On September 17, 2005, the Ho-Chunk Nation General Council held its annual meeting at the La Crosse Convention Center, La Crosse, Wisconsin. The General Council adopted twelve (12) out of nineteen (19) resolutions it considered. Many of the resolutions state a policy that the General Council wants the Legislature to consider. The Attorney General traditionally prepares an opinion for the Legislature about each General Council Resolution. The purpose of the opinion is to assist the Legislature determine what type of action, if any can be taken on the resolutions.

No opinions are rendered on resolutions that failed to be adopted. The defeat of a resolution does not mean that the opposite meaning of the resolution was adopted. Opinions on resolutions requesting a Secretarial Election do not include opinions regarding constitutionality since the resolution requests changes in the Constitution. Finally, when a resolution is deemed unconstitutional, no action by the Legislature is required.

Each resolution voted upon by the Ho-Chunk Nation General Council is described below, with analysis for each resolution that was adopted. The resolution question is stated, as well as the vote totals. A detailed explanation follows of the constitutional powers of the General Council.
Policy Setting Power

The General Council articulates its wishes by voting on policy. A policy is not a law, and can only be carried out by enactment of law by the Legislature.

Power to Return Acts to the Legislature for Reconsideration

The reversal of the action requires no enactment of law. However, the reversal requires a return to the Legislature for reconsideration consistent with the action of the General Council.

Power to Set Own Procedures

Requires no enactment of law. Takes effect upon vote of the General Council.

Special Recall Election

Requires no enactment of law. Unless otherwise ordered by the court, takes effect upon the vote of the General Council. The Election Board shall hold a Special Election not less than thirty (30) days and not more than ninety (90) days from the date of the General Council request. If the Election Board fails to hold such Special Election within ninety (90) days, any eligible voter of the Nation may request the Tribal Court to order such Special Election. In any Special Election, no more than three (3) persons shall be subject to recall vote.

Removal Power

Requires no enactment of law. Takes effect upon vote of the General Council unless otherwise ordered by the Court.

Power to Propose Amendments to the Constitution by Calling for a Secretarial Election

In the absence of clear direction by the General Council, there are a number of ways in which a request for a Secretarial Election can be made. Art. XIII, Sec. 2 provides that, "[i]t shall be the duty of the Secretary of the Interior to call and hold an election on any proposed amendment to this Constitution at the request of two thirds (2/3) of the entire Legislature, at the request of the General Council, or upon presentation of a petition signed by thirty (30) percent of the eligible voters of the Ho-Chunk Nation." When the General Council makes the request, the Secretary of the General Council can forward the request, or the Legislature or Office of the President can forward the request as a courtesy and in acknowledgment of the will of the People of the Ho-Chunk Nation.

Alternatively, the Legislature by two thirds (2/3) vote can make the request and have it forwarded to the Department of the Interior. The Legislature can also direct that the Secretary of the General Council or the President forward the General Council request for special election to the Department of the Interior. Typically, the request is not forward to the Secretary of the Interior, until after the Legislature has reviewed the General Council actions. Once a request for special election is received, the Secretary of the Interior may exercise his/her discretion in deciding whether some, all, or none of the proposed election questions have adequate language for an election. The Department of the Interior also has guidelines for dealing with conflicting proposals to amend a single constitutional provision.

2005 GENERAL COUNCIL ANALYSIS

9/17/05A General Council Request For Special Election Establishment of Office of General Council

No action is necessary because this resolution was defeated.

"Shall the Ho-Chunk Nation request a Secretarial Election for the Establishment of General Council Office?" There were 1058 votes cast, and the resolution was DEFEATED by a vote of 189 (17.8%) Yes or Accept, 792 (74.8%) No or Reject, and 78 (7.4%) Abstain. See Audio Response Systems, Combined Report, Question 6, page 2.
9/17/05B Ho-Chunk General Council Branch Policy, Function and Organization.

Part policy that can be enabled through legislation/Part outside the Scope of Power of the General Council.

To the extent that this resolution directs the Legislature to appropriate funds for specific line items, the Resolution exceeds the scope of power of the General Council. Art. III, Section 3 of the Ho-Chunk Nation Constitution provides that "[n]o branch of the government shall exercise the powers and functions delegated to another branch." Art. V, Section. 2 (d) further provides that "[t]he legislature shall have the power: ... (d) To authorize expenditures by law and appropriate funds to the various Departments in an annual budget;..."

However, Art. V, Section 13 also requires that "[t]he Legislature shall enact an annual budget. The budget shall include an appropriation of operating funds for each branch of the government." Thus, the Legislature cannot fail to fund the General Council, but the level of funding and the lines of funding are powers of the Legislature. Delegate [sic] power and responsibility to the new General Council Agency. The question is whether the HCN General Council has the power under the HCN Constitution to make such a delegation. Article IV, Section 2 of the Constitution is entitled "Delegation of Authority." This Article only delineates a delegation from the General Council to the Legislative Branch, Executive Branch and Judicial Branch. If no other method of delegation is stated, the issue is whether the delegation to the General Council Agency violates the Constitution.

Another issue with Resolution C is whether the General Council's creation of the Agency violates the Separation of Functions clause at Article III, Section 3 of the Constitution. The provisions in the resolution marked as "Procedure - Operations," describing the General Council Agency, partially sets terms and conditions of employment for members of the agency. On its face, this infringes on a power given to the HCN Legislature in Article V, Section 2(f).

"Shall the General Council adopt the General Council Branch Policy Function and Organization plan?" There were 1087 votes cast, and the resolution PASSED with a vote of 726 (66.8%) Yes or Accept, 222 (20.4%) No or Reject, and 139 (12.8%) Abstain. See Audio Response Systems, Combined Report, Question 8, page 2. Chairperson Cloud agreed: "1,087 responses, 726 said yes, 222 rejected, abstained 139 abstain, Resolution passes." Meeting Transcript at page 44.

9/17/05C Request For Secretarial Election-Balanced Budget.

No action is necessary because this resolution was defeated.

"Shall the Ho-Chunk Nation request a Secretarial Election to amend Article VI, Section 2(c)?" There were 1021 votes cast, and the resolution was DEFEATED by a vote of 406 (39.8%) Yes or Accept, 384 (37.6%) No or Reject, and 231 (22.6%) Abstain. See Audio Response Systems, Combined Report, Question 9, page 2.

9/17/05D Request For Secretarial Election-Supreme Court Justices Qualifications.

Requires forwarding to the Secretary of Interior.

This resolution proposes to amend the HCN Constitution to require that the Chief Justice of the Supreme Court shall be a member of the Ho-Chunk Nation. "Shall the Ho-Chunk Nation request a Secretarial Election to amend Article VIII, Section 8(a)?" There were 1035 votes cast, and the resolution PASSED with a vote of 559 (54%) Yes or Accept, 376 (36.3%) No or Reject, and 100 (9.7%) Abstain. See Audio Response Systems, Combined Report, Question 10, page 3.

9/17/05E Request For Secretarial Election-Legislative Term Limits.

No action is necessary because this resolution was defeated.

"Shall the Ho-Chunk Nation request a Secretarial Election to amend Article V, Section 6?" There were 1052 votes cast, and the resolution was DEFEATED by a vote of 512 (48.7%) Yes or Accept, 410 (39%) No or Reject, and 130 (12.4%) Abstain. See Audio Response Systems, Combined Report, Question 12, page 3.
9/17/05F Request For Secretarial Election-
Presidential Term Limits.

No action is necessary because this resolution was defeated.

There were 1031 votes cast, and the resolution was DEFEATED by a vote of 499 (48.4%) Yes or Accept, 399 (38.7%) No or Reject, and 133 (12.9%) Abstain. See Audio Response Systems, Combined Report, Question 13, page 3.

9/17/05G: Request for Secretarial Election-
Election of Tribal Court Judges

Requires forwarding to the Secretary of Interior.

This resolution proposes to amend the HCN Constitution to require the election of Trial Court Associate Judges, including the Chief Judge, instead of having the Legislature make such appointments. The Resolution also sets forth qualifications, which would seem more appropriate as an amendment to Art. VII, Section 8, Qualifications. The resolution also sets forth language about the terms of office, which would seem more appropriate as an amendment to Art. VII, Section 9, Terms of Office. Finally, the proposed amendment contains language about recall and removal, but this contingency is already addressed in Art. IX of the Constitution. For these reasons, the Secretary of Interior may deem the request improperly drafted and decline to place the question on a ballot.

Art. VII, Section 11 currently states: "Appointment of Trial Court Judges. The Legislature shall appoint a Chief Judge and any Associate Judges to the Trial Court." This resolution proposes to delete and recreate Art. VII, Section 11, as follows: "Election of Trial Court Judges. The Chief Trial Court Judge and any Associate Judges to the Trial Court shall be elected by a majority vote of the eligible voters of the Ho-Chunk Nation in accordance with the General Election provisions in Article VIII, Section 1 unless otherwise provided. All candidates shall be a member of the Ho-Chunk Nation. The Trial Court Judges shall serve staggered four (4) year terms and shall serve until a successor has been sworn into office except if the Trial Court Judge has been successfully removed, the Legislature may appoint an Interim Trial Court Judge, until a successor has been sworn into office."

"Shall the Ho-Chunk Nation request a Secretarial Election to amend Article VII, Section II?" There were 1075 votes cast, and the resolution PASSED with a vote of 627 (58.3%) Yes or Accept, 319 (29.7%) No or Reject, and 129 (12%) Abstain. See Audio Response Systems, Combined Report, Question 14, page 4.

9/17/05H Request For Secretarial Election-
Presidential Veto Authority.

Requires forwarding to the Secretary of Interior.

This resolution proposes to amend Art. V, Section 2(i), by adding the highlighted language: "To negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals, subject to a Presidential Veto. The Legislature may overturn any Presidential Veto, by a % majority vote at which time it becomes law." The wording of this resolution is problematic. If the intent was to grant the President veto authority over a broad array of actions of the Legislature, including ordinances and budgets, the resolution, if it were to be adopted, does not accomplish this purpose. As written, Presidential veto authority is limited to Legislative action with regard to "treaties, compacts, contracts, and agreements with other governments, organizations, or individuals."

"Shall the Ho-Chunk Nation request a Secretarial Election to amend Article V, Section2(i)?" There were 1033 votes cast, and the resolution PASSED with a vote of 547 (53%) Yes or Accept, 351 (34%) No or Reject, and 135 (13.1%) Abstain. See Audio Response Systems, Combined Report, Question 15, page 4.

9/17/05I Request For Secretarial Election-
Presidential Veto.

Requires forwarding to the Secretary of Interior.

This resolution proposes to amend Art. VI, Section 2(a), by adding the highlighted language to the Powers of the President: "To execute and administer the laws of the Ho-Chunk Nation, including the right to veto any action of the
Legislature unless overturned by the Legislature pursuant to Article V, Section 2 (i)."

This resolution assumes the adoption of Resolution H, and makes no sense without its adoption. However, Resolution H proposes a much narrower Presidential veto authority than the Resolution. Therefore, if Resolution H and I were both adopted, a conflict would be created.

This is an instance where the order in which requests are submitted to the Secretary of the Interior from the Ho-Chunk Nation is important because of the process the Department of Interior uses to address conflicting proposals. "In those instances where conflicting proposals to amend a single constitutional or charter provision are submitted, that proposal first received by the officer in charge, if found valid, shall be placed before the voters before any consideration is given other proposals." 25CFR81.5(g)

"Shall the Ho-Chunk Nation request a Secretarial Election to amend Article VI, Section 2(a)?" There were 1065 votes cast, and the resolution PASSED with a vote of 662 (62.2%) Yes or Accept, 302 (28.4%) No or Reject, and 101 (9.5%) Abstain. See Audio Response Systems, Combined Report, Question 16, page 4.

9/17/05J Request For Secretarial Election-Balanced Budget.

No action is necessary because this resolution was withdrawn.

This resolution proposed to amend Art. V of the HCN Constitution. According to the minutes of the General Council Secretary, this resolution was WITHDRAWN.

9/17/05K Anonymous Enrollment Challenge Special Election-Bill of Rights.

Policy that can be enabled through legislation.

"Shall the General Council institute a policy allowing for anonymous enrollment challenges?" There were 1138 votes cast, and the resolution PASSED with a vote of 817 (71.8%) Yes or Accept, 268 (23.6%) No or Reject, and 53 (4.7%) Abstain. See Audio Response Systems, Combined Report, Question 17, page 4.

9/17/05L Liability for Wrongful Termination of an Employee.

Outside the Scope of Power of the General Council.

Resolution L states: "NOW THEREFORE BE IT RESOLVED that the General Council of the Ho-Chunk Nation sets the policy making managers and supervisors of the Ho-Chunk Nation financially liable for employees that are wrongfully terminated." However, Art. IV, Section 4 of the Constitution provides that "[t]he General Council does not retain the power to review actions relating to the hiring or firing of personnel." This resolution infringes on the President's power to hire and fire; therefore it is outside the scope of authority of the General Council.

Additionally, Article XII extends sovereign immunity to "officials and employees of the Ho-Chunk Nation acting within the scope of their duties " Moreover, "[o]fficials and employees of the Ho-Chunk Nation who act beyond the scope of their duties or authority shall be subject to suit in equity only for declaratory and non-monetary injunctive relief in Tribal Court " Resolution L, therefore, is outside the scope of power of the General Council.

"Shall the General Council establish a policy holding management personally liable for wrongful termination?" There were 1179 votes cast, and the resolution PASSED with a vote of 644 (54.6%) Yes or Accept, 450 (38.2%) No or Reject, and 85 (7.2%) Abstain. See Audio Response Systems, Combined Report, Question 18, page 5.

9/17/05M Dissolution of the General Council Planning Committee.

Reversal of Action of the Legislature and Return to the Legislature for Reconsideration

Consistent with the Action of the General Council. This resolution is linked to Resolution B, so the Legislature should consider both resolutions together. One issue with this resolution is that it attempts to do two things simultaneously. First, it attempts to review and reverse a prior action of the Legislature. Second, it dissolves 1HCC § 15, titled Ho-Chunk Nation Planning Committee Establishment Act. The problem is with the General Council's second action - dissolving the law itself. Under the Constitution, the Legislature holds the
law-making function. The Legislature created the Planning Committee by law, so it can only be "dissolved" by legislative enactment. Thus, the General Council arguably exercises legislative functions by dissolving the Planning Committee in Resolution M.

The General Council's first action, however, is permissible. The General Council certainly can review and reverse actions of the Legislature under Article IV, Section 3(b). However, the effect is not invalidation or dissolution of the particular law. Rather, it is to "return such reversals to the Legislature for reconsideration consistent with the action of the General Council." See Art. IV, Sec. 3(b). "Shall the General Council abolish the General Council Planning Committee?" There were 1007 votes cast, and the resolution PASSED with a vote of 546 (54.2%) Yes or Accept, 358 (35.6%) No or Reject, and 103 (10.2%) Abstain. See Audio Response Systems, Combined Report, Question 19, page 5.

9/17/05N Resolution to Recall Representative Dallas White Wing, District III.
Requires no enactment of law, but does require action by the Election Board, unless otherwise ordered by the court.
"Shall the General Council recall legislator Dallas White Wing and direct the Election Board to conduct a special election?" There were 1071 votes cast, and the resolution PASSED with a vote of 624 (58.3%) Yes or Accept, 342 (31.9%) No or Reject, and 105 (9.8%) Abstain. See Audio Response Systems, Combined Report, Question 20, page 5.

9/17/05O Resolution to Recall Representative Ona White Wing Garvin, District IV.
Requires no enactment of law, but does require action by the Election Board, unless otherwise ordered by the court.
"Shall the General Council recall legislator Ona Garvin and direct the Election Board to conduct a special election?" There were 1142 votes cast, and the resolution PASSED with a vote of 617 (54%) Yes or Accept, 431 (37.7%) No or Reject, and 94 (8.2%) Abstain. See Audio Response Systems, Combined Report, Question 21, page 5.

9/17/05P Resolution to Recall Chief Justice Mary Jo B. Hunter.
No action is necessary because this resolution was defeated.
This resolution was declared defeated by the presiding officer of the General Council, Alvin Cloud. The transcript of the meeting states: "501 and 402, and 182. Okay, this one didn't make it by 43 votes, you needed 543 and you got 501. So this one fails." Transcript at page 108-109. Presumably Chairman Cloud referenced the tabulation information that was collected and contained in the Combined Report, cited below.
"Shall the General Council recall Chief Justice Mary Jo B. Hunter and direct the Election Board to conduct a special election?" There were 1085 votes cast, and the resolution was DEFEATED by a vote of 501 (46.2%) Yes or Accept, 402 (37.1%) No or Reject, and 182 (16.8%) Abstain. See Audio Response Systems, Combined Report, Question 22, page 6.

9/17/05Q Resolution to Recall President George Lewis.
No action is necessary because this resolution was defeated.
This resolution was declared defeated by the presiding officer of the General Counsel, Alvin Cloud. The transcript of the meeting states: "547 yes, 507 no, and 73 abstained. The response was from 1,127 votes. That's less than half. Didn't make it." Transcript at page 137.
"Shall the General Council direct the Election Board to conduct a special election for the recall of President George Lewis?" There were 1127 votes cast, and the resolution was DEFEATED by a vote of 547 (48.5%) Yes or Accept, 507 (45%) No or Reject, and 73 (6.5%) Abstain. See Audio Response Systems, Combined Report, Question 23, page 6.

9/17/05R Request For Secretarial Election-General Council Policy Authority.
Requires forwarding to the Secretary of Interior.
This resolution proposes to amend Art. IV, Section 3(a), by adding the highlighted language. "The General Council retains the power to set
policy for the Nation. This policy shall be resolutions proposed and approved at Annual Meeting and Special Meetings, by a majority vote of the qualified voters of the Ho-Chunk Nation General Council. This policy shall be made into laws, including codes, ordinances, resolutions and statutes by the Legislative Branch of the Ho-Chunk Nation within forty-five (45) days after a majority vote of the qualified voters of the Ho-Chunk Nation General Council at Annual Meetings and Special Meetings. The Executive Branch shall enforce this policy within sixty (60) days of the majority vote of the qualified voters of the Ho-Chunk Nation General Council. In the event that this policy is not enacted by the Legislative Branch or enforced by the Executive Branch within fifteen (15) days of the aforementioned deadlines, the Ho-Chunk Nation General Council shall file suit in the Ho-Chunk Nation Tribal Court against elected officials of the Ho-Chunk Nation Branch of government in violation of this section of the Constitution. The Supreme Court of the Ho-Chunk Nation shall and must grant certiorari within fifteen (15) days of filing date of suit."

This resolution proposes to amend the HCN Constitution to grant more authority to the General Council. The language is not consistent with the current format of the Constitution. More comprehensive drafting is required to achieve the apparent intent of this resolution. For these reasons, the Secretary of Interior may deem the request improperly drafted and decline to place the question to a ballot.

"Secretarial Election to amend Article IV, Section 3(a)?" There were 948 votes cast, and the resolution PASSED with a vote of 501 (52.8%) Yes or Accept, 257 (27.1%) No or Reject, and 190 (20%) Abstain. See Audio Response Systems, Combined Report, Question 24, page 6.

9/17/05S Request For Secretarial Election-Sovereign Immunity.

Requires forwarding to the Secretary of Interior.

This resolution proposes to amend Art. XII, Section 1, by adding the highlighted language. "The Ho-Chunk Nation shall be immune from suit except to the extent that the Legislature expressly waives its sovereign immunity, and officials and employees of the Ho-Chunk Nation acting within the scope of their duties or authority shall be immune from suit. Except suits brought in under Article IV, Section 3(a)."

This resolution assumes the adoption of Resolution R, and makes no sense without its adoption. This is an instance where the order in which requests are submitted to the Secretary of the Interior from the Ho-Chunk Nation is important because of the process the Department of Interior uses to address conflicting proposals. "In those instances where conflicting proposals to amend a single constitutional or charter provision are submitted, that proposal first received by the officer in charge, if found valid, shall be placed before the voters before any consideration is given other proposals." 25CFR81.5(g)

"Shall the Ho-Chunk Nation request a Secretarial Election to amend Article XII, Section I?" There were 948 votes cast, and the resolution PASSED with a vote of 500 (52.7%) Yes or Accept, 251 (26.5%) No or Reject, and 197 (20.8%) Abstain. See Audio Response Systems, Combined Report, Question 25, page 6.

ASSOCIATE JUDGE PRO TEMPORE
RELEASED FROM EMPLOYMENT

On December 7, 2005, the Ho-Chunk Nation Legislature rescinded the resolution that confirmed Attorney Tina F. Gouty-Yellow’s January 2, 2006 appointment to the position of Associate Judge. HCN LEG. RES. 12-07-05A. Attorney Gouty-Yellow served her last day as Associate Judge Pro Tempore on December 30, 2005. The Legislature posted the vacant position on January 18, 2006. During the interim, Chief Judge Todd R. Matha is handling both the Chief Judge and Associate Judge
caseload with the following exception: on or after January 12, 2006, the Court appointed Pro Tempore Judges to preside over twelve (12) cases.

**UPDATES FROM OUTSIDE COURTS**

**United States Supreme Court**


Prairie Band Potawatomi Nation sued the Secretary of the Kansas Department of Revenue, seeking declaratory and injunctive relief that the collection of Kansas motor fuel taxes from distributors, which delivered fuel to the Nation’s reservation was invalid. Upon the grant of a writ of certiorari, the Secretary appealed the judgment of the Tenth Circuit Court of Appeals. The Secretary contended that under Kansas statute, the Kansas motor fuel tax was properly applied to the receipt of fuel by off-reservation non-Indian distributors who subsequently delivered it to a gas station owned by and located on the reservation of the Nation. The Nation argued that the legal incidence of the tax improperly fell on the Nation on the reservation, and the propriety of the tax required a balancing of the parties’ interests. The U.S. Supreme Court held that the tax was a nondiscriminatory tax imposed on an off-reservation transaction between non-Indians and, accordingly, the tax was valid and posed no affront to the tribe's sovereignty. Under Kansas law, it was the distributors, rather than the tribe as the retailer, which were liable for payment of the tax, and thus the distributors bore the incidence of the tax, even though the distributors could pass along the cost of the tax to the tribal retailer. Further, a balancing of state and tribal interests was not required despite the on-reservation sale of the fuel, since it was the off-reservation receipt of the fuel by non-tribal distributors that established tax liability. The Supreme Court held that the categorical bar on imposition of legal incidence of state excise tax on a tribe or tribal member for sales made within Indian county, without congressional authorization, was not applicable. Furthermore, the White Mountain Apache Tribe v. Bracker test is not applicable because it is an interest-balancing test for preemption of state taxation of activity on an Indian reservation, which applies when a state asserts taxing authority over the conduct of non-Indians engaging in activity on a reservation, was not applicable. The judgment holding that collection of the motor fuel tax was impermissible was reversed.

Justice Ginsburg dissented, joined by Justice Anthony Kennedy, arguing that tribal and federal interests in promoting tribal economies outweigh the state's interest in imposing the tax, even if it occurs off the reservation. She stated “[t]he Nation's interests coincide with 'strong federal interests in promoting tribal economic development, tribal self-sufficiency, and strong tribal governments.'”


The U.S. Supreme Court granted a petition filed by the state of Kansas to overturn a 10th Circuit Court of Appeals decision that upheld the tribe's right to issue motor vehicle tags. But rather than hear the dispute, the high court vacated the ruling and remanded the case for further review. The lower courts must reconsider the case in light of Wagnon v. Prairie Band Potawatomi Nation, 126 S. Ct. 676 (December 6, 2005). The issues on remand include: (1) whether the interest-balancing test in White Mountain Apache Tribe v. Bracker should be applied to preempt state's off-reservation enforcement of its motor vehicle code, and (2) whether the court should abandon the White Mountain Apache interest-balancing test in favor of preemption analysis based on principle that Indian immunities are dependent upon congressional intent.

Certiorari pending

**Wilbur v. Locke**, No. 05-740 (filed December 6, 2005).

**Doe v. Mann**, No. 05-815 (filed December 19, 2005).
Tenth Circuit Court of Appeals
Fletcher v. United States, Docket No. 04-5112
(10th Cir. 2005).

The plaintiffs are descendants of Osage Indians listed on the tribal rolls at the time of the Osage Allotment Act of 1906. They sued defendants, the U.S. Government and various Government agencies and officials, claiming that defendants violated their right to participate in the Osage government, breached their trust responsibilities, and took their property in violation of the Fifth Amendment to the U.S. Constitution. The 1906 act directed the preparation of a final membership roll of the Osage Tribe. Each individual on the final roll received an interest in the tribal mineral estate. The Osage Allotment Act further provided that the mineral estate would be managed by a tribal council selected at periodic tribal elections in the manner prescribed by the Commissioner of Indian Affairs. The Bureau of Indian Affairs then promulgated regulations limiting voting and holding office to those adult members of the tribe who possessed mineral interests. The district court found that the Osage Tribal Council was a necessary and indispensable party to the lawsuit, and it dismissed the action because the descendants had not joined the Council. The court of appeals noted that Congress passed the Reaffirmation of Certain Rights of the Osage Tribe Act, after the district court entered its judgment, and that the descendents were no longer challenging the district court's dismissal of claims that concerned their voting rights. However, because the district court did not apply Fed. R. Civ. P. 19 to the descendants' breach of trust and takings claims, the court of appeals could not determine whether an analysis of the Rule 19(b) factors compelled dismissal of the descendants' claims alleging breach of trust and illegal taking for failure to join the Council, and remand was required so the district court could undertake that analysis. The court of appeals vacated the district court's order dismissing the descendants' claims alleging breach of trust and illegal taking, and remanded the case for further proceedings.

Ninth Circuit Court of Appeals
Means v. Navajo Nation, Docket No. 01-17489
(9th Cir. 2005).

After being charged in the tribal court of an Indian reservation with various offenses, Means, sought a writ of habeas corpus enjoining the tribal court from proceeding with the case. The Court of Appeals held that petitioner was not deprived of equal protection or due process by statute that made him subject to the criminal jurisdiction of another tribe's courts for misdemeanors committed on that tribe's reservation.

U.S. District Courts
State of Wisconsin v. Ho-Chunk Nation, Docket No. 05-C-632-S (D. Wis. 2005).

State of Wisconsin brought action, pursuant to provisions of its gaming compact with the Ho-Chunk Nation and Federal Arbitration Act (FAA), for appointment of an arbitrator in dispute arising under Indian Gaming Regulatory Act (IGRA). The Nation ceased conducting additional class III games that were authorized by the amendment and ceased making payments to the State. The Nation contended that the FAA did not extend to contracts between the State and the Nation and that there had not been a lapse in the appointment of an arbitrator. The State moved for immediate appointment of an arbitrator, and the Nation moved to dismiss. The District Court held that it had original jurisdiction in dispute, and the lapse of nearly six months in the process of appointing an arbitrator triggered district court's authority to appoint an arbitrator.

Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and categorized by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader’s benefit. They should in no way be used as substitution for citations to the actual court opinion.

Within the Trial Court, cases are categorized and docketed as one of the following: Child Support
(CS or if filed prior to 1998, CV), Civil Garnishment (CG), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. In some instances a decision may touch upon other topics that may not warrant a summary in this index, but the editor will use the indicator “other topic(s) covered,” as a research aid for the reader.

**RECENT DECISIONS AND RECENT FILINGS** both begin with the date where the previous Court Bulletin left off.

---

**Trial Court**

**Child Support**

**DECEMBER 13, 2005**


The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.


The petitioner in Case No.: CV 97-153 filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

**DECEMBER 20, 2005**


The Court had to determine whether to enforce two (2) standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

**DECEMBER 21, 2005**

*Twilah Sherven v. Christopher Kapayou*, CS 05-41 *Order (Suspension of Activity)* (HCN Tr. Ct., Dec. 21, 2005). (Matha, T).

The Court has instituted standard procedures for the processing of child support actions. After the filing of a *Petition to Register & Enforce a Foreign Judgment or Order for Child Support*, the Court will confirm the employment status of the respondent through correspondence with the Ho-Chunk Nation Department of Personnel. The Court will return the initial pleading and filing fee of the petitioner in the event that the Ho-Chunk Nation has severed the employment relationship with the respondent. However the Court will refrain from entering a final judgment if the Ho-Chunk Nation does not maintain a continuing employment relationship with the respondent. Instead, the Court will suspend all case file activity and permit the petitioner to file a motion to resume activity if the respondent subsequently resumes employment.


The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

**DECEMBER 22, 2005**

*Debra Crowe v. Foster D. Cloud; State of Wisconsin/Sauk County, and Dawn E. Potter v. Foster D. Cloud*, CV 96-84; 01-12 *Order*
The petitioner in Case No.: CV 96-84 filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

The Court notes that a minor child emancipated, and therefore the respondent’s obligation for current child support for this child ends when the child turns eighteen (18) years of age. The Court modified the order accordingly.

The petitioner in Case No.: CS 03-11 filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

The respondent requested a termination of withholding for current child support and child support arrears in a motion. The respondent submitted a Stipulation and Order to Amend Judgment, which stated that the parties agreed to suspend child support and expunge arrears. The Court granted the motion.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.
The Court had to determine whether to enforce another standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

**DECEMBER 29, 2005**
The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

**DECEMBER 30, 2005**
The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.

**Civil Garnishment**

**DECEMBER 6, 2005**
*Discover Financial Services v. Troy E. Swallow, CG 05-114 Order (Default Judgment) (HCN Tr. Ct., Dec. 6, 2005).* (Matha, T).
The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

**NCO Attorney Network v. Preston Thompson, CG 05-115 Order (Default Judgment) (HCN Tr. Ct., Dec. 6, 2005).** (Matha, T).
The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

**DECEMBER 13, 2005**
The petitioner sought recognition and enforcement of a foreign money judgment. However, prior to the responsive pleading deadline, the petitioner filed the December 9, 2005 request to dismiss. The petitioner indicated that it “relieved [the respondent] of any further obligation in the … garnishment.” The Court dismissed the case without prejudice.

**DECEMBER 14, 2005**
The petitioner sought recognition and enforcement of a foreign money judgment. However, prior to the responsive pleading deadline, the petitioner filed the November 17, 2005 request to dismiss. The petitioner indicated that it “released … garnishee and discharged [her] from further liability.” The Court dismissed the case without prejudice.

The petitioner sought recognition and enforcement of a foreign money judgment. However, prior to the responsive pleading deadline, the petitioner filed the December 14, 2005 request to dismiss. The petitioner indicated that “[t]he account has been paid in full.” The Court dismissed the case without prejudice.

**DECEMBER 20, 2005**

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

**Civil Cases**

**DECEMBER 1, 2005**

The Court issued an Order Denying Motion to Continue Trial Date. The petitioner, through counsel, submitted a letter to the Court with attached documents. The letter appeared to be requesting the Court to reconsider the Order. The Court denied the request because counsel failed to provide the necessary evidence, either through testimony or in writing, to substantiate good cause for a continuance of a trial.

**DECEMBER 6, 2005**

*Dallas White Wing v. Ho-Chunk Nation General Council et al.; Ona Garvin v. Ho-Chunk Nation General Council et al., CV 05-93, -90 Order (Granting Continuance of Trial Date) (HCN Tr. Ct., Dec. 6, 2005).* (Gouty-Yellow, T).

The Court grants a continuance of trial based upon documentation provided by counsel that the petitioner is under doctor’s orders to remain at the hospital.

**DECEMBER 7, 2005**

*Ho-Chunk Nation Health & Social Services v. Kim Whitewing, Sandra Whitewing and Jeanette Whitewing, CV 05-45 Order (Default Judgment) (HCN Tr. Ct., Dec. 7, 2005).* (Gouty-Yellow, T).

The Court must determine whether to grant the relief requested by the plaintiffs. The defendants failed to answer the Complaint despite proper service or process. The Court renders a default judgment against the defendants, awarding the plaintiffs permissible relief sought, which includes totals for long distance phone calls while receiving Emergency Assistance lodging.

**DECEMBER 8, 2005**

*Clarence Pettibone v. Alvin Cloud et al., CV 03-77 Order (Granting Motion to Dismiss Gloria Visintin as a Defendant) (HCN Tr. Ct., Dec. 8, 2005).* (Gouty-Yellow, T).

The Court grants the plaintiff’s motion to dismiss Gloria Visintin as a defendant.

**DECEMBER 9, 2005**

*Sharon L. Williams v. Four Winds Ins. Agency et al., CV 02-48 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Dec. 9, 2005).* (Matha, T).

The Court granted the plaintiff’s counsel request to allow him to appear by telephone at the Scheduling Conference.

**DECEMBER 13, 2005**


The Court granted the plaintiff’s counsel’s request to allow him to appear by telephone at the hearing.

**DECEMBER 14, 2005**

*Sharon L. Williams v. Four Winds Ins. Agency et al., CV 02-48 Scheduling Order (HCN Tr. Ct., Dec. 14, 2005).* (Matha, T).

The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

**DECEMBER 20, 2005**

*Forest Funmaker et al. v. Alvin Cloud et al., CV 05-86 Order (Denial of Motion) (HCN Tr. Ct., Dec. 20, 2005).* (Gouty-Yellow, T).

The Court denied the plaintiffs’ Motion for Expedited Consideration. A plaintiff may seek expedited consideration of motions. However the plaintiffs combined four (4) motions, and did not meet the requirements of the rule. The applicable rule does not contemplate judicial resolution of motions that do not require less than five days.

**HOUSING**

**DECEMBER 6, 2005**

*Ho-Chunk Housing Authority v. Ronald D. Martin, CV 03-36 Order (Final Judgment) (HCN Tr. Ct., Dec. 6, 2005).* (Matha, T).

The Court must determine whether to stay the issuance of a writ of restitution in a housing
eviction action. The defendant requested a hardship hearing within thirty (30) days after the issuance of the writ of restitution. The Court denies the defendant’s request for relief on constitutional grounds. The case has been rendered moot due, in large part, to its prolonged inactive status while assigned to former Chief Judge William H. Bossman.

DECEMBER 7, 2005

The Court must determine whether to grant the relief requested by the plaintiff. The defendants failed to answer the Complaint despite proper service of process. The Court renders a default judgment against the defendants, awarding the plaintiff permissible relief sought in the Complaint. The plaintiff made a request for rents owed and to disallow the defendants to apply for any future loans against their per capita distribution in excess of the judgment.


The Court determined to convene a hearing so as to grant the defendants the ability to argue the December 2, 2005 Motion to Modify Default Judgment Entered Oct. 3, 2005. The plaintiffs must file any written Response to the Motion to Modify at least one day prior to the hearing on the motion.

CHILDREN’S TRUST FUND (CTF)
DECEMBER 1, 2005

The Court convened a Fact-Finding Hearing to consider the merit of the petitioner’s Petition for Release of Per Capita Distribution. The petitioner failed to appear at the Fact-Finding Hearing, and did not notify the Court of an inability to attend the proceeding. Therefore, the Court dismissed the instant case without prejudice.

DECEMBER 19, 2005
In the Interest of Adult CTF Beneficiary: John M. Lowe, DOB 01/24/86 v. HCN Office of Tribal Enrollment, CV 05-100 Order (Denial of Petition) (HCN Tr. Ct., Dec. 19, 2005). (Matha, T).

The Court determined that an adult cannot access his Children’s Trust Fund (CTF) account to pay for costs associated with securing legal counsel and satisfying criminal fines and an automobile loan. The Court has erected a general rule against retiring the personal debts of adult CTF petitioners through a release of funds, especially when the debt arises in conjunction with a foreign law enforcement process. Similarly, the Court denies the request for payment of an automobile loan. The petitioner has already purchased a vehicle, and the chosen vehicle does not satisfy the long-standing requirements for determining automobile appropriateness. Finally, the Court routinely denies requests for attorney fees in criminal matters due to the presence of an absolute right to be represented by counsel as conferred by the CONSTITUTION OF THE UNITED STATES.

DECEMBER 22, 2005

THE PER CAPITA DISTRIBUTION ORDINANCE, 2 HCC § 12 obligates the Court to require the submission of conclusive accounting in relation to each and every CTF disbursement case. In the instant case, the Court has not received documentation substantiating that the released funds were expended in accordance with the terms of the judgment, i.e., strictly used for the acquisition of clothing and a washer and dryer. The Court has no information regarding the use of the released CTF monies. Therefore, the Court imposes a remedial sanction of $10.00 per day while she remains in non-compliance with the judicial directives.
DECEMBER 27, 2005
In the Interest of Minor Children: A.E., DOB 11/12/90, E.S.N., DOB 07/29/92, M.M., DOB 07/12/95, D.M., DOB 01/12/98, by Angela Mike v. HCN Office of Tribal Enrollment, CV 05-87 Order (Dismissal) (HCN Tr. Ct., Dec. 27, 2005). (Gouty-Yellow, T).
The petitioner filed a Petition for Release of Per Capita Distribution, and the Court issued a Notice of Hearing. However, the petitioner did not appear at the hearing. The Court granted a Motion to Dismiss, and orders that the matter be dismissed without prejudice. The Court further grants the petitioner thirty (30) days in which to request a hearing.

DECEMBER 29, 2005
The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with an automobile. The Court denied the request. The Court cannot determine the presence of special financial need since the petitioner provided no information regarding the income generated within the household. The Court rarely grants vehicle requests because petitioners usually cannot establish the presence of a necessity.

The Court determined that a parent could, in part, access monies on behalf of the minor child to pay for private school tuition.

The Court determined that a parent could, in part, access monies on behalf of the minor child to pay for private school tuition.

In the Interest of Minor Child: L.G.R., DOB 05/14/97, by Lea Marie Rave v. HCN Office of Tribal Enrollment, CV 05-106 Order (Petition Granted) (HCN Tr. Ct., Dec. 29, 2005). (Gouty-Yellow, T).
The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with orthodontic procedures. The Court granted the request.

The Court convened a Fact-Finding Hearing to consider the merit of the petitioner’s Petition for Release of Per Capita Distribution. The petitioner failed to appear at the Fact-Finding Hearing, and did not notify the Court of an inability to attend the proceeding. Therefore, the Court dismissed the instant case without prejudice. The Court further ordered that the petitioner may request a hearing within thirty (30) days of receipt of the order.

DECEMBER 30, 2005
The Court determined that an adult can access his Children’s Trust Fund (CTF) account to pay for costs associated with clothing, toiletries, mandatory release fund, electronics, fines and court costs associated with his incarceration. The Court grants a release of funds, in part, to satisfy the request of the petitioner and denies the request in part. The Court grants a release of funds for clothing, incidentals and his release fund. The Court denies the electronics, fines and court costs requests.
EMPLOYMENT
DECEMBER 16, 2005
Louella A. Kelty v. Jonette Pettibone and Ann Winneshiek, CV 98-49 Order (Determination Upon Remand) (HCN Tr. Ct., Dec. 16, 2005). (Matha, T). The Supreme Court declared that on remand, the Court may address the issue as to the application of the Ho-Chunk Preference Provision and whether Native American preference could be applied to the case at hand. The defendant improperly laid off the plaintiff from her position while retaining eight (8) other employees who were not entitled to preference. Under the Ho-Chunk Preference Clause, the plaintiff was entitled to preference. Therefore, the Court awarded the plaintiff reassignment and other relief.

DECEMBER 28, 2005
Fran Kernes v. George Lewis, et al., CV 05-08 Order (Final Judgment) (HCN Tr. Ct., Dec. 28, 2005). (Gouty-Yellow, T). The Court must determine whether to reverse the defendant’s denial of a four percent merit increase from an unscheduled discretionary performance evaluation. The Court, however, concurs with the defendants’ interpretation of the Ho-Chunk Nation Personnel Policies and Procedures Manual. The Court holds the plaintiff’s legal arguments unpersuasive. The Personnel Director creates policy and procedure through written memorandum, which provides direction to supervisors for the purpose of clarification and actual practice to provide consistent and fair treatment to all employees. The Nation proved that it is not the practice of the Nation to allow for merit increases at any time but during the annual performance evaluation.

INCOMPETENT TRUST FUND (ITF)
DECEMBER 7, 2005
In re the Interest of Kathy Brandenburg by Jon B. Bahr v. Ho-Chunk Nation Office of Tribal Enrollment, CV 98-18 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Dec. 7, 2005). (Gouty-Yellow, T). The Court granted the party’s request to appear by telephone at the Hearing.

DECEMBER 14, 2005
In the Interest of Decedent Member: N.J.W., DOB 02/17/24, by Kenneth Freitag v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-105 Order (Releasing Incompetent’s Trust Fund to Estate) (HCN Tr. Ct., Dec. 14, 2005). (Matha, T). The Court must determine whether to release the monies from a decedent tribal member’s Incompetent’s Trust Fund (ITF) to the estate. The Ho-Chunk Nation has deposited a substantial sum of money in the ITF account prior to the unfortunate passing of the tribal member. These monies remain in an irrevocable trust held by the Ho-Chunk Nation and administered by Fifth Third Bank. The Court now directs the release of the ITF to the court-appointed representative of the estate.

DECEMBER 22, 2005
In the Interest of Adult Incompetent: W.E.S., DOB 12/23/36, by Frank E. Bichanich v. Ho-Chunk Nation Office of Tribal Enrollment, CV 04-22 Order (Motion Granted) (HCN Tr. Ct., Dec. 22, 2005). (Matha, T). The Court must determine whether a permanent guardian can access monies on behalf of an adult incompetent member from the ITF to pay for costs associated with maintaining the residence, i.e. state property taxes. The Court grants a release of funds to satisfy the request of the guardian.
DECEMBER 27, 2005


The Court determined that the permanent guardian can access monies on behalf of an adult incompetent member from the ITF to pay for costs associated with bad check writing by the ward, to increase the ward’s allowance to include for personal items, and an activity fee, as well as payment for a Public Defender fee and payment on a bill from the county regarding the cost of her past care.


The Court previously released funds from the ITF account of an adult incompetent member for costs associated with personal expenses. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

Divorce

DECEMBER 21, 2005

Carol LaMere v. Mike LaMere, FM 05-01 Order (Erratum) (HCN Tr. Ct., Dec. 21, 2005). (Gouty-Yellow, T).

The Court issued an Order (Granting Divorce) recognizing dissolution of marriage of the parties by divorce. The Court issues the judgment to correct a clerical mistake made in that Order. A subsequent review of the record reveals that the petitioner resumes use of her maiden name.

Juvenile

DECEMBER 1, 2005


A Review Hearing was scheduled, and Ho-Chunk Nation Child and Family Services, through its attorney, requested a Motion to Reschedule and a Motion for Expedited Consideration. The Court granted the request.


The petitioner alleges that the minor is effectively without a parent or legal guardian due to the absence of the mother and the inability of the father to care for the child. Therefore, the Court appointed Ho-Chunk Nation Child and Family Services as interim temporary legal guardian until the Court has the opportunity to more thoroughly examine the facts and ultimately ascertain the best interests of the minor child.


The Court conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

DECEMBER 5, 2005


The Court convened a Plea Hearing for the purpose of determining whether the parents of the minor children wished to contest the allegation contained in the Child/Family Protection Petition filed by Ho-Chunk Nation Child and Family Services. The Court entered pleas of not guilty on behalf of the
parents due to their failure to attend the proceeding due to incarceration. The Court will schedule a Trial.

**DECEMBER 6, 2005**

The petitioner filed a Petition for Temporary Guardianship regarding the minor child. A Hearing occurred, however the petitioner failed to appear. The petitioner may refile this action in the event of a future change in circumstances.

The Court must determine whether to appoint a temporary legal guardian of the minor child. After a careful weighing of all the presented evidence, the Court deems that such an appointment is not within the minor child’s best interests because the service needs of the child would not be met.

**DECEMBER 7, 2005**

The Court conducted a Review Hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

**DECEMBER 13, 2005**

The Court considered the Motion for Substitution of Judge filed by petitioner’s counsel. The stated grounds were an alleged ex parte communication and a concern that the sitting Judge would not apply the correct law to the case. The Court denies the request due to the falsity of allegation of the ex parte communication and the second concern proving insufficient for a substitution of judge.

The Court conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to convene an additional proceeding to address the issue of custody.

The Court granted the Bureau of Milwaukee Child Welfare social worker’s request to allow the social worker to appear by telephone at the Trial.

The Court conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

The Court, at the Review Hearing, redirected child support to the physical custodian.

The Court conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

The Court determined to hold the father of the minor child in contempt of court for knowingly violating the express terms of several judgments. The contemnor failed to attend the Show Cause Hearing.

HO-CHUNK NATION COURT BULLETIN

VOL. 12, NO. 1

JANUARY 2006

PAGE 19 OF 22
Hearing. The Court holds the father in contempt and imposes a reasonable remedial sanction.

DECEMBER 22, 2005

The minor child attained the age of majority, and, therefore, the Court terminates its jurisdiction and supervision over the instant case.

Recent Filings

Trial Court

Civil Garnishment

DECEMBER 22, 2005

DECEMBER 27, 2005
Riverside Finance, Inc. v. Lawrence L. Walker, CG 05-125. (Matha, T).


Child Support

DECEMBER 2, 2005
In Re the Marriage of Crystal L. Rice v. David M. Rice, CS 05-97. (Matha, T).

DECEMBER 22, 2005
Sabrina L. Decorah v. Amery D. Decorah, Sr., CS 05-98. (Matha, T).


Civil Cases

DECEMBER 2, 2005
In the Interest of Decedent Norma J. Whitebear v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-105. (Matha, T).

DECEMBER 7, 2005
In the Interest of Minor Child: L.G.R., DOB 05/14/97 by Leah M. Rave v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-106. (Matha, T).

In the Interest of Minor Child: A.W., DOB 08/30/87 by April Webster v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-107. (Matha, T).

DECEMBER 14, 2005
Cha-ska Prescott v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-108. (Matha, T).

DECEMBER 14, 2005
Leilani Jean Chamberlain v. Adam Hall, Ho-Chunk Nation Office of Tribal Enrollment Officer, CV 05-109. (Matha, T).

Civil Garnishment

In the Interest of Minor Child: C.Y., DOB 01/18/94, JV 05-32. (Matha, T).
Supreme Court

DECEMBER 23, 2005
Nicholas Joseph Kedrowski v. Sharon Whitebear et al., SU 05-12.
**Ho-Chunk Nation Court System**

**Judiciary and Staff**

Supreme Court – Mary Jo B. Hunter, Chief Justice
Mark D. Butterfield, Associate Justice
Dennis Funmaker, Associate Justice

Traditional Court – Earl Blackdeer
Donald Blackhawk
Dennis Funmaker
Jim Greendeer
Douglas Greengrass
Desmond Mike
Gavin Pettibone
Douglas Red Eagle
Preston Thompson, Jr.
Eugene Thundercloud
Morgan White Eagle
Clayton Winneshiek

Trial Court – Todd R. Matha, Chief Judge
Vacant, Associate Judge

Clerk of Court, Trial Court – Marcella Cloud
Assistant Clerk of Court, Trial Court – Selina Joshua
Bailiff/Process Server – Albert Carrimon
Administrative Assistant – Jessi Cleveland
Staff Attorney – Amanda R. Cornelius
Supreme Court Clerk – Mary Endthoff

* The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

**Wisconsin Tribal Judges Association**

(Eleven federally recognized tribes within the State of Wisconsin)

**National American Indian Court Judges Association**

(Region 10—Illinois, Indiana, Michigan, Minnesota, and Wisconsin)

---

### HCN Judiciary Fee Schedule

#### Filing Fees

- **Complaint** ........................................... $50.00
- **Petition for Release of Per Capita Distribution** (Children’s Trust Fund) ................... $50.00
- **Motion to Appear Pro Hac Vice** ............... $35.00
- **Appellate Filing Fee** ............................ $50.00
- **Petition to Register and Enforce Foreign Judgment/Order** .......................... $20.00
- **Marriage License Fee** .......................... $50.00

#### Court Fees

- **Copying** ........................................... $0.10/page
- **Faxing** ........................................... $0.25/page (sending & receiving)
- **CD of Hearings** ................................. $12.50/CD
- **Deposition Videotape** .......................... $10.00/tape
- **Certified Copies** ............................... $0.50/page
- **Equipment Rental** ............................. $5.00/hour
- **Admission to Practice** ............................ $50.00

#### Legal Citation Forms

The following are example citation forms by legal reference and citation description.

- **Ho-Chunk Nation Constitution**
  Constitution, Article Number, Section, Subsection.
  HCN CONST., Art. II, Sec. (or §) 1(a).

- **Ho-Chunk Nation Code**
  Ordinance/Act Name Title Number HCC Section.
  ELDERRCARE ACT, 4 HCC § 1.

- **HCN Supreme Court Case Law**
  Case Name, Case Number (HCN S. Ct., month, day, year).

- **HCN Trial Court Case Law**
  Case Name, Case Number (HCN Tr. Ct., month, day, year)

- **Ho-Chunk Nation Rules of Civil Procedure**
  HCN R. Civ. P. 19(B)
Inside this Issue

1 Tradition Court member, Gavin R. Pettibone, passes on

2 2005-2006 Marriage Ceremonies

2 Updates from Outside Courts

4 Recent HCN Court Decisions

17 Recent HCN Court Filings

19 HCN Court System Judiciary and Staff

HCN Judiciary Fee Schedule

Legal Citation Forms

On Tuesday, January 24, 2006, the Nation lost another beloved elder and member of the Ho-Chunk Nation Traditional Court, Gavin R. Pettibone. Mr. Pettibone was born on August 14, 1932, in Jackson County, Wisconsin. Mr. Pettibone was a former area representative of the Ho-Chunk Nation. He held a number of other employment positions, including the Director of Ho-Chunk Housing, a sheriff’s deputy for Jackson County, Sands Bingo and Casino security officer, Rainbow Casino security officer, a union cement finisher, and an owner of a cement construction company. Furthermore, he helped with the construction of the Black River Memorial Hospital and the Ho-Chunk Pow Wow amphitheater. Mr. Pettibone was also a leader of the Pigeon Clan and served on the Traditional Court since 1995. The thoughts and prayers of the HCN Judiciary go out to Mr. Pettibone’s family and friends.
2005-2006 MARRIAGE CEREMONIES

February 11, 2005
Virgil H. Smith & Cynthia C. Cloud
Presiding Official: Honorable Todd R. Matha, Associate Trial Court Judge

March 8, 2005
Herbert Cleveland & Paula F. Winneshiek
Presiding Official: Honorable Mark Butterfield, Associate Supreme Court Justice

August 5, 2005
Kenneth Mitch, Jr. & Deanna M. Keenan
Presiding Official: Honorable Todd R. Matha, Chief Trial Court Judge

November 23, 2005
Brady Two Bears & Melanie R. Stacy
Presiding Official: Honorable Dennis M. Funmaker, Sr., Associate Supreme Court Justice

February 3, 2006
Dustin P. Pettibone & Andrea K. Rave
Presiding Official: Honorable Todd R. Matha, Chief Trial Court Judge

UPDATES FROM OUTSIDE COURTS

United States Supreme Court

Certiorari pending
Seneca Nation of Indians v. New York, No. 05-905 (filed January 17, 2006).

Certiorari denied
Shobar v. California, No. 05-707 (denied January 23, 2005).


Patterson v. New York, No. 05-550 (denied January 9, 2005).


Skokomish Indian Tribe v. United States, No. 05-434 (denied January 9, 2005).

Ninth Circuit Court of Appeals
Smith v. Salish Kootenai College, Docket No. 03-35306 (9th Cir. 2005).
The question presented in this case is whether a non-Indian plaintiff consents to the civil jurisdiction of a tribal court by filing claims against an Indian defendant arising out of activities within the reservation where the defendant is located. The
non-Indian plaintiff was a student at the college. As part of a course in which he was enrolled, the non-Indian plaintiff was driving a dump truck owned by defendants within the reservation. A right rear main spring broke that caused the truck to roll over. The non-Indian plaintiff and another passenger were severely injured. A third passenger was killed. The estate of the third passenger brought an action against the non-Indian plaintiff and defendants in tribal court. The non-Indian plaintiff brought cross claims against defendants. The main action was settled except with regard to the non-Indian plaintiff's cross claims. After return of the unfavorable verdict, the non-Indian plaintiff challenged the tribal court's jurisdiction to hear his claims. The appellate court found that the college was a tribal entity. The tribal court had jurisdiction because the claims arose out of activities conducted or controlled by a tribal entity on tribal lands. The non-Indian plaintiff brought the action in tribal court because after the parties were realigned the non-Indian plaintiff did not challenge the tribal court's jurisdiction. The Tribe had a strong interest in regulating conduct of their members and had an interest in compensating persons injured by their own. The judgment was affirmed.

Eighth Circuit Court of Appeals


In February 2003, six tribes and an unincorporated association commenced an action against multiple defendants, seeking to enjoin construction of a shooting range near Bear Butte. The Tribes filed an action that challenged the proposed construction of a shooting range, partially funded by HUD, near Bear Butte, South Dakota, as a violation of the Tribes' rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA) and the Religious Freedom Restoration Act (RFRA). The Tribes obtained a preliminary injunction to stay construction until the litigation was resolved. Thereafter, as part of a periodic review, HUD determined that the proposed shooting range did not meet any of the requirements for HUD funding, and the HUD funding for the project was withdrawn. Upon motion from HUD and the other defendants, the lawsuit was dismissed as moot, subject to the Tribes' request for attorney's fees. The court held that the Tribes did not meet the requirement of prevailing party status for the recovery of fees under 42 U.S.C.S. § 1988 or 28 U.S.C.S. § 2412(b) for their claims under RLUIPA or RFRA. The only relief that the Tribes obtained was the preliminary injunction, which did not merit attorney’s fees.

District of Columbia Circuit Court of Appeals

Taxpayer of Michigan against Casinos v. Norton, Docket No. 05-5206 (9th Cir. 2005).

The Pokagon Band of Potawatomi Indians signed a gaming compact and purchased rights to the land necessary for that project. The BIA issued an environmental assessment (EA) for the project and issued a Finding of No Significant Impact for the trust acquisition. In response to Taxpayers of Michigan Against Casinos’ (TOMAC’s) claims, the appellate court concluded, the EA did not mandate the completion of an environmental impact statement (EIS) because it was not arbitrary and capricious. TOMAC's principal claim was that the BIA and the trial court improperly concluded that the Tribe was a "restored" tribe under § 20 of the Indian Gaming Regulatory Act. The appellate court disagreed, finding that the Pokagon Restoration Act, explicitly stated that it was an act to restore to Federal recognition. Finally, the appellate court held that the statute restoring the tribe did not violate the nondelegation doctrine. The judgment of the trial court was affirmed.

U.S. District Courts


This case involved a challenge to the Forest Service's decision to authorize upgrades to facilities at the Arizona Snowbowl, an existing ski area in the Coconino National Forest. The Navajo Nation argued that authorization of the upgrades violated the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), the National Forest Management Act (NFMA), and the Religious Freedom Restoration Act (RFRA). The
court first held that the Forest Service complied with NEPA by identifying recreation as a proper purpose, giving consideration to alternatives for implementing such purpose, and considering the impacts and effects of using reclaimed aquifer water for snowmaking. Further, the Forest Service adequately described the steps for mitigating the potential adverse effects of the upgrades on the cultural and historical characteristics of the area as required by the NHPA. Moreover, the tribes failed to show a violation of the RFRA since the upgrades did not have a substantial impact on tribal religious practices, require violation of religious beliefs, or penalize religious activity.

Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and categorized by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader’s benefit. They should in no way be used as substitution for citations to the actual court opinion.

Within the Trial Court, cases are categorized and docketed as one of the following: Child Support (CS or if filed prior to 1998, CV), Civil Garnishment (CG), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. In some instances a decision may touch upon other topics that may not warrant a summary in this index, but the editor will use the indicator “other topic(s) covered,” as a research aid for the reader.

**Recent Decisions and Recent Filings both begin with the date where the previous Court Bulletin left off.**

**Trial Court**

**Child Support**

**JANUARY 3, 2005**


The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

**JANUARY 5, 2005**


The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

**JANUARY 9, 2005**

*In Re the Marriage of: Crystal L. Rice v. David M. Rice, CS 05-97 Order (Enforcing Child Support Against Wages) (HCN Tr. Ct., Jan. 9, 2006). (Matha, T).*

The Court had to determine whether to grant full faith and credit and/or comity to a foreign child support order against the respondent’s wages. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

**JANUARY 11, 2005**

*State of Wisconsin/Jackson Co. v. Chris M. Thundercloud, CS 00-15 Order (Modifying and...*
Upon a review of the file, the Court noted that the minor child turned eighteen (18) years of age. In accordance with Wisconsin law, the respondent’s obligation for current child support ends when a child turns eighteen (18) years of age or until the age of nineteen (19) if the child is enrolled in an accredited program to receive a high school diploma. The Court received information that the minor child was enrolled in high school, and therefore, child support shall continue until the minor child turns nineteen (19) years of age.

Kitty Khamphouy v. Charles Fox, CS 05-87 Order (Enforcing Child Support Against Wages) (HCN Tr. Ct., Jan. 9, 2006). (Matha, T).
The Court had to determine whether to grant full faith and credit and/or comity to a foreign child support order against the respondent’s wages. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

JANUARY 12, 2005
The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

JANUARY 13, 2005
The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

JANUARY 17, 2005
The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the account statement. The respondent filed a response within the specified timeframe, and inquired whether the Court possessed the authority to consolidate the cases to reduce her respective obligations. The Court performed an equitable adjustment as permitted by the prevailing law, and directed the petitioner to the relevant foreign jurisdiction for purposes of seeking any ongoing support modification. The Court granted the petitioner’s request for recognition and enforcement.


The Court had to determine whether to enforce three (3) standing foreign child support orders against the respondent’s per capita distributions. The respondent responded to the initial pleading within the specified timeframe by providing documentation that the minor child resided with the respondent. The respondent failed to substantiate the defense at the Fact-Finding Hearing, which he neglected to attend. The Court granted the petitioner’s request for recognition and enforcement.


The petitioner filed proof of enrollment within the prescribed time frame. Therefore, the existing order remains unchanged until the minor child graduates from high school pursuant to Wisconsin law.


The petitioner filed proof of enrollment within the prescribed time frame. Therefore, the existing order remains unchanged until the minor child graduates from high school or turns nineteen (19) years of age, pursuant to Wisconsin law.


The Court had to determine whether to grant the petitioner’s motion to modify. Each petitioner requested a motion to modify by submitting a certified copy of the account history statement. The Court granted the petitioners’ request for enforcement.

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of a foreign child support order. The respondent failed to respond within the specified timeframe. The Court granted the motion.


The Court issued an Order (Modifying and Enforcing Child Support). Pursuant to the Ho-Chunk Nation Rules of Civil Procedure, Rule 58(D), the Court issues this Erratum Order to correct a clerical mistake made in that Order. A review of the record reveals that the respondent’s case numbers, regarding arrears, were incorrect.


The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.


The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.
The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

JANUARY 30, 2005
Sue Harpin, MT CS on behalf of Twilah Sherven v. Christopher Kapayou, CS 05-71 Order (Enforcing Child Support Against Wages) (HCN Tr. Ct., Jan. 30, 2006). (Matha, T).
The Court had to determine whether to grant full faith and credit and/or comity to a foreign child support order against the respondent’s wages. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the account history. The respondent failed to respond within the specified timeframe. The Court granted the motion.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

Civil Garnishment
JANUARY 9, 2006
The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

JANUARY 19, 2006
The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.
January 27, 2006
The Court issued a default judgment against the respondent. The petitioner filed proof of satisfaction of judgment, pending payment of the debtor’s balance. Therefore, the Court recognized that the debt will be satisfied, and informed the parties of its intent to close the file.

The Court issued a default judgment against the respondent. The petitioner filed proof of satisfaction of judgment, indicating that the respondent has paid the judgment in full. Therefore, the Court recognized that the debt is satisfied, and informed the parties of its intent to close the file.

The Court issued a default judgment against the respondent. The petitioner filed proof of satisfaction of judgment, indicating that the respondent has paid the judgment in full. Therefore, the Court recognized that the debt is satisfied, and informed the parties of its intent to close the file.

January 5, 2006
Estate of Dennis S. Migala v. Rainbow Casino and Ho-Chunk Nation, CV 00-06 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 5, 2006). (Matha, T).
The Court approved a settlement agreement wherein the defendants agreed to compensate the plaintiff. The defendants subsequently filed a Satisfaction of Judgment. This document indicated that the defendants have completely satisfied the debt obligation. Therefore, the Court recognized that the debt had been paid in full, and informed the parties of its intent to close.

January 13, 2006
Majestic Pines Hotel et al. v. Any Time Towing and/or Richard Olson and/or David Olson and/or Mark Olson, CV 04-31 Order (Dismissal without Prejudice) (HCN Tr. Ct., Jan. 13, 2006). (Matha, T).
The Court had to determine whether to dismiss the instant action due to a failure to effectuate service of process. Agents of the Court could not locate the defendants at the addresses provided in the initial pleading, and the Court has no information regarding the defendants’ present whereabouts. The Court, therefore, dismissed the case without prejudice.

January 20, 2006
The Court urged the parties to mutually resolve any potential billing concerns. However, the Court informed the parties that it “would convene a fact-finding hearing upon motion of a party, if necessary.” The plaintiff subsequently appealed the above decision, and the Ho-Chunk Nation Supreme Court affirmed the Trial Court and remanded for the final disposition. The Court has awaited a possible request from the parties for a fact-finding hearing. Regardless, neither party has presented such a request in nearly nine (9) months. Consequently, the Court informs the parties that it shall dismiss the remaining cause of action with prejudice due to case inactivity in excess of six (6) months, unless the plaintiff demonstrates good cause to the contrary within the prescribed time frame.
The Court had to determine whether to grant the outstanding motions filed by the plaintiff. The Court entered this order to facilitate and explain the discovery process, including identifying the applicable procedure and law that governs the instant case. While the Legislature may promulgate law, the Legislature cannot enact judicial procedural rules. The defendant questioned “whether New York procedural law or Ho-Chunk procedural law applies to this litigation.” The Court is constitutionally obligated to apply the procedural rules adopted by the Ho-Chunk Nation Supreme Court. The Court will interpret and apply New York substantive law, i.e., laws of the Nation, in resolving certain issues presented within pending motions. New York statutory law in effect upon the execution of the Agreement, including any final judicial interpretations of such law by the New York Court of Appeals, comprises the applicable substantive law. All other lower foreign court decisions are deemed persuasive authority since the Legislature could not act to supersede either this Court’s or the Supreme Court’s interpretations of the law. As warranted, the Court shall apply the HCN R. Civ. P. or FED R. EVID. to other issues presented within the pending motions.

The Court addressed and resolved four (4) distinct issues. The defendant, Bank of America asserted that certain documents, which the plaintiff requested within its Interrogatories/Requests for Documents, qualified for immunity or attorney-work product privilege under New York law. In order to judge whether or not the documents qualified, the Court would need to view the documents in camera. The defendant questioned the propriety of the presiding judge conducting an in camera inspection, and therefore the Court appointed a pro tempore judge to view the documents in camera. The defendant reasonably objected to the scope of the plaintiff’s request for a full disclosure of a voluminous amount of swap or hedging agreements entered into during an established timeframe. The Court held that the defendant must provide the plaintiff with the requested information, but in a manner that adheres to confidentiality concerns. Therefore, the Court required the plaintiff to identify an expert witness to modify the discovery request. Finally, the plaintiff requested attorney fees and costs as a result of the defendant designating a deponent who allegedly lacked knowledge of the matters identified in the plaintiff’s deposition notice. The Court denied such requests due to the plaintiff’s failure to clearly articulate the scope of its deposition, as well as the Court’s propensity to deny litigation expenses.

**EMPLOYMENT**

**JANUARY 3, 2006**


The Court had to determine whether to dismiss the instant case. The petitioner informed the Court of his intention to withdraw his case after conducting a scheduling conference. Therefore, the Court dismissed the action without prejudice.

**JANUARY 4, 2006**

*Sherry Wilson v. Ho-Chunk Nation Department of Personnel, CV 05-43 Order (Final Judgment) (HCN Tr. Ct., Jan. 4, 2006). (Matha, T).*

The Court had to determine whether it disagrees with the defendant’s characterization of the events that led to the plaintiff’s release from employment. The Court recognized the legitimacy of the plaintiff’s argument and proffered testimony, but the Court denied the request for relief on the basis of sovereign immunity. The defendant maintained sovereign immunity from suit unless expressly waived by the Legislature. The ERA contains a limited waiver of sovereign immunity, but it does not incorporate the plaintiff’s cause of action. The plaintiff could have perhaps partially overcome this defense, but she failed to name an individual defendant in the initial pleading, and likewise, neglected to amend her Complaint.

**JANUARY 18, 2006**

The Court shall convene a hearing to grant the defendants the ability to argue their Motion to Modify, and to provide the plaintiff the opportunity to offer a response.

**JANUARY 20, 2006**


The Court granted plaintiff’s counsel’s request to appear by telephone at the *Scheduling Conference*.

**JANUARY 24, 2006**

*Thomas Quimby v. Ho-Chunk Nation, CV 05-91 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Jan. 20, 2006). (Matha, T).*

The Court granted plaintiff’s counsel’s request to appear by telephone at the *Scheduling Conference*.

**ENROLLMENT**

**JANUARY 25, 2006**

*Cornelius Decorah, on behalf of Minors: J.D., DOB 09/17/85, et al. v. Adam Hall, HCN Tribal Enrollment Officer, et al., CV 03-25 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Jan. 25, 2006). (Matha, T).*

The Court granted plaintiff’s counsel’s request to appear by telephone at the *Scheduling Conference*.

**JANUARY 27, 2006**

*Cornelius Decorah, on behalf of Minors: J.D., DOB 09/17/85, et al. v. Adam Hall, HCN Tribal Enrollment Officer, et al., CV 03-25 Scheduling Order (HCN Tr. Ct., Jan. 27, 2006). (Matha, T).*

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case pertaining to its appeal of the Enrollment Committee decision.

**HOUSING**

**JANUARY 5, 2006**

*Ho-Chunk Nation Department of Housing, Property Management Division v. Andrew Funmaker and Nina Larson, CV 02-70 Order (Default Judgment) (HCN Tr. Ct., Jan. 5, 2006). (Matha, T).*

The Court had to determine whether to grant the relief requested by the plaintiff, including outstanding past due rent, reimbursement of utilities paid by the plaintiff, and dwelling damages. The defendant, Andrew Funmaker, failed to answer the *Complaint* despite proper service of process. The Court rendered a default judgment against the defendant, and awarded the plaintiff permissible relief sought in the *Complaint* as modified through subsequent unchallenged motions.

**JANUARY 13, 2006**

*Ho-Chunk Nation Housing Authority v. Adriane Walker, CV 02-83 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 13, 2006). (Matha, T).*

The Court granted a monetary judgment against the defendant, and directed the Ho-Chunk Nation Department of Treasury to withhold per capita income to satisfy a debt obligation to the Nation. The plaintiff filed a *Satisfaction of Judgment*, pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 59. The Court recognized that the debt has been paid in full, and informed the parties of its intention to close the file.

*Ho-Chunk Nation Housing Authority v. Tyrone Walker, CV 01-44 Order (Satisfaction of Judgment) (HCN Tr. Ct., Jan. 13, 2006). (Matha, T).*

The Court granted a monetary judgment against the defendant, and directed the Ho-Chunk Nation Department of Treasury to withhold per capita income to satisfy a debt obligation to the Nation. The plaintiff filed a *Satisfaction of Judgment*, pursuant to *Ho-Chunk Nation Rules of Civil Procedure*, Rule 59. The Court recognized that the debt has been paid in full, and informed the parties of its intention to close the file.
Ho-Chunk Nation Home Ownership Program and Ho-Chunk Nation v. Greendeer Construction et al., CV 04-50 Order (Granting Defendant’s Motion) (HCN Tr. Ct., Jan. 16, 2006). (Matha, T).

The Court granted a default judgment against the defendants due to a failure to submit a timely response. The defendant, Deanna L. Greendeer later filed a Motion to Modify Default Judgment Entered on October 3, 2005. In response, the Court entered an Order (Motion Hearing). The Court convened the Hearing. At the Hearing, the plaintiffs stipulated that Ms. Greendeer was neither an officer, nor co-owner of Greendeer Construction. The Court needed to determine whether the motion constituted “a timely showing of good cause.” In light of the plaintiffs’ stipulation, the Court grants the defendant’s motions, thereby discharging Ms. Greendeer’s liability for the debt.


The Court had to determine whether to grant the relief requested by the plaintiff, i.e., restitution of premises and an award of damages. The defendant failed to answer the Complaint despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiff permissible relief sought in the Complaint.


The Court had to determine whether to grant the relief requested by the plaintiff, i.e., restitution of premises and an award of damages. The defendant failed to answer the Complaint despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiff permissible relief sought in the Complaint.


After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the property restored to its possession and to remove the defendant, his possessions, and those occupying the property with him from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Sauk County in order to restore the property.


The Court had to determine whether to grant the relief requested by the plaintiff, i.e., restitution of premises and an award of damages. The defendant failed to answer the Complaint despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiff permissible relief sought in the Complaint.


After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the
property restored to its possession and to remove the defendant, her possessions, and those occupying the property with her from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Sauk County in order to restore the property.

**January 20, 2006**


The defendants filed *Defendants’ Motion to Dismiss for Lack of Activity*, arguing that the Court should dismiss the instant action on the basis of case inactivity in excess of six (6) months. Three (3) judges have presided over this matter since its filing on April 15, 1998. Current Chief Judge Todd R. Matha accepted the assignment by virtue of his predecessors’ inability to enter a final decision. At present, the Court is actively attempting to resolve long-standing suits that remained dormant during prior judicial assignments. The Court maintains jurisdiction over seventeen (17) such suits, and provides monthly reports to the Ho-Chunk Nation Supreme Court in regards to the status of these cases. The Court shall not grant a dismissal of the instant case since the plaintiff cannot be held responsible for judicial neglect. The Court will enter a decision as soon as practicable despite its present lack of a full contingent of judicial officers.

**January 24, 2006**


The Court, in its discretion, determined to convene a hearing to grant the plaintiff the ability to argue her *Motion*, and to provide the defendants the opportunity to offer a response. The Court shall entertain the motion on the date, time and location indicated within the *Notice of Hearing*.

**January 25, 2006**


Upon review of the file, the Court, pursuant to *HCN R. Civ. P. 56(C)*, moved to dismiss this action on the grounds that there has been no other filing or activity on the record for six (6) months. Accordingly, this action shall be dismissed without further notice to either party, unless good cause is shown in writing prior to specified timelines.

**Children’s Trust Fund (CTF)**

**January 9, 2006**


The Court previously released funds from the CTF account of a minor child for costs associated with orthodontic procedures. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

**January 11, 2006**

The Court had to determine whether the physical custodian and maternal grandmother and an adult can access CTF accounts to pay for costs associated with clothing, bedroom furniture and bedding, graduation expenses, eye care, personal grooming, telephone expenses, electric costs, and automobile repair. The Court partially granted a release of funds, to satisfy the request of the petitioner. The Court granted a release for clothing, bedroom furniture and bedding, eye care, personal grooming, and automobile repair, due, in large part, to the voluntary assumption of care by the traditional relative. The Court denied the graduation expenses, and partially granted the utility expenses using the rule of proportionality.

**JANUARY 19, 2006**

*In the Interest of Adult CTF Beneficiary: Amber S. Kruse, DOB 03/06/83 v. HCN Office of Tribal Enrollment, CV 06-05 Order (HCN Tr. Ct., Jan. 19, 2006).* (Matha, T).

The Court finds that the petitioner has shown that it would be an economic hardship to pay the filing fee. The Court granted the Petition to Waive Filing Fee and Costs.


The Court informed the petitioner that she needed to submit additional documentation in support of her Petition. After nearly ten (10) months, the petitioner has made no such filing. The Court informed the parties that it shall dismiss the instant action without prejudice due to case inactivity in excess of six (6) months, unless the petitioner demonstrates good cause to the contrary in writing within the specified timeframe.


The Court had to determine whether the parent can access CTF account to pay for costs associated with household rent, child’s clothing, and an automobile and automobile insurance. The Court partially granted a release of funds to satisfy the request of the petitioner. The Court granted a release of funds for the purchase of an automobile and automobile insurance due to the medical needs of the child. The Court denied the request for household rent and children’s clothing.

**JANUARY 31, 2006**

*In the Interest of Minor Child: N.L.P., DOB 02/18/91, by Janice Savage v. HCN Office of Tribal Enrollment, CV 05-33 Order (Requesting Accounting) (HCN Tr. Ct., Jan. 31, 2006).* (Matha, T).

The Court requested that the petitioner submit the required accounting.

*In the Interest of Minor Child: S.S.G., DOB 02/05/94, by Sherry Lonteree-Grey v. HCN Office of Tribal Enrollment, CV 05-33 Order (Requesting Accounting) (HCN Tr. Ct., Jan. 31, 2006).* (Matha, T).

The Court requested that the petitioner submit the required accounting.

*In the Interest of Adult CTF Beneficiary: Cha-ska Prescott, DOB 05/16/86 v. HCN Office of Tribal Enrollment, CV 05-108 Order (Partial Granting of Petition) (HCN Tr. Ct., Jan. 31, 2006).* (Matha, T).

The Court had to determine whether an adult can access CTF account to pay for costs associated with tuition and related high school expenses, eyeglasses purchase, and personal computer acquisition. The Court partially granted a release of funds to satisfy the request of the petitioner. The Court granted a release of funds for costs associated with tuition and related high school expenses and eyeglasses purchase. The Court declined the request for a personal computer in line with standing case law.
**INCOMPETENT TRUST FUND (ITF)**

**JANUARY 6, 2006**

_In the Interest of Adult Incompetent: G.D.G., DOB 01/03/43, by Alma Miner v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-16 Order (Conditional Granting of Motion) (HCN Tr. Ct., Jan. 6, 2005). (Matha, T)._

The Court had to determine whether the permanent guardian could access monies on behalf of an adult incompetent member from the ITF to pay for costs associated with securing temporary residential care. The residential care facility will not admit G.D.G. until the completion of a background check, as well as determine whether G.D.G. can positively interact with the residential care surroundings. Therefore, once the facility makes these determinations, the Court will grant the release of funds to satisfy the request of the guardian.

---

**Juvenile**

**JANUARY 5, 2006**

_In the Interest of Minor Child: T.F., DOB 02/18/02, JV 03-14 Order (Reentrance of Judgment) (HCN Tr. Ct., Jan. 5, 2006). (Matha, T)._

On December 13, 2005, the Court held the _Child Protection Review Hearing_ with Associate Judge _Pro Tempore_ Tina F. Gouty-Yellow presiding. On December 7, 2005, the Ho-Chunk Nation Legislature rescinded the resolution that confirmed Attorney Tina F. Gouty-Yellow’s January 2, 2006 appointment to the position of Associate Judge. HCN LEG. RES. 12-07-05A. Attorney Gouty-Yellow served her last day as Associate Judge _Pro Tempore_ on December 30, 2005. In order to comport with _Ho-Chunk Nation Rules of Civil Procedure_, Rule 57, the Court reenters the _Order (Child Protection Review Hearing)_.

_In the Interest of Minor Children: L.L.T.B., DOB 06/23/96, et al., JV 05-01-03 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Jan. 5, 2006). (Matha, T)._

---

The Court granted the guardian ad litem (GAL) request to allow her to appear by telephone at the _Child Protection Review Hearing_.

_In the Interest of Minor Child: D.R.W., DOB 08/12/04, JV 05-07 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Jan. 5, 2006). (Matha, T)._

The Court granted the GAL request to allow her to appear by telephone at the _Child Protection Review Hearing_.

_In the Interest of Minor Child: L.K.B., DOB 09/27/89, JV 05-06 Order (Interim Legal Custody) (HCN Tr. Ct., Jan. 5, 2006). (Matha, T)._

The Court entered its _Order (Denying Appointment of Temporary Legal Guardian)_, which did not clearly articulate that legal guardianship remained with the Ho-Chunk Nation Children & Family Services (CFS). CFS has retained the legal custody of L.K.B., since March 15, 2005.

---

_In the Interest of Minor Child: A.C.L., DOB 08/13/01, JV 04-22 Order (Conditional Termination of Jurisdiction) (HCN Tr. Ct., Jan. 6, 2006). (Matha, T)._

The Court conditionally terminated its jurisdiction over and supervision of the instant case in accordance with the _HO-CHUNK NATION CHILDREN AND FAMILY ACT (CHILDREN’S ACT)_. Therefore, the _Order (Granting Emergency Temporary Legal [and] Physical Custody_ and any subsequent orders shall have no binding force or effect, provided that the parties demonstrate no relevant change of circumstances during the interim.

---

_In the Interest of Minor Children: V.M.B., DOB 06/26/89, M.L.E.B., DOB 05/18/90, D.J.B., DOB 09/21/99, JV 05-29-31 Order (Reversal of Pleas) (HCN Tr. Ct., Jan. 9, 2006). (Matha, T)._

The Court entered pleas of not guilty on behalf of the parents of the minor children, due to their absence from the _Plea Hearing_. The parents subsequently pled guilty to the allegations contained in the November 23, 2005 _Child/Family Protection Petition_ filed by CFS, thereby eliminating the need
to hold a trial. Therefore, the Court schedules a Dispositional Hearing.

**JANUARY 12, 2006**


The Court convened a Trial for the purpose of providing CFS an opportunity to prove the allegations contained in the Child/Family Protection Petition by a preponderance of the evidence. At that time, the mother of the minor children requested a continuance after the Court advised her of her rights as set forth within the CHILDREN’S ACT. The Court accordingly reschedules the Trial, to afford her the ability to obtain representation.

*In the Interest of Minor Children: S.E.R., DOB 01/05/90, T.E.R., DOB 12/26/90, B.B., DOB 05/01/93, JV 06-01-03 Order (Initial Emergency Hearing) (HCN Tr. Ct., Jan. 12, 2006).* (Matha, T).

The Court convened the Initial Emergency Hearing to discuss the legal and procedural status of the instant action with the parties, notify the parties of their need to attend a Plea Hearing, and advise the parties of their rights. Additionally, the Court notified the parties of the ability to move for a continuance in order to secure legal counsel. The mother of the minor children requested an opportunity to obtain legal representation, and the Court granted the continuance.


The Court had to assess the extent of compliance with the dispositional order. The Court performed this review in accordance with the CHILDREN’S ACT, and determined to maintain the status quo.


The Court entered its Order (Conditional Termination of Jurisdiction), removing the obligation of the minor child’s father to continue providing ongoing child support. The Court suspends the child support obligation of the minor child’s father, effective February 1, 2006.


The Court had to assess the extent of compliance with the dispositional order. The Court performed this review in accordance with the CHILDREN’S ACT, and determined to maintain the status quo.


The Court had to determine whether to appoint a temporary guardian of the minor child, M.M.M., DOB 12/18/01, pursuant to the CHILDREN’S ACT. After a careful weighing of all the presented evidence, the Court deems such an appointment within the minor child’s best interests.

*In the Interest of Minor Child: A.P.H., DOB 08/26/05, JV 05-28 Order (Entrance of Plea) (HCN Tr. Ct., Jan. 17, 2006).* (Matha, T).

The Court convened a continued Plea Hearing for the purpose of determining whether the parent wished to contest the allegations contained in the Child/Family Protection Petition filed by CFS. The parent entered a plea of guilty after the Court advised the parent of her rights. The Court accordingly schedules a Dispositional Hearing.
The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the account statement. The Court will perform an equitable adjustment as permitted by the prevailing law. The Court granted the petitioner’s request for recognition and enforcement.

JANUARY 19, 2006
The Court had to assess the extent of compliance with the dispositional order. The Court performed this review in accordance with the CHILDREN’S ACT, and determined to transfer physical custody to the mother of the minor children.

The Court had to determine whether to conditionally accept transfer of a Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin children’s case, in which the minor child, either enrolled or eligible for enrollment with the Ho-Chunk Nation, is subject to foster care placement. After reviewing the Motion for Order of Acceptance from the Court, the Court, absent good cause to the contrary, shall not decline transfer of this action. Therefore, CFS must comply with the CHILDREN’S CODE pending the contemplated transfer from the foreign jurisdiction.

JANUARY 26, 2006
In the Interest of Minor Children: S.E.R., DOB 01/05/90, T.E.R., DOB 12/26/90, B.B., DOB 05/01/93, JV 06-01-03 Order (Granting Motion for Continuance) (HCN Tr. Ct., Jan. 26, 2006). (Matha, T).
The mother of the minor children requested additional time to secure legal counsel. The Court granted the request for a two week continuance, and accordingly adjusts the established timeframes.

The Court appointed a GAL in this matter.

The Court appointed a GAL in this matter.

SUPREME COURT
This matter is an appeal of a Gaming Commission decision. The appellant, Nicholas Kedrowski, had been employed by Rainbow Casino as Surveillance Director. The Court reviewed the appellant’s Notice of Appeal in which he restated his Complaint at the Trial Court, rather than stating a basis for appeal. The appellant did not comply with Ho-Chunk Nation Rule of Appellate Procedure 10(b) because he failed to set forth a short statement of the reason or grounds for appeal.
Recent Filings

Trial Court

Civil Garnishment

JANUARY 5, 2006


Creditor Recovery Service, LLC v. Mary Ann Dick, CG 06-03. (Matha, T).

JANUARY 10, 2006
Alliance Collection Agencies, Inc. v. Wendy Dickerson, CG 06-04. (Matha, T).

Alliance Collection Agencies, Inc. v. Lambert Cleveland, Jr., CG 06-05. (Matha, T).

NCO Attorney Network v. Linda J. Hyman, CG 06-06. (Matha, T).

Midland Credit Mgt., Inc. v. Ken Lewis, CG 06-07. (Matha, T).

JANUARY 19, 2006
Global Acceptance Credit Corp. v. Janet Swennes, CG 06-08. (Matha, T).

JANUARY 23, 2006
Valued Services of Wisconsin d/b/a Check Advance v. Kelly Potts, CG 06-09. (Matha, T).

Alexander Middle School v. Joseph Nakai and Ramona McDonald, CG 06-10. (Matha, T).

Valued Services of Wisconsin d/b/a Check Advance v. Dana Kaddatz, CG 06-11. (Matha, T).

JANUARY 31, 2006
Cottonwood Financial Services v. Linda Pringle, CG 06-12. (Matha, T).

Child Support

JANUARY 16, 2006
State of WI – CiCi Bigjon v. Corey Hindsley, CS 06-01. (Matha, T).

JANUARY 19, 2006

JANUARY 23, 2006
Sandra J. Schmidt v. Melissa L. Snowball, CS 06-03. (Matha, T).

JANUARY 31, 2006

Civil Cases

JANUARY 3, 2006
Tina F. Gouty-Yellow v. Ho-Chunk Nation Legislature et al., CV 06-01. (Pro Tempore Judge, Vele, K).

JANUARY 4, 2006

JANUARY 11, 2006
Ho-Chunk Hotel and Convention v. Christine LaMere, CV 06-03. (Matha, T).

JANUARY 16, 2006

JANUARY 19, 2006
**In the Interest of:** Amber S. Kruse, DOB 03/06/83 v. Ho-Chunk Nation Office of Enrollment, CV 06-05. (Matha, T).

**January 27, 2006**

*In the Interest of Minor Child: M.A.A., DOB 07/05/93, by Yvette Alvarez v. Ho-Chunk Nation Office of Enrollment, CV 06-06. (Matha, T).*

**Juvenile**

**January 10, 2006**

*In the Interest of Minor Child: S.E.R., DOB 01/05/90, JV 06-01. (Matha, T).*

*In the Interest of Minor Child: T.E.R., DOB 12/26/90, JV 06-02. (Matha, T).*

*In the Interest of Minor Child: B.B., DOB 05/01/93, JV 06-03. (Matha, T).*

**January 20, 2006**

*In the Interest of Minor Child: R.B., Jr., DOB 04/23/91, JV 06-03. (Matha, T).*

**Supreme Court**

**No Recent Filings**

---

**Upcoming Events**

**UNIVERSITY OF WISCONSIN LAW SCHOOL, MADISON WI**

**March 24-25, 2006**

**20TH ANNUAL COMING TOGETHER of the PEOPLES CONFERENCE**

**Topics include:**
- Business Developments in Indian Country
- Current Issues in Indian Education
- Native American Graves Protection & Repatriation Act
- Alternative Power Development

Organized by the Indigenous Law Students Association of the University of Wisconsin Law School

For more information, contact ampeguero@wisc.edu or visit the website at [http://www.law.wisc.edu/students/ilsa/index.htm](http://www.law.wisc.edu/students/ilsa/index.htm)
**HO-CHUNK NATION COURT SYSTEM**

**JUDICIARY AND STAFF**

Supreme Court—Mary Jo B. Hunter, Chief Justice
Mark D. Butterfield, Associate Justice
Dennis Funmaker, Associate Justice

Traditional Court — Earl Blackdeer
Donald Blackhawk
Dennis Funmaker
Jim Greendeer
Douglas Greengrass
Desmond Mike
Douglas Red Eagle
Preston Thompson, Jr.
Eugene Thundercloud
Morgan White Eagle
Clayton Winneshiek

Trial Court – Todd R. Matha, Chief Judge
Vacant, Associate Judge

Clerk of Court, Trial Court – Marcella Cloud
Assistant Clerk of Court, Trial Court – Selina Joshua
Bailiff/Process Server – Albert Carrimon
Administrative Assistant – Jessi Cleveland
Staff Attorney – Amanda R. Cornelius
Supreme Court Clerk – Mary Endthoff

---

* The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

**WISCONSIN TRIBAL JUDGES ASSOCIATION**

( Eleven federally recognized tribes within the State of Wisconsin)

**NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION**

(Region 10—Illinois, Indiana, Michigan, Minnesota, and Wisconsin)

---

**HCN Judiciary Fee Schedule**

**Filing Fees**

- **Complaint** ………………………………………. $50.00
- **Petition for Release of Per Capita Distribution**
  (Children’s Trust Fund) …………………… $50.00
- **Motion to Appear Pro Hac Vice** ………. $35.00
- **Appellate Filing Fee** ……………………….. $50.00
- **Petition to Register and Enforce Foreign Judgment/Order** ………… $20.00
- **Marriage License Fee** …………………….. $50.00

**Court Fees**

- **Copying** ………………………………………… $0.10/page
- **Faxing** …………………………………………. $0.25/page (sending & receiving)
- **CD of Hearings** ………………………………. $12.50/CD
- **Deposition Videotape** …………………….. $10.00/tape
- **Certified Copies** ……………………………… $0.50/page
- **Equipment Rental** …………………………. $5.00/hour
- **Admission to Practice** ……………………… $50.00

**Legal Citation Forms**

The following are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution
Constitution, Article Number, Section, Subsection.
HCN CONST., Art. II, Sec. (or §) 1(a).

Ho-Chunk Nation Code
Ordinance/Act Name Title Number HCC Section.
ELDER PROTECTION ACT, 4 HCC § 1.
EMPLOYMENT RELATIONS ACT, 6 HCC § 5.
(for detailed citation information consult LEGISLATIVE ORGANIZATION ACT, 2 HCC § 11.36)

HCN Supreme Court Case Law
Case Name, Case Number (HCN S. Ct., month, day, year).

HCN Trial Court Case Law
Case Name, Case Number (HCN Tr. Ct., month, day, year)

Ho-Chunk Nation Rules of Civil Procedure
HCN R. Civ. P. 19(B)
Indigenous Law Student Association to host 20th Annual Coming Together of Peoples Conference

Acclaimed University of Wisconsin Law School announced the 20th anniversary of its annual “Coming Together of People’s Conference.” This special conference, hosted by the Indigenous Law Student Association, will take place March 24 & 25, 2006 at the University of Wisconsin Law School in Madison. The conference will feature nationally recognized American Indian legal experts who will address special topics of Indian law. Conference panels will include: Renewable Energy in Indian Country; Cultural Laws in Indian Country, including the Native American Graves Protection and Repatriation Act; Education; and Business and Taxation panels. The Conference’s keynote speaker will be Donald “Del” Laverdure, Crow Nation Court Judge and Founder of the Indigenous Law and Policy Center at Michigan State University. The program is free and open to the public and offers Continuing Legal Education credits for practicing attorneys.

A banquet, which is also open to the public, will occur on Friday March 24 at 7:00 PM at the Madison Concourse Hotel.
Tickets are $20/person in advance or at the door. (RSVP is appreciated at seyler@wisc.edu)

“We are honored to host the 20th Annual Coming Together of People’s Conference, one of the oldest American Indian law conferences in the country,” said Ruth Robarts, Dean of Academic Affairs at the University of Wisconsin Law School. “The 20th Annual conference reflects our student’s high level of commitment to Indian Country and the issues facing American Indian people.”

The Indigenous Law Student Association (ILSA) is a student run organization at the University of Wisconsin Law School that promotes the rich traditions and cultures of American Indian people. Formed in 1991, ILSA operates throughout the year as an advocacy organization and educational resource.

UPDATES FROM OUTSIDE COURTS

United States Supreme Court


Members of the church received communion by drinking hoasca, a tea brewed from plants unique to the Amazon Rainforest that contained a hallucinogen regulated under Schedule I of the Controlled Substances Act (CSA). The Government conceded that the challenged application would substantially burden a sincere exercise of religion, but argued that this burden did not violate Religious Freedom Restoration Act (RFRA) because applying the CSA was the least restrictive means of advancing three compelling governmental interests: protecting the church members' health and safety, preventing the diversion of hoasca from the church to recreational users, and complying with the United Nations Convention on Psychotropic Substances. The Court held that the church had effectively demonstrated that its sincere exercise of religion was substantially burdened, but that the Government failed to demonstrate that the application of the burden to the church would, more likely than not, be justified by the asserted compelling interests. Congress' placement of dimethyltryptamine (DMT) under Schedule I simply did not relieve the Government of the obligation to shoulder its burden under RFRA.

As part of the case, the Department of Justice argued that the federal Indian trust relationship provided a basis to allow members of the Native American Church to use peyote, a hallucinogenic plant, in ceremonies without violating the law. Chief Justice John G. Roberts wrote that the political status of tribes cannot be used to justify why non-Indians should be excluded from the same religious protections. "If such use is permitted ... for hundreds of thousands of Native Americans exercising their faith, it is difficult to see how those same findings alone can preclude any consideration of a similar exception for the 130 or so American members of the UDV who want to practice theirs." Roberts wrote. Roberts said the government "never explains what about that 'unique' relationship" gives the United States the right to carve out an exception for Native American Church practitioners. Both peyote and hoasca, listed under Schedule I of the Controlled Substance Act, pose the same health and safety risks, the court reasoned. The Court further opined, "[n]othing about the unique political status of the tribes makes their members immune from the health risks the government asserts accompany any use of a Schedule I substance, nor insulates the Schedule I substance the tribes use in religious exercise from the alleged risk of diversion."

Certiorari pending

Lingle v. Arakaki, No. 05-988 (filed February 2, 2006).

Cayuga Indian Nation of New York v. Pataki, No. 05-982 (filed February 3, 2006).

United States v. Pataki, No. 05-987 (filed February 3, 2006).
Certiorari denied
Wilbur v. Locke, No. 05-740 (denied February 21, 2006).

Beams v. Norton, No. 05-900 (denied February 27, 2006).

Tenth Circuit Court of Appeals
The Quapaw Tribe of Oklahoma v. Asarco Inc., Docket No. 04-5131 (10th Cir. 2006).

The Quapaw Tribe of Oklahoma appealed from the United States District Court for the Northern District of Oklahoma that denied the tribe's motion to dismiss counterclaims brought by appellees, mining companies and their predecessors in interest, based in contribution and indemnity, regarding the tribe's suit under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The tribe's CERCLA suit was based on environmental contamination of tribal lands from mining activities in the 1900s. The district court concluded the tribe had waived its immunity as to the companies' counterclaims, which sounded in recoupment, by filing suit. In applicable precedent, the appellate court had extended application of the recoupment doctrine to Native American tribes; thus, when a tribe filed suit it waived its immunity as to defendant's counterclaims that sounded in recoupment. The scope of the waiver under the doctrine of recoupment was limited only by the requirements for a recoupment claim, i.e., that the claim arose from the same transaction as the plaintiff's claim, sought the same relief as the plaintiff's claim, and sought an amount not in excess of the plaintiff's claim. The district court did not err in concluding the tribe waived its immunity as to any of the companies' counterclaims sounding in recoupment. Because the companies' counterclaims arose from the same transaction or occurrence as the tribe's claims and sought relief of the same kind or nature, but not in excess of the amount sought by the tribe, they were claims in recoupment. The Tenth Circuit affirmed the district court's order denying the tribe's motion to dismiss.

United States v. Arrieta, Docket No. 04-2350 (10th Cir. 2006).

Mr. Santo Arrieta was accused of assaulting an American Indian on a public road within the exterior boundaries of Pueblo Indian land. Defendant argued that the court lacked subject matter jurisdiction on the basis that the road was not Indian country, within the meaning of 18 U.S.C.S. § 1151, because the road was maintained by the county as a county road. In affirming defendant's conviction, the court held that the road was Indian country because land owned by an Indian tribe within the exterior boundaries of land granted to the tribe was necessarily part of the Indian community, even if the state performed some services and maintenance with respect to the land. In its cross appeal, the government asserted that the district court erred in imposing a sentence that was less than the agreed upon sentence. In remanding for resentencing with instructions to impose the specific sentence agreed upon in the plea agreement, the court held that the district court accepted defendant's plea agreement and was therefore bound by the sixty (60) month sentence specified in the agreement.

Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and categorized by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader's benefit. They should in no way be used as substitution for citations to the actual court opinion.

Within the Trial Court, cases are categorized and docketed as one of the following: Child Support (CS or if filed prior to 1998, CV), Civil Garnishment (CG), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Due to the great incidence of civil
cases before the Court, the category for civil cases is divided into broad sub-categories. In some instances a decision may touch upon other topics that may not warrant a summary in this index, but the editor will use the indicator “other topic(s) covered,” as a research aid for the reader.

**RECENT DECISIONS AND RECENT FILINGS** both begin with the date where the previous Court Bulletin left off.

---

**Trial Court**

**Child Support**

**FEBRUARY 3, 2005**


The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

**FEBRUARY 17, 2005**

*State of Wisconsin v. Charles Dennis Hindsley, CS 03-20 Order (Ceasing Child Support) (HCN Tr. Ct., Feb. 17, 2006). (Matha, T).*

The petitioner requested child support withholding cease from the respondent’s per capita distribution and wages. The timeline is waived since the cessation of child support is a benefit to all interested parties. The Court granted the request.

---

The petitioner filed a motion requesting child support withholding and child support arrears cease. The timeline is waived since the cessation of child support is a benefit to all interested parties. The Court granted the motion.

**FEBRUARY 21, 2005**


The Court had to determine whether to enforce another foreign child support order against a serial payor’s per capita payments. The respondent failed to respond within the specified timeframe. The Court granted the motion.

*State of WI/Sauk Co. and Laura Geshick v. Clayton K. Pemberton, CS 01-33 Order (Ceasing Child Support Arrears) (HCN Tr. Ct., Feb. 22, 2006). (Matha, T).*

The petitioner requested child support withholding cease from the respondent’s per capita distributions. The timeline is waived since the cessation of child support is a benefit to all interested parties. The Court granted the request.

**FEBRUARY 22, 2005**


The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The petitioner filed a motion requesting child support withholding and child support arrears cease. The timeline is waived since the cessation of child support is a benefit to all interested parties. The Court granted the motion.

FEBRUARY 28, 2005
The Court had to determine whether to enforce another foreign child support order against a serial payor’s per capita payments. The respondent failed to respond within the specified timeframe. The Court granted the motion.

Civil Garnishment
FEBRUARY 3, 2006
The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court accordingly dismisses the case without prejudice.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

FEBRUARY 7, 2006
The petitioner sought recognition and enforcement of a foreign money judgment. The petitioner filed a request to dismiss. The Court accordingly dismisses the case without prejudice.

FEBRUARY 8, 2006
The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.
FEBRUARY 10, 2006
The petitioner sought recognition and enforcement of a foreign money judgment. The petitioner filed a request to dismiss. The Court accordingly dismisses the case without prejudice.

FEBRUARY 13, 2006
The Court recognized that the debt had been paid in full and informed the parties of its intent to close the file.

FEBRUARY 14, 2006
The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

FEBRUARY 24, 2006
The petitioner filed the Motion to Modify the Current Order for Additional Interest. The petitioner sought additional accumulated post-judgment interest pursuant to Wis. Stat. § 815.05(8) and continuing interest calculated per day until the satisfaction of the principal judgment.

The petitioner sought recognition and enforcement of a foreign money judgment. The petitioner filed a request to dismiss. The Court accordingly dismisses the case without prejudice.

FEBRUARY 28, 2006
The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a response within the specified timeframe. However, the respondent failed to provide a cognizable objection to the action. The Court granted the petitioner’s request for relief.

Civil Cases
FEBRUARY 20, 2006
The Court shall suspend entering a sua sponte dismissal for inactivity in excess of six (6) months. The parties jointly filed the Stipulation Agreeing that Plaintiff Has Good Cause to Avoid Future Order Dismissing Action within the timeframe denoted in the Court’s previous decision.

FEBRUARY 23, 2006
The Court must determine whether to revise the scheduling of the instant case. The Court grants a modification in response to the mutual request of the parties. The Court will also convene a motion hearing in order to consider the anticipated filing of dispositive motions.
February 27, 2006
HCN Treas. Dep’t et al. v. Corvettes on the Isthmus et al., CV 05-82 Order (Motion Hearing) (HCN Tr. Ct., Feb. 27, 2006). (Matha, T).
Upon the defendants’ request, the Court shall convene a hearing so as to grant the defendants the ability to argue its Motion to Dismiss, and to provide the plaintiffs the opportunity to offer a response.

Employment
February 1, 2006
The Court had to determine whether to grant the defendants’ request for summary judgment. The Court deduced that genuine issues of material fact exist within the instant case. The Court accordingly declined to grant defendants’ motion, and notified the parties of its intent to convene trial.

February 7, 2006
Tina Gouty-Yellow v. the Ho-Chunk Nation Legislature et al., CV 06-01 Stipulation to Continue Pre-Trial Conference and Hearing on Plaintiff’s Motion for a Preliminary Injunction and Order Thereon (HCN Tr. Ct., Feb. 7, 2006). (Vele, K).
The parties stipulated for a continuance of the pre-trial conference and hearing on the plaintiff’s motion for a preliminary injunction in order to allow the parties to pursue settlement of the case.

The Court must determine whether to uphold the adjudicative decision of the Ho-Chunk Nation Tribal Rights Ordinance Commission (hereinafter TERO Commission). Regrettably, the TERO Commission failed to adhere to the clear dictates of the TERO, thereby necessitating a reversal of the decision and order and a remand to the executive agency. The TERO Commission failed to address the majority of the complainant’s issues within its Decision Order. The petitioners have advocated conflicting factual accounts to the Court due to the lack of the agency’s factual findings.

February 20, 2006
The Court must determine whether to grant the plaintiff’s request for relief. The Court held that the defendants did not afford the plaintiff minimum procedural due process in connection with her discharge from employment. Quite simply, an employee must receive a meaningful opportunity to be heard before their property can be taken away. In the instant case, the supervisor did not believe that she maintained discretion in a termination decision. A pre-termination hearing is not a mere technicality. Therefore, the Court reverses the plaintiff’s termination and awards appropriate relief.

February 22, 2006
The Court must determine whether to grant the Defendant’s Motion to Modify. The defendants contest the Court’s award of monetary damages in the instant case, but the defendants failed to assert the defense of sovereign immunity within their responsive pleading. Therefore, the Court denies the motion.

February 21, 2006
Tina Gouty-Yellow v. Ho-Chunk Nation Legislature et al., CV 06-01 Joint Motion to Dismiss with Prejudice and Order Thereon (HCN Tr. Ct., Feb. 21, 2006). (Vele, K).
The parties entered into a settlement agreement, resolving all of the issues between them, thereby rendering this case moot.
**ENROLLMENT**

**FEBRUARY 13, 2006**


The Court granted plaintiff’s counsel’s request to appear by telephone at the Scheduling Conference.

**FEBRUARY 15, 2006**


The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

**HOUSING**

**FEBRUARY 3, 2006**


The Court had to determine whether to grant the relief requested by the plaintiff, i.e., restitution of premises and an award of damages. The defendant failed to answer the Complaint despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiff permissible relief sought in the Complaint.


After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the property restored to its possession and to remove the defendant, her possessions, and those occupying the property with her from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Sauk County in order to restore the property.


The Court recognized that the debt had been paid in full and informed the parties of its intent to close the file.

**FEBRUARY 27, 2006**

Ho-Chunk Nation Housing & Community Development Agency v. LaVetta Cloud, CV 06-07 Eviction Order (Default Judgment) (HCN Tr. Ct., Feb. 27, 2006). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiff, i.e., restitution of premises and an award of damages. The defendant failed to answer the Complaint despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiff permissible relief sought in the Complaint.

Ho-Chunk Nation Housing & Community Development Agency v. LaVetta Cloud, CV 06-07 Writ of Restitution (HCN Tr. Ct., Feb. 27, 2006). (Matha, T).

After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the property restored to its possession and to remove the defendant, her possessions, and those occupying the property with her from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Sauk County in order to restore the property.
DEBT TO AN ELDER
FEBRUARY 2, 2006
The plaintiff filed his initial pleading in which he requested repayment of a loan. However, prior to the convening of a Scheduling Conference, the defendant filed a satisfaction of judgment pursuant to the Ho-Chunk Nation Rules of Civil Procedure, Rule 59.

CHILDREN’S TRUST FUND (CTF)
FEBRUARY 1, 2006
In the Interest of Minor Children: M.L.D., DOB 04/05/01, by Terry T. Deloney v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-58 Order (Requesting Accounting) (HCN Tr. Ct., Feb. 1, 2006). (Matha, T).
The Court requested that the petitioner submit the required accounting.

The Court requested that the petitioner submit the required accounting.

The Court requested that the petitioner submit the required accounting.


The Court ordered that the petitioner submit the previous required accounting.

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

The Court requested that the petitioner submit the required accounting.

FEBRUARY 2, 2006
The Court convened a Fact-Finding Hearing to consider the merit of the petitioner’s Petition for Release of Per Capita Distribution. The petitioner failed to appear at the hearing, and did not notify the Court of an inability to attend the proceeding. The Court dismisses the instant cause without prejudice.

FEBRUARY 8, 2006
In the Interest of Minor Child: A.F., DOB 01/13/96, by Alona Bush v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-83 Order (Granting Motion to Modify) (HCN Tr. Ct., Feb. 8, 2006). (Matha, T).
The Court granted a release of monies from the Children’s Trust Fund for the purposes of purchasing an automobile. Subsequently, the petitioner informed the Court that the dealership had sold the vehicle in question, but proposed substituting an identically priced vehicle that became available at the dealership. The Court grants the modification and permits the petitioner to
use the released funds to purchase the substitute vehicle.

**FEBRUARY 9, 2006**

*In the Interest of Minor Children: L.M., DOB 01/08/92, and K.M., DOB 04/09/93, by Shelley Williams v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-19 Order (Dismissal without Prejudice) (HCN Tr. Ct., Feb. 9, 2006). (Matha, T).*

The Court convened a Fact-Finding Hearing to consider the merit of the petitioner’s *Petition for Release of Per Capita Distribution*. The petitioner failed to appear at the hearing, and did not notify the Court of an inability to attend the proceeding. The Court dismisses the instant cause without prejudice.

**FEBRUARY 17, 2006**

*In the Interest of Minor Child: L.G.R., DOB 05/14/97, by Leah Marie Rave v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-106 Order (Granting Motion to Modify) (HCN Tr. Ct., Feb. 17, 2006). (Matha, T).*

The Court granted a release of monies from the CTF for the costs associated with orthodontic procedures. Subsequently, the petitioner informed the Court that a balance in the amount of $845.00 remained on the dental account. The Court grants the modification and satisfies the outstanding balance.

**FEBRUARY 13, 2006**

*In the Interest of Adult CTF Beneficiary: Amber S. Kruse, DOB 03/06/83 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 06-05 Order (Partial Granting of Petition) (HCN Tr. Ct., Feb. 9, 2006). (Matha, T).*

The Court had to determine whether an adult can access her CTF account to pay for costs associated with continuing education and the acquisition of a personal computer. The Court granted the request for tuition and related school expenses. However, the Court shall decline the request for a personal computer in line with standing case law.

**FEBRUARY 20, 2006**


The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

**FEBRUARY 28, 2006**

*In the Interest of Minor Child: N.L.P., DOB 02/18/91, by Janice Savage v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-33 Order (Accepting Accounting) (HCN Tr. Ct., Feb. 28, 2006). (Matha, T).*

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.
INCOMPETENT TRUST FUND (ITF)
FEBRUARY 1, 2006
In the Interest of Adult Incompetent: M.B.J., DOB 12/01/65, by Dolli Big John v. Ho-Chunk Nation Office of Tribal Enrollment, CV 00-83 Order (Requesting Accounting) (HCN Tr. Ct., Feb. 1, 2006). (Matha, T).
The Court requested that the petitioner submit the required accounting.

FEBRUARY 2, 2006
The Court previously released funds from the ITF account for costs associated with bad checks written by the ward, to increase the ward’s allowance, an activity fee, a county bill, and a Public Defender fee. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

The Court previously released funds from the ITF account for costs associated with maintaining a residence, i.e., state property taxes. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

The Court previously released funds from the ITF account for costs associated with ongoing nursing home care. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

The Court previously released funds from the ITF account for costs associated with ongoing care, GAL fees and the cost of adversary counsel. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

FEBRUARY 21, 2006
In the Interest of Adult Incompetent: H.C., DOB 01/31/31, by Barbara A. Meltesen v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-72 Order (Motion Granted) (HCN Tr. Ct., Feb. 21, 2006). (Matha, T).
The Court had to determine whether the permanent guardian can access monies on behalf of an adult incompetent member from the ITF to pay for costs associated with ongoing nursing home care and professional guardianship service fees. The Court grants a release of funds to satisfy the request of the guardian.

Juvenile
FEBRUARY 2, 2006
The Court conducted the Dispositional Hearing, in accordance with the HOČAK NATION CHILDREN AND
FAMILY ACT (hereinafter CHILDREN’S ACT). At the Hearing, the Court had to assess the extent and scope of the dispositional recommendations proposed by Ho-Chunk Nation Children & Family Services (hereinafter CFS).

FEBRUARY 7, 2006  
In the Interest of Minor Child: D.R.W., DOB 08/12/04, JV 05-07 Order (Regarding Modification Hearing) (HCN Tr. Ct., Feb. 7, 2006). (Matha, T). The Court convened the Modification Hearing to principally discuss the issue of visitation. The petitioner also requested a termination of the temporary guardianship. The Court required the parties to mutually agree upon a visitation arrangement and scheduled a revocation hearing.

FEBRUARY 8, 2006  
In the Interest of Minor Child: A.P.H., DOB 08/26/05, JV 05-28 Order (Dispositional Requirements) (HCN Tr. Ct., Feb. 8, 2006). (Matha, T). The Court conducted a Dispositional Hearing. The Court had to assess the extent and scope of the dispositional recommendations proposed by CFS. The dispositions contained within the order hopefully will serve to reunify the family.

FEBRUARY 13, 2006  
In the Interest of Minor Children: K.M.C., DOB 04/11/90, Q.J.C., DOB 08/07/92, JV 06-05-06 Order (Conditional Acceptance of Transfer) (HCN Tr. Ct., Feb. 13, 2006). (Matha, T). The Court had to determine whether to conditionally accept transfer of a State of Wisconsin children’s case in which the minor children, either enrolled or eligible for enrollment with the Ho-Chunk Nation, are subject to foster care treatment. After reviewing the Motion for Transfer to Tribal Court, the Court shall not decline the transfer. Therefore, CFS must proceed in accordance with the CHILDREN’S ACT, pending the contemplated transfer from the foreign jurisdiction.

FEBRUARY 15, 2006  

FEBRUARY 16, 2006  
In the Interest of Minor Child: C.Y., DOB 01/18/94, JV 05-32 Order (Appointment of Temporary Guardian) (HCN Tr. Ct., Feb. 16, 2006). (Matha, T). The Court had to determine whether to appoint a temporary guardian of the minor child. The Court deemed such an appointment to be within the minor child’s best interests.

FEBRUARY 17, 2006  
In the Interest of Minor Child: P.M.S., DOB 01/14/91, P.A.S., DOB 01/14/91, JV 98-06-07 Order (Child Protection Review Hearing) (HCN Tr. Ct., Feb. 17, 2006). (Matha, T). The Court conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to impose additional requirements upon the minor children’s mother and schedule a dispositional hearing for the minor children’s father.

FEBRUARY 21, 2006  

In the Interest of Minor Child: A.P.H., DOB 08/26/05, JV 05-28 Order (Appointment of Guardian ad Litem) (HCN Tr. Ct., Feb. 21, 2006). (Matha, T). The Court appointed a GAL in this matter.

FEBRUARY 24, 2006  
In the Interest of Minor Children: V.J.F., DOB 09/26/98, I.D.F., DOB 03/30/02, JV 03-39-40 Order (Child Protection Review Hearing) (HCN Tr. Ct., Feb. 24, 2006). (Matha, T). The Court conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.
The Court earlier appointed a permanent legal guardian of the person of the minor child. The permanent guardian has since passed away, thereby leaving the minor child without any legal custodian. The Court accordingly appoints an interim legal guardian until it can fulfill the procedural requisites of designating a successor legal guardian.

SUPREME COURT
This matter is an appeal of a Gaming Commission decision. The appellant, Nicholas Kedrowski, had been employed by Rainbow Casino as Surveillance Director. The Court reviewed the appellant’s Motion to Amend Pleadings and for an Extension to File a Brief in the Above Referenced Appeal and Certificate of Representation. The appellant’s attorney had more than sufficient notice of the proceedings in this case, both the underlying decision and Notice of Appeal. In light of this actual knowledge of the proceedings and the failure to allege, let alone demonstrate good cause why no brief was filed in a timely manner. The matter was dismissed, affirming the Order Denying Appeal.

Recent Filings

Trial Court

Civil Garnishment
FEBRUARY 3, 2006
Tomah Memorial Hospital v. Lucy K. Snake, CG 06-13. (Matha, T).
FEBRUARY 10, 2006
FEBRUARY 15, 2006
Creditor Recovery Service v. Audrey M. Senn, CG 06-17. (Matha, T).
FEBRUARY 28, 2006

Child Support

FEBRUARY 22, 2006
FEBRUARY 23, 2006

Civil Cases

FEBRUARY 1, 2006
Ho-Chunk Nation Housing v. LaVetta Cloud, CV 06-07. (Matha, T).
Ho-Chunk Nation Housing v. Margaret Hoffman, CV 06-08. (Matha, T).
Ho-Chunk Nation Housing v. Anita Youngthunder, CV 06-09. (Matha, T).

FEBRUARY 3, 2006
In the Interest of Minor Child: P.S., DOB 05/05/94, by Reginald Sohm v. Ho-Chunk Nation Office of Enrollment, CV 06-10. (Matha, T).

FEBRUARY 15, 2006

FEBRUARY 23, 2006
Ho-Chunk Nation Department of Labor v. Contingency Planning Solutions, CV 06-12. (Matha, T).

Juvenile

FEBRUARY 10, 2006
In the Interest of Minor Child: K.M.C., DOB 04/11/90, JV 06-05. (Matha, T).

In the Interest of Minor Child: Q.J.C., DOB 08/07/92, JV 06-06. (Matha, T).

Divorce

FEBRUARY 7, 2006

Supreme Court

No Recent Filings
THE HO-CHUNK NATION COURT SYSTEM
JUDICIARY AND STAFF
Supreme Court – Mary Jo B. Hunter, Chief Justice
Mark D. Butterfield, Associate Justice
Dennis Funmaker, Associate Justice
Traditional Court – Earl Blackdeer
Donald Blackhawk
Dennis Funmaker
Jim Greendeer
Douglas Greengrass
Desmond Mike
Douglas Red Eagle
Preston Thompson, Jr.
Eugene Thundercloud
Morgan White Eagle
Clayton Winneshiek
Trial Court – Todd R. Matha, Chief Judge
Vacant, Associate Judge
Clerk of Court, Trial Court – Marcella Cloud
Assistant Clerk of Court, Trial Court – Selina Joshua
Bailiff/Process Server – Albert Carrimon
Administrative Assistant – Jessi Cleveland
Staff Attorney – Amanda R. Cornelius
Supreme Court Clerk – Mary Endthoff

* The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

WISCONSIN TRIBAL JUDGES ASSOCIATION
(Eleven federally recognized tribes within the State of Wisconsin)

NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION
(Region 10—Illinois, Indiana, Michigan, Minnesota, and Wisconsin)

HCN Judiciary Fee Schedule

Filing Fees
- Complaint .................................................. $50.00
- Petition for Release of Per Capita Distribution (Children’s Trust Fund) ......................... $50.00
- Motion to Appear Pro Hac Vice ...................... $35.00
- Appellate Filing Fee ........................................ $50.00
- Petition to Register and Enforce Foreign Judgment/Order ........................................ $20.00
- Marriage License Fee ................................. $50.00

Court Fees
- Copying .................................................... $0.10/page
- Faxing ....................................................... $0.25/page (sending & receiving)
- CD of Hearings ........................................... $12.50/CD
- Deposition Videotape ................................. $10.00/tape
- Certified Copies .......................................... $0.50/page
- Equipment Rental ........................................ $5.00/hour
- Admission to Practice ................................. $50.00

Legal Citation Forms
The following are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution
Constitution, Article Number, Section, Subsection.
HCN CONST., Art. II, Sec. (or §) 1(a).

Ho-Chunk Nation Code
Ordinance/Act Name Title Number HCC Section.
ELDER PROTECTION ACT, 4 HCC § 1.
EMPLOYMENT RELATIONS ACT, 6 HCC § 5.
(for detailed citation information consult LEGISLATIVE ORGANIZATION ACT, 2 HCC § 11.36)

HCN Supreme Court Case Law
Case Name, Case Number (HCN S. Ct., month, day, year).

HCN Trial Court Case Law
Case Name, Case Number (HCN Tr. Ct., month, day, year)

Ho-Chunk Nation Rules of Civil Procedure
HCN R. Civ. P. 19(B)
31st Annual Indian Law Conference: Active Sovereignty in the 21st Century

The Federal Bar Association hosted its 31st Annual Indian Law Conference in Albuquerque, New Mexico. The conference comprised two (2) days of important topics affecting Indian Country. The theme of the conference was "Active Sovereignty in the 21st Century." The Indian Law Conference, is the largest and longest-running meeting of Indian law and policy leaders, drawing over 700 tribal lawyers, judges, leaders, academics and law students to Albuquerque, New Mexico every year. Among other topics, Indian law practitioners and Indian law students discussed the U.S. Supreme Court, Class II gaming, tribal disenrollment and sovereign immunity.

The first panel entitled, “The Future of Federal Indian Law in the Roberts Era,” not only dissected former Chief Justice William Rehnquist’s debilitating influence on Indian law, but dissected current Chief Justice Robert’s possible impacts in Indian Law. Presenters discussed Chief Justice Robert’s involvement as an attorney in the Alaska v. Venetie and Rice v. Cayetano cases. A luncheon in honor of the late Vine Deloria took place on Thursday, April 6, 2006. Rick West, the director of the National Museum of the American Indian, delivered the keynote address. One of the after-
noon panels discussed “Interjecting Tribal Values into Tribal Courts of General Jurisdiction.” Professor Robert Clinton discussed the inherent tension in tribal court jurisdiction, he noted, “the more culturally relevant, and perhaps, non-adversarial, tribal law and tribal courts become the more unfamiliar and uninviting they become to non-Indian commercial interest.” He left the attendees pondering the most appropriate role for tribal courts and their evolution.

On Friday, former U.S. Attorney Thomas B. Heffelfinger and Bureau of Indian Affairs law enforcement director Chris Chaney spoke on the results of a methamphetamine trafficking study in Indian Country. Attorney Heffelfinger continually reiterated that “federal, tribal, state and local law enforcement should collaborate and coordinate their efforts in addressing public safety issues relating to methamphetamine in Indian Country.”

Attorneys, Justices, and Traditional Court members of the Ho-Chunk Nation attended the two (2) day conference. Attendees returned to the Nation with ideas to improve and refresh the Nation’s outlook on Federal Indian affairs. The Conference is scheduled to take place again in April 2007 in Albuquerque, New Mexico.

STAFF ATTORNEY POSITION VACANT UNTIL MAY 2006

Attorney Amanda Rockman Cornelius has transferred to the Ho-Chunk Nation Department of Justice as a tribal attorney. Amanda began her work obligation as a Josephine P. White Eagle Fellow in May 2005, and continued her work obligation with the Department of Justice on April 3, 2006. The Court will welcome Nicole Homer, a current third year student at Loyola University in New Orleans, Louisiana, to her position on May 22, 2006. Ms. Homer is enrolled Oneida of the Thames of Canada.

CHIEF JUSTICE HUNTER APPOINTS TRIAL COURT ASSOCIATE JUDGE

Pursuant to the Ho-Chunk Nation Judiciary Establishment & Organization Act, if the Legislature does not appoint an Associate Judge within ninety (90) days of a vacancy, then the Chief Justice has a duty to appoint a successor judge during the interim. 1 HCC § 1.8c. On April 4, 2006, Chief Justice Hunter appointed Attorney JoAnn Jones as Associate Judge of the Trial Court pending the Ho-Chunk Nation Legislature job posting. Associate Judge Jones began her employment on April 10, 2006.

GUARDIAN AD LITEM TRAINING

The Ho-Chunk Nation Children & Family Act requires that the Court “appoint a guardian ad litem to protect the interests of the child” in every juvenile case. 4 HCC § 3.20b. Guardian ad litems receive reasonable compensation for their services and reimbursement for accumulated expenses. The Court tentatively plans hosting an on-site Guardian ad litem training session on July 10-12, 2006. Interested tribal members are encouraged to attend, and should seek further information from the Clerk of Court. The course is limited to participation of approximately twenty (20) individuals. The Court last hosted such an event in November 2000.
UPDATES FROM OUTSIDE COURTS

United States Supreme Court


Certiorari pending

Lingle v. Arakaki, No. 05-988 (filed February 2, 2006).

Cayuga Indian Nation of New York v. Pataki, No. 05-982 (filed February 3, 2006).

United States v. Pataki, No. 05-987 (filed February 3, 2006).

Certiorari denied

Wilbur v. Locke, No. 05-740 (denied February 21, 2006).

Beams v. Norton, No. 05-900 (denied February 27, 2006).

Eighth Circuit Court of Appeals

Wilkinson v. United States, Docket No. 04-2185 (8th Cir. 2006).

Heirs of enrolled members of Indian tribe sued Bureau of Indian Affairs (BIA) officials, alleging deprivation of rental income derived from trust land mortgaged by their parents. The United States District Court for the District of North Dakota, granted summary judgment for officials, and heirs appealed. The Court of Appeals held that: (1) Rooker-Feldman doctrine did not insulate reclassification decision of county property tax assessment board from review by federal court; (2) tribe's request for prospective injunctive relief was mooted by passage of statute by New Mexico legislature; (3) legislation did not moot claims brought by tribe for retrospective relief; (4) reclassification decision was objectively reasonable; and (5) property was not similarly situated to other elk hunting ranches. Affirmed.

Tenth Circuit Court of Appeals

Jicarilla Apache Nation v. Ria Arriba County, Docket No. 04-2320 (10th Cir. 2006).

Indian tribe brought civil rights action against county and county officials, alleging that county's reassessment of ranch for property tax purposes violated equal protection. The United States District Court for the District of New Mexico granted summary judgment for defendants. Tribe appealed. The Court of Appeals held that: (1) Rooker-Feldman doctrine did not insulate reclassification decision of county property tax assessment board from review by federal court; (2) tribe's request for prospective injunctive relief was mooted by passage of statute by New Mexico legislature; (3) legislation did not moot claims brought by tribe for retrospective relief; (4) reclassification decision was objectively reasonable; and (5) property was not similarly situated to other elk hunting ranches. Affirmed.

Recent Decisions

Decisions are separated between Trial Court and Supreme Court decisions and categorized by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader’s benefit. They should in no way be used as substitution for citations to the actual court opinion.
Within the Trial Court, cases are categorized and docketed as one of the following: Child Support (CS or if filed prior to 1998, CV), Civil Garnishment (CG), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. In some instances a decision may touch upon other topics that may not warrant a summary in this index, but the editor will use the indicator “other topic(s) covered,” as a research aid for the reader.

**Recent Decisions and Recent Filings** both begin with the date where the previous Court Bulletin left off.

---

**Trial Court**

**Child Support**

**March 1, 2006**


The petitioner, in Case No.: CS 03-02, filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.


The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

**March 14, 2006**


The minor children turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the children are enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.


The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the child turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.
Dona J. Marinellow v. Howard Pettibone, CS 01-32
The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the child turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

Bonne Prescott Smith v. Bradley W. Smith, CV 97-99
The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the child turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

March 20, 2006
Tara J. Hilsenhoff v. Neil B. Greengrass-Starr, CS 05-96
The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita distributions. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

State of Wisconsin – Jackson Co. v. James Pettibone, CS 00-07
The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

State of Wisconsin – Eau Claire Co. v. Regina M. Melendy, CS 05-68
The Court had to determine whether to grant full faith and credit and/or comity to a foreign child support order against the respondent’s wages. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

March 21, 2006
Kelley L. Thundercloud v. Wallace P. Greendeer, CV 96-90
The petitioner requested cessation of child support withholding from the respondent’s per capita. The petitioner sent a letter from the high school indicating the expected graduation date of the child. Therefore, the cessation of current child support shall go into effect upon the graduation of the minor child.

March 22, 2006
State of Wisconsin/Jackson Co. v. Charles D. Hindsley, CS 03-66
The Court had to determine whether to grant full faith and credit and/or comity to a foreign child support order against the respondent’s wages. The respondent failed to respond within the specified timeframe. The Court granted the petitioner’s request for recognition and enforcement.

State of Wisconsin/Jackson Co. v. Charles D. Hindsley, CS 03-66
The petitioner filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

Neil T. McAndrew v. Lisa Miner McAndrew, CV 97-14 Order (Proof of High School Enrollment Filed) (HCN Tr. Ct., Mar. 22, 2006). (Matha, T). The Court issued a Notice (Child Turning 18 – Requiring Proof of Enrollment). The Court ordered the parties to file proof of enrollment in high school or its equivalent, or the Court would cease withholding for current child support. The petitioner filed the required proof. Therefore, the cessation of current child support shall go into effect upon the graduation of the minor child.

Dona J. Marinellow v. Howard Pettibone, CS 01-32 Order (Proof of High School Enrollment Filed) (HCN Tr. Ct., Mar. 22, 2006). (Matha, T). The Court issued a Notice (Child Turning 18 – Requiring Proof of Enrollment). The Court ordered the parties to file proof of enrollment in high school or its equivalent, or the Court would cease withholding for current child support. The petitioner filed the required proof. Therefore, the cessation of current child support shall go into effect upon the graduation of the minor child.

MARCH 23, 2006
Bonnie Prescott Smith v. Bradley W. Smith, CV 97-99 Order (Proof of High School Enrollment Filed) (HCN Tr. Ct., Mar. 23, 2006). (Matha, T). The Court issued a Notice (Child Turning 18 – Requiring Proof of Enrollment). The Court ordered the parties to file proof of enrollment in high school or its equivalent, or the Court would cease withholding for current child support. The petitioner filed the required proof. Therefore, the cessation of current child support shall go into effect upon the graduation of the minor child.

Denise Thiry v. Ira Laes, Michelle Kimps v. Ira Laes, CS 02-07, 05-61 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Mar. 23, 2006). (Matha, T). The Court issued a Reissued Order (Modifying Child Support) recognizing a standing foreign child support order against the respondent’s per capita distribution. The Court granted a monthly arrearage until the payment in full of the amount set forth in the account payment history.

MARCH 24, 2006
Joseph P. Estebo v. Diane J. Hopinka, CS 04-01 Order (Ceasing Child Supp.) (HCN Tr. Ct., Mar. 24, 2006). (Matha, T). The petitioner requests child support withholding from the respondent’s per capita. The Court orders the Ho-Chunk Nation Department of Treasury to cease withholding from the respondent’s per capita for child support.

MARCH 28, 2006
Deanna Bedell Awonohopay v. Jay Awonohopay, Mabry D. Deal v. Jay Awonohopay, CS 05-47-48 Order (Proof of High School Enrollment Filed) (HCN Tr. Ct., Mar. 28, 2006). (Matha, T). The petitioner, in case number CS 05-48, filed the required proof of high school enrollment. Therefore, the cessation of current child support shall go into effect upon the minor child’s nineteenth (19th) birthday.

MARCH 27, 2006
Carol Jo Garvin v. George W. Garvin, Carol Jo Garvin v. George W. Garvin, CS 98-56, CV 01-27 Order (Ceasing Child Supp. for August 2006 Per Capita Distribution) (HCN Tr. Ct., Mar. 27, 2006). (Matha, T). The ongoing child support withholding from the respondent’s per capita will cease on June 15, 2006. However, the respondent is to maintain medical insurance for the minor children.

State of Wisconsin – Eau Claire Co. v. Regina M. Melendy, CS 05-68, CS 05-68 Order (Ceasing Child Supp.) (HCN Tr. Ct., Mar. 27, 2006). (Matha, T). The petitioner requested child support withholding cease from the respondent’s wages. All of the parties involved benefited from the immediate cessation of child support.
The petitioner, in Case No. 02-21, filed a motion requesting modification of current child support withholding with a certified copy of the modified foreign support order and certified copy of the account statement. The respondent failed to respond within the specified timeframe. The Court granted the motion.

Civil Garnishment

MARCH 1, 2006
The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a response within the specified timeframe. However, the respondent failed to provide a cognizable objection to the action. The Court granted the petitioner’s request for relief.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a response within the specified timeframe. However, the respondent failed to provide a cognizable objection to the action. The Court granted the petitioner’s request for relief.

MARCH 8, 2006
Valued Servs. of Wis., LLC d/b/a/ Check Advance v. Dana Kaddatz, CG 06-11 Order (Satisfaction of Judgment) (HCN Tr. Ct., Mar. 8, 2006). (Matha, T).
The Court previously issued a default judgment against the respondent. The petitioner filed a correspondence indicating that the respondent has “fully satisfied [the judgment]”. The Court recognizes that the debt has been satisfied.

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a timely response, but did not articulate a recognized exemption to execution of an earnings garnishment. The Court accepted the petitioner’s request for recognition and enforcement.

MARCH 13, 2006
The Court granted the petitioner’s counsel’s request to appear by telephone.


The petitioner sought recognition and enforcement of a foreign money judgment. Prior to the responsive pleading deadline, the petitioner filed the request to dismiss. The petitioner informed the Court that the respondent “has paid his account in full.” The Court accordingly dismisses the case without prejudice.

_Alliance Collection Agencies, Inc. v. Wendy Dickerson, CG 06-04 Order (Preserving Default Judgment) (HCN Tr. Ct., Mar. 13, 2006). (Matha, T)._

The Court had to determine whether to set aside the standing judgment. The respondent claims an exemption to the wage garnishment, but the Court requires further information to validate the claim. The Court afforded the respondent the opportunity to validate the claim. The Court afforded the respondent the opportunity to provide such information at the Fact-Finding Hearing, but the respondent failed to attend the proceeding. The Court preserves its judgment.

**MARCH 21, 2006**

_NCO Att’y Network v. Linda J. Hyman, CG 06-06 Order (Petition Granted) (HCN Tr. Ct., Mar. 21, 2006). (Matha, T)._

The Court had to determine whether to grant full faith and credit to a foreign judgment. The respondent filed a timely response, but did not articulate a recognized exemption to execution of an earnings garnishment. A twenty percent (20%) garnishment of the disposable income does not result in placing the household below the federal poverty level. The Court accepted the petitioner’s request for recognition and enforcement.

**Civil Cases**

**FEBRUARY 28, 2006**

_Forrest Funmaker et al. v. Alvin Cloud et al., CV 05-86 Scheduling Order (HCN Tr. Ct., Feb. 28, 2006). (Vele, K)._

The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

**MARCH 14, 2006**


Having heard the parties’ statements and having reviewed the file herein, the Court orders that the cases remain consolidated and counsel for the plaintiff, Dallas White Wing, shall provide the Court with a written update on his client’s medical condition and anticipated date his client may proceed with trial.

_Forrest Funmaker et al. v. Alvin Cloud et al., CV 05-86 Order (HCN Tr. Ct., Mar. 14, 2006). (Vele, K)._

The Court had a hearing on the petitioners’ _Motion to Compel Discovery_. The Court issued this _Order_ to establish deadlines for the instant case.

**MARCH 23, 2006**


In November 2005, the Court issued a money judgment against the defendant, wherein the Court directed the defendant to satisfy a debt obligation and filing fee within four (4) months from the entrance of the decision. The Court shall convene a _Show Cause Hearing_ and cautions the defendant that failure to appear at the hearing could result in a finding of contempt. If the defendant is found in contempt of court, then this finding shall enable the Court to impose remedial sanctions against the defendant for up to $100.00 each day that the defendant remains in contempt of court.

**Contracts**

**MARCH 13, 2006**

_Ho-Chunk Nation, Ho-Chunk Nation Department of Business and Crockett’s Resort/RV Park v. Michael_
The parties entered into the HCN Service Provider Agreement, which identified an employment term of approximately one (1) year duration. The plaintiffs permitted the defendant to reside in a personal trailer home at the job site during the employment term. Subsequently, the plaintiffs terminated the defendant’s employment. The plaintiff terminated the defendant’s tenancy and required the defendant to vacate the premises. However, the defendant continues to reside on the Nation’s property as a holdover tenant. Furthermore, the defendant failed to reimburse the Nation for funds not expended during the employment term. The defendant failed to answer the Complaint despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiffs permissible relief sought in the Complaint.

After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the property restored to its possession and to remove the defendant, his possessions, and those occupying the property with him from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Juneau County in order to restore the property.

EMPLOYMENT

MARCH 3, 2006
The Court granted plaintiff’s counsel’s request to appear by telephone at the Scheduling Conference.

MARCH 7, 2006
Lisa Wathen v. Ho-Chunk Nation Gaming Commission, CV 00-65 Order (Granting

The plaintiff alleged the defense of constructive discharge in response to the defendant's assertion that she voluntarily resigned her position. The Court previously adopted a three-prong test to determine the validity of the defense. The plaintiff failed to adequately allege that the defendant's purported actions violated a fundamental public policy, which constitutes the first prong. As a result, the Court granted the defendant's request for summary judgment.

MARCH 13, 2006
The Court granted plaintiff’s counsel’s request to appear by telephone at the Scheduling Conference.

MARCH 20, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

MARCH 28, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

ENROLLMENT

FEBRUARY 15, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.
HOUSING
FEBRUARY 28, 2006
Karen J. Combs and Carson D. Combs v. David R. Snowball and Ho-Chunk Nation Housing Authority, CV 02-80 Order (Motion to Dismiss) (HCN Tr. Ct., Feb. 28, 2006). (Vele, K).
The Court ordered, “this action shall be dismissed without further notice to either party, unless good cause is shown in writing prior to said date.” Accordingly, in the absence of good cause shown, the Court dismisses the instant action without costs to either party.

MARCH 2, 2006
After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the property restored to its possession and to remove the defendant, her possessions, and those occupying the property with her from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Jackson County in order to restore the property.

MARCH 8, 2006
Ho-Chunk Nation Housing & Community Development Agency v. LaVetta Cloud, CV 06-07 Order (Staying Writ of Restitution) (HCN Tr. Ct., Mar. 8, 2006). (Matha, T).
The defendant filed a Motion for Hardship Hearing accompanied by an affidavit. The Court granted the defendant’s request and stays the execution of the Writ of Restitution. The stay of the eviction shall expire thirty (30) days from the issuance of the Eviction Order (Default Judgment). The defendant  may ultimately avoid eviction only by independently resolving the matter with the plaintiff.

MARCH 10, 2006
The Court had to determine whether to grant the defendants’ request for summary judgment. The defendants contend that the plaintiff filed her amended pleading after the relevant statute of limitation period expired and is likewise barred by the doctrine of laches. The Court denies the defendants’ motion since it failed to incorporate either defense within its responsive pleading. The Court requests that the plaintiff alert the Court within thirty (30) days as to whether or not she wishes to proceed with the case.

DIVORCE
MARCH 13, 2006
The Court granted petitioner’s request to appear by telephone at the Initial Hearing.

MARCH 13, 2006
The parties jointly filed the Petition for Divorce (Without Minor Children), thereby consenting to the personal jurisdiction of the Court. The petitioner is an enrolled member of the Ho-Chunk Nation and has resided in the State of Wisconsin for at least six (6) consecutive months prior to filing of the petition. The parties stated that the marriage is irretrievably broken with no possibility of reconciliation.
**Elder Abuse**

**MARCH 29, 2006**

*In the Interest of Elder Person, DV 06-02 Order (Final Judgment - Redacted) (HCN Tr. Ct., Mar. 29, 2006).* (Matha, T).

The Court held that the petitioner has established the existence of an outstanding debt obligation, but the facts do not rise to the level of exploitation. However, the Court determined that the respondent owes a contractual duty of repayment of the debt.

**CHILDREN’S TRUST FUND (CTF)**

**MARCH 1, 2006**


The Court previously released funds from the CTF accounts of the minor child for costs associated with private school tuition. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.


The Court previously released funds from the CTF accounts of the minor child for costs associated with private school tuition. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

*In the Interest of Minor Child: M.L.D., DOB 04/05/01, by Terry T. Deloney v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-58 Order (Demanding Accounting) (HCN Tr. Ct., Mar. 1, 2006).* (Matha, T).

The Court ordered that the petitioner submit the previous required accounting.

*In the Interest of Adult CTF Beneficiary: Rainelle M. Decorah, DOB 01/26/85 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-67 Order (Demanding Accounting) (HCN Tr. Ct., Mar. 9, 2006).* (Matha, T).

The Court ordered that the petitioner submit the previous required accounting.

**MARCH 2, 2006**


The Court previously released funds from the CTF account of the minor child for costs associated with orthodontic procedures. The petitioner failed to submit an accounting confirming the specified use of the funds within the specified timeframe. The Court ordered a Show Cause Hearing to allow the petitioner the opportunity to explain why the Court should not hold him in contempt of court.

**MARCH 8, 2006**


The Court requested that the petitioner submit the required accounting.

**MARCH 9, 2006**

*In the Interest of Minor Child: C.S., DOB 07/10/95, by Tara Snowball v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-81 Order (Requesting Accounting) (HCN Tr. Ct., Mar. 9, 2006).* (Matha, T).

The Court requested that the petitioner submit the required accounting.

*In the Interest of Adult CTF Beneficiary: Rainelle M. Decorah, DOB 01/26/85 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-67 Order (Demanding Accounting) (HCN Tr. Ct., Mar. 9, 2006).* (Matha, T).

The Court ordered that the petitioner submit the previous required accounting.

**MARCH 15, 2006**

*In the Interest of Adult CTF Beneficiary: April Webster, DOB 08/30/87 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-107 Order (Petition Granted in Part and Denied in Part) (HCN Tr. Ct., Mar. 15, 2006).* (Matha, T).

The Court had to determine whether an adult can access her CTF account for the purposes of purchasing a mobile home. The Court employs the standard enunciated in the PER CAPITA DISTRIBUTION ORDINANCE to assess the merit of the petitioner’s request. The Court declines the specific request, but conditionally grants housing assistance.
The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with orthodontic procedures. The Court granted the request.

In the Interest of Adult CTF Beneficiary: Cha-Ska Prescott, DOB 05/16/86 v. Ho-Chunk Nation Office of Tribal Enrollment, CV 05-108 Order (Motion Granted) (HCN Tr. Ct., Mar. 20, 2006). (Matha, T).
The Court previously approved a release of the CTF for purposes of paying for continuing education. The petitioner brought a motion for release of CTF monies for unexpected tuition expenses. The respondent consented to the further release of funds within its March 10, 2006 response, provided that the petitioner files supplemental documentation.

The Court ordered that the petitioner submit the previous required accounting.

The Court had to determine whether to hold the petitioner in contempt of court for knowingly violating the express terms of several judgments. The petitioner failed to attend the Show Cause Hearing, resulting in an inability to rebut the prima facie showing of contempt. The Court, therefore, holds the petitioner in contempt and imposes a reasonable remedial sanction in the amount of ten dollars ($10.00) per day.

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

The Court ordered that the petitioner submit the previous required accounting.

The Court requested that the petitioner submit the required accounting.

In the Interest of Minor Children: S.E.R., DOB 01/05/90, T.E.R., DOB 12/26/90, B.B., DOB 05/01/93, JV 06-01-03 Order (Appointment of Guardian ad Litem) (HCN Tr. Ct., Mar. 1, 2006). (Matha, T).

The Court appointed a GAL in this matter.


The Court conditionally terminates its jurisdiction over and supervision of the instant case in accordance with the CHILDREN’S ACT. Therefore, the Order (Granting Emergency Temporary Legal [and] Physical Custody and any subsequent orders shall have no binding force or effect, provided that the parties demonstrate no relevant change of circumstances during the interim.


The Court convened the Guardianship Hearing, but the petitioner failed to appear at the proceeding. The petitioner did not provide the Court with an explanation regarding her non-attendance, despite receiving proper notice of the Hearing. Consequently, the Court conditionally denies the Petition for Permanent Guardianship, unless the petitioner reschedules the Guardianship Hearing within fifteen (15) days of the issuance of this decision.

In the Interest of Minor Children: S.E.R., DOB 01/05/90, T.E.R., DOB 12/26/90, B.B., DOB 05/01/93, JV 06-01-03 Order (Entrance of Plea) (HCN Tr. Ct., Mar. 6, 2006). (Matha, T).

The Court convened a Plea Hearing for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the Child/Family Protection Petition. At that time, the parent entered a plea of not guilty. The Court accordingly schedules a Trial.

In the Interest of Minor Children: B.E.Y., DOB 07/25/89, N.R.Y., DOB 07/06/91, JV 05-33-34 Order (Regarding Motion to Modify and Continuation of Trial) (HCN Tr. Ct., Mar. 6, 2006). (Matha, T).

The Court convened Trial during which CFS made a motion to modify a presumably standing judicial order. CFS moved to strike the dispositional requirements entered against the father of the minor children. The Court additionally announced the scheduling for the remainder of the trial proceeding.
The father of the minor child filed a Motion to Modify Court Order seeking a revision of the visitation schedule. No party filed a timely response to the motion. The Court orders the parties to mutually restructure the visitation schedule within five (5) calendar days of the issuance of this decision.

In the Interest of Minor Child: T.V.F., DOB 02/18/02, JV 03-14 Order (Conditional Termination of Jurisdiction) (HCN Tr. Ct., Mar. 2, 2006). (Matha, T).
The Court conditionally terminates its jurisdiction over and supervision of the instant case in accordance with the CHILDREN’S ACT. Therefore, the Order (Granting Emergency Temporary Legal [and] Physical Custody and any subsequent orders shall have no binding force or effect, provided that the parties demonstrate no relevant change of circumstances during the interim.

The Court conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo while adding a single dispositional requirement that the minor child attend an AODA assessment and comply with any recommended treatment or counseling.

CFS filed a Motion for Urinary Analysis Testing. Having afforded the parties appropriate service of process, the Court grants the movant’s uncontested request.

The Court granted the CFS Social Worker’s request to appear by telephone.

The Court convened a Plea Hearing for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the Child/Family Protection Petition. At that time, the parent requested a continuance, so as to obtain legal representation. The Court accordingly reschedules the Plea Hearing.

The Court convened the Revocation Hearing to determine whether to terminate the temporary guardianship and return the minor child to the custodial parent. At the Hearing, CFS and Guardian ad litem presented recommendations to guide the Court’s examination of the minor child’s
best interests. The Court concurred with the recommendation to require a transitional period and required the parties to mutually devise a six (6) week transitional schedule.

MARCH 28, 2006
In the Interest of Minor Children: A.A., DOB 03/23/98 and V.A., DOB 02/28/00, JV 06-11-12
The Court had to determine whether to conditionally accept transfer of a State of Wisconsin children’s case, in which the minor children, either enrolled or eligible for enrollment with the Ho-Chunk Nation, are subject to foster care placement. After reviewing the Motion for Transfer, the Court shall not decline transfer of this action absent good cause to the contrary.

In the Interest of Minor Children: Y.M.R., DOB 08/19/04 and Y.J.R., DOB 06/24/05, JV 06-09-10
The Court had to determine whether to conditionally accept transfer of a State of Wisconsin children’s case, in which the minor children, either enrolled or eligible for enrollment with the Ho-Chunk Nation, are subject to foster care placement. After reviewing the Motion for Transfer, the Court shall not decline transfer of this action absent good cause to the contrary.

Recent Filings

Trial Court

Civil Garnishment
MARCH 9, 2006
Alliance Collection Agencies v. Mary Locey, CG 06-19. (Matha, T).

MARCH 24, 2006

Child Support

MARCH 8, 2006
Maria N. Blackhawk v. William C. Scarce, CS 06-09. (Matha, T).

MARCH 9, 2006
State of Wisconsin – Alice Bissonette v. Ferguson Funmaker, CS 06-08. (Matha, T).

MARCH 22, 2006


MARCH 24, 2006
Frances Peter Rave, Sr. v. Lisa Ann (Rave) Banuelos, CS 06-15. (Matha, T).

MARCH 28, 2006
Mary Ann Dick v. Herman F. Decorah, CS 06-16. (Matha, T).

SUPREME COURT
MARCH 15, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

Civil Cases

MARCH 1, 2006


MARCH 8, 2006


MARCH 10, 2006
Ho-Chunk Nation Property Management v. Carina Bachand, CV 06-17. (Matha, T).


MARCH 15, 2006

MARCH 21, 2006

MARCH 22, 2006

MARCH 24, 2006
In the Interest of Minor Child: C.R.L., DOB 05/04/89, by Lawrence E. LaMere v. Ho-Chunk Nation Office of Tribal Enrollment, CV 06-23. (Matha, T).

MARCH 31, 2006
Dallas White Wing v. Ho-Chunk Nation Legislature, CV 06-25. (Jones, J).

Juvenile

MARCH 24, 2006
In the Interest of Minor Child: K.P., DOB 06/03/00, JV 06-07. (Matha, T).

In the Interest of Minor Child: N.P., DOB 02/12/03, JV 06-08. (Matha, T).


In the Interest of Minor Child: V.A., DOB 02/28/00, JV 06-12. (Matha, T).

MARCH 27, 2006
In the Interest of Minor Child: Y.M.R., DOB 08/19/04, JV 06-09. (Matha, T).
In the Interest of Minor Child: Y.J.R., DOB 06/24/05, JV 06-10. (Matha, T).

Divorce

FEBRUARY 7, 2006

Supreme Court

MARCH 3, 2006
Sherry Wilson v. HCN Department of Personnel, SU 06-01.
HO-CHUNK NATION COURT SYSTEM

JUDICIARY AND STAFF
Supreme Court - Mary Jo B. Hunter, Chief Justice
Mark D. Butterfield, Associate Justice
Dennis Funmaker, Associate Justice

Traditional Court - Earl Blackdeer
Donald Blackhawk
Dennis Funmaker
Jim Greendeer
Douglas Greengrass
Desmond Mike
Douglas Red Eagle
Preston Thompson, Jr.
Eugene Thundercloud
Morgan White Eagle
Clayton Winneshiek

Trial Court - Todd R. Matha, Chief Judge
JoAnn Jones, Associate Judge

Clerk of Court, Trial Court - Marcella Cloud
Assistant Clerk of Court, Trial Court - Selina Joshua
Bailiff/Process Server - Albert Carrimon
Administrative Assistant - Jessi Cleveland
Staff Attorney - Amanda R. Cornelius
Supreme Court Clerk - Mary Endthoff

The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

WISCONSIN TRIBAL JUDGES ASSOCIATION
(Eleven federally recognized tribes within the State of Wisconsin)

NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION
(Region 10—Illinois, Indiana, Michigan, Minnesota, and Wisconsin)

HCN Judiciary Fee Schedule

Filing Fees
- Complaint……………………………………..$50.00
- Petition for Release of Per Capita Distribution
  (Children’s Trust Fund) .........................$50.00
- Motion to Appear Pro Hac Vice…………..$35.00
- Appellate Filing Fee……………………….$50.00
- Petition to Register and Enforce Foreign
  Judgment/Order .................................$20.00
- Marriage License Fee……………………..$50.00

Court Fees
- Copying ......................................................$0.10/page
- Faxing ..................................$0.25/page (sending & receiving)
- CD of Hearings ........................................$12.50/CD
- Deposition Videotape .............................$10.00/tape
- Certified Copies .................................$0.50/page
- Equipment Rental .................................$5.00/hour
- Admission to Practice .............................$50.00

Legal Citation Forms
The following are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution
Constitution, Article Number, Section, Subsection.
HCN CONST., Art. II, Sec. (or §) 1(a).

Ho-Chunk Nation Code
Ordinance/Act Name Title Number HCC Section.
ELDER PROTECTION ACT, 4 HCC § 1.
EMPLOYMENT RELATIONS ACT, 6 HCC § 5.
(for detailed citation information consult LEGISLATIVE
ORGANIZATION ACT, 2 HCC § 11.36)

HCN Supreme Court Case Law
Case Name, Case Number (HCN S. Ct., month, day, year).
Johnson v. Department Inc.,SU 96-21 (HCN S. Ct., Aug. 14,
1996).

HCN Trial Court Case Law
Case Name, Case Number (HCN Tr. Ct., month, day, year)
Jane Doe v. Bob Smith,CV 99-01 (HCN Tr. Ct., Nov. 1,
1999).

Ho-Chunk Nation Rules of Civil Procedure
HCN R. Civ. P. 19(B)
U.S. Supreme Court Denies Review of Cayuga Land Claim

On May 15, 2006, the United States Supreme Court, without comment, declined a petition filed by the Cayuga Nation of New York and the Seneca-Cayuga Tribe of Oklahoma to hear the twenty-six (26) year old land claim appeal.  Cayuga Indian Nation of New York v. Pataki, No. 05-982.  The merits of the case were not decided upon, thus the sharply divided Second Circuit Court of Appeals ruling is left standing.  By denying review, the Court is essentially declaring that there is no new or unresolved judicial question being raised.  See generally, Sup. Ct. R. 10.  Therefore, it appears that the Court may be saying that the decision handed down in City of Sherrill v. Oneida Indian Nation, 125 S. Ct. 1478 (2005) cleared up any uncertainty regarding when equitable defenses may be used to bar land claim suits.

In Sherrill, the Supreme Court held that the Oneida Indian Nation of New York could not unilaterally revive sovereign status over land it had purchased that was once part of its aboriginal homeland, but was later illegally transferred to the state of New York.  Id. at 1483.  In reaching this decision, the Court stated that “the distance from 1805 to the present day, the Oneidas' long delay in seeking equitable relief against New York or its local units, and developments in the city of Sherrill spanning several generations, evoke the doctrines of laches, acquiescence, and impossibility.”  Id. at 1494.  BLACK’S LAW DICTIONARY defines the doctrine of laches as: “neglect to assert a right or claim which, taken together with lapse of time and other circumstances causing prejudice to adverse party, operates as a bar in a court of equity.”  By the Supreme Court basing its decision upon this doctrine, it may very well be closing the door on many tribes seeking to bring land claims across the nation. This is evidenced by the Second Circuit Court of Appeals 2-1 decision in Cayuga Indian
At the appellate level in *Cayuga Indian Nation*, Second Circuit Judge Jose Cabranes delivered the majority opinion for the Court of Appeals on June 28, 2005. Like the Oneidas in *Sherrill*, the Cayugas were barred from asserting their land claim based upon the equitable doctrine of laches. *Id.* at 268. Essentially, the Cayugas were found to have waited too long. Furthermore, if the Tribe was allowed to continue with its claim, then immense disruption would result.

In reaching its decision, the majority read *Sherrill* in an expansive manner. “Although we recognize that the Supreme Court did not identify a formal standard for assessing when these equitable defenses apply, the broadness of the Supreme Court's statements indicates to us that *Sherrill*’s holding is not narrowly limited to claims identical to that brought by the Oneidas, seeking a revival of sovereignty, but rather, that these equitable defenses apply to “disruptive” Indian land claims more generally.” *Id.* at 274. Although the Cayuga Indian Nation and the U.S. had tailored their briefs to distinguish their monetary claim from the Oneida’s request to reinstate sovereignty over the purchased lands in *Sherrill*, the majority refused to see any differences. Instead, they found the remedies to be comparably disruptive. *Id.* at 274. Specifically, they found that the Cayugas’ desired remedy had always been ejectment of the current landowners, which would be highly disruptive. *Id.*

In making this determination, the majority simply disregarded the Tribe’s request for monetary damages as a separate remedy. Even with the district court substituting monetary damages in place of the preferred ejectment 19 years into the claim, the Second Circuit said that was not enough to save the claim. *Cayuga Indian Nation*, 413 F.3d at 277. Thus, the majority was more concerned with what the Tribe’s actual preference had been throughout the past, and not with any other desired remedies sought. *Id.* at 274. It was this reasoning that invoked the lone dissent from District Judge Judith Hall.

Although Judge Hall agreed with the majority in its reasoning that the doctrine of laches prevented the tribe from asserting its right to seek ejectment, the judge dissented to the application of the doctrine as a defense to monetary damages. Specifically, Judge Hall said that “based on the nature of the claims long asserted in this case, the elements of the defense of laches, and the language and precedent relied on in *City of Sherrill*, I cannot join the majority in its conclusion that laches bars all of the plaintiffs' remedies, including those for money damages.” *Id.* at 280. The Judge reasoned that even if ejectment was the preferred remedy sought by the Tribe, there was no evidence in the record that the Tribe had relinquished its claim for monetary damages. *Id.* at 281. Furthermore, the claims for possession and monetary damages should have been treated separately. Although laches is a defense to the possession and ejectment claim, it is not a defense to a claim for monetary damages. *Id.* at 284. Thus, Judge Hall believed that the Tribe should have been allowed to continue with its claim for such damages.

This reasoning is based upon the fundamental differences between legal and equitable claims. These differences date back to fifteenth century England, where courts of equity were established in order to provide remedies that were not available in courts of law. *See Kirkwood v. Decorah et al.*, CV 04-33 (HCN Tr. Ct., Feb.11, 2005). Instead of providing monetary damages to compensate for past wrongdoing as the courts of law would do, the courts of equity would provide equitable remedies to prevent future wrongs from occurring. *Id.* In addition to remedies, there is also a difference in how the courts viewed the issue of timeliness. Courts of equity permitted the use of the equitable defense of laches, whereas courts of law followed statutes of limitation. *Id.* Essentially, if a person was seeking an injunction, but had waited so long to bring the claim that it would cause prejudice, that person may be barred by the defense of laches. However, if someone had a legal claim...
and was seeking monetary compensation, but had just merely waited too long to assert it, that person would be barred by a statute of limitation that exists for that particular claim.

Based upon these distinctions between legal and equitable claims, the Cayuga asserted in their petition for certiorari that the Supreme Court has held that claims for monetary damages brought by Indian tribes for land acquired by the State of New York 200 years ago in violation of the Nonintercourse Act and federal treaties, could proceed because they were timely under 28 U.S.C. § 2415. See Cayuga Indian Nation of New York v. Pataki, 413 F.3d 266 (2nd Cir. 2005), cert. den., 74 U.S.L.W. 3639 (U.S. May 15, 2006) (No. 05-982). Section 2415 is the governing federal statute of limitations. Id. Moreover, the Tribe pointed out that the Supreme Court had left that holding undisturbed when it decided Sherrill. See Id.; Sherrill, 125 U.S. at 1494. Despite these assertions regarding their legal claim for monetary damages, the U.S. Supreme Court refused to review the appellate decision.

Because the decision to deny certiorari was rendered without explanation, it is unclear whether the Court is merely waiting for the issues to become more developed, or if it agrees with the Second Circuit’s expansion of Sherrill. Either way, the denial of cert has incited both heated criticism and speculation regarding the future of land claims. St. Regis Mohawk Tribal Chief James W. Ransom said that “the Supreme Court, in refusing to accept the Cayuga appeal, has established itself as the most anti-Indian court in the history of the United States.” Indian Country Today, Supreme Court Drops Cayuga Land Claim Case (May 19, 2006), available at http://www.indiancountry.com/content.cfm?id=1096413009. Even with this view in Indian Country, many tribes believe that their cases are distinguishable and thus will not be found disruptive. For example, after the Supreme Court’s denial of cert, the Onondaga Nation stated “while it differs from the Cayuga suit in that it does not seek ‘disruptive’ remedies, the underlying crimes and injustices are virtually identical. The historical facts that the Cayugas did everything they could, that they did not wait too long and that New York knowingly and repeatedly violated federal law and treaties were not contested by the Court of Appeals. The Onondaga will continue their suit regardless of today’s grave injustice.” Id.

HONORS AWARDED TO TRIBAL MEMBERS AT THE 2006 WISCONSIN STATE BAR ANNUAL CONVENTION

Former Supreme Court Justice and tribal members, Jo Deen Lowe was one of the 2006 President’s Award Recipients for her work on the Access to Justice Study Committee. This committee was appointed by President Guerin at the request of the State Bar Board of Governors and the Wisconsin Supreme Court to oversee a detailed study of the unmet civil legal needs of low income Wisconsin residents. The purpose of the group is to provide information about the scope and impact of the problem of access to justice along with recommendations on how stakeholders in the justice system can work together to properly fund services for those less fortunate.

Also, former Staff Attorney and tribal member, Amanda R. Cornelius was elected as the Vice Chair of the Indian Law Section for the State Bar of Wisconsin. Ms. Cornelius is currently an attorney with the Ho-Chunk Nation’s Department of Justice.

HO-CHUNK NATION COURT BULLETIN
VOL. 12, NO. 5-6
MAY/JUNE 2006
PAGE 3 OF 24
Angela Thundercloud is the law clerk with the Ho-Chunk Nation Trial Court this summer. She is a member of the Ho-Chunk Nation and her father, Leland Thundercloud, worked in MIS from 1994-2000. Angela recently finished her second year of law school at the University of Wisconsin. Last summer she worked for a law school clinic, representing clients in landlord/tenant disputes, wage and hour claims, and public benefits. Angela graduated with a Bachelor of Arts degree with a double major in Political Science and Philosophy from Bowling Green State University in Bowling Green, Ohio, which is where she met her fiancé, David Dewar. They are getting married this August.

Nicole M. Homer is a member of the Oneida of Thames Indian Nation in Ontario, Canada and was raised on the traditional homelands of the Onondaga in the town of LaFayette, New York. After graduating from American University with a Bachelor of Arts degree in Justice, Law & Society in 2003, Nicole attended Loyola University School of Law in New Orleans, LA where she received her Juris Doctorate degree this May. She spent last summer as a law clerk for the Native American Rights Fund (NARF) in Boulder, CO. While clerking at NARF, Nicole became particularly interested in water rights and environmental issues. Upon completing her two (2) year long judicial clerkship with the Ho-Chunk Nation Trial Court in 2008, Nicole hopes to work either for a tribe or a non-profit dedicated to protecting American Indian rights.

GUARDIAN AD LITEM TRAINING
JULY 10-12, 2006

The Ho-Chunk Nation Children & Family Act requires that the Trial Court “appoint a guardian ad litem to protect the interests of the child” in every juvenile case. 4 HCC § 3.20b. The Ho-Chunk Nation Judiciary currently seeks conscientious and caring individuals to fill this important role. A guardian ad litem serves as an independent judicial officer and informs the Court of an affected child's interests in child protection and guardianship matters, which either Ho-Chunk Nation Children & Family Services or the parent files in Court.

Guardian ad litems receive reasonable compensation for their services and reimbursement for accumulated expenses. The Court will host an on-site guardian ad litem training session on July 10-12, 2006, at Wa Ehi Hoci in Black River Falls, WI. Wisconsin Judicare, Inc. will conduct the training, which is free to tribal members. Interested tribal members, including current guardian ad litems, are encouraged to attend, and should seek further information from the Clerk of Court at (800) 434-4070. Pursuant to proposed Supreme Court rules, prospective attendees must complete an application and schedule a brief interview. The
course is limited to participation of approximately twenty (20) individuals.

**UPDATES FROM OUTSIDE COURTS**

**United States Supreme Court**

**Certiorari granted**


**Certiorari denied**

*Cayuga Indian Nation of New York v. Pataki*, No. 05-982 (denied May 15, 2006).

*Chayoon v. Sherlock*, No. 05-10180 (denied May 15, 2006).

*Doe v. Mann*, No. 05-815 (denied May 1, 2006).

*Salinas v. Lamere*, No. 05-1189 (denied May 22, 2006).

**Petition for Certiorari filed**

*Jo-Ann Dark-Eyes v. Connecticut Commissioner of Revenue Services*, No. 05-1464 (filed May 15, 2006).

*Lingle v. Arakaki*, No. 05-988 (filed February 2, 2006).

*Mattaponi v. Virginia*, No. 05-1141 (filed March 6, 2006).

*Morris v. Tanner*, No. 05-1285 (filed April 6, 2006).


**Smith v. Salish Kootenai**, No. 05-10357 (filed April 10, 2006).

**South Dakota v. Dept. of Interior**, No. 05-1428 (filed May 8, 2006).

**United States v. Arrieta**, No. 05-10770 (filed May 1, 2006).

**Utah v. Shivwits Band of Paiute Indians**, No. 05-1160 (filed March 9, 2006).

**Fourth Circuit Court of Appeals**


Terminated casino employee filed state court action against casino management company that had contracted with Indian tribe to operate tribal gaming enterprise for violation of Family and Medical Leave Act (FMLA). Action was removed to federal court. Employee added claims of race discrimination under § 1981 and wrongful discharge in violation of North Carolina public policy. The United States District Court for the Western District of North Carolina granted summary judgment for employer on FMLA and § 1981 claims and dismissed wrongful discharge claim without prejudice. Employee appealed. The Court of Appeals held that as a matter of first impression, Family and Medical Leave Act (FMLA) did not provide covered employee with absolute right to be restored to his previous job after taking approved leave; the employee's position was eliminated for legitimate reasons unrelated to request for FMLA leave, defeating his FMLA interference claim; the employee established prima facie case of retaliation under FMLA; the employer's proffered reason for eliminating his job was legitimate and nonretaliatory and was not shown to be pretextual; and the tribe was both necessary and indispensable party to employee's § 1981 cause of action, but its sovereign status prohibited its joinder. Affirmed.

**Ninth Circuit Court of Appeals**

*In re Emerald Outdoor Advertising, LLC*, 2006 WL 947759 (9th Cir. 2006).
Chapter 11 debtor moved to assume certain executory leases to operate billboards on deed of trust property, and party that had purchased deed of trust property at foreclosure sale objected and moved for relief from stay in order to continue litigating her dispute with bankrupt advertising company in tribal court. The United States Bankruptcy Court for the Eastern District of Washington entered order denying motion to assume, and appeal was taken. The District Court reversed. The Court of Appeals held that the recording of deed of trust on Indian trust lands in office of auditor of county in which these trust lands were located, as required to perfect deed of trust under Washington law, gave deed of trust priority over subsequent lease that was thereafter recorded in appropriate Bureau of Indian Affairs (BIA) title plant; and while Indian owner of trust land had to obtain approval of the Bureau of Indian Affairs (BIA) in order to mortgage land, BIA's approval was effective immediately on issuance of certificate of approval. Reversed.

**Tenth Circuit Court of Appeals**

**Walton v. Pueblo**, 443 F.3d 1274 (10th Cir. 2006).

Non-Indian vendor brought action against Indian tribe and various tribal officials, alleging that tribe's revocation of his flea market vendor's permit violated federal and state law. Defendants moved to dismiss on basis of sovereign immunity. The United States District Court for the District of New Mexico denied the motion in part and granted it in part, and parties cross-appealed. The Court of Appeals held that the district court lacked jurisdiction to hear non-habeas claims; habeas provision of Indian Civil Rights Act (ICRA) did not confer jurisdiction on district court; and the tribe's waiver, pursuant to Indian Self-Determination and Education Assistance Act (ISDEAA), of its sovereign immunity with respect to suits arising out of its performance of its contractual duties, did not confer jurisdiction on district court. Affirmed in part and reversed in part.

**Wyandotte Nation v. Sebelius**, 443 F.3d 1247 (10th Cir. 2006).

Following a raid by Kansas law enforcement authorities on a casino owned by an Indian tribe, tribe sought preliminary injunction requiring return of seized monies and gaming machines and barring Kansas from exercising jurisdiction over gaming or related activities on the site. The United States District Court for the District of Kansas granted the request, and also sua sponte enjoined tribe from conducting gaming or related activities on the site pending clarification of various issues. Parties cross-appealed. The Court of Appeals held that the district court abused its discretion in sua sponte enjoining tribe from conducting gambling, and that the tribe was entitled to preliminary injunction. Affirmed in part, vacated in part, and remanded.

**Recent Decisions**

Decisions are separated between Trial Court and Supreme Court decisions and categorized by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader’s benefit. They should in no way be used as substitution for citations to the actual court opinion.

Within the Trial Court, cases are categorized and docketed as one of the following: Child Support (CS or if filed prior to 1998, CV), Civil Garnishment (CG), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Within this index, case citations will appear in one of these categories and, in the event it may be helpful to the reader as a research tool, the cases may also be summarized in a separate topic area. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. In some instances a decision may touch upon other topics that may not warrant a summary in this index, but the editor will use the indicator “other topic(s) covered,” as a research aid for the reader.
Recent Decisions and Recent Filings both begin with the date where the previous Court Bulletin left off.

Trial Court

Child Support

March 30, 2006

The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

April 03, 2006

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of petitioner.

April 12, 2006

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent expressed his acquiescence to the request in writing, and, therefore, the Court waived the normal service of process requirement. The Court granted recognition and enforcement of the foreign judgment.

The respondent provided a copy of child’s high school equivalency diploma. The Court directed the HCN Department of Treasury to cease withholding per capita payments for child support. In addition, the Court directed the HCN Payroll Division to cease garnishment of wages for child support.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

April 13, 2006

The Court received correspondence from child’s high school stating the child was no longer in school. The Court rescinded its earlier Order (Proof of High School Enrollment Filed), and directed the HCN Department of Treasury to cease withholding per capita payments for child support.

The Court had to determine whether to modify a standing child support withholding decision. The petitioner filed a motion requesting that the Court revise the respondent’s child support obligation.
The respondent failed to respond. The Court granted the motion.

The Court had to determine whether to modify a standing child support withholding decision. The petitioner filed a motion requesting the Court to revise respondent’s child support obligation. The respondent’s response timeframe has not lapsed, but the Court modified because it proves beneficial to the respondent.

The Court had to determine whether to grant the petitioner’s recent motion to modify. Petitioners requested a motion to modify by submitting a certified copy of the account history statement. The respondent failed to respond. The Court granted the motion.

APRIL 14, 2006
The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to file a timely answer. The Court granted recognition and enforcement of the foreign judgment, and performed an equitable adjustment.

The Court had to determine whether to grant the petitioner’s motion to modify. The petitioners requested a modification in current child support withholding. The respondent failed to respond timely. The Court granted the motion.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to file a timely answer. The Court granted recognition and enforcement of the foreign judgment, and performed an equitable adjustment.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to file a timely answer. The Court granted recognition and enforcement of the foreign judgment, and performed an equitable adjustment.

The Court had previously issued an Order (Updating Arrearage Withholding). The petitioner later filed a motion to amend arrears withholding with a certified accounting statement. The Court ordered the Treasury Department to withhold an amount, in accordance with the previous order.

APRIL 19, 2006
The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent expressed his acquiescence to the request for relief due to his initiation of the cause of action. The Court granted recognition and enforcement of the foreign judgment.
APRIL 20, 2006


The Court issued an Order (Ceasing Child Support). A review of the record reveals that although the child had received a high school equivalency diploma, child support must continue until she reaches the age of majority. The Court ordered that wage withholding shall resume immediately.

APRIL 26, 2006


The petitioner had filed a request to modify child support arrearage withholding. A certified copy of a foreign judgment and IV-D Case Account Statement accompanied the motion. The respondent failed to timely respond to the motion. The Court amended its standing order to reflect the modifications requested.


The Court previously ordered that the respondent’s ongoing child support obligation for two older children would cease after the May 1, 2006 per capita distribution. The Court ordered the HCN Department of Treasury to modify respondent’s withholding to reflect this change.

MAY 15, 2006


The Court previously noted that it cannot intercept per capita monies for purposes “of interest or other miscellaneous costs or fees.” However, the Court errantly directed the HCN Department of Treasury to withhold per capita monies for child support arrears which represented outstanding birthing expenses. While this debt remains the obligation of the respondent, the Court directed the Treasury Department to cease further withholding for arrearages, but continue ongoing child support deductions.


The Court modified its most recent judgment to reflect a single county case number and directed the HCN Treasury Department to change the numbers on each per capita payment for child support.

Civil Garnishment

MARCH 30, 2006


The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.


The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

APRIL 25, 2006


The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondents failed to timely respond. The Court granted a default judgment in favor of petitioner.

MAY 05, 2006

Creditor Recovery Service, LLC v. Wendy Dickerson, CG 06-22 Order (Granting Telephonic Garnishment)
Appearance) (HCN Tr. Ct., May 05, 2006). (Matha, T).
The petitioner requested that the Court permit her to appear by telephone at the Fact-Finding Hearing. The Court granted petitioner’s request.

**MAY 12, 2006**
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond. The Court granted a default judgment in favor of petitioner.

**MAY 18, 2006**
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent filed a timely response, but failed to attend a scheduled hearing. The Court granted a judgment in favor of petitioner(s).

**MAY 23, 2006**
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond. The Court granted a default judgment in favor of petitioner.

**Civil Cases**

**APRIL 03, 2006**
**HCN Treasury Department et al. v. Corvettes on the Isthmus, et al.**, CV 05-82 Order (Partial Grant of Motion to Dismiss) (HCN Tr. Ct., Apr. 03, 2006). (Matha, T).
The Court had to determine whether to grant the defendant’s motion to dismiss, which includes a request to compel a discovery response. The Court partially grants the request, dismissing the individually named defendants as parties to the suit. The Court also extended the discovery period.

**APRIL 05, 2006**
The Court had to determine whether to hold the defendant in contempt of court for knowingly violating the express terms of a final judgment. The defendant failed to attend the Show Cause Hearing, resulting in the inability to rebut the prima facie showing of contempt. The Court held the defendant in contempt and imposed a reasonable remedial sanction.

**APRIL 13, 2006**
**Ho-Chunk Casino Hotel & Convention Center and HCN v. Christina LaMere**, CV 06-03 Order (Default Judgment) (HCN Tr. Ct., Apr. 13, 2006). (Matha, T).
The Court had to determine whether to grant the relief requested by the plaintiffs. The defendant failed to answer the Complaint. The Court rendered a default judgment against defendant.

**APRIL 18, 2006**
The Court ordered that plaintiffs’ Complaint is dismissed as to defendant Viking Village, Inc.
April 19, 2006
Dallas White Wing v. HCN Legislature through Wade Blackdeer, in his official capacity as its Vice President, and the HNC Election Board through Mary Ellen Dumas, in her official capacity as Chair of the Election Board, CV 06-25 Order (Granting Preliminary Injunction) (HCN Tr. Ct., Apr. 19, 2006) (Jones, J).
The Court had to determine whether to grant the plaintiff’s motion for a preliminary injunction of the Special Election. The standard for issuing injunctive relief is that a movant must demonstrate by a preponderance of the evidence that (1) there is no adequate remedy at law, (2) the threatening injury to the person seeking the injunction outweighs the harm of the injury, (3) the party seeking the injunction has at least a reasonable likelihood of prevailing on the merits of the case, and (4) the issuance of the injunction serves the public interest. First, the Court found that both parties conceded to the fact that plaintiff could not be compensated by monetary damages. Second, the Court determined that it would be a grave harm if the plaintiff’s seat was filled by Special Election, and the legislative action was later found to be improper. Furthermore, great financial and human resources are expended during an election, so it could potentially be a waste of such resources if the action is later found improper. Thus, delaying the election would be less harmful than the harm suffered by the plaintiff. Third, there was no factual basis for the decision by the Legislature to declare the District III seat vacant provided. The plaintiff was not given notice, nor was he afforded the constitutionally reasonable opportunity to be heard on the charges against him. Due to the lack of these protections, the Court found the resolution to be unconstitutional. Furthermore, the Court permanently enjoined the defendants from preventing the plaintiff from performing his legislative responsibilities and from functioning as a member of the Ho-Chunk Nation Legislature, or from taking action to fill his seat by conducting a special election. The Court granted plaintiff’s motion for summary judgment.

April 20, 2006
Thomas Quimby v. Ho-Chunk Nation and HCN HIRC, CV 05-91 Stipulation and Order to Extend the Time (HCN Tr. Ct., Apr. 20, 2006). (Matha, T).
The parties stipulated to an extension to the time to file briefs.

The Court had to determine whether Resolution 10-11-03F, providing for the removal of the plaintiff from his office as a member of the Ho-Chunk Nation Legislature, was unconstitutional. The Court found that the plaintiff had not been afforded reasonable notice of the action taken against him, nor was he afforded the constitutionally reasonable opportunity to be heard on the charges against him. Due to the lack of these protections, the Court found the resolution to be unconstitutional. Furthermore, the Court permanently enjoined the defendants from preventing the plaintiff from performing his legislative responsibilities and from functioning as a member of the Ho-Chunk Nation Legislature, or from taking action to fill his seat by conducting a special election. The Court granted plaintiff’s motion for summary judgment.

April 26, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

May 03, 2006
Adriane Walker v. Amy Kirby et al., CV 05-28 Order (HCN Tr. Ct., May 03, 2006). (Matha, T).
The Court granted and recognized the Settlement Agreement for the instant case.

May 04, 2006
Dallas White Wing v. Wade Blackdeer, in his official capacity as its Vice President, and Mary Ellen Dumas, in her official capacity as Chair of the
The Court had to determine whether to grant the relief requested by the plaintiff. The defendants failed to answer the Complaint for Declaratory Relief. The Court rendered a default judgment against defendants.

May 22, 2006
The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.

May 26, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

May 30, 2006
The Court had to determine whether to grant relief requested by plaintiffs. The defendant failed to answer the Complaint despite proper service of process. The Court, therefore, renders a default judgment against the defendant, awarding plaintiffs permissible relief sought in the Complaint.

Contracts
May 18, 2006
HCN Department of Labor and Ho-Chunk Nation v. Contingency Planning Solutions, Inc. and Les Spindler, CV 06-12 Order (Default Judgment) (HCN Tr. Ct., May 18, 2006). (Matha, T).
The Court had to determine whether to grant the relief requested by the plaintiffs. The defendants failed to answer the Complaint. The Court rendered a default judgment against the defendants, awarding the plaintiffs permissible relief sought in the Complaint.

Employment
May 10, 2006
The Court had to determine whether the plaintiff’s cause of action met the test for tortious constructive discharge as adopted by the Court. The plaintiff did not establish a violation of fundamental public policy, thereby failing to satisfy the first part of the test.

The Court had to determine whether to uphold the defendant’s decision to terminate the plaintiff’s employment. There are three questions that must be asked when trying to determine the constitutionality of a termination of employment based upon statements made by an employee. First, did the plaintiff’s speech deserve constitutional protection when examined in the context of his status as a former government employee? When attempting to answer this question, the Court must weigh several factors. These factors are: whether the statement would create problems in maintaining discipline by immediate supervisors or harmony among co-workers; whether the employment relationship is one in which personal loyalty and confidence are necessary; whether the speech impeded the employee’s ability to perform [his or] her daily responsibilities; the time, place, and manner of the speech; the context in which the underlying dispute arose; whether the matter was one on which debate was vital to informed decisionmaking; and whether the speaker should be regarded as a member of the general public. The second question is did the plaintiff’s speech represent a substantial or motivating factor in relation to his discharge from employment? Last, the Court must ask if the defendant presents sufficient evidence to establish that the plaintiff’s termination would have occurred in the absence of the protected conduct? After
answering these three questions, the Court held in favor of the plaintiff due to an infringement upon his constitutional right of free speech. However, the Court upholds the defendant’s actions in relation to a suspension and annual performance evaluation because the plaintiff either failed to satisfy his burden of proof or establish a statutory violation.

MAY 30, 2006
The Court had to determine whether to dismiss the plaintiff’s complaint for failure to exhaust the Administrative Review Process. The Court found that the plaintiff had failed to exhaust the Administrative Review Process as outlined in the Ho-Chunk Nation Personnel Policies and Procedures Manual. The Court dismissed the plaintiff’s cause of action.

HOUSING
APRIL 05, 2006
HCN Property Management v. Carina Bachand, CV 06-17 Eviction Order (Default Judgment) (HCN Tr. Ct., Apr. 05, 2006). (Matha, T).
The Court had to determine whether to grant relief requested by plaintiff, ie., restitution of the premises and an award of damages. The defendant failed to answer the Complaint despite proper service. The Court granted a default judgment against the defendant, awarding the plaintiff relief sought in Complaint.

HCN Property Management v. Carina Bachand, CV 06-17 Writ of Restitution (HCN Tr. Ct., Apr. 05, 2006). (Matha, T).
After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have property restored to its possession and to remove the defendant, her possessions, and those occupying the property with her from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Sauk County in order to restore the property.

APRIL 12, 2006
HCN Housing and Community Development Agency v. Margaret Hoffman, CV 06-08 Scheduling Order (HCN Tr. Ct., Apr. 12, 2006). (Matha, T).
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

MAY 15, 2006
The Court recognized that the debt had been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days. The Treasury Department shall cease per capita withholding associated with the instant action.

CHILDREN’S TRUST FUND (CTF)
APRIL 05, 2006
In the Interest of Adult Beneficiary: Vanity S. Bartlett, DOB 12/31/87 v. HCN Office of Tribal Enrollment, CV 06-04 Order (Petition Granted) (HCN Tr. Ct., Apr. 05, 2006). (Matha, T).
The Court had to determine whether an adult can access her CTF account to pay for medical costs. The Court granted the request.

APRIL 06, 2006
In the Interest of Minor Child: J.M.N., DOB 07/02/93, by Ramona McDonald v. HCN Office of Tribal Enrollment, CV 06-21 Order (Petition Granted) (HCN Tr. Ct., Apr. 06, 2006). (Matha, T).
The Court had to determine whether a parent can access monies on behalf of minor child to pay costs of orthodontic procedures. The Court granted the request.
In the Interest of Adult CTF Beneficiary: Jennifer M. Orozco, DOB 07/03/85 v. HCN Office of Tribal Enrollment, CV 05-53 Order (Conditional Dismissal without Prejudice) (HCN Tr. Ct., Apr. 06, 2006). (Matha, T).
The Court previously requested additional information to justify release from the CTF account. The petitioner has not presented relevant documentation. The Court informed parties that it shall dismiss the case without prejudice unless the petitioner can demonstrate good cause not to before the specified date. No subsequent order is required to effect dismissal.

In the Interest of Minor Child: M.S.P., DOB 09/28/90, by Sharon Ann Pierce v. HCN Office of Tribal Enrollment, CV 05-60 Order (Conditional Dismissal without Prejudice) (HCN Tr. Ct., Apr. 06, 2006). (Matha, T).
The Court previously requested additional information to justify release from the CTF account. The petitioner has not presented relevant documentation. The Court informed parties that it shall dismiss the case without prejudice unless the petitioner can demonstrate good cause not to before specified date. No subsequent order is required to effect dismissal.

The Court previously requested additional information to justify release from the CTF account. The petitioner has not presented relevant documentation. The Court informed parties that it shall dismiss the case without prejudice unless the petitioner can demonstrate good cause not to before specified date. No subsequent order is required to effect dismissal.

The Court convened a Fact-Finding Hearing to consider the merit of the Petition for Release of Per Capita Distribution. The Court sent the petitioner a Notice of Hearing. Petitioner failed to appear. The Court dismissed the case without prejudice.

A PRIL 13, 2006
In the Interest of Adult CTF Beneficiary: Jason N. Hopinka, DOB 12/17/83 v. HCN Office of Tribal Enrollment, CV 03-15 Order (Motion Granted) (HCN Tr. Ct., Apr. 13, 2006). (Matha, T).
The Court had to determine whether an adult can access his Children’s Trust Fund account to pay for additional costs associated with his criminal defense and the underlying events. The Court granted the request.

A PRIL 19, 2006
The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

The Court convened a Fact-Finding Hearing to consider the merit of the Petition for Release of Per Capita Distribution. The Court sent the petitioner a Notice of Hearing. Petitioner failed to appear. The Court dismissed the case without prejudice.

MAY 02, 2006
In the Interest of Minor Child: C.S., DOB 07/10/95, by Tara Snowball v. HCN Office of Tribal Enrollment, CV 05-81 Order (Accepting Accounting) (HCN Tr. Ct., May 02, 2006). (Matha, T).
The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

**May 08, 2006**

In the Interest of Adult CTF Beneficiary: April Webster, DOB 08/30/87 v. HCN Office of Tribal Enrollment, CV 05-107 Order (Subsequent Release of Money) (HCN Tr. Ct., May 08, 2006). (Matha, T).

The Court previously released funds from the CTF account of the adult child for rental assistance. The petitioner failed to provide an attendance report in a timely manner. Thus, the Court did not grant the release of funds for April’s rental payment. The petitioner then provided documentation of enrollment in summer school. The Court granted the release of monies from the CTF, with the requirement that petitioner provide a summer school attendance report.

**May 10, 2006**

In the Interest of Minor Child: C.R.L., DOB 05/05/89, by Lawrence LaMere v. HCN Office of Tribal Enrollment, CV 06-23 Order (Dismissal Without Prejudice) (HCN Tr. Ct., May 10, 2006). (Matha, T).

The Court convened a Fact-Finding Hearing to consider the merit of the Petition for Release of Per Capita Distribution. The Court sent the petitioner a Notice of Hearing. The petitioner failed to appear. The Court dismissed the case without prejudice.

**May 11, 2006**

In the Interest of B.N.F., DOB 09/03/86, by Alaine Ava Yingst v. HCN Office of Tribal Enrollment, CV 05-59 Exparte Motion and Order to Appear Telephonically (HCN Tr. Ct., May 11, 2006). (Matha, T).

The petitioner requested to appear on telephone for hearing. The Court granted the request.

**May 16, 2006**

In the Interest of Adult CTF Beneficiary: Amber S. Kruse, DOB 03/06/83 v. HCN Office of Tribal Enrollment, CV 05-54 Order (Requesting Accounting) (HCN Tr. Ct., May 16, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with continuing education. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

In the Interest of Minor Child: M.L.D., DOB 04/05/01, by Terry T. Deloney v. HCN Office of Tribal Enrollment, CV 05-58 Order (Show Cause) (HCN Tr. Ct., May 16, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with emergency housing. The petitioner failed to comply with the most recent judicial directive requiring submission of an accounting. The Court shall convene a Show Cause Hearing to allow the petitioner to explain why the Court should not hold him in contempt of court.


The Court previously released funds from the CTF accounts of the minor child for costs associated with an outstanding mortgage. The petitioner failed to comply with the most recent judicial directive requiring submission of an accounting. The Court shall convene a Show Cause Hearing to allow the petitioner to explain why the Court should not hold him in contempt of court.

**May 19, 2006**


The petitioner requested that the Court permit her to appear by telephone at the Fact-Finding Hearing. The Court granted the request.

**May 24, 2006**

The Court previously released funds from the CTF accounts of the minor children for a variety of concerns. The petitioner failed to submit an accounting for various vendors, confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

In the Interest of Adult CTF Beneficiary: Tyler A. Cloud, DOB 10/31/89 v. HCN Office of Tribal Enrollment, CV 05-92 Order (Requesting Accounting) (HCN Tr. Ct., May 24, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the adult CTF Beneficiary for a variety of concerns. The petitioner failed to submit an accounting for various vendors, confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

In the Interest of Minor Child: M.A.A., DOB 07/05/93, by Yvette M. Alvarez v. HCN Office of Tribal Enrollment, CV 06-06 Order (Requesting Accounting) (HCN Tr. Ct., May 24, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

In the Interest of Minor Child: A.T.H., DOB 03/24/88, by Tom Hopinkah v. HCN Office of Tribal Enrollment, CV 05-20 Order (Denying Motion of Petitioner) (HCN Tr. Ct., May 24, 2006). (Matha, T).

The Court had invited the petitioner to present a justification for his failure to offer the additional information requested by the Court in its final decision. The petitioner had not presented a good cause explanation for failing to submit the earlier requested private school expense invoice. The Court dismissed the instant case.

May 25, 2006

The Court convened a Fact-Finding Hearing to consider the merit of the Petition for Release of Per Capita Distribution. The Court sent the petitioner a Notice of Hearing. The petitioner failed to appear. The Court dismissed the case without prejudice.

May 30, 2006

The Court previously released funds from the CTF accounts of the minor child for costs associated with continuing education. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

In the Interest of Minor Child: P.S., DOB 05/05/94, by Reginald Sohm v. HCN Office of Tribal Enrollment, CV 06-10 Order (Requesting Accounting) (HCN Tr. Ct., May 30, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

Incompetent Trust Fund (ITF)
April 06, 2006
In the Interest of Adult Incompetent: K.S.B., DOB 02/19/60, by Jon B. Bahr v. HCN Office of Tribal Enrollment, CV 05-110 Order (Motion Granted) (HCN Tr. Ct., Apr. 06, 2006). (Matha, T).

The Court had to determine whether a guardian could access ITF monies on behalf of the ward to establish a monthly allowance and pay for fees
associated with ongoing guardian services. The Court granted the request.

**APRIL 19, 2006**

*In the Interest of Adult Incompetent: H.C., DOB 01/31/31, CV 05-72 Order (Accepting Accounting)* (HCN Tr. Ct., Apr. 19, 2006). (Matha, T).

The Court previously released funds from the ITF account for costs associated with ongoing nursing home care and professional guardianship service fees. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

**MAY 16, 2006**


The Court had to determine whether a guardian could access ITF monies on behalf of the ward to pay for costs associated with a day services program, which includes vocational and education training and communal integration. The Court granted the request.

**MAY 19, 2006**

*In the Interest of Adult Incompetent: G.D.G., DOB 01/03/43, by Alma Miner v. HCN Office of Tribal Enrollment, CV 05-16 Order (Motion Granted)* (HCN Tr. Ct., May 19, 2006). (Matha, T).

The Court had to determine whether a guardian could access ITF monies on behalf of the ward to satisfy outstanding debts, including judicially imposed fines. The Court granted the request.

*In the Interest of Adult Incompetent: B.N.F., DOB 09/03/86, by Alaine A. Yingst v. HCN Office of Tribal Enrollment, CV 05-59 Order (Motion Granted)* (HCN Tr. Ct., May 19, 2006). (Matha, T).

The Court had to determine whether a guardian could access ITF monies on behalf of the ward to pay for the acquisition of a personal computer and satisfy attorney’s fees. The Court granted the request.

**MAY 23, 2006**

*In the Interest of Adult Incompetent: H.C., DOB 01/31/31, by Barbara Meltesen v. HCN Office of Tribal Enrollment, CV 05-72 Order (Motion Granted)* (HCN Tr. Ct., May 23, 2006). (Matha, T).

The Court had to determine whether a guardian could access ITF monies on behalf of the ward to pay for costs associated with ongoing nursing home care, medical-related debts, and professional guardianship fees. The Court granted the request.

**Family**

**DIVORCE**

**APRIL 27, 2006**


The parties jointly filed the Petition for Divorce (Without Minor Children), thereby consenting to the personal jurisdiction of the Court. The petitioner is an enrollment member of the Ho-Chunk Nation and has resided in the State of Wisconsin for at least six (6) consecutive months prior to filing of the petition. The parties stated that the marriage is irretrievably broken with no possibility of reconciliation.

**MAY 09, 2006**


The petitioner requested that the Court permit him to appear by telephone for the Initial Hearing. The Court granted the request.

**DOMESTIC VIOLENCE**

**NO RECENT CASES**

**Juvenile**

**MARCH 31, 2006**

*In the Interest of Minor Child: K.P., DOB 06/20/00; N.P., DOB 02/12/1993, JV 06-07-08 Order (Appointment of Guardian ad litem)* (HCN Tr. Ct., March 31, 2006). (Matha, T).

The Court appointed a GAL in this matter.
In the Interest of Minor Children: K.P., DOB 06/20/00, N.P., DOB 02/12/03, JV 06-07-08 Ex Parte Motion, Affidavit, and Order to Appear Pro Hac Vice (HCN Tr. Ct., March 31, 2006). (Matha, T).

The Court had to determine whether to grant permission for an attorney to appear Pro Hac Vice. The petition was granted.

APRIL 03, 2006
In the Interest of Minor Child: K.P., DOB 06/20/00, N.P., DOB 02/12/1993, JV 06-07-08 Order (Continuance of Plea Hearing) (HCN Tr. Ct., Apr. 03, 2006). (Matha, T).

The Court continues the Plea Hearing.

APRIL 05, 2006
In the Interest of Minor Child: T.V.F., DOB 02/18/02, JV 03-14 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., Apr. 05, 2006). (Matha, T).

The Court appointed a GAL in this matter.

APRIL 06, 2006
In the Interest of Minor Children: V.M.B., DOB 06/26/89; M.L.E.B., DOB 05/18/90; D.J.B., DOB 09/21/99 JV 05-29-31 Order (Reversal of Plea) (HCN Tr. Ct., April 6, 2006). (Matha, T).

Father reversed plea on two (2) allegations, and HCN Child & Family Services (hereinafter CFS) opted to refrain from proceeding on remaining allegations. The Court scheduled a Dispositional Hearing.

APRIL 19, 2006
In the Interest of Minor Children: B.E.Y., DOB 07/25/89, N.R.Y., DOB 07/06/91, JV 03-37-38 Notice and Motion to Withdraw as Counsel (HCN Tr. Ct., Apr. 19, 2006). (Matha, T).

The Court approved motion to withdraw.

APRIL 25, 2006

The Court conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

APRIL 25, 2006

The Court had to determine whether to establish a child support obligation for the mother of minor children. The Court established child support.

APRIL 28, 2006
In the Interest of Minor Children: K.M.C., DOB 04/11/90, Q.J.C., DOB 08/07/92, JV 06-05-06 Order (Entrance of Plea) (HCN Tr. Ct., Apr. 28, 2006). (Matha, T).

The Court convened a Plea Hearing for the purpose of determining whether the parent wished to contest the allegations contained in the Child/Family Protection Petition filed by CFS. The parent entered a plea of not guilty. The Court postpones
scheduling Trial pending the resolution of certain substantive issues.

The Court granted petitioner’s motion to transfer case to the HCN Trial Court.

May 02, 2006
In the Interest of Minor Children: C.C.P., DOB 02/03/93, et al., JV 03-25-26 Order (Granting Telephonic Appearance) (HCN Tr. Ct., May 02, 2006). (Matha, T).
The Court granted the request for a telephonic hearing.

In the Interest of Minor Child: D.R.W., DOB 08/12/04, JV 05-07 Order (Extension of Transitional Period) (HCN Tr. Ct., May 02, 2006). (Matha, T).
The Court convened a Status Hearing to inquire into the effectiveness of the established transitional period. CFS reported that the custodial parent did not meaningfully comply with the schedule. The Court ordered that the parties adhere to an amended transitional schedule.

May 03, 2006
In the Interest of Minor Child: M.T.G., DOB 10/05/04, JV 04-38 Order (Entrance of Plea and Dispositional Requirements) (HCN Tr. Ct., May 03, 2006). (Matha, T).
CFS filed a Plea Agreement & Affidavit of the Parent where the parent noted her agreement with the Informal Disposition, thereby acquiescing to the allegations contained in the Amended Child/Family Protection Petition. The Court accepted the parent’s plea and adopted the Informal Disposition, eliminating the need to conduct a dispositional hearing.

May 04, 2006
The Court had to determine whether to appoint a successor permanent guardian of the minor child.

The Court ordered the appointment of the permanent guardian.

May 09, 2006
In the Interest of Minor Child: J.M.D., DOB 03/29/06, JV 06-14 Order (Conditional Acceptance of Transfer) (HCN Tr. Ct., May 09, 2006). (Matha, T).
The Court had to determine whether to conditionally accept transfer of a State of Wisconsin children’s case. The Court conditionally accepted the transfer.

May 16, 2006
In the Interest of Minor Children: K.P., DOB 06/20/00, N.P., DOB 02/12/93 JV 06-07-08 Order (Granting Voluntary Dismissal) (HCN Tr. Ct., May 16, 2006). (Matha, T).
CFS preemptively filed its Motion to Withdraw Petition. The Court accordingly granted a voluntary dismissal of the cause(s) of action, and closed the instant case.

May 17, 2006
In the Interest of Minor Children: S.E.R., DOB 01/05/90, T.E.R., DOB 12/26/90, B.B., DOB 05/01/93, JV 06-01-03 Order (Granting Dismissal) (HCN Tr. Ct., May 17, 2006). (Matha, T).
The Court convened a Trial to determine whether CFS could prove the allegations within its Child/Family Protection Petition by a preponderance of the evidence. The parent moved for dismissal. The Court granted the dismissal because CFS failed to substantiate the grounds articulated for removal of the minor children.

May 19, 2006
In the Interest of Minor Child: S.R.W., DOB 07/11/03, JV 06-13 Order (Voluntary Dismissal) (HCN Tr. Ct., May 19, 2006).
The petitioner filed a correspondence, indicating her intent to withdraw the petition. The Court dismissed the case without prejudice.

May 22, 2006
The Court conducted a *Status Hearing*. At the hearing the Court had to determine whether to modify the previous dispositional order as requested by CFS. The Court granted the modification.

**MAY 23, 2006**

The Court terminated jurisdiction over and supervision of the instant case.

The Court suspended its routing instructions and directed the Ho-Chunk Nation Department of Treasury to abide by the terms of the most recent judgments entered in pending child support cases.

The Court conducted a *Child Protection Review Hearing*. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

**MAY 24, 2006**

*In the Interest of Minor Children: M.C.S.C., DOB 01/09/96, J.D.C., DOB 12/21/98, J.C.C., DOB 07/16/03, JV 03-48-50 Order (Revocation of Guardianship)* (HCN Tr. Ct., May 24, 2006). (Matha, T).
The Court convened the *Revocation Hearing* to determine whether to terminate the temporary guardianship and to return the minor children to the custodial parent. The Court conditioned the revocation upon CFS devising an informal disposition, which the custodial parent voluntarily agreed to accept.

**MAY 30, 2006**

The Court had to determine whether to appoint a successor temporary guardian of the minor child, pursuant to the *HOÇÂK NATION CHILDREN AND FAMILY ACT*. The Court deemed that such an appointment was within the minor child’s best interests.

---

**Supreme Court**

**MAY 23, 2006**

*In the Interest of Minor Child: D.R.W., DOB 08/12/04, by Mary Funmaker, SU 06-02 Scheduling Order* (HCN S. Ct., May 23, 2006).
The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case.

---

**Recent Filings**

**Trial Court**

**Child Support**

**APRIL 07, 2006**


**APRIL 13, 2006**


**APRIL 13, 2006**

APRIL 14, 2006


APRIL 18, 2006

APRIL 20, 2006
State of IA, ex rel. Lauryn Tate v. Aaron Blackhawk, CS 06-21. (Matha, T).


APRIL 24, 2006
Courtney White v. Greg Whitegull, CS 06-23. (Matha, T).

APRIL 27, 2006


MAY 02, 2006


MAY 10, 2006
In the Interest of Adult CTF Beneficiary: Marylyn Wesho, DOB 09/14/82, v. HCN Office of Tribal Enrollment, CV 06-27. (Matha, T).

MAY 23, 2006


Civil Garnishment
APRIL 14, 2006


Alliance Collection Agencies, Inc. v. Jason Frost, CG 06-23. (Matha, T).

APRIL 20, 2006

APRIL 24, 2006

MAY 10, 2006
Quick Cash Loans v. Courtney White, CG 06-27. (Matha, T).


Black River Memorial v. Duane W. Kling, Jr., CG 06-29. (Matha, T).

MAY 26, 2006
State of Wisconsin-Veterans Affairs v. Michael J. Gerhartz, CG 06-30. (Matha, T).

Civil Cases
APRIL 04, 2006

APRIL 05, 2006
In the Interest of Adult CTF Beneficiary: Marylyn Wesho, DOB 09/14/82, v. HCN Office of Tribal Enrollment, CV 06-27. (Matha, T).

APRIL 10, 2006
May 05, 2006
In the Interest of Minor Child: N.M., DOB 03/13/93, by Paula Mike, v. HCN Office of Tribal Enrollment, CV 06-29. (Matha, T).


May 08, 2006

May 10, 2006

May 17, 2006
In the Interest of Adult Incompetent: B.S., DOB 02/07/80, CV 06-34. (Matha, T).

May 18, 2006
In the Interest of Adult CTF Beneficiary: Carl M. Steer-Wilson, DOB 01/26/86, v. HCN Office of Tribal Enrollment, CV 06-35. (Matha, T).

May 19, 2006
Nellie Darlene Long v. HCN Office of Tribal Enrollment, CV 06-36. (Matha, T).

May 22, 2006
Ho-Chunk Casino and Convention Center Hotel et al. v. Orrin Cloud, CV 06-37. (Matha, T).

May 23, 2006
In the Interest of Minor Child: D.R.O., DOB 01/12/96, by Victoria Jane Ortiz, CV 06-38. (Matha, T).

May 25, 2006

Ho-Chunk Casino and Convention Center Hotel et al. v. Bernard Mountain, CV 06-40. (Matha, T).

May 26, 2006

Family
March 10, 2006

March 16, 2006
Marla Lewis v. Matthew Lewis, FM 06-03. (Matha, T).

April 24, 2006

May 05, 2006

May 19, 2006
Deforrest Malone Funmaker v. Joyce Funmaker, FM 06-06. (Matha, T).

Domestic Violence
March 09, 2006
In the Interest of Elder Person, D.D. DOB 04/27/19, DV 06-02. (Matha, T).


Juvenile
May 01, 2006

May 05, 2006
In the Interest of Minor Child, J.M.D., DOB 03/29/06, JV 06-14. (Matha, T).
Supreme Court

In the Interest of Minor Child: D.R.W., DOB 08/12/04, by Mary Funmaker, SU 06-02.

Upcoming National Events

06/18/06 - 06/21/06 National Congress of American Indians Mid Year Conference; Kewadin Hotel and Casino, Sault Ste. Marie, MI. For more information call 202-466-7767 or go to www.ncai.org

06/26/06 - 06/29/06 2nd Annual National Veterans Small Business Conference; Las Vegas, NV

06/28/06 - 03/30/06 U.S. Department of Energy's 7th Annual Small Business Conference; Seattle, WA. For more information go to www.smallbusiness-outreach.doe.gov
HO-CHUNK NATION COURT SYSTEM

JUDICIARY AND STAFF

Supreme Court–Mary Jo B. Hunter, Chief Justice
  Mark D. Butterfield, Associate Justice
  Dennis Funmaker, Associate Justice

Traditional Court – Earl Blackdeer
  Donald Blackhawk
  Dennis Funmaker
  Jim Greendeer
  Douglas Greengrass
  Desmond Mike
  Douglas Red Eagle
  Preston Thompson, Jr.
  Eugene Thundercloud
  Morgan White Eagle
  Clayton Winneshiek

Trial Court – Todd R. Matha, Chief Judge
  JoAnn Jones, Associate Judge

Clerk of Court, Trial Court – Marcella Cloud

Assistant Clerk of Court, Trial Court – Selina Joshua

Bailiff/Process Server – Albert Carrimon

Administrative Assistant – Jessi Cleveland

Staff Attorney – Nicole M. Homer

Supreme Court Clerk – Mary Endthoff

* The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

WISCONSIN TRIBAL JUDGES ASSOCIATION
(Eleven federally recognized tribes within the State of Wisconsin)

NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION
(Region 10—Illinois, Indiana, Michigan, Minnesota, and Wisconsin)

HCN Judiciary Fee Schedule

Filing Fees

- Complaint………………………………………….$50.00
- Petition for Release of Per Capita Distribution
  (Children’s Trust Fund) ……………………. $50.00
- Motion to Appear Pro Hac Vice……………… $35.00
- Appellate Filing Fee………………………… $50.00
- Petition to Register and Enforce Foreign
  Judgment/Order ………………………… $20.00
- Marriage License Fee……………………… $50.00

Court Fees

- Copying ……………………………………….. $0.10/page
- Faxing ……………………………………… $0.25/page (sending & receiving)
- CD of Hearings ………………………………. $12.50/CD
- Deposition Videotape ………………………… $10.00/tape
- Certified Copies …………………………….. $0.50/page
- Equipment Rental …………………………… $5.00/hour
- Admission to Practice …………………….. $50.00

Legal Citation Forms

The following are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution
Constitution, Article Number, Section, Subsection.
HCN CONST., Art. II, Sec. (or §) 1(a).

Ho-Chunk Nation Code
Ordinance/Act Name Title Number HCC Section.
ELDER PROTECTION ACT, 4 HCC § 1.
EMPLOYMENT RELATIONS ACT, 6 HCC § 5.
(for detailed citation information consult LEGISLATIVE ORGANIZATION ACT, 2 HCC § 11.36)

HCN Supreme Court Case Law
Case Name, Case Number (HCN S. Ct., month, day, year).

HCN Trial Court Case Law
Case Name, Case Number (HCN Tr. Ct., month, day, year)

Ho-Chunk Nation Rules of Civil Procedure
HCN R. Civ. P. 19(B)
Inside this Issue

1  Former Traditional Court member, Keith N. Snake, passes on
  Welcome Summer DOJ Law Clerk Kate Lindsay

2  CTF Case Update; Involving Requests for Children Under the Age of 16

6  Updates from Outside Courts

8  Recent HCN Court Decisions

17 Supreme Court Agenda for July 22, 2006

18  Recent HCN Court Filings

20  HCN Court System Judiciary and Staff

  HCN Judiciary Fee Schedule

  Legal Citation Forms


**Ho-Chunk Nation Court Bulletin**

**Former Traditional Court Member, Keith N. Snake, Passes On**

On Tuesday, June 27, 2006, the Nation lost another beloved elder and past member of the Ho-Chunk Nation Traditional Court, Keith N. Snake. Mr. Snake was born on October 13, 1933 in Black River Falls, Wisconsin. He was a military veteran and the father of three children. Mr. Snake was also a member of the Snake Clan and served on the Traditional Court from 1995-1996. Besides serving as a member of the Traditional Court, Mr. Snake had been an active member of the Native American Church, the Andrew Blackhawk American Legion Post 129, and the Thompson-RedCloud VFW Post 1954. The thoughts and prayers of the HCN Judiciary go out to Mr. Snake’s family and friends.

**Welcome Summer Dept. of Justice Law Clerk Kate Lindsay**

Kate Lindsay serves as a law clerk in the Ho-Chunk Nation Department of Justice this summer. She recently completed her first year of law school at the University of Wisconsin. Kate graduated with a Bachelor of Arts degree with a double major in English and History from Boston University. She spent time in between college and law school working as a therapist for an autistic child on Washington Island.
CTF CASE UPDATE
CTF CASES INVOLVING REQUESTS FOR CHILDREN UNDER THE AGE OF 16
DEC. 2003-JUNE 2006

In the February through June 2002 editions of the Court Bulletin, Chief Judge Todd R. Matha presented a series of articles describing the process by which to petition the Court for release of monies from Trust Funds. Included in these articles were surveys of the Children’s Trust Fund (CTF) and Incompetent Trust Fund (ITF) cases. Later, in December 2003, an update was made to the CTF survey. In this article, the Court again provides an update to the CTF surveys. Thus, the Court has examined all CTF cases since publication of the most recent survey. This update shall address CTF cases involving requests for children under the age of sixteen (16) years of age. Next month, the Court shall update cases involving requests for children over the age of sixteen (16) years of age through the age of twenty-five (25) years of age.

Orthodontics:
The Court first granted a request to pay orthodontic expenses on March 27, 1998. The Court has consistently held that such expenses provide a “necessary health and welfare benefit to the child(ren).” Since the CTF case update in December of 2003, the Court has granted a significant number of requests for orthodontia.

Eye & Hearing Care:
In line with the orthodontics cases, the Court has also granted funds to purchase eye wear and hearing aid devices. In Pierce, the petitioner requested a release of funds from the minor’s CTF account for the purchase of contact lenses. The Court stated that contact lenses represent “a health and welfare necessity.” Likewise, in McKinley, the Court easily made the determination that hearing aids represented a health and welfare necessity. Thus, the Court granted the release of funds for the purchase of such devices.

Automobiles:
The Court received two requests for a release of funds to help pay for automobiles since

1 Next month, the Court will examine cases involving children age sixteen (16) and older.
3 See CTF Case Update, HO-CHUNK NATION COURT BULLETIN, December 2003, at 3-6.
5 See Matha, Part I, supra note 1, at 2.
6 See e.g., In the Interest of Minor Child: A.A.G., DOB 11/13/92, by Michelle Galbroson v. HCN Office of Tribal Enrollment, CV 03-85 (HCN Tr. Ct., Dec. 22, 2003); In the Interest of Minor Child: T.H.R., DOB 09/29/88, Barbara V. Rave v. HCN Office of Tribal Enrollment, CV 03-87 (HCN Tr. Ct., Feb. 3, 2004); In the Interest of Minor Child: M.A.A.,
the update. In *Patterson*, the petitioner requested a release of funds to help with the purchase of a family vehicle. However, after applying the four prong test used to assess the sufficiency of a *Petition for the Release of Per Capita Distribution*, the Court denied the petitioner’s request. First, the Court determined that the petitioner had failed to present any evidence that the car would benefit the health, education, or welfare of the child(ren). Without this showing, the Court could not answer the second prong requiring necessity to be present. In regards to the third prong, the standard test for determining whether the third prong is met in automobile cases is set forth in *Crowe*. The test is:

[t]he Court shall only grant a release of CTF monies for the purchase of an automobile if the petitioner cannot supply such a necessity, provided necessity is shown, because of unforeseeable and/or unusual circumstances, i.e. factors that prove beyond the control of an otherwise reasonably responsible parent or individual.

Here, the petitioner failed to establish any “unforeseeable and/or unusual circumstances” capable of justifying the release of CTF funds for such a purchase. Thus, the Court denied the petitioner’s request.

In *Bush*, the petitioner requested a release of funds to purchase an automobile and automobile insurance. The Court held that an automobile would further the health and welfare needs of a child whose parents demonstrated financial need. This was due to the fact that the minor child in *Bush* suffered from a mental handicap that required accessible and reliable transportation. Furthermore, the petitioner provided the required evidence of exhaustion of tribally, state, and federally funded programs. The Court also granted the request in regards to automobile insurance because the Court does not condone the transportation of a minor in either an uninsured or underinsured automobile.

**Clothing:**

The Court generally recognizes that parents have the responsibility to meet a child’s basic needs, including the need for clothing. However, in *Whiteagle-Fintak*, the Court found that the petitioner presented an extreme case, and thus partially granted the request for funds to purchase clothing. Specifically, the Court found that the petitioner demonstrated special need because of her ill health, as well as the family’s limited financial resources.

In *Pierce*, the Court found that the petitioner did not present an extreme case as in *Whiteagle-Fintak*. Instead, the Court found that the petitioner was able to maintain the family income at double the federal poverty level, without taking into consideration financial assistance provided by other

---

13 In the Interest of Minor Children: Z.D.B., DOB 03/22/97; J.R.B., DOB 05/27/98; and R.M., DOB 10/22/00, by Thomasa B. Patterson v. HCN Office of Tribal Enrollment, CV 04-105 (HCN Tr. Ct., Jan. 21, 2005); In the Interest of Minor Child: A.F., DOB 01/13/96, by Alona Bush v. HCN Office of Tribal Enrollment, CV 05-83 (HCN Tr. Ct., Jan 25, 2006).
14 Patterson at 1.
15 “First, the Court may only grant a release for the benefit of a beneficiary’s health, education or welfare. Second any such benefit must represent a necessity, not a want or desire. Third, the parent(s) or guardian(s) must demonstrate special financial need. Finally, the plaintiff must provide evidence of exhaustion of tribal funds and public entitlement programs.”
17 Patterson at 10-11.
18 In the Interest of Minor Child(ren): V.D.C., DOB 10/03/84, et al., by Debra Crowe v. HCN Office of Tribal Enrollment, CV 00-25 (HCN Tr. Ct., Apr. 6, 2001) at 14.
19 Patterson at 11-12.
20 Id. at 12.
21 Bush at 1.
22 Id. at 10.
23 Id.
24 Id.
25 Id.
26 In the Interest of Minor Children: M.W., DOB 07/09/95, by Melody Whiteagle-Fintak v. HCN Office of Tribal Enrollment, CV 04-83 (HCN Tr. Ct., Dec. 16, 2004) at 8; Lonetree at 14.
27 Whiteagle-Fintak at 10.
28 In the Interest of Minor Children: M.W., DOB 07/09/95, by Melody Whiteagle-Fintak v. HCN Office of Tribal Enrollment, CV 04-83 (HCN Tr. Ct., Sept. 29, 2004) at 5-6, 10.
children in the household. Thus, the Court denied the petitioner’s request for a release of funds to pay for clothing. The Court also denied the petitioner’s request for clothing assistance in Bush. The Court found, that although it was regrettable that the petitioner could not obtain gainful employment due to her lack of a high school diploma or equivalent, and the fact that the petitioner’s husband worked seasonally, the Court still expected the parents to provide the basic necessities of clothing for their children. In Hopinkah, the Court failed to address the merits of the case for over two and a half (2½) years after the submission for final decision. The Court reasoned that health and welfare necessity, as well as financial circumstances, could dramatically change in such a long period of time. Therefore, due to the inherent time sensitive nature of CTF requests, the Court felt compelled to deny the Petition.

Furniture:

The Court has denied the only recent request for household furnishings. Although in the past, the Court has consistently held that household furnishings do not significantly benefit the child’s health, education, or welfare, the Court in Hopinkah denied the request instead on the basis of extreme passage of time as stated above.

Education:

Traditionally with respect to requests for private school tuition, the Court requires a showing that the child has special needs that cannot be met through the public school system. The Court in the two (2) WhiteEagle cases, found that the children benefited from the private school setting because both children had shown improvement in their academic record. Furthermore, the Court found that this specific private school setting helped further the son’s long term educational goals.

In Doracita Lonetree, the Court released funds to help with outstanding private school payments. The Court restricted the funds to only cover the outstanding payments because the benefit had already been received by the children. However, in terms of the future school year, the Court denied the release because the petitioner failed to show substantiating evidence of her charge that the children suffered from public school overcrowding. Moreover, the petitioner undermined her own argument by allowing her eldest child to go to public school in order to play a fall sport. Therefore, the Court refused to release funds for the 2006-2007 school year.

The Court has recently granted a petition for the release of funds for school supplies.

---

29 Pierce at 10.
30 Id. at 1.
31 Bush at 10.
33 Id.
34 Id.
35 Id. at 1.

38 The WhiteEagle cases represent a drastic departure from the norm. The Court has since returned to requiring a showing that a child has special needs that cannot be met through the public school system, and not a mere statement that a child would improve academically if he/she was allowed to attend a private school.
40 In the Interest of Minor Child: T.W.E., DOB 04/09/93, by Sara WhiteEagle at 5.
41 In the Interest of Minor Child: T.W.E., DOB 04/09/93, by Sara WhiteEagle at 5.
42 Doracita Lonetree at 11.
43 Id.
44 Id.
45 Pierce at 10.
school supplies do not represent a life necessity, they are a concern with regards to a child’s education. Furthermore, the family was able to prove financial need at their Fact-Finding Hearing.

**Housing:**

The Court has in the past denied requests for housing assistance. However, in *Tarr* the Court found that the facts at issue in the case demonstrated an egregious circumstance, namely the possible loss of the family home through foreclosure. The Court also determined that this case differed from previous housing assistance CTF cases because the petitioner had taken many steps to protect herself. Specifically, the petitioner took steps to satisfy her burden of proof; she had no other available recourse to tribal programs or funding; she had already requested assistance on a pre-existing mortgage; she limited her request to a minimal amount to cover just mortgage assistance; and, last, she neither requested full satisfaction nor a continuing payment scheme. Thus, the Court was able to grant the petitioner’s request.

In *Deloney*, the Court granted a release of funds to pay for minimal emergency housing benefits when the petitioner’s prior residence was destroyed by a fire. The Court based its reasoning on the fact that the situation was egregious and unforeseeable. In addition, the Court also made note that it will continue to grant a release of funds for documented crises and emergencies such as fires.

**Miscellaneous:**

The Court granted a release of monies for the purchase of musical instruments and continuing lessons in *Gary L. Lonetree, Jr.* Due to music being a part of the educational curriculum in primary, secondary, and collegial institutions, the Court was able to find that music lessons and instruments constituted a part of the educational welfare of the children. The children have also demonstrated their own need for these funds through their actions, namely hard work, commitment, and great achievement in the arts.

Recently, the Court denied the release of funds to assist with costs associated with child care, the purchase of a personal computer, medical bills, summer sports camps, and household rent.

---

53 Id. at 9.
54 Id.
56 Id.; see also *Doracita Lonetree* at 13 (granting a modest request for monies to seek music lessons due to the school not offering a program).
57 Gary L. Lonetree, Jr. at 10.
59 In the Interest of Minor Child: L.M.M., DOB 11/20/91, by Ayako Thundercloud-Poff v. HCN Office of Tribal Enrollment, CV 05-42 (HCN Tr. Ct., Sept. 8, 2005) (denying the request because the adult family members did not demonstrate a proportionate ability to pay for the computer); *Doracita Lonetree* at 13.
60 In the Interest of Minor Child: C.E.H., DOB 07/13/91; A.R.H., DOB 12/19/92; B.F.H., 03/13/94 v. HCN Office of Tribal Enrollment, CV 02-78 (HCN Tr. Ct., Oct. 24, 2005).
61 *Doracita Lonetree* at 13-14 (stating that the Court recognizes the educational merit of fostering a child’s athletic endeavors, however, the Court declined the request because the petitioner failed to submit a letter of recommendation from the athletic coach).
62 *Bush* at 10.
United States Supreme Court

Certiorari granted

- **Lingle v. Arakaki**, No. 05-988 (granted June 12, 2006). The judgment was vacated and the case was remanded for further consideration in light of DaimlerChrysler Corp. v. Cuno, 547 U.S. ____ , 74 U.S.L.W. 4233 (2006). The Chief Justice took no part in the consideration or decision of this petition.

Certiorari denied

- **Arrietta v. U.S.**, No. 05-10770 (denied June 5, 2006).
- **Cowan v. Tohono O’odham Nation**, No. 05-1273 (denied June 5, 2006).
- **Mattaponi v. Virginia**, No. 05-1141 (denied June 12, 2006).
- **Smith v. Salish Kootenai**, No. 05-10357 (denied June 19, 2006).

Petition for Certiorari filed

- **Bruner v. Oklahoma**, No. 05-1470 (filed May 15, 2006).
- **Means v. Navajo Nation**, No. 05-1614 (filed June 16, 2006).

Federal Circuit Court of Appeals

Heirs to allotted Indian lands sought declaratory and injunctive relief, alleging that a provision of the Sisseton-Wahpeton Sioux Act of 1984, mandating that certain interests in Indian allotments escheat to the United States to be held in trust for tribe constituted a taking in violation of Fifth Amendment. The United States District Court for the District of South Dakota, Charles B. Kornmann, J., 277 F.Supp.2d 1046, granted, in part, the heirs' motion for summary judgment, finding that one heir's claim was not barred by the statute of limitations and that the Act effected a taking without just compensation. The government appealed. The Court of Appeals held that the government satisfied its fiduciary duty to the heir, and that equitable tolling did not apply against the government to make timely the heir's takings claim. Reversed.

D.C. Circuit Court of Appeals

In re Kemphorne, 2006 WL 1563612 (D.C. Cir. 2006).
The Secretary of Interior, in his official capacity, petitioned for a writ of mandamus disqualifying the special master and suppressing reports he filed with the district court in on-going litigation involving Interior's management of trust accounts for the benefit of American Indians. The Court of Appeals held that the petition was not rendered moot by the special master's resignation; that the special master should have recused himself; and the suppression of reports prepared by the special master was warranted. Petition granted.

Second Circuit Court of Appeals

The Indian tribe filed a qui tam action seeking declaration that construction contract entered into by the casino management company was void and unenforceable under Indian Gaming Regulatory Act (IGRA). The United States District Court for the District of New York, Hurd, J., 2005 WL 1397133, entered summary judgment in favor of the company, and the tribe appealed. The Court of Appeals held that the tribe had to exhaust its administrative remedies under IGRA before filing suit; that the IGRA superseded a statutory provision permitting Indian tribes to bring qui tam actions; and the qui tam statute did not give the tribe standing to seek a declaratory judgment. Affirmed.
Third Circuit Court of Appeals
The Indian tribe brought action, pursuant to the Indian Nonintercourse Act, claiming aboriginal and fee title to land. The United States District Court for the Eastern District of Pennsylvania, 2004 WL 2755545, James McGirr Kelly, J., dismissed. Tribe appealed. The Court of Appeals held that the tribe waived the issue of whether a purchaser of land lacked the sovereign authority to extinguish its aboriginal title; the tribe's aboriginal title was extinguished by the purchase regardless of any fraud in the transaction; and that the allegation that the tribe obtained fee title to land, which it had previously sold, and which was then granted back to a Chief of the tribe, failed to state a claim upon which relief could be granted. Affirmed.

Eighth Circuit Court of Appeals
United States v. Brave Thunder, 445 F.3d 1062 (8th Cir. 2006).
The defendants were convicted of theft from an Indian tribal organization; conspiracy to commit an offense against the United States; and making false statements to the Federal Bureau of Investigation (FBI), following jury trial in the United States District Court for the District of North Dakota, Daniel L. Hovland, Chief Judge. Defendants appealed. The Court of Appeals held that the holding that the defendant s committed theft was supported by sufficient evidence. Also, the Court held that the government was required to prove conspiracy involving the United States. Furthermore, the Court found that convictions for making false statements were supported by sufficient evidence. Last, the Court decided that the District Court did not err in determining that the defendants held positions of trust. Affirmed.

United States v. Peltier, 446 F.3d 911 (8th Cir. 2006)
The defendant, convicted of two counts of first-degree murder, moved to correct an allegedly illegal sentence. The United States District Court for the District of North Dakota, Ralph R. Erickson, J., denied motion. Defendant appealed. The Court of Appeals held that the rule allowing for the correction of an illegal sentence was not an appropriate vehicle for a claim that the District Court lacked jurisdiction over the prosecution; that the District Court was not deprived of subject matter jurisdiction by the fact that the murders occurred in Indian country; that the rule allowing for the correction of an illegal sentence was not an appropriate vehicle for a claim that the statute criminalizing the killing of federal officers was an unconstitutional exercise of Congress's power under the Commerce Clause; and that Congress had the power to enact such a statute. Affirmed.

Cottier v. City of Martin, 445 F.3d 1113 (8th Cir. 2006).
An action was brought on behalf of Native American voters challenging configuration of city wards as violative of Section 2 of the Voting Rights Act and the Fourteenth and Fifteenth Amendments. The United States District Court for the District of South Dakota, Karen Schreier, J., denied relief, and voters appealed. The Court of Appeals held that exit polls and results of the last eight aldermanic elections in which Indian-preferred candidates lost established the third Gingles precondition for vote dilution claim, to wit, that the white majority tended to vote as a block to defeat Indian-preferred candidates. See Thornberg v. Gingles, 478 U.S. 30 (1986). Colloton, Circuit Judge, filed a dissenting opinion. Reversed and remanded with directions.

Tenth Circuit Court of Appeals
Tsosie v. United States, No. 04-2342 (10th Cir. 2006).
Here, a suit was dismissed that was brought against the U.S. under the Federal Tort Claims Act (FTCA) arising from the death of plaintiff's wife, a member of the Navajo Nation, from hantavirus. The lower court’s dismissal was affirmed by the Tenth Circuit Court of Appeals because the treating physician was an independent contractor at the time of service, and there was no basis to estop the U.S. from asserting the independent contractor defense because the federal government's trust relationship does not change the doctor's status as a contractor. Affirmed.
**RECENT DECISIONS**

Decisions are separated between Trial Court and Supreme Court decisions and categorized by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader’s benefit. They should in no way be used as substitution for citations to the actual court opinion.

Within the Trial Court, cases are categorized and docketed as one of the following: Child Support (CS or if filed prior to 1998, CV), Civil Garnishment (CG), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Within this index, case citations will appear in one of these categories and, in the event it may be helpful to the reader as a research tool, the cases may also be summarized in a separate topic area. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. In some instances a decision may touch upon other topics that may not warrant a summary in this index, but the editor will use the indicator “other topic(s) covered,” as a research aid for the reader.

**RECENT DECISIONS AND RECENT FILINGS** both begin with the date where the previous Court Bulletin left off.

**TRIAL COURT**

**CHILD SUPPORT**

**JUNE 21, 2006**


The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.


The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.


The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.


The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.
school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the child turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

June 22, 2006
The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s wages. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court closed the case due to the untimely passing of the respondent.

The Court had to determine whether to grant petitioner’s uncontested motion to suspend per capita withholding for current child support, but to continue withholding for child support arrears. The respondent failed to timely respond, thus the Court granted the petitioner’s request.

The Court had to determine whether to grant petitioner’s motion to suspend per capita withholding for arrears because the arrearage debt had been paid in full, but to continue withholding
for current child support. The respondent failed to timely respond, thus the Court granted the petitioner’s request.


The Court had to determine whether to grant respondent’s request that withholding of current child support continue in order to satisfy arrears that have accumulated. The petitioner failed to timely respond, thus the Court granted the respondent’s request.

**June 28, 2006**


The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.


The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.


The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.


The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

**State of Wisconsin/Shawano Co. and Tracy Cobb v. Daniel Bird, CS 03-51 Order (Modifying & Enforcing Child Support) (HCN Tr. Ct., June 28, 2006).** (Matha, T).

The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.


The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.


The Court had to determine whether to grant petitioner’s motion to cease withholding child support due to North Dakota beginning to enforce the case for Montana. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

JUNE 30, 2006
The Court issued this order to correct a clerical mistake made in the previous order.

CIVIL GARNISHMENT
JUNE 02, 2006
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

JUNE 07, 2006
The petitioner requested that the Court permit her to appear by telephone at the Fact-Finding Hearing. The Court granted petitioner’s request.

JUNE 21, 2006
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

JUNE 29, 2006
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.
CIVIL CASES

JUNE 02, 2006
Ho-Chunk Casino Hotel & Convention Center, et al. v. Christina LaMere, CV 06-03 Order (Satisfaction of Judgment) (HCN Tr. Ct., June 02, 2006). (Matha, T).
The Court previously granted a money judgment against the defendant. The plaintiffs filed a Satisfaction of Judgment confirming that plaintiff completely satisfied the debt. The Court accepted this filing and recognizes that the debt has been paid in full.

Kathy A. Stacy v. HCN Legislature, CV 02-40 Stipulation & Order (HCN Tr. Ct., June 02, 2006). (Matha, T).
The Court approved the stipulation and agreement among the parties to extend deadlines for Dispositive Motions and responses thereto.

JUNE 08, 2006
Tara L. Blackdeer v. Vaughn Pettibone, CV 02-76 Order (Granting Motion to Dismiss and Granting Attorney Fees and Costs) (HCN Tr. Ct., June 08, 2006). (Jones, J).
The Court had to determine whether to grant the defendant’s Motion to Dismiss. The Court also had to determine whether to grant the defendant’s request for a judgment denying all claims asserted against her in the Complaint on the merits, as well as partial reimbursement for attorney fees and costs. The Court granted the Motion to Dismiss on the ground that the plaintiff failed to state a claim upon which relief can be granted. Furthermore, the Court granted the attorneys fees and costs entered in the January 9, 2003 order, but denied any further fees and costs. The Court stated that according to the “American Rule” where “the prevailing litigant is ordinarily not entitled to collect a reasonable attorneys’ fee from the loser” no further fees or costs can be imposed unless the party meets one of the exceptions to this rule. However, the party did not fit any of these exceptions. In addition, fees and costs may be awarded if it is found that a party acted in “bad faith.” Here, the plaintiff did not file her Complaint in bad faith, so the Court limits the award to the attorneys fees and costs entered in the January 9, 2003 order.

JUNE 09, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

JUNE 15, 2006
HCN Dept. of Housing Home Ownership Program et al. v. Carter Roofing et al., CV 05-63 Order to Dismiss (HCN Tr. Ct., June 15, 2006). (Matha, T).
The parties mutually agreed to dismiss the plaintiff’s Complaint and have reached a Settlement Agreement.

JUNE 28, 2006
The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.

JUNE 29, 2006
The Court issued an order requiring the parties to file a joint declaration within sixty (60) days of this judgment, establishing a concluding date for discovery. The Court also required that the defendant inform the Court whether it has fully complied with the expert discovery request.

CONTRACTS
NO RECENT CASES

EMPLOYMENT
NO RECENT CASES
HOUSING  
JUNE 02, 2006  
HCN Housing and Community Development Agency v. Margaret Hoffman, CV 06-08 Order (Motion Hearing) (HCN Tr. Ct., June 02, 2006). (Matha, T).  
The Court determined to convene a hearing so as to grant the defendants the ability to argue the May 26, 2006 Motion for Summary Judgment. The plaintiffs must file any written Response to the Motion to Modify at least one day prior to the hearing on the motion.  

JUNE 07, 2006  
The Court had to determine whether to dismiss the instant case. The plaintiff failed to alert the Court to her prosecutorial intention despite receiving specific direction to do so. The Court dismissed the case with prejudice because it had proceeded beyond the dispositive motion phase.  

JUNE 21, 2006  
The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.  

JUNE 28, 2006  
The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.  

CHILDREN’S TRUST FUND (CTF)  
JUNE 02, 2006  
In the Interest of Minor Child: M.A.A., DOB 07/05/93, by Yvette M. Alvarez v. HCN Office of Tribal Enrollment, CV 06-06 Order (Accepting Accounting) (HCN Tr. Ct., June 02, 2006). (Matha, T).  
The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.  

In the Interest of Minor Child: D.J.T., DOB 07/17/91, by Kristyl A. Simonson v. HCN Office of Tribal Enrollment, CV 06-21 Order (Requesting Accounting) (HCN Tr. Ct., June 02, 2006). (Matha, T).  
The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.  

In the Interest of Minor Child: A.F., DOB 01/13/96, by Alona Bush v. HCN Office of Tribal Enrollment, CV 05-83 Order (Requesting Accounting) (HCN Tr. Ct., June 07, 2006). (Matha, T).  
The Court previously released funds from the CTF accounts of the minor child for costs associated with the purchase of an automobile and automobile insurance. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.  

The Court previously released funds from the CTF accounts of the minor child for costs associated with private school tuition and expenses. The petitioner failed to submit an accounting confirming proper
use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

In the Interest of Minor Child: T.F., DOB 03/18/93, by Toni Funmaker v. HCN Office of Tribal Enrollment, CV 06-42 Order (Petition Granted) (HCN Tr. Ct., June 08, 2006). (Matha, T).
The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with orthodontic procedures. The Court granted the request.

In the Interest of Adult CTF Beneficiary: Shawn W. Maisells, DOB 01/23/86 v. HCN Office of Tribal Enrollment, CV 05-80 Order (Partial Acceptance of Accounting) (HCN Tr. Ct., June 08, 2006). (Matha, T).
The Court previously released funds from the CTF accounts of the petitioner for costs associated with the petitioner’s incarceration. The petitioner submitted a receipt, confirming proper use of a portion of the funds. The Court accepted this accounting, but the Court ordered the petitioner to submit a final required accounting.

In the Interest of Minor Child: P.S., DOB 05/05/94, by Reginald Sohm v. HCN Office of Tribal Enrollment, CV 06-10 Order (Accepting Accounting) (HCN Tr. Ct., June 08, 2006). (Matha, T).
The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

June 15, 2006
The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with orthodontic procedures. The Court granted the request.

June 16, 2006
The Court had to determine whether the parent can access CTF accounts to pay for costs associated with education, clothing, music lessons, sports camps, and a personal computer. The Court partially granted a release of funds, to satisfy the request of the petitioner. The Court granted a release for eye care, education, eye wear, and music lessons. The Court denied the request for clothing. Furthermore, the Court denied the request for a personal computer in line with standing case law. The Court denied the request for monies to pay the costs of sports camps because the petition lacked a coach recommendation. Last, the Court further denied the request for a Microsoft X-box and summer camps due to the fact that they are recreational in nature.

June 21, 2006
The Court previously released funds from the CTF accounts of the minor child for costs associated with private school tuition and expenses. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

**JUNE 22, 2006**

*In the Interest of Minor Child: M.W., DOB 07/09/95, by Melody Whiteagle-Fintak v. HCN Office of Tribal Enrollment, CV 04-83 Order (Partial Release of Contempt Fine) (HCN Tr. Ct., June 22, 2006). (Matha, T).*

The Court had to determine whether to retain the entire contempt fine withheld from the petitioner’s May 1, 2006 per capita distribution. The petitioner failed to submit an accounting prior to the date upon which the Court indicated it would purge the fine. The fine served its remedial purpose of compelling obedience with standing judicial directives. Thus, the Court released the majority of the accumulated contempt fine to the petitioner.

**JUNE 29, 2006**

*In the Interest of Minor Children: J.J.N., DOB 06/23/88; J.D.N., DOB 08/27/91, by Frances Ness v. HCN Office of Tribal Enrollment, CV 05-17 Order (Requiring Submission of Payments) (HCN Tr. Ct., June 29, 2006). (Matha, T).*

The Court previously found the petitioner in contempt, and thus ordered her to repay half of the distributed amount of funds within one year. The petitioner submitted the first two (2) installments, but has not submitted the final reimbursement. The Court ordered the petitioner to reimburse the monies on or before July 31, 2006, or risk further sanctions.

*In the Interest of Minor Child: C.D.W., DOB 02/21/97, by Stacy WhiteCloud v. HCN Office of Tribal Enrollment, CV 06-16 Order (Requesting Accounting) (HCN Tr. Ct., June 29, 2006). (Matha, T).*

*In the Interest of Adult CTF Beneficiary: Cha-ska Prescott, DOB 05/16/86 v. HCN Office of Tribal Enrollment, CV 05-108 Order (Requesting Accounting) (HCN Tr. Ct., June 29, 2006). (Matha, T).*

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

*In the Interest of Minor Child: N.M., DOB 08/13/93, by Paula M. Mike v. HCN Office of Tribal Enrollment, CV 06-29 Order (Dismissal Without Prejudice) (HCN Tr. Ct., June 29, 2006). (Matha, T).*

The petitioner requested that the Court dismiss the instant case. The Court granted petitioner’s request and dismissed the case without prejudice.

**JUNE 30, 2006**

*In the Interest of Minor Children: T.J.M., DOB 10/25/88, and A.M.M., DOB 07/02/90, by Kenda Tarr v. HCN Office of Tribal Enrollment, CV 03-83 Order (Contempt) (HCN Tr. Ct., June 30, 2006).*

The Court had to determine whether to hold the petitioner in contempt of court for knowingly violating the express terms of several judgments. The petitioner failed to attend the Show Cause Hearing, resulting in an inability to rebut the prima facie showing of contempt. The Court held the petitioner in contempt, and imposed a reasonable remedial sanction.
In the Interest of Minor Children: M.L.D., DOB 04/05/01, by Terry T. Deloney v. HCN Office of Tribal Enrollment, CV 03-83 Order (Contempt) (HCN Tr. Ct., June 30, 2006).
The Court had to determine whether to hold the petitioner in contempt of court for knowingly violating the express terms of several judgments. The petitioner failed to attend the Show Cause Hearing, resulting in an inability to rebut the prima facie showing of contempt. The Court held the petitioner in contempt, and imposed a reasonable remedial sanction.

INCOMPETENT TRUST FUND (ITF)
JUNE 08, 2006
In the Interest of Adult Incompetent: M.B.J., DOB 12/01/65, by Dolli Big John v. HCN Office of Tribal Enrollment, CV 00-83 Order (Show Cause) (HCN Tr. Ct., June 08, 2006). (Matha, T).
The Court previously released funds from the ITF account of M.B.J., DOB 12/01/65, for costs associated with household accommodations. The petitioner failed to comply with the most recent judicial directive requiring submission of an accounting. The Court shall convene a Show Cause Hearing to allow the petitioner to explain why the Court should not hold her in contempt of court.

FAMILY
NO RECENT CASES

DOMESTIC VIOLENCE
NO RECENT CASES

DIVORCE
NO RECENT CASES

JUVENTILE
JUNE 06, 2006
In the Interest of Minor Child: P.A.S., DOB 01/14/91, JV 98-07 Order (Granting Motion to Hold Child in Secure Custody) (HCN Tr. Ct., June 06, 2006). (Matha, T).
The Court had to determine whether to grant Children and Family Services’ Motion to Hold Child in Secure Custody. The Court granted the request to avoid a risk of flight.

JUNE 14, 2006
In the Interest of Minor Child: P.A.S., DOB 01/14/91, JV 98-07 Order (Modifying Dispositional Requirements) (HCN Tr. Ct., June 14, 2006). (Matha, T).
The Court had to determine whether to modify standing dispositional requirements. The Court afforded the parties notice and a hearing prior to making any amendments to its February 17, 2006 Order (Child Protection Review Hearing). The Court ordered a modification to the dispositional requirements.

JUNE 19, 2006
The Court previously convened a Revocation Hearing to determine whether to terminate the temporary guardianship and return the minor child to the custodial parent. The Court ordered the termination of the guardianship.

JUNE 21, 2006
In the Interest of Minor Child: T.J.B., DOB 05/30/06, JV 06-15 Order (Continuance of Plea Hearing) (HCN Tr. Ct., June 21, 2006). (Matha, T).
The Court convened a Plea Hearing for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the Child/Family Protection Petition. At the time, the parent requested a continuance, after being advised as to her rights as a parent as set forth in the CHILDREN’S ACT, §3.22d. The Court accordingly reschedules the Plea Hearing, so as to provide time to appoint legal representation.
JUNE 19, 2006
In the Interest of Minor Child: D.R.W., DOB 08/12/04, SU 06-02 Order Granting Motion (HCN S. Ct., June 19, 2006).

The Court had to determine whether to grant the Motion for Remand filed on behalf of the HCN Child and Family Services (CFS). New evidence was submitted to the Supreme Court that was not available during the Trial Court hearing. The Supreme Court determined that the Trial Court is in the best position to review evidence, hear testimony, and make findings of fact. Thus, the Supreme Court ordered that the Trial Court’s Order (Extension of Transitional Period) filed on May 2, 2006 be vacated. Furthermore, it was ordered that the case be remanded to the Trial Court for a hearing to reconsider the prior order in light of the new evidence presented by CFS and the Appellant.

HO-CHUNK NATION
SUPREME COURT MEETING
NOTICE and AGENDA
July 22, 2006
HCN Tribal Court Building, W9598 HWY 54 E
Black River Falls, WI

9:00 a.m.
I. Opening Prayer/Introductions
II. Review and approve Minutes of June 17, 2006

10:30 a.m.
III. Old Business
   a. Supreme Court Clerk, Mary Endthoff
      i. Update/Questions
      ii. Signatures needed
   b. HCN Rules of Criminal Procedures

IV. New Business
   a. Justice Butterfield/Justice Funmaker items

V. Set next meeting date
VI. Case Deliberation (Justices only)
VII. Adjourn

NOTE: All Supreme Court meetings are open to the public except as noted above. If you wish to have an item added to the agenda, please notify Mary Endthoff, Clerk of Court, prior to the meeting at (715) 284-2722.
RECENT FILINGS
TRIAL COURT

CHILD SUPPORT

JUNE 06, 2006

JUNE 12, 2006

JUNE 21, 2006
Linda L. Shabaiaash v. Twilight M. Hindsley, CS 06-33. (Matha, T).

JUNE 23, 2006
State of WI v. Andy M. Mallory, CS 06-34. (Matha, T).

Rebecca Rodriguez v. Garrett L. Banuelos, CS 06-35. (Matha, T).

JUNE 30, 2006
State of WI-Stephanie M. Redbird v. Curtis Frank Redbird, CS 06-36 (Matha, T).

CIVIL CASES

JUNE 01, 2006
T.F., DOB 03/18/93, by Toni Funmaker v. HCN Office of Tribal Enrollment, CV 06-42. (Matha, T).

JUNE 05, 2006
Stewart J. Miller v. The Lynwood Properties, LLC et al., CV 06-43. (Matha, T).

Courtney C. White, In re: Name Change, CV 06-44. (Matha, T).

JUNE 06, 2006
In the Interest of: Tracy M. Anderson, DOB 05/13/86, by Pamela M. Anderson, CV 06-45. (Matha, T).

CIVIL GARNISHMENT

JUNE 12, 2006
Quick Cash Loans v. Willa Red Cloud, CG 06-31. (Matha, T).

Quick Cash Loans v. Clarissa Pettibone, CG 06-32. (Matha, T).

**June 9, 2006**  

*In the Interest of: A.E., DOB 11/13/90; E.S.M., DOB 07/29/92; M.M., DOB 07/14/95; C.M., DOB 01/13/98; L.M., DOB 02/04/99, by Angela Mike, CV 06-47.* (Matha, T).

**June 13, 2006**  
*Ho-Chunk Casino Hotel & Convention Center and Ho-Chunk Nation v. Laurence Eagleman, CV 06-48.* (Matha, T).

*Ho-Chunk Casino Hotel & Convention Center and Ho-Chunk Nation v. J&J Tours, CV 06-49.* (Matha, T).

*Ho-Chunk Casino Hotel & Convention Center and Ho-Chunk Nation v. Dells Motor Speedway, CV 06-50.* (Matha, T).

**June 14, 2006**  
*Ho-Chunk Casino Hotel & Convention Center and Ho-Chunk Nation v. Jackie Hainta, CV 06-51.* (Matha, T).

**June 21, 2006**  
*A.L.A., DOB 06/18/06, JV 06-16.* (Matha, T).

---

**SUPREME COURT**

**NO RECENT FILINGS**

---

**FAMILY**

**NO RECENT FILINGS**

**DOMESTIC VIOLENCE**

**NO RECENT FILINGS**

**JUVENILE**

**June 06, 2006**  
*T.J.B., DOB 05/30/06, JV 06-15.* (Matha, T).

**June 14, 2006**  
*T.E.B., DOB 12/26/90, JV 06-17.* (Matha, T).
HO-CHUNK NATION COURT SYSTEM
JUDICIARY AND STAFF
Supreme Court–Mary Jo B. Hunter, Chief Justice
Mark D. Butterfield, Associate Justice
Dennis Funmaker, Associate Justice
Traditional Court – Earl Blackdeer
Donald Blackhawk
Dennis Funmaker
Jim Greendeer
Douglas Greengrass
Desmond Mike
Douglas Red Eagle
Preston Thompson, Jr.
Eugene Thundercloud
Morgan White Eagle
Clayton Winneshiek
Trial Court – Todd R. Matha, Chief Judge
JoAnn Jones, Associate Judge
Clerk of Court, Trial Court – Marcella Cloud
Assistant Clerk of Court, Trial Court – Selina Joshua
Bailiff/Process Server – Albert Carrimon
Administrative Assistant – Jessi Cleveland
Staff Attorney – Nicole M. Homer
Supreme Court Clerk – Mary Endthoff

* The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

WISCONSIN TRIBAL JUDGES ASSOCIATION
(Eleven federally recognized tribes within the State of Wisconsin)

NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION
(Region 10—Illinois, Indiana, Michigan, Minnesota, and Wisconsin)

HCN Judiciary Fee Schedule

Filing Fees
- Complaint..............................................$50.00
- Petition for Release of Per Capita Distribution
  (Children’s Trust Fund) ..........................$50.00
- Motion to Appear Pro Hac Vice..............$35.00
- Appellate Filing Fee...............................$50.00
- Petition to Register and Enforce Foreign
  Judgment/Order .....................................$20.00
- Marriage License Fee............................$50.00

Court Fees
- Copying ..............................................$0.10/page
- Faxing .............................................$0.25/page (sending & receiving)
- CD of Hearings ...................................$12.50/CD
- Deposition Videotape.........................$10.00/tape
- Certified Copies .................................$0.50/page
- Equipment Rental ...............................$5.00/hour
- Admission to Practice .........................$50.00

Legal Citation Forms
The following are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution
Constitution, Article Number, Section, Subsection.
HCN CONST., Art. II, Sec. (or §) 1(a).

Ho-Chunk Nation Code
Ordinance/Act Name Title Number HCC Section.
ELDER PROTECTION ACT, 4 HCC § 1.
EMPLOYMENT RELATIONS ACT, 6 HCC § 5.
(for detailed citation information consult LEGISLATIVE ORGANIZATION ACT, 2 HCC § 11.36)

HCN Supreme Court Case Law
Case Name, Case Number (HCN S. Ct., month, day, year).

HCN Trial Court Case Law
Case Name, Case Number (HCN Tr. Ct., month, day, year)

Ho-Chunk Nation Rules of Civil Procedure
HCN R. Civ. P. 19(B)
11th Annual 5K Fun Run/Walk Sept. 2, 2006
On September 2, 2006, the HCN Judiciary will be holding its 11th annual 5K Fun Run/Walk. All runners and walkers are invited to come out and enjoy the race. The race begins and finishes at Wa Ehi Hoci which is located on Highway 54 approximately 2 miles west of Majestic Pines Casino and 2 miles east of I-94/Hwy 54 intersection. Registration will be held from 8:00 - 8:45 a.m. and the actual race will begin at 9:00 a.m.

There will be a twelve dollar ($12) entry fee. However, each participant will receive an event T-shirt at registration. In addition, there are many prizes to be won in each category. There will be twelve (12) categories determined by age and gender: 12 and under, 13-20, 21-29, 30-39, 40-49 and 50 and older. There will be prizes for first, second, and third place within each category. Additionally, the top male and female runners will each receive a Pendleton blanket. The winners will be announced at the Pow Wow. So, come on out and run, walk, or cheer on your friends and family!

11th Annual Law Day Oct. 5, 2006
In the past, Law Day has been held in conjunction with the Fun Run/Walk on the Friday of Labor Day weekend. However, in an effort to ensure that more Ho-Chunk Nation (HCN) tribal and Bar members have an opportunity to attend, Law Day will be held on October 5, 2006 this year. Participants will have the opportunity to hear presentations from numerous judicial officers and court staff. Chief Judge Todd R. Matha will be speaking on Immunities from Suit. Whereas, Amanda Rockman will do a presentation on Retroactivity and the Law. Ms. Rockman will be returning to the Trial Court on August 14, 2006, as the new Associate Trial Court Judge. In addition, the Staff Attorney will provide a 2005-2006 Judicial Update.

For more information on the Fun Run/Walk and/or Law Day, please contact Nicole Homer at (800)-434-4070 or (715)-284-2722.
**ASSOCIATE JUDGE AMANDA L. ROCKMAN SWARING-IN CEREMONY**

On August 14, 2006, tribal member Amanda L. Rockman was sworn-in as Associate Judge of the Ho-Chunk Nation Trial Court. Associate Judge Rockman is a graduate of the University of Wisconsin Law School in Madison, Wisconsin. Upon graduation as a Josephine P. White Eagle fellow, she was employed as the Judiciary’s Law Clerk/Staff Attorney. After leaving the position, she worked for the Ho-Chunk Nation Department of Justice until she was appointed to a three (3) year term as Associate Judge. The ceremony was attended by representatives from the four (4) branches of government. Speakers included Chief Judge Todd R. Matha, Vice-President Wade Blackdeer, and Office of the Executive Administrative Officer, Jon Greendeer; prayer was offered by Denis Rockman. Associate Justice Mark D. Butterfield administered the *Oath of Office and Special Admission to Practice*. Associate Judge Rockman noted that she was privileged to join a Court comprised of individuals whom she has worked with and for whom she has a great deal of respect.

**WELCOME STAFF ATTORNEY JENNIFER L. TILDEN**

Jennifer L. Tilden was raised on the traditional homelands of the Lenne Lenape in the town of New Hope, Pennsylvania. Jennifer was graduated from Rider University in 2003 with a Bachelor of Arts summa cum laude in Political Science, Philosophy and Psychology. She then attended Michigan State University College of Law in East Lansing, MI where she was awarded her Juris Doctorate degree in Environmental Law and Indigenous Law and Policy this May. She spent last summer as a law clerk for Senator Arlen Specter, head of the Senate Judiciary Committee, in Washington, DC. Upon completing her judicial clerkship with the Ho-Chunk Nation Trial Court, Jennifer hopes to work either for another tribe or the American Civil Liberties Union.

**SPECIAL THANKS TO ASSOCIATE JUDGE JOANN JONES**

On April 4, 2006, Chief Justice Mary Jo B. Hunter elevated JoAnn Jones to the position of Associate Judge by extraordinary appointment. HCN JUDICIARY ESTABLISHMENT & ORG. ACT, 1 HCC § 1.8c. The HCN Judiciary would like to extend its deepest gratitude for Judge Jones’ willingness to step into the position. Judge Jones’ last day with the Judiciary was August 11, 2006. We wish her the best of luck in her future endeavors.
CTF CASE UPDATE

CTF CASES INVOLVING REQUESTS FOR CHILDREN 16 AND OLDER
DEC. 2003-JUNE 2006

In last month’s Court Bulletin, the Court performed a survey of the CTF cases involving requests for children fifteen years old and under. In this article, the Court surveys all the Children’s Trust Fund (CTF) cases involving requests for children over the age of sixteen (16) years up through the age of twenty-five (25) years.

Orthodontics:

The Court first granted a request to pay orthodontic expenses on March 27, 1998.1 The Court has consistently held that such expenses provide a “necessary health and welfare benefit to the child(ren).”2 Since the CTF case update in December of 2003, the Court has granted numerous requests for orthodontia.3

Eye Care:

In line with the orthodontics cases, the Court has also granted funds to purchase eye wear.4 In Cloud, the petitioner requested a release of funds from the adult beneficiary’s CTF account for the purchase of glasses and contact lenses.5 The Court granted the request in accordance with standing precedent.6

Clothing:

The Court generally recognizes that parents have the responsibility to meet a child’s basic needs, including the need for clothing.7 However, in Cloud the Court determined that the case differed from most CTF cases. The difference arose primarily because the grandmother had stepped into the shoes of the parents due to their unwillingness or inability to care for their own children.8 The grandmother thus was subjected to difficult family circumstances that had come about not from poor parental decision-making, but from outside factors.9 Thus, the Court partially granted the request for monies to purchase clothing, but only at a reasonable amount in line with case precedent.10

---

1 In the Interest of Casey J. Tripp v. HCN Enrollment Dep’t, CV 98-10 (HCN Tr. Ct., Mar. 27, 1998).
2 See Matha, Part I, supra note 1, at 2.
3 See e.g., In the Interest of Minor Child: B.W., DOB 08/28/89, by Pauline Ward v. HCN Office of Tribal Enrollment, CV 05-70 (HCN Tr. Ct., Aug. 25, 2005); In the Interest of Minor Child: M.A.C., DOB 04/09/89, by Myra Cunneen v. HCN Office of Tribal Enrollment, CV 05-46 (HCN Tr. Ct., Aug. 5, 2005); In the Interest of Minor Child: B.M.S., DOB 10/23/88, by Michelle R. Matlock v. HCN Office of Tribal Enrollment, CV 03-68 (HCN Tr. Ct., July 12, 2005).
4 See e.g., In the Interest of Adult CTF Beneficiary: Cha-ska Prescott, DOB 05/16/86 v. HCN Office of Tribal Enrollment, CV 05-108 (HCN Tr. Ct., Jan. 31, 2006) at 9.
6 Id.
7 In the Interest of Minor Children: M.W., DOB 07/09/95, by Melody Whiteagle-Fintak v. HCN Office of Tribal Enrollment, CV 04-83 (HCN Tr. Ct., Dec. 16, 2004) at 8; Lonetree at 14.
8 Cloud at 12.
9 Id.
10 Cloud at 12.
Furniture:

Although the Court has consistently held that household furnishings do not significantly benefit the child’s health, education, or welfare, the Court granted the only recent request for household furnishings. In Cloud, the Court determined that bedding and bedroom furniture were encompassed within the concept of shelter and that the parents had failed to provide these essential items.

Automobiles:

The Court received five requests for a release of funds to help pay for automobiles or their repair since the update. In Webster, the Court denied the request for automobile payment assistance. Specifically, the Court stated that the petitioner had already purchased the car, and that it was commercially unreasonable because it had more than 75,000 miles on the odometer. However, because the Court does not condone uninsured or underinsured driving it did grant the request for funds to help with automobile insurance due to the presence of young children in the household.

In Cloud, the petitioner had requested monies to help pay the costs of automobile repairs. The Court determined that the petitioner would have foregone the repairs, but for the safety of those in her care. Furthermore, the Court emphasized the reasonable expense associated with the repairs. Thus, the Court granted the request for funds.

In Blackhawk, the Court granted the release of funds associated with the purchase of an automobile. The petitioner had obtained her high school diploma, and although she was actively seeking employment, she still was able to demonstrate a financial need. Furthermore, the Court emphasized the reasonable expense associated with the repairs. Thus, the Court granted the request for funds associated with purchasing an economically reasonable car.

In comparison, the Court in Lowe denied the petitioner’s request for funds associated with car payments. The denial was prompted by the fact that the petitioner had already purchased the vehicle that did not satisfy the long-standing requirements for determining automobile appropriateness. Specifically, the automobile was more than six years old.

The Court also denied the request for funds to purchase an automobile in Littlegeorge. The

12 Cloud at 12.
13 Id.
14 In the Interest of Adult CTF Beneficiary: Ashley J. Webster, DOB 09/17/85 v. HCN Office of Tribal Enrollment, CV 03-82 (HCN Tr. Ct., Jan. 15, 2004) at 11.
15 Id.
Court found that the petitioner did not establish a financial need due to her failure to produce evidence of such need.\textsuperscript{27} Furthermore, the Court found that the petitioner failed to establish the presence of necessity for the car.\textsuperscript{28} Instead, the Court found that the household had reliable transportation, and in turn needed a better time management plan.\textsuperscript{29}

**Education:**

“Absent persuasive reasons to the contrary, the Court will not deny releases for costs directly associated with a minor child's pursuit of secondary education.”\textsuperscript{30} Therefore, the Court in *Thundercloud* granted tuition and fees, personal expenses, and transportation costs to the university.\textsuperscript{31} Based upon similar reasoning, the Court in *Nichols* granted the petitioner’s request for funds associated with personal expenses during the minor’s freshman year of college.\textsuperscript{32} The Court determined that the petitioner presented financial need, and had worked to pay for other aspects of her education, including transportation to her university and the costs of books.\textsuperscript{33} The Court also granted the petitioner’s request for a computer. This is because it would be of great use to the student during her college years, and thus was more of a necessity.\textsuperscript{34}

In *Hopinkah*, the Court kept the case open in regards to the request for costs associated with private schooling.\textsuperscript{35} Specifically, the Court had requested that the petitioner submit an invoice for the school costs.\textsuperscript{36} However, the petitioner failed to present such information, and the Court later dismissed the action.\textsuperscript{37}

The Court granted the request for a release of monies for costs associated with private schooling for a musically-gifted student in *Lonetree*.\textsuperscript{38} The petitioner had shown a financial need, that he would be spending much money in transportation costs, that he had already purchased a computer and printer for the minor, and that there were no other financial means available for paying for the schooling.\textsuperscript{39} The minor child had demonstrated an inability of the public school system to provide for her specialized and advanced educational needs. Thus, the Court stated that it would “not serve as an impediment to the minor child's clear objective to achieve educational excellence”\textsuperscript{40} and granted the request.

In *Prescott*, the Court granted a release of funds associated with high school tuition and fees.\textsuperscript{41} The Court later granted another release of funds for unexpected tuition expenses, provided that the petitioner file supplemental documentation of the expenses.\textsuperscript{42} In addition, the Court declined to grant the petitioner’s request for a personal computer in line with standing case law.\textsuperscript{43} Similarly, in *Kruse*, the Court granted a release of funds associated with high school tuition, however declined to release funds for a personal computer.\textsuperscript{44} The Court determined that the petitioner could mail in her homework assignments, and thus there was no necessity for the personal computer.\textsuperscript{45}

\textsuperscript{27} Littlegeorge at 8.
\textsuperscript{28} Id. at 9.
\textsuperscript{29} Id.
\textsuperscript{31} Thundercloud at 9.
\textsuperscript{32} Id.
\textsuperscript{33} Id. at 6.
\textsuperscript{34} Id. at 8-9.
\textsuperscript{35} In the Interest of Minor Child: A.T.H., DOB 03/24/88, CV 05-20 (HCN Tr. Ct., May 26, 2006).
\textsuperscript{36} In the Interest of Minor Child: A.T.H., DOB 03/24/88, CV 05-20 (HCN Tr. Ct., Sept. 27, 2005) at 9.
\textsuperscript{37} In the Interest of Minor Child: A.T.H., DOB 03/24/88, CV 05-20 (HCN Tr. Ct., May 26, 2006).
\textsuperscript{38} In the Interest of Minor Child: K.A.L., DOB 08/14/89 by Gary L. Lonetree, Jr. v. HCN Office of Tribal Enrollment, CV 05-66 (HCN Tr. Ct., Nov. 9, 2005) at 10.
\textsuperscript{39} Id. at 7.
\textsuperscript{40} Id. at 10.
\textsuperscript{41} Prescott, (HCN Tr. Ct., Jan. 31, 2006) at 9.
\textsuperscript{42} Prescott, (HCN Tr. Ct., Mar. 20, 2006) at 1.
\textsuperscript{43} Prescott, (HCN Tr. Ct., Jan. 31, 2006) at 9.
\textsuperscript{44} In the Interest of Adult CTF Beneficiary: Amber S. Kruse, DOB 03/06/83 v. HCN Office of Tribal Enrollment, CV 06-05 (HCN Tr. Ct., Feb. 6, 2006) at 8.
\textsuperscript{45} Id. at 8-9.
Housing:

The Court has in the past denied requests for housing assistance. These denials stem from the reasoning that the financial plight of the parents should not be shifted to the children. However, the Court in *Webster* departed from its usual stance by granting a request for rental assistance. This was because the petitioner was in the shoes of the parent, and thus the parent’s children needed housing.

In the two *Houghton* cases, both sons requested a release of funds to help pay their mother’s mortgage payments. However, “[t]he Court will not serve as the instrumentality for intruding into a member’s CTF account unless the member receives a direct and tangible health, education or welfare benefit from the release of monies.” Here the Court found that the sons were not receiving a benefit of health, education, or welfare by taking on the parent’s obligations, and thus denied the requests.

In *April Webster*, the petitioner had requested monies for the purchase of a mobile home. The Court had never granted such a request before. This is because to do so would circumvent the reasonable legislative enactments requiring that a minor obtain a high school diploma before accessing their CTF monies. However, because the petitioner was in financial need, a mother herself, and going to school full-time to get her high school diploma, the Court did conditionally grant housing assistance. Reasonable rental and utility expenses were granted upon the condition that petitioner remain enrolled in school and attend classes.

Legal Fees and Representation:

“The Court has routinely denied CTF releases for the purpose of paying criminal penalties imposed by a unit of state government.” An example of this general rule is found in *Webster* where the Court denied the request to satisfy the petitioner’s traffic fines. The Court stated that it has only granted a request for legal fees in cases involving unusual mitigating circumstances.

In regards to fees for legal representation, the Per Capita Ordinance restricts a CTF beneficiary from accessing his/her CTF account in order to retain criminal counsel, and the Court has repeatedly ruled against such releases in the past. Furthermore, there is a “presence of an absolute right to be represented by counsel as conferred by the Constitution of the United States.” Despite these general rules, the Court has recently granted a release of funds for legal representation in

---

46 The Court has repeatedly denied housing requests because it “reasons that ‘no matter what the financial plight of the parents, the ordinary and usual expenses for raising children should not be shifted to the children.’” In the Interest of Minor Children: T.M.K., DOB 08/22/85, et al. by Sara J. White Eagle v. HCN Office of Tribal Enrollment, CV 03-18 (HCN Tr. Ct., July 2, 2003) at 9 (quoting In the Interest of the Minor Children: M.C., DOB 04/09/89, et al., by Myra Cunneen v. HCN Dept’ of Enrollment, CV 99-83 (HCN Tr. Ct., Jan. 21, 2000) at 6).

47 Webster at 11.

48 Id.


50 Houghton at 8.

51 Id.
two cases where exceptional and/or unique circumstances were found.

In Martin, the Court found exceptional circumstances.\(^6\) Specifically, the adult CTF beneficiary suffered from severe medical disorders.\(^6\) Therefore, the Court recognized that the monies for a legal defense that promoted medical help rather than incarceration would benefit both the health and welfare of the adult CTF beneficiary.\(^6\) The Court also determined that the monies for the legal defense and psychological services represented a necessity and not merely a want or desire due again to the extreme medical conditions present in this case.\(^6\) The petitioner also provided information proving a financial need and that the petitioner had exhausted all public and tribal funds and entitlements.\(^6\) Thus, the Court granted the request.

In Decorah, the Court carved out another limited exception to the general rule that requests for attorney fees in criminal matters will be denied. In this case, the Court granted a release of funds for an attorney retainer fee. This was because the adult CTF beneficiary was denied representation by the Public Defender’s Office due to being minimally employed.\(^6\) Although the Court granted this particular release, it stressed that tribal members still need to exhaust tribal funds and public entitlements, which would generally result in representation by a public defender.\(^6\)

**Miscellaneous:**

In Littlewolf, the Court denied a request for a release of funds in relation to acquiring medical insurance. The Court had determined that the petitioner had failed to satisfy the exhaustion requirement.\(^6\) Specifically, the petitioner still had time to make a request for state medical assistance prior to her delivery date.\(^6\) In comparison, the petitioner in Bartlett was able to satisfy the exhaustion requirement. The petitioner presented proof that the majority of inpatient medical costs were paid for by state funding, health insurance, and personal payments.\(^7\) Thus, the Court granted the request for monies to pay the excess medical fees.

The Court has also encountered a small number of miscellaneous requests. The Court denied a release for costs involved with the purchase of electronics,\(^7\) graduation expenses,\(^7\) cable television bills,\(^7\) and children’s presents.\(^7\) The Court has granted a release for utilities,\(^7\) telephone service,\(^7\) child care,\(^7\) personal grooming,\(^7\) and incidentals.\(^7\)

\(^6\) Littlewolf at 7-8.
\(^6\) Id. at 5.
\(^7\) In the Interest of Adult Beneficiary: Vanity S. Bartlett, DOB 12/31/87 v. HCN Office of Tribal Enrollment, CV 06-14 (HCN Tr. Ct., Apr. 5, 2006) at 6.
\(^7\) Cloud at 13.
\(^7\) Webster at 12.
\(^7\) Id.
\(^7\) Cloud at 13.
\(^7\) Webster at 11-12.
\(^7\) Id.
\(^7\) Cloud at 13.
\(^7\) Maisells at 7.

---

\(^6\) In the Interest of Adult CTF Beneficiary: Jason Nathaniel Hopinka, DOB 12/17/83 by Wesley T. Martin, Jr. v. HCN Office of Tribal Enrollment, CV 03-15 (HCN Tr. Ct., Apr. 7, 2003) at 5-6.
\(^6\) Id. at 7.
\(^6\) Id.
\(^6\) Id. at 8.
\(^6\) Id.
\(^6\) Id. at 10-11.
\(^6\) Id. at 10.
UPDATES FROM OUTSIDE COURTS

United States Supreme Court

Certiorari granted
  • NO RECENT GRANTING OF CERTIORARI

Certiorari denied
  • NO RECENT DENIALS

Petition for Certiorari filed
  • San Carlos Apache Tribe v. Arizona, No. 06-173 (filed Aug. 1, 2006).

Ninth Circuit Court of Appeals
Marceau v. Blackfeet Housing Authority, 2006 WL 2035345 (9th Cir. 2006).
The Native American homeowners and lessees who resided in the homes built pursuant to the Mutual Help and Homeownership Program (MHHP) brought this action against the Department of Housing and Urban Development (HUD), the tribal housing authority, and its members, alleging violations of the Housing Act and regulations. The United States District Court for the District of New Mexico dismissed the action. The plaintiffs appealed that decision. The Court of Appeals held that the “sue and be sued” clause of the enabling ordinance which created a tribal housing authority was a clear and unambiguous waiver of tribal immunity; that the HUD funds were not a tribal resource, as required to establish that HUD owed fiduciary duty to tribes; that the action against HUD could not be maintained under the Administrative Procedure Act (APA); and that the District Court lacked jurisdiction under the Little Tucker Act over a breach of contract action. Affirmed in part, reversed in part, and remanded.

Tenth Circuit Court of Appeals
Burrell v. Armijo, 2006 WL 2045821 (10th Cir. 2006).
Farm lessees sued a federally recognized Indian tribe and tribal officials, alleging violations of their federal civil rights and breach of a farm lease. The United States District Court for the District of New Mexico dismissed the action, giving preclusive effect to a tribal court ruling. The lessees appealed the decision. The Court of Appeals held that the tribe did not waive tribal court jurisdiction over lease dispute; that the tribal court ruling dismissing the lessees' claims was not entitled to preclusive effect due to the failure to give lessees a full and fair opportunity to litigate their claims in tribal court; that the tribe did not waive its sovereign immunity on the breach of lease claim either under the terms of the lease or under federal regulations; that the tribe's sovereign immunity did not extend to officials for actions allegedly taken outside scope of their official authority; that the tribal officials had no liability under § 1983 for actions allegedly taken under color of tribal law, as opposed to state law; and that the breach of lease claim was barred by failure to seek review of the federal administrative determination that lessees breached the lease. Reversed in part, dismissed in part, and remanded.
RECENT DECISIONS

Decisions are separated between Trial Court and Supreme Court decisions and categorized by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader’s benefit. They should in no way be used as substitution for citations to the actual court opinion.

Within the Trial Court, cases are categorized and docketed as one of the following: Child Support (CS or if filed prior to 1998, CV), Civil Garnishment (CG), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Within this index, case citations will appear in one of these categories and, in the event it may be helpful to the reader as a research tool, the cases may also be summarized in a separate topic area. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. In some instances a decision may touch upon other topics that may not warrant a summary in this index, but the editor will use the indicator “other topic(s) covered,” as a research aid for the reader.

RECENT DECISIONS AND RECENT FILINGS both begin with the date where the previous COURT BULLETIN left off.

TRIAL COURT

CHILD SUPPORT

JULY 10, 2006
The Court had to determine whether to suspend enforcement of the respondent’s child support obligation. The respondent presented genetic documentation establishing a lack of paternity. The Court convened a Fact-Finding Hearing to advise the parties of their respective rights and responsibilities. The Court does not possess the authority to modify the substantive merits of an underlying foreign judgment. Therefore, the Court ordered the petitioner’s per capita monies to be impounded until the parties resolve the issue within the issuing jurisdiction.

JULY 12, 2006
The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The Court had to determine whether to grant petitioner’s motion to modify current child support. The Court granted petitioner’s motion in light of the fact that both parties stipulated to the modification.

The Court had to determine whether to perform a reduction in child support withholding based upon a child emancipating. However, the underlying child
support order did not utilize the State of Wisconsin Child Support Percentage of Income Standards. Therefore, the Court could not automatically perform a reduction of ongoing child support. The Court directed the Treasury Department to maintain the same level of withholding.

**JULY 13, 2006**
The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The Court had to determine whether to enforce a standing foreign child support order against serial payor’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion. The Court also had to determine whether to enforce a standing foreign child support order against serial payor’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to enforce a standing foreign child support order against serial payor’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to enforce a standing foreign child support order against serial payor’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The Court had to determine whether to enforce a standing foreign child support order against serial payor’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

*Randi E. Anderson v. Rory E. Thundercloud, and State et al. v. Rory E. Thundercloud*, CS 05-99, 06-
The Court had to determine whether to enforce a standing foreign child support order against serial payor’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

**JULY 14, 2006**

The Court had to determine whether to grant petitioner’s motion to cease current child support. The Court granted the request.

The Court had to determine whether to enforce two (2) additional standing foreign child support orders against serial payor’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The Court had to determine whether to enforce a standing foreign child support (arrears) order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to enforce two (2) additional standing foreign child support orders against serial payor’s per capita payments. The
respondent failed to timely respond, thus the Court
granted recognition and enforcement of the foreign
judgment.

**JULY 24, 2006**

Rachel Winneshiek v. John C. Houghton, Jr., CS
99-29 Order (Ceasing Child Support) (HCN Tr. Ct.,
July 24, 2006). (Matha, T).
The Court ordered the cessation of current child
support and forgives the respondent’s arrearage
based upon the underlying state court order.

**JULY 11, 2006**

In the Matter of the Outstanding Obligations of:
Sherry M. Spranger, CG 06-38 Order (Extension of
Full Faith & Credit) (HCN Tr. Ct., July 11, 2006).
(Matha, T).
The Court had to determine whether to grant full
faith and credit and/or comity to a foreign
judgment. The Dane County Circuit Court filed a
certified copy of its money judgment against the
debtor, representing an assessment of judicial fines
and penalties. The Court recognized and enforced
the foreign judgment out of due respect to its state
counterpart.

**CIVIL GARNISHMENT**

**JULY 02, 2006**

Quick Cash Loans v. Sonia Roberts., CG 06-28
Order (Satisfaction of Judgment) (HCN Tr. Ct., July
02, 2006). (Matha, T).
The Court previously issued a default judgment
against the respondent. The petitioner filed a
 corres-pondence indicating that the petitioner has
“discharged [the respondent] from further liability.”
The Court recognizes that the debt has been
satisfied.

**JULY 03, 2006**

Creditor Recovery Service, LLC v. Audrey M. Senn,
CG 06-35 Order (Voluntary Dismissal) (HCN Tr. Ct., July
03, 2006). (Matha, T).
The petitioner requested that the Court dismiss the
case. The Court granted petitioner’s request and
dismisses the case without prejudice.

**CIVIL GARNISHMENT**

**JULY 11, 2006**

Quick Cash Loans v. Willa RedCloud, CG 06-31
Order (Default Judgment) (HCN Tr. Ct., July 11,
2006). (Matha, T).
The Court had to determine whether to grant full
faith and credit and/or comity to a foreign
judgment. The respondent failed to timely respond,
thus the Court granted a default judgment in favor
of the petitioner.

Quick Cash Loans v. Clarissa Pettibone, CG 06-32
Order (Default Judgment) (HCN Tr. Ct., July 11,
2006). (Matha, T).
The Court had to determine whether to grant full
faith and credit and/or comity to a foreign
judgment. The respondent failed to timely respond,
thus the Court granted a default judgment in favor
of the petitioner.

Creditor Recovery Service, LLC v. Keith D. Smith,
CG 06-36 Order (Default Judgment) (HCN Tr. Ct., July
11, 2006). (Matha, T).
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

**JULY 13, 2006**  
The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.

**JULY 14, 2006**  
*Quick Cash Loans v. Willa RedCloud*, CG 06-31 *Order (Satisfaction of Judgment)* (HCN Tr. Ct., July 14, 2006). (Matha, T).
The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.

**JULY 24, 2006**  
The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.

**CIVIL CASES**  
**JULY 02, 2006**  
The Court issued this *Amended Scheduling Order* to establish dates and deadlines for the instant case.

**JULY 03, 2006**  
*In re: the Name Change of Courtnay Candace White*, CV 06-44 *Order (Granting Telephonic Appearance)* (HCN Tr. Ct., July 03, 2006). (Matha, T).
The Court granted the party’s request to appear by telephone.

**JULY 07, 2006**  
*Casimir T. Ostrowski v. HCN et al.*, CV 02-82 *Order (Final Judgment)* (HCN Tr. Ct., July 07, 2006). (Jones, J).
This case was remanded to the Trial Court after the Supreme Court determined that the record in the previous Trial Court decision lacked any factual basis regarding the standard for determining when accommodations to an employee cause the employer to operate at less than peak efficiency. The Court established that the standard relied upon by the Wisconsin Fair Employment Act (WFEA) is that an employer must prove that even with reasonable accommodations, the employee would not be able to perform his/her job responsibilities adequately, or where reasonable accommodations would enable the employee to do the job, hardship would be placed on the employer. The Court determined that even with the accommodations provided to the plaintiff for two and a half (2½) years, he could not perform all of the duties he was originally assigned including the lifting requirements. Furthermore, he required a ten (10) minute break every hour, thus the Casino needed to ensure that other employees were available to cover for his hourly ten minute break and to lift heavy bags on occasion. Because of the accommodations provided, the Casino was prevented from operating at its peak efficiency, and thus created hardship. The Court also determined that the plaintiff had received adequate notice of the policies and procedures that were violated. For these reasons the Court again decided for the defendants.

**JULY 12, 2006**  
The Court had to determine whether to grant the relief requested by plaintiffs. The defendant failed
to answer the *Complaint* despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiff’s permissible relief sought in the *Complaint*.

**JULY 20, 2006**  
The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case.

**JULY 26, 2006**  
The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case.

The Court issued this *Scheduling Order* to establish dates and deadlines for the instant case.

**JULY 27, 2006**  
*Vaughn Pettibone v. HCN Election Board et al.*, CV 03-17 *Order (Granting Motion for Reconsideration and Granting Motion to Dismiss)* (HCN Tr. Ct., July 27, 2006). (Jones, J).  
The Court had to determine whether to grant the *Motion to Dismiss*. The Court had previously granted a partial dismissal of the cause of action. The petitioner requested that the Court fully dismiss the *Complaint*. The Court granted the request and dismissed the entire *Complaint* because the case was moot due to the fact that Ms. De Cora had resigned prior to the filing of the *Complaint*. The plaintiff had sought her removal from the position of Election Board Chairperson, which she had previously held.

**JULY 31, 2006**  
*Nellie Darlene Long v. HCN Office of Tribal Enrollment*, CV 06-36 *Order (Dismissal with Prejudice)* (HCN Tr. Ct., July 31, 2006). (Matha, T).  
The Court had to determine whether to dismiss this action. The plaintiff had revealed during the *Scheduling Conference* that she could not satisfy the blood quantum requirement for enrollment with the HCN, thereby fatally undermining her enrollment appeal. The Court lacked a justiciable case or controversy, and accordingly dismissed the case with prejudice.

**CONTRACTS**  
**NO RECENT CASES**

**EMPLOYMENT**  
**NO RECENT CASES**

**HOUSING**  
**JULY 10, 2006**  
The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.

**JULY 26, 2006**  
The Court had to determine whether to grant relief requested by plaintiff i.e., restitution of the premises and an award of damages. The defendant failed to answer the *Complaint* despite proper service. The Court granted a default judgment against the defendant, awarding the plaintiff relief sought in *Complaint*.

After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have property restored to its possession and to remove the defendant, her possessions, and those occupying the property with her from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Jackson County in order to restore the property.

**JULY 27, 2006**


The Court previously granted *Plaintiff’s Motion for Summary Judgment*. The Court then had to determine whether the Housing Department’s use of the Elder Point Criteria in HCN LEG. RES. 08-06-03A violates the TRIBAL ENROLLMENT & MEMBERSHIP ACT of 1995, § 6(e) and whether HCN LEG. RES. 08-06-03A properly amended the selection criteria of the HOMEBUYER PROGRAM POLICY MANUAL. Based upon the date of the plaintiff’s request for relief, the MEMBERSHIP ACT is the controlling law and not HCN LEG. RES. 08-06-03A. This is because the plaintiff filed before the selection criteria in HCN LEG. RES. 08-06-03A became properly codified (based upon the rules for amending as established in the LEGISLATIVE ORGANIZATION ACT).

Because the Membership Act grants benefits equally to all tribal members, without regard to length of enrollment, the Legislature was barred from creating selection criteria that treated tribal members unfairly. However, the Court reserved judgment on the issue of whether application of the Elder Point Criteria violated the plaintiff’s constitutional right to equal protection in the interest of finding resolution under a non-constitutional question first.

**CHILDREN’S TRUST FUND (CTF)**

**JULY 10, 2006**

*In the Interest of Adult CTF Beneficiary: April Webster, DOB 08/30/87 v. HCN Office of Tribal Enrollment, CV 05-107 Order (Subsequent Release of Monies)* (HCN Tr. Ct., July 10, 2006). (Matha, T).

In accordance with the terms of a previous judgment, the Court granted a release of funds from the CTF accounts of the adult beneficiary for costs associated with housing while attending summer school.

**JULY 11, 2006**

*In the Interest of Adult CTF Beneficiary: Vanity S. Bartlett, DOB 12/31/87 v. HCN Office of Tribal Enrollment, CV 06-04 Order (Requesting Accounting)* (HCN Tr. Ct., July 11, 2006). (Matha, T).

The Court previously released funds from the CTF accounts of the minor child for costs associated with inpatient treatment. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.


The Court previously released funds from the CTF accounts of the minor child for costs associated with the purchase of an automobile and automobile insurance. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

*In the Interest of Adult CTF Beneficiary: Shawn W. Maisells, DOB 01/23/86 v. HCN Office of Tribal Enrollment, CV 05-80 Order (Accepting...*
The Court previously released funds from the CTF accounts of the child for costs associated with clothing, incidental expenses, and a mandatory release fund. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

The petitioner requested that the Court dismiss the instant case. The Court granted petitioner’s request and dismissed the case without prejudice.

JULY 24, 2006
In the Interest of Adult CTF Beneficiary: Jason N. Hopinka, DOB 12/17/83 v. HCN Office of Tribal Enrollment, CV 03-15 Order (Requesting Accounting) (HCN Tr. Ct., July 24, 2006). (Matha, T).
The Court previously released funds from the CTF accounts of the minor child for costs associated with petitioner’s criminal defense and underlying events. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered the petitioner submit the required accounting.

In the Interest of Minor Child: J.M.N., DOB 07/02/93 v. HCN Office of Tribal Enrollment, CV 06-21 Order (Requesting Accounting) (HCN Tr. Ct., July 24, 2006). (Matha, T).
The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with private school tuition and expenses. The Court conditionally granted the request, with the condition being that the petitioner pay for the miscellaneous and board fees.

JULY 31, 2006
In the Interest of Minor Children: J.J.N., DOB 06/23/88; J.D.N., DOB 08/27/91; and J.D.N., DOB 08/27/91 v. HCN Office of Tribal Enrollment, CV 05-17 Order (Satisfaction of Contempt Obligation) (HCN Tr. Ct., July 31, 2006). (Matha, T).
The petitioner submitted the final payment on her compensatory contempt fine. The Court accordingly lifted the contempt sanction and informed the parties of its intent to close the case within ten (10) days absent any objection from the parties within that time period.

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

INCOMPETENT TRUST FUND (ITF)
JULY 11, 2006
In the Interest of Adult Incompetent: K.S.B., DOB 02/19/60 by John B. Bahr v. HCN Office of Tribal Enrollment, CV 05-110 Order (Requesting
The Court previously released funds from the Incompetent Trust Fund (ITF) account of an adult incompetent member for costs associated with ongoing guardian services. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

**JULY 18, 2006**

*In the Interest of Adult Incompetent: B.P.O., DOB 04/03/34, by Elethe Nichols v. HCN Office of Tribal Enrollment, CV 96-46 Order (Motion Granted)* (HCN Tr. Ct., July 18, 2006). (Matha, T).

The Court had to determine whether a permanent guardian can access monies on behalf of an adult incompetent member from the member’s ITF to pay for annual residential LP gas costs. The Court granted the request.

**JULY 31, 2006**


The Court previously released funds from the ITF accounts of the adult incompetent for costs associated with ongoing guardian services. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

**DIVORCE**

**NO RECENT CASES**

**DOMESTIC VIOLENCE**

**JULY 17, 2006**

*In the Interest of Z.N.P.F., DOB 05/22/98, by Faye White v. Courtnay C. White and Gerald L. Cleveland, Jr., DV 06-04 Order (Preliminary Hearing)* (HCN Tr. Ct., July 17, 2006). (Matha, T).

The Court had to determine whether to extend out-of-home placement of the minor child on the basis of allegations of domestic abuse. The DOMESTIC ABUSE ACT implicitly requires a petitioner to prove the allegations by a preponderance of the evidence. The petitioner failed to meet her burden. Thus, the Court ordered the return of the child to her mother.

**JUVENTILE**

**JUNE 21, 2006**

*In the Interest of Minor Children: Y.M.R., DOB 08/19/04; Y.J.R., DOB 06/24/05; A.A., DOB 03/23/98; V.A., DOB 02/28/00, JV 06-09-12 Order*
The Court appointed a GAL in this matter.

JUNE 30, 2006
The Court appointed a GAL in this matter.

JULY 03, 2006
In the Interest of Minor Child: P.D.R., DOB 08/24/90, JV 03-24 Order (Child Protection Review Hearing) (HCN Tr. Ct., July 03, 2006). (Matha, T).
The Court conducted a Child Protection Review Hearing. The Court had to determine the extent of the compliance with the standing dispositional requirements. The Court determined to maintain the status quo.

The Court convened a Plea Hearing for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the Child/Family Protection Petition. At the time, the parent entered a plea of not guilty, after being advised as to her rights as a parent as set forth in the CHILDREN’S ACT, §3.22d. The Court accordingly schedules a Trial.

JULY 05, 2006
In the Interest of Minor Child: T.J.B., DOB 05/30/06, JV 06-15 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., July 05, 2006). (Matha, T).
The Court appointed a GAL in this matter.

The Court appointed a GAL in this matter.

JULY 10, 2006
The Court appointed a GAL in this matter.

JULY 11, 2006
In the Interest of Minor Child: D.A.F., DOB 09/16/88, JV 03-16 Order (Guardianship Appointment-Redacted) (HCN Tr. Ct., July 11, 2006). (Matha, T).
The Court provided this redacted order to aid the guardian and/or physical custodian in obtaining services for the minor child entrusted to his/her care.

JULY 12, 2006
In the Interest of Minor Child: S.M.N., DOB 02/17/90, 95-CU-15 Order (Guardianship Appointment-Redacted) (HCN Tr. Ct., July 12, 2006). (Matha, T).
The Court provided this redacted order to aid the guardian and/or physical custodian in obtaining services for the minor child entrusted to his/her care.

JULY 13, 2006
In the Interest of Minor Children: Y.M.R., DOB 08/19/04; Y.J.R., DOB 06/24/05; A.A., DOB 03-23-98; V.A., DOB 02/28/00, JV 06-09-12 Order (Child Protection Review Hearing) (HCN Tr. Ct., July 13, 2006). (Matha, T).
The Court conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

JULY 18, 2006
The Court appointed a GAL in this matter.

JULY 21, 2006
In the Interest of Minor Children: C.C.P., DOB 02/03/93 and G.L.P., DOB 06/10/94, JV 03-25-26 Order (Continuation of Guardianship Hearing) (HCN Tr. Ct., July 21, 2006). (Matha, T).
The Court continues the Guardianship Hearing.
JULY 25, 2006

In the Interest of Minor Children: J.C., DOB 04/10/04 and A.C., DOB 01/31/06, JV 06-18-19 Order (Appointment of Guardian ad litem) (HCN Tr. Ct., June 25, 2006). (Matha, T).

The Court appointed a GAL in this matter.

JULY 28, 2006


The Court convened a Plea Hearing for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the Child/Family Protection Petition. At the time, the parent requested a continuance, after being advised as to her rights as a parent as set forth in the CHILDREN’S ACT, §3.22d. The Court accordingly reschedules the Plea Hearing, so as to provide time for the parent to obtain legal representation.

SUPREME COURT

JULY 03, 2006

Kenneth Lee Twin v. Toni McDonald et al., SU 05-09 (HCN S. Ct., July 3, 2006).

The appellant appealed the decision from the Trial Court granting appellee’s Motion for Summary Judgment. The Supreme Court found that the appellees had failed to provide appellant with the minimal procedural due process protections as guaranteed by the HCN CONSTITUTION, ART. X, § 1(A)(8) in relation to the determination that appellant voluntarily terminated his own employment after not returning to work at the end of his Family Medical Leave (FML). Based upon the Personnel Policies and Procedures at the time of the harm, "...an employee who fails to report promptly for work at the expiration of the requested FML, will be considered to have voluntarily resigned." However, appellees failed to provide adequate notice or a “meaningful, pre-discipline, opportunity to be heard” that is required before a suspension or termination. Specifically, the Court noted that ten (10) days notice to the Nation’s office holders was a minimum requirement. See HCN Legislature v. Chloris A. Lowe, Jr., et al., CV 96-22, 24 (HCN Tr. Ct., Jan. 3, 1997) at 33. Here however, the appellant would have been provided only two (2) days notice had it been mailed to the proper address, but it was mailed to an incorrect address. Without proper notice, the appellant was not afforded the information necessary to defend against the proposed action, nor was he provided with an opportunity to be heard. Normally, a person could not bring suit after resigning from his position. However, because this resembled more of a constructive discharge rather than a voluntary resignation, it was required that the appellant be afforded due process of the law to protect his property interest in his employment. Therefore, the Court held that the Trial Court decision be vacated and the case remanded to allow the appellant the opportunity to seek Administrative Review.
RECENT FILINGS

TRIAL COURT

CHILD SUPPORT

JULY 7, 2006


JULY 13, 2006

JULY 21, 2006


JULY 28, 2006

CIVIL GARNISHMENT

JULY 3, 2006
Quick Cash Loans v. Tina Forcia, CG 06-41. (Matha, T).

JULY 13, 2006
Alliance Collection Agencies, Inc. (hereinafter A.C.A.) v. Kiel S. Roy, CG 06-42. (Matha, T).


A.C.A., Inc. v. Dana R. Kaddatz, CG 06-44. (Matha, T).


Tomah Memorial Hospital v. Diane Wilde, CG 06-48. (Matha, T).

JULY 18, 2006

CIVIL CASES

JULY 5, 2006
HCN Property v. Mary Bigjohn et al., CV 06-53. (Matha, T).

JULY 14, 2006

JULY 17, 2006
Joseph Marinan v. HCN Gaming Comm’n, CV 06-56. (Rockman, A).

JULY 18, 2006
In the Interest of Adult Beneficiary: Bruce Sanford, DOB 01/17/84 v. HCN Office of Tribal Enrollment, CV 06-55. (Rockman, A).
JULY 24, 2006
HCN Dept. of Education v. Andrew Rave, CV 06-57. (Matha, T).

JULY 28, 2006
Stanley J. Decorah v. HCN Workman’s Comp., CV 06-58. (Matha, T).

JULY 31, 2006


JUNE 14, 2006
Ho-Chunk Casino Hotel & Convention Center and Ho-Chunk Nation v. Jackie Hainta, CV 06-51. (Matha, T).

JUNE 21, 2006
In the Interest of: A.W.T. III, DOB 07/04/80, by Patricia A. Johnston Thundercloud, CV 06-52. (Matha, T).

FAMILY
NO RECENT FILINGS

DOMESTIC VIOLENCE

JULY 7, 2006
In the Interest of: Z.N.P.F., DOB 05/22/98, by Faye M. White, DV 06-04. (Matha, T).

JUVENILE

JULY 25, 2006
J.C., DOB 04/10/04, JV 06-18. (Matha, T).

A.C., DOB 01/31/06, JV 06-19. (Matha, T).

SUPREME COURT

JULY 10, 2006
Daniel M. Brown v. James Webster, HCN Exec. Dir. Of Business, SU 06-03.

JULY 18, 2006
Casimir Ostrowski v. HCN et al., SU 06-04.

SUPREME COURT NOTICE

The Ho-Chunk Nation Supreme Court has approved a draft of the Ho-Chunk Nation Rules of Criminal Procedure for public comment. The Ho-chunk Nation Supreme Court would invite responses on the proposed Rules by 4:30 p.m. on September 1, 2006. The Ho-chunk Nation Supreme Court will be reviewing the comments at their scheduled meeting in September. Those that wish to address the Court at that time with comments on the Rules are invited to do so. You can request a copy of the HCN Rules of Criminal Procedure, as well as provide written comments to mendthoff@ho-chunk.com.
HO-CHUNK NATION COURT SYSTEM
JUDICIARY AND STAFF
Supreme Court–Mary Jo B. Hunter, Chief Justice
   Mark D. Butterfield, Associate Justice
   Dennis Funmaker, Associate Justice
Traditional Court – Earl Blackdeer
   Donald Blackhawk
   Dennis Funmaker
   Jim Greendeer
   Douglas Greengrass
   Desmond Mike
   Douglas Red Eagle
   Preston Thompson, Jr.
   Eugene Thundercloud
   Morgan White Eagle
   Clayton Winneshiek
Trial Court – Todd R. Matha, Chief Judge
   Amanda L. Rockman, Associate Judge
Clerk of Court, Trial Court – Marcella Cloud
Assistant Clerk of Court, Trial Court – Selina Joshua
Administrative Assistant – Jessi Cleveland
Staff Attorney – Jennifer L. Tilden
Staff Attorney – Nicole M. Homer
Supreme Court Clerk – Mary Endthoff

* The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

WISCONSIN TRIBAL JUDGES ASSOCIATION
(Eleven federally recognized tribes within the State of Wisconsin)

NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION
(Region 10—Illinois, Indiana, Michigan, Minnesota, and Wisconsin)

HCN Judiciary Fee Schedule

Filing Fees
- Complaint……………………………………..$50.00
- Petition for Release of Per Capita Distribution (Children’s Trust Fund) ……………………$50.00
- Motion to Appear Pro Hac Vice…………..$35.00
- Appellate Filing Fee………………………..$50.00
- Petition to Register and Enforce Foreign Judgment/Order …………………..$20.00
- Marriage License Fee………………………$50.00

Court Fees
- Copying ……………………………………..$0.10/page
- Faxing ………………………………………..$0.25/page (sending & receiving)
- CD of Hearings …………………………….$12.50/CD
- Deposition Videotape ……………………….$10.00/tape
- Certified Copies……………………………..$0.50/page
- Equipment Rental ………………………….$5.00/hour
- Admission to Practice ………………………$50.00

Legal Citation Forms
The following are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution
Constitution, Article Number, Section, Subsection.
HCN Const., Art. II, Sec. (or §) 1(a).

Ho-Chunk Nation Code
Ordinance/Act Name Title Number HCC Section.
ELDER PROTECTION ACT, 4 HCC § 1.
EMPLOYMENT RELATIONS ACT, 6 HCC § 5.
(for detailed citation information consult LEGISLATIVE ORGANIZATION ACT, 2 HCC § 11.36)

HCN Supreme Court Case Law
Case Name, Case Number (HCN S. Ct., month, day, year).

HCN Trial Court Case Law
Case Name, Case Number (HCN Tr. Ct., month, day, year)

Ho-Chunk Nation Rules of Civil Procedure
HCN R. Civ. P. 19(B)
On August 14, 2006, tribal member Amanda L. Rockman was sworn-in as Associate Judge of the Ho-Chunk Nation Trial Court. The purpose of this interview is to provide the readership with some insight on the professional and personal life of Associate Judge Rockman. This interview was conducted by Nicole M. Homer, one of the Court’s staff attorneys.

NH: What is your educational background?
AR: I have a B.A. in Anthropology and French, and a certificate or minor in American Indian Studies from the University of Wisconsin-Madison. I also have a J.D. from the University of Wisconsin Law School.

NH: What did you do before being appointed to your three (3) year term as Associate Trial Court Judge?
AR: Upon graduation from law school, I worked as the Ho-Chunk Nation Judiciary’s Staff Attorney. I also worked for the Ho-Chunk...
Nation’s Department of Justice as a tribal attorney. I am fulfilling my Josephine P. White Eagle fellowship obligation.

**NH:** What drew you to the field of law?
**AR:** My undergraduate studies provoked interest towards the field of law, specifically Indian law. I had an American Indian history class, and we studied the Marshall Trilogy. The Marshall Trilogy is a series of cases, that continue to define Indian law. My parents also encouraged me to pursue my education, and they were very supportive regarding my legal education.

**NH:** Did you ever have dreams of becoming a judge?
**AR:** Yes, particularly for the Ho-Chunk Nation! Self-governance is essential in promoting sovereignty. The Judiciary’s future is dependent upon the devotion of committed public servants. Judges, who are committed to and citizens of the Ho-Chunk Nation, who maintain a vested interest in the Ho-Chunk Nation most appropriately fill this role. No other jurisdictions, other than tribal jurisdictions, appoint non-citizens to interpret and determine their laws. For instance, a Wisconsin judge rarely presides over cases affecting California citizens, interpreting and determining California case law.

**NH:** What should individuals expect when entering “Judge Rockman’s” courtroom?
**AR:** Individuals have preconceived notions regarding judges. For instance, people watch *Law & Order* on Friday night, and they expect me to come in and begin by speaking a lot of legal jargon. I try to keep all of the proceedings very respectful and cite directly to the law, often reading verbatim certain provisions of the law. However, at the same time, I recognize the implicit need of explaining issues to pro se litigants in layman terms. I try not to speak, as my father puts it, “another language.”

**NH:** So, you are only days into your position, but what do you enjoy most about your job thus far?
**AR:** I really enjoy researching and writing. I have had the opportunity to write a few opinions and orders, but I am looking forward to following a case from beginning to end.

**NH:** What do you find most challenging about your position thus far?
**AR:** Former Chief Judge William Bossman and Pro Tempore Judge Tina F. Gouty-Yellow did not fully resolve some cases before the expiration of their respective terms, and making time to finish those decisions… it’s going to involve putting in some long hours at the courthouse.

**NH:** What are your goals for the next three (3) years?
**AR:** My goals are to contribute to the faith of Ho-Chunk citizens and members in our judicial system, to contribute to a body of law that clearly communicates standards and judicial precedent, and finally, to justly and timely issue judgments.

**NH:** What are your long-term career objectives?
**AR:** At some point, I would really like to go back to school and obtain either an S.J.D. or an L.L.M. I harbor hopes of some day teaching law in an academic setting.

**NH:** Any thoughts about running for HCN Supreme Court Justice in the future?
**AR:** Not at this point in time, the Supreme Court is composed of incredibly bright and able individuals who care a lot about the Nation and its well-being.
NH: Where do you see the Trial Court in the next ten (10) years?
AR: The Trial Court will continue to be on the forefront of technological advances. Hopefully, the Nation will continue to exert its sovereignty by extending subject matter jurisdiction to include areas such as probate and criminal jurisdiction.

NH: Can you tell me a little bit about your life away from work—what do you think people should know about the Amanda Rockman outside of the Courthouse?
AR: I am deeply committed to my family. I have two beautiful children, and they keep me unrealistically busy. My parents live in the Mission, and I am very appreciative for all of their help, guidance and love. When time and funding permit, I also love to travel in Wisconsin or abroad. However I have not been able to travel recently… it seems with kids, traveling gets more and more difficult and complex. I also thoroughly enjoy being around music, and you’ll rarely find me in silence. I play a few different instruments, and I enjoy playing in the Black River Area Community Band.

NH: What was the last book or novel you read?

NH: The last CD you purchased?
AR: Gnarls Barkley.

NH: What U.S. Supreme Court Justice do you most admire and why?
AR: John Glover Roberts, Jr. Although he is an extremely recent addition to the United States Supreme Court (September 29, 2005), he is an incredibly brilliant man. At the age of thirty-seven (37), he became the youngest appellate judge in the country. At the age of fifty (50), he became the youngest Chief Justice for the United States Supreme Court in a couple of centuries! He maintains some knowledge of Indian law. Hopefully, the Court under his direction as Chief Justice will have some enlightening additions to Indian law.

NH: Thank you for your time, are there any last comments you would like to add?
AR: Yes, I would like to thank the Legislature for the appointment and confirmation. I am looking forward to an opportunity to serve the Nation.

The HCN Judiciary hosted its annual 5K Fun Run/Walk on Saturday, September 2, 2006. This year marked the eleventh anniversary of the event. Nearly fifty runners and walkers, from ages 10 to 69, participated.

The overall male winner was Dana Lonetree with a time of nineteen minutes, thirty-five seconds (19:35). Jodi Webster was the first overall female runner with a time of twenty-five minutes (25:00).

The Ho-Chunk Nation Judiciary congratulates all runners and walkers on their achievements. Special thanks to:
- The Ho-Chunk Nation Business Department, for its donation of water and prizes;
- Ho-Chunk Cinema, for its donation of movie passes & popcorn;
- Chief Trial Court Judge Todd Matha, for his donation of refreshments;
- Assistant Trial Court Judge Amanda Rockman, Assistant Clerk of Court Selina Joshua, Assistant Clerk of Court Jessi Cleveland, and Supreme Court Clerk Mary Endthoff, for their donation of time and effort in making the Fun Run/Walk a success.

**Trial Court Notice**

Staff Attorney Jennifer Tilden has updated the Ho-Chunk Nation Judiciary website (http://ho-chunknation.com/government/courts.htm). The website now provides many new and updated features including:

- **Court Calendar:** Web-users now have the ability to find hearing dates and times on the Court Calendar link. If a person clicks on any one of the case numbers, provided that it is not a case number for a juvenile or child abuse action, they will be brought to a page where the following information is provided: the case name, the case number, the names of legal counsel, the type of hearing, the type of case, and the time of the hearing.

- **Virtual Tour:** Web-users now have the ability to see pictures and read descriptions about the court building, the Great Seal of the Ho-Chunk Nation, and the Seal of the Judiciary.

- **Notices:** Web-users now have the ability to read information about any events that the Court may be holding. Currently, a person will be able to read about Law Day if they click on the Notices link.

- **Ho-Chunk Bar Association:** Web-users now have the ability to access a list of all Ho-Chunk Bar Association members. Included in this list is the contact information for each member. Furthermore, there is a link that will bring the reader to the Rules for Admission to Practice in the Courts of the Ho-Chunk Nation. These rules will provide the reader with information on how to become a member of the Ho-Chunk Bar Association.

- **Driving Directions:** Web-users now have the ability to find driving routes to the courthouse from all directions. Included in this section is a small map.
• **FAQs:** Web-users now have the ability to read commonly asked questions, as well as obtain answers to such questions. Each answer contains links to pertinent cases, rules, or laws. For example, if part of the answer offered comes from the holding of a specific case, there will be a link to that case provided within that specific answer. This section will be an excellent tool to commence one’s legal research.

• **Court Bulletins:** This section has been updated to provide the most recent Ho-Chunk Nation Court Bulletins.

• **Judicial Rules:** This section has been updated to provide additional rules, as well as recently changed rules. For example, web-users now have access to: the Rules of Professional Conduct, Timely Issuance of Decisions, and the Federal Rules of Evidence. In addition, this section now provides the most recent version of the Ho-Chunk Nation Rules of Civil Procedure. Therefore, HCN R. Civ. P. 63, entitled Judicial Review of Administrative Adjudication, is now available via the web.

• **Forms Online:** This section has been updated to provide additional boilerplate forms. For example, web-users now have access to the Petition for Administrative Review. These forms are provided to make filing a cause of action easier for the public.

• **Case Summaries:** This section has been updated to provide the most recent case summaries. There are now case summaries available from 2004 through 2006.

---

**Supreme Court Notice**

On July 22, 2006, the HCN Supreme Court changed the Ho-Chunk Nation Rules of Civil Procedure, Rule 63(D) to read, in part, as follows:

(D) The commission or board, designated as the respondent, must transmit the administrative record to the Court within fifteen (15) days after filing the Petition for Administrative Review.

---

**Updates from Outside Courts**

**United States Supreme Court**

**Certiorari Granted**

• No Recent Granting of Certiorari

**Certiorari Denied**

• No Recent Denials

**Petition for Certiorari Filed**

• San Carlos Apache Tribe v. Arizona, No. 06-173 (filed Aug. 1, 2006).

---

**Eighth Circuit Court of Appeals**

**Bone Shirt v. Hazeltine**, No. 05-4010 (8th Cir. 2006).

This case arises from the 2001 legislative redistricting of South Dakota. The redistricting plan (the Plan) created a 105-member state legislature that was split into thirty-five districts. Each district elected two members of the state house of representatives at-large and one member of the state senate. District 28 was an exception. It was divided into two single-member districts: District 28A and 28B. There were only two Indian-majority districts in the plan, Districts 27 and 28A. District 27, with a ninety percent Native-American population, consistently elected Indian-preferred candidates. District 28A, with a lesser majority, frequently...
elected Indian-preferred candidates. District 26, which neighbors District 27, had only a thirty percent Native-American population and did not elect an Indian-preferred candidate from 1982 to 2002. At issue is whether the Plan violated Section 2 of the Voting Rights Act by packing District 27 with Native-Americans at the expense of District 26, and whether the district court redistricted South Dakota in a manner that assured Native-Americans in Districts 26 and 27 the opportunity to elect Indian-preferred candidates. The circuit court found that the redistricting plan violated Section 2 of the Voting Rights Act by packing one district with Native Americans at the expense of another, and the district court redistricted South Dakota in a manner that assured Native Americans in the districts the opportunity to elect Indian-preferred candidates.

**United States v. White Plume**, 447 F.3d 1067 (8th Cir. 2006).

The United States brought this action for declaratory and injunctive relief against the grower who, pursuant to a tribal ordinance, had produced industrial hemp on tribal land without Drug Enforcement Agency (DEA) registration. Numerous hemp companies intervened as defendants. The Court of Appeals held that industrial hemp is subject to regulation by the Controlled Substances Act (CSA). The Court also held that the Treaty of Fort Laramie of 1868 did not give the grower a right to grow industrial hemp. Last, the regulation of industrial hemp by CSA did not violate the companies' substantive due process rights. Affirmed.

**Minnesota Court of Appeals**


In a divorce proceeding in Scott County District Court, the judge dissolved the parties' marriage, granted the parties joint legal and physical custody of the children, and ordered the division of the parties' marital property, after which the former wife's motion for amended findings relating to former husband's residence; that the trial court did not abuse its discretion in denying the former wife's motion for a new trial on the grounds of fraud or newly discovered evidence; that the evidence supported the award to parties of joint legal and physical custody of the children; that the monthly per capita payments that former wife, who was member of Indian tribe, received from tribal community were marital property subject to division between parties; and that the trial court did not abuse its discretion in equally dividing the marital property. Affirmed.

**UPDATES FROM CONGRESS**

On July 27, 2006, the Voting Rights Act (VRA) was signed into law for another 25 years. The law was set to expire in 2007. The VRA was first signed into law by President Lyndon B. Johnson to ensure that certain practices be deemed illegal, such as polling taxes and mandatory literacy tests. Such devices were mainly used in the south in order to prevent African Americans from having the opportunity to vote.

Although being associated predominantly with the southern states, the VRA has had a profound impact on states containing high American Indian and Alaskan Native populations as well. The two sections of the VRA that will play a large role in such populated areas are the minority language provisions and preclearance. The minority language provisions, found in section 203, require that if more than 5% of the voting age population in any one jurisdiction are members of a single language “minority” and have limited proficiency in English, then that jurisdiction must provide oral and written assistance in the minority language. Therefore, registration forms, ballots, and polling signs must all be provided in not only English, but the minority language as well.
Preclearance mandates that if jurisdictions have had a history of discrimination, they must submit all election changes to the U.S. Department of Justice for review before that change may take effect. This procedure is intended to ensure that such jurisdictions may not enact laws that will interfere or impair one’s right to vote. For example, jurisdictions would not be able to implement laws forbidding voters from presenting tribal identification cards or requiring state-issued driver licenses in order to vote.

Although some have argued that this oversight is no longer needed, and is merely a relic of the past when Southern states could not be trusted to treat all citizens equally, others argue that the abuses continue today. In reference to measures approved by the Georgia Legislature, the Washington Post quoted Sen. John F. Kerry (D-Mass.) as questioning, “[w]here would the citizens of Georgia be—particularly low-income and minority citizens—if they were required to produce a government-issued identification or pay $20 every five years in order to vote?” See Charles Babington, Voting Rights Act Extension Passes In Senate, 98 to 0, Washington Post, July 21, 2006, at A01. Jesse L. Jackson was reported as stating that the Senate vote had called only for “restrained celebration” because the “Justice Department, right down the line, has chosen states’ rights.” Id.

This hesitation is also felt by the Native American Rights Fund (NARF). NARF recently reported that Section 203 has not been completely put into operation in Alaska. Full implementation of this section of the VRA is crucial in many parts of Alaska, including Bethel where more than one-fifth (1/5th) of the population speaks Yup’ik instead of English. Voting Rights Act Reauthorization 2006—Voting Rights 101, E-Action News (Native American Rights Fund, Boulder, CO), Aug. 24, 2006. Therefore, NARF will remain “committed to monitoring and encouraging compliance with this law in Alaska and around the United States.” Id.

**UPCOMING EVENTS**

- **Wisconsin Tribal Judge’s Association (WTJA) Meeting- Oct. 5-6, Ho-Chunk Nation Trial Court, Black River Falls, WI**
- **Ho-Chunk Judiciary Law Day- Oct. 5, Ho-Chunk Nation Trial Court, Black River Falls, WI**
  - This year’s Law Day is being held in conjunction with the Wisconsin Tribal Judges Association, Inc. (WTJA) quarterly autumn meeting.
  - For WTJA attendees, the Ho-Chunk Nation Judiciary has set aside a block of rooms at Majestic Pines Casino. You can reach the casino at (888) 625-8668.
  - Law Day will conclude with a WTJA golf outing held at Skyline Golf Course in Black River Falls, WI. http://www.golfskyline.com.
  - Free and Open to the Public
  - CLE Credits Available
  - For more information please contact Nicole Homer at (800) 434-4070

8:15 A.M. **Registration & Breakfast Reception**

9:00 A.M. **Welcome & Judicial 2005-2006 Case Law Update**

- HCN Trial Court Staff Attorney Nicole M. Homer

9:30 A.M. **Question & Answer Period/ Break**

9:45 A.M. **Extension of Full Faith and Credit and/or Comity to Foreign Child Support Orders**

- HCN Trial Court Staff Attorney Jennifer L. Tilden

10:15 A.M. **Question & Answer Period/ Break**

10:30 A.M. **Retroactivity and the Law**

- HCN Trial Court Associate Judge Amanda L. Rockman

11:00 A.M. **Question & Answer Period/ Break**

11:15 A.M. **Immunities from Suit**

- HCN Trial Court Chief Judge Todd R. Matha

11:45 A.M. **Question & Answer Period/ Break**

12:00 P.M. **Closing Remarks/Program Ends**
**RECENT DECISIONS**

Decisions are separated between Trial Court and Supreme Court decisions and categorized by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader’s benefit. They should in no way be used as substitution for citations to the actual court opinion.

Within the Trial Court, cases are categorized and docketed as one of the following: Child Support (CS or if filed prior to 1998, CV), Civil Garnishment (CG), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Within this index, case citations will appear in one of these categories and, in the event it may be helpful to the reader as a research tool, the cases may also be summarized in a separate topic area. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. In some instances a decision may touch upon other topics that may not warrant a summary in this index, but the editor will use the indicator “other topic(s) covered,” as a research aid for the reader.

**RECENT DECISIONS** and **RECENT FILINGS** both begin with the date where the previous Court Bulletin left off.

---

**TRIAL COURT**

**CHILD SUPPORT**

**AUGUST 4, 2006**


The Court granted the party’s request to appear by telephone.

**AUGUST 22, 2006**


The petitioner filed a request to suspend per capita withholding for arrears due to the child support arrearage being paid in full. The Court ordered the cessation. However, the Order remains unchanged with respect to the current child support withholding.


The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The Court afforded the respondent proper notice of the petitioner’s filing. The respondent filed a timely answer in which he did not object to the recognition and enforcement of the foreign child support order, but merely requested a Fact-Finding Hearing. At the Hearing, the respondent again failed to object to the recognition and enforcement of the foreign child support order. Alternatively, the respondent requested information on how to terminate his parental rights. The Court lacks the authority to terminate a parent’s rights. Thus, the Court granted the recognition and enforcement of the foreign judgment, and performed an equitable adjustment due to the respondent’s serial payor status.
AUGUST 30, 2006
The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

AUGUST 31, 2006
The Court had to determine whether to enforce a standing foreign child support order against the respondent's per capita payments. The respondent expressed her acquiescence to the request for relief, as she filed the Petition. Therefore, the Court waived the normal service of process requirement. The Court accordingly granted recognition and enforcement of the foreign judgment, and performed an equitable adjustment due to the respondent's serial payor status.

CIVIL GARNISHMENT
AUGUST 01, 2006
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

AUGUST 04, 2006
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

1 This name should be Klayton Armand Blackdeer.
judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

AUGUST 08, 2006
Quick Cash Loans v. Tina Forcia, CG 06-41 Order (Suspension of Activity) (HCN Tr. Ct., Aug. 8, 2006). (Matha, T).
The petitioner filed a Petition to Register & Enforce a Foreign Judgment or Order. The Court will confirm the employment of the respondent through correspondence with the HCN Dep’t of Personnel prior to effectuating service. Thereafter, the Court will process the Petition. If the respondent later leaves the employ of the Nation, the Court shall suspend all case file activity and inform the petitioner of its ability to file a motion to resumes activity if the respondent subsequently resumed employment with the Nation.

AUGUST 09, 2006
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

AUGUST 28, 2006
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.
judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

AUGUST 30, 2006
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

AUGUST 30, 2006
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

CIVIL CASES
AUGUST 1, 2006
HCN Dep’t of Veterans Affairs et al. v. Allyson Finch, CV 06-14 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Aug. 1, 2006). (Matha, T).
The Court granted the party’s request to appear by telephone.

AUGUST 03, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

HCN Dep’t of Veterans Affairs et al. v. Allyson Finch, CV 06-14 Scheduling Order (HCN Tr. Ct., August 3, 2006). (Matha, T).
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

AUGUST 07, 2006
The Court had to determine whether to impose costs and attorney’s fees against the respondent due to his failure to timely respond to the petitioner’s discovery requests. The respondent neglected to request a modification to the scheduling order for the purpose of extending the response period. The Court refrained from imposing discovery sanctions, and instead cautioned the respondent to exercise due diligence in the future.

The Court had to determine whether to dismiss the instant case. The plaintiff informed the Court of his intention to withdraw his case prior to convening a scheduling conference. Therefore, the Court dismissed the action without prejudice.

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent filed a timely response. The Court conducted a Fact-Finding Hearing.
However, the respondent failed to demonstrate to the Court any reason why it should preclude granting full faith and credit to the foreign judgment. Thus, the Court granted the petitioner’s request.

**AUGUST 17, 2006**

The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.

**AUGUST 21, 2006**

In re: The Name Change of Courtnay Candace White, CV 06-44 Order (Granting Name Change) (HCN Tr. Ct., Aug. 21, 2006). (Rockman, A).
The Court had to determine whether to grant the request of the petitioner to have her name legally changed. The petitioner had substantiated the basis for the name change. The Court granted the request.

**AUGUST 28, 2006**

Dallas White Wing v. HCN General Council et al., CV 04-99 Order (Amending Scheduling Order & Setting Motion Hearing) (HCN Tr. Ct., Aug. 28, 2006). (Vele, K).
The Court had to determine whether to again modify the scheduling order to accommodate the parties’ request to resolve the case through the presentation of a dispositive motion. The Court granted the modification in an effort to conclude this long-standing matter. The Court incorporated the briefing schedule agreed upon by the parties and reminded the parties of the date, time, and location of the Motion Hearing.

**AUGUST 29, 2006**

Ona Garvin v. HCN Election Board et al. and Dallas WhiteWing v. HCN General Council et al., CV 05-90, 05-93 Scheduling Order (HCN Tr. Ct., Aug. 28, 2006). (Vele, K).
The Court had to determine whether to again modify the scheduling order to accommodate the parties’ request to resolve the case through the presentation of a dispositive motion. The Court granted the modification in an effort to conclude this long-standing matter. The Court incorporated the briefing schedule agreed upon by the parties and reminded the parties of the date, time, and location of the Motion Hearing.

**CONTRACTS**

**AUGUST 18, 2006**

The Court had to determine whether to grant the relief requested by the plaintiffs. The defendants failed to answer the Complaint despite proper service of process. The Court rendered a default judgment against the defendants, awarding plaintiffs permissible relief sought in the Complaint.
AUGUST 21, 2006
The Court had to determine whether to grant the relief requested by the plaintiffs. The defendants failed to answer the Complaint despite proper service of process. The Court rendered a default judgment against the defendants, awarding plaintiffs permissible relief sought in the Complaint.

EMPLOYMENT
AUGUST 14, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

HOUSING
AUGUST 08, 2006
The Court determined that the Court lacked personal jurisdiction over certain defendants. The Court further decided that no issue of law or fact had been joined and the time for joining issue had expired, thus the plaintiff was entitled to a default judgment against the defendants pursuant to HCN R. Civ. P. 54.

AUGUST 17, 2006
The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.

CHILDREN’S TRUST FUND (CTF)
AUGUST 16, 2006
In the Interest of Minor Child: G.F., DOB 03/01/93, by Mary Fletcher v. HCN Office of Tribal Enrollment, CV 05-102 Order (Petition Granted) (HCN Tr. Ct., Aug. 16, 2006). (Matha, T).
The Court had to determine whether the legal guardian could access CTF monies on behalf of a minor child for costs associated with purchasing a therapeutic lap pool. The Court granted the request.

In the Interest of D.P.G., DOB 08/28/82, by Regina Taylor and Tony Salo v. HCN Office of Tribal Enrollment, CV 05-15 Order (Requesting Accounting) (HCN Tr. Ct., Aug. 16, 2006). (Matha, T).
The Court requested that the petitioner submit the required accounting.

In the Interest of Adult CTF Beneficiary: Cha-ska Prescott, DOB 05/16/86 v. HCN Office of Tribal Enrollment, CV 05-108 Order (Demanding Accounting) (HCN Tr. Ct., Aug. 16, 2006). (Matha, T).
The Court ordered that the petitioner submit the previous required accounting.

In the Interest of Adult CTF Beneficiary: April Webster, DOB 08/30/87 v. HCN Office of Tribal Enrollment, CV 05-107 Order (Requesting Accounting) (HCN Tr. Ct., Aug. 16, 2006). (Matha, T).
The Court requested that the petitioner submit the required accounting.

In the Interest of Minor Child: T.F., DOB 03/18/93, by Toni Funmaker v. HCN Office of Tribal
The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted a correspondence from the orthodontist, confirming proper use of the funds. The Court accepted this accounting.

The Court previously released funds from the CTF accounts of the minor child for costs associated with orthodontic procedures. The petitioner submitted account ledger pages, confirming proper use of the funds. The Court accepted this accounting.

The Court previously released funds from the CTF accounts of the minor child for costs associated with purchasing an automobile. The petitioner submitted copies of a bill of sale and proof of insurance, but failed to submit a copy of the Title and Registration. The Court partially accepted this accounting and reiterates its demand for a full accounting.

The Court requested that the petitioner submit the required accounting for the release from Tyler A. Cloud’s CTF account.

In the Interest of Adult CTF Beneficiary: Tyler A. Cloud, DOB 10/31/87; In the Interest of Minor Child: T.A.C., DOB 02/19/90, by Orvillia R. White Eagle; In the Interest of Minor Child: R.G.C., DOB 07/27/92, by June E. White Thunder v. HCN Office of Tribal Enrollment, CV 05-92 Order (Requesting Accounting) (HCN Tr. Ct., Aug. 16, 2006). (Matha, T).
The Court requested that the petitioners submit the required accounting for the release from the CTF accounts of T.A.C., DOB 02/19/90, and R.G.C., DOB 07/27/92.

AUGUST 17, 2006

The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with orthodontic procedures. The Court granted the request.

The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with private school tuition and expenses. The Court granted the request.

The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with orthodontic procedures. The Court granted the request.

AUGUST 24, 2006
The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with orthodontic procedures. The Court granted the request.

The Court had to determine whether a parent could access CTF monies on behalf of his minor child for costs associated with orthodontic procedures. The Court granted the request.

AUGUST 25, 2006
The Court conditionally approved the petitioner’s request to access CTF monies on behalf of her minor child for costs associated with private school and expenses. The Court had required the petitioner to document personal payment of miscellaneous and board fees as required in a previous order. The petitioner offered documentation of successive payments to the private school. The Court found that petitioner had demonstrated a good faith effort to satisfy her parental obligation. The Court directed the release of the funds.

INCOMPETENT TRUST FUND (ITF)
AUGUST 15, 2006
In the Interest of B.G.S., DOB 02/07/80, by Teresa Iverson v. HCN Office of Tribal Enrollment, CV 06-34 Order (Motion Granted) (HCN Tr. Ct., Aug. 15, 2006). (Matha, T).
The Court had to determine whether the legal guardian could access ITF monies on behalf of an adult incompetent member for costs associated with assisted vacation expenses. The Court granted the request.

AUGUST 16, 2006
In the Interest of B.F.R., DOB 09/18/19, by Dorothy Lenard v. HCN Office of Tribal Enrollment, CV 02-95 Order (Accepting Accounting) (HCN Tr. Ct., Aug. 16, 2006). (Matha, T).
The Court previously released funds from the ITF accounts of the adult incompetent member for costs associated with ongoing nursing home care. The petitioner submitted a payment history statement from the nursing home, confirming proper use of the funds. The Court accepted this accounting.

AUGUST 22, 2006
The Court previously released funds from the ITF accounts of the adult incompetent member for costs associated with annual residential LP gas costs. The petitioner submitted an account statement, confirming proper use of the funds. The Court accepted this accounting.

AUGUST 23, 2006
The Court requested that the petitioner submit the required accounting.

**FAMILY**

**NO RECENT CASES**

**DOMESTIC VIOLENCE**

**AUGUST 03, 2006**

*In the Interest of Minor Child: R.S., DOB 06/07/98, (HCN Tr. Ct., Aug. 3, 2006). (Matha, T).*

The Ho-Chunk Nation Trial Court has been presented with a sworn Petition for Order for Protection. The Court finds reasonable grounds to believe that the respondent has committed acts of domestic violence against the petitioner and/or family. Consequently, the Court enters this *Ex Parte Order for Protection* as necessary to protect the petitioner.

**AUGUST 09, 2006**

*In the Interest of Elder Person: D.D., DOB 04/27/19, by Ho-Chunk Nation Dep’t of Social Services v. Jovita Orozco, DV 06-02 Order (Satisfaction of Judgment) (HCN Tr. Ct., Aug. 9, 2006). (Matha, T).*

The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days. The HCN Loan Division shall no longer decline to grant loans against the respondent’s future per capita on the basis of this action.

**AUGUST 15, 2006**

*In the Interest of Minor Child: R.S., DOB 06/07/98, DV 06-05 Order (Requiring CFS Involvement) (HCN Tr. Ct., Aug. 15, 2006). (Rockman, A).*

The Court had to determine whether to extend its *Ex Parte Order for Protection* on the basis of allegations of domestic abuse. Because a social worker substantiated the allegations of abuse as reported by the petitioner in the initial pleading, the Court shall require the involvement of CFS in this juvenile action.

**AUGUST 22, 2006**

*In the Interest of Minor Child: R.S., DOB 06/07/98, DV 06-05 Order (Dismissal) (HCN Tr. Ct., Aug. 22, 2006). (Rockman, A).*

The Court had to determine whether to dismiss the instant action. The petitioner failed to attend the *Domestic Abuse Hearing*, and was therefore unable to offer any additional evidence or testimony. The Court dismissed the instant action.

**DIVORCE**

**AUGUST 21, 2006**

*In re the Marriage of: Walter J. Decorah and Caroline E. Decorah, FM 06-04 Order (Continued Initial Hearing Postponed) (HCN Tr. Ct., Aug. 21, 2006). (Rockman, A).*

The Court previously convened a *Continued Initial Hearing*. The Court requested that the petitioners submit additional documentation with regards to marital debt. The Court had not received any documentation of marital debt, and thereby postponed the matter.

**JUVENILE**

**AUGUST 2, 2006**


The Court appointed guardian in this matter. After a careful weighing of all the presented evidence, the Court deems such an appointment within the minor child’s best interests.
The Court convened a Status Hearing upon remand to discuss the status of the case, including the reunification timeframe. Based upon information received from the State of Wisconsin Dept. of Corrections, the Court was disinclined to address the issue of the transitional period at that time. The Court requested the filing of a motion upon a change of circumstances.

AUGUST 03, 2006
The Court deemed it necessary to provide the Red Lake Band of Chippewa Indians ("Red Lake") with notice of a pending juvenile action involving a child that may be eligible for enrollment in the Ho-Chunk Nation and Red Lake.

The Court deemed it necessary to provide the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ("LCO") with notice of a pending juvenile action involving a child that may be eligible for enrollment in the Ho-Chunk Nation and LCO.

The Court conducted a Child Protection Review Hearing. The Court had to assess how the child had been progressing over the past six (6) months. The Court determined to order a conditional termination of jurisdiction upon the child reaching the age of majority.

In the Interest of Minor Children: J.C., DOB 06/10/04 and A.C., DOB 01/31/06, JV 06-18-19 Order (Initial Emergency Hearing) (HCN Tr. Ct., Aug. 7, 2006). (Matha, T).
The Court convened the Initial Emergency Hearing to discuss the legal and procedural status of the instant action with the parties, to notify the parties of their need to attend a Plea Hearing, and to advise the parties of their rights. Rather than seek a plea, Ho-Chunk Nation Children & Family Services (hereinafter CFS) opted to seek a voluntary dismissal without prejudice in order to enter into a consent decree. The Court granted the voluntary dismissal.

The Court issued this order to correct a clerical mistake made in the previous order.

AUGUST 07, 2006
The Court convened a Status Hearing upon remand to discuss the status of the case, including the reunification timeframe. Based upon information received from the State of Wisconsin Dept. of Corrections, the Court was disinclined to address the issue of the transitional period at that time. The Court requested the filing of a motion upon a change of circumstances.

The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.
with the dispositional order. The Court determined to maintain the status quo.

The Court conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional order. The Court determined to maintain the status quo.

AUGUST 08, 2006
The Court convened a Plea Hearing for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the Child/Family Protection Petition. At the time, the parent entered a plea of not guilty, after being advised as to her rights as a parent as set forth in the HOCAK NATION CHILDREN AND FAMILY ACT (hereinafter CHILDREN’S ACT), § 3.22d. The Court accordingly schedules a Trial.

The Court appointed guardian in this matter. After a careful weighing of all the presented evidence, the Court deems such an appointment within the minor child’s best interests.

In the Interest of Minor Child: T.J.B., DOB 05/30/06, JV 06-15 Order (Entrance of Plea) (HCN Tr. Ct., Aug. 8, 2006). (Matha, T).
The Court convened a Plea Hearing for the purpose of determining whether the parent of the minor child wished to contest the allegations contained in the Child/Family Protection Petition. At that time, the parent entered a plea of guilty. The Court accordingly schedules a Dispositional Hearing.

AUGUST 09, 2006
In the Interest of Minor Child: A.P.H., DOB 08/26/05, JV 05-28 Order (Submission of Guardianship Report and Home Study) (HCN Tr. Ct., Aug. 9, 2006). (Matha, T).
The petitioner filed a Petition for Permanent Guardianship. The Court subsequently scheduled a Guardianship Hearing. In accordance with the CHILDREN’S ACT, § 3.45c(1), the Court requested that CFS prepare and submit a guardianship report and home study to the Court.

In the Interest of Minor Children: P.M.S., DOB 01/14/91 and P.A.S., DOB 01/14/91, JV 98-06-07 Order (Child Protection Review Hearing) (HCN Tr. Ct., Aug. 9, 2006). (Matha, T).
The Court conducted the Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional revision. The Court determined to maintain the status quo while adding a single dispositional requirement that the mother participate in family counseling.

In the Interest of Minor Children: P.M.S., DOB 01/14/91 and P.A.S., DOB 01/14/91, JV 98-06-07 Order (Dispositional Requirements) (HCN Tr. Ct., Aug. 9, 2006). (Matha, T).
The Court conducted the Dispositional Hearing in accordance with the CHILDREN’S ACT. At the Hearing, the Court had to assess the extent and scope of the dispositional recommendations proposed by CFS. The Court ordered specific dispositional requirements to be met for the protection of the child and possible reunification of the family.

AUGUST 16, 2006
The Court conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional revision. The Court determined to maintain the status quo.
AUGUST 17, 2006


The Court conducted the Dispositional Hearing in accordance with the CHILDREN’S ACT. At the Hearing, the Court had to assess the extent and scope of the dispositional recommendations proposed by CFS. The Court ordered specific dispositional requirements to be met for the protection of the child and possible reunification of the family.

AUGUST 18, 2006


The Court granted the Department of Justice’s request to appear by telephone.

In the Interest of Minor Children: V.M.B., DOB 06/26/89; M.L.E.B., DOB 05/18/90; and D.J.B., DOB 09/21/99, JV 05-29-31 Order (Child Protection Review Hearing) (HCN Tr. Ct., Aug. 18, 2006). (Matha, T).

The conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional revision. The Court determined to maintain the status quo.

AUGUST 21, 2006

In the Interest of Minor Children: R.C.S., DOB 06/07/98; B.L.S., DOB 09/26/00; and A.M.M., DOB 11/01/02, JV 06-21-23 Order (Granting Emergency Temporary Legal Physical Custody) (HCN Tr. Ct., Aug. 21, 2006). (Rockman, A).

The Court had to determine whether to grant emergency temporary legal and/or physical custody of the above-named minor children. The Court entered this Order as necessary to ensure the safety of the children. At the scheduled Initial Hearing, the parent(s), guardian(s), and/or physical custodian(s) shall be afforded proper due process for purposes of answering the Child/Family Protection Petition filed by CFS.

AUGUST 22, 2006


The petitioner filed a Petition for Emancipation with the Court. In accordance with the CHILDREN’S ACT, § 3.16a, the Court requested that CFS prepare and submit an Emancipation Study and Report to the Court. The Court shall also convene an Emancipation Hearing.


The Court granted the attorney’s request to appear by telephone.


The Court granted CFS’s request that a witness appear by telephone.


The conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the standing dispositional requirements. The Court determined to maintain the status quo.
In the Interest of Minor Children: R.C.S., DOB 06/07/98; B.L.S., DOB 09/26/00; and A.M.M., DOB 11/01/02, JV 06-21-23 Order (Initial Emergency Hearing) (HCN Tr. Ct., Aug. 24, 2006). (Rockman, A).

The Court convened the Initial Emergency Hearing to discuss the legal and procedural status of the instant action with the parties, to notify the parties of their need to attend a Plea Hearing, and to advise the parties of their rights.


The Court convened the Trial. CFS, by and through the Dept. of Justice, filed the Notice and Motion for Expedited Consideration, Notice and Motion to Dismiss, and Motion to Dismiss. The Court accordingly granted a dismissal with prejudice, and closed the case.


The Court convened a Trial to determine whether CFS could prove the allegations within its Child/Family Protection Petition by a preponderance of the evidence. The mother of the minor children failed to attend the proceeding, but CFS still needed to satisfy its burden of proof. CFS demonstrated that it could establish the elements of the Petition, leading the Court to schedule a Dispositional Hearing.

In the Interest of Minor Child: T.L.E., DOB 05/07/94, JV 05-14 Order (Conditional Denial of the Motion to Modify) (HCN Tr. Ct., Aug. 29, 2006). (Rockman, A).

The Court had to determine whether to grant the Motion to Modify as filed by petitioner. The Court conditionally denied the Motion to Modify as presented. The Court requested more information conforming to the requirements of the CHILDREN’S ACT within thirty (30) days.


The Court convened a Trial to determine whether CFS could prove the allegations within its Child/Family Protection Petition by a preponderance of the evidence. The father of the minor children failed to attend the proceeding, but CFS still needed to satisfy its burden of proof. CFS demonstrated that it could establish the elements of the Petition, leading the Court to schedule a Dispositional Hearing.

SUPREME COURT

In the Interest of Minor Child: Daniel Brown v. James Webster, HCN Exec. Dir. of Business, SU 06-03 Amended Order (Granting Recusal Motion) (HCN S. Ct., Aug. 21, 2006).

The Court granted appellants’ Motion to Recuse Justice Butterfield on the basis of avoiding an appearance of impropriety. Pursuant to Article VII, Sec. 13 of the HCN CONST., Art. VII, Sec. 13, the HCN Legislature is required to appoint a Justice Pro Tempore to fill the seat of Justice Butterfield in this matter only.
RECENT FILINGS
TRIAL COURT

CHILD SUPPORT

AUGUST 9, 2006
State of WI-Eau Claire Co. v. Silas Quagon CS 06-44. (Matha, T).

AUGUST 22, 2006
Candice Sandvick v. Charles V. Fox, CS 06-45. (Rockman, A).

AUGUST 28, 2006

Wood Co. v. Kenneth D. Smith, CS 06-47. (Matha, T).

Wood Co. v. Mary Smith, CS 06-48. (Rockman, A).

CIVIL GARNISHMENT

AUGUST 8, 2006
Gundersen Clinic Ltd. v. Rose A. Lemke a/k/a/ Smith, CG 06-52. (Matha, T).


AUGUST 22, 2006
Quick Cash Loans v. Gale White, CG 06-54. (Matha, T).

Quick Cash Loans v. David Mahlum, CG 06-55. (Matha, T).

AUGUST 29, 2006
Rapids Tiger Mart v. Thomas L. Weigel, CG 06-56. (Matha, T).

Alliance Collection Agencies Inc. v. Anthony G. Bielski, CG 06-57. (Matha, T).

CIVIL CASES

AUGUST 1, 2006
Janet Funmaker v. Libby Fairchild et al., CV 06-61. (Rockman, A).

AUGUST 2, 2006

AUGUST 7, 2006
In the Interest of Minor Child: M.W., DOB 04/05/95, by Miriam Whiteagle v. HCN Office of Tribal Enrollment, CV 06-63. (Rockman, A).

AUGUST 9, 2006
In the Interest of Minor Child: C.M.R., DOB 12/15/94, by Leslie Rave v. HCN Office of Tribal Enrollment, CV 06-64. (Matha, T).

In the Interest of Minor Child: J.R.D., DOB 02/01/95, by Michelle L. Fortney v. HCN Office of Tribal Enrollment, CV 06-65. (Matha, T).

AUGUST 10, 2006
In the Interest of Minor Child: C.C.R., DOB 10/02/90, by Christian M. Roth v. HCN Office of Tribal Enrollment, CV 06-66. (Matha, T).

AUGUST 11, 2006
In the Interest of Minor Child: B.K.W.B., DOB 02/10/91, by Cara Lee Murphy v. HCN Office of Tribal Enrollment, CV 06-67. (Rockman, A).

AUGUST 18, 2006
In the Interest of Minor Child: C.R., DOB 06/13/93, by Regina Reel v. HCN Office of Tribal Enrollment, CV 06-68. (Rockman, A).

In the Interest of Minor Child: J.J.S., DOB 03/08/95, by Jennifer Kaebisch v. HCN Office of Tribal Enrollment, CV 06-69. (Rockman, A).
AUGUST 28, 2006

In the Interest of Adult Incompetent: R. A. H., DOB 07/01/21 v. HCN Office of Tribal Enrollment, CV 06-70. (Rockman, A).

In the Interest of Minor Children: M.W., DOB 12/16/93; Z.W., DOB 12/27/95; and Z.W., DOB 01/02/98, by Rita June Wolf v. HCN Office of Tribal Enrollment, CV 06-71. (Rockman, A).

AUGUST 29, 2006

In the Interest of Minor Children: N.T., DOB 04/03/96; N.T., DOB 10/21/98; and N.T., DOB 08/13/01, by Robert Two Bears v. HCN Office of Tribal Enrollment, CV 06-72. (Rockman, A).

FAMILY

AUGUST 31, 2006

Mary A. Rosas v. Jorge A. Rosas, FM 06-08. (Rockman, A).

DOMESTIC VIOLENCE

AUGUST 2, 2006

In the Interest of: R.S., DOB 06/07/98, DV 06-05. (Rockman, A).

JUVENILE

AUGUST 10, 2006

H.M.A.S., DOB 05/22/98, JV 06-20. (Matha, T).

AUGUST 18, 2006


B.L.S., DOB 09/26/00, JV 06-22. (Rockman, A).

A.M.M., DOB 11/01/02, JV 06-23. (Rockman, A).

AUGUST 21, 2006


AUGUST 28, 2006

S.M.M., DOB 11/18/92, JV 06-25. (Rockman, A).

HO-CHUNK NATION COURT SYSTEM
JUDICIARY AND STAFF
Supreme Court–Mary Jo B. Hunter, Chief Justice
    Mark D. Butterfield, Associate Justice
    Dennis Funmaker, Associate Justice
Traditional Court – Earl Blackdeer
    Donald Blackhawk
    Dennis Funmaker
    Jim Greendeer
    Douglas Greengrass
    Desmond Mike
    Douglas Red Eagle
    Preston Thompson, Jr.
    Eugene Thundercloud
    Morgan White Eagle
    Clayton Winneshiek
Trial Court – Todd R. Matha, Chief Judge
    Amanda L. Rockman, Associate Judge
Clerk of Court, Trial Court – Marcella Cloud
Assistant Clerk of Court, Trial Court – Selina Joshua
Assistant Clerk of Court, Trial Court – Jessi Cleveland
Staff Attorney – Jennifer L. Tilden
Staff Attorney – Nicole M. Homer
Supreme Court Clerk – Mary Endthoff

The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

WISCONSIN TRIBAL JUDGES ASSOCIATION
(Eleven federally recognized tribes within the State of Wisconsin)

NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION
(Region 10—Illinois, Indiana, Michigan, Minnesota, and Wisconsin)

HCN Judiciary Fee Schedule

Filing Fees
- Complaint…………………………………..$50.00
- Petition for Release of Per Capita Distribution (Children’s Trust Fund) ……………………$50.00
- Motion to Appear Pro Hac Vice……………$35.00
- Appellate Filing Fee………………………$50.00
- Petition to Register and Enforce Foreign Judgment/Order ……………………..$20.00
- Marriage License Fee……………………..$50.00

Court Fees
- Copying .............................................$0.10/page
- Faxing ..............................................$0.25/page (sending & receiving)
- CD of Hearings ………………………………. $12.50/CD
- Deposition Videotape ………………………. $10.00/tape
- Certified Copies …………………………….. $0.50/page
- Equipment Rental …………………………… $5.00/hour
- Admission to Practice ……………………..$50.00

Legal Citation Forms
The following are example citation forms by legal reference and citation description.

Ho-Chunk Nation Constitution
Constitution, Article Number, Section, Subsection.
HCN CONSTIT., Art. II, Sec. (or §) 1(a).

Ho-Chunk Nation Code
Ordinance/Act Name Title Number HCC Section.
ELDER PROTECTION ACT, 4 HCC § 1.
EMPLOYMENT RELATIONS ACT, 6 HCC § 5.
(for detailed citation information consult LEGISLATIVE ORGANIZATION ACT, 2 HCC § 11.36)

HCN Supreme Court Case Law
Case Name, Case Number (HCN S. Ct., month, day, year).

HCN Trial Court Case Law
Case Name, Case Number (HCN Tr. Ct., month, day, year)

Ho-Chunk Nation Rules of Civil Procedure
HCN R. CIV. P. 19(B)
## Ho-Chunk Nation Judiciary 5K
### Fun Run/Walk Results

#### OVERALL WINNERS

<table>
<thead>
<tr>
<th>Gender</th>
<th>Male</th>
<th>Time</th>
<th>Female</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>Dana Lonetree</td>
<td>19:35</td>
<td>Jodi Webster</td>
<td>25:00</td>
</tr>
</tbody>
</table>

#### 12 and under

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Male</th>
<th>Time</th>
<th>Female</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>Stephen Brinegar</td>
<td>37:55</td>
<td>Wehonna Toth</td>
<td>28:09</td>
</tr>
<tr>
<td>2nd</td>
<td>Heleyna Brinegar</td>
<td>31:34</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3rd</td>
<td>Tiana Raelyn Sargent</td>
<td>40:11</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### 13-20

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Male</th>
<th>Time</th>
<th>Female</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>Dana Lonetree Jr.</td>
<td>19:35</td>
<td>Lisa Goodbear</td>
<td>25:50</td>
</tr>
<tr>
<td>2nd</td>
<td>Michael Decorah</td>
<td>22:21</td>
<td>Miki Brinegar</td>
<td>28:00</td>
</tr>
<tr>
<td>3rd</td>
<td>Christopher DeMarrias</td>
<td>23:39</td>
<td>Brittnay Yazzie</td>
<td>29:01</td>
</tr>
</tbody>
</table>

#### 21-29

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Male</th>
<th>Time</th>
<th>Female</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>Ray Huaute</td>
<td>26:44</td>
<td>Jodi Webster</td>
<td>25:00</td>
</tr>
<tr>
<td>2nd</td>
<td>Duncan Rave</td>
<td>31:58</td>
<td>Amanda Rockman</td>
<td>48:41</td>
</tr>
<tr>
<td>3rd</td>
<td></td>
<td></td>
<td>Kate Lindsay</td>
<td>48:42</td>
</tr>
</tbody>
</table>

#### 30-39

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Male</th>
<th>Time</th>
<th>Female</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>Brad Palmer</td>
<td>23:34</td>
<td>Amy Dubray</td>
<td>25:33</td>
</tr>
<tr>
<td>2nd</td>
<td></td>
<td></td>
<td>Chanda Janke</td>
<td>27:55</td>
</tr>
<tr>
<td>3rd</td>
<td></td>
<td></td>
<td>Angie Shegonee</td>
<td>30:41</td>
</tr>
</tbody>
</table>

#### 40-49

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Male</th>
<th>Time</th>
<th>Female</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>Dan Blumer</td>
<td>23:40</td>
<td>Kristi Oleson</td>
<td>49:39</td>
</tr>
<tr>
<td>2nd</td>
<td>Ben Boardman</td>
<td>30:01</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3rd</td>
<td>Darren Brinegar</td>
<td>33:34</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### 50 and above

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Male</th>
<th>Time</th>
<th>Female</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>Len Spiegler</td>
<td>39:32</td>
<td>Nancy Toth</td>
<td>30:17</td>
</tr>
<tr>
<td>2nd</td>
<td>Mark Butterfield</td>
<td>39:44</td>
<td>Gale White</td>
<td>43:00</td>
</tr>
<tr>
<td>3rd</td>
<td>Martin Littlewolf</td>
<td>41:55</td>
<td>Judy Whitehorse</td>
<td>45:00</td>
</tr>
<tr>
<td>Participant</td>
<td>Category</td>
<td>Time</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------------</td>
<td>----------------</td>
<td>-------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bird, Leland</td>
<td>13-20</td>
<td>48:44</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blackdeer, Bernice A.</td>
<td>50 &amp; older</td>
<td>51:09</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blumer, Dan</td>
<td>40-49</td>
<td>23:40</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boardman, Ben</td>
<td>40-49</td>
<td>30:01</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brinegar, Darren</td>
<td>40-49</td>
<td>33:34</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brinegar, Heleyna</td>
<td>12 &amp; younger</td>
<td>31:34</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brinegar, Miki</td>
<td>13-20</td>
<td>28:00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brinegar, Stephen</td>
<td>12 &amp; younger</td>
<td>37:55</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Burns, Brandy</td>
<td>30-39</td>
<td>53:50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Butterfield, Mark</td>
<td>50 &amp; older</td>
<td>39:44</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Casarez, Sylvia</td>
<td>13-20</td>
<td>32:21</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decorah, Michael</td>
<td>13-20</td>
<td>22:21</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DeMarrias, Christopher</td>
<td>13-20</td>
<td>23:39</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dubray, Amy</td>
<td>30-39</td>
<td>25:33</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Edwards, Natasha</td>
<td>13-20</td>
<td>30:34</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Goodbear, Emily</td>
<td>13-20</td>
<td>48:43</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Goodbear, Lisa</td>
<td>13-20</td>
<td>25:50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grant, Melissa</td>
<td>30-39</td>
<td>43:45</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Huaute, Ray</td>
<td>21-29</td>
<td>26:44</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Janke, Chanda</td>
<td>30-39</td>
<td>27:55</td>
<td></td>
<td></td>
</tr>
<tr>
<td>King, Tiffany</td>
<td>13-20</td>
<td>48:29</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lewis, Marie A.</td>
<td>50 &amp; older</td>
<td>51:02</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lindsay, Kate</td>
<td>21-29</td>
<td>48:42</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Littlewolf, Martin</td>
<td>50 &amp; older</td>
<td>41:55</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lonetree, Dana Jr.</td>
<td>13-20</td>
<td>19:35</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lonetree, Georgia</td>
<td>50 &amp; older</td>
<td>51:55</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Munden, Shena</td>
<td>13-20</td>
<td>34:00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oleson, Kristi</td>
<td>40-49</td>
<td>49:39</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Palmer, Brady</td>
<td>30-39</td>
<td>20:16</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rave, Duncan</td>
<td>21-29</td>
<td>31:58</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rockman, Amanda</td>
<td>21-29</td>
<td>48:41</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sargent, Tiana Raelyn</td>
<td>12 &amp; younger</td>
<td>40:11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schonasky, Christopher</td>
<td>12 &amp; younger</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schonasky, Danielle</td>
<td>30-39</td>
<td>53:30</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shegonee, Angie</td>
<td>30-39</td>
<td>30:41</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Smith, Jalisa</td>
<td>13-20</td>
<td>39:17</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Spiegler, Bridge Garvin</td>
<td>50 &amp; older</td>
<td>52:55</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Spiegler, Len</td>
<td>50 &amp; older</td>
<td>39:32</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Toth, Nancy</td>
<td>50 &amp; older</td>
<td>30:17</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Toth, Wehonna</td>
<td>12 &amp; younger</td>
<td>28:09</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Webster, Jodi</td>
<td>21-29</td>
<td>25:00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>White, Gale</td>
<td>50 &amp; older</td>
<td>43:00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Whitebear, Sharon</td>
<td>50 &amp; older</td>
<td>52:57</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Whitehorse, Judy</td>
<td>50 &amp; older</td>
<td>45:00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yazzie, Brittany</td>
<td>13-20</td>
<td>29:01</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yazzie, Nicole</td>
<td>13-20</td>
<td>29:25</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Inside this Issue

1 Judiciary Celebrates 11th Annual Law Day
5 Supreme Court Notice: Supreme Court Meeting
6 Updates from Outside Courts
8 Recent HCN Court Decisions
19 Recent HCN Court Filings
20 HCN Court System Judiciary and Staff
    HCN Judiciary Fee Schedule
    Legal Citation Forms

Ho-Chunk Nation Judiciary
W9598 Hwy 54 East
P.O. Box 70
Black River Falls, WI 54615
(715) 284-2722 Ph.
(800) 434-4070 Ph. (Toll-free)
(715) 284-3136 Fax

Hours of Operation: Monday through Friday (except holidays) 8 A.M. – 4:30 P.M.

JUDICIARY CELEBRATES 11TH ANNUAL LAW DAY

On October 5, 2006, the Ho-Chunk Nation Judiciary hosted its 11th Annual Law Day at Wa Ehi Hoci. The event is a public event, which is free and open to all lawyers, lay advocates, and other interested individuals. This year’s Law Day was held in conjunction with the Wisconsin Tribal Judges Association, Inc. (WTJA) quarterly autumn meeting. Therefore, tribal judges and tribal court staff from around Wisconsin were in attendance for the Law Day presentations. This year’s discussions included the following topics: 2005-2006 Trial Court Update, Extension of Full Faith and Credit and/or Comity to Foreign Child Support Orders, Retroactivity and the Law, and Immunities from Suit. Ho-Chunk Nation Trial Court Chief Judge Todd R. Matha began with a welcome and introduction of the presenters. WTJA President Leland Wigg-Ninham (Oneida) likewise offered a brief welcome, as well as a prayer.
2005-2006 Trial Court Update
Ho-Chunk Nation Rules of Civil Procedure
Rule 63

Staff Attorney Nicole M. Homer began Law Day with a discussion and overview of the past year in the Ho-Chunk Nation Trial Court. Besides discussing a selection of cases from July 2005 through August 2006, her presentation gave information regarding the new faces at the Trial Court, enhancement of the Judiciary’s website, and the adoption of Rule 63 to the Ho-Chunk Nation Rules of Civil Procedure.

On February 11, 2006, the Ho-Chunk Nation Rules of Civil Procedure were revised to include Rule 63. HCN R. Civ. P. 63 governs judicial review of agency decisions. Specifically, a person may file a petition to request that the HCN Trial Court review an agency decision stemming from the following laws:

- Employment Relations Act of 2004,
  - must file within thirty (30) days
- Ho-Chunk Insurance Review Commission Establishment and Organization Act,
  - must file within thirty (30) days
- Ho-Chunk Nation Tribal Employment Rights Ordinance,
  - must file within thirty (30) days
- The Gaming Ordinance, or the
  - must file within forty-five (45) days
- Tribal Enrollment and Membership Act
  - must file within one hundred eighty (180) days.

In an effort to provide a convenient initial pleading template, the Court has added the Petition for Administrative Review to the forms online section of the judiciary website. This Petition, as well as a fifty dollar ($50.00) filing fee, should be filed with the Court within the timeframe articulated in Section (A) of Rule 63 and listed above.

Extension of Full Faith and Credit and/or Comity to Foreign Child Support Orders

Staff Attorney Jennifer L. Tilden offered a presentation on the Extension of Full Faith and Credit and/or Comity to Foreign Child Support Orders. Her presentation included the background and history of the Full Faith and Credit for Child Support Orders Act (FFCCSOA), 28 U.S.C.A. § 1738B. Included in the history, was the transition from Uniform Reciprocal Enforcement of Support Act (URESA) to the Uniform Interstate Family Support Act (UIFSA), and finally to FFCCSOA.

Under FFCCSOA, the state that originally created the child support order shall retain exclusive jurisdiction unless: (a) all parties affected by the order leave the issuing state, or (b) until the parties file a written consent for another state/tribe to assume continuing exclusive jurisdiction. The general rule established in FFCCSOA is that the authorities of each state shall enforce foreign child support orders according to
the terms set out in the order, and shall not seek or make a modification of such order unless expressly permitted by FFCCSOA. Essentially, a state/tribe that does not have continuing exclusive jurisdiction cannot alter the scope, duration, or amount established in the foreign court order.

Pursuant to the Recognition of Foreign Child Support Orders Ordinance, 4 HCC 2, the HCN Trial Court is granted the authority to enter a judgment that may enforce, but not modify a foreign child support order. In order to have the Court enforce a foreign child support order, a petitioner/respondent/child support agency must file a Petition to Register and Enforce a Foreign Judgment/Order for Child Support, submit an authenticated copy of the foreign order, and submit a twenty dollar ($20.00) filing fee. At which point the Court would serve the respondent with a copy of the Petition, as well as a Summons that sets forth the rights of the respondent, including the right to request a Fact-Finding Hearing within twenty (20) days. Failure to respond within this timeframe may result in a default judgment.

Retroactivity and the Law

Associate Trial Court Judge Amanda L. Rockman followed with a presentation on Retroactivity and the Law. With regards to criminal law, the U.S. Constitution essentially bans retroactive legislation. In particular, the U.S. Constitution prohibits ex post facto laws, i.e., laws that would criminalize actions that were legal at the time they were committed. In addition, the U.S. Constitution forbids federal and state governments from enacting bills of attainder. A bill of attainder is an act of a legislature declaring a person or group of persons guilty of some crime, and punishing them, without benefit of a trial. Similarly, the Constitution of the Ho-Chunk Nation bans bills of attainder and ex post facto laws. See Ho-Chunk Nation Constitution, Art. X, Sec. 1(a)(9). However, there are no constitutional restraints on retroactive civil legislation.

Retroactivity becomes more complex at the judicial level, i.e., when the Court must determine what law to apply. There appear to be four (4) different legal regimes when it comes to judicial retroactivity: Common Law/Blackstonian Model, Decision-Time Model, Transactional-Time Model, and the Modern Retroactivity Jurisprudence. Under the Blackstonian Model, new judicial rules were seen as more accurate statements of the law, and thus were applied to the parties appearing before the court regardless of when the transaction being litigated had occurred. Under the Decision-Time Model, the courts based their decisions on the law in force at the time the decisions were rendered, regardless of what the law might have been at the time of the transaction being litigated. Conversely, under the Transaction-Time Model, the courts began to apply the law in effect at the time the transaction took place.
IMMUNITIES FROM SUIT

Chief Trial Court Judge Todd R. Matha provided the final presentation of the day entitled IMMUNITIES FROM SUIT. There are three general immunities that are significant when considering governmental defendants: sovereign immunity, governmental immunity, and official immunity (including absolute and qualified immunity). The theory of sovereign immunity sprung from the common law England adage that “the king can do no wrong.” Because the United States succeeded to the rights of the British Crown, it can likewise claim sovereign immunity. Comm’rs of the State Ins. Fund v. United States, 72 F. Supp. 549, 552 (S.D.N.Y. 1947). Similarly, Indian tribes possess sovereign immunity. However, tribal sovereignty is limited in that tribes are “subject to the superior and plenary control of Congress.” Santa Clara Pueblo v. Martinez, 436 U.S. 49, 58 (1978). The Ho-Chunk Nation has immunity from suit pursuant to CONST., art. XII, § 1. Nonetheless, the Nation must raise this as a defense in its Answer to a Complaint or waive it altogether. See HCN R. Civ. P. 6(A); Louella A. Kelty v. Jonette Pettibone et al., CV 98-49 (HCN Tr. Ct., Feb. 22, 2006).

A problem that arose due to the states’ Eleventh Amendment immunity from suit provision of the U.S. Constitution was that many aggrieved parties were found lacking a federal forum to adjudicate a state’s alleged infraction of constitutional guarantees. Therefore, the U.S. Supreme Court announced the Ex Parte Young Doctrine in its 1908 decision. The Court held that “[i]ndividuals who, as officers of the state, are clothed with some duty in regard to the enforcement of the laws of the state, and who threaten and are about to commence proceedings, either of a civil or criminal nature, to enforce against parties affected an unconstitutional act, violating the Federal Constitution, may be enjoined by a Federal court of equity from such action.” Ex Parte Young, 209 U.S. 123, 155-56 (1908).

Often times it is difficult to make the determination if the suit is being brought against the sovereign or against the individual officer. “[I]f the actions of an officer do not conflict with the terms of his valid statutory authority, then they are the actions of the sovereign, whether or not they are tortuous under general law…” Larson v. Domestic & Foreign Corp., 337 U.S. 682, 695 (1949). Courts will also focus on the type of relief being sought to make this determination. “When the action is in essence one for the recovery of money from the state, the state is the real, substantial party in interest and is entitled to invoke its sovereign immunity from suit even though individual officers are nominal defendants.” Edelman v. Jordan, 415 U.S. 651, 663 (1974) (quoting Ford Motor Co. v. Dep’t of Treas., 323 U.S. 459, 464 (1945)). However, if the officer acts outside his/her authority, and the suit is not attacking the pocket of the sovereign, then the official will not have the ability to invoke immunity as a defense to suit.

Likewise, the Ho-Chunk Nation permits suit against officials or employees of the Nation who act beyond the scope of their authority, but only in equity. CONST., Art. XII, § 2. Therefore, a suit may be brought for declaratory and non-monetary injunctive relief. Id; Timothy G. Whiteagle et al. v. Alvin Cloud, Chairman of the Gen. Council of Oct. 11, 2003, in his official capacity, et al., SU 04-06 (HCN S. Ct., Jan. 3, 2005) at 6. The Complaint must set forth whether the official or employee is being sued in his/her official capacity or as an individual. HCN R. Civ. P. 27(B). In an effort to interpret these rules, the
Ho-Chunk Nation Courts have looked to *Ex Parte Young*. “The Nation’s case law has held that a plaintiff may avoid the bar of sovereign immunity if they name a particular official as a defendant; prove that the named official acted outside their scope of authority, i.e., beyond the realm of their discretion; and seek only declaratory and injunctive relief.” *Lonnie Simplot et al. v. HCN Dep’t of Health*, CV 95-26-27, 96-05 (HCN Tr. Ct., Aug. 13, 1999) at 13.

Absolute immunity has been bestowed historically upon several positions including: judges, legislative members and their aides, the U.S. president, and prosecutors. The theory behind this defense is that “officials of government should be free to exercise their duties unembarrassed by the fear of damage suits in respect to acts done in the course of those duties—suits which would consume time and energies which would otherwise be devoted to governmental service and the threat of which might appreciably inhibit the fearless, vigorous, and effective administration of policies of government.” *Barr v. Matteo*, 360 U.S. 564, 571 (1959).

The U.S. Supreme Court has divided the immunity defense into absolute immunity and qualified immunity. Specifically, the Court has found that “[f]or officials whose special functions or constitutional status requires complete protection from suit, we have recognized the defense of ‘absolute immunity…’ [but] [f]or executive officials in general, however, our cases make plain that qualified immunity represents the norm.” *Harlow v. Fitzgerald*, 457 U.S. 800, 807 (1982) (quoting *Butz v. Economou*, 438 U.S. 478, 506 (1978)). The difference between absolute and qualified is essentially at which point the suit is defeated. “[A]bsolute immunity defeats a suit at the outset, so long as the official’s actions were within the scope of the immunity.” *Imbler v. Pachtman*, 424 U.S. 409, 419 n. 13 (1976). Qualified immunity, however, requires evidence to be provided at trial to establish the circumstances and motivations of the official’s actions. *Id.* Furthermore, the defense of qualified immunity is required to be pleaded by the defendant official. *Harlow*, 457 U.S. at 815.

This article was based upon the Law Day materials and presentations. If you would like a copy of the Law Day materials, which include case summaries, slides from all the presenter’s Powerpoint presentations, and a few cases selected by the presenters, then please contact Nicole Homer at (800) 434-4070 or (715) 284-2722. Please note that there will be copy fee of $4.00 for a hard copy.

---

**SUPREME COURT NOTICE**

Supreme Court Meeting – NOTE: All Supreme Court meetings are open to the public except as noted above. If you wish to have an item added to the agenda, please notify Mary Endthoff, Clerk of Court, prior to the meeting at (715) 284-2722.

**SUPREME COURT MEETING NOTICE and AGENDA**

October 28, 2006

HCN Tribal Court Building, W9598 HWY 54 E
Black River Falls, WI

9:00 a.m.

I. Opening Prayer/Introductions

II. Review and approve Minutes of September 16, 2006

III. Old Business

   a. Supreme Court Clerk, Mary Endthoff
      i. Update/Questions
      ii. Signatures needed

   b. HCN Rules of Criminal Procedures

Noon Lunch Break

IV. New Business

   a. Chief Justice Hunter items
   b. Justice Funmaker items
   c. Justice Butterfield items

V. Set next meeting date: December 9, 2006
VI. Case Deliberation (Justices only)

VII. Adjourn

**TRIAL COURT NOTICE**

- NO RECENT NOTICES

**UPDATES FROM OUTSIDE COURTS**

**United States Supreme Court**

**Certiorari granted**
- **Zuni Public School District et al. v. Department of Education et al.**, No. 05-1508 (granted Sept. 27, 2006).

**Oral arguments heard**
- **BP America v. Burton et al.**, No. 05-669 (heard October 4, 2006).

**Certiorari denied**
- **Dark Eyes v. CT Commissioner of Revenue Services**, No. 05-1464 (denied Oct. 2, 2006).
- **South Dakota v. Dep’t of Interior**, No. 05-1428 (denied Oct. 2, 2006).

**Petition for Certiorari filed**
- **Naftaly v. Keweenaw Bay Indian Community**, No. 06-429 (filed Sept. 21, 2006).
- **Narragansett Indian Tribe v. Rhode Island**, No. 06-414 (filed Sept. 21, 2006).
- **Walton v. Tesuque Pueblo**, No. 06-361 (filed Sept. 11, 2006).

**Court of Appeals, D.C. Circuit**


Several petitions for review were filed as to a series of orders from the Federal Energy Regulatory Commission (FERC), granting a conditional license to the city to operate a hydroelectric project. These petitions were then consolidated. The Court of Appeals held that FERC's issuance of a minor part license to the city to operate a hydroelectric project in 1924 was not an ultra vires act. In addition, FERC's interpretation of the relicensing provision of Federal Power Act (FPA) to permit relicensing upon expiration of a minor part license to operate a hydroelectric project was entitled to *Chevron* deference. Furthermore, FERC had no authority to impose a 60-day limitation unilaterally on the Secretary of the Interior for submitting conditions on the license deemed necessary for adequate protection and utilization of the Indian reservation. The Secretary of the Interior was not limited to mitigating the impact that the project's access road and transmission line would have on the Indian reservation. In addition, FERC complied with its obligations under the National Historic Preservation
Act. Also, it was held that FERC reasonably concluded that a supplemental certification under the Coastal Zone Management Act (CZMA) was unnecessary. Additionally, Congress implicitly extended to FERC the power to shut down hydroelectric projects. Last, it was held that FERC was justified in relying on biological opinions (BiOps) prepared by National Marine Fisheries Service and the Fish and Wildlife Service. Petitions denied in part, granted in part, and remanded.

Seventh Circuit Court of Appeals
*State of Wisconsin v. Ho-Chunk Nation*, 2006 WL 2588936 (7th Cir. 2006).
The state of Wisconsin brought this action to compel arbitration of a dispute concerning a gaming compact negotiated with the Ho-Chunk Nation under the Indian Gaming Regulatory Act (IGRA) and for the appointment of an arbitrator. The Court of Appeals held that the Federal Arbitration Act (FAA) did not provide an independent basis for jurisdiction. Furthermore, the IGRA did not provide basis for jurisdiction either. Finally, it was held that sanctions for filing a frivolous appeal were not appropriate in the case where the State gave notice and filed a motion for voluntary dismissal before the Ho-Chunk Nation filed its opening brief. Vacated and remanded; appeal dismissed in part and motion for sanctions denied.

Eighth Circuit Court of Appeals
*U.S. v. One Star*, 2006 WL 2883153 (8th Cir. 2006).
The defendant's convictions for aggravated sexual abuse of a child and simple assault, stemming from charges of sexual abuse and assault of his daughters, were affirmed over claims that: 1) the prosecutor violated his constitutional right to remain silent; and 2) there was insufficient evidence to convict on six counts of aggravated sexual abuse.

Ninth Circuit Court of Appeals
*State of Idaho v. Shoshone-Bannock Tribes*, 2006 WL 2873636 (9th Cir. 2006).
The state of Idaho appealed the district court's grant of summary judgment to the Shoshone-Bannock Tribes (“Tribes”) in their declaratory judgment action regarding the types of games they may offer pursuant to their tribal-state gaming Compact (“Compact”) with Idaho. The court ruled that the Tribes could operate tribal video gaming machines without renegotiating their Compact to limit the numbers of games and to require payments by the Tribes to local educational programs and schools. We affirm the district court's grant of summary judgment to the Tribes.

*Kesser v. Cambra, Jr.*, 2006 WL 2589425 (9th Cir. 2006).
A prisoner filed a petition for writ of habeas corpus, challenging his state court murder conviction. The United States District Court for the Northern District of California denied his petition. The prisoner appealed to the Ninth Circuit Court of Appeals. The Court of Appeals held that the prosecutor improperly struck a potential juror on the basis of her race. Reversed and remanded.

In a suit against a Tribe and its casino by a former employee alleging retaliation, dismissal of claims on sovereign immunity grounds is affirmed where the casino functions as an arm of the Tribe. However, dismissal of defendant's claims under 42 U.S.C. Section 1985 is reversed where he should be given the opportunity to amend his pro se complaint to assert these two claims intelligibly.
RECENT DECISIONS

Decisions are separated between Trial Court and Supreme Court decisions and categorized by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader’s benefit. They should in no way be used as substitution for citations to the actual court opinion.

Within the Trial Court, cases are categorized and docketed as one of the following: Child Support (CS or if filed prior to 1998, CV), Civil Garnishment (CG), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Within this index, case citations will appear in one of these categories and, in the event it may be helpful to the reader as a research tool, the cases may also be summarized in a separate topic area. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. In some instances a decision may touch upon other topics that may not warrant a summary in this index, but the editor will use the indicator “other topic(s) covered,” as a research aid for the reader.

RECENT DECISIONS AND RECENT FILINGS BOTH BEGIN WITH THE DATE WHERE THE PREVIOUS COURT BULLETIN LEFT OFF.

TRIAL COURT

CHILD SUPPORT

SEPTEMBER 13, 2006
The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

SEPTEMBER 14, 2006
The petitioner filed a request to terminate per capita withholding for current child support and child support arrears because they have been paid in full, and the child is no longer living in foster care.

The Court closed the case due to the untimely passing of the respondent.

SEPTEMBER 15, 2006
The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent filed a written response claiming the child resided with him. The Court held a Fact-Finding Hearing where further proof of custody was requested of the
petitioner. The petitioner submitted such proof. The Court accordingly granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

**SEPTEMBER 20, 2006**

The Court had to determine whether to grant petitioner’s motion to modify current child support. In light of the new judgment’s advantageous effect upon the respondent, the Court presumed the respondent’s acquiescence with regards to the modification. The Court granted petitioner’s uncontested motion. Furthermore, the Court corrected an error found in a previous order.

**SEPTEMBER 21, 2006**

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

State v. Robert Cleveland, CS 00-33 Notice (Child Turning 18- Requiring Proof of Enrollment) (HCN Tr. Ct., Sept. 21, 2006). (Rockman, A).
The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.
The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

SEPTEMBER 22, 2006
The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The Court had to determine whether to grant petitioner’s request that withholding of current child support continue in order to satisfy arrears that have accumulated. The respondent failed to timely respond, thus the Court granted the petitioner’s request.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court ordered the cessation of withholding from the respondent’s per capita for current child support because the child is now residing with the respondent.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent
failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

_Candice Sandvick v. Charles V. Fox, IV, CS 06-45 Order (Enforcing Child Support Against Wages) (HCN Tr. Ct., Sept. 22, 2006). (Rockman, A)._ The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of petitioner.

**SEPTEMBER 25, 2006**

_State et al. v. Lawrence Waube, CS 04-09 Order (Updating Arrearage Withholding) (HCN Tr. Ct., Sept. 25, 2006). (Rockman, A)._ The Court had to determine whether to grant petitioner’s request that withholding of current child support continue in order to satisfy arrears that have accumulated. The respondent failed to timely respond, thus the Court granted the petitioner’s request.

_Hennepin County on behalf of Shirley Jackson v. Kent Funmaker, CS 00-26 Notice (Child Turning 18- Requiring Proof of Enrollment) (HCN Tr. Ct., Sept. 25, 2006). (Rockman, A)._ The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

_State et al. v. Mary Hernandez, n/k/a Mary Thompson, CS 01-28 Notice (Child Turning 18- Requiring Proof of Enrollment) (HCN Tr. Ct., Sept. 25, 2006). (Rockman, A)._ The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

**CIVIL GARNISHMENT**

**SEPTEMBER 13, 2006**

_Quick Cash Loans v. Gale White, CG 06-54 Order (Default Judgment) (HCN Tr. Ct., Sept. 13 2006). (Matha, T)._ The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

_Cottonwood Financial v. Melissa Thunder, CG 05-110 Modification (HCN Tr. Ct., Sept. 13, 2006). (Matha, T)._ The Court had to determine whether to modify the garnishment amount to include accrued interest at the statutory interest rate. The Court granted the modification request.

_Credit Acceptance Corporation v. Debra S. McCollum, CG 05-124 Modification (HCN Tr. Ct., Sept. 13, 2006). (Matha, T)._ The Court had to determine whether to modify the garnishment amount to include accrued interest at the statutory interest rate. The Court granted the modification request.

**SEPTEMBER 19, 2006**

_Rapids Tiger Mart v. Thomas L. Weigel, CG 06-56 Order (Default Judgment) (HCN Tr. Ct., Sept. 19, 2006). (Matha, T)._ The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.
SEPTEMBER 25, 2006
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

CIVIL CASES

SEPTEMBER 20, 2006
The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.

SEPTEMBER 27, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

CONTRACTS
NO RECENT CASES

HOUSING

SEPTEMBER 06, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

SEPTEMBER 22, 2006
The Court had to determine whether to grant the plaintiff’s request for summary judgment. The plaintiff improperly attempted to shift the burden of establishing an essential element of its cause of action to the defendant. The Court found that genuine issues of material fact remained to be resolved and accordingly denied the plaintiff’s request.

EMPLOYMENT
SEPTEMBER 11, 2006
The Court had to determine whether to grant the plaintiff’s request for summary judgment. The Court had previously analogized to federal due process jurisprudence for purpose of defining the scope of the tribal due process clause, and the parties have acknowledged this practice. The plaintiff asserted a constitutional right to minimum procedural due process prior to the imposition of a
non-disciplinary demotion. The Court performed an examination of persuasive case law, which runs contrary to this assertion. Furthermore, the employer did not impose a disciplinary measure and the PERSONNEL MANUAL is otherwise devoid of any procedural requirements for instituting the demotion. The CONSTITUTION, and not subordinate legislation, will establish the degree of procedural due process, but legislation must first secure the benefit of employment against demotion. The PERSONNEL MANUAL does not grant such security. Thus, an employee accepts and maintains employment with full awareness that he/she may be subjected to a non-disciplinary demotion. The Court accordingly denies the plaintiff’s request.

SEPTEMBER 14, 2006

The Court had to determine whether to grant the petitioner’s request for relief. The HCN Gaming Commission suspended the petitioner’s gaming license for a period of one (1) month prior to conducting a Show Cause Hearing. The petitioner seeks judicial review of the Commission decision that resulted from such Hearing. Although the Court found that the respondent has broad authority to regulate not only gaming, but its employees as well, the Court found that in the case at hand, the respondent lacked the authority to suspend the petitioner based upon a violation of GAMING ORDINANCE § 1203(b). This is because the Court found no violation of such section, or any other section that would warrant the suspension of a gaming license. Therefore, the Court remanded the case to the respondent with the instructions to award the petitioner with one (1) month of backpay pursuant to GAMING ORDINANCE, § 1101(b)(vii)(b), and that it expunge the petitioner’s record.

Janet Funmaker v. Libby Fairchild, in her capacity as Executive Director of the HCN Dep’t of Personnel et al., CV 06-61 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Sept. 14, 2006). (Rockman, A).

The Court granted the party’s request to appear by telephone.

SEPTEMBER 15, 2006

The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

SEPTEMBER 20, 2006
Janet Funmaker v. Libby Fairchild, in her capacity as Executive Director of the HCN Dep’t of Personnel et al., CV 06-61 Scheduling Order (HCN Tr. Ct., Sept. 20, 2006). (Rockman, A).

The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

SEPTEMBER 25, 2006

The Court issued this Change to Schedule to change the dates and deadlines for the instant case.

ENROLLMENT

SEPTEMBER 13, 2006

The Court finds good cause to allow the case to proceed as stipulated by the parties. The Court reminded the parties of the importance of keeping the Court informed of any further scheduling matters. The Court removed any remaining deadlines in this case from the calendar.
The Court granted the party’s request to appear by telephone.

CHILDREN’S TRUST FUND (CTF)  
SEPTEMBER 5, 2006  
In the Interest of Minor Child: M.W., DOB 04/05/95, by Miriam Whiteagle v. HCN Office of Tribal Enrollment, CV 06-63 Order (Denial of Petition) (HCN Tr. Ct., Sept. 5, 2006). (Rockman, A).

The Court had to determine whether the parent could access CTF monies on behalf of a minor child for costs associated with purchasing clothing. The Court denied the request.

In the Interest of Minor Children: N.T.B., DOB 04/03/96; N.T.B., DOB 10/21/98; and N.T.B., DOB 08/13/01, by Robert TwoBears v. HCN Office of Tribal Enrollment, CV 06-72 Order (Petition Granted) (HCN Tr. Ct., Sept. 5, 2006). (Rockman, A).

The Court had to determine whether a parent could access CTF monies on behalf of his minor children for costs associated with orthodontic procedures. The Court granted the request.


The Court had to determine whether to dismiss the instant case. The petitioner requested access to CTF monies for costs associated with orthodontic procedures. The respondent asked the Court not to release funds until the petitioner provided an invoice for the proposed orthodontic work. The petitioner has not presented the relevant documentation in over six (6) months. Therefore, the Court dismissed the action without prejudice.


The Court requested that the petitioner submit the required accounting.


The Court convened a Fact-Finding Hearing. The petitioner, although in receipt of the Notice of Hearing, failed to appear. The Court proceeded in her absence under the authority of HCN R. Civ. P. 44(C). The respondent indicated that the minor child objected to the release of funds because she does not reside with her mother and is expecting a child herself. The Court accordingly granted the respondents’ Motion to Dismiss.

The Court had to determine whether a parent could access CTF monies on behalf of her minor child for costs associated with orthodontic procedures. The Court granted the request.

**SEPTEMBER 28, 2006**

*In the Interest of Decedent Member: M.G.J., DOB 03/22/98, by Joannie Lund v. HCN Office of Tribal Enrollment, CV 06-75 Order (Releasing Children’s Trust Fund to Estate) (HCN Tr. Ct., Sept. 28, 2006).* (Rockman, A).

The Court had to determine whether to release the monies from a decedent tribal member’s CTF to the estate. These monies remain in an irrevocable trust held by the Ho-Chunk Nation and administered by Fifth Third Bank. The Court directed the release of the CTF to the court-appointed representative of the estate.

*In the Interest of Decedent Member: M.G.J., DOB 03/22/98, by Joannie Lund v. HCN Office of Tribal Enrollment, CV 06-75 Order (Erratum) (HCN Tr. Ct., Sept. 28, 2006).* (Rockman, A).

The Court issued this *Erratum Order* to correct a clerical mistake made in a previous *Order*.

**INCOMPETENT TRUST FUND (ITF) SEPTEMBER 13, 2006**


The Court had to determine whether the legal guardian could access ITF monies on behalf of an adult incompetent member for costs associated with remodeling the ward’s bedroom and bathroom. The Court requested further evidence to support the request for release of funds.

*In the Interest of Adult Incompetent: B.N.F., DOB 09/03/86, by Alaine A. Yingst v. HCN Office of Tribal Enrollment, CV 05-59 Order (Requesting Accounting) (HCN Tr. Ct., Sept. 20, 2006).* (Matha, T).

The Court requested that the petitioner submit the required accounting.

**SEPTEMBER 26, 2006**

*In the Interest of Adult Incompetent: M.B.J., DOB 12/01/65, by Dolli Big John v. HCN Office of Tribal Enrollment, CV 00-83 Order (Contempt) (HCN Tr. Ct., Sept. 26, 2006).* (Matha, T).

The Court had to determine whether to hold the petitioner in contempt of court for knowingly violating the express terms of several judgments. The petitioner failed to attend the *Show Cause Hearing*, resulting in an inability to rebut the *prima facie* showing of contempt. The Court held the petitioner in contempt and imposed a reasonable remedial sanction.

**FAMILY DIVORCE SEPTEMBER 13, 2006**

*In re the Marriage of: Deforrest M. Funmaker and Joyce I. Funmaker, FM 06-06 Final Judgment for Divorce (HCN Tr. Ct., Sept. 13, 2006).* (Matha, T).

The petitioner filed the *Petition for Divorce (Without Minor Children)*, thereby consenting to the personal jurisdiction of the Court. Both the petitioner and respondent are enrolled members of the Ho-Chunk Nation and have resided in the State of Wisconsin for at least six (6) consecutive months prior to filing of the petition. Furthermore, the petitioner has resided in Ho-Chunk Nation territory for at least six (6) consecutive months prior to filing the petition. The parties stated that the marriage is irretrievably broken with no possibility of reconciliation.

**SEPTEMBER 14, 2006**


The Court previously convened an *Initial Hearing* at which the parties revealed that neither individual satisfied the personal jurisdiction requirements as stated in the applicable statute. Specifically, the petitioner, while an enrolled member of the Ho-Chunk Nation, has not “resided in the state of Wisconsin for at least six (6) months.” *DIVORCE & CUSTODY ORDINANCE, 4 HCC § 9.2.* The respondent, is a non-member and has not been “a resident of the Ho-Chunk Nation for at least six
(6) months.” *Id.* Therefore, the Court dismissed this action for lack of personal and/or territorial jurisdiction.

**DOMESTIC VIOLENCE**

**NO RECENT CASES**

**JUVENILE**

**SEPTEMBER 12, 2006**

*In the Interest of Minor Children: R.C.S., DOB 06/07/98; B.L.S., DOB 09/26/00; and A.M.M., DOB 11/01/02, JV 06-21-23 Order (Continuance of Plea Hearing)* (HCN Tr. Ct., Sept. 12, 2006). (Rockman, A).

The Court convened a Plea Hearing for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the Child/Family Protection Petition. At the time, the other parent requested a continuance, after being advised as to his rights as a parent as set forth in the HOČĄK NATION CHILDREN AND FAMILY ACT (hereinafter CHILDREN’S ACT), §3.22d. The Court accordingly reschedules the Plea Hearing, so as to provide time for the parent to obtain legal representation.

**SEPTEMBER 13, 2006**


The petitioner filed a Petition for Permanent Guardianship. The Court subsequently scheduled a Guardianship Hearing. In accordance with the CHILDREN’S ACT, § 3.45c(1), the Court requested that Ho-Chunk Nation Child & Family Services (hereinafter CFS) prepare and submit a guardianship report and home study to the Court.

*In the Interest of Minor Child: T.J.B., DOB 05/30/06, JV 06-15 Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Sept. 14, 2006). (Rockman, A).

The Court granted the Guardian ad Litem’s request to appear by telephone.


The Court granted the Guardian ad Litem’s request to appear by telephone.

**SEPTEMBER 15, 2006**


The conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional requirements. The Court determined to maintain the status quo.


The Court conducted the Dispositional Hearing in accordance with the CHILDREN’S ACT. At the Hearing, the Court had to assess the extent and scope of the dispositional recommendations proposed by CFS. The Court ordered specific dispositional requirements to be met for the protection of the child and possible reunification of the family.

**SEPTEMBER 18, 2006**


The Court granted the Guardian ad Litem’s request to appear by telephone.
Order (Dispositional Requirements) (HCN Tr. Ct., Sept. 18, 2006). (Matha, T).
The Court conducted the Dispositional Hearing in accordance with the CHILDREN’S ACT. At the Hearing, the Court had to assess the extent and scope of the dispositional recommendations proposed by CFS. The Court ordered specific dispositional requirements to be met for the protection of the child and possible reunification of the family.

The Court had to determine whether to appoint a successor permanent guardian for the minor children pursuant to CHILDREN’S ACT, 4 HCC §3. After weighing all of the presented evidence, the Court deems such an appointment within the minor child’s best interests.

September 19, 2006
The Court conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional revision. The Court determined to impose additional requirements upon the parents as reflected in JV 98-06-07, which the Court now consolidates with the instant case.

September 20, 2006
The Court convened a Child Protection Review Hearing for the purpose of determining the level of compliance with the dispositional requirements entered by Monroe County Circuit Court. At the time, the parents of the minor child requested a continuance, after being advised as their rights as parents as set forth in the CHILDREN’S ACT, §3.22d. The Court accordingly reschedules the Child Protection Review Hearing, so as to provide time for the parent to obtain legal representation.

In the Interest of Minor Child: H.M.A.S., DOB 05/22/04, JV 06-20 Order (Submission of Traditional Relatives List) (HCN Tr. Ct., Sept. 20, 2006). (Matha, T).
In accordance with the CHILDREN’S ACT 4 HCC §3, the Court hereby requests that CFS prepare and submit a list of the minor child’s traditional relatives. The Court limits this request to the maternal great grandparents and their descendancy, but notes that it may expand the request at a future time.

The petitioner filed a Petition for Permanent Guardianship. The Court subsequently scheduled a Guardianship Hearing. In accordance with the CHILDREN’S ACT, § 3.45c(1), the Court requested that CFS prepare and submit a guardianship report and home study to the Court.

September 21, 2006
The Court had to determine whether to dismiss the Petition for Emancipation. The petitioner requested that the Court dismiss the Petition. The Court granted the dismissal without prejudice.

September 22, 2006
The Court convened a Child Protection Review Hearing. At the time, the father of the minor child requested a continuance, after being advised as his rights as a parent as set forth in the CHILDREN’S ACT, §3.22d. The Court accordingly reschedules the Child Protection Review Hearing, so as to provide time for the parent to obtain legal representation.
SEPTEMBER 26, 2006


The Court appointed a GAL in this matter.

SUPREME COURT

SEPTEMBER 21, 2006

Sherry Wilson v. HCN Dep’t of Personnel, SU 06-01 Decision (HCN S. Ct., Sept. 21, 2006).

The Supreme Court had to determine whether the Trial Court’s dismissal of the appellant’s cause of action at the Trial Court level was in error. The Trial Court dismissed the appellant’s action without reaching the merits of the case because the appellant had failed to name the appropriate party. Instead, the appellant had only sued the sovereign. The Supreme Court determined that if the Trial Court had formally advised the pro se litigant that a dismissal was imminent unless she named a specific party, and then she adamantly refused to amend her pleadings, then the Supreme Court might be inclined to uphold the Trial Court’s decision. However, the Supreme Court noted that the appellant had named individuals in the attachments of her Complaint and that the Trial Court should not have taken a strict and literal interpretation of sovereign immunity. Therefore, the Supreme Court reversed and remanded with instructions for the Trial Court to liberally construe the Complaint as having been amended to conform to the evidence.
RECENT FILINGS

TRIAL COURT

CHILD SUPPORT

SEPTEMBER 9, 2006
Kelly Funmaker v. Daniel E. Bird, CS 06-49.

CIVIL GARNISHMENT

SEPTEMBER 12, 2006

SEPTEMBER 13, 2006

Alliance Collection Agencies, Inc. v. Kevin L. Kniprath, CG 06-60. (Matha, T).

SEPTEMBER 14, 2006
Alliance Collection Agencies, Inc. v. Victoria A. Lowe, CG 06-61. (Matha, T).

SEPTEMBER 27, 2006
Mile Bluff Clinic, LLP v. Trina Buchanan, CG 06-62. (Matha, T).

Louis L. Young, DDS v. Duane W. Kling, Jr., CG 06-63. (Matha, T).

Nekoosa Port Edwards State Bank v. Grady D. Stewart, CG 06-64. (Matha, T).

Quick Cash Loans v. Sherry Eisenhut, CG 06-65. (Matha, T).


CIVIL CASES

SEPTEMBER 5, 2006
Willard Lonetree v. Larry Garvin, CV 06-74. (Matha, T).

SEPTEMBER 8, 2006
HCN Business Dep’t v. Jeffrey Brohn, CV 06-73. (Matha, T).

SEPTEMBER 12, 2006
In the Interest of Decedent: M.G.J., DOD, 09/24/03 v. HCN Office of Tribal Enrollment, CV 06-75. (Rockman, A).

In the Interest of Minor Child: M.L.P., DOB 05/21/95, by Barbara Jane Lowe v. HCN Office of Tribal Enrollment, CV 06-76. (Matha, T).

SEPTEMBER 14, 2006
Kenneth Lee Twin v. Toni McDonald et al., CV 06-77. (Matha, T).

SEPTEMBER 25, 2006
In the Interest of Minor Child: S.R.W., DOB 07/11/03, by Errol S. Whitewing v. HCN Office of Tribal Enrollment, CV 06-78. (Rockman, A).

FAMILY

SEPTEMBER 27, 2006

DOMESTIC VIOLENCE

NO RECENT FILINGS

JUVENILE

NO RECENT FILINGS

SUPREME COURT

NO RECENT FILINGS
The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

**WISCONSIN TRIBAL JUDGES ASSOCIATION**
(Eleven federally recognized tribes within the State of Wisconsin)

**NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION**
(Region 10 — Illinois, Indiana, Michigan, Minnesota, and Wisconsin)

---

### HCN Judiciary Fee Schedule

#### Filing Fees
- **Complaint**: $50.00
- **Petition for Release of Per Capita Distribution** (Children’s Trust Fund): $50.00
- **Motion to Appear Pro Hac Vice**: $35.00
- **Appellate Filing Fee**: $50.00
- **Petition to Register and Enforce Foreign Judgment/Order**: $20.00
- **Marriage License Fee**: $50.00

#### Court Fees
- **Copying**: $0.10/page
- **Faxing**: $0.25/page (sending & receiving)
- **CD of Hearings**: $12.50/CD
- **Deposition Videotape**: $10.00/tape
- **Certified Copies**: $0.50/page
- **Equipment Rental**: $5.00/hour
- **Admission to Practice**: $50.00

#### Legal Citation Forms
The following are example citation forms by legal reference and citation description.

- **Ho-Chunk Nation Constitution**
  - Constitution, Article Number, Section, Subsection.
  - **HCN CONST.**, Art. II, Sec. (or §) 1(a).

- **Ho-Chunk Nation Code**
  - Ordinance/Act Name Title Number HCC Section.
  - **ELDER PROTECTION ACT.**, 4 HCC § 1.
  - **EMPLOYMENT RELATIONS ACT.**, 6 HCC § 5.
  - *(for detailed citation information consult LEGISLATIVE ORGANIZATION ACT, 2 HCC § 11.36)*

- **HCN Supreme Court Case Law**
  - Case Name, Case Number (HCN S. Ct., month, day, year).

- **HCN Trial Court Case Law**
  - Case Name, Case Number (HCN Tr. Ct., month, day, year).

- **Ho-Chunk Nation Rules of Civil Procedure**
  - **HCN R. Civ. P.**, 19(B)
The United States Supreme Court’s 2006-2007 term commenced on October 2, 2006. Many across Indian Country have been in essence holding their breath to see what the Court will do under the new leadership of Chief Justice John Roberts. Early into his second term as Chief Justice, it does not appear that much has or will change with the passing of the late Chief Justice William Rehnquist. If anything, the Court appears to be leaning more conservative now.
On July 1, 2005, the Court lost a more centrist viewpoint with the retirement of Justice Sandra Day O’Connor. Although appointed by Republican President Ronald Reagan, Justice O’Connor was often considered the more moderate Justice among her conservative comrades. “She authored major decisions in favor of tribes, occasionally blasted her colleagues for taking a limited view of tribal sovereignty and often provided the "swing" vote in close decisions.” Indianz.com, Justice O’Connor Resigns from U.S. Supreme Court (July 5, 2006), available at http://www.indianz.com/News/2005/009120.asp.

Then, what seemed to be a Halloween trick rather than a treat was President Bush’s October 31, 2005 announcement that Samuel Alito was his nominee to replace Justice O’Connor.


These strict views are evidenced in Scalia’s 1990 majority opinion in Employment Div., Dept of Human Resources of Oregon v. Smith, 494 U.S. 872 (1990). In Smith, the Supreme Court decided against two Native Americans who were denied unemployment compensation upon being fired for failing a drug test after using peyote. The Court specifically found that a tribal member was not excused under the Free Exercise Clause for a violation of state peyote laws that represented generally applicable prohibitions of socially harmful conduct.

In a recent debate between Justice Scalia and the president of the American Civil Liberties Union (ACLU), the Justice explained that he thought the Smith case really was not about religion. Indianz.com, Scalia’s Ruling in Native Religious Case Debated (October 20, 2006), available at http://www.indianz.com/News/2006/016515.asp. The Justice explained that the “Court precedents, at the time, gave citizens overly broad license to challenge any statute by arguing that it burdens their religious beliefs.” Id. It was the Justice’s opinion that the prior law regarding religious impingement went against the Constitution. Id. Specifically, Justice Scalia disagreed with the standard that when any general law of applicability impinges on a person’s religious beliefs, the state must demonstrate a compelling state interest. Instead, Justice Scalia believed that a person should have no problem seeking an exemption from the majority rather than the Court, because this county is full of “tolerant people, especially on matters of religion.” Id. These views led to his majority opinion limiting
a citizen’s ability to challenge general laws on religious grounds. *Id.*

However, unlike Justice Scalia, Alito has recently decided a Native American religious case in favor of Native American interests based upon utilizing a strict level of scrutiny. In *Blackhawk v. Pennsylvania*, 381 F.3d 202 (3rd Cir. 2004), Alito decided in favor of a Native American who sought a waiver from having to pay fees related to the keeping of bears on his property for religious ceremonies. The Third Circuit Court of Appeals found that the statute allowing a waiver of fee for the permit to keep wildlife in captivity was not generally applicable, and thus was subject to strict scrutiny. After performing its analysis, the Third Circuit found that the statute did not withstand strict scrutiny.

It is still too early to see where the Court is heading, but with Roberts replacing Rehnquist, Alito replacing O’Connor, and Scalia still charging ahead with full force, it appears that the Supreme Court is still not waiting with open arms for Indian Law cases to be brought before it. Two months into this term, there have been seventeen (17) Indian Law related cases that have been filed with the Supreme Court. The petition for certiorari has been denied in ten (10) cases, granted in two (2) cases, and still pending in five (5) cases.

**Certiorari granted**


**Petition for Certiorari filed**

- *Burrell v. Armijo*, No. 06-721 (filed Nov. 21, 2006).
- *Murphy v. Oklahoma*, No. 05-10787 (filed May 3, 2006).

In *Means v. Navajo Nation*, 432 F.3d 924 (9th Cir. 2005), the petitioner argued that the Navajo Nation lacked the authority to prosecute him because he was not a member of the Navajo Nation and never would be. Furthermore, he argued that the Duro fix, a 1990 act of Congress, violated his constitutional rights. Specifically he argued that the act violates the U.S. Constitution because it subjects “all Indians,” regardless of enrollment, to the criminal jurisdiction of all tribes. The Ninth Circuit Court of Appeals held that the petitioner was not deprived of equal protection or due process by the statute that made him subject to the criminal jurisdiction of another tribe’s courts for misdemeanors committed on that tribe’s reservation. The Court relied upon the United States Supreme Court decision of *U.S. v. Lara*, 541 U.S. 193 (2004). The *Lara* Court upheld the congressional power to pass legislation reversing the 1990 Supreme Court decision of *Duro v. Reina*, 495 U.S. 676 (1990). In
reversing that decision, the Court restored inherent tribal sovereign authority to prosecute non-member Indians for reservation crimes. By the Supreme Court rejecting to review the Means case, it appears that tribal jurisdiction over all Indians is safe for the time being. However, we must await further developments to determine if the current makeup of the Court will pose problems in the future for tribal sovereignty.

** UPDATES FROM OUTSIDE COURTS **

**Court of Appeals, D.C. Circuit**


The Indian tribe sued the National Indian Gaming Commission (NIGC), claiming that NIGC exceeded its authority by promulgating regulations that established mandatory operating procedures for Class III gaming in tribal casinos. The tribe moved for summary judgment. The United States District Court for the District of Columbia, granted the tribe's motion for summary judgment and NIGC appealed. The Court of Appeals held that the Indian Gaming Regulatory Act did not give NIGC authority to promulgate regulations establishing mandatory operating procedures for class III gaming. Affirmed.

**Seventh Circuit Court of Appeals**

*Burgess v. Watters*, 2006 WL 3093635 (7th Cir. 2006).

Following the affirmance of his involuntary commitment to a state mental health facility as a sexually violent person, the petitioner sought a writ of habeas corpus. The United States District Court for the Western District of Wisconsin denied the petition and the petitioner then appealed. The Court of Appeals held that the Wisconsin Supreme Court did not unreasonably apply the clearly established federal law in determining that the State had the power to involuntarily commit an enrolled member of an Indian tribe as a sexually violent person under civil jurisdiction conferred by Congress on States. Affirmed.

**Ninth Circuit Court of Appeals**

*Pit River Tribe v. U.S. Forest Service*, 2006 WL 3163952 (9th Cir. 2006).

The Pit River Tribe alleged that the procedures followed by the agencies in extending certain leases in the Medicine Lake Highlands, and the subsequent approval of a geothermal plant to be built there, violated the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), the National Forest Management Act (NFMA), and the Administrative Procedure Act (APA). Pit River also contended that the agencies violated their fiduciary obligations to Native American tribes. Furthermore, they claimed to have jurisdiction pursuant to 28 U.S.C. § 1291. The Ninth Circuit Court of Appeals held that the tribe did have standing to pursue its claims. In addition, the Energy Policy Act's amendments to the Geothermal Steam Act would not be applied retroactively so as to render the claims moot. The agencies were found to have violated the NEPA by failing to complete an environmental impact statement (EIS) before extending leases that granted absolute rights to develop the plant. Furthermore, subsequent preparation of an EIS for the plant did not cure the prior violation of the NEPA. Last, the agencies violated the NHPA by failing to conduct consultation or consideration of historical sites before extending the leases. Reversed.

**Supreme Court of Minnesota**


In a child protection proceeding, the county filed a petition for the transfer of legal custody of the Indian child. The mother and father filed a joint petition requesting the transfer of jurisdiction to the tribal court, and father filed a motion to dismiss. The tribe filed an independent motion for the transfer of jurisdiction. The District Court in Hennepin County denied the requests to transfer as well as the father's motion to dismiss. In addition,
the District Court issued an order transferring the legal custody of child to the paternal grandmother of mother's older child. The father and tribe appealed. The Court of Appeals, 710 N.W.2d 799, reversed, concluding that good cause did not exist to deny the transfer of jurisdiction to the tribal court. An appeal was taken. Upon the grant of expedited review, the Supreme Court held that good cause existed for the trial court to deny the transfer of jurisdiction of the proceeding to the tribal court of child's tribe. Reversed; District Court order denying transfer of jurisdiction to tribal court reinstated.

SUPREME COURT NOTICE

• Adoption of the Ho-Chunk Nation Interim Rules of Criminal Procedure
  The HCN Supreme Court pursuant to its constitutional authority adopted the HCN Rules of Criminal Procedure for use as procedural rules for governance of criminal cases filed or brought before the Courts until these rules are superseded by more permanent rules by the Court.
  The rules became effective on October 28, 2006.
  If you would like to review a copy of the rules please contact Supreme Court Clerk of Court Mary Endthoff at 715-284-2722.

HO-CHUNK NATION
SUPREME COURT MEETING
NOTICE and AGENDA
December 9, 2006
HCN Tribal Court Building, W9598 HWY 54 E
Black River Falls, WI

9:00 a.m.  Opening Prayer/Introductions

10:00 a.m.  Oral Argument:
Casimir Ostrowski vs. Ho-Chunk Nation, Ho-Chunk Nation Personnel Dept., and Ho-Chunk Casino, SU 06-04
Review and approve Minutes of October 28, 2006

12:00 p.m.  Lunch Break

1:00 p.m.  Old Business
  a.  HCN Interim Rules of Criminal Procedure
     Discussion with Michelle Cleveland, County/Tribal Law Enforcement Subcommittee
  b.  Supreme Court Clerk, Mary Endthoff
     i.  Update/Questions
     ii.  Signatures needed

New Business
  a.  Chief Justice Hunter items
  b.  Justice Funmaker items
  c.  Justice Butterfield items

Set next meeting date

Case Deliberation (Justices only)

Adjourn

NOTE: All Supreme Court meetings are open to the public except as noted above. If you wish to have an item added to the agenda, please notify Mary Endthoff, Clerk of Court, prior to the meeting at (715) 284-2722.
**RECENT DECISIONS**

Decisions are separated between Trial Court and Supreme Court decisions and categorized by subject matter and date (from oldest to most recent). The following are summaries prepared by the Staff Attorney for the reader’s benefit. They should in no way be used as substitution for citations to the actual court opinion.

Within the Trial Court, cases are categorized and docketed as one of the following: Child Support (CS or if filed prior to 1998, CV), Civil Garnishment (CG), Civil (CV), Criminal (CR), Custody (CU), Domestic Violence (DV), or Juvenile (JV). Within this index, case citations will appear in one of these categories and, in the event it may be helpful to the reader as a research tool, the cases may also be summarized in a separate topic area. Due to the great incidence of civil cases before the Court, the category for civil cases is divided into broad sub-categories. In some instances a decision may touch upon other topics that may not warrant a summary in this index, but the editor will use the indicator “other topic(s) covered,” as a research aid for the reader.

**RECENT DECISIONS AND RECENT FILINGS both begin with the date where the previous Court Bulletin left off.**

**TRIAL COURT**

**CHILD SUPPORT CASES**

**OCTOBER 03, 2006**


The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the child turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.


The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.


The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.


The Court had to determine whether to enforce a standing foreign child support order against serial payor’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.


HO-CHUNK NATION COURT BULLETIN

Vol. 12, No. 11-12

NOVEMBER/DECEMBER 2006

PAGE 6 OF 30
The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to cease withholding due to the parties failing to submit proof of high school enrollment. The Court accordingly ordered the cessation of current child support withholding, but the continuation of withholding for arrears.

The Court had to determine whether to enforce a standing foreign child support order against serial payor’s per capita payments. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court issued this order to correct a clerical mistake made in the previous order.

The minor child turned eighteen (18) years of age. In accordance with state law, the respondent’s obligation ends when the children turns eighteen (18) years of age, unless the child is enrolled in high school or its equivalent. The Court ordered the parties to file proof of high school enrollment.

The Court issued this order to correct a clerical mistake made in the previous order.

OCTOBER 11, 2006
The Court previously requested the parties to file proof of high school enrollment as the child turned eighteen (18) years of age. The petitioner filed such proof, thus the child support shall continue until the child graduates from high school in June 2007.

OCTOBER 12, 2006
The Court had to determine whether to cease withholding due to the parties failing to submit proof of high school enrollment. The Court accordingly ordered the cessation of current child support withholding, and then performed an equitable adjustment for the remaining cases.

The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

OCTOBER 12, 2006
The Court had to determine whether to grant petitioner’s motion to modify child support arrears. The respondent failed to respond within the
specified time frame. The Court granted petitioner’s uncontested motion.

The Court ordered the cessation of withholding from the respondent’s per capita for current child support because the child is now residing with the respondent.

OCTOBER 13, 2006
The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent filed a timely response acquiescing to the enforcement of another child support order. The Court granted recognition and enforcement of the foreign judgment, and performed an equitable adjustment.

The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s per capita payments. The respondent failed to file a timely answer. The Court granted recognition and enforcement of the foreign judgment, and performed an equitable adjustment.

The Court had to determine whether to grant petitioner’s motion to modify child support arrears. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

OCTOBER 16, 2006
The Court had to determine whether to grant petitioner’s motion to modify current child support. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The Court had to determine whether to enforce a standing foreign child support order against the respondent’s wages. The respondent failed to timely respond, thus the Court granted recognition and enforcement of the foreign judgment.

The Court had to determine whether to modify the current child support due to the child reaching the age of majority. The parties failed to present evidence of high school enrollment within the specified time frame. The Court thus modified the withholding to represent the percentages followed by the State of Wisconsin. Furthermore, the Court ordered that the excess monies be impounded providing the State the opportunity to file proof that the child support should continue at the previous rate until the youngest child reaches the age of majority.

The Court had to determine whether to grant petitioner’s motion to modify the child support arrears. The respondent failed to respond within the specified time frame. The Court granted petitioner’s uncontested motion.

The Court previously requested the parties to file proof of high school enrollment as the child turned eighteen (18) years of age. The petitioner filed such proof, thus the child support shall continue until the May 2007 per capita distribution.

November 14, 2006
The Court issued this order to correct a clerical mistake made in the previous order.

The Court had to determine whether to grant petitioner’s motion to modify current child support. The Court presumed the respondent’s acquiescence as the modification benefits the respondent. The Court granted petitioner’s uncontested motion.

CIVIL GARNISHMENT CASES

October 09, 2006
The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

October 10, 2006
The Court had to determine whether to dismiss the instant case. The petitioner indicated that it had received full payment in the case. Thus, the Court dismissed the case without prejudice.

October 11, 2006
The petitioner filed a Petition to Register & Enforce a Foreign Judgment or Order. The Court will confirm the employment of the respondent through correspondence with the HCN Dep’t of Personnel prior to effectuating service. Thereafter, the Court will process the Petition. If the respondent later leaves the employ of the Nation, the Court shall suspend all case file activity and inform the petitioner of its ability to file a motion to resume activity if the respondent subsequently resumes employment with the Nation.
**OCTOBER 18, 2006**

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

**November 08, 2006**
*Louis L. Young, DDS v. Duane W. Kling, Jr., CG 06-63 Order (Default Judgment) (HCN Tr. Ct., Oct. 18, 2006). (Matha, T).*

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

**November 09, 2006**
*Quick Cash Loans v. Sherrie Eisenhut, CG 06-65 Order (Voluntary Dismissal) (HCN Tr. Ct., Nov. 8, 2006). (Matha, T).*

The Court had to determine whether to dismiss the instant case. The petitioner indicated that it had reached an agreement with the respondent on payment arrangements. Thus, the Court dismissed the case without prejudice.

**November 09, 2006**
*Nekoosa Port Edwards State Bank v. Grady D. Stewart, CG 06-64 Order (Default Judgment) (HCN Tr. Ct., Nov. 9, 2006). (Matha, T).*

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

*Credit Acceptance Corp. v. Kelly Potts a/k/a Kelly Waldow, CG 06-68 Order (Default Judgment) (HCN Tr. Ct., Nov. 9, 2006). (Matha, T).*

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

*Alliance Collection Agencies, Inc. v. Victoria A. Lowe, CG 06-61 Order (Default Judgment) (HCN Tr. Ct., Nov. 9, 2006). (Matha, T).*

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

*Creditor Recovery Service, LLC v. Mary Loccy, CG 06-69 Order (Default Judgment) (HCN Tr. Ct., Nov. 9, 2006). (Matha, T).*

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

*Creditor Recovery Service, LLC v. Iris M. Laes, CG 06-67 Order (Default Judgment) (HCN Tr. Ct., Nov. 9, 2006). (Matha, T).*

The Court had to determine whether to grant full faith and credit and/or comity to a foreign judgment. The respondent failed to timely respond, thus the Court granted a default judgment in favor of the petitioner.

**November 16, 2006**
*Creditor Recovery Service, LLC v. Iris M. Laes, CG 06-67 Order (Satisfaction of Judgment) (HCN Tr. Ct., Nov. 16, 2006). (Matha, T).*

The Court recognized that the debt had been paid in full and informed the parties of its intent to close the file.

**November 16, 2006**
*Linda Webber v. Leland Peter Whitegull, CG 06-70 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Nov. 28, 2006). (Matha, T).*

The Court granted the individual’s request to appear by telephone at the Fact-Finding Hearing.

**CIVIL CASES**

**October 05, 2006**
*Ralph Kleeber v. Gaming Comm’n, CV 06-46 Order to Dismiss (HCN Tr. Ct., Oct. 5, 2006). (Matha, T).*
The parties mutually agreed to dismiss the plaintiff’s Complaint and have reached an agreement, which is explained in the Stipulation and Motion to Dismiss.

OCTOBER 09, 2006
The Court granted the party’s request to appear by telephone.

The Court had to determine whether to dismiss the case. The plaintiff had failed to appear at the Pre-Trial Conference and Trial despite receipt of proper notice. Therefore, the Court dismissed the action with prejudice.

OCTOBER 11, 2006
The Court recognized that the debt in the current case has been paid in full, and informed the parties of its intent to close the file if no objection is received within ten (10) days.

OCTOBER 13, 2006
The Court had to determine whether to grant the relief requested by the plaintiffs. The defendant failed to answer the Complaint despite proper service of process. Thus, the Court rendered a default judgment against the defendant, awarding the plaintiffs permissible relief sought in the Complaint.

The Court had to determine whether to grant the relief requested by the plaintiffs. The defendant failed to answer the Complaint despite proper service of process. Thus, the Court rendered a default judgment against the defendant, awarding the plaintiffs permissible relief sought in the Complaint.

The Court had to determine whether to grant the relief requested by the plaintiffs. The defendant failed to answer the Complaint despite proper service of process. Thus, the Court rendered a default judgment against the defendant, awarding the plaintiffs permissible relief sought in the Complaint.

OCTOBER 25, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

NOVEMBER 06, 2006
HCN Dep’t of Labor et al. v. Contingency Planning Solutions, Inc. et al., CV 06-12 Order (Denying Post Judgment Motion) (HCN Tr. Ct., Nov. 6, 2006). (Matha, T).
The Court had to determine whether to grant the defendants’ motion for relief from the default judgment. The defendants argued that they mistakenly delivered their responsive pleading only to the plaintiffs. The Court examined the defendants’ argument under the standard for granting reconsideration of a final judgment in these instances. Based upon this review, the Court declined to upset the standing default judgment.
HCN Legislature, Tracy Thundercloud in his official capacity as chair of the HCN Finance Committee v. HCN President, George Lewis, CV 04-73 Order (Awarding Attorney’s Fees) (HCN Tr. Ct., Nov. 6, 2006). (Rockman, A).
The Court had to determine whether to grant attorney’s fees to the defendant in this matter. The plaintiff claims that the defendant is not entitled to attorney’s fees due to an untimely filing of the motion for attorney’s fees. The defendant countered that the Court should ignore a minor procedural flaw in the interest of equity. The motion was originally filed in a timely fashion, however there was a deficiency. The Court notified the defendant of such deficiency, at which point the defendant corrected the flaw within two (2) days of the notice of deficiency being mailed out. Therefore, the Court granted the request for attorney’s fees despite this minor flaw.

NOVEMBER 08, 2006
Thomas Quimby v. HCN Health Ins. Review Comm’n et al., CV 05-91 Order Granting Extension (HCN Tr. Ct., Nov. 8, 2006). (Matha, T).
The Court granted the defendants’ request for an extension in time to submit their Response Brief upon proof being submitted that plaintiff’s counsel agreed to the requested extension in a previously drafted letter.

The Court had to determine whether to uphold the adjudicative decision of the HCN Tribal Rights Ordinance Commission (herein after TERO Commission). The petitioner failed to name the TERO Commission as a respondent in this administrative appeal. The Court utilizes its discretion to join the TERO Commission in this suit, and requires the TERO Commission to file a response brief and supplement the administrative record.

NOVEMBER 09, 2006
HCN Dep’t of Health & Human Services v. Carol Rockman, CV 04-02 Order (Final Judgment) (HCN Tr. Ct., Nov. 9, 2006). (Rockman, A).
The Court had to determine whether to grant the relief requested by the plaintiffs. The Court held that the defendant is immune from suit under the doctrine of official immunity, and therefore was not subject to monetary penalties in connection with her actions.

NOVEMBER 13, 2006
The HCN Judiciary has continually recognized the principle that a plaintiff maintains the burden to prosecute its case. The plaintiff had requested a continuance on August 28, 2006. The Court granted the request. However, the plaintiff still must prosecute its case. Thus, the Court ordered that the plaintiff file status updates at minimum six (6) month intervals beginning on or before December 1, 2006.

NOVEMBER 14, 2006
The Court had to determine whether to grant the relief requested by the plaintiffs. The defendant failed to answer the Complaint despite proper service of process. Thus, the Court rendered a default judgment against the defendant, awarding the plaintiffs permissible relief sought in the Complaint.

The respondents requested that the Court entertain oral arguments within its Response Brief. The Court, within its discretion, granted the request.

NOVEMBER 17, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

George Lewis v. HCN Election Board, Mary Ellen Dumas, in her official capacity as Chair of the Election Board, and Wilma Thompson in her official capacity as Vice-Chair of the Election Board.
Board, Wade Blackdeer, in his official capacity as Vice President and President pro tempore, Becky Albert, in her official capacity as Treasurer of the HCN, and Francis Decorah, in his capacity as General Council Chairperson, November 11, 2006, CV 06-109 Order (Inviting Participation of Amicus Curiae) (HCN Tr. Ct., Nov. 17, 2006). (Rockman, A).

Because the resolution of the issues raised in the plaintiff’s Complaint may affect actions made and contemplated by the General Council and its representatives, the Court invited the General Council Agency to submit an amicus brief on the issues involved in this matter.

**NOVEMBER 22, 2006**

*HCN Dep’t of Veterans Affairs et al. v. Allyson Finch, CV 06-14 Scheduling Order* (HCN Tr. Ct., Nov. 22, 2006). (Rockman, A).

The Court issued this Scheduling Order to establish dates and deadlines for the instant case.

**NOVEMBER 28, 2006**

*HCN and HCN Dep’t of Business v. Ashley R. Biesen, CV 06-100 Order (Default Judgment)* (HCN Tr. Ct., Nov. 28, 2006). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiffs. The defendant failed to answer the Complaint despite proper service of process. Thus, the Court rendered a default judgment against the defendant, awarding the plaintiffs permissible relief sought in the Complaint.

*HCN Dep’t of Business et al. v. Dee Anna J. Boushon, CV 06-101 Order (Default Judgment)* (HCN Tr. Ct., Nov. 28, 2006). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiffs. The defendant failed to answer the Complaint despite proper service of process. Thus, the Court rendered a default judgment against the defendant, awarding the plaintiffs permissible relief sought in the Complaint.

**NOVEMBER 14, 2006**

*HCN Housing and Community Development Agency v. Margaret Hoffman, CV 06-08 Eviction Order (Default Judgment)* (HCN Tr. Ct., Nov. 14, 2006). (Matha, T).

The Court had to determine whether to grant the relief requested by the plaintiff, i.e., restitution of premises and an award of damages. The defendant failed to appear at Trial despite proper notice. The Court rendered a default judgment against the defendant, awarding the plaintiff permissible relief sought in the Complaint.
After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the property restored to its possession and to remove the defendant, her possessions, and those occupying the property with her from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Sauk County in order to restore the property.

NOVEMBER 20, 2006
The Court had to determine whether to grant the relief requested by the plaintiff, i.e., restitution of premises and an award of damages. The defendant failed to answer the Complaint despite proper service of process. The Court rendered a default judgment against the defendant, awarding the plaintiff permissible relief sought in the Complaint.

After affording the defendant notice and an opportunity to be heard, the Court determined that the plaintiff has a superior right to possession of the property in question. The Court entered a final judgment on behalf of the plaintiff to have the property restored to its possession and to remove the defendant, her possessions, and those occupying the property with her from the premises. The Court sought the assistance of a tribal law enforcement officer or the sheriff of Sauk County in order to restore the property.

OCTOBER 6, 2006
The Court issued this order to correct a clerical mistake made in the previous order.

OCTOBER 11, 2006
The Court issued this Scheduling Order to establish dates and deadlines for the instant case.
OCTOBER 30, 2006
Ona Garvin v. HCN, Silas Cleveland, in his individual capacity et al., CV 01-78 Order (Motion to Dismiss Granted) (HCN Tr. Ct., Oct. 30, 2006). (Rockman, A).
The Court had to determine whether to grant the defendants’ Motion to Dismiss whereby the defendants moved to dismiss the plaintiff’s cause(s) of action. The plaintiff claimed that she was subjected to an involuntary termination from her position. The Court determined that the officials did not act outside the scope of their authority. Instead, the Court found that the defendants were exercising business judgment based upon their knowledge of the business. With regards to the plaintiff’s claims regarding her late annual evaluation, the Court determined that the PERSONNEL POLICIES AND PROCEDURES MANUAL (hereinafter PERSONNEL MANUAL) had already provided the plaintiff with the sole relief for such a violation by her supervisors. The Court also held that the plaintiff’s action for involuntary termination be dismissed because the plaintiff failed to establish that a termination ever occurred. Additionally, the Court determined that the plaintiff had been afforded sufficient procedural due process during the demotional transfer. This was evidenced by the fact that it was these due process protections that allowed the plaintiff to save her employment by reasoning with her superiors to allow a demotional transfer rather than a termination. Therefore, the Court granted the Motion to Dismiss.

NOVEMBER 03, 2006
The Court had to determine whether the defendants improperly denied the plaintiff a minimum full-time employee work schedule. The Court concluded that the relevant statutory language does not create and entitlement to work a defined amount of hours. The Court accordingly denied the plaintiff’s request for relief.

NOVEMBER 08, 2006
Faye Begay v. Jean Day, Executive Director of the HCN Education Dep’t et al., CV 03-09 Order

The Court had to determine whether to grant the plaintiff’s request for relief. The Court held that the defendants did not afford the plaintiff minimum procedural due process in connection with her discharge from employment. Specifically, the Court found that the defendants failed to provide the plaintiff with a meaningful opportunity to be heard. Thus, the Court reverses the plaintiff’s termination and awards appropriate relief.

NOVEMBER 09, 2006
The Court had to determine whether to grant the plaintiff’s request for relief. The plaintiff requested both declaratory and monetary relief against the defendants. The plaintiff claimed that the defendants acted outside the scope of their authority in suspending the plaintiff. The Court determined that the Legislature did not act outside the scope of its authority granted to them by the CONSTITUTION as it relates to internal legislative procedures. Thus, the plaintiff could not receive equitable relief on that ground, as the Legislature did not waive its sovereign immunity. However, the Legislature still had to abide by the constitutional mandates of due process as articulated within CONSTITUTION, ART. X, § 1(a)(8). The Court determined that the Legislature failed to afford the plaintiff his minimal procedural due process protections. Namely, the plaintiff was not provided with adequate notice of a hearing that would take place on the matter, nor that any disciplinary action would be taken against him. Thus, the Court granted the plaintiff’s request that the Department of Personnel remove all negative references connected to the proceedings that led to the plaintiff’s suspension. However, the Court did not award any monetary relief despite a denial of due process because there was no waiver of sovereign immunity, and the plaintiff failed to adhere to the terms of the limited waiver of sovereign immunity within the former PERSONNEL MANUAL.
The Court previously released funds from the Children’s Trust Fund (hereinafter CTF) accounts of the child for costs associated with orthodontic procedures. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

The Court previously released funds from the CTF accounts of the minor child for costs associated with an automobile and automobile insurance. The petitioner failed to comply with the most recent judicial directive requiring submission of an accounting. The Court shall convene a Show Cause Hearing to allow the petitioner to explain why the Court should not hold her in contempt of court.

The Court had to determine whether to dismiss the instant case. The petitioner requested access to CTF monies. The respondent asked the Court not to release funds until the petitioner provided corroborating documentation. The petitioner has not presented the relevant documentation in over six (6) months. Therefore, the Court dismissed the action without prejudice.

In the Interest of Adult CTF Beneficiary: by Chaska Prescott, DOB 05/16/86 v. HCN Office of Tribal Enrollment, CV 05-108 Order (Show Cause) (HCN Tr. Ct., Oct. 11, 2006). (Matha, T).
The Court previously released funds from the CTF accounts of the minor child for costs associated with continuing education. The petitioner failed to comply with the most recent judicial directive requiring submission of an accounting. The Court shall convene a Show Cause Hearing to allow the petitioner to explain why the Court should not hold her in contempt of court.

In the Interest of Adult CTF Beneficiary: Tyler A. Cloud, DOB 10/31/87 and In the Interest of Minor Child: T.A.C., DOB 02/19/90, by Orvilia R. White Eagle and In the Interest of Minor Child: R.G.C., DOB 07/27/92, by June E. White Thunder v. HCN Office of Tribal Enrollment, CV 05-92 Order (Show Cause) (HCN Tr. Ct., Oct. 11, 2006). (Matha, T).
The Court previously released funds from the CTF account of Tyler A. Cloud, DOB 10/31/87, for costs associated with a variety of concerns. The petitioner failed to comply with the most recent judicial directive requiring submission of an accounting. The Court shall convene a Show Cause Hearing to allow the petitioner to explain why the Court should not hold her in contempt of court.

In the Interest of Adult CTF Beneficiary: Tyler A. Cloud, DOB 10/31/87 and In the Interest of Minor Child: T.A.C., DOB 02/19/90, by Orvilia R. White Eagle and In the Interest of Minor Child: R.G.C., DOB 07/27/92, by June E. White Thunder v. HCN Office of Tribal Enrollment, CV 05-92 Order (Show Cause) (HCN Tr. Ct., Oct. 11, 2006). (Matha, T).
The Court previously released funds from the CTF account of T.A.C., DOB 02/19/90, and R.G.C., DOB 07/27/92, for costs associated with a variety of concerns. The petitioner failed to comply with the most recent judicial directive requiring submission of an accounting. The Court shall convene a Show Cause Hearing to allow the petitioner to explain why the Court should not hold her in contempt of court.
In the Interest of Adult CTF Beneficiary: April Webster, DOB 08/30/87 v. HCN Office of Tribal Enrollment, CV 05-107 Order (Denying Request) (HCN Tr. Ct., Oct. 11, 2006). (Matha, T).
The Court previously informed the petitioner that any release of monies from her CTF account was contingent upon current school attendance. The petitioner began school, however only attended for two (2) weeks before ceasing to attend. Therefore, the Court denied the petitioner’s request for a release for costs associated with rent or utilities.

OCTOBER 16, 2006
The Court previously released funds from the Children’s Trust Fund (hereinafter CTF) accounts of the child for costs associated with orthodontic procedures. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

In the Interest of Adult CTF Beneficiary: April Webster, DOB 08/30/87 v. HCN Office of Tribal Enrollment, CV 05-107 Order (Demanding Accounting) (HCN Tr. Ct., Oct. 16, 2006). (Matha, T).
The Court previously released funds from the CTF accounts of the minor child for costs associated with rental assistance. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

The Court had to determine whether a parent can access his Children’s Trust Fund account to pay for costs associated with orthodontic procedures. The Court granted the request.

OCTOBER 14, 2006
In the Interest of Minor Child: M.W., DOB 12/16/93; Z.W., DOB 12/27/95; Z.W., DOB 01/02/98 v. HCN Office of Tribal Enrollment, CV 06-71 Order (Motion Granted) (HCN Tr. Ct., Nov. 14, 2006). (Rockman, A).
The Court had to determine whether a parent can access his Children’s Trust Fund account to pay for costs associated with dental procedures. The Court granted the request.

OCTOBER 24, 2006
In the Interest of Minor Child: L.H.C., DOB 03/05/01, by Isabel L. Smith v. HCN Office of Tribal Enrollment, CV 06-79 Order (Dismissal without Prejudice) (HCN Tr. Ct., Oct. 24, 2006). (Matha, T).
The Court convened a Fact-Finding Hearing to consider the merit of the Petition for Release of Per Capita Distribution. The Court sent the petitioner a Notice of Hearing. The petitioner failed to appear. The Court dismissed the case without prejudice.

NOVEMBER 09, 2006
In the Interest of Minor Child: A.F., DOB 01/13/96, by Alona Bush v. HCN Office of Tribal Enrollment, CV 05-83 Order (Accepting Accounting) (HCN Tr. Ct., Nov. 9, 2006). (Matha, T).
The Court previously released funds from the Children’s Trust Fund (hereinafter CTF) accounts of the child for costs associated with the purchase of an automobile. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

NOVEMBER 14, 2006
The Court had to determine whether a parent can access his Children’s Trust Fund account to pay for costs associated with hearing instruments. The Court granted the request.

NOVEMBER 15, 2006
The Court had to determine whether a parent can access his Children’s Trust Fund account to pay for costs associated with the purchase of hearing instruments. The Court granted the request.
costs associated with orthodontic procedures. The Court granted the request.

**NOVEMBER 20, 2006**


The Court granted the petitioner’s request to appear by telephone at the Fact-Finding Hearing.

**NOVEMBER 27, 2006**

*In the Interest of Adult CTF Beneficiary: Tyler A. Cloud, DOB 10/31/87 and In the Interest of Minor Child: T.A.C., DOB 02/19/90, by Orvilla R. White Eagle and In the Interest of Minor Child: R.G.C., DOB 07/27/92, by June E. White Thunder v. HCN Office of Tribal Enrollment, CV 05-92 Order (Contempt)* (HCN Tr. Ct., Nov. 27, 2006). (Matha, T).

The Court previously released funds from the CTF account of Tyler A. Cloud, DOB 10/31/87, for costs associated with a variety of concerns. The petitioner failed to comply with the most recent judicial directive requiring submission of an accounting. The Court convened a Show Cause Hearing to allow the petitioner to explain why the Court should not hold her in contempt of court. However, the petitioner failed to attend the Hearing, resulting in an inability to rebut the prima facie showing of contempt. The Court held the petitioner in contempt and imposed a reasonable remedial sanction.

*In the Interest of Minor Child: M.L.D., DOB 04/05/01, by Terry T. Deloney v. HCN Office of Tribal Enrollment, CV 05-58 Order (Establishing Contempt Fine)* (HCN Tr. Ct., Nov. 27, 2006). (Matha, T).

The Court had to determine whether to establish a sum certain in a contempt action for purposes of recognition and enforcement in a foreign court. The respondent invited the Court to issue a writ of execution on the petitioner’s property. The Court declined this invitation because it deems its prior contempt sanction as self-executing. The Court shall reduce its judgment to a sum certain, while recognizing the ongoing status of the civil contempt penalty.


The Court had to determine whether to establish a sum certain in a contempt action for purposes of recognition and enforcement in a foreign court. The respondent invited the Court to issue a writ of execution on the petitioner’s property. The Court declined this invitation because it deems its prior contempt sanction as self-executing. The Court
shall reduce its judgment to a sum certain, while recognizing the ongoing status of the civil contempt penalty.

**NOVEMBER 29, 2006**

*In the Interest of Minor Child: M.L.P., DOB 05/21/95, by Barbara J. Lowe v. HCN Office of Tribal Enrollment, CV 06-76 Order (Dismissal without Prejudice)* (HCN Tr. Ct., Nov. 29, 2006). (Matha, T).

The Court convened a continued Fact-Finding Hearing to consider the merit of the Petition for Release of Per Capita Distribution. The Court sent the petitioner a Notice of Hearing. The petitioner failed to appear. The Court dismissed the case without prejudice.

*In the Interest of Adult CTF Beneficiary: Carl M. Steen-Wilson, DOB 01/26/86 v. HCN Office of Tribal Enrollment, CV 06-35 Order (Dismissal without Prejudice)* (HCN Tr. Ct., Nov. 29, 2006). (Matha, T).

The Court convened a Fact-Finding Hearing to consider the merit of the Petition for Release of Per Capita Distribution. The Court sent the petitioner a Notice of Hearing. The petitioner failed to appear. The Court dismissed the case without prejudice.

---

**INCOMPETENT TRUST FUND (ITF)**

**OCTOBER 04, 2006**

*In the Interest of Adult Incompetent: G.D.G., DOB 01/03/43, by Alma Miner v. HCN Office of Tribal Enrollment, CV 05-16 Order (Requesting Accounting)* (HCN Tr. Ct., Oct. 4, 2006). (Matha, T).

The Court previously released funds from the Incompetent Trust Fund (hereinafter ITF) accounts of the adult incompetent member for costs associated with outstanding debts, including judicially imposed fines. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.

**OCTOBER 10, 2006**


The Court previously released funds from the ITF account for costs associated with a personal computer and to satisfy attorney’s fees. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

**OCTOBER 11, 2006**

*In the Interest of Adult Incompetent: H.C., DOB 01/31/31, by Barbara Meltesen v. HCN Office of Tribal Enrollment, CV 05-72 Order (Accepting Accounting)* (HCN Tr. Ct., Oct. 11, 2006). (Matha, T).

The Court previously released funds from the ITF account for costs associated with ongoing nursing home care, medical-related debts and professional guardianship service fees. The petitioner submitted receipts, confirming proper use of the funds. The Court accepted this accounting.

**OCTOBER 12, 2006**


The Court had to determine whether the legal guardian could access ITF monies on behalf of an adult incompetent member for costs associated with a tombstone for a departed spouse. The Court granted the request.

**OCTOBER 16, 2006**

*In the Interest of Adult Incompetent: M.B.J., DOB 12/01/65, by Dolli Big John v. HCN Office of Tribal Enrollment, CV 00-83 Order (Accepting Accounting)* (HCN Tr. Ct., Oct. 16, 2006). (Matha, T).

The Court previously released funds from the ITF account for costs associated with household accommodations. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.

**OCTOBER 18, 2006**

*In the Interest of Adult Incompetent: B.G.S., DOB 02/07/80, by Teresa Iverson v. HCN Office of Tribal Enrollment, CV 06-34 Order (Accepting Accounting)* (HCN Tr. Ct., Oct. 18, 2006). (Matha, T).

The Court previously released funds from the ITF account for costs associated with household accommodations. The petitioner submitted a payment history statement, confirming proper use of the funds. The Court accepted this accounting.
The Court previously released funds from the ITF account for costs associated with an assisted vacation. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

**November 08, 2006**


The Court had to determine whether a legal guardian can access monies on behalf of an adult incompetent member from the ITF to establish a monthly allowance. The Court granted the request.


The Court previously released funds from the ITF account for costs associated with a purchasing a tombstone for a departed spouse. The petitioner submitted a receipt, confirming proper use of the funds. The Court accepted this accounting.

**November 09, 2006**

In the Interest of Adult Incompetent: G.D.G., DOB 01/03/43, by Alma Miner v. HCN Office of Tribal Enrollment, CV 05-16 Order (Demanding Accounting) (HCN Tr. Ct., Nov. 9, 2006). (Matha, T).

The Court previously released funds from the ITF account for costs associated with rental assistance. The petitioner failed to submit an accounting confirming proper use of the funds within the specified timeframe. The Court ordered that the petitioner submit the required accounting.


The Court previously released funds from the ITF account for costs associated with day services program, which includes vocational and educational training and communal integration. The petitioner submitted an account statement, confirming proper use of the funds. The Court accepted this accounting.

In the Interest of Adult Incompetent: B.F.R., DOB 09/18/19, by Dorothy Lenard v. HCN Office of Tribal Enrollment, CV 02-95 Order (Accepting Accounting) (HCN Tr. Ct., Nov. 13, 2006). (Rockman, A).

The Court previously released funds from the ITF account for costs associated with ongoing nursing home care. The petitioner submitted a payment history, confirming proper use of the funds. The Court accepted this accounting.

**November 15, 2006**


The Court previously released funds from the ITF account for costs associated with updating her home, reimbursement to Residential Services for payments made on behalf of the ward, reimbursement of her living allowance, and disbursement of an ongoing living allowance for E.M.S. The petitioner submitted a series of account statements, invoices, receipts, etc., confirming proper use of the funds. The Court accepted this accounting.

**November 22, 2006**

In the Interest of Adult Incompetent: W.E.S., DOB 12/23/36, by Frank E. Bichanich v. HCN Office of Tribal Enrollment, CV 04-22 Order (Motion Denied) (HCN Tr. Ct., Nov. 22, 2006). (Matha, T).

The Court had to determine whether the legal guardian could access ITF monies on behalf of an adult incompetent member for costs associated with maintaining a residence, i.e., replacing carpeting and purchasing new furniture. The Court denied the request because the member has never resided in the home.
**FAMILY CASES**

**DIVORCE**

**OCTOBER 11, 2006**


The parties jointly filed the Petition for Divorce (Without Minor Children), thereby consenting to the personal jurisdiction of the Court. The petitioner is an enrolled member of the Ho-Chunk Nation and has resided in the State of Wisconsin for at least six (6) consecutive months prior to filing of the petition. In addition, the petitioner has resided on HCN territory for at least six (6) consecutive months prior to the filing. The parties stated that the marriage is irretrievably broken with no possibility of reconciliation.

**DOMESTIC VIOLENCE**

**OCTOBER 16, 2006**

*In the Interest of Elder Person, by HCN Dep’t of Soc. Servs., DV 06-06 Order (Final Judgment)* (HCN Tr. Ct., Oct. 16, 2006). (Matha, T).

The Court had to determine whether the respondents violated the HO-CHUNK NATION ELDER ABUSE PROTECTION ACT OF 2001. The petitioner accused the respondents of elder exploitation, and presented clear and convincing evidence of such cause of action. The Court granted relief in the form of restitution.

**JUVENILE CASES**

**OCTOBER 02, 2006**


The Court appointed a GAL in this matter.

**OCTOBER 09, 2006**

The Court convened a *Plea Hearing* for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the *Child/Family Protection Petition*. At the time, the parent entered a plea of not guilty, after being advised as to her rights as a parent as set forth in the *HOCÂÇK NATION CHILDREN AND FAMILY ACT* (hereinafter *CHILDREN’S ACT*), §3.22d. The Court accordingly schedules a *Trial*. 

**OCTOBER 10, 2006**

*In the Interest of Minor Children: R.C.S., DOB 06/07/98; B.L.S., DOB 09/26/00; A.M.M., DOB 11/01/02, JV 06-21-23 Order (Entrance of Plea)* (HCN Tr. Ct., Oct. 9, 2006). (Rockman, A).

The Court convened a *Plea Hearing* for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the *Child/Family Protection Petition*. At the time, the parent entered a plea of not guilty, after being advised as to her rights as a parent as set forth in the *CHILDREN’S ACT*, §3.22d. The Court accordingly schedules a *Trial*. 

*In the Interest of Minor Children: S.J.W., DOB 02/10/93, JV 04-12 Order (Granting Telephonic Appearance)* (HCN Tr. Ct., Oct. 10, 2006). (Matha, T).

The Court granted the party’s request to appear by telephone. 


The Court convened a *Guardianship Hearing* for the purpose of determining whether to appoint a temporary guardian of the person of minor children. At that time, the parent requested a continuance, after being advised as to his rights as a parent as set forth in the *CHILDREN’S ACT*, §3.17h. The Court accordingly reschedules the *Guardianship Hearing*, so as to provide time for the parent to obtain legal representation. 

**OCTOBER 11, 2006**


The Court confirms the confidential nature of protection proceedings. Therefore, the Court provided this redacted order to aid the parent in obtaining services for minor children entrusted to his care via unsupervised visitation. 


The Court conducted a *Child Protection Review Hearing*. The Court had to assess the extent of compliance with the dispositional order. The Court performed this review in accordance with the *CHILDREN’S ACT*, §3.40, and determined to maintain the status quo. 


The Court granted the party’s request to appear by telephone. 

*In the Interest of Minor Children: R.C.S., DOB 06/07/98; B.L.S., DOB 09/26/00; A.M.M., DOB 11/01/02, JV 06-21-23 Order (Entrance of Plea-Redacted)* (HCN Tr. Ct., Oct. 11, 2006). (Rockman, A).

The Court confirmed the confidential nature of protection proceedings. Therefore, the Court provided this redacted order to aid the parent in obtaining services for minor children entrusted to his care via unsupervised visitation. 

**OCTOBER 12, 2006**

*In the Interest of Minor Child: S.J.W., DOB 02/10/93, JV 04-12 Order (Conditional Termination of Jurisdiction)* (HCN Tr. Ct., Oct. 12, 2006). (Matha, T).

The Court conducted a *Child Protection Review Hearing*. The Court had to assess the extent of compliance with the dispositional order. The Court determined to conditionally terminate its jurisdiction. 

**OCTOBER 16, 2006**

*In the Interest of Minor Children: J.R.P., DOB 02/27/92 and L.M.P., DOB 05/12/90, JV 03-01-02 Order (Granting Emergency Temporary Legal &
The Court had to determine whether to grant emergency temporary legal and/or physical custody of the above-named minor children. The Court entered this Order as necessary to ensure the safety of the children. At the scheduled Initial Hearing, the parent(s), guardian(s), and/or physical custodian(s) shall be afforded proper due process for purposes of answering the Child/Family Protection Petition filed by CFS.

The Court convened a Guardianship Hearing for the purpose of determining whether to appoint a temporary guardian of the person of minor children. At that time, the parent requested a continuance, after being advised as to his rights as a parent as set forth in the CHILDREN’S ACT, §3.17h. The Court accordingly reschedules the Guardianship Hearing, so as to provide time for the parent to obtain legal representation.

The Court appointed a GAL in this matter.

The Court convened a Plea Hearing for the purpose of determining whether the parent of the minor child wished to contest the allegations contained in the Child/Family Protection Petition. At the time, the parent entered a plea of not guilty, after being advised as to her rights as a parent as set forth in the CHILDREN’S ACT, §3.22d. The Court accordingly schedules a Trial.

OCTOBER 17, 2006

The Court granted the individual’s request to appear by telephone.

OCTOBER 18, 2006
In the Interest of Minor Child: T.J.B., DOB 05/30/06, JV 06-15 Order (Dispositional Requirements) (HCN Tr. Ct., Oct. 18, 2006). (Matha, T).
The Court conducted the Dispositional Hearing. The Court had to assess the extent and scope of the dispositional recommendations proposed by CFS, and elevated certain recommendations to the status of requirements.

The Court convened a Child Protection Review Hearing. At that time, the parents requested a continuance, after being advised as to their rights as a parent as set forth in the CHILDREN’S ACT, §3.22d. The Court accordingly reschedules the Child Protection Review Hearing, so as to provide time to obtain legal representation.

OCTOBER 19, 2006
In the Interest of Minor Children: L.C., DOB 03/14/97; M.C., DOB 10/11/99; C.K., DOB 02/08/04; C.K., DOB 06/20/05, JV 06-29-32 Order (Granting Emergency Temporary Legal & Physical Custody) (HCN Tr. Ct., Oct. 19, 2006). (Matha, T).
The Court had to determine whether to grant emergency temporary legal and/or physical custody of the above-named minor children. The Court entered this Order as necessary to ensure the safety of the children. At the scheduled Initial Hearing, the parent(s), guardian(s), and/or physical custodian(s) shall be afforded proper due process for purposes of answering the Child/Family Protection Petition filed by CFS.

OCTOBER 20, 2006
The Court convened a *Plea Hearing* for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the *Child/Family Protection Petition*. At that time, the parent requested a continuance, after being advised as to her rights as a parent as set forth in the *CHILDREN’S ACT*, §3.22d. The Court accordingly reschedules the *Plea Hearing*, so as to provide time to obtain legal representation.

**OCTOBER 24, 2006**

*In the Interest of Minor Children: L.C., DOB 03/14/97; M.C., DOB 10/11/99; C.K., DOB 02/08/04; C.K., DOB 06/20/05, JV 06-29-32 Order (Initial Emergency Hearing)* (HCN Tr. Ct., Oct. 24, 2006). (Matha, T).

The Court convened the *Initial Emergency Hearing* to discuss the legal and procedural status of the instant action with the parties, to notify the parties of their need to attend a *Plea Hearing*, and to advise the parties of their rights. The Court emphasized that it will conduct the civil proceedings in an informal manner and encourages liberal participation. Additionally, the Court notified the parties of the ability to request continuances for good cause.

**OCTOBER 25, 2006**


The Court granted the individual’s request to appear by telephone.

*In the Interest of Minor Children: L.C., DOB 03/14/97; M.C., DOB 10/11/99; C.K., DOB 02/08/04; C.K., DOB 06/20/05, JV 06-29-32 Order (Appointment of Guardian ad Litem)* (HCN Tr. Ct., Oct. 25, 2006). (Matha, T).

The Court appointed a GAL in this matter.

**OCTOBER 26, 2006**

*In the Interest of Minor Children: R.C.S., DOB 06/07/98; B.L.S., DOB 09/26/00; A.M.M., DOB 11/01/02, JV 06-21-23 Order (Appointment of Guardian ad Litem)* (HCN Tr. Ct., Oct. 26, 2006). (Matha, T).

The Court appointed a GAL in this matter.

**OCTOBER 27, 2006**


The Court convened a *Trial* to determine whether CFS could prove the allegations within its *Child/Family Protection Petition* by a preponderance of the evidence. The mother of the minor child failed to attend the proceeding, but CFS still needed to satisfy its burden of proof. CFS demonstrated that it could establish the elements of the *Petition*, leading the Court to schedule a *Dispositional Hearing*.

**OCTOBER 31, 2006**


The Court had to determine whether to grant emergency temporary legal and/or physical custody of the above-named minor children. The Court entered this *Order* as necessary to ensure the safety of the children. At the scheduled *Initial Hearing*, the parent(s), guardian(s), and/or physical custodian(s) shall be afforded proper due process for purposes of answering the *Child/Family Protection Petition* filed by CFS.

**NOVEMBER 01, 2006**

*In the Interest of Minor Children: K.M., DOB 10/18/93; S.M., DOB 11/18/92; S.M., DOB 12/13/95; A.R., DOB 09/06/01; A.R., DOB 06/16/04; A.M., DOB 03/14/06, JV 06-33-38 Order (Appointment of Guardian ad Litem)* (HCN Tr. Ct., Nov. 1, 2006). (Matha, T).

The Court appointed a GAL in this matter.

**NOVEMBER 06, 2006**

*In the Interest of Minor Child: J.M.D., DOB 03/29/06, JV 06-14 Order (Granting Legal & Physical Custody)* (HCN Tr. Ct., Nov. 6, 2006). (Matha, T).

The Court had to determine whether to grant legal and/or physical custody of the above-named minor child. The Court entered this *Order* as necessary to ensure the safety of the children. At the *Child Protection Hearing*, the parent(s), guardian(s),
and/or physical custodian(s) shall be afforded proper due process for purposes of answering the Child/Family Protection Petition filed by CFS.

In the Interest of Minor Child: A.P.H., DOB 08/26/05, JV 05-28 Order (Conditional Appointment of Permanent Guardian) (HCN Tr. Ct., Nov. 6, 2006). (Rockman, A).
The Court had to determine whether to appoint a permanent guardian for the minor child. After a careful weighing of all the presented evidence, the Court deemed that such an appointment would be within the minor child’s best interests.

November 13, 2006
The Court had to determine whether to appoint a permanent guardian for the minor children. After a careful weighing of all the presented evidence, the Court deemed that such an appointment would be within the minor children’s best interests.

In the Interest of Minor Children: V.M.B., DOB 06/26/89; M.L.E.B., DOB 05/18/90; D.J.B., DOB 09/21/99, JV 05-29-31 Order (Supplementing Dispositional Requirements) (HCN Tr. Ct., Nov. 13, 2006). (Matha, T).
The Court previously conducted the Modification Hearing. At the Hearing, the Court had to determine whether to supplement the dispositional recommendations as requested by CFS. The parent concurred with the request, leading the Court to modify its earlier dispositional order.

November 14, 2006
The Court conducted a Child Protection Review Hearing. The Court had to assess the extent of compliance with the dispositional order. The Court performed this review in accordance with the CHILDREN’S ACT, §3.40, and determined to maintain the status quo.

November 16, 2006
In the Interest of Minor Child: M.T.G., DOB 10/05/04, JV 04-38 Order (Conditional Dismissal) (HCN Tr. Ct., Nov. 16, 2006). (Matha, T).
The Court had to determine whether to relinquish jurisdiction in order to afford the parents the ability to voluntarily seek a termination of rights within the state judicial system. Tribal governing law prohibits this Court from terminating parental rights. CHILDREN’S ACT, §3.5d. However, the HCN Traditional Court has previously declined to prevent a parent from voluntarily terminating his parental rights, provided that the parent knowingly and willingly made the determination. The Court shall accordingly conditionally terminate its jurisdiction over the instant case, which shall coincide with the anticipated filing of petitions in state court. The Court rendered this decision so as to avoid the possibility of two (2) jurisdictions claiming exclusive subject matter jurisdiction over a juvenile protection proceeding.

November 17, 2006
In the Interest of Minor Child: T.E.B., DOB 12/26/90, JV 06-17 Order (Dispositional Requirements) (HCN Tr. Ct., Nov. 17, 2006). (Matha, T).
The Court conducted the Dispositional Hearing, in accordance with the CHILDREN’S ACT. At the Hearing, the Court had to assess the extent and scope of the dispositional recommendations proposed by CFS.

November 20, 2006
In the Interest of Minor Children: J.R.P., DOB 02/27/06 and L.M.P., DOB 05/12/90, JV 03-01-02 Order (Appointment of Guardian ad Litem) (HCN Tr. Ct., Nov. 22, 2006). (Matha, T).
The Court appointed a GAL in this matter.

The minor child has obtained the age of majority. Thus, the Court terminated its jurisdiction over and supervision of the instant case in accordance with the CHILDREN’S ACT, § 3.16d.

In the Interest of Minor Child: H.D.J., DOB 11/25/88, JV 98-20 Order (Termination of
The minor child has obtained the age of majority. Thus, the Court terminated its jurisdiction over and supervision of the instant case in accordance with the CHILDREN’S ACT, § 3.16d.

The Court convened a Guardianship Hearing for the purpose of determining whether to appoint a temporary guardian of the person of minor children. At that time, neither the petitioning party, appointed guardian, nor parents appeared at the Hearing. The Court accordingly reschedules the Guardianship Hearing, so as to ascertain the wishes of all of the parties.

NOVEMBER 22, 2006
In the Interest of Minor Children: L.M.P., DOB 05/12/90, et al., JV 03-01-02 Order (Granting Telephonic Appearance) (HCN Tr. Ct., Nov. 22, 2006). (Matha, T).
The Court granted the individual’s request to appear by telephone at the Initial Plea Hearing.

In the Interest of Minor Children: S.M., DOB 11/18/92; K.M., DOB 10/18/93; S.M., DOB 12/13/95; A.M., DOB 09/16/01; A.M. DOB 06/16/04; A.M., DOB 03/14/06, JV 06-33-38 Order (Entrance of Plea) (HCN Tr. Ct., Nov. 22, 2006). (Rockman, A).
The Court convened a Plea Hearing for the purpose of determining whether the parent of the minor children wished to contest the allegations contained in the Child/Family Protection Petition. At that time, two of the parents entered a plea of not guilty, after being advised as to their rights as a parent as set forth in the CHILDREN’S ACT, § 3.22d. The Court accordingly schedules a Trial.

NOVEMBER 29, 2006
The petitioner filed a Petition for Temporary Guardianship of the minor child with the Court. The Court subsequently scheduled a Guardianship Hearing. In accordance with CHILDREN’S ACT, § 3.45c(1), the Court requests that CFS prepare and submit a guardianship report and home study to the Court.

SUPREME COURT
NO RECENT DECISIONS
RECENT FILINGS

TRIAL COURT

CHILD SUPPORT

OCTOBER 18, 2006

OCTOBER 19, 2006
Larry M. Ostensen v. Sande E. Decorah-Ostensen, CS 06-52. (Matha, T).

OCTOBER 26, 2006


OCTOBER 28, 2006
Jessica E. Parisien v. Steven A. Kaquatosh, CS 06-55. (Matha, T).

Maria Mayotte v. Steven A. Kaquatosh, CS 06-56. (Matha, T).

CIVIL GARNISHMENT

OCTOBER 3, 2006
Credit Acceptance Corp. v. Kelly Potts a/k/a Waldow, CG 06-68. (Matha, T).

Creditor Recovery Service v. Mary Locey, CG 06-69. (Matha, T).

OCTOBER 18, 2006
Linda Webber v. Leland Whitegull, CG 06-70. (Matha, T).

OCTOBER 25, 2006
Alliance Collection Agencies v. Crystal E. Wilson, CG 06-71. (Matha, T).

Civil Cases

OCTOBER 3, 2006
In the Interest of Minor Child: S.R.W., DOB 07/11/03, by Errol S. WhiteWing v. HCN Office of Tribal Enrollment, CV 06-79. (Matha, T).

OCTOBER 9, 2006
In the Interest of Adult CTF Beneficiary: Neva Littlegeorge, DOB 09/24/85 v. HCN Office of Tribal Enrollment, CV 06-80. (Matha, T).

OCTOBER 10, 2006
HCN and HCN Business Dep’t v. Ivan Garduno, CV 06-81. (Rockman, A).

OCTOBER 11, 2006

HCN and HCN Business Dep’t v. Melissa S. Farmer, CV 06-83. (Rockman, A).
OCTOBER 17, 2006
In the Interest of Adult CTF Beneficiary: Joseph R. Hammer, DOB 09/02/82 v. HCN Office of Tribal Enrollment, CV 06-84. (Matha, T).

HCN Business Dep’t v. Mike Stansberry II, CV 06-85. (Matha, T).

HCN Business Dep’t v. Claudio Palacio, CV 06-86. (Matha, T).

HCN Business Dep’t v. Becky Vargas, CV 06-87. (Matha, T).


HCN Business Dep’t v. Shawn Labenz, CV 06-89. (Matha, T).

HCN Business Dep’t v. Leisa Moore, CV 06-90. (Matha, T).

OCTOBER 18, 2006
In the Interest of Minor Child: K.T., DOB 09/25/89 v. HCN Office of Tribal Enrollment, CV 06-91. (Matha, T).

OCTOBER 19, 2006
HCN Business Dep’t v. Roberto Tepolt, CV 06-92. (Matha, T).

HCN Business Dep’t v. Katrina Neises, CV 06-93. (Matha, T).

HCN Business Dep’t v. Jamie Terwall, CV 06-94. (Matha, T).

HCN Business Dep’t v. Evelyn Seitz, CV 06-95. (Matha, T).

OCTOBER 20, 2006
HCN Housing & Community Development Agency v. Kevin Day, CV 06-96. (Matha, T).


OCTOBER 24, 2006

Susan F. Bosgraaf v. HCN et al., CV 06-99. (Rockman, A).

OCTOBER 30, 2006
HCN Business Dep’t v. Ashley R. Biesen, CV 06-100. (Matha, T).

HCN Business Dep’t v. Dee Anna Boushon, CV 06-101. (Matha, T).

HCN Business Dep’t v. Steven W. Carnell, CV 06-102. (Matha, T).

HCN Business Dep’t v. Paul M. Hauge, CV 06-103. (Matha, T).

NOVEMBER 03, 2006
In the Interest of Minor Child: T.L.J., Jr., DOB 06/07/90, by Toby Jones Sr. v. HCN Office of Tribal Enrollment, CV 06-104. (Matha, T).

Deborah Witt v. Dep’t of Personnel et al., CV 06-106. (Matha, T).

NOVEMBER 06, 2006

In the Interest of Minor Child: D.R.M., DOB 05/12/99, by Sherry A. McKinley v. HCN Office of Tribal Enrollment, CV 06-107. (Rockman, A).


NOVEMBER 15, 2006

**November 17, 2006**
*In the Interest of Minor Child: E.C.L., DOB 04/13/93, by Valerie L. Lyons v. HCN Office of Tribal Enrollment, CV 06-111. (Matha, T).*

**November 20, 2006**
*In the Interest of Minor Child: D.M.B., DOB 04/20/94, by Helene M. Bean v. HCN Office of Tribal Enrollment, CV 06-112. (Rockman, A).*

**November 29, 2006**
*In the Interest of Adult CTF Beneficiary: Marcella Redbird, DOB 10/24/85 v. HCN Office of Tribal Enrollment, CV 06-113. (Matha, T).*

*In the Interest of Minor Child: D.T.L., DOB 04/25/89, by Katherine R. Littlejohn v. HCN Office of Tribal Enrollment, CV 06-114. (Matha, T).*

**Family**

**November 14, 2006**

**Domestic Violence**

**October 3, 2006**
*In the Interest of Elder Person: O.G.C., DOB 03/03/43, DV 06-06. (Matha, T).*

**Juvenile**

**October 13, 2006**
*In the Interest of Minor Child: L.C., DOB 03/14/97, JV 06-29. (Matha, T).*

**October 19, 2006**
*In the Interest of Minor Child: M.C., DOB 10/11/99, JV 06-30. (Matha, T).*

*In the Interest of Minor Child: C.K., DOB 02/08/04, JV 06-31. (Matha, T).*

*In the Interest of Minor Child: C.K., DOB 06/20/05, JV 06-32. (Matha, T).*

*In the Interest of Minor Child: S.M., DOB 11/18/92, JV 06-33. (Rockman, A).*

*In the Interest of Minor Child: K.M., DOB 10/18/93, JV 06-34. (Rockman, A).*

*In the Interest of Minor Child: S.M., DOB 12/13/95, JV 06-35. (Rockman, A).*

*In the Interest of Minor Child: A.R., DOB 09/06/01, JV 06-36. (Rockman, A).*

*In the Interest of Minor Child: A.R., DOB 06/16/04, JV 06-37. (Rockman, A).*

*In the Interest of Minor Child: A.M., DOB 03/14/06, JV 06-38. (Rockman, A).*

**November 28, 2006**
*In the Interest of Minor Child: D.C.Y., DOB 04/12/06, JV 06-39. (Matha, T).*

**November 29, 2006**
*In the Interest of Minor Child: M.L.C., DOB 07/01/97, JV 06-40. (Matha, T).*

*In the Interest of Minor Child: M.C., DOB 10/23/98, JV 06-41. (Matha, T).*

**Supreme Court**

**November 13, 2006**
*Joyce L. Warner v. HCN et al., SU 06-05.*

**November 14, 2006**
*Robert Gerhardt v. HCN Gaming Comm’n, SU 06-06.*
The Ho-Chunk Nation Judiciary and its officers are active participants in the following organizations:

WISCONSIN TRIBAL JUDGES ASSOCIATION
(Eleven federally recognized tribes within the State of Wisconsin)

NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION
(Region 10 — Illinois, Indiana, Michigan, Minnesota, and Wisconsin)