

**FILED**  
IN THE HO-CHUNK NATION  
TRIAL SUPREME COURT

JAN 24 2002

*T. Pettibone*  
Clerk of Court/Assistant

IN THE  
HO-CHUNK NATION SUPREME COURT

Kathy A. Stacy  
Appellant,

DECISION

vs.

SU01-12

Ho-Chunk Nation, and Clarence Pettibone,  
former Vice President of the Ho-Chunk Nation, and  
Wade Blackdeer, present Vice President of the  
Ho-Chunk Nation in their individual and official capacities,  
Appellees.

Heard before Associate Justice Debra Greengrass, Justice Pro Tempore John Wabaunsee, and Chief Justice Mary Jo B. Hunter, presiding.

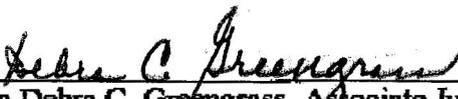
This matter came before the Ho-Chunk Nation Supreme Court on Appellant's *Notice of Appeal* filed on September 17, 2001. Appellant is appealing a Trial Court's *Summary Judgment (for Defendants)* dated August 17, 2001. This is an employment dispute case involving unfair compensation resulting from the Appellant's appointed position as Gaming Commissioner. On October 4, 2001 this Court issued a Scheduling Order accepting the matter for appeal including Justice Cleveland's recusal from presiding over the matter. The Appellees' filed their *Responsive Brief* on October 8, 2001. The Appellant's *Reply Brief* was filed on October 19, 2001. Oral arguments were heard before the full Court on December 8, 2001. Upon reviewing the trial court record, appellate briefs, and oral arguments presented the Court hereby **reverses and remands** the matter to the trial court for further court proceedings consistent with our opinion.

On May 16, 2001, the Appellees filed with the trial court their *Notice and Motion for Summary Judgment* stating that there were no disputes as to material facts in this case. The Appellant filed her *Response to Defendant's Motion for Summary Judgment* on June 19, 2001 disagreeing with the Appellee's contention. The Appellant disputes issues pertaining to changes noted on the Appellant's Employee Status Change Forms and whether or not Clarence Pettibone had authority to make, or authorize such changes, are matters of fact. On August 1, 2001 the Trial Court heard arguments on the *Motion for Summary Judgment* and dismissed the case based on the grounds that the Appellant failed to state a claim. Neither party filed a Motion to Dismiss with the trial court.

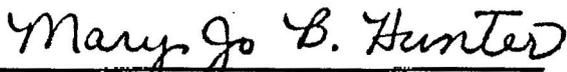
According to Black's Law Dictionary, Motion for Summary Judgment, "a request that the court enter judgment without a trial because there is no genuine issue of material fact to be decided by a fact-trier..." The dispute involves the existence of two Employee Status Change Forms (ESCF) dated October 11, 2000 with noted discrepancies. Another disputed issue is whether former Vice president Clarence Pettibone had the authority to set a specific salary for Gaming Commissioners. There is also the question of who has the authority to set salaries and other terms of employment, the vice president or the legislature.

This Court determines that several genuine issues of material facts exist. Those issues remain in dispute. The Trial Court granted Appellee's *Motion for Summary Judgment* without hearing testimony as to the authenticity of the documents. The record below does not provide this Court with the requisite findings of fact to uphold the decision. This Court hereby reverses and remands the matter to the Trial Court to schedule a trial and render a decision based upon the evidence.

EGI HESKEKJET. Dated this 23rd day of January 2002.

  
Hon Debra C. Greengrass, Associate Justice

  
Hon. John Wabaunse, Justice Pro Tempore

  
Hon. Mary Jo B. Hunter, Chief Justice  
HCN Supreme Court

CERTIFICATE OF SERVICE

I, Tari Pettibone, 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 file in Case No. SU-01-12 By the United States Postal Service, upon all person listed below:

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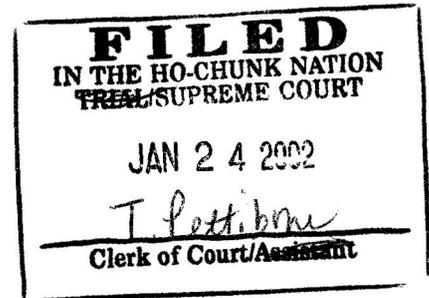
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Date: January 24, 2002

Tari Pettibone  
Tari Pettibone, Clerk of Court  
Ho-Chunk Nation Supreme Court