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**Emotional Abuse:** Language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening, or otherwise harassing, and that does or reasonably could intimidate, humiliate, threaten, frighten, or otherwise harass the individual to whom the conduct or language is directed;

**Verbal Abuse:** Deliberate oral statements made toward an Elder which are meant to insult, frighten, humiliate, threaten, and/or to demean an Elder;

**Exploitation:** Taking unjust advantage of an elder, financially or otherwise, for one's own benefit;

**Neglect:** (1) Failure of a caregiver, as evidence by an act, omission, or course of conduct, to endeavor to secure or maintain adequate care, services, or supervision for an individual including food, clothing, shelter, or physical or mental health care, and creating significant risk or danger to the individual physical or mental health; or (2) The interference with the delivery of necessary services or resources; or (3) The failure to report abuse, neglect, self-neglect or exploitation of an Elder; or (4) The failure to provide services or resources essential to the Elder's practice of his or her customs, traditions, or religion; or (5) The abandonment of an Elder by his or her family, guardian, or caretaker.

**Interference with CFS Investigation/Services**

**Unreasonable Confinement**

5. Please list all prior civil or criminal temporary restraining orders, injunctions, or no contact orders in other jurisdictions involving the Elder and respondent, beginning with the most recent:

(1) Court: \_\_\_\_\_ Case No.: \_\_\_\_\_ Date: \_\_\_ / \_\_\_ / \_\_\_

(2) Court: \_\_\_\_\_ Case No.: \_\_\_\_\_ Date: \_\_\_ / \_\_\_ / \_\_\_

(3) Court: \_\_\_\_\_ Case No.: \_\_\_\_\_ Date: \_\_\_ / \_\_\_ / \_\_\_



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Petitioner’s Signature: \_\_\_\_\_

Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**II. LIST OF WITNESSES THAT MAY BE CALLED IN THIS CASE:**

I may call the following witnesses to testify about the alleged Elder abuse, neglect or exploitation: *(list as many as you would like)*

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_

**III. JURISDICTION**

This Court has original jurisdiction over this case pursuant to the “cases and controversy” clause of the Ho-Chunk Nation Constitution, Art. VII, § 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, customs, and traditions of the Ho-Chunk Nation.

**IV. NOTICE & HEARING**

I understand that the Court may issue a written or oral *Ex Parte*<sup>1</sup> *Temporary Elder Protective Restraining Order* without notice to the respondent if the Court finds reasonable cause to believe, based upon credible evidence contained within the Petition, that (1) an Elder is in immediate danger, or that the respondent has or is likely to interfere with an Elder protection investigation or delivery of CFS services, and (2) prior notice is likely to increase danger to the Elder and/or other family or household members or will impede upon an Elder protection investigation or delivery of CFS services.

**IV. REQUEST FOR RELIEF**

The Court is permitted to grant the following limited forms of emergency relief without notice to the respondent and prior to convening a hearing.

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1. I request that the Court grant the following relief in the *Elder Protective Restraining Order*: (Check all that apply)

a.  An order enjoining (stopping) the respondent from threatening to commit or committing further acts of abuse, neglect, or exploitation of the Elder as follows: \_\_\_\_\_

\_\_\_\_\_

b.  An order prohibiting the respondent from contacting, harassing, telephoning, or otherwise communicating with the Elder, either directly or indirectly.

c.  An order requiring the respondent to stay away from the Elder’s residence or any other location temporarily occupied by the Elder.

d.  An order prohibiting the respondent from interfering with the investigation of abuse, neglect, or exploitation of an Elder, the provision of services to the Elder, or otherwise harassing or intimidating CFS workers or other individuals employed to carry out its goals.

e.  Any other relief the Court deems necessary to protect and provide for the Elder’s safety and the safety of the following family and household members:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> “*Ex Parte*” means “from the part” in Latin, and for purposes of legal usage denotes the absence of “notice to or argument from the adverse party.” BLACK’S LAW DICTIONARY, 597 (7th Ed. 1999).

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If the Court determines to grant the requested form(s) of emergency relief listed above, or if the petitioner requests any additional forms of relief below, the Court shall convene a hearing within fifteen (15) days to allow the parties an opportunity to present evidence of the alleged Elder abuse, neglect or exploitation. If the petitioner meets his/her burden of proof at the hearing, the Court shall issue a non-temporary *Elder Protective Restraining Order* for a period not to exceed five (5) years without further extension.

2. I further request that the Court grant the following relief within an *Elder Protective Restraining Order* after affording the respondent with notice and hearing (the Court **cannot** grant the below forms of relief within a *Temporary Elder Protective Restraining Order*):  
(Check all that apply)

a.  An order prohibiting the respondent from harassing or intimidating CFS workers or other individuals employed to carry out the goals of this subsection.

b.  An order prohibiting the respondent from intentionally preventing a CFS Elder Protection Worker from meeting, communicating, or being in visual or audio contact with the Elder.

c.  Any other relief the Court deems necessary and consistent with the purposes of the ELDER PROTECTION ACT or any Traditional Cultural Disposition that may be consistent with and will reinforce the customs and traditions of the community:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

1 **RESPECTFULLY SUBMITTED BY PETITIONER,**

2

3 Signature: \_\_\_\_\_

4 Date: \_\_\_\_\_, 20 \_\_\_\_\_

5 Signature of counsel (if any): \_\_\_\_\_

6 Mailing address of counsel: \_\_\_\_\_

7 \_\_\_\_\_

8 E-mail address of counsel: \_\_\_\_\_

9 Telephone number of counsel: \_\_\_\_\_

10 Facsimile number of counsel: \_\_\_\_\_

11 Ho-Chunk Bar number of counsel: \_\_\_\_\_

12

13 If not a member of the Ho-Chunk bar, a  *Motion to Appear Pro Hac Vice* has been  
14 attached in accordance with *Ho-Chunk Nation Rules of Civil Procedure*, Rule 16(B),<sup>2</sup> and/or  I  
15 have applied for membership in the Ho-Chunk Nation bar in accordance with the *Ho-Chunk  
16 Nation Rules for Admission to Practice*.

16 **SUBSCRIBED AND SWORN TO** before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

17

18 at \_\_\_\_\_  
City State

19

20 \_\_\_\_\_  
Notary Public for \_\_\_\_\_  
State

21

22 My commission expires: \_\_\_\_\_

23

**PLEASE INCLUDE PETITIONER/ELDER'S CONTACT INFORMATION  
ON ATTACHED CONFIDENTIAL SUPPLEMENT. FAILURE TO DO SO  
WILL RESULT IN THE COURT'S INABILITY TO CONTACT THE  
PETITIONER/ELDER OR PROVIDE SERVICE OF SUBSEQUENT  
COURT ORDERS OR NOTICES OF HEARING.**

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<sup>2</sup> 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/media/35078/rules\\_of\\_civil\\_procedure.pdf](http://www.ho-chunknation.com/media/35078/rules_of_civil_procedure.pdf).



# *Petition for Elder Protective Restraining Order*

## **Confidential Supplement**

The following information relates to the **ELDER** alleged to have been subjected to abuse, neglect, or exploitation:

**ELDER'S INFORMATION**

1. Name: \_\_\_\_\_
2. Maiden name (if applicable): \_\_\_\_\_
3. Physical Address (last known): \_\_\_\_\_  
\_\_\_\_\_  
City State Zip Code
4. Mailing Address (last known): \_\_\_\_\_  
\_\_\_\_\_  
City State Zip Code
5. Phone: (\_\_\_\_\_) \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Home Work

If the *Petition for Elder Protective Restraining Order* is filed by someone other than the affected Elder, please provide the following information for the **PETITIONER**:

**PETITIONER'S INFORMATION**

1. Name: \_\_\_\_\_
2. Maiden name (if applicable): \_\_\_\_\_
3. Physical Address (last known): \_\_\_\_\_  
\_\_\_\_\_  
City State Zip Code
4. Mailing Address (last known): \_\_\_\_\_  
\_\_\_\_\_  
City State Zip Code
5. Phone: (\_\_\_\_\_) \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Home Work

1 **PLEASE LEAVE THIS FORM WITH THE SHERIFF'S OFFICE**

2 **Elder Protection Restraining Order Information for Law Enforcement:**

3  
4 Case Title: \_\_\_\_\_

5 Petitioner's DOB: \_\_\_\_\_ Petitioner's Phone Number: \_\_\_\_\_

6 Respondent's DOB: \_\_\_\_\_ Date of Filing: \_\_\_\_\_

7  
8 The Sheriff's Office will deliver your Petition and other papers to the respondent as soon as possible. Since the  
9 hearing cannot be held until the respondent is served, it is important to have accurate and reliable information to  
10 help locate the respondent. By filling out this form as completely as possible, you can help avoid unnecessary  
11 delays.

11 **RESPONDENT'S INFORMATION**

12 Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

13 Currently Living At: \_\_\_\_\_

14 Employer's Name and Address: \_\_\_\_\_

15 Work Phone: \_\_\_\_\_ Occupation: \_\_\_\_\_

16 Does the Respondent work at a location other than the employer's address? \_\_\_\_\_

17 If so, where?: \_\_\_\_\_ Work Hours: \_\_\_\_\_

18 Where else might we be able to locate the Respondent?  
19 \_\_\_\_\_

19 **IDENTIFYING CHARACTERISTICS:**

20 Beard?: \_\_\_\_\_ Moustache?: \_\_\_\_\_ Glasses?: \_\_\_\_\_

21 Scars?: \_\_\_\_\_ Tattoos?: \_\_\_\_\_ Other?: \_\_\_\_\_

22 Does the Respondent possess any weapons? \_\_\_\_\_ If so, what kind of weapons are they, and where are  
23 they carried/stored? \_\_\_\_\_

24 Is the Respondent a heavy drinker? \_\_\_\_\_ Drug User? \_\_\_\_\_

25 Describe any history of violence that the Respondent may have; other than what is stated on this petition: \_\_\_\_\_  
26 \_\_\_\_\_

26 **DESCRIPTIONS OF RESPONDENT'S VEHICLE:**

27 Color: \_\_\_\_\_ Year: \_\_\_\_\_

28 Make and Model: \_\_\_\_\_ License Number: \_\_\_\_\_