

INSTRUCTIONS FOR AFFIDAVIT AND ORDER TO WAIVE FEES AND COSTS

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.

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

Affidavit and Order to Waive Fees and Costs:

An Affidavit and Order to Waive Fees and Costs allows you to file a Complaint or Petition in the Ho-Chunk Nation Trial Court without paying the Court's filing fee. You may only use this form if you are unable to afford the payment of the filing fees and costs due to economic hardship.

The Affidavit and Order to Waive Fees and Costs form consists of two (2) parts: (1) an affidavit that states you are unable to pay the filing costs associated with your case, and (2) an Order for the Court to fill out.

Instructions:

- **Page 1 (Left Side), Lines 5-16:** Enter your full, legal name on the line provided.
- **Page 1 (Left Side), Lines 8-9:** Enter the name of the person/agency/company/party to whom you are filing an action against.
- **Page 1 (Right Side), Line 9:** Leave this section blank. The Court's clerk will assign a case number to it.
- **Page 1, Lines 18-27:** Check the corresponding box that applies to your situation.
- **Page 2, Lines 1-2:** Provide details about your monthly household income, including how many people are in your household and your source of income.
- **Page 2, Lines 3-4:** Indicate how much money you receive each quarter, month or week if you receive either child support or alimony. You may leave this question blank or write "N/A" on the space provided if you do not receive either child support or alimony.
- **Page 2, Lines 5-6:** Indicate whether you receive per capita distribution from the Ho-Chunk Nation or other Indian Tribe. Provide the frequency of these payments and the amount of the per capita if you receive such income.

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- **Page 2, Lines 7-11:** Provide your household expenses for rent/mortgage, child care/child support, and work expenses. For childcare or child support, please draw a circle to indicate which expense applies to you. Please also indicate whether you pay this expense weekly or quarterly. You may circle both childcare and child support if you pay both types of payments and add them together in the space provided.
- **Page 2, Lines 12-15:** Provide the Court with any additional expenses you want the Court to know about. Please also indicate how often you make these additional expenses.
- **Page 2, Lines 16-21:** You may provide the Court with any other extraordinary expenses that support your request to waive the filing fees and deferment of other costs associated with your case. Such expenses may include, but are not limited to, emergencies, medical expenses, pending divorce, or separation. You should provide supporting documentation of these types of expenses.
- **Page 2, Lines 22-23:** Include this form with your complaint or petition.
- **Page 3, Lines 1-22:** After you complete the form, you must sign and date the form before a notary. If represented, your attorney will help you fill this part of the form out.

DO NOT FILL OUT THE ORDER ON PAGE 4. The Order on Page 4 is for the Court to grant your request to waive the filing fees and costs associated with your case.

1
2 **IN THE**
3 **HO-CHUNK NATION TRIAL COURT**

4
5
6 _____,
7 Petitioner,
8 v.
9 _____,
10 Respondent.

**AFFIDAVIT AND ORDER TO WAIVE
FEES AND COSTS**

Case No.: _____ - _____ - _____
[Assigned by the Court]

11 After being duly sworn under oath, I declare the following to be true and correct to the best of my
12 knowledge:

- 13 1. I am the plaintiff/petitioner in the above-captioned case. I am eighteen (18) years of age or older
14 and unable to afford the payment of the filing fees and costs in this case due to economic
15 hardship. I request that the Court permit this case to proceed without payment of the filing fee
16 and defer the payment of other costs and fees until settlement or judgment.
- 17 2. I understand that if I prevail or my economic situation improves, the Court may require the
18 payment of the filing fees and costs, if any, out of any proceeds I may recover in this action.
- 19 3. I am unable to make payment of the filing fee because:
- 20 a I am represented by a civil legal services program (*i.e.*, Judicare, Western Wisconsin
21 Legal Services, or Legal Action of Wisconsin)
- 22 b I receive public assistance. The kind of assistance is _____
_____ and the amount per month is \$ _____. I have _____ dependents
23 who must live off this income. [Number]
- 24 c I am unemployed and receive \$ _____ per month in unemployment compensation.
- 25 d I receive insufficient income to adequately sustain my household.¹

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27 ¹ A "household" includes all members of a family, extended family, and others living in the same physical residence.

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(1) My monthly household income is \$ _____ for _____ people.² The source of this income is _____.

(2) I receive \$ _____ in child support/alimony per week/month/quarter. [circle one]

(3) I do / do not receive a per capita distribution from the Ho-Chunk Nation or other Indian Tribe. The per capita payments are distributed on a _____ basis in the amount of \$ _____.

(4) The following expenses are paid from this household income:

Rent/mortgage in the amount of \$ _____ per month.

Child care and/or child support of \$ _____ per week/month/quarter. [circle one]

Work expenses of \$ _____ per week.

(5) Please also consider these additional expenses: *(list the amount and frequency)*

4. There are other extraordinary circumstances which support my request for waiver of the filing fee and deferment of other costs as noted below (*e.g.*, emergencies, medical expenses, pending divorce, separation). *(attach any supporting documentation)*

5. The *Complaint or Petition* to be filed in this action is attached.

² This total should include not only petitioner's own income, but the income of every person living in the household.

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RESPECTFULLY SUBMITTED this _____ day of _____, 20____.

Month

Year

Signature: _____

Signature of Counsel (if any): _____

Address of Counsel: _____
Street address or P.O. Box

City State Zip Code

Phone Number of Counsel: (____) _____

Fax Number of Counsel: (____) _____

Ho-Chunk Bar Number of Counsel: _____

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),³ and/or I have applied for membership in the Ho-Chunk bar in accordance with the *Ho-Chunk Nation Rules for Admission to Practice*.

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____

at _____
City State

Notary Public for _____
State

My commission expires: _____

³ 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 judicial website at [http://www.ho-chunknation.com/UserFiles/Civ%20Pro%20\(08-17-06%20version\).pdf](http://www.ho-chunknation.com/UserFiles/Civ%20Pro%20(08-17-06%20version).pdf).

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ORDER

Based on the above affidavit and any sworn testimony given at a hearing in this case, the Court finds that the petitioner has shown that it would be an economic hardship to pay the filing fee. The plaintiff/petitioner requested that the Court allow him/her to proceed without payment of the filing fee and defer the payment of other court costs and fees pending resolution of the case.

IT IS THEREFORE ORDERED that the *Petition to Waive Filing Fee and Costs* is granted and the payment of other court costs and fees are deferred until the time of settlement or judgment in this action.

Entered this _____ day of _____, 20_____.

Judge of the Trial Court