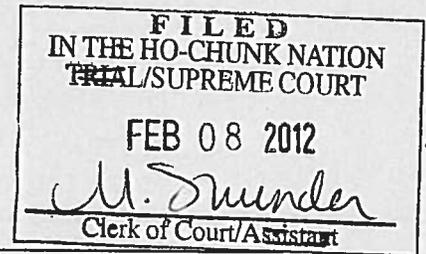


IN THE
HO-CHUNK NATION SUPREME COURT



Ho-Chunk Nation,
Appellee,

v.

Money Centers of America, Inc. and MCA of
Wisconsin, Inc.,
Appellants.

Case No.: SU 12-01

On January 10, 2012, the appellants, by and through Attorneys James L. Beausoleil, Jr. and Carla M. Bennett, filed an interlocutory appeal. *Defs.' Pet. for Permission to Appeal*, SU 12-01 (Jan. 10, 2012). The appellants sought review of a non-final Trial Court judgment issued on December 21, 2011. *Order (Lifting Stay of Civil Proceedings)*, CV 10-54 (HCN Tr. Ct., Dec. 21, 2011). The appellee, by and through Attorneys Matthew R. McBride and Christianna L. Finnern, timely filed an optional memorandum in opposition to the appeal. *Pl.'s Mem. of Law in Opp'n to Defs.' Pet. for Permission to Appeal*, SU 12-01 (Jan. 19, 2012); *see also HCN R. App. P. 8*, available at <http://www.ho-chunknation.com/?PageId=123>.

This Court is constitutionally empowered "to establish written rules for the Judiciary." HCN CONST., art. VII, § 7(b), available at <http://www.ho-chunknation.com/?PageId=294>. Consequently, the Court has adopted several rules regarding service of process and appellate filing deadlines. Of particular relevance, the Court pronounced the Trial Court's responsibility in connection with filing and serving judgments, final or interim.

All signed judgments shall be deemed complete and entered for all purposes after the signed judgment is filed with the Clerk. A copy of the entered judgment shall be mailed to each party within two (2) calendar days of filing. The time for taking an appeal shall begin running from the date the judgment is filed with the Clerk.

HCN R. Civ. P. 57, available at <http://www.ho-chunknation.com/?PageId=123>. The filing and

mailing dates may not necessarily correspond, but these dates are identical in the instant case. The Trial Court's interim judgment was filed and mailed on Wednesday, December 21, 2011. *Order (Lifting Stay of Civil Proceedings)* at 15 ("A true and correct copy of the foregoing was sent to the . . . parties of record this 21st day of December, 2011.").

The appellants accordingly had until Tuesday, January 3, 2012, to file a timely interlocutory appeal, accounting for the intervening weekend and legal holiday. *HCN R. App. P.* 10(a). The appellants, however, filed the appeal seven (7) calendar days later on Tuesday, January 10, 2012. The appellants assert that they "did not receive notice of the Order until January 5, 2012, when a copy of the Order was emailed to MCA by counsel for the Nation." *Defs.' Pet. for Permission to Appeal* at 1. The appellants contend that they have "demonstrate[d] unforeseen or emergency circumstances" by virtue declaring non-receipt of the judgment. *Id.* at 2 (quoting *HCN R. App. P.* 10(c)).

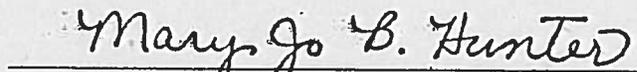
The appellants may be asking this Court to infer that the Trial Court judgment did not reach them due to mailing during the holiday season, but they do not articulate such a justification. The United States Postal Service does not perform services on observed national holidays, meaning that mail was not processed on December 26, 2011, and January 2, 2012. <http://about.usps.com/news/service-alerts/2011-federal-holidays.htm>. Yet, thirteen (13) calendar days lapsed from the date of mailing to the filing deadline. The appellants did not dispute the asserted date of mailing; offer any proof of untimely receipt, even if through internal law office administration; or reveal the holiday/leave-time of its attorneys or staff. Moreover, the appellants neglected to immediately contact this Court on January 5, 2012, choosing instead to delay any formal notice until filing the appeal five (5) calendar days later.

The Court deems that its rules contain adequate filing timeframes, and, therefore, has routinely denied untimely appeals in the past.¹ The Court shall not unduly depart from this stance lest it sanction a violation of equal protection, *i.e.*, "all persons similarly circumstanced shall be treated alike." *F.S. Royster Guano Co. v. Virginia*, 253 U.S. 412, 415 (1920); *see also* HCN CONST., art. X, § 1(a)(8). The Court concludes that the appellants have filed an untimely interlocutory appeal, and have not presented adequate justification to warrant an extension of the filing deadline.

APPEAL DENIED

EGI HESKEKJET. Dated this 8th day of February 2012.


Hon. Todd R. Matha, Associate Justice


Hon. Mary Jo Hunter, Chief Justice


Hon. Dennis M. Funmaker, Sr., Associate Justice

¹ *See, e.g., Veronica L. Wilber v. Ho-Chunk Nation*, SU 04-02 (HCN S. Ct., Apr. 14, 2004) (denying appeal since *pro se* tribal member appellant filed *Notice of Appeal* one (1) day late, and, in any event, failed to detail basis of appeal); *HCN Hous. Auth. v. Tyrone Swallow et al.*, SU 01-16 (HCN S. Ct., Dec. 19, 2001) (denying appeal since *pro se* tribal member appellant filed *Notice of Appeal* eight (8) days late); *Marie WhiteEagle v. Wis. Dells Head Start et al.*, SU 01-14 (HCN S. Ct., Nov. 27, 2001) (denying appeal since represented tribal member appellant filed *Notice of Appeal* one (1) day late); *HCN Legislature v. HCN Gen. Council et al.*, SU 01-09 (HCN S. Ct., Aug. 22, 2001) (denying appeal since represented tribal entity appellant filed *Notice of Appeal* one (1) day late); *HCN Dep't of Hous., Prop. Mgmt. Div. v. Charles C. Brown et al.*, SU 00-11 (HCN S. Ct., Aug. 18, 2000) (denying appeal since *pro se* tribal member appellant filed *Notice of Appeal* eleven (11) days late).

FILED
IN THE HO-CHUNK NATION
~~TRIAL~~/SUPREME COURT

FEB 08 2012

M. Thunder
Clerk of Court/~~Assistant~~

CERTIFICATE OF SERVICE

I, Mary Thunder, Clerk of the Ho-Chunk Nation Supreme Court, do hereby certify that on the date set forth below, I served a true and correct copy of the **DECISION** in **Case No. SU 12-01** upon all persons listed below:

By United States Postal Service:

Attorney James Beausoleil, Jr.
Attorney Carla M. Bennett
Duane Morris, LLP
30 South 17th Street
Philadelphia, PA 19103

Attorney Matthew McBride
Attorney Christianna Finnern
Winthrop & Weinstine
Capella Tower, Suite 300
225 South Sixth Street
Minneapolis, MN 55402

Dated: February 8, 2012

Mary Thunder

Mary Thunder, Clerk
Ho-Chunk Nation Supreme Court