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HO-CHUNK NATION COURT BULLETIN

COURT HOLDS OPEN HOUSE



On Friday, June 18, 2004, Chief Trial Court Judge William Bossman and Associate Trial Court Judge Todd R. Matha treated visitors to *Wa Ehi Hoci* to a tour of the new facility.



FEDERAL LABOR LAWS APPLIED TO ON- RESERVATION TRIBALLY-OWNED BUSINESS

On May 28, 2004, the National Labor Relations Board issued a decision in which it applied the National Labor Relations Act to the casino owned by the San Manuel Band of Serrano Indians on its reservation in California. This order represents the first time that the NLRB has applied federal labor law to a tribally owned business. Furthermore, the decision overturns nearly thirty years of precedent. See *Fort Apache Timber Co.*, 226 NLRB 503 (1976); *Southern Indian Health Council*, 290 NLRB 436 (1988).

The NLRB overturned its decisions in *Forth Apache* and *Southern Indian* and extended its decision in *Sac & Fox Industries, Ltd.*, 307NLRB 2441 (1992). The Board had previously held in *Sac & Fox* that it may assert jurisdiction over tribal enterprises located away from Indian reservations. The Board's recent decision extended this jurisdiction to tribal enterprises located within a reservation.



In its recent revision of jurisdiction the NLRB held that “the Board’s jurisprudence in this area during its 30 years of development has been inadequate in striking a satisfactory balance between the competing goals of Federal labor policy and the special status of Indian tribes in our society and legal culture.” In its analysis the Board first determined that neither the plain language nor legislative history of the National Labor Relations Act foreclose the Board from exercising jurisdiction over Indian tribes. The Board then went on to conclude that Federal Indian policy does not require that the Board decline jurisdiction, citing *Federal Power Commission v. Tuscarora Indian Nation*, 369 U.S. 99, 116 (1990).

In *Tuscarora*, the Supreme Court held that “a general statute in terms applying to all persons includes Indians and their property interests.” *Id.* The Board then explained that its was guided in its application of *Tuscarora* by the Ninth Circuit’s decision in *Donovan v. Coeur d’Alene Tribal Farm*, 751 F.2d 1113 (9th Cir. 1985). In *Coeur d’Alene*, the Ninth Circuit created the following exceptions for statues of general applicability: (1) if the law “touches exclusive rights of self-government in purely intramural matters”; (2) if the application of the law would abrogate treaty rights; or (3) if there is proof in the statutory language or legislative history that Congress did not intend to apply the law to Tribes. *Id.* at 1115. The Board concluded that the operation of a casino does not touch a right of self-government in that it is commercial rather than governmental in nature.

The Board’s 3-1 decision drew a dissent from Peter C. Schaumber. Schaumber argued that the rebalancing the Board conducted between federal labor law and the special status of Indian Tribes should be left to Congress. He concluded that the Board’s rebalancing was a direct result of the new “prosperity” experienced by many Tribes. The San Manuel Band may appeal the Board’s decision to the Ninth Circuit Court of Appeals or to the United State Court of Appeals for the District of Columbia.

Federal Court Update

Ninth Circuit Court of Appeals

Snyder v. Navajo Nation, 371 F.3d 658 (9th Cir. 2004).

Law enforcement officers of the Navajo Nation Division of Public Safety filed actions against the United States and the Navajo Nation, claiming violations of the Fair Labor Standards Act (hereinafter FLSA). The FLSA requires premium pay for overtime work. The plaintiffs claimed the defendants were in violation of the FLSA because they are regularly required to work overtime and the Tribe makes only sporadic and partial payments for overtime. The plaintiffs also asserted that they should be paid the same compensation as law enforcement officers of the Bureau of Indian Affairs who do similar work.

The district court dismissed the claims against the Navajo Nation and the United States. The plaintiffs appealed, and the Ninth Circuit Court of Appeals affirmed. The FLSA is a statute of general applicability. The Court held that while laws of general applicability generally apply to Tribes, there is an exemption when a particular law would interfere with tribal self-government. The Ninth Circuit has previously held that the exemption protects “exclusive rights of self-governance in purely intramural matters.” In this matter, the Court held that tribal law enforcement is “an appropriate activity to exempt as intramural.”

Peabody Coal Co. v. Navajo Nation, No. 03-15272, 2004 WL 1326277 (9th Cir. June 15, 2004).

The plaintiffs filed a complaint that sought enforcement of an arbitration settlement made between the parties in 1998 setting royalty rates for coal mined pursuant to a commercial lease. The district court dismissed the complaint. The Ninth Circuit Court of Appeals had to determine whether a district court had subject matter jurisdiction to enforce the arbitration award against the Navajo Nation. The Court affirmed the district court’s dismissal.

Tenth Circuit Court of Appeals

United States v. Anderson Black, 369 U.S. 1171 (10th Cir. 2004).

The defendant was convicted of two counts of first-degree murder on Indian land, one count of assault resulting in serious bodily injury on Indian land, and one count of assault with a dangerous weapon on Indian land. The defendant appealed these convictions. On appeal, the defendant argued that the district court erred in refusing to appoint an interpreter to allow two witnesses to testify in the Navajo language. Federal law provides that a district court should utilize an interpreter if a defendant or witness “speaks only or primarily a language other than the English language ... so as to inhibit such party’s comprehension of the proceedings or communication with counsel or the presiding judicial officer, or so as to inhibit such witnesses’ comprehension of questions and the presentation of such testimony.” 28 U.S.C. § 1827(d)(1). The Tenth Circuit held that although one of the witnesses was more comfortable with the Navajo language, it did not appear from her lengthy testimony that she had difficulty with the English language.

Quarles v. United States, No. 03-5035, 2004 WL 1345114 (10th Cir. June 16, 2004).

An owner of land in Osage County, Oklahoma brought suit against the Bureau of Indian Affairs, the Environmental Protection Agency, and several oil companies for water waste leaks in 1998 and 1999 from oil production. The plaintiff claimed that his property had been damaged when the oil companies unlawfully released oil and other pollutants. The district court held that the Osage Allotment Act required the plaintiff to submit to arbitration before filing a suit for damages. The Tenth Circuit Court of Appeals Court had to determine whether the district court had erred in its decision. The Court reversed the district court’s decision and remanded the case for further proceedings. The Court held that arbitration is only required for claims arising under the Osage Allotment Act.

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

JUNE 17, 2004

State of Wis. & Lucille Roberts v. Melinda D. Blackcoon, CS 04-18 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., June 17, 2004). (Matha, T).

The petitioner submitted a motion indicating that a previous foreign child support had been vacated. The Court dismissed the instant case.



Danielle Wadsworth v. Jordan Funmaker, CS 04-34 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., June 17, 2004). (Bossman, W).

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

Richland County Child Supp. Agency v. Lori L. Gutweiler (Oman), CS 04-21 *Order (Ceasing Child Support Withholding)* (HCN Tr. Ct., June 17, 2004). (Matha, T).

The petitioner filed a motion requesting suspension of current child support. The Court granted the motion.

Juneau County/Keith Miller v. Chasity A. Miller, CS 99-26 *Order (Enforcing Arrearage Withholding)* (HCN Tr. Ct., June 17, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

Patsy Prsecott v. Travis Prescott, CS 04-31 *Order (Enforcing Child Support)* (HCN Tr. Ct., June 17, 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 filed responses stipulating agreement with the enforcement of the foreign order. The Court granted the petitioner's request for recognition and enforcement.

Jessica Hopkins v. Mitchell Smith, CS 04-33 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., June 17, 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.

JUNE 18, 2004

Roger Wallace v. Renea Perez, CS 00-29; *Debra F. Lozano v. Renea A. Perez*, CS 04-04 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., June 18, 2004). (Bossman, W).

The Court had to determine whether to enforce an additional 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.

JUNE 21, 2004

Beltrami County by Assignment of: Theresa L. Hindlsey, Tanya L. Hindsley, & Darren D. Dafoe v. Charles Dennis Hindsley, CS 02-49 *Order (Ceasing Child Support Withholding and Intent to Close)* (HCN Tr. Ct., June 21, 2004). (Matha, T).

The petitioner filed a motion requesting modification of child support withholding. The motion requested suspension of child support withholding. The Court granted the motion.

**JUNE 22, 2004**

Darlene F. Crowe v. Thunderhawk L. Decorah, CS 03-84 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., June 22, 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.

Jan C. LaCount v. Curtis J. Pidgeon, CS 03-11; *Debra Peters v. Curtis Pidgeon*, CS 03-73 *Order (Modifying & Enforcing Child Support Arrears Withholding)* (HCN Tr. Ct., June 22, 2004). (Matha, T).

The petitioner filed a motion requesting modification of child support withholding. The motion requested child support arrears withholding. The Court granted the motion.

State of Wis./Jackson County v. Daniel V. WhiteEagle, CS 98-66 *Order (Modifying Child Support Withholding)* (HCN Tr. Ct., June 22, 2004). (Matha, T).

The petitioner filed a motion requesting modification of child support withholding. The motion requested child support arrears withholding and a suspension of current child support withholding. The Court granted the motion.

JUNE 23, 2004

State of Wis. v. Vern E. White Eagle, CS 03-14 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., June 23, 2004). (Bossman, W).

The petitioner filed a motion requesting modification of child support withholding. The motion requested a change in current child support and arrears withholding. The Court granted the motion.

State of Wis. v. Stacy Yellowcloud, CS 99-65 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., June 23, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

JUNE 25, 2004

Sawyer County Child Support v. Tyrone A. Blackdeer, CS 04-38 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., June 25, 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.

Debra Crowe v. Foster D. Cloud, CV 96-84; *State of Wis./Sauk County & Dawn E. Potter v. Foster D. Cloud*, CS 01-12 *Order (Modifying Child Support)* (HCN Tr. Ct., June 25, 2004).

The Court had to determine whether to grant the petitioner's recent motion to modify. The Court modified current child support withholding.

State of Wis., Jackson County v. Brent Funmaker, CV 97-18 Order (Updating Arrearage Withholding) (HCN Tr. Ct., June 25, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

State of Wis./Sauk County & Vincent Hernandez v. Mary Hernandez, n/k/a Mary Thompson, CS 01-28 Order (Updating Arrearage Withholding) (HCN Tr. Ct., June 25, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

State of Wis./Jackson County v. Justin D. Littlewolf, CS 02-39 Order (Updating Arrearage Withholding) (HCN Tr. Ct., June 25, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

Julie M. Schlies v. Timothy E. Tebo, CS 99-24 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., June 25, 2004). (Matha, T).

The petitioner filed a motion requesting modification of child support withholding. The motion requested a change in current child support withholding and requested that child support be redirected. The Court granted the motion.

JUNE 28, 2004

Carol Marceau (Samm) v. Deron W. Decorah, CS 04-23 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., June 28, 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./Jackson County v. Ida Decorah Ermenc, CS 02-62 Order (Ceasing Withholding) (HCN Tr. Ct., June 28, 2004). (Matha, T).

The minor child passed away. The Court ordered a cessation of withholding from the respondent's per capita distributions for current child support.

Barbara Kelly v. Vance E. Fontenelle, Jr., CS 98-72 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., June 28, 2004). (Bossman, W).

The petitioner filed a motion requesting modification of child support withholding. The motion requested a change in current child support withholding. The Court granted the motion.

Gale S. White v. Larry V. Garvin, CS 99-20 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., June 28, 2004). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation 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 high school enrollment.

State of Wis. v. Michael A. Hernandez, CS 01-37 Order (Updating Arrearage Withholding) (HCN Tr. Ct., June 28, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

Joyce M. St. Cyr v. Robert M. Mobley, CS 00-04 Order (Designation of Filing) (HCN Tr. Ct., June 28, 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 the existing case and alerted the petitioner to her possible course of action.



Joyce M. St. Cyr v. Robert M. Mobley, CS 00-04 Order (Updating Arrearage Withholding) (HCN Tr. Ct., June 28, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the 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., June 28, 2004). (Matha, T).

The petitioner filed a motion requesting modification of child support withholding. The motion requested a change in current child support withholding. The Court granted the motion.

Kathleen Waukau, by the State of Wis./Shawano County v. Eldon Powless, CV 96-93 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., June 28, 2004). (Matha, T).

The minor child will be turning eighteen (18) years of age. In accordance with state law, the respondent's obligation 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 high school enrollment.



Lucy K. Snake v. Roger Dean Snake, CV 97-01 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., June 28, 2004). (Matha, T).

The minor child will be turning eighteen (18) years of age. In accordance with state law, the respondent's obligation 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 high school enrollment.

Forest County Potawatomi Tribal Court v. Corina WhiteCloud, CS 04-22 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., June 28, 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./Jackson County v. Henry Whitethunder, CV 97-86 Order (Updating Arrearage Withholding) (HCN Tr. Ct., June 28, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

JUNE 29, 2004

Verdie Kivimaki v. Virgil Clausen, CV 97-125 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., June 29, 2004). (Bossman, W).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation 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 high school enrollment.

State of Wis./Jackson County v. Tyrone L. Decorah, CV 97-66; *State of Wis./Jackson v. Tyrone L. Decorah*, CS 03-67 Order (Intent to Close) (HCN Tr. Ct., June 29, 2004). (Matha, T).

The respondent passed away. The Court informed the parties of its intent to close the files.

State of Wis. v. Dixon H. Funmaker, CS 01-22 Order (Updating Arrearage Withholding) (HCN Tr. Ct., June 29, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

Sabrina Powers Magwood v. Wesley George Powers, CS 98-51 Order (*Ceasing Child Support Withholding & Intent to Close*) (HCN Tr. Ct., June 29, 2004). (Bossman, W).

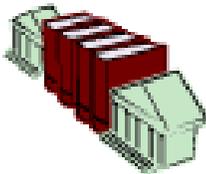
The Court noted that an arrearage amount had been paid in full. The Court ordered the cessation of withholding from per capita distribution for arrears. As the respondent no longer has a current child obligation, the Court informed the parties of its intent to close the file.

State of Wis./Shawano County v. Jeffrey Ray Rockman, CS 99-59 Order (*Updating Arrearage Withholding*) (HCN Tr. Ct., June 29, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

State of Wis., Jackson County v. Kim Whitegull, CV 97-162 Order (*Updating Arrearage Withholding*) (HCN Tr. Ct., June 29, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.



Civil Garnishment

JUNE 1, 2004

Byron Jevne Builder, Inc. v. Allyson L. Finch, f/k/a Allyson L. DeCora, CG 04-03 Order (*Default Judgment*) (HCN Tr. Ct., June 1, 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.

Campusview Props. v. Robert & Linda Frommung, CG 04-21 Order (*Petition Granted*) (HCN Tr. Ct., June 1, 2004). (Matha, T).

The petitioner requested enforcement of a foreign judgment. The respondent filed a response denying liability but failed to attend the *Fact-Finding Hearing*. The Court granted the petitioner's request for recognition and enforcement.

JUNE 2, 2004

Alliance Collection Agencies, Inc. v. Marie R. Thieme, CG 04-40 Order (*Satisfaction of Judgment*) (HCN Tr. Ct., June 2, 2004). (Bossman, W).

The Court previously entered an order recognizing and enforcing a foreign order. The respondent filed a satisfaction of judgment. The Court recognized that the debt had been paid in full and informed the parties of its intent to close the file.

JUNE 3, 2004

Black River Mem'l Hosp. v. Terri Clemmerson, CG 04-04 Order (*Default Judgment*) (HCN Tr. Ct., June 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.

JUNE 17, 2004

Alliance Collection Agencies, Inc. v. Tia Bagnowski, CG 04-65 Order (*Default Judgment*) (HCN Tr. Ct., June 17, 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.

JUNE 22, 2004

Fed. Employees of Chippewa County Credit Union v. Martin Azevedo, CG 04-57 Order (*Default Judgment*) (HCN Tr. Ct., June 22, 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.

Gundersen Clinic, Ltd. v. Barbara & Rodney Rave, CG 04-58 *Order (Default Judgment)* (HCN Tr. Ct., June 22, 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.

State Collection Serv. v. Michelle Ingersoll, CG 04-59 *Order (Default Judgment)* (HCN Tr. Ct., June 22, 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.

Retailers Nat'l Bank v. Sylvia Green, CG 04-60 *Order (Default Judgment)* (HCN Tr. Ct., June 22, 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. Steven Stygar, CG 04-61 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., June 22, 2004). (Bossman, W).

The petitioner requested that the court dismiss the instant case. The Court granted this request for relief. The Court granted the petitioner leave to re-file this action in the event of a future change in circumstances.

Alliance Collection Agencies, Inc. v. Michael Terry, CG 04-64 *Order (Granting Twenty Days to File Amended Petition)* (HCN Tr. Ct., June 22, 2004). (Bossman, W).

The petitioner requested enforcement of a Wisconsin state court *Judgment* filed on November 28, 1994. Under Wisconsin law, no execution on a judgment shall issue after five years of the rendition of the judgment. The Court granted the petitioner twenty days to file an *Amended Petition*.

Oral Surgery Ctr. v. Robert J. Luke, CG 04-68 *Order (Default Judgment)* (HCN Tr. Ct., June 22, 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.

JUNE 28, 2004

Alliance Collection Agencies, Inc. v. Elizabeth Sanborn, CG 04-66 *Order (Enforcing Judgment)* (HCN Tr. Ct., June 28, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a response that failed to show proper grounds as to why the foreign judgment should not be given full faith and credit. The Court granted the petitioner's request for recognition and enforcement.



Civil Cases

CHILDREN'S TRUST FUND (CTF)

JUNE 7, 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 (Acceptance of Accounting) (HCN Tr. Ct., June 7, 2004). (Matha, T).

The guardian of the estate submitted annual accounting reports as required by terms of trust instruments. The Court approved the filed accounting reports.

JUNE 14, 2004

In the Interest of Minor Child: J.E.M., DOB 07/13/91, by Tina L. Boisen v. HCN Office of Tribal Enrollment, CV 04-44 Order (Petition Granted) (HCN Tr. Ct., June 14, 2004). (Bossman, W).

The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with orthodontic procedures. The Court granted the request.

JUNE 18, 2004

In the Interest of: Michelle LaMere, DOB 12/01/83 v. HCN Office of Tribal Enrollment, CV 04-15 Order (Dismissal Without Prejudice) (HCN Tr. Ct., June 18, 2004). (Bossman, W).

The Court had previously issued an order requiring the petitioner to submit further documentation to the Court. The petitioner failed to submit the requested documentation. The Court dismissed the case.

JUNE 21, 2004

In the Interest of Decedent Member: C.W.M., DOB 03/08/92, by Genevieve Bollig v. HCN Office of Tribal Enrollment, CV 04-46 Order (Releasing Children's Trust Fund to Estate) (HCN Tr. Ct., June 21, 2004). (Matha, T).

The Court had to determine whether to release the monies from a decedent tribal member's ITF to the estate. The Court directed the release of the ITF.

In the Interest of the Minor Child: B.M.S., DOB 10/23/88, by Michelle R. Matlock v. HCN Office of Tribal Enrollment, CV 03-67 Order (Demanding Reimbursement) (HCN Tr. Ct., June 21, 2004). (Matha, T).

The Court previously released money from the CTF account of the minor child for costs associated with orthodontic procedures. The respondent submitted a payment history that reflected a refund check was issued to the petitioner. The Court demanded reimbursement of the amount refunded.

JUNE 24, 2004

Jason Nathaniel Hopinka, DOB 12/17/83, by Wesley T. Martin, Jr. v. HCN Office of Tribal Enrollment, CV 03-15 Order (Denying Motion to Amend Order) (HCN Tr. Ct., June 24, 2004). (Bossman, W).

The Court had to determine whether to grant the plaintiff's motion requesting the Court amend a previous order. The Court denied the request.

CONTRACTS

Owen Cyrus Mike v. Victoria V. Stacy Good-Thunder, CV 03-81 Erratum Order (Final Judgment) (HCN Tr. Ct., June 22, 2004). (Matha, T).

The court entered this *Erratum Order* to correct a clerical error within a previous order.

Owen Cyrus Mike v. Victoria V. Stacy Good-Thunder, CV 03-81 Order (Notice of Show Cause Hearing) (HCN Tr. Ct., June 22, 2004). (Matha, T). The Court granted the plaintiff's request for a *Show Cause Hearing*.

Betty J. White v. Dion W. Funmaker, CV 03-89 Order (Garnishment) (HCN Tr. Ct., June 22, 2004). (Matha, T).

The Court had to determine whether to grant the plaintiff's motion for execution of judgment. The plaintiff requested garnishment of the defendant's per capita distribution pursuant to recently passed legislation that enable an elder to seek reimbursement of outstanding debt obligations from a member's per capita payments. The Court granted the uncontested motion.

EMPLOYMENT**JUNE 17, 2004**

Daniel M. Brown v. Jim Webster, CV 04-25 Order (Dismissal) (HCN Tr. Ct., June 17, 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*. The plaintiff failed to contact the Court to reschedule. The Court dismissed the case.

JUNE 22, 2004

Debra M. Jones v. Majestic Pines Casino, CV 04-19 Order (Motion Hearing) (HCN Tr. Ct., June 22, 2004). (Bossman, W).

The Court determined to convene a hearing to allow the defendants an opportunity to argue their motion.

JUNE 23, 2004

Daniel Brown v. Jim Webster, HCN Executive Dir. of Bus., CV 04-38-40 Order (Permission to Reschedule) (HCN Tr. Ct., June 23, 2004). (Bossman, W).

The plaintiff failed to appear at a *Scheduling Conference*. The Court granted the plaintiff three (3) weeks to reschedule the *Scheduling Conference*.

Michael Savic v. Cora Samples & HCN, CV 04-30 Order (Dismissal) (HCN Tr. Ct., June 23, 2004). (Matha, T).

The plaintiff sought to voluntarily dismiss his cause of action. The Court granted the dismissal.

JUNE 25, 2004

Debra Hall-Shoemaker v. HCN, CV 02-77 Order (Satisfaction of Judgment) (HCN Tr. Ct., June 25, 2004). (Matha, T).

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.

INCOMPETENT TRUST FUND (ITF)

JUNE 15, 2004

In the Interest of Decedent Member: W.A.B., DOB 09/09/35, by Kenneth Freitag v. HCN Office of Tribal Enrollment, CV 04-37 Order (Releasing Incompetent Trust Fund to Estate) (HCN Tr. Ct., June 15, 2004). (Matha, T).

The Court directed the release of the monies from a decedent tribal member's ITF to the estate.

JUNE 17, 2004

In the Interest of Kathy Brandenburg v. HCN Office of Tribal Enrollment, CV 98-18 Order (Terminating Incompetent Trust Fund Account) (HCN Tr. Ct., June 17, 2004). (Bossman, W).

The Court previously determined that a tribal member had never been judicially held incompetent. The Court dissolved the tribal member's trust fund.

Domestic Violence

JUNE 24, 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 Modification of Order for Protection (HCN Tr. Ct., June 24, 2004). (Bossman, W).

The Court previously issued an order of protection. The petitioner filed a motion requesting a modification of this previous order. The petitioner sought a change in the respondent's visitation with the minor children. The Court granted the motion.

Juvenile

JUNE 4, 2004

In the Interest of Minor Child: S.E.C., DOB 02/25/86, JV 03-11 Order (Child Protection Review Hearing) (HCN Tr. Ct., June 4, 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: 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 (Continuation of Guardianship) (HCN Tr. Ct., June 4, 2004). (Bossman, W).

The Court had to determine whether to continue the appointment of a temporary guardian of the minor children. The Court deemed a continuation of the guardianship to be in the best interest of the minor children.

In the Interest of Minor Children: T.J., DOB 05/02/97, M.L.C.R., DOB 11/03/85, JV 03-46-47 Order (Granting Emergency Temporary Legal Custody) (HCN Tr. Ct., June 4, 2004). (Matha, T).

The Court had to determine whether to grant emergency temporary legal custody of the minor children. The Court granted emergency temporary legal custody of the minor children to CFS. In addition, the Court scheduled an *Initial Plea Hearing*.



In the Interest of Minor Child: D.P.S., DOB 12/12/88, JV 02-14 Order (Continuation of Guardianship) (HCN Tr. Ct., June 4, 2004). (Bossman, W).

The Court had to determine whether to continue the appointment of a temporary guardian of the minor children. The Court deemed a continuation of the guardianship to be in the best interest of the minor children.

JUNE 7, 2004

In the Interest of Minor Children: L.R.H., DOB 11/18/87, K.L.H., DOB 10/21/88, JV 03-35-36 Order (Child Protection Review Hearing) (HCN Tr. Ct., June 7, 2004). (Matha, T).

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: T.J., DOB 05/02/97, M.R., DOB 11/03/85, JV 03-46-47 Order (Appointment of Guardian ad Litem) (HCN Tr. Ct., June 7, 2004). (Matha, T).

The Court appointed a GAL in this matter.

In the Interest of Minor Child: S.J.W., DOB 02/10/93, JV 04-12 Order (Conditional Acceptance of Transfer) (HCN Tr. Ct., June 7, 2004). (Matha, T).

The Court had to determine whether to conditionally accept transfer of a State of Wisconsin children's case in which a child eligible for enrollment in the Ho-Chunk Nation is subject to foster care placement. The Court indicated that it shall not decline transfer of this action.



JUNE 8, 2004

In the Interest of Minor Child: J.D.J., DOB 12/18/86, JV 98-19 Order (Rescheduling Review Hearing) (HCN Tr. Ct., June 8, 2004). (Bossman, W).

CFS requested postponement of the *Six-Month Review Hearing*. The Court granted the request.

In the Interest of Minor Child: P.D.R., DOB 08/24/90, JV 03-24 Order (Child Protection Review Hearing) (HCN Tr. Ct., June 8, 2004). (Matha, T).

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: R.B., DOB 06/23/95, J.V., DOB 09/03/99, S.V., DOB 10/22/98, JV 02-18-20 Order (Child Protection Review Hearing) (HCN Tr. Ct., June 8, 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 (Allowing Telephonic Appearance and Denying Request for Writ) (HCN Tr. Ct., June 9, 2004). (Bossman, W).

The father of the minor children requested that the Court issue a *Writ* requiring him to be present at a *Guardianship Hearing*. The Court denied the request for a *Writ* but informed the father that he may appear at the hearing by telephone.

JUNE 10, 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 (Appointment of Permanent Guardian) (HCN Tr. Ct., June 10, 2004). (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 interest.

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 (Termination of Child Protection Case) (HCN Tr. Ct., June 10, 2004). (Bossman, W).

Because a permanent guardian of the minor children has been appointed, the Court determined that the underlying child protection case should be terminated.



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., June 10, 2004). (Matha, T).

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.

JUNE 15, 2004

In the Interest of Minor Child: J.D.S., DOB 09/08/03, JV 03-30 Order (Child Protection Review Hearing) (HCN Tr. Ct., June 15, 2004). (Matha, T).

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.

JUNE 16, 2004

In the Interest of Minor Child: D.A.F., DOB 09/16/88, JV 03-16 Order (Requesting Accounting) (HCN Tr. Ct., June 16, 2004). (Matha, T).

The Court previously afforded recognition to a *Revocable Trust Agreement* and incorporated its terms and conditions into a judgment. The *Revocable Trust Agreement* requires the trustee to render an accounting of the trust property. The Court requested the required accounting.

JUNE 17, 2004

In the Interest of Minor Child: A.J.C., DOB 04/02/93, JV 04-01 Order (Establishment of Child Support) (HCN Tr. Ct., June 17, 2004). (Bossman, W).

The Court had to determine the proper withholding of current child support and arrears from the mother's per capita distributions. The Court applied generally acceptable withholding guidelines in the absence of parental participation in the *Child Support Hearing*.



JUNE 23, 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 (Formal Trial) (HCN Tr. Ct., June 23, 2004). (Bossman, W).

The Court convened a *Trial* to determine whether the allegations presented in the *Child/Family Protection Petition* proved more likely true than not. The Court held that CFS satisfied the requisite burden of proof.

JUNE 24, 2004

In the Interest of Minor Children: D.J.W., DOB 03/17/94; V.H.W., DOB 07/27/95; A.P.W., DOB 10/28/91; D.C.W., DOB 12/14/96, JV 04-08-11 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., June 24, 2004). (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 interest.

JUNE 25, 2004

In the Interest of Minor Children: T.J., DOB 05/02/97; M.L.C.R., DOB 11/03/95, JV 03-46-47 Order (Granting Telephonic Appearance) (HCN Tr. Ct., June 25, 2004). (Matha, T).

The Court granted the *Guardian ad litem's* request to appear by telephone at an *Initial Plea Hearing*.

JUNE 28, 2004

In the Interest of Minor Child: J.D.J., DOB 12/18/86, JV 98-19 Order (Child Protection Review Hearing) (HCN Tr. Ct., June 28, 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.

JUNE 30, 2004

In the Interest of Minor Child: J.J.F., DOB 11/07/00, JV 02-27 Order (Termination of Jurisdiction) (HCN Tr. Ct., June 30, 2004). (Bossman, W).

The Court terminated its jurisdiction over and supervision of the instant case.

Recent Filings

Trial Court

Civil Garnishment

JUNE 10, 2004

Creditor Recovery Serv. v. Wendy Dickerson, CG 04-70. (Bossman, W).

Creditor Recovery Serv. v. Thoma L. Weigel, CG 04-71. (Bossman, W).

Creditor Recovery Serv. v. Ronald D. Bartley, Jr., CG 04-72. (Bossman, W).

Riverside Fin. v. Jenny Meyer, CG 04-73. (Bossman, W).

State Collection Serv. v. Christ Gorde, CG 04-74. (Bossman, W).

Check Advance v. Diana Frasier, CG 04-75. (Bossman, W).

Child Support

JUNE 3, 2004

State of Wis. v. Twilight M. Hindsley, CS 04-37. (Matha, T).

Sawyer County Child Supp. Agency v. Tyrone A. Blackdeer, CS 04-38. (Matha, T).

Civil Cases

JUNE 4, 2004

Derek Youngthunder v. HCN Office of Tribal Enrollment, CV 04-45. (Bossman, W).

JUNE 14, 2004

In the Interest of Minor Child: C.W.M., DOB 03/08/92 v. HCN Office of Tribal Enrollment, CV 04-46. (Matha, T).

HCN Health & Soc. Serv., HCN v. Sterling Greenwood, CV 04-47. (Matha, T).

In the Interest of Minor Child: S.M., DOB 11/28/86 v. HCN Office of Tribal Enrollment, CV 04-48. (Matha, T).

Jill C. Adair v. HCN Dept. of Bus., CV 04-49. (Matha, T).

HCN v. Greendeer Construction, CV 04-50. (Matha, T).

HCN Dept. of Treasury & HCN Office of Tribal Enrollment v. Amanda Colburn, CV 04-51. (Matha, T).

In the Interest of Minor Child: S.T., DOB 03/12/87 v. HCN Office of Tribal Enrollment, CV 04-52. (Matha, T).

In the Interest of Minor Children: J.G.G., DOB 01/12/89; T.P.G., DOB 03/09/90 v. HCN Office of Tribal Enrollment, CV 04-53. (Matha, T).

In the Interest of Minor Child: L.B.C., DOB 10/29/88 v. HCN Office of Tribal Enrollment, CV 04-54. (Matha, T).

Juvenile Cases

JUNE 7, 2004

In the Interest of Minor Child: S.J.W., DOB 02/10/98, JV 04-12. (Bossman, W).

JUNE 9, 2004

In the Interest of Minor Child: A.D.J., DOB 04/30/87, JV 04-13. (Bossman, W).

JUNE 17, 2004

In the Interest of Minor Child: G.J.C., DOB 12/07/91, JV 04-14. (Matha, T).

JUNE 18, 2004

In the Interest of Minor Child: W.K.P.G., DOB 12/15/92, JV 04-15. (Matha, T).

In the Interest of Minor Child: C.L.P., DOB 02/27/90, JV 04-16. (Matha, T).

JUNE 21, 2004

In the Interest of Minor Child: C.M.M., DOB 02/12/88, JV 04-17. (Bossman, W).



**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 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 – Rosalie Kakkak
 Staff Attorney – Rose M. Weckenmann
 Supreme Court Clerk – Nancy Ryan

* 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>

HO-CHUNK NATION COURT BULLETIN

NATION MOURNS PASSING OF TRADITIONAL COURT MEMBER

Orville L. Greendeer, beloved elder and member of the Ho-Chunk Nation Traditional Court passed away on Monday, July 19, 2004 at his home in Tomah, Wisconsin. He was born on November 16, 1928 in Mather, Wisconsin. Mr. Greendeer was the leader of the Deer Clan and a leader in the traditional Medicine Lodge. Mr. Greendeer was also a founding member of the Traditional Court. Mr. Greendeer served in the United States Marine Corps and not only was he a light-heavy boxing champion during his military career, he also served in the Korean War.



Ho-Chunk Nation Traditional Court

The Traditional Court, created in 1995, is one of the three branches of the Ho-Chunk Judiciary. However, unlike the Trial Court and the Supreme Court, which are structured similarly to the western adversarial model, the Traditional Court is modeled after the original style of Ho-Chunk dispute resolution.

Tribal elders, each selected to represent a clan recognized by the Ho-Chunk people, compose the Traditional Court. Currently sitting on the Court are: Wallace E. Blackdeer (Deer Clan), Donald Blackhawk (Warrior Clan), Dennis Funmaker, Sr. (Bear Clan), James C. Greendeer (Deer Clan), Douglas G. Greengrass (Thunder Clan), Desmond V. Mike (Buffalo Clan), Gavin R. Pettibone (Pigeon Clan), Douglas Red Eagle, Sr. (Eagle Clan), Preston L. Thompson, Jr. (Eagle Clan), Eugene I. Thundercloud (Thunder Clan), Morgan E. WhiteEagle (Native American Church), and Chief Clayton D. Winneshiek (Thunder Clan). All Traditional Court members must speak the Ho-Chunk language and be familiar with the traditions and customs of their clans and of the Ho-Chunk way of life.

A major function of the Traditional Court is to serve as a forum for the resolution of disputes among tribal members according to the customs and traditions of the Ho-Chunk people. All parties who wish to appear before the Traditional Court to resolve a dispute must voluntarily, and in writing, consent to the court's jurisdiction and acknowledge that the decision may not be appealed, pursuant to Rule 70 of the *HCN Rules of Civil Procedure*. Consent is required because parties who choose to pursue a claim in the Traditional court forgo the use of the Trial Court. The Traditional Court's

decisions apply only to the parties involved in that dispute, and will not bind parties not involved in the litigation. Additionally, a party which brings an action before the HCN Trial Court may elect to appear before the Traditional Court at any time.

Additionally, the Traditional Court seeks to provide mentoring services to troubled youth and their families. This counseling may cover an array of areas depending on the case at hand. The goal of this process is to help tribal youth better understand Ho-Chunk Nation history and tradition so that the youth may engage in a process of self-discovery.

The Traditional Court also acts as an advisory group to assist the other branches of the Ho-Chunk Nation government in understanding Ho-Chunk custom and tradition, so that they may apply it in an appropriate manner. For example, Traditional Court advice was followed regarding the Nation's employee leave policy for those following the traditional religion and Native American Church. The Traditional Court also assisted in the preparation of the Children's Code in order to ensure that concepts of traditional kinship were followed.

The Trial Court and the Supreme Court are also able to take advantage of the Traditional Court's knowledge when confronted with questions turning on Ho-Chunk custom and tradition. Either Court may certify the question to the Traditional Court. *HCN Rules of Appellate Procedure* Rule 5 expressly reserves the right of the Supreme Court to consult with the Traditional Court for guidance on the customs and traditions of the Ho-Chunk Nation, on its motion or upon the request of any party. The same right is reserved to the Trial Court or any party under Rule 8(b) of the *HCN Rules of Civil Procedure*.

For example, in *Ho-Chunk Nation v. Olsen*, CV 99-81 (HCN Tr. Ct., Sept. 18, 2000) the Trial Court requested assistance in determining whether it could assert subject matter jurisdiction, and therefore certified a question of law to the Traditional Court. The Trial Court inquired whether Ho-Chunk custom and tradition recognized agreements analogous to a modern-day contract. The Traditional Court informed the Trial court that according to the tradition and custom of the Ho-Chunk people, “agreements between parties for the exchange of goods or services were recognized as binding, and that it was wrong for one party to keep a benefit obtained from an agreement without providing the agreed upon compensation.” The Traditional Court’s reply served as a source of law conferring subject matter jurisdiction upon the Trial Court.

Subsequently, in *Maureen Arnett v. HCN Dep’t of Admin.*, CV 00-60; *Lisa S. Wathen v. Ho-Chunk Nation Gaming Comm’n*, CV 00-65 (HCN Tr. Ct., Jan. 8, 2001) the Trial Court certified a question of law to the Traditional Court, inquiring whether the *Olsen* principle extended to embrace the doctrine of promissory estoppel. While the Traditional Court reemphasized the expectation of trustworthiness among parties to an agreement, the Court “could not discern an analogy to the concept of promissory estoppel within Ho-Chunk tradition or custom.” Acting upon this information, the Trial Court dismissed the case for lack of subject matter jurisdiction as promissory estoppel did not “aris[e] under the Constitution, laws, customs [or] traditions of the Ho-Chunk Nation.” HCN Const., Art. VII, §5(a).

The Traditional Court holds meetings every Monday morning in the Traditional Courtroom at *Wa Ehi Hoci*. To make an appointment to meet with the Court for advice or dispute resolution, a written request must be made. A form is available through the Secretary of the Traditional Court or the Trial Court administrative staff. Parties should be

prepared to speak in the traditional language. However, if a party is not fluent in the language, it is preferable to request an elder male to accompany the party for appearances before the Traditional Court.

Court Announcements

Trial Court’s Annual Law Day & 5k Fun Run/Walk

On Friday, September 3, 2004, the Ho-Chunk Nation Trial Court will hold its annual Law Day. The Ho-Chunk Law Day is an open house and discussion that is free and open to the general public. It provides lawyers, lay advocates, and the general public with an opportunity to learn more about the Ho-Chunk Nation Judiciary and recent legal developments. In addition, Law Day is an opportunity to obtain FREE CLE credits that may be applied to both HCN Bar requirements and Wisconsin Bar requirements. This training is vitally important for all HCN Bar members.

The 9th Annual 5K Fun Run/Walk will then be held on Saturday, September 4, 2004. For a \$10 registration fee, each runner will receive a T-shirt. Prizes will be awarded to the top runners in each category. The run will begin at Wa Ehi Hoci. Registration for the run will begin at 8:00 A.M., and the run will begin at 9:00 A.M.

For more information on Law Day or the Fun Run, you may contact Jocelyn Roy at (715) 284-2722 or (800) 434-4070.



Updates from Outside Courts

Superior Court of California

Michael Salinas, et al. v. Bobbi Lamere, et al., No. RIC 406255 (Super. Ct. Cal., July 23, 2004).

The plaintiffs in this action, former members of the Pechanga Band of Luiseno Indians (hereinafter “Pechanga Band”), brought suit against members of the Enrollment Committee of the Pechanga Band in California State Court. The plaintiffs sought to maintain their tribal membership and to stop or reverse the Enrollment Committee’s disenrollment actions. The defendants subsequently filed a motion to dismiss the case for lack of personal jurisdiction.

The Superior Court of California held that Public Law 280 (28 U.S.C. § 1360 (1953)) conferred jurisdiction upon the Court to hear this matter. The Court noted that Public Law 280 was enacted “to redress the lack of adequate Indian forums for resolving private legal disputes between reservation Indians” (citing *Bryan v. Itasca County*, 426 U.S. 373 (1976)). The Court further noted that the tribal council would be inadequate to hear the matter as the council members have a personal stake in the outcome, lack legal training and are not under any requirement to follow established due process rights.

Ninth Circuit Court of Appeals

Eyak Native Village, et al. v. William M. Daley, et al., No. 02-36155, (9th Cir. July 12, 2004).

The plaintiffs challenged the regulations of the Department of Commerce that limit fishing in the outer Continental Shelf in the Gulf of Alaska, as in violation of their aboriginal hunting and fishing rights. The district court decided the matter based on the federal government’s supreme power to regulate off-shore fishing, thus avoiding the aboriginal rights issue. The Court remanded the matter to the district court to determine whether the plaintiffs have such aboriginal rights, and if so, to what extent.

Westlands Water District, et al. v. U.S. Dep’t of the Interior, et al., Nos. 03-15194, 03-15289, 03-15291, 03-15737, 2004 WL 1558290 (9th Cir. July 13, 2004)

The plaintiffs filed a complaint alleging violations of the Environmental Species Act and the National Environmental Policy Act (hereinafter “NEPA”). The Trinity River is a part of “the Central Valley Project, an extensive system of dams, tunnels, canals and reservoirs that stores and regulates water for California’s Central Valley.” Diversion of the River’s flow to the Central Valley dramatically damaged the fish populations of the River, which had previously sustained the Hoopa Valley Tribe and Yurok Tribe.

In 1984 Congress directed the Secretary of the Interior to “implement a basin-wide fish and wildlife management program in order to achieve the long-term goal of restoring fish and wildlife populations in the Trinity River Basin to a level approximating that which existed immediately before the start of the construction of the Trinity River division.” NEPA requires federal agencies to analyze the environmental effects of proposed actions, publish the results of their study in the form of a draft Environmental Impact Statement (hereinafter “EIS”), and receive and respond to public comments.

The district court granted preliminary injunctions limiting flow releases but otherwise allowing for implementation of the restoration plan. Pursuant to all parties filing cross-motions for summary judgment, the district court issued an order addressing various issues. Parties on both sides of the action appealed, and the Ninth Circuit Court of Appeals affirmed in part, reversed in part and remanded. The Court reversed the conclusion that the scope of the EIS and the range of alternatives considered therein were unreasonable and lifted the injunctive orders to supplement the EIS. The Court affirmed the ruling that two of the measured insisted upon in the Fish and Wildlife Service and National Marine Fisheries Service opinions exceeded the statutory authority for such opinions. Lastly, the Court rejected three claims raised by plaintiffs on appeal and affirmed the remainder of the judgment. The Court concluded that “nothing remains to prevent full

implementation of the [restoration plan], including its complete flow plan for the Trinity River” and remanded to the district court for further proceedings.

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

JULY 6, 2004

Maria Ruth Goodbear v. William Lowell Goodbear, CS 03-59 *Order (Ceasing Withholding of Current Child Support)* (HCN Tr. Ct., July 6, 2004). (Matha, T).

The respondent filed a motion requesting suspension of current child support. The petitioner

failed to respond within the specified time frame. The Court granted the motion.

Felicia Jo Helgeson v. Roger B. Littlegeorge, CS 99-57; *Melanie Stacy v. Roger Littlegeorge*, CS 99-44 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., July 6, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

Melanie Stacy v. Harrison J. Funmaker, CV 96-48 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., July 6, 2004). (Matha, T).

The petitioner filed a motion requesting modification of child support withholding. The motion requested modification of child support and arrears withholding. The Court granted the motion.

Melanie Stacy v. Harrison J. Funmaker, CV 96-48 *Order (Modifying Child Support Withholding from Wages)* (HCN Tr. Ct., July 6, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign child support order. The respondent failed to respond within the specified time frame. The Court granted the petitioner’s request to enforce and recognize.

State of Wis./Sauk Co. v. Mitchell Redcloud, CS 02-33; *Cynthia Mobley v. Mitchell Redcloud*, CS 03-42 *Order (Updating Arrearage Withholding)* (HCN Tr., Ct. July 6, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

JULY 12, 2004

State of Wis. & Maurine Shegonee v. Jessica L. Cloud, CS 04-30 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., July 12, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign child support order. The respondent failed to respond within the specified time frame. The Court granted the

petitioner's request for recognition and enforcement.

JULY 13, 2004

Ethel Jeanette Dakota v. Marcus Tsonne Chapman, CS 04-28 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., July 13, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a 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.



Heidi A. Simenson v. Joseph W. Bowling, CS 04-25 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., July 13, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign child support order. 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. Morgan Kyle Decorah, CS 04-26 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., July 13, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign child support order. The respondent filed an answer within the specified time frame but failed to appear at the *Fact-Finding Hearing*. The Court granted the petitioner's request for recognition and enforcement.

JULY 14, 2004

Andrea L. Estebo v. Joseph P. Estebo, CS 04-16 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., July 14, 2004). (Matha, T).

The petitioner filed a motion requesting modification of child support withholding. The motion requested a change in current child support and arrears withholding. The respondent responded

within the prescribed time frame and stipulated his agreement with the requested change. The Court granted the motion.

Andrea L. Estebo v. Joseph P. Estebo, CS 04-16 *Order (Ceasing Child Support Withholding from Wages)* (HCN Tr. Ct., July 14, 2004). (Matha, T).

The petitioner filed a motion requesting the suspension of the current child support withholding. The respondent failed to respond within the specified time frame. The Court granted the petitioner's motion.

Julia Goodbear v. Ted L. Brown, CS 98-20 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., July 14, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

Melissa Redbird v. Thomas Redbird, CS 03-57 *Order (Modifying Judgment for Child Support Deduction from Wages)* (HCN Tr. Ct., July 14, 2004). (Matha, T).

The petitioner filed a motion requesting modification of child support. The motion requested a change in current child support withholding from respondent's wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for modification.



Melissa Redbird v. Thomas Redbird, CS 03-57 *Order (Modifying Judgment for Child Support Deduction from Per Capita)* (HCN Tr. Ct., July 14, 2004). (Matha, T).

The petitioner filed a motion requesting modification of child support. The motion requested a change in current child support withholding from respondent's per capita payments. The respondent failed to respond within the

specified time frame. The Court granted the petitioner's request for modification.

State of Wis./Sauk County & Pamela L. Mallory v. Frederick K. Greendeer, CS 03-05 Order (Updating Arrearage Withholding) (HCN Tr. Ct., July 14, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding from respondent's per capita payments with a certified accounting statement. The Court granted the motion.

JULY 16, 2004

Verdie Kivimaki v. Virgil Clausen, CV 97-125 Order (Ceasing Child Support Withholding & Intent to Close) (HCN Tr. Ct., July 16, 2004). (Bossman, W).

The Court previously ordered the parties to file proof of enrollment in high school or its equivalent as the minor child had turned eighteen (18) years of age, or the Court would cease withholding for current child support. The parties failed to file such proof. The Court ordered cessation of child support withholding from respondent's per capita distributions. The Court also informed the parties of its intent to close the file.

Robert M. Mobley v. Joyce M. St. Cyr, CS 99-37; *Joyce M. St. Cyr v. Robert M. Mobley*, CS 00-04 Order (Enforcing Arrearage Withholding) (HCN Tr. Ct., July 16, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding from respondent's per capita payments with a certified accounting statement. The Court granted the motion.

Joyce M. St. Cyr v. Robert M. Mobley, CS 00-04 Erratum Order (Updating Arrearage Withholding) (HCN Tr. Ct., July 16, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding from respondent's per capita payments with a certified

accounting statement. The Court granted the motion.

State of Wis. & Sonya M. Brindley v. Jerome M. Cloud, CV 97-163 Order (Enforcing Arrearage Withholding) (HCN Tr. Ct., July 16, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding from respondent's per capita payments with a certified accounting statement. The Court granted the motion.

State of Wis./Eau Claire County v. Cory H. Funmaker, CS 03-60; *State of Wis./Trempealeau County v. Cory H. Funmaker*, CS 03-63; *State of Wis. v. Cory H. Funmaker*, CS 04-27 Order (Default Judgment – Enforcing Child Support) (HCN Tr. Ct., July 16, 2004). (Bossman, W).

The court had to decide whether to grant full faith and credit to a foreign child support order. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for recognition and enforcement. The Court also ordered the respective percentages of respondent's per capita payments to be withheld in each of the three cases.

State of Wis. – Sauk County & Audrey L. Goodbear v. Max P. Funmaker, Jr., CS 99-28 Order (Enforcing Arrearage Withholding) (HCN Tr. Ct., July 16, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding from respondent's per capita payments with a certified accounting statement. The Court granted the motion.

State of Wis./ Sauk County & Amy J. Hennings v. Jerome Marshall Cloud, CV 97-118 Order (Enforcing Arrearage Withholding) (HCN Tr. Ct., July 16, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding from

respondent's per capita payments with a certified accounting statement. The Court granted the motion.

Cynthia Tack v. Matthew L. Thundercloud, CV 97-74 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., July 16, 2004). (Matha, T).

The petitioner filed a motion requesting modification of child support withholding. The motion requested a change in current child support withholding. The respondent failed to respond within the specified time frame. The Court granted the motion.

Gale S. White v. Larry V. Garvin, CS 99-20 Order (Ceasing Child Support Withholding & Intent to Close) (HCN Tr. Ct., July 16, 2004). (Matha, T).

The Court previously ordered the parties to file proof of enrollment in high school or its equivalent as the minor child had turned eighteen (18) years of age, or the Court would cease withholding for current child support. The parties failed to file such proof. The Court ordered cessation of child support withholding from respondent's per capita distributions. The Court also informed the parties of its intent to close the file.

Casey Whitegull v. Harriet M. Whitegull, CV 97-61 Order (Updating Arrearage Withholding) (HCN Tr. Ct., July 16, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding from respondent's per capita payments with a certified accounting statement. The Court granted the motion.

JULY 19, 2004

Lucy K. Snake v. Roger Dean Snake, CV 97-01 Order (Modifying Current Child Support Withholding) (HCN Tr. Ct., July 19, 2004). (Matha, T).

The Court previously ordered the parties to file proof of enrollment in high school or its equivalent as the minor child had turned eighteen (18) years of age, or the Court would cease withholding for current child support. The parties failed to file such

proof. The Court ordered an amendment in the child support withholding.

JULY 22, 2004

State of Wis/Jackson County v. Daryl Decora, CV 97-06 Order (Ceasing Withholding Child Support Arrears) (HCN Tr. Ct., July 22, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to cease child support arrearage withholding from defendant's per capita payments. The Court granted the motion.

JULY 27, 2004

Joyce Greendeer v. Edward Creapeau, CS 04-39 Order (Default Judgment for Child Support Deduction from Wages) (HCN Tr. Ct., July 27, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity 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.

JULY 28, 2004

Myrna Little Wolf v. Carl F. McKee, CS 03-54 Order (Redirecting Child Support Payments) (HCN Tr. Ct., July 28, 2004). (Bossman, W).

The petitioner filed a motion requesting the redirection of child support payments due to Shawano County's noncompliance with the Court's previous Order (Enforcing Child Support). The respondent failed to respond within the specified time frame. The Court granted the petitioner's request for the redirection of child support payments.

Civil Garnishment

JULY 1, 2004

Alliance Collection Agencies, Inc. v. Wendy Dickerson, CG 04-51 Order (Petition Granted) (HCN Tr. Ct., July 1, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a response denying liability. The respondent could not validate the claim at the Fact-

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

State Collection Service v. Rick Hernandez, CG 04-56 *Order (Conditional Denial of Petition)* (HCN Tr. Ct., July 1, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a response indicating satisfaction of the judgment. Both the petitioner and respondent failed to appear at the *Fact-Finding Hearing*. The Court denied the petitioner's request for recognition and enforcement.

JULY 12, 2004

Creditor Recovery Service LLC, Agent for Huntington Dental Offices, Inc. v. Wendy Dickerson, CG 04-70 *Order (Default Judgment)* (HCN Tr. Ct., July 12, 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.

JULY 13, 2004

Campusview Properties v. Robert & Linda Frommung, CG 04-21 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., July 13, 2004). (Matha, T).

The petitioner filed a motion requesting dismissal of the instant case due to the defendant's filing of a bankruptcy petition. The Court granted the motion.

Chitwood, Nicol & Matthews v. Brent White Eagle, CG 04-32 *Order (Default Judgment)* (HCN Tr. Ct., July 13, 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.

JULY 20, 2004

Riverside Finance v. Jenny Meyer, CG 04-73 *Order (Default Judgment)* (HCN Tr. Ct., July 20, 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.

JULY 26, 2004

Madison Gas and Electric Company v. Elizabeth A. Haller, CG 04-55 *Order (Default Judgment)* (HCN Tr. Ct., July 26, 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)

JULY 1, 2004

In the Interest of Minor Child: W.S.S., DOB 01/26/94, by Tina S. Smith-Kelly v. HCN Office of Tribal Enrollment, CV 02-94 *Order (Requesting Accounting)* (HCN Tr. Ct., July 1, 2004). (Matha, T).

The Court previously approved a release from the CTF for costs associated with a professional tutoring program. The required updated accounting is now late. The Court requested that the petitioner submit the required accounting.

JULY 14, 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 (Accepting Accounting and Dismissing Contempt)* (HCN Tr. Ct., July 14, 2004). (Matha, T).

The Court previously released money from the CTF account of the minor child for costs associated with orthodontic care. The Court previously issued an *Order (Contempt)*, ordering the petitioner to reimburse the CTF account. The petitioner

submitted a money order in the required amount. The Court accepted the repayment of the CTF funds and dismissed the *Order (Contempt)*.

JULY 19, 2004

In the Interest of Minor Child: L.C., DOB 10/29/88, by Phyllis Smoke v. HCN Office of Tribal Enrollment, CV 04-54 Order (Petition Granted) (HCN Tr. Ct., July 19, 2004). (Matha, T).

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

JULY 22, 2004

In the Interest of Minor Child: D.W.B., DOB 09/13/89, by Corinna M. Climer v. HCN Office of Tribal Enrollment, CV 04-68 Order (Petition Granted) (HCN Tr. Ct., July 22, 2004). (Matha, T).

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

JULY 26, 2004

In the Interest of Minor Child: C.B., DOB 02/09/88, by Corinna M. Climer v. HCN Office of Tribal Enrollment, CV 04-61 Order (Petition Granted) (HCN Tr. Ct., July 26, 2004). (Matha, T).

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

In the Interest of Minor Child: C.B., DOB 02/09/88, by Corinna M. Climer v. HCN Office of Tribal Enrollment, CV 04-61 Erratum Order (HCN Tr. Ct., July 28, 2004). (Matha, T).

The Court previously granted petitioner's request for a release of funds from her minor child's CTF account. The Court subsequently became aware of an error as to the minor child's tribal identification number in the original *Order*. The Court corrected this error.

In the Interest of Minor Child: K.B., DOB 07/16/92, by Corinna M. Climer v. HCN Office of Tribal Enrollment, CV 04-67 Order (Petition Granted) (HCN Tr. Ct., July 26, 2004). (Matha, T).

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

CONTRACTS

JUNE 30, 2004

Rick Mattison, Lakeview Vending v. Joan Whitewater, CV 04-43 Scheduling Order (HCN Tr. Ct., June 30, 2004). (Bossman, W).

The Court issued this order to establish dates and deadlines for the instant case.

JULY 9, 2004

Betty J. White v. Dion W. Funmaker, CV 03-89 Order (Motion Hearing) (HCN Tr. Ct., July 9, 2004). (Matha, T).

The plaintiff filed a post judgment motion and the defendant filed a motion for relief from judgment. The Court ordered a motion hearing at which the parties will argue their respective motions.

JULY 16, 2004

Owen Cyrus Mike v. Victoria V. Stacy Good-Thunder, CV 03-81 Order (Garnishment) (HCN Tr. Ct., July 16, 2004). (Matha, T).

The Court had to determine whether to grant plaintiff's motion for execution of judgment. The plaintiff's motion requested garnishment of defendant's per capita distribution and was made at a properly convened *Show Cause Hearing*. The defendant failed to appear despite receipt of notice. The Court granted plaintiff's motion.

JULY 19, 2004

Betty J. White v. Dion W. Funmaker, CV 03-89 Order (Granting Telephonic Appearance) (HCN Tr. Ct., July 19, 2004). (Matha, T).

The Court's granted defendant's request to appear by telephone at the *Motion Hearing*.

JULY 23, 2004

Owen Cyrus Mike v. Victoria V. Stacy Good-Thunder, CV 03-81 Order (Denial of Motion) (HCN Tr. Ct., July 23, 2004). (Matha, T).

The defendant filed an undefined motion and request for a hearing. Because the defendant's post judgment motion failed to state a ground for reconsideration, the Court denied the motion.



JULY 26, 2004

Betty J. White v. Dion W. Funmaker, CV 03-89 *Order (Granting Defendant's Post-Judgment Motion)* (HCN Tr. Ct., July 26, 2004). (Matha, T).

The Court had to determine whether to grant the post-judgment motions of both the plaintiff and the defendant. The plaintiff withdrew her motion. Due to ineffective service of process, the Court granted the defendant partial relief from judgment and scheduled a fact-finding hearing to address the plaintiff's remaining requests for relief.

DEBTS TO THE NATION

JULY 29, 2004

HCN Dep't of Health and Human Servs. v. Carol Rockman, 04-02 *Pre-Trial Order* (HCN Tr. Ct., July 29, 2004). (Bossman, W).

The Court held a *Pre-Trial Conference* in this matter at which defendant presented arguments in support of her *Motion to Dismiss*. The Court denied the defendant's motion, finding that it had jurisdiction in this matter under the APPROPRIATIONS AND BUDGET PROCESS ACT.

EMPLOYMENT

JUNE 24, 2004

Marcy J. Hawkins v. HCN/Casino, CV 04-32 *Scheduling Order* (HCN Tr. Ct., June 24, 2004). (Bossman, W).

The Court issued this order to establish dates and deadlines for the instant case.



JULY 6, 2004

Jill C. Adair v. Dan Brown, CV 03-80 *Judgment for Defendant* (HCN Tr. Ct., July 6, 2004). (Bossman, W).

The plaintiff sought injunctive relief from the Ho-Chunk Nation. However, she failed to name either the Ho-Chunk Nation or the defendant in his official capacity as an employee of the Ho-Chunk Nation as a party. Because the relief requested could not be

granted against the named defendant in his individual capacity, the Court granted a judgment in favor of the defendant.

Debra M. Jones v. Majestic Pines Casino, Laura Mortenson, CV 04-19 *Order (Dismissal with Prejudice)* (HCN Tr. Ct., July 6, 2004). (Bossman, W).

The Court had to determine whether to dismiss the instant case. The plaintiff failed to appear for a hearing for which she received proper notice. The Court dismissed the case.

JULY 8, 2004

Maria L. Adamiuk v. Ho-Chunk Casino, CV 04-05 *Order (Denying Defendant's Motion for Summary Judgment)* (HCN Tr. Ct., July 8, 2004). (Bossman, W).

The Court had to determine whether to grant the defendant's request for summary judgment. Because genuine issues of material fact remain the Court denied the motion.

JULY 9, 2004

Guy Frederick Beebe v. Ho-Chunk Nation, CV 04-34 *Order (Permission to Reschedule)* (HCN Tr. Ct., July 9, 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*.

JULY 22, 2004

Daniel M. Brown v. Jim Webster, HCN Exec. Dir. of Bus. CV 04-38-39-40 *Scheduling Order* (HCN Tr. Ct., July 22, 2004). (Bossman, W).

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

JULY 30, 2004

Maria L. Adamiuk v. Ho-Chunk Casino, CV 04-05 *Order (Final Judgment)* (HCN Tr. Ct., July 30, 2004). (Bossman, W).

The Court had to determine whether the defendant improperly terminated the plaintiff and also whether the plaintiff's *Complaint* was timely filed. The Court held that the plaintiff's complaint was filed eighty-eight days late and that the plaintiff failed to

meet her burden of proving her case by a preponderance of the evidence. The Court granted judgment in favor of the defendant.

HOUSING

JULY 13, 2004

Ronald Kent Kirkwood v. Francis Decorah, in his official capacity as Dir. of HCN Hous. Dep't, and all predecessor directors, in their official capacities, CV 04-33 Scheduling Order (HCN Tr. Ct., July 13, 2004). (Matha, T).

The Court issued this order to establish dates and deadlines for the instant case.



INCOMPETENT TRUST FUND (ITF)

JULY 6, 2004

In re: Bruce Patrick O'Brien, by Elethe Nichols v. Ho-Chunk Nation Office of Tribal Enrollment, CV 96-46 Order (Accepting Accounting) (HCN Tr. Ct., July 6, 2004). (Bossman, W).

The Court previously released funds from the ITF account of an incompetent adult for costs associated with taxes, vehicles maintenance and repair, furniture, Easter Seal Camp, vehicle insurance, and clothing. The petitioner submitted a payment history statement, which confirmed proper use of the funds. The Court accepted this accounting.

JULY 9, 2004

In re: Bruce Patrick O'Brien, by Elethe Nichols v. Ho-Chunk Nation Office of Tribal Enrollment, CV 96-46 Order (Release of Funds) (HCN Tr. Ct., July 9, 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 associated with household maintenance, vehicle repair and weekend respite care. The Court found that the request as to the household maintenance and vehicle repair represented a necessary health and/or welfare benefit. The Court granted a release of funds to satisfy those requests. The Court requested further

information from the guardian as to the weekend respite care.

JULY 13, 2004

In re: Bruce Patrick O'Brien, by Elethe Nichols v. Ho-Chunk Nation Office of Tribal Enrollment, CV 96-46 Order (Motion Granted) (HCN Tr. Ct., July 13, 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 costs associated with respite care. 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.

JULY 23, 2004

In the Interest of Decedent: Arthur Decorah, DOD 01-26-04, by Gerald Parr v. HCN Office of Tribal Enrollment, CV 04-63 Order (Releasing Children's Trust Fund to Estate) (HCN Tr. Ct., July 23, 2004). (Bossman, W).

The Court had to determine whether to release the monies from a decedent tribal member's Incompetent Trust Fund to the estate. The Court directed the release of the fund to the court-appointed representative of the estate.

Juvenile

JULY 12, 2004

In the Interest of Minor Child: T.V.F., DOB 02/18/02, JV 03-14 Order (Granting Telephonic Appearance) (HCN Tr. Ct., July 12, 2004). (Bossman, W).

The Court's granted the mother's request to appear by telephone at the *Dispositional Hearing*.

In the Interest of Minor Child: D.M.L., DOB 04/22/97, JV 04-19 Order (Dismissal Without Prejudice) (HCN Tr. Ct., July 12, 2004). (Bossman, W).

The petitioner filed a request to dismiss the instant case. The Court granted the request.

JULY 13, 2004

In the Interest of Minor Child: A.D.J., DOB 04/30/87, JV 04-13 Order (Dismissal Without Prejudice) (HCN Tr. Ct., July 13, 2004). (Bossman, W).

The petitioner filed a request to dismiss the instant case. The Court granted the request.

JULY 16, 2004

In the Interest of Minor Child: S.E.C., DOB 02/25/96, JV 03-11 Order (Establishment of Child Support – Redacted) (HCN Tr. Ct., July 16, 2004). (Matha, T).

The Court granted the request to establish child support for the parents of the minor child.



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 (Granting Telephonic Appearance) (HCN Tr. Ct., July 16, 2004). (Bossman, W).

The Court's granted *Guardian ad litem's* request to appear by telephone at the *Dispositional Hearing*.

JULY 20, 2004

In the Interest of Minor Child: S.E.C., DOB 02/25/96, JV 03-11 Order (Termination of Child Support Withholding) (HCN Tr. Ct., July 20, 2004). (Matha, T).

The Court suspended current child support due to the reversion of physical custody of the minor child.

JULY 22, 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 12/12/87, JV 03-01-02-03 Order (Child Protection Review Hearing) (HCN Tr. Ct., July 22, 2004). (Matha, T).

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 Child: M.I.S., DOB 04/18/00, JV 03-18 Order (Termination of Jurisdiction) (HCN Tr. Ct., July 22, 2004). (Bossman, W).

Due to substantial completion of the dispositional requirements, the Court terminated its jurisdiction over the matter and closed the case.

JULY 23 2004

In the Interest of Minor Child: D.M.L., DOB 04/22/97, JV 04-21 Order (Authorizing Removal) (HCN Tr. Ct., July 23, 2004). (Matha, T).

The Court had to determine whether to grant a motion filed by CFS to remove the minor child from the parents' residence. The Court granted the requested relief.

In the Matter of the Child: A.C.S.: 04/04/89, JV 98-04 Order (Rescheduling Plea Hearing) (HCN Tr. Ct., July 23, 2004). (Bossman, W).

The Court conducted a *Plea Hearing* in the matter. Because personal service of summons had not been made upon the parents, the Court continued and rescheduled the matter.

JULY 26, 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 98-11-12-13 Order (Termination of Jurisdiction) (HCN Tr. Ct., July 26, 2004). (Bossman, W).

Due to substantial completion of the dispositional requirements, the Court terminated its jurisdiction and supervision over the case.



In the Interest of Minor Children: V.J.F., DOB 09/26/88, I.D.F., DOB 03/30/02, JV 03-39-40 Order (Child Protection Review Hearing) (HCN Tr. Ct., July 26, 2004). (Matha, T).

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: M.B.K., DOB 04/29/00, A.J.K., DOB 11/12/03, JV 04-04-05 Order (Dispositional Requirements) (HCN Tr. Ct., July 26, 2004). (Bossman, W).

The Court conducted a *Dispositional Hearing* in the instant case. Upon no objection, the Court adopted the dispositional recommendations from CFS.

In the Interest of Minor Child: L.R.L., DOB 11/02/02, JV 04-20 Order (Continuance of Plea Hearing) (HCN Tr. Ct., July 23, 2004). (Matha, T).

The Court granted a continuance and rescheduled the *Plea Hearing* in order to provide the parent of the minor child an opportunity to obtain legal representation.

JULY 27, 2004

In the Interest of Minor Children: C.L.P., DOB 02/27/90, W.K.P-G., DOB 12/13/92, JV 04-16-15 Order (Voluntary Dismissal) (HCN Tr. Ct., July 27, 2004). (Matha, T).

The petitioner for temporary guardianship filed a motion to withdraw her petition. The Court dismissed the instant case without prejudice.

JULY 29, 2004

In the Interest of Minor Child: L.J.R., DOB 02/17/90, JV 01-05 Order (Requiring Involuntary Medication and Treatment) (HCN Tr. Ct., July 29, 2004). (Matha, T).

The Court granted petitioner's request that medication and treatment be administered to the minor child regardless of the minor's consent during the period of commitment.

In the Interest of Minor Child: S.J.W., DOB 02/10/93, JV 04-12 Order (Continuance of Plea Hearing) (HCN Tr. Ct., July 29, 2004). (Matha, T).

The Court granted a continuance and rescheduled the *Plea Hearing* in order to provide the parent of the minor child an opportunity to obtain legal representation and to allow the court an opportunity to serve summons.

JULY 30, 2004

In the Interest of Minor Child: T.J., DOB 05/02/97, M.L.C.R., DOB 11/03/95, JV 03-46-47 Order (Continuance of Plea Hearing) (HCN Tr. Ct., July 30, 2004).

The Court granted a continuance and rescheduled the *Plea Hearing* in order to provide the parents of the minor child an opportunity to obtain legal

representation and to allow the court an opportunity to serve summons.

Supreme Court

NOTHING TO REPORT AT THIS TIME.

Recent Filings

Trial Court

Civil Garnishment

JULY 8, 2004

Check Advance v. Megan Ray, CG 04-76. (Bossman, W).

Quick Cash Loans v. Jeff Dayton, CG 04-77. (Bossman, W).

Kohn Law Firm v. Anthony Gonzales, CG 04-78. (Bossman, W).

JULY 14, 2004

Black River Falls Memorial v. Stephanie Littlegeorge, CG 04-79 (Matha, T).

JULY 20, 2004

Citibank v. Kerry Crowe, CG 04-80. (Bossman, W).

Arrow Fin. Servs. v. Bradley Littlegeorge, CG 04-81. (Bossman, W).

Household Fin. Corp. v. Galrand Decorah, CG 04-82. (Bossman, W).

Discover Fin. v. Charlotte Hancock, CG 04-83. (Bossman, W).

Discover Fin. v. Charlotte Hancock, CG 04-84. (Bossman, W).

Discover Fin. v. Alex Sickles, CG 04-85. (Bossman, W).

Ford Motor Credit Co. v. John Funmaker, CG 04-86. (Bossman, W).

Discover Bank v. Jaime Seyens, CG 04-87. (Bossman, W).

Beneficial Wis. X v. Louisa R. Decora, CG 04-88.
(Bossman, W).

Daimler Chrysler v. Tammy Elliot, CG 04-89.
(Bossman, W).

Citibank v. Mary Walsh, CG 04-90. (Bossman,
W).

State Collection Servs. v. Daniel Schultz, CG 04-
91. (Bossman, W).

JULY 29, 2004

Alliance Collection Agency v. Lynda Broschardt,
CG 04-92. (Matha, T).

Alliance Collection Agency v. Bryan J. Ringer, CG
04-93. (Matha, T).

*Alliance Collection Agency v. Curtis W.
WhiteEagle*, CG 04-94. (Matha, T).

Check Advance v. Terry Terwall, CG 04-95.
(Matha, T).

Check Advance v. Roger Copus, CG 04-96.
(Matha, T).

Alliance Collection Agency v. Lanette Walker, CG
04-97. (Matha, T).

Alliance Collection Agency v. Vonetta Merrit, CG
04-98. (Matha, T).

Alliance Collection Agency v. Jesse L. Walroth, CG
04-99. (Matha, T).

Alliance Collection Agency v. Marie Thieme, CG
04-100. (Matha, T).

Alliance Collection Agency v. Sabrina S. Peyketwa,
CG 04-101. (Matha, T).

Alliance Collection Agency v. Carson Funmaker,
CG 04-102. (Matha, T).

Alliance Collection Agency v. Michael R. Terry,
CG 04-103. (Matha, T).

Child Support

JULY 1, 2004

Joyce Greendeer v. Edward Crapeau, CS 04-39.
(Matha, T).

JULY 8, 2004

Jodi A. (Corelius) Rodrigues v. Steven F. Sallaway,
CS 04-40. (Bossman, W).

JULY 9, 2004

Brown County, Tera L. Kofler v. Vincent R. Polasz,
CS 04-41. (Bossman, W).

JULY 12, 2004

Joy & Joe Buck v. Simone C. Cloud, CS 04-45.
(Matha, T).

JULY 29, 2004

Patricia A. Decker v. Ronald J. Pasch II, CS 04-46.
(Matha, T).

Civil Cases

JUNE 18, 2004

*In the Interest of Minor Child: M.S., DOB 11/28/86,
by Coralee Murphy v. HCN Office of Tribal
Enrollment*, CV 04-78. (Matha, T).

JUNE 29, 2004

Kathy Dlask v. Ho-Chunk Casino, CV 04-60.
(Matha, T).

JULY 1, 2004

HCN Dep't of Treasury v. Jeff Miller, CV 04-55.
(Matha, T).

Dep't of Property Mgmt. v. Carole Lou St. Cyr, CV
04-56. (Matha, T).

*In the Interest of Minor Child: J.D.J., D.O.B
12/18/86, by Children & Family Servs. v. HCN
Office of Tribal Enrollment*, CV 04-57. (Matha,
T).

JULY 6, 2004

Sarita White v. HCN Tribal Enrollment, CV 04-58.
(Bossman, W).

In the Interest of Minor Child: V.R.M., DOB 04/29/91, by Tina McArthur v. HCN Office of Tribal Enrollment, CV 04-59. (Bossman, W).

JULY 7, 2004

In the Interest of Minor Child: C.B., DOB. 02/09/88, by Corinna Climer v. HCN Office of Tribal Enrollment, CV 04-61. (Bossman, W).

JULY 8, 2004

In the Interest of Minor Child: K.D., DOB 02/06/87, by Karena Nichols v. HCN Office of Tribal Enrollment, CV 04-62. (Bossman, W).

Skolos & Millis, S.C. v. HCN Office of Tribal Enrollment, CV 04-63. (Bossman, W).

In the Interest of Minor Child: K.R.R., DOB 10/08/88, by Samuel Rodriguez v. HCN Office of Tribal Enrollment, CV 04-64. (Bossman, W).

In the Interest of Minor Child: M.R., DOB 01/28/84 v. HCN Office of Tribal Enrollment, CV 04-65. (Bossman, W).

Clarissa Falcon v. HCN Office of Tribal Enrollment, CV 04-66. (Bossman, W).

JULY 9, 2004

In the Interest of Minor Child: K.B., DOB 07/16/92, by Corinna Climer v. HCN Office of Tribal Enrollment, CV 04-67. (Bossman, W).

In the Interest of Minor Child: D.W.B., DOB 09/13/89, by Corinna Climer v. HCN Office of Tribal Enrollment, CV 04-68. (Bossman, W).

JULY 14, 2004

Kathleen Dlask v. HCN Casino & Steven Anderson, CV 04-71. (Matha, T).

JULY 15, 2004

Sandra Orozco v. Natividad Orozco, CV 04-69. (Matha, T).

JULY 16, 2004

In the Interest of Minor Child: S.L., DOB 12/09/84 v. HCN Office of Tribal Enrollment, CV 04-70. (Matha, T).

JULY 20, 2004

Joyce Warner v. Ora Garvin, HCN Dep't of Gaming & James Webster, HCN Dep't of Bus., CV 04-72. (Bossman, W).

JULY 22, 2004

HCN Legislature, Tracy Thundercloud as Chairman of the Fin. Comm. v. George Lewis, HCN Pres., CV 04-73. (Bossman, W).

Juvenile Cases

JULY 9, 2004

In the Interest of Minor Child: D.M.S., DOB 01/12/93, JV 04-18. (Bossman, W).

In the Interest of Minor Child: D.M.L., DOB 04/22/97, JV 04-19. (Bossman, W).

JULY 16, 2004

In the Interest of Minor Child: L.R.L., DOB 11/01/02, JV 04-20. (Matha, T).

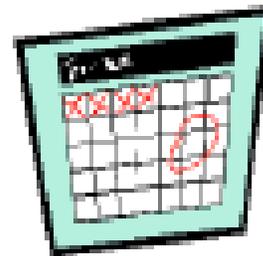
In the Interest of Minor Child: D.M.L., DOB 04/22/97, JV 04-21. (Matha, T).

In the Interest of Minor Child: A.C.L., DOB 08/13/01, JV 04-22. (Matha, T).

Supreme Court

JUNE 4, 2004

In the Interest of Minor Children: B.E.Y., DOB 07/25/89, N.R.Y., DOB 07/06/96, SU 04-04.



**The
Ho-Chunk Nation
Judiciary
Presents Its Annual**

Law Day

And

**5K
Fun
Run/Walk**

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

Everyone Welcome!

For more information contact Jocelyn Roy

**Law Day – Friday,
September 3rd, 2004**

9 am – 12:30pm

Free and open to the public.
Open House & Discussion on current
issues before the Ho-Chunk Nation
Judiciary.

PLACE: Wa Ehi Hoci

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

CLE Credits available for attorneys.
Refreshments will be served.

**5 K Fun Run/Walk –
Saturday, Sept. 4th, 2004**

PLACE: Meet at Wa Ehi Hoci

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

REGISTRATION: 8 a.m. to
8:45 a.m.
WELCOME: 8:45 a.m. to
9 a.m.
RUN STARTS: 9 a.m.
AWARDS PRESENTATION: 10 a.m.
(Winners also announced at the Labor Day
Pow-wow.)

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

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

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	\$.025/per page (sending and receiving)
Tapes of Hearings	\$10.00/per tape
CD of Hearing.	\$12.50/per tape
Deposition Videotape	\$10.00/per tape
Certified Copies	\$0.50/per page
Equipment Rental	\$5.00/per hour
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

JUDICIARY CELEBRATES 9TH ANNUAL LAW DAY

The Ho-Chunk Nation Judiciary presented its 9th Annual Law Day program on Friday, September 3, 2004 at *Wa Ehi Hoci*. Law Day is an annual event intended to inform and educate the public and members of the HCN Bar on current issues before the HCN Courts. This year's discussions covered a wide range of topics and audience members were eager to ask questions and explore the topics further.



Ho-Chunk Nation Legislative Counsel Ken Artis

Ken Artis, legislative counsel for the Ho-Chunk Nation, was the first presenter of the day. Mr. Artis informed the audience about the federal General Welfare Doctrine and how it applies to programs that could be created to offer benefits to tribal members in need. Mr. Artis also explored the possible federal tax treatment given to potential payments made from a general welfare fund.

Ho-Chunk Nation Trial Court Staff Attorney Rose Weckenmann followed with a discussion of plaintiffs' standing in Ho-Chunk Nation courts. Ms. Weckenmann's presentation analyzed caselaw on the issue in both the federal and Ho-Chunk courts.



HCN Trial Court Staff Attorney Rose Weckenmann

Attorney Michael Murphy, from the Ho-Chunk Nation Department of Justice offered a timely presentation on Ho-Chunk Nation court decisions pertaining to the General Council. The discussion elicited a number of questions from members of the audience concerning the processes and procedures of General Council meetings.



Department of Justice Attorney Michael Murphy

The final presentations of the program were by Supreme Court Associate Justices Mark Butterfield and Jo Deen B. Lowe. Justice Butterfield provided a survey of the decisions the Supreme Court issued during the prior year and also provided helpful practice tips for attorneys appearing before the HCN Supreme Court. Justice Lowe also provided practical tips for practitioners and explained the rule-making process that the Supreme Court engages in. Justice Lowe also invited suggestions as to how to improve the HCN Bar.



Supreme Court Justice Mark Butterfield



Supreme Court Justice Jo Deen B. Lowe

COURT HOSTS ANNUAL FUN RUN/WALK

In conjunction with Law Day, the HCN Judiciary hosted its annual 5K Fun Run/Walk on Saturday, September 4, 2004. This year marked the ninth anniversary of the event. Nearly fifty runners and walkers, from ages 6 to 67, participated, including runners from Runners Against Drunk Driving (R.A.D.D.). R.A.D.D. is a Ho-Chunk youth running group named in honor of Louella Blackdeer, a former runner killed by a drunk driver in May 2000. R.A.D.D. travels to Hawaii each year to participate in the Honolulu marathon.

The overall male winner was Rob Voss with a time of seventeen minutes, thirty seconds (17:30). Jodi Webster was the first overall female runner with a time of twenty-four minutes, twenty-eight seconds (24:28). The Ho-Chunk Nation Judiciary congratulates all runners and walkers on their achievements. For complete race results, see pages 18-19.



Supreme Court Associate Justice Mark Butterfield explains the course to the runners.



The runners take off!



R.A.D.D. coach Erwin Begay gives his runners a pre-race pep talk.



Overall female winner Jodi Webster receives a Pendleton® blanket.

Updates from Outside Courts

Ninth Circuit Court of Appeals

Smith v. Salish Kootenai College et al., No. 03-35306, 2004 U.S. App. LEXIS 16216 (9th Cir. Aug. 6, 2004).

After an automobile accident on the Flathead Reservation, an injured passenger and the estate of the deceased passenger brought suits against the driver, Smith, and Salish Kootenai College, which the driver was attending, in a tribal court. Smith filed cross-claims against the College, alleging that the College was liable for the accident and asserting a claim of spoliation of evidence. Prior to trial all claims were resolved, except Smith's cross-claim against the College. At trial in tribal court, a jury rendered a verdict in favor of the College and Smith appealed to the tribal appellate court. Smith also filed a federal court action, seeking an injunction against the tribal courts on the theory that the tribal courts lacked jurisdiction over his cross-claim and also seeking to litigate his underlying claims against the College.

At issue was whether the Confederated Salish and Kootenai Tribes of the Flathead Reservation had the adjudicative authority to exercise civil subject matter jurisdiction over Smith. The United States District Court for the District of Montana found that the tribal court had jurisdiction over Smith's cross-claim and dismissed the driver's case. Smith appealed and the Ninth Circuit Court of Appeals reversed the district court's decision.

The Circuit Court determined that, because Smith was a non-member, the framework expressed by the Supreme Court in *Montana v. United States* was applicable to determine whether tribal jurisdiction existed. 450 U.S. 544 (1981). Under *Montana*, it is presumed that tribal courts lack civil jurisdiction over the conduct of non-members on non-Indian land within a reservation. This presumption is subject to two exceptions: one relating to non-members who enter consensual relationships with the tribe or its members and the other relating to activity that directly affects the tribe's political integrity, economic security, health,

or welfare. *Strate v. A-1 Contractors*, 520 U.S. 438, 446 (1982).

The Court found that the first *Montana* exception did not apply to Smith's negligence action because there was no qualifying commercial relationship from which the claim arose. The Court held that the tort claim did not arise out of a consensual contractual relationship between Smith and the College, but rather from separate duties that the College owed Smith as a student. The Court also determined, therefore, that the first *Montana* exception could not apply to the spoliation claim because the exception did not apply to the lawsuit underlying the claim.

The Court also concluded that the second *Montana* exception did not apply because neither a simple tort suit against a community college nor the destruction of evidence in a traffic accident rises to the level of imperiling "the political integrity, the economic security or the health and welfare of the Tribe." The Court remanded the case to the district court to consider the merits of the claims.

Tenth Circuit Court of Appeals

Neighbors for Rational Development, Inc. v. Norton et al., No. 02-2085, 2004 U.S. App. LEXIS 16054 (10th Cir. Aug. 4, 2004).

After initially deeding property to nineteen Pueblos of New Mexico, the Secretary of the Interior took title to the property and held it in trust for the Pueblos. A group of landowners, business owners and residents of land near the property, known as the "The Neighbors for Rational Development" filed a claim in federal court attempting to block the acquisition. Neighbors claimed various violations of the National Environmental Policy Act.

The district court initially concluded that the Secretary's decision to accept the property in trust was arbitrary and capricious. However, upon the submission of further information by the Secretary, the district court upheld the acquisition.

Neighbors appealed and the Tenth Circuit Court of Appeals held that the relief Neighbors was seeking was precluded by the Quiet Title Act (28 U.S.C.S. § 2409a). The Court noted that the Quiet Title Act did contain a limited waiver of the federal

government's sovereign immunity, but that the waiver did "not apply to trust or restricted Indian lands." The Court dismissed the Neighbors' appeal and remanded the case to district court with instructions to vacate its decision and dismiss the action.

Skull Valley Band of Goshute Indians v. Nielson et al., No. 02-4149, 2004 U.S. App. LEXIS 16055 (10th Cir. Aug. 4, 2004).

Private Fuel Storage, Inc., a consortium of utility companies, entered into a lease of Skull Valley Band tribal land for purposes of building a spent nuclear fuel storage facility there. The consortium and tribe filed suit against Utah state officials challenging Utah's statutes regulating the storage and transportation of spent nuclear fuel. The district court held that the statutes were preempted by federal law and the Utah officials.

In affirming the district court's decision, the Tenth Circuit Court of Appeals found that the plaintiffs had standing to challenge the statutes because they were seeking a license from a governmental agency and alleged that the state statutes substantially burdened them or flatly prohibited the activity in question. The Court also noted that the Utah statutes imposed a second burdensome and expensive licensing scheme.

The Circuit Court also held that the district court correctly held that the case was ripe for judicial resolution because a separate court decision had removed many of the uncertainties invoked by the Utah officials. Additionally, a hardship would have resulted from delaying a ruling on the merits. The Circuit Court also affirmed the district court's finding that the statutes were preempted since they addressed matters of radiological safety, which was addressed by federal law.

Prairie Band Potawatomi Nation v. Richards et al., No. 03-3218, 2004 U.S. App. LEXIS 16541 (10th Cir. Aug. 11, 2004).

In order to accommodate casino patrons and other reservation-related traffic, the Prairie Band Potawatomi Nation constructed and operated a gas station near its casino. The Kansas Department of Revenue attempted to collect a tax on the motor fuel distributed to the Nation's gas station from the non-

Indian distributor, who in turn passed the tax onto the Nation's gas station.

The Nation brought suit to enjoin the state of Kansas from imposing the tax on the nation's fuel on grounds that the tax was preempted by federal law and infringed on the Nation's rights of self-government. The district court granted summary judgment for the Secretary and the Nation appealed.

In reversing the district court's decision and finding for the Nation, the Tenth Circuit Court of Appeals incorporated a balancing test and held that the state tax was preempted by federal law because federal and tribal interests against the imposition of the tax outweighed Kansas' interests in imposing the tax.

The Court determined that the Nation had strong interests against taxation, taking into account the factors that the Nation's fuel revenues were derived from value generated primarily on its reservation because its fuel marketing was integral and essential to the gaming opportunity the Nation provided, that the Nation was not marketing an exemption from state taxes, that the Nation had a need to raise fuel revenues to maintain and construct reservation roads, bridges, and related infrastructure without state assistance, and that tribal and state taxes on motor fuel were mutually exclusive.

The Court also noted the "strong federal interests in promoting tribal economic development, tribal self-sufficiency, and strong tribal governments." Against these tribal and federal interests, the Court weighed Kansas' interests, which the Court determined to be merely a generalized interest in raising revenue. The Court ruled that Kansas' generalized interest in raising revenues was insufficient to justify imposing the tax.



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

AUGUST 4, 2004

Jodi A. Cornelius Rodriguez v. Steven F. Sallaway, CS 98-16 *Order (Amending Arrearage Withholding)* (HCN Tr. Ct., Aug. 4, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.



AUGUST 5, 2004

Damian R. Doronio v. Nicole LaMere, CS 04-44 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Aug. 5, 2004). (Bossman, W).

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

AUGUST 16, 2004

Kathleen Waukau by the State of Wisconsin/Shawano County v. Eldon Powless, CV 96-93; *Patricia C. Martinez v. Eldon Powless*, CS 99-17; *Rebecca Nunway v. Eldon Powless*, CS 99-23; *State of Wisconsin/Juneau County & Annette Powless v. Eldon D. Powless*, CS 03-65 *Order (Modifying and Enforcing Current Child Support)* (HCN Tr. Ct., Aug. 16, 2004). (Matha, T).

The Court determined how to enforce three foreign child support orders against a serial payor's per capita distributions because no proof of high school enrollment was filed for a minor child who recently turned 18 years of age, as the Court requested.

AUGUST 17, 2004

Carol Jo Garvin v. George W. Garvin, CS 98-56 *Order (Ceasing Child Support Withholding from Wages)* (HCN Tr. Ct., Aug. 17, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The Court became aware the ordered amount had been paid in full. The Court ordered that the child support withholding cease.

Robert M. Mobley v. Joyce M. St. Cyr, CS 99-37 *Order (Enforcing Arrearage Withholding)* (HCN Tr. Ct., Aug. 17, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support arrears withholding with a certified accounting statement. The Court granted the motion.

State of Wisconsin v. Damon E. Funmaker, CS 03-37 Order (Ceasing Withholding Child Support Arrears) (HCN Tr. Ct., Aug. 17, 2004). (Bossman, W).

The petitioner filed a motion requesting modification of child support arrears withholding. The motion requested suspension of child support arrearage withholding. The Court granted the motion.

State of Wisconsin/Jackson County v. Ida Decorah Ermenc, CS 02-62 Order (Ceasing Withholding and Intent to Close) (HCN Tr. Ct., Aug. 17, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support arrears. The Court became aware the ordered amount had been paid in full. The Court ordered that the arrearage withholding cease.

AUGUST 23, 2004

Patricia A. Decker v. Ronald J. Pasch, CS 04-46 Order (Default Judgment for Child Support Deduction from Wages) (HCN Tr. Ct., Aug. 23, 2004). (Matha, T).

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



AUGUST 24, 2004

Courtney C. White v. Gregory L. Whitegull, CS 01-30 Order (Ceasing Child Support Withholding and Intent to Close) (HCN Tr. Ct., Aug. 24, 2004). (Matha, T).

The petitioner filed a motion requesting modification of child support withholding. The motion stated that the child support obligation was terminated. The Court granted the motion.

AUGUST 26, 2004

Verdie Kivimaki v. Virgil Clausen, CV 97-125 Order (Proof of High School Enrollment Filed) (HCN Tr. Ct., Aug. 26, 2004). (Bossman, W).

The Court previously ordered the parties to file proof of enrollment in high school or its equivalent or the Court would cease child support withholding. The petitioner filed the required proof. The Court ordered that child support withholding continue.

Julie M. Schlies v. Timothy E. Tebo, CS 99-24 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Aug. 26, 2004). (Matha, T).

The Court had to determine whether to grant the petitioner's motion to modify. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for modification and enforcement.

State of Wisconsin & Crystal L. Monteen-Martin v. Ronald David Martin, CS 00-35 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Aug. 26, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support arrears. The petitioner filed a motion to amend child support arrearage withholding with a certified accounting statement. The Court granted the motion.

AUGUST 30, 2004

Cheyenne Powless v. Wilfred Cloud, CS 04-36 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Aug. 30, 2004). (Bossman, W).

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

State of Wisconsin & Julia F. Goodbear v. Chebon Bear, CV 02-55 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Aug. 30, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support arrearage withholding with a certified accounting statement. The Court granted the motion.

State of Wisconsin/Jackson County, on behalf of Shelley Thundercloud v. Kevin Vasquez, CS 99-19 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Aug. 30, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to modify current and arrears child support withholding. The respondent failed to respond to the motion within the specified time frame. The Court granted the petitioner's request for modification and enforcement.



State of Wisconsin/Sauk County & Owenita R. WhiteEagle v. Eric S. Decorah, CS 04-13 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Aug. 30, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support arrearage withholding with a certified accounting statement. The Court granted the motion.

Wilma Thompson v. Joy Thompson, CS 04-35 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Aug. 30, 2004). (Bossman, W).

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

Civil Garnishment

AUGUST 6, 2004

Black River Memorial v. Stephanie Littlegeorge, CG 04-79 Order (Default Judgment) (HCN Tr. Ct., Aug. 6, 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.

OSI Funding Corp NKA OSI, Funding Assignee of MBNA America Bank v. Anthony Gonzales, CG 04-78 Order (Default Judgment) (HCN Tr. Ct., Aug. 6, 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.

Quick Cash Loans v. Jeff Dayton, CG 04-77 Order (Default Judgment) (HCN Tr. Ct., Aug. 6, 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.

AUGUST 9, 2004

Check Advance v. Diana Fraser, CG 04-75 Order (Default Judgment) (HCN Tr. Ct., Aug. 9, 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.

Check Advance v. Megan Ray, CG 04-76 Order (Default Judgment) (HCN Tr. Ct., Aug. 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.

Creditor Recovery Serv. v. Ronald D. Bartley, CG 04-72 Order (Default Judgment) (HCN Tr. Ct., Aug. 9, 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.

AUGUST 11, 2004

Alliance Collection Agencies, Inc. v. Marie R. Thieme, CG 04-100 Order (Granting Twenty Days to File Amended Petition) (HCN Tr. Ct., Aug. 11, 2004). (Matha, T).

The Court granted the petitioner twenty days to file an *Amended Petition* with the Court to establish that the judgment in question had been revived within the previous five years.

AUGUST 13, 2004

Check Advance v. Megan Ray, CG 04-76 Order (Delaying Judgment) (HCN Tr. Ct., Aug. 13, 2004). (Matha, T).

The Court previously entered a money judgment against the respondent. The respondent filed an *Earnings Garnishment-Debtor's Answer*. The Court directed the Ho-Chunk Nation Department of Treasury to delay imposition of the judgment.

AUGUST 16, 2004

Alliance Collection Agencies, Inc. v. Jason Frost, CG 04-34 Order (Default Judgment) (HCN Tr. Ct., Aug. 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.

Alliance Collection Agencies, Inc. v. Emily R. Kurz, CG 04-45 Order (Default Judgment) (HCN Tr. Ct., Aug. 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.

Alliance Collection Agencies, Inc. v. Lee H. Scott, CG 04-48 Order (Default Judgment) (HCN Tr. Ct., Aug. 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.

AUGUST 20, 2004

Alliance Collection Agencies, Inc. v. Carson Funmaker, CG 04-102 Order (Granting Twenty Days to File Amended Petition) (HCN Tr. Ct., Aug. 20, 2004). (Matha, T).

The Court granted the petitioner twenty days to file an *Amended Petition* with the Court to establish that the judgment in question had been revived under state law within the previous five years.

Alliance Collection Agencies, Inc. v. Vonetta Merritt, CG 04-98 Order (Default Judgment) (HCN Tr. Ct., Aug. 20, 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. Bryan J. Ringer, CG 04-93 Order (Default Judgment) (HCN Tr. Ct., Aug. 20, 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. Lanette Walker, CG 04-97 Order (Default Judgment) (HCN Tr. Ct., Aug. 20, 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. Curtis W. White Eagle, CG 04-94 Order (Default Judgment) (HCN Tr. Ct., Aug. 20, 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.

Check Advance v. Roger Corpus, CG 04-96 *Order (Default Judgment)* (HCN Tr. Ct., Aug. 20, 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.

Check Advance v. Tammy Terwall, CG 04-95 *Order (Default Judgment)* (HCN Tr. Ct., Aug. 20, 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.

AUGUST 23, 2004

State Collection Service v. Daniel Schultz, CG 04-91 *Order (Default Judgment)* (HCN Tr. Ct., Aug. 23, 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.

AUGUST 25, 2004

Alliance Collection Agencies, Inc. v. Bryan J. Ringer, CG 04-93 *Order (Granting Twenty Days to File Amended Petition)* (HCN Tr. Ct., Aug. 25, 2004). (Matha, T).

The Court granted the petitioner twenty days to file an *Amended Petition* with the Court to establish that the judgment in question had been revived under state law within the previous five years.

AUGUST 26, 2004

Alliance Collection Agencies, Inc. v. Michael R. Terry, CG 04-103 *Order (Default Judgment)* (HCN Tr. Ct., Aug. 26, 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.

AUGUST 30, 2004

Alliance Collection Agencies, Inc. v. Geraldine Riley, CG 04-69 *Order (Default Judgment)* (HCN Tr. Ct., Aug. 30, 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. Neil A. Whitegull, CG 04-02 *Order (Default Judgment)* (HCN Tr. Ct., Aug. 30, 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.

Beneficial WI, Inc. v. Louisa R. Decora, CG 04-88 *Order (Default Judgment)* (HCN Tr. Ct., Aug. 30, 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.

Daimler Chrysler Services North America, LLC. v. Tammy Elliot, CG 04-89 *Order (Default Judgment)* (HCN Tr. Ct., Aug. 30, 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.

Discover Bank v. Alex Sickles, CG 04-85 *Order (Default Judgment)* (HCN Tr. Ct., Aug. 30, 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.

Discover Bank By Its Servicing Agent v. Charlotte Hancock, CG 04-83 *Order (Enforcing Judgment)* (HCN Tr. Ct., Aug. 30, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to show proper grounds why the foreign judgment should not be given full faith and credit. The Court granted the petitioner's request for recognition and enforcement.

Discover Bank By Its Servicing Agent v. Charlotte Hancock, CG 04-84 *Order (Enforcing Judgment)* (HCN Tr. Ct., Aug. 30, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to show proper grounds why the foreign judgment should not be given full faith and credit. The Court granted the petitioner's request for recognition and enforcement.

AUGUST 31, 2004

Capital One v. Teresa L. Geissler, CG 03-78 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Aug. 31, 2004). (Matha, T).

The Court previously issued a judgment for the petitioner. The petitioner filed notice that the judgment had been satisfied. The Court recognized the satisfaction of the judgment.



Civil Cases

CHILDREN'S TRUST FUND (CTF)

AUGUST 3, 2004

In the Interest of Adult CTF Beneficiary: Selina Littlewolf, DOB 01/29/84 v. HCN Office of Tribal Enrollment, CV 04-70 *Order (Denial of Motion)* (HCN Tr. Ct., Aug. 3, 2004). (Matha, T).

The Court had to determine whether to grant respondent's motion for a more definite statement. The Court held that the petitioner had satisfied the procedural requisites in her filing and denied the motion.

AUGUST 6, 2004

In the Interest of Minor Child: K.R.D., DOB 02/06/87, by *Karena M. Nichols v. HCN Office of Tribal Enrollment*, CV 04-62 *Order (Petition Granted)* (HCN Tr. Ct., Aug. 6, 2004). (Matha, T). The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with the purchase of a lap top computer and attendance at college. The Court granted the request.

In the Interest of Minor Child: D.J.P., DOB 09/03/94, by *Lucie A. Penland v. HCN Office of Tribal Enrollment*, CV 04-48 *Order (Petition Granted)* (HCN Tr. Ct., Aug. 6, 2004). (Matha, T). The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with orthodontic procedures. The Court granted the request.



In the Interest of Minor Child: S.M.T., DOB 03/12/87, by *Donna L. Thundercloud v. HCN Office of Tribal Enrollment*, CV 04-52 *Order (Petition Granted)* (HCN Tr. Ct., Aug. 6, 2004). (Matha, T). The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with college attendance and transportation. The Court granted the request.

Manuel Ramirez, DOB 1-28-84 v. HCN Office of Tribal Enrollment, CV 04-65 *Order (Requiring Submission of Documents)* (HCN Tr. Ct., Aug. 6, 2004). (Bossman, W).

The plaintiff filed a *Petition* requesting release of CTF monies. The Court ordered the plaintiff to submit further documentation supporting the *Petition*.

AUGUST 27, 2004

In the Interest of Minor Child: V.B., DOB 03/04/92, by April Daniels v. HCN Office of Tribal Enrollment, CV 02-113 Order (Motion Granted) (HCN Tr. Ct., Aug. 27, 2004). (Matha, T).

The Court previously ordered a release of CTF monies for costs associated with orthodontic care and informed the parties of its intent to close the file. The petitioner brought a motion for a release of CTF monies for costs associated with the ongoing orthodontic care of the minor. The Court granted the request.

AUGUST 30, 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 (Accepting Accounting) (HCN Tr. Ct., Aug. 30, 2004). (Bossman, W).

The Court previously released funds from the ITF account of an incompetent adult for costs associated with orthodontic procedures. The petitioner submitted a payment history statement, which confirmed proper use of the funds. The Court accepted this accounting.

In the Interest of Minor Children: J.G.G., DOB 01/12/89, T.P.G., DOB 03/09/90, by William L. Goodbear v. HCN Office of Tribal Enrollment, CV 04-53 Order (Dismissal without Prejudice) (HCN Tr. Ct., Aug. 30, 2004). (Matha, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of petitioner's request. The petitioner failed to appear at the hearing. The Court dismissed the instant case without prejudice.

In the Interest of Minor Child: J.D.J., DOB 12/18/16 v. HCN Office of Tribal Enrollment, CV 04-57 Order (Granting Defendant's Motion to Seal Case) (HCN Tr. Ct., Aug. 30, 2004). (Bossman, W).

The Court granted the defendant's motion to seal the case and granted the defendant's request for a fact-finding hearing.

In the Interest of Minor Child: S.M., DOB 11/28/86, by Cara Lee Murphy v. HCN Office of Tribal Enrollment, CV 04-78 Order (Dismissal without Prejudice) (HCN Tr. Ct., Aug. 30, 2004). (Matha, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of petitioner's request. The petitioner failed to appear at the hearing. The Court dismissed the instant case without prejudice.

In the Interest of Minor Child: K.R.R., DOB 10/08/88 v. HCN Office of Tribal Enrollment, CV 04-64 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Aug. 30, 2004). (Bossman, W).

The petitioner requested permission to appear at the *Fact-Finding Hearing* by telephone. The Court granted the request.

CONTRACTS

AUGUST 24, 2004

Marx Advertising Agency, Inc. v. Ho-Chunk Nation d/b/a Ho-Chunk Casino & Bingo, Majestic Pines Casino & Bingo, Rainbow Casino & Bingo, DeJope Bingo & Al Miller & Robert Mudd, CV 04-16 Order (Conditionally Compelling Discovery Response and Scheduling Motion Hearing) (HCN Tr. Ct., Aug. 24, 2004). (Matha, T).

The Court had to determine whether to grant the plaintiff's *Motion for Order to Compel Discovery*. The defendants failed to respond to the motion. The Court granted the uncontested motion, conditioned upon the plaintiff's ability to overcome the defenses of sovereign immunity from suit and/or lack of subject matter jurisdiction.

Sandra Orozco v. Natividad Orozco, CV 04-69 Order (Default Judgment) (HCN Tr. Ct., Aug. 24, 2004). (Matha, T).

The plaintiff filed a *Complaint* alleging breach of contract by the defendant. The defendant failed to respond to the complaint within the specified time frame. The Court granted the plaintiff's requested relief.

AUGUST 31, 2004

Marx Advertising Agency, Inc. v. Ho-Chunk Nation d/b/a Ho-Chunk Casino & Bingo, Majestic Pines Casino & Bingo, Rainbow Casino & Bingo, DeJope Bingo & Al Miller & Robert Mudd, CV 04-16 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Aug. 31, 2004). (Matha, T).

The petitioner requested permission to appear at a *Pre-Trial Conference* by telephone. The Court granted the request.

EMPLOYMENT

AUGUST 23, 2004

Guy Frederick Beebe v. Ho-Chunk Nation, CV 04-34 Scheduling Order (HCN Tr. Ct., Aug. 23, 2004). (Matha, T).

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

AUGUST 30, 2004

Jill C. Adair v. HCN Dep't of Bus., CV 04-49 Order (Permission to Reschedule) (HCN Tr. Ct., Aug. 30, 2004). (Bossman, W).

The plaintiff failed to appear at the *Scheduling Conference*. The Court granted the plaintiff three weeks to reschedule.

Marcy J. Hawkins v. Ho-Chunk Nation/Casino, CV 04-32 Order (Motion Hearing) (HCN Tr. Ct., Aug. 30, 2004). (Matha, T).

The Court determined to convene a motion hearing in order to grant the defendants opportunity to argue their *Motion for Summary Judgment* and to provide the plaintiff the opportunity to respond.

AUGUST 31, 2004

Ho-Chunk Nation v. Bank of America, N.A., CV 02-93 Order (Denying Motion for Protective Order) (HCN Tr. Ct., Aug. 31, 2004). (Bossman, W).

The defendant filed a *Motion for Protective Order* against the plaintiff taking depositions of the corporate entity. The Court denied the defendant's motion.

GENERAL COUNCIL

AUGUST 5, 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; and HCN Gen. Council Planning Comm., CV 04-04 Order (Granting Defendants' Motion to Dismiss) (HCN Tr. Ct., Aug. 5, 2004) (Matha, T).

The Court had to determine whether to grant defendants' motion to dismiss. The Court dismissed the case against the Committee on the basis of sovereign immunity. The Court dismissed the suit against the individual defendants because they no longer retained official authority and therefore the Court would be unable to redress the plaintiff's alleged harm through such parties. The Court noted that even if it was enabled to grant declaratory judgments, the plaintiffs still failed to present a justiciable cause of action as they had no standing.

AUGUST 24, 2004

Kenneth Lee Twin v. Douglas Greengrass, Francis Decorah, George Lewis, Ho-Chunk Nation and HCN Dep't of Pers., CV 04-24 Order (Denying Motion for Summary Judgment) (HCN Tr. Ct., Aug. 24, 2004). (Bossman, W).

The Court had to determine whether to grant the plaintiff's *Motion for Summary Judgment*. The Court held that there were genuine issues as to material fact and that the plaintiff was not entitled to judgment as a matter of law. The Court denied the plaintiff's motion.

INCOMPETENT TRUST FUND (ITF)

AUGUST 4, 2004

In the Interest of B.F.R., DOB 09/18/19, by Dorothy Lenard v. HCN Office of Tribal Enrollment, CV 02-95 Order (Accepting Accounting) (HCN Tr. Ct., Aug. 4, 2004). (Matha, T).

The petitioner submitted a payment history statement confirming the proper use of funds the Court had previously released. The Court accepted this accounting.

AUGUST 6, 2004

In the Interest of Adult Incompetent: W.E.S., DOB 12/23/36, by Frank E. Bichanich v. HCN Office of Tribal Enrollment, CV 04-22 Order (Motion Granted) (HCN Tr. Ct., Aug. 6, 2004). (Matha, T). The Court had to determine whether a permanent guardian could access ITF monies on behalf of an adult incompetent member for costs associated with the designation of a successor permanent guardian. The Court granted the request.

AUGUST 16, 2004

In the Interest of B.F.R, DOB 09/18/19, by Dorothy Lenard v. HCN Office of Tribal Enrollment, CV 02-95 Order (Accepting Accounting) (HCN Tr. Ct., Aug. 16, 2004) (Matha, T). The petitioner submitted a payment history statement confirming the proper use of funds the Court had previously released. The Court accepted this accounting.

Juvenile

AUGUST 4, 2004

In the Interest of Minor Child: C.M.M., DOB 02/12/88, JV 04-17 Order (Appointment of Permanent Guardian) (HCN Tr. Ct., Aug. 4, 2004). (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 interest.

AUGUST 6, 2004

In the Interest of Minor Child: G.J.C., DOB 12/07/91, JV 04-14 Order (Continuation of Guardianship Hearing) (HCN Tr. Ct., Aug. 6, 2004). (Matha, T). The Court granted a continuance and rescheduled the *Guardianship Hearing* in order to provide the parent of the minor child an opportunity to obtain legal representation.



In the Interest of Minor Child: D.A.F., DOB 09/16/88, JV 03-16 Order (Accepting Accounting) (HCN Tr. Ct., Aug. 6, 2004). (Matha, T). The Court previously recognized a revocable trust agreement and incorporated its terms and conditions into a judgment. The trustee submitted a trust accounting report pursuant to the Court's *Order*. The Court accepted this accounting.

In the Interest of Minor Child: H.S.H., DOB 02/18/03, JV 03-29 Order (Termination of Jurisdiction) (HCN Tr. Ct., Aug. 6, 2004). (Matha, T). The Court terminated its jurisdiction over and supervision of the instant case.

AUGUST 9, 2004

In the Interest of Minor Child: M.C.D., DOB 03/29/99, JV 99-11 Scheduling Order (HCN Tr. Ct., Aug. 9, 2004). (Matha, T). The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case.

AUGUST 12, 2004

In the Interest of Minor Child: B.D.T., DOB 08/10/91, JV 98-10 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Aug. 12, 2004). (Bossman, W). The petitioner requested permission to appear at a *Six-Month Review Hearing* by telephone. The Court granted the request.

AUGUST 16, 2004

In the Interest of Minor Child: B.D.T., DOB 08/10/91, JV 98-10 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Aug. 16, 2004). (Bossman, W). The petitioner requested permission to appear at a *Six-Month Review Hearing* by telephone. The Court granted the request.

AUGUST 24, 2004

In the Interest of Minor Children: T.J., DOB 05/02/97, M.L.C.R., DOB 11/03/95, JV 03-46-47 Order (Appointing Counsel) (HCN Tr. Ct., Aug. 24, 2004). (Matha, T). The Court appointed counsel to represent the mother of the minor children in this matter.

In the Interest of Minor Children: T.J., DOB 05/02/97, M.L.C.R., DOB 11/03/95, JV 03-46-47 Order (Appointing Counsel) (HCN Tr. Ct., Aug. 24, 2004). (Matha, T).

The Court appointed counsel to represent the father of a minor child in this matter.

AUGUST 25, 2004

In the Interest of Minor Child: P.D.R., DOB 08/24/90, JV 03-24 Order (Child Protection Review Hearing) (HCN Tr. Ct., Aug. 25, 2004). (Matha, T).

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.



AUGUST 27, 2004

In the Interest of Minor Child: A.C.L., DOB 08/13/01, JV 04-22 Order (Appointment of Guardian Ad Litem) (HCN Tr. Ct., Aug. 27, 2004). (Matha, T).

The Court appointed a GAL in this matter.

AUGUST 30, 2004

In the Interest of Minor Child: S.J.W., DOB 02/10/93, JV 04-12 Order (Appointment of Guardian Ad Litem) (HCN Tr. Ct., Aug. 30, 2004). (Matha, T).

The Court appointed a GAL in this matter.

AUGUST 31, 2004

In the Interest of Minor Child: A.C.L., DOB 08/13/01, JV 04-22 Order (Entrance of Plea) (HCN Tr. Ct., Aug. 31, 2004). (Matha, T).

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 guilty. The Court scheduled a *Dispositional Hearing*.

In the Interest of Minor Child: S.J.W., DOB 02/10/93, JV 04-12 Order (Entrance of Plea) (HCN Tr. Ct., Aug. 31, 2004). (Matha, T).

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 guilty. The Court scheduled a *Dispositional Hearing*.

Supreme Court

AUGUST 20, 2004

Aleksandra Cichowski v. Four Winds Insurance Agency, LLC, SU 04-01 Decision (HCN S. Ct., Aug. 20, 2004).

Appellant appealed an HCN Trial Court *Order (Granting Summary Judgment)*. Appellant alleged in her original *Complaint* that she was improperly denied Worker's Compensation benefits. The Trial Court ruled that there was no genuine issue of material fact and that the defendant was entitled to judgment as a matter of law. The appellant also had a separate employment lawsuit pending before the Trial Court.

The Supreme Court overruled its order that costs of Appellant's mileage was to be paid by the Appellee for Appellee's failure to appear at Oral Argument because service was made upon Appellee in an unacceptable manner, via interdepartmental mail.

The Supreme Court denied Appellant's *Motion to Consolidate* the instant matter and her pending employment lawsuit for two reasons. First, because the employment suit was not ripe for appeal as the matter had not been finally decided by the Trial Court. Second, although the employment lawsuit arose from the same incident as the instant matter the Court found that the issues were of a different nature than the instant case.

The Supreme Court affirmed the lower court's grant of summary judgment in favor of the defendant. The Court held that the lower court correctly decided that appellant's anxiety attacks as a matter of law did not meet the definition of a bodily injury as defined by the requirements for worker's compensation.

Recent Filings

Trial Court

Child Support

AUGUST 13, 2004

Sue Mark v. Scott Hindes, CS 04-47. (Matha, T).

AUGUST 19, 2004

State of Wisconsin & Lori Johnson v. Bernard Brian Peterson, CS 04-48. (Bossman, W).

Amy Millies v. Robin Stone, CS 04-49. (Bossman, W).

State of Wisconsin/Sauk County CSA v. Lesley A. Decorah, CS 04-50. (Bossman, W).

AUGUST 23, 2004

Sara Dobbs v. Michael R. Smith, CS 04-51. (Matha, T).

Civil Garnishment

AUGUST 8, 2004

Robert Mobley v. Sarah Lemieux, CG 04-104. (Matha, T).

AUGUST 17, 2004

Financial v. Michelle L. Hozuga, CG 04-105. (Bossman, W).

AUGUST 18, 2004

Kohn Law Firm & Cottonwood v. Saresa R. Ryckman, CG 04-106. (Bossman, W).

Civil Cases

AUGUST 11, 2004

Renee Rhoades Lembche v. HCN Health & Soc. Servs., CV 04-74. (Matha, T).

Elizabeth Deere v. Annette Littlewolf, CV 04-75. (Matha, T).

Elizabeth Deere v. Willard Lonetree & Monty Green, CV 04-76. (Matha, T).

AUGUST 16, 2004

Patrick Houghton v. HCN Office of Tribal Enrollment, CV 04-77. (Bossman, W).

Dorothy Decorah v. Harold A. Lewis, CV 04-79. (Bossman, W).

Eric Houghton v. HCN Office of Tribal Enrollment, CV 04-80. (Bossman, W).

AUGUST 18, 2004

In the Interest of Minor Child: M.S., DOB 11/28/86, by Caralee Murphy v. HCN Office of Tribal Enrollment, CV 04-78. (Matha, T).

In the Interest of Minor Child: D.M.D., DOB 05/29/92 v. HCN Office of Tribal Enrollment, CV 04-81. (Bossman, W).

AUGUST 25, 2004

Sherry M. Fitzpatrick v. Ho-Chunk Nation, HCN Bus. Dep't, HCN Dep't of Pers. & Majestic Pines Casino, CV 04-82. (Matha, T).

Melody Whiteagle-Fintak v. HCN Office of Tribal Enrollment, CV 04-83. (Matha, T).

AUGUST 26, 2004

Patty Junk v. Ho-Chunk Nation, HCN Dep't of Pers., HCN Dep't of Health & Soc. Servs. and Elethe Nichols, CV 04-84. (Matha, T).

Patty Junk v. Ho-Chunk Nation, HCN Dep't of Pers., HCN Dep't of Health & Soc. Servs., CV 04-85. (Matha, T).

Juvenile Cases

NOTHING TO REPORT AT THIS TIME.

Supreme Court

AUGUST 19, 2004

Maria L. Adamiuk v. Ho-Chunk Casino, SU 04-05.



Ho-Chunk Nation Judiciary 5K Fun Run/Walk Results

OVERALL WINNERS			
<u>Male</u>	<u>Time</u>	<u>Female</u>	<u>Time</u>
Rob Voss	17:30	Jodi Webster	24:28

10 and under					
	<u>Male</u>	<u>Time</u>		<u>Female</u>	<u>Time</u>
1 st	Jay Cherwenka	37:09	1 st	Kayleen Hall	44:08
2 nd	Lael Hall, Jr.	43:47	2 nd		
3 rd			3 rd		
11-19					
	<u>Male</u>	<u>Time</u>		<u>Female</u>	<u>Time</u>
1 st	Dana Lonetree	20:07	1 st	Gabby Cleveland	26:40
2 nd	Patrick Strom	22:13	2 nd	Winonah Folkers	29:06
3 rd	Owen Cloud	22:35	3 rd	Patricia Smekofske	30:28
20-29					
	<u>Male</u>	<u>Time</u>		<u>Female</u>	<u>Time</u>
1 st	Rob Voss	17:30	1 st	Jodi Webster	24:28
2 nd	Jordan Miller	35:44	2 nd		
3 rd			3 rd		
30-39					
	<u>Male</u>	<u>Time</u>		<u>Female</u>	<u>Time</u>
1 st	Brady Palmer	20:08	1 st	Laura O'Flanagan	27:05
2 nd	Wallace Greendeer	26:43	2 nd	Angie Shegonee	32:39
3 rd			3 rd	Catherine Shegonee	50:42
40-49					
	<u>Male</u>	<u>Time</u>		<u>Female</u>	<u>Time</u>
1 st	Bill Gilmore	17:51	1 st	Nancy Toth	29:26
2 nd	Mark Butterfield	24:45	2 nd	C-Ann Cooper	41:22
3 rd	Ben Boardman	33:36	3 rd		
50-59					
	<u>Male</u>	<u>Time</u>		<u>Female</u>	<u>Time</u>
1 st	Conrad Funmaker	32:41	1 st	Judy Whitehorse	43:40
2 nd			2 nd	Bernice Blackdeer	54:54
3 rd			3 rd	Dale WhiteEagle	1:02:00
			3 rd	Theresa LoneTree	1:02:00

**All Runners and Walkers –
Sorted Alphabetically**

Female		
Blackdeer, Bernice	50 and over	54:54
Blackdeer, Ember	11-19	32:12
Blackdeer, Myra	11-19	40:54
Cherwenka, Cherrisse	11-19	37:07
Cleveland, Gabrielle	11-19	26:40
Cleveland, Kayla	11-19	32:54
Cooper, C-Ann	40-49	41:22
Decorah, Jocelyn	11-19	40:56
Edwards, Natasha	11-19	34:07
Folkers, Winonah Star	11-19	29:06
Hall, Kayleen	10 and under	44:08
King, Tasha	11-19	---
King, Tiffany	11-19	52:06
King, Trisha	11-19	34:07
LoneTree, Theresa	50 and over	1:02:00
Munden, Shena	11-19	39:43
O'Flanagan, Laura	30-39	27:05
Shegonee, Angie	30-39	32:39
Shegonee, Catherine	30-39	50:42
Slowey, Erin	11-19	32:11
Smekofske, Patricia	11-19	30:28
Smekofske, Paula	11-19	42:04
Smith, Jalisa	11-19	44:09
Toth, Nancy	40-49	29:26
Vasquez, Keisha	11-19	34:05
Vasquez, Valicia	11-19	40:56
Webster, Jodi	20-29	24:28
WhiteEagle, Dale	50 and over	1:02:00
WhiteEagle, Sara	30-39	---
Whitehorse, Judy	50 and over	43:40
Whitmen, Tina	11-19	41:22

Male		
Boardman, Ben	40-49	33:36
Butterfield, Mark	40-49	24:45
Cherwenka, Jay	10 and under	37:09
Cloud, Owen Jr.	11-19	22:35
Domenget, Lance	11-19	25:25
Funmaker, Conrad	50 and over	32:41
Gilmore, Bill	40-49	17:51
GreenDeer, Wallace	30-39	26:43
Hall, Lael Jr.	10 and under	43:47
Lonetree, Dana	11-19	20:07
Miller, Jordan	20-29	35:44
Palmer, Brady	30-39	20:08
Rave, Duncan	11-19	25:39
Storm, Patrick	11-19	22:13
Vasquez, Vincent	11-19	32:52
Voss, Rob	20-29	17:30
Youngthunder, Daniel Jr.	11-19	34:59



Justice Butterfield congratulates overall male winner Rob Voss.



**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
 Douglas Greengrass
 Desmond Mike
 Gavin Pettibone
 Douglas Red Eagle
 Preston Thompson, Jr.
 Eugene Thundercloud
 Morgan White Eagle
 Clayton Winneshiek
 Trial Court – William 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 – Rosalie Kakkak
 Staff Attorneys – Rose M. Weckenmann
 Jocelyn K. Roy
 Supreme Court Clerk – Nancy Ryan

* 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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VOL. 10, NO. 10

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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

WISCONSIN FAMILY COURT COMMISSIONERS CONVENE AT MAJESTIC PINES CASINO

HCN TRIAL COURT JUDGE A PRESENTER



HCN Trial Court Associate Judge Todd R. Matha

On Thursday, September 23, 2004, the Wisconsin Family Court Commissioners held their Fall Conference at Majestic Pines Casino in Black River Falls, Wisconsin. Among the speakers was HCN Trial Court Judge Todd Matha, who discussed the allocation of civil jurisdiction in Wisconsin between tribal, state and federal courts. Judge Matha began his discussion with a brief overview of the Ho-Chunk Nation, informing the audience on the history of the Nation and composition of the HCN government. Audience members asked a number of questions regarding Ho-Chunk Nation culture and qualifications for membership.

Judge Matha proceeded to discuss PUBLIC LAW 280, a federal statute which enables some states, including Wisconsin, to assume some criminal and civil jurisdiction on Indian lands within the state. 28 U.S.C. § 1360 (1953). Judge Matha noted that the third section of the law deems that state courts must give full force and effect to tribal ordinances and customs adopted by Indian tribes in civil causes of action, as long as those tribal ordinances and customs are not inconsistent with state law. It was suggested that in doing so, state trial courts could certify questions going to the interpretation of tribal laws and customs to tribal courts.

The next topic of discussion was the INDIAN CHILD WELFARE ACT, 25 U.S.C. §§ 1901 *et seq* (“ICWA”). Judge Matha fielded a number of questions concerning the circumstances in which ICWA would apply in state court matters. The mandatory notification requirement of ICWA was also discussed, which provides that “in any voluntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child’s tribe ...” *Id.* at § 1912 (a).

The final topic Judge Matha discussed in detail was the principle of full faith and credit as applied to judgments entered in state and tribal courts. Judge Matha reviewed the Wisconsin Supreme Court’s decision in *Teague v. Bad River Band of Lake Superior Chippewa Indians*. 265 Wis. 2d 64 (Wis. 2003). *Teague* was a case in which both a state court and a tribal court had exercised jurisdiction over the same dispute between the parties involving the termination of Teague’s employment with the tribe. *Id.* at 93. The majority opinion held that the Wisconsin full faith and credit statute, WIS. STAT. § 806.245 (2003), does not apply at the point in time, pre-judgment, where two courts become aware of the

other’s concurrent exercise of jurisdiction. *Id.* at 98. Rather, general principles of comity must be used to resolve the jurisdictional dispute.

Language from the *Teague* decision was quoted that illustrated the sensitivity federal and state governments should have towards the unique status of Indian tribes. “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. Through principles of comity, federal and state governments can develop an increased understanding of tribal sovereignty, encourage deference to and support for tribal courts, and advance cooperation, communication, respect and understanding in interacting with tribal courts.” *Id.* at 99-100 (*quoting* Janet Reno, A Federal Commitment to Tribal Justice Systems, 79 *Judicature* 113, 113-14 (Nov.Dec. 1995)).

Judge Matha proceeded to explain that the *Teague* decision lists several factors to help state and tribal courts determine which of the two courts should proceed to judgment and which should cede its jurisdiction. *Id.* at 100 – 102. He explained that the *Teague* court weighed several factors in favor of the state court ceding jurisdiction to the tribal court, including that the nature of the action implicated tribal sovereignty, that the case required the interpretation of tribal law, that the material events relating to the litigation occurred on tribal land and that the tribal court had an institutional interest in determining the validity of contracts between Indians and non-Indians. *Id.* at 103-104.

Shortly following the presentation, Ho-Chunk Nation Court staff coordinated tours of the judicial building, *Wa Ehi Hoci*, and Traditional Court member Donald Blackhawk fielded questions from the commissioners concerning tradition and custom.

Court Announcements



2003-04 Staff Attorney Rose Weckenmann

It is with deep regret that the Ho-Chunk Nation Judiciary bids farewell to Staff Attorney Rose Weckenmann. Ms. Weckenmann has been with the HCN Trial Court since July 2003 after graduating from the University of Oklahoma School of Law. She has recently accepted a position as Tribal Attorney with the Lac Courte Oreilles Band of Lake Superior Chippewa Indians in Hayward, Wisconsin.

Rose has been an invaluable resource during her tenure with the Trial Court. During her clerkship Rose has been busy offering assistance to members of the public in accessing the HCN Courts, assisting the Trial Court judges in writing decisions and orders, recently training the new staff attorney, and above all, offering her friendship to the entire staff of the HCN Judiciary. Rose will be sincerely missed and the Ho-Chunk Nation Judiciary wishes her success in her future endeavors.



Recent Decisions from Outside Courts

District of Columbia Circuit Court of Appeals

In Re: Brooks, No. 03-5047, 2004 U.S. App. LEXIS 19238 (D.C. Cir. Sept. 14, 2004).

Petitioners requested writs of mandamus relating to contempt proceedings arising from the ongoing litigation over the Department of Interior's mishandling of trust accounts created for each Indian having an interest in certain allotted lands. See *Cobell v. Norton*, 357 U.S. App. D.C. 306, 334 F.3d 1128 (D.C. Cir. 2003). The petitions sought the recusal of the district court judge and the suppression of documents created by the special master before his resignation. The petitioners were the subject of an investigation to determine whether each individual should be ordered to show cause why he or she should not be held in contempt for conduct relating to the *Cobell* litigation.

The District of Columbia Circuit Court of Appeals denied the petition to recuse the district court judge, holding that he did not abuse his discretion by refusing to recuse himself. The Court based its decision on the district court judge's unequivocal response that his *ex parte* contacts with the two special masters did not give him personal knowledge of disputed evidentiary facts.

However, the Court granted the petition to suppress the documents created by the special master relating to the contempt proceedings. The Court concluded that the contempt proceedings should never have been referred to the special master because he had *ex parte* contacts that may have given him personal knowledge of disputed evidentiary facts relevant to the proceedings. Therefore, the Court held that any documents the special master prepared pursuant to the referrals could not be disseminated in any manner.

Second Circuit Court of Appeals

Seneca Nation of Indians v. New York, Nos. 02-6185, 02-6195, 02-6197, 02-6213, 2004 U.S. App. LEXIS 19005 (2nd Cir. Sept. 9, 2004).

The Seneca Nation of Indians and the United States, as trustee for the Seneca Nation, sued to invalidate the acquisition of Niagara River Islands by the State of New York from the Seneca Nation in 1815. Plaintiffs alleged the transaction violated the Non-Intercourse Act, which bars conveyances by Indians to non-Indians unless made or ratified by Congress. See 25 U.S.C. § 177 (2001). The district court concluded that New York had acquired fee title to the Islands prior to the 1815 transaction and granted summary judgment for the defendants.

On appeal, the Second Circuit Court of Appeals affirmed the district court's decision. The Court held that the August 1764 Treaty between the Senecas and the British extinguished Seneca title to the Islands, and that, on the defeat of the British after the Revolutionary War, title passed to New York. The Court also held that neither the 1784 Treaty of Fort Stanwix nor the 1794 Treaty of Canandaigua divested New York of title to the islands. Therefore, the Court concluded that because the islands were not the property of the Seneca Nation at the time of the transaction at issue, the transaction did not violate the Non-Intercourse Act.

Sixth Circuit Court of Appeals

Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians v. Kean-Argovitz Resorts, No. 03-1267, 2004 U.S. App. LEXIS 18904 (6th Cir. Sept. 8, 2004).

In November 1998, the Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians ("Band"), a federally recognized Indian tribe, entered into two agreements with Kean-Argovitz Resorts ("KAR") relating to the development and management of a proposed gaming facility in Michigan. In January 2000 the Band unilaterally terminated its agreements with KAR and refused to submit to KAR's demand for arbitration. The Band claimed that the agreement, and therefore, the arbitration clause, was void under the INDIAN GAMING

REGULATORY ACT, 25 U.S.C. §§ 2701-21, because it was never approved by the Chairman of the National Indian Gaming Commission. The Band filed action in district court seeking a declaratory judgment and injunctive relief. KAR filed a counterclaim to require the Band to submit to arbitration. The district court granted the Band's motion for summary judgment and KAR appealed.

The Court relied on precedent in *Prima Paint Corp. v. Flood & Conklin Mfg. Co.*, 388 U.S. 395 and *Burden v. Check Into Cash of Kentucky, L.L.C.*, 267 F.3d 483 (6th Cir. 2001) in holding that where a contract contains an arbitration clause, unless the parties challenge the existence of the contract or the making of the clause, the validity of the contract must first be determined by an arbitrator rather than by a district court. Because the Band did not challenge the making of the arbitration clause or the existence of the contract, but, rather, was challenging the validity of the contract as a whole, the Court vacated the district court's judgment and remanded the case with instructions to refer the case to arbitration.

Eighth Circuit Court of Appeals

United States v. Casino Magic Corp., Nos. 03-3043, 03-3149, 2004 U.S. App. LEXIS 20364 (8th Cir. Sept. 13, 2004).

The Eight Circuit Court of Appeals had previously held that taken together, the three agreements entered into between the Sisseton-Wahpeton Sioux Tribe ("Tribe") and Casino Magic Corporation constituted a management agreement that required approval from the National Indian Gaming Commission ("NIGC"). Since they were not approved by the NIGC, the agreements were invalid and the United States was entitled to recover any fees paid by the Tribe for services rendered under the invalid contracts pursuant to 25 U.S.C. § 81. The Court remanded for a determination of fees paid by the Tribe to Casino Magic. On remand the district court awarded the United States an amount that reflected the Tribe's payments to Casino Magic pursuant to the terms of their agreement. Both parties appealed the district court's determination.

The Court of Appeals examined each category of disputed payments: borrowing fees,

indirect costs, out-of-pocket expenses, and prejudgment interest. The Court agreed with the district court's determination that the government was not entitled to the return of payments the Tribe made to Casino Magic in connection with loans or to the return of indirect costs the Tribe reimbursed to Casino Magic. The Court held that Casino Magic did not receive those borrowing fees or indirect costs in exchange for management services, or as a result of services rendered relative to the land, and therefore the Tribe could not recover them under 25 U.S.C. § 81.

Casino Magic claimed its out-of-pocket expenses should have been considered in the award analysis. However, the Court concluded that the district court properly excluded these costs from its damage calculation as the statute makes no provision for their inclusion. Finally, the Court reversed the district court's denial of prejudgment interest to the Tribe recognizing that the Tribe could only be made whole by awarding prejudgment interest and that no exceptional circumstances existed that warranted the denial of interest.

Ninth Circuit Court of Appeals

Cholla Ready Mix, Inc. v. Civish, No. 03-15423, 2004 U.S. App. LEXIS 18478 (9th Cir. Sept. 1, 2004).

Plaintiff construction company filed suit alleging that a state policy against using materials mined from Woodruff Butte in state projects violated the Establishment Clause of the First Amendment, federal civil rights laws, and the Arizona Constitution. Woodruff Butte was considered eligible for listing on the National Register of Historic Places and as being of religious, cultural, and historical significance to several Native American Tribes. The district court dismissed all plaintiff's claims against defendants Arizona state officials.

The Ninth Circuit Court of Appeals affirmed the district court's decision. The Court held that the district court properly concluded that the state law claims were barred by the Eleventh Amendment. The Court also concluded that the district court properly dismissed plaintiff's Establishment Clause claim. The Court noted that government conduct

only violates the Establishment Clause if it has a secular purpose, its primary effect is to advance or inhibit religion, or it fosters excessive government entanglement with religion.

In this case, the Court concluded that the state officials' policy had a secular purpose: to carry out state construction projects so as not to harm an important Native American site. The Court also held that the policy did not convey endorsement or approval of the Tribes' religions, but merely accommodated them. Additionally, the Court held that the Arizona officials' policy did not constitute excessive entanglement with religion because the Tribes also represented a common heritage and culture and were not solely religious organizations. Finally, the Court held that the district court correctly concluded that appellant failed to state a claim that the defendants discriminated against it on the basis of race under federal civil rights laws.

Magiera v. Norton, No. 02-17364, 2004 U.S. App. LEXIS 18637 (9th Cir. Sept. 2, 2004).

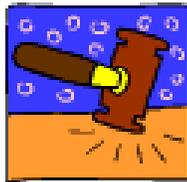
Plaintiffs appealed the district court's dismissal without prejudice of their suit against defendants for actions arising out of a dispute over the governance of the Winnemucca Indian Colony in Winnemucca, Nevada. The Court of Appeals affirmed the district court's decision. The Court held that plaintiffs did not meet their burden of "showing an unequivocal waiver of [sovereign] immunity." *citing Baker v. United States*, 817 F.2d 560, 592 (9th Cir. 1987). The Court concluded that while a breach of a specific trust relationship between the United States and an Indian tribe is sufficient to state a waiver of sovereign immunity against the United States, plaintiffs did not point to statutes or regulations that clearly established a fiduciary relationship in this instance or define the government's fiduciary responsibilities. The Court also noted in dicta that the NON-INTERCOURSE ACT, 25 U.S.C. § 177 could not serve the purpose of waiving sovereign immunity in this instance because plaintiffs did not sue as an Indian tribe.

Tenth Circuit Court of Appeals

Wyo. Saw Mills Inc. v. United States Forest Serv., No. 02-8009, 2004 U.S. App. LEXIS 19541 (10th Cir. Sept. 20, 2004).

The Medicine Wheel is a prehistoric stone circle which a number of Native American tribes consider sacred, and is located in Bighorn National Forest in Wyoming. The Medicine Wheel National Historic Landmark was created in 1969 to preserve the Medicine Wheel. In September 1996, the Forest Service adopted a long-term Historic Preservation Plan (“HPP”) to ensure that the area including and surrounding the Medicine Wheel was managed in a manner that protects its integrity. Plaintiff, a commercial timber company, filed suit in district court claiming the HPP violated the Establishment Clause and also claimed the HPP violated the National Forest Management Act (“NFMA”). An intervenor defendant moved to dismiss the complaint. The district court held that plaintiff did not have standing to bring its First Amendment claim. The district court addressed the merits of the NFMA claim and found for the defendants.

The Tenth Circuit Court of Appeals affirmed the district court’s decision that Plaintiff did not have standing to bring its First Amendment claim, concluding that plaintiff’s alleged economic injury of the loss of opportunity for logging was an insufficient basis for standing. The Court also affirmed the district court’s decision against the plaintiff on the merits of its NFMA claim. The Court found that the procedural protections plaintiff invoked under NFMA were not required because the amendment incorporating the HPP was not a “significant” alteration of the Forest Management Plan.



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

SEPTEMBER 7, 2004

Aubrey McCauley v. Keramy Funmaker, CS 00-20 Order (Enforcing Arrearage Withholding) (HCN Tr. Ct., Sept. 7, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

Marcie Warfield v. Howard Decora, CS 03-76 *Order (Modifying Child Support and Enforcing Deduction from Wages)* (HCN Tr. Ct., Sept. 7, 2004). (Matha, T).

The Court had to determine whether to grant the petitioner's motion to modify. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for modification and enforcement.

State of Wisconsin v. Terrance M. Henry, CS 02-34 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Sept. 7, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support arrearage withholding with a certified accounting statement. The Court granted the motion.

State of Wisconsin/Jackson County v. Greg D. Henry, CS 99-64 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Sept. 7, 2004). (Matha, T).

The Court had to determine whether to grant the petitioner's motion to modify. The respondent failed to answer within the specified time frame. The Court granted the petitioner's request for modification and enforcement.

State of Wisconsin/Jackson County v. Robin LaMere, CS 04-47 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Sept. 7, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support arrearage withholding with a certified accounting statement. The Court granted the motion.

SEPTEMBER 13, 2004

Marcie Warfield v. Howard Decora, CS 03-76 *Order (Modifying Child Support and Enforcing Deduction from Wages)* (HCN Tr. Ct., Sept. 7, 2004). (Matha, T).

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

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

State of Wisconsin/Jackson County v. Janice Harrison, CS 03-43 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Sept. 13, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support withholding with a certified accounting statement. The Court granted the motion.

SEPTEMBER 16, 2004

State of Wisconsin & Tera Lynn Kofler v. Vincent Ronald Palasz, CS 04-41 *Order (Enforcing Child Support)* (HCN Tr. Ct., Sept. 16, 2004). (Bossman, W).

The Court had to determine whether to enforce a standing foreign child support order against respondent's per capita payments. The respondent requested that the Court temporarily refrain from enforcing the foreign order. Petitioner subsequently filed a motion requesting enforcement of a second foreign order. The Court granted the unopposed motion.

SEPTEMBER 20, 2004

Dawn Burket v. Lawrence J. Hengel, CS 99-41 *Notice (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Sept. 20, 2004). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation 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 high school enrollment.

Jan C. LaCount v. Curtis J. Pidgeon, CS 03-11 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Sept. 20, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support arrearage withholding with a certified accounting statement. The Court granted the motion.

June Miller v. Larry Fanning, CS 98-71 Order (Ceasing Current Child Support Withholding and Enforcing Arrears Withholding) (HCN Tr. Ct., Sept. 20, 2004). (Bossman, W).

The petitioner filed a motion requesting modification of child support withholding. The motion requested suspension of current child support withholding and enforcement of child support arrearage withholding from respondent's per capita. The Court granted the motion.

State of Wisconsin v. Twilight M. Hindsley, CS 04-37 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Sept. 20, 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.



SEPTEMBER 21, 2004

Denise Amundson v. Robert White, CS 03-07 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Sept. 21, 2004). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation 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 high school enrollment.

Tammy L. Blackdeer v. Clifford T. Blackdeer, CS 99-67 Order (Modifying & Enforcing Child Support) (HCN Tr. Ct., Sept. 21, 2004). (Matha, T).

The respondent filed a motion requesting modification of current child support withholding. The petitioner failed to respond within the specified time frame. The Court granted the motion.

Tammy L. Blackdeer v. Clifford T. Blackdeer, CS 99-67 Order (Modifying Child Support and Enforcing Deduction from Wages) (HCN Tr. Ct., Sept. 21, 2004). (Matha, T).

The respondent filed a motion requesting modification of current child support withholding. The petitioner failed to respond within the specified time frame. The Court granted the motion.

Debra Crowe v. Foster D. Cloud, CV 96-84 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Sept. 21, 2004). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation 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 high school enrollment.

Barbara Funmaker v. John L. Whitewater, CV 97-148 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Sept. 21, 2004). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation 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 high school enrollment.

Loretta Hopinka v. Dean Hopinka, CS 99-14 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Sept. 21, 2004). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation 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 high school enrollment.

Lana Lincoln v. Jon Eric Minor, CS 99-62 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Sept. 21, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed

a motion to amend child support arrearage withholding with a certified accounting statement. The Court granted the motion.

Barbara Long v. Garrett Banuelos, Sr., CV 97-88 *Notice (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Sept. 21, 2004). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation 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 high school enrollment.

Kathy Stacy v. Arnold Cloud, JV 97-14 *Order (Ceasing Child Support)* (HCN Tr. Ct., Sept. 21, 2004). (Bossman, W).

The Court previously ordered that child support be withheld from defendant's per capita distribution for satisfaction of current child support owed on behalf of the minor child. The minor child turned eighteen (18) years of age. The Court ordered that the HCN Department of Treasury cease current child support withholding from defendant's per capita payments.

State of Wisconsin v. Christopher Littlewolf, CV 97-112; *State of Wisconsin/Jackson County v. Christopher Littlewolf*, CS 03-03 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Sept. 21, 2004). (Matha, T).

The petitioner filed motions requesting modification of current child support and arrearage withholding. The respondent failed to respond within the specified time frame. The Court granted the motion.

State of Wisconsin/Sauk County & Victoria Blackcoon v. John S. Cloud, CS 98-34 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Sept. 21, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support arrearage withholding with a certified accounting statement. The Court granted the motion.

SEPTEMBER 27, 2004

Sara Dobbs v. Michael R. Smith, CS 04-51 *Order (Default Judgment for Child Support Deduction from Wages)* (HCN Tr. Ct., Sept. 27, 2004). (Bossman, W).

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.

SEPTEMBER 28, 2004

Jadie A. Whittier v. Scott Hindes, CS 04-47 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Sept. 28, 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.

State of Wisconsin v. Roger Houghton, CS 04-54 *Order (Enforcing Child Support)* (HCN Tr. Ct., Sept. 28, 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 requested enforcement of the foreign child support order. The Court granted the respondent's request for recognition and enforcement.

State of Wisconsin/Jackson County v. Leaf O. Funmaker, CS 03-35 *Order (Delaying Enforcement of Arrearage Withholding)* (HCN Tr. Ct., Sept. 28, 2004). (Matha, T).

The petition filed a motion to amend child support arrearage withholding with a certified accounting statement. The respondent filed a timely response, objecting to the modification of the underlying enforcement order. The Court provided the respondent ten days to file a certified foreign court order. The Court warned that failure to do so will result in the modification of arrearage withholding requested by the petitioner.

State of Wisconsin/Sauk Co. v. Lesley A. Decorah, CS 04-50 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Sept. 28, 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.

SEPTEMBER 29, 2004

Dawn Burket v. Lawrence J. Hengel, CS 99-41; *Washington County Cmty. Servs. on behalf of Michelle L. Kelly v. Lawrence J. Hengel*, CS 00-47 *Order (Proof of High School Enrollment Filed)* (HCN Tr. Ct., Sept. 29, 2004). (Matha, T).

The Court previously issued a notice, notifying the parties that a minor child would be turning eighteen (18) 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.

Debra Crowe v. Foster D. Cloud, CV 96-84 *Order (Proof of High School Enrollment Filed)* (HCN Tr. Ct., Sept. 29, 2004). (Matha, T).

The Court previously issued a notice, notifying the parties that a minor child would be turning eighteen (18) 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.

SEPTEMBER 30, 2004

Amy Millis v. Robin A. Stone, CS 04-49 *Order (Granting Recognition of Foreign Order and Declining Enforcement Against Per Capita Distributions)* (HCN Tr. Ct., Sept. 30, 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 Court determined that the obligation is being met through wage withholding. The Court recognized the foreign court order and declined to enforce it.

State of Wisconsin/Amy J. Polo v. Timothy M. Growne, CS 04-42; *State of Wisconsin/Janet L. Krzmarcik v. Timothy M. Browne*, CS 04-43 *Order (Default Judgment – Enforcing Child Support)* (HCN Tr. Ct., Sept. 30, 2004). (Bossman, W).

The Court had to determine whether to enforce two standing foreign child support orders against the respondent's per capita payments. The respondent failed to respond within the specified time frame. The Court granted the petitioners' requests for recognition and enforcement.



Civil Garnishment

SEPTEMBER 9, 2004

Daimler Chrysler Servs. N. Am. LLC v. Tammy Elliot, CG 04-89 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., Sept. 9, 2004). (Bossman, W).

The petitioner requested that the court dismiss the instant case. The Court granted this request for relief. The Court granted the petitioner leave to re-file this action in the event of a future change in circumstances.

Robert Mobley v. Sarah Lemieux, CG 04-104 *Scheduling Order* (HCN Tr. Ct., Sept. 9, 2004). (Bossman, W).

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

SEPTEMBER 13, 2004

Check Advance v. Megan Ray, CG 04-76 *Order (Conditional Denial of Petition)* (HCN Tr. Ct., Sept. 13, 2004). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The petitioner failed to submit a superseding judgment in order to rebut respondent's claimed exemptions. The Court denied the petitioner's request for recognition and enforcement.

Ford Motor Credit Co. v. John Funmaker, CG 04-86 *Order (Default Judgment)* (HCN Tr. Ct., Sept. 13, 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.

Greater LaCrosse Radiological v. Daniel & Denice Krofta, CG 04-06 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Sept. 13, 2004). (Bossman, W).

The petitioner 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.

Household Finance Corp. III v. Garland Decorah, CG 04-82 *Order (Granting Twenty Days to File Amended Petition)* (HCN Tr. Ct., Sept. 13, 2004). (Bossman, W).

The Court granted the petitioner twenty days to file an *Amended Petition* with the Court to establish that the judgment in question had been revived within the previous five years.

Retailers National Bank v. Sylvia Green, CG 04-60 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Sept. 13, 2004). (Bossman, W).

The petitioner filed a *Satisfaction of Judgment*. The Court recognized that the debt was paid in full and informed the parties of its intent to close the file.



SEPTEMBER 14, 2004

Chitwood, Nicol, & Matthews v. Brent White Eagle, CG 04-32 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Sept. 14, 2004). (Bossman, W).

The petitioner filed a *Satisfaction of Judgment*. The Court recognized that the debt was paid in full and informed the parties of its intent to close the file.

SEPTEMBER 27, 2004

Cottonwood Financial Ltd. v. Saresa Ronald Ryckman, CG 04-106 *Order (Default Judgment)* (HCN Tr. Ct., Sept. 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.

Corey Kissack v. Simone Cloud, CG 04-107 *Order (Default Judgment)* (HCN Tr. Ct., Sept. 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.

SEPTEMBER 28, 2004

Alliance Collection Agencies, Inc. v. Bryan J. Ringer, CG 04-93 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., Sept. 28, 2004). (Matha, T).

The Court had previously granted the petitioner twenty (20) days to file an *Amended Petition*. The petitioner failed to file an *Amended Petition*. The Court dismissed the case without prejudice.

Alliance Collection Agencies, Inc. v. Marie R. Thieme, CG 04-100 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., Sept. 28, 2004). (Matha, T).

The Court had previously granted the petitioner twenty (20) days to file an *Amended Petition*. The petitioner failed to file an *Amended Petition*. The Court dismissed the case without prejudice.



Civil Cases

CHILDREN'S TRUST FUND (CTF)

SEPTEMBER 2, 2004

In the Interest of Minor Child: K.R.R., DOB 10/08/88, by Samuel Rodriguez v. HCN Office of Tribal Enrollment, CV 04-64 Order (Petition Granted) (HCN Tr. Ct., Sept. 2, 2004). (Bossman, W).

The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated orthodontic procedures. The Court granted the request.

SEPTEMBER 9, 2004

In the Interest of Minor Child: D.M.D., DOB 05/29/92, by Laurie A. Dorwin v. HCN Office of Tribal Enrollment, CV 04-81 Order (Petition Granted) (HCN Tr. Ct., Sept. 9, 2004). (Bossman, W).

The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated orthodontic procedures. The Court granted the request.

SEPTEMBER 14, 2004

In the Interest of Minor Child: S.D., DOB 7/9/91, by Karena Nichols v. HCN Office of Tribal Enrollment, CV 04-87 Order (Petition Granted) (HCN Tr. Ct., Sept. 14, 2004). (Bossman, W).

The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated orthodontic procedures. The Court granted the request.

SEPTEMBER 28, 2004

In the Interest of Minor Children: B.C.G., DOB 01/18/91; B.A.G., DOB 07/07/92; S.S.G., DOB 02/05/94, by Sherry Lonetree-Gray v. HCN Office of Tribal Enrollment, CV 04-89 Order (Petition Granted) (HCN Tr. Ct., Sept. 28, 2004). (Matha, T).

The Court had to determine whether a parent could access CTF monies on behalf of her minor children for costs associated orthodontic procedures. The Court granted the request.

SEPTEMBER 29, 2004

In the Interest of Minor Child: M.W., DOB 07/09/95, by Melody Whiteagle-Fintak v. HCN Office of Tribal Enrollment, CV 04-83 Order (Partial Conditional Granting of Petition) (HCN Tr. Ct., Sept. 29, 2004). (Matha, T).

The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with the purchase of clothing and a washer and dryer. The Court granted the request as to clothing, conditioned upon the petitioner identifying a vendor and needed clothing. As to the washer and dryer, the Court conditioned the granting of the request upon the petitioner demonstrating the ability to pay half the total cost.

SEPTEMBER 30, 2004

In the Interest of Minor Child: J.D.J., DOB 12/18/86, by HCN Child & Family Servs. v. HCN Office of Tribal Enrollment, CV 04-57 Order (Dismissal Without Prejudice) (HCN Tr. Ct., Sept. 30, 2004). (Bossman, W).

The petitioner requested that the Court dismiss the instant case. The Court granted the petitioner's request.

CONTRACTS

SEPTEMBER 8, 2004

Dorothy Decorah v. Harold A. Lewis, CV 04-79 Scheduling Order (HCN Tr. Ct., Sept. 8, 2004). (Bossman, W).

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

SEPTEMBER 10, 2004

Marx Adver. Agency, Inc. v. HCN d/b/a Ho-Chunk Casino & Bingo, Majestic Pines Casino & Bingo, Rainbow Casino & Bingo, DeJope Bingo & Al Miller & Robert Mudd, CV 04-16 Order (Granting Motion to Dismiss) (HCN Tr. Ct., Sept. 10, 2004). (Matha, T).

The Court had to determine whether to grant the defendants' *Motion to Dismiss* based on a claim of sovereign immunity. The Court held that the limited waiver contained in the contract addressed "payment for services delivered," and not payment for anticipated services as the plaintiff was requesting. The Court granted defendants' motion.

SEPTEMBER 21, 2004

Orvilla R. White Eagle v. Todd A. Cloud, CV 02-06 *Order (Requesting Proof of Satisfaction of Judgment)* (HCN Tr. Ct., Sept. 21, 2004). (Bossman, W).

The Court previously entered a *Default Judgment* against the defendant. The Court requested that the defendant submit the required proof of satisfaction of the judgment to the Court.

SEPTEMBER 27, 2004

Rick Mattison v. Joan Whitewater, CV 04-43 *Pre-Trial Order* (HCN Tr. Ct., Sept. 27, 2004). (Bossman, W).

The Court convened a *Pre-Trial Conference*. The plaintiff presented two *Motions* in the case. The Court denied both motions for failure to state adequate legal grounds. The Court scheduled *Trial* in the matter.

DEBTS TO THE NATION**SEPTEMBER 14, 2004**

HCN Dept. of Health & Soc. Servs. v. Carol Ann Rockman, CV 04-02 *Order (Postponing Trial)* (HCN Tr. Ct., Sept. 14, 2004). (Bossman, W).

The plaintiff requested postponement of the *Trial*. The Court granted the request.

SEPTEMBER 20, 2004

HCN Dep't of Admin. v. Lot Lawrence Smith, II, CV 02-27 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Sept. 20, 2004). (Bossman, W).

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.

EMPLOYMENT**SEPTEMBER 3, 2004**

Kenneth Lee Twin v. Toni McDonald, Ho-Chunk Nation & HCN Dept. of Pers., CV 04-27 *Scheduling Order* (HCN Tr. Ct., Sept. 3, 2004). (Matha, T).

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

SEPTEMBER 13, 2004

Kathy Dlask v. Ho-Chunk Casino, CV 04-60 *Scheduling Order* (HCN Tr. Ct., Sept. 13, 2004). (Bossman, W).

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

Kathy Dlask v. Ho-Chunk Casino & Steven Anderson, CV 04-71 *Scheduling Order* (HCN Tr. Ct., Sept. 13, 2004). (Bossman, W).

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

SEPTEMBER 14, 2004

Patricia Boyles v. Christine Steeples, Exec. Dir. of Health & Soc. Servs., Hattie Walker, HSS Div. Adm'r, Toni McDonald, Exec. Dir. of Pers., George Lewis, HCN President, CV 04-08 *Order (Postponing Trial)* (HCN Tr. Ct., Sept. 14, 2004). (Bossman, W).

The plaintiff requested postponement of the *Trial*. The Court granted the request.

HOUSING**SEPTEMBER 8, 2004**

Ronald Kent Kirkwood v. Francis Decorah, in his official capacity as Dir. of HCN Hous. Dep't, and all predecessor directors, in their official capacity; Levi Thunder, Iris Cleveland, Donald Greengrass, Mike Goze, and Frank Johnson, in their official capacity as members of the Housing Board of the Ho-Chunk Nation, and their predecessors; and Wade Blackdeer, Elliot Garvin, Clarence Pettibone, Tracy Thundercloud, Dallas WhiteWing, Gerald Cleveland, Sr., Christine Romano, Myrna Thompson, John Dall, Kathyleen Whiterabbit, and Sharyn Whiterabbit, in their official capacity as Legislators of the Ho-Chunk Nation, and all predecessor Legislators, CV 04-33 *Order (Modification of Scheduling Order)* (HCN Tr. Ct., Sept. 8, 2004). (Matha, T).

The Court had to determine whether to modify the initial scheduling order due to the filing of an amended pleading on the established deadline and an agreed-upon extension of the discovery period. The Court granted a modification to accommodate the occurrences.

INCOMPETENT TRUST FUND (ITF)

SEPTEMBER 3, 2004

In the Interest of Adult Incompetent: Oliver S. Rockman, CV 97-117 Order (Granting Release of Per Capita Funds) (HCN Tr. Ct., Sept. 3, 2004). (Bossman, W).

The Court had to determine whether a protective payee could access ITF monies on behalf of an adult incompetent member for costs associated with the protective payee's expenses and the member's spending allowance. The Court granted the request.

SEPTEMBER 13, 2004

In re: Bruce Patrick O'Brien, by Elethe Nichols v. HCN Office of Tribal Enrollment, CV 96-46 Order (Clarifying Previous Release of Funds) (HCN Tr. Ct., Sept. 13, 2004). (Bossman, W).

The Court previously released funds from an ITF account for various purposes, including a monthly allowance. The Court directed that a monthly check be prepared to represent the monthly allowance requested by the guardian.

SEPTEMBER 29, 2004

In the Interest of Readonna Lei Wilson, by Clarence Skinner v. HCN Office of Tribal Enrollment, CV 00-44 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Sept. 29, 2004). (Matha, T).

The Court's granted the party's request to appear by telephone at the *Fact-Finding Hearing*.

Juvenile

SEPTEMBER 2, 2004

In the Interest of Minor Child: L.R.L., DOB 11/01/02, JV 04-20 Order (Entrance of Plea) (HCN Tr. Ct., Sept. 2, 2004). (Matha, T).

The Court convened a *Plea Hearing* for the purpose of determining whether the parents of the minor child wished to contest the allegations contained in the *Child/Family Protection Petition*. The mother of the minor child entered a plea of guilty. The Court scheduled a *Dispositional Hearing*.



SEPTEMBER 3, 2004

In the Interest of Minor Child: L.R.L., DOB 11/01/02, JV 04-20 Order (Appointment of Guardian Ad Litem) (HCN Tr. Ct., Sept. 3, 2004). (Matha, T).

The court appointed a GAL in this matter.

SEPTEMBER 8, 2004

In the Interest of Minor Children: T.J., DOB 05/02/97, M.L.C.R., DOB 11/03/95, JV 03-46-47 Order (Entrance of Plea) (HCN Tr. Ct., Sept. 8, 2004). (Matha, T).

The Court convened a *Plea Hearing* for the purpose of determining whether the parents of the minor child wished to contest the allegations contained in the *Child/Family Protection Petition*. The mother of the minor child entered a plea of guilty and the Court entered a plea of not guilty on behalf of the purported father. The Court scheduled a *Dispositional Hearing*.

SEPTEMBER 9, 2004

In the Interest of Minor Children: B.D.T., DOB 08/10/91, JV 98-10 Order (Termination of Jurisdiction) (HCN Tr. Ct., Sept. 9, 2004). (Bossman, W).

Due to substantial completion of the dispositional requirements, the Court terminated its jurisdiction and supervision over the case.

SEPTEMBER 10, 2004

In the Interest of Minor Child: J.D.S., DOB 09/08/03, JV 03-30 Order (Submission of Guardianship Report and Home Study) (HCN Tr. Ct., Sept. 10, 2004). (Matha, T).

The Court ordered CFS to prepare and submit a guardianship report and home study to the Court.

In the Interest of Minor Children: J.R.P., DOB 02/27/92, L.M.P., DOB 05/12/90, L.K.K., DOB 12/12/97, JV 03-01-02-03 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Sept. 10, 2004). (Matha, T).

The Court's granted the party's request to appear by telephone at the *Child Protection Review Hearing*.

SEPTEMBER 16, 2004

In the Interest of Minor Child: G.J.C., DOB 12/07/91, JV 04-14 Order (Dismissal of Petition) (HCN Tr. Ct., Sept. 16, 2004). (Matha, T).
 Petitioners failed to appear at the *Guardianship Hearing*. The Court dismissed the petition.

SEPTEMBER 22, 2004

In the Interest of Minor Child: S.E.C., DOB 02/25/96, JV 03-11 Order (Status Hearing) (HCN Tr. Ct., Sept. 22, 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.

SEPTEMBER 24, 2004

In the Interest of Minor Children: J.H.D., DOB 12/08/87; T.L.B., DOB 03/18/97; J.W.P., DOB 12/06/93, JV 04-24-25-26 Order (Granting Emergency Temporary Legal/Physical Custody) (HCN Tr. Ct., Sept. 24, 2004). (Matha, T).
 The Court had to determine whether to grant emergency temporary legal and/or physical custody of the minor children. The Court granted custody “as necessary to ensure the safety of children within the Hocak community.”

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 03-01-02-03 Order (Child Protection Review Hearing) (HCN Tr. Ct., Sept. 24, 2004). (Matha, T).
 The Court conducted a *Child Protection Review Hearing*. The Court assessed whether to make changes to the dispositional order. The Court determined to maintain the status quo.

SEPTEMBER 27, 2004

In the Interest of Minor Children: T.J., DOB 05/02/97; M.L.C.R., DOB 11/03/95, JV 03-46-47 Order (Dispositional Requirements) (HCN Tr. Ct., Sept. 27, 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.

SEPTEMBER 28, 2004

In the Interest of Minor Child: L.R.L., DOB 11/02/02, JV 04-20 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Sept. 28, 2004). (Matha, T).
 The Court’s granted the party’s request to appear by telephone at the *Dispositional Hearing*.

SEPTEMBER 30, 2004

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 03-48-49-50 Order (Revocation Hearing) (HCN Tr. Ct., Sept. 30, 2004). (Matha, T).
 The mother of the minor children filed a motion seeking revocation of temporary guardianship. The Court ordered that it will convene a *Revocation Hearing* to determine whether it is in the best interests of the children to return them to the parent.

In the Interest of Minor Child: D.D.F., DOB 07/08/94, JV 04-28 Order (Acceptance of Transfer) (HCN Tr. Ct., Sept. 30, 2005). (Bossman, W).
 The Court had to determine whether to accept transfer of a children’s case in which a minor child eligible for enrollment in the Ho-Chunk Nation is subject to foster care placement. The Court did not decline transfer of this action.

In the Interest of Minor Child: S.J.W., DOB 02/10/93, JV 04-12 Order (Paternal Conditions) (HCN Tr. Ct., Sept. 30, 2004). (Matha, T).
 The Court convened a *Trial* for the purpose of hearing evidence against the father of the minor child. The father failed to attend the proceeding. The Court adopted the same requirement as the state court in relation to the father of the minor child.

Supreme Court

NOTHING TO REPORT AT THIS TIME.

Recent Filings

Trial Court

Child Support

SEPTEMBER 1, 2004

Kentwan Lee Dixon v. Johna Lee Fisher, CS 04-52.
(Bossman, W).

SEPTEMBER 15, 2004

Teresa D. Powers v. Darryl S. Powers, CS 04-53.
(Bossman, W).

*State of Wisconsin/Wood County & Amber Mahlon
v. Roger Houghton*, CS 04-54. (Bossman, W).

*State of Wisconsin/Juneau County CSA v. Bridget
Whipple*, CS 04-55. (Bossman, W).

SEPTEMBER 16, 2004

Leora Naquayouma v. David Naquayouma, CS 04-
56. (Bossman, W).

SEPTEMBER 27, 2004

Tara Gabl v. Jesse Snowball, CS 04-58.
(Bossman, W).

SEPTEMBER 28, 2004

*State of Wisconsin/Eau Claire County v. Travis
Jacobson*, CS 04-59. (Bossman, W).

*State of Wisconsin/Eau Claire County v. Travis
Jacobson*, CS 04-60. (Bossman, W).

*State of Wisconsin/Sauk County & Maureen
Bighorn v. Harvey Holst, Jr.*, CS 04-61. (Bossman,
W).

*State of Wisconsin/Outgamie County v. Carrie
Knapp*, CS 04-62. (Bossman, W).



Civil Garnishment

SEPTEMBER 1, 2004

Corey Kissack v. Simone Cloud, CG 04-107.
(Bossman, W).

SEPTEMBER 10, 2004

Donald & Denise Lambrecht v. Jim Menore, CG
04-108. (Matha, T).

SEPTEMBER 16, 2004

Quick Cash Loans v. Sonia Roberts, CG 04-109.
(Bossman, W).

Discover Financial Servs. v. Jeremy W. Bagnowski,
CG 04-110. (Bossman, W).

*Franciscan Skemp Healthcare v. Luann
Littlegeorge*, CG 04-111. (Bossman, W).

Quick Cash Loans v. Christine Brown, CG 04-112.
(Bossman, W).

Alliance Collection Agencies, Inc. v. Jack Peterson,
CG 04-113. (Bossman, W).

Check Advance v. Lisa Clemmerson, CG 04-114.
(Bossman, W).

Alliance Collection Agencies v. James L. Schier,
CG 04-115. (Bossman, W).

Philip Prahl v. William Brown, CG 04-116.
(Bossman, W).

SEPTEMBER 29, 2004

Riverview Hospital v. Kay S. Thompson, CG 04-
117. (Bossman, W).

James E. Esselman, DDS v. Kay Weikel, CG 04-
118. (Bossman, W).

Debbie Pettibone v. Cavalry Spy II, LLC, CG 04-
119. (Bossman, W).

OSI Portfolio Servs., Inc. v. Diane Seipp, CG 04-
120. (Bossman, W).

OSI Collections Servs., Inc. v. Michael P. Garske, CG 04-121. (Bossman, W).

Boscobel Area Health Care v. Daniel Johnson, CG 04-122. (Bossman, W).

State Collection Serv. v. Lori Littlegeorge, CG 04-123. (Bossman, W).

Arnold Haessly v. Jerry McCrossen, CG 04-124. (Bossman, W).

Civil Cases

SEPTEMBER 3, 2004

In the Interest of Minor Children: B.A.S., DOB 1/17/84, B.W.S., DOB 6/6/85, S.M.S., DOB 12/23/87, by Brenda Sanford v. HCN Office of Tribal Enrollment, CV 04-86. (Bossman, W).

In the Interest of Minor Child: S.D., DOB 7/9/91 v. HCN Office of Tribal Enrollment, CV 04-87. (Bossman, W).

SEPTEMBER 8, 2004

Wehuh Cloud v. Jonette Pettibone & Majestic Pines Casino, CV 04-88. (Matha, T).

SEPTEMBER 10, 2004

In the Interest of Minor Children: B.G.G., DOB 1/18/91, B.A.G., DOB 7/7/92, S.S.G., DOB 2/5/94, by Sherry Lonetree Gray v. HCN Office of Tribal Enrollment, CV 04-89. (Matha, T).

SEPTEMBER 15, 2004

Ken Twinn v. Douglas Greengrass, Toni McDonald, George Lewis, Ho-Chunk Nation & HCN Pers., CV 04-90. (Bossman, W).

SEPTEMBER 16, 2004

Lita Annett Brown v. Toni McDonald & James Webster, CV 04-91. (Bossman, W).

SEPTEMBER 20, 2004

Wehah Cloud v. Jonette Pettibone & Majestic Pines Casino, CV 04-92. (Matha, T).

SEPTEMBER 22, 2004

In the Interest of Minor Child: S.K.B., DOB 12/29/92, by Helene M. Bean v. HCN Office of Tribal Enrollment, CV 04-93. (Matha, T).

SEPTEMBER 27, 2004

Michael A. Funmaker v. HCN Office of Tribal Enrollment, CV 04-94. (Matha, T).

In the Interest of Minor Children: C.Y.G.O., DOB 12/05/89, by Sybil R. Grey Owl (Funmaker) v. HCN Office of Tribal Enrollment, CV 04-95. (Bossman, W).

SEPTEMBER 29, 2004

Louella Youngthunder v. Jonette Pettibone, CV 04-96. (Bossman, W).

Juvenile Cases

SEPTEMBER 9, 2004

In the Interest of Minor Child: J.L.G., DOB 7/24/92, JV 04-23. (Matha, T).

SEPTEMBER 24, 2004

In the Interest of Minor Child: J.H.D., DOB 12/08/87, JV 04-24. (Matha, T).

In the Interest of Minor Child: T.L.B., DOB 03/18/97, JV 04-25. (Matha, T).

In the Interest of Minor Child: J.W.P., DOB 12/06/93, JV 04-26. (Matha, T).

SEPTEMBER 28, 2004

In the Interest of Minor Child: J.C.B., DOB 09/01/88, JV 04-27. (Bossman, W).

In the Interest of Minor Child: D.D.F., DOB 07/08/94, JV 04-28. (Bossman, W).

Supreme Court

SEPTEMBER 3, 2004

Timothy Whiteagle & Gretchen Eagleman v. Alvin Cloud, et al., SU 04-06.



**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
Douglas Greengrass
Desmond Mike
Gavin Pettibone
Douglas Red Eagle
Preston Thompson, Jr.
Eugene Thundercloud
Morgan White Eagle
Clayton Winneshiek
Trial Court – William 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 – Rosalie Kakkak
Staff Attorney – Jocelyn K. Roy
Supreme Court Clerk – Nancy Ryan

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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>

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HO-CHUNK NATION COURT BULLETIN

U.S. Supreme Court Won't Go to the Heart of *Artichoke Joe's*

On October 4, 2004, the United States Supreme Court denied certiorari to *Artichoke Joe's et al. v. Norton, Secretary of the Interior, et al.*, 353 F.3d 712 (9th Cir. 2003), *cert. denied*, 2004 U.S. LEXIS 5595 (Oct. 4, 2004). While a denial of a certiorari generally does not serve as precedent in the sense that the Court does not express an opinion on the merits of the case, it does serve as recognition that the case can be resolved under standing precedent. In other words, the Supreme Court denies certiorari to those cases that fail to present a new or unresolved judicial question. *See*, SUP. CT. R. 10.

At the appellate level, the Ninth Circuit Court of Appeals held that California's constitutional amendment, Proposition 1A, and the gaming compacts entered into between California and Indian tribes did not violate the INDIAN GAMING REGULATORY ACT ("IGRA"), 25 U.S.C. 2701 *et seq.*, or plaintiffs' equal protection rights. *Artichoke Joe's*, 353 F.3d at 731, 741-42. California's state constitution contains a ban against class III gaming. In March 2000, California voters passed Proposition 1A, carving out an exception to the ban for Indian tribes. Shortly after the ratification of Proposition 1A, the Secretary of the Interior approved the tribal-state compacts. *Id.* at 717-18. Plaintiffs, California card clubs and charities not able to offer class III gaming under state law, brought suit to invalidate the tribal-state compacts and the tribal class III gaming monopoly. *Id.* at 718.

Under IGRA, class III gaming is lawful on Indian lands only if the gaming activities are “located in a State that permits such gaming for any purpose by any person, organization, or entity.” 25 U.S.C. § 2710(d)(1)(B). Plaintiffs argued, in effect, that the Court should interpret this provision of IGRA to mean that tribes may conduct gaming activities only if state law also allows non-Indians to engage in those same gaming activities. *Artichoke Joe’s*, 353 F.3d at 721.

The Court rejected the plaintiffs’ interpretation of IGRA. Finding that the plain language and the legislative history of IGRA were both ambiguous on the issue, the Ninth Circuit Court applied the canon of construction found in *Montana v. Blackfeet Tribe of Indians*, 471 U.S. 759, 766 (1985) that “statutes are to be construed liberally in favor of the Indians, with ambiguous provisions interpreted to their benefit.” *Artichoke Joe’s*, 353 F.3d at 720-731. The Court concluded that Proposition 1A satisfied the IGRA requirement of “permitting” class III gaming ... by any entity” by legalizing class III gaming only when conducted by an Indian tribe. *Id.* at 731. Thus, the state did not have to permit non-Indian entities to engage in class III gaming before it could permit an Indian tribe to do so.

The Ninth Circuit Court of Appeals also held that Proposition 1A’s creation of an exception from state gaming prohibitions for Indian tribes on Indian lands did not deprive plaintiffs of the equal protection of the law. *Id.* at 741-42. The Court applied rational-basis review, finding that Proposition 1A granted preferential treatment to Indian tribes based on their political status, rather than the race of their members. *Id.* at 735-36. The Court concluded that the constitutional amendment was a rational means for California to regulate the growth of class III gaming and to foster tribal sovereignty and self-sufficiency. *Id.* at 736-742. The Court accordingly held that Proposition 1A did not violate plaintiffs’ equal protection rights under the Fifth and Fourteenth Amendments.

The United States Supreme Court denied the plaintiffs’ request to review the Ninth Circuit’s decision. *Artichoke Joe’s, et al. v. Norton, Secretary of the Interior, et al.*, 353 F.3d 712 (9th Cir. 2003), *cert. denied*, 2004 U.S. LEXIS 5595 (Oct. 4, 2004). In denying certiorari, the Court expresses no opinion on the underlying decision, but merely declines to review the decision. *See, e.g. United States v. Carver*, 260 U.S. 482, 390 (1923) (“the denial of a writ of certiorari imports no expression of opinion upon the merits of the case”). While the certiorari denial in *Artichoke Joe’s* has no precedential effect, the decision is still of interest, particularly to those states with laws prohibiting certain forms of class III gaming.

In Wisconsin, for example, the state Supreme Court earlier this year invalidated attempts by the Forest County Potawatomi Tribe and the Wisconsin governor to expand tribal gaming to include class III table games such as poker and craps. *Panzer v. Doyle*, 680 N.W.2d 666 (Wis. 2004). Wisconsin legislators filed suit, alleging that the Governor exceeded his authority in agreeing to terms in the compact between the state and the tribe. In relevant part, the Wisconsin Supreme Court held that the Governor did not have the authority to agree to the new class III gaming activities. The Court held that because the Wisconsin Constitution did not “permit” those games under section 2710(d)(1)(B) of IGRA the governor did not have the authority to agree to such games in the compacting process. *Panzer*, 680 N.W.2d at 696.

Given the Ninth Circuit’s decision in *Artichoke Joe’s*, and the Supreme Court’s certiorari denial, the system in California granting tribes class III gaming monopolies may serve as guidance to other tribes and states negotiating gaming compacts. Should similar issues be litigated in other areas of the country, it will be interesting to see whether other circuits interpret IGRA in the same manner the Ninth Circuit did. Even more interesting will be whether the Supreme Court gives IGRA the same interpretation, should it someday choose to address the issue.

COURT ANNOUNCEMENTS

Legislature Updates Ho-Chunk Nation Code

On October 19, 2004 the HCN Legislature enacted several new and/or updated sections of the HCN Code. The newly enacted sections are:

- RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2
- HOCÁK NATION CHILDREN & FAMILY ACT, 4 HCC § 3
- CHILD SUPPORT ENFORCEMENT CODE, 4 HCC § 7
- DIVORCE & CUSTODY ORDINANCE, 4 HCC § 9
- MARRIAGE ORDINANCE, 4 HCC § 10
- UNIFORM COMMERCIAL CODE ORDINANCE, 5 HCC § 7

Court users should note that there are some procedural differences under the updated Code. Specifically, under the new CHILD SUPPORT ENFORCEMENT CODE (the “CSEC”), as to service of process by publication, the respondent has sixty (60) days from the date of publication to appear or respond, as compared to the twenty (20) days timeframe pursuant to *HCN R. Civ. P. 6(A)*. 4 HCC § 7(8)(d). Additionally, filing fees for actions filed under the CSEC are \$25.00. 4 HCC § 7(7)(d)(1).

Additionally, under the DIVORCE & CUSTODY ORDINANCE, the respondent has twenty (20) *business days* from the date of service to respond or file a counterclaim to a petition for the dissolution of marriage. 4 HCC § 9(3)(d). This is in opposition to the twenty (20) *calendar* days timeframe pursuant to *HCN R. Civ. P. 6(A)* for other causes of action in the Court.

The Court now has the authority to issue marriage licenses under the MARRIAGE ORDINANCE. 4 HCC § 10(2)(a). Parties wishing to have their marriage performed by the HCN Court may now apply for a marriage license with the Court. Once the Court issues a marriage license, it is effective after six (6) days and until the thirtieth (30th) day after issuance. In other words, the parties must wait at least six (6) days after receiving the license to marry, but must marry within thirty (30) days.

The HOCÁK NATION CHILDREN & FAMILY ACT (the “CHILDREN’S ACT”) includes a new clause regarding the accessibility of court records. 4 HCC § 3(4)(a)(1). This clause provides that records in children’s cases will be withheld from public inspection, but “open to inspection by the parents or guardian, other parties in the case, the attorneys, and agencies to which custody of a child has been transferred.” *Id.* Additionally, under the CHILDREN’S ACT a social services worker may enter either an informal disposition or consent decree with a child twelve (12) years of age or older, the parents or guardians, and other parties when the worker determines that the interests of the child do not require filing a Protection Petition. *Id.* at 3(7)(c)(4)(b). The consent decree will remain in effect for up to six (6) months and may be extended by the Court one time for six (6) additional months. *Id.* at § 3(7)(c)(4)(c). Finally, under the CHILDREN’S ACT, in the case of service of an initial petition and summons to parties residing outside the State of Wisconsin, service must occur “within a reasonable time period” before the time set in the summons for the appearance. 4 HCC § 3(4)(a)(1). Under the prior version, such service had to occur at least fourteen (14) days prior to the time set in the summons for the appearance.

The CHILDREN’S ACT goes into effect on December 1, 2004. The other newly enacted sections of the Code were effective upon enactment on October 19, 2004. Copies of the new ordinances can be obtained by contacting the Ho-Chunk Nation Legislature at (715) 284-9343 or (800) 294-9343.

UPDATES FROM OUTSIDE

COURTS

United States Supreme Court

Cert. denied

Artichoke Joe's v. Norton, 353 F.3d 712 (9th Cir. 2003), *cert. denied*, 2004 U.S. LEXIS 5595 (Oct. 4, 2004).

Medicine Blanket v. Rosebud Sioux Tribal Police Dep't, 91 Fed. Appx. 533 (8th Cir. 2004), *cert. denied*, 2004 U.S. LEXIS (Oct. 4, 2004).

Michael Minnis & Assoc., P.C. v. Kaw Nation, 90 P.3d 1009 (Ok. Ct. App. 2003), *cert. denied*, 2004 U.S. LEXIS (Oct. 4, 2004).

Steffler v. Crow Creek Band of Umpqua Tribe of Indians, 94 Fed. Appx. 659 (9th Cir. 2004), *cert. denied*, 2004 U.S. LEXIS 5867 (Oct. 4, 2004).

Navajo Nation v. Krystal Energy Company, Inc., 357 F.3d 1055 (9th Cir. 2004), *cert. denied*, 2004 U.S. LEXIS (Oct. 5, 2004).

South Dakota v. Cummings, 679 N.W.2d 484 (S.D. 2004), *cert. denied*, 2004 U.S. LEXIS (Oct. 18, 2004).

Cert. filed

Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin v. United States, 367 F.3d 650 (7th Cir. 2004), *petition for cert. filed*, (U.S., Oct. 20, 2004) (No. 04-525).

Eighth Circuit Court of Appeals

Prescott v. Little Six, Inc., No. 03-3702, 2004 US App. LEXIS 21850 (8th Cir. Oct. 21, 2004).

The Shakopee Mdewakanton Sioux Community of Minnesota established a tribal corporation, Little Six, Inc ("LSI"). Plaintiffs, former LSI employees, sought payment under employee benefit plans never approved by the LSI board of directors, but for which trusts had been created in association with.

The tribal court of appeals held that the plans were never adopted and therefore could not impose liability on LSI under either ERISA, 29 U.S.C. § 1000-1053 (2000), or tribal law. The tribal court accordingly dismissed the employees' claims.

Plaintiffs then filed action in federal court. LSI filed a motion to dismiss on three separate grounds: that LSI retained sovereign immunity, that the federal court had to defer to the tribal court's determination, and that the federal court lacked subject matter jurisdiction because ERISA did not apply to LSI. The district court denied the motion to dismiss and LSI immediately appealed.

The Eighth Circuit found that it had jurisdiction to address an interlocutory appeal from a district court's denial of sovereign immunity and those issues "inextricably intertwined with" issues of sovereign immunity. Concluding that tribal courts should be afforded deference when interpreting tribal law, the Eighth Circuit held that no benefit plan was created and therefore, there was nothing to which ERISA could apply. The Court reversed and remanded the case with instructions to the district court to dismiss the plaintiffs' claims.

Ninth Circuit Court of Appeals

Nat'l Wildlife Fed'n v. United States Army Corps of Engineers, No. 03-35237, 2004 US App. LEXIS 20684 (9th Cir. Oct. 4, 2004).

The plaintiffs filed action in federal district court claiming that the Record of Consultation and Statement of Decision (the "ROD") issued by United States Army Corps of Engineers (the "Corps"), was arbitrary, capricious, and contrary to law. The ROD concerned the Corps' operation of four dams on the lower Snake River. The plaintiffs alleged that the ROD violated the ADMINISTRATIVE PROCEDURE ACT (the "APA") because it did not properly address the Corps' obligations to comply with the State of Washington's water quality standards for temperature. The district court concluded that the ROD was not arbitrary, capricious, or contrary to law, and granted summary judgment in favor of the Corps. Plaintiffs and the Nez Perce Tribe, who intervened at the trial court level, appealed.

The Ninth Circuit Court of Appeals affirmed the district court's grant of summary judgment, although it found that the district court erred in its reasoning. The Court held that the ROD was not arbitrary, capricious, nor contrary to law in concluding that there were no further steps the Corps could take to reduce temperature increases in the lower Snake River, nor in concluding that the Corps' operation of the dams on the River did not cause significant water temperature increases.

United States v. March, No. 03-30094, 2004 U.S. App. LEXIS 20992 (9th Cir. Oct. 7, 2004).

The defendant was convicted for violations of the Lacey Act, 16 U.S.C. §§ 3371-3378, for misrepresenting his tribal residency while applying for hunting tags. Each of the defendant's violations derived from his violations of tribal law, specifically the section of the Shoshone-Bannock Tribal Code prohibiting the presentation of false information to obtain hunting permits or tags. On appeal, the defendant alleged that the district court did not have the jurisdiction to adjudicate violations of tribal law.

The Ninth Circuit Court of Appeals held that tribal courts and federal courts have concurrent jurisdiction over prosecutions of tribal members for violations of tribal law when the tribal law violations serve as the basis for the federal Lacey Act violations. The Court affirmed the defendant's convictions, and remanded to the district court to determine whether resentencing was appropriate.

Kahawaiolaa v. Norton, No. 02-17239, 2004 U.S. App. LEXIS 22329 (9th Cir. Oct. 27, 2004).

Plaintiffs, native Hawaiians, filed suit seeking the right to apply for federal acknowledgement as an Indian tribe or tribes pursuant to Department of Interior ("Department") acknowledgement regulations. The regulations, by their terms, are applicable "only to those American Indian groups indigenous to the continental United States." 25 C.F.R. 83.3(a). The plaintiffs alleged that the regulations amounted to unconstitutional racial discrimination in violation of their equal protection rights. The district court concurred with the Department's argument that the case presented a nonjusticiable political question. The district court

also held, alternatively, that the Department had a rational basis to exclude native Hawaiians from the acknowledgement regulations, and there was no equal protection violation.

On appeal the Ninth Circuit Court concluded that the issue raised by plaintiffs was justiciable as a facial constitutional challenge to the regulations. The Court held that rational basis scrutiny applied to the plaintiffs' claims because the recognition of Indian tribes is a political, rather than racial, determination. The Court concluded that the unique history of Hawaii and the origin of the acknowledgement regulations provided a sufficient basis to sustain the regulation against an equal protection challenge under rational basis scrutiny. The Court noted that Congress has provided special rights and privileges to native Hawaiians separate from those accorded to Indians.

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

OCTOBER 6, 2004

State of Wisconsin v. Kenneth N. Littlegeorge, CS 01-23 *Notice (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Oct. 6, 2004). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation 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 high school enrollment.

State of Wisconsin/Jackson County v. Daniel V. WhiteEagle, CS 98-66; *Karla L. Wilcox v. Daniel V. WhiteEagle*, CS 99-09; *State of Wisconsin/Jackson County v. Daniel V. WhiteEagle*, CS 01-07 *Order (Modifying & Enforcing Child Support)* (HCN Tr. Ct., Oct. 6, 2004). (Matha, T).

The petitioner filed a motion requesting modification of child support withholding with a certified copy of the foreign support order. The respondent failed to respond within the specified time frame. The Court granted the motion.

OCTOBER 8, 2004

State of Wisconsin/Jackson County v. Chris M. Thundercloud, CS 00-15 *Order (Enforcing Arrearage Withholding)* (HCN Tr. Ct., Oct. 8, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support arrearage withholding with a certified accounting statement. The Court granted the motion.

Shelly Thundercloud v. Arnold Cloud, CV 96-91 *Order (Modifying Child Support Enforcement)* (HCN Tr. Ct., Oct. 8, 2004). (Bossman, W).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified time frame. The Court granted the motion.

Shelly Thundercloud v. Christopher Cloud, CV 96-73 *Order (Modifying Child Support Enforcement)* (HCN Tr. Ct., Oct. 8, 2004). (Bossman, W).

The petitioner filed a motion requesting modification of child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

OCTOBER 11, 2004

Joe & Joy Buck v. Simone C. Cloud, CS 04-45 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Oct. 11, 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.

Barbara J. Decorah v. Jones Decorah, CV 97-19 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Oct. 11, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support arrearage withholding with a certified accounting statement. The Court granted the motion.

June Miller v. Larry Fanning, CS 98-71 *Order (Ceasing Child Support Arrears Withholding)* (HCN Tr. Ct., Oct. 11, 2004). (Bossman, W).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The Court granted the motion and informed the parties of its intention to close the file.

State of Wisconsin v. Twilight M. Hindsley, CS 04-37 *Order (Impounding Per Capita)* (HCN Tr. Ct., Oct. 11, 2004). (Matha, T).

The Court had to determine whether to rescind an earlier child support order due to an apparent change in the physical custody. The Court impounded the affected per capita funds until such time the respondent presents the Court with a certified foreign court order addressing the change in circumstances.

State of Wisconsin ex rel. Calvinita H. Kills in Water v. Moses L. Cleveland, CS 04-15 *Order (Reinstating Withholding for Child Support)* (HCN Tr. Ct., Oct. 11, 2004). (Bossman, W).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified time frame. The Court granted the motion.

OCTOBER 12, 2004

Denise Amundson v. Robert White, CS 03-07 *Order (Erratum)* (HCN Tr. Ct., Oct. 12, 2004). (Matha, T).

The Court previously issued a *Notice* requiring the parties to file proof of enrollment in high school or its equivalent of a minor child. A subsequent review of the record revealed that the child's enrollment in high school or its equivalent was irrelevant to the respondent's obligation to pay current child support. The Court advised the parties to disregard the previous *Notice*.

Barbara Funmaker v. John L. Whitewater, CV 97-148 *Order (Erratum)* (HCN Tr. Ct., Oct. 12, 2004). (Matha, T).

The Court previously issued a *Notice* requiring the parties to file proof of enrollment in high school or its equivalent of a minor child. A subsequent review of the record revealed that the child's enrollment in high school or its equivalent was irrelevant to the respondent's obligation to pay current child support. The Court advised the parties to disregard the previous *Notice*.

State of Wisconsin/Jackson County v. Leaf O. Funmaker, CS 03-35 *Order (Enforcing Arrearage Withholding)* (HCN Tr. Ct., Oct. 12, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to enforce child support arrearage withholding with a certified accounting statement. The Court granted the motion.

OCTOBER 13, 2004

Sheila Doucette v. Scott Hines, CV 97-132; *Jadie A. Whittier v. Scott Hines*, CS 04-47 *Order (Modifying & Enforcing Child Support)* (HCN Tr. Ct., Oct. 13, 2004). (Matha, T).

The Court had to determine whether to enforce another foreign child support order against a serial payor'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 and performed an equitable adjustment.

Loretta Hopinka v. Dean Hopinka, CS 99-14 *Notice (Erratum & Deficiency)* (HCN Tr. Ct., Oct. 13, 2004). (Matha, T).

The Court previously issued a *Notice* requiring the parties to file proof of enrollment in high school or its equivalent of a minor child. A subsequent review of the record revealed that the child's enrollment in high school or its equivalent was irrelevant to the respondent's obligation to pay current child support. The Court advised the parties to disregard the previous *Notice*. The Court also advised the parties that it was unable to process the petitioner's motion for enforcement of a foreign support order due to the omission of a proper *Certificate of Service*.

State of Wisconsin v. Ervin Buker, CS 04-63 *Order (Enforcing Child Support)* (HCN Tr. Ct., Oct. 13, 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 requested enforcement of the foreign child support order. The Court granted the respondent's request for recognition and enforcement.

State of Wisconsin v. Dean Hopinka, CV 97-46 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Oct. 13, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support arrearage withholding with a certified accounting statement. The Court granted the motion.

OCTOBER 14, 2004

Roxanne Johnson v. Loren James Rave, CV 97-25 Order (Modifying Child Support) (HCN Tr. Ct., Oct. 14, 2004). (Matha, T).

The Court modified the respondent's current child support obligation based on the language of the underlying foreign child support order.

Barbara Long v. Garrett Banuelos, Sr., CV 97-88 Notice (Suspending Withholding for Current Child Support) (HCN Tr. Ct., Oct. 14, 2004). (Matha, T).

The Court previously ordered the parties to file proof of enrollment in high school or its equivalent or the Court would cease withholding for current child support. The parties did not file proof within the specified time frame. The Court ordered the HCN Department of Treasury to cease withholding for current child support.

State of Wisconsin v. Kenneth N. Littlegeorge, CS 01-23 Notice (Suspending Withholding for Current Child Support) (HCN Tr. Ct., Oct. 14, 2004). (Matha, T).

The Court previously ordered the parties to file proof of enrollment in high school or its equivalent or the Court would cease withholding for current child support. The parties did not file proof within the specified time frame. The Court ordered the HCN Department of Treasury to cease withholding for current child support.

OCTOBER 15, 2004

Lawrence D. Corbesia v. Melissa J. Corbesia, CS 03-64 Order (Modifying Child Support & Impounding Per Capita) (HCN Tr. Ct., Oct. 15, 2004). (Matha, T).

The Court had to determine whether to rescind an earlier child support order due to a change in physical custody of the minor children. The respondent presented a certified court order suspending the current child support obligation and reserving a determination upon back child support. The Court modified the current support obligation and impounded a proportionate amount of per capita funds for arrears until receipt of a certified foreign court order addressing the back child support obligation.

OCTOBER 18, 2004

State of Wisconsin v. Kenneth N. Littlegeorge, CS 01-23 Order (Proof of High School Enrollment Filed) (HCN Tr. Ct., Oct. 18, 2004). (Matha, T).

The Court had previously notified the parties that a minor child had turned eighteen years of age. The Court ordered the parties to file proof of high school enrollment, or the Court would cease withholding for current child support. The petitioner filed the required proof.

OCTOBER 19, 2004

Sara Dobbs v. Michael R. Smith, CS 04-51 Order (Enforcing Arrearage Withholding) (HCN Tr. Ct., Oct. 19, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to enforce child support arrearage withholding with a certified accounting statement. The Court granted the motion.

**OCTOBER 20, 2004**

Andrea L. Estebo v. Joseph P. Estebo, CS 04-16 Order (Enforcing Arrearage Withholding) (HCN Tr. Ct., Oct. 20, 2004). (Matha, T).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to enforce child support arrearage withholding with a certified accounting statement. The Court granted the motion.

Melanie Stacy v. Harrison J. Funmaker, CV 96-48 Order (Modifying Child Support Withholding from Wages) (HCN Tr. Ct., Oct. 20, 2004). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent acquiesced in the petitioner's request. The Court granted the motion.

Melanie Stacy v. Harrison J. Funmaker, CV 96-48 *Order (Suspending Child Support Withholding & Updating Arrears)* (HCN Tr. Ct., Oct. 20, 2004). (Matha, T).

The petitioner filed a motion requesting a modification of child support withholding. The petitioner also filed certified copy of the modified foreign support order and a certified account history statement. The Court granted the motion.

State of Wisconsin & Maureen J. Bighorn v. Harvey Holst, Jr., CS 04-61 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Oct. 20, 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.

OCTOBER 25, 2004

Jill M. Hartley v. Wendland O. White, CS 04-24 *Order (Enforcing Arrearage Withholding)* (HCN Tr. Ct., Oct. 25, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to enforce child support arrearage withholding with a certified accounting statement. The Court granted the motion.



Civil Garnishment

OCTOBER 6, 2004

Check Advance v. Lisa Clemmerson, CG 04-114 *Order (Enforcing Judgment)* (HCN Tr. Ct., Oct. 6, 2004). (Bossman, W).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to establish proper grounds for declining recognition and enforcement. The Court granted the petitioner's request for recognition and enforcement.

OCTOBER 7, 2004

Alliance Collection Agencies v. Deborah Thompson, CG 04-67 *Order (Petition Granted)* (HCN Tr. Ct., Oct. 7, 2004). (Bossman, W).

The Court convened a *Fact-Finding Hearing* to determine whether to grant full faith and credit to a foreign judgment. The Court granted the petitioner's request for recognition and enforcement.

Arrow Fin. Servs. v. Bradley Littlegeorge, CG 04-81 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 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.

OCTOBER 8, 2004

Alliance Collection Agencies v. John McKeel, CG 04-49 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 8, 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 v. Jack Peterson, CG 04-113 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 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.

OCTOBER 11, 2004

Quick Cash Loans v. Christine Brown, CG 04-112 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 11, 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.

Robert Mobley v. Sarah Lemieux, CG 04-104 *Judgment* (HCN Tr. Ct., Oct. 11, 2004). (Bossman, W).

A trial was convened in the instant case. The Court granted a judgment for the plaintiff for the unpaid balance due for the purchase of a motor vehicle.

OCTOBER 18, 2004

Household Fin. Corp. III v. Garland Decorah, CG 04-82 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., Oct. 18, 2004). (Bossman, W).

The petitioner failed to file an *Amended Petition* within the specified timeframe. The Court dismissed the case.



OCTOBER 20, 2004

Alliance Collection Agencies, Inc. v. Kay S. Thompson, CG 04-117 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 20, 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.

James Esselman, DDS v. Kay Weikel, CG 04-118 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 20, 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.

OSI Portfolio Servs., Inc. v. Diane Seipp, CG 04-120 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 20, 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.

OCTOBER 22, 2004

Boscobel Area Health Care v. Daniel Johnson, CG 04-122 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 22, 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.

Arnold Haessly v. Jerry McCrossen, CG 04-124 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 22, 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.

OSI Collection Servs. v. Michael P. Garske, CG 04-121 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 22, 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.

OCTOBER 25, 2004

Citibank (S.D.) v. Mary Walsh, CG 04-90 *Order (Dismissal)* (HCN Tr. Ct., Oct. 25, 2004). (Bossman, W).

The plaintiff requested a voluntary dismissal of the action, after the filing of the respondent's *Answer*. The Court granted a dismissal without prejudice.

Civil Cases

CHILDREN'S TRUST FUND (CTF)

OCTOBER 4, 2004

In the Interest of Minor Child: S.K.B., DOB 12/29/92, by Helene M. Bean v. HCN Office of Tribal Enrollment, CV 04-93 *Order (Petition Granted)* (HCN Tr. Ct., Oct. 4, 2004). (Matha, T).

The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with orthodontic procedures. The Court granted the request.

OCTOBER 7, 2004

In the Interest of Minor Child: V.R.M., DOB 04/29/91, by Tina McArthur v. HCN Office of Tribal Enrollment, CV 04-59 Order (Accepting Accounting) (HCN Tr. Ct., Oct. 7, 2004). (Bossman, W).

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

OCTOBER 8, 2004

Eric John Houghton v. HCN Office of Tribal Enrollment, CV 04-80 Order (Denial of Petition) (HCN Tr. Ct., Oct. 8, 2004). (Bossman, W).

The Court had to determine whether the petitioner could access his CTF monies to pay for costs associated with his mother's mortgage payments. The Court denied the request.

Patrick L. Houghton v. HCN Office of Tribal Enrollment, CV 04-77 Order (Denial of Petition) (HCN Tr. Ct., Oct. 8, 2004). (Bossman, W).

The Court had to determine whether the petitioner could access his CTF monies to pay for costs associated with his mother's mortgage payments. The Court denied the request.



OCTOBER 11, 2004

In the Interest of the Minor Child: K.J.F.B., DOB 06/06/89, by Shawn Blackdeer v. HCN Office of Tribal Enrollment, CV 03-44 Order (Show Cause) (HCN Tr. Ct., Oct. 11, 2004). (Bossman, W).

The Court previously released funds from the CTF account of a minor child for costs associated with orthodontic procedures. The petitioner failed to submit an accounting confirming the specified use of the funds within the specified time frame. The Court ordered a *Show Cause Hearing* to allow the petitioner the opportunity to explain why the Court should not hold her in contempt of court.

In the Interest of Minor Child: S.M.T., DOB 03/12/87, by Donna L. Thundercloud v. HCN Office of Tribal Enrollment, CV 04-52 Order (Accepting Accounting in Part) (HCN Tr. Ct., Oct. 11, 2004). (Matha, T).

The Court previously released funds from the CTF account of a minor child for costs associated with transportation to and attendance at college. The petitioner submitted a payment history statement, which confirmed proper use of part of the funds. The Court accepted this accounting. The Court ordered the petitioner to submit an updated accounting confirming the proper use of the remaining funds released.

OCTOBER 18, 2004

In the Interest of Minor Children: J.A.L., DOB 11/20/91 & K.A.L., DOB 08/14/89, by Gary L. Lonetree, Jr. v. HCN Office of Tribal Enrollment, CV 02-85 Order (Motion Granted) (HCN Tr. Ct., Oct. 18, 2004). (Matha, T).

The Court had to determine whether a parent could access CTF monies on behalf of his minor children for costs associated with orthodontic procedures, the purchase of musical instruments and continuing lessons, and a European orchestral tour. The Court granted the request.

OCTOBER 19, 2004

In the Interest of Adult CTF Beneficiary: Selina Littlewolf, DOB 01/29/84 v. HCN Office of Tribal Enrollment, CV 04-70 Order (Denial of Petition) (HCN Tr. Ct., Oct. 19, 2004). (Matha, T).

The Court had to determine whether an adult could access her CTF account to pay for costs associated with the acquisition of medical insurance and legal counsel and reimbursement of a personal debt obligation to a third party. The Court denied the request. Pertaining to the two (2) former requests, the petitioner could not satisfy the exhaustion requirement.



OCTOBER 20, 2004

In the Interest of the Minor Child: W.S.S., DOB 01/26/94, by Tina S. Smith-Kelly v. HCN Office of Tribal Enrollment, CV 02-94 Order (Demanding Accounting) (HCN Tr. Ct., Oct. 20, 2004). (Matha, T).

The Court demanded that the petitioner submit the required accounting.

OCTOBER 25, 2004

In the Interest of Minor Child: K.J.F.B., DOB 06/06/89, by Shaun Blackdeer v. HCN Office of Tribal Enrollment, CV 03-44 Order (Contempt) (HCN Tr. Ct., Oct. 25, 2004). (Bossman, W).

The Court had to determine whether to hold the petitioner in contempt of court for knowingly violating the express terms of a judgment. The petitioner failed to file the required accounting. The petitioner failed to appear at the *Show Cause Hearing* or present evidence explaining why the Court should not hold her in contempt. The Court held the petitioner in contempt and entered remedial sanctions.

CONTRACTS**OCTOBER 12, 2004**

Rick Mattison v. Joan Whitewater, CV 04-43 Judgment (HCN Tr. Ct., Oct. 12, 2004). (Bossman, W).

The Court had to determine whether to grant the defendant's motion to dismiss the instant case. The plaintiff failed to establish the right to relief because neither the plaintiff nor the defendant was a party to the contract for which the plaintiff sought enforcement. The Court granted defendant's motion.

Betty J. White v. Dion W. Funmaker, CV 03-89 Order (Reinstating Garnishment) (HCN Tr. Ct., Oct. 12, 2004). (Matha, T).

The Court had to determine whether to garnish the defendant's per capita distribution pursuant to recently passed legislation that enables an elder to seek reimbursement of outstanding debt obligations from a member's per capita payments. The defendant waived his opportunity to rebut the plaintiff's offers of proof by failing to attend the fact-finding session. The Court granted the plaintiff's uncontested requests.

OCTOBER 19, 2004

Dorothy Decorah v. Harold A. Lewis, CV 04-79 Judgment (HCN Tr. Ct., Oct. 19, 2004) (Bossman, W).

The Court convened a trial in the instant matter. The Court found that the plaintiff failed to meet her burden of proof. The Court granted judgment in favor of the defendant and dismissed the case.

DEBTS TO THE NATION**OCTOBER 11, 2004**

HCN Dep't of Treasury & Ho-Chunk Nation v. Jeff Miller, CV 04-55 Order (Requiring Explanation) (HCN Tr. Ct., Oct. 11, 2004). (Matha, T).

The Court required the plaintiffs to adequately explain how the Court may derive subject matter jurisdiction from the APPROPRIATIONS AND BUDGET PROCESS ACT. In the alternative, the Court informed the parties that the plaintiffs could file an amended pleading, provided the plaintiffs could articulate good cause for doing so.

OCTOBER 18, 2004

HCN Dep't of Treasury & Ho-Chunk Nation v. Jeff Miller, CV 04-55 Order (Accepting Amended Complaint) (HCN Tr. Ct., Oct. 18, 2004). (Matha, T).

Plaintiffs filed an *Amended Complaint*. The Court accepted the pleading, and informed the defendant of his right to respond.

EMPLOYMENT**OCTOBER 4, 2004**

Patty Junk, aka Patricia Finch-Junk v. Ho-Chunk Nation, HCN Pers. Dep't., HCN Dep't of Health & Soc. Servs. & Elethe Nichols, CV 04-84-85 Scheduling Order (HCN Tr. Ct., Oct. 4, 2004). (Matha, T).

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

OCTOBER 7, 2004

Kenneth Lee Twin v. Douglas Greengrass, Executive Dir. of Admin., CV 03-88 Order (Final Judgment) (HCN Tr. Ct., Oct. 7, 2004). (Matha, T).

The Court had to determine whether to grant the defendant's request for summary judgment as to the remaining claims. The Court considered whether

the plaintiff filed a timely initial pleading for purposes of satisfying the applicable statute of limitations. HCN STATUTE OF LIMITATIONS & COMMENCEMENT OF CLAIMS, § 1.03(b).

The defendant alleged that the plaintiff's early filing of his cause of action in the Trial Court prior to filing his Level 3 grievance denied the plaintiff's supervisor the ability to answer the grievance and denied the defendant's rights addressed in the HCN STATUTE OF LIMITATIONS. The Court noted that the HCN STATUTE OF LIMITATIONS does not create administrative rights and that depriving an administrator the duty to respond is a ripeness or exhaustion of remedies concern, rather than a statute of limitations issue. The Court also noted that the plaintiff did not, and could not, deny the defendant's assertion of the statute of limitations defense.

While the plaintiff's claim was not stale or late, the Court held that the HCN STATUTE OF LIMITATIONS was applicable because of the explicit language of the statutory provision. The plaintiff could not file his initial pleading with the Court *within* the prescribed time frame because he neglected to file the Level 3 grievance prior to filing his *Complaint* with the Court. The Court granted summary judgment in favor of the defendant as to the remaining claims and denied the plaintiff's requests for relief.

OCTOBER 15, 2004

Daniel M. Brown v. Jim Webster, HCN Executive Dir. of Bus., CV 04-38-39-40 *Order (Motion Hearing)* (HCN Tr. Ct., Oct. 15, 2004). (Bossman, W).

The Court scheduled a *Motion Hearing* to grant both parties the opportunity to argue their respective motions.

OCTOBER 18, 2004

Elizabeth Deere v. Annette Littlewolf, CV 04-75 *Order (Permission to Reschedule)* (HCN Tr. Ct., Oct. 18, 2004). (Bossman, W).

The plaintiff failed to appear at the *Scheduling Conference*. The Court granted the plaintiff thirty (30) days to reschedule the *Scheduling Conference*.

Elizabeth Deere v. Willard Lonetree, Monty Green, Pers. Dep't of the Ho-Chunk Nation, Ho-Chunk Nation, CV 04-76 *Order (Permission to Reschedule)* (HCN Tr. Ct., Oct. 18, 2004). (Bossman, W).

The plaintiff failed to appear at the *Scheduling Conference*. The Court granted the plaintiff thirty (30) days to reschedule the *Scheduling Conference*.

OCTOBER 19, 2004

Marcy J. Hawkins v. Ho-Chunk Nation/Casino, CV 04-32 *Order (Dismissal with Prejudice)* (HCN Tr. Ct., Oct. 19, 2004). (Matha, T).

The plaintiff failed to appear at the *Motion Hearing*. The Court dismissed the case with prejudice.

OCTOBER 20, 2004

Kenneth Lee Twin v. Douglas Greengrass, Toni McDonald, George Lewis, Ho-Chunk Nation & HCN Pers. Dep't, CV 04-90 *Scheduling Order* (HCN Tr. Ct., Oct. 20, 2004). (Bossman, W).

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

ENROLLMENT

OCTOBER 22, 2004

Sarita White v. HCN Office of Tribal Enrollment, CV 04-58 *Scheduling Order* (HCN Tr. Ct., Oct. 22, 2004). (Bossman, W).

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

GENERAL COUNCIL

OCTOBER 22, 2004

Kenneth Lee Twin v. Douglas Greengrass, Francis Decorah, George Lewis, Ho-Chunk Nation & HCN Dep't of Pers., CV 04-24 *Order (Final Judgment)* (HCN Tr. Ct., Oct. 22, 2004). (Bossman, W).

The Court had to determine whether to grant the plaintiff's request for a *Writ of Mandamus* requiring a defendant to terminate two other defendants based on the passage of a General Council Resolution. The Court held that it could not provide a remedy for the plaintiff because the plaintiff did not name the Ho-Chunk Legislature as a party. The Court denied the plaintiff's claims and granted judgment for the defendants.

HOUSING

OCTOBER 18, 2004

Ronald Kent Kirkwood v. Francis Decorah as Dir. of HCN Housing Dep't, and all predecessor directors; Levi Thunder, Iris Cleveland, Donald Greengrass, Mike Goze & Frank Johnson as members of the Hous. Bd. of the Ho-Chunk Nation, and their predecessors; and Wade Blackdeer, Elliot Garvin, Clarence Pettibone, Tracy Thundercloud, Dallas WhiteWing, Gerald Cleveland, Sr., Christine Romano, Myrna Thompson, John Dall, Kathyleen Whiterabbit, and Sharyn Whiterabbit as Legislators of the Ho-Chunk Nation, and all predecessor Legislators, CV 04-33 *Order (Granting Plaintiff's Motion)* (HCN Tr. Ct., Oct. 18, 2004). (Matha, T).

The plaintiff filed a motion requesting the Court to direct the defendants to comply with his discovery request. The Court deemed the plaintiff's requests for admission permissible under the discovery rules. The Court granted the plaintiff's motion and modified the scheduling order.

OCTOBER 20, 2004

HCN Dep't of Hous., Prop. Mgmt. Div. v. Dean Hopinka & Loretta Hopinka, CV 03-64 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Oct. 20, 2004). (Bossman, W).

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 file.

INCOMPETENT TRUST FUND (ITF)

OCTOBER 7, 2004

In the Interest of Adult Incompetent: W.E.S., DOB 12/23/36, by Frank E. Bichanich v. HCN Office of Tribal Enrollment, CV 04-22 *Order (Accepting Accounting)* (HCN Tr. Ct., Oct. 7, 2004). (Matha, T).

The Court previously released funds from the ITF account of an adult incompetent for costs associated with the designation of a successor permanent guardian. The petitioner submitted a foreign order, which confirmed proper use of the funds. The Court accepted this accounting.

OCTOBER 8, 2004

In the Interest of R.L.W., DOB 11/23/64, by Clarence R. Skinner v. HCN Office of Tribal Enrollment, CV 00-44 *Order (Second Addendum to Judgment)* (HCN Tr. Ct., Oct. 8, 2004). (Matha, T).

The Court previously released funds from the ITF account of an adult incompetent for costs associated with the purchase of a dwelling. The petitioner submitted a motion requesting the additional release of funds for the installation of a lawn. The Court convened a *Fact-Finding Hearing*. The Court granted the petitioner's request.

Juvenile

OCTOBER 4, 2004

In the Interest of Minor Child: S.E.C., DOB 02/25/96, JV 03-11 Order (Postponing Plea Hearing) (HCN Tr. Ct., Oct. 4, 2004). (Bossman, W).

The Court postponed the *Plea Hearing* at the request of CFS.

OCTOBER 8, 2004

In the Interest of Minor Child: A.C.L., DOB 08/13/01, JV 04-22 Order (Dispositional Requirements) (HCN Tr. Ct., Oct. 8, 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: L.R.L., DOB 11/02/02, JV 04-20 Order (Dispositional Requirements) (HCN Tr. Ct., Oct. 8, 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 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 (Submission of Guardianship Report & Home Study) (HCN Tr. Ct., Oct. 8, 2004). (Matha, T).

The Court requested that HCN Child & Family Services prepare and submit a guardianship report and home study to the Court.



OCTOBER 11, 2004

In the Interest of Minor Child: S.M.D., DOB 11/01/86, JV 01-21 Order (Termination of Jurisdiction) (HCN Tr. Ct., Oct. 11, 2004). (Matha, T).

The Court terminated its jurisdiction over and supervision of the instant case.

In the Interest of Minor Child: T.E.D., DOB 11/04/86, JV 03-41 Order (Termination of Jurisdiction) (HCN Tr. Ct., Oct. 11, 2004). (Matha, T).

The Court terminated its jurisdiction over and supervision of the instant case.

OCTOBER 13, 2004

In the Interest of Minor Child: R.W.H., DOB 04/13/01, JV 01-09 Order (Conferring Discretion upon CFS) (HCN Tr. Ct., Oct. 13, 2004). (Matha, T).

The Court previously entered an order for child support against the mother of the minor child. The Court had to determine whether to enforce a standing foreign child support order against the mother of the minor child and grant arrearages. The arrearages resulted from the provision of state kinship care to the physical custodian of the minor child. The Court declined to grant full faith and credit to the state court judgment because the Court's child support order preempts that of the state. The Court requested DOJ to intercede in the state court proceeding on behalf of the Court. The Court also permitted CFS to direct a proportionate amount of funds to the state at each per capita cycle to offset the state's continuing provision of kinship care.

In the Interest of Minor Child: A.C.L., DOB 08/13/01, JV 04-22 Order (Establishment of Child Support) (HCN Tr. Ct., Oct. 13, 2004). (Matha, T). CFS requested that the Court award the physical custodians child support through establishment of parental obligations. The Court granted the request.

In the Interest of Minor Child: S.J.W., DOB 02/10/93, JV 04-12 Order (Dispositional Requirements) (HCN Tr. Ct., Oct. 13, 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.

OCTOBER 14, 2004

In the Interest of Minor Child: S.E.C., DOB 02/25/96, JV 03-11 Order (Postponing Plea Hearing) (HCN Tr. Ct., Oct. 14, 2004). (Bossman, W).

The Court postponed the *Plea Hearing* at the request of the father.

In the Interest of Minor Child: J.D.J., DOB 12/18/86, JV 98-19 Order (Conditional Termination of Jurisdiction) (HCN Tr. Ct., Oct. 14, 2004). (Bossman, W).

The Court terminated its jurisdiction and supervision over the instant matter pursuant to its statutory authority, conditioned upon the Court receiving no objection from the GAL within the prescribed timeframe.



OCTOBER 15, 2004

In the Interest of Minor Child: T.J.M-H., DOB 10/10/04, JV 04-29 Order (Submission of Guardianship Report & Home Study) (HCN Tr. Ct., Oct. 15, 2004). (Matha, T).

The Court ordered CFS to prepare and submit a guardianship report and home study to the Court.

In the Interest of Minor Child: T.J.M-H., DOB 10/10/04, JV 04-29 Order (Submission of Traditional Relatives List) (HCN Tr. Ct., Oct. 15, 2004). (Matha, T).

The Court ordered CFS to prepare and submit a list of the minor child's traditional relatives to the Court.

In the Interest of Minor Child: L.J.R., DOB 02/17/90, JV 01-05 Order (Conditional Release of Court Records) (HCN Tr. Ct., Oct. 15, 2004). (Matha, T).

The movant filed a motion requesting a release of court records and requested expedited consideration of the motion. The Court conditionally granted the movant's request by directing CFS to assist the Court in providing the movant with relevant documentation from the court record.

In the Interest of Minor Children: D.J.W., DOB 03/17/97, V.H.W., DOB 07/27/95, A.P.W., DOB 10/28/91, D.C.W., DOB 12/14/96, JV 04-08-11 Order (Enforcing Child Support) (HCN Tr. Ct., Oct. 15, 2004). (Bossman, W).

The Court applied generally acceptable withholding guidelines and determined the amount of withholding for current child support and arrears from the parents' per capita distributions.

OCTOBER 18, 2004

In the Interest of Minor Child: J.L.G., DOB 07/24/92, JV 04-23 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Oct. 18, 2004). (Matha, T).

The father of the minor child requested permission to appear at the *Guardianship Hearing* by telephone. The Court granted the request.

OCTOBER 19, 2004

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 (Denial of Motion) (HCN Tr. Ct., Oct. 19, 2004). (Matha, T).

The mother of the minor children filed a motion seeking revocation of the standing temporary guardianship. The Court denied the movant's request due to her failure to demonstrate that revocation of the temporary guardianship would serve the best interests of the minor children.

OCTOBER 21, 2004

In the Interest of Minor Child: J.L.G., DOB 07/24/92, JV 04-23 Order (Appointment of GAL) (HCN Tr. Ct., Oct. 21, 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 04-04-05 Six Month Review Hearing Order (HCN Tr. Ct., Oct. 21, 2004). (Bossman, W).

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

OCTOBER 22, 2004

In the Interest of Minor Child: J.L.G., DOB 07/24/92, JV 04-23 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Oct. 22, 2004). (Matha, T).

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 child's best interests.

In the Interest of Minor Child: J.D.S., DOB 09/08/03, JV 03-30 Order (Appointment of Permanent Guardian) (HCN Tr. Ct., Oct. 22, 2004). (Matha, T).

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 child's best interests.

OCTOBER 28, 2004

In the Interest of Minor Child: D.P.S., DOB 12/12/88, JV 02-14 Order (Granting Emergency Temporary Legal/Physical Custody) (HCN Tr. Ct., Oct. 27, 2004). (Bossman, W).

The Court had to determine whether to grant emergency temporary legal and physical custody of the minor child. The Court granted the petitioner's request.

Supreme Court

NOTHING TO REPORT AT THIS TIME.

Recent Filings

Supreme Court

Trial Court

OCTOBER 11, 2004

Marx Advertising Agency, Inc. v. Ho-Chunk Nation,
SU 04-07.

Civil Garnishment

OCTOBER 26, 2004

Homeowners Fin. Servs., Inc. v. Harry & Tammie Terwall, CG 04-125. (Bossman, W).

Drs. Delebo, Overman, Hegna & Reich v. Mike Smith, CG 04-126. (Bossman, W).

OCTOBER 27, 2004

Direct Merchants Credit Card Bank v. Angie Ackerman, CG 04-127. (Bossman, W).

Child Support

OCTOBER 11, 2004

State of Wisconsin v. Ervin Buker, CS 04-63.
(Bossman, W).



Civil Cases

OCTOBER 18, 2004

Kristin K. WhiteEagle v. Ho-Chunk Casino & Ho-Chunk Nation, CV 04-97. (Matha, T).

OCTOBER 26, 2004

In the Interest of Decedent: Jordan Francis Decorah v. HCN Office of Tribal Enrollment, CV 04-98. (Bossman, W).

Juvenile Cases

OCTOBER 12, 2004

In the Interest of Minor Child: C.L. DOB 04/25/98, JV 04-30. (Bossman, W).

In the Interest of Minor Child: C.D., DOB 09/19/01, JV 04-31. (Bossman, W).

OCTOBER 15, 2004

In the Interest of Minor Child: T.J.M.H., JV 04-29.
(Matha, T).



Halloween Fun at *Wa Ehi Hoci*

On Thursday, October 28, 2004, the Ho-Chunk Nation Judiciary played host to trick-or-treaters. Students from two Head Start classes came to visit, arriving with lots of smiles and leaving with lots of treats!





**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
 Douglas Greengrass
 Desmond Mike
 Gavin Pettibone
 Douglas Red Eagle
 Preston Thompson, Jr.
 Eugene Thundercloud
 Morgan White Eagle
 Clayton Winneshiek

Trial Court – William 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 – Jessi Cleveland
 Staff Attorney – Jocelyn Roy
 Supreme Court Clerk – Mary Endthoff

* 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).





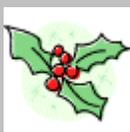
DECEMBER 2004
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Ho-Chunk Nation Court System Fee Schedule
Legal Citation Forms

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HO-CHUNK NATION COURT BULLETIN

Ninth Circuit Gives Green Light to Cabazon Tribal Police

The Cabazon Band of Mission Indians (the “Tribe”) filed suit in federal district court seeking a determination that vehicles operated by the Tribe’s Public Safety Department were “authorized emergency vehicles” under California state law. *Cabazon Band of Mission Indians v. Smith*, No. 02-56943, 2004 US App. LEXIS 22772 at *1-2 (9th Cir. Nov. 3, 2004). The CALIFORNIA VEHICLE CODE allows only “authorized emergency vehicles” performing emergency services to display and use emergency light bars. See CAL. VEH. CODE §§ 25251(a)(4), 25252, 25258, 25259, 27606. The Tribe’s reservation, in Riverside County, California, is comprised of four noncontiguous sections of land. Therefore, in order to travel between the different sections of the reservation to provide law enforcement services, the Tribal police must drive on public roads. *Cabazon*, 2004 US App. LEXIS 22772 at *2-3.

Prior to the Tribe’s filing suit, the County of Riverside Sheriff’s Department repeatedly stopped the Tribe’s police officers’ vehicles on public highways between the sections of the Tribe’s reservation for violating the VEHICLE CODE by displaying or using emergency lights. *Id.* at 2. Consequently, the Tribe was forced to remove the light bars from the roofs of the vehicles when driving on non-reservation lands. The Tribe maintained that operating the vehicles without the light bars created a danger to the officers’ safety, compromised the officers’ ability to perform their duties, and conflicted with BIA requirements. *Id.*

The district court applied the balancing test set forth in *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 145 (1980), and granted summary judgment for the defendants. The district court determined that prohibiting the Tribe from using or displaying emergency light bars on public highways not in Indian country did not excessively or unduly burden the Tribe's ability to perform its on-reservation law enforcement functions. *Cabazon*, 2004 US App. LEXIS 22772 at *6-7. The Tribe appealed the district court's decision for the defendants to the Ninth Circuit Court of Appeals. *Id.* at *1.



While the Tribe's petition for rehearing was pending the Tribe entered into a Deputation Agreement with the BIA Office of Law Enforcement Services. *Id.* at *8. The Deputation Agreement authorized commissioned officers "to assist the BIA in its duties to provide law enforcement services." The Deputation Agreement, among other things, required that the Tribe comply with the BIA's Law Enforcement Handbook of the Office of Law Enforcement Services, mandating that police vehicles operated by commissioned officers be equipped with emergency light bars. *Id.* at *8-11. After the Tribe entered into the Deputation Agreement with the BIA, the Tribe filed a renewed motion for summary judgment. The district court again denied the Tribe's motion and granted summary judgment to the defendants. *Id.* at *16-17.

On appeal, the Ninth Circuit Court applied the test articulated in *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973), rather than the *White Mountain* test. The Ninth Circuit Court determined that, in this instance, the *Mescalero* test was appropriate because the conduct at issue occurred off-reservation. *Cabazon*, 2004 US App. LEXIS 22772 at *18. Under *Mescalero*, tribal activities occurring off-reservation are subject to

nondiscriminatory state laws absent an express federal law to the contrary. *Cabazon*, 2004 US App. LEXIS 22772 at *18 (citing *Mescalero*, 411 U.S. at 148-49). The Ninth Circuit Court ultimately reversed the district court's decision and held that, under *Mescalero*, the Tribe was not subject to the relevant sections of the VEHICLE CODE because the application of those sections to the Tribe was discriminatory. *Cabazon*, 2004 US App. LEXIS 22772 at *20. The Ninth Circuit Court noted that the relevant VEHICLE CODE sections did not treat the Tribe's law enforcement agent in the same way as other law enforcement agencies in California. All other state, county, and city law enforcement officials within the state, as well as law enforcement officials from other states, tribes, and the federal government were permitted to display and use light bars while traveling on California roads. *Id.* at *20-22.

Additionally, the Court held that defendants failed to establish any rational or nondiscriminatory basis for their refusal to allow the Tribe to use or display emergency light bars. Defendants claimed that the Tribe's use of the lights would threaten highway safety by causing other vehicles to slow down, would threaten public safety because tribal officers may not be properly trained, and that the State had no control of the training of the Tribe's police officers. *Id.* at 25. However, the Court found that the defendants failed to present any evidence that substantiated defendants' concerns. *Id.* at *25-26.

Because the application of the challenged Vehicle Code sections was discriminatory, the Court enjoined defendants from prohibiting the Tribe's use and display of emergency light bars on its police vehicles when those vehicles are traveling on public roads in performance of the tribal officers' law enforcement functions. The Court noted that to hold otherwise would unduly burden the Tribe's ability to perform its on-reservation law enforcement functions effectively, and frustrate the federal policy supporting tribal self-government. *Id.* at 28.

COURT ANNOUNCEMENTS

***Guardian ad litem* April Training**

On April 26-27, 2005 the Wisconsin State Bar will host a *Guardian ad litem* (“GAL”) training seminar. Those who are interested in becoming a GAL and those who are already serving as GALs and want to obtain further training are encouraged to attend this event. In addition, the Ho-Chunk Nation Judiciary is able to award a limited number of scholarships to attend the state sponsored GAL training seminar to enrolled members or employees of the Ho-Chunk Nation. For more information on becoming a GAL or applying for a training seminar scholarship, contact the Ho-Chunk Nation Trial Court at (715) 284-2722 or (800) 434-4070. More information regarding this specific GAL training event is available online at www.wisbar.org, under the “Marketplace” tab.



***Guardian ad litem* Travel Fees**

Pursuant to WIS. STAT. § 977.08(4m)(c), attorneys who serve as *Guardians ad litem* (“GALs”) in Wisconsin state courts are paid at reduced rates for time spent in travel related to a case. In an effort to reduce overall expenditures, the Court will begin compensating GALs serving in the Ho-Chunk Nation Courts similarly.

Attorney GALs will continue to be paid \$40.00 per hour for time spent related to a case, excluding travel. The Court will not compensate attorney GALs for travel, except that attorney GALs will be paid \$25 per hour for time spent in travel related to a case if any portion of the trip is outside the county where the attorney’s office is located or the trip requires traveling more than thirty (30) miles, one way, from the attorney’s office.

Non-attorney GALs will continue to be paid \$20.00 per hour for time spent related to a case,

excluding travel. Non-attorney GALs will be paid \$12.50 per hour for travel related to a case only if any portion of the trip is outside the county the GAL lives in or the trip requires traveling more than thirty (30) miles, one way, from the GAL’s residence.

All GALs will continue to be compensated for mileage related to a case at \$.325 per mile. The Court requests the cooperation of GALs in this matter, and reminds the GALs to properly itemize time spent in travel on their billing reports. The Court continues to appreciate the efforts of its GALs. This new travel payment system will help to ensure that the Court will be able to engage GALs for years to come.

Wa Ehi Hoci to Close for Christmas Holiday

On Thursday, December 23, 2004, the Court will close at noon due to the Christmas holiday. The Court will not re-open until Monday, December 27, 2004. All pleadings or filings ordinarily due on December 23rd or 24th may be filed on the next full business day, December 27, 2004.



UPDATES FROM OUTSIDE COURTS

United States Supreme Court

Certiorari denied

Mille Lacs County v. Benjamin, 361 F.3d 460 (8th Cir. 2004), *cert. denied*, 125 S. Ct. 454 (Nov. 1, 2004).

Chippewa Trading Company v. Cox, 365 F.3d 538 (6th Cir. 2004), *cert. denied*, 73 U.S.L.W. 3297 (Nov. 15, 2004).

Petition for Certiorari filed

Taxpayers of Michigan Against Casinos v. Michigan, 685 N.W.2d 221 (Mich. 2004), *petition for cert. filed*, (U.S. Oct. 28, 2004) (No. 04-581).

Hammond v. Couer d'Alene Tribe of Idaho, 384 F.3d 674 (9th Cir. 2004), *petition for cert. filed*, (U.S. Nov. 5, 2004) (No. 04-624).

Richards v. Prairie Band Potawatomi Nation, 379 F.3d 979 (10th Cir. 2004), *petition for cert. filed*, (U.S. Nov. 5, 2004) (No. 04-631).

Peabody Coal v. Navajo Nation, 373 F.3d 945 (9th Cir. 2004), *petition for cert. filed*, (U.S. Nov. 8, 2004) (No. 04-634).

Seventh Circuit Court of Appeals

United States v. Fish, No. 04-1197, 2004 U.S. App. LEXIS 22788 (7th Cir. Nov. 3, 2004).

Prior to trial for assault with a dangerous weapon, Fish, a member of the Menominee tribe and resident of the tribe's reservation, filed a motion to dismiss based upon the defense theory of entrapment by estoppel. The charge arose out of an incident where Fish discharged a shotgun at his brother, causing serious injury. The district court denied the defendant's motion to dismiss. Fish later pled guilty to the charge and filed a motion for a downward departure in sentencing, citing the "totality of the circumstances." The district court denied the defendant's motion.

On appeal, Fish contended that the district court erred in denying his motion to dismiss or precluding him from introducing evidence at trial to support a defense of entrapment by estoppel. Fish argued that his entrapment by estoppel defense was supported by a "culture of pervasive violence and disrespect for the rule of law" existing on the reservation as a result of the federal government's inconsistent policies concerning the recognition of the Menominee tribe and the form of government existing there.

The Court of Appeals affirmed the district court's denial of the motion to dismiss, holding that the entrapment by estoppel defense is specific to the state of mind of the defendant and the crime with

which he is charged. The Court noted that in order for the entrapment by estoppel defense to apply, Fish would have to "identify a person with the actual or apparent authority of a government entity, who actively assured him that shooting his brother in the leg with a shotgun was a legal activity." The Court also affirmed the district court's refusal to grant a downward departure in sentencing.

Ninth Circuit Court of Appeals

Natural Resources Defense Council v. Abraham, No. 03-35711, 2004 U.S. App. LEXIS 23270 (9th Cir. Nov. 5, 2004).

The United States Department of Energy ("DOE") appealed the district court's grant of summary judgment to the plaintiffs. Plaintiffs, the Natural Resources Defense Council, Confederated Tribes and Bands of the Yakima Nation, Snake River Alliance, and Shoshone-Bannock Tribes, filed action seeking to prevent DOE from proceeding to apply Order 435.1. The Order provided a process for determining whether certain radioactive waste streams are "waste incidental to reprocessing" that are not considered "high-level waste." Plaintiffs contended that the DOE would use the Order to bypass the NUCLEAR WASTE POLICY ACT OF 1982, 42 U.S.C. §§ 10101-10270.

The Tenth Circuit Court vacated the district court's judgment on the basis that the case was not yet ripe. The Court noted that courts are traditionally reluctant to grant declaratory and injunctive relief against administrative agencies unless the controversy is ripe for judicial resolution. The Court found that DOE had not yet taken actions that required judicial intervention.

Tenth Circuit Court of Appeals

Cherokee Nation of Oklahoma v. Norton, No. 03-5055, 2004 U.S. App. LEXIS 23910 (10th Cir. Nov. 16, 2004).

Pursuant to the FEDERALLY RECOGNIZED INDIAN TRIBE LIST ACT OF 1994, Indian tribes may be recognized by congressional act, the procedures under the CODE OF FEDERAL REGULATIONS, or a decision of a United States Court. Publ. L. No. 103-454, § 103(3), 108 Stat. 4791. In 1992 the

Delaware Tribe of Indians (“Delawares”) informally requested federal recognition from the Department of Interior (“DOI”). However, the Delawares did not formally petition for acknowledgment. The DOI issued a decision in 1996 declaring the Delawares a tribal entity, separate from the Cherokee Nation, recognized and eligible for funding and services from the Bureau of Indian Affairs. The Cherokee Nation filed suit against the DOI, alleging the DOI violated the ADMINISTRATIVE PROCEDURE ACT (“APA”), 5 U.S.C. §§ 701-706, by extending recognition to the Delawares. The district court upheld the DOI’s decision and the Cherokee Nation appealed.

The DOI based its decision upon the 1866 treaty between the Cherokee Nation and the United States and the 1867 Agreement between the Cherokee Nation and the Delawares. The Court of Appeals noted, however, that all courts, including the Supreme Court, to consider the terms of those agreements, have rejected the DOI’s interpretation, and have held that the Delawares became part of the Cherokee Nation when they moved to the Cherokee Nation in the 1860’s. The Court also deemed the DOI’s actions arbitrary and capricious since the DOI elected not to follow the procedures in the CODE OF FEDERAL REGULATIONS for recognizing an Indian Tribe. The Court reversed the district court’s decision, declaring the DOI’s decision unlawful as contrary to Supreme Court precedent and the FEDERALLY RECOGNIZED INDIAN TRIBE LIST ACT.

Woodruff v. Covington, M.D., Nos. 02-7040, 02-7051, 2004 U.S. App. LEXIS 23975 (10th Cir. Nov. 17, 2004).

Plaintiff Woodruff brought a malpractice action against two physicians, the Central Oklahoma American Indian Health Council (“COAIHC”), the Carl Albert Health Facility and the United States of America. The physicians and COAIHC filed motions to dismiss and substitute the United States as the proper defendant on the grounds that the physicians were federal employees under the FEDERAL TORT CLAIMS ACT (“FTCA”), 28 U.S.C. § 1346(b), and that the COAIHC was a federal agency. The district court denied the motions finding that the defendants were not entitled to immunity under the FTCA.

After finding that the district court orders denying the motions were final, appealable orders, the Tenth Circuit Court of Appeals affirmed the district court’s denial of the motions to dismiss and to substitute the United States. The FTCA provides a limited waiver of the sovereign immunity of the United States for certain torts committed by federal employees while acting within the scope of their employment. In *United States v. Orleans*, the Supreme Court described the test for determining whether a party is a federal employee covered by the Act, or is an independent contractor not so protected. 425 U.S. 807, 814 (1976). The *Orleans* Court deemed that the dispositive issue in the determination is whether the federal government controls the party’s day-to-day operations. *Id.* at 815. The Tenth Circuit Court applied the *Orleans* test and held that defendants failed to demonstrate that they were entitled to FTCA immunity as federal employees because they failed to present any evidence demonstrating, or even argue, that the government exercised day-to-day control over them.

Northern Arapaho Tribe v. Wyoming, No. 02-8026, 02-8031, 2004 U.S. App. LEXIS 24378 (10th Cir. Nov. 23, 2004).

The Northern Arapaho Tribe (“Tribe”) filed an action seeking a declaration that the state of Wyoming failed to negotiate in good faith in violation of the INDIAN GAMING REGULATORY ACT (IGRA), 25 U.S.C. §§ 2701 *et seq.* The district court held that Wyoming’s refusal to negotiate in good faith as to calcutta or parimutuel betting, other than in strict conformity with state law restrictions, constituted a failure to negotiate in good faith. The district court also held, however, that casino-style gaming and slot machines were against Wyoming public policy and therefore not subject to negotiation even though Wyoming law allowed casino-style gambling for social purposes. Both parties appealed the district court’s decision.

Pursuant to IGRA the types of games at issue in this case (“Class III games”) are lawful on Indian lands only if such activities are “located in a State that permits such gaming for any purpose by any person, organization, or entity.” *Id.* § 2710(d)(1)(B). When a Tribe requests the state to enter into negotiations for the purpose of entering

into a tribal-state compact governing the conduct of class III gaming activities, the state must negotiate in good faith. *Id.* § 2710(d)(3)(A).

The Tenth Circuit Court noted that courts have taken at least two different approaches regarding the scope of negotiations required between Indian tribes and states under IGRA. Under the “Wisconsin” analysis if the state permits any form of Class III gaming, the tribe must negotiate over all forms of Class III gaming. *See, e.g., Lac du Flambeau Band of Lake Superior Chippewa Indians v. Wisconsin*, 770 F. Supp. 480 (W.D. Wis. 1991). Under the Florida analysis, if the state allows a particular game for any purpose, the state must negotiate with the tribe over that specific game. *See, e.g., Coeur D’Alene Tribe v. Idaho*, 842 F. Supp. 1268 (D. Idaho 1994). However, the state’s permissive treatment as to one type of Class III game does not mean that the state must negotiate with tribes as to all Class III games.

While the district court adopted the “Florida” game-specific approach, the Tenth Circuit Court of Appeals declined to adopt either approach, holding that in this instance, under either approach, the state of Wyoming was required to negotiate with the Tribe as to all games proposed by the Tribe. The Court affirmed the district court’s ruling that IGRA required the state to negotiate with the Tribe regarding calcutta and parimutuel wagering without regard to the limitations of Wyoming law because to hold that the state law limitations applied to the Tribe would defeat the purpose of the negotiation requirement under IGRA.

The court concluded that IGRA also required the state to negotiate with the Tribe as to the broader issue of casino-style Class III gaming, because Wyoming state law permitted such gaming, although just for social or non-profit purposes. WYO. STAT. § 6-7-101(a)(iii)(E). The Court held that, if a state permits Class III gaming under the “Wisconsin” approach, or if a state permits any specific games in any fashion under the “Florida” approach, that state must negotiate a compact for those games even if state law restricts the sponsors or purposes of such gaming.

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

NOVEMBER 2, 2004

Teresa Darlene Powers v. Darryl Spencer Powers, CS 04-53 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Nov. 2, 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 timeframe. The Court granted the petitioner’s request for recognition and enforcement.

State of Wisconsin, Jackson County, on behalf of Shelley Thundercloud v. Kevin Vasquez, CS 99-19 Order (Modifying & Enforcing Child Support Deduction from Wages) (HCN Tr. Ct., Nov. 2, 2004). (Bossman, W).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The Court granted the motion.

State of Wisconsin/Outagamie County v. Carrie C. Knapp, CS 04-62 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Nov. 2, 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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

NOVEMBER 3, 2004

Amy Millis v. Robin Stone, CS 04-49 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Nov. 3, 2004). (Bossman, W).

The petitioner requested permission to appear at the *Fact-Finding Hearing* by telephone. The Court granted the request.

NOVEMBER 5, 2004

Barbara Long v. Garrett Banuelos, Sr., CV 97-88 Order (Renewing Child Support Withholding) (HCN Tr. Ct., Nov. 5, 2004). (Matha, T).

The Court offered this further clarification of the respondent's current child support obligation.

NOVEMBER 8, 2004

State of Wisconsin v. Twilight M. Hindsley, CS 04-37 Order (Releasing Impounded Per Capita) (HCN Tr. Ct., Nov. 8, 2004). (Matha, T).

The Court previously impounded the respondent's established child support withholding from per capita distribution pending receipt of a certified foreign court order modifying the status quo. The respondent filed such an order. The Court released the impounded funds.

State of Wisconsin & Pamela Rusch v. Tamara Garvin, CV 97-24 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Nov. 8, 2004). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation 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 high school enrollment.



NOVEMBER 9, 2004

State of Wisconsin v. Jesse J. Awonahopay, CS 04-32 Order (Enforcing Child Support) (HCN Tr. Ct., Nov. 9, 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 requested enforcement of the foreign order. The Court granted the respondent's request for recognition and enforcement.

State of Wisconsin/Brown County & Gayla R. Barnes v. Kevin B. Funmaker, CS 03-81 Order (Ceasing Child Support Withholding & Intent to Close) (HCN Tr. Ct., Nov. 9, 2004). (Matha, T).

The petitioner filed a motion requesting modification of child support withholding. The Court granted the motion and informed the parties of its intent to close the file.

State of Wisconsin/Jackson County v. Casey A. Fitzpatrick, CS 00-50 Order (Enforcing Child Support-Wages) (HCN Tr. Ct., Nov. 9, 2004). (Bossman, W).

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

State of Wisconsin/Jackson County v. Casey A. Fitzpatrick, CS 00-50 *Order (Modifying & Enforcing Child Support)* (HCN Tr. Ct., Nov. 9, 2004). (Bossman, W).

The petitioner filed a motion requesting modification of child support withholding with a certified amended foreign court order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

NOVEMBER 19, 2004

Kentwan Lee Dixon v. Johna Lee Fisher, CS 03-29; *Kentwan Lee Dixon v. Johna Lee Fisher*, CS 04-52 *Notice (Consolidating Cases & Updating Case No. – Per Capita)* (HCN Tr. Ct., Nov. 15, 2004). (Bossman, W).

The petitioner previously filed two (2) separate petitions regarding child support obligation of the same respondent. The Court consolidated the two separate cases into the former case and informed the parties of its intent to close the latter case. The Court offered further clarification of the respondent's child support obligation.

Kentwan Lee Dixon v. Johna Lee Fisher, CS 03-29; *Kentwan Lee Dixon v. Johna Lee Fisher*, CS 04-52 *Notice (Consolidating Cases & Updating Case No. – Wages)* (HCN Tr. Ct., Nov. 15, 2004). (Bossman, W).

The petitioner previously filed two (2) separate petitions regarding child support obligation of the same respondent. The Court consolidated the two separate cases into the former case and informed the parties of its intent to close the latter case. The Court offered further clarification of the respondent's child support obligation.

Patricia Houghton v. Dixon Funmaker, CS 98-68 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Nov. 15, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support arrearage withholding with a certified accounting statement. The Court granted the motion.

Barbara J. Kelley v. Vance E. Fontenelle, Jr., CS 98-72 *Order (Enforcing Arrearage Withholding)* (HCN Tr. Ct., Nov. 15, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to enforce child support arrearage withholding with a certified accounting statement. The Court granted the motion.



State of Wisconsin/Eau Claire Co. v. Cory H. Funmaker, CS 03-60; *State of Wisconsin/Trempealeau Co. v. Cory H. Funmaker*, CS 03-63 *Order (Enforcing Arrearage Withholding)* (HCN Tr. Ct., Nov. 15, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to enforce child support arrearage withholding with a certified accounting statement. The Court granted the motion.

State of Wisconsin & Pamela Rusch v. Tamara Garvin, CS 98-30 *Order (Proof of High School Enrollment Filed)* (HCN Tr. Ct., Nov. 15, 2004). (Matha, T).

The Court previously notified the parties that a minor child turned eighteen (18) years of age. The Court ordered the parties to file proof of high school enrollment, or the court would cease withholding for current child support. The petitioner filed the required proof.

NOVEMBER 16, 2004

State of Wisconsin/Sauk Co. & Victoria Blackcoon v. John S. Cloud, CS 98-34 *Order (Notice of Hearing)* (HCN Tr. Ct., Nov. 16, 2004). (Matha, T).

The respondent filed a post-judgment motion alleging a violation of due process within the underlying state court proceeding. The Court ordered a fact-finding hearing to allow the respondent an opportunity to prove his allegations by a preponderance of the evidence.

NOVEMBER 19, 2004

State of Wisconsin v. Fredrick K. Greendeer, CV 97-44 *Order (Enforcing Arrearage Withholding)* (HCN Tr. Ct., Nov. 19, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to enforce child support arrearage withholding with a certified accounting statement. The Court granted the motion.

NOVEMBER 24, 2004

Lawrence D. Corbesia v. Melissa J. Corbesia, CS 03-64 *Order (Releasing Impounded Per Capita)* (HCN Tr. Ct., Nov. 24, 2004). (Matha, T).

The Court previously impounded the respondent's established child support arrearage withholding from per capita distribution pending receipt of a certified foreign court order modifying the status quo. The respondent filed such an order. The Court ordered the release of the impounded amount and informed the parties of its intent to close the file.

NOVEMBER 30, 2004

Michelle Lewis v. Dennis C. Lewis, CS 01-36 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Nov. 30, 2004). (Bossman, W).

The Court previously recognized and enforced a foreign order for child support. The petitioner filed a motion to amend child support arrearage withholding with a certified accounting statement. The Court granted the motion.

**Civil Garnishment****OCTOBER 29, 2004**

State Collection Serv. v. Rick Hernandez, CG 04-56 *Order (Petition Granted)* (HCN Tr. Ct., Oct. 29, 2004). (Matha, T).

The Court previously denied the petitioner's request to enforce a foreign judgment because the respondent claimed an exemption to the earnings garnishment. The petitioner filed a certified foreign judgment affirming the respondent's debt obligation. The Court granted the petitioner's request for recognition and enforcement.

NOVEMBER 5, 2004

Robert Mobley v. Sarah Lemieux, CG 04-104 *Order (Garnishment)* (HCN Tr. Ct., Nov. 5, 2004). (Bossman, W).

The Court had to determine whether to grant petitioner's motion to garnish respondent's per capita distributions and/or wages. The respondent failed to respond within the specified time frame. The Court granted the petitioner's request as to garnishing respondent's wages.

NOVEMBER 16, 2004

Quick Cash Loans v. Sonia Roberts, CG 04-109 *Order (Default Judgment)* (HCN Tr. Ct., Nov. 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.

NOVEMBER 18, 2004

Direct Merchants Credit Card Bank v. Angie Ackerman, CG 04-127 *Order (Default Judgment)* (HCN Tr. Ct., Nov. 18, 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.

Drs. Delebo, Overman, Hegna & Reich v. Mike Smith, CG 04-126 *Order (Default Judgment)* (HCN Tr. Ct., Nov. 18, 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.

NOVEMBER 19, 2004

Alliance Collection Agencies, Inc. v. Carson Funmaker, CG 04-102 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., Nov. 19, 2004). (Matha, T).

The petitioner failed to file an *Amended Petition* within the specified timeframe. The Court dismissed the case.

Alliance Collection Agencies, Inc. v. Michael Terry, CG 04-64 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., Nov. 19, 2004). (Bossman, W).
The petitioner failed to file an *Amended Petition* within the specified timeframe. The Court dismissed the case.

State Collection Service v. Alicia Berg, CG 03-84 *Order (Dismissal Without Prejudice)* (HCN Tr. Ct., Nov. 19, 2004). (Bossman, W).
The petitioner failed to file an *Amended Petition* within the specified timeframe. The Court dismissed the case.

Civil Cases

CHILDREN'S TRUST FUND (CTF)

NOVEMBER 2, 2004

In the Interest of Minor Child: S.M.T., DOB 03/12/87, by Donna L. Thundercloud v. HCN Office of Tribal Enrollment, CV 04-52 *Order (Accepting Accounting)* (HCN Tr. Ct., Nov. 2, 2004). (Matha, T).

The Court previously released funds from the CTF account of a minor child for costs associated with transportation to and attendance at college. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

NOVEMBER 5, 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 (Requesting Accounting)* (HCN Tr. Ct., Nov. 5, 2004). (Bossman, W).

The Court requested that the petitioner submit the required accounting.

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 (Requesting Accounting)* (HCN Tr. Ct., Nov. 5, 2004). (Matha, T).

The Court requested that the petitioner submit the required accounting.

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 (Requesting Accounting)* (HCN Tr. Ct., Nov. 5, 2004). (Bossman, W).

The Court requested that the petitioner submit the required accounting.

In the Interest of Minor Children: Z.A.W., DOB 07/28/91, and S.J.W., DOB 11/15/99, by Rita J. Wolf v. HCN Office of Tribal Enrollment, CV 04-10 *Order (Requesting Accounting)* (HCN Tr. Ct., Nov. 5, 2004). (Matha, T).

The Court requested that the petitioner submit the required accounting.

NOVEMBER 9, 2004

In the Interest of Decedent: Jordan Francis Decorah, DOB 07/30/86 v. HCN Office of Tribal Enrollment, CV 04-98 *Order (Releasing CTF Funds to Estate)* (HCN Tr. Ct., Nov. 9, 2004). (Bossman, W).

The Court directed the release of the CTF to the court-appointed personal representative of the estate.

NOVEMBER 10, 2004

In the Interest of Minor Child: D.J.P., DOB 09/03/94, by Lucie A. Penland v. HCN Office of Tribal Enrollment, CV 04-48 *Order (Accepting Accounting)* (HCN Tr. Ct., Nov. 10, 2004). (Matha, T).

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

NOVEMBER 15, 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 (Accepting Accounting)* (HCN Tr. Ct., Nov. 15, 2004). (Bossman, W).

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

NOVEMBER 16, 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 (Accepting Accounting) (HCN Tr. Ct., Nov. 16, 2004). (Matha, T).

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

NOVEMBER 19, 2004

In the Interest of Minor Child: D.M.D., DOB 05/29/95, by Laurie A. Dorwin v. HCN Office of Tribal Enrollment, CV 04-81 Order (Accepting Accounting) (HCN Tr. Ct., Nov. 19, 2004). (Bossman, W).

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

NOVEMBER 30, 2004

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 (Accepting Accounting) (HCN Tr. Ct., Nov. 30, 2004). (Bossman, W).

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



DEBTS TO THE NATION

NOVEMBER 1, 2004

HCN Dep't of Treasury & Ho-Chunk Nation v. Jeff Miller, CV 04-55 Order (Default Judgment) (HCN Tr. Ct., Nov. 1, 2004). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiffs. The defendant failed to respond within the specified timeframe. The Court granted the plaintiffs' requested relief.

EMPLOYMENT

OCTOBER 29, 2004

Kenneth Lee Twin v. Toni McDonald, Ho-Chunk Nation & HCN Dep't of Pers., CV 04-27 Order (Motion Hearing) (HCN Tr. Ct., Oct. 29, 2004). (Matha, T).

The plaintiff filed a motion requesting summary judgment. The Court scheduled a *Motion Hearing* in order to address the matter.

NOVEMBER 8, 2004

Daniel M. Brown v. Jim Webster, HCN Exec. Dir. of Bus., CV 04-38-39-40 Order (Denying Defendant's Motion to Dismiss & Denying Plaintiff's Motion for Leave of Court) (HCN Tr. Ct., Nov. 8, 2004). (Bossman, W).

The Court had to determine whether to grant the respective motions filed by the plaintiff and the defendant. The Court denied the defendant's motion because it did not articulate an adequate ground for dismissal. The Court denied the plaintiff's motion since it was filed untimely.

Wehuh Cloud v. Jonette Pettibone & Majestic Pines Casino, CV 04-88 Order (Dismissal without Prejudice) (HCN Tr. Ct., Nov. 8, 2004). (Matha, T).

The plaintiff requested that the Court dismiss the case. The Court dismissed the case without prejudice.

Wehuh Cloud v. Jonette Pettibone & Majestic Pines Casino, CV 04-92 Order (Dismissal without Prejudice) (HCN Tr. Ct., Nov. 8, 2004). (Matha, T).

The plaintiff requested that the Court dismiss the case. The Court dismissed the case without prejudice.

Joyce Warner v. Ona Garvin & Games Webster, CV 04-72 Scheduling Order (HCN Tr. Ct., Nov. 9, 2004). (Bossman, W).

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

NOVEMBER 10, 2004

Jill C. Adair v. HCN Dep't of Bus., CV 04-49 Order (Dismissal) (HCN Tr. Ct., Nov. 10, 2004). (Bossman, W).

The plaintiff failed to appear at the *Scheduling Conference* and failed to contact the Court to reschedule the hearing. The Court dismissed the case.

Patricia C. Boyles v. Christine Steeples, Exec. Dir. of Health & Soc. Servs.; Hattie Walker, HSS Div. Admin'r.; Toni McDonald, Exec. Dir. of Pers.; George Lewis, HCN Pres.; and Ho-Chunk Nation, CV 04-08 Order (Granting Motion for Summary Judgment) (HCN Tr. Ct., Nov. 10, 2004). (Bossman, W).

The defendants filed a motion requesting that the Court grant summary judgment in their favor. The Court held that there was no genuine issue of material fact in dispute. Additionally, the Court found that the plaintiff failed to follow the administrative procedures required by the HO-CHUNK NATION PERSONNEL POLICIES AND PROCEDURES MANUAL. The Court granted judgment as a matter of law in favor of the defendants.

Sandra K. Cherry v. Ho-Chunk Casino Slot Dep't, CV 04-28 Order (Dismissal) (HCN Tr. Ct., Nov. 10, 2004). (Bossman, W).

The plaintiff failed to appear at the *Scheduling Conference* and failed to contact the Court to reschedule the hearing. The Court dismissed the case.

NOVEMBER 12, 2004

Kenneth Lee Twin v. Toni McDonald, Ho-Chunk Nation & HCN Dep't of Pers., CV 04-27 Order (Granting Defendants' Motion for Summary Judgment) (HCN Tr. Ct., Nov. 12, 2004). (Matha, T).

The Court had to determine whether to grant the defendants' request for summary judgment. The Court found that plaintiff filed his initial pleading in the Trial Court prior to filing any formal grievances pursuant to the Administrative Review Process contained in the HO-CHUNK NATION PERSONNEL POLICIES & PROCEDURES MANUAL. The Court noted the standing precedent from the HCN Supreme Court that grieving employees must exhaust administrative remedies prior to seeking judicial remedies. The Court did not find material

differences in the instant case capable of distinguishing the instant case from precedent. The Court held that the asserted legal issues were not ripe for adjudication and granted the defendants' requested relief.

NOVEMBER 22, 2004

Kathy Dlask v. Ho-Chunk Casino, CV 04-60 Order (Motion Hearing) (HCN Tr. Ct., Nov. 22, 2004). (Bossman, W).

The Court determined to convene a hearing to address the *Motion to Dismiss* filed by the defendant.

Kathy Dlask v. Ho-Chunk Casino & Steve Anderson, CV 04-71 Order (Motion Hearing) (HCN Tr. Ct., Nov. 22, 2004). (Bossman, W).

The Court determined to convene a hearing to address the *Motion to Dismiss* filed by the defendants.

GENERAL COUNCIL

NOVEMBER 9, 2004

Dallas White Wing v. HCN Gen. Council, through Alvin Cloud, in his official capacity as Acting Chair of the Gen. Council; Judy Whitehorse-Hilmer, in her official capacity as Sec'y of the Gen. Council; and the Ho-Chunk Legislature through Wade Blackdeer, Myrna Thompson, Christine Romano, Gerald Cleveland, Sharon Whiterabbit, Kathyleen Lonetree Whiterabbit, John Dall, Tracy Thundercloud, Elliott Garvin & Clarence Pettibone, in their official capacities as Legislators; and the HCN Election Boards through Mary Ellen Dumas, in her official capacity as Chair of the Election Board, CV 04-99 Order (Preliminary Injunction Hearing) (HCN Tr. Ct., Nov. 9, 2004). (Bossman, W).

The plaintiff filed a motion requesting a preliminary injunction. The Court scheduled a *Preliminary Injunction Hearing* in order to address the matter.

NOVEMBER 18, 2004

Dallas White Wing v. HCN Gen. Council, through Alvin Cloud, in his official capacity as Acting Chair of the Gen. Council; Judy Whitehorse-Hilmer, in her official capacity as Sec'y of the Gen. Council; and the Ho-Chunk Legislature through Wade Blackdeer, Myrna Thompson, Christine Romano, Gerald Cleveland, Sharon Whiterabbit, Kathyleen

Lonetree Whiterabbit, John Dall, Tracy Thundercloud, Elliott Garvin & Clarence Pettibone, in their official capacities as Legislators; and the HCN Election Boards through Mary Ellen Dumas, in her official capacity as Chair of the Election Board, CV 04-99 Order (Granting Preliminary Injunction) (HCN Tr. Ct., Nov. 9, 2004). (Bossman, W).

In the instant matter, the Court applied a four-part standard previously adopted by the Court and upheld by the HCN Supreme Court. The Court first had to determine whether the plaintiff possessed an adequate remedy at law. In other words, the Court had to determine whether the plaintiff could reasonably be compensated through money damages. The Court held that monetary relief was not available for any damages the plaintiff might suffer under the laws of the HCN.

Under the second prong of the relevant standard, the Court had to determine whether the threatened harm to the plaintiff outweighed the harm of issuing the injunction. The Court held that the possible harms to the plaintiff in fact outweighed the harms posed by issuance of an injunction. The Court then examined the third prong of the applicable standard: whether the plaintiff has a reasonable likelihood of success. The Court held the plaintiff has a reasonable likelihood of success in proving that either his notice or opportunity to be heard was constitutionally deficient.

Finally, the Court held that the fourth prong of the test, whether issuing the injunction serves the public interest, was met because granting the injunction as requested by the plaintiff would allow for a full presentation of the issues of this controversy. Because the four prongs of the relevant standard were satisfied, the Court granted the preliminary injunction.

HOUSING

NOVEMBER 1, 2004

HCN Dep't of Prop. Mgmt. v. Carole L. St. Cyr, CV 04-56 Order (Default Judgment) (HCN Tr. Ct., Nov. 1, 2004). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiffs. The defendant failed to respond within the specified timeframe. The Court granted the plaintiffs' requested relief.

NOVEMBER 15, 2004

Ho-Chunk Hous. Auth. v. Marilyn White Eagle & Randall White Eagle, CV 03-10 Order (Satisfaction of Judgment) (HCN Tr. Ct., Nov. 15, 2004). (Bossman, W).

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 file.

Ho-Chunk Hous. Auth. v. Lisa Walker, Lawrence Eagleman, Sr., & Lawrence Eagleman, Jr., CV 02-107 Order (Satisfaction of Judgment) (HCN Tr. Ct., Nov. 15, 2004). (Bossman, W).

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 file.

INCOMPETENT TRUST FUND (ITF)

OCTOBER 29, 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 (Accepting Accounting) (HCN Tr. Ct., Oct. 29, 2004). (Matha, T).

The Court previously released funds from the ITF account of an adult incompetent for costs associated with ongoing nursing home care. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

NOVEMBER 4, 2004

In the Interest of Adult Incompetent: Oliver S. Rockman, CV 97-117 Order (Granting Release of Per Capita Funds) (HCN Tr. Ct., Nov. 4, 2004). (Bossman, W).

The Court had to determine whether a protective payee could access ITF monies on behalf of the adult incompetent for a spending allowance and costs associated with household items. The Court granted the request.

NOVEMBER 16, 2004

In the Interest of Adult Incompetent: W.E.S., DOB 12/23/36, by Frank E. Bichanich v. HCN Office of Tribal Enrollment, CV 04-22 Order (Motion

Granted) (HCN Tr. Ct., Nov. 16, 2004). (Matha, T).

The Court had to determine whether a protective payee could access ITF monies on behalf of the adult incompetent for costs associated with guardianship expenses and fees and purchasing a glider chair. The protective payee also requested a modification of the established quarterly allowance. The Court granted the requests.

Juvenile

NOVEMBER 1, 2004

In the Interest of Minor Child: K.L.H., DOB 10/21/88, JV 03-35 Order (Submission of Guardianship Report & Home Study) (HCN Tr. Ct., Nov. 1, 2004) (Matha, T).

The Court ordered CFS to prepare and submit a guardianship report and home study to the Court.

NOVEMBER 12, 2004

In the Interest of Minor Child: T.J.M-H., DOB 10/10/04, JV 04-29 Order (Voluntary Dismissal) (HCN Tr. Ct., Nov. 12, 2004). (Matha, T).

The petitioner filed a letter with the Court, noting her withdrawal of the guardianship petition. The Court dismissed the case without prejudice.

NOVEMBER 15, 2004

In the Interest of Minor Children: C.L., DOB 04/25/98; C.D., DOB 09/19/01, JV 04-30-31 Order (Appointment of Guardian Ad Litem) (HCN Tr. Ct., Nov. 15, 2004). (Bossman, W).

The Court appointed a GAL in this matter.

NOVEMBER 19, 2004

In the Interest of Minor Children: M.C.D., DOB 03/29/99, JV 99-11 Order (Appointment of Permanent Guardian) (HCN Tr. Ct., Nov. 19, 2004). (Matha, T).

The Court had to determine whether to appoint a permanent guardian of the minor child. The parties entered into a voluntary *Stipulation for Permanent Guardianship* settling the instant matter. The Court incorporated the *Stipulation* in its entirety.



NOVEMBER 29, 2004

In the Interest of Minor Children: A.A.G., DOB 11/13/92; B.G., DOB 05/12/96, JV 04-33-34 Order (Submission of Guardianship Report & Home Study) (HCN Tr. Ct., Nov. 29, 2004). (Matha, T).

The Court ordered CFS to prepare and submit a guardianship report and home study to the Court.

In the Interest of Minor Children: A.A.G., DOB 11/13/92; B.G., DOB 05/12/96, JV 04-33-34 Order (Submission of Traditional Relatives List) (HCN Tr. Ct., Nov. 29, 2004). (Matha, T).

The Court ordered CFS to prepare and submit a list of the minor children's traditional relatives to the Court.

In the Interest of Minor Children: C.L., DOB 04/25/98; C.D., DOB 09/19/01; L.R.L., DOB 11/02/02, JV 04-30-31-20 Order (Reassignment & Rescheduling Child Protection Review Hearing) (HCN Tr. Ct., Nov. 29, 2004). (Matha, T).

The Court had to determine whether to grant the *Motion to Consolidate* filed by CFS. The Court declined to consolidate the instant cases but will jointly schedule the cases for ease of administration.



NOVEMBER 30, 2004

In the Interest of Minor Children: K.B.M., DOB 10/29/93; G.E.M., DOB 08/25/95; A.D.M., DOB 04/25/97; L.A.M., DOB 12/16/00, JV 03-07-10 Order (Submission of Guardianship Report & Home Study) (HCN Tr. Ct., Nov. 30, 2004). (Bossman, W).

The Court ordered CFS to prepare and submit a guardianship report and home study to the Court.

In the Interest of Minor Children: K.B.M., DOB 10/29/93; G.E.M., DOB 08/25/95; A.D.M., DOB 04/25/97; L.A.M., DOB 12/16/00, JV 03-07-10 Order (Submission of Traditional Relatives List) (HCN Tr. Ct., Nov. 30, 2004). (Bossman, W).

The Court ordered CFS to prepare and submit a list of the minor children's traditional relatives to the Court.

Supreme Court

NOVEMBER 15, 2004

Marx Advertising Agency, Inc. v. Ho-Chunk Nation, d/b/a Ho-Chunk Casino & Bingo, Majestic Pines Casino & Bingo, Rainbow Casino & Bingo, and DeJope Bingo, SU 04-07 Scheduling Order (Order for Oral Argument) (HCN S. Ct., Nov. 14, 2004).

The Supreme Court accepted the matter for appeal and set the matter for oral argument.

Recent Filings

Trial Court

Civil Garnishment

NOVEMBER 8, 2004

Quick Cash Loans v. Mary Lacey, CG 04-128. (Bossman, W).

NOVEMBER 19, 2004

Carroll Prop. Mgmt. v. Diane Blackhawk, CG 04-129. (Matha, T).

Larry Richardson v. Kimberly L. Kuhn, CG 04-130. (Matha, T).

Alliance Collection Agency, CG 04-131. (Matha, T).

Sherman Acquisition v. Anna Berndt, CG 04-132. (Matha, T).

NOVEMBER 24, 2004

Gunderson Lutheran Clinic v. Melissa Dockerty, CG 04-133. (Bossman, W).

Child Support

NOVEMBER 16, 2004

Sawyer Co. v. Andrew Bird, CS 04-64. (Matha, T).

Civil Cases

NOVEMBER 1, 2004

Dallas White Wing v. HCN Gen. Council, through Alvin Cloud, in his official capacity as Acting Chair of the Gen. Council; Judy Whitehorse-Hilmer, in her official capacity as Sec'y of the Gen. Council; and the Ho-Chunk Legislature through Wade Blackdeer, Myrna Thompson, Christine Romano,

Gerald Cleveland, Sharon Whiterabbit, Kathyleen Lonetree Whiterabbit, John Dall, Tracy Thundercloud, Elliott Garvin & Clarence Pettibone, in their official capacities as Legislators; and the HCN Election Boards through Mary Ellen Dumas, in her official capacity as Chair of the Election Board, CV 04-99. (Bossman, W).

NOVEMBER 10, 2004

In the Interest of Minor Child: J.M.D., DOB 01/24/91, by Roseann Mann v. HCN Office of Tribal Enrollment, CV 04-100. (Matha, T).

NOVEMBER 17, 2004

In the Interest of Minor Child: J.L.G., DOB 07/24/92, by Willa Redcloud v. HCN Office of Tribal Enrollment, CV 04-101. (Bossman, W).

NOVEMBER 19, 2004

Charles A. Funk v. Ho-Chunk Casino, Lt. Daniel Gander, Sgt. Ralph Kleeber & Security Dep't, et al., CV 04-20. (Matha, T).

NOVEMBER 24, 2004

Elena Blackhawk v. HCN Office of Tribal Enrollment, CV 04-103. (Bossman, W).

In the Interest of Minor Child: L.B.A.K., DOB 07/22/87, by Melissa K. Buffalohead-Johnson v. HCN Office of Tribal Enrollment, CV 04-104. (Bossman, W).

Juvenile Cases

NOVEMBER 29, 2004

In the Interest of Minor Child: A.A.G., DOB 11/13/92, JV 04-33. (Matha, T).

In the Interest of Minor Child: B.G., DOB 05/12/96, JV 04-34. (Matha, T).

Supreme Court

OCTOBER 11, 2004

Marx Advertising Agency, Inc. v. Ho-Chunk Nation, SU 04-07.

NOVEMBER 29, 2004

Kenneth Lee Twin v. Douglas Greengrass, Toni McDonald, Frances Decorah, George Lewis, Ho-Chunk Nation and HCN Dep't of Pers., SU 04-08.



**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
 Douglas Greengrass
 Desmond Mike
 Gavin Pettibone
 Douglas Red Eagle
 Preston Thompson, Jr.
 Eugene Thundercloud
 Morgan White Eagle
 Clayton Winneshiek
 Trial Court – William 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 – Jessi Cleveland
 Staff Attorney – Jocelyn Roy
 Supreme Court Clerk – Mary Endthoff

* 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).

