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HO-CHUNK NATION COURT BULLETIN

Welcome Supreme Court Associate Justice DENNIS FUNMAKER



The Ho-Chunk Nation Judiciary welcomes Mr. Dennis Funmaker to the position of Associate Justice of the Supreme Court. Mr. Funmaker was sworn in on July 6, 2005. Mr. Funmaker has worked for the Ho-Chunk Nation nearly thirty years, since 1976, in a variety of capacities. Most recently, he worked in the Ho-Chunk Nation Office of Public Advocacy as the office administrator.

Additionally, he has served as a lay advocate for the Ho-Chunk Nation Judiciary for the last five years. As a lay advocate, he has had the opportunity to become familiar with the Nation's laws and ordinances. He initially became a lay advocate because he found tribal law fascinating. Currently, Mr. Funmaker is also a member of the Traditional Court; he has been a member representing the Bear Clan since 1998.

When asked why he ran for the prestigious position, he responded that he "hopes to make a difference, and he will serve the Ho-Chunk people with the best intentions and use a clean heart maintaining cultural ways." He would like to see, "the law incorporate more tradition and customs in our rulings." Mr. Funmaker currently resides in Wisconsin Rapids.



Welcome Trial Court Associate Judge TINA F. GOUTY-YELLOW



The Ho-Chunk Nation Judiciary welcomes Ms. Tina F. Gouty-Yellow to the position of Associate Judge of the Trial Court. Ms. Gouty-Yellow was appointed pro tempore by the Legislature on June 9th, 2005. She will serve in this capacity until January 2nd, 2006, at which time she will begin her three year term as the Associate Trial Court Judge.

Ms. Gouty-Yellow comes to the position with over 19 years of experience as an attorney. She has had the privilege of serving a number of Indian Nations. She has practiced in seven different tribal courts and numerous district courts. She created a public defender program for the Cheyenne River Sioux Tribe; she also served as a court consultant for the Crow Creek Sioux Tribe. She was employed by the Menominee Nation, she served for four years as an assistant prosecutor for the Menominee Nation and most recently she served as the Social Service attorney. Additionally, she ran her own law practice for six years.

Throughout her varied legal positions she has specialized in native issues and issues related to children. It is her intention to bring these experiences to the position of Associate Judge. She currently resides in Eau Claire with her family.



UPDATES FROM OUTSIDE COURTS

Second Circuit Court of Appeals
Warsoldier v. Woodford, 2005 U.S. App. LEXIS 15599 (9th Cir. 2005).

Warsoldier appealed from the United States District Court for the Central District of California's denial of his request for a preliminary injunction against the defendant, Woodford, in his suit challenging the prison hair grooming policy of Cal. Code Regs. tit. 15, § 3062(e), arguing the policy and a refusal to permit a religious exception

violated the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).

Warsoldier believed that hair could be cut only upon the death of a close relative. The policy prohibited male inmates from having hair longer than three inches. He had been subjected to a series of punishments to coerce compliance. Because the policy intentionally put significant pressure on the inmate to abandon his religious beliefs, it imposed a substantial burden on his religious practice. The inmate was incarcerated in a minimum security facility. RLUIPA replaced the prior "legitimate penological interest" test with a four-prong "compelling government interest" test. While security was a compelling interest, the policy was not shown as the least restrictive alternative available to reach the compelling interest. The Court found that the:

- (1) policy imposed a substantial burden on inmate's religious practice;
- (2) policy was not the least restrictive alternative to achieve CDC's interest in prison security, and thus violated RLUIPA;
- (3) inmate faced a possibility of irreparable injury absent the issuance of injunction; and
- (4) balance of hardships favored the inmate.

The denial of the request for a preliminary injunction was reversed and the case was remanded.

Hoopa Valley Indian Tribe v. Ryan, 2005 U.S. App. LEXIS 13570 (9th Cir. 2005).

The Hoopa Valley Indian Tribe sought review of a summary judgment from the United States District Court for the Northern District of California granted in favor of defendants, the Bureau of Reclamation, in the Tribe's action seeking mandatory contracts under the Indian Self-Determination and Education Assistance Act (ISDEAA). The Bureau adopted a multifaceted restoration program to address ongoing declines in salmon and steelhead populations in the basin of the Trinity River, which flowed through the Tribe's reservation. The Tribe sought contracts related to the proposed restoration projects under the mandatory contracting provisions of the ISDEAA. The court agreed with the district court that the programs at issue were not "for the benefit of Indians because of their status as Indians" within

the meaning of 25 U.S.C. § 450f(a)(1)(E) and that they were thus not eligible for mandatory contracts. In comparison to other programs eligible for self-determination contracts under § 450f(a)(1)(A)-(C), the Trinity River restoration program was not specifically targeted to the Tribe but rather collaterally benefited the Tribe as a part of the broader population. The court also determined that the Bureau did not violate its trust obligation to the Tribe by determining that contracts for the restoration work should be negotiated under the discretionary, rather than mandatory, provisions of the ISDEAA.

Pro-Football, Inc. v. Harjo, 2005 U.S. App. LEXIS 14312 (D.C. Cir. 2005).

In 1992, seven Native Americans petitioned the Trademark Trial and Appeal Board ("TTAB") to cancel the registrations of six trademarks used by the Washington Redskins football team. After the TTAB granted their petition, the team's owner, Pro-Football, Inc., brought suit seeking reversal of the TTAB's decision. The district court granted summary judgment to Pro-Football on two alternate grounds, holding that the TTAB should have found the Native Americans' petition barred by laches and that in any event the TTAB's cancellation decision was unsupported by substantial evidence. The Native Americans appealed.

The appellate court concluded that 15 U.S.C. § 1064(3) did not bar the equitable defense of laches in response to § 1064(3) cancellation petitions. However, the fact that the district court started the clock for assessing laches in 1967--the time of the first mark's registration--for all appellants, even though the first Native American was at that time only one year old, ran counter to the well-established principle of equity that laches ran only from the time a party reached his majority. The district court should have measured both the first Native American's delay and the resulting prejudice to the owner based on the period between his attainment of majority and the filing of the 1992 cancellation petition. The appellate court preferred not to undertake its own analysis of the first Native American's laches. In assessing prejudice, the district court should address both trial and economic prejudice.

The appellate court remanded the record to the district court for the purpose of evaluating whether laches barred the first Native American's claim.



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). 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 28, 2005

Nicole L. Cook v. Harry Cholka, CV 97-95 Order (Ceasing Child Support Withholding) (HCN Tr. Ct., June 28, 2005). (Matha, T).

The petitioner filed a motion requesting that the Court cease child support withholding from the respondent's per capita distributions due to respondent's termination of his parental rights. The Court granted the motion.

JULY 1, 2005

State of Wisconsin v. Robert Cleveland, CS 00-33 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., July 1, 2005). (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.

JULY 6, 2005

Tammy Cook v. Richard Cloud; Tammy M. Cook v. Richard A. Cloud, CV 97-139; CS 98-67 Order (Modifying Current Child Support) (HCN Tr. Ct., July 6, 2005). (Matha, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

JULY 6, 2005

Porfiria M. Gonzalez v. Eric B. Davis; Celina Webster v. Eric B. Davis, CS 02-28, 05-36 Order (Erratum) (HCN Tr. Ct., July 6, 2005). (Matha, T).

The Court issued this order to correct a clerical mistake made in the previous order.

JULY 8, 2005

State of Wisconsin and Pamela Rusch v. Tamara Garvin, CS 98-30 Order (Closing Case) (HCN Tr. Ct., July 8, 2005). (Matha, T).

The Court closed the case and extended its condolences to the family of the late respondent.

JULY 11, 2005

June Miller v. Larry Fanning, CS 98-71 Order (Reinstating and Enforcing Child Support) (HCN Tr. Ct., July 11, 2005). (Matha, T).

The Court had to determine whether to grant the petitioner's motion to modify. The respondent failed to respond within the prescribed timeframe. The Court granted the petitioner's request to modify.

June Miller v. Larry Fanning, CS 98-71 Order (Reinstating and Enforcing Child Support - Wages) (HCN Tr. Ct., July 11, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's wages. The respondent failed to respond within the prescribed timeframe. The Court granted the petitioner's request to modify.

Melanie Stacy v. Harrison J. Funmaker, CV 96-48 Order (Reinstating Child Support Withholding from Wages) (HCN Tr. Ct., July 11, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's wages. The respondent acquiesced in the request. The Court granted the petitioner's request to modify.

JULY 12, 2005

Christine Armendariz v. Dana Armendariz, CS 05-46 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., July 12, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

State of Wisconsin v. Stanley White Eagle; State of Wisconsin v. Stanley White Eagle, CV 97-87, CS 05-39 Default Judgment (Modifying and Enforcing Child Support) (HCN Tr. Ct., July 12, 2005). (Matha, T).

The Court had to determine whether to enforce another foreign child support order against the

respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

Kelli O'Connor v. Domonic D. Bell; Nicky L. Woolhouse v. Domonic D. Bell, CS 02-12, 00-28 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., July 12, 2005). (Matha, T).

The court modified current child support in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3). The Court also granted the petitioner's uncontested motion to update the respondent's arrearage obligation.

JULY 13, 2005

Melissa Stevens & State of NE v. Shane A. Oknewski, CS 05-39 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., July 13, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

Melanie Stacy v. Harrison J. Funmaker, CV 96-48 Order (Erratum) (HCN Tr. Ct., July 13, 2005). (Matha, T).

The Court issued this order to correct a clerical mistake made in the previous order.

Robert M. Mobley v. Joyce M. St. Cyr; State of Wisconsin/Sauk County and Jennifer Stanley v. Robert M. Mobley; Joyce M. St. Cyr. V. Robert M. Mobley, CS 99-37, -38, 00-04 Order (Updating Arrearage Withholding) (HCN Tr. Ct., July 13, 2005). (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.

Crystal D. Olson v. Clint A. Beversdorf; State of WI/Shawano Co. and Jamie Decorah v. Clint A.

Beversdorf, CS 05-04, -55, *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., July 13, 2005). (Gouty-Yellow, T).

The Court had to determine whether to enforce another foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

JULY 14, 2005

Denise Thiry v. Ira Laes; Michelle Kimps v. Ira Laes, CS 02-07, 05-61, *Reissued Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., July 28, 2005). (Matha, T).

The Court had to determine whether to enforce another foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

Carol Barnes et al. v. Timothy W. Bourdon; Kathleen Waukau-Bourdon v. Timothy W. Bourdon, CS 98-59, 99-69, *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., July 14, 2005). (Matha, T).

The Court had to determine whether to enforce another foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

Katrina D. Pintor v. Patrick A. Edwards, CS 02-44 *Order (Ceasing Withholding Current Child Support)* (HCN Tr. Ct., July 14, 2005). (Gouty-Yellow, T).

The petitioner filed a motion requesting that the Court suspend child support withholding. The Court granted the motion. The existing judgment for the arrears remained unchanged.

State of WI/Sauk Co. and Laura Geshick v. Clayton K. Pemberton, CS 01-33 *Order (Ceasing Withholding Current Child Support)* (HCN Tr. Ct., July 14, 2005). (Gouty-Yellow, T).

The petitioner filed a motion requesting that the Court terminate child support withholding. The Court granted the motion. The existing judgment for the arrears remained unchanged.

State of Wisconsin et al. v. William J. Greendeer, CV 97-67 *Order (Ceasing Withholding Child Support Arrears)* (HCN Tr. Ct., July 14, 2005). (Matha, T).

The petitioner filed a motion requesting that the Court terminate child support arrears withholding. The Court granted the motion. The existing judgment for current child support remained unchanged.

State of Wisconsin/Columbia Co., and Mardell Barrett v. Collin J. Cloud, CS 05-42 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., July 14, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

State of Wisconsin/Eau Claire County v. Forrest M. Downey, Sr.; Eau Claire County v. Forrest Downey, Sr., CS 05-26, -33, *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., July 14, 2005). (Matha, T).

The Court had to determine whether to enforce another foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

State of Wisconsin, Jennifer Decora v. Michael Wayne Decora, CS 99-03 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., July 14, 2005). (Matha, T).

The Court had to determine whether to grant the petitioner's motion to modify current child support. The respondent agreed with the requested change in enforcement. The Court granted the petitioner's motion.

Linda Decorah v. Stanley Decorah, CS 05-29 Order (Impounding Per Capita & Scheduling Hearing) (HCN Tr. Ct., July 14, 2005). (Gouty-Yellow, T).

The Court had to decide whether to impound a percentage of the respondent's per capita distribution until the respondent's objection can be heard in open court. The Court shall not release impounded funds to the respondent until a hearing occurs.

JULY 15, 2005

Lonnie A. Tucker v. Ira R. Harrison, CS 02-58 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., July 15, 2005). (Matha, T).

The Court had to determine whether to grant the petitioner's motion to modify current child support. The respondent agreed with the requested change in enforcement. The Court granted the petitioner's motion.

State of Wisconsin/Shawano County and Tracy Cobb v. Daniel Bird, CS 03-51 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., July 15, 2005). (Matha, T).

The Court had to determine whether to grant the petitioner's motion to modify current child support. The respondent agreed with the requested change in enforcement. The Court granted the petitioner's motion.

Jennifer R. Stark v. Patrick R. Patterson, CS 00-44 Order (Updating Arrearage Withholding) (HCN Tr. Ct., July 15, 2005). (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.

Joe and Joy Buck v. Simone C. Cloud, CS 04-45 Order (Cessation of Current Child Support) (HCN Tr. Ct., July 15, 2005). (Matha, T).

The petitioner filed a motion requesting that the Court suspend child support withholding. The Court granted the motion. The existing judgment for the arrears remained unchanged.

Joe and Joy Buck v. Simone C. Cloud, CS 04-45 Order (Updating Arrearage Withholding) (HCN Tr. Ct., July 15, 2005). (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.

JULY 18, 2005

Rose Delgado v. Edward Mendez, CS 98-69 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., July 18, 2005). (Matha, T).

The Court had to determine whether to grant the petitioner's motion to modify current child support. The respondent agreed with the requested change in enforcement. The Court granted the petitioner's motion.

Sara WhiteEagle v. Timothy King; Kimberly J. Webb v. Timothy King; Wanda S. Knipp v. Timothy King, CV 97-24, -135, CS 05-54 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., July 14, 2005). (Matha, T).

The Court had to determine whether to enforce another foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

Nicky L. Woolhouse v. Domonic D. Bell; Kelli O'Connor v. Domonic D. Bell, CS 00-28, 02-12 Order (Erratum) (HCN Tr. Ct., July 6, 2005). (Matha, T).

The Court issued this order to correct a clerical mistake made in the previous order.

Kristine H. Blackcoon v. Michael K. Blackcoon, CS 98-25 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., July 18, 2005). (Matha, T).

The Court had to determine whether to grant the petitioner's motion to modify current child support. The respondent failed to respond within the prescribed timeframe. The Court granted the petitioner's request to modify.

JULY 20, 2005

Kathleen Waukau v. Eldon Powless; Margaret A. King v. Eldon Powless; Rebecca Nunway v. Eldon Powless; State of WI/Juneau Co. and Annette Powless v. Eldon Powless, CV 96-93, CS 99-22, -23, 03-65, *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., July 20, 2005). (Matha, T). The Court had to determine whether to grant the petitioner's motion to modify current child support. The respondent failed to respond within the prescribed timeframe. The Court granted the petitioner's request to modify.

JULY 21, 2005

Erica J. Hawpetoss v. Brandan J. Cloud, CS 05-53, *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., July 21, 2005). (Matha, T). The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

State of Wisconsin/Harriet M. Whitegull v. Morgan K. Decorah; State of Wisconsin v. Morgan Kyle Decorah, CS 98-78, 04-26, *Order (Impounding Per Capita)* (HCN Tr. Ct., July 21, 2005). (Matha, T). The Court had to decide whether to impound a percentage of the respondent's per capita distribution based upon a transfer of legal and physical custody of the minor child. The Court shall not release impounded funds to the respondent until a hearing occurs.

JULY 21, 2005

Sawyer County Child Support v. Robert W. Blackdeer, CS 05-18 *Order (Proof of High School Enrollment Filed)* (HCN Tr. Ct., July 22, 2005). (Matha, T). The petitioner filed proof of the child's high school enrollment. The Court modified current child support accordingly.

JULY 25, 2005

Linda Decorah v. Stanley Decorah, CS 05-29 *Order* (HCN Tr. Ct., July 25, 2005). (Gouty-Yellow, T).

The Court allowed the Petitioner to appear by telephone for the Fact-Finding Hearing.

Ken Loose v. Jennifer Jones, CS 03-09 *Order (Denying Modification of Child Support)* (HCN Tr. Ct., July 25, 2005). (Gouty-Yellow, T).

The Court had to determine whether to grant the respondent's motion to modify. The Court denied the motion to modify because the Court granted full faith and credit to the child support judgment issued by Cook County Circuit Court. The respondent instead needs to file a request to amend judgment within the foreign jurisdiction.

JULY 26, 2005

Patsy Prescott v. Travis Prescott, CS 04-31 *Order (Granting Motion to Modify)* (HCN Tr. Ct., July 26, 2005). (Matha, T). The Court had to determine whether to grant the petitioner's motion to modify. The respondent failed to respond within the prescribed timeframe. The Court granted the petitioner's request to modify.



Civil Garnishment

JULY 8, 2005

Amy Hunter v. Courtney White, CG 05-47 *Order (Partial Satisfaction of Judgment)* (HCN Tr. Ct., July 8, 2005). (Matha, T). The Court previously issued a default judgment against the respondent. The petitioner filed a document denoting satisfaction of the recognized debt obligation. However, the petitioner also filed a motion to modify seeking court costs and fees. The respondent's response timeframe had not yet lapsed, so the Court could not announce the closing of the case.

Alliance Collection Agencies, Inc. v. James L. Schier, CG 04-115 Order (Granting Motion to Modify) (HCN Tr. Ct., July 8, 2005). (Matha, T).
The petitioner filed a *Motion to Modify the Current Order for Additional Interest*. The respondent failed to file a timely response to the motion to modify. The Court granted the petitioner's request for relief.

Alliance Collection Agencies, Inc. v. Kevin Kniprath, CG 04-37 Order (Granting Motion to Modify) (HCN Tr. Ct., July 8, 2005). (Matha, T).
The petitioner filed a *Motion to Modify the Current Order for Additional Interest*. The respondent failed to file a timely response to the motion to modify. The Court granted the petitioner's request for relief.

Alliance Collection Agencies, Inc. v. Betty Granger, CG 04-37 Order (Granting Motion to Modify) (HCN Tr. Ct., July 8, 2005). (Matha, T).
The petitioner filed a *Motion to Modify the Current Order for Additional Interest*. The respondent failed to file a timely response to the motion to modify. The Court granted the petitioner's request for relief.

JULY 11, 2005

Westview Court v. Irene Hoffman, CG 05-25 Order (Granting Telephonic Appearance) (HCN Tr. Ct., July 11, 2005). (Matha, T).
The Court granted the party's request to appear by telephone at the *Status Hearing*.

All American Plaza v. Gina S. Southwood, CG 05-61 Order (Default Judgment) (HCN Tr. Ct., July 11, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

State Collection Service v. Muriel Swan, CG 05-58 Order (Default Judgment) (HCN Tr. Ct., July 11, 2005). (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

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

State Collection Service v. Rebecca S. Wright, CG 05-59 Order (Default Judgment) (HCN Tr. Ct., July 11, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

JULY 12, 2005

Creditor Recovery Service LLC, Agent for James Esselman, DDS v. Ivory S. Kelly, CG 05-60 Order (Default Judgment) (HCN Tr. Ct., July 11, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Griffin Westerman v. Louie Filipovich a/k/a Ljubisa Filipovich, CG 05-20 Order (Reinstating Judgment) (HCN Tr. Ct., July 12, 2005). (Matha, T).

The petitioner requested a motion to modify because the respondent's bankruptcy action was dismissed by the United States Bankruptcy Court. The Court resumed withholding.

JULY 14, 2005

State Collection Services, Inc. v. Thomas Raymond, CG 05-32 Order (Default Judgment) (HCN Tr. Ct., July 14, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Delebo, Overman, Hegna, Reich & Wruck v. Rebecca Rave, CG 05-63 Order (Default Judgment) (HCN Tr. Ct., July 14, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Chitwood, Nicol & Matthews LLP and Mark J. Matthews, DDS v. Lucy Snake, CG 05-63 *Order (Default Judgment)* (HCN Tr. Ct., July 14, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

State Collection Services v. Richard Kaniewski, CG 05-66 *Order (Default Judgment)* (HCN Tr. Ct., July 14, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Alliance Collection Agencies, Inc. v. Kevin Kniprath, CG 05-67 *Order (Default Judgment)* (HCN Tr. Ct., July 14, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Alliance Collection Agencies, Inc. v. Diana M. Blackhawk, CG 05-69 *Order (Default Judgment)* (HCN Tr. Ct., July 14, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

JULY 15, 2005

State Collection Service v. Muriel Swan, CG 05-58 *Order (Recision of Default Judgment & Requiring Amended Petition)* (HCN Tr. Ct., July 14, 2005). (Matha, T).

The Court previously granted a default judgment against the respondent due to her failure to respond to the *Petition to Register and Enforce a Foreign Judgment or Order*. Under Wisconsin law, no execution on a judgment shall issue after five (5) years of the rendition of the judgment. The Court

ordered the Treasury Department to suspend garnishment of the respondent's wages.

JULY 18, 2005

Westview Court v. Irene Hoffman, CG 05-25 *Order (Garnishment Reduction)* (HCN Tr. Ct., July 18, 2005). (Matha, T).

The Court previously entered a *Default Judgment* against the respondent due to her failure to answer the *Petition to Register & Enforce a Foreign Judgment or Order* in the specified timeframe. The respondent filed a motion to modify requesting that the Court acknowledge three (3) personal payments delivered to the petitioner. The petitioner sought a reduction of the default judgment order by such an amount. The Court directed the Department of Treasury to perform this modification.

JULY 22, 2005

Gary W. Prescott and Carolyn J. Prescott v. Ryan P. Storch, CG 05-46 *Order (Default Judgment)* (HCN Tr. Ct., July 22, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Larry Richardson v. Kimberly Lynn Kuhn, CG 04-130 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., July 22, 2005). (Matha, T).

The Court previously issued a default judgment against the respondent. The petitioner filed a correspondence indicating that the "garnishment of wages has been fulfilled." The Court recognizes that the debt has been satisfied.

State Collection Service v. Donald Lutz, CG 05-57 *Order (Requiring Amended Petition)* (HCN Tr. Ct., July 22, 2005). (Matha, T).

The petitioner filed the *Petition to Register and Enforce a Foreign Judgment or Order*. Under Wisconsin law, no execution on a judgment shall issue after five (5) years of the rendition of the judgment. The Court requires proof that the petitioner's have revived the foreign judgment through applicable Wisconsin procedures.



Based upon the *Stipulation and Motion to Reschedule*, the trial date is amended.



Civil Cases

JULY 11, 2005

Nicholas Joseph Kedrowski v. Sharon Whitebear et al., CV 05-01 *Scheduling Order* (HCN Tr. Ct., July 11, 2005). (Matha, T).

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

JULY 13, 2005

Sherry Wilson v. Ho-Chunk Nation Department of Personnel, CV 05-43 *Scheduling Order* (HCN Tr. Ct., July 13, 2005). (Matha, T).

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

JULY 14, 2005

Wendi A. Huling v. Ho-Chunk Nation Legislature, et al., CV 05-43 *Order* (HCN Tr. Ct., July 14, 2005). (Matha, T).

The Court granted a *pro hac vice* appearance to counsel for the defendants.

JULY 22, 2005

Cindy Gilbertson v. Ho-Chunk Nation Insurance Review Commission, et al., CV 00-112 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., July 22, 2005). (Matha, T).

The Court issued an order for the purposes of enforcing the voluntary stipulation entered into between the parties. The defendants filed a *Satisfaction of Judgment*. This document indicates that the defendants have completely satisfied their obligations in accordance with the stipulation.

JULY 25, 2005

Adriane Walker v. Amy Kirby, CV 05-28 *Scheduling Order* (HCN Tr. Ct., July 25, 2005). (Matha, T).

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

Fran Kernes v. George R. Lewis, CV 05-08 *Order* (HCN Tr. Ct., July 25, 2005). (Gouty-Yellow, T).

CHILDREN'S TRUST FUND (CTF)

JULY 12, 2005

In the Interest of Minor Child: B.M.S., DOB 10/23/88, by Michelle R. Matlock v. Ho-Chunk Nation Office of Tribal Enrollment, CV 03-67 *Order (Accepting Accounting)* (HCN Tr. Ct., July 12, 2005). (Matha, T).

The petitioner fulfilled the reimbursement obligation to the Children's Trust Fund (CTF) as required by the previous order of the Court.

In the Interest of Minor Child: N.L.P., DOB 02/18/91, by Janice Savage v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-33 *Order (Motion Granted)* (HCN Tr. Ct., July 12, 2005). (Matha, T).

The Court approved a Children's Trust Fund (CTF) release for the purposes of orthodontic care of the minor child. The respondent failed to file a timely response to the motion, thereby denoting its acquiescence to the request for relief.

In the Interest of Minor Child: B.J.G., DOB 12/03/91, by Steve E. Garvin v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-54 *Order (Petition Granted)* (HCN Tr. Ct., July 12, 2005). (Matha, T).

The Court approved a Children's Trust Fund (CTF) release for the costs associated with orthodontic procedures of the minor child.

In the Interest of Minor Child: B.M.S., DOB 10/23/88, by Michelle R. Matlock v. Ho-Chunk Nation Office of Tribal Enrollment, CV 03-67 *Order (Petition Granted)* (HCN Tr. Ct., July 12, 2005). (Matha, T).

The Court approved a Children's Trust Fund (CTF) release for the costs associated with orthodontic procedures of the minor child.

JULY 22, 2005

In the Interest of Minor Child: G.T.B.W., DOB 05/28/93, by Nicole L. Ward v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-05 Order (Accepting Accounting) (HCN Tr. Ct., July 22, 2005). (Matha, T).

The petitioner fulfilled the reimbursement obligation to the Children’s Trust Fund (CTF) as required by the previous order of the Court.

In the Interest of Minor Child: S.L.C., DOB 08/28/89, by Angeline Downing v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-56 Order (Petition Granted) (HCN Tr. Ct., July 22, 2005). (Matha, T).

The Court approved a Children’s Trust Fund (CTF) release for the costs associated with orthodontic procedures of the minor child.

In the Interest of Minor Child: E.T.H., DOB 12/19/91, by Karen L. Snow v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-106 Order (Show Cause) (HCN Tr. Ct., July 22, 2005). (Matha, T).

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 timeframe. 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.

JULY 25, 2005

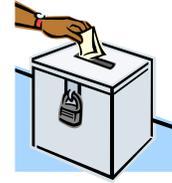
In the Interest of Minor Child: M.C.G., DOB 06/28/91, by Shelby R. Grant v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-26 Order (Requesting Accounting) (HCN Tr. Ct., July 25, 2005). (Matha, T).

The Court requested that the petitioner submit the required accounting.

JULY 26, 2005

In the Interest of Minor Child: C.T.W., DOB 01/22/94, by Stacy WhiteCloud v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-18 Order (Requesting Accounting) (HCN Tr. Ct., July 26, 2005). (Matha, T).

The Court requested that the petitioner submit the required accounting.



ELECTION CHALLENGES

JULY 5, 2005

Christine Funmaker-Romano v. Ho-Chunk Nation Election Board and Mary Ellen Dumas, Chairperson; Gerald Cleveland, Sr. v. Ho-Chunk Nation Election Board and Mary Ellen Dumas, Chairperson, CV 05-48-49 Order (Granting Preliminary Injunction) (HCN Tr. Ct., July 5, 2005). (Matha, T).

The Court had to determine whether to enjoin the swearing-in of two (2) legislators-elect scheduled for Wednesday, July 6, 2005. On Friday, July 1, 2005, the plaintiffs filed the instant motion in conjunction with an appeal of the June 29, 2005 final judgment. The Court granted the preliminary injunction to afford appellate review of the trial level decision.

Christine Funmaker-Romano v. Ho-Chunk Nation Election Board and Mary Ellen Dumas, Chairperson; Gerald Cleveland, Sr. v. Ho-Chunk Nation Election Board and Mary Ellen Dumas, Chairperson, CV 05-48-49 Erratum Order (HCN Tr. Ct., July 5, 2005). (Matha, T).

The Court had to clarify its previous *Order*. The Court, in its haste to enter a timely decision, errantly described the granted injunction as preliminary in nature. To clarify, the Court granted the equitable injunction pursuant to its authority under the CONSTITUTION OF THE HO-CHUNK NATION, ART. VII, §6(a).



EMPLOYMENT

JULY 6, 2005

Stephanie Hughes v. HCN Gaming Commission et al., CV 05-44 *Scheduling Order* (HCN Tr. Ct., July 11, 2005). (Matha, T).

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

JULY 14, 2005

Kristin K. White Eagle v. Ho-Chunk Casino, Ho-Chunk Nation, CV 04-97 *Order (Final Judgment)* (HCN Tr. Ct., July 14, 2005). (Matha, T).

The Court needed to determine whether to uphold the plaintiff's termination for reasons associated with unexcused absences. The plaintiff attempted to seek approval of an Unpaid Leave of Absence in accordance with the HO-CHUNK NATION PERSONNEL POLICIES AND PROCEDURES MANUAL. The defendants denied the plaintiff's leave request, which conflicted with the plaintiff's traditional obligations. Consequently, the defendants terminated the plaintiff's employment. The Court, in an effort to acknowledge and accommodate tribal law and Ho-Chunk traditions and customs, finds the termination unreasonable. The Court overturns the termination and awards the plaintiff appropriate relief.



INCOMPETENT TRUST FUND (ITF)

JULY 25, 2005

In the Interest of Adult Incompetent: Oliver S. Rockman by Jean Ann Day, CV 97-117 *Amended Order (Motion Granted)* (HCN Tr. Ct., July 25, 2005). (Gouty-Yellow, T).

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

In the Interest of Decedent Member: Francine Bighorn, DOD 06/12/95 by Joleen Emerson v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-

57 *Order (Releasing Per Capita Distribution / Trust Account to Estate)* (HCN Tr. Ct., July 25, 2005). (Gouty-Yellow, T).

The Court needed to determine whether to release the monies from a decedent tribal member's trust fund to the estate. The Court directed the release of the ITF account to the court-appointed representative of the estate.

In Re: Bruce Patrick O'Brien by Elethe Nichols, Guardian v. HCN Office of Tribal Enrollment, CV 96-46 *Order (Motion Granted & Hearing Ordered)* (HCN Tr. Ct., July 25, 2005). (Gouty-Yellow, T).

The Court needed to determine whether to release the monies from an incompetent tribal member's trust fund for respite care and the purchase of a vehicle. The Court directed the partial release of the ITF account to satisfy the request of the guardian and in part orders a hearing to address the remainder of the request.



Juvenile

JULY 7, 2005

In the Interest of Minor Children: I.J.W., DOB 08/02/95; L.L.R., DOB 02/17/94, JV 05-10-11 *Order (Appointment of Guardian ad litem)* (HCN Tr. Ct., July 12, 2005). (Matha, T).

The Court appointed a GAL in this matter.

In the Interest of Minor Child: D.Y., DOB 01/26/98, JV 05-21 *Order (Submission of Guardianship Report and Home Study)* (HCN Tr. Ct., July 7, 2005). (Matha, T).

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

JULY 12, 2005

In the Interest of Minor Children: I.J.W., DOB 08/02/95; L.L.R., 02/17/94, JV 05-10-11 *Order (Appointment of Guardian ad litem)* (HCN Tr. Ct., July 12, 2005). (Matha, T).

The Court appointed a GAL in this matter.

In the Interest of Minor Child: D.P.S., DOB 12/12/88, JV 02-14 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., July 12, 2005). (Matha, T).

The Court appointed a GAL in this matter.

In the Interest of Minor Child: J.L.G., DOB 07/24/92, JV 02-14 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., July 12, 2005). (Matha, T).

The Court appointed a GAL in this matter.

In the Interest of Minor Children: M.L.D., DOB 05/23/91; M.L.H., 08/18/97; M.H., 02/19/99; M.H., 02/09/00, JV 05-10-11 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., July 12, 2005). (Matha, T).

The Court appointed a GAL in this matter.

In the Interest of Minor Children: C.S.C., DOB 11/22/97; K.K.C., 11/04/99; K.A.C., 11/02/01, JV 04-39-41 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., July 12, 2005). (Matha, T).

The Court appointed a GAL in this matter.

JULY 18, 2005

In the Interest of Minor Child: P.D.R., DOB 08/24/90, JV 03-24 Order (Child Protection Review Hearing) (HCN Tr. Ct., July 18, 2005). (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 as necessary for the protection of the children.

JULY 19, 2005

In the Interest of Minor Children: M.B.K., DOB 08/24/90; A.J.K., DOB 11/12/03, JV 04-04-05 Order (Child Protection Review Hearing) (HCN Tr. Ct., July 19, 2005). (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 as necessary for the protection of the children.

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;

State of Wisconsin v. Henry WhiteThunder et al., CV 97-86 Order (Redirecting Child Support) (HCN Tr. Ct., July 19, 2005). (Matha, T).

The Court redirected the child support to the third party custodian.

In the Interest of Minor Children: J.V., DOB 09/03/99; S.V., DOB 10/22/98, JV 02-19-20 Order (Continuation of Child Protection Review Hearing) (HCN Tr. Ct., July 19, 2005). (Matha, T).

The Court rescheduled a *Child Protection Review Hearing* so that the mother of the minor children could obtain counsel.

In the Interest of Minor Child: R.B., DOB 06/23/95, JV 02-18 Order (Child Protection Review Hearing) (HCN Tr. Ct., July 19, 2005). (Matha, T).

The Court rescheduled a *Child Protection Review Hearing* so that the mother of the minor children could obtain counsel.

In the Interest of Minor Child: D.P.S., DOB 12/12/88, JV 02-14 Order (Child Protection Review Hearing) (HCN Tr. Ct., July 19, 2005). (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 as necessary for the protection of the children.

JULY 21, 2005

In the Interest of Minor Child: A.C.L., DOB 03/13/01, JV 04-22 Order (Child Protection Review Hearing) (HCN Tr. Ct., July 21, 2005). (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 as necessary for the protection of the children.

In the Interest of Minor Child: J.L.G., DOB 07/24/92, JV 04-23 Order (Termination of Jurisdiction) (HCN Tr. Ct., July 21, 2005). (Matha, T).

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

In the Interest of Minor Child: L.R.H., DOB 11/18/87, JV 03-36 Order (Child Protection Review Hearing) (HCN Tr. Ct., July 21, 2005). (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 as necessary for the protection of the children.

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 (Appointment of Guardian ad litem) (HCN Tr. Ct., July 12, 2005). (Matha, T).

The Court appointed a GAL in this matter.

JULY 21, 2005

In the Interest of Minor Child: J.R.M., DOB 10/10/04, JV 05-05 Order (Voluntary Dismissal) (HCN Tr. Ct., July 27, 2005). (Matha, T).

The Court dismissed the instant case without prejudice. The petitioner for temporary guardianship withdrew the petition.



Supreme Court

JULY 6, 2005

Christine Funmaker-Romano et al. v. Ho-Chunk Nation Election Board and Mary Ellen Dumas, Chairperson, SU 05-08 Scheduling Order (HCN S. Ct., July 6, 2005).

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

JULY 18, 2005

Guy Frederick Beebe v. Ho-Chunk Nation, SU 05-04 Decision (HCN S. Ct., July 18, 2005).

The appellant filed an appeal of a *Judgment* that provided him with the legally available relief

allowed by the Ho-Chunk Nation laws. The appellant sought to overturn the statute as it is written so that he would receive remedies above and beyond the scope of the law. The Court noted that Indian Tribes like the State and Federal governments are sovereigns, and while the Judiciary in general stands for the principle that all persons be compensated for the wrongs committed against them, the CONSTITUTION sets a limit on its jurisdiction that it cannot exceed. The Supreme Court found that the Trial Court did everything in its ability to make the appellant whole. The *Final Judgment* is affirmed. The Court did not address the second aspect of the appeal because it is currently being litigated in the Trial Court.

JULY 26, 2005

Christine Funmaker-Romano et al. v. Ho-Chunk Nation Election Board and Mary Ellen Dumas, SU 05-08 Order (Dissolving Injunction) (HCN S. Ct., July 26, 2005).

The Court dissolved the *Injunction* granted by the Trial Court on July 5, 2005, which adjoined the swearing-in of the two apparent winners of the General Election of June 7, 2005, for two seats in Area IV of the Ho-Chunk Nation.



Recent Filings

Trial Court

Child Support

JULY 1, 2005

Earl L. LeMieux II v. Melissa Snowball, CS 05-62. (Matha, T).

JULY 11, 2005

State of Wisconsin v. Lohman Cloud, CS 05-63.
(Matha, T).

State of Wisconsin v. Joseph Antone, CS 05-64.
(Matha, T).

JULY 12, 2005

State of WI – Jackson Co. v. Lance D. Rave, CS 05-65.
(Matha, T).

Nela F. Stacy v. Gregory S. Harrison, CS 05-66.
(Matha, T).

Menominee Tribal Child Support v. Mina Webster,
CS 05-67. (Matha, T).

State of WI – Eau Claire County v. Regina M. Melendy, CS 05-68. (Matha, T).

JULY 19, 2005

Beverly Skendadore v. Anthony Smith, CS 05-69.
(Gouty-Yellow, T).

State of Wisconsin v. James V. Blackdeer, CS 05-70.
(Gouty-Yellow, T).

JULY 22, 2005

Judith Ann Harbin Lujan v. Clinton Thunderchief,
CS 05-72. (Gouty-Yellow, T).

Maniyan Brisk – Milwaukee County v. Carlos D. Smith Jr., CS 05-73. (Matha, T).

Joanne Ulseth – Milwaukee County v. Patrick Edwards, CS 05-74. (Gouty-Yellow, T).

JULY 28, 2005

State of SD v. Daniel M. Sine, CS 05-69. (Gouty-Yellow, T).

Civil Garnishment

JULY 11, 2005

St. Joseph's Memorial Hospital v. Horst W. & Doris, CG 05-70. (Matha, T).

JULY 12, 2005

Citifinancial v. Frisk H. Decorah, CG 05-71.
(Matha, T).

JULY 19, 2005

Creditor Recovery Service, LLC v. Elizabeth Young, CG 05-72. (Matha, T).

Quick Cash Loans v. Gale White, CG 05-73.
(Matha, T).

JULY 28, 2005

Quick Cash Loans v. Gale White, CG 05-74.
(Matha, T).

Bank of America, N.A. v. Anna Berndt, CG 05-75.
(Matha, T).

Civil Cases

JULY 5, 2005

In the Interest of Minor Child: B.J.G. DOB 12/03/91 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-54. (Matha, T).

JULY 11, 2005

In the Interest of Minor Child: D.H. DOB 06/07/91 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-55. (Matha, T).

JULY 15, 2005

In the Interest of Minor Child: S.L.C. DOB 08/28/99 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-56. (Matha, T).

JULY 19, 2005

In the Interest of Decedent: F.M.B. DOB 04/08/40, CV 05-57. (Matha, T).

Juvenile

JULY 1, 2005

In the Interest of Minor Child: D.Y., DOB 01/26/98, JV 05-21. (Matha, T).

Supreme Court

No recent filings.



**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 – Earl 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 – Todd R. Matha, Chief Judge
 Tina Gouty-Yellow, Associate Judge Pro
 Tempore
 Clerk of Court, Trial Court – Marcella Cloud
 Assistant Clerk of Court, Trial Court – Selina Joshua
 Bailiff/Process Server – Albert Carrimon
 Administrative Assistant – Jessi Cleveland
 Staff Attorney – Amanda R. Cornelius
 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 Judiciary Fee Schedule

Filing Fees

- *Complaint*.....\$50.00
- *Petition for Release of Per Capita Distribution (Children’s Trust Fund)*\$50.00
- *Motion to Appear Pro Hac Vice*.....\$35.00
- Appellate Filing Fee.....\$50.00
- *Petition to Register and Enforce Foreign Judgment/Order*\$20.00
- Marriage License Fee.....\$50.00

Court Fees

- Copying\$0.10/page
- Faxing\$0.25/page (sending & receiving)
- CD of Hearings\$12.50/CD
- Deposition Videotape\$10.00/tape
- Certified Copies.....\$0.50/page
- Equipment Rental\$5.00/hour
- Admission to Practice\$50.00

Legal Citation Forms

The following are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution

Constitution, Article Number, Section, Subsection.
 HCN CONST., Art. II, Sec. (or §) 1(a).

Ho-Chunk Nation Code

Ordinance/Act Name Title Number HCC Section.
 ELDER PROTECTION ACT, 4 HCC § 1.
 EMPLOYMENT RELATIONS ACT, 6 HCC § 5.
(for detailed citation information consult LEGISLATIVE ORGANIZATION ACT, 2 HCC § 11.36)

HCN Supreme Court Case Law

Case Name, Case Number (HCN S. Ct., month, day, year).
Johnson v. Department Inc., SU 96-21 (HCN S. Ct., Aug. 14, 1996).

HCN Trial Court Case Law

Case Name, Case Number (HCN Tr. Ct., month, day, year)
Jane Doe v. Bob Smith, CV 99-01 (HCN Tr. Ct., Nov. 1, 1999).

Ho-Chunk Nation Rules of Civil Procedure

HCN R. Civ. P. 19(B)





SEPTEMBER 2005
VOL. 11, NO. 9

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



HO-CHUNK NATION COURT BULLETIN

JUDICIARY CELEBRATES 10TH ANNUAL LAW DAY

The Ho-Chunk Nation Judiciary presented its 10th Annual Law Day program on Friday, September 2, 2005, at *Wa Ehi Hoci*. Law Day is an open house, which is free and open to all lawyers, lay advocates, and the general public. This is a great opportunity to learn more about the HCN Judiciary and recent legal developments, as well as tour the courthouse. A wide range of topics were presented, and audience members were eager to ask questions and explore the topics further.



Former Ho-Chunk Nation Justice Rita Cleveland holding a Certificate of Appreciation issued by the HCN Supreme Court

This year's discussions included the following topics: ADOPTION AND SAFE FAMILIES ACT, THE CHALLENGE AND POTENTIAL INHERENT IN TRIBAL CHILD SUPPORT, GENERAL COUNCIL

Ho-Chunk Nation Trial Court Chief Judge Todd R. Matha began with a welcome and overview of the Judiciary. Staff Attorney Amanda Rockman Cornelius followed with a discussion and overview of the last year in the Ho-Chunk Nation Trial Court. Ms. Cornelius' presentation gave information regarding the enactment of new laws and their effects on the Judiciary. Since October 2004, the HCN Legislature enacted several new or updated sections of the HCN Code, including the HCN Children & Family Act, the Child Support Enforcement Code, the Divorce & Custody Ordinance, and the Marriage Ordinance. Although each law may present some procedural differences, their adoption has broadened the Courts' authority.

On January 31, 2005, the Employment Relations Act went into effect and replaced the Ho-Chunk Nation Personnel Policies and Procedures Manual. The ERA amends the employee administrative review process. Under the new ERA, candidates for employment or current employees may file a complaint with the Personnel Department regarding the interview and selection process, harassment, suspension, or termination, and may elect to file a complaint directly with the Grievance Review Board.



**HCN Trial Court Staff Attorney
Amanda Rockman Cornelius**

Attorney Laura O'Flanagan offered a presentation on HOW THE ADOPTION AND SAFE FAMILIES ACT (ASFA) AFFECTS FAMILY COURT CASES IN HO-CHUNK NATION TRIAL COURT. Her presentation included the background and history of ASFA, its requirements and application to tribal law, and how it interacts with the Indian Child Welfare Act. The presentation alluded to how the law will interact with Ho-Chunk law. The discussion sparked a debate regarding how the majority of States, including Wisconsin, have failed the ASFA review. Wisconsin has created two workgroups involving the various tribes to cooperatively remedy the problem areas.

Judge Tina F. Gouty-Yellow followed with a discussion regarding the benefits and constraints of asserting jurisdiction over child support through a Child Support Enforcement Agency. She shared first hand knowledge of child support enforcement program development from her recent employment as social services attorney with the Menominee Nation.

The Ho-Chunk Nation Tribe has applied for direct funding for its own Child Support Enforcement Agency. Much of the discussion involved the complexity of a tribal child support program with real life examples. For instance, the Court currently enforces 420 child support cases. It is anticipated that 600 cases would be transferred when the grant is awarded. No one was aware of the 420 cases currently being enforced. Therefore, the preliminary case load would be in excess of 1000 cases.



HCN Associate Justice Mark Butterfield and HCN Bar Member Mark Goodman

Attorney Michael Murphy, from the Ho-Chunk Nation Department of Justice offered a timely presentation, an overview of General Council regarding procedure and past case law. The discussion elicited questions from members of the audience concerning the processes and procedures of General Council meetings, including the roles of Office of the General Council as well as the General Council Planning Committee.



Department of Justice Attorney Michael Murphy with Law Day participant.

The final presentations of the program were by Supreme Court Associate Justices Mark Butterfield and Dennis Funmaker, as well as former Associate Justices Rita Cleveland and Jo Deen B. Lowe. Former Justice Cleveland discussed the evolution of the Court since she served her term, as

well as the direction in which she hopes the Court will evolve. She was presented with a Certificate of Appreciation from Justice Butterfield for her service and dedication to the Judiciary. Former Justices Debra Greengrass and Forrest Whiterabbit were also recognized for their service to the Judiciary, and were also given Certificates of Appreciation.

Former Justice Lowe discussed her perspectives as a recent Justice. She impressed on the audience the importance of establishing consistency within the Judiciary, and recognized the important, stabilizing role that Chief Justice Hunter plays within the Judiciary. She also discussed the caseload presented to the Supreme Court and the complexity of issues presented to the Court. She impressed the importance of the Trial Court issuing decisions in a timely manner.



Former Supreme Court Justice Jo Deen Lowe and William Lowe

Justice Funmaker provided a survey of the importance of traditional values and its integration into the Supreme Court. His experience in the Traditional Court as well as his experience as a lay advocate lends a new perspective from an Associate Justice. Associate Justice Mark Butterfield served as the panel moderator, and he concluded the panel by discussing his perspective as former Trial Court Chief Judge and current Associate Justice of the Supreme Court. He also discussed the importance of accessibility to the Courts and the need to maintain an operating Judicial Branch.

COURT HOSTS ANNUAL FUN RUN/WALK

In conjunction with Law Day, the HCN Judiciary hosted its annual 5K Fun Run/Walk on Saturday, September 3, 2004. This year marked the tenth anniversary of the event. Nearly thirty runners and walkers, from ages 10 to 71, participated.



Overall male winner Dana Lonetree receives a Pendleton® blanket.



Overall female winner Nikki Day receives a Pendleton® blanket.



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

The overall male winner was Dana Lonetree with a time of nineteen minutes, five seconds (19:05). Nikki Day was the first overall female runner with a time of twenty-three minutes, thirty-four seconds (23:34). The Ho-Chunk Nation Judiciary congratulates all runners and walkers on their achievements. For complete race results, see page 22.

Thank you to the staff who worked on the HCN Law Day and the Fun Walk/Run! Amanda Rockman Cornelius did a great job of coordinating the events. Both Trial Court staff and the Supreme Court Clerk helped her to make the events successful. Your efforts are greatly appreciated! Chief Justice Mary Jo B. Hunter



HCN SUPREME COURT TO AMEND HCN RULES OF CIVIL PROCEDURE

The Ho-Chunk Nation Supreme Court would like to invite responses to the attached, amended Ho-Chunk Nation Rules of Civil Procedure by September 24, 2005. You can find the amendments in Appendix A located on page 25 of this issue. You can provide written comments to mendthoff@ho-chunk.com or mail them to Mary K. Endthoff, Supreme Court Clerk, P.O. Box 70, Black River Falls, WI 54615.



UPDATES FROM OUTSIDE COURTS

United States Supreme Court

Certiorari pending

In Re Kanion'ke:haka Kaianereh'ko:wa Kanon'ses:neh, No. 05-165 (filed August 2, 2005).

Ninth Circuit Court of Appeals

Doe v. Kamehameha Schools et al., 416 F.3d 1025 (9th Cir. 2005).

In a 2-1 decision, the 9th Circuit Court of Appeals ruled that the exclusive Kamehameha Schools cannot restrict enrollment to Native Hawaiians. The school system was founded in 1887 under a charitable testamentary trust. Under the schools' admissions policy, preference was given to students of native Hawaiian ancestry. The district court found that the admissions policy was a valid affirmative action program, but the appellate court found that the policy violated § 1981. The applicant's claims were governed by the substantive

standards and burden-shifting framework applicable to race-based challenges under Title VII of the Civil Rights Act of 1964.

The school system's denial of admission to students who had no native Hawaiian ancestry as long as there were sufficient qualified applicants with at least some native Hawaiian ancestry resulted in an invalid absolute bar to admission on the basis of race. Even though the school does not receive federal funds and is not part of the public system, its admission policy violates a federal civil rights law, the majority said. Former 20 U.S.C. § 4905(a) (repealed 1994), which authorized grants to the school system to promote native Hawaiian higher education, did not indicate congressional intent to abrogate the applicability of 42 U.S.C. § 1981 to the schools' admissions policy. However, because the will that established the charitable trust did not require race-based admissions, the estate and the trustees did not violate § 1981. The district court's grant of summary judgment was affirmed as to the estate and the trustees and was reversed as to the school system, and the case was remanded.

San Carlos Apache Tribe v. United States, 417 F.3d 1091 (9th Cir. 2005).

The Ninth Circuit curtailed the ability of tribes to bring lawsuits aimed at protecting cultural, historic and sacred sites by holding that the National Historic Preservation Act (NHPA) does not authorize lawsuits against the United States. The San Carlos Apache Tribe of Arizona argued that its suit concerning reservoir water flow was properly brought as a private right of action directly under NHPA rather than under the Administrative Procedure Act (APA). The Tribe argued that NHPA § 106 created a private right of action by implication. The appellate court determined that dismissal of the suit was appropriate. Section 106 did not give rise to a "private" right of action against the federal government, because (1) an aggrieved party could sue under the APA to force compliance with NHPA § 106 without having a "private right of action" under the statute, (2) creating a direct private action against the federal government made little sense in light of the administrative review scheme set out in the APA, and (3) NHPA's status as a "look and listen" statute

akin to the National Environmental Policy Act weighed against implying a private right of action. Also, because the APA did not itself contain a fees provision, in an NHPA suit under § 106, a prevailing party could rely on NHPA's fee authorization to obtain attorney's fees.

The judges noted the Tribe could have brought a claim under other federal statutes that authorize lawsuits. But in doing so, the Tribe created a conflict between the 9th Circuit and at least three other circuits over the interpretation of NHPA. The 3rd Circuit, the 5th Circuit and the 8th Circuit have previously ruled that the act's provisions on attorney's fees demonstrate the intent of Congress to create a private right of action. The 9th Circuit, however, noted the lack of "explicit language" to authorize lawsuits under NHPA itself. *Id.* at 1099. The decision is important because tribes and Indian organizations have cited NHPA in a number of court cases. Advocates complain that the NHPA "lacks teeth." Federal agencies can ignore mandates to work with tribes and protect important sites because officials know they cannot be forced into court.

Samish Indian Nation v. United States, No. 04-5042 (Fed. Cir. 2005).

The tribe was not federally recognized until after a judicial determination that the denial of recognition was improper under applicable regulations. The tribe contended that it was entitled to benefits under the Indian Self-Determination and Education Assistance Act (ISDA) for the period when recognition was wrongfully refused. The government argued that the tribe's claims were not timely asserted after the government excluded the tribe from its list of recognized tribes.

The court held that, while it lacked jurisdiction to consider the tribe's claims under the ISDA, the tribe's claims under other statutes were not barred by the statute of limitations. The ISDA did not mandate compensation from the government for the tribe's lack of self-determination contract funding in the absence of any contract, and thus there was no relief which the court could grant. However, the tribe's remaining claims under other statutes were timely asserted after the prior judicial decision determined that federal recognition of the

tribe was wrongfully withheld. The government's initial decision excluding the tribe from recognition was a non-justiciable political decision, and the tribe's claims did not accrue until the judicial decision was issued. The order dismissing the tribe's action was affirmed in part with regard to the lack of jurisdiction over the ISDA claims, but the order was reversed with regard to the timeliness of claims under other statutes.

Means v. Navajo Nation, 416 F.3d 1025 (9th Cir. 2005).

Russell Means, an Oglala-Sioux tribal member, sought to prevent appellees, Navajo Nation and its judges, from criminally prosecuting him in the Navajo tribal court for an incident that occurred on the Navajo Reservation. After exhausting his remedies in Navajo courts, the United States District Court for the District of Arizona denied Means' habeas petition to enjoin tribal courts from proceeding in his case. Means appealed. He argued that by recognizing tribal criminal jurisdiction over nonmember Indians, the 1990 Amendments to the Indian Civil Rights Act, also known as the Duro fix, violated the equal protection guarantees of the Fifth Amendment and the Indian Civil Rights Act. Thus the amendments discriminated against him as an Indian, and subjected him to adverse treatment based on his race.

The court found that the law that subjected nonmember Indians to tribal criminal jurisdiction in Indian country passed the rational-basis standard since the statute subjected Means to Navajo criminal jurisdiction, not because of his race, but because of his political status as an enrolled member of an Indian tribe, even though it was a different tribe than the Navajo Nation. Means' facial due process challenge to the 1990 Amendments to the Indian Civil Rights Act had no force since he would not have been deprived of any constitutionally protected rights despite being tried by a sovereign not bound by the United States Constitution because the Indian Civil Rights Act conferred all criminal protections that he would have received under the Constitution. Therefore Russell Means can be prosecuted by the Navajo

Nation for a crime he allegedly committed on the Navajo Reservation.

Tenth Circuit Court of Appeals

Perez v. Ellington, Docket No. 04-2181 (10th Cir. 2005).

Plaintiffs, a faction of the Nambe Pueblo Indian Tribe, entered into a contract with Mr. Newton (acting for Gasplus, his gasoline distribution corporation) regarding the management of Nambe Pueblo's gasoline distribution business, Gasplus agreement. The plaintiffs entered into the Gasplus agreement on behalf of the Nambe Pueblo Development Corporation (NPDC). The NPDC is a registered gas distributor and can take advantage of the gas tax deduction for Indian tribal distributors in the state of New Mexico. The distributor had previously been investigated by the New Mexico Tax and Revenue Department (TRD) officials for his involvement with a fraudulent tax scheme designed to illegally take advantage of such tax breaks. TRD officials investigated the matter using jeopardy tax assessments. After some preliminary investigation, tax liens were issued. However, the complete audit revealed that there was nothing illegal about the agreement. The jeopardy tax assessments were abated a month later; however, the liens were not released until more than one year later. The court held that the officials' quick decision to issue jeopardy tax assessments could, if ultimately found by the jury to be the case, chill a reasonable person from associating with an outside distributor who happened to be at odds with the officials and that the extreme delay in releasing the liens evidenced a retaliatory motive. The officials were not entitled to absolute immunity because they were acting in a merely investigatory capacity. The denial of summary judgment regarding the First Amendment right of association claim was affirmed. The denial of absolute immunity was also affirmed.

Supreme Court of Washington

Willman v. Wash. Utils. & Transp. Comm'n, 117 P.3d 343 (Wash. 2005).

This case involves whether the Washington Utilities and Transportation Commission (WUTC) properly allowed utilities to take costs imposed

upon them by the Yakama Indian Nation (Nation) and pass them on to the bills of all customers, including non-Indian residents, living within the Yakama reservation. The residents argued that the WUTC unlawfully allowed the utilities to pass the Nation's tax on to their utility bills. The appellate court found that it had to primarily apply Washington state law, thereby requiring utilities to pay only prudent expenses. The WUTC did not act in an arbitrary and capricious manner in determining the tax was valid and thus a prudent expense. For the purposes of Indian law taxation of utilities, a tax that was not "clearly invalid" was a prudent expense. The WUTC treated a franchise fee differently from a tax. A utility could pass a tax on to the bills of taxpayers within the taxing jurisdiction. A franchise fee was considered a cost of doing business and could be distributed only as an expense to all ratepayers served, systemwide. Wash. Rev. Code § 80.280.090 was designed to ensure that all ratepayers in the same area paid the same rate and were not unfairly discriminated against in that manner. In the reservation, all residents were receiving the same utility services for the same price. Since none of the residents' claims were valid, the utilities' argument that the residents failed to join the Nation did not need to be addressed.



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). 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 21, 2005

State of Wisconsin/Harriet M. Whitegull v. Morgan K. Decorah; State of Wisconsin v. Morgan Kyle Decorah, CS 98-78, 04-26, *Order (Impounding Per Capita)* (HCN Tr. Ct., July 21, 2005). (Matha, T).

The Court had to decide whether to impound a percentage of the respondent's per capita distribution based upon a transfer of legal and physical custody of the minor child *regarding the latter case*. The Court shall not release impounded funds to the respondent until a hearing occurs.

AUGUST 2, 2005

Andrea Ayala v. Shannon Knows; Nakesha Clements v. Shannon Knox, CS 01-08, 05-49 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Aug. 2, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

AUGUST 4, 2005

Victoria Hill v. Kelly Logan; Shelly Cornelius v. Kelly Logan, CS 01-27, 05-50 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Aug. 4, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

AUGUST 12, 2005

State of Wis./Eau Claire County, on behalf of K.R.F., DOB 11/29/00 v. Harry I. Funmaker, CS 02-22 *Order (Ceasing Withholding Current Child Support)* (HCN Tr. Ct., Aug. 12, 2005). (Matha, T).

The petitioner filed a request that the Court cease child support withholding from the respondent's per capita distributions. The Court granted the motion.

State of Wisconsin/Jackson County v. Lohman E. Cloud; State of Wisconsin/Jackson County v. Lohman Cloud, CS 00-19, 05-63 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Aug. 12, 2005). (Matha, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

Rachel Winneshiek v. John C. Houghton, Jr., CS 99-29 *Order (Ceasing Withholding Current Child Support)* (HCN Tr. Ct., Aug. 12, 2005). (Matha, T).

The petitioner filed a request that the Court cease child support withholding from the respondent's per capita distributions. The Court granted the motion.

Menominee Tribal Child Support v. Mina Webster, CS 05-67 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., August 12, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement

Richland County Child Support Agency for Kathleen Ann Even v. Jeffrey Scott Even, Sr., CS 05-32 *Order (Erratum)* (HCN Tr. Ct., Aug. 12, 2005). (Matha, T).

The Court issued this order to correct an administrative inadvertence made in the previous order.

State of WI/Jackson Co. v. Joseph I. Antone, CS 05-64 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., August 12, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

AUGUST 15, 2005

State of Wisconsin/Ashland County, and Kimberley Otto v. Lenny Cloud, CS 03-50 *Order (Modifying Child Support Against Wages)* (HCN Tr. Ct., Aug. 15, 2005). (Matha, T).

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

State of Wisconsin/Jackson County, on behalf of Erin L. Emerson v. Reuben Rave, Jr., CV 97-171 *Order (Modifying Child Support Against Wages)* (HCN Tr. Ct., Aug. 15, 2005). (Gouty-Yellow, T).

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

State of Wisconsin/Jackson County, on behalf of Erin L. Emerson v. Reuben Rave, Jr.; State of Wisconsin/Jackson County, on behalf of Robin LaMere v. Reuben Rave, Jr., CV 97-171, CS 01-38 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Aug. 15, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

AUGUST 16, 2005

Nela F. Stacy v. Gregory S. Harrison, CS 05-66 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., August 16, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

AUGUST 17, 2005

State of Wisconsin/Columbia Co., and Mardell Barrett v. Collin J. Cloud; In Re the Paternity of A.J.C. by Susanna Littlewolf v. Collin Cloud, CS 05-42, -52 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Aug. 17, 2005). (Matha, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

State of Wisconsin and Susan C. Walczak v. Ferguson Funmaker, CS 99-07 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Aug. 17, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

AUGUST 18, 2005

Judith Ann Harbin Lujan v. Clinton Thunderchief, CS 05-72 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., August 18, 2005). (Gouty-Yellow, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified

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

AUGUST 19, 2005

State of Wisconsin/Sauk County, and Sarah L. Acevedo v. Frank Acevedo, CS 05-21 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Aug. 19, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

Linda Decorah v. Stanley Decorah, CS 05-29 Order (Release & Redirecting Impounded Per Capita) (HCN Tr. Ct., Aug. 19, 2005). (Gouty-Yellow, T).

The Court must determine whether to release the impounded per capita monies of the respondent. The parties submitted a *Stipulation and Order* from the county denoting the use of the child support funds.

AUGUST 23, 2005

State of Wisconsin/Sauk County, and Wendy Littlegeorge v. Stuart Lonetree, CS 00-24 Order (Ceasing Withholding Child Support) (HCN Tr. Ct., Aug. 12, 2005). (Gouty-Yellow, T).

The petitioner filed a request that the Court cease child support withholding from the respondent's per capita distributions. The Court granted the motion.

Terry Lafler v. Sherry Kirkland, CS 00-34 Order (Modifying Child Support Against Wages) (HCN Tr. Ct., Aug. 23, 2005). (Gouty-Yellow, T).

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

Terry Lafler v. Sherry Kirkland, CS 00-34 Order (Ceasing Withholding Current Child Support from Per Capita Distribution) (HCN Tr. Ct., Aug. 23, 2005). (Gouty-Yellow, T).

The petitioner requested child support withholding from per capita to cease. The Court granted the petitioner's request.

AUGUST 25, 2005

Wood County Child Support Agency v. Paul Sallaway, CS 05-76 Judgment (Enforcing Child Support) (HCN Tr. Ct., August 25, 2005). (Gouty-Yellow, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

AUGUST 29, 2005

State of South Dakota, Division of Child Support, EX REL, Debra L. Sine-Crawford v. Daniel M. Sine, CS 05-75 Order (Enforcing Child Support Against Wages) (HCN Tr. Ct., August 29, 2005). (Matha, T).

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

State of South Dakota, Division of Child Support, EX REL, Debra L. Sine-Crawford v. Daniel M. Sine, CS 05-75 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., August 29, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

AUGUST 30, 2005

Katrina D. Pintor v. Patrick A. Edwards; Cynthia L. Satonica v. Patrick A. Edwards; Joanne Ulseth v. Patrick A. Edwards, CS 02-44, 05-37, -74 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., August 31, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

State of Wisconsin/Jackson Co. v. Kric V. Pettibone, CS 05-44 Order (Cessation of Current Child Support) (HCN Tr. Ct., Aug. 30, 2005). (Gouty-Yellow, T).

The petitioner requested child support withholding from per capita to cease. The Court granted the petitioner's request.

State of Wisconsin/Jackson Co. v. Kric V. Pettibone, CS 05-44 Order (Cessation of Current Child Support from Wages) (HCN Tr. Ct., Aug. 30, 2005). (Gouty-Yellow, T).

The petitioner requested child support withholding from wages to cease. The Court granted the petitioner's request.

State of Wisconsin v. Douglas RedEagle, CS 05-35 Order (Cessation of Current Child Support) (HCN Tr. Ct., Aug. 30, 2005). (Gouty-Yellow, T).

The petitioner requested child support withholding from per capita to cease. The Court granted the petitioner's request.

AUGUST 31, 2005

State of Wisconsin v. James V. Blackdeer, CS 05-70 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., August 31, 2005). (Gouty-Yellow, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement



Civil Garnishment

AUGUST 5, 2005

Alliance Collection Agencies, Inc. v. Curtis W. White Eagle, CG 04-94 Order (Granting Motion to Modify) (HCN Tr. Ct., Aug. 5, 2005). (Matha, T).

The petitioner filed a *Motion to Modify the Current Order for Additional Interest*. The respondent failed to file a timely response to the motion to modify. The Court granted the petitioner's request for relief.

St. Joseph's Memorial Hospital v. Horst W. and Doris Josellis, CG 05-70 Order (Requiring Amended Petition) (HCN Tr. Ct., Aug. 5, 2005). (Matha, T).

The petitioner filed a *Petition to Register and Enforce a Foreign Judgment or Order*. Under Wisconsin law, no execution on a judgment shall issue after five (5) years of the rendition of the judgment. Therefore the Court orders the petitioner to file an *Amended Petition*, including a recently issued foreign money judgment.

Black River EMS v. Randy Voeller, CG 05-64 Order (Requiring Amended Petition) (HCN Tr. Ct., Aug. 5, 2005). (Matha, T).

The petitioner filed a *Petition to Register and Enforce a Foreign Judgment or Order*. Under Wisconsin law, no execution on a judgment shall issue after five (5) years of the rendition of the judgment. Therefore the Court orders the petitioner to file an *Amended Petition*, including a recently issued foreign money judgment.

Citifinancial, Inc. v. Frisk H. Decorah, CG 05-71 Order (Default Judgment) (HCN Tr. Ct., Aug. 5, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

State of Wisconsin Department of Veterans Affairs v. Dean C. and Melinda R. Davis, CG 05-62 Order (Default Judgment) (HCN Tr. Ct., Aug. 5, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

AUGUST 11, 2005

Alliance Collection Agencies, Inc. v. Paul D. Arentz, CG 05-68 Order (Petition Granted) (HCN Tr. Ct., Aug. 11, 2005). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a timely response, and the Court convened a *Fact-Finding Hearing*, resulting in weekly wage deductions.

Quick Cash Loans v. Gale White, CG 05-73 Order (Default Judgment) (HCN Tr. Ct., Aug. 11, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Creditor Recovery Service LLC v. Elizabeth Young, CG 05-72 Order (Default Judgment) (HCN Tr. Ct., Aug. 11, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

AUGUST 25, 2005

Quick Cash Loans v. Gail White, CG 05-74 Order (Default Judgment) (HCN Tr. Ct., Aug. 11, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

AUGUST 26, 2005

Amy Hunter v. Courtney White, CG 05-47 Order (Denying Motion to Modify) (HCN Tr. Ct., Aug. 26, 2005). (Matha, T).

The petitioner submitted a *Motion to Modify* requesting fees and costs associated with filing the *Petition to Register & Enforce a Foreign Judgment or Order*. The Court held that the petitioner should have included such requests within the initial pleading since the costs were known with certainty at that time.



Civil Cases

CHILDREN'S TRUST FUND (CTF)

AUGUST 4, 2005

In the Interest of Adult CTF Beneficiary: Michael A. Funmaker, DOB 04/11/85 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-95 Order (Dismissal without Prejudice) (HCN Tr. Ct., Aug. 4, 2005). (Matha, T).

The parties filed the *Stipulation for Dismissal of Action*, requesting that the Court dismiss the matter without prejudice. The parties voluntarily entered the arrangement upon advice of counsel. The Court informed the parties of its intent to close the file if no objection is received within ten (10) days.

AUGUST 5, 2005

In the Interest of Minor Child: E.T.H., DOB 12/19/91, by Karen L. Snow v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-106 Order (Accepting Accounting) (HCN Tr. Ct., Aug. 5, 2005). (Matha, T).

The Court released funds from the CTF account of E.T.H., DOB 12/19/91, to pay for costs associated with orthodontic procedures. The petitioner submitted an account activity statement, which confirmed proper use of the funds.

In the Interest of Minor Child: M.A.C., DOB 04/09/89, by Myra Cunneen v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-46 Order (Petition Granted) (HCN Tr. Ct., Aug. 5, 2005). (Matha, T).

The Court released funds from the CTF account of M.A.C., DOB 04/09/89, to pay for costs associated with orthodontic procedures.

In the Interest of Adult CTF Beneficiary: Derek P. Youngthunder v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-45 Order (Closing Case) (HCN Tr. Ct., Aug. 5, 2005). (Matha, T).

The petitioner filed the *Petition for Release of Per Capita Distribution*. The Court never issued a formal ruling on the petitioner's request. Subsequently, the petitioner satisfied the graduation requirement and received the corpus of the trust fund, thereby rendering the cause of action moot.



AUGUST 11, 2005

In the Interest of Minor Children: B.A.S., DOB 01/17/84; B.W.S., DOB 06/06/85; and S.M.S., DOB 12/23/87, by Brenda Sanford v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-86 Order (Dismissal without Prejudice) (HCN Tr. Ct., Aug. 11, 2005). (Matha, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of the petitioner's *Petitioner for Release of Per Capita Distribution*. The petitioner failed to appear, and did not notify the Court of an inability to attend the proceeding. Therefore, the Court dismissed the instant case without prejudice.

In the Interest of Minor Child: M.E.A., DOB 07/25/88, by Roxanne W. Anderson v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-12 Order (Dismissal without Prejudice) (HCN Tr. Ct., Aug. 11, 2005). (Matha, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of the petitioner's *Petitioner for Release of Per Capita Distribution*. The petitioner failed to appear, and did not notify the Court of an inability to attend the proceeding. Therefore, the Court dismissed the instant case without prejudice.

AUGUST 12, 2005

In the Interest of Minor Child: M.W., DOB 07/09/95, by Melody Whiteagle-Fintak v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-83 Order (Show Cause) (HCN Tr. Ct., Aug. 12, 2005). (Matha, T).

The Court released funds from the CTF account of M.W., DOB 07/09/95, for costs associated with the purchase of clothing and a washer and dryer. The Court issued a second and third directive. Consequently, the Court shall convene a *Show Cause Hearing* to allow the petitioner an

opportunity to explain why the Court should not hold her in contempt of court.

AUGUST 17, 2005

In the Interest of Minor Child: D.H., DOB 06/07/91 by Rochelle Hendricks v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-12 Order (Dismissal without Prejudice) (HCN Tr. Ct., Aug. 17, 2005). (Matha, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of the petitioner's *Petitioner for Release of Per Capita Distribution*. The petitioner failed to appear, and did not notify the Court of an inability to attend the proceeding. Therefore, the Court dismissed the instant case without prejudice.

AUGUST 25, 2005

In the Interest of Minor Child: B.G., DOB 09/26/93, by Jon Greendeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-61 Order (Petition Granted) (HCN Tr. Ct., Aug. 25, 2005). (Matha, T).

The Court released funds from the CTF account of B.G., DOB 09/26/93, to pay for costs associated with orthodontic procedures.

In the Interest of Decedent Member: I.M.F., DOD 04-25-2005 by Rosemarie Funmaker, v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-71 Order (Releasing Children's Trust Fund to Estate) (HCN Tr. Ct., Aug. 25, 2005). (Gouty-Yellow, T).

The Court determined to release the monies from a decedent tribal member's CTF account prior to the unfortunate passing of the tribal member. The Court directs the release of the CTF to the court-appointed representative of the estate.

In the Interest of Minor Children: J.J.N., DOB 06/23/88; J.D.N., DOB 08/27/91; and J.D.N., DOB 08/27/91, by Mary Frances Ness v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-17 Order Request Accounting (HCN Tr. Ct., Aug. 25, 2005). (Gouty-Yellow, T).

The Court released funds from the CTF accounts J.J.N., DOB 06/23/88, J.D.N., DOB 08/27/91, and J.D.N., DOB 08/27/91, to pay for costs associated with payments on the family mortgage. Additional payments are to be accounted for, thus August 15,

2005 accounting is past due and shall be submitted immediately.

In the Interest of Minor Child: B.W., DOB 08/28/89 by Pauline Ward, v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-70 Order (Petition Granted) (HCN Tr. Ct., Aug. 25, 2005). (Matha, T).

The Court released funds from the CTF account of B.W., DOB 08/28/89, to pay for costs associated with orthodontic procedures.

AUGUST 30, 2005

In the Interest of Decedent Member: E.P.G., DOD 11-07-04, by Hazel Garske v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-75 Order (Releasing Children's Trust Fund to Estate) (HCN Tr. Ct., Aug. 30, 2005). (Gouty-Yellow, T).

The Court determined to release the monies from a decedent tribal member's CTF account prior to the unfortunate passing of the tribal member. The Court directs the release of the CTF to the court-appointed representative of the estate.



EMPLOYMENT

AUGUST 5, 2005

Hillary Lichman v. Ho-Chunk Casino, CV 05-07 Stipulation and Order for Settlement and Dismissal (HCN Tr. Ct., Aug. 5, 2005). (Matha, T).

The parties stipulated and agreed to settle the above-captioned case pursuant to a voluntary agreement.

Chris Lichman v. Ho-Chunk Casino, CV 05-06 Stipulation and Order for Settlement and Dismissal (HCN Tr. Ct., Aug. 5, 2005). (Matha, T).

The parties stipulated and agreed to settle the above-captioned case pursuant to a voluntary agreement.

AUGUST 11, 2005

Pamela Snowball v. Ho-Chunk Nation, CV 02-119 Scheduling Order (HCN Tr. Ct., Aug. 11, 2005). (Matha, T).

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

AUGUST 12, 2005

Jill Wirtz v. Ho-Chunk Nation, CV 05-24 Stipulation and Order for Settlement and Dismissal (HCN Tr. Ct., Aug. 12, 2005). (Matha, T).

The parties stipulated and agreed to settle the above-captioned case pursuant to a voluntary agreement.

Gary D. Albrecht v. Ho-Chunk Nation, CV 05-25 Stipulation and Order for Settlement and Dismissal (HCN Tr. Ct., Aug. 12, 2005). (Matha, T).

The parties stipulated and agreed to settle the above-captioned case pursuant to a voluntary agreement.

AUGUST 12, 2005

Ho-Chunk Casino & Hotel, et al. v. Rory Emerson Thundercloud et al., CV 04-36 Order (Requiring Amended Complaint) (HCN Tr. Ct., Aug. 17, 2005). (Matha, T).

The Court needed to determine whether to grant a default judgment against the defendants. The defendants failed to answer the *Complaint* despite proper service of process. The Court, however, declines to enter a decision due to the plaintiffs' failure to articulate a basis for the exercise of subject matter jurisdiction. The Court required the plaintiffs to file an amended pleading.

AUGUST 25, 2005

Kenneth Lee Twin v. Toni McDonald et al., CV 04-27 Order (Determination upon Remand) (HCN Tr. Ct., Aug. 25, 2005). (Matha, T).

The Supreme Court of the Ho-Chunk Nation reversed and remanded a decision that this Court rendered in an employment action. The Supreme Court instructed the Court to convene further proceedings, suggesting the scheduling of a pre-trial motion phase. The Court determined the remand on the basis of a motion to dismiss. The plaintiff did not properly file a minimum of two (2) administrative grievances to his department director and Office of the President. The Court grants the

defendants' request for dismissal on the same grounds as its earlier grant of summary judgment.

AUGUST 30, 2005

Wendi A. Huling v. Ho-Chunk Nation et al., CV 05-47 Order (Motion Hearing) (HCN Tr. Ct., Aug. 30, 2005). (Gouty-Yellow, T).

The Court must determine whether or not to grant the defendant's *Motion for Dismissal*, or in the alternative, *Motion for a More Definitive Statement*. The Court scheduled a *Motion for Dismissal* to provide the plaintiff the opportunity to offer a response for a hearing.



INCOMPETENT TRUST FUND (ITF)

AUGUST 2, 2005

In the Interest of Adult Incompetent: K.B., by Jon B. Bahr, River Valley Guardians, Inc. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-18 Order (HCN Tr. Ct., Aug. 2, 2005). (Gouty-Yellow, T).

The Court had to determine whether a permanent guardian can access monies on behalf of an adult incompetent from the member's Incompetent's Trust Fund (ITF). The Court granted the release of funds to satisfy the request of the guardian.

AUGUST 5, 2005

In the Interest of B.F.R., DOB 09/18/19, by Dorothy Lenard v. Ho-Chunk Nation Office of Tribal Enrollment, CV 02-95 Order (Accepting Accounting) (HCN Tr. Ct., Aug. 5, 2005). (Matha, T).

The Court released funds from the ITF account of B.F.R, for costs associated with ongoing nursing home care. The petitioner submitted a payment history statement which confirmed proper use of the funds. The Court accepts this accounting.

In the Interest of Adult Incompetent: N.W., DOB 02/16/24, by Cecelia A. Rave, CV 01-125 Order

(Closing Case) (HCN Tr. Ct., Aug. 5, 2005). (Matha, T).

The Court is aware that the petitioner passed away on April 14, 2005. The Court accordingly shall close this case, and extend its sincerest condolences to her family.

AUGUST 17, 2005

In re: B.P.O. by Elethe Nichols v. HCN Enrollment Dept., CV 96-46 Order (Release of Funds) (HCN Tr. Ct., Aug. 17, 2005). (Gouty-Yellow, T).

The Court had to determine whether a guardian could access monies on behalf of an adult incompetent from the member's Incompetent's Trust Fund (ITF). The Court granted the release of funds to satisfy the request of the guardian for the purchase of a used van for transportation.

AUGUST 19, 2005

In the Interest of Adult Incompetent: K.B., by Jon B. Bahr, River Valley Guardians, Inc. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-18 Order (HCN Tr. Ct., Aug. 19, 2005). (Gouty-Yellow, T).

The Court had to determine whether the corporate guardian can access monies on behalf of an adult incompetent from the member's ITF. The Court granted the release of funds to satisfy the request of the guardian and sets forth a monthly fee for the ongoing administration of this ward's circumstances.

AUGUST 29, 2005

In the Interest of: E.S., DOB 02/01/55, by Cecelia Sine, Legal Guardian v. Ho-Chunk Nation Office of Tribal Enrollment, CV 03-27 Order (HCN Tr. Ct., Aug. 29, 2005). (Gouty-Yellow, T).

The Court had to determine whether to grant a release of funds from the Incompetent's Trust Fund. The Court grants the request for release of ITF Funds for home modification, reimbursements, and a monthly living allowance.



Juvenile

JULY 27, 2005

In the Interest of Minor Children: L.L.T.B., DOB 06/23/96; R.R.T.B., DOB 03/16/94; L.S.T.B., DOB 01/20/93, JV 05-01-03 Order (Dispositional Requirements) (HCN Tr. Ct., July 27, 2005). (Gouty-Yellow, T).

The Court conducted the *Dispositional Hearing*. At the *Hearing*, the Court had to assess the extent and scope of the dispositional recommendations proposed by the Ho-Chunk Nation Child & Family Services.

JULY 28, 2005

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 (Appointment of Guardian ad litem) (HCN Tr. Ct., July 28, 2005). (Gouty-Yellow, T).

The Court appointed a GAL in this matter.

JULY 29, 2005

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 Terminating Guardian Petition (HCN Tr. Ct., July 29, 2005). (Gouty-Yellow, T).

The *Temporary Guardianship Petition* is terminated because the prior Judge assigned to this matter did not act on the *Petition*, no hearings were held, no orders were issued, and the children were returned to the Court's jurisdiction.

In the Interest of Minor Children: C.H.F., DOB 12/24/03; P.R.F., DOB 04/22/02, JV 05-19-20; State of Wisconsin/Eau Claire County, CS 03-60; State of Wisconsin/Eau Claire County, CS 04-27, Order (Redirecting Child Support) (HCN Tr. Ct., July 29, 2005). (Gouty-Yellow, T).

The Court redirected child support payments to the third-party physical custodian.

AUGUST 3, 2005

In the Interest of Minor Children: L.L.T.B., DOB 06/23/96; R.R.T.B., DOB 03/16/94; L.S.T.B., DOB 01/20/93, JV 05-01-03 Order (Erratum) (HCN Tr. Ct., Aug. 3, 2005). (Gouty-Yellow, T).

The Court issues this *Erratum Order* to correct a clerical mistake made in the July 27, 2005 *Order*.

AUGUST 4, 2005

In the Interest of Minor Child: T.L.E., DOB 08/04/05, JV 05-14 Order (Appointment of Permanent Guardian) (HCN Tr. Ct., Aug. 4, 2005). (Gouty-Yellow, T).

The Court determined that an appointment of a permanent guardian is within the child's best interests.

In the Interest of Minor Child: L.K.B., DOB 09/27/89, JV 05-06 Order (Postponement of Guardianship Hearing) (HCN Tr. Ct., Aug. 4, 2005). (Gouty-Yellow, T).

The Court postponed the *Hearing* so that the parties would all be in attendance and so counsel would be sought.

In the Interest of Minor Child: S.M.J., DOB 11/25/88, JV 98-21 Order to Dismiss (HCN Tr. Ct., Aug. 4, 2005). (Gouty-Yellow, T).

The Court recognizes and grants full faith and credit to the State of Wisconsin which established the guardianship of the child. Thus the Court terminates its jurisdiction over the case.

AUGUST 8, 2005

In the Interest of Minor Child: J.W.P., DOB 12/06/93, JV 02-06 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Aug. 8, 2005). (Matha, T).

The Court appointed a temporary guardian in this matter. After a careful weighing of all the presented evidence, the Court deems such an appointment within the minor child's best interests.

In the Interest of Minor Child: J.C.B., DOB 09/01/88, JV 04-27 Order (Voluntary Dismissal) (HCN Tr. Ct., Aug. 8, 2005). (Matha, T).

The Court removed the next scheduled *Hearing* because the mother resumed physical custody of the child.

In the Interest of Minor Child: H.D.J., DOB 11/25/88, JV 98-20 Order (Child Protection Review Hearing) (HCN Tr. Ct., Aug. 8, 2005). (Matha, T).

The Court conducted a *Child Protection Review Hearing*. The Court reaffirmed the dispositional

requirements as necessary for the protection of the child.

In the Interest of Minor Child: T.L.B., DOB 03/18/91, JV 02-05 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Aug. 8, 2005). (Matha, T).

The Court appointed a temporary guardian in this matter. After a careful weighing of all the presented evidence, the Court deems such an appointment within the minor child's best interests.

In the Interest of Minor Children: J.L.B., DOB 11/27/95; A.R.B., DOB 07/25/94, JV 01-06-07 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Aug. 8, 2005). (Matha, T).

The Court appointed a temporary guardian in this matter. After a careful weighing of all the presented evidence, the Court deems such an appointment within the minor child's best interests.

AUGUST 9, 2005

In the Interest of Minor Children: J.L.B., DOB 11/27/95; A.R.B., DOB 07-25-94, JV 01-06-07 Order (Establishment of Child Support) (HCN Tr. Ct., Aug. 9, 2005). (Matha, T).

The Court determined to establish a child support obligation for the mother of the minor children.

In the Interest of Minor Children: J.L.B., DOB 11/27/95; A.R.B., DOB 07-25-94, JV 01-06-07 Order (Establishment of Child Support - Redacted) (HCN Tr. Ct., Aug. 9, 2005). (Matha, T).

The Court determined to establish a child support obligation for the mother of the minor children. The HO-CHUNK NATION CHILDREN & FAMILY ACT confirms the confidential nature of the guardianship and protection proceedings, and the Court accordingly entered this contemporaneous order to direct to the Department of Treasury.

In the Interest of Minor Child: D.Y., DOB 01/26/98, JV 05-21 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Aug. 9, 2005). (Matha, T).

The Court appointed a temporary guardian in this matter. After a careful weighing of all the presented evidence, the Court deems such an appointment within the minor child's best interests.

In the Interest of Minor Children: A.J.C., DOB 04/02/93; K.L.C., DOB 12/19/89, JV 04-01, -3 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., Aug. 9, 2005). (Gouty-Yellow, T).
The Court appointed a GAL in this matter.

AUGUST 10, 2005

In the Interest of Minor Children: C.H.F., DOB 12/24/03; P.R.F., DOB 04/22/02, JV 05-20-19 Order (Dispositional Requirements) (HCN Tr. Ct., Aug. 10, 2005). (Gouty-Yellow, T).

The Court conducted the *Dispositional Hearing*. At the *Hearing*, the Court had to assess the extent and scope of the dispositional recommendations proposed by the Ho-Chunk Nation Child & Family Services.

In the Interest of Minor Child: T.L.E., DOB 05/07/94, JV 05-14 Order (Amended Appointment of Permanent Guardian) (HCN Tr. Ct., Aug. 10, 2005). (Gouty-Yellow, T).

The Court determined that an appointment of a permanent guardian is within the child's best interests.

AUGUST 11, 2005

In the Interest of Minor Children: D.D.W., DOB 12/16/94; D.R.W., DOB 09/22/92; D.G.W., DOB 11/09/95; D.S.W., DOB 02/19/98, JV 01-17-20 Order (Appointment of Permanent Guardian) (HCN Tr. Ct., Aug. 11, 2005). (Gouty-Yellow, T).

The Court determined that an appointment of a permanent guardian is within the child's best interests.

AUGUST 12, 2005

In the Interest of Minor Child: D.M.S., DOB 01/12/93, JV 04-18 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Aug. 12, 2005). (Matha, T).

The Court appointed a temporary guardian in this matter. After a careful weighing of all the presented evidence, the Court deems such an appointment within the minor child's best interests.

AUGUST 15, 2005

In the Interest of Minor Child: D.C., DOB 05/12/03, JV 03-34 Order (Dismissal of Petition) (HCN Tr. Ct., Aug. 15, 2005). (Matha, T).

The Court convened *Trial* to determine whether the allegations presented in the *Child/Family Protection Petition* filed by the Ho-Chunk Nation Child & Family Services were true and whether the best interests of the minor child would be served by continued court intervention. The Court holds that CFS has not satisfied the burden of proof.

In the Interest of Minor Children: M.J.B., DOB 07/09/94; B.K.B., DOB 03/26/96, JV 98-08-09 Order (Termination of Jurisdiction) (HCN Tr. Ct., Aug. 15, 2005). (Matha, T).

The Court terminated its jurisdiction over and supervision of the instant case in accordance with the HO-CHUNK NATION CHILDREN & FAMILY ACT.

AUGUST 18, 2005

In the Interest of Minor Child: D.M.S., DOB 01/12/93, JV 04-18 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., Aug. 18, 2005). (Matha, T).

The Court appointed a GAL in this matter.

AUGUST 19, 2005

In the Interest of Minor Children: T.J.M., DOB 09/08/97, D.R.M., DOB 02/11/94, D.C.M., DOB 09/23/99 JV 05-22-24 Order (Conditional Acceptance of Transfer) (HCN Tr. Ct., Aug. 19, 2005). (Matha, T).

The Court determined whether to conditionally accept transfer of a State of Wisconsin children's case in which the minor children, either enrolled or eligible for enrollment with the Ho-Chunk Nation, are subject to foster care placement. After reviewing the *Motion for Transfer to Tribal Court*, the Court shall not decline transfer of this action.

AUGUST 24, 2005

In the Interest of Minor Children: B.E.Y., DOB 07/25/89; B.E.Y., DOB 07/25/89, JV 03-37-38 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., Aug. 24, 2005). (Matha, T).

The Court appointed a GAL in this matter.

Domestic Violence

AUGUST 10, 2005

Serena G. Yellow Thunder v. Christopher J. Littlewolf a/k/a Greyhair, DV 05-02 Ex Parte Order for Protection (HCN Tr. Ct., Aug. 10, 2005). (Matha, T).

The Ho-Chunk Nation Trial Court has been presented with a sworn *Petition for Order for Protection*. The Court finds reasonable grounds to believe that the respondent has committed acts of domestic violence against the petitioner and/or family. Consequently, the Court enters this *Ex Parte Order for Protection* as necessary to protect the petitioner.



Supreme Court

AUGUST 3, 2005

Christine Funmaker-Romano et al. v. Ho-Chunk Nation Election Board and Mary Ellen Dumas, Chairperson, SU 05-08 Decision (HCN S. Ct., Aug. 3, 2005).

The Court heard *Oral Argument* on this case on July 23, 2005. The Court issued an *Order (Dissolving Injunction)* on July 26, 2005. The Court concurred with the substance of the Trial Court's findings that while there were irregularities in the Election, the Court would not order a new election.

The appellants complain that despite showing violations of Election law, the Trial Court's conclusion that their election appeal failed is flawed. The Appellants also contend that the Trial Court denied their due process rights by cutting off discovery at an unduly early stage in the litigation despite the compressed Constitutional requirements that the Trial Court reach a decision within 20 days from when an Election Challenge is filed. Nonetheless, the parties and the Courts must cooperate along with the Election Board to ensure that voters are able to exercise their right to be represented by candidates of their choice.

The requirement that the Legislature set that a challenger must show that the outcome would have been different but/for the election violation is constitutional and *Abangan* is overruled to the extent that it is inconsistent. Pursuant to the *HCN Election Ordinance*, a challenger must not just show that there was a violation of the *Election Ordinance*, which the appellants did in this case, but also that the violation made a difference in the outcome. The challenger must show both.



Recent Filings

Trial Court

Child Support

AUGUST 4, 2005

Wood County Child Support Agency v. Paul Sallaway, CS 05-76. (Gouty-Yellow, T).

AUGUST 15, 2005

State of Wisconsin, Celeste Yvonne Turner v. Michael W. Decorah, CS 05-77. (Matha, T).

AUGUST 25, 2005

Joan C. Goodness-Baum v. Robin R. Baum, CS 05-79. (Matha, T).

Steven J. Stygar v. Terrie Holmes, CS 05-80. (Matha, T).

AUGUST 31, 2005

Anna Kingswan v. Anthony Kingswan, CS 05-78. (Matha, T).

Civil Garnishment

AUGUST 10, 2005

State Collection Service v. Patrick Roberge, CG 05-76. (Matha, T).

State Collection Service v. Mikeleen A. Finucan, CG 05-77. (Matha, T).

Alliance Collection Agencies, Inc. v. Debra Swantek, CG 05-78. (Matha, T).

Rice, Heitman, & Davis, S.C. v. Roxanne Anderson, CG 05-79. (Matha, T).

AUGUST 25, 2005

Augusta Housing Management Co. v. Ardith M. Snowball, CG 05-80. (Matha, T).

Alliance Collection Agencies, Inc. v. David Roach, CG 05-81. (Matha, T).

Alliance Collection Agencies, Inc. v. Donna Pabst, CG 05-82. (Matha, T).

AUGUST 26, 2005

Wolpoff & Abramson v. Beverly Reynolds, CG 05-83. (Matha, T).

AUGUST 31, 2005

Quick Cash Loans v. Joan Fox, CG 05-84. (Matha, T).

Creditor Recovery Service, LLC v. John P. McKeel, CG 05-85. (Matha, T).

Civil Cases

AUGUST 8, 2005

In the Interest of Minor Child: M.L.D. DOB 04/05/01, by Terry Deloney v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-58. (Matha, T).

In the Interest of Minor Child: T.M.K. DOB 12/05/87 by Amy K. Littlegeorge v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-65. (Matha, T).

AUGUST 9, 2005

In the Interest of Minor Child: B.N.F. DOB 09/03/86, by Alaine A. Yingst v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-59. (Matha, T).

In the Interest of Minor Child: M.S.P. DOB 09/28/90, by Sharon Pierce v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-60. (Matha, T).

In the Interest of Minor Child: K.J.F. DOB 08/21/88, by Lisa Blackdeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-62. (Matha, T).

Home Ownership Program v. Carter Roofing, CV 05-63. (Matha, T).

In the Interest of Minor Child: B.W. DOB 08/28/89, by Pauline Ward v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-70. (Matha, T).

AUGUST 11, 2005

In the Interest of Minor Child: B.M.G. DOB 09/26/93, by Jon Greendeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-61. (Matha, T).

AUGUST 12, 2005

In the Interest of Minor Child: K.A.L. DOB 08/14/89, by Gary Lonetree Jr. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-66. (Matha, T).

In the Interest of Minor Child: R.M.D. DOB 01/26/85, by Rainelle M. Decorah v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-67. (Matha, T).

Jeffrey Harrison v. HCN Insurance Commission, et al., CV 05-68. (Matha, T).

AUGUST 15, 2005

In the Interest of Minor Child: M.A.S. DOB 09/20/88, by Paul W. Stott, Jr. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-69. (Gouty-Yellow, T).

AUGUST 17, 2005

In the Interest of Decedent: I.M.F. by Rosmarie Funmaker v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-71. (Gouty-Yellow, T).

AUGUST 23, 2005

In the Interest of: H.C. DOB 01/31/31, by Barbara Melteson & Dawn Ollendick v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-72. (Gouty-Yellow, T).

In the Interest of Minor Child: T.W.E. DOB 04/09/93, by Sara WhiteEagle v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-73. (Gouty-Yellow, T).

In the Interest of Minor Child: T.K. DOB 06/06/90, by Sara WhiteEagle v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-74. (Gouty-Yellow, T).

AUGUST 25, 2005

In the Interest of Decedent: E.P.G. by Hazel J. Garske v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-75. (Gouty-Yellow, T).

AUGUST 31, 2005

In the Interest of Minor Child: J.M.K. DOB 06/24/88, by Angela Kelly v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-76. (Matha, T).

Domestic Violence Cases

AUGUST 8, 2005

Serena G. Yellow Thunder v. Christopher J. Littlewolf a.k.a. Greyhair, DV 05-02. (Matha, T).

Supreme Court

No recent filings.

Upcoming National Events

September 23, 2005. 38th Annual California Indian Day Celebration to be held at the California State Capitol; Sacramento, CA

October 6-9, 2005. National Indian Education Association (NIEA). The NIEA will hold its 26th annual conference at the Adams' Mark Hotel, Denver, Colorado. For more information, www.niea.org

October 13-14, 2005. Tribal Self Governance Fall Conference, Washington, D.C.

October 16-21, 2005. National Indian Health Board (NIHB) Annual Consumer Conference, Phoenix, Arizona.

October 30 ~ November 4, 2005. National Congress of American Indians 62nd Annual Convention in Tulsa, OK.

Tina Gouty-Yellow, Associate Judge Pro Tempore

Clerk of Court, Trial Court – Marcella Cloud
Assistant Clerk of Court, Trial Court – Selina Joshua
Bailiff/Process Server – Albert Carrimon
Administrative Assistant – Jessi Cleveland
Staff Attorney – Amanda R. Cornelius
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)



**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 – Earl 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 – Todd R. Matha, Chief Judge

HCN Judiciary Fee Schedule

Filing Fees

- *Complaint*.....\$50.00
- *Petition for Release of Per Capita Distribution (Children’s Trust Fund)*\$50.00
- *Motion to Appear Pro Hac Vice*.....\$35.00
- Appellate Filing Fee.....\$50.00
- *Petition to Register and Enforce Foreign Judgment/Order*\$20.00
- Marriage License Fee.....\$50.00

Court Fees

- Copying\$0.10/page
- Faxing\$0.25/page (sending & receiving)
- CD of Hearings\$12.50/CD
- Deposition Videotape\$10.00/tape
- Certified Copies.....\$0.50/page
- Equipment Rental\$5.00/hour
- Admission to Practice\$50.00

Legal Citation Forms

The following are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution

Constitution, Article Number, Section, Subsection.
HCN CONST., Art. II, Sec. (or §) 1(a).

Ho-Chunk Nation Code

Ordinance/Act Name Title Number HCC Section.
ELDER PROTECTION ACT, 4 HCC § 1.
EMPLOYMENT RELATIONS ACT, 6 HCC § 5.
(for detailed citation information consult LEGISLATIVE ORGANIZATION ACT, 2 HCC § 11.36)



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

OVERALL WINNERS			
<u>Male</u>	<u>Time</u>	<u>Female</u>	<u>Time</u>
Dana Lonetree	19:05	Nikki Day	23:34

10 and under				
	<u>Male</u>	<u>Time</u>	<u>Female</u>	<u>Time</u>
1 st			1 st Jessica Gleason	36:50
2 nd			2 nd	
3 rd			3 rd	
11-19				
	<u>Male</u>	<u>Time</u>	<u>Female</u>	<u>Time</u>
1 st	Dana Lonetree	19:05	1 st Wehonna Toth	26:57
2 nd			2 nd Lainey Ward	46:16
3 rd			3 rd	
20-29				
	<u>Male</u>	<u>Time</u>	<u>Female</u>	<u>Time</u>
1 st	Brian Lakowske	21:29	1 st Nikki Day	23:34
2 nd			2 nd Kelly Medina	36:20
3 rd			3 rd Thalia Falcon	46:47
30-39				
	<u>Male</u>	<u>Time</u>	<u>Female</u>	<u>Time</u>
1 st	Oswaldo Median	23:34	1 st Karen Deberg	25:17
2 nd			2 nd Chanda Janke	30:02
3 rd			3 rd Karen Gleason	36:51
40-49				
	<u>Male</u>	<u>Time</u>	<u>Female</u>	<u>Time</u>
1 st	Ben Boardman	33:50	1 st	

2 nd			2 nd		
3 rd			3 rd		
50 and above					
	<u>Male</u>	<u>Time</u>	<u>Female</u>	<u>Time</u>	
1 st	Dick Camlek	25:17	1 st	Cynthia Radke	42:40
2 nd	Mark Butterfield	28:52	2 nd	Marv J. Rosmenoski	40:33
3 rd	Danny Rozmenoski	40:32	3 rd	Shirley Peterson	43:37

**All Runners and Walkers –
Sorted Alphabetically**

RUNNERS		
Name	Category	Time
Blackdeer, Bernice	50 and above	51:00
Boardman, Ben	40-49	33:50
Burns, Brandy	30-39	49:23
Butterfield, Mark	50 and above	28:52
Camlek, Dick	50 and above	25:17
Chandler, Betty	50 and above	51:01
Day, Nikki	20-29	23:34
Deberg, Karen	30-39	25:17
Falcon, Thalia	20-29	46:47
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APPENDIX A

Amended HCN R. Civ. P. – DRAFT

Rule 3. Complaints.

General. A civil action begins by one of the following procedures:

(A) filing a written *Complaint* with the clerk of court and paying the appropriate fees. The *Complaint* shall contain short, plain statements of the grounds upon which the Court's jurisdiction depends; the facts and circumstances giving rise to the action, and a demand for any and all relief that the party is seeking. Relief should include, but is not limited to the dollar amount that the party is requesting. The *Complaint* must contain the full names and addresses of all parties and any counsel, as well as a telephone number at which the Complainant may be contacted. The *Complaint* shall be signed by the filing party or his/her counsel, if any.

(B) a Ho-Chunk Nation official with the authority to enforce Code provisions issuing and serving a written *Citation* on the defendant, and filing a copy of the *Citation* in the Trial Court within (1) day of serving the defendant.

1. The *Citation* shall contain:

a. a written statement by the issuing official describing in short, plain statements the nature of the offense committed, including the time and place as nearly as may be ascertained, the name or description of the person(s) alleged to have committed the offense, the section of the Ho-Chunk Nation Code allegedly violated, and the alleged grounds for the Court's jurisdiction;

b. a statement of the options provided in these Rules for responding to the *Citation* and the procedures necessary to exercise those options (See HCN R. Civ. P. 6(C)), including a statement that, if the matter proceeds to *Trial*, the Nation has the burden of proving, by a preponderance of the evidence, that the violation was committed;

c. a date and time certain for the defendant to appear before the Court for the *Preliminary Hearing*;

c. a statement that failing to appear at the scheduled *Preliminary Hearing* without previously responding and admitting the charge may result in a *Default Judgment* being entered against the defendant (See HCN R. Civ. P. 54B); and

d. a statement that an order imposing a fine or penalty shall be a debt owed to the Nation and may be enforced against the defendant's per capita distributions if the defendant is an enrolled member of the Ho-Chunk Nation.

2. The issuing Ho-Chunk Nation official shall sign the Citation.

Rule 4. Filing.

(A) General. No document will be considered filed until the filing fee is paid or a *Motion to Waive Filing Fees* is filed, with the exception of a Citation, for which the Court does not require a filing fee. If the *Motion to Waive Filing Fees* is denied, and the filing fees are paid within ten (10) calendar days of the denial, the *Complaint* will be considered filed on the date the *Motion to Waive Filing Fees* was filed.

Rule 5. Notice of Service of Process.

A. Definitions.

1. Service of process – The manner in which parties are informed of the *Complaint* or *Citation* and of the opportunity to *Answer*. Personal service is preferred; however, service by registered U.S. mail (return receipt requested) at the person's home or usual place of business or employment are equally acceptable and effective. Other methods of service may be employed when, in the Court's discretion, they are most likely to result in actual notification of the parties.
2. Summons – The official notice to the party informing him/her that he/she is identified as a party to an action or is being sued, that an *Answer* is due in twenty (20) calendar days (See HCN R. Civ. P. 6) and that a *Default Judgment* may be entered against them if they do not file an *Answer* in the prescribed time. It shall also include the name and location of the Court, the case number, and the names of the parties. The *Summons* shall be issued by the Clerk of Court and shall be served with a copy of the filed *Complaint* attached.
 - a. In the event that a Citation is issued upon an alleged violator of one or more provisions of the Ho-Chunk Nation Code, the Citation shall serve as the Summons to command the initial appearance of the defendant at the Preliminary Hearing. The issuance and service of the Citation upon the defendant by the issuing authorized tribal official negates the Clerk's duty to issue and serve a Summons upon the defendant.

(B) General. Any time a party files a document other than the *Complaint* or *Citation* with the Court in relation to a case, the filing party must serve copies on the other parties to the action and provide *Certificate of Service* to the Court. Any time the Court issues an *Order* or *Judgment* in the context of an active case, the Court must serve copies on all parties. Service of process can be accomplished as outlined in Section (C).

(C) Methods of Service of Process.

1. Personal Service. The required papers are delivered to the party in person by the bailiff, or when authorized by the Court, a law enforcement officer from any jurisdiction, or any other person not a party to the action who is eighteen (18) years of age or older and of suitable discretion.

a. Personal Service is required for the initiation of actions in the following:

(i) Relief requested is over \$5,000.00, excluding the enforcement of foreign child support orders; or

(ii) Children's custody and/or placement are the subject matter of the proceedings.

(b) Where personal service is required by this rule and the Court or the filing party exercises due diligence in unsuccessfully pursuing personal service of process, the filing party may move for permission to pursue service of process by any means provided for in sections (c) through (f). The Court will grant the motion where good cause is shown. The Court may also enter such an order *sua sponte* for good cause shown.

(c) Service upon a Business, Corporation or Entity. Service may be made upon an agent of a business, corporation or governmental agency.

(d) Service upon an Individual. The required papers are delivered in person to the party's home or usual and current place of business or employment to someone of suitable age and discretion over fourteen (14) years of age.

(e) Service by Mail. Service of process may be accomplished by sending the required papers to a party by registered mail with return receipt requested, except in the instances of Rule 5(C)(1)(a)(i) and 5(C)(1)(a)(ii) as stated above.

(f) Service by Publication. Upon order of the Court for good cause shown, service of process may be accomplished by publishing the contents of the summons. Where service by publication is being made on a member or members of the Ho-Chunk Nation, the contents of the summons may be published in the Hocak Worak or a newspaper of general circulation in an area where the party is most likely to be made aware of the summons. In the case of non-members of the Ho-Chunk Nation, the contents of the summons may not be published in the Hocak Worak, but may be published in a newspaper of general circulation in an area where the party is most likely to be made aware of the summons. If publication is sought in the Hocak Worak, publication must be in two consecutive issues. If publication is sought in a paper of general circulation, publication must be at least, once per week for four consecutive weeks. Proof of publication must be provided to the Clerk of Court.

1. Service of process may be made on a party by any means permitted in sections (a) through (e). Service of process may be made on a party by publication as outlined in section (1)(f) provided a preponderance of the evidence shows the Court that the party to be served lives in the area where the summons is to be published.
2. After the first successful service of process, the Court and the parties will then perform all written communications through regular mail at that address. Therefore, each party to an action has an affirmative duty to notify the Court, and all other parties, of a change of address within ten (10) calendar days of such change.

(D) Using a Process Server or Bailiff. The Court's bailiff shall be authorized to serve process in any action filed with the Court. In addition, the Court may authorize other persons to serve process when there is an assurance the other person knows how to effect proper service and will make adequate factual inquiries to assure that service is proper.

(E) Return of Service. A return of service shall be endorsed with the name of the person serving and the date, time and place of service. It shall state the manner in which service was made and shall be filed with the clerk of Court.

(F) Effect of Incomplete or Improper Service. Incomplete or improper service results in a lack of jurisdiction over the person incompletely or improperly served. If a person refuses to accept, service shall be deemed properly performed if the person is informed of the purpose of the service and offered copies of the papers served. If a person intentionally avoids service, the Court may also consider service as properly performed. Upon order of the Court for good cause shown, if the Court or the filing party exercises due diligence in unsuccessfully pursuing service of process, whether personal or otherwise, a *Default Judgment* may be entered in accordance with Rule 54.

(G) Time Limit for Service of Process. A *Complaint* must be served, and proof of service filed with the Court within one hundred and twenty (120) calendar days of filing, or it will be considered dismissed without prejudice by the Court with notice provided to the filer. Upon order of the Court for good cause shown, a sixty (60) calendar day extension may be ordered in the event that the Court or the filer exercises due diligence in unsuccessfully providing service of process.

(H) Emergency Notice. The rule governs cases of emergency where the Court may need to conduct a hearing which provides less than forty-eight (48) hours notice to the parties. In cases of emergency, upon motion of a party or *sua sponte*, the Court can provide notice of a hearing less than forty-eight (48) hours prior to the hearing. In cases of emergency, the Court may provide notice by telephone with written confirmation or by telephone and fax at least forty-eight (48) hours in advance. Documentation of the call or fax shall be included in the record.

1. Notice by Telephone – When the parties are notified by telephone, documentation of the telephone call shall be filed in the record. Documentation of the call shall include who made the call, the name of the person to whom the *Notice* was directed, the telephone number called, the date and time of the call, and the name given by the person receiving the call.
2. Notice by Fax – When the parties are notified by fax, a call must be made confirming receipt of the fax. Documentation of the call must be included in the record. Documentation of the call shall include the name of the party confirming receipt of the fax notice, the time of the confirmation call, and a copy of the time-stamped fax.

(F) Service of Citations. Service of a *Citation* is accomplished by the issuing authorized tribal official serving the written *Citation* on the alleged violator via one of the methods of service described above. The issuing official shall indicate certification of service of the *Citation* or other evidence of delivery satisfactory to the Court on the face of the *Citation*.

Rule 6. Answering a Complaint or Citation.

(A) Answering a Complaint. A party against whom a *Complaint* has been made shall have twenty (20) calendar days from the date the summons is issued, or from the last date of service by publication to file an *Answer* with the Clerk of Court. The *Answer* shall use short and plain statements to admit, admit in part, or deny each statement in the *Complaint*, assert any and all claims against other parties arising from the same facts or circumstances as the *Complaint* and state any defenses to the *Complaint*. The *Complaint* must contain the full names of all parties and any counsel. The *Answer* must be signed by the party and his or her counsel and contain their full names and addresses, as well as a telephone number at which they may be contacted. An *Answer* shall be served on other parties and may be served by mail. A *Certificate of Service* shall be filed as required by Rule 5(B).

(B) Motion for More Definite Statement. Should a party against whom a *Complaint* has been made find that they are unable to formulate an *Answer* due to deficiencies in the *Complaint*, they may file a *Motion for More Definite Statement* within the prescribed time to file an *Answer*. The *Motion for More Definite Statement* shall include: a statement of why the *Complaint* is inadequate, and the information the party would like to have to assist him/her in formulating an *Answer*. Should the *Motion for More Definite Statement* be denied, the party shall file an *Answer* within the time limit set by the judge, said time limit not to exceed twenty (20) calendar days.

(C) Answering a Citation.

1. If the defendant named in the *Citation* does not wish to contest the determination that a violation took place as stated in the *Citation*, he shall respond by completing the appropriate portion of the *Citation* and submit it to the Court. A check or money order in the amount of the fine or penalty set forth in the *Citation* must be submitted with the response. Payment of the fine or penalty shall constitute an admission of the violation. The response and payment must be received by the Court on or before the *Preliminary Hearing* date set forth in the *Citation*. Upon the defendant's response and admission, the Clerk of Court shall remove the scheduled *Preliminary Hearing* from the Court's calendar and close the matter.

2. If the defendant named in the *Citation* does not respond and pay the fine or penalty set forth in the *Citation* prior to the *Preliminary Hearing*, the defendant shall appear in Court at the date and time certain indicated on the *Citation* for the *Preliminary Hearing*. At the *Preliminary Hearing* the defendant shall admit or deny the allegations in the *Citation*. If the defendant admits the allegations the Court may consider any evidence presented by the defendant in imposing an appropriate fine or penalty. If the defendant denies the allegations in the *Citation*, the Court shall schedule a date for *Trial*.

Rule 54. **Default Judgment.**

(A) General. A *Default Judgment* may be entered against a party who fails to answer if the party was personally served in accordance with Rule 5(C)(1)(a)(i) or 5(C)(1)(a)(ii) or obtained judicial authorization to pursue other means of service such as publication or if a party fails to appear at a hearing, conference or trial for

which he/she was given proper notice. A *Default Judgment* shall not award relief different in kind from, or exceed the amount stated in the request for relief. A *Default Judgment* may be set aside by the Court only upon a timely showing of good cause.

(B) Citations. If a defendant who has been properly issued and served a *Citation* fails to appear at or before the date and time certain stated in the *Citation* for the *Preliminary Hearing* or to otherwise pay the fine or penalty in accordance with these Rules, the Court shall enter a *Default Judgment* against the defendant.

1. If a *Default Judgment* is entered against the defendant, the Court must enter an order stating that the defendant must pay the judgment by a date certain which shall not be less than fourteen (14) days after the date of the judgment. The order shall state that the judgment shall constitute a debt to the Nation and that failure to pay the judgment may result in proceedings for contempt.
2. If a defendant fails to pay the fine or penalty within the time allowed by the order for a *Default Judgment*, the Court shall enforce the judgment against the defendant's per capita distribution as a debt to the Nation if the defendant is an enrolled member of the Nation, and/or find the defendant in contempt.



OCTOBER 2005

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HO-CHUNK NATION COURT BULLETIN

THE JUDICIARY SECURES COMPETITIVE GRANT

On January 26, 2005, current Chief Judge Todd R. Matha submitted a grant proposal entitled, *Technological Enhancement of the Ho-Chunk Nation Judiciary*, to the Bureau of Justice Assistance (BJA) for funding under its 2005 Tribal Courts Assistance Program. On October 17, 2005, the U.S. Department of Justice, Community Oriented Policing Services (COPS) awarded the entire requested grant in the amount of \$114,578.00 through its Tribal Technical Assistance Program. The grant will allow the Judiciary to acquire case management software, courtroom projector systems, electronic signature system, and a courtroom audio mixer. The remainder of the grant will be spent on the required training component.



The Judiciary demonstrated its commitment to judicial and technological advancement through the current technology it uses to increase public awareness. To inform members and the public of the Court's jurisprudence, the Judiciary utilizes the internet. The judicial staff attorney publishes the monthly Ho-Chunk Nation Court Bulletin. This publication canvasses all tribal decisions and summarizes recent federal and state Indian law opinions. Also, the judicial webpage includes significant trial-level decisions, as well as all appellate judgments. Also, the Court holds an annual Law Day and Fun Run to increase awareness of the Judiciary.

The grant will allow the Judiciary to acquire judicial case management software. Currently, the Judiciary manually enters

information into logbooks, case files, and paper calendars to track cases.

Such software will allow a chronological list of issued decisions, electronic filing, electronic storage, as well as improve accessibility to the Judiciary. The software will allow administrative staff to monitor the remote access to electronic case files. The software will allow the Ho-Chunk Nation Department of Justice attorneys, as well as outside attorneys and advocates, the option of electronically filing documents on scheduled deadlines. The litigants and Judiciary will decrease spending for such items as postage when the litigants have access to a computer with the internet.

Second, the Judiciary will obtain courtroom projectors. The Judiciary often has *pro se* litigants as well as attorneys that are unfamiliar with the laws and the procedures of the Nation. The drop-down screens and ceiling projectors will adequately inform the parties of the applicable procedural rules and laws. Third, the electronic signature technology includes electronic signature pads and software enabling the Judiciary to transmit orders via e-mail. This feature will greatly aid the Supreme Court Justices who often work from satellite offices. Finally, the Judiciary will acquire two (2) audio mixers to interface with the installed sound system and digital courtroom recording system. Currently some of the audio recordings are difficult to listen to due to only a single channel allowing for recording. The sound overlap compromises the value of digital recording and thus the transcripts and official record.

The Judiciary anticipates beginning the first phase of the grant as soon as possible. The Judiciary envisions a significant reduction in its usage of paper documents. The Judiciary and litigants will be capable of electronically filing nearly all correspondences, including notices, motions, memoranda, and orders. Ultimately, the administrative staff will realize considerable time saving and litigants will gain ever greater access to the judicial process.

HO-CHUNK “NO-COMPETE” CLAUSE WITHSTANDS SEVENTH CIRCUIT

The Lac du Flambeau Band of Lake Superior Chippewa Indians (LDF) filed a federal lawsuit claim stating that the Ho-Chunk Nation’s compact unfairly protected the Ho-Chunk Nation from casino competition. The “no-compete” clause within the compact states that the Ho-Chunk would get a break in its state casino payment if another tribe won approval for an off-reservation casino, which would affect the Ho-Chunk’s gaming revenue.

On September 1, 2005, the Seventh Circuit held that the LDF has standing to object to a compact entered into between the Ho-Chunk Nation and the State. However, the decision also stated that since LDF did not respond to the Department of the Interior’s argument that judicial review was precluded by the Administrative Procedure Act (APA), it forfeited the argument. Finally, the Court did not address the issue of whether the suit must be dismissed under Civil Rule 19(b).

To meet the threshold of standing, three prongs must be met. First, the plaintiff must have suffered an injury in fact. Second, the injury must be fairly traceable to the challenged action of the defendant. Finally, it must be likely that the injury will be redressed by a favorable decision. *See Lujan v. Defenders of Wildlife*, 504 U.S., 555, 560 (1992). With regards to the first prong, the defendants argued that an injury arising out of the amended compact is not particular to LDF because it will affect all tribes in Wisconsin other than the Ho-Chunk Nation. LDF argued that since the Secretary passively approved the compact, then she created a disadvantage for other tribes when they seek state approval of off-reservation gaming. The Seventh Circuit determined that the defendant’s



reasoning was flawed. Simply because the injury will be shared by other tribes does not undermine LDF's standing.

The second prong requires the injury must be fairly traceable to the challenged action of the defendant. The Secretary's silence was the functional equivalent of an affirmative approval. By neither affirming, nor denying the compact, the silence enabled the injury, and it is fairly traceable to her.

The last prong dealt with redressability. Redressability examines the causal connection between the injury and the judicial relief requested. Here, the Court found that there is a substantial likelihood that the requested relief would alleviate the harm.

Generally, the APA confers upon persons "aggrieved by agency action" the right to seek judicial review of that action. The judicial review does not extend to an action that is "committed to agency discretion by law." The Secretary argued that the Indian Gaming Regulatory Act (IGRA) allows for agency discretion to approve or disapprove a compact, and because LDF relies on the APA solely for subject matter jurisdiction, the case should be dismissed. LDF had the burden to establish that the APA authorizes the district court to entertain this lawsuit. Since LDF did not address whether the APA bars judicial review, LDF forfeits the point. Thus the Court upheld the district court's decision, and dismissed the case.

The question becomes, could another Wisconsin tribe bring another lawsuit? Other persuasive precedent exists allowing a challenge under the APA to question the Secretary's decision to approve a compact. The Ninth Circuit Court of Appeals stated in *Artichoke Joe's et al. v. Norton*,¹ that "to argue that the inclusion of specific remedies for some parties impliedly precludes all other parties and all other APA claims *is not warranted*." 353 F.3d 712 (9th Cir. 2003) (emphasis added). The

¹ California card clubs and charities were prohibited to offer class III gaming under state law, and brought a suit to invalidate the compacts and the tribal class III gaming monopoly.

Court went on to further add that if a reviewing court agrees that the agency misinterpreted the law, it will set aside the agency's decision and remand the case, regardless of whether the agency would or would not reach the same result for a different reason. For more information regarding *Artichoke Joe's*, please refer to the HO-CHUNK NATION COURT BULLETIN, Vol. 10, No. 11.



INADVERTENT DESTRUCTION OF A PORTION OF NEW COURT BUILDING

On Monday, October 10, 2005, a construction firm mistakenly damaged Wa Ehi Hoci. The Judiciary requested the removal of the old courthouse, and the construction firm also began to demolish the new building, built in 2003.



Wa Ehi Hoci damage

The Court is currently consulting the Ho-Chunk Nation Department of Justice regarding pending lawsuits for negligence. **SEE PAGE 4.**

YOU'VE BEEN TRICKED!

The picture above is the removal of the old court building. The HCN Judiciary would like to wish you a Happy Halloween. The Judiciary will also be serving treats to youth on **MONDAY, OCTOBER 31, 2005.**



UPDATES FROM OUTSIDE COURTS

United States Supreme Court

Certiorari pending

Karr v. Pataki, No. 05-361 (filed September 15, 2005).

Peabody Western Coal Company v. Equal Employment Opportunity Commission, No. 05-353 (filed September 15, 2005).

Dalton v. Pataki, No. 05-368 (filed September 15, 2005).

Tenth Circuit Court of Appeals

Johnson v. Choctaw Management/Services Enterprise, Docket No. 04-7123 (10th Cir. 2005).

Ms. Johnson sought judicial review of a decision by the United States District Court for the Eastern District of Oklahoma dismissing her Title VII of the Civil Rights Act of 1964 (Title VII) claim against Choctaw Management/Services Enterprise (CM/SE) for lack of subject matter jurisdiction. The CM/SE was a business enterprise wholly owned by the Choctaw Nation of Oklahoma, a federally recognized Indian tribe. While Ms. Johnson conceded that Congress had expressly exempted Indian tribes from Title VII, she argued that the employer had waived tribal immunity by subcontracting to provide services for the federal government and by organizing itself as a for-profit corporation. The Court determined that she failed

to address the basis underlying the employer's dismissal. Her sole claim against the employer was under Title VII. The employer based its motion to dismiss on Title VII's express exemption of Indian tribes from its coverage, not on tribal immunity, and the district court granted the motion based on Title VII's exemption. The judgment of the district court was affirmed.

Shawnee Tribe v. United States, Docket No. 04-3256 (10th Cir. 2005).

The Shawnee Tribe sought review of an agency decision under the Administrative Procedures Act that an abandoned military installation was not within its reservation boundaries and that it was not entitled to a property transfer. The United States District Court for the District of Kansas held that the Reservation was terminated by the Treaty with the Shawnees, May 10, 1854. The Tribe appealed.

The site had been a United States Army munitions plant. When it no longer needed the property, the Army requested it be disposed of as "excess" property. After being federally recognized, the Tribe claimed that the entire property was within the boundaries of its remaining Reservation and requested that the Secretary of Interior transfer the property to the Department of the Interior in trust for the Tribe's benefit. While the appeal was pending, Congress passed legislation giving the Secretary of the Army specific discretion to convey the property to any entity selected by the county commissioners. The Secretary exercised his discretion and a sale was initiated. The court held that it could not give the Tribe a consideration-free transfer and all claims dependent on such relief were moot.

The appellate court vacated the district court's judgment as to the Administrative Procedures Act claims but affirmed as to the remaining non-APA claims on the basis that the reservation had been extinguished and remanded for any further action consistent with the opinion.

Ninth Circuit Court of Appeals

Lewis v. Norton, Docket No. 03-17207 (9th Cir. 2005).

Lewis sued defendants, officials of the Department of Interior, the Bureau of Indian Affairs, and the

National Indian Gaming Commission, ordering defendants to order an Indian tribe to recognize them as members. The United States District Court for the Eastern District of California dismissed the case for lack of subject matter jurisdiction. The plaintiffs appealed.

The plaintiffs applied for membership with the Table Mountain Rancheria tribe, but the tribe never responded. The plaintiffs argued that they were entitled to recognition as members of the tribe, and therefore to share in the revenue of that tribe's very successful casino. The court determined that dismissal of the siblings' claim was warranted due to lack of subject matter jurisdiction. Tribal immunity barred the suit to force the tribe to comply with their membership provisions. The appellate court affirmed the district court's dismissal of the action citing to *Santa Clara Pueblo v. Martinez*, "their claim cannot survive the double jurisdictional whammy of sovereign immunity and lack of federal court jurisdiction to intervene in tribal membership disputes."

Wilbur v. Locke, Docket No. 03-35911 (2005).

Three retail store operators, who are Swinomish tribal members, challenged the dismissal of their suit by the United States District Court for the Western District of Washington. They brought suit against the State of Washington, the Governor, and the State Revenue Department, seeking a declaratory judgment to invalidate a cigarette tax as it applied to their Indian Tribe, imposed pursuant to the Tax Injunction Act (TIA).

The tribal members asserted that the cigarette tax contract under negotiation between the Tribe and the State violated the Indian Commerce Clause. The complaint requested a declaratory judgment that Washington revenue code sections were void and sought an injunction preventing them from enforcing the statutes or contracting with the Tribe. The Court held that the tribal members had standing to challenge due to the immediacy of the compact negotiations, and that the suit challenging the state's authority to negotiate a cigarette tax contract was not barred by TIA.

Lac Du Flambeau Band of Lake Superior Chippewa Indians v. Norton, Docket No. 04-3571 (2005).

See Page 2.

Sixth Circuit Court of Appeals

Hovenaar v. Lazaroff, Docket No. 03-4119 (2005).

Plaintiff claimed that prison rules regulating hair length violated his right to practice his religious beliefs and were in violation of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). The United States Supreme Court reversed a decision overturning a temporary injunction the prisoner had won and remanded for further consideration.

The prisoner was a native American of Cherokee ancestry serving a life sentence in the Ohio prison system. While incarcerated, he began to practice a native religion which prohibited him from cutting his hair. The temporary injunction he had won allowed him to maintain long hair. The court held that in granting the injunction, the district court had substituted its judgment for that of prison officials by determining that certain prisoners who did not pose a significant safety risk and had sincerely held religious beliefs should be allowed to maintain long hair. While the district court was not required to blindly accept any policy justification offered by state officials, the district court's analysis did not reflect the requisite deference to the expertise and experience of prison officials, as required by case law interpreting the Religious Freedom Restoration Act of 1993 and RLUIPA.

First Circuit Court of Appeals

Carcieri v. Norton, Docket No. 03-2647 (2005).

Plaintiffs sued defendants, the Secretary of the U.S. Department of the Interior and a Bureau of Indian Affairs official, seeking to enjoin the Secretary's decision to accept a parcel of land located in the town into trust for the benefit of the Narragansett Indian Tribe. The U.S. District Court for the District of Rhode Island granted defendants' motion for summary judgment, and plaintiffs appealed.

Plaintiffs alleged that the Secretary of the Interior violated § 706 of the Administrative Procedure Act (APA), when she took a parcel of land in trust for

the benefit of the Narragansett Indian Tribe, that the Secretary lacked authority to accept the parcel, and that the acquisition was unconstitutional. The court of appeals held that the Narragansett Indian Tribe was a federally-recognized tribe, which existed at the time of the Indian Reorganization Act of 1934. Thus, the Secretary possessed authority to accept lands into trust for the benefit of the Narragansett Tribe. In addition, the court found that Secretary did not violate the Rhode Island Indian Claims Settlement Act of the APA when she accepted the land into trust, and the trust could be unrestricted, thus removing the land from the criminal and civil jurisdiction of the State of Rhode Island. The district court's judgment was affirmed.



Trial Court

Child Support

SEPTEMBER 1, 2005

Blue Earth County v. Joshua R. Armendariz, CS 05-45 Order (*Denying Enforcing Child Support*) (HCN Tr. Ct., Sept.1, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court denied the petitioner's request for recognition and enforcement because the monies are to be withheld for child support credit only and not for court costs, sheriff's fees or other non-child support costs. Although these fees remain the respondent's obligation, per capita interception for payment of these fees is not permissible under Ho-Chunk Law.

State of Wisconsin and Levi Aaron Lincoln, Sr. v. Louise Marlene Lincoln, CV 97-32 Order (*Reinstating Child Support Arrears*) (HCN Tr. Ct., Sept. 1, 2005). (Matha, T).

The Court had to determine whether to grant the petitioner's motion to modify. The respondent failed to respond within the prescribed timeframe. The Court granted the petitioner's request to modify.

State of Iowa, Elliott Funmaker, Jr., and Jessica Funmaker v. Elliott Funmaker, Sr., CS 05-59 Order (*Modifying and Enforcing Child Support*) (HCN Tr. Ct., Sept. 1, 2005). (Matha, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

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). 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.

State of Wisconsin/Sauk County, and Dawn E. Potter v. Foster D. Cloud, CS 01-12 Order (Reinstating and Enforcing Child Support) (HCN Tr. Ct., Sept. 1, 2005). (Matha, T).

The Court had to determine whether to grant the petitioner's motion to modify. The respondent failed to respond within the prescribed timeframe. The Court granted the petitioner's request to modify.

SEPTEMBER 7, 2005

Karena Day v. Kevin Day, CV 96-57 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Sept. 7, 2005). (Matha, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

Karena Day v. Kevin Day, CV 96-57 Order (Enforcing Child Support Against Wages) (HCN Tr. Ct., Sept. 7, 2005). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a 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 19, 2005

Joan C. Goodness-Baum v. Robin R. Baum, CS 05-79 Order (Enforcing Child Support Against Wages) (HCN Tr. Ct., Sept. 7, 2005). (Gouty-Yellow, T).

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

Deanna Bedell Awonohopay v. Jay Awonohopay; Mabry D. Deal v. Jay Awonohopay, CS 05-47-48, Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Sept. 19, 2005). (Matha, T).

The Court had to determine whether to enforce two (2) standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified

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

State of Wisconsin v. Terrance M. Henry, CS 02-34 Order (Modifying Child Support Against Wages) (HCN Tr. Ct., Sept. 19, 2005). (Matha, T).

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

State of Wisconsin v. Jones Randall Funmaker, CS 05-56, Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Sept. 19, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

State of Wisconsin/Ashland County, and Kimberley Otto v. Lenny Cloud, CS 03-50 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Sept. 19, 2005). (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 20, 2005

State of WI/Jackson Co. v. Tanya L. Rave A/K/A Mrotek, CS 05-60, Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Sept. 20, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

SEPTEMBER 21, 2005

Wendy Pospychalla v. Benjamin Bearskin, CS 05-58, Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Sept. 21, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

State of Wisconsin v. Melody A. Hale A/K/A Melody A. Greengrass, CS 98-52 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Sept. 21, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

State of Wisconsin v. Melody A. Hale A/K/A Melody A. Greengrass, CS 98-52 Order (Modifying Child Support Against Wages) (HCN Tr. Ct., Sept. 21, 2005). (Gouty-Yellow, T).

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

Lana Lincoln v. Jon Eric Miner, CS 99-62 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Sept. 21, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

Steven Stygar v. Terrie Holmes, CS 05-80 Order (Modifying Child Support Against Wages) (HCN Tr. Ct., Sept. 21, 2005). (Gouty-Yellow, T).

The Court had to determine whether to grant full faith and credit and/or comity to a 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 26, 2005

State of WI/Sauk Co. v. Tara Blackcoon, CS 03-46 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Sept. 26, 2005). (Gouty-Yellow, T). The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

SEPTEMBER 27, 2005

Joan C. Goodness-Baum v. Robin R. Baum, CS 05-79 Order (Ceasing Withholding Child Support Arrears) (HCN Tr. Ct., Sept. 27, 2005). (Matha, T). The respondent requested a termination of withholding for child support arrears in a motion because the respondent paid the arrears in full. Thus, the Court ordered the Treasury Department to cease withholding.

State of Wisconsin, Jennifer Decora v. Michael W. Decora; State of Wisconsin – Celeste Yvonne Turner v. Michael Wayne Decora, CS 99-03, 05-77 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Sept. 27, 2005). (Matha, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

SEPTEMBER 28, 2005

Patricia Houghton v. Dixon Funmaker; State of Wisconsin/Rhonda Funmaker v. Dixon H. Funmaker, CS 98-68, 01-22 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Sept. 28, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

State of Wisconsin/Sauk Co. and Danielle R. Knak v. Jason E. King; Dencie L. Akeen v. Jason E. King, CS 05-03, -05 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Sept. 28, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with

the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

SEPTEMBER 29, 2005

Kerry Thompson v. Paul F. Sallaway; Jennifer L. White Eagle v. Paul F. Sallaway; Bonita L. Roy v. Paul F. Sallaway, CS 98-08, 00-14, 05-76, *Reissued Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Sept. 29, 2005). (Matha, T).

The Court had to determine whether to enforce another foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

Lucy K. Snake v. Roger D. Snake; Crystal Teller v. Roger Snake, CV 97-01, 05-57 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Sept. 29, 2005). (Matha, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).



Civil Garnishment

SEPTEMBER 7, 2005

State Collection Service v. Patrick Roberge, CG 05-76 *Order (Declining to Enter Judgment)* (HCN Tr. Ct., Sept. 7, 2005). (Matha, T).

The Court has instituted standard procedures for the processing of civil garnishment actions. After the filing of a *Petition to Register & Enforce a Foreign Judgment or Order* (hereinafter *Petition*), the Court will confirm the employment status of the respondent correspondence with the Ho-Chunk Nation Department of Personnel. The Court will

return the initial pleading and filing fee of the petitioner in the event that the Ho-Chunk Nation has severed the employment relationship with the respondent. In the instant case, the petitioner informed the Court of its desire to release the current garnishment with the express approval of the creditor.

SEPTEMBER 12, 2005

State Collection Service v. Mikeleen A. Finucan, CG 05-77 *Order (Default Judgment)* (HCN Tr. Ct., Sept. 12, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Robert Mobley v. Sarah Lemieux, CG 05-77 *Order (Directing Repayment of Funds)* (HCN Tr. Ct., Sept. 12, 2005). (Matha, T).

The Court must determine whether the defendant satisfied her acknowledged debt obligation to the plaintiff. The defendant presented evidence demonstrating satisfaction and additionally alleged overpayment through weekly wage garnishment. The Ho-Chunk Nation Payroll Division corroborated the defendant's contention. Therefore, the Court orders the plaintiff to repay the overage to the defendant.

Alliance Collection Agencies, Inc. v. Debra Swantek, CG 05-78 *Order (Default Judgment)* (HCN Tr. Ct., Sept. 12, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

SEPTEMBER 14, 2005

Alliance Collection Agencies, Inc. v. Crystal Wilson, CG 04-43 *Order (Granting Motion to Modify)* (HCN Tr. Ct., Sept. 14, 2005). (Matha, T).

The petitioner filed a *Motion to Modify the Current Order for Additional Interest*. The petitioner indicated that the respondent owes further interest. The respondent failed to file a timely response to

the motion to modify. Therefore, the Court grants the petitioner's request for relief.

SEPTEMBER 19, 2005

Alliance Collection Agencies, Inc. v. Donna Pabst, CG 05-82 Order (Default Judgment) (HCN Tr. Ct., Sept. 19, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Wolpoff & Abramson v. Beverly Reynolds, CG 05-83 Order (Default Judgment) (HCN Tr. Ct., Sept. 19, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Alliance Collection Agencies, Inc. v. David Roach, CG 05-81 Order (Satisfaction of Judgment) (HCN Tr. Ct., Sept. 19, 2005). (Matha, T).

The petitioner filed the *Petition to Register & Enforce a Foreign Judgment or Order*. However, prior to the entry of a decision, the petitioner filed a satisfaction of judgment pursuant to the *Ho-Chunk Nation Rules of Civil Procedure*, Rule 59. This document indicated that the respondent had been relieved of the debt obligation.

Augusta Housing Management Co. v. Ardith Snowball, CG 05-80 Order (Default Judgment) (HCN Tr. Ct., Sept. 19, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Rice, Heitman & Davis, S.C. v. Roxanne Anderson, CG 05-79 Order (Default Judgment) (HCN Tr. Ct., Sept. 19, 2005). (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

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

SEPTEMBER 26, 2005

Quick Cash Loans v. Gale White, CG 05-74 Order (Satisfaction of Judgment) (HCN Tr. Ct., Sept. 26, 2005). (Matha, T).

The respondent submitted a filing pursuant to the *Ho-Chunk Nation Rules of Civil Procedure*, Rule 59. The receipt indicated that the respondent has paid the accounts in full.

SEPTEMBER 29, 2005

Creditor Recovery Service, LLC v. John P. McKeel, CG 05-85 Order (Default Judgment) (HCN Tr. Ct., Sept. 29, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

SEPTEMBER 30, 2005

Quick Cash Loans v. Joan Fox, CG 05-84 Order (Default Judgment) (HCN Tr. Ct., Sept. 30, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.



Civil Cases

SEPTEMBER 8, 2005

Ho-Chunk Nation Department of Treasury et al. v. Amanda Colburn, CV 04-51 Order (Dismissal without Prejudice) (HCN Tr. Ct., Sept. 8, 2005). (Matha, T).

The Court must determine whether to dismiss the instant action due to a failure to effectuate service of process. Agents of the Court could not locate the defendant at the address provided in the initial pleading, and the Court has no information

regarding the defendant's present whereabouts. The Court dismisses the case without prejudice.

Dallas White Wing v. Ho-Chunk Nation General Council et al., CV 04-99 *Scheduling Order* (HCN Tr. Ct., Sept. 8, 2005). (Gouty-Yellow, T).

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

SEPTEMBER 9, 2005

Clariss Falcon v. HCN Office of Tribal Enrollment, CV 04-66 *Order (Final Judgment)* (HCN Tr. Ct., Sept. 9, 2005). (Matha, T).

The Court must determine whether to enter an order for the purposes of facilitating the DNA testing of an incarcerated tribal member. The Court denies the plaintiff's request for relief on several constitutional grounds. The HO-CHUNK NATION CONSTITUTION imparts authority to the Ho-Chunk Nation Supreme Court "to establish written rules for the Judiciary." Consequently, the Supreme Court adopted the *HCN R. Civ. P.* to "govern all proceedings." The instant case is void of any reference to the grounds for subject matter jurisdiction.

SEPTEMBER 13, 2005

Dallas White Wing v. Ho-Chunk Nation General Council et al., CV 04-99 *Order (Regarding Settlement Conference)* (HCN Tr. Ct., Sept. 13, 2005). (Matha, T).

The Court had informed the non-presiding judge, Chief Judge Todd R. Matha of the scheduled *Settlement Conference*. Chief Judge Matha recognizes the obvious merit in convening a mediation session, but respectfully questions the authority of the General Council's legal representative to accept settlement terms. Only the General Council can either consent to an offer of settlement or delegate an individual or entity to do so on its behalf. The Court declined to convene the *Settlement Conference* absent an offer of proof of such delegation.

SEPTEMBER 19, 2005

Gloria J. Visintin v. Robert Pulley Ho-Chunk Housing Rental Management, CV 05-79 *Order (Denial of Emergency Order)* (HCN Tr. Ct., Sept. 19, 2005). (Gouty-Yellow, T).

The petitioner asserted that she cannot meet the directives as issued by the respondents regarding the extension to vacate the property. However the petitioner has failed to meet her burden as defined by *Rule 60*. Essentially, the petitioner could not establish the presence of irreparable harm.

SEPTEMBER 28, 2005

Ho-Chunk Nation v. Bank of America, N.A., CV 02-93 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Sept. 28, 2005). (Matha, T).

The Court granted petitioner's motion to appear by telephone.

SEPTEMBER 29, 2005

Ho-Chunk Nation v. Bank of America, N.A., CV 02-93 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Sept. 29, 2005). (Matha, T).

The Court granted respondent's motion to appear by telephone.

CHILDREN'S TRUST FUND (CTF)

SEPTEMBER 8, 2005

In the Interest of Minor Child: D.R.G., DOB 09/16/91, by Donald Greengrass, Sr. v. HCN Office of Tribal Enrollment, CV 05-30 *Order (Dismissal without Prejudice)* (HCN Tr. Ct., Sept. 8, 2005). (Matha, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of the petitioner's *Petitioner for Release of Per Capita Distribution*. The petitioner failed to appear, and did not notify the Court of an inability to attend the proceeding. Therefore, the Court dismissed the instant case without prejudice.

In the Interest of Minor Child: J.M.M., DOB 11/12/91, by Ayako Thundercloud-Poff v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-42 *Order (Petition Denied)* (HCN Tr. Ct., Sept. 8, 2005). (Matha, T).

The Court employs the standard enunciated in the PER CAPITA DISTRIBUTION ORDINANCE, 2 HCC §12.8c to assess the merit of the parent's request. The Court denies a release of funds to acquire a personal computer because the adult family members have not demonstrated a proportionate ability to pay for the computer. When an adult family member "derives a direct, if not primary,

benefit from the purchase” of a household item, the Court applies the rule of proportionality.

SEPTEMBER 12, 2005

In the Interest of Minor Child, J.E.M., DOB 07/13/91, by Tina L. Boisen v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-44 Order (Accepting Accounting) (HCN Tr. Ct., Sept. 12, 2005). (Matha, T).

The Court released funds from J.E.M.’s CTF account, for costs associated with orthodontic procedures. The petitioner submitted a payment history statement which confirmed proper use of the funds. The Court accepts this accounting.

In the Interest of Minor Child, C.T.W., DOB 01/22/94, by Stacy WhiteCloud v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-18 Order (Accepting Accounting) (HCN Tr. Ct., Sept. 12, 2005). (Gouty-Yellow, T).

The Court released funds from C.T.W.’s CTF account, for costs associated with orthodontic procedures. The petitioner submitted a payment history statement which confirmed proper use of the funds. The Court accepts this accounting.

In the Interest of Minor Child, M.C.G., DOB 06/28/91, by Shelby R. Grant v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-26 Order (Accepting Accounting) (HCN Tr. Ct., Sept. 12, 2005). (Matha, T).

The Court released funds from M.C.G.’s CTF account, for costs associated with orthodontic procedures. The petitioner submitted a payment history statement which confirmed proper use of the funds. The Court accepts this accounting.

In the Interest of Minor Child, W.S.S., DOB 01/26/94, by Tina S. Smith-Kelly v. Ho-Chunk Nation Office of Tribal Enrollment, CV 02-94 Order (Partial Release of Contempt Fine) (HCN Tr. Ct., Sept. 12, 2005). (Matha, T).

The Court must determine whether to retain the entire contempt fine withheld from the petitioner’s per capita distributions. The petitioner failed to submit an accounting prior to the date upon which the Court indicated that it would purge the fine. Yet, the contempt fine served its remedial purpose

of compelling obedience with standing judicial directives. Therefore, the Court will release the majority of the accumulated contempt fine to the petitioner.

SEPTEMBER 21, 2005

In the Interest of Minor Child, C.Y.B., DOB 05/04/92, by Charles A. Brown v. Ho-Chunk Nation Office of Tribal Enrollment, CV 02-104 Order (Default Dismissal Order) (HCN Tr. Ct., Sept. 21, 2005). (Gouty-Yellow, T).

The Ho-Chunk Supreme Court remanded this case to the Trial Court after reversing the Trial Court’s decision and required the Court to hold a hearing to obtain the requisite factual information. Proper notice occurred, however a *Default Dismissal Order* was entered due to the non-appearance of the plaintiff.

SEPTEMBER 23, 2005

In the Interest of Minor Child, M.L.D., DOB 04/05/01, by Terry T. Deloney v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-58 Order (Petition Granted) (HCN Tr. Ct., Sept. 23, 2005). (Matha, T).

This case concerns whether the petitioner can access monies from the Children’s Trust Fund to pay for minimal emergency housing benefits when prior residence was destroyed by fire. The Court granted such request.

SEPTEMBER 26, 2005

In the Interest of Minor Child, C.V.H., DOB 02/25/93, by Chris Hanson v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-78 Order (Petition Granted) (HCN Tr. Ct., Sept. 26, 2005). (Gouty-Yellow, T).

The Court determined that the parent can access monies on behalf of the minor child from the Children’s Trust Fund to pay for the costs associated with orthodontic procedures. The Court granted a release of funds to satisfy the request of the petitioner.

SEPTEMBER 27, 2005

In the Interest of Minor Child, A.T.H., DOB 03/24/88, by Tom Hopinkah v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-20 Order (HCN Tr. Ct., Sept. 27, 2005). (Gouty-Yellow, T).

This case concerns whether CTF monies can be accessed for fees associated with a juvenile action, i.e. attorneys' fees and restitution along with the cost of private school. The Court grants a release of funds in part and denies the request in part. The decision to hire counsel, specifically the attorney chosen was the guardian's decision and as such is the guardian's responsibility to pay. Similarly, restitution is the juvenile's responsibility to pay, and in the event he or she is unable to pay, the cost falls to the guardian. The cost of private school expenses shall be held open per the petitioner's request.

SEPTEMBER 30, 2005

In the Interest of Minor Child, M.S.P., DOB 09/28/90, by Shannon Ann Pierce v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-60 Order (HCN Tr. Ct., Sept. 30, 2005). (Matha, T).

This case concerns whether CTF monies can be accessed to acquire children's clothing and miscellaneous school supplies and to pay for contact lenses. The Court grants a release of funds in part and denies the request in part. The petitioner sustains her family on an annual income above the poverty level. The Court denies the release of CTF monies to purchase clothing. The provision of school supplies does not constitute a basic necessity of life, but certainly implicates an educational concern. The Court shall grant these expenses given the special financial need of the family. The Court shall also grant the request for contact lenses expenses, representing a health and welfare necessity, since it has granted similar past requests.



EMPLOYMENT
SEPTEMBER 6, 2005

Stephany Hughes v. HCN Gaming Comm'n et al., CV 05-41 Order (Motion Hearing) (HCN Tr. Ct., Sept. 6, 2005). (Matha, T).

Upon the defendants' request, the Court shall convene a hearing so as to grant the defendants the ability to argue its *Motion to Dismiss and Motion to Affirm*, and to provide the plaintiff the opportunity to offer a response.

SEPTEMBER 20, 2005

Ho-Chunk Casino et al. v. Rory Emerson et al., CV 04-36 Order (Granting Extension) (HCN Tr. Ct., Sept. 20, 2005). (Matha, T).

The Court granted the extension request in order for the plaintiff's attorney to establish the basis for the Court's subject matter jurisdiction.

SEPTEMBER 28, 2005

Kevin Kuehl v. Ho-Chunk Casino Table Games, CV 05-23 Order (Denying Motion to Amend Scheduling Order) (HCN Tr. Ct., Sept. 28, 2005). (Gouty-Yellow, T).

A *Trial* was scheduled to occur. However, defendant's counsel submitted a *Motion and Order to Amend Scheduling Order* one (1) day prior to the *Trial* based solely upon the agreement of the parties. The motion as filed was denied based upon the discretion of the Court.

SEPTEMBER 29, 2005

Kevin Kuehl v. Ho-Chunk Casino Table Games, CV 05-23 Order (Motion Hearing) (HCN Tr. Ct., Sept. 29, 2005). (Gouty-Yellow, T).

The Court determined to convene a hearing to grant the defendants the ability to argue the *Motion for Summary Judgment*, and to provide the plaintiff the opportunity to offer a response.



INCOMPETENT TRUST FUND (ITF)
SEPTEMBER 19, 2005

In the Interest of Brian Nicklous Ford, DOB 09/03/86, by Alaine Ava Yingst v. Ho-Chunk Nation

Office of Tribal Enrollment, CV 05-59 Motion to Appear Telephonically & Order (HCN Tr. Ct., Sept. 19, 2005). (Matha, T).

The Court granted petitioner's motion to appear by telephone.

SEPTEMBER 20, 2005

In the Interest of Adult CTF Beneficiary: Marvel J. Cloud, DOB 12/12/82 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-52 Order (Dismissal without Prejudice) (HCN Tr. Ct., Sept. 20, 2005). (Matha, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of the petitioner's *Petitioner for Release of Per Capita Distribution*. The petitioner failed to appear, and did not notify the Court of an inability to attend the proceeding. Therefore, the Court dismissed the instant case without prejudice.

SEPTEMBER 22, 2005

In the Interest of Adult CTF Beneficiary: Jennifer M. Orozco, DOB 07/03/85 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-53 Order (Conditional and Partial Granting of the Petition) (HCN Tr. Ct., Sept. 20, 2005). (Matha, T).

The Court employs different reasoning when the petitioner seeks a release from his or her CTF for the purposes of providing shelter for their own minor children. In adult CTF cases, the Court refrains from granting extensive or ongoing housing assistance requests because to do so would nullify the intent of the graduation requirement. However, the Court grants the request for children's clothing and a child's bed.

SEPTEMBER 29, 2005

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., Sept. 29, 2005). (Gouty-Yellow, T).

The Court released funds from the ITF account for the costs associated with a vehicle purchase, insurance, fuel and respite care. The petitioner submitted a payment history statement, which confirmed the proper use of funds.



Juvenile

SEPTEMBER 9, 2005

In the Interest of Minor Children: W.O.B., DOB 04/08/98; R.L.B., DOB 03/31/97; D.D.F., DOB 07/08/94, JV 04-06-07, -28 Order (Appointment of Permanent Guardian) (HCN Tr. Ct., Sept. 9, 2005). (Gouty-Yellow, T).

The Court must determine whether to appoint a permanent guardian for the minor children. After a careful weighing of all the presented evidence, the Court deems such an appointment within the minor children's best interest.

In the Interest of Minor Children: C.C.P., DOB 02/03/93; G.L.P., DOB 06/10/94, JV 03-25-26 Order (Appointment of Permanent Guardian) (HCN Tr. Ct., Sept. 9, 2005). (Gouty-Yellow, T).

The Court must determine whether to appoint a permanent guardian for the minor children. After a careful weighing of all the presented evidence, the Court deems such an appointment within the minor children's best interest.

SEPTEMBER 12, 2005

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 12/61/00, JV 03-07-10 Order in Review of Placement (HCN Tr. Ct., Sept. 12, 2005). (Gouty-Yellow, T).

The Court convened a *Review Hearing* on September 6, 2005. The Court has determined to continue the order until further order of the Court.

In the Interest of Minor Children: T.J.M., DOB 09/08/97; D.R.M., DOB 02/11/94; D.C.M., DOB 09/23/99, JV 05-22-24 Order (Withdrawing Conditional Acceptance) (HCN Tr. Ct., Sept. 12, 2005). (Matha, T).

The Court entered its *Order (Conditional Acceptance of Transfer)* informing the foreign jurisdiction and the parties of the Court's intention of assuming jurisdiction over the pending juvenile action. However one of the parties voiced his opposition to the contemplated transfer and withdrew the *Motion for Transfer to Tribal Court*. The Court vacates its decision.

SEPTEMBER 14, 2005

In the Interest of Minor Children: L.L.T.B., DOB 06/23/96, R.R.T.B., DOB 03/16/94, L.S.T.B., DOB 01/20/93, JV 05-01-03 Order (Denying Appointment of Temporary Guardian) (HCN Tr. Ct., Sept. 14, 2005). (Gouty-Yellow, T).

The Court must determine whether to appoint a temporary guardian of the minor children. After a careful weighing of all the presented evidence, the Court deems such an appointment not within the minor children's best interests.

SEPTEMBER 15, 2005

In the Interest of Minor Child: T.V.F., DOB 02/18/02, JV 03-14 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Sept. 15, 2005). (Gouty-Yellow, T).

The Court granted petitioner's motion to appear by telephone.

SEPTEMBER 16, 2005

In the Interest of Minor Child: K.L.C., DOB 12/19/89, JV 04-03 Order (Terminating Temporary Guardianship) (HCN Tr. Ct., Sept. 16, 2005). (Gouty-Yellow, T).

The Court must determine whether to terminate the *Temporary Guardianship* of the minor. After a careful weighing of all the presented evidence, the Court deems such a termination is within the minor children's best interest.

SEPTEMBER 19, 2005

In the Interest of Minor Children: M.L.D., DOB 05/23/91; M.L.H., DOB 08/18/97; M.H., DOB 02/18/99; M.H., DOB 02/09/00, JV 05-15-18 Order (Dispositional Requirements) (HCN Tr. Ct., Sept. 19, 2005). (Gouty-Yellow, T).

The Court conducted the *Dispositional Hearing*. At the *Hearing*, the Court had to assess the extent and scope of the dispositional recommendations proposed by the Ho-Chunk Nation Child & Family Services.

SEPTEMBER 21, 2005

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., Sept. 21, 2005). (Matha, T).

The Court granted petitioner's motion to appear by telephone.

SEPTEMBER 26, 2005

In the Interest of Minor Children: J.V., DOB 09/03/99; S.V., DOB 10/22/98, JV 02-19-20 Order (Continuation of Child Protection Review Hearing) (HCN Tr. Ct., Sept. 26, 2005). (Matha, T).

The Court intended to conduct the continued *Child Protection Review Hearing* in accordance with the HO-CHUNK NATION CHILDREN AND FAMILY ACT, 4 HCC § 3. However the Court is appointing counsel from the University of Minnesota Law School Indian Child Welfare Clinic. As soon as the Court and the Clinic finalize the details regarding the provision of legal representation, counsel will be appointed.

In the Interest of Minor Children: V.J.F., DOB 09/26/05; I.D.F., DOB 03/30/02, JV 03-39-40 Order (Child Protection Review Hearing) (HCN Tr. Ct., Sept. 26, 2005). (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 as necessary for the protection of the children.

In the Interest of Minor Child: T.F., DOB 02/18/02, JV 03-14 Order (Child Protection Review Hearing) (HCN Tr. Ct., Sept. 26, 2005). (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 performed the review and modified the order to reflect substantial compliance on the part of both parents.

In the Interest of Minor Child: J.H.D., DOB 12/08/87, JV 02-03 Order (Review Hearing) (HCN Tr. Ct., Sept. 26, 2005). (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 performed the review and determined to maintain the status quo.

SEPTEMBER 27, 2005

In the Interest of Minor Child: D.R.W., DOB 08/12/04, JV 05-07 Order (Denying Motion to

Modify for Reconsideration) (HCN Tr. Ct., Sept. 27, 2005). (Gouty-Yellow, T).

The Court must determine if the *Motion to Reconsider*, as filed by the petitioner meets the requirements of the *Ho-Chunk Nation Rules of Civil Procedure, Rule 58(B)*, and if such *Motion* should be granted. The Court determines that the *Motion* should be denied due the absence of any action by the Court within thirty-days following the filing.

SEPTEMBER 28, 2005

In the Interest of Minor Children: D.L.H., DOB 08/03/97; A.M.H., DOB 12/25/95; D.M.H., DOB 02/16/92; D.L.H., DOB 03/25/89, JV 03-20-23 Order (Child Protection Review Hearing) (HCN Tr. Ct., Sept. 28, 2005). (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 as necessary for the protection of the children.

SEPTEMBER 29, 2005

In the Interest of Minor Child: A.J.C., DOB 04/03/92, JV 04-01 Order (For Telephonic Appearance) (HCN Tr. Ct., Sept. 29, 2005). (Gouty-Yellow, T).

The Court granted petitioner's motion to appear by telephone.

In the Interest of Minor Child: R.B., DOB 06/23/95, JV 02-18 Order (Show Cause) (HCN Tr. Ct., Sept. 29, 2005). (Matha, T).

The Court ordered that the father and physical custodian of the minor child arrange visitation between the siblings and arrange for suitable counseling for each child. The father and physical custodian has not complied with the order. The Court shall convene a *Show Cause Hearing* to provide the father an opportunity to explain why the Court should not hold him in contempt of court.

SEPTEMBER 30, 2005

In the Interest of Minor Child: A.C.L., DOB 03/13/01, JV 04-22 Order (Child Protection Review Hearing) (HCN Tr. Ct., Sept. 30, 2005). (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 as necessary for the protection of the children.



Supreme Court

NO RECENT FILINGS



Recent Filings

Trial Court

Child Support

SEPTEMBER 2, 2005

State of Wisconsin – Lyndell M. Alton v. Jordan E. Miller, CS 05-81. (Matha, T).

SEPTEMBER 14, 2005

Joy Lynn Rave v. Dennis C. Lewis, CS 05-82. (Matha, T).

SEPTEMBER 19, 2005

Teresa A. Lightfeather v. Nathaniel H. Long, III, CS 05-83. (Gouty-Yellow, T).

SEPTEMBER 30, 2005

In the Paternity of A.M.B. v. Travis G. Jacobsen, CS 05-84. (Matha, T).

In the Paternity of A.M.B. v. Travis G. Jacobsen, CS 05-85. (Matha, T).

Civil Garnishment

SEPTEMBER 6, 2005

State Collection Service v. Angeline Decorah, CG 05-86. (Matha, T).

SEPTEMBER 9, 2005

Quick Cash Loans v. Wayne Falcon, CG 05-87. (Matha, T).

SEPTEMBER 15, 2005

Gundersen Lutheran Medical Center, Inc. v. Rose A. Lemke, CG 05-88. (Matha, T).

SEPTEMBER 23, 2005

Dane Co. Cir. Co. v. Jerry D. Williams, Jr., CG 05-89. (Matha, T).

Gundersen Clinic Ltd. v. Lucy K. Snake, CG 05-90. (Matha, T).

SEPTEMBER 28, 2005

Quick Cash Loans v. Mindy Stensven, CG 05-91. (Matha, T).

Augusta Housing Management Co. v. Peggy Perkins, CG 05-92. (Matha, T).

State Collection Agencies, Inc. v. Paul McKittrick, CG 05-93. (Matha, T).

Alliance Collection Agencies, Inc. v. Karen L. Roy, CG 05-94. (Matha, T).

Alliance Collection Agencies, Inc. v. Robert W. Hiles, Sr., CG 05-95. (Matha, T).

Alliance Collection Agencies, Inc. v. Crystal Wilson, CG 05-96. (Matha, T).

Alliance Collection Agencies, Inc. v. Jeffrey Dayton, CG 05-97. (Matha, T).

Alliance Collection Agencies, Inc. v. Tamela Shubert, CG 05-98. (Matha, T).

Civil Cases

SEPTEMBER 1, 2005

In the Interest of W.L.T., by William L. Tech v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-77. (Matha, T).

SEPTEMBER 2, 2005

In the Interest of Minor Child: C.V.H., DOB 02/25/93, by Chris Hanson v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-78. (Matha, T).

SEPTEMBER 13, 2005

Gloria J. Visintin v. Robert Pulley Ho-Chunk Housing Rental Property, CV 05-79. (Gouty-Yellow, T).

SEPTEMBER 16, 2005

In the Interest of Shawn W. Maisells v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-80. (Gouty-Yellow, T).

SEPTEMBER 19, 2005

In the Interest of Minor Child: C.S., DOB 07/10/95, by Tara Snowball v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-81. (Matha, T).

SEPTEMBER 21, 2005

Ho-Chunk Nation v. Corvettes on the Isthmus, Brian Newlun, Barbara Newlun, CV 05-82. (Matha, T).

SEPTEMBER 23, 2005

In the Interest of Minor Child: A.F.C., DOB 01/13/96, by Alona Bush v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-83. (Matha, T).

In the Interest of Minor Child: V.S.B., DOB 12/31/87, by Valerie Bartlett v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-83. (Matha, T).

SEPTEMBER 28, 2005

Ho-Chunk Nation Department of Housing, Property Management Division v. Sammy L. Griner, Jr. and Elizabeth Rodriguez, CV 05-85. (Matha, T).

Supreme Court

No recent filings.

Upcoming National Events

October 16-21, 2005. National Indian Health Board (NIHB) Annual Consumer Conference, Phoenix, Arizona.

October 25-28, 2005. National American Indian Court Judges Association (NAICJA) Conference and Meeting, Green Bay, Wisconsin.

October 30 – November 4, 2005. National Congress of American Indians 62nd Annual Convention in Tulsa, Oklahoma.



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

Supreme Court—Mary Jo B. Hunter, Chief Justice
 Mark D. Butterfield, Associate Justice
 Dennis Funmaker, Associate Justice

Traditional Court – Earl 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 – Todd R. Matha, Chief Judge
 Tina Gouty-Yellow, Associate Judge Pro
 Tempore

Clerk of Court, Trial Court – Marcella Cloud
 Assistant Clerk of Court, Trial Court – Selina Joshua
 Bailiff/Process Server – Albert Carrimon
 Administrative Assistant – Jessi Cleveland
 Staff Attorney – Amanda R. Cornelius
 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 Judiciary Fee Schedule

Filing Fees

- *Complaint*.....\$50.00
- *Petition for Release of Per Capita Distribution (Children’s Trust Fund)*\$50.00
- *Motion to Appear Pro Hac Vice*.....\$35.00
- Appellate Filing Fee.....\$50.00
- *Petition to Register and Enforce Foreign Judgment/Order*\$20.00
- Marriage License Fee.....\$50.00

Court Fees

- Copying\$0.10/page
- Faxing\$0.25/page (sending & receiving)
- CD of Hearings\$12.50/CD
- Deposition Videotape\$10.00/tape
- Certified Copies.....\$0.50/page
- Equipment Rental\$5.00/hour
- Admission to Practice\$50.00

Legal Citation Forms

The following are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution

Constitution, Article Number, Section, Subsection.
 HCN CONST., Art. II, Sec. (or §) 1(a).

Ho-Chunk Nation Code

Ordinance/Act Name Title Number HCC Section.
 ELDER PROTECTION ACT, 4 HCC § 1.
 EMPLOYMENT RELATIONS ACT, 6 HCC § 5.
(for detailed citation information consult LEGISLATIVE ORGANIZATION ACT, 2 HCC § 11.36)

HCN Supreme Court Case Law

Case Name, Case Number (HCN S. Ct., month, day, year).
Johnson v. Department Inc., SU 96-21 (HCN S. Ct., Aug. 14, 1996).

HCN Trial Court Case Law

Case Name, Case Number (HCN Tr. Ct., month, day, year)
Jane Doe v. Bob Smith, CV 99-01 (HCN Tr. Ct., Nov. 1, 1999).

Ho-Chunk Nation Rules of Civil Procedure

HCN R. Civ. P. 19(B)





NOVEMBER / DECEMBER 2005
VOL. 11, NOS. 11-12

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Courts
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Decisions
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Filings
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Judiciary and Staff
- HCN Judiciary 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](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

THE SUPREME COURT: THE BUSH ERA

"The voters will know I'll put competent judges on the bench, people who will strictly interpret the Constitution and will not use the bench to write social policy. And that's going to be a big difference between my opponent and me. I believe that -- I believe that the judges ought not to take the place of the legislative branch of government, that they're appointed for life and that they ought to look at the Constitution as sacred. They shouldn't misuse their bench. I don't believe in liberal, activist judges. I believe in -- I believe in strict constructionists. And those are the kind of judges I will appoint." [1st Presidential Debate, October 3, 2000; transcript CNN]

-George W. Bush

President George W. Bush has already appointed two (2) Supreme Court Justices to the United States Supreme Court. President Bush has cited Justices Antonin Scalia and Clarence Thomas as his models for future Supreme Court nominees. These appointments have wide implications for reproductive rights, civil rights, personal privacy, workers' rights, the environment, and separation of church and state. However much of Indian Country is thinking... what does this mean for Indian Country? President Bush promoted Judge John Roberts' Supreme Court nomination to Chief Justice after Chief Justice Rehnquist's death on September 3, 2005. Bush initially nominated Roberts to fill the vacancy left by Justice O'Connor's resignation. On September 22, 2005, the Senate Judiciary Committee confirmed Roberts. Just one week later, the Senate confirmed Judge John Roberts as Chief Justice of the Supreme Court by a vote of 78-22. Chief Justice Roberts became the

seventeenth Chief Justice. He is the youngest Chief Justice at the age of 50, since John Marshall took office in 1801 at age 46. Chief Justice Roberts assumed the chief position when the Court returned to session on Monday, October 3, 2005.

Chief Justice Roberts will have a critical role in Indian policy over the next few decades. On one occasion, Chief Justice Roberts appeared before the U.S. Supreme Court regarding Indian issues, and lost. Justice Roberts argued for the respondent in *Rice v. Cayetano*. Mr. Rice was a Hawaiian citizen without the requisite ancestry to be a "Hawaiian" under state law, but nonetheless, applied to vote in Office of Hawaiian Affairs trustee elections. He was neither "native Hawaiian," nor "Hawaiian" as defined by the statute. He marked through the words "am also Hawaiian and," then checked the form "yes." His application was denied. The Supreme Court held that the voting structure under the statute granted the vote exclusively to persons of defined ancestry. The state, in enacting the statute, used ancestry as a racial definition and for a racial purpose. The ancestral inquiry was forbidden by the Fifteenth Amendment. The electoral restriction enacted a race-based voting qualification, which denied the right to vote on account of race in violation of the UNITED STATES CONSTITUTION. Roberts represented the State and argued that the classification was based on trust-beneficiary status or a duty under a fiduciary relationship rather than race. Also, Congress had recognized the political status of Native Hawaiians as indigenous people. The Court disagreed and struck down the statute.

On another occasion, the Supreme Court noted that Congress, in passage of the 1971 Alaska Native Claims Settlement Act, had turned away from its traditional relationship with other Native American tribes and largely ended the Indian country concept in Alaska. In 1997, Chief Justice Roberts argued before the Supreme Court for the state in *Alaska v. Venetie*, opposing an attempt by the interior villages of Venetie and Arctic Village to assert authority within Indian Country to tax and regulate land use on 1.8 million acres of land the villages own. *Alaska v. Venetie*, 522 U.S. 520 (1998). Venetie's government claimed authority to

levy \$161,000.00 in taxes on a state contractor that built a local school for the Yukon Flats village. The tribe argued that its lands were Indian Country, and, therefore, companies working there were subject to its governmental powers. Chief Justice Roberts wrote, "accordingly, the village is not sovereign over the land and lacks authority to tax non-members doing business upon it." In a unanimous opinion, the justices agreed with Roberts and held that Congress in passing ANCSA, "clearly" extinguished reservations in Alaska and the sovereignty associated with them.

On October 3, 2005, President Bush appointed Harriet Miers who later withdrew her nomination on October 27, 2005, due to a lack of a public record. He proceeded to appoint Samuel A. Alito, Jr. on October 31, 2005; popular media has dubbed him "Scalito" meaning that his decisions are akin to Antonin Scalia. Justice Alito is a former Reagan administration official who served as assistant solicitor general from 1981-85, during which time he argued 12 cases before the Supreme Court. In 1990, former President George H.W. Bush nominated him to the 3rd U.S. Circuit Court of Appeals, and he was unanimously confirmed by a voice vote of the Senate. Justice Alito, in a decision last year in *Blackhawk v. Pennsylvania*, sided with a Lakota Indian who claimed he derived spiritual powers from two black bears and demanded that the state waive fees imposed on those who keep wildlife. The decision displayed sensitivity of religion.

The Supreme Court Justices' interpretations and application of the United States Constitution, federal statutes and federal common law dramatically impact state, tribal and federal jurisdictions. Justices nominated by the President, and confirmed for life by the Senate, impact the daily lives of Americans for years after any single presidential term. Discerning any particular ideological approach of men proves difficult, at best. However both individuals are being lauded as strict constructionists. Currently, a radio ad in support of Judge Alito's confirmation is running throughout Wisconsin. It states, "Judge Alito believes judges should faithfully interpret the law, not advocate political agendas." Supreme Court

Justice Thomas addressed how a strict constructionist viewpoint of the U.S. CONSTITUTION would affect Indian law in his concurrence in *United States v. Lara*. Justice Thomas stated,

I write separately principally because the Court fails to confront these tensions, a result that flows from the Court's inadequate constitutional analysis. I cannot agree with the Court, for instance, that the Constitution grants to Congress plenary power to calibrate the "metes and bounds of tribal sovereignty." Unlike the Court, I cannot locate such congressional authority in the Treaty Clause, or the Indian Commerce Clause. Additionally, I would ascribe much more significance to legislation such as the Act of Mar. 3, 1871 that purports to terminate the practice of dealing with Indian tribes by treaty. The making of treaties, after all, is the one mechanism that the Constitution clearly provides for the Federal Government to interact with sovereigns other than the States. In my view, the tribes either are or are not separate sovereigns, and our federal Indian law cases untenably hold both positions simultaneously.

U.S. v. Lara, 541 U.S. 193 (2004) (internal citations omitted). Under a permissible interpretation of his decision, Thomas appears to promote greater tribal sovereignty. While Justice Antonin Scalia did not join Justice Thomas's concurrence, Justice Scalia perceives "that the Constitution... is in its nature the sort of 'law' that... has a fixed meaning..." 57 U. Cin. L. Rev. 849, 852. In his 1989 law review article, Justice Scalia envisioned that his "dissents from nonoriginalist thinking" would at times garner majority support. *Id.* at 864. The Bush appointees may turn Justice Scalia's hope into a common occurrence. Justice Scalia's hope may turn into a common occurrence if the newly-appointed Justices support originalist thinking.

If the newly-nominated Justices adhere to their strict constructionist viewpoints, would tribes return to the status they held at the time of the 1787 Constitutional Convention instead of the status conferred upon them through over 200 years of evolving, and often times, federal common law? In the *Lara* concurrence, Justice Thomas lends

credence to the foregoing assertion stating that, "[f]ederal Indian policy is, to say the least, schizophrenic. And this confusion continues to infuse federal Indian law and our cases." Will the newly constituted Court continue this schizophrenic trend in Indian law or "return" to an original interpretation of the CONSTITUTION?



**CHIEF JUDGE
TODD R. MATHA
BECOMES
WTJA AND NAICJA
BOARD MEMBER**

On October 7, 2005, the Wisconsin Tribal Judges Association, Inc. held its annual meeting in Neopit, WI on the Stockbridge-Munsee Community Reservation. Chief Judge Matha was elected to serve a two year term as at-Large Board Member.

Then on October 27, 2005, the National Tribal Court Judges Association, Inc. held its annual meeting in Green Bay, WI on the Oneida Reservation. Chief Judge Matha was elected as Region 10 Director. Region 10 includes Illinois, Indiana, Michigan, Minnesota, and Wisconsin.



**HCN SUPREME COURT
TO ADD RULE 63 TO
HCN RULES OF CIVIL
PROCEDURE**

The Ho-Chunk Nation Supreme Court would like to invite responses to the attached,

amended Ho-Chunk Nation Rules of Civil Procedure by January 7, 2005. You can find the amendments in Appendix A located on page 27 of this issue. You can provide written comments to mendthoff@ho-chunk.com or mail them to Mary K. Endthoff, Supreme Court Clerk, P.O. Box 70, Black River Falls, WI 54615. The Supreme Court has approved a specific revision to the Ho-Chunk Nation Rules of Civil Procedure, by adding a specific rule, Rule 63, as an emergency stopgap measure while the rule is posted for comment.



Wa Ehi Hoci to Close for Christmas and New Year's Holiday

On Friday, December 23, 2005, the Court will close at noon due to the Christmas holiday. The Court will re-open Tuesday, December 27, 2005. All pleadings or filings ordinarily due on December 23, 2005 may be filed on the next full business day, December 27, 2005.

On Friday, December 30, 2005, the Court will close at noon due to the New Year's holiday. The Court will re-open Tuesday, January 3, 2006. All pleadings or filings ordinarily due on December 30, 2005 may be filed on the next full business day, January 3, 2006.



UPDATES FROM OUTSIDE COURTS

United States Supreme Court

Certiorari pending

Lummi Nation v. Samish Indian Tribe, Docket No. 05-445 (filed October 3, 2005).

Skokomish Indian Tribe v. Tacoma Public Utilities, Docket No. 05-434 (filed October 3, 2005).

Patterson v. New York, Docket No. 05-550 (filed October 25, 2005).

Certiorari denied

Longie v. Spirit Lake Tribe, Docket No. 05-5132 (denied October 3, 2005).

Wyoming Sawmills Inc. v. United States Forest Service, Docket No. 04-1175 (denied October 3, 2005).

Delaware Tribe of Indians v. Cherokee Nation of Oklahoma, Docket No. 04-1368 (denied October 3, 2005).

In re Kanon'ke:haka Kaianereh'ko:wa Kanon'ses:neh, Docket No. 05-165 (denied October 11, 2005).

Dalton v. Pataki, Docket No. 05-368 (denied November 28, 2005).

Karr v. Pataki, Docket No. 05-361 (denied November 28, 2005).



District of Columbia Circuit Court of Appeals

Cobell v. Norton, Docket No. 05-5068 (D.C. Cir. 2005).

Secretaries of the Interior and Treasury, appealed an order of the United States District Court for the District of Columbia reissuing its historical accounting injunction in a class action brought by beneficiaries of Individual Indian Money (IIM) accounts, under the Administrative Procedure Act and the Declaratory Judgment Act, regarding defendants' failure to comply with trust duties under various federal acts.

After the court had reversed contempt charges against defendants, the district court, without a hearing, reissued its prior injunction that had expanded the scope of the accounting beyond the plan submitted by defendants and precluded the use of statistical sampling. Defendants argued that the reissuance of the injunction was an abuse of discretion. On review, the Court agreed that the reissuance of the injunction was an abuse of discretion. The Court decided that it was unreasonable to require a detailed historical accounting of money the government has been managing for American Indians, saying the bookkeeping chore would "take 200 years." Even though statutes offered little guidance in defining the scope of a historical accounting, the district court should have given substantial deference to the Department of Interior's plan as the actor with primary responsibility for working out compliance with the statutory mandate. Instead, the district court invoked the common law of trusts and treated the character of the accounting as its domain. Further, the district court relied on its earlier contempt findings to justify a remedy and failed to consider subsequent developments and progress made by defendants in fulfilling their fiduciary duties. Finally, the district court completely disregarded relevant information about the costs of the injunction. The Court vacated the order reissuing the injunction.

Tenth Circuit Court of Appeals

Shivwits Band of Paiute Indians v. Utah, Docket No. 05-5068 (D.C. Cir. 2005).

Utah appealed from the grant of summary judgment entered in favor of the Shivwits Band of Paiute Indians, holding that Utah lacked authority to regulate billboard advertising displays erected by a sign company on land held in trust by the federal government for the Shivwits Band of Paiute Indians.

Based on circuit precedent, the court was compelled to find, in light of the Indian trust land exemption in the Quiet Title Act, that the district court lacked subject matter jurisdiction over defendants' challenge to the decision of the Bureau of Indian Affairs (BIA) to take the property at issue into trust for the band. The district court erred in

reviewing the trust acquisition and in concluding that the BIA acted arbitrarily and capriciously by failing to conduct a pre-acquisition, and in directing a post-acquisition, environmental assessment (EA). Whether the EA was conducted in good faith was deemed moot. Utah had argued that the billboards placed on the land owned by the Shivwits Band of Paiute Indians constituted visual pollution in a unique scenic area in southwestern Utah and violated the federal Highway Beautification Act. Enforcement of the Highway Beautification Act, on trust land was reserved for the federal government. Allowing the state to exercise control over the land would have threatened Congress's overriding objective of encouraging tribal self-government and economic development. The court upheld a lower court ruling and found that the state failed to prove that it has a substantial interest in regulating the land. The state could not exercise its police power to regulate the land at issue. The court affirmed the judgment of the district court.



North Dakota District Court

LaVallie v. United States, Docket No. A1-04-075 (D.N.D. 2005).

La Vallie sued defendant United States and Bureau of Indian Affairs (BIA) under the Federal Tort Claims Act, alleging that Standing Rock Sioux tribal officer, William Ebarb, used excessive force when arresting him. The government argued that it was immune from suit because the arresting officer was not a federal law enforcement officer. The court was persuaded by precedent, and found that tribal officers were not federal law enforcement officers for purposes of the Federal Tort Claims Act. In this case, although tribal officers and the BIA worked closely together and the BIA provided direct supervision for tribal officers, that relationship did not transform the arresting officer into a federal law enforcement officer. The arresting officer was enforcing tribal law at the time of the alleged assault and there was no evidence that he routinely, or even sporadically, acted to enforce

federal law. The agreement between the Standing Rock Sioux Tribe and the BIA did not confer federal law enforcement powers to officers, such as the arresting officer, who were hired through a grant program. Moreover, that agreement specifically addressed the issue of immunity and clearly stated that the agreement was not to be construed to waive either entity's immunity. Since the officer was a tribal police officer, the government was immune from suit as to any alleged tortious actions, which the officer might have taken.

New York District Court

Oneida Indian Nation of New York v. Madison County, Docket No. 5:00-CV-506 (D.N.D. 2005).

The Oneida Nation filed an action against Madison County, which sought to prevent the county from assessing and enforcing property taxes against the Nation's property. The county filed a motion to dismiss and a motion for summary judgment. The Nation filed a motion for summary judgment.

The Nation contended that its lands were not subject to taxation and could not have been foreclosed upon. In granting judgment in favor of the Nation, the court determined that the doctrine of abstention did not apply because the case did not fit into the three categories of cases that were subject to abstention. In addition, a dismissal was not necessary based on concurrent jurisdiction because there was no inconvenience in proceeding with the state action. Moreover, the federal in personam action was not foreclosed by the state in rem proceeding. The remedy of foreclosure was not available to the county because the Nation's properties were inalienable under 25 U.S.C.S. § 177. Second, the Nation was immune from suit to collect unpaid property taxes. Third, the notice provided to the Nation of the date the redemption period expired failed to comport with due process because it was significantly shorter than two years. Fourth, the United States Court of Appeals for the Second Circuit's finding that the Nation's reservation was not disestablished was not abrogated by *Sherrill*, and New York state law exempted reservation land from taxation. *Sherrill v. Oneida Indian Nation*, 125 S. Ct. 2290 (2005). The Court noted that a district court should not permit

the taking of a sovereign nation's land against its will by foreclosure or any other means, without the express approval of the United States government. The court granted the motion filed by the Nation, but the county's motions were denied.



District of Columbia District Court

Cobell v. Norton, Docket No. 5:00-CV-506 (D.D.C. 2005).

Numerous experts testified that the Internet and Intranet Technology systems were at a significant risk of unauthorized access. Despite years of advice, admonitions, warnings, and corrective actions by other offices, Congress, and the court, the agency had not segregated trust data onto secure servers or implemented secure systems as had been promised years earlier. While progress was laudable, there were continuing risks to that data. The evidence showed the agency had not properly emphasized trust data in its security efforts. The appellate court held the agency, as a fiduciary, was required to maintain and preserve trust data. Corruption or loss of that data, much of which was irreplaceable, would be irreparable injury to the beneficiaries' interests in the case. If the data was not secure, the agency could not carry its fiduciary duties forward. Regardless of pending challenges to the form of relief that had been granted, the evidence shown at the extensive evidentiary hearing was clearly contrary to the reports the agency had been providing to the court, including the many improper certifications and accreditation of IT systems in the previous year. Therefore, disconnection was warranted.

The preliminary injunction was granted. All IT systems that had or provided access to Individual Indian Trust Data had to be disconnected from the Internet, the agency's intranet, and from all connections with any contractors, Tribes, or others. Reports of compliance were ordered to be filed, and connection was limited specified abbreviated periods for necessary financial transactions.

Hearings would be held on any future proposal to reconnect.

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). 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 3, 2005

Steven J. Stygar v. Terrie Holmes, CS 05-80, *Order (Cessation of Child Support Arrears from Wages)* (HCN Tr. Ct., Oct. 3, 2005). (Gouty-Yellow, T).

The Court orders that the Ho-Chunk Nation Department of Treasury, Payroll Division, cease

withholding from the respondent's wages for child support arrears.

Carmelita Varela v. George Myron Plamann, CS 99-52 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Oct. 3, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

State of Wisconsin/Jackson County v. Lance D. Rave, CS 05-65 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Oct. 3, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

OCTOBER 10, 2005

State of Wisconsin/Cynthia Fowler, CS 99-01 *Notice (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Oct. 10, 2005). (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.

OCTOBER 11, 2005

State of Wisconsin/Jackson County v. James L. Pettibone, CS 00-07 *Notice (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Oct. 11, 2005). (Gouty-Yellow, 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.

Lucy K. Snake v. Roger D. Snake, CV 97-01 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Oct. 11, 2005). (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.

Ronald K. Genske v. Ruth M. Genske, CS 01-09 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Oct. 11, 2005). (Gouty-Yellow, 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 Oklahoma v. Faron J. Bear, CS 01-10 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Oct. 11, 2005). (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/Sauk County and Vincent Hernandez v. Mary Hernandez, n/k/a Mary Thompson, CS 01-28 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Oct. 11, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

Joyce Funmaker v. Max Funmaker, Sr., CV 97-122 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Oct. 11, 2005). (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 and Eau Claire County, WI v. Candace Kaiser, n/k/a Cloud, CS 99-54 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Oct. 11, 2005). (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.

Roxanne E. Doxtator, n/k/a Roxanne Looker v. Nathan R. Cloud, CS 01-01 Notice (Child Turning 18 – Requiring Proof of Enrollment) (HCN Tr. Ct., Oct. 11, 2005). (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/Harriet M. Whitegull v. Morgan K. Decorah; State of Wisconsin v. Morgan Kyle Decorah, CS 98-79, 04-26 Order (Closing Case) (HCN Tr. Ct., Oct. 11, 2005). (Matha, T).

The Court previously entered judgments to enable the recognition and enforcement of a foreign order for child support against the respondent's per capita payments. The Court, however, has become aware of the untimely passing of the respondent, Morgan Decorah. The Court accordingly closed this case and extended its sincerest condolences to the family of Mr. Decorah.

OCTOBER 12, 2005

Tari Pettibone v. Wallace P. Greendeer, CV 97-57 *Notice (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Oct. 12, 2005). (Gouty-Yellow, 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.

OCTOBER 13, 2005

Victoria Hill v. Kelly Logan; Shelly Cornelius v. Kelly Logan, CS 01-27, 05-50 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Oct. 13, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

Andrea Ayala v. Shannon Knox; Nakesha Clements v. Shannon Knox, CS 01-08, 05-49 *Order (Erratum)* (HCN Tr. Ct., Oct. 13, 2005). (Gouty-Yellow, T).

The Court issued this order to correct a clerical mistake made in the previous order.

State of Wisconsin/Wood County, on behalf of Evangeline Two Crow v. Gregory S. Harrison; Nela F. Stacy v. Gregory S. Harrison, CV 97-153, CS 05-66 *Reissued Order (Enforcing Child Support)* (HCN Tr. Ct., Oct. 13, 2005). (Matha, T).

The Court enters this *Reissued Order* to correct a clerical error within its findings of fact that affected the enforcement of the underlying child support order. The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

Joan C. Goodness-Baum v. Robin R. Baum, CS 05-79 *Order (Erratum)* (HCN Tr. Ct., Oct. 13, 2005). (Matha T).

The Court issued this order to correct a clerical mistake made in the previous order.

State of Wisconsin and Levi Aaron Lincoln v. Louise Marlene Lincoln, CV 97-32 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Oct. 13, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

OCTOBER 14, 2005

Michelle Lewis v. Dennis C. Lewis; Joy Lynn Rave v. Dennis C. Lewis, CS 01-36, 05-82 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Oct. 13, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

OCTOBER 18, 2005

State of WI/Sauk Co. v. Lesley A. Decorah, CS 04-50 *Order (Ceasing Withholding Child Support from Per Capita Distribution)* (HCN Tr. Ct., Oct. 18, 2005). (Gouty-Yellow, T).

The petitioners submitted a certified copy of the *Motion and Order for Dismissal* and a certified copy of the account history. The Court orders the Ho-Chunk Nation Department of Treasury to cease withholding from the respondent's per capita for current child support and child support arrears.

State of Wisconsin/Jackson County v. James L. Pettibone, CS 00-07 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Oct. 18, 2005). (Gouty-Yellow, T).

The petitioner filed proof of enrollment within the prescribed time frame. Therefore, the existing order remains unchanged.

Kelley L. Thundercloud v. Wallace P. Greendeer; Tari Pettibone v. Wallace P. Greendeer, CV 96-90, 97-57 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Oct. 18, 2005). (Gouty-Yellow, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN

CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

Earl L. Lemieux II v. Melissa Lee Snowball, CS 05-62 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Oct. 18, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

Lucy K. Snake v. Roger D. Snake; Crystal Teller v. Roger Snake, CV 97-01, CS 05-57 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Oct. 18, 2005). (Matha, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

OCTOBER 19, 2005

Ronald K. Genske v. Ruth M. Genske, CS 01-09 *Order (Ceasing Withholding Child Support from Per Capita Distribution)* (HCN Tr. Ct., Oct. 19, 2005). (Gouty-Yellow, T).

The Court issued a *Notice (Child Turning 18 – Requiring Proof of Enrollment)*. The respondent's obligation for current child support ends when the child turns eighteen (18) years of age. The Court orders the Ho-Chunk Nation Department of Treasury to cease withholding from the respondent's per capita for child support.

Roxanne E. Doxtator, n/k/a Looker v. Nathan R. Cloud, CS 01-01 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Oct. 19, 2005). (Matha, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

State of Wisconsin v. Moses L. Cleveland, CS 04-15 *Order (Redirecting Prior Per Capita Payments)* (HCN Tr. Ct., Oct. 19, 2005). (Gouty-Yellow, T).

The Court redirect prior per capita payments held by the child support agency in the above-captioned case. The Court orders that the impounded funds be redirected to the third party custodian.

State of Wisconsin and Eau Claire County, WI v. Candace Kaiser n/k/a Cloud, CS 99-54 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Oct. 19, 2005). (Matha, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

State of Wisconsin/Cynthia Fowler v. Ronald W. Mallory, CS 99-01 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Oct. 19, 2005). (Matha, T).

The Court had to amend the current child support withholding in order to guarantee compliance with the HO-CHUNK NATION RECOGNITION OF FOREIGN CHILD SUPPORT ORDERS ORDINANCE, 4 HCC § 2.8b(3).

Judith A. Harbin Lujan v. Clinton Thunderchief, CS 05-72 *Order (Denial of Motion for Reconsideration)* (HCN Tr. Ct., Oct. 19, 2005). (Gouty-Yellow, T).

The Court denied the *Motion for Reconsideration* because the respondent failed to address the five (5) issues allowed by the Ordinance. The respondent's primary argument addressed his change in circumstance and ability to pay said amount. Such an issue is reserved to the issuing court and must be argued at that level.



OCTOBER 20, 2005

State of Oklahoma v. Faron J. Bear, CS 01-10 *Order (Ceasing Withholding Child Support)* (HCN Tr. Ct., Oct. 20, 2005). (Matha, T).

The Court issued a *Notice (Child Turning 18 – Requiring Proof of Enrollment)*. The respondent's obligation for current child support ends when the child turns eighteen (18) years of age. The Court orders the Ho-Chunk Nation Department of Treasury to cease withholding from the respondent's per capita for child support.

NOVEMBER 22, 2005

In Re the Paternity of: A.G.J. v. Travis G. Jacobson; In Re the Paternity of A.M.B. v. Travis G. Jacobson, CS 05-84-85 *Default Judgment (Enforcing Child Support Against Wages)* (HCN Tr. Ct., Nov. 22, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's wages. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.

Joyce Greendeer v. Edward D. Creapeau, CS 04-39 *Order (Modifying Child Support Against Wages)* (HCN Tr. Ct., Nov. 22, 2005). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's wages. The respondent failed to respond within the specified timeframe. The Court granted the petitioner's request for recognition and enforcement.



Civil Garnishment

OCTOBER 12, 2005

Quick Cash Loans v. Wayne Falcon, CG 05-87 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 12, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

State Collection Service v. Angeline Decorah, CG 05-86 *Order (Petition Granted)* (HCN Tr. Ct., Oct. 12, 2005). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a timely response, and the Court convened a *Fact-Finding Hearing*, resulting in weekly wage deductions.

Bank of America, N.A. v. Anna M. Berndt, CG 05-75 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 12, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Gunderson Lutheran Medical Center, Inc. v. Rose A. Lemke, CG 05-88 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 12, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

OCTOBER 13, 2005

Capital One v. Jeanette E. Severson, CG 05-42 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Oct. 13, 2005). (Matha, T).

The Court previously issued a default judgment against the respondent. The petitioner filed a correspondence indicating that the petitioner has "discharged [the respondent] from further liability." The Court recognizes that the debt has been satisfied.

Capital One v. Jeanette E. Severson, CG 05-44 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Oct. 13, 2005). (Matha, T).

The Court previously issued a default judgment against the respondent. The petitioner filed a correspondence indicating that the petitioner has

“discharged [the respondent] from further liability.” The Court recognizes that the debt has been satisfied.

Alliance Collection Agencies, Inc. v. James L. Schier, CG 04-115 Order (*Satisfaction of Judgment*) (HCN Tr. Ct., Oct. 13, 2005). (Matha, T).

The Court previously issued a default judgment against the respondent. The petitioner filed a correspondence indicating that the petitioner has “relieved [the respondent] of any further obligation.” The Court recognizes that the debt has been satisfied.

OCTOBER 20, 2005

Augusta Housing Management Co. v. Peggy Perkins, CG 05-87 Order (*Default Judgment*) (HCN Tr. Ct., Oct. 20, 2005). (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 timeframe. The Court granted the petitioner’s request for recognition and enforcement.

Quick Cash Loans v. Mindy Stensven, CG 05-91 Order (*Default Judgment*) (HCN Tr. Ct., Oct. 20, 2005). (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 timeframe. The Court granted the petitioner’s request for recognition and enforcement.

Gunderson Clinic, Ltd. v. Lucy K. Snake, CG 05-90 Order (*Default Judgment*) (HCN Tr. Ct., Oct. 20, 2005). (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 timeframe. The Court granted the petitioner’s request for recognition and enforcement.

OCTOBER 21, 2005

Alliance Collection Agencies, Inc. v. Jeffrey Dayton, CG 05-97 Order (*Default Judgment*) (HCN Tr. Ct., Oct. 21, 2005). (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 timeframe. The Court granted the petitioner’s request for recognition and enforcement.

OCTOBER 31, 2005

Greater La Crosse Radiological v. Stephanie Littlegeorge, CG 05-99 Order (*Default Judgment*) (HCN Tr. Ct., Oct. 31, 2005). (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 timeframe. The Court granted the petitioner’s request for recognition and enforcement.

Alliance Collection Agencies v. Robert W. Hiles, Sr., CG 05-95 Order (*Default Judgment*) (HCN Tr. Ct., Oct. 31, 2005). (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 timeframe. The Court granted the petitioner’s request for recognition and enforcement.

In the Matter of the Outstanding Obligation of: Jerry D. Williams, Jr., CG 05-89 Order (*Extension of Full Faith & Credit*) (HCN Tr. Ct., Oct. 31, 2005). (Matha, T).

The Court determined to grant full faith and credit to a foreign judgment. Dane County Circuit Court filed a certified copy of its money judgment against the debtor, representing an assessment of judicial fines and penalties. The Court recognizes and enforces the foreign judgment out of due respect to its state counterpart.

NOVEMBER 1, 2005

NCO Attorney Network Services v. Esther M. Wolfe n/k/a Esther Youngthunder, CG 05-104 Order (*Default Judgment*) (HCN Tr. Ct., Nov. 1, 2005). (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 timeframe. The Court granted the petitioner’s request for recognition and enforcement.

NCO Attorney Network v. Angie Shegonee, CG 05-100 Order (*Final Judgment*) (HCN Tr. Ct., Nov. 1, 2005). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a timely response in the form of a bankruptcy notice of an automatic stay. The Court denied the petitioner's request for recognition and enforcement.

NOVEMBER 3, 2005

Wolpoff & Abramson v. Beverly Reynolds, CG 05-83 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Nov. 3, 2005). (Matha, T).

The Court previously issued a default judgment against the respondent. The petitioner filed a correspondence indicating that the petitioner has "discharged [the respondent] from further liability." The Court recognizes that the debt has been satisfied.

NOVEMBER 8, 2005

NCO Attorney Network v. Kristina A. Littlewolf, CG 05-106 *Order (Default Judgment)* (HCN Tr. Ct., Nov. 8, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Alliance Collection Agencies, Inc. v. Sheila L. Cleveland, CG 05-107 *Order (Default Judgment)* (HCN Tr. Ct., Nov. 8, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Credit Acceptance Corporation v. George L. Dahlgren, CG 05-101 *Order (Default Judgment)* (HCN Tr. Ct., Nov. 8, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Alliance Collection Agencies, Inc. v. Tamela Shubert, CG 05-98 *Order (Petition Granted)* (HCN Tr. Ct., Nov. 8, 2005). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a timely response, and the petitioner subsequently noted its agreement with a reduced weekly withholding arrangement. The Court accepted the petitioner's request for recognition and enforcement.

NOVEMBER 9, 2005

Mile Bluff Clinic v. John and Cynthia Kellerman, CG 05-109 *Order (Default Judgment)* (HCN Tr. Ct., Nov. 9, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Gundersen Clinic, Ltd. v. Troy and Tara Swallow, CG 05-108 *Order (Default Judgment)* (HCN Tr. Ct., Nov. 9, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

Griffin Westerman v. Louie Filipovich a/k/a Ljubisa Filipovich, CG 05-20 *Order (Granting Motion to Modify)* (HCN Tr. Ct., Nov. 9, 2005). (Matha, T).

The petitioner filed a request, which the Court considers a motion to modify. The petitioner indicates that the respondent has initiated a bankruptcy proceeding, and asks the Court to suspend the case. The Court directs the Ho-Chunk Nation Department of Treasury to cease withholding until further notice from the Court.

NOVEMBER 15, 2005

Rebecca Hopinkah v. William Hopinkah, CG 05-116 *Ex Parte Motion, Affidavit Order to Appear Pro Hac Vice* (HCN Tr. Ct., Nov. 15, 2005). (Matha, T).

An attorney requested to appear Pro Hac Vice on behalf of the petitioner. The attorney met the requirements as stated under *HCN R. Civ. P. 16(B)*.

Rebecca Hopinkah v. William Hopinkah, CG 05-116 *Order to Appear Pro Hac Vice Telephonically* (HCN Tr. Ct., Nov. 15, 2005). (Matha, T).

The Court granted the party's request to appear by telephone.

NOVEMBER 21, 2005

Gunderson Clinic, Ltd. v. Gregory D. and Barbara Gromoff, CG 05-111 *Order (Default Judgment)* (HCN Tr. Ct., Nov. 21, 2005). (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 timeframe. The Court granted the petitioner's request for recognition and enforcement.

NOVEMBER 22, 2005

Capital One Bank v. Jeanette E. Severson, CG 05-44 *Petition and Order Amending Judgment and Dismissing Garnishment* (HCN Tr. Ct., Nov. 22, 2005). (Matha, T).

The petitioner requested that the judgment in the above-entitled matter be amended to indicate that the judgment remains unsatisfied, but that the garnishment shall be dismissed due to the defendant's filing for bankruptcy.

NOVEMBER 23, 2005

NCO Attorney Network Services v. Esther M. Wolfe n/k/a Esther Youngthunder, CG 05-104 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Nov. 23, 2005). (Matha, T).

The Court previously issued a default judgment against the respondent. The petitioner filed a correspondence indicating that the petitioner has "PAID [the account] IN FULL." The Court recognizes that the debt has been satisfied.



Civil Cases

OCTOBER 3, 2005

Ho-Chunk Nation Home Ownership Program and Ho-Chunk Nation v. Greendeer Construction et al., CV 04-50 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 3, 2005). (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.

OCTOBER 19, 2005

Vaughn Pettibone v. HCN Election Bd. et al., CV 03-17 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Oct. 3, 2005). (Matha, T).

The Court granted the party's request to appear by telephone.

Kathy A. Stacy v. HCN Legislature, CV 02-40 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Oct. 19, 2005). (Matha, T).

The Court granted the party's request to appear by telephone.

OCTOBER 20, 2005

Elizabeth Deere v. Annette Littlewolf, Individually and in her Official Capacity, CV 04-74 *Order for Dismissal* (HCN Tr. Ct., Oct. 20, 2005). (Gouty-Yellow, T).

The plaintiff on her *Motion* requests an *Order for Dismissal* of all claims in the complaint pursuant to Rule 56(B). The Court grants an *Order for Dismissal*.

NOVEMBER 3, 2005

Patsy Prescott v. Travis Prescott et al., CV 04-41 *Order (Relief Granted)* (HCN Tr. Ct., Nov. 3, 2005). (Gouty-Yellow, T).

The Court must determine whether to order DNA testing so that an eligible minor may progress through the enrollment process. The Ho-Chunk Nation Office of Tribal Enrollment requires DNA testing of all applicants for enrollment. The Court finds that to the extent that a DNA test is required, the Court orders such testing. Mr. Prescott is to undergo DNA testing at Jackson Correctional Institution.

David L. Zwicke v. Roger Houghton, CV 02-66 *Order (Final Judgment)* (HCN Tr. Ct., Nov. 3, 2005). (Matha, T).

The Court had to determine whether to award the plaintiff the relief requested in his initial pleading as modified by a subsequent filing. The Court afforded the defendant the opportunity to respond to

the *Complaint*. The defendant filed a timely answer, admitting, in part, to an outstanding debt obligation. The Court deems that extension of the stated traditional principle into the present context proves reasonable and just. Although the tribe would not have traditionally dealt in terms of currency, the sanctity and attendant responsibilities of an agreement were recognized and self-evident. The Court grants a judgment against the defendant for the undisputed amount.

NOVEMBER 7, 2005

Cornelius Decora v. Adam Hall et al., CV 03-25 Order (*Denying Motion to Dismiss & Granting Motion to Amend*) (HCN Tr. Ct., Nov. 7, 2005). (Gouty-Yellow, T).

The plaintiff seeks an order directing that his four named children be enrolled as members of the Ho-Chunk Nation. The defendants have moved to dismiss the *Complaint*. The Court denies the *Motion to Dismiss*. The plaintiff has moved to amend the *Complaint*. The Court grants the *Motion to Amend*.

NOVEMBER 9, 2005

Ho-Chunk Nation Department of Housing, Property Management Division v. Mary J. Fisher et al., CV 05-34 Order (*Satisfaction of Judgment*) (HCN Tr. Ct., Nov. 9, 2005). (Matha, T).

The Court granted a money judgment against the defendants, and directed the Ho-Chunk Nation Department of Treasury to withhold per capita income to satisfy the debt obligation to the Nation. The plaintiff filed a *Satisfaction of Judgment*. The Court recognizes that the debt has been satisfied.

NOVEMBER 9, 2005

Ho-Chunk Nation Treasury Department et al. v. Shante Lowery-Roby, CV 05-64 Order (*Satisfaction of Judgment*) (HCN Tr. Ct., Nov. 23, 2005). (Matha, T).

The Court granted a money judgment against the defendant. The plaintiff filed a *Satisfaction of Judgment*. The Court recognizes that the debt has been satisfied. The Court accepts this accounting and hereby informs the parties of its intent to close this case within ten (10) days absent any objection from the parties within that time period.

CHILDREN'S TRUST FUND (CTF)

OCTOBER 10, 2005

In the Interest of Minor Children: J.J.N., DOB 06/23/88; J.D.N., DOB 08/27/91; J.D.N., DOB 08/27/91, by Mary Frances Ness v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-17 Order to Show Cause (*Contempt*) (HCN Tr. Ct., Oct. 10, 2005). (Yellow, T).

The Court previously released funds from the CTF account of the minor children to improve their quality of life. The petitioner failed to submit an accounting confirming the specified use of the funds within the specified timeframe. 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.

OCTOBER 12, 2005

In the Interest of Minor Child: S.S.G., DOB 02/05/94 by Sherry Lonetree-Grey v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-89 Order (*Motion Granted*) (HCN Tr. Ct., Oct. 12, 2005). (Matha, T).

The Court released funds from the CTF account of S.S.G., DOB 02/05/94, to pay for costs associated with orthodontic procedures.

OCTOBER 13, 2005

In the Interest of Minor Child: K.J.F., DOB 08/21/88, by Lisa L. Blackdeer v. HCN Office of Tribal Enrollment, CV 05-62 Order (*Dismissal without Prejudice*) (HCN Tr. Ct., Oct. 13, 2005). (Matha, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of the petitioner's *Petition for Release of Per Capita Distribution*. The petitioner failed to appear, and did not notify the Court of an inability to attend the proceeding. Therefore, the Court dismissed the instant case without prejudice.

OCTOBER 14, 2005

In the Interest of Minor Child: J.M.D., DOB 01/24/91, by Rosann Mann v. HCN Office of Tribal Enrollment, CV 04-100 Order (*Dismissal without Prejudice*) (HCN Tr. Ct., Oct. 14, 2005). (Matha, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of the petitioner's *Petition for Release of Per Capita Distribution*. The petitioner

failed to appear, and did not notify the Court of an inability to attend the proceeding. Therefore, the Court dismissed the instant case without prejudice.

OCTOBER 19, 2005

In the Interest of Minor Child: C.V.H., DOB 02/25/93, by Chris Hanson v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-78 Order (Accounting Accepted) (HCN Tr. Ct., Nov. 1, 2005). (Matha, T).

The Court released funds from the CTF account to pay for the costs associated with orthodontic procedures. The Court accepts this accounting and hereby informs the parties of its intent to close this case within ten (10) days absent any objection from the parties within that time period.

In the Interest of Minor Child: J.M.K., DOB 06/24/88, by Angela Kelly v. HCN Office of Tribal Enrollment, CV 05-76 Order (Dismissal without Prejudice) (HCN Tr. Ct., Oct. 14, 2005). (Gouty-Yellow, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of the petitioner's *Petitione for Release of Per Capita Distribution*. The petitioner failed to appear, and did not notify the Court of an inability to attend the proceeding. Therefore, the Court dismissed the instant case without prejudice.

OCTOBER 18, 2005

In the Interest of Adult CTF Beneficiary: Rainelle M. Decorah, DOB 01/26/05 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-67 Order (Partial Granting of Petition) (HCN Tr. Ct., Oct. 18, 2005). (Matha, T).

The Court routinely denies attorney fees in criminal matters due to the presence of an absolute right to be represented by counsel as conferred by the CONSTITUTION OF THE UNITED STATES. The petitioner set forth an obvious welfare necessity as well as an educational necessity since potential incarceration could interrupt her progress in obtaining a high school diploma. More importantly, the petitioner was deemed ineligible for public defender services. The Court shall accordingly grant the petitioner's request for an attorney retainer fee. The Court shall deny the request for an Alcohol & Other Drug Assessment because the petitioner has failed to satisfy the exhaustion

requirement. The Ho-Chunk Nation likely offers assessments free of charge to tribal members.

OCTOBER 24, 2005

In the Interest of Minor Children: C.E.H., DOB 07/13/91; T.R.H., DOB 12/19/92; B.F.H., 03/13/94, v. Ho-Chunk Nation Office of Tribal Enrollment, CV 02-98 Order (Conditional Denial of Petition) (HCN Tr. Ct., Oct. 24, 2005). (Matha, T).

The Court must determine whether the parent can access monies on behalf of her minor children from the Children's Trust Fund (hereinafter CTF) to pay for the costs associated with the purchase of clothing, bedroom furniture and bedding, and satisfy unpaid medical bills. Regrettably, the Court must deny the request due to the extreme passage of time.

NOVEMBER 1, 2005

In the Interest of Minor Child: B.J.G., 12/03/91 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-54 Order (Requesting Accounting) (HCN Tr. Ct., Nov. 1, 2005). (Matha, T).

The Court requested that the petitioner submit the required accounting.

In the Interest of Minor Child: S.L.C., DOB 08/28/89, by Angeline Dowling v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-56 Order (Requesting Accounting) (HCN Tr. Ct., Nov. 1, 2005). (Matha, T).

The Court requested that the petitioner submit the required accounting.

In the Interest of Minor Children: M.L.D., DOB 05/23/91; M.L.H., DOB 08/18/97; M.H., DOB 02/19/99; M.H. 02/09/00, JV 05-15-18 Order (Release Impounded Per Capita Funds) (HCN Tr. Ct., Nov. 1, 2005). (Gouty-Yellow, T).

The Court impounded the respondent's per capita funds based upon the physical placement of a minor child. The Court directs the Ho-Chunk Nation Department of Treasury to release the respondent's impounded per capita distribution.



NOVEMBER 4, 2005

In the Interest of Minor Child: M.A.S., DOB 09/20/88, by Paul W. Stott, Jr. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-62 Order (Dismissal without Prejudice) (HCN Tr. Ct., Oct. 13, 2005). (Matha, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of the petitioner's *Petition for Release of Per Capita Distribution*. The petitioner failed to appear, and did not notify the Court of an inability to attend the proceeding. Therefore, the Court dismissed the instant case without prejudice.

NOVEMBER 7, 2005

In the Interest of: Shawn W. Maisells, DOB 01/23/86 v. HCN Office of Tribal Enrollment, CV 05-80 Order (Dismissal without Prejudice) (HCN Tr. Ct., Nov. 7, 2005). (Gouty-Yellow, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of the petitioner's *Petition for Release of Per Capita Distribution*. The petitioner failed to appear, and did not notify the Court of an inability to attend the proceeding. Therefore, the Court dismissed the instant case without prejudice.

NOVEMBER 9, 2005

In the Interest of Minor Child: K.A.L., DOB 08/14/89 by Gary L. Lonetree, Jr. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-66 Order (Petition Granted) (HCN Tr. Ct., Nov. 9, 2005). (Matha, T).

The Court must determine whether the parent can access monies on behalf of the minor child from the Children's Trust Fund (hereinafter CTF) to pay for costs associated with private school tuition and expenses for a musically-gifted student. The Court grants a release of funds to satisfy the stated requests.

NOVEMBER 15, 2005

In the Interest of Minor Child: S.L.C., DOB 08/28/89, by Angeline Dowling v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-56 Order

(Accepting Accounting) (HCN Tr. Ct., Nov. 15, 2005). (Matha, T).

The Court released funds from the CTF account to pay for the costs associated with orthodontic procedures. The Court accepts this accounting and hereby informs the parties of its intent to close this case within ten (10) days absent any objection from the parties within that time period.

NOVEMBER 21, 2005

In the Interest of Minor Child: J.R.H., DOB 05/19/88, by Jeffrey A. Harrison v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-99 Order (Petition Granted) (HCN Tr. Ct., Nov. 21, 2005). (Matha, T).

The Court released funds from the CTF account of J.R.H., DOB 05/19/88, to pay for costs associated with orthodontic procedures.

NOVEMBER 22, 2005

In the Interest of Minor Child, B.G., DOB 09/26/93, by Jon Greendeer v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-61 Order (Accepting Accounting) (HCN Tr. Ct., Nov. 22, 2005). (Matha, T).

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



EMPLOYMENT

OCTOBER 12, 2005

Adriane Walker v. Amy Kirby et al., CV 05-28 Order (Motion Hearing) (HCN Tr. Ct., Oct. 12, 2005). (Matha, T).

The Court determined to convene a hearing to grant the defendants the ability to argue the *Motion for Summary Judgment*, and to provide the plaintiff the opportunity to offer a response.

Ho-Chunk Casino et al. v. Rory Emerson Thundercloud et al., CV 04-36 Order (Granting

Motion to Dismiss) (HCN Tr. Ct., Oct. 12, 2005). (Matha, T).

The defendants failed to file timely responsive pleadings, but the Court declined to grant a default judgment due to a failure to adequately establish the basis for the Court's subject matter jurisdiction within the *Complaint*. Rather than file an amended pleading, the plaintiffs sought a voluntary dismissal.

OCTOBER 13, 2005

Ho-Chunk Nation Hotel & Convention Center et al. v. Jeanette H. Decorah et al., CV 05-50 *Order (Requiring Amended Complaint)* (HCN Tr. Ct., Oct. 13, 2005). (Matha, T).

The defendants failed to file timely responsive pleadings, but the Court declined to grant a default judgment due to a failure to adequately establish the basis for the Court's subject matter jurisdiction within the *Complaint*. Therefore, the Court requires the plaintiffs to file an amended pleading.

Ho-Chunk Nation Department of Labor et al. v. Jesse L. Snowball, CV 05-51 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 13, 2005). (Matha, T).

The Court had to determine whether to default judgment. The defendant failed to respond within the specified timeframe. The Court granted the plaintiff's request for a money judgment on the basis of a violated contractual agreement.

Ho-Chunk Nation Treasury Department et al. v. Shante Lowery-Roby, CV 05-64 *Order (Default Judgment)* (HCN Tr. Ct., Oct. 13, 2005). (Matha, T).

The Court had to determine whether to default judgment. The defendant failed to respond within the specified timeframe. The Court granted the plaintiff's request for a money judgment on the basis of a violated contractual agreement.

Patricia A. Lowe-Ennis et al. v. HCN TERO Comm'n, CV 04-06-07 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Oct. 13, 2005). (Matha, T).

The Court granted the party's request to appear by telephone.

OCTOBER 20, 2005

Stephany Hughes v. Ho-Chunk Nation Gaming Commission et al., CV 05-44 *Order (Granting Plaintiff's Motion)* (HCN Tr. Ct., Oct. 20, 2005). (Matha, T).

The plaintiff filed the *Motion to Reopen Discovery* and accompanying *Request for Additional Documents*. The defendants filed a response on October 14, 2005, in which they "do not object to the plaintiff's request... on the condition that both parties be allowed to submit supplemental arguments via letter, memorandum, or brief upon the conclusion of the new discovery period." Consequently, the Court granted the plaintiff's motion.

Joyce L. Warner v. Ho-Chunk Nation et al., CV 04-72 *Scheduling Order* (HCN Tr. Ct., Oct. 20, 2005). (Matha, T).

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

OCTOBER 21, 2005

Karen Hachey v. Ho-Chunk Casino, CV 00-52 *Order (Dismissal with Prejudice)* (HCN Tr. Ct., Oct. 29, 2005). (Matha, T).

The plaintiff failed to respond to the defendant's motion to dismiss, which it based upon a prolonged period of inactivity by the plaintiff. The Court dismisses the case with prejudice.

OCTOBER 25, 2005

Wayne S. Hanrahan v. Ron Anwash; Wayne S. Hanrahan v. Legislative Representatives Kathyleen Whiterabbit and Sharyn Whiterabbit, CV 03-57, -54 *Order (Dismissal with Prejudice)* (HCN Tr. Ct., Oct. 25, 2005). (Matha, T).

The Court responded to a motion to dismiss submitted nearly eleven (11) months after the plaintiff filed the initial pleadings. During this time, the parties extensively utilized the motion process, resulting in several decisions, one of which received appellate scrutiny. Ultimately, the parties agree to conclusively dispense with the consolidated case. The Court dismisses the case with prejudice.

NOVEMBER 2, 2005

Charles A. Funk v. Ho-Chunk Casino, et al., CV 04-20 *Stipulation & Order for Settlement* (HCN Tr. Ct., Nov. 2, 2005). (Matha, T).

The parties stipulated and agreed to settle the above-captioned case pursuant to a voluntary agreement.

NOVEMBER 3, 2005

Nyree Dawn Kedrowski v. Ho-Chunk Nation Department of Treasury/Payroll et al., CV 05-11 Order (Dismissal without Prejudice) (HCN Tr. Ct., Nov. 3, 2005). (Matha, T).

The plaintiff neglected to reschedule the initial scheduling conference after failing to attend the proceeding, and after the Court provided her the opportunity to do so. Therefore, the Court dismissed the instant case without prejudice.

Kevin Kuehl v. Ho-Chunk Casino Table Games (sic) Department, CV 05-23 Order (Dismissal) (HCN Tr. Ct., Nov. 3, 2005). (Gouty-Yellow, T).

The plaintiff neglected to provide a *Response*, after the Court provided him the opportunity to do so. Therefore, the Court dismissed the instant case without prejudice.

NOVEMBER 15, 2005

HCN Treasury Department et al. v. Corvettes on the Isthmus et al., CV 05-82 Scheduling Order (HCN Tr. Ct., Nov. 15, 2005). (Matha, T).

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

NOVEMBER 22, 2005

Sheryl A. Cook v. Tammi Modica et al., CV 05-21 Order (Final Judgment) (HCN Tr. Ct., Nov. 22, 2005). (Matha, T).

The Court must determine whether to reverse the defendants' decision to terminate the plaintiff's employment. The Court concurs with the defendants' conclusion due to the level of the infraction, *i.e.*, leaving a front casino door unlocked after closing. Additionally, the Court holds the plaintiff's legal arguments unpersuasive.

NOVEMBER 22, 2005

Nicholas Joseph Kedrowski v. Gaming Commissioners et al., CV 05-01 Order (Granting Motion to Dismiss) (HCN Tr. Ct., Nov. 28, 2005). (Matha, T).

The defendants contend that the plaintiff filed an untimely initial pleading, constituting a violation of

the relevant statute of limitations. The Court agrees that this defense bars the plaintiff's claims as indicated by the clear language of the legislation.



INCOMPETENT TRUST FUND (ITF)

OCTOBER 11, 2005

In the Interest of Minor Child: L.V.L., DOB 02/16/49, by Isabelle Mallory v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-50 Order (Imposing Contempt Sanction) (HCN Tr. Ct., Oct. 11, 2005). (Matha, T).

The Court previously released funds from the ITF account for the welfare of an incompetent member. The petitioner failed to submit an accounting confirming the use of the funds within the specified timeframe. The Court convened a *Sanction Hearing* to allow the petitioner the opportunity to explain why the Court should not impose contempt sanctions. The Court ordered the guardian to replenish the depleted ITF account of the incompetent member, since the petitioner admitted that she failed to fulfill her statutory duty.

OCTOBER 12, 2005

In the Interest of Minor Child, D.P.G., DOB 08/28/82, by Regina Taylor and Tony Salo v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-15 Order (Accepting Accounting) (HCN Tr. Ct., Oct. 12, 2005). (Matha, T).

The Court released funds from the CTF account for costs associated with housing, household items and entertainment-related expenses. The petitioner submitted a payment history statement, which confirmed proper use of the funds. The Court accepts this accounting.

OCTOBER 20, 2005

In the Interest of Adult Incompetent: H.C., DOB 01/31/31 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-72 Order (Motion Granted) (HCN Tr. Ct., Oct. 20, 2005). (Gouty-Yellow, T).

The Court must determine whether the permanent guardian can access monies on behalf of an adult incompetent member from the ITF to pay for costs associated with ongoing care, GAL fees and cost of adversary counsel. The Court grants a release of the funds to satisfy the request of the guardian.

NOVEMBER 2, 2005

In the Interest of B.F.N., DOB 09/03/86, by Alaine A. Yingst v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-59 Ex Parte Motion, Affidavit, and Order to Appear Pro Hac Vice (HCN Tr. Ct., Nov. 2, 2005). (Matha, T).

An attorney requested to appear Pro Hac Vice on behalf of the petitioner. The attorney met the requirements as stated under *HCN R. Civ. P. 16(B)*.

NOVEMBER 4, 2005

In the Interest of Gerald Greendeer, DOB 01/31/31 by Alma Miner v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-16 Order (Petition Granted) (HCN Tr. Ct., Nov. 4, 2005). (Gouty-Yellow, T).

The Court must determine whether the guardian can access monies on behalf of the ward from the ITF to pay for the costs associated with satisfying debts that the ward has incurred. The Court grants a release of funds to satisfy the stated requests.

NOVEMBER 8, 2005

In the Interest of Gerald Greendeer, DOB 01/31/31 by Alma Miner v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-16 Order (Release of Ferrell Payment) (HCN Tr. Ct., Nov. 8, 2005). (Gouty-Yellow, T).

The Court granted a release of funds to pay for the costs associated with satisfying debts that the ward has incurred, however the Ferrell debt was reserved until verification was received. Thus, the Court ordered Fifth Third Bank to release the debt immediately.

NOVEMBER 22, 2005

In the Interest of Adult Incompetent: Oliver S. Rockman v. Ho-Chunk Nation Office of Tribal Enrollment, CV 97-117 Order (Granting Release of Per Capita Funds) (HCN Tr. Ct., Nov. 22, 2005). (Gouty-Yellow, T).

The Court must determine whether the guardian can access monies on behalf of the ward from the ITF to

account for a spending allowance. The Court grants a release of funds to satisfy the stated requests.



General Council

OCTOBER 8, 2005

Forrest Funmaker et al. v. Alvin Cloud et al., CV 05-86 Order (Denial of Motion) (HCN Tr. Ct., Oct. 8, 2005). (Matha, T).

The Court denied the plaintiffs' October 6, 2005 *Motion for Expedited Consideration*. A plaintiff may not seek expedited consideration of an initial pleading. The applicable rules do not contemplate judicial resolution of a cause of action within less than five (5) days. Rather, a party may seek expedited consideration of a motion, provided that the movant first satisfies the standard set forth within the rule.

OCTOBER 20, 2005

Ona Garvin v. Ho-Chunk Nation Election Board et al., CV 05-90 Order (Motion Hearing) (HCN Tr. Ct., Oct. 20, 2005). (Gouty-Yellow, T).

The Court convened a hearing so as to grant the plaintiffs the ability to argue the *Motion for Preliminary Injunction*, and to provide the defendant the opportunity to offer a response.

Clarence Pettibone v. HCN General Council et al., CV 03-77 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Oct. 20, 2005). (Gouty-Yellow, T).

The Court granted the party's request to appear by telephone.

NOVEMBER 2, 2005

Ona Garvin v. Ho-Chunk Nation Election Board et al.; Dallas White Wing v. Ho-Chunk Nation Election Board et al., CV 05-90, -93 Order (Denying Preliminary Injunction) (HCN Tr. Ct., Nov. 2, 2005). (Gouty-Yellow, T).

On September 17, 2005, the Ho-Chunk Nation General Council enacted General Council Resolution "O" providing for the recall of plaintiff, Ona Garvin, from her office as a member of the Ho-Chunk Nation Legislature. On September 17, 2005,

the Ho-Chunk Nation General Council enacted General Council Resolution “N” providing for the recall of plaintiff, Dallas White Wing from his office as a member of the Ho-Chunk Nation Legislature. Both plaintiffs seek a *Preliminary Injunction* to enjoin the defendants from acting in furtherance of the General Council resolutions. The Court denies the request for a *Preliminary Injunction*. The Court adopted a four-part test for the purpose of evaluating requests for preliminary injunctions. The Ho-Chunk Nation Supreme Court later sanctioned the use of the incorporated federal standard. The only issue before the Court was the question of whether the plaintiff could establish by a reasonable likelihood that he or she would prevail at trial. The answer to this question depends primarily on the plain language of the constitutional provision in question. This is a case of first impression. The issue of reasonableness does not apply to notice as there are no notice requirements. The opportunity to be heard does not attach to this section as there is not a requirement to be heard. As this Court and the Ho-Chunk Supreme Court have held on prior occasions, the removal provisions of the Ho-Chunk Constitution are substantially different than the recall provisions. The Court denied the plaintiffs’ request for an injunction.

NOVEMBER 9, 2005

Dallas White Wing v. Ho-Chunk Nation Election Board et al., CV 04-99 Order (*Granting Motion to Dismiss Defendant Legislature and Election Board*) (HCN Tr. Ct., Nov. 9, 2005). (Gouty-Yellow, T).

On October 23, 2004, the Ho-Chunk Nation General Council enacted General Council Resolution 25 providing for the removal of the plaintiff from his office as a member of the Ho-Chunk Nation Legislature. On November 18, 2004, the Court issued its *Preliminary Injunction*. On January 21, 2005, the Legislature and Election Board defendants filed their *Motion to Dismiss*. The Court grants the *Motion to Dismiss* as filed against defendant Legislature and the Election Board.

NOVEMBER 10, 2005

Dallas White Wing v. Ho-Chunk Nation Election Board et al., CV 04-99 Order (*Denying Motion to*

Amend Complaint) (HCN Tr. Ct., Nov. 10, 2005). (Gouty-Yellow, T).

On October 23, 2004, the Ho-Chunk Nation General Council enacted General Council Resolution 25 providing for the removal of the plaintiff from his office as a member of the Ho-Chunk Nation Legislature. On November 18, 2004, the Court issued its *Preliminary Injunction*. On January 31, 2005, the plaintiff filed the *Motion to Amend the Complaint* and the *Amended Complaint*. Defendants Legislature and Election Board filed a letter in response on February 14, 2005. Defendant HCN General Council filed a reply on February 15, 2005. The petitioner filed a response to defendant HCN General Council on February 16, 2005. A number of considerations must be reviewed to find good cause. Principally good cause focuses on whether, an issue that according to Black’s Law Dictionary, “a substantial reason amounting in law to a legal excuse for failing to perform an act required by law” exists. In the case at hand, the plaintiff was not required to file a *Motion to Amend*, he was only required to file said matter in a specified manner. The plaintiff failed to file the motion according to the permissive deadline, which then requires the Court to provide leave and a showing of good cause. The plaintiff fails to provide any good cause explanation in this *Motion to Amend*. The only discernable reason is to provide additional facts that were not available at the time of filing of the *Complaint*. The Ho-Chunk Trial Court has permissive rules regarding both complaints and answers and expects additional facts to come forward throughout the proceedings. The Court denies the *Motion to Amend* as good cause does not exist.

NOVEMBER 18, 2005

Ona Garvin v. Ho-Chunk Nation Election Board et al.; *Dallas White Wing v. Ho-Chunk Nation Election Board et al.*, CV 05-90, -93 Order (*Remand Granting Preliminary Injunction*) (HCN Tr. Ct., Nov. 2, 2005). (Gouty-Yellow, T).

On September 17, 2005, the Ho-Chunk Nation General Council enacted General Council Resolution “O” providing for the recall of plaintiff, Ona Garvin, from her office as a member of the Ho-Chunk Nation Legislature. On September 17, 2005,

the Ho-Chunk Nation General Council enacted General Council Resolution “N” providing for the recall of plaintiff, Dallas White Wing from his office as a member of the Ho-Chunk Nation Legislature. Both plaintiffs seek a *Preliminary Injunction* to enjoin the defendants from acting in furtherance of the General Council resolutions. The Court grants the request for a *Preliminary Injunction*.

Upon remand after a *Fact Finding Hearing*, the plaintiffs further defined and presented arguments pertaining to separation of powers, as defined in the HCN CONSTITUTION ART. III. §3, which provides that one branch of government cannot “exercise” the powers of another branch and how that article interacts with ART. V. §6, which mandates that districts’ elect their own legislative representatives. This issue is placed squarely against the backdrop of governmental responsibility. Herein, a member of the Ho-Chunk Nation submitted a resolution that was presented at the 2005 Ho-Chunk General Council meeting that contained language that mandated a tribal-wide recall election. This action creates a conflict in which one branch of government, the Ho-Chunk General Council is exercising the power of another branch of government by mandating an action that is in conflict with another article of the same Constitution. These issues weigh in favor of the plaintiffs reasonable likelihood of success on the merits.

NOVEMBER 28, 2005

Dallas White Wing v. Ho-Chunk Nation Election Board et al., CV 04-99 Order (Denying Motion to Continue Trial Date) (HCN Tr. Ct., Nov. 28, 2005). (Gouty-Yellow, T).

On November 15th, 2005, the Court conducted a *Pre-Trial Conference* to review the case. At that time counsel, for defendant Ho-Chunk Nation General Council, Attorney Michael Mullen, verbally requested an adjournment of the trial date. The stated basis was a generalized statement that pending litigation involving Dallas Whitewing under Case No. CV 05-93 may in fact render the issues in this case moot. Plaintiff Whitewing’s counsel, Glenn C. Reynolds joined in this issue and added that his client would not be available for the

trial based on an injury. The Court directed both Counsel Mullen and Reynolds to submit a motion and brief in support of said motion, not to exceed five (5) pages on the mootness issue no later than November 22, 2005, at 4:30 p.m. On November 22, 2005, Counsel Mullen submitted a motion entitled, *General Council Defendants Motion for Continuance of Trial Date* without a brief on the mootness issue. On November 22, 2005, Counsel Reynolds submitted a letter and the doctor’s report from Dallas Whitewing’s surgery. The letter neither contained a brief regarding the mootness issue, nor provided a prognosis regarding Mr. Whitewing’s ability to attend the trial as scheduled for the week of December 5, 2005. The Court could not find good cause to grant an adjournment.

Juvenile

OCTOBER 10, 2005

In the Interest of Minor Children: C.S.C., DOB 11/22/97; K.K.C., DOB 11/04/99; K.A.C., DOB 11/02/01, JV 04-39-41 Order (Dismissal of Temporary Guardian Petition) (HCN Tr. Ct., Oct. 10, 2005). (Gouty-Yellow, T).

The Court deems that the appointment of the temporary guardian of the named children is not necessary and that the issue of best interests cannot be reached in accordance with the CHILDREN’S ACT.

OCTOBER 11, 2005

In the Interest of Minor Children: M.S.B., DOB 09/14/99; K.M., DOB 04/09/93, JV 03-12, 98-15 Order (Appointment of Permanent Guardian) (HCN Tr. Ct., Oct. 11, 2005). (Gouty-Yellow, T).

The Court deems that the appointment of the permanent guardian of the named children is in the best interests of the children in accordance with the CHILDREN’S ACT.

OCTOBER 13, 2005

In the Interest of Minor Child: A.J.C., DOB 04/02/93, JV 04-01 Order (Cessation of Current Child Support) (HCN Tr. Ct., Oct. 13, 2005). (Gouty-Yellow, T).

The Court terminated the child support withholding at the hearing. The Court ordered the Ho-Chunk Nation Department of Treasury to cease withholding from the respondent’s per capita for current child support.



OCTOBER 14, 2005

In the Interest of Minor Child: S.J.W., DOB 02/10/93, JV 04-12 Order (Child Protection Review Hearing) (HCN Tr. Ct., Oct. 14, 2005). (Matha, T). The Court conducted a *Child Protection Review Hearing*. The Court continued the *Hearing* in order for the mother of the minor children to obtain representation.

In the Interest of Minor Child: A.J.C., DOB 04/02/93, JV 04-01 Order (Child Protection Review Hearing) (HCN Tr. Ct., Oct. 14, 2005). (Gouty-Yellow, T).

The Court must determine whether to terminate the *Temporary Guardianship Order*. After a careful weighing of all the presented evidence, the Court determines that the termination is in the best interest of the named child.

In the Interest of Minor Children: L.L.T.B., DOB 06/23/96; R.R.T.B., DOB 03/16/94, L.M.T.B., DOB 01/20/93, JV 05-01-03 Order (Establishment of Child Support) (HCN Tr. Ct., Oct. 14, 2005). (Gouty-Yellow, T).

The Court must determine whether to establish a child support obligation of the minor children. The Court erected a financial obligation.

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 (Child Protection Review Hearing) (HCN Tr. Ct., Oct. 14, 2005). (Gouty-Yellow, T).

The Court must determine whether to terminate the *Temporary Guardianship Order*. After a careful weighing of all the presented evidence, the Court determines that the termination is in the best interest of the named children.

OCTOBER 19, 2005

In the Interest of Minor Children: C.S.C., DOB 11/22/97; K.K.C., DOB 11/04/99; K.A.C., DOB 11/02/01, JV 04-39-41 Order (Redirecting Prior

Per Capita Payments) (HCN Tr. Ct., Oct. 19, 2005). (Gouty-Yellow, T).

The Court redirect prior per capita payments held by the child support agency in the above-captioned case. The Court orders that the impounded funds be redirected to the third party custodian.

In the Interest of Minor Child: D.R.W., DOB 08/12/04, JV 05-07 Order (Child Support) (HCN Tr. Ct., Oct. 19, 2005). (Gouty-Yellow, T).

The Court determined to order the respondent to pay child support for the minor child in question while the child is in the care of a third party custodian.

In the Interest of Minor Child: D.R.W., DOB 08/12/04, JV 05-07 Order (Child Support) (HCN Tr. Ct., Oct. 19, 2005). (Gouty-Yellow, T).

The Court determined to order the respondent to pay child support for the minor child in question while the child is in the care of a third party custodian.

In the Interest of Minor Children: K.B.M., DOB 10/29/93; B.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 (Child Support) (HCN Tr. Ct., Oct. 19, 2005). (Gouty-Yellow, T).

The Court determined to order the respondent to pay child support for the minor children in question while the child is in the care of a third party custodian.

NOVEMBER 1, 2005

In the Interest of Minor Children: M.L.D., DOB 05/23/91; M.L.H., DOB 08/18/97; M.H., DOB 02/19/99; M.H., DOB 02/09/00, JV 05-15-18 Order (Erratum) (HCN Tr. Ct., Nov. 1, 2005). (Gouty-Yellow, T).

The Court issued this order to correct a clerical mistake made in the previous order.

NOVEMBER 2, 2005

In the Interest of Minor Child: E.L. 10/11/96, JV 05-04 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., Nov. 2, 2005). (Matha, T).

The Court appointed a GAL in this matter.

NOVEMBER 3, 2005

In the Interest of Minor Children: M.J.B., DOB 11/01/02, E.B., DOB 09/01/04 JV 05-26-27 Order (Conditional Acceptance of Transfer) (HCN Tr. Ct., Nov. 3, 2005). (Matha, T).

The Court determined whether to conditionally accept transfer of a State of Minnesota children's case in which the minor children, either enrolled or eligible for enrollment with the Ho-Chunk Nation, are subject to foster care placement. After reviewing the *Motion for Transfer*, the Court shall not decline transfer of this action.

In the Interest of Minor Children: J.J.N., DOB 06/23/88; J.D.N., DOB 08/27/91; J.D.N., DOB 08/27/91, by Mary Frances Ness v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-17 Order (Amending Petition and Contempt Finding) (HCN Tr. Ct., Nov. 3, 2005). (Gouty-Yellow, T).

The Court issued an order allowing the parent to access monies on behalf of her minor children from the Children's Trust Fund (CTF) to pay for costs associated with the family mortgage. The petitioner failed to submit payment as ordered by this Court and is found to be in contempt of court. Upon receipt of all payment the contempt finding shall be dismissed.

NOVEMBER 4, 2005

In the Interest of Minor Children: M.L.D., DOB 05/23/91; M.L.H., DOB 08/18/97; M.H., DOB 02/19/99; M.H., DOB 02/09/00, JV 05-15-18 Reissued Order (Erratum) (HCN Tr. Ct., Nov. 4, 2005). (Gouty-Yellow, T).

The Court issued this order to correct a clerical mistake made in the previous order.

NOVEMBER 17, 2005

In the Interest of Minor Children: B.E.Y., DOB 07/25/89; N.R.Y., DOB 07/07/91, JV 03-37-38 Order (Judgment of Dismissal of Permanent Guardian Petition) (HCN Tr. Ct., Nov. 17, 2005). (Gouty-Yellow, T).

The Court convened a hearing to determine if the underlying matter could proceed to trial. The Court finds that the petition fails due to the lack of proper processing, the failure to properly serve, the lack of consent, the presence of a guardian for the minor

children and further that the matter as filed does not meet the intent and purpose of the law.

NOVEMBER 22, 2005

In the Interest of Minor Child: A.C.L., DOB 08/13/01, JV 04-22 Order (Voluntary Dismissal) (HCN Tr. Ct., Nov. 22, 2005). (Gouty-Yellow, T).

The petitioners for temporary guardianship filed a *Motion to Withdraw Petition for Temporary Guardianship*. The Court dismisses the guardianship portion of the case without prejudice.

NOVEMBER 28, 2005

In the Interest of Minor Children: P.M.S., DOB 01/14/91; P.A.S., DOB 01/14/91, JV 98-06-07 Review Hearing Order (HCN Tr. Ct., Nov. 28, 2005). (Gouty-Yellow, T).

The Court conducted a *Review Hearing*. The Court determined to maintain the status quo as necessary for the children.

Domestic Violence

OCTOBER 17, 2005

Jill A. Pettibone v. Brent M. Funmaker, DV 05-03 Order (Denying Extension of Ex Parte Order for Protection) (HCN Tr. Ct., Oct. 17, 2005). (Gouty-Yellow, T).

On September 15, 2005, the Court issued an *Ex Parte Emergency Order for Protection*. At the hearing, the petitioner had not retained a Domestic Abuse Legal Advocate and failed to present evidence capable of demonstrating the occurrence of domestic abuse. The Court, therefore, denied extending the underlying *Protection Order*.



Supreme Court

OCTOBER 31, 2005

Kenneth Lee Twin v. Toni McDonald, SU05-09 *Scheduling Order* (HCN S. Ct., Oct. 31, 2005).

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

NOVEMBER 10, 2005

Dallas Whitewing v. Ho-Chunk Nation General Council et al., SU05-10 *Scheduling Order & Order (Granting Stay)* (HCN S. Ct., Oct. 31, 2005).

While Chief Justice Hunter participated in the consideration of whether to grant the appeal and stay in this matter, the Chief Justice exercised her discretion to voluntarily recuse herself to avoid the appearance of impropriety. There should be no doubt that a decision in this matter is not influenced by the potentiality of personal considerations and therefore the Chief Justice voluntarily recuses herself due to the fact that the Chief Justice was also the subject of a recall request at the same General Council as the appellants.

The nature of the case is a challenge to what procedures are applicable in a recall of a Legislator by the HCN General Council. The appellants suggests that there are important facts that undermine the validity of the tribal wide versus district wide vote for recall. The Supreme Court found that the appellant has met the preliminary burden. The case is remanded directly to the HCN Trial Court to conduct a fact-finding hearing on the disputed issues regarding voting at General Council. The Trial Court is to make a complete factual record.



Trial Court

Child Support

OCTOBER 7, 2005

State of WI – Sauk Co. v. Francina I. Williams, CS 05-86. (Matha, T).

OCTOBER 14, 2005

Kitty Khamphouy v. Charles Fox, CS 05-87. (Gouty-Yellow, T).

OCTOBER 18, 2005

Carissa L. Drake v. Cody A. Winters, CS 05-88. (Matha, T).

Amanda M. Rosio v. Cody A. Winters, CS 05-89. (Matha, T).

OCTOBER 19, 2005

Maricella Guevara v. Gregory P. Littlegeorge, CS 05-90. (Matha, T).

OCTOBER 21, 2005

State of Wisconsin v. Justin C. Decora, CS 05-91. (Gouty-Yellow, T).

State of Wisconsin v. Larry V. Garvin II, CS 05-92. (Matha, T).

Michelle M. Spatz v. Michael J. Radke, CS 05-93. (Gouty-Yellow, T).

OCTOBER 28, 2005

State of Wisconsin v. Faye L. Greengrass, CS 05-94. (Matha, T).

State of Wisconsin v. Buffy M. Garvin, CS 05-95. (Gouty-Yellow, T).

NOVEMBER 10, 2005

Tara J. Hilsenhoff v. Neil B. Greengrass Starr, CS 05-96. (Gouty-Yellow, T).

Civil Garnishment

OCTOBER 7, 2005

Recent Filings

Greater LaCrosse Radiological v. Stephanie Littlegeorge, CG 05-99. (Matha, T).

NCO Attorney Network v. Angie Shegonee, CG 05-100. (Matha, T).

Credit Acceptance Corporation v. George L. Dahlgren, CG 05-101. (Matha, T).

Creditor Recovery Service v. Mary Locey, CG 05-102. (Matha, T).

Creditor Recovery Service v. Tina Habert, CG 05-103. (Matha, T).

NCO Attorney Network Services v. Esther M. Wolfe n/k/a Young Thunder, CG 05-104. (Matha, T).

OCTOBER 14, 2005

Cottonwood Financial Services v. Audrey Goodbear, CG 05-105. (Matha, T).

NCO Attorney Network v. Kristina A. Littlewolf, CG 05-106. (Matha, T).

OCTOBER 17, 2005

Alliance Collection Service Inc. v. Sheila L. Cleveland, CG 05-107. (Matha, T).

OCTOBER 19, 2005

Gundersen Clinic, Ltd. v. Troy & Tara Swallow, CG 05-108. (Matha, T).

Mile Bluff Clinic v. John & Cynthia Kellerman, CG 05-109. (Matha, T).

OCTOBER 24, 2005

Cottonwood Financial Services v. Melissa Thunder, CG 05-110. (Matha, T).

Gundersen Clinic, Ltd. v. Gregory D. & Barbara Gromoff, CG 05-111. (Matha, T).

OCTOBER 28, 2005

Black River Memorial v. Alberta E. & Keith Decorah, CG 05-112. (Matha, T).

NOVEMBER 10, 2005

Creditor Recovery Service, LLC v. Ivory Kelly, CG 05-113. (Matha, T).

Discover Financial Services v. Troy E. Swallow, CG 05-114. (Matha, T).

NCO Attorney Network v. Preston Thompson, CG 05-115. (Matha, T).

NOVEMBER 15, 2005

Rebecca Hopinkah v. William Hopinkah, CG 05-116. (Matha, T).

Alliance Collection Agencies v. Betty Granger, CG 05-117. (Matha, T).

Alliance Collection Agencies v. Lawrence Walker, CG 05-118. (Matha, T).

Creditor Recovery Service v. Dana Kaddatz, CG 05-119. (Matha, T).

NOVEMBER 28, 2005

Quick Cash Loans v. Jeffrey Dayton, CG 05-120. (Matha, T).

Dr. William Christian v. Jack Peterson, CG 05-121. (Matha, T).

NOVEMBER 29, 2005

Martin's School of Hair Design of Oshkosh, Ltd. v. Tasheena R. Cloud, CG 05-122. (Matha, T).

Creditor Recovery Service v. Missy J. Redcloud, CG 05-123. (Matha, T).

Civil Cases

OCTOBER 6, 2005

Forrest Funmaker et al. v. Alvin Cloud et al., CV 05-86. (Matha, T).

OCTOBER 13, 2005

In the Interest of Minor Children: E.S.M., DOB 07/29/92; M.M., DOB 07/14/95; C.M., DOB 01/13/98, by Angela R. Mike v. Ho-Chunk Nation Enrollment Department, CV 05-87. (Gouty-Yellow, T).

Ho-Chunk Nation Home Ownership Program v. Troy Nakai, CV 05-88. (Gouty-Yellow, T).

OCTOBER 14, 2005

Forrest Funmaker et al. v. Gail Rave, CV 05-89. (Gouty-Yellow, T).

Ona Garvin v. Ho-Chunk Nation Election Board & Mary Ellen Dumas, CV 05-90. (Gouty-Yellow, T).

Thomas Quimby v. Ho-Chunk Nation, CV 05-91. (Gouty-Yellow, T).

OCTOBER 21, 2005

In the Interest of Minor Children: T.A.C., DOB 10/31/87; T.A.C., DOB 02/19/90; R.G.C., DOB 07/27/92, by June White Thunder v. Ho-Chunk Nation Enrollment Department, CV 05-92. (Matha, T).

Dallas White Wing v. Ho-Chunk Nation General Council et al., CV 05-93. (Gouty-Yellow, T).

OCTOBER 31, 2005

In the Interest of: C.J.S., DOB 09/25/86, by Cary Smith v. Ho-Chunk Nation Enrollment Department, CV 05-94. (Matha, T).

NOVEMBER 3, 2005

Ho-Chunk Nation Property Management v. Evans Littlegeorge Jr., CV 05-95. (Matha, T).

Ho-Chunk Nation Property Management v. Henry Pine, CV 05-96. (Matha, T).

Ho-Chunk Nation Property Management v. Adriane Walker, CV 05-97. (Matha, T).

Ho-Chunk Nation Property Management v. Janine Lonetree-McCasey, CV 05-98. (Matha, T).

NOVEMBER 14, 2005

In the Interest of Minor Child: J.R.H., DOB 05/19/05, CV 05-99. (Matha, T).

NOVEMBER 15, 2005

In the Interest of: J.M.L., DOB 01/24/86, CV 05-100. (Matha, T).

NOVEMBER 21, 2005

In the Interest of Decedent: Justin Contreras, CV 05-101. (Gouty-Yellow, T).

NOVEMBER 22, 2005

In the Interest of Minor Child: G.F., DOB 03/01/93 by Mary Fletcher v. Ho-Chunk Nation Enrollment Department, CV 05-102. (Gouty-Yellow, T).

Crocketts Resort v. Michael Day, CV 05-103. (Gouty-Yellow, T).

NOVEMBER 28, 2005

Robert Gerhartz v. Ho-Chunk Nation Gaming Commission, CV 05-104. (Gouty-Yellow, T).

Juvenile

OCTOBER 11, 2005

In the Interest of M.M.M., DOB 12/18/01, CS 05-25. (Gouty-Yellow, T).

OCTOBER 31, 2005

In the Interest of M.J.B., DOB 11/01/02, CS 05-26. (Matha, T).

In the Interest of E.B., DOB 09/01/04, CS 05-27. (Matha, T).

NOVEMBER 10, 2005

In the Interest of A.P.H., DOB 08/26/05, CS 05-28. (Gouty-Yellow, T).

NOVEMBER 23, 2005

In the Interest of V.M.B., DOB 06/26/89, CS 05-29. (Gouty-Yellow, T).

In the Interest of M.L.E.B., DOB 05/18/90, CS 05-30. (Gouty-Yellow, T).

In the Interest of D.J.B., DOB 09/21/99, CS 05-31. (Gouty-Yellow, T).

Domestic Violence

NOVEMBER 7, 2005

Ruth Funmaker v. James Alan Funmaker, DV 05-04. (Gouty-Yellow, T).

Supreme Court

NOVEMBER 8, 2005

Dallas Whitewing v. Ho-Chunk Nation General Council et al., SU 05-10 .

NOVEMBER 10, 2005

Ona Garvin v. Ho-Chunk Nation General Council et al., SU 05-11.



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

Supreme Court—Mary Jo B. Hunter, Chief Justice
 Mark D. Butterfield, Associate Justice
 Dennis Funmaker, Associate Justice
 Traditional Court – Earl 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 – Todd R. Matha, Chief Judge
 Tina Gouty-Yellow, Associate Judge Pro
 Tempore
 Clerk of Court, Trial Court – Marcella Cloud
 Assistant Clerk of Court, Trial Court – Selina Joshua
 Bailiff/Process Server – Albert Carrimon
 Administrative Assistant – Jessi Cleveland
 Staff Attorney – Amanda R. Cornelius
 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 Judiciary Fee Schedule

Filing Fees

- Complaint.....\$50.00
- Petition for Release of Per Capita Distribution (Children’s Trust Fund)\$50.00
- Motion to Appear Pro Hac Vice.....\$35.00
- Appellate Filing Fee.....\$50.00
- Petition to Register and Enforce Foreign Judgment/Order\$20.00
- Marriage License Fee.....\$50.00

Court Fees

Copying\$0.10/page
 Faxing\$0.25/page (sending & receiving)
 CD of Hearings\$12.50/CD
 Deposition Videotape\$10.00/tape
 Certified Copies.....\$0.50/page
 Equipment Rental\$5.00/hour
 Admission to Practice\$50.00

Legal Citation Forms

The following are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution

Constitution, Article Number, Section, Subsection.
 HCN CONST., Art. II, Sec. (or §) 1(a).

Ho-Chunk Nation Code

Ordinance/Act Name Title Number HCC Section.
 ELDER PROTECTION ACT, 4 HCC § 1.
 EMPLOYMENT RELATIONS ACT, 6 HCC § 5.
 (for detailed citation information consult LEGISLATIVE ORGANIZATION ACT, 2 HCC § 11.36)

HCN Supreme Court Case Law

Case Name, Case Number (HCN S. Ct., month, day, year).
Johnson v. Department Inc., SU 96-21 (HCN S. Ct., Aug. 14, 1996).

HCN Trial Court Case Law

Case Name, Case Number (HCN Tr. Ct., month, day, year)
Jane Doe v. Bob Smith, CV 99-01 (HCN Tr. Ct., Nov. 1, 1999).

Ho-Chunk Nation Rules of Civil Procedure

HCN R. Civ. P. 19(B)



Rule 63. **Judicial Review of Administrative Adjudication.**

(A) Any person aggrieved by a final agency decision may request that the Ho-Chunk Nation Trial Court review such decision by filing a *Petition for Administrative Review* with the Court within thirty (30) calendar days of such decision, unless otherwise provided.

(1) The following laws provide for filing within thirty (30) days:

- (a) Employee Relations Act of 2004
- (b) Ho-Chunk Nation Insurance Review Commission Ordinance
- (c) Ho-Chunk Nation Tribal Employment Rights Ordinance

(2) The following laws provide for filing within forty-five (45) days:

- (a) Gaming Ordinance

(3) The following laws provide for filing within one hundred and eighty (180) days:

- (a) Tribal Enrollment and Membership Act

(B) The *Petition for Administrative Review* shall identify the petitioner making the request by name and address. The *Petition for Administrative Review* must also contain a concise statement of the basis for the review, *i.e.*, reason or grounds for the appeal, including a request to supplement the evidentiary record pursuant to *HCN R. Civ. P.* 63(D)(1)(a-b), if applicable. The statement should include the complete procedural history of the proceedings below. The petitioner must attach a copy of the final administrative decision to the *Petition for Administrative Review*.

(C) The petitioner shall file copies of the *Petition for Administrative Review* upon all parties to the action. The petitioner shall promptly file *Proof of Service* with the Court.

(D) The commission or board, designated as the respondent, must transmit the administrative record to the Court within fifteen (15) days after receipt of the *Petition for Administrative Review*. The administrative record shall constitute the sole evidentiary record for judicial review of the agency decision, unless the petitioner avails him or herself of the following exception:

(1) The petitioner may request an opportunity to supplement the evidentiary record within an Employee Grievance Review Board appeal, provided that the petitioner demonstrates that the Board:

- (a) excluded relevant evidence as defined by the *Federal Rules of Evidence*, Rule 401; or
- (b) failed to consider evidence that could not reasonably have been discovered prior to the Employee Grievance Review Board hearing.

(E) Within thirty (30) calendar days of filing the *Petition for Administrative Review*, the petitioner shall file a written brief, unless the petitioner has sought an evidentiary modification pursuant to *HCN R. Civ. P.* 63(D)(1)(a-b). The respondent shall have thirty (30) calendar days after receipt of the brief within which to file

a *Response Brief*. After receipt of respondent's *Response Brief*, the petitioner may file the *Reply Brief* within ten (10) calendar days.

(1) If the petitioner alleges one of the conditions stated in *HCN R. Civ. P. 63(D)(1)(a-b)*, then the Court shall convene a hearing to determine whether to include supplemental evidence in the administrative record. The Court shall announce the briefing schedule, which shall resemble the schedule set forth in *HCN R. Civ. P. 63(E)*, in a written decision after the hearing.

(F) The administrative record shall consist of all evidence presented to the agency, including, but not limited to:

(1) admitted exhibits, including an explanation for refusing any offered exhibits;

(2) a transcript of the proceedings, which may be in digital or other electronically recorded format, sufficiently clear so that the Court may determine what transpired in the proceedings;

(3) any other material relied on by the agency in making its determination; and/or

(4) any supplemental evidence received pursuant to *HCN R. Civ. P. 63(D)(1)(a-b)*.

(G) At the discretion of the Trial Court, the Court may require an oral argument. The Trial Court shall decide the order of the presentation, the length of time each party is permitted for their presentation, the issues to be addressed in oral argument, and such other matters as may be necessary. An order entitled, *Notice of Oral Argument*, shall include all such matters and shall be served on all parties at least ten (10) calendar days prior to the date set for argument.

(H) The Trial Court shall decide all cases upon the administrative record, briefs, memoranda and statements filed plus the oral argument, if heard.

(I) The Trial Court shall not set aside or modify any agency decision, unless it finds that the decision was arbitrary and capricious, unsupported by substantial evidence or contrary to law, with the following exception:

(1) The Employee Relations Act of 2004 mandates that the Trial Court may only set aside or modify a Board decision if it was arbitrary and capricious.

(J) The Trial Court shall issue a final written decision within ninety (90) calendar days after the conclusion of oral argument. If no oral argument is held, the timeframe for issuance of a decision begins after the expiration of time to file a *Response Brief* or *Reply Brief*, whichever is longer.

(K) Either party may appeal the Trial Court's decision to the Ho-Chunk Nation Supreme Court.