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IN THE
HO-CHUNK NATION JUDICIARY

ADMINISTRATIVE ORDER

In re: The Matter of Child Support
Payments

Order No.: Admin. 24-19

It is a principle that “Ho-Chunk Nation parents have a responsibility of caring for their children, bonding with them, making sure they are safe, and providing for all their basic needs.” HCN CHILD SUPPORT CODE (hereinafter CS CODE) 4 HCC § 7.2a. The Ho-Chunk Nation has long established a public policy to enforce child support payments. The Nation’s laws specifically permit the garnishment of a tribal member’s per capita payment for child support. *Id.*, at § 7.30e.

You are hereby notified that the Court issues the following *Administrative Order 24-19*, which supersedes any of the Court’s previous Orders addressing the garnishment of child support from per capita payments. Due to the COVID-19 Pandemic, the Nation’s tribal members have not received a per capita distribution since May 2020. *See HCN Tribal Resolution 07-07-20B*. However, pursuant to *Legislative Resolution 07-02-24 II*, the Legislature has authorized General Welfare Payments for the foreseeable future.

Over the past year this situation has created a conflict between many existing orders which used only Per Cap Payments for child support garnishment and the current practices of the Ho-Chunk Nation Child Support Agency. The Judiciary has witnessed the Child Support Agency file a variety of motions in an attempt to deal with this problem. The Court has been carefully considering how to help protect the financial interests of the minor children of the Nation and how to save the Child Support Agency, the Judiciary and the Department of Treasury a significant amount of time and effort. Given the lack of per capita income as a revenue stream that can be

1 legally garnished for child support and absent a Resolution authorizing the garnishment of General
2 Welfare Payments, the Court **HEREBY DETERMINES THE FOLLOWING:**

3 **WHEREAS**, the Ho-Chunk Nation General Council delegated judicial authority to the Ho-
4 Chunk Nation Judiciary pursuant to the CONSTITUTION OF THE HO-CHUNK NATION, ART. VII, § 4;
5 and,
6

7 **WHEREAS**, the General Council delegated legislative authority to the Ho-Chunk Nation
8 Legislature pursuant to CONST., ART. V, § 1(a); and,
9

10 **WHEREAS**, the Legislature adopted the HO-CHUNK NATION JUDICIARY ESTABLISHMENT
11 AND ORGANIZATION ACT, pursuant to its constitutional authority as articulated in CONST., ART. V,
12 § 2(a); and,
13

14 **WHEREAS**, “[t]he Judiciary shall have exclusive authority and responsibility to employ
15 personnel and to establish written rules and procedures governing the . . . operation of the courts”
16 pursuant to JUDICIARY ACT, para. 1.5c; and,
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18 **WHEREAS**, the Legislature approved the job description of the Chief Judge pursuant to
19 its constitutional authority as articulated in CONST., ART. V, § 2(f); and,
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21 **WHEREAS**, the Legislature confirmed that “[t]he Chief Judge is responsible for the
22 overall Tribal Court System . . .” in the job description; and,
23

24 **WHEREAS**, the Chief Judge has routinely entered administrative orders pertaining to the
25 administration of the courts since the foundation of the Judiciary; and,
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27 **WHEREAS**, many tribal members obligated to pay child support relied upon the Per
28 Capita Payments as the income stream to meet their obligations under Ho-Chunk Nation law; and,
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30 **WHEREAS**, the Ho-Chunk Nation Child Support Agency has moved the Court in a
31 number of cases to *Close Foreign Case* or in the alternative to *Close Foreign Case in HCN*

1 *Jurisdiction and Cease Enforcement by HCN CSA and Ho-Chunk Nation*, clearly acknowledging
2 and stating in the *Motions* that “The Ho-Chunk Nation cannot modify a case over which it does
3 not have exclusive jurisdiction;” and,
4

5 **WHEREAS**, the longer this matter goes unaddressed the number of impacted child support
6 cases, children and families is significantly increased over time. Currently the Court estimates the
7 number to be well over a hundred; and,
8

9 **WHEREAS**, in consideration of judicial economy and the administration of justice, the
10 Court efficiently addresses the issue of income stream and the *Motions* filed by the Ho-Chunk
11 Nation Child Support Agency by this Administrative Order while still assuring due process to the
12 parties.
13

14 **NOW THEREFORE, TO AVOID VIOLATIONS OF HO-CHUNK, STATE AND**
15 **FEDERAL LAWS¹; AND FOLLOWING REPEATED ATTEMPTS TO ADDRESS THESE**
16 **MATTERS INTERNALLY WITHIN THE JUDICIARY, WITH THE LEGAL**
17 **REPRESENTATIVES FROM THE EXECUTIVE AND LEGISLATIVE BRANCHES AND**
18 **WITH THE HO-CHUNK NATION CHILD SUPPORT AGENCY; THE CHIEF JUDGE**
19 **FINDS THAT IT HAS BECOME A NECESSITY TO ENTER THE FOLLOWING**
20 **ADMINISTRATIVE ORDER²:**
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22 **1. THEREFORE**, based upon the correct interpretation of the law within the *Motions to*
23 *Close Foreign Case*, the Court cannot modify a foreign judgment, absent evidence that the foreign
24 jurisdiction has requested such modification, as this would be a violation of Full Faith and Credit
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28 ¹ HO-CHUNK NATION CHILD SUPPORT CODE 4 HCC §§ 7.8 and 7.43; UNIFORM INTERSTATE FAMILY SUPPORT ACT Wis. Code §
769, Subchapter VI: Registration, Enforcement, and Modification of Support Order; FULL FAITH AND CREDIT FOR CHILD SUPPORT
ORDERS ACT, 28 U.S.C. § 178B.

² This order is also being issued in an effort to avoid any appearance of impropriety, violations of Full Faith and Credit and in an
effort to restore the good working relationship this Court has established with foreign jurisdictions.

1 and other principles of Ho-Chunk, State and Federal law relating to the enforcement of child
2 support orders. Neither the Court nor the Ho-Chunk Nation Child Support Agency has independent
3 authority to modify a foreign jurisdiction's case. Further, the Court deems that it would be
4 inefficient to close all of these matters. **THEREFORE**, the *Motions to Close Foreign Case* filed
5 by the Ho-Chunk Nation Child Support Agency are **DENIED**.

7 **2. FURTHERMORE**, after a careful review of the law and an internal review of our child
8 support case files, the Court discovered that a few orders, as drafted by the Ho-Chunk Nation Child
9 Support Agency³, which appear to be in violation of Ho-Chunk, State and Federal law, specifically
10 with regard to the Trial Court's ability to modify or close a foreign jurisdiction's case were
11 mistakenly issued granting these motions⁴. **THEREFORE**, the cases where these *Orders* were
12 previously distributed, in violation of Full Faith and Credit are **HEREBY RESTORED** to the Ho-
13 Chunk Nation Child Support Agency⁵. It **SHALL** be the statutory duty of the Ho-Chunk Nation
14 Child Support Agency to take appropriate action consistent with this *Order* and Ho-Chunk, State
15 and Federal law. Failure by the Ho-Chunk Nation Child Support Agency to comply with this *Order*
16 or the law may result in finding of contempt. *See* HO-CHUNK NATION CONTEMPT ORDINANCE 2
17 HCC §§ 5.3 and 5.4(b).

20 **3. ADDITIONALLY**, the Court must **CEASE ENFORCEMENT** of child support
21 payments in those cases for which Per Capita was the only funding stream. The Court takes this
22 action in recognition of the intentions of *Legislative Resolution 07-02-24 II*, in the interests of
23 tribal sovereignty and judicial economy. Further, the Court acknowledges the legal limitation of
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26 ³ It has been the practice of the Ho-Chunk Nation Child Support Agency to submit draft orders along with their filings for the
past several years. The Judiciary relied on the Agency to not only comply with Ho-Chunk, State and Federal law, but also all
required funding parameters in their drafted orders.

27 ⁴ The Court notes that recently the Ho-Chunk Nation Child Support Agency has filed some *Motions to Re-Open* the foreign cases
where their motions to close had been granted. This process is inconsistent with the CS CODE and the principles of Full Faith and
Credit. This Order however, is consistent with the law and the intent of the law, which is to enforce child support by the broadest
means possible.

28 ⁵ The Court will provide a list of these cases to the Ho-Chunk Nation Child Support Agency by December 1, 2024.

1 both the Ho-Chunk Nation Child Support Agency and the Court to garnish the General Welfare
2 Payments absent a Resolution authorizing such. **THEREFORE**, Court **ORDERS** the Ho-Chunk
3 Nation Child Support Agency to issue the appropriate Income Withholding Orders or, in the
4 alternative, provide a list of these cases to the Ho-Chunk Nation Department of Treasury and file
5 them with the Court.
6

7 To be clear **this Order does not cease an individual's responsibility to pay child support**
8 and the Court reminds everyone that **failure to meet their child support obligations could result**
9 **in significant arrears balances and possibly other sanctions.** At this time only voluntary
10 garnishment of General Welfare Payments are permitted. Parties who wish to sign up may contact
11 the Department of Treasury.
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14 **PROCEDURAL INFORMATION:**

15 The Court **shall** send the parties a copy of this *Order* via mail or e-mail based on the
16 preferred method of service noted in the case record for each party. The Court shall additionally
17 publish this *Order* in the Hocak Worak for two (2) consecutive issues as well as posting it on the
18 Judiciary's webpage. The Court uses these extraordinary measures of publication to ensure notice
19 to all the affected parties.
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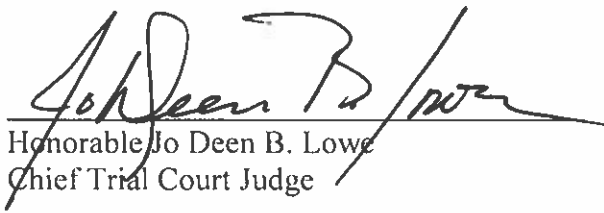
21 The following *Order* **shall** be effective **November 15, 2024**, to allow the publication of
22 this *Order*. However, in cases where the Ho-Chunk Nation Child Support Agency has already filed
23 a *Motion to Cease Withholding* and no party objected within the allotted ten (10) day timeframe,
24 this *Order* **shall** go into effect immediately.
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26 This *Order* **shall** remain in effect until such time as the child support orders are otherwise
27 modified by the Court. Should evidence of a foreign court's case closure be filed then the Ho-
28 Chunk Nation Trial Court may also close its case file. Likewise, if evidence is filed showing that

1 there is no remaining child support or arrears to be collected then the Court may close its file.

2 Parties with standing⁶ shall have the right to challenge the impact of this *Order* in
3 accordance with the *Ho-Chunk Nation Rules of Civil Procedure*, Rule 58, Amendment to or Relief
4 from Judgment or Order, by filing a *Motion to Amend* or for *Relief from Judgment* within ten (10)
5 calendar days from **November 15, 2024**. Otherwise parties may file an appeal so long as it
6 complies with the *Rules of Appellate Procedure* (hereinafter *HCN R. App. P.*), specifically *Rules*
7 *of Appellate Procedure*, Rule 7, Right of Appeal.” *HCN R. Civ. P.* 61. The appellant “shall within
8 sixty (60) calendar days after the day such judgment or order was rendered, file with the Supreme
9 Court Clerk, a *Notice of Appeal* from such judgment or order, together with a filing fee as stated
10 in the appendix or schedule of fees.” *HCN R. App. P.* 7(b)(1). “All subsequent actions of a final
11 *Judgment* or *Trial Court Order* must follow the [*HCN R. App. P.*]” *HCN R. Civ. P.* 61.
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15 **IT IS SO ORDERED** this 9th day of October 2024, by the Ho-Chunk Nation Trial Court
16 located in Black River Falls, WI within the sovereign lands of the Ho-Chunk Nation.
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20 Honorable Jo Deen B. Lowe
21 Chief Trial Court Judge
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28 ⁶ Individuals who might have standing include parties with an open child support case, the legal custodian of a minor who is the subject of a child support case, a foreign jurisdiction with a vested interest in enforcement or the Ho-Chunk Nation Child Support Agency.

