FILED
IN THE HO-CHUNK NATION
[redacted]/SUPREME COURT
OCT 5 1998
Willis Redcloud
Clerk of Court/Assistant

IN THE
HO-CHUNK NATION SUPREME COURT

David M. Ujke,
Appellant,

vs.

Ho-Chunk Nation,
Appellee.

SU98-06
ORDER GRANTING
MOTION FOR RECUSAL

This matter came before the full Court based upon the Ho-Chunk Nation's letter of notification of intent to file a Motion for Recusal dated September 30, 1998 and the Motion of Recusal filed on October 2, 1998. Both documents filed by the Appellee were in response to a letter of disclosure from Associate Justice Rita A. Cleveland dated September 24, 1998. The Appellant did not file a response to the letter of Justice Cleveland.

Justice Cleveland's letter notified the parties that she had previously retained Milton Rosenberg as her counsel in case CV-96-20 which had been filed in the trial court on April 4, 1996. The case was dismissed on the Plaintiff's Motion to Dismiss on March 23, 1998. Since Mr. Rosenberg is the counsel for the Appellant in this matter, the parties were offered the opportunity to file a Motion for Recusal of Justice Cleveland.

Upon review of the pleadings and the record on October 2, 1998, this Court hereby GRANTS the Motion for Recusal. This Court reviewed our past opinions in the area of recusal, particularly *Debra Knudson vs. Ho-Chunk Nation Treasury Department*, SU98-01 (May 11, 1998) and *Ho-Chunk Nation Legislature v. Lowe*, SU96-01 (Feb. 26, 1996). Again, we are concerned with the appearance of impropriety if one of the Justices were to hear this matter. Although the attorney/client relationship has terminated, the discontinuance of that relationship occurred within this calendar year and is too recent to ignore.[1] Based upon our prior enunciated standard, Justice Cleveland is recused from this matter to avoid the appearance of impropriety.

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[1]Justice Cleveland recognized the problems which the situation may have prompted. It is commendable that she would fully disclose her past legal relationship with attorney Rosenberg in the interests of providing a fair and honest judicial system for the Ho-Chunk Nation.

This Court also recognizes the need to seek an appointment of a Justice Pro Tempore pursuant to Article VII, Section 13 of the Ho-Chunk Nation Constitution. However, this Court realizes that the appointment of the Justice Pro Tempore by one of the parties as mandated by the Ho-Chunk Nation Constitution may create added issues in the area of appearances of impropriety. Although the Legislature usually selects the person to be appointed to the Justice Pro Tempore seat, in this instance, the Court wishes to suggest the candidate for appointment to avoid any further appearances of impropriety. Therefore, this Court requests the Legislature to appoint Rebecca Weise as Justice Pro Tempore in this matter.[2]

The Court reserves the decision whether or not to have oral argument on this matter until after the appointment of the Justice Pro Tempore.

IT IS SO ORDERED. EGI HESHKEKJENET.

Dated this 5th day of October 1998. Per Curiam.

Mary Jo B. Hunter

Hon. Mary Jo B. Hunter, Chief Justice
Ho-Chunk Nation Supreme Court

[2]Rebecca Weise is a licensed attorney who is also an enrolled member of the Ho-Chunk Nation. She has accepted prior appointments to serve as Justice Pro Tempore for this Court and is willing to accept this appointment as well.