



JANUARY 2004
VOL. 10, NO. 1

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(except holidays) 8 A.M. – 4:30 P.M.

HO-CHUNK NATION COURT BULLETIN

WA EHI HOCI OPENS FOR BUSINESS

During the last week of December, the Ho-Chunk Nation Judiciary relocated to its new tribal justice center, *Wa Ehi Hoci*.



TRADITIONAL COURT ROOM



MAIN CORRIDOR & LOBBY AREA



HEARING ROOM



Wa Ehi Hoci



THE NEW BUILDING WILL HOUSE THE TRADITIONAL COURT, THE SUPREME COURT, AND THE TRIAL COURT.



MAIN COURTROOM

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. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. 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.

Trial Court

Child Support

DECEMBER 9, 2003

Michelle Lewis v. Dennis C. Lewis, CS 01-36 Order (Enforce Order and Resume Withholding) (HCN Tr. Ct., Dec. 9, 2003). (Bossman, W).

The Court had previously issued an order directing the Payroll Division to deduct child support from the wages of the respondent. However, the Court became aware that because of a break in respondent's employment with the Ho-Chunk Nation, the Payroll Division was refusing to resume enforcement of the order. The Court ordered the Payroll Division to enforce the Court's standing order and resume withholding.

State of WI/Jackson Co. v. Mark Thundercloud, CS 00-38 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Dec. 9, 2003). (Bossman, W).

The Court had to determine whether to grant the respondent's recent motion to modify current child support withholding. The petitioner failed to respond within the prescribed time frame. The Court granted the motion.

DECEMBER 10, 2003

Barbara Ann Gromoff v. Gregory D. Gromoff, CS 03-56 Judgment (Enforcing Child Support) (HCN Tr. Ct., Dec. 10, 2003). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent answered within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

State of WI/Jackson Co. v. Brian S. LaMere, CS 03-02; *Seyhoya E. Fleischman v. Brian S. LaMere*, CS 03-27 Order (Ceasing Child Support Withholding) (HCN Tr. Ct., Dec. 10, 2003). (Matha, T).

The petitioner requested a modification of child support withholding. The respondent failed to answer within the prescribed time frame. The Court granted the motion.

Barbara Lowe v. Jonelle M. Pettibone, CS 03-58 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Dec. 10, 2003). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's per capita payments. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

DECEMBER 15, 2003

State of WI v. Michael A. Hernandez, CS 01-37 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Dec. 15, 2003). (Matha, T).

The Court modified per capita withholding for child support because of a new child support obligation.

DECEMBER 17, 2003

State of WI/Eau Claire Co. Child Support Agency v. Lee D. Jevens, CS 03-71 Order (Default Judgment for Child Support Deduction from Wages) (HCN Tr. Ct., Dec. 17, 2003). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's wages. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

DECEMBER 18, 2003

Maryla A. Day v. Patrick R. Day, CS 03-75 Order (Enforcing Child Support) (HCN Tr. Ct., Dec. 18, 2003). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent answered within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

DECEMBER 31, 2003

State of WI, on behalf of Rosalie Decorah v. Gene Cloud, CS 98-38 Notice (Child Turning – Requiring Proof of Enrollment) (HCN Tr. Ct., Dec. 31, 2003). (Matha, T).

Upon review of the file, the court noted that one of the minor children has turned eighteen (18) years of age. The Court ordered the parties to file proof of high school enrollment.

Civil Garnishment**DECEMBER 4, 2003**

State Collection Serv. v. June Rogers, CG 03-73 Order (Default Judgment) (HCN Tr. Ct., Dec. 4, 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 for recognition and enforcement.

Black River Mem'l Hosp. v. Stephanie Dietzler, aka Stephanie Littlegeorge, CG 03-74 Order (Default Judgment) (HCN Tr. Ct., Dec. 4, 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 for recognition and enforcement.

DECEMBER 10, 2003

American Gen. Fin. v. Cleo Littlegeorge, CG 03-64 Order (Satisfaction of Judgment) (HCN Tr. Ct., Dec. 10, 2003). (Matha, T).

The Court had granted full faith and credit to a foreign judgment. The petitioner filed a satisfaction of judgment. The Court recognized that the debt has been paid in full and informed the parties of its intent to close the case.

St. Clare Hosp. v. William P. Raftery, CG 03-80 Order for Special Appearance Pro Hac Vice (HCN Tr. Ct., Dec. 10, 2003). (Matha, T).

The petitioner requested permission to appear *pro hac vice* this action. The Court granted the request.

St. Clare Hosp. c/o Paskins & Oberwetter Law Offices v. William P. Raftery, CG 03-80 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Dec. 10, 2003). (Matha, T).

The petitioner requested permission to appear telephonically at a fact-finding hearing. The Court granted the request.

DECEMBER 12, 2003

Creditor Recovery Serv., LLC, Agent for Bob Spohn dba Kellner Int'l Bar & Grill v. Lynn M. McGrath, CG 03-75 Order (Default Judgment) (HCN Tr. Ct., Dec. 12, 2003). (Matha, T).

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 for recognition and enforcement.

DECEMBER 23, 2003

Capital One v. Teresa L. Geissler, CG 03-78 Order (Petition Granted) (HCN Tr. Ct., Dec. 23, 2003). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a timely response denying liability, leading the Court to convene a fact-finding hearing. The Court granted the petitioner's request for recognition and enforcement.

Civil Cases

CHILDREN'S TRUST FUND (CTF)

DECEMBER 4, 2003

In the Interest of Minor Children: A.W.K., DOB 11/26/88; D.P.S., DOB 12/12/88, by Lori Koster, CV 03-72 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Dec. 4, 2003). (Bossman, W).

The petitioner filed a petition requesting a release from the CTF accounts of the minor children. The respondent requested that the petitioner submit further documentation. The petitioner made no such filings. The Court dismissed the instant case without prejudice.

DECEMBER 10, 2003

In the Interest of Minor Child: K.J.F.B., DOB 06/06/89, by Shawn Blackdeer v. HCN Office of Tribal Enrollment, CV 03-44 Order (Requesting Accounting) (HCN Tr. Ct., Dec. 10, 2003). (Bossman, W).

The Court previously released money from the CTF account of the minor child for costs associated with orthodontics. The required accounting is now late. The Court requested that the petitioner submit the required accounting.

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 (Demanding Accounting) (HCN Tr. Ct., Dec. 10, 2003). (Matha, T).

The Court previously released money from the CTF account of the minor child. The respondent submitted a payment history reflecting that a refund check had been issued to the petitioner. The Court demanded that the petitioner submit documentation accounting for the refund.

In the Interest of Minor Child: J.J.F., DOB 07/13/98, by Lisa M. Matchopatow, CV 03-79 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Dec. 10, 2003). (Bossman, W).

The petitioner filed a petition requesting a release of the CTF account of the minor child. The respondent requested that the petitioner submit further documentation. The petitioner made no such filings. The Court dismissed the instant case without prejudice.

In the Interest of Minor Children: E.R.W., DOB 05/27/88; S.L.W., DOB 12/02/86, by Sadie L. Wesho, CV 03-74 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Dec. 10, 2003). (Bossman, W).

The petitioner previously filed a petition requesting a release from the CTF accounts of the minor children. The respondent requested that the petitioner submit further documentation. The petitioner made no such filings. The Court dismissed the instant case without prejudice.

DECEMBER 11, 2003

In the Interest of Minor Child: S.D.B., DOB 07/30/92, by Carol Barnes v. HCN Office of Tribal Enrollment, CV 00-90 Order (Requesting Accounting) (HCN Tr. Ct., Dec. 11, 2003). (Bossman, W).

The Court previously released money from the CTF account of the minor child for costs associated with orthodontics procedures. The required accounting is now late. The Court requested that the petitioner submit the required accounting.

In the Interest of Minor Child: R.C.D., DOB 12/30/86, by Sabrina Decorah v. HCN Office of Tribal Enrollment, CV 03-45 Order (Demanding Accounting) (HCN Tr. Ct., Dec. 11, 2003). (Bossman, W).

The Court previously released money from the CTF account of the minor child for costs associated with orthodontics procedures. The required accounting is now late. The Court demanded that the petitioner submit the required accounting.

DECEMBER 17, 2003

In the Interest of Minor Child: M.J.D., DOB 01/02/86, by Elaine M. Blackwawk v. HCN Office of Tribal Enrollment, CV 03-73 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Dec. 17, 2003). (Matha, T).

The petitioner previously filed a petition requesting a release from the CTF accounts of the minor children. The petitioner failed to appear for a hearing for which she received proper notice. The Court dismissed the instant case without prejudice.

In the Interest of Minor Child: F.W.G., DOB 10/07/93, by Mary F. Tribble v. HCN Office of Tribal Enrollment, CV 03-78 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Dec. 17, 2003). (Matha, T).

The petitioner previously filed a petition requesting a release from the CTF account of the minor child. The petitioner failed to appear for a hearing for which she received proper notice. The Court dismissed the instant case without prejudice.

Rachel Heno Mendoza v. HCN Office of Tribal Enrollment, CV 03-58 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Dec. 17, 2003). (Matha, T).

The petitioner previously filed a petition requesting a release from the CTF account of the minor child. The petitioner failed to appear for a hearing for which she received proper notice. The Court dismissed the instant case without prejudice.

DECEMBER 22, 2003

In the Interest of Minor Child: A.A.G., DOB 11/13/92, by Michelle Gulbranson v. HCN Office of Tribal Enrollment, CV 03-85 Order (Petition Granted) (HCN Tr. Ct., Dec. 22, 2003). (Bossman, W).

The petitioner filed a petition requesting a release from the CTF accounts of her minor child for costs associated with orthodontic procedures. The Court granted the release of funds.

CONTRACTS

DECEMBER 3, 2003

HCN v. Bank of Am., N.A., CV 02-93 Scheduling Order (HCN Tr. Ct., Dec. 3, 2003). (Bossman, W).

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



EMPLOYMENT

DECEMBER 3, 2003

Anita Naquayouma v. Jonette Pettibone, CV 03-55 Order (Default Judgment for Defendant) (HCN Tr. Ct., Dec. 3, 2003). (Bossman, W).

The Court convened a pre-trial conference in this matter. The plaintiff failed to appear at the pre-trial conference and did not notify the Court of an inability to attend the proceeding. The Court granted a default judgment in favor of the defendant.

DECEMBER 8, 2003

Joshua Francis Smith, Sr. v. Rainbow Casino, HCN, Adam Estes, Jonette Pettibone, and Ida Carrier, CV 03-56 Order (Motion Hearing) (HCN Tr. Ct., Dec. 8, 2003). (Bossman, W).

The defendants filed a motion for summary judgment in the instant case. The Court scheduled a hearing to hear arguments on the motion.

Laura Snake v. Douglas Greengrass, CV 03-61 Order (Motion Hearing) (HCN Tr. Ct., Dec. 8, 2003). (Matha, T).

The defendants filed a motion for summary judgment in the instant case. The Court scheduled a hearing to hear arguments on the motion.

DECEMBER 9, 2003

Harry J. Cholka v. Ho-Chunk Casino, CV 02-116 Order (HCN Tr. Ct., Nov. 25, 2003). (Bossman, W).

The parties stipulated to a request that the Court cancel its scheduled contempt hearing in this matter. The Court granted the request.

DECEMBER 15, 2003

Aleksandra Cichowski v. Four Winds Ins. Agency, LLC, CV 01-90 Order (Granting Defendants' Motion for Summary Judgment) (HCN Tr. Ct., Dec. 15, 2003). (Matha, T).

The Court had to determine whether the defendant demonstrated the absence of compensable injury for worker's compensation purposes. The plaintiff failed to present any evidence to the contrary. Therefore, the Court granted the defendant's motion for summary judgment.

DECEMBER 18, 2003

Joshua Francis Smith, Sr. v. Adam Estes & Jonette Pettibone, CV 03-08 Order (Final Judgment) (HCN Tr. Ct., Dec. 18, 2003). (Matha, T).

The Court had to determine whether the defendants exhibited unlawful behavior in conjunction with the denial of leave for and ultimate suspension of the plaintiff. The Court concluded that the defendants acted in conformance with applicable law and granted a judgment in favor of the defendants.

HOUSING**DECEMBER 8, 2003**

Ronald Kent Kirkwood v. HCN Hous. Dep't & HCN Legislature, CV 03-62 Order (Motion Hearing) (HCN Tr. Ct., Dec. 8, 2003). (Matha, T).

The defendants filed a motion to dismiss in the instant case. The Court scheduled a hearing to hear arguments on the motion.

INCOMPETENT'S TRUST FUND**DECEMBER 5, 2003**

In the Interest of Adult Incompetent: Oliver S. Rockman, CV 97-117 Order (Accepting Accounting) (HCN Tr. Ct., Dec. 5, 2003). (Bossman, W).

The Court previously released funds from the ITF account. The petitioner submitted an accounting that confirmed proper use of the funds. The Court accepted this accounting.

In the Interest of Adult Incompetent: Oliver S. Rockman, CV 97-117 Order (Granting Release of Per Capita Funds) (HCN Tr. Ct., Dec. 5, 2003). (Bossman, W).

The Court received a request for a release of funds from the ITF account for Christmas gifts, clothing, a personal allowance, and payment for the protective payee's services. The Court granted the release.

Elaine Sine, DOB 02/01/55, by Cecelia Sine v. HCN Office of Tribal Enrollment, CV 03-27 Order (Accepting Accounting) (HCN Tr. Ct., Dec. 5, 2003). (Bossman, W).

The Court previously released funds from the ITF account for expenses related to the purchase of a home. The petitioner submitted the required accounting. The Court accepted this accounting.

Elaine Sine, DOB 02/01/55, by Cecelia Sine v. HCN Office of Tribal Enrollment, CV 03-27 Order (Releasing Funds) (HCN Tr. Ct., Dec. 5, 2003). (Bossman, W).

The Court previously released funds from the ITF account for expenses related to the purchase of a home. The petitioner filed a request for release of the remaining funds authorized by the Court in its previous order. The Court granted the request.

MISCELLANEOUS**DECEMBER 17, 2003**

HCN v. Jess Steindorf, CV 03-33 Order (Postponing Trial) (HCN Tr. Ct., Dec. 17, 2003). (Bossman, W).

The Court convened a trial in this matter. The plaintiff orally moved that the trial be postponed. The Court granted the motion.

Custody**DECEMBER 12, 2003**

In the Interest of Minor Child: J.H.R., DOB 01/09/95, CU 95-18 Order (Requesting Accounting) (HCN Tr. Ct., Dec. 12, 2003). (Bossman, W).

The Court previously released money from the CTF account of the minor child for costs associated with the purchase of a handicapped accessible van. The required accounting is now late. The Court requested that the petitioner submit the required accounting.

Juvenile**DECEMBER 2, 2003,**

In the Interest of Minor Child: T.E.D., DOB 11/04/86, JV 03-41 Redacted Child Support Order (HCN Tr. Ct., Dec. 2, 2003). (Matha, T)

The Court had to determine whether to enter a child support obligation against the parents in this action. The Court entered a child support order.

DECEMBER 10, 2003

In the Interest of Minor Child: H.D.J., DOB 11/25/88, JV 98-20 Six Month Review Hearing Order (HCN Tr. Ct., Dec. 10, 2003). (Bossman, W).

The Court conducted a child protection review hearing. At the hearing, the Court had to assess the extent of compliance with the dispositional order.

The Court performed this review and determined to maintain the status quo.

In the Interest of Minor Children: B.T., DOB 07/21/99; B.P.T., DOB 08/29/95; B.A.T., DOB 11/18/86, JV 03-31-33 Order (Dismissal) (HCN Tr. Ct., Dec. 10, 2003). (Matha, T).

This matter was scheduled for trial. The parties entered into a voluntary stipulation settling the instant matter. The Court dismissed the child and family protection petition.

DECEMBER 12, 2003

In the Interest of Minor Child: J.D.J., DOB 12/18/86, JV 98-19 Order (Child Protection Review Hearing) (HCN Tr. Ct., Dec. 12, 2003). (Bossman, W).

The Court conducted a child protection review hearing. At the hearing, the Court had to assess the extent of compliance with the dispositional order. The Court performed this review and determined to maintain the status quo.

DECEMBER 15, 2003

In the Interest of Minor Child: H.S.H., DOB 02/18/03, JV 03-29 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Dec. 15, 2003). (Matha, T).

The Court had to determine the proper withholding of current child support and arrears from the parents' income. The Court applied generally accepted withholding guidelines.

In the Interest of Minor Children: J.L., DOB 12/14/89; R.L., DOB 04/24/91; C.L., DOB 01/28/93, JV 97-06-08 Order (Appointment of Permanent Guardian) (HCN Tr. Ct., Dec. 15, 2003). (Bossman, W).

The Court had to determine whether to appoint a permanent guardian of the minor children. The Court deemed such an appointment to be within the children's best interests.

DECEMBER 18, 2003

In the Interest of Minor Children: V.J.F., DOB 09/26/98; I.D.F., DOB 03/30/02, JV 03-39-40 Order (Entrance of Plea) (HCN Tr. Ct., Dec. 18, 2003). (Matha, T).

The Court convened a plea hearing to determine whether the parents of the minor children wished to contest the allegations contained in the *Child/Family Protection Petition*. The Court entered a plea of not guilty on behalf of the parents due to their failure to attend the hearing.

DECEMBER 19, 2003

In the Interest of Minor Child: J.D.J., DOB 12/18/86, JV 98-19 Order (Child Protection Review Hearing) (HCN Tr. Ct., Dec. 19, 2003). (Bossman, W).

The Court conducted a child protection review hearing. At the hearing, the Court had to assess the extent of compliance with the dispositional order. The Court performed this review and determined to maintain the status quo.

DECEMBER 22, 2003

In the Interest of Minor Children: M.C.S.C., DOB 01/09/96; J.D.C., DOB 12/21/98; J.C.C., DOB 07/16/03, JV 03-48-50 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Dec. 22, 2003). (Bossman, W).

The Court had to determine whether to appoint a temporary guardian of the minor children. The Court deemed such an appointment to be within the children's best interests.

In the Interest of Minor Children: T.A.C., DOB 10/31/87; T.A.C., DOB 02/19/90; R.G.C., DOB 07/27/92, JV 00-24-26 Order Extension of Temporary Guardianship) (HCN Tr. Ct., Dec. 22, 2003). (Bossman, W).

The Court had to determine whether to extend a temporary guardianship of one of the minor children. The Court deemed such an extension in the child's best interests.

In the Interest of Minor Children: D.J.D., DOB 04/04/92; N.L.D., DOB 10/03/93, JV 97-11-12 Six Month Review Hearing Order (HCN Tr. Ct., Dec. 22, 2003). (Bossman, W).

The Court conducted a child protection review hearing. At the hearing, the Court had to assess the extent of compliance with the dispositional order. The Court performed this review and determined to maintain the status quo.

In the Interest of Minor Child: T.F.R., DOB 08/08/99, JV 03-42 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Dec. 22, 2003). (Matha, T).

The Court had to determine whether to appoint a temporary guardian of the minor child. The Court deemed the appointment to be within the best interest of the child.

DECEMBER 23, 2003

In the Interest of Minor Child: J.D.S., DOB 09/08/03, JV 03-30 Order (Dispositional Requirements) (HCN Tr. Ct., Dec. 23, 2003). (Matha, T).

The Court conducted a dispositional hearing. At the hearing, the Court had to assess the extent and scope of the dispositional recommendations proposed by CFS. The Court ordered certain dispositional recommendations necessary for the protection of the children and possible reunification of the family.

Supreme Court

DECEMBER 8, 2003

Hope B. Smith v. HCN, SU 03-08 Decision (HCN Sup. Ct., Dec. 8, 2003).

The appellee served as a branch office coordinator. In addition, her son worked as a maintenance worker for the same branch office. However, the appellee did not serve as the direct supervisor of her son. The Trial Court established in its findings of facts that the appellee did not know of the credit card misuse by her son.

The Supreme Court reviewed the Trial Court's decision to overturn the termination of the appellee. The appellant asserted that the Trial Court failed to apply the theory of negligence in its review of the case. Second, the appellant argued that the Court incorrectly applied the "arbitrary and capricious" analysis in reviewing the termination. Third, the appellant argued that the Trial Court overstepped the Nation's limited waiver of sovereign immunity by ordering the appellee's salary be raised and ordering that appellee's former manager issue a written apology to her.

The Supreme Court applied an abuse of discretion standard in its review of the Trial Court's

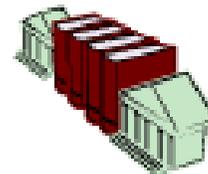
findings of facts. Further, the Supreme Court held the proper standard of review for interpretation of law is the de novo standard. The Supreme Court upheld the Trial Court's decision.

The Supreme Court held that the appellant failed to show that the Trial Court erred in resolving the factual questions as to what the appellee knew or should have known. In addition, the Supreme Court rejected the appellant's assertion that the Court should give great deference to the agency's decision to terminate. The Court held that such deference would give no assurance of any meaningful review of the agency action. Further, the Supreme Court held that the Ho-Chunk Nation's Limited Waiver of Sovereign Immunity was not violated in the relief awarded by the Trial Court.

DECEMBER 15, 2003

Clarence Pettibone v. HCN Gen. Council; Alvin Cloud, Acting Chair of the Gen. Council; Roberta Funmaker (aka Roberta Greendeer), Sec'y of the Gen. Council; Gloria Visintin; Wade Blackdeer, Dallas Whitewing, Myrna Thompson, Christine Romano, Gerald Cleveland, Sharon Whiterabbit, Kathyleen Lonetree-Whiterabbit, and Elliot Garvin, Legislature; and MaryEllen Dumas, Chair of the Election Bd., SU 03-09 Decision (Accepting Withdrawal of Petition) (HCN Sup. Ct., Dec. 15, 2003).

The appellant had previously filed a *Petition for Permission to Appeal Interlocutory Order by HCN Election Board Chairperson*. While that appeal was being considered, the appellant filed a letter requesting permission to withdraw the appeal. The Court dismissed the *Petition*.



Recent Filings

Trial Court

Civil Garnishment

DECEMBER 2, 2003

Creditor Recovery Service v. Keith D. Smith, CG 03-82.

DECEMBER 4, 2003

Black River Mem'l Hosp. v. Terri Clemmerson, CG 03-83.

State Collection Service v. Alicia Berg, CG 03-84.

Child Support

DECEMBER 2, 2003

Margery L. Overman v. James Neblett, CS 03-80.

DECEMBER 3, 2003

State of WI/Gayla Barnes v. Kevin B. Funmaker, CS 03-81.

DECEMBER 4, 2003

Christina L. Funmaker v. Kevin B. Funmaker, CS 03-82.

Stephanie M. Antone v. Kevin Funmaker, CS 03-83.

Darlene F. Crowe v. Thunderhawk L. Decorah, CS 03-84.

DECEMBER 11, 2003

Heather Harnett v. Patrick Harnett, CS 03-85.

State of WI/ Melanie Allene Neadeaw, CS 03-86.

DECEMBER 30, 2003

Scott Shoemaker v. Peggy Shoemaker, CS 03-87.

Civil Cases

DECEMBER 2, 2003

In the Interest of Minor Children: T.M., DOB 10/25/88; A.M., DOB 07/02/90 v. HCN Office of Tribal Enrollment, CV 03-83. (Matha, T).

DECEMBER 11, 2003

Kenneth Twin v. Douglas Greengrass, CV 03-84. (Bossman, W).

Michelle Gulbranson v. HCN Office of Tribal Enrollment, CV 03-85. (Bossman, W).

Daniel Brown v. Sandy Plawman, CV 03-86. (Matha, T).

DECEMBER 15, 2003

In the Interest of Minor Child: T.R., by Barb Rave v. HCN Office of Tribal Enrollment, CV 03-87. (Matha, T).

Kenneth Twin v. Douglas Greengrass, CV 03-88. (Matha, T).

DECEMBER 17, 2003

Betty J. White v. Dion W. Funmaker, CV 03-89. (Matha, T).

Juvenile Cases

NOTHING TO REPORT AT THIS TIME.

SUPREME COURT

NOTHING TO REPORT AT THIS TIME.



Exploring Together



*Exploring Tribal and State Court Jurisdiction
In Wisconsin
Under Public Law 280*

When

*January 29, 2004
8:30 a.m. – 4:30 p.m.*

Where

*Ho-Chunk Nation Wa Ehi Hoci
Black River Falls, Wisconsin*

Who Should Attend:

- *State Court Judges*
- *Court Commissioners*
- *Ho-Chunk Nation Judiciary*
 - *Tribal Court Judges*
 - *Traditional Court Judges*
- *Attorneys Admitted to Practice in the Ho-Chunk Nation Judiciary*
- *Lay Advocates Admitted to Practice in the Ho-Chunk Nation Judiciary*

**THIS COURSE WILL QUALIFY FOR STATE CONTINUING JUDICIAL EDUCATION AND
CONTINUING LEGAL EDUCATION CREDITS**

THERE IS NO REGISTRATION FEE

If an overnight stay is necessary, rooms are available at the Majestic Pines Hotel. You must reserve by January 21, 2004. Phone 888 625-8668. Reduced rate is \$39.20 per night.

This is one of a series of training sessions that will be sponsored by the Wisconsin Tribal Judges' Association, in cooperation with the Wisconsin Supreme Court and the Office of Judicial Education, during 2004. **The training is for State Judges and Court Commissioners** (*from Region 2 – However, it is not restricted to those of you in Region 2. If you are from outside of Region 2, and it is more convenient for you to attend this training, you are always welcome.*), **all Tribal Judges and Traditional Court Judges.** The January 29th training is also open to **attorneys and lay advocates admitted to practice in the Ho-Chunk Nation Judiciary.**

This training will be repeated with continuing judicial education and continuing legal education credits on:

Apr. 16, 2004 hosted by the Mohican Nation in Shawano County
July 9, 2004 hosted by the Lac Du Flambeau Band of Lake Superior Chippewa in
 Vilas County
Oct. 15, 2004 tentative ICWA training to be hosted by the WTJA at UW-Parkside in Kenosha

The presenters have all been involved in or developed an expertise in the areas of their presentations. The training will provide information that will be extremely useful in answering jurisdictional questions between state and tribal courts in Wisconsin.

Special thanks to the following people for their time and effort in developing the curriculum, coordinating the speakers and formulating the logistics for this conference:

James Botsford	Wisconsin Judicare
Carol Tebben	UW-Parkside
Dave Hass	Office of Judicial Education
John Voelker	Wisconsin Supreme Court
Hon. Todd R. Matha	Ho-Chunk Nation Trial Court
All of the Presenters	
WTJA	

Special Thanks to Chief Justice Abrahamson for Supporting State/Tribal Court Relations

EXPLORING TRIBAL AND STATE COURT JURISDICTION
IN WISCONSIN
Under Public Law 280

Course Outline

- 8:30 am Welcome and Introductions
Hon. David Raasch
Ho-Chunk Elder
Ho-Chunk Representative
- 8:45 am Public Law 83-280: An Historical Overview
Inherent Sovereignty/Federal Eras of Indian Law/
1953: PL 83-280/1978: Indian Civil Rights Act
James Botsford
Prof. Carol Tebben
- 9:15 am Teague: A Case History Discussion
Hon. Ed Brunner
Kevin Osterbauer
Michael Murphy
- 10:15 am Break
- 10:30 am Teague: The Protocol (Present and Future)
Hon. Ed Brunner
Kevin Osterbauer
Michael Murphy
- 11:15 am Jurisdiction Affecting Private Contracts and
Intergovernmental Agreements
The contract language/"161 Agreements" /Hunting and Fishing/
Licensing/Treatment Facilities
Hon. Kim Vele
Paul Stenzel

- Noon Lunch Provided by the Ho-Chunk Nation Trial Court
- 1:00 pm Civil Jurisdiction under PL 280
Concurrent Jurisdiction/Case Law/Foster Care/Domestic Violence/
ICWA/Child Support
Hon. Kim Vele
Paul Stenzel
James Botsford
- 2:00 pm Regulatory Jurisdiction under PL-280
Case Law/Hunting and Fishing/Licensing/Traffic/Taxation
Michael Murphy
Kevin Osterbauer
Hon. Ernest St. Germaine
- 3:00 pm Break
- 3:15 pm Criminal Jurisdiction
Concurrent Jurisdiction/Case Law/The Menominee Exception/Lac du
Flambeau and Vilas County/Law Enforcement: Cross Deputization/Double
Jeopardy/ Apprehension and Extradition
Hon. Ernest St. Germaine
James Botsford
- 3:45 pm Making Everything Fit: A Discussion
Prof. Carol Tebben
- 4:00 pm Evaluation and Closing
Hon. David Raasch

REGISTRATION FORM

Name: _____

Street: _____

City: _____

State/Zip: _____

Title (*Judge, attorney, advocate, Court Commissioner, other*): _____

Phone: _____

E-mail: _____

Complete and mail, e-mail, or fax to:

Hon. David Raasch
1498 Grignon St.
Green Bay, WI 54301

E-mail: chief.david2@juno.com

Fax: (920) 437-2645

Driving Directions:

From the North and East (Green Bay, Wausau, Wisconsin Rapids): approach the Black River Falls Area on Highway 54 West, pass Majestic Pines Casino and travel exactly 1.6 miles to Wa Ehi Hoci, which is situated on the right

From the Northwest (Eau Claire): approach the Black River Falls Area on Interstate 94 East, take Exit 116 (Black River Falls, Wisconsin Rapids), turn left on Highway 54 East and travel exactly 2.0 miles to Wa Ehi Hoci, which is situated on the left

From the South (La Crosse, Sparta): approach the Black River Falls Area on Highway 27 North, turn right on Highway 54 East and travel exactly 3.0 miles to Wa Ehi Hoci, which is situated on the left

From the Southeast (Madison, Milwaukee): approach the Black River Falls Area on Interstate 94 West, take Exit 116 (Black River Falls, Wisconsin Rapids), turn right on Highway 54 East and travel exactly 2.0 miles to Wa Ehi Hoci, which is situated on the left



**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

Jim Greendeer

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

Staff Attorney – Rose M. Weckenmann

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 10—Illinois, Indiana, Michigan, Minnesota, 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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Ho-Chunk Nation Court System Fee Schedule
Legal Citation Forms

Ho-Chunk Nation Judiciary
W9598 Hwy 54 East
P.O. Box 70
Black River Falls, WI 54615
(715) 284-2722 Ph.
(800) 434-4070 Ph. (Toll-free)
(715) 284-3136 Fax
<http://www.ho-chunknation.com/government/courts.htm>

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

HO-CHUNK NATION COURT BULLETIN

COURT HOSTS JUDICIAL EDUCATION CONFERENCE



TENTH DISTRICT CHIEF JUDGE ED BRUNNER

On January 29, 2004, *Wa Ehi Hoci* hosted a meeting for state and tribal court judges, as well as members of the Ho-Chunk Nation bar, to discuss jurisdictional issues arising in Wisconsin. The Wisconsin Tribal Judges' Association, in conjunction with the Wisconsin Supreme Court and the Office of Judicial Education presented *Exploring Tribal and State Court Jurisdiction in Wisconsin under Public Law 280*. This one-day training provided an overview of many of the jurisdictional issues, which arise for state and tribal court judges as a result of Public Law 280.



STOCKBRIDGE-MUNSEE TRIBAL COURT CHIEF JUDGE



PROFESSOR CAROL TEBBEN AND JAMES BOTSFORD

Ho-Chunk Nation Traditional Court Judge Donald Blackhawk opened the day's events with opening remarks, followed by a prayer by the Traditional Court's Chief Clayton Winneshiek. After an introduction by David Raasch, Chief Judge of the Stockbridge-Munsee Tribal Court, a panel offered a historical overview of Public Law 280. Professor Carol Tebben, Univ. of Wis., Parkside, reviewed the line of cases known as the "Marshall trilogy" in order that all present would have a basic understanding of the foundations for tribal sovereignty. James Botsford, Director of the Indian Law Office of Wisconsin Judicare, explained the eras of federal Indian policy, focusing on the termination era and the advent of Public Law 280. When Public Law 83-280, passed in 1953, Congress intended to remove the federal government from Indian affairs. For the most part, states resented the legislation as an unfounded mandate.

Associate Judge of the Stockbridge-Munsee Tribal Court Kim Vele offered a discussion on how Public Law 280 has been applied nationally. This discussion offered citation to many cases of national consequence. Judge Vele also explained that the Stockbridge-Munsee Tribal Court deals with jurisdictional issues informally and requires mandatory disclosure of any other pending litigation upon the filing of a petition.



HCN TRADITIONAL COURT JUDGE DONALD BLACKHAWK AND HCN SUPREME COURT ASSOCIATE JUSTICE MARK BUTTERFIELD



ATTORNEY PAUL STENZEL

Paul Stenzel, attorney with von Briesen & Roper, s.c., provided a discussion of the development of Public Law 280 in Wisconsin. Attorney Stenzel traced the development of case law, focusing primarily on the difficulty that courts have had distinguishing between laws that are criminal prohibitory and those that are civil regulatory. Furthermore, he explained that questions such as whether a tribe has a history of self-government in the area become overly simplistic. Many tribes have routinely exercised jurisdiction through traditional means without putting ordinances on paper. Jim Zorn, a division head at the Great Lakes Indian Fish and Wildlife Commission, tackled the jurisdictional maze that the eleven member-tribes often confront.



STOCKBRIDGE-MUNSEE TRIBAL COURT JUDGE KIM VELE

Discussion of last summer's *Teague* decision by the Wisconsin Supreme Court dominated the training. A panel composed of Ed Brunner, Tenth District Chief Judge; Kevin Osterbauer, attorney for the Bad River Band of Lake Superior Chippewa; and Michael Murphy, attorney for the Ho-Chunk Nation, led such discussion. Brunner and Osterbauer gained recognition as part of the state court-tribal court agreement prompted by the *Teague* litigation.



ATTORNEY JIM ZORN

Ernst St. Germaine, Lac du Flambeau Tribal Court Judge, and James Botsford provided a discussion on criminal jurisdiction under Public Law 280. Paul Stenzel and Jim Zorn then offered an overview of different intergovernmental agreements that might be useful in pre-empting difficult jurisdictional conflicts. Both presenters spoke specifically of the potential for further cross-deputization agreements.



BAD RIVER BAND ATTORNEY KEVIN OSTERBAUER

Chief Judge Brunner stressed the importance of state court judges learning to embrace tribal courts as partners. In order to facilitate such cooperation, Brunner suggested that state court judges be required to learn about tribal courts while attending judicial college. In addition, he suggested that state and tribal court judges hold regular meeting and that state court judges be allowed judicial credit for tribal court visitation, similar to the credit earned for visiting prisons.



**JAMES BOTSFORD AND LAC DU FLAMBEAU TRIBAL COURT
JUDGE ERNIE ST. GERMAINE**



HO-CHUNK NATION ATTORNEY MICHAEL MURPHY

Attorney Murphy pointed to interesting language in *Teague*: “In the context of state-tribal relations, principles of comity must be applied with an understanding that the federal government is, and the state courts should be, fostering tribal self-government and tribal self-determination.” Murphy drew attention to the current state of federal law, which requires that courts abstain until tribal exhaustion of the matter. Furthermore, Murphy explained that Jackson County has less need for protocols in that Judge Laabs has understanding of the Ho-Chunk Nation Judiciary because he previously practiced before the courts.



Federal Court Update

Second Circuit Court of Appeals

Chayoon v. Chao, No. 03-6143, 2004 WL 67919 (2nd Cir. Apr. 10, 1991) (per curiam).

The plaintiff filed a Federal Medical Leave Act claim against Mashantucket Pequot Tribal Council members and officers and employees of the Mashantucket Pequot Gaming Enterprise, which operates Foxwoods Resort Casino. The district court dismissed the claim. On appeal, the Second Circuit Court of Appeals affirmed the district court's dismissal for lack of subject matter jurisdiction, holding the defendants maintain immunity from suit.

The Court affirmed the principle that Indian tribes enjoy sovereign immunity, absent a tribal waiver of the immunity or Congressional abrogation of the tribe's immunity. The Court held that neither waiver nor abrogation occurred in this case. The Federal Medical Leave Act itself makes no reference to abrogation or waiver of sovereign immunity. The Court noted that the act of naming tribal officers or employees did not suffice in alleging that they acted outside the scope of their official duties. Furthermore, the plaintiff did not request any injunctive or declaratory relief, and therefore, no exception to sovereign immunity would be applicable.

The Second Circuit expressed that while it was sympathetic to the plaintiff, the courts do not maintain the authority to "remedy the matter." The Court noted that this power rests with Congress. The Court went on to express its concern that "tribal sovereignty has the potential to deny many Americans employment benefits and rights that Congress has seen fit to extend to the private sector."

Fifth Circuit Court of Appeals

Thompson v. Scott, No. 03-40408, 2004 WL 57718 (5th Cir. Jan. 9, 2004) (per curiam).

The plaintiff made claims under the First Amendment and the Religious Land Use and

Institutionalized Persons Act of 2000. These claims sought injunctive relief against officials and employees of the Texas Department of Criminal Justice (TDCJ). The district court granted summary judgment in favor of the defendants.

The plaintiff challenged the TDJC's requirement that inmates pass a written test on Native American practices to participate in Native American services. The Court found the plaintiff alleged no injury from the testing policy and thus, had no standing to raise the claim. In addition, the plaintiff argued that the confiscation of his medicine bag and dream catcher violated his rights. The Court held that because the plaintiff only showed negligence concerning these claims, summary judgment proved proper, as negligence is insufficient to support a section 1983 claim. With respect to the plaintiff's claim that prison officials violated his civil rights when cutting his hair, the Court remanded the case to the district court for further findings of fact.

Eighth Circuit Court of Appeals

Delorme v. United States, No. 02-3460, 2004 WL (8th Cir. Jan. 13, 2004).

In the 1940s, lineal descendants of signatories to the 1863 treaty between the United States and the Red Lake and Pembina Bands of Chippewa Indians filed claim against the United States before the Indian Claims Commission. The Commission awarded \$2,760,245.64 to the descendants of the Red Lake and Pembina Bands. In 1971, Congress passed Public Law 92-59 to distribute the funds.

In addition, the descendants of the Pembina Bands, including the Little Shell Bands, sought compensation for the extinguishment of aboriginal title for a tract in excess of eight million acres located in North Dakota. The Commission awarded \$52,527,337.97 to the plaintiff Indian bands.

The hereditary Chief of the Little Shell Band of Indians of North Dakota sought an accounting of funds to be distributed pursuant to two federal appropriations statutes dealing with Chippewa land claims. Because the United States did not waive its sovereign immunity, the district court dismissed the action. The Eight Circuit Court appeals affirmed the dismissal due to lack of standing.

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. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. 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.

Trial Court

Child Support

JANUARY 2, 2004

State of WI v. Arnold J. Crone, CV 97-35 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Jan. 2, 2004). (Bossman, W).

The Court noted that a minor child would be turning eighteen years of age. In accordance with Wisconsin state law, the respondent's obligation for current child support ends when the child turns eighteen. The Court ordered the parties to file proof of high school enrollment.

Veronica Wilbur v. Bernard L. Crow, CV 96-54 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Jan. 2, 2004). (Bossman, W).

The Court noted that a minor child had turned eighteen years of age. In accordance with Wisconsin state law, the respondent's obligation for current child support ends when the child turns eighteen. The Court ordered the parties to file proof of high school enrollment.

Rosemarie C. Funmaker v. Dennis Funmaker, CV 97-63 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Jan. 2, 2004). (Bossman, W).

The Court noted that a minor child would be turning eighteen years of age. In accordance with Wisconsin state law, the respondent's obligation for current child support ends when the child turns eighteen. The Court ordered the parties to file proof of high school enrollment.

Joyce Funmaker v. Max Funmaker, Sr., CV 97-122 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Jan. 2, 2004). (Bossman, W).

The Court noted that a minor child had turned eighteen years of age. In accordance with Wisconsin state law, the respondent's obligation for current child support ends when the child turns eighteen. The Court ordered the parties to file proof of high school enrollment.

Christopher A. Marceau v. Leanne J. Smith, CS 00-09 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Jan. 2, 2004). (Bossman, W).

The Court noted that a minor child had turned eighteen years of age. In accordance with Wisconsin state law, the respondent's obligation for current child support ends when the child turns eighteen. The Court ordered the parties to file proof of high school enrollment.



JANUARY 7, 2004

Laurie Metoxen v. Glenn A. Funmaker, CS 03-79 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 7, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's per capita payments. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

JANUARY 8, 2004

State of WI/Jackson Co. v. Tyrone L. Decorah, CS 03-67 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 8, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's per capita payments. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

Margery L. Overman v. James Neblett, CS 03-80 *Order (Default Judgment for Child Support Deduction from Wages)* (HCN Tr. Ct., Jan. 8, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's wages. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

State of WI/Juneau Co. and Annette Powless v. Eldon D. Powless, CS 03-65 *Order* (HCN Tr. Ct., Jan. 8, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's wages. The respondent objected to enforcement of the foreign order while he challenges paternity. The Court has determined not to enforce the foreign child support order at this time.

JANUARY 9, 2004

State of WI, Sauk Co. & Bradley A. Fiske v. Leah L. Fiske, CS 03-68 *Default Judgment (Enforcing Child*

Support) (HCN Tr. Ct., Jan. 9, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's per capita payments. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

Laurie Metoxen v. Glenn A. Funmaker, CS 03-79 *Erratum Order* (HCN Tr. Ct., Jan. 9, 2004). (Bossman, W).

The Court previously entered a default judgment in the above-captioned case, recognizing and enforcing a foreign child support order. The Court issued an erratum order to correct a clerical mistake made in the previous order.

JANUARY 13, 2004

State of WI, on behalf of Nellie McKee v. Bryan D. Powless, CS 98-28; *State of WI, on behalf of Victoria Blackcoon v. Bryan D. Powless*, CS 98-39 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Jan. 13, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioner's motion to modify. The petitioner requested an increase in current child support and arrears withholding. The Court granted the petitioner's uncontested motion.

State of WI & Johnny W. Whitecloud, a/k/a Johnny Whitecloud v. Patricia A. Whitecloud, a/k/a Patricia A. Hindsley, CS 00-46 *(Default Judgment for Child Support Deduction from Wages)* (HCN Tr. Ct., Jan. 13, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's wages. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.



JANUARY 15, 2004

State of WI, on behalf of Simone Greyhair v. Gene Cloud, CS 98-36; *State of WI, on behalf of Simone Greyhair v. Gene Cloud*, CS 98-37; *State of WI, on behalf of Rosalie Decorah v. Gene Cloud*, CS 98-38; *State of WI, on behalf of Anna M. Ivkovich v. Gene Cloud*, CS 02-06 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Jan. 15, 2004). (Matha, T).

The Court previously issued a notice, notifying the parties that a minor child would be turning eighteen years of age. The Court ordered the parties to submit proof of high school enrollment. No such proof was filed. The Court amended child support withholding accordingly.

State of WI v. Arnold J. Crone, CV 97-35 *Order (Modifying Current Child Support)* (HCN Tr. Ct., Jan. 15, 2004). (Bossman, W).

The Court previously issued a notice, notifying the parties that a minor child would be turning eighteen years of age. The Court ordered the parties to submit proof of high school enrollment. No such proof was filed. The Court amended child support withholding accordingly.

Veronica Wilbur v. Bernard L. Crowe, CV 96-54; *Sara White Eagle v. Bernard L. Crowe*, CV 97-92 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Jan. 15, 2004). (Bossman, W).

The Court previously issued a notice, notifying the parties that a minor child would be turning eighteen years of age. The Court ordered the parties to submit proof of high school enrollment. No such proof was filed. The Court amended child support withholding accordingly.

Rosemarie C. Funmaker v. Dennis Funmaker, CV 97-63 *Order (Modifying Current Child Support)* (HCN Tr. Ct., Jan. 15, 2004). (Bossman, W).

The Court previously issued a notice, notifying the parties that a minor child would be turning eighteen years of age. The Court ordered the parties to submit proof of high school enrollment. No such proof was filed. The Court amended child support withholding accordingly.

Joyce Funmaker v. Max Funmaker, Sr., CV 97-122 *Order (Modifying Current Child Support)* (HCN Tr. Ct., Jan. 15, 2004). (Bossman, W).

The Court previously issued a notice, notifying the parties that a minor child would be turning eighteen years of age. The Court ordered the parties to submit proof of high school enrollment. No such proof was filed. The Court amended child support withholding accordingly.

Lisa J. Rave v. Brent R. St. Cyr, CV 97-97 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Jan. 15, 2004). (Matha, T).

The Court previously issued an order, recognizing a standing foreign child support order. The petitioner filed a certified accounting statement showing a child support arrearage. The Court ordered arrearage withholding until satisfaction of the debt obligation.

Janelle St. Cyr v. Brent R. St. Cyr, CV 97-136 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Jan. 15, 2004). (Matha, T).

The Court previously issued an order, recognizing a standing foreign child support order. The petitioner filed a certified accounting statement showing a child support arrearage. The Court ordered arrearage withholding until satisfaction of the debt obligation.

Christopher A. Marceau v. Leanne J. Smith, CS 00-09 *Order (Ceasing Withholding)* (HCN Tr. Ct., Jan. 15, 2004). (Bossman, W).

The Court previously issued a notice, notifying the parties that a minor child would be turning eighteen years of age. The Court ordered the parties to submit proof of high school enrollment. No such proof was filed. The Court ordered the cessation of child support withholding.

JANUARY 16, 2004

State of WI/Jackson Co. v. Allyson L. Finch, CS 03-62 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 16, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's per capita payments. The respondent failed to answer within the specified time frame.

The Court granted the petitioner's request for recognition and enforcement.

State of WI/Jackson Co. v. Allyson L. Finch, CS 03-62 Order (Default Judgment for Child Support Deduction from Wages) (HCN Tr. Ct., Jan. 16, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's wages. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

Rosemarie C. Funmaker v. Dennis Funmaker, CV 97-63 Order (Modifying Current Child Support) (HCN Tr. Ct., Jan. 16, 2004). (Bossman, W).

The Court previously modified child support due to information that a minor child had turned eighteen years of age. The Court subsequently verified that the minor child did not turn eighteen years of age. The Court ordered withholding for current child support to resume.

Kathleen M. Peters v. Kevin B. Funmaker, CS 02-51; *Candice D. Solesby v. Kevin B. Funmaker*, CS 98-07; *Christina L. Funmaker v. Kevin B. Funmaker*, CS 03-82; *Stephanie M. Antone v. Kevin B. Funmaker*, CS 03-83 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Jan. 16, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to two additional foreign judgments against a serial payer's per capita payments. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

Taryn Power Greendeer v. William John Greendeer, CS 03-70 Default Judgment (Enforcing Child Support); *State of WI on behalf of Shelley E. Thundercloud v. William J. Greendeer*, CS 97-67 Equitable Adjustment; *State of WI on behalf of Cynthia Loofboro v. William J. Greendeer*, CV 97-96 Order (Ceasing Withholding) (HCN Tr. Ct., Jan. 16, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a

serial payer's per capita payments. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

State of WI, Jackson Co., on behalf of Sadie Winneshiek v. Gregory S. Harrison, CS 01-39; *State of WI, Wood Co., on behalf of Evangeline Two Crow v. Gregory S. Harrison*, CV 97-153 Amending Arrears (HCN Tr. Ct., Jan. 16, 2004). (Bossman, W).

The Court previously issued an order, recognizing standing foreign child support orders. The petitioner filed a certified accounting statement showing a child support arrearage. The Court ordered arrearage withholding until satisfaction of the debt obligation.

State of WI/Jackson Co. v. Janice Harrison, CS 03-43 Order (Enforcing Arrearage Withholding) (HCN Tr. Ct., Jan. 16, 2004). (Bossman, W).

The Court previously issued an order, recognizing a standing foreign child support order. The petitioner filed a certified accounting statement showing a child support arrearage. The Court ordered arrearage withholding until satisfaction of the debt obligation.

Felicia Jo Helgeson v. Roger B. Littlegeorge, CS 99-54; *Melanie Stacy v. Roger Littlegeorge*, CS 99-57 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Jan. 16, 2004). (Bossman, W).

The Court previously issued an order, recognizing a standing foreign child support order. The petitioner filed a certified accounting statement showing a child support arrearage. The Court ordered arrearage withholding until satisfaction of the debt obligation.

State of WI/Sauk Co. v. Mitchell RedCloud, CS 02-33; *Cynthia Mobley v. Mitchell RedCloud*, CS 03-42 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Jan. 16, 2004). (Bossman, W).

The Court previously issued an order, recognizing a standing foreign child support order. The petitioner filed a certified accounting statement showing a child support arrearage. The Court ordered

arrearage withholding until satisfaction of the debt obligation.

JANUARY 19, 2004

State of WI/Brown Co. and Gayla R. Barnes v. Kevin B. Funmaker, CS 03-81 Order (Default Judgment for Child Support Deduction from Wages) (HCN Tr. Ct., Jan. 19, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's wages. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

State of WI v. Fredrick K. Greendeer, CV 97-44; *State of WI/Sawyer Co., on behalf of Carol L. Miller v. Fredrick K. Greendeer*, CS 99-75; *State of WI/Sauk Co. and Pamela L. Mallory v. Fredrick K. Greendeer*, CS 03-05 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Jan. 19, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioner's motion to modify. The petitioner requested an increase in current child support and expressed such increases in set dollar figures rather than set percentages. The Court granted the petitioner's uncontested motion.

Heather Hartnett v. Patrick Hartnett, CS 03-85 Order (Default Judgment for Child Support Deduction from Wages) (HCN Tr. Ct., Jan. 19, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's wages. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

JANUARY 23, 2004

State of WI/Sauk Co., on behalf of Matthew Thundercloud v. Leah L. Fiske, f/k/a Leah L. Topping, CS 99-05; *State of WI/Sauk Co., & Bradley A. Fiske v. Leah L. Fiske*, CS 03-68 Order (Default Judgment -- Enforcing Child Support) (HCN Tr. Ct., Jan. 23, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to another foreign judgment against

a respondent's per capita payments. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

JANUARY 23, 2004

State of WI/Sauk Co. & Jessica L. Cloud v. Joshua D. Cloud, Sr., CS 03-34 Order (Enforcing Arrearage Withholding) (HCN Tr. Ct., Jan. 26, 2004). (Bossman, W).

The Court previously issued an order, recognizing a standing foreign child support order. The petitioner filed a certified accounting statement showing a child support arrearage. The Court ordered arrearage withholding until satisfaction of the debt obligation.

JANUARY 28, 2004

Scott Shoemaker v. Peggy Shoemaker, CS 03-87 Order (Default Judgment for Child Support Deduction from Wages) (HCN Tr. Ct., Jan. 28, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's wages. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

Civil Garnishment

JANUARY 8, 2004

Black River Mem'l Hosp. v. David Gray, Jr., CG 03-79 Order (Default Judgment) (HCN Tr. Ct., Jan. 8, 2004). (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 for recognition and enforcement.

Susan J. Taborsky v. Rosemary R. Blackhawk, CG 03-81 Order (Default Judgment) (HCN Tr. Ct., Jan. 8, 2004). (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 for recognition and enforcement.

JANUARY 19, 2004

St. Clare Hospital v. William P. Raftery, CG 03-80 Order (Final Judgment) (HCN Tr. Ct., Jan. 19, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent responded within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

JANUARY 28, 2004

Creditor Recovery Service, LLC, Agent for Midwest Fitness Consultants, CG 03-82 Order (Default Judgment) (HCN Tr. Ct., Jan. 28, 2004). (Matha, T).

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 for recognition and enforcement.

Civil Cases

CHILDREN'S TRUST FUND (CTF)

JANUARY 6, 2004

In the Interest of Minor Child: J.R., DOB 01/13/87, by Barb Rave, CV 00-107 Order (Second Motion Granted) (HCN Tr. Ct., Jan. 6, 2004). (Matha, T).

The Court previously approved a release from the CTF for purposes of orthodontic care. The petitioner subsequently filed an expedited motion for release of CTF monies for a medical procedure, genioplasty, related to the ongoing orthodontic care of the minor. The Court granted a further release of funds.

JANUARY 8, 2004

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 (Accepting Accounting) (HCN Tr. Ct., Jan. 8, 2004). (Matha, T).

The Court previously released money from the CTF account of the minor child for costs associated with home schooling. On two occasions, the Court requested that the petitioner submit the required accounting. The petitioner submitted a payment history, which confirmed proper use of the funds. The Court accepted this accounting.

JANUARY 15, 2004

In the Interest of Adult CTF Beneficiary: Ashley J. Webster, DOB 09/17/85 v. HCN Office of Tribal Enrollment, CV 03-82 Order (Petition Granted in Part and Denied in Part) (HCN Tr. Ct., Jan. 15, 2004). (Matha, T).

The petitioner filed a petition requesting a release from her CTF accounts for typical household bills, an outstanding balance on automobile and traffic fines and to purchase children's presents. The petitioner had satisfied her testing requirements by obtaining a High School Equivalency Diploma, but cannot receive a high school diploma until after the conclusion of the spring semester. Despite this fact, the Court determined to not afford more preferable treatment to the pending request.

However, the Court found that the petitioner's request differed from a typical adult petition because she based the request upon the purported needs of her minor children. The Court found that the needs of the child represent the needs of the adult. Therefore, the Court focused on the health, education and welfare of the petitioner and her minor children.

In a departure from previous decisions, the Court granted the request for rental assistance. The Court has repeatedly denied housing requests because the financial plight of the parents should not be shifted to children. However, that principle had no application here because the petitioner occupies the role of the parent, and the parent's children need housing.

The Court denied the request for automobile payment assistance. The petitioner had already purchased the vehicle. In addition, the Court denied the request because the vehicle does not prove commercially reasonable since it exceeds 75,000 miles on the odometer. However, the Court did grant the automobile insurance request.

The Court granted childcare assistance co-payments and the requests for electric and telephone service. The Court found that each of these items represent either a health or welfare necessity. However, the Court denied the request for a release for television cable billings and children's presents, finding these requests to constitute a want or a desire. Finally, the Court denied the request to satisfy the petitioner's traffic fines.

JANUARY 19, 2004

In the Interest of Minor Child: T.H.R., DOB 09/29/88, Barbara V. Rave v. HCN Office of Tribal Enrollment, CV 03-87 Order (Petition Granted) (HCN Tr. Ct., Jan. 19, 2004). (Matha, T).

The petitioner requested a release from the CTF to pay for costs associated with orthodontic procedures. The Court granted the release of funds to satisfy the request of the petitioner.

JANUARY 21, 2004

In the Interest of Adult CTF Beneficiary: Ashley J. Webster, DOB 09/17/85 v. HCN Office of Tribal Enrollment, CV 03-82 Order (Modifying Release of Per Capita Distribution) (HCN Tr. Ct., Jan. 21, 2004). (Matha, T).

The Court previously released money from the CTF account of the petitioner to satisfy typical household bills. The Court requested that the petitioner provide appropriate billing addresses. The petitioner provided those addresses to the Court. The Court updated the relevant addresses accordingly.

JANUARY 27, 2004

In the Interest of Minor Child: S.D.B., DOB 07/30/92, by Carol Barnes v. HCN Office of Tribal Enrollment, CV 00-90 Order (Accepting Accounting) (HCN Tr. Ct., Jan. 27, 2004). (Bossman, W).

The Court previously released money from the CTF account of the minor child for costs associated with orthodontics. The Court requested that the petitioner submit the required accounting. The petitioner submitted a letter, which confirmed proper use of the funds. The Court accepted this accounting.

CONTRACTS**JANUARY 15, 2004**

HCN Dep't of Bus. v. Cara Lee Murphy, CV 03-69 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 15, 2004). (Matha, T).

The Court previously issued a judgment in favor of the plaintiff. The plaintiff filed proof that the judgment had been paid in full. The Court recognized satisfaction of the judgment.

HCN Dep't of Health & Soc. Services, Div. Of Children & Family Services v. Victor Perez & Nichole Perez, CV 03-59 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 15, 2004). (Matha, T).

The Court previously issued a judgment in favor of the plaintiff. The plaintiff filed proof that the judgment had been paid in full. The Court recognized satisfaction of the judgment.

JANUARY 21, 2004

Betty J. White v. Dion W. Funmaker, CV 03-89 Order (Default Judgment) (HCN Tr. Ct., Jan. 21, 2004). (Matha, T).

The petitioner requested the Court enter a judgment against the defendant for an unpaid debt obligation and enforce the judgment against the defendant's per capita. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for a judgment. However, the Court lacks statutory authority to enforce such judgment against the respondent's per capita.

JANUARY 26, 2004

Don Brady v. Maria Blackhawk, CV 02-84 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 26, 2004). (Bossman, W).

The Court previously issued a judgment in favor of the plaintiff. A party filed proof that the judgment had been paid in full. The Court recognized satisfaction of the judgment.

ELECTION**JANUARY 19, 2004**

Clarence Pettibone v. HCN Gen. Council, Alvin Cloud, Acting Chair of the Gen. Council; Roberta Funmaker (aka Roberta Greendeer), Sec'y of the General Council; Gloria Visintin; Wade Blackdeer, Dallas Whitewing, Myrna Thompson, Christine Romano, Gerald Cleveland, Sharon Whiterabbit, Kathyleen Lonetree Whiterabbit, John Dall, Tracy Thundercloud, and Elliot Garvin, Legislators in the HCN Legislature; and Maryann Dumas, Chair of the Election Bd., CV 03-77 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Jan. 19, 2004). (Bossman, W).

The petitioner requested permission to appear at a scheduling conference by telephone. The Court granted the uncontested motion.

JANUARY 22, 2004

Clarence Pettibone v. HCN Gen. Council, Alvin Cloud, Acting Chair of the Gen. Council; Roberta Funmaker (aka Roberta Greendeer), Sec'y of the General Council; Gloria Visintin; Wade Blackdeer, Dallas Whitewing, Myrna Thompson, Christine Romano, Gerald Cleveland, Sharon Whiterabbit, Kathyleen Lonetree Whiterabbit, John Dall, Tracy Thundercloud, and Elliot Garvin, Legislators in the HCN Legislature; and Maryann Dumas, Chair of the Election Bd., CV 03-77 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Jan. 22, 2004). (Bossman, W).

The petitioner requested permission to appear at a scheduling conference by telephone. The Court granted the uncontested motion.

EMPLOYMENT**JANUARY 9, 2004**

Joshua Francis Smith, Sr. v. Rainbow Casino, HCN, Adam Estes, Jonette Pettibone, and Ida Carrier, CV 03-56 Order (Granting Motion for Summary Judgment) (HCN Tr. Ct., Jan. 9, 2004). (Bossman, W).

The defendants filed a motion for summary judgment in the instant case. The Court found no genuine issues of material fact in dispute. The Court held that the defendants were entitled to a judgment as a matter of law.

JANUARY 13, 2004

Harry J. Cholka v. Ho-Chunk Casino, CV 02-116 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 13, 2004). (Bossman, W).

The Court previously issued an order in favor of the plaintiff. The defendant filed proof that the judgment had been paid in full. The Court recognized that this debt has been paid in full.

JANUARY 14, 2004

Jill C. Adair v. Daniel Brown, CV 03-80 Scheduling Order (HCN Tr. Ct., Jan. 14, 2004). (Bossman, W). The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case up to and including trial.

JANUARY 15, 2004

Barbara Dent v. HCN, CV 03-70 Order (Dismissal) (HCN Tr. Ct., Jan. 15, 2004). (Bossman, W).

The defendant filed a settlement agreement and voluntary dismissal. The Court dismissed the instant case.

JANUARY 19, 2004

Richard Walker v. Jonette Pettibone, CV 01-122 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 19, 2004). (Matha, T).

The Court previously issued an order in favor of the defendant. The defendant filed a proof that the judgment had been paid in full. The Court recognized that this debt has been paid in full.

JANUARY 22, 2004

Laura L. Snake v. Douglas Greengrass, CV 03-61 Order (Dismissal with Prejudice) (HCN Tr. Ct., Jan. 22, 2004). (Matha, T).

The Court had to determine whether to dismiss the instant case. The plaintiff failed to appear for a pre-trial conference. The Court dismissed the case with prejudice.

Kenneth Lee Twin v. Douglas Greengrass & HCN dept. of Personnel, CV 03-88 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Jan. 22, 2004). (Matha, T).

The petitioner requested permission to appear at a scheduling conference by telephone. The Court granted the uncontested motion.

JANUARY 23, 2004

Janet Funmaker v. HCN, HCN Personnel Dep't, HCN Bus. Dep't, Ho-Chunk Gift Shop, CV 02-111 Order (Dismissal) (HCN Tr. Ct., Jan. 23, 2004). (Bossman, W).

The defendant filed a stipulation and proposed order for settlement. The Court dismissed the instant case.

JANUARY 28, 2004

Hope B. Smith v. HCN, CV 02-42 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 28, 2004). (Matha, T).

The Court previously issued an order in favor of the plaintiff. The defendant filed proof that the judgment had been paid in full. The Court recognized that this debt has been paid in full.

Melody Whiteagle-Fintak v. Russell Girard, Judy Whitehorse, Dep't of Social Services, Youth Services Div., CV 01-153 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 28, 2004). (Matha, T).

The Court previously issued an order in favor of the plaintiff. The defendant filed proof that the judgment had been paid in full. The Court recognized that this debt has been paid in full.

HOUSING

JANUARY 13, 2004

HCN Dep't of Hous., Prop. Mgmt. Div. v. Summer Martin and Dustin Jackson, CV 03-23 Order (Default Judgment) (HCN Tr. Ct., Jan. 13, 2004). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiff. The defendants failed to appear at the *Pre-Trial Conference*. The Court rendered a default judgment against the defendant, awarding the plaintiff permissible relief sought in the *Complaint*.

In addition, the Court dismissed the defendants' counterclaim. The Court maintains discretion to grant involuntary dismissals with or without prejudice. The consistent inaction of the plaintiff led the Court to dismiss the counterclaim with prejudice.

JANUARY 14, 2004

Ho-Chunk Housing Authority v. Harriet M. Hopinkah, a/k/a Harriet M. Whitegull, CV 02-108 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 14, 2004). (Bossman, W).

The Court previously issued a judgment in favor of the plaintiff. The plaintiff filed proof that the judgment had been paid in full. The Court recognized satisfaction of the judgment.

JANUARY 19, 2004

HCN Home Ownership Program v. Arnold Darnell, CV 01-114 Notice (Satisfaction of Judgment and Intent to Close) (HCN Tr. Ct., Jan. 19, 2004). (Bossman, W).

The Court previously issued a judgment in favor of the plaintiff. The plaintiff filed proof that the judgment had been paid in full. The Court recognized satisfaction of the judgment.

JANUARY 26, 2004

Ronald Kent Kirkwood v. HCN Housing Dep't & HCN Legislature, CV 03-62 Order (Granting Defendants' Motion to Dismiss) (HCN Tr. Ct., Jan. 26, 2004). (Matha, T).

The Court had to determine whether to grant the defendants' motion to dismiss. The plaintiff failed to identify an express waiver of the Ho-Chunk Nation's sovereign immunity from suit. Therefore, the Court granted a dismissal in favor of the defendants on this issue.

[See also [Sovereign Immunity](#) within this index.]

Domestic Violence

JANUARY 21, 2004

Robert Mobley, on behalf of J.M., 07/15/94; A.M., DOB 10/09/95; and D.M., DOB 04/08/98 v. Joyce St. Cyr & Carole St. Cyr, DV 04-01 Extension of Order for Protection (HCN Tr. Ct., Jan. 21, 2004). (Bossman, W).

The Court previously issued an *Ex Parte Order for Protection* in this matter. The Court convened a hearing. The respondents requested a continuance. The Court granted the continuance and extended the previously issued *Ex Parte Order for Protection*.

Juvenile

JANUARY 8, 2004

In the Interest of Minor Children: L.M., DOB 01/08/92; K.M., DOB 04/09/93; M.S.B., DOB 09/14/99, JV 98-14-15, JV 03-12 Order (Submission of Guardianship Report and Home Study) (HCN Tr. Ct., Jan. 8, 2004). (Bossman, W).

The petitioner filed a guardianship petition. The Court scheduled a hearing on the matter. The Court requested that CFS prepare and submit a guardianship report and home study to the Court.

In the Interest of Minor Children: L.M., DOB 01/08/92; K.M., DOB 04/09/93; M.S.B., DOB 09/14/99, JV 98-14-15, JV 03-12 Order (Submission of Guardianship Report and Home Study) (HCN Tr. Ct., Jan. 8, 2004). (Bossman, W)

The Court requested that CFS prepare and submit a list of the minor children's maternal and paternal grandparents and their descendants.

JANUARY 8, 2004

In the Interest of Minor Child: J.D.S., DOB 09/08/03, JV 03-30 Order (Establishment of Child Support) (HCN Tr. Ct., Jan. 13, 2004). (Matha, T).

The Court had to determine the proper withholding of current child support and arrears from the mother's income, including per capita distribution. The Court applied generally acceptable withholding guidelines in the absence of parental participation.

In the Interest of Minor Child: J.D.S., DOB 09/08/03, JV 03-30 Redacted Child Support Order (HCN Tr. Ct., Jan. 13, 2004). (Matha, T).

The Court had to determine the proper withholding of current child support and arrears from the mother's income, including per capita distribution. The Court provided excerpts of its final order for purposes of child support withholding and related administration by the Department of Treasury.

JANUARY 15, 2004

In the Interest of Minor Children: J.R.P., DOB 02/27/92; L.M.P., DOB 05/12/90; L.K.K., DOB 02/12/87, JV 03-01-03 Order (Establishment of Child Support) (HCN Tr. Ct., Jan. 15, 2004). (Matha, T).

The Court had to determine the proper withholding of current child support and arrears from the mother's income, including per capita distribution. The Court applied generally acceptable withholding guidelines in the absence of parental participation.

In the Interest of Minor Child: B.A.S., DOB 01/21/86, JV 99-19 Order (Termination of Jurisdiction) (HCN Tr. Ct., Jan. 15, 2004). (Matha, T).

The Court noted that the minor child would be turning eighteen years of age. The Court terminated its jurisdiction over and supervision of the instant case.

JANUARY 16, 2004

In the Interest of Minor Children: V.J.F., DOB 09/26/98; I.D.F., DOB 03/30/02, JV 03-39-40 Order (Formal Trial) (HCN Tr. Ct., Jan. 16, 2004). (Matha, T).

The Court convened a trial to determine whether allegations presented in the *Child/Family Protection Petition* proved more true than not, and whether the

best interests of the minor children would be served by continued court intervention. The Court held that CFS satisfied the requisite burden of proof.

In the Interest of Minor Children: V.J.F., DOB 09/26/98; I.D.F., DOB 03/30/02, JV 03-39-40 Redacted Child Support Order (HCN Tr. Ct., Jan. 16, 2004). (Matha, T).

The Court had to determine the proper withholding of current child support and arrears from the mother's income, including per capita distribution. The Court provided excerpts of its final order for purposes of child support withholding and related administration by the Department of Treasury.

In the Interest of Minor Child: P.D.R., DOB 08/24/90, JV 03-24 Order (Establishment of Child Support) (HCN Tr. Ct., Jan. 16, 2004). (Matha, T).

The Court had to determine the proper withholding of current child support and arrears from the mother's income, including per capita distribution. The Court applied generally acceptable withholding guidelines in the absence of parental participation.

In the Interest of Minor Child: P.D.R., DOB 08/24/90, JV 03-24 Redacted Child Support Order (HCN Tr. Ct., Jan. 16, 2004). (Matha, T).

The Court had to determine the proper withholding of current child support and arrears from the mother's income, including per capita distribution. The Court provided excerpts of its final order for purposes of child support withholding and related administration by the Department of Treasury.

JANUARY 19, 2004

In the Interest of Minor Child: E.J.B., DOB 05/19/99, JV 99-10 Order (Appointment of Second Temporary Guardian) (HCN Tr. Ct., Jan. 19, 2004). (Matha, T).

The Court previously appointed a temporary guardian of the minor child. CFS filed a motion requesting a co-permanent guardian. The Court convened a hearing on the motion. The Court appointed the second permanent guardian.

In the Interest of Minor Children: V.J.F., DOB 09/26/98; I.D.F., DOB 03/30/02, JV 03-39-40 Erratum Order (HCN Tr. Ct., Jan. 19, 2004). (Matha, T).

The Court entered this order to correct an inadvertent error in the previous order.

In the Interest of Minor Children: J.R.P., DOB 02/27/93; L.M.P., DOB 05/12/90; L.K.K., DOB 12/12/87, JV 03-01-03 Order (Child Protection Review Hearing) (HCN Tr. Ct., Jan. 19, 2004). (Matha, T).

The Court conducted a review hearing. The Court assessed the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

JANUARY 20, 2004

In the Interest of Minor Children: D.L.H., DOB 08/15/97; A.M.H., DOB 12/25/95; D.M.H., DOB 02/16/92; D.L.H., DOB 03/25/89, JV 03-20-23 Order (Child Protection Review Hearing) (HCN Tr. Ct., Jan. 20, 2004). (Matha, T).

The Court conducted a review hearing. The Court assessed the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

JANUARY 23, 2004

In the Interest of Minor Children: E.D.D., DOB 04/09/96; H.L.D., DOB 05/02/91; M.E.D., DOB 10/11/93, JV 02-13, -15-16 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Jan. 23, 2004). (Bossman, W).

The Court had to determine whether to appoint a temporary guardian of the minor children. The Court held a guardianship hearing. The Court deemed such an appointment in the best interest of the minor children.

In the Interest of Minor Child: D.D.W., DOB 12/16/94, JV 01-17 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Jan. 23, 2004). (Bossman, W).

The Court had to determine whether to appoint a temporary guardian of the minor child. The Court held a guardianship hearing. The Court deemed such an appointment in the best interest of the minor child.

In the Interest of Minor Children: D.R.W., DOB 09/22/92; D.G.W., DOB 11/09/95; D.S.W., DOB 02/19/98, JV 01-18-20 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Jan. 23, 2004). (Bossman, W).

The Court had to determine whether to appoint a temporary guardian of the minor children. The Court held a guardianship hearing. The Court deemed such an appointment in the best interest of the minor children.

In the Interest of Minor Child: D.P.S., DOB 12/12/88, JV 02-14 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Jan. 23, 2004). (Bossman, W).

The Court had to determine whether to appoint a temporary guardian of the minor child. The Court held a guardianship hearing. The Court deemed such an appointment in the best interest of the minor child.

JANUARY 26, 2004

In the Interest of Minor Child: M.I.S., DOB 04/18/00, CV 03-18 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Jan. 26, 2004). (Bossman, W).

The petitioner requested permission to appear at a scheduling conference by telephone. The Court granted the uncontested motion.

JANUARY 27, 2004

In the Interest of Minor Children: C.C.P., DOB 02/03/93; G.L.P., DOB 06/10/94, JV 03-25-26 Order (From Status Hearing) (HCN Tr. Ct., Jan. 27, 2004). (Bossman, W).

The Court conducted a status hearing. The Court assessed whether to make changes to the dispositional order. The Court determined to maintain the status quo.

JANUARY 28, 2004

In the Interest of Minor Child: M.I.S., DOB 01/28/04, JV 03-18 Order (Child Protection Review Hearing) (HCN Tr. Ct., Jan. 28, 2004). (Bossman, W).

The Court conducted a review hearing. The Court assessed the extent of compliance with the

dispositional order. The Court determined to maintain the status quo.

Sovereign Immunity

Ronald Kent Kirkwood v. HCN Housing Dep't & HCN Legislature, CV 03-62 *Order (Granting Defendants' Motion to Dismiss)* (HCN Tr. Ct., Jan. 26, 2004). (Matha, T).

The Ho-Chunk Nation Constitution instructs that the Legislature must provide an express waiver before the Court may entertain a cause of action against the Nation. While the plaintiff argued the interconnectedness of a waiver of sovereign immunity and plaintiff's claim that his right to equal protection has been violated, the Court held that the two issues remain distinct. While the Nation is insulated from an award of monetary damages, the Court may grant non-monetary declaratory and injunctive relief against the Nation's officials and employees.

The plaintiff asserted that the Appropriations and Budget Process Act contains an express waiver in relation to his immediate cause of action. The plaintiff alleged that the defendants violated the Home Ownership Program carryover amendment by misappropriating funds. The relevant amendment provides that money budgeted for the HOP expense commitments should be carried over into the next fiscal year. Expense commitments are defined as approved contracts for new construction for Elders. The plaintiff admitted that the HOP had not approved his file.

The plaintiff argued that the Legislature approved his new home construction when it performed the HOP modification and that it intended the funding allocation to service all Elders with applications on file. However, a resolution passed on the same day limited the plaintiff's access to HOP funds for a period of five years. The Court held that the plaintiff cannot demonstrate the presence of an applicable express waiver of sovereign immunity by revealing the ambiguity inherent in the legislative actions. In addition, the Court noted that the Appropriations and Budget Process Act requires the DOJ to prosecute any violations of the Act. The plaintiff could not avail himself of the waiver.

Recent Filings

Trial Court

Civil Garnishment

JANUARY 12, 2004

State Collection Serv. v. Sarah Martin a/k/a Sarah Acevedo, CG 04-01. (Matha, T).

JANUARY 19, 2004

First Select, Inc. v. Daniel Fitzgerald, CG 04-02. (Bossman, W).

JANUARY 20, 2004

Byron Teune Builders, Inc. v. Allyson L. Finch a/k/a Allyson L. Decora, CG 04-03. (Bossman, W).

Black River Falls Mem'l Hosp., CG 04-04. (Bossman, W).

Richard Pike v. Benjamin Russell, CG 04-05. (Bossman, W).

Child Support

JANUARY 15, 2004

Joseph P. Estebo v. Diane J. Hopinka, CS 04-01. (Bossman, W).

JANUARY 16, 2004

Mary L. Ruddat v. Cleland E. Goodbear, CS 04-02. (Bossman, W).

JANUARY 20, 2004

State of WI/Melanie Neadeau v. Jason Henry Rave, CS 04-03. (Bossman, W).

Debra F. Lozano v. Renea A. Perez, CS 04-04. (Bossman, W).

JANUARY 29, 2004

Maria Blackhawk v. William Carl Scarce, CS 04-05. (Matha, T).

D'Lynn Browne v. Troy Browne, CS 04-06. (Matha, T).

Anne Rosin v. George I. Stone, CS 04-07. (Matha, T).

Jennifer Kaebisch v. Michael Sheahan, CS 04-08.
(Matha, T).

Civil Cases

JANUARY 2, 2004

Daniel Brown v. Sandra Plawman, CV 04-01.
(Matha, T).

JANUARY 7, 2004

HCN Dep't of Health & Human Services v. Carol Rockman, CV 04-02. (Bossman, W).

JANUARY 8, 2004

Nyree Kedrowski v. Christine Steeples et al., CV 04-03. (Bossman, W).

JANUARY 16, 2004

Timothy White Eagle et al. v. Alvin Cloud et al., CV 04-04. (Matha, T).

JANUARY 20, 2004

Maria L. Adamiuk v. Ho-Chunk Casino, CV 04-05.
(Bossman, W).

JANUARY 22, 2004

Patricia C. Boyles v. Chris Steeples et al., CV 04-08. (Bossman, W).

JANUARY 26, 2004

Patricia Lowe Ennis v. Cash Systems, CV 04-06.
(Bossman, W).

Cash Systems v. Patricia A. Lowe Ennis, CV 04-07.
(Bossman, W).

Scott Finch v. Tammie v. Modica, CV 04-09.
(Matha, T).

In the Interest of Minor Child: Z.A.W., DOB 07/28/91 v. HCN Office of Tribal Enrollment, CV 04-10. (Matha, T).

Domestic Violence

JANUARY 6, 2004

Robert Mobley v. Joyce St. Cyr/Carole St. Cyr, DV 04-01. (Bossman, W).

Juvenile Cases

NOTHING TO REPORT AT THIS TIME.

2003 MARRIAGE CEREMONIES

April 25, 2003

Paul Arentz & Susette LaMere

Presiding Judge: Honorable Mark Butterfield,
Associate Supreme Court Justice

June 1, 2003

Noah James Decorah & Toni Renee Stewart

Presiding Judge: Honorable Mark Butterfield,
Associate Supreme Court Justice

June 21, 2003

Leo F. Heintz, Jr. & Amanda Rose DeCora

Presiding Judge: Honorable Mark Butterfield,
Associate Supreme Court Justice

August 3, 2003

Rhea Jean Faye Decorah & Antonio Sanchez

Presiding Judge: Honorable Todd R. Matha,
Associate Trial Court Judge

November 7, 2003

Lori A. Funmaker & Curtis J. Pidgeon

Presiding Judge: Honorable Todd R. Matha,
Associate Trial Court Judge





**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

Jim Greendeer

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 – Rosie Kakkak

Staff Attorney – Rose M. Weckenmann

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 10—Illinois, Indiana, Michigan, Minnesota, 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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Legal Citation Forms

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HO-CHUNK NATION COURT BULLETIN

HO-CHUNK PREFERENCE:

Court Opinion Clarifies Ho-Chunk Nation Preference Policy in Employment

On October 3, 2003, the Ho-Chunk Nation Trial Court issued a decision that examined the constitutionality and application of the Ho-Chunk Nation Preference Policy. *Regina K. Baldwin et al. v. Ho-Chunk Nation et al.*, CV 01-16,-19,-21 (HCN Tr. Ct., Oct. 3, 2003)¹. The enacting legislation indicated that the Preference Policy “shall be applied in recruiting, hiring, promotion, transfers, training, layoffs, compensation, benefits, terminations, and all other privileges, terms, and other conditions of employment.” PERS. MANUAL, Ch. 1, § 1.1 at 3a. The *Baldwin* opinion represents a departure from an earlier Court holding that allowed for administrative deference with respect to preference opinions. See *Louella A. Kelty v. Jonette Pettibone*, CV 98-49 (HCN Tr. Ct., Mar. 4, 1999). The Court held that administrative deference in this case would amount to judicial sanctioning of an arbitrary business practice. *Baldwin*, CV 01-16 at 16. The Court’s opinion gave a lengthy explanation of federal precedent in its explanation of why the Ho-Chunk Nation Preference Policy constitutes neither unlawful racial discrimination nor national origin discrimination. *Id.* at 17-23.

¹ The *Baldwin* decision may be obtained on-line at http://www.ho-chunknation.com/government/judicial/case_index2.htm.

The United States Supreme Court has characterized Indian employment preference as a “political preference,” as opposed to a “racial preference.” *Morton v. Mancari*, 417 U.S. 535, 553 & n.24 (1974). Therefore, because an Indian or tribal preference represents a political preference, only rational basis scrutiny for such legislation would be appropriate. *Id.* at 554. In *Mancari*, the Supreme Court went on to explain that such a policy would further the legitimate goal of tribal self-governance and therefore, withstand judicial scrutiny. *Id.* at 544, 555. The Ho-Chunk Nation Trial Court saw the applicability of the principles developed within *Mancari* to the tribal-specific preferences, such as the Ho-Chunk Nation Preference Policy. *Baldwin*, CV 01-16 at 20.

Additionally, the Trial Court explained that the Ho-Chunk Nation’s Preference Policy finds further legal justification in the Nation’s power to exclude non-Indians. *Id.* at 23. The United States Supreme Court has recognized that a Tribe derives an inherent power to exclude from its sovereign status. *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130, 141 (1982). The power to exclude includes the power to place conditions on the presence of non-Indians on Indian land. *Merrion* at 144, 147.

The Court held that because the policy explicitly states that the preference shall be applied, it does not allow for application of business deference in applying the preference. *Baldwin*, CV 01-16 at 25-26. Therefore, the Court concluded that a tribal member who meets or exceeds the stated qualifications of a job description must receive preference over non-Ho-Chunk counterparts. *Baldwin* at 26. In effect, a Ho-Chunk member proves more qualified for a position than other applicants meeting the stated job qualifications because he or she possesses the characteristic of tribal affiliation. *Id.* The Court also determined what should be the appropriate interplay between the Ho-Chunk Nation Preference and Layoff Policies. The Court explained that while the employer retains discretion in determining seniority and ability, the employer retains no discretion in applying tribal preference with respect to layoffs.

In an October 28, 2003 opinion, the Court applied the reasoning set forth in *Baldwin* in its ruling that a tribal member had been unfairly denied employment. *Harry J. Cholka v. Ho-Chunk Casino*, CV 02-116 (HCN Tr. Ct., Oct. 28, 2003). The plaintiff, an enrolled member of the Ho-Chunk Nation, interviewed for one of three openings for Slot Shift Operations Manager. In addition, Ho-Chunk Casino interviewed three non-Ho-Chunk members for the open positions.

During the *Trial*, the plaintiff’s witnesses provided evidence that the plaintiff met the twelve qualifications found in the relevant job description. *Id.* at 8. In addition, the defendant failed to present any evidence that the plaintiff did not meet the minimum qualifications of the position. *Id.* Therefore, the Court found that the plaintiff met these minimum qualifications. *Id.* at 8-9.

The Court held that the plaintiff was entitled to the position under the Ho-Chunk Nation Preference Policy. *Id.* The Court ordered the defendant to immediately hire the plaintiff for the position he had sought. In addition, the Court awarded the plaintiff damages in the form of back pay.

Recent Ho-Chunk Nation Trial Court rulings regarding the Nation’s Preference Policy will drastically impact the Nation’s workforce. It appears that the Court will no longer give deference to the Nation’s supervisors and managers as to when Ho-Chunk preference should apply. Rather, this preference must be applied in all employment decisions.

The proposed EMPLOYMENT RELATIONS ACT OF 2003 would codify the *Baldwin* requirement that a tribal member meeting the minimum qualifications for a position must be offered the position. Although the Court dealt with the layoff policy within the *Baldwin* opinion, the Ho-Chunk Preference would not apply in layoffs, transfers, and demotions under these proposed changes to the HO-CHUNK NATION PERSONNEL MANUAL. However, the Bureau of Indian Affairs applies its Indian preference to reassignments to lower positions, like that found in *Baldwin*.

Federal Court Update

Ninth Circuit Court of Appeals

Proschold v. United States, No. 02-16655, 2004 WL 324717 (9th Cir. Feb. 20, 2004).

The Quiet Title Act waives federal sovereign immunity for title disputes concerning real property in which the United States claims an interest. The Act expressly reserves sovereign immunity in disputes involving lands held in trust for Indian tribes. At issue in this case was an easement acquired for the assistance of the Dry Creek Rancheria Band of Pomo Indians and recorded by the Bureau of Indian Affairs. However, the easement did not designate title as held in trust.

The plaintiffs appealed the district court's decision dismissing their action for lack of subject matter jurisdiction. The Ninth Circuit Court of Appeals emphasized that the plaintiff bears the burden of proving that the district court had subject matter jurisdiction to entertain an action under the Quiet Title Act. The Court concluded that although some doubt existed as to the true status of the easement, the United States had asserted a colorable claim that the easement is held in trust. The Court affirmed the district court's order and held that sovereign immunity barred the action.



Chickaloon-Moose Creek Native Ass'n., Inc. v. Norton, No. 01-35921, 2004 WL 354195 (9th Cir. Feb. 26, 2004).

The Alaska Native Claims Settlement Act of 1971 extinguished aboriginal title and claims to aboriginal title to lands in Alaska. The Act provided that the federal government would distribute \$962,500,00 and over forty million acres of land to Alaska Natives. Furthermore, ANCSA established regional and village corporations in which Alaska Natives would be shareholders.

This case involved the 1976 Deficiency Agreement between the Department of Interior and Cook Inlet Region, Inc. (hereinafter CIRI), an Alaska Native regional corporation. The Deficiency Agreement governed the conveyance of lands from the United States to CIRI. Cook Inlet is the most populous area of Alaska. Therefore, the selection process developed under ANCSA had proven troublesome in this region.

The Deficiency Agreement described eligible lands within two separate appendices: Appendix A and Appendix C. The lands contained within Appendix A were sufficient to satisfy the villages' acreage entitlements. However, some native villages selected lands listed within Appendix C. At issue in this case was whether all lands listed in Appendix A must be transferred before lands listed in Appendix C could become available. The Department of Interior and the district court had held that the Agreement required that all Appendix A lands be exhausted before any Appendix C lands could be transferred.

The plaintiffs argued that the Deficiency Agreement is ambiguous and that the Court should, therefore, follow the canon of construction that ambiguous terms in statutes and treaties concerning Native Americans be construed in their favor. The Ninth Circuit Court of Appeals held that the language within the Agreement was unambiguous with respect to the conveyance of lands listed within the appendices. The Court affirmed the district court's decision.

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. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. 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.

Trial Court

Child Support

FEBRUARY 5, 2004

State of Wis./Jackson County v. Jacque L. Ledebuhr, CS 99-43 *Order (Renewing Child Support Withholding)* (HCN Tr. Ct., Feb. 5, 2004). (Matha, T).

The Court had previously suspended child support withholding. The petitioner filed a motion requesting that withholding for current child support and arrears be resumed. The Court granted this uncontested motion.

FEBRUARY 12, 2004

Anne M. Rosin v. George I. Stone, CS 04-07 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., Feb. 12, 2004). (Matha, T).

The Court received information that the respondent had left employment with the Ho-Chunk Nation. The Court dismissed the action for lack of personal jurisdiction over the respondent.

FEBRUARY 13, 2004

Joseph P. Estebo v. Diane J. Hopinka, CS 04-01 *Order (Enforcing Child Support)* (HCN Tr. Ct., Feb. 13, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's per capita payments. The respondent filed an answer stipulating agreement with the enforcement of the order within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

FEBRUARY 16, 2004

Kathleen M. Peters v. Kevin B. Funmaker, CS 02-51; *Candice D. Solesby v. Kevin B. Funmaker*, CS 98-07; *Christina L. Funmaker v. Kevin B. Funmaker*, CS 03-82; *Stephanie M. Antone v. Kevin B. Funmaker*, CS 03-83 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Feb. 16, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to two additional foreign judgments against a serial payer's per capita payments. The respondent failed to answer within the specified time frame. The Court granted the petitioners' requests for recognition and enforcement.

FEBRUARY 17, 2004

Jodi A. Cornelius Rodriquez v. Steven F. Sallaway, CS 98-16 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Feb. 17, 2004). (Matha, T).

The Court previously issued an order, recognizing a standing foreign child support order. The petitioner filed a certified accounting statement showing a child support arrearage. The Court ordered arrearage withholding until satisfaction of the debt obligation.



FEBRUARY 18, 2004

State of Wis. v. Arnold J. Crone, CV 97-35 Order (Modifying Current Child Support) (HCN Tr. Ct., Feb. 18, 2004). (Bossman, W).

The Court previously issued a notice, notifying the parties that a minor child would be turning eighteen years of age. The Court ordered the parties to submit proof of high school enrollment. Such proof was filed. The Court amended child support withholding accordingly.

Kathleen Waukau by the State of Wis./Shawano County v. Eldon Powless, CV 96-93; *Patricia C. Martinez v. Eldon Powless*, CS 99-17; *Margaret A. King v. Eldon Powless*, CS 99-22; *Rebecca Nunway v. Eldon Powless*, CS 99-23; *State of Wis./Juneau County & Annette Powless v. Eldon Powless*, CS 03-65 Order (Modifying and Enforcing Current Child Support) (HCN Tr. Ct., Feb. 18, 2004). (Matha, T).

The Court had to determine whether to enforce another foreign child support order against a serial payer's per capita payments. The Court afforded the petitioner an opportunity to respond to the petitioner's submissions. The Court granted the petitioner's request for recognition and enforcement.

FEBRUARY 23, 2004

State of Wis./Sauk County & Owenita R. White Eagle v. Eric S. Decorah, CS 04-13 Order (Enforcing Child Support) (HCN Tr. Ct., Jan. 16, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's per capita payments. The respondent filed an answer stipulating agreement with the enforcement of the foreign order within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

State of Wis./Sauk County & Melanie Allene Neadeau v. Jason Henry Rave, CS 04-03 Order (Enforcing Child Support) (HCN Tr. Ct., Feb. 23, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's per capita payments. The respondent

failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

FEBRUARY 24, 2004

D'Lynn Browne v. Troy Browne, CS 04-06 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Feb. 24, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's per capita payments. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

State of Wis./Jackson County v. Tyrone L. Decorah CV 97-66 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Feb. 24, 2004). (Matha, T).

The Court previously issued an order, recognizing a standing foreign child support order. The petitioner filed a certified accounting statement showing a child support arrearage. The Court ordered arrearage withholding until satisfaction of the debt obligation.

State of Wis./Jackson County v. Allyson L. Finch, CS 03-62 Order (Modifying Child Support Withholding) (HCN Tr. Ct., Feb. 24, 2004). (Bossman, W).

The petitioner requested a modification of child support withholding. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for modification.

FEBRUARY 24, 2004

State of Wis./Jackson County v. Adam J. LeGarde, CS 04-11 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Feb. 24, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's per capita payments. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

Jennifer L. Kaebisch v. Michael R. Sheahan, CS 04-08 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Feb. 24, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's per capita payments. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

FEBRUARY 25, 2004

State of Wis./Jackson County v. Casey A. Fitzpatrick, CS 00-50 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Feb. 25, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioner's recent motion to modify. The respondent failed to answer within the specified time frame. The Court granted the petitioner's uncontested motion.

State of Wis. On behalf of Cynthia Loofboro v. William J. Greendeer, CV 97-96 *Order (Ceasing Withholding and Intent to Close)* (HCN Tr. Ct., Feb. 25, 2004). (Bossman, W).

The Court previously ordered the child support withholding to continue through December 2003 because the petitioner filed proof of child's high school enrollment. The Court ordered a cessation of withholding from the respondent's per capita distribution. In addition, the Court informed the parties of its intent to close the file.

Sheila Doucette v. Scott Hinds, CV 97-132 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Feb. 25, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioner's recent motion to modify. The respondent failed to answer within the specified time frame. The Court granted the petitioner's uncontested motion.

FEBRUARY 26, 2004

Peggy Deere v. David W. Deere, CS 98-23 *Order (Ceasing Child Support Withholding)* (HCN Tr. Ct., Feb. 26, 2004). (Matha, T).

The Court had to determine whether to grant the petitioner's recent motion to modify. The respondent failed to answer within the specified

time frame. The Court granted the petitioner's uncontested motion.

State of Wis./Jackson Co. v. Allyson Finch, CS 03-62 *Order (Modifying Child Support Withholding)* (HCN Tr. Ct., Feb. 26, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioner's recent motion to modify. The respondent failed to answer within the specified time frame. The Court granted the petitioner's uncontested motion.

State of Wis. For Rosalind K. Falcon v. Kevin M. Smith, CS 99-60 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Feb. 26, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioner's recent motion to modify. The respondent failed to answer within the specified time frame. The Court granted the petitioner's uncontested motion.

FEBRUARY 27, 2004

Veronica Wilbur v. Bernard L. Crowe, CV 96-54; *Sara Whiteeagle v. Bernard L. Crowe*, CV 97-92 *Order (Modifying Current Child Support)* (HCN Tr. Ct., Feb. 27, 2004). (Bossman, W).

The Court previously modified child support enforcement due to the emancipation of one of the minor children. The petitioner filed proof of high school enrollment for the minor child. The Court again modified child support enforcement to reflect this filing.

Katherine Elaine Snow v. Edward Troy Decorah, CV 96-65 *Order (Child Support Withholding)* (HCN Tr. Ct., Feb. 27, 2004). (Bossman, W).

The petitioner requested a modification of child support withholding. The motion stated that an arrearage amount has been paid in full. The Court ordered the cessation of child support withholding and informed the parties of its intent to close the file.

State of Wis./Jackson County & Eunice G. Wamego, CV 96-83 Order (Modifying & Enforcing Child Support) (HCN Tr. Ct., Feb. 27, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioner's recent motion to modify. The respondent failed to answer within the specified time frame. The Court granted the petitioner's uncontested motion.

Ellen M. Estes v. Adam K. Estes, CS 04-14 Order (Default Judgment for Child Support Deduction from Wages) (HCN Tr. Ct., Feb. 27, 2004). (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 for recognition and enforcement.

Civil Garnishment

FEBRUARY 5, 2004

Black River Mem'l Hosp. v. Ricky & Kate Folkers, CG 03-67 Order (Default Judgment) (HCN Tr. Ct., Feb. 5, 2004). (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 for recognition and enforcement.

Franciscan Skemp Healthcare v. Janet Swennes, CG 03-70 Order (Enforcing Judgment) (HCN Tr. Ct., Feb. 5, 2004). (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 for recognition and enforcement.

FEBRUARY 6, 2004

First Select, Inc. v. Daniel Fitzgerald, CG 04-02 Order (Granting Twenty Days to File Amended Petition) (HCN Tr. Ct., Feb. 6, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to an assignment of a foreign judgment. The petitioner failed to file a certified copy of the original foreign judgment. The Court

granted the petitioner an opportunity to file a certified copy of the original foreign judgment.

FEBRUARY 16, 2004

Richard A. Pyka v. Benjamin Russell, CG 04-05 Order (Default Judgment) (HCN Tr. Ct., Feb. 16, 2004). (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 for recognition and enforcement.

FEBRUARY 18, 2004

State Collection Serv. v. Alicia Berg, CG 03-84 Order (Granting Twenty Days to File Amended Petition) (HCN Tr. Ct., Feb. 18, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The petitioner failed to file a certified copy of the original foreign judgment. The Court granted the petitioner an opportunity to file a certified copy of the original foreign judgment.

Drs. Delebo, Overman, Hegna & Reich v. Gloria Ward, CG 04-07 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Feb. 18, 2004). (Matha, T).

The petitioner requested recognition and enforcement of a foreign judgment. The petitioner sought to voluntarily dismiss its cause of action. The Court granted the dismissal without prejudice.

FEBRUARY 26, 2004

Greater La Crosse Radiological v. Daniel & Denise Krofta, CG 04-06 Order (Default Judgment) (HCN Tr. Ct., Feb. 26, 2004). (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 for recognition and enforcement.

Civil Cases

CHILDREN'S TRUST FUND (CTF)

FEBRUARY 3, 2004

In the Interest of Minor Child: T.J.M., DOB 10/25/88, & A.M.M., DOB 07/02/90, by Kenda Tarr v. HCN Office of Tribal Enrollment, CV 03-83 Order (Petition Granted) (HCN Tr. Ct., Feb. 3, 2004). (Matha, T).

The petitioner requested a release from the CTF to pay for costs associated with the family mortgage. While the Court has uniformly denied requests for housing assistance in the past, the facts in issue in this case demonstrated an egregious circumstance. The petitioner faced the possible loss of the family home through foreclosure.

The Court held the home constituted a health and welfare necessity of the minor children. In addition, the Court distinguished this case from prior case law. The Court granted the release of funds to satisfy the request of the petitioner.

FEBRUARY 4, 2004

In the Interest of Minor Child: T.J.M., DOB 10/25/88, & A.M.M., DOB 07/02/90, by Kenda Tarr v. HCN Office of Tribal Enrollment, CV 03-83 Order (Addendum to Judgment) (HCN Tr. Ct., Feb. 4, 2004). (Matha, T).

The Court previously entered a judgment granting a release from the CTF to satisfy an outstanding mortgage debt. The Court has instituted a rule of proportionality for those requests reflecting a household concern. The Court ordered the petitioner to repay one-third ($\frac{1}{3}$) of the total distributed amount within one (1) year.

FEBRUARY 18, 2004

In the Interest of: Jason Nathaniel Hopinka, DOB 12/17/83, CV 03-15 Order (Requesting Accounting) (HCN Tr. Ct., Feb. 18, 2004). (Bossman, W).

The Court previously approved a release from the CTF for costs related to criminal defense. The required accounting is now late. The Court requested that the petitioner submit the required accounting.

FEBRUARY 24, 2004

In the Interest of Minor Child: J.R., DOB 01/13/87, by Barb Rave v. HCN Office of Tribal Enrollment,

CV 00-107 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 24, 2004). (Matha, T).

The Court previously released money from the CTF account of the minor child for costs associated with a medical procedure related to the ongoing orthodontic care of the minor. The petitioner submitted a payment history, which confirmed proper use of the funds. The Court accepted this accounting.

In the Interest of Minor Child: T.H.R., DOB 09/29/88, Barbara V. Rave v. HCN Office of Tribal Enrollment, CV 03-87 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 24, 2004). (Matha, T).

The Court previously released money from the CTF account of the minor child for costs associated with a orthodontic procedures. The petitioner submitted a payment history, which confirmed proper use of the funds. The Court accepted this accounting.

In the Interest of Adult CTF Beneficiary: Ashley J. Webster, DOB 09/17/85 v. HCN Office of Tribal Enrollment, CV 03-82 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 24, 2004). (Matha, T).

The Court previously released money from the CTF account of the adult beneficiary to satisfy typical household bills. The petitioner submitted a payment history, which confirmed proper use of the funds. The Court accepted this accounting.

FEBRUARY 25, 2004

In the Interest of Minor Children: T.W.B., DOB 02/25/96; A.B.B., DOB 05/29/98, by Kathleen K. Waukau-Bourdon v. HCN Office of Tribal Enrollment, CV 04-11 Order (Requiring Submission of Documents) (HCN Tr. Ct., Feb. 25, 2004). (Bossman, W).

The petitioner requested a release from the CTF accounts of her minor children. The Court required the petitioner to submit further documentation in support of the petition.

FEBRUARY 26, 2004

In the Interest of Minor Child: D.R.G., DOB 09/16/91, by Donald Greengrass, Sr. v. HCN Office of Tribal Enrollment, CV 04-14 Order (Petition

Granted) (HCN Tr. Ct., Feb. 26, 2004). (Bossman, W).

The petitioner requested a release from the CTF account of his minor child to pay for costs associated with orthodontics. The Court granted the request.

In the Interest of Minor Child: J.S., DOB 02/16/91, by Regina Payer v. HCN Office of Tribal Enrollment, CV 04-13 Order (Petition Granted) (HCN Tr. Ct., Feb. 26, 2004). (Bossman, W).

The petitioner requested a release from the CTF account of her minor child to pay for costs associated with orthodontics. The Court granted the request.

In the Interest of Minor Children: Z.A.W., DOB 07/28/91; S.J.W., DOB 11/15/99, by Rita J. Wolf v. HCN Office of Tribal Enrollment, CV 04-10 Order (Petition Granted) (HCN Tr. Ct., Feb. 26, 2004). (Matha, T).

The petitioner requested a release from the CTF accounts of her minor child to pay for costs associated with orthodontics. The Court granted the request.

CONTRACTS

FEBRUARY 5, 2004

Owen Cyrus Mike v. Victoria V. Stacy Good-Thunder, CV 03-81 Order (Final Judgment) (HCN Tr. Ct., Feb. 5, 2004). (Matha, T).

The Court had to determine whether to enforce a debt obligation against the defendant. The defendant admitted to the standing obligation. Therefore, the Court entered the following order, granting a wage garnishment and other relief.

DEBTS TO THE NATION

FEBRUARY 18, 2004

Majestic Pines Hotel v. James Bugni, a/k/a David Bugni, & Deborah Bugni, CV 03-32 Order (Dismissal) (HCN Tr. Ct., Feb. 18, 2004). (Bossman, W).

The plaintiff filed a motion to dismiss. The plaintiff alleged that the defendant's paid the debt in full. The Court dismissed the instant case.

Majestic Pines Hotel v. Jeremy Samstad, CV 03-28 Order (Default Judgment) (HCN Tr. Ct., Feb. 18, 2004). (Bossman, W).

The Court had to determine whether to grant the relief requested by the plaintiff. The defendant failed to answer the complaint. The Court rendered a default judgment against the defendant.

FEBRUARY 24, 2004

HCN Dep't of Health and Human Servs. v. Carol Rockman, 04-02 Order (Postponing Scheduling Conference) (HCN Tr. Ct., Feb. 24, 2004). (Bossman, W).

The defendant requested a postponement of the scheduling conference. The Court granted the request.

FEBRUARY 27, 2004

HCN Dep't of Health and Human Servs. v. Carol Rockman, 04-02 Scheduling Order (HCN Tr. Ct., Feb. 27, 2004). (Bossman, W).

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

ELECTION

FEBRUARY 12, 2004

Clarence Pettibone v. HCN Gen. Council, et al., CV 03-77 Scheduling Order (HCN Tr. Ct., Feb. 12, 2004). (Bossman, W).

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

FEBRUARY 24, 2004

Clarence Pettibone v. Gloria Visintin, CV 03-76 Order (Granting Motion for a More Definite Statement) (HCN Tr. Ct., Feb. 24, 2004). (Bossman, W).

The defendant filed a motion requesting a more definite statement of the complaint from the plaintiff. The plaintiff failed to file a response to the motion. The Court granted the defendant's request and ordered the plaintiff to file an amended complaint.

FEBRUARY 27, 2004

Clarence Pettibone v. HCN Gen. Council, et al., CV 03-77 *Order Granting Stay* (HCN Tr. Ct., Feb. 27, 2004). (Bossman, W).

The Court previously issued a *Scheduling Order* in this action. Attorneys for the plaintiff and defendants requested a stay of the *Scheduling Order* to continue to pursue ongoing settlement discussions. The Court granted the request.

EMPLOYMENT**FEBRUARY 5, 2004**

Michelle Mary Krowiorz v. HCN Dep't of Pers., CV 02-37 *Order (Granting Defendant's Motion for Summary Judgment)* (HCN Tr. Ct., Feb. 5, 2004). (Matha, T).

The Court had to determine whether the defendant unfairly denied Bridged Service Credit and back pay to the plaintiff. The defendant terminated the plaintiff after the Gaming Commission's revocation of her gaming license. The plaintiff argued that upon the Gaming Commission's rescission of its decision revoking the plaintiff's gaming license, the termination became nullified.

The plaintiff failed to show any persuasive evidence demonstrating an improper termination. The plaintiff risked termination if she could not maintain a gaming license. Her failure to disclose various charges resulted in the revocation of her gaming license.

The defendants filed a motion for summary judgment in the instant case. The Personnel Manual provides that terminated employees may not receive Bridge Service Credit. The Court held that the defendants were entitled to a judgment as a matter of law.

FEBRUARY 6, 2004

Kenneth Lee Twin v. Douglas Greengrass & HCN Dep't of Pers., CV 03-84 *Order (Rescheduling Scheduling Conference and Granting Telephonic Appearance)* (HCN Tr. Ct., Feb. 6, 2004). (Bossman, W).

The petitioner requested postponement of the scheduling conference. The petitioner further requested permission to appear at a scheduling conference by telephone. The Court granted the uncontested motion.

FEBRUARY 11, 2004

Janeta Doede v. Ho-Chunk Hotel & Convention Ctr., CV 01-143 *Order (Final J.)* (HCN Tr. Ct., Feb. 11, 2004). (Matha, T).

The Court had to determine whether the plaintiff could bring the instant action. The plaintiff failed to reasonably adhere to the timelines set forth in the Administrative Review Process. As a result of defendant's failure to adhere to such timelines, the defendant's sovereign immunity from suit remained fully in tact. The Court held that the defendants were entitled to a judgment as a matter of law.

FEBRUARY 12, 2004

Wayne S. Hanrahan v. Sharyn Whiterabbit & Kathyleen Whitereabbit, HCN Legislators, CV 03-54; *Wayne S. Hanrahan v. Ron Anwash, Lands Supervisor, Dep't of Natural Res., & Larry Garvin, Interim Exec. Dir., Heritage Pres., Order (Regarding Motions of Defendants)* (HCN Tr. Ct., Feb. 12, 2004). (Bossman, W).

The defendants filed several motions with the Court. The plaintiff failed to file a response to the motions. The Court granted the motion requesting consolidation of the two aforementioned actions. The Court granted the motion requesting an extension of the discovery deadline. In addition, the Court granted the motion requiring the plaintiff to submit to a deposition. The Court declined to grant the motion requesting sanctions against the plaintiff.

FEBRUARY 13, 2004

Kenneth Lee Twin v. Douglas Greengrass & HCN Dep't of Pers., CV 03-84 *Order (Setting Motion Hearing and Postponing Scheduling Conference)* (HCN Tr. Ct., Feb. 13, 2004). (Bossman, W).

The Court scheduled a motion hearing to allow the plaintiff an opportunity to argue his motion requesting leave to file an amended complaint. The Court scheduled a motion hearing and postponed the scheduling conference.

FEBRUARY 16, 2004

Michael R. Stanley v. HCN & Ho-Chunk Casino, CV 02-50 *Order (Final J.)* (HCN Tr. Ct., Feb. 16, 2004). (Matha, T).

The Court had to determine whether the defendant unfairly denied Bridged Service Credit to the plaintiff. The defendant terminated the plaintiff

after the Gaming Commission's revocation of his gaming license. The Personnel Manual provides that terminated employees may not receive Bridge Service Credit.

The plaintiff argued that because no one served him with termination paperwork or informed him of the same, he occupied a special undefined status. However, the plaintiff offered no legal explanation justifying his hiatus of eighty-two (82) days. The Court held that the defendants were entitled to a judgment as a matter of law.

FEBRUARY 20, 2004

Helen M. Willson v. HCN & Amy Peterson, CV 02-88 Order (Final Judgment) (HCN Tr. Ct., Feb. 20, 2004). (Matha, T).

The Court had to determine whether the defendants improperly laid off the defendant. The plaintiff alleged the existence of a concerted campaign to remove her in light of a perceived excessive usage of Family Medical Leave. The defendants contended that they based the decision upon permissible indicators of the plaintiff's ability. The Court granted the defendants a directed verdict following the plaintiff's case in chief due to her inability to satisfy her burden of proof.

FEBRUARY 24, 2004

Nyree Kedrowski v. Christine Steeples, Exec. Dir., Health/Soc. Servs.; Jean Stacy, Educ. Dep't; Valerie Smith, Coordinator, Wis. Rapids Study Ctr.; & Jacinta Warrington, Teacher, Wis. Rapids Study Ctr., CV 04-03 Scheduling Order (HCN Tr. Ct., Jan. 19, 2004). (Bossman, W).

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

FEBRUARY 26, 2004

Nina K. Garvin v. HCN, John Kregenow, & Janet Greendeer, CV 02-68 Order (Final Judgment) (HCN Tr. Ct., Feb. 26, 2004).

The Court had to determine whether the defendants repeatedly harassed the plaintiff, culminating in several alleged retaliatory actions. The plaintiff offered no credible evidence to substantiate her claims. The Court granted the defendants' motion for a directed verdict.

FEBRUARY 27, 2004

Loa Porter v. Jay Toth, Exec. Dir., HCN Dep't of Health & Soc. Servs.; Greg Garvin, Exec. Admin. Officer, HCN; & Troy Swallow, President, HCN, CV 02-71 Order (Failure to Present Justiciable Cause of Action) (HCN Tr. Ct., Feb. 27, 2004). (Matha, T).

The plaintiff received a layoff due to the elimination of her position. The funds in the Division of Social Services Administrator line item remained unaffected following the elimination of the position. The plaintiff filed a suit alleging a violation of the APPROPRIATIONS AND BUDGET PROCESS ACT. However, the defendants have not utilized the earmarked funds for another purpose. Therefore, the Court held that the plaintiff failed to allege a ripe cause of action.

ENROLLMENT

FEBRUARY 6, 2004

Cornelius Decora v. Adam Hall, HCN Tribal Enrollment Office; George Greendeer, Tribal Genealogist; Tribal Enrollment Comm.; HCN Legislature; & HCN, CV 03-25 Order (Denying Motion to Dismiss) (HCN Tr. Ct., Feb. 6, 2004). (Bossman, W).

The plaintiff filed a complaint requesting that his four children be enrolled as members of the Ho-Chunk Nation. The defendants moved to dismiss the complaint. The Court denied the motion to dismiss.

FEBRUARY 16, 2004

Cornelius Decora v. Adam Hall, HCN Tribal Enrollment Office; George Greendeer, Tribal Genealogist; Tribal Enrollment Comm.; HCN Legislature; & HCN, CV 03-25 Order (Postponing Trial) (HCN Tr. Ct., Feb. 16, 2004). (Bossman, W).

The plaintiff requested postponement of the trial because one of the named defendants will be unavailable to appear. The Court granted the request and postponed the trial.

HOUSING

FEBRUARY 13, 2004

HCN Hous. Auth. v. Marilyn White Eagle & Randall White Eagle, CV 03-10 Eviction Order

(*Restitution and Relief*) (HCN Tr. Ct., Feb. 13, 2004). (Bossman, W).

The Court had to determine whether to evict tenants from a rental housing unit for lease violations. The defendant failed to respond to the complaint within the prescribed time period. The Court granted a default judgment in favor of the plaintiff.

HCN Hous. Auth. v. Marilyn White Eagle & Randall White Eagle, CV 03-10 Order (*Writ of Restitution*) (HCN Tr. Ct., Feb. 13, 2004).

The Court issued this *Writ of Restitution* to inform the proper law enforcement officials of the Court's eviction order.

FEBRUARY 18, 2004

HCN Dep't of Hous., Prop. Mgmt. Div. v. Gregory Gromoff & Barbara Gromoff, CV 03-16 Order (*Dismissal*) (HCN Tr. Ct., Feb. 18, 2004). (Bossman, W).

The plaintiff filed a motion to dismiss. The plaintiff alleged that the defendants had agreed to pay the debt in full. The Court dismissed the instant case.

HCN Dep't of Hous., Prop. Mgmt. Div. v. Dean Hopinka & Loretta Hopinka, CV 03-64 Order (*Default Judgment*) (HCN Tr. Ct., Feb. 18, 2004). (Bossman, W).

The Court had to determine whether to grant the relief requested by the plaintiff. The defendant failed to respond to the complaint within the prescribed time period. The Court granted the default judgment in favor of the plaintiff.

FEBRUARY 20, 2004

Ronald Kent Kirkwood v. HCN Hous. Dep't & HCN Legislature, CV 03-62 Order (*Dismissal Without Prejudice*) (HCN Tr. Ct., Feb. 20, 2004). (Matha, T).

The Court previously granted a dismissal but afforded the parties an opportunity to present arguments concerning the effect of the judgment. The Court had to determine whether to dismiss the action with or without prejudice. The Court distinguished this action from prior Court precedent dismissing an action with prejudice because of the Court's lack of subject matter jurisdiction. However, sovereign immunity and subject matter jurisdiction should not bar any future request for

relief in this matter. The Court granted the dismissal without prejudice.

FEBRUARY 23, 2004

HCN Dep't of Hous., Prop. Mgmt. Div. v. Jamie Funmaker, CV 02-01 Order (*Writ of Restitution*) (HCN Tr. Ct., Feb. 23, 2004).

The Court issued this *Writ of Restitution* to inform the proper law enforcement officials of the Court's eviction order.

HCN Dep't of Hous., Prop. Mgmt. Div. v. Jamie Funmaker, CV 02-01 Order (*Satisfaction of Judgment*) (HCN Tr. Ct., Feb. 23, 2004).

The Court previously issued a judgment in favor of the plaintiff. The plaintiff filed proof that the defendant had paid the debt in full. The Court recognized that this debt has been paid in full.

FEBRUARY 24, 2004

HCN Dep't of Hous., Prop. Mgmt. Div. v. Jamie Funmaker, CV 02-01 Eviction Order (*Restitution and Relief*) (HCN Tr. Ct., Feb. 24, 2004). (Bossman, W).

The Court previously granted a default judgment in favor of the plaintiff. The plaintiff requested a modification of the previously issued order. The Court granted the requested modification.

HCN Dep't of Hous., Prop. Mgmt. Div. v. Janice Tourtilott & Ronald Martin, CV 03-65 Order (*Satisfaction of Judgment*) (HCN Tr. Ct., Feb. 24, 2004). (Matha, T).

The Court previously issued a judgment in favor of the plaintiff. The plaintiff filed proof that the defendant had paid the debt in full. The Court recognized that this debt has been paid in full.

INCOMPETENT TRUST FUND (ITF)

FEBRUARY 2, 2004

In the Interest of Beatrice F. Reyes, DOB 09/18/19, by Dorothy Lenard v. HCN Office of Tribal Enrollment, CV 02-95 Order (*Motion Granted*) (HCN Tr. Ct., Feb. 2, 2004). (Matha, T).

The Court had to determine whether the permanent guardian could access monies on behalf of an adult incompetent member from the ITF to pay for costs associated with ongoing nursing home care. The

Court granted a release of the funds to satisfy the request.

FEBRUARY 4, 2004

In the Interest of Adult Incompetent Roberta Goodbear, by Patrick Rebman v. HCN Office of Tribal Enrollment, CV 96-49 Order (Granting Petition for Release of Per Capita Distributions) (HCN Tr. Ct., Feb. 4, 2004). (Bossman, W).

The Court had to determine whether the guardian could access monies on behalf of an adult incompetent member for the ITF to pay for costs associated with her criminal defense. The Court granted a release of the funds to satisfy the request.

FEBRUARY 5, 2004

In the Interest of Kathy Brandenburg v. HCN Office of Tribal Enrollment, CV 98-18 Order (Granting Request for Discharge of Protective Payee and Determining Lack of Jurisdiction) (HCN Tr. Ct., Feb. 5, 2004). (Bossman, W).

The Court had to consider whether to grant the request of Phyllis Smoke to be discharged as protective payee for the adult incompetent member. The Court determined that there has never been a finding that the adult tribal member has ever been found legally incompetent, that no guardian has ever been appointed, and that this Court lacks jurisdiction to continue supervision of an incompetent trust fund. The Court discharged the protective payee.

FEBRUARY 12, 2004

In the Interest of: Elaine Sine, DOB 02/01/55, by Cecilia Sine v. HCN Office of Tribal Enrollment, CV 03-27 Order (Petition Granted) (HCN Tr. Ct., Feb. 12, 2004). (Bossman, W).

The Court had to determine whether the guardian could access monies on behalf of an adult incompetent member for the ITF to pay for delinquent taxes. The Court granted a release of the funds to satisfy the request.

FEBRUARY 23, 2004

In re: Bruce Patrick O'Brien, by Elethe Nichols v. HCN Office of Tribal Enrollment, CV 96-46 Order (Requesting Accounting) (HCN Tr. Ct., Feb. 23, 2004). (Bossman, W).

The Court previously approved a release from the CTF for costs related to fuel and insurance. The required accounting is now late. The Court requested that the petitioner submit the required accounting.

FEBRUARY 26, 2004

In re: Bruce Patrick O'Brien, by Elethe Nichols v. HCN Office of Tribal Enrollment, CV 96-46 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 26, 2004). (Bossman, W).

The Court previously approved a release from the CTF for costs related to fuel and insurance. The Court requested that the petitioner submit the required accounting. The petitioner submitted an accounting and the Court accepted the same.

In re: Bruce Patrick O'Brien, by Elethe Nichols v. HCN Office of Tribal Enrollment, CV 96-46 Order (Petition Granted) (HCN Tr. Ct., Feb. 26, 2004). (Bossman, W).

The Court had to determine whether the legal guardian could access funds from the ITF account of the adult incompetent to pay for property taxes, vehicle upkeep, home furniture, Easter Seal Camp, car insurance, home heating, fuel, and clothing. The Court granted the release.

Domestic Violence

FEBRUARY 5, 2004

In the Interest of Elder Person, by HCN Dep't of Soc. Servs., DV 03-01 Order (Final Judgment) (HCN Tr. Ct., Feb. 5, 2004). (Matha, T).

The Court had to determine whether the Ho-Chunk Nation Legislature intended the HO-CHUNK NATION ELDER ABUSE PROTECTION ACT OF 2001 to cover elders not suffering from incapacity. The Court found no credible argument supporting such an extension of the law. The Court held that the petitioner cannot maintain the present cause of action.

Juvenile

FEBRUARY 2, 2004

In the Interest of Minor Children: V.J.F., DOB 09/26/98; I.D.F., DOB 03/30/02, JV 03-39-40 Order (Dispositional Requirements) (HCN Tr. Ct., Feb. 2, 2004). (Matha, T).

The Court conducted a dispositional hearing. The court had to assess the extent and scope of the dispositional recommendations proposed by CFS. The dispositions contained within the order hopefully will serve to reunify the family.

In the Interest of Minor Child: H.S.H., DOB 02/18/03, JV 03-29 Order (Dispositional Requirements) (HCN Tr. Ct., Feb. 2, 2004). (Matha, T).

The Court conducted a dispositional hearing. The court had to assess the extent and scope of the dispositional recommendations proposed by CFS. The dispositions contained within the order hopefully will serve to reunify the family.

FEBRUARY 5, 2004

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 (Termination of Jurisdiction) (HCN Tr. Ct., Feb. 5, 2004). (Matha, T).

The mother of the minor children entered into a voluntary agreement with CFS. The agreement contained four (4) recommendations that CFS required the mother to fulfill prior to a return of physical custody. CFS informed the Court that the mother satisfied the recommendations. The Court terminated its jurisdiction.

In the Interest of Minor Child: T.F.R., DOB 08/08/99, JV 03-42 Order (Granting Extension) (HCN Tr. Ct., Feb. 5, 2004). (Matha, T).

The Court previously directed the GAL to perform a home study of the newly appointed temporary guardian. The GAL requested an extension of time in which to submit the home study. The Court granted the request.

FEBRUARY 9, 2004

In the Interest of Minor Children: B.E.Y., DOB 07/25/89, N.R.Y., DOB 07/07/91, JV 03-37-38 Order (For Special Entry of Appearance) (HCN Tr. Ct., Feb. 9, 2004). (Bossman, W).

The attorney for the mother of the minor children filed a motion requesting an entry of special appearance in this action. The court granted the motion.

FEBRUARY 10, 2004

In the Interest of Minor Child: E.J.B., DOB 05/19/99, JV 99-10 Order (Motion Granted) (HCN Tr. Ct., Feb. 10, 2004). (Matha, T).

The Court had to determine whether to order DNA testing so that an eligible minor child could progress through the enrollment process. The Ho-Chunk Nation Office of Tribal Enrollment requires DNA testing of all applicants for enrollment. The Court ordered the testing.

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 (Establishment of Paternal Child Support) (HCN Tr. Ct., Feb. 10, 2004). (Matha, T).

The Court had to determine the proper current child support obligation for the minor children's father. The Court applied generally acceptable withholding guidelines in the absence of parental participation.

In the Interest of Minor Child: D.S.S., DOB 07/12/99, JV 03-15 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Feb. 10, 2004). (Bossman, W).

The mother of the minor child requested permission to appear at the guardianship hearing by telephone. The Court granted the request.

FEBRUARY 12, 2004

In the Interest of Minor Child: A.C.S., DOB 04/04/89, JV 98-05 Order (Appointment of Permanent Guardian) (HCN Tr. Ct., Feb. 12, 2004). (Bossman, W).

The Court had to determine whether to appoint a permanent guardian of the minor child. The Court deemed such an appointment to be within the minor children's best interests.

FEBRUARY 23, 2004

In the Interest of the Minor Child: D.S.S., DOB 07/12/99, JV 03-15 Order (Appointing Temporary Guardian) (HCN Tr. Ct., Feb. 23, 2004). (Bossman, W).

The Court had to determine whether to appoint a temporary guardian of the minor child. The Court deemed such an appointment to be within the minor children's best interests.

FEBRUARY 25, 2004

In the Interest of Minor Child: B.D.T., DOB 08/10/91, JV 98-10 Order (Child Protection Review Hearing) (HCN Tr. Ct., Feb. 25, 2004). (Bossman, W).

The Court conducted a review hearing. The Court determined to maintain the status quo.

FEBRUARY 26, 2004

In the Interest of Minor Child: L.J.R., DOB 02/17/90, JV 01-05 Order (Imparting Discretion to Psychologist) (HCN Tr. Ct., Feb. 26, 2004). (Matha, T).

The court had to determine whether to authorize treating psychologists at Franciscan Skemp Healthcare to make necessary health decisions for the minor child. The court deemed that the authorization would be in the minor child's best interests. The Court formally deferred to the medical expertise of the aforementioned psychological staff.

Custody**FEBRUARY 25, 2004**

In the Interest of Minor Child: J.H.R., DOB 01/09/95 v. HCN Office of Tribal Enrollment, CU 95-18 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 25, 2004). (Bossman, W).

The Court previously approved a release from the CTF for the purchase of a handicapped accessible van. The Court requested that the petitioner submit the required accounting. The petitioner submitted an accounting and the Court accepted the same.

Supreme Court

NOTHING TO REPORT AT THIS TIME.

Recent Filings**Trial Court****Civil Garnishment****FEBRUARY 3, 2004**

Greater La Crosse Radiological v. Daniel & Denise Krofta, CG 04-06. (Bossman, W).

FEBRUARY 9, 2004

Drs Delebo, Overman, Hegna & Reich v. Gloria Ward, CG 04-07. (Matha, T).

FEBRUARY 10, 2004

Creditor Recovery Service, Agent for Doctors v. Bonita L. Roy, CG 04-08. (Matha, T).

Creditor Recovery Service & Mobile Link Cell & Stereo v. Geraldine R. Riley, CG 04-09. (Matha, T).

Creditor Recovery Service v. Laurie Krutke, CG 04-10. (Matha, T).

FEBRUARY 11, 2004

Creditor Recovery Service, Agent for James Esselman, D.D.S. v. Jeffrey W. Vetrone, CG 04-11. (Matha, T).

Creditor Recovery Service, Agent for Party Connection v. Mary Thunder, CG 04-12. (Matha, T).

Creditor Recovery Service, Agent for Water Works & Light Comm'n v. Carmen Smith, CG 04-13. (Matha, T).

Creditor Recovery Service for Riverhill Dental Assocs. v. Sandra Dilorenzo, CG 04-14. (Matha, T).

FEBRUARY 12, 2004

Riverview Hosp. Assoc., Inc. v. Wenday Hanneman, CG 04-15. (Matha, T).

FEBRUARY 13, 2004

Madison Gas & Elec. Co. v. Joy Rave, CG 04-16. (Matha, T).

Franciscan Skemp Healthcare v. Becky Wood, CG 04-17. (Matha, T).

FEBRUARY 20, 2004

All American Plaza v. Allyson Finch, CG 04-18. (Bossman, W).

Gunderson Clinic, Ltd. v. Rachel M. Winneshiek, CG 04-19. (Bossman, W).

FEBRUARY 24, 2004

Ford Motor Credit Co. v. Gina L. WhiteEagle, CG 04-20. (Matha, T).

FEBRUARY 25, 2004

Campus View Props. v. Robert & Linda Frommung, CG 04-21. (Matha, T).

State Collection Serv. v. Elisabeth Haller, CG 04-22. (Matha, T).

Child Support**FEBRUARY 2, 2004**

State of Wis. V. Lawrence R. Waube, CS 04-09. (Bossman, W).

Sauk County v. Larry & Stacy McMahon, CS 04-10. (Bossman, W).

State of Wis. & Jenna Littlegeorge v. Adam J. Legarde, CS 04-11. (Bossman, W).

FEBRUARY 6, 2004

William S. Buchanan v. Sonia R. Roberts, CS 04-12. (Bossman, W).

State of Wis. & Owenita R. WhiteEagle v. Eric S. Decorah, CS 04-13. (Bossman, W).

Ellen M. Estes v. Adam K. Estes, CS 04-14. (Bossman, W).

FEBRUARY 16, 2004

State of Wis. & Calvinita Kills in Water v. Moses L. Cleveland, CS 04-15. (Bossman, W).

FEBRUARY 25, 2004

Andrea L. Estebo v. Joseph P. Estebo, CS 04-16. (Matha, T).

FEBRUARY 26, 2004

State of Wis. V. Manda Whitethunder, CS 04-17. (Matha, T).

Civil Cases**FEBRUARY 6, 2004**

In the Interest of Minor Children: T.W.B., DOB 02/25/96; A.B.B., DOB 05/29/98 v. HCN Office of Tribal Enrollment, CV 04-11. (Bossman, W).

FEBRUARY 16, 2004

In the Interest of Minor Child: M.E.A., DOB 07/25/88 v. HCN Office of Tribal Enrollment, CV 04-12. (Bossman, W).

FEBRUARY 18, 2004

In the Interest of Minor Child: S.J., DOB 02/16/91, by Regina Payer v. HCN Office of Tribal Enrollment, CV 04-13. (Bossman, W).

FEBRUARY 20, 2004

In the Interest of Minor Child: D.R.G., DOB 09/16/91 v. HCN Office of Tribal Enrollment, CV 04-14. (Bossman, W).

In the Interest of Michelle LaMere, DOB 12/01/83 v. HCN Office of Tribal Enrollment, CV 04-15. (Bossman, W).

FEBRUARY 23, 2004

Marks Adver. Agency v. Al Miller & Robert Mudd, CV 04-16. (Matha, T).

FEBRUARY 24, 2004

Citizens Community Federal v. Arjanette Neperud, CV 04-18. (Matha, T).

FEBRUARY 26, 2004

Debra M. Jones v. Majestic Pines, CV 04-19. (Matha, T).

In the Interest of Minor Child: D.D., DOB 12/07/88 v. HCN Office of Tribal Enrollment, CV 04-21. (Matha, T).

Juvenile Cases

In the Interest of Minor Child: A.J.C., JV 04-01. (Bossman, W).

Supreme Court**FEBRUARY 27, 2004**

Veronica Wilbur v. Bernard L. Crowe; Sara WhiteEagle v. Bernard L. Crowe, SU 04-02.



**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
Jim Greendeer
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 – Rosie Kakkak

Staff Attorney – Rose M. Weckenmann

Supreme Court Clerk – Dale Kuhlka

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 10—Illinois, Indiana, Michigan, Minnesota, 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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- Legal Citation Forms

Ho-Chunk Nation Judiciary
W9598 Hwy 54 East
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HO-CHUNK NATION COURT BULLETIN

WISCONSIN SUPREME COURT SPLITS IN GAMING DECISION

On March 30, 2004, the Wisconsin Supreme Court issued a decision indicating a split court in a suit challenging the legality of gaming compacts. *Dairyland Greyhound Park, Inc. v. Doyle*, No. 03-0421, 2004 WL 691205 (Wis. Mar. 30, 2004). The owners of a racetrack brought the action that asked the Supreme Court to decide whether an amendment to the state's constitution bars the expanded gaming authorized by state and tribal compacts. The question divided the Court 3-3, and the Court sent the case to the appellate court for review. The Court vacated its decision to grant certification and remanded the case to the court of appeals. *Id.* Last year, the Wisconsin Court of Appeals passed the case to the Supreme Court, holding that the state's highest court should address the interpretation of the state constitution required by the questions presented. *Dairyland Greyhound Park, Inc. v. Doyle*, No. 03-0421, 2003 WL 21253354 (Wis. Ct. App. June 2, 2003).

Initially, the Wisconsin Constitution contained an absolute prohibition of gaming activity. Constitutional amendments later allowed for various forms of gaming, including charitable bingo and raffles, pari-mutuel on-track betting, and state lottery. As of 1992, the State of Wisconsin had entered into seven-year gaming compacts with eleven tribes. In April 1993, the Wisconsin Constitution was amended to provide that "[e]xcept as provided in this section, the legislature may not authorize gambling in any form." WIS. CONST., art. IV, § 24(1). In 1998 and 1999, the state extended the compacts for five-year terms due to expire in 2003 and 2004.

In 1987, the United States Supreme Court disallowed an attempt by the state of California to enforce a penal code against tribes operating bingo halls. *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987). The Supreme Court characterized the bingo statute as regulatory rather than criminal, and held that “[i]n light of the fact that California permits a substantial amount of gambling activity, including bingo, and actually promotes gambling through its state lottery, we must conclude that California regulates rather than prohibits gambling in general and bingo in particular.” In response to *Cabazon*, Congress passed the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2701-2721, in 1988. IGRA legalized Class III gaming activities on Indian lands when such activities are “located in a State that permits such gaming for any purpose by any person, organization, or entity.” *Id.* at § 2710(d)(1)(B). These Class III gaming activities may be conducted pursuant to a gaming compact entered into between the tribe and the state. *Id.* at § 2710(d)(1)(C).

In this most recent action, Dairyland Greyhound Park sought to enjoin the State of Wisconsin from renewing any of the gaming compacts beyond the five-year extensions. It has argued that the State withdrew its permission for Class III gaming activities with the 1993 constitutional amendment. It has further argued that as a result of the 1993 amendment, the decision in *Lac du Flambeau Band of Lake Superior Chippewa Indians v. Wisconsin*, 770 F.Supp. 480 (W.D. Wis. 1991) no longer controls.

In *Lac du Flambeau*, the Court held that amendments to the Wisconsin Constitution provided evidence of a state policy towards gaming that is of a regulatory rather than prohibitory nature. *Id.* at 486. The defendants had asserted that the state was required to negotiate only the identical types of games offered by the state through legislation. *Id.* at 487. However, the *La du Flambeau* Court held that “[i]t was not Congress’ intent that the states would be able to impose their gaming regulatory schemes on tribes.” *Id.*

The Second Circuit Court of Appeals has held similarly. *Mashantucket Pequot Tribe v. Connecticut*, 913 F.2d 1024 (2nd Cir. 1990), *cert.*

denied, 499 U.S. 975 (1991). In *Mashantucket Pequot*, the Second Circuit concluded that Connecticut had adopted a regulatory framework with respect to Class III gaming. *Id.* at 1032. As a result, the State was required to negotiate with the Tribe concerning “casino-type games of chance.” *Id.*

Other circuits have reached different conclusions. See *Cheyenne River Sioux Tribe v. South Dakota*, 3 F.3d 273 (8th Cir. 1993); *Rumsey Indian Rancheria of Withum Indians v. Wilson*, 64 F.3d 1250 (9th Cir. 1994), *cert. denied*, *Sycuan Band of Mission Indians v. Wilson*, 521 U.S., 1118 (1997). In *Rumsey*, the Ninth Circuit held that the state had no obligation under federal law to negotiate with the tribes over one form of Class III gaming activity simply because it had legalized another. *Rumsey*, 64 F. 3d at 1258. The Court declared that “a state need only allow Indian tribes to operate games that others can operate, but need not give tribes what others cannot have.” *Id.*

In *Dairyland Greyhound Park*, the district court determined that the 1993 constitutional amendment did not effect either the gaming compacts or their extensions. The district court applied the holding in *Lac du Flambeau* and held that permission for Class III gaming flowed from the state’s lottery and dog track betting. Following the Wisconsin Supreme Court’s remand, this case will now return to the Wisconsin Court of Appeals for a review of the lower court’s decision.

The Ho-Chunk Nation originally signed a gaming compact with the State of Wisconsin in 1992. In 1998, the compact was extended by amendment until June 11, 2004. On April 25, 2003, former Ho-Chunk Nation President Troy Swallow and Wisconsin Governor Jim Doyle signed a second amendment to the compact, extending the compact indefinitely.

An important determination for the Ho-Chunk Nation will be whether the subsequent amendments to the gaming compact constitute an unlawful authorization of gambling or whether these extensions of the pre-existing compact fall outside the reach of the 1993 amendment. In addition, a court’s invalidation of subsequent compact amendments may not render a compact with an automatic extension clause void.

Federal Court Update

Eighth Circuit Court of Appeals

County of Mille Lacs v. Benjamin, No. 03-2527, 2004 WL 421781 (8th Cir. Mar. 3, 2004).

The County of Mille Lacs and the First National Bank of Milaca sought a declaratory order regarding the legal status of the boundaries of the Mille Lacs Band of Chippewa Indians' reservation. The plaintiffs contended that the reservation's boundaries are a critical issue to many of the county's residents. Mille Lacs County contended that the uncertainty over the reservation's boundaries makes enforcement of laws and the issuance of building and environmental permits difficult. First National Bank alleged that the Mille Lac Band's assertion of regulatory authority over parts of the reservation's territory has had a negative impact on the banks' economic interests.

At the close of discovery, the Band moved for summary judgment on standing, ripeness, sovereign immunity, and failure to name an indispensable party. The plaintiffs appealed the district court's order dismissing the action. The plaintiffs argued that they had suffered threatened injury and present harms. In addition, the plaintiffs asserted that the dismissal should have been without prejudice as it was based on jurisdictional grounds.

The Eight Circuit Court of Appeals affirmed the district court's decision. The Appeals Court held that neither plaintiff had demonstrated that it was in danger of sustaining injury. Therefore, the Court held that neither party had standing to bring the action. The Eight Circuit did reverse the portion of the district court's order dismissing the action with prejudice. The Court held that a district court is generally barred from dismissing solely on jurisdictional grounds.



Ninth Circuit Court of Appeals

U.S. v. Bird, 359 F.3d 1185 (9th Cir. 2004).

The original defendants in this case were indicted for committing burglary under the Major Crimes Act, 18 U.S.C. § 1153. The alleged burglaries took place within Indian country. While the indictments stated the names of the victims, they failed to state their race.

The defendants contended that the district court lacked subject matter jurisdiction because the United States had failed to allege that the victim was an Indian within the indictment. The district court denied the defendants' pretrial motions to dismiss the indictments. The United States requested that this interlocutory appeal be dismissed because a final judgment has not been entered in this matter. The Ninth Circuit Court of Appeals dismissed the interlocutory appeal, holding that the Court lacked jurisdiction to determine whether the indictment alleged sufficient facts to state an offense until a final judgment has been entered. The Court explained that as a general rule, United States Courts of Appeal only have jurisdiction over final decisions.

Tenth Circuit Court of Appeals

Blackbear v. Norton, No. 02-4230, 2004 WL 407037 (10th Cir. Mar. 5, 2004).

The plaintiffs in this case are members of the Skull Valley of Goshute Indians. They brought an action challenging various actions by the United States government regarding the BIA's conditional approval of a lease between the Skull Valley Band and Private Fuel Storage, L.L.C., for placing a nuclear waste storage facility on the Skull Valley Indian Reservation. The district court dismissed the action. The Tenth Circuit Court of Appeals affirmed the dismissal because the plaintiffs have failed to exhaust administrative remedies in their challenge to the BIA's approval of the lease.

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. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. 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.

Trial Court

Child Support

MARCH 2, 2004

State of Wis./Jackson County v. Robin LaMere, CS 02-47 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Mar. 2, 2004). (Matha, T).

The Court had to determine whether to grant the petitioner's recent motion to modify. The petitioner requested a change in current child support withholding. The Court granted the uncontested motion.

MARCH 3, 2004

Rebecca J. Akers v. Dario Aleman, CS 02-10 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Mar. 3, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioner's recent motion to modify. The petitioner

requested a change in current child support and arrears withholding. The Court granted the uncontested motion.

Maryla A. Day v. Patrick Day, CS 03-75 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Mar. 3, 2004). (Bossman, W).

The Court previously entered an order recognizing a standing foreign child support order against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.

State of Wis., on behalf of Shelley E. Thundercloud v. William J. Greendeer, CV 97-67; *Taryn Power Greendeer v. William John Greendeer*, CS 03-70 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Mar. 3, 2004). (Bossman, W).

The Court previously entered an order recognizing two standing foreign child support orders against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.

State of Wis., Jackson County, on behalf of Erin L. Emerson v. Rueben Rave, Jr., CV 97-171; *State of Wis., Jackson County, on behalf of Robin LaMere v. Rueben Rave, Jr.*, CS 01-38 Order (Modifying and Enforcing Child Support Withholding) (HCN Tr. Ct., Mar. 3, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioner's recent motion to modify. The petitioner requested a change in current child support and arrears withholding. The Court granted the uncontested motion.



William S. Buchanan v. Sonia R. Roberts, CS 04-12 Order (Default Judgment for Child Support Deduction from Wages) (HCN Tr. Ct., Mar. 3, 2004). (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 for recognition and enforcement.

MARCH 9, 2004

William C. Scarce v. Maria Nicole Blackhawk, CS 04-05 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Mar. 9, 2004). (Matha, T).

The petitioner requested that the Court dismiss the instant case. The petitioner indicated that child support arrears had been paid in full. The Court granted the dismissal without prejudice.

State of Wis. v. Wallace P. Greendeer, CV 97-57 Order (Enforcing Arrearage Withholding) (HCN Tr. Ct., Mar. 9, 2004). (Bossman, W).

The Court previously entered an order recognizing a standing foreign child support order against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.

MARCH 11, 2004

Rachel Winneshiek v. James Beverly, CV 97-168 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Mar. 11, 2004). (Matha, T).

The Court previously entered an order recognizing a standing foreign child support order against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.

Candice D. Solesby v. Kevin B. Funmaker, CS 98-07 Order (Designation of Filing) (HCN Tr. Ct., Mar. 11, 2004). (Matha, T).

The petitioner filed a *Petition to Register and Enforce a Foreign Judgment or Order for Child Support*. The Court considered the filing a motion within the existing case and alerted the respondent to his possible courses of action.

State of Wis. v. Jeffrey A. Harrison, CS 03-18 Order (Ceasing Child Support Withholding) (HCN Tr. Ct., Mar. 11, 2004). (Matha, T).

The petitioner requested a modification of child support withholding. The motion stated that an arrearage amount had been paid in full. The Court granted the uncontested motion.

MARCH 15, 2004

William S. Buchanan v. Sonia R. Roberts, CS 04-12 Order (Impounding Wages) (HCN Tr. Ct., Mar. 15, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign child support order. The respondent filed a motion requesting cessation of withholding child support arrears. The Court directed the Payroll Division to impound the amount currently being withheld from the respondent's wages for child support arrears.

MARCH 16, 2004

Robin Lynn Ashley v. Michael K. Blackcoon, CS 99-16 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Mar. 16, 2004). (Matha, T).

Upon a review of the file, the Court noted that a minor child has turned eighteen (18) years of age. In accordance with Wisconsin state law, the respondent's obligation for current child support ends when the child turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of enrollment in high school or its equivalent.

State of Wis./Sauk County v. Stacy McMahan, CS 04-10 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Mar. 16, 2004). (Bossman, W).

The Court had to determine whether to enforce a foreign child support order against a respondent's per capita payments. The Court afforded the respondent an opportunity to respond to the petitioner's submissions. The Court granted the petitioner's request for recognition and enforcement.

MARCH 22, 2004

Marcie Warfield v. Howard Decora, CS 03-76 Order (Enforcing Child Support) (HCN Tr. Ct., Mar. 22, 2004). (Matha, T).

The Court had to determine whether to enforce a foreign child support order against a respondent's per capita payments. The respondent filed an answer stipulating agreement with the enforcement of the foreign order. The Court granted the petitioner's request for recognition and enforcement.

MARCH 23, 2004

Rebecca J. Akers v. Dario Aleman, CS 02-10 Order (Ceasing Withholding Child Support Arrears) (HCN Tr. Ct., Mar. 23, 2004). (Bossman, W).

The petitioner requested a modification of child support withholding. The motion stated that an arrearage amount had been paid in full. The Court granted the uncontested motion.

Tari Pettibone v. Gregory Bird, CS 02-09 Order (Enforcing Arrearage Withholding) (HCN Tr. Ct., Mar. 23, 2004). (Matha, T).

The Court previously entered an order recognizing a standing foreign child support order against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.



State of Wis./Jackson County v. Robert Cleveland, CS 00-33 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Mar. 23, 2004). (Bossman, W).

The Court previously entered an order recognizing a standing foreign child support order against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.

State of Wis./Sauk County, on behalf of Matthew Thundercloud v. Leah L. Fiske, f/k/a Leah L. Topping, CS 99-05; *State of Wis./Sauk County & Bradley A. Fiske v. Leah L. Fiske*, CS 03-68 Order (Amending Arrearage Withholding) (HCN Tr. Ct., Mar. 23, 2004). (Bossman, W).

The Court previously entered an order recognizing standing foreign child support orders against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.

Rachel Wallace v. Lewis A. Frogg, CS 02-40 Order (Ceasing Per Capita Withholding and Enforcing Wage Deductions) (HCN Tr. Ct., Mar. 23, 2004). (Bossman, W).

The Court previously entered an order recognizing standing foreign child support orders against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified foreign court order and a certified accounting statement. The Court granted the uncontested motion.

State of Wis./Sauk County & Laura Geshick v. Clayton K. Pemberton, CS 01-33 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Mar. 23, 2004). (Bossman, W).

The Court previously entered an order recognizing a standing foreign child support order against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.

State of Wis./Jackson County & Kevin Vasquez v. Rosemarie Powless, CV 97-82 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Mar. 23, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioner's recent motion to modify. The petitioner requested an increase in current child support and arrearage withholding. The respondent failed to respond within the prescribed time frame, thereby allowing the Court to grant the uncontested motion.



Rebecca Rave v. Andrew S. Rave, CS 02-57 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Mar. 23, 2004). (Matha, T).

The Court previously entered an order recognizing a standing foreign child support order against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.

William S. Buchanan v. Sonia S. Roberts, CS 04-12 Order (Releasing Impounded Wages and Enforcing Child Support) (HCN Tr. Ct., Mar. 23, 2004). (Bossman, W).

The respondent filed a motion requesting cessation of withholding child support arrears. The Court directed the Payroll Division to impound the amount currently being withheld from the respondent's wages for child support arrears. The petitioner filed a response indicating that arrears have not yet been paid. The Court authorized the release of the impounded wages and directed the Payroll Division to resume withholding.

State of Wis./Jackson County v. Manda White Thunder, CS 04-17 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Mar. 23, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment against a respondent's per capita payments. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

MARCH 25, 2004

Juneau County/Keith Miller v. Chasity A. Miller, CS 99-26 Erratum Order (Renewing Child Support Withholding) (HCN Tr. Ct., Mar. 25, 2004). (Matha, T).

The Court entered this order to correct an error made within a previous order.

MARCH 26, 2004

State of Wis./Sauk County v. Janice Harrison, CS 00-13 Order (Ceasing Withholding and Intent to Close) (HCN Tr. Ct., Mar. 26, 2004). (Bossman, W).

The petitioner requested a modification of child support withholding. The motion stated that an arrearage amount has been paid in full. The Court ordered the cessation of withholding from the respondent's per capita distributions for arrears.

MARCH 30, 2004

Joyce M. St. Cyr v. Robert M. Mobley, CS 00-04 Order (Designation of Filing) (HCN Tr. Ct., Mar. 30, 2004). (Matha, T).

The respondent filed a *Petition to Register and Enforce a Foreign Judgment or Order for Child Support*. The Court considered the filing a motion within an existing case and alerted the petitioner to her possible course of action.

State of Wis./Jackson County v. Christie J. Ryan, CS 99-34 Order (Ceasing Child Support Withholding) (HCN Tr. Ct., Mar. 30, 2004). (Matha, T).

The petitioner requested a modification of child support withholding. The motion stated that an arrearage amount has been paid in full. The Court ordered the cessation of withholding from the respondent's per capita distributions for arrears.

Civil Garnishment

MARCH 2, 2004

Creditor Recovery Serv., LLC, Agent for Doctors' Clinic SC v. Bonita L. Roy, CG 04-08 Order (Default Judgment) (HCN Tr. Ct., Mar. 2, 2004). (Matha, T).

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 for recognition and enforcement.



MARCH 3, 2004

Creditor Recovery Serv., LLC, Agent for Mobile Link Cellular & Stereo, Inc. v. Geraldine R. Riley, CG 04-09 Order (Default Judgment) (HCN Tr. Ct., Mar. 3, 2004). (Matha, T).

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 for recognition and enforcement.

Creditor Recovery Serv., LLC, Agent for James Esselman, DDS v. Laurie Krutke, CG 04-10 Order (Default Judgment) (HCN Tr. Ct., Mar. 3, 2004). (Matha, T).

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 for recognition and enforcement.

Creditor Recovery Serv., LLC, Agent for Riverhill Dental Assocs., SC v. Sandra Di Lorenzo, CG 04-14 Order (Default Judgment) (HCN Tr. Ct., Mar. 3, 2004). (Matha, T).

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 for recognition and enforcement.

MARCH 4, 2004

Creditor Recovery Serv., LLC, Agent for Mobile Link Cellular & Stereo, Inc. v. Geraldine R. Riley, CG 04-09 Order (Delaying Judgment) (HCN Tr. Ct., Mar. 4, 2004). (Matha, T).

The Court previously entered a money judgment against the respondent. The respondent filed proof of satisfaction of the judgment. The Court directed the Ho-Chunk Nation Department of Treasury to delay imposition of the judgment.

**MARCH 9, 2004**

State Collection Serv. v. Sarah Martin a/k/a Sarah Acevedo, CG 04-01 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Mar. 9, 2004). (Matha, T).

The petitioner requested that the Court dismiss the instant case. The petitioner indicated that he had received information that the respondent had filed for bankruptcy. The Court granted the dismissal without prejudice.

Creditor Recovery Serv. v. Geraldine R. Riley, CG 04-09 Order (Satisfaction of Judgment) (HCN Tr. Ct., Mar. 9, 2004). (Matha, T).

The Court had previously issued a judgment in favor of the petitioner. The petitioner filed proof of satisfaction of the judgment. The Court recognized that the debt had been paid in full and informed the parties of its intent to close the file.

Madison Gas & Elec. Co. v. Joy L. Rave, CG 04-16 Order (Default Judgment) (HCN Tr. Ct., Mar. 9, 2004). (Matha, T).

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 for recognition and enforcement.

MARCH 11, 2004

Discover Bank v. Christine Brown, CG 03-44 Order (Satisfaction of Judgment) (HCN Tr. Ct., Mar. 11, 2004). (Matha, T).

The Court had previously issued a judgment in favor of the petitioner. The petitioner filed proof of satisfaction of the judgment. The Court recognized that the debt had been paid in full and informed the parties of its intent to close the file.

MARCH 16, 2004

Creditor Recovery Serv. LLC v. Carmen Smith, CG 04-13 Order (Default Judgment) (HCN Tr. Ct., Mar. 16, 2004). (Matha, T).

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 for recognition and enforcement.

Franciscan Skemp Healthcare v. Becky L. Wood, CG 04-17 Order (Default Judgment) (HCN Tr. Ct., Mar. 16, 2004). (Matha, T).

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 for recognition and enforcement.

Gunderson Clinic, Ltd. v. Rachel M. Winneshiek, CG 04-19 Order (Default Judgment) (HCN Tr. Ct., Mar. 16, 2004). (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 for recognition and enforcement.

MARCH 25, 2004

Creditor Recovery Serv. LLC, Agent for Wood County Tel. Co. v. Inez Littlegeorge, CG 03-61 Order (Default Judgment) (HCN Tr. Ct., Mar. 25, 2004). (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 for recognition and enforcement.

MARCH 26, 2004

Ronald Schwinefus v. Larry LaMere, CG 03-10 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Mar. 26, 2004). (Bossman, W).

The respondent has left employment with the Ho-Chunk Nation. The Court dismissed the action without prejudice for lack of personal jurisdiction over the respondent.

MARCH 30, 2004

Creditor Recovery Serv., LLC, Agent for James Esselman, DDS v. Jeffrey W. Vetrone, CG 04-11 Order (Default Judgment) (HCN Tr. Ct., Mar. 30, 2004). (Matha, T).

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 for recognition and enforcement.

Creditor Recovery Serv., LLC, Agent for Robert A. Klement, DDS v. Michael Terry, CG 04-23 Order (Default Judgment) (HCN Tr. Ct., Mar. 30, 2004). (Matha, T).

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 for recognition and enforcement.

Creditor Recovery Serv., LLC, Agent Robert A. Klement v. Mark Abbott, CG 04-24 Order (Default Judgment) (HCN Tr. Ct., Mar. 30, 2004). (Matha, T).

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 for recognition and enforcement.



Civil Cases

CHILDREN'S TRUST FUND (CTF)

MARCH 10, 2004

In the Interest of: Jason Nathaniel Hopinka, DOB 12/17/83 v. HCN Office of Tribal Enrollment, CV 03-15 Order (Requesting Updated Accounting) (HCN Tr. Ct., Mar. 10, 2004). (Bossman, W).

The Court previously approved a release from the CTF for costs related to criminal defense. The Court requested that the petitioner submit the required updated accounting.

MARCH 18, 2004

Michelle LaMere, DOB 12/01/83 v. HCN Office of Tribal Enrollment, CV 04-15 Order (Requiring Submission of Documents) (HCN Tr. Ct., Mar. 18, 2004). (Bossman, W).

The petitioner requested a release from her CTF account. The Court required the petitioner to submit further documentation in support of the petition.

MARCH 19, 2004

In the Interest of Minor Child: D.D., DOB 12/17/88, by Angeline Dowling v. HCN Office of Tribal Enrollment, CV 04-21 Order (Petition Granted) (HCN Tr. Ct., Mar. 19, 2004). (Bossman, W).

The petitioner requested a release from the CTF account of her minor child to pay for costs associated with orthodontics. The Court granted the request.

MARCH 26, 2004

In the Interest of: Jason Nathaniel Hopinka, DOB 12/17/83, by Wesley T. Martin, Jr. v. HCN Office of Tribal Enrollment, CV 03-15 Order (Accepting Accounting) (HCN Tr. Ct., Mar. 26, 2004). (Bossman, W).

The Court previously released money from the CTF account of the minor child for costs related to criminal defense. The petitioner submitted a payment history, which confirmed proper use of the funds. The Court accepted this accounting.

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 (Dismissal Without Prejudice) (HCN Tr. Ct., Mar. 26, 2004). (Bossman, W).

The petitioner requested a release from the CTF account of her minor child. The Court required the petitioner to submit further documentation in support of the petition. The petitioner failed to submit such documentation. The Court dismissed the instant case without prejudice.

MARCH 30, 2004

In the Interest of Minor Child: K.J.F.B., DOB 06/06/89, by Shawn Blackdeer v. HCN Office of Tribal Enrollment, CV 03-44 Order (Demanding Accounting) (HCN Tr. Ct., Mar. 30, 2004). (Bossman, W).

The Court previously released money from the CTF account of the minor child for costs associated with orthodontic procedures. The Court demanded that the petitioner submit the required accounting.

In the Interest of the Minor Child: R.C.D., DOB 12/30/86, by Sabrina Decorah v. HCN Office of Tribal Enrollment, CV 03-45 Order (Show Cause) (HCN Tr. Ct., Mar. 30, 2004).

The Court previously released money from the CTF account of the minor child for costs associated with orthodontic procedures. On two occasions, the Court requested that the petitioner submit the required accounting. The Court shall convene a *Show Cause Hearing*.

In the Interest of Minor Child: A.A.G., DOB 11/13/92, by Michelle Gulbranson v. HCN Office of Tribal Enrollment, CV 03-85 Order (Requesting Accounting) (HCN Tr. Ct., Mar. 30, 2004). (Bossman, W).

The Court previously released money from the CTF account of the minor child for costs associated with orthodontic procedures. The Court requested that the petitioner submit the required accounting.

In the Interest of Minor Child: T.L.M., DOB 04/10/94, by Sherry McKinley v. HCN Office of Tribal Enrollment, CV 04-23 Order (Petition Granted) (HCN Tr. Ct., Mar. 30, 2004). (Matha, T).

The petitioner requested a release from the CTF account of her minor child to pay for costs associated with the purchase of hearing aid devices. The Court granted the request.

CONTRACTS**MARCH 11, 2004**

Marx Advertising Agency, Inc. v. HCN d/b/a Ho-Chunk Casino & Bingo, Majestic Pines Casino & Bingo, Rainbow Casino & Bingo, DeJope Bingo; Al Miller; and Robert Mudd, CV 04-16 Order (Denying Special Appearance) (HCN Tr. Ct., Mar. 11, 2004). (Matha, T).

The Court had to determine whether to grant the motion for special appearance filed on behalf of the plaintiff. The Court denied the request due to a failure to adhere to the requirements of the relevant rules.

[See also [Special Appearances](#) within this index.]

DEBTS TO THE NATION

MARCH 23, 2004

HoCak Federal Credit Union v. Gene & Diane DeMarrias, CV 98-34 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., March 23, 2004). (Matha, T).

The Court previously issued a judgment for the plaintiff. The plaintiff filed a satisfaction of judgment. The Court recognized the debt has been paid in full and informed the parties of its intent to close the file.

HCN Dep't of Health and Human Servs. v. Carol Rockman, 04-02 *Order (Denying Motion for Default Judgment)* (HCN Tr. Ct., Mar. 23, 2004). (Bossman, W).

The Court had to determine whether to grant the plaintiff's motion for default judgment. The defendant filed a timely answer in the case. The Court denied the plaintiff's motion.

MARCH 25, 2004

HoCak Federal Credit Union v. Joanne Frick, CV 98-36 *Order (Dismissal)* (HCN Tr. Ct., Mar. 25, 2004). (Bossman, W).

The plaintiff filed a motion requesting a dismissal. The petitioner indicated that the debt obligation had been paid in full. The Court dismissed the instant case.



ELECTION

MARCH 10, 2004

Clarence Pettibone v. HCN Gen. Council, Alvin Cloud et al., CV 03-77 *Order Approving Substitution of Attorneys* (HCN Tr. Ct., Mar. 10, 2004). (Bossman, W).

The Court consented to a substitution of attorney in this matter.

MARCH 22, 2004

Chloris Lowe, Jr. & Stewart J. Miller v. HCN Legislature Members Elliot Garvin, Gerald Cleveland, Myrna Thompson, Dallas White Wing, & Clarence Pettibone; & HCN Election Bd., CV 00-104 *Order (Denying Attorney Fees)* (HCN Tr. Ct., Mar. 22, 2004). (Matha, T).

The Court had to determine whether the plaintiffs could receive attorney fees and costs against the Ho-Chunk Nation for prevailing on their cause of action. The Court denied the plaintiffs' request for relief.

[See also **Attorney Fees and Costs** within this index.]

EMPLOYMENT

MARCH 2, 2004

Maria L. Adamiuk v. Ho-Chunk Casino, CV 04-05 *Scheduling Order* (HCN Tr. Ct., Mar. 2, 2004). (Bossman, W).

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

MARCH 9, 2004

Kenneth Lee Twin v. Douglas Greengrass & HCN Dep't of Pers., CV 03-84 *Order (Denying Motion for Order Granting Leave to File Amended Complaint)* (HCN Tr. Ct., Mar. 9, 2004). (Bossman, W).

The Court had to determine whether to allow the plaintiff the ability to file an *Amended Complaint*. The defendants did not consent to such action. The Court denied the plaintiff's request.

MARCH 10, 2004

Patricia C. Boyles v. Christine Steeples, Exec. Dir. of Health & Soc. Servs.; Hattie Walker, Health & Soc. Servs. Div. Adm'r; Toni McDonald, Exec. Dir. of Pers.; George Lewis, HCN President; & HCN, CV 04-08 *Scheduling Order* (HCN Tr. Ct., Mar. 10, 2004). (Bossman, W).

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

MARCH 11, 2004

Scott Finch v. Tammy Modica, CV 04-09 Order (Permission to Reschedule) (HCN Tr. Ct., Mar. 11, 2004). (Matha, T).

The plaintiff failed to appear at the *Scheduling Conference*, and did not inform the Court of an inability to attend the proceeding. The Court granted the plaintiff three (3) weeks to reschedule the *Scheduling Conference*.

MARCH 30, 2004

Jill C. Adair v. Dan Brown, CV 03-80 Order (Granting Motion for Leave to Withdraw as Defendant's Counsel) (HCN Tr. Ct., Mar. 30, 2004). (Bossman, W).

The Court convened a *Pre-Trial Conference* in this matter. Defendant's counsel requested permission to withdraw. The Court granted the motion.

Debra Hall-Shoemaker v. Ho-Chunk Nation, CV 02-41 Order (Notice of Show Cause Hearing) (HCN Tr. Ct., Mar. 30, 2004). (Matha, T).

The Court granted the plaintiff's request for a *Show Cause Hearing* pursuant to the HO-CHUNK NATION CONTEMPT ORDINANCE. The Court cautioned the defendants that failure to appear at the hearing could result in a finding of contempt.

Anna Kaufman v. Dennis Gager, Dir. of Gaming; HCN Bus. Dep't; Ida Carrier, Rainbow Casino Exec. Manager; Lindley Thompson, Slot Dir.; Rainbow Casino; and HCN, CV 02-49 Order (Final Judgment) (HCN Tr. Ct., Mar. 30, 2004). (Matha, T).

Two (2) fellow employees filed grievances objecting to the plaintiff's promotion. The Court had to determine whether the Director of Gaming improperly reversed the supervisory promotion decision. The Court could not detect any irregularities plaguing the underlying promotion decision. During the trial, the Director of Gaming, General Manager, and Personnel Specialist all acknowledged the great deference generally afforded to supervisory employment decisions. The Court deemed the administrative reversal contrary to law. The Court overturned the plaintiff's demotion.

GENERAL COUNCIL

MARCH 15, 2004

Timothy G. Whiteagle & Gretchen Eagleman v. Alvin Cloud, Chair of the Gen. Council, & Roberta Funmaker, Gen. Council Sec'y, CV 04-04 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Mar. 15, 2004). (Matha, T).

The plaintiff's attorney requested permission to appear at the *Scheduling Conference* by telephone. The Court granted the request.

MARCH 19, 2004

Timothy G. Whiteagle & Gretchen Eagleman v. Alvin Cloud, Chair of the Gen. Council, & Roberta Funmaker, Gen. Council Sec'y, CV 04-04 Scheduling Order (HCN Tr. Ct., Mar. 19, 2004). (Matha, T).

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

HOUSING

MARCH 26, 2004

HCN Hous. Auth., CV 01-155 Order (Satisfaction of Judgment) (HCN Tr. Ct., Mar. 26, 2004). (Bossman, W).

The Court previously issued a judgment for the plaintiff. The plaintiff filed a satisfaction of judgment. The Court recognized the debt has been paid in full and informed the parties of its intent to close the file.



INCOMPETENT TRUST FUND (ITF)

MARCH 2, 2004

In the Interest of Readonna Lei Wilson, by Violet Vilbaum v. HCN Office of Tribal Enrollment, CV 00-44 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Mar. 2, 2004). (Matha, T).

A party requested permission to appear at the *Fact-Finding Hearing* by telephone. The Court granted the request.

MARCH 16, 2004

In the Interest of R.L.W., DOB 11/23/64, by Violet Vilbaum v. HCN Office of Tribal Enrollment, CV 00-44 Order (Motion Granted) (HCN Tr. Ct., Mar. 16, 2004). (Matha, T).

The Court had to determine whether the guardian could access monies on behalf of an adult incompetent member from the ITF to pay for costs associated with the purchase of a residence. The Court held that the purchase of a dwelling and related appliances represents a necessary health and welfare benefit. The Court granted a release of the funds to satisfy the request.

MARCH 19, 2004

In the Interest of Adult Incompetent: Roberta Goodbear v. HCN Office of Tribal Enrollment, CV 96-49 Order (Granting Additional Release of Per Capita Distribution) (HCN Tr. Ct., Mar. 19, 2004). (Bossman, W).

The Court previously released money from the ITF account of the adult incompetent member to satisfy expenses related to her criminal defense. The Court had authorized the release of an additional amount upon the request of the guardian and proper documentation of the need for additional legal expenses. The guardian filed the necessary documentation, requesting a further release of additional attorney fees and court costs. The Court granted the additional release.

MARCH 22, 2004

In the Interest of R.L.W., DOB 11/23/64, by Violet Vilbaum v. HCN Office of Tribal Enrollment, CV 00-44 Order (Addendum to Judgment) (HCN Tr. Ct., Mar. 22, 2004). (Matha, T).

The Court previously granted the petitioner's request relating to a release of ITF monies for the purchase of a dwelling. The adult incompetent member incurred additional expenses in connection with the move due to the Court's requirement that the petitioner obtain tribal funding in the form of Ho-Chunk Housing Authority down payment assistance. The petitioner requested hotel expenses. The Court granted the request.

Juvenile**MARCH 2, 2004**

In the Interest of Minor Children: R.B., DOB 06/23/95; J.V., DOB 09/03/99; S.V., DOB 10/22/98, JV 02-18-20 Order (Granting Emergency Temporary Legal/Physical Custody) (HCN Tr. Ct., Mar. 2, 2004). (Bossman, W).

The Court had to determine whether to grant emergency temporary legal and physical custody of the above-named minor children. The Court found that CFS had presented credible and reliable evidence to warrant the entrance of an emergency order for temporary legal and physical custody.

MARCH 4, 2004

In the Interest of Minor Child: H.D.J., DOB 03/04/04, JV 98-20 Order (Child Protection Review Hearing) (HCN Tr. Ct., Mar. 4, 2004). (Bossman, W).

The Court conducted a review hearing. The Court determined to maintain the status quo.

In the Interest of Minor Child: S.M.J., DOB 03/04/04, JV 98-21 Order (Child Protection Review Hearing) (HCN Tr. Ct., Mar. 4, 2004). (Bossman, W).

The Court conducted a review hearing. The Court determined to maintain the status quo.

In the Interest of Minor Child: L.J.R., DOB 02/17/90, JV 01-05 Erratum Order (HCN Tr. Ct., Mar. 4, 2004). (Matha, T).

The Court previously convened a motion hearing in which the parties requested that the Court authorize treating psychologists to make necessary determinations regarding the treatment and care of the minor child. The Court entered an order authorizing psychological evaluations of the minor child. However, the Court became aware that CFS required an order allowing for psychiatric evaluation. The Court performed this correction.



MARCH 9, 2004

In the Interest of Minor Children: R.B., DOB 06/23/95; J.V., DOB 09/03/99; S.V., DOB 10/22/98, JV 02-18-20 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Mar. 9, 2004). (Bossman, W).

The mother of the minor children requested permission to appear at a scheduled hearing by telephone. The Court granted the request.

MARCH 12, 2004

In the Interest of Minor Children: R.B., DOB 06/23/95; J.V., DOB 09/03/99; S.V., DOB 10/22/98, JV 02-18-20 Order Granting Special Appearance (HCN Tr. Ct., Mar. 12, 2004). (Bossman, W).

The attorney for the father of the minor children requested permission to make a special appearance in this matter. The Court granted the request.

In the Interest of Minor Child: A.J.C., DOB 04/02/93, JV 04-01 Order (Appointment of Guardian ad Litem (HCN Tr. Ct., Mar. 12, 2004). (Bossman, W).

The Court appointed a GAL in this matter.

In the Interest of Minor Child: S.E.C., DOB 02/25/96, JV 03-11 Order (Submission of Guardianship Report and Home Study) (HCN Tr. Ct., Mar. 12, 2004). (Matha, T).

The petitioners filed a *Petition for Temporary Guardianship* of the minor child. The Court scheduled a *Guardianship Hearing*. The Court requested that CFS prepare and submit a guardianship report and home study.

In the Interest of Minor Child: S.E.C., DOB 02/25/96, JV 03-11 Order (Submission of Traditional Relatives List) (HCN Tr. Ct., Mar. 12, 2004). (Matha, T).

The Court requested that CFS prepare and submit a list of the minor child's traditional relatives.

In the Interest of Minor Child: L.J.R., DOB 03/12/04, JV 01-05 Order (Appointment of Guardian ad Litem (HCN Tr. Ct., Mar. 12, 2004). (Matha, T).

The Court appointed a GAL in this matter.

MARCH 23, 2004

In the Interest of Minor Child: M.I.S., DOB 04/18/00, JV 03-18 Order (Submission of Guardianship Report and Home Study) (HCN Tr. Ct., Mar. 23, 2004). (Bossman, W).

The petitioner filed a *Petition for Temporary Guardianship* of the minor child. The Court scheduled a *Guardianship Hearing*. The Court requested that CFS prepare and submit a guardianship report and home study.

In the Interest of Minor Child: M.I.S., DOB 04/18/00, JV 03-18 Order (Submission of Traditional Relatives List) (HCN Tr. Ct., Mar. 23, 2004). (Bossman, W).

The Court requested that CFS prepare and submit a list of the minor child's traditional relatives.

**MARCH 30, 2004**

In the Interest of Minor Children: C.B., DOB 02/09/88, D.B., DOB 09/13/89, K.B., DOB 07/16/92, JV 98-11-13 Order (Appointment of Interim Temporary Legal Guardian) (HCN Tr. Ct., Mar. 30, 2004). (Bossman, W).

The Court previously granted a permanent guardianship of the minor children. The minor children currently lack a legal guardian because the appointed permanent legal guardian is now deceased. The Court appointed CFS as interim temporary legal guardian.

MARCH 31, 2004

In the Interest of Minor Child: A.J.C., DOB 04/02/93, JV 04-01 Order (Denying Request for Substitution of Judge) (HCN Tr. Ct., Mar. 31, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioners' motion requesting the substitution of judge. The Court held that the request did not state sufficient grounds to make a change. The Court denied the request.

Attorney Fees and Costs

MARCH 22, 2004

Chloris Lowe, Jr. & Stewart J. Miller v. HCN Legislature Members Elliot Garvin, Gerald Cleveland, Myrna Thompson, Dallas White Wing, & Clarence Pettibone; & HCN Election Bd., CV 00-104 Order (*Denying Attorney Fees*) (HCN Tr. Ct., Mar. 22, 2004). (Matha, T).

The Court had to determine whether the plaintiffs could receive attorney fees and costs against the Ho-Chunk Nation for prevailing in a suit to enjoin an unreasonable and unconstitutional action of agents of the Nation. The Court reviewed prior case law from this jurisdiction and the current status of federal law on this issue. The Ho-Chunk Nation Trial Court has previously awarded expenses and fees against the Nation. The Ho-Chunk Nation Supreme Court affirmed one such decision after reviewing the judgment for an abuse of discretion in granting attorneys fees and costs. However, later Trial Court opinions denied attorney fees as relief not specifically granted within the Ho-Chunk Nation's limited waiver of sovereign immunity, while awarding costs.

The United States Supreme Court has traditionally applied the "American rule" that a litigant is not ordinarily entitled to attorney fees, absent one (1) of three (3) exceptions. However, the Supreme Court has approved an award of attorney fees as an ancillary cost to a grant of prospective injunctive relief. However, the HCN Supreme Court has never adopted the American rule and exceptions for use in this jurisdiction.

In this matter, the Court held that the case law does not reveal any clear guidance for purposes of resolving the issue at hand. The Court held that it was unable to deduce the HCN Supreme Court's opinion on prospective injunctive relief given the seemingly conflicting precedential authority. The Court questioned whether the Supreme Court envisioned allowing attorney fees and costs to a party that prevails in approximately eighty percent (80%) of its cases. Furthermore, the Court held that the plaintiffs presented a valid claim for bad faith litigation strategy. However, the Court denied the plaintiffs' request for relief.

[See also **ELECTION** within this index.]

Special Appearances

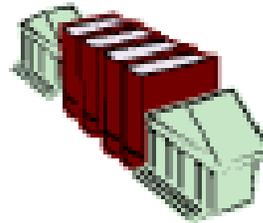
MARCH 11, 2004

Marx Advertising Agency, Inc. v. HCN d/b/a Ho-Chunk Casino & Bingo, Majestic Pines Casino & Bingo, Rainbow Casino & Bingo, DeJope Bingo; Al Miller; and Robert Mudd, CV 04-16 Order (*Denying Special Appearance*) (HCN Tr. Ct., Mar. 11, 2004). (Matha, T).

The Court had to determine whether to grant the motion for special appearance filed on behalf of the plaintiff. The HCN Constitution delegates the power to establish rules for qualifications to practice to the HCN Supreme Court. Rule 16(B) of the *Ho-Chunk Nation Rules of Civil Procedure* sets forth the requirements in order to make a special appearance. This rule requires that counsel file an affidavit containing the oath or affirmation for admission to practice.

In this case, the attorneys requesting the special appearance omitted provisions contained within the aforementioned oath. The Court held that it possessed no authority to waive the requirement to include the oath in its entirety within one's affidavit. The Court denied the request due to a failure to adhere to the requirements of the relevant rules.

[See also **CONTRACTS** within this index.]



Supreme Court

NOTHING TO REPORT AT THIS TIME.

Recent Filings

Trial Court

Civil Garnishment

MARCH 9, 2004

Creditor Recovery Serv., Robert A. Kelment DDS v. Michael Terry, CG 04-23. (Matha, T).

Creditor Recovery Serv., Robert A. Kelment DDS v. Mark Abbott, CG 04-24. (Matha, T).

MARCH 25, 2004

Johnson Props./Realty v. Marvin Decora, CG 04-25. (Matha, T).

MARCH 31, 2004

Joe Ramirez v. Candace Heath, CG 04-26. (Bossman, W).

Child Support

MARCH 3, 2004

State of Wis./Lucille Roberts v. Melinda Blackcoon, CS 04-18. (Bossman, W).

MARCH 8, 2004

Davina Two Bears v. Brady Two Bears, CS 04-19. (Bossman, W).

MARCH 9, 2004

State of Wis./Michelle Phalen v. Charles v. Fox, IV, CS 04-20. (Matha, T).

Richland County Child Supp. v. Lori L. Gatweiler (Omar), CS 04-21. (Matha, T).

MARCH 19, 2004

Forest County Pottawatomi Cmty. v. Corina WhiteCloud, CS 04-22. (Bossman, W).

Civil Cases

MARCH 8, 2004

In the Interest of Walter Stacy, DOB 12/23/36 v. HCN Office of Tribal Enrollment, CV 04-22. (Matha, T).

MARCH 10, 2004

In the Interest of Minor Child: T.L.M., DOB 04/10/94 v. HCN Office of Tribal Enrollment, CV 04-23. (Matha, T).

MARCH 19, 2004

Kenneth Lee Twin v. Douglas Greengrass, Toni McDonald, George Lewis, HCN, & HCN Personnel, CV 04-24. (Bossman, W).

MARCH 24, 2004

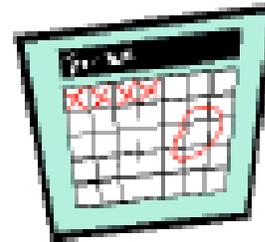
Daniel Brown v. Jim Webster, CV 04-25. (Matha, T).

MARCH 26, 2004

In the Interest of Minor Child: N.L.S., DOB 02/15/92 v. HCN Office of Tribal Enrollment, CV 04-26. (Matha, T).

Juvenile Cases

In the Interest of Minor Child: G.J.C., DOB 12/07/91, JV 04-02. (Bossman, W).



Supreme Court

MARCH 4, 2004

Wayne S. Hanrahan v. HCN Legislators Sharyn Whiterabbit & Kathyleen Whiterabbit, SU 04-03.



**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

Jim Greendeer

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 – Rosie Kakkak

Staff Attorney – Rose M. Weckenmann

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 10—Illinois, Indiana, Michigan, Minnesota, 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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- Legal Citation Forms

Ho-Chunk Nation Judiciary
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
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HO-CHUNK NATION COURT BULLETIN

7TH CIRCUIT UPHOLDS IGRA'S OFF-RESERVATION GAMING PROVISION

On April 29, 2004, the Seventh Circuit Court of Appeals issued a decision upholding an Indian Gaming Regulatory Act (hereinafter IGRA) provision allowing states to limit off-reservation gaming. *Lac Courte Oreilles Band of Lake Superior Indians of Wisconsin*, No. 03-2323, 2004 WL 909159 (7th Cir. Apr. 29, 2004). The Court ruled that the relevant provision violated neither the United States Constitution nor the trust relationship. *Id.* The challenges had been raised by three federally-recognized tribes of northern Wisconsin: the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, the Red Cliff Band of Lake Superior Chippewa Indians, and the Sakaogon (Mole Lake) Chippewa Community.

While the Seventh Circuit's decision means a defeat for the plaintiff tribes, the opinion itself contains language that may be helpful to Wisconsin tribes in other present litigation. The Wisconsin Supreme Court recently split on the question of whether gaming compact renewals violate a gaming prohibition within the Wisconsin constitution. *Dairyland Greyhound Park, Inc. v. Doyle*, No. 03-0421, 2004 WL 691205 (Wis. Mar. 30, 2004). However, such a prohibition may not be enforceable with respect to Indian gaming. The Seventh Circuit explained that "[t]he establishment of a state lottery signals Wisconsin's broader public policy of tolerating gaming on Indian lands." *Lac Courte Oreilles Band*, 2004 WL 909159 at *12. The Court went on to note that "Wisconsin has not been willing to sacrifice its lucrative lottery and to criminalize all gambling in order to obtain authority . . . to prohibit gambling on Indian lands." *Id.*

The three plaintiff tribes in *Lac Courte Oreilles Band* have reservations in sparsely populated areas. While each tribe operates a casino on its own reservation, these casinos fail to generate the income of those casinos located in urban areas or vacation destinations. *Id.* at *1. Therefore, the three tribes sought to convert an old racetrack into a jointly owned and operated Class III casino.

The Department of Interior denied the tribes' initial application to put the land into trust. However, the Department later vacated this decision under a settlement agreement. Then, in 2001, the Department of Interior issued an opinion, finding the proposal to be in the best interest of the tribes and not detrimental to the surrounding community. *Id.*

In May 2001, Governor Scott McCallum declined to concur with the Department of Interior's findings. Governor McCallum noted that "the public interest would not be served by the addition of another major casino gaming facility to the seventeen casino gaming facilities already operating in Wisconsin." *Id.* In June 2001, the Department of Interior's final decision denied the tribes' application due to the lack of the concurrence from the governor.

In challenging the Department of Interior's decision, the plaintiff tribes argued that the provision in IGRA requiring gubernatorial concurrence for off-reservation gaming violates both the United States Constitution and the trust relationship between the federal government and Indian tribes. *Id.* Under IGRA, land acquired after 1988 may only be taken into trust for gaming if certain exceptions are met. 25 U.S.C. § 2719(b)(1)(A). Land which is not contiguous to the reservation may be taken into trust for gaming only if the gaming would not be detrimental to the surrounding community and the governor of the state where the land is located concurs. *Id.*

The tribes raised a number of constitutional challenges to the gubernatorial concurrence provision. The first of these was the claim that the provision violated the separation of powers doctrine by diverting to governors the authority delegated to the Secretary of Interior. *Lac Courte Oreilles Band*, 2004 WL 909159 at *3. The Seventh Circuit held that the provision did not violate the separation of powers doctrine and the provision itself represents an example of contingent legislation. *Id.* at 4. The Court noted that the Supreme Court has previously upheld federal legislation contingent upon approval of an external actor. *Id.*

The tribes also argued that the gubernatorial concurrence provision violated the Appointments Clause of the United States Constitution. *Id.* at 8. The Appointments Clause requires presidential appointment of "Officers of the United States." U.S. Const. Art. II § 2, cl. 2. The plaintiff tribes cited Supreme Court precedent for the proposition that the any person exercising significant authority pursuant to federal law must therefore be presidentially appointed. *Lac Courte Oreilles Band*, 2004 WL 909159 at *8. The tribes argued that the gubernatorial concurrence provision allowed a non-appointed person to exercise significant authority. *Id.* The Seventh Circuit held that under the relevant provision, the governors do not enforce or administer the law. *Id.* at 8. Rather, "a governor's role is limited to satisfying one precondition of the Secretary of the Interior's authority." *Id.*

In arguing that a portion of IGRA violated the trust relationship, the plaintiff tribes had argued that all legislation must be rationally related to furthering the federal government's trust obligation to Indians. *Id.* at *14. The Court noted that the Supreme Court had never rejected a federal statute on the grounds that it failed to advance the trust obligation. *Id.* at *15. As a result, the Seventh Circuit refused to invalidate the gubernatorial concurrence provision on that basis. *Id.* at *16.

Federal Court Update

United States Supreme Court

U.S. v. Lara, 124 S. Ct. 1628 (2004).

This case involved the prosecution of a non-member Indian by the Spirit Lake Tribe. After the tribal prosecution, the federal government charged Billy Jo Lara with the same offense. Lara challenged the second prosecution on the basis of double jeopardy. A federal statute recognizes an “inherent” authority of tribes to criminally prosecute a non-member Indian. Therefore, the federal government contended that the tribe had been exercising inherent authority rather than delegated authority and therefore, double jeopardy was not implicated.

In 1990, the Supreme Court held that tribes lack sovereign authority to prosecute non-member Indians. *Duro v. Reina*, 45 U.S. 676 (1990). The Court had to decide whether Congress could relax a restriction that the Supreme Court had previously placed upon tribal jurisdiction. The Court held that Congress’ plenary power with respect to Indian tribes allows for legislation that either restricts or relaxes restrictions on tribal sovereignty. The Court held that as a result of the “*Duro* fix,” tribes have criminal jurisdiction over non-member Indians. Justice Breyer wrote the majority opinion and was joined by Chief Justice Rehnquist and Justices Stevens, O’Connor, and Ginsburg.

Justices Kennedy and Thomas each wrote a concurring opinion. Thomas’ opinion calls for a complete reexamination of tribal sovereignty cases because of what he views as the incompatibility in regulating tribes through “ordinary domestic legislation” while simultaneously maintaining that tribes are sovereigns. Justice Souter wrote the dissenting opinion. Justice Scalia joined the dissent.

Federal Circuit Court of Appeals

Shoshone Indian Tribe of the Wind River Reservation v. U.S., No. 03-5036, 2004 WL 736687 (Fed. Cir. Apr. 7, 2004).

The Court of Federal Claims entered a decision allowing the plaintiff tribes to bring allegedly untimely claims against the United States for mismanagement of sand and gravel resources. The United States appealed the decision. The tribes filed a cross-appeal, arguing that the Court of Federal Claims erred in not awarding the tribes interest on the money not collected from sale and lease of the tribes’ resources. Although the Federal Circuit Court somewhat limited the claims the tribes could obtain, the Court held that such claims could be brought and that the tribes would be entitled to interest on monies the government was contractually obligated to collect.

Ninth Circuit Court of Appeals

U.S. v. Blaine County, Mont., No. 02-35691, 2004 WL 737008 (9th Cir. Apr. 7, 2004).

The United States alleged that the County’s voting system for the election of members to the County Commission prevented Native Americans from participating equally. The government brought this action under Section 2 of the Voting Rights Act. Native Americans make up 38.8% of the voting age population of Blaine County. However, eighty percent of the Native American population lives on the Fort Belknap Reservation.

Blaine County’s three commissioners are elected by a majority vote of the entire county. As a result, no Native American has ever been elected to the Blaine County Commission. The Ninth Circuit held that Section 2 of the Voting Rights Act is constitutional, and the evidence supported a finding that the Voting Rights Act had been violated by the County.

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. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. 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.

Trial Court

Child Support

APRIL 2, 2004

Jan C. LaCount v. Curtis J. Pidgeon, CS 03-11 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Apr. 2, 2004). (Matha, T).

The Court had to determine whether to grant the petitioner's recent motion to modify. The petitioner requested a change in current child support withholding. The Court granted the uncontested motion.



APRIL 5, 2004

Debra Peters v. Curtis Pidgeon, CS 03-73 *Order (Enforcing Child Support)* (HCN Tr. Ct., Apr. 5, 2004). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The Court afforded the respondent an opportunity to respond. The Court granted the petitioner's request for enforcement.

APRIL 6, 2004

State of Wis., Racine County v. Yo Na Montelongo, CS 03-77 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Apr. 6, 2004). (Bossman, W).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

APRIL 7, 2004

Andrea L. Estebo v. Joseph P. Estebo, CS 04-16 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Apr. 7, 2004). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

Andrea L. Estebo v. Joseph P. Estebo, CS 04-16 *Order (Default Judgment for Child Support Deduction from Wages)* (HCN Tr. Ct., Apr. 7, 2004). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

State of Wis./Michelle Phalen v. Charles V. Fox, IV, CS 04-20 Order (Default Judgment for Child Support Deduction from Wages) (HCN Tr. Ct., Apr. 7, 2004). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

Richland County Child Support Agency v. Lori L. Gutweiler (Oman), CS 04-21 Order (Default Judgment for Child Support Deduction from Wages) (HCN Tr. Ct., Apr. 7, 2004). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.



State of Iowa v. Jerome J. Houston, CS 02-42 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Apr. 7, 2004). (Matha, T).

The Court previously entered an order recognizing a standing foreign child support order against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.

State of Iowa v. Jerome J. Houston, CS 02-43 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Apr. 7, 2004). (Matha, T).

The Court previously entered an order recognizing a standing foreign child support order against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.

State of Wis./Jackson Co. v. Lawrence Waube, CS 04-09 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Apr. 7, 2004). (Bossman, W).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

APRIL 8, 2004

State of Wis. ex rel. Calvinita H. Kills in Water v. Moses L. Cleveland, CS 04-15 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Apr. 8, 2004). (Bossman, W).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

State of Wis. v. Wilfrid Cleveland, CS 03-19 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Apr. 8, 2004). (Bossman, W).

The Court previously entered an order recognizing a standing foreign child support order against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.

State of Wis./Jackson County v. William B. Collins, CS 03-21 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Apr. 8, 2004). (Bossman, W).

The Court previously entered an order recognizing a standing foreign child support order against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.

State of Wis./Jackson County v. Faye L. Greengrass, CS 03-31 Order (Ceasing Withholding Child Support Arrears) (HCN Tr. Ct., Apr. 8, 2004). (Matha, T).

The petitioner requested cessation of child support withholding for arrears. The Court granted the request.

Jennifer R. Stark v. Patrick R. Patterson, CS 00-44 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Apr. 8, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioner's recent motion to modify. The petitioner requested a change in current and arrears child support withholding. The Court granted the uncontested motion.

Michelle Stacy v. Zachary Thundercloud, CS 01-24; *State of Wis., on behalf of Jennifer Grassman v. Zachary Thundercloud*, CS 97-39 Order (Modifying Child Support Enforcement) (HCN Tr. Ct., Apr. 8, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioner's recent motion to modify. The petitioner requested a change in current child support withholding. The Court granted the uncontested motion.

APRIL 9, 2004

June Miller v. Larry Fanning, CS 98-71 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Apr. 9, 2004). (Bossman, W).

The Court had to determine whether to grant the petitioner's recent motion to modify. The petitioner requested a change in current child support withholding. The Court granted the uncontested motion.

State of Wis. v. Melody A. Hale (Greengrass), CS 98-52 Order (Suspending Withholding for Child Support Arrears) (HCN Tr. Ct., Apr. 9, 2004). (Bossman, W).

The petitioner requested cessation of child support withholding for arrears. The Court granted the request.

APRIL 13, 2004

Angela Decorah v. Christopher Decorah, CS 99-31 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Apr. 13, 2004). (Matha, T).

The Court had to determine whether to grant the petitioner's recent motion to modify. The petitioner requested a change in current and arrears child support withholding. The Court granted the uncontested motion.

State of Wis. v. Jackie E. Snow, CS 02-53 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Apr. 13, 2004). (Bossman, W).

The Court previously entered an order recognizing a standing foreign child support order against the respondent's per capita payments. The petitioner filed a motion to amend arrears withholding with a certified accounting statement. The Court granted the uncontested motion.

Richard J. Dakota, Jr. v. Angela B. Wanatee, CV 97-126 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Apr. 13, 2004). (Matha, T).

The Court had to determine whether to grant the petitioner's recent motion to modify. The petitioner requested a change in current and arrears child support withholding. The Court granted the uncontested motion.

APRIL 16, 2004

Kristine H. Blackcoon v. Michael K. Blackcoon, CS 98-25; *Robin Lynn Ashley v. Michael K. Blackcoon*, CS 99-16 Order (Cessation and Modification of Child Support) (HCN Tr. Ct., Apr. 16, 2004). (Matha, T).

The Court had to determine whether to cease child support in one case since the minor child had reached the age of majority. The petitioner failed to present evidence substantiating continuing enrollment in high school. The Court terminated withholding in one case and adjusted withholding in the other.

State of Wis./Sauk County & Jennifer Stanley v. Robert M. Mobley, CS 99-38; *State of Wis./Sauk County & Jennifer Stanley v. Robert M. Mobley*, CS 99-39 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Apr. 16, 2004). (Matha, T).

The Court had to determine whether to grant the petitioner's recent motion to modify. The petitioner requested a change in current and arrears child support withholding. The Court granted the uncontested motion.



State of Wis./Sauk County & Carole L. St. Cyr v. Joyce M. St. Cyr, CS 98-15; *Robert M. Mobley v. Joyce M. St. Cyr*, CS 99-37; *Joyce M. St. Cyr v. Robert M. Mobley*, CS 00-04 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Apr. 16, 2004). (Matha, T).

The Court had to determine whether to grant the petitioner's recent motion to modify. The petitioner requested a change in current child support withholding. The Court granted the uncontested motion.

APRIL 20, 2004

State of Wis. ex rel. Calvinita H. Kills in Water v. Moses L. Cleveland, CS 04-15 *Order (Impounding Per Capita)* (HCN Tr. Ct., Apr. 20, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign child support order. The respondent filed a motion requesting cessation of withholding for current child support. The respondent stated that he and the petitioner currently reside together. The Court ordered an impound of the amount of respondent's per capita currently withheld.

William Murphy v. Cheryl Murphy, CS 98-58 *Order (Ceasing Withholding Child Support)* (HCN Tr. Ct., Apr. 20, 2004). (Bossman, W).

The respondent requested a modification of child support in her motion to modify. The motion stated that the petitioner is now deceased. The respondent attached a certified copy of the petitioner's death certificate to the motion. The Court ordered cessation of withholding from the respondent's per capita distributions for current child support.

APRIL 23, 2004

Davina Two Bears v. Brady Two Bears, CS 04-19 *Order (Default Judgment for Child Support Deduction from Wages)* (HCN Tr. Ct., Apr. 23, 2004). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

APRIL 26, 2004

State of Wis./Sauk County & Chris W. Crain, CS 99-30 *Order (Ceasing Withholding Child Support Withholding and Intent to Close)* (HCN Tr. Ct., Apr. 26, 2004). (Matha, T).

The petitioner requested cessation of child support withholding for arrears. The Court granted the request and informed the parties of its intent to close the file.



Civil Garnishment

APRIL 7, 2004

Riverview Hosp. Ass'n, Inc. v. Wendy Hanneman, CG 04-15 *Order (Default Judgment)* (HCN Tr. Ct., Apr. 7, 2004). (Matha, T).

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 for recognition and enforcement.

APRIL 22, 2004

First Select, Inc. v. Daniel Fitzgerald, CG 04-02 *Order (From Fact Finding Hearing)* (HCN Tr. Ct., Apr. 22, 2004). (Bossman, W).

The petitioner requested that the Court grant full faith and credit to a foreign judgment. The respondent filed an answer. The Court held a *Fact-Finding Hearing*. The petitioner failed to appear for the hearing. The Court granted the respondent thirty (30) days to pay the judgment and file a satisfaction of the judgment with the Court.

Civil Cases

CHILDREN'S TRUST FUND (CTF)

APRIL 5, 2004

In the Interest of Minor Child: N.L.S., DOB 02/15/92, by Jennifer L. White Eagle v. HCN Office of Tribal Enrollment, CV 04-26 *Order (Petition Granted)* (HCN Tr. Ct., Apr. 5, 2004). (Matha, T).

The petitioner requested a release from the CTF account of her minor child to pay for costs associated with orthodontics. The Court granted the request.

APRIL 7, 2004

In the Interest of Minor Child: A.A.G., DOB 11/13/92 v. HCN Office of Tribal Enrollment, CV 03-85 Order (Accepting Accounting) (HCN Tr. Ct., Apr. 7, 2004). (Bossman, W).

The Court previously released money from the CTF account of the minor child for costs related to orthodontic care. The petitioner submitted a payment history, which confirmed proper use of the funds. The Court accepted this accounting.

APRIL 13, 2004

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 Accounting) (HCN Tr. Ct., Apr. 13, 2004). (Matha, T).

The Court requested that the guardian of the estate file the annual accounting.

APRIL 26, 2004

In the Interest of Minor Child: Adrienne Littlebear, DOB 04/06/85 v. HCN Office of Tribal Enrollment, CV 03-35 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Apr. 26, 2004). (Bossman, W).

The Court required the petitioner to submit further documentation in support of a petition. The petitioner failed to submit such documentation. The Court dismissed the instant case without prejudice.

In the Interest of Minor Child: B.M.S., DOB 10/23/88, by Michelle R. Matlock v. HCN Office of Tribal Enrollment, CV 03-67 Order (Requesting Accounting) (HCN Tr. Ct., Apr. 26, 2003). (Matha, T).

The Court previously released money from the CTF account of the minor child for costs related to orthodontic care. The Court requested that the petitioner submit the required accounting.



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 (Notice of Show Cause Hearing) (HCN Tr. Ct., Apr. 26, 2003). (Matha, T).

The Court previously released money from the CTF account of the minor child for costs related to orthodontic care. The petitioner has not complied with a Court order requiring an accounting of proper use of the released funds. The Court shall convene a *Show Cause Hearing*.

APRIL 29, 2004

In the Interest of Minor Child: J.N.K., DOB 12/28/95, by Nyree Kedrowski v. HCN Office of Tribal Enrollment, CV 04-29 Order (Petition Granted) (HCN Tr. Ct., Apr. 29, 2004). (Matha, T).

The petitioner requested a release from the CTF account of her minor child to pay for costs associated with orthodontics. The Court routinely grants that type of request. The Court granted the request.

In the Interest of Minor Child: R.W., DOB 11/07/94, by Lana Greengrass v. HCN Office of Tribal Enrollment, CV 04-17 Order (Petition Granted) (HCN Tr. Ct., Apr. 29, 2004). (Matha, T).

The petitioner requested a release from the CTF account of her minor child to pay for costs associated with orthodontics. The Court routinely grants that type of request. The Court granted the request.

In the Interest of the Minor Child: R.C.D., DOB 12/30/86, by Sabrina Decorah v. HCN Office of Tribal Enrollment, CV 03-45 Order (Finding of Contempt) (HCN Tr. Ct., Apr. 30, 2004). (Bossman, W).

The Court previously released money from the CTF account of the minor child for costs related to orthodontic care. The Court had to determine whether to find the petitioner in contempt of court for failure to submit the required accounting. The Court found the petitioner to be in contempt of court and provided for coercive sanctions.

CONTRACTS

APRIL 13, 2004

Betty J. White v. Dion W. Funmaker, CV 03-89 *Order (Denial of Motion)* (HCN Tr. Ct., Apr. 13, 2004). (Matha, T).

The Court previously issued a judgment in favor of the plaintiff. The Court had to determine whether to grant the plaintiff's motion for contempt of court. The movant failed to appear at the *Show Cause Hearing* despite proper notice. The Court dismissed the plaintiff's motion.

EMPLOYMENT

APRIL 1, 2004

Janet M. Funmaker v. HCN, HCN Pers. Dep't, HCN Bus. Dep't, & Ho-Chunk Gift Shop, CV 02-111 *Order (Dismissal)* (HCN Tr. Ct., Apr. 1, 2004). (Bossman, W).

The Court previously granted an order dismissing the instant action pursuant to a stipulation and settlement signed by both parties. The plaintiff filed a *Motion Seeking Order to Enforce Order for Settlement*. The Court granted the request and entered an order requiring the defendants to enforce the terms of the settlement.

Nyree Kedrowski v. Christine Steeples, Executive Dir. of Health/Soc. Servs.; Jean Stacy, Educ. Dep't; Valerie Smith, Study Ctr. Coordinator; Jancita Warrington, Teacher, Wis. Rapids Study Ctr., CV 04-03 *Order (Dismissal)* (HCN Tr. Ct., Apr. 1, 2004). (Bossman, W).

The defendants filed a settlement agreement and a request for voluntary dismissal signed by both parties. The Court approved the settlement. The Court dismissed the instant case.

Kenneth Lee Twin v. Douglas Greengrass & HCN Dep't of Pers., CV 03-84 *Order (Dismissal With Prejudice)* (HCN Tr. Ct., Apr. 1, 2004). (Bossman, W).

The defendants filed a stipulation for an order of dismissal. Both the plaintiff and the defendant signed the stipulation. The Court approved the stipulation and dismissed the instant case with prejudice.

APRIL 6, 2004

Debra M. Jones v. Majestic Pines Casino & Laura Mortensen, CV 04-19 *Scheduling Order* (HCN Tr. Ct., Mar. 9, 2004). (Bossman, W).

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

APRIL 7, 2004

Debra Hall-Shoemaker v. Ho-Chunk Nation & Sandra Plawman, CV 02-77 *Order (Final Judgment)* (HCN Tr. Ct., Apr. 7, 2004). (Matha, T).

The defendants terminated the plaintiff after she attached work-related documents to a *Complaint* filed with the Court. The Court overturned the plaintiff's termination. The Court awarded the plaintiff back pay and ordered the removal of negative references from the plaintiff's personnel file.

[See also [Confidentiality](#) within this index.]

APRIL 20, 2004

Debra Hall-Shoemaker v. Ho-Chunk Nation, CV 02-41 *Order (Denial of Motion)* (HCN Tr. Ct., Apr. 20, 2004). (Matha, T).

The Court had to determine whether to grant the plaintiff's motion for contempt of court. The defendant alleged non-receipt of the Court's original order. The Court denied the plaintiff's motion.

APRIL 21, 2004

Scott Finch v. Tammy Modica, CV 04-09 *Order (Dismissal)* (HCN Tr. Ct., Apr. 21, 2004). (Matha, T).

The Court had to determine whether to dismiss the instant case. The plaintiff failed to appear for a hearing for which he received proper notice. The Court dismissed the case.

APRIL 23, 2004

Debra Hall-Shoemaker v. Ho-Chunk Nation, CV 02-41 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Apr. 23, 2004). (Matha, T).

The Court previously issued an order approving a settlement agreement. The defendant filed a satisfaction of judgment. The Court recognized the debt has been paid in full and informed the parties of its intent to close the file.

Anna Kauffman v. Dennis Gager, Dir. of Gaming; HCN Bus. Dep't; Ida Carrier, Rainbow Casino Executive Manager; Lindley Thompson, Slot Dir.; Rainbow Casino; and HCN, CV 02-49 (HCN Tr. Ct., Apr. 23, 2004). (Matha, T).

The Court previously issued a judgment in favor of the plaintiff. The defendant filed a satisfaction of judgment. The Court recognized the debt has been paid in full and informed the parties of its intent to close the file.

APRIL 29, 2004

Daniel Brown v. Sandra Plawman, CV 03-86, 04-01 *Order (Motion Hearing)* (HCN Tr. Ct., Apr. 29, 2004). (Matha, T).

The Court determined to convene a hearing to allow the defendant the ability to argue its *Motion to Dismiss*. The Court issued this order to establish dates and deadlines for the instant motion.

APRIL 30, 2004

HCN Dep't of Health & Soc. Servs. v. Carol Rockman, CV 04-02 *Order (Motion Hearing)* (HCN Tr. Ct., Apr. 30, 2004). (Bossman, W).

The Court determined to convene a hearing to allow the defendant the ability to argue its *Motion to Dismiss*. The Court issued this order to establish a hearing date for the instant motion.

ENROLLMENT

APRIL 26, 2004

Cornelius Decora v. Adam Hall, HCN Tribal Enrollment Office; George Greendeer, Enrollment Genealogist; Tribal Enrollment Comm.; HCN Legislature; and HCN, CV 03-25 *Order (Granting Motion for Leave to Withdraw and Postponing Trial)* (HCN Tr. Ct., Apr. 26, 2004). (Bossman, W).

The plaintiff's attorney filed a motion requesting leave to withdraw from the case. In addition, the plaintiff filed a motion requesting postponement of the trial due to the attorney's withdrawal. The defendant did not formally object to either motion. The Court granted the requests.



HOUSING

APRIL 27, 2004

Ho-Chunk Housing Authority v. Brenda Anhalt, CV 02-118 *Eviction Order (Restitution and Relief)* (HCN Tr. Ct., Apr. 27, 2004). (Bossman, W).

The Court had to determine whether to evict the tenant from a rental housing unit for lease violations. The defendant failed to appear at the trial for which she received proper notice. The Court granted a default judgment in favor of the plaintiff.

Ho-Chunk Housing Authority v. Brenda Anhalt, CV 02-118 *Order (Writ of Restitution)* (HCN Tr. Ct., Apr. 27, 2004). (Bossman, W).

The Court issued this *Writ of Restitution* to inform the proper law enforcement officials of the Court's eviction order.

INCOMPETENT TRUST FUND (ITF)

APRIL 30, 2004

In the Interest of W.E.S., DOB 12/23/36, by Frank E. Bichanich, CV 04-22 *Order (Petition Granted)* (HCN Tr. Ct., Apr. 30, 2004). (Matha, T).

The Court had to determine whether the guardian could access monies on behalf of an adult incompetent member from the ITF to pay for costs associated with state property taxes and guardianship fees and costs. In addition, the guardian requested the establishment of a monthly allowance. The Court found that each request represented a necessary health and/or welfare benefit. The Court granted a release of funds to satisfy the requests.

SUBJECT MATTER JURISDICTION

APRIL 26, 2004

Citizens Cmty. Fed. v. Anjanette Neperud, CV 04-18 *Order (Final Judgment)* (HCN Tr. Ct., Apr. 26, 2004). (Matha, T).

The Court had to determine whether to award the plaintiff the relief requested in its initial pleading. The Court afforded the defendant an opportunity to respond. The defendant failed to file an answer. The Court declined to grant a default judgment due to the Court's lack of subject matter jurisdiction over the dispute.

Juvenile

APRIL 7, 2004

In the Interest of Minor Child: S.E.C., DOB 02/25/96, JV 03-11 Order (Voluntary Dismissal) (HCN Tr. Ct., Apr. 7, 2004). (Matha, T).

The petitioners filed a letter indicating their withdrawal of the guardianship petition. The Court dismissed the case without prejudice.

APRIL 9, 2004

In the Interest of Minor Child: J.P.F., DOB 03/15/87, JV 98-17 Order (Establishment of Child Support) (HCN Tr. Ct., Apr. 9, 2004). (Bossman, W).

The Court had to determine whether to establish child support for the parents of the minor child. The Court granted the request.

APRIL 16, 2004

In the Interest of Minor Child: S.L.S., DOB 01/03/86, JV 00-19 Order (Termination of Jurisdiction) (HCN Tr. Ct., Apr. 16, 2004). (Bossman, W).

The minor child attained the age of majority. The Court terminated its jurisdiction over and supervision of the instant case.

APRIL 23, 2004

In the Interest of Minor Children: D.J.D., DOB 04/04/92; N.L.D., DOB 10/03/93, JV 97-11-12 Order (Submission of Guardianship Report and Home Study) (HCN Tr. Ct., Apr. 23, 2004). (Bossman, W).

The petitioner filed a guardianship petition. The Court requested that CFS prepare and submit a guardianship report and home study.

In the Interest of Minor Children: D.J.D., DOB 04/04/92; N.L.D., DOB 10/03/93, JV 97-11-12 Order (Submission of Traditional Relatives List) (HCN Tr. Ct., Apr. 23, 2004). (Bossman, W).

The Court requested that CFS prepare and submit a list of the minor child's traditional relatives.

In the Interest of Minor Children: D.J.D., DOB 04/04/92; N.L.D., DOB 10/03/93, JV 97-11-12 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., Apr. 23, 2004). (Bossman, W).

The Court appointed a GAL in this matter.

In the Interest of Minor Child: K.E.F., DOB 02/13/94, JV 97-02 Order (Notice of Show Cause Hearing) (HCN Tr. Ct., Apr. 23, 2004). (Bossman, W).

CFS alleged that the guardian had violated terms of the guardianship order. The Court granted the request of CFS for a show cause hearing.

In the Interest of Minor Children: C.A.T., DOB 07/06/95; B.A.T., DOB 09/11/94, JV 03-27-28 Order (Child Protection Review Hearing) (HCN Tr. Ct., Apr. 23, 2004). (Bossman, W).

The Court conducted a child protection review hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

APRIL 27, 2004

In the Interest of Minor Child: T.V.F., DOB 02/18/02, JV 03-14 Order (Acceptance of Transfer) (HCN Tr. Ct., Apr. 27, 2004). (Bossman, W).

The Court had to determine whether to accept transfer of a children's case. The Court indicated that it would not decline transfer of the action.

In the Interest of Minor Children: D.D.W., DOB 12/16/94, D.R.W., DOB 09/22/92; D.G.W., DOB 11/09/95; D.S.W., DOB 02/19/98, JV 01-17-20 Order (Re-Scheduling Guardianship Hearing) (HCN Tr. Ct., Apr. 27, 2004). (Bossman, W).

Upon convening the hearing, the Court determined that a report and home study had not been completed. The Court rescheduled the hearing.

APRIL 28, 2004

In the Interest of Minor Children: B.E.Y., DOB 07/25/89; N.R.Y., DOB 07/07/91, JV 03-37-38 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Apr. 28, 2004). (Bossman, W).

The Court granted a party's request to make a telephonic appearance for a plea hearing.

APRIL 29, 2004

In the Interest of Minor Child: G.J.C., DOB 12/07/91, JV 04-02 Order (Voluntary Dismissal) (HCN Tr. Ct., Apr. 29, 2004). (Matha, T).

CFS filed a report indicating that the guardianship petitioner desired to withdraw the petition. The Court dismissed the instant case without prejudice.

Confidentiality

APRIL 7, 2004

Debra Hall-Shoemaker v. Ho-Chunk Nation & Sandra Plawman, CV 02-77 Order (Final Judgment) (HCN Tr. Ct., Apr. 7, 2004). (Matha, T).

The defendant terminated the plaintiff because she could not show authorization allowing disclosure of certain exhibits attached to the initial pleading. The defendant based her decision to terminate on an alleged violation of the confidentiality agreement. The confidentiality agreement included the following language identical to that in the HCN PERSONNEL POLICIES & PROCEDURES MANUAL: “[w]hen in doubt as to whether certain information is or is not confidential, prudence dictates that no disclosure be provided without first clearly establishing that such disclosure has been authorized by appropriate supervisory or management personnel.”

The confidentiality agreement requires authorization for disclosure if the employee subjectively considers the material confidential. The plaintiff provided testimony that she believed the documents did not contain confidential information. The Court also evaluated whether the plaintiff’s subjective belief that the documents were not confidential was reasonable.

The PERSONNEL MANUAL places the burden of proof upon employees during the grievance process and informs grievants that they may include documentation. In addition, the PERSONNEL MANUAL allows the Judiciary to review any pertinent information within the employee file. The Court held that based on these provisions, a reasonable person may have believed that the Judiciary was an entity authorized to receive the information.

The defendants argued that the termination had been valid because the attached documents were confidential. However, neither of the defendant’s supervisors indicated this concern to the plaintiff upon their initial review of her grievance. The Court held that termination of the plaintiff was improper. The Court awarded the plaintiff back pay and ordered the removal of negative references from the plaintiff’s personnel file.

[See also **EMPLOYMENT** within this index.]

Supreme Court

APRIL 1, 2004

Wayne S. Hanrahan v. Shayrn Whiterabbit & Kathyleen Whiterabbit; Wayne S. Hanrahan v. Ron Anwash & Larry Garvin, SU 04-03 Order (HCN S. Ct., Apr. 1, 2004).

This case came before the case through an interlocutory appeal. The Court dismissed this appeal for failure to meet the minimum requirements of an interlocutory appeal.

APRIL 14, 2004

Veronica L. Wilbur v. HCN, SU 04-02 Order Denying Appeal (HCN S. Ct., Apr. 14, 2004).

The appellant filed this appeal in response to an order modifying and enforcing child support. The Supreme Court denied the appeal due to lack of timely filing.

APRIL 30, 2004

Aleksandra Cichowski v. Four Winds Ins. Agency, SU 04-01 Order for Oral Argument (HCN S. Ct., Apr. 30, 2004).

The Supreme Court issued this order to set a date and time for oral arguments in this matter.

Recent Filings

Trial Court

Civil Garnishment

APRIL 2, 2004

Black River EMS v. Diane & Rene Wallace, CG 04-27. (Matha, T).

APRIL 6, 2004

Creditor Recovery Serv. v. Crystal E. Wilson, CG 04-28. (Matha, T).

Creditor Recovery Serv. v. Lynn McGrath, CG 04-29. (Matha, T).

Bank of Mauston v. Loretta J. Patterson, CG 04-30. (Matha, T).

APRIL 14, 2004

Creditor Recovery Serv. v. Michael Zenner, Jr., CG 04-31. (Bossman, W).

Cheetwood, Nicol, Matthews v. Brent WhiteEagle, CG 04-32. (Bossman, W).

APRIL 15, 2004

Alliance Collection Agencies v. Ronald Bartley, CG 04-33. (Bossman, W).

Alliance Collection Agencies v. Jason Frost, CG 04-34. (Bossman, W).

Alliance Collection Agencies v. Carrie Gallert, CG 04-35. (Bossman, W).

Alliance Collection Agencies v. Betty Granger, CG 04-36. (Bossman, W).

Alliance Collection Agencies v. Kevin L. Kniprath, CG 04-37. (Bossman, W).

Alliance Collection Agencies v. Bryan Ringer, CG 04-38. (Bossman, W).

Alliance Collection Agencies v. Keith Smith, CG 04-39. (Bossman, W).

Alliance Collection Agencies v. Marie R. Thune, CG 04-40. (Bossman, W).

Alliance Collection Agencies v. Jack J. Werner, CG 04-41. (Bossman, W).

Alliance Collection Agencies v. Neil Whitegull, CG 04-42. (Bossman, W).

Alliance Collection Agencies v. Crystal Wilson, CG 04-43. (Bossman, W).

Child Support

APRIL 2, 2004

Carol Marceau (Samm) v. Devon W. Decorah, CS 04-23. (Matha, T).

Jill M. Hartlew v. Wendland D. White, CS 04-24. (Matha, T).

APRIL 21, 2004

Heidi Simenson v. Joseph Bowling, CS 04-25. (Matha, T).

APRIL 27, 2004

State of Wis. v. Morgan Kyle Decorah, CS 04-26. (Bossman, W).

State of Wis. v. Cory H. Funmaker, CS 04-27. (Bossman, W).

APRIL 30, 2004

Ethel Jeanette Dakota v. Marcus T. Sonne Chapman, CS 04-28. (Bossman, W).

State of Wis. v. Kelly Decorah, CS 04-29. (Bossman, W).

Civil Cases

APRIL 6, 2004

Kenneth L. Twin v. Toni McDonald, HCN, HCN Pers. Dep't, CV 04-27. (Matha, T).

APRIL 16, 2004

Sandra K. Cherry v. Ho-Chunk Casino Slot Dep't, CV 04-28. (Bossman, W).

APRIL 19, 2004

In the Interest of Minor Child: K.J.N., DOB 12/28/95, CV 04-29. (Matha, T).

Michael Savic v. Cora Samples, HCN, CV 04-30. (Matha, T).

APRIL 20, 2004

Rainbow Smoke Shop, HCN Whitetail Crossing, Ho-Chunk Smoke Shop, HCN Dep't of Bus. v.

Anytime Towing, Richard Olson, David Olson, Mark Olson, CV 04-31. (Matha, T).

APRIL 23, 2004

Marcy J. Hawkins v. HCN Casino, CV 04-32. (Matha, T).

Ronald Kirkwood v. Francis Decorah, HCN Hous. Dep't, CV 04-33. (Matha, T).

Guy F. Beebe v. HCN, CV 04-34. (Matha, T).

Juvenile Cases

APRIL 2, 2004

In the Interest of Minor Child: K.L.C., DOB 12/19/89, JV 04-03. (Matha, T).



**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
Jim Greendeer
Orville Greendeer
Douglas Greengrass
Desmond 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 – Rosie Kakkak
Staff Attorney – Rose M. Weckenmann

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 10—Illinois, Indiana, Michigan, Minnesota, 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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Legal Citation Forms

Ho-Chunk Nation Judiciary
W9598 Hwy 54 East
P.O. Box 70
Black River Falls, WI 54615
(715) 284-2722 Ph.
(800) 434-4070 Ph. (Toll-free)
(715) 284-3136 Fax
<http://www.ho-chunknation.com/government/courts.htm>

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

HO-CHUNK NATION COURT BULLETIN

WA EHI HOCI OPEN HOUSE: HO-CHUNK NATION JUDICIARY TO HOLD TOURS OF NEW FACILITY



On Friday, June 18, 2004, the Ho-Chunk Nation Judiciary will provide tours of the recently completed Judiciary building, Wa Ehi Hoci. The Judiciary invites all tribal members and employees to take this opportunity to view the new home to the Ho-Chunk Nation Traditional Court, Supreme Court, and Trial Court. Tours will be held every hour beginning at 9:00 a.m.

Wisconsin Supreme Court

Panzer v. Doyle, 2004 WI 52.

Last year, Wisconsin State Senate Majority Leader Mary Panzer and State Assembly Speaker John Gard filed this action, claiming that Governor Jim Doyle exceeded his authority in negotiating amendments to a gaming compact with the Forest County Potawatomi Tribe. The Governor argued that he had acted in compliance with the Indian Gaming Regulatory Act, Wisconsin law, and the terms of the original compacts in negotiating the amendments. The Wisconsin Supreme Court held in a 4-3 decision that Doyle had exceeded his authority.

The Wisconsin Supreme Court held that Doyle allowed for games in the compact with the Forest County Potawatomi that are prohibited by Article IV, Section 24 of the Wisconsin Constitution. *Panzer v. Doyle*, 2004 WI 52, ¶ 93. The Court held that Doyle further exceeded his authority by agreeing to waive the state's sovereign immunity with respect to the compacts. *Id.* at ¶ 107. In addition, the Court held that the Governor exceeded his authority by agreeing to a perpetual term for the compact. *Id.* at ¶ 82. The Wisconsin Supreme Court reasoned that a perpetual term removed "the subject of Indian gaming from the legislature's ability to establish policy and make law." *Id.* at ¶ 5. On June 4, 2004, the Ho-Chunk Nation announced that it will remove craps, roulette and poker from its casinos at the end of the month in order to comply with the Court's decision.

Federal Court Update

Fourth Circuit Court of Appeals

Wade v. Blue, No. 03-2245, 2004 WL 1161943 (4th Cir. May 26, 2004).

During the 1980s and 1990s, the Catawba Tribe of South Carolina was involved in litigation with the United States and the State of South Carolina over land claims. In 1993, the Catawba Indian Tribe entered into a settlement agreement. As part of the settlement, the federal and state governments were to pay \$50 million in trust to the Tribe.

Following the settlement agreement, disputes arose within the Tribe as to management of assets. Fourteen individual tribal members filed this action against the Tribe's Executive Committee. The plaintiffs alleged that the defendants had exerted improper control over tribal assets.

The defendants filed a motion to dismiss for lack of subject matter jurisdiction. The district court denied the motion. The Fourth Circuit Court of Appeals determined that the only question it had to resolve was whether the 1993 settlement agreement and the federal and state acts approving the agreement provided for exclusive state court jurisdiction over intra-tribal disputes. The Fourth Circuit held that the South Carolina state courts possess exclusive jurisdiction over all intra-tribal disputes until a tribal court is established pursuant to federal legislation. The Court thereby reversed the district court's decision.

Sixth Circuit Court of Appeals

Grand Traverse Band of Ottawa & Chippewa Indians v. Office of the U.S. Attorney for the W. Dist. of Mich., No. 02-1679, 2004 WL 1144510 (6th Cir. May 24, 2004).

The Grand Traverse Band of Ottawa and Chippewa Indians regained its federal recognition through the federal acknowledgment process in 1980. In 1989, the Band obtained title to a tract of land commonly referred to as the "Turtle Creek" site. In 1993, the Band entered into a tribal-state gaming compact with the State of Michigan.

On June 14, 1996, the Band opened a casino at Turtle Creek. On the same day, the Band sought a declaratory judgment concerning the legality of its Class III gaming operations at Turtle Creek. The United States filed a counterclaim seeking to enjoin gaming at the Turtle Creek facility. The State of Michigan was allowed to intervene as a defendant.

The district court held that it is permissible for the Grand Traverse Band of Ottawa and Chippewa Indians to conduct casino-style gaming at a site located off the Band's initial reservation. The district court held that in this instance, such land acquired and placed into trust after passage of the Indian Gaming Regulatory Act came under the exception for lands taken into trust as part of the

restoration of lands for a tribe restored to federal recognition. The State of Michigan appealed the district court's decision. The Sixth Circuit Court of Appeals affirmed the district court.

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. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. 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.

Trial Court

Child Support

MAY 19, 2004

Casey Whitegull v. Harriet M. Whitegull, CV 97-61 *Order (Modifying Current Child Support)* (HCN Tr. Ct., May 19, 2004). (Matha, T).

The minor child will be turning nineteen years of age. The Court modified current child support withholding to reflect the emancipation of the minor child.

MAY 24, 2004

State of Wis. v. Kelly V. Decorah, CS 04-29 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., May 24, 2004). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

MAY 27, 2004

State of Wis. ex rel. Calvinita H. Kills in Water v. Moses L. Cleveland, CS 04-15 *Order (Ceasing Child Support Withholding and Releasing Impound)* (HCN Tr. Ct., May 27, 2004). (Bossman, W).

The petitioner filed a motion requesting modification of child support withholding. The motion requested suspension of current child support and arrearage withholding. The Court granted the motion. The Court also ordered the release of the impounded portion of the respondent's May 2004 per capita distribution.

Jill M. Hartley v. Wendland O. White, CS 04-24 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., May 27, 2004). (Bossman, W).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for recognition and enforcement.

MAY 28, 2004

Juneau County/Keith Miller v. Chasity A. Miller, CS 99-26 *Erratum Order (Renewing Child Support Withholding)* (HCN Tr. Ct., May 28, 2004). (Matha, T).

The Court previously suspended child support withholding in this case. The petitioner submitted a motion requesting that child support withholding be resumed. The respondent failed to respond within the specified time frame. The Court granted the uncontested motion.

Civil Garnishment

MAY 5, 2004

State Collection Agency v. Elisabeth Haller, CG 04-22 Order (Default Judgment) (HCN Tr. Ct., May 5, 2004). (Matha, T).

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 for recognition and enforcement.

Johnson Props. Realty v. Marvin Decorah, CG 04-25 Order (Default Judgment) (HCN Tr. Ct., May 5, 2004). (Matha, T).

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 for recognition and enforcement.

Creditor Recovery Serv., LLC, Agent for Rapids Tiger Mart v. Lynn M. McGrath, CG 04-29 Order (Default Judgment) (HCN Tr. Ct., May 5, 2004). (Matha, T).

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 for recognition and enforcement.

MAY 6, 2004

Alliance Collection Agencies, Inc. v. Kevin L. Kniprath, CG 04-37 Order (Default Judgment) (HCN Tr. Ct., May 6, 2004). (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 for recognition and enforcement.

MAY 7, 2004

First Select, Inc. v. Daniel Fitzgerald, CG 04-02 Order (Dismissal with Prejudice) (HCN Tr. Ct., May 7, 2004). (Bossman, W).

The Court had previously ordered the defendant to pay the underlying state court judgment and secure a release from the plaintiff within thirty days. The plaintiff filed a letter showing payment by the defendant. The Court dismissed the matter.

Creditor Recovery Serv., LLC, Agent for Wood County Tel. Co. v. Crystal E. Wilson, f/k/a Akeen, CG 04-28 Order (Default Judgment) (HCN Tr. Ct., May 7, 2004). (Matha, T).

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 for recognition and enforcement.

Alliance Collection Agencies, Inc. v. Ronald D. Bartley, Jr., CG 04-33 Order (Default Judgment) (HCN Tr. Ct., May 7, 2004). (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 for recognition and enforcement.

Alliance Collection Agencies, Inc. v. Carrie Gallert, CG 04-35 Order (Default Judgment) (HCN Tr. Ct., May 7, 2004). (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 for recognition and enforcement.

Alliance Collection Agencies, Inc. v. Tim Ganger & Betty Ganger, CG 04-36 Order (Default Judgment) (HCN Tr. Ct., May 7, 2004). (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 for recognition and enforcement.

Alliance Collection Agencies, Inc. v. Keith D. Smith, CG 04-39 Order (Default Judgment) (HCN Tr. Ct., May 7, 2004). (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 for recognition and enforcement.

Alliance Collection Agencies, Inc. v. Marie R. Thieme, CG 04-40 Order (Default Judgment) (HCN Tr. Ct., May 7, 2004). (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 for recognition and enforcement.

Alliance Collection Agencies, Inc. v. Jack J. Werner, CG 04-41 Order (Default Judgment) (HCN Tr. Ct., May 7, 2004). (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 for recognition and enforcement.

Alliance Collection Agencies, Inc. v. Crystal Wilson, CG 04-43 Order (Default Judgment) (HCN Tr. Ct., May 7, 2004). (Matha, T).

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 for recognition and enforcement.

MAY 10, 2004

Black River EMS v. Diane & Rene Wallace, CG 04-27 Order (Default Judgment) (HCN Tr. Ct., May 10, 2004). (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 for recognition and enforcement.

Alliance Collection Agencies, Inc. v. Marie A. Wulf, CG 04-44 Order (Default Judgment) (HCN Tr. Ct., May 10, 2004). (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 for recognition and enforcement.

MAY 12, 2004

Alliance Collection Agencies, Inc. v. Jonathan M. Thompson, CG 04-47 Order (Granting Telephonic Appearance) (HCN Tr. Ct., May 12, 2004). (Matha, T).

The petitioner requested permission to appear at a *Fact-Finding Hearing* by telephone. The Court granted the request.

Alliance Collection Agencies, Inc. v. Michael P. Zenner, Jr., CG 04-50 Order (Granting Telephonic Appearance) (HCN Tr. Ct., May 12, 2004). (Matha, T).

The petitioner requested permission to appear at a *Fact-Finding Hearing* by telephone. The Court granted the request.

MAY 14, 2004

Creditor Recovery Serv. LLC, Agent for Donough Orth & Sports Medicine v. Michael P. Zenner, Jr., CG 04-31 Order (Dismissal Without Prejudice) (HCN Tr. Ct., May 14, 2004). (Matha, T).

The petitioner requested that the Court dismiss the instant case. The petitioner indicated that the respondent had agreed to enter a wage assignment. The Court granted the request for dismissal.

Alliance Collection Agencies, Inc. v. Bryan Ringer, CG 04-38 Order (Default Judgment) (HCN Tr. Ct., May 14, 2004). (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 for recognition and enforcement.

MAY 18, 2004

Alliance Collection Agencies v. Dale Shegonee-Elwort, CG 04-46 Order (Default Judgment) (HCN Tr. Ct., May 18, 2004). (Matha, T).

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 for recognition and enforcement.

MAY 19, 2004

Alliance Collection Agencies, Inc. v. Michael P. Zenner, Jr., CG 04-50 Order (Dismissal Without Prejudice) (HCN Tr. Ct., May 19, 2004). (Matha, T).

The petitioner requested that the Court dismiss the instant case. The Court granted the request for dismissal.

MAY 21, 2004

All American Plaza v. Allyson Finch, CG 04-18 Order (Default Judgment) (HCN Tr. Ct., May 21, 2004). (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 for recognition and enforcement.

MAY 24, 2004

Campusview Props. v. Robert & Linda Frommung, CG 04-21 Order (Granting Telephonic Appearance) (HCN Tr. Ct., May 24, 2004). (Matha, T).

The petitioner requested permission to appear at a *Fact-Finding Hearing* by telephone. The Court granted the request.

Alliance Collection Agencies, Inc. v. Jonathan M. Thompson, CG 04-47 Order (Conditional Denial of Petition) (HCN Tr. Ct., May 24, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a timely response stating that the respondent receives supplemental security income and medical assistance, which constitute reasons for garnishment exemption under state law. The Court denied the petition.

MAY 28, 2004

State Collection Serv. v. Angeline L. Decorah, CG 03-47 Order (Default Judgment) (HCN Tr. Ct., May 28, 2004). (Matha, T).

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 for recognition and enforcement.

Creditor Recovery Serv., LLC, Agent for McDonough Orthopedic & Sports Medicine, CG 04-52 Order (Default Judgment) (HCN Tr. Ct., May 28, 2004). (Matha, T).

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 for recognition and enforcement.

Alliance Collection Agencies, Inc. v. Donna R. Pabst, CG 04-53 Order (Default Judgment) (HCN Tr. Ct., May 28, 2004). (Matha, T).

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 for recognition and enforcement.

Randall S. Carpenter, Inc. d/b/a Schmidt's Jewelry v. Daniel S. Downing, CG 04-54 Order (Default Judgment) (HCN Tr. Ct., May 28, 2004). (Matha, T).

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 for recognition and enforcement.

Civil Cases

CHILDREN'S TRUST FUND (CTF)

MAY 7, 2004

In the Interest of Minor Child: J.M.M., DOB 03/03/88, Becky Manuell v. HCN Office of Tribal Enrollment, CV 03-68 Order (Dismissal Without Prejudice) (HCN Tr. Ct., May 7, 2004). (Matha, T).

The petitioner requested a release from the CTF account of her minor child to pay for costs associated with tutoring for the minor child. The petitioner failed to appear for the *Fact-Finding Hearing*. The Court dismissed the case without prejudice.



MAY 11, 2004

In re the children of Jodi 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, CV 96-64 Order (Demanding Accounting) (HCN Tr. Ct., May 11, 2004). (Matha, T).

The Court demanded that the guardian of the estate file the annual accounting reports.

MAY 18, 2004

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 (Contempt) (HCN Tr. Ct., May 18, 2003). (Matha, T).

The Court previously released money from the CTF account of the minor child for costs related to orthodontic care. The petitioner has not complied with Court orders requiring an accounting of proper use of the released funds. The Court held the petitioner in contempt.

MAY 19, 2004

Jason Nathaniel Hopinka, DOB 12/17/83, by Wesley T. Martin, Jr. v. HCN Office of Tribal Enrollment, CV 03-15 Order (Granting Additional Release of Funds) (HCN Tr. Ct., May 19, 2004). (Bossman, W).

The Court had to determine whether to grant a release of monies for expenses related to criminal defense of the minor child. The Court granted the request.

MAY 28, 2004

In the Interest of Minor Child: R.C.D., DOB 12/30/86, by Sabrina Decorah v. HCN Office of Tribal Enrollment, CV 03-45 Order (Accepting Accounting) (HCN Tr. Ct., May 28, 2004). (Bossman, W).

The Court previously released funds from the CTF account of the minor child for costs associated with orthodontics. The petitioner submitted a payment history statement, which confirmed proper use of the funds. The Court accepted this accounting.

**CONTRACTS****MAY 6, 2004**

HCN v. Bank of Am., CV 02-93 Amended Scheduling Order (HCN Tr. Ct., May 6, 2004). (Bossman, W).

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

Marx Advertising Agency, Inc. v. HCN d/b/a Ho-Chunk Casino & Bingo, Majestic Pines Casino & Bingo, Rainbow Casino & Bingo, and DeJope Bingo; Al Miller; & Robert Mudd, CV 04-16 Order (Granting Telephonic Appearance) (HCN Tr. Ct., May 11, 2004). (Matha, T).

The petitioner requested permission to appear at a *Scheduling Conference* by telephone. The Court granted the request.

MAY 12, 2004

Marx Advertising Agency, Inc. v. HCN d/b/a Ho-Chunk Casino & Bingo, Majestic Pines Casino & Bingo, Rainbow Casino & Bingo, and DeJope Bingo; Al Miller; & Robert Mudd, CV 04-16 Scheduling Order (HCN Tr. Ct., May 12, 2004). (Matha, T).

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

DEBTS TO THE NATION**MAY 19, 2004**

HCN Dep't of Health & Human Servs. v. Carol Rockman, CV 04-02 Order (Amending Scheduling Order) (HCN Tr. Ct., May 19, 2004). (Bossman, W).

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

MAY 28, 2004

HCN Whitetail Crossing, Black River Falls, Wis.; HCN Dep't of Bus.; & HCN v. John R. Snake, CV 04-42 Order (Dismissal Without Prejudice) (HCN Tr. Ct., May 28, 2004). (Matha, T).

The plaintiffs sought to voluntarily dismiss their cause of action. The Court granted the dismissal.

DNA TESTING

MAY 11, 2004

HCN Child & Family Servs. v. HCN Office of Tribal Enrollment, CV 04-35 Order (Granting Petition in Part and Denying in Part) (HCN Tr. Ct., May 11, 2004). (Matha, T).

The Court had to determine whether to enter an order for the purpose of facilitating the DNA testing of an incarcerated tribal member. The petitioner also requested that the member bear the costs of the testing. The Court granted the former request in the absence of an objection from the respondent, but denied the latter request due to the absence of consent from the tribal member.

EMPLOYMENT

MAY 11, 2004

Daniel M. Brown v. Jim Webster, CV 04-25 Order (Permission to Reschedule) (HCN Tr. Ct., May 11, 2004). (Matha, T).

The plaintiff failed to appear at a *Scheduling Conference*, and did not inform the Court of an inability to attend the proceeding. The Court granted the plaintiff three weeks to reschedule the *Scheduling Conference*.

Kenneth Lee Twin v. Douglas Greengrass, Toni McDonald, Francis Decorah, George Lewis, HCN, & HCN Dep't of Pers., CV 04-24 Scheduling Order (HCN Tr. Ct., May 11, 2004). (Bossman, W).

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

MAY 14, 2004

Maria L. Adamiuk v. Ho-Chunk Casino, CV 04-05 Order (Motion Hearing) (HCN Tr. Ct., May 14, 2004). (Bossman, W).

The Court determined to convene a hearing to allow the defendant the ability to argue its *Motion to Dismiss*. The Court issued this order to establish a date for the motion hearing.



MAY 19, 2004

Leslie J. Schmolke v. HCN, HCN Dep't of Bus., CV 01-05 Order (Satisfaction of Judgment) (HCN Tr. Ct., May 19, 2004). (Bossman, W).

The Court previously issued a judgment for the plaintiff. The defendant filed a satisfaction of judgment. The Court recognized the debt has been paid in full and informed the parties of its intent to close the file.

MAY 24, 2004

Maria L. Adamiuk v. Ho-Chunk Casino, CV 04-05 Order to Amend Scheduling Order (HCN Tr. Ct., May 24, 2004). (Bossman, W).

The Court issued this *Order to Amend Scheduling Order* to amend a date in the instant case.

Kenneth Lee Twin v. Douglas Greengrass, Executive Dir. of Admin., CV 03-88 Order (Partial Summary Judgment) (HCN Tr. Ct., May 24, 2004). (Matha, T).

The Court had to determine whether to grant the defendant's request for summary judgment. The Court granted partial summary judgment. However, the Court reserved the possibility of trial depending on the outcome of the briefing schedule.

The Court determined that the plaintiff's requests for a cessation of compliance investigation and retaliatory behavior became moot upon the plaintiff's release from employment. In addition, the Court held that it lacks the constitutional authority to terminate an Executive Branch employee. The CONSTITUTION OF THE HO-CHUNK NATION delegates such power specifically to the executive. For similar constitutional reasons, the Court held that it lacks the authority to restructure the Executive Branch or force the modification of statutory law.

The Court further determined that it would be unable to grant monetary damages in the instant case because the plaintiff failed to name the Ho-Chunk Nation or a governmental sub-entity. Instead, the plaintiff named an individual official of the Ho-Chunk Nation. The CONSTITUTION prohibits the Court from entering monetary awards against an official or employee.

MAY 25, 2004

Daniel Brown v. Sandra Plawman, CV 03-86, 04-01 Order (*Dismissal with Prejudice*) (HCN Tr. Ct., May 25, 2004). (Matha, T).

The Court had to determine whether to dismiss the instant case. The plaintiff failed to appear for a hearing for which he received proper notice. The Court dismissed the case.

MAY 27, 2004

Sandra K. Cherry v. Ho-Chunk Casino Slot Dep't, CV 04-28 Order (*Permission to Reschedule*) (HCN Tr. Ct., May 27, 2004). (Bossman, W).

The plaintiff failed to appear at a *Scheduling Conference*, and did not inform the Court of an inability to attend the proceeding. The Court granted the plaintiff three weeks to reschedule the *Scheduling Conference*.

Nyree Kedrowski v. Christine Steeples, Executive Dir. of Health/Soc. Servs.; Jean Stacy, Educ. Dep't; & Valerie Smith, Coordinator, & Jancita Warrington, Teacher, Wis. Rapids Study Ctr., CV 04-03 Order (*Satisfaction of Judgment*) (HCN Tr. Ct., May 27, 2004). (Bossman, W).

The Court previously approved a settlement between the parties. The defendant filed a satisfaction of judgment. The Court recognized the debt has been paid in full and informed the parties of its intent to close the file.



GENERAL COUNCIL

MAY 14, 2004

Timothy G. Whiteagle & Gretchen Eagleman v. Alvin Cloud, Chair of the Gen. Council, in his official capacity; Roberta Funmaker, Gen. Council Sec'y, in her official capacity; & HCN Gen. Council Planning Comm., CV 04-04 Order (*Responsive Pleading Deadline*) (HCN Tr. Ct., May 14, 2004). (Matha, T.)

The Court issued the *Order* to inform the defendants of their deadline to file a responsive pleading.

MAY 17, 2004

Timothy G. Whiteagle & Gretchen Eagleman v. Alvin Cloud, Chair of the Gen. Council, in his official capacity; Roberta Funmaker, Gen. Council Sec'y, in her official capacity; & HCN Gen. Council Planning Comm., CV 04-04 Order (*Motion Hearing*) (HCN Tr. Ct., May 17, 2004). (Matha, T.)

The Court determined to convene a hearing to allow the defendants the ability to argue its *Motion to Dismiss*. The Court issued this order to establish a date for the motion hearing.

INCOMPETENT TRUST FUND (ITF)

MAY 18, 2004

In the Interest of Adult Incompetent: M.B.J., DOB 12/01/65, by Dolli Big John v. HCN Office of Tribal Enrollment, CV 00-83 Order (*Motion Granted in Part*) (HCN Tr. Ct., May 18, 2004). (Matha, T).

The Court had to determine whether the guardian could access monies on behalf of an adult incompetent member from the ITF to pay for costs associated with household accommodation. The Court found that the request represented a necessary health and/or welfare benefit. The Court granted a release of funds to satisfy the request.

MAY 20, 2004

In the Interest of Adult Incompetent: Oliver S. Rockman, CV 97-117 Order (*Granting Release of Per Capita Funds*) (HCN Tr. Ct., May 20, 2004). (Bossman, W).

The Court had to determine whether the guardian could access monies on behalf of an adult incompetent member from the ITF to pay an allowance and costs incurred by the protective payee. The Court found that the request represented a necessary health and/or welfare benefit. The Court granted a release of funds to satisfy the requests.

TRIBAL EMPLOYMENT RIGHTS ORDINANCE

MAY 5, 2004

Patricia Low-Ennis & Cash Systems, Inc. v. HCN T.E.R.O. Comm'n, CV 04-06-07 Order (*Setting Briefing Schedule*) (HCN Tr. Ct., May 5, 2004). (Bossman, W).

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

Juvenile

MAY 6, 2004

In the Interest of Minor Child: K.E.F., DOB 02/13/94, JV 97-02 Order (Granting Motion to Withdraw) (HCN Tr. Ct., May 6, 2004). (Bossman, W).

The petitioners filed a motion requesting permission to withdraw a previously filed motion. The Court granted the motion.

MAY 11, 2004

In the Interest of Minor Children: W.O.B., DOB 04/08/98; R.L.B., DOB 03/31/97, JV 04-06-07 Order (Acceptance of Transfer) (HCN Tr. Ct., May 11, 2004). (Bossman, W).

The Court had to determine whether to accept transfer of a children's case. The Court indicated that it would not decline transfer of the action.

MAY 13, 2004

In the Interest of Minor Child: T.V.F., DOB 02/18/02, JV 03-14 Order (Willingness of Court to Hold Proceedings in Alternate Location) (HCN Tr. Ct., May 13, 2004). (Bossman, W).

The Court had to determine whether it would be willing to hold Court proceedings at an alternate location. The Court determined that it would be willing to hold Court at a different location.



MAY 14, 2004

In the Interest of Minor Children: D.L.H., DOB 08/03/97; A.M.H., DOB 12/25/95; D.M.H., DOB 02/16/92; D.L.H., DOB 03/25/89, JV 03-20-23 Order (Appointment of Guardian ad Litem) (HCN Tr. Ct., May 14, 2004). (Matha, T).

The Court appointed a GAL in this matter.

In the Interest of Minor Children: M.B.K., DOB 04/29/00, A.J.K., DOB 11/12/03, JV 03-37-38 Order (Rescheduling Initial Hearing) (HCN Tr. Ct., May 14, 2004). (Bossman, W).

The Court held an *Initial Hearing* in the instant case. The Court determined that personal service of the summons has not been performed upon the parents. The Court continued the instant matter.

In the Interest of Minor Children: C.C.P., DOB 02/03/93; G.L.P., DOB 06/10/94, JV 03-25-26 Order (Review Hearing) (HCN Tr. Ct., May 14, 2004). (Bossman, W).

The Court conducted a child protection review hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

In the Interest of Minor Children: D.J.W.T., DOB 03/17/94; V.H.W.T., DOB 07/27/95, A.P.W.T., DOB 10/28/91; D.C.W.T., DOB 12/14/96, JV 04-08-11 Order (Submission of Traditional Relatives List) (HCN Tr. Ct., May 14, 2004). (Bossman, W).

The Court requested that CFS prepare and submit a list of the minor children's traditional relatives.

MAY 17, 2004

In the Interest of Minor Child: D.L.H., DOB 08/15/97, JV 03-20 Order (Motion Granted) (HCN Tr. Ct., May 17, 2004). (Matha, T).

The Court had to determine whether to order DNA testing so that a minor child may progress through the enrollment process. The Ho-Chunk Nation requires DNA testing of all applicants for enrollment. The Court ordered such testing.

MAY 19, 2004

In the Interest of Minor Children: B.E.Y., DOB 07/25/89; N.R.Y., DOB 07/07/91, JV 03-37-38 Order (Entering of Plea) (HCN Tr. Ct., May 19, 2004). (Bossman, W).

The Court convened a *Plea Hearing* for the purpose of determining whether a parent wished to contest the allegations contained in the *Child/Family Protection Petition*. The parent entered a plea of not guilty. The Court scheduled a *Trial*.

In the Interest of Minor Children: M.B.K., DOB 04/29/00; A.J.K., DOB 11/12/03, JV 03-37-38 Order (Appointment of Guardian ad Litem) (HCN Tr. Ct., May 19, 2004). (Bossman, W).

The Court appointed a GAL in this matter.



MAY 21, 2004

In the Interest of Minor Children: M.B.K., DOB 04/29/00, A.J.K., DOB 11/12/03, JV 04-04-05 Order (Entering of Plea) (HCN Tr. Ct., May 21, 2004). (Bossman, W).

The Court convened a *Plea Hearing* for the purpose of determining whether the parents wished to contest the allegations contained in the *Child/Family Protection Petition*. The parents failed to appear at the hearing. The Court entered pleas of not guilty on behalf of the parents. The Court scheduled a *Trial*.



In the Interest of Minor Children: B.E.Y., DOB 07/25/89; N.R.Y., DOB 07/07/91, JV 03-37-38 Order (Child Protection Review Hearing) (HCN Tr. Ct., May 21, 2004). (Bossman, W).

The Court conducted a child protection review hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

In the Interest of Minor Children: B.E.Y., DOB 07/25/89; N.R.Y., DOB 07/07/91, JV 03-37-38 Order (Requiring Responses to Discovery Requests) (HCN Tr. Ct., May 21, 2004). (Bossman, W).

The attorney for one of the children's parents filed a *Motion to Compel*. The motion indicated that discovery requests made to other parties have not been answered. The Court ordered the parties to comply with the discovery requests.

MAY 24, 2004

In the Interest of Minor Child: K.L.C., DOB 12/19/89, JV 04-03 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., May 24, 2004). (Bossman, W).

The Court had to determine whether to appoint a temporary guardian of the person of the minor child. The Court deemed such appointment to be in the child's best interests. The Court granted the guardianship.

MAY 27, 2004

In the Interest of Minor Child: T.V.F., DOB 02/18/02, JV 03-14 Order (Entrance of Plea) (HCN Tr. Ct., May 27, 2004). (Bossman, W).

The Court convened a *Plea Hearing* for the purpose of determining whether the parents wished to contest the allegations contained in the *Child/Family Protection Petition*. The parents entered pleas of guilty. The Court scheduled a *Dispositional Hearing*.

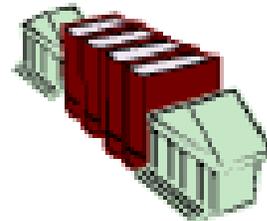
MAY 28, 2004

In the Interest of Minor Children: B.E.Y., DOB 07/25/89; N.R.Y., DOB 07/07/91, JV 03-37-38 Order (Judgment of Dismissal) (HCN Tr. Ct., May 28, 2004). (Bossman, W).

The Court convened a *Formal Trial* to allow the petitioner to present evidence in support of its *Child/Family Protection Petition*. The Court found that the petitioner did not meet its burden of proof. The Court found that this matter must be dismissed as to the mother.

Supreme Court

NOTHING TO REPORT AT THIS TIME.



Recent Filings

Trial Court

Civil Garnishment

MAY 3, 2004

Alliance Collection Agency v. Emily Kruz, CG 04-45. (Matha, T).

Alliance Collection Agency v. Dale Shegonee Elwort, CG 04-46. (Matha, T).

Alliance Collection Agency v. Jonathan Thompson, CG 04-47. (Matha, T).

Alliance Collection Agency v. Lee Scott, CG 04-48. (Matha, T).

Alliance Collection Agency v. John McKeel, CG 04-49. (Matha, T).

Alliance Collection Agency v. Michael P. Zannet, CG 04-50. (Matha, T).

Ron's Refrigeration v. Wendy Dickerson, CG 04-51. (Matha, T).

MAY 7, 2004

Creditor Recovery Serv. v. Michael P. Zenner, Jr., CG 04-52. (Matha, T).

Alliance Collection Agency v. Donna Pabst, CG 04-53. (Matha, T).

Schmidts Jewelry v. Daniel S. Downing, CG 04-54. (Matha, T).

Madison Gas & Elec. v. Elisabeth Haller, CG 04-55. (Matha, T).

State Collection Agency v. Rick Hernandez, CG 04-56. (Matha, T).

MAY 24, 2004

Fed. Employee's of Chippewa County Credit Union v. Martin Azevedo, CG 04-57. (Bossman, W).

Gunderson Clinic Ltd. v. Barbara & Rodney Rave, CG 04-58. (Bossman, W).

State Collection Serv. v. Michelle Ingersoll, CG 04-59. (Bossman, W).

Retailers Nat'l Bank v. Sylvia Green, CG 04-60. (Bossman, W).

Alliance Collection Agency v. Steven Stygerd, CG 04-61. (Bossman, W).

Alliance Collection Agency v. Dan Downing, CG 04-62. (Bossman, W).

Alliance Collection Agency v. Thomas Weigel, CG 04-63. (Bossman, W).

Alliance Collection Agency v. Michael Terry, CG 04-64. (Bossman, W).

Alliance Collection Agency v. Tia Bagnowski, CG 04-65. (Bossman, W).

Alliance Collection Agency v. Elisabeth Sanborn, CG 04-66. (Bossman, W).

Alliance Collection Agency v. Deborah Thompson, CG 04-67. (Bossman, W).

MAY 27, 2004

Oral Surgery Ctr. v. Robert J. Luke, CG 04-68. (Bossman, W).

MAY 28, 2004

Alliance Collection Agency v. Geraldine Riley, CG 04-69. (Bossman, W).



Child Support

MAY 14, 2004

Patsy Prescott v. Travis P. Prescott, CS 04-31. (Bossman, W).

MAY 25, 2004

Barbara Kelley v. Vance E. Fontenelle, Jr., CS 04-32. (Bossman, W).

Jessica Hopkins v. Mitchell Smith, CS 04-33. (Bossman, W).

Danielle Wadsworth v. Jordan Funmaker, CS 04-34. (Bossman, W).

MAY 26, 2004

Wilma Thompson v. Joy Thompson, CS 04-35. (Bossman, W).

Cheyenne Powless v. Wilfred Cloud, CS 04-36. (Bossman, W).

Civil Cases

MAY 4, 2004

HCN Child & Family Servs. v. HCN Office of Tribal Enrollment, CV 04-35. (Matha, T).

MAY 12, 2004

Ho-Chunk Casino & Hotel v. Selina Littelwolf & Rory Thundercloud, CV 04-36. (Bossman, W).

MAY 13, 2004

In the Interest of Decedent: William A. Blackhawk, DOB 12/13/02, CV 04-37. (Bossman, W).

Daniel Brown v. Jim Webster, CV 04-38. (Bossman, W).

Daniel Brown v. Jim Webster, CV 04-39. (Bossman, W).

Daniel Brown v. Jim Webster, CV 04-40. (Bossman, W).

MAY 14, 2004

Patsy Prescott v. Travis Prescott, HCN Office of Tribal Enrollment, CV 04-41. (Bossman, W).

HCN Whitetail Crossing, HCN Dep't of Bus., & HCN v. John R. Snake, CV 04-42. (Bossman, W).

MAY 24, 2004

Rick Mattison v. Joan Whitewater, CV 04-43. (Bossman, W).

In the Interest of J.E.M., DOB 07/13/91 v. HCN Dep't of Enrollment, CV 04-44. (Bossman, W).

Juvenile Cases

MAY 11, 2004

In the Interest of Minor Child: M.B.K., DOB 04/29/00, JV 04-04. (Bossman, W).

In the Interest of Minor Child: A.J.K., DOB 11/12/03, JV 04-05. (Bossman, W).

In the Interest of Minor Child: W.O.B., DOB 04/08/98, JV 04-06. (Bossman, W).

In the Interest of Minor Child: R.L.B., DOB 03/31/97, JV 04-07. (Bossman, W).

MAY 13, 2004

In the Interest of Minor Child: D.J.W.T., DOB 03/17/94, JV 04-08. (Bossman, W).

In the Interest of Minor Child: V.H.W.T., DOB 07/27/95, JV 04-09. (Bossman, W).

In the Interest of Minor Child: A.P.W.T., DOB 10/28/91, JV 04-10. (Bossman, W).

In the Interest of Minor Child: D.C.W.T., DOB 12/14/96, JV 04-11. (Bossman, W).

Supreme Court

NOTHING TO REPORT AT THIS TIME.



**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
 Jim Greendeer
 Orville Greendeer
 Douglas Greengrass
 Desmond 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 – Rosie Kakkak
 Staff Attorney – Rose M. Weckenmann

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 10—Illinois, Indiana, Michigan, Minnesota, 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).

