

Judiciary Branch FY 2021-2022

The Judiciary Branch serves the Constitutional role of interpreting and applying Ho-Chunk Nation Law. During the past two years, the Nation and its Judiciary faced challenges relating to the COVID-19 pandemic, and was able to make adjustments to assure that people had access to justice.

COVID's unprecedented impact on the health and welfare of the community carried over to the Judiciary. The court facility was closed to the public and hearings were conducted remotely.

Emergency orders were issued which limited access to the physical facility to staff in accordance with the recommendations of the Health Department and also took into consideration the concurrent Orders issued by the Executive Branch and the State of Emergency that was declared.

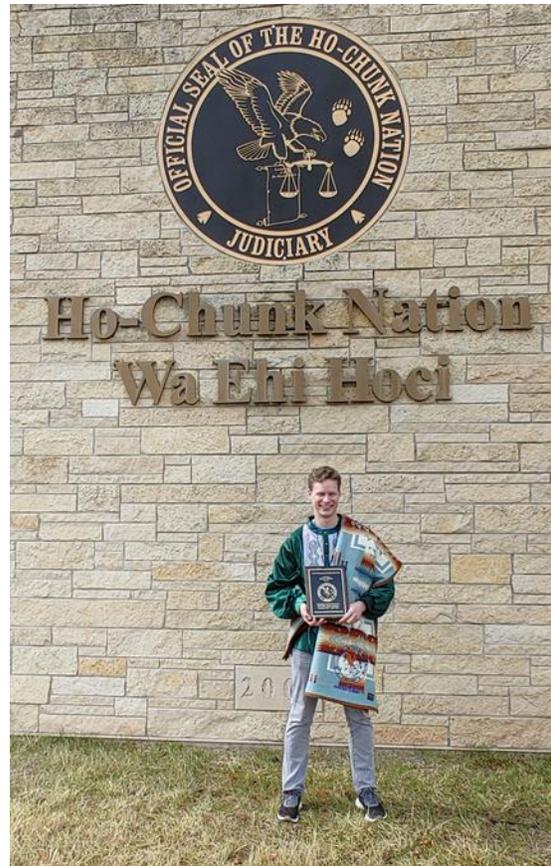
The Supreme Court authorized a modification of the hours from Monday to Thursday, to accommodate the cut in hours mandated by budgetary requirements. Hearings were held virtually utilizing the Zoom platform, which proved to be very useful. Electronic filing was also instituted. Parties are able to file documents: courtfilings@ho-chunk.com

Through it all the Court modified staffing, by layoffs due to budgetary needs and by letting positions lapse when staff took retirement. The Judiciary personnel decreased from a team of 25 employees to its current level of 13.





Retirees: Peter Camacho, Maintenance Worker I, and Jennifer Orozco, Records Manager.



David Wilson, Senior Staff Attorney, took a position with the Gun Lake Tribe of Michigan.

The Judiciary continues to seek qualified candidates for vacancies. We remain understaffed. Currently the following positions remain to be filled: Senior Staff Attorney-Law Clerk, Staff Attorney-Law Clerk, Judiciary Application Specialist (IT), Bailiff, Assistant Court Clerk, Maintenance and a Wellness Court Case Manager. A recruitment challenge exists regarding compensation in the current employment market. For those interested, please see the HCN Personnel department and job announcements.

During the pandemic the Judiciary staff has done a commendable job of providing an essential service to the Nation. Orders and case reviews continued to be issued on a timely basis.

The Judiciary and justice system stakeholders had to transition from in-person to remote hearings, overcome technological and physical challenges, and have now regrouped after significant downsizing. We look forward to positive changes and enhanced capacity in the year ahead. With adequate staffing levels achieved, it will be possible to contemplate the full opening of the Judiciary facilities in the near future, absent any further health and safety challenges.

HO-CHUNK NATION SUPREME COURT UPDATE

The Nation's Judiciary serves as an essential bulwark against efforts - deliberate or inadvertent - to diminish the Nation's sovereignty, and the Supreme Court insures the enduring functionality of this defense. While the Judiciary, as a whole, performs this integral role through conscientious and timely resolution of disputes, the People have particularly entrusted the Supreme Court with the solemn responsibility of providing final binding constitutional interpretations.

In performing this task, the Supreme Court definitively resolves significant controversies concerning the proper application of law to deep-rooted conflicts.

In addition, the Supreme Court manages and oversees the proper operation of the Judiciary by adopting necessary rules for and sanctioning practice within our tribal jurisdiction. Throughout this year, the entire Judiciary has met the emerging and, at times, diverging needs of the community as the pandemic necessitated continual adjustments. Despite serious impediment, the Supreme Court fulfilled its constitutional obligations, addressing five current and pending appellate cases, issuing corresponding orders, and maintaining emergency rule revisions to insure unabated access to judicial processes.

Apart from its fundamental roles, the Supreme Court also undertakes a duty to continually educate and inform the membership about the court system. In this respect, the Supreme Court remains engaged in a collaborative process intended to considerably increase the content appearing on the judicial webpage. The improvement of this virtual resource, along with enhancement of existing branch law libraries, will hopefully ensure more meaningful access to the Nation's justice system. Finally, once again the Supreme Court had to unfortunately

suspend annual Youth Law Day activities, but pledges to resume the event once possible.



The Ho-Chunk Nation Supreme Court currently consists of Chief Justice Todd R. Matha and Associate Justices Tricia A. Zunker and David J.W. Klauser. For any questions, comments, or concerns about this update or other Supreme Court matters, please contact Court Administrator/Clerk of Court Mary Thunder at: Mary.Thunder@ho-chunk.com or at (715) 284-2722.

TRIAL COURT

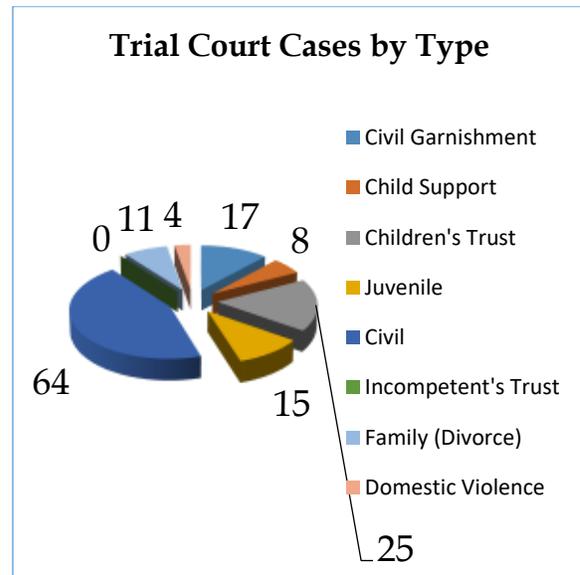
The Trial Court has the power to issue all remedies in law and in equity including injunctive and declaratory relief and all writs. Additionally, the Trial Court may exercise its power to declare the laws of the Ho-Chunk Nation void if such laws are not in agreement with the Nation's Constitution.

Hearing cases and controversies is the primary activity of the Trial Court. The Trial Court had the flexibility to go virtual with many proceedings and meetings with relatively few transitional issues. Like the other branches, the impact of lay-offs was felt at the Trial Court as the pandemic took an economic toll on the Nation's operations.



Chief Judge Lowe assisting in snow removal.

In the period from July 1, 2021 to June 30, 2022 the number of new cases opened was down from the previous fiscal year. Pre-pandemic the number of new cases were above 400 compared to the 144 new cases for FY 2021-2022.



In addition to new filings, the Trial Court exercises continuing jurisdiction over approximately 1,000 combined juvenile, child support and trust fund cases with the need for periodic review and potential revision of each file. During the fiscal year, the number of new child support actions diminished due to staffing and organizational issues within the Child Support Agency. All current orders of the HCN Trial Court were addressed as necessary during this year.

Trial Court Outreach efforts include virtual attendance at intra governmental meetings with the Legislative and Executive Branch representatives; meetings with other tribal and state courts in an effort assure due process and address the common legal and procedural issues faced by courts in general during the pandemic.

Treatment Alternatives and Diversion (TAD) programing is a specialty area and the Judiciary has employee representation at the sub-committee, committee and Board of Directors levels. Partial funding for the Healing to Wellness Court comes from the TAD program.

As stakeholders in Jackson and Sauk Counties we have provided tribal judicial representation on those Counties' Criminal Justice Committee. By request we have provided

information about the Nation regarding our Judiciary.

The Trial Court has been active in its search for grants and has secured funding from the Bureau of Indian Affairs that will assist with some significant expenses, namely a new case management system, (with staffing shortages, implementation impediments exist). Funds for expert witnesses, and other professionals have also been secured which will permit the development of a more accurate record where those items may have been limited or missing in the past.

The Court was also selected as a pilot project for preservation of the record of the court and general enhancement of AV systems, but has encountered some product delivery issues.

Naacge Raasguni Wahi Peacemaker Circle

Historically, Native American communities had methods for dealing with disputes. The Indigenous Peacemaking Initiative (IPI) is contributing to the continuation or revitalization of those traditional ways. Peacemakers is yet another alternative to an adversarial court.

The purpose of Peacemaking sessions is to encourage and assist people to assume responsibility and to resolve

their own disputes in a safe environment without using the imposition of the Western legal system. The process does not include judges and lawyers. They will have no direct role in the Peacemaking Sessions.

In a Peacemaking Circle, the Peacemakers are grounded in Ho-Chunk traditions and lifeways using their knowledge and experiences to draw from the customs and traditions of the Ho-Chunk culture to settle disputes. Peacemaking involves a traditional Ho-Chunk resolution of a problem focusing on healing and restoring harmonious relationships between parties in disagreement.

The Circle objectives are the following:

- a) Each participant is expected to discuss their issue, problems or conflict openly;
- b) Active participation to resolve disputes;
- c) Identify concerning conduct, behavior in a non-judgmental way by discussing issues in a respectful manner;
- d) Provide a safe environment for the participant(s) to identify contrary actions and provide a responsible resolution(s) and begin the healing process to promote healthy relationships;
- e) Recommend available resources.

This project has been in the works since 2016 when a series of teams from the Ho-Chunk Nation explored the potential to focus on greater inclusion of family and healing of each other as we dealt with the problems and challenges faced in our community due to historical trauma, substance use, family law issues and the then-recently adopted criminal code.

Given the challenges seen within the state and other western style systems, this is an opportunity for putting an emphasis on healing and treatment versus punitive measures like monetary fines and jail time. Circles have many potential applications and we look forward working with the legislature to integrate the concept in drafts and revisions as they see fit.

Our Ho-Chunk traditional court, clan mothers, and representatives of the HCN branches of government met in 2017 and played a role in developing a strategic plan. It was agreed that we could work on a better way. The identification and restatement of inherent Ho-Chunk core values of love compassion, respect, humility and honesty can be used as a means of revitalizing Ho-Chunk teachings and identity and continuing these gifts in furtherance of spiritual and harmonious relationships among community members.

It has been several years since Judge Jones went on the road and met with

each of the areas to share information and gather input which has now been integrated into Naage Raasguni Wahi. Our ongoing thanks to the Traditional Court, the clan mothers and other elders that have contributed time and shared their knowledge. The Native American Rights Fund and Attorney Brett Shelton of its Indigenous Peacemaking Initiative, <https://peacemaking.narf.org/>, has been so helpful with assisting in training for peacemakers. Another valued partner is Judge Cheryl Fairbanks who is an invaluable source of information, inspiration and calm.

COVID definitely slowed our progress. However this past year the Court received privately sourced grant funding and volunteers stepped up to permit the ongoing development of the Peacemaker Project. The grant provides funding necessary to support a part-time coordinator who works with the liaison judge, JoAnn Jones.

If you have questions about this project, please reach out to the court for additional information.



The Ho-Chunk Nation Trial Court bench currently consists of Chief Judge, Jo Deen B. Lowe, Associate Judges JoAnn Jones and Mary Jo B. Hunter.

For any questions, comments, or concerns about this update or other Trial Court matters, please contact Court

Administrator-Clerk of Court Mary Thunder at: Mary.Thunder@ho-chunk.com or at (715) 284-2722.

HCN TRADITIONAL COURT UPDATES

The Traditional Court plays an active role in providing knowledge of custom, traditions and Ho-Chunk core values to members referred to them by court processes and through social services programming, or via self-referral. They seek to preserve, protect and enhance the sovereignty of the Ho-Chunk Nation.

Due to an abundance of caution and the desire to limit the spread of the COVID-19 virus, the Traditional Court meetings were suspended during the last quarter of 2020 and into FY 2021-22. Due to budget concerns, the number of meetings was reduced. In lieu of weekly meetings monthly meetings took place.

The Traditional Court elders play a key role in the peacemaker project and have a representative on the Healing to Wellness Court team. The elders serve to continue support and access to tribal justice via time honored traditions of the Ho-Chunk people.

Traditional Court services offer an alternative to the trial court where there is no specific statute or where a

matter of custom or tradition is at the heart of a matter.

Additionally they have worked with Ho-Chunk members who desire more knowledge and information about being Ho-Chunk. They are experts as to traditional Ho-Chunk roles and responsibilities.

They strongly support working with those members who are on a path to wellness, as well as those who have not yet committed to such a course.

Due to the loss of Traditional Court members a vacancy remains. We shall miss the dedicated service of those who have walked on.

The original goal of the Traditional Court was to provide representation opportunities to the clan leadership in order to address the community needs in a traditional fashion. Current members were selected to serve on the Traditional Court with the diversity and richness of the 12 clan representation. Through time, the group added a position for Native American Church representation. Those accepting were approved by resolution of those sitting.

Currently the eleven elder members represent the Bear clan, Warrior clan (2), Thunder Clan (4), Deer clan (3) and one representative for the Native American Church.



Members include Wilfrid Cleveland, Richard Mann, John D. Steindorf, Clayton Winneshiek, Andrew Thundercloud, III, Quentin Thundercloud, Doug Greengrass, Cecil Garvin, James Greendeer, Wade Blackdeer, and Francis Decorah.

The Traditional Court meets monthly, or as funding permits; generally on the second Monday of a given month. To request access to the Traditional Court, and for scheduling please contact recording secretary at TJBTraditionalCourt@ho-chunk.com or call the court.

WELLNESS COURT UPDATE

This past year the Healing to Wellness Court participants overcame adversity and were able to move forward on the path to sobriety and wellness and advance within the program. Generally outreach and monitoring continued to prove difficult due to the pandemic and the suspension of regular court and in-person sessions. However, recently the Healing to Wellness Court graduated another hard working participant. Our congratulations to the member and the team and an acknowledgement of the hard work necessary to achieve this goal.

The team was able to review and revise their handbook, programmatic rules

and team member roles, and participate in the Wisconsin Association of Treatment Court Professionals training event held in Wisconsin Dells, WI. They have been sharing their knowledge and experience gained relating to inclusion, diversity, due process, team self-care, and integration of culturally relevant components to a treatment plan and within the treatment court setting. The importance of peer mentors and aftercare for programming for graduates was also addressed in this learning session and continues to be a goal for the Nation's Healing to Wellness Court.

The use of available resources and team training were emphasized as a means to assure a court and team's alignment with the best practices for tribal treatment courts. Robert Mann has worked to pull together the tribal coordinators for information sharing and organization with a goal of increasing the numbers of tribes that participate in the Treatment Alternatives and Diversion Program (TAD) funding available as a federal pass through to Wisconsin DOJ to the tribes and counties.

The opportunity for collaboration between a non-tribal treatment court and tribal treatment courts is here. The Wellness Court outreach now encompasses Juneau, Sauk, Monroe, and Jackson County Drug Courts with plans to engage in outreach to Wood

County and other areas for coordination of available resources for Ho-Chunk Nation tribal members not living in the immediate Jackson County area. The team regularly shares non-confidential information with other accountability courts in a collaborative fashion.



A participant recruitment effort is ongoing. The targeted participant is one that is currently facing criminal charges, is a high needs substance user, and is at high risk of committing other criminal offenses and has an interest in participation in treatment court as an alternative to incarceration.

If you have questions about the program, or if you or someone you know would like to consider participation in the Healing to Wellness program please call Robert Mann, 715/284-2722.