

FILED
IN THE HO-CHUNK NATION
TRIAL/SUPREME COURT

MAR 24 1997

P. J. Jones
Clerk of Court/Assistant

IN THE
HO-CHUNK NATION SUPREME COURT

JEREMY ROCKMAN
Appellant,

DECISION

v.

JO ANNE JONES,
Appellee.

SUPREME COURT CASE NO.: SU 96-10

The Ho-Chunk Nation Supreme Court on November 27, 1996 ordered in part:

That the parties should brief the matter in accordance with Rule 11 of the Ho-Chunk Nation Rules of Appellate Procedure.

The Appellee filed a Brief in Response to Appellant's Statement of Grounds for Appeal on December 20, 1997. As of today, the Appellant has not filed a brief with the Court subsequent to the November 27, 1996 Supreme Court Order.

According to Rule 12(b) of the Ho-Chunk Rules of Appellate Procedure: An appeal may be dismissed if the Appellant does not file the written brief memorandum or statement or if the Appellant does not serve all parties.

In accordance with rule 12(b), the Court hereby orders that the appeal is **DISMISSED**, and the trial court's November 8, 1996 order is **AFFIRMED**.

The issue in this appeal is whether the trial court abused its discretion in granting the Appellee's motion to be awarded costs and fees of \$570.60.

This Court refers to Rule 53 of the Interim Rules of Civil Procedure that states: The Court may order any party to pay costs, including filing fees, costs of service and discovery, jury and witness costs.

The trial court properly exercised that discretion in awarding the Appellee the costs and fees she incurred in connection with the October 30, 1996 hearing. As a result of the Appellant's failure to notify the Appellee of his intention to dismiss his claim, the Appellee incurred substantial cost to attend a hearing that was previously scheduled by the trial court. This Court agrees that if the Appellee had received proper notice for considering the Motion to Dismiss without prejudice, the trial court may have canceled the scheduled hearing.

Further, the Court **ORDERS** that the Appellee should be awarded costs and fees of \$570.60 incurred in connection of this appeal.

It is also noted that the Appellant has provided this Court with an acceptable affidavit demonstrating the inability to pay both the Filing Fee and the Bond pending appeal.

IT IS SO ORDERED. EGI HESHKEJENET.

Dated this 21st day of March, 1997.

Forrest Whiterabbit
Forrest Whiterabbit, Associate Justice
Ho-Chunk Nation Supreme Court

Debra C. Greengrass
Debra Greengrass, Associate Justice
Ho-Chunk Nation Supreme Court

Mary Jo Brooks Hunter
Mary Jo Brooks Hunter, Chief Justice
Ho-Chunk Nation Supreme Court

A true and correct copy of the foregoing was sent to the following parties of record this

25th day of MAR, 1997.

Melanie Cohen, Rick McArthur,
Justice D. Greengrass, Justice E. Whiterabbit,
Chief Justice Mary Jo Brooks Hunter,
Asst./Clerk T. Pettibone