

FEB 8 2000

*Wileen RedCloud*  
Clerk of Court/Assistant

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IN THE  
HO-CHUNK NATION SUPREME COURT

**Joelene Smith**  
Appellee,

v.

SU-99-09

**Scott Beard, Department of Education**  
**and the Ho-Chunk Nation,**  
Appellants.

**Decision on Motion for**  
**Reconsideration**

On January 21, 2000, the Appellants filed a *Motion for Reconsideration*, requesting the Supreme Court to revisit its January 11, 2000 decision. This Court allowed the Appellee an opportunity to file a Motion in Opposition to Appellee's *Motion for Reconsideration* and received none. On February 3, 2000, the full Court took into account Appellant's *Motion for Reconsideration*. This Court maintains its January 11, 2000 decision that the matter is remanded to the trial court.

This Court is aware of the long history of this case, its complexity and varied opinions of the justices. The June 1999 decision in question remanded the matter back to the trial court to address several issues that this Court can not address. According to Black's Law Dictionary, 1996 Edition, *remand*, "(t)o send (a case) back to the court from which it came for some further action". The issues on remand are what constitutes 'comparable employment' and whether Appellee was offered 'comparable employment' in accordance with the Stipulation and Order for Partial Settlement. The Appellant's *Motion for Reconsideration* is requesting this Court to reconsider this Court's June 7, 1999 decision<sup>1</sup>. This Court has decided that the matter will run its full course at the trial court level. Upon completion of the hearings, on remand, the parties retain their right to appeal the judgments. This is not the time for this court to reconsider the January 11, 2000 decision.

On August 16, 1999, the trial court rendered a Declaratory Judgment of (Comparable Position), an issue on remand. On September 9, 1999, the Appellants appeal that judgment without challenging

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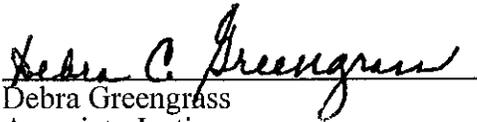
<sup>1</sup> This Court considers the questions raised in this Motion for Reconsideration to be more in the nature of a Motion for Reconsideration of the June 7, 1999 decision. The Appellants should have addressed those concerns at a time within the appropriate filing deadlines.

1 the Declaratory Judgment of 'comparable position' definition. The Supreme Court heard oral arguments  
2 on November 6, 1999 and viewed the appeal as unmeritorious to the Declaratory Judgment and  
3 premature to the other issue. The trial court has yet to make findings of fact, conclusions of law and  
4 render a judgment as to the pending issue on remand. Therefore, the Supreme Court maintains its January  
5 11, 2000 decision to remand the matter to the trial court for final disposition.

6  
7 EGI HESKEKJET.

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9 **IT IS SO ORDERED. PER CURIAM.**

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11 Dated this 8th day of February, 2000.

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14 Debra Greengrass  
15 Associate Justice  
16 HCN Supreme Court