word.



#### **Juvenile**

##### **MARCH 7, 2003**

*In the Interest of Minor Child: J.J.F., DOB 11/01/00, JV 02-27 Order (March 3 and 4, 2003 Hearing)* (HCN Tr. Ct., Mar. 7, 2003). (Bossman, W).

The Court convened this Dispositional Hearing in accordance with the HCN CHILDREN AND FAMILY CODE, ART. XIX.

##### **MARCH 12, 2003**

*In the Interest of Minor Child: J.J.F., DOB 11/01/00, JV 02-27 Order (Requiring Submission of Memorandum of Law)* (HCN Tr. Ct., Mar. 12, 2003). (Bossman, W).

The Court issued this *Order* to insist that Attorney Edward Littlejohn file a memorandum of law in support of his *Motion*.

##### **MARCH 24, 2003**

*In the Interest of Minor Children: J.R.P., DOB 02/27/92, L.M.P., DOB 05/12/90, L.K.K., DOB 12/12/87, JV 03-01-03 Order (Entrance of Plea)* (HCN Tr. Ct., Mar. 24, 2003). (Matha, T).

The Court convened a *Plea Hearing* in the instant case to give the parent of the minor children an opportunity to contest the allegations of CFS.

##### **MARCH 25, 2003**

*In the Interest of Minor Child: B.D.T., DOB 08/10/91, JV 98-10 Order (Child Protection Review Hearing)* (HCN Tr. Ct., Mar. 25, 2003). (Bossman, W).

The Court conducted a *Review Hearing* to determine that status of the instant case.

##### **MARCH 26, 2003**

*In the Interest of Minor Child: C.R.P., DOB 12/17/96, JV 02-17 Order (Child Protection Review Hearing)* (HCN Tr. Ct., Mar. 26, 2003). (Bossman, W).

The Court conducted this *Review Hearing* to determine the status of the instant case.

*In the Matter of the Child: S.G.D., DOB 12/19/00, JV 02-01 Order (Granting Additional Time for Guardian ad Litem to Submit Report)* (HCN Tr. Ct., Mar. 26, 2003). (Bossman, W).

The Court granted the request of the Guardian ad Litem for additional time to present the report.

**MARCH 27, 2003**

*In the Interest of the Minor Child: S.V.P., DOB 11/06/96, JV 02-02 Order (Appointing Permanent Legal Guardian)* (HCN Tr. Ct., Mar. 27, 2003). (Bossman, W).

The Court appointed a permanent legal guardian of the minor child, S.V.P.

**MARCH 28, 2003**

*In the Interest of Minor Child: J.J.F., DOB 11/07/00, JV 02-27 Order (Referring Motion for Sanctions Against Attorney Fred D. Hollenbeck to the Ho-Chunk Nation Supreme Court)* (HCN Tr. Ct., Mar. 28, 2003). (Bossman, W).

The petitioner filed a motion for sanctions against the aforementioned attorney. The Supreme Court is the appropriate body to hear this request. The Court refers this matter to the Supreme Court.

*In the Interest of Minor Child: J.J.F., DOB 11/07/00, JV 02-27 Order (Regarding Constitutionality of Hocak Nation Children and Family Code)* (HCN Tr. Ct., Mar. 28, 2003). (Bossman, W).

A party to the action filed a motion with the Court questioning the Constitutionality of the controversial law. The petitioner filed a response to the request. The Court has denied the motion.

*In the Interest of Minor Child: T.V.F., DOB 02/18/02, JV 03-14 Order (Acceptance of Transfer)* (HCN Tr. Ct., Mar. 28, 2003). (Matha, T).

The Court accepted this case on transfer from the State of Iowa.

## Supreme Court

**MARCH 12, 2003**

*Robert A. Mudd v. HCN Legislature: Elliot Garvin, Clarence Pettibone, Tracy Thundercloud, Wade Blackdeer, Dallas Whitewing, Gerald Cleveland, Sr., Christine Romano, Myrna Thompson, George Lewis, Kathyleen Whiterabbit, and Sharyn Whiterabbit, SU 03-02 Scheduling Order* (HCN S. Ct., Mar. 12, 2003). (Hunter, M.)

The appellant brought this case before the Court regarding a Trial Court decision. *See Order (Final Judgment)* (HCN Tr. Ct., Feb. 13, 2003). Despite the appellee's decision to withdraw from the case, the Court has agreed to decide the matter on appeal. In addition, the Court appointed John Wabaunee as Justice Pro Tempore.

**MARCH 19, 2003**

*Robert A. Mudd v. HCN Legislature: Elliot Garvin, Clarence Pettibone, Tracy Thundercloud, Wade Blackdeer, Dallas Whitewing, Gerald Cleveland, Sr., Christine Romano, Myrna Thompson, George Lewis, Kathyleen Whiterabbit, and Sharyn Whiterabbit, SU 03-02 Amended Scheduling Order* (HCN S. Ct., Mar. 19, 2003). (Hunter, M.)

The Court discussed whether or not to allow separate oral arguments based on the *Motions* submitted by both parties. In this opinion, the Court amended the previous *Scheduling Order* to account for these additional filings. The Court decided to permit oral arguments on the *Motions*.

**MARCH 21, 2003**

*Theresa Lynn Hendrickson v. HCN Office of Tribal Enrollment, SU 02-06 Decision* (HCN S. Ct., Mar. 21, 2003).

The Trial Court had reversed a decision of the HCN Tribal Enrollment Committee that would remove the appellee from the tribal roster. The appellant asserted that the Trial Court committed an error of law by interpreting the Constitution, the Enrollment Ordinance and the Removal Procedures in *pari materia* (together). The Supreme Court was not persuaded by this line of reasoning and affirmed the lower court ruling.



**MARCH 27, 2003**

*Robert A. Mudd v. HCN Legislature: Elliot Garvin, Clarence Pettibone, Tracy Thundercloud, Wade Blackdeer, Dallas Whitewing, Gerald Cleveland, Sr., Christine Romano, Myrna Thompson, George Lewis, Kathyleen Whiterabbit and Sharyn Whiterabbit*, SU 03-02 Order (HCN S. Ct., Mar. 27, 2003).

The Court set oral arguments for the merits of the case. In addition, the Court denied the appellee's *Motion to Withdraw* from suit. The Court denied this request that originated from a misunderstanding with the appellee. The appellee had thought that a recent ruling had destroyed his standing on the case. The recent ruling did not affect the appellee in this manner, and the Court denied the request. Furthermore, the Court denied the appellant's *Motion to Immediately Vacate the Trial Court Judgment and Dismiss the Case*. The Court interpreted this request as stemming directly from the request made by the appellee. Given the Court's decision on the appellee's request, a denial was made for the appellant's request.



## Recent Filings

### Trial Court

#### Civil Garnishment

**FEBRUARY 18, 2003**

*Ronald Schwinefus v. Larry LaMere*, CG 03-10. (Bossman, W).

**FEBRUARY 26, 2003**

*State Collections Service v. Rick Hernandez*, CG 03-11. (Matha, T).

**MARCH 11, 2003**

*Quick Cash Loans v. Richard Walker*, CG 03-12. (Matha, T).

*American Family Mutual Insurance Group v. Glen J. Decora*, CG 03-13. (Matha, T).

*State Collection Service v. Joseph D. Schumacher*, CG 03-14. (Matha, T).

*State Collection Service v. Jesus Salazar*, CG 03-15. (Matha, T).

**MARCH 12, 2003**

*State Collection Service v. Mike Garske*, CG 03-16. (Matha, T).

*Sears Roebuck & Co. v. Timothy Abbott*, CG 03-17. (Matha, T).

**MARCH 13, 2003**

*General Motors Acceptance Corp. v. Mike Knoble*, CG 03-18. (Matha, T).

**MARCH 18, 2003**

*Credit Recovery Service v. Terry Sherman*, CG 03-19. (Bossman, W).

*Savings Financial Corp. v. Julie Ann Mavis*, CG 03-20. (Bossman, W).

**MARCH 20, 2003**

*Krohn Clinic v. Tracy L. Irvin*, CG 03-21. (Bossman, W).

**MARCH 24, 2003**

*State Collection Service v. Jodi Mericle*, CG 03-22. (Matha, T).

*Tomah Memorial Hosp. v. Paul D. Arentz*, CG 03-23. (Matha, T).

*State Collection Service v. Micheal Jordon*, CG 03-24. (Matha, T).

#### Child Support

**MARCH 11, 2003**

*Roland Teubert v. Anita A. Alderman*, CS 03-12. (Matha, T).

**MARCH 19, 2003**

*State of Wisconsin v. Damon Funmaker*, CS 03-13. (Bossman, W).

*State of Wisconsin v. Vern E. Whiteeagle*, CS 03-14. (Bossman, W).

**MARCH 24, 2003**

*State of Wisconsin v. Augustus G. Downey*, CS 03-15. (Matha, T).

*Beltrami County v. Nadine Phyllis Hindsley*, CS 03-16. (Matha, T).

*State of Wisconsin/Brown County v. Sheila Snake*, CS 03-17. (Matha, T).

**MARCH 27, 2003**

*State of Wisconsin v. Jeffrey A. Harrison*, CS 03-18. (Matha, T).

**Civil Cases**

**MARCH 7, 2003**

*Tammy Ross v. Ho-Chunk Nation*, CV 03-20. (Bossman, W).

**MARCH 10, 2003**

*HCN Department of Housing, Property Management Division v. Darren Snake and Lena Snake*, CV 03-21. (Matha, T).

*Majestic Pines Hotel v. Thunderhawk Decorah*, CV 03-22. (Matha, T).

*HCN Department of Housing, Property Management Division v. Summer Martin and Dustin Jackson*, CV 02-23. (Matha, T).

**MARCH 12, 2003**

*In the Interest of Minor Child: A.A.L., DOB 04/16/85, by Marcella Patton v. HCN Office of Tribal Enrollment*, CV 03-24. (Matha, T).

**MARCH 17, 2003**

*In the Interest of the Minor Children: J.D., DOB 09/17/85, S.D., DOB 03/20/87, F.D., DOB 06/14/88, and B.D., DOB 11/22/89, by Cornelius Decorah v. HCN Office of Tribal Enrollment*, CV 03-25. (Bossman, W).

**MARCH 20, 2003**

*HCN Department of Housing, Property Management Division v. Cyndi Mann*, CV 03-26. (Bossman, W).

**MARCH 21, 2003**

*In the Interest of Elaine Marie Sine, DOB 02/01/55, by Cecilia Sine v. HCN Office of Tribal Enrollment*, CV 03-27. (Bossman, W).

**Juvenile Cases**

**MARCH 20, 2003**

*In the Interest of the Minor Child: K.B.M., DOB 10/29/93, JV 03-07.* (Bossman, W).

*In the Interest of the Minor Child: G.E.M., DOB 08/25/95, JV 03-08.* (Bossman, W).

*In the Interest of the Minor Child: A.D.M., DOB 04/25/97, JV 03-09.* (Bossman, W).

*In the Interest of the Minor Child: L.A.M., DOB 12/16/00, JV 03-10.* (Bossman, W).

**MARCH 24, 2003**

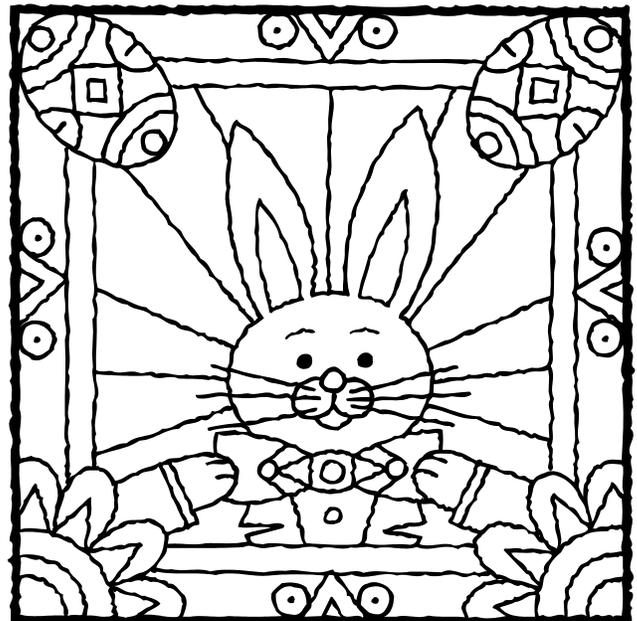
*In the Interest of the Minor Child: S.E.C, DOB 02/25/96, JV 03-11.* (Matha, T).

*In the Interest of the Minor Child: M.S.B, Dob 09/14/99, JV 03-12.* (Matha, T).

**MARCH 27, 2003**

*In the Interest of the Minor Child: Q.R.M., DOB 01/01/99, JV 03-13.* (Matha, T).

*In the Interest of the Minor Child: T.V.F., DOB 02/18/02, JV 03-14.* (Matha, T).



# THE OFFICE OF PUBLIC ADVOCACY

The Office of Public Advocacy is a community outreach organization focused on helping low income members of the Nation find free legal counsel. The administrator for the Office of Public Advocacy helps potential clients contact Wisconsin Judicare, Inc. A tribal member can come to the office, located in the Trial Court Building, and fill out the Judicare application. The administrator, Dennis Funmaker, will help anyone fill out the form or answer questions about the office's services. That person would then receive notice from Judicare directly concerning whether or not they financially qualify for Judicare. If the client becomes eligible for Judicare, the Office of Public Advocacy could then provide that person with a listing of attorneys in their area. If one of these attorneys accepts the case, that attorney shall be paid by Judicare and not the client.

Judicare is an office of legal advocacy for low income persons seeking counsel. Those seeking to learn if they qualify should know that a family size of one person with an income of \$11,075 or lower qualifies for Judicare. This figure *does not* include an individual's tribal per capita income. For each subsequent family member, add \$3,850 more to the annual income that qualifies for Judicare services. Judicare handles cases involving family law, SSI, housing, health and Indian law. Judicare has attorneys and staff that can answer legal questions for clients. Clients are not expected to pay their attorney, but they are expected to pay any basic court costs and fees. Qualifying for Judicare does not automatically mean that an attorney will represent you. It does mean that if the attorney chooses to take your case, he or she shall be paid by Judicare. An applicant that is approved for Judicare receives a blue card. This card is good for one year, and then it expires.

## GROUNDBREAKING

On March 21, 2003 at 1:00 p.m., the HCN Judiciary celebrated the beginning of construction for the new court building. The weather was cold and blustery, but spectators turned out for the momentous occasion. The housing staff erected a large tent to keep out the wind and any rain. Under the shelter of this tent, spectators were greeted with food and drinks. Spectators could view and study the plans for construction while admiring the final portrait of the court building. The staff made seating available to all and brought the flags out to wave in the breeze. The staff did their best to make the event festive and inviting. The ceremony began with opening remarks from Chief Trial Court Judge William Bossman and a fire from the Traditional Court representatives. Judge Bossman introduced the speakers and welcomed the audience with great warmth.



The Justices of the Supreme Court smile for the camera amidst the groundbreaking ceremony and in front of the plans for construction. Featured in this photo (l. to r.) are: Associate Justice Mark Butterfield, Chief Justice Mary Jo B. Hunter, and Associate Justice Jo Deen B. Lowe.



Traditional Court representatives build a fire and bless the area for the groundbreaking ceremony. Featured in this photo (l. to r.) are: James N. Funmaker, Sr., Donald Blackhawk, and Dennis M. Funmaker, Sr.

In the blessing for the groundbreaking ceremony, Donald Blackhawk explained to the audience the importance of the fire. He stated that in Tradition and Custom, the fireplace goes before the people for their care and protection. For this reason, beginning a fire, and caring for it, should be the first act at our building site. As the fire began, James Noah Funmaker, Sr. blessed the fire, the ground, and all those in attendance. He prayed for the construction workers and for the court staff. Nods of assent greeted him as he ended the blessing for this building and for the Nation.



Chief Clayton D. Winneshiek builds the ceremonial fire for the blessing of the court building. Photo taken March 21, 2003.

The next speaker to praise the new construction was the Ho-Chunk Nation's President, Troy Swallow. He called the construction of a new building necessary for a mature court. Furthermore, President Swallow stated that the people of the Nation deserve the building. He prayed that the Judiciary would continue to hold true to the Constitution and the laws of the Ho-Chunk Nation. He gave thanks to all those in attendance, all of the construction workers, and all the court staff. He reminded the people of the service that the Court staff provides to all Ho-Chunk members. Finally, President Troy Swallow said a few words of prayer for our brave soldiers in the field.

Clarence Pettibone, HCN Legislative Representative, said a few words of thanks to the Traditional Court and the people involved in the design and construction of the new court building. He implored the members of the Judiciary to continue their work of handing down fair-minded decisions for the benefit of the Nation. Mr. Pettibone also stated that the new building would imbue the members of the Nation with pride for its Judiciary. Mr. Pettibone then surrendered the floor to the Chief Justice of the Supreme Court Mary Jo B. Hunter. The Chief Justice gave her thanks to the Legislature and the Traditional Court, as well as to the architect and builders. She thanked Associate Justice Mark Butterfield for his vocalization of the need for a court building and the court staff for enduring in the twilight of the court's construction. The Chief Justice ended with a discussion of the Nation as one unified entity with vast and proud traditions. At the end of her remarks, Judge Bossman invited the Chief Justice and others to help him dig a ceremonial hole in the construction site. Mr. Yanhke of Olympic Builders, Gregory Cashman the architect, Dennis Funmaker, President Troy Swallow and Clarence Pettibone aided the Judge and Justice in the dig. The ceremony ended with food and beverages among the audience. Everyone was in high spirits and appreciative of the efforts of all those involved in the building.



HCN Legislative Representative Clarence Pettibone gives a few remarks at the Groundbreaking Ceremony for the new Court Building.



President Troy Swallow addresses the crowd at the Groundbreaking ceremony for the Ho-Chunk Nation's Judiciary.



President Troy Swallow and Legislative Representative Clarence Pettibone aid Chief Judge William Bossman and architect Gregory Cashman in the ceremonial dig. Not pictured but also aiding in the dig: Chief Justice Mary Jo B. Hunter, William Yahnke of Olympic Builders and Dennis Funmaker.

**ANNOUNCEMENT!  
GROUNDBREAKING AND  
CONSTRUCTION ON THE  
NEW COURT BUILDING  
BEGAN ON FRIDAY, MARCH  
28, 2003.**

## Office of Public Advocacy

- **Assistance with finding free legal counsel for qualified applicants**
- **Assistance with legal concerns or questions**
- **Located conveniently within the HCN Court Building**
- **For further questions regarding the O.P.A., please call Dennis Funmaker at (715) 284-8514**

### **HO-CHUNK NATION COURT SYSTEM JUDICIARY AND STAFF**

Supreme Court—Mary Jo B. Hunter, Chief Justice  
Mark D. Butterfield, Associate Justice

Jo Deen B. Lowe, Associate Justice

Traditional Court –Wallace Blackdeer

Donald Blackhawk

Dennis Funmaker

Orville Greendeer

Douglas Greengrass

Owen Mike

Gavin Pettibone

Douglas Red Eagle

Preston Thompson, Jr.

Eugene Thundercloud

Morgan White Eagle

Clayton Winneshiek

Trial Court – William H. Bossman, Chief Judge

Todd R. Matha, Associate Judge

Clerk of Court, Supreme Court – Bryan Dietzler

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 – Rebecca Tavares

Office of Public Advocacy – Dennis Funmaker, Administrator

- \* The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

#### WISCONSIN TRIBAL JUDGES ASSOCIATION

(Eleven federally recognized tribes within the State of Wisconsin)

#### NATIVE AMERICAN INDIAN COURT JUDGES ASSOCIATION

(Region 5—Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, South Dakota, North Dakota, and Wisconsin)

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### **HCN Court System Fee Schedule**

- Filing Fees . . . . . \$50.00\*

\*With the exception of petitions to register child support orders – this fee remains at \$20.00 as previously ordered by the Supreme Court.

Note: Filing Fee now includes *Summons* fee.

- Filing Fees for *Petitions to Register and Enforce Foreign Judgment/ Order*. . . . . \$20.00

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

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.

#### 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).





May 2003  
Vol. 9, No. 5

## Inside this Issue

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NATION

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Judiciary and Staff

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](http://www.ho-chunknation.com/government/courts.htm)

Hours of Operation: Monday through Friday  
(except holidays) 8 A.M. – 4:30 P.M.

## NEWS FROM THE FEDERAL INDIAN LAW CONFERENCE.

On April 10-11, 2003, the Federal Bar Association held its annual Indian Law Conference in Albuquerque, NM. The conference attracted hundreds of attorneys and judges specializing in Indian Law, enticing them with the latest issues surrounding the field. The conference began with a paper by Robert Williams, Jr. entitled, *“The Savage as the Wolf”*: *Indian Rights, the Rehnquist Court, and the Western Colonial Imagination*. He examined the trust doctrine that came to fruition through the Marshall trilogy. *Johnson v. McIntosh*<sup>1</sup>, *Worcester v. Georgia*<sup>2</sup> and *Cherokee Nation v. Georgia*<sup>3</sup> are referred to as the Marshall Trilogy. *Johnson* is known for its usage of the “doctrine of discovery,” asserting that Europeans could claim the land for themselves under this legal fiction. *Cherokee Nation* stood for the proposition that the States had to deal with the Federal government to ensure the full protection of Indian rights. In this case, the trust doctrine was born. *Worcester* protected Indian rights of self-government and property by asserting that State laws had no force on tribal land.

However, Mr. Williams asserted that the trust doctrine as it stands today is flawed. This flaw stems from the misunderstanding and mischaracterization of Indians within the opinions, i.e., that Indians were racially inferior. The flaw of these opinions is revealed in the myth that Indians think differently about

<sup>1</sup> 21 U.S. 543 (1823).

<sup>2</sup> 30 U.S. 1 (1831).

<sup>3</sup> 31 U.S. 515 (1832).

the concept of property. The example used to illustrate this point comes from the infamous sale of Manhattan for trinkets. Few people in this country are aware of the fact that the majority of treaties actually reveal a very savvy group of individuals creating irrevocable and perpetual agreements of protection for their people and their descendants. According to his presentation, Mr. Williams asserts that the indigenous tribes had asserted in each treaty a trust relationship of protection and mutual exchange between the tribe and the federal government. The idea of taking without sharing and helping no one else is a concept created by the federal government. Williams explains that many of the victories in Indian law were dimmed by the racial undertones present in the Marshall Trilogy. However, Mr. Williams ended on a positive note by asserting that under his analysis, the most recent case involving the trust doctrine, the White Mountain Apache Tribe was successful due to their departure from the racial language of the Marshall Trilogy.<sup>4</sup>

The next speaker, Mary Christina Wood, spoke on environmental hazards created through reservation development. Ms. Wood decreed that the trust relationship could provide a framework to prevent further environmental destruction. Ms. Wood indicated that legal advocates should attempt to isolate the

protection promise contained within the trust doctrine and craft their arguments to compel enforcement. Ms. Wood recommended using the principles of property law and the trespass or nuisance elements of tort law to craft the aforementioned arguments. In other words, she insisted on looking to the implied rights found in common law instead of looking to statutes. She argued that the majority of statutes are interpreted toward the interests of the majority and not those in Indian country. However, she did insist on one alternative setting to craft these arguments: the Administrative Procedures Act.

Under the APA, the speaker insisted that advocates could use an arbitrary and capricious standard to assert a violation of the trust relationship and environmental protection of tribal lands. Another alternative currently used by many advocates is to adhere to the Tucker Act to assert a claim for money damages against the BIA in the Federal Court of Claims. Unfortunately, this avenue of legal analysis requires explicit constitutional and statutory provisional proof of a violation. Further complicating the issue of which avenue of legal analysis to use is the confusion in the courts about whether these analyses are separate. According to Ms. Wood, the courts have recently confused the requirements under the Tucker Act with arguments made under the structure of the APA. The APA does not require the specifications that must be considered when using the Tucker Act. However, such confusion is starting to become law through the concept of *stare decisis*. The recent cases involving the Navajo Nation and the White Mountain Apache Tribe may be used to distinguish the claims made under the APA. Only continual advocacy and clear explanation of the separation of these concepts would protect these arguments and thus environmental claims on tribal land.

On a more general note, the renowned author Elizabeth Cook-Lynn spoke to a captivated audience regarding Indian law today. Among the themes of her work, Cook-Lynn asserted that in order for Indian country to see true progress in the law, legal advocates must work toward the complete disavowal of the legal fiction known as plenary power. The concept of plenary power, created through similar analysis to the trust doctrine, purports to give the federal government superior and overarching power over Indian Nations and policies concerning those nations. Cook-Lynn stated that until this legal fiction is destroyed, the suffering of American Indian people will continue at the hands of those that create federal law.

*Continued on page 16.*

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<sup>4</sup> *White Mountain Apache Tribe v. United States*, No. 01-1067 (Mar. 4, 2003), *United States v. Navajo Nation*, No. 01-1375 (Mar. 4, 2003).

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# Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and categorized 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 Garnishment (CG), 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 that 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.

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## Trial Court



### **Child Support**

**APRIL 3, 2003**

*Heather Hartwig v. Steve Lincoln*, CS 99-21 Order (Ceasing Withholding and Intent to Close) (HCN Tr. Ct., Apr. 3, 2003). (Bossman, W).

The Court had previously discontinued current support in that instant case. See Order (Enforcing Child Support Arrears) CS 99-21 (HCN Tr. Ct., Jan. 30, 2002). The Court was recently informed

that the arrearage is now paid in full. Thus, the Court shall close the case absent objections from the parties.

*State of Wisconsin/Sawyer Co. and Josi E. Trepanier v. Tyrone L. Walker*, State of Wisconsin/Sawyer Co. and Josi E. Trepanier v. Tyrone L. Walker, CS 02-17, -60 Order (Default Judgment – Enforcing Child Support for Per Capita) (HCN Tr. Ct., Apr. 3, 2003). (Matha, T).

The Court consolidated the aforementioned cases pertaining to the same parents and different children. The petitioner requested that the Court recognize a foreign child support judgment against the respondent. The respondent failed to respond within the specified time period, and the Court granted the request.

*State of Wisconsin/Sawyer Co. and Josi E. Trepanier v. Tyrone L. Walker*, CS 02-17 Order (Default Judgment for Child Support Deduction from Wages) (HCN Tr. Ct., Apr. 3, 2003). (Matha, T).

The petitioner requested that the Court recognize a foreign child support order against the respondent's wages and per capita. The respondent failed to respond within the specified timeframe. The Court wrote two (2) decisions, one (1) for wages and one (1) for per capita. The Court granted the petitioner's request.

**APRIL 7, 2003**

*State of Iowa ex rel., Taylor Justicia Renee Houston, a Child v. Jerome J. Houston*, State of Iowa ex rel., Destiny Marie Rounds v. Jerome J. Houston, CS 02-42-43 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Apr. 7, 2003). (Matha, T).

The Court received an arrearage statement to update its records. The update does not affect the withholding ordered by this Court. The parties may continue to request modifications of the withholding for arrears.

*Roland R. Teubert v. Anita A. Alderman*, CS 03-12 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Apr. 7, 2003). (Matha, T).

The petitioner requested that the Court enforce a foreign judgment for child support against the

respondent. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**APRIL 9, 2003**

*Denise Amundson v. Robert White*, CS 03-07 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Apr. 9, 2003). (Matha, T).

The defendant requested to appear by telephone at the next scheduled *Hearing*. The Court granted the request of the defendant. However, the Court reminded the defendant that he may not use the toll free number.

*State of Wisconsin/Sawyer County v. Roberta L. Crowe*, CV 97-76 Order (Proof of High School Enrollment Filed) (HCN Tr. Ct., Apr. 9, 2003). (Matha, T).

The Court issued a reminder to the parties concerning the impending emancipation of Curtis W. Decora, DOB 02/26/85, and the need for proof of high school enrollment in order to continue withholding for child support. The parties filed the required proof of enrollment on April 7, 2003. The Court accepted this proof of enrollment and continued to withhold for child support.

*Rachel Winneshiek v. James Beverly*, CV 97-168 Order (Proof of High School Enrollment Filed) (HCN Tr. Ct., Apr. 9, 2003). (Matha, T).

The Court issued a reminder to the parties concerning the impending emancipation of Stuart G. Beverly, DOB 04/22/85, and the need for proof of high school enrollment in order to continue withholding for child support. The parties filed the required proof of enrollment on April 7, 2003. The Court accepted this proof of enrollment and continued to withhold for child support.

**APRIL 14, 2003**

*Katrina D. Pintor v. Patrick A. Edwards*, CS 02-44 Order (Modifying Child Support Enforcement) (HCN Tr. Ct., Apr. 14, 2003). (Bossman, W).

The petitioner requested that the Court recognize and enforce the amended decision of Clark County. The respondent failed to respond within the specified timeframe. The Court granted the request.

*Rita Stewart v. Robert Stewart*, CS 03-01 Order (Default Judgment for Child Support Deduction from Wages) (HCN Tr. Ct., Apr. 14, 2003). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**APRIL 15, 2003**

*Denise Amundson v. Robert White*, CS 03-07 Order (Enforcing Child Support) (HCN Tr. Ct., Apr. 15, 2003). (Matha, T).

The petitioner requested that the Court enforce a foreign judgment against the respondent's per capita distributions. The respondent filed a timely response and requested a *Hearing*. The Court granted the petitioner's request in light of the agreement made between the parties and submitted into evidence during the *Hearing*.

*Sheila Doucette v. Scott Hindes*, CS 97-132 Order (Enforcing Arrears) (HCN Tr. Ct., Apr. 15, 2003). (Bossman, W).

The petitioner requested that the Court recognize a foreign order awarding arrears. The respondent failed to respond within the appropriate time frame. The Court granted the request.

*State of Wisconsin v. Augustus G. Downey, State of Wisconsin/Eau Claire v. Augustus G. Downey*, CS 03-15, 02-04 Order (Default Judgment – Enforcing Child Support) (HCN Tr. Ct., Apr. 15, 2003). (Matha, T).

The petitioner brought a *Motion to Register and Enforce a Foreign Child Support Order*. The respondent failed to respond within the appropriate time frame. The Court granted the petitioner's request. However, the Court also performed an equitable adjustment pertaining to the multiple requests that referenced the same respondent.

*State of Wisconsin/Jackson County v. Brent Funmaker*, CV 97-18 Order (Amending Arrears) (HCN Tr. Ct., Apr. 15, 2003). (Bossman, W).

The petitioner requested that the Court amend the current withholding for arrears. The petitioner had

previously asked for a reinstatement of current withholding. The Court granted the new request.

*State of Wisconsin/Sauk Co. and Chris W. Crain v. Cheri L. Crain*, CS 99-30 *Order (Ceasing Withholding)* (HCN Tr. Ct., Apr. 15, 2003). (Matha, T).

The Court had reminded the parties to file the appropriate paperwork for children turning eighteen (18), or else the parties would risk the termination of their withholding. The child in the instant case had turned eighteen (18), and the Court did not receive evidence of continued high school education. The Court terminated the current withholding for that child.

*State of Wisconsin/Sawyer County on behalf of Shelly Woller v. Robert Wayne Blackdeer, State of Wisconsin/Sawyer County on behalf of Kathryn Isham Gordon v. Robert Wayne Blackdeer*, CS 97-40-41 *Order (Ceasing Withholding)* (HCN Tr. Ct., Apr. 15, 2003). (Matha, T).

The parties were notified by the Court that Cara Jean Rose Isham, DOB 03/02/85, was about to turn eighteen (18) years of age. Without proper documentation of her high school enrollment, current child support would cease. The parties failed to provide such documentation. The Court ceased withholding for the aforementioned child, but continued withholding for the minor child, Anthony W. Woller, DOB 05/19/88.

#### **APRIL 16, 2003**

*State of Wisconsin/Sauk Co., on behalf of Matthew Thundercloud v. Leah H. Fiske, F/K/A Leah L. Topping*, CS 99-05 *Order (Enforcing Arrears)* (HCN Tr. Ct., Apr. 16, 2003). (Bossman, W).

The petitioner brought a *Motion to Modify* and asked the Court to recognize arrears. The respondent failed to respond within the specified time frame. The Court granted the request of the petitioner.

*Deena M. Basina v. William P. Smith*, CS 98-53 *Order* (HCN Tr. Ct., Apr. 16, 2003). (Bossman, W).

The petitioner requested that the Court recognize an updated amount for arrears. The respondent filed a timely response to the request and asked for a

*Hearing*. The Court granted this request and heard the arguments of both sides. The Court then granted the petitioner's original request.

*Jessica Bearskin v. Roger Thundercloud*, CS 98-31 *Order (Ceasing Withholding and Intent to Close)* (HCN Tr. Ct., Apr. 16, 2003). (Bossman, W).

The Court received information that the respondent had custody of one (1) of the children. The other child had previously become emancipated. Therefore, the Court ceased withholding for the instant case and notified the parties of its intent to close the file.

*Alisa M. Cantwell v. Patrick R. Patterson, Jennifer R. Stark v. Patrick R. Patterson*, CS 02-11, 00-44 *Order (Amending Arrears)* (HCN Tr. Ct., Apr. 16, 2003). (Bossman, W).

The Court had to determine whether to amend a previous *Order*. The petitioner requested the maximum amount allowed for current support and an updated arrears figure. The Court granted the latter request, but could not grant the former request as the respondent had two (2) child support obligations to satisfy out of the maximum withholding.

*Jodi Dennison v. Marcus Sena, State of Iowa Enforcing for the State of Virginia v. Marcus Sena*, CS 02-35-36 *Order (Amending Arrears)* (HCN Tr. Ct., Apr. 16, 2003). (Bossman, W).

The Court received a *Motion to Modify* and a request to amend the arrears. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*Kurt Kitzman v. Sheila Snake*, CS 03-17 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., April 16, 2003). (Matha, T).

The petition brought a *Petition to Recognize and Enforce a Foreign Child Support Order*. The respondent failed to respond within the specified time frame. The Court granted the request. On a *Motion to Reconsider*, the respondent asserted that the physical custodian may not be the biological parent. The Court then explained via correspondence that State, Federal and Tribal Law afford a physical custodian child support, irrespective of their blood ties to the child.

Paternity issues must be settled in a foreign state court, which could then alter the physical custody of the child and child support.

*Michelle L. Lewis v. Dennis C. Lewis*, CS 01-36 Order (Enforcing Arrears) (HCN Tr. Ct., Apr. 16, 2003). (Bossman, W).

The petitioner requested that the Court enforce arrears against the respondent. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*Ken Loose v. Jennifer Jones*, CS 03-09 Order (Modifying Child Support) (HCN Tr. Ct., Apr. 16, 2003). (Bossman, W).

The respondent requested that the Court enforce a foreign order. The respondent understood the consequences of asking the Court to enforce the *Judgment* against her. The Court granted the petitioner's request.

*Josephine Shegonee v. Justin C. DeCora*, CS 03-06 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Apr. 16, 2003). (Bossman, W).

The petitioner filed a *Petition to Recognize and Enforce a Foreign Child Support Order* on March 5, 2003. The respondent failed to respond within the twenty (20) days allotted for an original response. The Court granted the petitioner's request.

*State of Wisconsin, Jackson County on behalf of Robin LaMere v. Reuben Rave, Jr., State of Wisconsin, Jackson County on behalf of Erin L. Emerson v. Reuben Rave, Jr.*, CS 01-38, CV 97-171 Order (Modifying Child Support) (HCN Tr. Ct., Apr. 16, 2003). (Bossman, W).

The petitioner brought a *Petition to Recognize and Enforce a Foreign Order*. In addition to its consideration of this request, the Court had to reinstate a previous support obligation that had suffered suspension. The respondent failed to respond within the specified time frame. The Court granted the support obligations.

#### **APRIL 17, 2003**

*Linda R. Delay v. Keith M. Decorah*, CS 00-16 Order (Impounding Child Support) (HCN Tr. Ct., Apr. 17, 2003). (Bossman, W).

On May 23, 2000, the Court withheld twenty-five percent (25%) for current child support. *See Order (Enforcing Child Support)* CS 00-16 (HCN Tr. Ct., May 23, 2003). On April 16, 2003, the Court received correspondence that the obligation had been suspended. The respondent has ten days to respond. To prevent unnecessary support payments, the Court impounded twenty-five percent (25%) of the respondent's May 1, 2003 per capita distribution.

#### **APRIL 28, 2003**

*Michelle L. Mountain v. Curtis W. Cloud*, CS 01-34 Order (Impound Child Support) (HCN Tr. Ct., Apr. 28, 2003). (Matha, T).

Juneau County Child Support Agency requested a suspension of the current obligation for the respondent. Previously, the petitioner had filed a *Petition to Recognize and Enforce a Foreign Child Support Order*. The Court impounded the disputed portion of the respondent's per capita distribution.

#### **MAY 1, 2003**

*Linda R. Delay v. Keith M. Decorah*, CS 00-16 Order (Releasing Impound) (HCN Tr. Ct., May 1, 2003). (Bossman, W).

The Court received indication that the respondent's obligation was suspended. The Court gave the parties an appropriate length of time to respond. The Court then released the impounded funds.

#### **MAY 7, 2003**

*State of Wisconsin v. Vern E. WhiteEagle*, CS 03-14 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., May 7, 2003). (Bossman, W).

The petitioner filed a *Petition to Recognize and Enforce a Foreign Child Support Order* on April 10, 2003. The respondent failed to respond within the twenty (20) days allotted for an original response. The Court granted the petitioner's request.

### **Civil Garnishment**

#### **APRIL 1, 2003**

*Creditor Recovery Service LLC, Agent for Water Works & Lighting Commission v. Terri Thompson*, CG 03-06 Order (Default Judgment) (HCN Tr. Ct., Apr. 1, 2003). (Matha, T).

The petitioner requested that the Court enforce a *Judgment* against the respondent's wages. The

respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**APRIL 7, 2003**

*American Family Mutual Insurance Group et al. v. Glen J. Decora*, CG 03-13 Order (Default Judgment) (HCN Tr. Ct., Apr. 7, 2003). (Matha, T).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*Quick Cash Loans LLC v. Richard Walker*, CG 03-12 Order (Default Judgment) (HCN Tr. Ct., Apr. 7, 2003). (Matha, T).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*Sears Roebuck & Co. v. Timothy A. Abbott*, CG 03-17 Order (Default Judgment) (HCN Tr. Ct., Apr. 7, 2003). (Matha, T).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*State Collection Service v. Mike Garske*, CG 03-16 Order (Default Judgment) (HCN Tr. Ct., Apr. 7, 2003). (Matha, T).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**APRIL 9, 2003**

*General Motors Acceptance Corporation v. Mike Knoble*, CG 03-18 Order (Default Judgment) (HCN Tr. Ct., Apr. 9, 2003). (Matha, T).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified

time frame. The Court granted the petitioner's request.

**APRIL 14, 2003**

*Easton Motors, Inc. v. Linda Medina Frommung*, CG 03-04 Order (Default Judgment) (HCN Tr. Ct., Apr. 14, 2003). (Bossman, W).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*St. Clare Hospital v. Thomas L. Raymond*, CG 03-09 Order (Default Judgment) (HCN Tr. Ct., Apr. 14, 2003). (Bossman, W).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**APRIL 15, 2003**

*State Collection Agency v. Michael Jordan*, CG 03-24 Order (Default Judgment) (HCN Tr. Ct., Apr. 15, 2003). (Matha, T).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*State Collection Agency v. Jodi Mericle*, CG 03-22 Order (Default Judgment) (HCN Tr. Ct., Apr. 15, 2003). (Matha, T).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*Tomah Memorial Hospital, by C.C., Inc. v. Paul D. Arentz*, CG 03-23 Order (Default Judgment) (HCN Tr. Ct., Apr. 15, 2003). (Matha, T).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**APRIL 16, 2003**

*Creditor Recovery Service LLC, Agent for Mid-Town Dental Associates SC v. Terry D. Sherman*, CG 03-19 Order (Default Judgment) (HCN Tr. Ct., Apr. 16, 2003). (Bossman, W).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**APRIL 28, 2003**

*Creditor Recovery Service LLC, Agent for Quality Foods IGA v. Ivory S. Kelly*, CG 03-27 Order (Default Judgment) (HCN Tr. Ct., Apr. 28, 2003). (Bossman, W).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*Creditor Recovery Service LLC, Agent for Taco John's v. Kevin L. Kniprath*, CG 03-28 Order (Default Judgment) (HCN Tr. Ct., Apr. 28, 2003). (Bossman, W).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*Creditor Recovery Service LLC, Agent for Maxine LeMieux dba Headin' West v. Daniel Downing*, CG 03-26 Order (Default Judgment) (HCN Tr. Ct., Apr. 28, 2003). (Bossman, W).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**MAY 5, 2003**

*Creditor Recovery Service, LLC, Agent for Wood County Telephone Company v. Eugene Topping, Jr.*, CG 03-30 Order (Default Judgment) (HCN Tr. Ct., May 5, 2003). (Matha, T).

The petitioner requested that the Court enforce a Judgment against the respondent's wages. The

respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**Children's Trust Fund (CTF)****APRIL 1, 2003**

*In the Interest of Minor Child: R.T., DOB 01/09/85, by Roger Thundercloud v. HCN Office of Tribal Enrollment*, CV 02-16 Order (Accepting Accounting) (HCN Tr. Ct., Apr. 1, 2003). (Bossman, W).

The Court released funds to the petitioner on May 31, 2002. On March 12, 2003, the petitioner submitted a payment history indicating the proper expenditures. The Court accepted the accounting and closed the case.

*Justina Littlegeorge v. HCN Office of Tribal Enrollment*, CV 02-115 Order (Denying Petition) (HCN Tr. Ct., Apr. 1, 2003). (Bossman, W).

The petitioner requested the release of her entire trust fund before she had received her diploma. The petitioner had turned eighteen (18) and expected to graduate in June. The Court denied her request and insisted on the physical receipt of the diploma.

**APRIL 3, 2003**

*In the Interest of Minor Child C.Y.B., DOB 05/04/92, by Charles A. Brown v. HCN Office of Tribal Enrollment*, CV 02-104 Order (Denying Petition) (HCN Tr. Ct., Apr. 3, 2003). (Bossman, W).

The petitioner requested the release of funds for school and household expenses. The petitioner failed to meet the four elements of the Court's test. The Court denied the request.

**APRIL 4, 2003**

*In the Interest of Minor Children: S.C.M.J., DOB 06/25/92, D.M.J., DOB 12/17/98, by Gregory Charles Johnson v. HCN Office of Tribal Enrollment*, CV 02-97 Order (Granting Petition in Part) (HCN Tr. Ct., Apr. 4, 2003). (Bossman, W).

The petitioner requested funds for school clothes for the children. The petitioner met the four part test on some of his requests. The Court granted those requests alone.

**APRIL 7, 2003**

*In the Interest of Minor Child: M.W., DOB 07/09/95, by Melody Whiteeagle-Fintak v. HCN Office of Tribal Enrollment, CV 01-154 Order (Accepting Accounting) (HCN Tr. Ct., Apr. 7, 2003). (Matha, T).*

The Court released the funds from the minor's trust account for orthodontics. The Court requested that the petitioner account for all expenditures. The Court has accepted the accounting and closes the case.

*Jason Nathaniel Hopinka, DOB 12/17/83, by Wesley T. Martin v. HCN Office of Tribal Enrollment, CV 03-15 Order (Granting Petition in Part) (HCN Tr. Ct., Apr. 7, 2003). (Bossman, W).*

The petitioner requested the entirety of his trust for use in legal proceedings. The Court felt that the petitioner established his burden of meeting the four prongs on most of his requests. However, the Court only granted sufficient funds for the articulated expenses of the petitioner's legal proceedings. The Court distinguishes this case as the petitioner was unable to use the services of the public defender given the special nature of his legal proceedings.

**APRIL 9, 2003**

*In the Interest of Minor Child: V.B., DOB 03/04/92, by April Daniels v. HCN Office of Tribal Enrollment, CV 02-113 Order (Requesting Accounting) (HCN Tr. Ct., Apr. 9, 2003). (Matha, T).*

The petitioner requested funds from the trust account for orthodontics. The Court granted this request with the stipulation that the petitioner would provide an accounting of her expenditures within a given time frame. The Court now reminds her of that obligation within this decision.

*In the Interest of Minor Child: J.L.F., DOB 04/16/93, by Jill A. Pettibone v. HCN Office of Tribal Enrollment, CV 02-65 Order (Requesting Accounting) (HCN Tr. Ct., Apr. 9, 2003). (Matha, T).*

The petitioner requested funds from the trust account for orthodontics. The Court granted this request with the stipulation that the petitioner would provide an accounting of her expenditures within a

given time frame. The Court now reminds her of that obligation within this decision.

*In the Interest of Minor Child: M.D.P., DOB 03/18/95, by Betty Phillips v. HCN Office of Tribal Enrollment, CV 03-12 Notice (Intent to Close) (HCN Tr. Ct., Apr. 9, 2003). (Matha, T).*

The petitioner requested a release of funds for graduation. The Court advised the parties that funds could be obtained through the Pre-K-12 Grant Program. The Court received notice that the petitioner obtained funds from that program. The Court now closes this case.

*In the Interest of Minor Child: W.S.S., DOB 01/26/94, by Tina S. Smith-Kelly v. HCN Office of Tribal Enrollment, CV 02-94 Order (Requesting Accounting) (HCN Tr. Ct. Apr. 9, 2003). (Matha, T).*

The petitioner requested funds from the trust account for tutoring. The Court granted this request with the stipulation that the petitioner would provide an accounting of her expenditures within a given time frame. The Court now reminds her of that obligation within this decision.

**APRIL 11, 2003**

*In re the Children of Joni Munnell: D.J.M., DOB 12/26/87, A.S.W., DOB 01/24/89, J.S.W., DOB 01/24/89, D.W.W., DOB 07/06/92, S.G.W., DOB 06/26/93 v. HCN Office of Tribal Enrollment, CV 96-64 Order (Requesting Further Documentation) (HCN Tr. Ct., Apr. 11, 2003). (Matha, T).*

The guardian of the estate submitted annual accounting reports for the trust instrument. However, further documentation was required for this trust. Therefore, the Court requires the guardian to file further documentation as specified in its decision.

**APRIL 14, 2003**

*In the Interest of Minor Child: A.L.F., DOB 09/30/90, by James W. Ferguson v. HCN Office of Tribal Enrollment, CV 02-38 Order (Accepting Accounting) (HCN Tr. Ct., Apr. 14, 2003). (Bossman, W).*

The Court released funds for an orthodontics procedure. The petitioner was required to provide the Court with an accounting of the expenditures.

The Court has received such accounting and accepts the necessary documentation.

**APRIL 16, 2003**

*In the Interest of Minor Child: Z.D.G., DOB 04/20/86, by Sheila M. Pagel v. HCN Office of Tribal Enrollment, CV 02-101 Order (Requesting Accounting) (HCN Tr. Ct., Apr. 16, 2003). (Matha, T).*

The Court released funds from the account for orthodontics. The Court required the petitioner to file an accounting of the expenditures within a set time frame. The Court now reminds the petitioner of this obligation.

**APRIL 22, 2003**

*In the Interest of Minor Child: B.L.W., DOB 03/14/90, by Lanette Walker v. HCN Office of Tribal Enrollment, CV 02-109 Order (Demanding Accounting) (HCN Tr. Ct., Apr. 22, 2003). (Bossman, W).*

The Court released funds for orthodontics. The petitioner was required to produce documentation accounting for all expenditures. This is the second formal reminder from the Court regarding the petitioner's obligation. Failure to heed such a reminder could result in a finding of contempt.

**APRIL 23, 2003**

*In the Interest of Minor Child: W.E.T., DOB 06/30/88, by Bonnie Tech v. HCN Office of Tribal Enrollment, CV 02-114 Order (Requesting Accounting) (HCN Tr. Ct., Apr. 23, 2003). (Matha, T).*

The Court released funds for orthodontics. The Court required the petitioner to file an accounting of the expenditures within a set time frame. The Court now reminds the petitioner of this obligation.

**APRIL 28, 2003**

*In the Matter of the Children: L.G.B., DOB 03/30/89, C.A.B., DOB 08/26/90, by Tari Lynn Pettibone v. HCN Office of Tribal Enrollment, CV 01-136 Order (Granting Additional Funds) (HCN Tr. Ct., Apr. 28, 2003). (Bossman, W).*

The Court released funds for orthodontics on December 21, 2001. On April 23, 2002, the petitioner filed an appropriate accounting. The petitioner requested further funds for ongoing orthodontic care. The Court granted the request.

## Incompetent's Trust Fund Cases

**APRIL 1, 2003**

*In the Interest of Lucinda V. Littlesoldier, DOB 02/16/49, by Isabelle Mallory v. HCN Office of Tribal Enrollment, CV 00-106 Order (Demanding Accounting) (HCN Tr. Ct., Apr. 1, 2003). (Bossman, W).*

The Court released funds from the aforementioned ITF account on September 19, 2002. The Court requested an accounting on January 7, 2003. The Court now demands an accounting of the expenditures or the petitioner risks an action under the CONTEMPT ORDINANCE.

**APRIL 22, 2003**

*In the Interest of Lucinda V. Littlesoldier, DOB 02/16/49, by Isabelle Mallory v. HCN Office of Tribal Enrollment, CV 00-106 Order (Show Cause) (HCN Tr. Ct., Apr. 22, 2003). (Bossman, W).*

The Court had previously granted release from the trust account of the aforementioned incompetent for living expenses. The Court required the petitioner to bring forth an accounting and documentation regarding the expenditures. The Court has formally reminded the petitioner in writing of her legal obligation. The Court now recommends a *Hearing* to determine whether the petitioner has violated the CONTEMPT ORDINANCE.

**APRIL 23, 2003**

*In the Interest of Mary Lou Blackdeer, DOB 11/18/30, by Shari Marg v. HCN Office of Tribal Enrollment, CV 01-85 Order (Requesting Accounting) (HCN Tr. Ct., Apr. 23, 2003). (Matha, T).*

The Court released funds from the ITF account for Christmas gifts. The petitioner had failed to account for a previous release. The Court released these funds with the stipulation that an accounting be made for both releases and no further release could be requested pending such accounting.

**MAY 2, 2003**

*In the Interest of Lucinda V. Littlesoldier, DOB 02/16/49, by Isabelle Mallory v. HCN Office of Tribal Enrollment, CV 00-106 Order (Finding of Contempt) (HCN Tr. Ct., May 2, 2003). (Bossman, W).*

On September 19, 2002, the Court released funds from the account of the aforementioned person. The Court made two formal written reminders indicating that the petitioner must provide a documented accounting of all expenditures. Due to the petitioner's failure to comply with the Court's formal written requests, the Court convened a *Show Cause Hearing* on May 2, 2003. The petitioner could not adequately account for the expenditures nor her failure to comply with previous requests. The Court found her in contempt and issued a fine payable through per capita.

### **CIVIL CASES (ALL CATEGORIES)**

#### **MARCH 31, 2003**

*Troy S. Westphal v. Bally Gaming, Inc., Ho-Chunk Nation and Ho-Chunk Casino*, CV 02-75 *Stipulation and Order to Amend Scheduling Order* (HCN Tr. Ct., Mar. 31, 2003). (Matha, T).

The parties agreed amongst themselves to amend the *Scheduling Order*. The parties requested additional time on all filings. The Court granted the request.

#### **APRIL 1, 2003**

*Ho-Chunk Nation Department of Housing, Property Management Division v. Brian Decorah*, CV 01-89 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Apr. 1, 2003). (Matha, T).

The Court issued an *Order (Granting Motion to Dismiss)* after the plaintiff and defendant settled out of court. The defendant agreed to pay the plaintiff the amount owed. The plaintiff formally informed the Court of the debt's final payment. The Court now closes the case.

*Vance Swallow v. HCN Office of Tribal Enrollment*, CV 02-90 *Order (Dismissal with Prejudice)* (HCN Tr. Ct., Apr. 1, 2003). (Bossman, W).

The Court issued an *Order (Requiring Submission of Documents)* for the instant case. Months later, the defendant filed a *Motion to Dismiss* citing the plaintiff's failure to comply with the previous court *Order*. The Court granted this request and dismissed the case.

#### **APRIL 3, 2003**

*Faye Begay v. Jean Day, HCN Department of Education, Greg Garvin, HCN Office of the*

*President*, CV 03-09 *Scheduling Order* (HCN Tr. Ct., Apr. 3, 2003). (Bossman, W).

The Court issued this *Scheduling Order* to establish dates and deadlines up to and including trial.

#### **APRIL 4, 2003**

*Jenna C. Littlegeorge v. HCN Office of Tribal Enrollment*, CV 03-06 *Stipulation and Order for Dismissal* (HCN Tr. Ct., Apr. 4, 2003). (Bossman, W).

The parties agreed to request a dismissal of this case concerning the potential removal of the petitioner from tribal rolls. The Court granted this request. The HCN Office of Enrollment may choose to reinstitute proceedings, thereby allowing the petitioner to renew her appeal in this Court.

#### **APRIL 7, 2003**

*Majestic Pines Hotel, a division of the Ho-Chunk Nation v. Thunderhawk L. Decorah*, CV 03-22 *Order (Default Judgment)* (HCN Tr. Ct., Apr. 7, 2003). (Matha, T).

The plaintiff requested funds from the per capita of the defendant for repayment of a bill incurred during the defendant's stay. The laws of the Nation permit the garnishment of per capita for debts incurred to the Nation and its agencies. The respondent failed to respond within the appropriate time frame. The Court granted the request.

#### **APRIL 9, 2003**

*Ho-Chunk Nation Department of Housing, Property Management Division v. Lewis Frogg*, CV 02-59 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Apr. 9, 2003). (Matha, T).

The Court entered an *Order* requiring the defendant to pay the plaintiff the money he owed. The plaintiff filed a *Satisfaction of Judgment* with the Court indicating payment in full. The Court accepted proof of the payment and closed the case.

*Ho-Chunk Nation Department of Housing, Property Management Division v. Larry Fanning*, CV 02-60 *Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Apr. 9, 2003). (Matha, T).

The Court entered an *Order* requiring the defendant to pay the plaintiff the money he owed. The plaintiff filed a *Satisfaction of Judgment* with the Court indicating payment in full. The Court accepted proof of the payment and closed the case.

*Ho-Chunk Nation Department of Housing, Property Management Division v. Angela Greendeer and Nicole Skenandore, CV 02-61 Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Apr. 9, 2003). (Matha, T).

The Court entered an *Order* requiring the defendants to pay the plaintiff the money they owed. The plaintiff filed a *Satisfaction of Judgment* with the Court indicating payment in full. The Court accepted proof of the payment and closed the case.

**APRIL 16, 2003**

*Ho-Chunk Housing Authority v. Henrietta Funmaker, CV 02-104 Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., Apr. 16, 2003). (Bossman, W).

The Court entered an *Order* requiring the defendant to pay the plaintiff the money she owed. The plaintiff filed a *Satisfaction of Judgment* with the Court indicating payment in full. The Court accepted proof of the payment and closed the case.

*Ho-Chunk Nation Department of Housing, Property Management Division v. Douglas and Alison Red Eagle, CV 03-13 Order (Default Judgment)* (HCN Tr. Ct., Apr. 16, 2003). (Bossman, W).

The plaintiff requested funds from the defendants' per capita for repayment of monies owed. The laws of the Nation allow for garnishment of per capita for debts owed to the Nation and its agencies. The defendants failed to respond in a timely manner. The Court granted the request of the plaintiff.

**APRIL 17, 2003**

*Troy S. Westphal v. Bally Gaming, Inc., Ho-Chunk Nation and Ho-Chunk Casino, CV 02-75 Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Apr. 17, 2003). (Matha, T).

Plaintiff's counsel requested to appear by telephone for the next proceeding. The Court granted this request.

**APRIL 18, 2003**

*Vaughn Pettibone v. HCN Election Bd. and Michelle Decorah (HCN Election Board Chairperson) in her representative capacity, HCN Office of the President and Troy Swallow (HCN President) in his representative capacity, and Ho-*

*Chunk Nation, CV 03-17 Order (Motion Hearing)* (HCN Tr. Ct., Apr. 18, 2003). (Bossman, W).

The plaintiff filed a *Motion* requesting a restraining order. The defendant filed a *Motion to Amend the Complaint*. The Court granted a *Hearing* to allow the parties to argue their *Motions*.

*Troy S. Westphal v. Ho-Chunk Nation and Ho-Chunk Casino, CV 02-75 Order (Motion Hearing)* (HCN Tr. Ct., Apr. 18, 2003). (Matha, T).

The Court scheduled a *Status Hearing* to deal with the *Motion to Dismiss* filed in the instant case and other numerous procedural questions. In this decision, the Court set deadlines for each side prior to the next *Hearing*. Oral arguments shall be entertained at the *Hearing*.

**APRIL 25, 2003**

*Joseph E. Decorah v. Ho-Chunk Nation and Ho-Chunk Casino, CV 02-47 Judgment (for Defendants)* (HCN Tr. Ct., Apr. 25, 2003). (Bossman, W).

The plaintiff filed with the Court in protest of his demotion with the Ho-Chunk Casino. He requested reinstatement and lost wages. The defendants presented evidence of misconduct to support the demotion. Based upon violations of the PERSONNEL MANUAL, the Court granted *Judgment* for the defendants.

**APRIL 29, 2003**

*Harry J. Cholka v. Ho-Chunk Casino, CV 02-116 Order (Motion Hearing)* (HCN Tr. Ct., Apr. 29, 2003). (Bossman, W).

The defendant filed a *Motion to Dismiss* in the instant case. The Court shall grant a *Hearing* to allow the defendant a forum to argue the *Motion*. The Court issued this Order setting the framework and timelines surrounding the *Motion Hearing*.

**MAY 2, 2003**

*Majestic Pines Hotel, a division of the Ho-Chunk Nation v. Edith Bass, CV 03-29 Order (Default Judgment)* (HCN Tr. Ct., May 2, 2003). (Bossman, W).

The plaintiff requested repayment for monies owed. The defendant failed to respond within the appropriate time frame. The Court granted the plaintiff's request.

**MAY 5, 2003**

*Ho-Chunk Housing Authority v. Ronald D. Martin*, CV 03-06 *Temporary Restraining Order* (HCN Tr. Ct., May 5, 2003). (Bossman, W).

The plaintiff requested that the Court restrain the defendant from entering the building grounds due to violations and potential damage. The Court granted the request. A *Show Cause Hearing* is scheduled to determine whether such remedy should continue.

**MAY 6, 2003**

*Pamela K. Snowball v. Ho-Chunk Nation, HCN Education Department Head Start Program, Laurel Sackett-Meek, Ann Dehmer*, CV 02-119 *Order (Amending Scheduling Order)* (HCN Tr. Ct., May 6, 2003). (Bossman, W).

The Court issued this *Amended Scheduling Order* to establish new dates and deadlines for the instant case up to and including trial.

**MAY 7, 2003**

*Kristin K. WhiteEagle v. Amory Decorah and Ho-Chunk Casino*, CV 03-11 *Order (Dismissal with Prejudice)* (HCN Tr. Ct., May 7, 2003). (Bossman, W).

The defendants requested that the Court dismiss the instant case. The plaintiff filed a similar response stating that she no longer wished to pursue the action. The Court granted the dismissal.

*Tammy J. Ross v. Ho-Chunk Nation*, CV 03-20 *Scheduling Order* (HCN Tr. Ct., May 7, 2003). (Bossman, W).

The Court issued the *Scheduling Order* to establish dates and deadlines in the instant case up to and including trial.

*Vaughn Pettibone v. HCN Election Board, Michelle Decora, as Election Board Chairperson, and Troy Swallow, as HCN President*, CV 03-17 *Scheduling Order* (HCN Tr. Ct., May 7, 2003). (Bossman, W).

The Court issued the *Scheduling Order* to establish dates and deadlines in the instant case up to and including trial.

*Janette Smoke v. Steve Garvin, in the capacity of Table Games Manager, Majestic Pines Casino and Ho-Chunk Nation*, CV 01-97 *Order (Final Judgment)* (HCN Tr. Ct., May 7, 2003). (Matha, T).

The issue in this case was whether the defendants had enacted and implemented the Unit Operating Rules in a manner that violated the PERSONNEL MANUAL. The defendants attempted to characterize the rules in question as a mechanism for scheduling job time only. The defendants asserted that these rules were not Unit Operating Rules. If they were considered such, the defendants asserted that these rules did not require approval by the Personnel Board of Directors. The Court insisted that these rules were Unit Operating Rules. In addition, the PERSONNEL MANUAL insists that such rules must not contradict anything in the MANUAL itself. The PERSONNEL ORGANIZATION ACT and the MANUAL must be read together. The PERSONNEL ORGANIZATION ACT decrees that the Personnel Board of Directors must approve Unit Operating Rules. Therefore, failure to do so results in a violation of the PERSONNEL MANUAL.

*Ho-Chunk Nation Department of Housing, Property Management Division v. Cyndi Mann*, CV 03-26 *Order (Dismissal without Prejudice)* (HCN Tr. Ct., May 7, 2003). (Bossman, W).

The petitioner requested that the Court dismiss the case. The defendant had no response. The Court granted the request.

**Juvenile****MARCH 31, 2003**

*In the Interest of Minor Children: J.G.G., DOB 01/12/89, T.P.G., DOB 03/09/90, JV 02-22-23 Six Month Review Hearing* (HCN Tr. Ct., Mar. 31, 2003). (Bossman, W).

The Court conducted the *Hearing* to review the case and determine if further Court intervention is needed.

*In the Interest of Minor Children: K.B.M., 10/29/93, G.E.M., DOB 08/25/95, A.D.M., DOB 04/25/97, L.A.M., DOB 12/16/00, JV 03-07-10 Order (Entrance of Plea)* (HCN Tr. Ct., Mar. 31, 2003). (Bossman, W).

The Court convened this *Hearing* to allow the parents to contest the allegations.

**APRIL 2, 2003**

*In the Interest of Minor Child: R.W.H., DOB 04/13/01 JV 01-09 Order (Appointment of*

*Temporary Guardian*) (HCN Tr. Ct., Apr. 2, 2003). (Matha, T).

The Court appointed a temporary guardian for the minor child.

*In the Interest of Minor Child: R.W.H., DOB 04/13/01, JV 01-09 Order (Appointment of Guardian ad Litem)* (HCN Tr. Ct., Apr. 2, 2003). (Matha, T).

The Court appointed Attorney William Gardner as the *Guardian ad Litem* for the instant case.

#### **APRIL 14, 2003**

*In the Interest of Minor Child: K.H., DOB 07/07/84, 92-CU-10 Order (Modification of Child Support)* (HCN Tr. Ct., Apr. 14, 2003). (Bossman, W).

The Court had previously granted child support in the instant case. The Court now modifies that support to reflect the change in circumstances.

#### **APRIL 17, 2003**

*In the Interest of Minor Child: M.S.B., DOB 09/14/99, JV 03-02 Order (Request to Review Juvenile Files)* (HCN Tr. Ct., Apr. 17, 2003). (Bossman, W).

The Court granted the request of the GAL to review the files for the case.

#### **MAY 1, 2003**

*In the Interest of Minor Child: J.J.F., DOB 11/07/00, JV 02-27 Order (Formal Hearing)* (HCN Tr. Ct., May 1, 2003). (Bossman, W).

The Court issued this decision to illuminate the details of the case disposition.



## **Supreme Court**

#### **APRIL 8, 2003**

*Robert A. Mudd v. HCN Legislature, Elliott Garvin, Clarence Pettibone, Tracy Thundercloud, Wade Blackdeer, Dallas Whitewing, Gerald Cleveland, Sr., Christine Romano, Myrna Thompson, George Lewis, Kathyleen Whiterabbit and Sharyn*

*Whiterabbit, SU 03-02 Decision* (HCN S. Ct., Apr. 8, 2003).

The petitioner had argued before the Trial Court that the implementation of the current reapportionment plan violated the Nation's Constitution. The petitioner asserted that the culmination of redistricting/reapportionment should have taken place six (6) months prior to the constitutionally mandated election. The Supreme Court asked whether the Trial Court abused its discretion by finding in favor of the plaintiff and misinterpreting the laws of the Nation. The Supreme Court did not find an abuse of discretion for the Trial Court's ruling on the plaintiff's standing to sue. However, the Court disagreed with the Trial Court's characterization of the elements in question within the Constitution. The Supreme Court asserted that the redistricting/reapportionment structure created and implemented for the Election Board was not unconstitutional.

#### **APRIL 15, 2003**

*Rae Anna Garcia v. Joan Greendeer Lee et al., SU 03-01 Notice of Extension* (HCN S. Ct., Apr. 15, 2003).

The Court issued this *Notice* to remind parties of the extension of time given to produce a decision concerning the instant case.

#### **APRIL 23, 2003**

*In the Interest of Minor Child, C.Y.B., DOB 05/04/92, by Charles A. Brown v. HCN Office of Tribal Enrollment, SU 03-03 Scheduling Order* (HCN S. Ct., Apr. 23, 2003).

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case.

#### **APRIL 30, 2003**

*Rae Anna Garcia v. Joan Greendeer Lee et al., SU 03-01 Decision* (HCN S. Ct., Apr. 30, 2003).

The plaintiff asserted a grievance against her employer for its refusal to permit her to take Wąkşik Wošga Leave for an event with the Jehovah's Witness' congregation. The plaintiff asserted that this action violated her right to free exercise of religion. The appellees asserted that the appellant had a right to exercise her religion, but not be paid for leaving work to attend such a function. The Trial Court below had agreed with the view of the appellees and granted summary judgment. The

plaintiff appealed to this Court and reasserted her argument, insisting that the Trial Court decision was in error. The Supreme Court asserted that the Trial Court did not abuse its discretion or improperly apply the laws of the Nation. The Court did not discuss the equal protection issues involved with this matter as the appellant could not be allowed to amend her pleadings and have the Court review an argument or point of law that was never addressed previously by the Trial Court in its case below. Thus, the Court affirmed the lower court ruling.

## Recent Filings

### Trial Court

#### Civil Garnishment

**APRIL 1, 2003**

*M & I Marshall & Ilsey v. Laverda F. Richter*, CG 03-25. (Bossman, W).

**APRIL 3, 2003**

*Creditor Recovery Service v. Daniel Downing*, CG 03-26. (Bossman, W).

*Creditor Recovery Service v. Ivory Kelly*, CG 03-27. (Bossman, W).

*Creditor Recovery Service v. Kevin Kniprath*, CG 03-28. (Bossman, W).

**APRIL 8, 2003**

*State Collection Services v. Charles Stands*, CG 03-29. (Matha, T).

**APRIL 10, 2003**

*Creditor Recovery Service v. Eugene Topping, Jr.*, CG 03-30. (Matha, T).

**APRIL 25, 2003**

*Northland Cranberries, Inc., v. Michael P. Zenner*, CG 03-31. (Matha, T).

*State Collection Service v. Vicki Browneagle*, CG 03-32. (Matha, T).

**APRIL 30, 2003**

*Check Advance v. Jesse Linhart*, CG 03-33. (Bossman, W).

**MAY 7, 2003**

*Drs. Delebo, Overman, Hegna & Reich v. Christine Brown*, CG 03-34. (Matha, T).

*Drs. Delebo, Overman, Hegna & Reich v. Brook A. Warrington*, CG 03-35. (Matha, T).

*Drs. Delebo, Overman, Hegna & Reich v. Allen Bailey*, CG 03-36. (Matha, T).

*Drs. Delebo, Overman, Hegna & Reich v. Gale S. White*, CG 03-37. (Matha, T).

#### Child Support

**APRIL 1, 2003**

*State of Wisconsin v. Wilfrid Cleveland*, CS 03-19. (Bossman, W).

**APRIL 2, 2003**

*State of Wisconsin v. Charles D. Hindsley*, CS 03-20. (Bossman, W).

*State of Wisconsin v. William Collins*, CS 03-21. (Bossman, W).

**APRIL 8, 2003**

*Melissa K. Johnson v. David A. Whiteeagle*, CS 03-22. (Matha, T).

**APRIL 23, 2003**

*Deana M. Quade v. Ronald W. Quade*, CS 03-23. (Matha, T).

**APRIL 30, 2003**

*Nancy Nga Thaxh Mai Swallow v. Troy Swallow*, CS 03-24. (Bossman, W).

*State of Wisconsin v. Jose E. Ortiz*, CS 03-25. (Bossman, W).

**MAY 6, 2003**

*County of Pine/Naomi J. Harris v. Terry L. Gourd*, CS 03-26. (Matha, T).

#### Civil Cases

**APRIL 1, 2003**

*Majestic Pines Hotel v. Jeremy Samstad*, CV 03-28. (Bossman, W).

**APRIL 2, 2003**

*Majestic Pines Hotel v. Edith Bass*, CV 03-29. (Bossman, W).

**APRIL 8, 2003**

*In the Interest of Minor Child: T.D.*, DOB 04/10/88, by David Lavy v. HCN Office of Tribal Enrollment, CV 03-30. (Matha, T).

*In the Interest of Minor Child: N.J.L.*, DOB 09/24/85, by Sarah Littlegeorge v. HCN Office of Tribal Enrollment, CV 03-31. (Matha, T).

**APRIL 14, 2003**

*Majestic Pines, a division of the Ho-Chunk Nation v. James Bugni et al.*, CV 03-32. (Bossman, W).

**APRIL 17, 2003**

*Ho-Chunk Nation v. Jess Steindorf*, CV 03-33. (Bossman, W).

**APRIL 29, 2003**

*Vincent R. Hernandez v. Ho-Chunk Casino*, CV 03-34. (Bossman W).

**APRIL 30, 2003**

*In the Interest of Adriene Littlebear*, DOB 04/06/85 v. HCN Office of Tribal Enrollment, CV 03-35. (Bossman, W).

**MAY 1, 2003**

*Ho-Chunk Housing Authority v. Ronald D. Martin*, CV 03-36. (Bossman, W).

**Juvenile Cases****APRIL 1, 2003**

*In the Matter of D.S.S.*, DOB 07/12/99, JV 03-15. (Bossman, W).

**APRIL 23, 2003**

*In the Matter of D.A.F.*, DOB 09/16/88, JV 03-16. (Matha, T).

*In the Matter of K.V.F.*, DOB 01/15/90, JV 03-17. (Matha, T).

**SUPREME COURT****APRIL 11, 2003**

*In the Interest of Minor Child: C.Y.B.*, DOB 05/04/92, by Charles A. Brown v. HCN Office of Tribal Enrollment, SU 03-03.

**ALBUQUERQUE** Cont'd

As the conference continued, speakers illuminated the crowd with strategies for advancing the causes of all tribes. Henry M. Buffalo, Jr. discussed the implementation of the Self-Determination and Self-Governance Acts.<sup>5</sup> The creation of the Indian Self-Determination Act allowed tribes to contract with the federal government for programs that the tribe would operate independently. The Self-Governance Act allowed tribes to create fully realized self-governance compacts with the Secretary of the Interior. The added benefit of these compacts came in the guise of funding or block grants that the government would transfer to the tribes for operations. In analyzing the success of each act's implementation, Mr. Buffalo noted some issues that have arisen that could complicate the overall success. First, he asserted that the scope of these programs has become a contested issue between the federal government and the participating tribes. In the beginning stages of these acts, the feeling of paternalism on the part of the BIA created a level of resentment and the idea that the federal government did not trust the tribes to govern themselves. Furthermore, leaders disagreed over the definition of self-determination, thereby causing contention over how the tribal programs should operate. According to Mr. Buffalo, tribal leaders have developed new oversight mechanisms to address these problems while maintaining the quality of the services provided. In addition, budgetary concerns still plague these agreements as both sides argue over which of them shall pay the majority of the expenses. Also, litigation has become a large indirect cost to tribes that many fear paying for with discretionary funds. In conclusion, Mr. Buffalo stated that an analysis of the overall process appears inconclusive. While full self-determination has not yet occurred, such an incident could compromise

<sup>5</sup> 25 U.S.C. §§ 450, 458.

the trust responsibility. In the meantime, tribes continue to hold the government responsible for its duties under the trust doctrine.

While many other speakers addressed additional concerns such as water rights, not every presentation could be discussed in detail in this forum. The rest of the conference was punctuated with guest speakers and some relaxation time. The conference is not only a time to study the recent trends in Indian Law, but meet and greet familiar faces. Many guests were treated to the annual barbeque held at the Los Amigos Stables. I would also like to take this opportunity to say pinagigi to all the speakers for their presentations. I hope to see everyone next year at the conference.

**HO-CHUNK NATION COURT SYSTEM  
JUDICIARY AND STAFF**

Supreme Court—Mary Jo B. Hunter, Chief Justice

Mark D. Butterfield, Associate Justice

Jo Deen B. Lowe, Associate Justice

Traditional Court—Wallace Blackdeer

Donald Blackhawk

Dennis Funmaker

Orville Greendeer

Douglas Greengrass

Owen Mike

Gavin Pettibone

Douglas Red Eagle

Preston Thompson, Jr.

Eugene Thundercloud

Morgan White Eagle

Clayton Winneshiek

Trial Court—William H. Bossman, Chief Judge

Todd R. Matha, Associate Judge

Clerk of Court, Supreme Court—Bryan Dietzler

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—Rebecca Tavares

Office of Public Advocacy—Dennis Funmaker, Administrator

\* The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

WISCONSIN TRIBAL JUDGES ASSOCIATION  
(Eleven federally recognized tribes within the State of Wisconsin)

NATIVE AMERICAN INDIAN COURT JUDGES ASSOCIATION  
(Region 5—Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, South Dakota, North Dakota, and Wisconsin)

**HCN Court System Fee Schedule**

- Filing Fees . . . . . \$50.00\*  
\*With the exception of petitions to register child support orders – this fee remains at \$20.00 as previously ordered by the Supreme Court.

Note: Filing Fee now includes *Summons* fee.

- Filing Fees for *Petitions to Register and Enforce Foreign Judgment/ Order*. . . . . \$20.00

- 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
- 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.

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).





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Judiciary and Staff
- 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](http://www.ho-chunknation.com/government/courts.htm)

Hours of Operation: Monday through Friday  
(except holidays) 8 A.M. – 4:30 P.M.

# HO-CHUNK NATION COURT BULLETIN

## CONSTRUCTION UPDATE!



Once again, the Court would like to take this opportunity to update all interested parties on the progress of the new Court Building's construction. The construction began in March with the site layout and the stripping/excavation portion of the project. In April, Olympic Builders, the construction crew working on the new building, began implementing the next phase of construction by preparing the footing and foundation. The power lines and plumbing were located and structured according to the plans from the architect, Mr. Greg Cashman. In May and June, the crew brought in the structural steel and roofing. The crew erected the steel and roofing, and progress began on pouring the slab. Anyone looking at the Courthouse now cannot miss the large building beside it that is slowly taking shape. As the crew pours the slab on the site, greater structural details will become noticeable. The crew should begin the drywall and electrical work within a month, adding windows and brick work shortly thereafter.



Our Staff Attorney takes some time to play in the dirt.



Olympic Builders constructs the archive section of the new building.



The structural steel arrives as the new building takes form.



Judge Matha surveys the transition of the land.



With the steel in place, workers can begin roofing.



Holding on for dear life, or just hanging around?



On June 11, 2003, Olympic Builders began pouring the slab for the court building's foundation.



Olympic Builders survey the project and continue to fine-tune the construction.



Photo taken June 11, 2003.



The circular section will become the Traditional Court.

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# Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and categorized 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 Garnishment (CG), 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 that 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.

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## Trial Court

### Child Support

**MAY 7, 2003**

*State of Wisconsin v. Vern E. WhiteEagle*, CS 03-14 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., May 7, 2003). (Bossman, W).

The petitioner filed a *Petition to Recognize and Enforce a Foreign Child Support Order* on April 10, 2003. The respondent failed to respond within the twenty (20) days allotted for an original response. The Court granted the petitioner's request.

**MAY 8, 2003**

*Michelle L. Mountain v. Curtis W. Cloud*, CS 01-34 *Order (Releasing Impound)* (HCN Tr. Ct., May 8, 2003). (Matha, T).

On April 18, 2003, Juneau County informed the Court of the suspension of the respondent's child support obligation. The Court impounded the disputed funds and gave the petitioner ten (10) days to respond. The petitioner failed to respond, and the Court released the funds to the respondent.

**MAY 13, 2003**

*Carol Jo Garvin v. George W. Garvin*, CS 98-56 *Order (Designation of Filing)* (HCN Tr. Ct., May 13, 2003). (Matha, T).

The petitioner filed a *Petition to Register and Enforce a Foreign Judgment for Child Support*. Since the Court already had a case file in this action, the new filing was designated a formal *Motion*. Consequently, the Court rendered this *Order* to inform the respondent of his rights under the law.

**MAY 29, 2003**

*State of Wisconsin v. Wilfrid Cleveland*, CS 03-19 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., May 29, 2003). (Bossman, W).

The petitioner requested that the Court recognize and enforce a foreign child support order. This particular request dealt with wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*State of Wisconsin v. Wilfrid Cleveland*, CS 03-19 *Default Judgment (Enforcing Child Support Against Per Capita Distribution)* (HCN Tr. Ct., May 29, 2003). (Bossman, W).

The petitioner requested that the Court recognize and enforce a foreign child support order. This particular request dealt with per capita. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*Nancy Nga Thanh Mai Swallow v. Troy E. Swallow*, CS 03-24 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., May 29, 2003). (Bossman, W).

The petitioner requested that the Court recognize and enforce a foreign child support order. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**JUNE 4, 2003**

*Carol Jo Garvin v. George W. Garvin*, CS 98-56, CV 01-27 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., June 4, 2003). (Matha, T).

The Court had to determine whether to enforce a foreign child support order against the respondent. The respondent failed to respond within the specified time frame. The Court granted the requests of the petitioner in part.

**Civil Garnishment****MAY 5, 2003**

*Creditor Recovery Service, LLC, Agent for Wood County Telephone Company v. Eugene Topping, Jr.*, CG 03-30 *Order (Default Judgment)* (HCN Tr. Ct., May 5, 2003). (Matha, T).

The petitioner requested that the Court enforce a *Judgment* against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**MAY 14, 2003**

*Savings Financial Corporation v. Julie Ann Mavis*, CG 03-20 *Order (Default Judgment)* (HCN Tr. Ct., May 14, 2003). (Bossman, W).

The petitioner requested that the Court recognize and enforce a foreign judgment. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**MAY 15, 2003**

*Krohn Clinic v. Tracy L. Irvin*, CG 03-21 *Order (Default Judgment)* (HCN Tr. Ct., May 15, 2003). (Bossman, W).

The petitioner requested that the Court recognize and enforce a foreign judgment. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**MAY 19, 2003**

*State Collection Service v. Vicki Browneagle*, CG 03-32 *Order (Default Judgment)* (HCN Tr. Ct., May 19, 2003). (Matha, T).

The petitioner requested that the Court recognize and enforce a foreign judgment. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**MAY 29, 2003**

*Drs. Delebo, Overman, Hegna & Reich v. Gale S. White*, CG 03-37 *Order (Default Judgment)* (HCN Tr. Ct., May 29, 2003). (Matha, T).

The petitioner requested that the Court recognize and enforce a foreign judgment. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*Drs. Delebo, Overman, Hegna & Reich v. Allen Bailey*, CG 03-36 *Order (Default Judgment)* (HCN Tr. Ct., May 29, 2003). (Matha, T).

The petitioner requested that the Court recognize and enforce a foreign judgment. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*Drs. Delebo, Overman, Hegna & Reich v. Brooke A. Warrington*, CG 03-35 *Order (Default Judgment)* (HCN Tr. Ct., May 29, 2003). (Matha, T).

The petitioner requested that the Court recognize and enforce a foreign judgment. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

*Drs. Delebo, Overman, Hegna & Reich v. Christine Brown*, CG 03-34 *Order (Default Judgment)* (HCN Tr. Ct., May 29, 2003). (Matha, T).

The petitioner requested that the Court recognize and enforce a foreign judgment. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**MAY 30, 2003**

*State Collection Services v. Joseph D. Schumacher*, CG 03-14 *Order (Default Judgment)* (HCN Tr. Ct., May 30, 2003). (Matha, T).

The petitioner requested that the Court recognize and enforce a foreign judgment. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request.

**JUNE 3, 2003**

*Creditor Recovery Service LLC, Agent for Immanuel Lutheran School v. Lynn M. McGrath*, CG 03-28 *Order (Default Judgment)* (HCN Tr. Ct., June 3, 2003). (Bossman, W).

The petitioner requested that the Court recognize and enforce a foreign judgment. The respondent

failed to respond within the specified time frame. The Court granted the petitioner's request.

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

**APRIL 28, 2003**

*In the Matter of the Children: L.G.B., DOB 03/30/89, C.A.B., DOB 08/26/90, by Tari Lynn Pettibone v. HCN Office of Tribal Enrollment, CV 01-136 Order (Granting Additional Funds) (HCN Tr. Ct., Apr. 28, 2003). (Bossman, W).*

The Court released funds for orthodontics on December 21, 2001. On April 23, 2002, the petitioner filed an appropriate accounting. The petitioner requested further funds for ongoing orthodontic care. The Court granted the request.

**MAY 8, 2003**

*In the Interest of Minor Child: N.E.W., DOB 04/06/88, by Marlene A. Hopinkah v. HCN Office of Tribal Enrollment, CV 02-100 Order of Dismissal (HCN Tr. Ct., May 8, 2003). (Bossman, W).*

The petitioner initiated the action by filing a *Petition for Release of Per Capita Distribution* on October 9, 2002. Subsequently, the Court rendered an *Order (Requiring Submission of Documents)* on November 21, 2002. The plaintiff failed to comply with the Court's Order, thereby allowing the Court to dismiss the case.

**MAY 9, 2003**

*In the Interest of Decedent: Louella Jean Blackdeer, DOB 07/01/84, by Lani Blackdeer v. HCN Office of Tribal Enrollment, CV 02-09 Order (Releasing CTF Funds to the Estate) (HCN Tr. Ct., May 9, 2003). (Matha, T).*

On May 9, 2003, the Personal Representative of the estate informed the Court that funds had accumulated in the account of the deceased. The representative requested the release of these funds to the estate. The Court complied with the request.

**MAY 13, 2002**

*In the Interest of Minor Child: B.L.W., DOB 03/14/90, by Lanette Walker v. HCN Office of Tribal Enrollment, CV 02-109 Order (Accepting Accounting) (HCN Tr. Ct., May 13, 2003). (Bossman, W).*

The Court released funds from the minor's CTF account for orthodontics on November 21, 2002. *See Order (Granting Petition), CV 92-109 (HCN*

*Tr. Ct., Nov. 21, 2002).* The petitioner provided the Court with receipts confirming the use of funds on May 9, 2003. The Court accepts this accounting and closes the case.

**MAY 19, 2003**

*In the Interest of Minor Child: N.J.L., DOB 09/24/85, by Sarah Littlegeorge v. HCN Office of Tribal Enrollment, CV 03-31 Order (Petition Granted) (HCN Tr. Ct., May 19, 2003). (Matha, T).* The petitioner requested funds for the home schooling of the minor child. The Court used its four-part test to determine whether to release the funds for such purposes. The Court granted the request.

**MAY 29, 2003**

*In the Interest of the Minor Children: S.C.M.J., DOB 06/25/92, D.M.J., DOB 12/17/98, by Gregory Charles Johnson v. HCN Office of Tribal Enrollment, CV 02-97 Order (Accepting Accounting) (HCN Tr. Ct., May 29, 2003). (Bossman, W).*

The Court released funds for the minor children for clothing. *See Order (Granting Petition in Part) (HCN Tr. Ct., Apr. 4, 2003).* On May 28, 2003, the petitioner filed an accounting confirming the use of funds. The Court accepts this accounting and closes the case.

**MAY 30, 2003**

*In the Interest of Minor Children: J.M.M., DOB 03/03/88, C.M., DOB 04/29/92, by Becky Manuell v. HCN Office of Tribal Enrollment, CV 03-39 Order (Petition Granted) (HCN Tr. Ct., May 30, 2003). (Bossman, W).*

The petitioner requested funds from the minors' CTF accounts for orthodontics. The respondent had no objection to the request. The Court granted the request.

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

**MAY 2, 2003**

*In the Interest of Lucinda V. Littlesoldier, DOB 02/16/49, by Isabelle Mallory v. HCN Office of Tribal Enrollment, CV 00-106 Order (Finding of Contempt) (HCN Tr. Ct., May 2, 2003). (Bossman, W).*

On September 19, 2002, the Court released funds from the account of the aforementioned person.

The Court made two formal written reminders indicating that the petitioner must provide a documented accounting of all expenditures. Due to the petitioner's failure to comply with the Court's formal written requests, the Court convened a *Show Cause Hearing* on May 2, 2003. The petitioner could not adequately account for the expenditures nor her failure to comply with previous requests. The Court found her in contempt and issued a fine payable through per capita.

**MAY 8, 2003**

*In the Interest of Norma Whitebear, DOB 02/17/24, by Cecelia Rave v. HCN Office of Tribal Enrollment, CV 01-125 Order (Granting Release of ITF Funds)* (HCN Tr. Ct., May 8, 2003). (Bossman, W).

The petitioner requested a release of ITF funds for utility bills. The respondent had no objection to such a request. The Court granted the request.

**MAY 9, 2003**

*In the Interest of Mary Lou Blackdeer, DOB 11/18/30, by Shari Marg v. HCN Office of Tribal Enrollment, CV 01-85 Order (Accepting Accounting)* (HCN Tr. Ct., May 9, 2003). (Matha, T).

The Court released funds the petitioner for Christmas. On May 7, 2003, the petitioner submitted a payment history. In addition, the ITF petitioner has now been declared competent. The Court now closes the case.

**CIVIL CASES (ALL CATEGORIES)**

**MAY 7, 2003**

*Ho-Chunk Nation Department of Housing, Property Management Division v. Cyndi Mann, CV 03-26 Order (Dismissal without Prejudice)* (HCN Tr. Ct., May 7, 2003). (Bossman, W).

The petitioner requested that the Court dismiss the case. The defendant had no response. The Court granted the request.

*Ho-Chunk Nation Department of Housing, Property Management Division v. Kerry M. Funmaker, Sr., CV 03-14 Order (Dismissal Without Prejudice)* (HCN Tr. Ct., May 7, 2003). (Bossman, W).

On February 17, 2003, the plaintiff filed a *Complaint* with the Court. On March 27, 2003, the

plaintiff filed a *Motion to Dismiss*. The Court grants the request.

**MAY 8, 2003**

*Ho-Chunk Nation Department of Housing, Property Management Division v. Ellen Lewis, CV 01-82 Order (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., May 8, 2003). (Bossman, W). On December 21, 2001, the Court issued a judgment in favor of the plaintiff. *See Order* (HCN Tr. Ct., Dec. 21, 2001). The plaintiff filed a *Satisfaction of Judgment* on April 3, 2003. The Court recognizes the debt is paid in full and closes the case.

*Majestic Pines Hotel, Division of the Ho-Chunk Nation v. Troy Whiteagle, CV 02-103 Notice (Satisfaction of Judgment and Intent to Close)* (HCN Tr. Ct., May 8, 2003). (Bossman, W).

On January 17, 2003, the Court entered a decision in favor of the plaintiff. *See Judgment* (HCN Tr. Ct., Jan. 17, 2003). On March 7, 2003, the plaintiff filed a *Satisfaction of Judgment* with the Court. The Court acknowledges the payment of the debt and closes the case.

*Dallas R. Whitewing v. HCN Ethics Review Board and Clarence Pettibone, Interim President and an Official of the Ho-Chunk Nation in His Individual Capacity, CV 01-32 Order of Dismissal* (HCN Tr. Ct., May 8, 2003). (Bossman, W).

On February 18, 2003, the defendants requested a dismissal of the instant case. The defendants cited a lack of activity from the plaintiff for a period of greater than six (6) months as their grounds for the request. The Court granted the request.

**MAY 9, 2003**

*Ho-Chunk Housing Authority v. Harriet M. Hopinkah, CV 02-108 Order (Default Judgment)* (HCN Tr. Ct., May 9, 2003). (Bossman, W).

The Court had to determine whether to grant the request of the plaintiff seeking monetary damages against the defendant. The defendant did not respond within the specified time frame. The Court granted the request.

**MAY 15, 2003**

*Natallia Tyschanka v. Ho-Chunk Nation, CV 02-51 Order (Granting Defendant's Motion for Summary*

*Judgment*) (HCN Tr. Ct., May 15, 2003). (Matha, T).

The plaintiff initiated this action claiming improper termination regarding the expiration of her resident alien employment authorization. In order to maintain employment within the United States, an alien must present valid employment authorization. The plaintiff failed to comply with the requirements of reauthorization. Without valid authorization, the Nation cannot legally continue employment of an alien.

**MAY 16, 2003**

*Harry Cholka v. Ho-Chunk Casino*, CV 02-116 *Order (Denying Motion to Dismiss)* (HCN Tr. Ct., May 16, 2003). (Bossman, W).

The plaintiff asserts that he was improperly denied a position at the Ho-Chunk Casino. The defendant requested that the Court dismiss the action on the grounds of timeliness. The Court denied the request.

*Charles L. Stands v. Stephanie Lewis*, CV 03-03 *Order* (HCN Tr. Ct., May 16, 2003). (Bossman, W).

The Court convened a *Scheduling Conference* on May 16, 2003. The plaintiff did not attend. The plaintiff now has twenty (20) days to contact the Court and request a rescheduling.

*Karen Whiteeagle v. Chris Straight, Director of Planning, Nancy Watenphul, Senior Planner, William Lowe, Executive Director of Administration, Greg Garvin, Executive Administration Officer and Troy Swallow, President of the Ho-Chunk Nation*, CV 03-19 *Order (Dismissal with Prejudice)* (HCN Tr. Ct., May 16, 2003). (Matha, T).

On May 2, 2003, the plaintiff requested that the Court dismiss the instant case with prejudice. The Court granted this request. The plaintiff may not re-file this action.

*Pamela K. Snowball v. Ho-Chunk Nation, HCN Education Department Head Start Program, Laurel Sackett-Meek, Head Start Director, in her Official and Individual Capacities, and Ann Dehmer, HoChunkgra Head Start Center Director/Lead Teacher, in her Official and Individual Capacities,*

CV 02-119 *Stipulation and Order to Amend Scheduling Order* (HCN Tr. Ct., May 16, 2003). (Bossman, W).

The parties agreed to change the deadlines and dates established in the instant case. The Court agreed with the proposal and amended the *Scheduling Order*.

**MAY 19, 2003**

*Ho-Chunk Nation v. Bank of America, N.A.*, CV 02-93 *Order (Denying Motion to Dismiss)* (HCN Tr. Ct., May 19, 2003). (Bossman, W).

The defendant filed a *Motion to Dismiss* the instant case. The parties referred to several sections contained within a contract agreement concerning choice of law provisions and jurisdiction. The defendant insisted that the jurisdiction section limited jurisdiction and venue to several specific courts exclusively. The plaintiff insisted that such jurisdictional questions were not limited to certain courts exclusively when considered in conjunction with several other provisions of the contract. After reading the contract in its entirety, and looking at all provisions within the agreement, both discarded and included, the Court was persuaded by the plaintiff. The Court denied the request.

**MAY 29, 2003**

*Ho-Chunk Housing Authority v. Jackie Henneha*, CV 02-106 *Order to Dismiss without Prejudice* (HCN Tr. Ct., May 29, 2003). (Matha, T).

The parties agreed to a payment plan for back rent. With this in mind, the Court dismissed the action without prejudice. The plaintiff may file this action again if circumstances change.

**MAY 30, 2003**

*Cornelius Decorah on behalf of Minors: J.D., DOB 09/17/85, S.D., DOB 03/20/87, F.D., DOB 06/14/88, B.D., DOB 11/22/89 v. Adam Hall, Ho-Chunk Nation Office of Tribal Enrollment, Enrollment Genealogist, Tribal Enrollment Committee, Ho-Chunk Legislature, and Ho-Chunk Nation*, CV 03-25 *Scheduling Order* (HCN Tr. Ct., May 30, 2003). (Bossman, W).

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case up to and including trial.

**JUNE 4, 2003**

*Bonnie Smith v. Ho-Chunk Nation Gaming Commission*, CV 01-12 Order (Final Judgment) (HCN Tr. Ct., June 4, 2003). (Matha, T).

The plaintiff brought an action claiming improper termination and the imposition of fines. The defendant fined and terminated the plaintiff for violations of subordinate employees. The defendant asserted a common law claim of *respondeat superior*. The Court analyzed the relevant laws of the Nation to determine if the Nation has adopted such a concept. The Court determined that the Nation has not yet formally adopted the common law concept of *respondeat superior*. The decision of the Gaming Commission was reversed and remanded for dismissal.

### **Juvenile**

**MAY 1, 2003**

*In the Interest of Minor Child: J.J.F., DOB 11/07/00*, JV 02-27 Order (Formal Hearing) (HCN Tr. Ct., May 1, 2003). (Bossman, W).

The Court issued this decision to illuminate the details of the case disposition.

**MAY 13, 2003**

*In the Interest of Minor Child: J.J.F., DOB 11/07/00*, JV 02-27 Order (Dispositional Hearing) (HCN Tr. Ct., May 13, 2003). (Bossman, W).

The Court convened a *Dispositional Hearing* in the instant case.

## **Supreme Court**

**MAY 30, 2003**

*In the Interest of Minor Child: C.Y.B., DOB 05/04/92*, by Charles A. Brown v. HCN Office of Tribal Enrollment, SU 03-03 Decision (HCN Tr. Ct., May 30, 2003).

The Court uses a four-prong test to determine whether to release funds from a minor's trust account for specific expenditures. The Supreme Court focused on the request for private school tuition, stating that factual assumptions made by the Trial Court were unsupported by the record. Specifically, the Supreme Court insisted that this matter required, and did not receive, a fact-finding hearing. The Supreme Court reversed and remanded for a fact-finding hearing. Associate

Justice Mark Butterfield dissented in this matter, citing the petitioner's failure to carry his burden of proof and the majority's failure to use the standard of review.

## **Recent Filings**

### **Trial Court**

#### **Civil Garnishment**

**MAY 13, 2003**

*Creditor Recovery Service v. Lynn M. McGrath*, CG 03-38. (Bossman, W).

#### **Child Support**

**MAY 13, 2003**

*Sehoya E. Fleischman v. Brian S. LaMere*, CS 03-27. (Bossman, W).

#### **Civil Cases**

**MAY 13, 2003**

*James Menore v. Ho-Chunk Nation and Ho-Chunk Casino Compliance*, CV 03-37. (Bossman, W).

*In the Matter of William Blackdeer, DOB 01/18/84 v. HCN Office of Tribal Enrollment*, CV 03-38. (Bossman, W).

*In the Matter of J.M.M., DOB 03/03/88, C.M., DOB 04/29/92, by Becky Manuell v. HCN Office of Tribal Enrollment*, CV 03-39. (Bossman, W).

**MAY 15, 2003**

*Loretta J. Patterson v. Four Winds Commission et al.*, CV 03-40. (Bossman, W).

**MAY 21, 2003**

*Kevin Croak v. Joy Rave*, CV 03-41. (Matha, T).

**MAY 30, 2003**

*Greg Littlejohn v. HCN Election Board et al.*, CV 03-42. (Bossman, W).

#### **Juvenile Cases**

**MAY 27, 2003**

*In the Matter of M.I.S., DOB 04/18/00*, JV 03-18. (Bossman, W).

**JUNE 6, 2003**

*In the Matter of J.G.W., DOB 06/09/99, JV 03-17.*  
(Matha, T).

## **SUPREME COURT**

**MAY 23, 2003**

*Harry J. Cholka v. Ho-Chunk Casino, SU 03-04.*

**MAY 27, 2003**

*Joseph E. Decorah v. Ho-Chunk Nation and Ho-Chunk Casino, SU 03-05.*



## **Pow Wow Time!**

**F**rom May 24 – 26, 2003, the Ho-Chunk Nation held its annual Pow Wow. The grounds were rimmed with countless booths offering concessions, food and gifts to all those that gathered. Like all great festivals, the booths were swarmed with requests for anything from squaw burgers and fry bread, to cotton candy and snow cones. Snow cones and ice-cold water were a must given the heat of the day. Despite the sun and the heat, the dancers showed little sign of fatigue. The dance contests were filled with contestants arrayed in beautiful colors, attempting their best and most intricate maneuvers to gain the approval of judges. The drums and singers sang their most heartfelt and eloquent songs, goading dancers to new heights.

**A**mong the favorite events of the days, independent sources indicate that Smokeytown's song for veterans brought out a large crowd of dancers. Young and old, the veterans came to dance in honor of all those that fought to keep the peace and freedom of their country. During the song, many supporters laid money and gifts on the blanket for Smokeytown. The most poignant moment came when the drum and singers dedicated the funds and their next song to the family of John Blackdeer, a veteran that passed in a tragic accident over that weekend.

**N**aturally, many gathered favored the grand entry for each day. Independent sources suggest

that many more attended on Sunday. On Monday, the Nation paid tribute to the French concerning its historical ties to the culture. Many viewers loved the children's dances. One little fancy dancer showed great skill and prowess. His regalia was orange and black with silver accents. Food and fun were the order of the days, and none went home empty handed or on an empty stomach. Here are just a few pictures to highlight the days.



The ladies prepare for the judging of their competition.



Ladies shawl dancers show off their moves for the judges.

## Office of Public Advocacy

- **Assistance with finding free legal counsel for qualified applicants**
- **Assistance with legal concerns or questions**
- **Located conveniently within the HCN Court Building**
- **For further questions regarding the O.P.A., please call Dennis Funmaker at (715) 284-8514**

### **HO-CHUNK NATION COURT SYSTEM JUDICIARY AND STAFF**

Supreme Court—Mary Jo B. Hunter, Chief Justice  
Mark D. Butterfield, Associate Justice  
Jo Deen B. Lowe, Associate Justice

Traditional Court –Wallace Blackdeer

Donald Blackhawk  
Dennis Funmaker  
Orville Greendeer  
Douglas Greengrass  
Owen Mike  
Gavin Pettibone  
Douglas Red Eagle  
Preston Thompson, Jr.  
Eugene Thundercloud  
Morgan White Eagle  
Clayton Winneshiek

Trial Court – William H. Bossman, Chief Judge  
Todd R. Matha, Associate Judge

Clerk of Court, Supreme Court – Bryan Dietzler  
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 – Rebecca Tavares

Office of Public Advocacy – Dennis Funmaker, Administrator

\* The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

WISCONSIN TRIBAL JUDGES ASSOCIATION  
(Eleven federally recognized tribes within the State of Wisconsin)

NATIVE AMERICAN INDIAN COURT JUDGES ASSOCIATION  
(Region 5—Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, South Dakota, North Dakota, and Wisconsin)

### **HCN Court System Fee Schedule**

- Filing Fees . . . . . \$50.00\*

\*With the exception of petitions to register child support orders – this fee remains at \$20.00 as previously ordered by the Supreme Court.

Note: Filing Fee now includes *Summons* fee.

- Filing Fees for *Petitions to Register and Enforce Foreign Judgment/ Order*. . . . . \$20.00

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

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.

#### 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).

