

INSTRUCTIONS FOR PETITION FOR REMOVAL FROM MEMBERSHIP ROLLS

These instructions are only intended to provide information on how to fill out this form. It is not intended to substitute legal advice. There may be additional documents and procedures for your particular type of civil action. If you have any legal questions regarding the specific facts of your case, please consult with an attorney.

For other questions, you may contact the Trial Court at (715) 284-2722. In addition, copies of the applicable law can be found on the Nation's website located at <https://ho-chunknation.com/government/legislative-branch/ho-chunk-nation-laws/> or by contacting the Ho-Chunk Nation Legislature at (715) 284-9343 or (800) 294-9343.

Do not include these instruction sheets when you file the completed form.

Petition: A petition is an initial pleading that starts an action and states the basis for the court's jurisdiction, the basis for the petitioner's claim, and the demand for relief.

Instructions:

- **Page 1, Lines 1-8:** Enter your full, legal name on the petitioner line. There can be more than one petitioner. Enter the respondent's full, legal name on the respondent line. There can be more than one respondent. You do not need to write a case number. A case number will be assigned by the Court.
- **Page 1, Line 10:** A basis for petition is a factual situation that entitles one person to obtain a remedy in court from another person.
- **Page 1, Lines 18-28:** Fill in the information relating to the petitioner – the person who is bringing the action.
- **Page 2, Lines 1-13:** Fill in the information relating to the respondent – the person who is being sued.
- **Page 2, Lines 15-20:** Jurisdiction is the court's power to exercise authority over all persons and things within its territory and to hear and decide a case or issue in dispute. The petitioner must show that the Ho-Chunk Nation Trial Court has jurisdiction over the action and the parties in the action.
- **Page 2, Lines 22-28:** Write down the reasoning why the respondent is not eligible for membership. Include additional sheets of paper if necessary.
- **Page 4, Lines 18-20:** Sign your name and write down the date you signed the petition.
- **Page 5, Lines 2-13:** Your attorney should fill in this information if you have secured an attorney.

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

_____,
Petitioner,
v.
_____,
Respondent.

**PETITION FOR REMOVAL FROM
MEMBERSHIP ROLLS**

Case No.: CV ____ - ____
[assigned by the Court]

I. BASIS FOR PETITION

The petitioner in the above-captioned case files this action requesting that the respondent be removed from the Ho-Chunk Nation Membership Rolls based on the following reasoning:

(Attach additional sheets if necessary)

The following information relates to the **PETITIONER**:

PETITIONER'S INFORMATION

1. Name: _____
2. Address: _____
(state physical address also if P.O. Box is listed)

City State Zip Code
3. Phone: (____) _____ (____) _____
Home Work
4. Facsimile Number (if available): (____) _____
5. E-mail address: _____
6. Occupation: _____
Place of employment: _____
or Petitioner is not presently employed.
7. HCN Tribal ID No. #: 439A _____
(Only adult enrolled HCN members may petition for the removal of another member).

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RESPONDENT'S INFORMATION

The following information relates to the **RESPONDENT**

- 1. Name: _____
- 2. Maiden name (if applicable): _____
- 3. Address: _____
(state physical address also if P.O. Box is listed)

City State Zip Code
- 4. Phone: (_____) _____ (_____) _____
Home Work
- 5. Facsimile Number (if available): _____
- 6. E-mail address: _____
- 7. Occupation: _____
Place of employment: _____
or Petitioner is not presently employed.
- 8. HCN Tribal ID No. #: 439A _____

II. JURISDICTION

This Court has original jurisdiction over this case pursuant to the “cases and controversy” clause of the CONSTITUTION OF THE HO-CHUNK NATION, Art. VII, Sec. 5(a), providing that the Trial Court “shall have original jurisdiction over all cases and controversies,” in law and equity “arising under the Constitution, laws [or] customs and traditions of the Ho-Chunk Nation.” Specifically, the petitioner alleges that the cause of action arises under the HO-CHUNK NATION TRIBAL ENROLLMENT AND MEMBERSHIP CODE, 2 HCC § 7 [last revised 09/20/2016].

III. BASIS FOR RESPONDENT’S INELIGIBILITY FOR MEMBERSHIP

1 **APPLICABLE LAW**

2 HO-CHUNK NATION TRIBAL ENROLLMENT AND MEMBERSHIP CODE, 2 HCC § 7

3 10. Ineligible Tribal Member Removal.

4 a. Grounds for Removal.

5 (1) All removal proceedings shall be conducted by the Ho-Chunk Nation Trial Court
6 and Supreme Court.

7 (2) Any adult, enrolled Ho-Chunk Member(s) may petition for the removal of another
8 Member by filing in the Trial Court. Enrollment Code (2 HCC § 7) Page 11 of 14 11

9 (3) Upon filing, the Trial Court shall hold a preliminary hearing within thirty (30)
10 calendar days. This preliminary hearing is for the Court to determine if a prima facie case to
11 support the removal of the Affected Member has been presented, in order to proceed with removal
12 hearings. If the court finds that there is not a prima facie case with sufficient evidence to proceed
13 with removal hearings, the case shall be dismissed. If the court finds that a prima facie case for
14 removal does exist, the court shall proceed with a removal hearings.

15 (4) A Member may only be removed from the Membership rolls if there is clear and
16 convincing evidence that the Member does not meet the eligibility requirements established in
17 Article II, Section 1 of the Constitution.

18 (5) The Trial Court's final decision is subject to appeal under the Judicial Rules of
19 Appellate Procedure.

20 b. Penalties for Unlawful Retaliation.

21 (1) If an Affected Member unlawfully retaliates or causes someone else to unlawfully
22 retaliate against the Trial Court or the Member(s) who filed in the Court for removal, the affected
23 member may be fined One Thousand Dollars (\$1,000).

24 c. Frivolous and/or Malicious Removal by Members.

25 If the Trial Court finds that the removal initiated by Member(s) was Frivolous and/or
26 Malicious, the Trial Court will award the Affected Member a remedy of not more than Five
27 Thousand Dollars (\$5,000), to be equally assessed against the Member(s) who filed, for
28 defamation and hardship created for the Affected Member. In addition to the Five Thousand Dollar
(\$5,000) remedy, the Trial Court may order the Member(s) who filed to also pay any other fees
associated with the removal hearing, incurred either by the Affected Member or the Nation, to
include the cost of DNA analysis. The Court will include the Nation as an interested party to this
lawsuit.

1 **PRAYER FOR RELIEF:**

2 For the reasons stated above and according to the attached documentation, the petitioner
3 requests that the Court remove the respondent from the Ho-Chunk Nation Membership Rolls.

4
5 **OATH:**

6 By affixing my signature below, I swear that I have provided the above information in good
7 faith and with the belief that each statement represents a true and accurate account of the facts
8 based upon adequate research and investigation. I recognize that the Ho-Chunk Nation Judiciary
9 may impose sanctions if it determines that I have made statements in bad faith, including
10 intentional misstatements or statements made upon inadequate research or investigation. I also
11 recognize that the foregoing admonition extends to include the omission of material facts or law,
12 which I knew, or should have reasonably known, would impact or prove relevant to the action.

13 I file this petition of my own free will and absent threats, intimidation or coercion of any
14 kind. I understand that any decision reached by the Ho-Chunk Nation Trial Court is binding and
15 that if I disagree with the findings or conclusions or remedies of the Trial Court, I may file an
16 appeal with the Ho-Chunk Nation Supreme Court. I further acknowledge that since I am submitting
17 myself to the jurisdiction of the Ho-Chunk Nation Judiciary, I am subject to its determinations,
18 including those relating to contempt of court.

19 **RESPECTFULLY SUBMITTED BY PETITIONER,**

20 Signature: _____

21 Date: _____, 20 _____

22
23 **ATTACH ANY DOCUMENTATION SUPPORTING THE REMOVAL OF THE**
24 **RESPONDENT – THERE MUST BE A “PRIMA FACIE” SHOWING FROM THE**
25 **COMPLAINT AND ATTACHMENTS THAT SUPPORTS THE RESPONDENT’S**
26 **INELIGIBILITY FOR MEMBERSHIP. See HO-CHUNK NATION TRIBAL ENROLLMENT AND**
27 **MEMBERSHIP CODE, 2 HCC § 7.10a(3).**

28 NUMBER OF ADDITIONAL PAGES USED: _____

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Name of Attorney (if any) Signature of Attorney

Mailing address of attorney: _____

E-mail address of attorney: _____

Telephone number of attorney: _____

Facsimile number of attorney: _____

Ho-Chunk Bar number of attorney: _____

If not a member of the Ho-Chunk bar, a *Motion to Appear Pro Hac Vice* has been attached in accordance with *Ho-Chunk Nation Rules of Civil Procedure*, Rule 16(B),¹ and/or I have applied for membership in the Ho-Chunk Nation bar in accordance with the *Ho-Chunk Nation Rules for Admission to Practice*.

¹ Parties can obtain a copy of the *Ho-Chunk Nation Rules of Civil Procedure* by contacting the Ho-Chunk Nation Judiciary at (715) 284-2722 or (800) 434-4070 or visiting the website at <http://www.ho-chunknation.com/>