

FILED
 9/10/13
 STATE COURT
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THE SUPREME COURT OF
 FEDERATED STATES OF MICRONESIA
 APPELLATE DIVISION

TADASY ANDREW, et al.)	Appeal No.: K3-2013
)	(State Court Case No.: 45-12)
Appellants.)	
vs.)	
)	
HO TULENSRU SEYMOUR,)	MOTION TO ENLARGE TIME;
)	CERTIFICATE OF SERVICE
Appellees.)	
_____)	

COME NOW, Tadasy Andrew and the Heirs of Edmond Tulenkun, Appellants in the above-entitled case, by and through their undersigned counsel, and hereby bring this Motion to Enlarge Time to file their Opening Brief and Appendices.

This motion is brought pursuant to Rules 26(b) and 27(a) of the FSM Rules of Appellate Procedure, the following Memorandum of Points and Authorities, and any other files and records in this case.

MEMORANDUM OF POINTS AND AUTHORITIES

1. On March 25, 2013, the Kosrae State Court issued an Order regarding Plaintiff's Motion for Injunction.
2. On April 30, 2013, Appellants filed with this court their Notice of Appeal from the Kosrae State Court's March 25th order.
3. On June 11, 2013, this court issued a Notice of Briefing Scheduling.
4. The Appellants were proceeding on this case as *pro se* parties and were not able to prepare the Brief and Appendices.
5. Counsel undersigned filed her Notice of Appearance of Counsel and the Statement of Issues in this case on July 26, 2013.

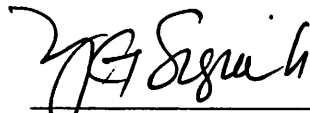
6. On September 6, 2013, this Court issued an Order Enlarging Time to August 29, 2013, to allow timely filing of Appellants' Opening Brief and Appendices.
7. During the last few weeks, counsel has been working on the briefing of another appeal case involving same party here, the Heirs of Edmond Tulenkun (Appeal Case No.: K1-2013), a case that shares the same briefing deadline as this case.
8. In the course of preparation and finalization of the Opening Brief and Appendices for filing in K1-2013 and this case (and based on recent work by undersigned counsel in the another appeal case, Kersin Tilfas et al. vs. Heirs of Kilafwakun Lonno, Appeal No.: K-2013,), counsel undersigned realized that the Appellants' grievance brought before this court in K1-2013 may be properly addressed through a FSM Appellate Rule 21 Petition to be directed to the Kosrae State Court Chief Justice rather than the Kosrae State Land Court Principal Judge. Counsel intends to file the Petition within the next few days.
9. At this juncture, counsel undersigned sincerely regrets that Appellants' Opening Brief and Appendices in this case were not filed by the extended date.
10. Counsel undersigned experienced difficulty in drafting two appellate briefs involving same party Heirs of Edmond Tulenkun in K1-2013 and this case K3-2013 since these two appeals case share the same briefing deadline. Due to a heavier work load than anticipated, counsel undersigned recently engaged the legal services of Sasaki L. George to assist as co-counsel in this case and so as to assist in expediting the necessary research, drafting and filings in this case, while counsel undersigned finishes up the Petition for Writ of Prohibition in K1-2013.
11. Counsel undersigned truly regrets that this matter was not brought sooner to this court's attention and thereby respectfully request that this court allows the Appellants additional

two weeks from today's date to allow the filings of Appellants' Opening Brief and Appendices.

12. Under FSM App. R. 26(b), the Court, for good cause shown, may, upon motion, enlarge the time prescribed for doing any act, or may permit an act to be done after the expiration of such time. This differs significantly from the provisions found at FSM Civ. R. 6 and FSM Crim. R. 45, both of which require a party wishing to enlarge the time period for undertaking an act once the original time period for undertaking the act has expired to demonstrate that the failure to act within initially prescribed time period was the result of excusable neglect. M/V Kyowa Violet v. People of Rull ex rel. Ruepong, 15 FSM Intrm. 362 (App. 2007), citing also Bualuay v. Rano, 11 FSM Intrm. 139 (App. 2002).
13. Accordingly, Appellants through their undersigned counsel respectfully request a two-week enlargement of time to a new date of September 24, 2013, to allow filing of their Opening Brief and Appendices.
14. Counsel undersigned believes that this motion is made in good faith, therefore respectfully request that the court finds the reasons above to be good cause to enlarge time for the filing of the Appellants' Opening Brief and Appendices.

I declare under the penalty of perjury that the above is true and correct.

DATED: September 10, 2013



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing motion will be duly served upon the following party via regular mail or hand delivery to the party's last known address on the date indicated below or soon thereafter:

HARRY SEYMOUR, ESQ.
P.O. Box 245
Tofol, Kosrae FM 96944

Attorney for HEIRS OF TULENSRU SEYMOUR

DATED: September 10, 2013.



YOSLYN G. SIGRAH