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HO-CHUNK NATION COURT BULLETIN

2005 GENERAL COUNCIL ACTIONS

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On September 17, 2005, the Ho-Chunk Nation General Council held its annual meeting at the La Crosse Convention Center, La Crosse, Wisconsin. The General Council adopted twelve (12) out of nineteen (19) resolutions it considered. Many of the resolutions state a policy that the General Council wants the Legislature to consider. The Attorney General traditionally prepares an opinion for the Legislature about each General Council Resolution. The purpose of the opinion is to assist the Legislature determine what type of action, if any can be taken on the resolutions.

No opinions are rendered on resolutions that failed to be adopted. The defeat of a resolution does not mean that the opposite meaning of the resolution was adopted. Opinions on resolutions requesting a Secretarial Election do not include opinions regarding constitutionality since the resolution requests changes in the Constitution. Finally, when a resolution is deemed unconstitutional, no action by the Legislature is required.

Each resolution voted upon by the Ho-Chunk Nation General Council is described below, with analysis for each resolution that was adopted. The resolution question is stated, as well as the vote totals. A detailed explanation follows of the constitutional powers of the General Council.

Policy Setting Power

The General Council articulates its wishes by voting on policy. A policy is not a law, and can only be carried out by enactment of law by the Legislature.

Power to Return Acts to the Legislature for Reconsideration

The reversal of the action requires no enactment of law. However, the reversal requires a return to the Legislature for reconsideration consistent with the action of the General Council.

Power to Set Own Procedures

Requires no enactment of law. Takes effect upon vote of the General Council.

Special Recall Election

Requires no enactment of law. Unless otherwise ordered by the court, takes effect upon the vote of the General Council. The Election Board shall hold a Special Election not less than thirty (30) days and not more than ninety (90) days from the date of the General Council request. If the Election Board fails to hold such Special Election within ninety (90) days, any eligible voter of the Nation may request the Tribal Court to order such Special Election. In any Special Election, no more than three (3) persons shall be subject to recall vote.

Removal Power

Requires no enactment of law. Takes effect upon vote of the General Council unless otherwise ordered by the Court.

Power to Propose Amendments to the Constitution by Calling for a Secretarial Election

In the absence of clear direction by the General Council, there are a number of ways in which a request for a Secretarial Election can be made. Art. XIII, Sec. 2 provides that, "[i]t shall be the duty of the Secretary of the Interior to call and

hold an election on any proposed amendment to this Constitution at the request of two thirds (2/3) of the entire Legislature, at the request of the General Council, or upon presentation of a petition signed by thirty (30) percent of the eligible voters of the Ho-Chunk Nation." When the General Council makes the request, the Secretary of the General Council can forward the request, or the Legislature or Office of the President can forward the request as a courtesy and in acknowledgment of the will of the People of the Ho-Chunk Nation.

Alternatively, the Legislature by two thirds (2/3) vote can make the request and have it forwarded to the Department of the Interior. The Legislature can also direct that the Secretary of the General Council or the President forward the General Council request for special election to the Department of the Interior. Typically, the request is not forward to the Secretary of the Interior, until after the Legislature has reviewed the General Council actions. Once a request for special election is received, the Secretary of the Interior may exercise his/her discretion in deciding whether some, all, or none of the proposed election questions have adequate language for an election. The Department of the Interior also has guidelines for dealing with conflicting proposals to amend a single constitutional provision.

2005 **GENERAL COUNCIL** **ANALYSIS**

9/17/05A General Council Request For Special Election Establishment of Office of General Council.

No action is necessary because this resolution was defeated.

"Shall the Ho-Chunk Nation request a Secretarial Election for the Establishment of General Council Office?" There were 1058 votes cast, and the resolution was DEFEATED by a vote of 189 (17.8%) Yes or Accept, 792 (74.8%) No or Reject, and 78 (7.4%) Abstain. See Audio Response Systems, Combined Report, Question 6, page 2.

9/17/05B Ho-Chunk General Council Branch Policy, Function and Organization.

Part policy that can be enabled through legislation/Part outside the Scope of Power of the General Council.

To the extent that this resolution directs the Legislature to appropriate funds for specific line items, the Resolution exceeds the scope of power of the General Council. Art. III, Section 3 of the Ho-Chunk Nation Constitution provides that "[n]o branch of the government shall exercise the powers and functions delegated to another branch." Art. V, Section. 2 (d) further provides that "[t]he legislature shall have the power: ... (d) To authorize expenditures by law and appropriate funds to the various Departments in an annual budget;..."

However, Art. V, Section 13 also requires that "[t]he Legislature shall enact an annual budget. The budget shall include an appropriation of operating funds for each branch of the government." Thus, the Legislature cannot fail to fund the General Council, but the level of funding and the lines of funding are powers of the Legislature. Delegate [sic] power and responsibility to the new General Council Agency. The question is whether the HCN General Council has the power under the HCN Constitution to make such a delegation. Article IV, Section 2 of the Constitution is entitled "Delegation of Authority." This Article only delineates a delegation from the General Council to the Legislative Branch, Executive Branch and Judicial Branch. If no other method of delegation is stated, the issue is whether the delegation to the General Council Agency violates the Constitution.

Another issue with Resolution C is whether the General Council's creation of the Agency violates the Separation of Functions clause at Article III, Section 3 of the Constitution. The provisions in the resolution marked as "Procedure - Operations," describing the General Council Agency, partially sets terms and conditions of employment for members of the agency. On its face, this infringes on a power given to the HCN Legislature in Article V, Section 2(f).

"Shall the General Council adopt the General Council Branch Policy Function and

Organization plan?" There were 1087 votes cast, and the resolution **PASSED** with a vote of 726 (66.8%) Yes or Accept, 222 (20.4%) No or Reject, and 139 (12.8%) Abstain. See Audio Response Systems, Combined Report, Question 8, page 2. Chairperson Cloud agreed: "1,087 responses, 726 said yes, 222 rejected, abstained 139 abstain, Resolution passes." Meeting Transcript at page 44.

9/17/05C Request For Secretarial Election-Balanced Budget.

No action is necessary because this resolution was defeated.

"Shall the Ho-Chunk Nation request a Secretarial Election to amend Article VI, Section 2(c)?" There were 1021 votes cast, and the resolution was **DEFEATED** by a vote of 406 (39.8%) Yes or Accept, 384 (37.6%) No or Reject, and 231 (22.6%) Abstain. See Audio Response Systems, Combined Report, Question 9, page 2.

9/17/05D Request For Secretarial Election-Supreme Court Justices Qualifications.

Requires forwarding to the Secretary of Interior.

This resolution proposes to amend the HCN Constitution to require that the Chief Justice of the Supreme Court shall be a member of the Ho-Chunk Nation. "Shall the Ho-Chunk Nation request a Secretarial Election to amend Article VIII, Section 8(a)?" There were 1035 votes cast, and the resolution **PASSED** with a vote of 559 (54%) Yes or Accept, 376 (36.3%) No or Reject, and 100 (9.7%) Abstain. See Audio Response Systems, Combined Report, Question 10, page 3.

9/17/05E Request For Secretarial Election-Legislative Term Limits.

No action is necessary because this resolution was defeated.

"Shall the Ho-Chunk Nation request a Secretarial Election to amend Article V, Section 6?" There were 1052 votes cast, and the resolution was **DEFEATED** by a vote of 512 (48.7%) Yes or Accept, 410 (39%) No or Reject, and 130 (12.4%) Abstain. See Audio Response Systems, Combined Report, Question 12, page 3.

**9/17/05F Request For Secretarial Election-
Presidential Term Limits.**

No action is necessary because this resolution was defeated.

There were 1031 votes cast, and the resolution was **DEFEATED** by a vote of 499 (48.4%) Yes or Accept, 399 (38.7%) No or Reject, and 133 (12.9%) Abstain. See Audio Response Systems, Combined Report, Question 13, page 3.

**9/17/05G: Request for Secretarial Election-
Election of Tribal Court Judges**

Requires forwarding to the Secretary of Interior.

This resolution proposes to amend the HCN Constitution to require the election of Trial Court Associate Judges, including the Chief Judge, instead of having the Legislature make such appointments. The Resolution also sets forth qualifications, which would seem more appropriate as an amendment to Art. VII, Section 8, Qualifications. The resolution also sets forth language about the terms of office, which would seem more appropriate as an amendment to Art. VII, Section 9, Terms of Office. Finally, the proposed amendment contains language about recall and removal, but this contingency is already addressed in Art. IX of the Constitution. For these reasons, the Secretary of Interior may deem the request improperly drafted and decline to place the question on a ballot.

Art. VII, Section 11 currently states: "Appointment of Trial Court Judges. The Legislature shall appoint a Chief Judge and any Associate Judges to the Trial Court." This resolution proposes to delete and recreate Art. VII, Section 11, as follows: "**Election of Trial Court Judges. The Chief Trial Court Judge and any Associate Judges to the Trial Court shall be elected by a majority vote of the eligible voters of the Ho-Chunk Nation in accordance with the General Election provisions in Article VIII, Section 1 unless otherwise provided. All candidates shall be a member of the Ho-Chunk Nation. The Trial Court Judges shall serve staggered four (4) year terms and shall serve until a successor has been sworn into office except if the Trial Court Judge has been successfully removed, the Legislature may**

appoint an Interim Trial Court Judge, until a successor has been sworn into office."

"Shall the Ho-Chunk Nation request a Secretarial Election to amend Article VII, Section II?" There were 1075 votes cast, and the resolution **PASSED** with a vote of 627 (58.3%) Yes or Accept, 319 (29.7%) No or Reject, and 129 (12%) Abstain. See Audio Response Systems, Combined Report, Question 14, page 4.

**9/17/05H Request For Secretarial Election-
Presidential Veto Authority.**

Requires forwarding to the Secretary of Interior.

This resolution proposes to amend Art. V, Section 2(i), by adding the highlighted language: "To negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals, subject to a Presidential Veto. The Legislature may overturn any Presidential Veto, by a % majority vote at which time it becomes law." The wording of this resolution is problematic. If the intent was to grant the President veto authority over a broad array of actions of the Legislature, including ordinances and budgets, the resolution, if it were to be adopted, does not accomplish this purpose. As written, Presidential veto authority is limited to Legislative action with regard to "treaties, compacts, contracts, and agreements with other governments, organizations, or individuals."

"Shall the Ho-Chunk Nation request a Secretarial Election to amend Article V, Section 2(i)?" There were 1033 votes cast, and the resolution **PASSED** with a vote of 547 (53%) Yes or Accept, 351 (34%) No or Reject, and 135 (13.1%) Abstain. See Audio Response Systems, Combined Report, Question 15, page 4.

**9/17/05I Request For Secretarial Election-
Presidential Veto.**

Requires forwarding to the Secretary of Interior.

This resolution proposes to amend Art. VI, Section 2(a), by adding the highlighted language to the Powers of the President: "To execute and administer the laws of the Ho-Chunk Nation, **including the right to veto any action of the**

Legislature unless overturned by the Legislature pursuant to Article V, Section 2 (i)."

This resolution assumes the adoption of Resolution H, and makes no sense without its adoption. However, Resolution H proposes a much narrower Presidential veto authority than the Resolution. Therefore, if Resolution H and I were both adopted, a conflict would be created.

This is an instance where the order in which requests are submitted to the Secretary of the Interior from the Ho-Chunk Nation is important because of the process the Department of Interior uses to address conflicting proposals. "In those instances where conflicting proposals to amend a single constitutional or charter provision are submitted, that proposal first received by the officer in charge, if found valid, shall be placed before the voters before any consideration is given other proposals." 25CFR81.5(g)

"Shall the Ho-Chunk Nation request a Secretarial Election to amend Article VI, Section 2(a)?" There were 1065 votes cast, and the resolution **PASSED** with a vote of 662 (62.2%) Yes or Accept, 302 (28.4%) No or Reject, and 101 (9.5%) Abstain. See Audio Response Systems, Combined Report, Question 16, page 4.

9/17/05J Request For Secretarial Election-Balanced Budget.

No action is necessary because this resolution was withdrawn.

This resolution proposed to amend Art. V of the HCN Constitution. According to the minutes of the General Council Secretary, this resolution was **WITHDRAWN**.

9/17/05K Anonymous Enrollment Challenge Special Election-Bill of Rights.

Policy that can be enabled through legislation.

"Shall the General Council institute a policy allowing for anonymous enrollment challenges?" There were 1138 votes cast, and the resolution **PASSED** with a vote of 817 (71.8%) Yes or Accept, 268 (23.6%) No or Reject, and 53 (4.7%) Abstain. See Audio Response Systems, Combined Report, Question 17, page 4.

9/17/05L Liability for Wrongful Termination of an Employee.

Outside the Scope of Power of the General Council.

Resolution L states: "NOW THEREFORE BE IT RESOLVED that the General Council of the Ho-Chunk Nation sets the policy making managers and supervisors of the Ho-Chunk Nation financially liable for employees that are wrongfully terminated." However, Art. IV, Section 4 or the Constitution provides that "[t]he General Council does not retain the power to review actions relating to the hiring or firing of personnel." This resolution infringes on the President's power to hire and fire; therefore it is outside the scope of authority of the General Council.

Additionally, Article XII extends sovereign immunity to "officials and employees of the Ho-Chunk Nation acting within the scope of their duties " Moreover, "[o]fficials and employees of the Ho-Chunk Nation who act beyond the scope of their duties or authority shall be subject to suit in equity only for declaratory and non-monetary injunctive relief in Tribal Court " Resolution L, therefore, is outside the scope of power of the General Council.

"Shall the General Council establish a policy holding management personally liable for wrongful termination?" There were 1179 votes cast, and the resolution **PASSED** with a vote of 644 (54.6%) Yes or Accept, 450 (38.2%) No or Reject, and 85 (7.2%) Abstain. See Audio Response Systems, Combined Report, Question 18, page 5.

9/17/05M Dissolution of the General Council Planning Committee.

Reversal of Action of the Legislature and Return to the Legislature for Reconsideration

Consistent with the Action of the General Council. This resolution is linked to Resolution B, so the Legislature should consider both resolutions together. One issue with this resolution is that it attempts to do two things simultaneously. First, it attempts to review and reverse a prior action of the Legislature. Second, it dissolves IHCC § 15, titled Ho-Chunk Nation Planning Committee Establishment Act. The problem is with the General Council's second action - dissolving the law itself. Under the Constitution, the Legislature holds the

law-making function. The Legislature created the Planning Committee by law, so it can only be "dissolved" by legislative enactment. Thus, the General Council arguably exercises legislative functions by dissolving the Planning Committee in Resolution M.

The General Council's first action, however, is permissible. The General Council certainly can review and reverse actions of the Legislature under Article IV, Section 3(b). However, the effect is not invalidation or dissolution of the particular law. Rather, it is to "return such reversals to the Legislature for reconsideration consistent with the action of the General Council." *See* Art. IV, Sec. 3(b). "Shall the General Council abolish the General Council Planning Committee?" There were 1007 votes cast, and the resolution **PASSED** with a vote of 546 (54.2%) Yes or Accept, 358 (35.6%) No or Reject, and 103 (10.2%) Abstain. *See* Audio Response Systems, Combined Report, Question 19, page 5.

9/17/05N Resolution to Recall Representative Dallas White Wing, District III.

Requires no enactment of law, but does require action by the Election Board, unless otherwise ordered by the court.

"Shall the General Council recall legislator Dallas White Wing and direct the Election Board to conduct a special election?" There were 1071 votes cast, and the resolution **PASSED** with a vote of 624 (58.3%) Yes or Accept, 342 (31.9%) No or Reject, and 105 (9.8%) Abstain. *See* Audio Response Systems, Combined Report, Question 20, page 5.

9/17/05O Resolution to Recall Representative Ona White Wing Garvin, District IV.

Requires no enactment of law, but does require action by the Election Board, unless otherwise ordered by the court.

"Shall the General Council recall legislator Ona Garvin and direct the Election Board to conduct a special election?" There were 1142 votes cast, and the resolution **PASSED** with a vote of 617 (54%) Yes or Accept, 431 (37.7%) No or Reject, and 94 (8.2%) Abstain. *See* Audio Response Systems, Combined Report, Question 21, page 5.

9/17/05P Resolution to Recall Chief Justice Mary Jo B. Hunter.

No action is necessary because this resolution was defeated.

The resolution was declared defeated by the presiding officer of the General Council, Alvin Cloud. The transcript of the meeting states: "501 and 402, and 182. Okay, this one didn't make it by 43 votes, you needed 543 and you got 501. So this one fails." Transcript at page 108-109. Presumably Chairman Cloud referenced the tabulation information that was collected and contained in the Combined Report, cited below.

"Shall the General Council recall Chief Justice Mary Jo B. Hunter and direct the Election Board to conduct a special election?" There were 1085 votes cast, and the resolution was **DEFEATED** by a vote of 501 (46.2%) Yes or Accept, 402 (37.1%) No or Reject, and 182 (16.8%) Abstain. *See* Audio Response Systems, Combined Report, Question 22, page 6.

9/17/05Q Resolution to Recall President George Lewis.

No action is necessary because this resolution was defeated.

This resolution was declared defeated by the presiding officer of the General Council, Alvin Cloud. The transcript of the meeting states: "547 yes, 507 no, and 73 abstained. The response was from 1,127 votes. That's less than half. Didn't make it." Transcript at page 137.

"Shall the General Council direct the Election Board to conduct a special election for the recall of President George Lewis?" There were 1127 votes cast, and the resolution was **DEFEATED** by a vote of 547 (48.5%) Yes or Accept, 507 (45%) No or Reject, and 73 (6.5%) Abstain. *See* Audio Response Systems, Combined Report, Question 23, page 6.

9/17/05R Request For Secretarial Election-General Council Policy Authority.

Requires forwarding to the Secretary of Interior.

This resolution proposes to amend Art. IV, Section 3(a), by adding the highlighted language. "The General Council retains the power to set

policy for the Nation. **This policy shall be resolutions proposed and approved at Annual Meeting and Special Meetings, by a majority vote of the qualified voters of the Ho-Chunk Nation General Council. This policy shall be made into laws, including codes, ordinances, resolutions and statutes by the Legislative Branch of the Ho-Chunk Nation within forty-five (45) days after a majority vote of the qualified voters of the Ho-Chunk Nation General Council at Annual Meetings and Special Meetings. The Executive Branch shall enforce this policy within sixty (60) days of the majority vote of the qualified voters of the Ho-Chunk Nation General Council. In the event that this policy is not enacted by the Legislative Branch or enforced by the Executive Branch within fifteen (15) days of the aforementioned deadlines, the Ho-Chunk Nation General Council shall file suit in the Ho-Chunk Nation Tribal Court against elected officials of the Ho-Chunk Nation Branch of government in violation of this section of the Constitution. The Supreme Court of the Ho-Chunk Nation shall and must grant certiorari within fifteen (15) days of filing date of suit."**

This resolution proposes to amend the HCN Constitution to grant more authority to the General Council. The language is not consistent with the current format of the Constitution. More comprehensive drafting is required to achieve the apparent intent of this resolution. For these reasons, the Secretary of Interior may deem the request improperly drafted and decline to place the question to a ballot.

"Secretarial Election to amend Article IV, Section 3(a)?" There were 948 votes cast, and the resolution **PASSED** with a vote of 501 (52.8%) Yes or Accept, 257 (27.1%) No or Reject, and 190 (20%) Abstain. See Audio Response Systems, Combined Report, Question 24, page 6.

9/17/05S Request For Secretarial Election-Sovereign Immunity.

Requires forwarding to the Secretary of Interior.

This resolution proposes to amend Art. XII, Section 1, by adding the highlighted language. "The Ho-Chunk Nation shall be immune from suit

except to the extent that the Legislature expressly waives its sovereign immunity, and officials and employees of the Ho-Chunk Nation acting within the scope of their duties or authority shall be immune from suit. **Except suits brought in under Article IV, Section 3(a)."**

This resolution assumes the adoption of Resolution R, and makes no sense without its adoption. This is an instance where the order in which requests are submitted to the Secretary of the Interior from the Ho-Chunk Nation is important because of the process the Department of Interior uses to address conflicting proposals. "In those instances where conflicting proposals to amend a single constitutional or charter provision are submitted, that proposal first received by the officer in charge, if found valid, shall be placed before the voters before any consideration is given other proposals." 25CFR81.5(g)

"Shall the Ho-Chunk Nation request a Secretarial Election to amend Article XII, Section I?" There were 948 votes cast, and the resolution **PASSED** with a vote of 500 (52.7%) Yes or Accept, 251 (26.5%) No or Reject, and 197 (20.8%) Abstain. See Audio Response Systems, Combined Report, Question 25, page 6.



ASSOCIATE JUDGE **PRO TEMPORE** **RELEASED FROM** **EMPLOYMENT**

On December 7, 2005, the Ho-Chunk Nation Legislature rescinded the resolution that confirmed Attorney Tina F. Gouty-Yellow's January 2, 2006 appointment to the position of Associate Judge. HCN LEG. RES. 12-07-05A. Attorney Gouty-Yellow served her last day as Associate Judge *Pro Tempore* on December 30, 2005. The Legislature posted the vacant position on January 18, 2006. During the interim, Chief Judge Todd R. Matha is handling both the Chief Judge and Associate Judge

caseload with the following exception: on or after January 12, 2006, the Court appointed *Pro Tempore* Judges to preside over twelve (12) cases.



UPDATES FROM OUTSIDE COURTS

United States Supreme Court

Wagnon et al. v. Prairie Band Potawatomi Nation, 126 S. Ct. 676 (December 6, 2005).

Prairie Band Potawatomi Nation sued the Secretary of the Kansas Department of Revenue, seeking declaratory and injunctive relief that the collection of Kansas motor fuel taxes from distributors, which delivered fuel to the Nation's reservation was invalid. Upon the grant of a writ of certiorari, the Secretary appealed the judgment of the Tenth Circuit Court of Appeals. The Secretary contended that under Kansas statute, the Kansas motor fuel tax was properly applied to the receipt of fuel by off-reservation non-Indian distributors who subsequently delivered it to a gas station owned by and located on the reservation of the Nation. The Nation argued that the legal incidence of the tax improperly fell on the Nation on the reservation, and the propriety of the tax required a balancing of the parties' interests. The U.S. Supreme Court held that the tax was a nondiscriminatory tax imposed on an off-reservation transaction between non-Indians and, accordingly, the tax was valid and posed no affront to the tribe's sovereignty. Under Kansas law, it was the distributors, rather than the tribe as the retailer, which were liable for payment of the tax, and thus the distributors bore the incidence of the tax, even though the distributors could pass along the cost of the tax to the tribal retailer. Further, a balancing of state and tribal interests was not required despite the on-reservation sale of the fuel, since it was the off-reservation receipt of the fuel by non-tribal distributors that established tax liability. The Supreme Court held that the categorical bar on imposition of legal incidence of state excise tax on a tribe or tribal member for sales

made within Indian county, without congressional authorization, was not applicable. Furthermore, the *White Mountain Apache Tribe v. Bracker* test is not applicable because it is an interest-balancing test for preemption of state taxation of activity on an Indian reservation, which applies when a state asserts taxing authority over the conduct of non-Indians engaging in activity on a reservation, was not applicable. The judgment holding that collection of the motor fuel tax was impermissible was reversed.

Justice Ginsburg dissented, joined by Justice Anthony Kennedy, arguing that tribal and federal interests in promoting tribal economies outweigh the state's interest in imposing the tax, even if it occurs off the reservation. She stated "[t]he Nation's interests coincide with 'strong federal interests in promoting tribal economic development, tribal self-sufficiency, and strong tribal governments.'"

Joan Wagnon et al. v. Prairie Band Potawatomi Nation, 126 S. Ct. 826 (December 12, 2005).

The U.S. Supreme Court granted a petition filed by the state of Kansas to overturn a 10th Circuit Court of Appeals decision that upheld the tribe's right to issue motor vehicle tags. But rather than hear the dispute, the high court vacated the ruling and remanded the case for further review. The lower courts must reconsider the case in light of *Wagnon v. Prairie Band Potawatomi Nation*, 126 S. Ct. 676 (December 6, 2005). The issues on remand include: (1) whether the interest-balancing test in *White Mountain Apache Tribe v. Bracker* should be applied to preempt state's off-reservation enforcement of its motor vehicle code, and (2) whether the court should abandon the *White Mountain Apache* interest-balancing test in favor of preemption analysis based on principle that Indian immunities are dependent upon congressional intent.

Certiorari pending

Wilbur v. Locke, No. 05-740 (filed December 6, 2005).

Doe v. Mann, No. 05-815 (filed December 19, 2005).

Tenth Circuit Court of Appeals

Fletcher v. United States, Docket No. 04-5112 (10th Cir. 2005).

The plaintiffs are descendants of Osage Indians listed on the tribal rolls at the time of the Osage Allotment Act of 1906. They sued defendants, the U.S. Government and various Government agencies and officials, claiming that defendants violated their right to participate in the Osage government, breached their trust responsibilities, and took their property in violation of the Fifth Amendment to the U.S. Constitution. The 1906 act directed the preparation of a final membership roll of the Osage Tribe. Each individual on the final roll received an interest in the tribal mineral estate. The Osage Allotment Act further provided that the mineral estate would be managed by a tribal council selected at periodic tribal elections in the manner prescribed by the Commissioner of Indian Affairs. The Bureau of Indian Affairs then promulgated regulations limiting voting and holding office to those adult members of the tribe who possessed mineral interests. The district court found that the Osage Tribal Council was a necessary and indispensable party to the lawsuit, and it dismissed the action because the descendants had not joined the Council. The court of appeals noted that Congress passed the Reaffirmation of Certain Rights of the Osage Tribe Act, after the district court entered its judgment, and that the descendants were no longer challenging the district court's dismissal of claims that concerned their voting rights. However, because the district court did not apply *Fed. R. Civ. P. 19* to the descendants' breach of trust and takings claims, the court of appeals could not determine whether an analysis of the Rule 19(b) factors compelled dismissal of the descendants' claims alleging breach of trust and illegal taking for failure to join the Council, and remand was required so the district court could undertake that analysis. The court of appeals vacated the district court's order dismissing the descendants' claims alleging breach of trust and illegal taking, and remanded the case for further proceedings.

Ninth Circuit Court of Appeals

Means v. Navajo Nation, Docket No. 01-17489 (9th Cir. 2005).

After being charged in the tribal court of an Indian reservation with various offenses, Means, sought a writ of habeas corpus enjoining the tribal court from proceeding with the case. The Court of Appeals held that petitioner was not deprived of equal protection or due process by statute that made him subject to the criminal jurisdiction of another tribe's courts for misdemeanors committed on that tribe's reservation.

U.S. District Courts

State of Wisconsin v. Ho-Chunk Nation, Docket No. 05-C-632-S (D. Wis. 2005).

State of Wisconsin brought action, pursuant to provisions of its gaming compact with the Ho-Chunk Nation and Federal Arbitration Act (FAA), for appointment of an arbitrator in dispute arising under Indian Gaming Regulatory Act (IGRA). The Nation ceased conducting additional class III games that were authorized by the amendment and ceased making payments to the State. The Nation contended that the FAA did not extend to contracts between the State and the Nation and that there had not been a lapse in the appointment of an arbitrator. The State moved for immediate appointment of an arbitrator, and the Nation moved to dismiss. The District Court held that it had original jurisdiction in dispute, and the lapse of nearly six months in the process of appointing an arbitrator triggered district court's authority to appoint an arbitrator.

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

DECEMBER 13, 2005

State of Wisconsin and Julia F. Goodbear v. Chebon Bear, CS 02-55 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Dec.13, 2005). (Gouty-Yellow, T.).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

Evangeline Two Crow v. Gregory Harrison; Nela F. Stacy v. Gregory Harrison, CV 97-153; 05-66 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Dec.13, 2005). (Matha, T).

The petitioner in Case No.: CV 97-153 filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

DECEMBER 20, 2005

Carissa L. Drake v. Cody A. Winters; Amanda M. Rosio v. Cody A. Winters, CS 05-88-89, *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Dec. 20, 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.

DECEMBER 21, 2005

Twilah Sherven v. Christopher Kapayou, CS 05-41 *Order (Suspension of Activity)* (HCN Tr. Ct., Dec. 21, 2005). (Matha, T).

The Court has instituted standard procedures for the processing of child support actions. After the filing of a *Petition to Register & Enforce a Foreign Judgment or Order for Child Support*, the Court will confirm the employment status of the respondent through 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. However the Court will refrain from entering a final judgment if the Ho-Chunk Nation does not maintain a continuing employment relationship with the respondent. Instead, the Court will suspend all case file activity and permit the petitioner to file a motion to resume activity if the respondent subsequently resumes employment.

Anna Kingswan v. Anthony Kingswan, CS 05-78, *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Dec. 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.

DECEMBER 22, 2005

Debra Crowe v. Foster D. Cloud; State of Wisconsin/Sauk County, and Dawn E. Potter v. Foster D. Cloud, CV 96-84; 01-12 *Order*

(Modifying and Enforcing Child Support) (HCN Tr. Ct., Dec. 22, 2005). (Matha, T).

The petitioner in Case No.: CV 96-84 filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

Tris Yellowcloud v. Jeffrey A. Link; Charlene Smolinski v. Jeffrey A. Link, CV 97-07, -34 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Dec. 22, 2005). (Gouty-Yellow, T).

The Court notes that a minor child emancipated, and therefore the respondent's obligation for current child support for this child ends when the child turns eighteen (18) years of age. The Court modified the order accordingly.

Jan C. LaCount v. Curtis J. Pidgeon; Debra Peters v. Curtis J. Pidgeon, CS 03-11, -73 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Dec. 22, 2005). (Matha, T).

The petitioner in Case No.: CS 03-11 filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

Roberta J. Yellowcloud v. Donald L. Yellowcloud, Jr.; State of Wisconsin v. Donald L. Yellowcloud, Jr., CS 98-01, 03-38 *Order (Closing Case)* (HCN Tr. Ct., Dec. 22, 2005). (Matha, T).

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

DECEMBER 23, 2005

Melanie Stacy v. Harrison J. Funmaker, CV 96-48 *Order (Modifying Child Support Against Wages)* (HCN Tr. Ct., Dec. 23, 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.

DECEMBER 28, 2005

Marilyn Elizabeth Conto v. Harry David Blackhawk, CV 97-144 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Dec. 28, 2005). (Gouty-Yellow, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

Josephine Shegonee v. Justin C. Decora; State of WI/Jackson Co. v. Justin C. Decora, CS 03-06; 05-91 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Dec. 28, 2005). (Gouty-Yellow, T).

The Court had to determine whether to enforce another 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.

David Posey v. Beverly S. White Eagle, CS 05-34 *Order (Ceasing Withholding Child Support)* (HCN Tr. Ct., Dec. 28, 2005). (Gouty-Yellow, T).

The respondent requested a termination of withholding for current child support and child support arrears in a motion. The respondent submitted a *Stipulation and Order to Amend Judgment*, which stated that the parties agreed to suspend child support and expunge arrears. The Court granted the motion.

Michelle M. Spatz v. Michael J. Radtke, CS 05-93 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Dec. 28, 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.

Lisa A. Banuelos v. Anthony M. Smith, Jr.; Beverly Skenandore v. Anthony Smith, CS 01-05; 05-69 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Dec. 28, 2005). (Gouty-Yellow, T).

The Court had to determine whether to enforce another 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.

DECEMBER 29, 2005

State of WI/Sauk Co. and Eddie Fernandez v. Shannon Nicole Fernandez, CS 02-05 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Dec. 29, 2005). (Gouty-Yellow, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

DECEMBER 30, 2005

Linda Decorah v. Stanley Decorah, CS 05-29 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Dec. 30, 2005). (Gouty-Yellow, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

Marcie Warfield v. Howard Decora, CS 03-76 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Dec. 30, 2005). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.



Civil Garnishment

DECEMBER 6, 2005

Discover Financial Services v. Troy E. Swallow, CG 05-114 Order (Default Judgment) (HCN Tr. Ct., Dec. 6, 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. Preston Thompson, CG 05-115 Order (Default Judgment) (HCN Tr. Ct., Dec. 6, 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.

DECEMBER 13, 2005

Alliance Collection Agencies, Inc. v. Karen L. Roy, CG 05-94 Order (Voluntary Dismissal) (HCN Tr. Ct., Dec. 13, 2005). (Matha, T).

The petitioner sought recognition and enforcement of a foreign money judgment. However, prior to the responsive pleading deadline, the petitioner filed the December 9, 2005 request to dismiss. The petitioner indicated that it "relieved [the respondent] of any further obligation in the ... garnishment." The Court dismissed the case without prejudice.

DECEMBER 14, 2005

Cottonwood Financial, Ltd. d/b/a/ Cash Store v. Audrey Goodbear, CG 05-105 Order (Voluntary Dismissal) (HCN Tr. Ct., Dec. 14, 2005). (Matha, T).

The petitioner sought recognition and enforcement of a foreign money judgment. However, prior to the responsive pleading deadline, the petitioner filed the November 17, 2005 request to dismiss. The petitioner indicated that it "released ... garnishee and discharged [her] from further liability." The Court dismissed the case without prejudice.

Creditor Recovery Service, LLC v. Dana Kaddatz, CG 05-119 Order (Voluntary Dismissal) (HCN Tr. Ct., Dec. 14, 2005). (Matha, T).

The petitioner sought recognition and enforcement of a foreign money judgment. However, prior to the responsive pleading deadline, the petitioner filed the December 14, 2005 request to dismiss. The petitioner indicated that “[t]he account has been paid in full.” The Court dismissed the case without prejudice.

DECEMBER 20, 2005

Alliance Collection Agencies, Inc. v. Betty Granger, CG 05-117 Order (Default Judgment) (HCN Tr. Ct., Dec. 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.

Alliance Collection Agencies, Inc. v. Lawrence Walker, CG 05-118 Order (Default Judgment) (HCN Tr. Ct., Dec. 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. Jeffrey Dayton, CG 05-120 Order (Default Judgment) (HCN Tr. Ct., Dec. 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.

Dr. William Christian v. Jack Peterson, CG 05-121 Order (Default Judgment) (HCN Tr. Ct., Dec. 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.

Martin’s School of Hair Design of Oshkosh, Ltd. v. Tasheena R. Cloud, CG 05-122 Order (Default

Judgment) (HCN Tr. Ct., Dec. 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.

Black River Memorial v. Alberta E. and Keith Decorah, CG 05-112 Order (Default Judgment) (HCN Tr. Ct., Dec. 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.

Creditor Recovery Service, LLC v. Ivory Kelly, CG 05-113 Order (Default Judgment) (HCN Tr. Ct., Dec. 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.

Rebecca Hopinkah v. William Hopinkah, CG 05-116 Order (Default Judgment) (HCN Tr. Ct., Dec. 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.



Civil Cases

DECEMBER 1, 2005

Dallas White Wing v. Ho-Chunk Nation General Council et al., CV 04-99 Order (Denying Request to Reconsider) (HCN Tr. Ct., Dec. 1, 2005). (Gouty-Yellow, T).

The Court issued an *Order Denying Motion to Continue Trial Date*. The petitioner, through counsel, submitted a letter to the Court with attached documents. The letter appeared to be requesting the Court to reconsider the *Order*. The Court denied the request because counsel failed to provide the necessary evidence, either through testimony or in writing, to substantiate good cause for a continuance of a trial.

DECEMBER 6, 2005

Dallas White Wing v. Ho-Chunk Nation General Council et al.; Ona Garvin v. Ho-Chunk Nation General Council et al., CV 05-93, -90 *Order (Granting Continuance of Trial Date)* (HCN Tr. Ct., Dec. 6, 2005). (Gouty-Yellow, T).

The Court grants a continuance of trial based upon documentation provided by counsel that the petitioner is under doctor's orders to remain at the hospital.

DECEMBER 7, 2005

Ho-Chunk Nation Health & Social Services v. Kim Whitewing, Sandra Whitewing and Jeannette Whitewing, CV 05-45 *Order (Default Judgment)* (HCN Tr. Ct., Dec. 7, 2005). (Gouty-Yellow, T).

The Court must determine whether to grant the relief requested by the plaintiffs. The defendants failed to answer the *Complaint* despite proper service or process. The Court renders a default judgment against the defendants, awarding the plaintiffs permissible relief sought, which includes totals for long distance phone calls while receiving Emergency Assistance lodging.

DECEMBER 8, 2005

Clarence Pettibone v. Alvin Cloud et al., CV 03-77 *Order (Granting Motion to Dismiss Gloria Visintin as a Defendant)* (HCN Tr. Ct., Dec. 8, 2005). (Gouty-Yellow, T).

The Court grants the plaintiff's motion to dismiss Gloria Visintin as a defendant.

DECEMBER 9, 2005

Sharon L. Williams v. Four Winds Ins. Agency et al., CV 02-48 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Dec. 9, 2005). (Matha, T).

The Court granted the plaintiff's counsel request to allow him to appear by telephone at the *Scheduling Conference*.

DECEMBER 13, 2005

In the Interest of B.N.F. DOB 09/03/86 by Alaine Ava Yingst v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-59 *Exparte [sic] Motion and Order to Appear Telephonically* (HCN Tr. Ct., Dec. 13, 2005). (Matha, T).

The Court granted the plaintiff's counsel's request to allow him to appear by telephone at the hearing.

DECEMBER 14, 2005

Sharon L. Williams v. Four Winds Ins. Agency et al., CV 02-48 *Scheduling Order* (HCN Tr. Ct., Dec. 14, 2005). (Matha, T).

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

DECEMBER 20, 2005

Forest Funmaker et al. v. Alvin Cloud et al., CV 05-86 *Order (Denial of Motion)* (HCN Tr. Ct., Dec. 20, 2005). (Gouty-Yellow, T).

The Court denied the plaintiffs' *Motion for Expedited Consideration*. A plaintiff may seek expedited consideration of motions. However the plaintiffs combined four (4) motions, and did not meet the requirements of the rule. The applicable rule does not contemplate judicial resolution of motions that do not require less than five days.

HOUSING

DECEMBER 6, 2005

Ho-Chunk Housing Authority v. Ronald D. Martin, CV 03-36 *Order (Final Judgment)* (HCN Tr. Ct., Dec. 6, 2005). (Matha, T).

The Court must determine whether to extend the temporary restraining order. The Court denies the plaintiff's request for a temporary injunction due to the failure of the Court to effect service of process. Additionally, unfortunate judicial inaction may have rendered the cause of action moot.

Ho-Chunk Housing Authority v. Brenda Anhalt, CV 02-118 *Order (Denial of Motion)* (HCN Tr. Ct., Dec. 6, 2005). (Matha, T).

The Court must determine whether to stay the issuance of a writ of restitution in a housing

eviction action. The defendant requested a hardship hearing within thirty (30) days after the issuance of the writ of restitution. The Court denies the defendant's request for relief on constitutional grounds. The case has been rendered moot due, in large part, to its prolonged inactive status while assigned to former Chief Judge William H. Bossman.

DECEMBER 7, 2005

Ho-Chunk Nation Department of Housing, Property Management Division v. Sammy L. Griner Jr. & Elizabeth Rodriguez, CV 05-85 Order (Default Judgment) (HCN Tr. Ct., Dec. 7, 2005). (Gouty-Yellow, T).

The Court must determine whether to grant the relief requested by the plaintiff. The defendants failed to answer the *Complaint* despite proper service of process. The Court renders a default judgment against the defendants, awarding the plaintiff permissible relief sought in the *Complaint*. The plaintiff made a request for rents owed and to disallow the defendants to apply for any future loans against their per capita distribution in excess of the judgment.

Ho-Chunk Nation Home Ownership Program and Ho-Chunk Nation v. Greendeer Construction et al., CV 04-50 Order (Motion Hearing) (HCN Tr. Ct., Dec. 7, 2005). (Matha, T).

The Court determined to convene a hearing so as to grant the defendants the ability to argue the December 2, 2005 *Motion to Modify Default Judgment Entered Oct. 3, 2005*. The plaintiffs must file any written *Response* to the *Motion to Modify* at least one day prior to the hearing on the motion.

CHILDREN'S TRUST FUND (CTF)

DECEMBER 1, 2005

In the Interest of Minor Child: V.S.B., DOB 12/31/87, by Valerie Bartlett v. HCN Office of Tribal Enrollment, CV 05-84 Order (Dismissal without Prejudice) (HCN Tr. Ct., Dec. 1, 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 at the *Fact-Finding Hearing*, and did not notify the Court of an inability to attend the

proceeding. Therefore, the Court dismissed the instant case without prejudice.

DECEMBER 19, 2005

In the Interest of Adult CTF Beneficiary: John M. Lowe, DOB 01/24/86 v. HCN Office of Tribal Enrollment, CV 05-100 Order (Denial of Petition) (HCN Tr. Ct., Dec. 19, 2005). (Matha, T).

The Court determined that an adult cannot access his Children's Trust Fund (CTF) account to pay for costs associated with securing legal counsel and satisfying criminal fines and an automobile loan. The Court has erected a general rule against retiring the personal debts of adult CTF petitioners through a release of funds, especially when the debt arises in conjunction with a foreign law enforcement process. Similarly, the Court denies the request for payment of an automobile loan. The petitioner has already purchased a vehicle, and the chosen vehicle does not satisfy the long-standing requirements for determining automobile appropriateness. Finally, the Court routinely denies requests for 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.

DECEMBER 22, 2005

In the Interest of Minor Child: M.W., DOB 07/09/95, by Melody Whiteeagle-Fintak v. HCN Office of Tribal Enrollment, CV 04-83 Order (Contempt) (HCN Tr. Ct., Dec. 22, 2005). (Matha, T).

THE PER CAPITA DISTRIBUTION ORDINANCE, 2 HCC § 12 obligates the Court to require the submission of conclusive accounting in relation to each and every CTF disbursement case. In the instant case, the Court has not received documentation substantiating that the released funds were expended in accordance with the terms of the judgment, i.e., strictly used for the acquisition of clothing and a washer and dryer. The Court has no information regarding the use of the released CTF monies. Therefore, the Court imposes a remedial sanction of \$10.00 per day while she remains in non-compliance with the judicial directives.

DECEMBER 27, 2005

In the Interest of Minor Children: A.E., DOB 11/12/90, E.S.N., DOB 07/29/92, M.M., DOB 07/12/95, D.M., DOB 01/12/98, by Angela Mike v. HCN Office of Tribal Enrollment, CV 05-87 Order (Dismissal) (HCN Tr. Ct., Dec. 27, 2005). (Gouty-Yellow, T).

The petitioner filed a *Petition for Release of Per Capita Distribution*, and the Court issued a *Notice of Hearing*. However, the petitioner did not appear at the hearing. The Court granted a *Motion to Dismiss*, and orders that the matter be dismissed without prejudice. The Court further grants the petitioner thirty (30) days in which to request a hearing.

DECEMBER 29, 2005

In the Interest of Minor Child: T.K., DOB 12/05/87, by Amy K. Littlegeorge v. HCN Office of Tribal Enrollment, CV 05-65 Order (Petition Denied) (HCN Tr. Ct., Dec. 29, 2005). (Matha, T).

The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with an automobile. The Court denied the request. The Court cannot determine the presence of special financial need since the petitioner provided no information regarding the income generated within the household. The Court rarely grants vehicle requests because petitioners usually cannot establish the presence of a necessity.

In the Interest of Minor Child: T.W.E., DOB 04/09/93, by Sara WhiteEagle v. HCN Office of Tribal Enrollment, CV 05-73 Order (Petition Granted) (HCN Tr. Ct., Dec. 29, 2005). (Gouty-Yellow, T).

The Court determined that a parent could, in part, access monies on behalf of the minor child to pay for private school tuition.

In the Interest of Minor Child: T.K., DOB 06/06/90, by Sara WhiteEagle v. HCN Office of Tribal Enrollment, CV 05-74 Order (Petition Granted) (HCN Tr. Ct., Dec. 29, 2005). (Gouty-Yellow, T).

The Court determined that a parent could, in part, access monies on behalf of the minor child to pay for private school tuition.

In the Interest of Minor Child: L.G.R., DOB 05/14/97, by Lea Marie Rave v. HCN Office of Tribal Enrollment, CV 05-106 Order (Petition Granted) (HCN Tr. Ct., Dec. 29, 2005). (Gouty-Yellow, T).

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

In the Interest of Cary J. Smith, DOB 09/25/86 v. HCN Office of Tribal Enrollment, CV 05-94 Order (Dismissal without Prejudice) (HCN Tr. Ct., Dec. 29, 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 at the *Fact-Finding Hearing*, and did not notify the Court of an inability to attend the proceeding. Therefore, the Court dismissed the instant case without prejudice. The Court further ordered that the petitioner may request a hearing within thirty (30) days of receipt of the order.

DECEMBER 30, 2005

In the Interest of Shawn W. Maisells, DOB 01/23/86 v. HCN Office of Tribal Enrollment, CV 05-80 Order (Petition Granted In Part, Denied In Part) (HCN Tr. Ct., Dec. 30, 2005). (Gouty-Yellow, T).

The Court determined that an adult can access his Children's Trust Fund (CTF) account to pay for costs associated with clothing, toiletries, mandatory release fund, electronics, fines and court costs associated with his incarceration. The Court grants a release of funds, in part, to satisfy the request of the petitioner and denies the request in part. The Court grants a release of funds for clothing, incidentals and his release fund. The Court denies the electronics, fines and court costs requests.





EMPLOYMENT

DECEMBER 16, 2005

Louella A. Kelty v. Jonette Pettibone and Ann Winneshiek, CV 98-49 Order (Determination Upon Remand) (HCN Tr. Ct., Dec. 16, 2005). (Matha, T). The Supreme Court declared that on remand, the Court may address the issue as to the application of the Ho-Chunk Preference Provision and whether Native American preference could be applied to the case at hand. The defendant improperly laid off the plaintiff from her position while retaining eight (8) other employees who were not entitled to preference. Under the Ho-Chunk Preference Clause, the plaintiff was entitled to preference. Therefore, the Court awarded the plaintiff reassignment and other relief.

DECEMBER 28, 2005

Fran Kernes v. George Lewis, et al., CV 05-08 Order (Final Judgment) (HCN Tr. Ct., Dec. 28, 2005). (Gouty-Yellow, T).

The Court must determine whether to reverse the defendant's denial of a four percent merit increase from an unscheduled discretionary performance evaluation. The Court, however, concurs with the defendants' interpretation of the HO-CHUNK NATION PERSONNEL POLICIES AND PROCEDURES MANUAL. The Court holds the plaintiff's legal arguments unpersuasive. The Personnel Director creates policy and procedure through written memorandum, which provides direction to supervisors for the purpose of clarification and actual practice to provide consistent and fair treatment to all employees. The Nation proved that it is not the practice of the Nation to allow for merit increases at any time but during the annual performance evaluation.

INCOMPETENT TRUST FUND (ITF)

DECEMBER 7, 2005

In re the Interest of Kathy Brandenburg by Jon B. Bahr v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-18 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Dec. 7, 2005). (Gouty-Yellow, T).

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

DECEMBER 14, 2005

In the Interest of Decedent Member: N.J.W., DOB 02/17/24, by Kenneth Freitag v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-105 Order (Releasing Incompetent's Trust Fund to Estate) (HCN Tr. Ct., Dec. 14, 2005). (Matha, T).

The Court must determine whether to release the monies from a decedent tribal member's Incompetent's Trust Fund (ITF) to the estate. The Ho-Chunk Nation has deposited a substantial sum of money in the ITF account prior to the unfortunate passing of the tribal member. These monies remain in an irrevocable trust held by the Ho-Chunk Nation and administered by Fifth Third Bank. The Court now directs the release of the ITF to the court-appointed representative of the estate.

DECEMBER 22, 2005

In the Interest of Adult Incompetent: W.E.S., DOB 12/23/36, by Frank E. Bichanich v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-22 Order (Motion Granted) (HCN Tr. Ct., Dec. 22, 2005). (Matha, T).

The Court must determine whether a permanent guardian can access monies on behalf of an adult incompetent member from the ITF to pay for costs associated with maintaining the residence, i.e. state property taxes. The Court grants a release of funds to satisfy the request of the guardian.

DECEMBER 27, 2005

In re the Interest of Kathy Brandenburg by Jon B. Bahr, River Valley Guardians, Inc. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-18 Order (HCN Tr. Ct., Dec. 27, 2005). (Gouty-Yellow, T).

The Court determined that the permanent guardian can access monies on behalf of an adult incompetent member from the ITF to pay for costs associated with bad check writing by the ward, to increase the ward's allowance to include for personal items, and an activity fee, as well as payment for a Public Defender fee and payment on a bill from the county regarding the cost of her past care.

In the Interest of Kathy Brandenburg-Miller by Jon Bahr v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-18 Order (Accepting Accounting) (HCN Tr. Ct., Dec. 27, 2005). (Gouty-Yellow, T).

The Court previously released funds from the ITF account of an adult incompetent member for costs associated with personal expenses. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.



Divorce

DECEMBER 21, 2005

Carol LaMere v. Mike LaMere, FM 05-01 Order (Erratum) (HCN Tr. Ct., Dec. 21, 2005). (Gouty-Yellow, T).

The Court issued an Order (Granting Divorce) recognizing dissolution of marriage of the parties by divorce. The Court issues the judgment to correct a clerical mistake made in that Order. A subsequent review of the record reveals that the petitioner resumes use of her maiden name.

Juvenile

DECEMBER 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 (Granting Postponement) (HCN Tr. Ct., Dec. 1, 2005). (Gouty-Yellow, T).

A Review Hearing was scheduled, and Ho-Chunk Nation Child and Family Services, through its attorney, requested a Motion to Reschedule and a Motion for Expedited Consideration. The Court granted the request.

In the Interest of Minor Child: L.K.B., DOB 09/27/89, JV 05-06 Order (Appointment of Interim Temporary Legal Guardian) (HCN Tr. Ct., Dec. 1, 2005). (Gouty-Yellow, T).

The petitioner alleges that the minor is effectively without a parent or legal guardian due to the absence of the mother and the inability of the father to care for the child. Therefore, the Court appointed Ho-Chunk Nation Child and Family Services as interim temporary legal guardian until the Court has the opportunity to more thoroughly examine the facts and ultimately ascertain the best interests of the minor child.

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., Dec. 1, 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.

DECEMBER 5, 2005

In the Interest of Minor Children: V.M.B., DOB 06/26/89, M.L.E.B., DOB 05/18/90, D.J.B., DOB 09/21/99, JV 05-29-31 Order (Entrance of Plea) (HCN Tr. Ct., Dec. 5, 2005). (Matha, T).

The Court convened a Plea Hearing for the purpose of determining whether the parents of the minor children wished to contest the allegation contained in the Child/Family Protection Petition filed by Ho-Chunk Nation Child and Family Services. The Court entered pleas of not guilty on behalf of the

parents due to their failure to attend the proceeding due to incarceration. The Court will schedule a *Trial*.

DECEMBER 6, 2005

In the Interest of Minor Child: E.L., DOB 10/11/96, JV 05-04 Order (Dismiss Without Prejudice) (HCN Tr. Ct., Dec. 6, 2005). (Gouty-Yellow, T).

The petitioner filed a *Petition for Temporary Guardianship* regarding the minor child. A *Hearing* occurred, however the petitioner failed to appear. The petitioner may refile this action in the event of a future change in circumstances.

In the Interest of Minor Child: L.K.B., DOB 09/27/89, JV 05-06 Order (Denying Appointment of Temporary Guardian) (HCN Tr. Ct., Dec. 6, 2005). (Gouty-Yellow, T).

The Court must determine whether to appoint a temporary legal guardian of the minor child. After a careful weighing of all the presented evidence, the Court deems that such an appointment is not within the minor child's best interests because the service needs of the child would not be met.

DECEMBER 7, 2005

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 Review Hearing Order (HCN Tr. Ct., Dec. 7, 2005). (Gouty-Yellow, T).

The Court conducted a *Review Hearing*. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

DECEMBER 13, 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 (Denying Request for Substitution of Judge) (HCN Tr. Ct., Dec. 13, 2005). (Gouty-Yellow, T).

The Court considered the *Motion for Substitution of Judge* filed by petitioner's counsel. The stated grounds were an alleged ex parte communication and a concern that the sitting Judge would not apply the correct law to the case. The Court denies the request due to the falsity of allegation of the ex parte communication and the second concern proving insufficient for a substitution of judge.

DECEMBER 19, 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., Dec. 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 convene an additional proceeding to address the issue of custody.

In the Interest of Minor Children: V.M.B., DOB 06/26/89, et al., JV 05-29-31 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Dec. 19, 2005). (Matha, T).

The Court granted the Bureau of Milwaukee Child Welfare social worker's request to allow the social worker to appear by telephone at the *Trial*.

DECEMBER 20, 2005

In the Interest of Minor Children: V.M.B., DOB 06/26/89, et al., JV 05-29-31 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., Dec. 20, 2005). (Matha, T).

The Court appointed a GAL in this matter.

In the Interest of Minor Child: P.D.R., DOB 08/24/90, JV 03-24 Order (Modification of Child Support Judgment) (HCN Tr. Ct., Dec. 20, 2005). (Matha, T).

The Court, at the *Review Hearing*, redirected child support to the physical custodian.

In the Interest of Minor Child: P.D.R., DOB 08/24/90, JV 03-24 Order (Child Protection Review Hearing) (HCN Tr. Ct., Dec. 20, 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.

DECEMBER 22, 2005

In the Interest of Minor Child: R.B., DOB 06/23/95, JV 02-18 Redacted Order (Contempt) (HCN Tr. Ct., Dec. 22, 2005). (Matha, T).

The Court determined to hold the father of the minor child in contempt of court for knowingly violating the express terms of several judgments. The contemnor failed to attend the *Show Cause*

Hearing. The Court holds the father in contempt and imposes a reasonable remedial sanction.

DECEMBER 22, 2005

In the Interest of Minor Child: J.H.D., DOB 12/08/87, JV 02-03 Order (Termination of Jurisdiction) (HCN Tr. Ct., Dec. 30, 2005). (Matha, T).

The minor child attained the age of majority, and, therefore, the Court terminates its jurisdiction and supervision over the instant case.



Recent Filings

Trial Court

Civil Garnishment

DECEMBER 22, 2005

Credit Acceptance Corporation v. Debra S. McCollum, CG 05-124. (Matha, T).

DECEMBER 27, 2005

Riverside Finance, Inc. v. Lawrence L. Walker, CG 05-125. (Matha, T).

Quick Cash Loans v. Douglas RedEagle, Jr., CG 05-126. (Matha, T).

Child Support

DECEMBER 2, 2005

In Re the Marriage of Crystal L. Rice v. David M. Rice, CS 05-97. (Matha, T).

DECEMBER 22, 2005

Sabrina L. Decorah v. Amery D. Decorah, Sr., CS 05-98. (Matha, T).

Randi E. Anderson v. Rory E. Thundercloud, CS 05-99. (Matha, T).

State of Wisconsin/Cherryl T. Jenkins v. Jason C. Ennis, CS 05-100. (Matha, T).

Civil Cases

DECEMBER 2, 2005

In the Interest of Decedent Norma J. Whitebear v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-105. (Matha, T).

DECEMBER 7, 2005

In the Interest of Minor Child: L.G.R., DOB 05/14/97 by Leah M. Rave v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-106. (Matha, T).

In the Interest of Minor Child: A.W., DOB 08/30/87 by April Webster v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-107. (Matha, T).

DECEMBER 14, 2005

Cha-ska Prescott v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-108. (Matha, T).

DECEMBER 14, 2005

Leilani Jean Chamberlain v. Adam Hall, Ho-Chunk Nation Office of Tribal Enrollment Officer, CV 05-109. (Matha, T).

Civil Garnishment

In the Interest of Minor Child: C.Y., DOB 01/18/94, JV 05-32. (Matha, T).

Supreme Court

DECEMBER 23, 2005

Nicholas Joseph Kedrowski v. Sharon Whitebear et al., SU 05-12.



**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
Vacant, Associate Judge
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)





FEBRUARY 2006

VOL. 12, NO. 2

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- Legal Citation Forms

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HO-CHUNK NATION COURT BULLETIN

Traditional Court member, Gavin R. Pettibone, passes on



On Tuesday, January 24, 2006, the Nation lost another beloved elder and member of the Ho-Chunk Nation Traditional Court, Gavin R. Pettibone. Mr. Pettibone was born on August 14, 1932, in Jackson County, Wisconsin. Mr. Pettibone was a former area representative of the Ho-Chunk Nation. He held a number of other employment positions, including the Director of Ho-Chunk Housing, a sheriff's deputy for Jackson County, Sands Bingo and Casino security officer, Rainbow Casino security officer, a union cement finisher, and an owner of a cement construction company. Furthermore, he helped with the construction of the Black River Memorial Hospital and the Ho-Chunk Pow Wow amphitheater. Mr. Pettibone was also a leader of the Pigeon Clan and served on the Traditional Court since 1995. The thoughts and prayers of the HCN Judiciary go out to Mr. Pettibone's family and friends.



2005-2006 MARRIAGE CEREMONIES

February 11, 2005

**Virgil H. Smith &
Cynthia C. Cloud**

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

March 8, 2005

**Herbert Cleveland &
Paula F. Winneshiek**

*Presiding Official: Honorable Mark
Butterfield, Associate Supreme Court Justice*

August 5, 2005

**Kenneth Mitch, Jr. &
Deanna M. Keenan**

*Presiding Official: Honorable Todd R. Matha,
Chief Trial Court Judge*

November 23, 2005

**Brady Two Bears &
Melanie R. Stacy**

*Presiding Official: Honorable Dennis M.
Funmaker, Sr., Associate Supreme Court
Justice*

February 3, 2006

**Dustin P. Pettibone &
Andrea K. Rave**

*Presiding Official: Honorable Todd R. Matha,
Chief Trial Court Judge*



UPDATES FROM OUTSIDE COURTS

United States Supreme Court

Certiorari pending

Seneca Nation of Indians v. New York, No. 05-905
(filed January 17, 2006).

Certiorari denied

Shobar v. California, No. 05-707 (denied January
23, 2005).

*Peabody Western Coal Company v. Equal
Employment Opportunity Commission*, No. 05-353
(denied January 23, 2005).

Patterson v. New York, No. 05-550 (denied January
9, 2005).

Lummi Nation v. Samish Indian Tribe, No. 05-445
(denied January 9, 2005).

Skokomish Indian Tribe v. United States, No. 05-
434 (denied January 9, 2005).

Ninth Circuit Court of Appeals

Smith v. Salish Kootenai College, Docket No. 03-
35306 (9th Cir. 2005).

The question presented in this case is whether a non-Indian plaintiff consents to the civil jurisdiction of a tribal court by filing claims against an Indian defendant arising out of activities within the reservation where the defendant is located. The

non-Indian plaintiff was a student at the college. As part of a course in which he was enrolled, the non-Indian plaintiff was driving a dump truck owned by defendants within the reservation. A right rear main spring broke that caused the truck to roll over. The non-Indian plaintiff and another passenger were severely injured. A third passenger was killed. The estate of the third passenger brought an action against the non-Indian plaintiff and defendants in tribal court. The non-Indian plaintiff brought cross claims against defendants. The main action was settled except with regard to the non-Indian plaintiff's cross claims. After return of the unfavorable verdict, the non-Indian plaintiff challenged the tribal court's jurisdiction to hear his claims. The appellate court found that the college was a tribal entity. The tribal court had jurisdiction because the claims arose out of activities conducted or controlled by a tribal entity on tribal lands. The non-Indian plaintiff brought the action in tribal court because after the parties were realigned the non-Indian plaintiff did not challenge the tribal court's jurisdiction. The Tribe had a strong interest in regulating conduct of their members and had an interest in compensating persons injured by their own. The judgment was affirmed.

Eighth Circuit Court of Appeals

North Cheyenne Tribe v. Jackson, Docket No. 04-4145, 04-3862 (8th Cir. 2005).

In February 2003, six tribes and an unincorporated association commenced an action against multiple defendants, seeking to enjoin construction of a shooting range near Bear Butte. The Tribes filed an action that challenged the proposed construction of a shooting range, partially funded by HUD, near Bear Butte, South Dakota, as a violation of the Tribes' rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA) and the Religious Freedom Restoration Act (RFRA). The Tribes obtained a preliminary injunction to stay construction until the litigation was resolved. Thereafter, as part of a periodic review, HUD determined that the proposed shooting range did not meet any of the requirements for HUD funding, and the HUD funding for the project was withdrawn. Upon motion from HUD and the other defendants, the lawsuit was dismissed as moot, subject to the

Tribes' request for attorney's fees. The court held that the Tribes did not meet the requirement of prevailing party status for the recovery of fees under 42 U.S.C.S. § 1988 or 28 U.S.C.S. § 2412(b) for their claims under RLUIPA or RFRA. The only relief that the Tribes obtained was the preliminary injunction, which did not merit attorney's fees.

District of Columbia Circuit Court of Appeals

Taxpayer of Michigan against Casinos v. Norton, Docket No. 05-5206 (9th Cir. 2005).

The Pokagon Band of Potawatomi Indians signed a gaming compact and purchased rights to the land necessary for that project. The BIA issued an environmental assessment (EA) for the project and issued a *Finding of No Significant Impact* for the trust acquisition. In response to Taxpayers of Michigan Against Casinos' (TOMAC's) claims, the appellate court concluded, the EA did not mandate the completion of an environmental impact statement (EIS) because it was not arbitrary and capricious. TOMAC's principal claim was that the BIA and the trial court improperly concluded that the Tribe was a "restored" tribe under § 20 of the Indian Gaming Regulatory Act. The appellate court disagreed, finding that the Pokagon Restoration Act, explicitly stated that it was an act to restore to Federal recognition. Finally, the appellate court held that the statute restoring the tribe did not violate the nondelegation doctrine. The judgment of the trial court was affirmed.

U.S. District Courts

Navajo Nation v. United States Forest Service, Docket Nos. CV 05-1824-PCT-PGR, CV 05-1914-PCT-EHC, CV 05-1949-PCT-NVW, CV 05-1966-PCT-JAT (D. Ariz. 2006).

This case involved a challenge to the Forest Service's decision to authorize upgrades to facilities at the Arizona Snowbowl, an existing ski area in the Coconino National Forest. The Navajo Nation argued that authorization of the upgrades violated the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), the National Forest Management Act (NFMA), and the Religious Freedom Restoration Act (RFRA). The

court first held that the Forest Service complied with NEPA by identifying recreation as a proper purpose, giving consideration to alternatives for implementing such purpose, and considering the impacts and effects of using reclaimed aquifer water for snowmaking. Further, the Forest Service adequately described the steps for mitigating the potential adverse effects of the upgrades on the cultural and historical characteristics of the area as required by the NHPA. Moreover, the tribes failed to show a violation of the RFRA since the upgrades did not have a substantial impact on tribal religious practices, require violation of religious beliefs, or penalize religious activity.



Trial Court

Child Support

JANUARY 3, 2005

State of Wisconsin/Shawano Co. et al. v. Andrew G. Funmaker, CS 00-11 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Jan. 3, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

JANUARY 5, 2005

Maricella Guevara v. Gregory Parris Littlegeorge, CS 05-90 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., Jan. 5, 2006). (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.

JANUARY 9, 2005

In Re the Marriage of: Crystal L. Rice v. David M. Rice, CS 05-97 Order (Enforcing Child Support Against Wages) (HCN Tr. Ct., Jan. 9, 2006). (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.

JANUARY 11, 2005

State of Wisconsin/Jackson Co. v. Chris M. Thundercloud, CS 00-15 Order (Modifying and



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.

Enforcing Child Support) (HCN Tr. Ct., Jan. 11, 2006). (Matha, T).

Upon a review of the file, the Court noted that the minor child turned eighteen (18) years of age. In accordance with Wisconsin law, the respondent's obligation for current child support ends when a child turns eighteen (18) years of age or until the age of nineteen (19) if the child is enrolled in an accredited program to receive a high school diploma. The Court received information that the minor child was enrolled in high school, and therefore, child support shall continue until the minor child turns nineteen (19) years of age.

Kitty Khamphouy v. Charles Fox, CS 05-87 *Order (Enforcing Child Support Against Wages)* (HCN Tr. Ct., Jan. 9, 2006). (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 WI, ex rel., Patricia C. White v. Jane M. White, CS 03-41 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Jan. 11, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

JANUARY 12, 2005

Ronald K. Genske v. Ruth Genske, CS 01-09 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Jan. 12, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

State of Wisconsin/Sauk Co. v. Francina I. Williams, CS 05-86 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 12, 2006). (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, ex rel., Lyndell Alton v. Jordan E. Miller, CS 05-81 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 12, 2006). (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.

JANUARY 13, 2005

Melanie Stacy v. Harrison J. Funmaker, CV 96-48 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Jan. 12, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

JANUARY 17, 2005

State of Wisconsin/Jackson County v. Buffy M. Garvin n/k/a Decorah, CS 05-95 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Jan. 17, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the account statement. The respondent filed a response within the specified timeframe, and inquired whether the Court possessed the authority to consolidate the cases to reduce her respective obligations. The Court performed an equitable adjustment as permitted by the prevailing law, and directed the petitioner to the relevant foreign jurisdiction for purposes of seeking any ongoing support modification. The Court granted the petitioner's request for recognition and enforcement.

Anna Webb v. Nathaniel H. Long, Jr., Misty Marie Long v. Nathaniel H. Long, Jr., Teresa A.

Lightfeather v. Nathaniel H. Long, Jr., CS 98-49, 02-03, 05-83 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Jan. 17, 2006). (Matha, T).

The Court had to determine whether to enforce three (3) standing foreign child support orders against the respondent's per capita distributions. The respondent responded to the initial pleading within the specified timeframe by providing documentation that the minor child resided with the respondent. The respondent failed to substantiate the defense at the *Fact-Finding Hearing*, which he neglected to attend. The Court granted the petitioner's request for recognition and enforcement.

State of Wisconsin and Christie-Ann Flick v. Orin White Eagle, CV 96-56 *Order (Proof of Enrollment Filed)* (HCN Tr. Ct., Jan. 17, 2006). (Matha, T).

The petitioner filed proof of enrollment within the prescribed time frame. Therefore, the existing order remains unchanged until the minor child graduates from high school pursuant to Wisconsin law.

Colleen D. Hansen v. Jerry L. Park, CS 98-73 *Order (Proof of Enrollment Filed)* (HCN Tr. Ct., Jan. 17, 2006). (Matha, T).

The petitioner filed proof of enrollment within the prescribed time frame. Therefore, the existing order remains unchanged until the minor child graduates from high school or turns nineteen (19) years of age, pursuant to Wisconsin law.

State of Wisconsin/Sauk County v. Mitchell RedCloud, Cynthia Mobley v. Mitchell RedCloud, CS 02-33, 03-42 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Jan. 17, 2006). (Matha, T).

The Court had to determine whether to grant the petitioner's motion to modify. Each petitioner requested a motion to modify by submitting a certified copy of the account history statement. The Court granted the petitioners' request for enforcement.

State of Wisconsin v. Marsha H. Funmaker, CS 05-31 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Jan. 17, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of a foreign child support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

JANUARY 23, 2005

State of Wisconsin v. Arnold J. Crone, CV 97-35 *Order (Ceasing Child Support)* (HCN Tr. Ct., Jan. 23, 2006). (Matha, T).

The petitioner requests that child support withholding from the respondent's per capita cease. The Court granted the motion.

JANUARY 25, 2005

State of Wisconsin/Sauk County v. Mitchell Red Cloud, Cynthia Mobley v. Mitchell Red Cloud, CS 02-33, 03-42 *Order (Erratum)* (HCN Tr. Ct., Jan. 25, 2006). (Matha, T).

The Court issued an *Order (Modifying and Enforcing Child Support)*. Pursuant to the *Ho-Chunk Nation Rules of Civil Procedure*, Rule 58(D), the Court issues this *Erratum Order* to correct a clerical mistake made in that *Order*. A review of the record reveals that the respondent's case numbers, regarding arrears, were incorrect.

JANUARY 27, 2005

State of Wisconsin/Jackson Co. v. Faye L. Greengrass, CS 05-94 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 27, 2006). (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.

Randi E. Anderson v. Rory E. Thundercloud, CS 05-99 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 27, 2006). (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.

Sabrina L. Decorah v. Amery D. Decorah, Sr., CS 05-98 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 27, 2006). (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. Larry V. Garvin II, CS 05-92 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 27, 2006). (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.

JANUARY 30, 2005

Sue Harpin, MT CS on behalf of Twilah Sherven v. Christopher Kapayou, CS 05-71 *Order (Enforcing Child Support Against Wages)* (HCN Tr. Ct., Jan. 30, 2006). (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, ex rel. Lyndell Alton v. Jordan E. Miller, CS 05-81 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Jan. 30, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the account history. The respondent failed to respond within the specified timeframe. The Court granted the motion.

State of Wisconsin and Cheryl T. Jenkins v. Jason C. Ennis, CS 05-100 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Jan. 30, 2006). (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.



Civil Garnishment

JANUARY 9, 2006

Alliance Collection Agencies, Inc. v. Crystal Wilson a/k/a Chalepah, CG 05-96 *Order (Default Judgment)* (HCN Tr. Ct., Jan. 9, 2006). (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.

JANUARY 19, 2006

Riverside Finance, Inc. v. Lawrence L. Walker, Jr., CG 05-125 *Order (Default Judgment)* (HCN Tr. Ct., Jan. 19, 2006). (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. Debra S. McCollum, CG 05-124 *Order (Default Judgment)* (HCN Tr. Ct., Jan. 19, 2006). (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. Douglas Redeagle, Jr., CG 05-126 *Order (Default Judgment)* (HCN Tr. Ct., Jan. 19, 2006). (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.

JANUARY 27, 2006

Midland Credit Mgmt., Inc. v. Nina Garvin, Jr., CG 05-40 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 27, 2006). (Matha, T).

The Court issued a default judgment against the respondent. The petitioner filed proof of satisfaction of judgment, pending payment of the debtor's balance. Therefore, the Court recognized that the debt will be satisfied, and informed the parties of its intent to close the file.

Matthew and Angelita Hofmeister v. Mary Ann Dick, CG 03-65 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 27, 2006). (Matha, T).

The Court issued a default judgment against the respondent. The petitioner filed proof of satisfaction of judgment, indicating that the respondent has paid the judgment in full. Therefore, the Court recognized that the debt is satisfied, and informed the parties of its intent to close the file.

In the Matter of the Outstanding Obligations of: Joseph H. Coon, CG 05-56 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 27, 2006). (Matha, T).

The Court issued a default judgment against the respondent. The petitioner filed proof of satisfaction of judgment, indicating that the respondent has paid the judgment in full. Therefore, the Court recognized that the debt is satisfied, and informed the parties of its intent to close the file.



Civil Cases

JANUARY 4, 2006

Samuel C. Shegonee v. Leslie Storm Whittaker, CV 06-02 Order (HCN Tr. Ct., Jan. 4, 2006). (Matha, T).

The Court finds that the petitioner has shown that it would be an economic hardship to pay the filing fee. The Court granted the *Petition to Waive Filing Fee and Costs*.

JANUARY 5, 2006

Estate of Dennis S. Migala v. Rainbow Casino and Ho-Chunk Nation, CV 00-06 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 5, 2006). (Matha, T). The Court approved a settlement agreement wherein the defendants agreed to compensate the plaintiff. The defendants subsequently filed a *Satisfaction of Judgment*. This document indicated that the defendants have completely satisfied the debt obligation. Therefore, the Court recognized that the debt had been paid in full, and informed the parties of its intent to close.

JANUARY 13, 2006

Majestic Pines Hotel et al. v. Any Time Towing and/or Richard Olson and/or David Olson and/or Mark Olson, CV 04-31 Order (Dismissal without Prejudice) (HCN Tr. Ct., Jan. 13, 2006). (Matha, T).

The Court had to determine whether to dismiss the instant action due to a failure to effectuate service of process. Agents of the Court could not locate the defendants at the addresses provided in the initial pleading, and the Court has no information regarding the defendants' present whereabouts. The Court, therefore, dismissed the case without prejudice.

JANUARY 20, 2006

Marx Advertising Agency, Inc. v. Ho-Chunk Nation et al., CV 04-16 Order (Conditional Dismissal without Prejudice) (HCN Tr. Ct., Jan. 20, 2006). (Matha, T).

The Court urged the parties to mutually resolve any potential billing concerns. However, the Court informed the parties that it "would convene a fact-finding hearing upon motion of a party, if necessary." The plaintiff subsequently appealed the above decision, and the Ho-Chunk Nation Supreme Court affirmed the Trial Court and remanded for the final disposition. The Court has awaited a possible request from the parties for a fact-finding hearing. Regardless, neither party has presented such a request in nearly nine (9) months. Consequently, the Court informs the parties that it shall dismiss the remaining cause of action with prejudice due to case inactivity in excess of six (6) months, unless the plaintiff demonstrates good cause to the contrary within the prescribed time frame.

JANUARY 31, 2006

Ho-Chunk Nation v. Bank of America, N.A., CV 02-93 Order (Regarding Pending Motions) (HCN Tr. Ct., Jan. 31, 2006). (Matha, T).

The Court had to determine whether to grant the outstanding motions filed by the plaintiff. The Court entered this order to facilitate and explain the discovery process, including identifying the applicable procedure and law that governs the instant case. While the Legislature may promulgate law, the Legislature cannot enact judicial procedural rules. The defendant questioned “whether New York procedural law or Ho-Chunk procedural law applies to this litigation.” The Court is constitutionally obligated to apply the procedural rules adopted by the Ho-Chunk Nation Supreme Court. The Court will interpret and apply New York substantive law, *i.e.*, laws of the Nation, in resolving certain issues presented within pending motions. New York statutory law in effect upon the execution of the *Agreement*, including any final judicial interpretations of such law by the New York Court of Appeals, comprises the applicable substantive law. All other lower foreign court decisions are deemed persuasive authority since the Legislature could not act to supersede either this Court’s or the Supreme Court’s interpretations of the law. As warranted, the Court shall apply the *HCN R. Civ. P.* or *FED R. EVID.* to other issues presented within the pending motions.

The Court addressed and resolved four (4) distinct issues. The defendant, Bank of America asserted that certain documents, which the plaintiff requested within its Interrogatories/Requests for Documents, qualified for immunity or attorney-work product privilege under New York law. In order to judge whether or not the documents qualified, the Court would need to view the documents *in camera*. The defendant questioned the propriety of the presiding judge conducting an *in camera* inspection, and therefore the Court appointed a *pro tempore* judge to view the documents *in camera*. The defendant reasonably objected to the scope of the plaintiff’s request for a full disclosure of a voluminous amount of swap or hedging agreements entered into during an established timeframe. The Court held that the defendant must provide the plaintiff with the

requested information, but in a manner that adheres to confidentiality concerns. Therefore, the Court required the plaintiff to identify an expert witness to modify the discovery request. Finally, the plaintiff requested attorney fees and costs as a result of the defendant designating a deponent who allegedly lacked knowledge of the matters identified in the plaintiff’s deposition notice. The Court denied such requests due to the plaintiff’s failure to clearly articulate the scope of its deposition, as well as the Court’s propensity to deny litigation expenses.

EMPLOYMENT

JANUARY 3, 2006

Jeffrey Harrison v. Ho-Chunk Nation Insurance Review Commission et al., CV 05-68 Order (Dismissal without Prejudice) (HCN Tr. Ct., Jan. 3, 2006). (Matha, T).

The Court had to determine whether to dismiss the instant case. The petitioner informed the Court of his intention to withdraw his case after conducting a scheduling conference. Therefore, the Court dismissed the action without prejudice.

JANUARY 4, 2006

Sherry Wilson v. Ho-Chunk Nation Department of Personnel, CV 05-43 Order (Final Judgment) (HCN Tr. Ct., Jan. 4, 2006). (Matha, T).

The Court had to determine whether it disagrees with the defendant’s characterization of the events that led to the plaintiff’s release from employment. The Court recognized the legitimacy of the plaintiff’s argument and proffered testimony, but the Court denied the request for relief on the basis of sovereign immunity. The defendant maintained sovereign immunity from suit unless expressly waived by the Legislature. The ERA contains a limited waiver of sovereign immunity, but it does not incorporate the plaintiff’s cause of action. The plaintiff could have perhaps partially overcome this defense, but she failed to name an individual defendant in the initial pleading, and likewise, neglected to amend her *Complaint*.

JANUARY 18, 2006

Louella A. Kelty v. Jonette Pettibone and Ann Winneshiek, CV 98-49 Order (Motion Hearing) (HCN Tr. Ct., Jan. 18, 2006). (Matha, T).

The Court shall convene a hearing to grant the defendants the ability to argue their *Motion to Modify*, and to provide the plaintiff the opportunity to offer a response.

JANUARY 20, 2006

Robert Gerhartz v. Ho-Chunk Nation Gaming Commission, CV 05-104 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Jan. 20, 2006). (Matha, T).

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

JANUARY 24, 2006

Thomas Quimby v. Ho-Chunk Nation, CV 05-91 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Jan. 20, 2006). (Matha, T).

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



ENROLLMENT

JANUARY 25, 2006

Cornelius Decorah, on behalf of Minors: J.D., DOB 09/17/85, et al. v. Adam Hall, HCN Tribal Enrollment Officer, et al., CV 03-25 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Jan. 25, 2006). (Matha, T).

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

JANUARY 27, 2006

Cornelius Decorah, on behalf of Minors: J.D., DOB 09/17/85, et al. v. Adam Hall, HCN Tribal Enrollment Officer, et al., CV 03-25 Scheduling Order (HCN Tr. Ct., Jan. 27, 2006). (Matha, T).

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case pertaining to its constitutional and/or statutory claims.

Cornelius Decorah, on behalf of Minors: J.D., DOB 09/17/85, et al. v. Adam Hall, HCN Tribal Enrollment Officer, et al., CV 03-25 Scheduling Order (HCN Tr. Ct., Jan. 27, 2006). (Matha, T).

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case pertaining to its appeal of the Enrollment Committee decision.

HOUSING

JANUARY 5, 2006

Ho-Chunk Nation Department of Housing, Property Management Division v. Andrew Funmaker and Nina Larson, CV 02-70 Order (Default Judgment) (HCN Tr. Ct., Jan. 5, 2006). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiff, including outstanding past due rent, reimbursement of utilities paid by the plaintiff, and dwelling damages. The defendant, Andrew Funmaker, failed to answer the *Complaint* despite proper service of process. The Court rendered a default judgment against the defendant, and awarded the plaintiff permissible relief sought in the *Complaint* as modified through subsequent unchallenged motions.

JANUARY 13, 2006

Ho-Chunk Nation Housing Authority v. Adriane Walker, CV 02-83 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 13, 2006). (Matha, T).

The Court granted a monetary judgment against the defendant, and directed the Ho-Chunk Nation Department of Treasury to withhold per capita income to satisfy a debt obligation to the Nation. The plaintiff filed a *Satisfaction of Judgment*, pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 59. The Court recognized that the debt has been paid in full, and informed the parties of its intention to close the file.

Ho-Chunk Nation Housing Authority v. Tyrone Walker, CV 01-44 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 13, 2006). (Matha, T).

The Court granted a monetary judgment against the defendant, and directed the Ho-Chunk Nation Department of Treasury to withhold per capita income to satisfy a debt obligation to the Nation. The plaintiff filed a *Satisfaction of Judgment*, pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 59. The Court recognized that the debt has been paid in full, and informed the parties of its intention to close the file.

JANUARY 16, 2006

Ho-Chunk Nation Home Ownership Program and Ho-Chunk Nation v. Greendeer Construction et al., CV 04-50 *Order (Granting Defendant's Motion)* (HCN Tr. Ct., Jan. 16, 2006). (Matha, T).

The Court granted a default judgment against the defendants due to a failure to submit a timely response. The defendant, Deanna L. Greendeer later filed a *Motion to Modify Default Judgment Entered on October 3, 2005*. In response, the Court entered an *Order (Motion Hearing)*. The Court convened the *Hearing*. At the *Hearing*, the plaintiffs stipulated that Ms. Greendeer was neither an officer, nor co-owner of Greendeer Construction. The Court needed to determine whether the motion constituted "a timely showing of good cause." In light of the plaintiffs' stipulation, the Court grants the defendant's motions, thereby discharging Ms. Greendeer's liability for the debt.

JANUARY 17, 2006

Ho-Chunk Nation Property Management v. Janine Lonetree-McCasey, CV 05-98 *Eviction Order (Default Judgment)* (HCN Tr. Ct., Jan. 17, 2006). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiff, *i.e.*, restitution of premises and an award of damages. The defendant failed to answer the *Complaint* despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiff permissible relief sought in the *Complaint*.

Ho-Chunk Nation Property Management v. Janine Lonetree-McCasey, CV 05-98 *Writ of Restitution* (HCN Tr. Ct., Jan. 17, 2006). (Matha, T).

After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the property restored to its possession and to remove the defendant, her possessions, and those occupying the property with her from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Sauk County in order to restore the property.

Ho-Chunk Nation Property Management v. Evans A. Littlegeorge, CV 05-95 *Eviction Order (Default Judgment)* (HCN Tr. Ct., Jan. 17, 2006). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiff, *i.e.*, restitution of premises and an award of damages. The defendant failed to answer the *Complaint* despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiff permissible relief sought in the *Complaint*.

Ho-Chunk Nation Property Management v. Evans A. Littlegeorge, CV 05-95 *Writ of Restitution* (HCN Tr. Ct., Jan. 17, 2006). (Matha, T).

After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the property restored to its possession and to remove the defendant, his possessions, and those occupying the property with him from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Sauk County in order to restore the property.

JANUARY 19, 2006

Ho-Chunk Nation Property Management v. Adriane Walker, CV 05-95 *Eviction Order (Default Judgment)* (HCN Tr. Ct., Jan. 19, 2006). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiff, *i.e.*, restitution of premises and an award of damages. The defendant failed to answer the *Complaint* despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiff permissible relief sought in the *Complaint*.

Ho-Chunk Nation Property Management v. Adriane Walker, CV 05-95 *Writ of Restitution* (HCN Tr. Ct., Jan. 19, 2006). (Matha, T).

After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the

property restored to its possession and to remove the defendant, her possessions, and those occupying the property with her from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Sauk County in order to restore the property.



JANUARY 20, 2006

Karen M. Redhawk v. Ho-Chunk Nation and Ho-Chunk Housing Authority, CV 98-30 Order (Denial of Motion) (HCN Tr. Ct., Jan. 20, 2006). (Matha, T).

The defendants filed *Defendants' Motion to Dismiss for Lack of Activity*, arguing that the Court should dismiss the instant action on the basis of case inactivity in excess of six (6) months. Three (3) judges have presided over this matter since its filing on April 15, 1998. Current Chief Judge Todd R. Matha accepted the assignment by virtue of his predecessors' inability to enter a final decision. At present, the Court is actively attempting to resolve long-standing suits that remained dormant during prior judicial assignments. The Court maintains jurisdiction over seventeen (17) such suits, and provides monthly reports to the Ho-Chunk Nation Supreme Court in regards to the status of these cases. The Court shall not grant a dismissal of the instant case since the plaintiff cannot be held responsible for judicial neglect. The Court will enter a decision as soon as practicable despite its present lack of a full contingent of judicial officers.

JANUARY 24, 2006

Mary Bernhardt v. Hocak Construction, LLC and Ho-Chunk Nation Department of Housing, CV 05-22 Order (Motion Hearing) (HCN Tr. Ct., Jan. 24, 2006). (Matha, T).

The Court, in its discretion, determined to convene a hearing to grant the plaintiff the ability to argue her *Motion*, and to provide the defendants the opportunity to offer a response. The Court shall entertain the motion on the date, time and location indicated within the *Notice of Hearing*.

Ho-Chunk Nation Housing Authority v. Karen Smith a/k/a Karen Smith Combs and Carson Combs, CV 02-39 Order (Granting Motion to Dismiss) (HCN Tr. Ct., Jan. 24, 2006). (Pro Tempore Judge, Vele, K).

Upon the plaintiff's withdrawal of their *Motion to Continue Trial Date* and their renewed *Motion to Dismiss*, and there being no opposition to the same, the Court dismissed the action with prejudice as permitted by *HCN R. Civ. P. 44(C)*.

JANUARY 25, 2006

Karen J. Combs and Carson D. Combs v. David R. Snowball and Ho-Chunk Nation Housing Authority, CV 02-80 Notice (HCN Tr. Ct., Jan. 25, 2006). (Pro Tempore Judge, Vele, K).

Upon review of the file, the Court, pursuant to *HCN R. Civ. P. 56(C)*, moved to dismiss this action on the grounds that there has been no other filing or activity on the record for six (6) months. Accordingly, this action shall be dismissed without further notice to either party, unless good cause is shown in writing prior to specified timelines.



CHILDREN'S TRUST FUND (CTF)

JANUARY 9, 2006

In the Interest of Minor Child: B.W., DOB 08/28/89, by Pauline Ward v. HCN Office of Tribal Enrollment, CV 05-70 Order (Accepting Accounting) (HCN Tr. Ct., Jan. 9, 2006). (Matha, T).

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

JANUARY 11, 2006

In the Interest of Adult CTF Beneficiary: Tyler A. Cloud, DOB 10/31/87, et al. v. HCN Office of Tribal Enrollment, CV 05-92 Order (Petition Granted in Part and Denied in Part) (HCN Tr. Ct., Jan. 9, 2006). (Matha, T).

The Court had to determine whether the physical custodian and maternal grandmother and an adult can access CTF accounts to pay for costs associated with clothing, bedroom furniture and bedding, graduation expenses, eye care, personal grooming, telephone expenses, electric costs, and automobile repair. The Court partially granted a release of funds, to satisfy the request of the petitioner. The Court granted a release for clothing, bedroom furniture and bedding, eye care, personal grooming, and automobile repair, due, in large part, to the voluntary assumption of care by the traditional relative. The Court denied the graduation expenses, and partially granted the utility expenses using the rule of proportionality.

JANUARY 19, 2006

In the Interest of Adult CTF Beneficiary: Amber S. Kruse, DOB 03/06/83 v. HCN Office of Tribal Enrollment, CV 06-05 Order (HCN Tr. Ct., Jan. 19, 2006). (Matha, T).

The Court finds that the petitioner has shown that it would be an economic hardship to pay the filing fee. The Court granted the *Petition to Waive Filing Fee and Costs*.

In the Interest of Minor Child: T.W.B., DOB 02/25/96, by Kathleen K. Waukau-Bourdon v. HCN Office of Tribal Enrollment, CV 04-11 Order (Conditional Dismissal without Prejudice) (HCN Tr. Ct., Jan. 19, 2006). (Matha, T).

The Court informed the petitioner that she needed to submit additional documentation in support of her *Petition*. After nearly ten (10) months, the petitioner has made no such filing. The Court informed the parties that it shall dismiss the instant action without prejudice due to case inactivity in excess of six (6) months, unless the petitioner demonstrates good cause to the contrary in writing within the specified timeframe.

JANUARY 25, 2006

In the Interest of Minor Child: A.F., DOB 01/13/96 v. HCN Office of Tribal Enrollment, CV 05-83 Order (Partial Granting of Petition) (HCN Tr. Ct., Jan. 25, 2006). (Matha, T).

The Court had to determine whether the parent can access CTF account to pay for costs associated with household rent, child's clothing, and an automobile

and automobile insurance. The Court partially granted a release of funds to satisfy the request of the petitioner. The Court granted a release of funds for the purchase of an automobile and automobile insurance due to the medical needs of the child. The Court denied the request for household rent and children's clothing.

JANUARY 31, 2006

In the Interest of Minor Child: N.L.P., DOB 02/18/91, by Janice Savage v. HCN Office of Tribal Enrollment, CV 05-33 Order (Requesting Accounting) (HCN Tr. Ct., Jan. 31, 2006). (Matha, T).

The Court requested that the petitioner submit the required accounting.

In the Interest of Minor Child: S.S.G., DOB 02/05/94, by Sherry Lonteree-Grey v. HCN Office of Tribal Enrollment, CV 05-33 Order (Requesting Accounting) (HCN Tr. Ct., Jan. 31, 2006). (Matha, T).

The Court requested that the petitioner submit the required accounting.

In the Interest of Adult CTF Beneficiary: Cha-ska Prescott, DOB 05/16/86 v. HCN Office of Tribal Enrollment, CV 05-108 Order (Partial Granting of Petition) (HCN Tr. Ct., Jan. 31, 2006). (Matha, T).

The Court had to determine whether an adult can access CTF account to pay for costs associated with tuition and related high school expenses, eyeglasses purchase, and personal computer acquisition. The Court partially granted a release of funds to satisfy the request of the petitioner. The Court granted a release of funds for costs associated with tuition and related high school expenses and eyeglasses purchase. The Court declined the request for a personal computer in line with standing case law.



INCOMPETENT TRUST FUND (ITF)

JANUARY 6, 2006

In the Interest of Adult Incompetent: G.D.G., DOB 01/03/43, by Alma Miner v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-16 Order (Conditional Granting of Motion) (HCN Tr. Ct., Jan. 6, 2005). (Matha, T).

The Court had to determine whether the permanent guardian could access monies on behalf of an adult incompetent member from the ITF to pay for costs associated with securing temporary residential care. The residential care facility will not admit G.D.G. until the completion of a background check, as well as determine whether G.D.G. can positively interact with the residential care surroundings. Therefore, once the facility makes these determinations, the Court will grant the release of funds to satisfy the request of the guardian.



Juvenile

JANUARY 5, 2006

In the Interest of Minor Child: T.F., DOB 02/18/02, JV 03-14 Order (Reentrance of Judgment) (HCN Tr. Ct., Jan. 5, 2006). (Matha, T).

On December 13, 2005, the Court held the *Child Protection Review Hearing* with Associate Judge *Pro Tempore* Tina F. Gouty-Yellow presiding. On December 7, 2005, the Ho-Chunk Nation Legislature rescinded the resolution that confirmed Attorney Tina F. Gouty-Yellow's January 2, 2006 appointment to the position of Associate Judge. HCN LEG. RES. 12-07-05A. Attorney Gouty-Yellow served her last day as Associate Judge *Pro Tempore* on December 30, 2005. In order to comport with *Ho-Chunk Nation Rules of Civil Procedure*, Rule 57, the Court reenters the *Order (Child Protection Review Hearing)*.

In the Interest of Minor Children: L.L.T.B., DOB 06/23/96, et al., JV 05-01-03 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Jan. 5, 2006). (Matha, T).

The Court granted the guardian ad litem (GAL) request to allow her to appear by telephone at the *Child Protection Review Hearing*.

In the Interest of Minor Children: D.R.W., DOB 08/12/04, JV 05-07 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Jan. 5, 2006). (Matha, T).

The Court granted the GAL request to allow her to appear by telephone at the *Child Protection Review Hearing*.

In the Interest of Minor Child: L.K.B., DOB 09/27/89, JV 05-06 Order (Interim Legal Custody) (HCN Tr. Ct., Jan. 5, 2006). (Matha, T).

The Court entered its *Order (Denying Appointment of Temporary Legal Guardian)*, which did not clearly articulate that legal guardianship remained with the Ho-Chunk Nation Children & Family Services (CFS). CFS has retained the legal custody of L.K.B., since March 15, 2005.

JANUARY 6, 2006

In the Interest of Minor Child: A.C.L., DOB 08/13/01, JV 04-22 Order (Conditional Termination of Jurisdiction) (HCN Tr. Ct., Jan. 6, 2006). (Matha, T).

The Court conditionally terminated its jurisdiction over and supervision of the instant case in accordance with the HO-CHUNK NATION CHILDREN AND FAMILY ACT (CHILDREN'S ACT). Therefore, the *Order (Granting Emergency Temporary Legal [and] Physical Custody* and any subsequent orders shall have no binding force or effect, provided that the parties demonstrate no relevant change of circumstances during the interim.

JANUARY 9, 2006

In the Interest of Minor Children: V.M.B., DOB 06/26/89, M.L.E.B., DOB 05/18/90, D.J.B., DOB 09/21/99, JV 05-29-31 Order (Reversal of Pleas) (HCN Tr. Ct., Jan. 9, 2006). (Matha, T).

The Court entered pleas of not guilty on behalf of the parents of the minor children, due to their absence from the *Plea Hearing*. The parents subsequently pled guilty to the allegations contained in the November 23, 2005 *Child/Family Protection Petition* filed by CFS, thereby eliminating the need

to hold a trial. Therefore, the Court schedules a *Dispositional Hearing*.

JANUARY 12, 2006

In the Interest of Minor Children: B.E.Y., DOB 07/25/89, N.R.Y., DOB 07/06/91, JV 03-37-38 Order (Continuance of Trial) (HCN Tr. Ct., Jan. 12, 2006). (Matha, T).

The Court convened a *Trial* for the purpose of providing CFS an opportunity to prove the allegations contained in the *Child/Family Protection Petition* by a preponderance of the evidence. At that time, the mother of the minor children requested a continuance after the Court advised her of her rights as set forth within the CHILDREN'S ACT. The Court accordingly reschedules the *Trial*, to afford her the ability to obtain representation.

In the Interest of Minor Children: S.E.R., DOB 01/05/90, T.E.R., DOB 12/26/90, B.B., DOB 05/01/93, JV 06-01-03 Order (Initial Emergency Hearing) (HCN Tr. Ct., Jan. 12, 2006). (Matha, T).

The Court convened the *Initial Emergency Hearing* to discuss the legal and procedural status of the instant action with the parties, notify the parties of their need to attend a *Plea Hearing*, and advise the parties of their rights. Additionally, the Court notified the parties of the ability to move for a continuance in order to secure legal counsel. The mother of the minor children requested an opportunity to obtain legal representation, and the Court granted the continuance.

JANUARY 16, 2006

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 (Child Protection Review Hearing) (HCN Tr. Ct., Jan. 16, 2006). (Matha, T).

The Court had to assess the extent of compliance with the dispositional order. The Court performed this review in accordance with the CHILDREN'S ACT, and determined to maintain the status quo.

In the Interest of Minor Child: A.C.L., DOB 08/13/01, JV 04-22 Order (Suspending Parental Child Support Obligations) (HCN Tr. Ct., Jan. 16, 2006). (Matha, T).

The Court entered its *Order (Conditional Termination of Jurisdiction)*, removing the obligation of the minor child's father to continue providing ongoing child support. The Court suspends the child support obligation of the minor child's father, effective February 1, 2006.

In the Interest of Minor Child: L.M., DOB 01/08/92, JV 98-14 Order (Child Protection Review Hearing) (HCN Tr. Ct., Jan. 16, 2006). (Matha, T).

The Court had to assess the extent of compliance with the dispositional order. The Court performed this review in accordance with the CHILDREN'S ACT, and determined to maintain the status quo.

In the Interest of Minor Children: L.L.T., DOB 06/23/96, R.R.T., DOB 03/16/94, L.M.T., DOB 01/20/93, JV 05-01-03 Order (Child Protection Review Hearing) (HCN Tr. Ct., Jan. 16, 2006). (Matha, T).

The Court had to assess the extent of compliance with the dispositional order. The Court performed this review in accordance with the CHILDREN'S ACT, and determined to maintain the status quo.

JANUARY 17, 2006

In the Interest of Minor Child: M.M.M., DOB 12/18/01, JV 05-25 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Jan. 17, 2006). (Matha, T).

The Court had to determine whether to appoint a temporary guardian of the minor child, M.M.M., DOB 12/18/01, pursuant to the CHILDREN'S ACT. 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: A.P.H., DOB 08/26/05, JV 05-28 Order (Entrance of Plea) (HCN Tr. Ct., Jan. 17, 2006). (Matha, T).

The Court convened a continued *Plea Hearing* for the purpose of determining whether the parent wished to contest the allegations contained in the *Child/Family Protection Petition* filed by CFS. The parent entered a plea of guilty after the Court advised the parent of her rights. The Court accordingly schedules a *Dispositional Hearing*.

In the Interest of Minor Children: A.C.S., DOB 04/04/89, P.M.S., DOB 01/14/91, P.A.S., DOB 01/14/91, M.J.B., DOB 07/09/94, and B.K.B., DOB 03/20/96, JV 98-05-09 Order (Modifying and Enforcing Child Support) (HCN Tr. Ct., Jan. 17, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the account statement. The Court will perform an equitable adjustment as permitted by the prevailing law. The Court granted the petitioner's request for recognition and enforcement.

JANUARY 19, 2006

In the Interest of Minor Children: C.H.F., DOB 12/24/03, P.R.F., DOB 04/22/02, JV 05-19-20 Order (Child Protection Review Hearing) (HCN Tr. Ct., Jan. 19, 2006). (Matha, T).

The Court had to assess the extent of compliance with the dispositional order. The Court performed this review in accordance with the CHILDREN'S ACT, and determined to transfer physical custody to the mother of the minor children.

In the Interest of Minor Child: D.P.S., DOB 12/12/88, JV 02-14 Order (Child Protection Review Hearing) (HCN Tr. Ct., Jan. 19, 2006). (Matha, T).

The Court had to assess the extent of compliance with the dispositional order. The Court performed this review in accordance with the CHILDREN'S ACT, and determined to maintain the status quo.

JANUARY 23, 2006

In the Interest of Minor Child: R.B., DOB 04/23/94, JV 06-04 Order (Conditional Acceptance of Transfer) (HCN Tr. Ct., Jan. 23, 2006). (Matha, T).

The Court had to determine whether to conditionally accept transfer of a Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin children's case, in which the minor child, either enrolled or eligible for enrollment with the Ho-Chunk Nation, is subject to foster care placement. After reviewing the *Motion for Order of Acceptance from the Court*, the Court, absent good cause to the contrary, shall not decline transfer of this action. Therefore, CFS must comply with the CHILDREN'S CODE pending the contemplated transfer from the foreign jurisdiction.

JANUARY 26, 2006

In the Interest of Minor Children: S.E.R., DOB 01/05/90, T.E.R., DOB 12/26/90, B.B., DOB 05/01/93, JV 06-01-03 Order (Granting Motion for Continuance) (HCN Tr. Ct., Jan. 26, 2006). (Matha, T).

The mother of the minor children requested additional time to secure legal counsel. The Court granted the request for a two week continuance, and accordingly adjusts the established timeframes.

In the Interest of Minor Child: L.M., DOB 01/08/92, JV 98-14 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., Jan. 26, 2006). (Matha, T).

The Court appointed a GAL in this matter.

In the Interest of Minor Child: C.Y., DOB 01/18/94, JV 05-32 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., Jan. 26, 2006). (Matha, T).

The Court appointed a GAL in this matter.



SUPREME COURT

Nicholas Joseph Kedrowski v. Sharon Whitebear et al., SU 05-12 Order Denying Appeal (HCN S. Ct., Jan. 19, 2006).

This matter is an appeal of a Gaming Commission decision. The appellant, Nicholas Kedrowski, had been employed by Rainbow Casino as Surveillance Director. The Court reviewed the appellant's *Notice of Appeal* in which he restated his *Complaint* at the Trial Court, rather than stating a basis for appeal. The appellant did not comply with *Ho-Chunk Nation Rule of Appellate Procedure* 10(b) because he failed to set forth a short statement of the reason or grounds for appeal.



Alexander Middle School v. Joseph Nakai and Ramona McDonald, CG 06-10. (Matha, T).

Valued Services of Wisconsin d/b/a Check Advance v. Dana Kaddatz, CG 06-11. (Matha, T).

JANUARY 31, 2006

Cottonwood Financial Services v. Linda Pringle, CG 06-12. (Matha, T).

Child Support

JANUARY 16, 2006

State of WI – CiCi Bigjon v. Corey Hindsley, CS 06-01. (Matha, T).

JANUARY 19, 2006

State of WI v. Katie L. Lema, CS 06-02. (Matha, T).

JANUARY 23, 2006

Sandra J. Schmidt v. Melissa L. Snowball, CS 06-03. (Matha, T).

JANUARY 31, 2006

Tammy C. Fine v. John P. McKeel, CS 06-04. (Matha, T).

Civil Cases

JANUARY 3, 2006

Tina F. Gouty-Yellow v. Ho-Chunk Nation Legislature et al., CV 06-01. (Pro Tempore Judge, Vele, K).

JANUARY 4, 2006

Samuel C. Shegonee v. Leslie Storm Whittaker, CV 06-02. (Matha, T).

JANUARY 11, 2006

Ho-Chunk Hotel and Convention v. Christine LaMere, CV 06-03. (Matha, T).

JANUARY 16, 2006

In the Interest of: V.S.B., by Valerie Jean Bartlett v. Ho-Chunk Nation Office of Enrollment, CV 06-04. (Matha, T).

JANUARY 19, 2006

Recent Filings

Trial Court

Civil Garnishment

JANUARY 5, 2006

Creditor Recovery Service, LLC v. Bonita L. Roy, CG 06-01. (Matha, T).

Creditor Recovery Service, LLC v. Jack A. Peterson, CG 06-02. (Matha, T).

Creditor Recovery Service, LLC v. Mary Ann Dick, CG 06-03. (Matha, T).

JANUARY 10, 2006

Alliance Collection Agencies, Inc. v. Wendy Dickerson, CG 06-04. (Matha, T).

Alliance Collection Agencies, Inc. v. Lambert Cleveland, Jr., CG 06-05. (Matha, T).

NCO Attorney Network v. Linda J. Hyman, CG 06-06. (Matha, T).

Midland Credit Mgt., Inc. v. Ken Lewis, CG 06-07. (Matha, T).

JANUARY 19, 2006

Global Acceptance Credit Corp. v. Janet Swennes, CG 06-08. (Matha, T).

JANUARY 23, 2006

Valued Services of Wisconsin d/b/a Check Advance v. Kelly Potts, CG 06-09. (Matha, T).

In the Interest of: Amber S. Kruse, DOB 03/06/83 v. Ho-Chunk Nation Office of Enrollment, CV 06-05. (Matha, T).

JANUARY 27, 2006

In the Interest of Minor Child: M.A.A., DOB 07/05/93, by Yvette Alvarez v. Ho-Chunk Nation Office of Enrollment, CV 06-06. (Matha, T).

Juvenile

JANUARY 10, 2006

In the Interest of Minor Child: S.E.R., DOB 01/05/90, JV 06-01. (Matha, T).

In the Interest of Minor Child: T.E.R., DOB 12/26/90, JV 06-02. (Matha, T).

In the Interest of Minor Child: B.B., DOB 05/01/93, JV 06-03. (Matha, T).

JANUARY 20, 2006

In the Interest of Minor Child: R.B., Jr., DOB 04/23/91, JV 06-03. (Matha, T).

Supreme Court

NO RECENT FILINGS



Upcoming Events

**UNIVERSITY OF WISCONSIN
LAW SCHOOL, MADISON WI
MARCH 24-25, 2006**

**20TH ANNUAL
COMING TOGETHER of the PEOPLES
CONFERENCE**

Topics include:

Business Developments in Indian Country
Current Issues in Indian Education
Native American Graves Protection & Repatriation Act
Alternative Power Development

Organized by the Indigenous Law Students
Association of the
University of Wisconsin Law School

For more information, contact
ampeguero@wisc.edu or visit the website at
<http://www.law.wisc.edu/students/ilsa/index.htm>



**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
 Douglas Red Eagle
 Preston Thompson, Jr.
 Eugene Thundercloud
 Morgan White Eagle
 Clayton Winneshiek
 Trial Court – Todd R. Matha, Chief Judge
 Vacant, Associate Judge
 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)





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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>

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(except holidays) 8 A.M. – 4:30 P.M.



HO-CHUNK NATION COURT BULLETIN



UNIVERSITY of
WISCONSIN
LAW SCHOOL



Indigenous Law Student Association to host 20th Annual Coming Together of Peoples Conference

Aclaimed University of Wisconsin Law School announced the 20th anniversary of its annual “Coming Together of People’s Conference.” This special conference, hosted by the Indigenous Law Student Association, will take place will take place March 24 & 25, 2006 at the University of Wisconsin Law School in Madison. The conference will feature nationally recognized American Indian legal experts who will address special topics of Indian law. Conference panels will include: Renewable Energy in Indian Country; Cultural Laws in Indian Country, including the Native American Graves Protection and Repatriation Act; Education; and Business and Taxation panels. The Conference’s keynote speaker will be Donald “Del” Laverdure, Crow Nation Court Judge and Founder of the Indigenous Law and Policy Center at Michigan State University. The program is free and open to the public and offers free Continuing Legal Education credits for practicing attorneys.

A banquet, which is also open to the public, will occur on Friday March 24 at 7:00 PM at the Madison Concourse Hotel.

Tickets are \$20/person in advance or at the door. (RSVP is appreciated at seyler@wisc.edu)

“**W**e are honored to host the 20th Annual Coming Together of People’s Conference, one of the oldest American Indian law conferences in the country,” said Ruth Robarts, Dean of Academic Affairs at the University of Wisconsin Law School. “The 20th Annual conference reflects our student’s high level of commitment to Indian Country and the issues facing American Indian people.”

The Indigenous Law Student Association (ILSA) is a student run organization at the University of Wisconsin Law School that promotes the rich traditions and cultures of American Indian people. Formed in 1991, ILSA operates throughout the year as an advocacy organization and educational resource.



UPDATES FROM OUTSIDE COURTS

United States Supreme Court

Gonzales v. Centro Espiritia Beneficiente Uniao do Vegetal, Docket No. 04-1084 (U.S. 2006).

Members of the church received communion by drinking hoasca, a tea brewed from plants unique to the Amazon Rainforest that contained a hallucinogen regulated under Schedule I of the Controlled Substances Act (CSA). The Government conceded that the challenged application would substantially burden a sincere exercise of religion, but argued that this burden did not violate Religious Freedom Restoration Act (RFRA) because applying the CSA was the least restrictive means of advancing three compelling governmental interests: protecting the church members' health and safety, preventing the diversion of hoasca from the church to recreational users, and complying with the United Nations Convention on Psychotropic Substances. The Court

held that the church had effectively demonstrated that its sincere exercise of religion was substantially burdened, but that the Government failed to demonstrate that the application of the burden to the church would, more likely than not, be justified by the asserted compelling interests. Congress' placement of dimethyltryptamine (DMT) under Schedule I simply did not relieve the Government of the obligation to shoulder its burden under RFRA.

As part of the case, the Department of Justice argued that the federal Indian trust relationship provided a basis to allow members of the Native American Church to use peyote, a hallucinogenic plant, in ceremonies without violating the law. Chief Justice John G. Roberts wrote that the political status of tribes cannot be used to justify why non-Indians should be excluded from the same religious protections. "If such use is permitted ... for hundreds of thousands of Native Americans exercising their faith, it is difficult to see how those same findings alone can preclude any consideration of a similar exception for the 130 or so American members of the UDV who want to practice theirs." Roberts wrote. Roberts said the government "never explains what about that 'unique' relationship" gives the United States the right to carve out an exception for Native American Church practitioners. Both peyote and hoasca, listed under Schedule I of the Controlled Substance Act, pose the same health and safety risks, the court reasoned. The Court further opined, "[n]othing about the unique political status of the tribes makes their members immune from the health risks the government asserts accompany any use of a Schedule I substance, nor insulates the Schedule I substance the tribes use in religious exercise from the alleged risk of diversion."

Certiorari pending

Lingle v. Arakaki, No. 05-988 (filed February 2, 2006).

Cayuga Indian Nation of New York v. Pataki, No. 05-982 (filed February 3, 2006).

United States v. Pataki, No. 05-987 (filed February 3, 2006).

Certiorari denied

Wilbur v. Locke, No. 05-740 (denied February 21, 2006).

Beams v. Norton, No. 05-900 (denied February 27, 2006).

Tenth Circuit Court of Appeals

The Quapaw Tribe of Oklahoma v. Asarco Inc., Docket No. 04-5131 (10th Cir. 2006).

The Quapaw Tribe of Oklahoma appealed from the United States District Court for the Northern District of Oklahoma that denied the tribe's motion to dismiss counterclaims brought by appellees, mining companies and their predecessors in interest, based in contribution and indemnity, regarding the tribe's suit under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The tribe's CERCLA suit was based on environmental contamination of tribal lands from mining activities in the 1900s. The district court concluded the tribe had waived its immunity as to the companies' counterclaims, which sounded in recoupment, by filing suit. In applicable precedent, the appellate court had extended application of the recoupment doctrine to Native American tribes; thus, when a tribe filed suit it waived its immunity as to defendant's counterclaims that sounded in recoupment. The scope of the waiver under the doctrine of recoupment was limited only by the requirements for a recoupment claim, *i.e.*, that the claim arose from the same transaction as the plaintiff's claim, sought the same relief as the plaintiff's claim, and sought an amount not in excess of the plaintiff's claim. The district court did not err in concluding the tribe waived its immunity as to any of the companies' counterclaims sounding in recoupment. Because the companies' counterclaims arose from the same transaction or occurrence as the tribe's claims and sought relief of the same kind or nature, but not in excess of the amount sought by the tribe, they were claims in recoupment. The Tenth Circuit affirmed the district court's order denying the tribe's motion to dismiss.

United States v. Arrieta, Docket No. 04-2350 (10th Cir. 2006).

Mr. Santo Arrieta was accused of assaulting an American Indian on a public road within the exterior boundaries of Pueblo Indian land. Defendant argued that the court lacked subject matter jurisdiction on the basis that the road was not Indian country, within the meaning of 18 U.S.C.S. § 1151, because the road was maintained by the county as a county road. In affirming defendant's conviction, the court held that the road was Indian country because land owned by an Indian tribe within the exterior boundaries of land granted to the tribe was necessarily part of the Indian community, even if the state performed some services and maintenance with respect to the land. In its cross appeal, the government asserted that the district court erred in imposing a sentence that was less than the agreed upon sentence. In remanding for resentencing with instructions to impose the specific sentence agreed upon in the plea agreement, the court held that the district court accepted defendant's plea agreement and was therefore bound by the sixty (60) month sentence specified in the agreement.



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

FEBRUARY 3, 2005

Deanna Bedell Awonohopay v. Jay Awonohopay, Mabry D. Deal v. Jay Awonohopay, CS 05-47-48 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Feb. 3, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

FEBRUARY 17, 2005

State of Wisconsin v. Charles Dennis Hindsley, CS 03-20 *Order (Ceasing Child Support)* (HCN Tr. Ct., Feb. 17, 2006). (Matha, T).

The petitioner requested child support withholding cease from the respondent’s per capita distribution and wages. The timeline is waived since the cessation of child support is a benefit to all interested parties. The Court granted the request.

State of Wisconsin v. Charles Dennis Hindsley, State of WI/Jackson Co. v. Charles D. Hindsley, CS 03-20, -66 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Feb. 17, 2006). (Matha, T).

The petitioner filed a motion requesting child support withholding and child support arrears cease. The timeline is waived since the cessation of child support is a benefit to all interested parties. The Court granted the motion.

FEBRUARY 21, 2005

Earl L. Lemieux v. Melissa Lee Snowball, Sandra J. Schmidt v. Melissa L. Snowball, CS 05-62, 06-03 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Feb. 21, 2006). (Matha, T).

The Court had to determine whether to enforce another foreign child support order against a serial payor’s per capita payments. The respondent failed to respond within the specified timeframe. The Court granted the motion.

Tammy C. Fine v. John P. McKeel, CS 06-04 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Feb. 21, 2006). (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.

FEBRUARY 22, 2005

Earl L. Lemieux v. Melissa Lee Snowball, Sandra J. Schmidt v. Melissa L. Snowball, CS 05-62, 06-03 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Feb. 22, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

State of WI/Sauk Co. and Laura Geshick v. Clayton K. Pemberton, CS 01-33 *Order (Ceasing Child Support Arrears)* (HCN Tr. Ct., Feb. 22, 2006). (Matha, T).

The petitioner requested child support withholding cease from the respondent’s per capita distributions. The timeline is waived since the cessation of child support is a benefit to all interested parties. The Court granted the request.

State of Wisconsin – Juneau County v. Katie L. Lema a/k/a Katie L. Hunter, CS 06-02 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Feb. 22, 2006). (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. Charles Dennis Hindsley, State of WI/Jackson Co. v. Charles D. Hindsley, CS 03-20, -66 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Feb. 22, 2006). (Matha, T).

The petitioner filed a motion requesting child support withholding and child support arrears cease. The timeline is waived since the cessation of child support is a benefit to all interested parties. The Court granted the motion.

FEBRUARY 28, 2005

Jessica Hopkins v. Mitchell Smith, Dencie Akeen v. Mitchell Smith, Tara L. Wolf v. Mitchell C. Smith, CS 04-33, 05-25, 06-07 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Feb. 28, 2006). (Matha, T).

The Court had to determine whether to enforce another foreign child support order against a serial payor's per capita payments. The respondent failed to respond within the specified timeframe. The Court granted the motion.



Civil Garnishment

FEBRUARY 3, 2006

Creditor Recovery Service, LLC v. Bonita L. Roy, CG 06-01 *Order (Default Judgment)* (HCN Tr. Ct., Feb. 3, 2006). (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. Lambert Cleveland, Jr., CG 06-05 *Order (Default Judgment)* (HCN Tr. Ct., Feb. 3, 2006). (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. Jack A. Peterson, CG 06-02 *Order (Default Judgment)* (HCN Tr. Ct., Feb. 3, 2006). (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. Wendy Dickerson, CG 06-04 *Order (Default Judgment)* (HCN Tr. Ct., Feb. 3, 2006). (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.

FEBRUARY 7, 2006

Alexander Middle School v. Joseph Nakai and Ramona McDonald, CG 06-10 *Order (Voluntary Dismissal)* (HCN Tr. Ct., Feb. 7, 2006). (Matha, T).

The petitioner sought recognition and enforcement of a foreign money judgment. The petitioner filed a request to dismiss. The Court accordingly dismisses the case without prejudice.

FEBRUARY 8, 2006

Creditor Recovery Service, LLC v. Mary Locey, CG 05-102 *Order (Default Judgment)* (HCN Tr. Ct., Feb. 8, 2006). (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.

FEBRUARY 10, 2006

Creditor Recovery Service, LLC v. Missy RedCloud, CG 05-123 *Order (Voluntary Dismissal)* (HCN Tr. Ct., Feb. 10, 2006). (Matha, T).

The petitioner sought recognition and enforcement of a foreign money judgment. The petitioner filed a request to dismiss. The Court accordingly dismisses the case without prejudice.

FEBRUARY 13, 2006

WR Capital, LLC v. Gale S. Youngthunder, CG 05-36 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., Feb. 13, 2006). (Matha, T).

The Court recognized that the debt had been paid in full and informed the parties of its intent to close the file.

FEBRUARY 14, 2006

Valued Services of Wisconsin, LLC d/b/a Check Advance v. Dana Kaddatz, CG 06-11 *Order (Default Judgment)* (HCN Tr. Ct., Feb. 14, 2006). (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.

Valued Services of Wisconsin, LLC d/b/a Check Advance v. Kelly Potts, CG 06-09 *Order (Default Judgment)* (HCN Tr. Ct., Feb. 14, 2006). (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.

FEBRUARY 24, 2006

Alliance Collection Agencies, Inc. v. Donna Pabst, CG 04-53 *Order (Granting Motion to Modify)* (HCN Tr. Ct., Feb. 24, 2006). (Matha, T).

The petitioner filed the *Motion to Modify the Current Order for Additional Interest*. The petitioner sought additional accumulated post-judgment interest pursuant to WIS. STAT. § 815.05(8) and continuing interest calculated per day until the satisfaction of the principal judgment.

Midland Credit Management, Inc. v. Ken Lewis, CG 06-07 *Order (Voluntary Dismissal)* (HCN Tr. Ct., Feb. 24, 2006). (Matha, T).

The petitioner sought recognition and enforcement of a foreign money judgment. The petitioner filed a request to dismiss. The Court accordingly dismisses the case without prejudice.

FEBRUARY 28, 2006

Augusta Housing Management Co. v. Lisa Servent, CG 06-16 *Order (Petition Granted)* (HCN Tr. Ct., Feb. 28, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a response within the specified timeframe. However, the respondent failed to provide a cognizable objection to the action. The Court granted the petitioner's request for relief.

**Civil Cases****FEBRUARY 20, 2006**

Marx Advertising Agency, Inc. v. Ho-Chunk Nation d/b/a Ho-Chunk Casino & Bingo, et al., CV 04-16 *Order (Suspending Sua Sponte Dismissal)* (HCN Tr. Ct., Feb. 20, 2006). (Matha, T).

The Court shall suspend entering a *sua sponte* dismissal for inactivity in excess of six (6) months. The parties jointly filed the *Stipulation Agreeing that Plaintiff Has Good Cause to Avoid Future Order Dismissing Action* within the timeframe denoted in the Court's previous decision.

FEBRUARY 23, 2006

Kathy A. Stacy v. Ho-Chunk Nation Legislature, CV 02-40 *Order (Modification of Scheduling Order)* (HCN Tr. Ct., Feb. 23, 2006). (Matha, T).

The Court must determine whether to revise the scheduling of the instant case. The Court grants a modification in response to the mutual request of the parties. The Court will also convene a motion hearing in order to consider the anticipated filing of dispositive motions.

FEBRUARY 27, 2006

HCN Treas. Dep't et al. v. Corvettes on the Isthmus et al., CV 05-82 Order (Motion Hearing) (HCN Tr. Ct., Feb. 27, 2006). (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 to provide the plaintiffs the opportunity to offer a response.

EMPLOYMENT

FEBRUARY 1, 2006

Adriane Walker v. Amy Kirby et al., CV 05-28 Order (Denying Defendants' Motion for Summary Judgment) (HCN Tr. Ct., Feb. 1, 2006). (Matha, T). The Court had to determine whether to grant the defendants' request for summary judgment. The Court deduced that genuine issues of material fact exist within the instant case. The Court accordingly declined to grant defendants' motion, and notified the parties of its intent to convene trial.

FEBRUARY 7, 2006

Tina Gouty-Yellow v. the Ho-Chunk Nation Legislature et al., CV 06-01 Stipulation to Continue Pre-Trial Conference and Hearing on Plaintiff's Motion for a Preliminary Injunction and Order Thereon (HCN Tr. Ct., Feb. 7, 2006). (Vele, K).

The parties stipulated for a continuance of the pre-trial conference and hearing on the plaintiff's motion for a preliminary injunction in order to allow the parties to pursue settlement of the case.

Patricia A. Lowe-Ennis and Cash Systems v. Ho-Chunk Nation Tribal Employment Rights Ordinance Commission, CV 04-06-07 Order (Reversing and Remanding) (HCN Tr. Ct., Feb. 7, 2006). (Matha, T).

The Court must determine whether to uphold the adjudicative decision of the Ho-Chunk Nation Tribal Rights Ordinance Commission (hereinafter TERO Commission). Regrettably, the TERO Commission failed to adhere to the clear dictates of the TERO, thereby necessitating a reversal of the decision and order and a remand to the executive agency. The TERO Commission failed to address the majority of the complainant's issues within its *Decision Order*. The petitioners have advocated

conflicting factual accounts to the Court due to the lack of the agency's factual findings.

FEBRUARY 20, 2006

Sherry Fitzpatrick v. Ho-Chunk Nation et al., CV 04-82 Order (Final Judgment) (HCN Tr. Ct., Feb. 20, 2006). (Matha, T).

The Court must determine whether to grant the plaintiff's request for relief. The Court held that the defendants did not afford the plaintiff minimum procedural due process in connection with her discharge from employment. Quite simply, an employee must receive a meaningful opportunity to be heard before their property can be taken away. In the instant case, the supervisor did not believe that she maintained discretion in a termination decision. A pre-termination hearing is not a mere technicality. Therefore, the Court reverses the plaintiff's termination and awards appropriate relief.

FEBRUARY 22, 2006

Louella A. Kelty v. Jonette Pettibone and Ann Winneshiek, CV 98-49 Order (Denying Defendants' Motion to Modify) (HCN Tr. Ct., Feb. 22, 2006). (Matha, T).

The Court must determine whether to grant the Defendant's Motion to Modify. The defendants contest the Court's award of monetary damages in the instant case, but the defendants failed to assert the defense of sovereign immunity within their responsive pleading. Therefore, the Court denies the motion.

FEBRUARY 21, 2006

Tina Gouty-Yellow v. Ho-Chunk Nation Legislature et al., CV 06-01 Joint Motion to Dismiss with Prejudice and Order Thereon (HCN Tr. Ct., Feb. 21, 2006). (Vele, K).

The parties entered into a settlement agreement, resolving all of the issues between them, thereby rendering this case moot.



ENROLLMENT

FEBRUARY 13, 2006

Leilani J. Chamberlain v. Adam Hall, Enrollment Officer of the Ho-Chunk Nation, CV 05-109 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Feb. 13, 2006). (Matha, T).

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

FEBRUARY 15, 2006

Leilani J. Chamberlain v. Adam Hall, Enrollment Officer of the Ho-Chunk Nation, CV 05-109 Scheduling Order (HCN Tr. Ct., Feb. 15, 2006). (Matha, T).

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

HOUSING

FEBRUARY 3, 2006

Ho-Chunk Nation Property Management v. Henry Pine, CV 05-96 Eviction Order (Default Judgment) (HCN Tr. Ct., Feb. 3, 2006). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiff, *i.e.*, restitution of premises and an award of damages. The defendant failed to answer the *Complaint* despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiff permissible relief sought in the *Complaint*.

Ho-Chunk Nation Property Management v. Henry Pine, CV 05-96 Writ of Restitution (HCN Tr. Ct., Feb. 3, 2006). (Matha, T).

After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the property restored to its possession and to remove the defendant, her possessions, and those occupying the property with her from the premises. The Court sought the assistance of a tribal law enforcement

officer or the sheriff of Sauk County in order to restore the property.

Ho-Chunk Nation Department of Housing, Property Management v. Serena Gail Yellowthunder, CV 01-103 Satisfaction of Judgment (HCN Tr. Ct., Feb. 3, 2006). (Matha, T).

The Court recognized that the debt had been paid in full and informed the parties of its intent to close the file.

FEBRUARY 27, 2006

Ho-Chunk Nation Housing & Community Development Agency v. LaVetta Cloud, CV 06-07 Eviction Order (Default Judgment) (HCN Tr. Ct., Feb. 27, 2006). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiff, *i.e.*, restitution of premises and an award of damages. The defendant failed to answer the *Complaint* despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiff permissible relief sought in the *Complaint*.

Ho-Chunk Nation Housing & Community Development Agency v. LaVetta Cloud, CV 06-07 Writ of Restitution (HCN Tr. Ct., Feb. 27, 2006). (Matha, T).

After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the property restored to its possession and to remove the defendant, her possessions, and those occupying the property with her from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Sauk County in order to restore the property.





DEBT TO AN ELDER

FEBRUARY 2, 2006

Samuel C. Shegonee v. Leslie Storm Whittaker, CV 06-02 Order (*Satisfaction of Judgment*) (HCN Tr. Ct., Feb. 2, 2006). (Matha, T).

The plaintiff filed his initial pleading in which he requested repayment of a loan. However, prior to the convening of a *Scheduling Conference*, the defendant filed a satisfaction of judgment pursuant to the *Ho-Chunk Nation Rules of Civil Procedure*, Rule 59.

CHILDREN'S TRUST FUND (CTF)

FEBRUARY 1, 2006

In the Interest of Minor Children: M.L.D., DOB 04/05/01, by *Terry T. Deloney v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 05-58 Order (*Requesting Accounting*) (HCN Tr. Ct., Feb. 1, 2006). (Matha, T).

The Court requested that the petitioner submit the required accounting.

In the Interest of Minor Children: T.J.M., DOB 10/25/88, and *A.M.M.*, DOB 07/02/90, by *Kendra Tarr v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 03-83 Order (*Requesting Accounting*) (HCN Tr. Ct., Feb. 1, 2006). (Matha, T).

The Court requested that the petitioner submit the required accounting.

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 (*Requesting Accounting*) (HCN Tr. Ct., Feb. 1, 2006). (Matha, T).

The Court requested that the petitioner submit the required accounting.

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 (*Demanding Accounting*) (HCN Tr. Ct., Feb. 1, 2006). (Matha, T).

The Court ordered that the petitioner submit the previous required accounting.

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 (*Accepting Accounting*) (HCN Tr. Ct., Feb. 1, 2006). (Matha, T).

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

In the Interest of Adult CTF Beneficiary: Rainelle M. Decorah, DOB 01/26/85 v. *Ho-Chunk Nation Office of Tribal Enrollment*, CV 05-46 Order (*Requesting Accounting*) (HCN Tr. Ct., Feb. 1, 2006). (Matha, T).

The Court requested that the petitioner submit the required accounting.

FEBRUARY 2, 2006

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., Feb. 2, 2006). (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 at the hearing, and did not notify the Court of an inability to attend the proceeding. The Court dismisses the instant cause without prejudice.

FEBRUARY 8, 2006

In the Interest of Minor Child: A.F., DOB 01/13/96, by *Alona Bush v. Ho-Chunk Nation Office of Tribal Enrollment*, CV 05-83 Order (*Granting Motion to Modify*) (HCN Tr. Ct., Feb. 8, 2006). (Matha, T).

The Court granted a release of monies from the Children's Trust Fund for the purposes of purchasing an automobile. Subsequently, the petitioner informed the Court that the dealership had sold the vehicle in question, but proposed substituting an identically priced vehicle that became available at the dealership. The Court grants the modification and permits the petitioner to

use the released funds to purchase the substitute vehicle.

FEBRUARY 9, 2006

In the Interest of Minor Children: L.M., DOB 01/08/92, and K.M., DOB 04/09/93, by Shelley Williams v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-19 Order (Dismissal without Prejudice) (HCN Tr. Ct., Feb. 9, 2006). (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 at the hearing, and did not notify the Court of an inability to attend the proceeding. The Court dismisses the instant cause without prejudice.

In the Interest of Adult CTF Beneficiary: Amber S. Kruse, DOB 03/06/83 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 06-05 Order (Partial Granting of Petition) (HCN Tr. Ct., Feb. 9, 2006). (Matha, T).

The Court had to determine whether an adult can access her CTF account to pay for costs associated with continuing education and the acquisition of a personal computer. The Court granted the request for tuition and related school expenses. However, the Court shall decline the request for a personal computer in line with standing case law.

FEBRUARY 13, 2006

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 (Accepting Accounting) (HCN Tr. Ct., Feb. 1, 2006). (Matha, T).

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

In the Interest of Minor Child: M.A.A., DOB 07/05/93, by Yvette M. Alvarez v. Ho-Chunk Nation Office of Tribal Enrollment, CV 06-06 Order (Petition Granted) (HCN Tr. Ct., Feb. 13, 2006). (Matha, T).

The Court had to determine whether a parent could access CTF monies on behalf of her minor child for

costs associated with orthodontic procedures. The Court granted the request.

FEBRUARY 17, 2006

In the Interest of Minor Child: L.G.R., DOB 05/14/97, by Leah Marie Rave v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-106 Order (Granting Motion to Modify) (HCN Tr. Ct., Feb. 17, 2006). (Matha, T).

The Court granted a release of monies from the CTF for the costs associated with orthodontic procedures. Subsequently, the petitioner informed the Court that a balance in the amount of \$845.00 remained on the dental account. The Court grants the modification and satisfies the outstanding balance.

In the Interest of Minor Child: P.S., DOB 05/05/94, by Reginald Sohm v. Ho-Chunk Nation Office of Tribal Enrollment, CV 06-10 Order (Petition Granted) (HCN Tr. Ct., Feb. 17, 2006). (Matha, T).

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

FEBRUARY 20, 2006

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 (Accepting Accounting) (HCN Tr. Ct., Feb. 20, 2006). (Matha, T).

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

FEBRUARY 28, 2006

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 (Accepting Accounting) (HCN Tr. Ct., Feb. 28, 2006). (Matha, T).

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



INCOMPETENT TRUST FUND (ITF)

FEBRUARY 1, 2006

In the Interest of Adult Incompetent: M.B.J., DOB 12/01/65, by Dolli Big John v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-83 Order (Requesting Accounting) (HCN Tr. Ct., Feb. 1, 2006). (Matha, T).

The Court requested that the petitioner submit the required accounting.

FEBRUARY 2, 2006

In the Interest of Adult Incompetent: Kathy Brandenburg, by Jon B. Bahr, River Valley Guardians, Inc. v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-18 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 2, 2006). (Matha, T).

The Court previously released funds from the ITF account for costs associated with bad checks written by the ward, to increase the ward's allowance, an activity fee, a county bill, and a Public Defender fee. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

In the Interest of Adult Incompetent: W.E.S., DOB 12/23/36, by Frank E. Bichanich v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-22 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 2, 2006). (Matha, T).

The Court previously released funds from the ITF account for costs associated with maintaining a residence, *i.e.*, state property taxes. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

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., Feb. 2, 2006). (Matha, T).

The Court previously released funds from the ITF account for costs associated with ongoing nursing home care. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

In the Interest of Adult Incompetent: H.C., DOB 01/31/31, by Barbara A. Meltesen v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-72 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 2, 2006). (Matha, T).

The Court previously released funds from the ITF account for costs associated with ongoing care, GAL fees and the cost of adversary counsel. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

FEBRUARY 21, 2006

In the Interest of Adult Incompetent: H.C., DOB 01/31/31, by Barbara A. Meltesen v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-72 Order (Motion Granted) (HCN Tr. Ct., Feb. 21, 2006). (Matha, T).

The Court had to 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 nursing home care and professional guardianship service fees. The Court grants a release of funds to satisfy the request of the guardian.



Juvenile

FEBRUARY 2, 2006

In the Interest of Minor Children: V.M.B., DOB 06/26/89, M.L.E.B., DOB 05/18/90, D.J.B., DOB 09/21/99, JV 05-29-31 Order (Establishing Dispositional Requirements and Scheduling Trial) (HCN Tr. Ct., Feb. 2, 2006). (Matha, T).

The Court conducted the *Dispositional Hearing*, in accordance with the HOCAK NATION CHILDREN AND

FAMILY ACT (hereinafter CHILDREN'S ACT). At the *Hearing*, the Court had to assess the extent and scope of the dispositional recommendations proposed by Ho-Chunk Nation Children & Family Services (hereinafter CFS).

FEBRUARY 7, 2006

In the Interest of Minor Child: D.R.W., DOB 08/12/04, JV 05-07 Order (Regarding Modification Hearing) (HCN Tr. Ct., Feb. 7, 2006). (Matha, T). The Court convened the *Modification Hearing* to principally discuss the issue of visitation. The petitioner also requested a termination of the temporary guardianship. The Court required the parties to mutually agree upon a visitation arrangement and scheduled a revocation hearing.

FEBRUARY 8, 2006

In the Interest of Minor Child: A.P.H., DOB 08/26/05, JV 05-28 Order (Dispositional Requirements) (HCN Tr. Ct., Feb. 8, 2006). (Matha, T). The Court conducted a *Dispositional Hearing*. The Court had to assess the extent and scope of the dispositional recommendations proposed by CFS. The dispositions contained within the order hopefully will serve to reunify the family.

FEBRUARY 13, 2006

In the Interest of Minor Children: K.M.C., DOB 04/11/90, Q.J.C., DOB 08/07/92, JV 06-05-06 Order (Conditional Acceptance of Transfer) (HCN Tr. Ct., Feb. 13, 2006). (Matha, T). The Court had to determine 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 treatment. After reviewing the *Motion for Transfer to Tribal Court*, the Court shall not decline the transfer. Therefore, CFS must proceed in accordance with the CHILDREN'S ACT, pending the contemplated transfer from the foreign jurisdiction.

FEBRUARY 15, 2006

In the Interest of Minor Children: C.H.F., DOB 12/24/03, P.R.F., DOB 04/22/02, JV 05-19-20 Order (Appointment of Guardian ad Litem) (HCN Tr. Ct., Feb. 13, 2006). (Matha, T).

The Court appointed a GAL in this matter.

FEBRUARY 16, 2006

In the Interest of Minor Child: C.Y., DOB 01/18/94, JV 05-32 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Feb. 16, 2006). (Matha, T).

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

FEBRUARY 17, 2006

In the Interest of Minor Child: P.M.S., DOB 01/14/91, P.A.S., DOB 01/14/91, JV 98-06-07 Order (Child Protection Review Hearing) (HCN Tr. Ct., Feb. 17, 2006). (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 impose additional requirements upon the minor children's mother and schedule a dispositional hearing for the minor children's father.

FEBRUARY 21, 2006

In the Interest of Minor Children: J.V., DOB 09/03/99, S.V., DOB 10/22/88, JV 02-19-20 Order (Child Protection Review Hearing) (HCN Tr. Ct., Feb. 21, 2006). (Matha, T).

The Court conducted a *Child Protection Review Hearing*. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

In the Interest of Minor Child: A.P.H., DOB 08/26/05, JV 05-28 Order (Appointment of Guardian ad Litem) (HCN Tr. Ct., Feb. 21, 2006). (Matha, T).

The Court appointed a GAL in this matter.

FEBRUARY 24, 2006

In the Interest of Minor Children: V.J.F., DOB 09/26/98, I.D.F., DOB 03/30/02, JV 03-39-40 Order (Child Protection Review Hearing) (HCN Tr. Ct., Feb. 24, 2006). (Matha, T).

The Court conducted a *Child Protection Review Hearing*. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

In the Interest of Minor Child: L.E.C., DOB 10/12/90, JV 01-22 Order (Appointment of Interim Temporary Guardian) (HCN Tr. Ct., Feb. 24, 2006). (Matha, T).

The Court earlier appointed a permanent legal guardian of the person of the minor child. The permanent guardian has since passed away, thereby leaving the minor child without any legal custodian. The Court accordingly appoints an interim legal guardian until it can fulfill the procedural requisites of designating a successor legal guardian.



SUPREME COURT

Nicholas Joseph Kedrowski v. Sharon Whitebear et al., SU 05-12 Order (Denying Motion for Extension to File Brief) (HCN S. Ct., Feb. 13, 2006).

This matter is an appeal of a Gaming Commission decision. The appellant, Nicholas Kedrowski, had been employed by Rainbow Casino as Surveillance Director. The Court reviewed the appellant's *Motion to Amend Pleadings and for an Extension to File a Brief in the Above Referenced Appeal and Certificate of Representation*. The appellant's attorney had more than sufficient notice of the proceedings in this case, both the underlying decision and *Notice of Appeal*. In light of this actual knowledge of the proceedings and the failure to allege, let alone demonstrate good cause why no brief was filed in a timely manner. The matter was dismissed, affirming the *Order Denying Appeal*.



Recent Filings

Trial Court

Civil Garnishment

FEBRUARY 3, 2006

Tomah Memorial Hospital v. Lucy K. Snake, CG 06-13. (Matha, T).

Greater La Crosse Radiological v. John Kellerman, CG 06-14. (Matha, T).

FEBRUARY 10, 2006

Creditor Recovery Service v. Kiel S. Roy, CG 06-15. (Matha, T).

Augusta Housing Management Company v. Lisa Servant, CG 06-16. (Matha, T).

FEBRUARY 15, 2006

Creditor Recovery Service v. Audrey M. Senn, CG 06-17. (Matha, T).

FEBRUARY 28, 2006

Creditor Recovery Service v. Jerry D. McCrossen, CG 06-18. (Matha, T).

Child Support

FEBRUARY 22, 2006

State of Wisconsin – Elaine M. Dennis v. Joseph S. Grover, CS 06-06. (Matha, T).

FEBRUARY 23, 2006

Tara L. Wolf v. Mitchell C. Smith, CS 06-07. (Matha, T).

Civil Cases

FEBRUARY 1, 2006

Ho-Chunk Nation Housing v. LaVetta Cloud, CV 06-07. (Matha, T).

Ho-Chunk Nation Housing v. Margaret Hoffman, CV 06-08. (Matha, T).

Ho-Chunk Nation Housing v. Anita Youngthunder,
CV 06-09. (Matha, T).

FEBRUARY 3, 2006

In the Interest of Minor Child: P.S., DOB 05/05/94,
by Reginald Sohm v. Ho-Chunk Nation Office of
Enrollment, CV 06-10. (Matha, T).

FEBRUARY 15, 2006

In the Interest of Selina R. Littlewolf, DOB
01/29/1984 v. Ho-Chunk Nation Office of
Enrollment, CV 06-11. (Matha, T).

FEBRUARY 23, 2006

Ho-Chunk Nation Department of Labor v.
Contingency Planning Solutions, CV 06-12.
(Matha, T).

Juvenile

FEBRUARY 10, 2006

In the Interest of Minor Child: K.M.C., DOB
04/11/90, JV 06-05. (Matha, T).

In the Interest of Minor Child: Q.J.C., DOB
08/07/92, JV 06-06. (Matha, T).

Divorce

FEBRUARY 7, 2006

Carl Ray Chalepah v. Crystal E. Chalepah, FM 06-
01. (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
 Dennis Funmaker, Associate Justice
 Traditional Court – Earl Blackdeer
 Donald Blackhawk
 Dennis Funmaker
 Jim Greendeer
 Douglas Greengrass
 Desmond Mike
 Douglas Red Eagle
 Preston Thompson, Jr.
 Eugene Thundercloud
 Morgan White Eagle
 Clayton Winneshiek
 Trial Court – Todd R. Matha, Chief Judge
 Vacant, Associate Judge
 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)





APRIL 2006

VOL. 12, NO. 3

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HCN Judiciary Fee Schedule

Legal Citation Forms

Ho-Chunk Nation Judiciary

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HO-CHUNK NATION COURT BULLETIN



31st Annual Indian Law Conference: Active Sovereignty in the 21st Century

The Federal Bar Association hosted its 31st Annual Indian Law Conference in Albuquerque, New Mexico. The conference comprised two (2) days of important topics affecting Indian Country. The theme of the conference was "Active Sovereignty in the 21st Century." The Indian Law Conference, is the largest and longest-running meeting of Indian law and policy leaders, drawing over 700 tribal lawyers, judges, leaders, academics and law students to Albuquerque, New Mexico every year. Among other topics, Indian law practitioners and Indian law students discussed the U.S. Supreme Court, Class II gaming, tribal disenrollment and sovereign immunity.

The first panel entitled, "*The Future of Federal Indian Law in the Roberts Era*," not only dissected former Chief Justice William Rehnquist's debilitating influence on Indian law, but dissected current Chief Justice Robert's possible impacts in Indian Law. Presenters discussed Chief Justice Robert's involvement as an attorney in the *Alaska v. Venetie* and *Rice v. Cayetano* cases. A luncheon in honor of the late Vine Deloria took place on Thursday, April 6, 2006. Rick West, the director of the National Museum of the American Indian, delivered the keynote address. One of the after-

noon panels discussed “*Interjecting Tribal Values into Tribal Courts of General Jurisdiction.*” Professor Robert Clinton discussed the inherent tension in tribal court jurisdiction, he noted, “the more culturally relevant, and perhaps, non-adversarial, tribal law and tribal courts become the more unfamiliar and uninviting they become to non-Indian commercial interest.” He left the attendees pondering the most appropriate role for tribal courts and their evolution.

On Friday, former U.S. Attorney Thomas B. Heffelfinger and Bureau of Indian Affairs law enforcement director Chris Chaney spoke on the results of a methamphetamine trafficking study in Indian Country. Attorney Heffelfinger continually reiterated that “federal, tribal, state and local law enforcement should collaborate and coordinate their efforts in addressing public safety issues relating to methamphetamine in Indian Country.”

Attorneys, Justices, and Traditional Court members of the Ho-Chunk Nation attended the two (2) day conference. Attendees returned to the Nation with ideas to improve and refresh the Nation’s outlook on Federal Indian affairs. The Conference is scheduled to take place again in April 2007 in Albuquerque, New Mexico.



STAFF ATTORNEY POSITION **VACANT UNTIL MAY 2006**

Attorney Amanda Rockman Cornelius has transferred to the Ho-Chunk Nation Department of Justice as a tribal attorney. Amanda began her work obligation as a Josephine P. White Eagle Fellow in May 2005, and continued her work obligation with the Department of Justice on April 3, 2006. The Court will welcome Nicole Homer, a current third year student at Loyola University in New Orleans,

Louisiana, to her position on May 22, 2006. Ms. Homer is enrolled Oneida of the Thames of Canada.

CHIEF JUSTICE HUNTER **APPOINTS TRIAL COURT** **ASSOCIATE JUDGE**

Pursuant to the Ho-Chunk Nation Judiciary Establishment & Organization Act, if the Legislature does not appoint an Associate Judge within ninety (90) days of a vacancy, then the Chief Justice has a duty to appoint a successor judge during the interim. 1 HCC § 1.8c. On April 4, 2006, Chief Justice Hunter appointed Attorney JoAnn Jones as Associate Judge of the Trial Court pending the Ho-Chunk Nation Legislature job posting. Associate Judge Jones began her employment on April 10, 2006.

GUARDIAN AD LITEM **TRAINING**

The Ho-Chunk Nation Children & Family Act requires that the Court “appoint a guardian ad litem to protect the interests of the child” in every juvenile case. 4 HCC § 3.20b. Guardian ad litem receive reasonable compensation for their services and reimbursement for accumulated expenses. The Court tentatively plans hosting an on-site Guardian ad litem training session on July 10-12, 2006. Interested tribal members are encouraged to attend, and should seek further information from the Clerk of Court. The course is limited to participation of approximately twenty (20) individuals. The Court last hosted such an event in November 2000.





UPDATES FROM OUTSIDE COURTS

United States Supreme Court

Gonzales v. Centro Espiritita Beneficiente Uniao do Vegetal, Docket No. 04-1084 (U.S. 2006).

Certiorari pending

Lingle v. Arakaki, No. 05-988 (filed February 2, 2006).

Cayuga Indian Nation of New York v. Pataki, No. 05-982 (filed February 3, 2006).

United States v. Pataki, No. 05-987 (filed February 3, 2006).

Certiorari denied

Wilbur v. Locke, No. 05-740 (denied February 21, 2006).

Beams v. Norton, No. 05-900 (denied February 27, 2006).

Eighth Circuit Court of Appeals

Wilkinson v. United States, Docket No. 04-2185 (8th Cir. 2006).

Heirs of enrolled members of Indian tribe sued Bureau of Indian Affairs (BIA) officials, alleging deprivation of rental income derived from trust land mortgaged by their parents. The United States District Court for the District of North Dakota, granted summary judgment for officials, and heirs appealed. The Court of Appeals held that heirs had standing to sue. Reversed and remanded.

Sac & Fox Tribe of Mississippi in Iowa, Election Board v. Bureau of Indian Affairs, Docket No. 05-2106 (8th Cir. 2006).

Following recognition, by the Bureau of Indian Affairs (BIA), of tribal council elected in disputed election, election board that had been appointed by

previous council brought action against BIA, objecting to its recognition of new tribal council. Recognized council appointed new election board, which moved to dismiss. The United States District Court for the Northern District of Iowa dismissed. Old board appealed. The Court of Appeals held that district court lacked subject matter jurisdiction.

Tenth Circuit Court of Appeals

Jicarilla Apache Nation v. Ria Arriba County, Docket No. 04-2320 (10th Cir. 2006).

Indian tribe brought civil rights action against county and county officials, alleging that county's reassessment of ranch for property tax purposes violated equal protection. The United States District Court for the District of New Mexico granted summary judgment for defendants. Tribe appealed. The Court of Appeals held that: (1) Rooker-Feldman doctrine did not insulate reclassification decision of county property tax assessment board from review by federal court; (2) tribe's request for prospective injunctive relief was mooted by passage of statute by New Mexico legislature; (3) legislation did not moot claims brought by tribe for retrospective relief; (4) reclassification decision was objectively reasonable; and (5) property was not similarly situated to other elk hunting ranches. Affirmed.



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

MARCH 1, 2006

State of Wisconsin/Jackson Co. v. Brian S. LaMere, Sehoya E. Fleischman v. Brian S. LaMere, CS 03-02, -27 *Order (Modifying and Enforcing Child Supp.)* (HCN Tr. Ct., Mar. 1, 2006). (Matha, T).

The petitioner, in Case No.: CS 03-02, filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

State of Wisconsin/Jackson Co. v. Brian S. LaMere, CS 03-02 *Order (Modifying and Enforcing Child Supp. Against Wages)* (HCN Tr. Ct., Mar. 1, 2006). (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 Co. v. Joseph I. Antone, CS 05-64 *Order (Modifying and Enforcing Child Supp.)* (HCN Tr. Ct., Mar. 1, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

State of Wisconsin/Jackson Co. v. Joseph I. Antone, CS 05-64 *Order (Modifying Child Supp. Against Wages)* (HCN Tr. Ct., Mar. 1, 2006). (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.

MARCH 14, 2006

Neil T. McAndrew v. Lisa Miner McAndrew, CV 97-14 *Notice (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Mar. 14, 2006). (Matha, T).

The minor children turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the children are enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

State of Wisconsin/Shawano County and Tracy Cobb v. Daniel Bird, CS 03-51 *Notice (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Mar. 14, 2006). (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.

Dona J. Marinellow v. Howard Pettibone, CS 01-32 *Notice (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Mar. 14, 2006). (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.

Bonne Prescott Smith v. Bradley W. Smith, CV 97-99 *Notice (Child Turning 18 – Requiring Proof of Enrollment)* (HCN Tr. Ct., Mar. 14, 2006). (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.

MARCH 20, 2006

Tara J. Hilsenhoff v. Neil B. Greengrass-Starr, CS 05-96 *Default Judgment (Enforcing Child Supp.)* (HCN Tr. Ct., Mar. 20, 2006). (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 – Jackson Co. v. James Pettibone, CS 00-07 *Order (Modifying and Enforcing Child Supp.)* (HCN Tr. Ct., Mar. 20, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

State of Wisconsin v. Robert Cleveland, CS 00-33 *Order (Modifying and Enforcing Child Supp.)* (HCN Tr. Ct., Mar. 20, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

State of Wisconsin – Eau Claire Co. v. Regina M. Melendy, CS 05-68 *Order (Enforcing Child Supp. Against Wages)* (HCN Tr. Ct., Mar. 20, 2006). (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.

MARCH 21, 2006

Kelley L. Thundercloud v. Wallace P. Greendeer, CV 96-90 *Order (Ceasing Child Supp. for August 2006 Per Capita Distribution)* (HCN Tr. Ct., Mar. 21, 2006). (Matha, T).

The petitioner requested cessation of child support withholding from the respondent's per capita. The petitioner sent a letter from the high school indicating the expected graduation date of the child. Therefore, the cessation of current child support shall go into effect upon the graduation of the minor child.

MARCH 22, 2006

State of Wisconsin/Jackson Co. v. Charles D. Hindsley, CS 03-66 *Order (Modifying and Enforcing Child Supp. Against Wages)* (HCN Tr. Ct., Mar. 22, 2006). (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 Co. v. Charles D. Hindsley, CS 03-66 *Order (Modifying and Enforcing Child Supp.)* (HCN Tr. Ct., Mar. 22, 2006). (Matha, T).

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

Neil T. McAndrew v. Lisa Miner McAndrew, CV 97-14 *Order (Proof of High School Enrollment Filed)* (HCN Tr. Ct., Mar. 22, 2006). (Matha, T). The Court issued a *Notice (Child Turning 18 – Requiring Proof of Enrollment)*. The Court ordered the parties to file proof of enrollment in high school or its equivalent, or the Court would cease withholding for current child support. The petitioner filed the required proof. Therefore, the cessation of current child support shall go into effect upon the graduation of the minor child.

Dona J. Marinellow v. Howard Pettibone, CS 01-32 *Order (Proof of High School Enrollment Filed)* (HCN Tr. Ct., Mar. 22, 2006). (Matha, T). The Court issued a *Notice (Child Turning 18 – Requiring Proof of Enrollment)*. The Court ordered the parties to file proof of enrollment in high school or its equivalent, or the Court would cease withholding for current child support. The petitioner filed the required proof. Therefore, the cessation of current child support shall go into effect upon the graduation of the minor child.

MARCH 23, 2006

Bonnie Prescott Smith v. Bradley W. Smith, CV 97-99 *Order (Proof of High School Enrollment Filed)* (HCN Tr. Ct., Mar. 23, 2006). (Matha, T). The Court issued a *Notice (Child Turning 18 – Requiring Proof of Enrollment)*. The Court ordered the parties to file proof of enrollment in high school or its equivalent, or the Court would cease withholding for current child support. The petitioner filed the required proof. Therefore, the cessation of current child support shall go into effect upon the graduation of the minor child.

Denise Thiry v. Ira Laes, Michelle Kimps v. Ira Laes, CS 02-07, 05-61 *Order (Updating Arrearage*

Withholding) (HCN Tr. Ct., Mar. 23, 2006). (Matha, T).

The Court issued a *Reissued Order (Modifying Child Support)* recognizing a standing foreign child support order against the respondent's per capita distribution. The Court granted a monthly arrearage until the payment in full of the amount set forth in the account payment history.

MARCH 24, 2006

Joseph P. Estebo v. Diane J. Hopinka, CS 04-01 *Order (Ceasing Child Supp.)* (HCN Tr. Ct., Mar. 24, 2006). (Matha, T).

The petitioner requests child support withholding from the respondent's per capita. The Court orders the Ho-Chunk Nation Department of Treasury to cease withholding from the respondent's per capita for child support.

MARCH 28, 2006

Deanna Bedell Awonohopay v. Jay Awonohopay, Mabry D. Deal v. Jay Awonohopay, CS 05-47-48 *Order (Proof of High School Enrollment Filed)* (HCN Tr. Ct., Mar. 28, 2006). (Matha, T).

The petitioner, in case number CS 05-48, filed the required proof of high school enrollment. Therefore, the cessation of current child support shall go into effect upon the minor child's nineteenth (19th) birthday.

MARCH 27, 2006

Carol Jo Garvin v. George W. Garvin, Carol Jo Garvin v. George W. Garvin, CS 98-56, CV 01-27 *Order (Ceasing Child Supp. for August 2006 Per Capita Distribution)* (HCN Tr. Ct., Mar. 27, 2006). (Matha, T).

The ongoing child support withholding from the respondent's per capita will cease on June 15, 2006. However, the respondent is to maintain medical insurance for the minor children.

State of Wisconsin – Eau Claire Co. v. Regina M. Melendy, CS 05-68, CS 05-68 *Order (Ceasing Child Supp.)* (HCN Tr. Ct., Mar. 27, 2006). (Matha, T).

The petitioner requested child support withholding cease from the respondent's wages. All of the parties involved benefited from the immediate cessation of child support.

MARCH 30, 2006

Anita L. Bolander v. Darrell L. Sena, Jr., Melissa Rogers v. Darrell L. Sena, Jr., CS 01-06, 02-21 Order (Modifying and Enforcing Child Supp.) (HCN Tr. Ct., Mar. 30, 2006). (Matha, T).

The petitioner, in Case No. 02-21, filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

**Civil Garnishment****MARCH 1, 2006**

Cottonwood Financial Ltd. v. Linda Pringle, CG 06-16 Order (Default Judgment) (HCN Tr. Ct., Mar. 1, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a response within the specified timeframe. However, the respondent failed to provide a cognizable objection to the action. The Court granted the petitioner's request for relief.

Creditor Recovery Service, LLC v. Mary Ann Dick, CG 06-03 Order (Default Judgment) (HCN Tr. Ct., Mar. 1, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a response within the specified timeframe. However, the respondent failed to provide a cognizable objection to the action. The Court granted the petitioner's request for relief.

MARCH 7, 2006

Greater La Crosse Radiological v. John Kellerman, CG 06-14 Order (Default Judgment) (HCN Tr. Ct., Mar. 7, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a response within the specified timeframe. However, the respondent failed to

provide a cognizable objection to the action. The Court granted the petitioner's request for relief.

Cottonwood Financial Services v. Melissa Thunder, CG 05-110 Order (Default Judgment) (HCN Tr. Ct., Mar. 7, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a response within the specified timeframe. However, the respondent failed to provide a cognizable objection to the action. The Court granted the petitioner's request for relief.

Tomah Memorial Hospital v. Lucy K. Snake, CG 06-13 Order (Default Judgment) (HCN Tr. Ct., Mar. 7, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a response within the specified timeframe. However, the respondent failed to provide a cognizable objection to the action. The Court granted the petitioner's request for relief.

MARCH 8, 2006

Valued Servs. of Wis., LLC d/b/a/ Check Advance v. Dana Kaddatz, CG 06-11 Order (Satisfaction of Judgment) (HCN Tr. Ct., Mar. 8, 2006). (Matha, T).

The Court previously issued a default judgment against the respondent. The petitioner filed a correspondence indicating that the respondent has "fully satisfied [the judgment]." The Court recognizes that the debt has been satisfied.

Global Acceptance Credit Corp. v. Janet Swennes, CG 06-08 Order (Petition Granted) (HCN Tr. Ct., Mar. 8, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a timely response, but did not articulate a recognized exemption to execution of an earnings garnishment. The Court accepted the petitioner's request for recognition and enforcement.

MARCH 13, 2006

NCO Att'y Network v. Linda J. Hyman, CG 06-06 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Mar. 13, 2006). (Matha, T).

The Court granted the petitioner's counsel's request to appear by telephone.

Creditor Recovery Service, LLC v. Kiel S. Roy, CG 06-15 *Order (Voluntary Dismissal)* (HCN Tr. Ct., Mar. 13, 2006). (Matha, T).

The petitioner sought recognition and enforcement of a foreign money judgment. Prior to the responsive pleading deadline, the petitioner filed the request to dismiss. The petitioner informed the Court that the respondent "has paid his account in full." The Court accordingly dismisses the case without prejudice.

Alliance Collection Agencies, Inc. v. Wendy Dickerson, CG 06-04 *Order (Preserving Default Judgment)* (HCN Tr. Ct., Mar. 13, 2006). (Matha, T).

The Court had to determine whether to set aside the standing judgment. The respondent claims an exemption to the wage garnishment, but the Court requires further information to validate the claim. The Court afforded the respondent the opportunity to validate the claim. The Court afforded the respondent the opportunity to provide such information at the *Fact-Finding Hearing*, but the respondent failed to attend the proceeding. The Court preserves its judgment.

MARCH 21, 2006

NCO Att'y Network v. Linda J. Hyman, CG 06-06 *Order (Petition Granted)* (HCN Tr. Ct., Mar. 21, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a timely response, but did not articulate a recognized exemption to execution of an earnings garnishment. A twenty percent (20%) garnishment of the disposable income does not result in placing the household below the federal poverty level. The Court accepted the petitioner's request for recognition and enforcement.



Civil Cases

FEBRUARY 28, 2006

Forrest Funmaker et al. v. Alvin Cloud et al., CV 05-86 *Scheduling Order* (HCN Tr. Ct., Feb. 28, 2006). (Vele, K).

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

MARCH 14, 2006

Ona Garvin v. Ho-Chunk Nation et al., Dallas White Wing v. Ho-Chunk Nation General Council et al., CV 05-90, -93 *Order* (HCN Tr. Ct., Mar. 14, 2006). (Vele, T).

Having heard the parties' statements and having reviewed the file herein, the Court orders that the cases remain consolidated and counsel for the plaintiff, Dallas White Wing, shall provide the Court with a written update on his client's medical condition and anticipated date his client may proceed with trial.

Forrest Funmaker et al. v. Alvin Cloud et al., CV 05-86 *Order* (HCN Tr. Ct., Mar. 14, 2006). (Vele, K).

The Court had a hearing on the petitioners' *Motion to Compel Discovery*. The Court issued this *Order* to establish deadlines for the instant case.

MARCH 23, 2006

David L. Zwicke v. Roger Houghton, CV 02-66 *Order (Show Cause)* (HCN Tr. Ct., Mar. 23, 2006). (Matha, T).

In November 2005, the Court issued a money judgment against the defendant, wherein the Court directed the defendant to satisfy a debt obligation and filing fee within four (4) months from the entrance of the decision. The Court shall convene a *Show Cause Hearing* and cautions the defendant that failure to appear at the hearing could result in a finding of contempt. If the defendant is found in contempt of court, then this finding shall enable the Court to impose remedial sanctions against the defendant for up to \$100.00 each day that the defendant remains in contempt of court.

CONTRACTS

MARCH 13, 2006

Ho-Chunk Nation, Ho-Chunk Nation Department of Business and Crockett's Resort/RV Park v. Michael

Day, CV 05-103 *Order (Default Judgment)* (HCN Tr. Ct., Mar. 13, 2006). (Matha, T).

The parties entered into the *HCN Service Provider Agreement*, which identified an employment term of approximately one (1) year duration. The plaintiffs permitted the defendant to reside in a personal trailer home at the job site during the employment term. Subsequently, the plaintiffs terminated the defendant's employment. The plaintiff terminated the defendant's tenancy and required the defendant to vacate the premises. However, the defendant continues to reside on the Nation's property as a holdover tenant. Furthermore, the defendant failed to reimburse the Nation for funds not expended during the employment term. The defendant failed to answer the *Complaint* despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiffs permissible relief sought in the *Complaint*.

Ho-Chunk Nation, Ho-Chunk Nation Department of Business and Crockett's Resort/RV Park v. Michael Day, CV 05-103 *Writ of Restitution* (HCN Tr. Ct., Mar. 13, 2006). (Matha, T).

After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the property restored to its possession and to remove the defendant, his possessions, and those occupying the property with him from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Juneau County in order to restore the property.

EMPLOYMENT

MARCH 3, 2006

Robert Gerhartz v. Ho-Chunk Nation Gaming Commission, CV 05-104 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Mar. 3, 2006). (Matha, T).

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

MARCH 7, 2006

Lisa Wathen v. Ho-Chunk Nation Gaming Commission, CV 00-65 *Order (Granting*

Defendant's Motion for Summary Judgment) (HCN Tr. Ct., Mar. 7, 2006). (Matha, T).

The plaintiff alleged the defense of constructive discharge in response to the defendant's assertion that she voluntarily resigned her position. The Court previously adopted a three-prong test to determine the validity of the defense. The plaintiff failed to adequately allege that the defendant's purported actions violated a fundamental public policy, which constitutes the first prong. As a result, the Court granted the defendant's request for summary judgment.

MARCH 13, 2006

Thomas Quimby v. Ho-Chunk Nation, CV 05-91 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Mar. 13, 2006). (Matha, T).

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

MARCH 20, 2006

Thomas Quimby v. Ho-Chunk Nation, CV 05-91 *Scheduling Order* (HCN Tr. Ct., Mar. 20, 2006). (Matha, T).

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

MARCH 28, 2006

Robert Gerhartz v. Ho-Chunk Nation Gaming Commission, CV 05-104 *Scheduling Order* (HCN Tr. Ct., Mar. 23, 2006). (Matha, T).

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



ENROLLMENT

FEBRUARY 15, 2006

Leilani J. Chamberlain v. Adam Hall, Enrollment Officer of the Ho-Chunk Nation, CV 05-109 *Scheduling Order* (HCN Tr. Ct., Feb. 15, 2006). (Matha, T).

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

HOUSING

FEBRUARY 28, 2006

Karen J. Combs and Carson D. Combs v. David R. Snowball and Ho-Chunk Nation Housing Authority, CV 02-80 Order (Motion to Dismiss) (HCN Tr. Ct., Feb. 28, 2006). (Vele, K).

The Court ordered, “this action shall be dismissed without further notice to either party, unless good cause is shown in writing prior to said date.” Accordingly, in the absence of good cause shown, the Court dismisses the instant action without costs to either party.

MARCH 2, 2006

Ho-Chunk Nation Housing & Community Development Agency v. LaVetta Cloud, CV 06-07 Writ of Restitution (HCN Tr. Ct., Mar. 2, 2006). (Matha, T).

After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the property restored to its possession and to remove the defendant, her possessions, and those occupying the property with her from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Jackson County in order to restore the property.

MARCH 8, 2006

Ho-Chunk Nation Housing & Community Development Agency v. LaVetta Cloud, CV 06-07 Order (Staying Writ of Restitution) (HCN Tr. Ct., Mar. 8, 2006). (Matha, T).

The defendant filed a *Motion for Hardship Hearing* accompanied by an affidavit. The Court granted the defendant’s request and stays the execution of the *Writ of Restitution*. The stay of the eviction shall expire thirty (30) days from the issuance of the *Eviction Order (Default Judgment)*. The defendant may ultimately avoid eviction only by independently resolving the matter with the plaintiff.

MARCH 10, 2006

Karen Redhawk v. Ho-Chunk Nation and Ho-Chunk Housing Authority, CV 98-30 Order (Denying

Defendants’ Motion for Summary Judgment) (HCN Tr. Ct., Mar. 10, 2006). (Matha, T).

The Court had to determine whether to grant the defendants’ request for summary judgment. The defendants contend that the plaintiff filed her amended pleading after the relevant statute of limitation period expired and is likewise barred by the doctrine of laches. The Court denies the defendants’ motion since it failed to incorporate either defense within its responsive pleading. The Court requests that the plaintiff alert the Court within thirty (30) days as to whether or not she wishes to proceed with the case.



DIVORCE

MARCH 13, 2006

Carl R. Chalepah v. Crystal E. Chalepah, FM 06-01 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Mar. 13, 2006). (Matha, T).

The Court granted petitioner’s request to appear by telephone at the *Initial Hearing*.

MARCH 13, 2006

Carl R. Chalepah v. Crystal E. Chalepah, FM 06-01 Final Judgment for Divorce (HCN Tr. Ct., Mar. 16, 2006). (Matha, T).

The parties jointly filed the *Petition for Divorce (Without Minor Children)*, thereby consenting to the personal jurisdiction of the Court. The petitioner is an enrolled member of the Ho-Chunk Nation and has resided in the State of Wisconsin for at least six (6) consecutive months prior to filing of the petition. The parties stated that the marriage is irretrievably broken with no possibility of reconciliation.

Elder Abuse

MARCH 29, 2006

In the Interest of Elder Person, DV 06-02 Order (Final Judgment - Redacted) (HCN Tr. Ct., Mar. 29, 2006). (Matha, T).

The Court held that the petitioner has established the existence of an outstanding debt obligation, but the facts do not rise to the level of exploitation. However, the Court determined that the respondent owes a contractual duty of repayment of the debt.

CHILDREN'S TRUST FUND (CTF)

MARCH 1, 2006

In the Interest of Minor Child: T.K., DOB 06/06/90, by Sara White Eagle v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-74 Order (Accepting Accounting) (HCN Tr. Ct., Mar. 1, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with private school tuition. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

In the Interest of Minor Child: T.W.E., DOB 04/09/93, by Sara White Eagle v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-73 Order (Accepting Accounting) (HCN Tr. Ct., Mar. 1, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with private school tuition. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

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 (Demanding Accounting) (HCN Tr. Ct., Mar. 1, 2006). (Matha, T).

The Court ordered that the petitioner submit the previous required accounting.

MARCH 2, 2006

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 (Show Cause) (HCN Tr. Ct., Mar. 2, 2006). (Matha, T).

The Court previously released funds from the CTF account of the 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 him in contempt of court.

MARCH 8, 2006

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 (Requesting Accounting) (HCN Tr. Ct., Mar. 8, 2006). (Matha, T).

The Court requested that the petitioner submit the required accounting.

MARCH 9, 2006

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 Order (Requesting Accounting) (HCN Tr. Ct., Mar. 9, 2006). (Matha, T).

The Court requested that the petitioner submit the required accounting.

In the Interest of Adult CTF Beneficiary: Rainelle M. Decorah, DOB 01/26/85 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-67 Order (Demanding Accounting) (HCN Tr. Ct., Mar. 9, 2006). (Matha, T).

The Court ordered that the petitioner submit the previous required accounting.

MARCH 15, 2006

In the Interest of Adult CTF Beneficiary: April Webster, DOB 08/30/87 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-107 Order (Petition Granted in Part and Denied in Part) (HCN Tr. Ct., Mar. 15, 2006). (Matha, T).

The Court had to determine whether an adult can access her CTF account for the purposes of purchasing a mobile home. The Court employs the standard enunciated in the PER CAPITA DISTRIBUTION ORDINANCE to assess the merit of the petitioner's request. The Court declines the specific request, but conditionally grants housing assistance.

MARCH 20, 2006

In the Interest of Minor Child: C.D.W., DOB 02/21/97, by Stacy WhiteCloud v. Ho-Chunk Nation Office of Tribal Enrollment, CV 06-16 Order (Petition Granted) (HCN Tr. Ct., Mar. 20, 2006). (Matha, T).

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

In the Interest of Adult CTF Beneficiary: Cha-Ska Prescott, DOB 05/16/86 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-108 Order (Motion Granted) (HCN Tr. Ct., Mar. 20, 2006). (Matha, T).

The Court previously approved a release of the CTF for purposes of paying for continuing education. The petitioner brought a motion for release of CTF monies for unexpected tuition expenses. The respondent consented to the further release of funds within its March 10, 2006 response, provided that the petitioner files supplemental documentation.

In the Interest of Minor Children: T.J.M., DOB 10/25/88, and A.M.M., DOB 07/02/90, by Kendra Tarr v. Ho-Chunk Nation Office of Tribal Enrollment, CV 03-83 Order (Demanding Accounting) (HCN Tr. Ct., Mar. 20, 2006). (Matha, T).

The Court ordered that the petitioner submit the previous required accounting.

MARCH 23, 2006

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 (Contempt) (HCN Tr. Ct., Mar. 23, 2006). (Matha, T).

The Court had to determine whether to hold the petitioner in contempt of court for knowingly violating the express terms of several judgments. The petitioner failed to attend the *Show Cause Hearing*, resulting in an inability to rebut the *prima facie* showing of contempt. The Court, therefore, holds the petitioner in contempt and imposes a reasonable remedial sanction in the amount of ten dollars (\$10.00) per day.

MARCH 27, 2006

In the Interest of Minor Child: D.J.T., DOB 07/17/91, by Kristyl A. Simonson v. Ho-Chunk Nation Office of Tribal Enrollment, CV 06-20 Order (Petition Granted) (HCN Tr. Ct., Mar. 27, 2006). (Matha, T).

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

MARCH 29, 2006

In the Interest of Minor Child: L.G.R., DOB 05/14/97, by Leah Marie Rave v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-106 Order (Accepting Accounting) (HCN Tr. Ct., Mar. 29, 2006). (Matha, T).

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

In the Interest of Adult CTF Beneficiary: Rainelle M. Decorah, DOB 01/26/85 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-67 Order (Accepting Accounting) (HCN Tr. Ct., Mar. 29, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with securing legal counsel. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

**INCOMPETENT TRUST FUND (ITF)****MARCH 2, 2006**

In the Interest of Adult Incompetent: M.B.J., DOB 12/01/65, by Dolli Big John v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-83 Order (Demanding Accounting) (HCN Tr. Ct., Mar. 2, 2006). (Matha, T).

The Court ordered that the petitioner submit the previous required accounting.

MARCH 20, 2006

In the Interest of Elaine Sine, DOB 02/01/55, by Cecelia Sine v. Ho-Chunk Nation Office of Tribal Enrollment, CV 03-27 Order (Requesting Accounting) (HCN Tr. Ct., Mar. 20, 2006). (Matha, T).

The Court requested that the petitioner submit the required accounting.



Juvenile

MARCH 1, 2006

In the Interest of Minor Children: S.E.R., DOB 01/05/90, T.E.R., DOB 12/26/90, B.B., DOB 05/01/93, JV 06-01-03 Order (Appointment of Guardian ad Litem) (HCN Tr. Ct., Mar. 1, 2006). (Matha, T).

The Court appointed a GAL in this matter.

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 (Conditional Termination of Jurisdiction) (HCN Tr. Ct., Mar. 1, 2006). (Matha, T).

The Court conditionally terminates its jurisdiction over and supervision of the instant case in accordance with the HOČAK NATION CHILDREN AND FAMILY ACT (hereinafter CHILDREN'S ACT). Therefore, the *Order (Granting Emergency Temporary Legal [and] Physical Custody* and any subsequent orders shall have no binding force or effect, provided that the parties demonstrate no relevant change of circumstances during the interim.

MARCH 2, 2006

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 (Conditional Termination of Jurisdiction) (HCN Tr. Ct., Mar. 2, 2006). (Matha, T).

The Court conditionally terminates its jurisdiction over and supervision of the instant case in accordance with the CHILDREN'S ACT. Therefore, the *Order (Granting Emergency Temporary Legal [and] Physical Custody* and any subsequent orders shall have no binding force or effect, provided that the parties demonstrate no relevant change of circumstances during the interim.

In the Interest of Minor Child: T.L.B., DOB 03/18/97, JV 02-05 Order (Conditional Denial of Petition) (HCN Tr. Ct., Mar. 2, 2006). (Matha, T).

The Court convened the *Guardianship Hearing*, but the petitioner failed to appear at the proceeding. The petitioner did not provide the Court with an explanation regarding her non-attendance, despite receiving proper notice of the *Hearing*. Consequently, the Court conditionally denies the *Petition for Permanent Guardianship*, unless the petitioner reschedules the *Guardianship Hearing* within fifteen (15) days of the issuance of this decision.

MARCH 6, 2006

In the Interest of Minor Children: S.E.R., DOB 01/05/90, T.E.R., DOB 12/26/90, B.B., DOB 05/01/93, JV 06-01-03 Order (Entrance of Plea) (HCN Tr. Ct., Mar. 6, 2006). (Matha, T).

The Court convened a *Plea Hearing* for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the *Child/Family Protection Petition*. At that time, the parent entered a plea of not guilty. The Court accordingly schedules a *Trial*.

In the Interest of Minor Children: B.E.Y., DOB 07/25/89, N.R.Y., DOB 07/06/91, JV 05-33-34 Order (Regarding Motion to Modify and Continuation of Trial) (HCN Tr. Ct., Mar. 6, 2006). (Matha, T).

The Court convened *Trial* during which CFS made a motion to modify a presumably standing judicial order. CFS moved to strike the dispositional requirements entered against the father of the minor children. The Court additionally announced the scheduling for the remainder of the trial proceeding.

MARCH 7, 2006

In the Interest of Minor Child: A.C.L., DOB 08/13/01, JV 04-22 Order (Requiring Consultation) (HCN Tr. Ct., Mar. 7, 2006). (Matha, T).

The father of the minor child filed a *Motion to Modify Court Order* seeking a revision of the visitation schedule. No party filed a timely response to the motion. The Court orders the parties to mutually restructure the visitation schedule within five (5) calendar days of the issuance of this decision.

MARCH 13, 2006

In the Interest of Minor Child: T.V.F., DOB 02/18/02, JV 03-14 Order (Conditional Termination of Jurisdiction) (HCN Tr. Ct., Mar. 2, 2006). (Matha, T).

The Court conditionally terminates its jurisdiction over and supervision of the instant case in accordance with the CHILDREN'S ACT. Therefore, the *Order (Granting Emergency Temporary Legal [and] Physical Custody* and any subsequent orders shall have no binding force or effect, provided that the parties demonstrate no relevant change of circumstances during the interim.

MARCH 14, 2006

In the Interest of Minor Child: H.D.J., DOB 11/25/88, JV 98-20 Order (Child Protection Review Hearing) (HCN Tr. Ct., Mar. 14, 2006). (Veale, K).

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 while adding a single dispositional requirement that the minor child attend an AODA assessment and comply with any recommended treatment or counseling.

MARCH 15, 2006

In the Interest of Minor Child: L.M., DOB 01/08/92, JV 98-14 Order (Granting Modification) (HCN Tr. Ct., Mar. 15, 2006). (Matha, T).

CFS filed a *Motion for Urinary Analysis Testing*. Having afforded the parties appropriate service of process, the Court grants the movant's uncontested request.

MARCH 16, 2006

In the Interest of Minor Children: K.C.M., DOB 04/11/90 et al., JV 06-05-06 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Mar. 16, 2006). (Matha, T).

The Court granted the CFS Social Worker's request to appear by telephone.

In the Interest of Minor Children: K.C.M., DOB 04/11/90 et al., JV 06-05-06 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., Mar. 16, 2006). (Matha, T).

The Court appointed a GAL in this matter.

MARCH 20, 2006

In the Interest of Minor Child: L.E.C., DOB 10/12/90, JV 01-22 Order (Submission of Guardianship Report and Home Study) (HCN Tr. Ct., Mar. 20, 2006). (Matha, T).

The petitioner filed a *Petition for Permanent Guardianship* of minor child, L.E.C., DOB 10/12/90. The Court subsequently scheduled a *Guardianship Hearing*. The Court requests that CFS prepare and submit a guardianship report and home study to the Court.

In the Interest of Minor Children: K.M.C., DOB 04/11/90 and Q.J.C., DOB 08/07/92, JV 06-05-06 Order (Continuance of Plea Hearing) (HCN Tr. Ct., Mar. 20, 2006). (Matha, T).

The Court convened a *Plea Hearing* for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the *Child/Family Protection Petition*. At that time, the parent requested a continuance, so as to obtain legal representation. The Court accordingly reschedules the *Plea Hearing*.

MARCH 28, 2006

In the Interest of Minor Children: A.A., DOB 03/23/98 and V.A., DOB 02/28/00, JV 06-11-12 Order (Conditional Acceptance of Transfer) (HCN Tr. Ct., Mar. 28, 2006). (Matha, T).

The Court convened the *Revocation Hearing* to determine whether to terminate the temporary guardianship and return the minor child to the custodial parent. At the *Hearing*, CFS and *Guardian ad litem* presented recommendations to guide the Court's examination of the minor child's

best interests. The Court concurred with the recommendation to require a transitional period and required the parties to mutually devise a six (6) week transitional schedule.

MARCH 28, 2006

In the Interest of Minor Children: A.A., DOB 03/23/98 and V.A., DOB 02/28/00, JV 06-11-12 Order (Conditional Acceptance of Transfer) (HCN Tr. Ct., Mar. 28, 2006). (Matha, T).

The Court had to determine 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*, the Court shall not decline transfer of this action absent good cause to the contrary.

In the Interest of Minor Children: Y.M.R., DOB 08/19/04 and Y.J.R., DOB 06/24/05, JV 06-09-10 Order (Conditional Acceptance of Transfer) (HCN Tr. Ct., Mar. 28, 2006). (Matha, T).

The Court had to determine 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*, the Court shall not decline transfer of this action absent good cause to the contrary.



SUPREME COURT

MARCH 15, 2006

Sherry Wilson v. Ho-Chunk Nation Department of Personnel, SU 06-01 Scheduling Order (HCN S. Ct., Mar. 15, 2006).

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



Recent Filings

Trial Court

Civil Garnishment

MARCH 9, 2006

Alliance Collection Agencies v. Mary Locey, CG 06-19. (Matha, T).

MARCH 24, 2006

Nekoosa Cash Advance v. Bonita L. Roy, CG 06-20. (Matha, T).

Child Support

MARCH 8, 2006

Maria N. Blackhawk v. William C. Scarce, CS 06-09. (Matha, T).

MARCH 9, 2006

State of Wisconsin – Alice Bissonette v. Ferguson Funmaker, CS 06-08. (Matha, T).

MARCH 22, 2006

State of Wisconsin – Bethel J. St. Cyr v. Harrison Funmaker, CS 06-13. (Matha, T).

State of Wisconsin v. Jones R. Funmaker, CS 06-14. (Matha, T).

MARCH 24, 2006

Frances Peter Rave, Sr. v. Lisa Ann (Rave) Banuelos, CS 06-15. (Matha, T).

MARCH 28, 2006

Mary Ann Dick v. Herman F. Decorah, CS 06-16. (Matha, T).

Misty M. Hale v. Daniel J. Perez, CS 06-17.
(Matha, T).

Civil Cases

MARCH 1, 2006

Ho-Chunk Nation v. Jason Ennis, CV 06-13.
(Matha, T).

Ho-Chunk Nation v. Allyson Finch, CV 06-14.
(Matha, T).

MARCH 8, 2006

In the Interest of A.M.R., DOB 10/08/88, by Angela T. Ringquist v. Ho-Chunk Nation Office of Tribal Enrollment, CV 06-15. (Matha, T).

In the Interest of Minor Child: C.D.W., DOB 02/21/97, by Stacy White Cloud v. Ho-Chunk Nation Office of Tribal Enrollment, CV 06-16.
(Matha, T).

MARCH 10, 2006

Ho-Chunk Nation Property Management v. Carina Bachand, CV 06-17. (Matha, T).

Ho-Chunk Nation Property Management v. Rose Walker, CV 06-18. (Matha, T).

In the Interest of Minor Child: D.L.H., DOB 03/25/89, by Cynthia Hopinkah v. Ho-Chunk Nation Office of Tribal Enrollment, CV 06-19. (Matha, T).

MARCH 15, 2006

In the Interest of Minor Child: D.J.T., DOB 07/17/91, by Kristyl A. Simonson v. Ho-Chunk Nation Office of Tribal Enrollment, CV 06-20.
(Matha, T).

MARCH 21, 2006

In the Interest of Minor Child: J.M.N., DOB 07/02/93, by Ramona McDonald v. Ho-Chunk Nation Office of Tribal Enrollment, CV 06-21.
(Matha, T).

MARCH 22, 2006

Virgil Bullshoe v. Marilyn Costello, CV 06-22.
(Matha, T).

MARCH 24, 2006

In the Interest of Minor Child: C.R.L., DOB 05/04/89, by Lawrence E. LaMere v. Ho-Chunk Nation Office of Tribal Enrollment, CV 06-23.
(Matha, T).

MARCH 31, 2006

Dallas White Wing v. Ho-Chunk Nation Legislature, CV 06-25. (Jones, J).

Juvenile

MARCH 24, 2006

In the Interest of Minor Child: K.P., DOB 06/03/00, JV 06-07. (Matha, T).

In the Interest of Minor Child: N.P., DOB 02/12/03, JV 06-08. (Matha, T).

In the Interest of Minor Child: A.A., DOB 03/23/98, JV 06-11. (Matha, T).

In the Interest of Minor Child: V.A., DOB 02/28/00, JV 06-12. (Matha, T).

MARCH 27, 2006

In the Interest of Minor Child: Y.M.R., DOB 08/19/04, JV 06-09. (Matha, T).

In the Interest of Minor Child: Y.J.R., DOB 06/24/05, JV 06-10. (Matha, T).

Divorce

FEBRUARY 7, 2006

Carl Ray Chalepah v. Crystal E. Chalepah, FM 06-01. (Matha, T).

Supreme Court

MARCH 3, 2006

Sherry Wilson v. HCN Department of Personnel, SU 06-01.



**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
Douglas Red Eagle
Preston Thompson, Jr.
Eugene Thundercloud
Morgan White Eagle
Clayton Winneshiek

Trial Court - Todd R. Matha, Chief Judge
JoAnn Jones, Associate Judge

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)





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VOL. 12, NO. 5-6

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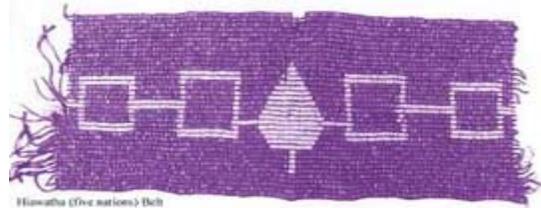
HCN Judiciary Fee Schedule

Legal Citation Forms

Ho-Chunk Nation Judiciary
W9598 Hwy 54 East
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Black River Falls, WI 54615
(715) 284-2722 Ph.
(800) 434-4070 Ph. (Toll-free)
(715) 284-3136 Fax
<http://www.ho-chunknation.com/government/courts.htm>
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(except holidays) 8 A.M. – 4:30 P.M.



HO-CHUNK NATION COURT BULLETIN



U.S. SUPREME COURT DENIES REVIEW OF CAYUGA LAND CLAIM

On May 15, 2006, the United States Supreme Court, without comment, declined a petition filed by the Cayuga Nation of New York and the Seneca-Cayuga Tribe of Oklahoma to hear the twenty-six (26) year old land claim appeal. *Cayuga Indian Nation of New York v. Pataki*, No. 05-982. The merits of the case were not decided upon, thus the sharply divided Second Circuit Court of Appeals ruling is left standing. By denying review, the Court is essentially declaring that there is no new or unresolved judicial question being raised. *See generally*, SUP. CT. R. 10. Therefore, it appears that the Court may be saying that the decision handed down in *City of Sherrill v. Oneida Indian Nation*, 125 S. Ct. 1478 (2005) cleared up any uncertainty regarding when equitable defenses may be used to bar land claim suits.

In *Sherrill*, the Supreme Court held that the Oneida Indian Nation of New York could not unilaterally revive sovereign status over land it had purchased that was once part of its aboriginal homeland, but was later illegally transferred to the state of New York. *Id.* at 1483. In reaching this decision, the Court stated that “the distance from 1805 to the present day, the Oneidas' long delay in seeking equitable relief against New York or its local units, and developments in the city of Sherrill spanning several generations, evoke the doctrines of laches, acquiescence, and impossibility.” *Id.* at 1494. BLACK’S LAW DICTIONARY defines the doctrine of laches as: “neglect to assert a right or claim which, taken together with lapse of time and other circumstances causing prejudice to adverse party, operates as [a] bar in [a] court of equity.” By the Supreme Court basing its decision upon this doctrine, it may very well be closing the door on many tribes seeking to bring land claims across the nation. This is evidenced by the Second Circuit Court of Appeals 2-1 decision in *Cayuga Indian*

Nation of N.Y. v. Pataki, 413 F.3d 266, 274 (2nd Cir. 2005).

At the appellate level in *Cayuga Indian Nation*, Second Circuit Judge Jose Cabranes delivered the majority opinion for the Court of Appeals on June 28, 2005. Like the Oneidas in *Sherrill*, the Cayugas were barred from asserting their land claim based upon the equitable doctrine of laches. *Id.* at 268. Essentially, the Cayugas were found to have waited too long. Furthermore, if the Tribe was allowed to continue with its claim, then immense disruption would result.

In reaching its decision, the majority read *Sherrill* in an expansive manner. “Although we recognize that the Supreme Court did not identify a formal standard for assessing when these equitable defenses apply, the broadness of the Supreme Court’s statements indicates to us that *Sherrill*’s holding is not narrowly limited to claims identical to that brought by the Oneidas, seeking a revival of sovereignty, but rather, that these equitable defenses apply to “disruptive” Indian land claims more generally.” *Id.* at 274. Although the Cayuga Indian Nation and the U.S. had tailored their briefs to distinguish their monetary claim from the Oneida’s request to reinstate sovereignty over the purchased lands in *Sherrill*, the majority refused to see any differences. Instead, they found the remedies to be comparably disruptive. *Id.* at 274. Specifically, they found that the Cayugas’ desired remedy had always been ejectment of the current landowners, which would be highly disruptive. *Id.*

In making this determination, the majority simply disregarded the Tribe’s request for monetary damages as a separate remedy. Even with the district court substituting monetary damages in place of the preferred ejectment 19 years into the claim, the Second Circuit said that was not enough to save the claim. *Cayuga Indian Nation*, 413 F.3d at 277. Thus, the majority was more concerned with what the Tribe’s actual preference had been throughout the past, and not with any other desired remedies sought. *Id.* at 274. It was this reasoning

that invoked the lone dissent from District Judge Judith Hall.

Although Judge Hall agreed with the majority in its reasoning that the doctrine of laches prevented the tribe from asserting its right to seek ejectment, the judge dissented to the application of the doctrine as a defense to monetary damages. Specifically, Judge Hall said that “based on the nature of the claims long asserted in this case, the elements of the defense of laches, and the language and precedent relied on in *City of Sherrill*, I cannot join the majority in its conclusion that laches bars all of the plaintiffs’ remedies, including those for money damages.” *Id.* at 280. The Judge reasoned that even if ejectment was the preferred remedy sought by the Tribe, there was no evidence in the record that the Tribe had relinquished its claim for monetary damages. *Id.* at 281. Furthermore, the claims for possession and monetary damages should have been treated separately. Although laches is a defense to the possession and ejectment claim, it is not a defense to a claim for monetary damages. *Id.* at 284. Thus, Judge Hall believed that the Tribe should have been allowed to continue with its claim for such damages.

This reasoning is based upon the fundamental differences between legal and equitable claims. These differences date back to fifteenth century England, where courts of equity were established in order to provide remedies that were not available in courts of law. *See Kirkwood v. Decorah et al.*, CV 04-33 (HCN Tr. Ct., Feb. 11, 2005). Instead of providing monetary damages to compensate for past wrongdoing as the courts of law would do, the courts of equity would provide equitable remedies to prevent future wrongs from occurring. *Id.* In addition to remedies, there is also a difference in how the courts viewed the issue of timeliness. Courts of equity permitted the use of the equitable defense of laches, whereas courts of law followed statutes of limitation. *Id.* Essentially, if a person was seeking an injunction, but had waited so long to bring the claim that it would cause prejudice, that person may be barred by the defense of laches. However, if someone had a legal claim

and was seeking monetary compensation, but had just merely waited too long to assert it, that person would be barred by a statute of limitation that exists for that particular claim.

Based upon these distinctions between legal and equitable claims, the Cayuga asserted in their petition for certiorari that the Supreme Court has held that claims for monetary damages brought by Indian tribes for land acquired by the State of New York 200 years ago in violation of the Nonintercourse Act and federal treaties, could proceed because they were timely under 28 U.S.C. § 2415. *See Cayuga Indian Nation of New York v. Pataki*, 413 F.3d 266 (2nd Cir. 2005), *cert. den.*, 74 U.S.L.W. 3639 (U.S. May 15, 2006) (No. 05-982). Section 2415 is the governing federal statute of limitations. *Id.* Moreover, the Tribe pointed out that the Supreme Court had left that holding undisturbed when it decided *Sherrill*. *See Id.*; *Sherrill*, 125 U.S. at 1494. Despite these assertions regarding their legal claim for monetary damages, the U.S. Supreme Court refused to review the appellate decision.

Because the decision to deny certiorari was rendered without explanation, it is unclear whether the Court is merely waiting for the issues to become more developed, or if it agrees with the Second Circuit's expansion of *Sherrill*. Either way, the denial of cert has incited both heated criticism and speculation regarding the future of land claims. St. Regis Mohawk Tribal Chief James W. Ransom said that "the Supreme Court, in refusing to accept the Cayuga appeal, has established itself as the most anti-Indian court in the history of the United States." Indian Country Today, *Supreme Court Drops Cayuga Land Claim Case* (May 19, 2006), available at <http://www.indiancountry.com/content.cfm?id=1096413009>. Even with this view in Indian Country, many tribes believe that their cases are distinguishable and thus will not be found disruptive. For example, after the Supreme Court's denial of cert, the Onondaga Nation stated "while it differs from the Cayuga suit in that it does not seek 'disruptive' remedies, the underlying crimes and injustices are virtually identical. The historical facts

that the Cayugas did everything they could, that they did not wait too long and that New York knowingly and repeatedly violated federal law and treaties were not contested by the Court of Appeals. The Onondaga will continue their suit regardless of today's grave injustice." *Id.*



HONORS AWARDED TO TRIBAL MEMBERS AT THE 2006 WISCONSIN STATE BAR ANNUAL CONVENTION

Former Supreme Court Justice and tribal members, Jo Deen Lowe was one of the 2006 President's Award Recipients for her work on the Access to Justice Study Committee. This committee was appointed by President Guerin at the request of the State Bar Board of Governors and the Wisconsin Supreme Court to oversee a detailed study of the unmet civil legal needs of low income Wisconsin residents. The purpose of the group is to provide information about the scope and impact of the problem of access to justice along with recommendations on how stakeholders in the justice system can work together to properly fund services for those less fortunate.

Also, former Staff Attorney and tribal member, Amanda R. Cornelius was elected as the Vice Chair of the Indian Law Section for the State Bar of Wisconsin. Ms. Cornelius is currently an attorney with the Ho-Chunk Nation's Department of Justice.



WELCOME SUMMER LAW CLERK ANGELA THUNDERCLOUD



Angela Thundercloud is the law clerk with the Ho-Chunk Nation Trial Court this summer. She is a member of the Ho-Chunk Nation and her father, Leland Thundercloud, worked in MIS from 1994-2000. Angela recently finished her second year of law school at the University of Wisconsin. Last summer she worked for a law school clinic, representing clients in landlord/tenant disputes, wage and hour claims, and public benefits. Angela graduated with a Bachelor of Arts degree with a double major in Political Science and Philosophy from Bowling Green State University in Bowling Green, Ohio, which is where she met her fiancé, David Dewar. They are getting married this August.

WELCOME NEW STAFF ATTORNEY NICOLE M. HOMER



Nicole M. Homer is a member of the Oneida of Thames Indian Nation in Ontario, Canada

and was raised on the traditional homelands of the Onondaga in the town of LaFayette, New York. After graduating from American University with a Bachelor of Arts degree in Justice, Law & Society in 2003, Nicole attended Loyola University School of Law in New Orleans, LA where she received her Juris Doctorate degree this May. She spent last summer as a law clerk for the Native American Rights Fund (NARF) in Boulder, CO. While clerking at NARF, Nicole became particularly interested in water rights and environmental issues. Upon completing her two (2) year long judicial clerkship with the Ho-Chunk Nation Trial Court in 2008, Nicole hopes to work either for a tribe or a non-profit dedicated to protecting American Indian rights.

GUARDIAN AD LITEM TRAINING JULY 10-12, 2006

The Ho-Chunk Nation Children & Family Act requires that the Trial Court “appoint a guardian ad litem to protect the interests of the child” in every juvenile case. 4 HCC § 3.20b. The Ho-Chunk Nation Judiciary currently seeks conscientious and caring individuals to fill this important role. A guardian ad litem serves as an independent judicial officer and informs the Court of an affected child's interests in child protection and guardianship matters, which either Ho-Chunk Nation Children & Family Services or the parent files in Court.

Guardian ad litem receive reasonable compensation for their services and reimbursement for accumulated expenses. The Court will host an on-site guardian ad litem training session on July 10-12, 2006, at Wa Ehi Hoci in Black River Falls, WI. Wisconsin Judicare, Inc. will conduct the training, which is free to tribal members. Interested tribal members, including current guardian ad litem, are encouraged to attend, and should seek further information from the Clerk of Court at (800) 434-4070. Pursuant to proposed Supreme Court rules, prospective attendees must complete an application and schedule a brief interview. The

course is limited to participation of approximately twenty (20) individuals.



UPDATES FROM OUTSIDE COURTS

United States Supreme Court

Certiorari granted

BP America v. Watson, et al., Docket No. 05-669 (U.S. 2006).

Certiorari denied

Cayuga Indian Nation of New York v. Pataki, No. 05-982 (denied May 15, 2006).

Chayoon v. Sherlock, No. 05-10180 (denied May 15, 2006).

Doe v. Mann, No. 05-815 (denied May 1, 2006).

Salinas v. Lamere, No. 05-1189 (denied May 22, 2006).

Petition for Certiorari filed

Jo-Ann Dark-Eyes v. Connecticut Commissioner of Revenue Services, No. 05-1464 (filed May 15, 2006).

Lingle v. Arakaki, No. 05-988 (filed February 2, 2006).

Mattaponi v. Virginia, No. 05-1141 (filed March 6, 2006).

Morris v. Tanner, No. 05-1285 (filed April 6, 2006).

Murphy v. State of Oklahoma, No. 05-10787 (filed May 3, 2006).

Smith v. Salish Kootenai, No. 05-10357 (filed April 10, 2006).

South Dakota v. Dept. of Interior, No. 05-1428 (filed May 8, 2006).

United States v. Arrieta, No. 05-10770 (filed May 1, 2006).

Utah v. Shivwits Band of Paiute Indians, No. 05-1160 (filed March 9, 2006).

Fourth Circuit Court of Appeals

Yashenko v. Harrah's NC Casino Company, LLC, 2006 WL 1098803 (4th Cir. 2006).

Terminated casino employee filed state court action against casino management company that had contracted with Indian tribe to operate tribal gaming enterprise for violation of Family and Medical Leave Act (FMLA). Action was removed to federal court. Employee added claims of race discrimination under § 1981 and wrongful discharge in violation of North Carolina public policy. The United States District Court for the Western District of North Carolina granted summary judgment for employer on FMLA and § 1981 claims and dismissed wrongful discharge claim without prejudice. Employee appealed. The Court of Appeals held that as a matter of first impression, Family and Medical Leave Act (FMLA) did not provide covered employee with absolute right to be restored to his previous job after taking approved leave; the employee's position was eliminated for legitimate reasons unrelated to request for FMLA leave, defeating his FMLA interference claim; the employee established prima facie case of retaliation under FMLA; the employer's proffered reason for eliminating his job was legitimate and nonretaliatory and was not shown to be pretextual; and the tribe was both necessary and indispensable party to employee's § 1981 cause of action, but its sovereign status prohibited its joinder. Affirmed.

Ninth Circuit Court of Appeals

In re Emerald Outdoor Advertising, LLC, 2006 WL 947759 (9th Cir. 2006).

Chapter 11 debtor moved to assume certain executory leases to operate billboards on deed of trust property, and party that had purchased deed of trust property at foreclosure sale objected and moved for relief from stay in order to continue litigating her dispute with bankrupt advertising company in tribal court. The United States Bankruptcy Court for the Eastern District of Washington entered order denying motion to assume, and appeal was taken. The District Court reversed. The Court of Appeals held that the recording of deed of trust on Indian trust lands in office of auditor of county in which these trust lands were located, as required to perfect deed of trust under Washington law, gave deed of trust priority over subsequent lease that was thereafter recorded in appropriate Bureau of Indian Affairs (BIA) title plant; and while Indian owner of trust land had to obtain approval of the Bureau of Indian Affairs (BIA) in order to mortgage land, BIA's approval was effective immediately on issuance of certificate of approval. Reversed.

Tenth Circuit Court of Appeals

Walton v. Pueblo, 443 F.3d 1274 (10th Cir. 2006). Non-Indian vendor brought action against Indian tribe and various tribal officials, alleging that tribe's revocation of his flea market vendor's permit violated federal and state law. Defendants moved to dismiss on basis of sovereign immunity. The United States District Court for the District of New Mexico denied the motion in part and granted it in part, and parties cross-appealed. The Court of Appeals held that the district court lacked jurisdiction to hear non-habeas claims; habeas provision of Indian Civil Rights Act (ICRA) did not confer jurisdiction on district court; and the tribe's waiver, pursuant to Indian Self-Determination and Education Assistance Act (ISDEAA), of its sovereign immunity with respect to suits arising out of its performance of its contractual duties, did not confer jurisdiction on district court. Affirmed in part and reversed in part.

Wyandotte Nation v. Sebelius, 443 F.3d 1247 (10th Cir. 2006).

Following a raid by Kansas law enforcement authorities on a casino owned by an Indian tribe,

tribe sought preliminary injunction requiring return of seized monies and gaming machines and barring Kansas from exercising jurisdiction over gaming or related activities on the site. The United States District Court for the District of Kansas granted the request, and also sua sponte enjoined tribe from conducting gaming or related activities on the site pending clarification of various issues. Parties cross-appealed. The Court of Appeals held that the district court abused its discretion in sua sponte enjoining tribe from conducting gambling, and that the tribe was entitled to preliminary injunction. Affirmed in part, vacated in part, and remanded.



Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and categorized by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader's benefit. They should in no way be used as substitution for citations to the actual court opinion.

Within the Trial Court, cases are categorized and docketed as one of the following: Child Support (CS or if filed prior to 1998, CV), Civil Garnishment (CG), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Within this index, case citations will appear in one of these categories and, in the event it may be helpful to the reader as a research tool, the cases may also be summarized in a separate topic area. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. In some instances a decision may touch upon other topics that may not warrant a summary in this index, but the editor will use the indicator "other topic(s) covered," as a research aid for the reader.

RECENT DECISIONS AND RECENT FILINGS BOTH BEGIN WITH THE DATE WHERE THE PREVIOUS COURT BULLETIN LEFT OFF.



Trial Court

Child Support

MARCH 30, 2006

Jodi Dennison v. Marcus Sena, State of Iowa v. Marcus Sena, CS 02-35, 03-78 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., March 30, 2006). (Matha, T).

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

APRIL 03, 2006

Anna Kingswan v. Anthony Kingswan, CS 05-78 *Order (Modifying Child Support Against Wages)* (HCN Tr. Ct., Apr. 03, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of petitioner.

APRIL 12, 2006

Mary Ann Dick v. Herman Foster Decorah, CS 06-16 *Order (Enforcing Child Support)* (HCN Tr. Ct., Apr. 12, 2006). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent expressed his acquiescence to the request in writing, and, therefore, the Court waived the normal service of process requirement. The Court granted recognition and enforcement of the foreign judgment.

Rena Lynn LeMieux v. Kenneth Allen LeMieux, CS 01-02 *Order (Ceasing Child Support)* (HCN Tr. Ct., Apr. 12, 2006). (Matha, T).

The respondent provided a copy of child's high school equivalency diploma. The Court directed the HCN Department of Treasury to cease withholding per capita payments for child support. In addition, the Court directed the HCN Payroll Division to cease garnishment of wages for child support.

State of Wisconsin and Cici Bigjohn v. Corey Hindsley, CS 06-01 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Apr. 12, 2006). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

William Carl Scarce v. Maria Nicole Blackhawk, CS 06-09 *Default Judgment (Enforcing Child Support)* (HCN Tr. Ct., Apr. 12, 2006). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

APRIL 13, 2006

Bonnie Prescott Smith v. Bradley W. Smith, CV 97-99 *Order (Ceasing Child Support)* (HCN Tr. Ct., Apr. 13, 2006). (Matha, T).

The Court received correspondence from child's high school stating the child was no longer in school. The Court rescinded its earlier *Order (Proof of High School Enrollment Filed)*, and directed the HCN Department of Treasury to cease withholding per capita payments for child support.

Nadine C. Decorah v. Ashley J. Decorah, CS 02-38 *Order (Modifying Child Support)* (HCN Tr. Ct. Apr. 13, 2006). (Matha, T).

The Court had to determine whether to modify a standing child support withholding decision. The petitioner filed a motion requesting that the Court revise the respondent's child support obligation.

The respondent failed to respond. The Court granted the motion.

State of Wisconsin/Juneau County v. Bridget A. Whipple, CS 04-55 *Order (Modifying Child Support)* (HCN Tr. Ct., Apr. 13, 2006). (Matha, T). The Court had to determine whether to modify a standing child support withholding decision. The petitioner filed a motion requesting the Court to revise respondent's child support obligation. The respondent's response timeframe has not lapsed, but the Court modified because it proves beneficial to the respondent.

Collette A. Guy v. John S. Cloud, State of Wisconsin et al., v. John S. Cloud, CV 97-08, CS 98-34 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Apr. 13, 2006). (Matha, T).

The Court had to determine whether to grant the petitioner's recent motion to modify. Petitioners requested a motion to modify by submitting a certified copy of the account history statement. The respondent failed to respond. The Court granted the motion.

APRIL 14, 2006

State of Wisconsin v. James V. Blackdeer, State of Wisconsin/Jackson County v. James V. Blackdeer, CS 05-70, 06-05 *Default Judgment (Equitable Adjustment)* (HCN Tr. Ct., Apr. 14, 2006). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to file a timely answer. The Court granted recognition and enforcement of the foreign judgment, and performed an equitable adjustment.

State of Iowa/Jennifer Gossman v. Jerome J. Houston, State of Iowa/Angela Rounds v. Jerome J. Houston, CS 02-42-43 *Order (Modifying and Enforcing Child Support)* (HCN Tr. Ct., Apr. 14, 2006). (Matha, T).

The Court had to determine whether to grant the petitioner's motion to modify. The petitioners requested a modification in current child support withholding. The respondent failed to respond timely. The Court granted the motion.

Melanie Stacy n/k/a Two Bears v. Harrison J. Funmaker, State of Wisconsin/Sauk County and Bethel J. St. Cyr v. Harrison J. Funmaker, CV 96-48, CS 06-13 *Default Judgment (Equitable Adjustment)* (HCN Tr. Ct., Apr. 14, 2006). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to file a timely answer. The Court granted recognition and enforcement of the foreign judgment, and performed an equitable adjustment.

State of Wisconsin v. Jones Randall Funmaker, State of Wisconsin/Juneau County v. Jones R. Funmaker, CS 05-56, 06-14 *Default Judgment (Equitable Adjustment)* (HCN Tr. Ct., Apr. 14, 2006). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to file a timely answer. The Court granted recognition and enforcement of the foreign judgment, and performed an equitable adjustment.

Robert M. Mobley v. Joyce St. Cyr, CS 99-37 *Order (Updating Arrearage Withholding)* (HCN Tr. Ct., Apr. 14, 2006). (Matha, T).

The Court had previously issued an *Order (Updating Arrearage Withholding)*. The petitioner later filed a motion to amend arrears withholding with a certified accounting statement. The Court ordered the Treasury Department to withhold an amount, in accordance with the previous order.

APRIL 19, 2006

Alexandra M. Snowball v. David R. Snowball, CS 06-20 *Order (Enforcing Child Support)* (HCN Tr. Ct., Apr. 19, 2006). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent expressed his acquiescence to the request for relief due to his initiation of the cause of action. The Court granted recognition and enforcement of the foreign judgment.

APRIL 20, 2006

Rena Lynn LeMieux v. Kenneth Allen LeMieux, CS 01-02 Order (Erratum) (HCN Tr. Ct., Apr. 20, 2006). (Matha, T).

The Court issued an Order (*Ceasing Child Support*). A review of the record reveals that although the child had received a high school equivalency diploma, child support must continue until she reaches the age of majority. The Court ordered that wage withholding shall resume immediately.

APRIL 26, 2006

Rosalyn Renee Danforth v. Christopher Jerome Kapayou, CS 05-22 Order (Modifying Child Support) (HCN Tr. Ct., Apr. 26, 2006). (Matha, T).

The petitioner had filed a request to modify child support arrearage withholding. A certified copy of a foreign judgment and IV-D Case Account Statement accompanied the motion. The respondent failed to timely respond to the motion. The Court amended its standing order to reflect the modifications requested.

Neil T. McAndrew v. Lisa Miner McAndrew, CV 97-14 Order (Modifying Child Support) (HCN Tr. Ct., Apr. 26, 2006). (Matha, T).

The Court previously ordered that the respondent's ongoing child support obligation for two older children would cease after the May 1, 2006 per capita distribution. The Court ordered the HCN Department of Treasury to modify respondent's withholding to reflect this change.

MAY 15, 2006

Tammy C. Fine v. John P. McKeel, CS 06-04 Order (Erratum) (HCN Tr. Ct., May 15, 2006). (Matha, T).

The Court previously noted that it cannot intercept per capita monies for purposes "of interest or other miscellaneous costs or fees." However, the Court errantly directed the HCN Department of Treasury to withhold per capita monies for child support arrears which represented outstanding birthing expenses. While this debt remains the obligation of the respondent, the Court directed the Treasury Department to cease further withholding for arrearages, but continue ongoing child support deductions.

State of Wisconsin/Sawyer County and Josi E. Trepanier v. Tyrone L. Walker, CS 02-17 Order (Modification of Judgment) (HCN Tr. Ct., May 15, 2006). (Matha, T).

The Court modified its most recent judgment to reflect a single county case number and directed the HCN Treasury Department to change the numbers on each per capita payment for child support.



Civil Garnishment

MARCH 30, 2006

Creditor Recovery Service, LLC v. Audrey M. Senn, CG 06-17 Order (Default Judgment) (HCN Tr. Ct., March 30, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

Alliance Collection Agencies, Inc. v. Mary Locey, CG 06-19 Order (Default Judgment) (HCN Tr. Ct., March 30, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

APRIL 25, 2006

Nekoosa Cash Advances v. Bonita Lynn Roy, CG 06-20 Order (Default Judgment) (HCN Tr. Ct., Apr. 25, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondents failed to timely respond. The Court granted a default judgment in favor of petitioner.

MAY 05, 2006

Creditor Recovery Service, LLC v. Wendy Dickerson, CG 06-22 Order (Granting Telephonic

Appearance) (HCN Tr. Ct., May 05, 2006). (Matha, T).

The petitioner requested that the Court permit her to appear by telephone at the *Fact-Finding Hearing*. The Court granted petitioner's request.

MAY 12, 2006

Creditor Recovery Service, LLC v. Jerry D. McCrossen, CG 06-18 *Order (Default Judgment)* (HCN Tr. Ct., May 12, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond. The Court granted a default judgment in favor of petitioner.

MAY 18, 2006

Creditor Recovery Service, LLC v. Wendy Dickerson, CG 06-22 *Order (Petition Granted)* (HCN Tr. Ct., May 18, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent filed a timely response, but failed to attend a scheduled hearing. The Court granted a judgment in favor of petitioner(s).

MAY 23, 2006

Creditor Recovery Service, LLC v. Tina Dietsch, CG 06-21 *Order (Default Judgment)* (HCN Tr. Ct., May 23, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond. The Court granted a default judgment in favor of petitioner.

Overman, Hegna, Reich, & Wruck v. Nicole Ward, CG 06-24 *Order (Default Judgment)* (HCN Tr. Ct., May 23, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond. The Court granted a default judgment in favor of petitioner.



Civil Cases

APRIL 03, 2006

HCN Treasury Department et al. v. Corvettes on the Isthmus, et al., CV 05-82 *Order (Partial Grant of Motion to Dismiss)* (HCN Tr. Ct., Apr. 03, 2006). (Matha, T).

The Court had to determine whether to grant the defendant's motion to dismiss, which includes a request to compel a discovery response. The Court partially grants the request, dismissing the individually named defendants as parties to the suit. The Court also extended the discovery period.

APRIL 05, 2006

David L. Zwicke v. Roger Houghton, CV 02-66 *Order (Contempt)* (HCN Tr. Ct., Apr. 12, 2006). (Matha, T).

The Court had to determine whether to hold the defendant in contempt of court for knowingly violating the express terms of a final judgment. The defendant failed to attend the *Show Cause Hearing*, resulting in the inability to rebut the *prima facie* showing of contempt. The Court held the defendant in contempt and imposed a reasonable remedial sanction.

APRIL 13, 2006

Ho-Chunk Casino Hotel & Convention Center and HCN v. Christina LaMere, CV 06-03 *Order (Default Judgment)* (HCN Tr. Ct., Apr. 13, 2006). (Matha, T).

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

APRIL 18, 2006

Ho-Chunk Nation and HCN Home Ownership Program v. Robert Mobley et al., CV 06-24 *Stipulation and Order for Dismissal of Viking Village, Inc.* (HCN Tr. Ct., Apr. 18, 2006). (Matha, T).

The Court ordered that plaintiffs' *Complaint* is dismissed as to defendant Viking Village, Inc.

APRIL 19, 2006

Dallas White Wing v. HCN Legislature through Wade Blackdeer, in his official capacity as its Vice President, and the HNC Election Board through Mary Ellen Dumas, in her official capacity as Chair of the Election Board, CV 06-25 Order (Granting Preliminary Injunction) (HCN Tr. Ct., Apr. 19, 2006) (Jones, J).

The Court had to determine whether to grant the plaintiff's motion for a preliminary injunction of the Special Election. The standard for issuing injunctive relief is that a movant must demonstrate by a preponderance of the evidence that (1) there is no adequate remedy at law, (2) the threatening injury to the person seeking the injunction outweighs the harm of the injury, (3) the party seeking the injunction has at least a reasonable likelihood of prevailing on the merits of the case, and (4) the issuance of the injunction serves the public interest. First, the Court found that both parties conceded to the fact that plaintiff could not be compensated by monetary damages. Second, the Court determined that it would be a grave harm if the plaintiff's seat was filled by Special Election, and the legislative action was later found to be improper. Furthermore, great financial and human resources are expended during an election, so it could potentially be a waste of such resources if the action is later found improper. Thus, delaying the election would be less harmful than the harm suffered by the plaintiff. Third, there was no factual basis for the decision by the Legislature to declare the District III seat vacant provided. The plaintiff was not given notice, nor afforded the opportunity to be heard regarding his incapacity. Moreover, there was an instance of another legislator who had a physical disability that prevented him from attending meetings. Minutes from these meetings show that this legislator was excused for three (3) months. However, in the instant case the seat was declared vacant. Additionally, the Court found that plaintiff's suit survives any purported immunity defense. Last, the Court found that a plaintiff requesting that due process protections and laws of the Nation be followed is a public interest. Based upon this analysis, the Court determined that plaintiff satisfied all the requirements of this well-established standard for issuing this manner of

injunctive relief. The Court enjoined the Special Election.

APRIL 20, 2006

Thomas Quimby v. Ho-Chunk Nation and HCN HIRC, CV 05-91 Stipulation and Order to Extend the Time (HCN Tr. Ct., Apr. 20, 2006). (Matha, T). The parties stipulated to an extension to the time to file briefs.

Clarence Pettibone v. Ho-Chunk Nation General Council, et al., CV 03-77 Order Granting Summary Judgment (HCN Tr. Ct., Apr. 20, 2006). (Veale, K).

The Court had to determine whether Resolution 10-11-03F, providing for the removal of the plaintiff from his office as a member of the Ho-Chunk Nation Legislature, was unconstitutional. The Court found that the plaintiff had not been afforded reasonable notice of the action taken against him, nor was he afforded the constitutionally reasonable opportunity to be heard on the charges against him. Due to the lack of these protections, the Court found the resolution to be unconstitutional. Furthermore, the Court permanently enjoined the defendants from preventing the plaintiff from performing his legislative responsibilities and from functioning as a member of the Ho-Chunk Nation Legislature, or from taking action to fill his seat by conducting a special election. The Court granted plaintiff's motion for summary judgment.

APRIL 26, 2006

Leilani Jean Chamberlain v. Adam Hall, Enrollment Officer of the Ho-Chunk Nation, CV 05-109 Scheduling Order (HCN Tr. Ct., Apr. 26, 2006). (Matha, T).

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

MAY 03, 2006

Adriane Walker v. Amy Kirby et al., CV 05-28 Order (HCN Tr. Ct., May 03, 2006). (Matha, T).

The Court granted and recognized the *Settlement Agreement* for the instant case.

MAY 04, 2006

Dallas White Wing v. Wade Blackdeer, in his official capacity as its Vice President, and Mary Ellen Dumas, in her official capacity as Chair of the

Election Board, CV 06-25 Order (Default Judgment) (HCN Tr. Ct., May 04, 2006) (Jones, J). The Court had to determine whether to grant the relief requested by the plaintiff. The defendants failed to answer the *Complaint for Declaratory Relief*. The Court rendered a default judgment against defendants.

MAY 22, 2006

Adriane Walker v. Amy Kirby et al., CV 05-28 Order (Satisfaction of Judgment) (HCN Tr. Ct., May 22, 2006). (Matha, T).

The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.

MAY 26, 2006

Patricia A. Lowe-Ennis v. Cash Systems, Inc., CV 06-41 Scheduling Order (HCN Tr. Ct., May 26, 2006). (Matha, T).

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

MAY 30, 2006

HCN Department of Veterans Affairs and HCN v. Jason Ennis, CV 06-13 Order (Default Judgment) (HCN Tr. Ct., May 30, 2006). (Matha, T).

The Court had to determine whether to grant relief requested by plaintiffs. The defendant failed to answer the *Complaint* despite proper service of process. The Court, therefore, renders a default judgment against the defendant, awarding plaintiffs permissible relief sought in the *Complaint*.



CONTRACTS

MAY 18, 2006

HCN Department of Labor and Ho-Chunk Nation v. Contingency Planning Solutions, Inc. and Les Spindler, CV 06-12 Order (Default Judgment) (HCN Tr. Ct., May 18, 2006). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiffs. The defendants failed to answer the *Complaint*. The Court rendered

a default judgment against the defendants, awarding the plaintiffs permissible relief sought in the *Complaint*.

EMPLOYMENT

MAY 10, 2006

Jeanette M. Lieb v. Annette R. Littlewolf, et al., CV 99-15 Order (Final Judgment) (HCN Tr. Ct., May 10, 2006). (Jones, J).

The Court had to determine whether the plaintiff's cause of action met the test for tortious constructive discharge as adopted by the Court. The plaintiff did not establish a violation of fundamental public policy, thereby failing to satisfy the first part of the test.

Daniel M. Brown v. James Webster, HCN Executive Director of Business, CV 04-38-40 Order (Final Judgment) (HCN Tr. Ct., May 10, 2006). (Matha, T).

The Court had to determine whether to uphold the defendant's decision to terminate the plaintiff's employment. There are three questions that must be asked when trying to determine the constitutionality of a termination of employment based upon statements made by an employee. First, did the plaintiff's speech deserve constitutional protection when examined in the context of his status as a former government employee? When attempting to answer this question, the Court must weigh several factors. These factors are: whether the statement would create problems in maintaining discipline by immediate supervisors or harmony among co-workers; whether the employment relationship is one in which personal loyalty and confidence are necessary; whether the speech impeded the employee's ability to perform [his or] her daily responsibilities; the time, place, and manner of the speech; the context in which the underlying dispute arose; whether the matter was one on which debate was vital to informed decisionmaking; and whether the speaker should be regarded as a member of the general public. The second question is did the plaintiff's speech represent a substantial or motivating factor in relation to his discharge from employment? Last, the Court must ask if the defendant presents sufficient evidence to establish that the plaintiff's termination would have occurred in the absence of the protected conduct? After

answering these three questions, the Court held in favor of the plaintiff due to an infringement upon his constitutional right of free speech. However, the Court upholds the defendant's actions in relation to a suspension and annual performance evaluation because the plaintiff either failed to satisfy his burden of proof or establish a statutory violation.

MAY 30, 2006

Aleksandra Cichowski v. Ho-Chunk Hotel and Convention Center, CV 01-25 *Order (Final Judgment)* (HCN Tr. Ct., May 30, 2006). (Jones, J). The Court had to determine whether to dismiss the plaintiff's complaint for failure to exhaust the Administrative Review Process. The Court found that the plaintiff had failed to exhaust the Administrative Review Process as outlined in the Ho-Chunk Nation Personnel Policies and Procedures Manual. The Court dismissed the plaintiff's cause of action.



HOUSING

APRIL 05, 2006

HCN Property Management v. Carina Bachand, CV 06-17 *Eviction Order (Default Judgment)* (HCN Tr. Ct., Apr. 05, 2006). (Matha, T).

The Court had to determine whether to grant relief requested by plaintiff, *ie.*, restitution of the premises and an award of damages. The defendant failed to answer the *Complaint* despite proper service. The Court granted a default judgment against the defendant, awarding the plaintiff relief sought in *Complaint*.

HCN Property Management v. Carina Bachand, CV 06-17 *Writ of Restitution* (HCN Tr. Ct., Apr. 05, 2006). (Matha, T).

After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have property restored to its possession and to remove the defendant, her possessions, and those occupying the

property with her from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Sauk County in order to restore the property.

APRIL 12, 2006

HCN Housing and Community Development Agency v. Margaret Hoffman, CV 06-08 *Scheduling Order* (HCN Tr. Ct., Apr. 12, 2006). (Matha, T).

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

MAY 15, 2006

HCN Housing Authority v. Karen Lipski, CV 99-38 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., May 15, 2006). (Matha, T).

The Court recognized that the debt had been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days. The Treasury Department shall cease per capita withholding associated with the instant action.



CHILDREN'S TRUST FUND (CTF)

APRIL 05, 2006

In the Interest of Adult Beneficiary: Vanity S. Bartlett, DOB 12/31/87 v. HCN Office of Tribal Enrollment, CV 06-04 *Order (Petition Granted)* (HCN Tr. Ct., Apr. 05, 2006). (Matha, T).

The Court had to determine whether an adult can access her CTF account to pay for medical costs. The Court granted the request.

APRIL 06, 2006

In the Interest of Minor Child: J.M.N., DOB 07/02/93, by Ramona McDonald v. HCN Office of Tribal Enrollment, CV 06-21 *Order (Petition Granted)* (HCN Tr. Ct., Apr. 06, 2006). (Matha, T).

The Court had to determine whether a parent can access monies on behalf of minor child to pay costs of orthodontic procedures. The Court granted the request.

In the Interest of Adult CTF Beneficiary: Jennifer M. Orozco, DOB 07/03/85 v. HCN Office of Tribal Enrollment, CV 05-53 Order (Conditional Dismissal without Prejudice) (HCN Tr. Ct., Apr. 06, 2006). (Matha, T).

The Court previously requested additional information to justify release from the CTF account. The petitioner has not presented relevant documentation. The Court informed parties that it shall dismiss the case without prejudice unless the petitioner can demonstrate good cause not to before the specified date. No subsequent order is required to effect dismissal.

In the Interest of Minor Child: M.S.P., DOB 09/28/90, by Sharon Ann Pierce v. HCN Office of Tribal Enrollment, CV 05-60 Order (Conditional Dismissal without Prejudice) (HCN Tr. Ct., Apr. 06, 2006). (Matha, T).

The Court previously requested additional information to justify release from the CTF account. The petitioner has not presented relevant documentation. The Court informed parties that it shall dismiss the case without prejudice unless the petitioner can demonstrate good cause not to before specified date. No subsequent order is required to effect dismissal.

In the Interest of Minor Child: A.T.H., DOB 03/24/88, by Tom Hopinkah v. HCN Office of Tribal Enrollment, CV 05-20 Order (Conditional Dismissal without Prejudice) (HCN Tr. Ct., Apr. 06, 2006). (Matha, T).

The Court previously requested additional information to justify release from the CTF account. The petitioner has not presented relevant documentation. The Court informed parties that it shall dismiss the case without prejudice unless the petitioner can demonstrate good cause not to before specified date. No subsequent order is required to effect dismissal.

APRIL 11, 2006

In the Interest of Minor Child: C.S., DOB 07/10/95, by Tara Snowball v. HCN Office of Tribal Enrollment, CV 05-81 Order (Demanding Accounting) (HCN Tr. Ct., Apr.11, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

APRIL 13, 2006

In the Interest of Adult CTF Beneficiary: Jason N. Hopinka, DOB 12/17/83 v. HCN Office of Tribal Enrollment, CV 03-15 Order (Motion Granted) (HCN Tr. Ct., Apr. 13, 2006). (Matha, T).

The Court had to determine whether an adult can access his Children's Trust Fund account to pay for additional costs associated with his criminal defense and the underlying events. The Court granted the request.

APRIL 19, 2006

In the Interest of Minor Child: B.J.G., DOB 12/03/91, by Steven J. Garvin v. HCN Office of Tribal Enrollment, CV 05-54 Order (Accepting Accounting) (HCN Tr. Ct., Apr. 19, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

In the Interest of Minor Child: A.M.R., DOB 10/08/88, by Angela Ringquist v. HCN Office of Tribal Enrollment, CV 06-15 Order (Dismissal without Prejudice) (HCN Tr. Ct., Apr. 19, 2006). (Matha, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of the *Petition for Release of Per Capita Distribution*. The Court sent the petitioner a *Notice of Hearing*. Petitioner failed to appear. The Court dismissed the case without prejudice.

MAY 02, 2006

In the Interest of Minor Child: C.S., DOB 07/10/95, by Tara Snowball v. HCN Office of Tribal Enrollment, CV 05-81 Order (Accepting Accounting) (HCN Tr. Ct., May 02, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

MAY 08, 2006

In the Interest of Adult CTF Beneficiary: April Webster, DOB 08/30/87 v. HCN Office of Tribal Enrollment, CV 05-107 Order (Subsequent Release of Monies) (HCN Tr. Ct., May 08, 2006). (Matha, T).

The Court previously released funds from the CTF account of the adult child for rental assistance. The petitioner failed to provide an attendance report in a timely manner. Thus, the Court did not grant the release of funds for April's rental payment. The petitioner then provided documentation of enrollment in summer school. The Court granted the release of monies from the CTF, with the requirement that petitioner provide a summer school attendance report.

MAY 10, 2006

In the Interest of Minor Child: C.R.L., DOB 05/05/89, by Lawrence LaMere v. HCN Office of Tribal Enrollment, CV 06-23 Order (Dismissal Without Prejudice) (HCN Tr. Ct., May 10, 2006). (Matha, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of the *Petition for Release of Per Capita Distribution*. The Court sent the petitioner a *Notice of Hearing*. The petitioner failed to appear. The Court dismissed the case without prejudice.

MAY 11, 2006

In the Interest of B.N.F., DOB 09/03/86, by Elaine Ava Yingst v. HCN Office of Tribal Enrollment, CV 05-59 Exparte Motion and Order to Appear Telephonically (HCN Tr. Ct., May 11, 2006). (Matha, T).

The petitioner requested to appear on telephone for hearing. The Court granted the request.

MAY 16, 2006

In the Interest of Adult CTF Beneficiary: Amber S. Kruse, DOB 03/06/83 v. HCN Office of Tribal Enrollment, CV 05-54 Order (Requesting

Accounting) (HCN Tr. Ct., May 16, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with continuing education. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

In the Interest of Minor Child: M.L.D., DOB 04/05/01, by Terry T. Deloney v. HCN Office of Tribal Enrollment, CV 05-58 Order (Show Cause) (HCN Tr. Ct., May 16, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with emergency housing. The petitioner failed to comply with the most recent judicial directive requiring submission of an accounting. The Court shall convene a *Show Cause Hearing* to allow the petitioner to explain why the Court should not hold him in contempt of court.

In the Interest of Minor Children: T.J.M., DOB 10/25/88, and A.M.M., DOB 07/02/90, by Kendra Tarr v. HCN Office of Tribal Enrollment, CV 03-83 Order (Show Cause) (HCN Tr. Ct., May 16, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with an outstanding mortgage. The petitioner failed to comply with the most recent judicial directive requiring submission of an accounting. The Court shall convene a *Show Cause Hearing* to allow the petitioner to explain why the Court should not hold him in contempt of court.

MAY 19, 2006

In the Interest of Minor Child: D.L., DOB 05/27/91, et al., by Doracita Lonetree v. HCN Office of Tribal Enrollment, CV 06-26 Order (Granting Telephonic Appearance) (HCN Tr. Ct., May 19, 2006). (Matha, T).

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

MAY 24, 2006

In the Interest of Minor Children: T.A.C. DOB 02/19/90, by Orvilla R. White Eagle, R.G.C., DOB 07/27/92, by June E. White Thunder v. HCN Office of Tribal Enrollment, CV 05-92 Order (Requesting Accounting) (HCN Tr. Ct., May 24, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor children for a variety of concerns. The petitioner failed to submit an accounting for various vendors, confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

In the Interest of Adult CTF Beneficiary: Tyler A. Cloud, DOB 10/31/89 v. HCN Office of Tribal Enrollment, CV 05-92 Order (Requesting Accounting) (HCN Tr. Ct., May 24, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the adult CTF Beneficiary for a variety of concerns. The petitioner failed to submit an accounting for various vendors, confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

In the Interest of Minor Child: M.A.A., DOB 07/05/93, by Yvette M. Alvarez v. HCN Office of Tribal Enrollment, CV 06-06 Order (Requesting Accounting) (HCN Tr. Ct., May 24, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

In the Interest of Minor Child: A.T.H., DOB 03/24/88, by Tom Hopinkah v. HCN Office of Tribal Enrollment, CV 05-20 Order (Denying Motion of Petitioner) (HCN Tr. Ct., May 24, 2006). (Matha, T).

The Court had invited the petitioner to present a justification for his failure to offer the additional information requested by the Court in its final

decision. The petitioner had not presented a good cause explanation for failing to submit the earlier requested private school expense invoice. The Court dismissed the instant case.

MAY 25, 2006

In the Interest of Adult CTF Beneficiary: Marilyn L. Wesho v. HCN Office of Tribal Enrollment, CV 06-27 Order (Dismissal without Prejudice) (HCN Tr. Ct., May 25, 2006). (Matha, T).

The Court convened a *Fact-Finding Hearing* to consider the merit of the *Petition for Release of Per Capita Distribution*. The Court sent the petitioner a *Notice of Hearing*. The petitioner failed to appear. The Court dismissed the case without prejudice.

MAY 30, 2006

In the Interest of Adult CTF Beneficiary: Amber S. Kruse, DOB 03/06/83 v. HCN Office of Tribal Enrollment, CV 06-05 Order (Accepting Accounting) (HCN Tr. Ct., May 30, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with continuing education. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

In the Interest of Minor Child: P.S., DOB 05/05/94, by Reginald Sohm v. HCN Office of Tribal Enrollment, CV 06-10 Order (Requesting Accounting) (HCN Tr. Ct., May 30, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

INCOMPETENT TRUST FUND (ITF)

APRIL 06, 2006

In the Interest of Adult Incompetent: K.S.B., DOB 02/19/60, by Jon B. Bahr v. HCN Office of Tribal Enrollment, CV 05-110 Order (Motion Granted) (HCN Tr. Ct., Apr. 06, 2006). (Matha, T).

The Court had to determine whether a guardian could access ITF monies on behalf of the ward to establish a monthly allowance and pay for fees

associated with ongoing guardian services. The Court granted the request.

APRIL 19, 2006

In the Interest of Adult Incompetent: H.C., DOB 01/31/31, CV 05-72 Order (Accepting Accounting) (HCN Tr. Ct., Apr. 19, 2006). (Matha, T).

The Court previously released funds from the ITF account for costs associated with ongoing nursing home care and professional guardianship service fees. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

MAY 16, 2006

In the Interest of Adult Incompetent: M.A.F., DOB 04/26/66, by Kyle M. Funmaker v. HCN Office of Tribal Enrollment, CV 96-87 Order (Motion Granted) (HCN Tr. Ct., May 16, 2006). (Matha, T). The Court had to determine whether a guardian could access ITF monies on behalf of the ward to pay for costs associated with a day services program, which includes vocational and education training and communal integration. The Court granted the request.

MAY 19, 2006

In the Interest of Adult Incompetent: G.D.G., DOB 01/03/43, by Alma Miner v. HCN Office of Tribal Enrollment, CV 05-16 Order (Motion Granted) (HCN Tr. Ct., May 19, 2006). (Matha, T).

The Court had to determine whether a guardian could access ITF monies on behalf of the ward to satisfy outstanding debts, including judicially imposed fines. The Court granted the request.

In the Interest of Adult Incompetent: B.N.F., DOB 09/03/86, by Elaine A. Yingst v. HCN Office of Tribal Enrollment, CV 05-59 Order (Motion Granted) (HCN Tr. Ct., May 19, 2006). (Matha, T). The Court had to determine whether a guardian could access ITF monies on behalf of the ward to pay for the acquisition of a personal computer and satisfy attorney's fees. The Court granted the request.

MAY 23, 2006

In the Interest of Adult Incompetent: H.C., DOB 01/31/31, by Barbara Meltesen v. HCN Office of

Tribal Enrollment, CV 05-72 Order (Motion Granted) (HCN Tr. Ct., May 23, 2006). (Matha, T). The Court had to determine whether a guardian could access ITF monies on behalf of the ward to pay for costs associated with ongoing nursing home care, medical-related debts, and professional guardianship fees. The Court granted the request.

Family

DIVORCE

APRIL 27, 2006

Marla J. Lewis v. Matthew J. Lewis, FM 06-03 Final Judgment for Divorce (HCN Tr. Ct., Apr. 27, 2006). (Matha, T).

The parties jointly filed the *Petition for Divorce (Without Minor Children)*, thereby consenting to the personal jurisdiction of the Court. The petitioner is an enrollment member of the Ho-Chunk Nation and has resided in the State of Wisconsin for at least six (6) consecutive months prior to filing of the petition. The parties stated that the marriage is irretrievably broken with no possibility of reconciliation.

MAY 09, 2006

Walter J. Decorah v. Caroline E. Decorah, FM 06-04 Order (Granting Telephonic Appearance) (HCN Tr. Ct., May 09, 2006). (Matha, T).

The petitioner requested that the Court permit him to appear by telephone for the *Initial Hearing*. The Court granted the request.

DOMESTIC VIOLENCE

NO RECENT CASES



Juvenile

MARCH 31, 2006

In the Interest of Minor Child: K.P., DOB 06/20/00; N.P., DOB 02/12/1993, JV 06-07-08 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., March 31, 2006). (Matha, T).

The Court appointed a GAL in this matter.

In the Interest of Minor Children: K.P., DOB 06/20/00, N.P., DOB 02/12/03, JV 06-07-08 Ex Parte Motion, Affidavit, and Order to Appear Pro Hac Vice (HCN Tr. Ct., March 31, 2006). (Matha, T).

The Court had to determine whether to grant permission for an attorney to appear *Pro Hoc Vice*. The petition was granted.

APRIL 03, 2006

In the Interest of Minor Child: K.P., DOB 06/20/00, N.P., DOB 02/12/1993, JV 06-07-08 Order (Continuance of Plea Hearing) (HCN Tr. Ct., Apr. 03, 2006). (Matha, T).

The Court continues the *Plea Hearing*.

APRIL 05, 2006

In the Interest of Minor Child: T.V.F., DOB 02/18/02, JV 03-14 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., Apr. 05, 2006). (Matha, T).

The Court appointed a GAL in this matter.

APRIL 06, 2006

In the Interest of Minor Children: V.M.B., DOB 06/26/89; M.L.E.B., DOB 05/18/90; D.J.B., DOB 09/21/99 JV 05-29-31 Order (Reversal of Plea) (HCN Tr. Ct., April 6, 2006). (Matha, T).

Father reversed plea on two (2) allegations, and HCN Child & Family Services (hereinafter CFS) opted to refrain from proceeding on remaining allegations. The Court scheduled a *Dispositional Hearing*.

APRIL 19, 2006

In the Interest of Minor Children: B.E.Y., DOB 07/25/89, N.R.Y., DOB 07/06/91, JV 03-37-38 Notice and Motion to Withdraw as Counsel (HCN Tr. Ct., Apr. 19, 2006). (Matha, T).

The Court approved motion to withdraw.

In the Interest of Minor Child: M.T.G., DOB 10/05/04, JV 04-38 Order (Conditional Withdrawal of Guardian Ad Litem) (HCN Tr. Ct., Apr. 19, 2006). (Matha, T).

The Court conditionally granted motion of GAL. Upon the Court's subsequent appointment, the GAL shall be released from her ongoing duties and obligations.

In the Interest of Minor Child: S.J.W., DOB 02/10/93, JV 04-38 Order (Child Protection Review Hearing) (HCN Tr. Ct., Apr. 19, 2006). (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.

APRIL 25, 2006

In the Interest of Minor Children: K.B.M., DOB 10/29/03, G.E.M., DOB 8/25/95, A.D.M., DOB 04/25/97, L.A.M., DOB 12/16/00, JV 03-07-10 Order (Establishment of Child Support) (HCN Tr.

The Court had to determine whether to establish a child support obligation for the mother of minor children. The Court established child support.

In the Interest of Minor Children: K.B.M., DOB 10/29/03, G.E.M., DOB 8/25/95, A.D.M., DOB 04/25/97, L.A.M., DOB 12/16/00, JV 03-07-10 Order (Establishment of Child Support-Redacted) (HCN Tr. Ct., Apr. 25, 2006) (Matha, T).

The Court had to determine whether to establish a child support obligation for the mother of minor children. The Court established child support. The Court presented this redacted decision of the foregoing order to the Department of Treasury.

In the Interest of Minor Children: V.M.B., DOB 06/26/89, M.L.E.B., DOB 05/18/90, D.J.B., DOB 09/21/99, JV 05-29-31 Order (Establishing Dispositional Requirements) (HCN Tr. Ct., Apr. 25, 2006). (Matha, T).

The Court conducted the *Dispositional Hearing*. The Court had to assess the extent and scope of the dispositional recommendations proposed by CFS, and elevated certain recommendations to the status of requirements.

APRIL 28, 2006

In the Interest of Minor Children: K.M.C., DOB 04/11/90, Q.J.C., DOB 08/07/92, JV 06-05-06 Order (Entrance of Plea) (HCN Tr. Ct., Apr. 28, 2006). (Matha, T).

The Court convened a *Plea Hearing* for the purpose of determining whether the parent wished to contest the allegations contained in the *Child/Family Protection Petition* filed by CFS. The parent entered a plea of not guilty. The Court postpones

scheduling *Trial* pending the resolution of certain substantive issues.

In the Interest of Minor Child: D.B., DOB 09/21/99, JV 05-31 Order to Transfer (HCN Tr. Ct., Apr. 28, 2006). (Matha, T).

The Court granted petitioner's motion to transfer case to the HCN Trial Court.

MAY 02, 2006

In the Interest of Minor Children: C.C.P., DOB 02/03/93, et al., JV 03-25-26 Order (Granting Telephonic Appearance) (HCN Tr. Ct., May 02, 2006). (Matha, T).

The Court granted the request for a telephonic hearing.

In the Interest of Minor Child: D.R.W., DOB 08/12/04, JV 05-07 Order (Extension of Transitional Period) (HCN Tr. Ct., May 02, 2006). (Matha, T).

The Court convened a *Status Hearing* to inquire into the effectiveness of the established transitional period. CFS reported that the custodial parent did not meaningfully comply with the schedule. The Court ordered that the parties adhere to an amended transitional schedule.

MAY 03, 2006

In the Interest of Minor Child: M.T.G., DOB 10/05/04, JV 04-38 Order (Entrance of Plea and Dispositional Requirements) (HCN Tr. Ct., May 03, 2006). (Matha, T).

CFS filed a *Plea Agreement & Affidavit of the Parent* where the parent noted her agreement with the *Informal Disposition*, thereby acquiescing to the allegations contained in the *Amended Child/Family Protection Petition*. The Court accepted the parent's plea and adopted the *Informal Disposition*, eliminating the need to conduct a dispositional hearing.

MAY 04, 2006

In the Interest of Minor Child: L.E.C., DOB 10/12/90, JV 01-22 Order (Appointment of Permanent Guardian) (HCN Tr. Ct., May 04, 2006). (Matha, T).

The Court had to determine whether to appoint a successor permanent guardian of the minor child.

The Court ordered the appointment of the permanent guardian.

MAY 09, 2006

In the Interest of Minor Child: J.M.D., DOB 03/29/06, JV 06-14 Order (Conditional Acceptance of Transfer) (HCN Tr. Ct., May 09, 2006). (Matha, T).

The Court had to determine whether to conditionally accept transfer of a State of Wisconsin children's case. The Court conditionally accepted the transfer.

MAY 16, 2006

In the Interest of Minor Children: K.P., DOB 06/20/00, N.P., DOB 02/12/93 JV 06-07-08 Order (Granting Voluntary Dismissal) (HCN Tr. Ct., May 16, 2006). (Matha, T).

CFS preemptively filed its *Motion to Withdraw Petition*. The Court accordingly granted a voluntary dismissal of the cause(s) of action, and closed the instant case.

MAY 17, 2006

In the Interest of Minor Children: S.E.R., DOB 01/05/90, T.E.R., DOB 12/26/90, B.B., DOB 05/01/93, JV 06-01-03 Order (Granting Dismissal) (HCN Tr. Ct., May 17, 2006). (Matha, T).

The Court convened a *Trial* to determine whether CFS could prove the allegations within its *Child/Family Protection Petition* by a preponderance of the evidence. The parent moved for dismissal. The Court granted the dismissal because CFS failed to substantiate the grounds articulated for removal of the minor children.

MAY 19, 2006

In the Interest of Minor Child: S.R.W., DOB 07/11/03, JV 06-13 Order (Voluntary Dismissal) (HCN Tr. Ct., May 19, 2006).

The petitioner filed a correspondence, indicating her intent to withdraw the petition. The Court dismissed the case without prejudice.

MAY 22, 2006

In the Interest of Minor Children: J.V., DOB 10/22/88, S.V., DOB 09/03/99, JV 02-19-20 Order (Modifying Dispositional Order) (HCN Tr. Ct., May 22, 2006). (Matha, T).

The Court conducted a *Status Hearing*. At the hearing the Court had to determine whether to modify the previous dispositional order as requested by CFS. The Court granted the modification.

MAY 23, 2006

In the Interest of Minor Children: C.H.F., DOB 12/24/03, P.R.F., DOB 04/22/02, JV 05-19-20 Order (Termination of Jurisdiction) (HCN Tr. Ct., May 23, 2006). (Matha, T).

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

In the Interest of Minor Children: C.H.F., DOB 12/24/03, P.R.F., DOB 04/22/02, JV 05-19-20 Order (Nullifying Juvenile Child Support Decision) (HCN Tr. Ct., May 23, 2006). (Matha, T).

The Court suspended its routing instructions and directed the Ho-Chunk Nation Department of Treasury to abide by the terms of the most recent judgments entered in pending child support cases.

In the Interest of Minor Children: K.B.M., DOB 10/29/03, G.E.M., DOB 08/25/95, A.D.M., DOB 4/25/97, L.A.M., DOB 12/16/00, JV 03-07-10 Order (Child Protection Review Hearing) (HCN Tr. Ct., May 23, 2006). (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.

MAY 24, 2006

In the Interest of Minor Children: M.C.S.C., DOB 01/09/96, J.D.C., DOB 12/21/98, J.C.C., DOB 07/16/03, JV 03-48-50 Order (Revocation of Guardianship) (HCN Tr. Ct., May 24, 2006). (Matha, T).

The Court convened the *Revocation Hearing* to determine whether to terminate the temporary guardianship and to return the minor children to the custodial parent. The Court conditioned the revocation upon CFS devising an informal disposition, which the custodial parent voluntarily agreed to accept.

MAY 30, 2006

In the Interest of Minor Child: S.M.N., DOB 02/17/90, 95-CU-15 Order (Appointment of

Temporary Guardian) (HCN Tr. Ct., May 30, 2006). (Matha, T).

The Court had to determine whether to appoint a successor temporary guardian of the minor child, pursuant to the HOČAK NATION CHILDREN AND FAMILY ACT. The Court deemed that such an appointment was within in the minor child's best interests.



Supreme Court

MAY 23, 2006

In the Interest of Minor Child: D.R.W., DOB 08/12/04, by Mary Funmaker, SU 06-02 Scheduling Order (HCN S. Ct., May 23, 2006).

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



Recent Filings

Trial Court

Child Support

APRIL 07, 2006

State of WI- Selina Littlewolf v. Rory E. Thundercloud, CS 06-10. (Matha, T).

APRIL 13, 2006

State of WI/Brown Co. v. Leonard Tebeau Jr., CS 06-11. (Matha, T).

APRIL 13, 2006

State of NE and Amanda Cronk v. Shane Oknewski, CS 06-12. (Matha, T).

APRIL 14, 2006

State of NE and Wendy Kennicker v. Shane Oknewski, CS 06-18. (Matha, T).

State of WI- Orlena Wikoff v. Leonard I. Tebeau Jr., CS 06-19. (Matha, T).

APRIL 18, 2006

Alexandra M. Snowball v. David R. Snowball, CS 06-20. (Matha, T).

APRIL 20, 2006

State of IA, ex rel. Lauryn Tate v. Aaron Blackhawk, CS 06-21. (Matha, T).

In the Paternity of A.J.W. and State of WI v. Alan J. White Thunder, CS 06-22. (Matha, T).

APRIL 24, 2006

Courtney White v. Greg Whitegull, CS 06-23. (Matha, T).

APRIL 27, 2006

Eau Claire County/State of WI, Eau Claire Co. CSA v. Jones R. Funmaker, CS 06-25. (Matha, T).

State of WI v. Jones R. Funmaker, CS 06-24. (Matha, T).

MAY 02, 2006

Josephine L. Shegonee v. Diane L. Shegonee, CS 06-26. (Matha, T).

Lillian L. Harrison v. John Whitewater, CS 06-27. (Matha, T).

MAY 10, 2006

State of WI- Anthony D. Marsh v. Chasity A. Miller, CS 06-28. (Matha, T).

MAY 23, 2006

State of WI- ex rel. Marita C. Basina v. Anthony M. Basina, CS 06-29. (Matha, T).

Yvonne Barrett v. Roger Kim Pettibone, CS 06-30. (Matha, T).

Civil Garnishment

APRIL 14, 2006

Creditor Recovery Service, LLC v. Tina Dietsch, CG 06-21. (Matha, T).

Creditor Recovery Service, LLC v. Wendy Dickerson, CG 06-22. (Matha, T).

Alliance Collection Agencies, Inc. v. Jason Frost, CG 06-23. (Matha, T).

APRIL 20, 2006

Overman, Hegna, Reich & Wruck v. Nicole Ward, CG 06-24. (Matha, T).

APRIL 24, 2006

Waterworks & Lighting Commission v. Crystal E. Chalepah, CG 06-25. (Matha, T).

MAY 10, 2006

Quick Cash Loans v. Courtney White, CG 06-27. (Matha, T).

Quick Cash Loans v. Sonia Roberts, CG 06-28. (Matha, T).

Black River Memorial v. Duane W. Kling, Jr., CG 06-29. (Matha, T).

MAY 26, 2006

State of Wisconsin-Veterans Affairs v. Michael J. Gerhartz, CG 06-30. (Matha, T).

Civil Cases

APRIL 04, 2006

In the Interest of Minor Children: D.L., DOB 05/27/91, M.L., DOB 10/24/93, M.L., DOB 05/28/99, by Doracita Lonetree, CV 06-26. (Matha, T).

APRIL 05, 2006

In the Interest of Adult CTF Beneficiary: Marylyn Wesho, DOB 09/14/82, v. HCN Office of Tribal Enrollment, CV 06-27. (Matha, T).

APRIL 10, 2006

Betty Jane White v. Steve Garvin and Linda Weber, CV 06-28. (Matha, T).

MAY 05, 2006

In the Interest of Minor Child: N.M., DOB 03/13/93, by Paula Mike, v. HCN Office of Tribal Enrollment, CV 06-29. (Matha, T).

In the Interest of Minor Child: T.W., DOB 04/09/93, by Sara White Eagle, v. HCN Office of Tribal Enrollment, CV 06-30. (Matha, T).

Marlene C. Cloud, et al. v. HCN- HCC et al., CV 06-31. (Matha, T).

MAY 08, 2006

HCN Property Management v. Lacy Estes, CV 06-32. (Matha, T).

MAY 10, 2006

Cash Systems Inc. v. Certegy Check Services, Inc., CV 06-33. (Matha, T).

MAY 17, 2006

In the Interest of Adult Incompetent: B.S., DOB 02/07/80, CV 06-34. (Matha, T).

MAY 18, 2006

In the Interest of Adult CTF Beneficiary: Carl M. Steer-Wilson, DOB 01/26/86, v. HCN Office of Tribal Enrollment, CV 06-35. (Matha, T).

MAY 19, 2006

Nellie Darlene Long v. HCN Office of Tribal Enrollment, CV 06-36. (Matha, T).

MAY 22, 2006

Ho-Chunk Casino and Convention Center Hotel et al. v. Orrin Cloud, CV 06-37. (Matha, T).

MAY 23, 2006

In the Interest of Minor Child: D.R.O., DOB 01/12/96, by Victoria Jane Ortiz, CV 06-38. (Matha, T).

MAY 25, 2006

HCN Department of Business v. Michael Day, CV 06-39. (Matha, T).

Ho-Chunk Casino and Convention Center Hotel et al. v. Bernard Mountain, CV 06-40. (Matha, T).

MAY 26, 2006

Patricia Lowe-Ennis v. Cash Systems, Inc., CV 06-41. (Matha, T).

Family**MARCH 10, 2006**

Samantha C. House v. David D. House, FM 06-02. (Matha, T).

MARCH 16, 2006

Marla Lewis v. Matthew Lewis, FM 06-03. (Matha, T).

APRIL 24, 2006

Walter J. Decorah v. Caroline E. Decorah, FM 06-04. (Matha, T).

MAY 05, 2006

Dolly M. Finn v. Daniel Santo Soto, FM 06-05. (Matha, T).

MAY 19, 2006

De Forrest Malone Funmaker v. Joyce Funmaker, FM 06-06. (Matha, T).

Domestic Violence**MARCH 09, 2006**

In the Interest of Elder Person, D.D. DOB 04/27/19, DV 06-02. (Matha, T).

D.D., DOB 04/27/19 v. Jovita Orozco, DV 06-03. (Matha, T).

Juvenile**MAY 01, 2006**

In the Interest of Minor Child, S.R.W., DOB 07/11/03, JV 06-13. (Matha, T).

MAY 05, 2006

In the Interest of Minor Child, J.M.D., DOB 03/29/06, JV 06-14. (Matha, T).



Supreme Court

In the Interest of Minor Child: D.R.W., DOB 08/12/04, by Mary Funmaker, SU 06-02.

Upcoming National Events

06/18/06 - 06/21/06 National Congress of American Indians Mid Year Conference; Kewadin Hotel and Casino, Sault Ste. Marie, MI. For more information call 202-466-7767 or go to www.ncai.org

06/26/06 - 06/29/06 2nd Annual National Veterans Small Business Conference; Las Vegas, NV

06/28/06 - 03/30/06 U.S. Department of Energy's 7th Annual Small Business Conference; Seattle, WA. For more information go to www.smallbusiness-outreach.doe.gov



**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
 Douglas Red Eagle
 Preston Thompson, Jr.
 Eugene Thundercloud
 Morgan White Eagle
 Clayton Winneshiek
 Trial Court – Todd R. Matha, Chief Judge
 JoAnn Jones, Associate Judge
 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 – Nicole M. Homer
 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)





JULY 2006
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HCN Judiciary Fee Schedule

Legal Citation Forms

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

COURT BULLETIN

FORMER TRADITIONAL COURT MEMBER, KEITH N. SNAKE, PASSES ON

On Tuesday, June 27, 2006, the Nation lost another beloved elder and past member of the Ho-Chunk Nation Traditional Court, Keith N. Snake. Mr. Snake was born on October 13, 1933 in Black River Falls, Wisconsin. He was a military veteran and the father of three children. Mr. Snake was also a member of the Snake Clan and served on the Traditional Court from 1995-1996. Besides serving as a member of the Traditional Court, Mr. Snake had been an active member of the Native American Church, the Andrew Blackhawk American Legion Post 129, and the Thompson-RedCloud VFW Post 1954. The thoughts and prayers of the HCN Judiciary go out to Mr. Snake's family and friends.

WELCOME SUMMER DEPT. OF JUSTICE LAW CLERK KATE LINDSAY



Kate Lindsay serves as a law clerk in the Ho-Chunk Nation Department of Justice this summer. She recently completed her first year of law school at the University of Wisconsin. Kate graduated with a Bachelor of Arts degree with a double major in English and History from Boston University. She spent time in between college and law school working as a therapist for an autistic child on Washington Island.

CTF CASE UPDATE

CTF CASES INVOLVING REQUESTS FOR CHILDREN UNDER THE AGE OF 16¹

DEC. 2003-JUNE 2006

In the February through June 2002 editions of the Court Bulletin, Chief Judge Todd R. Matha presented a series of articles describing the process by which to petition the Court for release of monies from Trust Funds. Included in these articles were surveys of the Children's Trust Fund (CTF) and Incompetent Trust Fund (ITF) cases.² Later, in December 2003, an update was made to the CTF survey. In this article, the Court again provides an update to the CTF surveys. Thus, the Court has examined all CTF cases since publication of the most recent survey.³ This update shall address CTF cases involving requests for children under the age of sixteen (16) years of age. Next month, the Court shall update cases involving requests for children over the age of sixteen (16) years of age through the age of twenty-five (25) years of age.

Orthodontics:

The Court first granted a request to pay orthodontic expenses on March 27, 1998.⁴ The Court has consistently held that such expenses provide a "necessary health and welfare benefit to the child(ren)."⁵ Since the CTF case update in December of 2003, the Court has granted a significant number of requests for orthodontia.⁶

¹ Next month, the Court will examine cases involving children age sixteen (16) and older.

² See Todd R. Matha, *Part I: A Survey of Children's Trust Fund (CTF) Cases*, HO-CHUNK NATION COURT BULLETIN, March 2002, at 2-5; Todd R. Matha, *Part II: A Survey of Children's Trust Fund Cases (CTF) Cases*, HO-CHUNK NATION COURT BULLETIN, April/May 2002, at 2-6.

³ See *CTF Case Update*, HO-CHUNK NATION COURT BULLETIN, December 2003, at 3-6.

⁴ *In the Interest of Casey J. Tripp v. HCN Enrollment Dep't*, CV 98-10 (HCN Tr. Ct., Mar. 27, 1998).

⁵ See Matha, *Part I, supra* note 1, at 2.

⁶ See e.g., *In the Interest of Minor Child: A.A.G.*, DOB 11/13/92, by Michelle Gulbroson v. HCN Office of Tribal Enrollment, CV 03-85 (HCN Tr. Ct., Dec. 22, 2003); *In the Interest of Minor Child: T.H.R.*, DOB 09/29/88, Barbara V. Rave v. HCN Office of Tribal Enrollment, CV 03-87 (HCN Tr. Ct., Feb. 3, 2004); *In the Interest of Minor Child: M.A.A.*,



Eye & Hearing Care:

In line with the orthodontics cases, the Court has also granted funds to purchase eye wear⁷ and hearing aid devices.⁸ In *Pierce*, the petitioner requested a release of funds from the minor's CTF account for the purchase of contact lenses.⁹ The Court stated that contact lenses represent "a health and welfare necessity."¹⁰ Likewise, in *McKinley*, the Court easily made the determination that hearing aids represented a health and welfare necessity.¹¹ Thus, the Court granted the release of funds for the purchase of such devices.¹²



Automobiles:

The Court received two requests for a release of funds to help pay for automobiles since

DOB 07/05/93, by Yvette M. Alvarez v. HCN Office of Tribal Enrollment, CV 06-06 (HCN Tr. Ct., Feb. 13, 2006).

⁷ See e.g., *In the Interest of Minor Child: J.L.G.*, DOB 07/24/92, by Willa RedCloud v. HCN Office of Tribal Enrollment, CV 04-101 (HCN Tr. Ct., Dec. 6, 2004) (granting monies for eyewear); *In the Interest of Minor Child, M.S.P.*, DOB 09/28/90, by Shannon Ann Pierce v. HCN Office of Tribal Enrollment, CV 05-60 (HCN Tr. Ct., Sept. 30, 2005) (granting monies for contact lenses); *In the Interest of Minor Children: D.L.*, DOB 05/27/91, *M.L.*, DOB 10/21/93, and *M.L.*, DOB 05/28/99, by Doracita Lonetree v. HCN Office of Tribal Enrollment, CV 06-26 (HCN Tr. Ct., June 16, 2006) (granting monies for eye care).

⁸ See e.g., *In the Interest of Minor Child: T.L.M.*, DOB 04/10/94, by Sherry McKinley v. HCN Office of Tribal Enrollment, CV 04-23 (HCN Tr. Ct., Mar. 30, 2004).

⁹ *Pierce* at 1.

¹⁰ *Id.* at 10.

¹¹ *McKinley* at 8.

¹² *Id.*

the update.¹³ In *Patterson*, the petitioner requested a release of funds to help with the purchase of a family vehicle.¹⁴ However, after applying the four prong test used to assess the sufficiency of a *Petition for the Release of Per Capita Distribution*¹⁵, the Court denied the petitioner's request. First, the Court determined that the petitioner had failed to present any evidence that the car would benefit the health, education, or welfare of the child(ren).¹⁶ Without this showing, the Court could not answer the second prong requiring necessity to be present.¹⁷ In regards to the third prong, the standard test for determining whether the third prong is met in automobile cases is set forth in *Crowe*.¹⁸ The test is:

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

Here, the petitioner failed to establish any "unforeseeable and/or unusual circumstances" capable of justifying the release of CTF funds for

such a purchase.¹⁹ Thus, the Court denied the petitioner's request.²⁰

In *Bush*, the petitioner requested a release of funds to purchase an automobile and automobile insurance.²¹ The Court held that an automobile would further the health and welfare needs of a child whose parents demonstrated financial need.²² This was due to the fact that the minor child in *Bush* suffered from a mental handicap that required accessible and reliable transportation.²³ Furthermore, the petitioner provided the required evidence of exhaustion of tribally, state, and federally funded programs.²⁴ The Court also granted the request in regards to automobile insurance because the Court does not condone the transportation of a minor in either an uninsured or underinsured automobile.²⁵

Clothing:

The Court generally recognizes that parents have the responsibility to meet a child's basic needs, including the need for clothing.²⁶ However, in *Whiteagle-Fintak*, the Court found that the petitioner presented an extreme case, and thus partially granted the request for funds to purchase clothing.²⁷ Specifically, the Court found that the petitioner demonstrated special need because of her ill health, as well as the family's limited financial resources.²⁸

In *Pierce*, the Court found that the petitioner did not present an extreme case as in *Whiteagle-Fintak*. Instead, the Court found that the petitioner was able to maintain the family income at double the federal poverty level, without taking into consideration financial assistance provided by other

¹³ *In the Interest of Minor Children: Z.D.B., DOB 03/22/97; J.R.B., DOB 05/27/98; and R.M., DOB 10/22/00, by Thomasa B. Patterson v. HCN Office of Tribal Enrollment, CV 04-105 (HCN Tr. Ct., Jan. 21, 2005); In the Interest of Minor Child: A.F., DOB 01/13/96, by Alona Bush v. HCN Office of Tribal Enrollment, CV 05-83 (HCN Tr. Ct., Jan 25, 2006).*

¹⁴ *Patterson* at 1.

¹⁵ "First, the Court may only grant a release for the benefit of a beneficiary's health, education or welfare. Second any such benefit must represent a necessity, not a want or desire. Third, the parent(s) or guardian(s) must demonstrate special financial need. Finally, the plaintiff must provide evidence of exhaustion of tribal funds and public entitlement programs." Todd R. Matha, *An Introduction to Trust Fund Accounts and Why We Have Them*, HO-CHUNK NATION COURT BULLETIN, February 2002, at 17.

¹⁶ *Patterson* at 10-11.

¹⁷ *Id.* at 11.

¹⁸ *In the Interest of Minor Child(ren): V.D.C., DOB 10/03/84, et al., by Debra Crowe v. HCN Office of Tribal Enrollment, CV 00-25 (HCN Tr. Ct., Apr. 6, 2001) at 14.*

¹⁹ *Patterson* at 11-12.

²⁰ *Id.* at 12.

²¹ *Bush* at 1.

²² *Id.* at 10.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *In the Interest of Minor Children: M.W., DOB 07/09/95, by Melody Whiteagle-Fintak v. HCN Office of Tribal Enrollment, CV 04-83 (HCN Tr. Ct., Dec. 16, 2004) at 8; Lonetree at 14.*

²⁷ *Whiteagle-Fintak* at 10.

²⁸ *In the Interest of Minor Children: M.W., DOB 07/09/95, by Melody Whiteagle-Fintak v. HCN Office of Tribal Enrollment, CV 04-83 (HCN Tr. Ct., Sept. 29, 2004) at 5-6, 10.*

children in the household.²⁹ Thus, the Court denied the petitioner's request for a release of funds to pay for clothing.³⁰ The Court also denied the petitioner's request for clothing assistance in *Bush*. The Court found, that although it was regrettable that the petitioner could not obtain gainful employment due to her lack of a high school diploma or equivalent, and the fact that the petitioner's husband worked seasonally, the Court still expected the parents to provide the basic necessities of clothing for their children.³¹

In *Hopinkah*, the Court failed to address the merits of the case for over two and a half (2½) years after the submission for final decision.³² The Court reasoned that health and welfare necessity, as well as financial circumstances, could dramatically change in such a long period of time.³³ Therefore, due to the inherent time sensitive nature of CTF requests, the Court felt compelled to deny the *Petition*.³⁴



Furniture:

The Court has denied the only recent request for household furnishings.³⁵ Although in the past, the Court has consistently held that household furnishings do not significantly benefit the child's health, education, or welfare,³⁶ the Court in

Hopinkah denied the request instead on the basis of extreme passage of time as stated above.

Education:

Traditionally with respect to requests for private school tuition, the Court requires a showing that the child has special needs that cannot be met through the public school system.³⁷ The Court in the two (2) *WhiteEagle* cases,³⁸ found that the children benefited from the private school setting because both children had shown improvement in their academic record.³⁹ Furthermore, the Court found that this specific private school setting helped further the son's long term educational goals.⁴⁰

In *Doracita Lonetree*, the Court released funds to help with outstanding private school payments.⁴¹ The Court restricted the funds to only cover the outstanding payments because the benefit had already been received by the children. However, in terms of the future school year, the Court denied the release because the petitioner failed to show substantiating evidence of her charge that the children suffered from public school overcrowding.⁴² Moreover, the petitioner undermined her own argument by allowing her eldest child to go to public school in order to play a fall sport.⁴³ Therefore, the Court refused to release funds for the 2006-2007 school year.⁴⁴

The Court has recently granted a petition for the release of funds for school supplies.⁴⁵ Although

³⁷ See *CTF Case Update*, HO-CHUNK NATION COURT BULLETIN, December 2003, at 4.

³⁸ The *WhiteEagle* cases represent a drastic departure from the norm. The Court has since returned to requiring a showing that a child has special needs that cannot be met through the public school system, and not a mere statement that a child would improve academically if he/she was allowed to attend a private school.

³⁹ *In the Interest of Minor Child: T.W.E., DOB 04/09/93, by Sara WhiteEagle v. HCN Office of Tribal Enrollment*, CV 05-73 (HCN Tr. Ct., Dec. 29, 2005) at 5; *In the Interest of Minor Child: T.K., DOB 06/06/90, by Sara WhiteEagle v. HCN Office of Tribal Enrollment*, CV 05-74 (HCN Tr. Ct., Dec. 29, 2005) at 5.

⁴⁰ *In the Interest of Minor Child: T.W.E., DOB 04/09/93, by Sara WhiteEagle* at 5.

⁴¹ *Doracita Lonetree* at 11.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Pierce* at 10.

²⁹ *Pierce* at 10.

³⁰ *Id.* at 1.

³¹ *Bush* at 10.

³² *In the Interest of Minor Children: C.E.H., DOB 07/13/91, T.R.H., DOB 12/19/92, and B.F.H., DOB 03/13/94, by Janelle H. Hopinkah v. HCN Office of Tribal Enrollment*, CV 02-98 (HCN Tr. Ct., Oct. 24, 2005) at 5.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 1.

³⁶ See *CTF Case Update*, HO-CHUNK NATION COURT BULLETIN, December 2003, at 4; *In the Interest of Child: M.W., DOB 07/09/95, by Melody Whiteagle-Fintak v. HCN Office of Tribal Enrollment*, CV 01-154 (HCN Tr. Ct., Mar. 13, 2002) at 11.

school supplies do not represent a life necessity, they are a concern with regards to a child's education.⁴⁶ Furthermore, the family was able to prove financial need at their *Fact-Finding Hearing*.⁴⁷



Housing:

The Court has in the past denied requests for housing assistance.⁴⁸ However, in *Tarr* the Court found that the facts at issue in the case demonstrated an egregious circumstance, namely the possible loss of the family home through foreclosure.⁴⁹ The Court also determined that this case differed from previous housing assistance CTF cases because the petitioner had taken many steps to protect herself.⁵⁰ Specifically, the petitioner took steps to satisfy her burden of proof; she had no other available recourse to tribal programs or funding; she had already requested assistance on a pre-existing mortgage; she limited her request to a minimal amount to cover just mortgage assistance; and, last, she neither requested full satisfaction nor a continuing payment scheme.⁵¹ Thus, the Court was able to grant the petitioner's request.

In *Deloney*, the Court granted a release of funds to pay for minimal emergency housing benefits when the petitioner's prior residence was destroyed by a fire.⁵² The Court based its reasoning

on the fact that the situation was egregious and unforeseeable.⁵³ In addition, the Court also made note that it will continue to grant a release of funds for documented crises and emergencies such as fires.⁵⁴

Miscellaneous:

The Court granted a release of monies for the purchase of musical instruments and continuing lessons in *Gary L. Lontree, Jr.*⁵⁵ Due to music being a part of the educational curriculum in primary, secondary, and collegial institutions, the Court was able to find that music lessons and instruments constituted a part of the educational welfare of the children.⁵⁶ The children have also demonstrated their own need for these funds through their actions, namely hard work, commitment, and great achievement in the arts.⁵⁷

Recently, the Court denied the release of funds to assist with costs associated with child care,⁵⁸ the purchase of a personal computer,⁵⁹ medical bills,⁶⁰ summer sports camps,⁶¹ and household rent.⁶²

⁵³ *Id.* at 9.

⁵⁴ *Id.*

⁵⁵ *In the Interest of Minor Children: J.A.L., DOB 11/20/91; K.A.L., DOB 08/14/89, by Gary L. Lonetree, Jr. v. HCN Office of Tribal Enrollment*, CV 02/85 (HCN Tr. Ct., Oct. 18, 2004) at 10.

⁵⁶ *Id.*; see also *Doracita Lonetree* at 13 (granting a modest request for monies to seek music lessons due to the school not offering a program).

⁵⁷ *Gary L. Lonetree, Jr.* at 10.

⁵⁸ *In the Interest of Minor Child: S.R.D., DOB 04/08/02, by Jason Decorah v. HCN Office of Tribal Enrollment*, CV 05-31 (HCN Tr. Ct., June 3, 2005) at 11.

⁵⁹ *In the Interest of Minor Child: J.M.M., DOB 11/12/91, by Ayako Thundercloud-Poff v. HCN Office of Tribal Enrollment*, CV 05-42 (HCN Tr. Ct., Sept. 8, 2005) (denying the request because the adult family members did not demonstrate a proportionate ability to pay for the computer); *Doracita Lonetree* at 12.

⁶⁰ *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. HCN Office of Tribal Enrollment*, CV 02-98 (HCN Tr. Ct., Oct. 24, 2005).

⁶¹ *Doracita Lonetree* at 13-14 (stating that the Court recognizes the educational merit of fostering a child's athletic endeavors, however, the Court declined the request because the petitioner failed to submit a letter of recommendation from the athletic coach).

⁶² *Bush* at 10.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *In the Interest of Minor Children: T.J.M., DOB 10/25/88; A.M.M., DOB 07/02/90, by Kenda Tarr v. HCN Office of Tribal Enrollment*, CV 03-83 (HCN Tr. Ct., Feb. 3, 2004) at 9.

⁴⁹ *Id.*; see also *In the Interest of Minor Children: J.J.N., DOB 06/23/88; J.D.N., DOB 08/27/91, by Mary Frances Ness v. HCN Office of Tribal Enrollment*, CV 05-17 (HCN Tr. Ct., Mar. 30, 2005) at 9-10 (granting release of funds for costs associated with a home mortgage based upon the facts being similar to the *Tarr* case).

⁵⁰ *Tarr* at 9.

⁵¹ *Id.* at 9-10.

⁵² *In the Interest of Minor Child, M.L.D., DOB 04/05/01, by Terry T. Deloney v. HCN Office of Tribal Enrollment*, CV 05-58 (HCN Tr. Ct., Sept. 23, 2005).



UPDATES FROM OUTSIDE COURTS

United States Supreme Court

Certiorari granted

- *Lingle v. Arakaki*, No. 05-988 (granted June 12, 2006). The judgment was vacated and the case was remanded for further consideration in light of *DaimlerChrysler Corp. v. Cuno*, 547 U.S. ____, 74 U.S.L.W. 4233 (2006). The Chief Justice took no part in the consideration or decision of this petition.

Certiorari denied

- *Arrietta v. U.S.*, No. 05-10770 (denied June 5, 2006).
- *Cowan v. Tohono O'odham Nation*, No. 05-1273 (denied June 5, 2006).
- *Mattaponi v. Virginia*, No. 05-1141 (denied June 12, 2006).
- *Smith v. Salish Kootenai*, No. 05-10357 (denied June 19, 2006).

Petition for Certiorari filed

- *Bruner v. Oklahoma*, No. 05-1470 (filed May 15, 2006).
- *Means v. Navajo Nation*, No. 05-1614 (filed June 16, 2006).

Federal Circuit Court of Appeals

Dumarce v. Scarlett, 2006 WL 1170121 (Fed. Cir. 2006).

Heirs to allotted Indian lands sought declaratory and injunctive relief, alleging that a provision of the Sisseton-Wahpeton Sioux Act of 1984, mandating that certain interests in Indian allotments escheat to the United States to be held in trust for tribe constituted a taking in violation of Fifth Amendment. The United States District Court for the District of South Dakota, Charles B. Kornmann, J., 277 F.Supp.2d 1046, granted, in part, the heirs'

motion for summary judgment, finding that one heir's claim was not barred by the statute of limitations and that the Act effected a taking without just compensation. The government appealed. The Court of Appeals held that the government satisfied its fiduciary duty to the heir, and that equitable tolling did not apply against the government to make timely the heir's takings claim. Reversed.

D.C. Circuit Court of Appeals

In re Kempthorne, 2006 WL 1563612 (D.C. Cir. 2006).

The Secretary of Interior, in his official capacity, petitioned for a writ of mandamus disqualifying the special master and suppressing reports he filed with the district court in on-going litigation involving Interior's management of trust accounts for the benefit of American Indians. The Court of Appeals held that the petition was not rendered moot by the special master's resignation; that the special master should have recused himself; and the suppression of reports prepared by the special master was warranted. Petition granted.

Second Circuit Court of Appeals

United States v. President R.C. St. Regis Management Company, 2006 WL 1606447 (2nd Cir. 2006).

The Indian tribe filed a qui tam action seeking declaration that construction contract entered into by the casino management company was void and unenforceable under Indian Gaming Regulatory Act (IGRA). The United States District Court for the District of New York, Hurd, J., 2005 WL 1397133, entered summary judgment in favor of the company, and the tribe appealed. The Court of Appeals held that the tribe had to exhaust its administrative remedies under IGRA before filing suit; that the IGRA superseded a statutory provision permitting Indian tribes to bring qui tam actions; and the qui tam statute did not give the tribe standing to seek a declaratory judgment. Affirmed.

Third Circuit Court of Appeals

The Delaware Nation v. Commonwealth of Pennsylvania, 2006 WL 1171859 (3rd Cir. 2006).

The Indian tribe brought action, pursuant to the Indian Nonintercourse Act, claiming aboriginal and fee title to land. The United States District Court for the Eastern District of Pennsylvania, 2004 WL 2755545, James McGirr Kelly, J., dismissed. Tribe appealed. The Court of Appeals held that the tribe waived the issue of whether a purchaser of land lacked the sovereign authority to extinguish its aboriginal title; the tribe's aboriginal title was extinguished by the purchase regardless of any fraud in the transaction; and that the allegation that the tribe obtained fee title to land, which it had previously sold, and which was then granted back to a Chief of the tribe, failed to state a claim upon which relief could be granted. Affirmed.

Eighth Circuit Court of Appeals

United States v. Brave Thunder, 445 F.3d 1062 (8th Cir. 2006).

The defendants were convicted of theft from an Indian tribal organization; conspiracy to commit an offense against the United States; and making false statements to the Federal Bureau of Investigation (FBI), following jury trial in the United States District Court for the District of North Dakota, Daniel L. Hovland, Chief Judge. Defendants appealed. The Court of Appeals held that the holding that the defendants committed theft was supported by sufficient evidence. Also, the Court held that the government was required to prove conspiracy involving the United States. Furthermore, the Court found that convictions for making false statements were supported by sufficient evidence. Last, the Court decided that the District Court did not err in determining that the defendants held positions of trust. Affirmed.

United States v. Peltier, 446 F.3d 911 (8th Cir. 2006)

The defendant, convicted of two counts of first-degree murder, moved to correct an allegedly illegal sentence. The United States District Court for the District of North Dakota, Ralph R. Erickson, J., denied motion. Defendant appealed. The Court of Appeals held that the rule allowing for the

correction of an illegal sentence was not an appropriate vehicle for a claim that the District Court lacked jurisdiction over the prosecution; that the District Court was not deprived of subject matter jurisdiction by the fact that the murders occurred in Indian country; that the rule allowing for the correction of an illegal sentence was not an appropriate vehicle for a claim that the statute criminalizing the killing of federal officers was an unconstitutional exercise of Congress's power under the Commerce Clause; and that Congress had the power to enact such a statute. Affirmed.

Cottier v. City of Martin, 445 F.3d 1113 (8th Cir. 2006).

An action was brought on behalf of Native American voters challenging configuration of city wards as violative of Section 2 of the Voting Rights Act and the Fourteenth and Fifteenth Amendments. The United States District Court for the District of South Dakota, Karen Schreier, J., denied relief, and voters appealed. The Court of Appeals held that exit polls and results of the last eight aldermanic elections in which Indian-preferred candidates lost established the third *Gingles* precondition for vote dilution claim, to wit, that the white majority tended to vote as a block to defeat Indian-preferred candidates. See *Thornberg v. Gingles*, 478 U.S. 30 (1986). Colloton, Circuit Judge, filed a dissenting opinion. Reversed and remanded with directions.

Tenth Circuit Court of Appeals

Tsosie v. United States, No. 04-2342 (10th Cir. 2006).

Here, a suit was dismissed that was brought against the U.S. under the Federal Tort Claims Act (FTCA) arising from the death of plaintiff's wife, a member of the Navajo Nation, from hantavirus. The lower court's dismissal was affirmed by the Tenth Circuit Court of Appeals because the treating physician was an independent contractor at the time of service, and there was no basis to estop the U.S. from asserting the independent contractor defense because the federal government's trust relationship does not change the doctor's status as a contractor. Affirmed.



RECENT DECISIONS

Decisions are separated between Trial Court and Supreme Court decisions and categorized by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader's benefit. They should in no way be used as substitution for citations to the actual court opinion.

Within the Trial Court, cases are categorized and docketed as one of the following: Child Support (CS or if filed prior to 1998, CV), Civil Garnishment (CG), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Within this index, case citations will appear in one of these categories and, in the event it may be helpful to the reader as a research tool, the cases may also be summarized in a separate topic area. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. In some instances a decision may touch upon other topics that may not warrant a summary in this index, but the editor will use the indicator "other topic(s) covered," as a research aid for the reader.

RECENT DECISIONS AND RECENT FILINGS BOTH BEGIN WITH THE DATE WHERE THE PREVIOUS COURT BULLETIN LEFT OFF.



TRIAL COURT

CHILD SUPPORT

JUNE 21, 2006

Mary J. Mayek v. Esteban M. Blackhawk, Sr., CS 02-14 Notice (Child Turning 18- Requiring Proof of Enrollment) (HCN Tr. Ct., June 21, 2006). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation ends when the children 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 WI, ex. rel. v. Robert W. Blackdeer, CV 97-40 Notice (Child Turning 18- Requiring Proof of Enrollment) (HCN Tr. Ct., June 21, 2006). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation ends when the children 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.

Melissa McGill v. Paul J. Smith, CV 96-62 Notice (Child Turning 18- Requiring Proof of Enrollment) (HCN Tr. Ct., June 21, 2006). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation ends when the children 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.

Sawyer County Child Support v. Robert W. Blackdeer, CS 05-18 Notice (Child Turning 18- Requiring Proof of Enrollment) (HCN Tr. Ct., June 21, 2006). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation ends when the children 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.

Sawyer County Child Support v. Tyrone Blackdeer, CS 04-38 Notice (Child Turning 18- Requiring Proof of Enrollment) (HCN Tr. Ct., June 21, 2006). (Matha, T).

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent's obligation ends when the children 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.



JUNE 22, 2006

Misty M. Hale v. Daniel J. Perez, CS 06-17 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., June 22, 2006). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

Josephine L. Shegonee v. Dianne L. Shegonee, CS 06-26 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., June 22, 2006). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

Yvonne Barrett v. Roger Kim Pettibone, CS 06-30 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., June 22, 2006). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to timely respond, thus the Court granted

recognition and enforcement of the foreign judgment.

State of Wisconsin, Ex Rel., Marita C. Basina v. Anthony M. Basina, CS 06-29 Order (Enforcing Child Support Against Wages) (HCN Tr. Ct., June 22, 2006). (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 timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

Courtney C. White v. Greg Whitegull, CS 06-23 Default Judgment (Enforcing Child Support) (HCN Tr. Ct., June 22, 2006). (Matha, T).

The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

State of WI/Eau Claire County v. Candace Kaiser, n/k/a Cloud, CS 99-54 Order (Closing Case) (HCN Tr. Ct., June 22, 2006). (Matha, T).

The Court closed the case due to the untimely passing of the respondent.

State of Wisconsin/Jackson County Child Support Agency v. Kim Whitegull, CV 97-162 Order (Updating Arrearage Withholding & Ceasing Ongoing Child Support) (HCN Tr. Ct., June 22, 2006). (Matha, T).

The Court had to determine whether to grant petitioner's uncontested motion to suspend per capita withholding for current child support, but to continue withholding for child support arrears. The respondent failed to timely respond, thus the Court granted the petitioner's request.

Michael R. Hale v. Melody A. Hale, CS 98-52 Order (Ceasing Arrearage Withholding) (HCN Tr. Ct., June 22, 2006). (Matha, T).

The Court had to determine whether to grant petitioner's motion to suspend per capita withholding for arrears because the arrearage debt had been paid in full, but to continue withholding

for current child support. The respondent failed to timely respond, thus the Court granted the petitioner's request.

Colleen D. Hansen v. Jerry L. Park, CS 98-73 Order (Updating Arrearage Withholding) (HCN Tr. Ct., June 22, 2006). (Matha, T).

The Court had to determine whether to grant respondent's request that withholding of current child support continue in order to satisfy arrears that have accumulated. The petitioner failed to timely respond, thus the Court granted the respondent's request.



JUNE 28, 2006

State of Wisconsin/Jackson Co. v. Justin D. Littlewolf, CS 02-39 Order (Modifying & Enforcing Child Support) (HCN Tr. Ct., June 28, 2006). (Matha, T).

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

State of Wisconsin/Sauk Co. and Patricia A. Houghton v. Gabriel D. Funmaker, CS 98-06 Order (Modifying & Enforcing Child Support) (HCN Tr. Ct., June 28, 2006). (Matha, T).

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

State of Wisconsin/Sauk Co. v. Stacy McMahon, CS 04-10 Order (Modifying & Enforcing Child Support) (HCN Tr. Ct., June 28, 2006). (Matha, T). The Court had to determine whether to grant petitioner's motion to modify current child support. The respondent failed to respond within the

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

State of Wisconsin/Bethel St. Cyr v. Geoffrey G. Lonetree, CS 03-55 Order (Modifying & Enforcing Child Support) (HCN Tr. Ct., June 28, 2006). (Matha, T).

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

State of Wisconsin/Shawano Co. and Tracy Cobb v. Daniel Bird, CS 03-51 Order (Modifying & Enforcing Child Support) (HCN Tr. Ct., June 28, 2006). (Matha, T).

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

State of Wisconsin/Sauk Co. and Melanie Allene Neadeau v. Jason H. Rave, CS 04-03 Order (Modifying & Enforcing Child Support) (HCN Tr. Ct., June 28, 2006). (Matha, T).

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

Twilah M. Sherven v. Christopher J. Kapayou, CS 05-41 Order (Cessation of Current Child Support-Wages) (HCN Tr. Ct., June 28, 2006). (Matha, T).

The Court had to determine whether to grant petitioner's motion to cease withholding child support due to North Dakota beginning to enforce the case for Montana. The respondent failed to respond within the specified time frame. The Court granted petitioner's uncontested motion.

State of Wisconsin/Sauk Co. and Crystal L. Monteen-Martin v. Ronald D. Martin, CS 00-35 Order (Modifying & Enforcing Child Support) (HCN Tr. Ct., June 28, 2006). (Matha, T).

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

State of Wisconsin/Sauk Co. and Maureen J. Bighorn v. Harvey Holst, Jr., CS 04-61 Order (Modifying & Enforcing Child Support) (HCN Tr. Ct., June 28, 2006). (Matha, T).

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

In re the Paternity of: J.J.R. and A.S.R., CV 97-25 Order (Modifying & Enforcing Child Support) (HCN Tr. Ct., June 28, 2006). (Matha, T).

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

JUNE 30, 2006

State of Wisconsin/Shawano Co. and Tracy Cobb v. Daniel Bird, CS 03-51 Order (Erratum) (HCN Tr. Ct., June 30, 2006). (Matha, T).

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



CIVIL GARNISHMENT

JUNE 02, 2006

Black River Memorial v. Duane W. Kling, Jr., CG 06-29 Order (Default Judgment) (HCN Tr. Ct., June 02, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond,

thus the Court granted a default judgment in favor of the petitioner.

Quick Cash Loans v. Sonia Roberts, CG 06-28 Order (Default Judgment) (HCN Tr. Ct., June 02, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

JUNE 07, 2006

Creditor Recovery Service, LLC v. Amber Malone, CG 06-26 Order (Granting Telephonic Appearance) (HCN Tr. Ct., June 07, 2006). (Matha, T).

The petitioner requested that the Court permit her to appear by telephone at the *Fact-Finding Hearing*. The Court granted petitioner's request.

JUNE 21, 2006

State of WI, Dept. of Veterans Affairs v. Michael J. Gerhartz, CG 06-30 Order (Default Judgment) (HCN Tr. Ct., June 21, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

JUNE 29, 2006

Alliance Collection Agencies, Inc. v. Jason Frost, CG 06-23 Order (Default Judgment) (HCN Tr. Ct., June 29, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

Water Works & Lighting Comm'n v. Crystal E. Chalepah, CG 06-25 Order (Default Judgment) (HCN Tr. Ct., June 29, 2006). (Matha, T).

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

CIVIL CASES

JUNE 02, 2006

Ho-Chunk Casino Hotel & Convention Center, et al. v. Christina LaMere, CV 06-03 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., June 02, 2006). (Matha, T).

The Court previously granted a money judgment against the defendant. The plaintiffs filed a *Satisfaction of Judgment* confirming that plaintiff completely satisfied the debt. The Court accepted this filing and recognizes that the debt has been paid in full.

Kathy A. Stacy v. HCN Legislature, CV 02-40 *Stipulation & Order* (HCN Tr. Ct., June 02, 2006). (Matha, T).

The Court approved the stipulation and agreement among the parties to extend deadlines for *Dispositive Motions* and responses thereto.

JUNE 08, 2006

Tara L. Blackdeer v. Vaughn Pettibone, CV 02-76 *Order (Granting Motion to Dismiss and Granting Attorney Fees and Costs)* (HCN Tr. Ct., June 08, 2006). (Jones, J).

The Court had to determine whether to grant the defendant's *Motion to Dismiss*. The Court also had to determine whether to grant the defendant's request for a judgment denying all claims asserted against her in the *Complaint* on the merits, as well as partial reimbursement for attorney fees and costs. The Court granted the *Motion to Dismiss* on the ground that the plaintiff failed to state a claim upon which relief can be granted. Furthermore, the Court granted the attorneys fees and costs entered in the January 9, 2003 order, but denied any further fees and costs. The Court stated that according to the "American Rule" where "the prevailing litigant is ordinarily not entitled to collect a reasonable attorneys' fee from the loser" no further fees or costs can be imposed unless the party meets one of the exceptions to this rule. However, the party did not fit any of these exceptions. In addition, fees and costs may be awarded if it is found that a party acted in "bad faith." Here, the plaintiff did not file her *Complaint* in bad faith, so the Court limits the award to the attorneys fees and costs entered in the January 9, 2003 order.

JUNE 09, 2006

Ralph Kleeber v. Gaming Commission, CV 06-46 *Scheduling Order* (HCN Tr. Ct., June 09, 2006). (Matha, T).

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

JUNE 15, 2006

HCN Dept. of Housing Home Ownership Program et al. v. Carter Roofing et al., CV 05-63 *Order to Dismiss* (HCN Tr. Ct., June 15, 2006). (Matha, T). The parties mutually agreed to dismiss the plaintiff's *Complaint* and have reached a *Settlement Agreement*.

JUNE 28, 2006

Patti Junk a/k/a Finch-Junk v. Ho-Chunk Nation, et al., CV 04-84-85 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., June 28, 2006). (Matha, T).

The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.

JUNE 29, 2006

Ho-Chunk Nation v. Bank of America, N.A., CV 02-93 *Order (Regarding Conclusion of Discovery)* (HCN Tr. Ct., June 29, 2006). (Matha, T).

The Court issued an order requiring the parties to file a joint declaration within sixty (60) days of this judgment, establishing a concluding date for discovery. The Court also required that the defendant inform the Court whether it has fully complied with the expert discovery request.



CONTRACTS

NO RECENT CASES

EMPLOYMENT

NO RECENT CASES

HOUSING

JUNE 02, 2006

HCN Housing and Community Development Agency v. Margaret Hoffman, CV 06-08 Order (Motion Hearing) (HCN Tr. Ct., June 02, 2006). (Matha, T).

The Court determined to convene a hearing so as to grant the defendants the ability to argue the May 26, 2006 *Motion for Summary Judgment*. The plaintiffs must file any written *Response* to the *Motion to Modify* at least one day prior to the hearing on the motion.

JUNE 07, 2006

Karen Redhawk v. HCN and HCN Housing Authority, CV 98-30 Order (Dismissal with Prejudice) (HCN Tr. Ct., June 07, 2006). (Matha, T).

The Court had to determine whether to dismiss the instant case. The plaintiff failed to alert the Court to her prosecutorial intention despite receiving specific direction to do so. The Court dismissed the case with prejudice because it had proceeded beyond the dispositive motion phase.

JUNE 21, 2006

HCN Property Management v. Henry Pine, CV 05-96 Order (Satisfaction of Judgment) (HCN Tr. Ct., June 21, 2006). (Matha, T).

The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.

JUNE 28, 2006

HCN Property Management v. Janine Lonetree-McCasey, CV 05-98 Order (Satisfaction of Judgment) (HCN Tr. Ct., June 28, 2006). (Matha, T).

The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.



CHILDREN'S TRUST FUND (CTF)

JUNE 02, 2006

In the Interest of Minor Child: M.A.A., DOB 07/05/93, by Yvette M. Alvarez v. HCN Office of Tribal Enrollment, CV 06-06 Order (Accepting Accounting) (HCN Tr. Ct., June 02, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

In the Interest of Minor Child: D.J.T., DOB 07/17/91, by Kristyl A. Simonson v. HCN Office of Tribal Enrollment, CV 06-21 Order (Requesting Accounting) (HCN Tr. Ct., June 02, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

JUNE 07, 2006

In the Interest of Minor Child: A.F., DOB 01/13/96, by Alona Bush v. HCN Office of Tribal Enrollment, CV 05-83 Order (Requesting Accounting) (HCN Tr. Ct., June 07, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with the purchase of an automobile and automobile insurance. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

JUNE 08, 2006

In the Interest of Minor Child: K.A.L., DOB 08/14/89, by Gary L. Lonetree, Jr. v. HCN Office of Tribal Enrollment, CV 05-66 Order (Demanding Accounting) (HCN Tr. Ct., June 08, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with private school tuition and expenses. The petitioner failed to submit an accounting confirming proper

use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

In the Interest of Minor Child: D.J.T., DOB 07/17/91, by Kristyl A. Simonson v. HCN Office of Tribal Enrollment, CV 06-20 Order (Accepting Accounting) (HCN Tr. Ct., June 08, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

In the Interest of Minor Child: T.F., DOB 03/18/93, by Toni Funmaker v. HCN Office of Tribal Enrollment, CV 06-42 Order (Petition Granted) (HCN Tr. Ct., June 08, 2006). (Matha, T).

The Court had to determine whether a parent can access his Children's Trust Fund account to pay for costs associated with orthodontic procedures. The Court granted the request.

In the Interest of Adult CTF Beneficiary: Shawn W. Maisells, DOB 01/23/86 v. HCN Office of Tribal Enrollment, CV 05-80 Order (Partial Acceptance of Accounting) (HCN Tr. Ct., June 08, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the petitioner for costs associated with the petitioner's incarceration. The petitioner submitted a receipt, confirming proper use of a portion of the funds. The Court accepted this accounting, but the Court ordered the petitioner to submit a final required accounting.

In the Interest of Minor Child: P.S., DOB 05/05/94, by Reginald Sohm v. HCN Office of Tribal Enrollment, CV 06-10 Order (Accepting Accounting) (HCN Tr. Ct., June 08, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.



JUNE 15, 2006

In the Interest of Minor Child: D.R.O., DOB 01/12/96, by Victoria J. Ortiz v. HCN Office of Tribal Enrollment, CV 06-38 Order (Petition Granted) (HCN Tr. Ct., June 15, 2006). (Matha, T). The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with orthodontic procedures. The Court granted the request.

JUNE 16, 2006

In the Interest of Minor Children: D.L., DOB 05/27/91, M.L., DOB 10/21/93, and M.L., DOB 05/28/99, by Doracita Lonetree v. HCN Office of Tribal Enrollment, CV 06-26 Order (Petition Granted in Part) (HCN Tr. Ct., June 16, 2006). (Matha, T).

The Court had to determine whether the parent can access CTF accounts to pay for costs associated with education, clothing, music lessons, sports camps, and a personal computer. The Court partially granted a release of funds, to satisfy the request of the petitioner. The Court granted a release for eye care, education, eye wear, and music lessons. The Court denied the request for clothing. Furthermore, the Court denied the request for a personal computer in line with standing case law. The Court denied the request for monies to pay the costs of sports camps because the petition lacked a coach recommendation. Last, the Court further denied the request for a Microsoft X-box and summer camps due to the fact that they are recreational in nature.

JUNE 21, 2006

In the Interest of Minor Child: K.A.L., DOB 08/14/89, by Gary L. Lonetree, Jr. v. HCN Office of Tribal Enrollment, CV 05-66 Order (Accepting Accounting) (HCN Tr. Ct., June 21, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with private school tuition and expenses. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

JUNE 22, 2006

In the Interest of Minor Child: M.W., DOB 07/09/95, by Melody Whiteagle-Fintak v. HCN Office of Tribal Enrollment, CV 04-83 Order (Partial Release of Contempt Fine) (HCN Tr. Ct., June 22, 2006). (Matha, T).

The Court had to determine whether to retain the entire contempt fine withheld from the petitioner's May 1, 2006 per capita distribution. The petitioner failed to submit an accounting prior to the date upon which the Court indicated it would purge the fine. The fine served its remedial purpose of compelling obedience with standing judicial directives. Thus, the Court released the majority of the accumulated contempt fine to the petitioner.



JUNE 29, 2006

In the Interest of Minor Children: J.J.N., DOB 06/23/88; J.D.N., DOB 08/27/91, by Frances Ness v. HCN Office of Tribal Enrollment, CV 05-17 Order (Requiring Submission of Payments) (HCN Tr. Ct., June 29, 2006). (Matha, T).

The Court previously found the petitioner in contempt, and thus ordered her to repay half of the distributed amount of funds within one year. The petitioner submitted the first two (2) installments, but has not submitted the final reimbursement. The Court ordered the petitioner to reimburse the monies on or before July 31, 2006, or risk further sanctions.

In the Interest of Minor Child: C.D.W., DOB 02/21/97, by Stacy WhiteCloud v. HCN Office of

Tribal Enrollment, CV 06-16 Order (Requesting Accounting) (HCN Tr. Ct., June 29, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

In the Interest of Adult CTF Beneficiary: Cha-ska Prescott, DOB 05/16/86 v. HCN Office of Tribal Enrollment, CV 05-108 Order (Requesting Accounting) (HCN Tr. Ct., June 29, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with continuing education. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

In the Interest of Minor Child: N.M., DOB 08/13/93, by Paula M. Mike v. HCN Office of Tribal Enrollment, CV 06-29 Order (Dismissal Without Prejudice) (HCN Tr. Ct., June 29, 2006). (Matha, T).

The petitioner requested that the Court dismiss the instant case. The Court granted petitioner's request and dismissed the case without prejudice.

JUNE 30, 2006

In the Interest of Minor Children: T.J.M., DOB 10/25/88, and A.M.M., DOB 07/02/90, by Kenda Tarr v. HCN Office of Tribal Enrollment, CV 03-83 Order (Contempt) (HCN Tr. Ct., June 30, 2006).

The Court had to determine whether to hold the petitioner in contempt of court for knowingly violating the express terms of several judgments. The petitioner failed to attend the *Show Cause Hearing*, resulting in an inability to rebut the prima facie showing of contempt. The Court held the petitioner in contempt, and imposed a reasonable remedial sanction.

In the Interest of Minor Children: M.L.D., DOB 04/05/01, by Terry T. Deloney v. HCN Office of Tribal Enrollment, CV 03-83 Order (Contempt) (HCN Tr. Ct., June 30, 2006).

The Court had to determine whether to hold the petitioner in contempt of court for knowingly violating the express terms of several judgments. The petitioner failed to attend the *Show Cause Hearing*, resulting in an inability to rebut the prima facie showing of contempt. The Court held the petitioner in contempt, and imposed a reasonable remedial sanction.

INCOMPETENT TRUST FUND (ITF)

JUNE 08, 2006

In the Interest of Adult Incompetent: M.B.J., DOB 12/01/65, by Dolli Big John v. HCN Office of Tribal Enrollment, CV 00-83 Order (Show Cause) (HCN Tr. Ct., June 08, 2006). (Matha, T).

The Court previously released funds from the ITF account of M.B.J., DOB 12/01/65, for costs associated with household accommodations. The petitioner failed to comply with the most recent judicial directive requiring submission of an accounting. The Court shall convene a *Show Cause Hearing* to allow the petitioner to explain why the Court should not hold her in contempt of court.

FAMILY

NO RECENT CASES

DOMESTIC VIOLENCE

NO RECENT CASES

DIVORCE

NO RECENT CASES

JUVENILE

JUNE 06, 2006

In the Interest of Minor Child: P.A.S., DOB 01/14/91, JV 98-07 Order (Granting Motion to Hold Child in Secure Custody) (HCN Tr. Ct., June 06, 2006). (Matha, T).

The Court had to determine whether to grant Children and Family Services' *Motion to Hold Child in Secure Custody*. The Court granted the request to avoid a risk of flight.

JUNE 14, 2006

In the Interest of Minor Child: P.A.S., DOB 01/14/91, JV 98-07 Order (Modifying Dispositional Requirements) (HCN Tr. Ct., June 14, 2006). (Matha, T).

The Court had to determine whether to modify standing dispositional requirements. The Court afforded the parties notice and a hearing prior to making any amendments to its February 17, 2006 *Order (Child Protection Review Hearing)*. The Court ordered a modification to the dispositional requirements.

JUNE 19, 2006

In the Interest of Minor Child: D.Y., DOB 01/26/98, JV 05-21 Order (Revocation of Guardianship) (HCN Tr. Ct., June 19, 2006). (Matha, T).

The Court previously convened a *Revocation Hearing* to determine whether to terminate the temporary guardianship and return the minor child to the custodial parent. The Court ordered the termination of the guardianship.

JUNE 21, 2006

In the Interest of Minor Child: T.J.B., DOB 05/30/06, JV 06-15 Order (Continuance of Plea Hearing) (HCN Tr. Ct., June 21, 2006). (Matha, T).

The Court convened a *Plea Hearing* for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the *Child/Family Protection Petition*. At the time, the parent requested a continuance, after being advised as to her rights as a parent as set forth in the CHILDREN'S ACT, §3.22d. The Court accordingly reschedules the *Plea Hearing*, so as to provide time to appoint legal representation.



SUPREME COURT

JUNE 19, 2006

In the Interest of Minor Child: D.R.W., DOB 08/12/04, SU 06-02 Order Granting Motion (HCN S. Ct., June 19, 2006).

The Court had to determine whether to grant the *Motion for Remand* filed on behalf of the HCN Child and Family Services (CFS). New evidence was submitted to the Supreme Court that was not available during the Trial Court hearing. The Supreme Court determined that the Trial Court is in the best position to review evidence, hear testimony, and make findings of fact. Thus, the Supreme Court ordered that the Trial Court's *Order (Extension of Transitional Period)* filed on May 2, 2006 be vacated. Furthermore, it was ordered that the case be remanded to the Trial Court for a hearing to reconsider the prior order in light of the new evidence presented by CFS and the Appellant.

HO-CHUNK NATION SUPREME COURT MEETING NOTICE and AGENDA

July 22, 2006

**HCN Tribal Court Building, W9598 HWY 54 E
Black River Falls, WI**

9:00 a.m.

- I. Opening Prayer/Introductions
- II. Review and approve Minutes of June 17, 2006

10:30 a.m.

- III. Old Business
 - a. Supreme Court Clerk, Mary Endthoff
 - i. Update/Questions
 - ii. Signatures needed
 - b. HCN Rules of Criminal Procedures
- IV. New Business
 - a. Justice Butterfield/Justice Funmaker items
- V. Set next meeting date
- VI. Case Deliberation (Justices only)
- VII. Adjourn

NOTE: All Supreme Court meetings are open to the public except as noted above. If you wish to have an item added to the agenda, please notify Mary Endthoff, Clerk of Court, prior to the meeting at (715) 284-2722.

RECENT FILINGS

TRIAL COURT



CHILD SUPPORT

JUNE 06, 2006

State of WI v. Tammy D. Littlebear, CS 06-31.
(Matha, T).

JUNE 12, 2006

Jessica A. Ysquierdo v. Roger L. Houghton Jr., CS 06-32. (Matha, T).

JUNE 21, 2006

Linda L. Shabaiash v. Twilight M. Hindsley, CS 06-33. (Matha, T).

JUNE 23, 2006

State of WI v. Andy M. Mallory, CS 06-34. (Matha, T).

Rebecca Rodriguez v. Garrett L. Banuelos, CS 06-35. (Matha, T).

JUNE 30, 2006

State of WI-Stephanie M. Redbird v. Curtis Frank Redbird, CS 06-36 (Matha, T).



CIVIL GARNISHMENT

JUNE 12, 2006

Quick Cash Loans v. Willa Red Cloud, CG 06-31.
(Matha, T).

Quick Cash Loans v. Clarissa Pettibone, CG 06-32.
(Matha, T).

Creditor Recovery Service, LLC v. Iris M. Laes, CG 06-33. (Matha, T).

Creditor Recovery Service, LLC v. Mary Locey, CG 06-34. (Matha, T).

Creditor Recovery Service, LLC v. Audrey M. Senn, CG 06-35. (Matha, T).

Creditor Recovery Service, LLC v. Keith D. Smith, CG 06-36. (Matha, T).

JUNE 21, 2006

Quick Cash Loans v. Mary Fisher, CG 06-37.
(Matha, T).

Dane County Circuit Court v. Sherri M. Spranger, CG 06-38. (Matha, T).

JUNE 23, 2006

General Electric Capital Credit v. Maxine B. Bowman, CG 06-39. (Matha, T).

JUNE 29, 2006

Creditor Recovery Service, LLC, agent for Doris J. Anderson v. Jerry D. McCrossen, CG 06-40.
(Matha, T).



CIVIL CASES

JUNE 01, 2006

T.F., DOB 03/18/93, by Toni Funmaker v. HCN Office of Tribal Enrollment, CV 06-42. (Matha, T).

JUNE 05, 2006

Stewart J. Miller v. The Lynwood Properties, LLC et al., CV 06-43. (Matha, T).

Courtney C. White, In re: Name Change, CV 06-44.
(Matha, T).

JUNE 06, 2006

In the Interest of: Tracy M. Anderson, DOB 05/13/86, by Pamela M. Anderson, CV 06-45.
(Matha, T).

JUNE 09, 2006

Ralph Kleeber v. Gaming Commission, CV 06-46.
(Matha, T).

In the Interest of: A.E., DOB 11/13/90; E.S.M., DOB 07/29/92; M.M., DOB 07/14/95; C.M., DOB 01/13/98; L.M., DOB 02/04/99, by Angela Mike, CV 06-47. (Matha, T).

JUNE 13, 2006

Ho-Chunk Casino Hotel & Convention Center and Ho-Chunk Nation v. Laurence Eagleman, CV 06-48. (Matha, T).

Ho-Chunk Casino Hotel & Convention Center and Ho-Chunk Nation v. J&J Tours, CV 06-49. (Matha, T).

Ho-Chunk Casino Hotel & Convention Center and Ho-Chunk Nation v. Dells Motor Speedway, CV 06-50. (Matha, T).

JUNE 14, 2006

Ho-Chunk Casino Hotel & Convention Center and Ho-Chunk Nation v. Jackie Hainta, CV 06-51. (Matha, T).

JUNE 21, 2006

In the Interest of: A.W.T. III, DOB 07/04/80, by Patricia A. Johnston Thundercloud, CV 06-52. (Matha, T).



FAMILY

NO RECENT FILINGS



DOMESTIC VIOLENCE

NO RECENT FILINGS



JUVENILE

JUNE 06, 2006

T.J.B., DOB 05/30/06, JV 06-15. (Matha, T).

JUNE 14, 2006

T.E.B., DOB 12/26/90, JV 06-17. (Matha, T).

JUNE 21, 2006

A.L.A., DOB 06/18/06, JV 06-16. (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
Dennis Funmaker, Associate Justice

Traditional Court – Earl Blackdeer

Donald Blackhawk
Dennis Funmaker
Jim Greendeer
Douglas Greengrass
Desmond Mike
Douglas Red Eagle
Preston Thompson, Jr.
Eugene Thundercloud
Morgan White Eagle
Clayton Winneshiek

Trial Court – Todd R. Matha, Chief Judge

JoAnn Jones, Associate Judge

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 – Nicole M. Homer

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)

